



March 17, 2020

Mr. David M. Corn, Business Manager  
Electrical Workers IBEW AFL-CIO Local 398  
1466 Battery Haig Ct.  
Charleston, SC 29412

Case Number: 410-6017748  
LM Number: 005-532

Dear Mr. Corn:

This office has recently completed an audit of Electrical Workers IBEW AFL-CIO Local 398 under the Compliance Audit Program (CAP) to determine your organization's compliance with the provisions of the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA). As discussed during the exit interview with you, Treasurer Patrick Naylor, and Recording Secretary Billy Hoover on March 9, 2020, the following problems were disclosed during the CAP. The matters listed below are not an exhaustive list of all possible problem areas since the audit conducted was limited in scope.

#### Recordkeeping Violations

Title II of the LMRDA establishes certain reporting and recordkeeping requirements. Section 206 requires, among other things, that labor organizations maintain adequate records for at least five years by which each receipt and disbursement of funds, as well as all account balances, can be verified, explained, and clarified. As a general rule, labor organizations must maintain all records used or received in the course of union business.

For disbursements, this includes not only original bills, invoices, receipts, vouchers, and applicable resolutions, but also documentation showing the nature of the union business requiring the disbursement, the goods or services received, and the identity of the recipient(s) of the goods or services. In most instances, this documentation requirement can be satisfied with a sufficiently descriptive expense receipt or invoice. If an expense receipt is not sufficiently descriptive, a union officer or employee should write a note on it providing the additional information. For money it receives, the labor organization must keep at least one record showing the date, amount, purpose, and source of that money. The labor organization must also retain bank records for all accounts.

The audit of Local 398's 2018 and 2019 records revealed the following recordkeeping violations:

#### 1. Meal Expenses

Local 398 did not require officers and employees to submit itemized receipts for meal expenses totaling at least \$534.00. The union must maintain itemized receipts provided by restaurants to officers and employees. These itemized receipts are necessary to

determine if such disbursements are for union business purposes and to sufficiently fulfill the recordkeeping requirement of LMRDA Section 206.

Union records of meal expenses must include written explanations of the union business conducted and the full names and titles of all persons who incurred the restaurant charges. Also, the records retained must identify the names of the restaurant where the officers or employees incurred meal expenses.

2. Lost Wages

Local 398 did not retain accurate documentation for lost wage reimbursements. The union must maintain records in support of lost wage claims that identify each date lost wages were incurred, the number of hours lost on each date, the applicable rate of pay, and a description of the union business conducted. The OLMS audit found that Local 398 had at least one lost time voucher that included reimbursement for a date that the officer was on paid time off from Dominion Energy; rather than unpaid union business.

During the exit interview, I provided a compliance tip sheet, *Union Lost Time Payments*, that contained a sample of an expense voucher Local 398 may use to satisfy this requirement. The sample identifies the type of information and documentation that the local must maintain for lost wages and other officer expenses.

Based on your assurance that Local 398 will retain adequate documentation in the future, OLMS will take no further enforcement action at this time regarding the above violations.

Reporting Violations

The audit disclosed a violation of LMRDA Section 201(b), which requires labor organizations to file annual financial reports accurately disclosing their financial condition and operations. The Labor Organization Annual Report Form LM-3 filed by Local 398 for the fiscal year ended December 31, 2018, was deficient in the following areas:

1. PAC Funds

Item 12, "During the reporting period did your organization have a political action committee (PAC) fund?" was incorrectly answered, "Yes." Local 398 did not have its own PAC fund during 2018. As stated in the LM-3 report instructions, PAC funds kept separate from your union's treasury need not be included in your union's LM report if publicly available reports on the PAC funds are filed with a federal or state agency.

2. Disbursements to Officers (LM-3)

Local 398 did not include some reimbursements to officers totaling at least \$536.13 in the amounts reported Item 24 (All Officers and Disbursements to Officers). It appears the

union erroneously reported these payments in Item 48, Office and Administrative Expenses.

Additionally, Local 398 did not report the names of some officers and the total amounts of payments to them or on their behalf in Item 24 (All Officers and Disbursements to Officers). The union must report in Item 24 all persons who held office during the year, regardless of whether they received any payments from the union

The union must report most direct disbursements to Local 398 officers and some indirect disbursements made on behalf of its officers in Item 24. A "direct disbursement" to an officer is a payment made to an officer in the form of cash, property, goods, services, or other things of value. See the instructions for Item 24 for a discussion of certain direct disbursements to officers that do not have to be reported in Item 24. An "indirect disbursement" to an officer is a payment to another party (including a credit card company) for cash, property, goods, services, or other things of value received by or on behalf of an officer. However, indirect disbursements for temporary lodging (such as a union check issued to a hotel) or for transportation by a public carrier (such as an airline) for an officer traveling on union business should be reported in Item 48 (Office and Administrative Expense).

## 12. Failure to Sign the Report

Local 398 president and treasurer did not properly provide their electronic signatures on the LM-3 Report. It appears that CPA Richard Crowley electronically signed the report for the officers. The completed Form LM-3 which is filed with OLMS must be signed by both the president and treasurer or corresponding principal officers of your organization. If the report is signed by an officer other than the president or treasurer, an explanation must be provided in Item 56. An outside accountant may use their Electronic Forms System account to work on the LM-3 Report; however, they are not authorized to sign the report. The president and treasurer should create their own username and password as authorized signers by visiting the Electronic Forms System at [www.dol.gov/olms](http://www.dol.gov/olms).

## 3. Failure to File Bylaws

The audit disclosed a violation of LMRDA Section 201(a), which requires that a union submit a copy of its revised constitution and bylaws with its LM report when it makes changes to its constitution or bylaws. Local 398 amended its constitution and bylaws in 2006, but did not file a copy with its LM report for that year.

Local 398 has now filed a copy of its constitution and bylaws.

Local 398 must file an amended Form LM-3 for the fiscal year ended December 31, 2018, to correct the deficient items discussed above. The report must be filed electronically using the Electronic Forms System (EFS) available at the OLMS website at [www.olms.dol.gov](http://www.olms.dol.gov). The

amended Form LM-3 must be filed no later than March 31, 2020. Before filing, review the report thoroughly to be sure it is complete and accurate.

I want to extend my personal appreciation to Electrical Workers IBEW AFL-CIO Local 398 for the cooperation and courtesy extended during this compliance audit. I strongly recommend that you make sure this letter and the compliance assistance materials provided to you are passed on to future officers. If we can provide any additional assistance, please do not hesitate to call.

Sincerely,

A solid black rectangular box redacting the signature of the sender.

Senior Investigator

cc: Mr. Timothy Miller, President  
Mr. Patrick Naylor, Treasurer