

U.S. Department of Labor
Office of Labor-Management Standards
Washington District Office



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September 28, 2020

Mr. Patrick Shank, Treasurer
Communications Workers of America
Local 2390
PO Box 730
Maugansville, MD 21767

Case Number: 450-6018048 [REDACTED]
LM Number: 007-847

Dear Mr. Shank:

This office has recently completed an audit of Communications Workers of America (CWA) Local 2390 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 on September 25, 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 2390's 2018 and 2019 records revealed the following recordkeeping violations:

1. General Reimbursed and Credit Card Expenses

Local 2390 did not retain adequate documentation for some reimbursed expenses and credit card charges incurred by union officers. The union did not retain receipts for credit card purchases at Westgate Las Vegas Resort, Intuit, and Southwest Airlines, among others. In addition, the union did not retain receipts for reimbursements paid to some union officers for expenses they incurred.

As noted above, labor organizations must retain original receipts, bills, and vouchers for all disbursements. The president and treasurer (or corresponding principal officers) of your union, who are required to sign your union's LM report, are responsible for properly maintaining union records.

2. Meal Expenses

Local 2390 did not require officers to submit itemized receipts for meal expenses. 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.

In addition, Local 2390 records of meal expenses did not always include written explanations of union business conducted or the names and titles of the persons incurring the restaurant charges. 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 restaurants where the officers or employees incurred meal expenses.

3. Mileage

Local 2390 officers who received reimbursement for mileage did not retain adequate documentation to support the disbursements to them. The union must maintain records which identify the dates of travel, locations traveled to and from, number of miles driven, and the business purpose.

4. Lost Wages

Local 2390 did not retain adequate documentation for lost wage reimbursement payments to union officers. 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 2390 officers did not always include a description of the union business conducted in the union records.

During the exit interview, I provided a compliance tip sheet, Union Lost Time Payments, that contained a sample of an expense voucher Local 2390 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.

5. Inadequate Disbursement Descriptions

There were some disbursements in which the union business purpose was not sufficiently descriptive. Some examples of inadequate disbursement descriptions were “ISP,” “incurred expenses,, and “executive board.” Union disbursement records must include a description of the nature of the union business requiring the disbursement.

6. Information Not Recorded in Meeting Minutes

During the audit, you advised OLMS that the executive board authorized a cellular phone allowance for the officers. However, the minutes of the executive board meetings do not contain any reference that a cellular policy was voted on and approved. Minutes of all executive board meetings must report any disbursement authorizations made at those meetings.

Based on your assurance that the Local 2390 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 Reports, Form LM-3, filed by the Local 2390 for the fiscal years ending September 30, 2018 and September 30, 2019, were deficient in the following areas:

1. Delinquent LM Reports

The Labor Organization Annual Report, Form LM-3, is required to be filed within 90 days after the end of the labor organization’s fiscal year. Local 2390 failed to file its LM-3 report on time for fiscal years ending September 30, 2018 and September 30, 2019. The president and secretary-treasurer are personally responsible for timely filing the union’s LM-3 reports. The LM-3 reports have now been filed. However, Local 2390’s failure to timely file the LM-3 reports in the future could result in the initiation of enforcement proceedings.

2. Disbursements to Officers

Local 2390 did not include some reimbursements to officers in the amounts reported in Item 24 (All Officers and Disbursements to Officers). Such payments appear to have been erroneously reported in Item 54 (Other Disbursements).

The union must report most direct disbursements to Local 2390 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. An "indirect disbursement" to an officer is a payment to another party (including check card companies) 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).

3. Beginning and Ending Cash Balances

The audit revealed that the beginning and ending cash balances reported in Item 25, Column A (Beginning Cash) and Column B (Ending Cash) for the 2018 and 2019 LM-3 reports were incorrect. Column A and Column B of Item 25 should include the totals of all your organization's cash on hand and on deposit at the beginning and the end of the reporting period.

4. Total Disbursements

The total disbursements reported in Item 55 (Total Disbursements) on the union's September 30, 2018 and September 30, 2019 LM-3 reports does not match the figures calculated by OLMS during the audit. All money disbursed by the union during the audit period must be reported in Items 45 through 54 of the LM-3 report.

5. Failure to File Constitution and 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 2390 amended its constitution and bylaws in 2019, but did not file a copy with its LM report for that year. Local 2390 has now filed a copy of its constitution and bylaws.

Local 2390 must file an amended Form LM-3 for fiscal year ending September 30, 2019 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. The amended Form LM-3 must be filed no later than October 26, 2020. Before filing, review the report thoroughly to be sure it is complete and accurate.

Other Issues

Signing Blank Checks

During the audit, you advised that a Local 2390 officer signs blank checks. Your union's bylaws require that all checks be signed by the president and treasurer. The two signature requirement is an effective internal control of union funds. Its purpose is to attest to the authenticity of a completed document already signed. However, signing a blank check in advance does not attest to the authenticity of a completed check, and negates the purpose

of the two signature requirement. OLMS recommends that Local 2390 review these procedures to improve internal control of union funds.

I want to extend my personal appreciation to CWA Local 2390 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 auditor.

Auditor

cc: Mr. Jason Grabill, President