



Sent via email to [REDACTED]

January 11, 2021

Ms. Shawn Opgenorth, President
Food and Commercial Workers Local 147
[REDACTED]

Case Number: 320-6018328 [REDACTED]
LM Number: 064080

Dear Ms. Opgenorth:

This office has recently completed an audit of Food and Commercial Workers Local 147 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 and Secretary/Treasurer William Wilcox on January 7, 2021, 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 147's 2019 records revealed the following recordkeeping violations:

1. Disbursements to Vendors and General Reimbursed Expenses

Local 147 did not retain adequate documentation for disbursements to vendors and payments to you totaling at least \$1,970. For example, adequate supporting documentation was not retained for a \$280.13 debit card charge the union made to Disney Resorts on May 20, 2019. In support of this expense, Local 147 only retained a bank statement, which is not sufficient. As another example, no supporting documentation was retained for a \$70 reimbursement to you for airport parking.

Additionally, Local 147's records of meal expenses did not always include itemized receipts. For example, an itemized receipt was not retained for a \$105.45 meal expense the union incurred at Angler's Avenue on September 18, 2019 for contract negotiations. In support of this expense, Local 147 only retained a debit card signature receipt, which is not sufficient.

As noted above, labor organizations must retain original receipts, bills, and vouchers for all disbursements. Itemized receipts provided by restaurants to officers and employees must be retained. 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. 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. 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. Disposition of Property

The audit revealed that Local 147 did not maintain an inventory of tee-shirts it sold or gave away during the audit period. Local 147 did not maintain records that identified the persons who received the tee-shirts, the dates the tee-shirts were sold or given away, or the tee-shirts (and their value) that were on hand at the beginning and end of the year.

The union must report the value of any union property on hand at the beginning and end of each year in Item 30 (Other Assets) of the LM-3. The union must retain an inventory or similar record of property on hand to verify, clarify, and explain the information that must be reported in Item 30. The union must record in at least one record the date and amount received from each sale of union tee-shirts, hats, jackets, and other items.

In addition, in the case of items given away to members, the union must retain records that identify the date the items were given away and the recipients of those items.

Based on your assurance that Local 147 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 147 for the fiscal year ended December 31, 2019, was deficient in the following areas:

1. 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 147 amended its constitution and bylaws in 2000, but did not file a copy with its LM report for that year. Local 147 has now filed a copy of its 2000 constitution and bylaws.

2. Acquire/Dispose of Property

Item 13 (During the reporting period did your organization acquire or dispose of any assets in any manner other than by purchase or sale?) should have been answered, "Yes," because Local 147 gave away gift cards, tee-shirts, and various other items totaling at least \$335 during the year. The union must identify the type and value of any property received or given away in the additional information section of the LM report along with the identity of the recipient(s) or donor(s) of such property. The union does not have to itemize every recipient of such giveaways by name. The union can describe the recipients by broad categories if appropriate such as "members" or "new retirees." In addition, the union must report the cost, book value, and trade-in allowance for assets that it traded in.

3. Disbursements to Officers

Local 147 did not include reimbursements to you, Mr. Wilcox, former President Michael Bernhardt, former Secretary/Treasurer Nicholas Spencer, Vice President Art Wagner, and Chief Steward William Schuchardt totaling at least \$3,528 in the amounts reported in Item 24 (All Officers and Disbursements to Officers), Column E (Allowances and Other Disbursements). Local 147's disbursement records indicate that you, Mr. Wilcox, Mr. Bernhardt, Mr. Spencer, Mr. Wagner, and Mr. Schuchardt received reimbursed expenses totaling at least \$3,528; however, the total amount reported in Column E of Item 24 for you, Mr. Wilcox, Mr. Bernhardt, Mr. Spencer, Mr. Wagner, and Mr. Schuchardt was \$0. It appears that Local 147 erroneously reported the reimbursements to you, Mr. Wilcox, Mr. Bernhardt, Mr. Spencer, Mr. Wagner, and Mr. Schuchardt in Item 48 (Office and Administrative Expenses) or Item 54 (Other Disbursements).

The union must report most direct disbursements to Local 147 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.

I am not requiring that Local 147 file an amended LM report for 2019 to correct the deficient items, but Local 147 has agreed to properly report the deficient items on all future reports it files with OLMS.

Other Violation

The audit disclosed the following other violation:

Inadequate Bonding

The audit revealed a violation of LMRDA Section 502 (Bonding), which requires that union officers and employees be bonded for no less than 10 percent of the total funds those individuals or their predecessors handled during the preceding fiscal year. The audit revealed that Local 147 is not bonded; however, Local 147's officers and employees must be bonded for at least \$11,100. Local 147 should obtain adequate bonding coverage for its officers and employees immediately. Please provide proof of bonding coverage to this office as soon as possible, but no later than January 21, 2021.

Other Issue

Lost Wage Policy

During the audit year, Local 147 made lost wage reimbursement to its officers totaling at least \$10,238; however, the union does not have written policies that document its lost wage reimbursement policies.

To ensure compliance with the LMRDA and to safeguard union assets by promoting transparency and accountability, labor organizations should establish best practices for administering lost time payments. OLMS recommends that unions: (1) adopt clear policies and procedures for making lost time or similar payments, and (2) use vouchers that require detailed information to support lost time payments. These practices will allow the union to properly report lost time payments on the Labor Organization Annual Report, Form LM-3.

OLMS recommends that union policies and procedures for lost wages be reduced to writing and added to your union's bylaws or discussed at an executive board or membership meeting where they can be supported by entries in the meeting minutes. Once established, it is important that your union consistently follow its procedures for handling payments for lost time. You may want to have your union's trustees or auditors compare the steps taken to pay lost time with the

union's policies to make sure that all required procedures are being followed. Following the exit interview, I provided you with the compliance tip sheet, *Union Lost Time Payments*, for your reference.

I want to extend my personal appreciation to Food and Commercial Workers Local 147 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 large black rectangular redaction box covering the signature area.

Investigator

cc: Mr. William Wilcox, Secretary/Treasurer