

U.S. Department of Labor

Office of Labor-Management Standards
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April 18, 2024

Patrick Barth, Treasurer
Letter Carriers Branch 374
P.O. Box 72522
Newport, KY 41072

Case Number: 350-6028104()
LM Number: 089-829

Sent via electronic mail only to: [REDACTED] *and* [REDACTED]

Dear Mr. Barth:

This office has recently completed an audit of Letter Carriers Branch 374 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 April 5, 2024, 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 Branch 374's 2023 records revealed the following recordkeeping violations:

1. Bank Statements

Branch 374 did not retain bank statements for at least five years. Unions are required to maintain records on matters required to be reported for a minimum of five years after LM reports are filed.

2. Unrecorded/Incorrect Check Disbursement Entries

Branch 374 erroneously recorded disbursement checks in its ledger book with incorrect dates on at least twelve occasions. For example [REDACTED] was recorded in January 2024 but it was disbursed December 29, 2023. Failure to accurately record disbursements could result in the union reporting some disbursements for a different year than when it actually disbursed them. Branch 374 also failed to include check [REDACTED] for \$150.00 and failed to record a credit card payment of \$244.97 in its ledger book.

3. General Reimbursed and Credit Card Expenses

Branch 374 did not retain adequate documentation for reimbursed expenses and credit card expenses incurred by President Gary Smith, you, and Vice President Chris Williams totaling at least \$3,356.14. For example, Williams received a reimbursement check [REDACTED] for \$607.53 dated March 3, 2023. Union records indicated that the amount was for a hotel while conducting training in Indianapolis, however the branch failed to require and maintain a voucher, receipt, or an invoice to help explain and verify the amount.

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.

4. Meal Expenses

Branch 374 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. For example, President Gary Smith received reimbursement check [REDACTED] dated February 15, 2023, in the amount of \$245.65. 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.

5. Reimbursed Auto Expenses

Vice President Chris Williams received reimbursement for business use of his personal vehicle but did not retain adequate documentation to support payments to him totaling at least \$394.89 during 2023. The union must maintain records which identify the dates of travel, locations traveled to and from, and number of miles driven. The record must also

show the business purpose of each use of a personal vehicle for business travel by an officer or employee who was reimbursed for mileage expenses.

6. Lost Wages

Branch 374 did not retain adequate documentation for lost wage reimbursement payments to you, Vice President Chris Williams, and Recording Secretary Steve Schwalbach totaling at least \$1,484.98. 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 Branch 374 failed to retain documentation including hourly wage, hours claimed, dates claimed, or the reason for the claim.

During the exit interview, I provided a compliance tip sheet, *Union Lost Time Payments*, that contained a sample of an expense voucher Branch 374 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.

7. Disposition of Property

Branch 374 did not maintain an inventory of hats, jackets, and other property it purchased, sold, or gave away. 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 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.

8. Failure to Record Receipts

Branch 374 did not record in its receipts records some refunds it received from the state association, its payroll service (Paycor), and interest earned on certificates of deposits totaling at least \$273.64. For example, a refund check from the state association for \$100.00 was recorded as a reduction of expenses and the date it was received was not recorded. Union receipts records must include an adequate identification of all money the union receives. The records should show the date and amount received, and the source of the money.

9. Receipt Dates not Recorded

Entries in Branch 374's ledger book reflect the date the union deposited money, but not the date money was received. Union receipts records must show the date of receipt. The date of receipt is required to verify, explain, or clarify amounts required to be reported in

Statement B (Receipts and Disbursements) of the LM-3. The LM-3 instructions for Statement B state that the labor organization must record receipts when it actually receives money and disbursements when it actually pays out money. Failure to record the date money was received could result in the union reporting some receipts for a different year than when it actually received them.

Based on your assurance that Branch 374 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 LM-3 filed by Branch 374 for the fiscal year ended December 31, 2023, was deficient in the following areas:

1. 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 the union gave away hats, jackets, and awards totaling more than \$1,561.76 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.

2. Disbursements to Officers

Branch 374 incorrectly reported reimbursements to officers totaling at least \$3,946.62 in the amounts reported in Item 24 Column D (Gross Salary). Disbursements other than salary and lost time payments are to be reported in Item 24 Column E (Allowances and Other Disbursements).

The union must report most direct disbursements to Branch 374 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).

3. Withholdings (Taxes)

Branch 374 did not report an amount in Item 24 (Less Deductions) for taxes withheld from salary and lost time payments to officers. It appears the union incorrectly reported these amounts with the amounts reported in Item 54 (Other Disbursements). The LM-3 instructions for Item 24 require that the local report in the Less Deductions line the total amount of withheld taxes, payroll deductions, and other deductions. Disbursements for the transmittal of withheld taxes, payroll deductions, and other deductions must be reported in Item 54 (Other Disbursements). Any portion of withheld taxes or any payroll or other deductions which have not been transmitted at the end of the reporting period are liabilities of your organization and must be reported in Item 35 (Other Liabilities). Payroll or other deductions retained by your labor organization (such as repayments of loans made) must be fully explained in Item 56 (Additional Information).

I am not requiring that Branch 374 file an amended LM report for 2023 to correct the deficient items, but Branch 374 has agreed to properly report the deficient items on all future reports it files with OLMS.

Other Violations

The audit disclosed the following other violation:

1. 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 ten percent of the total funds those individuals or their predecessors handled during the preceding fiscal year. The audit revealed the amount of Branch 374's bond is sufficient. However, certain provisions fail to meet the bonding requirements of the LMRDA. Branch 374 should obtain a bond that includes coverage limits applying per person instead of per occurrence. The bond will also need to include coverage for any paid or unpaid officer, agent, shop steward, or other representative or employee of the labor organization who handles funds or other property. Please provide proof of compliant bonding coverage to this office as soon as possible, but not later than May 6, 2024.

Other Issues

1. Expense Policy

As I discussed during the exit interview with you, the audit revealed that Branch 374 does not have a clear policy regarding the types of expenses personnel may claim for

reimbursement and the types of expenses that may be charged to union credit cards.
OLMS recommends that unions adopt written guidelines concerning such matters.

I want to extend my personal appreciation to Letter Carriers Branch 374 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,


Investigator

cc: Gary Smith, President