



September 5, 2013

Mr. Charlie Essex, Business Manager/ Financial Secretary  
IBEW Local 369  
4315 Preston Highway  
Louisville, KY 40213

Case Number: 350-02425 [REDACTED]  
LM Number: 022469

Dear Mr. Essex:

I recently completed an audit of IBEW Local 369 under the Compliance Audit Program (CAP) to gauge Local 369's compliance with the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA). During the exit interview with you, Ronda Goodin, Bill Schmitz and David Leightty on September 3, 2013, we discussed the following problems disclosed during the CAP. The matters listed below are not an exhaustive list of all possible problem areas since the audit 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 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 369's 2012 records revealed the following recordkeeping violations:

#### 1. Credit Card Charges

Local 369 did not retain adequate documentation for all charges on the Visa credit card assigned to former Business Manager/ Financial Secretary [REDACTED]. An examination of records available for 2012 revealed that 59 receipts for charges totaling more than

\$7,000 were missing. During the CAP, Local 369 obtained supporting documentation for one of those charges – a \$1,497.50 disbursement to Churchill Downs for a retirement party.

As previously explained, 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. Union Owned/ Leased Vehicles

Local 369 did not maintain records necessary to verify the accuracy of the information reported in Schedules 11 (All Officers and Disbursements to Officers) and 12 (Disbursements to Employees) of the LM-2. Specifically, Local 369 did not maintain records documenting business versus personal use of the union's vehicles.

LM-2 instructions contain rules for reporting automobile expenses. The union must report operating and maintenance costs for each of its owned or leased vehicles in Schedules 11 and 12 of the LM-2 allocated to the officer or employee to whom each vehicle is assigned. For each trip they take using a union owned or leased vehicle, officers and employees must maintain mileage logs that show the date, number of miles driven, whether the trip was business or personal and, if business, the purpose of the trip.

3. Receipts for Sales of Merchandise

Local 369 did not issue duplicate receipts or maintain any other record identifying the purchasers of promotional merchandise who paid by cash or check. As described above, labor organizations must retain records showing the sources of money they receive.

4. Supporting Documentation for Transactions Involving the Golf Scramble Account

Before the CAP, Local 369 did not maintain supporting documentation for most deposits into and disbursements from the Golf Scramble account, which was held in the name of the union and one of its employees. During the CAP, Local 369 obtained documentation about a disbursement made to the golf course where the scramble was held and a donation made to the United Way from scramble proceeds. Also during the CAP, Local 369 closed the Golf Scramble account and merged its operations into another account held solely in the name of the union.

As noted above, Local 369 took steps during the CAP to correct violations and has agreed to improve recordkeeping practices. Based on your assurance that Local 369 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-2 filed by Local 369 for fiscal year ending December 31, 2012 was deficient in the following areas:

#### 1. Reporting of Credit Card Charges

Local 369 did not accurately report Visa card charges. All charges on the union's Visa were reported as compensation to former Business Manager/ Financial Secretary [REDACTED] even when they were actually expenses, such as meals, for other officers or employees of the union or disbursements for lodging and air fare.

The union must report in Column F of Schedules 11 and 12 (Disbursements for Official Business) direct disbursements to officers and employees for reimbursement of expenses they incurred while conducting union business. In addition, the union must report in Column F of Schedules 11 and 12 indirect disbursements made to another party (such as a credit card company) for business expenses union personnel incur. However, the union must report in Schedules 15 through 19 indirect disbursements for business expenses union personnel incur for transportation by public carrier (such as an airline) and for temporary lodging expenses while traveling on union business. The union must report in Column G (Other Disbursements) of Schedules 11 and 12 any direct or indirect disbursements to union personnel for expenses not necessary for conducting union business.

#### 2. Automobile Expenses

Local 369 did not identify in Item 69 (Additional Information) and Schedules 11 and 12 personal use of union vehicles. The union must report in Schedules 11 and 12 direct and indirect disbursements for the operation and maintenance of union owned and leased vehicles assigned to specific staff members (including disbursements for gasoline, repairs and insurance). LM-2 instructions provide two methods for reporting automobile-related expenses:

- (a) The union may divide the expenses and report them in Columns F and G based on miles driven for union business (supported by mileage logs) compared with miles driven for personal use.
- (b) Alternatively, rather than allocating the expenses between Columns F and G, if 50 percent or more of an officer's or an employee's use of a vehicle was for official business, the union may report all of the expenses relative to the vehicle assigned to the officer or employee in Column F of Schedule 11 or 12 with an explanation in Item 69 that the officer or employee used the vehicle part of the time for personal business. Similarly, if a vehicle assigned to an officer or employee was used less than 50 percent of the time for business, all of the expenses relative to

that vehicle may be reported in Column G with an explanation in Item 69 that the officer or employee used the vehicle partly for official business.

3. Subsidiary Organization

Local 369 did not identify the building corporation as a subsidiary organization in Items 11(b) and 69. Furthermore, Local 369 did not include the subsidiary's financial operations on the LM-2 or attach a separate report as specified in Section X of the LM-2 instructions.

4. Target Fund

Local 369 reported target fund operations in Items 47 and 64 as receipts and disbursements on behalf of members rather than in Item 38 as receipts from assessments and in Schedule 15 as representational disbursements. For Schedule 15, major disbursements individually and in the aggregate of \$5,000 or more to each recipient from the targeting program must be itemized.

5. Reporting of all Accounts

Local 369 did not disclose the operations of the Online Dues, Credit Card, Escrow, Faith and Golf Scramble accounts. Disclosure of disbursements and receipts should not include transfers of funds among the union's accounts, and transactions cannot be netted. During the CAP, Local 369 implemented recordkeeping practices so these accounts will be included on the fiscal year 2013 LM-2.

6. Acquire/ Dispose of Property

Item 15 (acquisition or disposal of assets other than by purchase or sale) should have been answered, "Yes," because the union gave away promotional merchandise such as t-shirts. The union must identify the type and value of any property received or given away in the additional information section (Item 69) along with the identity of the recipient(s) or donor(s) of such property. The recipient of each item does not have to be identified by name. The union can describe recipients by broad categories if appropriate such as "members" or "new retirees." In addition, the union must report in Items 15 and 69 the cost, book value and trade-in allowance for assets that it traded in, such as automobiles.

7. Sale of Supplies

Local 369 did not correctly report receipts from the sale of merchandise or disbursements for merchandise to be resold. LM-2 instructions require that the union report receipts from the sale of supplies in Item 39 (Sale of Supplies) and disbursements for supplies for resale in Item 59 (Supplies for Resale). In addition, it must report the value of any supplies for resale on hand at the beginning and end of the year in Item 28 and Schedule 7 (Other Assets).

8. Accounts Receivable

Local 369 did not report in Item 23 and Schedule 1 (Accounts Receivable) dues extensions granted to members who cannot pay on time. Because individual members do not accrue dues debts to the union of \$5,000 or more, they do not need to be itemized by name in Schedule 1.

Local 369 has agreed to correct these deficiencies on all future reports it files with OLMS. In fact, Local 369 took steps during the CAP to ensure compliance with the fiscal year 2013 LM-2. Therefore, OLMS will not seek at this time an amended fiscal year 2012 LM-2 from Local 369.

I want to extend my personal appreciation to IBEW Local 369 for the cooperation and courtesy shown by you and your staff. Please make this letter and OLMS publications I sent you earlier available to other current and future officers. If I or anyone else from OLMS can be of assistance, please call me at (317) 535-3034 or our Cincinnati District Office at (513) 684-6840. Thank you.

Sincerely,



Senior Investigator