



December 7, 2016

Mr. Michael Lauer, President
Milwaukee Workers Organizing Committee
1862 W. Fond du lac Avenue
Milwaukee, WI 53205

Case Number: 320-6003961 [REDACTED]
LM Number: 544943

Dear Mr. Lauer:

This office has recently completed an audit of the Milwaukee Workers Organizing Committee (MWOC) 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 [REDACTED], and Attorney [REDACTED] on August 3, 2016, 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 the MWOC's 2014 records revealed the following recordkeeping violation:

Documentation for Disbursements and Reimbursed Expense Payments to Employees

The audit revealed that MWOC has been party to an established “consulting and vendor services agreement” with a 501(c)(3) and 501(c)(4) non-profit organization named Wisconsin Jobs Now (WJN) from July 2013 through approximately July 2016. Under the terms of the agreement, WJN agreed to provide payroll services (including benefits and staff expenses) and disburse funds on behalf of MWOC for all applicable overhead and administrative expenses in connection with the Fast Food Workers Project. MWOC’s president provided guidance and direction to WJN as to the overall results that were expected to be achieved. In return, MWOC agreed to pay WJN an established monthly fee for the consulting and vendor services (amount varies by year and terms of agreement), and WJN was to provide a full accounting of the amounts expended on behalf of MWOC each month.

During the exit interview, you were advised that under the conditions of MWOC’s agreement with WJN, for purposes of reporting with OLMS, WJN acted as an agent on behalf of MWOC by disbursing MWOC funds to pay for MWOC operating expenses. As noted in the Labor Organization Annual Report (Form LM-2) instructions for Statement B (Receipts and Disbursements), disbursements by an agent (WJN) on behalf of a labor organization (MWOC) are considered disbursements of the labor organization and must be reported on the LM-2 in the same detail as disbursements made directly by the union. As such, MWOC must maintain records for such disbursements, including but not limited to, vouchers, worksheets, receipts, applicable resolutions, and any electronic documents, including recordkeeping software, for the funds disbursed by WJN on MWOC’s behalf.

A review of MWOC disbursements records showed that MWOC disbursed almost \$800,000 to WJN in 2014 through monthly transfers from MWOC’s checking account to WJN’s checking account in amounts generally consistent with the terms of the agreement which had WJN pay for MWOC expenses. However, MWOC failed to maintain adequate records that showed how WJN disbursed MWOC funds. The only records retained by MWOC to support the disbursements of almost \$800,000 were its bank statements showing the fund transfers and an Excel spreadsheet which reflected the same information, which is not sufficient. The check register includes no additional details on how the funds were later spent by WJN. During the audit, WJN provided records to OLMS, including the WJN QuickBooks accounting records and other documentation such as bills, invoices, etc.; However, WJN did not maintain its QuickBooks accounting records and other documentation in a manner that enabled OLMS to differentiate MWOC’s operating and administrative expenses from WJN’s other expenses.

OLMS reviewed WJN documentation for a sample of expenditures during 2014 and found that adequate documentation was not retained by WJN for at least \$35,000 in operational and administrative expenses (not including payroll and employee expenses). The audit revealed that at least a portion of those expenditures were made on behalf of MWOC.

MWOC employed eight full-time and six part-time employees during 2014 (for at least a portion of the year) and WJN provided payroll services for MWOC employees which

included payment of wages and reimbursed expenses. A review of the documentation provided by WJN for expenses paid to several MWOC employees during the audit year revealed that MWOC employees were regularly reimbursed for mileage, per diem, and other travel expenses for which adequate supporting documentation was not retained.

MWOC (and WJN) failed to maintain adequate records for mileage reimbursements paid to several employees totaling more than \$8,000. Employees generally documented their mileage claims on WJN expense forms; however, the expense forms were not sufficient because they failed to identify the specific locations traveled to and from and the union business purpose for each trip. In the case of mileage expenses, records must be maintained that identify the dates of travel, the specific locations travelled to and from, the number of miles driven and the business purpose.

Former MWOC Organizer [REDACTED] received per diem payments on at least two occasions totaling \$450 for which adequate records were not maintained. The Service Employees International Union (SEIU) Healthcare Wisconsin policy manual, which was also the policy manual for MWOC employees and was provided to OLMS during the audit, states that staff were authorized to receive a per diem of \$34 per day for trips that required overnight travel for three or more consecutive nights. Although the per diem payments were claimed on an expense form, the form was not adequate because it failed to identify the union business purpose for the payment. In the case of per diem payments to officers and employees for travel on union business, MWOC must maintain records which identify the dates of travel, the per diem rate being claimed for each date, and the union business purpose requiring the travel.

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. Based on your assurance that MWOC will retain adequate documentation in the future, OLMS will take no further enforcement action at this time regarding the above violations. However, MWOC's records will be reviewed by OLMS within the next two years to ensure that the above recordkeeping violations have been corrected.

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 LM-2 filed by MWOC for the fiscal year ended (FYE) December 31, 2014, was deficient in the following areas:

1. Disbursements for Operating Expenses

As discussed above, pursuant to the written "consulting and vendor services agreement" between MWOC and WJN, MWOC transferred funds to WJN for the disbursement of its payroll, overhead, and administrative expenses. For LM-2 reporting purposes, WJN acted as

an agent of MWOC and, therefore, MWOC is required to disclose the details of the disbursements made by WJN on its behalf. MWOC erroneously reported disbursements to WJN of \$738,907 in Schedule 19 (Union Administration) instead of the appropriate functional reporting categories in Statement B (Items 50-67) and the related supporting schedules.

2. Payments to Employees

As noted above, MWOC employed eight full-time employees as well as six additional regular part-time employees, and each received more than \$10,000 in payments during the period; however, MWOC failed to report these employees and the payments to them in Schedule 12. In addition, MWOC had many employees who worked on a part-time basis and received less than \$10,000 per year, and the payments to those employees were not reported in the line item "Total Received by All Other Employees Making \$10,000 Or Less" of Schedule 12, as required. In total, MWOC failed to report more than \$350,000 in Schedule 12. It appears the disbursements to employees were erroneously included in the payments to WJN that were reported in Schedule 19.

MWOC must identify each employee that was compensated \$10,000 or more by name (Column A), title (Column B) and status (Column C) in Schedule 12. The union must report gross wages to each employee (before tax withholdings and other payroll deductions) in Column D (Gross Salary Disbursements). The total allowances made by direct and indirect disbursements to employees on a daily, weekly, monthly, or other periodic basis, excluding allowances paid for mileage and meals, must be reported in Column E (Allowances Disbursed). Direct disbursements to employees for the reimbursement of expenses they incurred while conducting union business must be reported in Column F of Schedule 12 (Disbursements for Official Business). In addition, the union must report in Column F of Schedule 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 (room rent only) while traveling on union business. The union must report in Column G (Other Disbursements) of Schedule 12 any direct or indirect disbursements to union personnel for expenses not necessary for conducting union business. Disbursements to employees who received less than \$10,000 should be aggregated and reported collectively in Columns (D) through (G) of the line item "Total Received by All Other Employees Making \$10,000 Or Less" on Schedule 12.

As we discussed during the exit interview, MWOC must file an amended Form LM-2 for the FYE December 31, 2014 to correct the deficient items discussed above. Similar violations were also found on the LM-2 Report filed for FYE December 31, 2015, and MWOC is also required to file an amended report for that year as well. The amended reports must be filed electronically using the Electronic Forms System (EFS) available at the OLMS website at www.olms.dol.gov. The amended Form(s) LM-2 must be filed as soon as possible, but no later

than **December 30, 2016**. Before filing, review the reports thoroughly to be sure they are complete and accurate.

Other Violations

1. Loans in Excess of \$2,000

The audit revealed that MWOC has an unwritten policy that permits loans to employees for a down payment on the purchase of an automobile. The loans made during the audit period were generally in an amount of \$2,000 or more. According to the terms of the loan agreements, employees were required to repay the union in \$100 increments, which was automatically deducted from their payroll check every two weeks. In addition, MWOC also provided payroll advances to employees for emergency situations, such as delinquent utility bills or automobile repairs.

Section 503 of the LMRDA prohibits labor organizations from making direct or indirect loans to any officer or employee of the organization which results in total indebtedness in excess of \$2,000. The audit revealed that MWOC Organizer ██████████ received an automobile loan in July 2014 in the amount of \$3,000, which resulted in her total indebtedness to MWOC to exceed the statutory limit by \$1,000. In addition, while ██████████ ██████████ had the outstanding automobile loan with MWOC, she also requested and received payroll advances on at least three occasions, which at one point increased her total indebtedness to MWOC to \$4,800, or \$2,800 in excess of the statutory limit. Section 503(c) of the LMRDA provides that any union officer or employee that willfully grants any loan(s) to an officer or an employee that causes them to exceed \$2,000 in total indebtedness can be criminally prosecuted and fined not more than \$5,000 or imprisoned for not more than one year, or both. In 1987, 18 U.S.C. 3571 increased the maximum fine amount to \$100,000.

During the exit interview, you advised that you were unaware of the statutory provision governing loans to union officers and employees and were not aware that MWOC had violated this provision when it made loans and payroll advances in excess of \$2,000 (in total indebtedness) to its employees. You advised that MWOC will review its practice regarding loans and payroll advances and discontinue loaning funds to members in any form that will result in total indebtedness to MWOC in excess of \$2,000. OLMS recommends that this policy be reduced to writing by either adding it to your union's constitution and bylaws or discussing it at an executive board or membership meeting where the policy can be supported by entries in the meeting minutes. Please provide OLMS an updated copy of MWOC's constitution and bylaws or any other records that document the union's policy for loaning money to employees at whatever time the union takes action to document such information. Based on the information you provided to OLMS, it does not appear that the violation of Section 503 of the LMRDA was committed willfully and as such, OLMS is not seeking criminal enforcement action at this time.

2. Failure to Hold Elections and to Adequately Describe Election Procedures on the Form LM-1

The audit revealed that no election of constitutional officers has been held since MWOC was chartered in May 2013. Section 401 of the LMRDA provides that all local labor organizations hold officer elections not less than once every three years. Section 401(e) provides that all elections must also be conducted in accordance with the constitution and by-laws of the labor organization in so far as they are not inconsistent with the provisions of this title. In the case of MWOC, the provisional constitution and bylaws do not contain any provisions for union officer elections, and the Labor Organization Information Report Form LM-1 filed by MWOC on May 23, 2013 does not contain a detailed statement about the union's election procedures.

During the audit, you advised that the union's three constitutional officer positions as identified in the provisional constitution and bylaws, including you as president, Vice President [REDACTED], and Secretary-Treasurer [REDACTED], were self-appointed in 2013 when MWOC was created. You have confirmed that no elections have been held since that time. [REDACTED] has subsequently been replaced by the current Secretary-Treasurer, [REDACTED]. [REDACTED] has also resigned her position with MWOC and you advised that the board, that is, you and [REDACTED], will be appointing someone soon to replace her as vice president.

Section 402 of the LMRDA gives union members who believe that a violation of the election provisions of the LMRDA or of the union's constitution and bylaws has occurred the right to file a complaint with the Secretary of Labor after internal union appeals requirements have been met. OLMS is responsible for investigating these complaints and taking appropriate enforcement action, which could include supervising an election, if warranted. MWOC must hold an election as soon as possible to be compliant with the statutory requirements.

OLMS recommends that MWOC thoroughly review Sections 401 and 402 of the LMRDA and incorporate election procedures consistent with those provisions, including holding regular local officer elections at least once every three years, into the MWOC Constitution and Bylaws. In the meantime, MWOC must file an amended Form LM-1 to provide a detailed statement regarding the union's current election practices and procedures. Please file the amended Form LM-1 as soon as possible, but not later than **December 30, 2016**.

Other Issue

Policy for Strike Payments

During the audit year, MWOC disbursed more than \$50,000 to members for the participation in an organized strike against various fast food restaurants and retailers, but the union has no written guidelines or policies that govern the disbursement of those payments, such as who is eligible to receive payment, what qualifications must be met to receive payment, etc. Although you were able to verbally define some of these parameters, such as that each striker

can receive no more than \$50 per strike and must be present at the strike site on the day of the strike, you were unable to provide any written documentation containing the parameters for the payment of strike funds. During the exit interview, Attorney [REDACTED] advised he would review the union's written policies and procedures and turn over any written policies governing strike fund payments, if they existed. As of the date of this letter, OLMS has not received any documentation from Attorney [REDACTED] regarding the disbursement of strike fund payments.

OLMS highly recommends that MWOC adopt written guidelines concerning the payment of strike funds to members to help ensure effective internal controls and safeguard union assets. I recommend that MWOC commit this practice to writing by adding it to your union's constitution and bylaws, or approving it at an executive board or membership meeting and documenting such approval in the meeting minutes or in a policy manual or other document maintained by the union.

I want to extend my personal appreciation to MWOC 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,

[REDACTED]

[REDACTED]

Investigator

cc: [REDACTED], Treasurer
[REDACTED], Attorney