



January 31, 2017

Mr. David Dodge, President  
Food and Commercial Workers Local 335

Case Number: 320-6009450 [REDACTED]  
LM Number: 046089

Dear Mr. Dodge:

This office has recently completed an audit of the Food and Commercial Workers (UFCW) 335 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 telephone exit interview with you, Secretary Treasurer [REDACTED], and Bookkeeper [REDACTED] on January 26, 2017, 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 335's 2015 records revealed the following recordkeeping violations:

#### 1. General Receipt Records

The audit revealed that Local 335 did not properly record all receipts in the union's receipt ledger. For example, Local 335 received over \$1,400 from a local vending machine

company for a percentage of the profits from the vending machine maintained at the employer. Local 335 recorded this income as “deposit” in the union’s receipt ledger instead of recording the actual source of the receipt as the vending machine company. As another example, Local 335 received several checks totaling \$1,500.46 from UFCW Region 6 during the audit year. The union failed to record each of these individual receipts from Region 6 in the receipt ledger; rather, the Region 6 receipts along with other receipts deposited to the checking account were recorded in the union’s receipt ledger as a single entry. Local 335 failed to retain additional documentation showing the amounts of the individual receipts from the various sources or the date the receipts were received.

Union receipts records must include an adequate identification of all money the union receives. The records should show the date and amount received of each receipt received, and the source of each receipt of money.

## 2. Lack of Supporting Documentation for Disbursements

Local 335 did not keep adequate supporting documentation for disbursements to vendors totaling more than \$700. For example, check [REDACTED] was payable to Sargent’s for \$100; however, the union failed to retain any documentation for this disbursement.

In addition, Local 335 did not keep adequate records for more than \$1,400 in charges incurred on the union’s credit card. For example, check [REDACTED] in the amount of \$200.28 included payment for charges incurred on the credit card at Liberty’s (\$94.62) and Kelly’s Bar (\$105.66); however, the union failed to retain any documentation, other than the credit card statement, for these expenditures, which is not sufficient.

As noted above, labor organizations must retain original receipts, bills, and vouchers for all disbursements. With regard to credit card expenditures, the union must retain both the credit card statement and the corresponding receipts and other supporting documentation for each expense. With regard to meal expenses, Local 335 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 to itemized receipts, 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.

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.

## 3. Lack of Salary Authorization

Local 335 did not maintain records to verify that the salaries reported in Item 24 (All Officer and Disbursements to Officers) of the LM-3 were the authorized amounts and therefore were correctly reported.

During the organizational interview, you advised that [REDACTED] is paid an hourly rate that was determined over 20 years ago when [REDACTED] first started working for the union. That hourly rate has increased over the years consistent with the increases received by the members in their collective bargaining agreement with the employer. The audit also found that [REDACTED] receives holiday and vacation pay, in addition to her salary, from the union. [REDACTED] received more than \$11,000 in compensation from Local 335 in 2015; however, Local 335 does not maintain any written records that document the authorization to pay any type of wages to [REDACTED].

In addition, during the audit year, both you and Mr. Hattemer received “vacation pay” from Local 335. The amount was calculated based on a percentage of each of your gross wages from Local 335 in the previous year, similar to the way vacation pay is calculated at the employer. Although the monthly salaries and lost wages paid to you and Mr. Hattemer are authorized in the Local 335 Rules (*Rules of Local 335-UFCW*), there is no written record that documents the authorization for the additional vacation pay each of you received in 2015.

The union must keep a record, such as meeting minutes, to show the current salary and other forms of compensation have been authorized by the entity or individual in the union with the authority to establish these amounts.

#### 4. Reimbursed Auto Expenses

You received more than \$800 from Local 335 for the business use of your personal vehicle, but you failed to retain adequate documentation to support those payments. You documented the mileage claims on expense vouchers you submitted to the union; however, you failed to identify the dates you incurred the mileage and the starting and ending destinations of your union related travel.

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.

#### 5. Lost Wages

Local 335 did not retain adequate documentation for lost wage reimbursement payments to you and Mr. Hattemer totaling almost \$8,000. The audit found that although lost wage claims were generally documented on vouchers, the information provided on the vouchers did not include the union business purpose for the wages.

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.

Based on your assurance that Local 335 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(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 335 amended its constitution and bylaws in 2006, but did not file a copy with its LM report for that year. Local 335 has now filed a copy of its constitution and bylaws.

The audit also 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 335 for the fiscal year ended December 31, 2015, was deficient in that:

#### Payments to Officers

Local 335 did not include some reimbursements to officers totaling at least \$2,300 in the amounts reported Item 24 (All Officers and Disbursements to Officers). It appears the union erroneously reported these payments in Item 48 (Office and Administrative Expenses). The audit disclosed that you and Mr. Hattemer both received reimbursement payments from Local 335 for travel expenses, including mileage and per diem, for attending UFCW Region 6 meetings; however, Local 335 reported \$0 in Column E (Allowances and Other Disbursements) next to your names.

The union must report most direct disbursements to Local 335 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 for room rent only) 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).

I am not requiring that Local 335 file an amended LM report for 2015 to correct the deficient items, but Local 335 has agreed to properly report the deficient items on all future reports it files with OLMS.

### Other Issues

#### 1. Credit Card Policy

The audit revealed that Local 335 disbursed almost \$1,500 to VISA for credit card purchases incurred by you and [REDACTED] during 2015. During the exit interview, you confirmed that Local 335 has no written policy governing the use of the credit card. To ensure compliance with the LMRDA and to safeguard union assets by promoting transparency and accountability, labor organizations should establish a written policy that outlines the best practices for monitoring credit card use and administering payments within your union. OLMS recommends that unions (1) adopt clear policies and procedures for credit card use and payment, (2) maintain detailed documentation to support each credit card charge and credit card payment, and (3) regularly monitor compliance with the established credit card policies and procedures.

#### 2. Lost Wage Policy

During the audit year, Local 335 disbursed payments totaling more than \$15,000 to officers for wages lost when they are required to be absent from their job at the employer to attend to union business. Local 335's current lost wage policy is found in the *Rules of Local 335-UFCW*, and provides that "Members who perform duties for the Local Union during their work shift shall be paid for lost wages subject to approval of the President or Sec.-Treas." During the organizational interview, you advised that officers can be reimbursed by Local 335 for any wages lost at the employer for time spent by officers working on union business, including overtime wages. The audit also revealed that officers received vacation pay from Local 335 for a percentage of wages that were lost in the previous year. Although Local 335 has a general written lost wage policy, it does not address the unwritten practices of paying lost overtime and lost vacation pay.

To ensure compliance with the LMRDA and to safeguard union assets by promoting transparency and accountability, OLMS recommends that union policies and procedures concerning the payment of lost overtime and lost vacation pay 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. Please refer to the enclosed OLMS Compliance Tips "Authorization for Salary and Paid Leave for Union Officials" and "Union Lost Time Payments" which both offer additional guidance on this matter.

I want to extend my personal appreciation to UFCW 335 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]

Investigator

cc: Mr. Matt Cordes, Vice President  
Mr. Raymond Gandy, Vice President  
Mr. Daniel Hanson, Vice President  
Mr. Troy Hattemer, Secretary Treasurer  
[REDACTED] Bookkeeper