



September 21, 2017

Mr. Ryan Gruber, President (Tosca)
Tosca Services Employees Union
860 Bay Beach Road
Green Bay, WI 54308

Case Number: 320-6011710 [REDACTED]
LM Number: 528208

Dear Mr. Gruber:

This office has recently completed an audit of Tosca Services Employees Union (TSEU) 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, President [REDACTED], Vice President (Tosca) Nathan Demoulin, and Treasurer Shaun Coppens on September 20, 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 TSEU's 2016 records revealed the following recordkeeping violations:

1. Disbursements to Vendors and Meal Expenses

TSEU did not retain adequate documentation for disbursements to vendors totaling at least \$10,233 in 2016. For example, adequate supporting documentation was not retained for a \$1,500 check issued to [REDACTED] on August 25, 2016 for catering TSEU's summer picnic. In support of this payment, TSEU only retained a carbon copy of the check issued to [REDACTED], which is not sufficient.

As another example, officers were not required to submit itemized meal receipts for meal expenses totaling at least \$494 in 2016. TSEU's records of meal expenses also did not always include the names and titles of the persons incurring or receiving the benefit of the restaurant charges or an adequate description of the business purpose of the meal expense. For example, an itemized receipt was not retained for a \$31 meal expense incurred by former Treasurer [REDACTED] at the Green Bay Yachting Club in Green Bay, WI on January 19, 2016, and the debit card signature receipt retained for this meal expense failed to identify the nature of the union business conducted or the full names and titles of those present.

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

TSEU purchased gift cards and cartons of beer totaling at least \$508 that were given away to members in 2016; however, TSEU did not maintain adequate records identifying the recipients of items that were given away during 2016. Records must be retained which account for all union property. In the case of gift cards or other items sold or given away to members, records must be maintained to clarify and support information required to be reported by TSEU in Statements A and B of the Labor Organization Annual Report (Form LM-3). The value of any gift cards or similar property on hand at the beginning and end of the year should be reported in Item 30 (Other Assets). In addition, the type and value of any property received or given away must be identified in the additional information section of the Form LM-3 report with the identity of the recipient(s) or donor of such property.

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.

3. Receipt Dates not Recorded

TSEU's receipts records reflect the date the union deposited money, but not the date money was received for receipts received from four Tosca Services dues checkoff checks, three Microstar dues checkoff checks, and five Microstar vending machine commission checks totaling at least \$13,820. 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 TSEU 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 TSEU for the fiscal year ended December 31, 2016, 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 TSEU gave away gift cards and cartons of beer totaling at least \$508 during the year. The union must identify the type and value of any property received or given away in Item 56 (Additional Information) 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. Officers and Disbursements to Officers

The audit revealed that TSEU did not report [REDACTED], [REDACTED], and Vice President [REDACTED] as local officers in Item 24 (All Officers and Disbursements to Officers). The union must report in Item 24 all persons who held office during the year, regardless of whether they received any payments from the union. The audit also revealed that TSEU did not report a \$500 retirement bonus paid to [REDACTED] in Item 24, Column D (Gross Salary). TSEU's disbursements records indicate that [REDACTED] received gross salary totaling \$500; however, TSEU did not report [REDACTED] or the \$500 payment to him

in Item 24. It appears the union erroneously reported the payment to [REDACTED] in Item 54 (Other Disbursements).

The union must report most direct disbursements to TSEU 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).

3. Statement A (Cash, Investments, and Fixed Assets Balances)

The cash figures reported in Item 25 (A) (Cash, Start of Reporting Period) and Item 25 (B) (Cash, End of Reporting Period) are not the figures according to TSEU's books after reconciliation to the bank statements for 2016. The cash balance as of January 1, 2016, as reconciled to the bank statements, was \$32,780; however, the cash reported in Item 25 (A) was \$22,381. The cash balance as of December 31, 2016, as reconciled to the bank statements, was \$31,851; however, the cash balance reported in Item 25 (B) was \$32,780. The instructions for Item 25 state that the union should obtain account balances from its books as reconciled to the balances shown on bank statements.

The investments figure reported in Item 28 (A) (Investments, Start of Reporting Period) is not the figure according to TSEU's books for 2016. The investments balance as of January 1, 2016, was \$0; however, the investments balance reported in Item 28 (A) was \$13,547. The instructions for Item 28 state that the union should enter the total book value for all investments other than U.S. Treasury securities. For LM reporting purposes, OLMS considers a certificate of deposit to be cash.

The fixed assets figure reported in Item 29 (B) (Fixed Assets, End of Reporting Period) do not include computers totaling \$902.98 that TSEU purchased during 2016. The audit revealed that TSEU's fixed assets balance as of December 31, 2016, was \$902.98; however, the fixed assets balance reported in Item 29 (B) was \$0. The instructions for Item 29 state that the union should enter the book value of all fixed assets, such as land, buildings, automobiles, and office furniture and equipment owned by your organization.

At the opening interview, Mr. Coppens stated that after he was unable to file TSEU's 2016 LM-3 report electronically, he completed the paper report that was submitted to OLMS by copying the figures for Statements A (Assets and Liabilities) and B (Receipts and Disbursements) from a print-out of the electronic report that he unsuccessfully tried to file. Mr. Coppens indicated that he probably forgot to save the 2016 figures before he printed-

out the report, which resulted in him printing out and copying 2015 figures to the 2016 report. A comparison of TSEU's 2015 and 2016 LM-3 reports showed the same entries in Statements A and B.

4. Total Receipts and Disbursements Over Reported

The audit revealed that Local TSEU had total receipts of \$13,883 recorded in its Excel general ledger and on its bank statements during 2016. However, TSEU reported total receipts of \$28,186 in Item 44 (Total Receipts) of Statement B. Similarly, the audit revealed that TSEU disbursed funds totaling \$14,812 during 2016; however, TSEU reported total disbursements of \$17,787 in Item 55 (Total Disbursements) of Statement B. Mr. Coppens confirmed these discrepancies were also a result of him mistakenly entering 2015 figures on the 2016 report, as previously noted above.

TSEU has filed an amended Form LM-3 for FYE December 31, 2016 that corrected the deficient items discussed above.

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 TSEU's officers and employees were not bonded for the minimum amount required at the time of the audit. However, TSEU obtained adequate bonding coverage and provided evidence of this to OLMS during the audit. As a result, OLMS will take no further enforcement action regarding this issue.

Other Issues

1. Signing Blank Checks

At the opening interview, you advised that you and other TSEU officers have occasionally signed blank checks. You further advised that all TSEU checks require two signatures. The two signature requirement is an effective internal control of union funds. Its purpose is to attest to the authenticity of a completed document already signed. However, signing a blank check in advance does not attest to the authenticity of a completed check, and negates the purpose of the two signature requirement. OLMS recommends that TSEU review these procedures to improve internal control of union funds.

2. Retirement and Bereavement Payments

As I discussed during the exit interview, the audit revealed that TSEU does not have clear policies regarding the payments members receive when they retire or a family member dies. For example, during the audit year, TSEU disbursed a total of \$1,300 to members that retired or had family members die. TSEU's constitution and by-laws do not contain specific provisions regarding the authorization of such disbursements and the policies for these disbursements could not be identified in any other union records. During the exit interview, [REDACTED] stated that members who are at least 55 years old and have 15 or more years of service receive \$500 when they retire; Mr. Demoulin stated that members receive bereavement payments of \$50 for the death of a grandparent or sibling and \$100 for the death of a parent, child, or spouse. OLMS recommends that TSEU adopt written guidelines concerning such matters to help ensure effective internal controls and safeguard union assets. At the exit interview, Mr. Demoulin advised that policies for both matters will be included in the union's updated by-laws, which should be finalized by the end of the year.

I want to extend my personal appreciation to Tosca Services Employees Union 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: [REDACTED])
Mr. Nathan Demoulin, Vice President (Tosca)
Mr. Shaun Coppens, Treasurer