



September 26, 2019

Mr. Darren Tode, President
State, County, and Muni Empls, AFL-CIO Local 3382
[REDACTED]

Case Number: 320-6015738 [REDACTED]
LM Number: 517567

Dear Mr. Tode:

This office has recently completed an audit of State, County, and Municipal Employees (AFSCME) Local 3382 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 and Treasurer Mary Turek on September 26, 2019, 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 3382's 2018 records revealed the following recordkeeping violations:

1. General Reimbursed Expenses

Local 3382 did not retain adequate documentation for reimbursed expenses incurred by you, Vice President Amy Pyne, former Treasurer Christine Schmitz, and Executive Board Member Bambi Wagoner totaling at least \$3,053. For example, adequate supporting documentation was not retained for a \$1,263.68 reimbursement to Ms. Pyne for expenses

she incurred to attend the 2018 AFSCME Convention in Boston, MA. In support of this payment, Local 3382 only retained a carbon copy of the check issued to Ms. Pyne, which is not sufficient. As another example, adequate supporting documentation was not retained for a \$147.77 reimbursement to you for food and refreshments you purchased for Local 3382's November 9, 2018 membership meeting at the Bowlero Bowling Alley in Wauwatosa, WI. In support of this payment, Local 3382 only retained a voucher and a carbon copy of the check issued to you, which is not sufficient.

Local 3382's records of meal expenses did not always include itemized receipts, written explanation of union business conducted, or the names and titles of the persons incurring or receiving the benefit of the restaurant charges. For example, an itemized receipt was not retained for a \$261.92 meal expense incurred by you, Ms. Schmitz, Ms. Pyne, and Ms. Wagoner at the No Name Restaurant in Boston, MA on July 16, 2018. In support of this expense, Local 3382 only retained a voucher and Ms. Schmitz's credit card signature receipt, which is not sufficient.

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. Reimbursed Auto Expenses

Ms. Pyne, Ms. Schmitz, Ms. Wagoner, and Secretary Karie Sharratt received reimbursement for business use of their personal vehicles but did not retain adequate documentation to support payments to them totaling at least \$525 during the audit period. Ms. Pyne's mileage reimbursement was claimed on an expense voucher that identified the date of travel, the total miles driven, the total mileage expense, and the union business conducted; however, the expense voucher was insufficient because it failed to identify the locations traveled to and from. Ms. Schmitz's mileage reimbursement was claimed on an expense voucher that identified the date of travel, the locations traveled to and from, the total miles driven, and the total mileage expense; however, the expense voucher was insufficient because it failed to identify the union business conducted. Ms. Wagoner's mileage reimbursement was claimed on an expense voucher that identified the date of travel, the total miles driven, and the total mileage expense; however, the expense voucher was insufficient because it failed to identify the locations traveled to and from and the union business conducted. Ms. Sharratt's mileage reimbursement was claimed on an expense voucher that identified the date of travel, the locations traveled to and from, the total mileage expense, and the union business conducted; however, the expense voucher

was insufficient because it failed to identify the number of miles driven. 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.

3. Lost Wages

Local 3382 did not retain adequate documentation for lost wage reimbursement payments to you, Ms. Pyne, Ms. Schmitz, and Ms. Wagoner totaling at least \$3,220 during the audit year. 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 audit found that the union retained vouchers for lost wage reimbursements, but in some instances the vouchers were not sufficient because you, Ms. Pyne, Ms. Schmitz, and Ms. Wagoner did not always identify the actual date the lost wages were incurred, the number of hours lost on each date, or the applicable rate of pay.

During the exit interview, I provided a compliance tip sheet, *Union Lost Time Payments*, that contained a sample of an expense voucher Local 3382 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.

4. Failure to Retain Voided Checks

The audit revealed that Local 3382 failed to retain five voided checks during fiscal year ended December 31, 2018. During the audit, you and Ms. Turek advised that you ripped up one of the voided checks after you realized that it didn't need to be issued to you; at the exit interview, you and Ms. Turek advised that you don't know why the other four voided checks weren't retained. As a general rule, all types of records created or used in the normal course of doing union business must be maintained by the union for five years.

Based on your assurance that Local 3382 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 Local 3382 for the fiscal year ended December 31, 2018, 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 Local 3382 gave away gift cards totaling at least \$225 to members during the audit 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

The audit revealed that Local 3382 did not include disbursements to you, Ms. Pyne, Ms. Schmitz, Ms. Turek, Ms. Sharratt, Ms. Wagoner, and Executive Board Member Megan Rich totaling at least \$12,594 in the amounts reported in Item 24 (All Officers and Disbursements to Officers), Column D (Gross Salary). Local 3382's disbursements records indicate that you, Ms. Pyne, Ms. Schmitz, Ms. Turek, Ms. Sharratt, Ms. Wagoner, and Ms. Rich received gross salary (including lost time) of \$12,594; however, the total amount reported in Column D of Item 24 for you, Ms. Pyne, Ms. Schmitz, Ms. Turek, Ms. Sharratt, Ms. Wagoner, and Ms. Rich was \$0. At the exit interview, Ms. Turek stated that she erroneously reported the gross salary payments Local 3382 made to you and her, Ms. Pyne, Ms. Schmitz, Ms. Sharratt, Ms. Wagoner, and Ms. Rich in Column E (Allowances and Other Disbursements), rather than Column D.

Additionally, Local 3382 erroneously reported Stewards Laila Knueppel, Nicholle Hrdlicka, Diane Kaminecki, Ashely Boldt, Tina Young, Christy Reyes, Brittany Hintz, and Jeannie Ledwitch and member Kristy Green-Prokopovitz and the related payments to them in Item 24, rather than in Item 46 (To Employees). At the opening interview, Ms. Turek stated that she thought Local 3382 was required to report all members that received payments from it in Item 24. As noted in the LM-3 instructions for Item 24, the term "officer" is defined in section 3(n) of the LMRDA (29 U.S.C.402) as "any constitutional officer, any person authorized to perform the functions of president, vice president, secretary, treasurer, or other executive functions of a labor organization, and any member of its executive board or similar governing body." Since the stewards and Ms. Green-Prokopovitz do not hold an "officer" position as defined above, any payments to them are required to be reported in Item 46.

Local 3382 must report in Column D of Item 24 gross salaries (before tax withholdings and other payroll deductions) of union officers, including disbursements for lost time and cash bonuses. Local 3382 must report in Column E of Item 24 direct disbursements to officers for reimbursement of expenses they incurred while conducting union business. In addition, the union must report in Column E of Item 24 indirect disbursements made to another party (such as a credit card company) for business expenses union personnel incur. 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. Statement A (Cash Balance) and Statement B (Total Receipts)

The cash figure reported in Item 25 (A) (Cash, Start of the Reporting Period) is not the figure according to Local 3382's financial records after reconciliation to the bank statements. The cash balance as of January 1, 2018, as reconciled to the bank statements, was \$74,359; however, the cash balance reported in Item 25 (A) was \$67,156. 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.

Additionally, Local 3382 had total receipts of \$11,262 recorded in its receipts records and on its bank statements during the audit year. However, Local 3382 reported total receipts of \$18,497 in Item 44 (Total Receipts) of Statement B (Receipts and Disbursements).

It appears that the discrepancy with the amount reported in Item 25 (A) as well as most of the discrepancy with the amount reported in Item 44 can be attributed to six deposits in transit from 2017 totaling \$7,202.64; Local 3382 failed to include these deposits in transit in the cash figure reported in Item 25 (A) and erroneously included them in the total receipts reported in Item 44. The LM-3 instructions require that the LM-3 be prepared using the cash method of accounting. Under the cash method of accounting, receipts are recorded when money is actually received by your organization and disbursements are recorded when money is actually paid out by your organization. Failure to record the exact date that monies were received could result in some receipts being reported in a different year than they were actually received. Local 3382 should take steps to ensure that all transactions are recorded in a timely manner.

4. Failure to File Bylaws

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 3382 amended its constitution in 2018, but did not file a copy with its LM report for fiscal year ended December 31, 2018. OLMS has now received a copy of the Local 3382's current constitution.

I am not requiring that Local 3382 file an amended LM report for 2018 to correct the deficient items, but Local 3382 has agreed to properly report the deficient items on all future reports it files with OLMS.

Other Issue

Lost Wage and Expense Policies

Local 3382 reimburses members for wages lost at Dental Associates on occasions they are absent from work to conduct union business. However, the union does not have written policies that document its lost wage reimbursement policies. In addition, the union does not have documentation that clearly identifies its travel expense policies.

The audit of Local 3382's records revealed that you, Ms. Pyne, Ms. Schmitz, and Ms. Wagoner all received per diem while attending the 2018 AFSCME Convention in Boston, MA; however, Ms. Schmitz and Ms. Wagoner were additionally reimbursed \$5.01 and \$43.75, respectively, for room service expenses they incurred while at the convention. Ms. Schmitz was also reimbursed a total of \$325.43 for two "e-board" meal expenses incurred by you, her, Ms. Pyne, and Ms. Wagoner at the convention. The audit did not reveal any evidence that you, Ms. Pyne, Ms. Schmitz, or Ms. Wagoner refunded a portion of your per diem to offset the meal expenses noted above. At the exit interview, you stated that you, Ms. Schmitz, Ms. Pyne, and Ms. Wagoner did not need to refund a portion of your per diem to offset the expense of these two meals because Local 3382 hosted these meals for officers from another local union that had hosted Local 3382's officers at the previous AFSCME Convention. Additionally, you were reimbursed \$571.30 and \$553.40 for first class airfare that you purchased for yourself and Ms. Wagoner, respectively, to attend the convention. When asked about this first class airfare, Ms. Turek stated that it wasn't brought to the attention of Local 3382's executive board or membership, and that Local 3382's members would not have approved it. At the exit interview, you stated that you normally use first class airfare for personal travel and because of this you "didn't think about it" when you purchased first class airfare for you and Mrs. Wagoner to attend the convention and that Local 3382's members would not have approved it.

To ensure compliance with the LMRDA and to safeguard union assets by promoting transparency and accountability, labor organizations should establish best practices for administering lost time payments and travel expenses. OLMS recommends that unions (1) adopt clear policies and procedures for making lost time or similar payments and (2) use vouchers that require detailed information to support lost time payments and travel expenses. These practices will allow the union to properly report lost time payments and travel expense on the Labor Organization Annual Report, Form LM-3.

OLMS recommends that union policies and procedures for lost wages and expenses be reduced to writing and added to your union's constitution or discussed at an executive board or membership meeting where they can be supported by entries in the meeting minutes. Once established, it is important that your union consistently follow its procedures for handling payments for lost time and other expenses. You may want to have your union's trustees or auditors compare the steps taken to pay lost time and other expenses with the union's policies to make sure that all required procedures are being followed.

I want to extend my personal appreciation to AFSCME Local 3382 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,

A large black rectangular redaction box covering the signature of the investigator.

Investigator

cc: Ms. Mary Turek, Treasurer