



September 30, 2019

Ms. Nola Trimble, Treasurer
Fire Fighters Local 37
P.O. Box 886812
Great Lakes, IL 60088

Case Number: 310-6013625 [REDACTED]
LM Number: 540487

Dear Ms. Trimble:

This office has recently completed an audit of Fire Fighters Local 37 under the Compliance Audit Program (CAP) to determine your organization's compliance with the provisions of the Civil Service Reform Act of 1978 (CSRA), 5 U.S.C. 7120, and the Department's regulations, 29 CFR 458. As discussed during the exit interview with you on September 20, 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 of the LMRDA and Title 29 of the Code of Federal Regulations (C.F.R.) Section 403.7 require, among other things, that labor organizations maintain adequate records for at least five years after reports are filed by which the information on the reports can be verified, explained and clarified. Pursuant to 29 C.F.R. Section 458.3, this recordkeeping provision of the LMRDA applies to labor organizations subject to the requirements of the Civil Service Reform Act of 1978 (CSRA) as well. Therefore, as a general rule, labor organization must retain 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 37's 2017 records revealed the following recordkeeping violations:

1. General Reimbursed and Debit Card Expenses

Local 37 did not retain adequate documentation for reimbursed expenses and debit card expenses incurred by union officers and employees totaling at least \$11,000.00. Although union officers and employees traveled and incurred lodging, per diem, airfare, taxi/ride share, and other travel expenses, supporting documentation was not always retained.

In addition, Local 37 did not retain adequate documentation for at least \$680.00 in holiday meal disbursements via debit card transactions and checks to officers and members. The audit revealed that Local 37 purchased groceries so meals could be prepared for members who worked at the fire house on Thanksgiving and December 25th. President Brian Pagliaroni and then treasurer Luke Morarend advised during the opening interview that these disbursements were "per diem," and receipts were not required. However, per diem is the allowance for travel-related lodging (excluding taxes), meals, and incidental expenses. Therefore, these disbursements to officers and/or members must be supported by adequate documentation.

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.

2. Meal Expenses

Local 37 records of meal expenses did not always include the full names and titles of the persons incurring the restaurant charges. 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. Also, the records retained must identify the names of the restaurants where the officers or employees incurred meal expenses.

In addition, Local 37 did not always require officers and employees to submit itemized receipts for meal expenses. The union 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.

3. Receipt Dates, Sources and Purposes Not Recorded

Entries in Local 37's general ledger sometimes reflect the date the union deposited money, but not the date money was received or the source and/or the purpose of the receipts. For example, Local 37 collects dues from retirees and funds for cable/internet service from members and non-members. However, the general ledger shows that Local 37 was recording the date the funds were deposited, not the date Local 37 actually received those

funds. In addition, receipt records did not always identify the source and/or the purpose of the receipt.

Union receipts records must show the date of receipt. The date, the source, and the amount 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 Local 37 will retain adequate documentation in the future, OLMS will take no further enforcement action at this time regarding the above violations.

Reporting Violations

Pursuant to 29 C.F.R., Section 458.3, the reporting requirement under 29 C.F.R. Section 403.2 (see Section 201(b) of the Labor-Management Reporting and Disclosure Act (LMRDA)) is made applicable to labor organizations subject to the requirements of the CSRA. This provision requires labor organizations to file annual financial reports that accurately disclose their financial condition and operations. The audit disclosed a violation of this requirement. The Labor Organization Annual Report (Form LM-3) filed by Local 37 for the fiscal year ended December 31, 2017, was deficient in the following areas:

1. Officers Not Listed

Local 37 did not report the names of some officers and the total amounts of payments to them or on their behalf in Item 24 (All Officers and Disbursements to Officers). The LMRDA defines "officer" 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. The audit revealed that Local 37 had at least three trustees and two stewards (who are officers) that were not identified in Item 24. The names of all persons who held office during the year must be reported in Item 24 regardless of whether or not they received any payments from Local 37.

2. Disbursements to Officers

Local 37 failed to include direct and indirect disbursements to President Brian Pagliaroni and other officers in Item 24 (All Officers and Disbursements to Officers) totaling at least \$6,000. For example, President Pagliaroni received direct and indirect disbursements for travel expenses; however, nothing is reported next to his name in Item 24. In addition, during the audit, President Pagliaroni advised that he used the union debit card to withdraw cash for per diem for all officers and other members who were traveling. He then disbursed the cash to the other officers and members. Since President Pagliaroni withdrew the funds

with the union debit card, the full disbursement must be reported next to his name in Item 24. It appears these payments were erroneously reported elsewhere on the report.

Most direct disbursements to Local 37's officers and some indirect disbursements made on behalf of its officers must be reported 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) 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. PayPal Account

Local 37 maintained a PayPal account but did not report its start and end of reporting period balances or receipt and disbursement activity from the account on its LM report for fiscal year 2017. The \$519.91 balance in the account as of January 1, 2017 was not reported in Item 25A (Cash at Start of Reporting Period). The \$1,364.00 in gross receipts that came in to the PayPal account was not reported as a cash receipt. Instead, the beginning balance of \$519.91 was included as part of the 2017 reported receipts because it was transferred into Local 37's checking account during the year. The \$22.71 in fees that PayPal charged the account also does not appear to have been reported as a cash disbursement on the union's 2017 LM report.

As described in the LM-3 instructions, Statement A must report all cash on hand or on deposit and Statement B must report all cash flowing in and out of your organization, but not transfers among the organization's various accounts. Because cash may enter and exit the union's treasury through its PayPal account, its balances and receipt and disbursement activity must be included in the figures reported in Statement A and Statement B, respectively.

4. Purchase of Fixed Assets

Local 37 purchased computers, a printer, and printer cart totaling at least \$3,600. However, nothing is reported in Item 52 (Purchase of Investments and Fixed Assets) or Item 29 (Fixed Assets). It appears these disbursements were erroneously reported elsewhere on the report.

5. Failure to File Bylaws

Pursuant to 29 C.F.R. Section 458.3, the requirement under 29 C.F.R. Section 402.4 implementing LMRDA Section 201(a) is made applicable to labor organizations subject to the requirements of the CSRA. This provision requires labor organizations to file copies of any revised constitution and bylaws when it files its annual financial report. The audit

disclosed a violation of this requirement. Local 37 amended its constitution and bylaws in 2015, but did not file the required copies with its LM report for that year. Local 37 has now filed a copy of its constitution and bylaws.

I am not requiring that Local 37 file an amended LM report for 2017 to correct the deficient items, but Local 37 has agreed to properly report the deficient items on all future reports it files with OLMS.

Other Issues

1. Cash Disbursements for Per Diem

As noted above, President Brian Pagliaroni withdrew cash with the union's debit card for himself and other officers and members who traveled on union business. OLMS recommends that all disbursements be by check directly to the individual receiving the funds in order to ensure internal control over disbursements. Since President Pagliaroni withdrew the funds, and is an officer, the per diems are considered direct disbursements for reporting purposes and must be included in the amount reported next to his name in Item 24, Column E (Allowances and Other Disbursements). Note that a check made payable to "cash" and cashed by an officer must also be reported as a payment to that officer. OLMS recommends that Local 37 review these procedures to improve internal control of union funds.

2. Taxable Income and Per Diem

The audit revealed that Local 37 may be improperly following state or federal requirements for withholding of various taxes from payments to officers. Local 37 routinely paid per diem and also paid for meal expenses, which may make the excess per diem payments taxable income. OLMS recommends that you contact the Illinois Department of Revenue and the Internal Revenue Service to determine your withholding requirements.

I want to extend my personal appreciation to Fire Fighters Local 37 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,



Investigator

cc: Mr. Brian Pagliaroni, President