



October 3, 2012

Mr. Michael Clancy, Treasurer
Food & Commercial Workers
UFCW Local Union 350I
4932 Old Oneida Road
Verona, NY 13478

Case Number: [REDACTED]
LM Number: 537-065

Dear Mr. Clancy:

This office has recently completed an audit of UFCW Local 350I 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 on September 27, 2012, 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 350I's 2012 records revealed the following recordkeeping violations:

1. Lack of Salary Authorization; Unsigned Contract

During the audit Mr. Clancy advised OLMs that the salary and other compensation he receives is outlined in a contract between him and the union. A copy of this contract which was supposedly signed by another officer is not on file in the union's records.

It is imperative that such executed documents be maintained especially in light of the fact that Local 350I does not hold regular meetings. The union must keep a record, such as meeting minutes or a signed contract, to show the current salary authorized by the entity or individual in the union with the authority to establish salaries.

2. Auto Allowance

Treasurer Michael Clancy, who received an auto allowance for business use of his personal vehicle, did not retain adequate documentation to support the payments to him totaling \$4,800 during the audit year. The union must maintain records to justify the allowance and show the business purpose for use of a personal vehicle by an officer.

3. Health Insurance Disbursements

The local failed to maintain records to verify the payments to [REDACTED] totaling at least \$1,660 for the health care benefits of Michael Clancy. [REDACTED] the [REDACTED] of Michael Clancy, has premiums deducted from [REDACTED] employer which covers [REDACTED] portion of the premiums. Such payments are noted in the contract.

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.

4. Failure to Record Receipts

Local 350I did not properly record in its receipt records, the source of such receipts and the dates which monies were received. The entries in the records reflect only the date the union deposited money. For example, the union received checks from American National Insurance Company monthly together with other employer dues checkoff, however only included a lump amount deposited to the bank and the date of deposit.

Union receipts records must include an adequate identification of all money the union receives. The records should show the date and amount received, and the source of the money. 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 Local 350I will retain adequate documentation in the future, OLMS will take no further enforcement action at this time regarding the above violations.

The proper maintenance of union records is the personal responsibility of the individuals who are required to file Local 350I's LM report. You should be aware that under the provisions of Section 209(a) of the LMRDA and Section 3571 of Title 18 of the U.S. Code, willful failure to maintain records can result in a fine of up to \$100,000 or imprisonment for not more than one year, or both. Under the provisions of Section 209(c) of the LMRDA and Section 3571 of Title 18 of the U.S. Code, willful destruction or falsification of records can result in a fine of up to \$100,000 or imprisonment for not more than one year, or both. The penalties provided in Section 209(c) and Section 3571 of Title 18 apply to any person who caused the violations, not just the individuals who are responsible for filing the union's LM report.

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 350I for the fiscal year ended March 31, 2012, was deficient for the following reason:

Disbursements to Officers (LM-3)

Local 350I did not include the payments to Treasurer Michael Clancy totaling at least \$56,555 in the amounts reported Item 24 (All Officers and Disbursements to Officers). It appears the union erroneously reported these payments in Item 46 (To Employees). All payments to an officer, regardless of their context, must be reported in Item 24. In addition, payments to [REDACTED] on behalf of Michael Clancy, should be reported in Column E (Allowances and Other Disbursements). It appears the union erroneously reported such payments in Item 50 (Benefits).

The union must report most direct disbursements to Local 350I 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) 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 UFCW Local 350I file an amended LM report for 2012 to correct the deficient item, but Local 350I has agreed to properly report the deficient items on all future reports it files with OLMS.

Other Issues

1. Salary Authorization/Policy

As I discussed during the exit interview with you, the audit revealed that Local 350I does not have a clear policy regarding full time salaries and expenses. Additionally, there is no policy for what one may claim for reimbursement. OLMS recommends that unions adopt written guidelines concerning such matters.

2. Signatures on Checks

During the audit, you advised that you are the only signatory on the union's account. You advised that it is Local 350I's practice for you to solely sign all union checks. Your union's bylaws require the signatures of two of the three trustees on all checks and all other financial documents. 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 by one of the signatories. However, having only one signature on checks does not attest to the authenticity of a completed check, and negates the purpose of the two signature requirement as outlined in your constitution and bylaws. OLMS recommends that Local 350I review these procedures to improve internal control of union.

3. Failure to follow Constitution and Bylaws

As discussed with you during the exit interview, the audit revealed that Local 350I failed to follow their constitution and bylaws in several areas. According to the Constitution and Bylaws dated 2004, the union should hold regularly quarterly meetings on an area basis. In addition, the signatures of two of the three Trustees shall be required on all checks and all other financial documents. The Trustees shall employ a certified public accountant to perform a complete audit not less than once per year.

OLMS recommends that unions follow their written guidelines and recommends a thorough review of the union's constitution and bylaws to ensure the rules and laws of such unions are followed.

I want to extend my personal appreciation to UFCW Local 350I 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. Bervyn Brown, President
Mr. Albert Carranza, Secretary