



April 27, 2011

Mr. Don Seaquist, President
UFCW Local 1189
266 Hardman Avenue
South St. Paul, MN 55075

Case Number: [REDACTED]
LM Number: 025481

Dear Mr. Seaquist:

This office has recently completed an audit of UFCW Local 1116, (which recently merged with UFCW Local 789 to form UFCW Local 1189) under the Compliance Audit Program (CAP) to determine Local 116's compliance with the provisions of the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA). As discussed during the exit interview with you, Northern Division Director Gary Morgan, Union Representative Joyce Berglund, Secretary Treasurer Jennifer Christiansen on March 16, 2011, 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 Violation

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 1116's 2009 records revealed the following recordkeeping violation:

Reimbursed Mileage and Per Diem Expenses

Union officers and employees who received reimbursement for per diem and mileage for the business use of their personal vehicles did not retain adequate supporting documentation to support payments to them. The audit revealed that the union paid at least \$65,400 that was, in large part, for mileage and per diem payments to officers and employees. However, in many instances neither the vouchers filled out by union officers and employees in support of those payments nor other the disbursement records identified the business purpose of the per diem expenses or the specific location of traveled to and from relative to mileage expenses.

In the case of reimbursed mileage expenses, Local 1116 must maintain records which identify the dates of travel, locations traveled to and from, and the 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. For reimbursed per diem expenses, the records maintained by Local 1116 should identify the specific union business conducted or the purpose of the expense, as well as the dates and amounts claimed for each date.

Based on your assurance that Local 1189 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-2) filed by Local 1116 for the fiscal year ended December 31, 2009, was deficient in the following areas:

Disbursements to Officers and Employees

Local 1116 incorrectly reported some disbursements to officers and employees in Schedule 11 (All Officers and Disbursements to Officers) and Schedule 12 (Disbursements to Employees). Schedule 11 and Schedule 12 were deficient in the following areas:

Names of Officers (Column A): The general ledger and payroll records show that Business Agent James Gleb received over \$10,000 in direct and indirect disbursements. However, Local 1116 did not report Mr. Gleb and the total amount of payments to him in Schedule 12.

Gross Salary Disbursements (Column D): Local 1116 has agreements with Grand Village Nursing Home and Lamb Weston RDO Frozen Foods Plant to reimburse the companies for wages paid to union officers and employees who leave work to conduct union business. Local 1116's general ledger showed that Local 1116 disbursed over \$3,030 to those employers for lost wages during the audit period. These wages are considered "indirect disbursements" (as described below) to officers and employees for LM reporting purposes and must be included in

the amounts reported in Column D (Gross Salary Disbursements) of Schedule 11 and/or Schedule 12 allocated among those officers and employees who received the payments. However, it appears these payments were not included in the amounts reported as paid to officers for salary (including lost wages) in Column D because you were not aware of the reporting requirements. It appears these payments were erroneously reported in Schedule 15 (Representational Activities) or Schedule 19 (Union Administration).

Additionally, the general ledger and vouchers show that stewards and other members were directly reimbursed for lost wages for contract negotiations and union meetings totaling more than \$25,000 (though none received \$10,000 individually). However, nothing was reported at the bottom of Schedule 12.

Disbursements for Official Business (Column F): Local 1116 did not report any disbursements for official business to Vice President Connie Salakka, or Executive Board Members Stephen Moen and Allen Priolo in Schedule 11. However, the local's general ledger and vouchers show that the officers were paid per diem to attend conferences and union meetings totaling at least \$1,800. Such payments are required to be reported in column F of Schedule 11.

In the case of indirect credit card disbursements, the audit revealed that all credit card charges were reported in Column F next to the officer or business agent's name who incurred them. However, as further explained below, some indirect disbursements to a credit card company should not be reported in Schedules 11 or 12, but must be reported in Schedules 15 through 19.

Direct disbursements to officers and employees for reimbursement of expenses they incurred while conducting union business must be reported in Column F of Schedules 11 and 12 (Disbursements for Official Business). In addition, indirect disbursements made to another party (such as a credit card company) for business expenses union personnel incur must be reported in Column F of Schedules 11 and 12. However, indirect disbursements for business expenses union personnel incur for transportation by public carrier (such as an airline) and for temporary lodging expenses while traveling on union business must be reported in Schedules 15 through 19. Any direct or indirect disbursements to union personnel for expenses not necessary for conducting union business must be reported in Column G (Other Disbursements) of Schedules 11 and 12.

I am not requiring that Local 1189 file an amended LM report for 2009 to correct the deficient items, but Local 1189 has agreed to properly report the deficient items on all future reports it files with OLMS.

Other Issue

Reimbursed Mileage Policy

Mr. Morgan advised that Ms. Berglund and Business Agent Tom Cvar work primarily from their home offices which are 50 to 75 miles away from the union office in Duluth. Ms. Berglund and Mr. Cvar's expense vouchers and other union records indicate they were reimbursed more than \$29,000 for expenses during 2009, primarily for mileage expenses. Further, the vouchers show

that a significant portion of the mileage for which they claimed reimbursement was attributed to commuting to and from their homes to the union office as much as two or three times per week.

Mr. Morgan stated that the authorization of reimbursements for commuting mileage for Ms. Berglund and Mr. Cvar were likely included in a "verbal employment agreement," and most likely authorized solely by a former president. Further, he stated that the union does not have a written policy regarding the types of mileage expenses that can be claimed for reimbursement. OLMS recommends that unions adopt written guidelines concerning such matters to help ensure effective internal controls and safeguard union assets. Also, Local 1116 may want to check with Internal Revenue Service (ask for Publication 15-B Employer's Tax Guide to Fringe Benefits) because such payments may be considered a taxable fringe benefit and may be subject to withholding taxes.

I want to extend my personal appreciation to UFCW Local 1189 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. Gary Morgan, Northern Division Director
Ms. Jennifer Christiansen, Secretary Treasurer