



June 9, 2016

Mr. David Novak, President
Food and Commercial Workers Local 442
251 Linden Ave.
Owatonna, MN 55060

Case Number: 320-6006967 [REDACTED]
LM Number: 041342

Dear Mr. Novak:

This office has recently completed an audit of Food and Commercial Workers Local 442 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 Secretary-Treasurer Rock Branderhorst on May 20, 2016, 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 442's fiscal years 2014 and 2015 records revealed the following recordkeeping violations:

1. Lack of Salary Authorization

During 2014 and 2015, Local 442 paid monthly salaries of \$348.11 to you and \$298.11 to Mr. Branderhorst. During the audit, you stated that officer salary levels were authorized

sometime in the 1970's, but you were unable to provide any documentation to support this authorization. Local 442 did not maintain records to verify that the salaries reported in Item 24 (All Officer and Disbursements to Officers) of the LM-3 was the authorized amount and therefore was correctly reported.

Local 442 must keep a record, such as meeting minutes, to show the current salary authorized by the entity or individual in the union with the authority to establish salaries.

2. Reimbursed Auto Expenses

You received reimbursement for the business use of your personal vehicle, but did not retain adequate documentation to support payments to you totaling at least \$260 during fiscal years 2014 and 2015. Your mileage reimbursements were claimed on vouchers that normally identified "semi-annual reimbursement;" however, the vouchers were not sufficient in that they failed to identify the dates of travel, the specific union purpose for the reimbursement, or the locations traveled to and from. 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. Disbursements for Hotel Expense

Local 442 did not retain adequate documentation for a payment made to the Fairmont Chicago hotel totaling \$1,251.35 on August 16, 2013. Meeting minutes indicate that union travel to Chicago was authorized for a conference; however, Local 442 did not retain any supporting documentation for the hotel expense.

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. Lost Wages

Local 442 did not retain adequate documentation for lost wage reimbursement payments to union officers and employees totaling at least \$1,161.44. The audit revealed that adequate supporting documentation was not retained for lost wage payments made to officers for contract negotiations. In support of these payments, Local 442 retained vouchers; however, the vouchers were not sufficient in that they failed to document the dates that the lost wages were incurred. 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.

Based on your assurance that Local 442 will retain adequate documentation in the future, OLMS will take no further enforcement action at this time regarding the above violations.

Reporting Violation

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 Reports (Form LM-3) filed by Local 442 for the fiscal years ended (FYE) March 31, 2014, and March 31, 2015, were deficient in that:

Disbursements to Officers and Employees

Local 442 did not include some reimbursements to officers totaling at least \$1,830 in the amounts reported in Item 24 (All Officers and Disbursements to Officers) on the Form LM-3 filed for FYE March 31, 2014 and FYE March 31, 2015. It appears the union erroneously reported these payments in Item 50 (Benefits). For example, on August 2, 2013, both you and Mr. Branderhorst received a \$500 reimbursement for per diem; however, this amount was not reported in Column E (Allowances and Other Disbursements) of Item 24.

The audit also revealed that Local 442 did not include any disbursements to employees totaling \$2,160 in the amounts reported in Item 46 (to Employees) on the Forms LM-3 filed for FYE March 31, 2014 and FYE March 31, 2015. It appears that the union erroneously reported these payments in Item 54 (Other Disbursements). During the audit years, Local 442 made quarterly payments to [REDACTED] and [REDACTED] to conduct audits of the union records. None of these payments were reported in Item 46. Disbursements to individuals other than officers who receive lost time payments, stipends, allowances, reimbursed expenses, etc., for conducting union business must be reported in Item 46 even if your organization does not consider them to be employees or does not make any other direct or indirect disbursements to them.

The union must report most direct disbursements to Local 442 officers and some indirect disbursements made on behalf of its officers in Item 24. Most direct disbursements to Local 442 employees and some indirect disbursements made on behalf of its employees must be reported in Item 46. A "direct disbursement" to an officer/employee is a payment made to an officer/employee 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/employee 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/employee. 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).

I am not requiring that Local 442 file amended LM reports for 2014 and 2015 to correct the deficient items, but Local 442 has agreed to properly report the deficient items on all future reports it files with OLMS.

Other Issue

Overpayment of Reimbursed Expense

The audit revealed that on five occasions during 2015, Local 442 overpaid officers for reimbursement related to the purchase of refreshments for union meetings. For example, on December 20, 2014, you were reimbursed \$17.00 for the purchase of refreshments for a union meeting; however, according to the receipt you submitted to the union, the total cost of the refreshments was \$16.26. During the exit interview, you and Mr. Branderhorst stated Local 442 has a policy of rounding up to the nearest dollar for reimbursement payments made to officers who purchase refreshments for union meetings, but that this policy has not been documented in union records.

OLMS recommends that unions: (1) adopt a clear policy on reimbursed expenses; (2) establish what documentation is needed for an official to be reimbursed; and (3) establish a procedure that provides for review and approval of expense claims. Careful review of expense vouchers can help ensure adequate internal controls and safeguard union assets.

I want to extend my personal appreciation to Food and Commercial Workers Local 442 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. Rock Branderhorst, Secretary-Treasurer