



June 21, 2011

Mr. John Schmitt, President/Business Manager
Laborers District Council – Wisconsin
4633 LIUNA Way
De Forest, WI 53713

Case Number: [REDACTED]
LM Number: 068223

Dear Mr. Schmitt:

This office has recently completed an audit of Laborers District Council – Wisconsin (WLDC) 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 June 20, 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 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 WLDC's 2010 records revealed the following recordkeeping violations:

1. Credit Card Expenses

WLDC did not retain adequate documentation for credit card expenses incurred by union officers and employees totaling at least \$5,500. For example, WLDC officers and employees charged more than \$14,000 on their union-issued credit cards for lodging,

airfare, and airline-related baggage expenses. However, receipts and other supporting documentation for at least \$4,600 of lodging, airfare, and baggage expenses were not retained. The only records retained for those expenses were the credit card statements, and credit card statements alone are not sufficient to fulfill LMRDA recordkeeping requirements.

As noted above, labor organizations must retain original receipts, bills, and vouchers for all disbursements. In addition, in the case of these types of travel expenses, the records retained must also identify the union business purpose of the travel that required the expenses be incurred. The president and treasurer (or corresponding principal officers), who are required to sign your union's LM report, are responsible for properly maintaining union records.

2. Meal Expenses

WLDC did not require officers and employees to submit itemized receipts for meal expenses totaling at least \$4,400. In most instances, the only records retained in support of meal expenses were the credit card signature receipts and credit card statements. Itemized receipts provided by restaurants to officers and employees must be retained. In the case of the WLDC, many of the expenses were incurred at restaurants that routinely provide customers with itemized receipts. The 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.

WLDC records of meal expenses did not always identify the titles of the persons incurring or receiving the benefit of restaurant charges. In most instances, WLDC maintained credit card signature receipts identifying the date, amount, names of all persons incurring the expense, business purpose of each expense, and the names of the restaurants where the expenses were incurred. However, Local WLDC failed to retain records identifying the titles of all persons who incurred the restaurant charges. 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

3. Union Owned Vehicles

WLDC did not maintain records necessary to verify the accuracy of the information reported in Schedules 11 (All Officers and Disbursements to Officers) and 12 (Disbursements to Employees) of the LM-2.

WLDC incurred expenses totaling at least \$16,600 for gasoline and other expenses related to the operation of union owned automobiles during fiscal year ended September 30, 2010. However, officers and employees assigned union automobiles did not maintain records, such as mileage logs, documenting business versus personal use of the vehicles. Instead, each officer or employee who is assigned a union owned automobile prepared an annual report for the calendar year 2010 that identified their estimate of the total number of

business miles, commuting miles, and non-commuting miles driven for income tax reporting purposes.

For each trip they take using a union owned or leased vehicle, officers and employees must maintain mileage logs that show the date, number of miles driven, whether the trip was business or personal, and, if business, the purpose of the trip. As further discussed below, such records are required to be retained to support information regarding automobile expenses that are required to be reported in Schedules 11 (All Officers and Disbursements to Officers) and 12 (Disbursements to Employees) of the LM-2.

4. Reimbursed Auto Expenses

Office Manager Donna Neustadter received reimbursement for business use of her personal vehicle, but did not retain adequate documentation to support payments to her totaling at least \$900 during 2010. For mileage reimbursement claims, Ms. Neustadter submitted expense vouchers that identified only the total number of miles she claimed she drove for union business. The vouchers failed to identify the dates of travel, the mileage reimbursement rate claimed, or the number of miles driven on each trip.

In the case of reimbursed mileage expenses, the WLDC 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.

Based on your assurance that WLDC 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 the District Council for the fiscal year ended September 30, 2010 was deficient in the following areas:

1. Election Date

WLDC reported an incorrect election date in Item 19 (Next Regular Election). The report indicates that the next election will be held in August 2012. However, you confirmed that this date is incorrect and WLDC's next regularly scheduled election in August 2011.

2. Disbursements to Officers

WLDC did not include some indirect disbursements to officers in Schedule 11 (All Officers and Disbursements to Officers) and Schedule 12 (Disbursements to Employees). Article IX *Uniform District Council Constitution* states, "Travel expenses may also be provided for an Executive Board member's spouse who accompanies the Executive Board member during

travels in connection with the performance of the member's duties and responsibilities. During the audit year, the credit card statements show that at least \$350 was disbursed for travel expenses for your wife and Assistant Business Agent Pat Ervin's wife. These disbursements for spouses' travel are considered indirect disbursements to officers and employees for LM-2 reporting purposes and must be reported in Column G (Other Disbursements) of Schedules 11 and 12. Nothing was reported in Column G for any officer or employee. It appears that these payments were erroneously 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.

3. Salaries Reported as Allowances

WLDC did not correctly report salaries to some officers totaling at least \$15,000 in Schedule 11 (All Officers and Disbursements to Officers), Column D (Gross Salary Disbursements). WLDC records general ledger and salary listing indicate part-time District Council officers receive a monthly "salary/wage." Furthermore, you advised that this is to compensate the officers for the work that they do including time attending union meetings, and is not intended to be a reimbursement to them for any specific expenses. Such payments are considered salary for LM-2 reporting purposes and should be reported in Column D of Schedule 11. These payments were erroneously reported in Schedule 11, Column E (Allowances).

4. Automobile Expenses

Expenses related to the operation of union owned vehicles were not properly reported. During the audit year, four officers and employees were assigned union-owned vehicles. Information reported by the WLDC in Item 69 (Additional Information) states, "Schedules 11 and 12, Column F – All automobile expenses on behalf of officers and employees are reported in Column F of the Schedule. It has been determined that more than 50% of the automobile use is for official business." However as previously explained above, no records were maintained by officers and employees to enable OLMS to verify this information. Further, year end tax reports, entitled "Statement from Employee to Employer Regarding Use of the Employer-Provided Vehicle," reflect that in calendar year 2009, Community and Government Affairs Director Joe Oswald's business miles were 11,964 and his personal and commuting miles totaled 16,755. Further, the same records for 2010 indicate that in

calendar year 2010, Mr. Oswald's business miles were 6,150 and his personal and commuting miles total 21,159.

The LM-2 instructions provide two methods for reporting automobile-related expenses. Direct and indirect disbursements for the operation and maintenance of union owned and leased vehicles and the operation and maintenance of vehicles owned by union personnel (including gasoline, repairs, and insurance) must be reported in Schedules 11 and 12. The expenses may be divided and reported in Columns F and G based on miles driven for union business (supported by mileage logs) compared with miles driven for personal use.

Alternatively, rather than allocating the expenses between Columns F and G, if 50 percent or more of an officer's or an employee's use of a vehicle was for official business, the expenses related to the vehicle assigned to the officer or employee may be reported in Column F of Schedule 11 or 12 with an explanation in Item 69 (Additional Information) that the officer or employee used the vehicle part of the time for personal business.

Similarly, if a vehicle assigned to an officer or employee was used less than 50 percent of the time for business, all of the expenses related to that vehicle may be reported in Column G with an explanation in Item 69 that the officer or employee used the vehicle partly for official business.

Review of the LM-2 forms for fiscal years ending September 30, 2008, 2009, and 2010 indicate that nothing has been reported in Column G for any officer or employee. In the case of the WLDC, union records reviewed during the audit, some amount must be reported in column G for automobile expenses for at least Mr. Oswald and maybe additional officers and employees, whose personal use exceeded 50% during one or more years.

I am not requiring that WLDC file an amended LM report for 2010 to correct the deficient items, but WLDC has agreed to properly report the deficient items on all future reports it files with OLMS.

Other Violation

Acquire/Dispose of Property by Affiliated Locals

The audit disclosed a violation of LMRDA Section 201(b) by WLDC's affiliated local unions. Each year WLDC purchases Milwaukee Brewers season tickets and distributes the tickets to the "membership." You advised that affiliated local unions request the tickets for distribution to their members. During the audit year, WLDC distributed 28 sets (four seats per set) of tickets and parking passes to Laborers Locals 113, 140, 268, 330, and 464, valued at \$4,900. WLDC correctly answered Question 15 (During the reporting period did your organization acquire or dispose of any assets in any manner other than by purchase or sale?) yes and provided the required additional information. Locals 113, 140, 330, and 464 answered Question 15 yes, but failed to report the required additional information to identify the property that each received in Item 69 (Additional Information). Further, Local 268 incorrectly answered Question 15 no. You agreed to speak to the Locals and organizations' accountant to ensure the deficient item is properly reported on all future reports they file with OLMS.

Other Issue

Use of Signature Stamp

During the audit, you advised that it is WLDC's practice for Office Manager Donna Neustadter to prepare all union checks and to stamp the signature of you or Secretary Treasurer Kevin Lee on union checks. You stated that each check is usually signed by you or Mr. Lee and Ms. Neustadter stamps the second signature. Ms. Neustadter has possession of both signature stamps. Article VII of the *Uniform District Council Constitution* requires that checks be signed by the president and treasurer. 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. However, the use of a signature stamp for one or both signers does not attest to the authenticity of the completed check, and negates the purpose of the two signature requirement. OLMS recommends that WLDC review these procedures to improve internal control of union funds.

I want to extend my personal appreciation to Laborers District Council 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,

[REDACTED]
Investigator

cc: Mr. Kevin Lee, Secretary Treasurer
Mr. Andy Hein, Certified Public Accountant