



January 7, 2016

Mr. Paul F. LaBuda, President
Bakery, Confectionary, Tobacco Workers and Grain
Millers Union Local 19
9665 Rockside Road, Suite B
Cleveland, OH 44125-6233

Case Number: 350-6004089
LM Number: 022-303

Dear Mr. LaBuda:

This office has recently completed an audit of Bakery, Confectionary, Tobacco Workers and Grain Millers Union Local 19 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 Treasurer Abraham Herskovitz, Attorney Timothy R. Fadel, and Joanne Montagner-Hull, CPA on December 14, 2015, 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 19's 2014 records revealed the following recordkeeping violations:

Union Credit Card Meal Expenses

Local 19 did not require officers and employees to submit itemized receipts for meal expenses totaling at least \$5,581.17. The receipts that were provided were only total amounts that included the tip. While receipts with a total amount were maintained, detailed receipts were not provided to determine exactly what was purchased. In addition, Local 19 did not retain adequate documentation for credit card expenses incurred by several officers while attending the National Convention in Las Vegas, Nevada in August 2014 totaling at least \$2,661.62. For example, meal and pool bar expenses charged to officers' Planet Hollywood hotel rooms did not have receipts for supporting documentation. Of the \$2,661.62, pool bar expenses totaled at least \$1,271.00 of expenses with no supporting documentation.

The union must maintain itemized and detailed 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. 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.

Based on your assurance that Local 19 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 19 for the fiscal year ended December 31, 2014, was deficient in the following areas:

1. Disposal of Property

Item 15 (During the reporting period did your organization acquire or dispose of any assets in any manner other than by purchase or sale?) should have been answered, "Yes," because the local disposed of a union owned van with a trade-in value of about \$2,000.00 during the year. The union must identify the type and value of any property given away or trade-in in the additional information section of the LM report along with the identity of the recipient, if any of such property. In addition, the union must report the cost, book value, and trade-in allowance for assets that it traded in.

2. Disbursements to Officers and Employees for Meals

Local 19 did not include any meal disbursements to officers and employees totaling at least \$8,242.79 in Schedule 11 (All Officers and Disbursements to Officers) and Schedule 12 (Disbursements to Employees). It appears that the local erroneously reported these payments in Schedules 15 through 19.

The union must report in Column F of Schedules 11 and 12 (Disbursements for Official Business) direct disbursements to officers and employees for reimbursement of expenses they incurred while conducting union business. In addition, the union must report in Column F of Schedules 11 and 12 indirect disbursements made to another party (such as a credit card company) for business expenses union personnel incur. However, the union must report in Schedules 15 through 19 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. The union must report in Column G (Other Disbursements) of Schedules 11 and 12 any direct or indirect disbursements to union personnel for expenses not necessary for conducting union business.

3. Schedule 11 – All Officers and Disbursements to Officers

The audit revealed the local incorrectly listed trustees and shop stewards as employees on Schedule 12 – Disbursements to Employees on the December 31, 2014 Form LM-2 Report. Per the local's bylaws, trustees are voted to office at the regularly scheduled officer elections and are considered voting members of the local's executive board. Shop stewards, who are elected at each individual shop level, are also voting members of the local's executive board per the local's bylaws.

An "officer," according to Section 3(n) of the LMRDA, includes: "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. "

Therefore, all trustees and shop stewards must be recorded and listed in Schedule 11 – All Officers and Disbursements to Officers, even if they did not receive any type of salary compensation or reimbursements.

4. Disbursements Improperly Reported in Schedule 19 – Union Administration

The audit revealed that no disbursements were allocated to Schedule 18 – General Overhead, instead they were all allocated to Schedule 19 – Union Administration.

Generally, Schedule 19 (Union Administration) is reserved for disbursements related to the general governance of the union [such as activities relating to the nomination and election of union officers; the union's regular membership meetings; intermediate, national and international meetings; union disciplinary proceedings; the administration of trusteeships; and the administration of apprenticeship and member education programs (not including political education, which should be reported in Schedule 16).] and complying with obligations established by the government (such as filing Form LM-2). For example, printing of election ballots, rental of meeting facilities for a union convention, printing of transcripts of a trusteeship hearing, etc., should be reported in Schedule 19.

On the other hand, Schedule 18 (General Overhead) is used to report the labor organization's direct and indirect disbursements to all entities and individuals during the reporting period associated with general overhead that cannot be allocated to any of the other disbursement categories in Statement B. For example, disbursements for rent, insurance, office supplies, postage, utilities, accountant fees, subscriptions, bank account fees, building maintenance, etc., should be reported in Schedule 18 unless these costs were specifically for any of the union administration purposes described above or should be reported in another, more appropriate disbursements category elsewhere on the report.

Local 19 must file an amended Form LM-2 for the fiscal year ended December 31, 2014, to correct the deficient items discussed above. The report must be filed electronically using the Electronic Forms System (EFS) available at the OLMS website at www.olms.dol.gov. The amended Form LM-2 must be filed no later than February 1, 2016. Before filing, review the report thoroughly to be sure it is complete and accurate.

Other Issues

Meal Expense Policy

During the opening interview, you advised that Local 19 does not have a set policy or “per diem” rate concerning meals during travel status. Business agents and other officers are permitted to incur meal expenses that are “reasonable” in cost while on overnight travel status to conduct union business.

The audit revealed that several restaurant credit card charges had higher expense values when compared with the number of guests in attendance. For example, business agents during overnight travel status in Columbus, Ohio incurred meal expenses of \$200.16 at Ruth Chris’ Steak House for two guests. Additionally, during the BCTGM Constitutional Convention held in Las Vegas, Nevada in August 2014 the following restaurant charges were incurred: \$610.29 charge for four guests at Lawry’s; \$180.00 charge for two guests at Lombardi’s; \$200.00 charge for two guests at Smith & Wollensky; \$667.77 charge for four guests at Joe’s Seafood; and \$1,494.00 charge for ten guests at Ruth Chris’ Steak House.

With no written policy governing food and drink expenditures during travel status, expenses can be interpreted differently among the local’s officers and what the local’s membership would consider “reasonable,” as well. To ensure proper internal financial control over union disbursements, OLMS recommends that each union: (1) adopt a clear policy of “per diems” for meals, alcohol, and other related travel expenses; (2) establish what documentation is to be submitted for reimbursed and credit card expenses; and (3) establish a procedure that provides for approval of travel expense claims. Such policies and procedures can help ensure effective internal controls and safeguard union assets. During the exit interview, I provided you with OLMS compliance tips related to expenses and credit cards.

I want to extend my personal appreciation to Bakery, Confectionary, Tobacco Workers and Grain Millers Union Local 19 for the cooperation and courtesy extended during this compliance

Mr. Paul F. LaBuda

March 21, 2016

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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. Abraham M. Herskovitz, Treasurer