



June 4, 2012

Mr. Joseph Palencik Jr., Secretary Treasurer
Food and Commercial Workers Local 1034C
4833 Southbrook Drive
Stow, OH 44224

Case Number: [REDACTED]
LM Number: 530740

Dear Mr. Palencik Jr.:

This office has recently completed an audit of Food and Commercial Workers Local 1034C 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, President Terry Hoover, and Vice President John Johnson on April 10, 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 of the LMRDA, among other things, that labor organizations maintain adequate records for at least five years after reports are filed by which the information on the reports can be verified, explained and clarified. Therefore, as a general rule, labor organization must retain 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 1034C's records for fiscal year ending June 30, 2011 revealed the following recordkeeping violations:

1. Lost Wages

Local 1034C did not retain adequate documentation for lost wage reimbursement payments to union officers totaling at least \$10,000.00. 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. The OLMS audit found that Local 1034C did not maintain any lost time documentation.

During the exit interview, I provided a compliance tip sheet, *Union Lost Time Payments*, that contained a sample of an expense voucher Local 1034C may use to satisfy this requirement. The sample identifies the type of information and documentation that the local must maintain for lost wages and other officer expenses.

2. Checks Payable to "Cash"

Local 1034C did not retain adequate documentation for two checks totaling \$700.00 made payable to "Cash." Receipts were present for \$556.45 of the \$700.00.

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.

3. Meal Expenses

Local 1034C did not require officers and employees to submit itemized receipts for meal expenses totaling at least \$545.00. The union must maintain itemized 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.

Local 1034C records of meal expenses did not always include written explanations of union business conducted or the names and titles of the persons incurring the restaurant charges. For example, receipts from Pizza Hut, TGI Fridays, and On Tap Bar and Grill did not contain any explanation as to the union purpose. 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.

4. Lack of Salary Authorization

Local 1034C did not maintain records to verify that the salaries reported in Item 24 (All Officers and Disbursements to Officers) of the LM-3 was the authorized amount and therefore was correctly reported. The union 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.

5. Disposition of Property

Local 1034C did not maintain an inventory of t-shirts and other property it purchased and gave away. The union must report the value of any union property Item 30 (Other Assets) of the

LM-3. The union must retain an inventory or similar record of property on hand to verify, clarify, and explain the information that must be reported in Item 30.

Based on your assurance that Local 1034C 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-3 filed by Local 1034C for the fiscal year ended June 30, 2011, was deficient in the following areas:

1. Disbursements to Officers

Local 1034C did not include some reimbursements to officers totaling at least \$700.00 in the amounts reported Item 24 (All Officers and Disbursements to Officers). It appears the union erroneously reported these payments in Item 48 (Office and Administrative Expenses).

The union must report most direct disbursements to Local 1034C 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).

2. Figures Reported

Local 1034C failed to include the funds in their strike fund savings account in Item 25(A), Cash at the Start of the Reporting Period, causing an under reporting of approximately \$4,300.00. Local 1034C failed to report as a disbursement an IRS levy totaling over \$10,000.00 for back 941 taxes that was deducted from their checking account during the audit year. The local over reported Item 25(B), Cash at the End of Reporting Period, by approximately \$6,000.00.

3. Acquire/Dispose of Property

Item 13 (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 union gave away t-shirts totaling more than \$1,400.00 during the year. The union must identify the type and value of any property received or given away in the additional information section of the LM report along with the identity of the recipient(s) or donor(s) of such property. The union does not have to itemize every recipient of such giveaways by name. The union can describe the recipients by broad categories if appropriate such as "members" or "new retirees."

In addition, the union must report the cost, book value, and trade-in allowance for assets that it traded in.

Local 1034C has filed an amended Form LM-3 for the fiscal year ended June 30, 2011, but not all of the deficient items discussed above were corrected. Specifically, the IRS levy was not reported as a disbursement and the ending cash balance was overstated. Local 1034C must file an amended Form LM-3 for fiscal year ended June 30, 2011 correcting these errors. I encourage Local 1034C to complete, sign, and file its report electronically using the Electronic Forms System (EFS) available at the OLMS website at www.olms.dol.gov. Reporting forms and instructions can be downloaded from the website, if you prefer not to file electronically. The amended Form LM-3 should be filed electronically no later than June 15, 2012 or submitted to this office at the above address by the same date. Before filing, review the report thoroughly to be sure it is complete and accurate. Paper reports must be signed with original signatures.

Other Issues

1. One Signature on Checks


During the audit, it was discovered that it is Local 1034C's practice for Secretary Treasurer Joe Palencik Jr. to sign all union checks without a second signature. A 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, requiring only one signature does not attest to the authenticity of the completed check, and negates the purpose of the two signature requirement. OLMS recommends that Local 1034C review these procedures to improve internal control of union funds.

2. Voided Checks

Local 1034C did not maintain all of its voided checks. Although voided checks were reported properly in the locals accounting system, it is recommended that Local 1034C also maintain the actual voided checks.

I want to extend my personal appreciation to Food and Commercial Workers Local 1034C 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. Terry Hoover, President