



May 29, 2024

Tomas Torres, President
Retail, Wholesale, and Department Store, UFCW
Local 705
729 Lincoln Ave
Holland, MI 49423

Case Number: 320-6027310()
LM Number: 006614

Dear President Torres:

This office has recently completed an audit of Retail, Wholesale, and Department Store (RWDSU) Local 705 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 Erik DeHaan on May 21, 2024, 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 705's 2022 records revealed the following recordkeeping violations:

1. Disbursements to Vendors and General Reimbursed Expenses

Local 705 did not retain adequate documentation for disbursements to vendors and reimbursed expenses incurred by you, former Secretary-Treasurer Hamid Dahger, former President Alfred Bouck, former Secretary-Treasurer Walter Gamble, former President

Brian Kuzmanko, and Trustee Jesus Briseno totaling at least \$18,002. For example, adequate supporting documentation was not retained a \$12,318.35 payment to the Internal Revenue Service for federal employment taxes. In support of this expense, Local 705 only retained a bank statement, which is not sufficient.

As another example, former Secretary-Treasurer Dahger received reimbursement for business use of their personal vehicle but did not maintain adequate documentation to support a \$36.27 payment to them. The only supporting documentation retained by Local 705 for this payment to former Secretary-Treasurer Dahger was a check stub, which is not sufficient. 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.

As noted above, labor organizations must retain original receipts, bills, and vouchers for all disbursements. Itemized receipts provided by restaurants to officers and employees must be retained. 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. 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. 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.

2. Lost Wages

Local 705 did not retain adequate documentation for lost wage reimbursement payments to officers and employees totaling at least \$15,521. 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 705 did not retain vouchers or any other detailed records for lost wages from January to July 2022. Local 705 began using vouchers for lost wages in July 2022, but in many instances the vouchers were insufficient because they did not always identify the actual date lost wages were incurred or adequately describe the union business conducted.

During the exit interview, I provided a compliance tip sheet, *Union Lost Time Payments*, that contained a sample of an expense voucher Local 705 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.

3. Disposition of Property

The audit revealed that Local 705 did not maintain an inventory of Bibles it gave away during the audit year. Local 705 also did not maintain records that identified the persons who received the Bibles, the dates the Bibles were given away, or the quantity of the Bibles (and their value) that were on hand at the beginning and end of the year. Additionally, Local 705 failed to retain adequate records for gift cards and door prizes it gave away at its membership meetings during the audit year. The audit revealed that Local 705 purchased gift cards and door prizes totaling at least \$245 and did not maintain records that identify the recipients of the gift cards and door prizes that were given away.

Records must be retained which account for all union property. In the case of Bibles, gift cards, or other items given away to members, records must be maintained to clarify and support information required to be reported by Local 705 in Statements A (Assets and Liabilities) and B (Receipts and Disbursements) of the Labor Organization Annual Report (Form LM-3). The values of any Bibles or similar property on hand at the beginning and end of the year must be reported in Item 30 (Other Assets). In addition, the type and value of any property received or given away must be identified in the additional information section of the Form LM-3 report with the identity of the recipient(s) of such property.

In addition, in the case of items given away to members, the union must retain records that identify the date the items were given away and the recipients of those items.

4. Lack of Salary Authorization

Local 705 did not maintain records to verify that the salaries (including lost wages) reported in Item 24 (All Officers and Disbursements to Officers) of the LM-3 were the authorized amounts and therefore correctly reported.

While Local 705's current salaries are authorized in Article V, Section I of its 2023 bylaws, its bylaws from 1985, which were in effect during the audit period, are silent regarding officer salaries. Authorization for the salaries in effect during the audit period also could not be identified in Local 705's minutes or any other union record. Additionally, Local 705 "grossed up" salaries for the entire audit year and lost wages for part of the audit year so that the net amount paid out equaled the gross amount due. Local 705's bylaws from 1985 and 2023 don't include any authorization to "gross up" salary or lost wage payments and no authorization for this was identified in the union's minutes or any other record.

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. Failure to Maintain Receipt Records

The audit revealed that Local 705 not retain six deposit receipts that it received from PNC Bank during the audit period. As previously noted, 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.

Based on your assurance that Local 705 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 705 for the fiscal year ended December 31, 2022, was deficient in the following areas:

1. Signatures

The audit revealed that former Secretary-Treasurer Gamble signed the report in Items 57 and 58 (Signatures); however, Local 705 had a president and other active officers at the time the report was filed. The LM-3 instructions require the report be signed by both the president and treasurer, or corresponding principal officers, of the labor organization. If the report is signed by an officer other than the president or treasurer, the union must enter the correct title next to the signature and explain in Item 56 (Additional Information) why the president and treasurer did not sign the report.

2. 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 Bibles, gift cards, and various door prizes 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.

3. Disbursements to Officers

Local 705 did not include disbursements to former President Kuzmanko, former Secretary-Treasurer Gamble, former President Bouck, and former Secretary-Treasurer

Dahger totaling at least \$23,368 in the amounts reported in Item 24, Column D (Gross Salary). Local 705's disbursements records indicate that these officers received gross salary (including lost time) of \$27,744; however, the total amount reported in Column D of Item 24 for these officers was \$4,376. It appears that Local 705 erroneously reported the lost wages it paid to these and its other officers in Item 24, Column E (Allowances and Other Disbursements), rather than Column D.

Additionally, Local 705 over reported reimbursements it made to the officers noted above by at least \$17,877 in the amounts reported in Item 24, Column E. Local 705's disbursements records indicate that these officers received reimbursed expenses totaling \$5,902; however, the total amount reported in Column E of Item 24 for these officers was \$23,779. This appears to primarily be a result of the error noted in the paragraph above.

Local 705 must report in Column D of Item 24 gross salaries (before tax withholdings and other payroll deductions) of union officers, including disbursements for lost wages. Local 705 must report in Column E of Item 24 direct disbursements to officers for reimbursement of expenses they incurred while conducting union business. In addition, the union must report in Column E of Item 24 indirect disbursements made to another party (such as a credit card company) for business expenses union personnel incur. 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).

I am not requiring that Local 705 file an amended LM report for 2022 to correct the deficient items, but Local 705 has agreed to properly report the deficient items on all future reports it files with OLMS.

Other Issue

Lost Wage Policy and Possible Over and Underpayments

Local 705 reimburses members for wages lost at Kraft Heinz on occasions they are absent from work to conduct union business; however, the union does not have written policies that adequately document its lost wage reimbursement policies.

To ensure compliance with the LMRDA and to safeguard union assets by promoting transparency and accountability, labor organizations should establish best practices for administering lost time payments. OLMS recommends that unions: (1) adopt clear policies and procedures for making lost time or similar payments, and (2) use vouchers that require detailed information to support lost time payments. These practices will allow the union to properly report lost time payments on the Labor Organization Annual Report, Form LM-3.

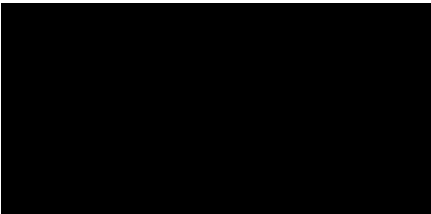
OLMS recommends that union policies and procedures for lost wages be reduced to writing and added to your union's bylaws or discussed at an executive board or membership meeting where they can be supported by entries in the meeting minutes. Once established, it is important that

your union consistently follow its procedures for handling payments for lost time. You may want to have your union's trustees or auditors compare the steps taken to pay lost time with the union's policies to make sure that all required procedures are being followed.

Additionally, a comparison of the lost wage reimbursements Local 705 made to former Secretary-Treasurer Gamble and former President Kuzmanko during the audit year with payroll records received from Kraft Heinz revealed that former Secretary-Treasurer Gamble and former President Kuzmanko appear to have been overpaid a net total of \$389.50 and \$139.28, respectively. It is unclear what caused these discrepancies, but it is possible that they are due to inaccurate records and/or miscalculated hours by Local 705. At the exit interview, you and Treasurer DeHaan advised that you would review the lost time claims submitted by these former officers with the local's executive board and membership to determine the appropriate actions to take. OLMS recommends a careful review of lost wage claims as this can help ensure adequate internal controls and safeguard union assets.

I want to extend my personal appreciation to RWDSU Local 705 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: Erik DeHaan, Treasurer