



May 12, 2015

Mr. Mahlon Mitchell, President
Professional Fire Fighters of Wisconsin

Case Number: 320-6003120(77)
LM Number: 544537



Dear Mr. Mitchell:

This office has recently completed an audit of Professional Fire Fighters of Wisconsin (PFFW) 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, Vice President Mike Woodzicka, Secretary-Treasurer Steve Wilding, Board Members Jason Hempel, Jerry Biggart, Justin Pluess, Lance Tryggestad, Lucas Kotschi, Matt Simpson, Mike Degarmo, and Rich Gee, and Executive Assistant Cindy McGinnis on April 28, 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 PFFW's 2014 records revealed the following recordkeeping violations:

1. Disbursements to Vendors, General Reimbursed Expenses, and Credit Card Expenses

The PFFW did not retain adequate documentation for disbursements to vendors, payments to you, Mr. Wilding and other officers, and 274 credit card expenses totaling at least \$69,070. For example, adequate supporting documentation was not retained for a \$1,692.39 charge you made at Hilton Hotels in Washington, D.C. on March 20, 2014 for the IAFF Legislative Conference. In support of this expense, the PFFW only retained a credit card statement and the hotel's booking confirmation e-mail. In addition, 24 EFT payments totaling \$4,800 made to Mr. Wilding and you for office and phone expenses did not have adequate supporting documentation retained. In support of these expenses, the PFFW only retained monthly vouchers.

As another example, officers and employees were not required to submit itemized meal receipts for meal expenses totaling at least \$31,814. For most meal expenses, the PFFW only retained the credit card signature receipt showing the name of the vendor, the date, and the amount of the expense, which is not sufficient. In addition, the PFFW's records of meal expenses did not always include written explanation of union business conducted or the names and titles of the persons incurring or receiving the benefit of the restaurant charges. For example, a receipt retained for a \$167.25 meal expense incurred by you at Blue Harbor in Sheboygan, WI on April 16, 2014 did not include the nature of the union business conducted and the full names and titles of those present on the receipt.

You and Mr. Wilding both indicated at the organizational interview that officers and employees were not required by the PFFW to retain itemized receipts and that you were unaware of this requirement. During the course of the audit, you and Mr. Wilding indicated that officers and employees are not required to record the business purpose and the names and titles of those present at meals on the receipts and that you were also unaware of these requirements as well.

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. Reimbursed Auto Expenses

Mr. Wilding and you received reimbursements for business use of your personal vehicles, but did not retain adequate documentation to support payments made to you and Mr. Wilding totaling at least \$272 during 2014. 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. Receipt Dates not Recorded

Entries in the PFFW's PAC fund receipts journal reflect the date the union deposited money, but not the date money was received. Union receipts records must show the date of receipt. Failure to record the date money was received could result in the union reporting some receipts for a different year than when it actually received them.

4. Lack of Salary Authorization

The PFFW did not maintain records to verify that the salaries reported in Schedule 11 (All Officers and Disbursements to Officers) of the LM-2 were the authorized amounts and were therefore correctly reported.

You and Mr. Wilding stated that the authorized salaries for PFFW officers and employees are in the PFFW's annual budget. During the exit interview, Mr. Wilding and Mr. Woodzicka advised that Mr. Woodzicka's salary as the administrator of the PFFW's fundraising account has been in place since the PFFW started its fundraising efforts sometime after 1991. Mr. Woodzicka stated that the authorization for his salary was recorded in the PFFW's executive board minutes; however, the PFFW was unable to provide the minutes that authorized Mr. Woodzicka's salary and the authorization for his salary could not be identified in any other union records. The union must keep a record, such as meeting minutes, to show the current salaries for officers and employees as authorized by the entity or individual with the authority to establish salaries.

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

1. Disbursements to Officers

The PFFW erroneously included airfare and lodging expenses charged to the union credit cards by you and Mr. Wilding totaling at least \$4,084 in the amounts reported in Schedule 11 (All Officers and Disbursements to Officers), Column F (Disbursements for Official Business). A review of itemized receipts for airfare and lodging expenses and credit card

statements for you and Mr. Wilding revealed that lodging and airfare expenses charged to union credit cards were included in the total reimbursed expenses reported in Column F of Schedule 11; however, indirect disbursements for airfare and temporary lodging must be reported in Schedules 15 through 19.

In addition, the audit revealed that you and Mr. Wilding incurred at least 22 meal expenses totaling at least \$1,022 that only you or Mr. Wilding were present for. It appears that the meals were incurred either before or after you and Mr. Wilding conducted union business based on information provided by you and Mr. Wilding. The fact that these meals take place at a time when you and Mr. Wilding would otherwise normally be paying for meals yourselves appears to indicate that the meals are more for the personal benefit of you and Mr. Wilding rather than necessary for conducting official union business. Therefore, unless it can be shown that the meals were actually necessary for conducting official union business, such disbursements of the union must be reported in column G of schedule 11 of the LM-2 rather than in column F, and may be allocated among the officers.

Sections 214.571 through 214.577 of the LMRDA Interpretative Manual provide guidance and examples for reporting direct and indirect disbursements for food and refreshments for officers, employees, general membership gatherings, and for the entertainment of individuals outside the union. Copies of Sections 214.571 through 214.577 of the LMRDA Interpretative Manual were provided to you and Mr. Wilding at the exit interview.

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.

2. Failure to Itemize Disbursements and Receipts

The PFFW did not properly report several “major” transactions in Schedules 14 (Other Receipts), 16 (Political Activities and Lobbying), 18 (General Overhead), and 19 (Union Administration). A “major” transaction includes any individual transaction of \$5,000 or more or total transactions to or from any single entity or individual that aggregate to \$5,000 or more during the reporting period that the union cannot properly report elsewhere in Statement B. For example, the audit found that fundraising receipts totaling \$512,199 and a \$150,000 receipt from the International Association of Fire Fighters for political advertising costs were not properly reported in Schedule 14 (Other Receipts). As another example, a \$159,420 disbursement to Canal Partners Media for televised election commercials was not properly reported in Schedule 16 (Political Activities and Lobbying).

3. Statement A (Cash Balance)

It appears that the cash figures reported in Item 22 (A) (Cash, Start of the Reporting Period) are not the figures according to PFFW's books after reconciliation to the bank statements. The cash balance as of January 1, 2014, as reconciled to the bank statements, was \$531,059; however, the cash balance reflected in the accounts maintained in the union's accounting software and reported in Item 22 (A) was \$524,024. The cash balance as of December 31, 2014, as reconciled to the bank statements, was \$452,372; however, the cash balance reflected in the accounts maintained in the union's accounting software and reported in Item 22 (B) (Cash, End of the Reporting Period) was \$462,173. The audit revealed that the cash discrepancy at the start of the reporting period appears to be the result of a reconciliation imbalance in PFFW's general fund checking account from 2013 or before that carried into 2014. PFFW's general fund checking account balance as of December 31, 2013, as recorded in the union's accounting software, was \$70,361.95; however, the audit revealed that the general fund checking account balance as of December 31, 2013, as reconciled to the bank statements, was \$76,259.47. According to Mr. Wilding, the cash discrepancy at the end of the reporting period was probably due to the PFFW's action fund not having been reconciled at the time the report was filed. The instructions for Item 22 state that the union should obtain account balances from its books as reconciled to the balances shown on bank statements.

4. Failure to File Bylaws

The audit disclosed a violation of LMRDA Section 201(a), which requires that a union submit a copy of its revised constitution and bylaws with its LM report when it makes changes to its constitution or bylaws. During the opening interview, Mr. Wilding said that the PFFW amended its bylaws in 2013, but did not file copies with its LM report for that year. The PFFW has now filed a copy of its current bylaws.

The PFFW 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 May 29, 2015. Before filing, review the report thoroughly to be sure it is complete and accurate.

Other Violations

The audit disclosed the following other violation:

Inadequate Bonding

The audit revealed a violation of LMRDA Section 502 (Bonding), which requires that union officers and employees be bonded for no less than 10 percent of the total funds those individuals or their predecessors handled during the preceding fiscal year.

The audit revealed that the PFFW's officers and employees were not bonded for the minimum amount required at the time of the audit. However, the PFFW obtained adequate bonding coverage and provided evidence of this to OLMS during the audit. As a result, OLMS will take no further enforcement action regarding this issue.

Other Issues

1. Expense and Credit Card Policy

As I discussed during the exit interview with you, Mr. Wilding, and the other members of the PFFW's executive board, the audit revealed that the PFFW does not have a clear policy regarding the types of expenses personnel may claim for reimbursement and the types of expenses that may be charged to union credit cards. During 2014, the PFFW disbursed more than \$68,000 to Union Travel MasterCard for union credit card charges incurred by you and Mr. Wilding; however, the PFFW has no written policy governing the use of the credit cards. You and Mr. Wilding both stated that the PFFW's informal policy allows you to use the union credit card for meals, drinks, lodging, airfare, and other business expenses, and that you and Mr. Wilding authorize the expenses yourselves. Several of the executive board members stated that documentation for officer or employee expenses, including charges made to the union credit cards, are not reviewed and that they trust you and Mr. Wilding to use the union credit cards solely for union expenses.

The audit also revealed that the PFFW has no written policy governing meal and alcohol reimbursements, and officers interviewed during the course of the audit provided different interpretations of the PFFW's policies for the reimbursement of meals and alcohol expenses. You and Mr. Wilding both stated that there is no limit on the cost of meals and alcohol that can be reimbursed or charged to the union credit card. You also stated that meals charged to the union credit card by you and Mr. Wilding when conducting union business or in transit to or from union business are okay, including instances where no union business is discussed at the meal and instances you or Mr. Wilding are eating alone. However, a board member stated that meal expenses charged to the union credit card for a single officer or for multiple officers with no official business purpose is like "double dipping" if the officer(s) were also paid per diem. Another board member stated that some meals are reimbursable if they are for special events, if the board goes out as a group, or if a board member is entertaining someone affiliated with the PFFW. A third board member stated that he does not submit meal expenses for reimbursement since meals are "theoretically" covered by per diem.

To ensure proper internal financial control over union disbursements, OLMS recommends that each union: (1) adopt a clear policy 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.

2. Per Diem Policy

During the opening interview, you and Mr. Wilding advised that the PFFW pays “per diem” to officers to work on union business that is either assigned to them by you or is authorized in the annual budget. The audit revealed that the PFFW does not have any written policies for the payment of “per diem” to officers for working on union business beyond its executive board’s expense policy, which states, “Executive Board Members on State authorized business are allowed to take per diem(s) at the established rate.” You and Mr. Wilding both indicated that the per diem payments were properly authorized; however, the PFFW executive board members interviewed during the course of the audit provided varying responses as to when officers are entitled to be paid “per diem” and the purpose of the “per diem” payments. One board member stated that a member’s own conscience is the only guideline as to when per diem can be claimed for working on board business.

Another board member stated that he has always considered per diem to be a wage for doing union business. A third board member stated that the taxable portion of the per diem is compensation for performing union business and the non-taxed portion is for meals and other personal expenses. You stated that you didn’t know why part of the daily per diem payment is non-taxable, and Mr. Wilding indicated that the non-taxable portion of the daily per diem is not intended to pay for meals.

OLMS recommends that the PFFW: (1) adopt a clear policy of what instances “per diem” is paid to officers for working on union business; (2) establish what documentation is to be retained for per diem payments; and (3) establish a procedure that provides for approval of per diem claims. Such policies and procedures can help ensure effective internal controls and safeguard union assets.

The audit also revealed that the PFFW may not be properly following state or federal requirements for withholding of payroll taxes from per diem payments to officers and employees. Currently, the PFFW does not withhold taxes from a portion of its daily “per diem” allowance that is classified as “other expenses” on the PFFW expense vouchers. The PFFW uses a flat rate for the non-taxable portion of the per diem allowance, as follows: \$25 (0-8 hours worked), \$50 (8-16 hours worked), and \$75 (16-24 hours worked). These flat rates are based on advice provided by the PFFW’s accountant.

While OLMS has no authority to interpret the state or federal tax code, it is my understanding that if an employer pays expense allowances that exceed the federal per diem rates, the excess amounts are subject to income tax and employment tax if they are not repaid to the employer, unless the employee actually substantiates all of the expenses covered by the per diem allowance. OLMS recommends that you contact either your accountant, the Wisconsin Department of Revenue in Milwaukee at (414) 227-4000 (ask for the publication “Wisconsin Employer’s Withholding Tax Guide”), and the Internal Revenue Service (ask for “Circular E, Employer’s Tax Guide”).

3. Single Signature Requirement

The audit revealed that PFFW checks are signed by only one officer. Although not prohibited by the PFFW bylaws, a single signature requirement on union checks is not an effective internal control of union funds. The purpose of second signature is to attest to the authenticity of a completed document that has already been signed. OLMS recommends that the PFFW review these disbursement procedures to improve internal control of union funds.

I want to extend my personal appreciation to Professional Fire Fighters of Wisconsin 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,

A large black rectangular redaction box covering the signature of the investigator.

Investigator

cc: Mr. Steve Wilding, Secretary-Treasurer
Mr. Michael Woodzicka, Vice President
Mr. Richard Gee, Executive Board Member
Mr. Matt Simpson, Executive Board Member
Mr. Michael Degarmo, Executive Board Member
Mr. Jason Hempel, Executive Board Member
Mr. Justin Pluess, Executive Board Member
Mr. Lance Tryggstad, Executive Board Member
Mr. Jerry Biggart, Executive Board Member
Mr. Lucas Kotschi, Executive Board Member