

U.S. Department of Labor

Office of Labor-Management Standards
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February 9, 2010

Mr. Selvie Burris, President
Government Employees AFGE AFL-CIO
Local 2065
4124 Gum Branch Road
Jacksonville, NC 28541

LM File Number 502-165
Case Number: [REDACTED]

Dear Mr. Burris:

This office has recently completed an audit of AFGE Local 2065 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 Secretary Treasurer Tonya Grammer, Office Manager Idell Jones, and you on February 3, 2010, 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 and Title 29 of the Code of Federal Regulations (C.F.R.) Section 403.7 require, 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. Pursuant to 29 C.F.R. Section 458.3, this recordkeeping provision of the LMRDA applies to labor organizations subject to the requirements of the Civil Service Reform Act of 1978 (CSRA) as well. 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 2065's 2009 records revealed the following recordkeeping violations:

1. Failure to Record Receipts

Local 2065 did not record in its receipts records some employer dues check off checks, some rents received for events at the union building, some restitution received following the conviction of a former union officer, reimbursements from the international for the mini metro held in April, and all interest earned on the local checking and savings account totaling at least \$22,345. For example, no union record was found to identify the source of receipts deposited on May 20, 2009, July 30, 2009, August 12, 2009, and August 14, 2009. Union receipts records must include an adequate identification of all money the union receives. The records should show the date and amount received, and the source of the money.

Local 2065 did not maintain records to verify rental agreements for events at the union building. The union must maintain records necessary to verify the date of events, amount billed/received, source of rent received, as well as records necessary to verify any refunds that were issued.

2. Lack of Salary Authorization

Local 2065 did not maintain records necessary to verify salaries that are required to be reported in Items 17, Salaries to Employees receiving over \$10,000. The union must keep a record, such as meeting minutes, to show the current salary for Miss Jones, as well as benefits paid to the Pioneer Fund, authorized by the entity or individual in the union with the authority to establish salaries.

3. General Disbursements and Credit Card Expenses

Local 2065 did not retain adequate documentation for direct disbursements and credit card expenses totaling at least \$2,724. For example, two checks to the post office, some utility bills, a dues refund to William White, donations to Guide Dogs of America, and miscellaneous food expenses to Sub Sational.

As previously 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.

4. Mini Metro disbursements

Local 2065 did not retain adequate documentation for mini metro disbursements. The local failed to retain records necessary to verify the disbursement of cash withdrawn from union accounts for membership enrollment incentives or food and beverages purchased for the mini metro event. For example, a copy of Form 1187's completed by new members for dues deduction should be retained to verify the members who received cash disbursements. Further a receipting system should be used to verify the amount of cash provided to each organizer, then track the cash received back from the organizer minus receipts for food, and Form 1187s for the number of members that organizer paid cash.

Further, an accurate account of the reimbursements received from the international and funds redeposited from cash leftover from mini metro events must be maintained.

Based on your assurance that Local 2065 will retain adequate documentation in the future, OLMS will take no further enforcement action at this time regarding the above violations.

The proper maintenance of union records is the personal responsibility of the individuals who are required to file Local 2065's LM report. You should be aware that under the provisions of Section 209(a) of the LMRDA and Section 3571 of Title 18 of the U.S. Code, willful failure to maintain records can result in a fine of up to \$100,000 or imprisonment for not more than one year, or both. Under the provisions of Section 209(c) of the LMRDA and Section 3571 of Title 18 of the U.S. Code, willful destruction or falsification of records can result in a fine of up to \$100,000 or imprisonment for not

more than one year, or both. The penalties provided in Section 209(c) and Section 3571 of Title 18 apply to any person who caused the violations, not just the individuals who are responsible for filing the union's LM report.

Reporting Violations

Pursuant to 29 C.F.R., Section 458.3, the reporting requirement under 29 C.F.R. Section 403.2 (see Section 201(b) of the Labor-Management Reporting and Disclosure Act (LMRDA)) is made applicable to labor organizations subject to the requirements of the CSRA. This provision requires labor organizations to file annual financial reports that accurately disclose their financial condition and operations. The audit disclosed a violation of this requirement. The Labor Organization Annual Report Form LM-3 filed by Local 2065 for fiscal year ending December 31, 2008, was deficient in the following areas:

1. Disbursement to Employees

Item 17 (During the reporting period did the labor organization pay any employee salary, allowances, and other expenses...which totaled more than \$10,000) was incorrectly answered, "No." Local 2065 paid Office Manger Idell Jones a full time salary, as well as a monthly disbursement to a Pioneer Fund, totaling at least \$29,000 during 2008. As stated in the LM-3 report instructions, "Answer Item 17 "Yes" if any employee of your organization received more than \$10,000 in gross salaries, allowances, and other direct and indirect disbursements during the reporting period."

Further, "If Item 17 is answered "Yes," report in Item 56 the name and position of each employee. Also report in Item 56 the total disbursements made to each employee or on the employees' behalf by your organization, including salary and allowances (before any deductions) and other disbursements (including reimbursed expenses)."

2. Number of members

Item 19 (How many members did your organization have at the end of the reporting period?) was left blank. As stated in the LM-3 report instructions, "Enter the number of members in your organization at the end of the reporting period." Entries are required in all Items 1 through 23. Do not leave blanks.

3. Disbursements to Officers

Local 2065 did not report the names of some officers and the total amounts of payments to them or on their behalf in Item 24 (All Officers and Disbursements to Officers). The union must report in Item 24 all persons who held office during the year, regardless of whether they received any payments from the union.

As stated in the LM-3 Instructions, the local must report the names of each person who held office in the labor organization at any time during the reporting period. An "officer" is defined in section 3(n) of the LMRDA (29 U.S.C. 402) as "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."

The union must report most direct disbursements to Local 2065 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).

4. Savings Account Balance Reported As Investments

Local 2065 improperly included the value of the local savings account as investment in Items 28(A) and (B). For LM reporting purposes, OLMS considers a savings account to be cash, and as such, must be reported in Items 25 (A) and (B).

5. Other Receipts

Local 2065 failed to report in Item 43, Other Receipts from sources such as rent for events held at the union building, restitution received from a previous union officer, refunds received from the International Union for mini metro, and miscellaneous other reimbursements. The restitution appears to have been

improperly reported in Item 40, Fees, Fines, Assessments, and Work Permits, while the other receipt sources don't appear to be included on the report at all.

6. Failure to File Bylaws

Pursuant to 29 C.F.R. Section 458.3, the requirement under 29 C.F.R. Section 402.4 implementing LMRDA Section 201(a) is made applicable to labor organizations subject to the requirements of the CSRA. This provision requires labor organizations to file copies of any revised constitution and bylaws when it files its annual financial report. The audit disclosed a violation of this requirement. Local 2065 amended its constitution and bylaws in 2008, but did not file the required copies with its LM report for that year.

Local 2065 has now filed a copy of its constitution and bylaws.

Local 2065 must file an amended Form LM-3 for fiscal year ending December 31, 2008, to correct the deficient items discussed above. I advised you that the reporting forms and instructions are available on the OLMS website (www.olms.dol.gov). The amended Form LM-3 should be submitted to this office at the above address as soon as possible, but not later than February 19, 2010. Before filing, review the report thoroughly to be sure it is complete, accurate, and signed properly with original signatures.

Other Issues

1. Monthly Financial Reports

Local 2065 did not accurately report receipts and disbursements on monthly financial statements prepared and presented to the membership. The audit revealed that the total receipts were under-reported on the monthly financial statements by \$22,343. Receipts not recorded included restitution, rent, interest, and mini metro refunds. The total disbursements were under-reported on the monthly financial statements by \$13,829. Disbursements not recorded included one per capita tax disbursement, a dues refund, and miscellaneous disbursements to members for mileage and union meeting door prizes.

2. Petty Cash

As I discussed during the exit interview, the audit revealed that Local 2065 uses cash received for rent and direct dues receipts for miscellaneous expenses, including reimbursements for mileage and donation to members. We discussed the necessity to limit the use of cash receipts to incidental expenses as was originally intended and instituting a better system to track the amount of cash receipts withheld for petty cash so that this amount can be tracked back to receipts for the cash purchases. Further, we discussed the need to track this information for reporting purposes as all receipts and disbursements must be reported on the annual financial report (LM-3).

3. Signing Blank Checks

During the audit, you advised that the financial secretary and president have signed blank checks in the past. Your union's bylaws require that all 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, signing a blank check in advance does not attest to the authenticity of a completed check, and negates the purpose of the two signature requirement. OLMS recommends that Local 2065 review these procedures to improve internal control of union funds.

I want to extend my personal appreciation to AFGE Local 2065 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,



Lead Investigator

cc: Tonya Grammer, Secretary Treasurer

Mr. Selvie Burris
February 9, 2010
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