

U.S. Department of Labor

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August 6, 2007

Mr. Lamont Lane, President
Government Employees AFL-CIO
Local 85
P.O. Box 1206
Leavenworth, KS 66048

LM File Number 501-779

Case Number: [REDACTED]

Dear Mr. Lane:

This office has recently completed an audit of AFGE Local 85 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 yourself and [REDACTED] on July 26, 2007, 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 requires, 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 organizations 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 85's 2005 and 2006 records revealed the following recordkeeping violations:

1. Disbursement Records

Local 85 did not adequately document the expenditures of the organization. During the audit, Ex-Treasurer [REDACTED] informed me that she had created most of the records specifically for this audit; these were records that must be maintained at all times for the local. No disbursement documentation regarding payee, amount or purpose of the payment was maintained by the local in recent records. Records must be retained which verify, clarify and explain the entries recorded in your LM report. To ensure accuracy, these records should be kept as the transactions occur (or soon thereafter) and not created months or even years later.

Many required receipts were missing making it nearly impossible to verify several disbursements made during the audit period. In 2005, over \$600 was spent at Radio Shack by prior President [REDACTED], yet there were no receipts to verify what was purchased or if it was for legitimate union business.

Also, any bank records the local receives for their account must be maintained for at least five years. Local 85 receives a copy of all check faces with their monthly bank statements; this was missing for February 2005 which included Check Number [REDACTED] which had inadequate supporting documentation for its payment of \$1,000.

As previously noted above, labor organizations must retain all original receipts, bills, and vouchers for all disbursements. The president and treasurer of your union, who are required to sign your union's LM report, are responsible for properly maintaining union records.

2. Officer Expenses

Local 85 did not retain adequate documentation for reimbursed expenses incurred by prior President [REDACTED] totaling at least \$5,808. For example, in Mar

2005, [REDACTED] was reimbursed \$290, the check memo said it was for "computer repair," no invoice or bill for the computer repair was retained to verify this was a legitimate reimbursement. Also in October 2005, McDougal was written a check for \$250 with the memo notation of "supplies," no receipts were retained to verify the supplies which were purchased.

The local also did not retain records in regards to cell phone payments made for [REDACTED] and previous Vice President [REDACTED] in 2005 and 2006, \$1,233.86 was paid in cell phone bills for [REDACTED]. According to Lewis, in approximately 2002, the membership agreed to pay whatever amount of the president's cell phone exceeds their regular plan. No documentation of this policy was in the local's records, and the meeting minutes for this time period could not be found. The local must keep a record of all officer salary and expense authorizations, such as meeting minutes, to show the policy is properly authorized. Also, all original cell phone bills and invoices must be retained in their entirety (other than the payment stub) for at least five years.

3. Receipt Records

Local 85 did not have adequate records of money taken in. The local receives direct deposits of dues money and also checks from your national office. These are transactions that must be recorded and maintained. This also includes keeping the deposit slips you receive from the bank when you make a deposit. Union receipt 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. As we discussed during the exit interview, the local is taking strides to remedy these issues including attending financial training courses offered by your national office.

The proper maintenance of union records is the personal responsibility of the individuals who are required to file Local 85's LM-3 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-3 report.

Reporting Violations

Pursuant to 29 C.F.R., Section 458.3, the reporting requirements 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 violations of this requirement.

1. Failure to File

As noted above, federal law requires your labor organization file an annual Form LM-3 report at the end of each fiscal year. Your local failed to file reports for 2005 and 2006; this is a very serious violation of the law. We discussed this throughout the audit and exit interview where I also provided you with compliance assistance materials regarding your obligations under the law as an officer. During the audit, I went through the report form with you line by line to make sure you understand it and its requirements. Because you turned in your 2005 and 2006 LM-3 reports at the end of the audit, no further action will be taken at this time. You agreed that in the future you will submit timely and accurate LM-3 reports for Local 85.

2. Failure to File Bylaws

Pursuant to 29 C.F.R. Section 458.3, the requirements 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 85 amended its bylaws in 1997, but did not file the required copies with its LM report for that year. Local 85 has now filed a copy of its most current bylaws and has agreed to file new copies if they change in the future.

Other Violations

The audit disclosed the following other violations:

1. Embezzlement

During the course of the audit, it was discovered that prior President [REDACTED] [REDACTED] misappropriated at least \$4,574.69 of Local 85 funds for her personal use. Several checks were written payable to herself including a check written in March 2006 for \$1,000. No backup documentation was available to explain this [REDACTED]

and no officer knew of any reason why she would have disbursed this check to herself. Also, a check written on May 10, 2005 and cashed on May 13, 2005 for \$1,000 was written to [REDACTED] and was purportedly for travel expenses she would incur while at EEO Training. According to a travel voucher she turned in, this amount was to include travel to and from the training, per diem and hotel expenses. Although this travel advance was supposed to cover her hotel stay, [REDACTED] wrote another check directly to the hotel for \$406.80 which was cashed on May 19, 2005 at the end of her stay. An invoice from the hotel verifies this check covered the expenses for her hotel stay. There were several other checks during 2005 and 2006 which did not have adequate explanation or documentation for their disbursement. After examining the available records and speaking with officers, I can only conclude that these disbursements were not authorized disbursements and [REDACTED] converted these funds for personal use. Because [REDACTED] passed away in 2006, no further inquiry will be made into these transactions.

2. Unauthorized Loans

It was also found during the audit that the local made two unauthorized loans in the amount of \$852 to Ex-Treasurer [REDACTED] Ex-Vice President and current Chief Steward Robert Lewis explained that in his capacity as acting President after the death of [REDACTED], he authorized the loans to [REDACTED]. No documentation was kept regarding these loans and its terms. During the audit I explained to Lewis that according to AFGE national policy, a local's executive board and/or individual officers do not have the authority to approve such a loan. While the audit was ongoing, Peterson repaid the local in full, and as we discussed in the exit interview, loans made in this manner are prohibited by your national office. If in the future such a loan is properly authorized and made, it must be thoroughly documented.

Other Issues

1. Pre-Signing of Checks

During the audit, Ex-Treasurer [REDACTED] advised that during the audit period she often signed blank checks. 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 85 review these procedures to improve internal control of union funds. You agreed throughout the

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audit and exit interview that Local 85 has many areas to work on and you seemed eager to begin getting things on track.


2. Meetings

It was also found during the audit that Local 85 has not had a membership meeting in approximately 1-2 years. The local must have regular meetings of the membership. According to your local bylaws in Section 2, regular meetings are to be held on the second Wednesday of each month. These meetings are also necessary for the proper functioning of your local. According to Article VI, Section 5, of the AFGE Standard Local Constitution, the membership must approve the payment of all bills. If you attempt to have a meeting and a quorum does not show up making it unable to do business, documentation of this attempt must be recorded and maintained for at least five years.

I want to extend my personal appreciation to AFGE Local 85 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: Mike Kelly, AFGE National Vice President
 Ex-Treasurer