

U.S. Department of Labor

Employment Standards Administration
Office of Labor-Management Standards
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May 31, 2007

LM File Number 537-373
Case Number: [REDACTED]

Ms. Yvonne Harvey, Treasurer
STATE COUNTY & MUNI EMPLS AFL-CIO Local 3558
211 West 2nd St
Duluth, MN 55802

Dear Ms. Harvey:

This office has recently completed an audit of AFSCME 3558 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 Council 5 Accountant Sally Larson on May 11, 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 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 3558's 2006 records revealed the following recordkeeping violations:

1. Salary Authorization

Local 3558 did not maintain records to verify that the salaries reported in Item 24 (All Officer and Disbursements to Officers) of the Labor Organization Annual Report (Form LM-3) was the authorized amount and therefore was correctly reported. Specifically, no written authorization was found for negotiation pay and steward dues reimbursement. Local 3558 must keep a record, such as meeting minutes, to show the current salary authorized by the entity or individual with the authority to establish salaries.

2. Retention of Records

Local 3558 failed to maintain basic receipts and disbursements records for five years. During the audit, I requested that receipts and disbursements records for 2003 be provided for review. You advised that you were unable to locate the records. As mentioned above, Section 206 of the LMRDA 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.

Based on your assurance that Local 3558 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 LM-3 filed by Local 3558 for fiscal year ending December 31, 2006, was deficient in the following areas:

1. Disbursements to Officers

Local 3558 did not include some reimbursements to officers totaling at least \$3,000 in the amounts reported in Item 24 (All Officers and Disbursements to Officers). It appears the union erroneously reported these payments in Item 54 (Other Disbursements). Also, the name of one officer, Secretary Adrienne Kern, and the total payments to her were not reported in item 24. 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.

The union must report most direct disbursements to Local 3558's 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. Recording of Dues Receipts/Disbursements

Local 3558 did not properly report receipts in Item 38 (Dues). AFSCME Council 5 received dues checks directly from employers on behalf of your organization and then issued Local 3558 a check for the remaining amount after Council 5's portion for per capita tax and payments to Council 65, the Duluth Central Body, and the AFSCME International Union had been removed. The LM-3 instructions for Item 38 require that if an intermediate or parent body receives dues checkoff directly from an employer on behalf of your organization, your organization is not to report in Item 38 the portion retained by that intermediate or parent body for per capita tax or other purposes, such as a special assessment. However, the instructions require that if the intermediate or parent body disbursed part of your organization's dues checkoff on your organization's behalf, this amount should be included in Item 38 and in the appropriate disbursement item on your organization's LM-3.

The audit revealed that in the case of Local 3558, the union correctly reported as a receipt in Item 38 the dues payment made on your organization's behalf by

Council 5 to Council 65, the Duluth Central Body, and the AFSCME International Union. However, the union incorrectly included in Item 38 the portion retained by Council 5 for per capita tax.

The amount reported in Item 47 (Per Capita Tax) of the LM-3 appears to be incorrect because it included amounts withheld by Council 5 for per capita taxes. The LM-3 instructions for Statement B (Receipts and Disbursements) require that receipts be recorded when money is actually received by the organization and disbursements be recorded when money is actually paid out by the labor organization. The amount retained by Council 5 should be excluded from Item 47 since no amount is actually disbursed by Local 3558 to Council 5. However, the instructions for Statement B also state that disbursements made by an agent on behalf of your organization are considered disbursements of your organization and must be reported in the same detail as other receipts and disbursements. Therefore, the payments made on your organization's behalf to the Duluth Central Body, Council 65, and the AFSCME International Union were correctly reported and should continue to be reported in Item 47.

I am not requiring that Local 3558 file an amended LM report for 2006 to correct the deficient items, but Local 3558 has agreed to properly report the deficient items on all future reports it files with OLMS.

Other Issues

1. Vouchers

A few vouchers for lost time and reimbursed expenses did not include the date that union business was conducted. An example of this is the voucher for check [REDACTED] an expense reimbursement for the AFL-CIO Convention. The number of hours lost, the applicable rate of pay, and a description of the union business conducted was listed but no dates were found on the voucher itself. The dates of the convention were identified in other union records. However, for purposes of internal controls and to enable easier review and auditing by union officials, OLMS recommends that the dates that lost time was claimed always be recorded on the record submitted by the claimant for such expenses.


Ms. Yvonne Harvey
May 31, 2007
Page 5 of 5

2. Stale Checks

Union records show that Local 3558 issued four checks that did not clear the bank. Two of the checks have been outstanding since the middle of 2006 and two have been outstanding since 2005. Local 3558 may want to contact the payees of those checks and reissue the checks or void the checks on its books and modify the account balance accordingly.

I want to extend my personal appreciation to AFSCME 3558 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: Sally Larson, Council 5 Accountant
Michelle Fremling, President