

U.S. Department of Labor

Office of Labor-Management Standards  
230 S. Dearborn Street, Rm 774  
Chicago, Illinois 60604  
Tel: 312-596-7160  
Fax: 312-596-7174



March 23, 2005

Mr. Salvador Navarette  
LOCAL UNION TREASURER  
Painters, AFL-CIO, Local 265

6

Re:

2

Dear Mr. Navarette:

This office has recently completed an audit of Painters, AFL-CIO, Local 265 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, as Amended (LMRDA). As discussed during the exit interview with you, Financial Secretary Thomas Rinehart, Recording Secretary Richard Shepherd, and your attorney, John Toomey on March 17, 2005, 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.

Title II of the LMRDA establishes certain reporting and record keeping requirements. Section 206 requires, among other things, that adequate records be maintained 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, all records used or received in the course of union business must be retained. This includes, in the case of disbursements, not only the retention of original bills, invoices, receipts, and vouchers, but also adequate additional documentation, if necessary, showing the nature of the union business requiring the disbursement, the goods or services received, and the identity of the recipients of the goods or services.

The following record keeping violations were revealed during the audit of Local 265's 2003 records:

Union officers and employees failed to retain adequate documentation for reimbursed expenses, for expenses charged to union credit cards, and for lodging expenses which were direct-paid by the union. Adequate documentation was not retained for some purchases of Christmas gifts and approximately 70% of credit card expenditures. The date, amount, and business purpose of every expense must be recorded on at least one union record. In addition, the names of individuals present for meal expenses paid for by the union and the locations (names of restaurants) where meal expenses were incurred must also be recorded.

With respect to documentation retained in support of specific disbursements (including those in payment of credit card charges), the record retention requirement includes not only the retention of original bills, invoices, receipts, and vouchers, but also additional documentation, if necessary, showing the nature of the union business requiring the disbursement, the goods or services received, and all the recipients of the goods or services. In most instances, this documentation requirement can be most easily satisfied with a

sufficiently descriptive receipt. If a receipt is not sufficiently descriptive, a note can be written on it providing the additional information. An exception may be made only in those cases where 1) other equally descriptive documentation has been maintained, and 2) there is evidence of actual oversight and control over disbursements.

Local 265 failed to retain an inventory of hats, jackets, and other property which was purchased and sold or given away. Records must be retained which account for all union property. In the case of union hats, jackets and other items sold to members, the date and amount received from every sale must be recorded in at least one record. Additionally, there was no list of fixed assets in 2003. The union has since developed such a list.

The union also failed to record in its records some receipts received from banks for interest earned on certificates of deposit and dues payments. Union receipts records, including official receipts and member ledger cards, must include an adequate identification of each receipt of money. The records should show the exact date that the money was received, the identity of the source of the money, and the individual amount received from each source. The union also failed to maintain itemized deposit slips and deposit receipts in a timely manner.

As agreed, provided that Local 265 maintains adequate documentation for its disbursements in the future, no additional enforcement action will be taken regarding this violation.

The CAP disclosed a violation of LMRDA section 201(b), because the Labor Organization Annual Report (Form LM-2) filed by Local 265 for fiscal year ending December 31, 2003 was deficient in the following areas:

The positions of some officers who held office during the year were not reported in Schedule 9 (All Officers and Disbursements to Officers) with the total amount of payments to or for them. The names of all persons, and all of their positions, who held office during the year must be reported in Schedule 9 regardless of whether or not they received any payments from the union.

Gross salaries were erroneously reported in Schedule 9. Local 265 failed to include some reimbursements to officers in the amounts reported in Schedule 9.

Direct disbursements to officers and employees for reimbursement of expenses incurred while conducting union business must be reported in Column F of Schedules 9 and 10 (Disbursements for Official Business). In addition, indirect disbursements made to another party (such as a credit card company) for business expenses incurred by union personnel must also be reported in Column F of Schedules 9 and 10. However, indirect disbursements for business expenses incurred for transportation by a public carrier (such as an airline) and for temporary lodging expenses incurred while traveling on union business must be reported in Schedule 13 (Office and Administrative Expenses). Any direct or indirect disbursements to union personnel for expenses not necessary for conducting union business must be reported in Column G of Schedules 9 and 10 (Other Disbursements).

Indirect disbursements (such as to a credit card) for meals and expenses while union officers are conducting union business should not be made when per diem allowances (for meals and miscellaneous) are already advanced, unless knowingly authorized by the membership. In the audit period, officers incurred a total of

Closing Letter—Painters, Local 265  
March 23, 2005

\$1,307.54 in meal expenses on Local 265's American Express credit card after already receiving per diem allowances. Local 265 must be repaid this amount. Please forward a copy of the membership meeting minutes reflecting such reimbursement to my office by April 22, 2005.

Personal, non-business related expenses paid by Local 265 which were not necessary for performing union business (such as a disbursement by the union for meals when per diems were already advanced) were not reported in Column G of Schedule 9. In addition, the corresponding future repayments to Local 265 by union officers for such must be reported in item 54 and Schedule 14 (Other Receipts) in the year in which the repayment was made. The name of each individual who made repayments and the total amount repaid by each person should be clearly reported in Schedule-14. Union policies which allow personnel to make personal purchases with union credit cards or to otherwise incur personal expenses paid by the union for which the union is later reimbursed are not recommended because they are generally too vulnerable to abuse.

It will be necessary for Local 265 to file an amended LM-2 report for 2003 to correct the deficient items discussed above. The necessary reporting forms and instructions will be forwarded to your accountant Paul A. Merkel, CPA, Bansley And Kiener, LLP, whom you advised would be responsible for the amended report. You may also use the new electronic forms software available from OLMS to complete the amended reports. One copy of the amended report should be submitted to this office at the above address as soon as possible, but no later than April 22, 2005. Before mailing, review the reports thoroughly to be sure they are complete, accurate, and signed properly with original signatures.

The CAP disclosed a violation of LMRDA section 201(a) which requires that unions submit a copy of their current constitution and bylaws with its LM report when bylaw changes are made. Local 265 amended its constitution and bylaws in 2002, but a copy of the constitution and bylaws was not filed with Local 265's LM-2 report for that year. A copy of Local 265's constitution and bylaws has now been filed.

Membership authorization of disbursements must be knowledgeable. The membership must be made aware of the circumstances surrounding a disbursement, including but not limited to, the amount, the date of disbursement, and the purpose. This should be recorded in detail in the membership meeting minutes. I further suggest that all meeting minutes should be typed.

Keep an accurate and consistent log or record of all payments to each individual officer for each fiscal year.

During the audit, I advised you that authorization of the salary amounts paid to some union officers could not be found in union records. Further, you advised that the local issued stamp allowances during fiscal year December 31, 2003 to three officers. You also advised that the local only issues a stamp allowance to one officer. The authorization of the stamp allowance could not be found in union records. Additionally, you advised me that Local 265 paid for a union phone line in two officers' homes during the audit. You also advised me that Local 265 currently pays for a phone line in one officer's home. The authorization of the phone line could not be found in union records. I suggest that Local 265 take steps to record the authorized salary amounts, stamp allowance, and the phone line by discussing them at a future meeting and recording them in meeting minutes or some other internal document. When these have been recorded in union records, I would

Closing Letter—Painters, Local 265  
March 23, 2005

appreciate it if you would forward a copy of the record documenting the authorization to me at the above address.

During the audit, you advised that it is Local 265's practice to stamp the signature of Financial Secretary Tom Rinehart on checks directly made payable to him. Mr. Rinehart indicated that no one but him has control and uses the signature stamp except for him. You may want to revise this aspect of your receipt procedures.

The financial records for fiscal year ending December 31, 2003 revealed that there were instances when certain dues receipts were counted more than once. This occurred when a dues payment by personal check was returned for insufficient funds and then made good by the member by another form of payment. I suggest that you revise this financial practice, if you have not yet done so. In addition, all dues payments must be given receipts.

During the audit I found that there were two receipt systems documenting dues income. I suggest that Local 265 continue with one carbon copy receipt system instead of two.

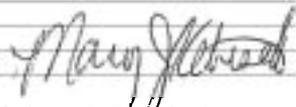
Pursuant to my suggestion during the audit, I advised you to make all bills and statements available to the membership during meetings for inspection. I suggest that you continue this practice.

I recommended during the audit that the union revise their practice of cashing checks for officers using Local 265's funds. This practice is not recommended. If this practice continues, it should be discussed at a future membership meeting and recorded in meeting minutes or some other internal document. When this practice has been recorded in union records, please forward a copy of the record documenting the authorization to me at the above address.

I strongly recommend that you make sure that this letter and the compliance assistance materials that were provided to you are passed on to yours and the successors of Mr. Langland, Mr. Rinehart, and Mr. Shepherd at whatever time you may leave office.

I want to thank you, Mr. Rinehart, Mr. Shepherd, and Mr. Toomey for their cooperation and courtesy during this compliance audit. If we can be of any assistance in the future, please do not hesitate to contact me.

Sincerely,



Mary J. Kobisek  
District Director

cc: Michael Langland, President  
Thomas Rinehart, Financial Secretary  
Richard Shepherd, Recording Secretary  
John Toomey, Attorney