

U.S. Department of Labor

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Office of Labor-Management Standards
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November 16, 2005

Scott Kilpatrick, Financial Secretary
Painters, AFL-CIO
Local Union 365
1300 S Andrews Avenue
Pompano Beach, FL 33069-4619

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Dear Mr. Kilpatrick:

This Office recently completed an audit of Painters, AFL-CIO, Local 365, under the Compliance Audit Program (CAP) to determine compliance with provisions of the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA). As discussed during the exit interview with Secretary Sarah Santisteban and you on November 16, 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 365's 2004 records:

Union officers and employees failed to retain adequate documentation for reimbursed expenses and expenses which were direct-paid by the union. The date, amount, and business purpose of every expense must be recorded on at least one union record.

With respect to documentation retained in support of specific disbursements, 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.

As agreed, provided that Local 365 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-3) filed by Local 365 for fiscal year ending June 30, 2004, was deficient in the following areas:

Local 365 failed to include some reimbursements to officers and employees in the amounts reported in Item 24 (All Officers and Disbursements to Officers). Such payments appear to have been erroneously reported as Office and Administrative Expenses.

All direct disbursements to your union's officers and some indirect disbursements made by your organization on behalf of its officers must be included in the amounts reported in item 24. A "direct disbursement" to an officer is a payment made by your organization to an officer in the form of cash, property, goods, services, or other things of value. An "indirect disbursement" to an officer is a payment made by your organization to another party (including credit card companies) 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 Expenses).

I am not requiring that Local 365 file an amended LM- report for 2004 to correct the deficient items, but as agreed, your union will properly report the deficient items on all future reports filed with this agency.

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 365 amended its constitution and bylaws in 2003, but a copy of the constitution and bylaws was not filed with Local 365's LM-3 report for that year. Two copies of Local 365's constitution and bylaws have now been filed, and no further action on this matter is necessary.

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 Mr. Figueroa's successors at whatever time you may leave office.

I want to thank you, (b) (7)(C), Mr. Figueroa, and (b) (7)(C) for your cooperation and courtesy during this compliance audit. If we can be of any assistance in the future, please do not hesitate to contact me or any other representative of our office.

Sincerely,

(b) (7)(C)

cc:

(b) (7)(C)