



June 9, 2010

Mr. Sterling Hiibschman, President  
AFGE Local 1867  
9020 Husted Road  
Colorado Springs, CO 80840-1502

Case Number: [REDACTED]  
LM Number: 501088

Dear Mr. Hiibschman:

This office has recently completed an audit of AFGE Local 1867 under the Compliance Audit Program (CAP) to determine your organization's compliance with the provisions of the Civil Service Reform Act of 1978 (CSRA), 5 U.S.C. 7120, and the Department's regulations, 29 CFR 458. As discussed during the exit interview with you, Treasurer Phillip Patterson, and Vice President Eddie Queen on May 27, 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 1867's fiscal year 2009 records revealed the following recordkeeping violations:

1. General Reimbursed and Credit Card Expenses

Local 1867 did not retain adequate documentation for reimbursed expenses incurred by union officers totaling at least \$14,688. For example, union officers who attended out of state training and conferences were reimbursed per diem but no documentation supporting the per diem amounts was kept. Another example is a disbursement without a supporting receipt or invoice made to the Tropicana Hotel and Convention Center on December 1, 2008 in the amount of \$2,963.40 with a memo description of AGFE Human Rights Conference.

As 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.

2. Meal Expenses

Local 1867 records of meal expenses did not always include written explanations of union business conducted or the names and titles of the persons incurring the restaurant charges. For example, a meal was purchased monthly at the Back East Bar and Grill for a party of three but there was no written explanation of the purpose or attendees noted on the receipt. Additionally, \$115.28 was paid to Fox and the Hound on December 28, 2008 but no written explanation of the purpose or attendees is noted on the receipt. Union records of meal expenses must include written explanations of the union business conducted and the full names and titles of all persons who incurred the restaurant charges.

3. Lost Wages

Local 1867 did not retain adequate documentation for lost wage reimbursement payments to union officers totaling at least \$8,106. The union must maintain records in support of lost wage claims that identify each date lost wages were incurred, the number of hours lost on each date, the applicable rate of pay, and a description of the union business conducted. The OLMS audit found that Local 1867 only retained a copy of the cancelled check used to distribute the lost wages as documentation for the lost wages. The copy of the cancelled check did not identify the date the lost wages were incurred or the applicable rate.

Based on your assurance that Local 1867 will retain adequate documentation in the future, OLMS will take no further enforcement action at this time regarding the above violations.

### 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 1867 for the fiscal year ended June 30, 2009, was deficient in the following areas:

#### 1. Disbursements to Officers

Local 1867 did not include payments to other parties for cellular phone service used by officers and officer's family members totaling at least \$5,087 in the amounts reported in Item 24 (All Officers and Disbursements to Officers). During the fiscal year ended June 30, 2009, the union disbursed at least \$4,362 to Verizon for Sterling Hiibschman's personal and family's cellular phone service and at least \$725 to Sprint for Eddie Queen's personal cellular phone service. It appears the union erroneously reported these payments in Item 54 (Other Disbursements).

The union must report most direct disbursements to Local 1867 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. 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 1867 amended its constitution and bylaws in 2007, but did not file the required copies with its LM report for that year.

Local 1867 has now filed a copy of its constitution and bylaws.

Local 1867 must file an amended Form LM-3 for the fiscal year ended June 30, 2009, to correct the deficient items discussed above. I provided you with a blank form and instructions, and 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 July 31, 2010. Before filing, review the report thoroughly to be sure it is complete, accurate, and signed properly with original signatures.

#### Other Violation

The audit disclosed the following other violation:

##### Inadequate Bonding

Pursuant to 29 C.F.R. Section 458.35, officers and employees of any labor organization subject to the CSRA are required to be bonded in accordance with Section 502(a) of the LMRDA. This provision requires that union officers and employees be bonded for no less than 10% of the total funds those individuals or their predecessors handled during the preceding fiscal year. Officers and employees of Local 1867 are currently bonded for \$15,000; however, they must be bonded for at least \$16,153.

Local 1867 should obtain adequate bonding coverage for its officers and employees immediately. Please provide proof of bonding coverage to this office as soon as possible, but not later than July 31, 2010.

#### Other Issues

##### 1. Expense Policy

As I discussed during the exit interview with President Hiibschman, Treasurer Philip Patterson, and Vice President Eddie Queen, the audit revealed that Local 1867 does not have a clear policy regarding the types of expenses personnel may claim for reimbursement and the types of expenses that may be paid by the union. OLMS recommends that unions adopt written guidelines concerning such matters.

##### 2. Duplicate Receipts

Retiree members of Local 1867 pay dues directly to the union. Union officers record dues payments in the union's receipts journal, but they do not issue receipts to retiree dues payers. OLMS recommends that Local 1867 use a duplicate receipt system where the union issues original pre-numbered receipts to all members who make payments directly to the union and retains copies of those receipts. A duplicate receipt system is an effective internal control because it ensures that a record is created of income which is not otherwise easily verifiable. If more than one duplicate receipt book is in use, the union should maintain a log to identify each book, the series of receipt numbers in each book, and to whom each book is assigned.

I want to extend my personal appreciation to AFGE Local 1867 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: Mr. Phillip Patterson, Treasurer  
Mr. Eddie Queen, Vice President