

U.S. Department of Labor

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October 31, 2008

Mr. Stephen St. Martin, Treasurer
Government Employees AFGE AFL-CIO
Local 2139
P.O. Box 1345
Gretna, LA 70054-1345

LM File Number: 501-613

Case Number: [REDACTED]

Dear Mr. St. Martin:

This office has recently completed an audit of Government Employees AFGE AFL-CIO Local 2139 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 on October 30, 2008, 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 2139's 2007 records revealed the following recordkeeping violations:

1. Other Disbursements

Local 2139 did not retain adequate documentation for disbursements totaling at least \$500.00. For example, there was no back-up documentation for the donation made to the NCFLU Utah Miner's Fund.

As previously 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. Information not Recorded in Meeting Minutes

During the audit, you advised OLMS that the executive board authorized various expenditures throughout the audit year. Article IV, Section 13 of Local 2139's Constitution and Bylaws state that one of the duties of the secretary-treasurer is to "keep a complete record of the minutes of all meetings" and "Disbursements for payment of current bills (other than initiation fees and per capita tax) shall be authorized by the Executive Committee." However, Local 2139 did not maintain minutes from any of the executive board meetings held during the audit year. Minutes of all membership or executive board meetings must report any disbursement authorizations made at those meetings.

4. Lack of Salary Authorization

Local 2139 did not maintain records to verify that the salaries reported in Item 24 (All Officer and Disbursements to Officers) of the LM-3 was the authorized amount and therefore was correctly reported. The Constitution and Bylaws of AFGE Local 2139 are silent on the matter of salary for officers. You advised that the union compensated the secretary-treasurer (by paying him \$100.00 per month) and has

followed this practice for the last few years. The union must keep a record to show the current salary authorized by the entity or individual in the union with the authority to establish salaries. Absent the inclusion of this information in your Constitution and Bylaws, specific authorization (such as meeting minutes or a resolution) regarding his compensation is required.

Based on your assurance that Local 2139 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 2139 for fiscal year ending December 31, 2007, was deficient in the following areas:

1. Disbursements to Officers

Local 2139 did not include some reimbursements to officers totaling at least \$244.84 in the amounts reported Item 24 (All Officers and Disbursements to Officers). It appears the union erroneously reported these payments in Item 48 (Office and Administrative) and/ or Item 54 (Other Disbursements).

The union must report most direct disbursements to Local 2139 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. Disbursements to Employees

Local 2139 did not include some reimbursements and payments to employees totaling at least \$521.37 in the amounts reported in Item 46 (To Employees - less deductions). It appears that the local erroneously reported these payments in Item 48 (Office and Administrative Expense) and/or Item 54 (Other Disbursements).

The union must report the total of all salaries, allowances, travel advances which are not considered as loans, and other direct and indirect disbursements less deductions to employees in Item 46. A "direct disbursement" to an employee is a payment made to an employee in the form of cash, property, goods, services, or other things of value. An "indirect disbursement" to an employee 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 employee. 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 employee traveling on union business should be reported in Item 48 (Office and Administrative Expense).

3. Certificates of Deposit Reported As Investments

Local 2139 improperly included the value of a certificate of deposit as an investment in Statement A (Assets and Liabilities). For LM reporting purposes, OLMS considers a certificate of deposit to be cash. The purchase or redemption of a certificate of deposit is a transfer of cash from one account to another and, therefore, the local should not report these transactions as receipts or disbursements.

I am not requiring that Local 2139 file an amended LM report for 2007 to correct the deficient items, but Local 2139 has agreed to properly report the deficient items on all future reports it files with OLMS.

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.

Local 2139's officers and employees are currently bonded for \$12,500, but they must be bonded for at least \$17,000. Local 2139 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 November 21, 2008.

Other Issue

Signing Blank Checks

During the audit, you advised that Jeffrey Darby (President) signs as many as 30 blank checks at a time. Your union's bylaws only require that checks be signed by the secretary-treasurer or the president. However, you provided during the audit that your bank has a two signature requirement. 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 2139 review these procedures to improve internal control of union funds.

I want to extend my personal appreciation to AFGE Local 2139 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. Jeffrey Darby, President