

U.S. Department of Labor

Employment Standards Administration
Office of Labor-Management Standards
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January 9, 2008

Mr. Josue Griego, Treasurer
AFGE
Local 3523
1206 Sycamore Street
Amarillo, Texas 79107

LM File Number 505-061
Case Number: [REDACTED]

Dear Mr. Griego:

This office has recently completed an audit of Local 3523 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 on December 12, 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. The CAP disclosed the following violations:

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 3523's 2006 records revealed the following recordkeeping violations:

1. Disposition of Property

Local 3523 did not maintain an inventory of the Bibles that are given away. The union must report the value of any union property on hand at the end of each year in Item 14 Assets of the LM-4. The union must retain an inventory or similar record of property on hand to verify, clarify, and explain the information that must be reported in Item 14.

2. Failure to Maintain a Fixed Assets Inventory List

OLMS requires that unions maintain a record of all assets.

3. Failure to Maintain Invoices/Bills or Other Supporting Documentation

Adequate documentation was not retained for some of Local 3523's expenditures including flower purchases, purchases for the annual picnic, and donations to organizations. OLMS requires that unions maintain adequate documentation for all expenditures.

4. Failure to Maintain Meeting Minutes & Information not Recorded in Meeting Minutes

During the audit, you advised OLMS that the membership authorized disbursements over \$250 and that the Executive Board authorized disbursements

under \$250. You also advised that Local 3523 does not hold Executive Board meetings. Local 3523 failed to maintain most of the membership meeting minutes for 2006, and the minutes available did not contain any reference to any disbursement authorizations. There was no other record showing authorization for Local 3523's disbursements. OLMS requires that unions maintain adequate documentation for all expenditures. If Local 3523 authorizes disbursements in membership meetings, then the minutes of those meetings must be maintained.

5. Failure to Maintain a Union Record of All Accounts

Local 3523 failed to maintain a complete union record of their savings account and CD. Unions are required to maintain their own record of all their financial accounts. This record should include the beginning and ending balances, interest earned, and any debits or credits to the account.

6. Failure to Maintain a Complete Record of their Disbursements

Local 3523 failed to maintain some check carbon copies. OLMS requires unions to maintain all original documentation in support of what is reported on the annual LM report. OLMS also requires that unions maintain adequate documentation for all expenditures.

7. Failure to Maintain Five Years of Records

Local 3523 failed to retain five years of records as required by law. 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.

8. Failure to Maintain Nomination and Election Records

Local 3523 failed to maintain a complete record of their last officer election via acclamation that took place on November 11, 2007. Federal law requires unions to maintain all nomination and election records for at least one year.

During the exit interview, you agreed to keep better records. You stated that you will create a fixed asset inventory list and an inventory list of the Bibles Local 3523 has on hand. You will create a union record of the savings account and CD account in Local 3523's ledger. You will advise the newly elected Secretary-Treasurer to keep all bills, receipts, invoices, and meeting minutes and to retain all financial records for a period of five years and all election records for a year.

Based on your assurance that Local 3523 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-4 filed by Local 3523 for fiscal year 2006 was deficient in the following areas:

1. Assets
Local 3523 failed to report all their assets in Item 14 Assets. Item 14 should include all petty cash, money in bank accounts including CD's, and any property of the union including Bibles and office equipment.
2. Receipts
Local 3523 failed to report all their receipts in Item 16 Receipts. Item 16 should include all incoming monies including dues, interest on accounts, and other receipts.
3. Disbursements
Local 3523 failed to report all their disbursements in Item 17 Disbursements. Item 17 should include all expenditures from bank accounts and petty cash.
4. Disbursements to Officers

Local 3523 did not include some reimbursements to officers totaling at least \$2,000 in the amounts reported in Item 18 All Officers and Disbursements to Officers.

The union must report most direct disbursements to Local 3523 officers and some indirect disbursements made on behalf of its officers in Item 18. 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. 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.

Local 3523 must file an amended Form LM-4 for fiscal year ending December 31, 2006, 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-4 should be submitted to this office at the above address as soon as possible, but not later than February 4, 2008. Before filing, review the report thoroughly to be sure it is complete, accurate, and signed properly with original signatures.

Other Violations

The audit disclosed the following other violation(s):

1. Advanced Travel Funds

Local 3523 advances the full amount of estimated travel expenses to travelers. President Ralph Espinosa was overpaid a total of \$61.80 for the two union trips he took in 2006 and 2007. Espinosa overestimated his travel expenses and has not repaid Local 3523 the overage. You advised that you told Espinosa "not to worry about it." Federal law requires that union funds be spent solely for the benefit of the organization and its members. OLMS requires that unions maintain adequate documentation for all expenditures. There was no justification for the overpayments in Local 3523's financial records. Further, for unions who provide travelers travel advances, OLMS recommends against advancing 100% of the travel funds.

Other Issues

1. Expense Policy

As I discussed during the exit interview with you, the audit revealed that Local 3523 does not have a clear policy regarding flower purchases, petty cash purchases,

or purchases for the annual picnic. OLMS recommends that unions adopt written guidelines concerning such matters.

2. Petty Cash Procedures

The audit revealed that Local 3523 does not have any petty cash procedures in place. OLMS recommends keeping a specified amount of cash in the fund and reconciling the fund on a regular basis. OLMS recommends that unions adopt written guidelines concerning such matters. The audit also revealed that Local 3523 was intermingling funds in that overpayments of payments via check were put into petty cash instead of deposited into Local 3523's credit union account. If the payment originated from Local 3523's credit union account, any overages should be deposited back into that account.

3. Signing Blank Checks

During the audit, you advised that President Ralph Espinosa signs blank checks. Your union's bylaws require that all checks be signed by the president and treasurer. 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 3523 review these procedures to improve internal control of union funds.

4. Outdated Bylaws

During the audit, I noticed that Local 3523's bylaws had outdated information such as the officer descriptions and the dues rates. OLMS recommends that Local 3523 update their bylaws and file the amended bylaws with this agency.

5. Cancelled Checks

During the opening interview for the audit, you advised that Local 3523's credit union does not provide Local 3523 cancelled checks or copies of the cancelled checks. However, at some point in the future, the cancelled checks are supposed to be viewable online. When and if they come available, OLMS recommends printing the cancelled checks on a regular basis so that they are available for review for future audits.

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I want to extend my personal appreciation to Local 3523 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: President Ralph Espinosa