

U.S. Department of Labor

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May 6, 2009

Mr. Owen Smith, President
Treasury Employees Union IND
Chapter 66
PO Box 412172
Kansas City, MO 64141

LM File Number 501-232

Case Number: [REDACTED]

Dear Mr. Smith:

This office has recently completed an audit of NTEU Chapter 66 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 and Treasurer Linda Huston on May 5, 2009, 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 organizations 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 Chapter 66's 2008 records revealed the following recordkeeping violations:

1. General Reimbursed Expenses

Chapter 66 did not retain adequate documentation for reimbursed expenses incurred by union officers totaling at least \$13,574.82. For example, the former president was missing receipts for \$3,184.26 worth of expenses, and the former first vice-president was missing receipts for \$1,894.49 worth of expenses.

As noted above, labor organizations must retain original receipts, bills, and vouchers for all disbursements. The president and treasurer of your union, who are required to sign your union's LM report, are responsible for properly maintaining union records.

2. Disposition of Property

Chapter 66 did not maintain an inventory of t-shirts, lanyards, and other property it purchased, sold, or gave away. The union must report the value of any union property on hand at the beginning and end of each year in Item 30 (Other Assets) of the LM-3. 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 30. The union must record in at least one record the date and amount received from each sale of union hats, jackets and other items.

3. Receipt Dates not Recorded

Entries in Chapter 66's receipts journal reflect the date the union deposited money, but not the date money was received. Union receipts records must show the date of receipt. The date of receipt is required to verify, explain, or clarify amounts required to be reported in Statement B (Receipts and Disbursements) of the LM-3. The LM-3 instructions for Statement B state that the labor organization must record receipts when it actually receives money and disbursements when it actually pays out money. Failure to record the date money was received could result in the union reporting some receipts for a different year than when it actually received them.

4. Meeting Minutes

During the audit, the treasurer advised OLMS that disbursement authorizations are made during executive board meetings. In December 2008, the executive board authorized a \$3,655.00 payment to former President [REDACTED], but there were no meeting minutes to verify this disbursement. Article V, Section 6 of the chapter's bylaws states that the recording secretary will report actions taken by the executive board to the membership at the next regular meeting. Chapter 66 did not retain meeting minutes for executive board meetings during the 2008 fiscal year even though minutes were taken at the meetings. Once the local creates a record, it is required to maintain it for five years.

The proper maintenance of union records is the personal responsibility of the individuals who are required to file Chapter 66's LM report. You should be aware that under the provisions of Section 209(a) of the LMRDA and Section 3571 of Title 18 of the U.S. Code, willful failure to maintain records can result in a fine of up to \$100,000 or imprisonment for not more than one year, or both. Under the provisions of Section 209(c) of the LMRDA and Section 3571 of Title 18 of the U.S. Code, willful destruction or falsification of records can result in a fine of up to \$100,000 or imprisonment for not more than one year, or both. The penalties provided in Section 209(c) and Section 3571 of Title 18 apply to any person who caused the violations, not just the individuals who are responsible for filing the union's LM report.

Reporting Violation

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 Chapter 66 for fiscal year ending September 30, 2008, was deficient in that the union's reported cash figures for the reporting period do not reconcile.

It appears that the cash figures reported in Item 25 are not the cash figures according to the union's books after reconciliation to the bank statements. The instructions for Item 25 state that the union should obtain account balances from its books as reconciled to the balances shown on bank statements. The chapter also under-reported cash disbursements by \$4,870.00. The instructions for Statement B (Receipts and Disbursements) state that disbursements are to be recorded when money is actually paid out by the local, not when the money clears the local's bank account.

These errors were corrected, and the local provided an amended report reflecting the correct amounts during the course of the audit. Chapter 66 has agreed to properly report the deficient items on all future reports it files with OLMS.

I want to extend my personal appreciation to NTEU Chapter 66 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: Linda Huston, Treasurer