

U.S. Department of Labor

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December 8, 2009
Mr. Timm Twardoski, Executive Director
AFSCME Council 9
36 South Last Chance Gulch #11
Helena, MT 59601

LM File Number: 529-407
Case Number: [REDACTED]

Dear Mr. Twardoski:

This office has recently completed an audit of AFSCME Council 9 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 November 20, 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 requires, among other things, that labor organizations maintain adequate records 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, labor organizations must maintain 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 AFSCME Council 9's audit of 2008 records revealed the following recordkeeping violation:

Meal Expenses

Council 9 did not require officers and employees to submit itemized receipts for all meal expenses. The union must maintain itemized receipts provided by restaurants to officers and employees. These itemized receipts are necessary to determine if such disbursements are for union business purposes and to sufficiently fulfill the recordkeeping requirement of LMRDA Section 206.

Council 9 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. 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. In addition, the records retained must identify the names of the restaurants where the officers or employees incurred meal expenses.

Reporting Violations

The audit disclosed a violation of LMRDA Section 201(b), which requires labor organizations to file annual financial reports accurately disclosing their financial condition and operations. The Labor Organization Annual Report Form LM-2 filed by Council 9 for fiscal year ending December 31, 2008, was deficient in that:

1. Failure to File Bylaws

The audit disclosed a violation of LMRDA Section 201(a), which requires that a union submit a copy of its revised constitution and bylaws with its LM report when it makes changes to its constitution or bylaws. Council 9 amended its constitution and bylaws in 2008, but did not file a copy with its 2008 LM report.

Council 9 has now filed a copy of its constitution and bylaws.

2. Failure to Accurately Report Total Receipts

Council 9's 2008 LM-2 form reported total receipts of \$269,783, but OLMS calculated total receipts of more than \$789,000.

3. Failure to Report all Officers and Employees

Council 9 failed to report all the names of the organization's officers and employees on Schedules 11 and 12. For example, the 2008 LM-2 report did not list the name of former Executive Director [REDACTED].

Council 9 must file an amended Form LM-2 for fiscal year ending December 31, 2008, to correct the deficient item discussed above. I explained to you the filing procedures and the availability of filing software on the OLMS website (www.olms.dol.gov). The amended Form LM-2 must be electronically filed as soon as possible, but not later than December 11, 2009, as agreed during the exit interview. Before filing, review the report thoroughly to be sure it is complete and accurate, and properly signed with electronic signatures.

Other Violation

The audit disclosed the following other violation:

Inadequate Bonding

Council 9's officers and employees are currently bonded for \$100,000, but they must be bonded for at least \$105,976. Council 9 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 December 11, 2009.

I want to extend my personal appreciation to AFSCME Council 9 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,

[REDACTED]

Investigator

cc: Mr. Fran Schweigert, President

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December 8, 2008
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Ms. Laura Simonson, Treasurer