

## U.S. Department of Labor

Employment Standards Administration  
Office of Labor-Management Standards  
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September 25, 2006

Julie Spears, Business Representative  
Office & Professional Employees, AFL-CIO  
Local Union 5  
1291 E. 54<sup>th</sup> Avenue, Unit B  
Denver, Colorado 80216

Re: Case No. [REDACTED]

Dear Ms. Spears:

This office has recently completed an audit of Office and Professional Employees, AFL-CIO (OPEIU), Local Union 5 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, with Local 5 President Chris Kirschenman, and Secretary-Treasurer Rita Burns on September 21, 2006, 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.

### **Record Keeping Violations:**

Title II of the LMRDA establishes certain reporting and recordkeeping requirements. Section 206 requires, among other things, that adequate records be maintained for at least 5 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, all records used or received in the course of union business must be retained. This includes, in the case of disbursements, not only the retention of original bills, invoices, receipts, and vouchers, but also adequate additional documentation, if necessary, 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 note can be written on it providing the additional information. An exception may be made only in those cases where 1) other equally descriptive documentation has been maintained, and 2) there is evidence of actual oversight and control over disbursements.

In the case of receipts, the date, amount, purpose, and source of all money received by the union must be recorded in at least one union record. Bank records must also be retained for all accounts.

The audit of OPEIU Local 5's 2005 records revealed the following recordkeeping violations:

**Officer and Employee Expenses:**

Union officers and employees failed to retain adequate documentation for reimbursed expenses, such as cell phone expenses charged to the union, and travel expenses which were direct-paid by the union for one paid employee and for elected union officers. The date, amount, and business purpose of every expense must be recorded on at least one union record. In addition, the names of individuals present for meal expenses paid for by the union and the locations (names of restaurants) where meal expenses were incurred must also be recorded.

**Receipts:**

Local 5 failed to record all income received from its bingo activities. Numerous errors were found on bank bingo deposit receipts. Many deposit receipts were over-stated; some were understated, and a check was missing from one deposit. Union receipts records must include an adequate identification of each receipt of money. The records should show the exact date the money was received, the identity of the source of the money, and the individual amount received from each source.

**Conclusion/Recordkeeping Violation(s)**

As agreed, officers provided that Local 5 maintains adequate documentation. as discussed above, in the future; no additional enforcement action will be taken regarding these violations.

With respect to documentation retained in support of specific disbursements (including those in payment of credit card charges), the record retention requirement includes not only the retention of original bills, invoices, receipts, and vouchers, but also additional documentation, if necessary, showing the nature of the union business requiring the disbursement, the goods or services received, and all the recipients of the goods or services. In most instances, this documentation requirement can be most easily satisfied with a sufficiently descriptive receipt. If a receipt is not sufficiently descriptive, a note can be written on it providing the additional information. An exception may be made only in those cases where 1) other equally descriptive documentation has been maintained, and 2) there is evidence of actual oversight and control over disbursements.

I strongly urge OPEIU Local 5 to adopt clear guidelines regarding what types of expenses personnel may charge with union credit card and what types of out-of-pocket expenses personnel may be reimbursed. Our office is readily available to provide guidance to you regarding the requirements of the law as they would pertain to any policies your union might adopt. If written guidelines are adopted in the near future, I would appreciate it if you would provide a copy to this office.

The proper maintenance of union records is the personal responsibility of the individuals who are required to file OPEIU Local 5'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 also 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 applies to any person, not just the individuals who are responsible for filing the union's LM report.

### **Reporting Violations:**

The CAP 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-3) filed by Local 5 for fiscal year ending December 31, 2005, was deficient in that:

OPEIU Local 5 failed to include some reimbursements to officers and employees in Item 24 (All Officers and Disbursements to Officers) for work officers and employees performed during bingo fund-raising activities. Payments to officers and employees for reimbursement of expenses incurred while conducting union business must be reported in Column F of Schedules 11 and 12.

The union failed to disclose all income and expenses from weekly bingo fund-raising activities on its Form LM-3 Labor Organization Annual Financial Report. Union financial statements filed with the Secretary of State, Colorado indicates the union substantially understated its bingo income and disbursements. Local 5 must file an amended report using an LM-2 reporting form because the union's receipts for FYE Dec. 31, 2005 exceed \$250,000.

### **LM-2 Schedules 9 and 10 (All Officers and Disbursements to Officers /Disbursements to Employees):**

Local 5 failed to include some reimbursements to officers and employees in Schedule 11 (All Officers and Disbursements to Officers) and Schedule 12 (Disbursements to Employees). Such payments appear to have been erroneously reported in Item 55 (Other Disbursements) on the LM-3 report.

Direct disbursements to officers and employees for reimbursement of expenses incurred while conducting union business must be reported in Column F of Schedules 11 and 12 (Disbursements for Official Business). In addition, indirect disbursements made to another party (such as a credit card company) for business expenses incurred by union personnel must also be reported in Column F of Schedules 11 and 12. However, indirect disbursements for

business expenses incurred for transportation by public carrier (such as an airline) and for temporary lodging expenses incurred while traveling on union business must be reported in Schedules 15 through 19. Any direct or indirect disbursements to union personnel for expenses not necessary for conducting union business must be reported in Column G (Other Disbursements) of Schedules 11 and 12.

### **Conclusion/Resolution of Reporting Problems:**

OPEIU Local 5 must file an amended Form LM-2 for fiscal year ending December 31, 2005, to correct the deficient items discussed above. I explained to you the filing procedures and the availability of the filing software on the OLMS website ([www.olms.dol.gov](http://www.olms.dol.gov)). The amended Form LM-2 must be electronically filed as soon as possible, but not later than December 15, 2006. Before filing, review the report thoroughly to be sure it is complete and accurate, and properly signed with electronic signatures.

### **Other Violations**

The CAP disclosed the following other violation(s):

#### **Failure to File Bylaws:**

The CAP disclosed a violation of LMRDA section 201(a) which requires that unions submit a copy of their current constitution and bylaws with its LM report when bylaw changes are made. Local 5 amended its constitution and bylaws in 2003, but a copy of the constitution and bylaws was not filed with Local 5's LM-2 report for that year.

As agreed, Local 5 will file two copies of its current bylaws with this agency as soon as possible.

### **Policy for Expenses**


As discussed during the exit interview, the audit revealed that Local 5 does not have a clear policy regarding the types of expenses personnel may claim for reimbursement and what types of expenses may be charged to the union. Authorization of expenses is an important matter that should be recorded in union records. I recommend that Local 5 document the authorization of expenses in its bylaws or record them in meeting minutes or some other internal document (following discussion in the appropriate membership and/or executive board meeting). If written guidelines are adopted in the near future, I would appreciate it if you would forward a copy to me.

Countersignature (Signing Blank Checks):

During the audit, you advised that President Chris Kirschenman and Secretary-Treasurer Rita Burns sign blank checks in advance. Your union's bylaws require that all checks be signed by the president and treasurer. The countersignature requirement is an effective internal control of union funds. Its purpose is to attest to the authenticity of a completed document already signed. However, countersigning a blank check in advance does not attest to the authenticity of a completed check, and completely circumvents and undermines the whole purpose of the countersignature requirement. I recommend that Local 5 review these procedures to improve internal control of union funds.

I want to extend my personal appreciation for you and your entire staff's cooperation and courtesy during this compliance audit. If we can be of any assistance in the future, please do not hesitate to call.

Sincerely,

  
Investigator

cc: C. Kirschenman, OPEIU Local 5 President  
R. Burns, OPEIU Local 5 Secretary-Treasurer