

U.S. Department of Labor

Office of Labor-Management Standards
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March 31, 2010

Mr. Levi Morrow, Treasurer
AFGE National Leadership Council of EEOC Locals
Council 216
2058 Chevella Drive
Dallas, TX 75232

LM File Number 516-290
Case Number: [REDACTED]

Dear Mr. Morrow:

This office has recently completed an audit of Council 216 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 March 24, 2010, 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:

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 Council 216's 2008 records revealed the following recordkeeping violations:

1. Receipt Records

Council 216 did not maintain a complete record of income received from various Locals in August 2008 totaling at least \$6,461. Council 216 listed only the total deposit amounts made in August 2008 and did not keep a record or listing of the deposit items that made up each deposit. Union receipts records must include an adequate identification of all money the union receives. The records should show the date and amount received, and the source of the money.

2. Dues Checkoff Reports

Council 216 failed to maintain the dues checkoff reports from 2008. 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.

3. Per Diem Payments

Council 216 did not retain adequate documentation for per diem payments to officers totaling at least \$1,000. For example, Treasurer Morrow was paid six days of per diem for attending the February 2008 Council meeting. However, the notice

of the meeting stated that three days of per diem was approved, and the check memo stated only the purpose of the payment as per diem. The union should maintain records in support of per diem payments that identify each date per diem is paid, the per diem rate, the location of the union trip, and a description of the union business conducted.

4. Information not Recorded in Meeting Minutes

During the audit, you advised OLMS that at the April 1997 Council meeting, the Council authorized the flat rate per diem amount of \$50 per day, and that has been Council 216's practice ever since. Section 2 of Article IV of Council 216's bylaws requires that the "law and policies of the Council be adopted and promulgated in Council meetings," and that the Council is the "true and legitimate source of all authority." You advised that the Council approved a daily per diem rate of \$50 per day; however, the minutes of the meeting do not contain that information. Meeting minutes that contain authorizations not documented elsewhere must be maintained.

Based on your assurance that Council 216 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 Council 216 for fiscal year ending December 31, 2008, was deficient in the following areas:

1. Disbursements to Officers

Council 216 did not include reimbursements to officers totaling at least \$7,857 in the amounts reported in Item 24 (All Officers and Disbursements to Officers). For example, Council 216 did not report reimbursements and per diem paid to President Gabrielle Martin totaling at least \$3,328. It appears the union erroneously reported these payments in Item 54 Other Disbursements.

The union must report most direct disbursements to Council 216 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. Interest

Council 216 failed to report the interest earned on their certificates of deposits in Item 41 Interest and Dividends. The total amount of interest earned on bank accounts, certificates of deposit, investments, etc. should be reported in Item 41.

3. Other Receipts

Council 216 failed to report all the other receipts in Item 43 Other Receipts. It appears that Council 216 mistakenly reported some other receipts in Item 38 Dues. Item 43 should include all receipts other than those reported in Items 38-42.

Council 216 must file an amended Form LM-3 for fiscal year ending December 31, 2008 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-3 should be submitted to this office at the above address as soon as possible, but not later than April 23, 2010. 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. Failure to File Bylaws

Pursuant to 29 C.F.R. Section 458.3, the requirement under 29 C.F.R. Section 402.4 implementing LMRDA Section 201(a) is made applicable to labor organizations subject to the requirements of the CSRA. This provision requires labor organizations to file copies of any revised constitution and bylaws when it files its annual financial report. The audit disclosed a violation of this requirement. Council 216 amended its constitution and bylaws in 2003, but did not file the required copies with its LM report for that year.

Council 216 has now filed a copy of its constitution and bylaws.

2. 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. Officers and employees of Council 216 are currently bonded for \$10,000; however, based on the funds handled in fiscal year 2009, they must be bonded for at least \$17,112.

Council 216 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 April 23, 2010.

Other Issues

1. Signing Blank Checks

During the audit, you advised that you and President Gabrielle Martin sign blank checks. 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 Council 216 review these procedures to improve internal control of union funds.

2. Income versus Expenses

Council 216's expenses greatly exceeded their income and greatly reduced their savings in the audit year 2008. Council 216 may wish to review their budget and eliminate any unnecessary expenses.

I want to extend my personal appreciation to Council 216 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: Gabrielle Martin