



February 23, 2016

Mr. Johnny Jones, Treasurer
AFGE Local 1040
PO Box 610425
Dallas, TX 75261

Case Number: 420-6006165
LM Number: 544653

Dear Mr. Jones:

This office has recently completed an audit of AFGE Local 1040 under the Compliance Audit Program (CAP) to determine your organization's compliance with the provisions of the Civil Service Reform Act of 1978 (CSRA), 5 U.S.C. 7120, and the Department's regulations, 29 CFR 458. As discussed during the exit interview with you, President Rudy Garcia, and Vice President Mary Mancha on February 17, 2016, 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 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 1040's 2014 records revealed the following recordkeeping violations:

1. Lack of Recruitment Bonus Records

Local 1040 did not maintain adequate records to support cash withdrawals in the amount of \$41,750.00 for recruitment bonuses. The recruiter and the new member are authorized to receive a recruitment bonus. The union did not maintain an adequate list to reflect how much cash was given to all members. The union has agreed to pay future recruitment bonuses in the form of a union check and to maintain adequate documentation.

2. Payments to Johnny Jones Recorded as Payments to Chase Bank

Local 1040 did not properly record payments to Johnny Jones. The union's books indicated a total of seven checks totaling \$24,201.04 were made payable to "Chase Bank." A review of the cancelled checks indicated the checks were made payable to "Johnny Jones." Jones stated the checks were used to pay his personal Chase credit card bill. Jones used his personal credit card to make union purchases for him and other union members. Jones also used his personal credit card to make travel arrangements for members of the union. Local 1040 did not retain the personal credit card receipts and statements showing the union purchases. The union has agreed to use the union's debit card for travel arrangements.

3. General Reimbursed Expenses

Local 1040 did not retain adequate documentation for reimbursed expenses totaling \$6,357.20 incurred by Treasurer Johnny Jones, Rudy Garcia, Becky Mancha, and Sharron Martinez. As noted above, labor organizations must retain original receipts, bills, and vouchers for all disbursements. The president and treasurer (or corresponding principal officers) of your union, who are required to sign your union's LM report, are responsible for properly maintaining union records. The union has agreed to maintain all receipts for reimbursements.

4. Meal Expenses

Local 1040's 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. Also, the records retained must identify the names of the restaurants where the officers or employees incurred meal expenses. The union has agreed to maintain adequate records for all meal expenses.

The proper maintenance of union records is the personal responsibility of the individuals who are required to file Local 1040'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 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 LM-3 filed by Local 1040 for the fiscal year ended December 31, 2014, was deficient in the following areas:

1. Recruitment Bonuses

Recruitment bonuses paid to new members and recruiters were erroneously reported on Line 48 Office and Administrative Expenses. Those payments should have been properly reported on Line 45 Officers and Line 46 Employees.

2. Salary Payments Not Properly Reported

Local 1040 did not report salary payments to Rudy Garcia totaling \$599.00 on the LM-3 report. The union must report in Item 24 (All Officers and Disbursements to Officers) all persons who held office during the year, and the payments received from the union.

3. Reimbursements to Officers

Local 1040 did not include some reimbursements to officers Rudy Garcia, Johnny Jones, Becky Mancha, and Sharron Martinez totaling at least \$79,537.60 in the amounts reported Item 24 (All Officers and Disbursements to Officers). It appears the union erroneously reported these payments in Item 48 and 54.

The union must report most direct disbursements to Local 1040 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).

Local 1040 has completed an amended report to correct the deficiencies.

Other Violation

The audit disclosed the following other violation:

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.

The audit revealed that Local 1040's officers and employees were not bonded for the minimum amount required at the time of the audit. However, Local 1040 obtained adequate bonding coverage and provided evidence of this to OLMS during the audit. As a result, OLMS will take no further enforcement action regarding this issue.

I want to extend my personal appreciation to AFGE Local 1040 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: Rudy Garcia, President
Sharron Martinez, Executive Vice President
Mary Mancha, Vice President for Love Field