

**U.S. Department of Labor**

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March 11, 2008

Ms. Paula Dorsey, President  
AFSCME District Council 48  
3427 West St. Paul Avenue  
Milwaukee, WI 53208

LM File Number: 517-464  
Case Number: ||| ||| |||

Dear Ms. Dorsey:

This office has recently completed an audit of Council 48 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, Treasurer Brian Stafford, and Executive Director Richard Abelson, Bookkeeper Dawn Matson, and Administrative Assistant Lisa Parish on January 31, 2008, 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 audit of District Council 48's 2006 records revealed the following recordkeeping violations:

1. Receipts

Union receipts records must include an adequate identification of each receipt of money. In the case of dues checkoff checks received by Council 48 from the various employers, the itemized dues deduction roster is sufficient documentation of the receipt of each checkoff check and should be retained. However, these rosters were not regularly retained because it is the bookkeeper's practice to forward some of the rosters to a local union along with its portion of the dues from the Council. In the case of an employer who provides the data in duplicate—in the form of a paper roster and in electronic form using a 3½ inch floppy disc—only one version of the data is required to be kept. However, if Council 48 keeps only the 3½ inch disc, then it must also maintain a means by which the information on the disc can be read or accessed for the five years it is required to keep the record. [Please also note that even though Council 48 has hired an outside vendor to maintain its membership database and dues payment histories, it is the responsibility of the Council to retain the supporting itemized dues rosters for five years from the filing of the Labor Organization Annual Report (Form LM-2) the data supports, whether the records are housed at the Council's office or with the outside vendor.]

2. Fixed Assets

The LM-2 requires the reporting of details of a labor organization's fixed assets, including fixed assets that were expensed, fully depreciated, or carried on the books at scrap or nominal value. Schedule 6 of the LM-2 filed for 2006 notes that the union had office furniture and equipment with a cost of \$580,592 and a book value of \$18,730 at the end of the year. However, Council 48 maintained no inventory or list of its furniture, computer equipment, or other electronic or miscellaneous equipment to support the figures reported. Such an inventory should include a description of the item, the quantity, the date of purchase, the initial cost, the current value, and details regarding the disposition of items. In addition, I recommend that the Council note on the inventory any equipment that

is assigned to the custody of specific individuals or that is located outside the Council's office building.

As discussed, please provide me with a copy of the fixed asset inventory no later than April 10, 2008.

### 3. Undeposited Cash

During the initial interview, I was told that Council 48 maintained a nominal amount of cash in the office. However, there was no documentation for this cash either in the general ledger or any informal record. The Labor Organization Annual Report (Form LM-2) requires the reporting of, and subsequent recordkeeping for, all of the funds of the labor organization, including a formal petty cash fund and any nominal amounts of cash kept on hand for miscellaneous purposes. Officers stated that the cash has since been deposited. Should you choose to maintain a petty cash fund in the future, I provided you with a suggested recordkeeping method.

### 4. Disbursements

Council 48 did not maintain sufficient records to explain check ||| issued to Director of Public Relations ||| for \$150 on February 21, 2006, and which was booked to the general ledger account for contributions. Minutes of the Finance Sub-Committee show that this \$150 was approved as a contribution to the National Association for Mental Illness of Greater Milwaukee. However, records failed to explain why the check was made payable to |||. ||| stated that she issued a personal check to the charity because of a due date issue. If check ||| was to reimburse |||, either of two records should have been kept: (1) a copy of |||'s personal check payable to the charity, or (2) a receipt from the charity showing proof of payment by ||| on behalf of the Council. As previously noted above, labor organizations must retain documentation by which each disbursement of funds can be verified, explained, and clarified.

As agreed, provided that Council 48 maintains adequate documentation in the future as discussed above, no additional enforcement action will be taken regarding these violations.

### 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-2) filed by District Council 48 for its 2006 fiscal year was deficient in the following areas:

#### 1. Acquisition and Disposition of Assets

Item 15 (During the reporting period did the organization acquire or dispose of any assets in any manner other than by purchase or sale?) should have been answered "Yes" because Council 48 purchased approximately \$1,777 in label pins and water bottles and purchased (in conjunction with other locals) over \$3,000 in t-shirts that were given away during the reporting period. Council 48 must identify the type and value of all property given away in the additional information section of the LM-2 along with the identity of the recipient(s). The Council does not have to itemize every recipient by name, but can describe the recipients using broad categories, if appropriate, such as "members" or "new retirees."

#### 2. Other Assets

Schedule 7 (Other Assets) contains a line item for "prepaid expenses" totaling \$11,407. The LM-2 instructions state that other assets must be described and may be classified by general groupings or bookkeeping categories if the description is sufficient to identify the type of assets. "Utility deposits" is given as an example in the instructions. "Pre-paid expenses" is not sufficiently descriptive because it does not indicate the type or nature of the prepaid expenses.

#### 3. Loans Receivable

Council 48 signed an agreement with its Staff Representatives Union (SRU) which stated that effective January 1, 2006, there would be a \$75 per month reduction in the automobile allowance paid to eligible staff representatives until the total amount of these reductions reached \$22,000. It is my understanding that the purpose of this agreement is to reimburse Council 48 for a \$22,000 legal services payment it made on behalf of the SRU. This agreement represents an indirect loan which should have been reported in Schedule 2 (Loans Receivable). Refer to the LM-2 instructions for Schedule 2 for further information on completing this

schedule, including reporting an explanation for any non-cash repayments in the Additional Information section.

4. Other Liabilities

Schedule 10 (Other Liabilities) contains a line item for “deferred union dues” totaling \$96,658. The LM-2 instructions state that other liabilities must be described and may be classified by general groupings or bookkeeping categories if the description is sufficient to identify the type of liability. The entry “deferred union dues” is not sufficiently descriptive because it does not indicate to whom the money may need to be paid. In addition, the general ledger liability bookkeeping account titled “union dues” showed a zero balance at the end of 2006. You and the others present at the exit interview could also not identify the nature of the liability.

I also note that there is no entry for any payroll liabilities at the end of the reporting period, which is a common liability for labor organizations the size of Council 48. I recommend that you reassess the information that should be reported in Schedule 10 and, if necessary, identify in Schedule 10 any payroll taxes or other deductions that have not yet been transmitted at the end of the reporting period.

5. Disbursements to Officers and Employees

Council 48 did not properly report some direct and indirect payments to officers and employees in Schedule 11 (All Officers and Disbursements to Officers) and Schedule 12 (Disbursements to Employees), as follows:

- a. Column F (Disbursements for Official Business) for several individuals does not include all direct payments that were necessary for conducting official union business. For example, in Column F you are reported to have been paid a total of \$28, but disbursements records show several per diem checks payable to you, including check # | | | | in September 2006 for \$108 for per diem to an AFL-CIO meeting, which should also have been reported in Column F.
- b. Column F for several individuals also does not include all indirect disbursements made to another party, such as a credit card company, for cash, property, goods, services, and other things of value received by or on behalf of the officer or employee. For example, Council 48’s credit card invoices

included \$240 in valet parking expenses at the Conrad Hilton Hotel in Chicago in August 2006 that benefit ||| and other individuals. The audit disclosed that the amount in Column F for ||| consisted exclusively of checks written directly to him. Indirect disbursements such as the parking charged to the Council's credit card should have been reported here as well.

- c. Column G (Other Disbursements) does not include all disbursements that were essentially for the personal benefit of individuals and not necessary for conducting the official business of the Council. For example, deposit records show that during the reporting period you repaid Council 48 with several personal checks totaling over \$150 for bereavement flowers and luncheon supplies. You explained that the items were less expensive if the Council purchased them upfront and you repaid the Council. The initial disbursements by the Council should have been reported after your name in Column G regardless of whether the Council was reimbursed.

The Council must report in Column F of Schedules 11 and 12 (Disbursements for Official Business) direct disbursements to officers and employees for reimbursement of expenses they incurred while conducting union business. In addition, the Council must report in Column F of Schedules 11 and 12 indirect disbursements made to another party (such as a credit card company) for business expenses Council personnel incur. However, the Council must report in Schedules 15 through 19 indirect disbursements for business expenses personnel incur for transportation by public carrier (such as an airline) and for temporary lodging expenses while traveling on Council business. Finally, the Council must report in Column G (Other Disbursements) of Schedules 11 and 12 any direct or indirect disbursements to union personnel for expenses not necessary for conducting Council business. See pages 20-23 of the LM-2 instructions for further guidance.

In addition to the errors in the reporting of disbursements in Schedule 11, Council 48 did not properly report the percentage of time on Line I of Schedule 11. The LM-2 shows that 100% of the time for all officers is allocated to the General Overhead category. However, I was told during the audit that the activities of the officers consist largely of attending and participating in Executive Board meetings and that some individuals also participate in Finance Sub-Committee meetings. Attendance and participation in meetings where the finances and other administrative matters of the union are discussed is time that more appropriately corresponds to Schedule 19 (Union Administration). In addition, if a notable amount of time was spent during meetings on matters corresponding to other

schedules, it would be appropriate to report that estimated time in the respective other schedules. A "best" or "good-faith" estimate of the time is all that is required on Line I. Pages 29-33 of the LM-2 instructions describe the allocation schedules which require the estimated percentage of time.

6. Other Receipts

Council 48 did not report all other receipts in Schedule 14 (Other Receipts). On the 2006 LM-2, the Council reported on lines 1 and 2 payments received from the Wisconsin AFL-CIO, and on line 3 has identified all other receipts of \$1,170. However, the audit revealed that the Council's other receipts to be reported on line 3 exceeded \$1,170. The following are examples of receipts that were not included in Schedule 14: monthly reimbursements from || || || || || || || ||, a computer rebate check, numerous receipts from local unions to pay for photocopying and mailing services provided by the Council, and money received from AFSCME that the Council subsequently paid to || || || || || || || ||. According to the LM-2 instructions on page 25, the Council is required to report in Schedule 14 the receipts from all sources other than those that must be reported elsewhere in Statement B. Lines 1 and 2 of Schedule 14 are to identify those other receipts that meet the definition of "major" as defined on page 24 and require an itemization page, and line 3 is to identify other receipts from sources not identified on itemization pages.

7. Disbursements in Schedules 15 through 19

Council 48 erroneously reported disbursements in Schedules 15 because an itemization page was not completed to identify each payee who was paid a total of \$5,000 or more. For example, Council 48 made 12 monthly payments of \$1,000 each to arbitrator Herman Torosian, the purpose of which corresponds to Schedule 15 (Representational Activities), but there is no Schedule 15 itemization page for Mr. Torosian on the Council's 2006 LM-2. In addition, several itemization pages did not properly report in Column (B) the type or classification of the payee. The Schedule 15 itemization page for Wisconsin Citizen Action, for example, shows the type or classification of the payee to be "donation."

Council 48 also did not accurately complete Schedules 15 and 19 because payments were not properly allocated. For example, legal invoices showed that attorney Mark Sweet provided services generally related to Schedule 15 (Representational Activities) but also performed work on a lawsuit filed against the Council by a former employee, which is an internal personnel issue and related

to Schedule 19 (Union Administration). All disbursements to Mr. Sweet, however, were reported solely in Schedule 15.

Council 48 is required to allocate disbursements among Schedules 15 through 19 based on their purpose. If a check covers more than one purpose, it may be necessary to allocate the check to more than one schedule. For each of the schedules, Council 48 is also required to prepare an itemization page when an individual disbursement is \$5,000 or more or total disbursements to any single payee is \$5,000 or more. Please refer to pages 29-35 of the LM-2 instructions for further information.

#### 8. Benefits

Council 48 did not include in Schedule 20 (Benefits) disbursements to all entities and individuals associated with direct and indirect benefits for officers and employees. The Council's general ledger, in bookkeeping account # | | | (Insurance), shows that checks were issued directly to several employees for health purposes. The LM-2 instructions require an entry for all benefit payments made directly to officers and employees, and the type of benefit should be identified in Column (A). Note that the instructions state that you are not required to list individuals by name.

#### 9. Funds of Affiliates

Council 48 receives money through a checkoff arrangement on behalf of its subordinate locals (its "affiliates") for eventual transmittal to them. Such transactions are addressed in the LM-2 instructions under Items 46 (On Behalf of Affiliates for Transmittal to Them) and 63 (To Affiliates of Funds Collected on Their Behalf). Usually, the amounts reported in these two items are the same, and any funds not disbursed by the end of the year are liabilities to be reported in Schedule 10 (Other Liabilities). On the 2006 LM-2, the Council reported in Item 46 that it received \$3,140,390 on behalf of its affiliates and in Item 63 that it disbursed \$3,077,899 to its affiliates, but there was no apparent related liability reported in Schedule 10. This indicates either (1) a difference that the Council should have reported on a separate line item in Schedule 10 as an other liability but did not or (2) an error in the amounts reported in Items 46 and 63. [Keep in mind that the portion of the local union dues checkoff the Council later disburses to the International Union as per capita taxes or to other bodies for other purposes should be reported as a receipt in Item 48 (Other Receipts) and a disbursement in Item 53 (General Overhead). Any money not yet disbursed to the International



Union as per capita taxes or to other bodies for other purposes at the end of the period should be separately identified by purpose as a liability in Schedule 10.]

District Council 48 must file an amended Form LM-2 for its 2006 fiscal year to correct the deficient items discussed above. As you know, the filing software is available 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 April 10, 2008. Before filing, review the report thoroughly to be sure it is complete, accurate, and properly signed with electronic signatures.

In addition to the above deficient areas, when completing the amended report please be aware that the LM-2 instructions on page 38 for Statement B state that transfers between separate bank accounts or funds of the labor organization do not represent the flow of cash in and out of the organization and are therefore not to be reported. I note that the accountant's annual report includes the January 2006 \$10,000 transfer from the General Fund to the People Fund in the total receipts and disbursements figures. Please make sure that transfers are not reported on the amended LM-2.

#### Other Violations

The audit disclosed the following other violations:

1. Revised Governing Documents

The audit disclosed a violation of LMRDA Section 201(a), which requires that a labor organization submit a copy of its revised constitution and bylaws with its LM report when it makes changes to the constitution or bylaws. On its 2004 LM-2, Council 48 indicated it made changes in its constitution and bylaws, but did not file a copy with its LM report for that year. A copy of the updated bylaws was provided during the audit.

2. Bonding

The audit revealed a violation of LMRDA Section 502 (Bonding), which requires that union officers and employees be bonded for no less than 10 percent of the total funds handled by those individuals or their predecessors handled during the preceding fiscal year. The Council's bond is \$100,000 for each officer and employee who has access to the Council's assets, with an additional \$400,000 coverage for the positions of president, vice president, treasurer, bookkeeper, and executive director. The audit determined that the amount of the Council's bond should be

approximately \$570,000 for those persons handling all the Council's funds, so the amount of \$500,000, which is the maximum bond required, meets the bonding requirement. However, the "handling of funds" for bonding purposes is not limited to physical contact with money, but is based on various factors such as custody, access, and actual authority. The Council identified on the Financial Questionnaire submitted for the audit that you, Treasurer Brian Stafford, and Secretary Cathy Muir are the signatories to the Council's bank accounts. Since Ms. Muir has such access, the position of secretary is also required to be bonded for \$500,000. The Council should immediately obtain adequate bonding coverage as discussed. Please provide me with proof of the revised coverage as soon as possible, but not later than April 10, 2008.

#### Other Issues

The audit disclosed the following other issues:

##### 1. Outstanding Checks

A review of the monthly reconciliation reports for the Trust Account showed that a number of checks were outstanding for quite some time. As of January 1, 2006, the start of the audit period, 17 checks were more than five months old, with the oldest issued in October 1998 but the majority from 2004. Several of these were resolved during 2006 and removed from the list of outstanding checks, but a number of them remained on the list as of March 2007, the most recent records reviewed during the audit. Depending upon the financial institution, a check may become non-negotiable if it is not cashed within a certain amount of time, or an institution may be more lax about accepting "stale" checks. I highly recommend that you identify the period of time your bank considers a check negotiable and begin a policy of investigating a check that has become "stale" to determine why it has not been cashed.

##### 2. Governing Documents

- a. During the audit I examined a document titled *Policy and Procedure Committee* that appears to have been prepared in the late 1990s. This document contains references to financial procedures, and copies of several internal expense vouchers currently in use are exhibited. The document discusses a Council 48 Finance Treasury Fund, which I was told was no longer in use, and certain financial procedures. I strongly suggest that you update this document to reflect the current policies of the Council. After doing so, please note that the

LM-2 instructions on page 10 require labor organizations to file any supplemental governing documents with their annual LM-2.

- b. The Council's constitution (dated December 2004) states that the executive board is composed of the president, secretary, executive director (ex-officio), treasurer, and all vice-presidents (p. 11). The constitution also includes in the article titled Duties of Officers a section on the duties of the executive director (p. 9). However, the executive director is not elected, and you explained that the executive director does not have the right to vote on executive board matters because of his status as an "ex officio" member. I further note that the constitution also states that the executive director is subject to the decisions of the delegates in council and the executive board.

Constitutional officers and other persons who function in an executive capacity of a labor organization must be elected. Title 29 C.F.R. 452.19 provides that positions to be elected would include "ex-officio" members of the executive board. (See also LMRDA Title IV and 29. C.F.R. 452.20.) In addition, I provided you with language from Robert's Rules of Order (used by Council 48 according to your constitution), which explains that ex-officio members of boards have exactly the same rights and privileges as do all other members of a board, including the right to vote. Should you update the Council 48 constitution in the future, I recommend that you clarify the status of the executive director in the document.

### 3. Form LM-10

Form LM-10 (Employer Report) is required to be filed by employers to disclose certain specified financial dealings with their employees, unions, and labor relations consultants. Employers are to disclose payments and loans made to any union or union official, other than payments of the kind referred to in section 302(c) of the Labor Management Relations Act. Council 48 is an employer of employees represented by the Staff Representatives Union (SRU), and the indirect loan made to the SRU is such a financial dealing covered by the requirements of the LM-10. However, please refer to question #12 on the LM-10 FAQ page of the OLMS website which discusses the matter of enforcement of the LM-10 filing requirements to obtain reports of payments from unions to other unions ([http://www.dol.gov/esa/regs/compliance/olms/LM10\\_FAQ.htm](http://www.dol.gov/esa/regs/compliance/olms/LM10_FAQ.htm)). Pending further guidance on this matter in favor of enforcement, we will not require the Council to file an LM-10 to report the SRU loan. The Council, however, may voluntarily file the LM-10.

This compliance audit will be closed upon receipt of amended 2006 LM-2, the fixed asset inventory, and proof of adequate bonding as discussed above. I want to extend my personal appreciation to Council 48 for the cooperation and courtesy extended during the 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: Brian Stafford, Treasurer  
Richard Abelson, Executive Director