



January 18, 2012

Mr. James Covington, President
SPFPA LU723
PO Box 150765
White Settlement, TX 76108

Case Number: [REDACTED]
LM Number: 065477

Dear Mr. Covington:

This office has recently completed an audit of SPFPA LU723 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, Financial Secretary Juan Gonzalez, Recording Secretary Ryan Kelley, Trustee Jim Turpen, Trustee Cralance Ragster, and Trustee Melvin Williams on January 6, 2012, 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 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 Local 723's 2010 records revealed the following recordkeeping violations:

1. Rental Receipt Records

Local 732 failed to keep adequate records to support rental receipt payments made to them from Local 900. 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. The local also did not maintain a written rental agreement with Local 900. You agreed that the local will establish a written rental agreement and maintain adequate records.

2. Lost Time Records

Local 723 did not retain adequate documentation for lost time reimbursement payment to Ryan Kelley, check # [REDACTED] in the amount of \$32.50. The union must maintain records in support of lost wage claims that identify each date lost wages were incurred, the number of hours lost on each date, the applicable rate of pay, and a description of the union business conducted. The local will retain all documentations to support all lost time payments.

3. Lack of Stipend Authorization

Local 723 did not maintain records to verify that the stipends reported in Item 24 (All Officer and Disbursements to Officers) of the LM-3 was the authorized amount and therefore was correctly reported. The stipends were based on past practice. The union must keep a record, such as meeting minutes, to show the current stipend authorized by the entity or individual in the union with the authority to establish stipends.

The local has recently adapted its own local constitution and bylaws. The new constitution and bylaws discontinued the past practice of paying the officers a stipend.

Based on your assurance that Local 723 will retain adequate documentation in the future, OLMS will take no further enforcement action at this time regarding the above violations.

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-3) for fiscal year ending March 31, 2011 has not been filed by Local 723.

Local 723 must file the Form LM-3 for the fiscal year ended March 31, 2011. 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 Form LM-3 should be submitted to this office at the above address as soon as possible, but not later than February 2, 2012. Before filing, review the report thoroughly to be sure it is complete, accurate, and signed properly with original signatures.

Other Issues

1. Lost Time Rate

The audit disclosed that the rate of “time and a half” was being paid to officers receiving lost time. During the audit period, you, Cralance Ragster, Ryan Kelley, and [REDACTED] received a combined total of \$237.72 in “time and a half.” Article XII, Section 4 of Local 723’s constitution and bylaws states that the compensation of any member of the Local Union performing services shall be compensated for an amount equal to his/her lost earning from “regular” employment with prior approval by the Local Union President.

2. Lost Time Entitlement

During the audit, local lost time claims were reviewed and compared to the employer’s lost time records. It was concluded that one lost time payment received by you and five payments received by Ryan Kelley were made while not in an unpaid status from the employer. The dates of the payments were for official union meetings. You stated that as president of the union, you send an email to the supervisor to request that union officers are placed in a union unpaid status. You stated that the union will now review the officers’ pay stubs to ensure that they were in a non-paid status before making the lost time disbursement.

3. Trustee Reports

The Trustee Reports for quarters ending June, September, and December 2010 were not signed by the local’s trustees. During the closing interview, the trustee’s were made aware of their responsibilities as outlined in the local union’s constitution and bylaws. The trustees will review and sign the reports before forwarding to the International.

4. Signing Blank Checks

During the audit, you advised that you and Juan Gonzalez signed blank checks. Your union’s bylaws require that all checks be signed by the president and treasurer. 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. You stated that the union has discontinued the practice and agreed to no longer pre-sign checks.

5. Debit Card Use

As I discussed during the exit interview with Local 723, the audit revealed that Local 723 does not have a clear policy regarding the use of the union’s debit card. OLMS recommends that unions adopt written guidelines concerning such matters.

I want to extend my personal appreciation to SPFPA LU723 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: Mr. Juan Gonzalez, Financial Secretary
Mr. Ryan Kelley, Recording Secretary
Mr. Jim Turpen, Trustee
Mr. Cralance Ragster, Trustee
Mr. Melvin Williams, Trustee