

U.S. Department of Labor

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May 11, 2007

Mr. William McSpedon, Secretary Treasurer
Engineers, Operating, AFL-CIO
New York State Conference
100 South Swan Street
Albany, NY 12210

LM File Number 513-400

Case Number: [REDACTED]

Dear Mr. McSpedon:

This office has recently completed an audit of NYS Conference of Operating Engineers 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 May 9, 2007, 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 the New York State Conference 2005 and 2006 records revealed the following recordkeeping violations:

1. Meal Expenses

The Conference maintained all credit slips for meals charged to the Conference's American Express credit card and the names of individuals present were written on the back of each slip, however, the Conference did not maintain itemized receipts for the meals. The Conference must maintain itemized receipts provided by restaurants to officers and employees. These itemized receipts are necessary to determine if such disbursements are for official business purposes and to sufficiently fulfill the recordkeeping requirement of LMRDA Section 206.

2. Union Owned Vehicles

The Conference did not maintain records necessary to verify trips taken with the union owned vehicle. This vehicle was assigned to Secretary Treasurer William McSpedon. For each trip he takes using that vehicle, he must maintain a mileage log that shows the date, number of miles driven, whether the trip was business or personal, and, if business, the purpose of the trip.

Based on your assurance that the Conference will retain adequate documentation in the future, if applicable, 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-2) filed by the New York State Conference for fiscal year ending June, 30, 2006 was deficient in the following areas:

1. Improper Signature

The signature of the treasurer was incorrect on the report. [REDACTED] digital signature was applied the Conference's report, however [REDACTED] is not an officer of the Conference. The Form LM-2 that is filed with OLMS must be signed by both the president and treasurer, or corresponding principal officers, of the labor organization. If an officer other than the president or treasurer performs the duties of the principal executive or principal financial officer, the other officer may sign the report. If an officer other than the president or treasurer signs the report, enter the correct title in the title field next to the

signature and explain in Item 69 (Additional Information) why the president or treasurer did not sign the report.

2. Membership

The Conference failed to complete Schedule 13, and subsequently Item 20, of the LM-2 report. The numbers and categories of membership tracked by the labor organization must be report in Schedule 13. Each category of membership should be defined and include a description of the category and indicate whether the members pay full dues. It is not sufficient to report the number of local unions affiliated with the Conference.

3. Disbursements to Officers

The Conference did not include some reimbursements to officers or payments to officers totaling at least \$1,837 in Schedule 11 (All Officers and Disbursements to Officers). It appears that the Conference erroneously reported these payments in Schedules 15 through 19.

The organization must report in Column F of Schedules 11 (Disbursements for Official Business) direct disbursements to officers for reimbursement of expenses they incurred while conducting union business. In addition, the union must report in Column F of Schedules 11 direct disbursements made to another party (such as a credit card company) for business expenses official personnel incur. The organization must report in Column G (Other Disbursements) of Schedules 11 any direct or indirect disbursements to officers for expenses not necessary for conducting Conference business.

4. Automobile Expenses

The New York State Conference did not include in the amounts reported in Schedule 11 (All Officers and Disbursements to Officers) disbursements for the operation and maintenance of union automobiles totaling at least \$5,022.

The LM-2 instructions provide two methods for reporting automobile-related expenses. The organization must report in Schedules 11 direct and indirect disbursements for the operation and maintenance of vehicles owned and leased vehicles by the organization and the operation and maintenance of vehicles owned by officers (including gasoline, repairs, and insurance). The Conference may divide the expenses and report them in Columns F and G based on miles driven for Conference business (supported by mileage logs) compared with miles driven for personal use.

Alternatively, rather than allocating the expenses between Columns F and G, if 50 percent or more of an officer's use of a vehicle was for official business, the organization may

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report all of the expenses relative to the vehicle assigned to the officer in Column F of Schedule 11 with an explanation in Item 69 (Additional Information) that the officer or employee used the vehicle part of the time for personal business. Similarly, if a vehicle assigned to an officer was used less than 50 percent of the time for business, all of the expenses relative to that vehicle may be reported in Column G with an explanation in Item 69 that the officer used the vehicle partly for official business. These rules also apply to Schedule 12 (Disbursements to Employees).

I am not requiring that the New York State Conference file an amended LM-2 report for fiscal year 2006 to correct the deficient items, but as agreed, the Conference will properly report the deficient items on all future reports it files with OLMS as it applies.

I want to extend my personal appreciation to the NYS Conference 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: William Duffy, President
Vincent Panettieri, Accountant