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May 15,2008

Ms. Leslie Baehre, Treasurer
National Staff Organization Ind
Michigan State Council (United Staff Organization)
1216 Kendale Blvd.
East Lansing, MI 48823

LM File Number: 517-543

Case Number: [REDACTED]

Dear Ms. Baehre:

This office has recently completed an audit of the United Staff Organization (USO) 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 and President Tom Greene on January 8,2008, 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 the USO's 2007 records revealed the following recordkeeping violations:

1. General Reimbursed and Credit Card Expenses

The USO did not retain adequate documentation for reimbursed expenses and credit card expenses incurred by union officers and employees totaling at least \$8,897.60. For example, the USO did not maintain any receipts for credit card purchases made by Mr. Greene from: Northwest Airlines (\$3,505.39), Speedway (\$1,587.36), Exxon Mobil (\$877.52), and Amoco Oil (\$538).

As previously 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.

2. Meal Expenses

The USO did not require officers and employees to submit itemized receipts for meal expenses totaling at least \$5,009.85. For example, on January 12, 2007, Mr. Greene charged the USO's credit card for a meal expense of \$355.97 for eight union officers and employees at Ralph Brennan's Jazz Kitchen in Anaheim, California. However, the USO's records did not contain an itemized receipt for the expense. The union must maintain itemized receipts provided by restaurants to officers and employees. These itemized receipts are necessary to determine if such disbursements are for union business purposes and to sufficiently fulfill the recordkeeping requirement of LMRDA Section 206.

In addition, the USO'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. For example, on November 11, 2006, Mr. Greene charged a meal expense of \$663.40 at the Hyatt Hotel in Dallas, Texas. The names of the 11 meal attendees were listed, but their titles were not. 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.

3. Reimbursed Auto Expenses

USO officers and employees who received reimbursement for business use of their personal vehicles did not retain adequate documentation to support payments to them totaling at least \$3,402.88 during 2006-2007. For example, on April 17, 2007, Karen Kolb received \$582 for the use of her personal car on union business, but the USO's records did not contain the locations to which she traveled. The union must maintain records which identify the dates of travel, locations traveled to and from, and number of miles driven. The record must also show the business purpose of each use of a personal vehicle for business travel by an officer or employee who was reimbursed for mileage expenses.

4. Receipts and Disbursements Dates Not Accurately Recorded

Entries in the USO's records reflect the date the union deposited money, but not the date money was received. In addition, the USO recorded several checks issued during the audit period as disbursements in the books for the following year. Union receipts and disbursements records must show the correct dates of receipts and disbursements. The dates of receipts and disbursements are required to verify, explain, or clarify amounts required to be reported in Statement B (Receipts and Disbursements) of the LM-2. The LM-2 instructions for Statement B state that the labor organization must record receipts when it actually receives money and disbursements when it actually pays out money. Failure to record the date money was received could result in the union reporting some receipts for a different year than when it actually received them. The recording of disbursements in the next year did result in a deficient report (see Inaccurate Reporting of Disbursements, below.) The USO also failed to properly record check numbers for five checks totaling \$1,137.11.

Based on your assurance that the USO 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(a), which requires that a union submit a copy of its revised constitution and bylaws with its LM report when it makes changes to its constitution or bylaws. The USO amended its constitution and bylaws in

2002, but did not file a copy with its LM report for that year. The USO has now filed a copy of its constitution and bylaws with OLMS.

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 USO for fiscal year ending June 30, 2007, was deficient in the following areas:

1. Disbursements to Officers and Employees

The USO did not report the names of some officers and the total amounts of payments to them or on their behalf in Schedule 11 (All Officers and Disbursements to Officers). The union must report in Schedule 11 all persons who held office during the year, regardless of whether they received any payments from the union.

In addition, the USO did not include some payments to officers and employees listed in Schedule 11 and Schedule 12 (Disbursements to Employees) totaling at least \$68,842.12. For example, indirect disbursements for meal expenses totaling at least \$7,158.66 were not reported next to the names of those officers who attended the meals (see Meal Expenses, above). It appears that the local erroneously reported these payments in Schedules 15 through 19. Furthermore, salary reimbursement payments made to the Michigan Education Association on behalf of Shelley Mossbarger were not reported next to her name, and neither were checks to Ms. Mossbarger that she cashed to replenish the USO's petty cash fund.

The union 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 union 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 union personnel incur. However, the union must report in Schedules 15 through 19 indirect disbursements for business expenses union personnel incur for transportation by public carrier (such as an airline) and for temporary lodging expenses while traveling on union business.

The USO incorrectly reported in Column F of Schedule 11 disbursements totaling \$3,529.26 that were made on behalf of Mr. Greene that were not necessary for conducting union business. The union 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 union business.

2. Automobile Expenses

The audit disclosed that the USO pays for all gas and maintenance on Mr. Greene's automobile, which is provided by the Michigan Education Association, and that Mr. Greene uses the car for both union and personal business. However, the USO improperly reported the entire amount disbursed for gas and maintenance, totaling at least \$6,710, in Column F of Schedule 11.

The LM-2 instructions provide two methods for reporting automobile-related expenses. The union must report in Schedules 11 and 12 direct and indirect disbursements for the operation and maintenance of vehicles (including gasoline, repairs, and insurance). The union may divide the expenses and report them in Columns F and G based on miles driven for union 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 or an employee's use of a vehicle was for official business, the union may report all of the expenses relative to the vehicle assigned to the officer or employee in Column F of Schedule 11 or 12 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 was used by an officer or employee 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 or employee used the vehicle partly for official business.

3. Loans to Officers

The USO made loans to officers in the form of annual stipend advances totaling at least \$26,360, but did not properly report the loans on the Form LM-2. It appears that the USO erroneously reported the payments in Schedule 11.

The USO is required to report in Schedule 2 details of all direct and indirect loans, including advances, owed to the labor organization at any time during the reporting period. Use Column (D)(1) to report repayments received in cash, and Column (D)(2) to report repayments made in a manner other than cash, such as repayments made by officers or employees by service to the union. The LM-2

software will automatically enter the correct amounts in Items 24 (Loans Receivable), 45 (Repayment of Loans Made), and 61 (Loans Made).

4. **Inaccurate Reporting of Disbursements**

The USO recorded in its 2008 records seven checks totaling \$35,099.27 that were issued and negotiated during the 2007 reporting period. For example, on April 26, 2007, the USO issued a check to NAI Mid-Michigan Vlahakis Commercial for \$27,500. This disbursement was recorded by the USO as being made on July 1, 2007, and was not included in the LM-2 report for the period ending June 30, 2007. Although this was done for budget reasons, it resulted in the misreporting of the total disbursements for fiscal year ending June 30, 2007. The union must accurately report the total disbursements for each fiscal year on the Form LM-2, regardless of the budget year to which the disbursements may be allocated.

5. **Per Capita Tax**

The USO erroneously reported dues money it received from its members that was subsequently used to pay per capita taxes to the National Staff Organization in Item 46 (On Behalf of Affiliates for Transmittal to Them) and Item 63 (To Affiliates of Funds Collected on Their Behalf), respectively.

Item 46 is used to report the total amount of dues, fees, fines, assessments, and work permit fees received by the labor organization, through a checkoff arrangement or otherwise, on behalf of affiliates for transmittal to them. Item 63 is used to report the total disbursements of funds collected on behalf of affiliates by the labor organization. This amount usually is the same as the amount reported in Item 46.

Dues received directly by the labor organization from members, dues received from employers through a checkoff arrangement, and dues transmitted to the organization by a parent body or other affiliate, must be reported in Item 36 (Dues and Agency Fees). Report the full dues received, including any portion that will later be transmitted to an intermediate or parent body as per capita tax.

Disbursement for per capita taxes, which are paid as a condition or requirement of affiliation with your parent national or international union, state and local central bodies, a conference, joint or system board, joint council, federation, or other labor organization, must be reported in Item 56 (Per Capita Tax).

6. Fixed Assets

The USO failed to report fixed assets with a cost basis of at least \$5,500 in Schedule 6 (Fixed Assets). The USO must report in Schedule 6 details of all fixed assets, such as land, buildings, automobiles and other vehicles, and office furniture and equipment owned by the labor organization at the end of the reporting period. The LM-2 software will automatically enter the correct amounts in Item 27 (Fixed Assets).

The USO must file an amended Form LM-2 for fiscal year ending June 30, 2007, to correct the deficient items discussed above. I explained to you the filing procedures and the availability of filing software on the OLMS website (www.olms.dol.gov). The amended Form LM-2 must be electronically filed as soon as possible, but not later than May 29, 2008. Before filing, review the report thoroughly to be sure it is complete and accurate, and properly signed with electronic signatures.

Other Violation:

The audit disclosed the following other violation:

Inadequate 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 those individuals or their predecessors handled during the preceding fiscal year.

The audit revealed that the USO's officers and employees were bonded under pooled affiliate coverage provided by the National Staff Organization. Such an arrangement fails to meet the bonding requirements of the LMRDA. The NSO has since eliminated pooled coverage. Therefore, the USO is now properly bonded for \$332,500. As a result, OLMS will take no further enforcement action at this time regarding this violation.

Other Issues

1. Stipend Advances

During the audit, you advised that it is the USO's practice to disburse officer stipends on request, even though the USO does not have a written policy regarding such practice. An officer may receive any portion of his stipend at any

time during the fiscal year, but if he leaves office prior to the end of his term, he is required to repay the advance on a pro-rated basis. The audit revealed that you received a \$2,500 advance on your 2008 stipend in 2007.

Section 503(a) of the LMRDA prohibits labor organizations from making loans to any officer or employee that result in a total indebtedness in excess of \$2,000. For the purposes of this section, as well as reporting on the Form LM-2, salary or stipend advances are considered loans until the salary or stipend has been earned. Therefore, OLMS recommends that the USO adopt a written policy that clarifies the circumstances under which stipend advances may be made, and the terms of any repayments. The policy should acknowledge the prohibition against total indebtedness exceeding \$2,000.

You stated that you were not aware that stipend advances were considered loans subject to Section 503(a). Based on your assurance that the USO will implement a written policy, OLMS will take no further enforcement action at this time regarding this matter.

2. Expense Policy and Personal Use of Credit Cards

As I discussed during the exit interview, the audit revealed that the USO does not have a clear policy regarding the types of expenses that may be charged to union credit cards. In fact, Mr. Greene used union credit cards to pay for personal expenses. For example, between November 19 and November 23, 2006, Mr. Greene purchased airline tickets totaling \$2,093 from Northwest Airlines for personal purposes. You stated that the amounts of the personal charges were to be either repaid by Mr. Greene or deducted from the stipend amount to which Mr. Greene was entitled as president. However, the USO ultimately paid for personal charges of \$191.45, which Mr. Greene did not completely repay until after the audit.

OLMS recommends that unions adopt written guidelines regarding the use of union credit cards, but does not recommend that they permit personnel to make personal purchases with union credit cards because this may lead to misuse of union funds.

3. Personal Use of Petty Cash

The audit revealed that, on three occasions, Secretary Shelley Mossbarger used the USO's petty cash to pay for personal expenses. Although Ms. Mossbarger promptly repaid the USO for the personal expenses, OLMS does not recommend policies that allow personnel to make personal purchases with petty cash because this may lead to misuse of union funds.

4. Use of Signature Stamp

During the audit, you advised that it is the USO's practice for you to sign all union checks and to stamp the signature of Mr. Greene on union checks. You indicated that you are the only person who reviews the checks before they are issued. Article III, Section 6 of the USO's bylaws requires that checks be signed by the president and treasurer. The two signature requirement is an effective internal control of union funds, and is a financial practice that OLMS recommends. The USO is encouraged to adopt a policy requiring that all checks drawn on the union's bank account have an original second signature, and ensure that each signer fully understands that his or her fiduciary responsibilities demand that the checks be signed only after they are completely filled out and he or she knows the purpose and legitimacy of each transaction.

5. Taxes/W-2's

The audit revealed that the USO may be improperly following state or federal requirements for withholding of various taxes from payments to officers. While the USO may itself be exempt from income taxes, payments made by the USO to officers and employees are not exempt, except in certain circumstances. The USO does not categorize these payments as salary, but rather "stipends." However, you indicated that these payments are intended to compensate officers for the work that they do, and are not intended to be reimbursement to them for any specific expenses. While this office has no authority to interpret the state or federal tax code, it is my understanding that all salary and supplemental payments are subject to the withholding of income, Social Security, and Medicare taxes, and that the USO, as an "employer," must also pay its share of Social Security and Medicare taxes. The USO may be liable for the Federal Unemployment Tax (FUTA) as well.

I recommend that you contact the Michigan Department of Revenue in Lansing at (517) 373-3200 (ask for the publication "Michigan Employer's Withholding Tax

Guide"), and the Internal Revenue Service (ask for "Circular E, Employer's Tax Guide," and Form 990, which the USO may be required to file).

6. Employer-Provided Vehicle

As noted above, the Michigan Education Association, which is the sole employer of USO members, provides a leased car and car insurance to all of its bargaining unit members, including Mr. Greene. Mr. Greene uses the car for conducting both union and personal business, and uses a USO credit card to pay for gas and maintenance.

As a full-time union officer who is paid by the MEA, Mr. Greene is required to file a Labor Organization Officer and Employee Report (Form LM-30) to disclose both the income and benefits, including the automobile **and** insurance, he receives from the MEA for union work.

I want to extend my personal appreciation to the USO 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. Tom Greene, President