

**U.S. Department of Labor**

Employment Standards Administration  
Office of Labor-Management Standards  
Buffalo District Office  
130 South Elmwood Avenue  
Room 510  
Buffalo, NY 14202-2465  
(716)842-2900 Fax: (716)842-2901



March 5, 2010

James Heian, Treasurer  
University Professors, Am Asn, Ind  
Utica College  
1600 Burrstone Road  
Utica, NY 13502-4857

LM File Number: 517-097

Case Number: [REDACTED]

Dear Mr. Heian:

This office has recently completed an audit of the American Association of University Professors, Utica College Chapter (AAUP-UC) 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 March 4, 2010, 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.

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) filed by the AAUP-UC for fiscal year ending June 30, 2009 was deficient in the following areas:

1. All Officers and Disbursements to Officers

The AAUP-UC, did not include some reimbursements to officers totaling at least \$4,674 in the amounts reported in Item 24 (All Officers and Disbursements to Officers), Column E (Allowances and Other Disbursements). It appears the union erroneously reported these payments in Item 54 (Other Disbursements).

Furthermore, the union did not report the name of several officers and the total amount of payments to them or on their behalf, if applicable, in Item 24. The union must report in Item 24 all persons who held office during the year, regardless of whether they received any payments from the union. The organization's six at-large board members should be included on the report in Item 24 as they are considered officers as defined in the LMRDA. Furthermore, the organizations' negotiators are not officers. Any direct or indirect payments to these individuals should be reported in Item 46 (Disbursements to Employees).

The union must report most direct disbursements to 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).

## 2. Other Disbursements

The organization reported \$25,052 in Item 54 (Other Disbursements). It appears the union erroneously reported the majority of the organization's administrative expenses such as meeting expenses, and indirect disbursements to officers in Item 54, rather than including these disbursements in the appropriate categories on the form, Item 48 and Item 24 respectively.

Item 54 should include disbursements made by your organization which can not be reported elsewhere in Items 45 through 53 on the form. Examples of disbursements to be included in Item 54 are fees, fines, repayment of loans obtained, withholding taxes and similar disbursements.

The AAUP-UC, must file an amended Form LM-3 for fiscal year ending June 30, 2009, to correct the deficient items discussed above. I provided you with the instructions and advised you that the reporting forms and instructions are available on the OLMS website ([www.olms.dol.gov](http://www.olms.dol.gov)). The amended Form LM-3 should be submitted to this office at the above address as soon as possible, but not later than March 31, 2010. Before filing, review the report thoroughly to be sure it is complete, accurate, and signed properly with original signatures.

I want to extend my personal appreciation to the University Professors, AAUP-UC for the cooperation and courtesy extended during this compliance audit. I strongly recommend that you make sure this letter and any 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: James Scannell, President  
University Professors, AAUP-UC  
1600 Burrstone Road  
Utica, NY 13502