



September 11, 2010

Mr. Waren Cole, President
State County & Muni Empls AFL-CIO, Local 1733
485 Beale Street
Memphis, TN 38103

Case Number: [REDACTED]
LM Number: 513418

Dear Mr. Cole:

This office has recently completed an audit of State County & Muni Empls AFL-CIO, Local 1733, 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, Secretary Treasurer Ursula Carwell, and Comptroller Andrea Earle on May 14, 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.

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 Local 1733's 2008 records revealed the following recordkeeping violations:

1. Disposition of Property

Local 1733 did not maintain an inventory of T-shirts it purchased, sold, or gave away. The union must report the value of any union property on hand at the beginning and end of each year in Item 28 of the LM-2. The union must retain an inventory or similar record of property on hand to verify, clarify, and explain the information that must be reported in Item 28.

The union must record in at least one record the date and amount received from each sale of T-shirts, union hats, jackets and other items.

2. Failure to Maintain Bank Statement

Local 1733 did not maintain the May 2008 bank statement for the operating account. The union must retain bank records for all accounts. As previously noted above, as a general rule, labor organizations must maintain all records used or received in the course of union business.

3. General Reimbursed and Credit Card Expenses

Local 1733 did not retain adequate documentation for reimbursed expenses and credit card expenses incurred by union officers and employees totaling at least \$1,100. For example, the union maintained the monthly credit card statements for the Office Max credit card account, but did not maintain the receipts provided when the purchases were made.

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.

Based on your assurance that Local 1733 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-2 filed by Local 1733 for fiscal year ending December 31, 2008, was deficient in the following areas:

1. Loans Payable

Local 1733 obtained loans through an overdraft protection credit arrangement totaling at least \$207,000 during the year. Additionally, Local 1733 made repayments on these loans during the year. The union failed to report these loans and repayments in Schedule 9 (Loans Payable). This resulted in the figures listed in Item 31, Item 44, and Item 62 to be incorrect.

2. Acquire/Dispose of Property

Item 15 (During the reporting period did your organization acquire or dispose of any assets in any manner other than by purchase or sale?) should have been answered, "Yes," because the union gave away T-shirts totaling more than \$100 during the year. The union must identify the type and value of any property received or given away in the additional information section of the LM report along with the identity of the recipient(s) or donor(s) of such property. The union does not have to itemize every recipient of such giveaways by name. The union can describe the recipients by broad categories if appropriate such as "members" or "new retirees." In addition, the union must report the cost, book value, and trade-in allowance for assets that it traded in.

3. Sale of Supplies (LM-2)

Local 1733 did not correctly report receipts from the sale of supplies or disbursements for supplies for resale. The audit revealed that during 2008, Local 1733 disbursed at least \$4,975 for items that it re-sold to members, collecting receipts totaling at least \$50. The LM-2 instructions require that the union report receipts from the sale of supplies in Item 39 (Sale of Supplies) and disbursements for supplies for resale in Item 59 (Supplies for Resale). In addition, it must report the value of any supplies for resale on hand at the beginning and end of the year in Item 28 and Schedule 7 (Other Assets).

4. Review of Books

Item 12 (During the reporting period did the labor organization have an audit or review of its books and records by an outside accountant or by a parent body auditor/representative.) should have been answered, "Yes," because the parent body reviewed the union's books and records. The union must indicate in Item 69 (Additional Information) whether the audit or review was preformed by an outside accountant or a parent body auditor/representative.

5. Loss of Funds

Item 13 (During the reporting period did the labor organization discover any loss or shortage of funds or other assets?) should have been answered "Yes," because the union suffered a loss of funds from a contract to purchase t-shirts for resale from a vendor that filed bankruptcy and failed to supply the assets purchased. Additionally, a second vendor, who was also a member, was paid for the same service and he also failed to supply the assets purchased. Although the member paid a portion of the money he received back to the union, this is still considered to be a loss of funds. The union must report in Item 69 (Additional Information) details of the loss or shortage of funds or a description of the property that was lost, how it was lost, and to what extent, if any, there has been an agreement to make any recovery by means of repayment, fidelity bond, insurance, or other means.

6. Failure to File Bylaws

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. Local 1733 amended its constitution and bylaws in 2007, but did not file a copy with its LM report for that year.

Local 1733 has now filed a copy of its constitution and bylaws.

Local 1733 must file an amended Form LM-2 for fiscal year ending December 31, 2008, 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 September 29, 2010. Before filing, review the report thoroughly to be sure it is complete and accurate, and properly signed with electronic signatures.

I want to extend my personal appreciation to State County & Muni Empls AFL-CIO, Local 1733, 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,



Supervisory Investigator

cc: Ms. Ursula Carwell, Secretary Treasurer