



April 13, 2011

Mr. John Bieger, Treasurer  
Field Staff Association  
8795 Stahley Road  
E. Amherst, NY 14051

Case Number: [REDACTED]  
LM Number: 517261

Dear Mr. Bieger:

This office has recently completed an audit of Field Staff Association (FSA) 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 Executive Board Officers James Loga and Brian Cornelius, and you on April 5, 2011, 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 Field Staff Association's 2010 records revealed the following recordkeeping violations:

1. General Reimbursed Expenses

FSA did not retain adequate documentation for reimbursed expenses incurred by union officers and employees totaling at least \$1,411. For example, President Edward Mulchy received reimbursed for \$317 for airfare and other transportation costs, however no itinerary or other receipts were retained. In addition, airline and hotel reimbursement was sought and received by Treasurer John Bieger totaling \$995.52 with little explanation for the expense and no receipts.

As 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

FSA did not require officers and employees to submit itemized receipts for meal expenses totaling at least \$1,769. 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.

FSA 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, President Edward Mulchy was reimbursed on July 30, 2010 for \$473 in meals that were charged using his personal credit card, however there was no names record for those present, nor were the itemized meal receipts retained. 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

Union 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 \$6,300 during 2010. 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. Receipt Dates not Recorded

Entries in FSA's deposit record and check stubs reflect the date the union deposited money, but not the date money was received. Union receipts records must show the date of receipt. The date of receipt is required to verify, explain, or clarify amounts required to be reported in Statement B (Receipts and Disbursements) of the LM-3 Report. The LM-3 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.

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

The proper maintenance of union records is the personal responsibility of the individuals who are required to file FSA's LM report. You should be aware that under the provisions of Section 209(a) of the LMRDA and Section 3571 of Title 18 of the U.S. Code, willful failure to maintain records can result in a fine of up to \$100,000 or imprisonment for not more than one year, or both. Under the provisions of Section 209(c) of the LMRDA and Section 3571 of Title 18 of the U.S. Code, willful destruction or falsification of records can result in a fine of up to \$100,000 or imprisonment for not more than one year, or both. The penalties provided in Section 209(c) and Section 3571 of Title 18 apply to any person who caused the violations, not just the individuals who are responsible for filing the union's LM report.

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 (LM-3) filed by Field Staff Association for the fiscal year ended September 30, 2010, was deficient in the following areas:

1. Disbursements to Officers

Field Staff Association did not report the names of some officers and the total amounts of payments to them or on their behalf in Item 24 (All Officers and Disbursements to Officers). 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 union must report most direct disbursements to FSA 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. Disbursements to Employees

Field Staff Association did not include some payments to employees in Item 46 (Disbursements to Employees) totaling at least \$5,500. The union must report most direct and indirect disbursements to FSA employees in Item 46, less deductions. This includes disbursements to individuals other than officers who receive payments for work performed or expenses incurred, including meals, mileage, and other direct or indirect expenses. It appears the union reported these payments in Item 54 (Other Disbursements).

3. Contributions, Gifts, and Grants Disbursements

FSA failed to report the total disbursements for contributions, donations and gifts made by the organization in Item 51 (Contributions, Gifts & Grants). During the period, the union made at least \$2,600 in contributions, gifts, and donations, however only \$1,236 was reported in Item 51. It appears the union erroneously reported these payments in Item 50 (Benefits). Direct benefit disbursements are those made to officers, employees, members, and beneficiaries. Indirect benefit disbursements are those made from the union's funds to a separate and independent entity, such as a trust or insurance company, which in turn, will pay benefits to the covered individuals. During the period, FSA did not make direct or indirect benefit disbursements from the organization's funds as explained above.

4. Other Disbursements

The organization reported \$92,048 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 employees in Item 54, rather than including these disbursements in the appropriate categories on the form, Item 46 (To Employees) and Item 48 (Office & Administrative Expense), 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.

5. Investments Reported as Cash

FSA improperly included the value of their Investments as Cash in Statement A (Assets and Liabilities). For LM reporting purposes, OLMS considers Cash as any funds in banks, credit unions, and other financial institutions, such as checking accounts, savings accounts, certificates of deposit, and money market accounts. FSA has investments in the form of mutual funds and stocks, which are held and managed through the financial institution. These investments should be reported as such on the LM-3 Report in Item 28 (Investments).

FSA must file an amended Form LM-3 for the fiscal year ended September 30, 2010 to correct the deficient items discussed above. I 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 May 13, 2011. Before filing, review the report thoroughly to be sure it is complete, accurate, and signed properly with original signatures.

Other Violations

The audit disclosed the following other violation:

1. 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.

Field Staff Association Officers John Bieger and Edward Mulchy are currently bonded for \$25,000 each, but they must be bonded for at least \$31,717. FSA should obtain adequate bonding coverage for its officers immediately. Please provide proof of bonding coverage to this office as soon as possible, but not later than May 13, 2011.

2. Delinquent Filing

Field Staff Association is required to file annual financial reports accurately disclosing their financial condition and operations to OLMS within 90 days after the end of its fiscal year.

FSA was delinquent in their filing of the annual reports in violation of Section 201(b) of the LMRDA. For the fiscal year ending September 30, 2010, the report was not properly filed with OLMS until April 4, 2011. OLMS records show that FSA has been delinquent in their reports for the previous five consecutive years.

Other Issues

1. Expense Policy

As I discussed during the exit interview, the audit revealed that Field Staff Association does not have a clear policy regarding the types of expenses personnel may claim for reimbursement including meals, per diem, and mileage reimbursements. OLMS recommends that unions adopt written guidelines concerning such matters. Copies of OLMS Compliance Tips on this issue were provided to you during the audit.

2. Signing Blank Checks

During the audit, you advised that President Edward Mulchy signs 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. OLMS recommends that Field Staff Association review these procedures to improve internal control of union funds.

I want to extend my personal appreciation to Field Staff Association 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. Edward Mulchy, President  
Mr. James Loga, Executive Board Officer  
Mr. Brian Cornelius, Executive Board Officer