

# Special Report:

## Investigative Findings and Recommendations Concerning Local 501 Operations



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**To: All Members of Local 501**

**Investigative Findings and Recommendations**  
**Regarding Local 501 Operations**

I wrote to you September 18, 2009 about numerous complaints that my office had received regarding the operation of Local 501. I outlined the nature of the complaints and said that I was sending a team into the local to conduct an investigation of these serious allegations and provide me with a report. I said that after the report was received and evaluated I would inform you of our finding and recommendations, which this report will do.

You should know that after we initiated our investigation, the U.S. Department of Labor-Office of the Inspector General - Office of Labor Racketeering and Fraud Investigations contacted me directly, as well as my representative, Jim VanDyke, during his initial investigation in Los Angeles. They wanted to know if we were addressing the issues raised by the members of the local. We reviewed the letter that was sent to the members and our planned course of action with them. The DOL saw that we were addressing the matter and allowed our audit and investigation to continue to a conclusion. At some point, we will have to share our findings with them pursuant to their request.

Before we address the preliminary findings of our investigation, it is important to remember that our local unions and the international union exist to serve the members. Every officer who is elected takes an oath to perform the duties of his office as prescribed by the laws of this union. Our goal in conducting the investigation and bringing the findings to light is to ensure that the local union conducts its business in compliance with all fiduciary obligations and that all members of the local receive the service and representation to which they are entitled.

The issues we found in Local 501 should not have been allowed to occur. While many of the issues that we found were just the result of negligence, others were far more serious. Corrective actions have been instituted and others will be put in place to correct the shortcomings we identified. Some officers and employees will be required to reimburse the local for unallowable benefits, expenses and/or purchases.

The following are our initial findings and the recommendations the IUOE General Executive Board authorized to be made in Local 501.

## Findings and Recommendations

### **Accounting and Internal Control Issues**

1. During the review, it was noted that for the current year, the accounting books had not been closed accurately since January 2009. Various bank reconciliations had been performed; however, most of the activity had not been posted to the general ledger, giving an inaccurate cash balance in the general fund as of September 30, 2009 of negative \$336,728. Without proper posting, accurate monthly financial statements have not been available for review by the local officers or by the membership. This creates an opportunity where potential fraudulent activity would go undetected.

**RECOMMENDATION:** that the local's books be brought up to date as soon as possible and a monthly financial reporting package be prepared for the business manager and membership.

2. The use of signature stamps and pre-signed checks. It was noted that signature stamps were used sometimes to approve checks and that pre-signed checks were used in other instances as a convenience. The use of signature stamps and pre-signed checks creates an opportunity for fraud and is a weakness in internal accounting controls, especially in a small accounting office without segregation of duties and cross-checks.

**RECOMMENDATION:** that the use of signature stamps and pre-signed checks be discontinued.

### **Vacation Payout of Business Manager**

1. The audit and investigation revealed that former Business Manager Jim McLaughlin received a vacation payout of \$106,881 representing 38.4 weeks of accrued but unused vacation. A significant amount of vacation was earned at lower salary rates. Mr. McLaughlin started employment with the local in 1979 so the accumulation of vacation dates back nearly 30 years. The vast majority of this accumulated vacation was earned at lower salary rates than his final rate of pay at which the accumulated vacation was paid.

**RECOMMENDATION:** that the vacation payout to the business manager be recalculated using the value of the vacation at the time it was accrued instead of the rate of pay at the time of retirement. Accountants are recalculating the vacation payout to determine the amount of reimbursement that needs to be made to the local union.

2. There were excess days at meetings not charged to vacation. Reviewing the limited information available from 2006 to the present on Mr. McLaughlin's vacation calendar and travel schedule as it pertained to

various meetings for the IUOE General Executive Board and Central Pension Fund, it was determined that a total of 13 days appear to be vacation time that was not charged to his vacation account. Furthermore, travel expenses associated with these excess days do not have a business purpose and should be refunded to the local union.

**RECOMMENDATION:** that a reimbursement of \$7,236 be made to the local union for the excess vacation days paid out and that a reimbursement of \$5,060.74 be made for unauthorized travel expenses associated with these excess days.

3. The accumulation and payout of accrued but unused vacation without limit puts an unreasonable financial strain on the local.

**RECOMMENDATION:** that employees be paid yearly for any accrued but unused vacation and that unused vacation not be permitted to be carried forward.

### **Harvard Trade Union Program**

1. The audit and investigation revealed that two representatives, Finn Pette and Tom O'Mahar, attended the Harvard Trade Union program in January and February 2008. One representative attended on a scholarship from the Western Conference. Costs for the other participant were funded by the local union without any review or authorization of the local union Executive Board or membership.

**RECOMMENDATION:** that while participation in these types of educational activities are a benefit to the local union, Executive Board and membership approval for these expenditures must be obtained for all future attendances at similar educational programs.

2. In analyzing the travel expense associated with attendance at this program, it was noted that expenses were paid for by the local union that do not comply with the local's reimbursed expense policy, namely cigarettes, tickets to a museum, bulk alcohol purchases, cold weather clothing and party contributions. The local provided both representatives \$2,000.00 in advance expense money for a program where room and board were provided.

**RECOMMENDATION:** that Finn Pette reimburse the local \$274.09 and Tom O'Mahar reimburse the local \$306.75 for unallowable expenses.

3. The audit further revealed that both individuals incurred first-class airfare for travel to the program. The expense policy that formally went into effect November 2008 prohibited first-class travel.

**RECOMMENDATION:** that the difference between coach airfare and

first-class airfare be reimbursed to the local union. First-class airfare was \$1,444.79 for Pette and \$1,503.70 for O'Mahar and the accountants are working to determine the coach airfare at the time of the travel. The difference between the coach and first-class will be the amount that both will have to reimburse the local union.

### **Travel Outside the Jurisdiction by Fulltime Employees for no Union Purpose**

1. The investigation revealed that travel occurred outside the local's jurisdiction by employees with no union purpose. In reviewing Executive Board and Semi-Annual Membership Meeting minutes, no authorization or approval can be found for this travel.

**RECOMMENDATION:** that no travel outside the local's jurisdiction by union representatives will be approved without demonstrated union purpose and that the business manager will advise the Executive Board of all anticipated travel.

2. The audit revealed that Dan Himmelberg and Finn Pette traveled to Chicago in 2008 where they did not attend any union function or event and therefore the travel was for no union purpose. The two representatives incurred air fare, hotel and meal expenses during the travel.

**RECOMMENDATION:** that the two representatives reimburse the local union in full for expenses incurred that had no valid union purpose – Himmelberg \$1,351.94 and Pette \$1,213.07. In addition, both individuals will have four days deducted from any accrued but unused vacation days and in the event they have received vacation payouts, they will be billed for the vacation days.

### **Property and Equipment Listing**

1. The fixed asset listing maintained by the local union was reviewed and tested to determine the location and assignment of the equipment. The auditor found no exceptions for the equipment tested and that the local union appears to be properly accounting for its fixed assets and automobiles.
2. The auditor reviewed the local union's disposal of property and equipment. It was noted that on two occasions automobiles were disposed of by selling them to current or retiring employees. The disposal was noted in the minutes of the Executive Board meetings. However, the underlying documentation on the assessed value of the vehicles was not included or retained by the local union. Additionally, the local reduced the price for which it sold one of the automobiles to Don Mear in 2005 by 25% in recognition of his years of service without accounting for the discount.

**RECOMMENDATION:** that the local retain for the required period of time all underlying documentation related to the sale or disposition of any union property. Further, that a policy be put in place prohibiting the sale or gifting of any union-owned equipment to any employee. And finally, the LM-2 for 2005 and all federal and state reporting forms be modified to reflect the value of the discount given to Don Mear, \$3,250, as income.

### **Acceptance of Cash from Vendors**

1. A single incident was identified and has been referred to the International's Ethics Officer. However, many vendors, consultants and providers of services to local unions often attempt to influence or get favorable consideration from a local by providing such things as gifts, tickets to events, trips and even cash. The local has told all employees that they should not accept anything of value from anyone with whom the local does business. However, a formal policy needs to be put in place.

**RECOMMENDATION:** that the local union adopt a conflict of interest policy which is publicized and enforced that includes a prohibition on the acceptance of anything of value from any vendor to the local union or any representative of the local.

### **Travel and Credit Card Charge Issues**

1. The audit of credit card expenses found unauthorized expenses, spousal and dependent charges and expenses which were undocumented as to either the names of those who were in attendance and/or the union purpose of the expenses.

**RECOMMENDATION:** that Jim McLaughlin reimburse the local union \$1,743.43 for unallowable expenses incurred by him over several occasions; that Sandra Acosta document who attended and the union purpose of food and beverage charges of \$2,129.74 that occurred in January 2006 at a General Executive Board meeting or reimburse the local that amount; and that Jim McLaughlin document who attended and the union purpose of food and beverage charges of \$5,359.88 that occurred at the 2008 General Convention in Las Vegas or reimburse the local union that amount.

2. The audit found considerable use of local union credit cards at in-town restaurants for local union staff. The allowability of expenses incurred in-town with only union staff requires a higher threshold of substantiation as business-related. The auditor found in a sampling of expenses incurred in a two year period – 26 separate visits to four restaurants with total charges of \$7,501.46.

**RECOMMENDATION:** in-town meals are to be avoided. However, if an in-town meal involving only staff is necessary, there should be sufficient documentation provided as to the business purpose.

3. The auditor reviewed the expenses incurred at Costco and found that the purchases were for the most part office supplies, food and refreshments associated with a meeting. The food and refreshments for the office in general seemed high for the size of the office. In particular there seemed to be large purchases of candy and snacks.

**RECOMMENDATION:** that Costco purchases be made for union purposes or direct meeting purposes only.

### **Las Vegas Embezzlement**

1. A review of the investigation into the embezzlement of union funds in the Las Vegas office was undertaken. The alleged amounts for the years audited were substantial (allegedly greater than \$230,000) and because of the size of the initial amounts that were reported, it warrants looking back additional years to recover any money embezzled.

**RECOMMENDATION:** that the local investigate whether any losses relating to the Las Vegas office embezzlement dated prior to 2003 and recover these losses from their fidelity bond.

### **Decertification Losses and Possible Decertification Efforts**

As a result of recent decertification efforts, the new administration of the local union has put in place servicing requirements for all Local 501 units. The local has committed to ramping up its staffing, representative training and field staff oversight. The investigation showed that since taking office the new business manager has taken corrective steps to head off decertification efforts and ensure that all members receive the representation to which they are entitled.

**RECOMMENDATION:** that the local union continue its aggressive servicing of units; that new staff receives training and all staff receives training updates.

### **Employment of Former Employee as Consultants in Violation of Trust Agreements**

1. A former employee was re-employed for longer periods and earned amounts greater than allowable under the pension trust agreement. Corrective action has been taken by the Central Pension Fund.

**RECOMMENDATION:** that a policy be adopted by the local union that is publicized and enforced prohibiting the employment of any former employee who is retired and in active pension status.

### **A Sexual Harassment Law Suit by a Current Employee**

1. A case filed against the local and current/former officers continues.

**RECOMMENDATION:** that the local union's sexual harassment policy will be updated and all employees will be given formal training on the policy by qualified outside experts.

### **Breaches of Computer Security Concerning Members' Personal Information**

1. The investigation revealed that *no member personal information was compromised.*
2. The alleged breach of the local union's computer system was investigated and there is no evidence that files were taken, deleted or altered. However, the incident showed a general lack security of the computer system that was dealt with by the new administration through the installation of firewall protections to limit access to various parts of the network and to control and limit access of information.

**RECOMMENDATION:** that the local take all necessary steps to maintain computer security that protects members' personal data.

### **Electioneering on Union Time**

1. A single incident was uncovered in the investigation and has been dealt with by the new administration. Electioneering on union time is not permitted and is adequately covered by present policies. All the local staff and employees have been made aware of the policy and are expected to comply.

### **Administrative and Governance Issues**

1. The local's by-laws (Article X, Section 4) provide that all acts of the local union Executive Board shall be reviewable by the members at the next subsequent regular General Membership Meeting and may, by a majority vote of the members present, be revoked.
2. The local functions under the District Form of Government provisions of the International Constitution. This form of government provides for monthly district meetings and semi-annual General Membership Meetings (held in June and December each year). It was discovered that that for years district meetings have not been held in two of the four districts due to the lack of a quorum.
3. The local holds monthly Executive Board meetings and takes actions and approves expenditures of local funds for various activities.
4. A custom and practice, in violation of the local's by-laws, have devel-



oped over time where only the most recent Executive Board minutes are read at the Semi-Annual General Membership Meeting and all other minutes are not read but placed on file. This eliminates any membership review and/or approval of the Executive Board minutes and actions in five of the six Executive Board meetings between General Membership Meetings. In a review of the Semi-Annual Meeting minutes dating back to January 2007, the membership at General Membership Meetings approved Executive Board expenditures amounting to \$36,755 of the \$135,425 authorized to be spent by the Executive Board. Stated another way, only 27% of the Executive Board's approved expenditures were reviewed or approved by the membership in this period.

**RECOMMENDATION:** all actions of the Executive Board will be reviewed and acted on by the local's membership; the local union's by-laws will be changed to adopt a non-district form of government; that all minutes of the Executive Board will be read and acted on by the local's membership at the next regular membership meeting; and that the minutes of the local union membership meetings will be published in the local union's official publication.

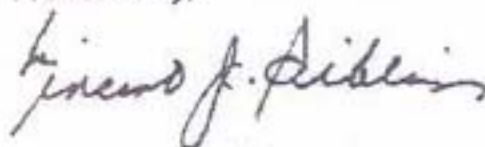
### **Conclusion**

The International is placing the local under monitorship and will oversee the local's progress in the implementation of the recommendations and the changes that are needed and required. The monitorship will be in effect for a minimum of six months.

We have conducted a thorough audit and investigation of the local and issues raised by the members. As a member you should take pride in the fact that the organization has policed itself and is taking corrective actions. The recommendations that are being put in place will make the local better, more transparent and more responsive to you and the other members of your local.

Finally, I want you to know that I have every confidence in Local 501's new business manager, Chris Brown, and the team he has assembled. We believe he is up to the task at hand; otherwise, the International would have had to take supervision of the local. The task before us will be difficult but with everyone's support, including the International's, we believe the local will emerge from these difficulties stronger and more vibrant.

Fraternally,



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