

Cooking the Crooks Unions Must Disclose Financial Details Beginning Next Month

By Carl F. Horowitz

Summary: Most Americans should be skeptical about increased federal oversight of non-governmental organizations promoting the betterment of their members. But the strict financial reporting requirements that the Bush Administration is requiring from labor unions are necessary in order to safeguard the right of union members to know where their dues are spent.

By the end of September, the Labor Department will require several major unions—including the AFL-CIO national headquarters, the Communications Workers of America and the National Education Association—to submit newly revised financial disclosure forms. Despite the grouching of union leaders, the new detailed forms are a much-needed improvement that will help workers and government regulators track union expenses and expose illegal activity.

It is hardly news that American unions have experienced widespread corruption. Embezzlement, fraud, extortion and bribery may not be as brazen as in the old days, thanks in large measure to enact-

ment and enforcement of federal anti-racketeering statutes. But the problem remains real. On a per-scandal basis, union officials may be ripping off larger sums of money from their coffers than ever before, with hauls now occurring regularly in the hundreds of thousands, even millions of dollars. Union officials have discovered some novel techniques in the process, such as insider stock trading: In 1999 and 2000, board members of Union Labor Life Insurance Company, or ULLICO, helped themselves to more than \$6 million.

Forced membership in unions in non-Right to Work states still generates substantial revenue, but steadily declining union membership over several decades has indirectly encouraged financial corruption. As of 2004, only 8 percent of non-farm private

workers belonged to a union, less than a fourth of the figure for 1955, when the AFL and CIO merged their organizations. To compensate for the loss of member dues labor officials have adjusted their financial strategies and now derive revenue from non-dues sources such as stocks, real estate and affinity bank cards. Annual union income from all sources is now roughly \$17 billion, according to Linda Chavez and Daniel Gray, authors of *Betrayal: How Union Bosses Shake Down Their Members and Corrupt American Politics* (Crown Forum, 2004). That's certainly a pot of money large enough to attract a host of shady characters in and out of



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unions.

What compels officials and associates of labor unions to acts of fraud and intimidation? That question might best be left to philosophers and psychologists. But its corollary is worth exploring: How do crooks in labor unions, despite continuing investigations, arrests and convictions, manage to keep investigators and prosecutors busy? During the most recent semiannual period, October 1, 2004 through March 31, 2005, investigations into labor racketeering by the Labor Department's Office of Inspector General yielded 132 indictments and 93 convictions. The department, working with the Justice Department, managed to secure more than \$25.6 million in recoveries, cost-efficiencies, restitutions, fines, forfeitures and civil damages. If all the crooks knew in advance that their chances of being caught were high, the above figures might well be lower.

That is why, beginning next month, the Bush Administration's new disclosure requirements are likely to have a real impact on corruption—even though the unions continue to balk. Another possible outcome of the forced disclosure is that union leaders themselves may come to realize unions cannot survive in the long run if they lack credibility in the public eye. As fiduciary agents of employees, unions are bound by law and custom to represent their best interests. Workers have every right to expect that their unions will use dues deducted from their paychecks for collective bargaining, health insurance,

pensions, worker training and other activities benefiting them.

Court Victory

On the simplest level, dishonest union officials and office managers steal because they think they can get away with it. They know the likelihood of detection, while real, is not prohibitively high.

Why? One explanation lies in the leeway unwittingly provided by the U.S. De-

federal agency review their spending. Especially before the latest LM-2 revisions, a clever lawyer or accountant could help a union skirt the reporting requirements. During the 1990s, prominent union lawyer Victor Van Bourg tutored Jake West, then-president of the International Association of Iron Workers, on the fine points of the form, which allowed him to hide personal dining and entertainment invoices at the union's expense. Van Bourg

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partment of Labor (DOL) forms that unions use to report annual receipts and disbursements. Until recently, the categories listed in Form LM-2, which is required of the nation's largest unions, have been vague enough to enable union officers to falsify or disguise expenses. But this spring, a U.S. Circuit Court ruling upheld the authority of DOL to require a revised, more detailed version of LM-2. The decision is a welcome change more than four decades in the making, and it may become a major roadblock to further corruption.

The LM-2 is a product of Congressional efforts to rein in union corruption. In 1959, Congress enacted the Labor-Management Reporting and Disclosure Act, also called the Landrum-Griffin Act after its chief sponsors, Reps. Phil Landrum (D-GA) and Robert Griffin (R-MI). The legislation came about after hearings chaired by Sen. John McClellan (D-AR) documented the ties linking the Teamsters and other unions to the Mafia and allied criminal enterprises. The Landrum-Griffin Act contained many features designed to foster union accountability, including authorization for the DOL to require unions to report revenues and expenditures. In 1963 the department unveiled its LM-2 reporting form; separately, it introduced the less extensive LM-3 and LM-4 forms for smaller unions.

Union officials, even those relatively untainted by scandal, are loath to have a

told West to classify such costs under "Office/Administrative" on the union's LM-2 form, and then reclassify them under "Educational/Publicity." West's tab was estimated at more than \$1 million.

Over time, reform-minded members of Congress and DOL officials realized that federally-supervised union cleanups could accomplish only so much. For instance, the federal government discouraged Teamsters union corruption but did not end it when it took over the union in early 1989 to settle a civil suit it filed under the Racketeer Influenced and Corrupt Organizations Act (RICO). Similarly, HERE, the Hotel Employees and Restaurant Employees (now merged with UNITE, the textile workers union) experienced its share of lawbreaking even though it was under federal receivership from 1995 to 2000.

In 1992 Rep. Newt Gingrich (R-GA) called on then-Secretary of Labor Lynn Martin to issue enhanced requirements. But until this decade the Labor Department—even under Republican administrations—only talked about establishing tougher reporting standards. It was left to the current Secretary, Elaine Chao, and her DOL staff to introduce a new LM-2 that requires unions to itemize all gifts and contributions of at least \$5,000 made out to an individual entity over the previous fiscal year. The form also requires unions to report how salaried employees allocate their time. The requirements apply to

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unions with incomes of at least \$250,000. Completed LM-2 forms must be submitted online and will be made available to the public.

DOL also has developed a new "T-1" form that requires unions to list expenditures for trusts. A union trust can refer to many types of financial account set up for a variety of purposes: pension plans, credit unions, job training funds and building funds. This new form is essential because pension fund fraud may be the biggest source of union corruption today. The DOL requires the T-1 for union trust funds which have received at least \$10,000 in contributions over the previous 12 months and/or generated at least \$250,000 in receipts.

Union officials have vehemently opposed the changes since they were unveiled in December 2002. They see the new regulations as an improper exercise of the Secretary's authority and an undue compliance burden. The AFL-CIO estimates that the new requirements will cost national and local unions as much as \$1 billion a year. When the Labor Department finalized its rules in November 2003, the AFL-CIO immediately sued to delay them from taking effect and, if possible, to block them permanently. U.S. District Judge Gladys Kessler, a Clinton appointee, obliged the unions on the first count, concluding the new LM-2 had left affected unions with too little time to comply. But she upheld the revised form's substantive aspects, noting that the Landrum-Griffin Act explicitly delegates to the Secretary of Labor the authority to determine the appropriate level of detail for all financial disclosure statements.

The AFL-CIO appealed. On May 31, 2005, a U.S. Circuit Court in the District of Columbia upheld the revised LM-2 but ruled that the T-1 created too harsh a compliance burden. The DOL reportedly is considering either revising T-1 or appealing the circuit court decision to the U.S. Supreme Court.

Tough on Crime

In a narrow sense the unions are right about one thing: Complying with the new reporting forms means more headaches, time and money. The revised LM-2 con-

tains 43 pages of detailed background description and instructions. Likewise, the 14-page T-1 form goes into extensive detail. Both forms are available on the Department of Labor's Web site (www.dol.gov).

But detail is exactly what the public and union officials need. It is likely that the new disclosures will prevent many acts of theft. One can only hope that DOL reverses the recent lower court decision on the T-1 form, which will stymie attempts to hide receipts and assets in trust funds. That's not to say that union trust fund managers haven't been arrested without its absence. But the primary purpose of rules is prevention, not punishment. Tough reporting requirements should keep union men and women honest and thwart would-be criminals.

Detailed public disclosure of union fi-

lated rate and kick back the \$1.3 million difference to Scalfani. The money for the purchase came out of the union's Trade Education Fund, an expense that could be hidden easily without detailed financial disclosure forms. Respler also pleaded guilty to bribing New York City plumbing inspectors and committing perjury.

- Joseph Nardone Sr., founder and retired president of Local 148 of the Novelty and Production Workers Union, his son Joseph Nardone Jr., and several other local officers and business agents recently were convicted for embezzling from union and general funds. From 1996 through 2001, the Nardones created unnecessary construction at the local's office building in Jersey City, N.J. They conspired with Stanley Rothman, a contractor who previously had pled guilty, to skim \$250,000 from inflated project costs.

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nances can be a crime deterrent. For instance, it might have been possible to frustrate or mitigate some recent egregious examples of union theft if the new LM-2 forms had been in effect earlier to require the disclosure of payments to officers and the write-off of accounts receivable.

- Last January Carmelo Sita pleaded guilty to conspiracy charges relating to the embezzlement of more than \$1 million from the Hudson County (New Jersey) District of the Council of Laborers and its benefit funds, and to the falsification of reports on benefit plans covered by the Employee Retirement Income Security Act (ERISA). Sita admitted that from January 1995 through March 1999, he conspired with others to steal from eight bank accounts maintained for the benefit of union members and plan participants.

- Jeffrey Respler, owner of Plumbing Solutions Inc., pleaded guilty in December 2004 to conspiring with Donald Scalfani, president of Plumbers Union Local 1 in New York City, to sell property at an in-

- One of the worst examples of recent union corruption took place in the nation's capital. The Washington Teachers Union, an affiliate of the American Federation of Teachers, operated a sophisticated embezzlement and money-laundering scheme from the mid-1990s until late 2002. WTU President Barbara Bullock, a political ally of former Mayor Marion Barry and current Mayor Anthony Williams, helped herself and her friends to roughly \$5 million in union funds for their own personal use. The luxury-loving Bullock, now doing a nine-year stretch in federal prison, recently testified on behalf of the prosecution in the trial of two former cronies, Gwendolyn Hemphill and James O. Baxter II, and a Maryland-based accountant, James Goosby. Most of the theft involved unauthorized charges to the local's American Express card or checks written against the union's checking account and made out to the Bullock bunch (much of the money siphoned off into a phony company, Expressions Unlimited). It is diffi-

cult to conceive that theft on this scale, and for such a length of time, would have occurred had the new LM-2 form been in force.

Many similar, if less dramatic, cases of embezzlement have been punished or uncovered in recent months. David Feedback, ex-president of HERE Local 69 in northeast New Jersey, pleaded guilty this May in federal court to stealing upwards of \$120,000 from the local's welfare fund during 1998-2001; Leslie Patricia Bell, former bookkeeper for Laborers Local 1184 of Riverside and San Bernardino Counties, California, was charged this May with embezzling more than \$178,000 from her union over a six-year period; and someone as yet unidentified stole as much as \$100,000 from an Upper Peninsula field office of the Michigan Education Association, an affiliate of the National Education Association.

It's not just private-sector employees who are in on the action. Take Local 933 of the American Federation of Government Employees (AFGE), which represents nearly 1,200 workers at John Dingell Veterans Hospital in Detroit. A series of investigations by the *Detroit News* revealed a disturbing pattern of missing funds centering on former local president Chetham Brazill, who left his position in December 2002—and left his local in deep arrears. At the behest of rank and file members, an outside accounting firm reviewed the local's financial records. The audit turned up tens of thousands of dollars in questionable spending, plus a pair of unauthorized loans to three officers from the employees' credit union. The local then conducted its own probe, finding among other things, that AFGE officers cashed nearly \$25,000 in checks from Colonial Life Insurance for unrecorded "administrative fees." The local has responded to a subpoena for information by a federal grand jury in Detroit.

The revised reporting forms may well prevent such acts. Unfortunately, unions will always have considerable leeway to associate with shady characters. What's happening in Philadelphia, dogged of late by a string of corruption trials of persons connected to Mayor John Street, provides a good example. On June 14, street ally

Shamsud-din Ali, leader of a West Philadelphia mosque and operator of a shell Islamic "school," was convicted on 22 of 34 counts of racketeering, fraud and other offenses. The U.S. Attorney's Office argued, with ample evidence, that Ali led a criminal enterprise, raising large sums of money from City Hall and private sources to maintain a lavish lifestyle for himself, his wife and their children. The private sources included a \$15,000 check from a

ments for all types of organizations, the Bush administration's rules are craftily designed to weaken unions—the strongest advocates for American workers—as our nation prepares for the 2004 elections."

The word "corruption" didn't register on Sweeney's radar screen. But the core issue compelling tougher reporting rules is the history of union corruption. The compliance burden of the new forms is one

But the core issue compelling tougher reporting rules is the history of union corruption. The compliance burden of the new forms is one that unions have brought on themselves.

group called the Friends of Labor, which consisted of members of four Laborers locals. There also were payments from local Laborers chieftain Sam Staten, Sr., which added up to \$15,000 to \$25,000 annually. These payments would not have appeared on the new LM-2 forms for unions.

Red Herring

Union supporters have a ready comeback to these sorts of reports: What about the corporate crooks? In other words, why should the public focus on penny-ante union thieves when heavy-duty swindlers ply their trade from plush office suites?

Certainly corporate executives have been responsible for accounting and embezzlement schemes that have cost shareholders, employees and consumers hundreds of millions, if not billions of dollars. The top executives at Tyco, Adelphia and WorldCom (MCI) in recent months have been convicted of looting their companies of sums far larger than what union bosses steal. Unions know that public disgust over corporate scandals can play to their political advantage.

The union line is "Why pick on us?" When Labor Secretary Chao unveiled the new union regulations in October 2003, AFL-CIO President John Sweeney responded this way: "While unions support reasonable financial disclosure require-

that unions have brought on themselves.

George Will recognized labor's moral inconsistency. Months earlier in his *Newsweek* column (May 12, 2003) Will wrote:

Hypocrisy often is waist-deep in Washington. But the spectacle of people... fiercely opposing the disclosure of truthful information, and thus opposing the rights of union members to know the disposition of their own dues, is notable for the purity of the hypocrisy. Some of these people have rarely met a regulation they did not like—as long as the regulations apply to business or political activity. Many supported last year's [2002] Sarbanes-Oxley legislation which, responding to Enron, Arthur Andersen and other scandals in corporate governance, imposed vast new reporting and auditing burdens on businesses.

Indeed, after the Enron scandal the AFL-CIO called for "transparency, accountability and full and accurate disclosure" by corporations. But what the unions forget is that the free market itself is the most important corrective to corporate corruption. Corporate officers know that shareholders of publicly-traded companies may dump their stock at the first whiff of impropriety, as the price collapses at Enron, WorldCom and other companies demonstrate. The market may be even more effective than prosecution as a brake on il-

legal acts.

But unlike corporations, unions are not profit-seeking enterprises. That's why the Department of Labor is right to follow through on its LM-2 revisions and fight to retain the T-1 form.

The Road Ahead

While the LM-2 revisions are an important measure to reduce union corruption, DOL should pursue other additional options. For instance, Rep. Sam Johnson (R-TX) has introduced H.R. 1074, the Union Member Information Enforcement Act. It would allow any worker who believes his union has been misappropriating funds to file a complaint with the Labor Department. The DOL would have the authority to file a civil suit based on the complaint.

The National Right to Work Committee's

preferred approach—"right to work" legislation on the state and national level—is an even more effective long-range way to reduce opportunities for corruption. It will safeguard workers' right to withhold payment of union dues without fear that they will lose their jobs. Of course, embezzlement, mail fraud and other union financial crimes to some extent will occur in states that have Right to Work laws. But it's reasonable to expect that the temptation to steal is reduced when union revenues are not inflated by the threat of employee dismissal. Corruption tends to be far more concentrated in non-right to work states.

Fighting union corruption will become increasingly important as union membership declines. Desperate union leaders can take desperate measures when they lose

political and economic clout. There is no better time than now to introduce a new era of openness and accountability in union financial affairs. Union members should applaud the Bush administration's new LM-2 reports and other disclosure requirements that the CWA, NEA and other unions will file over the next few months. Their example should cause would-be crooks to consider reform or retirement.

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Labor Notes

NYU Turns Back Clock on Graduate Teaching Assistant Organizing

New York University has dealt a serious blow against labor activists seeking to organize graduate teaching assistants. The only private university ever to recognize a TA union, NYU has indicated that it will not continue to negotiate contracts with the union, which is affiliated with the United Auto Workers. In 2000, the National Labor Relations Board ruled that NYU must bargain with its teaching assistants, leading to an aggressive union campaign to organize students. But Bush appointees to the NLRB reversed the ruling in 2004.

Labor Still Relevant in CAFTA Fight

Labor unions are demonstrating their continued political influence in Congress as legislators debate the Central American Free Trade Agreement (CAFTA). *The Washington Post* reports that as many as 50 Democrats who usually support free trade have turned against CAFTA because of labor unions' demands for stronger environmental and labor protections. Marshall Wittmann of the Democratic Leadership Council warns that his party is in danger of losing moderate voters if it cannot stand up to labor unions and support global trade.

Federal Employee Unions Fight Bush Plan for Merit Pay

The Bush administration's plan to replace the General Schedule of federal salaries with a "merit pay" system "is meant to erode deferral pay and future retirement security for middle-class federal workers over time," the chief of staff to John Gage, president of the American Federation of Government Employees (AFGE), told *The Washington Post*. AFGE and the National Treasury Employees Union are opposed to the plan. The Bush administration proposes that raises for all 1.8 million federal workers depend in part on annual performance evaluations. The plan also would speed up the resolution of labor disputes before the Federal Labor Relations Authority.

SEIU's Stern Urges AFL-CIO to Support Republicans

Andrew Stern, president of the Service Employees International Union, called on the AFL-CIO to stop supporting primarily Democratic candidates in federal campaigns, but instead to focus on members of both parties who will advance labor's agenda. Stern said "electing Democrats and taking back the House or getting rid of [House Majority Leader] Tom DeLay" are insufficient to address workers' needs.

AFL-CIO, NEA Anger Christian Conservatives

A coalition of Christian and pro-family conservative groups has demanded that the AFL-CIO rescind an executive committee resolution opposing federal and state constitutional amendments that define marriage as between one man and one woman. Don Wildmon, chairman of the American Family Association, leads the coalition including Linda Chavez, President Bush's original nominee for Secretary of Labor, Rev. Jerry Falwell and Paul Weyrich. Last month, conservative delegates to the National Education Association's convention were also upset when a resolution condemning adult-minor sexual contact was tabled.

Labor Department Sues Carpenters Involved in Land Deal

The U.S. Labor Department has filed suit in federal court, attempting to recover funds swindled from the Northwest Indiana District Council of Carpenters Pension Fund. The local's former secretary-treasurer, Gerry Nannenga, has already been sentenced to prison for 18 months for working with other pension fund trustees to purchase property worth \$5 million for twice that amount. Nannenga and the local's attorney allegedly received kickbacks from realtors and set up a fictitious company to divert checks to Nannenga's wife.