

U.S. Department of Labor

Employment Standards Administration
Office of Labor-Management Standards
Dallas District Office
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Dallas, TX 75202
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May 31, 2005

Jerry Palik
President
NALC Branch 3745
POB 442
North Little Rock, AR 72115

Re: 2

Dear Mr. Palik:

This office has recently completed an audit of NALC Branch 3745 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 April 28, 2005, 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.

Title II of the LMRDA establishes certain reporting and record keeping requirements. Section 206 requires, among other things, that adequate records be maintained 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, all records used or received in the course of union business must be retained. This includes, in the case of disbursements, not only the retention of original bills, invoices, receipts, and vouchers, but also adequate additional documentation, if necessary, showing the nature of the union business requiring the disbursement, the goods or services received, and the identity of the recipients of the goods or services.

The following record keeping violations were revealed during the audit of Branch 3745's records for fiscal year ending December 31, 2004:

1. Former union officers failed to maintain five years of financial records. Some employer checkoff reports, dues check stubs, and supporting documentation such as bills and invoices were missing from the 2003 financial records. You advised that former officers failed to maintain records, and that some financial records are missing for past years.
2. Union officers failed to maintain a record detailing the contents of each deposit to the checking account. Union receipts records should show the date that the money was received, the identity of the source of the money, the individual amount received from each source, and when each receipt was deposited.
3. Union officers failed to maintain a record of their certificates of deposit. Bank statements are considered bank records. OLMS requires unions to maintain their own record of each financial account.

4. Union officers failed to retain an inventory of NALC Branch 3745's fixed assets. Records must be retained which account for all union property.

As agreed, provided that NALC Branch 3745 maintains adequate documentation of its receipts and disbursements in the future, no additional enforcement action will be taken regarding this violation.

The CAP disclosed a violation of LMRDA section 201(b), because the Labor Organization Annual Report (Form LM-3) filed by NALC Branch 3745 for fiscal year ending December 31, 2004 was deficient in the following areas:

1. Branch 3745 reported 0 in Items 29A&B Fixed Assets. Branch 3745 should have reported the value of their fixed assets (laptop and printer) in Items 29A&B.
2. Branch 3745 failed to report individual payroll tax deductions in Item 24, line 10 All Officers and Disbursements to Officers, Less Deductions. Therefore, the figures reported in Items 24 (lines 10&11) and 54 are incorrect.
3. Item 43 Other Receipts should have included income received from reimbursements. OLMS defines all money deposited into accounts as income except for money transferred between accounts. (The deposit made on October 15, 2004, contained reimbursement in the amount \$34.98)
4. Payroll tax paid in 2005 for 2004 was reported in Item 35B Other Liabilities. OLMS requires that LM reports be completed on a cash basis and not on an accrual basis. Future expenses such as payroll tax paid in 2005 should not be reported on the 2004 LM report.
5. Money owed to the union because of overpayments to officers was reported in Item 30B Other Assets and Item 54 Other Disbursements. All money paid to officers should be reported in Item 24 All Officers and Disbursements to Officers and Item 45 Disbursements to Officers. Reimbursements from union officers or members should be reported in Item 43 Other Receipts.
6. The names of some officers who held office during the year were not reported in Item 24 with the total amount of payments to or for them. OLMS requires that the names of all persons who held office during the year be reported in Item 24 regardless of whether or not they received any payments from the union.

It will be necessary for NALC Branch 3745 to file an amended LM-3 report for 2004 to correct the deficient items discussed above. The necessary reporting forms and instructions were included in the compliance assistance package given to you during the opening interview. You may also use the new electronic forms software available from OLMS to complete the amended reports. One copy of each amended report should be submitted to this office at the above address as soon as possible, but no later than **06/17/05**. Before mailing, review the reports thoroughly to be sure they are complete, accurate, and signed properly with original signatures.

The CAP disclosed a violation of LMRDA section 201(b), because the Labor Organization Annual Report (Form LM-3) filed by LU1348 for fiscal years ending December 31, 2003, December 31, 2002, and December 31, 2001 were deficient in the following areas:

1. Branch 3745 reported 0 in Items 29A&B Fixed Assets. Branch 3745 should have reported the value of their fixed assets (laptop and printer) in Items 29A&B.

I am not requiring that Branch 3745 file an amended LM-3 report for 2001, 2002, or 2003 to correct the deficient item, but as agreed, your union will properly report the deficient item on all future reports filed with this agency.

The CAP revealed other deficiencies as described below:

1. Union officers charged unauthorized personal expenses to the union's credit card.
2. Some blank disbursement checks were presigned by one of the signatories. A two signature system helps with internal control of union funds. Its purpose is to attest to the authenticity of expenses and accuracy of payments. However, one of the signatories presigning blank checks completely circumvents and undermines the purpose of the countersignature requirement. You may want to revise this aspect of your check disbursement procedures.
3. During the audit, I advised you that OLMS considers lost time to be actual lost time from work. You advised that NALC Branch 3745 pays officers lost time even if they don't actually lose time from work. Officers are paid lost time if they work on union business on their days off. Some NALC Branch 3745 officers were paid more time than they actually lost from work. Regulations on lost time payments could not be found in your local bylaws or National Constitution. I suggested that Branch 3745 do the following:
 - a. Discuss this matter at a future meeting and establish lost time regulations. Update Branch 3745's bylaws to include lost time regulations.
 - b. Consult with the National NALC representatives about paying officers/members for working on union business but not losing any time from work.
 - c. With National NALC's approval and membership's approval, establish guidelines for paying officers/members for union related business when they do not lose at time from work. You may wish to call these type payments "office hours." Update Branch 3745's bylaws to include these new guidelines.
4. During the audit, we discussed how NALC Branch 3745's bylaws are outdated. The reimbursable mileage rate stated in the bylaws is lower than what Branch 3745 is actually reimbursing officers. There are numerous typewritten words or figures marked out and other words or figures handwritten in. Also, there is a proposed amendment with no date of when the amendment was adopted by membership. Branch 3745's bylaws should support how the union is run including disbursements made. Disbursements such as salaries and reimbursements should be supported by internal union documents such as bylaws or meeting minutes. I recommend that Branch 3745's bylaws be updated. Once Branch 3745's bylaws are updated, please file two copies with OLMS.

One other disparity was noted. Branch 3745's bank statements run from midmonth to midmonth instead of from month to month. Therefore, the bank's year end totals include half a month of the previous year and half a month of the next year. Completing the annual LM report would be easier if the bank statements contained information from only one calendar year. Branch 3745 might want to consider adjusting the banking cycles or changing banks.

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Overall, Branch 3745's financial records were maintained in an organized fashion, and the current officers clearly make an effort to keep good records. I want to extend my personal appreciation for your cooperation and courtesy during this compliance audit.

I strongly recommend that you make sure that this letter and the compliance assistance materials that were provided to you are passed on to yours and Mr. Caldwell's successors at whatever time you may leave office.

If OLMS can be of any assistance in the future, please do not hesitate to call 972-850-2500.

Sincerely,

FCC

FCC

Investigator