



February 25, 2013

Mr. Ed Gurka Jr., Secretary Treasurer
NALC Branch 699
P.O. Box 2522
Palestine, TX 75802-2522

Case Number: 420-14116 [REDACTED]
LM Number: 080987

Dear Mr. Gurka Jr.:

This office has recently completed an audit of NALC Branch 699 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 and President Jerry Flowers on February 20, 2013, 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 Branch 699's 2011 records revealed the following recordkeeping violations:

1. Disposition of Property

Branch 699 did not maintain an inventory of t-shirts it purchased 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 14 of the LM-4. 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 14.

2. Membership Meeting Minutes

During the audit, Mr. Flowers and Mr. Gurka Jr. advised OLMS that the membership authorized disbursements during its annual December membership meeting or at mini membership meetings conducted during the reporting period. However, Branch 699 failed to maintain minutes of their annual December membership meeting or of any of its mini membership meetings.

Minutes of all membership or executive board meetings must report any disbursement authorizations made at those meetings.

Based on your assurance that Branch 699 will retain adequate documentation in the future, recording and maintaining minutes of all membership meetings, 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-4 filed by Branch 699 for the fiscal year ended December 31, 2011, was deficient in the following areas:

1. 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. Branch 699 amended its constitution in August 2010, but did not file a copy with its LM report for that year.

Branch 699 has now filed a copy of its constitution.

2. Total Disbursements

Branch 699 included per capita tax payments of \$2,206 made directly to the National Union by the employer on line Item 17 of the LM report. Total disbursements made by your organization during the reported period was incorrectly reported as \$6,102. The correct amount for total disbursements is \$3,896.

3. Disbursements to Officers

Branch 699 incorrectly reported total payments to officers and employees of \$3,065 on line Item 18 of the LM Report. Only payments, allowances, and expenses incurred by officers and employees should be reported on line Item 18. The correct amount for disbursements to officers is \$1,000.

Branch 699 was required and has filed an amended Form LM-4 for the fiscal year ending December 31, 2011, correcting the deficient items discussed above. Therefore, no further action will be taken regarding the above-cited violations.

Other Violation

The audit disclosed the following other violation:

Failure to Conduct an Officer Election

The audit disclosed a violation of LMRDA Section 401(b) which requires every local labor organization to elect its officers not less often than once every three years by secret ballot among the members in good standing. Branch 699 has not conducted an officer election since 2007.

In as much as you have agreed to conduct regular scheduled officer elections, OLMS will take no further enforcement action at this time.

Other Issue

Signatories on Checking Account

The audit revealed that Branch 699 still has former officers [REDACTED] and [REDACTED] listed as signatories on its checking account at Capital One Bank.

Flowers and Gurka Jr. agreed to replace the former officers with its current officers immediately.

I want to extend my personal appreciation to NALC Branch 699 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,

[REDACTED]
Investigator

cc: Mr. Jerry Flowers, President