

U.S. Department of Labor

Employment Standards Administration
Office of Labor-Management Standards
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December 16, 2009

Mr. Patrick Byrne, President
Letter Carriers, Natl Asn, AFL-CIO
Branch 7
124 Flint Street
Lynn, MA 01905

LM File Number 091-518
Case Number: ||| ||| ||| ||| |||

Dear Mr. Byrne:

This office has recently completed an audit of NALC Branch 7 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 December 10, 2009, 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.

The CAP disclosed recordkeeping violations, reporting violations, and other violations.

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 7's 2008 records revealed the following recordkeeping violations:

1. General Reimbursed and Credit Card Expenses

Branch 7 did not retain adequate documentation for reimbursed expenses and credit card expenses incurred by union officers and employees totaling at least \$1,600. For example, airfare to a meeting of all NALC Branch Presidents, hotel charges for union officers attending conventions and meetings, and flowers for funerals.

As previously 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

Branch 7 did not require officers and employees to submit itemized receipts for meal expenses totaling at least \$200. 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.

Branch 7 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, meal receipts were retained but lacked written explanations of union business conducted or the names and titles of the persons incurring the charges. 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. Local Receipts

Branch 7 did not retain adequate documentation for local receipts totaling at least \$2,900. These receipts included newsletter ad payments, a post office box refund, and raffle ticket funds.

Labor organizations must retain at least one record showing the date, amount, purpose, and source of money received. 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.

4. Information not Recorded in Meeting Minutes

Article VIII, Section III of the By-laws of NALC Branch 7 requires "a motion to donate or appropriate funds in excess of \$10 for other than current expenses shall be made at a regular or special meeting called for that purpose. Such motion to be referred to the Trustees for their recommendations." However, the minutes of the meeting do not contain any reference to any of the per diem payments authorized for officers attending training, a national convention, or a state convention during the fiscal year ending December 31, 2008. Also, the minutes of the meeting do not contain reference for some of the gifts paid to union members. Minutes of all membership or executive board meetings must report any disbursement authorizations made at those meetings.

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Based on your assurance that Branch 7 will retain adequate documentation in the future, 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-3) filed by Branch 7 for fiscal year ending December 31, 2008, was deficient in the following areas:

1. Disbursements to Officers

Branch 7 did not include some reimbursements to officers totaling at least \$9,900 in the amounts reported Item 24 (All Officers and Disbursements to Officers). It appears the union erroneously reported these payments in Item 50 (Benefits).

The union must report most direct disbursements to Branch 7 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. Failure to Report Receipts and Disbursements

Branch 7 did not report at least \$450 in receipts and \$4,500 in disbursements in Statement B of the local's LM-3 filed for the fiscal year ending December 31, 2008. The Statement B instructions state that receipts must be recorded when money is actually received by the labor organization and disbursements must be recorded when money is actually paid out by the labor organization.

3. Failure to Properly Categorize Receipts

Branch 7 did not correctly categorize at least \$56,000 in dues received in Item 38 (Dues). It appears as though the union erroneously reported these receipts in Item 39 (Per Capita Tax). The instructions for Item 38 state dues received directly by a union from members, dues received from employers through a checkoff arrangement, and dues transmitted to a union by a parent body or other affiliate should be reported in Item 38.

4. Failure to Properly Categorize Disbursements

Branch 7 did not correctly categorize at least \$10,000 in office and administrative payments in Item 48 (Office and Administrative Expenses). It appears as though the union erroneously reported these disbursements in Item 50 (Benefits) and Item 54 (Other Disbursements). The instructions for Item 48 state the total amount of ordinary office and administrative expenses, for example, rent, utilities, office supplies, postage, subscriptions, fidelity bond premiums, etc. must be entered in Item 48.

5. 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 7 amended its constitution and bylaws in 2000, but did not file a copy with its LM report for that year.

Branch 7 has now filed a copy of its constitution and bylaws.

Branch 7 must file an amended Form LM-3 for fiscal year ending December 31, 2008, to correct the deficient items discussed above. I provided you with a blank form and instructions, and advised you that the reporting forms and instructions are available on the OLMS website (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 January 8, 2010. 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:

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.

Branch 7's current bond has a deductible that needs to be removed in order for the local's bonding coverage to meet the LMRDA bonding requirements. Branch 7 should obtain adequate bonding coverage for its officers and employees immediately. Please provide proof of bonding coverage to this office as soon as possible, but not later than January 8, 2010.

I want to extend my personal appreciation to NALC Branch 7 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,

Mark Letizi
District Director

cc: Timothy Bogart, Treasurer