

U.S. Department of Labor

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March 31, 2009

Michael Smith, President
National Association of Letter Carriers
Oriole Branch 176
2701 W. Patapsco Avenue, Suite # 105
Baltimore, MD 21230-2776

LM File Number: 083-327

Case Number: [REDACTED] **Error! Reference source not found.**

Dear Mr. Smith:

This office has recently completed an audit of National Association of Letter Carriers (NALC) Branch 176 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 Executive Vice President Norman Yingling, Vice President Michael Thomas, Treasurer Jerry Kerner, and you on March 27, 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.

Recordkeeping Violations

Title II of the LMRDA establishes certain reporting and recordkeeping requirements. Section 206 requires, among other things, that adequate records be maintained for at least 5 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 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 note can be written on it providing the additional information. An exception may be made only in those cases where 1) other equally descriptive documentation has been maintained, and 2) there is evidence of actual oversight and control over disbursements.

In the case of receipts, the date, amount, purpose, and source of all money received by the union must be recorded in at least one union record. Bank records must also be retained for all accounts.

The audit of Branch 176's 2007 records revealed the following recordkeeping violations:

1. Failure to Maintain Receipt Records

Branch 176 failed to adequately record in its receipts records some dues from members and money received from the sale of Baltimore Orioles' baseball tickets. For example, on January 4, 2007, the union made a deposit into the union's general checking account. This deposit included dues received from an employer and retired members. However, there is nothing in the union's records to indicate the source of some of this money. Union receipts records must include an adequate identification of each receipt of money. The records should show the exact date the money was received, the identity of the source of the money, and the individual amount received from each source.

2. Failure to Maintain Disbursement Records

Branch 176 did not maintain adequate documentation for a purchase made by the union during the fiscal year. For example, on September 4, 2007, the union disbursed check # [REDACTED] in the amount of \$1,000 to Anthony's Talk of the Town. The description listed on the memo line of the check indicated that this disbursement was for a retiree dinner held on October 28, 2007. The union failed to maintain the invoice for this disbursement. All records must be retained.

3. Failure to Maintain Overtime Records

Branch 176 did not retain adequate documentation for overtime paid to union officers and a union employee. While the union maintained overtime slips for branch officers and an employee claiming overtime, the union failed to detail the specific hours. The union must maintain records in support of overtime claims that identify each date overtime was incurred, the specific regular and overtime hours

worked on each date, the applicable pay rate, and a description of the union business conducted.

4. Information not Recorded in Meeting Minutes

The audit revealed that Branch 176 reimbursed several Branch 176 officers for their portion of Social Security taxes and Medicare taxes and paid officers for their unused sick and annual leave. The officers advised OLMS that these specific payments were brought before the membership and approved at a membership meeting in 1986. They stated that this is included in the part of the Branch 176 constitution that states "the Branch will pay all benefits" for the officer. Branch 176 no longer has the membership minutes where these specific payments were approved. Minutes of all membership or executive board meetings must report any disbursement authorizations made at those meetings. The union must maintain those records for at least five year after the policy ceases to exist.

As agreed, provided that Branch 176 maintains adequate documentation as discussed above in the future, no additional enforcement action will be taken regarding these violations.

Reporting Violations

The CAP 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-2) filed by Branch 176 for fiscal year ending December 31, 2007, was deficient in the following areas:

1. Disbursements to Officers

Branch 176 failed to include some payments to officers in the proper columns in Schedule 11 (All Officers and Disbursements to Officers). The Branch 176 President received a monthly allowance. The union reported this allowance in Column F (Disbursements for Official Business). This allowance should have been reported in Column E (Allowances Disbursed). Branch 176 also failed to accurately report disbursements made to several Branch officers for reimbursements for the officer's portion of Social Security taxes and Medicare taxes and for unused sick leave and annual leave. The union reported these disbursements in Column D (Gross Salary). These disbursements should be reported in Column G (Other Disbursements).

The union must report in Column F of Schedules 11 and 12 (Disbursements for Official Business) direct disbursements to officers and employees for reimbursement of expenses they incurred while conducting union business. In addition, the union must report in Column F of Schedules 11 and 12 indirect disbursements made to another party (such as a credit card company) for business expenses union personnel incur. However, the union must report in Schedules 15 through 19 indirect disbursements for business expenses union personnel incur for transportation by public carrier (such as an airline) and for temporary lodging expenses while traveling on union business. The union must report in Column G (Other Disbursements) of Schedules 11 and 12 any direct or indirect disbursements to union personnel for expenses not necessary for conducting union business.

2. Other Receipts

Branch 176 erroneously reported receipts from the sale of Six Flags tickets, Texas Hold-Em, and the sale of Baltimore Orioles baseball tickets in Item 39 (Sale of Supplies). These receipts should be reported in Item 48 and Schedule 14 (Other Receipts).

3. Fixed Asset Depreciation

Branch 176 failed to properly report the depreciation of its office furniture in Schedule 6 (Fixed Assets). On the LM report for fiscal year ending December 31, 2006, Branch 176 listed the book value of its office furniture at \$10,000. On its LM report for fiscal year ending December 31, 2007, the union did not depreciate or expense these assets and listed the book value as \$0. If the union depreciates a

fixed asset, its must include the amount depreciated in Column C (Total Depreciated or Amount Expensed).

Branch 176 must file an amended Form LM-2 for fiscal year ending December 31, 2007, to correct the deficient items discussed above. I explained to you the filing procedures and the availability of the filing software on the OLMS website (www.olms.dol.gov). The amended Form LM-2 must be electronically filed as soon as possible, but not later than April 30, 2009. Before filing, review the report thoroughly to be sure it is complete and accurate, and properly signed with electronic signatures.

Other Violation

The audit disclosed the following other violation:

Inadequate Bonding

The audit revealed a violation of LMRDA Section 502 (Bonding), which requires that the union officers and employees be bonded for no less than 10 percent of the total funds those individuals handled during the preceding fiscal year. The audit revealed that Branch 176 employee Cynthia Camden handled union funds, but was not covered on the union's bond. Branch 176 should obtain adequate bonding coverage for Ms. Camden immediately. Please provide proof of bonding coverage to this office as soon as possible, but no later than April 30, 2009.

Other Issue

The audit disclosed the following other issue:

Signatures on Checks

Branch 176 officers advised that the local's policy requires two signatures on each check. However, the audit revealed that a check was negotiated with only one signature. The two signatures requirement is an effective internal control of union funds. OLMS recommends that Branch 176 follow its policy to improve the internal control of union funds.

I want to extend my personal appreciation to NALC Branch 176 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

Mr. Michael Smith
November 20, 2009
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to future officers. If we can provide any additional assistance, please do not hesitate to call.

Sincerely,



Investigator

cc: Jerry Kerner, Treasurer