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U.S. Department of Labor

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February 3, 2009

Mr. Dan Garhofer, President
Letter Carriers , Natl Asn, AFL-CIO Branch 28
1715 Van Dyke Street
Maplewood, MN 55109

LM File Number: 084-259
Case Number: [REDACTED]

Dear Mr. Garhofer:

This office has recently completed an audit of NALC Branch 28 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 Chuck Fogarty and you on December 5, 2008, 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 28's 2007 records revealed the following recordkeeping violations:

1. General Reimbursed and Credit Card Expenses

Branch 28 did not retain adequate documentation for reimbursed expenses and credit card expenses incurred by union officers and employees totaling at least \$3,600.

As an example, union officers charged an expense totaling \$535.33 at Nickelby's Restaurant in Maplewood, Minnesota on February 9, 2007. However, no receipt was retained for this expense. Executive Vice President Chuck Fogarty and you explained that this was a meal expense for stewards during training held at the Best Western.

Branch 28 officers and employees retained receipts for most meal expenses. However, Branch 28 records of meal expenses did not always include written explanations of the union business conducted or the names and titles of the persons incurring the restaurant charges. For example, there were several meals charged to the union's credit card at OBBS Sports Bar and Grill in St. Paul, MN. The receipts from OBBS are not itemized and the names of those present for the meals are not listed or otherwise identified in union records. While some of the receipts from OBBS have a purpose listed, others provide no information about the purpose of the expense. 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.

Itemized receipts provided by restaurants to officers and employees must be maintained. 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.

As another example, branch officers were reimbursed for business use of their personal automobiles; however the records retained in support of those expenses is

not sufficient. The expenses were documented on vouchers that typically identified the number of miles driven, but rarely included the purpose for the travel. In addition, the starting and ending locations were not always identified.

In the case of mileage expenses, Branch 28 must maintain records which identify the dates of travel, locations traveled to and from, and number of miles driven. The record must also show the business purpose of each use of a personal vehicle for business travel by an officer or employee who was reimbursed for mileage expenses.

As we discussed during the exit interview, the president and treasurer (or corresponding principal officers), who are required to sign your union's LM report, are responsible for properly maintaining union records.

2. Disposition of Property

Branch 28 did not maintain an inventory of t-shirts, pocket calendars, watches, aprons, and other property it purchased, sold, or gave away. Branch officers confirmed that Branch 28 did have some inventory on hand at the beginning and end of 2007, although the officers were unsure of the value of the items on hand. Branch records reflect that the union purchased more than \$3,000 worth of these items during 2007. While the majority of these items were given away according to officers and notes in union records, the union also sold some t-shirts and aprons. The sale of these items is reflected in union records.

The value of any union property on hand at the beginning and end of each year must be reported in Item 28 (Other Assets) of the LM-2. An inventory or similar record of property on hand must be maintained to verify, clarify, and explain the information that must be reported in Item 28. In addition, the date and amount received from each sale of union t-shirts, jackets and other items must be reported in at least one union record.

Based on your assurance that Branch 28 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-2) filed by Branch 28 for fiscal year ending December 31, 2007, was deficient in the following areas:

1. Item 15 - Acquire/Dispose of Property

Item 15 (During the reporting period did your organization acquire or dispose of any assets in any manner other than by purchase or sale?) was correctly answered, "Yes." However, the union did not provide information about items given away in Item 69 (Additional Information). As previously discussed, the branch gave away items throughout the year, including turkeys, t-shirts, and various other prizes at meetings and special events. As discussed in the LM-2 instructions for item 15, the type and value of any property received or given away must be identified in the additional information section of the LM report along with the identity of the recipient(s) or donor(s) of such property. For reporting purposes, each recipient need not be itemized. Recipients can be described by broad categories, if appropriate, such as "members" or "new retirees."

2. Item 31 - Loans Payable

Branch 28 erroneously included the local mortgage on the union hall totaling \$378,500 at the end of 2007 in Item 31. However, the LM instructions require that mortgages or similar liens on real property (land or buildings) be reported in Item 32 (Mortgages Payable).

3. Schedules 11 and 12 - Disbursements to Officers and Employees

Branch 28 did not include some reimbursements to officers and employees totaling at least \$2,773 in Schedule 11 (All Officers and Disbursements to Officers) and Schedule 12 (Disbursements to Employees). It appears that the branch erroneously reported these payments in Schedules 15 through 19.

In addition, the union pays officers and employees a per diem for meals when in travel status and reimburses union personnel a specific amount per mile for miles driven on union business. Several payments for per diem and mileage were erroneously reported in Column E (Allowances Disbursed) of Schedules 11 and 12,

and should have been reported in Column F (Disbursements for Official Business). The LM instructions require that allowances paid on the basis of mileage or meals be reported in Column F (Disbursements for Official Business) or G (Other Disbursements), as applicable.

Direct disbursements to officers and employees for reimbursement of expenses they incurred while conducting union business must be reported in Column F of Schedules 11 and 12. In addition, indirect disbursements made to another party (such as a credit card company) for business expenses union personnel incur must be reported in Column F of Schedules 11 and 12. However, 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 must be reported in Schedules 15 through 19. Any direct or indirect disbursements to union personnel for expenses not necessary for conducting union business must be reported in Column G of Schedules 11 and 12.

I am not requiring that Branch 28 file an amended LM report for 2007 to correct the deficient items, but Branch 28 has agreed to properly report the deficient items on all future reports it files with OLMS.

Other Violation

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.

The audit revealed that Branch 28's officers and employees were not bonded for the minimum amount required at the time of the audit. However, evidence that adequate bonding coverage has since been obtained has been provided to OLMS. As a result, OLMS will take no further enforcement action regarding this issue.

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I want to extend my personal appreciation to NALC Branch 28 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,



Investigator

cc: Treasurer Bill Wessinger
Executive Vice President Chuck Fogarty