

U.S. Department of Labor

Employment Standards Administration
Office of Labor-Management Standards
Baltimore Resident Investigative Office
103 South Gay Street
Room 102
Baltimore, MD 21202
(410)962-6270 Fax: (410)962-6272



July 21, 2008

Mr. Robert Williams, Treasurer
National Association of Letter Carriers AFL-CIO
Branch 142
6310 Chillum Place, NW
Washington, DC 20011

LM File Number 090-347

Case Number: [REDACTED]

Dear Mr. Williams:

This office has recently completed an audit of National Association of Letter Carriers (NALC) Branch 142 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 Joseph Henry, Robert Harnest, yourself, and numerous other union officers on July 3, 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 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, 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 142's records for fiscal year 2007 revealed the following recordkeeping violations:

1. Receipt and Disbursement Records not Maintained

Branch 142 failed to maintain some deposit slips, cancelled checks, and other documentation during the audit period as well as some credit card statements prior to the audit period. In addition, Branch 142 maintains a calendar to keep track of the dates in which the union hall has been rented. However, the audit revealed that this calendar is thrown away at the end of each calendar year.

As previously noted above, labor organizations must maintain original receipts, bills, credit card statements, vouchers and other documentation for all disbursements as well as original deposit slips, hall rental calendars, and other documentation for all receipts. Furthermore, for bills and credit card statements, the union must retain the entire bill or statement rather than simply the portion with the payment information. The president or 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. Disposition of Union Property

Branch 142 did not maintain sufficient records related to the sale or donation of tickets, t-shirts, and other property it purchased during the audit period. For example, the union did not maintain sufficient records detailing the sale of tickets for its annual picnic. The union must record in at least one record the number of tickets or other items purchased, the number sold or given away, who received them, and how much was paid for them.

3. General Reimbursed Expenses and Credit Card Expenses

Branch 142 did not retain adequate documentation for reimbursed expenses and numerous charges made to union credit cards. For example, the union did not

maintain bills, invoices, or other supporting documentation for airfare and lodging expenses that were charged to union officers' credit cards.

As previously noted above, labor organizations must retain original receipts, bills, and vouchers for all disbursements. Furthermore, the union must maintain supporting documentation for all charges made on the union credit card; it is not sufficient to simply maintain the credit card statement. This supporting documentation is necessary to determine if the charges were for union business purposes and to sufficiently fulfill the recordkeeping requirement of LMRDA Section 206. 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. Meal Expenses

Branch 142 did not require officers and employees to submit itemized receipts for meal expenses. 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.

Furthermore, Branch 142 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. 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.

5. Other Disbursements

Branch 142 did not retain adequate supporting documentation for some disbursements made on behalf of the union. The audit revealed that the union was missing supporting documentation for a number of checks written and disbursed in July 2007. Furthermore, supporting documentation for disbursements made from the retirees committee's checking account was not found amongst the records. As previously noted, the union must retain original receipts, bills, and vouchers for all disbursements including those issued from accounts other than the general operating account.

Based on your assurance that Branch 142 will retain adequate documentation in the future, OLMS will take no further enforcement action at this time regarding the above violations.

The proper maintenance of union records is the personal responsibility of the individuals who are required to file Branch 142's LM report. You should be aware that under the provisions of Section 209(a) of the LMRDA and Section 3571 of Title 18 of the U.S. Code, willful failure to maintain records can result in a fine of up to \$100,000 or imprisonment for not more than one year, or both. Under the provisions of Section 209(c) of the LMRDA and Section 3571 of Title 18 of the U.S. Code, willful destruction or falsification of records can result in a fine of up to \$100,000 or imprisonment for not more than one year, or both. The penalties provided in Section 209(c) and Section 3571 of Title 18 apply to any person who caused the violations, not just the individuals who are responsible for filing the union's LM report.

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 142 for fiscal year ending October 31, 2007, was deficient in the following areas:

1. 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?) should have been answered, "Yes," because the union gave away t-shirts for the annual NALC Food Drive during the year. The union must identify the type and value of any property received or given away in the additional information section of the LM report along with the identity of the recipient(s) or donor(s) of such property. The union does not have to itemize every recipient of such giveaways by name. The union can describe the recipients by broad categories if appropriate such as "members" or "new retirees."

2. Dues Receipts Incorrectly Reported

Dues received from retired members were incorrectly reported in Item 38 (Fees, Fines, Assessments, & Work Permits) on the LM-2 Report. All dues payments, including payments from retirees and associate members, should be reported in Item 36 (Dues and Agency Fees).

3. Total Receipts and Disbursements Incorrectly Reported

The total receipts and total disbursements figures reported on the union's LM-2 Report for fiscal year ending October 31, 2007 do not match the figures calculated by OLMS during the audit. There is a difference of approximately \$9,000 between the figures reported on the LM Report and the figures calculated by OLMS in both of these categories. After reviewing the LM-2 work papers, it appears that the Good Faith Money for the union's convention was "netted" instead of being treated as a separate receipt and disbursement.

Statement B - Receipts and Disbursements of the LM-2 Reports must be prepared using the cash method of accounting. The purpose of Statement B is to report the flow of all cash in and out of your organization during the reporting period. Therefore, "netting" is not permitted. Branch 142 must report all cash receipts in Items 36 through 48 and must report all cash disbursements in Items 50 through 65 of Statement B.

4. Disbursements to Officers and Employees

Branch 142 did not include some payments to or on behalf of officers and employees 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.

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.

The following errors were noted on the Form LM-2:

- There were some discrepancies in the reporting of salary and allowance payments to the branch officers. The union should report each officer's gross salary in Schedule 11, Column D (Gross Salary Disbursements). Included in this column are payments to officers for salary, lost-time, or straight time. The union should report the total allowances made by direct and indirect disbursements to each officer on a daily, weekly, monthly, or other periodic basis in Schedule 11, Column E (Allowances Disbursed).
- At least one Branch 142 officer held two union positions during the audit period. If an officer held more than one position during the reporting period, the LM report should list the officer once in Schedule 11 (All Officers and Disbursements to Officers) and should report the gross salary and allowance payments to that officer for the entire fiscal year. Furthermore, the LM report should list each additional position and the dates on which the officer held the position in Item 69 (Additional Information).

Branch 142 did not report any payments to union officers in Schedule 11, Column F (Disbursements for Official Business). The union should report all direct or indirect disbursements to each officer that were necessary for conducting official business of the labor organization. Examples of disbursements to be reported in Column F include all expenses that were reimbursed directly to an officer, meal allowances and mileage allowances, expenses for officers' meals and entertainment, and various goods and services furnished to officers but charged to the labor organization.

5. 50/50 Raffle Money

The audit revealed that Branch 142 collects money from members at the monthly membership meeting for a 50/50 raffle. Once collected, half of this money is disbursed to the raffle winner and the other half is disbursed to NALC for the COLCPE Fund. However, this money is not reported as a receipt or a disbursement on the union's LM Report.

Per the LM-2 instructions, labor organizations must report financial information for all cash flowing in and out of the labor organization. The union should include any special purpose funds or accounts, such as strike funds, vacation funds, and scholarship funds even if they are not part of the labor organization's general treasury. Therefore, on Statement B - Receipts and Disbursements, the union must report all funds received or collected by the union as a receipt and all funds disbursed

by the union as a disbursement. The money collected and disbursed from the 50/50 raffle must therefore be included on the union's LM-2 Report.

6. Failure to File By-Laws

The audit disclosed a violation of LMRDA Section 201(a), which requires that a union submit a copy of its revised Constitution and By-Laws with its LM report when it makes changes to its Constitution and By-Laws. Branch 142 amended its By-Laws in October 2007, but did not file a copy with its LM report for that year. Branch 142 has now filed a copy of its current By-Laws.

Branch 142 must file an amended Form LM-2 for fiscal year ending October 31, 2007, to correct the deficient items discussed above. I explained to you the filing procedures and the availability of 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 August 15, 2008. Before filing, review the report thoroughly to be sure it is complete and accurate, and properly signed with electronic signatures.

Other Issues

1. Personal Use of Credit Cards

The audit revealed that there were instances in which union officers and employees used their union credit card to pay for personal expenses. In most cases, these officers and employees promptly repaid Branch 142 for the personal expenses charged or directly paid the credit card company for the charges. The personal use of union credit cards is a clear violation of Branch 142 policy. According to the union's credit card procedures, "the use of Capitol Branch 142, NALC cards for personal expenses is strictly prohibited. Cardholders cannot obtain a cash advance using their cards or request a PIN number." OLMS strongly recommends that the union adopt some sort of oversight to ensure that officers and employees follow the union's policy and do not use the credit card for personal purchases.

2. Union Hall Rental

The union's policy is to require a contract be signed for each individual or group that intends to rent the union hall. However, the audit revealed that in certain circumstances the union did not require an individual or group to fill out a contract.

OLMS strongly recommends that the union adhere to this policy and ensure that a contract is completed every time the union hall is rented.

3. Use of Signature Stamp

During the opening interview, you advised that Branch 142 has signature stamps for both President Henry and yourself, but that they were rarely used. Article 6, Section 1 of Branch 142's By-Laws requires that checks be signed by the president and treasurer. The two signature requirement is an effective internal control of union funds. Its purpose is to attest to the authenticity of a completed document already signed. However, the use of a signature stamp for the second signer does not attest to the authenticity of the completed check, and negates the purpose of the two signature requirement. OLMS strongly recommends that Branch 142 consider eliminating the use of the signature stamps in order to improve internal control of union funds.

4. Authorized Signatories

During the opening interview, you advised that the authorized signatories on the union's checking account were President Henry and yourself. However, during the course of the audit, I discovered that the payroll checks issued from the union's account contain the signatures of Executive Vice President Harnest and yourself. According to the Branch 142 By-Laws, Mr. Harnest is not an authorized signatory by virtue of his office. OLMS strongly recommends that the union either remove Mr. Harnest's signature from the payroll checks or amend its By-Laws to allow the executive vice president to be an authorized signatory on the account.

5. Cash Receipts not Deposited in Timely Manner

The audit revealed several instances in which cash receipts were not deposited to the union's checking account in a timely manner. For example, a \$300 check from the Banneker Dance group was issued to the union sometime in June 2007. However, it was not deposited into the union's account until November 2007. Similarly, receipts from the sale of tickets to Branch 142's annual picnic and to a Nationals baseball game were not deposited until several months after the money had been collected. OLMS recommends that the union deposit all receipts to the bank account in a timely manner to improve internal control of union funds.

6. Overpayment to Union Representative

During the course of the audit, I discovered that Branch 142 overpaid a union representative for a labor arbitration training he attended in Baltimore, MD. It appears that this individual was mistakenly paid twice for the same parking, hotel, and lunch expenses. This individual has since repaid the entire amount he was overpaid to the branch. OLMS strongly recommends that the union carefully review all supporting documentation for reimbursements before each payment is made.

7. Expense Authorization Policy

During the opening interview, Mr. Henry and you advised that only special expenses need prior approval by the executive board and the membership. General operating expenses do not need prior approval. However, it is unclear exactly which expenses the union considers special. OLMS strongly recommends that Branch 142 adopt written guidelines concerning the kinds of expenses that need prior approval.

8. Authorized Salary Amounts

Article 17, Section 1 of the Branch 142 By-Laws provides that the president shall receive an annual salary equivalent to that of a red circle, level 6 letter carrier plus 30.7 percent, payable biweekly. Article 17, Section 2 provides that the executive vice president shall receive an annual salary equivalent to that of a red circle, level 6 carrier plus 20.7 percent, payable biweekly. You advised that the pay schedule that denotes salary for a red circle, level 6 letter carrier is no longer in use and the current pay schedule only denotes salary for the city carrier grade 1 and grade 2. As the pay schedule in the union's By-Laws is no longer in use, OLMS recommends that the union amend its By-Laws to reflect this change.

9. Provision to Buy Back Annual & Sick Leave

Article 6, Section 15 of the Branch 142 By-Laws provides that "any member serving full-time or part-time in any capacity of the Branch, who shall lost his/her vacation or sick leave from the USPS due to LWOP, shall be entitled to the equivalent from the Branch." Mr. Henry and you advised that this provision allows employees and officers, including ones that are retired from the USPS, to buy back all of their annual and sick leave from the branch. As it is unclear whether this provision was intended to allow the buying back of leave in this manner, OLMS recommends that Branch 142 consider amending its By-Laws to make this provision more specific.

Mr. Robert Williams
July 21, 2008
Page 10 of 10

I want to extend my personal appreciation to National Association of Letter Carriers (NALC) Branch 142 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: Joseph Henry, President