

**U.S. Department of Labor**

Office of Labor-Management Standards  
Dallas-New Orleans District Office  
A. Maceo Smith Fed. Bldg.  
525 S. Griffin Street, Suite 300  
Dallas, TX 75202  
(972) 850-2500 Fax: (972) 850-2501



March 20, 2023

Mr. Benson Kungu, Secretary Treasurer  
NALC Branch 4189  
PO Box 1103  
West Memphis, AR 72301

Case Number: 420-6025734( )  
LM Number: 091463

Dear Mr. Kungu:

This office has recently completed an audit of SMART Local 949 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 Eric Rhinehouse on March 14, 2023, 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 4189's 2021 records revealed the following recordkeeping violations:

1. General Reimbursed and Expenses

Branch 4189 did not retain adequate documentation for reimbursed expenses incurred by President Eric Rhinehouse totaling at least \$2,800.00 for gift cards given to active and retired members for Christmas. The branch also did not have documentation for the purchase of calendars for the membership totaling \$165.00 or verifying the distribution of the gift cards and calendars to the membership.

As 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. In addition, distribution of gifts to members should be documented by having a list of members who received the gifts, and should include the date, type, and amount given, and a signature of the member who received the gift.

2. Lost Time

Branch 4189 did not retain adequate documentation for lost wage payments to Vice President Greg Houchins totaling \$396.00. The union must maintain proof of authorization and records in support of lost wage claims that identify each date lost wages were incurred, the number of hours lost on each date, the applicable rate of pay, and a description of the union business conducted. The OLMS audit found that Houchins was paid 12 hours of lost time in August 2021, for attending the Oklahoma/Arkansas Stewards College training held online on February 3 and February 4, 2021. There was no supporting documentation confirming Houchins' wage rate or verifying the number of scheduled work hours Houchins lost from work. Time and attendance records from the employer showed he received annual leave pay on the days he attended the union training.

Branch 4189 did not maintain records to verify the lost time was authorized. The branch's bylaws, Article 12 Funds, Section 6 authorizes lost time payments only to "*any member attending the State or National convention.*" The union must keep a record, such as meeting minutes, to show lost time authorized by the entity or individual in the union with the authority to establish disbursements.

During the exit interview, I provided a compliance tip sheet, *Union Lost Time Payments*, that contained a sample of an expense voucher Branch 4189 may use to satisfy this requirement. The sample identifies the type of information and documentation that the local must maintain for lost wages and other officer expenses.

Based on your assurance that Branch 4189 will retain adequate documentation in the future, OLMS will take no further enforcement action at this time regarding the above violations. However, it is recommended that the unauthorized lost time payment made to Houchins is reimbursed to the branch.

### 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 LM-3 filed by Branch 4189 for the fiscal year ended December 31, 2021, was deficient in the following areas:

#### 1. Disbursements to Officers

Branch 4189 did not report reimbursements made to President Eric Rhinehouse totaling \$3,028.00 for the purchase of gift cards given to retired and active members during Christmas and food for union meetings in Item 24, Column E (Allowances and Other Disbursements) on the LM-3.

The union must report most direct disbursements to 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. Lost Wages

Branch 4189 did not report lost wage payments of \$396 to Vice President Greg Houchins, who attended the 2021 Oklahoma/Arkansas Stewards College training held online on February 3 and February 4, 2021. The branch improperly reported the lost time payment to Houchins in Item 24, Column E (Allowances and Other Disbursements) on the LM-3, and incorrectly included it as a deduction. The lost wage payment to Houchins should be reported in Item 24, Column D (Gross Salary).

The union must report most direct disbursements to Branch 4189 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).

### 3. Office and Administrative Expenses

Branch 4189 reported \$0.00 disbursements. The accurate amount for Item 48 (Office and Administrative Expenses) should be \$12,325.38 for the purchase of office supplies and food for members at meetings.

Disbursements listed in Item 48 (Office and Administrative Expenses) should include ordinary office and administrative expenses, for example, rent, utilities, office supplies, postage, subscriptions, fidelity bond premiums, etc. Include all taxes assessed against and paid by your organization, including your organization's FICA taxes as an employer. Do not include disbursements for the transmittal of taxes withheld from the salaries of officers and employees which must be reported in Item 54 (Other Disbursements).

### 4. Contributions, Gifts, and Grants

Branch 4189 did not include gifts such as flowers for member's funerals and calendars given to the membership totaling at \$244.66 in Item 51 (Gifts, Grants, and Contributions).

### 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 4189 has not filed the required copies with its LM report.

Branch 4189 must file an amended Form LM-3 for the fiscal year ended December 31, 2021, to correct the deficient items discussed above. The report must be filed electronically using the Electronic Forms System (EFS) available at the OLMS website at [www.olms.dol.gov](http://www.olms.dol.gov). The amended Form LM-3 must be filed no later than April 3, 2023. Before filing, review the report thoroughly to be sure it is complete and accurate.

### 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 4189 officers were not bonded for the minimum amount required, at least \$1,199, at the time of the audit. However, Branch 4189 has since obtained adequate bonding coverage for its officers and provided evidence of this to OLMS. As a result, OLMS will take no further enforcement action regarding this issue.

I want to extend my personal appreciation to NALC Branch 4189 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: Mr. Eric Rhinehouse, President  
Mr. Gregg Houchins, Vice President