

U.S. Department of Labor

Office of Labor-Management Standards
Denver District Office
1999 Broadway, Suite 2435
Denver, CO 80202-5712
(720) 264-3232 Fax:(720) 264-3230



February 5, 2010

Mr. John Rubio, Treasurer
NALC Branch 504
124 Monroe St. NE
Albuquerque, NM 87108

LM File Number: 081-790
Case Number: [REDACTED]

Dear Mr Rubio:

This office has recently completed an audit of Letter Carriers Branch 504 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 Treasurer John Rubio, President David Pratt, and Trustee Claude Herrera on January 29, 2010, 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 504's 2009 records revealed the following recordkeeping violations:

1. General Reimbursed and Credit Card Expenses

Branch 504 did not retain adequate documentation for reimbursed expenses and credit card expenses incurred by union officers and members totaling at least \$23,800. For example, the union did not obtain receipts for 32 credit card purchases at office supply and department stores, some of which were for purchases in excess of \$300. The union did not obtain receipts or invoices for 19 hotel charges to the union credit card totaling at least \$3,800. The union did not have receipts or invoices for 11 disbursements to its subsidiary totaling at least \$18,000.

As previously noted, 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 504 did not require officers and employees to submit itemized receipts for meal expenses totaling at least \$100. 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.

3. Failure to Record Receipts

Branch 504 did not record in its receipts records some employer dues check off checks totaling at least \$13,900. For example, \$6,736.45 in dues received in 2007 and \$7,237.15 in dues received in 2008 were not recorded. Union receipts records must include an adequate identification of all money the union receives. The records should show the date and amount received, and the source of the money.

4. Receipt Dates not Recorded

Entries in Branch 504's subsidiary, Club 504, general ledger reflect the date the union deposited money, but not the date money was received. Union receipts records must show the date of receipt. The date of receipt is required to verify, explain, or clarify amounts required to be reported in Statement B (Receipts and Disbursements) of the

LM-3. The LM-3 instructions for Statement B state that the labor organization must record receipts when it actually receives money, and disbursements when it actually pays out money. Failure to record the date money was received could result in the union reporting some receipts for a different year than when it was actually received.

The proper maintenance of union records is the personal responsibility of the individuals who are required to file the Branch 504 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 Local 127 for fiscal year ending December 31, 2008, was deficient in the following areas:

1. Disbursements to Officers and Employees

Branch 504 did not include some reimbursements to officers totaling at least \$4,000 in the amounts reported in Item 24 (All Officers and Disbursements to Officers). It appears the union erroneously reported these payments in Item 54, (Other Disbursements).

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. 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 504 amended its constitution and bylaws in 2007, but did not file a copy with its LM report for that year. Branch 504 has now filed a copy of its constitution and bylaws.

3. Failure to File Financial Reports

The audit disclosed a violation of LMRDA Section 201(b), which requires that a union file annually with the Secretary a financial report. The instructions to the LM-3 Form allow a union to report the finances of a subsidiary organization either by including the subsidiary's financial information with the union's financial information in the LM-3 Form or by filing a separate LM-3 Form for the subsidiary. Branch 504 has not filed a financial report for its subsidiary (Club 504) for three years. Annual receipts of the subsidiary are in excess of \$100,000. The Branch has now filed LM-3 Forms for the subsidiary for 2006, 2007, and 2008.

I am not requiring that Branch 504 file an amended LM report for 2008 to correct the deficient items, but Branch 504 has agreed to properly report the deficient items on all future reports it files with OLMS.

Other Violations

The audit disclosed the following other violations:

1. Inadequate Bonding

The audit revealed that the Branch 504 officers and employees were not bonded for the minimum amount required at the time of the audit. However, the union obtained adequate bonding coverage and provided evidence of this to OLMS during the audit. 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 Letter Carriers' Branch 504 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,



Supervisory Investigator

cc: Mr. David Pratt, President
Mr. Claude Herrera, Trustee