

U.S. Department of Labor

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August 6, 2007

Mr. James Cleer, President
NALC Branch 3520
7008 Little River Turnpike, Suite H
Annandale, Virginia 22003-9414

LM File Number: 084-121

Case Number: [REDACTED]

Dear Mr. Cleer:

This office has recently completed an audit of National Association of Letter Carriers (NALC) Branch 3520 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 Secretary-Treasurer George Hickey and you on July 26, 2007, 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 3520's fiscal year ending December 31, 2005 records revealed the following recordkeeping violations:

1. Credit Card Expenses

Branch 3520 did not retain adequate documentation for credit card expenses incurred by union officers during the audit period. For example, on March 25, 2005, Branch 3520 President James Cleer charged \$437.06 at the Omni Hotel in Richmond, VA. The description listed on the credit card statement indicated that "lodging" was purchased, but there were no receipts for this purchase in the union's records.

As previously 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.

2. Meal Expenses

Branch 3520 did not require officers and employees to submit itemized receipts for meal expenses during the audit period. 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.

Branch 3520 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. For example, on March 3, 2005, check # [REDACTED] was written to Casa D'Mama in the amount of \$66.98. The cancelled check and stub listed the description as "Trustee Meeting." However, there were no receipts for this purchase. 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.

3. Leave Records

The OLMS audit found that Branch 3520 did not retain adequate documentation for unused annual and sick leave payments to former Branch 3520 President [REDACTED]. The union must maintain records of annual and sick leave earned and used.

During the exit interview, I provided suggestions of records the union can keep to satisfy this requirement.

4. Lost Wages

Branch 3520 did not retain adequate documentation for lost wage reimbursement payments to union officers and employees. The union must maintain 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 on numerous occasions Branch 3520 did not identify in the union's records the union business conducted.

Based on your assurance that Branch 3520 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 3520 for fiscal year ending December 31, 2005 was deficient in the following areas:

1. Receipts from 50/50 Raffle

Branch 3520 did not report receipts from the sale of 50/50 raffle tickets on the Branch's 2005 LM-2 report. The audit revealed that during 2005, Branch 3520 collected receipts from the sale of 50/50 raffle tickets at membership meetings. All receipts received by the union during the audit period must be reported on the LM-2. The receipts from the sale of raffle tickets must be reported in Item 48 (Other Receipts) in Statement B.

2. Reported Receipts

Branch 3520 erroneously reported the amount of receipts the union received during the audit year from membership dues in Item 36 (Dues and Agency Fees). The OLMS audit revealed that the amount the union reported in Item 36 was substantially overstated. The union should only report the amount of dues received by the Branch during the fiscal year in this category.

3. Reported Disbursements

Branch 3520 erroneously reported \$189,132 in Item 56 (Per Capita Tax). The OLMS audit revealed that Branch 3520's dues are remitted directly from the employer to NALC, which deducts its portion and remits the remainder of the dues money to Branch 3520. Since the money was paid directly from the employer to NALC, the LM-2 should not reflect any dues money received by NALC on behalf of Branch 3520. The amount Branch 3520 reported in Item 56 was therefore substantially overstated.

4. Disbursements to Officers

Branch 3520 did not properly report some payments to officers in Schedule 11 (All Officers and Disbursements to Officers). The union did not properly report the automobile allowance payments to Branch 3520 officers. The union reported these payments in Column D (Gross Salary) of Schedule 11. These payments should have been reported in Column E (Allowances Disbursed). The LM-2 instructions state that the total allowances made by direct and indirect disbursements to each officer on a daily, weekly, monthly, or other periodic basis should be reported in Column E.

The union also failed to report some payments to Branch 3520 officers in Column G (Other Disbursements) of Schedule 11. During the audit, it was discovered that former Branch 3520 President [REDACTED] was paid out for his unused annual and sick leave. [REDACTED] received five lump sum payments and some additional monthly payments for unused annual and sick leave during the audit period. It appears that the union erroneously reported these payments in Column D (Gross Salary). These payments should be reported in Column G.

The audit also revealed that [REDACTED] held the positions of president and health benefits representative during the audit period. The union listed Mr. [REDACTED] separately for each of these positions in Schedule 11 and reported the payments to him while he was in each position. The LM-2 instructions state that if an officer held more than one position during the reporting period, list each additional position and the dates on which the officer held the position in Item 69 (additional information). Therefore, [REDACTED] should only be listed one time in Schedule 11 with the title health benefits representative next to his name. All of the payments to or on behalf of [REDACTED] during the audit period should be listed next to his name. The union should also report in Item 69 that [REDACTED] was president during part of the reporting period and list the dates during the reporting period that he held that position.

The union must report in Column F (Disbursements for Official Business) of Schedules 11 and 12 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.

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 3520 amended its

constitution and bylaws in 2000, but did not file a copy with its LM report for that year. Branch 3520 has now filed a copy of its constitution and bylaws.

Branch 3520 must file an amended Form LM-2 for fiscal year ending December 31, 2005, 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 31, 2007. Before filing, review the report thoroughly to be sure it is complete and accurate, and properly signed with electronic signatures.

Other Violations

The audit disclosed the following other violations:

1. 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. Officers and employees of Branch are currently bonded for \$40,000; however, they must be bonded for at least \$53,479.

The audit revealed that Branch 3520's 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.

Other Issues

1. Receipts

The OLMS audit revealed that receipts generated from the sale of 50/50 raffle tickets were not deposited into any of the union's banks accounts. Instead, these funds were maintained by a Branch 3520 officer at his home. OLMS strongly recommends that all receipts taken in by the union be deposited into a bank account held in the name of the union. Furthermore, OLMS recommends that Branch 3520 review its procedures to improve the internal control of union funds.

2. Payment of Unused Annual and Sick Leave

The OLMS audit revealed that former Branch 3520 President [REDACTED] was paid for his unused annual and sick leave. As I discussed during the exit interview, the union does not have a clear policy regarding the payment of unused annual and sick leave. OLMS strongly recommends that the union adopt a clear policy regarding the payment of unused annual and sick leave for these issues.

3. Salary Payments

The local by-laws state that the Branch 3520 president should be paid at the rate of \$64,916 per annum effective November 1, 2001, plus the cost of living allowance given to letter carriers. The OLMS audit revealed that Branch 3520 paid its officers an additional 7.65% on all payroll items, including salary, lost time, and allowances, to cover taxes and other items. The OLMS audit revealed that Branch 3520 President Cleer's salary as a full time union officer was more than what the Branch by-laws state he should receive. This was the result of Branch 3520 paying President Cleer the additional 7.65%. If Branch 3520 wants to pay President Cleer an amount above what is stated in the by-laws, the by-laws should be amended to reflect this.

4. Automobile Allowance

The OLMS audit revealed that the Branch 3520 president and vice president received a monthly automobile allowance. While the union had a record reflecting the authorization of automobile allowances for some past union officers, the audit revealed that these authorizations were for specific union officers, not officer positions. Since the union does not have a clear policy regarding the payment of automobile allowances, OLMS strongly recommends that the union adopt written guidelines regarding this issue.

Branch 3520 authorized the former president to receive a monthly automobile allowance of \$300 and the former vice president to receive a monthly automobile allowance of \$200. The OLMS audit revealed that Branch 3520 paid the current president and vice president these amounts during the audit year plus an additional 7.65% to cover taxes and other items. As a result, the monthly automobile allowance paid to the president and vice president is more than what was approved by the members. Branch 3520 should address this issue with the

Mr. James Cleer
August 6, 2007
Page 8 of 8

members when written guidelines regarding the automobile allowance policy are adopted.

Please forward a copy of the membership meeting minutes at which the above issues are discussed to this office at your earliest convenience.

I want to extend my personal appreciation to Branch 3520 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: Secretary-Treasurer George Hickey