



December 20, 2019

Mr. James Peeks, President
NALC Branch 3745
P.O. Box 6811
Sherwood, AR 72124

Case Number: 420-6017395
LM Number: 080854

Dear Mr. Peeks:

This office has recently completed an audit of NALC Branch 3745 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, Vice-President Kenny Newsom, Treasurer Greg Glover, Recording Secretary Samuel Swanson, and Trustees Cody Rambo, Gene Childers, and Thomas Smith on December 10, 2019, 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 3745's records revealed the following recordkeeping violations:

1. General Debit Card Expenses

Branch 3745 did not retain adequate documentation for debit card expenses incurred by President James Peeks and Recording Secretary Samuel Swanson totaling at least \$1,333.87. For example, Branch 3745 failed to maintain a \$59.75 Metro cab receipt, two \$182.80 Southwest Airline flight receipts, and one \$908.52 Hilton Garden Inn receipt. Branch 3745 officers obtained copies of all of the missing receipts except the Metro cab receipt.

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.

2. Cancelled Checks

Branch 3745 failed to maintain copies of their cancelled checks. Branch 3745 officers obtained select cancelled checks for the audit, and advised they would start maintaining them.

3. Dues Rebate Documentation

Branch 3745 failed to maintain a complete record of the annual dues rebates made to officers and members. The only record of the dues rebates was check stubs with incomplete information. The date and purpose of the checks were often not included on the check stubs. Branch 3745 failed to maintain a record of the calculation of the dues rebate amount. The dues rebate amount paid per member varied between \$4 and \$104.

Based on your assurance that Branch 3745 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-3) filed by Branch 3745 for the fiscal year ended December 31, 2018 was deficient in the following areas:

1. Disbursements to Officers

Branch 3745 did not report the names of some officers and the total amounts of payments to them or on their behalf in Item 24 (All Officers and Disbursements to Officers). For example, Branch 3745 did not list the three trustees, Thomas Smith, Gene Childers, and

Robert Murphy, who were each paid \$300 in salary and \$124 in other disbursements. Smith was also paid \$238.52 in lost time. The union must report in Item 24 all persons who held office during the year, regardless of whether they received any payments from the union.

The union must report most direct disbursements to Local 3745 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. Dues Rebates

Branch 3745 mistakenly reported dues rebates paid to some officers and all members in Item 46 Payments to Employees. All payments to officers should be reported next to their names in Item 24. Payments to union representatives such as union stewards who are not officers should be reported in Item 46. Dues rebates paid to members who are not officers, stewards, or union representatives should be reported in Item 54 Other Disbursements.

Branch 3745 must file an amended Form LM-3 for the fiscal year ended December 31, 2018, 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. The amended Form LM-3 must be filed no later than **January 31, 2020**. Before filing, review the report thoroughly to be sure it is complete and accurate.

Other Violation

The audit disclosed the following other violation:

Dues Rebates

Branch 3745 violated Section 1 of Article 6 of their bylaws by paying \$9,440 in dues rebates to the members and trustees. Section 1 of Article 6 states, "The branch shall reimburse excess available funds to every member annually...not more than \$4 per pay period for the preceding year." Branch 3745 did not have \$9,440 worth of "excess available funds" in 2018. Branch 3745's 2018 ending book balance was negative (-\$2,452) due to outstanding checks. Of the 47 outstanding checks, 38 of them totaling \$5,640.45 were written in 2018,

but did not clear the bank that year. If they had cleared, Branch 3745 would have incurred additional bank fees due to insufficient funds.

Other Issue

Expenditures Exceeding Income

From 2007 to 2018, except for three years, Branch 3745's expenditures have exceeded their income. If all the checks Branch 3745 wrote in 2018 had cleared by December 31, 2018, Branch 3745's ending bank balance would have been negative. OLMS recommends creating a budget with total estimated expenditures less than Branch 3745's prior year's dues income. Further, in 2018, the majority of Branch 3745's income (68%) was paid to officers (salary, dues rebates, lost time, and reimbursement of union travel related expenses). OLMS recommends spending less money than the amount of dues coming in, and evaluating and possibly reducing expenses, such as how much is paid to officers, to ensure the branch can fulfill its obligations to the membership.

I want to extend my personal appreciation to NALC Branch 3745 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,



Senior Investigator

cc: Mr. Greg Glover, Treasurer
Mr. Kenny Newsom, Vice-President
Mr. Samuel Swanson, Recording Secretary
Mr. Thomas Smith, Trustee
Mr. Cody Rambo, Trustee