



January 15, 2021

Mr. JD Carpenter, President
NAIL Local 5
PO Box 910
Hooks, TX 75561

Case Number: 420-6020176
LM Number: 502562

Dear Mr. Carpenter:

This office has recently completed an audit of NAIL Local 5 under the Compliance Audit Program (CAP) to determine your organization's compliance with the provisions of the Civil Service Reform Act of 1978 (CSRA), 5 U.S.C. 7120, and the Department's regulations, 29 CFR 458. As discussed during the exit interview with Angela Carr on January 15, 2021, 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 of the LMRDA and Title 29 of the Code of Federal Regulations (C.F.R.) Section 403.7 require, among other things, that labor organizations maintain adequate records for at least five years after reports are filed by which the information on the reports can be verified, explained and clarified. Pursuant to 29 C.F.R. Section 458.3, this recordkeeping provision of the LMRDA applies to labor organizations subject to the requirements of the Civil Service Reform Act of 1978 (CSRA) as well. Therefore, as a general rule, labor organization must retain 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 Local 5's 2019 records revealed the following recordkeeping violations:

1. Disbursements for Meal Expenses

Local 5's records of meal expenses did not include a written explanation of union business conducted or the purpose, names, and titles of the persons incurring the

restaurant charges. For example, the attendees at Downtowner Restaurant on October 31, 2019 and The Lunch Box on December 16, 2019. 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.

2. Disposition of Property

Local 5 did not maintain an inventory of \$30.00 Walmart gift cards it gave away to members totaling \$10,860. The union must record in at least one record the date and amount received by members to include the date, name or recipient, and value of each item. In addition, in the case of items given away to members, the union must retain records that identify the date the items were given away and the recipients of those items.

3. Disbursements to Officers

During the audit, period the local was involved with a raid from another union. The local rented property to place promotional signs for NAIL Local 5. The local wrote a \$200.00 check to Chief Steward Justin Miller to reimburse him for cash provided to the property owner. The local had no supporting documentation for this disbursement. The union must retain a record of the date, purpose, amount, and the recipient of disbursements.

4. Lack of Salary Authorization

Local 5 did not maintain records to verify that the salaries and allowances for officers reported in Item 24 (All Officer and Disbursements to Officers) of the LM-3 were authorized. The union must keep a record, such as meeting minutes, to show the current salary authorized by the entity or individual in the union with the authority to establish salaries and allowances.

During the audit, a review of the local's bylaws showed there has been no update since 1986. At the beginning of the audit Treasurer Carr provided copies of amendments created and approved by the Local 5 Executive Board in 2016. The amendments included the approval of the \$75.00 quarterly allowance for the President and Chief Steward's personal vehicle usage. These amendments were not properly submitted to the national for authorization. NAIL National Executive Secretary Peter Cantwell confirmed that on January 4, 2021, the National Executive Committee approved the local's amendments from 2016.

5. Information not Recorded in Meeting Minutes

During the audit, a review of the meeting minutes failed to show that the membership authorized the purchase of two \$50.00 gift cards from Scottie's Grill on October 7,

2019 for a bereavement donation to two Commanders. In addition, Treasurer Carr stated that the executive board would often perform union business informally, e.g. use cell phone texting, and did not maintain minutes of the business conducted. Minutes of all membership or executive board meetings or business conducted informally must report any disbursement authorizations made at those meetings or any other method when union business is conducted.

Based on your assurance that Local 5 will retain adequate documentation in the future, OLMS will take no further enforcement action at this time regarding the above violations.

Reporting Violations

Pursuant to 29 C.F.R., Section 458.3, the reporting requirement under 29 C.F.R. Section 403.2 (see Section 201(b) of the Labor-Management Reporting and Disclosure Act (LMRDA)) is made applicable to labor organizations subject to the requirements of the CSRA. This provision requires labor organizations to file annual financial reports that accurately disclose their financial condition and operations. The audit disclosed a violation of this requirement. The Labor Organization Annual Report (Form LM-3) filed by Local 5 for the fiscal year ended December 31, 2019, was deficient in the following areas:

1. Disbursements of Gifts

During the reporting period, the local acquired and disposed of \$10,860.00 in Walmart gift cards and \$898.90 in cash gifts for bereavement and retirement. The union must identify the type and value of any property given away in the additional information section of the LM report along with the identity of the recipients. The union can describe the recipients by broad categories if appropriate such as "members" or "new retirees." The local failed to report the accurate amount of these disbursements on the LM-3 in Item 51 (Contributions, Gifts, and Grants).

2. Disbursements to Officers

Local 5 did not include some disbursements to officers for recruitment bonuses and reimbursements for the purchase of union related supplies such as printer ink, t-shirts, land rental expenses, and tickets to events next to the officers' names on the 2019 LM-3 in Item 24 E (All Officers and Disbursements to Officers/Allowances and Other Disbursements). The amounts not properly reported for Carpenter totaled \$378.00, \$297.19 for Carr, and \$350.00 for Miller.

The union must report direct disbursements to Local 5 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. Other Disbursements

During 2019, Local 5 experienced a “Raid” from National Federation of Federal Employees (NFFE). The local purchased t-shirts, the services of a social media web designer, signs and rented property outside of the employer’s entry gate near exit 207 totaling \$7,495.44. The purchase of these items are not considered part of the local’s “ordinary” officer and administrative costs due to the unusual situation. These items should be reported on the LM-3 in Item 54 (Other Disbursements) as they qualify as “educational and publicity expenses.” Local 5 also did not include \$2,600.00 in disbursements to members for recruitment bonuses in Item 54.

Local 5 has filed an amended Form LM-3 for the fiscal year ended December 31, 2019, to correct the deficient items discussed above.

Other Issue

Expense Policy

As I discussed during the exit interview with President Carpenter and Treasurer Carr, the audit revealed that Local 5 does not have a debit card policy regarding the types of expenses that may be charged to union debit cards. OLMS recommends that unions adopt written guidelines concerning such matters.

I want to extend my personal appreciation to NAIL Local 5 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: Ms. Angela Carr, Treasurer
Mr. Justin Miller, Chief Steward