



July 1, 2010

Mr. Mark Jason, President
NALC Branch 161
PO Box 5051
Portsmouth, NH 03801-5051

Case Number: |||
LM Number: 084297

Dear Mr. Jason:

This office has recently completed an audit of NALC Branch 161 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 Elka Waddell and you on July 8, 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 161's 2008 records revealed the following recordkeeping violations:

1. General Reimbursed and Credit Card Expenses

Branch 161 did not retain adequate documentation for reimbursed expenses and credit card expenses incurred by union officers totaling at least \$7,600. For example, state convention expenses, national convention expenses, health benefit seminar expenses, and other expenses reimbursed to union officers were lacking adequate documentation. Original receipts, bills, and vouchers for all disbursements must be retained by the labor organization.

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. Lost Wages

Branch 161 did not retain adequate documentation for any lost wage reimbursement payments to union officers and convention delegates. 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 Branch 161 did not retain any documentation in reference to lost wage reimbursements paid.

During the exit interview, I provided a sample of an expense voucher Branch 161 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.

3. Receipt Documentation

Branch 161 did not retain documentation for branch receipts totaling at least \$7,100 during the audit period. These receipts included payments from NALC National for the branch's remitted portion of check-off dues received from branch members and food drive donations received.

As noted above, labor organizations must retain at least one record showing the date, amount, purpose, and source of money received. 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.

4. Receipt Dates not Recorded

Entries in Branch 161's 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 actually received them.

5. Information not Recorded in Meeting Minutes

During the audit, Mr. Jason advised OLMS that the executive board authorizes all of the union's disbursements, except for officer salary payments which are authorized in the union's constitution and bylaws. However, Branch 161 meeting minutes did not contain information regarding the details of all disbursements approved at executive board meetings. Minutes of all membership or executive board meetings must report any disbursement authorizations made at those meetings.

The proper maintenance of union records is the personal responsibility of the individuals who are required to file Branch 161's 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.

Based on your assurance that Branch 161 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 161 for the fiscal year ended December 31, 2008, was deficient in the following areas:

1. Disbursements to Officers

Branch 161 did not include some reimbursements to officers totaling at least \$900 in the amounts reported 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 Branch 161 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. Cash Reconciliation

It appears that the cash figures reported in Item 25 are not the cash figures according to the union's books after reconciliation to the bank statements. The instructions for Item 25 state that the union should obtain account balances from its books as reconciled to the balances shown on bank statements.

3. Reporting of Disbursements

Branch 161 under-reported disbursements by at least \$600 on their LM Report. The Statement B instructions state that disbursements must be recorded when money is actually paid out by the labor organization.

4. 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 161's constitution and bylaws were not on file with OLMS.

Branch 161 has now filed a copy of its constitution and bylaws.

I am not requiring that Branch 161 file an amended LM report for 2008 to correct the deficient items, but Branch 161 has agreed to properly report the deficient items on all future reports it files with OLMS.

Other Violations

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 161'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

The audit disclosed the following other issue:

Retention of Voided Checks

Branch 161 did not retain all checks voided by the local during the audit year. All voided checks should be retained by the local. OLMS recommends Branch 161 review these procedures to improve internal control of union funds.

I want to extend my personal appreciation to NALC Branch 161 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,

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Investigator

cc: Ms. Elka Waddell, Treasurer