



October 22, 2019

Mr. James Carroll, Treasurer
National Association of Letter Carriers
Branch 5938
PO Box 1964
Eules, TX 76039

Case Number: 420-6015540
LM Number: 083716

Dear Mr. Carroll:

This office has recently completed an audit of National Association of Letter Carriers (NALC) Branch 5938 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, President Phillip Ruiz, Vice President Basilio Ramirez, Secretary Pat Vela, Former Vice-President Michael Shoemake, Former President Mike Lee, Former Union Steward Paul Lopez, and Trustees Matt Rabe, Gary Tabler, and Marcus Dean on September 25, 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 NALC Branch 5938's 2018 records revealed the following recordkeeping violations:

1. Lost Wages/Union Paid Time

NALC Branch 5938 did not retain adequate documentation for lost wage reimbursement payments to President Phillip Ruiz and Vice President Mike Shoemake totaling at least \$3,440.00. The union must maintain records in support of lost wage/union time 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 5938 only maintained a brief handwritten note stating the officer was paid for time spent working on union business. The vouchers do not meet LMRDA requirements. Vouchers or supporting documents must identify the union business conducted, and dates and hours of lost time claimed.

During the exit interview, I provided a compliance tip sheet, *Union Lost Time Payments*, that contained a sample of an expense voucher Branch 5938 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.

2. General Reimbursed Expenses

NALC Branch 5938 did not retain adequate documentation for almost all reimbursed expenses such as travel reimbursements and other unknown reimbursements incurred by President Phillip Ruiz, Vice President Mike Shoemake, and Treasurer James Carroll totaling at least \$10,468.23.

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.

3. Cell Phone Reimbursement Payments

NALC Branch 5938 did not require President Phillip Ruiz to submit his cell phone bills in support of reimbursements made to him during the audit period. These cell phone bills are necessary to confirm the disbursements are for union business purposes and to sufficiently fulfill the recordkeeping requirement of LMRDA Section 206.

President Ruiz submitted his June to December 2018 cell phone bills to OLMS. Review of his cell phone bills showed a family plan consisting of two phone lines plus monthly installments for the cost of his cell phone. Comparison of Ruiz' cell phone bills with the monthly amounts Ruiz claimed from Branch 5938 for his cell phone (between \$107-\$158/month) revealed that Ruiz claimed more than the cost of half of the service plan and the cost of his phone line (approximately \$89/month). He was overpaid about \$304.70 for the cell phone reimbursement claims made from June to December of 2018.

The proper maintenance of union records is the personal responsibility of the individuals who are required to file NALC Branch 5938'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.

Reporting Violation

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 NALC Branch 5938 for the fiscal year ended December 31, 2018, was deficient in the following area:

Disbursements to Officers

NALC Branch 5938 did not include some reimbursements to President Phillip Ruiz, Vice President Mike Shoemake, and Treasurer James Carroll totaling at least \$8,984.48 in the amounts reported in Item 24 (All Officers and Disbursements to Officers). It appears the union erroneously reported these payments in Item 48.

Branch 5938 also 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). 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 Branch 5938 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).

NALC Branch 5938 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 October 31, 2019. Before filing, review the report thoroughly to be sure it is complete and accurate.

Other Violations

The audit disclosed the following other violations :

1. Cell Phone Reimbursement

The union failed to maintain proper documentation to support the approval of the cell phone reimbursements made to President Phillip Ruiz. Branch 5938's 2018 budget allowed \$150/month for the president's cell phone. However, the budget did not define what was reimbursable (cell phone service only or equipment too). Further, \$150/month is significantly more than the average cost of monthly phone service for one person. The union must only pay the officer's portion (union related portion) of the bill. Branch 5938 should create a written policy on what cell phone expenses are reimbursable and up to what amount.

2. Lost Time / Union Time Off Disbursements

The union must establish a policy for the disbursements of lost time/union time and to identify union time worked. The union has agreed to establish a policy and amend its branch bylaws.

3. 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. NALC BR 5938 should obtain adequate bonding coverage for its officers and employees immediately. Please provide proof of bonding coverage to this office as soon as possible, but not later than October 31, 2019.

I want to extend my personal appreciation to NALC Branch 5938 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. Phillip Ruiz, President
Mr. Michael Shoemake, Vice President
Mr. Pat Vela, Secretary
Mr. Matt Rabe, Trustee
Mr. Gary Tabler, Trustee
Mr. Marcus Dean, Trustee