



04 March 2016

OPEN LETTER FROM RICK MURCAR, PRESIDENT, TO ALL NACD MEMBERS.

Ladies and Gentlemen:

1. Procedural Overview and Facts

Some of you may have already read via our Facebook page or on other forms of social media that "A Call for Elections" decision has been made by the Board of the NACD, and that letter was signed by myself. You may have even read a post on social media by Mr. Ron Aiello stating his acknowledgement of concerns regarding the 2015 election, the only thing of agreement which Mr. Aiello and I share. In the "A Call for Elections" letter, and that in accordance with the NACD By-laws, I note "*to-wit no election took place*". There are many inaccuracies found within Mr. Aiello's letter of response as read on social media. Personally, regarding Mr. Aiello's comments, I find them to be systemic, divisive, and reflective of the legacy of problems to which the NACD as an agency has had to endure since its conception in 1968, and the very reason leading to the formation of the NSS-CDS. Many of you refer to this brand of thinking as the "Good Ol'boys Club" and, in that, you would be correct.

When I accepted the President's position in January 2015 I stated "*This is not a position I take lightly, in truth just the opposite. My focus will be to the NACD as an agency, its members and instructors, and the cave diving community.*" I am, as I have always been, of the membership and for the membership. I wish to present the NACD as an inclusive agency not an exclusive one; however, there are those who desire the continuance of exclusivity.

From the first meeting of 2015 and throughout the year, and again in 2016, I told the Board Members that the By-laws need to be followed. Today, we find ourselves in another issue because the NACD By-laws have not been followed as they are written. There are those who attempt to "interpret" the By-laws differently to what the words on the page mean. One should not pick and choose the By-laws nor attempt to alter their meaning to meet their specific agenda. The By-laws are the NACD's governing legislation and shall be viewed as a whole. As such, occasionally their need to be revised and amended routinely occurs. In 2015, I requested a By-Law committee be established to again review the NACD By-laws. Some recommendations have come our way, such as:

- a) Board members shall be limited to no more than two consecutive terms with a period of 6 years between those terms before a nomination to the board may be presented;
- b) The classes of voting and non-voting members to be adjusted to allow any member in good standing and having paid their membership dues holding an overhead cavern through to cave certification shall be eligible to vote. Associate members, those without overhead certification but in good standing, are not granted the right to vote.

The issue today is that the members were not given the opportunity to vote. The assumption that the NACD has never administered a vote when the nominees were equal to the positions available because of costs and convenience doesn't hold much weight. The membership has expressly stated this is unacceptable, they want, no, they demand that their vote be heard!. In the NACD 2015 election, this was not the case, although Mr. Aiello suggests this has always been the norm for the NACD. Today's members would not agree.

During the first annual meeting of January 9, Mr. Aiello made several comments which gave concern, each having an objection by a board member or the legal advisor. I quote Mr. Aiello: "The NACD is the

Board's Agency", "we are Florida based". The objection made by Don Syme correctly stated: "No, the NACD is the Members' Agency and is headquartered in Florida."

Further objections were made upon discovering that many of the attending members were using and referring to out-dated By-laws from 2008. This was quickly attempted to be corrected stating that the current By-laws in effect were dated 30 July 2013. Mr. Aiello, and Mr. Larry Green, refused to accept this. This was rather strange in that Mr. Green had agreed to, and voted for, the By-laws amendments at the time of change in 2013 and stated "You can all tell I have been reading the by-laws". In fact, there had been two revisions to the By-laws since 2008. Even upon being advised of his misunderstanding, Mr. Aiello further made comments to the effect that: "I will not use those by-laws I will use these ones, I do not know those ones I know these ones" referring to the out-dated By-laws. I made the objection that since the only By-laws in effect were the 30 July 2013 ones, that only those be used.

It is true that based on the events of that evening, and the information known at that time, it appeared that Mr. Aiello was on the board and was then elected President. Mr. Aiello then made the following appointments: Konstantin Kovalenko as Vice-President, Chris Corbett as Secretary/Treasurer, and Larry Green as Training Director. I then questioned Larry Green's appointment, challenging his previous statement of not desiring to hold the Training Director position, offering that I would accept the position and even allow for Mr. Green to "mentor" me in the job. Nevertheless, Mr. Green accepted the position of Training Director.

Then, discussion followed pursuant to questioning whether the Training Director needed to be an Instructor Director, because Mr. Green held the position of Regular Director, something he denied. Again, Mr. Aiello suggested that he and Mr. Green would simply 'switch' positions to suit the need. It was pointed out that such procedure of "switching" positions was not allowed for in the By-Laws. Mr. Aiello indicated that they were doing it anyway.

This is indicative of past practices of the NACD, however contrary those practices are to the By-laws. The Attorney pointed this out to Mr. Aiello and the members in attendance at the meeting. Mr. Aiello continued with his appointment of Mr. Green to the position. Next, Mr. Aiello attempted to appoint Mr. Lloyd Bailey to a vacant board position. As to that appointment, Mr. Syme's vote was not taken, I abstained knowing that a further violation of By-laws was occurring, and voiced my objection stating that Mr. Bailey did not meet the qualification to be a Board Member under the current By-laws. Mr. Aiello stated that "the vote stands."

Mr. Bailey's qualifications were a point of contention from the moment of the nominations vetting process. The 2015 slate of nominees had 4 members vying for the two (2) vacant Instructor Director positions and one (1) Regular Director position. Mr. Bailey failed to qualify because of the following factors in accordance with the current By-laws and NACD Standard and Procedures.

Mr. Bailey was not a member in good standing for a period of 12 months preceding the nomination. Mr. Bailey had not paid membership dues since at least fiscal year 2014. Additionally he had not reapplied to be an NACD instructor under the reinstatement requirements of the NACD By-laws. Finally, during the time period for nominations, Mr. Bailey had been charged with a felony offense, which charges were later resolved, a fact he failed to disclose. (A copy of the public record from Alachua County, Florida showing the charges and their disposition is attached).

The NACD standards and procedures clearly state that members having criminal activity shall be removed from membership. The NACD, as recently as 2012, dealt with the situation of another instructor pleading *Nolo contendere* in drug related charges, who was removed from membership. What applied then applies now, with no exceptions. Again, I reiterate, in naming Mr. Aiello to the Board of Directors, Mr. Aiello failed to even consider or resolve the existing objections and impediments to Mr. Bailey's eligibility to serve.

It should be noted that during the nomination vetting process, Mr. Green interfered with that process, apparently due to a desire to see certain specific people on the Board. Further to this, Mr. Green incorrectly applied his personal, and otherwise unsupported, interpretation of the Teaching Status paragraph in the NACD Standards and Procedures, and did so unequally as to some nominees, suggesting a bias or favour to others. The other nominee for the Instructor Director Position was Martin Robson, who was clearly in good standing as an NACD Instructor and as recorded in minutes as early as

2013 had assisted on the training committee. Initially, I accepted Mr. Green's interpretation at face value, and disqualified both Mr. Bailey, whom Mr. Green also had disqualified, and Mr. Robson. Investigation and a closer review of the Standards and Procedures, and the By-laws, revealed my error, which I set out to rectify, and, thus, the call for elections. The Regular Director Position, upon having the members vote, could have gone to Mr. Lee Gibson, uncontested. Both men were advised of the situation and requested a grievance be presented on their behalf.

Mr. Aiello claims that Mr. Bailey should be given credit for dues paid in 2013 for his 2015 membership year. His claim is that because Mr. Bailey was not listed in the 2014 roster, and he had paid, he should now be given a credit for the 2015 membership year. In support to his claim he also claims that a request for such a credit was made to the 2014 Board of Directors and that the request should have been granted but was denied. A review of all the minutes for all the meetings of the 2014 Board of Directors fail to reveal any such motion, request, or denial, or, indeed, any discussion on the subject.

Further, it should be noted that Mr. Bailey did not pay any dues for the year 2014, and only paid his 2015 dues after the nominations at the October 2015 Annual Members Meeting. It should be of interest that upon his payment in October 2015, Mr. Green was quick to process and issue Mr. Bailey's 2015-2016 instructor certification teaching status card in October, well ahead of other instructor renewals which had been previously paid and requested. Many of those renewals which were pending at the time Mr. Green so expeditiously issued Mr. Bailey's card are now contacting us inquiring as to when their cards will be issued.

Contrary to what Mr. Aiello would have you believe, the meeting on the evening of 9 January 2016 had much in the way of objection, and was not, therefore, a *fait accompli*.

2. Actions taken since 9 January 2016

The NACD Board has called for an election to take place to ensure full compliance with the By-laws. We have sought a new, unbiased, General Manager to assist in this function and once again to be in full compliance with the By-laws. The members have the right to vote and the board must accept the majority choices. The NACD Board has no say or role to play in the process other than having a vote like any other qualified voting member. Personally, I have no problem to extend my hand welcoming a duly elected member to the board. My ego will not be bruised should I not retain the position of President. Twice in the past I have turned the position down. The President is a nominal position and holds no special powers. This, again, is contrary to what Mr. Aiello would have you believe.

Until a proper election takes place, the legitimate NACD Board consists of Don Syme, Chris Corbett, and myself. Orie Braun has been appointed as a Board Member filling one of the vacancies. He will serve in that capacity until the seat is filled in the next election. This appointment does not sit well with Mr. Aiello and his faction. You will notice that Mr. Green is not mentioned. It became known that Mr. Green had not paid his membership dues since 2014. His 2014 dues were in fact paid on his behalf by Don Syme. Mr. Green was provided the opportunity to show definitive proof of payment. Additionally, Mr. Green has yet to show compliance with the Standards and Procedures documentation of his change in Non-Teaching Medical Status. The Standards require the instructor to provide proof of a doctor's approval stating the member to be fit to dive. Again, Mr. Green was provided the opportunity to prove the change in medical status. The date for providing this documentation has since passed and Mr. Green was advised of his being removed from the membership register. Accordingly, due to his non-payment or proof to the contrary, he is no longer on the Board of Directors, Acting Training Director, and no longer holds NACD Instructor Status.

3. NACD Operations Day-to-Day

Mr. Green has interfered with operations of the NACD by his reluctance to hand over all NACD property consisting of the NACD Computer, Instructor Data Base, Certification Card Printer and Card Stock, the PO Box and assorted keys, reminiscent of another former Training Director. Through his relationship with the storage facility manager of the NACD's warehouse, Mr. Green seized the warehouse preventing the then Operations Manager from doing his duties. (The products sold via the on-line store are stored at a storage facility in High Springs, Florida paid for by the NACD).

Both Mr. Green and Mr. Aiello have threatened a member of the NACD who was attempting to access the warehouse in order to provide service to the customers purchasing NACD products. Right now, no NACD products have been shipped for more than three weeks. This situation is being pursued through legal channels at this time.

The legal advisors of the NACD (who are available to all members of the NACD for NACD-related concerns) work Pro Bono for us. To date, the legal advisor has yet to invoice the NACD even for reimbursement of costs. Conversely, since 2012 these individuals have donated monies and countless hours of personal time in support of NACD functions, like the annual seminar breakfast last year.

4. Certification Cards

To date, many NACD instructors have yet to receive their current year teaching certification cards. The legitimate Board has taken measures to ensure these instructors will be able to conduct NACD courses, and is looking at new methods to reduce administrative costs and ensure this circumstance is never repeated.

5. Maintaining and Improving Training Standards

At the request of many NACD members and the cave community, the Board is also working to expand NACD training programs by adding Trimix and Rebreather programs. A new Training Committee is being established, and international representation of membership is growing. Cave divers in Mexico will soon have a Standards and Procedures manual in Spanish. The call for elections should bring a new Training Director to the agency. Until then, the Training Committee will be handling the training requirements. We ask our instructors to be patient.

6. NACD Journal

The journal is being worked on. As of today, we are in discussion with advertisers. Articles are always a challenge to get but we do have a few from some notable cave diver explorers and we are actively seeking articles from contributors among the membership and the cave community.

7. "Siltin' the Waters"¹

While it is the apparent intent of Mr. Aiello to sow discord and to propagate the discrediting of Mr. Braun and myself, through misleading and defamatory statements published on the NACD website and other social media forms, I can assure you my interests are for the successful revival of the NACD. Once the NACD is on the correct path, I will be more than willing to step down and will work with my replacement to ensure that success continues.

Mr. Aiello, Mr. Green, Mr. Bailey, Mr. Kovalenko and Mr. Corbett ("the group") have discussed the idea of starting their own Florida Cave Divers Association, even using similar names with the same acronym. (See attached email messages re: same). Unlike a similar venture in the past, Cave Alliance, which association I believe had the NACD Members' interests at heart – the "group" appears only to be self-serving of their own egos. Remember this conduct is part and parcel of the problematic legacy of the NACD and would turn an international agency into one of only local scope and import.

I also include other communications from Mr. Aiello and the "group" which clearly are threatening in nature, more than somewhat incoherent, and clearly communicate their intentions to dismantle the NACD and replace it with a construct of their own design where they are free to act without formal restraint or legal hindrance.

I have been accused of hacking e-mails, busting into private conversations, a claim I categorically deny. Additionally, I have been accused of single-handedly stopping the NACD Safety Day. The "group", as a "committee" has taken it upon themselves to organize an NACD Safety Day on 9 April at Ginnie Springs.

¹ Or as Mr. Aiello has stated in one of his rambling, disjointed, and rather threateningly incoherent diatribes, "... the chum is in the water!"

My reaction to this is: "Great!!". To this end, I sent an e-mail requesting their concept of the event; willingly offered to support the event as it would benefit the NACD and the cave community. However, to date, my email has been ignored. If NACD Safety Day goes well, then, by all means give these individuals all the credit for a job well done. It is not in my nature to take credit for the work of others, another thing of which I have been wrongly accused of doing.

8. Inspection of NACD Records

The NACD By-laws allow for a member having proper purpose the right to review the records of the NACD. Mr. Aiello made such a request, stating he was going to conduct an "audit" of the NACD records, because Mr. Syme didn't have a quarterly financial report ready for the 9 January meeting. Mr. Aiello also made a comment suggesting that the former Training Director Rob Neto had received compensation for work performed on behalf of the NACD, during his tenure as the NACD's Training Director. This allegation is untrue and the Secretary/Treasurer's files do not show any evidence of Mr. Neto or any other Training Director receiving payment for the position.

Mr. Aiello's request for the review of the records was acknowledged, and arrangements for him to review the records were made. The NACD By-laws state "all books and records may be inspected by any Member, or his/her agent or attorney, for any proper purpose at any reasonable time on written demand by the Member, under oath, stating such purpose. Said inspection shall take place at the principal office location of the Corporation, at the location of its Registered Agent, or at any other agreed-to-location, at the discretion of the Board of Directors." Mr. Syme took days off work to drive from Jacksonville, FL to the Registered Agent's office in Miami to locate and prepare the records for Mr. Aiello's review, since Mr. Aiello was requesting a substantial number of documents covering several years.

Mr. Aiello, who lives in Georgia, then demanded that the requested documents be photocopied, categorized and tabbed and then mailed to him for his review. This may have been done if Mr. Aiello had been willing to pay the cost of copying (at a rate of \$0.25 per page as provided for by federal law), organizing, and collating the documents pursuant to his [Mr. Aiello's] instructions. Through an ensuing email exchange, Mr. Aiello stated he had agreed to the terms for reviewing the records. The NACD interprets those "terms" to mean that which is expressly provided by Florida Statutes, NACD By-Laws and the Internal Revenue Code. Mr. Aiello has demonstrated on more than one occasion a propensity to adopt and agree to "a compromising stance between the two parties" while continuing to try to have things done his way, regardless of what the law provides. The requested records are still available should Mr. Aiello or any member having a proper purpose wish to inspect them. There is no requirement to mail the records.

9. NACD: A Volunteer Not-For-Profit Organization

A question has been raised regarding NACD members receiving payment for functions performed. The only position in receipt of payment for work provided on a regular routine is the Operations Manager. Former Operations Manager Debra Green (RIP and God bless her) started to receive an income several years ago during the period of when Mike O'Leary was President. The decision to make these payments was voted on by the Board at that time. Mr. O'Leary, in fact, resigned as President over this decision. I had voted in favour for payment to the Operations Manager which position demanded many hours and a dedicated effort to complete the task. Mrs. Green, I feel, set the standard of expectation for the Operations Manager. To date, it is important to note that neither the NACD By-laws or Standards and Procedures list within the NACD organizational structure the position of Operations Manager. I was not a board member at the time this position came to be and cannot comment on how it became so.

The General Manager position is mentioned in the organization structure, however history has shown that this position, as a matter of course, is constantly being re-staffed. The last person to hold the General Manager position was Steve Mann who held the position for less than 6 months. The responsibility of the Operations Manager and the General Manager often overlap, this relationship needs to be better defined and the Operations Manager added to the NACD organizational structure.

In the absence of the General Manager, the Operations Manager is the most likely position to fulfill some of the responsibilities. The Operations Manager, absent of the General Manager, could have sent out ballots for the 2015 election, although it was not the Operation Manager's express responsibility to do so or to be responsible for the election. Therefore, accusations levied against the Operations Manager,

specifically Orié Braun, for failing to send out the ballots or improperly running the election are wholly unjustified. However, as it was considered the normal practice of the NACD when even number of nominees to positions existed, no election ballots were sent out. This practice of not sending out ballots is contrary to the NACD By-laws and the members have demanded their right to at the very least exercise their right to vote.

Point in fact, there were more nominees than there were vacant positions on the Board. There were a greater number of nominees prior to the incorrect, and procedurally unauthorized, disqualification of several candidates by Mr. Green, who was not on the Nomination's Committee. These purported disqualifications were based on an "interpretation" by Mr. Green of the Standards and Procedures, which interpretations served to add additional requirements to the definition of what Teaching Status entails. The By-laws provide that qualifications of nominees fall solely within the purview and province of the Nominations Committee.

10. An Historical Perspective

The question of how I came to be on the Board has come up. Like many of the NACD Directors over the years, I was first appointed to the Board and voted on by its members unanimously. Mike O'Leary was then President. As mentioned above, the By-laws allow for this. I had served as the Membership and Nominations Chairman for a significant period of time. Working closely with Debra Green, we managed to bring the NACD membership from less than 500 to nearly 1500 members worldwide. Many other of the current Board Members have held positions on the Board due to a lack of member involvement, and I suspect the element of exclusiveness and perception of the good ol'boys network, something I have worked to dispel. Sadly the recent events suggest more work is needed. I encourage members to become involved. Change must come from the membership.

In closing, I will strive to ensure the NACD By-laws are adhered to and that our organization moves forward, not back.

Rick Murcar

Sincerely
Rick Murcar
Instructor Director
NACD President
Arte et Marte, Servitium Nulli Secundus

Lloyd W Bailey Felony Charges

Filing # 31847000 E-Filed 09/09/2015 01:50:01 PM

IN THE CIRCUIT COURT OF THE EIGHTH JUDICIAL CIRCUIT
IN AND FOR ALACHUA COUNTY, FLORIDA

STATE OF FLORIDA
Plaintiff,

Case Number: 01-2015-CF-002360-A
C.R.#: ACSO15-4482
DIVISION I

vs.

LLOYD WHITFIELD BAILEY, JR.
Defendant.

CASE ACTION REPORT
NO INFORMATION

The State of Florida, by the undersigned authority, enters a **NO INFORMATION** in the above entitled action dismissing **ALL CHARGES** due to:

3A APPROPRIATE ADMINISTRATIVE ACTION DEEMED SUFFICIENT IN LIEU OF
PROSECUTION

EVIDENCE:

The Evidence Custodian is hereby authorized to:

Dispose of the evidence in accordance with Florida Statutes.

I HEREBY CERTIFY that a copy hereof has been furnished to NICK G ZISSIMOPULOS ESQ, 804
NW 16TH AVE, UNIT B, GAINESVILLE, FL 32601, this 9th day of September, 2015.

WILLIAM P. CERVONE
STATE ATTORNEY

s/ KATRINA G. HARDEN
KATRINA G. HARDEN
Assistant State Attorney
Florida Bar No.: 0084240
120 WEST UNIVERSITY AVENUE
GAINESVILLE, FL 32601
(352) 374-3670
E-service: ESERVICE@SAO8.ORG
E-mail: HARDENK@SAO8.ORG

cc: D/S JAMES R PARKER, ALACHUA COUNTY SHERIFF'S OFFICE
ASO EVIDENCE CUSTODIAN

J.K. Irby

Clerk of Circuit Court



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Party Charge Summary

01 2015 CF 002360 A - FELONY - F1 (JUDGE KREIDER)
STATE OF FLORIDA -VS- BAILEY, LLOYD WHITFIELD

Charge Information

Full Name BAILEY, LLOYD
WHITFIELD
Party Type DEFENDANT

Ticket Number

Action Code 827.03(2)(C)

Charge Dscr. CRUELTY
TOWARD CHILD:
ABUSE CAUSES
GREAT BODILY HA

Plea

Disposition NO INFO ADMIN ACTION
DEEMED SUFFICIENT

Disp. Date 09/09/2015

Degree of Off. First Degree Felony

Gen. Offense Description Not Applicable

Comments

of Counts

Speed Limit

Speed

Payable Yes

OBTS No.

Username: public_i

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(Letter to all parties concerned regarding 2015 Elections)



**NATIONAL ASSOCIATION FOR CAVE DIVING
P.O. BOX 14492
GAINESVILLE, FLORIDA 32604**

24 January 2016

Via e-Mail; Certified Mail w/ Return Receipt Requested; and, Regular U.S. Mail w/ Certificate of Mailing

Ron Aiello

Konstantin Kovalenko

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Chris Corbett

Larry Green

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Lloyd Bailey

Don Syme

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Re: 2015 Annual Election of Officers and Directors

- A. National Association for Cave Diving, Inc., By-laws, 13 July 2013**
- B. National Association for Cave Diving, Inc., Standards & Procedures, Revised March, 2014**
- C. National Association for Cave Diving, Inc., Amended Articles of Incorporation, 13 July 2013**

Dear Gentlemen:

Following the last scheduled NACD Board of Directors Meeting held on January 9, 2016, and upon review of the Organization's By-Laws and Standards and Procedures in effect at the time during which the 2015 NACD Annual Election was to have occurred, it is clear that no election, in fact, ever took place. Notwithstanding the fact that candidate names were submitted in nomination to fill vacancies presently existing on the Board of Directors, certain procedures were not followed in advance. Specifically, no ballots were mailed out to the voting members of this Organization, thus, no candidates were presented for consideration and none were therefore elected by the voting membership.

As a result—to wit: that no proper election has been held—there was no legal change to the Board of Directors or Officers. Accordingly, what was purported to be the new 2016 NACD Board of Directors, is not therefore, a legally-constituted Board of Directors for the NACD, and any actions purportedly undertaken by “new 2016 Board of Directors” (which includes new individuals believing themselves to be duly elected), are, and shall be, considered void *ab initio*, and thus, have no legal force or effect upon the conduct of business of this Organization. In light of this circumstance, you are hereby expressly directed to refrain from undertaking any further action(s) henceforth on behalf of the NACD.

The direct consequence of the foregoing is that the Board of Directors of the NACD remains as it was, with three (3) vacancies, those being one (1) Director and two (2) Instructor Director vacancies; and, with those individuals serving as Officers and Directors of the 2015 NACD Board of Directors remaining in their respective positions.

To remedy the situation, the NACD will proceed forthwith to hold a proper election pursuant to, and in accordance with, the By-Laws of this Organization. Those individuals whose names were previously submitted in nomination for consideration by the voting membership are asked to re-submit their names once more to the NACD Nominations Committee. Furthermore, notice will be made for the submission for nomination to the Nominations Committee of the names of any other NACD members who would seek to be elected to serve upon the Organization’s Board of Directors. Upon receipt of nominations and in accordance with the By-Laws of the NACD, the Nominations Committee shall perform a thorough vetting of each prospective candidate to determine the qualifications and eligibility of such nominees. From those found qualified and eligible, the Nominations Committee will present a slate of eligible candidates for the voting membership to consider in the casting of their ballots for the proper election of the 2016 Board of Directors of the NACD.

Your full cooperation and support in this regard are both expected and appreciated.

Sincerely,

RICK MURCAR
President/Instructor Director
National Association for Cave Diving, Inc.

(Letter Sent to Larry Green)



February 12, 2016

Via: Electronic, Certified Mail w/Return Receipt Requested; and Regular U.S. Mail w/ Certificate of Mailing

Larry Green



- Re: (1) Non-Payment of NACD Membership Dues; Effect
(2) NACD Non-Teaching Medical Status; Effect
(3) NACD Inactive Status; Effect

Dear Larry:

Pursuant to the By-Laws of the National Association for Cave Diving, Inc. (NACD) (As Amended, 13 July, 2013; and further pursuant to the National Association for Cave Diving Standard and Procedures Manual (Revised March 2014), I am writing to you today to address the above-referenced issues which have recently come to light.

1. Non-Payment of NACD Membership Dues; Effect

Upon reviewing both the financial and membership data of the NACD, it appears you did not make payment of your 2015 membership dues. NACD records indicate the last payment for annual membership dues was for the year 2014. Further, such payment was made on your behalf by Don Symes to ensure that you were not dropped from the membership rolls.

In an email, dated January 26, 2016 @ 8:36 am, subject entitled "Loose Ends"; you were asked to provide definitive proof of your membership dues payment to the Secretary/Treasurer before 30 January 2016. To date, no proof of payment has been provided for your annual membership for the years 2015 and 2016.

If you have, in fact, paid your Annual Dues (in full in the amount as determined by the Board of Directors pursuant to Article III Membership, Section 3.05, please provide definitive proof of such payment immediately upon receipt of this letter so that the NACD Membership Records may be supplemented to reflect full payment.

I cannot emphasize too strongly the necessity for you to submit either proof of past payment or to remit full payment of your dues to remain a Member of the NACD in good standing,

notwithstanding and, subject to, any other requirements set forth under the NACD By-Laws and/or NACD Standards and Procedures.

For your information, I would direct your attention specifically to NACD By-Laws, Article III, Section 3.07 relating to arrears which provides as follows:

Any Member in arrears for non-payment of dues shall cease to be a member of NACD upon expiration of the paid membership period, and shall be removed from the membership register and shall be sent written notice of such action.

The effect of non-payment of your NACD Annual Dues has resulted in the removal of your name from NACD Membership Rolls as a member in good standing. This letter shall serve as the formal written notice required under Article III, Section 3.07.

As a direct consequence of your removal from the NACD rolls and register, you may no longer serve on the NACD Board of Directors.

2. NACD Non-Teaching Medical Status; Effect

Notwithstanding the issues addressed in item 1 above, the matter of your recent serious illness must be addressed as well. As you are fully aware, the effect of your illness had relegated you from full NACD Instructor status to that of Non-Teaching Medical Status.

Upon review of the NACD Training Records, such non-teaching medical status would remain until the requirements set forth in the NACD Standards and Procedures Manual, (Revised March, 2014), have been complied with fully.

The relevant provision of the NACD Standards and Procedures relating to Medical Non-Teaching Status reads as follows:

When NACD receives information indicating that an instructor has suffered a serious illness or injury, the instructor may be assigned a Non-Teaching Medical Status pending medical approval for continued diving. The NACD instructor will be required to submit an approved medical statement documenting a successful diving medical examination to regain teaching status. The form is to be signed by a licensed physician and is to state that the instructor is fit for diving. The physician signing the form is not to be the instructor or a relative thereof. While assigned a Non-Teaching Medical Status, the member is not authorized to teach NACD courses or certify NACD divers, but will continue to receive all other benefits of membership. NACD Standards and Procedures Manual, (Revised March, 2014), NACD Training Standards, Page 11. (Emphasis added)

NACD Records do not currently reflect that you have submitted an approved medical authorization statement signed by a physician after such doctor had examined you for fitness to dive and likewise certifying that you are eligible to resume teaching.

You were previously asked (by email dated January 26, 2016 @ 8:36 am, subject "Loose Ends") to please provide a copy the required medical authorization statement before 30 January 2016. To date, no medical statement signed by a physician has been provided by you. If you have previously submitted the required medical statement, please advise to whom the document was submitted and when it was submitted.

Given that the document, the required medical authorization statement, does not appear in NACD Records, I would ask—in an abundance of caution—provide the NACD with a copy of the signed authorization. This way, the NACD Records will fully and properly reflect your health status; fitness to dive; and, eligibility to regain teaching status.

Please provide the requested documentation within **5 Business Days** from receipt of this letter. (Additional time may be granted up to **15 Business Days** if the required medical statement has to be requested from the records archive of the examining physician.)

3. NACD Inactive Status; Effect

Since your membership status has, in fact, lapsed through non-payment of NACD Annual Dues, this circumstance must first be rectified to remove you from Inactive Status, regardless of whether you have been approved to be taken off Non-Teaching Medical Status by a physician.

The requirements set forth in the NACD Standards and Procedures Manual, (Revised March, 2014), must be complied with fully. The relevant provision of the NACD Standards and Procedures relating to Inactive Status, (which likewise applies to a return from Non-Teaching Medical Status) reads as follows:

Inactive status is provided to NACD instructors whose membership has lapsed. No benefits or certification rights accrue to an instructor on inactive status until the lapsed membership is rectified via payment of fees or correction of other delinquencies. An inactive instructor may gain reinstatement by submitting a current renewal application and association dues, along with the required \$250.00 re-instatement fee. If an instructor has been inactive for over (1) one year, the training director may require inactive instructor to attend an Instructor Evaluation Course. Inactive NACD instructors are not authorized to represent themselves as NACD instructors, teach NACD courses, certify students as NACD divers or receive any of the benefits of NACD membership.

The instructor requesting reinstatement of membership may not meet the teaching status requirements due to inactivity in the years prior to the request for reinstatement. If this is the case, the instructor will initially be renewed in a Non-Teaching Status. To be returned to Teaching Status, it will be necessary for the instructor to submit a request in writing. The number of years that the instructor has been inactive will directly affect [sic] the requirements that have to be met for resumption of Teaching Status. Once the designated requirements have been met, the instructor must forward the required documentation along with a written request for return to teaching status to NACD. NACD Standards

and Procedures Manual, (Revised March, 2014), NACD Training Standards, Page 11. (Emphasis added)

Review of NACD Training Records do not reflect that you ever submitted a written request for reinstatement to Teaching Status (much less as noted in paragraph 2 above the medical authorization statement as a basis for such) nor do NACD Financial Records reflect that you have paid the required \$250.00 reinstatement fee.

If you have previously submitted your written request for reinstatement to Teaching Status, along with the required payment, please advise to whom the document and payment was submitted, and when you had done so.

Given that neither the documents (request for reinstatement and medical authorization statement) nor payment of the reinstatement fee appear to have been submitted, I would urge you—again, in an abundance of caution—to provide proof of your submissions immediately.

Thank you for your cooperation and prompt action in rectifying these circumstances which I've outlined herein and for doing so as quickly as possible so that you might once again enjoy the full, unfettered benefits of membership in the NACD.

Finally, in light of the issues addressed herein and the effects of such, you are requested to release all NACD property held within your possession, and facilitate arrangements for the handover of such property along with the keys to the NACD Warehouse, and keys to the NACD Mail box.

Yours in Service and Safety,



Rick Muscar
Instructor / Director
President
National Association for Cave Diving, Inc.

(Siltng the waters/ The Sharks are Circling the forming of NFCDA)

Just a thought

NFCDA x



NACDmoose@aol.com

Feb
18

to lwb, konst, chris.corbett, lkgreen49, mlf22002

What do you all think about creating a non-profit (NON 501c3) cave diving organization called NFCDA **N**orth **F**lorida **C**ave**D**iving **A**ssociation. We can role safety day and the seminar into that.

We have enough experience.

Michelle, could be our legal if she is receptive. We can start fresh.

There is enough people in the North Florida area to do this. When Mr. Ego walks away from the NACD with his tail between his legs after the IRS rips him and Carmen one, we can roll the new name over to the NACD and continue with the funds but under a new name.

What do you guys thing?

We have the best webmaster ever: Konst

We have the best Ops Mgr: Konst's friend

We have the best GM, Sean Denny

We have the best legal: Michelle

We have the best Business man: Lloyd

We have the best Trainer: Larry

We have the best and most honest Treasure / Sec: Chris

We have the best and most patient and thorough trouble maker: Me :-)

Lloyd W. Bailey, Jr

Feb
18

to NACDmoose, konst, chris.corbett, lkgreen49, mlf22002

Murcar should receive no credit for Safety Day or any other of our efforts. We can duplicate the NACD under a new label until Murcar drops out. A new training agency that has international recognition. The name should be the NATIONAL ASSOCIATION FOR CAVE DIVERS **not diving**, with the same acronym of NACD but filed under a different corporate name. We could base the new NACD in Gainesville and recruit from the old membership. We are the NACD operating under a different name. We should run our meetings on the same dates and host the same events. Our seminar should be on the same day as the old NACD and we can out market Murcar easily. Our BOD has much more experience than Murcar and the old membership of the old NACD will not support Murcar. I can help but my time is limited until my legal issues are resolved. Think about it.

Lloyd

(Ron Aiello's letter and email to the Board. These are references to his request to review the NACD records. Note: This was sent via email and then to the NACD PO Box 14492 Gainesville FL. The mail is forwarded to a High Springs mail Box Which Larry Green holds the key to. Don would not receive the letter. We did none the less attempt to action the request. however)

Audit request per IRS 501(c)(3)

by-laws x



NACDmoose@aol.com

Feb 11

to don.syme, me, larry.green, chris.corbett

Don, Rick, Larry, Chris,

Please see the attached letter.

Thank you,

Ron Aiello, NACD member in good standing (IN-56)

rick murcar <rick.murcar@nationalassociationforcavediving.org>

Feb
11

to Ron, Don, Larry, Chris, bcc: calzonlawoffice, bcc: Albert

Ron

Don will have to coordinate this with you or your agent:

Rick

FYI this is reference NACD By-laws Article 10 Section 10.04 Inspection of Books and Records

Section 10.04 Inspection of Books and Records

All books and records of this Corporation may be inspected by any Member, or his/her agent or attorney, for any proper purpose at any reasonable time on written demand by the Member, under oath, stating such purpose. Said inspection shall take place at the principal office location of the Corporation, at the location of its Registered Agent, or at any other agreed-to-location, at the discretion of the Board of Directors.

calzonlawoffice@aol.com

Feb
11

to me

Where is the letter. It was not attached.



nacdmoose

Feb
11

to me

Thank you

Request for Inspecton of Books

Inbox x



calzonlawoffice@aol.com

Feb
11

to don.syme, me

Dear Don:

The following are the books and records of the corporation which may be inspected:

books and records of account

minutes of proceedings

membership register giving the names, addresses and showing classes and other details of membership of each, and the original or a copy of its By-Laws including amendments to date certified by the Secretary/Treasurer of the corporation.

Please make sure that I have current copies of all of the above.

The inspection can take place at my office as the Registered Agent.

Carmen



rick murcar <rick.murcar@nationalassociationforcavediving.org>

Feb
11

to Orie, calzonlawoffice, Don

Orie

You should have the most up-to-date membership records, ensure Carmen gets a copy

February, 11, 2016

Via e-Mail to all and Certified Mail w/ Return Receipt Requested to Don Syme, Rick Murcar, and Carmen Calzon.

NACD
PO Box 14492
Gainesville, FL. 32604
ATTN: Mr. Don Syme, (NACD 2015, Vice President / Secretary / Treasurer)
E-Mail: don.syme@nationalassociationforcavediving.org

Mr. Rick Murcar, (NACD 2015 President)



E-Mail: rick.murcar@nationalassociationforcavediving.org

Carmen Calzon, Esq., Legal Counsel, NACD
1050 Spring Garden Road
Miami, FL. 33136
E-Mail: calzonlawoffice@aol.com

Mr. Chris Corbett, NACD 2015 Director at Large
E-Mail: chris.corbett@nationalassociationforcavediving.org

Mr. Larry Green, NACD 2015 Director at Large, International Training Director
E-Mail: larry.green@nationalassociationforcavediving.org

Don,

I am directing this letter mainly to you because you have all the records I am requesting. Rick Murcar has insisted that Konstantin, Lloyd, and I are NOT part of the board. Therefore, this letter is coming to you from a member (me) in good standing.

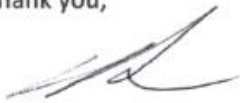
For your information, I was going to do a complete IRS 501(c)(3) audit of the administrative records outlined below following your turnover to Chris. The reason is because I have no doubt that the NACD is in violation with one or more of the requirements below. I realized the NACD was NOT in compliance when I asked for a financial statement at the January 9th Quarterly Board meeting and one was NOT available. This financial report is not only required at the quarterly BoD meeting, it is required to be available for any member upon request (<http://smallbusiness.findlaw.com/incorporation-and-legal-structures/nonprofit-financial-statements.html>).

As president, I would have launched a major review to correct all of the 501(c)(3) deficiencies, subsequent to my finding on the evening of January 9, 2016, in order to bring the NACD in full compliance. Since I am considered a non-board member, I am exercising my right to do this audit as an NACD member in good standing. **I am emailing you all a courtesy copy ahead to give you the time you will need to collect the documents and get them in the mail to me.** My time is valuable. Therefore, please organize them with tabs such that I may make good use of my time. If you fail to provide one single document that I am requesting or provide them in such a manner that they are NOT "inspectable," I will inform the IRS with a copy of this letter in addition to a spread sheet outlining all potentially suspicious IRS 501(c)(3) activities with regard to the NACD.

- A. Under the IRS code 501(c)(3), Public Disclosure Requirements, I am requesting a copy of the last 3 years (2012, 2013, 2014) tax returns. These documents are to include the following:
1. Form 1023 (for organizations recognized as exempt under § 501(c)(3)).
 2. Form 1024 (for organizations recognized as exempt under most other paragraphs of § 501(c)), or the letter submitted under the paragraphs for which no form is prescribed, **together with supporting documents and any letter or document issued by the IRS concerning the application.**
 3. The last three (3) annual returns. Please include Form 990, Return of Organization Exempt from Income Tax, Form 990-EZ, Short Form Return of Organization Exempt from Income Tax, Form 990-PF, Return of Private Foundation, and the Form 1065, U.S. Partnership Return of Income.
- NOTE: An organization exempt under § 501(c)(3) must make available for public inspection and copying any Form 990-T, Exempt Organization Business Income Tax Return, filed after August 17, 2006. Returns must be available for a **three-year** period beginning with the due date of the return (including any extension of time for filing). **For this purpose, the return includes any schedules, attachments, or supporting documents that relate to the imposition of tax on the unrelated business income of the charity.***
4. A copy of the report of contributions and expenditures listed on IRS Form 8872.
- B. Copies of all four (4) financial statements that required board approval for each year for the last three years (12 total).

I am requesting these documents to be post marked no later than 14 days following the receipt of the certified letter. I encourage your full cooperation in this matter.

Thank you,



Ron Aiello, NACD Instructor in good standing, (IN 56)
217 Shoreline Dr.
Jefferson, GA, 30549

The by-laws allow for the records to be seen at the agencies principle office, the registered agent's office or at some location specified by the board.

Section 10.04 Inspection of Books and Records

All books and records of this Corporation may be inspected by any Member, or his/her agent or attorney, for any proper purpose at any reasonable time on written demand by the Member, under oath, stating such purpose. Said inspection shall take place at the principal office location of the Corporation, at the location of its Registered Agent, or at any other agreed-to-location, at the discretion of the Board of Directors.

The email exchange that followed The records were made available.

IRS 501(c)(3) audit of the NACD administrative records

BoD/Requests x

by-laws x



NACDmoose@aol.com

Feb 13

to don.syme, me, calzonlawoffice, larry.green, chris.corbett

Dear All,

Attached you will find my official signed request to conduct an IRS 501(c)(3) audit of the NACD administrative records, as allowed by IRS 501(c)(3) regulations and NACD Bylaws, Section 10.04, Inspection of Books and Records. Certified copies of this request have been sent to the key individuals (Rick Murcar, 2015 President, NACD; Don Syme, Sec / Tres, NACD; and Carmen Calzon, Legal Counsel, NACD), who have the **direct** responsibility of insuring compliance.

Two additional directors at Large were also included who have the **indirect** responsibility of insuring compliance.

Thank you in advance for your cooperation regarding this matter.

Ron Aiello, IN-56, Member in Good Standing

to NACDmoose, don.syme, me, larry.green, chris.corbett

Mr. Aiello:

I am in receipt of your email and attached correspondence; although I would point out that the address you used in the mailed letter is an address which my office has not occupied since 2006. Thus, I will assume that I will not receive the actual letter. My correct mailing address is 1825 Ponce de Leon Blvd. #249, Coral Gables, Florida 33134. My office physical address is 6071 W. Flagler St., Miami, Florida 33144. I will also assume that the letter sent through the mail to the incorrect address, is identical to the one attached in your email and you will find my response attached hereto.

With respect to the document which you attached which you characterize as a "request to conduct an IRS 501(c)(3) audit of the NACD administrative records, as allowed by IRS 501(c)(3) regulations and NACD Bylaws, Section 10.04, Inspection of Books and Records," please be advised of the following:

1. Only the IRS can conduct an IRS 501(c)(3) audit;
2. Even if it was the IRS conducting an audit, such audit would not be an "audit of the NACD administrative records" but rather an audit of the returns and financial statements filed by the NACD.
3. NACD Bylaws, Section 10.04, Inspection of Books and Records does not provide for any "audit" but rather provides for the inspection of the books and records.
4. There are no classifications of "direct" and "indirect" or "key" individuals pertaining to responsibility of "insuring compliance."

For the rest of the information please see attached letter.

Carmen Calzon, Esq.

LAW OFFICES OF MARIA DEL CARMEN CALZON, P.A.
1825 Ponce de Leon Boulevard #249
Coral Gables, Florida 33134
(305) 545-9004
(305) 978-1348
calzonlawoffice@aol.com

February 15, 2016

Mr. Ron Aiello
217 Shoreline Dr.
Jefferson, GA, 30549

Dear Mr. Aiello

I am in receipt of your letter dated February 11, 2016 received as an attachment to your email of the same date. I will address your statements separately for the sake of clarity.

I.

“For your information, I was going to do a complete IRS 501(c)(3) audit of the administrative records outlined below following your turnover to Chris.”

Response: IRC 501(c)(3) audits are only conducted by the IRS. Private individuals have no standing or authority to conduct any audits.

II.

“The reason is because I have no doubt that the NACD is in violation with one or more of the requirements below. I realized the NACD was NOT in compliance when I asked for a financial statement at the January 9th Quarterly Board meeting and one was NOT available. This financial report is not only required at the quarterly Board meeting, it is to be available for any member upon request.”

Response: I am unaware of any violations or failure to comply with any part of the Internal Revenue Code. If you have any evidence of such violation or failure to comply, I would request that you immediately outline what those purported violation(s) is/are, and on what evidence you base your “doubt” so that appropriate action may be taken. In the alternative, you are free to report any such violations to the IRS. I can assure you that to the best of my knowledge, the NACD is in compliance with all Internal Revenue Code provisions.

There is no requirement that the financial statements to which you are referring must be available at the Board meeting. Internal Revenue Code, section 501(c)(3) provides that the financial statements of the corporation be made available to the public “by filing with the IRS” which makes them available to the public. If you wish, you can readily verify that fact by reviewing the very link you provided in your letter.

The Code does provide for inspection and copying of some specific documents. However, that inspection and copying is available after reasonable notice. I do not believe that you requested the documents to be available at the Board meeting. Thus, there was no requirement that they be available at the Board meeting.

Although, some organizations provide those documents to their Boards and Members regularly, it is up to the respective organization. That is a policy decision. Any failure to do that does not indicate the existence of any violation and/or non-compliance. The NACD may want to consider changing that practice and have the documents available during Board or member meetings. However, as previously stated there is no such requirement under the law.

III.

“As president, I would have launched a major review to correct all of the 501(c)(3) deficiencies, subsequent to my finding on the evening of January 9, 2016, in order to bring the NACD in full compliance.”

Response: You make vague and general allegations that the NACD is not in compliance or has “deficiencies.” Again, if you have any information of any circumstance of non-compliance or deficiencies, please advise and describe them in detail so that corrective action may be taken. As previously stated, I am unaware of any such non-compliance or violation. I am also not aware of any “finding” which you made on January 9, 2016. If you are referring to the absence of the documents at that meeting, please see my response in Section II above.

IV.

“Since I am considered a non-board member, I am exercising my right to do this audit as an NACD member in good standing.”

Response: I am unaware of any “right” afforded NACD members by either Florida Statutes, NACD By-Laws, NACD Articles of Incorporation, the Internal Revenue Code, or any authority to conduct any “audit.” Please also see my comments in Section I above.

V.

“My time is valuable. Therefore, please organize them with tabs such that I may make good use of my time.”

Response: There is no requirement that any documents requested for inspection, or inspection and copying be organized in any manner other than the way the organization keeps such

documents in the regular course of business. Further, there is no requirement that the documents be tabbed.

VI.

“If you fail to provide one single document that I am requesting or provide them in such aa manner that they are NOT “inspectable,” I will inform the IRS with a copy of this letter in addition to a spreadsheet outlining all potentially suspicious IRS 501(c)(3) activities with regard to the NACD.”

Response: I would appreciate you forwarding to me the spreadsheet to which you make reference, and/or to specifically provide a listing of all of “the suspicious IRS 501(c)(3) activities.” Specifically, you do not make clear whether such “suspicious activities” are violations of Florida statutes, the Internal Revenue Code or the NACD By-Laws, NACD Articles of Incorporation, or NACD Standards and Procedures.

I must caution you that your unqualified statements may be deemed as, and considered to be, defamatory and or libelous by virtue of the vague and tenuous references to what you consider, in your words, improper and/or suspicious. The fact that these statements are being published by you without regard to the veracity therein, underscores their defamatory nature when you have not even inspected the records of the organization in the first place. Your threat to “inform the IRS with a copy of your letter is tantamount to unwarranted and unjustified coercion when you impliedly threaten investigation and/or criminal prosecution for potentially “suspicious activities.”

As I previously stated, you are free to report any such activities to the IRS for investigation.

VII.

“Under the IRS code 501(c)(3), Public Disclosure Requirements, I am requesting a copy of the last 3 years (2012, 2013, 2014) tax returns.”

Response: The Internal Revenue Code provides for inspection and copying. The three years returns which you request are available for inspection and copying pursuant to the Code and the NACD By-Laws. Please provide dates when you are available to inspect and/or copy the tax returns. The documents are available for inspection and copying at:

NACD – Office of the Registered Agent
6071 West Flagler St.
Miami, Florida 33144

The costs of said copies are \$0.25 per page which will be payable at the time of the inspection and copying.

VIII.

You request Form 1023. Form 1023 is the original request for exemption and is available from the Internal Revenue Service.

IX.

You request "Form 1024 (for organizations recognized as exempt under most other paragraphs of §501(c), or the letter submitted under the paragraph for which no form is prescribed, together with supporting documents and any letter to document issued by the IRS concerning the application."

Response: Form 1024 is not applicable to the NACD since it applies to Exemptions under 501(a). However, the letter issued by the IRS concerning the application on form 1023 is available for inspection and copying.

X.

You request the "last three (3) annual returns" including "Form 990," "Form 990-EZ," "Form 990-PF," and "Form 1065."

Response: Form 1065 is not applicable to the NACD because it is a form for the tax return of partnerships. The NACD is not a partnership.

Form 990-PF is not applicable to the NACD because it is used for private foundations. The NACD is not a private foundation.

The only forms applicable to the NACD are the 990 or 990-EZ. Because of the level of income that the NACD has had, it has filed the 990-EZ form for each year. Each of those are available for inspection and copying as set forth above in Section VII.

XI.

You make reference to Form 990-T. That form is not applicable to the NACD. That form is used for organizations exempt under Section 501(a). NACD is not exempt under Section 501(a).

XII.

You request a "copy of the report of contributions and expenditures listed on IRS Form 8872." Form 8872 is used for political organizations to report contributions and expenditures. The NACD does not fall within this category.

XII.

You request "copies of all four (4) financial statements that required board approval for each year for the last three years (12 total)."

Response: I am not aware of any "financial statements" that are required for board approval. In any event, all financial records of the NACD are available for inspection pursuant to the requirements of NACD By-Laws.

Please review Section 10.04 of the NACD By-Laws (as amended July 13, 2013).
“Inspection of Books and Records” which specifically provides:

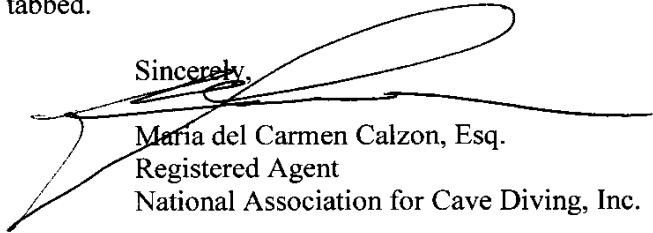
All books and records of this Corporation may be inspected by any Member, or his/her agent or attorney, for any proper purpose at any reasonable time on written demand by the Member, under oath, stating such purpose. Said inspection shall take place at the principal office location of the Corporation at the location of its Register Agent, or any other agreed-to-location, at the discretion of the Board of Directors.

Accordingly, I would also note that (1) your request does not comply with the NACD By-Laws, Section 10.04, Inspection of Books and Records, which require the written demand to be under oath and stating a proper purpose; and, (2) that there is no provision for copying of the NACD records other than those provided for under the Internal Revenue Code as discussed in Section VII above.

In conclusion, as discussed above, the documents which you are seeking and have been properly requested pursuant to the Internal Revenue Code are available for inspection and copying at the address of the Registered Agent, and any copies, if such are requested, will be provided upon payment of the per-page cost.

Accordingly, there is no pending request for inspection pursuant to the NACD By-Laws which meets the requirements therein. If such request is properly made in compliance with the requirements of Section 10.04 of the NACD By-Laws, be advised that this Section only provides for inspection and not copying, and there is no provision or requirement that any documents be mailed, organized in a certain fashion, or tabbed.

Sincerely,



Maria del Carmen Calzon, Esq.
Registered Agent
National Association for Cave Diving, Inc.

NACDmoose@aol.com

Feb 16

to calzonlawoffice, don.syme, me, larry.green, chris.corbett

Carmen,

My reply to your email is attached.

Thank you,

Ron

In a message dated 2/16/2016 12:52:49 P.M. Eastern Standard Time, calzonlawoffice@aol.com writes:
1825 Ponce de Leon Blvd. #249, Coral Gables, Florida 33134

Carmen,

To answer your question: Yes the Email is the same as the certified letter. Why is your website not correct?

Secondly, I am NOT doing the IRS audit. I am auditing the NACD IRS 501c3 documents as allowed by the Bylaws.

You stated:

“For your information, I was going to do a complete IRS 501(c)(3) audit of the administrative records outlined below following your turnover to Chris.”

Response: IRC 501(c)(3) audits are only conducted by the IRS. Private individuals have no standing or authority to conduct any audits.

Response: I am unaware of any “right” afforded NACD members by either Florida Statutes, NACD By-Laws, NACD Articles of Incorporation, the Internal Revenue Code, or any authority to conduct any “audit.” Please also see my comments in Section I above.

You are incorrect.

My Authority is stated below in Bylaws section 10.03 and 10.04.

Section 9.02 Committee and Branch Policy

NACD Standing Committees and NACD Branches will establish administrative policies as appropriate or necessary to the concern of the Committee or Branch, with approval of the Board of Directors. Such policy will be the responsibility of the Branch Chair or the Committee Chair, and shall not supersede any policies established by the Board of Directors.

Section 9.03 Implementation of Policy

No administrative policy shall be implemented without prior consent of the Board of Directors.

Section 9.04 Documentation of Policy

The Vice President shall develop and maintain a complete written list of all Administrative Policies of the NACD, its Branches and Standing Committees. Such list will be distributed to all Directors, Officers, Branch Chairs, and Committee Chairs. If an assigned Committee Coordinator exists, then he/she shall assist the Vice President in carrying out the development and distribution of such written policy list.

Section 9.05 Record Keeping

The General Manager, in his capacity as NACD Librarian, shall maintain at least three copies of the Articles of Incorporation, of these By-Laws, and of NACD Administrative Policy at all times. These documents shall be made available to Members upon request. All new Directors of the Corporation shall be provided with copies of these documents at or before the meeting at which they are installed as Directors.

Article X. OPERATIONS

Section 10.01 Fiscal Year

The fiscal year of the National Association for Cave Diving will be the calendar year.

Section 10.02 Execution of Documents

Except as otherwise provided by law, checks, drafts, promissory notes, orders for payment of money, and other evidence of indebtedness of this Corporation will be signed by the Secretary/Treasurer or by the President. Contracts, leases, or other instruments executed in the name of and on behalf of the Corporation will be signed by the Secretary/Treasurer and countersigned by the President, and will have attached copies of resolutions of the Board of Directors certified by the Secretary authorizing their execution.

Section 10.03 Books and Records

This Corporation will keep complete and correct books and records of account, and will also keep minutes of the proceedings of its Members, Board of Directors, and Directorial Committees. The Corporation will keep a membership register giving the names, addresses, and showing classes and other details of membership of each, and the original or a copy of its By-Laws including amendments to date certified by the Secretary/Treasurer of the Corporation.

Section 10.04 Inspection of Books and Records

All books and records of this Corporation may be inspected by any Member, or his/her agent or attorney, for any proper purpose at any reasonable time on written demand by the Member, under oath, stating such purpose. Said inspection shall take place at the principal office location

As far as the documents, you can either send them to me or post them on the WEB as stated below:

My authority is here:

<http://www.nonprofitexpert.com/public-disclosure-requirements-2/>

I am not required to pay for the documents that I want to audit/review.

You stated:

Response: I am unaware of any violations or failure to comply with any part of the Internal Revenue Code. If you have any evidence of such violation or failure to comply, I would request that you immediately outline what those purported violation(s) is/are, and on what evidence you base your "doubt" so that appropriate action may be taken. In the alternative, you are free to report any such violations to the IRS. I can assure you that to the best of my knowledge, the NACD is in compliance with all Internal Revenue Code provisions.

Once again, you are incorrect.

Therefore, I am requesting the financial statements as required by the following:

<http://smallbusiness.findlaw.com/incorporation-and-legal-structures/nonprofit-financial-statements.html>

See excerpt below:



FEATURED LEGAL SERVICES

Nonprofit Financial Statements



179



23.7K



Download article as a PDF

Question:

Do 501(c)(3) non-profit corporations have to make their financial statements available to the public?

Answer:

Yes. Non-profit corporations must submit their financial statements, which include the salaries of directors, officers and key employees to the IRS on Form 990. Both the IRS and the non-profit corporation are required to disclose the information they provide on Form 990 to the public. This means that non-profits must make their records available for public inspection during regular business hours at their principal office.

In addition, a number of websites make these financial statements available including [GuideStar](#) and the [Foundation Center](#). Finally, you can request a Form 990 from a specific non-profit corporation by writing to the IRS, including the name of the organization and the tax year you wish to review:

Commissioner of Internal Revenue
Attn: Freedom of Information Reading Room
1111 Constitution Avenue, NW
Washington, DC 20224



179



23.7K



7



509

Start Download

Convert Any File to a PDF.
Get The Free
FromDoctoPdf Toolbar!



Also note the following:

<http://www.nolo.com/legal-encyclopedia/question-are-nonprofits-finances-public-information-28028.html>

Legal Topics > Nonprofits > Nonprofit Management >

Are a nonprofit's finances public information?



G+1

f Like

Share

202

Question:

I work for a 501(c)(3) nonprofit corporation. Are its financial statements available for public viewing -- especially regarding management salaries?

Answer:

Indeed, nonprofits are required to submit their financial statements and other information -- including the salaries of directors, officers, and key employees -- to the IRS. (For information on who is considered a key employee, see [IRS Form 990](#) and its instructions.)

The IRS and nonprofits themselves are required to disclose the information on Form 990 to anyone who asks. Nonprofits must allow public inspection of these records during regular business hours at their principal offices. However, many people won't even need to ask -- a number of websites make Forms 990 available for the searching, including the Foundation Center at <http://fdncenter.org> and GuideStar at www.guidestar.org.

In addition, people can request information from the IRS by writing a letter, including the name of the organization, the year, and the type of tax return requested, and send it to:

Commissioner of Internal Revenue
Attn: Freedom of Information Reading Room
1111 Constitution Avenue, NW
Washington, DC 20224

Learn more about IRS regulations with Nolo's book, [Every Nonprofit's Tax Guide](#).

Here is another one for your reference:

<http://www.ksmcpa.com/tips-for-communicating-financial-information-to-the-board>

Crucial Items

At a minimum, the board needs to receive the following financial information. They should receive this information in an accurate and timely manner on a monthly or quarterly basis:

- Statement of financial position (balance sheet),
- Statement of activities (income statement),
- Cash flow forecast,
- Actual results compared to budget, and
- Operational figures (for example, cost per unit of service).

The Internal Revenue Service's Form 990 should be presented to the board annually. And the board should remain up-to-date on the nonprofit's current goals and programs. Benchmarks make the data more meaningful.

This information will help board members evaluate decisions and direction of the organization effectively. When engaged in planning, board members also need trend analyses, information about the external environment and its impact on the organization, financial projections and multiple budget scenarios. Capital projects or new programs under consideration may require specialized budgets of their own.

Please note the following web site:

<https://www.irs.gov/pub/irs-pdf/p4221pc.pdf>

Here are a few excerpts:

Why Keep Records?

In general, a public charity must maintain books and records to show that it complies with tax rules. The charity must be able to document the sources of receipts and expenditures reported on Form 990, *Return of Organization Exempt From Income Tax* or Form 990-EZ, *Short Form Return of Organization Exempt From Income Tax*, and Form 990-T, *Exempt Organization Business Income Tax Return*. (See **Prepare Annual Information and Tax Returns** on page 17.)

If an organization does not keep required records, it may not be able to show that it qualifies for tax-exempt status or should be classified as a public charity. Thus, the organization may lose its tax-exempt status or be classified as a private foundation rather than a public charity. In addition, a public charity may be unable to complete its returns accurately and, hence, may be subject to penalties described under **Filing Penalties and Revocation of Tax-Exempt Status** on page 13. When good recordkeeping systems are in place, a public charity can evaluate the success of its programs, monitor its budget, and prepare its financial statements and returns.

Evaluate Charitable Programs

A charity can use records to evaluate the success of its charitable program and determine whether the organization is achieving desired results. Good records can also help a charity identify problem areas and determine what changes it may need to make to improve performance.

Monitor Budgetary Results

Without proper financial records, it is difficult for a charity to assess whether it has been successful in adhering to budgetary guidelines. The ability to monitor income and expenses and ensure that the organization is operating within its budget is crucial to successful stewardship of a public charity.

Prepare Financial Statements

It is important to maintain sufficient financial information in order to prepare accurate and timely annual financial statements. A charity may need these statements when it is working with banks, creditors, contributors, and funding organizations. Some states require charities to make audited financial statements publicly available.

Prepare Annual Information and Tax Returns

Records must support income, expenses, and credits reported on Form 990 series and other tax returns. Generally, these are the same records used to monitor programs and prepare financial statements. Books and records of public charities must be available for inspection by the IRS. If the IRS examines a public charity's returns, the organization must have records to explain items reported. Having a complete set of records will speed up the examination.

1
■

Identify Sources of Receipts

Public charities may receive money or property from many sources. With thorough recordkeeping, a charity can identify the sources of receipts. Organizations need this information to separate program from non-program receipts, taxable from non-taxable income, and to complete Schedule A, as well as other schedules of the Form 990 the organization may be required to complete, noted in **What Federal Information Returns, Tax Returns, and Notices Must be Filed?** on page 8. An organization should maintain a list of its donors and grantors and the amount of cash contributions or grants (or a description of the noncash contributions) received from each.

Substantiate Revenues, Expenses and Deductions for Unrelated Business Income Tax (UBIT) Purposes

An organization needs to keep records of revenues derived from, and expenses attributable to, an unrelated trade or business so that it can properly prepare Form 990-T and calculate its unrelated business taxable income.

You stated:

I must caution you that your unqualified statements may be deemed as, and considered to be, defamatory and or libelous by virtue of the vague and tenuous references to what you consider, in your words, improper and/or suspicious. The fact that these statements are being published by you without regard to the veracity therein, underscores their defamatory nature when you have not even inspected the records of the organization in the first place. Your threat to “inform the IRS with a copy of your letter is tantamount to unwarranted and unjustified coercion when you impliedly threaten investigation and/or criminal prosecution for potentially “suspicious activities.”

Wrong again: No criminal prosecution was threatened. However, I WILL consider what you said as a threat! Furthermore, if you fail to honor my request very soon, it is not only my right but my duty to report you, as NACD counsel, and the NACD to the IRS.

Therefore, please allow me to reiterate my request. The lack of the financial statement at the Jan 9 BoD meeting is what brought up the questions in my mind. I am certain that since the financial statement was not available that there may be other 501c3 documents either not available, incomplete, or illegible. The financial statement is REQUIRED to be accepted by the board (See websites above).

The spread sheet that I am referring to will include suspicious activity (i.e. either NOT sent, illegible, or incomplete). I won't know until I (and my corporate CPA) see the records. If no documents are sent then all of the requested items will be on the list and considered “suspicious.”

As the NACD attorney, it is your prerogative whether or not you wish to comply with my request. I assure you I will **NOT** tolerate your threats either, as mentioned above. It is your right to challenge my request. However, if you fail to comply with my request, I will be forced to notify the IRS of your decision. Furthermore, I will inform the NACD members of your willingness to violate the Bylaws.

If I am forced to notify the IRS, the spread sheet listing all of the documents I requested, along with any other supporting documentation will be submitted.

I encourage your compliance.

For the record, please verify the following names, addresses, and phone numbers for the officers in question:

For delivery and communication, I am requesting private addresses.

Direct participants:

Carmen Calzon:
1825 Ponce de Leon Blvd. #249
Coral Gables, Florida 33134
305.978.1348

Rick Murcar:

--

352.458.4573

Don Syme:

I request personal address

NACD

PO Box 14492

Gainesville, FL. 32604

904.509.8071

Larry Green:

I request personal address

NACD

PO Box 14492

Gainesville, FL. 32604

352.359.2428

Chris Corbett:

I request personal address

NACD

PO Box 14492

Gainesville, FL. 32604

352.5147762

Thank you for your time,

Ron Aiello

calzonlawoffice@aol.com

Feb 16

to NACDmoose, don.syme, me, larry.green, chris.corbett

Please kindly see my response.

-----Original Message-----

From: NACDmoose <NACDmoose@aol.com>

To: calzonlawoffice <calzonlawoffice@aol.com>; don.syme
<don.syme@nationalassociationforcavediving.org>; rick.murcar
<rick.murcar@nationalassociationforcavediving.org>

Cc: larry.green <larry.green@nationalassociationforcavediving.org>; chris.corbett
<chris.corbett@nationalassociationforcavediving.org>

LAW OFFICES OF MARIA DEL CARMEN CALZON, P.A.
1825 Ponce de Leon Boulevard #249
Coral Gables, Florida 33134
(305) 545-9004
(305) 978-1348
calzonlawoffice@aol.com

February 16, 2016

Mr. Ron Aiello
217 Shoreline Dr.
Jefferson, GA, 30549

Dear Mr. Aiello

I am in receipt of your letter dated February 16, 2016 received as an attachment to your email of the same date. I will address your statements separately for the sake of clarity.

However, I must first request information regarding the address you used for me. You indicate something about my website. I do NOT have, nor have I ever had, a website. I am not the type of attorney who advertises his/her services. My address is readily available from The Florida Bar, as well as from the clerks of the United States District Court, the United States Court of Appeals, and the United States Supreme Court, some of the courts before which I practice.

I.

You state that you "are auditing the NACD 501c3 documents as allowed by the By-Laws" and that you find that "audit" authority in By-Laws Section 10.03 and Section 10.04.

Response: I find no language in either Section 10.03 or Section 10.04 which authorizes any member to conduct an "audit." Nor do I even find the word "audit." Can you please point out to me where you are finding those words. Nor do I find "501c3" either in those sections of the NACD By-Laws.

Section 10.03 provides that the Corporation shall keep books and records. It does not authorize any audit. Section 10.04 provides for inspection of the books and records upon a properly submitted request, under oath. It does not provide for copying, mailing, or tabbing. It certainly does not authorize any audit.

II.

You request that the documents you seek be mailed to you or be posted on the WEB. You also refuse to pay for the cost of providing the IRS documents.

Response: There is no requirement, in the NACD By-Laws which require the mailing or posting of any of the documents to whom you refer. The NACD By-Laws provide for inspection of the NACD books and records, and the Internal Revenue Code provides for inspection and copying of the returns and financial statements for which you must pay.

You provide as your first "authority" a website which is neither government run nor authorized and is simply someone's opinion. Its opinions are strictly relating to IRS documents and not NACD books and records.

Nevertheless, if you read it carefully, you will note that it does not state any requirement that the documents be provided for free. Additionally, if you read it, carefully, you will find the following quote:

Nonprofits must allow public inspection of these records
during regular business hours at their principal offices . . .

As previously stated, the NACD books and records are available for inspection. Please provide the dates and times you request to inspect said documents at the office of the Registered Agent.

PLEASE NOTE THAT THIS IS YOUR NOTICE THAT WE ARE COMPLYING WITH YOUR REQUEST BY HAVING THE DOCUMENTS AVAILABLE FOR INSPECTION AT THE OFFICES OF THE REGISTERED AGENT. COPIES, OF ANY DOCUMENTS AUTHORIZED TO BE COPIED, WILL BE PROVIDED UPON PAYMENT OF \$0.25 PER PAGE AS PERMITTED IN THE INTERNAL REVENUE CODE.

You provide as your second "authority" an advertisement from a company which sells books and newsletters. That is neither a legal nor other recognized "authority" and simply "recommends" financial practices of providing certain documents to Board of Directors.

Neither website authorizes what you assert. By the way, any and all Board of Director members have always had access to the documents discussed in the second website. None of those documents have ever been requested of me and I usually bring them with me, and I have never previously heard any Board member request them of the Secretary/Treasurer.

You cite as your third authority the IRS website. Now, that is an authority. However, it does not support your request. By the way, all the documents and records discussed there are available and have been complied with.

III.

Finally, you take umbrage to my cautioning you regarding libelous or slanderous statements. It is all well and good to review the records, or conduct any inspection you wish, and it is another to assert improprieties without any legal or factual basis. My caution was not a threat. It was an attempt to point out to you that you are imputing a lot of improper conduct on people who volunteer

their time for the common good, and that you appear to be basing those accusations on hearsay and gossip because you have not even inspected said records.

Mr. Aiello, please accept this with the intent it has. I am not being disrespectful to you. I consider you and other members of the NACD with great respect. That is why I volunteer my time and money to the NACD. The NACD By-Laws are the laws that govern the organization. They must be followed strictly and without interpretations. If there is something in the By-Laws which you disagree with, then take the proper action to amend them. That is the proper way. And, I will help and support you in that endeavor. However, until those changes are made, the By-Laws stand as they are, and I must follow them as they are presently written.

Finally, again with no ill intent, I would encourage you to report any illegalities of which you have evidence to the IRS. They are the appropriate entity to conduct an audit and to investigate any suspicious activity. If you wish to share with me what those are, I will be pleased to address each and every one, as I will do when the IRS conducts its audit. I am a sworn officer of the court and a member of The Florida Bar and admitted to practice before the United States Supreme Court. I, too, have a duty to ensure the legality of any organization with which I am associated.

Sincerely,

(emailed copy sent unsigned for expedited service)

Maria del Carmen Calzon, Esq.
Registered Agent
National Association for Cave Diving, Inc.

Re: NACD Records review

Inbox x



NACDmoose@aol.com

Feb
17

to calzonlawoffice, me, don.syme, chris.corbett, larry.green

Ms. Calzon,

I was offering you a chance to work with me. Since you insist everything must be on your terms, I will just discuss this matter and all my concerns with the Internal Revenue Service. If they are interested in pursuing this matter any further, they will be in contact with you and the NACD board.

Thank you,

Ron

In a message dated 2/17/2016 12:22:33 P.M. Eastern Standard Time, calzonlawoffice@aol.com writes:
Dear Mr. Aiello:

As previously stated the inspection of the records will take place at the office of the Registered Agent in Miami. I would refer you to Section 10.04 of the NACD By-Laws. There are no offices for the NACD located in Gainesville, only a mailing address as also provided in the By-Laws, Section 2.01. Also as previously stated, all the records that are available for inspection and copying pursuant to the Internal Revenue Code are available for your inspection and copying, upon payment of the copying costs. Books and records of the NACD may be available, only for inspection pursuant to the By-Laws, and only after a written request, under oath, for proper purposes, is submitted. Such has not yet been submitted.

The NACD will strictly comply with all legal requirements. I would encourage to review those carefully because only those items required to be provided will be provided. That is, the NACD is not compelled or required to "prepare" documents which are not in existence or required to be prepared by law. As an example, you ask for W-2 forms. If there is no requirement that W-2 forms be prepared for anyone, NACD does not have to prepare them just because you are asking for them.

I hope this clarifies the issues you raise.

I am available to meet with you in the next two weeks for your review of the requested documents.

M.C. Calzon,, Esq.

(Please note the highlighted comment at point 2. Re Rob Neto.)

-----Original Message-----

From: NACDmoose <NACDmoose@aol.com>

To: calzonlawoffice <calzonlawoffice@aol.com>

Sent: Wed, Feb 17, 2016 12:08 pm

Subject: NACD Records review

Ms. Calzon,

I accept your terms. The NACD Corporation is in Gainesville. Therefore, we would like to do the books and records review there. I have not selected a time or a place yet. As soon as I confer with the review committee that I am assembling, I will notify you of the place and time. I am willing to work with you on the date and time. Below is a partial list of things I will need. Note, this list is NOT complete yet. Additional requests will be made. However, it serves as a start so you may have time to begin assembling the records. For starters, I would like to review the following:

1. All the applicable IRS forms that are required to be submitted to the IRS for the last three years.
2. All financial documents that reflect ALL transaction for the last three years (this includes Rob Neto's financial records for payments made to him as training director).
3. All quarterly balance sheets showing all money going in as well as going out.
4. All banking records to date for the last 3 years.
5. A record of ALL contributions for the last 3 years.
6. A list of all wages paid for the last 3 years.
7. The records (minutes) showing where all donations were approved by the board for the last 3 years.
8. The records justifying all monitory transactions leaving the checking account for the last 3 years.
9. A record for ALL donations **AND** expenses to the NACD for the last 3 years (i.e. mail in, DEMA, Seminars, basically everything that would authorize an individual to write them off on THEIR taxes using 501c3 as a reference).
10. All applicable IRS W2 /W9s for all salaries paid by the NACD.

11. All expenses and reimbursements paid for by the NACD (i.e. to DEMA, Seminar accommodations for speakers, any compensations etc. for the last three years).

Thank you,

Ron



calzonlawoffice@aol.com

Feb
17

to NACDmoose, me, don.syme, chris.corbett, larry.green

Thank you, Mr. Aiello. I await contact from them.

This message has been sent from Blackberry 10!

From: NACDmoose@aol.com

Sent: Wednesday, February 17, 2016 12:32 PM

To: calzonlawoffice@aol.com

Cc: rick.murcar@nationalassociationforcavediving.org; don.syme@nationalassociationforcavediving.org; chris.corbett@nationalassociationforcavediving.org; larry.green@nationalassociationforcavediving.org

Subject: Re: NACD Records review

