



May 4, 2012

Mr. Michael Nagle, General Chairman
Maintenance of Way Empls, IBT
Duluth, Missabe & Iron Range System Division
[REDACTED]

Case Number: [REDACTED]
LM Number: 002668

Dear Mr. Nagle:

This office has recently completed an audit of Brotherhood of Maintenance of Way Employees (BMWE) Duluth, Missabe & Iron Range System Division 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 on April 30, 2012, 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 the Duluth Missabe and Iron Range System Division's (DMIRSD) 2011 records revealed the following recordkeeping violations:

1. Meal Expenses

You failed to submit itemized receipts for meal expenses totaling at least \$1,594 that were charged to the union credit card assigned to you. In most instances, the records retained in support of meal expenses were the credit card signature receipts, and you identified on the back of the receipts the union business conducted or purpose of the expense and the names of those present for each meal. The union must maintain itemized receipts provided by restaurants to officers. In the case of DMIRSD, many of the expenses incurred were at restaurants that provide customers with itemized receipts. These itemized receipts are necessary to determine if such disbursements are for union business purposes and to sufficiently fulfill the recordkeeping requirement of LMRDA Section 206.

2. Lack of Salary Authorization

DMIRSD did not maintain records to verify that your salary reported in Item 24 (All Officer and Disbursements to Officers) of the LM-3 was the authorized amount and therefore was correctly reported. During the audit, you stated that the general chairman's salary was authorized before you took office about eight years ago. You stated that after you took office, the union decreased the monthly salary from \$679 to \$400 and that the reduction of salary was discussed and approved at a joint protective board meeting. However, you were unable to locate meeting minutes that show the authorization of your monthly salary. The union must keep a record, such as meeting minutes, to show the current salary authorized by the entity or individual in the union with the authority to establish salaries.

3. Bank Statements

The BMW National Division (ND) has a centralized accounting system and maintains records of most DMIRSD's receipts and disbursements and maintains a balance of the funds available to the DMIRSD for its use. All receipts of the DMIRSD are deposited to the ND's bank account(s), and most of the DMIRSD's expenses are paid for by checks issued by the ND. In addition, DMIRSD also has its own local checking account at Proctor Federal Credit Union with a small balance funded by monies it receives from the ND that it keeps on hand for use in paying for local per capita taxes. However, you could not locate bank statements for the months of May 2010 to February 2011 for that account. During the audit, you obtained copies of the bank statements from the bank. As noted above, labor organizations must maintain all records used or received in the course of union business for a period of at least five years.

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

I want to extend my personal appreciation to DMIRSD for the cooperation and courtesy extended during this compliance audit. I strongly recommend that you make sure this letter and the compliance assistance materials provided to you are passed on to future officers.

If we can provide any additional assistance, please do not hesitate to call.

Sincerely,



Investigator

cc: Mr. James Sonneson, 2nd Vice Chairman and Secretary-Treasurer