



November 14, 2016

Mr. Jon Boelke, President
Locomotive Engineers Division 173
825A Florida Avenue
Oshkosh, WI 54902

Case Number: 320-6007388(77)
LM Number: 541394

Dear Mr. Boelke:

This office has recently completed an audit of Locomotive Engineers Division 173 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, Secretary Treasurer Timothy Foster and Local Chairman Eric Hau on November 14, 2016, 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 Division 173's 2015 records revealed the following recordkeeping violations:

1. Receipt and Disbursement Dates not Accurately Recorded

Entries in Division 173's bookkeeping software program Quicken reflect the date the union deposited money, but not the date money was received. During the audit year,

Division 173 handled cash dues and other receipts totaling more than \$3,000. Mr. Foster confirmed that he records all receipts in Quicken using the deposit date regardless of when the union actually receives the money.

The audit also revealed that three checks that were dated January 1, 2016, totaling more than \$1,200, were negotiated for payment at the bank on December 31, 2015, including check [REDACTED] to Mr. Foster (\$372.25), and checks [REDACTED] (\$849.58) and [REDACTED] (\$45) to Mr. Hau. The checks appear in the union's Quicken check register for January 2016. During the exit interview, Mr. Foster stated that he attempts to get the payroll checks to the officers as close to the first of the month as possible and as such, occasionally distributes them to the officers a day or two earlier than the date on the checks.

Union receipts records must show the date of receipt and union disbursement records must identify the date of disbursement. The receipt and disbursements dates are required to verify, explain, or clarify amounts required to be reported in Statement B (Receipts and Disbursements) of the LM-3. The LM-3 instructions for Statement B state that the labor organization must record receipts when it actually receives money and disbursements when it actually pays out money. Failure to record the date money was received or disbursed could result in the union reporting some receipts or disbursement for a different year than when it actually received or disbursed them.

2. Lack of Supporting Documentation for Expenses

Division 173 did not retain adequate documentation for union expenses totaling at least \$1,000. For example, documentation retained for check [REDACTED] to Kwik Trip in the amount of \$28.02 was not sufficient as it did not identify the union business purpose for the expense. Another example includes check [REDACTED] in the amount of \$103.34 to Haentze Florists for which no supporting documentation was retained.

As noted above, labor organizations must retain original receipts, bills, and vouchers for all disbursements. The president and treasurer (or corresponding principal officers) of your union, who are required to sign your union's LM report, are responsible for properly maintaining union records.

3. Lack of Salary Authorization

The audit revealed that Division 173 typically authorizes compensation arrangements for its officers at membership meetings and memorializes those compensation levels in a union document titled *BLET Division 173 Rules and Pay Schedule*. This document includes compensation arrangements for the president, secretary treasurer, local chairman, and the first and second vice local chairmen. The meeting minutes retained by Local 173 provide the required authorization for the compensation that was paid to the vice local chairmen and the secretary treasurer during the audit year. However, meeting minutes containing the authorization for the compensation paid to the president and local chairman was not maintained by Division 173. Mr. Foster advised Division 173 no

longer has those meeting minutes due to the union's computer crashing several years ago. During the audit year, Division 173 disbursed salary payments totaling more than \$3,000 to former President [REDACTED] and more than \$10,000 in salary payments to Mr. Hau. Division 173 no longer has the meeting minutes authorizing these salaries and as such, sufficient records were not maintained by the union to verify that the president's and local chairman's salaries reported in Item 24 (All Officer and Disbursements to Officers) of the LM-3 were the authorized amounts and were therefore was correctly reported.

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.

4. Lost Wages

Division 173 did not retain adequate documentation for lost wage reimbursement payments to Mr. Hau totaling more than \$3,000 in 2015. The union must maintain records in support of lost wage claims that identify each date lost wages were incurred, the number of hours lost on each date, the applicable rate of pay, and a description of the union business conducted. The audit found that the records maintained by Division 173 for the lost wage payments to Mr. Hau were insufficient in that the date the lost wages were incurred was not identified on more than half of the lost wage claims submitted by Mr. Hau.

During the exit interview, I provided a compliance tip sheet, *Union Lost Time Payments*, which contains a sample of an expense voucher Division 173 may use to satisfy this requirement. The sample identifies the type of information and documentation that the local must maintain for lost wages and other officer expenses.

Based on your assurance that Division 173 will retain adequate documentation in the future, OLMS will take no further enforcement action at this time regarding the above violations.

Reporting Violation

The audit disclosed a violation of LMRDA Section 201(b), which requires labor organizations to file annual financial reports accurately disclosing their financial condition and operations. The Labor Organization Annual Report Form LM-3 filed by Division 173 for the fiscal year ended December 31, 2015 was deficient in that:

Disbursements to Officers

Division 173 did not include salary payments totaling more than \$1,200 to Mr. Foster and Mr. Hau in the amounts reported Item 24 (All Officers and Disbursements to Officers). As noted in the recordkeeping section above, two salary checks and one expense check dated January 1, 2016 were disbursed and negotiated for payment on December 31, 2015. These disbursements were recorded in the union's 2016 records. Division 173 failed to report these payments in Item 24 or anywhere else on the LM-3 report filed for 2015.

The LM-3 instructions for Statement B state that disbursements must be recorded when money is actually paid out by a labor organization. The purpose of Statement B is to report the flow of cash in and out of your organization during the reporting period.

In addition, reimbursed expense payments to Mr. Foster and former Vice Local Chairman [REDACTED] totaling more than \$400 were not included in the amounts reported in Column E (Allowances and Other Disbursements) of Item 24. The audit revealed that Mr. Foster received \$691.52 from Division 173 for reimbursed expenses and [REDACTED] received \$364.89. However, Division 173 reported only \$531 in Column E for Mr. Foster and \$115 for [REDACTED]. It appears these payments were erroneously reported in Item 54 (Other Disbursements).

The union must report most direct disbursements to Division 173 officers and some indirect disbursements made on behalf of its officers in Item 24. A "direct disbursement" to an officer is a payment made to an officer in the form of cash, property, goods, services, or other things of value. See the instructions for Item 24 for a discussion of certain direct disbursements to officers that do not have to be reported in Item 24. An "indirect disbursement" to an officer is a payment to another party (including a credit card company) for cash, property, goods, services, or other things of value received by or on behalf of an officer. However, indirect disbursements for temporary lodging (such as a union check issued to a hotel for room rent only) or for transportation by a public carrier (such as an airline) for an officer traveling on union business should be reported in Item 48 (Office and Administrative Expense).

I am not requiring that Division 173 file an amended LM report for 2015 to correct the deficient items, but Division 173 has agreed to properly report the deficient items on all future reports it files with OLMS.

Other Issue

Lost Wage Policy

The audit revealed that Division 173 pays its officers for wages lost from their employer to work on union business at rate equivalent to a basic day of wages per the collective bargaining agreement (CBA), which was \$426.60 per day during 2015. At the organizational interview, Mr. Teel, Mr. Foster, and Mr. Hau all advised that lost wages can be paid by the division only on days when an officer is required to miss work at the employer to attend to union business. However, they further advised that it is acceptable to collect wages for paid leave from the employer on the same day lost wages are paid by the union. The CBA between Division 173 and Wisconsin Central provides for a certain number of paid vacation and personal leave days for each employee. These days have a cash value and can be paid out at any time during the year. For example, an employee at the railroad can work a day and receive wages from the employer and also request pay for a personal leave day on the same day. Likewise at the union, an officer can miss a day of

work at the employer for union business, collect wages from the union as well as collect payment from the company for a personal leave or vacation day. The officers of Division 173 advised that although this was the current practice, they had not updated their Division Rules and Pay Schedule to reflect this practice. However, at the exit interview, Mr. Foster provided OLMS with meeting minutes from the July 2016 membership meeting in which a motion was passed that allows officers to receive compensation from Division 173 for lost time as well as payment from the employer for paid leave (i.e. personal leave day or vacation day).

To ensure compliance with the LMRDA and to safeguard union assets by promoting transparency and accountability, labor organizations should establish best practices for administering lost time payments. OLMS recommends that unions (1) adopt clear policies and procedures for making lost time or similar payments and (2) use vouchers that require detailed information to support lost time payments. Union policies and procedures should be properly authorized by the membership at a meeting and supported by entries in the meeting minutes and added to the union's Rules and Pay Schedule document. Once established, it is important that your union consistently follow its procedures for handling payments for lost time. You may want to have your union's trustees or auditors compare the steps taken to pay lost time with the union's policies to make sure that all required procedures are being followed.

I want to extend my personal appreciation to Locomotive Engineers Division 173 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. Timothy Foster, Secretary Treasurer
Mr. Richard Provo, Vice President
Mr. Eric Hau, Local Chairman