



Sent via email to [REDACTED] and [REDACTED]

February 19, 2021

Mr. David Clyde, President
Locomotive Engineers, IBT, Division 213

Case Number: 320-6020125 [REDACTED]
LM Number: 511731

Dear Mr. Clyde:

This office has recently completed an audit of Locomotive Engineers Division 213 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 and Secretary/Treasurer Brad Boehm on February 10, 2021, 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 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 213's 2019 records revealed the following recordkeeping violations:

1. Disbursements to Vendors

Division 213 did not retain adequate documentation for disbursements to vendors totaling at least \$1,419 in 2019. For example, adequate supporting documentation was not retained

for a \$1,293.73 disbursement the union made to Firehouse Brewing on January 17, 2019 for its Christmas party. In support of this payment, Division 213 only retained a photocopy of the cleared check issued to Firehouse Brewing, which is not sufficient.

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

2. Disposition of Property

The audit revealed that Division 213 did not retain adequate records for gift cards it gave away during the audit period. Division 213 purchased gift cards totaling at least \$700 that it gave away at its Christmas party; however, Division 213 did not maintain records that identified the recipients of the gift cards or the dates the gift cards were given away.

Records must be retained which account for all union property. In the case of gift cards or other items sold or given away to members, records must be maintained to clarify and support information required to be reported by Division 213 in Statements A (Assets and Liabilities) and B (Receipts and Disbursements) of the Labor Organization Annual Report (Form LM-3). The values of any gift cards or similar property on hand at the beginning and end of the year must be reported in Item 30 (Other Assets). In addition, the type and value of any property received or given away must be identified in the additional information section of the Form LM-3 with the identity of the recipient(s) or donor of such property.

In addition, in the case of items given away to members, the union must retain records that identify the date the items were given away and the recipients of those items.

3. Lost Wages

Division 213 did not retain adequate documentation for lost wage reimbursement payments to Mr. Boehm totaling at least \$1,632. The union must retain 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 union retained pay request forms for lost wage reimbursements, but in some instances the pay request forms were not sufficient because Mr. Boehm did not always identify the date the lost wages were incurred.

Following the exit interview, I provided a compliance tip sheet, *Union Lost Time Payments*, that contained a sample of an expense voucher Division 213 may use to satisfy this requirement. The sample identifies the type of information and documentation that the union must maintain for lost wages and other officer expenses.

Based on your assurance that Division 213 will retain adequate documentation in the future, OLMS will take no further enforcement action at this time regarding the above violations.

Reporting Violations

The audit disclosed violations 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 213 for the fiscal year ended December 31, 2019, was deficient in the following areas:

1. Disbursements to Officers

Division 213 did not include reimbursements to Mr. Boehm totaling at least \$700 in the amounts reported in Item 24 (All Officers and Disbursements to Officers), Column E (Allowances and Other Disbursements). Division 213's disbursement records indicate that Mr. Boehm received reimbursed expenses totaling at least \$700; however the total amount reported in Column E of Item 24 for Mr. Boehm was \$0. It appears that Division 213 erroneously reported Mr. Boehm's reimbursed expenses in Item 48 (Office and Administrative Expense) or Item 54 (Other Disbursements).

The union must report most direct disbursements to Division 213 officers and some indirect disbursements made on behalf of its officers in Item 24. A "direct disbursement" to an officer is a payment made to an officer in the form of cash, property, goods, services, or other things of value. See the instructions for Item 24 for a discussion of certain direct disbursements to officers that do not have to be reported in Item 24. An "indirect disbursement" to an officer is a payment to another party (including a credit card company) for cash, property, goods, services, or other things of value received by or on behalf of an officer. However, indirect disbursements for temporary lodging (such as a union check issued to a hotel) or for transportation by public carrier (such as an airline) for an officer traveling on union business should be reported in Item 48.

2. Acquire/Dispose of Property

Item 13 (During the reporting period did your organization acquire or dispose of any assets in any manner other than purchase or sale?) should have been answered, "Yes," because Division 213 gave away gift cards totaling at least \$700 to members during the year. The union must identify the type and value of any property received or given away in the additional information section of the LM report along with the identity of the recipient(s) or donor(s) of such property. The union does not have to itemize every recipient of such giveaways by name. The union can describe the recipients by broad categories if appropriate such as "members" or "new retirees." In addition, the union must report the cost, book value, and trade-in allowance for assets that it traded in.

3. Failure to File Bylaws

The audit also disclosed a violation of LMRDA Section 201(a), which requires that a union submit a copy of its revised constitution and bylaws with its LM report when it makes changes to its constitution or bylaws. Division 213 amended its constitution and bylaws in 2016, but did not file a copy with its LM report for that year. Division 213 has now filed a copy of its 2016 constitution and bylaws.

I am not requiring that Division 213 file an amended LM report for 2019 to correct the deficient items, but Division 213 has agreed to properly report the deficient items on all future reports it files with OLMS.

I want to extend my personal appreciation to Locomotive Engineers Division 213 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. Brad Boehm, Secretary/Treasurer