

**U.S. Department of Labor**

Employment Standards Administration  
Office of Labor-Management Standards  
Minneapolis Resident Investigator Office  
900 Second Avenue South, Suite 450  
Minneapolis, MN 55402  
(612)370-3111 Fax: (612)370-3107



July 25, 2008

Mr. Mark Wimmer, General Chairman  
Maintenance of Way Empls, IBT  
System Federation (Chicago-Milwaukee-St Paul-Pacific)  
18921 York Street NW, Suite F  
Elk River, MN 55330

LM File Number: 005-009  
Case Number: [REDACTED]

Dear Mr. Wimmer:

This office has recently completed an audit of BMW System Federation C-M-SP-P 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 System Federation attorney John Karmel on June 27, 2008, 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 System Federation's 2007 records revealed the following recordkeeping violations:

1. General Reimbursed Expenses

The System Federation did not retain adequate documentation for reimbursed expenses incurred by you on approximately 40 expenses totaling at least \$765.03. In each of these instances, the original receipts for expenses incurred were not maintained. For example, included on an expense report is a meal for \$26.00 on January 26, 2007. While a "missing report receipt" was completed explaining that the expense was for a lunch meeting at Don Pablo's with "McCall," that documentation alone is not sufficient. Records of meal expenses must include written explanations of the union business conducted and the full names and titles of all persons who incurred the restaurant charges. Also, the records retained must identify the names of the restaurants where the officers or employees incurred meal expenses. In the case of the meal at Don Pablo's, the missing report receipt does not indicate the union business purpose, the exact restaurant location, or properly identify "McCall."

Other payments for which there is no supporting documentation include biweekly payments to a woman for cleaning the System Federation's office in Elk River.

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

2. Union Owned/Leased Vehicles

The System Federation did not maintain records necessary to verify the accuracy of the information reported in Schedules 11 (All Officers and Disbursements to Officers).

Until the end of September 2006, the System Federation leased a vehicle. You stated during the audit that you used the vehicle for union business with limited personal use (commuting to and from the office). However, no mileage logs were maintained to verify business versus personal use of the vehicle.

The LM-2 instructions include specific rules for the reporting of automobile expenses. Operating and maintenance costs for each owned or leased vehicle must be reported in Schedules 11 of the LM-2, allocated to the officer or employee to whom each vehicle is assigned.

For each trip they take using a union owned or leased vehicle, officers and employees must maintain mileage logs that show the date, number of miles driven, whether the trip was business or personal, and, if business, the purpose of the trip.

Based on your assurance that the System Federation 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 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-2) filed by the System Federation for fiscal year ending March 30, 2007, was deficient in that:

#### Disbursements to Officers and Employees

The System Federation did not include some reimbursements to officers and employees in Schedule 11 (All Officers and Disbursements to Officers). It appears that the local erroneously reported these payments in Schedules 15 through 19.

Once the union's car lease expired in September 2006, you explained that you converted the lease payments to a "car allowance" when you were unable to purchase a vehicle for the price approved by the System Federation at the June 2004 meeting. The car allowance payments were made to Wells Fargo to pay for your personal vehicle. Such disbursements are considered an indirect disbursement to an officer for LM reporting purposes and must be reported in Column E (Allowances) of Schedule 11.

Direct disbursements to officers and employees for reimbursement of expenses they incurred while conducting union business must be reported in Column F of Schedules 11 and 12 (Disbursements for Official Business). In addition, indirect disbursements made to another party (such as a credit card company) for business expenses union personnel incur must be reported in Column F of Schedules 11 and 12 . However, indirect disbursements for business expenses union personnel incur for transportation by public carrier (such as an airline) and for temporary lodging expenses while traveling on union business must be reported in Schedules 15 through 19. Any direct or indirect disbursements to union personnel for expenses not necessary for conducting union business must be reported in Column G (Other Disbursements) of Schedules 11 and 12 .

I am not requiring that the System Federation file an amended LM report for 2007 to correct the deficient items, but the System Federation has agreed to properly report the deficient item on all future reports it files with OLMS.

#### Other Issues

##### 1. Expense Policy

The audit revealed that the System Federation reimburses union personnel for actual travel expenses incurred, but has no specific guidelines identifying limits or the types of expenses which may be paid. In addition, no system Federation officers review or approve your expenses. Instead, you submit expense vouchers directly to the National Division for payment. OLMS recommends that unions adopt written guidelines identifying allowable expenses and recommends that another officer (other than the traveler) of the same union approve all expenses.

##### 2. Lack of Dual Signature/Use of Signature Stamp

During the audit, you and office secretary Julie Le Vos advised that it is the System Federation's practice to only require one signature for checks under \$500. She further explained that she and you are both signatories on the union's checking accounts. In addition, Ms. Le Vos further explained that sometimes when you are out of town she has used a signature stamp for your signature in order to pay the bills for checks over \$500.

A two signature requirement is an effective internal control of union funds. Its purpose is to attest to the authenticity of a completed document already signed.

However, the use of a signature stamp for the second signer does not attest to the authenticity of the completed check, and negates the purpose of the two signature requirement. OLMS recommends that the System Federation review these procedures to improve internal control of union funds.

3. Potential Tax Issue

The System Federation pays an individual \$50 every 2 weeks to come into the union's office to clean. However, no taxes were withheld from payments issued to the individual nor was a IRS Form 1099 (Miscellaneous Income) issued. While this office has no authority to interpret the state or federal tax code, I recommend you contact the Internal Revenue Service and obtain the following two publications: Circular E, Employer's Tax Guide (Publication 15) and Supplemental Employer's Tax Guide (Publication 15-A). These two publications, as well as other information about employment taxes for small organizations, can be found on the IRS website at [www.irs.gov](http://www.irs.gov). Circular E discusses employees, taxable wages and compensation, the calculation of withholding taxes, and federal unemployment taxes.

I want to extend my personal appreciation to BMW System Federation C-M-SP-P 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: Assistant General Chairman Jim Petty  
Asst. Gen. Chairman/Secretary-Treasurer Terry Barrette  
attorney John Karmel