

U.S. Department of Labor

Employment Standards Administration
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September 30, 2009

Mr. Kip Davis, Secretary-Treasurer
Locomotive Engineers, Division 133
8048 W. 78th Circle
Arvada, CO 80005

LM File Number: 541-960
Case Number: [REDACTED]

Dear Mr. Davis:

This office has recently completed an audit of Locomotive Engineers, Division 133 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 September 23, 2009, 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 133's 2008 records revealed the following recordkeeping violations:

Lost Wages:

Division 133 did not retain adequate documentation for lost wage reimbursement payments to union officers, on at least five instances. 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 OLMS audit found that Division 133 did not maintain specific lost-time vouchers or employer generated documentation regarding the time lost to the officer.

Based on your assurance that Division 133 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-3) filed by Division 133 for fiscal year ending December 31, 2008, was deficient in the following areas:

Disbursements to Officers:

Division 133 did not include expense reimbursements to officers totaling at least \$2,276.74 in the amounts reported Item 24 (All Officers and Disbursements to Officers). It appears the union erroneously reported these payments in Item 48.

The union must report each officers expenses in schedule 24, under column E, labeled Allowances and Other Disbursements.

I am not requiring that Division 133 file an amended LM report for 2008 to correct the deficient items, but Division 133 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 133 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,

A solid black rectangular redaction box covering the signature area.

cc: Jack Laney, President