



December 20, 2011

Mr. Joseph Letizia, General Chairman  
Maintenance of Way Employees  
Wisconsin Central System Division  
912 Redwood Drive  
Green Bay, WI 54304

Case Number: [REDACTED]  
LM Number: 542670

Dear Mr. Letizia:

This office has recently completed an audit of Maintenance of Way Employees (BMWE) Wisconsin Central System Division (WCSD) 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 today, 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 Wisconsin Central System Division's (WCSD) 2011 records revealed the following recordkeeping violations:

1. Meal Expenses

You failed to retain itemized receipts for meal expenses totaling at least \$1,500. In most instances, the only records retained in support of meal expenses were the credit card signature receipts and credit card statements. Itemized receipts provided by restaurants to officers and employees must be retained. In the case of the WCSD, many of the expenses were incurred at restaurants that routinely provide customers with itemized receipts. The 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.

Your records of meal expenses did not always identify the titles of the persons incurring or receiving the benefit of restaurant charges. In most instances, you maintained credit card signature receipts identifying the date, amount, names of all persons incurring the expense, business purpose of each expense, and the names of the restaurants where the expenses were incurred. However, you failed to retain records identifying the titles of all persons who incurred the restaurant charges. 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.

2. Internet, Telephone, and Cell Phone Disbursements

During the audit year, you were reimbursed for internet, telephone land lines, and cell phone expenses. However, you failed to submit adequate documentation to WCSD for reimbursement of the telephone and internet bills, totaling at least \$2,900. In support of those expenses, you submitted payment receipt notifications emailed to you by AT&T. Those email notifications only showed the payment amount and not the individual charges each month. You advised that it is not your practice to print and retain the itemized billing statements, which are available to you online. The itemized billing statements should be printed each month and retained with the union's other bills and invoices. As noted above, labor organizations must retain original receipts, bills, and vouchers for all disbursements.

Based on your assurance that WCSD 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 WCSD for the fiscal year ended March 31, 2011, was deficient in the following areas:

1. Disbursements to Officers

WCSD did not correctly report some disbursements to you totaling at least \$6,000 for "officer rent" (for space in your home) in Item 24 (All Officers and Disbursements to Officers), Column E (Allowances and Other Disbursements). WCSD's expense reports indicate you receive \$500 per month for "office rent." However, this amount is not included in the amount reported in Column E. The general ledger shows this \$500 monthly expense is recorded as "salary" in the ledger, and it appears the disbursements for rent were reported as salary in Column D of Item 24. The LM-3 instructions for Item 24 require that direct disbursements to an officer for allowances and other expenses must be reported in Column E.

Most direct disbursements to Local WCSD officers and some indirect disbursements made on behalf of its officers must be reported 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 a public carrier (such as an airline) for an officer traveling on union business should be reported in Item 48 (Office and Administrative Expense).

2. Failure to File Bylaws

The audit 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. WCSD amended its constitution and bylaws in 2010, but did not file a copy with its LM report for that year. WCSD has now filed a copy of its constitution and bylaws.

I am not requiring that WCSD file an amended LM report for 2011 to correct the deficient items, but WCSD has agreed to properly report the deficient items on all future reports it files with OLMS.

Other Issue

Duplicate Reimbursed Expenses

The audit revealed one instance where you received duplicate payments for the same expense. On your March 2010 expense report, you submitted a claim for reimbursement of \$212.80 for lodging deposits for you and Second Vice Chairman Chris Peters. These deposits were for the June 2010 Convention at Bally's Las Vegas. You charged this expense to your personal credit card and submitted the reservation confirmation with your March expense report. However, o\n

your June 2010 expense report you claimed the full amount of the lodging expenses (which also included the initial lodging deposits you paid that totaled \$212.80). You erroneously noted on the hotel folios attached to the June expense report that you had not yet “expensed” those charges. You advised this duplicate payment was made in error. OLMS recommends that WCSD review its voucher and disbursement procedures to improve internal control of union funds. If any repayment is made to WCSD I would appreciate it if you would provide evidence of that payment to me.

I want to extend my personal appreciation to BMW Wisconsin Central System Division 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. John Dake, Jr., Treasurer