



May 28, 2013

Mr. Sean Gerie, General Chairman
Maintenance of the Way Employees,
Commuter Railroad System Division
P.O. Box 1238
Trenton, NJ 08607-1238

Case Number: 130-15399 [REDACTED]
LM Number: 515880

Dear Mr. Gerie:

This office has recently completed an audit of Maintenance of the Way Employees, Commuter Railroad System Division, 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 May 23, 2013, 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.

Record Keeping 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 Commuter Railroad System Division's records for the fiscal year ending March 31, 2012, revealed the following recordkeeping violations:

1. Failure to Record Receipts and Disbursements.

You did not have your Quickbooks records for the audit year, nor had you been keeping a journal of receipts and disbursements. Proper internal controls require the maintenance of such a record in addition to the copies of checks and bank statements that you have been keeping. OLMS was able to verify your check copies against the bank statements.

2. Failure to Retain Receipt Records

The System Division's primary receipts are reimbursements from the National Division for the actual expenditures of the System Division. The National Division reports accompanying these reimbursements have not been retained, but must be in the future.

3. Failure to Maintain Executive Board Minutes/Authorizations for Charitable Contributions

Executive Board minutes were not available. Minutes must be taken of Executive Board meetings, and retained for five years. Because of the lack of minutes, there were no authorizations in the records for charitable contributions. In the case of one organization, the Philadelphia Area Project on Occupational Safety and Health (PHILAPOSH), contributions amounted to \$2,275 for the audit year. OLMS was able to verify the latter disbursements by contacting PHILAPOSH directly.

Based on your assurance that the System Division 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 the Commuter Railroad System Division for the fiscal year ended March 31, 2012, was deficient, in that assets, liabilities, receipts, and disbursements were all incorrect and substantially overstated in the following particulars:

1. For LM-3 reporting purposes, the only assets that should be reported in items 25 through 30 are those that are directly held by the reporting labor organization and controlled by that organization. Investments, cash in the form of certificates of deposit, and cash in banks held by the National Division on behalf of the System Division should not have been reported. Cash reported at the beginning of the fiscal year in item 25(A), and at the end of the fiscal year in item 25(B), should only have been the cash in the bank account under direct control of the System Division.
2. Liabilities incurred by the National Division on behalf of the System Division also should not have been reported in items 35 and 36.

3. The System Division never had any direct receipts from dues. Dues received by the National Division on behalf of the System Division were never directly passed on to the System Division. Therefore, the figure for dues receipts as reported in item 38 of the LM-3 should have been zero. Similarly, interest and dividends receipts from investments, certificates of deposit, or other cash deposits held by the National Division on behalf of the System Division should not have been included in item 41 of the LM-3. "Other Receipts" in item 43 should have included the reimbursements from the National Division to the System Division for actual expenditures, along with any other monies directly received by the System Division (not other monies received by the National Division on behalf of the System Division).
4. The only disbursements reported in items 45 through 55 of the LM-3 should have been disbursements directly made by you by check from the System Division checking account, or via credit card. Under the procedures that have been established within your organization, these would all have been disbursements for which the System Division was, or eventually would be, reimbursed by the National Division. Disbursements of any kind by the National Division on behalf of the System Division to officers or employees, or for any other reason, should not have been reported.
5. With reference to charitable contributions as mentioned above in item 3 of Record Keeping Violations, it is noted that charitable contributions in item 51 of the LM-3 were incorrectly reported as only \$1,000.

The Commuter Railroad System Division must file an amended Form LM-3 for the fiscal year ended March 31, 2012, to correct the deficient items discussed above. I encourage the System Division to complete, sign, and file its report electronically using the Electronic Forms System (EFS) available at the OLMS website at www.olms.dol.gov. Reporting forms and instructions can be downloaded from the website, if you prefer not to file electronically. The amended Form LM-3 should be filed electronically no later than June 27, 2013, or submitted to this office at the above address by the same date. Before filing, review the report thoroughly to be sure it is complete and accurate. Paper reports must be signed with original signatures. The matter of the amended report will be pursued under another case number. Please note that your LM-3 report for the fiscal year ended March 31, 2013, which is due to be filed within 90 days after that date, must also meet the guidelines discussed above.

Other Issues

As I discussed with you during the audit, you have been acting as the sole signatory to checks, despite the fact that your Secretary-Treasurer and Vice Chairman are also authorized to sign checks. Proper internal controls require at least two signatures on checks. You agreed that in the future all checks will have two signatures.

I want to extend my personal appreciation to Maintenance of the Way Employees, Commuter Railroad System Division for the cooperation and courtesy extended during this compliance

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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,



Senior Investigator

cc: Mr. Steven Mocher, National Division Auditor