

U.S. Department of Labor

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July 9, 2007

Mr. Bruce Cushing, Secretary Treasurer
Locomotive Engineers, IBT
GCA Delaware & Hudson & Springfield Terminal
1162 Fort Miller Road
Greenwich, NY 12834-7400

LM File Number 025-081

Case Number: [REDACTED]

Dear Mr. Cushing:

This office has recently completed an audit of Locomotive Engineers GCA Delaware & Hudson & Springfield Terminal 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 your wife [REDACTED], who assists you with union bookkeeping, on July 10, 2007, 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 Locomotive Engineers GCA D & H's 2006 records revealed the following recordkeeping violations:

1. General Reimbursed Expenses

Locomotive Engineers GCA D & H did not retain adequate documentation for reimbursed expenses incurred by President Michael Twombly totaling at least \$1,019.90. For example, all the Cingular cell phone bills that Mr. Twombly provided were not itemized bills. Also, there was a charge for a Days Inn in Binghamton, NY in December 2005 for two rooms totaling \$177.60 that did not have any documentation that sufficiently explained the purpose of this stay.

There was also general disbursements from the union totaling \$1,040 that did not have adequate documentation. For example, there were two payments of \$270 to the Commonwealth of Massachusetts that did not have any explanation or paperwork.

As previously 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. Meal Expenses

Locomotive Engineers GCA D & H did not require officers and employees to submit itemized receipts for meal expenses totaling at least \$715.86. The union must maintain itemized receipts provided by restaurants to officers and employees. These 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.

Also, Locomotive Engineers GCA D & H records of meal expenses did not always include written explanations of union business conducted or the names and titles of the persons incurring the restaurant charges. For example, Mr. Twombly had a restaurant charge of \$377.38 on June 21, 2006 at the Cheesecake Factory in Las Vegas with no explanation of the purpose of such charge. Union 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.

3. Receipt Dates not Recorded

Entries in Locomotive Engineers GCA D & H's receipts journal reflect the date the union deposited money, but not the date money was received. Union receipts records must show the date of receipt. The date of receipt is required to verify, explain or clarify amounts required to be reported in Statement B (Receipts and Disbursements) of the LM-3. The LM-3 instructions for Statement B state that the labor organization must record receipts when it actually receives money and disbursements when it actually pays out money. Failure to record the date money was received could result in the union reporting some receipts for a different year than when it actually received them.

Based on your assurance that Locomotive Engineers GCA D & H will retain adequate documentation in the future, OLMS will take no further enforcement action at this time regarding the above violations.

Reporting Violation

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 Locomotive Engineers GCA D & H for fiscal year ending December 31, 2006, was deficient in the following area:

Cash Reconciliation

It appears that the cash figures reported in Item 25 are not the cash figures according to the union's books after reconciliation to the bank statements. The instructions for Item

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25 state that the union should obtain account balances from its books as reconciled to the balances shown on bank statements.

During the closing interview, I discussed with you and [REDACTED] on how to reconcile your books to the bank statements. This should be conducted on a monthly basis.

I am not requiring that Locomotive Engineers GCA D & H file an amended LM report for 2006 to correct the deficient items, but Locomotive Engineers GCA D & H has agreed to properly report the deficient items on all future reports it files with OLMS.

Other Issue

Single Signature on Checks

During the audit, you advised that it is Locomotive Engineer GCA D & H's practice for you, as Treasurer, to sign all union checks. You indicated that no one reviews the checks before they are issued. OLMS recommends that the union review these procedures to improve internal control of union funds. The 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 single signature does not attest to the authenticity of the completed check, and negates the purpose of the two signature requirement.

I want to extend my personal appreciation to Locomotive Engineers GCA Delaware & Hudson & Springfield Terminal for the cooperation and courtesly 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,

[REDACTED]
Investigator

cc: Michael Twombly, President