



June 22, 2010

Mr. Edward L. Fleming, President  
Transit Union Local Division 788  
1611 S. Broadway, Room 104  
St. Louis, MO 63104-3845

Case Number: [REDACTED]  
LM Number: 035021

Dear Mr. Fleming:

This office has recently completed an audit of Transit Union Local Division 788 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 Vice President David Tolliver, Secretary-Treasurer Gwendolyn Harris, and you on June 21, 2010, 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 Local Division 788's 2009 records revealed the following recordkeeping violations:

1. Credit Card Expenses

Local Division 788 did not retain adequate documentation for credit card expenses incurred for disbursements for floral arrangements for deceased members and for airfare for official union travel. Local Division 788 maintained all credit card statements, however not all original receipts were retained.

As 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

Local Division 788's records of meal expenses did not consistently include written explanations of union business conducted or the names and titles of the persons incurring the restaurant charges. 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, with the restaurant bill.

3. Asset Inventory

Local Division 788 did not retain adequate information for fixed assets. The union should retain a comprehensive inventory of assets. This would include all office furniture and equipment. The inventory should include the date and purchase price when a new item is purchased. If an item is sold or given away, a record of the date, recipient, and amount paid, if any, should also be noted.

4. Lack of Salary Authorization

Local Division 788 did not maintain records to verify that the executive board salaries are the authorized amount. The union must keep a record, such as a salary policy or provision in the bylaws, to show the current salary authorized by the entity or individual in the union with the authority to establish salaries.

The salaries of the executive board were set in September 2002 and the salaries have increased consistent with the current collective bargaining agreement. However, the Local Division 788 Bylaws amended 2003, Article 9D provides an explanation of how the officers are to be paid. This article does not sufficiently explain how salaries are calculated and wage increases. Local Division 788 should either amend the bylaws or establish a salary policy that clearly specifies the formula for the salary of each executive board position and how wage increases are to be determined.

Based on your assurance that Local Division 788 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 Local Division 788 for the fiscal year ended December 31, 2009 was deficient in the following areas:

1. Contributions, Gifts, and Grants

Local Division 788 did not report in Item 52 “Contributions, Gifts, and Grants” disbursements made in the audit year to charitable organizations. The report for fiscal year ending December 31, 2009 reported \$0 in Item 52, when the audit found at least \$2,000 contributed to various charities.

2. Purchase of Fixed Assets

Local Division 788 did not report three shredders that were purchased during the audit year in Schedule 4 “Purchase of Investments and Fixed Assets”. Any fixed assets that that were purchased during the fiscal year should be included in Schedule 4.

3. Per Capita Tax

Local Division 788 did not properly report per capita tax. Local Division 788 receives dues from its members and pays per capita tax to the Amalgamated Transit Union International based on the number of members. The local reported in Item 37 “Per Capita Tax” \$294,314 as being per capita tax received by the local. Item 37 should only include the per capita tax received by an organization if it is an intermediate or parent body. The per capita tax portion of incoming dues should not be reported separately in Item 37.

4. Interest

Local Division 788 did not properly report interest earned from the local’s accounts. The local included in Item 40 “Interest” monies that were considered interest that was a receivable from the local’s building corporation fund. Under Statement B of the LM-2, receipts must be recorded when money is actually received by the labor organization and disbursements must be recorded when money is actually paid out by the labor organization. The purpose of Statement B is to report the flow of cash in and out of your organization during the reporting period. Only the actual interest earned from the local’s accounts and certificates of deposit should be reported in Item 40.

Local Division 788 must file an amended Form LM-2 for the fiscal year ended December 31, 2009, to correct the deficient items discussed above. You are familiar with the filing procedures and the availability of filing software on the OLMS website ([www.olms.dol.gov](http://www.olms.dol.gov)). The amended Form LM-2 must be electronically filed as soon as possible, but not later than July 23, 2010.

Mr. Edward L. Fleming

June 22, 2010

Page 4 of 4

Before filing, review the report thoroughly to be sure it is complete and accurate, and properly signed with electronic signatures.

I want to extend my personal appreciation to Transit Union Local Division 788 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 box used to redact the signature of the sender.

Senior Investigator