

U.S. Department of Labor

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Office of Labor-Management Standards
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August 7, 2009

Mr. Bruce E. Ashley, Treasurer
Locomotive Engineers, IBT
Div 18
204 North 10th St.
Lumberton, MS 39455

LM File Number: 529-235
Case Number: [REDACTED]

Dear Mr. Ashley:

This office has recently completed an audit of Locomotive Engineers, Division 18, 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 July 31, 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 18's 2008 records revealed the following recordkeeping violations:

1. General Reimbursed Expenses

Division 18 did not retain adequate documentation for reimbursed expenses incurred by union officers totaling at least \$833.22. For example, Roy M. Smith receives reimbursement for phone calls made on his personal cell phone for union business, but does not provide the original cell phone bills to be maintained by the union.

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

Division 18 did not require officers and employees to submit itemized receipts for meal expenses totaling at least \$66.05. 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.

Division 18's 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, Roy M. Smith submitted photocopies of receipts for meals, which did not include any explanation of the union business or the persons who incurred 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. Also, the records retained must identify the names of the restaurants where the officers or employees incurred meal expenses.

3. Reimbursed Auto Expenses

Roy M. Smith, who received reimbursement for business use of his personal vehicle did not retain adequate documentation to support payments to him totaling at least \$379.20 during 2008. The union must maintain records which identify the dates of travel, locations traveled to and from, and number of miles driven. The record must also show the business purpose of each use of a personal vehicle for business travel by an officer or employee who was reimbursed for mileage expenses.

4. Lost Wages

Division 18 did not retain adequate documentation for lost wage reimbursement payments to Roy M. Smith totaling at least \$2,875.62. 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 18 retained expense vouchers for Smith, but the vouchers did not include the full date, the number of hours lost on each date, the applicable rate of pay, or an adequate description of the union business conducted.

During the exit interview, we discussed the specific items that must be included for lost time. The expense voucher currently used by the union could satisfy the requirement if all information on the voucher were properly completed.

Based on your assurance that Division 18 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 18 for fiscal year ending December 31, 2008, was deficient in the following areas:

1. Amount of Fidelity Bond

The union reported a bond of \$10,000 in Item 20, but the union actually has a bond of \$15,000. As stated in the LM-3 report instructions, the maximum amount

recoverable for a loss caused by any officer, employee, or agent of your organization who handled your organization's funds should be entered in Item 20.

2. Disbursements to Officers

Division 18 did not include some reimbursements to officers totaling at least \$1,675.34 in the amounts reported Item 24 (All Officers and Disbursements to Officers). It appears the union failed to include these payments on the Form LM-3 submitted for FYE December 31, 2008.

The union must report most direct disbursements to Division 18 officers and some indirect disbursements made on behalf of its officers 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).

Division 18 has filed an amended Form LM-3 for fiscal year ending December 31, 2008, to correct the deficient items discussed above. Therefore, OLMS will take no further enforcement action at this time regarding the above violations.

I want to extend my personal appreciation to Locomotive Engineers, BLET Division 18 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

Mr. Bruce E. Ashley
August 7, 2009
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cc: Mr. Robert P. Demers, President