

U.S. Department of Labor

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January 24, 2008

Mr. David Brown, Chairman
Locomotive Engineers State Legislative Board
1040 64th Avenue NE
Fridley, MN 55432

LM File Number: 020-819
Case Number: [REDACTED]

Dear Mr. Brown:

This office has recently completed an audit of the Minnesota State Legislative Board 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 Secretary-Treasurer Mark Anderson on December 19, 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 the State Legislative Board's 2006 records revealed the following recordkeeping violations:

1. Reimbursed expenses and wage claims

The State Legislative Board did not retain adequate documentation for reimbursed expenses and wage claims incurred by union officers totaling at least \$1,853.83. For example, no voucher or other supporting documentation was retained for Check [REDACTED] to former Chairman [REDACTED] for wages. While the check notes that the payment is for wages, no letter, like those included with all other requests for wages, detailing the union work performed and the dates worked was attached. As another example, officers occasionally failed to adequately describe the union work performed on wage claims, and recorded descriptions such as "general office duties." 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.

In addition, officers frequently failed to provide additional information to show that expenses incurred were necessary for conducting union business. For example, meal expenses did not always list the official business purpose and some mileage claims did not identify the locations traveled to and from.

In the case of meal expenses, 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. 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. In the case of mileage

expenses, 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.

During the exit interview, I provided a sample of an expense voucher the Legislative Board may consider using to satisfy this requirement. The sample identifies the type of information and documentation that the local must maintain for lost wages, mileage, and other officer expenses.

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. Receipt Dates not Recorded

Entries in the Legislative Board's general ledger reflect the date the money was deposited, but not the date money was actually 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 reporting some receipts for a different year than the one in which they were received.

Based on your assurance that the Legislative Board 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 Legislative Board for fiscal year ending December 31, 2006, was deficient in the following areas:

1. Item 24 - Disbursements to Officers

The State Legislative Board did not include some reimbursements to officers totaling at least \$7,371 in the amounts reported in Item 24 (All Officers and Disbursements to Officers). It appears these were erroneously reported in Items 48 (Office and Administrative Expense) and Item 54 (Other Disbursements).

The Board did not report the names of some officers and the total amounts of payments to them or on their behalf in Item 24 (All Officers and Disbursements to Officers). All persons who held office during the year must be reported in Item 24, regardless of whether they received any payments from the union.

Most direct disbursements to the Board 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. Item 36 - Dues

The SLB collects an assessment from its divisions (in accordance with International Constitution provisions). The SLB appears to have incorrectly reported the assessments (\$44,453) received from its divisions in Item 36 (Dues). Amounts received from assessments should be reported in Item 40 (Fees, Fines, Assessments, and Work permits).

3. Item 55 - Total Disbursements

The amount reported in Item 55 is incorrect. The audit revealed the Board's general ledger reflects it made disbursements during 2006 totaling \$45,914. However, the SLB reported total disbursements in Item 55 of \$40,256.

4. Authorization for Disbursements

As I discussed during the exit interview with you and Mr. Anderson, the audit revealed that the State Legislative Board does not have any written documents (including its bylaws) showing the provisions made and procedures followed with respect to authorization for disbursement of funds. While the International constitution provides that the Local Division secretary-treasurer and president shall sign Division checks and orders to pay bills, the constitution does not contain any similar provision governing the legislative boards.

Section 201(a) of the LMRDA states that "every labor organization shall adopt a constitution and bylaws and shall file a copy thereof with the Secretary...." In addition to filing a constitution and bylaws, labor organizations must also submit a report detailing, among other things, "detailed statements, or references to specific provisions of documents filed under [Section 201(a)] which contain such statements, showing the provisions made and procedures followed with respect to ...authorization for disbursement of funds of the labor organization...." The information may be incorporated into the Board's bylaws or filed with an amended Labor Organization Information Report (Form LM-1).

I am not requiring that the Legislative Board file an amended LM-3 report for 2006 to correct the deficient items, but the Legislative Board has agreed to properly report the deficient items on all future reports it files with OLMS. However, the SLB should incorporate the required information concerning authorization of disbursements in its bylaws or another document filed an amended LM-1.

Other Issue

Use of Dual Signatures

During the audit, Mr. Anderson advised that during the audit period it was the Legislative Board's practice to only require one signature on union checks. Mr. Anderson further advised that the Board now requires two signatures on all checks. 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. OLMS recommends that the Legislative Board continue to use the dual signature requirement for all disbursements.

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I want to extend my personal appreciation to Minnesota State Legislative Board 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: Mark Anderson, Secretary-Treasurer