

U.S. Department of Labor

Employment Standards Administration
Office of Labor-Management Standards
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January 16, 2008

Mr. Steve Diamond, Secretary-Treasurer
Locomotive Engineers, IBT
Division 491
9600 NE 112th Street
Kansas City, MO 64157-9626

LM File Number 025-240

Case Number: [REDACTED]

Dear Mr. Diamond:

This office has recently completed an audit of Locomotive Engineers Division 491 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 January 9, 2008, 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 491's 2006 records revealed the following recordkeeping violations:

1. Lost Wages

Division 491 did not retain adequate documentation for lost wage reimbursement payments to the local chairman totaling at least \$2,001.25. 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 491 did not retain lost time vouchers identifying the date and purpose of the lost time claimed.

2. General Disbursement

Division 491 did not retain adequate documentation for the purchase of a cell phone in December 2006. 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. You agreed to maintain such documentation for all future disbursements.

Based on your assurance that Division 491 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.

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The Labor Organization Annual Report Form LM-3 filed by Division 491 for fiscal year ending December 31, 2006 was deficient in that receipts and disbursements were overstated. This was caused by Division 491 including dues and per capita tax received and disbursed through the National on behalf of the local. According to page 12 of the LM-3 instructions, "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." By adding these amounts to the receipts and disbursements on the LM-3 report, even though they are not reflected in Division 491's books, the cash figures for the reporting period do not reconcile.

I am not requiring that Division 491 file an amended LM report for 2006 to correct the deficient items, but Division 491 has agreed to properly report the deficient items on all future reports it files with OLMS.

I want to extend my personal appreciation to Locomotive Engineers Division 491 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: Tom Bennett, President