

U.S. Department of Labor

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April 14, 2010

Gary Zahorchak, Secretary-Treasurer
Locomotive Engineers, IBT Division 757
479 Blews Way
New Castle, PA 16105-1475

LM File Number 013-350
Case Number: [REDACTED]

Dear Mr. Zahorchak:

This office has recently completed an audit of 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 11, 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. The CAP disclosed the following violations.

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 757's 2008 records revealed the following recordkeeping violations:

1. General Disbursement Records

Division 757 did not retain adequate documentation for payments to Reliance Standard Life totaling at least \$21,126.50. For example, none of the transmittal forms were maintained. These forms would serve as back up documentation for the payments made on behalf of members every month.

As previously noted above, labor organizations must retain original receipts, bills, and vouchers for all disbursements. The president and secretary-treasurer of your union, who are required to sign your union's LM report, are responsible for properly maintaining union records.

2. General Receipts Records

Division 757 did not retain adequate receipts records in that none of the deposit slips were maintained as required by Title II of the LMRDA. These deposit slips, received from the bank when a deposit is made, is a union record and must be maintained for five years.

3. Information Not Recorded in Meeting Minutes

During the audit, you advised OLMS that the membership authorized the purchase of new computer equipment at a membership meeting. However, the minutes of the meeting do not contain any reference to those issues. Minutes of all membership or executive board meetings must report any disbursement authorizations made at those meetings.

Based on your assurance that Division 757 will retain adequate documentation in the future, OLMS will take no further enforcement action at this time regarding the above violations.

Other Issues

Use of Electronic Checks, Check Card, and Withdrawal Slips

During the audit, you advised that it is Division 757's practice to sometimes use electronic checks and a check card or debit card. The electronic checks and check card do not require signatures and are used solely by you as secretary-treasurer. You also indicated that no one but you reviews the checks before they are issued; no one but you reviews the bank statements to see the withdrawals from the union's account. Division 757's bylaws requires that checks be signed by the president and treasurer. 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 check card and the electronic checks do not require a second signature and there is no way for the second signer to attest to the authenticity of the completed check.

The audit also revealed that as secretary-treasurer, you have the ability to withdraw funds from the checking account without a second signature. There was a withdrawal slip from the bank showing that you withdrew \$2,500 to open a certificate of deposit for the Division. While this was a legitimate transfer of funds, this transactions shows that the account allows only one of the signatories to withdraw union funds without the second signature.

All of these practices allow officers the opportunity to withdraw union funds without the knowledge or consent of the second signatory and negates the purpose of the two signature requirement. OLMS recommends that Division 757 review and change these procedures to improve internal control of union funds.

I want to extend my personal appreciation to 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: Paul E. Smith, Division 757 President