

# SHEET METAL WORKERS' INTERNATIONAL ASSOCIATION

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GENERAL SECRETARY-TREASURER

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July 10, 2008

Ms. Kay H. Oshel  
Director of the Office of Policy, Reports and Disclosure  
Office of Labor-Management Standards  
U.S. Department of Labor  
200 Constitution Avenue NW, Room N-5609  
Washington, DC 20210

Dear Ms. Oshel:

*The Sheet Metal Workers' International Association (SMWIA) is filing comments to proposed changes to the regulations issued by the U.S. Department of Labor (DOL) pertaining to the Forms LM-2 and LM-3. As an affiliate of the American Federation of Labor and Congress of Industrial Organizations (AFL-CIO), we adopt the comments that the AFL-CIO intends to file. However, the SMWIA wishes to highlight specific issues in the changes proposed by DOL.*

*With respect to the Form LM-2, the DOL proposes to increase the information reported with respect to the sale and purchase of investments "if in the aggregate the sales amount to \$5,000 or more per purchaser." The DOL proposal calls for naming the purchaser or seller of an investment and the date of the transaction. The proposal reveals that the DOL does not comprehend the manner in which millions of dollars are invested in today's world.*

*The SMWIA has three investment managers and an outside fiduciary service who oversees them. In addition to the monthly investment statements from the managers, the SMWIA receives quarterly reports from the fiduciary service concerning the performance of the investment managers. The investment managers may buy and sell securities on a daily basis in an effort to earn the most on the SMWIA's money. The SMWIA has no direct involvement in the investment decisions of the investment managers. All that the SMWIA requires is compliance with the investment policy which is set forth in Article One (1), Section 6(g) of the SMWIA Constitution. The fiduciary service is charged with overseeing that the investment managers stay within the limits described in the investment policy. Consequently, it is pure folly to propose listing in the Form LM-2 the purchaser and seller of every market security, whether stock or equity, in excess of \$5,000 in the course of a year, as well as the date of the transaction. This is true not only for the SMWIA but for our largest affiliated local unions as well who handle investments similarly.*

*Another DOL proposal would require disclosure of benefits disbursements. The SMWIA's specific concern involves the Staff Pension Plan (Plan), a defined benefit plan. All SMWIA active and retired officers and salaried staff are participants in the Plan. Contributions are not made to the Plan on the basis of the number of participants or on the basis of their earnings. Rather, according to Article Two (2), Section 13(a) of the SMWIA Constitution, up to \$2.00 of the per capita dues paid by each union member each month is directed to the Plan to assure "the continued operation of said Plan." Benefits, of course, are paid only upon retirement. Both the DOL and SMWIA members have a copy of the SMWIA Constitution.*

*The SMWIA will let the AFL-CIO argue how the DOL's proposal violates the fundamental privacy protections of HIPAA. But for the record, the SMWIA is self-insured and pays a third-party administrator to handle claims.*

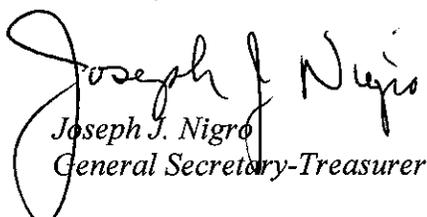
*With respect to the Form LM-3, the DOL proposes to penalize smaller unions who are delinquent in filing the Form LM-3 by requiring them to file the much more onerous Form LM-2 for at least two years. This is an incredibly perverse and punitive proposal.*

*Secretary Chao acknowledges that smaller unions are not as sophisticated with respect to office procedures (assuming there is an office) and recordkeeping; and that often even the principal officers are only part-time. These smaller unions have less funds and so are more apt to try to maintain the books and records themselves and to complete the Form LM-3 on their own rather than hire an accountant. When posting revenue and disbursements, these smaller unions do not have to be concerned with functional categories that the DOL now requires of larger unions. Yet, given these difficulties faced by many smaller unions, the DOL proposes punishing them when they are delinquent and apparently has given up trying to work with them. Forcing them to file electronically the Form LM-2 instead, which does require functional categorizing, will obviously only make matters worse, not better.*

*Small locals often lose continuity of leadership due to the never-ending task of election of officers every three years. This change in leadership often provides a hardship when performing administration duties. We feel that the DOL should encourage and work with small locals rather than intimidate them with massive regulatory requirements.*

*Overall, we feel that these new DOL-proposed regulatory changes serve no purpose mandated by the LMRDA. Although couched in the statutorily correct language of enabling union members "to be responsible and effective participants in the democratic governance of their labor organizations," the reality is the reams of information required and proposed by the DOL educate the enemies of American unions who have the ear of the Secretary. If the DOL truly wished only to inform union members, who only make up 13% of the workforce, the gathered information would not be made available by the DOL for the world to review.*

*Sincerely*

  
Joseph J. Nigro  
General Secretary-Treasurer

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