

Freddie N. Simpson  
Acting President



Perry K. Geller, Sr.  
Acting Secretary-Treasurer

**Brotherhood of Maintenance of Way Employees**  
*Affiliated with the AFL-CIO and C.L.C.*

April 28, 2004  
(Sent via mail and e-mail)

Mr. Stephane Lacoste  
Teamsters Canada  
2540 Daniel-Johnson Blvd., #804  
Laval, QC H7T 2S3  
Canada

Dear Mr. Lacoste:

The Brotherhood of Maintenance of Way Employees (BMWWE) desires to move rapidly to transfer certifications and to concurrently work out transfer of assets and liabilities that fairly reflect the relationship between the BMWWE Grand Lodge, its Canadian affiliates, and its membership. To that end, the purpose of this letter is to confirm and expand on the information that I provided in our telephone conversation of April 26, 2004.

There are three levels of organization within BMWWE. The first level is the local lodge. The local lodges typically have no full-time employees and do not accumulate significant savings or investments. Indeed, in most cases, their biggest expense is for travel and lost time for Grand Lodge Convention delegates (operating on a quadrennial cycle). BMWWE would expect Teamsters-Canada to take the local lodges as they find them, regarding the future disposition of their funds as a wholly internal, Teamster matter.

The next level of BMWWE's organization consists of intermediate bodies called system divisions or federations. There are three system federations in Canada. The Western System Federation and the Canadian System Federation each have substantial assets in excess of \$1,000,000 (Canadian), according to the most recent information provided Grand Lodge. The Eastern System Federation is less well set. Assets of the system federations are held in instruments or accounts, as with the local lodges, and kept in the name of the respective system federation. BMWWE would expect Teamsters-Canada to take the system federations as they find them. The future disposition of their assets would be a wholly internal, Teamster matter. The Grand Lodge has asked for a listing of their contingent liabilities, such as lawsuits or other proceedings

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against these Intermediate bodies, but no reports have been forthcoming to date. However, Grand Lodge has identified what might be a significant contingent liability with respect to the Eastern System Federation. A Grand Lodge audit revealed that there is approximately \$50,000 (Canadian) in the Eastern System Federation's general accounts which appear to derive from the undistributed proceeds of a grievance settlement. The Eastern System Federation is currently in the process of undergoing a forensic audit, commissioned by the Grand Lodge. We expect that report to be issued within seven days.

The third level of the BMWÉ is the Grand Lodge. The BMWÉ Grand Lodge dues of Canadian members have not contributed to the general operations of the international union which are applicable to both the United States and Canada. Indeed, the Grand Lodge expends more in support and service of its Canadian operation than it takes in from Canadian dues. And, in lieu of a Grand Lodge dues increase, the Brotherhood's 2002 Convention acted to divert \$5,000,000 from the union's Strike Benefit Fund into new Legal Defense and General Negotiation Funds. The Strike Benefit Fund was created wholly from a special assessment on U.S.-BMWÉ members only. Thus, the general assets of the Grand Lodge are not viewed as deriving from contributions from the Canadian membership.

However, there exists dedicated funds that *do* derive from Canadian dues dollars. These include the Emergency Fund-Canada in the current amount of \$59,202; A Negotiation Fund-Canada, which derives not from the U.S. Strike Fund, but from a dollar per-member, per-month allocation as required by the Grand Lodge Constitution and Bylaws, in the amount of \$196,886; And, a Provincial Legislative Fund of \$276,487.

In addition, since the intermediate bodies receive the entire check-off dues deduction and then remit the international union's portion, there may be situations where there are receivables outstanding. Thus, at this writing, the three system federations owe the international a total of \$149,939.

The union owns out-right its Canadian headquarters in Ottawa, Ontario. The Canadian System Federation and Eastern System Federation are tenants, renting the two first-floor office spaces (the Canadian international occupies the upper floor).

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The CN-CP Police Association has certain services discharged on their behalf by BMW. These services are performed for consideration of \$19,000 per year. It is my understanding that this arrangement can be terminated at will.

The Grand Lodge operates a pension plan, based in the United States, and made that pension plan available to its officers and key staff in Canada. There are, at present, four Canadian plan participants who are not receiving annuities (two staff, one officer and one former officer). As this pension plan was never properly registered in Canada, BMW has been made aware that there may be certain tax penalties with respect to the operation of the arrangement. This, then, is a contingent liability on which no present dollar value can be placed. BMW is preparing to do a partial plan termination as it affects the four Canadian participants, which will result in distribution of the present value of future accrued benefits. The total sum of those distributions will total \$387,905.98 (Canadian), as of the most recent actuary calculation (March 31, 2004). While this distribution will be made from the Grand Lodge Pension Plan, it may contribute to an under-funding status for that pension either immediately, or at some future date, which could require a cash infusion from the BMW's General Fund. Therefore, BMW would seek to retain cash in an amount equal to the disbursements, in anticipation of plan top-off liability.

There exists two proceedings which have arisen directly or indirectly on account of the organizing drive in Canada. In *Ron Bowden, et al. v. Ken Deptuck, et al.* (Ontario Superior Court File No. 03-CV-026153), Mr. Bowden was suspended from office due to his non-cooperation in a Grand Lodge audit undertaken, in part, in order to ascertain and protect BMW assets in the face of the United Steel Workers of America hostile raid, and USWA's guarantee that they would use legal and other means to obtain BMW assets. That case was settled. There is a scheduled arbitration set for August of this year over alleged violations of the settlement agreement.

In addition, *Ronald Bowden v. Freddie Simpson, et al.* (Ontario Superior Court File No. 04-CV-26839) alleges that the individual defendants and BMW defamed Ronald Bowden in communications made to BMW members working on the Teamsters organizing campaign, and a payment demand be sent to Bowden and his Joint Protective Board regarding his failure to timely remit Grand Lodge dues. Lead counsel in both of these matters is Mr. James Cameron of Ottawa, and he may be reached at telephone no. (613) 567-2901. If you need to speak with him, let me know and I will undertake to authorize his discussing these cases with you. A copy of the complaint in *Bowden v.*

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*Simpson, et al.* and the settlement agreement in the 2003 litigation will be provided. Bowden seeks in excess of \$2.5 million in damages.

There are 1,465 Canadian members, whose heirs may be entitled to \$500 (Canadian), upon their death, for a total of \$732,500. This is a closed class. This is *not* a funded liability. Rather, death benefits are made from the BMW's General Fund.

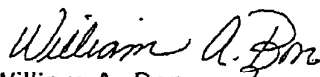
With respect to those persons holding an employment relationship with the Brotherhood and its affiliates, I understand that the relevant jurisdictions may require that there be some sort of severance payment. BMW would prefer an arrangement that would maintain continuity of employment so as to avoid such liabilities, with the understanding that should Teamsters need to make changes on account of its staffing needs, any resulting separations would be the responsibility of your client.

Finally, there exist certain health and welfare plan payments related to a retired Canadian Vice President. Obviously, BMW will not be maintaining private arrangements with respect to active or retiree insurance of any kind. Therefore, as this individual's entitlement is attributable to his service in Canada, this obligation should pass to TCRC as well.

This has been an attempt to make a comprehensive assessment of our Canadian assets and liabilities. BMW will provide any other information and update these representations, as appropriate, as we endeavor to structure a fair and amicable arrangement for the maintenance of way employees of Canada and their representative, TCRC.

Thank you for your cooperation in this matter. If you have any questions or comments concerning the foregoing, please do not hesitate to contact me.

Sincerely,

  
William A. Bon  
General Counsel



cc: Mr. Freddie N. Simpson  
Mr. Perry K. Geller