

U.S. Department of Labor

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April 30, 2010

Mr. Steven Breitlow, President
Building and Construction Trades Council
1602 Park Street
Madison, WI 53715

LM File Number: 033-677
Case Number: [REDACTED]

Dear Mr. Breitlow:

This office has recently completed an audit of Building and Construction Trades Council of South Central Wisconsin 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, Secretary Treasurer DeMinter, and Administrative Assistant Lisa Venske on April 28, 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.

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 Council's 2009 records revealed the following recordkeeping violations:

1. Reimbursed Auto Expenses

Executive Director Scott Vaughn received reimbursement for the business use of his personal vehicle but failed to retain adequate documentation to support payments to him totaling at least \$500 during the audit year.

Mr. Vaughn documented his expenses on monthly expense vouchers. However, the mileage claims identified on the vouchers did not identify the destinations he traveled to and from or the union business purpose for the travel.

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.

2. Receipt Dates not Recorded

Receipts entries in the Council's QuickBooks program reflect the date the money was entered in the program, but not the date money was received. During the audit, Ms. Venske advised that she collects money on a daily basis but makes only weekly receipt entries in QuickBooks. She further advised that the Council does not keep any additional record that identifies the date the money was 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 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 the union reporting some receipts for a different year than when it actually received them.

3. Asset Records

The Council reported \$8,773 and \$10,467 in fixed assets (Items 29(A) and 29(B) of the LM-3 report) at the beginning and end of the audit year but failed to retain any records to enable OLMS to verify the accuracy of those figures. During the audit, Ms. Venske indicated that the Council's fixed assets are comprised only of a computer, a printer, and a phone system.

In the case of fixed assets, the Council must maintain an inventory or similar record identifying each fixed assets, and the approximate value of each asset.

4. Salary Authorization

During the audit year, Ms. Venske received over \$2,600 in salary payments plus an additional \$1,560 in IRA contributions made on her behalf. The council meeting minutes reveal that Venske's salary was discussed at the April 30, 2008 meeting. However, the meeting minutes do not contain detailed information regarding the amount of salary that Venske was authorized to receive. The Council failed to retain any other documentation to enable OLMS to verify that the amount reported in Item 46 (to Employees) of the LM report was the authorized amount and therefore correctly reported. The union must keep a record, such as detailed meeting minutes, to show the current salary authorized by the entity or individual in the union with the authority to establish salaries.

Based on your assurance that the Council 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 LM-3 filed by the Council for fiscal year ending June 30, 2009, was deficient in the following areas:

1. Number of Members (Item 19)

The Council reported 19 members on their 2009 LM report. During the opening interview, Secretary Treasurer Deminter advised that the Council represents

approximately 3,500 members. Mr. Deminter also stated that the Council erroneously reported the number of local unions that the Council represents in Item 19 instead of the number of members. Page seven of the LM-3 instructions states that the number of members in your organization at the end of the reporting period must be reported in Item 19.

2. Disbursements to Officers (Item 24)

The Council did not report the names of some officers in Item 24 (All Officers and Disbursements to Officers), including the vice president and three trustees. Although the vice president and trustees did not receive any payments from the Council, all persons who held office during the year, regardless of whether they received any payments from the union, must be reported in Item 24.

3. Item 39 (Per Capita Tax)

During the audit year, the BCTC received over \$150,000 in per capita tax payments from its affiliated local unions. However, the Council did not report any per capita tax receipts in Item 39. The audit revealed that the Council erroneously reported the per capita tax payments in Item 38 (dues).

I am not requiring that the Council file an amended LM report for 2009 to correct the deficient items, but the Council has agreed to properly report the deficient items on all future reports it files with OLMS.

Other Violations

The audit disclosed the following other LMRDA violations:

1. Failure to Hold Timely Elections

Section 401 of the LMRDA provides that all national and international labor organizations hold officer elections not less than once every five years, intermediate bodies not less than once every four years, and local unions not less than once every three years. Section 401(e) provides that all elections must also be conducted in accordance with the constitution and by-laws of the labor organization in so far as they are not inconsistent with the provisions of this title.

Article V, Section 12 of the Council's by-laws provide that the Council shall "elect officers for a term of three years, the next election to be January of 1999. The election shall take place at the last meeting of January." During the opening interview, Mr. Deminter advised that the Council has a three year election cycle as dictated by the by-laws provision. He also advised that the Council failed to hold their regularly scheduled election in January of 2008 and did not hold an election until August of 2008, nearly eight months after the date proscribed in the union's bylaws.

Section 402 of the LMRDA also gives union members who believe that a violation of the election provisions of the LMRDA or of the union's constitution and bylaws has occurred, the right to file a complaint with the Secretary of Labor after internal union appeals requirements have been met. OLMS is responsible for investigating these complaints and taking appropriate enforcement action, which could include supervising a new election, if warranted.

OLMS recommends that the Council thoroughly review all of the election provisions in the constitution and by-laws before the next officer election to ensure that all election procedures are followed in accordance with those provisions.

2. Inadequate Bonding

The audit revealed a violation of LMRDA Section 502 (Bonding), which requires that union officers and employees be bonded for no less than 10 percent of the total funds those individuals or their predecessors handled during the preceding fiscal year. A quick formula for computing the amount of bonding coverage is: $(\text{Liquid Assets} + \text{Total Receipts}) \times 10\% = \text{Amount of Coverage Required}$. Although the Council was bonded through Ohio Casualty for \$20,000 (an adequate coverage amount based on formula described above), the bond policy contained a provision for a deductible of \$250 for each officer. Self insurance by the union, in whole or in part, fails to meet the bonding requirements of the LMRDA. In addition, a labor organization may not deposit its own funds with a surety company to pay for losses sustained under a bond. A bond may not have a deductible since that is a form of self insurance.

The Council obtained adequate bonding coverage and provided evidence of this to OLMS during the audit. As a result, OLMS will take no further enforcement action regarding this issue.

Other Issue

Use of Signature Stamp

During the audit, Mr. Deminter advised that the Council occasionally stamps the signature of a second officer on union checks. Article V, Section 6 of the Council's by-laws provides that the Financial Secretary (or combined position of Secretary-Treasurer) shall "issue all orders for payments of bills ordered by the Council, the same to be attested by the signature of the President and the Recording Secretary." 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 signature stamp for the second signer does not attest to the authenticity of the completed check, and negates the purpose of the two signature requirement. OLMS recommends the Council review these procedures to improve internal control of union funds.

I want to extend my personal appreciation to Building and Construction Trades Council of South Central Wisconsin 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: Tim Deminter, Secretary Treasurer
Todd Blair, Vice President
Joel Kapusta, Trustee