



December 2, 2009

Mr. William G. Thompson, Secretary-Treasurer  
Building and Construction Trades Council, Niagara County  
198 Tim Tam Terrace  
West Seneca, NY 14224

Case Number: [REDACTED]  
LM Number: 054045

Dear Mr. Thompson:

This office has recently completed an audit of Building and Construction Trades Council, Niagara County 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, President Clyde Johnston, Jr, Vice President Mike McNally and Trustee Tom Pryce on November 10, 2009, 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 Building and Construction Trades Council, Niagara County's 2008 records revealed the following recordkeeping violations:

### Credit Card and Meal Expenses

Building and Construction Trades Council, Niagara County did not retain adequate documentation for credit card and meal expenses incurred by President Clyde Johnston totaling at least \$1,279.81. For example, no receipts were found for two charges that appeared on the February 2008 credit card statement.

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.

Additionally, Building and Construction Trades Council, Niagara County did not maintain itemized receipts for meal expenses. The union must maintain itemized receipts provided by restaurants to officers and employees. These itemized receipts are necessary to determine if such disbursements are for union business purposes and to sufficiently fulfill the recordkeeping requirement of LMRDA Section 206.

The union's records of meal expenses did not always include written explanations of union business conducted or the names and titles of the persons incurring the restaurant charges. For example, in June 2008 three out of four restaurant charges did not contain adequate information, failing to provide the names of those in attendance, the purpose of the meeting or was a non-itemized receipt. Union records of meal expenses must include written explanations of the union business conducted and the full names and titles of all persons who incurred the restaurant charges. Also, the records retained must identify the names of the restaurants where the officers or employees incurred meal expenses.

Based on your assurance that Building and Construction Trades Council, Niagara County will retain adequate documentation in the future, OLMS will take no further enforcement action at this time regarding the above violations.

### Reporting Violation

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 Building and Construction Trades Council, Niagara County for fiscal year ending December 31, 2008, was deficient in that:

### Disbursements to Officers

Building and Construction Trades Council, Niagara County did not include some reimbursements to officers totaling at least \$1,279.81 in the amounts reported Item 24 (All

Officers and Disbursements to Officers). It appears the union erroneously reported these payments in Item 54(Other Disbursements).

The union must report most direct disbursements to officers and some indirect disbursements made on behalf of its officers in Item 24. A "direct disbursement" to an officer is a payment made to an officer in the form of cash, property, goods, services, or other things of value. See the instructions for Item 24 for a discussion of certain direct disbursements to officers that do not have to be reported in Item 24. An "indirect disbursement" to an officer is a payment to another party (including a credit card company) for cash, property, goods, services, or other things of value received by or on behalf of an officer. However, indirect disbursements for temporary lodging (such as a union check issued to a hotel) or for transportation by a public carrier (such as an airline) for an officer traveling on union business should be reported in Item 48 (Office and Administrative Expense).

I am not requiring that Building and Construction Trades Council, Niagara County file an amended LM report for 2008 to correct the deficient items, but Building and Construction Trades Council, Niagara County has agreed to properly report the deficient items on all future reports it files with OLMS.

#### Other Violation

The audit disclosed the following other violation:

##### 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.

The audit revealed that Building and Construction Trades Council, Niagara County's officers and employees were not bonded for the minimum amount required at the time of the audit. However, the union 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 Issues

##### 1. Officer stipends

As I discussed during the exit interview, the audit revealed that Building and Construction Trades Council does not have a clear policy regarding officer stipends. OLMS recommends that unions adopt written guidelines concerning such matters.

2. Audit of books

The audit revealed that Building and Construction Trades Council, Niagara County bylaws, Article IV, Section 6 requires that the labor organization must be bonded and audit the books quarterly. Currently, William Thompson audits the books with review of the trustees. This is not a strong internal control. The union will be advised by OLMS of any trustee workshops presented and will be encouraged to attend.

I want to extend my personal appreciation to Building and Construction Trades Council, Niagara County 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: Mr. Clyde J. Johnston, President  
Mr. Mike McNally, Vice President