

U.S. Department of Labor

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February 25, 2010

Mr. William Thompson, Secretary Treasurer
Building and Construction Trades Dept., AFL-CIO
Buffalo & Vicinity BCTC
198 Tim Tam Terrace
West Seneca, NY 14224

LM File Number 011-838
Case Number: [REDACTED]

Dear Mr. Thompson:

This office has recently completed an audit of Buffalo Building and Construction Trades Council (BCTC) 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 President Paul Brown, Vice President Sam Capitano, Trustee John Helak, Chairman Pat Lyons, and you on February 10, 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 the Buffalo BCTC's 2009 records revealed the following recordkeeping violations:

1. General Reimbursed Expenses

Buffalo BCTC's did not retain adequate documentation for reimbursed expenses and credit card expenses incurred by President Paul Brown and Secretary/Treasurer (S/T) William Thompson totaling at least \$231. For example, President Brown received a reimbursement for a lunch meeting in which no documentation was provided. Additionally, on one occasion S/T Thompson was reimbursed for a printer cartridge ink in which no documentation was retained.

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.

2. Meal Expenses

Buffalo BCTC did not require officers and employees to submit itemized receipts for meal expenses totaling at least \$110. 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.

Buffalo BCTC 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. 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.

3. Disposition of Property

Buffalo BCTC did not maintain an inventory of prizes it purchased, sold, or gave away for both the John Ray Memorial golf tournament and a raffle the Buffalo BCTC held. Additionally, an inventory of prizes should be updated regularly when items are purchased. The union must report the value of any union property on hand at the beginning and end of each year in Item 28 (Other Assets) of the LM-2. The union must retain an inventory or similar record of property on hand to verify, clarify, and explain the information that must be reported in Item 28.

The union must record in at least one record the date and method of distribution of those items.

4. Receipt Dates not Recorded

Entries in Buffalo BCTC's receipts journal reflect the date the union deposited money, but not the date 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 the LM-2. The LM-2 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.

Based on your assurance that Buffalo BCTC 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 Form LM-2 filed by Buffalo BCTC for fiscal year ending December 31, 2008, was deficient in the following areas:

1. Failure to Itemize Receipts and Disbursements

Buffalo BCTC did not properly report several "major" transactions in Schedule 14 (Other Receipts) and Schedule 15 (Representational Activities). A "major" transaction includes any individual transaction of \$5,000 or more or total transactions to or from any single entity or individual that aggregate to \$5,000 or more during the reporting period and which the local cannot properly report elsewhere in Statement B.

The audit found that the Buffalo BCTC failed to list all major receipts listed by the union in Schedule 14. For example, a receipt for \$20,000 was not correctly itemized on the 2008 LM-2 Report. In Schedule 15, the union erroneously listed the credit card as a vendor. Disbursements to credit cards companies may not be reported as a single disbursement as a vendor. Instead, charges appearing on credit cards bills paid during the reported period may be allocated to the recipient of the payment of the credit card company.

Also note in Column B of the Detailed Summary Page, the type of business of the entity or the individuals involved should be listed.

2. Acquire/Dispose of Property

Item 15 (During the reporting period did your organization acquire or dispose of any assets in any manner other than by purchase or sale?) should have been answered, "Yes," because the union gave away jackets and watches totaling more than \$7,768 during the year. The union must identify the type and value of any property received or given away in the additional information section of the LM report along with the identity of the recipient(s) or donor(s) of such property. The union does not have to itemize every recipient of such giveaways by name. The union can describe the recipients by broad categories if appropriate such as "members" or "new retirees."

3. Disbursements to Officers and Employees

Buffalo BCTC did not include some reimbursements to officers and employees / payments to officers and employees totaling at least \$1,487 in Schedule 11 (All Officers and Disbursements to Officers) and Schedule 12 (Disbursements to Employees). It appears that the local erroneously reported these payments in Schedules 15 through 19.

The union must report in Column F of Schedules 11 and 12 (Disbursements for Official Business) direct disbursements to officers and employees for reimbursement of expenses they incurred while conducting union business. In addition, the union must report in Column F of Schedules 11 and 12 indirect disbursements made to another party (such as a credit card company) for business expenses union personnel incur. However, the union must report in Schedules 15 through 19 indirect disbursements for business expenses union personnel incur for transportation by public carrier (such as an airline) and for temporary lodging expenses while traveling on union business. The union must report in Column G (Other Disbursements) of Schedules 11 and 12 any direct or indirect disbursements to union personnel for expenses not necessary for conducting union business.

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Buffalo BCTC must file an amended Form LM-2 for fiscal year ending December 31, 2008 to correct the deficient items discussed above. I explained to you the filing procedures and the availability of filing software on the OLMS website (www.olms.dol.gov). The amended Form LM-2 must be electronically filed as soon as possible, but not later than March 31, 2010. Before filing, review the report thoroughly to be sure it is complete and accurate, and properly signed with electronic signatures.

Buffalo BCTC is reminded that their annual LM-2 Report, fiscal year ending December 31, 2009, is to be filed within 90 days of the end of the fiscal year. The union has agreed to properly report all the deficient items on all future reports with OLMS.

I want to extend my personal appreciation to Buffalo BCTC 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: President Paul Brown
Vice President Sam Capitano
Trustee John Helak
Chairman Pat Lyons
John Callahan, Accountant, Tronconi, Segarra & Associates