

U.S. Department of Labor

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February 8, 2010

Gregory Lancette, President
Building & Construction Trades Council, AFL-CIO
Central & Northern New York
150 Midler Park Drive
Syracuse, NY 13206

LM File Number: 025-096

Case Number: [REDACTED]

Dear Mr. Lancette:

This office has recently completed an audit of the Central & Northern New York Building & Construction Trades Council (herein after the Council) 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 Bookkeeper Terry Thomas and you on February 4, 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 records for fiscal year ending December 31, 2009 revealed the following recordkeeping violation:

Reimbursed Meal Expenses

The Council did not maintain itemized receipts for meal expenses totaling at least \$500. 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.

Union records of meal expenses must include not only the itemized receipt but also written explanations of the union business conducted and the full names and titles of all persons who incurred the restaurant charges.

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 violation.

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-3) filed by the Building & Construction Trades Council for fiscal year ending December 31, 2008 was deficient in the following areas:

1. Disbursements to Officers

The Council did not include some reimbursements to officers totaling at least \$4,900 in the amounts reported Item 24 (All Officers and Disbursements to Officers). It appears the union erroneously reported these payments in Item 48 (Office and Administrative Expense).

The union must report most direct disbursements to the Council 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).

Of particular note, the Council reimbursed IBEW Local 43 on several occasions for expenses incurred and purchased through a credit card arrangement of Local 43. The credit card was assigned by Local 43 to Business Manager William Towsley who was Council President at the time. He used the Local 43 credit card for meals or other expenses of the Building Trades Council. The Council would then reimburse the local union. The Council should report applicable officer's credit card expense as an indirect expense next to the officers' name in Item 24, Column E (Allowances & Other Disbursements). A brief description can be provided in Item 56 (Additional Information).

2. Disbursements to Employees

The Council did not include some payments to employees in Item 46 (Disbursements to Employees) totaling at least \$5,500. The union must report most direct and indirect disbursements to Council employees in Item 46, less deductions. This includes disbursements to individuals other than officers who receive payments for work performed or expenses incurred, including bonuses. It appears the union reported these payments in Item 48 (Officer and Administrative Expenses).

I am not requiring that the Council file an amended LM-3 report for 2008 to correct the deficient items, but the Council has agreed to properly report the deficient item on the 2009 report and all future reports it files with OLMS.

I want to extend my personal appreciation to the Building & Construction Trades Council for the cooperation and courtesy extended during this compliance audit. I strongly recommend that you make sure this letter and any 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: Ronald Haney, Secretary Treasurer
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