



April 12, 2016

Mr. Harry Melander, President  
Minnesota State Building & Construction Trades Council  
AFL-CIO  
353 West 7th Street  
St. Paul, MN 55102

Case Number: 320-6006462 [REDACTED]  
LM Number: 045991

Dear Mr. Melander:

This office has recently completed an audit of Minnesota State Building & 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 you on March 9, 2016, 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.

#### Reporting 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 MN State BCTC records for the fiscal year ended June 30, 2015, revealed the following recordkeeping violations:

1. Reimbursed Officer/Employee Expenses and Credit Card Expenses

The MN State BCTC did not retain adequate documentation for credit card expenses incurred by you and Treasurer Craig Olson totaling at least \$4,574.27. For example, you made 206

charges on the union credit card totaling \$21,894.96. Of these, there were 89 charges totaling \$4,255.61 for which no supporting documentation (bill, invoice, or receipt) was maintained by the union. As another example, Mr. Olson made a \$318.66 charge at the Kahler Grand Hotel in Rochester, MN; however, no receipt was maintained by the union for this expense.

The audit also revealed that you made 24 charges totaling \$3,006.95 for which receipts were maintained, but the receipts either did not list the purpose of the union business or the purpose listed was not sufficient to determine the exact nature of the charge.

A review of your reimbursed expenses revealed that at least \$3,261.35 of your expenses were not supported by adequate documentation because the MN State BCTC did not retain the original receipts. During the audit, you were asked to produce the original receipts. You stated that after you made copies of the original receipts and attached the copies to your vouchers that you then destroyed the original receipts. You were advised that original receipts must be kept.

The MN State BCTC also did not retain adequate supporting documentation for travel advances, which the union refers to as “per diem” payments, to you during the audit year. The audit determined that if the traveler does not use the full per diem amount, then they are required to reimburse the union the unused amount. During the audit you stated that you do not have receipts for any expenses under \$25 because the union’s policy does not require them to be retained; however, you were advised that you are required to submit all receipts regardless of the amount of the expense since the “per diem” payments are actually travel advances as the MN State BCTC requires officers and employees to reimburse the unused portion of the “per diem” payments.

As noted above, labor organizations must retain original receipts, bills, and vouchers for all disbursements. In the case of meals charged on a union credit card, union records of the meal expense must include a written explanation 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.

## 2. Disbursements to Vendors

The MN State BCTC did not retain adequate supporting documentation for several checks to outside vendors totaling at least \$14,480 during the audit year. For example, no back-up documentation was retained for a check for \$1,580 to the Building Trades Federal Credit Union for an unknown business purpose. As another example, checks issued to Joe’s Sporting Goods for \$400 and to DeLaForest Consulting for \$12,500 did not contain sufficient back-up documentation. Additionally, the invoice for the check to DeLaForest Consulting did not describe the nature of the services provided or the union business purpose. During the exit interview, you stated Mr. DeLaForest is a former state representative and that he is a lobbyist/strategist who helps the union out at the MN State Capital. The receipt for Joe’s Sporting Goods showed that 8 \$50 gift cards were purchased for door prizes; however, the names of the recipients of the gift cards were not recorded in any union record, which is not sufficient.

As 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.

### 3. Meal Expenses

The MN State BCTC did not require officers to submit itemized receipts for meal expenses totaling at least \$2,583.15 during the audit year. For example, you were reimbursed for 35 meals (totaling \$804.34) for which no receipts were maintained by the union. You were also reimbursed for 18 meals (totaling \$903.81) for which only a copy of a non-itemized receipt, a copy of an itemized receipt, or a copy on a guest receipt was maintained, which is not sufficient.

Additionally, the audit revealed MN State BCTC records for meal expenses charged on the union's credit card did not always include written explanations of union business conducted, the names and titles of the persons incurring the restaurant charges, or an itemized receipt. For example:

- You made 15 meal charges totaling \$1,074.32 for which no itemized receipt was maintained by the union.
- You made 15 meal charges totaling \$1,435.04 for which the names of those present were not written on the receipt.
- You had 9 meal charges totaling \$590.46 for which there was no itemized receipt was maintained, no names of those present was written on the receipt, and no union purpose was written on the receipt.

As noted above, labor organizations must retain original receipts, bills, and vouchers for all disbursements. 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. In the case of meals, union records of the meal expense must include a written explanation 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.

### 4. Lack of Salary Authorization

The MN State BCTC did not maintain records to verify that the salaries reported in Schedules 11 (All Officers and Disbursements to Officers) of the Form LM-2 was the authorized amount and therefore was correctly reported.

During 2014 and 2015, the MN State BCTC paid annual salaries of \$400 to Trustees Glen Johnson, Alan Vandewalker, Mike Syversrud and an annual salary of \$3,000 to Mr. Olson. The audit revealed that the MN State BCTC did not maintain any union records to verify that

the salaries reported in Schedule 11 of the Form LM-2 were the authorized amounts and were therefore correctly reported. The union must keep a record, such as meeting minutes, to show the current salary authorized by the entity or individual in the union with the authority to establish salaries.

5. Receipt Dates not Recorded

Entries in union's QuickBooks 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 the MN 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(a), which requires that a union submit a copy of its revised constitution and bylaws with its LM report when it makes changes to its constitution or bylaws. The MN State BCTC amended its constitution and bylaws in 2014, but did not file a copy with its LM report for that year. You filed your organization's Constitution and Bylaws on December 7, 2015. Therefore, no further action is required.

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 the MN State BCTC for the fiscal year ended June 30, 2015, was deficient in the following areas:

1. Disbursements to Officers

The MN State BCTC did not report gross salary payments made to officers totaling at least \$109,287 in Schedule 11 (All Officers and Disbursements to Officers). As an example, the MN State BCTC did not report the \$400 per year gross salaries of Mr. Johnson, Mr. Vandewalker, and Mr. Syversrud, nor did it report Mr. Olson's \$3,000 gross salary in Column D (Gross Salary Disbursements).

In addition, the MN State BCTC reported \$0 for your salary in Column D of Schedule 11. The audit revealed that MN State BCTC reimbursed the St. Paul BCTC each month for your salary and benefits in accordance with the contract between the two unions. However, the MN State BCTC reported in Schedules 15-19 payments to the St. Paul BCTC totaling over \$136,000 for "Cost sharing 60% payroll, fringes, office space," which included the payments made to the St. Paul BCTC for some of your wages. The gross salary portion of the payments made to the St. Paul BCTC must be reported in Column D of Schedule 11 next to your name. In Item 69

(Additional Information), the union should explain that the St. Paul BCTC paid all of your wages, allowances, and fringe benefits and that the MN State BCTC reimbursed the amounts listed next to your name based on the contractual agreement between the two unions.

In addition, the audit also determined the MN State BCTC did not include some payments to officers totaling at least \$8,153 in Schedule 11. For example, the MN State BCTC reported \$8,678 next to you name in Column F (Disbursements for Official Business) of Schedule 11. However, the audit revealed that you received at least \$16,831 in direct payments (such as travel advances) and indirect payments for expenses charged on your union credit that must be reported in Column F of Schedule 11. In addition, movie rentals at hotels while out of town on union business, even though you repaid them, should be reported in Column G (Other Disbursements) of Schedule 11. As another example, the delegates to the convention were reimbursed for their hotel costs; however, no reimbursed expenses were reported in Column F of Schedule 11. It appears that the union erroneously reported these payments in Schedules 15 through 19.

The union must report in Column F of Schedule 11 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 Schedule 11 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 Schedule 11 any direct or indirect disbursements to union personnel for expenses not necessary for conducting union business.

## 2. Unreported Dividend Income

Item 41 (Dividends) on the MN State BCTC Form LM-2 for the FYE June 30, 2015, indicates that \$0 was received in dividends for the fiscal year; however, the audit revealed that the MN State BCTC received a \$1,660 dividend payment from Union Bank & Trust on February 27, 2015 for the union's 664 shares of Union Bank Stock. The audit was unable to determine where the union reported this investment income on the Form LM-2. The Form LM-2 instructions for Item 41 states that unions must report the total amount of dividends from stocks and other investments received by the labor organization. Do not include "dividends" from credit unions, savings and loan associations, etc., which must be reported in Item 40 (Interest).

The MN State BCTC must file an amended Form LM-2 for the fiscal year ended June 30, 2015, to correct the deficient items discussed above. The report must be filed electronically using the Electronic Forms System (EFS) available at the OLMS website at [www.olms.dol.gov](http://www.olms.dol.gov). The amended Form LM-2 must be filed no later than May 6, 2016. Before filing, review the report thoroughly to be sure it is complete and accurate.

Other Issue

Policies for Expense and Car Allowance

As I discussed with you during the exit interview, the audit revealed that MN State BCTC does not have clear policies regarding the various allowances that you are paid.

During the audit year, you were paid a quarterly car allowance of \$350, and you were paid an expense allowance of \$100 per week; however, the audit revealed that you also charge gas and meals to the union credit card. The audit also determined that the union treated these allowances as compensation and withheld payroll taxes from the payments made to you during the audit period. A review of the MN State BCTC records also revealed that the MN State BCTC has no written policies detailing the purpose of the quarterly car allowance and the weekly expense allowance.

Although OLMS does not recommend one best policy for authorizing allowances, it strongly recommends that the MN State BCTC adopt written policies governing the payment of your quarterly car allowance and weekly expense allowance, and ensure the policies contains guidelines concerning the type of expenses the allowances are meant to cover. This authorization must be documented in at least one record, such as union meeting minutes. Such policies can help ensure effective internal controls and safeguard union assets.

I want to extend my personal appreciation to Minnesota State Building & Construction Trades Council 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,



Senior Investigator

cc: Mr. Craig Olson, Treasurer