U.S. Department of Labor

Employment Standards Administration
Office of Labor-Management Standards
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October 9, 2009

Mr. Michael Theriault, Secretary Treasurer
San Francisco Building & Construction Trades Council
1188 Franklin Street, Room 203
San Francisco, CA 94109

LM File Number: 035-166
Case Number:

Dear Mr. Theriault:

This office has recently completed an audit of 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 and Office Manager Burnette Wong on October 8, 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.

<u>Reporting Violations</u>

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 San Francisco BCTC for fiscal year December 31, 2008 was deficient in the following areas:

1.   Failure to Report Officers

      Schedule 11 (All Officers and Disbursements to Officers) did not list all constitutional officers. The BCTC elects trustees who are considered constitutional officers, but none of the trustees were listed in Schedule 11. The union must report in Schedule 11 all persons who held office during the year, regardless of whether they received any payments from the union.

2. Failure to File Bylaws

    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 BCTC amended its constitution and bylaws in 1997, but did not file a copy with its LM report for that year. The BCTC has now filed a copy of its constitution and bylaws.

3. Failure to Report an Asset

    The BCTC owns an automobile, but this asset was not listed in Schedule 6 (Fixed Assets.) Although the automobile has been fully depreciated, it should still be listed in Schedule 6. The fair market value of an asset that has been fully depreciated or depreciated to scrap or nominal value should be listed in Column E of Schedule 6.

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

                          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 BCTC currently has a general liability policy that provides coverage of $50,000 for employee dishonesty, forgery and alteration with a $500 deductible. This liability policy does not appear to be a bond issued by an approved surety company. The BCTC must obtain bonding coverage of at least $87,000 to cover the officers and employees. The bond must be issued by an approved surety company and must not have a deductible. A deductible is considered a form of self insurance and is not allowed. The BCTC should obtain adequate bonding coverage for its officers and employees immediately. Please provide proof of bonding coverage to this office as soon as possible, but not later than November 9, 2009.

I want to extend my personal appreciation to the 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,

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Supervisory Investigator

cc: Larry Mazzola, President