



February 19, 2015

Mr. Daniel Kuntz, Financial Secretary  
Building & Construction Trades Department, AFL-CIO  
Rochester Building & Construction Trades Council  
20 4th Street  
Rochester, NY 14609-6032

Case Number: 110-6002988( )  
LM Number: 029-467

Dear Mr. Kuntz:

This office has recently completed an audit of the Rochester 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 President David Young and you on February 10, 2015, 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 Rochester BCTC 2014's records revealed the following recordkeeping violation:

## General Disbursements

The Rochester Building & Construction Trades Council did not retain adequate documentation for general disbursements totaling at least \$600. For example, no documentation was retained for a check issued to Jim's Restaurant for \$400.

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.

## 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 Rochester Building Trades Council for the fiscal year ended January 31, 2014, was deficient in the following areas:

### 1. Disbursements to Officers (LM-3)

The Rochester BCTC did not include some reimbursements to officers totaling at least \$370 in the amounts reported Item 24 (All Officers and Disbursements to Officers). It appears the union erroneously reported these payments in Item 48.

The union must report most direct disbursements to BCTC 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).

### 2. Deductions and Withholding Taxes

The council did not properly report on Line 10 of Item 24 the total amount of withheld taxes and other payroll deductions during the period. In addition, disbursements for the transmittal of withheld taxes, payroll deductions and other deductions must be reported in Item 54 (Other Disbursements). The Rochester BCTC entered zero on Line 10 of Item 24 and appears to have erroneously reported withheld taxes in Item 48.

3. Disbursements to Employees

The Rochester Building Trades did not report payments to employees properly in Item 46 (Disbursements to Employees). The union reported \$2,000 in Item 46, however it appears this amount is the gross amount payable to an employee during the period, not the total amount less deductions.

In Item 46, enter the total of all salaries, travel advances, which are not considered loans, and other direct and indirect disbursements (less deductions) to employees of the organization. Include disbursements to individuals other than officers even if your organization does not consider them to be employees.

4. Total Receipts and Disbursements

It appears that the union did not report the total receipts and total disbursements in Item 44 (Total Receipts) and Item 55 (Total Disbursements) according to the union's books, therefore affecting the union's ending balance in Item 25 (Cash) after reconciliation to the bank statements. The instructions for Item 25 state that the union should obtain account balances from its books as reconciled to the balances shown on bank statements. Failing to report the total receipts received or the total disbursements as represented in the union's records will result in incorrect cash figures.

4. Failure to Report Receipts and Disbursements.

The Rochester Building & Construction Trades Council failed to report all receipts collected during the period totaling at least \$3,000. The union collected per capita tax, assessments, and other miscellaneous receipts during the period. Some of the miscellaneous receipts were not reported fully on the form in Item 43 (Other Receipts) as required.

Additionally the union improperly reported disbursements in Item 54 which were never disbursed from the union during the period. The union reported \$10,000 in Item 54 for seed money to Modica & Associates. The amount was subtracted from the union's books, however the payment was never actually issued.

3. Other Assets

The Rochester Building Trades reported an amount in Item 30 (Other Assets). The instructions for Item 30 state that the union should report assets such as accounts receivable, utility deposits, or travel advances which are not considered loans. The audit did not reveal any such assets for reporting. If an explanation is necessary, additional information can be provided in Item 56 (Additional Information).

I am not requiring that the Rochester BCTC file an amended LM report for 2014 to correct the deficient items, but the Rochester Building Trades 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 the Rochester BCTC officers and employees were not bonded for the minimum amount required at the time of the audit. However, the BCTC 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.

I want to extend my personal appreciation to the Rochester Building Trades 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,



Supervisory Investigator

cc: Mr. David Young, President