

U.S. Department of Labor

Office of Labor-Management Standards
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April 6, 2005

Daniel Rose, President
Bricklayers and Allied Craftworkers
Local #3 New York
2650 North Forest Rd., Ste. 17A
Getzville, NY 14068

Re: _____ 2

Dear Mr. Rose:

This office has completed an audit of Bricklayers and Allied Craftworkers (BAC) Local #3, NY 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. As discussed during the exit interview with you, Vice President Gary Aberhorn, and your attorney and accountant Eugene Salisbury and Joe Klimek on February 16, 2005, 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:

- In violation of the LMRDA Sections 206 and 209(c) the union failed to maintain or destroyed records required to be kept to verify financial transactions of the union for the 2003 fiscal year. The meeting minutes, cancelled checks, invoices, and documents supporting dues payments were missing for the majority of the year. In addition, many of the credit card meeting expenses failed to provide sufficient information to define the purpose of the meeting and who was in attendance.

During the meeting we also discussed the need for the union to maintain adequate documentation involving subsidy awards with the two Market Recovery Funds. The review of the funds' transactions failed to have sufficient information to support the awards payments. As a requirement for being awarded the fund monies to supplement the jobs, the application should report non-union contractors who are bidding against union contractors. This was not done in most instances.

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As we discussed the lack of union records you indicated that steps were implemented in 2004 to correct these problems. The information you provided supported this action. You also agreed to make sure all Market Recovery Funds' applications are properly completed before awarding subsidies in the future. Therefore, no further action will be taken regarding this issue at this time.

- In violation of Section 502 the union was inadequately bonded. Proper and adequate bonding coverage was obtained in January 2005 by your organization. Since you are now bonded for \$500,000, the maximum amount required under the Act, there may be no legal requirement to raise this amount in the future. Therefore, no further action will be taken regarding this issue at this time. However, you may want to review this coverage at times to see if there is additional needed protection requiring an increase.
- In violation of Section 201 the union filed a deficient LM-2 report for the fiscal year ending December 31, 2003. An amended report is requested to be filed by April 22, 2005, to address the following deficiencies:
 - 1) The information contained on the 2003 LM-2 Line 25(A) was understated by \$352,259. CPA Klimek indicated that the information on the union's 2002 LM-2 on Line 25(B) was incorrect and he properly reported the starting cash amount on the 2003 report. An explanation needs to be provided in Item 75 regarding the difference.
 - 2) Schedule 12 – Contributions, Gifts & Grants listed “Charitable Contributions” into one amount of \$42,893. The schedule requires the itemized reporting of this expense in logical reporting groups. The amended report needs to contain such a break down of contributions.
 - 3) Schedule 13 – Office & Administrative Expense contained an item listed as “Auto Expense” for \$16,851. Since the union assigns their automobiles to officers or employees, this amount has to be properly reported as an assigned expense to those officers or employees in Schedules 9 or 10. By this time CPA Klimek has received a response from Chief Bonneye Newkirk, DRDA, U.S. Department of Labor, OLMS regarding the reporting of the purchase/lease arrangement of the cars. The current reporting of those expenses are correct on the original LM-2 report and need no correction.
- Information was contained in the union's December 2003 “Management Meeting” minutes regarding the salary increases effective January 5, 2004, for the new union executive board. That executive board took office in December 2003 after former president [redacted] resigned. The minutes reflected a \$17,000 a

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year raise for the president. You provided me with documentation and an explanation regarding this raise and how it was within the guidelines of the union's constitution for approving expenses. However, as we discussed this type of transaction would be better brought before the membership for approval. You took note of that suggestion for the future.

I want to extend my personal appreciation for you and your entire staff's cooperation and courtesy during this compliance audit. If we can be of any assistance in the future, please do not hesitate to call.

Sincerely,

FCC

Senior Investigator

cc: Eugene Salisbury, Attorney
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