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58 CLR 5

### ***Racketeering***

## **Carpenters Claim BCTD, Labor Officials Are Waging 'Unlawful Extortionate Campaign'**

*By Elliott T. Dube*

The AFL-CIO's Building & Construction Trades Department, its president, and four other high-profile labor officials have violated the Racketeer Influenced and Corrupt Organizations Act and Washington state law by engaging in an "unlawful extortionate campaign" to force the Carpenters and Joiners of America to make monthly payments to BCTD and to be governed by its rules, according to a complaint filed Feb. 21 in a federal district court in Washington state (*Carpenters and Joiners of Am. v. Building and Constr. Trades Dep't*, E.D. Wash., No. 12-109, 2/21/12).

The 246-page complaint was brought by the Carpenters, a number of its affiliated councils, and 19 individual plaintiffs in U.S. District Court for the Eastern District of Washington. In addition to BCTD and its President Mark Ayers, the plaintiffs are suing: Ed Hill, president of the International Brotherhood of Electrical Workers; Jimmy Williams, president of the Painters and Allied Trades; Ron Ault, president of the Metal Trades Department; and David Molnaa, president of the Hanford Atomic Metal Trades Council.

The defendants have been conspiring to carry out a "campaign of intimidation, threats, violence and other unlawful extortionate conduct" to compel the Carpenters' entry into multiple "involuntary agreements," according to the complaint.

Specifically, it alleges, the defendants have been trying to extort the Carpenters to make monthly payments to BCTD in perpetuity, to let BCTD exercise the Carpenters' rights to recruit, accept, and train dues-paying members, to enter into BCTD-negotiated project and other agreements, to be bound to BCTD's Plan for the Settlement of Jurisdictional Disputes, and to allow BCTD to control the Carpenters' political activity, among other things.

"The Carpenters are not part of the BCTD, they do not want to pay and continue paying the BCTD and Councils their bloated monthly payments in perpetuity for anti-competitive services, rules, regulations and membership restrictions unrequested, unwanted, and unnecessary, and they do not want to give over to the BCTD Defendants their dues-paying members as chattels or to surrender an interest in or control over the Carpenters," the complaint states.

### **Suit Says Campaign Has Been Ongoing Since 2008**

The defendants and various "co-conspirators" began a nationwide "Push-Back-Carpenters Campaign" in October 2008, according to the complaint. It alleges that the campaign has included the vandalizing of property used by members of Carpenters Local 57 in St. Louis, "veiled death threats" against a Carpenters officer in St. Louis, the successful pressuring of the Metal Trades Department to kick out the Carpenters, the stealing of confidential Carpenters membership information, and "violence and vandalism" in Seattle.

Additionally, at the September 2009 AFL-CIO convention, a resolution was passed that "authorized the BCTD Defendants to charter Carpenters unions should their extortionate conspiracy be unsuccessful," the complaint asserts (55 CLR 953, 9/24/09).

The campaign was announced publicly at a June 2010 rally in St. Louis, at which the BCTD defendants made a "formal declaration of war" against the Carpenters, the complaint alleges. It says those defendants also established a formal committee to do "whatever it takes" to get the Carpenters to submit to BCTD control (56 CLR 781, 8/26/10).

### **Complaint Includes Nine Claims for Relief**

The complaint's RICO claims charge each defendant with violating 18 U.S.C. § 1962(d) by conspiring to breach Section 1962(a), which makes it unlawful for any person to use income derived from a "pattern of racketeering activity" to acquire any interest in a covered enterprise, and Section 1962(b), which prohibits the

acquisition of control of the Carpenters through a pattern of racketeering activity. The complaint also alleges violations of two analogous sections of the Revised Code of Washington.

The five individual defendants each have violated and have conspired to violate 18 U.S.C. § 1962(c), which bars a person from using a pattern of racketeering activity to conduct a covered enterprise's affairs, according to the complaint.

The complaint also accuses Ault, Hill, Williams, and Molnaa with violating Section 411 of the Labor-Management Reporting and Disclosure Act by revoking the plaintiffs' participation in the Metal Trades Department without providing the plaintiffs with required due process rights, taking adverse actions against the plaintiffs that were not taken against any other similarly situated members, and keeping the plaintiffs from attending department meetings.

The complaint requests punitive damages and declaratory and equitable relief. Additionally, the plaintiffs seek injunctive relief enjoining the defendants from carrying out "any further extortionate conduct." The complaint also requests court orders for the "dissolution of the BCTD enterprise and/or a reorganization of the BCTD prohibiting the BCTD Defendants and any co-conspirators" from having any control over the BCTD or the Metal Trades Department, for the restoration of all the plaintiffs' rights and privileges as Metal Trades Department members, and for the defendants to "disgorge all ill-gotten income and gains received from their unlawful extortionate campaign and conspiracy."

The attorney for the Carpenters and a BCTD spokesman were unavailable for comment.

#### **For More Information**

Text of the complaint is available at <http://op.bna.com/dlrcases.nsf/r?Open=edue-8rwm7j>.

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ISSN 1523-5688

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