Form 5500-SF

Department of the Treasury Internal Revenue Service

Department of Labor Employee Benefits Security Administration Pension Benefit Guaranty Corporation Short Form Annual Return/Report of Small Employee Benefit Plan

This form is required to be filed under sections 104 and 4065 of the Employee Retirement Income Security Act of 1974 (ERISA), and section 6058(a) of the Internal Revenue Code (the Code).

▶ Complete all entries in accordance with the instructions to the Form 5500-SF.

2000

2009

OMB Nos. 1210-0110 1210-0089

This Form is Open to Public Inspection

	art I Annual Report Identification Information							
For	For calendar plan year 2009 or fiscal plan year beginning 01/01/2009 and ending 12/31/2009							
Α	This return/report is for: Single-employer plan	multiple-e	mployer plan (not multiemployer)	er) one-participant plan				
В	This return/report is for: first return/report	final return/report						
	an amended return/report	short plar	year return/report (less than 12 m	onths)				
С	C Check box if filing under: Form 5558 automatic extension				DFVC program			
	special extension (enter description	n)						
Pa	art II Basic Plan Information—enter all requested informa							
	Name of plan			1b	Three-digit			
	SMITH 401K PLAN				plan number			
				4-	(PN)			
				1c Effective date of plan 06/15/2008				
	Plan sponsor's name and address (employer, if for single-employer	plan)		2b	Employer Identification Number			
M. C	. SMITH CONSTRUCTION, INC.			20	(EIN) 91-1602224			
1265	W. AXTON RD			20	Plan sponsor's telephone number 360-671-1178			
	NDALE, WA 98248			2d	Business code (see instructions)			
				-	236110			
	Plan administrator's name and address (if same as Plan sponsor, en . SMITH CONSTRUCTION, INC. 1265 W. AXTO		e ")	30	Administrator's EIN 91-1602224			
	FERNDALE, V		3	3с	Administrator's telephone number			
4	If the name and/or EIN of the plan sponsor has changed since the las	t return/re	nort filed for this plan, enter the	4h	360-671-1178 EIN			
	name, EIN, and the plan number from the last return/report. Sponsor		port mod for this plant, officer the					
				4c	PN			
5a	Total number of participants at the beginning of the plan year			. 5a	15			
b				. 5b	3			
С	Total number of participants with account balances as of the end of complete this item)			. 5c	2			
6a					X Yes No			
b	- ,				 V v □ N-			
	under 29 CFR 2520.104-46? (See instructions on waiver eligibility a		•		X Yes No			
Pa	If you answered "No" to either 6a or 6b, the plan cannot use Fo	JIII 3300-	SF and must mstead use Form 5	300.				
7	Plan Assets and Liabilities		(a) Beginning of Year		(b) End of Year			
a	Total plan assets	7a	253	30	6112			
_	Total plan liabilities	7b						
С	Net plan assets (subtract line 7b from line 7a)	7c	253	30	6112			
8	Income, Expenses, and Transfers for this Plan Year		(a) Amount		(b) Total			
а	Contributions received or receivable from:							
	(1) Employers	8a(1)	000	_				
	(2) Participants	8a(2)	339	9				
h	(3) Others (including rollovers)	8a(3)	00	22				
b	Other income (loss)	8b	Z	23	358			
c d	Total income (add lines 8a(1), 8a(2), 8a(3), and 8b) Benefits paid (including direct rollovers and insurance premiums	8c			3302			
u	to provide benefits)	8d						
е	Certain deemed and/or corrective distributions (see instructions)	8e						
f	Administrative service providers (salaries, fees, commissions)	8f						
g	Other expenses	8g						
h	Total expenses (add lines 8d, 8e, 8f, and 8g)	8h			0			
i	Net income (loss) (subtract line 8h from line 8c)	8i			3582			
j	Transfers to (from) the plan (see instructions)	8j						

Part IV	Dlan	Charac	torictics
Part IV	Plan	Charac	reristics

Signature of plan administrator

Signature of employer/plan sponsor

SIGN HERE

9a If the plan provides pension benefits, enter the applicable pension feature codes from the List of Plan Characteristic Codes in the instructions: 2E 2F 2G 2J 2K 3D

Dawt '	.,	Compliance Overtions								
Part		Compliance Questions				Yes	NI -	1		
		uring the plan year:					No		Amount	
	29	Was there a failure to transmit to the plan any participant contributions within the time period described in 29 CFR 2510.3-102? (See instructions and DOL's Voluntary Fiduciary Correction Program)					X			
	Were there any nonexempt transactions with any party-in-interest? (Do not include transactions reported on line 10a.)				10b		X			
С	Was the plan covered by a fidelity bond?						X			
d							X			
	Were any fees or commissions paid to any brokers, agents, or other persons by an insurance carrier, insurance service or other organization that provides some or all of the benefits under the plan? (See instructions.)						Х			
f	Has	the plan failed to provide any benefit when due under the plan?			10f		X			
g	Did t	he plan have any participant loans? (If "Yes," enter amount as of	vear end.)		10g		Χ			
_	If thi	s is an individual account plan, was there a blackout period? (See	instructions and 29	9 CFR	10h		X			
i	If 10	h was answered "Yes," check the box if you either provided the reptions to providing the notice applied under 29 CFR 2520.101-3	equired notice or on	e of the	10i		X			
Part \	/I	Pension Funding Compliance								
		s a defined benefit plan subject to minimum funding requirements							Yes X	No
12	Is th	is a defined contribution plan subject to the minimum funding requ	uirements of section	n 412 of the Code	or se	ction 3	02 of	ERISA?	Yes X	No
	(If "Y	es," complete 12a or 12b, 12c, 12d, and 12e below, as applicable	e.)							
	a If a waiver of the minimum funding standard for a prior year is being amortized in this plan year, see instructions, and enter the date of the letter ruling granting the waiver. Month Day Year									
		ompleted line 12a, complete lines 3, 9, and 10 of Schedule ME				Г		1		
		r the minimum required contribution for this plan year				⊢	12b			
		r the amount contributed by the employer to the plan for this plan					12c			
		ract the amount in line 12c from the amount in line 12b. Enter the tive amount)	•	-			12d			
е	Will 1	he minimum funding amount reported on line 12d be met by the fu	unding deadline?					Yes	No X N	N/A
Part \	/II	Plan Terminations and Transfers of Assets								
13a	Has	a resolution to terminate the plan been adopted during the plan ye	ear or any prior yea	r?					Yes X	No
	lf "Ye	es," enter the amount of any plan assets that reverted to the emplo	oyer this year				13a			
b	Were all the plan assets distributed to participants or beneficiaries, transferred to another plan, or brought under the control of the PBGC?						No			
		ring this plan year, any assets or liabilities were transferred from the hassets or liabilities were transferred. (See instructions.)	his plan to another	plan(s), identify th	ne plai	n(s) to				
13	13c(1) Name of plan(s):					130	(2) EI	N(s)	13c(3) PN	l(s)
Cautio	on: A	penalty for the late or incomplete filing of this return/report	will be assessed u	ınless reasonab	le cau	se is	establ	lished.		
Under SB or	pen Sche	alties of perjury and other penalties set forth in the instructions, I dedule MB completed and signed by an enrolled actuary, as well as true, correct, and complete.	declare that I have	examined this retu	ırn/rep	ort, in	cludin	g, if applic		
SIGN	Filed with authorized/valid electronic signature. 05/10/2012 MONTAGUE C SMITH, JR									
HERE		Signature of plan administrator	Date	Enter name of individual signing as plan administrator						

Date

Date

Enter name of individual signing as plan administrator

Enter name of individual signing as employer or plan sponsor

Department of Treasury Internal Revenue Service Ogden, UT 84201-0073

Re: Letter of Reasonable Cause
M.C. Smith 401k Plan
1265 W. Axton Rd.
Ferndale, WA 98248
EIN # 91-1602227
Plan Years Ending: 12/31/2009 & 10/31/2010

To Whom It May Concern:

Please be informed that the 2009 5500 was filed for the above mentioned plan, however due to a software error the filing was rejected. During the month of October 2010 our TPA became locked out of the DOL website forcing them to be issued a new filing ID. They had already filed hundreds of 5500's that day through the Web Client software. Apparently receiving the new filing credentials caused the filing pin to clear out of all electronically signed forms they had filed. The TPA did not realize this happened until after the extended 10/15 filing deadline and still do not know to what extent the damage it has caused. This error was not the fault of the plan or the TPA. The TPA has since discontinued using the Web Client software used in 2009 because of the numerous filing issues for that plan year.

The 2009 5500 was filed as a final filing on 10/11/2010. The plan was then removed from the TPA's system as they were under the impression that the 2009 filing had been received by the DOL. It was recently brought to our attention that not only was the 2009 filing rejected but should not have been a final filing. The final filing should have been a short plan year in 2010.

As this plan has never been late on any filings or been out of compliance in any way and the plan is no longer active, please accept this letter, along with the 2009 and 2010 filings, as a formal request to abate any future penalties regarding the 2009 & 2010 filings. Thank you in advance for your consideration in this unfortunate mistake.

Sincerely,

M. C. Smith 401k Plan

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OMB Nos. 1210-0110 Form 5500-SF Short Form Annual Return/Report of Small Employee 1210-0089 Benefit Plan Department of the Treesury Informal Revenue Service 2009 This form is required to be filed under sections 104 and 4065 of the Employee Retirement income Security Act of 1974 (ERISA), and section 6058(a) of the Department of Labor This Form is Open to Public Employee Benefits Security Administration Internal Revenue Code (the Code). Inspection Pension Benefit Guaranty Corporation Complete all entries in accordance with the instructions to the Form 5500-SF Part I. Annual Report Identification Information 01/01/2009 12/31/2009 For calendar plan year 2009 or fiscal plan year beginning and ending X single-employer plan one-participant plan multiple-employer plan (not multiemployer) A This return/report is for: B This return/report is for: first return/report final return/report an amended return/report short plan year return/report (less than 12 months) Form 5558 ☐ DFVC program automatic extension C Check box if filing under: special extension (enter description) Part II Basic Plan Information enter all requested information 1a Name of plan 1b Three-digit M. C. Smith 401k Plan pian number 001 (PN) Effective date of plan 06/15/2008 Employer Identification Number (EIN) 91-1602224 2a Plan sponsor's name and address (amployer, if for single-employer plan) M. C. Smith Construction, Inc. Plan aponsor's telephone number (360) 671-1178 1265 W. Axton Rd Business code (see instructions) 236110 Ferndale WA 98248 3a Plan administrator's name and address (If same as Plan sponsor, enter "Same") Same 3b Administrator's EIN 3C Administrator's telephone number If the name and/or EIN of the plan sponsor has changed since the last return/report filed for this plan, enter the 4b EIN name, EIN, and the plan number from the last return/report. Sponsor's name 4¢ PN 5a Total number of participants at the beginning of the plan year 15 5a b Total number of participents at the end of the plan year...... 3 5b C Total number of participants with account balances as of the end of the plan year (defined benefit plans do not 2 complete this item), X Yes No Were all of the plan's assets during the plan year invested in eligible assets? (See Instructions.) Are you claiming a waiver of the annual examination and report of an independent qualified public accountant (IQPA) under 29 CFR 2520.104-46? (See instructions on waiver eligibility and conditions.)..... X Yes No If you answered "No" to either 6a or 6b, the plan cannot use Form 5500-SF and must instead use Form 5500. Part III | Financial Information Plan Assets and Liabilities : ": (a) Beginning of Year (b) End of Year a Total plan assets 7a 2,530 6,112 b Total plan liabilities..... 7b C Net plan assets (subtract line 7b from line 7a)..... 2,530 70 6,112 Income, Expenses, and Transfers for this Plan Year (a) Amount (b) Total a Contributions received or receivable from: (1) Employers 8a(1) 3,359 8a(2) (3) Others (including rollovers)...... Ba(3) b Other income (loss)..... 8b 223 C Total income (add lines 8a(1), 8a(2), 8a(3), and 8b) 80 3,582 Benefits paid (including direct rollovers and insurance premiums to provide benefits)..... 80 Certain deemed and/or corrective distributions (see instructions)... 8e Administrative service providers (sataries, fees, commissions)...... SF Other expenses.....

89

8h

81

h Total expenses (add lines 8d, 8e, 8f, and 8g).....

Transfers to (from) the plan (see Instructions) For Paperwork Reduction Act Notice and OMB Control Numbers, see the instructions

Net income (loss) (subtract line 8h from line 8c).....

0

3.582

	Form 5500-SF 2009	Р	age 2-	100	_				
Part IV Plan Characteristics									
9a	If the plan provides pension benefits, enter the applicable pension fee	ature codes from the	List of Plan Chara	acteristi	c Codes	in the instruc	tions:		
b									
Pari	V Compilance Questions								
10	Ouring the plan year:		JK.		rea No		Amount		
a	Was there a failure to transmit to the plan any participant contribution 29 CFR 2510.3-102? (See instructions and DOL's Voluntary Floucians)			10a	х				
b	Were there any nonexempt transactions with any party-in-interest? (on line 10a.)	(Do not include trans	actions reported	10b	х				
C	Was the plan covered by a fidelity bond?			10c	Х				
ď	Did the plan have a loss, whether or not reimbursed by the plan's fid or dishonesty?	delity bond, that was	caused by fraud	10d	х				
e	Were any fees or commissions paid to any brokers, agents, or other insurance service or other organization that provides some or all of tinstructions.)	r persons by an insur the benefits under th	rance carrier, le plan? (See	10e	x				
f	Has the plan falled to provide any benefit when due under the plan?			10f	x				
g	Did the plan have any participant loans? (If "Yes," enter amount as o	of year end.)		10g	X		*		
h	if this is an individual account plan, was there a blackout period? (\$e 2520.101-3.)	ee instructions and 2	29 CFR	10h	X				
i	If 10h was answered "Yes," check the box if you either provided the exceptions to providing the notice applied under 29 CFR 2520.101-3	required notice or or	na of the	101	X				
Part		200000000000000000000000000000000000000	L=4=16.55=2.2=2.2=2.2=	101			<u>, , , , , , , , , , , , , , , , , , , </u>		
11	Is this a defined benefit plan subject to minimum funding requiremen 5500))	its? (If "Yes," see ins	tructions and com	plete Sc	chedule S	B (Form	Yes X No		
12	Is this a defined contribution plan subject to the minimum funding re	1.000.000					Yes X No		
	(if "Yes," complete 12a or 12b, 12c, 12d, and 12e below, as applicable.) 8 If a waiver of the minimum funding standard for a prior year is being amortized in this plan year, see instructions, and enter the date of the letter ruling granting the waiver. Day Year								
	you completed line 12a, complete lines 3, 9, and 10 of Schedule N Enter the minimum required contribution for this plan year		And the state of t		12b	T			
	Enter the amount contributed by the employer to the plan for this plan								
	Subtract the amount in line 12c from the amount in line 12b, Enter th negative amount)	ne result (enter a min	us sian to the left (of a	404				
0	Will the minimum funding amount reported on line 12d be met by the				-	Yes	No X N/A		
Part									
13a	Has a resolution to terminate the plan been adopted during the plan	year or any prior yea	ir? ,				Yes X No		
	If "Yes," enter the amount of any plan assets that reverted to the emp	ployer this year			13a				
	Were all the plan assets distributed to participants or beneficiaries, tr of the PBGC?	***************************************	11111010111111111111111111111111111				Yes X No		
C	If during this plan year, any assets or liabilities were transferred from which assets or liabilities were transferred. (See instructions.)	ı this plan to another	plan(s), identify th	iė plan(s	s) to				
- 1	3c(1) Name of plan(s):		* P. C. C. C. C.	ļ	13c(2) E	ZIN(s)	13c(3) PN(s)		
_					22				
		198		- 1					
Caution: A penalty for the late or incomplete filing of this return/report will be assessed unless reasonable cause is established.									
Under penalties of perjury and other penalties set forth in the instructions, I declare that I have examined this return/report, including, if applicable, a Schedule SB or Schedule MB completed and signed by an enrolled actuary, as well as the electronic version of this return/report, and to the best of my knowledge and belief, it is true, correct/and complete.									
SIGI	Whomba 3 ld land	5/8/2012	Montague C	Cmi+	h .TD				
HER		Date /	Enter name of in		mana at many leave		istrator		
SIG	Works CLM	5/8/2012	MONTAGUE		.51	The second second second second	Ž_+		
HER	Signature of employer/play sponsor	Date	Enter name of in	dividual	signing a	as employer (or plan sponsor		