

U.S. Department of Labor

Employment Standards Administration
Office of Labor-Management Standards
Grand Rapids Resident Investigator Office
800 Monroe NW, Suite 211
Grand Rapids, MI 49503
(616) 456-2335 / FAX: (616) 726-6311



June 5, 2007

Mr. Jeff Bush, Business Manager/Financial Secretary
Electrical Workers, IBEW, AFL-CIO
Local 498
3912 Blair Town Hall Road
Traverse City, MI 49648

Re: Case Number: [REDACTED]
LM File Number: 025-354

Dear Mr. Bush:

This office has recently completed an audit of IBEW Local 498 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 IBEW Local Representative John Briston on November 28, 2006, 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.

Reporting Violations

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. Local 498 has amended its bylaws in the last several years, but did not file copies with its LM reports for those years. At the exit interview, you provided copies of Local 498's revised constitution and bylaws and agreed to submit copies in a timely manner in the future.

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 within 90 days after the end of their fiscal year. Labor organizations that must file Form LM-2 are required to file the report electronically. If a labor organization experiences unanticipated technical difficulties that prevent the timely preparation and submission of an electronic filing, the organization may file Form LM-2 in paper format by the required due date. An electronic format copy of the filed paper format document must be submitted within ten business days after the

required due date. If either the paper filing or the electronic filing is not received in the timeframe specified above, the report is considered delinquent. Local 498 submitted Form LM-2 for fiscal year ending June 30, 2006 in paper format due to difficulties in acquiring a digital signature for Local 498 President Robert Schramski. An amended, electronic format copy was filed on February 5, 2007.

The paper Form LM-2 was deficient in the following areas:

1. Investments Reported as Cash

Local 498 improperly included the value of over \$100,000 of investments in Item 22 (Cash) rather than in Item 26 and Schedule 5 (Investments Other Than U.S. Treasury Securities). Item 22 should include all cash on hand (i.e., undeposited cash, checks, and money orders; petty cash; and cash in safe deposit boxes) and all cash on deposit (i.e., funds in banks, credit unions, and other financial institutions, such as checking accounts, savings accounts, certificates of deposit, and money market accounts). Checking account balances reported should be obtained from the labor organization's books as reconciled with the balances shown on bank statements.

2. Trust Fund and Failure to Itemize "Major" Trust Fund Transactions

The purpose of Statement B (Receipts and Disbursements) is to report the flow of cash in and out of a labor organization during the reporting period. Since Statement B reports all cash flowing in and out of a labor organization, "netting" is not permitted. "Netting" is the offsetting of receipts against disbursements and reporting only the balance (net) as either a receipt or disbursement. The audit found that Local 498 "netted" the total amount of money received from and disbursed to the Local 498 Joint Apprenticeship and Training Fund.

In addition, Local 498 failed to report wage reimbursements from the Training Fund as "major" receipts in Schedule 14 (Other Receipts). A "major" transaction includes any individual transaction of \$5,000 or more or total transactions to or from any single entity or individual that aggregate to \$5,000 or more during the reporting period and which the union cannot properly report elsewhere in Statement B.

Furthermore, the Training Fund is considered to be a trust in which Local 498 is interested. As such, Item 10 (Trusts or Funds) must be answered "Yes" and the full name, address, and purpose of the trust must be provided in Item 69 (Additional Information). If financial information about the trust is already available as a result of the disclosure requirements of another Federal statute, list the name of any government agency, such as the Employee Benefits Security Administration (EBSA) of the Department of Labor, with which the trust files a

publicly available report, and the relevant file number of the trust, or otherwise indicate where the relevant report may be viewed.

For fiscal years beginning on or after January 1, 2007, every union subject to the LMRDA with total annual receipts of \$250,000 or more, must file Form T-1 for each trust in which it is interested if the union's financial contribution to the trust, a contribution made as a result of a collective bargaining agreement to which the union is a party, or a contribution otherwise made on the union's behalf, was \$10,000 or more during the trust's fiscal year and the trust had \$250,000 or more in annual receipts; and either the union, acting alone or with other unions, selects a majority of the members of the trust's governing board or the union's contribution to the trust, made independently or in combination with other unions, represents greater than 50% of the trust's revenue in the one-year reporting period.

3. Special Purpose Fund

The Local 498 Entertainment Fund is a special purpose fund. The audit found that money directly deposited to or disbursed from this fund was "netted" before being reported in Statement B. Transfers between this fund and Local 498's general fund do not represent the flow of cash in and out of the labor organization and, therefore, should not be reported as receipts and disbursements. In addition, payments from the Entertainment Fund that were not reportable elsewhere in Statement B were not included on Line 5 in Schedules 15-19 on the Detailed Summary Page.

4. Disbursements to Officers and Employees

Local 498 incorrectly reported the name of one officer and the total amount of payments to him or on his behalf in Schedule 12 (Disbursements to Employees). Local 498 must report in Schedule 11 (All Officers and Disbursements to Officers) all persons who held office during the year, regardless of whether they received any payments from the union or are considered to be employees of the union.

In addition, Local 498 did not include some lost time, mileage, and reimbursed credit card expenses totaling at least \$13,081 in Schedule 11. Instead, Local 498 erroneously reported these payments on the Detailed Summary Page for Schedule 18 (General Overhead). Local 498 must report in Column (D) of Schedules 11 and 12 the gross salary of each officer and employee (before tax withholdings and other payroll deductions). Disbursements for "lost time" or time devoted to union activities must be included in Column (D). Local 498 must report in Column (F) of Schedules 11 and 12 direct disbursements to officers and employees for reimbursement of expenses they incurred while conducting union business. In addition, the union must report in Column (F) indirect disbursements made to another party (such as a credit card company) for business expenses union

Mr. Jeff Bush

June 5, 2007

Page 4 of 4

personnel incur. However, the union must report in Schedules 15 through 19 indirect disbursements for business expenses union personnel incur for transportation by public carrier (such as an airline) and for temporary lodging expenses (room rent charges only) while traveling on union business.

At the exit interview, you agreed to properly report the deficient items on all future reports Local 498 files with OLMS. On February 5, 2007, Local 498 electronically filed an amended Form LM-2 for the fiscal year ending June 30, 2006, to correct the deficient items.

Other Issue

Retention of Canceled Checks

At the time of the audit, Local 498 did not have in its possession original canceled checks. As we discussed during the exit interview, Local 498 is permitted to use a truncated checking account (an account in which original canceled checks are not returned to the account holder), only if the financial institution retains the original checks or complete, clear, and legible images of the front and back sides of original checks for the required five years, and provides the checks (originals or copies) to Local 498 without substantial delay. I recommend that you discuss with the bank the requirement that the records be maintained for five years, and ensure that the bank meets this requirement. If the bank does not maintain original or imaged canceled checks for five years, you must make arrangements for Local 498 to do so.

I want to extend my personal appreciation to Local 498 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 are passed on to future officers. If we can provide any additional assistance, please do not hesitate to call.

Sincerely,

[REDACTED]
Investigator

cc: Robert Schramski, President