



October 25, 2005

Mr. Dale Wilkerson, Secretary-Treasurer  
Transportation Union (UTU), Ind.  
Local 496  
P.O. Box 833  
South Shore, KY 41175

Re: CAP Closing Letter

2

Dear Mr. Wilkerson:

The U.S. Department of Labor, Office of Labor-Management Standards (OLMS) recently completed an audit of Transportation Union (UTU) Local 496 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 Amended (LMRDA). As I explained during the exit interview with you on October 25, 2005, the CAP revealed the following findings. (Please note the matters below are not an exhaustive list of all possible problem areas since the CAP by its nature is limited in scope.)

- **CAP Finding:** *For fiscal year ending 12/31/04, Local 496 and its responsible officers filed a deficient LM-3 Labor Organization Annual Report with the Secretary of Labor, in violation of LMRDA Section 201(b). Specifically, Local 496's fiscal year 2004 Form LM-3 contained these errors:*
  1. Local 496 did not accurately report your gross salary in Column D of Item 24. The reported entry was \$5,139, but Local 496 actually paid you a gross salary of \$5,426.
  2. Local 496 did not accurately report your reimbursed expenses in Column E of Item 24. The reported entry was \$120, but Local 496 actually paid you \$1,207 in total reimbursed expenses.
  3. Local 496 did not accurately report your total gross compensation in Column F of Item 24. The reported entry was \$5,259, but Local 496 actually paid you \$6,633 in total gross compensation (gross wages plus reimbursed expenses).
  4. Local 496 did not accurately report deductions from all officers' wages on Line 10 of Item 24. The reported entry was \$1,906, but Local 496 actually deducted a total of \$1,999 from all officers' wages.

5. Local 496 did not accurately report net disbursements to officers on Line 11 of Item 24 or in Item 45. The reported entry was \$4,133, but Local 496 actually paid all officers a total of \$5,414 in net disbursements.
6. Local 496 did not accurately report net disbursements to employees in Item 46. The reported entry was \$2,260, but Local 496 only paid Local Chairman Jeffrey Bentley and Trustee/Legislative Representative Michael Day a total of \$979 in net compensation.

To correct the reporting violations, please file with OLMS an amended Form LM-3 for fiscal year 2004 no later than November 30, 2005. Mail the amended report to me at U.S. Department of Labor, Office of Labor-Management Standards, 46 East Ohio Street, Room 511, Indianapolis, IN 46204.

- **CAP Finding:** *For fiscal years ending 12/31/02 and 12/31/03, Local 496 and its responsible officers filed deficient LM-3 Labor Organization Annual Reports with the Secretary of Labor, in violation of LMRDA Section 201(b).* Specifically, these reports contained the following errors:
  1. Local 496 did not report a \$5,000 certificate of deposit in Item 25(A) as beginning cash on the fiscal year 2002 Form LM-3.
  2. Local 496 failed to report a \$10,000 certificate of deposit in Item 25(A) as beginning cash on the fiscal year 2003 form LM-3

Since Local 496 has agreed to disclose certificates of deposit as cash on future filings of Labor Organization Annual Reports, OLMS will not require Local 496 to amend the fiscal year 2002 and 2003 Form LM-3s at this time. However, OLMS reserves the right to request amended reports in the future should circumstances warrant.

- **CAP Finding:** *A union officer or employee engaged in reportable activities, investments, or financial arrangements but failed to file the required report with the Secretary of Labor, in violation of LMRDA Section 202.* Specifically, Local 496 Trustee John Parish did not file a Form LM-30 Labor Organization Officer and Employee report regarding compensation he received as an investigator for Harrington, Thompson, Acker & Harrington, Ltd. after he became a union officer in 2004. OLMS is making arrangements with Mr. Parish for him to file the Form LM-30. I am also enclosing an OLMS fact sheet about the Form LM-30 for you to share with other officers and employees of Local 496 so they can educate themselves about the Form LM-30 filing requirements.
- **CAP Finding:** *Any employer engaged in reportable activities but failed to file the required report with the Secretary of Labor, in violation of LMRDA Section 203.* Specifically, Harrington, Thompson, Acker & Harrington, Ltd. did not file a Form LM-10 Employer Report regarding compensation that the firm paid Mr. Parish after he became one of Local 496's trustees in 2004. In addition, the law firm failed to disclose on a Form LM-10 gifts

officers and employees of Local 496, such as refreshments provided at union meetings. OLMS will seek the Form LM-10 from this employer and make the report available for public disclosure at [www.olms.dol.gov](http://www.olms.dol.gov).

I want to extend my personal appreciation for your union's cooperation and courtesy during this compliance audit. If the Department of Labor can be of any assistance in the future, please do not hesitate to call me at (317) 614-0013.

Sincerely,

FCC

Investigator

Enclosure