

AUDIT REPORT



CITY OF NEW YORK
OFFICE OF THE COMPTROLLER
BUREAU OF FINANCIAL AUDIT
WILLIAM C. THOMPSON, JR., COMPTROLLER

Audit Report on the Financial and Operating Practices of the Local 300 S.E.I.U. Civil Service Forum Retired Employees Welfare Fund

FL03-088A

June 10, 2003



THE CITY OF NEW YORK
OFFICE OF THE COMPTROLLER
1 CENTRE STREET
NEW YORK, N.Y. 10007-2341

WILLIAM C. THOMPSON, JR.
COMPTROLLER

To the Citizens of the City of New York

Ladies and Gentlemen:

Pursuant to Chapter 5, Section 93 of the New York City Charter, we have examined the Local 300 S.E.I.U. Civil Service Forum Retired Employees Welfare Fund's (Retiree Fund) financial and operating practices for the period July 1, 1998, through June 30, 1999 (Fiscal Year 1999). Under the terms of a fund agreement, the Retiree Fund provides health and welfare benefits to eligible retired City employees and their spouses and dependents.

The results of our audit, which are presented in this report, have been discussed with officials from the Retiree Fund, and their comments have been considered in preparing this report.

Audits such as this provide a means of ensuring that benefit funds are spending monies in the best interest of their members and are complying with applicable procedures and reporting requirements, as set forth in Comptroller's Internal Control and Accountability Directive 12, *Employee Benefit Funds—Uniform Reporting and Auditing Requirements*.

I trust that this report contains information that is of interest to you. If you have any questions concerning this report, please contact my audit bureau at 212-669-3747 or e-mail us at audit@Comptroller.nyc.gov.

Very truly yours,

A handwritten signature in cursive script that reads "William C. Thompson, Jr.".

William C. Thompson, Jr.

Report: FL03-088A
Filed: June 10, 2003

*The City of New York
Office of the Comptroller
Bureau of Financial Audit*

**Audit Report on the
Financial and Operating Practices of the
Local 300 S.E.I.U. Civil Service Forum
Retired Employees Welfare Fund**

FL03-088A

AUDIT REPORT IN BRIEF

The Comptroller's Office performed an audit on the financial and operating practices of the Local 300 S.E.I.U. Civil Service Forum Retired Employee Welfare Fund (Retiree Fund) for Fiscal 1999. The Retiree Fund, which was established to receive contributions from the City of New York, provides health and welfare benefits to eligible City employees and their dependents. The Retiree Fund is required to conform with Comptroller's Internal Control and Accountability Directive 12, *Employee Benefit Funds—Uniform Reporting and Auditing Requirements* (Comptroller's Directive 12), which sets forth accounting, auditing and financial guidelines for City welfare funds and their boards of trustees. As of June 30, 1999, the Retiree Fund reported \$807,410 in contributions from the City of New York and net assets of \$255,329.

Audit Findings and Conclusions

The Retiree Fund generally complied with the procedures and reporting requirements of Directive 12 and its benefit processing and accounting procedures. , the Retiree Fund's administrative expenses were appropriate and reasonable. However, we found some weaknesses in the Retiree Fund's financial and operating procedures. Specifically, the Retiree Fund:

- Did not maintain an adequate level of reserves.
- Made improper payments to its trustees.
- Made improper benefit payments totaling \$3,033.
- Paid 63 claims for dependents whose eligibility was not documented.
- Did not accurately report its benefit and administrative expenses for Fiscal Year 1999. Specifically, benefit expenses were overstated and administrative expenses were understated by \$18,931.
- Did not include \$45,023 of the expenses paid during the audit period in its cash disbursements journal.

Audit Recommendations

To address these issues we recommend that the Retiree Fund should:

- Take immediate action to increase the Fund's level of reserves and thereby ensure its ability to pay benefits.
- Discontinue making payments to its Trustees
- Ensure that benefits are paid only to eligible individuals and are made in accordance with the Retiree Fund's guidelines.
- Maintain copies of all documentation in members' permanent files that shows the eligibility of dependents.
- Ensure that administrative fees are properly reported on its financial statements and Directive 12 filings.
- Ensure that the Retiree Fund's cash disbursements journal is complete and accurate.

INTRODUCTION

Background

The Local 300 S.E.I.U. Civil Service Forum Retired Employees Welfare Fund (Retiree Fund) was established in 1977, under the provisions of a Fund Agreement between the City of New York and the Civil Service Forum Local 300 Building Service Employees International Union AFL-CIO (the Union), and a Declaration of Trust. The Retiree Fund provides health and welfare benefits to all eligible retirees and their dependents.

Table I, following, shows the benefits that were available and the amounts paid for these benefits for the Retiree Fund's 608 members during Fiscal Year 1999—our audit period.

TABLE I

Retiree Fund Benefits, Fiscal Year 1999

Benefit	Amount	Coverage
Prescription Drugs	\$492,087	Members are entitled to a maximum benefit of \$1,500 per calendar year for themselves and their families. Prescriptions at participating pharmacies require a \$5 co-payment. If members use a non-participating pharmacy, they are reimbursed according to the Fund's fee schedule.
Dental	\$149,213	Members are entitled to a maximum benefit of \$1,000 per year for themselves and their families.
Death	\$27,500	Beneficiaries receive \$1,000 payable upon the death of a member.
Optical	\$22,183	Members and eligible dependents are entitled to one eye examination and one pair of prescription eyeglasses every two years from a participating optical provider. If a non-participating provider is used, the member is reimbursed up to \$100 every two years upon the completion of an optical claim form.
Legal	\$15,493	Members are entitled to representation at arraignment in criminal proceedings and personal injury cases. Members are also entitled to have wills prepared and to have legal documents reviewed. These services are provided at no cost to the member. In addition, the member may obtain at a reduced cost the preparation of separation agreements, contested/ conversion divorces, as well as representation at: criminal, consumer protection, bankruptcy, family court, Article 78, adoption, real estate, and estate probate or administration proceedings.
Hearing Aid	\$3,500	Members are entitled to a maximum reimbursement of \$500 for hearing aid purchases every five years for themselves and each eligible dependent.
	\$709,976	

During Fiscal Year 1999, the Retiree Fund provided benefits through contracts with Value Rx, Inc. (prescription drugs), and the law firm of Mirkin & Gordon (legal services). Optical benefits were provided through various carriers or directly to members. The dental benefit was administered through a third-party administrator, Daniel H. Cook & Associates.

As of June 30, 1999, the Retiree Fund reported net assets of \$255,329. Table II, following, summarizes the Retiree Fund's audited financial data, as reported by the Retiree Fund, for the fiscal years ending June 30, 1998, and June 30, 1999.

TABLE II
Summary of the Retiree Fund's Reported
Revenues and Expenses, Fiscal Years 1998 and 1999

	1998	% of Total Revenue	1999	% of Total Revenue
Employer's Contributions	\$ 705,663	97.59%	\$807,410	99.23%
COBRA	828	0.12%	950	0.12%
Investment of Other Income	16,577	2.29%	5,336	0.65%
Total Revenue	\$723,068	100.00%	\$813,696	100.00%
Benefit Expenses	684,794	94.71%	712,769	87.60%
Administrative Expenses	11,669	1.61%	23,968	2.95%
Total Expenses	\$696,463	96.32%	\$736,737	90.54%
Excess (Deficiency) of Revenue	\$26,605		\$76,959	
Fund Balance (Beginning of Year)	\$151,765		\$178,370	
Fund Balance (End of Year)	\$178,370		\$255,329	

Objective

Our audit objective was to determine whether the Retiree Fund:¹ complied with applicable procedures and reporting requirements, as set forth in Comptroller's Directive 12; complied with its benefit processing and accounting procedures and whether those procedures were adequate and proper; and whether the Retiree Fund's administrative expenses were appropriate and reasonable. With regard to the Retiree Fund's benefit processing and accounting procedures, we determined the adequacy and effectiveness of the Retiree Fund's internal controls related to the processing and reporting of contributions received and benefit and administrative expenses paid; and we assessed the Retiree Fund's adherence to its benefit payment guidelines

¹ We are also conducting a separate audit—Audit #FL03-087A—of the Local 300 S.E.I.U. Civil Service Forum Employees Welfare Fund (Active Fund). The results of that audit will be covered in a separate report.

Scope and Methodology

To achieve our audit objectives, we reviewed the Retiree Fund's financial and operating practices for the period July 1, 1998, through June 30, 1999 (Fiscal 1999), the period covered by the latest Directive 12 filing available when we began the audit. We obtained the Retiree Fund's Directive 12 filings with the Comptroller's Office, which included its financial statement, federal tax return, and other required schedules. Directive 12 establishes uniform reporting and auditing requirements for City-funded employee benefit plans. To determine whether the Retiree Fund complied with the significant terms and conditions of Directive 12, we determined whether the Retiree Fund filed:

- an annual CPA report prepared on the accrual basis of accounting, and
- Internal Revenue Service Form 990.

We interviewed various Retiree Fund officials and reviewed the Retiree Fund's Trust Agreements. We prepared a flowchart of the Retiree Fund's contribution and benefit processing procedures to document our understanding of these procedures and the related internal controls.

We traced revenue amounts for the audit period from City payment vouchers and copies of checks to the Retiree Fund's cash receipts journal and bank deposit slips to ascertain whether the Retiree Fund accurately reported and deposited its contributions.

In addition, we intended to reconcile the Retiree Fund's certified financial statements with its cash receipts, disbursements journals, and other related documentation. However, the Retiree Fund could not provide us with the general ledgers, trial balance, and records of adjusting entries, since these records are in possession of the former Retiree Fund Certified Public Accountant, who refused to provide them to the Retiree Fund. We reviewed the Retiree Fund's cash disbursement journal and bank statements for Fiscal Year 1999 to account for all checks paid, outstanding, and voided. We also traced all \$40,409 in administrative expenses from the Retiree Fund's Fiscal Year 1999 cash disbursements journal to supporting documentation, which included vendor invoices, expense allocation reports, and payroll records, to determine whether these expenditures were properly recorded, reasonable, and appropriate.

In addition, we performed the following tests of the Retiree Fund's benefit payments to determine whether only eligible members and their dependents received benefits from the Retiree Fund:

- Prescription Drugs Benefit: To determine whether payments made to Value Rx, Inc. (Value), the Retiree Fund's third party administrator, were for eligible members and their dependents, we traced 100 claims listed on Value's January 1999 Utilization Reports to the Retiree Fund's membership cards and files. For instances in which a member's spouse or child received benefits, we determined whether a marriage certificate, child's birth certificate, or other proof of dependency was on file.
- Dental Benefits: To determine whether payments of dental claims processed by Daniel H. Cook Associates (Cook), the Retiree Fund's third party administrator, were for eligible members and their dependents, we traced 73 claims from Cook's Claim Check Register for May 1999 to the Retiree Fund's membership cards. We also

determined whether the reimbursements were correct and did not exceed the amounts specified in the Retiree Fund fee schedule. For instances in which a member's spouse or child received benefits, we determined whether a marriage certificate, child's birth certificate, or other proof of dependency was on file.

- **Optical Benefit:** We reviewed all 41 optical vouchers processed during September 1998. Specifically, we traced the recipients' names listed on the vouchers to the Retiree Fund membership cards and files to verify eligibility of members and dependents. We also determined whether the reimbursements were correct and did not exceed the amounts specified in the Retiree Fund fee schedule. For instances in which a member's spouse or child received benefits, we determined whether a marriage certificate, child's birth certificate, or other proof of dependency was on file.
- **Death Benefit:** A total of 26 Retiree Fund death claims were processed during Fiscal Year 1999. We traced the members listed on these claims to the Retiree Fund membership cards and files to confirm eligibility. We also determined whether death certificates were on file to support the payments.
- **Hearing Aid Benefit:** We reviewed the twelve Hearing Aid claims paid during Fiscal Year 1999. We traced recipient names to the Retiree Fund membership cards and files to verify eligibility. We also determined whether the reimbursements were in accordance with the Retiree Fund fee schedule.
- **Legal Benefit:** We intended to review use of the Retiree Fund's legal benefit during Fiscal Year 1999. However, the Retiree Fund and its legal benefit provider were unwilling to provide the requested information concerning users. (See Scope Limitation Section on the following page.)

To determine the accuracy of employee time and leave balances, we reviewed timekeeping records for all Retiree Fund employees for Fiscal Year 1999.

This audit was conducted in accordance with Generally Accepted Government Auditing Standards (GAGAS) and included tests of records and other auditing procedures considered necessary. The audit was performed in accordance with the City Comptroller's audit responsibilities as set forth in Chapter 5, § 93, of the New York City Charter.

Scope Limitation

As mentioned earlier, we intended to review the use of the Retiree Fund's legal benefit. In that regard, we requested from the Retiree Fund a list of all individuals who received legal benefits during Fiscal Year 1999. However, the Retiree Fund and its legal benefit provider, Mirkin & Gordon, were unwilling to provide this information. In a letter dated December 19, 2002, the provider stated:

“Please advise the undersigned on what basis you consider same possible consistent with the Code of Professional Responsibility, governing the conduct of attorneys, without the consent of the said individual clients.”

Consequently, we were unable to determine whether only eligible members received this benefit. (A copy of the letter from Mirkin and Gordon is attached to this report.)

In addition, the Retiree Fund could not provide us with the general ledgers, trial balance, and records of adjusting entries, since these records are in possession of the former Retiree Fund Certified Public Accountant, who refused to provide them to the Retiree Fund. Therefore, we were unable to reconcile the Retiree Fund's certified financial statements with its cash receipts, disbursements journals, and other related documentation.

Discussion of Audit Results

The matters covered in this report were discussed with Retiree Fund officials during and at the conclusion of this audit. A preliminary draft report was sent to Retiree Fund officials and discussed at an exit conference held on April 2, 2003. On April 23, 2003, we submitted a draft report to officials of the Retiree Fund with a request for comments. We received a written response from the Retiree Fund on May 5, 2003, which described the actions taken by Fund officials to address the report's findings and recommendations. According to Retiree Fund officials, most of the problems noted in the report are attributable to the practices of the prior Board of Trustees and accountant.

The full text of the comments from the Retiree Fund is included as an addendum to this report.

FINDINGS AND RECOMMENDATIONS

Overall, the Retiree Fund generally complied with the procedures and reporting requirements of Comptroller's Directive 12. In addition, the Retiree Fund generally complied with its benefit processing and accounting procedures, and those procedures were adequate and proper. However, we found some weaknesses in the Retiree Fund's financial and operating procedures, as follows:

- **The Retiree Fund did not maintain an adequate level of reserves.** The Retiree Fund's reserve balance, totaling \$255,329 as of June 30, 1999, was significantly less than fund balances of similar-sized funds. We believe that the Retiree Fund's reserve balance is inadequate and may affect the Fund's ability to provide benefits to its members. We should note that the Retiree Fund owed the Active Fund \$389,468 for common expenses. If the Retiree Fund were required to reimburse the Active Fund for these expenses in 1999, the Retiree Fund would have a negative reserve balance, putting the Retiree Fund at risk of insolvency.
- **The Retiree Fund made improper payments to its trustees.** During Fiscal Year 1999, the Retiree Fund paid a total of \$7,875 in stipends to five of its Trustees. According to § 10.1 of the Retiree Fund's Trust Agreement, "The Trustees shall not receive any compensation for their services."
- **The Retiree Fund made improper benefit payments totaling \$3,033.** The Retiree Fund paid: \$2,000 for death benefit claims on behalf of two ineligible individuals; \$1,000 twice to a beneficiary on a single death benefit claim; and \$33 for optical reimbursements for which the files did not contain documentation of the expense.
- **The Retiree Fund paid 63 claims for dependents whose eligibility was not documented.** Despite requiring members to submit birth certificates, marriage licenses, or bursar's receipts to support a dependent's eligibility when initially enrolling or when adding or deleting dependents, such documentation was not evident in the Retiree Fund's files. After the exit conference, the Fund's attorney provided us with documentation supporting the eligibility of dependents for 20 of these cases.
- **The Retiree Fund's financial statements and Directive 12 filing did not accurately report benefit and administrative expenses for Fiscal Year 1999.** Specifically, benefit expenses were overstated and administrative expenses were understated by \$18,931.
- **The Retiree Fund's cash disbursements journal did not include \$45,023 of the expenses paid during the audit period.** We were unable to determine whether these expenses were reported on the Retiree Fund's financial statements.

Inadequate Level of Reserves

The purpose of the Retiree Fund is to provide benefits to Fund members and their eligible dependents. To ensure that funds are available to pay future claims, welfare funds maintain reserves, or “fund balances.” These reserves provide a cushion should claims for benefits exceed projections in any given year. The Retiree Fund’s adjusted reserve balance as of June 30, 1999, was \$255,329, which represented 31 percent of its total revenue.

Comparative data from the Comptroller’s 2000 analysis of the Financial and Operating Practices of Union Administered Benefit Funds (Report # FM01-072A), shows that similar-sized welfare funds maintained reserve levels of between 98 percent and 200 percent of total annual revenue (averaging 125 percent). We believe that the Retiree Fund’s reserve balance is inadequate and may affect the Fund’s ability to provide benefits to its members.

We should note that according to the Retiree Fund’s certified financial statements, the Retiree Fund owed its Union’s corresponding Active Fund \$217,485 for common expenses, such as payroll, rent, and office supplies. In addition, according to Fund officials, the Active Fund Trustees discontinued allocating common expenses to the Retiree Fund in 1994 because the Retiree Fund did not have sufficient net assets. As a result, the Active Fund did not allocate approximately \$171,983 to the Retiree Fund for common expenses for Fiscal Years 1996, 1997, 1998, and 1999 (certified financial statements were not available for Fiscal Year 1995). Consequently, the Retiree Fund owed the Active Fund \$389,468 (\$217,485 + \$171,983) for those years. If the Retiree Fund were required to reimburse the Active Fund for these expenses in 1999, the Retiree Fund would have a negative reserve balance, putting the Retiree Fund at risk of insolvency.

After the exit conference, the Fund’s attorney provided us with documentation showing that the Retiree Fund made a payment of \$313,334 to the Active Fund on December 20, 2002. However, based on our calculation, the Retiree Fund still owes the Active Fund \$76,134 (\$389,468 - \$313,334).

Recommendation

1. The Retiree Fund’s Trustees should take immediate action to increase the Fund’s level of reserves and thereby ensure its ability to pay benefits.

Fund Response: “The current Board of Trustees has taken action resulting in an increase in this Fund’s level of reserves by approximately 80% through the prior fiscal year ending June 30, 2002, and anticipate a further increase in its level of reserves for fiscal year ending June 30, 2003. Furthermore, on December 20, 2002, the Active Fund was fully reimbursed for all outstanding Retiree Fund expenses, as allocated by the Fund’s Accountant. In addition, at its meeting on December 5, 2002, the Trustees directed that all future expenses attributable to the Retiree Fund shall be immediately reimbursed to the Active Fund at the close of the fiscal year, as recommended by the Fund Accountant pursuant to his annual allocation of expenses.”

Improper Payments to Trustees

During Fiscal Year 1999, the Retiree Fund paid a total of \$7,875 to five of its Trustees. These payments were recorded as stipends to the Trustees on the Retiree Fund cash disbursements journal. However, according to § 10.1 of the Retiree Fund's Trust Agreement, "The Trustees shall not receive any compensation for their services."

Recommendation

2. The Retiree Fund should discontinue making payments to its Trustees.

Fund Response: "The failure of the Retiree Fund's Agreement and Declaration of Trust to be amended in order to provide for limited compensation to the Board of Trustees was as a result of scrivener error, not the result of there being no policy decision to do so. The Union's Executive Board approved of the amendment to both the Active and Retiree Funds' trust documents (as you know, the Active Fund's Trust Document was amended). However, the amendment to the Retiree Welfare Fund was never timely prepared, and when it was prepared, in October, 1999, it was not signed because its effective date was in error. Counsel has undertaken to prepare the necessary, correct amendment for the period in question, for the approved of compensation."

Improper Benefit Payments

The Retiree Fund made improper benefit payments totaling \$3,033. Of the 252 claims reviewed, we found four instances in which the Retiree Fund paid for benefits that were not in accordance with its guidelines. Specifically, the Retiree Fund paid:

- \$2,000 for death benefit claims on behalf of two ineligible individuals. The deceased were not listed on City contribution reports from the City Office of Labor Relations or the Retiree Fund's list of members.
- \$1,000 twice to a beneficiary on a single death benefit claim.
- \$33.5 for optical reimbursements for which the file did not contain documentation of the expense. The file should have included the optical voucher and a receipt or invoice showing the services rendered and the amount paid.

Recommendation

3. The Retiree Fund should ensure that benefits are paid only to eligible individuals and are made in accordance with the Retiree Fund's guidelines.

Fund Response: “The amount of benefits payments in question, \$3,033, represents less than one half of one percent of all benefits paid out for the fiscal year and is thus *de minimis*.

- “Regarding death benefits totaling \$2,000 on behalf of two ineligible individuals and \$1,000 twice paid to a beneficiary on a single death benefit claim cited in your report, since the Fund has no evidence that the claims were not appropriately paid, the records must have been destroyed in the fire.
- “Regarding the overpayment of \$33 for optical reimbursements you cite in your report, such payments were indeed proper because a voucher and receipt for this claim were provided to your office by Fund Counsel subsequent to the exit conference.

“The current Board of Trustees agrees wholeheartedly with the recommendation that benefits are paid only to eligible individuals and will continue to endeavor to achieve it.”

Auditor Comment: While the Retiree Fund provided us with a copy of the voucher, it did not provide a receipt to support the \$33 in optical reimbursements questioned. In any case, we are pleased that the Retiree Fund agreed to implement this recommendation.

Claims Paid for Dependents Whose Eligibility Was Not Supported

Of the 252 claims reviewed, 68 were for services provided to individuals who were listed as dependents of eligible members. The Retiree Fund, however, did not have documentation in its files (i.e., birth certificates, marriage licenses, or bursar’s receipts) showing that the individuals of 63 of the 68 claims were in fact eligible dependents.

According to the Retiree Fund’s Chairman, members are required to submit all necessary documents to prove eligibility of their dependents when members initially enroll or when they want to add or delete dependents. Despite this requirement, as previously stated, the Retiree Fund did not have copies of dependents’ birth certificates, marriage certificates, or bursar’s receipts for the 63 claims. Requiring such documentation from its members would help the Retiree Fund to ensure that it provides benefits only to eligible individuals.

After the exit conference, the Fund’s attorney provided us with documentation supporting the eligibility of dependents for 20 of the 63 cases.

Recommendation

4. The Retiree Fund should maintain copies of all documentation in members’ permanent files that shows the eligibility of dependents.

Fund Response: “We appreciate the recognition by your office that Fund Counsel provided the Comptroller’s Office with documentation supporting the eligibility of 20 dependents; however, to date, Fund Counsel has provided documentation for 26 of these claims. The Retiree Fund continues in its endeavors to recreate these files in order to bring all into compliance with its ongoing policy of eligibility verification.”

The Retiree Fund Misstated Benefit and Administrative Expenses on Its Financial Statements and Its Directive 12 Filings

The Retiree Fund’s financial statements did not accurately report benefit and administrative expenses for Fiscal Year 1999. Benefit expenses were overstated by \$18,931, and administrative expenses were understated by the same amount. The Retiree Fund’s financial statements included \$15,000 in dental administrative fees and \$3,931 in prescription drug administrative fees as benefit expenses rather than administrative expenses. Comptroller’s Directive 12 states that all administrative fees should be classified as administrative expenses. We found that the misstatements were immaterial to the financial statements as a whole.

Recommendation

5. The Retiree Fund should ensure that administrative fees are properly reported on its financial statements and Directive 12 filings.

Fund Response: “All filings beginning with the Fund’s June 30, 2000 Fiscal Year End have properly reported the above-mentioned expenses. The Fund’s financial statements are also now presented in accordance with Generally Accepted Accounting Principles (GAAP) as required by Directive 12.”

The Retiree Fund’s Cash Disbursements Journal Did Not Include \$45,023 of the Expenses Paid

Our review of the Retiree Fund’s bank statements revealed that records of disbursements totaling \$45,023 were missing from the Retiree Fund’s cash disbursement journal. The cash disbursement journal is made up of loose ledger pages that may have been lost or misplaced. Accordingly, we could not determine whether the \$45,023 was included in the financial statements for Fiscal Year 1999.

Recommendation

6. Retiree Fund Trustees should ensure that the Retiree Fund’s cash disbursements journal is complete and accurate.

Fund Response: “Beginning with the Fund’s June 30, 2000 Fiscal Year End all Fund transactions are posted in a new accounting system (QuickBooks Pro). The system is maintained on the cash basis and includes all transactions for all bank accounts. Each bank account is reconciled to bank statements monthly on the system ensuring complete and accurate records.

“The former Active Fund’s Accountant you reference in this section of your report was such for many years prior to the present Board of Trustees and was criticized by the present Board of Trustees in the past for his failure to comply with Directive 12 requirements. Unfortunately, the former Fund Accountant repeated that non-compliance and was fired by the present Board of Trustees prior to the commencement of this audit.”

SEIU LOCAL 300 CIVIL SERVICE FORUM
RETIRED EMPLOYEES WELFARE FUND
180 Broadway, Suite 800
New York, NY 10038
(212) 267-1022

May 5, 2003

Greg Brooks, Deputy Comptroller
The City of New York
Office of The Comptroller
Bureau of Audits
1 Centre Street, Room 1300
New York, NY 10007-2341

Re: *Response to Audit Report on the Financial and Operating Practices of the Retired Employees Welfare Fund for fiscal year July 1, 1998 through June 30, 1999 ("Fund") for fiscal year July 1, 1998 through June 30, 1999*

Dear Mr. Brooks:

We received the draft Audit Report of your office dated April 23, 2003, for the above-referenced period. This constitutes the Fund's response to the recommendations contained therein. (It should be noted at the outset that the audit covers a period during which the Fund was administered by a former Board of Trustees, the Chairperson of which was the former Union President.)

"Findings and Recommendations"

pages 8 - 9

Finding: *"The Retiree Fund did not maintain an adequate level of reserves."*

Response: The current Board of Trustees has taken action resulting in an increase in this Fund's level of reserves by approximately 80% through the prior fiscal year ending June 30, 2002, and anticipate a further increase its level of reserves for fiscal year ending June 30, 2003.

Furthermore, on December 20, 2002, the Active Fund was fully reimbursed for all outstanding Retiree Fund expenses, as allocated by the Fund's Accountant. In addition, at its meeting on December 5, 2002, the Trustees directed that all future expenses attributable to the Retiree Fund shall be immediately reimbursed to the Active Fund at the close of the fiscal year, as recommended by the Fund Accountant pursuant to his annual allocation of expenses.

Page 2 of 4
Greg Brooks, Deputy Comptroller
May 7, 2003

Findings: *“The Retiree Fund made improper payments to its trustees.”*

Response: The failure of the Retiree Fund’s Agreement and Declaration of Trust to be amended in order to provide for limited compensation to the Board of Trustees was as a result of scrivener error, not the result of there being no policy decision to do so. The Union’s Executive Board approved of the amendment to both the Active and Retiree Funds’ trust documents (as you know, the Active Fund’s Trust Document was amended). However, the amendment to the Retiree Welfare Fund was never timely prepared, and when it was prepared, in October, 1999, it was not signed because its effective date was in error. Counsel has undertaken to prepare the necessary, correct amendment for the period in question, for the approved of compensation.

Finding: *“The Retiree Fund made improper benefit payments totaling \$3,033.”*

Response: The amount of benefits payments in question, \$3,033, represents less than one half of one percent of all benefits paid out for the fiscal year and is thus *de minimis*.

- Regarding death benefits totaling \$2,000 on behalf of two ineligible individuals and \$1,000 twice paid to a beneficiary on a single death benefit claim cited in your report, since the Fund has no evidence that the claims were not appropriately paid, the records must have been destroyed in the fire.
- Regarding the overpayment of \$33 for optical reimbursements you cite in your report, such payments were indeed proper because a voucher and receipt for this claim were provided to your office by Fund Counsel subsequent to the exit conference.

The current Board of Trustees agrees wholeheartedly with the recommendation that benefits are paid only to eligible individuals and will continue to endeavor to achieve it.

Finding: *“The Retiree Fund paid 63 claims for dependents whose eligibility was not documented.”*

Page 3 of 4
Greg Brooks, Deputy Comptroller
May 7, 2003

Response: We appreciate the recognition by your office that Fund Counsel provided the Comptroller's Office with documentation supporting the eligibility of 20 dependents; however, to date, Fund Counsel has provided documentation for 26 of these claims. The Retiree Fund continues in its endeavors to recreate these files in order to bring all into compliance with its ongoing policy of eligibility verification.

Finding: *"The Retiree Fund's financial statements and Directive 12 filing did not accurately report benefit and administrative expenses for Fiscal Year 1999."*

Response: On behalf of the Retiree Fund, its Accountant, Stephen T. Schlapp, CPA of Gould Kobrick & Schlapp, P.C., responds as follows:

"As auditor's to many NYC benefit plans the Fund's current auditor's are well aware of the Comptrollers requirements for reporting administrative expenses on the Key Ratio Schedules included in Directive 12 Filings. As such, all filings beginning with the Fund's June 30, 2000 Fiscal Year End have properly reported the above-mentioned expenses. The Fund's financial statements are also now presented in accordance with Generally Accepted Accounting Principles (GAAP) as required by Directive 12."

Finding: *"The Retiree Fund's cash disbursements journal did not include \$45,023 of the expenses paid during the audit period."*

Response: On behalf of the Fund, its Accountant, Stephen T. Schlapp, CPA of Gould Kobrick & Schlapp, P.C., responds as follows:

"Beginning with the Fund's June 30, 2000 Fiscal Year End all Fund transactions are posted in a new accounting system (QuickBooks Pro). The system is maintained on the cash basis and includes all transactions for all bank accounts. Each bank account is reconciled to bank statements monthly on the system ensuring complete and accurate records."

Page 4 of 4
Greg Brooks, Deputy Comptroller
May 7, 2003

Furthermore, on page 5, paragraph 4 under "Scope and Methodology" you state the following:

"However, the Retiree Fund could not provide us with general ledgers, trial balance, and records of adjusting entries, since these records are in possession of the former Retiree Fund Certified Public Accountant, who refused to provide them to the Retiree Fund."

The former Fund Accountant you reference in this section of your report was such for many years prior to the present Board of Trustees and was criticized by the present Board of Trustees in the past for his failure to comply with Directive 12 requirements. Unfortunately, the former Fund Accountant repeated that non-compliance and was fired by the present Board of Trustees prior to the commencement of this audit. Despite numerous attempts by the Fund's Trustees to obtain from the former Fund Accountant, records requested by both the Comptroller's auditors and the Retiree Fund's current accountant, he failed and refused to provide same. Because of these unprofessional practices, the current Board of Trustees had authorized litigation against the former Accountant, which litigation has, at this time, commenced.

The current Board of Trustees has retained the accounting firm of Gould Kobrick & Schlapp, P.C. and worked with Steve Schlapp, who has been able to issue financial statements for all fiscal years subsequent to the subject fiscal year, as well as all filings required by Directive 12.

Very truly yours,

BOARD OF TRUSTEES

By:


James D. Golden