City of New York

OFFICE OF THE COMPTROLLER

Scott M. Stringer
COMPTROLLER

FINANCIAL AUDIT

Marjorie Landa

Deputy Comptroller for Audit

Audit Report on the Financial and Operating Practices of the United Probation Officers Association Retirement Welfare Fund

FM16-070A

May 23, 2017

http://comptroller.nyc.gov

THE CITY OF NEW YORK
OFFICE OF THE COMPTROLLER
SCOTT M. STRINGER

May 23, 2017

To the Residents of the City of New York:

My office has audited the United Probation Officers Association Retirement Welfare Fund (Retirement Fund) to determine whether it complied with applicable procedures and reporting requirements. Under an agreement with the City, the Retirement Fund receives City contributions and provides health and welfare benefits to eligible retired City employees, their spouses, and dependents. We audit benefit funds such as the Retirement Fund to ensure that they are spending funds in the best interest of their members and are complying with applicable City procedures and reporting requirements.

This audit found that the Retirement Fund failed to implement effective controls over its financial affairs and its management of funds contributed by the City of $674,554 in Fiscal Year 2014. Specifically, the Retirement Fund violated Comptroller's Directive 12 and its own Fund and Trust Agreements in connection with the disbursement of benefits and administrative expenditures; failed to minimize, control and properly allocate administrative expenses; and failed to adequately support, record and report benefit payments.

To address these issues, the audit made 12 recommendations, including that the Retirement Fund Board of Trustees take all necessary corrective actions to address the deficiencies identified in the "Independent Audit Report," prepared by the Retirement Fund's Independent Auditors, the "qualified opinion" given therein, and the accompanying "Management Letter" dated March 19, 2015, that constitute violations of Directive 12; that it improve the Retirement Fund's record keeping procedures and practices to ensure that the Retirement Fund records all transactions in a timely manner, retains all billed invoices, and conducts regular bank reconciliations; and that it ensure that the Retirement Fund ceases making payments in violation of Comptroller's Directive 12 and the Retirement Fund's Trust Agreement.

The results of the audit have been discussed with Retirement Fund officials, and their comments have been considered in preparing this report. Their complete written response is attached to this report.

If you have any questions concerning this report, please e-mail my Audit Bureau at audit@comptroller.nyc.gov.

Sincerely,

Scott M. Stringer

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FINANCIAL AUDIT

Audit Report on the Financial and Operating Practices of the United Probation Officers Association Retirement Welfare Fund

FM16-070A

EXECUTIVE SUMMARY

The United Probation Officers Association Retirement Welfare Fund (Retirement Fund) and Welfare Fund (Welfare Fund) (also referred to collectively as the Funds) were established as retirement and employee benefit funds (Benefit Funds), respectively, under the provisions of two separate fund agreements (one for each entity) between the City of New York (the City) and the United Probation Officers Association (the Union).[1] These fund agreements are a result of collective bargaining between the City and the Union under which the Funds receive contributions from the City (City Contributions) for the purpose of providing supplementary health and welfare benefits to eligible retired and active City employees, including Community Workers, Probation Assistants, Probation Officer Trainees, Probation Officers, Senior Probation Officers, and Supervising Probation Officers. Pursuant to the Retirement Fund's Trust Agreement, the activity of the Retirement Fund is overseen by a board of trustees. The day to day operations of the Retirement Fund are carried out by a fund administrator (the Fund Administrator) who is paid a salary for that work.

The City contributes to the Retirement Fund to cover the payment of benefits to City employees as well as a reasonable amount of administrative expenses related to the payment of those benefits. Accounting, auditing and financial guidelines for Benefit Funds are set forth in Comptroller's Directive 12 and include guidelines for spending City funds. In Fiscal Year 2014, the Retirement Fund received $674,554 in City Contributions and reported that it paid $337,840 in benefits and $183,670 in administrative expenses. As of June 30, 2014, the Retirement Fund reported net assets of $764,030.

[1] This audit (#FM16-070A) is of the Retirement Fund, only. A separate audit (#FM16-069A) of the Welfare Fund has also been conducted, and the findings of that audit will be published in a separate report.

Audit Findings and Conclusions

The audit found that the Retirement Fund failed to implement effective controls over its financial affairs and its management of City Contributions of $674,554 in Fiscal Year 2014. Specifically, we found that:

- The Retirement Fund violated Comptroller's Directive 12 and its own Fund and Trust Agreements in connection with the disbursement of benefits and administrative expenditures. Among other things, the Retirement Fund was allocated part of the $183,670 spent on employee compensation but kept no records of the hours worked and absences of its only two employees, paid its trustees $900 in prohibited stipends, and had no fiduciary insurance to cover its trustees as required by its Fund Agreement. The Retirement Fund also received a "qualified opinion" from its Independent Auditors on its Fiscal Year 2014 financial statements based on its failure to obtain marriage licenses and birth certificates to establish the eligibility of dependents for benefits and its inability to locate claims for audit-testing. Those failures resulted in a potential error of $311,332 (92 percent of its benefit expenditures for 2014) in its financial statements. Finally, we note that the Retirement Fund has no written investment policy, which is contrary to guidance provided in Directive 12.
- The Retirement Fund failed to minimize, control and properly allocate administrative expenses. It spent more than $180,000 (27 percent) of its City Contributions on administrative expenses, which is more than one and a half times the 17 percent average of six similarly-sized Benefit Funds. That spending included $50,319 in unsupported and improper administrative expenses, rent, utilities, officers' compensation, and other expenses of the Union.[2]
- The Retirement Fund failed to adequately support, record, and report benefit payments. It improperly paid $12,815 in undocumented or questionable benefit claims, failed to list some benefits in the benefit booklet provided to its members, and did not include almost $19,000 in benefit claim payments as part of its benefit expenses.

Audit Recommendations

To address these issues, we recommend that the Retirement Fund Board of Trustees:

- Take all necessary corrective actions to address the deficiencies identified in the "Independent Audit Report," prepared by the Retirement Fund's Independent Auditors, the "qualified opinion" given therein, and the accompanying "Management Letter" dated March 19, 2015, that constitute violations of Directive 12.
- Evaluate the performance of the Fund Administrator in carrying out the Trustees' delegated fiduciary duties under the Retirement Fund's Fund and Trust Agreements and Comptroller's Directive 12 to ensure that City Contributions are spent appropriately, monitored carefully, and used *only* for expenditures that directly or indirectly benefit Retirement Fund members and that complete and accurate records, including documentation of claim eligibility and all administrative expenses, are maintained.

[2] The Welfare Fund also pays some of these same administrative expenses for the Union. The Funds combined could potentially be owed as much as $97,090 from the Union for occupancy and office expenses, alone.

- Take all actions necessary to ensure that the Trustees' delegated fiduciary duties are properly carried out based on the evaluation of the Fund Administrator conducted by the Board of Trustees.
- Develop internal controls that address the weaknesses cited in this report to ensure the Retirement Fund achieves compliance with Comptroller's Directive 12.
- Improve the Retirement Fund's record keeping procedures and practices to ensure that the Retirement Fund records all transactions in a timely manner, retains all billed invoices, and conducts regular bank reconciliations.
- Ensure that the Retirement Fund maintains adequate personnel records, including records of attendance and leaves, to support payments to its employees.
- Evaluate how the Retirement Fund resources could be better used to reach its ultimate goal—providing maximum benefits to its members—while keeping administrative costs to a minimum.
- Ensure that the Retirement Fund obtains and maintains copies of appropriate documentation that establishes the eligibility of dependents, such as birth and marriage certificates.
- Ensure that the Retirement Fund ceases making payments in violation of Comptroller's Directive 12 and the Retirement Fund's Trust Agreement.
- Ensure that the Retirement Fund both discontinues paying Union expenses and allocates an equitable amount from the Union to the Retirement Fund to cover the Union's share of administrative expenses.
- Ensure that all benefit and administrative expenses charged to the Retirement Fund are appropriate and properly documented.
- Ensure that the Retirement Fund maintains and regularly disseminates an up-to-date benefit book for Retirement Fund members.

Retirement Fund Response

We received a one-page response to the audit on the letterhead of the "United Probation Officers Association Welfare Fund and Retirement Welfare Fund," which we were subsequently informed was intended as a full response to the both this audit and to our companion audit of the UPOA Welfare Fund.[3] In that single response, the Fund Administrator of both the Retirement Fund and the Welfare Fund represented that "[t]he UPOA Welfare Fund will address all the recommendation [*sic*] made to the Trustee Board and will do all that is necessary to comply with the Comptrollers [*sic*] Directive 12." While this statement literally only references the Welfare Fund, we understand from subsequent oral representations that it is intended to apply to the Retirement Fund as well.

Nonetheless, the Retirement Fund does not expressly agree or disagree with any of the 12 recommendations made in the audit report, and instead merely states that it will "address all" of them, without stating whether the Fund will *implement* any of them. With respect to the audit findings, the Retirement Fund states that:

[3] Audit Report on the Financial and Operating Practices of the United Probation Officers Association Welfare Fund, Audit No. FM16-069A, dated May 23, 2017.

> [the audit report] is misleading and replete with half-truths and scurrilous innuendos. The report refers to many potential errors due to our Policies and Procedures yet was unable to find even one case where any error, which may have occurred was of any material impact.

We strongly disagree with the Retirement Fund's characterization of the audit report. In addition, as described in detail in the report,, the Retirement Fund's assertion that the audit did not find "even one case where any error, which may have occurred was of any material impact," is untrue. In fact, among other material findings set forth in the report, the audit report found that:

- The Retirement Fund's Independent Auditors—selected by the Retirement Fund itself—issued a "qualified opinion" on the Retirement Fund's Fiscal Year 2014 financial statements, citing specific omissions in its benefit-processing operation, which the *Fund's* selected auditors found resulted in a potential error of *$311,332* (92 percent of its benefit expenditures for 2014) in the Retirement Fund's financial statements.

- The Retirement Fund spent more than $180,000 (27 percent) of its City Contributions on administrative expenses, more than one and a half times the 17 percent average of six similarly-sized Benefit Funds. That spending included $50,319 for unsupported and improper administrative expenses, including the improper payment of employees' personal expenses and expenditures for legal and IT services and for computer equipment that were not adequately documented and supported. The Retirement Fund's administrative spending improperly included Retirement Fund expenses, payment of rent, utilities, officers' compensation, and other expenses of the Union.

In sum, the audit identified material failures, inefficiencies, and improper expenditures that may have deprived the Retirement Fund's members of hundreds of thousands of dollars that would otherwise be available for the payment of their legitimate benefit claims.

However, the Retirement Fund's response is most telling in what it does *not* say. It neither refutes any specific audit finding nor disputes any specific fact cited in the report. The undisputed facts supporting the audit findings are cited in the report, which accordingly speaks for itself.

We urge the Trustees of the Retirement Fund to carefully review the entire report, adopt its recommendations, and thereby keep the promise expressed on their behalf in the Retirement Fund's written response: to "do all that is necessary to comply with Comptrollers [*sic*] Directive 12." We further urge the Trustees to carry out their responsibility to ensure that City Contributions are spent appropriately and monitored carefully, and used *only* for expenditures that directly or indirectly benefit Retirement Fund members.

AUDIT REPORT

Background

The Retirement and Welfare Funds were established as Benefit Funds under the provisions of two separate Fund Agreements (one for each entity) entered into between the City and the Union. These Fund Agreements result from collective bargaining between the City and the Union. In accordance with these agreements, both of the Funds receive contributions from the City for the purpose of providing supplementary health and welfare benefits to eligible retired and active City employees, including Community Workers, Probation Assistants, Probation Officer Trainees, Probation Officers, Senior Probation Officers, and Supervising Probation Officers.

Pursuant to the Retirement Fund's Trust Agreement, the Retirement Fund is overseen by a board of trustees who are responsible in a fiduciary capacity for all money, property and other assets received, managed or disbursed under their authority or on behalf of the Retirement Fund. In addition, the board of trustees employed a Fund Administrator to administer the recordkeeping, clerical services and other administrative tasks related to providing benefits to Retirement Fund members. According to the Trustees' Representation Letter filed with its Fiscal Year 2014 (July 1, 2013 through June 30, 2014) financial statements, the Retirement Fund had 391 members for which it provided self-insured benefits.[4]

A significant portion of the recurring general and administrative expenses (rent, payroll, occupancy, insurance, computers, etc.) is initially paid by the Welfare Fund on behalf of both the Retirement Fund and the Welfare Fund. Thereafter, an allocation is made between the Welfare and Retirement Funds based on the number of members in both Funds. The Retirement Fund reimburses the Welfare Fund, annually, for those expenses.

The City makes financial contributions to the Retirement Fund to cover the payment of benefits to City employees as well as a reasonable amount of administrative expenses related to payment of these benefits. Accounting, auditing and financial guidelines for Benefit Funds are set forth in Comptroller's Directive 12 and include, specifically, guidelines for spending City funds. In Fiscal Year 2014, the Retirement Fund received $674,554 in City Contributions and reported that it paid $337,840 in member benefits and $183,670 in administrative expenses. As of June 30, 2014, the Retirement Fund reported net assets of $764,030. Table I summarizes information presented in the Retirement Fund's audited financial statements, as reported by the Retirement Fund, for the years ending June 30, 2013 and June 30, 2014.

[4] See Appendix for a detailed breakdown of the self-insured benefits paid by the Retirement Welfare Fund in Fiscal Year 2014.

Table I

Summary of the Retirement Fund's
Reported Revenues and Expenses
for the Years Ending June 30, 2013
and 2014

	Y/E June 30, 2013	Percent (%) of Total Revenue	Y/E June 30, 2014	Percent (%) of Total Revenue
City Contributions	$674,698	99.21%	$674,554	98.07%
Investment and Other Income	5,370	0.79%	13,280	1.93%
Total Revenue	$680,068	100.00%	$687,834	100.00%
Benefit Expenses	$394,493	58.01%	$337,840	49.12%
Administrative Expenses	169,536	24.93%	183,670	26.70%
Total Expenses	$564,029	82.94%	$521,510	75.82%
Excess (Deficiency) of Revenue	$116,039		$166,324	
Fund Balance (Beginning of Year)	$481,667		$597,706	
Fund Balance (End of Year)	*$597,706*		*$764,030*	

The Retirement Fund is required to conform to Comptroller's Directive 12, *Employee Benefit Funds – Uniform Reporting and Auditing Requirements*, which sets forth accounting, auditing and financial guidelines for funds and their boards of trustees.

Objectives

To determine whether the Retirement Fund complied with applicable procedures and reporting requirements, as set forth in Comptroller's Directive 12 and its Fund Agreement, including:

- the adequacy and effectiveness of the Retirement Fund's internal controls related to its processing and reporting of contributions received;
- the propriety and reasonableness of the Retirement Fund's administrative expenses; and
- the Retirement Fund's adherence to its criteria for the processing of benefit payments.

Scope and Methodology Statement

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective. This audit was conducted in accordance with the audit responsibilities of the City Comptroller as set forth in Chapter 5, §93, of the New York City Charter.

The scope of this audit covers the period from July 1, 2013 through June 30, 2014. Please refer to the Detailed Scope and Methodology at the end of this report for the specific procedures and tests that were conducted.

Discussion of Audit Results

The matters covered in this report were discussed with Retirement Fund officials during and at the conclusion of this audit. A preliminary draft report was sent to the Retirement Fund and discussed at an exit conference held on April 3, 2017. On April 12, 2017, we submitted a draft report to the Retirement Fund with a request for written comments in response to our recommendations.

Retirement Fund officials chose not to take the opportunity provided to them to address each individual recommendation. Instead, on April 17, 2017, we received a written one-page response to the audit on the letterhead of the "United Probation Officers Association Welfare Fund and Retirement Welfare Fund," which we were subsequently informed is intended as a full response to the both this audit and to our companion audit of the UPOA Welfare Fund.

In its one-page response, attached as an addendum to this report, the Retirement Fund stated, "[t]he UPOA Welfare Fund will address all the recommendation [*sic*] made to the Trustee Board and will do all that is necessary to comply with the Comptrollers [*sic*] Directive 12." Nonetheless, the Retirement Fund did not expressly agree or disagree with any of the 12 recommendations made in the audit report, and instead merely stated that it "will address all" of them, without stating whether the Fund will *implement* any of them.

With respect to the audit findings, the Retirement Fund's response follows, verbatim:

> [the audit report] is misleading and replete with half-truths and scurrilous innuendos. The report refers to many potential errors due to our Policies and Procedures yet was unable to find even one case where any error, which may have occurred was of any material impact. Your audit also unfairly compares our funds with what you call similar funds yet you never compared the amount of benefits and the important timely processing of claims.

The remainder of the Retirement Fund's written response consists of extraneous comments that purport to question the auditors' motives, with no attempt to address the substance of the report.

Contrary to the Retirement Fund's assertion that the audit did not find "even one case where any error, which may have occurred was of any material impact," the audit report cites many such cases, just two of which are sufficient to illustrate the point, as follows:

- The Retirement Fund's Independent Auditors—selected by the Retirement Fund itself—issued a "qualified opinion" on the Retirement Fund's Fiscal Year 2014 financial statements, citing specific omissions in its benefit-processing operation, which the *Fund's* selected auditors found resulted in a potential error of *$311,332* (92 percent of its benefit expenditures for 2014) in the Retirement Fund's financial statements.

- The Retirement Fund spent more than $180,000 (27 percent) of its City Contributions on administrative expenses, more than one and a half times the 17 percent average of six similarly-sized Benefit Funds. That spending included $50,319 for unsupported and improper administrative expenses, including the improper payment of employees' personal expenses and expenditures for legal and IT services and for computer equipment that were not adequately documented and supported. The Retirement Fund's administrative spending improperly included not only Retirement Fund expenses but also payment of rent, utilities, officers' compensation, and other expenses of the Union.

In sum, the audit identified material failures, inefficiencies, and improper expenditures that may have deprived the Retirement Fund's members of hundreds of thousands of dollars that would otherwise be available for the payment of their legitimate benefit claims.

However, the Retirement Fund's response is most telling in what it does *not* say. It neither refutes any specific audit finding nor disputes any specific fact cited in the report.

The Retirement Fund received our preliminary draft report on March 9, 2017 and thereafter participated in an exit conference with the auditors on April 3, 2017. During the exit conference the Retirement Fund responded orally to some of the findings and explained one $762 expenditure that had been identified in the preliminary draft, as an improper administrative expense. In consideration of the Retirement Fund's oral response, that transaction was removed from the formal draft and from this final report. However, the Retirement Fund offered no additional documentation or verifiable information that would warrant any further modification of the report. The Retirement Fund then received our formal draft report on April 12, 2017, and so has had a second opportunity to respond in writing to its specific findings but has chosen not to do so. The undisputed facts supporting the audit findings are cited in the report, which accordingly speaks for itself.

We urge the Trustees of the Retirement Fund to carefully review the entire report, adopt its recommendations, and thereby keep the promise expressed on their behalf in the Retirement Fund's written response: to "do all that is necessary to comply with Comptrollers [*sic*] Directive 12." We further urge the Trustees to carry out their responsibility to ensure that City Contributions are spent appropriately, monitored carefully, and used *only* for expenditures that directly or indirectly benefit Retirement Fund members.

The full text of the Retirement Fund's response is included as an addendum to this report.

FINDINGS

The audit found that the Retirement Fund failed to implement effective controls over its financial affairs and its management of City Contributions of $674,554 in Fiscal Year 2014. Specifically, we found that:

- *The Retirement Fund violated Comptroller's Directive 12 and its own Fund and Trust Agreements in connection with disbursement of benefits and administrative expenditures.* Among other things, the Retirement Fund had no written operating procedures for the payment of benefit claims or administrative expenses, failed to establish basic internal controls, and failed to maintain required financial records. For example, although the Retirement Fund was allocated part of the more than $183,000 spent on employee compensation, it kept no records of the hours worked or the absences of its only two employees. The Retirement Fund paid its trustees $900 in prohibited stipends and had no fiduciary insurance to cover its trustees as required by its Fund Agreement.

  The Retirement Fund's Independent Auditors issued a "qualified opinion" on the Retirement Fund's Fiscal Year 2014 financial statements, citing the Retirement Fund's failure to obtain marriage licenses and birth certificates to establish the eligibility of dependents for benefits and its inability to locate claims for audit-testing, which resulted in a potential error of $311,332 (92 percent of its benefit expenditures for 2014) in the Retirement Fund's financial statements. Moreover, the Retirement Fund's auditors submitted an Auditors' Management Letter to the Trustees and to the Comptroller's Office, in which various control weaknesses, including the Retirement Fund's failures to use its accounting system properly and reconcile its financial and banking records, were expressly noted. Based on our review of the Retirement Fund's records in connection with this audit, we found no evidence that any of the deficiencies cited by the Retirement Fund's auditors have been addressed.

- *The Retirement Fund failed to minimize, control and properly allocate administrative expenses.* The Retirement Fund spent more than $180,000 (27 percent) of its City Contributions on administrative expenses, more than one and a half times the 17 percent average of six similarly-sized Benefit Funds. That spending included $50,319 for unsupported and improper administrative expenses, including the improper payment of employees' personal expenses and expenditures for legal and IT services and for computer equipment that were not adequately documented and supported. The Retirement Fund's administrative spending improperly included not only Retirement Fund expenses but also payment of rent, utilities, officers' compensation, and other expenses of the Union.

- *The Retirement Fund failed to adequately support, record, and report benefit payments.* The Retirement Fund improperly paid $12,815 on undocumented or questionable benefit claims, failed to list some benefits in the benefit booklet it provided to members, and did not include almost $19,000 in medical benefits claim payments as part of its benefit expenses.

These issues are discussed in detail in the following sections of this report.

The Retirement Fund Violated Comptroller's Directive 12 and Its Own Fund and Trust Agreements

Failure to Execute Basic Recordkeeping and Reporting Functions

The Retirement Fund, which received $674,554 in City Contributions in Fiscal Year 2014, had no written policies and procedures in place governing its day-to-day office activities, including the processing, recording and monitoring of financial transactions and benefit claims. The Retirement Fund failed to record various transactions in its ledgers and failed to reconcile its ledgers and bank records. Thus, the Retirement Fund's Independent Auditors were required, after the close of the fiscal year, to make adjusting entries to account for dozens of unrecorded transactions in order to compile and audit the Retirement Fund's annual financial statements. In effect, the Independent Auditors performed routine bookkeeping and administrative functions after the close of the fiscal year that should have been carried out by the Retirement Fund's employees as part of ongoing operations.

Every Benefit Fund that receives contributions from the City must maintain accurate, adequate books of account and related records so that they will be able it to prepare complete and auditable financial statements as required by Comptroller's Directive 12 and its individual Fund and Trust Agreements.[5] Under Directive 12, Benefit Funds that receive a City contribution of $300,000 or more are advised to comply with the Comptroller's Internal Control and Accountability Directives, such as Directive 1, *Principles of Internal Control*, which instructs that in a sound system of internal control, "all transactions are timely and accurately recorded" to "maintain their relevance and value to management in controlling operations and decision making." The same directive prescribes "ongoing" and "regular management and supervisory activities, comparisons, reconciliations, and other actions" to support a "sound internal control system."[6]

Rather than carrying out routine bookkeeping tasks, including maintaining and reconciling complete and accurate financial records throughout the year as required, the Retirement Fund's management instead relied on the Retirement Fund's Independent Auditors to gather, update, and reconcile the Retirement Fund's books and records once per year, after the close of the fiscal year. Although the Retirement Fund has accounting software that can be used to keep track of the Retirement Fund's revenues and expenses, the Retirement Fund does not use it properly. For example, no entries were made for bank charges totaling approximately $154, and no bank reconciliations (a basic accounting control) were performed by or at the direction of the Fund Administrator or the trustees throughout the year.

With respect to benefit payments, the Welfare Fund paid $18,921 in medical benefit claims to retired members. While the Welfare Fund—a separate welfare fund for active employees that shares space and staff with the Retirement Fund— shares some of the administrative expenses with the Retirement Fund, there was no evidence of an adjustment to reimburse the Welfare Fund for the benefits paid on behalf of Retirement Fund members. It therefore appears that the Retirement Fund's claims-processing procedure lacked sufficient controls to ensure that

[5] Comptroller's Directive 12, §3.2, "Accounting Standards." See also the UPOA Retirement Fund Agreement paragraph 2(g)(i) (trustees of the Retirement Fund are "responsible for the maintenance of accurate records of its books and accounts and related records that will enable the Fund to prepare complete and auditable statements on an accrual basis of accounting in conformance with generally accepted accounting principles"); and the UPOA Retirement Trust Agreement, paragraph 4.10 (Retirement Fund trustees must keep "true and accurate books of account and records of all their transactions, which shall be audited annually by a certified public accountant selected by them").
[6] Comptroller's Directive 12, §3.3; Comptroller's Directive 1, §5.0, §4.5.

payments made to retirees were from appropriate Retirement Fund accounts. The Retirement Fund's benefit expenses were consequently understated as it did not include these payments to Retirement Fund members in its benefit expenses.

The Retirement Fund's inadequate recordkeeping was noted by its Independent Auditors. Specifically, in March 2015, the Retirement Fund's auditors issued a "qualified opinion" on the Retirement Fund's Fiscal Year 2014 financial statements and an "Auditors' Management Letter" to the Retirement Fund's trustees and the Comptroller's Office noting among other control weaknesses, that the Retirement Fund did not use its accounting system properly or reconcile its bank accounts, and failed to maintain adequate benefit-payments records such as marriage and birth certificates. It also noted that claims the auditors selected for testing "were not located as a result of the Fund's filing system."[7]

In the absence of complete and accurate records, the trustees' ability to determine whether the City's contributions were used "only for expenditures and programs that directly or indirectly benefit [the Retirement] Fund members," the primary fiduciary duty of the Retirement Fund under Directive 12 and the Trust and Fund agreements, was compromised. Moreover, as detailed in the following sections of this report, the Retirement Fund's internal controls were deficient in a number of other respects. Further, we found no evidence that the deficiencies cited by the Retirement Fund's Independent Auditors two years ago have been corrected.

Lack of Segregation of Duties Compromised the Retirement Fund's Internal Controls

Key fiscal duties were not adequately segregated, and no alternative, compensating controls were instituted in accordance with applicable rules intended to minimize the vulnerability of the Benefit Funds to errors and fraud. Good internal controls dictate that "[n]o one individual should control all key aspects of a transaction or event."[8] Instead, "[k]ey duties and responsibilities need to be divided or segregated among different staff members to reduce the risk of error or fraud. This should include separating the responsibilities for authorizing transactions, processing and recording them, reviewing the transactions, and handling any related assets."[9]

As of our audit period, Fiscal Year 2014, three individuals—the Fund Administrator, the Retirement Fund's single clerical employee, and on occasion, the Union Vice President—conducted the Retirement Fund's day-to-day operations. These included processing administrative expenses and benefit claims for payment. According to the Fund Administrator and the clerical employee, the clerical employee received and reviewed the Retirement Fund's administrative expenses and prepared the checks to pay them by entering the necessary information in, and printing the checks from, the Fund's QuickBooks accounting system. Thereafter, the Fund Administrator generally signed the checks by using a signature stamp. The clerical employee stated that the signature stamp generally was secured in the Fund Administrator's office, although the clerical employee also had access to and used the stamp on a temporary basis to issue checks in the Fund Administrator's absence from the office. The same process applied to benefit claims, except that any of the three individuals—the Fund Administrator, the clerical employee, or the Union Vice President—could process benefit claims for payment.

[7] Letter by Steven T. Schlapp, CPA, March 19, 2015.
[8] Comptroller's Directive 1, §5.0.
[9] Id.

As described above, in theory there was a degree of separation between the processing and authorizing of the Retirement Fund's administrative expenses because one employee generally processed the payments and a different employee usually authorized them by signing the checks. In practice, however, those two functions were not consistently carried out by different employees, for example in the Fund Administrator's absence. In those instances, the clerical employee processed and approved the payments autonomously with no discernible independent review or authorization before the disbursement.

We also noted that the Retirement Fund's signature stamp contains facsimiles of two signatures, that of the Fund Administrator and that of the Union Vice President who also occasionally assists in the daily operations of the Retirement Fund. Accordingly, facsimiles of both signatures appear on all Fund checks. However, in describing the payment process, neither the Fund Administrator nor the clerical employee mentioned any role of the Union Vice President, nor was there evidence of the trustee's involvement found in the Retirement Fund's records. Thus, any appearance of fiscal control created by what purported to be a two-signature policy was entirely ineffective as a result of the Retirement Fund's use of a single stamp, which enabled a single individual to place what appeared to be two signatures onto a check.[10]

The separation of processing, authorizing, reviewing and recording transactions is essential to reducing the risk of error or fraud. The Fund's fiscal activities lacked such segregation, exposing the Fund to the risk of errors and abuse.

No Record of Employees' Working Hours or Time and Leave Balances; Inconsistencies between Retirement Fund's and Union's Statements of the Fund Administrator's Working Hours

The Welfare Fund initially pays all the salaries on behalf of both of the Funds and later allocates, on a per member basis, a corresponding portion to the Retirement Fund which reimburses the Welfare Fund that amount through an overall administrative expense payment. However, the Funds maintained no employee timekeeping records and had no written policy specifying the amount of time employees were expected to work, whether they were entitled to vacation and sick leave, or any other standards for attendance. Moreover, the Retirement Fund and the Union filed inconsistent statements with the IRS regarding the Fund Administrator's work hours for both organizations. Consequently, we could not determine the hours the employees worked for the Retirement Fund or whether their salaries were reasonable in relation to the services they provided.

According to the Retirement Fund's financial statements, the Retirement Fund was allocated a portion of the total payroll and related taxes of $183,700 for employee-compensation in Fiscal Year 2014. In addition to this sum, the Retirement Fund reimbursed the Union for a portion, $16,500, of the Union Vice President's salary, "for administrative work provided to the Plan

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[10] The Retirement Fund Trust Agreement provides that "all withdrawals of money from any bank account of the [Retirement] Fund shall be made only by check signed by one or more Trustees authorized to sign checks by resolution of the Board of Trustees," although the agreement further provides that "the Board of Trustees, by resolution, may designate and authorize an employee of the Fund, or other named person, to sign checks upon such separate and specific bank account as they may designate and establish for such purpose, with such limitations and conditions as they may prescribe." While the presence of a facsimile of the Union Vice President's (which could constitute the 'other named person' under the provision of the Trust Agreement) signature on the stamp created the appearance that the Union Vice President countersigned every check, the audit found no evidence that the Union Vice President had any role in signing or authorizing such checks.

[Retirement Fund]."[11] However, the Retirement Fund did not maintain any records tracking its staff's working hours, accrual and use of vacation and sick leave, or any absence or lateness to be charged against earned vacation, personal days, or sick leave. Consequently, we could not determine the number of hours and days the Fund employees or Union officials worked for the Retirement Fund in exchange for their compensation.

Discrepancies between the Retirement Fund's, Welfare Fund's and the Union's respective IRS returns (Form 990) raise additional questions regarding the Fund Administrator's hours and compensation in Fiscal Year 2014. Specifically, according to the Retirement Fund's and the Welfare Fund's separately filed returns, the Fund Administrator worked an average of 15 hours per week for *each* Fund as a "key employee" and 45 hours for the Union. By contrast, the Union's federal return states that the individual who works as the Fund Administrator (1) worked an average 50 hours per week for the Union as an officer and received a salary of $139,300 from the Union; (2) worked no additional hours for any related organization;[12] (3) received "consulting fees" from the Welfare Fund; and (4) received a separate City salary "while being permitted to work *exclusively for the Union on a full time basis*." (Emphasis added.)[13]

A reliable, verifiable record of employees' time and attendance is essential for an employer to determine whether paid employees are working a reasonable (or required) number of hours and using leave time to which they may be entitled and for calculating payments to which they may be entitled upon termination of employment. In addition, daily attendance records contribute to effective payroll control and may be necessary to settle payroll disputes and, at times, to establish the validity of injury and disability claims. Conversely, with no documented policies, procedures, or verifiable records concerning employees' time and attendance, the trustees' ability to ensure that the Retirement Fund's spending for employees' salaries "is not excessive or unreasonable in relation to the service received," as prescribed by Comptroller's Directive 12, is questionable.[14]

Incomplete Supporting Documentation for Members and Dependents

The Retirement Fund reported that it paid a total of $341,881 in benefit claims for services provided to members and their dependents but failed to maintain documentation to verify the dependents' eligibility. We reviewed 206 benefit claims totaling $62,293, of which 46 claims totaling $8,862 were filed on behalf of alleged dependents of members. Our review found that the Retirement Fund did not maintain documentation such as birth certificates and marriage licenses in its files as proof that those individuals were in fact eligible dependents. As a result, there is no reasonable assurance that the Retirement Fund's payment of such claims were for eligible dependents.

The Retirement Fund received a "qualified opinion" on its financial statements from its Independent Auditors based on the Retirement Fund's failure to maintain necessary

[11] Comptroller's Directive 12, §3.8 provides, in part, "[s]taff salaries should be apportioned based on records that document the efforts devoted to each entity." No such records were provided by the Retirement Fund.
[12] The Retirement Fund, the Welfare Fund and Union are all related organizations under the definition applicable to the Form 990.
[13] United Probation Officers Association Retirement Welfare Fund, Return of Organization Exempt from Income Tax (Form 990) for the tax year July 1, 2013, and ending June 30, 2014, Part VII, Question 1a; United Probation Officers Association Welfare Fund, Return of Organization Exempt from Income Tax (Form 990) for the tax year July 1, 2013, and ending June 30, 2014, Part VII, Question 1a; United Probation Officers Association of New York City, Return of Organization Exempt from Income Tax (Form 990) for the tax year July 1, 2013, and ending June 30, 2014, Part VII, Question 1a, Line 1, Schedule J, pp.2-3.
[14] Comptroller's Directive 12, §3.4.

documentation proving eligibility of its members' alleged dependents. The auditors' report states that "[t]he Plan did not possess adequate benefit payment records (marriage and birth certificates) and we were unable to apply procedures to determine whether spouses and dependents of members were eligible to receive Plan benefits." According to the Retirement Fund's auditors, the "potential error is $311,332."[15]

Missing Minutes of Trustees' Meetings and Other Weaknesses in Trustees' Fulfillment of Obligations

We found that the Retirement Fund failed to keep required minutes of its trustees' meetings. Specifically, the Retirement Fund's Trust Agreement stipulates that "[t]he Trustees shall cause written minutes of the business transacted at their meetings to be kept, including the matters voted upon and the votes of each Trustee." Moreover, Directive 12 refers to several specific subjects that must be reported in the trustees' "official minutes," such as periodic assessment of consultants' services. Contrary to those obligations, however, the Retirement Fund provided minutes for only 7 of the 11 trustees' meetings that the Fund Administrator stated were held during Fiscal Year 2014, and represented that they were the only minutes in the possession of the Retirement Fund.

Directive 12 also advises that the Retirement Fund have an investment policy to ensure that idle monies are invested judiciously, appropriately safeguarded and accounted for fully. The directive further states that the board of trustees should ensure that the Retirement Fund has a *written* investment policy that describes the permissible types of investments and the guidelines to be adhered to for each investment type. However, notwithstanding the guidance of Directive 12, the Retirement Fund does not have a written investment policy.

In addition, the Fund Agreement states that the "Fund shall maintain adequate fiduciary insurance or a fidelity bond to cover the Trustees. The acquisition of fiduciary insurance or fidelity bond is required within thirty (30) days of a Trustee's appointment." This saves the Trustees any costs, counsel fees, or other expenses growing out of their office or involving the Retirement Fund. However, the Retirement Fund has no such insurance.

The Retirement Fund Failed to Minimize, Control and Properly Allocate Administrative Expenses

More Than One-Quarter of City Contributions Spent on Administrative Expenses

The Retirement Fund spent more than one-quarter of its City Contributions on administrative expenses in Fiscal Year 2014, far more than the approximately 17 percent average spent by comparable funds. Moreover, given the Retirement Fund's numerous unsupported and improper administrative expenditures and its failure to allocate shared costs to the Union, there is no assurance that the Retirement Fund's administrative expenditures were reasonable.

[15] Independent Auditors Report to the Board of Trustees, United Probation Officers Association Retirement Welfare Fund, March 19, 2015.

The Retirement Fund received $674,554 in City Contributions in Fiscal Year 2014 and reported $183,670 in administrative expenses, or more than 27 percent of those contributions. As illustrated in Table II, the six similarly-sized Benefit Funds spent considerably less—an average of 16.96 percent of their respective City Contributions—on Administrative expenses. The Retirement Fund spent more than one and a half times that ratio for administrative expenses.[16]

Table II

Comparison of Administrative Expenses
between the Retirement Fund and Other Similarly-Sized Funds for Fiscal Year 2014

Benefit Fund	NYC Contributions	Total Administrative Expenses	Admin Exp / NYC Contribution
Local 300 Civil Service Forum RWF	$ 796,991	$ 165,828	20.81%
Assistant Dep Wardens/Dep Wardens WF/RWF/CLRF	776,993	112,950	14.54%
Doctors Council RWF	760,888	147,404	19.37%
Local 333 United Marine Division RWF	312,053	62,243	19.95%
NYC Muni. Steamfitters & Steamfitter Helpers WF	239,192	15,407	6.44%
NYC Muni. Steamfitters & Steamfitter Helpers RWF	158,827	12,599	7.93%
Total	3,044,944	516,431	
Average	$ 507,491	$ 86,072	16.96%

Comptroller's Directive 12, Section 3.4, "Spending Guidelines" provides in part that "Benefit Funds should ensure that New York City Contributions are spent appropriately and monitored carefully. This includes . . . [r]estricting their use only for expenditures and programs that directly or indirectly benefit fund members . . . [and] carefully controlling administrative expenses and ensuring that they do not exceed a reasonable percentage of total Benefit Fund revenue." Simply stated, all spending by the Benefit Funds should benefit fund members; any excessive administrative spending diverts resources from the Benefit Fund's overriding purpose: to benefit its members.

> ***Retirement Fund Response:*** "Your audit also unfairly compares our funds with what you call similar funds yet you never compared the amount of benefits and the important timely processing of claims."

> ***Auditor Comment:*** The mission of every Fund is to provide the maximum amount of benefits to its members using its available resources—City Contributions. Contrary to Retirement Fund's assertion, similarly-sized funds are comparable using City Contributions as an indicator and is in fact a fair and accurate comparison. Comparing similarly-sized funds in terms of revenue clearly demonstrates which Funds are spending a large portion of their revenue on administrative expenses rather than maximizing the revenue available to support benefits that can be paid to their members.

Inadequate Documentation of Computer Expenses

Although the Retirement Fund and the Welfare Fund jointly spent nearly $100,000 on information technology (IT) services and computer equipment, they failed to provide a detailed breakdown of the specific IT services that were performed or any supporting invoices for the reported purchases

[16] The size of each fund was based on the amount of City Contributions. We reviewed the administrative expenses reported by six other funds that submitted financial statements to the New York City Comptroller's Office in accordance with Comptroller's Directive 12. These Funds each received City revenue between $158,827 and $796,991 in Fiscal Year 2014.

of computer equipment. Consequently, there is no reasonable assurance that those expenses were prudent, reasonable, and appropriate.

The Retirement Fund and the Welfare Fund together reported spending a total of $74,500 for IT consulting services (of which $27,267 was allocated to the Retirement Fund and $47,233 was allocated to the Welfare Fund) and $23,733 for computer equipment (of which $8,686 was allocated to the Retirement Fund and $15,047 was allocated to the Welfare Fund) in Fiscal year 2014.[17] However, in addition to the Retirement Fund's failure to produce invoices to support the computer purchases, the IT consultant's invoices do not include a detailed breakdown of what kind of services were provided. Furthermore, the terms of the Fund's contract with the IT consultant were not clearly defined.

The Retirement Fund first retained the IT consultant on October 1, 2010 to provide computer and network support services from that date through December 31, 2012. No written proposal was on file regarding the project and its scope of work. We were informed that at some point, the IT consultant's scope of work expanded to include building a benefit processing computer system. However, the scope of that work was never evidenced in any document provided to us. The IT consultant, who is still in the process of building a claims-processing system for both the Retirement Fund and the Welfare Fund in 2014, did not maintain a system change log detailing what changes were made or added to the system.[18] Without any documentation describing the services provided and specifying the equipment purchased, there is no reasonable assurance that the IT consulting and equipment expenses charged to the Retirement Fund were prudent, reasonable, and appropriate.

No Supporting Documentation for Legal Services

The Retirement Fund failed to provide any documentation to support payments it reported making together with the Welfare Fund of $19,267 for legal services, of which $7,052 was allocated to the Retirement Fund. No invoices or other records were provided to support the payments, no contract was on file and none was produced in response to our request. Thus, no documentation was produced that reflected what type of legal services were provided or were to be provided to the Retirement Fund and at what price.

Based on the Welfare Fund's General Ledger, where the transaction originated and was then allocated to the Retirement Fund, its legal service expenses spiked in January 2014 when two payments of $4,267 and $7,500 were made. In other months, the Welfare Fund typically reported payments of only a $1,500 monthly retainer. No explanation was provided by the Retirement Fund in response to the auditors' request for an explanation of why January's legal service fees exceeded the normal monthly retainer. With no invoices or contract on file, we do not have reasonable assurance that the Retirement Fund's reported payments for legal services were valid or reasonable, or whether any such services were in fact provided to the Retirement Fund at all.

[17] According to the depreciation schedule filed with the Retirement Fund's Fiscal Year 2014 financial statement, the costs for computer equipment were capitalized and are not included in the expenses of the Retirement Fund.
[18] The system is not used for disability, death and maternity claims.

Fund Administrator's Salary Increased without Evidence of Trustee Approval

The Retirement Fund Administrator's salary rose from $102,000 to $109,635 in Fiscal Year 2014, an increase of approximately 7.5 percent.[19] As part of its fiduciary duties set forth by the aforementioned Trust Agreement, the Trustees are obligated to monitor the administrative expenses of the Retirement Fund. The minutes of the Retirement Fund's Trustee meetings that were provided reflect no discussion or vote by the Trustees on the salary increase. The Retirement Fund's IRS return (Form 990) for Fiscal Year 2014 confirmed that the process for determining the compensation of its top management official did *not* include "review and approval by independent persons, comparability data, or contemporaneous substantiation of the deliberation and decision," nor was it established by "approval of the board or compensation committee."[20] In sum there was no evidence that the Trustees took steps to assess whether the payment to the Fund Administrator was reasonable in relation to his services to the Retirement Fund or what if any factors justified the increase.

Additional Unsupported Administrative Expenses

The Retirement Fund also paid a number of other administrative expenses totaling $3,327, which it reported on its Fiscal Year 2014 financial statements, without any supporting invoices or receipts indicating the business purpose of the expenditures. Specifically, the Retirement Fund reportedly paid the following sums for the goods and services listed but without adequate supporting documentation:

- $1,792 for insurance;
- $432 for stationery, printing, postage and supplies;
- $299 for meetings;
- $299 for internet service;
- $220 in moving expenses;
- $175 in office furniture that was capitalized (so not reported as an administrative expense); and
- $110 in equipment rental, repairs and maintenance.

Absent documentation to support these payments, there is no reasonable assurance that the expenditures were made for appropriate Retirement Fund purposes that benefit the members.

Improper Administrative Expenses

The Retirement Fund made improper administrative expense payments totaling $3,988 in Fiscal Year 2014. These payments included reimbursements and purchases of items that did not directly or indirectly benefit fund members. Specifically, the Retirement Fund improperly paid the following sums:

[19] The Fund Administrator also served as the Fund Administrator for the Welfare Fund and as the Union President.
[20] United Probation Officers Association Retirement Fund, Return of Organization Exempt from Income Tax (Form 990) for the tax year July 1, 2013, and ending June 30, 2014, Part VI, Question 15; Schedule J, Question 3.

- $2,121 for the clerical employee's, a trustee's and the Fund Administrator's personal cell phone bills;
- $1,255 for reported meeting-related expenses, including $900 in stipends paid to the trustees of the Retirement Fund as compensation, not as reimbursement of documented expenses incurred in the course of Fund business, which is in violation of Directive 12;
- $462 for flowers and retirement plaques;
- $130 for items improperly categorized as "Stationery and Supplies," which were not Retirement Fund-related charges but rather were payments to the Fund Administrator's credit card and to the Union Vice President for charges on items such as a cell phone, a cell phone charger, and for parking; and
- $20 for E-ZPass reimbursement for a Retirement Fund employee without supporting documentation of the trip's business purpose.

Failure to Allocate Union's Share of Administrative Expenses

Although the Retirement Fund, Welfare Fund and Union share the same office space, the rent and utilities and other associated occupancy expenses are paid entirely by the two Funds. Nothing is paid by the Union according to the Fiscal Year 2014 IRS returns (Form 990) for all three organizations. The Retirement Fund reimburses the Union for a portion of the Vice President's salary. However, conversely, no portion of the Fund's administrative expenses is allocated to the Union.

The Retirement Fund's failure to allocate any part of such shared administrative costs to the Union contravenes the express instruction of Comptroller's Directive 12, §3.8, which states, in relevant part:

> Benefit Funds that share premises with related or other entities will have common Administrative Expenses such as rent, utilities, general management, and other general expenses. These costs should be allocated equitably for reporting and accountability purposes. The allocation must be made systematically, applied consistently from year-to-year, and must be reviewed annually. Staff salaries should be apportioned based on records that document the efforts devoted to each entity. An explanation of the Fund's allocation methodologies must be attached to the trustee representation letter.

With respect to the Retirement Fund's "allocation methodologies," the Fund's annual filing with the Comptroller's Office for Fiscal Year 2014 states both that "there is no written expense allocation policy in place," and that "most common general and administrative expenses" of the Retirement Fund and the Welfare Fund are allocated between them "based on the number of Plan participants."[21]

It is clear from the Funds' minutes that Retirement Fund, Welfare Fund, and Union matters are discussed at Funds' trustees' meetings, one of many indications that the shared office and staff serve all three organizations, although the associated expenses are borne entirely by the two Funds. In addition, we observed that the Fund Administrator also served as the Union President

[21] Letter from Gould, Kobrick & Schlapp, P.C. re United Probation Officers Association Retirement Fund, June 17, 2015, see Auditor's Management Letter; Notes to Financial Statement, Note 9; Trustees' Representation Letter, Item "h."

during our scope, furthering the interwoven nature of the Funds and the Union administrative expenses.

Since Union business appears to have been conducted in the office space shared by the Funds, the Union could potentially have to reimburse the Retirement Fund and the Welfare Fund for as much as 50 percent of the occupancy and office expenses paid by the Funds.[22] In that case, the Union would owe the Funds a total of $97,090 for Fiscal Year 2014, of which $35,535 would go to the Retirement Fund, based on the allocation ratios that were used between the two Funds in Fiscal Year 2014.

Accordingly, the Retirement Fund should proportionately share general and administrative expenses with the Union and recoup any past funds due. Had the Union paid its fair share of administrative expenses as prescribed by Directive 12, the Retirement Fund would have been able to reduce its high administrative expense ratio and increase the funds available for direct benefits to Retirement Fund members.

Failed to Adequately Support, Record, and Report Benefit Payments

The Retirement Fund Failed to Provide Members with a Clear Statement of Available Benefits

The Retirement Fund failed to provide its members with a clear statement of all of the benefits covered by the Retirement Fund. Consequently, as detailed below, the audit found claims paid for benefits that were not part of the written description of benefits provided to the members in the benefits booklet or available online. Absent a clear statement of available benefits, the Retirement Fund may not be paying for all benefits to which its members are entitled.

In response to the auditor's inquiry about the basis for payments of $2,578 for at-home nursing benefits not expressly identified as covered in the Retirement Fund's benefit booklet, the Fund Administrator said in sum and substance that not every benefit is expressly detailed in the benefits book but that Retirement Fund members "hear about" benefits that are not listed and know they can call the Fund Administrator with any questions regarding benefits.

The absence of a benefit book with clear, up-to-date descriptions, amounts, and criteria for reimbursement deprives Retirement Fund members of information they need to gain an accurate understanding of the benefits to which they are entitled and the documentation needed to obtain reimbursement. Moreover, if no definitive statement of what is covered by the Retirement Fund is provided to all Retirement Fund members, there is an increased risk of improper payments being made by the Retirement Fund and unequal treatment of members; some may never make claims because they are not aware that a service is covered.

Directive 12 instructs employee benefit funds that if any amendments are made to their benefit plans during the year, a "copy of the new benefit booklet or other member notification" must be submitted with their annual reports filed with the Comptroller's Office. That instruction to fund trustees—in essence to update their benefit booklets and promptly notify members in writing of changes in benefits—reinforces the UPOA Trustees' obligation under its Trust Agreement to

[22] A 50 percent allocation reflects the fact that both the active and retired employees are members of the Union. Thus, consistent with the allocation methodology utilized by the two funds, 50 percent of the rent would be the responsibility of the Union.

"*promulgate* a plan of benefits which shall state the detailed basis upon which they determine benefits will be payable." (Emphasis added.) In this instance, the Retirement Fund failed to provide documentation to demonstrate that the trustees' modifications to the plan of benefits were disseminated to the members in written form as required by the Trust Agreement and Directive 12.

Improper and Questionable Benefit Payments

Of the $64,934 in Fiscal Year 2014 sampled benefit payments we reviewed, the Retirement Fund made improper and questionable benefit payments totaling $12,815 (20 percent). Of the total improper and questionable payments, the Fund paid $10,174 in benefits on claims that were not eligible to receive benefits or that were not documented in accordance with Retirement Fund guidelines. The remaining $2,641 were for benefits classified only as "other," for which the Retirement Fund had no supporting documentation. Specifically, the Retirement Fund paid:

- $4,566 in Prescription Drugs benefits without adequate documentation;
- $2,641 in benefit payments that the Retirement Fund classified as "Other" on its financial statements and for which the Fund had no supporting documentation;
- $2,300 in optical claims for which no claims or medical receipts were on file;
- $1,400 in Hearing Aid benefits with no claims on file;
- $1,040 in In-Hospital Indemnity benefits with no claims on file;
- $468 in At Home Nursing benefits with no claims on file;
- $300 in Podiatry benefits with no claims on file;
- $50 in Emergency Room benefits with no claim on file; and
- $50 in Emergency Room benefits to an ineligible individual. This claim was paid in behalf of an individual not listed on the City contribution report.

Absent documentation to support these payments and clear guidance from the Retirement Fund on what "other" benefits are covered, there is no reasonable assurance that the expenditures were made for appropriate Retirement Fund purposes.

RECOMMENDATIONS

The Retirement Fund Board of Trustees should:

1. Take all necessary corrective actions to address the deficiencies identified in the “Independent Audit Report,” prepared by the Retirement Fund’s Independent Auditors, the “qualified opinion” given therein, and the accompanying “Management Letter” dated March 19, 2015, that constitute violations of Directive 12.
2. Evaluate the performance of the Fund Administrator in carrying out the Trustees’ delegated fiduciary duties under the Fund and Trust Agreements and Comptroller’s Directive 12 to ensure that the City Contribution are spent appropriately and monitored carefully, are used *only* for expenditures that directly or indirectly benefit Retirement Fund members and that complete and accurate records, including documentation of claim eligibility and all administrative expenses are maintained.
3. Take all actions necessary to ensure that the Trustees’ delegated fiduciary duties are properly carried out based on the evaluation of the Fund Administrator conducted by the Board of Trustees.
4. Develop internal controls that address the weaknesses cited in this report to ensure the Retirement Fund achieves compliance with Comptroller’s Directive 12.
5. Improve the Retirement Fund’s record keeping procedures and practices to ensure that the Retirement Fund records all transactions in a timely manner, retains all billed invoices, and conducts regular bank reconciliations.
6. Ensure that the Retirement Fund maintains adequate personnel records, including records of attendance and leaves, to support payments to its employees.
7. Evaluate how the Retirement Fund resources could be better used to reach its ultimate goal—providing maximum benefits to its members—while keeping administrative costs to a minimum.
8. Ensure that the Retirement Fund obtains and maintains copies of appropriate documentation that establishes the eligibility of dependents such as birth and marriage certificates.
9. Ensure that the Retirement Fund ceases making payments in violation of Comptroller’s Directive 12 and the Retirement Fund’s Trust Agreement.
10. Ensure that the Retirement Fund discontinues paying Union expenses and allocates an equitable amount from the Union to the Retirement Fund to cover the Union’s share of administrative expenses.
11. Ensure that all benefit and administrative expenses charged to the Retirement Fund are appropriate and properly documented.
12. Ensure that the Retirement Fund maintains and regularly disseminates an up-to-date benefit book for Retirement Fund members.

Retirement Fund Response: **"**The UPOA Welfare Fund will address all the recommendation [sic] made to the Trustee Board and will do all that is necessary to comply with the Comptrollers [*sic*] Directive 12."

***Auditor Response*:** Based on the oral representation of a Retirement Fund official, we understand that the above representation applies to the Retirement Fund as well as the Welfare Fund. In addressing either fund's response, however, the Welfare Fund did not expressly agree or disagree with any of the 12 recommendations made in the audit report, and instead merely stated that it "will address all" of them, without stating whether it will *implement* any of them.

DETAILED SCOPE AND METHODOLOGY

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective. This audit was conducted in accordance with the audit responsibilities of the City Comptroller as set forth in Chapter 5, §93, of the New York City Charter.

The scope of this audit covers the period from July 1, 2013 through June 30, 2014. To achieve our audit objectives, we reviewed the Retirement Fund's financial and operating practices for the period July 1, 2013 through June 30, 2014, the period covered by the most recent Directive 12 filing available at the time we began our audit.

We obtained the Retirement Fund's Directive 12 filings with the Comptroller's Office, which included its financial statements, federal tax return, and other required schedules. We determined whether the Retirement Fund complied with the significant terms and conditions of Directive 12 by checking its filings of:

- Annual certified financial statements prepared in accordance with generally accepted accounting principles that were attested to by a Certified Public Accountant (CPA); and
- Internal Revenue Service Form 990.

To gain an understanding of the contribution, administrative and benefit-processing procedures, we interviewed the individual who serves as both Union President and the Fund Administrator of the Retirement Fund and reviewed the Retirement Fund's Fund Agreement and Trust Agreement. We documented our understanding of these procedures and Retirement Fund internal controls in memoranda and flowcharts.

To determine whether all revenues were properly recorded, we traced all the electronic City Contribution deposits on the Retirement Fund bank statements to the corresponding Retirement Fund Voucher for New York City employees. We also reviewed documentation related to the Retirement Fund's investments to determine the accuracy of the amounts reported on the financial statements.

We randomly selected the records of 50 of the 395 City employees listed on the contribution reports received from the New York City Office of Labor Relations and compared the employment information contained in the reports to the Retirement Fund's membership records. We also reviewed information contained in the City's Payroll Management System (PMS) and Pension Payroll Management System (PPMS) for these individuals and compared it to the Fund Records for the purpose of determining their work status- active or retired. In addition, we reviewed the Retirement Fund records for supporting documentation pertaining to members' dependents.

We traced all reported administrative expenses to their source documentation. We reviewed the documentation to determine whether the expenses were proper, appropriately authorized and necessary for the Retirement Fund's operation.

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

Dental Benefits: Out of the 926 dental claims filed, we selected 23 members who filed dental claims that were paid on behalf of the Retirement Fund members. We traced the members to the City contribution reports. We determined whether the reimbursements made were supported with proper documentation. 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.

Prescription Drugs: Out of the 718 prescription drugs benefit claims filed, we randomly selected 51 members who filed 60 claims. We reviewed all prescription drug claims processed by the Retirement Fund for these members. We traced these members to the City contribution reports. We also determined whether the reimbursements made were calculated correctly, and supported with proper documentation. 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 Benefits: Out of the 136 optical benefit claims filed, we randomly selected 50 members who filed 60 claims. We reviewed all optical claims processed by the Retirement Fund for these members. We traced these members to the City contribution report. We also determined whether the reimbursements made were calculated correctly, supported with proper documentation, and did not exceed the amounts specified in the Retirement Fund's benefit booklet. 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.

Burial: We traced all six burial claims processed during Fiscal Year 2014 to the Retirement Fund's member records including bank statements and the City contribution reports. We also ascertained whether death certificates and designated beneficiary forms were on file to support the payments.

In-Hospital Indemnity: We traced all 13 In-Hospital Indemnity claims reimbursed during Fiscal Year 2014 to the Retirement Fund's records including bank statements and City contribution reports. We also determined whether the reimbursements were calculated correctly, supported with proper documentation, and did not exceed the amounts specified in the Retirement Fund's benefit booklet.

Other: We attempted to verify whether these payments were valid and appropriate. However, according to the Retirement Fund's Independent Auditor, the "Other" benefit classification on the financial statement is as a result of the bank reconciliation that was performed. These benefit payments were categorized as such because the Retirement Fund was no longer able to access benefit payment reports that showed the proper category for these payments made. The Independent Auditors therefore recorded as "Other" benefits all benefit check payments from the bank statements that cleared during the audit period for which they were unable to identify the specific category. We did not receive any supporting documentation for this benefit and were therefore unable to conduct any eligibility tests on it.

At Home Nursing: We traced the eight claims paid for this benefit during Fiscal Year 2014 to the Retirement Fund's records including bank statements and City contribution reports. We also determined whether the reimbursement was calculated correctly, supported with proper documentation, and did not exceed the amounts specified in the Retirement Fund's benefit booklet.

Podiatry: We traced all 33 claims filed during Fiscal Year 2014 to information in the Retirement Fund's records including bank statements and City contribution reports. We also determined whether the reimbursements were calculated correctly, supported with proper documentation, and did not exceed the amounts specified in the Retirement Fund's benefit book. For instances in which a member's spouse or child received benefits, we checked whether proof of dependency (i.e., marriage certificate or child's birth certificate) was on file.

Hearing Aid: We traced four claims paid during Fiscal Year 2014 to the Retirement Fund's records including bank statements and the City contribution reports. We also determined whether the reimbursements were calculated correctly, supported with proper documentation, and did not exceed the amounts specified in the Retirement Fund's benefit booklet. For instances in which a member's spouse or child received benefits, we checked whether proof of dependency (i.e., marriage certificate or child's birth certificate) was on file.

Speech and Physical Therapy (Rehabilitative Service)*:* We traced all three claims filed for this benefit during Fiscal Year 2014 to the information in the Retirement Fund's records including bank statements and the City contribution reports. We will also determine whether the reimbursements were calculated correctly, supported with proper documentation, and did not exceed the amounts specified in the Retirement Fund's benefit booklet.

Emergency Room: We traced 11 claims filed during Fiscal Year 2014 to information in the Retirement Fund's records including bank statements and City contribution reports. We also determined whether the reimbursements were calculated correctly, supported with proper documentation, and did not exceed the amounts specified in the Retirement Fund's benefit book. For instances in which a member's spouse or child received benefits, we checked whether proof of dependency (i.e., marriage certificate or child's birth certificate) was on file.

Due to a large population of Dental, Prescription Drugs and Optical benefits, we selected a sample from each of those benefits for testing. However, all other benefits were viewed in their entirety. The results of the above testing, while not projectable to the entire dental, prescription drugs and optical benefits provided in our audit period, provided a reasonable basis to assess the Retirement Fund's compliance with its benefit-processing guidelines.

Benefits and Amounts Paid as Reported by the Retirement Fund
for Fiscal Year 2014

Benefit	Amount	Coverage
Dental	$136,883	Members receive a maximum of $3,500 in any calendar year but each of their eligible dependents receive a maximum of $750 during the first 12 months that the member is eligible for benefits. Thereafter and through December of that year, each covered family member will be extended a prorated portion of the $3,500 annual dental benefits maximum based on a percentage of time remaining in that calendar year. When members use a participating dentist, services listed under the Retirement Fund's *Schedule of Covered Dental Expenses* will be provided at no out-of-pocket cost to the member. If the member uses a non-participating dentist, the Retirement Fund will reimburse up to the maximum allowance set forth in the dental schedule.
Prescription Drugs	131,258	Members are reimbursed for prescription drug expenses incurred up to $1,100 per family per calendar year. As of calendar year 2014, drug prescription reimbursement increased to $1,200.
Optical	39,949	Members are entitled to a maximum reimbursement of $500 and $400 for each of their dependents in a two year period, respectively for frames or lenses or any combination thereof prescribed by an optometrist, ophthalmologist or a physician, as well as the examination fees of those professionals.
Burial	20,996	Burial benefit of $3,500 is paid in behalf of members.
In-Hospital Indemnity	3,020	Members and their spouses are entitled to $20 per day for a period of up to 10 weeks if the member or spouse is hospitalized or confined to a skilled nursing facility accredited by the Joint Commission on Accreditation of Hospitals.
Other	2,641	This benefit is not listed in the benefit book.
At Home Nursing	2,578	This benefit is not listed in the benefit book.
Podiatry	1,816	Members and eligible dependents receive a reimbursement up to $300 per year for expenses incurred for visits to a podiatrist and any necessary x-rays.
Hearing Aid	1,800	Members and eligible dependents are reimbursed up to $700 towards the cost of a hearing exam and hearing aid once in each two year period.
Speech and Physical Therapy (Rehabilitative Service)	540	Members and their spouses receive reimbursement up to $500 per year for medically authorized speech and physical therapy services.
Emergency Room Visits	400	Members and eligible dependents receive reimbursement up to $50 per year for emergency room visits.
Total	**$341,881**	

ADDENDUM

UNITED PROBATION OFFICERS ASSOCIATION
WELFARE FUND AND RETIREMENT WELFARE FUND

118-35 Queens Blvd. Suite 1210
Forest Hills, NY 11375
(212) 226-1069 Fax (917) 398-1640

April 17, 2017

Marjorie Landa
Deputy Comptroller for Audit
1 Centre Street Room 1100
New York, NY 10007

Re: Response to Audit Draft

Dear Ms. Landa:

At our first meeting in 2015, [redacted] was asked if your office would also comment on the positive things that the funds are doing for their members? He stated, "In my 30 years auditing City Union Welfare Funds the Comptrollers Office has never said one good thing about one Union". He further stated, "That's not our goal".

We would remind your office that in your Preliminary Draft report and at our exit interview it was stated that All our comments would be in your final report.

The UPOA Welfare Fund will address all the recommendation made to the Trustee Board and will do all that is necessary to comply with the Comptrollers Directive 12.

However, the effect of this audit over the 3 year period of 2015, 2016 and 2017 was disruptive and abusive. It is misleading and replete with half truths and scurrilous innuendos. The report refers to many potential errors due to our Policies and Procedures yet was unable to find even one case where any error, which may have occurred was of any material impact. Your audit also unfairly compares our funds with what you call similar funds yet you never compared the amount of benefits and the important timely processing of claims.

It is obvious that the history of the Comptrollers Audits of City Union Welfare Funds as well as their own statements prove that their intention is only to bash and ridicule regardless of facts.

The motives are obviously political in nature. Your office is also suspected of being involved in a plot to take away the Funds from the control of individual Unions and have the City of NY administer the benefits as it sees fit. The City would then be able to control expenses, weaken unions, and confiscate all reserves of the funds which are in the hundreds of millions of dollars.

We recommend that the Comptrollers Office recuse itself from future Welfare Fund audits and allow independent audit firms which are not politically motivated conduct future audits.

Sincerely,

Dominic Coluccio

Dominic Coluccio
Fund Administrator

Cc:
Georgette Gestely, Director of Employee Benefits OLR
Gail Laufer, Deputy Director of Employee Benefits OLR
Robert Linn, Commissioner OLR
Renee Campion, Deputy Commissioner OLR
Scott Stringer, City Comptroller
Dan Bright, Attorney for Funds
Steven Schlapp, Accountant for Funds
Harry Nespoli, MLC Chairman
Harry Greenberg, MLC Attorney
Robert Croghan, OSA
Arthur Cheliotes CWA
Letitia James, Public Advocate
Henry Garrido, Executive Director DC37
Eddie Rodriguez, President DC37
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