



JUDITH H. DUTCHER
STATE AUDITOR

STATE OF MINNESOTA OFFICE OF THE STATE AUDITOR

SUITE 400
525 PARK STREET
SAINT PAUL, MN 55103-2139

(651) 296-2551 (Voice)
(651) 296-4755 (Fax)
stateauditor@osa.state.mn.us (E-mail)
1-800-627-3529 (Relay Service)

PUBLIC RELEASE OF THE LA CRESCENT FIRE DEPARTMENT RELIEF ASSOCIATION REPORT October 17, 2001

I. INTRODUCTION

On July 11, 2001, the Special Investigations Division of the Office of the State Auditor (hereinafter "OSA") received notification that funds were missing from the La Crescent Fire Department Relief Association (hereinafter "Relief Association").

In July of 2001, former Relief Association Treasurer Michael Holliday (hereinafter "Treasurer Holliday") admitted taking money from the Relief Association and subsequently paying back the money. The issue was reported to the Relief Association's auditors, Tostrud & Temp, S.C. Certified Public Accountants, as well as the OSA.

The Relief Association's auditors reviewed the concern and provided the OSA with a copy of its "Schedules of Unauthorized Treasurer Transactions and Independent Auditors' Report" on September 12, 2001. The auditors also prepared a chronological list of events for the time period in question.

II. BACKGROUND

Firefighters of the City and Town of La Crescent are members of the Relief Association. The Relief Association is a governmental entity that receives and manages public money to provide service pensions and ancillary benefits to its members.¹ Minnesota law states that the affairs of such an association shall be managed by a board of trustees elected in the manner prescribed by the articles of incorporation of the association.² The Relief Association has a Board of Trustees (hereinafter "Board") that consists of a President, Vice President, Treasurer, Secretary, and two General Trustees. In addition, the City's Mayor, Clerk, and Fire Chief are ex officio, nonvoting members of the Board. Mr. Michael Holliday began serving as the Relief Association's Treasurer (hereinafter "Treasurer

¹ Relief Association Bylaws, Article II (Purpose Provision), Section 1. The Bylaws were dated December 15, 1999, and were updated as of January 31, 2000.

² Minn. Stat. § 69.30 (2000).

Holliday”) in January of 1995, and held that office until he resigned on June 30, 2001.³ Treasurer Holliday’s salary was fixed by the Board and was payable from the special fund of the Relief Association. Treasurer Holliday received a salary of \$600 each January as compensation for the previous year’s duties.⁴

The Relief Association’s Bylaws state that the Treasurer shall:⁵

- Keep a true and accurate record of funds and membership;
- Report to the membership on all deposits and disbursements from Relief Association accounts;
- Report to the Board of Trustees and Relief Association on the financial status of the Relief Association; and
- Allow all books to be open at all times to inspection by the Board of Trustees.

III. RELIEF ASSOCIATION ACCOUNTS

Relief associations are required by Minnesota law to keep moneys received from various sources in two separate and distinct funds, the “special fund” and the “general fund.”⁶

The OSA determined that prior to July of 2001, the Relief Association maintained four financial accounts, as noted below:⁷

1. A money market checking account maintained at La Crescent State Bank;

³ A trustee has since been appointed to handle the treasurer duties, and two Relief Association financial accounts were closed.

⁴ The OSA was informed that Treasurer Holliday’s annual salary was approved by the Board and is not included in the missing funds.

⁵ Relief Association Bylaws, Article V (Duties of Officers), Section 4.

⁶ Minn. Stat. §§ 69.39, 424A.05 (2000).

⁷ All accounts utilized the Relief Association’s tax identification number. In addition to these four accounts, the Relief Association also maintained investment accounts which are not discussed in this letter. The OSA was informed by the Relief Association that Treasurer Holliday did have access to the investment accounts, but there were no withdrawals from the investment accounts within the last two years.

2. A checking account maintained at La Crescent State Bank;
3. An interest bearing savings account maintained at Home Federal Savings Bank (\$1,500 of funds removed); and
4. A money market checking account maintained at First National Bank (\$36,595 of funds removed).

The Relief Association informed the OSA that the checking account maintained at La Crescent State Bank, identified above as number 2, contained funds of the Relief Association's general fund. In addition, the OSA was informed that the accounts identified above as numbers 1, 3, and 4 contained funds of the Relief Association's special fund. The OSA was informed that the savings account maintained at Home Federal Savings Bank (identified above as number 3) and the money market account maintained at First National Bank (identified above as number 4) have since been closed. The OSA was informed that the funds in accounts numbered 3 and 4 were transferred to account number 1. In addition, Treasurer Holliday has been removed as an authorized signatory from the remaining accounts.

IV. UNAUTHORIZED TRANSACTIONS

The OSA was informed by the Relief Association that withdrawals and checks issued from both the Home Federal Savings Bank savings account and the First National Bank money market account were not approved by the Board as required in the Relief Association bylaws.⁸ In addition, it appeared that Treasurer Holliday was the sole signatory on canceled checks obtained from First National Bank. The Relief Association's bylaws require that checks must be countersigned by the Relief Association President or Vice President.⁹

Based on the information provided in the copy of the "Schedules of Unauthorized Treasurer Transactions and Independent Auditors' Report," it appears that Treasurer Holliday engaged in unauthorized transactions totaling \$78,095 that included withdrawals and loans of Relief Association

⁸ The Relief Association's bylaws state that "[n]o disbursement of funds of this [Relief] Association shall be made except by checks drawn by the Treasurer and countersigned by the President or Vice President. Except when issued for salaries, pensions, and other fixed charges, the exact amount of which has previously been determined and authorized by the Board of Trustees or the members, no check shall be issued until the claim to which it relates has been approved by the Board of Trustees." Relief Association Bylaws, Article VII (Funds), Section 4. During contact with the Relief Association, the OSA was informed that disbursements were generally discussed and authorized by the Board during meetings; however, not all disbursements were specified in Board minutes.

⁹ Relief Association Bylaws, Article VII (Funds), Section 4.

funds.¹⁰ The auditors' schedules noted transactions that occurred between December 21, 1998 and June 22, 2001.¹¹

The unauthorized transactions identified by the auditors are as follows:

- \$36,595 in cash withdrawals and checks from the First National Bank preferred money market checking account;
- \$1,500 in withdrawals from the Home Federal Savings Bank interest-bearing savings account; and
- \$40,000 in loan proceeds from Home Federal Savings Bank using a Relief Association certificate of deposit as collateral.¹² However, the auditors determined that \$35,620 of the \$40,000 loan proceeds obtained by Treasurer Holliday was deposited into a Relief Association account. The auditors stated that the balance of \$4,380 was kept by Treasurer Holliday for his personal use.

The information prepared by the Relief Association's auditors has not been audited or otherwise confirmed by the OSA. However, according to the Relief Association auditors, it appears that Mr. Holliday removed \$38,095 (\$36,595 + \$1,500) from Relief Association accounts, and retained an additional \$4,380 of loan proceeds for his personal use. Based on the information provided to the OSA, it appeared that Treasurer Holliday may have committed theft or embezzlement.¹³

¹⁰ The Relief Association's auditors characterized the transactions as "unauthorized" potentially because they were not approved by the Board of Trustees and did not contain all necessary signatures. For this reason, the OSA referenced Treasurer Holliday's withdrawals and loans totaling \$78,095 as unauthorized in conformance with the independent auditors' characterization.

¹¹ The schedules did not include an additional withdrawal of \$1,462.57 made by Treasurer Holliday on June 25, 2001, from the First National Bank preferred money market checking account, as identified in the narrative section of the audit report. The narrative also stated the withdrawal was unauthorized by the Board, but was deposited into a Relief Association account.

¹² From the information provided to the OSA, Treasurer Holliday obtained \$27,000 in loan proceeds on January 9, 2001, and \$13,000 on June 22, 2001. The loan was taken out in the name of the Relief Association.

¹³ See Minn. Stat. §§ 609.52, subd. 2(1), 2(3)(I), 2(5)(I), and 609.54 (2000).

V. CONCLUSION

In compliance with Minn. Stat. § 6.495, the OSA forwarded on October 17, 2001, the information in this Report and the information provided by the Relief Association's auditors to the Steele County Attorney to proceed as the law and public interest require.

The OSA remained available to assist the Houston County Attorney as necessary. Any questions regarding this Report may be directed to Ms. Kathleen T. Docter at (651) 282-2388, or me at (651) 297-7107.

/s/ Lea M. De Souza

Lea M. De Souza, Esq.
Director of Special Investigations