



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)

INVESTIGATIVE REPORT

KETTLE RIVER FIREFIGHTERS' RELIEF ASSOCIATION

JULY 7, 2000

I. INTRODUCTION

On May 13, 1999, the Special Investigations Division of the Office of the State Auditor (hereinafter "OSA") received a letter pursuant to Minn. Stat. § 609.456 regarding the Kettle River Firefighters' Relief Association (hereinafter "Relief Association"). The letter raised concerns regarding: (1) the unauthorized borrowing of Relief Association funds by its former Treasurer Mr. David A. Knudson (hereinafter "Treasurer Knudson"); (2) a finding in the Relief Association's 1998 financial report that the Relief Association's general fund owed its special fund \$6,900.00; and (3) the apparent drop in revenues from the Relief Association's 1997 and 1998 annual Steak Fry fund raisers. The OSA was asked to investigate these concerns. The OSA has completed its review of these concerns and its findings are summarized in this Report.

The mission of the OSA's Special Investigations Division is to review allegations of malfeasance, misfeasance, or nonfeasance by local government employees or officers. Since the Division is a fact finding entity and has no prosecutorial powers, its role is to evaluate allegations brought to this Office's attention and, when appropriate, to provide specialized auditing techniques, initiate an independent investigation, or refer the matter to the appropriate oversight authorities.

II. BACKGROUND

The Kettle River Firefighters' Relief Association is a Minnesota non-profit corporation, created pursuant to the provisions of Minnesota Statute Chapter 317A. The Relief Association has a Board of Trustees (hereinafter "Board") that consists of a President, Vice President, Treasurer, and Secretary. Currently, there are eighteen members of the Relief Association, all active volunteer firefighters. The Relief Association provides service pensions and disability benefits to its members and death benefits to members' survivors.

The OSA was informed that Mr. Knudson began to serve as the Relief Association's Treasurer in 1994, and held that office until he was asked to resign on May 4, 1999. Treasurer Knudson's salary was fixed by the Board and was payable from the special fund of the Relief Association. During the time period of January 1, 1997 to May 31, 1999, Treasurer Knudson received a salary of \$200.00

each December as compensation for his duties as Treasurer. The Relief Association's Bylaws set forth the Treasurer's duties, stating that the Treasurer shall:

- # receive from the Secretary all funds belonging to the Relief Association and maintain the funds subject to an order of the President and countersigned by the Secretary;
- # maintain separate and distinct accounts of the Relief Association's special and general funds; and
- # prepare and present to the Board a full and detailed statement of the assets and liabilities of each fund at each meeting of the Board and prior to the annual meeting of the Relief Association.

Fire relief associations are required by law to keep money received from various sources in two separate and distinct funds, the "special fund" and the "general fund."¹ All money received from the state of Minnesota and from the city in which the fire relief association is located must be deposited into the special fund.² The Relief Association maintained two separate accounts as required by Minnesota law.

The Relief Association's special and general accounts are located at the Moose Lake Federal Credit Union (hereinafter "Credit Union"). The account numbers of the Relief Association's special and general funds are 4755 and 4756, respectively. Authorized signatories on the accounts from January 1, 1997 through July 6, 1998 included Treasurer Knudson and Board President Guy Collier. From July 7, 1998 to May 12, 1999, the authorized signatories included Treasurer Knudson and Board Secretary Mark Wester.³

At a Board meeting on May 4, 1999, Treasurer Knudson disclosed that he had "borrowed" funds totaling \$3,129.00 from the Relief Association's general fund. He admitted he took the funds by

¹ Minn. Stat. §§ 69.39, 424A.05 (2000).

² *Id.*

³ The OSA was informed that the Relief Association used one Federal Tax Identification number for account number 4755 and a separate Federal Tax Identification number for account number 4756. The OSA determined that the Federal Tax Identification numbers on both accounts were incorrect. The Relief Association was made aware of this issue and proceeded to make the appropriate changes with the Credit Union so that both accounts reflect the correct Federal Tax Identification number. The OSA was informed by the Moose Lake Federal Credit Union that both accounts, 4755 and 4756, currently reflect the same Federal Tax Identification number.

withdrawing cash and stated that he paid the funds back.⁴ At the May 4, 1999 meeting, the Board removed Mr. Knudson as Treasurer for the Kettle River Firefighters' Relief Association.

III. THEFT OR EMBEZZLEMENT OF KETTLE RIVER FIREFIGHTERS' RELIEF ASSOCIATION FUNDS

Pursuant to Minnesota law, a theft has occurred when a person "intentionally and without claim or right takes, uses, transfers, conceals or retains possession of movable property of another without the other's consent and with intent to deprive the owner permanently of possession of the property."⁵ It is also theft if a person acts with intent to exercise only temporary control and the "control exercised manifests an indifference to the rights of the owner or the restoration of the property to the owner."⁶ A person who engages in activity that constitutes theft may be subject to a fine and/or imprisonment.⁷

The definition of embezzlement, as provided in the Minnesota Constitution, is as follows: "[i]f any person converts to his own use in any manner or form, . . . or shall deposit in his own name, or otherwise than in the name of the state of Minnesota; or shall deposit in banks or with any person or persons or exchange for other funds or property, any portion of the funds of the state . . . every such act shall be and constitute an embezzlement . . . and shall be a felony."⁸ A person who engages in activity that constitutes embezzlement may be subject to a fine and/or imprisonment.⁹

⁴ Records obtained by the OSA indicate that the funds were paid back on April 29, 1999.

⁵ Minn. Stat. § 609.52, Subd. 2(1) (2000).

⁶ Minn. Stat. § 609.52, Subd. 2(5)(i) (2000).

⁷ Minn. Stat. § 609.52, Subd. 3(3)(a) (2000) provides that if the value of the property involved in the theft is more than \$500 but not more than \$2,500, a person may be sentenced to prison for not more than five years or to pay a fine of not more than \$10,000, or both. Minn. Stat. § 609.52, Subd. 3(2) (2000) provides that if the value of the property exceeds \$2,500, a person may be sentenced to prison for not more than ten years or to pay a fine of not more than \$20,000, or both.

⁸ Minn. Const. Art. XI, § 13 (2000).

⁹ Minn. Stat. § 609.54(1) (2000) provides that a person who does an act which constitutes embezzlement of funds valued at \$2,500 or less may be sentenced to prison for not more than five years or to pay a fine of not more than \$10,000, or both. Minn. Stat. § 609.54 (2) (2000) provides that if such value is more than

Based upon its investigation of the Relief Association, the OSA determined that a theft, attempted theft, or embezzlement of Relief Association funds may have occurred when:

- (A) Treasurer Knudson withdrew a total of \$5,529.00 in cash from the Relief Association's financial accounts;
- (B) Treasurer Knudson received a transfer of \$200.00 into his personal financial account from the Relief Association's general fund; and
- (C) Treasurer Knudson presented three false claims for audit totaling \$3,129.00.

A. Cash Withdrawals from Relief Association Accounts

In reviewing the monthly financial account statements and copies of available withdrawal slips, the OSA found that a total of \$5,529.00 in cash was withdrawn from the Relief Association's financial accounts between January 1, 1994 and May 31, 1999 with no corresponding deposits into any other Relief Association financial account. These transactions are listed below:

<u>Account</u>	<u>Date</u>	<u>Amount of Cash Withdrawal</u>
Special fund	01/16/98	\$1,400.00
General fund	01/16/98	600.00
General fund	07/14/98	1,200.00
General fund	11/12/98	973.00
General fund	12/04/98	956.00
Special fund	02/02/99	<u>400.00</u>
Total		<u>\$5,529.00</u>

The signature "Dave Knudson" or the initials "DaK" appeared on the corresponding cash withdrawal slips.

At the Relief Association meeting on May 4, 1999, Treasurer Knudson admitted that he "borrowed" \$3,129 from the Relief Association and that he paid the funds back.¹⁰ Treasurer Knudson "passed around a deposit slip showing a deposit of \$4,952.00 put into the Relief Association [account] . . .

\$2,500, the person may be sentenced to prison for not more than ten years or to pay a fine of not more than \$20,000, or both.

¹⁰ A copy of a Credit Union deposit slip obtained by the OSA indicates that the funds were paid back on April 29, 1999.

which he stated was more than he had borrowed.”¹¹

The OSA reviewed the Relief Association’s financial account information and determined that, on April 29, 1999, Treasurer Knudson deposited \$4,952.00 into the special fund of the Relief Association. The OSA determined that the \$4,952.00 deposit consisted of \$416.33 in cash and a \$4,535.67 check issued to “David Knudson” by an insurance company for the “fire loss of market value of bobcat.” The OSA was informed by the City Clerk-Treasurer that the Relief Association does not own a bobcat, nor was one destroyed in a fire.¹²

The OSA determined that on May 12, 1999, Treasurer Knudson also deposited an additional \$2,329.00 into the Relief Association’s general fund for a total of \$7,281.00 (\$4,952.00 + \$2,329.00 = \$7,281.00).¹³

It appears that Treasurer Knudson replaced more money than he took. However, questions were raised regarding losses incurred from the Relief Association’s 1997 and 1998 Steak Fry fund raisers. The OSA was informed that the event reported an approximate \$5,400.00 loss for the two years. The OSA reviewed the available documentation related to the Steak Fry fund raisers, as provided by the Relief Association. Treasurer Knudson was responsible for all the financial aspects of the fund raisers. His duties included collecting and depositing ticket sales as well as purchasing food and beverages. The OSA determined that tickets were not pre-numbered and receipts and/or invoices were not provided for all expenses. Due to the lack of documentation, the OSA was unable to determine what the revenues from the event should have been. Therefore, the OSA was unable to

¹¹ This information was obtained from a document dated May 4, 1999, contained in the Relief Association auditor’s, Mr. Rick Borchardt’s, working papers.

¹² The City Clerk/Treasurer acts in an ex-officio capacity at the Relief Association Board meetings.

¹³ The \$2,329.00 was transferred from Credit Union account number 17547 which is held in the name of Dave A. Knudson. In addition to these two deposits, deposits were made to the Relief Association’s special fund, however the OSA was unable to determine who deposited the funds or from what source the funds were derived. The deposits are as follows: on March 25, 1999, \$2,476.00 in cash was deposited into the Relief Association’s special fund; and on May 7, 1999, \$400.00 in cash was also deposited into the Relief Association’s special fund. The OSA determined that the signature line was blank on both the March 25, 1999 deposit receipt and the May 7, 1999 deposit receipt. The OSA was informed by the City Clerk-Treasurer that the deposits were not made up of Relief Association funds.

determine why the income from the event dropped in recent years.¹⁴ As such, the OSA recommends Treasurer Knudson be interviewed regarding the \$5,400.00 in lost Steak Fry fund raiser revenues to determine whether he took possession of these funds.

Based upon the evidence available to the OSA, it appears that Treasurer Knudson took possession of at least \$5,529.00 of Relief Association funds for a time period that extended over one year and five months. Due to the fact that Treasurer Knudson withheld funds from the Relief Association, the Relief Association was denied both the interest on these funds and the availability of these funds for operating expenses.

Finally, Article V, Section 3 of the Relief Association's Bylaws requires all disbursements from the Relief Association be made by check(s) drawn by the Treasurer, countersigned by the Secretary, and the exact amount previously determined and authorized by the Board. Through his actions, Treasurer Knudson violated the Relief Association's Bylaws when he withdrew cash from the Relief Association's accounts.

B. False Claims by Treasurer Knudson Presented for Audit

The following three handwritten receipts were submitted to the Relief Association's auditor, Mr. Rick Borchardt, as supporting documentation for cash withdrawals from the general fund:¹⁵

<u>Receipt Date</u>	<u>Amount</u>	<u>Receipt Number</u>	<u>Purpose of Expenditure</u>
07/18/98	\$1,200.00	none	grill
11/12/98	973.00	220422	repair water tanks on tanker
12/04/98	<u>956.00</u>	220423	repair water tanks on tanker
Total	<u>\$3,129.00</u>		

The amounts identified in the receipts and the corresponding receipt dates match three of the amounts withdrawn in cash from the Relief Association's general fund and the dates of the

¹⁴ The OSA was informed by the Relief Association President that new procedures have been implemented for the Steak Fry event, which include one person counting the collections and a separate person re-counting and depositing the money.

¹⁵ These amounts were addressed in the previous section titled Cash Withdrawals from Relief Association Accounts. The amounts are equal to cash withdrawals which Treasurer Knudson admitted that he "borrowed."

withdrawals by Treasurer Knudson, as discussed in Section A.

During its review of the Relief Association's financial records between January 1, 1997 and May 31, 1999, the OSA located the above mentioned receipts in the audit file submitted to the OSA by Mr. Borchardt. The receipts were handwritten and a vendor name "Paul Wold" appeared on only the receipt for the grill. The handwriting on all three receipts appears to be the same. In addition to locating the three receipts, the OSA also reviewed a letter dated March 30, 1999, written by Mr. Borchardt to Treasurer Knudson, that included a handwritten note stating "May 3, 1999 . . . Phone call to Dave. Dave had borrowed the 1,200, 973, and 956/ 3,129.00." In addition, the OSA was informed by the City of Kettle River Fire Chief and the Relief Association's President that the Relief Association did not purchase a \$1,200.00 grill in July 1998, nor were repairs made to the fire-trucks' water tankers in November or December 1998, and that such expenditures were never brought before the Board.

Pursuant to Minnesota law, if an individual presents a claim for audit with intent to defraud and with knowledge that it is false in whole or in part, he or she is guilty of an attempt to commit theft of public funds and may be sentenced accordingly.¹⁶ It appears that Treasurer Knudson may have presented three false claims for audit.

C. Fund Transfers

During the OSA's review of the Relief Association's January 1, 1997 through May 31, 1999 financial records, the OSA discovered that on August 3, 1998, Treasurer Knudson received, via telephone transfer, \$200.00 in Relief Association funds from the Relief Association's general fund. The funds were transferred into a joint account at the Credit Union, number 9993, held in the name of Mr. David Knudson and a second individual. It appears that Treasurer Knudson inappropriately received \$200.00 of Relief Association funds.¹⁷

In addition, the Relief Association Bylaws require all disbursements be made by check(s) drawn by the Treasurer, countersigned by the Secretary, and the exact amount previously determined and authorized by the Board. Through his actions, Treasurer Knudson violated the Relief Association's Bylaws when he inappropriately received a \$200.00 transfer from the Relief Association's general fund.

¹⁶ Minn. Stat. § 609.465 (2000).

¹⁷ It appears that this \$200.00 transfer was not for wages due to Treasurer Knudson for 1997 or 1998. The Relief Association's financial records appear to indicate that he had received his annual salary in separate transactions.

IV. OTHER POSSIBLE VIOLATION OF MINNESOTA LAW

In addition to theft and embezzlement, it also appears that Treasurer Knudson violated Minnesota law when:

- (A) City of Kettle River and state of Minnesota funds were deposited into the general fund of the Relief Association; and
- (B) Treasurer Knudson failed to maintain records documenting transactions involving the Relief Association's special and general funds.

A. Depositing City of Kettle River Funds into the General Account

The OSA determined that Treasurer Knudson deposited a total of \$8,672.03 of City of Kettle River checks into the Relief Association's general fund rather than its special fund, in violation of Minn. Stat. § 69.39. These checks are itemized below:

<u>Date</u>	<u>Payor of deposit</u>	<u>Amount</u>	<u>Endorsed by</u>
07/21/97	City of Kettle River	\$2,711.00	Dave Knudson
07/21/97	City of Kettle River	4.23	Dave Knudson
02/05/98	City of Kettle River	5.73	Dave Knudson
10/19/98	City of Kettle River	5,950.00	Dave Knudson
02/02/99	City of Kettle River	<u>1.07</u>	Dave Knudson
Total		<u>\$8,672.03</u>	

The OSA further determined that Treasurer Knudson caused two additional inappropriate transfers from the Relief Association's special fund to its general fund as follows:

- # July 6, 1998 in the amount of \$923.48; and
- # February 2, 1999 in the amount \$40.34.

These two additional transfers brought the total amount of inappropriate deposits/transfers into the general fund to \$9,635.85. However, the records indicate that on November 12, 1998, a transfer was made from the Relief Association's general fund to its special fund in the amount of \$2,851.20. As such, the OSA determined the amount owed by the Relief Association's general fund to its special fund to be \$6,784.65 (\$9,635.85-\$2,851.20=\$6,784.65).

In a letter dated March 30, 1999, Mr. Borchardt informed Treasurer Knudson that state aid money must be deposited into the Relief Association's special fund. In addition, he also stated that the Relief Association's general fund must support itself, and money may not be transferred from the

Relief Association's special fund to support its general fund.¹⁸

Minnesota law requires fire relief associations to keep money received from various sources in two separate and distinct funds designated as the special fund and the general fund.¹⁹ Any and all money that flows from the state of Minnesota and from the city in which the relief association is located must be deposited into the special fund.²⁰ Initially, the above amounts were not deposited into the Relief Association's special fund as required by Minnesota law.

In September of 1999, the OSA's Pension Division informed the Relief Association that it must deposit a total of \$6,784.65 to cover the erroneous deposits and transfers of state and City aid to the Relief Association's general fund.²¹ The OSA determined that Treasurer Knudson deposited \$4,952.00 into the Relief Association's special fund on April 29, 1999 and the Relief Association deposited an additional \$2,000.00 into its special fund on September 14, 1999. The OSA was also informed by the City Clerk-Treasurer that the Relief Association had deposited an amount greater than what was required to balance out the erroneous deposits.

B. Inadequate Documentation/Failure to Retain Receipts and Records

Minnesota law states that a Relief Association treasurer "shall maintain adequate records documenting any transaction involving the assets or the revenues of the special fund."²² The law also states that the treasurer shall do the same for the general fund.²³

The OSA reviewed the Relief Association's receipts and invoices for the time period of January 1, 1997 to May 31, 1999. Itemized receipts or invoices for a number of purchases and reimbursements made with Relief Association funds were not provided to the OSA. The OSA determined that the total amount of purchases or reimbursements made without invoices or receipts was \$11,707.71.

¹⁸ The OSA was informed that the Board was not copied on this letter and Board members did not see the letter until after Treasurer Knudson admitted to the theft of Relief Association funds on May 4, 1999.

¹⁹ Minn. Stat. § 69.39 (2000).

²⁰ *Id.*

²¹ Pursuant to Minnesota law, the Relief Association Board must submit to the State Auditor a detailed statement of its financial affairs within 90 days after the close of the fiscal year. Minn. Stat. § 69.051, Subd. 1a (2000).

²² Minn. Stat. § 424A.05, Subd. 2 (2000).

²³ Minn. Stat. § 424A.06, Subd. 2 (2000).

Of this total amount, \$3,334.56 was paid from the Relief Association's special fund and \$8,373.15 was paid from its general fund. The OSA was informed by the City Clerk-Treasurer that upon review of the documentation and information turned over by Treasurer Knudson, receipts or invoices could not be located for these amounts.

Of the unsupported disbursements, the OSA found the following three checks totaling \$459.01 had been issued to Treasurer Knudson without Board authorization or receipts to substantiate the expenditures.

<u>Account</u>	<u>Date</u>	<u>Check Number</u>	<u>Amount</u>	<u>Receipt/ Invoice</u>
General fund	07/02/97	582	\$ 113.00	none
General fund	12/09/98	614	180.00	none
General fund	01/15/99	615	<u>166.01</u>	none
Total			<u>\$ 459.01</u>	

The OSA was informed that the Relief Association does not require an individual to complete a formal expense report form or submit a receipt in order to be reimbursed for an expense incurred on behalf of the Relief Association. The individual may go before the Board and request reimbursement after explaining to the Board the expense and its purpose.²⁴

The OSA was informed by the City Clerk-Treasurer, that upon review of the pertinent meeting minutes, Treasurer Knudson did not go before the Board for the \$459.01 in checks payable to himself, and no informal expense forms or receipts existed. Without any substantiating documentation, the OSA was unable to determine whether these purchases, for which Treasurer Knudson was reimbursed, were legitimate expenses of the Relief Association.

During its review of the Relief Association's financial records between January 1, 1997 and May 31, 1999, the OSA determined that Treasurer Knudson signed all of the checks listed above that were made payable to himself. Although the Relief Association's Bylaws stated that all disbursements must be made by check drawn by the Treasurer and countersigned by the Secretary of the Relief Association, Treasurer Knudson failed to obtain the Secretary's signature on any of the checks

²⁴ The OSA was informed that if an individual goes before the Board to request reimbursement and the Board acts upon such request, the Board records this action in the meeting minutes. However, the minutes do not include detailed information regarding the amount of the reimbursement.

written to himself.²⁵

In addition, the OSA determined there were cash withdrawals totaling \$1,800.00²⁶ from the Relief Association's special fund, as well as transfers totaling \$963.82²⁷ from the Relief Association's special fund to its general fund, for which no records existed to document the purpose of the transaction.²⁸ It appears that Treasurer Knudson completed these transactions. Due to the lack of documentation, as well as an apparent failure on the part of Treasurer Knudson to retain receipts and records for the activities of the Relief Association, the OSA is unable to determine whether a number of disbursements from the Relief Association's special and general funds were legitimate expenses of the Relief Association.

Based on the OSA's review, it appears that Treasurer Knudson violated Minn. Stat. §§ 424A.05 and 424A.06 when he failed to maintain adequate records documenting all transactions involving the assets or revenues of both the Relief Association's special and general fund.

²⁵ At the time the first check was issued in July of 1997, the Relief Association's checks had only one signature line. At the time the second and third checks were issued in December 1998 and January 1999, respectively, there were two signature lines on the checks, however, only Treasurer Knudson had signed the checks that had been issued to himself.

²⁶ The cash withdrawal total of \$1,800.00 was previously discussed in Section II A, entitled Cash Withdrawals from Relief Association Accounts. Treasurer Knudson made two separate cash withdrawals from the Relief Association's special fund. The first withdrawal was made on January 16, 1998, in the amount of \$1,400.00. The second withdrawal was made on February 2, 1999, in the amount of \$400.00.

²⁷ Treasurer Knudson made two separate transfers from the Relief Association's special fund to its general fund. The first transfer was made on July 6, 1998, in the amount of \$923.48. The second transfer was made on February 2, 1999, in the amount of \$40.34.

²⁸ The OSA was informed by the Relief Association President and the City of Kettle River Fire Chief that all expenditures must be approved by the Board prior to disbursement and receipts are required. In addition, Relief Association checks must now be signed by both the Treasurer and either the Secretary or the President, to prevent unauthorized expenditures by one person.

V. CONCLUSION

Based upon the OSA's review, it appears that Treasurer Knudson violated various Minnesota laws as referenced in this report. Therefore, the OSA has determined the next step in this investigation would be to interview Treasurer Knudson regarding the specific findings mentioned in this Report. However, to avoid jeopardizing any potential prosecution, the OSA has determined that it would be appropriate to allow the County Attorney to determine how to proceed.

Any questions regarding this Report may be directed to the Director of Special Investigations Lea De Souza Speeter at (651) 297-7107 or Assistant Director of Special Investigations Kathy Docter at (651) 282-2388.

Sincerely,

/s/ Judith H. Dutcher

Judith H. Dutcher
State Auditor