

COMPLIANCE AUDIT

Emaus Firemen's Relief Association, Inc. Lehigh County, Pennsylvania For the Period January 1, 2014 to December 31, 2016

April 2017



Commonwealth of Pennsylvania
Department of the Auditor General

Eugene A. DePasquale • Auditor General



**Commonwealth of Pennsylvania
Department of the Auditor General
Harrisburg, PA 17120-0018
Facebook: Pennsylvania Auditor General
Twitter: @PAAuditorGen
www.PaAuditor.gov**

**EUGENE A. DePASQUALE
AUDITOR GENERAL**

Mr. Donald Riley, Jr., President
Emaus Firemen's Relief Association, Inc.
Lehigh County

We have conducted a compliance audit of the Emaus Firemen's Relief Association, Inc. (relief association) pursuant to authority derived from Article VIII, Section 10 of the Constitution of the Commonwealth of Pennsylvania, Section 403 of The Fiscal Code, Act of April 9, 1929, (P.L. 343, No. 176), and mandated by the Volunteer Firefighters' Relief Association Act, as consolidated by the Act of November 23, 2010 (P.L. 1181, No. 118), at 35 Pa.C.S. § 7411 *et seq.*, for the period January 1, 2014 to December 31, 2016.

The objective of the audit was to determine if the relief association complied with applicable state laws, contracts, bylaws, and administrative procedures as they relate to the receipt of state aid and the expenditure of relief association funds. Our audit was limited to the areas related to the objective identified above.

Relief association officers are responsible for establishing and maintaining effective internal controls to provide reasonable assurance that the relief association's administration of state aid and accumulated relief funds complies with applicable state laws, contracts, bylaws, and administrative procedures, including the safeguarding of assets. Relief association officers are responsible for complying with applicable state laws, contracts, bylaws, and administrative procedures. It is our responsibility to perform procedures to obtain sufficient, appropriate evidence to the extent necessary to satisfy the audit objective. We believe that our audit provides a reasonable basis for our conclusions.

We were not able to obtain an independent confirmation of a portion of the cash balance directly from the financial institution. Therefore, while the relief association provided bank statements that indicated that as of December 31, 2016 the relief association had a cash balance of \$47,392, we were not able to verify a portion of this cash balance.


Based on our audit procedures, we conclude that except for the effects, if any, of the matter described in the preceding paragraph, for the period January 1, 2014 to December 31, 2016, the relief association complied with applicable state laws, contracts, bylaws, and administrative procedures in all significant respects as they relate to the receipt of state aid and the expenditure of relief association funds.

The Background section of this report includes information regarding an ongoing court dispute between Emmaus Borough, one of the municipalities previously funding the relief association, and the Pennsylvania Labor Relations Board. This dispute centers on a ruling by the Commonwealth Court which affects the overall classification of members serving in the borough's volunteer fire service. This ruling ultimately impacts members participating in the relief association as well as the relief association's ability to continue to receive state aid and expend relief association funds going forward in subsequent periods.

The supplementary financial information contained in this report is presented for purposes of additional disclosure and analysis. We performed only limited procedures on the supplementary financial information and, accordingly, express no form of assurance on it.

The contents of this report were discussed with the management of the relief association. We would like to thank the relief association officials for the cooperation extended to us during the conduct of the audit.

April 6, 2017


EUGENE A. DEPASQUALE
Auditor General

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BACKGROUND

Pursuant to Article VIII, Section 10 of the Constitution of the Commonwealth of Pennsylvania, Section 403 of The Fiscal Code, Act of April 9, 1929, (P.L. 343, No. 176), and the Volunteer Firefighters' Relief Association Act, as consolidated by the Act of November 23, 2010, (P.L. 1181, No. 118), at 35 Pa.C.S. § 7411 *et seq.*, the Department of the Auditor General's duty is to audit the accounts and records of every volunteer firefighters' relief association to determine that funds received under the Foreign Fire Insurance Tax Distribution Law, Act of December 18, 1984, (P.L. 1005, No. 205), as amended, 53 P.S. § 895.701 *et seq.* (commonly referred to as Act 205), are properly expended.

The relief association is a charitable organization that was formed primarily to afford financial protection to volunteer firefighters and to encourage individuals to participate in volunteer fire service.

Act 118 governs the overall operation of volunteer firefighters' relief associations. Relief association bylaws define the specific operational procedures by which the relief association conducts business. To fulfill its primary purpose, Act 118 authorizes specific types of expenditures and prescribes appropriate volunteer firefighters' relief association investment options. Within the parameters established by Act 118, it is the responsibility of the relief association to choose investments in a proper and prudent manner.

Volunteer firefighters' relief associations receive public tax monies so the association officers therefore have a responsibility to conduct the association's financial affairs in a businesslike manner and to maintain sufficient financial records to support the propriety of all association transactions. Volunteer firefighters' relief association officers are also responsible for ensuring that the association operates in accordance with applicable state laws, contracts, bylaws and administrative procedures.

Act 205 sets forth the computation of the Foreign Fire Insurance Tax Distribution paid to each applicable municipality throughout the Commonwealth of Pennsylvania. The amount of the distribution is based upon the population of each municipality and the market value of real estate within the municipality. Upon receipt of this distribution, the municipality must allocate the funds to the volunteer firefighters' relief association of the fire service organization or fire service organizations that is or are recognized as providing the service to the municipality.

BACKGROUND – (Continued)

The relief association was allocated state aid from the following municipalities:

Municipality	County	2014	2015	2016
Emmaus Borough	Lehigh	\$ *	\$ *	\$ *
Lower Macungie Township	Lehigh	\$ **	\$ 1,046	\$ **

* Emmaus Borough is currently involved in an ongoing court dispute with the Pennsylvania Labor Relations Board (PLRB) over a Commonwealth Court decision affecting the overall classification of members serving in the borough’s volunteer fire service. The dispute is over whether the fire service coverage being provided by the borough is from volunteer or paid firefighters. In short, as part of an effort to increase manpower for its volunteer fire service, Emmaus Borough began paying volunteer firefighters a stipend, a practice reported as dating back to 1994, for the number of hours the firefighter volunteered. The borough nonetheless still classified these firefighters as volunteers and not employees of the borough. During 2014, the Commonwealth Court opined that because the borough was paying their firefighters a stipend, they could no longer be considered volunteer firefighters and should be classified as “Paid Protection.” In 2014 prior to this ruling, the borough completed and submitted reporting Certification Form AG 385, certifying that fire service provided by the borough was 100 percent “volunteer” for certification year 2014 (payroll year ending 2013). This enabled the borough to receive their annual foreign fire insurance premium tax state aid allocation under Section 706(b)(2) of Act 205 in the amount of \$77,365. As of the date of this report and as a result of the aforementioned judgment and ongoing court dispute/appeal with the PLRB, Emmaus Borough has not distributed this 2014 state aid allocation to the relief association. Subsequent to the ruling, Emmaus has certified “zero” volunteer coverage on their Certification Form AG 385s for years 2015 and 2016, which resulted in the borough not receiving an annual state aid allocation under Act 205 for those years. Those funds were therefore not available to the relief association for general operating expenses or for investment purposes.

** Municipalities receiving an annual allocation of state aid under Act 205 may fund any relief association providing fire service for their respective municipality. Lower Macungie Township did not distribute any of its annual allocation received under Act 205 to the relief association for the years 2014 and 2016, and only allocated a small amount of its 2015 state aid (\$1,046), to the relief association in 2015 from its total allocation received of \$247,489.

The relief association and the affiliated fire service organization are separate, legal entities. The relief association is affiliated with the following fire service organization:

Emmaus Fire Department

BACKGROUND – (Continued)

The ongoing court dispute between Emmaus Borough and the Pennsylvania Labor Relations Board regarding the overall classification of members serving in the borough's volunteer fire service ultimately impacts members participating in the relief association as well as the relief association itself. The relief association's eligibility to continue to receive state aid and expend relief association funds under Act 118 may be adversely impacted or discontinued in subsequent periods pending the final outcome in the courts. Act 118 prescribes specific requirements for what constitutes a Volunteer Firefighters' Relief Association and when such an organization can receive state aid funds under that Act.

Act 118 at 35 Pa.C.S. § 7412 states in part, that the Volunteer Firefighters' Relief Association is:

An organization formed primarily to afford financial protection to volunteer firefighters against the consequences of misfortune suffered as a result of their participation in the fire service. The organization may contain within its membership the members of one or more fire companies and may serve secondary purposes, as set forth in this subchapter...(Emphasis added.)

Act 118 at 35 Pa.C.S. § 7412 further states in part, that a Volunteer Firefighter is:

A person who is a member of:

- (1) a fire company organized and existing under the laws of this Commonwealth;
- (2) a fire police unit, rescue squad, ambulance corps or other like organization affiliated with one or more fire companies; or
- (3) a fire company or affiliated organization which participates in the fire service but does not look to that service as his or her primary means of livelihood. (Emphasis added.)

We will continue to monitor the progress of the appeals process and the impact on the relief association's continued eligibility to receive state aid and expend relief association funds under Act 118 subsequent to the release of this report and through the next audit of the relief association.

EMAUS FIREMEN'S RELIEF ASSOCIATION, INC.
SUPPLEMENTARY FINANCIAL INFORMATION
CASH AND INVESTMENT BALANCES
AS OF DECEMBER 31, 2016

Cash	\$ 47,392
Fair Value of Investments	<u>502,635</u>
Total Cash and Investments	<u>\$ 550,027</u>

EMAUS FIREMEN'S RELIEF ASSOCIATION, INC.
 SUPPLEMENTARY FINANCIAL INFORMATION
 SUMMARY OF EXPENDITURES
 FOR THE PERIOD JANUARY 1, 2014 TO DECEMBER 31, 2016

Expenditures:

Benefit Services:	
Insurance premiums	\$ 39,173
Death benefits	18,000
Relief benefits	84
Tokens of sympathy and goodwill	3,361
Total Benefit Services	<u>\$ 60,618</u>
Fire Services:	
Equipment purchased	\$ 63,338
Equipment maintenance	13,353
Training expenses	60
Total Fire Services	<u>\$ 76,751</u>
Administrative Services:	
Officer compensation	\$ 7,080
Other administrative expenses	16,364
Bond premiums	1,484
Total Administrative Services	<u>\$ 24,928</u>
Investments Purchased	<u>\$ 599,097</u>
Other Expenditures:	
Payments on loan	<u>\$ 34,749</u>
Total Expenditures	<u><u>\$ 796,143</u></u>

EMAUS FIREMEN'S RELIEF ASSOCIATION, INC.
REPORT DISTRIBUTION LIST

This report was initially distributed to the following:

The Honorable Tom W. Wolf
Governor
Commonwealth of Pennsylvania

Emmaus Firemen's Relief Association, Inc. Governing Body:

Mr. Donald Riley, Jr.
President

Mr. John Reiss
Vice President

Mr. James Reiss
Secretary

Ms. Victoria Schadler
Treasurer

Mr. Clifford Foulke
Trustee

Mr. David Ernst
Trustee

Mr. Jeffrey Kuhns
Trustee

Mr. William Springer
Death Benefit Officer

EMAUS FIREMEN'S RELIEF ASSOCIATION, INC.
REPORT DISTRIBUTION LIST

The following municipalities allocated foreign fire insurance tax monies to this relief association and received a copy of this report:

Mr. Shane Pepe
Secretary
Emmaus Borough

Ms. Renea Flexer
Secretary
Lower Macungie Township

This report is a matter of public record and is available online at www.PaAuditor.gov. Media questions about the report can be directed to the Pennsylvania Department of the Auditor General, Office of Communications, 229 Finance Building, Harrisburg, PA 17120; via email to: news@PaAuditor.gov.