

Secretary Treasurer's Response To
Air Canada Component Trustees' Report & Recommendations
Audit Period: July 1st 2008 – June 30th 2009

As Secretary-Treasurer, my mandate, under the Air Canada Component By-Laws requires that a response be provided to the Component Trustees report.

Following, you will find my responses (in red) to the Trustees' recommendations.

Sincerely,

Nick Beveridge

Air Canada Component Trustees' Report & Recommendations

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1) PAY DISPUTE:

On review of the cheques written by the component, a red flag was raised when it was noted that 15 consecutively numbered cheques were paid to one person on the same date. Upon further investigation it was discovered that the secretary-treasurer at that time disagreed with the interpretation of compensation for her position rendered by the component president.

The secretary-treasurer believed "any" company paid release entitled her to full top-up to the highest earner as is the case with the president and the vice-president. The president's interpretation at that time was that a full-time company paid release was required to be entitled to full top-up. (To be on a full-time company paid release, the secretary-treasurer would have to be a member of a committee, such as the hotel or grievance committee.)

More than a year later, the new component officers chose to "disregard" the previous president's interpretation, and "advice on an interpretation" was sought from CUPE National President, Paul Moist.

Paul Moist advised that the bylaw "as written", allowed for the pay top-up combined with "any" company paid release. The officers used his advice to pay the officer involved more than \$20,000 retroactively.

In consultation with CUPE National, no evidence was found that an appeal had been filed, no retroactive advice was sought and it was believed the interpretation given by Paul Moist was for the go-forward.

We believe if an appeal had been filed, Paul Moist would have been obligated to review the previous president's decision.

Our By-Laws clearly state that the component president shall:

Secretary Treasurer's Response To
Air Canada Component Trustees' Report & Recommendations
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“7.1(e) Have sole authority to interpret the Component Bylaws, subject to appeal to the National President of CUPE”

The officers involved chose to disregard the previous president's interpretation and in so doing, disregarded the bylaws pertaining to appeals. The proper process would have been to file an appeal with CUPE National, thus obligating Paul Moist to thoroughly investigate the interpretation, bylaws and past practice in question.

No member is above the bylaws. The bylaws are in place to protect the interests of the membership.

The trustees recommend a forensic audit be done on this retroactive pay.

Any money paid contrary to the bylaws should be repaid to the component.

Response:

A forensic accounting would not assist as the facts are not contested. Adherence to the appeal process is the issue at hand. Therefore, the Union should not conduct a forensic accounting in this matter.

In regards to the recovery of the monies in question I note the following (much of which is identified in the Trustees report).

By Law 7.1(e) states that the Component President is “the sole authority to interpret the Component Bylaws, subject to appeal to the National President of CUPE.” The trustees identify that the Component Secretary-Treasurer from 2007-09, did not exercise her right to appeal under By Law 7.1(e) in regards to the decision by the Component President at the time that the Component Secretary-Treasurer was only entitled to a top up if she was on a full-time company paid release. When the Component Secretary-Treasurer from 2007-09 became Component President in 2009 she requested an interpretation from CUPE National President Paul Moist on the top up payment for the Component Secretary-Treasurer under Section 7.3(s) of the By-Laws. Mr. Moist provided her with an interpretation on April 28, 2009 which stated that the Component Secretary-Treasurer was entitled to a top up if on “*any company paid flight release without the additional requirement that it be a full-time Company release.*” Mr. Moist also clarified in correspondence on June 20, 2012 to Mr. Jeff Taylor, the current Component President, that his interpretation provided to the Component President on April 28, 2009 was not intended to be applied retroactively as follows: “*My ruling became effective on that date and was not to be applied retroactively.*”

As a further point of information, on June 20/21st, 2012, the ACCEX voted on and carried a motion calling for the recovery of these monies.

Secretary Treasurer's Response To
Air Canada Component Trustees' Report & Recommendations
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In summary, the Component President ruled that the Component Secretary-Treasurer was only entitled to a top up in months when she was on a full time company paid flight release. The Component Secretary-Treasurer did not appeal the Component President's ruling under By Law 7.1(e). As a result, the Component President's ruling must stand until Mr. Moist's interpretation of April 28, 2009. Mr. Moist clarified on June 20, 2012 that his April 28, 2009 interpretation "*was not to be applied retroactively.*"

In view of all of the above, I recommend the Union recover the top up monies that were improperly paid retroactively to the Component Secretary-Treasurer for the months she was not on a full time company paid flight release in violation of By Law 7.1(e) at a schedule that is mutually agreeable to both parties.

In closing, I would like to add that I am confident that it was an unforeseen and unintended consequence, on part of the Component Secretary Treasurer, that the By-Laws were breached by her acceptance of the retroactive payment of the top up, but now that the National President has clarified that these monies ought *not* to have been paid pursuant to the By-Laws, the monies should be returned. We trust that all involved understand this reasoning.

2) OPEN FLYING BY COMPONENT OFFICERS:

During this audit period, a component officer was open flying while on a full-time Union release. It is unclear how this officer was paid for the open flying. The trustees strongly disagree with this practice. Officers on a full-time release are compensated for open flying they could have flown.

The trustees recommend it should be reflected in the bylaws that any officer on full-time release as per the MOS "Memorandum of Settlement" dated March 27, 2007, should not open fly.

As we are unclear as to how this officer was paid for open flying, we recommend the open flying be included in the forensic audit.

Response:

There is no prohibition on open flying for officers in the By-Laws; therefore, a forensic accounting of "this officer's" open flying would serve no purpose. Therefore, I do not recommend a forensic audit of this officer's open flying.

Union officers on full time company paid flight release, when they are paid more than the block window maximum of 85 hours per month, should not open fly. Generally speaking, these officers receive higher compensation than other flight

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attendants and, as such, they should not be allowed to compete for open flights thereby potentially denying active flight attendants additional compensation.

I further recommend that either a Union policy be established or the By-Laws be amended to prohibit open flying for union officers as above.

3) COMMITTEE AND DELEGATE REPORTS:

The component spends a considerable amount for members to attend as delegates for conferences and conventions and to serve on various committees.

The trustees recommend that those members submit a written report to the component and it be posted on the component website. At a minimum, at least one report should be submitted on an annual basis. This would allow all members to easily access the information collected from component committees and to understand how their union dues are spent.

Response:

I recommend that one member from each group who attends any conference, such as the CUPE National or Airline Division Conference, should submit a written report to the Component website. The Component President should direct who will write the report prior to the conference.

4) COMPONENT OFFICERS DISPUTE:

A lawsuit was filed by one component officer against another. A motion was passed by ACCEX to seek an impartial legal opinion to clarify if union dues should be used to cover legal fees for an elected officer. A \$9,000 expenditure was incurred for this. The legal opinion was disclosed to ACCEX, excluding the two officers involved. Since the lawsuit is ongoing, this opinion remains confidential. It is the trustees understanding that a decision has yet to be made.

Without prejudice, it would be our recommendation that ACCEX make a decision on this outstanding issue. We also recommend that the bylaws be amended to provide legal protection for elected officers in the future.

Response:

All union officers should be indemnified when acting in their official capacity. I recommend that the By-Laws be amended to include such an indemnification provision.

Secretary Treasurer's Response To
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Audit Period: July 1st 2008 – June 30th 2009

5) GOING OVER BUDGET:

It is understood a committee can go over budget due to unforeseen expenses.

The trustees recommend that a mechanism be put in place to address when a committee goes over budget during the course of the fiscal year. This could aid in keeping some of the component's costs down. We suggest the Component Secretary-Treasurer and the committee chair review expenditures when over budget. A brief explanation should be noted and added to the committee's file.

Response:

I recommend that a brief explanation could be provided to the Component Trustees prior to the audit or during the audit when a committee goes over budget.

6) JETZ FLYING:

At the time of our last trustees report, the JETZ reconciliation was still in dispute. In result, the trustees would like to report that the union received a credit of \$288,539 for the actual hours flown in addition to the published JETZ blocked time.

7) RECONCILING COMPONENT OFFICER'S EXPENSES:

Some expense claims for the first part of 2009 were filed after June 30th. In agreement with the current component officers, the trustees will revisit expense claims filed after June 30th, 2009 and will report to the membership in the next audit.

8) REWARDS PROGRAMS:

Hotel, car rental (and other costs) which are provided to union members by component, currently allow its members to collect reward program benefits. These benefits should be the property of the component and be incorporated back into the component in order to offset future costs, that is for hotel rooms, meeting rooms, meals, etc.

Response:

The Union converts reward benefits when possible into credits for future expense reductions. For example, reward benefits for the Sheraton Hotel in 2011 have been converted to credits for future use of meeting rooms at the Sheraton.

Secretary Treasurer's Response To
Air Canada Component Trustees' Report & Recommendations
Audit Period: July 1st 2008 – June 30th 2009

9) TAXI RECEIPTS:

When reconciling expenses, it was noted that taxi receipts only had a dollar amount showing.

The component trustees recommend they be filled in showing pick-up point and drop-off point, as well as date and amount.

Response:

An internal policy could be implemented requesting that those incurring taxi receipts include pick up and drop off points in addition to date and amount (the latter two are already submitted). As Component Secretary-Treasurer I will request all union officers and committee members to add pick up and drop off points on their taxi receipts or on their expense forms.

10) MEMORANDUM OF SETTLEMENT "MOS":

In March 2007, the Union and the Company entered a Memorandum of Settlement outlining the minimum number of company paid hours for union officers.

The trustees recommend that this MOS be made available on the Component website.

Response:

I agree with the trustees' recommendation.

FINAL COMMENTS:

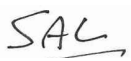
In concluding this report, we would like to thank the component, CUPE National representatives and all of the staff at Belfield in assisting us in this audit.

We hope every member will take the time to read this report. We are all available to answer any of your questions or concerns.

We can be contacted by email at contact@accomponent.ca

Yours truly,


Evelyn Bell-Bedard


Sal Occhiuzzi
Component Trustees


Marc Roumy

Dated: May 31st, 2012

Secretary Treasurer's Response To
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Audit Period: July 1st 2008 – June 30th 2009

SIDE REPORT
COMPONENT OFFICERS PAY

In light of the pay dispute discussed in this report and in the interest of clarity and fairness, we would like to recommend that the Bylaws be amended to reflect a set number of hours per month as compensation for all three component officer positions rather than fluctuate with the highest earner in the bargaining unit. This would eliminate any need for interpretation or subjective discretion in regards to an officers pay. Also, the role of the Secretary-Treasurer should be better defined and compensated accordingly. Anyone running for the positions would then know exactly what to expect.

Sal Occhiuzzi
Evelyn Bell-Bedard

Response:

I agree with the two trustees, in principal, that the top up should be eliminated for all three Component Officers and their compensation should be a set amount of hours per month. Presumably, the hours per month would increase to offset the loss of top up. Any alteration in the hours paid to the Component President and Component VP would have to be negotiated with AC.

A set number of hours per month with no top up would eliminate any controversy over large top ups paid in a particular month. Additionally, candidates for Component office as well as the membership would know exactly what compensation is provided.

But, as stated above, the first step is to negotiate the new hours of pay with AC. The second step would be to enshrine the new compensation rules in the By-Laws.