

**B.C.D. 15-09**

**May 7, 2015**

**EMPLOYER STATUS DETERMINATION**

**The Mutual Beneficial Association of Pennsylvania Railroad Employees, Inc.**

This is a determination of the Railroad Retirement Board concerning the continuing status of the Mutual Beneficial Association of Pennsylvania Railroad Employees, Inc. (Association) as an employer under the Railroad Retirement Act (45 U.S.C. §231 et seq.) and the Railroad Unemployment Insurance Act (45 U.S.C. §351 et seq.) (collectively, the “Acts”). Based on the information provided, the Board finds that the Association is no longer an employer under the Acts for the reasons set out below.

In Legal Opinion L-40-209, the Association (B.A. #9315) was found to be an employer under the Railroad Retirement Act and Railroad Unemployment Insurance Act. In that opinion, it was noted that the Association could qualify as an employer under the Acts if it was owned or controlled by a covered railroad and if it was performing service in connection with the transportation of passengers or property by railroad. It discusses the history of the Association and its relationship with the Pennsylvania Railroad System (Railroad). The opinion states:

Prior to and during 1914, labor conditions on the Railroad were very unstable. In an effort to bring about stability and harmonious relations between the employees and the Railroad, the Association was organized and incorporated with the aid and approval of the Railroad; the latter assisted the Association in organizing because it hoped to derive benefits in obtaining a satisfied group of employees and in improving the morale of their employees so as to secure more efficient and economical and generally better service to the Railroad.

Membership in the Association was open to Railroad employees and their immediate families. In 1940, the Railroad had approximately 110,000 employees of which 16,000 were members of the Association. The Association insured qualified members and in addition participated in cooperative buying and distribution of household necessities and foodstuffs. Through 85 local assemblies, the Association operated stores and restaurants that were operated primarily for the benefit of the employees of the Railroad irrespective of their membership in the Association. The Association also published a monthly magazine and solicited freight and passenger traffic for

the Railroad. It relied on the Railroad for financial assistance including paying the salaries of Association officials.

Based on this history, the Association was found to be an employer covered by the Acts. The legal opinion states, “it is clear that the Association is performing the requisite service in connection with railroad transportation. At the very beginning, the Railroad assisted the Association in organizing because it hoped that the Association would tend to bring about more efficient, more economical, and generally better service by employees in railroad transportation.” Service to the Association starting from December 31, 1914 was considered creditable.

The latest coverage information in the file for the Association was provided by Stephen M. Santarlaschi, General President of the Association. In a letter dated December 17, 2014, Mr. Santarlaschi explained to the Board the changes that have occurred over the last 80 years which affects the Association’s status as a covered employer. He points out that the Association’s original parent companies have gone out of business and the Association no longer actively works with any railroad. As a result, the Association opened up its membership to non-railroad employees. Currently, of approximately 10,000 members, less than 50 are actively employed by the railroad. There are only two full-time employees and two part-time employees of the Association. For these reasons, Mr. Santarlaschi requests that as of December 31, 2014, the Association no longer be considered a covered employer under the Acts.

Section 202.11 (20 CFR 202.11) of the Board’s regulations states that:

The employer status of any company or person shall terminate whenever such company or person loses any of the characteristics essential to the existence of an employer status.

Based on the information provided, the Association no longer retains the essential characteristics related to employer status. It no longer provides services to a satisfied group of Railroad employees who in turn provide efficient, economical, and generally better service to the Railroad. Membership is open to non-railroad employees. In fact, membership has dropped from 100% railroad employee membership in 1940 to the current 0.5% railroad employee membership. The Pennsylvania Railroad System no longer exists, and therefore, cannot provide the financial support that it once

did to the Association. No other covered railroad employer has stepped into the place of the original Railroad parent company and the Association does not currently have a special relationship with any railroad employer. The current purpose and operation of the Association bear very little resemblance to the Association of 1940 when it was first found to be a covered employer under the Acts. As a result, the Association no longer has the characteristics essential to the existence of an employer status and its employer status should be terminated.

The Board finds that effective December 31, 2014, the last day of the month in which the Board was given notice that the Association no longer retained the characteristics essential to the existence of an employer status, the Association ceased being a covered employer under the Railroad Retirement and Railroad Unemployment Insurance Acts.

Original signed by:

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