

AUDIT REPORT

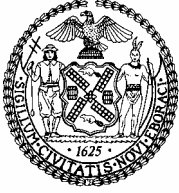


CITY OF NEW YORK
OFFICE OF THE COMPTROLLER
BUREAU OF FINANCIAL AUDIT
WILLIAM C. THOMPSON, JR., COMPTROLLER

Audit Report on New York City Pensioners Working as Consultants for the City after Retirement January 1, 2003–December 31, 2003

FL05-103A

June 30, 2005



THE CITY OF NEW YORK
OFFICE OF THE COMPTROLLER
1 CENTRE STREET
NEW YORK, N.Y. 10007-2341

WILLIAM C. THOMPSON, JR.
COMPTROLLER

To the Citizens of the City of New York

Ladies and Gentlemen:

In accordance with the responsibilities of the Comptroller contained in Chapter 5, § 93, of the New York City Charter, my office conducted an audit to identify New York City pensioners who may have illegally returned to public service as consultants (“double-dippers” or “disability violators”), and to quantify the amounts of any improper payments to individuals who appear to be violators of New York State Retirement and Social Security Law, § 211 and § 212, or New York City Charter § 1117, during calendar year 2003.

The results of our audit, which are presented in this report, have been discussed with officials of each retirement system, and their comments have been considered in preparing this report.

Audits such as this provide a means of ensuring that pensioners are complying with all laws pertaining to public service re-employment and that appropriate steps are taken to recoup improper payments to individuals after retirement.

I trust that this report contains information that is of interest to you. If you have any questions concerning this report, please contact my audit bureau at 212-669-3747 or e-mail us at audit@Comptroller.nyc.gov.

Very truly yours,

A handwritten signature in cursive script that reads "William C. Thompson, Jr.".

William C. Thompson, Jr.

WCT/gr

Report: FL05-103A
Filed: June 30, 2004

*The City of New York
Office of the Comptroller
Bureau of Financial Audit*

**Audit Report on New York City Pensioners
Working as Consultants for the City
after Retirement
January 1, 2003–December 31, 2003**

FL05-103A

AUDIT REPORT IN BRIEF

The Comptroller's Office performed an audit to identify New York City pensioners who may have illegally returned to public service as consultants (double-dippers or disability violators), and to quantify the amounts of any improper payments to individuals who appear to be violators of New York State Retirement and Social Security Law (RSSL) §211 and §212, or New York City Charter §1117 during calendar year 2003.

Audit Findings and Conclusions

The audit found five individuals who received \$50,050 in pension payments during 2003 that appear to violate applicable sections of State and City laws. These individuals were in apparent violation of RSSL §211 or §212 because they were under age 65 and received payments from the City for professional services that exceeded the limitations without having a waiver on file at their retirement system.

Audit Recommendations

New York City retirement systems should:

- Investigate those individuals identified as concurrently receiving pensions while receiving payments from the City for providing professional services as consultants. City retirement systems officials should also commence prompt recoupment action against those individuals found to be illegally collecting pensions.
- Forward to the Department of Investigation, if the circumstances warrant such action, the names of individuals found to be illegally collecting pensions.
- Send special reminders to all retirees that clearly state their responsibilities when returning to public service after retirement.

INTRODUCTION

Background

A New York City service retiree who is reemployed by New York State or any of its political subdivisions may not continue to collect pension benefits, except in accordance with conditions established by the New York State Retirement and Social Security Law (RSSL), §210–216. In the case of New York City disability retirees, the governing regulations are the New York City Administrative Code (Volume 3, Title 13) and the New York City Charter (§1117). When a post-retirement employee does not comply with the relevant laws, the practice is termed “double-dipping.”

According to RSSL §211, a service retiree (a person receiving an ordinary service retirement rather than a disability retirement) who is reemployed in New York public service and who exceeds the RSSL §212 salary limitations may be denied pension benefits, unless the prospective employer has requested a waiver from the State or municipal Civil Service Commission or other authorized agency. The prospective employer must set forth the reasons for the request and obtain a waiver from that agency.

With regard to consultants, RSSL §211, Subdivision 4, (consultant amendment) states:

“A retired person who returns to public service on or after January first, nineteen hundred seventy-four, as a consultant shall be subject to the limitations applicable to a reemployed retiree as specified in this section or in any other provision of law.”

New York State law grants the authority to issue waivers to the following seven agencies:

- New York State Civil Service Commission
- Commissioner of Education (New York State)
- New York City Civil Service Commission
- Chancellor of Department of Education (NYC)
- Board of Higher Education (CUNY) (NYC)
- Chancellor of State University (SUNY) (NYS)
- Administrator of Courts (NYS-NYC)

To obtain a waiver for an employee, the prospective employer of the retiree must show that the person’s skills are unique and in the best interests of the government service, and that no other qualified persons are readily available for recruitment to perform the duties of the position to be filled. Initial or renewed waivers may be for periods of up to two years.

An exception to this restriction is provided by RSSL §212, which permits a service retiree to be reemployed in New York public service if the retiree earns no more than the amount prescribed by that section and files a “Section 212 Statement of Election” with his or her retirement system (see below). This earnings limitation does not apply after the retiree reaches the age of 65.

There are five New York City retirement systems that provide benefits for their own employees and the employees of various City agencies after their retirement. They are:

- New York City Police Department Pension Fund (POLICE)
- New York City Teachers' Retirement System (TEACHERS)
- New York City Employees' Retirement System (NYCERS)
- New York City Fire Department Pension Fund (FIRE)
- New York City Board of Education Retirement System (BERS)

For calendar year 2003, the earnings limitation for a service retiree who filed a Statement of Election under §212 was \$25,000. Accordingly, any service retiree earning more than \$25,000 in 2003 should have received a §211 waiver in order to prevent suspension of the retirement allowance during that year. Failure to comply with these requirements can result in the forfeiture of pension benefits in subsequent years.

Disability retirees are not subject to RSSL §211 and §212. However, the New York City Administrative Code, the New York State Education Law, and the New York City Charter (§1117) provide for the reemployment of New York City disability retirees in New York State public service.

In addition, the New York City Corporation Counsel stated in an opinion that:

“[A] retiree of a retirement system maintained by the City, whose last retirement system membership prior to such retirement commenced on or after May 31, 1973, returns to service as a consultant on or after January 1, 1974, . . . will be subject to the provisions of City Charter §1117 as to suspension and forfeiture of the pension portion of his retirement allowance. . . except to the extent that he qualifies under §211 or §212 of the Retirement and Social Security law for an exemption from such suspension and forfeiture.”

The following regulations are applicable to each of the five City retirement systems:

POLICE:

The New York City Administrative Code (Volume 3, Title 13, Chapter 2, §13-254) provides for the reemployment of POLICE disability retirees in New York public service. These provisions (also known as “Disability Safeguards”) apply only up to the minimum period for service retirement elected by the employee (usually 20 years, but 25 years may be elected), subject to the following conditions: (1) the retiree undergoes a medical examination, (2) the Board of Trustees of the retirement system agrees with the medical board’s report and certification as to the extent to which the retiree is able to work (the Board must then place the retiree’s name on a civil service list as a “preferred eligible”), and (3) the Board reduces the retiree’s pension to an amount which, when added to the retiree’s salary, does not exceed the current maximum salary for the title next higher than that held by the person at retirement.

After the minimum (20- or 25-year) period for service retirement has expired, POLICE

disability retirees are subject to the New York City Charter (§1117), which prohibits a retiree from earning more than \$1,800 (including pension payments) per year in New York public service, unless the disability pension is suspended during the time of such employment.

TEACHERS:

The New York City Administrative Code (Volume 3, Title 13, Chapter 4, §13-553), combined with the New York City Charter (§1117), prohibits a TEACHERS disability retiree from earning more than \$1,800 (including pension payments) per year in New York public service, unless the disability pension is suspended during the time of such employment.

NYCERS:

The New York City Administrative Code (Volume 3, Title 13, Chapter 1, §13-171) provides for the reemployment of NYCERS disability retirees in New York State public service. These provisions (also known as “Disability Safeguards”) apply only up to the minimum period for service retirement elected by the employee, subject to the following conditions: (1) the retiree undergoes a medical examination, (2) the Board of Trustees of the retirement system agrees with the medical board’s report and certification as to the extent to which the retiree is able to work (the Board must then place the retiree’s name on a civil service list as a “preferred eligible”), and (3) the Board reduces the retiree’s pension to an amount which, when added to the retiree’s salary, does not exceed the current maximum salary for the title next higher than that held by the person at retirement.

After the minimum period for service retirement has expired, NYCERS disability retirees are subject to the New York City Charter (§1117), which prohibits a retiree from earning more than \$1,800 (including pension payments) per year in New York public service, unless the disability pension is suspended during the time of such employment.

FIRE:

The New York City Administrative Code (Volume 3, Title 13, Chapter 3, §13-356 and §13-357) provides for the reemployment of FIRE disability retirees in New York public service. These provisions (also known as “Disability Safeguards”) apply only up to the minimum period for service retirement elected by the employee (usually 20 years, but 25 years may be elected), subject to the following conditions: (1) the retiree undergoes a medical examination, (2) the Board of Trustees of the retirement system agrees with the medical board’s report and certification as to the extent to which the retiree is able to work (the Board must then place the retiree’s name on a civil service list as a “preferred eligible”), and (3) the Board reduces the retiree’s pension to an amount which, when added to the retiree’s salary, does not exceed the current maximum salary for the title next higher than that held by the person at retirement.

After the minimum (20- or 25-year) period for service retirement has expired, FIRE disability retirees are subject to the New York City Charter (§ 1117), which prohibits a retiree from earning more than \$1,800 (including pension payments) per year in New York public service, unless his or her disability pension is suspended during the time of such employment.

BERS:

The New York State Education Law (Title 2, Article 52, §2575), combined with the New York City Charter (§1117), prohibits a BERS disability retiree from earning more than \$1,800 (including pension payments) per year in New York public service, unless the disability pension is suspended during the time of such employment.

With regard to disability retirees of all five New York City retirement systems, waivers that supersede the above provisions may not be granted.

Objective

The objective of our audit was to identify those New York City pensioners who may have illegally returned to public service as consultants (double-dippers or disability violators), and to quantify the amounts of any improper payments to individuals who appear to be violators of RSSL §211 and §212, or New York City Charter §1117 during calendar year 2003.

Scope and Methodology

Our audit period was January 1, 2003, through December 31, 2003. We met with officials of the five New York City retirement systems (POLICE, TEACHERS, NYCERS, FIRE, and BERS) to review their monitoring processes for individual pensioners.

To determine how many New York City pensioners returned to public service as City consultants, we asked the Audit Bureau's EDP Unit to perform a computer match of the approximately 272,000 New York City pensioners against a listing of all individuals (approximately 16,000) who received a Form 1099. This matching process identified 113 individuals who received non-employee compensation for professional services (as indicated on Form 1099-MISC Box 7) from the City as well as City pension checks. Of the 113 matched individuals, 66 were NYCERS retirees, 24 were POLICE retirees, 17 were TEACHERS retirees, 6 were FIRE retirees, and none were BERS retirees.

A total of five individuals appeared to lack valid reasons for being on both lists. All five individuals were service retirees. For these five individuals, we calculated their apparent pension overpayments based on our determination of the date on which they reached the legal earnings limitations of \$25,000. Additionally, the annuity portions of the pension payments, if any, are not affected by RSSL §211 or §212 and therefore should be excluded from the overpayments cited in this report. The annuity portions, which are estimated to be less than five percent of the total overpayments, can be determined only by City retirement system officials.

In accordance with § 13-171, §13-202, § 13-302, and § 13-507 of the New York City Administrative Code, and § 2575 of the New York State Education Law, Boards of Trustees head TRS, POLICE, FIRE, BERS, and NYCERS. The Comptroller is one of the trustees of TRS, POLICE, FIRE, BERS, and NYCERS. The Comptroller sits on each of these Boards through a designee. The Comptroller's designee was not involved in planning or conducting this audit, or in writing or reviewing the audit report.

This audit was conducted in accordance with generally accepted government auditing standards (GAGAS) and included tests of records and other auditing procedures considered necessary. The audit was performed in accordance with the audit responsibilities of the City Comptroller as set forth in Chapter 5, §93, of the New York City Charter.

Discussion of Audit Results

The matters covered in this report were discussed with officials of the five City retirement systems during and at the conclusion of this audit. A preliminary draft report was sent to officials of the five City retirement systems and discussed at exit conferences with officials of each system. We submitted a draft report to the five City retirement systems with a request for comments. Each of the five retirement systems provided us with separate responses to a draft of our audit, which are summarized as follows:

POLICE Response: On June 23, 2005, we received a response from the POLICE Executive Director, in which he described the actions POLICE has taken to address the report's recommendations.

TRS Response: On June 17, 2005, we received a response from the TRS Deputy Director, stating: "Please be advised that the Teachers' Retirement System of the City of New York (TRS) is in full compliance with your recommendations."

NYCERS Response: On June 23, 2005, we received a response from the NYCERS Director of Benefit Disbursements, in which he described the actions NYCERS has taken to address the report's recommendations.

FIRE Response: On June 17, 2005, we received a response from the FIRE Chief Compliance Officer, in which he either agreed to implement or stated that FIRE was already in the process of implementing all three recommendations.

BERS Response: On June 23, 2005, we received a response from BERS Executive Director, in which she described the actions BERS has taken to address the report's recommendations.

The full texts of these written responses are included as addenda to this report.

* * * * *

Our previous report covering New York City pensioners who returned to public service as consultants for calendar year 2002 (FL04-148A, issued June 30, 2004), reported that there were 10 individuals who were in apparent violation of RSSL § 211 or § 212 and one individual who was in apparent violation of § 1117 of the New York City Charter. These individuals received improper pension payments of approximately \$117,000, as follows:

	<u>Number of Individuals</u>	<u>Total Improper Payments</u>
§ 211/212 Violators	10	\$92,783
§ 1117 Violators	1	\$24,499
Total	<u>11</u>	<u>\$117,282</u>

FINDINGS

Overpayment of Pension Benefits

This audit identified five New York City pensioners who returned to public service as consultants and received a total of \$50,050 in pension payments during 2003 that appear to violate applicable sections of State and City laws. (See Appendices I through V for the agency summaries and detailed listings of the five pensioners who returned to public service as consultants and their current City agencies.) The breakdown of the five pensioners and the improper pension payments they received from the three New York City retirement systems are as follows:

<u>Retirement System</u>	<u>Service Retirees</u>	<u>Disability Retirees</u>	<u>Total Retirees</u>	<u>Improper Pension Payments</u>
TEACHERS	3	0	3	\$31,680
POLICE	1	0	1	11,769
NYCERS	<u>1</u>	<u>0</u>	<u>1</u>	<u>6,601</u>
Total	<u>5</u>	<u>0</u>	<u>5</u>	<u>\$50,050</u>

The five individuals were in apparent violation of RSSL §211 or §212 because they were under age 65 and received payments from the City for professional services that exceeded the limitations without having a waiver on file at their retirement system.

Our total represents the amount of improper 2003 pension payments based on our determination of the date on which the pensioners reached the 2003 legal earnings limitations of \$25,000 for service retirees. Allowances were made for those retirees who worked only part of that year. Additionally, the annuity portions of the pension payments, if any, are not affected by RSSL §211 or §212 and therefore should be excluded from the overpayments cited in this report. The annuity portions, which are estimated to be less than five percent of the total overpayments, can be determined only by City retirement system officials. Immediate action by the five City retirement systems and the employing City agencies is needed to investigate and recoup, where appropriate, any improper payments made to these retirees. (The applicable employing City agencies for this audit are listed in Appendix V.)

The following is an example of a TRS service retiree who was found to be providing professional services as a consultant for a City agency during calendar year 2003:

Case #1: An Assistant District Attorney who retired on December 7, 1997, collected 12 pension checks in 2003 (one for each month) totaling \$42,379. This individual worked all of 2003 and received compensation totaling \$50,804. We found no evidence of a waiver for this individual for any portion of 2003. This person's 2003 cumulative salary earnings exceeded the \$25,000 limitation on May 12, 2003; therefore, seven pension checks (June through December 2003) totaling \$24,264 may have been

improperly received and cashed in 2003.

The following is an example of a POLICE service retiree who was found to be providing professional services as a consultant for a City agency during calendar year 2003:

Case #2: A Police Officer designated as Detective 3rd Grade who retired on September 30, 1998, collected 12 pension checks in 2003 (one each month) totaling \$28,245. This individual worked eight months (January through April, June, and October through December) and received compensation totaling \$101,033. We found no evidence of a waiver for this individual for any portion of 2003. This person's 2003 cumulative salary earnings exceeded the \$25,000 limitation on March 18, 2003; therefore, five pension checks (April, June, and October through December 2003) totaling \$11,769 may have been improperly received and cashed in 2003.

RECOMMENDATIONS

Officials of each of the five New York City retirement systems should:

1. Investigate those individuals identified as concurrently receiving pensions while receiving payments from the City for providing professional services as consultants. City retirement systems officials should also commence prompt recoupment action against those individuals found to be illegally collecting pensions.

Agency Responses: TRS, NYCERS, and POLICE agreed with this recommendation.

There were no BERS or FIRE pensioners cited in this report.

2. Forward to the Department of Investigation, if the circumstances warrant such action, the names of individuals found to be illegally collecting pensions.

Agency Responses: TRS, NYCERS, and POLICE agreed with this recommendation.

There were no BERS or FIRE pensioners cited in this report.

3. Send special reminders to all retirees that clearly state their responsibilities when returning to public service after retirement.

Agency Responses: TRS, NYCERS, POLICE, FIRE, and BERS agreed with this recommendation.

SUMMARY OF 2003 OVERPAYMENTS

	<u>SERVICE</u>			<u>DISABILITY</u>			<u>TOTAL</u>		
	Persons		Amount	Persons		Amount	Persons		Amount
TRS	3		31,680	0		0	3		31,680
POLICE	1		11,769	0		0	1		11,769
NYCERS	1		6,601	0		0	1		6,601
TOTAL	<u>5</u>		<u>\$50,050</u>	<u>0</u>		<u>\$0</u>	<u>5</u>		<u>\$50,050</u>

**APPENDIX II
PENSION OVERPAYMENTS - NYC TEACHERS' RETIREMENT SYSTEM
2003 MATCHES (LACK OF WAIVERS)**

Pension Number	Date Retired	2003 Pension	Months Overpaid	Amount Overpaid	Agency	Payroll Code	Payroll
CASE # 1 U-704564-0	12/07/97	42,379	7	24,264	SUPREME CT 1st JUD	921	50,804
U-A00847-0/U-016507-0	11/02/02	15,155	8	6,134	SUPREME CT APP	938	78,740
U-004460-0	10/01/99	15,319	1	1,283	DOE ADMIN	040	37,050

Total \$ 31,680

NOTES:

DOE ADMIN	Department of Education Admin
SUPREME CT 1st JUD	Supreme Court - 1st Judicial District
SUPREME CT APP	Supreme Court - Appellate Division

**APPENDIX III
PENSION OVERPAYMENTS - NYC POLICE DEPARTMENT PENSION FUND
2003 MATCHES (LACK OF WAIVERS)**

Pension Number	Date Retired	2003 Pension	Months Overpaid	Amount Overpaid	Agency	Payroll Code	Payroll
CASE # 2 * P-045692-0	09/30/98	\$ 28,245	5	\$ 11,769	NYPD	056	\$ 101,033

Total \$ 11,769

NOTES:

NYPD New York City Police Department

* This individual was also cited in our prior audit for 2002.

**APPENDIX IV
PENSION OVERPAYMENTS - NYC EMPLOYEES' RETIREMENT SYSTEM
2003 MATCHES (LACK OF WAIVERS)**

Pension Number	Date Retired	2003 Pension	Months Overpaid	Amount Overpaid	Agency	Payroll Code	Payroll
N-234778-0	02/05/01	13,202	6	6,601	SUPREME CT APP	938	38,641

Total \$ 6,601

NOTES:

SUPREME CT APP Supreme Court - Appellate Division

**RE-EMPLOYED NYC PENSIONERS
TOTALS BY CURRENT EMPLOYER**

<u>Current Employer</u>	<u>Payroll Code</u>	<u>POLICE</u>	<u>TRS</u>	<u>NYCERS</u>	<u>TOTAL</u>
Department of Education Admin	040		1		1
New York City Police Department	056	1			1
Supreme Court - 1st Judicial District	921		1		1
Supreme Court - Appellate Division	938		1	1	2
Total		<u>1</u>	<u>3</u>	<u>1</u>	<u>5</u>



TEACHERS' RETIREMENT BOARD
TEACHERS' RETIREMENT SYSTEM
55 Water Street, New York, N.Y. 10041

June 16, 2005

Mr. Greg Brooks
Deputy Comptroller Policy Audit Accountancy and Contracts
Bureau of Audit
One Centre Street, Room 500
New York, NY 10007-2341

Re: Audit Report on NYC Teachers' Retirement System
Pedagogical Pensioners Working as Consultants for the City after Retirement
January 1, 2003 – December 31, 2003
FL05 – 103 A

Dear Mr. Brooks:

Please be advised that the Teachers' Retirement System of the City of New York (TRS) is in full compliance with your recommendations. Attached, please find a TRS updated status report, which describes the types of action that was to be taken by TRS.

Again, as part of the TRS original audit plan, it is customary for TRS to suspend a member's pension allowance when that member exceeds his/her earnings after the limitation as cited under Section RSSL 212, RSSL 211, or NYC Chapter 1117 in an appropriate and timely fashion. TRS will continue its vigilance in seeking total adherence to existing laws. In conclusion, we would like to acknowledge the efforts to comply were feasible.

If you have any further questions regarding this status report, please feel free to contact me at (212) 612-5503.

Sincerely,

A handwritten signature in black ink, appearing to read "Stan Charles".

Stan Charles
Deputy Director
Internal Audit Division

Cc: N. Serrano, P. Raucci, A. Scully, S. Morrison-Goldfine, S. Kupferman, G. Davis III

2003 EARNINGS AFTER RETIREMENT (EAR) CONSULTANT'S REPORT

2003 EAR Limit = \$25,000

PENSION OVERPAYMENTS - NYS TEACHERS' RETIREMENT SYSTEM														
2003 STATE MATCHES														
	Name	S.S.#	Pension #	Mbrship Date	Date Retired	2003 Pension	Months Overpaid	Amount Overpaid	Agency	Payroll Code	Payroll	TRR Response/Findings	211 Waiver on File	Status
1			U7045640	9/1/67	12/7/97	42,379	7	24,264	SUPRE CT JUD	921	50,804	Disallowed Exempt from EAR restrictions due to mbrship date	N	Ltr will be sent
2			UA008470 U0165070	3/1/82	1/2/02	15,155	8	6,134	SUPRE CT APP	938	78,740	Disallowed Exempt from EAR restrictions due to mbrship date	N	Ltr will be sent
3			U0044600	10/1/66	10/1/99	15,319	1	1,283	DOE ADMIN	040	37,050	Disallowed Exempt from EAR restrictions due to mbrship date	N	Ltr will be sent

* No EAR wages

NYCERS

RETIREMENT AND BENEFITS

NEW YORK CITY EMPLOYEES' RETIREMENT SYSTEM **ADDENDUM II**

MAIL ONLY:
335 ADAMS STREET,
SUITE 2300
BROOKLYN, NY 11201-3751

ALL OTHER SERVICES:
340 JAY STREET,
MEZZANINE LEVEL
BROOKLYN, NY 11201-3751

TEL: (347) 643-3000

ACTING EXECUTIVE DIRECTOR: MILTON ARON

Greg Brooks
Deputy Comptroller
Office of the Comptroller
1 Centre Street
New York, N.Y. 10007-2341

June 23, 2005
Audit Report FL05-103A

Dear Mr. Brooks:

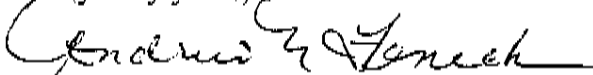
This is in response to your request regarding the progress this office has made in implementing the recommendations contained in the above-mentioned Audit Reports.

We have investigated the three (3) pensioners cited and determined that none were in violation of §211 and §212 of the RSSL, §13-171 of the Administrative Code or §1117 of the NYC Charter. One pensioner is serving on the 18-B criminal attorney panel for the City of New York. For purposes of RSSL §211 and §212, 18-B attorneys are not considered City employees or consultants. One pensioner was working as a consultant and the membership date is prior to May 31, 1973. The other pensioner transferred their membership from NYSERS. As such, the membership date of the other system is the basis for determining re-employment limitations. Since the transferred membership date or the deemed membership date at NYCERS is prior to May 31, 1973, the pensioner is exempt from any earnings limitations.

NYCERS will refer all cases to the Department of Investigation that involve individuals who continuously and knowingly violate RSSL §211 or §212, NYC Administrative Code §13-171 or NYC Charter §1117. A special notice regarding re-employment after retirement is sent to our pensioners each year in September.

As part of our audit plan, NYCERS suspends the retirement allowance when the pensioner exceeds the earnings limitation as set forth in §211 and §212 of the RSSL, §13-171 of the NYC Administrative Code or §1117 of the NYC Charter. Our present monitoring program includes New York City payroll and Public Benefit Corporations.

Very truly yours,



Andrew N. Feneck
Director, Benefit Disbursements

cc: Milton Aron
Karl Bloom

Andrew N. Feneck
Director, Benefit Disbursements
Tele # 347- 643-3114
Fax #: 347- 643-3114
E-Mail: afeneck@nycers.nyc.gov

www.nycers.org

NYCERS

RETIREMENT AND BENEFITS

ADDENDUM II
NEW YORK CITY EMPLOYEES' RETIREMENT SYSTEM
2012
MAIL ONLY: ALL OTHER SERVICES:
335 ADAMS STREET, 340 JAY STREET,
SUITE 2300 MEZZANINE LEVEL
BROOKLYN, NY 11201-3751 BROOKLYN, NY 11201-3751
TEL: (347) 643-3000
ACTING EXECUTIVE DIRECTOR: MILTON ARON

To: Andrew Feneck & Karl Bloom
From: Salwa Boutros
Date: 6/10/05
Subject: NYCERS follow-up to Comptroller's Report # FL05-103A

The following report contains our investigation of those pensioners identified as being re-employed with the City or State of New York:

Service Retirees working as Consultants for New York City & State

P# 233336

██████████ retired from Bronx District Attorney and works for the Supreme Court. Information received from New York City Law Department on October 15, 2004, that City retirees Serving on the 18-B criminal attorney panel in the City of New York do not constitute consultants for purposes of RSSL § 211. See copy attached.

P# 239702

██████████ retired from the City and is working as a consultant for the Department of Investigation. ██████████ has no earning limitation because his membership date for his transferred time was April 29, 1969, which is prior to May 31, 1973. A member who transfers to NYCERS from another NYSPERS is a deemed member as of the effective date of the transferred membership. Refer to §43 of the RSSL.

P# 234778-0

██████████ retired from the City and he is working as a consultant for the Supreme Court-Appellate Division. ██████████ has no earning limitation because his membership date is September 28, 1972, which is prior to May 31, 1973. See copy attached.



New York City Police Pension Fund

233 BROADWAY
NEW YORK, NEW YORK 10279
(212) 693-5100

Executive Director-Michael D. Welsome

ADDENDUM III

1 of 2

June 11, 2005

Greg Brooks
Deputy Comptroller
Policy, Audits, Accountancy & Contracts
Executive Offices
1 Centre Street Room 500
New York, NY 10007-2341

Re: Audit Report on NYC Pensioners
Working as Consultants for New
York City after Retirement
January 1, 2003 to December 31, 2003
FL05-103A

Dear Mr. Brooks:

In regards to the above referenced audit report, the following status report is forwarded.

Recommendation #1

Investigate those individuals identified as concurrently receiving pensions while receiving payments from the City for providing professional services as consultants. City retirement system official should also commence prompt recoupment action against those individual found to be illegally collecting pensions.

Response

The Police Pension Fund is in total agreement that recoupment of pension benefits received in violation of the law should be commenced immediately. It should be noted, however, that this Retirement System does not exercise control over its pension payroll data tape. We are requesting that the Comptrollers Office, as custodian of Police Pension payroll records, supply a list to my Office on a semi-annual basis of all retirees found to be "double-dipping." This will afford the Police Pension Fund an opportunity to fully investigate all identified violators on a timely basis.

-2-

Regarding the 1 retiree listed by the Comptroller's Office in the May 23, 2005 audit report as possible violators, the Police Pension Fund will investigate the member in question to determine if he is in violation of Section 1117 of the New York State and/or Section 211.1 (a) of the New York State Retirement & Social Security Law.

Recommendation #2

Forward to the Department of Investigation, if the circumstances warrant such action, the names of individuals found to be illegally collecting pensions.

Response

The Police Pension Fund concurs with recommendation #2, however, no retiree investigated was deemed appropriate for such a referral.

Recommendation #3

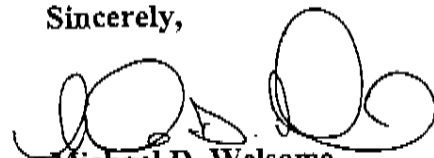
Send special reminders to all retirees that clearly state their responsibilities when returning to public service after retirement.

Response

Upon retirement, each member receives the restrictions on employment after retirement in a special handout in the retirement package. A letter outlining this policy was prepared and mailed to all retirees in the calendar year 2001. The Police Pension Fund's website provides a special reminder to all retirees with access to the internet and this topic is covered in depth in all retirement seminars conducted by Police Pension Fund personnel as well as in the plan summary description provided to all members.

I hope this response will aid in the development of a program to insure the integrity of all City Retirement Systems.

Sincerely,



Michael D. Welsome
Executive Director
Police Pension Fund

MDW:hdm



FIRE DEPARTMENT

9 METROTECH CENTER BROOKLYN, N.Y. 11201-3857

FRANK J. BUCCELLATO
Chief Compliance Officer
Strategic Planning, Audit & Review

Room #8S-9

ADDENDUM IV

1 of 2

June 13, 2005

Mr. Greg Brooks
Deputy Comptroller
Policy, Audits, Accountancy & Contracts
Office of the Comptroller
1 Centre Street
New York, New York 10007-2341

Re: Audit Report on New York City Pensioners Working as Consultants for the City after Retirement. January 1, 2003 – December 31, 2003. FL05-103A .

Dear Mr. Brooks:

Attached is FDNY's comments on the above mentioned report, as well as our response and Agency Implementation Plan for each of the recommendations. Please thank your audit staff for the assistance they have provided to the Department in this review.

If you wish to discuss any portion of our response or AIP, please contact me at (718) 999-2033.

Sincerely,

Frank J. Buccellato

Cc: M. Vecchi
M. Basso

Audit FL05-103A

Audit Recommendations / FDNY Response – Agency Implementation Plan

- 1) Investigate those individuals identified as concurrently receiving pensions while receiving payments from the City for providing professional services as consultants. City retirement system officials should also commence prompt recoupment action against those individuals found to be illegally collecting pensions.

FDNY Response – Not applicable. The Department agrees that it should investigate and take action against any identified individuals, however none were identified in the audit.

- 2) Forward to the Department of Investigation, if the circumstances warrant such action, the names of those individuals found to be illegally collecting pensions.

FDNY Response – The Department agrees to do so when circumstances warrant such action.

- 3) Send special reminders to service retirees that clearly state their responsibilities when returning to public service after retirement.

FDNY Response – Special reminders on the subject are sent out on a routine basis.



CHRISTINE BAILEY
EXECUTIVE DIRECTOR

BOARD OF EDUCATION RETIREMENT SYSTEM
OF THE CITY OF NEW YORK
65 COURT STREET
BROOKLYN, NEW YORK 11201- 4965

ADDENDUM V
1 of 1

718-835-5400
OUTSIDE NEW YORK STATE
1-800-843-6575

June 22, 2005

Mr. Greg Brooks
Deputy Comptroller
Policy, Audits Accountancy & Contracts
1 Centre Street – 5th Floor
New York, N.Y. 10007-2341

Re: Audit Report on New York City Pensioners
Working as Consultants for the City after Retirement
January 1, 2003 - December 31, 2003
FL05-103A

Dear Mr. Brooks:

We are in receipt of the above referenced draft audit report on re-employment of “New York City Pensioners Working as Consultants for the City after Retirement”, during the period January 1, 2003 through December 31, 2003. During the period under consideration, you did not identify any retiree of the Board of Education Retirement System (BERS) who had violated any of the following laws, the New York State Education Law (Title 2, Article 52, § 2575), combined with the New York City Charter (§ 1117), the RSSL §211 and §212 or the New City Charter § 1117.

We believe that our intense efforts to inform all our retirees and prospective ones of the existing laws governing re-employment in the public sector and of the strict consequences for violating these laws may have contributed to such positive results.

Although no violators have been found in this audit, we will continue to be vigilant in seeking total compliance with the aforementioned laws. Lastly, we would like to acknowledge the efforts of all parties involved in conducting this audit. Thank you.

Sincerely,

Christine Bailey
Executive Director

cc: Anthony Scully, Bureau of Audit
Board of Trustees
Rimma Stanton