

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, 2005–December 31, 2005

FL07-087A

June 28, 2007



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 working as consultants for the City and illegally collecting a pension, 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 2005.

A retiree of any of the five New York City retirement systems who is reemployed as a consultant in City government service may not continue to collect pension benefits except in accordance with conditions established by the New York State Retirement and Social Security Law, the New York City Administrative Code, and the New York City Charter. Audits such as this provide a means of ensuring that pensioners are complying with all laws pertaining to public service reemployment and that appropriate steps are taken to recoup improper payments to individuals after retirement.

The results of our audit, which are presented in this report, have been discussed with officials of the five New York City retirement systems, and their comments have been considered in preparing this report. Their complete responses are attached to this report.

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

Very truly yours,

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

William C. Thompson, Jr.

WCT/fh

Report: FL07-087A
Filed: June 28, 2007

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*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, 2005–December 31, 2005**

FL07-087A

AUDIT REPORT IN BRIEF

The objective of this audit was to identify New York City pensioners who may be reemployed as a consultant and illegally collecting a pension from a New York City retirement system—known as “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 2005.

Audit Findings and Conclusions

The audit found four individuals who received \$99,372 in pension payments during 2005 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, or were in violation of §1117 of the New York City Charter because they were collecting disability pensions while receiving more than \$1,800 (including pension payments) a year from a New York City agency.

Audit Recommendations

The audit made four recommendations, that New York City retirement systems should:

- Investigate those individuals identified as 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.
- Ascertain whether previous pension overpayments have been recouped and whether current pensions have been suspended for those individuals who have been cited in

- previous audits as “double-dippers” or “disability violators.”
- 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 through §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.”

Pursuant 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 §212 salary limitations may have his or her pension benefits denied unless the prospective employer has requested a waiver from the State or municipal Civil Service Commission or other authorized agency setting forth the reasons for the request, and has then obtained 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 (NYS)
- Commissioner of Education (NYS)
- Municipal Civil Service Commission of the City of New York (NYC)
- Chancellor of Board 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 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 2005, the earnings limitations for a service retiree who filed a Statement of Election under §212 was \$27,500. Accordingly, any service retiree earning more than \$27,500 in 2005 should have received a §211 waiver 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 this audit was to identify those New York City pensioners who may be reemployed as a consultant and illegally collecting a pension from a New York City retirement system—known as “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 2005.

Scope and Methodology

Our audit period was January 1, 2005, through December 31, 2005. 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, the Audit Bureau’s IT Division performed a computer match of the approximately 277,000 New York City pensioners against a listing of all individuals (approximately 12,543) who received a Form 1099. This matching process identified 52 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 52 matched individuals, 22 were POLICE retirees, 18 were TEACHERS retirees, 10 were NYCERS retirees, 2 were FIRE retirees. The computer match did not identify any BERS retirees.

A total of four individuals appeared to lack valid reasons for being on both lists: three service retirees and one disability retirees. For these four individuals, we calculated their apparent pension overpayments based on our determination of the date on which they reached the legal earnings limitations of \$27,500 for service retirees and \$1,800 for disability retirees. Additionally, the annuity portions of the pension payments, if any, are not affected by RSSL §211 or §212 or New York City Charter §1117 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 addition, we followed-up on the implementation status of the recommendations from last year's audit report—*New York City Pensioners Working as Consultants for the City after Retirement January 1, 2004—December 31, 2004*, FL06-102A, issued June 30, 2006—by reviewing provided correspondence from BERS, POLICE, NYCERS, and TRS. Last year's audit report had no findings regarding FIRE.

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, 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 four of the five retirement systems. FIRE officials elected to waive their exit conference. 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 this audit, which are summarized as follows:

POLICE Response: On June 6, 2007, we received a response from the POLICE Executive Director, in which he described the actions POLICE has taken to address the report's recommendations.

NYCERS Response: On June 1, 2007, we received a response from the NYCERS Director of Finance, in which he described the actions NYCERS has taken to address the report's recommendations.

TRS Response: On June 4, 2007, we received a response from the TRS Deputy Director, stating: "Please be advised that the Teachers' Retirement System (TRS) is in full compliance with your recommendations."

BERS Response: On June 4, 2007, we received a response from the BERS Director of Operations, in which he described the actions BERS has taken to address the report's recommendations.

FIRE Response: On June 13, 2007, 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 the report's recommendations.

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

FINDINGS

Overpayment of Pension Benefits

This audit identified four New York City pensioners who returned to public service as consultants and received a total of approximately \$99,372 in pension payments during 2005 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 four pensioners who returned to public service as consultants and their current City agencies.) The breakdown of the four pensioners and the improper pension payments they received from two 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>
NYCERS	2	1	3	\$92,471
TRS	<u>1</u>	<u>0</u>	<u>1</u>	<u>6,901</u>
Total	<u>3</u>	<u>1</u>	<u>4</u>	<u>\$99,372</u>

The four 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, or were in violation of §1117 of the New York City Charter because they were collecting disability pensions while earning more than \$1,800 (including pension payments) a year at a New York City agency and had surpassed their applicable employment anniversary dates.

Our total represents the amount of improper 2005 pension payments based on our determination of the date on which the pensioners reached the 2005 legal earnings limitations of \$27,500 for service retirees and \$1,800 for disability pensioners. 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 or New York City Charter §1117 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, if appropriate, any improper payments made to these retirees identified as possible “double-dippers” or “disability violators.”

The following is an example of a NYCERS service retiree who was found to be providing professional services as a consultant for a City agency during calendar year 2005:

Case #1: An Assistant District Attorney who retired in December 2000, collected 12 pension checks in 2005 (one each month) totaling \$65,230. This individual worked all of 2005, and received compensation totaling \$73,877. We found no evidence of a waiver for this individual for any

portion of 2005. This person's 2005 cumulative earnings exceeded the \$27,500 limitation on April 20, 2005; therefore, eight pension checks (May through December 2004), totaling \$43,486, may have been improperly received and cashed in 2005.

The following is an example of a NYCERS disability retiree who was found to be providing professional services as a consultant for a City agency during calendar year 2005:

Case #2: An individual who retired on May 1994, on a disability pension collected 12 pension checks in 2005 (one each month) totaling \$27,405. This individual worked 10 months (January through May, and August through December) and received compensation, totaling \$22,063. This person became a member of NYCERS in 1979, and therefore does not qualify for the "Disability Safeguards" provisions beyond 1999. Accordingly, any earnings above \$1,800 for 2005 make the disability pension payments for that year (after that point in time) improper. Thus, it appears that 9 months' of disability pension checks (February through May and August through December) totaling \$23,377 may have been improperly received and cashed in 2005.

It should be noted that in their correspondences concerning the implementation status of the recommendations from last year's audit of 2004, NYCERS, TRS, POLICE and BERS officials advised us that, they have implemented or were in the process of implementing the report's recommendations.

RECOMMENDATIONS

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

1. Investigate those individuals identified as 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 agreed with this recommendation.

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

The NYCERS Director of Finance stated:

"We have investigated the three pensioners cited as working as consultants for the City of New York, and determined that none of them were in violation of §211 or §212 of the RSSL, §13-171 of the Administrative Code or §1117 of the NYC Charter:

Two of these pensioners were serving on the 18-B criminal attorney panel for the City of New York. See enclosed memo by the NYC Law Department, dated Oct, 15, 2004,

which addresses City retirees serving on the 18-B criminal attorney panel for the City of New York.

One pensioner is a disability retiree working as a consultant and, as such is not subject to earnings limitations. Guidance received from the NYC Law Department indicated that disability retirees are able to earn an unlimited amount without suspension of their pensions.”

Auditor Comment: While we are pleased that NYCERS has investigated the cited pensioners, we disagree with NYCERS determination that pensioners serving on the 18-B criminal attorney panel are not consultants. The applicable laws governing city pensioners returning to public service after retirement makes no exceptions for 18-B attorneys.

In addition, we disagree with NYCERS assertion that disability retirees working as consultants, are not subject to earnings limitations. As previously stated, 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.

Consequently, we maintain that all three individuals cited in this report were in violation of RSSL § 211 and § 212, or New York City Charter §1117 and should be required to repay the amount of improper payments they received.

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 agreed with this recommendation.

NYCERS did not address this recommendation.

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

3. Ascertain whether previous pension overpayments have been recouped and whether current pensions have been suspended for those individuals who have been cited in previous audits as “double-dippers” or “disability violators.”

Agency Responses: TRS agreed with this recommendation.

FIRE indicated that it has recouped or was in the process of recouping previous pension overpayments.

NYCERS, POLICE, and BERS did not address this recommendation.

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

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

NYCERS did not address this recommendation.

SUMMARY OF 2005 OVERPAYMENTS

	<u>SERVICE</u>		<u>DISABILITY</u>		<u>TOTAL</u>	
	Persons	Amount	Persons	Amount	Persons	Amount
NYCERS	2	69,094	1	23,377	3	92,471
TRS	1	6,901	0	0	1	6,901
TOTAL	<u>3</u>	<u>\$75,995</u>	<u>1</u>	<u>\$23,377</u>	<u>4</u>	<u>\$99,372</u>

**APPENDIX II
2005 PENSION OVERPAYMENTS - NYC EMPLOYEES' RETIREMENT SYSTEM
SERVICE RETIREES**

Pension Number	Date Retired	2005 Pension	Months Overpaid	Amount Overpaid	Agency	Payroll Code	Payroll
Case#1 ***N-233336-0	12/31/00	\$ 65,230	8	\$ 43,486	SUPREME CT 1st JUD	921	\$ 73,877
*N-237942-0	09/28/02	67,221	5	25,608	SUPREME CT 1st JUD	921	60,113

Number of Individuals: 2

Total \$ 69,094

NOTES:

SUPREME CT 1st JUD Supreme Court - 1st Judicial District

- * This individual was also cited in our prior audit for 2004
- *** This individual was also cited in our prior audit for 2002, 2003, 2004

**APPENDIX III
2005 PENSION OVERPAYMENTS - NYC EMPLOYEES' RETIREMENT SYSTEM
DISABILITY RETIREES**

Pension Number	Date Retired	2005 Pension	Months Overpaid	Amount Overpaid	2005 Employer	Payroll Code	2005 Salary
Case #2 *N-210377-0	05/18/94	\$ 27,405	9	\$ 23,377	SUPREME CT 1st JUD / SUP CT - APPEL DIV	921/938	\$ 22,063

Total Individual: 1

Total: \$ 23,377

NOTES:

SUPREME CT 1st JUD Supreme Court - 1st Judicial District
 SUP CT - APPEL DIV Supreme Court - Appellate Division

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

**APPENDIX IV
2005 PENSION OVERPAYMENTS - NYC TEACHERS' RETIREMENT SYSTEM
SERVICE PENSIONERS**

Pension Number	Date Retired	2005 Pension	Months Overpaid	Amount Overpaid	Agency	Payroll Code	Payroll
*U-016507-0	11/02/02	\$ 9,201	9	\$ 6,901	SUP CT - APPEL DIV	938	\$ 112,370

Number of Individuals: 1

Total \$ 6,901

NOTES:

SUP CT - APPEL DIV Supreme Court - Appellate Division

* This individual was also cited in our prior audit for 2003 and 2004

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

<u>Current Employer</u>	<u>Payroll Code</u>	<u>Individuals Paid under Code</u>		
		<u>TRS 2005</u>	<u>NYCERS 2005</u>	<u>TOTAL</u>
Supreme Court - 1st Judicial District	921		3	3
Supreme Court - Appellate Division	938	1	1	2
Total		<u>1</u>	<u>4</u>	<u>5</u>

NYCERS

RETIREMENT AND BENEFITS

NEW YORK CITY EMPLOYEES' RETIREMENT SYSTEM

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

EXECUTIVE DIRECTOR: DIANE D'ALESSANDRO

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

June 1, 2007
Audit Report FL07-87A
Pensioners Working as Consultants
Calendar Year 2005

Dear Mr. Graham:

This is in response to the recommendations contained in the Audit Report referenced above.

We have investigated the three pensioners cited as working as consultants for the City of New York, and determined that none of them were in violation of §211 or §212 of the RSSL, §13-171 of the Administrative Code or §1117 of the NYC Charter:

Two of these pensioners were serving on the 18-B criminal attorney panel for the City of New York. See enclosed memo by the NYC Law Department, dated Oct, 15, 2004, which addresses City retirees serving on the 18-B criminal attorney panel for the City of New York.

One pensioner is a disability retiree working as a consultant, and as such is not subject to earnings limitations. Guidance received from the NYC Law Department indicated that disability retirees are able to earn an unlimited amount without suspension of their pensions.

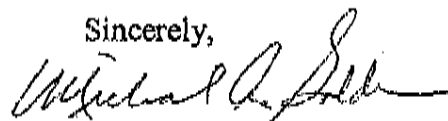
A special notice regarding re-employment after retirement is sent to our pensioners each year in September.

As part of our ongoing procedures, NYCERS suspends the retirement allowance when the pensioner exceeds the earning 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.

Enclosed are details regarding each pensioner cited in this audit report. If you have any questions, I can be reached at the telephone number below.

If you have any questions, I can be reached at the telephone number below.

Sincerely,



Michael A. Goldson
Director, Finance

Michael A. Goldson
Director, Benefit Finance
Phone: 347-643-3522
E-Mail: mgoldson@nycers.nyc.gov

Visit our Website at:
www.nycers.org



THE CITY OF NEW YORK
LAW DEPARTMENT
100 CHURCH STREET
NEW YORK, NY 10007

MICHAEL A. CARDOZO
Corporation Counsel

INGA VAN EYSDEN
Tel.: (212) 788-0745
Fax: (212) 788-8900
ivanceyd@law.nyc.gov

MEMORANDUM

TO: Karen Mazza
General Counsel, NYCERS

FROM: Inga Van Eysden
Chief, Pensions Division

DATE: October 15, 2004

SUBJECT: Legal Issues

In response to your request, below is a summary of our positions on several issues you and John Murphy recently have brought to the attention of the Pensions Division.

RSSL §211 and retirees serving on the 18-B criminal attorney panel

As discussed with you and with counsel for DCAS, we agree 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.



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

Date: June 4, 2007

Mr. John Graham
Deputy Comptroller Audit Accountancy and Contracts
Bureau of Audit
1 Centre Street Room 500
New York, NY 10007 - 2341

Re: Audit Report on NYC Teachers' Retirement System
New York City Pensioners
Working as Consultants for the City after Retirement
January 1, 2005 to December 31, 2005
FL07-087A

Dear Mr. Graham:

Please be advised that the Teachers' Retirement System (TRS) is in full compliance with all your recommendations. Attached, please find a TRS updated status report, which describes the type of action 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.

In conclusion, TRS will continue its vigilance in seeking total adherence to the existing laws.

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", written over a horizontal line.

Stan Charles
Deputy Director
Internal Audit Division

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

2005 EAR Audit Report.xls

2005 Pension Overpayments - NYC Teachers' Retirement System ==> Consultants

#	Pension #	Name	Date Repaid	211 Waiver Y/N	OTC 2005 Pension	OTC Months Overpaid	OTC Amt. Overpaid	2005 Employer	OTC 2005 Salary	TRS 2005 Salary	Issues/Comments
1	U-016507-0	[REDACTED]	11/02/02	N	9,201.00	9	6,901.00	SUP CT-APPEL DIV	112,370.00	0.00	Exceeded TRS has no salary record IA15 .mailed 06/04/07

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



CHRISTINE BAILEY
EXECUTIVE DIRECTOR

718-935-5400
OUTSIDE NEW YORK STATE
1-800-843-5575

June 4, 2007

Mr. John Graham, 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, 2005 - December 31, 2005
FL07-087A

Dear Mr. Graham:

We have reviewed 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, 2005 through December 31, 2005. For 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 concur with your conclusions. We believe that our ongoing efforts to inform 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 have contributed to such positive results.

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

Thank you.

Sincerely,

John Cahalin
Director of Operations

cc: Anthony Scully, Bureau of Audit
Board of Trustees
Christine Bailey



New York City Police Pension Fund

233 BROADWAY
NEW YORK, NEW YORK 10279
(212) 593-5100

Executive Director-Michael D. Welsome

June 06, 2007

John Graham
Deputy Comptroller
Audits, Accountancy & Contracts
Office of the Comptroller
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, 2005 to December 31, 2005
FL07-087A

Dear Mr. Graham:

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

Recommendation #1

Investigate those individuals identified as 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-

This System is happy to report that none of our members were listed as possible violators by the Comptroller's Office in the May 18, 2007 audit report.

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

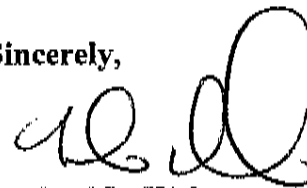
Send special reminders to all retirees that clearly state their responsibilities when returning to public service after retirement.

Response

Upon retirement, each member receives the restrictions on employment after retirement in a special handout in the retirement package. An insert outlining this policy was prepared and mailed to all retirees in the calendar year 2006. 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 - ROOM 8S-10

BROOKLYN, NEW YORK 11201-3857

RAY SAYLOR
CHIEF COMPLIANCE OFFICER

June 13, 2007

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

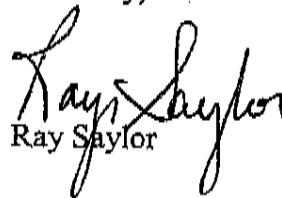
**Re: Audit Report on New York City Pensioners Working as Consultants for
the City after their Retirement. January 1, 2005 – December 31, 2005.
FL07-087A.**

Dear Mr. Graham:

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) 999-1728.

Sincerely,


Ray Saylor

cc: Michael Vecchi, Associate Commissioner
Mary Basso, Executive Director

Audit FL07-087A

AUDIT RECOMMENDATIONS / FDNY RESPONSE – AGENCY IMPLEMENTATION PLAN

- 1) Investigate those individuals identified as 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) Ascertain whether previous pension overpayments have been recouped and whether current pensions have been suspended for those individuals who have been cited in previous audits as “double-dippers” or disability violators.”

FDNY Response – All previously identified pension overpayments have already been or are in the process of being recouped.

- 4) Send Special reminders to all 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.