

August 22, 2007

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Re: VCP Submission #911659038 for the San Diego City Employees' Retirement System

Dear Ladies and Gentlemen:

The purpose of this letter is to reflect the remaining items from our July 10, 2007 meeting.

415 Testing

Enclosed you will find a new print reflecting the revised 415 retroactive testing. This chart shows that 102 participants have at some point in their retirement exceeded the 415 limit.

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For that group, the chart shows each year post-retirement and the amount the benefits exceeded the limit that year (if at all). Those amounts have been run out through 6/30/07. Subsequent years' excess benefits (from July 1, 2007) will be billed to the City on the timetable required in the Preservation of Benefits Plan.

We have also enclosed a new Exhibit A showing the revised retrospective testing methodology. You will notice this assumes the IRS accepts the DROP ordering concept (DROP benefits paid count first toward 415(b) limit, monthly annuity benefits paid count second toward 415(b) limit) and the use of SDCERS's assumption of 8% to adjust the benefit forms. We have also enclosed a new Exhibit 2, revised to reflect the Final Regulations and other comments provided during our meeting on July 10th.

The total excess benefits, with interest to 6/30/07, total \$8,160,027.

Presidential Leave

In our August 6, 2007 submission, we noted that we needed to confirm Mr. Farrar's benefit if union salary is not used. That amount is \$3,858.38, for a total of \$1,839.23 per month loss.

As to the Collins and Farrar employee contributions, Mr. Collins has confirmed that his contributions were deducted on a pre-tax basis. We have been unable to reach Mr. Farrar to obtain similar confirmation, although SDCERS will assume, for purposes of its reporting obligations, that the answer is the same, as both served with the same union.

Cashless Leave Conversion

We recognize that the IRS does not accept our initial proposed resolution on this issue, *i.e.* billing the City of the cost of the service granted. Consequently, with respect to the cashless leave conversion issue, we would like to propose that rather than billing the City for the cost of the leave granted under this program, SDCERS will provide the affected individuals with the opportunity to either pay for the service credit obtained through the conversion or forfeit that service credit. Members who choose to pay for the service granted would be treated, pursuant to SDCERS normal administrative procedure, in the same manner as members who have underpaid for a service purchase due to an administrative error. That is, those members would be permitted to pay an amount calculated as of the time of the original purchase. The affected members could choose the manner in which they wish to finance the payment (*i.e.*, a rollover, a transfer, or after-tax installment payments). Obviously, the one affected member who has already retired would be unable to pay in a manner which would result in annual additions under Code Section 415(c), but would be offered the opportunity to rollover or transfer to make the purchase.

The affected members would then be free to reach an independent agreement with the City regarding the value of the leave surrendered in exchange for SDCERS service credit. We believe this approach would result in the elimination of the cashless leave conversion, both

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retroactively in practice and prospectively due to the amendments contained in the Technical Compliance Ordinance, but without causing undue injury to the affected members.

Settlement Amounts

We have enclosed a schedule showing the Settlement Amounts as well as the amounts above the ARC the City has been paying since the VCP filings started.

Draft VCP Compliance Statement

We have enclosed a draft of an insert to the compliance statement for your consideration.

Comments on Technical Compliance Ordinance

We are waiting for comments from Mr. Hogan on the Technical Compliance Ordinance, which is critical because it resolves all of the plan design failures raised in SDCERS' filings. We look forward to receiving those.


We hope this is helpful to you in considering this final resolution to our submissions.

Very truly yours,

ICE MILLER LLP


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