

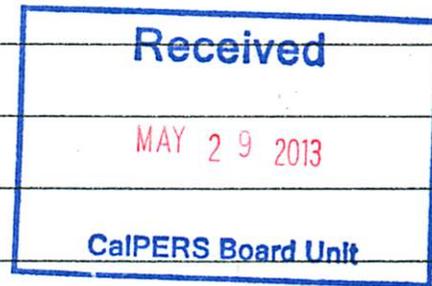
**ATTACHMENT A**  
**RESPONDENT'S PETITION FOR RECONSIDERATION**

JAMES D. GATES

Dated 5-24-13  
FAX# 916 795-2659



TO PETITION FOR RECONSIDERATION  
TO CHERRY SWEDENSKY FAX 916 795-3659  
AND TO PETER H NIXON FAX 916 795-3972  
AND ANNE STAUSBALL CEO FAX 1 800 959-6545  
FROM JAMES DAVID GATES



5-24-2013

Day 1032

To CalPERS petition for reconsideration,

I am writing in reply to your letter I received on May 20, 2013. This is unacceptable. I am displeased with your bogus and incompetent discussion. Again, you have the completed documents created by CalPERS dated May 12, 2010. The letter stated, "On May 12, 2010 CalPERS advised Mr. Gates that he could purchase his 13.244 years of service credit at a lump sum costs of and \$95,300.66". Again the letter stated, "On June 22, 2010, CalPERS notified Mr. Gates that it had received his three checks on June 16, 2010, all of which were credited as payments towards his redeposit of withdrawn contributions". At this point CalPERS was honest and true to their word! All of you that have signed documents after June 22, 2010 have created false documents. You are guilty of slander, breach of contract, penalty of perjury, obstruction of correspondence (Title 18 Section 1702), false statements (Title 18 Section 1001), creating retirement fraud (Title 18 Section 1708), and a false sense of security.

Michael Eubanks admitted that he and his staff made this mistake in the hearing on February 13, 2013. I believe this is a case of corruption when Mr. Eubanks can't look you in the eye under oath at your hearing! It took fifty-five days to figure out that you, CalPERS, made this mistake. It took 1,032 days to try and cover up your mistake that you made clear was CalPERS mistake, and that is that period! In a real courtroom setting, the court reporter would have sent me a copy of the transcripts which I have not received, nor have I received a charge for the transcripts. I don't believe that I can trust you as a real court of law.

I believe Wesley E Kennedy had instructed Mathew Eubanks at the "so called" hearing to be real quiet after he made his mistake. I believe that CalPERS and all their staff are wasting my retirement time with your procrastinating, bogus, corrupt, fictitious, waste of time motives!

All I am demanding is for all of the years I have served and paid for, and that you received those documents. That equals forty-two plus years of service X 2.5% and equals 105 plus interest.

All I want to do is retire with what I have paid for in advance and years of service. I started working at EMWD on December 20, 1975 and am still working there today. All of the statements in this letter are true. If you have any questions you can call me at 951-487-9958.

Justice for All Sincerely,



Jim Gates

JAMES D. GATES

California Public Employees' Retirement System  
Customer Account Services Section  
PO Box 942704  
Sacramento CA 94229-2704

RE: Letter Dated November 30, 2011

This is to inform you, CalPERS, Yolanda Miranda and Dana Dimaggio; that I will not allow you to retract on your acceptance of my purchase of "Redeposit of Withdrawn Contributions" total of 13.244 years. You approved and accepted my request and payment of such. You had my money since before June 22, 2010. You cashed and deposited into my account.

I hired a financial advisor, "I Financial" in Riverside, to help me with this process. I have attached a copy of my authorization. I am holding CalPERS and their representatives 100% responsible for your misleading, and this error. I believe that an administrative review of my account should have been done before they the purchase was awarded. I don't understand why you are removing 13.244 years of service when according to the member statement for Fiscal year July 2008 states that the subtraction was 12.244 years. See attachment. I believe you have broken the Title 18 section 1702, Title 18 section 1001 and Title 18 section 1708. See attachments.

TITLE 18, SECTION 1702, OBSTRUCTION OF CORRESPONDENCE

WHOEVER TAKES ANY LETTER, POSTAL CARD, OR PACKAGE OUT OF ANY POST OFFICE OR ANY AUTHORIZED DEPOSITORY FOR MAIL MATTER, OR FROM ANY LETTER OR MAIL CARRIER, OR WHICH HAS BEEN IN ANY POST OFFICE OR AUTHORIZED DEPOSITORY, OR IN THE CUSTODY OF ANY LETTER OR MAIL CARRIER, BEFORE IT HAS BEEN DELIVERED TO THE PERSON TO WHOM IT WAS DIRECTED, WITH DESIGN TO OBSTRUCT THE CORRESPONDENCE, OR TO PRY INTO THE BUSINESS OR SECRETS OF ANOTHER, OR OPENS, SECRETES, EMBEZZLES OR DESTROYS THE SAME, SHALL BE FINED ~~NOT MORE THAN~~ \$2,000 OR IMPRISONED NOT MORE THAN FIVE YEARS OR BOTH.

TITLE 18, SECTION 1001, FALSE STATEMENTS

WHOEVER, IN ANY MATTER WITHIN THE JURISDICTION OF ANY DEPARTMENT OR AGENCY OF THE UNITED STATES KNOWINGLY AND WILLFULLY FALSIFIES, CONCEALS OR COVERS UP BY ANY TRICK, SCHEME, OR DEVICE A MATERIAL FACT, OR MAKES ANY FALSE, FICTITIOUS OR FRAUDULENT STATEMENTS OR REPRESENTATIONS, OR MAKES OR USES ANY FALSE WRITING OR DOCUMENT KNOWING THE SAME TO CONTAIN ANY FALSE, FICTITIOUS OR FRAUDULENT STATEMENT OR ENTRY, SHALL BE FINED NOT MORE THAN \$10,000 OR IMPRISONED NOT MORE THAN FIVE YEARS OR BOTH.

TITLE 18, SECTION 1708, THEFT OF MAIL

WHOEVER STEALS, TAKES, OR ABSTRACTS, OR BY FRAUD OR DECEPTION OBTAINS OR ATTEMPTS SO TO OBTAIN, FROM OR OUT OF ANY MAIL, POST OFFICE, OR STATION THEREOF, LETTER BOX, MAIL RECEPTACLE, OR ANY MAIL ROUTE OR OTHER AUTHORIZED DEPOSITORY FOR MAIL MATTER OR FROM A LETTER OR MAIL CARRIER, ANY LETTER, POSTAL CARD, PACKAGE, BAG, OR MAIL, OR ABSTRACTS OR REMOVES FROM ANY SUCH LETTER, PACKAGE, BAG, OR MAIL, ANY ARTICLE OR THING CONTAINED THEREIN, OR SECRETES, EMBEZZLES, OR DESTROYS ANY SUCH LETTER, POSTAL CARD, PACKAGE, BAG, OR MAIL, OR ANY ARTICLE OR THING CONTAINED THEREIN; OR

WHOEVER STEALS, TAKES, OR ABSTRACTS, OR BY FRAUD OR DECEPTION OBTAINS ANY LETTER, POSTAL CARD, PACKAGE, BAG, OR MAIL, OR ANY ARTICLE OR THING CONTAINED THEREIN WHICH HAS BEEN LEFT FOR COLLECTION UPON OR ADJACENT TO A COLLECTION BOX OR OTHER AUTHORIZED DEPOSITORY OR MAIL MATTER; OR

WHOEVER BUYS, RECEIVES, OR CONCEALS, OR UNLAWFULLY HAS IN HIS POSSESSION, ANY LETTER, POSTAL CARD, PACKAGE, BAG, OR MAIL, OR ANY ARTICLE OR THING CONTAINED THEREIN, WHICH HAS BEEN SO STOLEN, TAKEN EMBEZZLED, OR ABSTRACTED, AS HEREIN DESCRIBED; KNOWING THE SAME TO HAVE BEEN STOLEN, TAKEN, EMBEZZLED, OR ABSTRACTED, SHALL BE FINED ~~NOT MORE THAN~~ \$2,000 OR IMPRISONED NOT MORE THAN FIVE YEARS, OR BOTH.

21 COPY TO Histex 11-18-05

**§ 118. Perjury defined; evidence necessary to support conviction**

(a) Every person who, having taken an oath that he or she will testify, declare, depose, or certify truly before any competent tribunal, officer, or person, in any of the cases in which the oath may by law of the State of California be administered, willfully and contrary to the oath, states as true any material matter which he or she knows to be false, and every person who testifies, declares, deposes, or certifies under penalty of perjury in any of the cases in which the testimony, declarations, depositions, or certification is permitted by law of the State of California under penalty of perjury and willfully states as true any material matter which he or she knows to be false, is guilty of perjury.

This subdivision is applicable whether the statement, or the testimony, declaration, deposition, or certification is made or subscribed within or without the State of California.

(b) No person shall be convicted of perjury where proof of falsity rests solely upon contradiction by testimony of a single person other than the defendant. Proof of falsity may be established by direct or indirect evidence.



California Public Employees' Retirement System  
Legal Office  
P.O. Box 942707  
Sacramento, CA 94229-2707  
TTY: (877) 249-7442  
(916) 795-3675 phone • (916) 795-3659 fax  
www.calpers.ca.gov

May 17, 2013

Ref No. 2012-0518

James D. Gates

*Received*

*MAY 20-2013*

VIA OVERNIGHT MAIL

*UNACCEPTABLE  
AND REJECTED J.G.*

**Subject:** In the Matter of the Appeal of the Denial of the Redeposit of Withdrawn Contributions for JAMES D. GATES, Respondent; Kathleen J. Gates, Respondent; and the EASTERN MUNICIPAL WATER DISTRICT, Respondent.

Dear Mr. Gates:

We enclose a copy of the Board of Administration's Decision in the above matter. Please be advised that this Decision was made pursuant to the Administrative Procedure Act (Gov. Code, secs. 11370, et seq.) and California Code of Regulations, title 2, sections 555-555.4, on May 15, 2013.

Any party who participated in this case and is dissatisfied with this Decision has a right to petition the Board for reconsideration and the right of appeal to the courts within 30 days after the last day on which reconsideration can be ordered. (Gov. Code, secs. 11521 and 11523.) It is not necessary that a Petition for Reconsideration be filed in order to appeal to the courts. (Gov. Code, sec. 11523.) **If you choose to file a Petition for Writ of Mandate, please submit a written request to our office for preparation of the administrative record.**

The Board's Decision is being mailed to you on May 17, 2013. The Board must act on any Petition for Reconsideration in this case no later than July 26, 2013. Because the Board does not meet in July, any Petition for Reconsideration must be received by CalPERS' Executive Office by May 29, 2013, in order to be included on the Board's agenda for its June 19, 2013 meeting, which is the last day on which reconsideration can be ordered. (See Gov. Code secs. 11521 and 11523.) If a Petition for Reconsideration is not received by May 29, 2013, the Board will not be able to act on it and the original effective date applies.

James D. Gates  
May 17, 2013  
Page 2

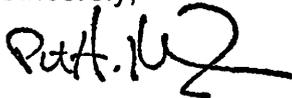
Please title your submission "Petition for Reconsideration" and insure that all personal information has been redacted, as this will become a public document when included in the agenda item. Please send this to:

Cheree Swedensky, Assistant to the Board  
Executive Office  
California Public Employees' Retirement System  
P.O. Box 942701  
Sacramento, CA 94229-2701  
FAX: (916) 795-3972

In addition, it is recommended that you send, via facsimile, a copy of any Petition for Reconsideration to the attention of PETER H. MIXON, General Counsel, at (916) 795-3659.

If your Petition for Reconsideration is denied, the next step in the appeal process is to file a Petition for Writ of Mandate in Superior Court.

Sincerely,



PETER H. MIXON  
General Counsel

PHM:clb

Enclosure

cc: Kathleen J. Gates  
Office of Administrative Hearings - San Diego  
Eastern Municipal Water District  
Steve A. Filarsky, Esq.

1 BOARD OF ADMINISTRATION  
CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM

2 In the Matter of the Appeal of the Denial ) CASE NO. 2012-0518  
3 of the Redeposit of Withdrawn ) OAH NO. 2012080197  
4 Contributions for: )  
5 JAMES D. GATES, )  
6 Respondent, )  
7 and )  
8 KATHLEEN J. GATES, )  
9 Respondent, )  
10 and )  
11 EASTERN MUNICIPAL WATER )  
12 DISTRICT, )  
13 Respondent. )

11 RESOLVED, that the Board of Administration of the California Public  
12 Employees' Retirement System hereby adopts as its own Decision the Proposed  
13 Decision dated March 13, 2013, concerning the appeal of James D. Gates;  
14 RESOLVED FURTHER that this Board Decision shall be effective 30 days following  
15 mailing of the Decision.

16 \* \* \* \* \*

17 I hereby certify that on May 15, 2013, the Board of Administration, California  
18 Public Employees' Retirement System, made and adopted the foregoing Resolution,  
19 and I certify further that the attached copy of the Administrative Law Judge's Proposed  
20 Decision is a true copy of the Decision adopted by said Board of Administration in said  
21 matter.

22 BOARD OF ADMINISTRATION, CALIFORNIA  
23 PUBLIC EMPLOYEES' RETIREMENT SYSTEM  
24 ANNE STAUSBOLL  
25 CHIEF EXECUTIVE OFFICER

Dated: May 17, 2013

BY

 (for)

DONNA RAMEL LUM  
Deputy Executive Officer  
Customer Services and Support

BEFORE THE  
BOARD OF ADMINISTRATION  
CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM  
STATE OF CALIFORNIA

In the Matter of the Statement of Issues of:

JAMES D. GATES,

and

KATHLEEN J. GATES,

and

EASTERN MUNICIPAL WATER  
DISTRICT,

Respondents.

CalPERS Case No. 2012-0518

OAH No. 2012080197

**PROPOSED DECISION**

Mary Agnes Matyszewski, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter in San Bernardino, California, on February 13, 2013, in the presence of CHP security.

Wesley Kennedy, Senior Staff Counsel, represented petitioner Karen DeFrank, Chief, Customer Account Services Division, Board of Administration, California Public Employees' Retirement System (CalPERS), State of California.

Respondent James D. Gates (Mr. Gates) appeared and represented himself.

No appearances were made by or on behalf of respondents Kathleen J. Gates (Ms. Gates) or Eastern Municipal Water District (Water District), although Ms. Gates testified in this matter.

Oral and documentary evidence was received and the matter was submitted on February 13, 2013.

CALIFORNIA PUBLIC EMPLOYEES'  
RETIREMENT SYSTEM  
FILED 3-14 2013  
*Barbara Masema*

## ISSUE

Is CalPERS allowed to correct the error it made when it mistakenly allowed respondent James D. Gates to redeposit his contributions, plus interest, and to restore service credit to his retirement account?

## FACTUAL FINDINGS

### *Preliminary Matters*

1. Mr. Gates is employed by Eastern Municipal Water District. He is a member of CalPERS by virtue of his employment. Ms. Gates, Mr. Gates' former wife, is employed by the Hemet Unified School District. She is a miscellaneous member of CalPERS by virtue of her employment. On March 18, 2009, during their divorce proceedings, the Riverside County Superior Court, in case number HED008789, awarded Ms. Gates 50 percent of the accumulated retirement contributions and service credit in Mr. Gates' CalPERS retirement account.

2. On April 21, 2009, CalPERS advised Mr. Gates that it completed the separation of his account in accordance with the court's order, crediting Ms. Gates with 13.244 years of service credit and \$84,000 and \$820.39 in contributions and interest. The balance remaining in Mr. Gates' account was 18.806 years of service credit and \$105,926.75 in contributions and interest. CalPERS further advised that if Ms. Gates received a lump sum distribution by either a refund (or rollover) of the contributions and interest credited to her account, Mr. Gates would have the right to redeposit those contributions, plus interest, and restore the service credit to his account. CalPERS stated, "You will be sent written notification should Kathleen Gates elect to receive a refund (or rollover) from their [sic] nonmember account with instructions how to purchase the service credit that was transferred to this non-member account."

3. Effective August 1, 2009, Ms. Gates retired using the service credit awarded to her and her nonmember account with CalPERS.

4. On January 26, 2010,<sup>1</sup> CalPERS received Mr. Gates' Request for Service Credit Cost Information-Redeposit of Withdrawn Contributions. On that form, Mr. Gates checked the box indicating the "Funds transferred due to a community property settlement agreement, and these funds had since been withdrawn by my former spouse or domestic partner." Mr. Gates certified that the information was true and correct.

5. On May 12, 2010 CalPERS advised Mr. Gates that he could repurchase his 13.244 years of service credit at a lump sum costs of and \$95,300.66.

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<sup>1</sup> The statement of issues alleges the date as being January 27, 2010, but the date stamp on the document is January 26, 2010.

6. On June 22, 2010, CalPERS notified Mr. Gates that it had received his three checks on June 16, 2010,<sup>2</sup> all of which were credited as payments towards his redeposit of withdrawn contributions.

7. On November 30, 2011, CalPERS notified Mr. Gates that while CalPERS was conducting an administrative review of his account, it determined that CalPERS had offered him the opportunity to redeposit of withdrawn contributions in error because his former spouse had retired on the service credit awarded to her from his retirement account thereby making him ineligible to purchase that service credit. Accordingly, CalPERS stated that it would be removing 13.244 years of service credit from his retirement account and that it would refund him the lump sum amount he paid to purchase that service credit.

8. In response thereto, Mr. Gates advised CalPERS that he would “not allow you to retract on your acceptance of my purchase of ‘Redeposit of Withdrawn Contributions’ total of 13.244 years [sic]. You approved and accepted my request and payment of such. You had my money since before June 22, 2010. You cashed and deposited into my account.” Mr. Gates further stated that he was “holding CalPERS and their representatives 100% responsible for your misleading, and this error. I believe that an administrative review my account should have been done before they the purchase was awarded [sic].”

9. Thereafter, CalPERS notified Mr. Gates of its decision to void his purchase of the service credit and to return to him the funds he provided to purchase that service credit, and of his right to appeal. This hearing ensued.

#### *Witness Testimony*

10. Teri Parker, who has assisted Mr. Gates with preparing his taxes and financial documents, discussed the factual history surrounding the repurchase of service credit. She pointed to the various CalPERS documents which advised Mr. Gates on several occasions that his repurchase of service credit was accepted and thereafter was included in his retirement calculations.

11. Ms. Gates testified that she never received a lump sum distribution by refund or rollover of the contributions and interest awarded to her in the divorce and that she has been receiving retirement funds from that CalPERS account.

12. Matthew Eubanks, Staff Services Manager II of the Service Credits, Costing and Elections Department, testified that CalPERS erred when it allowed Mr. Gates to redeposit his contributions that had been awarded to Ms. Gates during the divorce because she never received a lump sum distribution from that account. Mr. Eubanks explained that the rationale behind the CalPERS policy is to prevent CalPERS from having an unfunded liability. Mr. Eubanks acknowledged that the analyst who reviewed Mr. Gates' request to

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<sup>2</sup> The statement of issues alleges the checks were received on June 15, 2010, but the CalPERS letter indicated they were received June 16, 2010.

repurchase his contributions had done a less than thorough job and should have performed some additional analysis; if that additional analysis had been performed, CalPERS would have discovered that Ms. Gates had not received a distribution and CalPERS would have denied Mr. Gates' request, thereby preventing this error from occurring.

13. Mr. Gates testified that he had consulted several financial planners and accountants in an effort to ensure that he complies with all financial requirements. His human resources (H.R.) manager informed him that he was able to repurchase the contributions awarded to his ex-wife. He completed the paperwork with H.R.'s assistance, it was approved by CalPERS, he deposited the lump sum required, he has been receiving statements indicating his service credits include his repurchase of those contributions, and he wants CalPERS to abide by that decision. Mr. Gates introduced several CalPERS documents in which he was advised of his retirement account balances and service credit. Those documents indicated that on several occasions his retirement information included the service credit he repurchased in 2010. Based upon his testimony, it became evident that Mr. Gates wanted CalPERS to continue to abide by those mistaken and erroneous calculations for purposes of his retirement; essentially he put forth a collateral estoppel argument.

Mr. Gates admitted that he had never received a letter from CalPERS notifying him that Ms. Gates had received a refund or rollover from her account. Mr. Gates offered no testimony to explain why he checked off the box to indicate that his ex-wife had received a lump sum distribution of the distribution when, in fact, she had not. Although as noted below, it did not appear he intended to mislead CalPERS, more that he misunderstood the definition as used by CalPERS for the word "distribution."

## LEGAL CONCLUSIONS

### *Burden and Standard of Proof*

1. An applicant for retirement benefits has the burden of proving that he is entitled to it. (*Greatorex v. Board of Administration* (1979) 91 Cal.App.3d 54).
2. In the absence of a statute to the contrary, the standard of proof is a preponderance of the evidence. (Evid. Code, § 115.)

### *Applicable Statutes*

3. Government Code section 20160 authorizes CalPERS to correct errors.
4. Government Code section 21251.15 instructs CalPERS how member accounts are to be handled when they have been divided by a court order in a divorce proceeding.

5. Government Code section 21290 provides in part that during a divorce proceeding the court shall order that the contributions and service credits accumulated during the marriage be divided into two separate and distinct accounts.

6. Government Code section 21296 defines when the nonmember's retirement shall be effective and when the retirement allowance begins to accrue.

7. Government Code section 21297 defines nonmember final compensation.

8. Government Code section 21298 provides when a nonmember is entitled to receive retirement allowances.

### *Equitable Estoppel*

9. With regard to the well-established doctrine of equitable estoppel, "The vital principle is that he who by his language or conduct leads another to do what he would not otherwise have done shall not subject such person to loss or injury by disappointing the expectations upon which he acted. Such a change of position is sternly forbidden. It involves fraud and falsehood, and the law abhors both." (*Seymour v. Oelrichs* (1909) 156 Cal. 782, 795, quoted in *City of Long Beach v. Mansell* (1970) 3 Cal.3d 462, 488.)

10. "Generally speaking, four elements must be present in order to apply the doctrine of equitable estoppel: (1) the party to be estopped must be apprised of the facts; (2) he must intend that his conduct shall be acted upon, or must so act that the party asserting the estoppel had a right to believe it was so intended; (3) the other party must be ignorant of the true state of facts; and (4) he must rely upon the conduct to his injury . . . . The doctrine of equitable estoppel may be applied against the government where justice and right require it." (*Driscoll v. City of Los Angeles* (1967) 67 Cal.2d 297, 305-306.) The party asserting the estoppel bears the burden of proof. (*Killian v. City and County of San Francisco* (1978) 77 Cal. App. 3d 1, 16.)

11. "The government may be bound by an equitable estoppel in the same manner as a private party when the elements requisite to such an estoppel against a private party are present and, in the considered view of a court of equity, the injustice which would result from a failure to uphold an estoppel is of sufficient dimension to justify any effect upon public interest or policy which would result from the raising of an estoppel." (*City of Long Beach v. Mansell, supra*, 3 Cal.3d at 496-497.)

However, it is generally "held that the power of a public officer cannot be expanded by application of this doctrine." (*Page v. City of Montebello* (1980) 112 Cal.App.3d 658, 667.) In other words, the doctrine may not be applied when doing so "would have the effect of granting to the state's agents the power to bind the state merely by representing that they have the power to do so." (*Ibid.*)

*Evaluation*

12. Mr. Gates erroneously advised CalPERS that Ms. Gates had withdrawn funds, when she had not. Apparently, CalPERS relied on that false statement and allowed him to repurchase those contributions. No explanation for that false statement was offered although it appeared from Mr. Gates' testimony that he interpreted the word "distributed" as used on that form to mean that the funds had been taken out of his account. It did not appear as though Mr. Gates ever intended to mislead CalPERS. In that regard, CalPERS is strongly encouraged to change the wording on that form to prevent similar mistakes from occurring in the future. In any event, allowing Mr. Gates to repurchase his contributions awarded to Ms. Gates was an error and CalPERS is entitled to correct that mistake.

On another note, while Mr. Eubanks did admit in response to the court's questioning that the CalPERS employee had not been thorough in her review of Mr. Gates request, CalPERS is reminded that its decisions directly affect its members' retirement planning and decision making, and it is essential that CalPERS employees perform their jobs with the utmost due diligence. This case perfectly illustrates what happens when analysts do not perform their jobs duties, thereby undermining the entire CalPERS system. CalPERS should take steps to insure that this type of error does not reoccur.

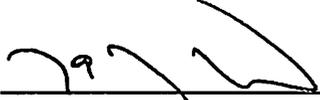
Finally, CalPERS asserted that it would keep the interest obtained from the lump sum purchase and apply it towards Mr. Gates' retirement account. However, had CalPERS performed its due diligence, Mr. Gates would have had those funds available to him to invest elsewhere in 2010. As such, he is entitled to his lump sum plus interest if he so desires - the choice is his. Alternatively, he may elect to have the interest earned on that lump sum remain in his CalPERS retirement account. The choice is entirely up to Mr. Gates.

**ORDER**

CalPERS may remove 13.244 years of service credit and refund to Mr. Gates his lump sum contribution.

Mr. Gates may elect to have the interest earned on that lump sum remain in his account or be returned to him.

DATED: March 13, 2013

  
\_\_\_\_\_  
MARY AGNES MATYSZEWSKI  
Administrative Law Judge  
Office of Administrative Hearings

## PROOF OF SERVICE

I am employed in the County of Sacramento, State of California. I am over the age of 18 and not a party to the within action; my business address is: California Public Employees' Retirement System, Lincoln Plaza North, 400 "Q" Street, Sacramento, CA 95811 (P.O. Box 942707, Sacramento, CA 94229-2707).

On May 17, 2013, I served the foregoing document described as:

**DECISION – In the Matter of the Appeal of the Denial of the Redeposit of Withdrawn Contributions for JAMES D. GATES, Respondent; Kathleen J. Gates, Respondent; and the EASTERN MUNICIPAL WATER DISTRICT, Respondent.**

on interested parties in this action by placing \_\_\_ the original XX a true copy thereof enclosed in sealed envelopes addressed as follows:

James D. Gates

Office of Administrative Hearings  
1350 Front Street, Suite 3005  
San Diego, CA 92101

Steve A. Filarsky, Esq.  
Filarsky & Watt  
1441 Nineteenth Street  
Manhattan Beach, CA 90266

Eastern Municipal Water District  
2270 Trumble Road  
Perris, CA 92570

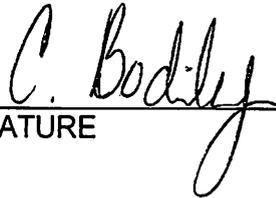
Kathleen J. Gates

[XX] **BY OVERNIGHT DELIVERY:** I caused such envelope(s) to be delivered to the above address(es) within 24 hours by overnight delivery service.

Executed on May 17, 2013, at Sacramento, California.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Christy Bodily  
\_\_\_\_\_  
NAME

  
\_\_\_\_\_  
SIGNATURE