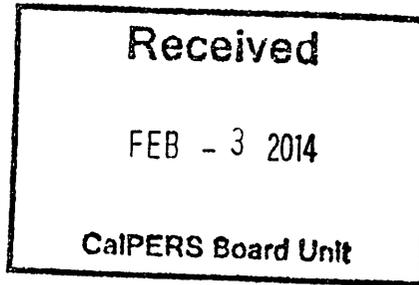


ATTACHMENT C
RESPONDENT'S ARGUMENT

Ms. Cheree Swedensky,
Assistant to the Board
Cal PERS Executive Office
P.O. Box 942701
Sacramento, California 94229-2701



February 3, 2015

Dear Ms. Swedensky:

This letter addresses Cal PERS Case Number 2013-0981 – OHA Number 2014040763 – regarding the removal of erroneously approved service credit, and the proposed decision by Administrative Law Judge Vincent Nafarrete, dated November 14, 2014.

As a victim of Cal PERS' error, I feel that my rights as a Cal PERS member in good standing have been violated. As listed in the Administrative Law Judge's Factual Findings, I assisted Cal PERS to discover its error when I submitted a request to purchase additional service credit in early 2011. Had I not done this, then there is a high probability that Cal PERS would not have found this error on its own.

On August 2012, Cal PERS discovered the alleged error that could have been easily detected, if my Cal PERS retirement application would have been properly audited when I first submitted it in March 29, 2011. For the record, Cal PERS did not inform me of its error until July 1, 2013. Given this information, I still feel that Cal PERS' staff were negligent in handling my retirement application. They had a duty to verify all related information and they failed to do so. Although the law may support Cal PERS and allow it numerous years to correct its errors, it does not allow it to breach its fiduciary duties to its members and to make unreasonable decisions that intentionally inflict emotional and economic distress upon them.

As a Cal PERS member, I expected my former employer, the Los Angeles County Office of Education, and the Cal PERS organization to exercise due diligence and integrity in the handling of my work and retirement information. Both of these organizations, and their respective staffs, failed to audit my Retirement application and as a result they breached their fiduciary duties to me and to their members. In this regard, I believe that Cal PERS owes me the opportunity to mend its error by approving my initial application to purchase additional service credit. Please note that my immediate response to Cal PERS' error was anger and total refusal to accept its findings and offers. I did not trust Cal PERS's offers at all. In this context, I was not open to accepting any accommodations. Today, however, upon further reflection, I am open to accepting Cal PERS's offers to allow me to purchase additional service credit to minimize my emotional and economic distress by the correction of its error. Thus, please consider this letter a request to re-consider its offers.

For the record, I do not agree with the legal conclusions, as forwarded by administrative judge Vincent Nafarrete. Specifically, I believe that the main issue of negligence by Cal PERS staff in the handling of my Cal PERS Retirement application was not addressed and thus its findings and conclusions are incomplete. I formally requested that this concern be addressed, yet administrative judge Nafarrete decided against it. In this regard, I request that you direct Cal PERS staff to address this issue before rendering a more informed decision.

If you have any questions, please contact me at (562) 445-5088. Thank you.

Respectfully,

Dr. Gus Frias

