ATTACHMENT B

STAFF'S ARGUMENT

STAFF'S ARGUMENT TO ADOPT THE PROPOSED DECISION

Respondent Susan Stockhammer (Respondent) was employed by respondent California State University System and by virtue of her employment was a member of the California State Teachers' Retirement System (CalSTRS). Respondent had previously been a member of CalPERS but had terminated her CalPERS membership by withdrawing her contributions in1986, when she became a member of CalSTRS.

In late April 2012, Respondent learned from a CalSTRS counselor that she might be able to redeposit the withdrawn funds to CalPERS and thereby obtain concurrent retirement benefits from CalPERS, i.e. establish reciprocity. If she were to be successful in doing this, her monthly pension would increase.

Both CalPERS and CalSTRS instructed Respondent that such purchase must be made prior to her retirement from CalSTRS. CalPERS also informed Respondent that if she completed the redeposit and retired from both CalSTRS and CalPERS concurrently, she would be entitled to reciprocity and allowed to have her CalPERS service retirement calculated using her higher CalSTRS final compensation.

Respondent had submitted a retirement application to CalSTRS with an effective date of July 1, 2012. She never extended that retirement date. Respondent requested the cost to redeposit her withdrawn CalPERS contributions on May 5, 2012. She retired from CalSTRS on July 1, 2012. On August 17, 2012, CalPERS provided Respondent with a 12-page cost package. In it, CalPERS clearly informed her in writing that in order for the redeposit to be valid, the form entitled, "Election to Purchase Service Credit" and other necessary documents had to be returned to CalPERS within 60 days, i.e. by October 16, 2012. On August 30, 2012, CalPERS staff verified that Respondent had received the cost package and election forms.

On November 16, 2012, approximately one month after the election window had expired and after she had service retired from CalSTRS, CalPERS received excerpted pages from the costing package, but no election to purchase and no clear indication on how Respondent would actually complete the purchase. After a series of communications between Respondent and CalPERS concerning that incomplete and late response, CalPERS informed Respondent that the redeposit process could not be revived because she had retired from CalSTRS and was no longer eligible. Respondent appealed this determination, and an administrative hearing was held on September 30, 2014. Respondent was represented by counsel at the hearing.

Respondent stated at the hearing that she did not read all of the costing and election material when she received the material. She also stated that she may have been ill at the time the response was due.

The Administrative Law Judge (ALJ) found that Respondent was aware of the procedures and requirements for completing the redeposit in a timely manner, and that no correctable error under section 20160 had occurred because she failed to act

reasonably by not reading the material when presented and had failed to establish an excusable neglect, surprise or mistake that would excuse her non-compliance.

The ALJ concluded that Respondent's appeal should be denied. The Proposed Decision is supported by the law and the facts. Staff argues that the Board adopt the Proposed Decision.

Because the Proposed Decision applies the law to the salient facts of this case, the risks of adopting the Proposed Decision are minimal. If adopted by the Board, the member may file a Writ Petition in Superior Court seeking to overturn the Decision of the Board.

February 19, 2015

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