

Item Name: Proposed Decision – In the Matter of the Recalculation of Benefits of PAUL G. MAST, Respondent.

Program: Employer Account Management Division

Item Type: Action

Parties' Positions

Staff argues that the Board of Administration should either:

- (1) adopt the Proposed Decision, as written, or
- (2) decline to adopt the Proposed Decision, and decide itself to allow CalPERS to recover past overpayments that were made to Paul G. Mast (Respondent Mast.)

Respondent Mast argues that the Board of Administration should decline to adopt the Proposed Decision.

Strategic Plan

This item is not a specific product of either the Strategic or Annual Plans. The determination of administrative appeals is a power reserved to the Board of Administration.

Procedural Summary

Respondent Mast is a retired Superior Court judge and a member of the Judges' Retirement System (JRS). In 2010, Respondent Mast claimed that JRS was paying him too little under a 1996 settlement agreement that was signed by Respondent Mast and a former JRS Manager. In 2011, JRS rejected Respondent Mast's claim. In 2011, JRS also determined that the settlement agreement was not, and had never been, enforceable and therefore Respondent Mast had been overpaid since 1996. As a result, JRS sought to (1) reduce Respondent Mast's benefit payments prospectively to comply with law, and (2) recover the past overpayments JRS made to Respondent Mast. Respondent Mast appealed JRS's determinations to the Office of Administrative Hearings (OAH), but the parties agreed to put the matter on hold while other related litigation Mast had initiated, *Staniforth v. JRS (Staniforth)*, worked its way through the courts. JRS prevailed in *Staniforth* in 2014. On March 25, 2015, JRS filed a Statement of Issues in Respondent Mast's OAH appeal. In the course of the OAH appeal, in addition to claiming that JRS had underpaid him under the settlement agreement, Respondent Mast also claimed that he should have been permitted to retire when he turned age 60, instead of having to wait until he turned age 63. Thus, he claimed that JRS owed him those three years of allegedly missed benefit payments, plus interest. All matters were heard by OAH on

November 30, 2015. A Proposed Decision was issued on February 10, 2016, recommending that JRS reduce Respondent Mast's benefit payments prospectively to comply with law, but not recover any past overpayments from Respondent Mast.

Alternatives

- A. For use if the Board decides to adopt the Proposed Decision as its own Decision:

RESOLVED, that the Board of Administration of the California Public Employees' Retirement System hereby adopts as its own Decision the Proposed Decision dated February 10, 2016, concerning the appeal of Paul G. Mast; RESOLVED FURTHER that this Board Decision shall be effective 30 days following mailing of the Decision.

- B. For use if the Board decides not to adopt the Proposed Decision, and to decide the case upon the record:

RESOLVED, that the Board of Administration of the California Public Employees' Retirement System, after consideration of the Proposed Decision dated February 10, 2016, concerning the appeal of Paul G. Mast, hereby rejects the Proposed Decision and determines to decide the matter itself, based upon the record produced before the Administrative Law Judge and such additional evidence and arguments that are presented by the parties and accepted by the Board; RESOLVED FURTHER that the Board's Decision shall be made after notice is given to all parties.

- C. For use if the Board decides to remand the matter back to the Office of Administrative Hearings for the taking of further evidence:

RESOLVED, that the Board of Administration of the California Public Employees' Retirement System, after consideration of the Proposed Decision dated February 10, 2016, concerning the appeal of Paul G. Mast, hereby rejects the Proposed Decision and refers the matter back to the Administrative Law Judge for the taking of additional evidence as specified by the Board at its meeting.

- D. Precedential Nature of Decision (two alternatives; either may be used):

1. For use if the Board wants further argument on the issue of whether to designate its Decision as precedential:

RESOLVED, that the Board of Administration of the California Public Employees' Retirement System requests the parties in the matter concerning the appeal of Paul G. Mast, as well as interested parties, to submit written argument regarding whether the Board's Decision in this matter should be designated as precedential, and that the Board will consider the issue whether to designate its Decision as precedential at a time to be determined.

2. For use if the Board decides to designate its Decision as precedential, without further argument from the parties.

RESOLVED, that the Board of Administration of the California Public Employees' Retirement System, hereby designates as precedential its Decision concerning the appeal of Paul G. Mast.

Budget and Fiscal Impacts: Not applicable

Attachments

Attachment A: Proposed Decision

Attachment B: Staff's Argument

Attachment C: Respondent(s) Argument(s)

DONNA RAMEL LUM
Deputy Executive Officer
Customer Services and Support