



April 5, 2016

David Twa
Chief Administrative Officer
Contra Costa County
651 Pine Street, 10th Floor
Martinez, CA 94553

Re: Recoupment Of Pension Over-Payments Paid To Four Retired Contra Costa County Physicians Due To County's Erroneous Pensionable Compensation Reporting to CCCERA

Dear Mr. Twa,

This letter will serve as CCCERA's demand for recoupment from Contra Costa County of \$114,288.51 which represents the amount of pension overpayments paid to four retired Contra Costa Health Services Department Physicians and accrued interest as of March 1, 2016. The pension overpayments were caused by the County's erroneous reporting of non-pensionable panel management pay as pensionable on-call pay (County Pay Code D32) during the period of July 2011 through September 2013. The County's payment in full is due to CCCERA by August 1, 2016. The amount due will continue to accrue interest at the rate of 7.25% per annum, compounded, until paid in full [See attached table A].

6 By way of background, it appears that in July 2011 the Contra Costa Health Services Department began to compensate physicians Farey, Hearst, Hinman and Slauson for panel management duties after the Department determined that their extra clinics work qualified them to be paid the additional compensation. The Health Services Department instructed its physicians that pay for panel management duties would come in the form of On-Call Pay, and proceeded to erroneously code that additional pay as pensionable on-call pay (County Pay Code D32).

The County reported the additional pay to CCCERA as pensionable on-call pay (County Pay Code D32). In accordance with the County Employees Retirement Law of 1937 (CERL), the county auditor certifies to CCCERA the pensionable compensation paid to county employees who are in CCCERA membership. (Government Code Section 31582.) Based on the County's reporting of the pay as pensionable, CCCERA included the compensation when calculating the four physicians' pension benefits. This resulted in overpayment of pension payments to the retirees.

6 In 2013, the County formally re-characterized the additional panel management pay, recognizing that the pay is for "panel management duties performed in excess of an employee's designated position hours." (Board of Supervisors Resolution 2013/372.) The County further stated that: "Final determination of whether a physician's schedule qualifies for the Panel Management Pay differential is at the discretion of the Director of Health Services and his/her designee." (BOS Reso. 2013/372.)

Subsequently, the County and CCCERA engaged in a correction of active member payroll and retirement contributions resulting from the panel management pay coding and reporting error. The County identified retirees who received the panel management pay in the form of On-Call Pay Code D32, and submitted their names to CCCERA for further review and action.

In its March 9, 2016 duly noticed public meeting, the CCCERA Board of Retirement reviewed the matter and affirmed that the on-call compensation paid to the four retired physicians was for panel management duties, which is overtime work, and therefore was not pensionable compensation. A County representative was present during this Board meeting and had the opportunity to present the County's position. Due to the erroneous on-call compensation reporting by the County to CCCERA, the CCCERA Board of Retirement determined that it would recoup the retroactive pension overpayments from the County rather than from the retirees.

As a tax-qualified plan, CCCERA is subject to the Internal Revenue Code and Internal Revenue Service regulations. Remaining compliant with IRS rules requires taking reasonable steps to recover plan overpayments with appropriate interest. The IRS has recently clarified that recoupment from the plan sponsor would be consistent with Internal Revenue Service correction programs. Specifically, the IRS announced that an appropriate correction method includes "having the employer or another person contribute the amount of the Overpayment (with appropriate interest) to the plan in lieu of seeking recoupment from plan participants and beneficiaries." (Rev.Proc. 2015-27, Sec.3.02(3).)

Please contact me if you have any questions.

Sincerely,



Gail Strohl
Chief Executive Officer

cc: Lisa Driscoll, Finance Director, Contra Costa County
Bob Campbell, Auditor Controller, Contra Costa County

Table A:

Illustration of accrued amount up to and inclusive of the August 1, 2016 due date. Interest will continue to accrue at the annual compounded rate of 7.25% until paid in full.

	Interest	Balance
1-Apr 2016	\$ 668.56	\$114,957.07
1-May 2016	\$ 672.47	\$115,629.54
1-Jun 2016	\$ 676.40	\$116,305.94
1-Jul 2016	\$ 680.36	\$116,986.30
1-Aug 2016	\$ 684.34	\$117,670.64