



State of New Jersey
DEPARTMENT OF THE TREASURY
DIVISION OF PENSIONS AND BENEFITS
(609) 292-7524 TDD (609) 292-7718
www.state.nj.us/treasury/pensions

JON S. CORZINE
Governor

September 24, 2007

MAILING ADDRESS:
PO Box 295
TRENTON NJ 08625-0295

LOCATION:
50 WEST STATE STREET
TRENTON NEW JERSEY

MICHELLENE DAVIS
Acting State Treasurer

FREDERICK J. BEAVER
Director

G. Philip Lewis, Esquire
105 Stockington Road
Woodstown, NJ 08098

Re: PERS# [REDACTED]

Dear Mr. Lewis:

The Board of Trustees of the Public Employees' Retirement System (PERS) at its meeting of September 19, 2007, considered your personal statements, your letters of September 4, 2007 and July 27, 2007, and all relevant documentation regarding your request to purchase service credit and your request for a March 1, 2007 service retirement.

After careful consideration, the Board voted to deny your request to purchase service credit, since you are not an active employee, in accordance with N.J.S.A. 43:15A-7(e). The Board also determined that you do not qualify for a service retirement, in accordance with N.J.S.A. 43:15A-8(a) and relevant case law.

N.J.S.A. 43:15A-7(e) provides the guidelines for the discontinuance of membership in the retirement system and states:

Membership of any person in the retirement system shall cease if he shall discontinue his service for more than two consecutive years.

Your membership has ceased, as you have discontinued service for more than two years. However, the record shows that the reason your service was discontinued was that you were laid off June 30, 2000. In that regard, N.J.S.A. 43:15A-8(a) provides the guidelines for restoration of discontinued service and states:

If a member of the retirement system has been discontinued from service without personal fault or through leave of absence granted by an employer or permitted by any law of this State and has not withdrawn the accumulated member's contributions from the retirement system, the membership of that member may continue, notwithstanding any provisions of this act if the member returns to service within a period of 10 years from the date of discontinuance from service. (emphasis added).

Accordingly, the right to have your PERS membership continue beyond two years following separation, as provided for in N.J.S.A. 43:15A-7(e), is conditioned upon the requirements set forth in N.J.S.A. 43:15A-8(a), including, but not limited to, a return to public employment. This was confirmed in Del Pomo v Board of Trustees, Public Employees' Retirement System, Dkt. No. A-604-90T3, (Appellate Division, Decided December 19, 1991).

Since it appears that you were laid off on June 30, 2000, if you provide documentation to support same to the Division of Pensions and Benefits' Withdrawal Section, and if you do not withdraw your pension contributions, you may restore your PERS membership simply by returning to a PERS-covered position at any time prior to June 2010. If you do not return to PERS-covered employment within that time frame, your account will expire.

Therefore, in accordance with N.J.S.A. 43:15A-7(e), N.J.S.A. 43:15A-8(a) and relevant case law, the Board has denied your request to purchase and to file for retirement benefits at this time. If, however, you return to PERS-covered employment before your account expires under the provisions of N.J.S.A. 43:15A-8(a), you may subsequently request to purchase service credit and/or file for service retirement benefits, subject to the requirements in effect at the time of your request.

If you disagree with the determination of the Board, you may appeal by submitting a written statement to the Board within 45 days after the date of written notice of the determination. The statement shall set forth in detail the reasons for your disagreement with the Board's determination and shall include any relevant documentation supporting your claim. If no such written statement is received within the 45-day period, the determination by the Board shall be final.

The Board shall determine whether to grant an administrative hearing based upon the standards for a contested case hearing set forth in the Administrative Procedure Act, N.J.S.A. 52:14B-1 and the Uniform Administrative Procedure Rule, N.J.A.C. 1:1-1 et seq. Administrative hearings shall be conducted by the Office of Administrative Law pursuant to the provisions of N.J.S.A. 52:14B-1 et seq. and N.J.A.C. 1:1.1.

If the granted appeal involves solely a question of law, the Board may retain the matter and issue a final determination, which shall include detailed findings of fact and conclusions of law based upon the documents, submissions and legal arguments of the parties. The Board's final determination may be appealed to the Superior Court, Appellate Division. If the granted appeal involves a question of facts, the Board shall submit the matter to the Office of Administrative Law.

Sincerely,



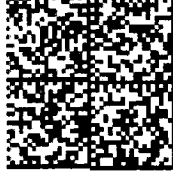
Kathleen Coates, CEBS
Secretary, Board of Trustees
Public Employees' Retirement System

J-3

c: Martucci/Mayoros/Wood/Schwedes (FYI/ET)

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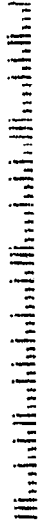
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