

March 15, 2019

JOHN I WALTMAN  


SS#: 

INV#: 

Dear Mr. Waltman:

This letter concerns your retirement account with the State Employees' Retirement System (SERS); specifically, the effect that your guilty plea to Count Nine of the Second Superseding Indictment, "Hobbs Act Extortion under Color of Official Right", (18 U.S.C. §1951(a) entered on January 18, 2019, in the United States District Court for the Eastern District of Pennsylvania in Philadelphia, has on your retirement account with SERS, now as well as in the future.

Section 3 of Act 140 pertinently provides in subsection (a) thereof:

Notwithstanding any other provision of law, no public official or public employee nor any beneficiary designated by such public official or public employee shall be entitled to receive any retirement or other benefit or payment of any kind except a return of the contribution paid into any pension fund without interest, if such a public official or public employee is convicted or pleads guilty or no defense to any crime related to public office or public employment.  
43 P.S. §1313(a)

The term "Crimes related to public office or public employment" is defined in Section 2 of Act 140 as "[a]ny of the criminal offenses as set forth in the [listed] provisions of Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes or other enumerated statute when committed by a public official or public employee through his public office or position or when his public employment places him in a position to commit the crime." 43 P.S. § 1312. In addition, the term "includes all criminal offenses as set forth in Federal law substantially the same as the crimes enumerated herein." *Id.*

SERS has determined that as a former Magisterial District Judge employed by the Administrative Office of Pennsylvania Courts and a member of SERS, you were a "public official or public employee" as that term is defined in Act 140, and the crime that you pled guilty to in violation of 18 U.S.C. §1951(a) was committed through your public office or position or your public employment placed you in a position to commit this crime.

Furthermore, under Section 2 of Act 140, the federal crime of "Hobbs Act Extortion under Color of Official Right" (18 U.S.C. §1951(a)) is a "crime related to public office or public employment" because it is a "criminal offense as set forth in Federal law [that is] substantially the same as" the Pennsylvania crimes of "Theft by Extortion" (18 Pa. C.S.

§3923) and "Bribery in Official and Political Matters" (18 Pa. C.S. §4701), which provide in pertinent part as follows:

**§ 3923. Theft by extortion.**

**(a) Offense defined.** — A person is guilty of theft if he intentionally obtains or withholds property of another by threatening to:

\* \* \*

**(4)** take or withhold action as an official, or cause an official to take or withhold action;

18 Pa. C.S. §3923(a)(4) (Emphasis added).

**§4701. Bribery in official and political matters.**

**(a) Offenses defined.** — A person is guilty of bribery, a felony of the third degree, if he offers, confers or agrees to confer upon another, or solicits, accepts or agrees to accept from another:

**(1)** any pecuniary benefit as consideration for the decision, opinion, recommendation, vote or other exercise of discretion as a public servant, party official or voter by the recipient;

**(2)** any benefit as consideration for the decision, vote, recommendation or other exercise of official discretion by the recipient in a judicial, administrative or legislative proceeding; or

**(3)** any benefit as consideration for a violation of a known legal duty as public servant or party official.

18 Pa. C.S. §4701(a) (Emphasis added).

According to our records, your effective date of membership in SERS was October 26, 2010 by virtue of your employment with the Administrative Office of Pennsylvania Courts. Your employment terminated close of business December 31, 2017 with 6.1444 years of credited service.

You executed an Application for Annuity on June 19, 2018 with an effective date of retirement of June 19, 2018, electing to receive your monthly retirement benefit under the provisions of Option 1, which produced a gross monthly retirement benefit of \$989.35 and electing to withdraw an amount equivalent to your total accumulated deductions under the provisions of Option 4.

After careful review of your record and the applicable law, SERS' legal counsel has concluded that your total State service prior to and as of your guilty plea date of January 18, 2019 is forfeited, pursuant to Act 140. Should you return to active state employment in the future, you are precluded from recertifying any of your previous state service (both credited and uncredited) prior to and as of the date of your guilty plea, since all state service that a member has credited and uncredited at the time of an employment-related guilty plea or criminal conviction is forfeited under Act 140.

The disbursement for February 2019 that was issued February 28, 2019 is the final payment that you will receive from SERS. No further benefits are payable from this account. As a

result of your guilty plea to a federal criminal offense entered on January 18, 2019 that is substantially the same as two criminal offenses enumerated under Act 140, SERS has overpaid you a total of \$1,418.07 in retirement benefits for the period January 18, 2019 through February 28, 2019.

In order to satisfy this overpayment, it will be necessary for you to remit a check or money order payable to the State Employees' Retirement System, in the amount of \$1,418.07, by June 15, 2019, along with the enclosed copy of this letter. If your overpayment is not received in SERS' offices by June 15, 2019, this matter may be turned over to the Office of Attorney General for collection.

You may appeal this forfeiture determination to the State Employees' Retirement Board. If you wish to file an administrative appeal to the State Employees' Retirement Board, it will issue a formal written decision based on the facts of your case and the applicable law. An appeal must be made in writing and received in the offices of the State Employees' Retirement Board within thirty (30) days from the date of this letter. If the Retirement Board does not receive your appeal letter within thirty (30) days, you will not have any further right to administratively appeal this determination.

Please address your appeal to:

STATE EMPLOYEES' RETIREMENT BOARD  
30 North Third Street, Suite 150  
Harrisburg, PA 17101-1716

**ATTENTION: Docket Coordinator**

The State Employees' Retirement Board adjudicates administrative appeals in accordance with the General Rules of Administrative Practice and Procedure found in Title 1, Pennsylvania Code, Chapters 31, 33, and 35. These rules require that your appeal letter must include the following:

1. Your exact legal name (please include your daytime and evening telephone numbers).
2. The name, title, and post office address of the person to whom correspondence or communications in regard to your appeal can be sent. (This may be you, your attorney, or some other person you designate.)
3. A description of your interests in the appeal (i.e., what you stand to gain or lose) and whether you are bringing the appeal on your own behalf as an individual or in a representative capacity (such as a guardian or executor).
4. A complete statement of the facts that are the basis of your appeal. (To the extent possible, each fact should be set out in a separate, numbered paragraph.)
5. A statement of the relief you are requesting. (In other words, a statement of what you want the Retirement Board to do.)
6. A complete statement of the law that supports your claim. (If your claim is based on particular statutes or cases decided by the courts, you should identify the statutes or cases by their legal citations and tell us how you believe the law supports your claim. For your information, the State Employees' Retirement Code can be found in Title 71, Pennsylvania Consolidated Statutes, Sections 5101 through 5956.)

Your appeal should be as complete and accurate as possible. You may attach to your appeal letter any documents that relate to your claim. If you attach documents, please label them as Exhibit 1, Exhibit 2, etc. Please keep in mind that the Retirement Board may decide your appeal solely on the basis of the factual and legal reasons stated in your appeal letter, without taking testimony or receiving additional evidence. The Retirement Board also may dismiss appeals that do not state a sufficient factual or legal basis to support the requested relief.

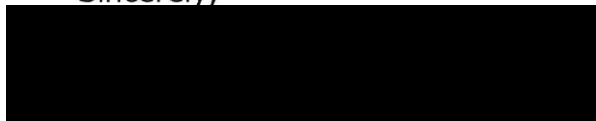
If necessary, the Retirement Board will schedule a hearing in Harrisburg before a Hearing Examiner. The Hearing Examiner will create a record and make a factual and legal recommendation to the Retirement Board.

The administrative appeal process is adversarial in nature. You will have the burden of producing sufficient facts and legal authority to convince the Retirement Board that the staff of the State Employees' Retirement System made an incorrect decision in your case. You have the right to be represented by a lawyer. If you have not done so already, we suggest that you consult with your lawyer before filing an appeal. Although you have the right to represent yourself in your appeal, you should be aware that a lawyer will represent the State Employees' Retirement System. If you make mistakes while representing yourself during your appeal, you may not have the opportunity to correct those errors at a later time.

If you have any questions concerning this notice, or if you need assistance in finding an attorney, we suggest that you contact:

Pennsylvania Lawyer Referral Service  
100 South Street, Box 186  
Harrisburg, PA 17108  
Telephone (717) 238-6715 or Toll Free (800) 692-7375

Sincerely,



Dana L. Shettel  
Administrative Officer  
Bureau of Benefit Administration

Enclosure

Certified mail - return receipt requested (and regular U.S. Mail)

cc: Administrative Office of Pennsylvania Courts