



STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL

ANDREW M. CUOMO
Attorney General

PUBLIC INTEGRITY BUREAU

March 18, 2010

BY FIRST-CLASS MAIL

[Executive Officer], [Title]
[Employer]
[Street Address]
[City], [State] [Zip]

Re: In the Matter of the Investigation by Andrew M. Cuomo, Attorney General of the State of New York, relating to Compensation Practices

Dear [Title] [Executive Officer]:

The New York State Common Retirement Fund (“CRF”), which funds the Employees’ Retirement System and the Police & Fire Retirement System, has assets of more than \$129 billion and covers more than 1 million members and retirees from more than 3,000 State and local government employers. The system is primarily funded by taxpayers.

For over three years and through a number of different investigations, the Office of the Attorney General of the State of New York has been actively reviewing the operations of public pension systems in New York. One ongoing investigation has revealed corruption of the investment process at the CRF by high-ranking officials, politically-connected middlemen, and investment managers. In a separate investigation, we uncovered abuses by independent contractors throughout the State who defrauded the pension system by holding themselves out as public employees entitled to pension benefits. As a permanent fix, we spearheaded legislative reform to curb pension fraud and reign in double-dipping. Yet another investigation explored abuses of federal disability benefits by Long Island Rail Road retirees.

Pension costs in New York State are growing at alarming rates. According to recent census data, New York State had an overall pension cost of \$486 per taxpayer in 2007, which was the highest in the nation. Taxpayers pay an estimated \$2.5 billion per year to the CRF, and benefit payments from the CRF have doubled in the last ten years. In line with these rising pension costs, starting in 2011, local and State employers will have to make significantly higher contributions to the CRF to fund our State pension system.

There is also a striking variance in levels of retirement benefits paid across the State. The average annual public pension payment in New York State is approximately \$25,000, but pensions paid to individual retirees top \$300,000 per year and some retirees end up receiving

more in pension than they received in salary before they retired.

Given the current economic climate and rising pension costs, curbing all types of pension abuse remains a top priority for this office. Accordingly, we now seek information to investigate a different burden on the pension system: the manipulation of salary and overtime payments to inflate the ultimate pension benefits paid to retirees, also called “pension padding” or “pension spiking.”

We have information that certain public employees boost their income, and consequently their pension benefits, by monopolizing overtime shifts and other pension-padding practices. This type of manipulation burdens the taxpayer twice – first, through unnecessarily high payroll costs for the public employer, and again, through artificially high pension payouts over the life of the retiree.

In connection with this investigation, at this time we are collecting information from certain state and local government entities that have some of the highest salary or pension payments in the State. To this end, we request that [Employer] (“[Employer Short Name]”) provide us with the following information by no later than April 1, 2010.

For each individual who retired from [Employer Short Name] in 2009, please provide the following information. If fewer than 10 individuals retired from [Employer Short Name] in 2009, then submit the following information for the last 10 individuals who retired from [Employer Short Name] prior to and including in 2009:

1. Name;
2. New York State Employees’ Retirement System number or Police & Fire Retirement System number;
3. Date of birth;
4. Start date of employment;
5. Date of retirement;
6. Job title at retirement; and
7. For each of the last 8 years prior to and including the year of retirement, the individual’s:
 - a. Annual salary;
 - b. Annual overtime pay; and
 - c. Annual overtime hours worked.

In addition, for each year for which data is submitted in response to seven (7) above, please also submit:

8. Average annual overtime pay for all overtime-eligible employees;
9. Average annual overtime hours worked by all overtime-eligible employees;
10. Average annual salary for all overtime-eligible employees; and
11. Average annual salary for all employees.

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Please provide this information to our office in Microsoft Excel spreadsheets in conformance with those included on the enclosed CD. On the CD, you will find an Excel Workbook containing two spreadsheets, denoted by separate tabs at the bottom. The first spreadsheet, entitled "Individuals," requires information responsive to requests one (1) through seven (7). The second spreadsheet, entitled "Averages," requires information responsive to our requests eight (8) through eleven (11). After exporting your data into conforming spreadsheets, please send the spreadsheets to us in electronic form by overnight mail to my attention at the Office of the Attorney General, 120 Broadway, New York, NY 10271. Please identify with your submission a person at [Employer Short Name] who we may contact in the event we need further information. If you have any questions, including if you require technical assistance, please contact our office at (212) 416-8090 and reference this letter. Thank you in advance for your cooperation.

Very truly yours,



Ellen Nachtigall Biben
Special Deputy Attorney General for Public Integrity

Enclosure