

U.S. Department of the Treasury
Office of D.C. Pensions
Attn: Employee Relations Team
1500 Pennsylvania, Avenue, NW
Washington, D.C. 20220

Notice of Appeal of
(Insert name, address, DOB and SSN)
Denial of Request for Reconsideration of Benefit Change

Dear Employee Relations Team:

I am in receipt of your denial of my request for reconsideration of the decision of the ODCP to adjust my benefits. A copy of the letter is attached.

The decision to deny reconsideration or to waive or compromise the adjustment is in violation of 31 CFR Section 29.521 (b)(1) and (2) expressly authorize waiver of an overpayment if it is established by substantial evidence that the individual from whom recovery is sought (1) is not at fault for causing or contributing to the overpayment), and (2) recovery would be against equity and good conscience.

I predicated my retirement on the basis of the retirement estimate provided to me. My decision to retire was irrevocable. Any error in the calculation of my benefits or in the interpretation of the applicable law is the error committed jointly by the Governments of the United States and the District of Columbia (DC). To the extent any overpayment has been made to me, recompense should be sought solely from the DC government which has acknowledged its errors and liability in this matter. The DC government's public acknowledgment of its error is a matter of public record and well known to the United States. Even a prospective loss of retirement benefits will cause a devastating hardship to me and my family. Had the correct calculations been provided and the United States and the DC Government not been negligent in the pre-retirement information provided, I would have had the opportunity to make a knowing choice concerning my retirement options.

This is not a double payment such as occurred in *Grabis v. OPM*, 424 F.3d 1265 (Fed. Cir. 2005); *Friedman v. OPM*, 153 Fed. Appx. 719 (Fed Cir. 2005); or *Prasch v. OPM*, 499 Fed. Appx. 968(Fed. Cir. 2013). This is akin to the result in *Cartledge v. OPM*, 2009 WL 89674 (Fed. Cir. 2009) in which detrimental reliance played a significant role in the finding that equity and good conscience would be violated by requiring

{00060000.DOC;1}

repayment. Like *Cartledge*, I relied on the representations of government which I may presume are lawful.

31 CFR Section 29.523 defines a violation of equity and good conscience when; (1) recovery would cause financial hardship, and (2) the member from whom recovery is sought, regardless of financial condition, has changed his position for the worse or has relinquished a valuable right. As explained above, both circumstances are present.

Enclosed with this letter are various documents presented with my request for reconsideration showing the errors committed were no fault of my own and entirely those of the United States and the DC Government (describe enclosed documents)

For the foregoing reasons, the decision of the ODCP should be reversed on the grounds of equity and good conscience.

Sincerely,

(NAME)