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**RE: NOTICE OF PROPOSED SETTLEMENT OF CLASS CLAIMS
FOR IMPROPER DEDUCTION OF INTEREST WHEN RECOUPING
OVERPAYMENT OF PENSION PAYMENTS FOR USING 27 WEEK PAY
PERIODS IN THE CASE OF RON RUTHERFORD ET AL V CITY OF FLINT
ET AL CASE NO. 03-76113-NZ**

This notice is intended to inform members of a class of City of Flint Retirees and their beneficiaries of a tentative settlement agreement under which the City of Flint agrees to stop deductions from their pension, and in some cases repay interest improperly deducted from their pension.

BACKGROUND OF THIS CASE

This applies to Plaintiff members of a certified class of City of Flint Retirees whose retirement benefits were determined by a formula using a component known as final average compensation (hereafter referred to as 'FAC') using 27 pay period years. After you retired an Emergency Financial Manager appointed to act on behalf of the City of Flint issued an order requiring the recalculation of your pension benefit using an FAC formula based upon 26 pay period years rather than 27 pay period years. This order resulted in a reduction in your monthly pension payment. The same Order required a reduction in your future pension checks to recoup, with interest, the amount the Emergency Financial Manager claimed was overpaid. Under the Emergency Financial Manager's Order the City began reducing your monthly pension payments on or after February 1, 2003. The monthly reduction included an actuarial calculation based on your life expectancy, using an interest factor of 6% per annum compounded annually.

On April 17, 2003, Flint City retiree Ron Rutherford and others, with the assistance of the United Retired Governmental Employees (URGE), brought a suit against the Emergency Financial Manager and the City of Flint to try to overturn the Emergency Financial Manager's order. The Court ordered this lawsuit to be certified as a class action. A class action is a lawsuit that is brought by named Plaintiffs on behalf of themselves and similarly situated persons. The Order defined the class as "All former employees of the City of Flint who have retired under the City of Flint employees' retirement system and, with respect to the formula for determining the retirees' pension benefit amount, whose final average compensation (FAC) was calculated using

at least one (1) self selected 27 pay period year and who have had their pensions recalculated as a result of directive 35 issued by Emergency Financial Manager Edward Kurtz.” You should receive a letter notifying you of you of this settlement if you have been identified as a member of this class of persons represented in the lawsuit.

The Plaintiffs’ lawsuit challenged the Emergency Financial Manger’s order by claiming it was illegal for the City to reduce their pensions. The Plaintiffs also claimed it was illegal to require them to repay overpayments with interest.

The Plaintiffs were not successful in convincing the court the Emergency Financial Manager improperly lowered the Plaintiffs pension benefits and required them to repay the overpayments due to the use of 27 pay periods and the Court issued an order dismissing those claims.

The Plaintiffs were successful in challenging the collection of interest by the City of Flint when recouping overpayments and secured a Court Order forbidding the City from collecting interest when recouping the overpayment from Plaintiffs pensions. Under the terms of the Court’s Order forbidding the collection of interest the City should have timely stopped deducting overpayments after the principal amount of the overpayment was repaid. However, the City did not stop deducting overpayments from many of the Plaintiffs’ pensions after the principal amount of their overpayment was repaid.

Some of the Plaintiff class members notified URGE in 2017 that the deductions were not stopped when they should have been and, at the direction of URGE, Plaintiffs’ Attorneys filed a petition in June of 2017 to reopen this case and enforce the Court Order forbidding interest recoupment and to seek a refund of interest collected. The City of Flint filed an answer opposing Plaintiff’s petition and a hearing was scheduled before the Court to address the issues. However, before the hearing the parties met and reached a proposed tentative settlement agreement.

TENTATIVE SETTLEMENT OF CLAIMS OF IMPERMISSIBLE RECOUPMENT OF INTEREST FROM CLASS MEMBERS

We are pleased to inform class members that a tentative settlement of the claim that the City of Flint improperly collected interest from their overpayments has been reached with the City. Under the terms of the tentative agreement the City of Flint has agreed to the following:

Retiree members of the class shall be divided into five categories:

1. Retirees who completely repaid the principal amount of overpayments required by the Emergency Financial Manager’s Order and had improper additional amounts deducted from their pensions
2. Retirees whose pensions were determined in 2003 to have been underpaid in their pension, had their pension adjusted to repay the amount underpaid but were thereafter over paid.

3. Spouses of deceased retirees whose survivor's benefit payments were not reduced to repay overpayments after the death of their retiree spouse.
4. Retirees who did not receive overpayments.
5. Retirees who died before their overpayment obligations were completely deducted from their pensions.

The proposed settlement provides different terms for retirees in each category above. These terms are as follows:

Category 1 retirees:

Effective November 2017 the City stopped collecting payments from retiree class Members in category 1 above who repaid the amount the overpayments required by the Emergency Financial Managers Order. The City also readjusted the pensions of these retirees upward to prevent future deductions. The City will reimburse retirees in category 1 above who repaid the amount the overpayments required by the Emergency Financial Managers Order with one lump sum payment distributed along with their monthly pension payments.

Category 2 and 3 retirees:

The City will continue to collect payments from retirees who have not yet completely repaid the amounts due under the Emergency Financial Manager's Order. When collection terminates for each retiree shall be set forth in the notice sent to retirees based on the information in the settlement agreement.

Category 4 retirees

This settlement will not disturb the pension payments to retirees who did not receive pension overpayments and had no deductions taken from their pensions.

Category 5 retirees

The City shall have the right to seek recovery of unpaid overpayment obligations of deceased retirees through other legally permissible means.

HOW THIS PROPOSED SETTLEMENT WILL EFFECT EACH MEMBER OF THE CLASS OF PLAINTIFFS:

EACH MEMBER OF THE CLASS WILL BE IDENTIFIED AS A RETIREE FALLING INTO CATEGORY 1, 2, 3, 4, OR 5 ABOVE AND RECEIVE A CERTIFIED LETTER WITH THE FOLLOWING NOTICE DEPENDING ON THEIR CATEGORY:

1. **THEY ARE RECEIVING A REFUND AND THE NOTICE WILL SPECIFY THE AMOUNT OF THE REFUND, OR**
2. **THEY ARE NOT RECEIVING A REFUND OR MAY BE SUBJECT TO FURTHER DEDUCTIONS BECAUSE THEY HAVE NOT REPAID AN OVERPAYMENT, OR**
3. **THEIR PENSION PAYMENTS WILL NOT BE AFFECTED BECAUSE NO OVERPAYMENT DEDUCTIONS WERE TAKEN, OR**
4. **IN CASES WHERE THE RETIREE IS NOW DECEASED THE SURVIVORS OF THE RETIREE WILL BE NOTIFIED THAT THEY WILL RECEIVE THE REFUND, OR, WHERE REPAYMENT HAS NOT YET BEEN COMPLETED, THE SURVIVOR WILL BE NOTIFIED THE CITY MAY SEEK TO COLLECT AGAINST THE RETIREE'S ESTATE.**

This proposed settlement will not be final or binding unless the presiding Judge, the Honorable Richard Yuille, approves it. **A CLASS MEMBER HAS A RIGHT TO OPT OUT OF THIS SETTLEMENT OR OBJECT TO THE SETTLEMENT. IF THEY OPT OUT OF THIS SETTLEMENT THEY WILL NOT RECEIVE ANY SETTLEMENT PROCEEDS AND WILL BE REQUIRED TO PURSUE ANY CLAIM THEY HAVE IN FRONT OF MERS.** If you do not agree with this settlement and would like to object to the settlement and /or you would like to opt out of this settlement you have a right to make your objection known and/or your desire to opt out to Judge Yuille in the following manner:

1. **OBJECTION OR OPTING OUT IN WRITING.** A class member can object or opt out in writing to this settlement by **delivering notice of and reasons for your objection or intent to opt out to the Clerk of the Genesee County, Michigan, Circuit Court, 900 S. Saginaw St., Flint, MI 48502, referencing Rutherford v City of Flint Case No. 03-76113-NZ with a copy mailed to Gregory T. Gibbs Attorney, Law Office of Gregory T. Gibbs, 717 S. Grand Traverse St., Flint, MI 48502 in a manner assuring delivery receipt no later than March 29, 2018. If you mail your objection in writing your written objection must be postmarked no later than March 24, 2018.** The Law Office of Gregory T. Gibbs shall deliver copies of all objections it receives to the Defendants Attorney by email or facsimile.

2. **OBJECTION OR OPTING OUT AT A HEARING.** You can object or opt out of this settlement in person or through a legal representative at a hearing before the Judge. The hearing will be held in the court room of the Honorable Richard Yuille, at 900 S. Saginaw St. Flint, Michigan 48502 on April 5, 2018 at 2:00 p.m.

A COPY OF THE SETTLEMENT AGREEMENT WILL BE INCLUDED IN THE LETTERS BEING SENT TO MEMBERS OF THE SETTLEMENT CLASS WITH INFORMATION AS TO THE TREATMENT OF THAT RETIREE SHOWN. A PERSON WHO IS OR BELIEVES THEY ARE A MEMBER OF THE CLASS OF RETIREES INCLUDED IN THE SETTLEMENT MAY ALSO REQUEST A COPY OF THE SETTLEMENT

AGREEMENT WITH INFORMATION AS TO THE TREATMENT OF THAT PERSON, IN WRITING FROM GREGORY T. GIBBS AT THE ADDRESS ABOVE