



PARADISE IRRIGATION DISTRICT

TO: Board of Directors

FROM: Kevin Phillips

DATE: 2/14/2018

**RE: Retirement Plan Auditor
02/21/2018 Board of Directors Meeting**

The District was notified that our current retirement plan provider (FTJ) was over charging participant fees. The error was made from August 2013 through October 2016. FTJ agreed that they had overcharged fees and went through calculations to refund each participant their fees and the gains associated with those fees. During the December 2016 Board meeting, the employees asked the Board to change retirement plan providers and to have an independent audit of the fee correction. The Board agreed to accomplish both tasks. The Finance Committee met with employee representatives to work through the Retirement Plan RFP and to get an understanding of the scope of work that was being requested for the audit of the retirement plan.

I met with the employee committee on September 18th to discuss the retirement plan audit scope of work. The committee created a scope of work (see attached) that was presented to request a proposal from a qualified CPA firm to complete the work.

On November 3, 2017, the District engaged the CPA Firm of Turner, Warren, Hwang & Conrad (TWHC) to audit the fee correction calculation. On January 22, 2018 the auditor issued his independent report of the plan documents and fee correction calculations (see attached). The report had reported one finding. The plan documents for the 401(a) states that the district will match 3% of the employee's contribution into their 457. The document should state that the District will match 100% of the employee's contribution into their 457 up to 3%. This is the only finding that the auditor found with the fee correction or the retirement plan documents.

The recommended form of motion would be:

"I move to accept the Independent Accountant's Report prepared by TWHC regarding Paradise Irrigation District's 401(a) and 457 employee benefit plans on vendor fee overcharges during the period from August 2013 to November 2016."

Retirement Account Audit

Selection of Auditor: The CPA firm selected to perform the audit shall be a firm whose business specializes in the field of auditing retirement accounts.

The audit of the retirement fund shall include the following:

1. Perform an examination of the contract(s) entered into by PID and FTJ et. al. to ascertain all agreed upon fees that were to be charged to the participants.
2. Perform a thorough examination of each participant's accounts to ascertain whether or not the fees charged agree with the results of item #1.
3. Perform an audit of all fees credited back to participants and verify that they match what they should have been.
4. Perform an audit of the methodology FTJ used to calculate the earnings that the excess fees would have made if they had not been removed from participant accounts. Was the methodology used by FTJ an accepted industry standard and was that methodology correctly and consistently applied?
5. If the methodology was correct were the calculations and numbers used in the calculations correct? Perform checks of all accounts to verify.
6. If the methodology was not correct, what should it have been? Auditor shall perform the calculations using the appropriate methodology.
7. Did FTJ's handling of the entire situation meet industry standards? Please explain your response to this question.

In order to squelch employees concerns:

1. Perform an audit of George Barber's account. Was his account charged the same fees and treated the same as any other employees account (did all employees receive the same services that were made available to him)? Disclose the results of this audit with regards to fee structure charged and services received.

Sample Size: Due to the many differences in employees accounts and the fact that we received different credits, and some participants received a different number of fee credits than others, all the accounts administered by FTJ (both past and present) should go through the complete audit.



Paradise Irrigation District

**INDEPENDENT ACCOUNTANT'S REPORT ON
APPLYING AGREED-UPON PROCEDURES**

BENEFIT PLAN INVESTMENT FEES

AUGUST 2013 – NOVEMBER 2016

TABLE OF CONTENTS

	Page
Independent Accountant's Report on Applying Agreed-Upon Procedures	1
Findings on Applying Agreed-Upon Procedures	2
Appendix – Testing Scope	4



TURNER, WARREN, HWANG & CONRAD AC
Certified Public Accountants & Consultants

**INDEPENDENT ACCOUNTANT'S REPORT ON
APPLYING AGREED-UPON PROCEDURES**

Paradise Irrigation District
Paradise, California

We have performed the procedures enumerated in the accompanying Appendix as agreed upon by management of Paradise Irrigation District (PID) in our engagement letter dated November 3, 2017 as amended regarding the corrective actions taken to ensure proper recoveries to participant accounts in PID's 401(a) and 457 employee benefit plans (the plans) on vendor fee overcharges during the period from August 2013 to November 2016 for advising on plan compliance and to report on matters found. The sufficiency of these procedures is solely the responsibility of PID. Consequently, we make no representation regarding the sufficiency of the procedures described in our report, either for the purpose for which this report has been requested or for any other purpose.

Our findings are provided in the Findings on Applying Agreed-Upon Procedures section of this report.

This agreed-upon procedures engagement was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants. We were not engaged to, and did not, conduct an examination or review, the objective of which would be the expression of an opinion or conclusion, respectively, on the subject matter. Accordingly, we do not express such an opinion. Had we performed additional procedures, other matters might have come to our attention that would have been reported to you.

This report is intended solely for the information and use of the Paradise Irrigation District and is not intended to be, and should not be, used by anyone other than these specified parties.

Sincerely,

Turner, Warren, Hwang + Conrad

Burbank, California
January 22, 2018

PARADISE IRRIGATION DISTRICT BENEFIT PLAN FEES
FINDINGS ON APPLYING AGREED-UPON PROCEDURES
AUGUST 2013 – NOVEMBER 2016

To perform our procedures we gained an understanding of the plans and the fee correction executed by vendor FTJ FundChoice, LLC (FTJ). At the proposal stage of our engagement, we were concerned with the extent of the fee overcharges (number of participants and length of time). To reduce regulatory risk for the 401(a) plan subject to the Employee Retirement Income Security Act (ERISA), rather than self-correction, we initially proposed correcting the matter for the 401(a) plan under the Department of Labor Voluntary Fiduciary Correction Program (VFCP). As further described in our report, after determining FTJ's self-correction as acceptable and regulatory risk as remote, we recommended that our procedures be adjusted to accept self-correction for the 401(a) plan and amended our engagement with PID.

The agreed-upon procedures performed and our findings were as follows:

1. We obtained and reviewed plan documents for terms relevant to this engagement (401(a) and 457 plans, the 401(a) plan being subject to ERISA).

Finding:

- In the Paradise Irrigation District Retirement Plan Adoption Agreement (Eligible 457 Prototype Plan), Section 3.03 Matching Contributions, (a) Fixed Formula: "An amount equal to 3% of each Participant's Salary Reduction contribution is contributed to the 401(a) Plan" should read 100% (as limited to 3% of compensation by Section 3.03(i)).
2. We performed an examination of contracts entered into by PID and inquired of investment services vendors (FTJ et. al.) to determine whether fees charged exceed agreed-upon fees properly chargeable to plan participants.

From our inquiries of FTJ and retirement planner, Rick Mootz, and document review, we determined that participant charges consist of FTJ's administrative fee of 0.30%, an advisor fee of 0.45%, and optionally, an asset strategist fee of 0.50%.

Finding: No overcharge exceptions were noted after FTJ's correction of an extra 0.30% advisor fee charged to most participants, a 0.10% optional asset strategist fee, and minor other charges as further described at Procedure 3.

3. For the period from August 2013 through November 2016, we performed a thorough examination of each participant's account in each plan (53 to 55 participants and former participants, including forfeiture accounts) to determine whether or not fees charged agree with or are not in excess of fee terms per vendor contract(s). As part of this step, we performed the following:
 - Review and adjust vendor calculations of overpayments and interest based on the government underpayment interest rate properly compounded and/or lost earnings as appropriate to the agreed-upon correction methods above.
 - Perform an audit of all fees and interest and/or lost earnings credited back to participants and determine any errors.
 - Review and report on the fee charges and disclosed services in the account of George Barber to determine if different from other participants.
 - Adequately report on above to provide participant confidence in correction of the matter.

We determined that FTJ's self-correction method was generally conservative and adequately compensated participants. Overcharged fees were found to be carefully traced, calculated and reimbursed by FTJ with a calculation for lost earnings. Lost earnings were calculated utilizing time weighted returns (TWR) for the investments, which for most participants were found to have been calculated at higher reimbursements than the participant's internal rate of return (IRR) on December 2016 statements, which adjusts for deposits and withdrawals. Any TWR calculations that were less than IRR calculations were found to be *de minimis*, usually less than \$10.

PARADISE IRRIGATION DISTRICT BENEFIT PLAN FEES
FINDINGS ON APPLYING AGREED-UPON PROCEDURES
AUGUST 2013 – NOVEMBER 2016

For any accounts where investments earned less than the IRS underpayment rate, which is required to be used for ERISA plans that self-correct as a minimum, we noted that the IRS underpayment interest method only had *de minimis* differences to the FTJ's lost earnings calculations, usually less than \$10.

Reference for the IRS *de minimis* amount is Revenue Procedure 2013-12 excerpt: "If the total corrective distribution due a participant or beneficiary is \$75 or less, the Plan Sponsor is not required to make the corrective distribution if the reasonable direct costs of processing and delivering the distribution to the participant or beneficiary would exceed the amount of the distribution."

We reviewed George Barber's account in detail and determined that fee charges and services were the same as other participants.

We also noted that FTJ has a formula error that charged an extra fee day in the 2016 leap year. FTJ advised this was corrected and participants received a fee correction. We also noted that FTJ's average daily balance method correctly calculated fees for the partial month of August 2013 (for starting date of August 7, 2013).

Finding: No exceptions were noted in excess of *de minimis* amounts per IRS standards noted above.

4. We evaluated that FTJ's self-correction method is adequate and no adjustment needs to be made to it.

Finding: No exceptions were noted in excess of *de minimis* amounts.

5. For the ERISA plan, FTJ's self-correction method was evaluated as sufficiently compliant and regulatory risk evaluated as reasonably minimized. We thus advise PID that we recommend not pursuing correction through the Department of Labor Voluntary Fiduciary Correction Program (VFCP). We believe the overpayments do not constitute prohibited transactions requiring preparation of Internal Revenue Service (IRS) Form 5330, Return of Excise Taxes Related to Employee Benefit Plans, for compliance with IRS Section 4975 Tax on Prohibited Transactions.

To support this, we refer to the State Street Bank and Trust (the Bank) case of overbilling asset servicing clients, including ERISA funds involvement, from 1998 to 2015 and reported on by the Bank in 2017 and that involved extensive outside professional help, including ERISA counsel involvement, and interaction with regulators to resolve. In this case, the Bank evaluated that their overbillings were in error and were believed not to be prohibited transactions.

Regarding any need for PID and FTJ to implement any system changes in response to the overcharges, the error has been observed as a one-time event regarding fees understanding at contract inception with FTJ, which has now been corrected.

On the remote chance that the overcharges would be evaluated as prohibited transactions, FTJ should be the primary fiduciary responsible. PID could request of FTJ a commitment to pay any excise tax on this matter if any are assessed.

PARADISE IRRIGATION DISTRICT BENEFIT PLAN FEES

APPENDIX – TESTING SCOPE

JULY 2013 – NOVEMBER 2016

The areas of coverage on this project were as follows:

- Obtain and study plan documents and FTJ servicing contracts.
- Extensive work understanding the overpayment correction calculations and factors and testing and recalculating these. Reconciliation of overpayment schedules. Analysis of refunds and lost earning credits, including completeness of FTJ correction schedules. Calculation of lost interest for participants earning less than the IRS underpayment rate. Comparison of TWB %s to IRR %s for each participant. Tracing overcharge credits to statements and FTJ credits paid schedule for completeness.
- Inquiries of the FTJ Compliance Officer, James Hadaway, who prepared the corrections and of Richard Mootz, retirement planning advisor to the plans.
- Extensive plan correction research and research of similar overcharge cases, notably, the Bank case noted in this report.

◆•◆•◆