

**COMMONWEALTH OF MASSACHUSETTS  
CONTRIBUTORY RETIREMENT APPEAL BOARD**

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**MICHAEL DALEY,  
Petitioner-Appellant**

**v.**

**PLYMOUTH RETIREMENT BOARD,  
Respondent-Appellant.**

**CR-17-018 and CR-17-169**

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**ORDER DENYING MOTION FOR RECONSIDERATION**

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Petitioner Michael Daley has moved pursuant to 801 C.M.R. 1.01(7)(l) for reconsideration of our reissued decision dated May 28, 2025. That section provides:

*Motion for Reconsideration.* After a decision has been rendered and before the expiration of the time for filing a request for review or appeal, a Party may move for reconsideration. The motion must identify a clerical or mechanical error in the decision or a significant factor the Agency or the Presiding Officer may have overlooked in deciding the case. A motion for reconsideration shall be deemed a motion for rehearing in accordance with M.G.L. c. 30A, § 14(1) for the purposes of tolling the time for appeal.

Mr. Daley contends that the Contributory Retirement Appeal Board (CRAB) should remand these matters back to the Division of Administrative Law Appeals (DALA) for further fact finding, rather than the retirement board. He argues that the only circumstance where CRAB may remand a matter back to a retirement board is to convene a medical panel to examine an applicant for accidental disability retirement. He further states that CRAB's decision to remand to the Plymouth Retirement Board (PRB) to calculate the amount of his earnings amounts to "clear bias and an arbitrary and capricious bent regard to [him]."<sup>1</sup> Consequently, Mr. Daley believes that to correct this "unreasonable attitude and approach" that CRAB must reconsider its decision.

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<sup>1</sup> Petitioner's Motion for Reconsideration \*1.

We conclude that Mr. Daley's motion does not identify a clerical or mechanical error. We further conclude that the motion does not present "a significant factor" that was previously overlooked. The issues involved in these appeals were (1) whether res judicata applied; (2) whether G.L. c.32, § 91(b) applies to consultants and independent contractors who retired before 2009; and (3) the appropriate method for calculating and estimating Mr. Daley's excess earnings. In our reissued decision, CRAB held as follows:

We affirm the DALA Chief Magistrate's decision for the reasons stated in the Discussion. We do not agree with Mr. Daley's contentions that this matter has already been resolved in court, that G.L. c.32, § 91(b) does not apply to consultants and independent contractors who retired before 2009, and that the estimation of his earnings from 2007-10 constitutes an inappropriate additional sanction. We also do not agree with PRB's contentions that Mr. Daley's excess earnings should be calculated based on his company's gross receipts or based on an alternative formula and that, independent of our other conclusions, we should sanction Mr. Daley by calculating his excess earnings using FAA's gross receipts from 2007-10 as a punishment for having destroyed his records for this period.

Thus, CRAB concluded that res judicata did not apply and upheld the magistrate's decision that § 91(b) applies to consultants and independent contractors who retired before 2009 and that the estimation of Mr. Daley's earnings from 2007-10 was not an inappropriate additional sanction. CRAB also concluded that the method of calculating and estimating Mr. Daley's excess earnings discussed in the DALA decision to be reasonable based on the evidence in the record. CRAB remanded the matter to the PRB to calculate Mr. Daley's excess earnings based on that calculation method. Since it was not clear from the record whether the PRB paid Mr. Daley's pension for the periods in question, CRAB directed the PRB to account for this in implementing CRAB's decision. This does not require additional fact finding by the magistrate.

Accordingly, as CRAB has already considered the issues on appeal and that the motion does not present "a significant factor" that was previously overlooked in our May 28, 2025 reissued decision, the motion for reconsideration is denied.

SO ORDERED.

CONTRIBUTORY RETIREMENT APPEAL BOARD

*Uyen M. Tran*

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Uyen M. Tran  
Assistant Attorney General  
Chair  
Attorney General's Appointee

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Date: June 16, 2025