

**COMMONWEALTH OF MASSACHUSETTS**

**Middlesex, ss.**

**Division of Administrative Law Appeals**

**Wakefield Retirement Board,**  
Petitioner,

No. CR-22-573

Dated: October 20, 2023

v.

**Massachusetts Teachers' Retirement  
System,**  
Respondent.

**Appearance for Petitioner:**  
Michael Sacco, Esq.

**Appearance for Respondent:**  
James O'Leary, Esq.

**Administrative Magistrate:**  
Yakov Malkiel

**SUMMARY OF DECISION**

The petitioner retirement system paid the respondent retirement system approximately twenty years' worth of proportional reimbursement under G.L. c. 32, § 3(8)(c). The petitioner system later requested a partial refund, asserting that much of its payment had been time-barred. In an appealable decision, the respondent system declined to issue a refund. That decision was not erroneous, because statutes of limitations do not destroy substantive rights. It was perfectly appropriate for the petitioner system to pay its entire substantive debt and for the respondent system to retain that payment.

**DECISION**

The Wakefield Retirement Board (Wakefield) appeals from a decision of the Massachusetts Teachers' Retirement System (MTRS) declining to issue a partial refund of sums that Wakefield paid to MTRS as proportional reimbursement under G.L. c. 32, § 3(8)(c). The appeal was submitted on the papers. I admit into evidence exhibits marked 1-8.

**Findings of Fact**

I find the following facts.

1. Two pertinent individuals who retired as MTRS members were Wakefield members earlier in their careers. Their retirements took effect in 1998 and 2001, respectively. (Exhibits 1, 3-4.)

2. At some point, MTRS asked PERAC to calculate Wakefield's proportional responsibility for the two members' pensions under G.L. c. 32, § 3(8)(c). PERAC issued its calculations in September 2018. (Exhibits 3-4.)

3. MTRS then invoiced Wakefield for Wakefield's shares of the two pensions from the members' retirement dates through 2018. Wakefield obtained a recalculation from PERAC as to one retiree. It then paid its resulting balance (as to both retirees) in full. (Exhibits 5-7.)

4. In April 2022, Wakefield asked MTRS for a partial refund of its payment. Wakefield maintained that, under the applicable statute of limitations, MTRS had been entitled to only six years' worth of payments. *See MTRS v. Blue Hills Reg'l Sch. Ret. Bd.*, No. CR-19-226, 2022 WL 16921463 (DALA Jan. 14, 2022). MTRS declined to issue a refund, reciting Wakefield's appellate rights in its decision. Wakefield timely appealed. (Exhibits 1-2, 8.)

### Analysis

The retirement system from which an employee retires is responsible for disbursing his or her retirement allowance. However, the retirement law arranges for the employee's previous retirement systems—if there were any—to bear their shares of the allowance's financial burden. The previous systems are therefore required to make proportional reimbursement payments to the pension-paying system. The amount of these payments is “computed by the actuary,” namely PERAC, upon request. G.L. c. 32, § 3(8)(c). *See Haverhill Ret. Sys. v. Contributory Ret. Appeal Bd.*, 82 Mass. App. Ct. 129, 132-33 (2012).

The governing statute directs a system seeking proportional reimbursement to issue invoices every fiscal year. § 3(8)(c); *Lynn Ret. Syst. v. MTRS*, No. CR-10-134 (CRAB Mar. 28,

2014), *aff'd*, 32 Mass. L. Rptr. 501 (Suffolk Super. 2015). A system that has not received its due share of reimbursement “may maintain an action of contract to recover the same.” § 3(8)(c).<sup>1</sup> Systems’ decisions as to the amounts of reimbursement that they are willing to pay also may be challenged through appeals under G.L. c. 32, § 16(4). *Lynn, supra*.

The retirement law is silent about whether claims under § 3(8)(c) are governed by any statute of limitations. Under *Suburban Home Health Care, Inc. v. Executive Off. of Health & Hum. Servs.*, 488 Mass. 347 (2021), the result of that legislative silence is that *some* statute of limitations applies. *Blue Hills, supra*, identified the applicable statute as G.L. c. 260, § 2, which imposes a six-year limitation on “actions of contract.” *See* 2022 WL 16921463, at \*7. Applying that statute to the § 3(8)(c) context, *Blue Hills* concluded that “a system possesses an enforceable right to proportional reimbursement as to the six fiscal years of pension payments immediately preceding its calculation request to PERAC.” *Id.* at \*9 (citing cases).

“[T]he running of the applicable limitations period bars only the legal remedy, while leaving the underlying cause of action unaffected.” *City of Bos. v. Keene Corp.*, 406 Mass. 301, 312-13 (1989). *See Decota v. Town of Stoughton*, 23 Mass. App. Ct. 618, 620 (1987). Accordingly, a statute-of-limitations defense may be relinquished or forfeited. *Coastal Oil New England, Inc. v. Citizens Fuels Corp.*, 38 Mass. App. Ct. 26, 29 n.3 (1995); *Alpert v. Radner*, 293 Mass. 109, 111-12 (1936). It may be waived even through partial payment of the time-barred debt. *Mulligan v. Hilton*, 305 Mass. 5, 10-11 (1940); *Zelby Holdings, Inc. v. Videogenix, Inc.*, 92

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<sup>1</sup> This provision is fatal to MTRS’s theory, here and elsewhere, that disputes over § 3(8)(c) reimbursement are immune to the principles that ordinarily govern situations that the law views as agreement-based. *See Blue Hills*, 2022 WL 16921463, at \*7.

Mass. App. Ct. 86, 88 (2017); *Lumbermens Mut. Cas. Co. v. Y.C.N. Transp. Co.*, 46 Mass. App. Ct. 209, 214-15 (1999).

By extension, once a debtor has paid a time-barred debt, he or she is not entitled to restitution. The American Law Institute offers an apt illustration:

A owes B . . . but (unknown to either party) the debt is no longer enforceable because the statute of limitations has run. A pays B, then learns that his payment could not have been legally compelled. . . . B is not unjustly enriched by A's payment of a valid but unenforceable debt.

Restatement (Third) of Restitution and Unjust Enrichment § 62 ill.1 (2011). *See In re S. Shore Co-Operative Ass'n*, 103 F.2d 336, 338 (2d Cir. 1939); *Northrop's Ex'rs v. Graves*, 19 Conn. 548, 554 (1849); *Span v. Maricopa Cty. Treasurer*, 437 P.3d 881, 886-87 (Ariz. Ct. App. 2019).

Wakefield overlooks these nuances of limitations law. As a matter of substantive right, MTRS was entitled to proportional reimbursement as to every year of its payments to the pertinent retirees. The statute of limitations restricted the number of years as to which MTRS could have enforced its entitlement in legal proceedings. But it was perfectly appropriate for Wakefield to honor its substantive obligations by paying the full outstanding amount. Even if, subjectively speaking, Wakefield's payment resulted from a misapprehension, Wakefield possesses no legal right to unwind that transaction. *See* Restatement (Third) of Restitution and Unjust Enrichment, *supra*, § 62 ill.1. *See also* Annotation, 53 A.L.R. 949 (2023); Restatement (First) of Restitution § 45 (1937).

For similar reasons, no "error" warrants correction under G.L. c. 32, § 20(5)(c)(2). It is not necessary to determine whether, as a general matter, § 20(5)(c)(2) is an appropriate vehicle for resolving disagreements over § 3(8)(c) reimbursement. *See generally Sullivan v. Brockton Ret. Bd.*, No. Cr-19-623, 2023 WL 4052393, at \*6 (DALA June 9, 2023). It is sufficient to observe that there was nothing legally or factually incorrect about either MTRS's invoice for the

total amount substantively due, or Wakefield's remittance of payment in full, or MTRS's resulting records and balance sheet. Those items and events all reflect a valid debt being repaid appropriately.<sup>2</sup>

### Conclusion and Order

MTRS's decision dated May 13, 2021 is AFFIRMED.

Division of Administrative Law Appeals

/s/ Yakov Malkiel

Yakov Malkiel

Administrative Magistrate

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<sup>2</sup> As described *supra*, Wakefield asked MTRS only for a partial refund of its original payment. On appeal, Wakefield goes further, advocating for an order that requires a *total* refund. In support of this request, Wakefield observes that hearings before DALA are "de novo." For the reasons explained in the main text, Wakefield is not entitled to any refund, whether partial or total. But Wakefield also misunderstands the nature of DALA's proceedings. They are de novo in the sense that they grant no deference to the respondent agency's findings and cure any of the respondent agency's procedural missteps. See *Dunn v. Contributory Ret. Appeal Bd.*, 46 Mass. App. Ct. 359, 363 (1999); *Namay v. Contributory Ret. Appeal Bd.*, 19 Mass. App. Ct. 456, 461-62 (1985); *Masiello v. Contributory Ret. Appeal Bd.*, 360 Mass. 856, 856 (1971). But in terms of scope, proceedings before DALA are limited to the claims that the petitioner has presented to the respondent, the respondent has denied (or failed to act on), and the petitioner has timely appealed. See G.L. c. 32, § 16(4); *Zajac v. State Bd. of Ret.*, No. CR-12-444, at \*4-5 (CRAB Aug. 21, 2015), *aff'd*, No. 1579-00660 (Hampden Super. Aug. 8, 2016); *Swope v. State Bd. of Ret.*, No. CR-18-370, 2021 WL 9938478, at \*2 (DALA Dec. 10, 2021).