



Police Pension News

A Hollywood Police Officers' Retirement System Publication

Issue 13
Date of Issue:
First Quarter 2005

Inside this issue:

Total Fund Summary	2
Top Ten Stocks	2
Retiree Corner	3
Social Security	4
FRR vs. VRR	5
QDRO's?	5
Odds and Ends	6



**David Strauss,
John Barbuto &
Steve Diefenbacher
ask for your
continued support
as your elected
pension trustees.**

QUARTERLY PENSION FUND SUMMARY

As of December 31, 2004, our fund had a total market value of \$167,957,000. For the quarter, the fund gained \$9,007,000.

For the quarter, the average allocation of our fund was 59.7% invested in stocks, 35.9% in bonds, and 4.4% in cash equivalents (i.e., short term liquid interest bearing investments similar to money market funds). Our ongoing target for investment in stocks is 54% of the total fund.

For the quarter ended December 31st, the total gained 5.68% (gross), while its benchmark was up 5.49%.

After investment management expenses, for the quarter our fund net return was 5.57%.

In the previous quarter, the fund lost -0.39%.



For the fourth quarter of 2004, the best performing sector among US stocks was information technology, which rose 13.39% in. The worst performing sector was energy, which rose 4.22%.

Among the major economic indicators, the Consumer Price Index (CPI-Urban) rose 3.3% for the twelve months ended in December. In the fourth quarter, consumer prices

rose at a seasonally adjusted annual rate of 3.0%. The Producer Price Index (PPI) for finished goods rose 4.1% for twelve-month period ended in December.

The unemployment rate was 5.4% in December, compared to 5.4% in September. Real Gross Domestic Product (GDP) rose at an annual rate of 4.0% (final) for the third quarter of 2004, compared with an increase of 3.3% (final) in the second quarter of 2004. During the fourth quarter, the Federal Reserve Open Market Committee raised its target for the federal funds rate 50 basis points to 2.25%. The federal funds rate is the interest rate that banks charge each other for overnight loans.

Readers note: Please see related stories on page two that outline the one year and long term rate of returns.

Total Fund Summary

One Year

For the last year our fund gained 7.43%, while its benchmark was up 8.25%. Stocks were up 9.99%, while the benchmark was up 12.17%. Bonds were up 3.87%, while the benchmark was up 3.62%.

For the year ending December 31, 2004, Inverness' large cap stocks were up 9.15%, Davis, Hamilton & Jackson's growth stocks were up 6.67%, Buckhead's value stocks were up 11.97%, and Eagle's small cap stocks were up 22.36%. The S&P 500 index was up 10.88%.

Long Term

Since September 30, 1992, the fund has an average rate of return of 9.07% per year. For the last five years, the total fund has an average rate of return of 2.33% per year, which under-performed the overall combined stock and bond markets' 2.80% return. During that time, stocks averaged -2.08% and bonds averaged 7.91%, while their benchmarks averaged -1.85% and 7.61%. For the last three years, stocks had an average return of 5.49%, while bonds averaged 6.75%.

TOP
10
STOCKS

INVERNESS COUNSEL	DAVIS, HAMILTON & JACKSON	EAGLE ASSET MANAGEMENT	BUCKHEAD CAPITAL MANAGEMENT
<i>Large Cap Core</i>	<i>Large Cap Growth</i>	<i>Small Cap Core</i>	<i>Large Cap Value</i>
Dow Chemical	General Electric	Edwards Lifesciences	First Data
Devon Energy	Johnson & Johnson	Amphenol Corp.	Allied Waste
PepsiCo	Microsoft	FMC Technologies	Wendy's Int'l.
Avery Dennison	Bank of America	Gray Television	Sungard Data
Exxon Mobil	Cisco	Gaylord Entertainment	Sealed Air Corp.
IBM	UPS	Ansys.	Kimberly-Clark
Walt Disney	Procter & Gamble	Unit Corp.	ConocoPhillips
Procter & Gamble	MNBA Corp.	Gtech Holdings	JP Morgan Chase
American Express	Exxon Mobil	Inamed Corp.	NY Comm. Bancorp
General Electric	Abbot Labs	Philadelphia Con.	Express Scripts

Promotions

On January 25, 2005, Police Chief James Scarberry promoted the following personnel. Please join with Board of Trustees in congratulating these members.

Major Louis F. Granteed to **Assistant Chief**

Sergeant Jack Anterio to **Lieutenant**

Sergeant Danzell Brooks to **Lieutenant**

Sergeant Forrest Jeffries to **Lieutenant**

Sergeant Norris Redding to **Lieutenant**

Officer Hector Meletich to **Sergeant**

Officer Luis Ortiz to **Sergeant**

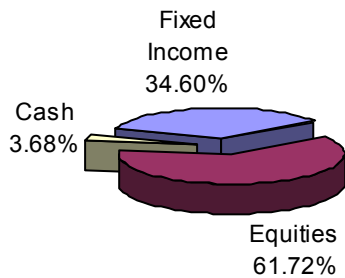
Officer Robert Wolfkill to **Sergeant**

Contract Issues

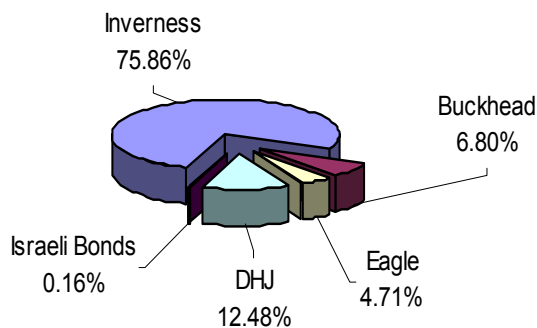
The *Office of Retirement* continues to receive calls from active members concerning the upcoming contract. This is generally a good thing, because rumors can be put to rest, or a member may be directed to the PBA.

The Board of Trustees want to remind everyone that the pension board administers the plan. Any improvements (or changes) are as a result of negotiations between the *City of Hollywood* and the *PBA*. The Board is used as a resource during negotiations, and continues to pledge our support.

Plan Asset Allocation as of December 31, 2004



Division of Assets by Manager as of December 31, 2004



Retirees - Direct Deposit

The Board of Trustees wanted to invite those retirees who still receive a check each month, to reconsider direct deposit. The delivery of the January 2005 retirement payment was delayed to those who receive a check in the mail. This was caused due to the postal service contracting with an airline carrier that went on strike. The checks sat in the plane, while the members who have direct deposit enjoyed an automatic deposit into their account. While direct deposit is not immune from errors, in the long run we believe you will be highly satisfied and will never have to keep checking the mail for your monthly payment. *Let us know if we can help!*

Retiree Corner



Congratulations to our latest Retirees

David Kordzikowski 01-01-2005

Susan Hayes 01-01-2005

PRIVATIZING SOCIAL SECURITY IS A BAD IDEA?

The Board of Trustees are certainly not vying in on this issue. But, no matter your position, you need to be informed. The *Century Foundation* has come up with twelve reasons why privatizing Social Security is a not a good idea. Just by way of background, most people know that President Bush repeatedly has emphasized that one of his foremost second-term priorities will be to transform Social Security in a fundamental way. Since the program's inception in 1935, the size of benefits has always depended on earnings of workers over the course of their careers. The President wants to change the system so that the amount each worker collects from Social Security upon retirement would hinge on the size of investments in his or her own personal account. Here's why such change should not take place:

Reason #1: Today's insurance to protect workers and their families against death and disability would be threatened. Those who do "rate of return" calculations overlook the value of Social Security's insurance protections.

Reason #2: Creating private accounts would make Social Security's financing problem worse, not better. Diverting 2% of payroll to create private accounts would significantly shorten the time when current benefit levels could only be sustained by raising taxes.

Reason #3: Creating private accounts could dampen economic growth, further weakening Social Security's future finances. Privatizing Social Security will escalate federal deficits and debt significantly, while increasing likelihood that national savings will decline, reducing long-term economic growth.

Reason #4: Privatization has been a disappointment elsewhere. The sobering experiences in countries like Chile and the United Kingdom actually provide strong arguments against privatization.

Reason #5: The odds are against individuals investing successfully. Studies have demonstrated that individual investors are far more likely to do worse than the market generally, even excluding cost of commissions and administrative expenses.

Reason #6: What you get will depend on whether you retire when the market is up or down. In the last century, although stocks generally grew significantly, there were three 20-year periods over which the market either declined or did not rise.

Reason #7: Wall Street would reap windfalls from your taxes. No wonder brokerage houses, banks and mutual funds have been active in the campaign to privatize Social Security.

Reason #8: Private accounts would require a new government bureaucracy. From standpoint of the system as a whole, privatization would add enormous administrative burdens.

Reason #9: Young people would be worse off. Recent studies show that if Social Security is converted to a system of private accounts, younger generations will be the ones bearing the cost of transforming the program.

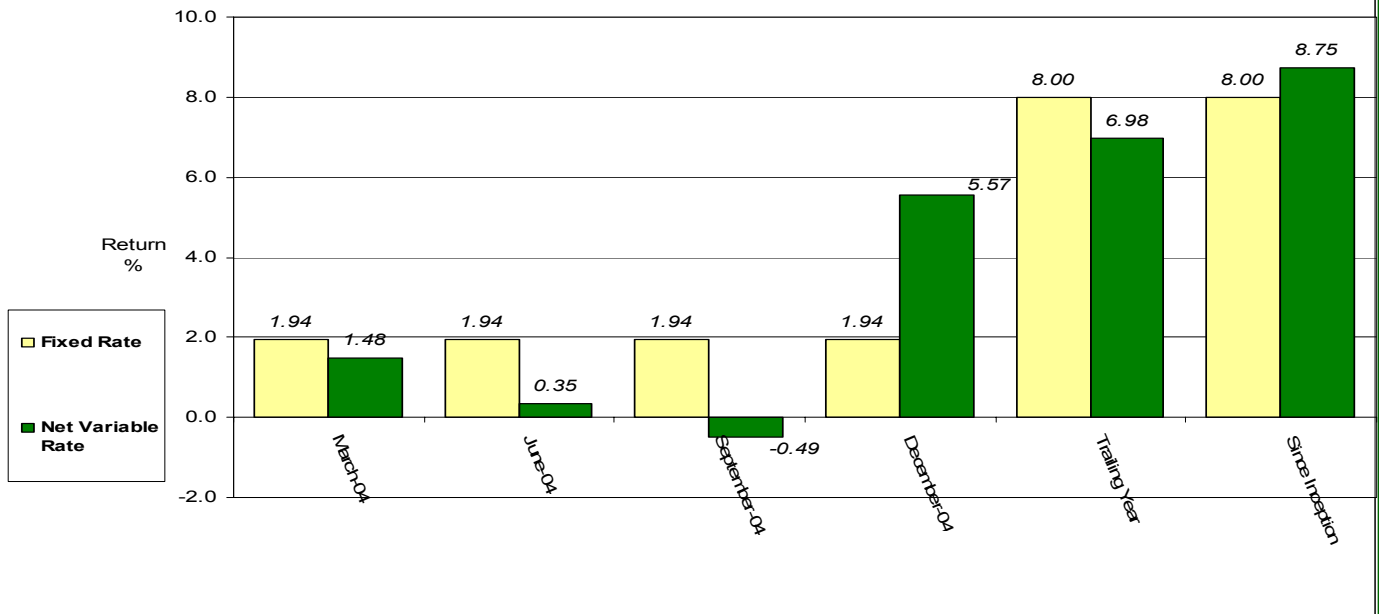
Reason #10: Women stand to lose most. Even though Social Security is gender-blind, various cultural and biological differences make it clear that Social Security is much more essential, and a much better deal, for women than for men.

Reason #11: African Americans and Latinos would also become more vulnerable. Because both of those groups on average earn lower lifetime earnings than whites, they would be at greater risk of facing poverty in their retirement under privatization.

Reason #12: Retirees will not be protected against inflation. Unlike the current situation, it is unlikely that the required annuities ultimately purchased will increase with inflation.

The *Century Foundation* says its mission is to persuade those who care about issues such as economic inequality, population aging, homeland security, discontent with government and politics and national security that significant improvements are possible even when the conventional wisdom says they are not.

**Fixed Rate of Return vs. Net Variable Rate of Return
December 31, 2004**



This chart compares the rate of return of the plan (VRR) to the fixed rate of return (FRR) . Each DROP participant makes a personal selection upon entering the DROP to receive the VRR or the FRR for his/her DROP assets. Once the selection is made, the participant is locked in for a one year period. After that year elapses, there are four window periods that allow a member to change. Upon making another selection, the member is again locked in for a one year period. *This chart also demonstrates that since inception, the VRR has outpaced the FRR.*

AUDIT REPORT

On January 28, 2005, the Board of Trustees received the results from an *independent* audit.

Mr. Don Bellantoni of Koch, Reiss had a clean & unqualified opinion of the plan. *This is the highest recommendation that can be given.* Mr. Bellantoni reported that the financial statements presented fairly in all material respects and were in conformity with accounting principles accepted in the United States.

The Board thanks Ms. Elisabeth Capota and Mr. Bellantoni for their efforts.

The Manager's Market Spin

By: Robert K. Maddock, Managing Director

Inverness Counsel, Inc.

As the new year begins we are encouraged by the strength of the global economy evidenced by the continued strong demand for energy and other commodities, despite their high prices. We note that a number of American companies are making serious efforts to participate in the new global economy. This includes Microsoft which are working on an online subscription approach as a solution to piracy. Apparently, the Chinese consumer is also a rising entity who has an interest in American consumer goods. The fact is, that U.S. dollars are of no value to the Chinese unless they intend to spend them. Of course, one of the things they are buying is oil companies. We also note that the high cost of energy is beginning to motivate investment and growth in everything from additional oil exploration to new energy sources and even methods of reducing energy consumption. The price of oil has sent a clear signal to the markets and the markets are responding in a variety of ways. Spending on exploration off the coast of Africa and other places has risen as has spending on steel for oil rigs and the labor to build and operate them. Companies like Dow Chemical which have placed production near sources of cheap overseas natural gas have done very well. Demand for gas/electric hybrids from Honda has been brisk. Of course, there are concerns regarding Iraq, the weak dollar, and inflation but we believe these concerns are built into the market.

Qualified Domestic Relations Order (QDRO)

by; Stephen H. Cypen, Esq.

Hardly a week goes by now without a governmental pension plan being served with a Qualified Domestic Relations Order (QDRO). As a rule, the QDRO purports to direct payment of a portion of the retiree's pension benefits to his or her spouse as part of a plan for equitable distribution of the parties' marital assets. What to do?

Simply put, do nothing -- other than advise the party for whose benefit the QDRO was obtained (or the attorney who obtained it) that the QDRO cannot be enforced against a governmental plan, which contains an anti-alienation clause.¹ Believe it or not, this whole rush-to-QDRO began because of misinterpretation of Federal law, which by its own terms, does not apply to governmental plans. In 1974, Congress passed the Employee Retirement Income Security Act (ERISA), to protect the interests of participants in employee benefit plans. ERISA expressly excludes from coverage governmental plans (including plans established or maintained by a political subdivision of a State). Originally, ERISA required that all pension plans to which it applied provide that benefits could not be assigned or alienated in any circumstances. However, by adoption of the Retirement Equity Act of 1984 (REA), Congress amended ERISA to permit assignment or alienation of benefits when (and only when) a QDRO has been entered. So far so good.

Maybe not, because after 1984, many people (including seasoned attorneys) argued that REA authorized QDROs as to governmental plans. Clearly, there was a wholesale misreading of Federal law; Congress had, for the first time, merely permitted QDROs to be enforced against ERISA (private) plans.

Another argument was advanced in favor of enforcement of QDROs against governmental plans in Florida: that, irrespective of Federal law, pre-existing anti-alienation clauses have been impliedly repealed by subsequent adoption of general law.²

First, there is Section 222.21, Florida Statutes, adopted in 1987. In relevant part the statute merely provides that, while sums payable to a debtor from an ERISA-qualified plan are generally exempt from creditors' claims, they are not exempt from the claims of an alternate payee³ under a QDRO. Nothing in Section 222.21, Florida Statutes, is so irreconcilable with an anti-alienation clause as to manifest a clear legislative intent to repeal same.⁴

Second, there is Section 61.075, Florida Statutes. But the statute merely provides that all interest in retirement or pension plans (whether vested or not) which accrue during the marriage are marital assets subject to equitable distribution. The statute says nothing about whether a court may require that payment of any portion of such an interest equitably distributed to the non-participant spouse be made by the retirement or pension plan to the non-participant spouse. Again, the statute does not manifest a clear legislative intent to repeal an anti-alienation clause.⁵

Finally, there is Section 61.1301, Florida Statutes, which addresses the use of Income Deduction Orders as a means of collecting sums due on account of orders entered in domestic relations litigation. At first blush, one might think that an Income Deduction Order could serve as a vehicle for enforcement of a QDRO.⁶

However, Section 61.1301, Florida Statutes, is expressly limited in its application to collection of alimony and child support. On the other hand, a QDRO is not for collection of either alimony or child support, but, rather, for the purpose of effectuating a plan for equitable distribution of marital assets. Thus, although a so-called QDRO might be enforceable as an Income Deduction Order under Section 61.1301, Florida Statutes, if it is for collection of either alimony or child support, it cannot be used to force direct payment to another of a retiree's pension benefits in order to achieve an equitable distribution of the parties' marital assets.

We have been berated by attorneys who represent spouses and who have either negotiated a marital settlement agreement, or tried a dissolution of marriage case, resulting in an unenforceable QDRO. Regardless, we have consistently been advising our governmental pension clients not to honor QDROs which seek to force direct payment in order to achieve equitable distribution. And until recently, there has been no Florida appellate authority to sustain this position. Fortunately, in an extremely well reasoned opinion, the First District Court of Appeal discussed all of the above arguments and correctly rejected them, holding that a trial court lacked the power to order a governmental pension plan to pay to one former spouse a portion of the other former spouse's retirement pension benefits as part of a plan for equitable distribution of marital assets. *Board of Pension Trustees of the City General Employees Pension Plan, City of Jacksonville, Florida, Pension Plan Administrator v. Vizcaino*, 635 So.2d 1012 (Fla. 1st DCA 1994).

¹ Basically, an anti-alienation clause provides that pensions are not assignable or subject to any legal process. Most public plans, firefighter and police officer included, contain such clauses. In addition, anti-alienation provisions can be found in State law: Section 175.241, Florida Statutes (firefighters), and Section 185.25, Florida Statutes (police officers). These clauses are applicable to all funds created under said Chapters ("local law" as well as "chapter"), regardless of whether or not the plan itself contains an anti-alienation clause. *Please continue on page 7*

Ex may get part of former mate's *Social Security* benefits

By Paul Greene

Special to The Palm Beach Post

Here is a quick overview of Social Security rules concerning divorced spouse and widow(er) benefits. Since these benefits more often are paid to women and to avoid constantly referring to his or hers, I'm going to assume we're talking about a woman.

If you are divorced, you're potentially eligible for benefits on your ex-spouse's Social Security record if you were married at least 10 years and if you have not remarried.

It does not matter if your ex-spouse remarried. You generally will qualify for benefits based on his earnings record if those benefits would be more than you are entitled to based on your own earnings record.

If your ex is still living, you may be due spouse's benefits based on his earnings if: 1) you are 62 or older and 2) your former spouse is at least 62 and eligible for Social Security. Your former spouse does not have to be receiving benefits, only be eligible to receive them.

Depending on your age, you would be eligible for between one-third and one-half of your former spouse's retirement benefits if that amount is more than you are due based on your own earnings record.

If you divorced and then your ex-spouse died, you are due between 70 percent and 100 percent of your ex's benefits, depending on how old you are when you start collecting benefits.

Age 60 is the earliest a widow or widower may be eligible for benefits unless that person became disabled between ages 50 and 60. You must not be currently married

or, if so, you had to have remarried after age 60.

Social Security's policies for spousal and survivors' benefits are gender-neutral.

It is interesting to note that the majority of today's working women are eligible for larger benefit payments based on their own Social Security earnings record. However, many women switch to a higher widow's rate when their husbands or ex-husbands die.

To get a better idea of your own situation, visit the benefit planners Web site at www.socialsecurity.gov.

Paul Greene is a public affairs specialist for the Social Security Administration. If you have Social Security questions, call (800) 772-1213.

QDRO *Continued from page six*

² In Florida, a Special Act of the Legislature may be impliedly repealed by a subsequent General Act when the latter either is a complete revision of the entire subject or so irreconcilable with the Special Act as to manifest a clear legislative intent to do so. Firefighter and Police Officer Plans can be created by Special Act of the Legislature or by ordinance. Since an ordinance is inferior to any Act of the Legislature, those plans created by ordinance may only be protected by §§175.241 and 185.25, Florida Statutes, as referred to in note 1 above.

³ Under REA, an "alternate payee" is the one for whose benefit a QDRO is entered and to whom direct payment is to be made.

⁴ The Florida Retirement System (FRS) contains an anti-alienation clause virtually identical to the ones in Chapters 175 and 185, Florida Statutes. See section 121.131, Florida Statutes. Nevertheless, the author has been advised that FRS routinely honors QDRO's, under the theory that it is easier to pay than to fight. In fact, we believe that the Florida Legislature adopted Section 222.21, Florida Statutes, at the behest of FRS in order to provide FRS with something to hang its hat on.

⁵ Section 61.076, Florida Statutes, reiterates that all interest in retirement or pension plans (whether vested or not) which accrue during the marriage are marital assets subject to equitable distribution. The statute then sets forth the procedure to be followed by the court when a *military* pension is involved.

⁶ Remember that Section 61.1301, Florida Statutes, was held by the Supreme Court of Florida to be irreconcilable with, and, therefore, to repeal, an anti-alienation clause contained in a municipal officers' and firefighters' pension plan created by Special Act of the Legislature. *Alvarez v. Board of Trustees*, 580 So.2d 151 (Fla. 1991).

Items in this Newsletter may be excerpts or summaries of original or secondary source material, and may have been reorganized for clarity and brevity. This Newsletter is general in nature and is not intended to provide specific legal or other advice.



A great marriage is not when the 'perfect couple' comes together. It is when an imperfect couple learns to enjoy their differences.

Dave Meurer,
"Daze of Our Wives"

Who said it?

"I think we agree, the past is over"

"I am responsible for all of my mistakes. And so are you"

Answers: The quotes of President George W. Bush

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NOVEMBER 2004



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Odds and Ends



In Memoriam - Joe Kon

The Board of Trustees extends their condolences & sympathy to the Kon Family for the loss of Joseph Kon. Joe retired from the HPD in 1989.

Notice of Board Election

Self nominations for Board Trustee will be accepted at the pension office beginning February 28, 2005 at 9 AM to March 4, 2005 at 9 AM.

If warranted, the election will begin March 7, 2005 at 9 AM and close on March 11, 2005 at 9 AM. Ballots will be counted at the close of the election in the first floor classroom.

Ohio Pension Plan Can Change Retiree Health Coverage

For many years, Ohio School Employees Retirement System (SERS) provided a health care plan for retirees in addition to paying pensions, disability benefits and survivor benefits. Prior to 1989, all SERS members who retired from covered employment and qualified for SERS pension benefits also received free health care coverage from SERS, in addition to their pension. Through the years, SERS changed benefits provided under its health care plan and increased co-pay amounts and out-of-pocket maximum requirements. The changes shifted a greater percentage of the health insurance cost to retiree and disability recipients. SERS ostensibly undertook these changes to protect and preserve its health care fund in face of rising health care costs and lower investment returns. In response, Ohio Association of Public School Employees, an employee organization, sued SERS, seeking declaratory, injunctive and other relief. On appeal from an order resolving all claims in favor of SERS as a matter of law, the appellate court affirmed: premium costs and levels of health care coverage provided to SERS retirees at time of retirement cannot vest, and, therefore, may be changed. Ohio Association of Public Employees v.

School Employees Retirement System Board, Case No. 04AP-136 (10th Dist. Ohio, December 28, 2004).

13th Check

The Board of Trustees are pleased to announce that a supplemental distribution will be made this year.



The value of that payment is pending. The distribution is based in part, by the *liability of the retiree's portion of the system*. The liability amount is determined by our Actuary. We are waiting for the Actuary to value the liability and the benefit itself.

As soon as further information is known, you will be promptly notified.

Keep in mind, that neither the General Employee's or the Firefighter Pension Funds are issuing supplemental distributions this year.