

**PENSION LAWYERS**  
ASSOCIATION



**PUTTING THE PUZZLE TOGETHER**

The Past, the Present and the Future

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# The PLA Mock Trial

Rosemary Hunter

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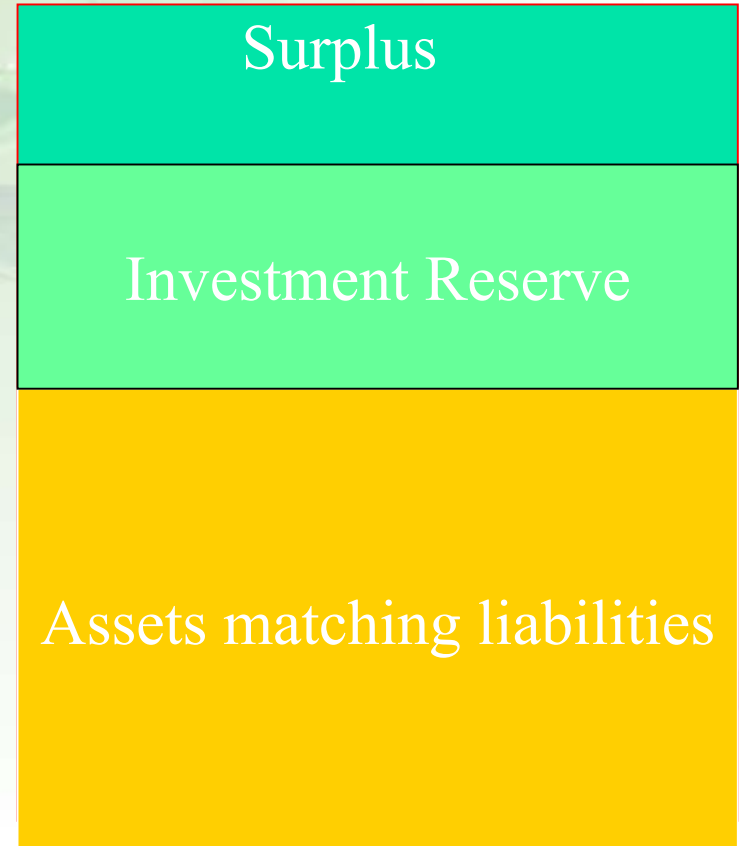
# The Facts



# The Happy Autumnns Pension Fund

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- A defined benefit fund
- with a large surplus



# The Happy Autumn's Pension Fund

- The fund converted into a DC fund in 1998
  - New accounts were created, including an employer reserve account.
  - Members got ARV =15% and waived their claims to PRMA



# The Happy Autumnns Pension Fund

Employer reserve account

Investment Reserve

Contingency reserve accounts

Members' fund credits

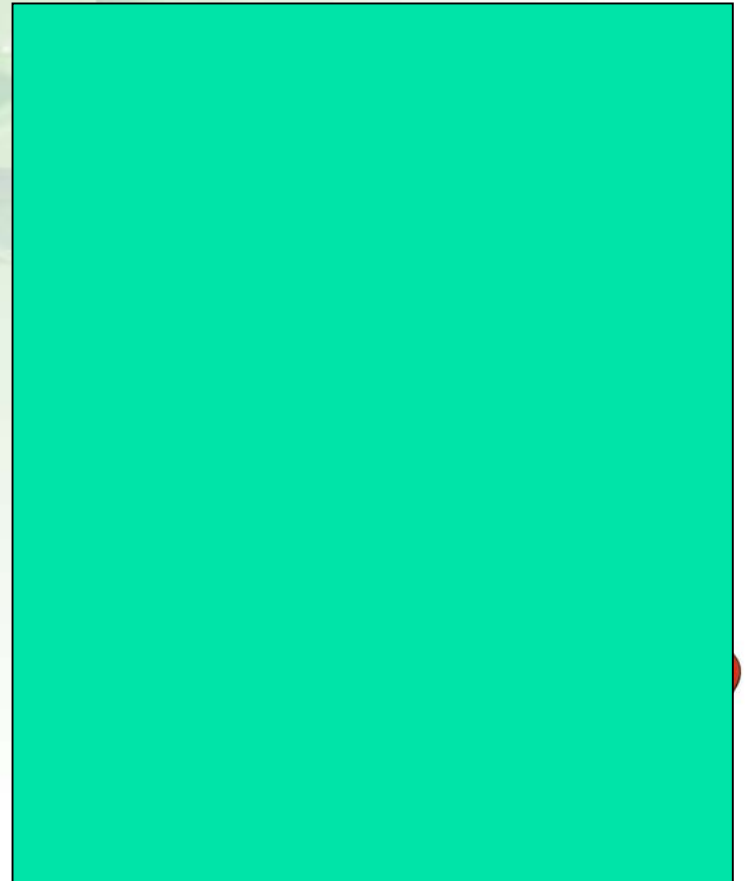
A contribution holiday was granted with retrospective effect

Pensioner Liabilities Were Outsourced

# The Happy Autumnns Pension Fund

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None of this was explained to the members



# The Happy Autumns Pension Fund

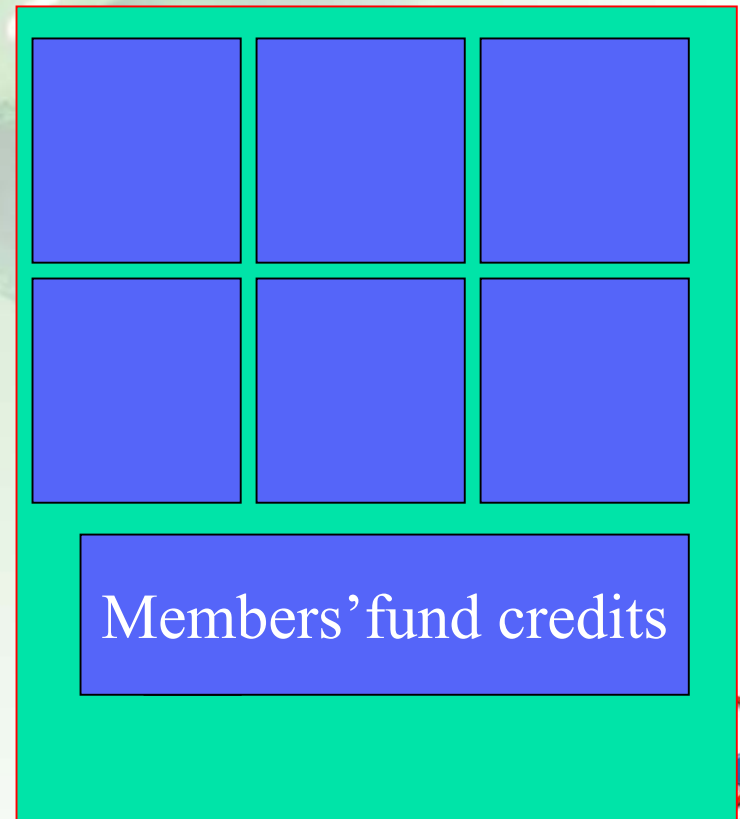
When Mr. Ndlovu Leaves, he gets his Fund credit only.



# The Happy Autumns Pension Fund

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- In 2001 the fund is wound up.
  - The employer waives its share of the surplus.
  - The surplus is shared amongst those in the fund at the end – only the trustees.



# The Happy Autumns Pension Fund

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Mr. Ndlovu is not happy. He launches High Court action. He alleges that the trustees breached their duties by

- Not allocating the whole of the surplus on conversion to the members; and
- allowing pension fund assets to be used to reduce employer liabilities.

# The Happy Autumns Pension Fund

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Mr Ndlovu was a trustee at the time of the conversion. He says he was too busy protecting the workers against exploitation to examine the fund's statements and valuation reports.