

PENSION LAWYERS
ASSOCIATION



PUTTING THE PUZZLE TOGETHER

The Past, the Present and the Future

The PLA Mock Trial

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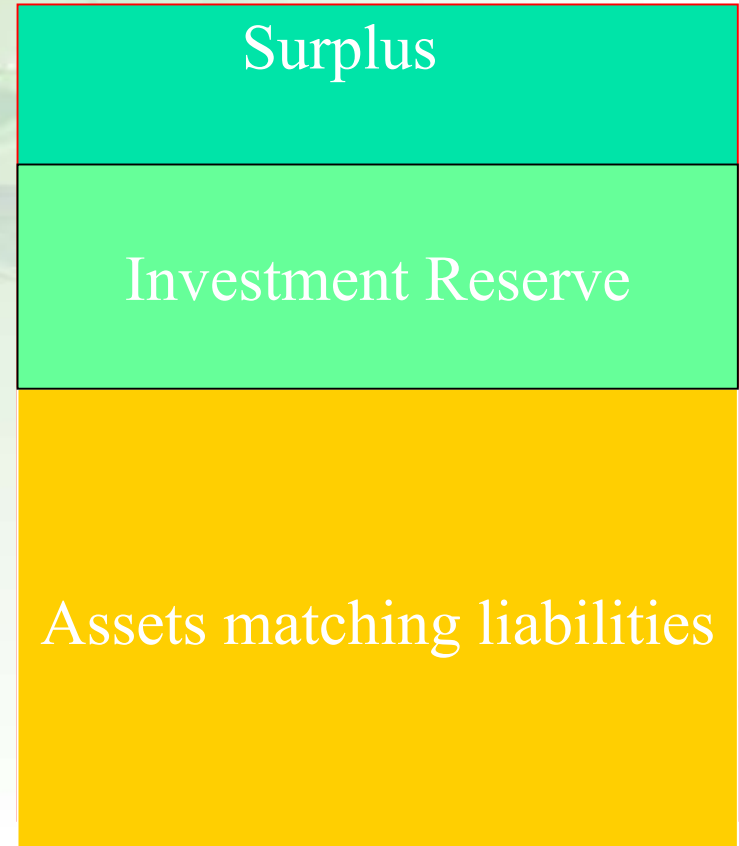


The Facts



The Happy Autumn's Pension Fund

- A defined benefit fund
- with a large surplus



The Happy Autumns 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

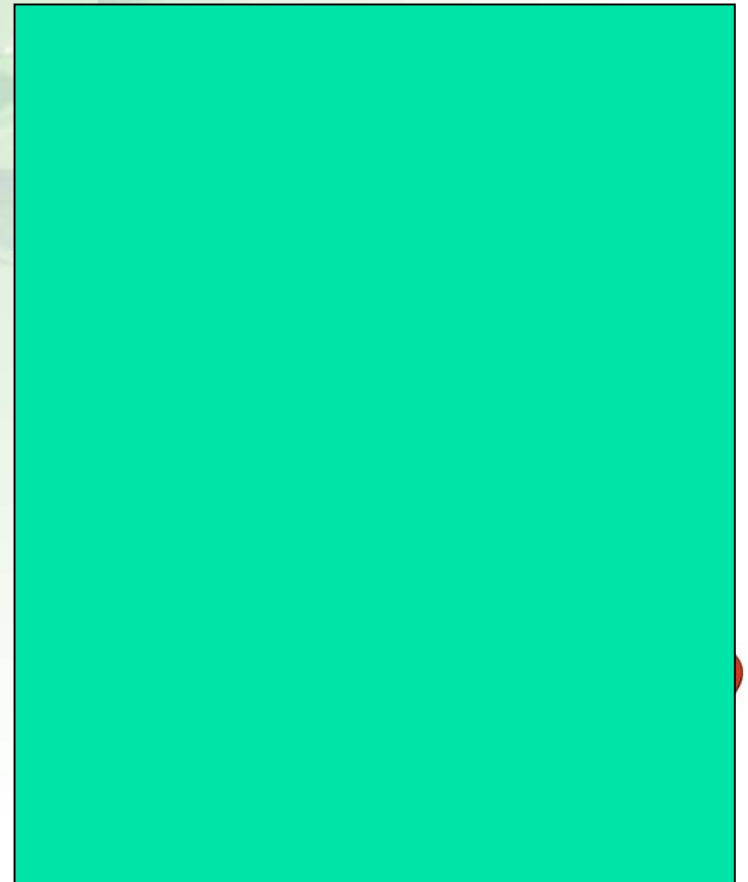
Members' fund credits

A contribution holiday was granted with retrospective effect

Pensioner Liabilities Were Outsourced

The Happy Autumnns Pension Fund

None of this was explained to the members



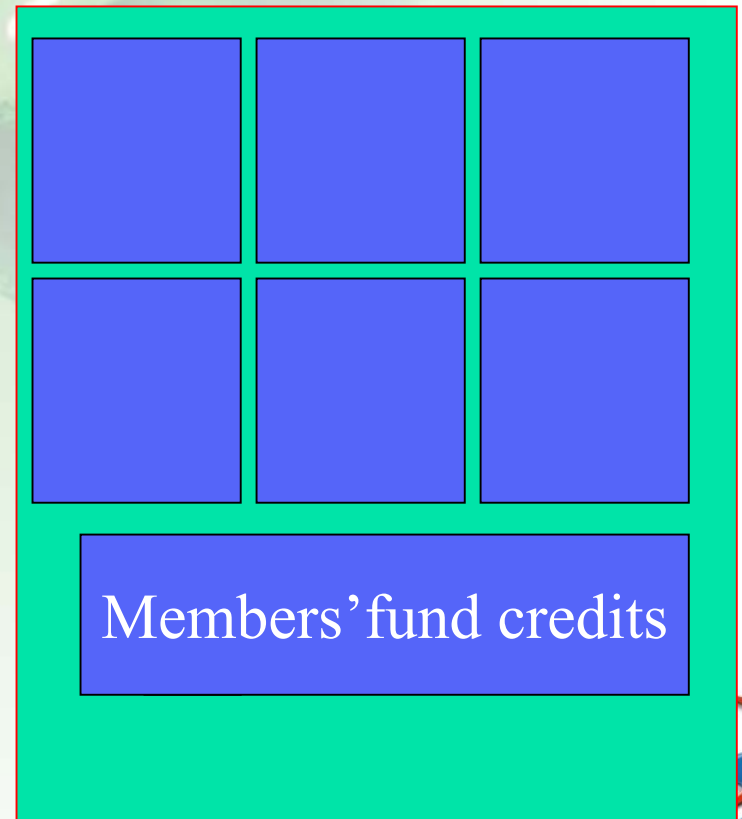
The Happy Autumns Pension Fund

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



The Happy Autumns Pension Fund

- 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

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

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.