



AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, AFL-CIO

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October 1, 2007

Ron Demicheli, President
Local 1916
P.O. Box 231
South Park, PA 15129

Re: Late TSP deposits

Dear President Demicheli:

The General Counsel's Office has researched the issue of late deposits of Thrift Savings Plan (TSP) funds into their appropriate accounts. Where there is an error made by the employing agency, the TSP Record Keeper, or the Federal Thrift Retirement Investment Board, the TSP may award the affected employees, breakage, defined in 5 C.F.R. § 1605.1 as "the loss incurred or the gain realized on makeup or late contributions." However, according to 5 C.F.R. § 1605.2(a)(1), the TSP will not calculate breakage for later deposits that are posted within thirty days of the "as of" date, the date on which the deposit was to have been made.

In your own case, the deposits were made four days late. It would appear that the Dept. of Energy's/DFAS's refusal to adjust employees' TSP accounts is consistent with regulations. Federal employees are not covered by ERISA, and the Federal Erroneous Retirement Coverage Corrections Act (FERCCA) does not apply to an error of this sort.

Should you have any questions regarding this issue, please feel free to contact GCO Intern John Thompson at (202)639-6424 x2035 or gcoint02@afge.org.

Sincerely and fraternally,

Mark D. Roth
General Counsel

cc: NVP Jeffery Williams, 3rd Dist.