

I wish to apologize

Several months ago Orem City's Human Resources Department brought to the attention of City Management several irregularities in regards to 401K Pension withdrawal forms for myself. These included changing dates on four forms, resubmitting the same form numerous times, and lastly exceeding the city limit on how many withdrawals from a personal pension account can be accessed per year.

When this was brought to my attention, I recognized and admitted that I had made mistakes on how I had handled the requests for distributions from my own account of my own personal money.

The city of Orem has a limit of two distributions from your 401K account per year for in service personnel of the city. The IRS and numerous other retirement plans have no such limit and you can access and withdraw money from your account as many times as you wish. Until this came to light I had not been made aware of this limit either by the city or the pension administrator, ICMA-RC and was not aware of this restriction.

In filling out four withdrawal forms over a three-year period, I changed the dates of myself and an HR supervisor on the form. This is a mistake of convenience on my part. I had no intention to do wrong. But in changing the date on the form for myself for resubmission to the plan administrator I also changed the date below mine which was for an HR employee.

This is wrong and should not have been done. For this mistake on my part I am truly sorry and apologize to the citizens of Orem. I have apologized to the city council, the city manager, and the two HR employees involved.

I did this action not as the Mayor of the city but rather as a private individual accessing his own account for his own money. But regardless, it is wrong to change the date on another person's signature. I also resubmitted copies of original forms for later dates with nothing changed. Please note that the plan administrator sent a confirming acceptance of all of these forms with the exception of three of them. Likewise, no information came back from the plan administrator on my exceeding the amount of withdrawals allowed by the Orem plan.

As mentioned the IRS, URS, and other benefit administrators do not set a limit on how many times you can withdraw funds from your own 401K retirement account after you reach the age of 59 1/2. There are no restrictions requiring supervisor signatures. And in each case if a mistake is made you can initiate sending in an amended form correcting the mistakes.

In my private manufacturing business I had occasion and was required to send in monthly, quarterly, and yearly forms verifying meeting weighing regulations for shipments on rail cars, meeting air emission standards, and in meeting environmental standards.

These forms were the same each time. So for many years I would copy these forms, change the date, and send them in to the various government agencies. This was acceptable to them. I believe that I looked at the withdrawal request forms in the same manner and thus the reasons behind why I sent in the forms the way I did. But while it is ok for me to change a date for myself on the forms it is not ok for me to change the date on the signature of another person on the same form.

I take full responsibility for my action as a private citizen in this matter. I have offered to pay for the private legal counsel investigating this action. This action will be referred to our city police department to then be handled by the county attorney to see if a crime has been committed in this action.

For a crime to occur the form has to be a significant legal document, which a request form is not, and criminal intent has to be proved. Criminal intent means that an outside person was defrauded of his money or property by this action. In consulting with two criminal attorneys, neither one can find any criminal intent in this situation. No one has incurred any monetary or property damages in this case. I do not believe that this is a crime but rather a mistake on my part. This was a request from me to the plan administrator to access my own funds from my own account.

I had no intent other than to expedite the submission of my own withdrawal request forms for my own money. It is a mistake of convenience on my part.

Again I wish to acknowledge this action. I wish to apologize for my wrongdoing. I believe that I have made a mistake. And I am acknowledging it to the citizens of Orem. Again I am sorry for this action.

Mayor Richard Brunst