Ankenævnet for Forsikring

948/14

Den 6. oktober 2014 blev i sag nr. 85.229:

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mod

MP Pension - Pensionskassen
for magistre og psykologer
Smakkedalen 8
2820 Gentofte

afsagt

k e n d e l s e :

_____

Forsikringstageren har pensionsordning i MP Pension - Pensionskassen for magistre og psykologer. Han klager bl.a. over størrelsen af sine pensionsudbetalinger.

Selskabet har afvist, at størrelsen af klagerens pensionsudbetalinger er beregnet forkert.

I brev vedlagt klageskemaet af 10/11 2013 har klageren bl.a. anført:

"**I specifically want MP to:**

1. Reestablish the rule of law within MP. Do away with traditional trade union chumminess where decisions are taken behind double-closed doors - both agenda and minutes strictly secret , seemingly not primarily on the basis of what is right or wrong, legal or not legal, but on what is deemed most beneficial to those wielding the internal political power. *(Please, tall to remembrance the recent painful case of occult bonus payments in the order of 1.000.000 DKK involving both chairman of MP goveming board and its managing director.)*

2. Reinstate my alderspension payments as from 2009 in accordance with the definite and binding assurances I was given when I retired (End.14) and which were observed in the period 2005-2008. Inclusive of inflation compensation (Enc1.15).

3. Reinstate the widow pension pledge in accordance with the definite and binding engagement stated in Enc1.14.

4. Stop issuing wrong and misleading information, which in part is so senseless, that the mere fact of trying to sell it as truthful is offensive in itself. A few examples:

- the hoax that my pension is guaranteed *(e.g.,* End. 7, 13). Reality is that this guaranty guarantees steady and very considerable decreases. It is offensive to presume that I am unaware of what inflation stands for.
- those presented in End. 11,
- those pointed out in Annex 1, p.2 (comments on Enc1.13),
- the truly scandalous 2008 disinformation campaign to cajole pensioners into the bad-bank construction in order to rob them effectively of their pension rights.

5. Keep me fully informed of the status and development of my pension investments, my deposit account and pension payments. Specifically explaining the up till now secret intra membership wealth redistribution schemes. In short, tell me where I stand. I have a right to see hard figures which I can verify. In the light of MPs proven problems with telling the truth, nobody in his right set of mind can expect that I just accept empty MP assurances.

6. Stop exposing EU citizens to discriminative measures which *de facto* jeopardize their fundamental right to free intra-EU mobility."

Dertil har selskabet i brev af 10/12 2013 til nævnet bl.a. bemærket:

"**Ad 1) Reestablish the rule of law within MP**
MP Pension er en tværgående pensionskasse, som er godkendt af Finanstilsynet.

Pensionskassens bestyrelse består af i alt 10 medlemmer. Heraf 5 medlemmer der er valgt af og blandt pensionskassens medlemmer, 2 særligt sagkyndige medlemmer, og 3 der er udpeget af de faglige organisationer (Dansk Magisterforening, Dansk Psykolog Forening og Gymnasieskolernes Lærerforening).

Bestyrelsen er omfattet af den lovpligtige tavshedspligt, jf. lov om finansiel virksomhed §§ 117, stk. 2, og 373. Bestyrelsesreferater er fortrolige - på tilsvarende vis som i andre finansielle virksomheder.

Pensionskassen er under tilsyn af Finanstilsynet og medlemmer af pensionskassen kan deltage på den årlige generalforsamling og fremsætte både spørgsmål og forslag.

Ad 2) Reinstate my alderspension payments as from 2009
Den gamle pensionsordning og Den fleksible pensionsordning
Klager henviser flere gange til MP Pensions to pensionsordninger, og omtaler dem som henholdsvis 'good bank' og 'bad bank'.

Jeg skal indledningsvis afvise, såvel at der er tale om en 'god' og en 'dårlig' pensionsordning som at der sker subsidiering fra den ene pensionsordning til den anden.

MP Pensions medlemmer er omfattet enten af Den gamle pensionsordning eller Den fleksible pensionsordning (tidligere benævnt Ny Pensionsordning).

Den gamle pensionsordning er gældende for medlemmer, der er optaget før 1. januar 2008 og der ikke har omvalgt til den fleksible pensionsordning.
Tilsvarende er Den fleksible pensionsordning gældende for medlemmer, der er optaget den 1. januar 2008 og senere, eller har omvalgt til den fleksible pensionsordning.

Den største forskel på de to pensionsordninger er, at grundlagsrenten i den fleksible pensionsordning er betinget, samt at der er større fleksibilitet.

Klager blev optaget i pensionskassen den 1. september 1968 og har valgt ikke at overgå til Den fleksible pensionsordning. Han er således omfattet af Den gamle pensionsordning.

Grundlagsrente
Klagers alderspension er beregnet på baggrund af de grundlagsrenter der har været gældende for indbetalingen. Grundlagsrenten er nedsat gennem årene, hvorfor hans alderspension er omfattet af et miks af grundlagsrenter.

Klagers garanterede alderspension (udregnet på medlemmets individuelle mix af grundlagsrenter) udgør 21.776 kr./mdr. Klagers aktuelle alderspension er på 22.537 kr./mdr., og er således højere end grundpensionen.

Omregnet pension
Da klager gik på alderspension den 1. marts 2005 fik han valget mellem en grundpension og en omregnet pension. Grundpensionen regnes ud fra de grundlagsrenter som er gældende for det enkelte medlem, mens den omregnede pension regnes ud fra en rente på 4,25 pct. Den omregnede pension er således større end grundpensionen, men må forventes at stige langsommere end grundpensionen. Medlemmer der har valgt at få udbetalt omregnet pension kan endvidere opleve at alderspensionen falder, hvis der ikke kan tilskrives en kontorente på mindst 4,25 pct. Den omregnede pension kan dog aldrig blive mindre end grundpensionen (den garanterede pension).

Klager valgte ved påbegyndelse af udbetaling af alderspension at få udbetalt såkaldt omregnet pension.

Klager har den opfattelse, at han er garanteret den udbetaling han fik i 2005 samt en inflationssikring, hvilket vi må afvise.

Klager har som bilag 15 vedlagt MP Pensions daværende pjece om omregnet pension. Det fremgår heraf på side 2, at de viste eksempler er beregnet under forudsætning af, at pensionskassen kunne give en årlig kontorente på 5,0 pct., ligesom det fremgår af side 4, at hvis MP over en årrække ikke kan forrente pengene med 4,25 pct., vil den omregnede pension kunne sættes ned. Dette fremgår også af følgebrevet som klager fik tilsendt i forbindelse med udbetaling af alderspension (mit Bilag 2).

MP Pension har gennem en årrække beklageligvis ikke haft mulighed for at give en årlig kontorente på mindst 4,25 pct., hvorfor den omregnede pension er blevet sat ned.

Inflationssikring
Klager er også af den opfattelse, at han er garanteret en inflationssikring, hvilket vi ligeledes må afvise.

Vi har på intet tidspunkt givet tilsagn om, at pensionen er inflationssikret. Pensionen er beregnet ud fra en forudsætning om, at hvis vi kan give en vis forrentning vil udbetalingen være status quo. I de eksempler der er givet i pjecen om omregnet pension (klagers bilag 15), blev det forudsat, at pensionskassen kunne give en årlig kontorente på 5 pct., hvilket var sandsynligt på daværende tidspunkt. Det generelt lave renteniveau i samfundet har imidlertid gjort, at dette ikke er muligt.

Det er vores forventning, at vi ikke vil have mulighed for at give en højere forrentning end 4,25 pct. i en længere årrække, hvorfor det må forventes, at pensionerne ikke vil stige.

Pensionisttillæg
Da klager gik på alderspension i 2005 udbetalte pensionskassen et ugaranteret pensionisttillæg to gange årligt.

Pensionisttillægget er en ekstraordinær udlodning af egenkapitalen. I henhold til pensionsregulativet for den gamle pensionsordning § 19 (mit bilag 1) træffes bestemmelser om anvendelse af egenkapitalen af pensionskassens bestyrelse.

En ekstraordinær udlodning af egenkapital beror på en vurdering af, om pensionskassen råder over egenkapitalmidler, der ligger ud over, hvad der skønnes nødvendigt for at kunne afdække pensionskassens risici - herunder at udbetale de garantede ydelser.

Der er på nuværende tidspunkt ikke midler udover hvad der skønnes nødvendigt for at kunne afdække risiciene, hvorfor MP Pensions bestyrelse - efter indstilling fra den ansvarshavende aktuar - har besluttet at pensionisttillægget p.t. er på 0 pct.

Pensionskassen har således aldrig garanteret at fortsætte udbetaling af pensionisttilægget. Det fremgår således både af vores breve af 28. januar 2005 (mit bilag 2) og 10. februar 2005 (mit bilag 3), at tillægget kan nedsættes eller bortfalde.

Konklusion
Vi må således fastholde, at klager modtager, og hele tiden har modtaget, den korrekte alderspension og må afvise at udbetale en pension svarende til den han modtog i 2005.

Ad 3) Reinstate my widow pension pledge
Klager henviser til dækningsoversigten pr. 1. januar 2005 (klagers bilag 14) og ønsker at få sin nuværende ægtefællepension hævet, svarende til niveauet i 2005.

Ægtefællepensionen faldt ved medlemmets overgang til alderspension. Dette skyldes, at ægtefællepensionen inden pensionering regnes som en procentdel af 67-års pensionen, og efter pensionering som en procentdel af den udbetalte pension. Hvis man går på pension før 67 år, vil alderspensionen - og dermed ægtefællepensionen - falde.

Begrundelse
Klagers samlede ægtefællepension består af en livsvarig ægtefællepension og en 10-årig ophørende ægtefællepension.

Størrelsen af ægtefællepensionen afhænger af i hvilken afdeling (A, I, II eller III) medlemmet er optaget, jf. pensionsregulativet for den gamle pensionsordning § 10, stk. 3, og § 15, stk. 3 og 4.

Indtil 1993 var ægtefællepensionen livsvarig og udgjorde 60 pct. af den pension, som medlemmet havde opnået ret til ved sin død (Afdeling A).

Medlemmerne fik derefter mulighed for at vælge en 10-årig ophørende ægtefællepension for bidrag indbetalt efter 1993 (Afdeling II). Den 10-årige ophørende ægtefællepension udgør 40 pct. af den pension, som medlemmet havde opnået ret til ved sin død.

Klager valgte en 10-årig ophørende ægtefællepension der, som ovenfor nævnt, udgør 40 pct. af den pension, som han har opnået ret til ved sin død, men kun for den del af bidragene som var indbetalt efter 1993.

Klager har således både en livsvarig og en ophørende ægtefællepension, hvor den livsvarige ægtefællepension udgør 60 % af pensionen beregnet på baggrund af indbetalinger før 1993, og den ophørende ægtefællepension udgør 40 pct. af pensionen beregnet på baggrund af indbetalinger efter 1993.

Den konkrete størrelse af ægtefællepensionen fremgår af de årlige pensions- og dækningsoversigter.

Indtil medlemmet går på pension, udregnes ægtefællepensionen som en procent af den forventede pension ved 67 år. Hvis man går på pension før man fylder 67 år, vil ægtefællepensionen udregnes på baggrund af den aktuelle pension.

Vi fastholder således at ægtefællepensionen er korrekt og afviser at hæve dækningen til den han havde i 2005.

Ad 4) Stop issuing wrong and misleading information
Klager fremfører, at vi har givet ham forkerte og vildledende informationer, hvilket vi afviser.

Det er således vores opfattelse, at vi har givet ham korrekte og brugbare informationer og vi mener ikke, at klager har givet eksempler hvor vi har givet forkerte oplysninger.

Ad 5) Keep me fully informed
Klager har gennem årene fået ganske mange oplysninger og svar på spørgsmål fra os. Klager har i nogle tilfælde ønsket fortrolige og/eller store og omkostningstunge redegørelser som ikke direkte vedrørte hans pensionsordning. I disse tilfælde har vi efter nøje overvejelser afvist at imødekomme disse ønsker.

Klager har endvidere efter pensionering ønsket opgørelser over størrelsen af hans depot. I forbindelse med at medlemmer overgår til alderspensionering bliver pensionsdepotet omregnet til en løbende livsbetinget pension. Medlemmet har således ikke længere et egentligt depot hos pensionskassen, men derimod et krav på en pensionsudbetaling af en vis størrelse.

Vi har dog af flere omgange trods det anførte manuelt beregnet et depot, på baggrund af medlemmets aktuelle pensionsudbetalinger.

Beregningen af pension på baggrund af depotet er særdeles teknisk, og det er ikke muligt for medlemmer at efterberegne alderspensionen.

Beregningen af pensioner sker på baggrund af pensionskassens tekniske grundlag som er anmeldt til Finanstilsynet, hvor pensionskassen også er under tilsyn.

Det er vores opfattelse, at vi har givet klager de oplysninger som han med rette kan kræve og mere til i en række tilfælde.

Ad 6) Stop exposing EU citizens to discriminative measures
Klager fremfører, at da han er bosiddende i et andet land, hvor der ikke er lige så gode folkepensioner som i Danmark, bliver han diskrimineret.

Klager modtager samme pension fra MP Pension, som han ville modtage, hvis han var bosiddende i Danmark, hvorfor vi afviser, at han bliver diskrimineret. Ydermere betaler klager fra og med 1. januar 2010 ikke længere PAL-skat til Danmark, hvilket netop er udtryk for, at Folketinget har villet undgå dobbeltbeskatning af afkast for pensionsmodtagere bosat i udlandet.

Med henvisning til selskabets bemærkninger har klageren i brev af 15/1 2014 til nævnet bl.a. påpeget:

"**WHAT I ASK FORSIKRINGSANKENAEVN TO RENDER A DECISION ON**

1. Reestablishing the rule of law and decent customer relations in MP
Decision taking in MP's Board follows its own set of rules, without overly concern for the law of the land or rules of decent customer relations. CZ1104 documents several cases in which MP has breached the law. Instead of answering the criticism MP rambles on about its administrative structure, its democratic yearly general assembly, and the like.

Bragging about the democratic character of the yearly general assembly is perhaps better avoided, considering that it is attended by only a few pro mille of the membership and that voting is dominated by the proxy votes carried mainly by members of the Board.

To help MP to think of the right answers, I summarize here just nine examples, by way of a starting help.

A tactic popular with MP's is the so-called catch-22 scam.
(Joseph Heller, 1961) consisting, o.a. in interpreting deals, agreements etc. in its extreme literal meaning, e.g., you pay for a train ticket, the ticket seller admits roundly it is yours, but asserts that handing it to you is quite another matter (also called Tijl Uilenspiegel jurisprudence/scam in Flemish/Dutch/Low-German circles).
Four examples:

1a. After having been retired for four years, needing my pension more than ever, MP took a catch-22 position: roundly admitting that I had paid for more than 35 years, but claiming that paying out the agreed amount was quite another matter. See CZ1104 and pt **2b** for more details.

1b. *Finanstilsynet* has imposed the employment of a special complaint official *(klageansvarlige)* by financial institutions. Customers are invited to send complaints directly to this official. I duly sent a complaint (End. 6), only to find that a catch-22 scam was played: the right of customers to send a complaint was fully accepted, sending an answer, though, was entirely another matter.

1c. MP invited all its members in the original pension system to send a request to be transferred to the new system (Enc1.9). I duly sent my request (Enc1.10), only to find that MP took a catch-22 position, whole heartedly admitting that submitting a request upon invitation was a fundamental right of MP members, however, sending a reply was quite another matter.

The background for this last trick is that *Finanstilsynet* and the association *Dansk Forsikring og Pension* (Union of Danish Insurance & Pension Cys) agreed to phase out the interest guaranteed pensions (2012/06/12). MP was forced to comply and sent its 2012/08/29 letter (Enc1.9). However, as MP was desperate to keep its pensioners in their old pension scheme

in order to preserve the financial benefit of having annulled their pension rights, it simply shelved the pensioner applications.

1d. After having paid for more than 35 years for having a guaranteed *kontorente,* in 2009 MP decided to play the catch-22 scam: it admitted roundly that I had a guaranteed *kontorente* of 4.25 %/a, but claimed that it was written nowhere I would get it for free and charged me 2.25 %/a, see pt.2a.

1e. In 2011 the MP Chairman of the Board and its Director in secrecy made a donation of 1,4 million DKK of MP's money to said Director, who signed the deed himself. In my book this is fraud *(mandatsvig* and *bedragen).* MP lawyers also concluded that the law had been breached *(Jyll.Posten,* 2011/11/03).The Board decided otherwise, the case never reached a court of justice.

1f. When the Danish govemment years ago pressed for lower *kontorente* (3,5 %/a, 3 %/a, 1,5 %/a, 1 %/a) on new pension contracts, **MP** did comply *pro forma,* but proceeded by neatly sabotaging the intervention by providing non-contractual 'bonuses' that brought the returns on these contracts to the same level as the 4,25%/a contracts. That is a breach of law. The Board is obliged to execute existing contracts. As a result of this unlawful largesse MP solvency reached catastrophically low levels. This mess was the direct reason that **MP** in panic concocted its 2008 scheme to make its order pensioners pay for the party (cf. **Ia, 2a, 2b).** The Board members responsible were never brought to justice.

1g. In earlier letters (Encl. 3, 4)1 asked to be issued yearly pension statements. RMP1210, p.5, confirming earlier replies, claims that is impossible because my account has been eliminated, leaving me with just a guarantee of monthly pension payments of steadily decreasing value. In 2020 the value of my pension will thus be reduced to 40 % of what it was in 2005. Moreover, the guarantee is underwritten by MP which record of violating earlier promises and pledges is firmly established, as shown in, e.g., pts Ia, **Ib, 1c, Id, 2a, 2b, 3, 4a, 4b.** This intervention amounts to *mandatsvig,* leaving me with nothing to show for my 4 million investment and setting me up for a new round of **MP** fraud.

1h. In RMP1210, p.4, MP falsifies a crucial reference by leaving out thát half of a sentence that proves it being wrong. The situation is explained in detail in pt. **2b.** The context shows that this is not just a silly mistake in the printing error league. It appears coolly calculated swindle.

1i asked MP why Encl.1 never was answered. **MP** replied (Enc1.7, p.3) that that was unknown. That can hardly be true. As shown by the sequence of events related under pt **2a,** the letter was not answered in order to keep the information it solicited secret.

Disrespect of written contracts, law paragraphs and given pledges leaves it to the changing political majority in the MP Board to set ever changing rules. This is unlawful and it is especially cruel to confront pensioners with this lack of direction and lawful rules. I have entered a pension arrangement 45 years ago to be free of financial worries in old age. Instead I find myself victim of a barrage of lies, distortions and unlawful actions all aiming at cheating me out of my pension.1 ask Forsikringsankenaevn to take exception to MP's lack of respect for legal usage and rules of decent customer relations.

2a. Effecting a transfer, as from 2009/01/01, of my old age pension *(alderspension)* to the socalled flexibie pension system

*Section **2** in CZ1104 has been split up in **2a** and **2b** in the hope that MP will find it easier to recognize the incoherence in its reply (RMP1210).*

In the back-bank / good-bank split up of ultimo 2008 MP has committed a series of reprehensible short cuts of which the most serious is the manipulation of the information I needed to make a choice between the two pension systems on offer.
2009/01/01 MP evicted its pensioners from the main membership body and annulled a substantial part of their pension rights *(cf.,* pt. **2b,** CZ1104). This intervention liberated many billions of DKK to be invested for the benefit of the corresponding good-bank department where the younger members (c. 95 % voting rights) had settled themselves comfortably, freed of all solidarity-agreed obligations.

RMP1210 does not address the detailed criticism of this split-up putsch (CZ1104). MP also tries to feign ignorance of the meaning of the expression bad-bank good-bank. After the global financial crisis these terms are in common use, but MP insists reading them as in bad food *I* good food.

RMP1210, p.2, has an off-hand remark that there is no **transfer of means from the bad-bank to the good-bank department** That is wrong. It is hidden, but it is real and enormous. In spite of creating two completely separate pension funds each with their own, elaborate statutes (End. 16; *Bilag 1,* RMP1210) there is only one purse, one investment fund. The MP trick here is that out of this common investment fund the bad-bank pensioners get the low retum investment grade bonds which at the same time constitute the solvency reserves. This frees the younger MP members for holding capital reserves and allows them to benefit fully from the high yielding equities. In the 5- year period 2009-2013 MP had a total investment retum of c. 60 %. In spite of that fantastic retum the value of my pension payment was cut by 15% during this same period and my *kontorente* was kept as low as 10 %. All the rest went to younger MP members of the good-bank. This gigantic *de facto* transfer of means does not involve direct transference of money and thus in the catch-22 world of MP it does not exist. Anyhow, denying this transfer is rather silly because it was the very aim of the split-up operation.

Ultimo 2008 when this split-up was concocted pensioners were *pro forma* given *a* choice to be part of the so-called flexible pension system. I personally was offered a pension in the new system with monthly payments higher than what I was receiving at the time. However, as **MP** at the same time did not put my existing contract into question, this offer would be worse for me than my running pension already after a few years. Being in doubt, though, I asked for more information in my letter of 2008/10/22 (End. 1). I never received a reply and as MP had set a very narrow time frame to decide on the offer, I found myself maneuvered in a situation where I could not accept it.

It **came out later that during this very period MP's administration had already prepared the split-up in detail, including dramatic annulation of pension rights on my contract. The measures (see below, pt 2b) were put into effect 2009/01/01, c. two months later.**

My later requests to transfer to the new system were all rebutted with the argument that that was impossible because I had no pension account, I just had a guarantee for a monthly pension of steadily decreasing value (In MP's deceitful terminology that is called a "guaranteed payment", End.7, feigning ignorance of the phenomenon called inflation). This was confirmed by MP's stubbom refusal to give me an offer for the transfer in 2013, in the end overruled by *Finanstilsynet* (End.12). Following this slab on the fingers MP took effectively revenge by is-

suing me a ridiculously low offer, 13% lower than the offer of October 2008 (-35.000 DKK/a). RMP1210 (p.5) refused to tell how this low offer was calculated: *too technical. It* may be true that pension prognoses make for complicated calculations, however normally one can tompare offers in competition with others, thus avoiding being cheated, and accept the best. In the case of the offer of MP, which good faith is questionable, there is ample reason to demand a detailed explanation.
It thus appears that the highly relevant information, which would have convinced me to accept the offer, and which I specifically asked for by registered letter (Encl.1), was available, but was purposefully kept from me. This is a highly reprehensible and in my book amounts to fraud *(mandatsvig).* Had MP been in good faith it should in all decency have outlined to me the pros and contras of the options I was asked to choose from. This has clearly not been the case.

The conclusion must be that the information which I actually was given by MP to enable me to decide between the two pension systems has been grossly misleading, and my decision made in 2008 therefore cannot be binding. I ask *Forsikringsankenaevn* to rule that I can enter the new pension system retrogressively from 2009/01/01 under the conditions offered in October 2008, if I apply for it.

2b. Reestablishment as from 2009/01/01 of my old age pension in the form it had during the period 2005-2008, inclusive of inflation compensation, pension supplements and 4,25%/a guaranteed investment returs *(kontorente)*

The pension system I paid for (1968-2005) and was paid from (2005-2008) kept what it promised and had a satisfactory inflation safeguard. MP's violations of my old age pension contract (2009/01/01) consisted of: **a) bringing down the return rate on the invested capital *(kontorente*** hereafter) from the contractual 4,25%/a to 2%/a and **b) annulation of the inflation safeguard.** Before discussion these two points, I want to point out three considerations:

- MP's fundamental interventions produced an entirely new contract, which of course I should have had a possibility to decline, that is take my money and the proper compensation payment and leave MP. However, my written request was refused (Encl.7).
- Interrupting my pension contract that is under payment causes me important and irreparable damage. At my old age I have to try to find new work, have to fundamentally rearrange my financial existence and my live as a whole. It is only MP that is responsible for this and it therefore will have to pay me financial compensation to enable me to continue with my live.
- RMP1210 mentions *Finanstilsynet* at several places (e.g., p.2, 2, 6) with the connotation that MP's manipulations have been approved by the agency. For good order, please recall that *Finanstilsynet* is there to check on the financial health of financial institutions and secure that important guide lines, e.g., rules of capital reserves are observed. From my contacts with *Finanstilsynet* I have understood that it does not enter into internat conflicts; it pointedly refers to Courts of Justice and Forsikringsankenaevn. I find it hard to believe that *Finanstilsynet* would allow or endorse unlawful or doubtful mesures. ***Finanstilsynets* Director Ulrik Noedgaard has personally underlined that financial institutions have to observe rules for decent customer relations – 'Kravet om, at finansielle virksomheder skal leve op til reglerne for god skik I forhold til forbrugerne, er centralt i vores arbejde- (Politiken, 2011/11/11).**

a) The *kontorente* is guaranteed and therefore cannot be changed (see below, though, for possible temporary relaxation). MP's claim that the 4,25%/a is not touched, while at the same time taking 2,25 %/a off for a non-existing insurance is a cheap catch-22 scam (pt **1d). Iask Forsikringsankenaevn to rule that MP cannot make customers pay for getting their already paid-for contractually guaranteed kontorente.**

b) The inflation safeguard on my old age pension contract is in percentage points of the invested capital and consists of a fixed part which is illustrated by the graph on p.3 of End. 15, and a flexible part that is adjusted each year by the Board based on the ambient inflation.

The fixed part is an inflation correction, which covers only part of the inflation - thus not a safeguard/sikring against inflation as suggested in RMP1210. The assertion that the diagram cannot be applied because p.2 of Encl.15 mentions 4,5 %/a and 5 %/a being used as an input is unsustainable. This conclusion might be a piece of cake for experienced MP actuaries who have produced the diagram, but certainly not for their layman clients considering retirement. Moreover MP tacitly ignores that Enc1.15 is valid for the totality of MP and that its weighted average *kontorente* in recent years has been c.4,5 %/a, making the whole discussion overly academic.

The flexible part *(pensionstillaeg)* is paid half-yearly (End. 15, p.4; Bilag 2 & 3 of RMP1210) and compliments the fixed part. Although, this flexible part of the inflation safeguard is not specified in percentage points in earlier agreements, it is nevertheless very real, and it is certainly not 'en extraordinaer udlodning af egenkapital' (as MP incorrectly claims, strangely enough referring to a *2013* set of rules to invalidate pledges given in *2005).* I became member of MP in 1968 and in the 40 years up to 2009 this half-yearly inflation safeguard has been paid 80 times. There is therefore no doubt that pensionstillaegget is an inflation safeguard and an integral part of the MP pensionsordning. Moreover, In Encl. 15 and Bilag 2 & 3 of RMP1210 it is pointed out that this half-yearly payment only *'kan nedsættes eller bortfalde i år, hvor MP får et dårligt afkast af sine investeringer'* (may be lowered or suspended in the years in which MP gets a bad return on its investments). It is correct that there might have been a good reason to suspend its payment in the difficult years 2006-2008, however nobody can tall the years 2009-2013, with an average investment retum of c.12 %/a, difficult investment years. This means that in these years MP has to pay the half-yearly inflation safeguard. It can neither be suspended nor cut.

MP's assertions on this subject are objectionable. It daims (RMP1220, p.4): 'Pensionskassen har således aldrig garanteret at fortsætte udbetaling af pensionist tillægget. Det fremgår således både af vores breve af 28.januar 2005 (mit bilag 2) og 10. februar 2005 (mit bilag 3), at tillægget kan nedsættes eller bortfalde.' These references are cheap fabrications, though. The half of the sentence that MP does not like is just buried (see the correct quote I have given above, or read Bilag 2 & 3). This is not even catch-22, which at least assumes a certain artistry, this is just plain cheating.

RMP1210 (p. 4) reports that for 2013 the inflation correction again is refused by MP, and mentions that MP's 'responsible actuary' supports this breach of MP's unequivocal commitment. That perhaps is not surprising as this actuary has publicly declared that his calculations are based on the model to bring down the value of pension payments to bad-bank pensioners down considerably. As at the same time MP investment returns are gigantic, and raising good-bank MP members *kontorente* too more than 5 % not an option (too provocative) the said actuary is forced to boost capital reserves to extreme levels (probably reaching 10 times the required level at present). The trick here seems to be keep boosting reserves until sufficient numbers of pensioners have died off, arter which the funds are formally trans-

ferred to the younger MP membership. Considerations of breach of law, ethics and respect for prior commitments are not among Board nor actuary preoccupations.

As a result of MP's remarkable mismanagement of its entrusted funds, the pension fund faced serious solvency problems notably during the years 2006-2008. Pensions were not paid on time. Rumors of a general default began to circulate. MP staff reached panic mode. Fall 2008 it was decided to throw the pensioners overboard to safe the ship - necessity knows no law. Such extreme actions of course invite litigation; however a court case or a formal complaint can do more damage than good in such a critical situation. I therefore had to wait for less critical times.

In 2011 MP Investment Director declared 'Pensionskassen er bund solid' (...is rock solid). In 2012 MP General Director followed up: 'Pensionskassen er blandt de mest solide I branchen' (.... among the most solid in the trade). MP investment returns during the period 2009-2013 are c. 60 %. During 2013 it became clear that global investment climate had become more benign long term. It is therefore time to tum the ship around, sail back and provide those pensioners, like me, who have not died during these five years in the water, with the support they are entitled to. I therefore ask Forsikringsankenævn to rule that my old age pension is reestablished as from 2009/01/01 in the form it had during the period 2005-2008, inclusive of inflation compensation, pension supplements and 4,25 %/a guaranteed *kontorente* (see also pt.6).

I urgently ask forsikringsankenævn to consider here that there is a very real and very serious time factor involved. The older pensioners who survived the 2009-2013 period and who have been condemned by MP to continue to give up pension payment to build up the future pensions of the younger generation, are close to the end of their lives. The longer MP is allowed to wait with paying them the money that is rightly theirs, the more of them will die, their last years being devastated by the MP political majority of younger members demanding ever higher pensions.

3. Reinstate the widow pension pledge issued in 2005

The pension statement I received just before I retired (End.14) is clear and straightforward. It specifies my correct old age pension *(alderdomspension)* payments dependent on the number of membership years. On the same page the future widow pension yearly payment is given unequivocally without specifications or restrictions of any kind. Upon the basis of that information I decided to take my retirement. However, some years later MP unilaterally decided to reduce the widow pension payment piedges very considerably (CZ1104).

To defend this totally unacceptable intervention RMP1210 gives an exhaustive list of technicalities, specifying how it now prefers that the widow pension pledge should have been calculated.This of course is totally irrelevant. The point is that all this apparently did not exist when MP issued its firm commitment in 2005 (Encl. 14), or, alternatively, it was kept from me. In both cases MP's information has been grossly misleading. Retracting the firm commitment, arter I had taken my retirement and given up my well paid job, will cause me irreparable financial damage for which MP alone is responsible. I insist that this implies that MP is obliged to honor its firm pledge of future widow pension payments as issued *primo* 2005 (Enc1.14) and I invite Forsikringsankenaevn to rule accordingly.

4. Stop issuing wrong and misleading information

The comments of RMP1210 in this section are a flat denial of rather well established facts. This is stone wailing as pure as it comes. It is rare to see this acted out in real life. It illustrates the contempt in which MP holds its pensioners, but also its fear of being exposed. MP asserts to have only given correct and useful information and that I have not given examples of the opposite.

CZ1104 and the present letter are not lacking in examples to show this wrong. The question rather is: where to begin? As I cannot keep repeating the same arguments, because MP is feigning not to understand them, I refer to pt. Ia, Ib, 1c, Id, 2a, 2b, 3 and add only two further examples:

4a. MP keeps repeating *(e.g.,* RMP1210, Encl.4, 7) that pension payment is guaranteed, concealing that its value decreases progressively with inflation. This is misleading and not just a silly mistake of phrasing. MP is purposefully misleading its customers.

4b. For 35 years I was given to believe that I paid for my pension. Now it turns out that I paid for the pensions of the younger MP membership, the value of my own pension being reduced drastically over a number of years. That is what I would call 35 years worth of grossly misleading information.1 call on Forsikringsankenaevn to take exception to MP's policy of supplying me with wrong and misleading information.

5. Keep me fully informed of all that concerns my MP pension arrangements

I am fully aware that the Danish financial secrecy act definer strict limits on what employees and board members of financial institutions may communicate about their professional work. Obviously financial institutions cannot function without such rules. However, there is the danger that these in principle beneficial rules are abused to obscure reprehensible or even unlawful acts and policies, as is the case in MP.

A solution to combat abuse of this law is appointing an independent supervising govemment agency. In Denmark, basically a 'fætter-kusine samfund' (Lars Rhode, Director Danish National Bank, 2013) where everyone knows everyone, that is not an easy task. The serious financial crisis that developed in MP - and not only there - in 2006-2008, in spite of being under dose govemment supervision, seems to confirm that. After the crisis *Finanstilsynet,* bent on not to repeat the earlier echec, enforced strict measures, which, however, seem to single out consumers and customers to pay for the survival of financial institutions, as pointed out by Rasmus Kjeldahl, Director of *Forbrugerrådet* Danish Consumer Council - *(Politiken,* 2012/11/05).

The financial secrecy act is about employees and Board members. There is of course nothing in that law that obstructs MP as an organization to inform its customers properly, honestly and openly, of the implications of their engagements. In MP that has become difficult. The political majority in the Board, having started in 2008 on the treacherous road of abolishing pensioner rights, discovers that there is no way back; ever more fabrications are needed to cover earlier ones.

In CZ1104 and the present letter, questioning the refusal of MP to provide their pensioners with the information they are entitled to is a central theme. The situation in MP is difficult to compare to other pension funds where earlier agreements are honored and monthly payments evaluate as promised. In MP pension rights are violated, pensioners locked into new contracts without possibility to escape. My account has been eliminated. The value of my

monthly pension payments has been cut drastically in a period during which MP had a fantastic investment return of 60 % (see pt **2a).** That of course demands a detailed explanation. For more examples of what should have been done and leaves to de done I refer to pts **Ia, 2a, 2b,** and I list here a few more examples.

5a. Asking for information in MP is rather regarded as a fiendish attack that has to be fought down.
This attitude goes back to the dark autocratic days of a century and more ago. Modem society expects to be kept properly informed. A change of mind is called for in MP.

5b. In 2011 I have asked MP for a thing as simple as yearly pension statements. Strangely enough that was bluntly refused; I have never had a bank or pension fund that did not supply yearly statements, even running statements in the case of Net operators. In contrary, MP's policy is rather to keep secret as much as it possibly can get away with.

5c. In MP publication 'MedlemsNyt' (appearing 2 to 4 times a year) bad-bank pensioners are never mentioned. Neither are they receiving any information personally, and if that occurs, usually after much letter writing and many months and years of waiting, it is just bureaucratic twaddle. It seems that MP's judicial expertise thinks that not saying anything safeguards against accusations of wrong doing. It seems not aware that withholding relevant information is as serious a misdemeanor.

5d. MP should tell how the money in the pension fund is distributed after the fundamental reforms
5e. Do pensioners in the good-bank get inflation compensation, and how much?

5f. Why is the solvency reserve so extremely high? Is it only to shield the money until enough pensioners have died off? How is the money then distributed to the remaining members?

5g MP boasts that 60% of its administration expenses are eventually paid back to its members. Does that also involve pensioners? Or is this only for the younger MP members?
I ask Forsikringsankenaevn to take exception to MP's policy of withholding relevant information for its customers.

6. Stop exposing EU citizens to discriminative measures, obstructing the right of free movement of EU pensioners
MP waves a dapper national flag in this section (RMP1210, p.6), without notably improving its reply, though. It is impressive how many distortions and misconceptions are squeezed into these seven lines.

MP writes (RMP1220) that I complain being discriminated because I live in France *'hvor der ikke er saa gode folkepensioner som i Danmark'* (where government old age pensions are not as good as in Denmark). What to say? Anyone can read in CZ1104 that I did not even mention the subject. Why should I? Denmark pays my old age pension *(folkepension)* for c. 80 %, the remaining 20 % coming from the Netherlands.

RMP1220 rambles on about PAL tax (special Danish tax, ≥15 %, on all yearly pension capital returns) and the beneficial role of the Danish parliament in this matter. Not exactly on target.

For good order I repeat here what I *did* point out as discriminatory. In essence the 2009 bad-bank/goodbank split-up of **MP** (pt **2a,** CZ1104) is a social security measure to keep the younger MP membership financially afloat. I pay tax in France, a.o., to finance its social security system. That means that MP through the bad-bank / good-bank manipulation forces me to contribute to social security two times. My colleagues living in Denmark pay only one time. That is discriminatory and obstructs the fundamental right of free movement of EU pensioners; in fact MP gives me the choice either to remain in Denmark forever or face financial meltdown. Apparently 30 % of university teachers in Denmark are foreigners, so it is not only me that is a victim of MP's disregard for EU regulations. **I ask forsikringsankenaevn to take exception to the measures taken by MP that cause obstruction of EU regulations, and to take this aspect into consideration in evaluating pt. 2a and 2b, above.**"

I brev af 11/2 2014 til nævnet har selskabet bl.a. oplyst:

"Klager fik nyt tilbud om omvalg til Den fleksible pensionsordning den 9. april 2013 (Klagers 'Encl. 13' til oprindelig klage). Som det fremgik af tilbuddet, kunne vi ikke anbefale Klager at vælge om, da det ville betyde et fald i hans alderspension.

Faldet i alderspensionen (i forhold til 2008) skyldes dels en generelt mindre omvalgsbonus i 2013 end i 2008, og dels at Klager i 2013 havde en højere negativ bonus, som ville blive realiseret i forbindelse med omvalget.

Vi afviser på den baggrund, at overflytte Klager til Den fleksible pensionsordning på de vilkår som var gældende i forhold til tilbuddet i 2008."

Efterfølgende er klageren og selskabet fremkommet med yderligere bemærkninger i breve af 7/3, 24/3, 25/4 og 13/5 2014 til nævnet.

Nævnet har modtaget en række bilag. Enkelte af bilagene vil blive gengivet i det følgende:

Af klagerens "Enclosed 15" – hvor der på dokumentets forside står "Januar 2005…OMREGNET PENSION" – fremgår bl.a.:

"**Omregnet pension**

Når du skal pensioneres, får du mulighed for at vælge mellem en grundpension og en omregnet pension. Vælger du den omregnet, får du en højere udbetaling I starten.

Grundpensionen regnes ud fra de grundrenter, der er gældende for dig i de år, *hvor* der bliver indbetalt pensionsbidrag til MP. Den omregnede pension regnes derimod ud fra en rente på 4,25%, som er MP´s højeste grundlagsrente.

Dine grundlagsrenter afhænger af, hvornår du er blevet optaget og/eller evt. genoptaget i pensionskassen, og siden 1993 er grundlagsrenten løbende blevet sat ned. Tabellen nedenfor viser MP´s grundlagsrenter.

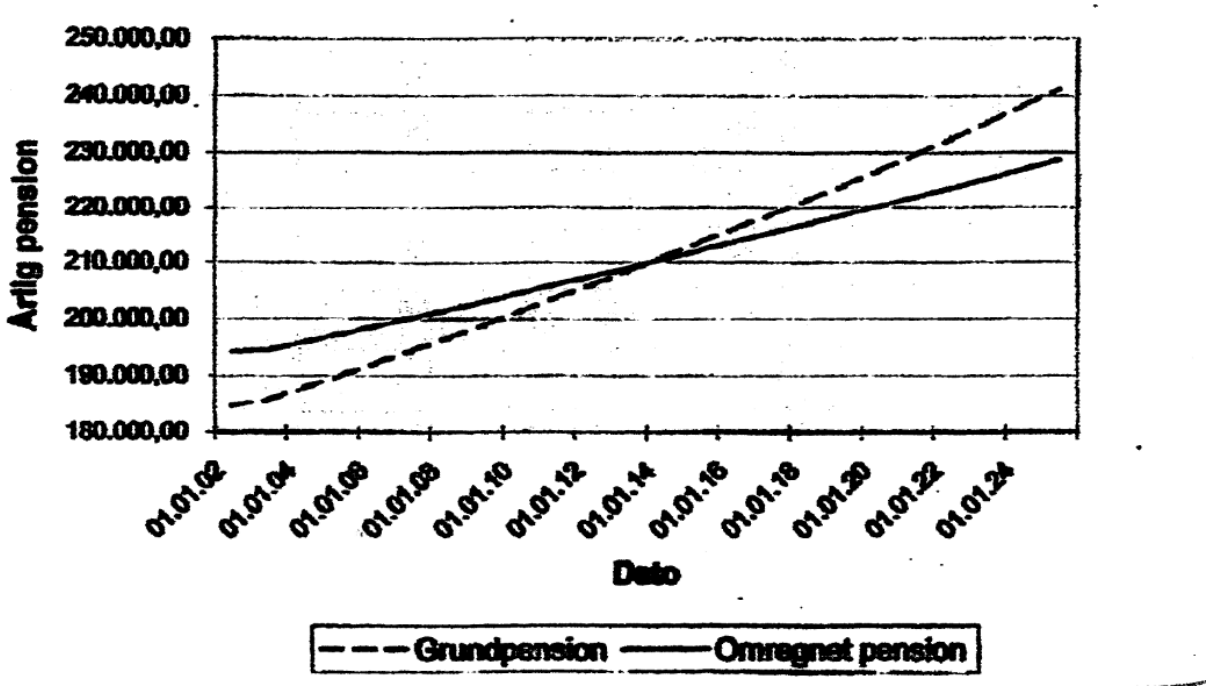
15. 85.229

År	Grundlagsrente
Før 1993	4,25 %
Pr. 01.01.93	3,50 %
Pr. 01.01.96	3,00 %
Pr. 01.07.99	1,50 %

Den sidste nedsættelse i 1999 gælder ikke kun for nyoptagne medlemmer, men også for bonustilskrivninger, indskud og visse bidragsstigninger pr. 31.12.1999 og derefter.

Grundpensionen og den omregnede pension har samme værdi på omregningstidspunktet, men de har forskellige udbetalingsbeløb.

Figuren herunder viser et eksempel på, hvordan udbetalingsforløbet for en grundpension og en omregnet pension kan udvikle sig. I eksemplet pensioneres medlemmet I en akter af 55 år, og den forventede udbetalingsperiode er beregnet til ca. 26 år. Kontorenten i 2002 er sat til 4,5% og i årene derefter til 5,0%.



…
Det halvårlige tillæg, som MP normalt udbetaler til pensionisterne, bliver højere i de første år, hvis man vælger den omregnede pension, idet pensionstillægget beregnes som en procentdel af den udbetalte pension.

Da pensionskassen fastsatte omregningsrenten til 4,25 %, var det ud fra en forventning om, at vi også i fremtiden ville være i stand til at forrente pengene med mindst 4,25 % efter skat. Skulle det mod forventning vise sig, at MP over en årrække ikke kan forrente pengene med denne rente, vil den omregnede pension kunne sættes ned. Den årlige nedsættelse kan dog ikke udgøre mere end differencen mellem 4,25 % og de grundlagsrenter, som grundpensionen er regnet ud fra. I alle tilfælde vil du som minimum får udbetalt den grundpension, som du har på omregningstidspunktet.

Hvert år i december fastsætter bestyrelsen en kontorente for det efterfølgende år. Kontorenten, som er lig med summen af grundlagsrenten og bonusrenten, er den samlede forrentning medlemmerne årligt får tilskrevet pensionsordningen. I MP tilstræber vi, at alle medlemmer får den samme kontorente. Derfor får medlemmer med en høj grundlagsrente en lav bonusrente, og medlemmer med en lav grundlagsrente, får en høj bonusrente. Da den omregnede pension er regnet ud fra MP´s højeste grundlagsrente, vil den omregnede pension ikke stige så meget som grundpensionen.

Tabellen nedenunder viser MP´s kontorente de sidste 5 år.

År	Kontorente
2005	4,25 %
2004	4,25 %
2003	4,25 %
2002	4,50 %
2001	6,50 %

"

Af klagerens "Enclosed 14" – der tilsyneladende er en dækningsoversigt pr. 1/1 2005 fra selskabet – fremgår bl.a.:

"

Alderspension

Her kan du se, hvor meget du får i alderspension og i eventuel alderssum afhængig af, hvornår du går på pension. Alderssummen kan du få udbetalt fra alder 60, selv om du ikke går på pension på dette tidspunkt. For bidragsindbetalingen er du registreret med et nej til opsparing til alderssum.

Ved alderspensionering:	Årlig grundpension kr.	Årlig omregnet pension kr.	Alderssum kr.
Ved 64 år med alderssum	222.432	230.820	563.708
Ved 64 år uden alderssum	262.632	271.716	
Ved 65 år med alderssum	236.484	245.088	610.456
Ved 65 år uden alderssum	281.268	290.592	
Ved 66 år med alderssum	252.180	261.024	664.380
Ved 66 år uden alderssum	302.364	311.952	
Ved 67 år med alderssum	269.940	279.036	727.144
Ved 67 år uden alderssum	326.532	336.432	

"

Af selskabets brev af 28/1 2005 til klageren fremgår bl.a.:

"Ved valg af omregnet pension - som langt de fleste medlemmer vælger - får du en højere startpension, end hvis du vælger grundpensionen. Forskellen mellem de to typer pension hænger sammen med de renter, der er anvendt til beregning af pensionen. Grundpensionen er beregnet med de grundlagsrenter, der har været gældende undervejs i din opsparingsperiode, og den reguleres fuldt ud med de årlige tilskrivninger af rentebonus. Den omregnede pension beregnes derimod altid med 4,25 %, dvs. med MP's højeste grundlagsrente for hele

din indbetaling. Til gengæld vil den årlige bonustilskrivning være tilsvarende mindre. Vælger du den omregnede pension, må du være forberedt på, at pensionen kan blive nedsat, hvis MP i en periode får et dårligt afkast af sine investeringer.

Hvis du ikke ønsker omregning, skal du huske at udfylde rubrikken på oplysningsskemaet 'jeg ønsker ikke omregning til højere rente'. Dit valg vil også være gældende for eventuelle børnepensioner.

For at MP's pensionister skal få glæde af pensionskassens reserver udbetales der et tillæg til de løbende pensioner to gange om året. Tillægget beregnes som en procentdel af grundpensionen eller den omregnede pension, afhængigt af hvilken ordning du vælger. Udbetalingen sker sammen med april og oktober måneds pensioner. Tillægget kan nedsættes eller bortfalde i år, hvor der sker store kursfald i MP's investeringer."

Af selskabets brev af 25/8 2008 til klageren fremgår bl.a.:

"**Du skal træffe et vigtigt valg inden 1. oktober**

Kære [klageren]
Du får nu mulighed for at vælge en ny og forbedret pensionsordning: Ny Pensionsordning. Det handler om din pension, så det er vigtigt, at du tager stilling. Svarfristen er 1. oktober 2008. MP's bestyrelse anbefaler et ja til Ny Pensionsordning.

Dine personlige tal
Nedenfor kan du se din månedlige alderspension i både gammel og ny pensionsordning. Tallene er baseret på din medlemsstatus og dine dækninger pr. 1. maj 2008.

Månedlig alderspension	
Gammel pensionsordning	Ny pensionsordning
22.539 kroner	23.957 kroner

Ny Pensionsordning giver udsigt til større pensioner, fordi den er baseret på en lavere betinget grundlagsrente og derved frigør bundne reserver. I Ny Pensionsordning består pensionen af en grundpension og en tillægspension på 45 procent.

I det vedlagte materiale kan du læse mere om, hvorfor din pension stiger, hvis du siger ja til Ny Pensionsordning."

Af pensionsvilkårene af juni 2013 fremgår bl.a.:

"**BILAG C. FORSIKRINGSTEKNISK GRUNDLAG OG BONUSREGULATIV**

1. FORSIKRINGSTEKNISK GRUNDLAG
Nærværende tekst er et uddrag af væsentlige og relevante afsnit i det forsikringstekniske grundlag.

Det tekniske grundlag fastsættes af bestyrelsen efter indstilling fra den ansvarshavende aktuar og anmeldes til Finanstilsynet, jf. pensionsregulativet § 18, stk. 1.

1.1 Grundpensionen og grundlagsrente
Grundpensionen beregnes ud fra grundlagsrenten. Der gælder forskellige grundlagsrenter alt efter hvornår man er indtrådt i ordningen.

For alle bidragsstigninger, bonustilskrivninger og indskud gælder den grundlagsrente som var gældende på indbetalingstidspunktet. Ændringen i grundlagsrenten pr. 1. januar 1993 var dog gældende for alle nye bidrag.

Grundlagsrenten er på:

	Oprettet i perioden	**Pct.**
a)	Før 01.01 1993	4,25 %
b)	01.01 1993 – 31.12 1995	3,50 %
c)	01.01 1996 – 30.06 1999	3,00 %
d)	01.07 1999 – 31.12 2007	1,50 %
e)	01.01 2008 – 31.03 2011	1,50 % betinget
f)	01.01 2008 eller senere	1,00 % betinget

Ydelser oprettet før 1. januar 2008 er omfattet af ubetingede garanterede grundlag. Ydelser oprettet 1. januar 2008 eller senere er omfattet af betingede grundlag jævnfør afsnit 1.3. Medlemmer optaget før 2008, som ikke har valgt om til den fleksible ordning i 2008 eller senere, er omfattet af de betingede grundlag for ydelser baseret på bidragsstigninger, indskud og bonus fra og med 2008, mens øvrige ydelser fortsat er omfattet af de ubetingede garanterede grundlag.

1.2. Omregningsrente
Ved overgang til pension kunne pensionisten indtil 31. december 2008 vælge at få pensionen omregnet til et højere forrentet grundlag.

Omregningsrenten udgjorde pr. 1. januar 2008 4,25 pct.

1.3 Betingede grundlag
Ydelser omfattet af betingede grundlag efter afsnit 1.1 kan nedsættes af bestyrelsen, efter samråd med aktuaren, såfremt en eller flere af følgende forudsætninger opfyldes:

1. Den konstaterede dødelighed eller invaliditetshyppighed i pensionskassen set over en 3-årig periode afviger til ugunst for pensionskassen i forhold til grundlagets forudsætninger.
2. De konstaterede forhold vedrørende børn og ægtefæller afviger til ugunst for kassen set i forhold til grundlagets forudsætninger.
3. Grundlagsrenten overstiger nyinvesteringsafkastet efter skat på lange statsobligationer.
4. Pensionskassens realiserede afkast efter skat har over en 3-årig periode ligget under grundlagsrenten.

Betingelserne betyder eksempelvis, at hvis levealderen og prognoserne for levealderen i fremtiden måtte stige udover grundlagets forudsætninger, så vil ydelserne blive ændret.

Nedsættelsen er også gældende for ydelser baseret på det opsparede depot."

19. 85.229

Nævnet udtaler:

Det er oplyst, at klageren valgte, at hans pensionsordning skulle være omfattet af den gamle pensionsordning, og at han i forbindelse med overgangen til alderspension den 1/3 2005 valgte en ordning, der hedder "omregnet pension". Det fremgår af pjecen om omregnet pension fra 2005, at den omregnede pension regnes ud fra en rente på 4,25 %. Derudover fremgår det, at den omregnede pension vil kunne sættes ned, såfremt selskabet i en årrække ikke kan forrente pengene med denne rente. Af selskabets brev af 28/1 2005 til klageren fremgår bl.a., at: "Vælger du den omregnede pension, må du være forberedt på, at pensionen kan blive nedsat, hvis MP i en periode får et dårligt afkast af sine investeringer." Selskabet har oplyst, at det i en årrække ikke har kunnet forrente klagerens pensionsordning, hvorfor den omregnede pension er sat ned. Selskabet har endvidere påpeget, at klagerens nuværende udbetaling er højere, end hvad han ville have fået i grundpension.

Som sagen foreligger oplyst, finder nævnet at måtte lægge til grund, at klageren valgte omregnet pension i forbindelse med sin alderspensionering, og at det var en forudsætning for aftalen om ændring af pensionsordningen til den omregnede pension, at pensionen kunne nedsættes, hvis selskabet i en årrække ikke kunne forrente pensionen med 4,25 %. Selskabet har oplyst, at det ikke har haft mulighed for at give en årlig kontorente på mindst 4,25 %, hvorfor den omregnede pension er sat ned.

Efter sin gennemgang af sagen – herunder parternes indlæg og de fremlagte bilag – finder nævnet, at der ikke er grundlag for at kritisere selskabets standpunkt, hvorefter klagerens pension er korrekt opgjort. Nævnet bemærker, at selskabet har oplyst, at den beregnede grundpension er lavere end klagerens nuværende omregnede pension.

Således som sagen er oplyst, finder nævnet, at klageren ikke har bevist, at han med selskabet har indgået en aftale om, at hans pensionsordning er inflationssikret. Nævnet har derfor ikke grundlag for at kritisere selskabet på dette punkt.

Klageren har i en periode modtaget et pensionisttillæg. Efter det oplyste finder nævnet, at klageren ikke har bevist, at selskabet har givet ham et uforbeholdent tilsagn om, at

der skal ske udbetaling af pensionisttillæg. Nævnet bemærker herved, at det fremgår af selskabets brev af 28/1 2005 til klageren, at tillægget kan nedsættes eller bortfalde i år, hvor der sker store udfald i selskabets investeringer. Selskabet har oplyst, at der på nuværende tidspunkt ikke er midler ud over, hvad der skønnes nødvendigt for at kunne afdække selskabets risici, hvorfor selskabets bestyrelse har besluttet, at pensionstillægget p.t. er på 0 %. Efter sin gennemgang af sagen – herunder parternes indlæg og de fremlagte bilag – finder nævnet, at der ikke er grundlag for at pålægge selskabet at udbetale pensionisttillæg til klageren.

Det fremgår af selskabets brev af 25/8 2008, at klageren skal træffe et valg om overgang til ny pensionsordning inden den 1/10 2008. Da det som ubestridt kan lægges til grund, at klageren over for selskabet afslog at ændre pensionsordningen til ny pensionsordning, finder nævnet, at der ikke er grundlag for at pålægge selskabet at anerkende, at hans pensionsordning er omfattet af den nye pensionsordning med tilbagevirkende kraft fra den 1/1 2009.

Klageren har påpeget, at selskabet har undladt at oplyse om "the pros and the contras of the options I was asked to choose from…" i forbindelse med valget om overgangen til den ny pensionsordning. Således som sagen foreligger oplyst, finder nævnet ikke grundlag for at fastslå, at selskabet i sin sagsbehandling eller rådgivning har handlet på en sådan måde, at det kan begrunde et erstatningsansvar i forhold til klageren. Nævnet har derfor heller ikke på denne baggrund grundlag for at pålægge selskabet at anerkende, at han er omfattet af den nye pensionsordning med tilbagevirkende kraft fra den 1/1 2009.

Selskabet har oplyst, at klageren valgte en 10-årig ophørende ægtefællepension, der udgør 40 % af den pension, som han har opnået ret til ved sin død, men kun for den del af bidragene, som var indbetalt efter 1993. Derudover har klageren en livsvarig ægtefællepension som udgør 60 % af pensionen beregnet på baggrund af indbetalingerne før 1993. Således som sagen er oplyst - herunder parternes indlæg og de fremlagte bilag – finder nævnet, at der ikke er grundlag for at antage, at klagerens ægtefællepensi-

on er beregnet forkert. Nævnet har herefter ikke grundlag for at pålægge selskabet, at det skal udbetale en pension svarende til den, han modtog i 2005.

I sit brev af 10/12 2013 har selskabet oplyst, at selskabet er under tilsyn af Finanstilsynet, og at medlemmerne kan deltage på den årlige generalforsamling og fremsætte spørgsmål og forslag. Selskabet har endvidere oplyst, at det ad flere omgange manuelt har beregnet klagerens depot på baggrund af hans aktuelle pensionsudbetalinger. Beregningerne er efter det oplyste sket på baggrund af det tekniske grundlag, som er anmeldt til Finanstilsynet.

På det foreliggende grundlag finder nævnet ikke anledning til at kritisere selskabets sagsbehandling. Det, som klageren i øvrigt har gjort gældende, finder nævnet ikke at kunne føre til et andet resultat, hvorfor

b e s t e m m e s :

Klageren får ikke medhold.

Poul Sørensen