

California Victim Compensation and Government Claims Board

Open Meeting Minutes

September 17, 2009, Board Meeting

The California Victim Compensation and Government Claims Board (Board) convened its meeting in open session at the call of Fred Aguiar, Secretary, State and Consumer Services Agency, at 400 R Street, Sacramento, California, on Thursday, September 17, 2009, at 10:02 a.m. Also present were Board members Les Kleinberg, Deputy Controller, acting for and in the absence of John Chiang, Controller, and Michael Ramos, San Bernardino County District Attorney.

Board staff present included Julie Nauman, Executive Officer, and Garry Ness, Chief Counsel. Tisha Heard, Board Liaison, recorded the meeting.

The Board meeting commenced with the Pledge of Allegiance.

Item 1. Approval of Minutes of the August 13, 2009, Board Meeting

The Board voted to approve the minutes of the August 13, 2009, Board meeting.

Item 2. Public Comment

The meeting was opened to public comment. No public comment was provided.

Item 3. Executive Officer's Statement

The Executive Officer gave the following report:

- The California Victim Assistance Association held its bimonthly meeting in Sacramento on September 1, 2009. Topics of discussion included, among others, upcoming outreach efforts, the CaRES system, and the new VCP online application.
- CalEMA opened two local assistance centers in Los Angeles County for victims of the Station Fire. Since the fire was determined to be arson, Los Angeles victim advocates will be on hand at those centers to assist those in need. The VCP has posted informational facts sheets on our website and has made them available to our local partners to make the public aware of the services and help the VCP may be able to provide.
- National Day of Remembrance for Murder Victims will be observed on September 25, 2009. This annual observation is sponsored by parents of murdered children and is an opportunity to honor the memory of murder victims and support their surviving family members and loved ones. The Sacramento Chapter invited the Executive Officer to speak at a ceremony that will be held the evening of September 25 on the West Steps of the State Capitol. The VCGCB is also a sponsor at a sister event in Ventura County.
- The California State Employees Charitable Campaign has officially kicked off at the VCGCB. Fundraising efforts for the campaign began yesterday and included the annual cake auction. VCGCB staff donated over 30 beautifully decorated cakes, with the highest bid of \$65.00. Speakers from Shriners Hospital and St. Johns Shelter provided brief presentations regarding their organizations.

Item 4. Legislative Update

Gary Longholm, Deputy Executive Officer, Legislation and Public Affairs Division, presented the Legislative Update to the Board.

Government Claims Program

Item 5. Consent Agenda (Nos. 1- 429)

The Board voted to approve the staff recommendations for numbers 1-429, with the following exceptions: item numbers 30, 32, 33, 106, 115, 117, 123, and 291 were continued to a subsequent agenda; item numbers 90, 94, 125, 231, 275, 276, 314, 315, and 394 were removed in order to allow the claimants an opportunity at address the Board; and item number 115 was removed pending further review.

Consent Agenda Appearance **Item Number 90, G578253**

Claimant James T. Holland appeared and addressed the Board. Tana Camargo appeared on behalf of CalPERS. The Board voted to adopt the staff recommendation to reject the claim.

Consent Agenda Appearance **Item Number 94, G578449**

Claimant Colton B. Stokwitz appeared and addressed the Board. Robert Frey appeared on behalf of Alliant Insurance Services. The Board voted to adopt the staff recommendation to reject the claim.

Consent Agenda Appearance **Item Number 125, G582795**

Claimant Steve Sabatino failed to appear. Robin Harrington appeared on behalf of CalFire. The Board voted to adopt the staff recommendation to reject the claim.

Consent Agenda Appearance **Item Numbers 231 (G584434) , 275 (G584572), and 276 (G584573)**

Claimant Michelle Mellema appeared and addressed the Board. The Board voted to adopt the staff recommendations to reject all three claims.

Consent Agenda Appearance **Item Numbers 314 (G584681), 315 (G584683), and 394 (G582227)**

Alfred Buchta appeared and addressed the Board on behalf of the claimants. Peter Ackeret appeared on behalf of CalTrans. The Board voted to adopt the staff recommendations to reject item numbers 314 and 315 and deny the late claim application for item number 394.

Government Claims Program staff will furnish Mr. Buchta with copies of correspondence that was previously sent to the claimants regarding item numbers 314 and 315.

Item 6. California Department of Corrections and Rehabilitation **Claim Number G573405**

Judy Parker appeared and addressed the Board on behalf of the California Department of Corrections and Rehabilitation (CDCR).

Chairperson Aguiar asked Ms. Parker to explain where the inmate's personal funds are derived. Ms. Parker stated the funds come from a variety of sources including from families, friends, and inmate pay, among others.

Chairperson Aguiar asked Ms. Parker to explain the circumstances under which money that was previously in an inmates account is no longer available. Ms. Parker stated a common occurrence is an inmate receives a check or money order from a family member or friend, it is deposited into the inmates account, the inmate makes purchases at the canteen, and sometime later CDCR receives a nonsufficient funds or stop payment notification from the bank. CDCR must reimburse the bank, which puts the account in a negative balance. Thereafter, CDCR attempts to collect the money back from the inmate.

Chairperson Aguiar asked Ms. Parker to explain why taxpayers, as opposed to CDCR, should be held responsible for replenishing the inmate's funds that the inmates themselves overspend. Ms. Parker stated CDCR followed the regulations as outlined in the State Administrative Manual regarding how to file a claim when there is a cash fund shortage. Gary Longholm, Deputy Executive Officer, VCGCB, stated if the Department of Finance concurs, the claims bill could identify the item to be paid out of CDCR's budget but CDCR needs the budget authority through the claims bill process.

Chairperson Aguiar asked Ms. Parker to outline the steps CDCR would take to remedy the situation in the future. Ms. Parker stated CDCR has implemented a new Inmate Trust Accounting System (Trust Restitution Accounting Canteen System, aka, TRACS) to prevent and manage overdrawn inmate trust accounts. TRACS was implemented November 1, 2008, and provides a centralized banking system for inmate trust accounts for all CDCR institutions as well as providing a central point of contact for CDCR bank issues.

Chairperson Aguiar requested Ms. Parker take a recommendation back to CDCR from the Board requesting CDCR make a regulatory process change that no inmate funds will be spent until there is clearance.

The Board voted to adopt the staff recommendation to allow the claim in the amount of \$93,747.20, under authority of Government Code section 905.2(b)(4)(legislative pay).

Item 7. Dohn Salvador
Claim Number G578984

Claimant Dohn Salvador appeared and addressed the Board. Steven Tolle appeared on behalf of CDCR and Susan Coats appeared on behalf of DPA.

The Board voted to adopt the staff recommendation to partially allow the claim in the amount of \$2,887.50, under authority of Government Code section 965 (agency pay).

Item 8. Western Contract
Claim Number G582224

The Board voted to adopt the staff recommendation to allow the claim in the amount of \$88,062.00, under authority of Government Code section 965 (agency pay).

Item 9. Systems Research and Applications Corporation
Claim Number G582422

The Board voted to adopt the staff recommendation to allow the claim in the amount of \$50,280.37, under authority of Government Code section 965 (agency pay).

Item 10. Pac Bell Telephone Company, dba AT&T California
Claim Number G583441

The Board voted to adopt the staff recommendation to allow the claim in the amount of \$285,822.00, under authority of Government Code section 965 (agency pay).

Item 11. James C. Pedri
Claim Number 583513

Claimant James C. Pedri appeared and addressed the Board.

Garry Ness, Chief Counsel, VCGCB, stated the administrative law judge for the State Personnel Board (SPB) overturned the adverse action that was taken against Mr. Pedri and there is no provision in the administrative process or the SPB procedure to pay for attorneys fees.

Board member Les Kleinberg asked if a representative from the Water Resources Control Board (WRCB) was in attendance at the meeting. Jackie Tinetti, Government Claims Program Manager, stated the WRCB declined to send a representative to speak to the matter.

The Board voted to adopt the staff recommendation to reject the claim.

Item 12. United Fence Contractors, Inc.
Claim Number G583966

The Board voted to adopt the staff recommendation to allow the claim in the amount of \$51,200.00, under authority of Government Code section 965 (agency pay).

Item 13. Jeffrey Rodriguez (Pen. Code, § 4900 et seq.)
Claim Number G569133

Claimant Jeffrey Rodriguez appeared and addressed the Board. Jill Kent and another representative appeared on behalf of the claimant. Huy T. Luong and Heather Gimle appeared on behalf of the Attorney General's Office.

Chairperson Aguiar asked Mr. Luong if the alleged victim testified at the Penal Code section 4900 hearing. Mr. Luong stated the victim did not testify; however, he was interviewed by the Attorney General's Office with an investigator present and the interview was played at the conclusion of the hearing.

Board member Michael Ramos asked the claimant's representative if alibi witnesses were in attendance at the factual innocence proceeding. The representative stated due to the voluminous amount of evidence, the judge read through both trials before they argued the motion. The exhibits were attached and the People and Defense stipulated that the exhibits were what they purported to be.

The Board voted to adopt the staff recommendation to deny the claim.

Item 14. Request for Direction to Begin the 45-day Comment Period for Regulations Governing Claims of Persons Erroneously Conflicted of Felonies

The Board voted to adopt the staff recommendation to authorize the Executive Officer to begin the formal rulemaking process for the proposed changes to the Board regulations.

Victim Compensation Program

The Board commenced the Victim Compensation Program portion of the meeting at 11:42 a.m.

Request for Reconsideration

Recommendation: Allow

(No. 1)

The Board voted to adopt the staff recommendation.

Reconsiderations Following Board Action on a Proposed Decision

Recommendation: Deny

(Nos. 2-4)

The Board voted to adopt the proposed decisions.

Proposed Decision Following Failure to Respond

(Nos. 5-23)

The Board voted to adopt the proposed decisions.

Proposed Decision Following Failure to Appear

(Nos. 24-33)

The Board voted to adopt the proposed decisions.

Closed Session

Pursuant to Government Code section 11126(c)(3), the Board adjourned into Closed Session with the Board's Executive Officer and Chief Counsel at 11:45 a.m. to deliberate on the proposed decisions, numbers 34 through 56.

The Board reconvened into open session at 11:50 a.m.

Open Session

The Board voted to adopt the proposed decisions for numbers 34 through 56.

Adjournment

The Board meeting adjourned at 11:51 a.m.

Julie Nauman
Executive Officer

Julie Nauman

I certify that the California Victim Compensation and Government Claims Board adopted these minutes at its meeting of October 15, 2009, at Sacramento, California.

Date: October 15, 2009

By:

Jisha Hard
Board Liaison (Affix Seal here)

