

California Victim Compensation and Government Claims Board
Open Meeting Minutes
October 20, 2011, Board Meeting

The California Victim Compensation and Government Claims Board (Board) convened its meeting in open session at the call of Leslie Lopez, Deputy Secretary and General Counsel, State and Consumer Services Agency, at 400 R Street, Sacramento, California, on Thursday, October 20, 2011, at 10:00 a.m. Also present was Board member Richard Chivaro, Chief Counsel, acting for and in the absence of John Chiang, Controller, and Board member Michael Ramos, San Bernardino County District Attorney.

Board staff present included Julie Nauman, Executive Officer; Patty Harris, Chief Deputy Executive Officer; and Wayne Strumpfer, 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 September 15, 2011, Board Meeting

The Board voted to approve the minutes of the September 15, 2011, Board meeting.

Item 2. Public Comment

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

Item 3. Executive Officer's Statement

Annual National Association of Crime Victim Compensation Boards Conference

California was the host state for the 2011 VOCA National Training Conference held in Long Beach on September 19-23. For the first time the conference was jointly organized by the National Association of Crime Victim Compensation Boards and the National Association of VOCA Assistance Administrators. Secretary Cabellero's remarks during opening session were widely welcomed by all. Approximately 250 participants from 50 states gathered to share strategies on a variety of topics focused on helping improve services for victims. CalVCP staff facilitated a number of sessions, most notably, a session on the 10th anniversary of September 11th. A number of survivors from the tragic event came together and shared their personal stories with the participants. The survivors mentioned how helpful the VCGCB was to them both individually, and to their families, and expressed how grateful they were for the help that the CalVCP was able to provide. Other sessions facilitated by CalVCP staff included outreach and social media, developing and writing policies, and restitution recovery.

Governor Signed Legislation to Preserve the Restitution Fund

Governor Brown signed AB 898 (Alejo), a bill sponsored by the California Coalition Against Sexual Assault that increases the minimum amounts for restitution fines imposed on convicted defendants by 50 percent over a three-year period. For felony convictions, the new law increases the minimum fee, in yearly tiered amounts, from \$200 to \$300 by 2014. For misdemeanors, fees are increased from \$100 to \$150 by 2014. This is the first legislation in nearly 20 years that increases minimum fines for felonies and misdemeanors. Monies collected will be deposited in CalVCP's Restitution Fund, the primary funding source for the CalVCP. The bill will go into effect on January 1, 2012.

October is National Domestic Violence Awareness Month

The CalVCP is once again proud to support National Domestic Violence Awareness Month. In recognition of National Domestic Violence Awareness Month, the CalVCP will show support for domestic violence victims by participating in many activities including, among others, changing the CalVCP website color to purple, the official awareness color for the month of October. CalVCP will participate in the Women Escaping a Violent Environment (WEAVE) "Suited for Success Program." WEAVE's "Suited for Success" program grew from the need to assist domestic violence victims attain economic independence. Through "Suited for Success," women receive over \$100 worth of

professional work clothes. This important early step provides the professional clothing needed for job interviews and helps to build an independent life. A clothing collection bin has been placed in the lobby of CalVCP headquarters to collect clothing that will benefit domestic violence survivors. Lastly, Chris Lackey, Manager, VCGCB Lien and Overpayment Recovery Section, a State Certified Domestic Violence and Sexual Assault Counselor, provided a comprehensive presentation to staff on domestic violence.

The CalVCP has provided assistance to thousands of domestic violence victims every year by providing victims compensation for relocation and medical and mental health expenses that incurred as a result of the violent crime.

Update on New VCGCB Regulation

The Office of Administrative Law approved the Board's adoption of Regulation Section 649.1, Verification of Attorney's Fees. The new regulation implements the attorney fee statute by providing for verification of attorney's fees through fee statements documenting that attorney services were actually rendered to the applicant. The regulation also requires that attorney representatives sign the CalVCP application before the applicant signs it. The new regulation will go into effect on November 4, 2011.

Restitution Fund Revenue Update – 1st Quarter Comparisons

Executive Officer Nauman presented a chart comparing Restitution Fund revenue for July through September for fiscal years 2009/10, 2010/11, and 2011/12. The chart depicted an alarming 9% decrease between fiscal years 2009/10 and 2010/11, which represented a \$2,426,339.00 decline in revenue. During this same quarter, there is a 1% decrease from last year. This significant difference resulted in the Board's action to reduce benefit payments to providers and victims; reduce internal operating costs; and reduce overall Joint Power and Criminal Restitution Compact contracts by 5 percent.

Update on the VCGCB's Revenue Generating Initiatives

Franchise Tax Board Court-ordered Debt (FTB-COD) Program

Ms. Nauman reported that the Victim Compensation and Government Claims Board uses the Franchise Tax Board Court-ordered Debt Program to collect outstanding restitution fines from discharged offenders. As of October 12, 2011, the first 3.5 months of fiscal year 2011/12, the VCGCB has collected over \$700,000, which exceeds the amount collected for the entire prior fiscal year.

Orange County Pilot Program

Last year the Board implemented the Orange County Pilot Program, which also uses the FTB-COD Program to collect outstanding restitution fines from probationers in Orange County. The VCGCB has collected over \$235,000 in the first year, which is a 16% collection rate so far.

The Executive Officer reported that at a future meeting staff will present a more comprehensive overview of both programs demonstrating the potential to generate more revenue to the Restitution Fund.

Announcement of the VCGCB's Participation in the Great California ShakeOut Drill

Chairperson Leslie Lopez announced that at 10:20 a.m. the Board will participate in the Great California ShakeOut, an earthquake preparedness drill designed to educate the public on how to protect oneself during an earthquake. She stated that a broadcast would be made; however, because the auditorium was not equipped with a speaker system, the broadcast would not be heard in the auditorium. In the alternative, she stated that at 10:20 a.m. she would interrupt the meeting to

provide instructions on how to prepare and protect oneself in the event of an earthquake. She further stated that participation in the earthquake drill was voluntary.

Item 4. Proposed Board Meeting Dates for Calendar Year 2012

The Board voted to adopt the Board meeting dates for calendar year 2012.

Item 5. Legislative Update

No Legislative Update was provided.

Item 6. Government Claims Program Consent Agenda (Nos. 1- 331)

The Board voted to adopt the staff recommendations for item numbers 1-331, with the following exceptions: item number 13 (G597034) was removed at the request of the agency; item number 109 (G595428) was removed to allow the claimant an opportunity to address the Board next month; item numbers 113 (G595783) and 118 (G596729) were removed at the request of the claimants so that settlements could be pursued with CDCR; item numbers 166 (G599194), 209 (G599424), and 294 (G599909) were removed to allow the claimants an opportunity to address the Board; and item number 220 (G599455) was removed because it was a duplicate claim previously acted upon by the Board.

Consent Agenda Appearance

Item 166, G599194

Perlyn Wanigatunga

The claimant failed to appear. Karen Lockhart appeared on behalf of the California Department of Transportation.

Perlyn Wanigatunga requested payment in the amount of \$960,000.00 in damages allegedly caused by the California Department of Transportation resulting from the collapse of a roof which, in turn, resulted in the structural shifting of the building.

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

Consent Agenda Appearance

Item 209, G599424

Rosa House

The claimant's representative appeared and addressed the Board. Karen Lockhart appeared on behalf of the California Department of Transportation (Caltrans).

The claimant's representative stated that Ms. House's claim involved issues relating to Caltrans intruding and leaving large stones on their property. He stated that after Ms. House filed her government claim, Caltrans began making a road on their property. Further, he stated that Caltrans blamed their subcontractor for the incidents.

Jackie Tinetti, Manager, Government Claims Program, stated that the claimant filed a non-limited civil case over \$25,000. She stated that the allegations include issues regarding rent, civil rights violations, property damage, emotional distress, and the need for abatement. Ms. Tinetti further stated that Government Claims Program staff recommend that the Board reject the claim because

the allegations asserted are complex and beyond the scope of analysis typically undertaken by the Board.

Chairperson Lopez explained that filing a government claim is the first step a claimant must take before pursuing the matter in court. She stated that Government Claims Program staff recommended rejection of the claim because it is beyond the scope of the Board's purview. She added that the Board's rejection of the claim is not an indication of the merits of the claim; rather the Board simply cannot address the claim due to its complex nature.

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

Consent Agenda Appearance

Item 294, G599909

William Moores

William Moores, M.D. appeared and addressed the Board. There was no representation from the Medical Board of California.

Dr. William Moores requested payment in the amount of \$4,080,000.00 in economic damages from the Medical Board of California because of an alleged breach of settlement and other acts of malfeasance.

Dr. Moores stated that he had an accusation against his license, he settled the matter with the Medical Board of California (MBC) through a settlement agreement, and thereafter MBC breached the settlement agreement. He stated that approximately a year and a half after the initiation of his probation, the MBC informed him that they were tolling his probation. Dr. Moores stated that there is a tolling provision in the settlement agreement that states that if he made a statement that he is not practicing medicine in any capacity, the MBC could toll the probation. He stated that he never made that statement and has tried, unsuccessfully, to correct it with the MBC; however, the MBC has continued to assert that the tolling of his probation is valid. He further stated that the MBC's action has destroyed his ability to earn a living as a physician in any capacity, which is the reason that he filed a claim for damages for destruction of his career.

Jackie Tinetti, Manager, Government Claims Program (GCP), stated that GCP staff reviewed the claim and determined that it is complete and timely; however, the claim raises complex issues of fact and law that would be more appropriately adjudicated in a court of law.

The Board voted to adopt the staff recommendation to reject the claim due to the complex issues raised in the claim.

Dr. Moores asked the Board to explain the next steps he could take. Chairperson Lopez stated that the next step would be to file a lawsuit.

Item 7. Claim of Rafat Beykpour

Claim Number G594396

Rafat Beykpour requested replacement of a stale dated In-Home Support Services warrant (Number 70421315) in the amount of \$405.48 issued on July 3, 1998.

Ms. Tinetti stated that the claim was before the Board because there were conflicting recommendations by the Department of Social Services and the State Controller's Office. The State Controller's Office and Government Claims Program staff reviewed the claim and recommended that the claim be allowed under authority of Government Code section 905.2(b)(4) (legislative pay);

however, the Department of Social Services (DSS) reviewed the claim and recommended that the claim be rejected. Ms. Tinetti stated that GCP staff was advised late yesterday that the DSS changed its objection to pay the claim and now agrees to allow the claim.

The Board voted to adopt the staff recommendation to allow the claim in the amount of \$405.48, under authority of Government Code section 965 (agency pay).

Item 8. Claim of Rogers Group
Claim Number G595911

The Rogers Group (Rogers) originally requested payment in the amount of \$101,592.48 for public education, outreach and referral services provided to the California Children & Families Commission, also known as "First Five California" (First Five), in December of 2010. However, Rogers subsequently agreed to accept \$75,000.00, inclusive of all fees and costs, to settle its claim.

First Five recommended that the claim be partially allowed in the amount of \$75,000.00, inclusive of the Government Claims Program (GCP) surcharge and any other costs, under authority of Government Code section 965 (agency pay).

GCP staff recommended that the claim be partially allowed in the amount of \$65,195.00, based upon calculations provided to the Board, under authority of Government Code section 965 (agency pay).

The Board voted to partially allow the claim in the amount of \$65,195.00 under authority of Government Code section 965 (agency pay).

Item 9. Claim of Nima Taghavi
Claim Number G598039

Nima Taghavi requested payment in the amount of \$99,181.92 to replace a stale-dated tax refund warrant issued by the California Franchise Tax Board (FTB).

The FTB, State Controller's Office, and the Government Claims Program staff recommended that the claim be allowed in the amount of \$99,181.92 under authority of Government Code section 905.2(b)(4) (legislative pay).

The Board voted to allow the claim in the amount of \$99,181.92, under authority of Government Code section 905.2(b)(4) (legislative pay).

Item 10. Request for Delegation of Authority Under Government Code Section 935.6
by the Department of Mental Health

The Department of Mental Health (DMH) requested that the Victim Compensation and Government Claims Board (Board) approve its request for delegated authority to settle and pay or reject timely claims that do not exceed \$1,000 each. The delegation will cover the period from November 1, 2011, to October 31, 2012.

The Board previously approved requests by DMH for delegated authority to pay or reject claims not exceeding \$1,000 each. The previous delegation expired on September 30, 2011 and DMH requested an approval of this delegation authority for an additional year, through October 31, 2012.

During the most recent delegation period, DMH reported that it received 139 claims of \$1,000 or less. Of the claims received, 66 were allowed and paid totaling \$13,693.94 and 73 were rejected. DMH indicated that its average claim processing time is 45 days.

Government Claims Program staff recommended approval of DMH's request.

The Board voted to adopt the staff recommendation to authorize DMH to settle and pay or reject claims that do not exceed \$1,000 per claim. The delegation will cover the period from November 1, 2011, to October 31, 2012.

Item 11. Applications for Discharge from Accountability for Collection

The item was removed from the agenda.

Great California ShakeOut Drill

Chairperson Lopez interrupted the meeting to inform the Board members and the public of the earthquake drill. Chairperson Lopez provided informational tips on how to protect oneself in the event of an actual earthquake and directed individuals to visit shakeout.org to get simple steps on how to survive and recover from a major earthquake.

Victim Compensation Program

The Board commenced the Victim Compensation Program portion of the meeting at 10:24 a.m.

Closed Session

Pursuant to Government Code section 11126(c)(3), the Board adjourned into Closed Session with the Board's Executive Officer, Chief Deputy Executive Officer, and Chief Counsel at 10:25 a.m. to deliberate on the proposed decisions numbers 1-113.

Open Session

The Board reconvened into open session at 10:28 a.m. The Board voted to adopt the proposed decisions for numbers 1-113.

Adjournment

The Board meeting adjourned at 10:29 a.m.