**California Victim Compensation and Government Claims Board**
**Open Meeting Minutes**
**March 20, 2014, Board Meeting**

The California Victim Compensation and Government Claims Board (Board) convened its meeting in open session at the call of Marybel Batjer, Secretary, California Government Operations Agency, at 400 R Street, Sacramento, California, on Thursday, March 20, 2014, at 10:10 a.m. Also present were Board members Richard Chivaro, Chief Counsel, 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; Kathy Cruz, 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 March 20, 2014, Board Meeting**
Board members Chivaro and Ramos approved the minutes of the March 20, 2014, Board meeting. Chairperson Batjer abstained from the vote.

**Item 2. Public Comment**
The Board opened the meeting for public comment. Public comment was provided by Behnam Tabaie, CalVCP claimant, and Michael Siegel, claimant's representative.

Mr. Siegel stated that he has been a representative for CalVCP (Program) victims for over 30 years. He commented that CalVCP applicants do not understand the Programs rules and procedures, which is the reason that he is retained as their representative. In addition, providers of crime-related services find the Program frustrating because, with little or no notice, their fees are reduced periodically or there are reversals of approvals. As a result, many providers have stopped accepting Program clients. Consequently, victims cannot find providers who will help them work through their issues.

Mr. Siegel explained that his client, Behnam Tabaie, was threatened by a person with a knife at his workplace and was chased down the street. Mr. Tabaie escaped physical injury but suffered emotional damage. The Program approved Mr. Tabaie's claim; however, both he and Mr. Behnam were frustrated with the Programs handling of the claim. Their efforts to get crime-related lost earnings due to the emotional trauma suffered by his client have been hindered. He commented that Mr. Behnam submitted copies of tax returns obtained from FTB including his Profit and Loss Statement, but Program staff continually asserted that the documents were not received or they must come directly from FTB. When Mr. Behnam calls the Program inquiring the status of his income loss, staff advises that they cannot speak with him; rather, they can only speak with his representative. Mr. Siegel commented that when he called or emailed the Program to inquire the status of his client's claim, staff do not return his call or provide a response.

Mr. Siegel commented that the last communication he received from the Program was an Application Recertification Form dated March 7, 2014 that was to be completed by his client. He commented that the form is only needed when there has been a four-year lapse in information or bills or when the claimant turns 18 years old. He explained that the claim was filed last year, his client had been in therapy and bills submitted have been paid over the last year, and his client is over the age of 18. Lastly, Mr. Siegel encouraged staff to process the income loss payment for his client.

Mr. Tabaie commented that he suffered panic attacks as a result of the incident. He explained that for the last eight months he has slept in a recliner because he is afraid that something will happen to him or his family. He commented that he was emotionally sick but has hidden it from his family due to his culture. Lastly, he commented that every time he calls the Program, staff advises that they cannot speak with him because he is represented.

Chairperson Batjer thanked Mr. Siegel and Mr. Tabaie for bringing their comments to the Board's attention.

**Item 3. Executive Officer Statement**

Executive Officer Nauman reported the following activities and events CalVCP would participate during the month of April.

**Crime Victim Rights Month**

April is crime Victim Rights Month in California and across the nation. CalVCP will join others in raising awareness for the rights of victims of crime throughout the month of April. Local communities across California and other states will join together to honor, recognize, support, and advocate for survivors of violence. CalVCP will hold its annual Victims' Rights March at headquarters which will be led by California Government Operations Agency Secretary and VCGCB Chairperson Marybel Batjer. The march will conclude at the State Capitol where CalVCP will join a larger rally. CalVCP will have a booth and will have the opportunity to interact with providers, survivors, and others to learn about the services available for victims of crime. CalVCP staff will join other observations and remembrance ceremonies across the state.

**County Observances**

CalVCP will join county officials across the state for remembrances and observances to honor both victims and the advocates who help guide survivors through the justice process and direct them to critical resources.

**Victims' Rights Digital Town Hall**

CalVCP will host its 2nd online Victims' Rights Digital Town Hall discussion. A variety of topics will be addressed, including how to reach the underserved through collaborative efforts. Individuals can listen to speakers in Sacramento and exchange in a dialogue on important matters.

**Documentary Screening**

CalVCP will host a screening of "Teenage $ex for $ale: Human Trafficking in San Bernardino County," a short documentary produced by the San Bernardino County District Attorney's Office that delves into the problem of sexual exploitation in the nation's largest county. The screening will bring members of the local community together to learn more about human trafficking.

**Denim Day**

On April 23rd CalVCP and millions across the nation will wear denim as a symbol of protest against erroneous and destructive attitudes about sexual assault.

Chairperson Batjer thanked Executive Officer Nauman and CalVCP staff for their efforts to bring greater awareness to victims as well as their conducting important outreach and educational opportunities.

**Item 4. Legislative Update**

Wayne Strumpfer, VCGCB Chief Counsel, reported the following on the VCGCBs two sponsored bills:

AB 2489 (Lowenthal), relating to CalVCP attorney fees, would restructure the fee payment from the Victim Compensation Program to an attorney for representing a single applicant to CalVCP from a maximum of $500 per applicant to a maximum of $100, $200 or $500 based on the attorney's level of service to that applicant. The bill will be heard in the Assembly Public Safety Committee on April 1, 2014.

AB 2685 (Cooley), relating to restitution collection, would enhance the collection of restitution from criminal offenders by: (1) allowing a representative of the Board to provide information on the Board's economic losses to the court for purposes of including them in a restitution order and (2) expanding the current requirement that the Board be notified when an inmate is scheduled to receive funds from an estate to include former inmates and to require that a restitution claim placed by the Board must be satisfied before any distribution is made to the heir or beneficiary. The bill will be heard in the Assembly Public Safety Committee on April 1, 2014.

Chairperson Batjer then took Item 12 out of order.

**Item 12. Claim of Rafael Madrigal, Jr. (Pen. Code, § 4900 et seq.)**
Rafael Madrigal, claimant, was in attendance. Alexander Simpson, Associate Director, California Innocence Project, addressed the Board on behalf of Mr. Madrigal. Larenda Delaini, Deputy Attorney General, addressed the Board on behalf of the Department of Justice, Office of the Attorney General.

VCGCB Chief Counsel Wayne Strumpfer stated that Rafael Madrigal, Jr. was convicted of attempted murder, use of a firearm, and received a gang enhancement for sentencing.
Mr. Strumpfer stated that Mr. Madrigal served 2,817 days in prison. He was released after a writ of habeas corpus where the court found ineffective assistance of counsel and remanded the case back to superior court for a new trial. After a period of continuances, the case was not retried but instead dismissed by the superior court. Lastly, he stated that Mr. Madrigal requested $281,700 as compensation for the days he served in prison.

Mr. Simpson explained that he was appearing on behalf of the Mr. Madrigal to help the Board decide whether his client met the burden of preponderance by the evidence that he was innocent of the crime that he was convicted. He stated that his office took issue with the recent proposed decision of the hearing officer because it appeared to be based on a misunderstanding of the law and how it is applied. He explained that the proposed decision referenced Penal Code section 1485.5. He commented that the Attorney General's Office (AG), as well as his office, agreed that when looking to interpret a statute, it should be given the construction that comports most closely with the apparent intent of the Legislature and interpretations that would lead to absurd consequences should be avoided.

Mr. Simpson referenced *Fact Sheet: SB 618 (Leno) – Compensation for the Wrongfully Convicted.* He explained that in the words of Senator Leno, the proposed legislation would allow "deference to the factual findings and credibility determinations of the court that reversed the claimant's original conviction." He explained that the point of SB 618 and section 1485.5 was to make the Board's determination consistent with the court's ruling. The goal was to try to make sure that the court was the controlling factor in the Board's decision. He stated that the courts are more formalized in the compensation process and there is more opportunity for the California Innocence Project to present evidence on behalf of Mr. Madrigal. He explained that he did not have the subpoena power to present Mr. Madrigal's claim before the Board nor did he have the ability to receive compensation for attorney's fees. Therefore, the Board's decision should be consistent with the court, because reversing a conviction is a difficult process. For those reasons, the Board should follow the court's decision in reversing the conviction.

The comment in the Senate Committee on Public Safety on SB 618 contained a portion that directly deals with section 1485.5 and how the statute is constructed. In two situations, the Board's determinations are bound by the court decision. In a contested proceeding, the factual findings, including witness credibility determinations, made by a court in a *hearing* on habeas corpus petition or motion to vacate a judgment shall be binding on the Board. He commented that

Senator Leno placed emphasis on the word “hearing.” In an uncontested proceeding, if the District Attorney or Attorney General stipulates to or does not contest the factual basis, then those facts are also binding but there are two separate clauses. He explained that you have to look at how to interpret the statute to ensure that it is interpreted consistently with the legislative intent. In addition, to avoid absurd consequences of the interpretation, you have to look to the absurd consequences of the proposed decision or the AG’s position. He outlined the following absurd consequences below:

He explained that an absurd consequence from the AG’s position would be that federal courts, in reversing convictions, would not control the Board’s determination. He commented that it would be absurd for the Board to interpret in that manner. First, there is no difference between a reversal based in federal or state court. In Mr. Madrigal’s case, the situation was the same--the reversal was based on the Sixth Amendment right to counsel. Mr. Madrigal’s constitutional rights were violated during his trial. A state and federal court could make that decision. He stated that there was no difference in terms of the analysis, the law, or how it was applied regarding the decisions. To say the legislature intended federal courts to be exempt from the Board’s determination restricts the Board. It would mean that the Board does not have the ability to look through the federal courts determinations to see what the federal court considered or determined when reversing the conviction. Second, although the federal court reversed Mr. Madrigal’s conviction, his conviction occurred in state court; the state police arrested him; the state court convicted him; he was sentenced to state prison; and the State of California is the party that should be compensating him. He explained that just because Mr. Madrigal’s conviction was reversed in federal court does not mean that he did not suffer a wrongful conviction at the hands of the State.

Another absurd consequence that the proposed decision fell prey to was the question of redundancy. If section 1485.5 was only applied to uncontested proceedings, then that would mean that the statute was largely redundant--sections (a) and (c) essentially mean the same thing.

Mr. Simpson stated that in the AG’s response, they mentioned and he agreed, that in interpreting legislative intent and in interpreting a statute, a statue should not be read in a manner that renders some words or phrases useless or redundant. The proposed decision stated that section 1485.5 pertained to a court proceeding only where the parties stipulate to or do not contest the factual allegations. Section 1485.5 (c) stated that express factual findings are binding on the Board. He stated that if we are trying to avoid redundancy and absurd consequences, then two sections have to mean two separate things. He commented that it was telling that the AG was not willing to stand by the proposed decisions interpretation.

Mr. Simpson stated that the court made two separate findings to the evidence that was presented at Mr. Madrigal’s trial. The first finding was the confession of Francisco Olivares. The court, in reversing Mr. Madrigal’s conviction, expressly stated that it was apparent to the court from reading the transcript that Mr. Olivares was angry with petitioner for making the inquiries and informed petitioner that it was none of his business who committed the shooting. Further, Mr. Olivares repeatedly told his girlfriend that petitioner did not know who actually committed the Aguilera shooting, a fact and a determination that the court made in reversing the conviction. He stated that the Board was bound by that fact pursuant to section 1485.5. The proposed decision, in referencing Mr. Madrigal’s alibi, stated that the alibi was not persuasive because there were production logs and a handwritten time card. Second, the court came to the conclusion that Robert Howard’s testimony was certain and unequivocal. Mr. Madrigal was at work until 3 p.m. on the day of the incident and he had an alibi, which was the substance for the reversal of his conviction. He stated that the proposed decision came to the conclusion that the alibi was unreliable and not credible, which is improper based on section 1485.5. The proposed decision

also came to the conclusion that the witnesses were credible and persuasive. He commented that witnesses can be wrong; however, section 1485.5 cannot be wrong.

Lastly, Mr. Simpson stated that Mr. Madrigal had 10 years of his life taken away from him for a crime that he did not commit. Mr. Madrigal had a wife and three small children at the time that he did not get to see grow up. He commented that the day before the Board meeting, he asked Mr. Madrigal to explain why compensation would be important for him. Mr. Madrigal told him that if he received compensation, he would provide for his family in a way that he was unable as a result of his wrongful conviction. Mr. Simpson stated that Mr. Madrigal's oldest son would like to attend college, but his father cannot afford the tuition. He explained that the legislature intended to enact compensation laws to repair a person's life to the extent that they could. Mr. Simpson stated that Mr. Madrigal had a decade taken away from him, which the Board should consider when considering whether to grant compensation to Mr. Madrigal.

Ms. Delaini stated that the AG's Office requested that the Board adopt the hearing officer's recommendation and deny the claim because the claimant had not met his burden of proving by a preponderance of the evidence that he is innocent of the crime for which he was charged, tried, and convicted. She apologized to Mr. Simpson because the AG's Office's position had changed. She explained that after further review and consideration of the proposed decision, as well as after conducting additional research, the AG's Office agreed with the hearing officer's interpretation of the law and did not wish to advance the argument that Penal Code section 1485.5 only applied to state court proceedings and had no application to the federal court proceedings. She stated that it was the AG's position that the hearing officer had the statute correct and had interpreted it correctly that Penal Code section 1485.5 only applied to uncontested or stipulated proceedings that occur between either the DA's Office or the AG's Office, which was not the case with regard to Mr. Madrigal's claim. She explained that the federal petition for habeas corpus that was filed was contested by the DA's Office; therefore, the AG's Office was not bound by the express factual findings that are made as set forth in subdivision (c). She stated that the AG's Office's position was that the claim would be governed by Penal Code section 1485.55 which related to contested proceedings. Based on the provisions listed in section 1485.55, there are no credibility decisions that would be binding on the Board. When looking at section 1485.5, even if it were to apply as Mr. Simpson suggested, and looked at the credibility determinations referred to it cannot be the type of findings and credibly determinations that were made in the federal court, because the federal court was only deciding whether Mr. Madrigal received ineffective assistance of counsel. None of the proceedings were related to whether there was new evidence that pointed to innocence. There were no findings made by the federal court as to Mr. Madrigal's factual innocence or actual innocence for the crimes for which he was convicted. They simply related to the evidence that was taken before that federal court and, if believed by the court, whether that undermined the confidence and the outcome of that jury trial decision. If the federal had court been convinced of Mr. Madrigal's innocence, the federal court could have made a finding of his factual innocence and then that potentially would have been binding on the Board. In addition, the federal court said that the DA could retry within 60 days if they elected to do so; however, due to a number of continuances and additional investigation that was necessary, they were unable to proceed, but that does not establish his innocence. Because there are no credibility determinations or factual findings that would be binding on the Board, under Penal Code section 1485.5, Mr. Madrigal is only entitled to compensation as an erroneously convicted offender if he can establish by a preponderance of the evidence that the crime was not committed at all or was not committed by him. She stated that the AG's Office submitted that Mr. Madrigal had not met that burden for the reasons outlined in the hearing officer's proposed decision. First, there was substantial testimony from eyewitnesses that was not undermined by anything decided in the federal courts. Eyewitnesses Salvador Huezo and Carlos Moreno identified Mr. Madrigal in court

as the shooter and that was not impeached or undermined by the federal courts determination. Second, Mr. Moreno identified Mr. Madrigal from a photobook one week after the shooting and Mr. Aguilera, the victim, also identified him as the shooter from a photograph and that was not undermined by the findings in the federal court proceedings. In addition, the hearing officer found that Mr. Madrigal's work alibi did not assist his claim. The production logs that were relied upon by his supervisor were logs completed by Mr. Madrigal; those logs showed the Mr. Madrigal was at work or production was being completed on his machine until 1:40 p.m. and the attempted murder did not occur until after sometime 3:00 p.m. and he could have already left work. Steve Finley, Mr. Madrigal's direct supervisor, indicated that it was possible that Mr. Madrigal could have left work an hour early without him noticing. Moreover, Mr. Madrigal did not physically clock out that day; instead, his time card was hand changed some time after the homicide. Third, the claim regarding potential for third-party culpability of Mr. Mendoza is not convincing. Mr. Mendoza may have had the gun; however, there was expert testimony at the trial that in gang cases frequently the gang members will pass the crime guns around. Mr. Madrigal recanted his implication of Mr. Mendoza as admitting to his involvement in that crime. The alleged confession where Olivares was talking with his girlfriend regarding the circumstances of the crime never mentioned the shooting of Mr. Aguilera. Lastly, Ms. Delaini stated that the AG's Office recommended that the Board adopt the hearing officer's recommendation and find that
Mr. Madrigal had not met his burden of a proving by a preponderance of the evidence that he did not commit the offense for which he was convicted.

Board member Ramos asked Mr. Simpson whether he agreed that the federal court, in their rulings considering the ineffective assistance of counsel, went to that issue only and perhaps the credibility of the witnesses. He clarified that the federal court did not throw out their testimony. Lastly, Board member Ramos reminded Mr. Simpson that there is a jury instruction that speaks to weighing the credibility of certain witnesses depending on factors that are presented in direct and cross-examination of a witness.

Mr. Simpson stated section 1485.55 grants automatic compensation for proceedings that go to new evidence. In section 1485.5 (c), for situations that do not go to new evidence, there are still facts that the court would rely upon to come to a conclusion as to whether or not the person is innocent. If an ineffective assistance of counsel claim is presented where the ineffectiveness has to do with the failure to impeach a particular prosecution witness, that does not necessarily go to the person's innocence because that person still could do it; however, the prosecution witnesses could have been thoroughly impeached with statements that they made to another individual that they received a deal from the prosecution. There are situations where factual findings that are made by a court in reversing an individual's conviction on ineffective assistance of counsel does not specifically go to new evidence, but the facts the courts relying upon show why the person is innocent.

Chairperson Batjer asked Mr. Simpson to explain the testimony of Mr. Howard, Mr. Madrigal's manager, regarding the time Mr. Madrigal was at work in Rancho Cucamonga.

Mr. Simpson stated that Mr. Madrigal's conviction was reversed based on a finding that he was at work. Bob Howard was present at the time of the day of the incident. Mr. Howard testified that he knew that Mr. Madrigal was at work, because he was the only one who could run a particular machine. The court based their determination that he was at work partially on Mr. Howard's and Mr. Madrigal's brother's testimony and the fact that he had to have been at work until closing time because he ran the machine.

Chairperson Batjer stated that the AG made a point that the machine was no longer used at 1:40 p.m. so there was a gap in time. She asked Mr. Simpson to address that issue.

Mr. Simpson stated that the testimony that the court relied upon on reversing the conviction was the machine running for a certain point in time. Mr. Madrigal had other duties that included folding and laminating that he could not have been pulled away from. Mr. Simpson reiterated the fact that the court would not have reversed the conviction if it believed that Mr. Madrigal had the opportunity to go back and commit the crime.

Board member Ramos stated that the court reversed the conviction because Mr. Madrigal's counsel should have brought out those facts as his attorney, which showed his incompetence. If his attorney would have brought out those facts, it could have been weighed by the jury. Board member Ramos stated that the court did not reverse it saying that this happened because he was innocent; rather it was due to the incompetence of his counsel.

Mr. Simpson explained that in looking at whether a person's conviction gets reversed by ineffective assistance counsel you have to establish prejudice, which is a very high burden to reach. If counsel had acted appropriately, the conviction would not have happened. The failure of counsel to conduct a thorough investigation into the alibi means that the alibi was not established. After the alibi was established to the court, they reversed the conviction.

Chairperson Batjer stated that the court made the decision that Mr. Madrigal had ineffective assistance of counsel; however, no one knows what that meant in terms of determining no or different facts than were before the court at that time when the decision was made. Mr. Madrigal could have been called to testify, which his counsel said he would do in his opening statement but he did not. In addition, some of the witnesses' testimony could have been impeached. Chairperson Batjer commented that one side said Mr. Madrigal could have been innocent and other side said that he could have been found guilty, but the fact remained that the court found that Mr. Madrigal had ineffective counsel and he was not retried.

Mr. Simpson commented that the DA had the opportunity to retry Mr. Madrigal, but they chose not to do so.

Board member Ramos stated that Mr. Simpson's statement was incorrect. The DA wanted to retry the case, but they were not allowed to continue their investigation. The DA's Office did not dismiss the case. He stated that he gave credit to the DA and their discretion and gave them credit for not retrying it immediately and conducting follow up investigations. The follow up could have showed that Mr. Madrigal did not commit the crime, but the courts did not allow the DA's Office to do it; they dismissed it on their own motion.

Mr. Simpson stated that after two years, the DA's Office was not able to do it, which should inform the Board's decision in some way.

Board members Chivaro and Ramos and voted to adopt the hearing officer's recommendation to deny the claim. Chairperson Batjer voted to oppose the hearing officer's recommendation. The claim was adopted by the Board 2-1.

**Item 5. Government Claims Program**
**Consent Agenda (Nos. 1-271)**

The Board adopted the staff recommendations for item numbers 1-271, with the following exceptions: item 29 was amended by the claimant and was fully allowed in the amount of $24,378.80; items 79 and 89 were continued for further review by staff; and item numbers 73, 101, 120, and 294 were removed to allow the claimants an opportunity to address the Board.

**Consent Agenda Appearance**
**Item 73, 609213**
**Claim of Joseph Bencharsky**

Joseph Bencharsky, claimant, appeared and addressed the Board. Sammy Obaid attended on behalf of the California Department of Transportation.

Nicholas Wagner, Government Claims Program Manager, explained that Joseph Bencharsky requested compensation in the amount of $14,410.00 from the California Department of Transportation (Caltrans) for damage to his water meter and plumbing. He stated that staff recommended that the Board reject the claim because it raised complex issues of fact and law not typically undertaken by the Board.

Mr. Bencharsky explained that in November 2012 Caltrans repaved Highway 1. At that time, his water meter resided on the state property line on the highway side of the barrier that Caltrans erected. He stated that immediately following the repaving, his water line was pulled out from beneath his driveway. The repaving put additional pressure on the line, pulling the line out from under his driveway, which caused a leak. An emergency situation occurred due to the leak and a plumber had to turn off the water supply leaving him without water for several days. The entire line had to be dug up supplying the house including digging up his driveway. Pilings had to be erected to support a new structure across the creek. He explained that his home is on a dead end street that meets Highway 1 at a T-intersection. He explained that in 2006 Caltrans re-engineered the entire embankment and put in a guardrail as well as other improvements near his water meter. He stated that Caltrans' response to the damage that occurred was that it was not their responsibility because the break did not occur on State property. Mr. Bencharsky stated in 2010 there was a similar break, albeit it less expensive, on the opposite site of the road near the meter after Caltrans did work. In that case, Caltrans reimbursed his neighbor $5,000 for those repairs. Lastly, Mr. Bencharsky stated that he had a letter from the plumber who performed the repairs that indicated that the break was the result of Caltrans.

Mr. Obaid stated that the meter is not on the paved portion of Highway 1; rather, it is adjacent to it in a dirt area. He explained that the other repair that Mr. Bencharsky mentioned was a seal job on the pavement and did not encroach on the meter. The road is a private road, but the residents do not have not arrangements for maintaining it; as a result, it is crumbling. He stated that the residents on that road are attempting to get Caltrans to repair it, but it is a private road. He stated that Caltrans position is that the responsibility belongs to the landowners.

Chairperson Batjer asked Mr. Obaid whose land the water meter was on.

Mr. Obaid stated the water meter is on the state right of way. It is not on the roadway, but it is adjacent to roadway.

Mr. Bencharsky clarified that Caltrans' right of way extends 30 feet from the median of Highway 1, which includes approximately 15 feet of the structure that Caltrans claimed was crumbling. He stated that in 2006, Caltrans repaved the entire roadway without any notification or approval from the residents. Even though Caltrans stated that they have no responsibility for the land, they added 50 feet of asphalt to the land. Additionally, without any approval, Caltrans brought in an auger and dug a whole, within inches of his water meter, to install a roadwork sign inside of a bush that was obstructed. He further stated that even though Caltrans states that they do not own the property, they exerted actions, activities, and engineering over the entire structure that is failing.

Chairperson asked Mr. Obaid to clarify whether the repaving work performed by Caltrans in 2006 occurred over the bridge area.

Mr. Obaid explained that it occurred adjacent to the bridge area. He stated that Caltrans put in a retaining wall by the ravine to shore it up and make it sturdier.

The Board rejected the claim.

After voting on the item, Board member Ramos excused himself from the meeting at 11:15 a.m.

**Consent Agenda Appearance**
**Item 101, 615223**
**Claim of Tylon J. Hunt**
Tylon Hunt, claimant, appeared and addressed the Board. Kori Hilton attended on behalf of the California Department of Corrections and Rehabilitation.

Nicholas Wagner, Government Claims Program Manager, explained that Tylon Hunt sought compensation from the California Department of Corrections and Rehabilitation (CDCR) in an amount exceeding $25,000.00 for improper handling of a refund check, fraud, "aiding and abetting," civil rights violations, and emotional distress. He stated that staff recommended that the Board reject the claim because it raised complex issues of fact and law not typically undertaken by the Board.

Mr. Hunt explained that on September 23, 2013, his grandmother passed away. He stated that he was the executor of her will. He explained that his uncle was incarcerated at CDCR at the time of his grandmother's passing, but he wanted to attend the funeral. Mr. Hunt spoke with his uncle's counselor who informed him that the cost for his uncle to attend the funeral would be $900, which would pay the guards to accompany him, van rental, and gas. The counselor informed Mr. Hunt that the money had to be brought to the institution. He stated that he told his uncle that he could not bring the money to the institution because he had to attend to the funeral arrangements. He stated that his uncle told him to give the money to Kim George, his uncle's girlfriend, who would bring the money to the institution. Mr. Hunt stated that he gave Ms. George $1,000, which would pay for this uncle's attendance at the funeral and $100 for Ms. George to travel to the institution. Sometime later, Ms. George informed Mr. Hunt that his uncle's request to attend the funeral was denied. Mr. Hunt stated that he immediately contacted the counselor to request a refund. He stated that the counselor informed him that it would take one month before he would receive the return of his money. Mr. Hunt stated that when he did not receive the money in the timeframe given, he called the institutions financial office. He was told that the payment was sent to Ms. George and it was made payable to her. Mr. Hunt stated that he asked Ms. George for the return of the money, but she said she no longer had it. Mr. Hunt claimed the improper handling of the refund check by CDCR amounted to fraud and a violation of his civil rights.

Ms. Hilton explained that an inmate requested temporary community leave to attend a funeral. She stated that Ms. George came to the institution with a money order. Ms. George filled out a form that designated that she brought in the funds. Under the section of the form that indicated the name of the family member providing the funds, Ms. George wrote her name and address; therefore, the money was refunded to her.

The Board rejected the claim.

**Consent Agenda Appearance**
**Item 120, 615731**
**Claim of Raymann Scott**
Scott Raymann, claimant, appeared and addressed the Board. There was no representation provided by the Department of Forestry and Fire Protection.

Nicholas Wagner, Government Claims Program Manager, explained that Scott Raymann sought compensation from the Department of Forestry and Fire Protection (Cal Fire) in the amount of $4,040.17 for damage to underground water pipes. He stated that staff recommended that the Board reject the claim.

Mr. Raymann stated that on November 22, 2013, there was a wild land fire on his neighbor's property that CalFire assisted in putting out. He stated that he allowed CalFire to place a dozer on his property. When CalFire unloaded the dozer trailer, they drove over some manhole covers. The weight of the dozer sank the manhole covers and crushed the pipes underground to the main water line to his house, but they were able to shut off the water. He stated that he spoke with the battalion chief who suggested that he hire someone to fix it and recommended that he file a claim with the State. He stated that the claim was denied because CalFire was immune from damages for suppression efforts. Mr. Rayman stated that although the damage caused by CalFire was an accident, they should take responsibility.

The Board rejected the claim.

**Consent Agenda Appearance**
**Item 294, 615877**
**Claim of Gregory Rager**

Gregory Rager, claimant, failed to appear. Raymond Rouse addressed the Board on behalf of the Department of Justice, Office of the Attorney General. Mellonie Yang addressed the Board on behalf of the California Department of Corrections and Rehabilitation.

Nicholas Wagner, Government Claims Program Manager, explained that Gregory Rager requested leave to present a late claim for compensation from the California Department of Corrections and Rehabilitation in an amount exceeding $2,759,400.00 for punitive damages. Mr. Wagner stated that staff recommended that the Board deny the late application for failure to meet the criteria required in Government Code section 911.6. Further, staff recommended that the Board reject the claim.

Mr. Rouse stated that Mr. Rager filed a claim that went beyond the Board's one-year statute of limitations to consider late claims. He stated that Mr. Rager alleged actions that occurred in 1995. Additionally, he stated that the Board did not have jurisdiction to hear late claims filed after one year from accrual of the cause of action.

Mellonie Yang stated that the California Department of Corrections and Rehabilitation requested the Board reject the claim.

The Board rejected the claim.

**Item 6. Claim of Cooperative Personnel Services**
**Claim Number G614086**

Connie Hammons was in attendance on behalf of Cooperative Personnel services. There was no representation provided by the Commission on Peace Officers Standards and Training.

Nicholas Wagner, Government Claims Program Manager, explained that Cooperative Personnel Services requested compensation in the amount of $104,659.86 from the Commission on Peace Officers Standards and Training for unpaid invoices. He stated that staff recommended that the Board allow the claim in the amount of $104,659.86 under authority of Government Code section 965 (agency pay).

The Board allowed the claim.

**Item 7. Claim of Gencon Environmental Services Group**
**Claim Number G614279**

There was no representation provided by the claimant. Susana Facio attended on behalf of the Department of Transportation.

Nicholas Wagner, Government Claims Program Manager, explained that Gencon Environmental Services Group requested compensation in the amount of $535,716.29 from the California Department of Transportation for unpaid invoices. He stated that staff recommended that the Board allow the claim in the amount of $535,716.29 under authority of Government Code section 965 (agency pay).

The Board allowed the claim.

**Item 8. Claim of Rival Well Services, Inc.**
**Claim Number G616059**

Nicholas Wagner, Government Claims Program Manager, explained that Rival Well Services, Inc. requested compensation in the amount of $102,282.50 from the California Department of Conservation for unpaid invoices. He stated that staff recommended that the Board allow the claim in the amount of $102,282.50 under authority of Government Code section 965 (agency pay).

The Board allowed the claim.

**Item 9. Request for Delegation of Authority Under Government Code Section 935.5**
**by the California Highway Patrol**

Nicholas Wagner, Government Claims Program Manager, explained that the California Highway Patrol (CHP) requested that the Board grant it delegated authority to settle and pay or reject claims that do not exceed $1,000.00 each from March 20, 2014, through March 19, 2016. He stated that staff recommended that the Board approve the request.

The Board authorized CHP to settle and pay or reject claims that do not exceed $1,000 each from March 20, 2014, through March 19, 2016.

**Item 10. Applications for Discharge From Accountability for Collection**
**Action Requested**

Nicholas Wagner, Government Claims Program Manager, explained that State agencies had 47 requests for discharge from accountability for collection of debt, totaling $161,472,716.48. He stated that staff recommended that the Board approve the requests pursuant to Government Code section 13940, et seq.

The Board approved the requests by the 47 State agencies to discharge from accountability for collection of debt totaling $161,472,716.48.

**Item 11. Bid Protest of Graybar Electric Company, Inc.**
**Invitation for Bid No. 13-138981**

Michelle Livsey attended on behalf of the Department of General Services. Dave Sanders attended on behalf of Arrow Wire & Cable. The protestant was not in attendance.

VCGCB Chief Counsel Strumpfer explained that the item was before the Board to determine the protest by bidder Graybar Electric Company, Inc. of Invitation for Bid Number 13-138981, for the procurement of cabling for the California Department of Technology. Mr. Strumpfer stated that the Hearing Officer examined and considered the written arguments and evidence presented by the parties and recommended that the Board deny the protest.

The Board denied the protest.

**Victim Compensation Program**
The Board commenced the Victim Compensation Program portion of the meeting at 11:37 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 11:37 a.m. to deliberate on proposed decision numbers 1-112.

**Open Session**
The Board reconvened into open session at 11:51 a.m. The Board adopted the proposed decisions for numbers 1-112 with the exception of number 66 (A13-4340386) which was referred back to staff for further consideration.

Chairperson Batjer stated that in December 2013, the Board eliminated California Code of Regulations Rule 649.56, Involvement in the Qualifying Crime of Prostitution, to allow victims of sexual assault who were engaged in the act of prostitution at the time of the attack to potentially be eligible for assistance. The Board then asked CalVCP staff to review previous applications for reconsideration under the new rule.

Chairperson Batjer stated that as a result, today the Board reconsidered and approved 12 cases that were denied earlier because of the victim's involvement in prostitution. The victims in the 12 cases were the victims of rape. Those 12 cases are now approved. She stated that CalVCP staff continues to review applications that meet the criteria and would bring more cases forward at future Board meetings.

The Board meeting adjourned at 11:53 a.m.