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**BEFORE THE VICTIM COMPENSATION AND GOVERNMENT CLAIMS BOARD  
OF THE STATE OF CALIFORNIA**

In the Matter of the Claim of:  
**Larry Pohlschneider**

**Proposed Decision  
(Penal Code § 4900)**

**Introduction**

This claim for compensation as an erroneously convicted person was decided based on the written record by considering all the evidence submitted and without a telephonic or in-person hearing. Kyle Hedum was assigned to hear this matter by the Executive Officer of the California Victim Compensation and Government Claims Board. The claimant, Larry Pohlschneider, was represented by attorney Maitreya Badami. The California Attorney General’s Office was represented by Larenda Delaini, Deputy Attorney General (AG).

In this matter, the trial court granted Pohlschneider’s writ of habeas corpus and made a finding of factual innocence pursuant to Penal Code section 1485.55(b). According to Penal Code section 1485.55(b), when a court makes a finding of factual innocence, the Board shall, without a hearing, recommend to the Legislature that an appropriation be made and the claim paid pursuant to Penal Code section 4904. Therefore, it is recommended that Pohlschneider receive compensation pursuant to Penal Code section 4900 et seq. in the amount of \$762,440 for being wrongfully imprisoned for 5,446 days from January 30, 2001, until October 14, 2015.

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2 **Procedural Background**

3 According to the claim, on November 16, 2000, claimant was arrested for continuous sexual  
4 abuse of a child (Pen. Code, § 288.5). On January 30, 2001, a jury convicted claimant of three  
5 counts of continuous sexual abuse of a child (Pen. Code, § 288.5) and found true a multiple victim  
6 enhancement. The trial court sentenced claimant to an aggregate term of 24 years in state prison.  
7 On October 7, 2015, the trial court granted claimant's petition for writ of habeas corpus based on a  
8 claim of ineffective assistance of counsel, which was conceded by the District Attorney's office. The  
9 District Attorney's office then moved to dismiss the charges with prejudice on the grounds that there  
10 was insufficient evidence to justify a retrial. He was subsequently released from custody on October  
11 14, 2015. On November 24, 2015, the trial court found that claimant had met his burden of proving  
12 actual innocence pursuant to Penal Code section 1485.55, subdivisions (b) and (d), stating,  
13 "[Claimant] has more than met his burden of proof by a preponderance of the evidence that it is more  
14 likely than not that he did not commit the crimes of which he is accused. He has met his burden and  
15 he has proven that he's innocent of the charges that were brought against him. As such, this court  
16 finds by a preponderance of the evidence that petitioner is innocent and that the crimes with which he  
17 was charged were not committed by him."<sup>1</sup>

18 **Determination of Issues**

19 If the provisions of Penal Code section 1485.55 apply, the California Victim Compensation and  
20 Government Claims Board shall calculate the compensation for the claimant pursuant to Penal Code  
21 section 4904 and recommend to the Legislature payment of that sum.<sup>2</sup> The claimant needs to show no  
22 more than the court's declaration of his or her factual innocence for the Board to recommend to the  
23 Legislature that compensation be paid.

24 Pohlschneider received a finding of factual innocence and the court determined that there was  
25 sufficient evidence of Pohlschneider's innocence. Thus, the Board will recommend payment to the  
26 Legislature as required by statute. Penal Code section 4904 states that the \$140 per day in  
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29 <sup>1</sup> The court made this finding over the objection of the Tehama County District Attorney's Office.

<sup>2</sup> Pen. Code § 4902(a).

1 compensation "shall include any time spent in custody, including in a county jail, that is considered part  
2 of the term of incarceration." Thus, because Pohlschneider was incarcerated for 5,446 days, the Board  
3 recommends to the Legislature that an appropriation be made to pay the claim in the amount of  
4 \$762,440.

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6 Dated: March 25, 2016

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8 Jasmine Turner-Bond  
9 Hearing Officer  
10 California Victim Compensation and  
11 Government Claims Board  
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**BEFORE THE VICTIM COMPENSATION AND GOVERNMENT CLAIMS BOARD  
OF THE STATE OF CALIFORNIA**

In the Matter of the Claim of:

**Larry Pohlschneider**

**Notice of Decision**

On April 21, 2016, the California Victim Compensation and Government Claims Board adopted the attached Proposed Decision of the Hearing Officer as its Decision in the above-referenced matter.

Date: April 25, 2016

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Tisha Heard  
Board Liaison  
California Victim Compensation and  
Government Claims Board