

**California Victim Compensation and Government Claims Board**  
**Open Meeting Minutes**  
**May 19, 2016, 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, May 19, 2016, at 10:08 a.m. Also present was Member Richard Chivaro, Deputy State Controller and Chief Counsel, acting for and in the absence of Betty T. Yee, Controller. Member Michael Ramos, San Bernardino County District Attorney, was absent.

Executive Officer Julie Nauman and Chief Counsel Wayne Strumpfer were in attendance. Tisha Heard, Board Liaison, recorded the meeting.

The Board meeting commenced with the Pledge of Allegiance.

**Item 1. Approval of Minutes of the April 21, 2016, Board Meeting**

The Board approved the minutes of the April 21, 2016, meeting.

**Item 2. Public Comment**

The Board opened the meeting for public comment. Public comment was provided by Zurie Colbert. Ms. Colbert commented that in 2011 she and her minor daughter were victims of stalking and harassment. She commented that she filed three CalVCP applications, two of which were approved by CalVCP. The remaining application was for the crime of stalking.

Chairperson Batjer informed Ms. Colbert that staff were in attendance at the meeting and would meet with her to provide guidance regarding her CalVCP application.

**Item 3. Executive Officer Statement**

Denim Day California

Executive Officer Nauman reported that she spoke briefly at the California Coalition Against Sexual Assault (CALCASA) annual observance of Denim Day at the State Capitol on April 27. Ms. Nauman reported she was accompanied by Mark Ghilarducci, Director of the California Governor's Office of Emergency Services.

Denim Day Clothing Drive

Executive Officer Nauman reported that CalVCP expanded the clothing drive from the Sacramento area to various counties statewide in an effort to support victims across California. The annual clothing drive collected nearly 1,000 items that will be donated to various organizations that help families in need.

Upcoming Awareness Campaign

The VCGCB is preparing for the next awareness month which will focus on the LBGTQ community, an underserved population. Executive Officer Nauman reported CalVCP will conduct a social media campaign and an op-ed would be released.

Spring Training Conference

Mindy Fox, CalVCP Deputy Executive Officer, attended the National Association of Crime Victim Compensation Boards Spring Training Conference in Wyoming last week. Executive Officer Nauman reported that Ms. Fox gave a presentation on AB 1140, pending AB 2160, and CalVCPs efforts to fully meet the needs of crime victims.

**Item 4. Contract Report**

Criminal Restitution Compact (CRC) Contracts

The VCGCB works with the county's criminal justice system to ensure restitution fines and orders are properly administered in accordance with applicable statutes and to promote the appropriate assessment and collection of restitution fines, parole restitution fines, restitution orders, and diversion restitution fees. The Board approved the renewal of the three-year contracts with 23 CRC counties in the total amount of \$9,220,395.

#### Capio Group

The contract with Capio Group needed to be amended to include encryption of the VCGCB's data and security requirements. The Board approved the amendment to the contract in the amount of \$270,500 and the extension of the contract term to April 30, 2017.

#### Cambria Solutions, Inc.

The contract with Cambria Solutions, Inc. needed to be amended to include encryption of the VCGCB's data and security requirements. The Board approved the amendment to the contract in the amount of \$93,500 and the extension of the contract term to April 30, 2017.

#### Capio Group

The contract with Capio Group is for completion of the final phase of the CaRES Modification Project. The contract needed to be amended to include encryption of the VCGCB's data and security requirements. The Board approved the amendment to the contract in the amount of \$330,000 and the extension of the contract term to April 30, 2017.

Chairperson Batjer remarked that last year Governor Brown signed AB 670 into law, the cybersecurity bill, that became effective on January 1, 2016. The bill required the Office of Information Security, in consultation with the Office of Emergency Services, to mandate a minimum of 35 network security assessments to be performed each year that will be conducted by the Military Department.

#### University Enterprises, Inc. (UEI)

UEI, a non-profit auxiliary organization of California State University, Sacramento, provides student assistants to work on specific projects at the VCGCB. Additional students have been hired to work on new projects and an increase in funds is needed to pay for their services. The Board approved the amendment to the contract in the amount of \$70,000.

### **Item 5. Consideration of Non-Profit Organization Applications for 2016 Our Promise: California State Employees Giving at Work**

Rose Domingo, VCGCB Statewide Campaign Coordinator, presented the item. Janice Mackey, VCGCB Public Affairs Manager, was in attendance. Leslie Ortiz, Director, Our Promise Campaign, and Andy Sheehy, Executive Vice President, United Way California Capitol Region, were in attendance.

Ms. Domingo explained that since 1957, the Our Promise campaign provided a single, coordinated fundraising drive that allows state employees to direct regular contributions from their paychecks to any of the hundreds of participating charitable organizations. Historically State employees annually donate millions of dollars to hundreds of charitable organizations of their choice. Ms. Domingo reported that last year VCGCB employees generously pledged \$12,000, contributing to the statewide total of \$6.4 million to nearly 3,000 nonprofits.

Ms. Domingo requested the Board approve the 2,917 applications that were certified by the United Way California Capitol Region, which included 25 Principal Combined Fund Drive (PCFD) agencies, 1,178 PCFD-affiliated organizations, and 1,714 non-affiliated organizations.

Ms. Ortiz thanked the VCGCB for being the governing board over the campaign. She explained that through the Board's support, the Our Promise Campaign was able to bring the \$6.4 million received back into the local communities and throughout the State.

The Board approved the 2,917 applications.

### **Item 6. Legislative Update**

#### **AB 2160 (Bonta) — Victim Compensation Program**

The bill would modernize statutes governing the Victim Compensation Program by expanding benefits in order to meet the emerging needs of California's victim community. Changes include authorizing the reimbursement of transportation and child care expenses and increasing the limits for reimbursement of relocation, residential security, and crime-scene cleanup expenses. Mr. Strumpfer reported that yesterday he learned that CalVCP would sponsor the bill. The bill is currently on the suspense file.

#### **SB 1186 (Lara) — Government Claims Bill**

The VCGCB's first Government Claims Bill of 2016 appropriates \$647,443.32 to pay 267 claims approved by the Board from May 2015 through December 2015. It also appropriates \$3,728,840 to pay the erroneous conviction claims of Obie Steven Anthony III, John Smith, Michael Smith, Timothy Gantt, Marco Milla and Larry Pohlschneider. Mr. Strumpfer explained that if the Board approved the Penal Code section 4900 claim of Luther Ed Jones, Jr., which was on the agenda, it would also be included in the claims bill.

### **Announcement Concerning the Porter Ranch - Aliso Canyon Government Claims**

Chairperson Batjer reported there were 160 claims representing 1,345 claimants involving the Porter Ranch – Aliso Canyon gas leak on the Government Claims Program consent agenda. She explained that due to the complexity of the cases, the Board would not make determinations regarding the merit of the claims. Instead, the Board would reject the claims so that the claimants could pursue remedies in superior court, the appropriate venue for those matters to be properly adjudicated.

### **Item 7. Consent Agenda (Nos. 1-689)**

Nicholas Wagner, Government Claims Program Manager, reported item numbers 126, 129, 130, and 142 would be removed to allow the claimants an opportunity to address the Board and item numbers 152 and 227 would be continued. Mr. Wagner requested the Board approve the consent agenda with the exceptions noted.

The Board approved consent agenda numbers 1-689 with the exception of item numbers 126, 129, 130, 142, 152, and 227.

### **Consent Agenda Item Numbers 126, 129, and 130 Claims of Laura Sweet, Kim Trefry, and Nancy Butler**

Claimants Laura Sweet, Kim Trefry, and Nancy Butler appeared and addressed the Board. Ms. Sweet gave a PowerPoint presentation and provided the Board with documents in support of the claims. Laura Freedman attended on behalf of the Department of Consumer Affairs. Kevin Kreutz attended on behalf of the California State Employees' Retirement System.

Nicholas Wagner, Government Claims Program Manager, explained that Laura Sweet, Kim Trefry, and Nancy Butler sought relief from accounts receivables established by the California State Employees' Retirement System (CalPERS). He stated Government Claims Program staff recommended the Board

reject the claims because they raised complex issues of fact and law beyond the scope of analysis and interpretation typically undertaken by the Board.

Ms. Sweet explained that they all retired from the Department of Consumer Affairs (DCA) in 2014; however, at the request of DCA, they all returned to work the day after retirement and worked as retired annuitants. She explained that each of their respective boards were suffering from grave staffing shortages as well as other significant functional challenges. DCA requested that they immediately return to work as retired annuitants and informed them that returning to work was lawful, approved by the DCA's human resources office, and did not require the applicable bona fide separation period for retired annuitants because they retired in peace officer classifications.

Ms. Sweet stated multiple CalPERS Circular Letters were distributed to employers, including DCA, during the period of February 27, 2004, through January 14, 2014, communicating retirement rules and applicable changes, and that the bona fide separation rule was required by Federal law. Upon being notified that their returns to work were not legal, the claimants remedied the situation by voiding their retirements and returning to their former classifications. Consequently, CalPERS established accounts receivables for retirement benefits the claimants collected while working as retired annuitants.

Chairperson Batjer asked Ms. Sweet whether they received information regarding working after retirement prior to their rehire.

Ms. Sweet explained that they were not aware of the Circular Letters because those letters were directed to the human resources section. She explained that the error has caused tremendous financial and emotional hardship for them. She explained that they were all entitled to the retirement benefits they collected during the periods they worked as retired annuitants. She explained that CalPERS established accounts receivables for all of them as follows: Ms. Trefry's accounts receivable is \$30,423.59; Ms. Butler's accounts receivable is \$24,003.23; and Ms. Sweet's accounts receivable is \$4,727.74. She requested the Board relieve them of the accounts receivables or request DCA pay the accounts receivables on their behalf because they returned to work at the request of the DCA in good faith.

Ms. Freedman stated DCA supported the staff recommendation to reject the claim due to the complexity of the issues. She explained that some of the details surrounding the claim, such as how much was owed and the details of the amounts owed, were not before the Board and therefore could not be resolved at this time. She explained that it would involve bringing evidence, witnesses, testimony from multiple agencies, and analyzing the complex retirement laws. She stated it may not be protracted litigation, but it would be beyond the Board's authority. Nevertheless, she stated DCA would be willing to look into what occurred again.

Member Chivaro asked Ms. Freedman whether DCA objected to paying the accounts receivables. He asked whether the claim could be approved and put in the claims bill and paid in that manner.

Ms. Freedman explained that she was unsure whether the amounts were owed to the claimants and whether DCA should pay it.

Ms. Sweet clarified that DCA reconciled the salary component of their claim. She explained that they were only concerned with the accounts receivables owed to CalPERS.

Ms. Freedman explained that all of the claimants received their full salaries and now they are receiving their full retirement, which was one of the equitable defenses the Board should consider.

Chairperson Batjer stated DCA human resources should have understood the information in the Circular Letters and the procedures should have been properly followed.

Ms. Freedman stated the former DCA personnel manager retired. In order to determine whether DCA did anything wrong, it would require a factual determination to hear that persons version of events. Additionally, she explained that she recently received notice of the claim. She stated the letter from the Government Claims Program notifying DCA of the Board meeting was dated May 4, 2016 and was received by DCA on May 11, 2016.

Mr. Wagner clarified that Government Claims Program staff requested a recommendation from DCA in May 2015 and have had ongoing discussions with DCA regarding the claims before bringing them before the Board.

Mr. Kreutz recommended the Board defer adjudication of the matter for several Board meetings in order to allow DCA to conduct its own investigation. He explained that CalPERS was not questioning the honesty of the applicants; rather, CalPERS must uphold the statutes and regulations the Legislature conferred upon CalPERS to maintain the tax-exempt status. He added that CalPERS attended the Board meeting mainly to advise and answer questions that arose.

Mr. Strumpfer explained that under the law, a claim is deem denied after 45 days. He recommended the Board request both parties agree to waive time to allow time to coordinate a meeting between the parties. Mr. Strumpfer stated he would act as coordinator to bring the parties together; thereafter, a resolution would be brought to the Board at its June 16, 2016, meeting.

Upon agreement of the parties to waive time, the Board continued the claim to the June 16, 2016, meeting.

**Consent Agenda Item Number 142**  
**Claim of Rafael Avila - 628443**

Rafael and Laura Avila were in attendance. Patricia Jones and Andrea Cross Reyes were in attendance on behalf of the Department of Motor Vehicles.

Nicholas Wagner, Government Claims Program Manager, explained that Rafael Avila requested compensation from the Department of Motor Vehicles in the amount of \$4,190.34 for the balance due on a finance contract. Mr. Wagner stated DMV did not initially provide a formal recommendation; however, shortly before the meeting began, DMV recommended partial payment in the amount of \$2,700. Government Claims Program staff recommended the Board allow the claim in full in the amount of \$4,190.34.

Mrs. Avila explained that on June 6, 2014, Mr. Avila sold a vehicle to a third party who made a down payment of \$2,400.00 and financed \$4,489.65 to be paid in monthly installments of \$299.31. On June 26, 2014, Mr. Avila registered the sale of the vehicle with DMV and documented that he was to be registered as lien holder; however, DMV staff failed to put him on the title as the lien holder. On July 2, 2014, the third party made the first and only payment of \$299.31. DMV subsequently provided the third party with the pink slip for the vehicle with a clear title. She stated on August 14, 2014, the third party sold the vehicle for cash and purchased another vehicle at a different dealership.

Ms. Reyes explained that it took some time for DMV to figure out its mistake which, in turn, caused the delay in providing their recommendation to the Government Claims Program. She stated DMV's partial payment recommendation was based on Government Code section 818.5. DMV is liable for any injury to a lienholder or good faith purchaser of a vehicle proximately caused by the department's negligent omission of the lienholder's name from an ownership certificate issued by the department. She explained that DMV's liability under the section cannot exceed the actual cash value of the vehicle. She stated Mr. Avila had already received \$2,400 for sale of the vehicle.

The Board allowed the claim in full in the amount of \$4,190.34.

#### **Item 8. Applications for Discharge From Accountability for Collection**

There were no applications for discharge from accountability for collection.

#### **Item 9. Bid Protest of Iconic Business Solutions Request for Quotation Number ISD 15-0121**

Logan Byrne addressed the Board on behalf of Iconic Business Solutions. Richard Goldberg attended on behalf of the Department of General Services (DGS).

Wayne Strumpfer explained that the bid protest by Iconic Business Solutions (Iconic) concerned a contract with a vendor to provide Cisco Smartnet Maintenance Renewal for the Department of Motor Vehicles. Mr. Strumpfer stated that the hearing officer examined and considered the written arguments and evidence presented by the parties and recommended the Board deny the protest.

Mr. Byrne explained that he submitted a detailed statement of protest, a response to the proposed awardees response, and a response to DGS. He stated DGS informed him that he did not produce enough evidence to support his claim for a protest. Mr. Byrne requested the Board approve the protest.

Mr. Goldberg stated DGS was in support of the hearing officer's recommendation to deny the protest.

The Board adopted the hearing officer's recommendation and denied the bid protest of Iconic Business Solutions.

#### **Item 10. Claim of Luther Ed Jones, Jr. (Pen. Code, § 4900 et seq.)**

Rick Walker, Board member, Northern California Innocence Project, appeared and addressed the Board on behalf of Mr. Jones. Cufon (sic) Jones, claimant's son, attended. There was no appearance by the Attorney General's Office.

Wayne Strumpfer explained that Luther Ed Jones, Jr. was arrested and charged with committing lewd and lascivious acts on a child under the age of 14, intimidating a witness or victim, and battery. Mr. Jones was found guilty and sentenced to 27 years in prison. The court granted Mr. Joneses petition on February 16, 2016, and made a finding of factual innocence. Pursuant to Penal Code section 1485.55, the California Victim Compensation and Government Claims Board shall calculate the compensation for the claimant pursuant to Penal Code section 4904 and recommend to the Legislature payment of that sum. Mr. Strumpfer stated the hearing officer recommended compensation to Mr. Jones in the amount of \$936, 880 for being wrongfully imprisoned for 6,692 days from October 22, 1997, until February 17, 2016.

Mr. Walker thanked the Board for processing the claim expeditiously. He explained that Mr. Jones was in poor health and was deteriorating very quickly. He remarked that Mr. Jones was recently admitted back into the hospital and may not live to receive the compensation. The Board approved the claim.

#### **Victim Compensation Program**

The Board commenced the Victim Compensation Program portion of the meeting at 11:14 a.m.

#### **Proposal to Approve Trauma Recovery Center Grant Awards**

Robin Foemmel Bie, CalVCP Resource Branch Manager, explained that on July 1, 2013, Government Code section 13963.1 became law requiring the Victim Compensation and Government Claims Board (Board) administer a program to evaluate applications and award grants to trauma recovery centers (TRCs) in California to provide services to underserved victims of crime. Upon appropriation by the Legislature, the Board shall award grants totaling up to two million dollars (\$2,000,000) per year. The Board may award consecutive grants to a trauma recovery center to prevent a lapse in funding. Any portion of a grant that a trauma recovery center does not use within the specified grant period shall revert to the Restitution Fund. In addition, on November 5, 2014, the Safe Neighborhoods and Schools Act (SNSA) became effective. It appropriates 10% of the funds saved annually due to reductions in the state prison population to the Board for grants to TRCs.

Ms. Foemmel Bie requested the Board approve TRC grant awards to the Alameda County Family Justice Center in the amount of \$939,369.2 and California State University at Long Beach in the amount of \$1,005,525. She explained that the grantees would be funded from the Restitution Fund beginning July 1, 2016.

Ms. Foemmel Bie also requested the Board approve the TRC grant awards pursuant to the SNSA to St. Francis Medical Center in the amount of \$766,484 and The Grace Network in the amount of \$733,333. She explained that the grantees would be funded from the SNSA fund, beginning September 1, 2016, pending receipt of the projected appropriation of funds estimated at \$2,900,000.

The Board approved the Trauma Recovery Center Grant awards.

### **Proposal and Discussion of New Regulations Pertaining to Income Loss for Human Trafficking Victims**

The Board continued the item to the June 16, 2016, meeting.

### **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 11:17 a.m. to deliberate on proposed decision numbers 1-67.

### **Open Session**

The Board reconvened into Open Session pursuant to Government Code section 11126 (c)(3) at 11:23 a.m. The Board adopted the hearing officer's recommendations for proposed decision numbers 1-67.

### **Adjournment**

The Board meeting adjourned at 11:24 a.m.