

California Victim Compensation and Government Claims Board

Open Meeting Minutes

April 16, 2009, Board Meeting

The California Victim Compensation and Government Claims Board convened its meeting in open session at the call of Scott Reid, Undersecretary, State and Consumer Services Agency, at 400 R Street, Sacramento, California, on Thursday, April 16, 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; Tom O'Connor, Chief Deputy 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. Minutes of the March 19, 2009, Board Meeting

Board members Les Kleinberg and Michael Ramos voted to adopt the minutes of the March 19, 2009, Board meeting. Chairperson Scott Reid abstained from the vote.

Item 2. Public Comment

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

Item 3. Executive Officer's Statement

The Executive Officer gave the following report:

- National Crime Victim's Rights Week is April 26-May 2. The annual observation is an opportunity for crime victims, family members, survivors, and victim service providers to gather at events throughout the state and highlight the ongoing challenges faced by crime victims and stand up for their rights in the criminal justice system. This year's theme is "25 Years of Rebuilding Lives. Celebrating the Victims of Crime Act." It also marks the 25th anniversary of the federal Victims of Crime Act, which was enacted by President Ronald Reagan in 1984. This historic step forward for victims established the Crime Victims' Fund to support local victim programs across the nation. The Executive Officer stated the Governor would issue a proclamation declaring April 26-May 2 as Crime Victim's Rights Week in California. The VCGCB will issue a press release and guest opinion piece. A radio address has been prepared for the Governor as well as web and video blogs. The VCGCB will participate in the annual march to the Capitol on April 29th where a rally sponsored by the California Correctional Peace Officers Association will take place. The VCGCB will host an informational booth at the event. Ribbons, bookmarks, and flyers for the week have been distributed to state agencies and county offices statewide. VCGCB Executive Staff will attend various events throughout the state. The Executive Officer distributed Crime Victim's Rights Week materials to the Board members.
- The National Association of Crime Victim Compensation Boards is currently holding its Western Regional Conference in Santa Fe, New Mexico. The focus of the conference is improving program performance and exploring the latest strategies for serving victims. Chip Skinner, Deputy Executive Officer, Victim Compensation Program, is attending the conference.
- The VCGCB will host the second statewide summit for county Victim Witness Assistance Program directors on May 5. This one-day workshop will be an opportunity to bring all directors to Sacramento to discuss joint outreach initiatives in local communities and provide updates on the CaRES claims management system, among others.

- The online victim compensation program application is on schedule and will be piloted to three Joint Powers counties at the end of the month. Los Angeles, San Bernardino, and Eldorado Counties have agreed to be the first counties to pilot the online application. The three-week pilot will be followed by a rollout to all of the counties in the summer months and will be completed by mid July. The online application is user friendly and is an improvement over the VCGCB's existing application. Victims will be able to complete the application on their own or seek assistance from Victim Witness center staff. The benefit of the online application for the VCGCB will be a reduction in the administrative time spent verifying information because the submitted application will be complete.
- On March 12, the Office of Information Security and Privacy Protection gave an in-house presentation to staff on how to prevent ID theft and the warning signs that someone has access to personal data.
- April is Sexual Assault Awareness Month, a time to raise awareness and educate the public's understanding about sexual violence in our society. On April 22, the VCGCB will participate in Denim Day California sponsored by the California Coalition Against Sexual Assault. Denim Day began in 1999 when an Italian Supreme Court decision overturned a rape conviction because the victim wore tight jeans, reasoning that she must have helped her attacker remove them. People all over the world were outraged. Wearing jeans became an international symbol of protest against erroneous and destructive attitudes about sexual assault.
- April 23 is Take Our Daughters and Sons to Work Day. The theme for 2009 is Building Partnerships to Educate and Empower. VCGCB staff will join many organizations around the country and bring their daughters and sons to work to participate in many planned activities including special presentations by the CHP.
- The VCGCB received a gold award for participation in the 2008 California State Employees' Charitable Campaign.

Item 4. Contract Report

The Executive Officer presented the contract report to the Board.

Item 5. Legislative Update

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

Government Claims Program

Item 6. Consent Agenda (Nos. 1- 386)

The Board voted to approve the staff recommendations for numbers 1-386 with the following exceptions: number 30 was removed in order to allow the claimant an opportunity to address the Board; number 41 was removed in order to allow the claimant's representative an opportunity to address the Board; number 47 was removed in order to allow the agency an opportunity to revise their recommendation; number 67 was removed in order to allow the claimant an opportunity to address the Board; number 82 was removed in order to allow the agency an opportunity to revise their recommendation; number 106 was removed in order to allow the claimant's representative an opportunity to address the Board; and number 108 was removed at the request of the claimant and agency pending review of additional information.

Consent Agenda Appearance
Item Number 30

Lionel Reynolds, Senior Project Manager, Winzler & Kelly Consulting Engineers (Winzler), appeared and addressed the Board. Jeanie Jones, contracts officer, and Francis Coats, attorney, legal office, both appeared and addressed the Board on behalf of the Department of Motor Vehicles.

Board member Mike Ramos stated Winzler detrimentally relied on an email from DMV stating that payment for services would be made with a credit card. Mr. Ramos also stated Winzler completed the first part of the emergency services, in good faith, and thereafter provided additional subsequent oversight services and should be paid for those services.

Francis Coats stated Winzler did not have a written contract and should not be paid. Mr. Coats stated the contractor is as responsible as the State and should suffer the cost, if it is not an undue hardship, when they proceed without complying with the basic laws that are intended to protect the taxpayers.

Board member Les Kleinberg asked if the contractor was allowed on the property and, if so, was the work adequately performed. Mr. Coats stated the contractor was allowed on the property, the contract was asked perform the work, and the work was adequate. Board member Les Kleinberg stated a benefit was received by the State and the contractor should be compensated.

The Board voted to allow full payment of the claim in the amount of \$6,000, under authority of Government Code section 965 (agency pay).

Consent Agenda Appearance
Item Number 41

Richard Lubetzky, attorney, appeared and addressed the Board on behalf of the claimant, Robert Webster. Steven Tolle appeared on behalf of the Department of Corrections and Rehabilitation.

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

Consent Agenda Appearance
Item Number 67

Yolanda Santa Cruz appeared and addressed the Board. The claimant sought unlimited civil damages in the matter.

Due to complex reasons outside the scope and authority of Board's authority, the Board voted to adopt the staff recommendation to reject the claim in order to allow the claimant the opportunity to pursue the matter in court.

Consent Agenda Appearance
Item Number 106

Ann Cunningham, attorney, appeared on behalf of Harold Leon Zick. Bruce Crane appeared on behalf of the Department of Forestry and Fire Protection, Office of the State Fire Marshal.

Chairperson Scott Reid and Board member Les Kleinberg voted to adopt the staff recommendation to reject the claim due to complex issues outside the scope of the Board's authority. Board member Michael Ramos recused himself from the vote.

Item 7. Steven R. Bochco and Barbara Bochco
Claim Number G573484

The Board voted to adopt the staff recommendation to allow the claim in the amount of \$100,000.00 to be paid pursuant to Government Code section 905.2(b)(4) (legislative pay).

Item 8. GeoDecisions
Claim Number G580587

Tony Pietropola, President of GeoDecisions, appeared and addressed the Board.

Chairperson Scott Reid asked if GeoDecisions knew that the CMAS contract did not include web site hosting services. Mr. Pietropola stated they were not aware that the contract did not include the web site hosting services. The chairperson asked if the department requested GeoDecisions negotiate a subcontract with a specific vendor. Mr. Pietropola stated GeoDecisions negotiated a subcontract with Navisite for new website hosting services.

The Board voted to adopt the staff recommendation to allow the claim in the amount of \$55,495.00, under authority of Government Code section 965 (agency pay).

Item 9. Applications for Discharge from Accountability for Collection

The Board voted to adopt the staff recommendation.

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

Board member Les Kleinberg stated since the Department of Consumer Affairs (DCA) only received three claims from May 1, 2008, through March 4, 2009, it may not be cost effective to have a separate program under DCA; rather, it may be best to have those claims referred to the VCGCB.

Jackie Tinetti, Government Claims Program Manager, stated some departments receive more claims than other departments; as a result, the program is advantageous. Ms. Tinetti stated the DCA may anticipate a continuing need to have the delegated authority available to them. Ms. Tinetti also stated, for purposes of comparison, the VCGCB requests departments to report to the VCGCB the number of claims received and disposed of under the delegated authority in addition to the amount of time taken to dispose of the claims.

Board member Les Kleinberg asked if the department determines that it is not cost effective to have the delegated authority, would they be able to refer those claims back to the VCGCB. Ms. Tinetti stated the department has that option.

The Board voted to adopt the staff recommendation.

Victim Compensation Program

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

Victim Compensation Program Statistical Report

JoAnn Goodwin, Assistant Deputy Executive Officer, Victim Compensation Program, presented the Victim Compensation Program Statistical Report to the Board.

Chairperson Scott Reid asked Ms. Goodwin if she could give an estimate on the impact the online application would have on the average claims processing time. Ms. Goodwin stated the current verification process is lengthy but with completed applications being submitted online, it will decrease the amount of time to process the applications. Ms. Goodwin stated the average processing time should decrease next quarter.

The Executive Office stated under the Strategic Plan, emphasis is being placed on developing metrics. Benchmarks will be in place to measure the effectiveness of the online applications and CaRES when the optimization project is completed in June of this year.

**Approval of Responses to Public Comment;
Adoption of Victim Compensation Program Regulations; and
Authorization to File the Regulations with the office of Administrative Law**

Garry Ness, Chief Counsel, presented the Victim Compensation Program Regulations, title 2, §§ 647.4, 649-649.62. Mr. Ness stated that during the formal rulemaking process, comments were received from three different parties. Mr. Ness gave a summary of the comments received and the Board's responses to those comments.

Board members Les Kleinberg and Michael Ramos complimented staff on their great work on the amount of work involved in the regulation process.

The Board voted to adopt the staff recommendation to approve the proposed responses to the public comments, adopt the VCP regulations, and authorize the Executive Office to file the VCP regulations with the Office of Administrative Law for its review and approval.

Mileage Reimbursement Rate for Victim Compensation Program Claimants

Garry Ness, Chief Counsel, presented the Mileage Reimbursement Rate for Victim Compensation Program Claimants to the Board. The Board voted to approve the staff recommendation to approve an increase in the mileage reimbursement rate to 55 cents per mile and that the rate automatically adjust to the mileage reimbursement rate set by the Department of Personnel Administration.

**Consent Agenda
Recommendation: Allow
(No. 1)**

The Board voted to adopt the staff recommendation.

**Reconsiderations Following Board Action on a Proposed Decision
Recommendation: Deny
(Nos. 2 and 3)**

The Board voted to adopt the staff the proposed decisions.

**Proposed Decision Following Failure to Respond
(Nos. 4-15)**

The Board voted to adopt the proposed decisions.

**Proposed Decision Following Failure to Appear
(Nos. 16-21)**

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, Chief Deputy Executive Officer, and Chief Counsel, at 11:20 a.m. to deliberate on the proposed decisions, numbers 22 through 36.

The Board reconvened into open session at 11:23 a.m.

Open Session

The Board voted to adopt the proposed decisions for numbers 22 through 36.

Adjournment

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

Julie Nauman
Executive Officer

I certify that the California Victim Compensation and Government Claims Board adopted these minutes at its meeting of May 21, 2009, at Sacramento, California.

Date: May 21, 2009

By: _____
Board Liaison (Affix Seal here)