

# California Victim Compensation and Government Claims Board

## Open Meeting Minutes

October 15, 2009, Board Meeting

The California Victim Compensation and Government Claims Board (Board) convened its meeting in open session at the call of Fred Aguiar, Secretary, State and Consumer Services Agency, at 400 R Street, Sacramento, California, on Thursday, October 15, 2009, at 10:00 a.m. Also present was Board member Les Kleinberg, Deputy Controller, acting for and in the absence of John Chiang, Controller. Board member Michael Ramos, San Bernardino County District Attorney, was not in attendance.

Board staff present included Julie Nauman, Executive Officer; Patty Harris, 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 September 17, 2009, Board Meeting**

Chairperson Aguiar stated Board member Michael Ramos is unable to attend the meeting, but there is a quorum. The Board voted to approve the minutes of the September 17, 2009, Board meeting.

### **Item 2. Public Comment**

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

### **Item 3. Executive Officer's Statement**

The Executive Officer gave the following report:

- October is Domestic Violence Awareness Month and to commemorate the occasion organizations statewide are holding events to raise awareness of this prevalent and disturbing crime. The California Victim Compensation Program (CalVCP) understands first hand the importance of this awareness because domestic violence generates one quarter of all the victim claims processed by the CalVCP. In fiscal year 08-09, the CalVCP paid over \$15 million to more than 13,000 domestic violence victim claims.
- On September 25<sup>th</sup> the Executive Officer was honored to attend and speak at the annual National Day of Remembrance for Murder Victims that was held on the West Steps of the State Capitol.
- On Tuesday, October 20<sup>th</sup> the Victim Compensation Program Advisory Committee will hold its meeting at the VCGCB. Committee members will discuss various issues of interest to the state agencies that participate. The agenda will include a special presentation on Crimes Against People with Disabilities provided by Disability Rights California.
- Beginning this October, the monthly Board meeting notices and agendas will follow the rest of the Board's conservation efforts by going paperless. Notifications and Board Meeting Alerts regarding upcoming Board meetings and the agenda postings were sent via email to interested parties who could then easily download the agendas from our website.
- The Executive Officer acknowledged and welcomed Patty Harris who was recently appointed Chief Deputy Executive Officer of the VCGCB on October 1, 2009. Prior to joining the VCGCB, Ms. Harris was the Chief Deputy Director for Bureau Relations with the Department of Consumer Affairs. In that role, Ms. Harris provided oversight to the department's nine bureaus, the Arbitration Certificate Program, and the Office of Privacy Protection.

Chairperson Aguiar welcomed Ms. Harris on behalf of the Board.

The Executive Officer announced the retirement of Garry Ness, Chief Counsel, and expressed her personal gratitude. The Executive Officer stated Mr. Ness is an excellent attorney, trusted advisor and loyal confidante and it was a pleasure working with him.

Chairperson Aguiar presented Mr. Ness with a letter from Governor Schwarzenegger recognizing his over 35 years of service to the State of California, appreciating his dedication, congratulating him on his retirement, and thanking him for a job well done.

Board member Les Kleinberg presented Mr. Ness with a resolution signed by all Board members and the Executive Officer.

The Executive Officer presented Mr. Ness with a legislative resolution signed by Senator Roger Niello and Assembly Member Dave Cox, both from Mr. Ness' district.

#### **Announcement of the 10:15 a.m. Great California ShakeOut Drill**

Chairperson Aguiar announced the time is 10:12 a.m. and in three minutes the VCGCB, along with millions of Californians, will participate in the Great California ShakeOut. The 60-second exercise called "Drop, Cover, and Hold On" is the largest earthquake drill ever. Chairperson Aguiar stated a public service announcement would be made at 10:15 a.m. requesting that everyone put their head down and cover for the duration of the 60-second exercise.

#### **Item 4. Legislative Update**

Gary Longholm, Deputy Executive Officer, Legislation and Public Affairs Division, presented the final Legislative Update to the Board for the 2009-2010 Legislative Session. Mr. Longholm gave the following update:

- SB 327 (Kehoe) and AB 92 (De Leon), the Government Claims sponsored bills, were both chaptered.
- AB 316 (Solorio), relating to wrongful convictions, was signed by the Governor.
- AB 1270 (Torrico), relating to procedures relative to victim compensation, was vetoed by the Governor.
- SB 314 (Calderon), relating to crime victims, was signed by the Governor.
- SB 432 (Runner), relating to restitution for crime victims, was chaptered.
- SBX3 13 (Alquist, Corbett, Kehoe), relating to domestic violence funding, which is in the third extraordinary session, was amended and passed on to the Governor.

#### **Follow-up Announcement to the Great California ShakeOut Drill**

Chairperson Aguiar stated that the time was 10:15 a.m. and requested staff open the auditorium doors so that the public service announcement could be heard.

#### **Government Claims Program**

#### **Item 5. Consent Agenda (Nos. 1- 321)**

The Board voted to approve the staff recommendations for numbers 1-321, with the following exceptions: item number 22 was continued to a subsequent agenda and item numbers 120, 122, and 318 were removed in order to allow the claimants and/or their representatives an opportunity to address the Board.

**Consent Agenda Appearance**  
**Item Number 120, G582033**

Claimants Richard and Estelle Dumke appeared and addressed the Board. The claimants submitted documentation in support of their claim for Board consideration. Peter Ackeret appeared on behalf of CalTrans. Mr. Ackeret stated that because of the potential for litigation, the attorney-client privilege prevents him from going into detail regarding this claim.

Chairperson Aguiar asked, generally speaking, if CalTrans has a policy relative to clearing of dead vegetation. Mr. Ackeret stated he has not dealt with those issues, but there are maintenance crews that handle vegetation and landscaping along the freeways. Board member Les Kleinberg asked Mr. Ackeret if there are actions pending regarding the other storage units against Caltrans. Mr. Ackeret stated he is not aware of any actions against CalTrans regarding this matter.

Chairperson Aguiar stated the issues regarding this claim are complicated and beyond the scope of the Board. The Board voted to reject the claim.

**Consent Agenda Appearance**  
**Item Number 122, G582400**

Claimant Tej Randhawa appeared and addressed the Board. Robert Frey appeared on behalf of Alliant Insurance Services (Alliant). The Board voted to continue the claim to the November 12, 2009, Board meeting and requested that (1) Alliant provide the Board with information relative to the specific statute that authorized the university to impound the car for 30 days and (2) the claimant provide receipts for car rental expenses.

**Consent Agenda Appearance**  
**Item Number 318, G585205**

Neither the claimant nor his representative appeared at the meeting. The Board voted to adopt the staff recommendation to deny the late claim application.

**Item 6. Rhonda Seybold**  
**Claim Number G578051**

Rhonda Seybold appeared and addressed the Board. Ray Asbell appeared and addressed the Board on behalf of the Department of Personnel Administration.

Chairperson Aguiar stated he cannot overrule IRS policies. Board member Kleinberg asked Mr. Asbell if there is a way in which the department could reimburse Ms. Seybold. Mr. Asbell stated he is not aware of a way that the department could reimburse Ms. Seybold without violating the accountable plan, which states that the State of California will follow IRS policies.

Board member Kleinberg stated Ms. Seybold suffered a loss, through no fault of her own, by not receiving timely information from the department. Mr. Asbell stated that is unfortunate; however, the policy must be followed. Mr. Asbell also stated there is information relative to this issue on DPA's website, DPA is in contact with departments on a consistent basis, and departments may contact DPA with questions at any time.

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

### **The Great California ShakeOut Drill**

Chairperson Aguiar stated that there should have been a public service announcement at 10:15 a.m. informing persons of the Great California ShakeOut, but it was not heard in the auditorium. The Executive Officer announced she was informed that the drill did occur; however, it could not be heard in the auditorium.

Chairperson Aguiar explained that if the announcement had been heard or if there was an actual earthquake, everyone would have been asked to drop, cover, and hold on. Chairperson Aguiar also instructed everyone where he or she could have sought cover in the auditorium.

Board member Les Kleinberg requested that staff look into the possibility of having a speaker installed in the auditorium.

### **Item 7. French Hospital Medical Center Claim Number G583615**

The Board voted to adopt the staff recommendation to allow the claim in the amount of \$99,691.90, under authority of Government Code section 965 (agency pay).

### **Item 8. Plastic Energy California LLC Claim Number G584366**

The Board voted to adopt the staff recommendation to allow the claim in the amount of \$84,110.45, under authority of Government Code section 965 (agency pay).

### **Item 9. Request for Delegation of Authority Under Government Code Section 935.6 by the Department of Mental Health**

Chairperson Aguiar asked if a representative from the Department of Mental Health (DMH) was in attendance. Jackie Tinetti, Government Claims Program Manager, stated the DMH did not send a representative. Chairperson Aguiar stated DMH staff approved and paid 86 claims totaling \$2,928.21 in 52 days and asked Ms. Tinetti how that figure compared to Government Claims Program staff. Ms. Tinetti stated according to the latest figures under the Board's Strategic Plan performance measurements, Government Claims Program staff process 451 claims in 55 days.

The Board voted to adopt the staff recommendation to approve the request.

### **Item 10. Request for Delegation of Authority Under Government Code Section 935.6 by the California State University**

Robert Frey appeared on behalf of the California State University (CSU). Chairperson Aguiar stated according to the figures provided, CSU approved and paid 35 claims totaling \$14,695.12 in 103.5 days. Chairperson Aguiar asked why it took so long to settle and pay claims for less than \$1,000 as compared to the Department of Mental Health and Government Claims Program staff.

Mr. Frey stated it does not take CSU 103.5 days to process claims. He further stated the report issued by the CSU was based on the date of loss against the date that the claim was settled. Chairperson Aguiar asked Mr. Frey to provide the average claim processing time. Mr. Frey stated he did not have the information at this time.

Chairperson Aguiar stated if it takes CSU longer to process claims than Board staff, then it would be much more efficient to have Board staff process the claims. The Board voted to continue the claim to the November 12, 2009, meeting and requested CSU provide a comparison number relative to how many days it takes CSU to process claims.

### **Victim Compensation Program**

The Board commenced the Victim Compensation Program portion of the meeting at 11:13 a.m.

### **Victim Compensation Program Statistical Report**

Chip Skinner, Deputy Executive Officer, Victim Compensation Program, presented the quarterly statistics for the first quarter for fiscal year 09/10.

### **Request for Reconsiderations Following Board Action on a Proposed Decision**

#### **Recommendation: Deny**

#### **(Nos. 1-2)**

The Board voted to adopt the proposed decisions.

### **Proposed Decision Following Failure to Respond**

#### **(Nos. 3-14)**

The Board voted to adopt the proposed decisions with the correction to a typographical error regarding number 11. The correct number is A08-1237171.

### **Proposed Decision Following Failure to Appear**

#### **(Nos. 15-26)**

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 11:17 a.m. to deliberate on the proposed decisions, numbers 27 through 37.

The Board reconvened into open session at 11:21 a.m.

### **Open Session**

The Board voted to adopt the proposed decisions for numbers 27 through 37.

## Adjournment

The Board meeting adjourned at 11:22 a.m.

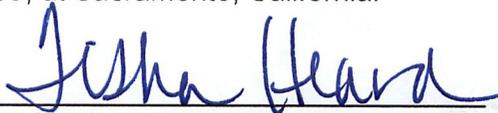
Julie Nauman  
Executive Officer

  
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I certify that the California Victim Compensation and Government Claims Board adopted these minutes at its meeting of November 12, 2009, at Sacramento, California.

Date: November 12, 2009

By:

  
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Board Liaison (Affix Seal here)

