

# California Victim Compensation and Government Claims Board

## Open Meeting Minutes

March 18, 2010, Board Meeting

The California Victim Compensation and Government Claims Board (Board) convened its meeting in open session at the call of Bill Leonard, Secretary, State and Consumer Services Agency, at 400 R Street, Sacramento, California, on Thursday, March 18, 2010, at 10:01 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; Patty Harris, 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 February 18, 2010, Board Meeting**

Board members Les Kleinberg and Michael Ramos voted to approve the minutes of the February 18, 2010, 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, which focused on events that will be held during the month of April in observance of National Crime Victims' Rights Week:

- April 18-24 is National Crime Victims' Rights Week. The theme for 2010 is Crime Victims' Rights: Fairness. Dignity. Respect. The annual observance is a time to promote victims' rights and honor crime victims and those who advocate on their behalf. In recognition of National Crime Victims' Right Week, the CalVCP will dedicate themes highlighting every day of the week as follows: Monday--victims of homicide; Tuesday--crimes against the disabled; Wednesday--victims of child abuse; Thursday--first responders; and Friday--domestic violence victims.
- The annual CalVCP march to the State Capitol will be held on Monday, April 19<sup>th</sup>. The CalVCP extended an invitation to its sister agencies and other stakeholders as well as victims who received benefits from our program to join with us in a show of solidarity. Following the march, the CalVCP will participate in a symposium at the State Capitol.
- On April 21<sup>st</sup> CalVCP staff will participate in the Victims' Rights Week Symposium and Awards Luncheon presented by the Los Angeles County District Attorney's Victim-Witness Assistance Program.
- On April 21<sup>st</sup> CalVCP staff will participate in the 11<sup>th</sup> Annual Denim Day in LA. Denim Day is a campaign to raise awareness and educate the public about rape and sexual assault. It is a day where everyone is asked to make a social statement and wear jeans as a visible means of protest against misconceptions that surround sexual assault crimes.
- On April 23<sup>rd</sup> the Executive Officer will give the keynote address at the annual Crime Survivors Awards Banquet in Orange County.
- Two media events will be held highlighting crimes against the disabled and domestic violence victims.

The Executive Officer stated all of the events being held during the month of April and the CalVCPs participation in them are designed to raise awareness about the rights of victims as well as highlight the services the CalVCP is able to provide on their behalf.

The Executive Officer provided the Board with copies of the *Victim Compensation Connection*, a bimonthly publication of the CalVCP. The Executive Officer stated the newsletter may also be obtained from the VCGCB website.

Board member Michael Ramos requested staff provide him with information regarding the march to the State Capitol. The Executive Officer stated staff would provide all of the Board members with a calendar of events. She further stated the calendar of events for the month of April is available on the VCGCB website.

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

Jon Myers, Deputy Executive Officer, Legislation and Public Affairs Division, presented the Legislative Update to the Board.

Board member Les Kleinberg requested Mr. Myers provide additional background information regarding SB 1046 (Cogdill), the bill relating to claims against California State University (CSU). The bill would require that claims against CSU be presented to the Trustees of the CSU rather than the VCGCB and would authorize the Trustees of the CSU to adjust and pay those claims.

#### **Government Claims Program**

#### **Item 5. Consent Agenda (Nos. 1- 511)**

The Board voted to approve the staff recommendations for numbers 1-511, with the following exceptions: item number 83 was removed because it was administratively handled by the affected agency and therefore withdrawn from the consent agenda; item 370 was removed pending receipt of information from the AG's Office; and item numbers 40, 179, 248, and 480 were removed in order to allow the claimants an opportunity to address the Board.

#### **Consent Agenda Appearance** **Item No. 40, G582307**

Claimant Jan E. Hershenhouse appeared and addressed the Board. Victoria Luzzi appeared on behalf of the Department of General Services.

The Board voted to adopt the staff recommendation to partially allow the claim in the amount of \$482.98.

#### **Consent Agenda Appearance** **Item No. 179, G586383**

Daniel Peery, claimant, and Bruce Howard appeared and addressed the Board. Frank Coates and Ila Parisek appeared on behalf of the Department of Motor Vehicles. The Board voted to adopt the staff recommendation to reject the claim.

#### **Consent Agenda Appearance** **Item No. 248, G587664**

Claimant Margot Garcia appeared and addressed the Board. Ms. Garcia submitted written documentation for Board consideration. The Board voted to adopt the staff recommendation to reject the claim.

### **Change in the Order of an Item on the Agenda**

At the request of a claimant's attorney and upon agreement of the Board, the order of items on the agenda were changed to allow the Penal Code section 4900 claim of Timothy Atkins, G569329, to be heard next.

### **Item 12. Timothy Atkins (Pen. Code, § 4900 et seq.) Claim Number G569329**

Justin Brooks, Professor, California Western School of Law and Director of the California Innocence Project appeared on behalf of the claimant, Timothy Atkins. Kenneth N. Sokoler and Galen Farris, Deputy Attorney Generals, appeared on behalf of the Office of the Attorney General.

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

### **Excusal from the Board Meeting by Board Member Ramos**

After voting on the Timothy Atkins matter, Board member Michael Ramos excused himself from the meeting at 11:20 a.m.

### **Consent Agenda Appearance Item No. 480, G587277**

Claimant Helen Moore failed to appear. Chairperson Leonard and Board member Les Kleinberg voted to adopt the staff recommendation to deny the late claim application.

### **Item 6. Aim Computer Training Inc. dba ExecuTrain Claim Number G585299**

The claimant's representative, Brian Broumas, appeared at the meeting and provided staff with written notification withdrawing the claim.

### **Item 7. Thomas Tanaka, dba Pitney Bowes Claim Number G585797**

Chairperson Leonard and Board member Les Kleinberg voted to adopt the staff recommendation to allow claim in the amount of \$118,000.00 under authority of Government Code section 965 (agency pay).

### **Item 8. Roche Diagnostics Corporation Claim Number G587187**

Chairperson Leonard and Board member Les Kleinberg voted to adopt the staff recommendation to allow the claim in the amount of \$215,891.54 under authority of Government Code section 905.2(b)(4) (legislative pay).

### **Item 9. Rand McNally Claim Number G588547**

Chairperson Leonard and Board member Les Kleinberg voted to adopt the staff recommendation to allow the claim in the amount of \$50,000.00 under authority of Government Code section 965 (agency pay).

**Item 10. Applications for Discharge from Accountability for Collection**

The Board voted to adopt the staff recommendation to approve the 10 requests by state agencies.

**Item 11. Request for Delegation of Authority Under Government Code Section 935.6 by the Department of Consumer Affairs**

Chairperson Leonard and Board member Les Kleinberg voted to adopt the staff recommendation to approve the request.

**Item 13. Kenneth Foley (Pen. Code, § 4900 et seq.)  
Claim Number G569845**

Claimant Kenneth Foley appeared and was represented by Noah Rosenthal, attorney, HOWARD RICE NEMEROVSKY CANADY FALK & RABIN. Sharon Loughner, Deputy Attorney General, appeared on behalf of the Office of the Attorney General.

Chairperson Leonard and Board member Les Kleinberg voted to adopt the staff recommendation to deny the claim.

**Victim Compensation Program**

The Board commenced the Victim Compensation Program portion of the meeting at 11:46 a.m.

**Proposal Regarding VCP Precedent Decisions**

Wayne Strumpfer, VCGCB Chief Counsel, presented the item to the Board. Mr. Strumpfer stated currently the Board has 20 precedential decisions of which many are now out of date, unnecessary, or conflict with current statutes and regulations. He requested that the Board eliminate or reverse the decisions that are now inapplicable.

Chairperson Leonard and Board member Les Kleinberg thanked Mr. Strumpfer and his staff for their work on thoroughly reviewing and identifying all of the precedent decisions recommended for reversal.

Chairperson Leonard and Board member Les Kleinberg voted to adopt the staff recommendation to reverse the following precedent decisions that are no longer applicable:

- Precedent Decision No. 98-01
- Precedent Decision No. 01-01
- Precedent Decision No. 01-02
- Precedent Decision No. 01-04
- Precedent Decision No. 01-10 and 03-01
- Precedent Decision No. 02-02
- Precedent Decision No. 03-02
- Precedent Decision No. 03-04
- Precedent Decision No. 03-05
- Precedent Decision No. 04-01
- Precedent Decision No. 04-02
- Precedent Decision No. 04-03

Mr. Stumpfer thanked Roslyn Mack, VCGCB Senior Staff Counsel, for her great work on the project.

**Request for Reconsideration Following Board Action on a Proposed Decision**

**Recommendation: Allow**

**(No. 1)**

Chairperson Leonard and Board member Les Kleinberg voted to adopt the proposed decision.

**Requests for Reconsideration Following Board Action on a Proposed Decision**

**Recommendation: Deny**

**(Nos. 2&3)**

Chairperson Leonard and Board member Les Kleinberg voted to adopt the proposed decision for number 2, A08-0852905.

Number 3, A08-1101393, was moved to closed session pursuant to Government Code section 11126(c)(3) in order to allow the Board an opportunity to review documentation submitted by the applicant.

**Proposed Decisions Following Failure to Respond**

**(Nos. 4-6)**

Chairperson Leonard and Board member Les Kleinberg voted to adopt the proposed decisions.

**Proposed Decision Following Failure to Appear**

**(Nos. 7-12)**

Chairperson Leonard and Board member Les Kleinberg 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 11:50 a.m. to deliberate on number 3, A08-0852905, a request for reconsideration following Board action on a proposed decision and proposed decisions numbers 13 through 24.

The Board reconvened into open session at 12:01 p.m.

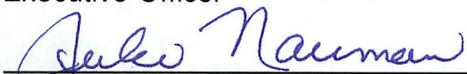
**Open Session**

The Board voted to adopt the proposed decisions for number 3 and numbers 13 through 24.

**Adjournment**

The Board meeting adjourned at 12:01 p.m.

Julie Nauman  
Executive Officer



I certify that the California Victim Compensation and Government Claims Board adopted these minutes at its meeting of April 15, 2010, at Sacramento, California.

Date: April 15, 2010

By:



Board Liaison (Affix Seal here)