

California Victim Compensation and Government Claims Board
Open Meeting Minutes
February 20, 2014, Board Meeting

The California Victim Compensation and Government Claims Board (Board) convened its meeting in open session at the call of Michael Ramos, San Bernardino County District Attorney, at 400 R Street, Sacramento, California, on Thursday, February 20, 2014, at 10:04 a.m. Also present was Board member Richard Chivaro, Chief Counsel, acting for and in the absence of John Chiang, Controller.

Board staff present included Julie Nauman, Executive Officer; Kathy Cruz, Chief Deputy Executive Officer, and Wayne Strumpf, 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 January 16, 2014, Board Meeting

The Board approved the minutes of the January 16, 2014, Board meeting.

Item 2. Public Comment

The Board opened the meeting for public comment. No public comment was offered.

Item 3. Executive Officer Statement

Executive Officer Nauman reported that, as part of the federal grant awarded to CalVCP by the Office for Victims of Crime (OVC), CalVCP successfully executed the interagency agreement with the University of California, Berkeley (UCB) in the amount of \$245,440. UCB will begin the fieldwork for the needs assessment portion of the grant. The protocol and questions for the interviews and survey were crafted in collaboration with CalVCP staff and the seven counties where the interviews will be conducted have been selected and notified. In addition, law enforcement, domestic violence shelters, service providers, and advocates have been identified as additional points of contact. The survey will help identify the underserved victim of crime populations throughout the state and assist in quantifying the gaps in services to determine effective strategies to improve that access to both compensation and related services. After the interactive portion of the study is completed, CalVCP will move into development of the innovative strategies that will be recommended to OVC. Although it is a one-year study, it is anticipated that OVC will authorize CalVCP to proceed with years two and three, the evaluation and implementation phases. Executive Officer Nauman reported that she would provide periodic updates to the Board.

Item 4. Government Claims Program

Consent Agenda (Nos. 1-429)

The Board adopted the staff recommendations for item numbers 1-429, with the following exceptions: item numbers 5 and 248 were continued for further review by staff; item numbers 283 and 421 were continued to the March 20, 2014, meeting; item number 288 was removed at the request of the involved agency; and item number 92 was removed to allow the claimant an opportunity to address the Board.

Consent Agenda Appearance

Item 92, G615198

Claim of Aware Recycling

Chad McKinney, claimant, submitted written documentation for the Board's review in support of his claim. Walt Simmons and Nancy Manfred were in attendance on behalf of the California Department of Resources Recycling and Recovery.

Nicholas Wagner, Government Claims Program Manager, explained that Aware Recycling sought compensation from the California Department of Resources Recycling and Recovery (CalRecycle) in the amount of \$7,108.53 for recycling service reimbursements. Mr. Wagner stated that GCP staff recommended that the Board reject the claim because there appeared to be no State liability.

Mr. McKinney stated that CalRecycle maintained that they did not have to pay the monies owed to his charity pursuant to the Public Resources Code and the California Code of Regulations. He explained that he submitted his handling fee application form (DR-14) electronically three days late, but had reasonable cause. Mr. McKinney accepted personal responsibility for the late submittal, but explained that it was the result of sudden organizational restructuring. He explained that Public Resources Code section 14585 allows for unexpended monies due to be carried over to the following month and to be paid; therefore, CalRecycle had the authority and ability to pay his organization. He commented that his charity faced closure, job loss, and the inability to comply with the provisions of AB 341, the bill relating to recycling. Lastly, he stated that CalRecycle would not have suffered an economic hardship if they paid the fee and a reasonable exception would be allowed.

Mr. Simmons explained that when CalRecycle receives late submissions, they adhere to the statutes and the California Code of Regulations that are applied to all late submissions or submissions that are timely but inaccurate.

Chairperson Ramos asked whether there was ever an equitable reason that someone submitted the form late and CalRecycle made an exception and made the payment.

Ms. Manfred stated that Cal Recycle held a workshop in June 2012 informing participants that if a DR-14 was submitted late, it would be denied. She explained that the forms are due the first day of the second month following the month they are being reported. Participants have approximately 30 days to submit the form. She clarified that Mr. McKinney submitted his form on October 9th; however, it was due on October 1st. The only exception for a late submittal is when the form is received by mail. In order to be eligible for payment, the DR-14 must be postmarked no later than the first day of the second month following the reporting month. Forms postmarked after that date, as well as incorrectly completed forms, are denied for payment. There are no exceptions for electronic submittals.

Chairperson Ramos asked Ms. Manfred to clarify that an exception would be made if the mail had a late postmark. Conversely, if the form was sent electronically, an exception had never been made even though Mr. McKinney took full responsibility for the late submittal.

Ms. Manfred clarified that there is no exception if the form has a late postmark; however, if the form was lost in the mail and it was proven with tracking information through the post office that it was mailed on time, then an exception would be made to accept the form.

Chairperson Ramos asked whether the DR-14 was denied simply because it was three days late. He stated that Mr. McKinney's organization performed the work and he had been in communication with CalRecycle previously. He asked Ms. Manfred whether it would be possible to work something out with Mr. McKinney rather than going to court and utilizing the courts limited resources.

Ms. Manfred stated that CalRecycle applies the same rules to everyone. She explained that CalRecycle receives approximately five late DR-14s per month and they do not pay them because they adhere to the regulations. She further explained that there are several rules that make recyclers eligible to receive handling fees and CalRecycle does not select which ones to apply the rule to, which was the same principle with regard to the submittal of timely DR-14s.

Chairperson Ramos commented that he understood that CalRecycle did not want to start a precedent by allowing late submittals because it would open the door to a larger issue.

The Board rejected the claim.

Item 5. Claim of Napa State Hospital Revolving Fund

Claim Numbers G603445 and G610334

Nicholas Wagner, Government Claims Program Manager, explained that Napa State Hospital requested approval from the State Controller's Office to replenish its revolving fund in an amount totaling \$123,838.94. Mr. Wagner stated that staff recommended that the Board allow the claim in the amount of \$123,838.94.

The Board allowed the claim in the amount of \$123,838.94.

Item 6. Claim of Sharp Electronics Corporation

Claim Number G607070

Roscoe Barrow and Christopher Regules attended on behalf of the California Department of Corrections and Rehabilitation.

Nicholas Wagner, Government Claims Program Manager, explained that Sharp Electronics Corporation requested compensation from the California Department of Corrections and Rehabilitation in the amount of \$8,308.04 for copy machines and maintenance services. Mr. Wagner stated that staff recommended that the Board allow the claim in the amount of \$8,308.04.

The Board allowed the claim in the amount of \$8,308.04.

Item 7. Claim of Harman Management Corporation

Claim Number G611042

Nicholas Wagner, Government Claims Program Manager, explained that Harman Management Corporation requested re-issuance of 11 stale-dated warrants issued by the Employment Development Department during the period of August 3, 2007, through April 22, 2009, in the amount of \$197,466.46. Mr. Wagner stated that staff recommended that the Board allow the claim in the amount of \$197,466.46.

The Board allowed the claim in the amount of \$197,466.46.

Item 8. Applications for Discharge From Accountability for Collection

The item was removed from the agenda.

Victim Compensation Program

The Board commenced the Victim Compensation Program portion of the meeting.

Request for Authority to Submit the California Code of Regulations Rulemaking Record Regarding Rule 649.56, Involvement in the Qualifying Crime of Prostitution, to the Office of Administrative Law (title 2, § 649.56)

Wayne Strumpfer, VCGCB Chief Counsel, explained that on December 12, 2013, the Board authorized the California Victim Compensation Program (CalVCP) to proceed with regulatory action to repeal California Code of Regulations, Title 2, section 649.56. Mr. Strumpfer stated that CalVCP requested authorization to file the final rulemaking record for the proposed change to the CalVCP regulations with the Office of Administrative Law.

The Board authorized staff to file the final rulemaking record for the proposed change to the CalVCP regulations, involvement in the qualifying crime of prostitution, with the Office of Administrative Law.

Amending the Regulations Regarding Involvement in the Events Leading to a Crime and Participation in a Crime: Request for Authority to Begin the Rulemaking Process for the California Code of Regulations (title 2, §§ 649.50, 649.51, 649.53, 649.54, 649.56, and 649.57)

Wayne Strumpfer, VCGCB Chief Counsel, explained that staff proposed to amend California Victim Compensation Program (CalVCP) regulations relating to participation and involvement in the events leading to a qualifying crime. Mr. Strumpfer stated that CalVCP staff requested that the Board authorize staff to begin the rulemaking process with the proposed regulation changes which includes a public comment period, final approval by the Board, and submission to the Office of Administrative Law.

The Board authorized staff to begin the rulemaking process for the proposed regulations.

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 10:24 a.m. to deliberate on proposed decision numbers 1-115.

Open Session

The Board reconvened into open session at 10:26 a.m. The Board adopted the proposed decisions for numbers 1-115.

The Board meeting adjourned at 10:27 a.m.