

**MINUTES  
FOR THE REGULAR MEETING  
CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD  
Docket No. 5622**

**Open Session**

The Appeals Board convened at 1:00 p.m., September 20, 2017, in Sacramento with Chair Marty Block presiding.

<b>1. Roll Call: <u>Members</u></b>	<b><u>Present</u></b>	<b><u>Absent</u></b>
Marty Block, Chair	x	
Michael Allen, Vice Chair	x	
Ellen Corbett	x	
Robert Dresser	x	

**2. Approval of the Minutes:**

The August 16, 2017 Board Meeting Minutes were approved by all Members.

**3. Chair's Report:**

Chair Block stated that a reception was held to acknowledge his Senate Confirmation on September 6. He commented that it was a very nice event and was well attended by his colleagues, CUIAB managers, many senators and also Labor Agency staff. He thanked everyone for attending and he especially thanked the staff for hosting the event.

Chair Block attended the LWDA statewide senior staff meeting. He was pleased to report to Labor Agency all of CUIAB's good work. He reported that all four of the Department of Labor standards on timeliness were met in August, for which he gave credit to all of the agency staff. Chair Block also reported to Labor Agency the great progress CUIAB has made on tax cases. He stated that CUIAB has 680 tax cases calendared now through November. He noted that Patrick Henning, Director of Employment Development Department (EDD), was pleased we would be moving so many tax cases.

#### **4. Board Member Reports:**

Vice Chair Allen reported he was happy to be at the September Board Meeting, as he missed the August Board Meeting and he has rarely missed a Board Meeting in the five years he has served on the Board. Vice Chair Allen reported that he was thankful each month for all levels of the agency. He said from the support staff to the Board Members we all perform very well as an agency.

Vice Chair Allen reported that the CUIAB internal newsletter has been revived and a new newsletter will soon be circulated. His job as editor was made easy by the support he received from the staff who helped him prepare the newsletter. He also thanked the other Board Members for encouraging him to volunteer.

Chair Block thanked Vice Chair Allen for taking the lead with the newsletter. He stated he thought the newsletter would be a good vehicle for communication within the agency.

Member Corbett reported she wanted to echo the comments of Vice Chair in appreciation for all the great work from the agency. Member Corbett added that she is glad to be part of a team that has continued to improve the agency's timeliness numbers, continued to meet all deadlines and continued to serve people in a fair and efficient manner. Member Corbett also stated she appreciated the emphasis on clearing the tax cases.

Member Dresser thanked staff who had helped him celebrate his birthday.

#### **5. Public Comment:**

Chair Block stated it was time to hear public comment and he asked for a show of hands, for speakers, who wanted to address the Board. As hands were raised, Chair Block instructed them to take up to five minutes each. Chair Block explained that there would be no Board interaction at this time. He explained that the Board would listen and consider their input. Chair Block told the public commenters that he appreciated their being present, that it is always good to have members of the public and staff members from other offices come to meet with the Board.

Wendell Prude, Regional Manager for SEIU, for the San Francisco Bay Area, commented that he has managed operations for SEIU 1000 from the Oregon border to Los Banos since October 2017. He stated the reason he is here is regrettable. One of his responsibilities as a manager is to look at data that they analyze regularly over the type of calls and complaints that come into their call

center. He identified four departments in the whole region that stood out, and one of them was CUIAB at the Oakland state building. One of the first problems they identified was the Presiding Judge. That judge has since been removed and he's sure the Board played a role in that. After that occurred, they kept a keen eye on the department and they expected to see some positive change going forward. Unfortunately, that didn't happen. He met with the Acting Judge for about 25 minutes and they talked about the condition in the office. The Acting Judge did not have a lot of hope that things in the office would change. He suggested they try a process where they meet in labor management meetings to discuss issues and try to figure out how they could bring a better outcome. They had that first meeting a few weeks ago. However, things did not change so they went directly to the members, not only in your department but also downtown and then the entire building to talk to them about the conditions in your office. The reason he did that, he's been in the labor movement 35 years, and he feels like if you organize around the issues you tend to get better outcomes. In that meeting CUIAB staff counsel was there, we gave three issues that your staff, three highlights problems that they had. We presented those at the meeting, we expected a responsible response – what we got was a rubber stamp consistent to what we got from the acting chief which was frankly nothing. The central problem is your office manager, Joanne. She is the central problem in the office. What he means by central, she actually creates in his opinion, what is called a hostile work environment. The reason they are here today is seek some relief, ask that the Board direct staff to sit down with them in a genuine way and deal with the problems. The gentleman sitting on the end, the African American, brother's name is Charles, we presented to them about how staff is told to wave him on when he tries to speak to them in any manner. Now the way this was described to him, this constitutes in his opinion, race discrimination. Now he will tell you what, he will go all the way up the chain of command right here and let's see what kind of outcome we get first before we either go public or file legal actions. So he is here to make an appeal to the Board. The department, he thinks, has a moral obligation to create a good work environment. So he is appealing to the Board to intervene and talk to staff about the conditions that Joanne has created in that office. They have many people in that building who have signed a petition, all but one of her staff has signed a petition, demanding that she be removed. That information was given to your staff and they got no response to it at all. He would think, as a manager, this is how he operates and once he gets a complaint from one of his staff, never mind 90% of them, he then wants to go sit down and figure out what is going on here. He did not see that interest from CUIAB staff and that is why he is here. That is their appeal. Your staff right here from that office, who reports to her, represents about 70% of your staff in that office. So it is a very high number and he would appreciate it if the Board would intervene.

Chair Block stated he appreciated Mr. Prude's comments and thanked him for bringing the information to the Board.

Stephanie Williams, MST at the Oakland Office of Appeals, employed since May 2008 also spoke. When she joined the agency she was a PI. To date, she is still a PI, nine years later. There have been issues that have arisen with the staff and they have tried to get them resolved. They believe that Joanne's behavior is a gross misconduct of a supervisor, that it is inappropriate, that it is unfair, unethical and very bias. Some of these instances include giving them a memo that said they are not allowed to speak to each other. They believe that it is unreasonable to think that a staff that works together, more than they are at home with their families, are not going to have anything to discuss outside other than work issues. Again, with Mr. Franklin who is sitting there, he was told, he was given a memo that said he is not allowed to speak to anyone outside of anything that has to do with work, which is also unreasonable. There have been four staff members who have been out on stress leave, not because of the workflow but specifically because of Joanne and her treatment of them as well as the other staff. It was said to her that she would become permanent over her dead body and that is far beyond the scope of anything professional. That is, to her, gross misconduct and she does not see how she can work, that creates a hostile work environment. She does not see how any one of them can go to work every day and be productive knowing that this is the type of animus that they get from the leadership there. They have had supervisors come to them and tell them that they have been threatened with getting written up if they did not do the unethical thing that Joanne wanted them to do which would be to send an employee's paycheck back on payday because they were late three minutes. For someone to come in and say that they were on BART, Bay Area Rapid Transit, and a man had a heart attack and she docked them for coming into work late. Some of the other things that she has done is to micromanage. When she is out of the office everything is peaceful, they do their jobs. We do it when she is there also but it is in hostile work environment. They get emails constantly – why were you walking around the office – Joanne said you were walking around the office – Joanne said that you came in one minute late and you need to send an email. They feel these things are treating them like they are children and they are not. They are productive adult members of the California Unemployment Insurance Appeals Board. Another thing was, after nine years of working at the agency her health benefits were taken away from her. It was brought to her attention that Joanne campaigned for her benefits to be taken away from her because she had surgery, was off a majority of the year and she was on disability. The forms were not put in in a timely fashion. They are asking and pleading with the Board to do something about this. There have been multiple investigations and they have never

seen any results from any of these investigations. There have been multiple EEOC complaints and DFEH complaints all with Joanne at the center of them. They are asking now that the Board not let it be ignored or swept under the rug because they deserve to be treated with dignity and respect as anyone in here should. She thanked the Board for their time. She stated she would like to submit to the Board the signed petition from members who feel the same way that they do. This is the committee here that they formed; there are four of them, because they wanted to have a way to communicate with management and to tell them what their issues are. That is why the four of them are here and created the committee.

Chair Block thanked her. He thanked them both, Ms. Williams and Mr. Prude, for speaking with the Board today. He mentioned that some of his colleagues were taking notes while they were speaking. Most importantly though, their comments are part of the transcript of the meeting, the official record of the meeting, and when the minutes of this meeting are prepared for the next meeting it will include their comments if not verbatim, many of the comments. He stated that the leadership team at the central office has heard them and will look into the matter. He is certain they will get the other side, whatever the other side might be and the Board will certainly revisit this matter in the future. He thanked them for coming and appreciates the hard work they are doing in the Bay Area and looks forward to communicating with them more in the future about this.

**6. Chief ALJ/Executive Director Report:**

Chief ALJ/Executive Director Gonzales reported that Field Operations (FO) is meeting and exceeding all of the Department of Labor timeliness standards in all categories. She stated it was especially good to meet timeliness standards while also producing a substantial amount of tax work. Chief Gonzales reported that the open inventory for tax cases fell to its lowest level since November 2014. There are a number of Administrative Law Judges (ALJS) from each Field Office dedicated to handling the tax cases so that the agency can comply with the promises made in the Budget Change Proposal (BCP). Chief Gonzales thanked Madlyn Hilton, Presiding Judge of the Tax Unit, and Hugh Harrison, Field Operations Assistant Chief, for all of the work they have put into assigning and monitoring these tax cases and producing results. Chief Gonzales stated the Field offices were staying on top of all other work, as noted above.

Chief Gonzales reported that Administrative Law Judge, Arturo Morales, retired. He had worked in the CUIAB Orange County Field Office.

Chief Gonzales reported that EDD and CUIAB Field Operations continue to

successfully work in conjunction for the good of both agencies. Last month EDD employees visited the Orange County office and this month they visited the Sacramento office. These work site visits have been beneficial, as the EDD employees learn a lot from asking questions directly of the presiding judges. Chief Gonzales also reported that Field Operations Assistant Chief, Hugh Harrison continues to assist with EDD training seminars by performing mock trials for EDD.

Chief Gonzales reported that Field Operations Assistant Chief, Hugh Harrison would begin testing Winscribe, the new recording system, in Sacramento next week so there can be some feedback before rolling out the new system to the offices.

Member Dresser asked Chief Gonzales if she could check into an idea regarding Field Office decisions. Member Dresser suggested the information regarding late appeals could be included on the face of the field office decision. He stated that currently the information regarding late appeals comes in a separate attachment to the decision, which might be getting ignored by the parties.

Member Dresser inquired as to the status of hiring a new chief counsel. Chair Block stated they had a small pool to select from and they were still searching. Chief Gonzales stated they were determining whether to interview from the small pool or advertise again for the position.

Member Dresser asked if the list issue from CalHR had been resolved in case there was a need to hire more Administrative Law Judges in the future. Chief Gonzales stated that the process did take a while but that the re-employment list was almost finalized and that if they did rehire they would be required to use that list. The list includes people who were demoted to an ALJ I, and depending on where they are on the list, they would be promoted to the ALJ II.

Member Dresser commented that he noticed last week that there was an increase in the UI cases. He doesn't know if that reflects the economy is going down now or may go down. He just wants the agency to be ready.

Vice Chair Allen inquired about the best way to deal with the omission of the REV legend on the FO decisions. He stated it was an issue that has been coming up repeatedly and he is hoping it could be resolved so there would be consistency.

Chief Gonzales explained the history of the REV legend and stated that EDD does not rely on the REV legend as a flag anymore. She explained in the past it was helpful to EDD and helpful to the parties for expediting their benefits. Chief

Gonzales explained currently cases are flagged electronically so the written REV flag is no longer necessary. Chief Gonzales stated she was aware of this issue and she is in the process of preparing a memo for the Board addressing this issue.

**7. Chief ALJ of Appellate Operations Report:**

Acting Chief ALJ/AO Rebecca Bach reported Appellate Operations (AO) met all of its time lapse and case aging standards for the month of August. AO closed 73.2% of its cases in 45 days, 95.5% of its cases closed within 75 days, and the case aging average for the month was 27.4 days, and the standard is 40 days. AO opened 1,171 cases for the month and closed 1,038 cases, leaving an open balance of 1,073 cases of which 953 cases are UI. Acting Chief ALJ Bach stated the numbers continue to reflect that AO is doing a good job in regards to UI cases.

Member Corbett commented on an issue which she would like discussed at a future meeting. Based on her experience, she stated the number of cases which need to be reheard due to failure of the recording equipment or failure to properly use equipment was troubling. Member Corbett stated repeated Remands could be an inconvenience for parties and could be a timeliness issue. She stated it could affect a party's right to have a fair and speedy opportunity to be heard. She is hopeful the new upgraded recording system would resolve many problems, but she would like a deeper look into these situations. She commented it seems like the amount of cases that end up having to be reheard is a bit higher than it should be. She is very concerned about that particularly if a case has to go back for a second time for a hearing and now a third hearing because of some recording malfunction. Additionally, Member Corbett was concerned that our system was set up in a way that meant a transcript request could throw everything off kilter. She was surprised to hear that we did not have the time to accommodate any special requests for transcripts and she would appreciate a deeper look into the system, so that any special requests for transcripts could be accommodated. She understands that they are working on the technical aspects in upgrading the equipment but she thinks there needs to be a discussion on how to avoid those problems when possible.

**8. Chief Information Officer, Nick Dressler Report:**

CIO Dressler reported that the Information Technology (IT) Department would begin testing the new digital recording system, Winscribe, on September 25. They will start with a limited on-line production tested by Field Operations Assistant Chief, Hugh Harrison. Assistant Chief, Harrison would be conducting hearings on the new system, testing for bugs, looking at formats, and providing feedback

before the project is installed in the other offices. The IT Department anticipates having Winscribe fully implemented statewide before the Thanksgiving holidays. CIO Dressler agreed with Member Corbett regarding the higher number of Remands due to technical problems with the old recording system but he said he hoped Winscribe would fix problems. CIO Dressler also said the new system would save time for the Field Operation ALJs. The only data they would need to enter into the new system is the case number and the number of parties present for the hearing. The rest of the the data is going to be prepopulated and should help reduce the number of input errors.

CIO Dressler reported another big project coming to a close was the phone system replacement in five of the Field Offices; Orange County, Pasadena, Inland Inglewood and Fresno. He hoped in the future there would be funds to update the phone system at headquarters and in the Oxnard field office.

CIO Dressler reported Data Processing Manager, Faye Saunders, would retire on October 21.

Member Corbett asked CIO Dressler to thank Faye Saunders for her service. Member Corbett also thanked CIO Dressler for his work on updating the technology department and pushing the Agency forward.

CIO Dressler commented the IT Department continues to work on improvements and resilience to disasters for the IT Department and for the whole agency. Member Corbett stated there had been a huge improvement in the upgrades since CIO Dressler has been here.

Chair Block reported the laptop which replaced his Surface Pro was great.

Member Dresser asked CIO Dressler if the audit review done by the Department of Military was complete. CIO Dressler responded that the report had not yet been returned. He anticipates the Military Report would produce some minor projects and he is grateful to be able to complete the work on the IT Department's bigger projects before they need to address the smaller issues from the Military Report.

## **9. Chief Administrative Services, Robert Silva Report:**

Chief Silva reported there are two factors delaying the 2017/18 Budget discussion. The first factor is they have not received official budget authority for the general salary increases which was effective July of 2017. The second factor is that they are currently in discussion with EDD Programs Estimates Group regarding



unemployment insurance and disability insurance projections for both 2017/18 and 2018/19. These projections might have an impact on the 2018/19 budget so it will be prudent to wait for resolution of those items before bringing a budget to the Board.

Chief Silva reported that we have a federal grant for the Winscribe System and Audio Records Modernization. The grant will be up at the end of the month. Chief Silva has reported and categorized all of the Personnel and Salary expenditures as well as the Operating expenditures to EDD fiscal Programs Unit, and it looks like the agency will utilize the majority of the grant.

Chief Silva reported on facility updates. The tenant improvements for the Lancaster hearing facility were complete and they will be doing a walk through on the September 26. He addressed Member Dresser's questions from the previous Board Meeting regarding the San Francisco Office, stating that the hearing rooms in the San Francisco facility are equipped with cameras. He also reported they had a moving contract so the work in the reception area was scheduled for the following week. The changes will include a lobby camera and a monitor. Chief Silva commented that San Francisco had expressed they might be able have a staff member stationed in San Francisco to do reception work. Lastly, Chief Silva reported the board room has been updated with new board room chairs.

**Closed Session item:**

Chair Block reported that there was a closed session agenda item, consideration of and possible termination of CEA assignment of the Chief of Appellate Operations Branch. Pursuant to Government Code § 11.126(a), Chief Rose has elected to have this item heard in the public session of the Board meeting. That means we will take testimony regarding this item in Public Session, but we will still deliberate and vote in closed session. The purpose is to get information and then to work through that information in closed session.

Chair Block then made the following statement:

When I was appointed Chair of CUIAB, the Governor charged me with the responsibility to oversee this agency and its operations. I have many years of experience leading boards and administrative staff members at varying levels of government. In my experience, leadership, teamwork and accountability are paramount to an efficient organization. We need to have the right management structure in place to run the day-to-day operations. In my first few weeks at CUIAB it became clear to me that certain roles, responsibilities and lines of reporting

needed to be clarified in order to optimize the organization. To that end, with my fellow board members' support, I established a new leadership structure for the agency which makes the Executive Director accountable for the entire agency. The agency also adopted long standing recommendations made by Sal Cannella and a high-level working group to reorganize Appellate Operations. With this change in AO structure and process, it is now time for new AO leadership.

With that, Chair Block, called for any public comment. Seeing none, the Board went into closed session.

**Closed Session:**

The Board adjourned Open Session at 1:42 p.m. The Board commenced a Closed Session at approximately 1:43 p.m. Closed Session was adjourned at 2:00 p.m.

**Open Session:**

The Board reconvened in open session at approximately 2:10 p.m.

Chair Block reported that there were two votes to report. First, the Board voted to terminate Elise Rose's CEA assignment three to one. Members Block, Allen and Corbett voted in favor of termination, Member Dresser opposed. On the other item, the proposed tax settlement in Case Nos. AO-420675-78, the vote was unanimous to approve the proposed settlement.

Chair Block adjourned open session at 2:20 p.m.