

**MINUTES  
FOR THE REGULAR MEETING  
CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD  
Docket No. 5608**

**Open Session**

The Appeals Board convened at 10:30 a.m., July 12, 2016, in Sacramento with Chair Robert Dresser presiding.

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

**2. Approval of the Minutes:**

The minutes of June 9, 2016 Board meeting were approved unanimously.

**3. Chair's Report:**

Chair Dresser reported that he attended the Department of Labor's (National Association of Unemployment Insurance Appeals Professionals (NAUIAP) conference in Connecticut. He noted that the conference was very worthwhile and that, among other things, he learned that the DOL has online training materials that may be very useful to CUIAB.

Chair Dresser reported that CUIAB is making its timeliness and quality standards thanks to all the hard work of the judges and support staff.

Chair Dresser reported that the recent tax training went very well. He extended his thanks to both Dave Johnson and Madlyn Hilton.

Chair Dresser reported that CUIAB has retained Randy Petersen, a retired annuitant, to help develop statewide training for both judges and support staff.

Chair Dresser reported that he is going to visit four offices in Southern California on July 26, July 27 and July 28, 2016.

**4. Board Member Reports:**

Vice Chair Allen again expressed his appreciation to all the staff. He emphasized that people have to be working very diligently with reduced funding to produce work of such a high quality.

**5. Public Comment:**

No public comment.

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

Chief ALJ/Executive Director Gonzales reported that all timeliness standards are being met. Of note, Field Offices have managed to process substantially more tax cases. Overall, work in the Field Offices is progressing smoothly.

Chief ALJ/Executive Director Gonzales reported that Sal Cannella is retiring. He has been an Executive Assistant to the Executive Director for the last 13 years. She acknowledged what a great friend to CUIAB Sal Cannella has been. He has assisted many of the Field Offices, IT and AO. He is known mostly for his high character and hard work. He has contributed greatly too many projects. He has done an amazing job.

Chair Dresser echoed those remarks and commented that Sal has given him very sage advice as Chair over the last five years.

**7. Chief ALJ of Appellate Operations, Elise Rose Report:**

Chief AO Rose reported that AO is making all of the numbers; case aging and time lapse, although in the past week case aging has gone up to 37. The goal is to keep it at 40 or below. This has to do with the fact that AO has had a lot of ALJs out. AO's open case balance is 1,645 and has been going up 200 cases a week for the last several weeks. She noted that AO judges have been assigned, on a rotating basis, to the Sacramento Office of Appeals for the past six weeks. That is now ending because AO needs all of its judges. Nevertheless, it was good experience for the AO judges.

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

CIO Dressler reported that IT will be releasing a major upgrade to eCATS the weekend of July 22. This upgrade includes many new timesaving enhancements for both Field Operations and Appellate Operations.

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

Chief Silva also expressed his admiration for Mr. Cannella and thanked him for his contributions to CUIAB.

Chief Silva noted that the IT Branch utilized 50 hours of overtime in the month of May which is about double their normal monthly usage. That was due to travel related issues for site visits to install equipment and begin the upgrade of phone systems throughout CUIAB.

Chief Silva further reported that lump sum leave payouts to those retiring or otherwise leaving CUIAB are at a similar level to previous months.

Chief Silva reported that they are still in the process of fine tuning the state fiscal year budget for CUIAB for 2016/17.

**Action Item:**

**10. Board to Consider Oral Argument in Case No. AO-380199 (T), FO Case No. 5308590 (T), RWI Transportation LLC.**

Chair Dresser introduced the case and set forth the procedures for oral argument. He further indicated that after oral argument the Board will take the case under consideration and issue a written decision as soon as possible.

Chief ALJ AO Rose provided the following summary of events:

The case arose out of an audit by the EDD on April 16, 2014, to determine whether the Petitioner, RWI Transportation LLC, owed contributions including unemployment insurance, disability insurance and employment training contributions as well as withholdings for personal income tax based on wages paid to employees. EDD had determined that RWI had misclassified drivers as independent contractors and had not paid the code mandated contributions or made code mandated deductions from wages paid to its drivers.

On July 28, 2014, EDD issued a Notice of Assessment finding Petitioner liable for unpaid contributions and driver personal income tax. Thereafter, a CUIAB administrative law judge granted a Petition for Reassessment filed by the Petitioner, RWI. This is an appeal by the EDD from that decision.

The Board have reviewed the record below; the briefs filed with the Board on appeal, and have listened to the audio recordings of the hearings before the field judge. The Board thereafter determined that oral argument could be helpful.

Oral argument then proceeded. Present representing EDD were Christopher L. Brooks, Attorney; Blake Bandy, Attorney; Hans Hogle, Staff Tax Auditor; and Stella M. Ulm, Attorney III. Mr. Brooks and Mr. Bandy spoke on behalf of EDD. Mr. Brooks spoke first for 15 minutes, followed by Mr. Bandy for 15 minutes.

Present representing RWI Transportation LLC were Jahmal T. Davis, Partner, Hanson Bridgett LLP; Gary E. Becker, Attorney, Dinsmore & Shohl LLP; Jennifer Martinez, Senior Counsel, Hanson Bridgett LLP; and William Taylor, Partner, Hanson Bridgett LLP. Mr. Davis and Mr. Becker spoke on behalf of RWI. Mr. Davis spoke first for 20 minutes, followed by Mr. Becker for 10 minutes.

Following argument Mr. Bandy and Mr. Brooks presented rebuttal on behalf of EDD. Mr. Davis presented rebuttal on behalf of RWI.

**Closed Session:**

The Board adjourned open session at 12:45 p.m. and commenced closed session at 12:52 p.m. Closed session was adjourned at approximately 1:48 p.m.

The Board reconvened in open session at approximately 1:48 p.m. to announce that it had discussed in closed session *United Educators v. CUIAB*; *San Francisco School District v. CUIAB*; *California Court of Appeal, First Appellate District*. Case Nos. A142858 and A143428 and that the Board had voted unanimously to authorize the filing of a Petition for Review in the California Supreme Court.