

**MINUTES
FOR THE REGULAR MEETING
CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD
Docket No. 5620**

Open Session

The Appeals Board convened at 1:00 p.m. July 18, 2017, in Sacramento with Chair Marty Block presiding.

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

2. Approval of the Minutes:

The minutes of June 13, 2017 Board meeting were unanimously approved.

3. Chair's Report:

Chair Block reported he attended the NAUIAP conference in June. He participated on two workshops, one covering how higher authority and lower authority can work better together, and the other about high profile cases. Chair Block reported the first workshop focused primarily on precedent decisions and how precedent decisions give guidance to lower authority. The topic of the second workshop was the United Educators case currently before the California Supreme Court. Also, he spoke in general about independent contractors versus employees which are high profile cases in most of the fifty states.

Chair Block thanked Member Dresser, in particular, and other AO staff for providing thoughtful work on precedent decisions which reflected well on CUIAB.

Chair Block commented that what he took away from the conference was the good job CUIAB is doing, especially considering it is such a large agency. Chair Block

said that the NAUIAP conference was a very good learning experience and he said he would try to seek funding for next year's conference for possibly all Board Members who wished to attend.

Chair Block reported he attended his Senate confirmation hearing, stating he was well prepared thanks to the thorough preparation from our staff. Chair Block expressed his appreciation to Lori Kurosaka, Janet Maglinte and Elena Gonzales for their help with his preparation for both the NAUIAP conference and the Rules Committee interview.

Chair Block repeated the testimony he gave before the Rules committee. He explained his goal was to explain, to the Rules Committee and to the legislature, the importance of the work done by CUIAB. He stressed how important our agency's work is to both employers and employees. He commented on the small, mom and pop, employers who suffer when they have inappropriate claims against them and the employees who rely on unemployment as a life line between jobs.

Chair Block suggested to the Rules committee that there were two things which we owe to all the parties that come before the Board. First, a speedy resolution and second, a fair resolution. In terms of speed, Chair Block pointed to the fact that the agency is well ahead of all Federal Department of Labor guidelines for timeliness, and congratulated everyone for making that happen. Chair Block went on to discuss, in terms of fairness, the numbers which demonstrate our fairness and the good job we do as an agency. In the prior year when 3.3 million claims were filed for unemployment, of those 3.3 million claims, 250,000 parties brought appeals to the CUIAB. Of those 250,000 appeals and resulting decisions, 15,000 were then appealed to the Board. Of the 15,000 decisions rendered by the Board, just 30 ended up not accepting our decision and going on to superior court. Of the 30 that went to superior court only four resulted in a reversal of the Board's decision. Chair Block stated that shows a huge success on our part and shows that we handle claims not only swiftly but appropriately. Chair Block thanked everyone involved with the good work of the agency.

4. Board Member Reports:

Vice Chair Allen stated that he wanted to recognize how many things go right for the agency. He stated that he thought the judges, the support staff, and the management-group are impressive in their accomplishments on a yearly base. Member Allen also expressed that, in the near future, he plans to publish a newsletter twice a year so that the agency can have some more internal

communication. He wanted to emphasize the many things that go right, and we should be grateful for that. He also said that for the things which do not go so right, rather than look for blame we should be asking ourselves; how can we do it better?

Member Corbett expressed her appreciation for Chair Block representing the Board well at the conference. She stated it is very important to show people what is going on in California. She also stated she had the opportunity to go the Rules committee hearing and thanked Chair Block for the education that he provided to the Rules committee and for representing the Board so well. Member Corbett also mentioned the good news that we are doing so well on our numbers and meeting requirements. She stated it gives us the impetus to do even better and thanked everyone.

Member Dresser asked Chair Block if there were other states at the NAUIAP Conference that were considering Uber and Lyft cases. Chair Block replied there were, and added that Florida and New York were the biggest states in that regard, but that there were many states that had similar cases brought to them. Member Dresser asked for copies of the other states decisions, which Chair Block said he would provide.

5. Public Comment:

No public comment.

6. Chief ALJ/Executive Director Report:

Chief ALJ/Executive Director Gonzales reported on the Field Office Operations Narrative for the fiscal year ending June 30, 2017. Chief ALJ/Executive Director Gonzales pointed out the significant drop in numbers of unemployment insurance cases coming to the agency. This year's open balance at the end of the fiscal year was 14,329 cases, as contrasted to an open balance of 81,740 at the end of fiscal year 2008/2009. Chief Gonzales stated Field Operations continues to handle all claims in an expeditious fashion and that the numbers reflect this. Chief Gonzales reported the timeliness numbers were good, as the field closed 64.7 percent of the cases within 30 days, 89.2 percent within 45 days and their average case age is 22.7 days. Chief Gonzales further reported Field Operations has substantially reduced their tax inventory, falling to the lowest levels since July of 2015. We are continuing to monitor the number of tax cases each Field Office is calendaring and making sure they are calendaring appropriately.

Vice Chair Allen posed questions to Chief Gonzales, which he said came from reviewing the minutes from last month's Board Meeting. First, he asked if we had a review process for AO with respect to referrals they make. Vice Chair Allen suggested that there should be some sort of process for the AO Judges to know what is happening with their referrals.

Chief Gonzales responded that there will be follow-up on the AO review process that takes into consideration the fact that our judges in Appellate Operations are at the same level as our judges in the field. They are not supervisors, but rather rank and file Unit 2 members, the same as our judges in the field. Accordingly, it would not be appropriate to provide them with personnel information or actions related to referrals they recommend to the Board members.

Vice Chair Allen concurred with Chief Gonzales in that respect. He added that even if they should not be provided that kind of information, we can at least let them know what the process is, so that they know there is a process, what is our quality review process.

Chief Gonzales replied they have been given the memorandum regarding the process that we follow for referrals, and if for some reason they are not aware, we can reissue it. She also said they are working on streamlining the referral process.

Chief Gonzales also said she is working on a report on referral outcomes strictly for the Board Members, with no specific names in the report. She has sent out an email to Presiding Field Judges and she has been working with the Chief Counsels Office to compile this report for the Board. She repeated that it is not for dissemination to rank and file.

Vice Chair Allen commented that what Chief Gonzales said made perfect sense to him.

Member Dresser asked Chief Gonzales about ALJ compliments. Chief Gonzales replied that she is currently working with the Chair on a process for this.

Member Dresser asked if they would have something later. Chair Block commented on not wanting Board members to jump over the Chief Judge or the Presiding Judge in interacting with the Field ALJs. Chair Block commented on something he brought back from the NAUIAP conference, that Board Members in other states limited direct interaction with Field ALJs.

Member Dresser then asked Chief Gonzales what was the amount of the tax Budget Change Proposal (BCP) and asked if they were going to hire judges under that BCP. Chief of Administrative Services Rob Silva answered that the amount of the BCP was \$1.6 million. Chief Gonzales went on to say that at the present time they were re-assigning field staff, who had been working on benefit appeals, to work on tax cases because of the decline in UI cases. Member Dresser then asked if that money had to be used to process tax cases. Chief Gonzales replied yes and added that is what they were using it for.

Member Corbett wanted to add to the comments regarding referrals and compliments saying she appreciated the sensitivity the administration was demonstrating. (Note: other comments by Member Corbett comments were inaudible due to the fan in the room and movement of the microphone pickup.)

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

Assistant Chief ALJ Stephen Swenson, on behalf of Chief ALJ Rose, reported that all time-lapse and case aging standards had been met this month. He reported AO had 1283 new registrations for the month and an open balance of 775 cases, of which 681 were Unemployment Insurance (UI) cases.

8. Chief Information Officer, Nick Dressler Report:

Chief Information Officer (CIO), Nick Dressler, reported that all agencies are required to have a security assessment by the Department of Military every two to three years and that currently CUIAB was undergoing that audit. CIO Dressler said the Department of Military had visited the offices, they had concluded their onsite visit and in six weeks they would have the findings to the audit, so CUIAB can see how well they did compared to other agencies. He said they would identify the areas in which they had done well and the areas they need to work on so they could strengthen the security presence and avoid potential issues in the future.

CIO Dressler also said the phone system replacement project is rolling to a close and that he anticipated they would be done with all offices in October. CIO Dressler further reported in regard to the Dictaphone replacement project that they are close to a date of transfer between the old and new systems.

Chair Block asked who the Dictaphone vendor was, to which CIO Dressler advised it is Winscribe. Chair Block also asked about the laptops. CIO Dressler said the laptops had been ordered and that they expected them very shortly.

9. Chief Administrative Services, Robert Silva Report:

Chief Silva reported the only significant overtime usage in the month of May was in IT, which utilized 106 hours of overtime for pay and for CTO, a 70 % increase from their monthly average. They are still projected to come within their fiscal allocation for overtime.

Chief Silva reported there was a significant charge in lump sum payouts in May, about \$72,000. He said the projection of having a \$545,000 surplus in that category has been consistent over the last four months. Chief Silva said in the January Board meeting, when he presented the current year budget to the Board, he reported that they had expected to overspend in salaries and benefits by \$3 million. He also said, due in large part to this budget's projected surplus in the lump sum category, they now look like they are going to have less than a \$2 million short-fall in Personnel; we are going to have Operating Expense & Equipment (OE&E) funds to move to the other side of the ledger to cover the Personnel expenditures. However he will not have anything final for the 2016/2017 fiscal year until mid to late August when the final fiscal reporting is done.

Chief Silva also reported on Winscribe and the audio-records modernization grant. He stated the funds received from the grant must be expended by September 30 2017. Additionally, procurement of Winscribe was now complete, and that it accounted for 80% of the OE& E funding that was attached to that grant. Chief Silva is working with CIO Dressler and Field Operations management on a plan to spend the salaries associated with the grant between now and September 30.

Chief Silva reported he hoped to have a 2017/18 Budget Proposal for the August Board meeting. He went on to report they had initiated a lease renewal process for the Murrieta hearing facility, an outstation of the Inland Office of Appeals. They were working with the Department of General Services to make sure all the Murrieta issues could be resolved before they finalize the lease renewal for the property. They are also finishing up a lease renewal for the Lancaster hearing facility, an outstation for the Pasadena Office of Appeals.

Lastly, Chief Silva reported Cal HR issued their findings on the Language Survey assessment of CUIAB in June. Cal HR reported there were no deficiencies in bilingual staffing nor was there any significant back log in the translation of written documentation, so it was not necessary to turn in any corrective action plan. Chief Silva added they never have to turn in such a corrective action plan as they stay on top of it and he wanted to report that success to the Board.

Vice Chair Allen asked if Chief Silva had any news from the Federal Administration regarding Unemployment Insurance budgets and the Agency. Chief Silva stated he had not had any word.

Closed Session:

The Board adjourned Open Session at 1:33 p.m. The Board commenced a Closed Session thereafter, and adjourned closed session at 2:00 p.m.

Open Session:

The Board reconvened in Open Session. Chair Block reported that during Closed session a vote was taken to accept the investigation report listed on Closed Session Agenda. Chair Block reported the Members had accepted the report and the finding that the complaints of wrongdoing against the Executive Director were without merit. The Executive Director is restored to her previous powers of authority with the full faith and confidence of the Board. The vote was 3 to 0 with Member Dresser abstaining. There were no further comments.

Chair Block then adjourned Open Session.