



Consent

Agenda Item 6a5

May 15, 2013

ITEM NAME: Proposed Decision – In the Matter of the Calculation of Final Compensation of DANIEL CATALANO, NORMAN (ELDO) E. EVENSON, and Similarly Situated Non-Management Police Officers, Respondents, and CITY OF HUNTINGTON BEACH, Respondent.

PROGRAM: Customer Account Services Division

ITEM TYPE: Action Consent

PARTIES' POSITIONS

Staff argues that the Board of Administration should adopt the Proposed Decision.

Respondents argue that the Board of Administration should adopt the Proposed Decision.

STRATEGIC PLAN

This item is not a specific product of either the Strategic or Annual Plans. The determination of administrative appeals is a power reserved to the Board of Administration.

PROCEDURAL SUMMARY

In calculating the final compensation of Respondents Daniel Catalano, Norman (Eldo) E. Evenson, and Similarly Situated Non-Management Police Officers, CalPERS denied the inclusion of Holiday Premium Pay. Respondents appealed this determination and the matter was heard by the Office of Administrative Hearings on November 15, 2011. A Proposed Decision was issued on March 15, 2013, granting the appeal and allowing the inclusion of Holiday Premium Pay in the calculation of the final compensation. Although Catalano and Evenson were the only two rank and file police officers with cases argued at hearing, by stipulation, the holding in this case will apply to all similarly situated non-management police officers employed by the City of Huntington Beach.

ALTERNATIVES

- A. For use if the Board decides to adopt the Proposed Decision as its own Decision:

RESOLVED, that the Board of Administration of the California Public Employees' Retirement System hereby adopts as its own Decision the Proposed Decision dated March 15, 2013, concerning the appeal of Daniel Catalano, Norman (Eldo) E. Evenson, and Similarly Situated Non-Management Police Officers; RESOLVED FURTHER that this Board Decision shall be effective 30 days following mailing of the Decision.

- B. For use if the Board decides not to adopt the Proposed Decision, and to decide the case upon the record:

RESOLVED, that the Board of Administration of the California Public Employees' Retirement System, after consideration of the Proposed Decision dated March 15, 2013, concerning the appeal of Daniel Catalano, Norman (Eldo) E. Evenson, and Similarly Situated Non-Management Police Officers, hereby rejects the Proposed Decision and determines to decide the matter itself, based upon the record produced before the Administrative Law Judge and such additional evidence and arguments that are presented by the parties and accepted by the Board; RESOLVED FURTHER that the Board's Decision shall be made after notice is given to all parties.

- C. For use if the Board decides to remand the matter back to the Office of Administrative Hearings for the taking of further evidence:

RESOLVED, that the Board of Administration of the California Public Employees' Retirement System, after consideration of the Proposed Decision dated March 15, 2013, concerning the appeal of Daniel Catalano, Norman (Eldo) E. Evenson, and Similarly Situated Non-Management Police Officers, hereby rejects the Proposed Decision and refers the matter back to the Administrative Law Judge for the taking of additional evidence as specified by the Board at its meeting.

- D. Precedential Nature of Decision (two alternatives; either may be used):

1. For use if the Board wants further argument on the issue of whether to designate its Decision as precedential:

RESOLVED, that the Board of Administration of the California Public Employees' Retirement System requests the parties in the matter concerning the appeal of Daniel Catalano, Norman (Eldo) E. Evenson, and Similarly Situated Non-Management Police Officers, as well as interested parties, to submit written argument regarding whether the

Board's Decision in this matter should be designated as precedential, and that the Board will consider the issue whether to designate its Decision as precedential at a time to be determined.

2. For use if the Board decides to designate its Decision as precedential, without further argument from the parties.

RESOLVED, that the Board of Administration of the California Public Employees' Retirement System, hereby designates as precedential its Decision concerning the appeal of Daniel Catalano, Norman (Eldo) E. Evenson, and Similarly Situated Non-Management Police Officers.

ATTACHMENTS

- Attachment A: Proposed Decision
- Attachment B: Staff's Argument
- Attachment C: Respondent(s) Argument(s)

DONNA RAMEL LUM
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Customer Services and Support