

ATTACHMENT B
STAFF'S ARGUMENT

STAFF'S ARGUMENT TO ADOPT THE PROPOSED DECISION

Respondent Rancho California Water District (District) is a public corporation of the State of California and is a contracting agency with CalPERS. District's qualifying employees are members of CalPERS. Respondent Shawn Bennett (Bennett) was employed by Umetech, Inc. and acted as Principal for Strange PC, both contractors for District. District contracted with Umetech, Inc. beginning in 2005 for "Computer Services." District contracted with Strange PC beginning July 1, 2010, for "System Administration and Support Services", and on July 1, 2011 for "Computer Help Desk Services."

In 2008, Umetech, Inc. did not renew the portion of its contract with District to provide help desk services. At that point, Bennett and District agreed that District would hire Bennett, through Strange PC, for those services. Bennett, through Strange PC, thereafter executed service contracts on an annual basis with District to perform Help Desk and System Administration and Support Services through 2011.

In 2012, Bennett made a formal request to District to evaluate his classification as an independent contractor and consider putting him in the employee classification. District denied the classification change and by letter dated August 13, 2012, District notified Bennett that District decided to terminate its contract with Bennett "for convenience." Thereafter, Bennett requested retirement benefits through CalPERS contending he was a District employee and entitled to CalPERS membership.

CalPERS undertook an investigation and made a determination on February 11, 2013 that Bennett was a common law employee of District from July 1, 2010 to August 28, 2013, and that District is liable for the employer pension contributions associated with that period. This appeal followed.

The issues on appeal were 1) Whether Bennett was a common law employee of District from July 1, 2010 through August 28, 2013, and therefore qualified for CalPERS membership; and, 2) If Bennett was a common law employee of District, is District responsible for payment of all arrearages in contributions to CalPERS and/or a \$500 administrative fee?

Extensive oral and documentary evidence was presented over the two day hearing that took place April 6 and 29, 2015. An IT supervisor, IT manager, human resources manager and District's Interim General Manager and Chief Financial Officer all testified on behalf of District. Bennett testified on his own behalf. A Retirement Program Specialist II testified for CalPERS.

The Administrative Law Judge (ALJ) applied the "common law employment test" to the evidence presented. In all, the ALJ identified 39 facts that were considered in the analysis. The ALJ noted that some of the factors weigh towards an employee relationship and some against it. At least in the 2010 and 2011 contracts, District and

