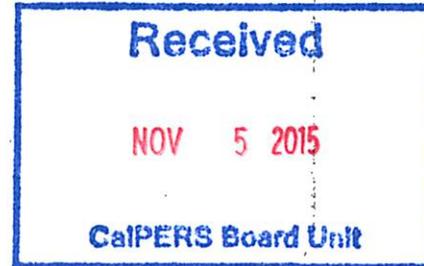


ATTACHMENT C  
RESPONDENT'S ARGUMENT

## Attachment C

November 5, 2015

Cheree Swedensky, Assistant to the Board  
CalPERS Executive Office  
P.O. Box 942701  
Sacramento, CA 94229-2701  
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Subject: Respondent's Argument  
Matter of Appeal Regarding Death Benefits  
Ref No. 2014-1062  
OAH No. 2014110859

Dear Board Members:

I respectfully request your attention in the above referenced matter. I provide at least four (4) reasons for this matter to be rejected as shown below:

1. My sister and I obtained legal representation in this matter. We obtained Tom Wicke of Lewis, Marenstein, Wicke, Sherwin & Lee, LLP in Woodland Hills to represent us. His office contacted Wesley Kennedy of CalPERS to request the continuance due to a scheduling conflict for Mr. Wicke at which Mr. Kennedy was opposed to the request for continuance.
  - a. At the September 2, 2015, CalPERS hearing being heard by SPB Judge Abraham M. Levy, I again requested a continuance from CalPERS Attorney Wesley Kennedy and he again opposed it.
  - b. I opened the SPB hearing with a request for continuance of which CalPERS Attorney Kennedy verbally opposed again and Judge Levy also denied.
  - c. The denial by Mr. Kennedy and Judge Levy are not documented in the court proceeding record as shown in the proposed decision.
  - d. Further, Judge Levy did allow Respondent Kristen VanDongen to provide documentation on September 2, 2015 that she was speaking for her mother; thus showing Teresa VanDongen is aware, cognizant and understands the circumstances, but may be unable to speak for herself. This is also not documented in the proposed decision.
2. The proposed decision states on page 3, number 6 that Mr. Hughes killed himself after he shot and severely wounded Teresa Van Dongen.
  - a. There was no testimony or evidence provided to support this statement.
  - b. This decision is being put forth as fact and there is no evidence that supports that statement as fact.
  - c. Jessie Ruth Hughes, mother of Ronald B. Hughes, upon reading the proposed decision, contacted Detective Brandt House to inquire on the status of the investigation into the death of Ronald B. Hughes, and Teresa Van Dongen, who was shot, due to Ruth's concerns about this statement. Detective House stated this matter is still under investigation and the details have not been shared with anyone. Further, this matter won't be resolved, completed, or closed until Ms. Van Dongen and her family meets and cooperates with Detective House on the matter to answer the investigatory questions that will allow them to move forward in closing the case.

3. Page 9 of the proposed decision states "Respondents are not appealing on their own behalf; they are appealing on behalf of their late father, and they do not represent his estate."
  - a. We had obtained legal counsel, Mr. Tom Wicke to appeal on our behalf, which was denied by CalPERS and SPB Judge Levy.
  - b. On September 2, 2015, we were representing my father and his estate as we are the testamentary heirs to his estate and are his sole heirs. Ms. VanDongen, Kristen VanDongen, and Austin VanDongen have no relation to Mr. Hughes and have no legal interest in his estate.
  - c. In August 2014, CalPERS staff, Nhung Dao, told us that we had to appeal the decision in order to go to hearing for the testamentary rules to apply to my father's retirement. Further, she stated, the worst case scenario would be the retirement benefits would be shared equally three (3) ways.
    - Please note that sharing his benefits three (3) ways which may include Ms. VanDongen, who has not been cleared of any wrongdoing in this case, would be presumptuous and violates laws that disallow suspects from gaining monetary benefits of those they aid in harming.
4. The Statement of Issues provided by CalPERS to the Respondents indicated lack of notarization as the reason for the hearing of the denial of Mr. Hughes change of beneficiaries. On page 9 and throughout the proposed decision, Judge Levy adds further commentary beyond the scope of the Statement of Issues provided to the Respondents.
  - a. The Statement of Issues was allowed to be modified at the SPB hearing by CalPERS without an amendment provided in advance to the Respondents, thus allowing proper service and due process.

I respectfully request this matter to be rejected by the State Personnel Board and a new hearing be scheduled with the complete Statement of Issues allowing proper notice and due process.



Samantha Hendrix  
Respondent and Representative