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8 **BOARD OF ADMINISTRATION**
9 **CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM**
10 **ADMINISTRATIVE LAW JUDGE HUMBERTO FLORES**

11 In the Matter of the Calculation of Final) AGENCY CASE NO. 2014-0881
12 Compensation of) OAH NO. 2014070904
13 CHRISTINE F. LONDO,) **RESPONDENT'S ARGUMENT**
14 Respondent,) Hearing:
15 and)
16 CITY OF WALNUT,)
17 Respondent.)
18 _____)

19 I. **INTRODUCTION**

20 For reasons that are extremely difficult, if not impossible, to fathom, the
21 CalPERS Board of Administration continues to refuse to accept the impartial Decisions
22 rendered by a professional arbiter of legal disputes, Administrative Law Judge (ALJ) Humberto
23 Flores. This conduct is causing Ms. Londo to experience significant economic hardship in light
24 of the fact she is now a retiree living on a fixed income. The only possible understandable
25 explanation for this extreme reaction is that the Board members must somehow believe that
26 Ms. Londo has "spiked" her pension by using some perceived influence reminiscent of what
27 occurred in the cities of Vernon and Bell. However, any such belief would be entirely
28 misplaced.

1 The uncontradicted evidence in the record from the testimony of both the former Mayor
2 of Walnut and Ms. Londo unequivocally reveals that more than seven years before she retired
3 while the City's Finance Director she was asked to serve in the upgraded position of City
4 Manager. (RT 63/6-21)¹ She had done so on one prior occasion to assist the City in recruiting a
5 full time City Manager. (RT 63/22-64/5) Because of the competence she had demonstrated on
6 this previous occasion, she was asked to fill the temporary gap for a longer period of time and,
7 in fact, did so for a period of one year. (RT 63/18-21; 64/6-65/2; 66/1-21.) During that time,
8 she continued to serve as the City's Finance Director but, because she had very capable
9 assistants, her hours of work remained substantially the same inasmuch as her limited services
10 as Finance Director were confined to reviewing the work of her subordinates. (RT 67/13-
11 68/13)

12 While serving as the Interim City Manager for this temporary one year period, Ms.
13 Londo was compensated at approximately the same rate as that provided to the previous City
14 Manager. (RT 67/5-12) At that time, her thoughts of retirement and the impact of this
15 "temporary upgrade" on her pension were non-existent. She was simply filling a void being
16 experienced by the City of Walnut and receiving the same compensation for doing that work as
17 her predecessor.

18 Based upon the testimony of Ms. Londo and that of the CalPERS representative who
19 testified, Ms. Zimmerman, which we will explain later in greater detail, ALJ Flores correctly
20 concluded that the compensation received by Ms. Londo while serving as the Interim City
21 Manager, which CalPERS and she properly designated as her final compensation, fit exactly
22 within the definition of "Temporary Upgrade Pay" promulgated by this Board that appears in
23 California Code of Regulations Section 571(a)(3) and is identified therein as pensionable
24 income. That enactment defines "Temporary Upgrade Pay" as "Compensation to employees
25 who are required by their employer or governing board or body to work in an upgraded
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28 ¹ The above citation is to page 63, lines 6 through 21, of the Reporter's Transcript of the hearing conducted by
ALJ Flores on November 5, 2014. All future citations to this Transcript will be abbreviated in a like manner.

1 position/classification of limited duration.” That is exactly what occurred and what ALJ Flores
2 determined had occurred when Ms. Londo served as the Interim City Manager.

3 For some unexplained reason, based upon the advice of its “Independent Counsel”,
4 CalPERS declined to accept the entire impartial, well-analyzed and written original Proposed
5 Decision of ALJ Flores. Instead, it referred the matter back to ALJ Flores to address a subject
6 (the impact of the Ramirez Precedential Decision by CalPERS) that had already been presented
7 and discussed at length in the briefing leading up to the original Proposed Decision.

8 ALJ Flores, after receiving additional argument from the attorney for CalPERS and the
9 attorney for Ms. Londo, rendered his second Proposed Decision entitled PROPOSED
10 DECISION AFTER REMAND which clarified in great detail why the Ramirez Decision was
11 not applicable.

12 For reasons that are extremely difficult to understand or accept, the CalPERS Board has
13 chosen to reject that second Proposed Decision and render its own Decision. As we will
14 proceed to demonstrate, we are confident that after a careful review of the entire administrative
15 record the members of the CalPERS Board will properly exercise their fiduciary
16 responsibilities and render the same correct legal Decision as that twice promulgated by the
17 ALJ Flores.

18 With regard to the fiduciary duties of the members of the Board of Administration, I
19 direct their attention to, and urge them to be extremely mindful of, the provisions of Article 16,
20 Section 17(b) of the California Constitution which reads as follows:

21 The members of the retirement board of a public pension or
22 retirement system shall discharge their duties with respect to the
23 system solely in the interest of, and for the exclusive purposes of
24 providing benefits to, participants and their beneficiaries,
25 minimizing employer contributions thereto, and defraying
26 reasonable expenses of administering the system. **A retirement**
27 **board’s duty to its participants and their beneficiaries shall**
28 **take precedence over any other duty.** [Emphasis added]

1 **II. STATEMENT OF FACTS**

2 Christine Londo commenced employment with the City of Walnut as Finance Director
3 in 1988. (RT 62/8-13) Prior to that time, she served in several capacities while employed by
4 the City of West Covina, a local public agency that also contracts with CalPERS for retirement
5 benefits for its employees. (RT 62/14-25) In 1995, she was asked by the leadership of the City
6 of Walnut to serve as the "Acting City Manager" for approximately five months to assist it in
7 securing a replacement for the departing City Manager. (RT 63/21-24) She received additional
8 compensation equal to fifteen percent (15%) above her salary, which pay was reported to
9 CalPERS as compensation earnable (RT 63/25-64/5).² As soon as the new City Manager came
10 on board, she resumed her full time position as the City's Finance Director.

11 In the summer of 2005, while she was still serving as the Finance Director, she learned
12 that the City Manager would soon be leaving. (RT 63/6-9) Around that time, she was
13 approached by the City Attorney, Michael Montgomery, who asked her if she would again
14 serve as the City Manager on an acting basis until a replacement could be found. (RT 63/10-
15 21) She responded that she was willing to assume the full duties of City Manager while
16 retaining her position as Finance Director. (RT 64/6-15) Mr. Montgomery responded that he
17 would recommend that result to the members of the City Council, which he in fact did on
18 October 26, 2005. (RT 64/10-65/2) At that meeting, the City Council approved the
19 appointment of Ms. Londo as Acting City Manager. (Exh. 11, p. 7.)

20 Although the details of this new arrangement had not yet been worked out, Ms. Londo
21 immediately began assuming the full time duties and responsibilities of the City Manager as
22 well as retaining her position as the City's Finance Director. (RT 66/1-7; 92/19-25) This
23 arrangement was consistent with the provisions of Section 2.23 of the Walnut City Code (Exh.
24 D; RT 70/18-71/11) She related that she was able to do so for the entire year she served as City
25 Manager without expanding the amount of time she spent at work. She explained that, by then,
26 the Finance Department was running very smoothly with capable assistants, and she only

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28 ² CalPERS is not challenging the reporting of this pay which, in effect, only benefitted it (not Ms. Londo or the City) by providing for enhanced retirement contributions.

1 needed to be involved for matters which required attention at the highest level. She
2 unequivocally emphasized that she spent the majority of her time performing the duties of City
3 Manager during that entire time period. (RT 67/13-68/13) Mayor King confirmed that, during
4 the one year period of service as City Manager, she was serving in two full time positions, City
5 Manager and Finance Director.

6 Soon after she commenced serving as a full time City Manager, she worked out the
7 financial details of that arrangement with the City Attorney. They agreed that she would
8 receive as compensation an additional \$5,000 per month over and above her salary as Finance
9 Director, for a total of \$15,060 per month,³ which would cause her compensation to be
10 substantially the same as that provided to her predecessor. (RT 67/5-12) Ms. Londo and Mr.
11 Montgomery also agreed that she would be serving as City Manager in a full time capacity for
12 a temporary one year period and that the parties would decide after that time whether they
13 wanted to continue this arrangement further.

14 The City Attorney placed on the agenda for the November 30, 2005 City Council
15 meeting his recommendation that the City Council approve the compensation that had been
16 agreed upon between Ms. Londo and him. (Exh. 10.) This communication was a public record
17 that was available to any interested person.

18 At its November 30, 2005 meeting, the City Council adopted that recommendation and
19 formally approved her employment as Interim City Manager with a salary that was an
20 additional \$5,000 per month over and above her salary as Finance Director, for a total of
21 \$15,060. (Exh. C, p. 6.) Both Ms. Londo and Mayor King testified that this document was a
22 public record that was available to any member of the public. (RT 74/2-6; 93/1-3)

23 When Ms. Londo completed her promised temporary one year of service as City
24 Manager, the City was anxious to extend the relationship. However, she declined and resumed
25 her duties and compensation as the Finance Director. (RT 74/16-19)

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28 ³ Before she ceased performing those duties, her payrate was increased slightly through across the board increases to employees, thus producing a slightly higher final compensation amount of \$15,586.47 (see Exh. B, p. 2.).

1 The actual salary received by Ms. Londo while serving as City Manager was reported to
2 CalPERS. (RT 32/1-12; 73/14-20) As a result, appropriate employer and employee retirement
3 contributions were paid on that particular salary. (RT 32/1-12; 73/21-23)

4 In January 2010, Ms. Londo requested that CalPERS provide her with an estimate as to
5 what it would regard as her "final compensation" base upon which her retirement allowance
6 would be computed if she were to retire. (RT 75/6-11) CalPERS responded that it would be
7 using the pensionable income she received and reported during her one year tenure as City
8 Manager. (Exh. A.) Ms. Londo decided she was not ready to retire at that time.

9 In January 2013, she again requested that CalPERS provide her with an estimate of what
10 would be her actual retirement allowance were she to retire in May of that year, depending
11 upon what Option she selected. CalPERS responded in writing (Exh. B.) that it would again be
12 using as her "final compensation" base the reported pensionable income she earned during her
13 tenure as City Manager between November 2005 and November 2006. It also set forth a
14 specific amount as to what her allowance would be for each of the available Options from
15 which she could select. Each of those calculations assumed the final compensation base that
16 represented her pensionable income between November 2005 and November 2006. (RT 33/3-
17 36/4; 76/1-5)

18 Ms. Londo elected to retire then because the allowance CalPERS represented she would
19 receive was deemed adequate by her in order to maintain her desired lifestyle. She temporarily
20 delayed her retirement, which slightly increased her retirement allowance, from May until
21 September to accommodate the City's need to hire a replacement, which it did prior to her
22 retirement. (RT 72/3-14) Ms. Londo recalled that the replacement came to work the Monday
23 following her last day of work, which was the previous Friday. She emphasized that her
24 decision to retire in 2013 was predicated upon the representation of CalPERS in Exhibit B as to
25 what her retirement allowance would be. (RT 78/6-21)

26 Ms. Londo related that, had she known prior to her retirement that CalPERS would be
27 rescinding its representation as to what her final compensation base would be and, instead,
28 would employ a significantly lower one with a resulting reduced retirement allowance, she

1 would not have retired until her challenge to the action of CalPERS had finally been resolved.
2 She explained that retiring with the final compensation base now being asserted by CalPERS
3 would not enable her to maintain the standard of living she desired. She testified that, instead, if
4 her challenge proved unsuccessful she would have remained employed for three to four more
5 years, which would increase the percentage of final compensation that would determine her
6 pension, and thereby increase her resulting allowance. (RT 79/2-15) She added that she
7 assumed she would receive cost of living pay raises during that time so that her allowance
8 would meet her anticipated needs after using the reduced final compensation base now being
9 asserted by CalPERS.

10 Unfortunately, even though CalPERS was aware of Ms. Londo's situation and her
11 retirement date, it did not communicate to Ms. Londo that it was even questioning the use of
12 the final compensation base contained in the previous estimates it had provided to Ms. Londo
13 (Exhs. A and B) until after she had already retired and her replacement had been hired. (RT
14 78/14-79/1; 79/17-20) She first became aware of a **possible** problem five days **after** her
15 retirement when she received a telephone call from Ms. Zimmerman telling her that CalPERS
16 was questioning the use of that reported final compensation base. Ms. Zimmerman did not then
17 confirm that CalPERS was definitely going to insist on this new position but, instead, told her
18 that she needed to talk to her superiors and that she would get back to her in a short while. (RT
19 87/6-14)

20 Ms. Londo did not receive notification until more than two months later that CalPERS
21 was actually taking the position that she could no longer use as her final compensation base the
22 pensionable income reported while serving as City Manager that was represented to her as
23 being appropriate in the previous communications from CalPERS. (Exhs. A and B.) This
24 notification was provided in a letter from CalPERS dated November 26, 2013. (Exh. 4.)
25 Because the City had already hired a replacement, she was unable to take any action that would
26 cause her to receive the retirement allowance she anticipated to be necessary to enable her to
27 maintain her desired standard of living. (RT 79/17-20)

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1 **III. ARGUMENT**

2 **A. THE COMPENSATION PROVIDED TO MS. LONDO WHILE SERVING AS**
3 **CITY MANAGER WAS NOT "OVERTIME."**

4 The only CalPERS witness began her testimony by explaining that the sole basis for her
5 initial conclusion that the compensation earned by Ms. Londo while serving as the City
6 Manager could not be regarded as pensionable income was that it constituted overtime which
7 must be excluded under Government Code Section 20635. (RT 20/12-24; Exh. 4) Ms.
8 Zimmerman stated that her conclusion was based upon the fact that Ms. Londo retained her
9 primary position and duties as Finance Director and the assumption of the additional duties of
10 City Manager was extra work that in effect she regarded as overtime. She added that the sole
11 basis for that determination was her interpretation of a brief City Council Agenda item prepared
12 by the City Attorney dated November 30, 2005 (Exh. 10) which simply stated that she would
13 "retain her current Finance Director position, title, duties and salary . . . [while] performing the
14 additional duties of City Manager." (RT 23/16-24/4) She candidly acknowledged that she
15 conducted no investigation to determine the exact nature and extent of the duties Ms. Londo
16 actually did perform during the one year period she served as both City Manager and Finance
17 Director. Consequently, Ms. Zimmerman had no direct information or knowledge regarding
18 the true nature and extent of the particular duties performed and responsibilities assumed by
19 Ms. Londo while serving as City Manager. (RT 26/12-27/24)

20 Quite the contrary, as Ms. Londo and Mayor King testified, Ms. Londo served as the
21 City Manager in a full time capacity. This uncontroverted testimony as to what actually
22 occurred falls directly within the second-to-last sentence of Government Code Section 20635,
23 which provides, in pertinent part, as follows:

24 " . . . If a member concurrently renders service in two or more
25 positions, one or more of which is full time, service in the part-
26 time position shall constitute overtime. **If two or more positions**
27 **are permanent and full time, the position with the highest**
28 **payrate or base pay shall be reported to this system"**

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(Emphasis added.)

The highlighted portion of Section 20635 quoted above described exactly what occurred with respect to Ms. Londo between November 2005 and November 2006. As we previously demonstrated, the uncontroverted testimony reveals that she did occupy two full time positions that were permanent. Accordingly, the reporting by the City of the highest payrate or base pay (that attendant to the City Manager position) clearly complied with Government Code 20635.

B. THE ADDITIONAL COMPENSATION GRANTED MS. LONDO WHEN SHE ASSUMED THE ROLE OF CITY MANAGER SATISFIES THE DEFINITION OF "TEMPORARY UPGRADE PAY."

The Proposed Decisions rendered by ALJ Flores clearly determined that the increased salary of \$5,000 per month while serving as City Manager must be regarded as Temporary Upgrade Pay within the meaning of Section 571(a)(3) of the California Code of Regulations. The only explanation for the contrary position that CalPERS presented at the hearing appears in the November 26, 2013 letter that Ms. Zimmerman authored (Exh. 4 at p. 3) which asserts that this result would not occur because "... [she] did not assume the upgraded position. Instead . . . [she] performed some additional duties while remaining in . . . [her] primary position of Finance Director/City Treasurer."

Again, this conclusory language is completely at odds with what actually occurred, as evidenced by the uncontradicted testimony of Ms. Londo and Mayor King. Ms. Zimmerman conducted no independent investigation to determine (1) whether in fact Ms. Londo did assume the upgraded position of City Manager and (2) the extent of the duties performed during her tenure as City Manager.

On the other hand, Ms. Londo explained, without contradiction, that (1) while performing both the duties of the City Manager and the Finance Director she did not increase the amount of time she worked and (2) the vast majority of that time was spent performing the duties of the City Manager because the Finance Department was able to run in a self-sufficient manner that only needed her involvement for major high-level decisions.

On cross-examination, Ms. Zimmerman was presented with the following typical

1 situation and then asked whether the pay in question would satisfy the definition of Temporary
2 Upgrade Pay: If an employee in the classification of Police Officer and his employer agreed
3 that for a temporary period of time, he or she would occupy the higher paying position of
4 Police Sergeant on a full time basis and perform the attendant duties and assume the attendant
5 responsibilities for additional compensation until a promotional examination had been
6 conducted and the position had been filled, would that additional compensation constitute
7 Temporary Upgrade Pay? Ms. Zimmerman answered in the affirmative. (RT 58/23-59/17)

8 As Ms. Londo's uncontroverted testimony reveals, her situation is virtually identical to
9 the hypothetical question Ms. Zimmerman answered in the affirmative. Like the hypothetical
10 Police Officer, she agreed to assume the City Manager job on a full time basis and performed
11 the attendant duties and assumed the attendant responsibilities connected with that higher-
12 paying position. She did so for a limited time period until that position was filled one year
13 later.

14 Therefore, as ALJ Flores properly concluded, this extra pay must be treated as
15 compensation earnable and, as such, included in her final compensation base because it
16 constitutes Temporary Upgrade Pay within the meaning of Regulation 571(a)(3). (See Exh. 1,
17 p. 7.)

18 **C. THE RAMIREZ DECISION IS READILY DISTINGUISHABLE AND,**
19 **THEREFORE HAS NO APPLICATION TO THE CASE.**

20 After considering all the evidence and arguments submitted by the parties, including
21 those presented on Remand, ALJ Flores correctly concluded that the increased compensation of
22 \$5,000 earned by Ms. Londo between November 2005 and November 2006 while serving as
23 the City of Walnut's Interim City Manager constituted special compensation in the form of
24 "Temporary Upgrade Pay".

25 After ALJ Flores had submitted his initial Proposed Decision that determined that the
26 increased compensation Respondent earned while serving as Interim City Manager was
27 correctly reported as special compensation, on April 20, 2015, the Board of Administration of
28 CalPERS remanded the matter to the ALJ to "receive and consider additional evidence

1 regarding the issue of whether the facts of this case differ from the facts of the Board's
2 Precedential Decision No. 00-06 (*In the Matter of the Appeal For Calculations of Benefits*
3 *Pursuant to the Employer's Report of Final Compensation Related to: ROY T. RAMIREZ and*
4 *the City of Indio*). "This Remand occurred even though this Precedential Decision had been
5 presented to ALJ Flores at the initial evidentiary hearing on November 5, 2014, and was
6 briefed at length by the parties prior to the initial Proposed Decision being rendered by ALJ
7 Flores. Interestingly, on remand, CalPERS offered no additional evidence but simply
8 repeated the same arguments that were rejected by ALJ Flores when he rendered his initial
9 Proposed Decision.

10 On Remand, after receiving arguments from both CalPERS and Respondent, ALJ Flores
11 addressed the application of that Precedential Decision in Factual Findings 12 and 13, and
12 Legal Conclusion 7 of his Proposed Decision After Remand. ALJ Flores correctly determined
13 that the Precedential Decision is readily distinguishable from the present situation for several
14 reasons.

15 Initially, it must be emphasized that the Ramirez Decision did not in any way address the
16 issue of whether the pay in question in that case constituted Temporary Upgrade Pay. That
17 contention was not raised by Ramirez and therefore it was never decided that the pay received
18 by Ramirez did not constitute, or should not have constituted, Temporary Upgrade Pay.⁴

19 Further, while the Precedential Decision found that the compensation in question in that
20 case had the effect of constituting a "spike" of the affected individual's retirement benefits,
21 there was no evidence to that effect presented in this case nor was there any evidence from
22 which that conclusion could be drawn. ALJ Flores correctly found (in Finding 12(a)) that "...
23 respondent Londo continued to work for the City of Walnut for seven more years after she
24 completed her term as Interim City Manager. The issue of retirement was nowhere in sight for
25 [her] during the time she [served in that capacity]." ALJ Flores therefore proceeded to
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28 ⁴ Frankly, based upon the Findings contained in that Decision, a very strong argument can be made that, had the issue of Temporary Upgrade Pay been presented, the ALJ would have correctly determined that the pay in question received by Mr. Ramirez did fall within that definition and should be regarded as pensionable income.

1 conclude that not only was there no intent to spike Respondent's salary but that her retirement
2 seven years after she received the income in question had no such effect.

3 Likewise, in Finding 12(b), ALJ Flores contrasted the Precedential Decision which found
4 that "a significant increase in special compensation **at or near** the time of a member's
5 retirement creates an unfunded liability, which may increase not only the rates charged by
6 CalPERS to the last employer, but also the rates CalPERS charges to any previous public
7 employers who contract with CalPERS." (Emphasis added.) The ALJ distinguished that
8 situation from Respondent's because her increase in special compensation occurred seven years
9 prior to the time of retirement.

10 Finding 12(b) also contrasted Respondent's situation from the Precedential Decision
11 which noted that some actuarial problems would exist if the compensation the individual in
12 question received while serving in a miscellaneous status were included in his final
13 compensation as a local safety member. ALJ Flores correctly noted that, in this case, all of
14 Respondent's service occurred as a miscellaneous member.

15 ALJ Flores set forth in Finding 12(b) yet another basis for distinguishing the Precedential
16 Decision. He observed that, in that case, the individual in question significantly increased his
17 workload which caused the resulting decision to conclude that the pay for those extra hours
18 amounted to overtime which is excluded from special compensation. The ALJ emphasized that
19 the uncontroverted testimony in this case revealed that Respondent "did not appreciably
20 increase her hours of work when she assumed the duties of Interim City Manager."

21 Finally, in Finding 12(d), ALJ Flores correctly distinguished the Precedential Decision
22 on the grounds that there the individual in question received significantly more compensation
23 than the occupant of the position he was filling in for on an interim basis while, in this case, the
24 uncontroverted credible testimony demonstrated that the salary received by Respondent for
25 serving as Interim City Manager was commensurate with the salary for that position.

26 ALJ Flores concluded in Finding 13 that, as a result of those differences, "[t]he
27 contention that the [Precedential Decision] should control the outcome of this case is not
28 persuasive.

1 For all the reasons set forth above, ALJ Flores **again** correctly decided that the additional
2 compensation provided Respondent while serving as Interim City Manager constituted special
3 compensation in the form of Temporary Upgrade Pay.

4 **D. CALPERS MUST BE ESTOPPED FROM CHALLENGING THE FINAL**
5 **COMPENSATION AMOUNT IT REPRESENTED WOULD BE USED IN**
6 **CALCULATING MS. LONDO'S RETIREMENT ALLOWANCE.**

7 In the leading case of *Crumpler v. Board of Administration Employees Retirement*
8 *System* (1973) 32 Cal.App.3d 567, 581, the Court of Appeal articulated "[t]he elements which
9 must be present to invoke equitable estoppel" as being "(1) the party to be estopped must be
10 apprised of the facts; (2) he must intend that his conduct shall be acted upon, or must so act that
11 the party asserting the estoppel had a right to believe it was so intended; (3) the other party
12 must be ignorant of true state of facts; and (4) he must rely upon the conduct to his injury'
13 (citations omitted)." See also, *City of Oakland v. Oakland Police and Fire Retirement System*
14 (2014) 224 Cal.App.4th 310. The uncontroverted testimony clearly establishes the existence of
15 each of those elements.

16 Initially, CalPERS clearly knew and, in fact, represented that Ms. Londo's retirement
17 allowance would be based upon a final compensation base that equated to her reported
18 pensionable income while she served as City Manager several years earlier. In response to
19 requests by Ms. Londo, on two separate occasions (Exhs. A and B.) CalPERS communicated to
20 her unequivocally that it was using that reported income as her final compensation base upon
21 which her pension would be calculated.

22 Secondly, in presenting that information to Ms. Londo, it must be concluded that Ms.
23 Londo had a right to believe that CalPERS intended her to act upon it. At the time Ms. Londo
24 elected to retire and retired, she was completely ignorant of the fact that CalPERS might later
25 be altering its position as to what her appropriate final compensation should be.

26 Finally, she clearly relied to her detriment on the information presented by CalPERS by
27 retiring and thereby negating any opportunity to secure her desired pension through acquiring
28 additional years of service and/or increases in pay while using the final compensation base now

1 being asserted by CalPERS.

2 **IV. CONCLUSION**

3 For all the reasons set forth above, we strongly urge the Board of Administration to
4 render a Decision that mirrors those rendered by ALJ Flores: that the compensation earned and
5 reported by Ms. Londo while she was temporarily serving in the upgraded position of City
6 Manager must be regarded as the "final compensation" base upon which her allowance is
7 calculated.

8 Respectfully submitted,

9 SILVER HADDEN SILVER & LEVINE

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11 Dated: 11/25/15

12 By 
13 STEPHEN H. SILVER
14 Attorneys for Respondent Christine F. Londo
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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is 1428 Second Street, P.O. Box 2161, Santa Monica, California 90407-2161.

On November 25, 2015, I served the foregoing document described as **RESPONDENT'S ARGUMENT** on the parties in this action by placing a true copy thereof enclosed in a sealed envelope addressed as follows:

Hon. Humberto Flores Administrative Law Judge Office of Administrative Hearings 320 West Fourth Street, Suite 630 Los Angeles, CA 90013 Telephone No. (213) 576-7200 Facsimile No. (916) 376-6324 Email: <u>LAXFilings@dgs.ca.gov</u> <u>(SENT VIA ELECTRONIC MAIL ONLY)</u>	<i>(Per instructions of OAH, not to be sent via U.S. mail if emailed)</i>
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Matthew G. Jacobs, General Counsel Rory J. Coffey, Senior Staff Counsel California Public Employees' Retirement System Mailing Address: P.O. Box 942707 Sacramento, CA 94229-2707 Phone: (916) 795-3675 Fax: (916) 795-3659 Email: <u>Rory.Coffey@calpers.ca.gov</u> <u>(SENT VIA U.S. MAIL ONLY)</u>	Michael B. Montgomery, City Attorney City of Walnut P.O. Box 682 Walnut, CA 91788-0682 Phone: (909) 595-7543 Fax: (909) 595-6095 Email: <u>mmontgomery@ci.walnut.ca.us</u> <u>(SENT VIA U.S. MAIL ONLY)</u>
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[By Mail] I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice, on the same day that correspondence is placed for collection and mailing, it would be deposited with the U.S. Postal Service with postage thereon fully prepaid at Santa Monica, California, in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

[By Electronic Mail] I transmitted the document(s) to the addressee(s) via electronic mail at the address listed above.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on November 25, 2015, at Santa Monica, California.

MICHELE HENGESBACH

Michele Hengesbach