



Agenda Item 8o

February 18, 2016

ITEM NAME: Proposed Decision – In the Matter of the Appeal Regarding Monthly Benefits Payable Upon the Death of THOMAS LECHUGA by BRANDY LECHUGA-FALK, Respondent, TODD LECHUGA, Respondent, and PATRICIA (LECHUGA) O'HARA, Respondent

PROGRAM: Benefit Services Division

ITEM TYPE: Action

PARTIES' POSITIONS

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

Respondent Brandy LeChuga-Falk (Respondent LaChuga-Falk) argues that the Board of Administration should decline to adopt the Proposed Decision.

Respondent Todd LeChuga (Respondent LaChuga) argues that the Board of Administration should decline to adopt the Proposed Decision.

Respondent Patricia (LeChuga) O'Hara (Respondent O'Hara) argues 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

Respondents Brandy LeChuga-Falk and Todd LeChuga are decedent Thomas LeChuga's daughter and son (Respondent Children). Respondent Patricia (LeChuga) O'Hara (Respondent O'Hara) is decedent's second wife, whom decedent divorced in 2008. CalPERS determined that Respondent O'Hara is the eligible beneficiary to receive the monthly Option 4/2W death benefit of \$3,454.81 and the pro-rated allowance benefit of \$1,266.77 on account of Thomas LeChuga's death. Respondent Children appealed this determination, arguing that all death benefits should go to either decedent's trust and/or his two children. The matter was heard by the Office of Administrative hearings on November 18, 2015. A Proposed Decision was issued on December 10, 2015, denying Respondent Children's appeal regarding the death benefit distribution.

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 December 10, 2015, concerning the appeal of Brandy LeChuga-Falk; 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 December 10, 2015, concerning the appeal of Brandy LeChuga-Falk, 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 December 10, 2015, concerning the appeal of Brandy LeChuga-Falk, 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 Brandy LeChuga-Falk, 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 Brandy LeChuga-Falk.

BUDGET AND FISCAL IMPACTS: Not applicable

ATTACHMENTS

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

DONNA RAMEL LUM
Deputy Executive Officer
Customer Services and Support