

ATTACHMENT B
STAFF'S ARGUMENT

STAFF'S ARGUMENT TO ADOPT THE PROPOSED DECISION

James Hilton (Mr. Hilton) worked as a Fleet Support Supervisor for Respondent City of Anaheim (Respondent City). By virtue of his employment, Mr. Hilton was a local miscellaneous member of CalPERS, subject to the terms and conditions of the California Public Employees' Retirement Law (PERL).

Mr. Hilton retired for service in December 2010, and passed away in October 2013. Shortly thereafter, Respondent Sherry Hilton-Barton (Respondent Hilton-Barton) applied for survivor continuance benefits. CalPERS denied Respondent Hilton-Barton's application on grounds that she had not been married to Mr. Hilton for one year prior to his retirement in December 2010 and thus was not a surviving spouse, as required by the PERL.

Respondent Hilton-Barton appealed CalPERS' determination. A one-day hearing was held in San Diego, California on February 11, 2016. Counsel appeared on behalf of CalPERS. Respondent Hilton-Barton represented herself. Respondent City did not appear.

Prior to the hearing, CalPERS explained the hearing process to Respondent Hilton-Barton and the need to support her case with witnesses and documents. CalPERS provided Respondent Hilton-Barton with a copy of the administrative hearing process pamphlet. CalPERS answered Respondent Hilton-Barton's questions and clarified how to obtain further information on the process.

Pursuant to the PERL, the surviving spouse or issue of a CalPERS member shall be entitled to a monthly allowance equal to 25 percent of the member's service retirement benefit. (Cal. Gov. Code §§21624, 21626.) A "surviving spouse," under the PERL, "means a husband or wife who was married to the member for a continuous period beginning at least one year prior to his or her retirement."

At hearing, Respondent Hilton-Barton presented a California marriage license for herself and Mr. Hilton dated July 9, 2013, more than a year after Mr. Hilton retired for service. Ms. Hilton-Barton also testified at hearing that she and Mr. Hilton were wed in Mexico in 1989. She produced records at the hearing in relation to her marriage in Mexico, testified that the Mexico marriage was a "secret marriage" and that the Mexican government had told her the marriage was not valid.

At hearing, CalPERS presented documentary evidence and the testimony of Daniel Schofield, an analyst in the CalPERS death benefits and exceptional processing unit. Mr. Schofield testified that he reviewed Respondent Hilton-Barton's death benefits application, the California marriage license and the Mexico marriage paperwork. Mr. Schofield testified that based upon his analysis, Respondent Hilton-Barton's California marriage was not timely and that the Mexico marriage was not valid. The Mexico marriage paperwork did not have the required Apostille seal, lacked signatures

for bride and groom, and did not have sufficient witness attestation, among other defects. Mr. Schofield directed Respondent Hilton-Barton to have the Mexican Consulate authenticate the 1989 marriage paperwork. Mr. Schofield testified that he received a letter from Respondent Hilton-Barton advising him that she was unable to obtain the requested authentication from the Mexican government.

Mr. Schofield further testified at hearing that he did take into consideration whether the putative spouse doctrine applied to deem Ms. Hilton-Barton a surviving spouse and therefore eligible for CalPERS' survivor continuance. The doctrine applies to situations where a legal marriage never existed but the parties had a good faith belief that they were married and held themselves out as married. Mr. Schofield testified that Mr. Hilton's service retirement application and the California marriage in 2013, among other reasons, showed that Respondent Hilton-Barton and Mr. Hilton did not believe the Mexico marriage was valid.

The Administrative Law Judge (ALJ) considered all the evidence, and credited as persuasive the testimony of Mr. Schofield and his interpretation of the records submitted by both parties at hearing. The ALJ found that the 2013 California marriage did not qualify Respondent Hilton-Barton as a surviving spouse because it did not occur at least one year before Mr. Hilton's retirement in 2010. The ALJ further held there was no evidence that the 1989 Mexico marriage was legally valid, and that the putative spouse doctrine did not apply. There was no evidence that Respondent Hilton-Barton or Mr. Hilton possessed a good-faith belief, based on their conduct, that the 1989 Mexico marriage was valid. They also did not hold themselves out as husband and wife after the Mexico ceremony.

The ALJ concluded that Respondent Hilton-Barton's appeal should be denied. The Proposed Decision is supported by the law and the facts. Staff argues that the Board adopts the Proposed Decision.

Because the Proposed Decision applies the law to the salient facts of this case, the risks of adopting the Proposed Decision are minimal. The member may file a Writ Petition in Superior Court seeking to overturn the Decision of the Board.

May 18, 2016



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