

**ATTACHMENT A**  
**THE PROPOSED DECISION**

BEFORE THE  
BOARD OF ADMINISTRATION  
PUBLIC EMPLOYEES' RETIREMENT SYSTEM  
STATE OF CALIFORNIA

In the Matter of the Appeal of the Denial of  
Late Application for Industrial Disability  
Retirement:

MICHAEL ALAN P. LIONEL,

Respondent,

and

CITY OF VALLEJO,

Respondent.

PERS Case No. 2016-0294

OAH No. 2016090531

**PROPOSED DECISION**

Administrative Law Judge Perry O. Johnson, State of California, Office of Administrative Hearings, heard this matter on January 30, 2017, in Oakland, California.

Senior Staff Counsel Cynthia A. Rodriguez, California Public Employees' Retirement System, represented Petitioner Anthony Suine, Chief, Benefit Services Division, California Public Employees' Retirement System (CalPERS or petitioner).

Attorney at Law Richard E. Elder, Jr., Esq., of Elder and Berg, Attorneys at Law, 3107 Clayton Road, Concord, California 94519, represented respondent Michael Alan P. Lionel, who appeared at the hearing of this matter.

Respondent City of Vallejo did not appear at the hearing of this matter through any representative of that local governmental agency.

The record was held open to afford opportunities to the parties to file written closing arguments regarding whether CalPERS has precedential decisions pertaining to the issue in this matter and the effect of those decisions on disposition of this matter. On February 3, 2017, OAH received petitioner's "Supplemental Closing Argument," which was marked as exhibit "16," and received as argument. On February 9, 2017, OAH received a written

PUBLIC EMPLOYEES RETIREMENT SYSTEM

FILED March 13 2017

*[Signature]*

document titled "Closing Argument by [respondent] Michael Lionel," which was marked as exhibit "R," and received as argument on behalf of respondent Lionel.

On February 9, 2017, the parties were deemed to have submitted the matter and the record closed.

## ISSUES

I. Under the California Public Employees Retirement Law (the PERL), due to purported mistakes on his part, or the alleged errors by the personnel of either his former local agency employer or CalPERS, whether respondent Michael Alan P. Lionel is entitled to file an application for industrial disability retirement even though more than six months had elapsed following both the date he entered service retirement status and began to receive a pension allowance based on his years of service with a local agency, or the date he should have known of a basis to apply for industrial disability retirement status? The appeal, therefore, is limited to the issue of whether respondent Lionel should be allowed to submit a late application for disability retirement pursuant to Government Code section 20160 because he made "an error or omission" that was the result of inadvertence, mistake, surprise or excusable neglect, which would entitle him to an industrial disability retirement.

II. If no provision under the PERL exists to authorize respondent Michael Alan P. Lionel to proceed with an application for disability retirement, does the doctrine of equitable estoppel preclude CalPERS from now denying the application for industrial disability retirement.

## FACTUAL FINDINGS

### *Background*

1. On April 25, 2016, on behalf of CalPERS, Anthony Suine (petitioner), in his official capacity as Chief, Benefit Services Division, filed the Statement of Issues that named as respondents both Michael Alan P. Lionel and the City of Vallejo.

2. The City of Vallejo (respondent City) is a local public agency that contracts with CalPERS for the provision of retirement benefits for its eligible employees.

The provisions of respondent City's contract with CalPERS are referenced in the Public Employees' Retirement Law (Gov. Code §§ 20000 et. seq.).

3. CalPERS's scheme for retirement benefits is a defined benefit plan. Retirement benefits payable to eligible retired employees are funded by contributions from contracting agencies and eligible employees, who are also called members, and by interest income and other earnings generated by CalPERS on invested contributions. The amount of

a public agency's contribution is determined by applying a rate to the payroll of the agency. And, the amount of a member's contribution is determined by applying a fixed percentage to the member's contribution. Using certain actuarial assumptions specified by law, the CalPERS Board of Administration sets the employer's contribution rate on an annual basis. Eligible members may pursue industrial disability retirement upon a determination that such individual has a service-connected injury or disease that permanently precludes the performance of a substantial range of the duties and functions of the civil service member.

#### *Respondent Lionel's Employment*

4. Respondent City employed respondent Michael Alan P. Lionel (respondent Lionel). Respondent entered service retirement based on his years of service with the respondent City. He held the position of Fire Department Captain until his last day of paid status on November 13, 2013.

#### *Applications for Retirement Benefits*

5. On approximately September 12, 2013, respondent Lionel signed an application for retirement based on years of service. Effective November 14, 2013, respondent Lionel retired based on years of service. From that service retirement date in November 2013 respondent has been receiving a retirement allowance or pension.

6. More than two months before he entered service retirement status, CalPERS personnel presented respondent on September 11, 2014, with written information sought by him regarding industrial disability retirement.

7. Approximately 12 months after the date he entered service retirement status, respondent Lionel made an inquiry, on November 12, 2014, with CalPERS personnel at the agency's office in Walnut Creek, and he was again provided with information, pertaining to industrial disability retirement. In the agency's records called the "Customer Touch Point Report," CalPERS personnel made a note, dated November 12, 2014, of respondent's inquiry as follows:

[Respondent] came into [Walnut Creek Regional Office] with questions about [industrial disability retirement] due to a work related injury. [Respondent's] is currently on a [service retirement]. [Respondent's] disability doctor informed him that he will not be able to perform his normal job duties. Reviewed [service retirement] pending [industrial disability retirement application] and gave [respondent] time frame for processing.

8. On June 24, 2015, that is approximately one year, seven months after he had retired based on years of service, respondent Lionel signed an application requesting a change in retirement status from service retirement to industrial disability retirement. The

basis for disability retirement was related to respondent Lionel's alleged orthopedic disorder involving the cervical spine (neck).

*Action by Petitioner CalPERS Division of Benefit Services*

9. On approximately December 3, 2015, CalPERS Benefit Services Division sent a letter to respondent Lionel. The letter informed respondent Lionel that a review of records, disclosed that his application for a "change in retirement status" was not timely within the meaning of Government Code section 21453. Further, the letter expressed that the agency's review of pertinent documents led to a conclusion that respondent Lionel's late filing of the application, which sought industrial disability retirement, was not due to an error contemplated under Government Code section 20160 that would permit CalPERS to excuse the late application by respondent Lionel by reason of mistake, inadvertence, surprise or excusable neglect. And, the December 2015 letter notified respondent Lionel of his appeal rights.

On December 29, 2015, respondent Lionel filed a letter of appeal, and requested an administrative adjudication hearing to resolve the controversy.

*Contentions by Respondent Lionel*

10. Respondent Lionel contends that he made good faith efforts to file requisite applications and supportive documents in an effort to change the CalPERS records for his retirement status from service retirement to industrial disability retirement. And, he avers that notwithstanding his erroneous omissions, personnel with his former employing local agency and personnel of CalPERS failed to definitively and explicitly advise him of the process for the perfecting of an application to change retirement status from service retirement to industrial disability retirement. And, he further advances that despite a statutorily prescribed duty upon CalPERS to correct errors in granting retirement allowance and to adjust a retirement annuity to a correct level, the doctrine of equitable estoppel bars CalPERS from denying his application due to neglect, incompetence or oversight of CalPERS personnel along with personnel in the Human Resources Department of respondent City.

11. Respondent Lionel's contentions, arguments, and claims regarding the underlying issue are not persuasive and lack merit.

*Respondent Lionel's Evidence*

12. On January 20, 2015, the City Manager for respondent City signed Resolution No. 2 regarding industrial disability retirement for respondent. The certification set out that respondent was deemed incapacitated for the duties of Fire Captain and that the incapacity was the result of an injury or disease arising out of and in the course of his employment as a local safety member.

13. When he last worked as a Fire Captain for respondent City in November 2013, he planned to seek employment with another city or county as a civil service employee.

14. Respondent was not believable when he testified that when he retired in late 2013 based on years of service, he “thought that he would be able to work as a firefighter with a different department.”

15. Respondent was not persuasive when he testified that on or about November 12, 2014, a CalPERS representative answered his inquiries about making an application for industrial disability retirement by telling him that he could file for a change to industrial disability retirement “at any time,” although he would have only 90 days from the actual submission date of an application “to get all [necessary] documents” from respondent City for presentation to CalPERS.

16. Respondent was not compelling when he asserted at the hearing that CalPERS personnel presented him with a CalPERS form as used by both State of California Safety members as well as by local agency Safety members regarding the process to effect application for industrial disability retirement. And, respondent was not credible when he advanced that CalPERS personnel erroneously instructed him regarding a process by which he was required to prompt personnel of his former employing local agency to complete the application form that would be necessary to change his status as a retiree from service retirement designation to industrial disability retirement. Further, he was not believable when he claimed that on June 24, 2015, he learned that the form that CalPERS personnel had given him was, in fact, not necessary for use by local Safety members.

17. Respondent did not prove by competent and reliable evidence that both CalPERS employees and respondent City personnel made such grievous mistakes regarding his interest in changing from service retirement to industrial disability retirement that he is entitled to relief under either the controlling statutory provision or by doctrine in equity.

*Petitioner’s Evidence and Evidence that Contradicts Application of the Doctrine of Equitable Estoppel*

18. Respondent Lionel was not persuasive at the hearing of this matter when he asserted that he did not apply for industrial disability retirement at the time that he sought to retire based on years of service because, among other things, he planned to seek employment with another local agency as a firefighter or other civil service employee. And, he was not believable that employees of both respondent City and CalPERS made errors to such a degree that he is now entitled to relief. As set forth below, respondent did not present compelling evidence that he reasonably relied on the claimed events, situations, or communications in a manner that now operates to his detriment to a degree that he can now benefit from a late application for disability retirement.

19. Respondent’s claimed excusable delay in filing the disability retirement application due to his thoughts of continuing a civil service employment opportunity with

another local agency is implausible and not credible. His plan to seek employment with another city or county after he entered retirement status after he retired from working for respondent City was a deliberate and conscious decision on his part. No mistake or error can be gleaned from respondent's idea of working for additional remuneration from civil service employment.

20. Respondent's claim that he should be excused from his neglect because of the supposed errors of employees with respondent City or agents or CalPERS is not compelling under the circumstances. Respondent's last civil service employment position was as a Fire Department Captain, that is a municipal government manager and supervisor, who is obligated to read and comprehend an array of documents, manuals, and regulations. Hence, in the matter of seeking retirement status, he was expected to have exerted personal responsibility to identify and act upon the instructional materials, which provide clear guidance on the processes that must be pursued in gaining industrial disability status.

21. Respondent called no witness, either from respondent City of Vallejo's Human Resources' Department or from the local CalPERS office, who supposedly erred on alleged various dates while processing documents for, or rendering advice to, respondent Lionel with regard to various aspects of filing an application for industrial disability retirement.

22. Respondent entered service retirement status in November 2013. For receipt of different services and making inquiries, respondent traveled to CalPERS Walnut Creek Regional Office on matters unrelated to seeking industrial disability retirement. On September 11, 2014, respondent went to the subject CalPERS office asking whether he could cancel the CalPERS Health Care plan, and he received information regarding measures needed to change service retirement to industrial disability retirement. On that date in September 2014, CalPERS personnel addressed his questions and provided him with instructional material regarding steps to cancel the CalPERS Health plan. On November 6, 2014, CalPERS personnel executed respondent's request for cancellation of health care coverage and gave him an effective date for that action as December 1, 2014.

23. Respondent was not credible when he proclaimed at the hearing of this matter, that CalPERS personnel did not instruct him during the summer of 2015 on his obligation to complete and file an application for industrial disability retirement.

24. Ms. Mari Cobbler provided persuasive and compelling evidence at the hearing of this matter. By her demeanor while testifying; her deliberate, conscientious manner; her attitude towards the proceedings; and, her consistency in providing a compelling account of the objective analysis of CalPERS records pertaining to respondent Lionel, Ms. Cobbler demonstrated that she was a credible<sup>1</sup> witness at the hearing.

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<sup>1</sup> Government Code section 11425.50, subdivision (b), third sentence.

25. Ms. Cobbler, as a CalPERS employee, holds the classification of Retirement Program Specialist II. She serves as an Appeals Analyst within the Benefits Services Division of the Disability Retirement Section of CalPERS.

Ms. Cobbler's duties include monitoring, reviewing and analyzing appeals decisions affecting members of CalPERS. She studies actions, as well as all supportive records and documents, previously assembled by other CalPERS personnel that may deny applications made by members.

26. Ms. Cobbler thoroughly and comprehensively described her analysis regarding the conclusion reached by her that respondent was not timely in seeking relief from the statutorily prescribed preclusion to alter service retirement status to industrial disability retirement.

Ms. Cobbler showed that on September 17, 2013, that is approximately two months before the effective date of respondent's service retirement, CalPERS sent respondent a letter. Among other things, the September 2013 letter stated, "[y]ou may be entitled to receive a disability retirement if you are unable to work because of an illness or injury. To request a service pending disability retirement, you must complete a Disability Retirement Election Application . . . ."

Ms. Cobbler established that, at least, as early as September 11, 2014, CalPERS personnel clearly instructed respondent, who had been on service retirement for nearly a year, that he was compelled to file an application for industrial disability retirement and also to submit a letter that explicitly detailed the reason(s) he had not sooner made an application for disability retirement.

Ms. Cobbler provided convincing evidence at the hearing of this matter that written communication<sup>2</sup> between government employees, while performing official duties, in the form of responses from the Human Resources Department for respondent City on a letter/questionnaire by CalPERS, underscored respondent's acts and omission. The communication shows that when respondent entered service retirement effective November 14, 2013, he gave no indication the he was "too disabled to continue work." And the reason respondent gave for "stopping work" was to take "service retirement." Further, the communication between government employees indicated that respondent was given instructions "on November 20, 2014, informing him to apply for an [industrial disability retirement]."

27. Any time relating to the acts, omissions, or neglect by employees of respondent city in either communicating with respondent Lionel or transmitting materials to CalPERS did not operate as a tolling of the period of time for respondent Lionel to have filed an application for industrial disability retirement. Respondent Lionel, a former Fire Captain

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<sup>2</sup> Evidence Code section 1220.



and municipal agency manager/supervisor, had a personal responsibility to act in a diligent and vigilant manner to file the subject application with CalPERS.

28. Ms. Cobbler was reasonable when she showed that respondent did not file with CalPERS an application for industrial disability retirement until June 26, 2015. Respondent Lionel's failure was not justified in that on previous occasions, including on a date seven months before the application's filing, CalPERS personnel had instructed respondent on the process of changing from service retirement to industrial disability retirement because respondent City had finally determined him to be medically unable to return to work as a Fire Department Captain.

#### *Ultimate Factual Findings*

29. The actions taken by CalPERS personnel in this matter were neither arbitrary nor capricious; but, rather the agency's actions were deliberate, methodical, conscientious, and reasonable in concluding that respondent Lionel was not lawfully entitled to the operations of Government Code section 20160 to perfect a late application for industrial disability retirement. CalPERS personnel acted in good faith in transmitting to respondent Lionel and respondent City information regarding the individual retiree's obligation to timely complete the required application for industrial disability retirement to change his status from service retirement.

30. CalPERS personnel were reasonable in determining in accordance with the law that having exceeded six months from the supposed discovery of his mistake in failing to earlier file an application for industrial disability retirement, respondent is now prevented or barred from applying for a change of his service retirement status to industrial disability retirement. CalPERS did not fail any fiduciary duty to deal fairly with regard to respondents and especially respondent Lionel.

### LEGAL CONCLUSIONS

#### *Applicable Burden/Standard of Proof*

1. "Except as otherwise provided by law, a party has the burden of proof as to each fact the existence or nonexistence of which is essential to the claim for relief or defense that he is asserting". (Evid. Code, § 500.) Respondent Lionel must meet his burden by a preponderance of the evidence in establishing that he now has the right to change his service retirement status to industrial disability retirement. "Except as otherwise provided by law, the burden of proof requires proof by a preponderance of the evidence." (Evid. Code, § 115.) Evidence that is deemed to preponderate must amount to "substantial evidence." (*Weiser v. Board of Retirement* (1984) 152 Cal.App.3d 775, 783.) And to be "substantial," evidence must be reasonable in nature, credible, and of solid value. (*In re Teed's Estate* (1952) 112 Cal.App.2d 638, 644.)

2. In accordance with Government Code section 20340, when a civil service member of CalPERS ends his term of service, he is no longer a CalPERS member, but rather the individual is a retiree. Extraordinary administrative action is necessary to change service retirement status to industrial disability status. And, such change generally can not be changed unless there is evidence showing an error or omission on the retiree's part that may be deemed as excusable due to mistake, inadvertence or excusable neglect.

*Statutory Requirement that CalPERS Correct Errors On A Retiree's Application for Change of Retirement Status*

3. Government Code section 20160 requires that the Board of Administration correct any error or omission detected in actions taken by CalPERS. The statute specifically provides that corrections of errors or omissions must be "such that the status, rights, and obligations of all parties . . . are adjusted to be the same that they would have been if the act that would have been taken, but for the error or omission, was taken at the proper time."

4. The period of time prescribed in Government Code section 20160 is an outermost span of time during which an individual may gain relief from a mistake. The statute limits the period of relief by stating "which in no case *shall* exceed six months after discovery of this right." (Emphasis added.) The word "shall" has long been said to connote that when found in a statute the word must be deemed to be mandatory, unless the legislative intent construes the word otherwise or where by express declaration or by negative words forbidding an act after the time fixed by the statute. (*Cake v. City of Los Angeles* (1913) 164 Cal. 705, 709.) The phrase "which in no case shall exceed six months after discovery of this right," as set out in Government Code section 20160, expressly forbids by negative words the correction of a mistake occurring six months after knowledge of the need to take action pertaining to a pension extended or administered by CalPERS.

Furthermore, because Government Code section 20160 refers to Code of Civil Procedure section 473, as well as the decisional case law interpreting the six-month outer limit or maximum period to correct mistakes under that section in the Code of Civil Procedure, Government Code section 20160 is deemed to be jurisdictional and a fixed prescription. (*Beresh v. Sovereign Life Insurance Co.* (1979) 92 Cal.App.3d 547, 554-555; *Northridge Financial Corp. v. Hamblin* (1975) 48 Cal.App.3d 819, 825.)

CalPERS has a set of Precedential Decisions that address the agency's interpretation of Government Code section 20160 as to the requirements when one requests relief from a mistake. Those decisions consistently state that the written request for relief must be filed in a reasonable period of time "which in no case shall exceed six months after discovery of this right." Those decisions include, *In the Matter of the Application for Retroactive Reclassification to State Industrial Membership from State Safety Member of William R. Smith, Respondent*, Precedential Board Decision No. 99-01. That decision proclaims, "[m]oreover, 20160 states that in no case shall 'reasonable time' exceed the [six] month period." And, *In the Matter of the Application for Industrial Disability Retirement of Robert R. Ruhr, Respondent*, Precedential Board Decision No. 2014-0096; OAH Case No.

2014030366, the conclusion highlighted that “Government Code section 20160 establishes a clear, firm, six-month time limit within which a member must correct an error/omission.”

*Non-Applicability of The Doctrine of Equitable Estoppel*

I. EQUITABLE ESTOPPEL IS NOT AVAILABLE TO CONTRAVENE STATUTORY DIRECTIVES

5. CalPERS has a fiduciary duty to interact with its members fairly and in good faith. That duty assures that CalPERS takes reasonable measures to assure that information broadcasted or communicated to members is both timely and as accurate as practicable. (*City of Oakland v. Public Employees’ Retirement System* (2002) 95 Cal.App.4th 29, 40.) But, CalPERS does not have a duty, and respondent Lionel does not have a right to require, CalPERS to disregard express statutory provisions in the PERL where certain provisions are explicit and mandatory. This concept is especially controlling when an individual seeks a benefit to which he would not otherwise be entitled had a mistake in calculations or enrollment not occurred.

CalPERS members acquire retirement benefits entirely through provisions that are the creatures of statute. (*City of San Diego v. San Diego City Employees’ Retirement System* (2010) 186 Cal.App.4th 68, 78-79.) The Legislature has dictated that CalPERS does not have the power to award benefits beyond those benefits authorized by statute. (Gov. Code, § 20160, which directs CalPERS to correct its mistakes and omissions.)

More than 65 years ago, the law was settled that equitable estoppel cannot be applied to overcome a statute’s directive or to enlarge a government agency’s statutory authority. Nor can “the authority of a public officer . . . be expanded by estoppel” because doing so “would have the effect of granting to the state’s agents the power to bind the state merely by representing that [such government agents or employees] have the power to do so.” (*Boren v. State Personnel Board* (1951) 37 Cal.2d. 634, 643.) Moreover, an erroneous assertion by an agency’s employee cannot serve as a basis to extend a benefit when such benefit is not otherwise authorized by law. (*Page v. City of Montebello* (1980) 112 Cal.App.3d 658, 669.)

II. TRADITIONAL ESTOPPEL NOT ESTABLISHED UNDER THE FACTS

6. Even absent the above principles regarding the inapplicability of equitable estoppel to contravene statutory directive, the facts in the matter do not support respondent Lionel’s argument that the doctrine of equitable estoppel applies to require CalPERS to rescind the proposed action for denial of respondent Lionel’s application for change of retirement status from service retirement to industrial disability retirement.

Traditional elements of estoppel are: (i) the party to be estopped was apprised of the facts; (ii) the party to be estopped intended or reasonably believed that the claimant would act in reliance of its conduct; (iii) the claimant was ignorant of the true state of facts; and, (iv) the claimant actually and reasonably relied on the conduct of the party to be estopped to

his detriment. (*City of Long Beach v. Mansell* (1970) 3 Cal. 3d 463, 489) But, when estoppel is asserted against a governmental entity, a fifth element exists, namely, whether the interests of a private party must outweigh those of the public interest and public policy. (*City of Long Beach v. Mansell supra* 3 Cal.3d at 496-497.) Where one of the elements of a contemplated application of estoppel is lacking or missing, equitable estoppel can not operate. (*People ex rel. Franchise Tax Board v. Superior Court* (1985) 164 Cal.App.3d 526, 552.)

Despite his own neglect and inexcusable delays, respondent Lionel seeks to point an accusing finger at administrative personnel of CalPERS as well as the Human Resources Department of his former employing local agency in supposedly misguiding him or promising to execute a measure that was not accomplished in completing an application for industrial disability retirement. As set out in the factual findings above, respondent Lionel received instructional material and advice on the processes regarding industrial disability retirement. And, approximately one year after he had retired based on years of service, CalPERS personnel provided him with additional information relative to the processes to apply for industrial disability retirement. Now, he complains about promises unfulfilled by CalPERS and his former employing local agency's personnel. As in the decision of *Del Oro Hills v. City of Oceanside* (1995) 31 Cal.App.4th 1060, this controversy may be resolved on the principle that a private party cannot reasonably rely on any supposed promise from a government agent in light of a written directive that further analysis or deliberation by the agency is necessary in the way of later, formal calculation consistent with the law.

Respondent Lionel claims that he suffered a detriment regarding his belief that certain verbal representations by government employees were not correct or misleading. But, his contentions constitute speculation and do not establish that respondent Lionel suffered an actual detriment as the result of any conduct attributable to CalPERS. (*US Ecology, Inc. v. State* (2005) 129 Cal.App. 4th 887, 910.)

7. When all the evidence is considered, respondent did not establish that he should be allowed to file a late industrial disability retirement application. Respondent Lionel was aware of the option available to him to file with CalPERS an application for disability retirement at the time he filed for service retirement, based upon his work experience as an officer with a local fire department and due to the advice given him by the City's Human Resources personnel. Respondent Lionel knew or reasonably suspected that he had a disorder affecting his cervical spine (neck) when he entered service retirement status. Respondent Lionel consciously and deliberately did not seek disability retirement at or near the point in time that he last worked for the City of Vallejo. Respondent Lionel failed to show through the evidence presented at the hearing that his failure to timely file an application for disability retirement was the result of good faith mistake, inadvertence, surprise, or excusable neglect. Even when the applicable pension statutes are interpreted liberally, respondent Lionel did not establish that he is entitled to the protections and benefits of Government Code section 20160. Consequently, respondent Lionel did not demonstrate by the weight of the evidence that he should now be allowed to seek industrial disability retirement.

*Ultimate Determinations*

8. CalPERS has a statutorily mandated duty to correct errors regarding the granting of retirement allowance payable to a member. The obligation, however, to correct respondent Lionel's inexcusable neglect and uncorrectable mistake in not timely filing an application for industrial disability retirement does not come within the mandated duty to correct the errors or mistakes of respondent Lionel.

Respondent Lionel did not establish that the doctrine of equitable estoppel is applicable so as to compel CalPERS to rescind the proposed action that denies respondent Lionel late application to change his service retirement to industrial disability retirement.

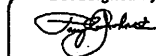
CalPERS correctly determined that respondent Lionel is not entitled to file a late application by reason of the operation of Government Code section 20160.

ORDER

The appeal of the respondent Michael Alan P. Lionel of the decision of the Chief of the Benefit Services Division, California Public Employees' Retirement System (CalPERS) is denied.

DATED: March 10, 2017

DocuSigned by:



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PERRY O. JOHNSON  
Administrative Law Judge