ATTACHMENT C

RESPONDENT(S) ARGUMENT(S)
May 2, 2018

VIA FACSIMILE & U.S. MAIL
(916) 795-3972

Cheree Swedensky
Assistant to the Board
CalPERS Executive Office
P.O. Box 942701
Sacramento, CA 94229-2701

Re: Respondent City of South Pasadena’s Argument in the Matter of CalPERS Membership of Laura M. Taratglione, Case No. 2016-0065
Client-Matter: SO140/084

Dear Ms. Swedensky:

I. INTRODUCTION

Respondent City of South Pasadena (“City”) has had a volunteer reserve officer program for over 75 years. In 2013, an anonymous complainant claimed that the City was not enrolling its volunteer reserves as members in CalPERS even though they were working over 1,000 hours per fiscal year. CalPERS conducted an investigation and found that the City was under no obligation to enroll volunteer reserves into membership. During the course of that investigation, however, CalPERS did find that Respondent Laura Tartaglione, who had performed some paid police work during limited times, was a CalPERS member based on her prior employment with the City of Long Beach. CalPERS determined that Ms. Tartaglione should have been enrolled as a CalPERS member for her service with the City of South Pasadena based on her previous membership with the City of Long Beach.

The City appealed CalPERS’ determination. The parties appeared before Administrative Law Judge Glynda Gomez for two days of hearing. On March 22, 2018, Judge Gomez issued her Proposed Decision and upheld CalPERS’ determination regarding the paid police work performed by Ms. Tartaglione. Specifically, Judge Gomez found: (1) that Ms. Tartaglione should have been enrolled as a CalPERS member for her paid police work for the City, but not for her third-party work on movie details or for any other volunteer work for the City; (2) that the City was liable for employer and employee contributions on her compensation for the paid police work she performed, but not for the third-party work on movie details; and (3) an administrative fee of $500 applied to the City under Government Code section 20283.
II. LEGAL ARGUMENT

A. THE CITY AGREES WITH THE PROPOSED DECISION TO THE EXTENT THAT IT LIMITS THE CITY’S OBLIGATIONS TO PAY CONTRIBUTIONS BASED ON MS. TARTAGLIONE’S PAID POLICE ASSIGNMENTS AND EXCLUDING MOVIE DETAILS

The City concurs in Judge Gomez’s reasoning and will not oppose the adoption of Proposed Decision to the extent that the City’s obligations are based on “paid police assignments” and excluding movie details. (See Proposed Decision at p. 10.) First, Judge Gomez clearly excludes movie details because they “were not part of a City police officer’s regular duties and did not constitute ‘overtime’” for police officers. (Proposed Decision at p. 4 [¶ 9].) Rather, the film companies contracted with the City to provide security for film shoots. (Id.) This was a contract opportunity to earn additional money passed through the film companies to the City to provide security details for third-party film companies. (Id.) Judge Gomez properly concluded that “movie details were not part of a reserve officer’s regular duties.” (Id.)

On the other hand, Judge Gomez’s Proposed Decision makes clear that only the paid patrol details, burglary suppression details, and the Fair Oaks Corridor detail were part of a City police officer’s regular duties. (Proposed Decision at pp. 4-5 [¶ 10-12].) She properly notes that offering paid patrol details to reserves “was significant because reserve officers were for the first time being paid to act as local police officers on regular police patrols.” (Proposed Decision at p. 4 [¶ 10].) Similarly, she states that a “paid burglary suppression detail was a patrol assignment.” (Proposed Decision at p. 4 [¶ 11].) Furthermore, Judge Gomez described the Fair Oaks Corridor detail as a “third paid detail [that] was instituted.” (Proposed Decision at p. 5 [¶ 12] [emphasis added].) It is significant that she describe this as a “third” paid detail because the other two are the patrol assignments and the burglary suppression detail, and thereby expressly excludes movie details as a paid detail.

These statements clearly demonstrate that Judge Gomez did not intend for movie details to be considered part of paid police assignments (nor were they) and that they were meant to be excluded from the City’s obligations and from any CalPERS service credit. The City agrees with this reasoning and agrees not to oppose the Board’s adoption of the Proposed Decision as the Board’s Final Decision and will pay employer and employee contributions accordingly.

B. THE TOTAL CONTRIBUTIONS OWED BASED ON COMPENSATION FOR PAID POLICE WORK, BUT NOT FOR MOVIE DETAILS

Based on the City’s understanding of Judge Gomez’s reasoning, the total contributions are as follows:
Cheree Swedensky  
Re: Respondent City of South Pasadena’s Argument in the Matter of CalPERS Membership of Laura M. Tartaglione, Case No. 2016-0065  
May 2, 2018  
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<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Earnings Based on Paid Police Work</th>
<th>Employee Contributions Rate</th>
<th>Employee Contributions</th>
<th>Employer Contribution Rate</th>
<th>Employer Contributions</th>
</tr>
</thead>
<tbody>
<tr>
<td>2010-11</td>
<td>$3,372.36</td>
<td>9%</td>
<td>$303.51</td>
<td>15.555%</td>
<td>$524.57</td>
</tr>
<tr>
<td>2011-12</td>
<td>$18,108.30</td>
<td>9%</td>
<td>$1,629.75</td>
<td>21.387%</td>
<td>$3,872.82</td>
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<tr>
<td>2012-13</td>
<td>$9,099.20</td>
<td>9%</td>
<td>$818.93</td>
<td>21.440%</td>
<td>$1,950.87</td>
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<tr>
<td>TOTAL:</td>
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<td></td>
<td>$2,752.19</td>
<td></td>
<td>$6,348.26</td>
</tr>
</tbody>
</table>

Thus, the total contributions owed by the City based on Ms. Tartaglione’s compensation for her paid police work, but not for her work on third-party movie details, is $9,100.45.

C. THE BOARD’S DECISION SHOULD NOT BE MADE PRECEDENTIAL

The City requests that the Board not designate the decision as precedential. The Proposed Decision does not contain “a significant legal or policy determination of general application that is likely to recur.” (Gov. Code § 11425.60(b).) Judge Gomez analyzed two issues: (1) whether Respondent Tartaglione was entitled to enrollment in CalPERS for her paid police service to the City; and (2) whether the City knew or should have known to enroll her into CalPERS membership. These are well established legal principles, and the Proposed Decision does not contain any novel legal analysis interpreting the Government Code or regulations. The Proposed Decision also does not contain any analysis that would be generally applicable to other agencies. Thus, none of the elements for a precedential decision are present. Therefore, the Proposed Decision should not be made precedential.

III. CONCLUSION

The City submits to Judge Gomez’s Proposed Decision based on the City’s understanding of the plain language of the Proposed Decision as stated herein. That understanding is that the Proposed Decision excludes Ms. Tartaglione’s third-party services on movie details from service credit calculations and any compensation received for movie details from reportable compensation earnable and exempt from employer or employee contributions.

In all, the combined employer and employee share of the pension costs for that service amounts to $9,100.45; with the administrative penalty of $500, the total amount owed to CalPERS is $9,600.45. The City further requests that this Proposed Decision not be made a precedential Board Decision.

Very truly yours,

LIEBERT CASSIDY WHITMORE

Danny Y. Yoo

DYY:syf

8501545.5 SO140-084
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: 6033 West Century Boulevard, 5th Floor, Los Angeles, California 90045.

On May 2, 2018, I served the foregoing document(s) described as RESPONDENT CITY OF SOUTH PASADENA'S ARGUMENT IN THE MATTER OF CALPERS MEMBERSHIP OF LAURA M. TARATGLIONE in the manner checked below on all interested parties in this action addressed as follows:

By Facsimile and U.S. Mail

Cheree Swedensky
Assistant to the Board
CalPERS Executive Office
P.O. Box 942701
Sacramento, CA 94229-2701
Telephone: (916) 795-1054
Facsimile: (916) 795-3972

By U.S. Mail

Robin L. Sergi
Law Offices of Robin L. Sergi
3862 Katella Ave., Suite B
Los Alamitos, CA 90720-6915
Telephone: (562) 795-9116
Facsimile: (888) 908-9016
Email: robin@rlslawoffice.net

Cheree Swedensky
Assistant to the Board
CalPERS Executive Office
P.O. Box 942701
Sacramento, CA 94229-2701
Telephone: (916) 795-1054
Facsimile: (916) 795-3972

By U.S. Mail

Preet Kaur
Senior Staff Attorney
CALPERS
P.O. Box 942707
Sacramento, CA 94229-2707
Email: Preet.Kaur@calpers.ca.gov

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(BY PERSONAL DELIVERY) I delivered the above document(s) by hand to the addressee listed above.

Executed on May 2, 2018, at Los Angeles, California.

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

Sharon Y. Fung
FAX COVER SHEET

DATE: May 2, 2018
CLIENT-MATTER NUMBER: SO140/084

To:
NAME: Cheree Swedensky
Assistant to the Board
CalPERS Executive Office
FAX NO.: (916) 795-3972
PHONE NO.: 

FROM: Danny Y. Yoo
PHONE: 310.981.2069

RE: Respondent City of South Pasadena’s Argument in the Matter of CalPERS Membership of Laura M. Taraglione

NUMBER OF PAGES WITH COVER PAGE: 6

Original(s):
☐ Will not follow ☑ Will follow by U.S. Mail ☐ Will follow by overnight mail

Message:
Please see the attached Respondent City of South Pasadena’s Argument in the Matter of CalPERS Membership of Laura M. Taraglione.

IF YOU DO NOT RECEIVE ALL PAGES, PLEASE TELEPHONE SHARON Y. FUNG AT 310.981.2091 IMMEDIATELY.

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