

ATTACHMENT C

RESPONDENT(S) ARGUMENT(S)

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

In the Matter of the Appeal of Accepting
the Application for Industrial Disability
Retirement of:

JOSHUA A. YOUNG,

Respondent,

v.

CITY OF SAN BUENAVENTURA,

Respondent.

Case No.: Agency Case No. 2023-0887;
OAH: 2024080992

**RESPONDENT CITY OF
SAN BUENAVENTURA'S ARGUMENT**

The City of San Buenaventura ("City") submits this written argument to the CalPERS Board ("Board") for review of the Office of Administrative Hearing's ("OAH") October 2, 2025 Proposed Decision ("Proposed Decision") in this matter. Under Gov. Code § 11517(c)(2), the CalPERS Board reviews this matter *de novo* upon the existing record and may reject the ALJ's proposed decision, substituting its own factual and legal findings. The Proposed Decision is in error for (a) failing to even consider the City's primary legal argument that the employment relationship between Respondent and the City was never "completely severed;" (b) determining that the City's approval was not supported by competent medical evidence after refusing to admit the City's evidence of the same; (c) finding that the City's failure to submit documents that the law did not require and CalPERS did not request supported a finding of fraud; (d) finding that the City approved Young's IDR in lieu of pending discipline despite evidence to the contrary; and (e)

basing its credibility assessment of the City’s former Human Resources Director on insufficient evidence.

**I. THE PROPOSED DECISION FAILS TO ADDRESS THE CITY’S ARGUMENT
THE EMPLOYMENT RELATIONSHIP WAS NOT COMPLETELY SEVERED**

As the Proposed Decision states “[t]he linchpin of eligibility for disability retirement...” is “[w]hether the member has the potential for reinstatement.” (Proposed Decision, pg. 29, ¶ 14.) At the heart of the City’s defense, both in the hearing and in its briefs, was the argument that the employment relationship between the City and Respondent was never “completely severed” because the City retained its right to reinstate the Respondent under the applicable statutory authority. (City’s Post Hearing Brief [“CPHB”], 13:1-17:17; City’s Reply to CalPERS’ Brief [“CRCB”], 9:6-13:6.) The Proposed Decision does not reject, distinguish, or even acknowledge this argument.

The settlement agreement between the City and Young stated “he will not *seek* further employment with the City.” (Exh. 22 [A110].) (Emphasis added.) Similarly, the parties’ preceding MOU stated that “Young agrees...not to *seek* re-employment with the City.” (Exh. 20 [A101].) (Emphasis added.) This one-way restriction stands in contrast with the mutual reinstatement waivers in *In the Matter of Application for Disability Retirement of Vandergoot* (2013) CalPERS Precedential Dec. No. 13-01 (*Vandergoot*) and *Martinez v. Public Employees’ Retirement System* (2019) 33 Cal.App.5th 1156 (*Martinez*). *Vandergoot* stated that the former employee would not “seek, transfer to, apply for *or accept* any employment in any capacity with [Department] at any time in the future...” (Id. at 6.) (Emphasis added.) Likewise, the employee in *Martinez* agreed to “never again apply for *or accept* any employment position.” (Id. at 1162.)

The agreement between the City and Young, unlike those in *Vandergoot* and *Martinez*, does not prohibit future reinstatement if initiated by the City. CalPERS’ Survivor Benefits Division Chief Sharon Hobbs (“Hobbs”) admitted that an employer can require a member receiving IDR benefits to submit to a medical re-evaluation under the code on its own accord, without the employee initiating the process. (Tr. Vol. II, pg. 54:7-18; see also Gov. Code sections 21192 and 21193.) As *Haywood v. American River Fire Protection District* (1998) 67

1 Cal.App.4th 1292, 1305 noted,” [u]ntil an employee on disability retirement reaches the age of
2 voluntary retirement, *an employer may require* the employee to undergo a medical examination
3 to determine whether the disability continues.” (§ 21192.)

4 Yet, during the City’s cross-examination of Hobbs to establish on the record the City’s
5 right to reinstate Young, the ALJ stopped the City’s line of questioning stating that counsel for
6 the City was “[m]aking a very fine, subtle legal argument here. Reserve it for your argument.”
7 (Tr. Vol. II, pg. 57:19-21 (emphasis added).) When these arguments were ultimately presented in
8 both the City’s Post-Hearing Brief and its Reply Brief to CalPERS, the 36-page Proposed
9 Decision does not address the City’s “subtle legal argument” anywhere. (Pg. 29, ¶¶ 13-14.)
10 Instead, the ALJ simply concluded, without any analysis, that “[t]he City cannot demand
11 [reinstatement].” (Proposed Decision, pg. 29, ¶ 14.) Failing to meaningfully consider an
12 argument that was expressly invited by the ALJ is an error, and the Board should not adopt the
13 Proposed Decision.

14 **II. THE CITY’S COMPLIANCE WITH CALPERS’ DOCUMENT REQUEST DOES**
15 **NOT SUPPORT A FINDING OF FRAUD**

16 The City provided every document the law required, and that CalPERS requested, in
17 connection with the IDR application; the Proposed Decision supports its finding of a fraudulent
18 application with the City’s failure to submit documents that CalPERS did not request and the law
19 did not require. Government Code Section 21158 states that “[t]he board shall inform both the
20 employer and the member of all information required for the board to make its determination.”
21 Consistent with the statute, CalPERS, by letter dated November 16, 2016, sought seven categories
22 of information from the City, which did not include any categories related to pending
23 investigations or potential discipline.

24 Hobbs admitted the City’s December 20, 2016 letter to CalPERS provided all seven of the
25 categories of information sought by CalPERS in its November 16, 2016 letter. (Tr. Vol. II,
26 45:6-15 [Hobbs].) CalPERS claims that the City should have known to produce documents
27 related to employment re-instatement waivers based on its Public Agency & Schools Reference
28 Guide. However, the Reference Guide does not have the force of law and on its face states “[t]he

1 information provided in this publication is for your convenience and reference as a general guide
2 only and *cannot be relied upon as an authoritative source for the law*, practices, or policies of
3 CalPERS.”¹ (Exh. 8 [A49].) (Emphasis added)

4 **III. THE PROPOSED DECISION IMPROPERLY RELIES ON AN ASSESSMENT OF**
5 **MEDICAL EVIDENCE DISALLOWED BY THE ALJ**

6 The Proposed Decision finds that “[a]s set forth in Factual Findings 43 to 52, there is little
7 evidence that the City’s approval of respondent’s IDR was based on competent medical
8 evidence.” (Proposed Decision, pg. 31, ¶ 17.) However, during Respondent’s counsel’s cross
9 examination of Hobbs regarding whether the evidence supporting Young’s IDR constituted
10 “competent medical evidence,” the ALJ sustained CalPERS’ relevance objection stating that
11 “[w]hether or not the [IDR] approval was sustained or substantiated by competent medical
12 evidence is not relevant here.” (Tr. Vol. I, pg. 150:13-20.) The ALJ’s exclusion of testimony
13 regarding competent medical evidence under Gov. Code § 11513(b) denied the City a full and fair
14 hearing and warrants remand.

15 **IV. THE RECORD DOES NOT SUPPORT A FINDING THAT THE RESPONDENT**
16 **WAS GRANTED AN IDR IN LIEU OF DISCIPLINE**

17 The Proposed Decision found that Respondent’s application was fraudulent because the
18 IDR was granted in lieu of discipline. (Proposed Decision, pg. 31-32, ¶¶ 18; pg. 33, ¶ 22.) The
19 evidentiary record does not support this conclusion.

20 Former Human Resources Director Elizabeth Foushee’s testimony that she independently
21 approved of Young’s IDR, without knowledge of any pending discipline influence from any of
22 the parties present at the MOU meeting (Tr. Vol. I, pg. 63:19-25 [Foushee]) was not disputed by
23 any evidence. Further, the record establishes that Chief of Police Ken Corney considered
24 Respondent a “rising star,” that there was “some reasonable suspicion” of bias in the investigation
25 Commander R.M. initiated into the Respondent, that failure of the probationary period was
26 precautionary while there was a pending allegation against Respondent that ultimately could be

27 ¹ To the extent CalPERS contends the Reference Guide is binding, it would constitute an
28 unlawful “underground regulation” under Gov. Code § 11342.600 and *Tidewater Marine*
Western, Inc. v. Bradshaw (1996) 14 Cal.4th 557, 571.

1 reinstated at a later date, and that even if the investigation's findings were ultimately sustained
2 against the Respondent, termination was not certain. (Tr. Vol. II, pg. 99:17-103:5; pg. 106:18-25.)

3 **V. THE ALJ'S FINDING REGARDING ELIZABETH FOUSHEE'S CREDIBILITY**
4 **IS UNSUPPORTED BY THE RECORD**

5 The Proposed Decision rests in large part on the ALJ's disbelief of the testimony of
6 former Human Resources Director Foushee. The ALJ's credibility assessment is not consistent
7 with the record, and is the result of the Proposed Decision applying an exacting standard of
8 credibility to Foushee – and a relaxed standard of credibility to CalPERS Chief of Disability and
9 Survivor Benefits Unit Sharon Hobbs.

10 Foushee testified that she was aware of the requirement to reevaluate IDR recipients, but
11 didn't recall if it was something employers "were doing on a regular basis" in 2016. (Tr. Vol. I,
12 pg. 28:20-29:7.) Furthermore, Foushee testified that she believed in 2017 that CalPERS
13 emphasized employers "should" be reevaluating employees who are under retirement age on IDR.
14 (Tr. Vol. I, pg. 29:8-18.) This exact "should" reevaluate language can be found in CalPERS'
15 March 2017 circular letter. (Exh. L, pg. C131.)

16 Foushee testified that she did not recall ever receiving an internal investigation file from
17 the Department. (Tr. Vol. I, pg. 40:3-9.) Foushee's representation is also consistent with Chief
18 Corney's representation that the City's Human Resources Department was not involved in the
19 Police Department's internal affairs investigations and that the Human Resources Department
20 likely does not see an investigation prior to discipline. (Tr. Vol. II, pg. 103:18-104:6.)

21 Further, the Proposed Decision concluded that Foushee was inconsistent in her response to
22 whether the Respondent was reevaluated between 2016 and 2020; even though Foushee's
23 testimony is unequivocal that Respondent was never reevaluated. (Tr. Vol. I, pg. 61:5-15.)

24 The Proposed Decision is inconsistent as to the effect of flawed memory on credibility.
25 The negative credibility assessment of Foushee rests in part on her inability to recall specifics of
26 the *Vandergoot* and *Haywood* decisions. Foushee testified that she was aware of the requirement
27 that disability retirement cannot be used to separate an employee in lieu of discipline, but she did
28 not remember the name of the *Vandergoot* case. (Tr. Vol. I, 23:19-25:12). Later, when asked

whether she knew the *Haywood* decision, she explained, “Again, I don’t recall the specifics of the case. If I were to hear a summary of it, I may recall. But, unfortunately, I don’t recall the specific case and the details. But it doesn’t mean that I don’t know what those requirements are or what that case was if I heard a summary of it.” (Tr. Vol. I, pg. 30:19-31:3.)

This same exacting standard was not applied to *current* Chief Hobbs. Hobbs did not know if CalPERS had issued a circular letter in 2016 similar to the 2017 circular letter on which counsel for CalPERS attempted to rely for the proposition that employers were required to submit certain documents related to discipline in 2016. (Tr. Vol. II, 61:17-22. [Hobbs].) She did not know the section of the PERL that gave CalPERS the authority to request certain personnel documents. (Tr. Vol. II, 63:5-12 [Hobbs].) Hobbs testified that there was case law prior to 2016 that stated the requirements embodied in the March 30, 2017 circular letter, but could not think of a case but instead had to look through papers to find one. (Tr. Vol. II, 68:5-23 [Hobbs].) The ALJ gave Hobbs time to find a case. (Tr. Vol. II, 68:24-69-1.) Following this opportunity, she testified that the requirements were in *Vandergoot*. (Tr. Vol. II, 69:22-70:14.) When asked to find those requirements in *Vandergoot*, Hobbs was unable to, because they are not there. (Tr. Vol. II, 70:19-71:14.) The Proposed Decision does not see fit to discount Hobbs’ credibility, departing from the approach applied to Foushee’s testimony.

VI. CONCLUSION

For the foregoing reasons, the Board should decline to adopt the Proposed Decision in favor of its own decision finding that there was not a fraudulent submission of documents, or remand it to the Administrative Law Judge to resolve the errors described herein.

Dated: October 30, 2025

Respectfully submitted,

LIEBERT CASSIDY WHITMORE

By: /s/ Paul D. Knothe

Paul D. Knothe
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Attorneys for Respondent CITY OF
SAN BUENAVENTURA

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 **October 30, 2025**, I served the foregoing document(s) described as **RESPONDENT CITY OF SAN BUENAVENTURA'S ARGUMENT** in the manner checked below on all interested parties in this action addressed as follows:

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Attorney for JOSHUA A. YOUNG

- ☐ **(BY U.S. MAIL)** I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid at Los Angeles, 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 FACSIMILE)** I am personally and readily familiar with the business practice of Liebert Cassidy Whitmore for collection and processing of document(s) to be transmitted by facsimile. I arranged for the above-entitled document(s) to be sent by facsimile from facsimile number 310.337.0837 to the facsimile number(s) listed above. The facsimile machine I used complied with the applicable rules of court. Pursuant to the applicable rules, I caused the machine to print a transmission record of the transmission, to the above facsimile number(s) and no error was reported by the machine. A copy of this transmission is attached hereto.
- ☒ **(BY ELECTRONIC SERVICE)** By electronically mailing a true and correct copy through Liebert Cassidy Whitmore's electronic mail system from abrowne@lcwlegal.com to the email address(es) set forth above. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

Executed on **October 30, 2025**, 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.

/s/ Anna Browne
Anna Browne

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10 **BOARD OF ADMINISTRATION**
11 **CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM**

12 JOSHUA A. YOUNG,

13 Respondent,

14 and

15 CITY OF SAN BUENA VENTURA,

16 Respondent.

Agency Case No.: 2023-0887
OAH Case No.: 2024080992

**RESPONDENT JOSHUA YOUNG'S
ARGUMENT AGAINST PROPOSED
DECISION AND FOR THE BOARD TO
ADOPTS ITS OWN DECISION**

Board Hearing Date: November 19, 2025

17 **I.**

18 **INTRODUCTION**

19 Respondent, Joshua A. Young (Respondent Young hereinafter referred to as "Mr. Young")
20 began work as a Police Cadet with the City of San Buenaventura (hereinafter "Respondent City") and
21 performed law enforcement duties over the course of his nearly fifteen year career with Respondent
22 City, which stemmed from 2003 – 2017. Mr. Young's assignments included Patrol Officer, SWAT
23 member, and Detective Bureau where he specialized in narcotics and property crimes.

24 In November 2016, as a result of a continuous trauma injury to his psyche from performing his
25 police duties and being involved in life threatening events, Mr. Young filed for an Industrial Disability
26 Retirement ("IDR") with CalPERS. **In January 2017, CalPERS approved his IDR** without
27 requesting additional information. Disability retirement benefits were retroactively applied beginning
28

1 October 4, 2016.

2 For the next eight years, Mr. Young received his approved IDR benefits.

3 Then, on December 15, 2023, CalPERS sent Mr. Young a two page letter informing him that
4 CalPERS had recently decided he was in fact not eligible for an IDR and that his IDR would be
5 cancelled—and that he would owe CalPERS nearly half of a million dollars (\$443,575.71), and
6 continuing.

7 Mr. Young timely appealed this decision, leading to an administrative hearing.

8 Administrative Law Judge, Ji-Lan Zang presided over the hearing on June 16-17, 2025. Mr.
9 Young was represented by Lewis, Marenstein, Wicke, Sherwin & Lee, by Thomas J. Wicke.
10 Respondent, City of San Buenaventura (hereinafter "Respondent City") was represented by Liebert
11 Cassidy Whitmore by Paul Knothe. The moving party, California Public Employees' Retirement
12 System (CalPERS), was represented by General Counsel, Matthew Jacobs and Senior Attorney, Preet
13 Kaur.

14 The primary issues in the hearing were limited to (1) whether Mr. Young is eligible for an IDR,
15 and if not, (2) whether CalPERS' ability to recoup overpayments is limited to three years, or is extended
16 to ten years because "fraudulent reports" had been made to CalPERS pursuant to Government Code §§
17 20160 and 20164.

18 On October 2, 2025, Administrative Law Judge Ji-Lan Zang issued her Proposed Decision,
19 denying Mr. Young's appeal, finding that he is not eligible for an IDR. **Without reasoning, Judge**
20 **Zang found that Mr. Young engaged in fraud and therefore found that CalPERS is entitled to**
21 **recoup the entirety of its overpayments totaling nearly half a million dollars.**

22 Mr. Young submits his argument to the Board that **fraud** has not been established in this case
23 and as such, any correction of erroneous payments on behalf of CalPERS should be limited to three
24 years pursuant to Government Code § 20160. Further, Mr. Young argues the equitable doctrine of
25 laches since the delay in the attempt to revoke Mr. Young's IDR has been excessive and prejudicial.

26 Mr. Young strongly disagrees with the Proposed Decision and requests it not be adopted. The
27 Board must review this matter independently and make its own decision.

1 II.

2 ARGUMENT

3 A. Fraud Is Not Proven

4 In California, the elements of fraud are (a) misrepresentation, (b) knowledge of falsity, (c) intent
5 to defraud, (d) justifiable reliance, and (e) resulting damage. (*Lazar v. Superior Court* (1996) 12
6 Cal.App.4th 631, 638; *Hunter v. Up-Right, Inc.* (1993) 6 Cal.App.4th 1174; Cal. Civ. Code §§ 1572,
7 1709.) Fraud and deceit are predicated on **intentional misrepresentation**. (*Hunter*, supra at p. 1178.)

8 Judge Zang stated that, "direct proof of fraudulent intent is often impossible to establish.
9 Therefore, the courts have held that fraud may be proven by inference."¹

10 Without any attempt to establish the required elements of fraud as listed above, Judge Zang
11 relied upon a document that is void as a matter of law, to make the *inference* that Mr. Young made
12 fraudulent reports. This inference results in a detrimental finding against Mr. Young that places him in
13 significant debt and financial hardship.

14 It is important to discuss the probative facts of this case leading up to the Respondent City's
15 certification that Mr. Young was permanently and substantially disabled from his job and CalPERS'
16 subsequent approval of Mr. Young's IDR.

17 Mr. Young had been treating for his industrial injury for **approximately three years prior to**
18 **filing for an IDR.**² Due to his industrial injuries, Mr. Young's treating doctor, Dr. Richard Deamer,
19 had taken him completely off work several months before he applied for an IDR.³

20 Once Mr. Young filed for an IDR, Respondent City reviewed his medical records to determine
21 if he was permanent and substantially incapacitated from his job. In fact, Respondent City requested
22 that treating physician Dr. Deamer complete a physician's form indicating whether or not the doctor
23 deemed Mr. Young permanently and substantially incapacitated from his duties.⁴ Dr. Deamer
24 confirmed that due to his industrial injury, Mr. Young was permanently and substantially incapacitated

25 _____
26 ¹ Proposed Decision, p. 33.

27 ² HT I, p. 66:11-13.

28 ³ Exh. E.

⁴ Exh. I, HT I, p. 49-52.

1 from his duties.⁵

2 Regarding its impact on Mr. Young's IDR eligibility, the former Human Resources Director for
3 Respondent City (who was the person responsible for certifying Mr. Young was eligible for an IDR),
4 testified at the hearing that Dr. Deamer's medical opinion on permanent incapacity "was an important
5 statement from the doctor" upon which the City relied.⁶

6 In this case, Mr. Young's disability was not fictional; Mr. Young's treating doctor had taken Mr.
7 Young completely off work several months prior to applying for an IDR. That same doctor then
8 certified with reasonable medical probability that Mr. Young was permanently and substantially
9 incapacitated from his duties. As such, Mr. Young had a qualifying disability, supported by medical
10 evidence. The above unrefuted facts are the opposite of fraud.

11 Further solidifying Mr. Young's intent during this time is a letter that Mr. Young drafted, signed
12 and sent to Respondent City that it was his intent to medically retire based upon his industrial disability.⁷

13 Based upon the above facts, it can be strongly concluded that Mr. Young did not participate in
14 fraud in order to obtain his IDR. Rather, his application was supported by several years of medical
15 records and a substantial medical opinion. Judge Zang points to no direct evidence by Mr. Young of
16 his intent to defraud CalPERS. Mr. Young's testimony confirms this fact.

17 **B. The Document Upon Which the Judge Relies is Not Valid**

18 Judge Zang relied solely upon one document to make a frail inference that Mr. Young engaged
19 in fraud, which was a Memorandum of Understanding ("MOU").⁸ The MOU cannot be relied upon
20 and is unequivocally not a factual piece of reliable evidence because the MOU is void as a matter of
21 law. The MOU clearly states on page 1 that the terms of the MOU are contingent upon approval by
22 the Workers' Compensation Appeals Board ("WCAB")—the MOU is not signed by the WCAB nor is
23 there any evidence in the record that the MOU was ever even presented to the WCAB for approval.⁹

24
25 ⁵ *Id.*

26 ⁶ HT I, p. 52:1-5.

27 ⁷ Exh. 21, p.5.

28 ⁸ Exh. 20.

⁹ Exh. 20, p. 1.

1 Without the WCAB approval, the MOU states that, "**this MOU will become null and void.**" As such,
2 **the MOU is a null and void document and therefore not reliable.** This fact is inarguable.

3 Merriam-Webster's Dictionary defines 'inference' as, "a conclusion or opinion that is formed
4 because of known facts of evidence."¹⁰ Judge Zang has made an inference that Mr. Young and
5 Respondent City engaged in fraudulent reports in order to obtain an IDR based upon a document that
6 is unquestionably void as a matter of law. Based upon unreliable evidence, Mr. Young is prejudiced
7 and placed in a position of significant financial hardship.

8 Judge Zang, nor CalPERS, took time to establish a single one of the required elements of fraud,
9 but rather relied only on an inference based upon unreliable evidence. The Board must reject unproved
10 fraud and at the most apply the three year statute of limitations pursuant to Government Code § 20160.

11 Government Code § 20160 makes it clear that CalPERS' corrections of erroneous payments to
12 a member are subject to a three-year statute of limitations. In this case, because fraud was not proven
13 by a preponderance of the evidence and because the inference of fraud is absolutely not supported,
14 CalPERS' period for recouping payment should be limited to three years.

15 C. Laches Applies

16 Laches is an equitable and affirmative defense which bars a claim in the unreasonable delay in
17 bringing the claim causes prejudice to the defendant.¹¹ In this case, laches should apply to CalPERS'
18 claim of fraud and the IDR ineligibility against Mr. Young. The appeal must be granted.¹²

19 CalPERS paid Mr. Young IDR benefits for **over eight years** before it initiated the instant action
20 against him. Here, it is inarguable that CalPERS' delay in asserting its claim is not reasonable nor
21

22 ¹⁰ <https://www.merriam-webster.com/dictionary/inference>

23 ¹¹ *Telnik, Inc. v. United States*, (1994) 24 F.3d 42, 47.

24 ¹² The Proposed Decision devotes a mere four paragraphs at page 34-35 of this equitable principle
25 in the discipline of a physician. *Gore V. Board of Medical Quality Assurance*, (1980) 110
26 Cal.App.3d 184, 192. To the contrary, Young's case is not a four year delay as in *Gore*, but an
27 eight year delay with CalPERS having fiduciary duty to Young. The Proposed Decision makes
28 finding of lack of credible testimony of events occurring nearly ten years ago. Laches protects due
process rights by requiring timely investigations and resolutions. Would laches apply if CalPERS
investigated this matter twenty years after being granted his benefits? Clearly not, because it is
inequitable.

1 excusable or fair, especially when Mr. Young is significantly prejudiced by the present attempt to
2 retroactively cancel his pension. CalPERS' delay is particularly unreasonable in the face of CalPERS'
3 mandatory **fiduciary duty** to act in the *highest* good faith that is owed to Mr. Young. It is axiomatic
4 that canceling the IDR and demanded that Mr. Young has an obligation to return to CalPERS
5 approximately half a million dollars and continuing, is certainly prejudicial to Mr. Young.

6 To cause Mr. Young significant hardship, based entirely on inferential evidence is not equitable.
7 The doctrine of laches applies to Mr. Young's case and Mr. Young's appeal must be granted.

8 **III.**

9 **CONCLUSION**

10 Mr. Young presented competent medical evidence that he was permanently unable to return to
11 his employment with Respondent City, which was reviewed and certified by Respondent City; these
12 are undisputed facts in this case. If there is any inference to be made here, it is that Mr. Young met the
13 criteria to be granted an IDR.

14 Judge Zang has missed the mark in finding an inference of fraud in this matter. The inference
15 that Mr. Young made fraudulent reports is not based upon any reliable evidence, and as such, amounts
16 to nothing more than mere speculation.

17 If the Board finds that Mr. Young is not eligible for his IDR, Mr. Young respectfully requests
18 that the Board limit the period of collections to three years, pursuant to Government Code § 20160.

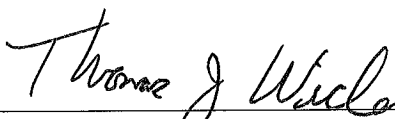
19 Upon a complete review of the evidence in this matter will require the granting of Mr. Young's
20 appeal and the continuation of his monthly pension benefits.

21 DATED: October 30, 2025

Respectfully submitted,

22 LEWIS, MARENSTEIN, WICKE, SHERWIN & LEE LLP

23
24 By:



25 THOMAS J. WICKE

26 KELLI M. KRUPKA

27 Attorneys for Applicant

28 Joshua Young

1 **PROOF OF SERVICE**

2 **STATE OF CALIFORNIA, COUNTY OF LOS ANGELES**

3 At the time of service, I was over 18 years of age and not a party to this action. I am
4 employed in the County of Los Angeles, State of California. My business address is 20750
Ventura Boulevard, Suite 400, Woodland Hills, CA 91364-2338.

5 On October 30, 2025, I served true copies of the following document(s) described as
6 **RESPONDENT JOSHUA YOUNG'S ARGUMENT AGAINST PROPOSED DECISION**
7 **AND FOR THE BOARD TO ADOPT ITS OWN DECISION** on the interested parties in this
action as follows:

8 Board Services Unit Coordinator
9 CalPERS
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11 **BY E-MAIL OR ELECTRONIC TRANSMISSION:** I caused a copy of the
12 document(s) to be sent from e-mail address mjackson@lmwslaw.com to the persons at the e-mail
13 addresses listed in the Service List. I did not receive, within a reasonable time after the
transmission, any electronic message or other indication that the transmission was unsuccessful.

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

16 Executed on October 30, 2025, at Woodland Hills, California.

17 /s/ MEGAN JACKSON
18 Megan Jackson
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20
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