

ATTACHMENT B

STAFF'S ARGUMENT

STAFF'S ARGUMENT TO ADOPT THE PROPOSED DECISION

On June 23, 2014, Michael J. Carrozzo (Respondent) was appointed as Judge of the Superior Court of California, County of Santa Barbara. By virtue of this appointment, Respondent became a member of the Judges' Retirement System II (JRS II).

JRS II members must be at least age 65 with 20 years of service or age 70 with a minimum of 5 years of service to be eligible to service retire. (Gov. Code, § 75522.) Beginning January 1, 2024, through December 31, 2028, JRS II members who are not eligible to retire under Government Code section 75522 and who are at least age 60 with 15 years of service, or age 65 with 10 years of service, may elect to retire under a deferred retirement. (Gov. Code § 75522.5.) JRS II members who retire under deferred retirement may choose to start receiving their retirement allowance either on the date on which they would have first become eligible to retire under Government Code section 75522 or later.

JRS II members who leave judicial office with five or more years of service but are not eligible for a service retirement or a deferred retirement receive the amount of their monetary credits under the JRS II monetary credits plan. (Gov. Code § 75520.)

To be eligible for service retirement, Respondent had to work until June 23, 2034, which would give him 20 years of service at the age of 68.

JRS II members may elect to purchase up to four years of service credit in JRS II for active military service performed prior to entering JRS II. (Gov. Code § 75506.6.) JRS II members may use the Military Service Credit (MSC) toward their total years of service to become eligible for service or deferred retirement. A judge "may elect, in writing filed with" JRS II to purchase MSC but the election is effective only if it is accompanied by a lump sum payment or installment payments from payroll deductions. (Gov. Code § 75506.6; Cal. Code of Regs, tit. 2, § 575.1.)

In 2023 and 2024, Respondent inquired with JRS II about the possibility of purchasing three years of MSC. On April 8, 2024, Respondent requested information regarding the cost to purchase MSC. On April 11, 2024, JRS II sent Respondent an MSC purchase letter for three years of service calculated using the present value method pursuant to Government Code section 75506.6, subdivision (d). The letter provided an estimated lump sum cost of \$358,713, or an installment payment option of \$3,228.16 per month for 180 months. The estimate was based on the assumption that Respondent would be eligible to service retire. Therefore, the cost was based on the difference between the value of the service retirement without the MSC and service retirement with the MSC. Respondent did not make an election to purchase MSC at that time.

On November 8, 2024, Respondent notified JRS II that he was considering retiring on September 8, 2025, at age 60 with 15 years of service, including 11 years and 3 months of JRS II service and an MSC purchase of 3 years and 9 months.

On November 14, 2024, JRS II sent Respondent an MSC purchase letter for 3.814 years of service credit, which was calculated using the present value method. The letter provided a lump sum cost of \$532,713, or an installment payment option of \$4,794.041 per month for 180 months. The letter informed Respondent that he was first eligible to service retire on June 23, 2034, at age 68 with 20 years of service. If he purchased 3.814 years of service credit, he would be eligible to service retire on September 8, 2030, with 20 years of service. The cost package and payment options expired on December 13, 2024.

Respondent did not make an election to purchase MSC based on the November 14, 2024, letter. Respondent sent JRS II emails dated December 11, 2024, December 12, 2024, December 17, 2024, and January 10, 2025, asking further questions regarding the MSC, including what would happen if he became unable to continue making monthly payments.

JRS II learned that on April 17, 2025, the Commission on Judicial Performance issued a Decision and Order Imposing Severe Public Censure and Bar upon Respondent. Respondent agreed to resign from judicial service September 9, 2025, and agreed to never serve as a judicial officer again in California.

On May 28, 2025, Respondent informed JRS II of his intent to retire as of September 9, 2025, and requested to purchase MSC.

On June 30, 2025, JRS II provided Respondent with an MSC purchase letter for 3.814 years of service credit, which was calculated using the present value method. The letter provided a lump sum payment option with a total cost of \$982,436 and an expiration date of August 1, 2025. Respondent was no longer eligible to service retire because he would be separating from the bench on September 9, 2025, therefore, the cost was based on the difference between the value of the deferred retirement with the MSC and the lump-sum value of the monetary credits. The letter explained that the MSC purchase letters dated April 11, 2024, and November 13, 2024, now expired, were based on Respondent's first eligible date for service retirement under Government Code section 75522, and the current letter was based on a retirement date of September 9, 2025, and a deferred retirement under section 75522.5.

Respondent did not elect to purchase MSC based on the June 30, 2025, letter. Instead, Respondent informed JRS II that his prior emails to JRS II were an election to purchase the MSC based on the amount quoted to him in JRS II's November 14, 2024, letter. Respondent also insisted that he was entitled to make monthly installment payments towards the MSC purchase.

On July 7, 2025, JRS II notified Respondent that his emails did not constitute an election to purchase MSC and he was not entitled to make monthly installment payments towards the MSC purchase due to his separation from employment. Respondent appealed JRS II's determination and exercised his right to a hearing before an Administrative Law Judge (ALJ) with the Office of Administrative Hearings. A hearing was held on February 26, 2026. Respondent represented himself at hearing.

Prior to the hearing, CalPERS provided Respondent with a copy of the administrative hearing process pamphlet and answered Respondent's questions.

Respondent appeared at the hearing but did not testify or present evidence on his own behalf.

At hearing, JRS II presented Respondent's emails, demonstrating that Respondent did not elect to purchase the MSC, as quoted in the November 14, 2025, letter. Respondent merely sent emails asking JRS II questions regarding the MSC purchase. Furthermore, Respondent's emails did not include any payment for the MSC purchase. As to the cost of the MSC, a managing actuary at CalPERS testified that the MSC purchase amount in the June 30, 2025, letter was accurately calculated because the amount was based on the present value of the MSC. Lastly, a JRS II representative testified that an installment payment option could not be offered because the law requires installment payments to be made by payroll deductions and JRS II did not have enough time before Respondent's last day on state payroll, September 9, 2025, to commence the installment payments via payroll deductions.

After considering all the evidence introduced, as well as arguments by the parties, the ALJ granted Respondent's appeal on the issue of his entitlement to make installment payments. The ALJ found that Respondent had met his burden to establish by a preponderance of evidence that he was eligible to elect the installment payment plan so long as he was able to make one payment from payroll while in judicial service. The ALJ held that the option is required by *Henry v. Board of Administration* (1980) 113 Cal.App.3d 658.

Also in the Proposed Decision, the ALJ agreed with JRS II that Respondent did not elect to purchase the MSC based on the JRS II's April 11, 2024, or November 14, 2024, letters and the two estimates had expired without Respondent accepting them. The ALJ also agreed with JRS II that the MSC purchase amount was correctly calculated in the June 30, 2025, letter, based on the present value method.

Based on his conclusions, the ALJ directed JRS II to recalculate the MSC and provide Respondent 30 days to make an election with an option to pay through lump sum or installment payments over 180 months.

For all the above reasons, staff argues that the Proposed Decision should be adopted by the Board.

June 17, 2026

Preet Kaur
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