

**MINUTES
FOR THE REGULAR MEETING
CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD
Docket No. 5560**

1. Opening of Meeting:

The Appeals Board convened at 10:30 a.m., January 15, 2013, in Sacramento with Chair Robert Dresser presiding.

2. Roll Call: <u>Members</u>	<u>Present</u>	<u>Absent</u>
Robert Dresser, Chair	x	
Kathleen Howard, Vice Chair	x	
Roy Ashburn	x	
Michael Allen	x	

3. Approval of the Minutes:

The December 11, 2012 minutes were approved by all members except Member Allen who abstained because he was not present at the previous meeting.

4. Chair's Report:

Chair Dresser introduced the new board member, Michael Allen, former assemblyman, representing the Santa Rosa, Sonoma and Napa area. He commented that Member Allen is already taking on 40 cases a day, quite remarkable since he has been here less than a month. He also mentioned that Member Allen was a proud member of the Hispanic Caucus while serving in the Assembly. Chair Dresser commented that Member Torrico, Member Allen's predecessor, did a wonderful job and he will be missed but the board knows Member Allen will do a great job also.

Chair Dresser wished everyone a Happy New Year. He thinks CUIAB is off to a good start. This is the year he hopes to get out of the "At Risk" designation for the Unemployment Insurance Appeals Board. They had a very good meeting with the Region Office of the Department of Labor last month, and they were quite pleased with our progress on case aging and time lapse.

Chair Dresser reported that our inventory is down to 42,908 cases, of which the UI portion is 33,758. Chair Dresser thanked the hard work of the judges, the support staff and the IT people for their great efforts.

Chair Dresser reported that three presiding judge positions have been filled. He thanked the people who had been filling in: Teresa Fee in Orange County, Susan Lee in Oakland, and Mitch Davis in San Jose.

Chair Dresser reported that there will be a meeting with the Assistant Chiefs next week to work on clarifying their duties, and commented that they help Chief Roldan in many ways by sharing his workload.

Chair Dresser also noted that we have an excellent training program coming up in May in Los Angeles, in conjunction with NAUIAP, National Association of Unemployment Insurance Appeal Professionals. This is mandatory training for all the judges.

Chair Dresser reported that they will be meeting with the Presiding Judges next week and bring them up to date on the various clarification duties of the Assistant Chiefs, see what's going on in the field and get off to a good start this year. On Friday, under the leadership of Tim McArdle, there will be an Executive Planning Session where they are going to make sure that the Best Practices are implemented properly.

Finally, Chair Dresser mentioned with respect to the tax cases that since January 2001 the CUIAB has completed 4,382 first level tax audit appeals totaling \$430,000 million. The ALJs upheld \$250 million of those assessments and at the second level the board itself has processed \$38.5 million of assessments and upheld \$20 million.

5. Board Member Reports:

Vice Chair Howard and Member Ashburn both welcomed Member Allen to the board, and they look forward to working with him.

Member Allen commented that one thing that he has noticed, even in the few days he's been here and meeting with other people, is that everyone speaks well of one another. It feels like a team here and it feels like people here are genuinely interested in helping one another and the public. He thanked everyone for their kindness, assistance and support.

6. Public Comment:

Attorney Steven Rice spoke on behalf of the Supershuttle entities with respect to the board's consideration of the decision issued in that case for precedent designation. The Supershuttle entities are very much opposed to such designation, on the grounds that they believe the decision does not accurately reflect the applicable law. The decision provides no application of the time-honored legal doctrine that franchisees are presumed to be independent non-employee operators in the absence of proof that they are under the complete or substantial control of the franchisor. The decision attempts to apply the *Borrello* test but without recognizing the unique aspects of the franchise system and despite *Borrello's* own directive to be careful to adapt its principles to the specific situation at hand. In addition, the decision gives no weight to a recent pertinent and thoughtful judicial opinion in the *Juarez v. Jani-King* case.

Chair Dresser tabled the matter of designation until the next meeting to give the board time to consider his arguments.

7. Chief ALJ/Executive Director Report:

Chief ALJ/Executive Director Roldan stated that during the course of 2012 the field offices received 419,057 new cases, and issued 432,999 decisions. Accordingly, the outstanding backlog was reduced by another 16,000 cases during the course of the year. We consider the backlog to be completely illuminated when the open workload matches the monthly average of decisions that are issued. We are now within 4,000 cases of completely eliminating the backlog. Chief ALJ/Executive Director Roldan is highly confident that we are going to completely eliminate the backlog during this fiscal year, before June 30, 2013. In addition, we have been in full compliance with average case age since February of last year. The other timeliness measure that we are responsible for is time lapse, specifically the 30-day time lapse that requires 60% of the cases be closed with 30 days and the 45-day time lapse that requires 80% of the cases be closed within 45 days. Since April 2012 we have been in full compliance with the 45-day time lapse standard. We have also made tremendous strides over the last year related to the 30-day time lapse standard. We started the year closing only 5% of cases within 30 days of the filing of the appeal by the parties. By November of 2012, we had improved to 58% which is just 2% points short of the federal standard. Another success story is the tax unit which started the year with 4,711 cases and ended the year with 3,683 cases. It is a very small unit and the cases are very complicated so it is a challenge

for them to make such progress in reducing their inventory of cases.

8. Special Assistant to the Board, Lori Kurosaka Report:

Special Assistant Kurosaka reported that the Governor released his 2013/14 budget last week, and of note the Governor is asking the Labor and Workforce Development Agency to develop solutions on UI funding and the federal loan and interest repayment plan.

Special Assistant Kurosaka reported that the Co-Location Pilot reduces cases processing time by about four days, a notable savings given the short times we have to work with.

Special Assistant Kurosaka reported that EDD has returned the Imaging Feasibility Study Report to the Labor Agency, and we are waiting the final status from Carlos Quant, CIO at Labor Agency.

Special Assistant Kurosaka reported that that they are completing the first cut of business requirements on the EDD Flat File Extension Project, and still working with EDD Information Technology to launch the project.

Special Assistant Kurosaka lastly reported that, with regard to the centralizing of mailing of appeal decisions, they are working on business requirements with Field Operations staff at this point and will move to Appellate Operations soon, and then start meeting with EDD on the feasibility plan.

9. Chief ALJ of Appellate Operations, Elise Rose Report:

Chief ALJ AO Rose reported that AO registered 2,156 cases last month, well below the average for the year of 2,556. Their open balance of cases at the start of the year was 3,663, and is now down to 2,340. AO's case aging has continued to improve and in December they dropped their case average by 4 cases, ending December at 41 days which is only 1 day above the 40 day requirement.

Chief AO Rose reported that the time lapse goals are not being met for the 45-days. When you focus on getting out the old cases you then negatively impact your time lapse figures. They are working now on trying to balance time lapse cases with the old cases and expect to see the time lapse figures stabilize in the next couple of months. They are closer to the 80% goal for cases decided with 75-days, at 75%, where the goal is 80%. They are deciding 98% of the cases within the 150-

day goal. The average days in transit from Field Office to Appellate Operations is 2.99 days. They did see an increase in the number of decisions that were appealed from FO to AO at 6.3%, but that is still well under the average of 7.1% for the year. They are making slow but steady progress on the Filebound paperless project and as they do their performance improves.

10. Chief Information Officer, Rafael Placencia Report:

CIO Placencia reported that the Automated Case Scheduling System is now in place at AO, allowing for the automation of case assignments. The next phase of the project is to move out to the field. IT is anticipating testing the application next quarter.

CIO Placencia reported on E-CATS, CUIAB's next generation of CATS. They are in the testing phase of E-CATS. IT is planning stress testing the application on February 13, 2013 during business hours, 2:00 p.m. to 4:00 p.m. They have staff from IT as well as Field Operations participating in the stress testing.

CIO Placencia reported that work continues on the AO Paperless Project to fine tune the system. They are on target for getting the first phase of that project completed during the month of April.

CIO Placencia lastly reported on the CA.Mail project. The CA.Mail project consists of migrating CUIAB locally managed email system to an email service provided by the Office of Information Technology. Migration to CA.Mail requires changing email address for each employee, which is scheduled for January 27. The change is transparent from a user's perspective other than a different display name. IT has created an internal website for providing employees more information on the project.

11. Chief Administrative Services, Robert Silva Report:

Chief Silva referenced the monthly Overtime Report in the board members' packets, and noted that if we continue with the levels we are currently utilizing in overtime we would over expend by \$450,000 of our internal budget. However, that is only one portion of our budget, and we are showing a surplus in our personnel budget for the entire fiscal year overall, which more than offsets this over-expenditure.

Chief Silva reported that sometime this month they are going to release to the agency the budget call letters for the 2013/14 fiscal year for both operating expenses and personnel. They historically give management the month of February to submit requests for operating expenses and personnel and start vetting them through the month of March for the next fiscal year out. There is a lot of new management at CUIAB particularly at the PJ, level so they are going to have to work closely with them on how to submit resource and justification materials.

Lastly, Chief Silva reported that our travel claims have been submitted through EDD, but a travel bulletin will be released soon requiring all future travel claims to be submitted through the CalATERS global system after March 1.

12. Chief Counsel's Report:

Chief Counsel Hilton reported that the board is presently carrying 324 court cases. Just two new cases were filed last month, a record low, and six were closed. The board was reversed in three of those cases, nothing consequential, just the judge viewing the facts of the case in a different light. Our normal win rate is 80%, so this is very much out of the ordinary.

13. Unfinished and New Business:

Chair Dresser stated that, with regard to the board decision in AO-278558, San Francisco Unified School District, we have just received comments about the proposed precedent designation, so this item will also be put off to the next meeting to give the board time to evaluate those comments.

14. Closed Session:

The Board went into closed session. No votes were reported.

Adjournment