

**STATE OF CALIFORNIA
COMMISSION ON STATE MANDATES**

RECEIVED
January 12, 2015
*Commission on
State Mandates*

In the Matter of the Claim of)	
)	
THE CITY OF LOS ANGELES,)	Incorrect Reduction Claim No.:
)	
Claimant/Appellant,)	CSM 09-4081-1-01
)	
And)	Firefighter's Cancer
)	Presumption Program
OFFICE OF THE)	Chapter 1568, Statutes of 1982
STATE CONTROLLER,)	
STATE OF CALIFORNIA)	REPLY TO THE RESPONSE
)	SUBMITTED BY THE
Respondent.)	STATE CONTROLLER
_____)	

INTRODUCTION AND STATEMENT OF FACTS

On September 4, 2009, the State Controller's Office ("SCO") issued its final audit report on claims, made by the City of Los Angeles ("City"), for the four fiscal years ending on June 30, 2007.¹ The audit disallowed disability benefit costs totaling \$516,132 by labeling these costs as "unclaimed" – hence, the "reduction" that is the subject matter of this proceeding.

There are essentially no disputed "facts." Rather, there is a dispute regarding definitions and characterizations, and whether or not SCO has carried out their function within the spirit of the legislative mandate. SCO performed the audit referred to in their "Response." The audit found that the City's claim submission made an arithmetic error in totaling the benefit costs that were to be claimed for fiscal year

¹ The City's fiscal years run from July 1 through June 30 of the following calendar year.

2003-2004. The total claimed omitted (in the addition) numerous costs and benefits. The total of this excluded-in-error amount was \$516,132 and that is not in dispute.

The City pointed this out in its Incorrect Reduction Claim.

The City submitted the instant Incorrect Reduction Claim (“IRC”) on January 14, 2010.² Almost five years later, on December 12, 2014, the State Controller filed its formal “response.” Correspondence dated January 26, 2010 from Ms. Nancy Patton, Assistant Executive Director of the Commission, to both parties, states (in pertinent part):

“SCO Review and Response. Please file the SCO response and supporting documentation regarding this claim within 90 days of the date of this letter.”

The SCO’s response might well be rejected as having been filed approximately four years and nine months late. Nevertheless, we will address the specifics in the SCO’s response.

ARGUMENT

SCO’s Response concedes the factual issue:

“For fiscal year (FY) 2003-04, the city submitted a claim reporting disability benefit costs of \$985,119. Our audit found that the city made mathematical errors on a supporting schedule. These errors resulted in unclaimed disability benefit costs totaling \$516,132.”³

SCO further states:

“Our audit report shows that we allowed the reimbursable costs that the city claimed. Government Code Section 17560 states that the city may file an annual reimbursement claim for actual mandated costs that it incurred. It is the city’s responsibility to ensure that it files accurate mandated cost claims within the

² The Commission has stamped the document as having been received on January 26, 2010.

³ SCO Response, page 4.

statutory time allowed. Government Code Section 17568 states, 'In no case shall a reimbursement claim be paid that is submitted more than one year after the deadline specified in [Government Code] section 17560.' The city did not amend its FY 2003-04 mandated cost claim within the statutory timeframe permitted."

The SCO Response tortures the meaning of the applicable Government Code provisions and stands logic on its head – in full disregard for the legislative mandate. The city did not need to “amend” its claim, inasmuch as each and every dollar pertaining to it was in fact submitted in full detail. While SCO obliquely refers to “mathematical errors on a supporting schedule” this very supporting schedule – in fact submitted and audited by them – provides all of the details of the claims.

A review of Exhibit 1, attached, sets forth the Component/Activity Cost Detail in question.⁴ The amounts that are “shaded” total to the precise Incorrect Reduction amount of \$516,132. A simple review of SCO’s Schedule 1, and Form FCP-2 demonstrates, as the auditor found, that the dollar amount listed as a total for FY 2003-04 Disability Benefit Costs is indeed \$516,132 less than the total of all of the detailed entries.

Government Code Section 17561 indicates that these reimbursements are mandatory. Unless, as per subsection (d)(1)(C)(ii) “... the Controller determines (that a claim) is excessive or unreasonable.” No such determination has been made. In fact, SCO simply characterizes the disputed amount - \$516,132 – as “unclaimed.” This is a tortured reading of a government mandate. The itemized claims were in fact listed and submitted. “Disallowing” this amount on any basis other than a determination that they

⁴ In order to preserve confidentiality of each individual employee, their surnames have been redacted so that only the initial is provided. In all other respects, this is the same document that both sides acknowledge was prepared and submitted.

were either excessive or unreasonable is not a ground supported by the Government Code.

SCO's reference to the filing deadline having expired for FY 2003-04 is, as already noted, erroneous. Government Code Section 17561, subsection (d)(2)(C) states:

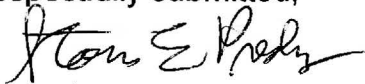
"The Controller shall adjust the payment to correct for any underpayments or overpayments that occurred in previous fiscal years."

There is in fact no time limit attached to this provision. Any overpayment, including those owing to an error of arithmetic, would presumably be the subject of a subsequent offset or recovery by the Controller's office. Hence, under the terms of the statute, the amount "disallowed" should have been recalculated and deemed included in the amount claimed.

CONCLUSION

It is in the interest of carrying out the substantive intent of the statute and program, the dictates of the legislature and expectations of reimbursement on behalf of all of the residents of the City of Los Angeles, and basic fairness, that we urge a modification of the Controller's determination.

Respectfully submitted,



Steven E. Presberg
Senior Personnel Analyst
City of Los Angeles, Personnel Department
(213) 473-9130

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COMMISSION ON STATE MANDATES**

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And)	Firefighter's Cancer
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OFFICE OF THE)	Chapter 1568, Statutes of 1982
STATE CONTROLLER,)	
STATE OF CALIFORNIA)	AFFIDAVIT
)	
Respondent.)	
_____)	

I, Steven E. Presberg, declare as follows:

1. I am an employee of the City of Los Angeles, Personnel Department, which oversees the operation of the City's Workers' Compensation program.
2. I am over the age of 18 and have been a City employee since June, 1999.
3. I have prepared the enclosed "Reply" to the State Controller and have reviewed all necessary documents and materials upon which the City's claim is based.
4. The attached Exhibit is a true copy of a document presented to the State Controller during their audit in this matter, except as redacted as to employee surnames.

5. The statements in the enclosed "Reply" and in this Affidavit are made under penalty of perjury and are true and correct to the best of my knowledge, and upon information and belief.

Date: January 8, 2015

CITY OF LOS ANGELES
PERSONNEL DEPARTMENT

By: 

Steven E. Presberg
L.A. City Personnel Dep't.
700 E. Temple St. – Room 380
Los Angeles, CA 90012
(213) 473-9130
steve.presberg@lacity.org

HOWARD S	\$3,261.25	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$3,261.25
ARTHUR S	\$151.97	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$151.97
RANDOLPH S	\$1,372.73	\$0.00	\$0.00	\$0.00	\$0.00	\$466.19	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$1,838.92
GARY S	\$357.81	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$357.81
DAVID S	\$2,669.78	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$2,669.78
LESLIE S	\$391,697.20	\$0.00	\$0.00	\$7,300.00	\$55,415.99	\$7,500.00	\$1,852.39	\$0.00	\$0.00	\$0.00	\$0.00	\$463,765.58
DAVID S	\$2,433.31	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$2,433.31
ROBERT S	\$167.64	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$167.64
PAUL T	\$409.48	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$409.48
JEFFREY T	\$23,199.04	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$23,199.04
BRUCE U	\$500.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$500.00
JAMES V	\$886.59	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$886.59
PATRICK VI	\$47.60	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$47.60
BRUCE W	\$243.40	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$56.52	\$0.00	\$0.00	\$299.92
RICHARD W	\$333.55	\$0.00	\$0.00	\$8,840.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$9,173.55
MICHAEL W	\$1,460.02	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$12.13	\$0.00	\$0.00	\$1,472.15
GEORGE W	\$1,890.12	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$1,890.12
JOHN W	\$136.56	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$136.56
MICHAEL W	\$817.13	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$221.64	\$0.00	\$1,038.77
MIKE W	\$521.22	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$521.22
JAY W	\$234.09	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$234.09
KURT W	\$765.26	\$0.00	\$4,926.38	\$460.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$6,151.64
JOHN W	\$575.75	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$575.75
RANDY W	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$52.44	\$0.00	\$52.44
THOMAS W	\$5,170.60	\$0.00	\$945.28	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$30.23	\$87.43	\$0.00	\$6,233.54
DANIEL W	\$2,786.60	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$2,786.60
TIMOTHY W	\$32,395.23	\$0.00	\$0.00	\$0.00	\$20,223.67	\$0.00	\$0.00	\$0.00	\$39.95	\$115.96	\$0.00	\$52,774.81
ROY Y	\$1,436.17	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$1,436.17
ROGER Y	\$1,700.37	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$1,700.37
JAMES Y	\$676.52	\$0.00	\$10,873.11	\$6,768.66	\$0.00	\$0.00	\$4,350.62	\$0.00	\$0.00	\$0.00	\$0.00	\$22,668.91
WILLIAM Z	\$5,343.83	\$0.00	\$0.00	\$0.00	\$16,763.63	\$0.00	\$0.00	\$0.00	\$550.99	\$0.00	\$0.00	\$22,658.45
ROGER Z	\$270.45	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$270.45
(05) TOTAL	\$894,119.43	\$1,266.46	\$44,618.43	\$75,977.47	\$381,944.62	\$66,970.00	\$18,969.34	\$7,372.68	\$8,775.36	\$1,236.49	\$1,501,250.28	
Amount on orig. form	\$411,658.99	\$1,266.46	\$27,873.66	\$75,977.47	\$381,944.62	\$51,970.00	\$18,969.34	\$6,682.86	\$8,775.36	\$1,236.49	\$985,118.76	

Additional Reimbursable Disability Costs

\$516,131.52

= costs included in original submission but not added in total.

\$482,460.44

\$16,744.77

\$15,000.00

\$689.82

\$1,236.49

\$516,131.52

\$0.00

DECLARATION OF SERVICE BY EMAIL

I, the undersigned, declare as follows:

I am a resident of the County of Sacramento and I am over the age of 18 years, and not a party to the within action. My place of employment is 980 Ninth Street, Suite 300, Sacramento, California 95814.

On January 13, 2015, I served the:

Claimant Rebuttal Comments

Firefighter's Cancer Presumption, 09-4081-I-01

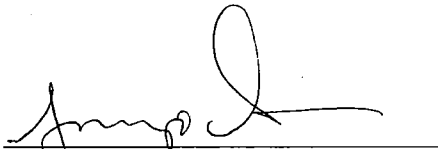
Statutes 1982, Chapter 1568

Fiscal Year: 2003-2004

City of Los Angeles, Claimant

By making it available on the Commission's website and providing notice of how to locate it to the email addresses provided on the attached mailing list.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on January 13, 2015 at Sacramento, California.



Lorenzo Duran

Commission on State Mandates

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COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 1/8/15

Claim Number: 09-4081-I-01

Matter: Firefighter's Cancer Presumption

Claimant: City of Los Angeles

TO ALL PARTIES, INTERESTED PARTIES, AND INTERESTED PERSONS:

Each commission mailing list is continuously updated as requests are received to include or remove any party or person on the mailing list. A current mailing list is provided with commission correspondence, and a copy of the current mailing list is available upon request at any time. Except as provided otherwise by commission rule, when a party or interested party files any written material with the commission concerning a claim, it shall simultaneously serve a copy of the written material on the parties and interested parties to the claim identified on the mailing list provided by the commission. (Cal. Code Regs., tit. 2, § 1181.3.)

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