

**ATTACHMENT B**

**STAFF'S ARGUMENT**

## STAFF'S ARGUMENT TO ADOPT THE PROPOSED DECISION

Harry W. Arnold (Decedent) was employed as an Officer for the California Highway Patrol (CHP) and as such was a state safety member of CalPERS.

Decedent retired on June 1, 1969, naming his first wife Patricia Arnold as his Option 2W beneficiary. In November 1977, the marriage was terminated, and Patricia waived all interest in Decedent's CalPERS benefits.

Decedent married his second wife Aida Arnold (Aida) in November 1982. Aida had two children from a prior marriage, Marie Arnold (Respondent) and her brother. On November 10, 1988, Decedent named Aida as his sole designated beneficiary.

Decedent died on September 19, 1995. In October 1995, CalPERS notified Aida that she was Decedent's designated beneficiary to receive his pro-rata and retired death benefits, and that she was his designated beneficiary to receive a lifetime monthly Option 2 allowance.

Aida submitted a claim to CalPERS for all survivor benefits to which she was entitled upon Decedent's death. Aida designated Respondent and her brother as the primary and secondary beneficiary, respectively, of the prorated monthly allowance payable upon Aida's death. On October 24, 1995, CalPERS approved her claim.

On December 15, 2023 (28 years later), Respondent submitted a Pre-Retirement Lump-sum Beneficiary Designation form and a copy of Decedent's will to CalPERS. She claimed to be entitled to half the survivor benefits payable upon Decedent's death.

On May 1, 2024, CalPERS informed Respondent that she is not entitled to survivor benefits. The letter explained in part: "All benefits due to [Decedent's] survivors were distributed at the time of his death pursuant to [his] retirement election and beneficiary designation and in accordance with the California Government Code. No further benefits are payable on his behalf."

On May 30, 2024, CalPERS sent a follow-up letter to Respondent. It explained the following benefits were payable upon Decedent's death: (1) Option 2 monthly allowance; (2) retired death benefit (\$2,000); and (3) a pro-rata share of the monthly allowance for the 18 days in September prior to his death (\$1,556.02). CalPERS explained that Respondent was not entitled to any of those benefits because she was "not designated as a primary beneficiary in any of [Decedent's] beneficiary requests." CalPERS further explained that Decedent's will was insufficient to designate Respondent as his Option 2 beneficiary because: (1) Decedent designated Aida as his beneficiary; and (2) CalPERS may accept a will as written designation of a beneficiary only when the will clearly indicates the testator's intent to make such a designation. Here, Decedent did not expressly identify any of his CalPERS benefits in his will. CalPERS also explained it paid the pro-rata and retired death benefit to Aida in 1995, and that Aida had been receiving her Option 2 allowance since then. Respondent was

required to make any claim that those benefits were erroneously paid to Aida no later than six months from her discovery of the error and that time had long since lapsed. CalPERS' letter provided appeal rights.

On May 31, 2024, Respondent appealed this determination and exercised her right to a hearing before an Administrative Law Judge (ALJ) with the Office of Administrative Hearings (OAH). A hearing was held on December 30, 2024. Respondent represented herself at the hearing.

At the hearing, CalPERS' staff testified that Decedent chose to receive an Option 2 monthly allowance when he retired. He received a smaller monthly allowance in exchange for the ability to designate a beneficiary to continue receiving the allowance for life after his death. His designation of the Option 2 benefit is irrevocable unless a qualifying event such as divorce occurs. In that instance, Decedent may designate a new Option 2 beneficiary which he did after he married Aida. CalPERS approved Aida's claim for the Option 2 allowance and retired death benefit. Upon Aida's death, the monthly allowance will cease. Under her current beneficiary designation, the pro-rata amount due will be paid to Respondent, if alive, otherwise to Respondent's brother.

Respondent testified at the hearing that CalPERS' letters to her were confusing. She insisted Decedent's will is valid and enforceable, and she claimed entitlement to half the survivor benefits pursuant to the terms of the will.

After considering all the evidence introduced, as well as arguments by the parties, the ALJ denied Respondent's appeal. The ALJ found that Respondent had the burden of proving her entitlement to half of Decedent's survivor benefits but failed to meet her burden. The ALJ found Respondent's claim to be devoid of any evidentiary support. First, CalPERS' correspondence explained that survivor benefits may be transferred outside of probate only through a valid beneficiary designation. Decedent provided for such transfer when he designated Aida as his beneficiary. Second, Decedent's will did not bequest his CalPERS benefits to anyone, let alone Respondent, because those benefits were not mentioned in the will. Last, Respondent failed to identify any correctable error or omission that led to CalPERS paying Aida the survivor benefits. The ALJ found that Aida was correctly named Decedent's designated beneficiary and she was entitled to those payments. As such, CalPERS properly paid the pro-rata benefit and retired death benefit to her in 1995; and has been properly paying the Option 2 benefit to her each month. The ALJ found that Respondent failed to prove Aida received any of those benefits due to a correctable error or omission.

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

March 19, 2025

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