

ATTACHMENT B

Staff Argument

STAFF'S ARGUMENT TO ADOPT THE PROPOSED DECISION

The Honorable William F. Rylaarsdam (Decedent) retired for service beginning July 2016. At the time of his retirement, Decedent selected the Option 2 benefit, and designated his first wife Janice Rylaarsdam as the beneficiary of the lifetime monthly benefits upon his death. The option 2 benefits provided Decedent with the pop-up option in the event Janice Rylaarsdam predeceased him.

On July 19, 2007, Decedent and Janice Rylaarsdam executed the Rylaarsdam Family Trust (Family Trust or Respondent Trust).

On June 5, 2017, Janice Rylaarsdam passed away. Decedent timely notified JRS of his wife's passing. By letter dated June 29, 2017, JRS notified Decedent that due to the pop-up provision, effective July 1, 2017, his reduced monthly allowance would increase to the unmodified allowance (from \$12,370.35 to \$13,704.50, an increase of \$1,334.15 per month). Decedent continued to receive the unmodified allowance until his death and never contacted JRS to modify his retirement option.

On January 5, 2018, the Family Trust was amended and Decedent's daughter Mary Jane Rylaarsdam was named as Trustee. All Decedent's personal and real property was listed as assets of the Family Trust.

On November 5, 2019, JRS received correspondence from Decedent indicating that he was not legally married and did not have a registered domestic partner.

On July 16, 2020, Decedent married Barbara Foster (Respondent Foster). On July 21, 2020, Respondent Foster signed the Foster-Rylaarsdam Family Trust in which Respondent Foster was given interest in the residence where she and Decedent lived. On the same day, Justice Rylaarsdam executed a will whereby he bequeathed all of his separate property (which did not include his residence), to the Family Trust and he disinherited Respondent Foster from receiving any of his separate property.

On July 28, 2020, JRS received a valid Special Power of Attorney form designating Respondent Foster as Decedent's attorney in fact. By letter dated August 3, 2020, JRS confirmed that the Special Power of Attorney had been processed.

On August 3, 2020, Justice Rylaarsdam died.

On August 7, 2020, CalPERS received a letter purportedly signed by Decedent. The letter was dated August 3, 2020, the date of his death. In the letter, Decedent informed JRS that he married Respondent Foster on July 16, 2020. He requested Respondent Foster be added to his retirement account to receive all benefits now and upon his passing. At the time Decedent passed away, he was receiving the monthly pop-up benefit for his lifetime, with no lifetime monthly optional benefit remaining after his death.

JRS reached out to the Family Trust and Respondent Foster regarding distribution of the following lump-sum benefits: the July 31, 2020 warrant (\$11,548.25), the Pro-Rata allowance for August 2020 (\$1,485.35), and the balance of unused member contributions (\$180,790).

By letters dated September 25 and 29, 2020, JRS determined that the optional monthly benefits and surviving spouse benefits were not available or payable to Respondent Foster. The optional monthly benefit was not payable to Respondent Foster pursuant to Government Code sections 75077 and 21462 because, at the time of his death, Decedent was receiving the unmodified allowance, which is the highest monthly allowance and leaves no residual monthly benefits payable. JRS determined the surviving spouse benefits are not payable because Decedent and Respondent Foster were not married or registered partners one year before Decedent retired as required by Government Code section 75077. JRS determined that the lump-sum benefits were payable to the Family Trust. JRS determined that Decedent did not have a valid beneficiary designation on file at the time of his death. JRS did not find the August 3, 2020 letter as an acceptable beneficiary designation because the signature on the letter did not match Decedent's known signature on many other documents.

Respondent Foster 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 June 27, 2022. Respondent Foster was represented by counsel at the hearing. Mary Jane Rylaarsdam, Trustee, represented Respondent Trust at the hearing.

Respondent Foster testified on her own behalf. Respondent testified she was with Decedent the day he died, and he was well enough to hold a conversation with her and sign the August 3, 2020 letter, designating her as the beneficiary to all of his death benefits. Respondent Foster did not call anyone else to testify on her behalf.

Three of Decedent's children, all of whom are the beneficiaries of the Family Trust, testified that they were also with Decedent on the day of his death. They testified that Decedent was completely incapacitated and unresponsive, incapable of understanding or signing a letter. Two of the children also testified that they were familiar with Decedent's signature, and they do not believe Decedent signed the August 3, 2020 letter.

JRS presented the testimony of JRS staff. JRS staff testified that they have many documents on file with Decedent's signature and the signatures on those documents did not match the signature on the August 3, 2020 letter. JRS staff also explained operation of the relevant provisions of the Judges' Retirement Law and Public Employees' Retirement Law to show why Respondent Foster is not eligible to receive any of Decedent's death benefits.

After considering all of the evidence introduced, as well as arguments by the parties, the ALJ denied Respondent Foster's appeal. The ALJ found that JRS correctly determined Respondent Foster was not entitled to the monthly option benefits or the surviving spouse

benefits. The ALJ also held that JRS correctly determined that Respondent Foster was not entitled to the lump-sum death benefits. Respondent Foster did not qualify as a surviving spouse, and even if she did, she was not a validly named beneficiary. The ALJ held that the August 3, 2020 letter was not a valid beneficiary designation. The only evidence of an attempt to make Respondent Foster a beneficiary of Decedent's retirement account was the August 3, 2020 letter. However, the ALJ found that Respondent Foster failed to meet her burden of proof to show the letter was valid. The ALJ agreed with JRS that the signature on the August 3, 2020 letter was not Decedent's. Finally, the ALJ found that the proper recipient of the pro-rata benefits was Respondent Family Trust. After reviewing Decedent's end of life documents, the ALJ found Decedent's intent to be very clear: his entire estate with the exception of his residence was to go to the Family Trust.

In the Proposed Decision, the ALJ affirmed JRS' determinations finding the correct recipient of Decedent's death benefits to be the Family Trust. The ALJ denied Respondent Foster's appeal.

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

November 16, 2022

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