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CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT
12 SYSTEM BOARD OF ADMINISTRATION (*aka* CalPERS)

13
14 SUPERIOR COURT OF THE STATE OF CALIFORNIA
15 COUNTY OF ALAMEDA
16 OAKLAND DIVISION

17 JOSEPH JOHN JELINCIC, JR.,

18 Plaintiff,

19 v.

20 CALIFORNIA PUBLIC EMPLOYEES'
21 RETIREMENT SYSTEM BOARD OF
ADMINISTRATION,

22 Defendant.

Case No. RG21090970

**DEFENDANT CALPERS'S ANSWER TO
PLAINTIFF JELINCIC'S PETITION FOR
WRIT OF MANDATE AND COMPLAINT
FOR EQUITABLE RELIEF**

Dept: 16
Judge: Honorable Michael M. Markman

1 DEFENDANT CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM BOARD OF
2 ADMINISTRATION ("CALPERS" or "DEFENDANT") answers PLAINTIFF JOSEPH JOHN
3 JELINCIC, JR's ("JELINCIC" or "PLAINTIFF") Petition for Writ of Mandate and Complaint for
4 Equitable Relief ("Petition/Complaint") as follows:

5 CALPERS generally denies each and every allegation of JELINCIC's Petition/Complaint, except
6 verified paragraphs 4, 6-8, 15-16, 32, 50-51, 55-57, 62, 64, 68, 70-74, which CALPERS specifically
7 addresses below.

8 4. CALPERS admits that it did not release records in response to JELINCIC's CPRA request
9 for "[a]ny records, including but not limited to, documents, analysis, appraisals, notes, minutes and/or
10 recordings, which document, support, suggest, hint or warn [of] a market value lower than reported value
11 for any private asset." See Petition/Complaint, Ex. G. CALPERS denies any remaining allegations in
12 paragraph 4.

13 6. CALPERS admits that JELINCIC is a former member of the CALPERS Board of
14 Administration, was a CALPERS investment officer from 1986-2019, and is a member of CALPERS and
15 receives a pension from CALPERS. CALPERS lacks sufficient knowledge or information to form a
16 belief as to the truth of the remaining allegations in paragraph 6 and on that basis denies them.

17 7. CALPERS admits that JELINCIC has attended some CALPERS Board meetings since he
18 stopped being a member of the Board. CALPERS lacks sufficient knowledge or information to form a
19 belief as to the truth of the remaining allegations in paragraph 7 and on that basis denies them.

20 8. CALPERS lacks sufficient knowledge or information to form a belief as to the truth of the
21 allegations in paragraph 8 and on that basis denies them.

22 15. Denied.

23 16. Denied.

24 32. CALPERS admits that, in the transcript of the August 17, 2020 open session meeting,
25 President Jones states, "The purpose of today's meeting is to hear briefing on performance, employment,
26 and personnel items." Otherwise, the transcript speaks for itself and CALPERS denies the remaining
27 allegations in paragraph 32.

28 50. CALPERS admits that its Office of Stakeholder Relations received a CPRA request from

1 JELINCIC on September 21, 2020. CALPERS admits that JELINCIC’s CPRA request included the
2 quoted language in paragraph 50. *See* Petition/Complaint, Ex. C at 1. Otherwise, the CPRA request
3 speaks for itself and CALPERS denies the remaining allegations in paragraph 50.

4 51. CALPERS admits that it did not provide any records in response to JELINCIC’s
5 September 21, 2020 CPRA request. CALPERS admits that Exhibit C to the Petition/Complaint appears
6 to be a copy of CALPERS’s September 25, 2020 response letter to JELINCIC. Otherwise, the letter
7 speaks for itself and CALPERS denies the remaining allegations in paragraph 51.

8 55. CALPERS admits that the Board agendas for the closed sessions held on December 1 and
9 2, 2020 listed “1. First Round Interviews for the CalPERS Chief Investment Office Position” and
10 “Government Code sections 11126(a)(1) and (g)(1).” Otherwise, the agendas speak for themselves and
11 CALPERS denies the remaining allegations in paragraph 55.

12 56. CALPERS admits that the Board agendas for the closed sessions held on December 14
13 and 16, 2020 listed “Second Round Interviews for the CalPERS Chief Investment Officer Position” and
14 “Government Code sections 11126(a)(1) and (g)(1).” CALPERS admits that the only personnel matter
15 identified in those agendas to be discussed during the closed sessions relates to the CIO position.
16 Otherwise, the agendas speak for themselves and CALPERS denies the remaining allegations in
17 paragraph 56.

18 57. CALPERS admits that the Board agenda for the closed session held on March 2, 2021
19 lists “Government Code sections 11126(a)(1) and (g)(1).” CALPERS admits that the only personnel
20 matter identified in that agenda to be discussed during the closed session relates to the CIO position.
21 Otherwise, the agenda speaks for itself and CALPERS denies the remaining allegations in paragraph 57.

22 62. Denied.

23 64. CALPERS admits that the BDO June 30, 2002 Audit Wrap-Up Report¹ includes the
24 quoted language in paragraph 64. Otherwise, the report speaks for itself and CALPERS denies the
25 remaining allegations in paragraph 64.

26 68. CALPERS admits that its Office of Stakeholder Relations received a CPRA request from
27

28 ¹ https://www.calpers.ca.gov/docs/board-agendas/202011/risk/item6a-02_a.pdf.

1 JELINCIC on January 13, 2020. CALPERS admits that JELINCIC’s CPRA request included the quoted
2 language in paragraph 68. Otherwise, CALPERS lacks sufficient knowledge or information to form a
3 belief as to the truth of the remaining allegations in paragraph 68 and on that basis denies them.

4 70. CALPERS admits that it did not provide any records in response to JELINCIC’s January
5 2020 CPRA request. CALPERS admits that Exhibit G to the Petition/Complaint appears to be a copy of
6 a January 23, 2020 letter from CALPERS’s Office of Stakeholder Relations to JELINCIC. CALPERS
7 admits that the letter includes the quoted language in paragraph 70. Otherwise, the letter speaks for itself
8 and CALPERS denies the remaining allegations in paragraph 70.

9 71. CALPERS admits that Exhibit H to the Petition/Complaint appears to be a copy of a
10 January 24, 2020 letter from JELINCIC to the President of the CALPERS Board of Administration.
11 CALPERS admits that the letter includes the quoted language in paragraph 71. Otherwise, the letter
12 speaks for itself and CALPERS denies the remaining allegations in paragraph 71.

13 72. CALPERS admits that Exhibit I to the Petition/Complaint appears to be a copy of a
14 February 11, 2020 letter from CALPERS’s Legal Office to JELINCIC. CALPERS admits that the letter
15 includes the quoted language in paragraph 72. Otherwise, the letter speaks for itself and CALPERS
16 denies the remaining allegations in paragraph 72.

17 73. CALPERS admits that Exhibit J to the Petition/Complaint appears to be a copy of a
18 February 23, 2020 letter from JELINCIC to the President of the CALPERS Board of Administration.
19 CALPERS admits that the letter includes the quoted language in paragraph 73. Otherwise, the letter
20 speaks for itself and CALPERS denies the remaining allegations in paragraph 73.

21 74. CALPERS admits that it did not respond to JELINCIC’s February 23, 2020 letter.
22 CALPERS admits that it did not release records in response to JELINCIC’s CPRA request for “[a]ny
23 records, including but not limited to, documents, analysis, appraisals, notes, minutes and/or recordings,
24 which document, support, suggest, hint or warn [of] a market value lower than reported value for any
25 private asset.” *See* Petition/Complaint, Ex. G. CALPERS denies any remaining allegations in paragraph
26 74.

AFFIRMATIVE DEFENSES

27
28 For affirmative defenses, CALPERS alleges as follows:

1 **PROOF OF SERVICE**

2 I am employed in San Francisco County, State of California, in the office of a member of the bar
3 of this Court, at whose direction the service was made. I am over the age of eighteen years, and not a
4 party to the within action. My business address is 217 Leidesdorff Street, San Francisco, CA 94111.

5 On April 28, 2021, I served the following documents in the manner described below:

6 **DEFENDANT CALPERS'S ANSWER TO PLAINTIFF JELINCIC'S PETITION FOR**
7 **WRIT OF MANDATE AND COMPLAINT FOR EQUITABLE RELIEF**

8 BY ELECTRONIC SERVICE: By electronically mailing a true and correct copy through
9 Durie Tangri's electronic mail system from mrubalcaba@durietangri.com to the email
10 addresses set forth below.

11 On the following part(ies) in this action:

12 Michael T. Risher
13 LAW OFFICE OF MICHAEL T. RISHER
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Email: michael@risherlaw.com; service@risherlaw.com

14 Attorney for Plaintiff
15 Joseph John Jelincic, Jr.

16 Abenicio Cisneros
LAW OFFICE OF ABENICIO CISNEROS
2443 Fillmore Street, #380-7379
17 San Francisco, CA 94115
18 Email: acisneros@capublicrecordslaw.com

19 Attorney for Plaintiff
Joseph John Jelincic, Jr.

20 I declare under penalty of perjury under the laws of the State of California that the foregoing is
21 true and correct. Executed on April 28, 2021, at San Francisco, California.

22 
23 _____
Mary Ann Rubalcaba