

COUNTY OF VENTURA

# civil service commission

BOARD OF REVIEW AND APPEALS



**Commissioners**

Don Becker  
Alyse M. Lazar  
J. William Little  
Haywood Merricks III  
James Vandenberg

**MINUTES OF  
SPECIAL MEETING  
WEDNESDAY, JANUARY 18, 2012  
1:00 p.m.  
County of Ventura Government Center  
PACIFIC CONFERENCE ROOM – Hall of Justice  
(800 S. Victoria Avenue, Ventura, CA 93009)**

The meeting was called to order by Chair Vandenberg at 1:00 p.m. Commissioners present: Chair Vandenberg, and Commissioners Becker, and Lazar. Staff present: Cheryl Shaw, Commission Assistant, and Stephen Millich, Law Advisor. Jim Dembowski (IR) was also present in the audience.

1. RE APPEAL HEARING of **Paul Studer**, Case Number 11-250-19-01  
Termination of Employment by the Ventura County Employees' Retirement Association: Petitioner's Request for Continuance of hearing date set for January 23, 2012.

Winnie Cai was present representing the Ventura County Employees' Retirement Association as was the Petitioner, Paul Studer.

Mr. Studer indicated the he was still under a physician's care and has not been released to go back to work. He also stated that he is having difficulty concentrating and is asking for a continuance of his hearing based on a note from his doctor.

Chair Vandenberg asked Mr. Studer if he is currently under a doctor's care or was taking mediation which would hamper his ability to put on his case. Mr. Studer stated that he was not aware that he needed the doctor to fill out any additional information other than what was contained in his physician's note. Ms. Cai stated that the County was not opposed to a continuance provided, in the event of Mr. Studer's reinstatement, the County would not be required to pay "back pay" for the continuation period. Mr. Millich confirmed to the Commissioners that they were not required to accept a stipulation of the parties regarding the requested continuance.



SPECIAL MEETING NOTICE  
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The panel discussed optional hearing dates with Mr. Studer who stated that he was unable to work through the end of March. Ms. Cai also stated that she has a trial set for April 23<sup>rd</sup> and Ms. Shaw provided the Commission with alternative hearing dates.

In response to a question from Commissioner Lazar, Mr. Studer indicated he had not yet filed any hearing briefs in this matter. Commissioner Lazar expressed concern that at this time since a continuance had not yet been granted, Mr. Studer's brief was late and that if the Commission were to grant his request, a revised briefing schedule would require his compliance. Mr. Studer stated that he thought he could work on his hearing brief in April. Ms. Shaw and Mr. Millich confirmed that under the Commission's hearing procedures initial briefs are due 15 days prior to the initial hearing date with reply briefs due 5 days prior to that date. Mr. Millich also confirmed that during the hearing the panel can consider whether either party failed to respond with written materials.

Commissioner Lazar expressed concern that another continuance could result in Mr. Studer responding at the last possible moment since his briefs for the hearing currently set to commence next Monday were already overdue. Mr. Studer stated he was not planning on waiting to the last possible date to submit his documents. He reiterated that health reasons were preventing him from dealing with the matter in a coherent manner as he has difficulty concentrating due to a myriad of health issues which he did not feel comfortable disclosing in public.

In response to Chair Vandenberg, Mr. Millich indicated that the Commission could request and review medical records in camera in order to justify its decision and protect the petitioner's right of privacy. He stated that the Commission can also take into account the requested continuances in its ruling on any issue pertaining to back pay if necessary.

Commissioner Becker stated he did not believe the Commission should require Mr. Studer to justify the continuance with medical records. If Mr. Studer should fail to abide by the briefing schedule or request any further delays he could be asked to provide further information to justify his non-compliance at that time. Mr. Millich indicated that in the event that Mr. Studer was to request another continuance that he could be required to provide further medical justification.

Commissioner Lazar inquired about requiring the parties to participate in a telephone conference prior to the continued hearing date pursuant to the Commission's hearing procedures. The parties and Mr. Millich agreed that the phone conference would be futile as no stipulations were anticipated regarding the issues for the hearing.

Commissioner Becker moved that the Mr. Studer's appeal hearing be continued to May 21 but that if Mr. Studer failed to meet the deadline for submission of his brief and any other materials and/or requested a further continuance, he would be required to submit medical evidence to support said failure and/or request. Chair Vandenberg and Commissioner Lazar voted in favor of the motion which was passed by a vote of three in favor and none opposed.

The meeting was adjourned at 1:25 p.m.