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14 JAN FRANK

15 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
16 FOR THE COUNTY OF SAN FRANCISCO

17 CALIFORNIA ATTORNEYS,  
18 ADMINISTRATIVE LAW JUDGES AND  
19 HEARING OFFICERS IN STATE  
20 EMPLOYMENT, GLEN GROSSMAN,  
21 MARK HENDERSON, GEOFFREY  
22 SIMS, and DOES 1-500,

23 Petitioners/Plaintiffs,

24 vs.

25 ARNOLD SCHWARZENEGGER as,  
26 Governor of the State of California;  
27 DAVID GILB as Director of the  
28 Department of Personnel Administration;  
29 JOHN CHIANG, Controller of the State of  
30 California; JAN FRANK, as President of  
31 STATE COMPENSATION INSURANCE  
32 FUND, and DOES 1 50,

33 Defendants/Respondents.

Case No. CPF-09-509205

**CORRECTED DECLARATION OF JANET  
FRANK IN SUPPORT OF RESPONSE TO  
VERIFIED PETITION FOR WRIT OF  
MANDATE**

[Filed concurrently herewith Respondent and  
Defendant Jan Frank's Notice of Errata]

Date: March 20, 2009  
Time: 9:30 a.m.  
Department: 301

I, Janet Frank, declare:


1. I have personal knowledge of the following facts. If called as a witness in this action, I could and would testify competently to the facts stated in this declaration.
2. I am the President of the State Compensation Insurance Fund (the "Fund").

1 The Fund is a self-supporting, non-profit enterprise that provides workers' compensation  
2 insurance to California employers at cost with no financial obligation to the public. The Fund  
3 employs approximately 475 attorneys.

4 3. I understand that Respondent and Defendant California Governor Arnold  
5 Schwarzenegger issued an Executive Order on or about December 19, 2008 (the "Order")  
6 requiring Respondent and Defendant the Department of Personnel Administration ("DPA") to  
7 implement a furlough program of two days per month of all State employees. It is also my  
8 understanding that the Order provided for a limited exemption process. A true and correct copy  
9 of the Order is attached as Exhibit 1 to this declaration.

10 4. The Fund attempted to obtain an exemption from the DPA. The Fund  
11 made many of the same arguments asserted by Petitioners in this litigation. After extensive  
12 negotiations, however, the Fund was unable to obtain an exemption. The DPA instructed the  
13 Fund to move forward with two days of furloughs per month. Accordingly, the Fund felt it had  
14 no choice but to comply with the Order and implemented a furlough plan consistent with the  
15 Order and as directed by the DPA.

16 I declare under penalty of perjury under the laws of the State of California that the  
17 following is true and correct. Executed this 12<sup>th</sup> day of March, 2009.

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21 \_\_\_\_\_  
22 JANET FRANK

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# Office of the Governor

ARNOLD SCHWARZENEGGER  
THE PEOPLE'S GOVERNOR

## EXECUTIVE ORDER S-16-08

12/19/2008

**WHEREAS**, due to developments in the worldwide and national financial markets, and continuing weak performance in the California economy, there is an approximately \$15 billion General Fund deficit for the 2008-09 fiscal year, which without effective action, is estimated to grow to a \$42 billion General Fund budget shortfall over the next 18 months; and

**WHEREAS** the cash reserve in the State Treasury is below the amount established by the State Controller to ensure that the cash balance does not reach zero on any day in the month; and

**WHEREAS** without effective action to address the fiscal and cash crisis, the cash reserve in the State Treasury is estimated to be a negative \$5 billion in March 2009; and

**WHEREAS** on November 6, 2008, due to concerns regarding dramatically declining revenues, I issued a Special Session Proclamation and convened the Legislature of the State of California to meet in extraordinary session to address the fiscal crisis that California faces; and

**WHEREAS** the Legislature failed during that Special Session to enact any bills to address the State's significant economic problems; and

**WHEREAS** on December 1, 2008, due to the worsening fiscal crisis, I declared that a fiscal emergency exists and convened the Legislature to meet in extraordinary session to address the fiscal crisis that California faces; and

**WHEREAS** on December 1, 2008, due to the fiscal emergency and the nationwide economic recession, I also issued a Special Session Proclamation and convened the Legislature of the State of California to meet in extraordinary session to address the economic crisis; and

**WHEREAS** on December 17, 2008, the California Pooled Money Investment Board took the unprecedented action to halt lending money for an estimated 2,000 infrastructure projects as a result of the cash crisis, including the substantial risk that California will have insufficient cash to meet its obligations starting in February 2009; and

**WHEREAS** in the December 1, 2008 fiscal emergency extraordinary session, the Legislature failed to effectively address the unprecedented statewide fiscal crisis; and

**WHEREAS** immediate and comprehensive action is needed to address the fiscal and cash crisis facing the State of California; and

**WHEREAS** failure to substantially reduce the deficit carried forward from the current fiscal year into the next fiscal year will likely prevent the State from being able to finance the cashflow shortages of billions of dollars, thus making it likely that the State will miss payroll and other essential services payments at the beginning of 2009; and

**WHEREAS** immediate and comprehensive action to reduce current spending must be taken to ensure, to the maximum extent possible, that the essential services of the State are not jeopardized and the public health and safety is preserved; and

**WHEREAS** State agencies and departments under my direct executive authority have already taken steps to reduce their expenses to achieve budget and cash savings for the current fiscal year; and

**WHEREAS** a furlough will reduce current spending and immediately improve the State's ability to meet its obligations to pay for essential services of the State so as not to jeopardize its residents' health and safety in the current and next fiscal year.

**NOW, THEREFORE, I, ARNOLD SCHWARZENEGGER**, Governor of the State of California, by virtue of the power and authority vested in me by the Constitution and statutes of the State of California, do hereby determine that an emergency pursuant to Government Code section 3516.5 exists and issue this Order to become effective immediately:

**IT IS ORDERED** that effective February 1, 2009 through June 30, 2010, the Department of Personnel Administration shall adopt a plan to implement a furlough of represented state employees and supervisors for two days per month, regardless of funding source. This plan shall include a limited exemption process.

**IT IS FURTHER ORDERED** that effective February 1, 2009 through June 30, 2010, the Department of Personnel Administration shall adopt a plan to implement an equivalent furlough or salary reduction for all state managers, including exempt state employees, regardless of funding source.

**IT IS FURTHER ORDERED** that effective January 1, 2009 through June 30, 2010, the Department of Personnel Administration shall work with all State agencies and departments to initiate layoffs and other position reduction and program efficiency measures to achieve a reduction in General Fund payroll of up to ten percent. A limited exemption process shall be included.

**IT IS FURTHER ORDERED** effective January 1, 2009, the Department of Personnel Administration shall place the least senior twenty percent of state employees funded in any amount by General Fund resources on the State Restriction of Appointment (SROA) list.

**IT IS FURTHER ORDERED** that effective January 1, 2009 through June 30, 2010, all State agencies and departments under my direct executive authority, regardless of funding source, are prohibited from entering into any new personal services or consulting contracts to perform work as a result of the furloughs, layoffs or other position reduction measures implemented as a result of this Order.

**IT IS REQUESTED** that other entities of State government not under my direct executive authority, including the California Public Utilities Commission, the University of California, the California State University, California Community Colleges, the legislative branch (including the Legislative Counsel Bureau), and judicial branch, implement similar or other mitigation measures to achieve budget and cash savings for the current and next fiscal year.

This Order is not intended to create, and does not create, any rights or benefits, whether substantive or procedural, or enforceable at law or in equity, against the State of California or its agencies, departments, entities, officers, employees, or any other person.

**I FURTHER ORDER** that, as soon as hereafter possible, this Order shall be filed in the Office of the Secretary of State and that widespread publicity and notice be given to this Order.



**IN WITNESS WHEREOF** I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this 19<sup>th</sup> day of December, 2008.

**ARNOLD SCHWARZENEGGER**  
Governor of California

**ATTEST:**  
**DEBRA BOWEN**

1 **PROOF OF SERVICE**

2 I, Alison White, declare as follows:

3 I am employed in San Francisco County, San Francisco, California. I am over the  
4 age of eighteen years and not a party to this action. My business address is MANATT, PHELPS  
& PHILLIPS, LLP, One Embarcadero Center, 30<sup>th</sup> Floor, San Francisco, California 94111. On  
5 March 12, 2009, I served the within:

6 **CORRECTED DECLARATION OF JANET FRANK IN SUPPORT OF RESPONSE  
TO VERIFIED PETITION FOR WRIT OF MANDATE**

7 on the interested parties in this action addressed as follows:

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19  **(BY ELECTRONIC MAIL)** By transmitting such document(s) electronically at  
20 [time] from my e-mail address, [aswhite@manatt.com](mailto:aswhite@manatt.com) at Manatt, Phelps & Phillips,  
21 LLP, San Francisco, California, to the person(s) at the electronic mail addresses  
listed above. The transmission was reported as complete and without error.

22  
23 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 March 12, 2009, at San  
24 Francisco, California.

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26 \_\_\_\_\_  
Alison White

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