

**BEFORE THE  
BOARD ELECTION COORDINATOR  
CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM  
STATE OF CALIFORNIA**

**In the Matter of the Candidate Statement Arbitration of:**

**Joseph "JJ" Jelincic, Candidate**

**v.**

**Henry Jones, Protestant**

**OAH No. 2019060696**

**ARBITRATION DETERMINATION**

An arbitration hearing before Dena Coggins, Administrative Law Judge (ALJ), Office of Administrative Hearings (OAH), State of California, was set to be heard on July 18, 2019, in Sacramento, California.

Jason Jasmine, Attorney at Law, represents Joseph "JJ" Jelincic (candidate).

Gary Winuk, Attorney at Law, represents Henry Jones (protestant).

**FINDINGS**

1. Pursuant to California Code of Regulations, title 2, section 554.6, subdivision (a), "each candidate for an elective Board member position may provide a

candidate statement," and the statement must "be truthful, and shall contain no obscene, vulgar, profane, libelous or defamatory assertions or information. The statement shall not include any remarks or questions that are inherently misleading, including rhetorical remarks."

2. Candidate filed a candidate statement and addendum with the Election Coordinator (Candidate Statement/Addendum). On June 10, 2019, protestant made a formal request to the Board Election Coordinator for arbitration, alleging that portions of the Candidate Statement/Addendum, set forth below, are false, inherently misleading, and should be removed.

3. Protestant challenges the following statements, as they appear in the Candidate Statement/Addendum:

Statement 1: Unlike the incumbent: . . . I believe in *your* right to a *secret ballot*.

Statement 2: Unlike the incumbent: . . . I opposed putting a bar code that identified the *specific* voter and requiring the voter's signature *on* the ballot. A procedure I was able to help eliminate.

Statement 3: Unlike the incumbent: . . . I believe the Board *should monitor* something as fundamental as the election process; not just rely on staff.

Statement 4: Unlike the incumbent: . . . I *do not believe* management should *block Board access* to information.

Statement 5: Unlike the incumbent: . . . I believe in *transparency*.

Statement 6: Unlike the incumbent: . . . I do not believe we should enter into investment management contracts *without* knowing what the costs are.

Statement 7: Unlike the incumbent: . . . I do not support a private equity structure *designed to hide* cost and investments.

Statement 8: It is *your money* and you deserve to know how it is spent and invested.

Statement 9: 2018 investment returns were *negative* 3.5%; not the 8.6% claimed by the incumbent. You deserve to know the *truth*.

## **Settlement Agreement**

4. At the start of the hearing, the parties informed the ALJ that they reached a settlement agreement that would resolve protestant's appeal. On July 18, 2019, the parties filed with OAH a modified addendum (Modified Addendum) to the Candidate Statement/Addendum that contained the mutually agreed upon language to be used in lieu of the challenged Candidate Statement/Addendum. The parties stipulated that the Modified Addendum meets the guidelines for candidate statements as set forth in CalPERS Board Election Regulations, found at California Code of Regulations, sections 554 through 554.11.

The Modified Addendum reads:

I am proud to be endorsed by the *retiree* groups which are at every CalPERS Board meeting to protect *your* interests.

- California State Retirees (CSR)

- Retired Public Employees Association (RPEA)
- California State University Emeritus and Retired Staff Association (CSU-ERFSA)

I am proud to be endorsed by these *active* employee groups, which maintain strong connections with their *retirees*, and are at every Board meeting

- Cal Fire Local 2881, IAFF
- California Association of Highway Patrolman (CAHP)

I am proud to be endorsed by active employee groups who understand that it is about paying *your* benefits; not fixing the world, including:

- Southern California Associations of Law Enforcement (SCALE)
- California Statewide Law Enforcement Association – FOP Lodge #77 (CSLEA)

They support me because *we agree* the Board should *work for you*.

I opposed the change to require Medicare and non-Medicare family members to be in the same health plan.

- I believe in *your* right to a *secret ballot*.
- I believe the Board *should monitor* something as fundamental as the election process; not just rely on staff.
- I do not believe we should enter into investment management contracts *without* knowing what the costs are.

- I do not support a private equity structure *designed to hide* cost and investments.

2018 investment returns were a negative 3.5%, not 8.6%. You deserve to know the truth.

Unlike the incumbent:

- I opposed putting a bar code that identified the *specific* voter and requiring the voter's signature *on* the ballot. A procedure I was able to help eliminate.
- I *do not believe* management should *block Board access* to information.
- I believe in *transparency*.

It is *your money* and you deserve to know how it is spent and invested.

This Board should *work for you*. Allow me to *serve you*.

Please vote for me.

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## DETERMINATION

As set forth in Findings, the parties agree that candidate will modify his Candidate Statement/Addendum to reflect the language that appears in the Modified Addendum. Accordingly, the Candidate Statement/Addendum shall be modified to read as detailed in Finding 4.

DATE: July 25, 2019

DocuSigned by:  
  
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DENA COGGINS

Administrative Law Judge

Office of Administrative Hearings