

**COMMISSION ON STATE MANDATES**

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SACRAMENTO, CA 95814  
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June 5, 2015

Mr. Kurt Wilson  
City Manager  
City of Stockton  
425 N. El Dorado St., 2nd Floor  
Stockton, CA 95202

*And Parties, Interested Parties, and Interested Persons (See Mailing List)*

**Re: Notice of Claim Abandonment and Pending Dismissal**  
*Investment Reports, 02-9635802-I-67*  
Statutes 1995, Chapter 783 (SB 564)  
Statutes 1996, Chapters 156 (SB 864) and 749 (SB 109)  
Fiscal Years 1995-1996, 1996-1997 and 1998-1999  
City of Stockton, Claimant

Dear Mr. Wilson:

On October 16, 2002, the City of Stockton filed the above-named incorrect reduction claim (IRC) with the Commission on State Mandates (Commission). An IRC is a claim alleging that the Office of the State Controller (Controller) incorrectly reduced the reimbursement claim of a local agency or school district. The Commission is a quasi-judicial body whose primary responsibility is to hear and decide test claims that allege that the Legislature or a state agency imposed a reimbursable state mandate program upon local government. Additionally, the Commission hears and decides IRCs.

**Background**

It has been several years since the filing of this claim and due to a significant caseload backlog, the Commission has not yet heard this matter. After the Commission adopted two decisions on IRCs on the *Investment Reports* program addressing issues that cut across all or most of the pending IRCs on this program, a stipulation was entered into between claimant representatives, the Commission, and the Controller to attempt to negotiate settlements on the remaining IRCs on this program. To date, settlements have been negotiated by the claimants and the Controller on 69 out of the 70 IRCs filed on the *Investment Reports* program. The above entitled claim for the City of Stockton is the only remaining claim on this program.

**History of Requests for Claimant Action**

On March 27, 2014, a letter addressed to Ms. Vanessa Burke was served by the Commission to the parties, interested parties and interested persons via e-mail in accordance with Commission regulations. (Cal. Code Regs., tit. 2, § 1181.3) The letter provided the same background information above, and the contact information of Controller staff for the purposes of discussing this IRC. The letter also requested that the claimant contact the Commission by April 24, 2014 to indicate whether the claimant planned to negotiate with the Controller or wished to proceed with the hearing of this matter on the tentative hearing date in March 2015.

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Neither the Commission nor the Controller was contacted and on August 28, 2014, the Commission notified you and your City Attorney, Mr. John Luebberke, via an emailed letter, that the IRC would be dismissed within the next 60 days if you failed to respond. On October 27, 2014, Mr. Luebberke, on behalf of the city, notified the Commission of the city's intent to negotiate with the Controller to resolve the IRC.

On January 28, 2015, members of the Controller's staff discussed the IRC with Neal Lutterman, Deputy City Attorney. After that discussion, the Controller's staff called Mr. Lutterman on March 11, 2015, and were informed that he was no longer with the City of Stockton. He left a forwarding number, however, and the Controller's staff left two telephone messages on March 11 and April 3, 2015.

On April 10, 2015, I called the City Attorney's Office and asked if anyone was representing the city in this matter and was informed that Mr. Ted Wood now represents the City of Stockton and can be reached at (209) 937-8914. I provided this information to the Controller's staff, immediately after that phone call. The Controller's staff stated that they have called and left messages on Mr. Wood's voicemail three times on:

- April 13, 2015 at around 7:30 am
- April 20, 2015 at around 8:00 am
- April 30, 2015 at around 8:15 am

In addition, I myself called Mr. Wood on May 26, 2015 at around 3:45 pm and received a message that he would be out of the office for some time.

As of June 5, 2015, despite multiple attempts by Commission staff and the Controller to contact the city, the matter has yet to be resolved and the city has failed to respond or to prosecute its claim. Therefore, pursuant to Commission regulations, this IRC is once again pending dismissal. (Cal. Code Regs., tit. 2, § 1187.14)

#### **Notice of Abandonment**

The executive director may deem a matter abandoned if the claimant does not respond within 60 days of service to a written notification that the matter will be deemed abandoned. (Cal. Code Regs., tit. 2, § 1187.13) This letter serves as that written notice and unless a response is received within 60 days of service, this IRC will be deemed abandoned and summarily dismissed. (Cal. Code Regs., tit. 2, § 1187.14)

#### **Response Requested**

Please respond to this notice by **August 4, 2015** to indicate whether you want to negotiate with the Controller, proceed with the hearing of this matter, or, withdraw this matter. If no response is received, this IRC will be dismissed in accordance with Commission regulations.

You are advised that documents filed with the Commission are required to be simultaneously served on everyone on the mailing list for the matter, and to be accompanied by a proof of service. However, this requirement may also be satisfied by electronically filing your documents. Please see <http://www.csm.ca.gov/dropbox.shtml> on the Commission's website for instructions on electronic filing. (Cal. Code Regs., tit. 2, § 1181.3)

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Sincerely,

A handwritten signature in black ink, appearing to read "Heather Halsey". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Heather Halsey  
Executive Director

cc

Mr. John Luebberke  
City Attorney  
City of Stockton  
425 N. El Dorado St., 2nd Floor  
Stockton, CA 95202

**DECLARATION OF SERVICE BY EMAIL**

I, the undersigned, declare as follows:

I am a resident of the County of Sacramento and I am over the age of 18 years, and not a party to the within action. My place of employment is 980 Ninth Street, Suite 300, Sacramento, California 95814.

On June 5, 2015, I served the:

**Notice of Claim Abandonment and Pending Dismissal**

*Investment Reports, 02-9635802-I-67*

Statutes 1995, Chapter 783 (SB 564)

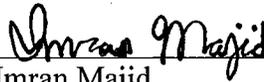
Statutes 1996, Chapters 156 (SB 864) and 749 (SB 109)

Fiscal Years 1995-1996 and 1996-1997

City of Stockton, Claimant

by making it available on the Commission's website and providing notice of how to locate it to the email addresses provided on the attached mailing list.

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 June 5, 2015 at Sacramento, California.



Imran Majid

Commission on State Mandates  
980 9<sup>th</sup> Street, Suite 300  
Sacramento, CA 9581  
(916) 323-3562

# COMMISSION ON STATE MANDATES

## Mailing List

**Last Updated:** 6/5/15

**Claim Number:** 02-9635802-I-67

**Matter:** Investment Reports

**Claimant:** City of Stockton

### TO ALL PARTIES, INTERESTED PARTIES, AND INTERESTED PERSONS:

Each commission mailing list is continuously updated as requests are received to include or remove any party or person on the mailing list. A current mailing list is provided with commission correspondence, and a copy of the current mailing list is available upon request at any time. Except as provided otherwise by commission rule, when a party or interested party files any written material with the commission concerning a claim, it shall simultaneously serve a copy of the written material on the parties and interested parties to the claim identified on the mailing list provided by the commission. (Cal. Code Regs., tit. 2, § 1181.3.)

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