

EMPLOYMENT RISK MANAGEMENT AUTHORITY (ERMA)

MINUTES OF THE BOARD OF DIRECTORS MEETING OF NOVEMBER 7, 2022

A regular meeting of the Board of Directors of ERMA was held on November 7, 2022, at the Hilton Garden Inn, 20 Advantage Ct, Sacramento, CA.

BOARD MEMBERS PRESENT:

Stuart Schillinger, BCJPIA
Robert Thompson, CalTIP
Bryan Whitemyer, CSJVRMA
Beth Lyons, PERMA
Kevin Bryant, PLAN
Roger Carroll, SCORE

BOARD MEMBERS ABSENT:

John Gillison, President, CIRA
Brett Miller, Treasurer, MBASIA
Charlene Calica, CCCHA
Melissa Guerrero, ERMAC
Linda Cox, MPA
Drew Felder, OHA
Jeremy Wittie, VCJPA

ALTERNATE MEMBERS PRESENT:

Kin Ong, CIRA
George Fink, CalTIP
Nataline Jindoian, CCCHA
Becky Ramirez, CSJVRMA
Jamie Scott, VCJPA

ALTERNATE MEMBERS ABSENT:

Heather Rowden, BCJPIA
Steve Adams, MBASIA
Reina Schwartz, MPA
George Rodericks, PLAN
Wendy Howard, SCORE
Yumi Augustus, PERMA

OTHERS PRESENT:

Jennifer Jobe, Executive Director
Danielle Davis, Board Secretary
Stacey Sullivan, Litigation Manager
Chee Xiong, Finance Manager
Will Portello, Sedgwick
Amy Northam, CIRA
Chrissy Mack, CalTIP/VCJPA
Jeanette Workman, CSJVRMA
Jaesa Cusimano, BCJPIA
Elizabeth Arce, Liebert Cassidy Whitmore
Shane Larsen, Jackson Lewis, P.C. (*left during agenda item 8.C.*)
Shadi Jalali, Alliant Insurance Services, Inc.

Bill Patterson, Sampson, Sampson & Patterson, LLP (*left during agenda item 6.B.*)
Traci Maxey, in2vate
Roger Duffield, in2vate

1. CALL TO ORDER/INTRODUCTIONS

The November 7, 2022, Board of Directors Meeting was called to order at 10:00 a.m. by Vice President Stuart Schillinger.

2. APPROVAL OF AGENDA AS POSTED (OR AMENDED)

Jamie Scott moved, seconded by Roger Carroll, to approve the agenda as posted. A vote was conducted, and the motion passed unanimously with no nays or abstentions.

3. PUBLIC COMMENTS

None.

4. CONSENT CALENDAR

Jennifer Jobe, Executive Director, pulled Consent Calendar items J) Defense Panel Update and K) Investigator Panel Update for discussion and summarized proposed updates to each.

Jamie Scott moved, seconded by Kevin Bryant, to approve the following Consent Calendar items: A) Minutes of the June 6, 2022, Board of Directors Meeting, B) Minutes of the September 12, 2022, Special Board of Directors Meeting, C) General Warrants from May 1, 2022, through September 30, 2022, D) Claims Payments from May 1, 2022, through September 30, 2022, E) Treasurer's Report as of June 30, 2022, F) PFM Quarterly Investment Report as of June 30, 2022, G) EPL Excess Policies & Invoices, H) Internal Financial Statements as of June 30, 2022, I) Resolution No. 2022-5, Establishing All Bank Accounts and Authorized Signatures, J) Defense Panel Update, K) Investigator Panel Update, L) ERMA 22/23 Training Program FAQs – redline/strikeout, and M) Board Document Review Schedule. A vote was conducted, and the motion passed unanimously with no nays or abstentions.

5. FINANCIAL MATTERS

A. Draft Audited Financial Statements for the Fiscal Year Ended June 30, 2022

Bill Patterson, Sampson, Sampson & Patterson, LLP, reviewed the draft audited financial statements for the fiscal year ended June 30, 2022.

Mr. Patterson began his presentation by stating ERMA was provided an unmodified opinion, meaning the financial statements are in accordance with generally accepted accounting

principles. He reviewed the audit parameters as well as the program and financial highlights from the 2021/22 Program Year. He discussed the changes in the Statement of Net Position relative to the prior year, noting the following highlights:

- Total Revenues (\$9.2 million) decreased by \$94,000
- Total Expenses (\$8.1 million) increased by \$658,000
- Total Assets (\$32.9 million) increased by \$3.3 million
- Total Liabilities (\$19.7 million) increased by \$1.9 million

Mr. Patterson noted Operating Revenues *increased* 12.1% due to an increase in deposit contributions as well as a deposit made to the Capital Contribution Fund, whereas Non-Operating Revenues *decreased* \$1.2 million mainly due to investment unrealized losses. An increase in Total Expenses was largely driven by claims expenses of \$1.3 million and an increase of \$130,000 due to increases in General and Administrative expenses (offset by a decrease in dividend release of \$750,000).

With respect to Assets, Mr. Patterson indicated the 9.9% increase over the prior year was largely driven by the retention of the current Program Year contributions, noting each year is funded in advance but paid over a period time. He stated the 10.4% increase in Total Liabilities was mainly due to increases in reserves for known claims as well as actuarial estimates of unpaid claims, as long-term claims liability is projected to increase to \$13.7 million (+\$1.1 million).

Mr. Patterson advised ERMA experienced a change in Net Position from \$12.1 million in the prior year to \$13.2 million for the fiscal year ended June 30, 2022. He concluded his presentation by directing the Board's attention to the Independent Auditor's Report for more detailed information, including: the auditor's opinion; the Management's Discussion and Analysis, which provides detailed analysis of the financial statements; the comparative information prepared by the auditors; and the Claims Development Information.

Chee Xiong, Finance Manager, reaffirmed ERMA's net position increased by \$1.1 million despite a \$2 million dividend release, a testament to ERMA's continued financial strength.

Roger Carroll moved, seconded by Bryan Whitemyer, to accept and file the ERMA Audited Financial Statements for the Fiscal Year Ended June 30, 2022. A vote was conducted, and the motion passed unanimously with no nays or abstentions.

6. TRAINING/LOSS PREVENTION MATTERS

A. In2vate Presentation - Online Training & Employee Protection Line

Roger Duffield, President, and Traci Maxey, Director of Client and Support Services, in2vate, provided a brief overview of historical services provided to ERMA members since initiation of the strategic partnership in 1999. Ms. Maxey reminded the Board that in2vate provides data warehouse services, access to the Employee Protection Line (reporting line), risk-

management on demand library storage for in2vate- and agency-supplied training content, and perhaps most notably, a platform (ERMANet) to access online training and support live training registration management. She advised in2vate's recent acquisition by iLearningEngines (iLE) has also spurred the development of new features related to artificial intelligence (AI) and machine learning, which in2vate hopes to implement in the near future.

Ms. Maxey then reviewed ERMANet utilization statistics including user counts, unique logins, frequency of training bulletins accessed, and assignment/completion of online training across agencies. She reviewed the list of available online modules and reported SB 1343 and AB 1825 as the most frequently assigned trainings. Ms. Maxey also confirmed a noticeable shift from webinar-based to in-person live trainings, presumably with the relaxing of COVID-19 restrictions.

Ms. Maxey continued with a review of the reporting line, commenting the service is being utilized by less than five percent of the membership. She cautioned against low reporting numbers as an accurate reflection of workplace incidents and encouraged greater marketing of the service, emphasizing ERMANet resources such as auto-generated flyers and an informational online training course summarizing reporting line responsibilities.

Ms. Maxey concluded her report by reviewing in2vate's strategic goals for the upcoming year, including refinement of an AI chat assistant program and revisiting the personnel policy and procedure development initiative last provided to members in 2017, in addition to continued cooperative efforts to best suit in2vate's services to ERMA's needs.

Discussion arose with respect to agencies' and employees' knowledge of and access to the reporting line. Ms. Jobe advised staff would feature the reporting line in the next weekly training bulletin and would work to develop additional marketing materials for posting on the ERMA website.

B. Training Update

Danielle Davis, Board Secretary, updated the Board regarding live and online training efforts for the 2022/23 Program Year. She noted 18 live trainings have been presented and/or scheduled, 13 of which were specifically AB 1825- and SB 1343-compliant trainings. Ms. Davis stated that whereas the majority of host agencies participated via webinar during the 2021/22 Program Year, only two of the 18 trainings were scheduled as webinars for the current year. She reported member agencies also continue to utilize the Training & Risk Management Program to support related employment/human resources training and loss-prevention efforts.

Ms. Davis reviewed ERMA's annual Training Compliance Survey, which is distributed each January and requests each member agency to self-report compliance with mandated training. She then provided a detailed breakdown of response statistics for each primary member, noting cases where either the survey response rate or reported compliance percentage was not 100%. Ms. Davis advised staff will distribute the survey for the 2022/23

Program Year in January 2023 and will include clarifying verbiage regarding compliance with ERMA's definition of 90% "substantial compliance", pursuant to Resolution No. 2021-5.

C. 2022 Target Risk Appraisal Recommendations

Ms. Jobe advised staff reviews loss performance annually to help determine which members, if any, may benefit from a risk assessment. She stated three primary factors are considered when evaluating a risk assessment recommendation: frequency, severity, and the overall loss ratio for each member (drawn from payroll, contribution, number of claims, and total incurred data). She noted ERMA's overall ratios are then typically compared to each individual member's performance, and any member whose ratio exceeds two times that of ERMA's ratio in any of the specified three categories are reviewed by staff for consideration of a risk assessment; however, the Litigation Manager occasionally makes recommendations based on other relevant factors.

Stacey Sullivan, Litigation Manager, stated that while no ERMA members exceeded any target thresholds, staff continues to observe increases in the frequency and severity of claims for one member since December 2021. Though Ms. Sullivan commented positively on the city's proactive engagement with ERMA on all claims matters in recent months, she concluded her report by requesting authorization from the Board to conduct a risk assessment of the City of Antioch, with a follow up to be presented to the Board at the June 2023 Meeting.

Nataline Jindoian moved, seconded by Jamie Scott, to approve the City of Antioch undergo a risk assessment or be subjected to further evaluation on a follow-up basis, with a report to be presented at the June 2023 meeting, based upon the outcome of the 2022 target ratio calculations. A vote was conducted, and the motion passed unanimously with no nays or abstentions.

7. MEMBERSHIP MATTERS

A. Update Regarding Members with Participation Conditions

Ms. Davis reported the ERMA Underwriting Guidelines require each prospective agency submit documents related to historical loss information, payroll, and audited financial statements, as well as a signed Intent to Participate form, executed Resolution to participate in ERMA, and completed application. She advised the Underwriting Committee then convenes to review the documents and provide a recommendation to the ERMA Board for final approval of participation, including the attachment of certain participation conditions when deemed necessary.

Ms. Davis stated nine agencies were approved for participation in ERMA, with the condition the agencies' personnel policies and procedures are updated, reviewed by legal counsel with public sector employment law expertise, and approved by the agency's governing body within two years of their effective dates of coverage. She stated staff provided a reminder in

July 2022 to representatives of the seven agencies approaching the compliance deadline of July 1, 2023. The remaining two agencies' compliance deadlines fall on July 1, 2024, and will be provided reminders accordingly. Ms. Davis concluded her report stating staff would solicit another confirmation of progress in January 2023.

B. Review of Prospective New Member Application – San Joaquin Regional Transit District (CalTIP)

Ms. Jobe reported an application for participation was received from the San Joaquin Regional Transit District, a prospective member of the California Transit Indemnity Pool (CalTIP), for participation in ERMA at a \$75,000 SIR, effective January 1, 2023. She advised the Underwriting Committee convened on October 20th to review the application, summarized as follows:

- The district reported payroll of \$10.7M for the 2021 calendar year and has 255 full-time employees and six part-time employees.
- The district has written personnel policies and procedures in place that are regularly reviewed by legal counsel and have been adopted by the district's governing board. These policies were last updated in 2014 and are currently being revised.
- The district is compliant with AB 1825 and SB 1343 training requirements and utilizes Zywave, a third-party provider, to conduct online training.

Ms. Jobe noted the Committee recommended approval of the district's participation in ERMA with two conditions: 1) the district provide supplementary underwriting information related to development of personnel policies (including complaint handling procedures) and historical losses; and 2) the district's personnel policies and procedures are reviewed and updated by legal counsel with public sector employment law expertise and formally approved by the district's governing board no later than July 1, 2024.

Beth Lyons moved, seconded by Roger Carroll, to approve the San Joaquin Regional Transit District (CalTIP) at a \$75,000 SIR, effective January 1, 2023, with the following considerations: 1) the district is accepted as a participating member of CalTIP, effective January 1, 2023; and 2) submission of requested underwriting information regarding district policies and procedures and historical loss information; and 3) the district's personnel policies and procedures are updated, reviewed by legal counsel with expertise in public sector employment law, and approved by the district's Board of Directors, no later than July 1, 2024. A vote was conducted, and the motion passed unanimously with no nays or abstentions.

8. ADMINISTRATIVE MATTERS

A. 2022/23 Goals and Objectives Update

Ms. Jobe provided a progress update on each of the four goals established at the annual workshop in April 2022, as follows:

- Goal 1: Internal Marketing Initiative. Ms. Jobe advised that staff receives applications for participation from prospective members on a regular basis and will continue to work collaboratively with pool administrators to develop successful strategies to market from within the primary pools that do not require mandatory participation in ERMA.
- Goal 2: Personnel Policies and Procedures Updates. Ms. Jobe noted staff will engage the Underwriting and Coverage Committees to develop successful methods to promote/incentivize updates to personnel policies and procedures among members, with particular focus on AB 1825/SB 1343 and complaint/claims handling procedures training.
- Goal 3: Review of ERMA Financial Position. Ms. Jobe confirmed staff will conduct a net position stress test to identify funds the Board may potentially utilize for future (or present) goals and objectives, for review and consideration in upcoming equity and dividend distribution discussions.
- Goal 4: Develop targeted Police Department training program. Ms. Jobe reported the Ad Hoc Training Committee convened in April to discuss ways of promoting targeted training among member agencies with law enforcement, including those addressing implicit bias in the public safety workplace and complaint handling procedures. Staff will meet with the Committee prior to the Annual Workshop, at which a progress update will be provided.

B. Review of the 23rd Annual Workshop Agenda

Ms. Jobe reported the 23rd Annual Workshop will be held on February 2 and 3, 2023, at the Napa Valley Marriot Hotel in Napa, California. Ms. Jobe reviewed the proposed workshop agenda, including an overview of progress on the 2022/23 Goals and Objectives, presentations from two defense panel representatives (Lozano-Smith and Buchalter, P.C.), and development of new strategic plans and goals for the coming Program Year. She advised the workshop will conclude with a review of service providers and defense panel evaluations.

C. Discussion Regarding Actuarial Services

Ms. Jobe stated ERMA has engaged Bickmore Actuarial (Bickmore) to provide actuarial services since inception of the program in 1999. With expiration of the most recent agreement upon completion of ERMA's June 30, 2022, actuarial study, Ms. Jobe proposed the following options with respect to future actuarial services:

- **Option 1:** Engage Bickmore Actuarial in negotiations for a three-year renewal agreement.
- **Option 2:** Issue a request for proposal (RFP), with review and selection of a provider delegated to the Coverage Committee.

Discussion followed regarding Bickmore's historical schedule of fees, other potential service providers, and current cost of such services. By consensus of the Board, staff was directed to pursue Option 1.

Beth Lyons moved, seconded by Roger Carroll, to direct staff to engage Bickmore Actuarial in negotiations for a three-year renewal Agreement for Actuarial Services (Option 1). A vote was conducted, and the motion passed unanimously with no nays or abstentions.

9. COVERAGE MATTERS

A. City of Escalon (CSJVRMA) Appeal of Denial of Coverage

Ms. Sullivan summarized details regarding the City of Escalon's appeal of denial of coverage based upon untimely reporting. She concluded her report by stating she did not believe the untimely report of the claim would result in financial or other prejudice to ERMA.

Discussion ensued regarding ERMA's current appeals process, historical appeal decisions, and the SIR penalty structure for granted appeals.

Roger Carroll moved, seconded by Kin Ong, to grant the City of Escalon's appeal of denial of coverage with a 25% increase to the SIR from \$25,000 to \$31,250. A vote was conducted, and the motion passed unanimously with no nays or abstentions.

B. City of Barstow (PERMA) Appeal of Denial of Coverage

Ms. Sullivan summarized details regarding the City of Barstow's appeal of denial of coverage based upon untimely reporting. In her conclusion, Ms. Sullivan confirmed she did not believe the untimely report would not result in financial or other prejudice to ERMA.

Bryan Whitemyer moved, seconded by Jamie Scott, to grant the City of Barstow's appeal of denial of coverage with a 25% increase to the SIR from \$25,000 to \$31,250. A vote was conducted, and the motion passed unanimously with no nays or abstentions.

C. City of Murrieta (PERMA) Appeal of Denial of Coverage

Ms. Sullivan summarized details regarding the City of Murrieta's appeal of denial of coverage based upon untimely reporting. She stated she did not believe the untimely report of the claim would result in financial or other prejudice to ERMA.

Kin Ong moved, seconded by Roger Carroll, to grant the City of Murrieta's appeal of denial of coverage with the following conditions: 1) a 25% increase to the SIR from \$100,000 to \$125,000; and 2) the city administer Cultural Diversity Training. A vote was conducted, and the motion passed unanimously with no nays or abstentions.

10. CLAIMS MATTERS

B. Closed Session Pursuant to Government Code Section 54956.95(a) to Discuss Claims

Ms. Sullivan stated it was no longer necessary to convene to closed session. No action was taken.

11. CLOSING COMMENTS

A. Board of Directors

None.

B. Staff

Ms. Jobe informed attendees of Mr. Schillinger's impending departure from the ERMA Board in December 2022 and conveyed staff's appreciation for his service.

12. ADJOURNMENT

The November 7, 2022, ERMA Board of Directors Meeting adjourned at 12:11 p.m. by general consent.



Danielle Davis, Board Secretary