

## HARDSHIP APPEAL WITHDRAWAL REQUEST

Case No. 09-01	
Current Bi-Weekly Deferral	\$0
Current Account Balance	\$56,597
Requested Withdrawal Amount	Full/\$56,597
Financial Emergency/Unforeseen Event	Foreclosure/Loss of Income

### Recommendation:

Staff does not recommend that the Board of Deferred Compensation Administration approve any additional monies exceeding the applicant's financial emergency in Case No. 09-01.

### Findings:

*The applicant submitted an application to Great-West and was approved for \$7,624.42 (net). The applicant received those funds on November 6, 2009. However, the applicant is appealing because he wants a full withdrawal of his Deferred Compensation account (\$56,597).*

Participants may withdraw their deferred compensation funds if they suffer an unforeseeable emergency that causes extreme financial hardship. Under the Internal Revenue Service guidelines participants must demonstrate hardship in order to make a withdrawal. An unforeseeable emergency is a severe financial hardship of the Participant resulting from an illness or accident, loss of the Participant's property due to casualty or other similar extraordinary and unforeseeable circumstances arising as a result of events beyond the control of the Participant. Under the IRS guidelines, a distribution on account of an unforeseeable emergency must not exceed the amount reasonably necessary to satisfy the emergency need.

The applicant is applying to the Board for a larger hardship withdrawal because he wishes to reduce his debt. According to the applicant his financial emergency was caused by a reduction in his income and need to provide financial support to a family member. The applicant indicated that the Fire Department has begun cutbacks on staffing at fire stations as of August 6, 2009. As a result of these "brownouts", overtime within the Fire Department has been drastically cut. The applicant has always had the ability to receive overtime since he started working with the City of Los Angeles and has based his expenses around that income. The applicant earned approximately \$15,927 per month prior to the "brownouts" and approximately \$12,941 per month after the "brownouts". Over the last three and a half months, this equates to a \$10,451 reduction in household income. At the end of 2007 to June of 2009, the applicant's mother had lost her job and the applicant assisted her during that time period. The applicant stated that he spent approximately \$15,000 to aid his mother while she was unemployed.

Great-West has approved and provided the applicant with a \$7,624 withdrawal. In addition Great-West will approve an additional \$5,461 withdrawal to cover the mortgage arrearage. In total the applicant would receive \$13,085, which would exceed the applicant's loss of income of \$10,451. However, the applicant has requested to make a full withdrawal of his Deferred Compensation account in the amount of \$56,567.

The applicant had taken out two Deferred Compensation loans within the past three years. The first loan was taken on April 11, 2006 in the amount of \$35,000 and the second loan was taken on July 3, 2008 in the amount of \$21,000. As a result, the applicant has already taken funds out of his Deferred Compensation account exceeding both the wage loss as well as the financial assistance provided to his mother. The applicant thought he would be able to refinance his primary residence to consolidate his debt that had accrued during this time period. The applicant states that he has reduced his expenditures as much as possible to alleviate the financial burden. The applicant and his wife are looking to move the applicant's in-laws into their primary residence to help stabilize their financial situation.

As indicated above to qualify for a hardship withdrawal the applicant must demonstrate that he or she has an unforeseeable emergency that causes extreme financial hardship based on the Internal Revenue Service guidelines. The applicant is currently behind on his mortgage in the amount of \$5,461.35 for his November and December mortgage payments and behind on his property taxes in the amount of \$5,476.37, even with the \$7,624.42 that was disbursed to the applicant on November 6, 2009. The applicant qualifies for another hardship withdrawal for the additional mortgage arrearage; however Great-West will not approve a withdrawal for the property tax arrearage because the property taxes do not create an immediate risk of foreclosure. Apart from the applicant's mortgage, the applicant did not demonstrate any other unforeseeable financial emergency. Based on this information, staff concurs with Great-West's finding that the applicant has established a financial emergency in the amount of \$5,461.35. Great-West's finding is that Internal Revenue Service regulations permit a withdrawal to equal the amount of the mortgage arrearage, but do not permit a withdrawal above that amount. Staff cannot find a basis upon which to reach an alternate finding and therefore recommends approval of only the applicant's mortgage arrearage.

Hardship applicants must demonstrate that they have exhausted all available alternatives. The applicant has depleted all of his savings and is unable to secure another loan due to high debt to income ratios. The applicant currently has two Deferred Compensation loans and has made the necessary arrangements to cancel all of his Deferred Compensation contributions. Staff has referred the applicant to his Employee Assistance Program provider to seek financial counseling. Based on this, staff finds that the applicant has exhausted all available alternatives.

The applicant's financial summary follows:

<u>Regular Monthly Expenses</u>	<u>Monthly</u>	<u>Annual</u>	<u>Balance</u>	<u>Verified</u>	<u>Past Due</u>
Mortgage (1st and 2nd)	\$ 2,779	\$ 33,346	\$ 398,938	N	Y
Home Insurance	\$ 200	\$ 2,400		N	N
Property Tax	\$ 254	\$ 3,049		Y	Y
Federal/State Income Taxes/Medicare	\$ 3,324	\$ 39,886	\$ -	Y	N
Auto Insurance (Volvo/Motorcycle/Motor Home)	\$ 250	\$ 3,000		N	N
Auto Registration	\$ 60	\$ 720	\$ -	N/A	N
Medical/Dental Insurance	\$ 165	\$ 1,981	\$ -	N/A	N/A
Union Dues	\$ 87	\$ 1,045		N/A	N/A
Life/Disability Insurance	\$ 185	\$ 2,215		N/A	N/A
ACEBSA	\$ 184	\$ 2,213		N/A	N/A
Retirement	\$ 814	\$ 9,765	\$ -	N/A	N/A

Food, Clothing, Household	\$ 2,000	\$ 24,000	\$ -	N/A	N/A
Utilities (Phone, Water, Gas, etc.)	\$ 500	\$ 6,000	\$ -	N/A	N/A
Auto (Gas, Maintenance, etc.)	<u>\$ 800</u>	<u>\$ 9,600</u>	<u>\$ -</u>	N/A	<u>N/A</u>
<b>Total Regular Expenses</b>	<b>\$ 11,602</b>	<b>\$ 139,221</b>	<b>\$ 398,938</b>	<b>\$ -</b>	<b>\$ -</b>

<u>Debt/Loan Payments</u>	<u>Monthly</u>	<u>Annual</u>	<u>Balance</u>	<u>Verified</u>	<u>Past Due</u>
American General	\$ 197	\$ 2,364	\$ 4,764	Y	Y
L.A.F.C.U. (Auto Loan-1998 Volvo)	\$ 117	\$ 1,401	\$ 5,609	Y	N
L.A.F.C.U. (Motorcycle Loan)	\$ 302	\$ 3,626	\$ 9,670	Y	N
L.A.F.C.U. (Motor Home Loan)	\$ 252	\$ 3,026	\$ 8,177	Y	N
L.A.F.C.U. (Line of credit)	\$ 300	\$ 3,600	\$ 11,337	Y	N
Credit Card (Visa)	\$ 177	\$ 2,124	\$ 6,472	Y	Y
Citifinancial	\$ 35	\$ 420	\$ 3,472	N	N
Deferred Comp. Loans	\$ 1,168	\$ 14,013	\$ 27,697	Y	N
<b>Total Debt Payments</b>	<b>\$ 2,351</b>	<b>\$ 28,211</b>	<b>\$ 72,434</b>		<b>\$ -</b>
<b>Total Regular Expenses</b>	<b>\$ 13,953</b>	<b>\$ 167,431</b>	<b>\$ 471,372</b>		<b>\$ -</b>

**Current Income**

Participant's Income	\$ 12,941	\$ 155,290	As of Aug. 2009
Spouse's Income	<u>\$ -</u>	<u>\$ -</u>	
<b>Total Income ---&gt;</b>	<b>\$ 12,941</b>	<b>\$ 155,290</b>	

**Difference \$ (1,012)**

**Assets**

Checking Account	\$ 329	<b>Wage Loss Calculation</b>
Savings Account	\$ 344	8/06/09 - 12/29/09 = 3.5 months
Home (appraised/estimated)	\$ 300,000	(A) Normal Wage Earnings: \$ 15,927
1998 Volvo	\$ 6,000	(B) Actual Wage Received: \$ 12,941
Motorcycle	\$ 9,000	(C) Actual Wage Loss (A-B): \$ 2,986
Motor Home	<u>\$ 8,000</u>	\$2,986 X 3.5= \$10,451
<b>Total Assets ---&gt;</b>	<b>\$ 323,672</b>	

Submitted by: \_\_\_\_\_  
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