

HARDSHIP APPEAL WITHDRAWAL REQUEST

Case No. 13-01	
Current Bi-Weekly Deferral	\$0
Current Account Balance	\$215,242
Requested Withdrawal Amount	Partial / \$29,443 (net)
Financial Emergency/Unforeseen Event	Prevention of Foreclosure/Loss of Income

Recommendation:

Staff recommends that the Board of Deferred Compensation Administration approve the hardship application in Case No. 13-01 for a partial withdrawal of \$29,443(net).

Findings:

The applicant submitted a hardship application to Great-West, signed August 1, 2013, citing loss of income. Great-West denied the applicant's request in a letter dated August 9, 2013, stating that loss of income due to suspension is not a defined reason under the regulations for which Great-West has been authorized to approve (Great-West indicates approval for loss of income is given only due to illness or accident). The applicant is now appealing the denial to the Board. Great-West forwarded the participant's appeal to the City on September 16, 2013.

It should also be noted that the participant submitted subsequent requests for hardship on the basis of prevention of foreclosure. Great-West did approve claims for the participant for past due mortgage payments for September and October 2013. Great-West released funds for an amount of \$2,512.03 (disbursed August 29, 2013) and \$2,487.03 (disbursed September 24, 2013). Great-West has indicated they will not approve hardship requests for prevention of foreclosure unless there is documentation from the mortgage lender that foreclosure proceedings are imminent. The participant currently has another pending hardship request to pay his November mortgage amount.

Background:

In early January of 2013, the participant's department initiated disciplinary action against the participant. The participant was placed on paid administrative leave until an official recommendation was made by the department. On June 18, 2013, the participant was notified that he would be relieved of duty pending a Board of Rights hearing, which will be the final authority on this decision. At the time, the participant did not know when his Board of Rights hearing would be held. The participant's last paycheck, which was a partial check, was paid on August 7, 2013 (participant was paid through July 19, 2013).

During 2013, the participant attempted to sell his timeshare unit located in Mexico in order to generate some income in the event that he would receive a disciplinary suspension without pay. According to the participant, the two companies assisting him with the sale of his timeshare stole the money earmarked for the timeshare sale transaction. The participant estimates his losses at approximately \$22,190.65.

Recently, the participant received notification that the Board of Rights hearing would be tentatively scheduled for January 6, 2014. The department is seeking termination. Should it

be determined that the recommendation for termination is upheld, the participant will at that point be eligible for distribution from his account. Until then, the participant has been struggling to find part-time, as-needed work until the case is reviewed. The participant has taken two loans against his Deferred Compensation Plan and is not currently contributing to the Plan as he is not receiving pay. Additionally, he had also requested a bank loan around the time he began his leave without pay to help cover expenses. He is not able to seek any additional financial assistance as his credit has been negatively impacted due to the circumstances leading up to his hardship.

The applicant is applying for a net withdrawal of \$29,443. The applicant will be using these funds to address his mortgage payments from November through January, to address the balance for health benefits for his family during the period of non-pay, and to address his credit card debt. The participant is working with a debt mediator to address the outstanding balances on his credit cards, which is approximately \$40,000 (approximately \$20,000 can be reasonably attributed to the loss due to the timeshare issue). Staff believes that the participant's requested amount to address his financial emergency is consistent with the wage loss that occurred.

In the past, the Deferred Compensation Board has approved hardship distributions for income loss incurred by individuals who are without pay pending a Board of Rights hearing. The basis for this is that until such time as a final determination has been reached in a disciplinary case, the Board's presumption is that the circumstances are unforeseen to the applicant. The participant's expected net loss of income from the beginning of his leave without pay until his Board of Rights hearing will be approximately \$29,443. Furthermore, the unexpected loss of \$22,190.65 the participant experienced due to the timeshare issue during this same time period has caused additional financial hardship.

Given the information presented, staff recommends approval for the participant's hardship request to cover his income loss, as the participant is experiencing a financial emergency due to unforeseen circumstances.

Information regarding the participant's finances follows on the next page.

Hardship Case No. 13-01

<u>Regular Monthly Expenses</u>	<u>Monthly</u>	<u>Annual</u>	<u>Balance</u>	<u>Verified</u>	<u>Past Due</u>
Mortgage/Property Tax/Home Insurance	\$ 2,487	\$ 29,844	\$ -	Y	\$ 2,487
Federal/State Income Taxes/Medicare	\$ -	\$ -	\$ -		
Auto Insurance	\$ 100	\$ 1,200	\$ -		
Life/Disability Insurance	\$ 516	\$ 6,195	\$ -		
Retirement	\$ -	\$ -	\$ -		
Miscellaneous Payroll Deductions	\$ -	\$ -	\$ -		
Food, Clothing, Household	\$ 600	\$ 7,200	\$ -		
Utilities (Phone, Water, Gas, etc.)	\$ 360	\$ 4,320	\$ -		
Auto (Gas, Maintenance, etc.)	\$ 240	\$ 2,880	\$ -		
Child Support/Tuition/Day Care	\$ -	\$ -	\$ -		
Total Regular Expenses	\$ 4,303	\$ 51,640	\$ -		

<u>Debt/Loan Payments</u>	<u>Monthly</u>	<u>Annual</u>	<u>Balance</u>	<u>Verified</u>	<u>Past Due</u>
LAPFCU Loan	\$ 176	\$ 2,112	\$ 7,200		\$ -
Timeshare	\$ 479	\$ 5,748	\$ 3,853		\$ -
Bank of America - 7525	\$ 36	\$ 432	\$ 3,678		\$ -
Debt Mediators	\$ 867	\$ 10,404	\$ 39,687		\$ -
Total Debt Payments	\$ 1,558	\$ 18,696	\$ 54,417		\$ -
Total Regular Expenses	\$ 5,861	\$ 70,336	\$ 54,417		\$ -

<u>Current Income</u>		
Participant's Income	\$ 1,000	\$ 12,000
Spouse's Income	\$ -	\$ -
Total Income	\$ 1,000	\$ 12,000

Difference \$ (4,861)

<u>Assets</u>		<u>Wage Loss Calculation</u>
Checking Account	\$ 800	Aug. 21, 2013 - January 23, 2014 = 12 Pay Periods
Savings Account	\$ 1,000	(A) Normal Wage
Vehicle	\$ 16,270	Earnings: \$ 29,448
Real Estate/Misc/Personal Property	\$ 72,730	(B) Actual Wage Received: -
Total Assets --->	\$ 90,800	(C) Actual Wage Loss (A-B): \$ 29,448
		<i>* Net wages (actual take home pay)</i>

Submitted by:

Esther Chang

Reviewed by:

Steven Montagna

Approved by:

Alejandrina Basquez