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Date: November 10, 2008

**AGENDA ITEM 15, November 21, 2008 agenda**

**TO: MEMBERS OF THE BOARD OF DIRECTORS**

- I. SUBJECT: ADOPTION OF AMENDED AND RESTATED BY-LAWS**
- II. PROGRAM: Executive Office**
- III. RECOMMENDATION To adopt Amended and Restated By-laws**

Attached please find a copy the Amended and Restated By-laws.

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CAROL R. NEWMAN, General  
Counsel

BOARD OF DIRECTORS MEETING

AGENDA ITEM 15

ATTACHMENT

AMENDED AND RESTATED BY-LAWS

PRESENTED BY: Jeanne Cain

November 21, 2008

**STATE COMPENSATION INSURANCE FUND**  
**OF THE**  
**STATE OF CALIFORNIA**

**AMENDED AND RESTATED BY – LAWS**

1. Abbreviation. Wherever in these By-Laws the name “State Fund” is used, it shall mean State Compensation Insurance Fund of the State of California; and wherever “Board” is used, it shall mean the Board of Directors of State Fund.

2. Governing Body. All powers of State Fund shall be exercised by, or under the authority of, the Board, as provided in Section 11781 of the California Insurance Code (hereinafter referred to as the “Insurance Code”), as may be amended from time to time.

3. Board Membership. The Board of Directors of State Fund is composed of eleven (11) voting members (hereinafter referred to as the “Voting Members”), to be appointed as follows:

3.1 The Governor of California shall appoint nine (9) members. One of the members appointed by the Governor shall be from organized labor. The remaining members appointed by the Governor shall have substantial experience in positions involving workers’ compensation, legal, investment, financial, corporate governance and management, accounting, or auditing responsibilities with entities of sufficient size as to make their qualifications relevant to an enterprise of the financial and operational size of State Fund.

3.2 The Speaker of the Assembly shall appoint one (1) member who shall represent organized labor.

3.3 The Senate Committee on Rules shall appoint one member who shall have been a policyholder of State Fund, or an officer or employee of a State Fund policyholder, for one year immediately preceding the appointment, and who must continue in this status during the period of his or her membership.

3.4 At all times the Board shall have a member with auditing background for the purposes of fulfilling the responsibility of the Chair of the Audit Committee.

4. Ex officio Member. The person holding the office of Director of Industrial Relations shall be an ex officio, nonvoting member of the Board, and shall not be counted as a member of the Board for the purpose of establishing a quorum. As used herein, the term “members” shall mean the voting members and the ex officio member.

5. Term of Office. The initial terms of office of the Voting Members shall be as specified in Section 11770 of the Insurance Code, as may be amended from time to time. Thereafter, the term of office of the Voting Members shall be five (5) years and they shall hold office until the appointment and qualification of their successors.

6. Chairperson. As provided in Section 11770 of the Insurance Code, as may be amended from time to time, the Governor shall appoint the Chairperson. The Chairperson may, at his/her discretion, appoint a Vice Chairperson from among the Voting Members.

7. Principal Office. The principal office of State Fund is at 1275 Market Street, San Francisco, California.

8. Place of Meetings. Regular and special meetings of the Board shall be held at the principal office of State Fund or at such other place as shall be designated in the notice of the meeting.

9. Regular Meetings. Regular meetings of the Board shall be held at 9:00 a.m., or such other time as shall be designated in the notice of the meeting, on the second Thursday of the months of January, March, May, July, September, and November of each calendar year, or on such other days as may be determined from time to time by the Board.

With the approval of a majority of the Voting Members present at a Board meeting, any scheduled regular meeting may be advanced or postponed to another date.

10. Special and Emergency Meetings. Special and emergency meetings of the Board may be called pursuant to the provisions of the Bagley-Keene Open Meeting Act, California Government Code section 11120 et seq., as may be amended from time to time, and shall be held at the principal office of State Fund or at such other place as shall be designated in the notice of the meeting.

11. Notice of Special and Emergency Meetings. Notice of the time and place of special and emergency meetings of the Board shall comply with the provisions of the Bagley-Keene Open Meeting Act, California Government Code section 11120 et seq., as may be amended from time to time.

12. Closed Sessions. Closed sessions of the Board may be held at any regular, special or emergency meeting pursuant to the provisions of the Bagley-Keene Open Meeting Act, California Government Code section 11120 et seq., as may be amended from time to time.

13. Adjournment. A majority of the Voting Members present, whether or not constituting a quorum, may adjourn any meeting to another time and place.

14. Notice of Adjournment. Notice of the time and place of holding an adjourned meeting shall be provided in compliance with the provisions of the Bagley-Keene Open Meeting Act, California Government Code section 11120 et seq., as may be amended from time to time.

15. Attendance. Attendance of Board members at regular, special or emergency meetings may be by conference telephone, electronic video screen communication or electronic transmission, in compliance with the provisions of the Bagley-Keene Open Meeting Act, California Government Code section 11120 et seq., as may be amended from time to time.

16. Quorum. A majority of the appointed number of Voting Members shall constitute a quorum for the transaction of business, except to adjourn as herein provided, and provided that at no time shall a quorum be established with less than five (5) Voting Members. Every act or decision done or made by a majority of the Voting Members present at a meeting duly held at which a quorum is present shall be regarded as the act of the Board. A meeting at which a quorum is initially present may continue to transact business notwithstanding the withdrawal of Voting Members, if any action taken is approved by at least a majority of the required quorum for such meeting.

17. Committees of the Board. In addition to the standing committees of the Board of Directors provided for in Sections 18 to 21 herein, the Board may, by resolution adopted by a majority of the authorized number of Voting Members, designate one or more committees, be they permanent or ad hoc. Each committee shall consist of two or more members to serve at the pleasure of the Board. The Board may designate one or more members as alternate members of any committee, who may replace any absent member at any meeting of the committee. The appointment of members or alternate members of a committee requires the vote of a majority of the appointed number of Voting Members. The Chair of each committee shall be appointed by the Chairperson of the Board, subject to the approval of a majority of the Board of Directors then in office. Any such committee, to the extent provided in the resolution of the Board, shall have all the authority of the Board, except with respect to:

- (a) the filling of vacancies on the Board or in any committee;
- (b) the fixing of compensation of the members for serving on the Board or on any committee;
- (c) the amendment or repeal of By-laws or the adoption of new By-laws;
- (d) the amendment or repeal of any resolution of the Board which by its express terms is not so amendable or repealable; or
- (e) the appointment of any other committees of the Board or the members thereof.

18. Standing Committees Generally. The standing committees of the Board of Directors shall be: (a) the Audit Committee, (b) the Investment Committee, and (c) the Corporate Governance Committee. All standing committees are designated for one (1) year and the members thereof shall be discharged at the first meeting of the Board of Directors in each year.

19. Audit Committee. The Audit Committee shall be a standing committee of the Board. The Chair of the Audit Committee shall be a member with auditing background. The Chairperson of the Board shall name to the Audit Committee such members as the Chairperson of the Board shall determine such that at all times the membership of the Audit Committee meets all legal and other applicable requirements. The Audit Committee shall (a) appoint a registered public accounting firm to be retained by State Fund for the purpose of preparing and issuing an annual audit report and performing such other services as may be required by State Fund and (b) have such other responsibilities and authority as designated from time to time by resolution of the Board.

20. Investment Committee. The Investment Committee shall be a standing committee of the Board. The Chairperson of the Board shall name to the Investment Committee such members as the Chairperson of the Board shall determine such that at all times the membership of the Investment Committee meets all legal and other applicable requirements. The Investment Committee shall have such responsibilities and authority as designated from time to time by resolution of the Board of Directors or as otherwise prescribed by applicable law.

21. Corporate Governance Committee. The Corporate Governance Committee shall be a standing committee of the Board. The Chairperson of the Board shall name to the Corporate Governance Committee such members as the Chairperson of the Board shall determine such that at all times the membership of the Corporate Governance Committee meets all legal and other applicable requirements. The Corporate Governance Committee shall have such responsibilities and authority as designated from time to time by resolution of the Board of Directors or as otherwise prescribed by applicable law.

22. Removal. Any committee member may be removed, with or without cause, by the Chairperson of the Board or by a majority of the appointed number of Voting Members.

23. Vacancies. Vacancies in any committee howsoever arising may be filled by the Chairperson of the Board. Committee members appointed pursuant to this Section shall serve for the unexpired portion of the term of the committee member whose death, resignation or removal gave rise to the applicable vacancy, and until his or her successor shall have been elected and qualified, subject however, to such replacement committee member's earlier death, resignation or removal.

24. Meetings and Action of Committees. Meetings and actions of committees shall be governed by, and held and taken in accordance with, the provisions of these By-laws, Section 8 (Place of Meetings), Section 9 (Regular Meetings), Section 10 (Special and Emergency Meetings), Section 11 (Notice of Special and Emergency Meetings), Section 12 (Closed Sessions), Section 13 (Adjournment), Section 14 (Notice of Adjournment), and Section 15 (Attendance), with such changes in the context of those By-laws as are necessary to substitute the committee and its members for the Board of Directors and its members. The Board of Directors may adopt rules for the governance of any committee not inconsistent with the provisions of these By-laws and with the provisions of the Bagley-Keene Open Meeting Act California Government Code section 11120 et seq., as may be amended from time to time.

25. Minutes. Minutes shall be kept of all regular, special and emergency Board and committee meetings, and shall show the names of the members who are present and a succinct statement of each matter brought before the Board for consideration, together with a record of the number of Aye and No votes thereon, unless a member asks that his/her vote be specifically recorded.

26. President. The President of State Fund shall have the powers and duties conferred on him/her by law, and such other or additional powers, functions and duties as the Board may from time to time delegate to him/her. In the interim between meetings, the President is authorized to conduct all of the business and affairs of State Fund, subject to the approval of the Board. At each regular meeting of the Board, the President shall submit the latest quarterly Financial Statement, shall report on the business transacted since the previous regular meeting and report on such other matters as the Board may require. In the absence of the President, an Executive Vice President or the Chief Operating Officer or Chief Financial Officer shall perform the duties of the President.

27. Secretary and Assistant Secretary. The Voting Members shall elect a person to serve as Secretary of State Fund. The Secretary shall attend meetings of the Board and its committees, and be responsible for the keeping of proper minutes of such meetings. The Secretary will be the custodian of the minutes and the records of the Board, and will perform such other duties as may be assigned to him/her from time to time. The Voting Members may also elect one or more persons to serve as Assistant Secretary. The Assistant Secretary shall have such powers and duties as the Voting Members may from time to time prescribe. In the absence of the Secretary, or an Assistant Secretary, the Chairperson shall designate a Secretary, pro tem.

28. Chairperson. At all meetings of the Board and its committees, the Chairperson or Vice Chairperson of the Board (or committee), or in his/her absence the member present who has served the longest as a member of the Board, shall preside.

29. Inspection by the Board of Directors. Every member of the Board shall have the absolute right at any reasonable time to inspect all books, records, and documents of every kind

and the physical properties of State Fund. This inspection by a member of the Board may be made in person or by an agent or attorney and the right of inspection includes the right to copy and make extracts of documents.

30. Robert's Rules of Order. At the Chairperson's discretion, the most current edition of Robert's Rules of Order may be used as the authority governing all meetings of the Board when not in conflict with these By-Laws.

31. Indemnification of Members and Other Agents.

(a) Indemnification – Third Party Proceedings. State Fund shall indemnify any person (the "Indemnitee") who is or was a party or is threatened to be made a party to any proceeding (other than an action by or in the right of State Fund to procure a judgment in its favor) by reason of the fact that Indemnitee is or was i) a member, ii) officer, or iii) appointed by the Board of Directors as President, Chief Financial Officer, Chief Operating Officer, Chief Information Technology Officer, Chief Investment Officer, Chief Risk Officer, or General Counsel of State Fund (collectively, a "Board Appointee"), by reason of any action or inaction on the part of Indemnitee while a member, officer or Board Appointee against actual and reasonable expenses (including subject to Section 31(e), attorneys' fees and any expenses of establishing a right to indemnification pursuant to this Section 31 or under California law), judgments, fines, settlements (if such settlement is approved in advance by State Fund, which approval shall not be unreasonably withheld) and other amounts actually and reasonably incurred by Indemnitee in connection with such proceeding if Indemnitee acted in good faith and in a manner Indemnitee reasonably believed to be in or not opposed to the best interests of State Fund and, in the case of a criminal proceeding, if Indemnitee had no reasonable cause to believe Indemnitee's conduct was unlawful. The termination of any proceeding by judgment, order, settlement, conviction or upon a plea of nolo contendere or its equivalent shall not, of itself, create a presumption that Indemnitee did not act in good faith and in a manner which Indemnitee reasonably believed to be in or not opposed to the best interests of State Fund, or with respect to any criminal proceedings, would not create a presumption that Indemnitee had reasonable cause to believe that Indemnitee's conduct was unlawful.

(b) Indemnification – Proceedings by or in the Right of State Fund. State Fund shall indemnify Indemnitee if Indemnitee was or is a party or is threatened to be made a party to any threatened, pending or completed action by or in the right of State Fund to procure a judgment in its favor by reason of the fact that Indemnitee is or was a member, officer or Board Appointee by reason of any action or inaction on the part of Indemnitee while a member, officer or Board Appointee against expenses (including subject to Section 31(e), actual and reasonable attorneys' fees and expenses of establishing a right to indemnification pursuant to this Section 31 or under California law) and, to the fullest extent permitted by law, amounts paid in settlement, in each case to the extent actually and reasonably incurred by Indemnitee in connection with the defense or settlement of the proceeding if Indemnitee acted in good faith and in a manner



Indemnatee believed to be in or not opposed to the best interests of State Fund, except that no indemnification shall be made with respect to any claim, issue or matter to which Indemnatee shall have been adjudged to have been liable to State Fund in the performance of Indemnatee's duty to State Fund, unless and only to the extent that the court in which such proceeding is or was pending shall determine upon application that, in view of all the circumstances of the case, Indemnatee is fairly and reasonably entitled to indemnity for expenses and then only to the extent that the court shall determine.

(c) Successful Defense on Merits. To the extent that Indemnatee without limitation has been successful on the merits in defense of any proceeding referred to in Sections 31(a) or 31(b) above or in defense of any claim, issue or matter therein, State Fund shall indemnify Indemnatee against expenses (including attorneys' fees) actually and reasonably incurred by Indemnatee in connection therewith.

(d) Certain Terms Defined. For purposes of this Section 31, references to "proceeding" shall include any threatened, pending or completed action or proceeding, whether civil, criminal, administrative or investigative.

(e) Advancement of Expenses. State Fund shall advance all actual and reasonable expenses incurred by Indemnatee in connection with the investigation, defense, settlement (excluding amounts actually paid in settlement of any action, suit or proceeding) or appeal of any civil or criminal action, suit or proceeding referenced in Sections 31(a) and (b) hereof. Indemnatee hereby undertakes to repay such amounts advanced only if, and to the extent that, it shall be determined ultimately that Indemnatee is not entitled to be indemnified by State Fund as authorized hereby. The advances to be made hereunder shall be paid by State Fund to Indemnatee within twenty (20) days following delivery of a written request therefor by Indemnatee to State Fund.

(f) Notice of Claim. Indemnatee shall, as a condition precedent to his or her right to be indemnified under this Section 31, give State Fund notice in writing as soon as practicable of any claim made against Indemnatee for which indemnification will or could be sought under this Section 31. Notice to State Fund shall be directed to the Secretary at the principal office of State Fund (or such other address as State Fund shall designate in writing to Indemnatee). In addition, Indemnatee shall give State Fund such information and cooperation as it may reasonably require and as shall be within Indemnatee's power.

(g) Enforcement Rights. Any indemnification provided for in Sections 31(a), 31(b) or 31(c) shall be made no later than sixty (60) days after receipt of the written request of Indemnatee. If a claim or request under this Section 31 or under any statute providing for indemnification is not paid by State Fund, or on its behalf, within sixty (60) days after written request for payment thereof has been received by State Fund, Indemnatee may, but need not, at any time thereafter bring suit against State Fund to recover the unpaid amount of the claim or request, and subject to Section 31(q), Indemnatee shall also be entitled to be paid for the expenses (including actual and reasonable attorneys' fees) of bringing such action. It shall be a defense to any such

action (other than an action brought to enforce a claim for expenses incurred in connection with any action, suit or proceeding in advance of its final disposition) that Indemnitee has not met the standards of conduct which make it permissible under applicable law for State Fund to indemnify Indemnitee for the amount claimed, but the burden of proving such defense shall be on State Fund, and Indemnitee shall be entitled to receive interim payments of expenses pursuant to Section 31(e) unless and until such defense may be finally adjudicated by court order or judgment for which no further right of appeal exists. The parties hereto intend that if State Fund contests Indemnitee's right to indemnification, the question of Indemnitee's right to indemnification shall be a decision for the court, and no presumption regarding whether the applicable standard has been met will arise based on any determination or lack of determination of such by State Fund (including its Board or independent legal counsel).

(h) Assumption of Defense. In the event State Fund is obligated to pay the expenses of any proceeding against Indemnitee, State Fund shall be entitled to assume the defense of such proceeding with counsel approved by Indemnitee, which approval shall not be unreasonably withheld, upon delivery to Indemnitee of written notice of its election to do so. After delivery of such notice, approval of such counsel by Indemnitee and the retention of counsel by State Fund, State Fund will not be liable to Indemnitee under this Section 31 for any fees of counsel subsequently incurred by Indemnitee with respect to the same proceeding, unless (i) the employment of counsel by Indemnitee has been previously authorized by State Fund, (ii) Indemnitee shall have reasonably concluded, based on written advice of counsel, that there may be a conflict of interest of such counsel retained by State Fund between State Fund and Indemnitee in the conduct of such defense, or (iii) State Fund ceases or terminates the employment of such counsel with respect to the defense of such proceeding, in any of which events the fees and expenses of Indemnitee's counsel shall be at the expense of State Fund. At all times, Indemnitee shall have the right to employ other counsel in any such proceeding at Indemnitee's expense.

(i) Approval of Expenses. No expenses for which indemnity shall be sought under this Section 31, other than those in respect of judgments and verdicts actually rendered, shall be incurred without the prior consent of State Fund, which consent shall not be unreasonably withheld.

(j) Subrogation. In the event of payment under this Section 31, State Fund shall be subrogated to the extent of such payment to all of the rights of recovery of the Indemnitee, who shall do all things that may be necessary to secure such rights, including the execution of such documents necessary to enable State Fund effectively to bring suit to enforce such rights.

(k) Exceptions. Notwithstanding any other provision herein to the contrary, State Fund shall not be obligated pursuant to this Section 31:

(i) Excluded Acts. To indemnify Indemnitee (a) as to circumstances in which indemnity is expressly prohibited pursuant to California

or Federal law, or (b) for any acts or omissions or transactions from which a person may not be relieved of liability pursuant to California or Federal law; or

(ii) Claims Initiated by Indemnitee. To indemnify or advance expenses to Indemnitee with respect to proceedings or claims initiated or brought voluntarily by Indemnitee and not by way of defense, except with respect to proceedings brought to establish or enforce a right to indemnification under this Section 31 or any other statute or law but such indemnification or advancement of expenses may be provided by State Fund in specific cases if the Board has approved the initiation or bringing of such suit; or

(iii) Lack of Good Faith. To indemnify Indemnitee for any expenses incurred by the Indemnitee with respect to any proceeding instituted by Indemnitee to enforce or interpret this Section 31, if a court of competent jurisdiction determines that such proceeding was not made in good faith or was frivolous; or

(iv) Insured Claims. To indemnify Indemnitee for expenses or liabilities of any type whatsoever (including, but not limited to, judgments, fines, or penalties, and amounts paid in settlement) which have been paid directly to Indemnitee by an insurance carrier under a policy of liability insurance maintained by State Fund.

(l) Partial Indemnification. If Indemnitee is entitled under any provision of this Section 31 to indemnification by State Fund for some or a portion of the expenses, judgments, fines or penalties actually or reasonably incurred by the Indemnitee in the investigation, defense, appeal or settlement of any civil or criminal action, suit or proceeding, but not, however, for the total amount thereof, State Fund shall nevertheless indemnify Indemnitee for the portion of such expenses, judgments, fines or penalties to which Indemnitee is entitled.

(m) Coverage. This Section 31 shall, to the extent permitted by law, apply to acts or omissions of Indemnitee which occurred prior to the adoption of this Section 31 if Indemnitee was a member, officer or Board Appointee of State Fund at the time such act or omission occurred. All rights to indemnification under this Section 31 shall be deemed to be provided by a contract between State Fund and the Indemnitee in which State Fund hereby agrees to indemnify Indemnitee to the fullest extent permitted by law, notwithstanding that such indemnification is not specifically authorized by these By-laws or by statute. Any repeal or modification of these By-laws or any applicable law shall not affect any rights or obligations then existing under this Section 31. The provisions of this Section 31 shall continue as to Indemnitee for any action taken or not taken while serving in an indemnified capacity even though the Indemnitee may have ceased to serve in such capacity at the time of any action, suit or other covered proceeding. This Section 31 shall be binding upon State Fund and its successors and assigns and shall inure to the benefit of Indemnitee and Indemnitee's estate, heirs, legal representatives and assigns.

(n) Non-Exclusivity. Nothing herein shall be deemed to diminish or otherwise restrict any rights to which Indemnatee may be entitled under these By-laws, any agreement or under the laws of the State of California.

(o) Severability. Nothing in this Section 31 is intended to require or shall be construed as requiring State Fund to do or fail to do any act in violation of applicable law. If this Section 31 or any portion hereof shall be invalidated on any ground by any court of competent jurisdiction, then State Fund shall nevertheless indemnify Indemnatee to the fullest extent permitted by any applicable portion of this Section 31 that shall not have been invalidated.

(p) Attorneys' Fees. In the event that any action is instituted by Indemnatee under this Section 31 to enforce or interpret any of the terms hereof, Indemnatee shall be entitled to be paid all court costs and expenses, including actual and reasonable attorneys' fees, incurred by Indemnatee with respect to such action, unless as a part of such action, the court of competent jurisdiction determines that the action was not instituted in good faith or was frivolous. In the event of an action instituted by or in the name of State Fund under this Section 31, or to enforce or interpret any of the terms of this Section 31, Indemnatee shall be entitled to be paid all court costs and expenses, including actual and reasonable attorneys' fees, incurred by Indemnatee in defense of such action (including with respect to Indemnatee's counterclaims and cross-claims made in such action), unless as a part of such action the court determines that Indemnatee's defenses to such action were not made in good faith or were frivolous.

(q) Notice. All notices, requests, demands and other communications under this Section 31 shall be in writing and shall be deemed duly given (i) if delivered by hand and receipted for by the addressee, on the date of such receipt, (ii) if sent by electronic transmission by State Fund, at the time sent, or (iii) if mailed by domestic certified mail, with postage prepaid, return receipt requested, on the third business day after the date postmarked.

32. Amendment to By-Laws. The Voting Members shall have the authority to repeal, alter or amend these By-laws or adopt new By-laws at any regular meeting by the affirmative vote of a majority of the appointed number of Voting Members, provided that the Voting Members shall not make or alter any By-law fixing Board membership, term of office or qualification for Board membership, unless such amendment thereof is necessary to make these By-Law provisions consistent with the law of California.

**CERTIFICATE OF SECRETARY**

The undersigned, Secretary of State Compensation Insurance Fund of California (“State Fund”) hereby certifies that the foregoing is a full, true and correct copy of the Amended and Restated By-laws of State Fund, with all amendments to the date of this Certificate.

WITNESS the signature of the undersigned this \_\_ day of \_\_\_\_\_, 2008.

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\_\_\_\_\_, Secretary