STATE OF WISCONSIN CLAIMS BOARD

The State Claims Board conducted hearings in the State Capitol, Grand Army of the Republic Memorial Hall, Madison, Wisconsin, on June 27, 2000, upon the following claims:

Claimant	Agency	Amount
1. Roque Chavez	Department of Transportation	$3,306.18
2. Veaster Tillmon, Jr.	Department of Revenue	$2,997.42
3. Ameritech, Inc.	Department of Transportation	$6,266.57
4. Hazel Samuel	Department of Corrections	$2,014.67
5. Westra Construction	Department of Administration	$55,971.08

In addition, the following claims were considered and decided without hearings:

Claimant	Agency	Amount
6. Jodi Dabson Bollendorf	Department of District Attorneys	$10,097.23
7. Robert & Carole Hawthorne	Department of Revenue	$4,731.95
8. Georgianne Henning	Department of Revenue	$15,695.00
9. Ronald Springer	Department of Transportation	$11,018.59
10. Peggy S. Thran	Department of Corrections	$250.00
11. Ken Truman	Department of Corrections	$96.97
12. Anthony W. Wielgosz	Department of Natural Resources	$340.34

In addition, the following claim, which was previously presented and decided at hearing, was re-considered and decided without hearing:

Claimant	Agency	Amount
13. Barbara Hestekin	Department of Transportation	$5,000.00

In addition, the board considered the question of whether or not to hold a hearing for the following claim prior to resolution of legal appeals.

Claimant	Agency
14. Frederick Saecker	Wrongful Imprisonment

The Board Finds:

1. Roque Chavez of Waukesha, Wisconsin, claims $3,306.18 for auto damage allegedly caused in an accident with a state employee in March 1999. The claimant states that a state driver failed to give him the right of way and caused the accident. The claimant alleges that his vehicle, a 1986 Isuzu, had completely body restoration in 1997 and a new motor, clutch, and exhaust installed in 1998. He requests reimbursement for the estimated cost of repairs, $3,306.18.

The Department of Transportation recommends payment of this claim in the reduced amount of $570.00. The accident occurred at the intersection of E. St. Paul Ave. and Union St. in Waukesha, WI. The state driver was attempting to cross E. St. Paul Ave. He has indicated that he stopped at the Union St. stop sign, looked for traffic and saw no cars within two blocks. As the state driver entered the intersection, the claimant entered E. St. Paul Ave. from his residence a short block from the intersection. The state driver was approximately ¾ of the way across E. St. Paul Ave. when the claimant struck his vehicle. The claimant does not carry any insurance on his vehicle. The claimant submitted two repair estimates, both of which exceeded the value of the vehicle. The claimant's

vehicle is over 13 years old with well over 100,000 miles on the body. The claimant alleges that the vehicle had extensive repair and restoration several years ago, however, he has offered no documentation of these repairs, nor has he submitted a certified appraisal proving the value of his vehicle prior to the accident. The DOT states that one of the repair estimates submitted by the claimant indicated that the general condition of the vehicle was "poor". The Kelly Blue Book value of the claimant's vehicle (trade-in value, fair condition) is $670. The amount of the settlement for totaled vehicles is the Blue Book value minus the salvage value of the vehicle. The submitted salvage bid was $100.

The Board concludes the claim should be paid in the reduced amount of $1,170.00 based on equitable principles. The Board further concludes, under authority of s. 16.007 (6m), Stats., payment should be made from the Department of Transportation appropriation s. 20.395 (4)(er), Stats.

2. Veaster Tillmon, Jr. of Tucker, Arkansas, claims $2,997.42 for overpayment of state income taxes for the years 1981, 1988, 1989 and 1990. The Department of Revenue garnished the claimant's wages from September 1992 until June 1993. The claimant states that he was not a Wisconsin resident during the years in question and believes that, in fairness, the money taken by the DOR should be returned to him.

The Department recommends denial of this claim. The claimant filed income tax returns in 1979 and 1980, reporting taxable income of $17,000 and $20,000, respectively. The Department issued an estimated assessment for 1981 on April 4, 1983 and an estimated assessment for 1988 through 1990 on January 18, 1993. The DOR corresponded extensively with the claimant in 1986 and 1987 regarding his residency but the matter was never resolved. The Department began garnishment of the claimant's wages in 1992 and collected $2,997.42. On June 3, 1999, the claimant provided sufficient documentation to verify that he was not a Wisconsin resident during the years in question and the Department canceled the balance of the assessment. Section 71.75 (5), Wis. Stats., prohibits the Department from refunding the collected amount since no refund was claimed within the prescribed two-year period.

The Board concludes there has been an insufficient showing of negligence on the part of the state, its officers, agents or employes and this claim is not one for which the state is legally liable nor one which the state should assume and pay based on equitable principles.

3. Ameritech, Inc., of Waukesha, Wisconsin, claims $6,266.57 for damage to a fiber optic cable owned by the claimant. The claimant states that in July 1999, Department of Transportation employees, while digging to place a traffic signal, struck and damaged the fiber optic cable. The claimant states that s. 182.0175, Wis. Stats., requires hand digging within 18 inches of a marked utility and that the employees' failure to follow this statute caused the damages. The claimant requests $6,266.57 for repair of the cable.

The Department of Transportation recommends payment of this claim. The DOT acknowledges that on July 22, 1999, while installing a traffic signal in Ashland, WI, a DOT employee negligently damaged the fiber optic cable.

The Board concludes the claim should be paid in the reduced amount of $5,000 based on equitable principles. The Board further concludes, under authority of s. 16.007 (6m), Stats., payment should be made from the Department of Transportation appropriation s. 20.395 (3)(eq), Stats.

4. Hazel Samuel of Sussex, Wisconsin, claims $2,014.67 for cost of supplemental insurance allegedly purchased due to an error by the Department of Corrections. The claimant states that when she retired in November 1994, she called the payroll office to request that they send a letter to Social Security indicating that she was retired and eligible for Medicare. The claimant states that she requested a copy of this letter so that she could purchase supplemental insurance. The claimant states that no one informed her that she was still covered by any state insurance but that she later found out

that she was still covered by state insurance. She requests reimbursement for the cost of the supplemental insurance she purchased.

The Department of Corrections recommends denial of this claim. According to DOC and ETF records, the claimant, who originally planned to retire in May 1994, contacted ETF in May 1993, inquiring about her sick leave conversion to health insurance premiums. ETF sent her a pamphlet that clearly explained that premiums for health insurance coverage are first paid out of accumulated sick leave. The pamphlet also explained how health insurance coverage is maintained and that it is the employee's responsibility to set up a meeting with ETF to discuss health insurance after retirement, which the claimant did not do. In July 1993 the claimant wrote ETF and stated that she would not retire in May 1994 because she "did not have enough sick day hours left to compensate for health insurance." ETF responded, informing the claimant that if she had no sick leave left when she retired, health insurance premiums would be deducted from her annuity or the health insurance company would bill her directly. In October 1994, the DOC sent a letter to the Social Security Administration verifying that the claimant was an active employee until November 1994. DOC routinely notifies the SSA when employees are no longer covered under its insurance plan and that Medicare may be established when that person turns 65. When an employee retires, health insurance terminates from the employing agency and converts to a policy handled by ETF. On 11/7/94 the DOC sent the ETF certification that the claimant's unused sick leave provided 6.8 months of insurance premium coverage beginning 2/95. The claimant purchased supplemental Medicare insurance in 1/95. The DOC contends that the letter sent to the SSA was a technical letter intended to notify the SSA; it is not intended to provide the retiree with information about health insurance. The DOC points to the fact that three days prior to her retirement, the claimant had still not taken the common steps made by retirees to reliably inform herself about the status of her health insurance after retirement. She did not call anyone at DOC or ETF to answer any questions but instead, just went ahead and purchased insurance. The Department sympathizes with the claimant, however, DOC believes that it was the claimant's own misunderstanding and lack of preparation that caused her losses, not any negligence on the part of the state.

The Board concludes there has been an insufficient showing of negligence on the part of the state, its officers, agents or employes and this claim is not one for which the state is legally liable nor one which the state should assume and pay based on equitable principles.

5. Westra Construction of Waupun, Wisconsin, claims $55,971.08 for additional winter construction costs allegedly incurred on a project at Oakhill Correctional Institution. The claimant states that the project was bid on April 7, 1998, and that they anticipated a start date of no later than June 1, 1998. The claimant states that they indicated in an April 28, 1998 letter to DOA that construction had to begin no later than June 1, for building enclosure to occur before cold weather protection was required. The claimant states that General Requirements Item No. 25 Temporary Heat provided that the cost of fuel used after enclosure was to be provided by the state at no cost to the contractor and therefore the claimant did not include winter heating or cold weather protection in their bid. The claimant states that they informed the DOA in their fax dated June 6, 1998, that there would be additional costs due to the delay in the construction start date. The claimant was not authorized to proceed until a Pre-Construction Meeting on August 4, 1998. The claimant believes that a four-month delay between the bid opening and authorization to proceed is excessive. The claimant states that the State proceeded with the executing the contract and awarding the claimant the contract knowing that the claimant made an exception to cold weather protection. The claimant requests reimbursement for its winter protection costs.

The Department of Administration recommends denial of this claim. The claimant now claims $55,971.08 in cold weather protection costs. According to DOA records, in October 1998 the same claim was $94,970.00 and in January 1999 it was $70,817.00. DOA states that prior to the August 1998 meeting, the claimant was twice told verbally to get the project within budget and that the state would not pay cold weather protection. $211,000 was subsequently value engineered out to get the

project within budget. DOA states that the claimant's contract was written with their April 28, 1998, letter attached with a handwritten note indicating that cold weather protection was the contractor's responsibility. According to DOA records, the claimant was again told at a November 1998 construction meeting that DOA would not pay cold weather protection. In order to resolve the matter, DOA agreed to pay for fuel for temporary heat and the concrete plant charges to heat the concrete. A change order for $3,838 was prepared to compensate the claimant for these costs in full and final settlement of their claim.

The Board concludes there has been an insufficient showing of negligence on the part of the state, its officers, agents or employes and this claim is not one for which the state is legally liable nor one which the state should assume and pay based on equitable principles. [Member Main not participating.]

6. Jodi Dabson Bollendorf of Janesville, Wisconsin claims $10,097.23 for attorney's fees incurred because of an ethics grievance filed against the claimant. The claimant is an Assistant District Attorney in Rock County. In January 1999, she received notice form the Board of Attorneys Professional Responsibility that an ethics grievance had been filed against her. This grievance alleged that the claimant made false statements to the court at sentencing in the case of *State v. Donald Lee Pippin*, while acting in her official capacity as an ADA for Rock County. The claimant states that she cooperated fully with BAPR's investigators. The claimant states that she was advised by colleagues to obtain legal counsel to represent her interests at the BAPR hearing. At the investigatory hearing, BAPR concluded "there was not clear and convincing evidence that Ms. Bollendorf made any false or misleading statements to the court." The claimant's legal counsel sent a letter to BAPR pointing out the specific misrepresentations made in the complaint against Ms. Bollendorf. Based upon the entire investigation, in November 1999, the Administrator of BAPR found no violation of rules by the claimant and dismissed the matter. Since she was acting in her capacity as an ADA representing the State of Wisconsin and was found not to have violated the rules of professional responsibility, the claimant requests reimbursement for her attorney's fees.

The Department of Administration recommends payment of this claim from the funds appropriated to the Department of District Attorneys. The Rock County District Attorney, David O'Leary, also reviewed the actions of the claimant that were challenged before BAPR and concluded that the charges were without merit. He fully supports payment of the claimant's legal costs. In addition, the Department of Justice has reviewed this claim and also recommends payment stating, "it is very important for prosecutors to know that when they act ethically in carrying out their responsibility to fairly enforce criminal laws of this state, the state will stand behind them. A contrary result could chill effective prosecution and law enforcement." Before obtaining private counsel, it would have been appropriate for the claimant to have contacted the State Prosecutors Office in DOA and requested its assistance in obtaining DOJ representation for her before BAPR. The policy of DOJ is to represent prosecutors and others when actions are filed against them with the intent of negatively impacting their ability to carry out their job duties and where there is no other valid basis apparent for the action. DOA is re-issuing information to all prosecutors on the proper procedure to follow when such instances occur. DOA believes that payment of this claim will help assure the over 425 state prosecutors in Wisconsin that their efforts in support of public safety are valued, supported and protected by the state.

The Board recommends that the claim be paid in the amount of $10,097.23 based on equitable principles. The Board further recommends that payment be made from the District Attorney appropriation s. 20.475(1)(d), Stats. [Members Albers and Wiley dissenting.]

7. Robert and Carole Hawthorne of Waukesha, Wisconsin, claim $4,731.95 for overpayment of corporate income taxes for the year 1993. The claimants own their own cleaning business. The claimants state that they failed to file the taxes in question because of a series of personal family crises. Between 1992 and 1995 Robert Hawthorne was disabled and unable to work, Carole's mother was

diagnosed with cancer and her father died, two of their children moved back home, Robert's mother died, and Carole's mother was the victim of a car-jacking during which she was injured. Claimant Carole Hawthorne states that she was overwhelmed trying to run the business alone, while her husband was disabled. She alleges that she had their accountant do the taxes but that she put them in a file and forgot to mail them. She states that when she received the assessment from the DOR, she was so involved with the family difficulties that she simply paid the assessment without questioning it. The claimants state that once their personal situation improved, they went to an accountant and filed the taxes. They allege that their accountant had told them in 1998 that he would request a refund of the overpaid amount but that they found out in March 2000 that he never did so. Due to the inordinate number of personal hardships faced by the claimants during this period, they request a refund of their overpayment.

The Department of Revenue recommends denial of this claim. The DOR states that these claimants have a history of non-filing with the Department. According to the DOR's records, the claimants failed to file a 1993 corporate income tax return for their business. The assessment for this return was issued on October 30, 1995, and paid in full on April 12, 1996. Department records indicate that the actual 1993 return was filed on April 27, 1998. The Department is sympathetic to the claimants' personal challenges, however, section 71.75(5), Wis. Stats., prohibits the DOR from refunding the amount collected on the original assessment since no refund was filed within the prescribed two-year period.

The Board concludes there has been an insufficient showing of negligence on the part of the state, its officers, agents or employes and this claim is not one for which the state is legally liable nor one which the state should assume and pay based on equitable principles.

8. Georgianne Henning of Fond du Lac, Wisconsin, claims $15,695.00 for refund of overpayment of 1993 income taxes. The claimant's husband passed away in June 1999 and she alleges that it was not until after his death that she became aware that he had not filed taxes. The claimant states that her husband was responsible for handling all the household financial matters and that she was completely unaware that there were tax problems until began to open her husband's mail after his death. The DOR issued an assessment for the 1993 taxes, which was paid by a levy on Mr. Henning's bank account. Under section 71.75(5), Stats., the claimant had until October 1997 to file a claim for refund of the overpayment, however, she states that she was unaware that the assessment even existed and therefore had had no opportunity to file for a refund. The claimant also believes that the 1993 assessment made by the DOR was excessive. The 1992 income used by the DOR auditor to estimate the Hennings' tax liability was $120,000. The 1993 income amount used was $380,000—three times greater than the 1992 income amount. The claimant believes that the DOR uses inflated assessment figures for the purpose of creating an incentive for taxpayers to file their own corrected returns. However, in this instance the claimant believes this inflated amount constitutes cruel and unusual punishment because she did not even know the assessment existed and therefore had no way to contest it. Finally, the claimant is requesting refund of a $15,695 overpayment, while the DOR alleges that the overpayment amount is only $11,343.21. The claimant states that the DOR's own transcripts of the claimants' account were used in calculating the $15,695 overpayment, which the claimant believes is correct.

The Department of Revenue recommends that this claim be denied. According to DOR records, a joint estimate based on failure to file 1993 income taxes was issued in October 1995, with a due date of December 11, 1995. The actual return was not filed until September 1999. The DOR states that Mr. Henning worked with a revenue agent over a four-year period, during which he filed for amnesty and entered into an installment agreement. However, Mr. Henning defaulted on the installment agreement and was denied amnesty because he failed to file the required returns. The DOR states that Mr. Henning was notified of the statute of limitations. The DOR does not feel that the Hennings' failure to communicate with each other is reason to extend the period to claim a refund for the 1993 assessment. The DOR disputes the claim that that its 1993 assessment was excessive when the

previous filing history is considered. According to Department records, the Hennings' 1991 net tax was reported to be $3,253. That liability jumped to $16,141 in 1992 and the Department's 1993 estimated liability was $26,093. Finally, the Department's calculation of the tax, penalties, interest and fees indicated an overpayment of $11,343.21, not $15,695 as the claimant alleges.

The Board concludes there has been an insufficient showing of negligence on the part of the state, its officers, agents or employes and this claim is not one for which the state is legally liable nor one which the state should assume and pay based on equitable principles.

9. Ronald Springer of Washington, Illinois, claims $11,018.59 for value of lost automobile and attorneys fees allegedly incurred due to an error by the Wisconsin DOT. The claimant states that in 1993, he made a personal loan to Daphne Adams to purchase a vehicle in Illinois. The vehicle was titled in the State of IL and the IL title listed Mr. Springer (Springer Farms) as the lienholder. Ms. Adams made arrangements to make payments directly to a savings account rather than to the claimant. Ms. Adams had difficulty keeping up with the loan payments and she asked if her mother, Beverly DeBoer, could take over the payments. Ms. DeBoer signed a promissory note similar to the one originally signed by Ms. Adams. The claimant states that Ms. DeBoer stopped making payments in April 1996 and that in November 1996 he contacted an attorney to try and collect the loan, however, the attorney was unable to do so. In 1997, Ms. Adams requested a new title from the State of IL. The State of IL apparently issued a new title to Ms. Adams instead of sending it to the lienholder, Mr. Springer. Ms. Adams allegedly signed this new title over to Ms. DeBoer, who apparently then applied for a WI title and stated on her application that there were no liens against the vehicle. WI DOT issued a WI title without listing Spinger Farms as the lienholder. With this clear title, Ms. DeBoer then got a loan from a WI bank. She defaulted on this loan and the vehicle was repossessed and resold. The claimant has been limited by serious health problems and therefore was not able to take action to regain the vehicle or collect on the loan. The claimant feels that Wisconsin incorrectly issued a clear title, without which Ms. DeBoer would not have been able to get a loan against the vehicle.

The DOT recommends denial of this claim. IL is a "lienholder state" where the certificate of title is issued to and held by the lienholder until the lien is satisfied. Both Ms. Adams and Ms. DeBoer failed to make regular payments. By April 1996, the total paid on the loan was only $3,702.27. No action was taken by the claimant to collect on this delinquent loan during this entire period. In December 1996, Ms. Adams applied for a vehicle title in IL. On the application, she checked box number 1, marked "Title Only," she also checked box 18 indicating that the previous title had been surrendered, and in box 27 she indicated that the reason for the request was "lost title". Boxes 1, 18 and 27 are directly in conflict with one another. The IL Vehicle Services Office has admitted that they made a mistake in the issuance of the title from this application. Furthermore, IL law requires that original or duplicate titles are mailed out, they are not issued over the counter. If there is a lienholder, the new title is mailed directly to that lienholder, in this case, the claimant. The claimant has offered no explanation for how Ms. Adams gained possession of the original IL title and suggests that she may have stolen it from him. While it is true that WI DOT issued a clear title on a vehicle that had a lien recorded in IL, that issuance was based upon an application certifying that there were no liens. Furthermore, it appears that the original IL title was either given to Ms. Adams by the claimant or stolen from him, which created the opportunity for Ms. Adams to apply for a new IL title. Ms. Adams knew that she owed the claimant money yet she not only failed to pay the claimant, she borrowed more money and misrepresented the status of the vehicle title to the bank. The DOT believes that the real cause of the claimant's losses were his failure to properly monitor the loan, the errors by the IL title office, and the fraudulent actions of Ms. Adams and Ms. DeBoer.

The Board concludes there has been an insufficient showing of negligence on the part of the state, its officers, agents or employes and this claim is not one for which the state is legally liable nor one which the state should assume and pay based on equitable principles.

10. Peggy S. Thran of Winter, Wisconsin, claims $250.00 for damage to a ring allegedly incurred while the claimant was working at the Department of Corrections in August 1999. The claimant states that she and two other staff members were moving the desk in her office, when one of the other employees suddenly shoved hard on the desk without warning. The claimant states that her finger got smashed between the desk and the wall, causing her ring to break. She requests reimbursement of $250, the amount of her insurance deductible. The claimant states that DOC has paid other claims for property damage by DOC employees in the past and she does not feel that her case is any different, even though she no longer works at DOC.

The Department of Corrections recommends denial of this claim. The DOC states that Captain Tegels, one of the employees assisting the claimant, first suggested that they get inmate workers to move the desk and that the claimant turned down this suggestion. Captain Tegels then reluctantly helped move the desk and the claimant's ring was damaged because of the negligent placement of her hand between the desk and the wall. The DOC does not believe that state agencies should act as an insurer for the claimant, since the damage occurred because she did not wait for the appropriate staff or inmate help to move the desk. Furthermore, the claimant placed her hand in a spot where she should have anticipated it might get jammed between the wall and the desk. The DOC believes that any connection with the Department's business is too remote to justify payment of this claim.

The Board concludes there has been an insufficient showing of negligence on the part of the state, its officers, agents or employes and this claim is not one for which the state is legally liable nor one which the state should assume and pay based on equitable principles.

11. Ken Truman of Marshfield, Wisconsin, claims $96.97 for cost to replace television allegedly damaged by Department of Corrections employees in October 1999, when the claimant was transferred from Jackson Correctional Institution to a halfway house in Marshfield, WI. The claimant alleges that the TV worked correctly before he was transferred but that when he unpacked it and plugged it in at the halfway house, the TV no longer worked. The claimant states that it was a DOC employee who moved the TV from his cell at Jackson Correctional to his room at the halfway house. The claimant believes that it is obvious that something happened while the DOC was transporting the television and he requests reimbursement for his loss.

The Department of Corrections recommends denial of this claim. The DOC agrees that the claimant, who was convicted of sexual assault of a child, was transported from Jackson Correctional directly to the Division of Community Corrections' Marshfield Field Office and then to his new residence. Officer Tim Glaeser transported the claimant and his TV, which was packed in a box. The DOC states that Officer Glaeser placed the box containing the TV into a state van and later took the box in to the claimant's room at the halfway house. The DOC states that Officer Glaeser had indicated that nothing unusual happened regarding the TV during that time and that he did not remove it from the box. The DOC believes that Officer Glaeser exercised reasonable care in handling the TV. The DOC believes that there is no evidence that any state employee was negligent and that there is no equitable basis for payment of this claim. The DOC does not believe that the state should act as an insurer for criminal offenders' personal property.

The Board concludes there has been an insufficient showing of negligence on the part of the state, its officers, agents or employes and this claim is not one for which the state is legally liable nor one which the state should assume and pay based on equitable principles.

12. Anthony W. Wielgosz of Necedah, Wisconsin, claims $340.34 for cost of towing boat that had become stuck in a boat launch at Buckhorn State Park. The claimant states that the right wheel of his boat trailer became lodged in a hole in the boat landing. The claimant states that he unsuccessfully attempted to pull the wheel out by hand and then tried pulling the boat out with his truck, which resulted in damage to his rear bumper. The claimant eventually had to call a towing service to extract

the trailer from the hole. The claimant only requests reimbursement for his towing costs. He replaced the damaged bumper on his truck by himself, at a cost of $55.

The Department of Natural Resources recommends payment of this claim based on equitable grounds. Section 895.52, Stats., provides that the Department is not legally liable for this claim and therefore the Department is unable to reimburse the claimant directly. The DNR acknowledges that the claimant's loss is attributable to defective planking at the boat landing. This defective planking has now been corrected. At the time of the incident, the planking was underwater and was not visible to the claimant. The Department does not believe he was at fault in this situation and recommends payment of this claim from the Department appropriation s. 20.370(1)(mu), Stats.

The Board concludes the claim should be paid in the amount of $340.34 based on equitable principles. The Board further concludes, under authority of s. 16.007 (6m), Stats., payment should be made from the Department of Natural Resources appropriation s. 20.370(1)(mu), Stats.

13. Barbara Hestekin of Eau Claire, Wisconsin claims $5,000.00 for relocation costs related to the condemnation of her house due to a highway project. The claimant is completely disabled and lives on Social Security Disability payments. The claimant owned a home appraised at $37,000, with two mortgages of $31,203.76 and $5,501.66. Due to her disability, she received a $125 monthly subsidy on her first mortgage, which lowered her payment to $175/month. Her second mortgage was completely paid by disability insurance. DOT purchased her home for $39,000. They paid of her first and second mortgages and taxes, leaving a $1,000.20 payment to the claimant. DOT informed the claimant that she would probably be eligible for a replacement housing payment of $5,150; estimating the purchase cost of a comparable home at $42,150. DOT paid the claimant $2,415.50 for moving expenses and closing costs. The claimant attempted to purchase a comparable home but she could not qualify for financing. She was no longer eligible for first time home buyer loans and was denied by private lenders because of her low income. DOT offered to arrange priority status for a public housing rental unit, however, the claimant did not wish to give up being a homeowner. She was eventually able to purchase a home with the assistance of a co-signer, but was forced to purchase a home of lesser value than her previous home. When the claimant applied to DOT for relocation assistance, she was denied because her new home was not of comparable value, she had a co-signer, and the home was purchased without a DOT required inspection. The claimant sued DOT but the case was dismissed for lack of statutory provisions under which she could be paid.

DOT does not dispute the facts of the claim and believes there is equitable basis for partial payment. DOT believes that the claimant should be awarded the $5,150.00 replacement housing payment that she would have received if she had been able to purchase a comparable home. DOT also recommends payment of simple interest at 9%, for a total award of $6,256.39. DOT strongly opposes payment of the entire claim, which would amount to DOT paying the value of the claimant's property twice.

This claim was originally considered at hearing on June 8, 1995, at which time the claimant requested payment of $30,140.00. The board voted at this meeting to offer the claimant $4,000 direct payment (the board's statutory limit at the time) or to recommend payment of $6,256.39 to the legislature. The claimant opted for legislation, which was introduced several times without passage. The claimant now requests direct payment of $5,000.00, the board's current statutory limit.

The Board concludes the claim should be paid in the amount of $5,000.00 based on equitable principles. The Board further concludes, under authority of s. 16.007 (6m), Stats., payment should be made from the Department of Transportation appropriation s. 20.395 (3)(cq), Stats.

14. Frederick Saecker of Redwing, Minnesota has filed a claim with the Claims Board for innocent conviction under section 775.05, Stats. At this time, he has an action for legal malpractice pending in the 7th Circuit against his trial attorney. The claimant requests that the board consider his claim prior to the resolution of his outstanding legal action. The Board concludes that it is premature to consider the claimant's claim until after he has exhausted all other avenues of relief.

The Board concludes:

1. The claims of the following claimants should be denied:

   Veaster Tillmon, Jr.
   Hazel Samuel
   Westra Construction
   Robert and Carole Hawthorne
   Georgianne Henning
   Ronald Springer
   Peggy S. Thran
   Ken Truman
   Anthony W. Wielgosz

2. Payment of the following amounts to the following claimants is justified under s. 16.007, Stats:

Roque Chavez	$1,170.00
Ameritech, Inc.	$5,000.00
Barbara Hestekin	$5,000.00

3. The claim of Frederick Saecker should not be considered until all outstanding legal appeals have been exhausted.

The Board recommends:

Payment of $10,097.23 from the Department of District Attorneys to Jodi Dabson Bollendorf for attorney's fees incurred in relation to her job as an Assistant District Attorney.

Dated at Madison, Wisconsin this 13 th~~rd~~ day of July 2000.

Alan Lee, Chair
Representative of the Attorney General

Edward D. Main, Secretary
Representative of the Secretary of Administration

Sheryl Albers
Assembly Finance Committee

Brian Burke
Senate Finance Committee

Lawrence A. Wiley
Representative of the Governor