

## 2 CA ADC § 22500

2 CCR § 22500

Cal. Admin. Code tit. 2, § 22500

BARCLAYS OFFICIAL CALIFORNIA CODE OF REGULATIONS  
TITLE 2. ADMINISTRATION  
DIVISION 7. SECRETARY OF STATE  
CHAPTER 12. VICTIMS OF CORPORATE FRAUD COMPENSATION FUND  
This database is current through 2/12/10 Register 2010, No. 7

§ 22500. Definitions.

As used in this Chapter:

(a) "Victims of Corporate Fraud Compensation Fund" means the separate account in the State Treasury established pursuant to Section 1502.5 of the Corporations Code for purposes of carrying out the provisions of that section.

(b) "Application" means a request for payment from the Victims of Corporate Fraud Compensation Fund submitted to the Secretary of State pursuant to this Chapter.

(c) "Party" means either the claimant, the judgment debtor, or the Secretary of State.

(d) "Person" means an individual, partnership, limited partnership, trust, estate, association, corporation, limited liability company, or other entity, whether domestic or foreign.

(e) "Claimant" means an aggrieved person who submits an application pursuant to this Chapter.

(f) "Judgment debtor" means a corporation against which a judgment, arbitration award, or criminal restitution order has been entered for conduct constituting intentional fraud.

(g) "Final judgment" means a judgment, arbitration award, or criminal restitution order for which the period for appeal has expired, enforcement of which is not barred by the order of any court or by any statutory provision, and which has not been nullified or rendered void by any court order or statutory provision, and for which the claimant has not been otherwise reimbursed. Only final judgments dated January 1, 2003, or thereafter shall be considered for payment from the Victims of Corporate Fraud Compensation Fund pursuant to these regulations.

(h) "Court of competent jurisdiction" means a small claims, municipal, or superior court of the State of California, or a United States district court or United States bankruptcy court sitting to conduct its affairs within the boundaries of the State of California, but does not include state or federal courts located in another state.

(i) "County in which a judgment was rendered" means the county within California in which the court issuing the judgment or restitution order sits or, if the claim is based on an arbitration award, the county in which the arbitration was conducted, or in which the claimant resides.

(j) Where appropriate to the context the singular number includes the plural and the plural number includes the singular.

Note: Authority cited: Section 1502.5, Corporations Code. Reference: Section 1502.5, Corporations Code.

HISTORY

1. New chapter 12 (sections 22500-22519) and section filed 3-9-2004; operative 3-9-2004 pursuant to Government Code section 11343.4 (Register 2004, No. 11).

2 CCR § 22500, 2 CA ADC § 22500  
1CAC

2 CA ADC § 22500

END OF DOCUMENT

**2 CA ADC § 22501**

2 CCR § 22501

Cal. Admin. Code tit. 2, § 22501

BARCLAYS OFFICIAL CALIFORNIA CODE OF REGULATIONS  
TITLE 2. ADMINISTRATION  
DIVISION 7. SECRETARY OF STATE  
CHAPTER 12. VICTIMS OF CORPORATE FRAUD COMPENSATION FUND

This database is current through 2/12/10 Register 2010, No. 7

§ 22501. Application for Payment from Victims of Corporate Fraud Compensation Fund.

(a) When an aggrieved person obtains (1) a final judgment in a court of competent jurisdiction, including, but not limited to, a criminal restitution order issued pursuant to subdivision (f) of Section 1202.4 of the Penal Code or Section 3663 of Title 18 of the United States Code, or (2) an arbitration award that includes findings of fact and conclusions of law rendered in accordance with the rules established by the American Arbitration Association or another recognized arbitration body, and in accordance with Sections 1280 to 1294.2, inclusive, of the Code of Civil Procedure where applicable, and where the arbitration award has been confirmed and reduced to judgment pursuant to Section 1287.4 of the Code of Civil Procedure, against a defendant based upon the defendant's fraud, misrepresentation, or deceit, made with intent to defraud, the aggrieved person may, upon the judgment becoming final, and after the time for appeal has passed, submit an application to the Secretary of State for payment from the Victims of Corporate Fraud Compensation Fund, within the limitations specified in Section 22515, of the amount unpaid on the judgment that represents an actual and direct loss to the claimant in the transaction, excluding punitive damages, attorneys fees and costs.

(b) An application shall be made on a form prescribed by the Secretary of State and shall include the information specified in Section 22502. The application shall be verified by the claimant in the manner specified in Section 446 of the Code of Civil Procedure for the verification of a pleading. If executed outside of California, the information in the application and accompanying documents shall be verified before a person qualified to administer oaths within the jurisdiction where executed or certified under penalty of perjury in accordance with the provisions of subdivision (b) of Section 2015.5 of the Code of Civil Procedure.

(c) If any documents or other attachments are submitted with the application, the application shall

contain a verification by the claimant that the documents are true and correct copies of the originals, and if such documents purport to be copies of documents filed in court, that they are true and correct copies of the originals filed with the court.

(d) The application shall be delivered in person or by certified mail to the Office of the Secretary of State, Business Programs Division, Victims of Corporate Fraud Compensation Fund, 1500 11th Street, Sacramento, California 95814 not later than eighteen months after the final judgment has become final.

Note: Authority cited: Section 1502.5, Corporations Code. Reference: Section 1502.5, Corporations Code.

#### HISTORY

1. New section filed 3-9-2004; operative 3-9-2004 pursuant to GovernmentCode section 11343.4 (Register 2004, No. 11).

2 CCR § 22501, 2 CA ADC § 22501  
1CAC

2 CA ADC § 22501

END OF DOCUMENT

### **2 CA ADC § 22502**

2 CCR § 22502

Cal. Admin. Code tit. 2, § 22502

BARCLAYS OFFICIAL CALIFORNIA CODE OF REGULATIONS  
TITLE 2. ADMINISTRATION  
DIVISION 7. SECRETARY OF STATE  
CHAPTER 12. VICTIMS OF CORPORATE FRAUD COMPENSATION FUND  
This database is current through 2/12/10 Register 2010, No. 7

§ 22502. Form of Application.

(a) The verified application form shall include the following:

(1) The name and address of the claimant.

(2) If the claimant is represented by an attorney, the name, business address, and telephone number of the attorney. If the claimant is not being represented by an attorney in the filing of the application, a telephone number where the claimant can be reached during regular business hours must be included.

(3) The identification of the judgment and the date on which it became final.

(4) The amount of the claim, not to exceed the amount of the actual and direct loss that remains unreimbursed from any source and an explanation of its computation.

(5) A detailed narrative statement of the facts explaining the allegations of the complaint upon which the underlying judgment is based.

(6)(A) Except as provided in subparagraph (B), a statement by the claimant that the complaint or arbitration award upon which the underlying judgment is based was prosecuted conscientiously and in good faith. As used in this section, "conscientiously and in good faith" means that no party potentially liable to the claimant in the underlying transaction was intentionally and without good cause omitted from the complaint or arbitration proceeding, that no party named in the complaint who otherwise reasonably appeared capable of responding in damages was dismissed from the complaint or arbitration proceeding or dismissed from the complaint or arbitration proceeding intentionally and without good cause, and that the claimant employed no other procedural means contrary to the diligent prosecution of the complaint or arbitration award for the purpose of seeking to qualify for the Victims of Corporate Fraud Compensation Fund.

(B) For the purpose of an application based on a criminal restitution order, all of the following statements by the claimant:

1. The claimant has not intentionally and without good cause failed to pursue any person potentially liable to the claimant in the underlying transaction other than a defendant who is the subject of a criminal restitution order.

2. The claimant has not intentionally and without good cause failed to pursue in a civil action for damages all persons potentially liable to the claimant in the underlying transaction who otherwise reasonably appeared capable of responding in damages other than a defendant who is the subject of a criminal restitution order.

3. The claimant employed no other procedural means contrary to the diligent prosecution of the complaint in order to seek to qualify for the Victims of Corporate Fraud Compensation Fund.

(7) The name and address of the judgment debtor or, if not known, the names and addresses of persons who may know the judgment debtor's present whereabouts.

(8) The following representations and information from the claimant:

(A) That the claimant is not a spouse or immediate member of the family of the judgment debtor nor a personal representative of the spouse or immediate member of the family of the judgment debtor. For the purposes of this section, judgment debtor shall include the officers and directors of the judgment debtor.

(B) That the claimant has complied with all of the requirements of this Chapter.

(C) That the judgment underlying the claim meets the requirements of subdivision (a) of Section 22501.

(D) A description of searches and inquiries conducted by or on behalf of the claimant with respect to the judgment debtor's assets available to be sold or applied to satisfy the judgment, an itemized valuation of the assets discovered, and the results of actions by the claimant to have the assets applied to satisfaction of the judgment.

(E) That he or she has diligently pursued collection efforts against all judgment debtors and all other persons liable to the claimant in the transaction that is the basis for the underlying judgment.

(F) That the underlying judgment and debt have not been discharged in bankruptcy, or, in the case of a bankruptcy proceeding that is open at or after the time of the filing of the application, that the judgment and debt have been declared to be nondischargeable.

(G) That the application was mailed or delivered to the Secretary of State no later than eighteen months after the underlying judgment became final.

(b) The application shall include all of the documents and information enumerated below:

(1) Proof that the judgment debtor was served with the Notice and Application.

(2) A copy of the judgment showing it to be a final judgment as defined in this article, and any findings of fact, conclusions of law, jury verdicts, jury special verdicts, statements of decision, memorandum decisions, or any other indication by the court or jury, as the case may be, of its decision and the reasons for the decision, and copies of any post trial orders or rulings. If the matter was submitted to arbitration, a copy of the arbitration decision and any other documentation supporting the arbitration award. If the original judgment was appealed, copies of the appellate decision and remittitur.

(3) Copies of the original complaint, answer, cross-complaints, answers to cross-complaints, and all amendments or other subsequent versions of any of those documents.

(4) Copies of any pre-trial or post-trial briefs, settlement conference statements, or briefs submitted in arbitration by any party.

(5) A listing of all depositions, interrogatories, requests for admission, and other discovery taken in the underlying action by any party, describing the party or parties taking the deposition(s), the party propounding the interrogatories, the party propounding the requests for admission, or the party propounding the other discovery requests, the deponent(s), the party responding to any discovery request, and a list of all persons present at each deposition.

(6) Copies of any demurrers or motions for summary judgment, supporting documents, and rulings and orders thereon.

(7) A description by the claimant of the basis for each element of damages awarded.

(8) If the only judgment debtor was an officer or director, a statement as to why the corporation was neither sued nor taken to judgment.

(9) If any codefendants were dismissed from the underlying lawsuit, or if any party was dismissed from arbitration of the claims that are the basis of the underlying lawsuit, a statement of the reason for dismissal as to each such codefendant or party to the arbitration.

(10) A list of the names of any witnesses who testified at the underlying trial, or arbitration of the claims that are the basis of the underlying lawsuit, and the present or last known addresses of the witnesses to the extent known by the claimant.

(11) If the claimant claimed any loss related to the transaction as a deduction on the claimant's tax return or returns, a description of the amount of the tax benefit derived therefrom.

(12) A statement whether the judgment debtor is known to have filed bankruptcy. If so, a statement whether the claimant was named as a creditor in the bankruptcy, filed a claim in the bankruptcy, and pursued an adversary complaint to have the debt determined to be nondischargeable. If the judgment debtor filed bankruptcy and the claimant failed to take any of the foregoing actions, a statement as to why the claimant failed to take such actions.

(13) Abstracts of judgment bearing evidence of having been recorded in the county or counties in which the judgment debtor may possibly have assets.

(14) If any of the above items are not included in the initial application, or are requested in a deficiency letter and not supplied, a statement under penalty of perjury that the claimant has made a diligent effort to locate and produce the items but has been unable to locate them or has found that they do not exist.

(15) All documents or copies of documents submitted to meet the requirements of this section must be clear and legible.

(c) The Secretary of State shall include with the application form detailed instructions with respect to the documentary evidence, pleadings, court rulings, products of discovery and other documentation from the underlying litigation to be appended to the application by the claimant and a notice to the claimant of the claimant's obligation to protect the underlying judgment from discharge of bankruptcy.

(d) An application that is based on a criminal restitution order shall comply with all the requirements of this Chapter. For the purpose of an application based on a criminal restitution order, the following terms have the following meanings:

(1) "Judgment" means the criminal restitution order.

(2) "Complaint" means the facts of the underlying transaction upon which the criminal restitution order is based.

(3) "Judgment debtor" means any defendant corporation that is the subject of the criminal restitution order.

Note: Authority cited: Section 1502.5, Corporations Code. Reference: Section 1502.5, Corporations Code.

#### HISTORY

1. New section filed 3-9-2004; operative 3-9-2004 pursuant to GovernmentCode section 11343.4 (Register 2004, No. 11).

2 CCR § 22502, 2 CA ADC § 22502  
1CAC

2 CA ADC § 22502

END OF DOCUMENT

### **2 CA ADC § 22503**

2 CCR § 22503

Cal. Admin. Code tit. 2, § 22503

BARCLAYS OFFICIAL CALIFORNIA CODE OF REGULATIONS  
TITLE 2. ADMINISTRATION  
DIVISION 7. SECRETARY OF STATE  
CHAPTER 12. VICTIMS OF CORPORATE FRAUD COMPENSATION FUND  
This database is current through 2/12/10 Register 2010, No. 7

§ 22503. Notice Requirements.

(a) The claimant shall serve a copy of the notice prescribed in subdivision (e) together with a copy of the application upon the judgment debtor by personal service, by certified mail, or by publication, as set forth in subdivision (b).

(b) If the judgment debtor is a California corporation with a current statement of information on file with the Secretary of State pursuant to Section 1502 of the Corporations Code, or a foreign corporation with a current statement of information on file with the Secretary of State pursuant to Section 2117 of the Corporations Code, service of the notice and a copy of the application may be made by certified mail addressed to the agent for service of process designated on the corporation's statement of information. If the judgment debtor does not have a current statement of information on file with the Secretary of State pursuant to Section 1502 or Section 2117 of the Corporations Code, and personal service cannot be effected through the exercise of reasonable diligence, the claimant shall serve the judgment debtor by one publication of the notice in each of two successive weeks in a newspaper of general circulation published in the county of the judgment debtor's last known principal business office in the State of California.

(c) If the application is served upon the judgment debtor by certified mail, service is complete five days after mailing. Personal service is complete on the date of service. Service by publication is complete upon completion of the second week of publication.

(d) If a judgment debtor wishes to contest payment of an application by the Secretary of State, the judgment debtor shall mail or deliver a written response to the application addressed to the Secretary of State at the address specified in Section 22505 within 30 days after service of the notice and application, and shall mail or deliver a copy of the response to the claimant. If a judgment debtor fails to mail or deliver a timely response, the judgment debtor shall have waived the judgment debtor's right to present objections to payment of the application.

(e) The notice served upon the judgment debtor shall include the following statement:

NOTICE: Based upon a judgment entered against you in favor of \_\_\_\_\_ (name of claimant) , application for payment from the Victims of Corporate Fraud Compensation Fund is being made to the Secretary of State.

If payment is made from the Victims of Corporate Fraud Compensation Fund, your corporation will be automatically assessed the amount of the payment plus interest at the prevailing legal rate by the Secretary of State. If your corporation does not pay the assessed amount, your corporation will be suspended and cannot be reinstated until the Victims of Corporate Fraud Compensation Fund has been reimbursed for the amount paid plus interest at the prevailing legal rate.

If you wish to contest payment of the application by the Secretary of State, you must submit a written response to the application which must be addressed to the Secretary of State at the Office of the Secretary of State, Business Programs Division, Victims of Corporate Fraud Compensation Fund, 1500 11th Street, Sacramento, California 95814 within 30 days after mailing, delivery, or publication of this notice and mail or deliver a copy of that response to the claimant. If you fail to do so, you will have waived your right to present your objections to payment of the application.

(f) If a judgment debtor fails to mail or deliver a written response to the application with the Secretary of State within 30 days after personal service, service by mail, or final publication of the notice, the judgment debtor shall not thereafter be entitled to notice of any action taken or proposed to be taken by the Secretary of State with respect to the application.

Note: Authority cited: Section 1502.5, Corporations Code. Reference: Section 1502.5, Corporations Code.

HISTORY

1. New section filed 3-9-2004; operative 3-9-2004 pursuant to GovernmentCode section 11343.4 (Register 2004, No. 11).

2 CCR § 22503, 2 CA ADC § 22503  
1CAC

2 CA ADC § 22503

END OF DOCUMENT

## **CA ADC § 22504**

2 CCR § 22504

Cal. Admin. Code tit. 2, § 22504

BARCLAYS OFFICIAL CALIFORNIA CODE OF REGULATIONS  
TITLE 2. ADMINISTRATION  
DIVISION 7. SECRETARY OF STATE  
CHAPTER 12. VICTIMS OF CORPORATE FRAUD COMPENSATION FUND  
This database is current through 2/12/10 Register 2010, No. 7

§ 22504. Response by Judgment Debtor.

(a) The response by a judgment debtor must be verified and must contain a verified proof of service showing that a copy of the response was sent to the claimant, or if the claimant is represented by an attorney, to the claimant's attorney, at the address specified in the application for the claimant or the claimant's attorney.

(b) If the judgment debtor is not represented by an attorney in objecting to payment of the application, the response must contain the judgment debtor's name, the address at which the judgment debtor wishes to receive correspondence and notices relating to the application, and a telephone number where the judgment debtor can be reached during regular business hours. If the judgment debtor is represented by an attorney in objecting to the application, the response must contain the name, business address, and telephone number of the attorney.

Note: Authority cited: Section 1502.5, Corporations Code. Reference: Section 1502.5, Corporations Code.

### HISTORY

1. New section filed 3-9-2004; operative 3-9-2004 pursuant to GovernmentCode section 11343.4 (Register 2004, No. 11).

2 CCR § 22504, 2 CA ADC § 22504  
1CAC

2 CA ADC § 22504

END OF DOCUMENT

**2 CA ADC § 22505**

2 CCR § 22505

Cal. Admin. Code tit. 2, § 22505

BARCLAYS OFFICIAL CALIFORNIA CODE OF REGULATIONS  
TITLE 2. ADMINISTRATION  
DIVISION 7. SECRETARY OF STATE  
CHAPTER 12. VICTIMS OF CORPORATE FRAUD COMPENSATION FUND

This database is current through 2/12/10 Register 2010, No. 7

§ 22505. Subsequent Service of Correspondence and Notices.

After initial submission of the application to the Secretary of State and service on the judgment debtor by the claimant as provided by Sections 22501 and 22503, and after service of a response by the judgment debtor as provided by Sections 22503 and 22504, if any, all parties shall be served with subsequent correspondence and notices by first class mail as follows:

(a) The Secretary of State shall be served at: Office of the Secretary of State, Business Programs Division, Victims of Corporate Fraud Compensation Fund, 1500 11th Street, Sacramento, California 95814.

(b) The claimant shall be served at the claimant's address as specified in the application, or if the claimant is represented by an attorney, at the address of the attorney as specified in the application.

(c) The judgment debtor shall be served at the judgment debtor's address as specified in the response, or if the judgment debtor is represented by an attorney, at the address of the attorney as specified in the response.

If the claimant or judgment debtor later wishes to be served at an address other than as specified above, such party shall notify all other parties by first class mail of the new address.

Note: Authority cited: Section 1502.5, Corporations Code. Reference: Section 1502.5, Corporations Code.

HISTORY

1. New section filed 3-9-2004; operative 3-9-2004 pursuant to GovernmentCode section 11343.4 (Register 2004, No. 11).

2 CCR § 22505, 2 CA ADC § 22505  
1CAC

2 CA ADC § 22505

END OF DOCUMENT

**2 CA ADC § 22505**

2 CCR § 22505

Cal. Admin. Code tit. 2, § 22505

BARCLAYS OFFICIAL CALIFORNIA CODE OF REGULATIONS  
TITLE 2. ADMINISTRATION  
DIVISION 7. SECRETARY OF STATE  
CHAPTER 12. VICTIMS OF CORPORATE FRAUD COMPENSATION FUND  
This database is current through 2/12/10 Register 2010, No. 7

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(a) The Secretary of State shall be served at: Office of the Secretary of State, Business Programs Division, Victims of Corporate Fraud Compensation Fund, 1500 11th Street, Sacramento, California 95814.

(b) The claimant shall be served at the claimant's address as specified in the application, or if the claimant is represented by an attorney, at the address of the attorney as specified in the application.

(c) The judgment debtor shall be served at the judgment debtor's address as specified in the response, or if the judgment debtor is represented by an attorney, at the address of the attorney as specified in the response.

If the claimant or judgment debtor later wishes to be served at an address other than as specified above, such party shall notify all other parties by first class mail of the new address.

Note: Authority cited: Section 1502.5, Corporations Code. Reference: Section 1502.5, Corporations Code.

HISTORY

1. New section filed 3-9-2004; operative 3-9-2004 pursuant to GovernmentCode section 11343.4 (Register 2004, No. 11).

2 CCR § 22505, 2 CA ADC § 22505  
1CAC

2 CA ADC § 22505

END OF DOCUMENT

**2 CA ADC § 22505**

2 CCR § 22505

Cal. Admin. Code tit. 2, § 22505

BARCLAYS OFFICIAL CALIFORNIA CODE OF REGULATIONS  
TITLE 2. ADMINISTRATION  
DIVISION 7. SECRETARY OF STATE  
CHAPTER 12. VICTIMS OF CORPORATE FRAUD COMPENSATION FUND

This database is current through 2/12/10 Register 2010, No. 7

§ 22505. Subsequent Service of Correspondence and Notices.

After initial submission of the application to the Secretary of State and service on the judgment debtor by the claimant as provided by Sections 22501 and 22503, and after service of a response by the judgment debtor as provided by Sections 22503 and 22504, if any, all parties shall be served with subsequent correspondence and notices by first class mail as follows:

(a) The Secretary of State shall be served at: Office of the Secretary of State, Business Programs Division, Victims of Corporate Fraud Compensation Fund, 1500 11th Street, Sacramento, California 95814.

(b) The claimant shall be served at the claimant's address as specified in the application, or if the claimant is represented by an attorney, at the address of the attorney as specified in the application.

(c) The judgment debtor shall be served at the judgment debtor's address as specified in the response, or if the judgment debtor is represented by an attorney, at the address of the attorney as specified in the response.

If the claimant or judgment debtor later wishes to be served at an address other than as specified above, such party shall notify all other parties by first class mail of the new address.

Note: Authority cited: Section 1502.5, Corporations Code. Reference: Section 1502.5, Corporations Code.

HISTORY

1. New section filed 3-9-2004; operative 3-9-2004 pursuant to GovernmentCode section 11343.4 (Register 2004, No. 11).

2 CCR § 22505, 2 CA ADC § 22505  
1CAC

2 CA ADC § 22505

END OF DOCUMENT

**2 CA ADC § 22506**

2 CCR § 22506

Cal. Admin. Code tit. 2, § 22506

BARCLAYS OFFICIAL CALIFORNIA CODE OF REGULATIONS  
TITLE 2. ADMINISTRATION  
DIVISION 7. SECRETARY OF STATE  
CHAPTER 12. VICTIMS OF CORPORATE FRAUD COMPENSATION FUND  
This database is current through 2/12/10 Register 2010, No. 7

§ 22506. Incomplete Application.

(a) If the Secretary of State determines that the application as submitted by the claimant fails to comply with the requirements of Sections 22501 and 22502, the Secretary of State shall, within 21 calendar days after receipt of the application, mail an itemized description of deficiencies to the claimant.

(b) The time within which the Secretary of State is required to act pursuant to Section 22507 shall be measured from the date of receipt by the Secretary of State of an application that is deemed complete. In the event of an irreconcilable dispute between the claimant and the Secretary of State on the question of whether the application is complete, the claimant may immediately file the claim with the court pursuant to Section 22512.

(c) In the event that the Secretary of State has mailed one or more itemized lists of deficiencies to a claimant as provided by subdivision (a) of this section, and if after 30 calendar days the Secretary of State has received no response to the latest such list of deficiencies, the Secretary of State may notify the claimant that unless the application is complete within a specified period of time of not less than 10 days, the application will be denied.

(d) If no response has been received from the claimant after the passing of the deadline specified by the Secretary of State pursuant to subdivision (c) of this section, the Secretary of State may deny the application.

Note: Authority cited: Section 1502.5, Corporations Code. Reference: Section 1502.5, Corporations Code.

HISTORY

1. New section filed 3-9-2004; operative 3-9-2004 pursuant to GovernmentCode section 11343.4 (Register 2004, No. 11).

2 CCR § 22506, 2 CA ADC § 22506  
1CAC

2 CA ADC § 22506

END OF DOCUMENT

**2 CA ADC § 22507**

2 CCR § 22507

Cal. Admin. Code tit. 2, § 22507

BARCLAYS OFFICIAL CALIFORNIA CODE OF REGULATIONS  
TITLE 2. ADMINISTRATION  
DIVISION 7. SECRETARY OF STATE  
CHAPTER 12. VICTIMS OF CORPORATE FRAUD COMPENSATION FUND

This database is current through 2/12/10 Register 2010, No. 7

§ 22507. Review by the Secretary of State.

(a) Applications received each year by the Secretary of State no later than March 31 shall be considered for payment during the fiscal year in which the application is received. Under no circumstances shall the Secretary of State approve the payment of claims that total more than the amount of funds available for the fiscal year in the Victims of Corporate Fraud Compensation Fund.

(b) Applications received each year by the Secretary of State after March 31 shall be considered for payment during the following fiscal year.

HISTORY

1. New section filed 3-9-2004; operative 3-9-2004 pursuant to GovernmentCode section 11343.4 (Register 2004, No. 11).

2 CCR § 22507, 2 CA ADC § 22507  
1CAC

2 CA ADC § 22507

END OF DOCUMENT

**2 CA ADC § 22508**

2 CCR § 22508

Cal. Admin. Code tit. 2, § 22508

BARCLAYS OFFICIAL CALIFORNIA CODE OF REGULATIONS  
TITLE 2. ADMINISTRATION  
DIVISION 7. SECRETARY OF STATE  
CHAPTER 12. VICTIMS OF CORPORATE FRAUD COMPENSATION FUND

This database is current through 2/12/10 Register 2010, No. 7

§ 22508. Final Decision on Application.

(a) The Secretary of State shall render a final written decision on the application no later than July 31 in the fiscal year following the fiscal year in which the application was submitted unless the claimant agrees in writing to extend the time within which the Secretary of State may render a decision. If the Secretary of State fails to render a written decision in response to the application by July 31 in the fiscal year following the fiscal year in which the application was submitted or within the extended period agreed to by the claimant, the application shall be deemed to have been denied by the Secretary of State on the final day for rendering the decision.

(b) The Secretary of State may deny or grant the application or may enter into a compromise with the claimant to pay less in settlement than the full amount of the application. If the claimant refuses to accept a settlement of the application offered by the Secretary of State, the written decision of the Secretary of State shall be to deny the application or it shall be deemed denied if a written decision is not rendered within the time specified in subdivision (a). Evidence of settlement offers and discussions between the Secretary of State and the claimant shall not be competent evidence in judicial proceedings undertaken by the claimant pursuant to Section 22512.

(c) In considering and investigating an application, the Secretary of State may use all appropriate means of investigation and discovery available under Article 2 (commencing with Section 11180) of Chapter 2 of Part 1 of Division 3 of Title 2 of the Government Code.

Note: Authority cited: Section 1502.5, Corporations Code. Reference: Section 1502.5, Corporations Code.

#### HISTORY

1. New section filed 3-9-2004; operative 3-9-2004 pursuant to GovernmentCode section 11343.4 (Register 2004, No. 11).

2 CCR § 22508, 2 CA ADC § 22508  
1CAC

2 CA ADC § 22508

END OF DOCUMENT

### **2 CA ADC § 22509**

2 CCR § 22509

Cal. Admin. Code tit. 2, § 22509

BARCLAYS OFFICIAL CALIFORNIA CODE OF REGULATIONS  
TITLE 2. ADMINISTRATION  
DIVISION 7. SECRETARY OF STATE  
CHAPTER 12. VICTIMS OF CORPORATE FRAUD COMPENSATION FUND  
This database is current through 2/12/10 Register 2010, No. 7

§ 22509. Form of Decision.

(a) The Secretary of State shall give written notice of a decision rendered with respect to the application to the claimant and to a judgment debtor who has submitted a timely response to the

application in accordance with Section 22504.

(b) If the application is denied, the notice to the claimant and judgment debtor shall include the following:

Claimant's application has been denied. If the claimant wishes to pursue the application in court, the claimant must file the application in a superior court of this state not later than six months after receipt of this notice, pursuant to Section 22512. If the underlying judgment is a California state court judgment, the application shall be filed in the court in which the underlying judgment was entered. If the underlying judgment is a federal court judgment, the application shall be filed in (1) the superior court of any county within California that would have been a proper venue if the underlying lawsuit had been filed in a California state court, or (2) the Superior Court of the County of Sacramento.

(c) If the decision of the Secretary of State is to make a payment to the claimant from the Victims of Corporate Fraud Compensation Fund, the following notice shall be given to the judgment debtor along with a copy of the decision of the Secretary of State:

The decision of the Secretary of State on the application of (name of claimant) is to pay \$\_\_\_\_\_ (amount of payment) from the Victims of Corporate Fraud Compensation Fund. A copy of that decision is enclosed.

Pursuant to Section 22516, your corporation will be assessed the amount of the payment plus interest at the prevailing legal rate, payable on the date your next statement of information pursuant to Section 1502 or Section 2117 of the Corporations Code is required to be filed. If your corporation does not pay the assessed amount, your corporation will be suspended and will not be eligible for reinstatement until you have reimbursed the Victims of Corporate Fraud Compensation Fund for this payment plus interest at the prevailing legal rate.

If you desire a judicial review of the decision of the Secretary of State, you may petition the superior court for a writ of mandamus. If the underlying judgment is a California state court judgment, the petition shall be filed in the court in which the judgment was entered. If the underlying judgment is a federal court judgment, the petition shall be filed in the superior court of any county within California that would have been a proper venue if the underlying lawsuit had been filed in a California state court, or in the Superior Court of the County of Sacramento. To be timely, the petition must be filed with the court, and copies served on the Secretary of State and claimant, within 30 days of service of this notice.

Note: Authority cited: Section 1502.5, Corporations Code. Reference: Section 1502.5, Corporations Code.

#### HISTORY

1. New section filed 3-9-2004; operative 3-9-2004 pursuant to GovernmentCode section 11343.4 (Register 2004, No. 11).

2 CCR § 22509, 2 CA ADC § 22509  
1CAC

2 CA ADC § 22509

END OF DOCUMENT

This database is current through 2/12/10 Register 2010, No. 7  
§ 22510. Procedure upon Filing of Writ of Mandamus by Judgment Debtor.

(a) If the decision of the Secretary of State is to make a payment out of the Victims of Corporate Fraud Compensation Fund, and the judgment debtor files a writ of mandamus as provided in Section 22509, no payment shall be made of the pending application unless the writ of mandamus has been denied and such denial has become final.

(b) If such writ of mandamus is granted on the basis that the claimant has not met the requirements for payment from the Victims of Corporate Fraud Compensation Fund, the application shall be deemed denied on the date that the judgment becomes final.

Note: Authority cited: Section 1502.5, Corporations Code. Reference: Section 1502.5, Corporations Code.

#### HISTORY

1. New section filed 3-9-2004; operative 3-9-2004 pursuant to GovernmentCode section 11343.4 (Register 2004, No. 11).

2 CCR § 22510, 2 CA ADC § 22510  
1CAC

2 CA ADC § 22510

END OF DOCUMENT

BARCLAYS OFFICIAL CALIFORNIA CODE OF REGULATIONS  
TITLE 2. ADMINISTRATION  
DIVISION 7. SECRETARY OF STATE  
CHAPTER 12. VICTIMS OF CORPORATE FRAUD COMPENSATION FUND

This database is current through 2/12/10 Register 2010, No. 7  
§ 22511. Proration Where Aggregate Valid Applications Exceed Liability Limits.

If, at any time prior to the rendering of a decision on an application, the Secretary of State makes a preliminary determination that the aggregate valid applications of all aggrieved persons are likely to exceed the funds available for distribution from the Victims of Corporate Fraud Compensation Fund, the Secretary of State shall distribute the available funds among them in the ratio that their respective losses, as supported in their applications, bear to the aggregate of the valid applications. Distribution of any moneys shall be among the persons entitled to share therein, without regard to the order of priority in which their respective judgments may have been obtained or the date(s) the applications were submitted to the Secretary of State.

Note: Authority cited: Section 1502.5, Corporations Code. Reference: Section 1502.5, Corporations Code.

#### HISTORY

1. New section filed 3-9-2004; operative 3-9-2004 pursuant to GovernmentCode section 11343.4 (Register 2004, No. 11).

2 CCR § 22511, 2 CA ADC § 22511  
1CAC

2 CA ADC § 22511

END OF DOCUMENT

BARCLAYS OFFICIAL CALIFORNIA CODE OF REGULATIONS  
TITLE 2. ADMINISTRATION  
DIVISION 7. SECRETARY OF STATE  
CHAPTER 12. VICTIMS OF CORPORATE FRAUD COMPENSATION FUND

This database is current through 2/12/10 Register 2010, No. 7

§ 22512. Claimant Appeal Process.

(a) A claimant against whom the Secretary of State has rendered a decision denying an application pursuant to Section 22509 may, within six months after the mailing of the notice of the denial, file a verified application in superior court for an Order Directing Payment Out of the Victims of Corporate Fraud Compensation Fund based upon the grounds set forth in the application to the Secretary of State. If the underlying judgment is a California state court judgment, the application shall be filed in the court in which the underlying judgment was entered. If the underlying judgment is a federal court judgment, the application shall be filed in (1) the superior court of any county within California that would have been a proper venue if the underlying lawsuit had been filed in a California state court, or (2) the Superior Court of the County of Sacramento.

(b) A copy of the verified application shall be served upon the Secretary of State and upon the judgment debtor. A certificate or affidavit of service shall be filed by the claimant with the court. Service on the Secretary of State may be made by certified mail addressed to the address set forth in subdivision (a) of Section 22505. Service upon a judgment debtor may be made in accordance with subdivision (c) of Section 22505. The notice served upon the judgment debtor shall read as follows:

NOTICE: An application has been filed with the court for a payment from the Victims of Corporate Fraud Compensation Fund that was previously denied by the Secretary of State. If, as a result of this judicial action, the Secretary of State makes a payment from the Victims of Corporate Fraud Compensation Fund pursuant to court order, your corporation will be automatically assessed the amount of the payment plus interest at the prevailing legal rate by the Secretary of State. If your corporation does not pay the assessed amount, your corporation will be suspended until the Victims of Corporate Fraud Compensation Fund has been reimbursed for the amount paid plus interest at the prevailing legal rate.

If you wish to defend in court against this application, you must file a written response with the court within 30 days after having been served with a copy of the application. If you do not file a written response, you will have waived your right to defend against the application.

Note: Authority cited: Section 1502.5, Corporations Code. Reference: Section 1502.5, Corporations Code.

HISTORY

1. New section filed 3-9-2004; operative 3-9-2004 pursuant to GovernmentCode section 11343.4 (Register 2004, No. 11).

2 CCR § 22512, 2 CA ADC § 22512

1CAC

2 CA ADC § 22512

END OF DOCUMENT

BARCLAYS OFFICIAL CALIFORNIA CODE OF REGULATIONS  
TITLE 2. ADMINISTRATION  
DIVISION 7. SECRETARY OF STATE  
CHAPTER 12. VICTIMS OF CORPORATE FRAUD COMPENSATION FUND

This database is current through 2/12/10 Register 2010, No. 7

§ 22513. Prerequisite for Payment from Victims of Corporate Fraud Compensation Fund.

Whenever the court proceeds upon an application under Section 22512, it shall order payment from the Victims of Corporate Fraud Compensation Fund only upon a determination that the aggrieved party has a valid cause of action under Section 22501, and has complied with Section 22502.

The Secretary of State may defend any such action on behalf of the Secretary of State and shall have recourse to all appropriate means of defense and review, including examination of witnesses and the right to relitigate any issues material and relevant in the proceeding against the Victims of Corporate Fraud Compensation Fund which were determined in the underlying action on which the judgment in favor of the applicant was based. If the judgment in favor of the applicant was by default, stipulation, consent, or pursuant to Section 594 of the Code of Civil Procedure, or whenever the action against the corporation was defended by a trustee in bankruptcy, the applicant shall have the burden of proving that the cause of action against the corporation was for fraud, misrepresentation, or deceit.

Otherwise, the judgment shall create a rebuttable presumption of the fraud, misrepresentation, or deceit by the corporation, which presumption shall affect the burden of producing evidence.

The Secretary of State may move the court at any time to dismiss the application when it appears there are no triable issues and the petition is without merit. The motion may be supported by affidavit of any person or persons having knowledge of the facts, and may be made on the basis that the petition, and the judgment referred to therein, does not form the basis for a meritorious recovery claim within the purview of Section 22501; provided, however, the Secretary of State shall give written notice at least 10 days before the motion is scheduled to be heard.

The Secretary of State may, subject to court approval, compromise a claim based upon the application of an aggrieved party. The Secretary of State shall not be bound by any compromise or stipulation of the judgment debtor.

Note: Authority cited: Section 1502.5, Corporations Code. Reference: Section 1502.5, Corporations Code.

HISTORY

1. New section filed 3-9-2004; operative 3-9-2004 pursuant to GovernmentCode section 11343.4 (Register 2004, No. 11).

2 CCR § 22513, 2 CA ADC § 22513

1CAC

2 CA ADC § 22513

END OF DOCUMENT

BARCLAYS OFFICIAL CALIFORNIA CODE OF REGULATIONS  
TITLE 2. ADMINISTRATION  
DIVISION 7. SECRETARY OF STATE  
CHAPTER 12. VICTIMS OF CORPORATE FRAUD COMPENSATION FUND

This database is current through 2/12/10 Register 2010, No. 7

§ 22514. Rights of Judgment Debtor.

The judgment debtor may defend an action against the Victims of Corporate Fraud Compensation Fund on the judgment debtor's own behalf and shall have recourse to all appropriate means of defense and review, including examination of witnesses. All matters, including, but not limited to, the issues of fraud, misrepresentation, or deceit, finally adjudicated on the merits in the underlying action are conclusive as to the judgment debtor and the claimant in the proceeding against the Victims of Corporate Fraud Compensation Fund.

Note: Authority cited: Section 1502.5, Corporations Code. Reference: Section 1502.5, Corporations Code.

HISTORY

1. New section filed 3-9-2004; operative 3-9-2004 pursuant to GovernmentCode section 11343.4 (Register 2004, No. 11).

2 CCR § 22514, 2 CA ADC § 22514  
1CAC

2 CA ADC § 22514

END OF DOCUMENT

BARCLAYS OFFICIAL CALIFORNIA CODE OF REGULATIONS  
TITLE 2. ADMINISTRATION  
DIVISION 7. SECRETARY OF STATE  
CHAPTER 12. VICTIMS OF CORPORATE FRAUD COMPENSATION FUND

This database is current through 2/12/10 Register 2010, No. 7

§ 22515. Limitations on Payment from the Victims of Corporate Fraud Compensation Fund.

(a) Notwithstanding any other provision of this chapter and regardless of the number of persons aggrieved in a transaction or the number of judgments against a judgment debtor, the payment from the Victims of Corporate Fraud Compensation Fund shall not exceed twenty thousand dollars (\$20,000) for any one transaction.

(b) When multiple judgment debtors are involved in a transaction and the conduct of two or more of the judgment debtors results in a judgment meeting the requirements of Section 22501, the claimant may seek recovery from the Victims of Corporate Fraud Compensation Fund based on the judgment against any of the judgment debtors, subject to the limitations of this section.

Note: Authority cited: Section 1502.5, Corporations Code. Reference: Section 1502.5, Corporations Code.

HISTORY

1. New section filed 3-9-2004; operative 3-9-2004 pursuant to GovernmentCode section 11343.4 (Register 2004, No. 11).

2 CCR § 22515, 2 CA ADC § 22515  
1CAC

2 CA ADC § 22515

END OF DOCUMENT

BARCLAYS OFFICIAL CALIFORNIA CODE OF REGULATIONS  
TITLE 2. ADMINISTRATION  
DIVISION 7. SECRETARY OF STATE  
CHAPTER 12. VICTIMS OF CORPORATE FRAUD COMPENSATION FUND

This database is current through 2/12/10 Register 2010, No. 7

§ 22516. Recovery from Corporation upon Payment from Victims of Corporate Fraud Compensation Fund.

If the Secretary of State pays from the Victims of Corporate Fraud Compensation Fund any amount in settlement of a claim or toward satisfaction of a judgment against a corporation, the corporation shall be required to pay to the Victims of Corporate Fraud Compensation Fund the amount of the claim, plus interest at the prevailing legal rate applicable to a judgment rendered in any court of this state, at the time the corporation files its next statement of information pursuant to Section 1502 or Section 2117 of the Corporations Code. This payment is in addition to any other fees or penalties the corporation is required to pay in conjunction with the filing of the statement of information. If the corporation fails to make the required payment to the Victims of Corporate Fraud Compensation Fund upon the filing of its statement of information, the corporation shall be suspended in the manner set forth in Section 2204, Section 2205, or Section 2206 of the Corporations Code, as applicable. A discharge in bankruptcy shall not relieve a corporation from the penalties and disabilities provided in this Chapter.

Note: Authority cited: Section 1502.5, Corporations Code. Reference: Section 1502.5, Corporations Code.

HISTORY

1. New section filed 3-9-2004; operative 3-9-2004 pursuant to GovernmentCode section 11343.4 (Register 2004, No. 11).

2 CCR § 22516, 2 CA ADC § 22516  
1CAC

2 CA ADC § 22516

END OF DOCUMENT

BARCLAYS OFFICIAL CALIFORNIA CODE OF REGULATIONS  
TITLE 2. ADMINISTRATION  
DIVISION 7. SECRETARY OF STATE  
CHAPTER 12. VICTIMS OF CORPORATE FRAUD COMPENSATION FUND

This database is current through 2/12/10 Register 2010, No. 7

§ 22517. Disposition of Funds Received by the Secretary of State.

Any sums received by the Secretary of State pursuant to any provisions of this Chapter shall be deposited in the State Treasury and credited to the Victims of Corporate Fraud Compensation Fund.

Note: Authority cited: Section 1502.5, Corporations Code. Reference: Section 1502.5, Corporations Code.

HISTORY

1. New section filed 3-9-2004; operative 3-9-2004 pursuant to GovernmentCode section 11343.4 (Register 2004, No. 11).

2 CCR § 22517, 2 CA ADC § 22517  
1CAC

2 CA ADC § 22517

END OF DOCUMENT

BARCLAYS OFFICIAL CALIFORNIA CODE OF REGULATIONS  
TITLE 2. ADMINISTRATION  
DIVISION 7. SECRETARY OF STATE  
CHAPTER 12. VICTIMS OF CORPORATE FRAUD COMPENSATION FUND

This database is current through 2/12/10 Register 2010, No. 7  
§ 22518. Rights of Claimant.

When the Secretary of State has paid from the Victims of Corporate Fraud Compensation Fund any sum to the claimant, the Secretary of State shall be subrogated to all of the rights of the claimant and the claimant shall assign all of the claimant's rights, title, and interest in the judgment to the Secretary of State and any amount and interest so recovered by the Secretary of State on the judgment shall be deposited to the Victims of Corporate Fraud Compensation Fund.

Note: Authority cited: Section 1502.5, Corporations Code. Reference: Section 1502.5, Corporations Code.

HISTORY

1. New section filed 3-9-2004; operative 3-9-2004 pursuant to GovernmentCode section 11343.4 (Register 2004, No. 11).

2 CCR § 22518, 2 CA ADC § 22518  
1CAC

2 CA ADC § 22518

END OF DOCUMENT

BARCLAYS OFFICIAL CALIFORNIA CODE OF REGULATIONS  
TITLE 2. ADMINISTRATION  
DIVISION 7. SECRETARY OF STATE  
CHAPTER 12. VICTIMS OF CORPORATE FRAUD COMPENSATION FUND  
This database is current through 2/12/10 Register 2010, No. 7

§ 22519. Waiver of Rights.

The failure of an aggrieved person to comply with all of the provisions of this Chapter shall constitute a waiver of any rights hereunder.

Note: Authority cited: Section 1502.5, Corporations Code. Reference: Section 1502.5, Corporations Code.

HISTORY

1. New section filed 3-9-2004; operative 3-9-2004 pursuant to Government Code section 11343.4 (Register 2004, No. 11).

2 CCR § 22519, 2 CA ADC § 22519

1CAC

2 CA ADC § 22519

END OF DOCUMENT