

**MINUTES OF THE SPECIAL BOARD MEETING OF THE
TAMPA FIRE & POLICE PENSION FUND**

Location: Tampa Convention Center, Room 20-21

Livestream: <https://attendee.gotowebinar.com/register/4540496353222163983> Webinar ID: 711-723-059

Audio Only: (866) 901-6455 Access Code: 132-410-137

April 14, 2021 10:00 a.m.

The Board of Trustees of the City Pension Fund for Firefighters and Police Officers in the City of Tampa met in rooms 20-21 of the Tampa Convention Center on Wednesday, April 14, 2021 at 10:00 a.m. for the purpose of formal hearing proceedings for line-of-duty disability applicant Karl Spellman, formerly of TPD, with the following members present:

Douglas Burkett, Chairman
Matthew Belmonte
John Cannon
Trevor Hall
Patrick Messmer

Gregory Reed
Dennis Rogero
Gregory Spearman
Ocea Wynn

Also present were Mr. and Mrs. Karl Spellman and Tonya Oliver, legal counsel for applicant. Michael Srebnick, legal advocate for the Board, Stuart Kaufman, Board counsel; and Dr. Bruce Bohnker, Medical Director, participated telephonically.

Mr. Kaufman opened by providing background of the disability originally filed in September of 2014 and subsequent denial. He recommended accepting the entire record of previous activity concerning the case into evidence. **It was moved by Mr. Rogero, seconded by Mr. Spearman and by unanimous vote to accept the record into evidence.**

[Before opening statements began, the Board moved to invoke sequestration for Mrs. Spellman. She was excused and exited the room at 10:10 a.m., with the doors closed following her departure. Ms. Oliver requested the same of Dr. Bohnker. He exited the meeting at this time and did not rejoin.]

Ms. Oliver, counsel for the applicant, began her opening statement by noting the size of the record in the case. She stated that no record of willful non-compliance with regard to hypertension on behalf of Mr. Spellman existed and that the disability should be awarded. She cited three separate IME doctors who each found that Mr. Spellman's hypertension was disabling. Ms. Oliver concluded her opening with extensive background of previous medical visits, reports, and past hearings.

Mr. Srebnick opened his remarks by contesting that Mr. Spellman's hypertension was disabling. He pointed out that Mr. Spellman was diagnosed with uncontrollable hypertension and that all of his doctors agreed that if his blood pressure were controlled, he would not be disabled. Mr. Srebnick respectfully suggested that medical non-compliance with medications is the reason for Mr. Spellman's blood pressure and hypertension.

[Brief recess from 10:32 a.m. to 10:34 a.m.]

Mrs. Spellman re-entered the room and was then sworn in for testimony. Direct examination by Ms. Oliver followed. Mrs. Spellman was asked if she was present for Mr. Spellman's hypertension event in 2013 and if she currently prepares his daily medications and witnesses his nightly use of a CPAP machine. Mrs. Spellman answered 'yes' to all of the questions. Ms. Oliver then asked Mrs. Spellman to provide background on the number of medications used by Mr. Spellman and the means by which they were obtained, which she did.

Cross-examination by Mr. Srebnick ensued. Mrs. Spellman was asked in a variety of ways why she prepares the medications and not Mr. Spellman himself. Her reply was it was her duty as his wife.

Following Mr. Srebnick's cross-examination, Trustees were given the opportunity to pose questions to Mrs. Spellman. She was asked about methods taken for monitoring his blood pressure at home, to which she responded that an arm cuff was used several times a day and that a log of his readings was kept. She was asked about variations in his blood pressure when he was at rest vs. being active and if adjustments to his medication were made subsequent to Mr. Spellman being prescribed them. She was further asked about the total number of medications and how many were for blood pressure regulation. Mr. Srebnick re-directed to ask Mrs. Spellman details about a visit to the Department of Motor Vehicles in 2014 in which a form she printed from the VFA website declaring Mr. Spellman 100% disabled was presented. Mrs. Spellman explained that she was attempting to procure a Navy specialty license plate for her husband and took as much information regarding his naval service as she could find with her. Ms. Oliver rebutted to inquire of Mrs. Spellman if bringing the form to the DMV was an oversight. Mrs. Spellman responded that it was. The Board members then asked further questions, including if a disability tag was ultimately issued to Mr. Spellman. Mrs. Spellman acknowledged that one was, but that they returned it to the DMV a few months later.

[Brief recess from 11:17 a.m. to 11:21 a.m.]

Mr. Spellman was sworn in for testimony. Mr. Srebnick began his line of questioning by asking Mr. Spellman to give an account of his past disability application with the Navy on the grounds of hearing loss. He then asked Mr. Spellman about the disability tag and if knowingly placing such a tag on a vehicle of someone who is not disabled is legal or not. Mr. Spellman replied that it is not legal. Upon questioning from the Trustees, Mr. Spellman was asked if he ever had sinus surgery. He stated that he did, but that it did not help his sleep apnea. He was also asked if any of his doctors ever informed him of having high cholesterol. He responded that they did not.

Ms. Oliver proceeded to deliver her closing statement. She stated that Mr. Spellman's hypertension is presumed to be work related if no one can tell why the hypertension is uncontrolled. She argued that Dr. Bohnker violated the pension policy by inserting his own opinion into Mr. Spellman's disability application, which is outside the scope of his responsibilities as medical director. Ms. Oliver then proceeded to highlight extensive excerpts from depositions and define in detail the definition of disability, as stated in the Pension Policy.

Mr. Srebnick then took the opportunity to deliver his closing remarks, keying in on the suggested non-compliance of Mr. Spellman with his medication. He quoted past doctor depositions as well and called into question Mr. Spellman's overall credibility, citing the disability tag again as an example. He finished by retorting some of the statements regarding Dr. Bohnker that Ms. Oliver included in her closing.

Following a brief rebuttal by Ms. Oliver, it was recommended by Mr. Kaufman that the Board begin deliberations on the presumptions surrounding Mr. Spellman's disability claim. **It was moved by Mr. Messmer, seconded by Mr. Reed and by unanimous vote to commence deliberations on the presumptions of Mr. Spellman's disability claim.**

Discussion ensued regarding the presumption and duty-relatedness of Mr. Spellman's disability.

It was moved by Mr. Messmer, seconded by Mr. Spearman that the Board finds Mr. Spellman's disability claim is covered by the presumption and was incurred in the line of duty.

Deliberations centered around credibility issues concerning Mr. Spellman. Concern was also noted of omission of hypertension on his pre-employment medical disclosures and disability application. Further discussion ensued regarding the totality of the disability due to potential medical noncompliance.

[Brief recess from 1:31 p.m. to 1:38 p.m.]

It was moved by Mr. Messmer, seconded by Mr. Hall to deny the disability claim of Mr. Spellman based on totality and credibility of the applicant, with Mr. Belmonte, Mr. Burkett, Mr. Cannon, Mr. Reed and Mr. Rogero in favor of the motion and Mr. Spearman and Ms. Wynn against the motion.

Mr. Kaufman stated that he would prepare the final order of disability. Trustees discussed if denial based on a violation of Board Policy 201 - Medical Examination of New Pension Fund Applicants should also be put to a vote. Ms. Oliver objected based on no findings of facts, and her objection was noted for the record. **It was moved by Mr. Messmer, seconded by Mr. Hall to also deny the disability claim of Mr. Spellman based on a violation of Board Policy 201 by the applicant, with Mr. Belmonte, Mr. Burkett, Mr. Cannon, Mr. Reed and Mr. Rogero in favor of the motion and Mr. Spearman and Ms. Wynn against the motion.**

The meeting adjourned at 1:44 p.m.

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Douglas Burkett, Chairman

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Ocea Wynn, Secretary

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Adam Hollen, Recording Secretary

Notice

No verbatim record by a certified court reporter will be made of this Board meeting, except as noticed for any executive sessions. Any person who desires to appeal any decision of the Board of Trustees with respect to any matter considered at this Board meeting will be responsible for providing a record of the proceedings and for this purpose, may need to ensure that a verbatim record of the proceedings is made, which includes testimony and evidence upon which the appeal is based.

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