

General Information and Overview

Introduction

These materials are intended to assist people with the application process to the Victims of Corporate Fraud Compensation Fund (“VCFCF”). The VCFCF provides limited restitution to victims of corporate fraud who have otherwise been unable to collect on their final judgment. The law governing payment from the VCFCF is California Corporations Code sections 2280 through 2296 and California Code of Regulations, title 2, division 7, chapter 12, sections 22500 through 22507 (“Regulations”).

Conditions for Payment

There are important statutory conditions that must be met in order to qualify for payment from the VCFCF:

- The person making the claim (“claimant”) must have resided in California at the time the fraud occurred.
- The final judgment may be a civil court judgment or a criminal restitution order. The final judgment may also be based upon an arbitration award. However, the arbitration award must first be reduced to a judgment in civil court before it can qualify for payment from the VCFCF.
- A final civil court judgment must be against a corporation—not an individual or another type of business entity (e.g., a limited liability company). A final criminal restitution order must be against a corporation or against an officer or director of the corporation acting in that person’s capacity as the corporation’s officer or director when committing the fraudulent acts (“Agent”). The final judgment or restitution order must be based on the corporation’s fraud, misrepresentation, or deceit, made with the intent to defraud.
- The final judgment must be from a state or federal court in California.
- The application must be delivered to the Secretary of State within 18 months of the judgment becoming final (“final” usually means the time to appeal the judgment has passed).

- The corporation that the judgment is against or against whose Agent a criminal restitution order has been entered (both corporation and Agent are referred to as a “judgment debtor”) must be a California corporation or a foreign corporation registered with the California Secretary of State.
- The claimant must use all reasonable efforts to identify and pursue collection of available assets from all those responsible for the fraud.
- The judgment and debt must not have been discharged or be statutorily nondischargeable in a bankruptcy proceeding. In the case of a bankruptcy proceeding that is open at or after the time of filing the application, the judgment and debt must have been declared by the court or agreed by the parties to be nondischargeable. Additionally, the claimant must have permission from the bankruptcy court to proceed against the corporation.

Judgment Debtor Corporation Response

A corporation or Agent can contest payment from the VCFCF by providing evidence it believes shows the judgment or application does not meet the conditions for payment, which may include, but is not limited to the following:

- The time for appeal has not expired;
- The claimant is not the aggrieved person;
- The application is not timely;
- The judgment is not from a California court;
- Enforcement of the judgment is barred by court order or statute;
- The claimant has been reimbursed;
- The judgment and debt were discharged in bankruptcy;
- The judgment and debt are still pending in bankruptcy;
- The claimant has been paid by another restitution fund;
- The judgment is a default judgment that was not based on the corporation’s fraud, misrepresentation or deceit;

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- The submitted judgment is not the actual court document or otherwise contains a false or forged statement;
- The defendant named in the criminal restitution order was not an officer or director of the corporation at the time the fraud occurred; or
- That the fraudulent conduct of the defendant named in the criminal restitution order was not within the defendant's capacity as the officer or director of the corporation.

A judgment debtor has 35 calendar days to file a response with the Secretary of State from the date the Secretary of State mails notice that the claimant has submitted an application for payment. The Secretary of State will provide the notice by certified mail to the corporation's last designated agent for service of process and to the Agent, if any, named in a criminal restitution order. The judgment debtor must also mail a copy of any response it chooses to file to the claimant. If a judgment debtor does not file a timely response, the corporation, or Agent, cannot present objections to payment and will not be entitled to any further notice of any action taken or proposed to be taken on the application. The corporation's response must be signed by an officer or director of the corporation and must include a proof of service showing that a copy of the corporation's response was sent or delivered to the claimant.

Length of Time For Decision

Once an application is received, the Secretary of State has 21 calendar days for a single claimant or 40 calendar days for multiple claimants to notify the claimant(s) of any deficiencies in the application or to request additional documents and information. The claimant has 30 calendar days to respond to the deficiency notice. If no response is received, the Secretary of State will send a final notice. If there is still no response, the application will be denied.

If the application cannot meet the conditions for payment, the application will be denied. If the application meets all of the statutory requirements or all of the deficiencies have been corrected, the

application will be deemed complete. The Secretary of State then has 90 calendar days to render a final decision on the completed application, unless there is a prior written agreement to extend the time. The claimant and judgment debtor will be notified of the final decision on the application. The claimant has 60 calendar days to accept an award or offer to compromise. If the claimant does not accept the award or offer to compromise, the application will automatically be denied.

Submitting the Initial Application

The original application and supporting documentation must be delivered in person or by certified mail to the Secretary of State. The application must be delivered within 18 months of the judgment becoming final to the following address:

Secretary of State
Business Programs Division
Victims of Corporate Fraud
Compensation Fund
1500 11th Street, 3rd Floor
Sacramento, CA 95814

Subsequent Correspondence and Notices

All correspondence and notices submitted subsequent to the initial application must be mailed by first-class mail to the Secretary of State, the claimant and a judgment debtor that has filed a timely response to the application. Mail to the Secretary of State must be directed to the following address:

Secretary of State
Business Programs Division
Victims of Corporate Fraud
Compensation Fund
P.O. Box 15659
Sacramento, CA 95852

Mail to the claimant must be directed to the address specified in the application, or if represented by an attorney, to the address of the attorney specified in

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the application. Mail to the judgment debtor must be directed to the address specified in the response, or if represented by an attorney, at the address of the attorney as specified in the response. A party must immediately notify the other parties by first class mail if they wish to receive mail at another address.

Application Decision, Appeals and Writs

The Secretary of State will notify the claimant and any judgment debtor that has filed a timely response of the decision on the application.

- Decision to Make Payment – If the decision is to award the claim or make an offer to compromise, the claimant has 60 calendar days to accept the award or offer, or the application will automatically be denied.
- Payment of an Award or Offer – If the Secretary of State pays any amount in settlement of a claim, the judgment debtor has 30 calendar days following the notice of payment to pay the VCFCF the amount paid plus interest at the prevailing rate applicable to the judgment or the judgment debtor corporation will be suspended on the Secretary of State’s records until payment is made.
- Decision to Deny the Application – If the decision is to deny payment, the claimant may pursue the action in court. To do so, the claimant must file a verified application with the court no later than six months after mailing of the notice of denial of the application. If the underlying judgment is from a California state court, the application must be filed in the court in which the underlying judgment was entered. If the underlying judgment is a federal court judgment, the application must 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 alternatively, Sacramento County Superior Court.

Additional Information

- All applications must be submitted using the attached Application for Payment form.
- Applications based upon a criminal restitution order against an officer or director of a corporation must include both the attached Application for Payment and Attachment A forms.
- Application for Payment forms that are verified by claimant’s attorney must also include the attached Attachment B form which has been completed and verified by the claimant.
- Payment from the VCFCF is limited to \$50,000 for any one claimant per single judgment.
- A claimant should make a least one additional copy of the completed application and the supporting documentation for their own records.
- If you have any inquiries about the VCFCF program or the application process, please contact the VCFCF ombudsperson at (916) 651-9070.

Attachments

This application packet includes the following in addition to this overview:

- Application Instructions
- Application for Payment
- Attachment A
- Attachment B

Application Instructions

Introduction

- Please review these instructions and the application completely before filling out the form.
- Information provided on the application may be typed or printed using black or blue ink. All typewritten and handwritten documents and copies of documents must be clear and legible.
- Additional pages may be attached to the application if more space is needed. Please identify the application section and question number on any attached pages.
- Please inform the Secretary of State in writing of any change in address or telephone number during the application process.
- If you have any inquiries about the Victims of Corporate Fraud Compensation Fund program or the application process, please contact the VCFCF ombudsperson at (916) 651-9070.

General Information

Sections 1 & 2

Please provide contact information for the claimant and, if applicable, the claimant's attorney. Any telephone number provided must be the number where that person is available during normal business hours. Fax numbers are optional, but may assist in expediting communication. Only provide attorney information if the attorney is representing the claimant for the application to the VCFCF.

Section 3

Please provide the name and current address of the judgment debtor corporation. If the current address is unknown, addresses for corporations may be obtained online by visiting the Secretary of State website at www.sos.ca.gov, under the Business Portal - California Business Search link. If the application is based upon a criminal restitution order against an officer or director of a corporation, please identify the corporation here, and identify the officer or director in section 2 of Attachment A.

The term "final judgment" as used in this application has the same meaning as defined in California Corporations Code section 2281(g). A final judgment includes a civil court judgment, judgment based on an arbitration award, or a criminal restitution order for which the period for appeal has expired.

Section 4

Please indicate the date the civil court judgment, judgment based on an arbitration award, or a criminal restitution order was issued. A judgment, award, or order is final when ". . . appeals have been exhausted or 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, which has not been nullified or rendered void by any court order or statutory provision. . . ." (See, California Corporations Code section 2281(g).)

The final judgment may be a civil court judgment or a criminal restitution order. The final judgment may also be based upon an arbitration award. However, the arbitration award must first be reduced to a judgment in civil court before it will qualify for payment from the VCFCF. If the final judgment is a criminal restitution order against an officer or director of a corporation, Attachment A must be completed and submitted with the Application for Payment form.

Finally, identify the type of final judgment (civil court judgment, judgment based on an arbitration award, or a criminal restitution order), and provide the court name and the court file number or case number. Also provide the date of the arbitration award or criminal restitution order, if applicable. The court issuing the judgment must be a state or federal court in California. (See, California Corporations Code section 2281(f).)

Explanation of Claim Computation

Section 5

Provide the total amount of the final judgment award payable to claimant, including all costs, fees,

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interest, compensatory damages, punitive damages, or any other amounts.

Section 6

Provide the total amount of the final judgment payable to claimant, **minus** all cash or the cash value of all items received toward payment of the judgment.

Section 7

In (a) provide an itemized list detailing the amount awarded for actual and direct loss, compensatory damages, and costs. When itemizing the amount awarded, use the same itemization made by the court or arbitrator. Make sure that each element is listed separately. If the final judgment does not state the amount awarded for actual and direct loss and compensatory damages, then provide an explanation of how these amounts have been calculated and attach documentation to the application in support of the claimed amount.

In (b) please itemize all assets (money or other items) received that have been applied toward payment of the final judgment. If assets other than cash have been collected, please identify the item, the dollar value and provide an explanation of how the dollar value was calculated.

In (c) please describe all searches and inquiries performed to identify and locate the corporation's assets that are available to be sold or applied to pay the final judgment. If a court has determined or found the corporation to be insolvent or to lack the assets to pay the final judgment, please provide a copy of the court documentation related to that finding.

Information Regarding Assignment and Bankruptcy

Section 8

If any interest in the civil court judgment, judgment based on the arbitration award, or criminal restitution order has been assigned or transferred, please identify the amount of any assignment or transfer in both percentage and dollar amounts.

Also, identify the name and address of the recipient of the assignment or transfer and a detailed description of the circumstances of the assignment or transfer.

If the assignment or transfer occurs after the application has been submitted, the Secretary of State must be notified in writing of any assignment or transfer of any part of the claimant's interest in the civil court judgment, judgment based on the arbitration award, or criminal restitution order.

Section 9

Please state whether claimant has knowledge that a judgment debtor has filed or intends to file for bankruptcy protection. Please explain how this information was verified, or what investigation was done.

Declarations

Section 10

Verify that each of the statements in section 10 of the application are true and correct. Please respond to each question by checking "yes" or "no" and providing any follow-up information.

In (a) and (b), "immediate family member" includes, but is not limited to, parents, grandparents, children, grandchildren, siblings, aunts, uncles, and any such relationship by marriage (e.g., in-laws or step-relationships).

The claimant has a duty to protect the underlying judgment in bankruptcy proceedings by filing a claim with the bankruptcy court to have the judgment and debt declared nondischargeable. If the bankruptcy proceeding is ongoing and the court has not made a final decision as to the underlying judgment being declared nondischargeable, the application cannot be processed.

If the claimant becomes aware that a judgment debtor has filed for bankruptcy protection, the claimant agrees to notify the Secretary of State in writing and file a claim to protect the judgment.

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Please provide all information relating to whether the claimant has collected any amount of money from any other restitution fund, or if the claimant has a pending claim with any other restitution fund.

Documentation

Section 11

Please attach the required documents to the application.

Section 12

You may submit additional documentation you believe would be of assistance to the Secretary of State in evaluating the application. Any additional documents submitted should clearly identify the name of the claimant and be attached to the application.

Additionally, please note that if the final judgment was obtained by default, by stipulation or consent, or pursuant to California Code of Civil Procedure section 594, or if the lawsuit against the judgment debtor corporation was defended by a trustee in bankruptcy, the VCFCF may request additional documentation and information to assist in the analysis of the application.

Verification

The application must be verified by the claimant or claimant's attorney in the manner specified in California Code of Civil Procedure section 446. 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 California Code of Civil Procedure section 2015.5(b). Verifications which meet these requirements are attached to this application.

If the application is verified by claimant's attorney, Claimant must also complete and verify Attachment B.

Attachment A

Attachment A must be completed and submitted with the application when the application is based upon a criminal restitution order against an officer or director of a corporation.

Section 1

Please provide the name of the claimant.

Section 2

Please provide the name and current address of the officer or director of a corporation who is named as a defendant in the criminal restitution order.

Section 3

Please provide the additional information needed to evaluate the criminal restitution order.

In (a) please provide a factual summary of how defendant's conduct caused claimant's loss.

In (b) please provide the date(s) when the defendant's actions caused claimant's loss and/or when the transaction resulting in claimant's loss occurred.

In (c) please provide evidence that demonstrates that the defendant named in the criminal restitution order was an officer or director of a corporation at the time the fraudulent acts occurred, and was acting as the corporation's officer or director when committing the fraudulent acts.

Section 4

Verify that each of the statements in section 4 of the Attachment A are true and correct. Please respond to each question by checking "yes" or "no."

Section 5

Pursuant to California Corporations Code section 2282(c)(6), please attach the additional required documents to Attachment A.

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Attachment B

If the application is verified by claimant's attorney, Attachment B must also be submitted with the application. Attachment B must be completed and verified personally by the claimant.

Please review each item and initial in the corresponding box to indicate the claimant is making that representation. Attachment B may be initialed and verified only by the claimant.

Note: It is unlawful for any person or agent of any person to file any notice, statement, or other document in conjunction with a VCFCF application required under the provisions of California Corporations Code sections 2280 through 2296 that is false or untrue or contains any willful, material misstatement of fact. That conduct is a public offense punishable by imprisonment in a county jail for a period of not more than one year or a fine of not more than one thousand dollars (\$1,000), or both. (See California Corporations Code section 2292.)

Any and all information in this application is subject to independent verification. Corporate records, court records, and other types of records may be obtained to verify the information submitted.

Application for Payment

General Information

Read the entire application and instructions before completing the application. Additional pages may be attached if needed.

1. Claimant's Name

Address	City	State	Zip Code
Daytime Telephone Number			

2. Claimant's Attorney's Name (complete if represented by an attorney for this application)

Business Address	City	State	Zip Code
Daytime Telephone Number		Fax Number (optional)	

3. Name and address of the corporation(s) against which a final judgment has been obtained by the claimant. If the final judgment is a criminal restitution order against a corporation's agent, please identify the corporation below and complete Attachment A.

Name(s) of corporation(s): _____

Address(es): _____

4. Complete the following information regarding the final judgment:

a. Identify the type of final judgment (check one):

- Civil court judgment
 Judgment based on an arbitration award
 Criminal restitution order (complete Attachment A if the restitution order is against an agent)

b. Court name and court file number or case number:

c. Date the judgment or criminal restitution order was issued or entered:

d. Date a Notice of Entry of Judgment, if any, was served:

e. Date a Notice of Appeal, if any, was filed:

c. Please describe all searches and inquiries that you have conducted or that have been conducted on your behalf to identify and locate any of the judgment debtor's assets that are available to be sold or applied to pay the final judgment. Alternatively, if a court has determined or found the corporation to be insolvent or to lack the assets to pay the final judgment, submit a copy of the court documentation making that finding along with your application. Additionally, please describe any seizures and/or forfeitures of the judgment debtor's assets by a court or prosecutorial agency.

d. Please describe all civil or criminal proceedings (other than the proceeding resulting in the submitted judgment) against any person or entity responsible for, or related to, claimant's loss.

e. Please identify the spouse or registered domestic partner of claimant, if any, named in the final judgment.

Information Regarding Assignment and Bankruptcy

8. Has the claimant assigned or transferred all or any part of his or her interest in the civil judgment, judgment based on the arbitration award, or criminal restitution order? Yes No

If yes, provide the name and address of the person or entity receiving the assignment or transfer, the date of the assignment or transfer, details of the circumstances of the assignment or transfer, including the percentage and dollar amount of the assignment or transfer and a copy of the documentation related to the assignment or transfer.

9. Does the claimant have any knowledge or information that any judgment debtor has filed or intends to file for bankruptcy protection? Yes No

If no, has the claimant attempted to verify this with the bankruptcy court or with any other source? Please explain below. Yes No

Declarations

10. Answer the following questions:

- a. Is the claimant a spouse or immediate family member of an employee, officer, director, managing agent or other principal of the corporation? Yes No
- b. Is the claimant a personal representative of a spouse or immediate family member of an employee, officer, director, managing agent or other principal of the corporation? Yes No
- c. Was the claimant a California resident at the time the fraud occurred? Yes No
- d. Is the judgment underlying this claim a final judgment from a state or federal court situated in California. Yes No
- e. Was the Application delivered to the Secretary of State not later than 18-months after the judgment underlying this claim became final? Yes No
- f. Has a Notice of Appeal been filed in the underlying civil or criminal proceeding? Yes No
- g. Is the underlying judgment for fraud, misrepresentation, or deceit by the corporation or the agent of the corporation, with the intent to defraud? Yes No
- h. Has the judgment been paid in part or in whole? **Note:** If the judgment has been paid in part, please list all recoveries in Item 7(b) of the application. Yes No
- i. Has the claimant complied with all of the requirements of California Corporations Code Section 2282? Yes No
- j. (1) Have the underlying final judgment and debt been discharged in bankruptcy or statutorily discharged? Yes No
- (2) If a bankruptcy proceeding is open as of the submission of this application, please answer the following:
- Have the judgment and debt been declared to be nondischargeable by the judge or have the parties in the proceeding stipulated to the judgment as being nondischargeable? Yes No
 - Does the claimant have permission from the bankruptcy court to proceed with collection or otherwise proceed with the claims against the corporation? Yes No
- k. Does the claimant have a claim pending from any other restitution fund? Yes No
- l. Has the claimant collected money from any other restitution fund? Yes No

If the claimant has a pending claim or has collected money from another fund (e.g. the Bureau of Real Estate Recovery Account), please name the fund, the claim and, if applicable, the amount received.

Documentation and Notices

If the final judgment was obtained by default, by stipulation or consent, or pursuant to California Code of Civil Procedure section 594, or if the action against the judgment debtor corporation was defended by a trustee in bankruptcy, then the Secretary of State may require the claimant to provide additional documents and information to determine if the claim is valid, or the claimant may choose to submit such documentation with the initial application. Examples of the types of documents and information that may be requested by the Secretary of State may be reviewed in California Code of Regulations, title 2, division 7, chapter 12, section 22502(d).

11. The following documents **must** be attached with this application:
 - a. A copy of the final judgment.
 - b. A copy of:
 - (i) The civil complaint and any amended complaints thereto; or
 - (ii) The arbitration decision and any other documentation supporting the arbitration award; or
 - (iii) The criminal restitution order issued by a court of competent jurisdiction.
 - c. If applicable, the court's determination or finding of the corporation's insolvency or lack of assets to pay the claim.

12. The claimant **may** submit additional documentation that the claimant believes would assist the Secretary of State in evaluating the application. Examples of additional documentation include, but are not limited to, evidence submitted to the court in the underlying action or a detailed narrative statement of facts in explanation of the allegations of the complaint upon which the judgment was based.

The claimant has the obligation to protect the underlying judgment from discharge in bankruptcy. (See California Corporations Code section 2282(e).)

It is unlawful for any person or agent of any person to file any notice, statement, or other document in conjunction with a VCFCF application required under the provisions of California Corporations Code sections 2280 through 2296 that is false or untrue or contains any willful, material misstatement of fact. That conduct is a public offense punishable by imprisonment in a county jail for a period of not more than one year or a fine of not more than one thousand dollars (\$1,000), or both. (See California Corporations Code section 2292.)

Privacy Notice: Civil Code section 1798.17 requires notice be provided when collecting personal and confidential information from individuals. Each individual has the right to review personal information maintained by the Secretary of State, unless access is exempted by law. The Secretary of State will inform any individual regarding the location of the individual's records and the categories of any persons who use the information in those records upon request. To obtain this information, contact VCFCF Recordkeeper, P.O. Box 15659, Sacramento, CA 95852, phone number (916) 651-9070.

Title 2, Chapter 12 of the California Code of Regulations commencing with section 22500 et seq. requires each claimant to submit the information required in support of an application for payment from the Victims of Corporate Fraud Compensation Fund. The information required in the application is mandatory, unless noted otherwise. If all or any part of the required information is not provided, processing of the application for payment will be delayed until the requested information is provided within in the requested time frames, or the application will be denied.

The information requested in this application is used to verify the identity of the applicant and the details of the judgment upon which the application is based. This information may be transferred to other state or federal regulatory agencies, law enforcement agencies (e.g., city police, sheriff's departments, district attorneys, attorney general, F.B.I.) and other California State Agencies (e.g., Department of Business Oversight, Department of Consumer Affairs, California Bar Association).

Verification

Verification by Claimant in California

STATE OF CALIFORNIA, COUNTY OF _____

I am the claimant in this application; I have read the application and all attachments thereto and know the contents thereof; and I certify that the same is true of my own knowledge, except as to those matters which are therein stated upon my information or belief, as to which matters I believe them to be true; and I further certify that all documents attached to the application are true and correct copies of the originals, and if such documents purport to be copies of documents filed in court, the copies are true and correct copies of the originals filed with the court.

Executed on _____ at _____, California.
Date *City*

I declare, under penalty of perjury, that the foregoing is true and correct.

Signature

Verification by Claimant Out-of-State

STATE OF _____ COUNTY OF _____

I am the claimant in this application; I have read the application and all attachments thereto and know the contents thereof; and I certify that the same is true of my own knowledge, except as to those matters which are therein stated upon my information or belief, as to which matters I believe them to be true; and I further certify that all documents attached to the application are true and correct copies of the originals, and if such documents purport to be copies of documents filed in court, the copies are true and correct copies of the originals filed with the court.

Executed on _____ at _____.
Date *City/State*

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Signature

Verification by Attorney

I am the attorney for the claimant in this application. The claimant is absent from the County where I have my offices, and I make this verification for and on behalf of the claimant for that reason. I have read the application and all attachments thereto and know the contents thereof; and I certify that the same is true of my own knowledge, except as to those matters which are therein stated upon my information or belief, as to which matters I believe them to be true; and I further certify that all documents attached to the application are true and correct copies of the originals, and if such documents purport to be copies of documents filed in court, the copies are true and correct copies of the originals filed with the court.

Executed on _____ at _____, California.
Date *City*

I declare, under penalty of perjury, that the foregoing is true and correct.

Signature

Application for Payment **Attachment A**

For Applications for Payment based upon criminal restitution orders against any agent(s) of a corporation.

This Attachment should only be submitted if the application is based upon a criminal restitution order.

1. Claimant's Name

2. Name and address of the agent(s) named in a criminal restitution order that has been obtained by claimant. The term "agent" as used in this application has the same meaning as defined in California Corporations Code section 2281(a) and is a person who was an officer or director of a corporation¹ at the time the fraudulent acts occurred, was named in a final criminal restitution order in connection with the fraudulent acts and was acting in the person's capacity as the corporation's officer or director when committing the fraudulent acts.

Name(s) of agent(s): _____

Address(es): _____

3. Please provide the following additional information about claimant's loss:

a. Please describe the fraud that caused claimant's loss:

b. Please state when the fraud that caused claimant's loss occurred:

c. Please describe in detail facts demonstrating that the defendant named in the criminal restitution order was an agent of the corporation identified in the Application at the time the fraud that caused claimant's loss occurred:

¹ Corporation means a domestic corporation as defined by Corporations Code section 162 or 2509 or a foreign corporation that is qualified to transact business in California pursuant to Corporations Code section 2105.

Attachment A Declarations

4. Answer the following questions:

- a. Was the defendant named in claimant's criminal restitution order an officer of the Corporation identified in the application at the time the fraud that caused claimant's loss occurred? ___Yes ___No

- b. Was the defendant named in claimant's criminal restitution order a director of the Corporation identified in the application at the time the fraud that caused claimant's loss occurred? ___Yes ___No

- c. Was the conduct of the defendant named in claimant's criminal restitution order the cause of claimant's loss? ___Yes ___No

- d. Was the defendant named in claimant's criminal restitution order acting in his/her capacity as the officer and/or director of the Corporation at the time the fraud that caused claimant's loss occurred? ___Yes ___No

Attachment A Documentation

5. The following documents **must** be attached to this Attachment A:

- a. A copy of the final criminal restitution order.
- b. A copy of the charging document which resulted in the final criminal restitution order (e.g. criminal complaint or indictment).
- c. Documentation showing that the defendant named in the criminal restitution order was an officer or director of a Corporation at the time the fraudulent acts that caused claimant's loss occurred.
- d. Documentation showing that the defendant named in a final criminal restitution order was acting in the person's capacity as the corporation's officer or director when committing the fraudulent acts that caused claimant's loss.

Application for Payment Attachment B

For Applications for Payment verified by an attorney for claimant.

California Corporations Code Section 2282(c)(8) requires the following representations **to be made by the claimant**. This Attachment is to be submitted if the application is verified by claimant’s attorney.

	Declarations	Claimant’s Initials
1.	I am not a spouse, registered domestic partner, or an immediate family member of an employee, officer, director, managing agent, or other principal of the corporation nor am I a personal representative of the spouse, registered domestic partner, or an immediate family member of an employee, officer, director, managing agent, or other principal of the corporation.	
2.	I have complied with all of the requirements of California Corporations Code Section 2282.	
3.	The judgment underlying this claim is a final judgment from a court of competent jurisdiction against a corporation based upon the corporation’s fraud, misrepresentation, or deceit, made with intent to defraud, or is a criminal restitution order against an agent based upon the agent’s fraud, misrepresentation, or deceit, made with intent to defraud while acting in the agent’s capacity as the corporation’s officer or director.	
4.	This Application was delivered to the Secretary of State not later than 18 months after the judgment underlying the claim became final.	
5.	The judgment was for fraud, misrepresentation, or deceit by the corporation or the agent of the corporation, with the intent to defraud.	
6.	The judgment is unpaid in part or in whole.	
7.	The underlying judgment and debt have not been discharged in bankruptcy, or the underlying judgment is statutorily nondischargeable, 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 by the judge or stipulated as nondischargeable by the parties in the proceeding and that the claimant has been granted permission by the bankruptcy court to proceed with collection or otherwise proceed with the claimant’s claims against the judgment debtor or debtors.	
8a.	I do not have a pending claim and have not collected on the final judgment from any other restitution fund.	
8b.	I have a pending claim or have collected on the final judgment from another restitution fund. <i>Please complete item 9 if this declaration is being made.</i>	

