



FIDUCIARY BOARD

Arizona State Courts Building
1501 West Washington Street, Phoenix, Arizona 85007
Hearing Room 109

January 16, 2013
10:30 A.M.

Approved Regular Meeting Minutes

MEMBER ATTENDANCE:

Present:

Deborah Primock
Ted Evertsen
Gary Krcmarik
Catherine Robbins

Telephonically Present:

Mary Jane Baumgarten
Emily Kile
Leonard Montanaro
Judge Jay Polk
Sherry Reed
Mark Rubin

Absent:

Diana Corry

OTHER ATTENDEES:

AOC Staff:

Mark Wilson
Linda Grau
Anne Hunter
Debbie MacDougall
Kimberly Siddall
Wendy Reiter
Nina Preston
Bill MacIntyre
Rick Sczerbicki
Pasquale Fontana
Arnita Oliver
Cindy Trimble
Ashley Damien

Guests:

Heather Bull – Families Advocate
R. Nicole Cundiff – Condit & Associates
Craig Sletten

CALL TO ORDER

Called to Order By: Deborah Primock, Chair

Time: 10:31 A.M.

1) REVIEW AND APPROVAL OF MINUTES:

1-A: *Review, discussion and possible action regarding the regular session minutes of the meeting held on November 8, 2012.*

Individual Addressing the Board: Deborah Primock

Discussion: None

Motion: Move to approve the regular session minutes for the meeting of November 8, 2012.

Motion Proposals: First Catherine Robbins
Second Gary Krcmarik

Motion Results: Pass

1-B: *Review, discussion and possible action regarding the executive session minutes of the meeting held on November 8, 2012.*

Individual Addressing the Board: Deborah Primock

Discussion: None

Motion: Move to approve the executive session minutes for the meeting of November 8, 2012.

Motion Proposals: First Mary Jane Baumgarten
Second Catherine Robbins

Motion Results: Pass

2) PENDING COMPLAINTS:

2-A: *Review, discussion and possible action regarding the following complaints:*

- *Complaint Number 12-0007 – James Clark & East Valley Fiduciary Services*
- *Complaint Number 10-0010 – Dixie Fredrickson*
- *Complaint Number 10-0002 – Melissa Liebe and Monarch Fiduciaries, LLC.*

Individual Addressing the Board: Linda Grau

Discussion: **Complaint Number 12-0007** – James Clark and East Valley Fiduciary Services. The complaint was received by the division on May 30, 2012. The allegations submitted by the complainant:

1. East Valley Fiduciary Services and Jim Clark did not follow the Will and Trust.
2. East Valley Fiduciary Services and Jim Clark did not provide sufficient funeral arrangements.

The matter was investigated and submitted for probable cause determination.

Probable Cause Evaluator Mike Baumstark entered a finding probable cause *does not* exist in this matter.

Therefore, it is recommended, the Board accepts the finding of the Probable Cause Evaluator and dismiss complaint number 12-0007.

Motion: Move to accept staff’s recommendation.

Motion Proposals: First Ted Evertsen
Second Mary Jane Baumgarten

Motion Results: Pass

Individual Addressing the Board: Linda Grau

Discussion: **Complaint Number 10-0010** – Dixie Fredrickson. The complaint was received by the Division on July 28, 2010. The allegation submitted by the complainant:

1. Ms. Fredrickson, acting on behalf of Maricopa County Public Fiduciary, failed to authorize medical treatment that was requested by the complainant for a ward.

The matter was investigated and submitted for probable cause determination.

On December 14, 2012, Probable Cause Evaluator Mike Baumstark

entered a finding probable cause *does not* exist in this matter.

Therefore, it is recommended the Board accepts the finding of the Probable Cause Evaluator and dismiss complaint number 10-0010.

Motion: Move to accept staff's recommendation.

Motion Proposals: First Judge Jay Polk
Second Leonard Montanaro
Abstain Catherine Robbins

Motion Results: Pass

Individual Addressing the Board: Linda Grau

Discussion: **Complaint Number 10-0002** – Melissa Liebe and Monarch Fiduciaries, LLC - The complaint was received by the division on January 12, 2010. The allegation submitted by the complainant:

1. Ms. Liebe conducted a home invasion on a ward's house, in the process, removed property belonging to complainant.

The matter was investigated and submitted for probable cause determination.

On December 14, 2012, Probable Cause Evaluator Mike Baumstark entered a finding probable cause *does not* exist in this matter.

Therefore, it is recommended the Board accepts the finding of the probable Cause Evaluator and dismiss complaint number 10-0002.

Motion: Move to accept staff's recommendation.

Motion Proposals: First Catherine Robbins
Second Mary Jane Baumgarten

Motion Results: Pass

2-B: Discussion regarding Administrative Order No. 2012-83.

Individual Addressing the Board: Mark Wilson

Discussion: An overview of Administrative Order 2012-83 was given and discussion held.

2-C: Review, discussion and possible action regarding the following complaint:

1. **Complaint Number 10-0007- Southwest Fiduciary**

Individual Addressing the Board: Linda Grau

Discussion: **Complaint Number 10-0007** – Southwest Fiduciary: The complaint was received by the Division on May 21, 2010. The allegation submitted by the complainant:

1. Southwest Fiduciary did not efficiently handle an estate resulting in an untimely final distribution of the estate's assets.

The matter was investigated and submitted for probable cause determination.

On December 14, 2012, Probable Cause Evaluator Mike Baumstark entered a finding probable cause does not exist in this matter.

Therefore, it is recommended the Board accepts the finding of the Probable Cause Evaluator and dismiss complaint number 10-0007.

Motion: Move to accept staff's recommendation.

Motion Proposals: First Gary Krcmarik
Second Mary Jane Baumgarten
Recused Deborah Primock; Judge Jay Polk

Motion Results: Pass

2-D: Review, discussion and possible action regarding the following complaints:

- **Complaint Number 11-0004 – Kay Kozak**
- **Complaint Number 08-0031 – Entrust Fiduciary Services, Inc.**
- **Complaint Number 11-0011 – James Clark and East Valley Fiduciary Services**
- **Complaint Number 09-0022 – Deborah Dellisanti**
- **Complaint Number 08-0004 – Nancy Anderson**

Individual Addressing the Board: Linda Grau

Discussion: **Complaint Number 11-0004** – Kay Kozak – The complaint was received by the division on April 25, 2011. The allegation submitted by the complainant:

1. Ms. Kozak inappropriately listed herself as a co-owner on a checking account for an individual who was not her client.

The matter was investigated and submitted for probable cause determination.

On January 4, 2013, Probable Cause Evaluator Mike Baumstark entered a finding probable cause does exist in this complaint.

Therefore, it is recommended the Board accepts the finding of the Probable Cause Evaluator, enter a finding grounds for informal disciplinary action exists Pursuant to ACJA §7-201(H)(6)(a) for an act of misconduct involving ACJA §7-201(F)(1), ACJA §7-202(F)(1), and ACJA §7-202(J)(6)(h) and issue a Letter of Concern.

Motion: Move to accept staff's recommendation.

Motion Proposals: First Ted Evertsen
Second Catherine Robbins

Motion Results: Pass

Discussion: **Complaint Number 08-0031** – Lisa Price and Entrust Fiduciary Services, Inc. – The complaint was received by the Division on December 19, 2008. The allegations submitted by the complainant:

1. Ms. Price misled an individual regarding how she was financially compensated for her services as a Successor Trustee.
2. Ms. Price listed a mobile home property on an Inventory and Appraisal with Yuma Court after informing an individual she would sell the property to prevent unnecessary costs to the estate.
3. Ms. Price unnecessarily spent money to have an individual's remains cremated when the individual qualified for a military burial.
4. Ms. Prices informed the complainant that funds from the sale of the property would be distributed in a period of time that was not met.
5. Ms. Price failed to keep the heirs apprised of the status of a lawsuit that had been filed by the estate against a furniture company.
6. Ms. Price failed to send accounting an IRS documents to the heirs.
7. Ms. Price mismanaged the estate, causing the settlement received by the heirs to be substantially less than expected.

8. Ms. Price threatened to disinherit the complainant from the estate because he objected to her management of the estate.
9. Ms. Price failed to provide a copy of the trust to the heirs.

The matter was investigated and submitted for probable cause determination.

On January 4, 2013, Probable Cause Evaluator Mike Baumstark entered a finding probable cause does not exist in this complaint.

Therefore, it is recommended the Board accepts the finding of the Probable Cause Evaluator and dismiss complaint number 08-0031.

Motion: Move to defer to until next meeting.

Motion Proposals: First Emily Kile
 Second Mary Jane Baumgarten
 Recused Judge Jay Polk

Motion Results: Pass

Discussion: **Complaint Number 11-0011** – James Clark and East Valley Fiduciary Services – The complaint was received by the Division on July 7, 2011. The allegation submitted by the complainant:

1. East Valley Fiduciary Services moved a ward from a restricted behavioral facility to a less restricted and less expensive facility that the complainant felt was not equipped to handle the ward’s need. Also, the assisted living facility provided false information regarding the ward’s condition.

The matter was investigated and submitted for probable cause determination.

On January 4, 2013, Probable Cause Evaluator Mike Baumstark entered a finding probable cause does not exist in this complaint.

Therefore, it is recommended the Board accepts the finding of the Probable Cause Evaluator and dismiss complaint number 11-0011.

Motion: Move to accept staff’s recommendation.

Motion Proposals: First Emily Kile
 Second Judge Jay Polk
 Recused Catherine Robbins

Motion Results: Pass

Discussion:

Complaint Number 09-0022 – Deborah Dellisanti: - The complaint was received by the Division on December 3, 2009. The allegations submitted by the complainant:

1. Ms. Dellisanti made a placement decision, which resulted in harm to a ward.
2. Ms. Dellisanti failed to keep aware of and informed of the alternatives placement options that were available by failing to pursue (“ALTCS”) benefits.
3. Ms. Dellisanti failed to monitor the ward’s placement and failed to advocate for a more desirable form of treatment, care, or services resulting in more harm.
4. Ms. Dellisanti failed to file the initial *Inventory and Appraisalment* within ninety days of appointment.
5. Ms. Dellisanti failed to obtain business entity certification for Feather Mountain Fiduciaries, LLC, before the business entity accepted a court appointment as guardian and conservator.
6. Ms. Dellisanti filed court documents, which did not contain her certification number.
7. Ms. Dellisanti failed to establish and maintain accurate records of the real and personal property of the ward.
8. Ms. Dellisanti paid for the ward’s vehicle registration with her own funds.

The matter was investigated and submitted for probable cause determination.

On January 4, 2013, Probable Cause Evaluator Mike Baumstark entered a finding probable cause does not exist in Allegations 1 and 3, but does exist in Allegations 2, 4, 5, 6, 7 and 8.

Therefore, it is recommended the Board accepts the finding and dismiss Allegations 1 and 3. Allegations 2, 4, 5, 6, 7 and 8 enter finding grounds for informal disciplinary action exists and issue a Letter of Concern. It is further recommended, that the staff include in the Letter of Concern that Ms. Dellisanti must apply for and obtain a business entity certification for Feather Mountain Fiduciaries, LLC, in order to obtain or maintain any court appointments for that business entity.

Motion: Move to accept staff's recommendation.

Motion Proposals: First Ted Evertsen
Second Leonard Montanaro

Motion Results: Pass

Discussion: **Complaint Number 08-0004** – Nancy Anderson: The complaint was received by the Division on January 22, 2008. The allegation submitted by the complainant:

1. Ms. Anderson charges excessive conservator fees to the estate in a matter deriving from Superior Court in Pima County.

The matter was investigated and submitted for probable cause determination.

On January 4, 2013, Probable Cause Evaluator Mike Baumstark entered a finding probable cause does not exist in this complaint.

Therefore, it is recommended the Board accepts the finding of the Probable Cause Evaluator and dismiss complaint Number 08-0004.

Motion: Move to accept staff's recommendation.

Motion Proposals: First Catherine Robbins
Second Emily Kile

Motion Results: Pass

3) ADMINISTRATIVE ISSUES:

3-A: *Nomination and election of the 2013 Fiduciary Board Vice Chair.*

Individual Addressing the Board: Deborah Primock

Discussion: Catherine Robbins and Gary Krcmarik were nominated for Vice Chair.

Motion: Move to elect Catherine Robbins as Vice Chair for 2013.

Motion Results: Pass

3-B: *Discussion regarding changing website passwords.*

Individual Addressing the Board: Debbie MacDougall

Discussion: The Board is informed that the password for board's secure website will be changing in the very near future.

4) ADMINISTRATIVE ISSUES:

4-A: Review, discussion, and possible action regarding the following pending applications for individual and/or business entity licensure:

1. *Linda Childress*
2. *Ravie Cundiff*
3. *Maureen L. Edwards, LLC – principal, Maureen L. Edwards*
4. *The Families Advocate, LLC – principal, Heather Winters Bull*
5. *Philip DeVico*
6. *Ana Perez-Arrieta*
7. *Autumn Rodgers*
8. *Eliza Read*
9. *Natalie Hyde*
10. *Russell Murphy*
11. *Helen Jones*

Individual Addressing the Board: Wendy Reiter

Discussion: It is recommended the Board grant initial licensure for the following applicant:

Linda Childress

Motion: Move to accept staff's recommendation.

Motion Proposals: First Emily Kile
Second Leonard Montanaro
Recused Catherine Robbins

Motion Results: Pass

Individual Addressing the Board: Wendy Reiter

Discussion: It is recommended the Board grant initial licensure and include language regarding non-disclosure on future applications may result in denial of renewal or disciplinary action to the following applicant:

Ravie Cundiff

Motion: Move to accept staff's recommendation.

Motion Proposals: First Gary Krcmarik
Second Catherine Robbins

Motion Results: Pass

Individual Addressing the Board: Wendy Reiter

Discussion: It is recommended the Board grant initial licensure as a business entity and include language regarding non-disclosure on future applications may result in denial of renewal or disciplinary action to the following applicant:

Maureen L. Edwards, LLC – principal, Maureen L. Edwards

Motion: Move to accept staff's recommendation.

Motion Proposals: First Catherine Robbins
Second Mary Jane Baumgarten
Recused Judge Jay Polk

Motion Results: Pass

Individual Addressing the Board: Wendy Reiter

Discussion: It is recommended the Board grant initial licensure as a business entity and include language regarding non-disclosure on future applications may result in denial of renewal or disciplinary action to the following applicant:

***The Families Advocate, LLC – principal,
Heather Winters Bull***

Motion: Move to accept staff's recommendation.

Motion Proposals: First Catherine Robbins
Second Gary Krcmarik
Recused Judge Jay Polk

Motion Results: Pass

Individual Addressing the Board: Wendy Reiter

Discussion: It is recommended deferring *Philip DeVico* until the March 14, 2013 meeting.

Motion: Move to accept staff's recommendation.

Motion Proposals: First Emily Kile
Second Gary Krcmarik
Recused Judge Jay Polk
Pass

Individual Addressing the Board: Wendy Reiter

Discussion: It is recommended deferring *Ana Perez-Arrieta, Eliza Read,* and *Russell Murphy* until the March 14, 2013 meeting.

Motion: Move to accept staff's recommendation.

Motion Proposals: First Emily Kile
Second Judge Jay Polk

Motion Results: Pass

Individual Addressing the Board: Wendy Reiter

Discussion: It is recommended the Board grant initial licensure to the following applicant:

Autumn Rodgers

Motion: Move to accept staff's recommendation.

Motion Proposals: First Emily Kile
Second Judge Jay Polk
Recused Catherine Robbins

Motion Results: Pass

Individual Addressing the Board: Wendy Reiter

Discussion: It is recommended the Board grant initial licensure to the following applicant:

Natalie Hyde

Motion: Move to accept staff's recommendation.

Motion Proposals: First Gary Krcmarik
Second Catherine Robbins

Motion Results: Pass

Individual Addressing the Board: Wendy Reiter

Discussion: It is recommended the Board grant initial licensure to the following applicant:

Helen Jones

Motion: Move to accept staff's recommendation.

Motion Proposals: First Ted Evertsen
Second Mary Jane Baumgarten

Motion Results: Pass

5) LICENSURE AND ELIGIBILITY

5-A: *Review, discussion, and possible action regarding request of Claudia Ramirez to retake the Fiduciary Licensing Examination.*

Individual Addressing the Board: Wendy Reiter

Discussion: It is recommended the Board grant Ms. Claudia Ramirez's request to retake the fiduciary licensing examination.

Motion: Move to accept staff's recommendation.

Motion Proposals: First Catherine Robbins
Second Mary Jane Baumgarten

Motion Results: Pass

5-B: *Review, discussion, and possible action regarding request for placement on Inactive Status received from licensed fiduciary William J Boston, license number 206888.*

Individual Addressing the Board: Kimberly Siddall

Discussion: It is recommended the Board accept Mr. Boston's request to be placed on Inactive Status.

Motion: Move to accept staff's recommendation.

Motion Proposals: First Ted Evertsen
Second Judge Jay Polk

Motion Results: Pass

5-C: *Review, discussion, and possible action regarding request for placement on*

Inactive Status received from licensed fiduciary Alexandra G. Larson, license number 206889.

Individual Addressing the Board: Kimberly Siddall

Discussion: It is recommended the Board accept Ms. Larson's request to be placed on Inactive Status.

Motion: Move to accept staff's recommendation.

Motion Proposals: First Emily Kile

Second Ted Evertsen

Motion Results: Pass

CALL TO THE PUBLIC

Deborah Primock, Chair

Individuals Addressing the Board: Craig Stellen

ADJOURNMENT

Deborah Primock, Chair

Motion: Move to adjourn.

Motion Proposals: First Ted Evertsen

Second Catherine Robbins

Motion Results: Pass

Time: 11:48 A.M.

Initials: AO