



## Arizona Supreme Court Fiduciary Board

Arizona State Courts Building  
1501 West Washington Street  
Phoenix, Arizona 85007-3222  
Conference Room 109

Date: September 9, 2010  
Time: 10:30 am – 2:30 pm

### Approved Regular Meeting Minutes

#### MEMBER ATTENDANCE:

##### Present:

Marlin “Kip” Anderson  
Pamela Johnston  
Diana L. Clarke  
Deborah Primock  
Mary Jane Baumgarten

##### Telephonically Present:

Diana Corry  
Sherry Reed  
Shari Tomlinson

##### Absent:

Kenneth Reeves, III

#### OTHER ATTENDEES

##### AOC Staff:

Nancy Swetnam  
Linda Grau  
Kandace French  
Nina Preston  
Kimberly Siddall  
Alex Navarro  
Debbie MacDougall  
Kitty Boots  
Tony Posante  
Karla Clanton

##### Guests:

Brian Williamson  
Craig Sletten  
Gregory Sulzar  
Lisa Price  
Monique Cordevz  
Heather Buil  
Robert Barnes

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#### CALL TO ORDER

*Called to Order By:* Kip Anderson

**Time:** 10:30 a.m.

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**1) REVIEW AND APPROVAL OF MINUTES**

**1-A:** *Review, discussion, and possible action regarding the regular session minutes of the meeting held on July 8, 2010.*

**Individual Addressing the Board:** Marlin “Kip” Anderson

**Discussion:** None

**Motion:** Moved to approve the regular session minutes of the meeting on July 8, 2010.

**Motion Proposals:** First Pam Johnston  
Second Shari Tomlinson

**Motion Results:** Pass

**1-B:** *Review, discussion, and possible action regarding the executive session minutes of the meeting held on July 8, 2010.*

**Individuals Addressing the Board:** Marlin “Kip” Anderson

**Discussion:** None

**Motion:** Moved to approve the executive session minutes of the meeting on July 8, 2010.

**Motion Proposals:** First Pam Johnston  
Second Mary Jane Baumgarten

**Motion Results:** Pass

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**2) PENDING COMPLAINTS**

**2-A:** *Interview with the Arizona Department of Veterans’ Services and possible action regarding Consent Agreement non-compliance in complaint number 07-0027:*

**Individuals Addressing the Board:** Nancy Swetnam

***Discussion:***

On November 16, 2009, a Consent Agreement was filed in complaint number 07-0027 involving the Arizona Department of Veterans' Services ("ADVS"). They agreed upon sanctions which included a term of probation and a reporting provision that requires ADVS to submit quarterly written status reports with the Board. On June 29, 2010, 10-11 days late, ADVS filed the second quarterly status report which was due to the Division no later than June 18, 2010. At the July 8, 2010 Board meeting, the Board ordered the attached letter be sent to ADVS expressing the Board's concern about "the apparent disregard for the established reporting requirement", giving additional and date specific notice to ADVS regarding future reporting dates. ADVS designated principal Gregory Sulzer was present along with Robert Barnes to explain the late submission of the second quarterly report.

Robert Sulzer stated he submitted one quarterly status report on March 17<sup>th</sup> and requested the second report be submitted as of June 30<sup>th</sup>, which would be the end of the quarter. He stated the next due date for a status report would be September 17<sup>th</sup>, which is a furlough day for the state so the report will be submitted on the Sept. 16<sup>th</sup> or before. He did not see anything in the Consent Agreement referring to specific dates. Going forward, best practices would be to have in the language of the Consent Agreement specific dates.

***2-B:*** *Review, discussion and possible action regarding the following complaints: Complaint Number 08-0008 – Southwest Fiduciary, Inc. Complaint Number 09-0023 – Statewide Community Services, Inc.*

*Complaint Number 08-0008 – Southwest Fiduciary, Inc.*

***Individuals Addressing the Board:*** Nancy Swetnam

***Discussion:*** Complaint Number 08-0008 - Southwest Fiduciary, Inc. On July 29, 2010, Probable Cause Evaluator Mike Baumstark entered a finding probable cause does not exist as to Allegations, 1, 2 and 3 and does exist as to Allegations 4, 5 and 6 in complaint number 08-0008. It was recommended the Board accept the finding of the Probably Cause Evaluator and dismiss Allegations, 1, 2 and 3 of complaint number 08-0008.

Regarding Allegations 4, 5 and 6, it was recommended the Board enter a finding for informal disciplinary actions exists pursuant to

ACJA § 7-201(h)(6)(a) and (H)(7) for acts of misconduct involving ACJA § 7-201(f)(1), ACJA § 7-202(f)(1), (j)(4)(i) and (J)(4)(j) and Arizona Revised Statutes § 14-5418(A) and § 14-5419(A) and issue a Letter of Concern.

**Motion:** Moved to accept the above staff recommendation to the findings and issue a Letter of Concern.

**Motion Proposals:** First Diana Clarke  
Second Mary Jane Baumgarten  
Recusal Deborah Primock

**Motion Results:** Pass

*Complaint Number 09-0023 – Statewide Community Services, Inc.*

**Individuals Addressing the Board:** Nancy Swetnam

**Discussion:** Complaint Number 09-0023 - Statewide Community Service, Inc. On July 30, 2010, Probable Cause Evaluator Mike Baumstark entered a finding probable cause does not exist in complaint number 09-0023. Therefore, it was recommended the Board accept the finding of the Probable Cause Evaluator and dismiss complaint number 09-0023.

**Motion:** Moved to accept staff recommendation and dismiss complaint number 09-0023.

**Motion Proposals:** First Diana Clarke  
Second Shari Tomlinson  
Recusal Deborah Primock

**Motion Results:** Pass

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### 3) INITIAL LICENSE APPLICATIONS

**3-A:** *Review, discussion, and possible action regarding the following pending applications individual licensure:*

**Individuals Addressing the Board:** Alex Navarro

**Discussion:** The following applicants have submitted a complete application, demonstrating they meet the minimum eligibility requirements, and no information has been presented during the background check

which is contrary to licensure being granted. It was recommended the Board grant initial licensure to the following applicants:

1. McCoy, Sean
2. Murray, Jennifer L.
3. Tittelbach, Kurt A.
7. Fronkes, Liza J.

**Motion:** Moved to accept the above recommendation by the Board and grant initial licensure to the above applicants.

**Motion Proposals:** First Diana Clarke  
Second Mary Jane Baumgarten

**Motion Results:** Pass

**Individuals Addressing the Board:** Alex Navarro

**Discussion:** The following applicants remain incomplete pending receipt of fingerprint results, professional responsibility training, and/or additional information. It was tentatively recommended the following applicants be deferred to the November 2010 meeting.

4. Cobb, Jason E.
5. Dominguez, Susan G.
6. Drablak, Jeanne L.
8. Noseworthy, Paul R.
9. Suminski, Rashida K.

**Motion:** Moved to accept the above recommendation by the Board and defer the above applicants to the November 2010 meeting.

**Motion Proposals:** First Diana Clarke  
Second Mary Jane Baumgarten

**Motion Results:** Pass

10. Phillips, Pamela

**Individuals Addressing the Board:** Alex Navarro

**Discussion:** On March 22, 2010, Phillips submitted an application for licensure.

During a background check it was discovered Phillips failed to disclose an arrest with 3 counts of possession of marijuana on June 1995 for which she was sentenced with 3 years' probation and designated as a misdemeanor. In her written response, Phillips stated she failed to disclose the charges because they were originally charged as felonies but later reduced to misdemeanors. See enclosed. It is recommended to deny the application pursuant to ACJA § 7-201(E)(2)(b)(i) has committed material misrepresentation, omission, fraud, dishonesty, or corruption in the application form; ACJA § 7-201(E)(2)(b)(v) has a conviction by final judgment of a misdemeanor if the crime has a reasonable relationship to the practice of the certified profession or occupation, regardless of whether civil rights have been restored; ACJA § 7-201(E)(2)(b)(xvi) failed to disclose information on the certification application subsequently revealed through the background check.

The Board confirmed the denial of certification is for non-disclosure of material facts.

**Motion:** Moved to accept staff recommendation and deny application of Pamela Phillips.

**Motion Proposals:** First Diana Clarke  
Second Mary Jane Baumgarten  
Recusal Sherry Reed

**Motion Results:** Pass

**Motion:** Moved to go into Executive Session to receive advice of counsel.

**Motion Proposals:** First Diana Clarke  
Second Mary Jane Baumgarten

**Motion Results:** Pass

**EXECUTIVE SESSION** Start Time 11:35 End Time: 11:50

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#### **4) INITIAL LICENSE APPLICATIONS**

**4A:** *Review, discussion, and possible action regarding the following pending applications for renewal of individual licensed fiduciaries:*

**Individuals Addressing the Board:** Kimberly Siddall

**Discussion:**

Staff advised the Board to disregard applicant #3 as her application will be addressed in Item # 20 below.

The following applicants have submitted a complete application, demonstrating they meet the minimum eligibility requirements, and no information was presented during the background investigation which was contrary to renewal of licensure being granted. It was recommended the Board grant renewal of fiduciary licensure to the following applicants:

1. DoVico, Gregory
2. DoVico, Peggy
3. Frenette, Heather
4. Garcia, Rhonda
5. Kennedy, Yolanda
6. Santini, Peter
7. Saunders, Evelyn
8. Savatone, Dawn
9. Schmelzle, James J.
10. Schmierer, Caron
11. Segelbaum, Robert S.
12. Settle, Ranae P.
13. Severyn, Carol A.
14. Shepard, Vicki
15. Shepherd, Denice R.
16. Simms, Laura J.

**Motion:**

Moved to accept staff recommendation and grant renewal of licensure of the above applicants.

**Motion Proposals:**

First	Diana Clarke
Second	Mary Jane Baumgarten
Recusal	Deborah Primock on #1 and #2

**Motion Results:**

Pass

**Individuals Addressing the Board:** Kimberly Siddall

**Discussion:**

The following applicants have submitted a complete application, demonstrating they meet the minimum eligibility requirements, and no information was presented during the background investigation which was contrary to renewal of licensure being granted. It was recommended the Board grant renewal of fiduciary licensure to the following applicants:

18. Boen, Tracy

22. Garza, Nora

**Motion:** Moved to accept staff recommendation and grant renewal of licensure of the above applicants.

**Motion Proposals:** First Shari Tomlinson  
Second Deborah Primock

**Motion Results:** Pass

**Individuals Addressing the Board:** Kimberly Siddall

**Discussion:** The following applicants remain incomplete pending receipt of background and/or additional information. It is recommended the following applicants be deferred to the November 18<sup>th</sup> meeting. In the event the anticipated information is received prior to the September meeting, an alternative recommendation will be presented at the meeting.

- 17. Appel, Fred E.
- 19. Flores, Patricia A.
- 20. Frenette, Heather
- 21. Frenette, Peter
- 23. McCollum, Jennifer
- 24. Patterson, Shawn M.
- 25. Royal, Anita

**Motion:** Moved to accept staff recommendation and defer the above applicants to the November 2010 meeting.

**Motion Proposals:** First Shari Tomlinson  
Second Deborah Primock

**Motion Results:** Pass

26. Theresa Whitefield

**Individuals Addressing the Board:** Kimberly Siddall

**Discussion:** Theresa Whitfield - On April 8, 2010, the Board granted an extension of 90 days to Whitfield to complete the continuing education credits needed for the 2010-2012 licensure period. On July 21, 2010, Division staff received verification from Whitfield demonstrating she has completed the 20 hours of continuing education credits as requested by the Board. It was recommended the Board grant renewal of Fiduciary licensure to Whitfield.

**Motion:** Moved to accept staff recommendation and grant renewal to Theresa Whitfield.

**Motion Proposals:** First Diana Clarke  
Second Mary Jane Baumgarten

**Motion Results:** Pass

**Motion:** Moved to go into Executive Session.

**Motion Proposals:** First Shari Tomlinson  
Second Mary Jane Baumgarten

**Motion Results:** Pass

**EXECUTIVE SESSION Start Time 12:00 noon End Time: 12:10 p.m.**

27. Mary B. Espinoza

**Individuals Addressing the Board:** Alex Navarro

**Discussion:** Mary B. Espinoza - During the background investigation, it was discovered Ms. Espinoza failed to make timely payments on eight accounts totaling \$229,760. Division staff contacted her and requested a written response. Ms. Espinoza stated the late payments were a result of her running for public office and expending a considerable amount of money for her campaign. She stated as of July 2010, most of the accounts had been resolved. It was recommended the Board enter into a consent agreement with Espinoza requesting Espinoza submit monthly payment verification for each of the eight accounts for the licensing period of 2010-2012 to be submitted every 28<sup>th</sup> day of the month beginning September 2010.

**Motion:** Moved to accept staff recommendation and enter into a consent agreement with Espinoza with changes as to requesting her to submit quarterly verification with dates included of the payments for each of the eight accounts for the licensing period of 2010-2012 to be submitted every 28<sup>th</sup> day of the month beginning September 2010.

**Motion Proposals:** First Diana Clarke  
Second Mary Jane Baumgarten

**Motion Results:** Pass

28. Mildred Ellis

**Individuals Addressing the Board:** Kimberly Siddall

**Discussion:** Mildred Ellis - During the background investigation, it was discovered Ms. Ellis failed to make payments on eleven accounts totaling \$3,063. Division staff contacted her and requested a written response. Ms. Ellis failed to provide a written response however; she submitted verification of payment for two accounts totaling 167.19. It was recommended the Board enter into a consent agreement with Ellis requesting Ellis submit monthly payment verification for each of the remaining nine accounts for the licensing period of 2010-2012 to be submitted every 28<sup>th</sup> day of the month beginning September 2010.

**Motion:** Moved to accept staff recommendation and enter into a Consent Agreement with Ellis requesting her to submit monthly payment verification for each of the remaining nine accounts for the licensing period of 2010-2012 to be submitted every 28<sup>th</sup> day of the month beginning September 2010; with the amendment to provide quarterly statements with specific due dates.

**Motion Proposals:** First Diana Clarke  
Second Shari Tomlinson

**Motion Results:** Pass

29. Milly Ann Briggs

**Individuals Addressing the Board:** Kimberly Siddall

**Discussion:** Milly Ann Briggs - During the background investigation, it was discovered Ms. Briggs failed to make a payment for \$98.00 which shows seriously past due. Division staff contacted her and requested a written response. Ms. Briggs stated she had never received a statement from the company and did not recall having any business dealings with the company. It was recommended the Board order Ms. Briggs to submit documentation from the company in question of the resolution of the account by January 7, 2011. It was further recommended the Board grant renewal of licensure to Ms. Briggs.

**Motion:** Moved to accept staff recommendation and grant renewal of licensure to Ms. Briggs.

**Motion Proposals:** First Diana Clarke  
Second Pam Johnston

**Motion Results:** Pass

30. Raymond F. Briggs

**Individuals Addressing the Board:** Kimberly Siddall

**Discussion:** Raymond E. Briggs - During the background investigation, it was discovered Mr. Briggs failed to make a payment for \$216.00 which shows seriously past due. Division staff contacted him and requested a written response. Mr. Briggs stated he had never received a statement from the company and did not recall having any business dealings with the company. It was recommended the Board order Mr. Briggs to submit documentation from the company in question of the resolution of the account by January 7, 2011. It is further recommended the Board grant renewal of licensure to Mr. Briggs.

**Motion:** Moved to accept staff recommendation and also grant renewal of licensure to Mr. Briggs.

**Motion Proposals:** First Shari Tomlinson  
Second Diana Clarke

**Motion Results:** Pass

**4B:** *Review, discussion, and possible action regarding renewal of business entities:*

1. Southwest Fiduciary, Inc. (Gregory DeVico)
2. Statewide Community Services, LLC (Peggy DeVico)

**Individuals Addressing the Board:** Kimberly Siddall

**Discussion:** The above business applicants have submitted a complete application, demonstrating they meet the minimum eligibility requirements, and no information has been presented during the background investigation which is contrary to renewal of business licensure being granted. It was recommended the Board grant renewal of fiduciary licensure to the above listed business applicants.

**Motion:** Moved to grant renewal of fiduciary licensure to the above business applicants.

**Motion Proposals:** First Shari Tomlinson  
Second Pam Johnston  
Recusal Deborah Primock

**Motion Results:** Pass

3. Greenlee County Public Fiduciary (Nora Garza)

**Individuals Addressing the Board:** Kimberly Siddall

**Discussion:** The above business applicant has submitted a complete application, demonstrating they meet the minimum eligibility requirements, and no information has been presented during the background investigation which is contrary to renewal of business licensure being granted. It was recommended the Board grant renewal of fiduciary licensure to the above business applicant.

**Motion:** Moved to accept staff recommendation and grant renewal to the above business licensure.

**Motion Proposals:** First Shari Tomlinson  
Second Deborah Primock

**Motion Results:** Pass

5. Pima County Public Fiduciary Office (Anita Royal)
6. The Sun Valley Group, Inc. (Peter Frenette)

**Individuals Addressing the Board:** Kimberly Siddall

**Discussion:** The above business applicants remain incomplete pending receipt and it was recommended to defer the two above applications until the November meeting.

**Motion:** Moved to accept staff recommendation and defer the above applicants to the November meeting.

**Motion Proposals:** First Diana Clark  
Second Shari Tomlinson

**Motion Results:** Pass

4. Northern Arizona Fiduciaries, Inc. (Carla Jones)

**Individuals Addressing the Board:** Kimberly Siddall

**Discussion:** Staff requested the board needs to come back to #4 after the review of the individual application, before making a determination on the Business certification of Carla Jones.

**4C:** *Review, discussion, and possible action regarding Consent Agreements for the following licensed fiduciaries:*

1. Jones, Carla
2. Schamel, Sherri L.

**Individuals Addressing the Board:** Alex Navarro

**Discussion:** The above listed licensed holders signed and returned the Consent Agreement offered by the Board on May 13, 2010. It was recommended the board grant renewal licensure to Carla Jones and Sherri L. Schamel.

**Motion:** Moved to accept staff recommendation and grant renewal licensure to Carla Jones and Sherri L. Schamel.

**Motion Proposals:** First Shari Tomlinson  
Second Diana Clarke

**Motion Results:** Pass

**Motion:** Moved to authorize the Chair to sign the Consent Agreement on behalf of the full Board regarding Carla Jones and Sherri L. Schamel.

**Motion Proposals:** First Mary Jane Baumgarten  
Second Diana Clarke

**Motion Results:** Pass

3. Rayndon, Darra L.

**Individuals Addressing the Board:** Alex Navarro

**Discussion:** On May 13, 2010, the Board requested Division staff prepare a Consent Agreement for Ms. Rayndon addressing an outstanding balance; Division staff forwarded the consent agreement to Ms. Rayndon on or about June 22, 2010. On July 14, 2010, Ms. Rayndon submitted a letter refusing to enter into a consent agreement stating the outstanding balance was an error from her bank. On July 27, 2010 Ms. Rayndon provided a letter from Vice President Conrad Morin from Sunrise Bank which states “a missed payment was mistakenly reported to the credit reporting agencies for Ms. Rayndon during the loan renewal process...” It was

recommended the Board amend its decision from May 13, 2010 and disregard the consent agreement and renew Ms. Rayndon's license.

**Motion:** Moved to accept staff recommendation and amend Board's decision from May 13, 2010 and disregard the consent agreement and grant renewal of Ms. Rayndon's license.

**Motion Proposals:** First Diana Clarke  
Second Mary Jane Baumgarten

**Motion Results:** Pass

#### **RETURN TO #4**

4. Northern Arizona Fiduciaries, Inc. (Carla Jones)

**Individuals Addressing the Board:** Kimberly Siddall

**Discussion:** The individual certification has been approved by the Board.

**Motion:** It was recommended to grant renewal licensure of Northern Arizona Fiduciaries, Inc. (Carla Jones)

**Motion Proposals:** First Diana Clarke  
Second Deborah Primock

**Motion Results:** Pass

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#### **5) OTHER LICENSING ACTIONS**

**5A:** *Review, discussion, and possible action regarding Voluntary Surrender request received from the following licensed fiduciaries:*

1. Simms, Laura J.

**Individuals Addressing the Board:** Alex Navarro

**Discussion:** The Board discussed the requirements for a voluntary surrender. Division records confirm there are no pending complaints involving the above listed licensed fiduciary and she affirms having no client cases. Therefore, staff recommended the Board accept the voluntary surrender of the above listed licensed fiduciary Laura Simms.

**Motion:** Moved to accept staff recommendation and accept the voluntary surrender of the above licensed fiduciary Laura Simms.

**Motion Proposals:** First Diana Clarke  
Second Mary Jane Baumgarten  
**Motion Results:** Pass

2. Anderson, Nancy

**Individuals Addressing the Board:** Alex Navarro

**Discussion:** On May 13, 2010, the Board deferred consideration of Anderson's request to voluntarily surrender her license until the July 8<sup>th</sup> meeting. Anderson's application for voluntary surrender was not addressed during the July 8<sup>th</sup> Board meeting as a result of an oversight by division staff. It was recommended the Board enter into executive session to discuss matters confidential pursuant to law and court rule.

**Motion:** Moved to go in executive session to discuss the above matter.

**Motion Proposals:** First Diana Clarke  
Second Pam Johnston  
Recusal Alex Navarro  
**Motion Results:** Pass

**EXECUTIVE SESSION: Start: 12:20 p.m. End: 12:35 p.m.**

**Motion:** Moved to continue Nancy Anderson's application for voluntary surrender to the November meeting.

**Motion Proposals:** First Diana Clarke  
Second Pam Johnston  
Recusal Alex Navarro  
**Motion Results:** Pass

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6) ADMINISTRATIVE ISSUES

**6A:** Review, discussion, and possible action regarding setting the 2011 meeting calendar.

**Individuals Addressing the Board:** Kip Anderson

**Discussion:** The Fiduciary Board was asked to consider and approve a 2011 meeting calendar. It was recommended the Fiduciary Board continue to meet on the second Thursday of every other month from 10:30 am to 2:30 pm. Therefore, it was recommended the 2011 meeting calendar be set as follows:

January 13, 2011  
March 10, 2011  
May 12, 2011  
July 14, 2011  
September 8, 2011  
November 10, 2011

**Motion:** Moved to accept the above recommended 2011 meeting calendar.

**Motion Proposals:** First Mary Jane Baugarten  
Second Diana Clarke

**Motion Results:** Pass

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**CALL TO THE PUBLIC - None**

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**ADJOURNMENT**

**Motion:** Move to adjourn.

**Motion Proposals:** First Mary Jane Baumgarten  
Second Pam Johnston

**Motion Results:** Pass

**Time:** 1:05 p.m.

Initials: SH  
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