



Supreme Court Fiduciary Board

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

Date: March 12, 2009
Time: 10:30 am – 2:30 pm

Approved Regular Meeting Minutes

MEMBER ATTENDANCE:

Present:

Shari Tomlinson
Mary E. Carlton
Diana L. Clarke
Judge Dean Fink
Kenneth Reeves, III
Mary Jane Baumgarten
Deborah Primock

Telephonically Present:

Sherry Reed

Absent:

Marlin "Kip" Anderson
Pamela Johnston
Diana M. Corry

OTHER ATTENDEES

AOC Staff:

Linda Grau
Nina Preston
Bonnie Toms

Guests:

Gary B. Strickland
Candy Ruby
RaShara Badilla
Heather Bull
Lisa Price
Amy Love

CALL TO ORDER

Called to Order By:

Shari Tomlinson

Time:

10:35 am

1) **REVIEW AND APPROVAL OF MINUTES**

1-A: Discussion, review, and possible approval of the Executive Session Minutes for the meetings of:

*October 9, 2008
November 13, 2008*

Individual Addressing the Board: Linda Grau

Discussion: Board discussed approval of Executive Session Minutes.

Motion: Moved to accept the Executive Session Minutes of October 9, 2008 and November 13, 2008.

Motion Proposals: First Mary E. Carlton
Second Mary Jane Baumgarten

Motion Results: Pass

1-B: Discussion, review, and possible approval of the Regular Session Minutes of the meeting held on December 11, 2008.

Individuals Addressing the Board: Linda Grau

Discussion: Board discussed approval of Regular Session minutes for December 11, 2009 with deletion of motion under Administrative Issues.

Motion: Moved to defer approval of December 11, 2008 Minutes to next Board Meeting.

Motion Proposals: First Mary E. Carlton
Second Mary Jane Baumgarten

Motion Results: Pass

1-C: Discussion, review, and possible approval of the Regular Session Minutes of the meeting held on January 8, 2009

Individuals Addressing the Board: Linda Grau

Discussion: Board discussed approval of Regular Session Minutes

Motion: Moved to accept the Regular Session Minutes of January 8, 2009.

Motion Proposals: First Judge Dean Fink
Second Kenneth Reeves, III

Motion Results: Pass

2) **PENDING COMPLAINTS**

2-A: *Formal Interview with certified fiduciary Richard Vanderheiden and possible action regarding complaint number 03-0010.*

Individuals Addressing the Board: Linda Grau, Gary B. Strickland

Discussion: Board discussed approval of proposed Consent Agreement submitted by Gary Strickland, legal counsel for Mr. Vanderheiden and authorization for the Vice Chair to sign the document on behalf of the full Board.

Motion: Moved to accept Consent Agreement with the signature by the Vice Chair.

Motion Proposals:

First	Kenneth Reeves, III
Second	Mary Jane Baumgarten
Recusal	Shari Tomlinson

Motion Results: Pass

3) **CERTIFICATION AND ELIGIBILITY**

3-A: *Review, discussion, and possible action regarding pending renewal application of Candace Bow.*

Individuals Addressing the Board: Linda Grau

Discussion: Staff has reviewed court records and it appears all but one of Ms. Bow's court appointments have not been transferred to another certified fiduciary. A letter dated February 27, 2009 was received from attorney Kathleen Brody O'Meara regarding the status of Ms. Bow's court appointments. Staff recommended the Board deny the request to withdraw the renewal application and deny renewal certification pursuant to ACJA § 7-201 (E)(2)(c)(2)(b)(vi) for having a suspension of a professional certificate and ACJA § 7-201 (E)(2)(c)(2)(b)(vii) for having disciplinary action of a professional certificate wherein the underlying conduct is relevant to the certification and ACJA § 7-201 (E)(2)(c)(2)(b)(xii) for violation of any order of a court, judicial officer, administration tribunal, or the board. It is further recommended the Board direct staff to contact each Probate Administrator and Clerk of Court as to the present status of Ms. Bow's certification.

Motion: Moved to accept staff recommendations.

Motion Proposals: First Diana L. Clarke
Second Mary E. Carlton
Recusal Judge Dean Fink

Motion Results: Pass

3-B: Review, discussion, and possible action regarding pending renewal application of Clare Guthrie.

Individuals Addressing the Board: Linda Grau

Discussion: Board discussed applicant's certification history including continuing education issues. Ms. Guthrie now meets the educational requirements and staff recommended the Board grant renewal certification.

Motion: Moved to accept staff recommendation.

Motion Proposals: First Kenneth Reeves, III
Second Mary Jane Baumgarten
Recusal Judge Dean Fink

Motion Results: Pass

3-C: Review, discussion, and possible action regarding pending applications for certification submitted by:

Constance Olsen
Tamara Fitzsimmons
Gregory Sulzer
Valerie Mills

Individuals Addressing the Board: Linda Grau

Discussion: Regarding applicant Constance Olsen, the Board received additional information that Ms. Olsen's fingerprint card could not be read and therefore, Staff recommended pursuant to ACJA § 7-201 (E)(1)(d)(2) the Board accept Ms. Olsen's written statement regarding the background issues and grant standard certification.

Motion: Moved to accept staff recommendation.

Motion Proposals: First Judge Dean Fink
Second Mary Jane Baumgarten

Motion Results: Pass

Discussion: Regarding Tamara Fitzsimmons, applicant failed to disclose civil action regarding past employment. Staff recommended Board grant initial certification to Ms. Fitzsimmons and include language in the

letter granting certification that non-disclosure in future applications may result in denial or disciplinary action.

Motion: Move to accept staff recommendation.

Motion Proposals: First Kenneth Reeves, III
Second Mary E. Carlton

Motion Results: Pass

Discussion: Regarding applicants Gregory Sulzer and Valerie Mills, applications remain incomplete pending receipt of fingerprint results and/or additional information. Staff recommended deferral of review to May 14, 2009 meeting.

Motion: Move to accept Staff recommendation.

Motion Proposals: First Mary Jane Baumgarten
Second Mary E. Carlton

Motion Results: Pass

3-D: *Review, discussion, and possible action regarding the denial of certification to applicant Vivian Hartless.*

Individuals Addressing the Board: Linda Grau

Discussion: Discussion regarding pending proposed amendments to ACJA § 7-202 that would affect the Fiduciary examination and application process. The proposed amendments are scheduled to be presented to the Arizona Judicial Council on March 19, 2009. Staff therefore recommended the Board vacate the earlier denial and defer consideration of Ms. Hartless' application to the July 9, 2009 Board meeting.

Motion: Move to accept staff recommendation.

Motion Proposals: First Diana L. Clarke
Second Mary E. Carlton

Motion Results: Pass

3-E: *Review, discussion, and possible action regarding Inactive Status request received from certified fiduciary Terry L. Hill, certificate number 20413.*

Individuals Addressing the Board: Linda Grau

Discussion: Division records confirm there are no pending complaints involving Mr. Hill. Staff recommended the Board accept the transfer of the certificate holder to inactive status, in good standing.

Motion: Move to accept staff recommendation.

Motion Proposals: First Kenneth Reeves, III
Second Mary Jane Baumgarten

Motion Results: Pass

3-F: *Review, discussion, and possible action regarding Inactive Status request received from certified fiduciary Janice Bernardini, certificate number 20235.*

Individuals Addressing the Board: Linda Grau

Discussion: Division records confirm there are no pending complaints involving Ms. Bernardini. Staff recommended the Board accept the transfer of the certificate holder to inactive status, in good standing.

Motion: Move to accept staff recommendation.

Motion Proposals: First Kenneth Reeves, III
Second Mary Jane Baumgarten

Motion Results: Pass

4) ADMINISTRATIVE ISSUES

4-A: *Update regarding pending legislation.*

Individuals Addressing the Board: Linda Grau, Amy Love

Discussion: Discussion regarding pending legislation HB2317, relating to fiduciaries; HB2347, relating to incapacitated or vulnerable adults, sentencing; and HB2344 relating to incapacitated or vulnerable adults, financial exploitation. Additional materials were passed out for Board review regarding new HB2616 and additional amendments. Further discussion regarding the impact these bills may or may not have on the Fiduciary program.

4-B: *Discussion regarding interim approval of complete initial applications for certification during the 2009 every other month Board meeting schedule.*

Individuals Addressing the Board: Linda Grau

Discussion: Discussion regarding scheduling interim meetings when warranted and the impact the budget crisis has had on the Fiduciary program.

CALL TO THE PUBLIC

No response.

ADJOURNMENT

Motion: Adjourn the meeting.

Motion Proposals: First Kenneth Reeves, III
Second Mary Jane Baumgarten

Motion Results: Pass

Time: 11:43 am

Initials: BT