



Arizona Supreme Court Fiduciary Board

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

Date: September 10, 2009
Time: 10:30 a.m. – 2:30 p.m.

Approved Regular Meeting Minutes

MEMBER ATTENDANCE:

Present:

Shari Tomlinson
Marlin “Kip” Anderson
Diana L. Clarke
Judge Dean Fink
Kenneth Reeves, III
Pamela Johnston

Telephonically Present:

Mary Jane Baumgarten
Deborah Primock

Absent:

Mary E. Carlton
Sherry Reed
Diana M. Corry

OTHER ATTENDEES

AOC Staff:

Linda Grau
Kitty Boots
Nina Preston
Kimberly Siddall
Kandace French
Bonnie Toms
Tony Posante

Guests:

Brada Panther
Roger T. Coventry
Ronald Gann
Lisa Price
Jennifer Greene

CALL TO ORDER

Called to Order By:

Shari Tomlinson

Time:

10:31 a.m.

1) **REVIEW AND APPROVAL OF MINUTES**

1-A: Review, discussion and possible approval of the Regular Session Minutes for the meeting held on July 9, 2009.

Individuals Addressing the Board: Shari Tomlinson

Discussion: No discussion.

Motion: Move to approve the Regular Session Minutes for the meeting held on July 9, 2009.

Motion Proposals: First Pamela Johnston
Second Diana L. Clarke

Motion Results: **Pass**

1-B: Review, discussion and possible approval of the Executive Session Minutes for the meeting held on July 9, 2009.

Individuals Addressing the Board: Shari Tomlinson

Discussion: No discussion.

Motion: Move to approve the Executive Session Minutes for the meeting held on July 9, 2009.

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

Motion Results: **Pass**

1-C: Review, discussion and possible approval of the Executive Session Minutes for the meeting held on January 8, 2009.

Individuals Addressing the Board: Shari Tomlinson

Discussion: No discussion.

Motion: Move to approve the Executive Session Minutes for the meeting held on January 8, 2009

Motion Proposals: First Diana L. Clarke
Second Pamela Johnston

Motion Results: **Pass**

1-D: Review, discussion and possible approval of the Executive Session Minutes for the meeting held on June 12, 2008.

Individuals Addressing the Board: Shari Tomlinson

Discussion: No discussion.

Motion: Move to approve the Executive Session Minutes for the meeting held on June 12, 2008.

Motion Proposals: First Pamela Johnston
Second Marlin "Kip" Anderson

Motion Results: Pass

1-E: *Review, discussion and possible approval of the Executive Session Minutes for the meeting held on September 11, 2008.*

Individuals Addressing the Board: Shari Tomlinson

Discussion: Discussion regarding Judge Fink's attendance at the Executive Session on September 11, 2009. Staff will confirm.

Motion: Move to approve the Executive Session Minutes for the meeting held on September 11, 2008 as amended to reflect Judge Fink's status during the Executive Session.

Motion Proposals: First Pamela Johnston
Second Diana L. Clarke

Motion Results: Pass

2) PENDING COMPLAINTS

2-A: *Review, discussion and possible action regarding complaints dismissed by the Division Director pursuant to Arizona Code of Judicial Administration § 7-201(D)(4)(a) and (H)(2)(b).*

Individuals Addressing the Board: Linda Grau

Complaint Number 09-0005

Discussion: On August 13, 2009, Division Director Nancy Swetnam dismissed complaint number 09-0005 with prejudice for lack of jurisdiction. A copy of the dismissal was forwarded to the complainant with a letter advising the complainant of his right to request Board review of the dismissal. No request for Board review of the dismissal was received. It was recommended the Board affirm the dismissal.

Motion: Move to affirm dismissal of complaint number 09-0005.

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

Motion: Move to go into Executive Session for discussion of confidential material.

Motion Proposals: First Pamela Johnston
Second Diana L. Clarke

Executive Session: 10:38 a.m. to 10:49 a.m.

Motion Results: Pass

Complaint Number 09-0014

Discussion: On July 13, 2009, Acting Division Director Linda Grau dismissed complaint number 09-0014 with prejudice for lack of jurisdiction and referred the matter to the entity which holds jurisdiction. A copy of the dismissal was forwarded to the complainant with a letter advising the complainant of his right to request Board review of the dismissal. In a letter dated August 18, 2009, the complainant requested review of the dismissal. The request and back-up documentation was supplied to the Board. It was recommended the Board affirm the dismissal of complaint number 09-0014.

Motion: Move to affirm dismissal of complaint number 09-0014.

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

3) CERTIFICATION AND ELIGIBILITY

3-A: Report of the Fiduciary Regulatory Scope Subcommittee and review, discussion and possible action regarding proposed amendments to ACJA § 7-202.

Individuals Addressing the Board: Linda Grau

Discussion: A verbal report regarding proposed changes to Arizona Code of Judicial Administration § 7-202 was provided by the Fiduciary Regulatory Scope Subcommittee and staff. A draft showing the proposed changes was provided for Board review in the materials for today's meeting. The majority of changes had to do with nomenclature. Discussion also included striking the word "appropriate" from J(6)(a) on page 23.

Motion: Move to ask staff to forward all changes to the Chief Justice for approval with the exception of the proposed change to ACJA § 7-202 (J)(6)(a) which would proceed through the normal process for code change.

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

Motion Results: Pass

3-B: Review, discussion, and possible action regarding changes to the 2010 meeting schedule.

Individuals Addressing the Board: Kandace French, Kimberly Siddall

Discussion: Discussion regarding the proposed 2010 meeting schedule. It was recommended the Fiduciary Board continue to meet on the second Thursday of the month from 10:30 a.m. to 2:30 p.m. As May 31, 2010 is the expiration date for the current certification period, an additional Board meeting was suggested to address as many renewal applications as possible prior to the expiration of certification. It was therefore recommended the 2010 meeting schedule be set as follows:

January 14, 2010
March 11, 2010
April 8, 2010
May 13, 2010
July 8, 2010
September 9, 2010
November 18, 2010

Motion: Move to adopt the proposed 2010 meeting schedule.

Motion Proposals: First Diana L. Clarke
Second Mary Jane Baumgarten

Motion Results: Pass

3-C: Review, discussion, and possible action regarding proposed amendments to ACJA § 1-202: Public Meetings.

Individuals Addressing the Board: Jennifer Greene, Kandace French, Nina Preston

Discussion: A draft of the Arizona Code of Judicial Administration § 1-202: Public Meetings and Proposal Cover Sheet was provided for the Board's review in the materials for today's meeting. Board Counsel, Jennifer Greene, provided a verbal report to the Board

regarding the proposed amendments to ACJA § 1-202 (E) Use of Technology and (F) Email Communications. Discussion followed.

Motion: Move for a formal approval of the proposed amendments.

Motion Proposals: First Kenneth Reeves, III
Second Diana L. Clarke

Motion Results: Pass

4) REVIEW OF CERTIFICATION APPLICATIONS

4-A: *Review, discussion, and possible action regarding pending applications for certification.*

Individuals Addressing the Board: Kimberly Siddall

Gregory Sulzer

Discussion: The above applicant submitted an application for standard certification. The application was complete and no information was presented during the background which was contrary to certification being granted. The applicant demonstrated he has met minimum eligibility requirements of certification. Recommendation standard certification be granted.

Motion: Move to accept staff recommendation to grant standard certification to Gregory Sulzer.

Motion Proposals: First Judge Dean Fink
Second Pamela Johnston
Recusal Diana L. Clarke

Motion Results: Pass

Diana Clarke

Discussion: Applicant provided the requested information. Recommendation initial certification be granted to Diana Clarke.

Motion: Move to accept staff recommendation to grant initial certification to Diana Clarke.

Motion Proposals: First Judge Dean Fink
Second Pamela Johnston
Recusal Diana L. Clarke

Motion Results: Pass

Ronald Gann

Discussion: The above application remains incomplete pending receipt of fingerprint results, professional responsibility, and/or additional information. It was recommended consideration of the application be deferred to the November 12, 2009 meeting.

Motion: Move to accept staff recommendation to defer consideration of the above application to the November 12, 2009 meeting.

Motion Proposals: First Pamela Johnston
Second Marlin "Kip" Anderson
Recusal Diana L. Clarke

Motion Results: Pass

Joe Cannon

Discussion: The above application remains incomplete pending receipt of fingerprint results, professional responsibility, and/or additional information. It was recommended consideration of the application be deferred to the November 12, 2009 meeting.

Motion: Move to accept staff recommendation to defer consideration of the above application to the November 12, 2009 meeting.

Motion Proposals: First Judge Dean Fink
Second Pamela Johnston
Recusal Diana L. Clarke

Motion Results: Pass

5) CERTIFICATION AND ELIGIBILITY

5-A: *Review, discussion, and possible action regarding Voluntary Surrender request received from certified fiduciary Charles D. Zimmerman, certification number 20126.*

Individuals Addressing the Board: Kimberly Siddall

Discussion: Division records confirm there are no pending complaints or current appointments involving Mr. Zimmerman. Staff recommended the Board accept the voluntary surrender request of Charles D. Zimmerman.

Motion: Move to accept staff recommendation to accept voluntary surrender request of Charles D. Zimmerman.

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

Motion Results: Pass

5-B: *Review, discussion, and possible action regarding Voluntary Surrender request received from certified fiduciary Martha A. Zanetis, certification number 20581.*

Individuals Addressing the Board: Kimberly Siddall

Discussion: Division records confirm there are no pending complaints or assigned cases involving Ms. Zanetis. Staff recommended the Board accept the voluntary surrender request of Martha A. Zanetis.

Motion: Move to accept staff recommendation to accept voluntary surrender request of Martha A. Zanetis.

Motion Proposals: First Marlin “Kip” Anderson
Second Mary Jane Baumgarten

Motion Results: Pass

5-C: *Review, discussion, and possible action regarding request for placement on Inactive Status received from certified fiduciary Barbara J. Lee, certification number 20043.*

Individuals Addressing the Board: Kimberly Siddall

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

Motion: Move to accept staff recommendation to accept the transfer of the certificate holder to inactive status in good standing.

Motion Proposals: First Pamela Johnston
Second Judge Dean Fink

Motion Results: Pass

5-D: *Review, discussion, and possible action regarding request for placement on Inactive Status received from certified fiduciary Raena Honan, certification number 20547.*

Individuals Addressing the Board: Kimberly Siddall

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

Motion: Move to accept staff recommendation to accept the transfer of the certificate holder to inactive status in good standing.

Motion Proposals: First Pamela Johnston
Second Diana L. Clarke

Motion Results: **Pass**

CALL TO THE PUBLIC

Lisa Price spoke regarding the proposed changes to ACJA§ 7-202 and had suggestions regarding some of the terminology. Roger Coventry requested an explanation of a code violation mentioned in Agenda Item 4-A.

ADJOURNMENT

Motion: Adjourn the meeting.

Motion Proposals: First Kenneth Reeves, III
Second Pamela Johnston

Motion Results: **Pass**

Time: 11:37 a.m.

Initials: BT

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