

Supreme Court Board of Fiduciary
Arizona State Courts Building
1501 West Washington Street, Phoenix, Arizona 85007
Conference Room CLD 1
September 13, 2007
12:00 am - 4:00 pm

Approved Regular Minutes

MEMBER ATTENDANCE

Present:

Marlin “Kip” Anderson
Judge Dean Fink
Stacey L. Johnson
Pamela Johnston

Telephonically Present:

Mary E. Carlton
Shari J. Tomlinson

Absent:

Diana L. Clarke
Kymberlei Putz

OTHER ATTENDEES

AOC Staff:

Kitty Boots
Kandace French
Linda Grau
Tony Posante
Nina Preston
Kimberly Siddall
Rhonda Simmons
Nancy Swetnam
David Geriminsky
J.R. Rittenhouse

Guests:

Greg Como
Roger Coventry
Marlene Appel
Beverly Gloden
Dave Shipley
Richard Vanderheiden
Lisa Price
Heather Bull
Eben Bull
Don Childers

CALL TO ORDER

Called to Order By:

Shari J. Tomlinson

Time:

12:06 p.m.

1) REVIEW AND APPROVAL OF MINUTES

1-A: Discussion, review, and possible approval of the Regular Session Minutes of the meeting held on August 9, 2007

Discussion: Board discussed the possible approval of the Regular Session Minutes of the meeting held on August 9, 2007.

Motion: Move to approve the August 9, 2007 Minutes

Motion Proposals: First: Judge Dean Fink
Second: Pamela Johnston

Motion Results: Pass

Abstained: Mary Carlton

2) PENDING COMPLAINTS

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

07-0001 – Melissa Liebe

07-0010 – Lisa Peake

Individuals Addressing the Board: Nancy Swetnam

Discussion: Board discussed complaints:

07-0001- Melissa Liebe

07-0010- Lisa Peake

Motion: Moved to accept the finding of the Probable Cause Evaluator and issue a Letter of Concern to Ms. Liebe pursuant to ACJA § 7-201 (H)(7).

Motion Proposals: First: Marlin “Kip” Anderson
Second: Judge Dean Fink

Motion Results: Pass

Dissenting: Pamela Johnston, Shari Tomlinson

Motion: Moved to allow Judge Dean Fink to sign all documents in place of Chairperson Shari Tomlinson for the September 13, 2007 Board Meeting.

Motion Proposals: First: Mary Carlton
Second: Marlin “Kip” Anderson

Motion Results: Pass

Motion: Moved to dismiss complaint number 07-0010 involving Lisa Peake with prejudice pursuant to ACJA § 7-201 (H)(24)(a)(3).

Motion Proposals: First: Mary E. Carlton

Second: Judge Dean Fink

Motion Results: Pass

2-B: *Formal Interview with certified fiduciary Donna Allison-Howard and possible action regarding complaint number 06-0007.*

Individuals Addressing the Board: Nancy Swetnam, Linda Grau

Discussion: Board was informed that Donna Allison-Howard was not present.

Motion: Moved to defer agenda item 2-B to the October 11, 2007 meeting.

Motion Proposals: First: Marlin "Kip" Anderson
Second: Judge Dean Fink

Motion Results: Pass

2-C: *Review, discussion, and possible action regarding Hearing Officer Andrew Marshall's Recommendation Report involving certified fiduciary Richard Vanderheiden, the Maricopa County Public Fiduciary's Office and Complaint number 03-0010*

Recused: Stacey Johnson

Individuals Addressing the Board: Nancy Swetnam, Nina Preston

Discussion: Board discussed Hearing Officer Andrew Marshall's Recommendation Report involving certified fiduciary Richard Vanderheiden, the Maricopa County Public Fiduciary's Office and complaint number 03-0010.

Motion: Move to enter Executive Session for advice of counsel at 12:30 p.m.

Motion Proposals: First: Mary E. Carlton
Second: Pam Johnston

Motion Results: Pass

*Board Returned from Executive Session at 1:33 p.m.
Stacy Johnson appeared at 1:33 p.m.*

Motion: Moved to defer consideration of Hearing Officer Marshall's Recommendation Report in complaint number 03-0010 involving certified fiduciary Richard Vanderheiden and the Maricopa County Public Fiduciary Office to the next regularly scheduled Board meeting of October 11, 2007.

Further Discussion: The factual basis for this motion is that the staff received a request from Mr. Vanderheiden’s counsel, dated September 7, 2007 and reviewed by staff for the first time on September 11, 2007.

Board discussed scheduling an interim meeting for the purpose of receiving legal advice regarding the requests of counsel to appear and address the Board regarding the Hearing Officer recommendations prior to entry of the Board’s final order in pending actions and to discuss the policy issues inherent in requests of this nature. Following the interim meeting, the Board will notify both parties in the Vanderheiden/Maricopa Public Fiduciary action of the Board’s decision regarding whether the parties may appear and speak to the Board on this matter. The Board reserves the right to establish the scope and time limits on any such authorized presentation.

Motion Proposals: First: Pam Johnston
Second: Marlin “Kip” Anderson

Motion Results: Pass

Motion: Moved to schedule Interim meeting on Monday September 24, 2007 at 12:00 p.m.

Motion Proposals: First: Marlin “Kip” Anderson
Second: Judge Dean Fink

Motion Results: Pass

2-D: Report Regarding and possible action involving complaint dismissed by Division Director, pursuant to Arizona Code of Judicial Administration § 7-201 (D)(4)(a) and (H)(2)(b):

Complaint Number 07-0018

Individuals Addressing the Board: Nancy Swetnam

Discussion: Board discussed the dismissal of complaint number 07-0018 by Division Director, pursuant to Arizona Code of Judicial Administration § 7-201 (D)(4)(a) and (H)(2)(b).

Motion: Moved to affirm dismissal of complaint number 07-0018.

Motion Proposals: First: Stacey Johnson
Second: Judge Dean Fink

Motion Results: Pass

2-E: *Formal Interview with Donna Dauenhauer regarding complaint numbers 01-0029, 02-0035, and 04-0022.*

Individuals Addressing the Board: Linda Grau

Discussion: Board was informed that Donna Dauenhauer was not present.

Motion: Moved to defer consideration of the matter to the October 11, 2007 meeting.

Motion Proposals: First: Stacey Johnson
Second: Judge Dean Fink

Motion Results: Pass

3) CERTIFICATION AND ELIGIBILITY

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

*Elizabeth A. Kizer
Laurie Kuzdal
East Valley Fiduciary Services, Inc.*

Individuals Addressing the Board:

Discussion: Board discussed the standard certification applications of:

Elizabeth A. Kizer
Laurie Kuzdal
East Valley Fiduciary Services, Inc.

Motion: Moved to grant standard certification Elizabeth A. Kizer and Laurie Kuzdal.

Motion Proposals: First: Pam Johnston
Second: Mary E, Carlton

Motion Results: Pass'

Motion: Moved to defer consideration of East Valley Fiduciary Services, Inc. to the October 11, 2007 meeting.

Motion Proposals: First: Judge Dean Fink
Second: Mary E. Carlton

Motion Results: Pass

3-B: Interview with and possible action regarding applicant Beverly Gloden.

Individuals Addressing the Board: Beverly Gloden, Nancy Swetnam, Kimberly Siddall, Nina Preston

Discussion: Board interviewed Beverly Gloden.

Motion: Moved to delay consideration of agenda item 3-B until later in the meeting to afford Beverly Gloden an opportunity to review the proposed Consent Agreement.

Motion Proposals: First: Stacey Johnson
Second: Pam Johnston

Motion Results: Pass

3-C: Review, discussion, and possible action regarding inactive status request received from certified fiduciary Donald Foster, certificate number 20114.

Individuals Addressing the Board: Kimberly Siddall

Discussion: Board discussed the inactive status request of Donald Foster, certificate number 20114.

Motion: Move to approve the inactive status request of Donald Foster, certificate number 20114.

Motion Proposals: First: Judge Dean Fink
Second: Mary E. Carlton

Motion Results: Pass

3-D: Review, discussion, and possible action regarding voluntary surrender request received from certified fiduciary Carl Wohlgemuth, certificate number 20511.

Individuals Addressing the Board: Kimberly Siddall, Linda Grau, J. R. Rittenhouse

Discussion: Board discussed the voluntary surrender request of Carl Wohlgemuth, certificate number 20511.

Motion: Moved to approve the voluntary surrender request of Carl Wohlgemuth, certificate number 20511.

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

Motion Results: Pass

3-E: *Review, discussion, and possible action regarding voluntary surrender request received from certified fiduciary William Dettelback, certificate number 20459.*

Individuals Addressing the Board: Kimberly Siddall

Discussion: Board discussed the voluntary surrender request of William Dettelback, certificate number 20459.

Motion: Moved to approve the voluntary surrender request of William Dettelback, certificate number 20459.

Motion Proposals: First: Judge Dean Fink
Second: Mary E. Carlton

Motion Results: Pass

3-F: *Review, discussion, and possible action regarding request received from Marco A. Zamora requesting the Board to waive ACJA § 7-201 subsection (D)(1)(f)(2)(b)(iv) requirement and allow Mr. Zamora to retake the examination past the 90 days of the date of the notice of the examination results sent to him on July 27, 2007.*

Individuals Addressing the Board: Kimberly Siddall

Discussion: Board discussed Mr. Zamora's request to retake the examination past 90 days of the date of the notice of examination results sent to him on July 27, 2007.

Motion: Moved to approve the request of Mr. Zamora to retake the examination past 90 days of the date of the notice of examination results sent to him on July 27, 2007 and extended the date to December 31, 2007.

Motion Proposals: First: Mary E. Carlton
Second: Pam Johnston

Motion Results: Pass

4) ADMINISTRATIVE ISSUES

4-A: *Review and discussion regarding Arizona Supreme Court Rule 31 regarding use of designations likely to induce others to believe a person or entity are authorized to engage in the practice of law.*

Individuals Addressing the Board: Linda Grau, Nancy Swetnam, Nina Preston

Discussion: Board discussed Supreme Court Rule 31.

Motion: Moved to request staff should draft a proposed notice regarding Rule 31 and defer further consideration of this item to the next regularly scheduled meeting.

Motion Proposals: First: Judge Dean Fink
Second: Stacey Johnson

Motion Results: Pass

Board Revisited Agenda Item 3-B

3-B: Interview with and possible action regarding applicant Beverly Gloden.

Individuals Addressing the Board: Beverly Gloden, Nancy Swetnam, Kimberly Siddall, Linda Grau

Discussion: Board continued interview with applicant Beverly Gloden.

Motion: Moved to request staff amend the proposed Consent Agreement as discussed and for an additional review of the Consent Agreement to be placed on the agenda for the October 11, 2007 meeting.

Motion Proposals: First: Judge Dean Fink
Second: Mary E. Carlton

Motion Results: Pass

4-B: Report of the Fiduciary Duties Subcommittee.

Individuals Addressing the Board: Shari Tomlinson, Pamela Johnston

Discussion: Board discussed the membership of the Fiduciary Duties Subcommittee and its continued existence.

4-C: Report of the POA Subcommittee.

Individuals Addressing the Board: Judge Dean Fink, Shari Tomlinson

Discussion: The POA Subcommittee is scheduled to meet following this Board meeting. Board Chair Tomlinson reported appointment of additional Subcommittee members would be made shortly.

CALL TO THE PUBLIC

Individuals Addressing the Board: Lisa Price, Roger Coventry, Marlene Appel

ADJOURN

Motion: Adjourn the meeting.

Motion Proposals: First: Pam Johnston
Second: Marlin “Kip” Anderson

Motion Results: Pass

Time: 3:45p.m.

Y:\Boards, Committees, Commissions\FIDUCIARY BOARD\MINUTES\REGULAR\FID Board Draft Regular Minutes 9-13-07.doc