

Supreme Court Board of Defensive Driving
Arizona State Courts Building
1501 West Washington, Phoenix, AZ 85007
Hearing Room 109
February 17, 2010
10:00 am -2:00 pm

Approved Regular Session Minutes

MEMBER ATTENDANCE

Present:

Rolland (Ron) E. DeLong
Robert G. A. Hall
Judge Gary J. LaFleur
Leonard Montanaro
Elaine Acosta Sweet
Steven Soldis
Virginia Davis
Paul E. Hallums
Cecile T. Woodward

Telephonically Present:

Judge Daniel S. Jurkowitz

Absent:

Lynette Rudow

OTHER ATTENDEES

AOC Staff:

Kandace French
Alex Navarro
Tony Posante
Nina Preston (exit 10:38a.m.)
Jennifer Greene (arrive
10:38a.m.)
Kimberly Siddall
Nancy Swetnam
Chris DeWitt
Deann Barker

Guests:

Rita Allen
Rick Hernandez
Pamela Najera
Debbie Grado
Bob Grossman
Larry W Clapick
Debra Grossman
Bill Riedel

CALL TO ORDER

Called to Order By:
Time:

Judge Gary LaFleur
10:01 a.m.

Kandace French made the following announcements:

INTRODUCTION OF RENEWED AND NEW BOARD MEMBERS

On January 20, 2010, Chief Justice Rebecca White Berch signed Administrative Order 2010-15 reappointing the following board members to the Defensive Driving Board for a 3-year term through December 31, 2012:

Robert G.A. Hall
The Honorable Gary J. LaFleur
Lynette A. Rudow

The following new board member was appointed to the Defensive Driving Board for a 3-year term through December 31, 2012:

Paul E. Hallums

Mr. Hallums made a brief speech about his background and being appointed to the board.

Additionally, recognizing the expiration of Judge LaFleur's chairmanship pursuant to ACJA § 7-201(D)(5)(b), staff acknowledged Judge LaFleur's service to the Board and introduced Elaine Sweet as chair of the Defensive Driving Board through December 31, 2011.

Ms. Sweet made a brief speech about being appointment as Chair and of appreciation for Judge LaFleur for his service as Chair.

1) REVIEW AND APPROVAL OF MINUTES

1-A: Review, discussion, and possible action regarding the Regular Session Minutes for the meeting of December 16, 2009.

Individuals Addressing the Board: Elaine Sweet

Discussion: None

Motion: Approve the Regular Session minutes of December 16, 2009.

Motion Proposals: First: Leonard Montanaro
Second: Robert Hall

Motion Results: Pass

1-B: Review, discussion, and possible action regarding the Executive Session Minutes for the meeting of December 16, 2009.

Individuals Addressing the Board: Elaine Sweet

Discussion: None

Motion: Approve the Executive Session minutes of December 16, 2009.

Motion Proposals: First: Ron DeLong
Second: Steven Soldis

Motion Results: Pass

2) PENDING COMPLAINTS

2-A: Review, discussion and possible action regarding complaint number 09-D017 involving certified defensive driving school I Drive Safely.

I Drive Safely – Complaint Number 09-D017:

On December 21, 2009, Probable Cause Evaluator Mike Baumstark entered a finding probable cause does not exist in complaint number 09-D017. Therefore, it is recommended the Board accept the finding of the Probable Cause Evaluator and dismiss complaint number 09-D017.

Individuals Addressing the Board: Nancy Swetnam

Discussion: Summary of complaint and investigation was read to the board. Question regarding the practice of recording calls to the schools.

Motion: Adopt the recommendation to dismiss complaint number 09-D017

Motion Proposals: First: Judge Daniel Jurkowitz
Second: Steven Soldis

Motion Results: Pass

3) ADMINISTRATIVE ISSUES

3-A: *Review and discussion regarding requirement the student complete the defensive driving course seven days prior to the court arraignment date on the citation.*

The Board was asked to review the requirement the student complete a defensive driving course seven days prior to the court arraignment date on the citation. Discussion regarding the standard set for the deadline for attending school before a continuance is required.

Individuals Addressing the Board: Kandace French, Nancy Swetnam

Discussion: Discussion regarding the 7-day Rule and the standard count to determine the 7 days prior to the arraignment date. The courts and school are viewing the deadline differently. Two complaints have recently been filed resulting from the rule.

Motion: None

3-B: *Review and discussion regarding proposed new legislation.*

Individuals Addressing the Board: Kandace French, Nancy Swetnam

Discussion: Extensive discussion regarding Proposed Revised Language of HB2424. Discussion included highlights of each section of the bill. Discussion also included some of the ramifications if it is passed, and that the CLD Division is against the bill.

Motion: None

3-C: *Review, discussion, and possible action regarding a proposed alternative process for confirming identity of online student by DrivingUniversity.com and Arizona Crash Course.*

Individuals Addressing the Board: Chris DeWitt

Discussion: This method has been reviewed and tested by staff and is recommended for approval by the Board.

Motion: Accept the recommendation to approve the alternative process for confirming identity of online student by DrivingUniversity.com and Arizona Crash Course.

Motion Proposals: First: Robert Hall
Second: Ron DeLong

Motion Results: Pass

4) REVIEW OF CERTIFICATION APPLICATIONS

4-A: *Review, consideration and possible action regarding pending initial certification applications of the following defensive driving instructors:*

Stephen J. Franz
Scott E. Smyth
Robert Giersberg
Deane Corbett
Terry Hemmen

The following defensive driving instructor applicants have submitted applications for certification. The applications are complete and no information has been presented during the background, which is contrary to certification being granted, and the applicants have demonstrated they meet the minimum eligibility requirements for certification.

Individuals Addressing the Board: Kim Siddall

Discussion: Discussion regarding the application of Deane Corbett.

Motion: Grant certification to Deane Corbett.

Motion Proposals: First: Leonard Montanaro
Second: Virginia Davis

Motion Results: Pass

Individuals Addressing the Board: Kimberly Siddall

Discussion: Terry Hemmen passed the exam. Staff recommended the Board grant initial certification to Terry Hemmen.

Motion: Grant initial certification to Terry Hemmen.

Motion Proposals: First: Robert Hall

Second: Ron DeLong

Motion Results: Pass

Individuals Addressing the Board: Kimberly Siddall

Discussion: Discussion regarding the application of Stephen J. Franz. It was recommended to defer until the April 2010 Board Meeting

Motion: Defer consideration of the application of Stephen J. Franz to the next meeting.

Motion Proposals: First: Ron DeLong
Second: Robert Hall

Motion Results: Pass

Individuals Addressing the Board: Kimberly Siddall

Discussion: Robert S. Giersberg – Applicant filed an application on November 24, 2009. Staff requested additional information regarding the suspension of his MVD driving school. Applicant did not provide the information. He requested his application no longer be considered for certification. Therefore, it was recommended the Board accept the applicant's withdrawal.

Motion: Accept Robert Giersberg's withdrawal of his application for certification.

Motion Proposals: First: Leonard Montanaro
Second: Ron DeLong

Motion Results: Pass

Individuals Addressing the Board: Kimberly Siddall

Discussion: Scott E. Smyth – Applicant filed an application on July 30, 2010, on August 3, 2009 and again on January 13, 2010 staff requested additional information from the applicant. To date staff has not received the requested MVD record or applicant has not sat for the examination. It was recommended the Board deny initial certification pursuant to ACJA § 7-201 (E)(2)(c)(1) applicant does not meet the eligibility requirements as prescribed in ACJA § 7-205 (E)(2)(e) and has not submitted a completed application with all deficiencies corrected.

Additional discussion and question about wording of paragraph in agenda materials - "MVD record or applicant has not" *should* read "MVD record and applicant has not..."

Motion: Deny the application for certification of Scott E. Smyth.

Motion Proposals: First: Virginia Davis
Second: Judge Gary LaFleur

Motion Results: Pass

4-B: *Review, discussion, and possible action regarding pending renewal of certification applications of the following defensive driving instructors:*

Individuals Addressing the Board: Kimberly Siddall

Discussion: The following certificate holders have submitted applications for renewal of certification. The applications are complete, no information has been presented during the background, which is contrary to renewal of certification being granted, and the certificate holders have demonstrated they meet the minimum eligibility requirements for certification. It is recommended renewal of certification is granted to the following individuals:

Stephen Abney
Donald Hudson
John Tobin
Shana Pearce
James Caruso
Philip Corrigan
Refugio Quintero

Motion: Grant renewal of certification to the above individuals.

Motion Proposals: First: Paul Hallums
Second: Ron DeLong
Abstain: Robert Hall

Motion Results: Pass

Individuals Addressing the Board: Kimberly Siddall

Discussion: Raymond Abate submitted an application for renewal of certification. Discussion regarding denial of initial certification pursuant to ACJA § 7-201 (E)(2)(c)(1) as applicant does not meet the eligibility requirements as prescribed in ACJA § 7-205 (E)(2)(e) and has not submitted a completed application with all deficiencies corrected.

Motion: Deny renewal of certification to Raymond Abate

Motion Proposals: First: Leonard Montanaro
Second: Robert Hall

Motion Results: Pass

Individuals Addressing the Board: Kimberly Siddall

Discussion: Discussion regarding application of Yves Pierre. Certificate holder failed to disclose the complaint filed with Programs and Investigations.

Motion: Grant renewal of certification to Yves Pierre with language regarding non-disclosure on future applications may result in denial or disciplinary action.

Motion Proposals: First: Judge Gary LaFleur
Second: Leonard Montanaro
Abstain: Virginia Davis

Motion Results: Pass

Individuals Addressing the Board: Kimberly Siddall

Discussion: Certificate holder Susan Schwarz filed her renewal application on October 26, 2009. Ms. Schwarz was audited for continuing education and classes taught. Ms. Schwarz provided two letters from Oro Valley Police Department for ride-alongs. Pursuant to ACJA § 7-205 (L)(7)(b) continuing education activities repeated during a renewal period do not qualify for credited duplicate hours. Ms. Schwarz provided the enclosed letter for Board review and consideration. Discussion regarding the approval of continuing education and repeating of activities.

Motion: Deny repeat of the ride-along as a CE and require applicant to complete the required 6 hours of continuing education within 60 days of today's date.

Motion Proposals: First: Judge Gary LaFleur
Second: Ron DeLong
Abstain: Paul Hallums

Motion Results: Pass

4-C: *Review, discussion, and possible action regarding pending renewal of certification applications of the following defensive driving schools:*

Individuals Addressing the Board: Kimberly Siddall

Discussion: The following certified school entities have submitted applications for renewal of standard certification. The applications are complete, no information has been presented during the background, which is contrary to renewal of standard certification being granted, and the certificate holders have demonstrated they meet the minimum eligibility requirements for standard certification. It was recommended renewal of standard certification be granted to the following school entities:

I Drive Safely (Rick Hernandez)
AZ Monsoon Driving LLC (Geoff McNabb)

Motion: Grant renewal certification to the school referenced above.

Motion Proposals: First: Leonard Montanaro
Second: Virginia Davis

Motion Results: Pass

5) REVIEW OF CERTIFICATION APPLICATIONS

5-A: Review, discussion, and possible action regarding approval of third party contracts between Yavapai Traffic Safety School and DrivingUniversity.com.

Individuals Addressing the Board: Chris DeWitt

Discussion: A third party contract between Yavapai Traffic Safety School and DrivingUniversity.com was submitted to and reviewed by program staff. The contract will provide ADM school services to customers of Yavapai Traffic Safety School by DrivingUniversity.com. Yavapai Traffic Safety School and DrivingUniversity.com are both certified defensive driving schools in good standing.

Discussion regarding monitoring through the school.

Motion: Approve the third party contract between Yavapai Traffic Safety School and DrivingUniversity.com.

Motion Proposals: First: Steven Soldis
Second: Leonard Montanaro

Motion Results: Pass

CALL TO THE PUBLIC

Individuals Addressing the Board: None

Discussion: None

ADJOURN

Motion: Adjourn the meeting.

Motion Proposals: First: Leonard Montanaro
Second: Robert Hall

Motion Results: Pass

Time: 11:25 a.m..

/DB

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