



## BOARD OF CERTIFIED REPORTERS

Arizona State Courts Building  
1501 West Washington Street, Phoenix, Arizona 85007  
Hearing Room 109  
1:00 P.M.  
August 14, 2012

### Approved Regular Meeting Minutes

#### MEMBER ATTENDANCE:

**Present:**

G. Allen Sonntag  
Judge Peter Swann

**Telephonically Present:**

Terri Faust  
Patricia Seguin  
Patricia Calabro  
Cheryl Austin  
Kathleen Montalvo

**Absent:**

Judge Edward Bassett  
J. Tyrrell Taber

#### OTHER ATTENDEES:

**AOC Staff:**

Nancy Swetnam  
Linda Grau  
Kimberly Siddall  
Debbie MacDougall  
Anne Hunter  
Rick Szcerbicki  
Bill MacIntyre  
Jennifer Greene  
Arnita Oliver

**Guests:**

Jim Smith  
Doreen Borgmann  
Pam Griffin  
John MacDonald  
Doreen Sutton  
Dan Maynard  
Julie Ottmar  
Liza Glennie  
Melissa Gonsalves  
Michele Balmer

**CALL TO ORDER**

*Called to Order By:* G. Allen Sonntag

*Time:* 1:00 P.M.

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**1) REVIEW AND APPROVAL OF MINUTES:**

**1-A: *Review and approval of Regular Session Minutes for the meeting of June 12, 2012.***

***Individual Addressing the Board:*** G. Allen Sonntag

***Discussion:*** None

***Motion:*** Move to approve Regular Minutes for the meeting of June 12, 2012.

***Motion Proposals:*** First Cheryl Austin  
Second Judge Peter Swann

***Motion Results:*** Pass

**1-B: *Review and approval of Executive Session Minutes for the meeting of June 12, 2012.***

***Individual Addressing the Board:*** G. Allen Sonntag

***Discussion:*** None

***Motion:*** Move to approve Executive Session Minutes for the meeting of June 12, 2012.

***Motion Proposals:*** First Cheryl Austin  
Second Judge Peter Swann

***Motion Results:*** Pass

**1-C: *Review and approval of Regular Session Minutes for the meeting of July 12, 2012.***

***Individual Addressing the Board:*** G. Allen Sonntag

***Discussion:*** None

***Motion:*** Move to approve Regular Minutes for the meeting of July 11, 2012.

**Motion Proposals:** First Judge Swann  
Second Patricia Calabro  
**Motion Results:** Pass  
Recused Cheryl Austin

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**2) PENDING COMPLAINTS:**

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

*Complaint Number 10-C001 – Patricia Yerkes  
Complaint Number 10-C016 – Barbara Stockford  
Complaint Number 10-C017 – Carlton Dawson  
Complaint Number 11-C007 – John Turman  
Complaint Number 10-C010 – Sandy Ong-Wolf  
Complaint Number 10-C015 – Michael Dippel  
Complaint Number 10-C002 – Laura Ashbrook*

**Individual Addressing the Board:** Linda Grau

**Discussion:** Complaint Number 10-C001 – Patricia Yerkes:

- (1) Yerkes prepared and filed an official transcript which had been altered and contained errors.
- (2) Yerkes disobeyed a subpoena to produce the audio recording of a January 19, 2010 hearing at which Yerkes was the Official Reporter.

The allegations were investigated; documentary and investigatory interview evidence and statements were obtained.

On June 11, 2010, Probable Cause Evaluator Mike Baumstark entered a finding that probable cause exists as to Allegation (1), and does not exist to Allegation (2). It is recommended that the Board accept the finding of the Probable Cause Evaluator and dismiss Allegation (2) in Complaint No. 10-C001.

Regarding Allegation (1), it is recommended that the Board enter a finding that Yerkes committed the alleged acts of misconduct and that the Board enter a finding that grounds for formal disciplinary action exist. A report was provided in the recommendation with

information regarding mitigating factors that are applicable in this situation. Should the Board ultimately enter a finding this violation has occurred, it is recommended the Board impose the following sanctions:

1. Issue a Censure to Yerkes.
2. Mandate that Yerkes complete no less than five additional hours of continuing education in the areas of ethics, customer service, or professional responsibility.
3. Assess costs associated with the investigation and any related disciplinary proceedings to be remitted no later than 60 days following entry of the Board's Final Order.

It is further recommended the Board authorize Division staff to contact Yerkes to determine whether or not she is interested in resolving this matter through a consent agreement with the proposed sanctions and if so, to provide her an opportunity to do that with proposed consent agreement to be returned to the Board at the next agenda for review and consideration. The recommendation comes with the caveat that if Yerkes determines not to enter consent agreement, that the Division staff proceed with the filing of Notice of Formal Statement of Charges without further action by the Board.

***Motion:*** Move to accept the Board's recommendation.

***Motion Proposals:*** First Judge Peter Swann  
Second Patricia Seguin

***Motion Results:*** Pass  
Recused Patricia Calabro

***Discussion:*** Complaint Number 10-C016 – Barbara Stockford:

- (1) Stockford violated ACJA § 7-206(J)(1)(g) by servicing a contract involving Esquire Court Reporting Services and CNA Insurance Companies.
- (2) Stockford violated several ethical regulations contained with ACJA § 7-206(J)(1) regarding impropriety or the appearance of impropriety, fairness and impartiality, conflicts of interest, full disclosure, and unethical and unprofessional conduct.
- (3) Stockford violated ACJA § 7-206(J)(3)(b), (c), and (d) as well as ACJA § 7-206(J)(1)(g)(3) by failing to disclose in writing rates and charges to all parties, failing to determine fees independently, and relinquishing control of transcript

distribution and invoicing to Esquire.

On July 9, 2012, Probable Cause Evaluator Baumstark entered a finding probable cause does not exist in complaint number 10-C016, therefore it is recommended the Board accept the finding of the Probable Cause Evaluator and dismiss complaint number 10-C016.

**Motion:** Move to accept the Board's recommendation.

**Motion Proposals:** First Judge Peter Swann

Second Kathleen Montalvo

**Motion Results:** Pass

**Discussion:** Complaint Number 10-C017 – Carlton Dawson:

- (1) Dawson violated ACJA § 7-206(J)(1)(g) by servicing a contract involving Esquire Court Reporting Services and CNA Insurance Companies.
- (2) Dawson violated ethical regulations contained with ACJA § 7-206(J)(1) regarding impropriety or the appearance of impropriety, fairness and impartiality, conflicts of interest, full disclosure, and unethical and unprofessional conduct.
- (3) Dawson violated ACJA § 7-206(J)(3)(b), (c) and (d) and ACJA § 7-206(J)(1)(g)(3) by failing to disclose in writing rates and charges to all parties, failing to determine fees independently, and relinquishing control of transcript distribution and invoicing to Esquire.

On July 9, 2012, Probable Cause Evaluator Baumstark entered a finding probable cause does not exist in complaint number 10-C017. Therefore, it is recommended the Board accept the finding of the Probable Cause Evaluator and dismiss complaint number 10-C017.

**Motion:** Move to accept the Board's recommendation.

**Motion Proposals:** First Judge Peter Swann

Second Patricia Calabro

**Motion Results:** Pass

**Discussion:** Complaint Number 11-C007 – John Turman:

Turman submitted a transcript in State v. Leathers, that was "severely deficient" and replete with typographical and

grammatical errors.

An investigation was conducted and the transcript was reviewed, and Turman acknowledged that an inaccurate copy was filed with the court. The matter was referred to Probable Cause Evaluator.

On July 9, 2012, Probable Cause Evaluator Baumstark entered a finding probable cause exists in complaint number 11-C007. It is recommended the Board accept the finding of the Probable Cause Evaluator and enter a finding that grounds for informal disciplinary action exists and issue a letter of concern.

***Motion:*** Move to accept the Board's recommendation.

***Motion Proposals:*** First Judge Peter Swann  
Second Kathleen Montalvo

***Motion Results:*** Pass

***Discussion:*** Complaint Number 10-C010 – Sandy Ong-Wolf:

Ong-Wolf was rude and unkind to Nelson-Barnes when Nelson-Barnes requested a transcript.

Investigation was conducted, statements and documentation information was provided by complainant and certificated holder. The matter was referred for probable cause review.

On July 9, 2012, Probable Cause Evaluator Baumstark entered a finding probable cause does not exist in complainant number 10-C010. There, it is recommended to Board accept the finding of the Probable Cause Evaluator and dismiss complaint number 10-C010.

***Motion:*** Move to accept the Board's recommendation.

***Motion Proposals:*** First Judge Peter Swann  
Second Patricia Calabro

***Motion Results:*** Pass

***Discussion:*** Complaint Number 10-C015 – Michael Dippell:

(1) Dippell violated ACJA § 7-206(J)(1)(g) by servicing a contract involving Esquire Court Reporting Services and CNA Insurance Companies.

(2) Dippell violated several ethical regulations contained with ACJA § 7-206(J)(1) regarding impropriety or the

appearance of impropriety , fairness and impartiality, conflicts of interest, full disclosure, and unethical and unprofessional conduct.

- (3) Dippel violated AJCA § 7-206(J)(3)(b), (c) and (d) as well as ACJA § 7-206(J)(1)(g)(3) by failing to disclose in writing rates and charges to all parties, failing to determine fees independently, and relinquishing control of transcript distribution and invoicing to Esquire.

The matter was investigated, documentation and information was presented and obtained. Following the completion of the investigation the matter was forwarded for probable cause review.

On July 20, 2012, Probable Cause Evaluator Baumstark entered a finding probable cause does not exist as to Allegations (1) and (2) and does exist as to Allegation (3). It is recommended the Board accept the finding of the Probable Cause Evaluator and dismiss Allegations (1) and (2). Regarding Allegation (3), it is recommended the Board enter a finding that Dippell committed the alleged act of misconduct and enter a finding that grounds for informal disciplinary action exist and issue a letter of concern. It is further recommended the Board order additional language be added to the Letter of Concern that requests Dippell reimburse attorney Thomas Chamberlin, the amount of \$26.58, in order to achieve compliance with ACJA § 7-206(J)(3)(d).

**Motion:** Move to accept the Board's recommendation.

**Motion Proposals:** First Terri Faust  
Second Patricia Seguin

**Motion Results:** Pass

**Discussion:** Complaint Number 10-C002 – Laura Ashbrook:

Ashbrook failed to respond to requests for a copy of a transcript.

The matter was investigated which included accessing and reviewing documentation; and information provided by the complainant and certificate holder, as well as court records and interviews conducted with other involved parties. Upon completion of the investigation, the matter was forwarded for probable cause review.

On July 20, 2012, Probable Cause Evaluator Baumstark entered a finding probable cause does exist in this complaint. It is

recommended the Board accept the finding of the Probable Cause Evaluator and enter a finding that Ashbrook committed the alleged act of misconduct. It is recommended the Board enter a finding grounds for formal disciplinary action exists. The Board was provided in the written recommendation with mitigating as well as numerous aggravating factors regarding this matter and the proportionality analysis specific to this type of misconduct. Should the Board ultimately find that the violation has occurred, it is recommended the Board impose the following sanctions:

1. Issue a Censure to Ashbrook.
2. Mandate Ashbrook participate in no less than five additional hours of continuing education in the areas of ethics or professional responsibility within 60 days of entry of the Board's Final Order.
3. Assess cost associated with the investigation and related disciplinary proceedings to be remitted no later than 60 days following entry of the Board's Final Order.

It is further recommended the Board authorize Division staff to contact Ashbrook in advance of filing of the Notice of Formal Statement of Charges to determine if Ashbrook is willing to enter into a Consent Agreement to resolve this matter. If Ashbrook agrees and submits the signed Consent Agreement, the document will be returned to the Board for review and consideration at the next regularly scheduled Board meeting. If Ashbrook opts not to enter the Consent Agreement, it is recommended the Division staff shall proceed with the preparation, filing, and service of the Notice of Formal Statement of Charges without further action of the Board.

**Motion:** Move to accept the board's recommendation.

**Motion Proposals:** First Judge Peter Swann

Second Cheryl Austin

**Motion Results:** Pass

**2-B:** Report regarding the status of pending complaints.

**Individual Addressing the Board:** Linda Grau

**Discussion:** As of July 31, 2012, there are a total of eight pending complaints, one involving a non-certificate holder and seven involving certified. Six of these complaints are on this agenda.

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

*recommended for dismissal by the Division Director pursuant to Arizona Code of Judicial Administration § 7-201(D)(4)(a), (H)(2)(a) and § 7-206(H)(1):*

*Complaint Number NC11-C006*

***Individual Addressing the Board:*** Linda Grau

***Discussion:*** Pursuant to ACJA §7-201(H)(1)(g)(3), complaints recommended by the Division Director for dismissal are CONFIDENTIAL and not a matter of public record. If the Board wishes to address specific details regarding this matter, it is recommended the Board enter Executive Session to discuss matter confidential

Complaint Number NC11-C006: On August 2, 2012, the Certification and Licensing Division Director Nancy Swetnam recommended the Board dismiss complaint number NC11-C006 with prejudice for lack of jurisdiction. The complainant has waived their right to request Board review. It is recommended the Board review and consider Director Swetnam's recommendation and dismiss complaint number NC11-C006.

***Motion:*** Move to enter into Executive Session.

***Motion Proposals:*** First Judge Peter Swann  
Second G. Allen Sonntag

***Motion Results:*** Pass

**Board Entered Executive Session:**

1:43 P.M.

**Return to Regular Session:**

1:45 P.M.

***Motion:*** Move to accept the recommendation.

***Motion Proposals:*** First Judge Peter Swann  
Second Terri Faust

***Motion Results:*** Pass

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**3) ADMINISTRATIVE ISSUES:**

*There are no administrative issues for the Board's consideration at this time.*

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**4) INITIAL CERTIFICATION AND ELIGIBILITY**

**4-A:** *Review, discussion, and possible action regarding pending initial certification applications for the following applicants:*

1. Theresa Salsberry
2. Wendy Weiss
3. Windy Picard

**Individuals Addressing the Board:** Kimberly Siddall

**Discussion:** It is recommended to defer the following applicants to the next meeting:

1. Theresa Salsberry
2. Wendy Weiss

**Motion:** Move to defer to the next meeting.

**Motion Proposals:** First Cheryl Austin  
Second Judge Peter Swann

**Motion Results:** Pass

**Discussion:** It is recommended to grant initial certification for the following applicant:

3. Windy Picard

**Motion:** Move to grant initial certification.

**Motion Proposals:** First Cheryl Austin  
Second Judge Peter Swann

**Motion Results:** Pass

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**CALL TO THE PUBLIC**

**Individuals Addressing the Board:**

1. Michelle Balmer
2. Melissa Gonsalves
3. Dan Maynard

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**ADJOURNMENT**

***Motion:*** Move to adjourn.

***Motion Proposals:*** First Patricia Seguin  
Second G. Allen Sonntag

***Motion Results:*** Pass

***Time:*** 2:02 P.M.