



Board of Legal Document Preparers
Arizona State Courts Building
1501 West Washington Street, Phoenix, Arizona 85007
Conference Room 109

Date: April 25, 2011
Time: 10:00 a.m. – 2:00 p.m.

Approved Regular Meeting Minutes

MEMBER ATTENDANCE:

Present:

Les Krambeal
Andrew Saper
Paul Friedman

Telephonically Present:

Bonnie Matheson
Debra A. Young
Stephanie Gates Wolf
Cynthia Felton
Deborah Colon-Mateo

Absent:

Hon. Robert H. Oberbillig
Debra Griffin

OTHER ATTENDEES

AOC Staff:

Nancy Swetnam
Kandace French
Nina Preston
Linda Grau
Kimberly Siddall
Karla Clanton
Susan Hunt

Guests:

Krystal Aspey
Marlene Morton
Brandon Hale
Barry Goldman
Becky Nilsen

CALL TO ORDER

Called to Order By: Les Krambeal, Chair

Time: 10:03 a.m.

1) REVIEW AND APPROVAL OF MEETING MINUTES

Individuals Addressing the Board: Les Krambeal, Chair

1-A: *Review, discussion, and possible action regarding approval of the regular session minutes of the meeting of February 28, 2011.*

Discussion: None.

Motion: Moved to approve the regular session minutes of the Board meeting of February 28, 2011.

Motion Proposals: First Paul Friedman
Second Andrew Saper
Recusal

Motion Results: Pass **LDP 11-063**

Individuals Addressing the Board: Les Krambeal, Chair

1-B: *Review, discussion, and possible action regarding approval of the executive session minutes of the meeting of February 28, 2011.*

Discussion: None.

Motion: Moved to approve the executive session minutes of the Board meeting of February 28, 2011.

Motion Proposals: First Paul Saper
Second Andrew Friedman
Recusal

Motion Results: Pass **LDP 11-064**

2) REVIEW OF PENDING COMPLAINTS

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

*Complaint Number NC10-L056
Complaint Number NC10-L040
Complaint Number NC11-L003
Complaint Number 10-L023
Complaint Number NC11-L002*

Individuals Addressing the Board: Nancy Swetnam

Discussion: Pursuant to ACJA § 7-201(H)(1)(g)(3), complaints dismissed by the Division Director are confidential and not a matter of public record.

Complaint Number NC10-L056:

On February 3, 2011, Certification and Licensing Division Director Nancy Swetnam determined the complaint falls outside the jurisdiction of the Board, dismissed complaint number NC10-L056 without prejudice, and referred the matter to an entity that may have jurisdiction. Notice of the dismissal and the complainant's right to request Board review of the dismissal were forwarded to the complainant. The timeline for the complainant to request Board review has passed and no request for Board review has been received. Therefore, it was recommended the Board affirm the dismissal of complaint number NC10-L056.

Motion: Moved to approve recommendation to affirm dismissal of complaint NC10-L056.

Motion Proposals: First Andrew Saper
Second Paul Friedman

Motion Results: Pass **LDP 11-065**

Individuals Addressing the Board: Nancy Swetnam

Discussion: **Complaint Number NC10-L040:**

On February 3, 2011, Division Director Swetnam determined the complaint falls outside the jurisdiction of the Board, dismissed complaint number NC10-L040 with prejudice, and referred the

matter to entities that may have jurisdiction. Notice of the dismissal and the complainant's right to request Board review of the dismissal were forwarded to the complainant. The timeline for the complainant to request Board review has passed and no request for Board review has been received. Therefore, it was recommended the Board affirm the dismissal of complaint number NC10-L040.

Motion: Moved to approve recommended dismissal of complaint number NC10-L040.

Motion Proposals: First Andrew Saper
Second Paul Friedman

Motion Results: Pass **LDP 11-066**

Individuals Addressing the Board: Nancy Swetnam

Discussion: Complaint Number NC11-L003:
On February 3, 2011, Division Director Swetnam determined the complaint falls outside the jurisdiction of the Division, dismissed complaint number NC11-L003 with prejudice, and referred the matter to an entity that may have jurisdiction. Notice of the dismissal and the complainant's right to request Board review of the dismissal were forwarded to the complainant. The timeline for the complainant to request Board review has passed and no request for Board review has been received. Therefore, it was recommended the Board affirm the dismissal of complaint number NC11-L003.

Motion: Moved to approve recommended dismissal of complaint number NC11-L003.

Motion Proposals: First Paul Friedman
Second Andrew Saper

Motion Results: Pass **LDP 11-067**

Individuals Addressing the Board: Nancy Swetnam

Discussion: Complaint Number 10-L023:
On February 3, 2011, Division Director Swetnam determined the complaint falls outside the jurisdiction of the Division, dismissed complaint number 10-L023 with prejudice, and referred the matter to an entity that may have jurisdiction. Notice of the dismissal and the complainant's right to request Board review of the dismissal were forwarded to the complainant. The timeline for the complainant to request Board review has passed and no request for Board review has been received. Therefore, it was recommended the Board

affirm the dismissal of complaint number 10-L023.

Motion: Moved to approve dismissal of complaint number 10-L023.

Motion Proposals: First Andrew Saper
Second Paul Friedman

Motion Results: Pass **LDP 11-068**

Individuals Addressing the Board: Nancy Swetnam

Discussion: Complaint Number NC11-L002:
On February 28, 2011, Division Director Swetnam determined the complaint did not meet the criteria provided for in ACJA § 7-201(H)(2)(a)(2)(b) through (f) and falls outside the jurisdiction of the Board. Division Director Swetnam dismissed complaint number NC11-L002 with prejudice and referred the matter to an entity that may have jurisdiction. Notice of the dismissal and the complainant's right to request Board review of the dismissal were forwarded to the complaint. The timeline for the complainant to request Board review has passed and no request for Board review has been received. Therefore, it was recommended the Board affirm the dismissal of complaint number NC11-L002.

Motion: Moved to approve dismissal of complaint number NC11-L002.

Motion Proposals: First Andrew Saper
Second Paul Friedman

Motion Results: Pass **LDP 11-069**

2-B: *Review, discussion, and possible action regarding the pending formal Disciplinary action involving former certificate holder Julie Haigh, Majestic's Paralegal Center and complaint number 08-L003.*

Individuals Addressing the Board: Nancy Swetnam

Discussion: On June 28, 2008, the Board entered a Final Order in an unrelated formal disciplinary action involving Ms. Haigh, MPC and complaint numbers 05-L048, 06-L112 and 07-L028. The sanctions issued in the Final Order included but were not limited to Ms. Haigh and MPC's certifications being suspended for a period of not less than 12 months. Ms. Haigh subsequently applied for reinstatement of her individual certification and the Board denied her reinstatement application. Ms. Haigh requested and received a hearing on the denial of reinstatement and on November 22, 2010, the Board reviewed the Hearing Officer's report and upheld the

denial of reinstatement.

On June 28, 2010, the Board reviewed and considered the probable cause determination in complaint number 08-L003 involving Julie Haigh and Majestic's Paralegal Center ("MPC"). At the June 28, 2010 meeting, the Board accepted the findings of the Probable Cause Evaluator and entered grounds for formal disciplinary action. The ordered Notice of Formal Statement of Charges ("NFC") was filed on August 3, 2010 and served to Ms. Haigh and MPC on August 9, 2010. On August 24, 2010, Ms. Haigh and MPC filed a timely Answer to the NFC and requested a hearing.

After further review, it was recommended that the Board dismiss the complaint.

Motion: Moved to approve recommendation and dismiss complaint 08-L003.

Motion Proposals: First Andrew Saper
Second Paul Friedman
Recusal

Motion Results: Pass **LDP 11-070**

2-C: *Review, discussion and possible action regarding the pending formal disciplinary action involving former certificate holder Kenneth Volk and complaint numbers 09-L078 and 10-L010.*

Individuals Addressing the Board: Linda Grau

Discussion: On November 22, 2010, the Board entered a Final Order in an unrelated formal disciplinary action involving Mr. Volk and complaint numbers 06-L079, 06-L098 and 07-L011. The sanctions issued in the Final Order included but were not limited to the revocation of Mr. Volk's individual certification.

On September 27, 2010, the Board reviewed and considered the probable cause determination in complaint numbers 09-L078 and 10-L010 involving Kenneth Volk. At the September 27, 2010 meeting, the Board accepted the findings of the Probable Cause Evaluator, entered grounds for formal disciplinary action, and consolidated the complaints for the purpose of the formal action. The ordered Notice of Formal Statement of Charges ("NFC") was filed on October 15, 2010 and served to Mr. Volk on the same day. On November 1, 2010, Mr. Volk filed a timely Answer to the NFC and requested a hearing. After further review, it was recommended the Board dismiss the complaint.

Motion: Moved to approve dismissal of complaint number 09-L078 and 10-L010.

Motion Proposals: First Paul Friedman
Second Andrew Saper
Recusal Nancy Swetnam

Motion Results: Pass **LDP 11-071**

2-D: *Review, discussion and possible action regarding certificate holder complaints:*

Complaint Number 06-L088 – Estate Services Group, LLC and Warner Lewis

Complaint Number 10-L036 – Sherrene Caley

Complaint Number 09-L055 – Titan Lien Services and Jill Smith

Complaint Number 10-L028 – Jacqueline Vigil

Complaint Number 10-L033 – Capital Consultants Management Corporation and Judith Alspaugh

Individuals Addressing the Board: Nancy Swetnam

Discussion: Complaint Number 06-L088 – Estate Services Group, LLC and Warner Lewis:

On March 18, 2011, Probable Cause Evaluator Mike Baumstark entered a finding probable cause exists in complaint number 06-L088. It was recommended the Board accept the finding of the Probable Cause Evaluator and adopt the Division Director's recommendation to include considering dismissal is the appropriate disposition of this case based on the following:

1. No evidence was presented or obtained that demonstrated the misconduct resulted in harm to the public.
2. The violation occurred before or during 2006.
3. The Board previously addressed and resolved the misconduct with the employees of ESG at the time the Board took action regarding their individual applications for certification.

Motion: Moved to approve recommendation to dismiss the above complaint based on the above noted.

Motion Proposals: First Paul Friedman
Second Andrew Saper

Motion Results: Pass **LDP 11-072**

Individuals Addressing the Board: Nancy Swetnam

Discussion: Complaint Number 10-L036 – Sherrene Caley:
On February 18, 2011, Probable Cause Evaluator Baumstark entered a finding probable cause exists in complaint number 10-L036. Therefore, it was recommended the board accept the finding of the Probable Cause Evaluator and enter a finding grounds for informal disciplinary action exists pursuant to ACJA § 7-201(H)(6)(a) and (H)(7) for acts of misconduct involving ACJA § 7-201(F)(1), ACJA § 7-208(F)(2), (J)(4)(b), (J)(5)(a) and Arizona Rules of Civil Appellate Procedure Rules 4(a), 14(a)(3) and 14(b) and issue a Letter of Concern.

Motion: Moved to accept the finding of the Probable Cause Evaluator and enter a finding grounds for informal disciplinary action exists pursuant to ACJA § 7-201(H)(6)(a) and (H)(7) for acts of misconduct involving ACJA § 7-201(F)(1), ACJA § 7-208(F)(2), (J)(4)(b), (J)(5)(a) and Arizona Rules of Civil Appellate Procedure Rules 4(a), 14(a)(3) and 14(b) and issue a Letter of Concern.

Motion Proposals: First Andrew Saper
Second Paul Friedman

Motion Results: Pass **LDP 11-073**

Motion: Moved to authorize the Chair to sign the Letter of Concern on behalf of the entire Board.

Motion Proposals: First Andrew Saper
Second Paul Friedman

Motion Results: Pass **LDP 11-074**

Individuals Addressing the Board: Linda Grau

Discussion: Complaint Number 09-L055 – Titan Lien Services and Jill Smith:
On March 18, 2011, Probable Cause Evaluator Baumstark entered a finding probable cause does not exist as to Allegation 1 and does exist as to Allegations 2 and 3 in complaint number 09-L055. Therefore, it is recommended the Board accept the finding of the Probable Cause Evaluator and dismiss Allegation 1.

Regarding Allegations 2 and 3, it was recommended the Board enter a finding grounds for formal disciplinary action exists

pursuant to ACJA § 7-201(H)(6)(a) and (H)(6)(k)(3) for acts of misconduct involving Arizona Supreme Court Rule 31(a)(2)(B), ACJA § 7-201(F)(1), and ACJA § 7-208(F)(1)(c)(1), (F)(2), (F)(3) and (J)(5)(b). In determining the appropriate disposition in this case, it is recommended the Board consider the cited mitigating factors and also that in this case, although there was the potential for harm to the public, no actual harm occurred. Therefore, it was recommended the Board offer Titan Lien Services (“Titan”) and Smith a Consent Agreement to resolve this complaint, pursuant to ACJA § 7-201(H)(24)(a)(6)(c).

It was recommended the proposed Consent Agreement include an acknowledgement of the misconduct, a statement giving notice to Titan and Smith that if they enter the Consent Agreement they waives their right to a hearing, and imposes the following sanctions pursuant to ACJA § 7-201 (H)(24)(a)(6):

- a) Issue a Censure to Titan Lien Services, pursuant to ACJA § 7-201 (H)(24)(a)(6)(b);
- b) Issue a Letter of Concern to Smith, pursuant to ACJA § 7-201(H)(a)(24)(6)(a);
- c) Order Smith to participate in no less than three (3) hours of continuing education in the curriculum areas of professional responsibility, ethics, and the unauthorized practice of law, in addition to any hours otherwise required for renewal, pursuant to ACJA § 7-201 (H)(24)(a)(6)(f);
- d) Impose civil penalties in the amount of \$250.00 per found violation to be remitted no later than 60 days following entry of the Board’s Final Order, pursuant to ACJA § 7-201 (H)(24)(a)(6)(k).

In the event Titan Lien Services and Smith decline the opportunity to enter the Consent Agreement within 20 days of receipt of the Board’s offer, it was recommended staff proceed with the filing and service of Notice of Formal Statement of Charges pursuant to ACJA § 7-201(H)(10) without further Board order.

Motion: Moved to approve the above recommendations of filing and service of Notice of Formal Statement of Charges pursuant to ACJA § 7-201(H)(10) without further Board order, to include the addition of costs.

Motion Proposals: First Paul Friedman
Second Andrew Saper
Recusal Nancy Swetnam

Motion Results: Pass **LDP 11-075**

Individuals Addressing the Board: Linda Grau

Discussion:

Complaint Number 10-L028 – Jacqueline Vigil:

On February 18, 2011, Probable Cause Evaluator Baumstark entered a finding probable cause exists in complaint number 10-L028. Therefore, it was recommended the Board accept the finding of the Probable Cause Evaluator and enter a finding grounds for formal disciplinary action exists pursuant to ACJA § 7-201(H)(6)(a) and (H)(6)(k)(3) for an acts of misconduct involving Arizona Supreme Court Rule 31(a)(2)(B), ACJA § 7-201(F)(1) and (H)(3)(c), ACJA § 7-208(F)(2), (F)(3), (J)(5)(a) and (J)(5)(b).

In determining the appropriate disposition in this case, it was recommended the Board consider the cited mitigating factor and also that in this case, although there was the potential for harm to the public, no actual harm occurred. Therefore, it was recommended the Board offer Vigil a Consent Agreement to resolve this complaint, pursuant to ACJA § 7-201(H)(24)(a)(6)(c). It was recommended the proposed Consent Agreement include an acknowledgement of the misconduct, a statement giving notice to Vigil that if she enters the Consent Agreement she waives her right to a hearing, and imposes the following sanctions pursuant to ACJA § 7-201 (H)(24)(a)(6):

- a) Issue a Censure to Vigil, pursuant to ACJA § 7-201 (H)(24)(a)(6)(b);
- b) Order Vigil participate in no less than three (3) hours of continuing education in the curriculum areas of professional responsibility, ethics, and the unauthorized practice of law, in addition to any hours otherwise required for renewal, pursuant to ACJA § 7-201 (H)(24)(a)(6)(f);
- c) Impose civil penalties in the amount of \$250.00 per found violation to be remitted no later than 60 days following entry of the Board’s Final Order, pursuant to ACJA § 7-201 (H)(24)(a)(6)(k).

In the event Vigil declines the opportunity to enter the Consent Agreement within 20 days of receipt of the Board’s offer, it was recommended the matter proceed with the filing and service of Notice of Formal Statement of Charges pursuant to ACJA § 7-201(H)(10) without further Board order.

Motion:

Moved to approve the above recommendations of the filing and service of Notice of Formal Statement of Charges pursuant to ACJA § 7-201(H)(10) without further Board order and to include the addition of costs.

Motion Proposals: First

Cynthia Felton

Second Stephanie Gates Wolf
Recusal Nancy Swetnam

Motion Results: Pass **LDP 11-076**

Individuals Addressing the Board: Linda Grau

Discussion: Complaint Number 10-L033 – Capital Consultants Management Corporation and Judith Alspaugh:

On February 18, 2011, Probable Cause Evaluator Baumstark entered a finding probable cause exists in complaint number 10-L033. Therefore, it was recommended the Board accept the finding of the Probable Cause Evaluator and enter a finding grounds for formal disciplinary action exists pursuant to ACJA § 7-201(H)(6)(a) and (H)(6)(k)(3) for acts of misconduct involving Arizona Supreme Court Rule 31(a)(2)(B), ACJA § 7-201(F)(1) and ACJA § 7-208(F)(2), (F)(3), (F)(6)(c), (J)(5)(a) and (J)(5)(b).

In determining the appropriate disposition in this case, it was recommended the Board consider the cited mitigating factor. Therefore, it was recommended the Board offer Capital Consultants Management Corporation (“CCMC”) and Alspaugh a Consent Agreement to resolve this complaint, pursuant to ACJA § 7-201(H)(24)(a)(6)(c). It was recommended the proposed Consent Agreement include an acknowledgement of the misconduct, a statement giving notice to CCMC and Alspaugh that if they enter a Consent Agreement, they waive their right to a hearing, and impose the following sanctions pursuant to ACJA § 7-201(H)(24)(a)(6):

- a) Issue a Censure to Alspaugh, pursuant to ACJA § 7-201(H)(24)(a)(6)(b);
- b) Order Alspaugh participate in no less than five (5) hours of continuing education in the curriculum areas of professional responsibility, ethics, and the unauthorized practice of law, in addition to any hours otherwise required for renewal within (60) days following the entry of the Board’s Final Order, pursuant to ACJA § 7-201(H)(24)(a)(6)(f);
- c) Issue a Censure to CCMC, pursuant to ACJA § 7-201(H)(24)(a)(6)(b);
- d) Place CCMC on probation for a period of not less than six months pursuant to ACJA § 7-201(H)(24)(a)(6)(e) with the following conditions:
 - i. CCMC shall immediately and hence forth cease and desist from offering or providing any legal services that exceed the authorities of a certified legal document preparer or otherwise constitute the unauthorized practice of law; including any and all

contractual service agreements, pursuant to ACJA § 7-201(H)(24)(a)(6)(g).

- ii. No later than sixty (60) days following the entry of the Board's Final Order, CCMC shall develop and implement policies and procedures necessary to ensure no member of the CCMC staff, its officers, or any others acting on behalf of the business entity are engaging in the unauthorized practice of law. A copy of the written policies and procedures shall be submitted to the Certification and Licensing Division ("Division").
- iii. CCMC and Alspaugh shall submit to the Division an updated and comprehensive list of any and all individuals providing legal document preparation services on behalf of the certified business entity within fifteen (15) days following entry of the Board's Final Order. The list shall identify the certification status of each individual and identify, if applicable, whether each individual is an ACJA § 7-208(F)(5) trainee along with the date the trainee meets the minimum eligibility requirement to apply for individual certification.
- e) CCMC shall be assessed costs associated with the investigation and any related disciplinary proceedings and shall remit the payment of the assessed costs no later than sixty (60) days following entry of the Board's Final Order, pursuant to ACJA § 7-201(H)(24)(a)(6)(j).
- f) CCMC shall be assessed a civil penalty in the amount of \$250.00 per found violation and shall remit the payment of the civil penalty no later than sixty (60) days following entry of the Board's Final Order, pursuant to ACJA § 7-201(H)(24)(a)(6)(k).

In the event CCMC and Alspaugh decline the opportunity to enter a Consent Agreement within twenty (20) days of receipt of the Board's offer, it was recommended the matter proceed with the filing and service of Notice of Formal Statement of Charges pursuant to ACJA § 7-201(H)(10) without further Board order.

Motion: Moved to approve the above recommendations and proceed with the filing and service of Notice of Formal Statement of Charges pursuant to ACJA § 7-201(H)(10) without further Board order.

Motion Proposals:

First	Paul Friedman
Second	Andrew Saper
Recusal	Nancy Swetnam

Motion Results: Pass **LDP 11-077**

2-E: *Review, discussion and possible action regarding a possible Consent agreement resolution of the pending formal disciplinary action involving certificate holder Tiffany Lehr and complaint number 09-L094.*

Individuals Addressing the Board: Linda Grau

Discussion: On January 24, 2011, the Board accepted the finding of the Probable Cause Evaluator involving certificate holder Tiffany Lehr and complaint number 09-L094. The Board entered findings of grounds for formal disciplinary action and ordered a proposed Consent Agreement resolution be offered to Ms. Lehr in advance of the filing of the Notice of Formal Statement of Charges.

The attached proposed Consent Agreement, signed and submitted by Ms. Lehr for the Board's consideration, includes:

- Lehr understands she waives her right to a hearing regarding complaint number 09-L094;
- Board finds misconduct and Lehr acknowledges and accepts responsibility for the misconduct detailed in Allegation 4 in the Investigation Summary, Allegation Analysis and Probable Cause Determination Report and Board Order issued in complaint number 09-L094;
- Board will issue a Censure to Lehr in complaint number 09-L094;
- Lehr requests and the Board accepts the voluntary surrender of Lehr's individual legal document preparer certificate, certificate number 80900;
- Board orders and Lehr agrees to participate in no less than five (5) hours of continuing education in the curriculum areas of professional responsibility, ethics, and the unauthorized practice of law, in addition to any hours otherwise required for renewal, in order to be considered for active certification any point in the future;
- Lehr understands failure to comply with the terms of this Consent Agreement may result in the Board

- Board and Lehr recognize there could be additional complaints against Lehr relating to the same or substantially the same conduct or categories of conduct as set forth in the Investigative Report and the Consent Agreement, including, but not limited to preparing, filing or recording documents or assisting with small claims court matters, which occurred prior to Lehr having knowledge of the subject complaint and determinations, and that the Consent Agreement resolution is intended to resolve any and all such matters involving the same or similar categories of conduct. Additionally, should the Division receive a complaint in the future pertaining to other conduct in which Lehr engaged during the time she was a Certified Legal Document Preparer through the date of this Consent Agreement, this Consent Agreement shall be deemed a significant mitigating factor pursuant to ACJA §7-201(H)(22)(b)(1).

It was recommended the Board accept and enter the proposed Consent Agreement.

Motion: Moved to accept and enter the above proposed Consent Agreement.

Motion Proposals: First Andrew Saper
 Second Cynthia Felton
 Recusal Nancy Swetnam, Bonnie Matheson, Paul Friedman

Motion Results: Pass **LDP 11-078**

Motion: Moved to authorize Chair to sign Consent Agreement on behalf of the full Board.

Motion Proposals: First Andrew Saper
 Second Cynthia Felton
 Recusal Nancy Swetnam, Bonnie Matheson, Paul Friedman

Motion Results: Pass **LDP 11-079**

2-F: *Review, discussion and possible action regarding non-certificate holder complaints:*

*Complaint Number NC08-L030 – Jan Rust and Rust & Associates
Complaint Number NC10-L054 – Jan Rust and Rust & Associates
Complaint Number NC11-L017 – Camerin Hawthorne and The
Bankruptcy Store
Complaint Number NC11-L012 – Paul Noseworthy and Marathon
Legal Forms & Services, LLC
Complaint Number NC11-L018 – Ken Volk and Arizona Tenant
Advocates*

Individuals Addressing the Board: Nancy Swetnam

Discussion: Complaint Number NC08-L030 – Jan Rust and Rust & Associates, Complaint Number NC10-L054 – Jan Rust and Rust & Associates: Division records reflect Ms. Rust held active legal document preparer certification from July 1, 2004 through October 16, 2006. Ms. Rust and her business entity, Rust and Associates, were denied 2006-07 renewal. Ms. Rust requested and received a hearing on the denial of her renewal applications. On October 16, 2006, the Board reviewed the Hearing Officer’s recommendation report and affirmed the denial of renewal of Ms. Rust’s individual and business entity certifications. Division records reflect Ms. Rust received notice of the denials being affirmed.

On July 18, 2007, Ms. Rust reapplied for individual certification and her application was denied. Ms. Rust requested and received a hearing on the denial. On April 21, 2008, the Board reviewed the Hearing Officer’s recommendation report and affirmed the earlier denial. Division records reflect Ms. Rust received notice of the denial being affirmed.

On July 21, 2008, the Board reviewed and considered non-certificate complaint number NC08-L030 and entered an order requesting the Arizona Attorney General’s Office file a Petition for Cease and Desist Order in the Superior Court. The Petition has not yet been filed.

On December 2, 2010, the Division received a complaint forwarded from the State Bar of Arizona submitted by a consumer who alleged and provide documentation which demonstrates Ms. Rust offered to and provided legal document preparation service without certification.

ACJA § 7-201(E)(6) states:

Cease and Desist Order. The board, upon completion of an investigation or disciplinary proceeding, may issue a cease and desist order pursuant to subsection (H)(24)(a)(6)(g). A hearing officer or a superior court judge, upon petition by the board, may enter an order for an individual or business entity to immediately cease and desist conduct constituting engagement in the practice of the profession or occupation without the required certification.

ACJA § 7-208(E)(1) provides:

Necessity. A person or qualified business entity shall not represent they are a certified legal document preparer, or are authorized to prepare legal documents, without holding valid certification pursuant to this section.

Therefore, it was recommended the Board move to include complaint number NC10-L054 in the previously ordered Superior Court Petition for Cease and Desist Order involving Ms. Rust and Rust & Associates. It was further recommended that if the Board determines to pursue a Superior Court action, that the Board requests the Petition include a request the Superior Court order any applicable consumer reimbursements and assess costs.

Motion: Move to accept the above recommendation to include complaint number NC10-L054 in the previously ordered Superior Court Petition for Cease and Desist Order involving Ms. Rust and Rust & Associates and to pursue a Superior Court action and request the Petition include a request the Superior Court order any applicable consumer reimbursements and assess costs.

Motion Proposals: First Paul Saper
Second Andrew Friedman

Motion Results: Pass **LDP 11-080**

Individuals Addressing the Board: Nancy Swetnam

Discussion: Complaint Number NC11-L017 – Camerin Hawthorne and The Bankruptcy Store

On November 22, 2010, the Board considered and denied Mr. Hawthorne’s application for individual certification. Division records reflect Mr. Hawthorne received notice of the denial. A review of the certification application reflects no reference to The Bankruptcy Store.

On March 31, 2011, the Division received a complaint from the Consumer Litigation Unit of the Attorney General’s Office which alleged and provided documentation demonstrating Mr. Hawthorne is offering services and claiming to be an Arizona Supreme Court certified legal document preparer. The documentation received involves printouts of information contained on the website www.thebkstore.com. Available online search engines reflect Mr. Hawthorne is the owner/registrant of the www.thrbkstore.com domain name.

The “home” page of the website asserts, “The Bankruptcy Store is a certified by the Arizona Supreme Court as a legal document preparation entity.” Division records reflect The Bankruptcy Store has never applied for or been granted certification. The “Background” tab of the biographical posting for Mr. Hawthorne which identifies him as a “Sr. Partner” provides information about his educational background, lists “Arizona Supreme Court CLDP” under the heading “Professional Associations and Memberships”, and contains a header which reads, “CLDP Bar Admissions” that lists “Arizona, 2010” and “U.S. Federal Court, 2010”.

It was recommended the Board move to petition the Superior Court for a Cease and Desist Order against Mr. Hawthorne and The Bankruptcy Store pursuant to ACJA § 7-201(E)(6) and ACJA § 7-208(E)(1). It was further recommended that if the Board determines to pursue a Superior Court action, that the Board request the Petition to include a request that the Superior Court order any applicable consumer reimbursements and assess costs.

Motion: Moved to approve recommendation the Board move to petition the Superior Court for a Cease and Desist Order against Mr. Hawthorne and The Bankruptcy Store pursuant to ACJA § 7-201(E)(6) and ACJA § 7-208(E)(1) and to pursue a Superior Court action, that the Petition to include a request that the Superior Court order any applicable consumer reimbursements and assess costs.

Motion Proposals: First Paul Friedman
Second Andrew Saper

Motion Results: Pass **LDP 11-081**

Individuals Addressing the Board: Nancy Swetnam

Discussion: Complaint Number NC11-L012 – Paul Noseworthy and Marathon Legal Forms & Services, LLC
On February 28, 2011, the Board reviewed and denied Mr.

Noseworthy's application for individual legal document preparer certification. Division records reflect Mr. Noseworthy received notice of the denial.

On March 1, 2011, the Division received a complaint which alleged and provided documentation demonstrating Mr. Noseworthy is offering services and claiming to be an Arizona Supreme Court certified legal document preparer. The forwarded documentation included a copy of a printout from the www.marathonlegaldocuments.com website that specifically identifies Mr. Noseworthy as an "Arizona certified legal document preparer and Arizona Licensed fiduciary." The website also asserts Mr. Noseworthy will prepare documents, explain them, notarize the documents, and arrange for courier service for filing with the Superior Court. [Note: Division records reflect Mr. Noseworthy has also been denied a fiduciary license. This issue will be considered by the Fiduciary Board at their next regularly scheduled meeting.]

On March 11, 2011, the attached letter was sent to Mr. Noseworthy noting the earlier denial of his certification application and reflecting the Division's receipt of the complaint. On March 24, 2011, the Division received the attached written response from Mr. Noseworthy dated March 22, 2011. In the letter, Mr. Noseworthy states:

I will hereby refrain from any such action in the future until certification is obtained as I was not intentionally skirting statutes. I do not feel as if I violated the sanctity of the statutes regarding Practicing Law or even providing Legal document preparer services to individuals. I will also pull the website down even though it is not active at the current time.

As of the drafting of this summary on April 11, 2011, the website continues to contain the incorrect language identifying Mr. Noseworthy as an Arizona Supreme Court certified legal document preparer and licensed fiduciary. It was recommended the Board move to petition the Superior Court for a Cease and Desist Order against Mr. Noseworthy and Marathon Legal Forms & Services, LLC pursuant to ACJA § 7-201(E)(6) and ACJA § 7-208(E)(1). It was further recommended that if the Board determines to pursue a Superior Court action, that the Board requests the Petition include a request the Superior Court order any applicable consumer reimbursements and assess costs.

Motion:

Moved to approve the above recommendations to petition the Superior Court for a Cease and Desist Order against Mr.

Noseworthy and Marathon Legal Forms & Services, LLC pursuant to ACJA § 7-201(E)(6) and ACJA § 7-208(E)(1) and to approve recommendation to pursue a Superior Court action, that the Petition include a request the Superior Court order any applicable consumer reimbursements and assess costs.

Motion Proposals: First Paul Friedman
Second Andrew Saper

Motion Results: Pass **LDP 11-082**

Individuals Addressing the Board: Linda Grau

Discussion: Complaint Number NC11-L018 – Ken Volk and Arizona Tenant Advocates:

On November 24, 2010, the Board issued the attached Final Order revoking the individual certification of Ken Volk. The formal disciplinary matter underlying the Final Order addressed unauthorized practice of law violations involving Mr. Volk and his non-certified business entity. The Final Order included a Cease and Desist Order that enjoined Mr. Volk from preparing legal documents, representing to the public he is a certified legal document preparer or otherwise authorized to prepare legal documents, and from engaging in any activities that constitute the unauthorized practice of law.

Prior to the Final Order being entered, Mr. Volk and the business entity maintained weekly “Break Yer Lease Legally” advertisements offering various landlord-tenant related services. During the course of the formal disciplinary action, the ads were discontinued. A copy of the April 29, 2010 ad is attached.

The April 7, 2011 Phoenix New Times contains a similar ad offering the same services and presenting the same contact information. Also attached are online database printouts from the Arizona Secretary of State and the Arizona Corporation Commission which confirm Arizona Tenants Advocates, Arizona Tenants Association and Arizona Tenants Advocates, Inc. are Mr. Volk.

It was recommended the Board move for filing of a Superior Court Petition for Cease and Desist Order against Mr. Volk, Arizona Tenants Advocates, Arizona Tenants Association and Arizona Tenants Advocates, Inc. pursuant to ACJA § 7-201(E)(6) and ACJA § 7-208(E)(1) specifically noting the Board previously issued a disciplinary Cease and Desist Order. It was further

recommended that if the Board determines to pursue a Superior Court action, that the Board requests the Petition include a request the Superior Court order any applicable consumer reimbursements and assess costs.

Motion: Move to approve the above recommendation the Board move for filing of a Superior Court Petition for Cease and Desist Order against Mr. Volk, Arizona Tenants Advocates, Arizona Tenants Association and Arizona Tenants Advocates, Inc. pursuant to ACJA § 7-201(E)(6) and ACJA § 7-208(E)(1) specifically noting the Board previously issued a disciplinary Cease and Desist Order and approve recommendation to pursue a Superior Court action, that the Board request the Petition to include a request the Superior Court order any applicable consumer reimbursements and assess costs.

Motion Proposals: First Paul Friedman
Second Andrew Saper
Recusal Nancy Swetnam

Motion Results: Pass **LDP 11-083**

3) ADMINISTRATIVE ISSUES

3-A: *Review, discussion, and possible action regarding comment by the Board regarding the Supreme Court Rule Petition R-11-000.*

Individuals Addressing the Board: Kandace French

Discussion: Discussion on the follow-up to Board's last meeting in regards to review of petition R-11-000, regarding amendment to Rule 31 on the authorized agent of a planned community association allowing them to prepare, execute and record liens on behalf of the association. The Board discussed the matter and suggested the staff draft comments consistent with the Board's position in regards to the proposed amendment, bring it back to the Board for review and approval. That information has been provided to the Board for its review; any discussion and approval of the comment to be presented prior to the deadline.

Motion: Moved to approve the comment and allow the Chair to sign on behalf of the full Board.

Motion Proposals: First Paul Friedman
Second Andrew Saper

Motion Results: Pass **LDP 11-084**

4) INITIAL CERTIFICATION APPLICATIONS

4-A: *Review, discussion and possible action regarding the following pending applicants for 2009-2011 certifications.*

1. Loleta Harrison
2. Michael W. Olsen
3. Leonard W. Deehan
4. Veronica Rolley
5. Marlene Morton
6. Alejandra McEwen
7. Cynthia Cooks
8. Elise G. Gutierrez
9. Alan N. Ariav
10. Rapid RPS (AZ), LLC (Barry Goldman)
11. AZTec Documents (Michell R. Varbel)

Individuals Addressing the Board: Kimberly Siddall

Discussion: The following applicants have demonstrated they met the minimum eligibility requirements for standard certification, their applications are complete and no information has been presented during the background investigation which is contrary to standard certification being granted. Therefore, it was recommended standard certification be granted to the following individuals:

1. Loleta Harrison
2. Michael W. Olsen

Motion: Moved to grant standard certification to the above listed applicants, Harrison and Olsen.

Motion Proposals: First Andrew Saper
Second Paul Friedman

Motion Results: Pass **LDP 11-085**

Individuals Addressing the Board: Kimberly Siddall

Discussion: The following applicant has demonstrated she met the minimum eligibility requirements for standard certification, her application is

complete and no information has been presented during the background investigation which is contrary to standard certification being granted. Therefore, it was recommended standard certification be granted to the following individual:

5. Marlene Morton

Motion: Moved to grant standard certification to the above listed applicant, Marlene Morton.

Motion Proposals: First Andrew Saper
Second Paul Friedman

Motion Results: Pass **LDP 11-086**

Discussion: The following applications remain incomplete pending receipt of additional information. It was recommended these applicants be deferred to the June meeting.

3. Leonard W. Deehan
4. Veronica Rolley
6. Alejandra McEwen
7. Cynthia Cooks
8. Elise G. Guterrez

Motion: Moved to defer the above listed applicants to the June meeting.

Motion Proposals: First Andrew Saper
Second Paul Friedman

Motion Results: Pass **LDP 11-087**

Individuals Addressing the Board: Kimberly Siddall

10. Rapid RPS (AZ), LLC (Barry Goldman)

Discussion: It was recommended to grant standard business certification to the above applicant.

Motion: Moved to grant standard business certification to Rapid RPS (AZ), LLC (Barry Goldman).

Motion Proposals: First Andrew Saper
Second Paul Friedman

Motion Results: Pass **LDP 11-088**

Individuals Addressing the Board: Kimberly Siddall

- 9. Alan N. Ariav
- 11. AZTec Documents (Mitchell R. Varbel)

Discussion: Recommend entering into executive session to discuss 4A; item #9 and staff requested to also add item #11 to the discussion.

Motion: Moved to enter into executive session to discuss the above applicants, #9 and #11.

Motion Proposals: First Cynthia Felton
Second Stephanie Gates Wolf

Motion Results: Pass **LDP 11-089**

EXECUTIVE SESSION: Start 10:55 a.m. End: 11:03

Individuals Addressing the Board: Kimberly Siddall

- 9. Alan N. Ariav

Discussion: It was recommended the Board invite the above applicant to the June meeting for an informal interview.

Motion: Moved to accept the above recommendation.

Motion Proposals: First Andrew Saper
Second Cynthia Felton
Recusal Paul Friedman

Motion Results: Pass **LDP 11-090**

Individuals Addressing the Board: Kimberly Siddall

- 11. AZTec Documents (Mitchell R. Varbel)

Discussion: Recommended by staff to defer the above applicant to the June meeting.

Motion: Moved to accept the recommendation to defer the above applicant, AZTec Documents (Mitchell R. Varbel) to the June meeting.

Motion Proposals: First Andrew Saper

Second Cynthia Felton
Recusal Paul Friedman

Motion Results: Pass **LDP 11-091**

4-B: *Review of Business Entity Exemption Request for the 2009-2011 initial Certification period:*

Individuals Addressing the Board: Kimberly Siddall

1. Rapid RPS (AZ), LLC (Barry Goldman)

Discussion: It is recommended the above Business Entity Exemption be granted.

Motion: Moved to grant Business Entity Exemption to Rapid RPS (AZ).

Motion Proposals: First Andrew Saper
Second Paul Friedman

Motion Results: Pass **LDP 11-092**

5) LICENSE AND ELIGIBILITY APPLICATION

5-A: *Review, discussion, and possible action regarding the Denial of Applicant Lynette Torres.*

Individuals Addressing the Board: Kimberly Siddall

Discussion: At the January 24, 2011 Board meeting, the Board denied the above applicant for not meeting the qualifications or eligibility requirements at the time of application.

Applicant originally stated on her application she worked for attorney Fernando Fajardo, now a disbarred attorney, from 2/92 to 6/92 and worked for attorney Mark Goodman as a legal secretary assistant from 12/83 to 12/84. Staff asked for the applicant to provide an affidavit of employer from Mr. Fajardo. Applicant provided the detailed steps she took to try to obtain such an affidavit. Also, when applicant worked for Mr. Goodman she provided a detailed description of her job duties as follows: Legal Secretary assistant, computer typing, answer phones, office reception, file case documents with legal courts, banking and legal transactions. Staff's review of the applicant's file indicates she

does not have the experience as required by code.

Ms. Torres requested a hearing. Staff received employment verification from Mark Goodman's office indicating it was "unknown, no records, no recollection of person. May have been the runner." for Ms. Torres' time of employment. However, staff also received a letter from certified legal document preparer Jodi Brown indicating Ms. Torres worked under her preparing legal documents from January 1984 to December 1984 while both were employees of Mr. Goodman. Staff has verified this information.

Therefore, it was recommended the Board vacate the January 24th denial and enter a motion to grant certification to Ms. Torres.

Motion: Moved to accept recommendation to grant certification to Ms. Torres.

Motion Proposals: First Andrew Saper
Second Paul Friedman

Motion Results: Pass **LDP 11-093**

6) REVIEW OF RENEWAL APPLICATIONS

6-A: *Review, discussion, and possible action regarding pending renewal Applications for 2009-2011 standard certification.*

Individuals Addressing the Board: Kimberly Siddall

Discussion: The following certificate holders had pending complaints at the time of renewal in 2009. However, those complaints have been adjudicated and their certifications have been revoked. Therefore, it was recommended the Board deny the following renewal applications pursuant to ACJA § 7-201 (E)(2)(c)(2)(b)(vi) has a denial, revocation, suspension or any disciplinary action of any professional or occupational license or certificate:

1. Rae Heimer
2. Kenneth Volk

Motion: Moved to deny the above renewal applications of the above applicants Heimer and Volk.

Motion Proposals: First Andrew Saper
Second Paul Friedman

Motion Results: Pass **LDP 11-094**

Individuals Addressing the Board: Kimberly Siddall

Discussion: The following certificate holder and business entity had pending complaints at the time of renewal in 2009. However, those complaints have been adjudicated; and therefore, it was recommended the Board grant renewal of standard certification to the following:

3. Richard C. Hoyt
4. Richard C. Hoyt & Associates, Inc (Richard Hoyt)

Motion: Moved to approve staff recommendation and grant renewal of standard certification to the above applicant.

Motion Proposals: First Andrew Saper
Second Cynthia Felton

Motion Results: Pass **LDP 11-095**

CALL TO THE PUBLIC - None

ADJOURNMENT

Motion: Moved to adjourn the meeting.

Motion Proposals: First Paul Friedman
Second Andrew Saper

Motion Results: Pass **LDP 11-096**

Time: 11:15 a.m.