



## FIDUCIARY BOARD

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

November 10, 2011  
10:30 A.M.

### Approved Regular Meeting Minutes

#### MEMBER ATTENDANCE:

**Present:**

Marlin "Kip" Anderson  
Ted Evertsen  
Pamela Johnston

**Telephonically Present:**

Mary Jane Baumgarten  
Sherry Reed  
Shari Tomlinson

**Absent:**

Diana Corry  
Deborah Primock

#### OTHER ATTENDEES:

**AOC Staff:**

Nancy Swetnam  
Linda Grau  
Lori Braddock  
Kandace French  
Anne Hunter  
Nathan Perry  
Nina Preston  
Beth Rensvold  
Kimberly Siddall  
Eric Thomas

**Guests:**

Robert M. Barnes  
Christopher Tozzo  
Brian Williamson

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**CALL TO ORDER**

**Called to Order By:** Marlin "Kip" Anderson

**Time:** 10:40 A.M.

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**1) REVIEW AND APPROVAL OF MINUTES**

*1-A: Review, discussion, and possible action regarding the regular session minutes of the meeting held on September 8, 2011.*

**Individual Addressing the Board:** Marlin "Kip" Anderson

**Discussion:** Request to amend the word from "March" to "November" on page six of the September 8, 2011 minutes.

**Motion:** Move to approve the regular session minutes of the meeting on September 8, 2011.

**Motion Proposals:** First Pamela Johnston  
Second Shari Tomlinson

**Motion Results:** Pass

*1-B: Review, discussion, and possible action regarding the executive session minutes of the meeting held on September 8, 2011.*

**Individual Addressing the Board:** Marlin "Kip" Anderson

**Discussion:** None

**Motion:** Move to approve the executive session minutes of the meeting on September 8, 2011.

**Motion Proposals:** First Pamela Johnston  
Second Ted Evertsen

**Motion Results:** Pass

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**2) PENDING COMPLAINTS**

*2-A: Review, discussion and possible action regarding Arizona Department of Veterans Services' non-compliance with the Board's Final Order issued in complaint number 09-0001 and the status of ADVS' probation in the Consent Agreement entered in complaint number 07-0027.*

**Individuals Addressing the Board:** Nancy Swetnam, Anne Hunter and Lori Braddock

**Discussion:** The Board's Final Order in complaint number 09-0001 involving the Arizona Department of Veterans' Services ("ADVS") was filed on November 18, 2010. The Final Order assessed costs to ADVS in the amount of \$9,297.61, to be remitted no later than 60 days following entry of the Board's Final Order; thereby no later than January 17, 2011. Having not received the ordered assessed costs, Division staff contacted ADVS designated principal Gregory Sulzer on April 20, 2011 and inquired about ADVS' failure to remit the ordered costs. On April 26, 2011, Mr. Sulzer presented a check in the ordered amount.

On November 16, 2009, the Board entered a Consent Agreement with ADVS in complaint number 07-0027. The provisions of the Consent Agreement include a term of probation with specified terms. The agreed upon probationary period is scheduled to end on November 15, 2011.

**Motion:** Move to Executive Session to receive the advice of counsel and to discuss confidential information.

**Board Entered Executive Session:**

12:40 P.M.

**Return to Regular Session:**

12:45 P.M.

**Motion Proposals:** First Pamela Johnston  
Second Ted Evertsen

**Motion Results:** Pass

**Motion:** Move to recognize the term of the probation in regards to 07-0027 will conclude on November 16, 2011. The Board reserves the right to take action on any discipline matter regarding non-compliance with this consent order that may be brought forward to this Board in the future.

**Motion Proposals:** First Ted Evertsen  
Second Pamela Johnston

**Motion Results:** Pass

**2-B:** *Review, discussion and possible action regarding complaint number 10-0001 involving Carla Jones and Northern Arizona Fiduciaries, Inc.*

**Individual Addressing the Board:** Nancy Swetnam

**Discussion:** On October 25, 2011, Probable Cause Evaluator Mike Baumstark entered a finding probable cause does not exist in complaint number 10-0001. It is recommended the Board accept the finding of the Probable Cause Evaluator and dismiss complaint number 10-0001.

**Motion:** Move to affirm and accept the decision of the Probable Cause Evaluator and dismiss complaint 10-0001.

**Motion Proposals:** First Ted Evertsen  
Second Shari Tomlinson  
Recusal Pamela Johnston

**Motion Results:** Pass

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**3) ADMINISTRATIVE ISSUES**

**3-A:** *Update and possible action regarding the Arizona Judicial Council's review and consideration of the Committee of Improving Judicial Oversight and Processing of Probate Court Matters' ("Probate Committee") recommendations.*

**Individual Addressing the Board:** Nancy Swetnam

**Discussion:** Oral presentation and discussion regarding an update on the status of the work performed by the Committee of Improving Judicial Oversight and Processing of Probate Court Matters ("Probate Committee").

**3-B:** *Discussion and possible action regarding possible future proposals to amend Arizona Code of Judicial Administration § 7-201 and § 7-203 regarding the Probate Committee's recommendation and the processes for initial licensure and renewal.*

**Individual Addressing the Board:** Nancy Swetnam

**Discussion:** Discussion regarding possible future proposals to amend ACJA § 7-201 and § 7-203.

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4) INITIAL LICENSE APPLICATIONS

4-A: Review, discussion, and possible action regarding the following pending applications for individual licensure:

1. Philip H. Grant
2. Bonye W. Barone
3. Christina I. Rodriguez

**Individual Addressing the Board:** Kimberly Siddall

**Discussion:** The following applicant has submitted a complete application, demonstrating he meets the minimum eligibility requirements. No information has been presented during the background check which is contrary to licensure being granted.

1. Philip H. Grant

**Motion:** Move to accept recommendation and grant licensure to Mr. Grant.

**Motion Proposals:** First Mary Jane Baumgarten  
Second Pamela Johnston

**Motion Results:** Pass

**Discussion:** The following applications remain incomplete pending receipt of fingerprint results, professional responsibility training, and/or additional information. It is recommended the matter be deferred to the January 12, 2012 meeting.

2. Bonye W. Barone
3. Christina I. Rodriguez

**Motion:** Move to defer the above applicants to the January 12, 2012 Board meeting.

**Motion Proposals:** First Pamela Johnston  
Second Mary Jane Baumgarten

**Motion Results:** Pass

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5) LICENSE AND ELIGIBILITY APPLICATION

5-A: Review, discussion and possible action regarding the voluntary surrender request received from the following licensed fiduciaries:

1. Mildred Ellis
2. Jay M. Polk

**Individual Addressing the Board:** Kimberly Siddall

**Discussion:** Division records confirm there are no pending complaints involving Ms. Ellis, and she submitted a notarized affidavit affirming she has no cases assigned to her.

Division records confirm there are no pending complaints involving Mr. Polk, and he submitted a notarized affidavit affirming he has one case in the Superior Court of Arizona for Maricopa County and he will resign his appointment in that matter prior to November 1, 2011.

Staff recommends the Board accept the voluntary surrender of Ms. Ellis and Mr. Polk.

**Motion:** Move to accept staff's recommendation and accept the voluntary surrender of Ms. Ellis and Mr. Polk.

**Motion Proposals:** First Shari Tomlinson  
Second Mary Jane Baumgarten

**Motion Results:** Pass

**5-B:** *Review, discussion and possible action regarding the reactivation of license holder Raena Honan.*

**Individual Addressing the Board:** Kimberly Siddall

**Discussion:** Division records confirm there are no prior or pending complaints involving Ms. Honan. Ms. Honan has not practiced in any other jurisdiction as a fiduciary. Ms. Honan has been inactive for two years and based on this information staff recommends the Board not require Ms. Honan retake the examination and recommends the Board accept the reactivation and transfer Ms. Honan's license to active.

**Motion:** Move to accept staff's recommendation and accept the reactivation and transfer of Ms. Honan's license to active.

**Motion Proposals:** First Shari Tomlinson  
Second Mary Jane Baumgarten

**Motion Results:** Pass

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**CALL TO THE PUBLIC**

None

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**ADJOURNMENT**

**Individual Addressing the Board:** Marlin "Kip" Anderson

**Motion:** Move to adjourn.

**Motion Proposals:** First Pamela Johnston  
Second Shari Tomlinson

**Motion Results:** Pass

**Time:** 1:49 P.M.

Initials: NP

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