

# FIDUCIARY BOARD



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

Date: July 14, 2011  
Time: 10:30 A.M.

## Approved Regular Meeting Minutes

### MEMBER ATTENDANCE:

#### Present:

Marlin "Kip" Anderson  
Pamela Johnston  
Diana L. Clarke  
Ted Evertsen  
Mary Jane Baumgarten  
Deborah Primock

#### Telephonically Present:

Sherry Reed

#### Absent:

Diana Corry  
Shari Tomlinson

### OTHER ATTENDEES

#### AOC Staff:

Linda Grau  
Nancy Swetnam  
Kandace French  
Katherine Boots  
Nina Preston  
Kimberly Siddall  
Lori Braddock  
Karla Clanton  
Eric Thomas  
Beth Rensvold  
Debbie MacDougall  
Nathan Perry

#### Guests:

David Whipple  
Heather W. Bull  
Peter Frenette

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**CALL TO ORDER**

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

**Time:** 10:35 P.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 May 12, 2011.*

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

**Discussion:** None

**Motion:** Move to approve the regular session minutes of the meeting on May 12, 2011.

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

**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

**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.

It was recommended the Board defer the formal interview with ADVS designated principal Gregory Sulzer to the September 8, 2011 board meeting to address ADVS' failure to comply with the Final Order issued by the Board in complaint number 09-0001 and to discuss the status of ADVS' probation in complaint number 07-0027.

**Motion:** Move to defer this matter to the September 8, 2011 meeting as recommended by staff.

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

**Motion Results:** Pass  
Recusal Diana Clarke

**2-B:** *Formal interview with Peter Frenette and Sun Valley Group regarding complaint number 07-0023.*

**Individuals Addressing the Board:** Nancy Swetnam

**Discussion:** Nancy Swetnam recommended the board enter Executive Session to receive the advice of counsel in regards to complaint number 07-0023.

**Motion:** Move to enter Executive Session in regards to complaint number 07-0023.

Board entered Executive Session at 10:41 A.M. and returned to Regular Session at 11:10 A.M.

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

**Motion Results:** Pass

**Individuals Addressing the Board:** Nancy Swetnam

**Discussion:** Mr. Peter Frenette provided documentation to the Board that demonstrates he has reimbursed the estate for the costs associated with the investigation of this complaint and all fees charged to the estate.

Based upon this information, division staff recommended there is no need for a Consent Agreement; however, the appropriate action is to issue a Letter of Concern.

Mr. Frenette addressed the Board and stated that he agrees with division staff and also agrees with the Letter of Concern.

**Motion:** Move to issue a Letter of Concern to Mr. Frenette and Sun Valley Group.

**Motion Proposals:** First Mary Jane Baumgarten  
Second Ted Evertsen

**Motion Results:** Pass  
Recusal Pamela Johnson

**2-C:** *Review, discussion and possible action regarding complaint number NC11-L012 involving Paul Noseworthy.*

**Individuals Addressing the Board:** Nancy Swetnam

**Discussion:** On March 1, 2011, the Division received a complaint which alleged and provided documentation demonstrating Mr. Noseworthy is offering legal document preparation services. The forwarded documentation included a copy of a printout from the [www.marathonlegaldocuments.com](http://www.marathonlegaldocuments.com) website that specifically identifies Mr. Noseworthy as an “Arizona certified legal document preparer and Arizona Licensed Fiduciary.”

As of this meeting, Mr. Noseworthy’s website, [www.marathonlegaldocuments.com](http://www.marathonlegaldocuments.com), continues to contain the language identifying Mr. Noseworthy as an Arizona Supreme Court certified legal document preparer and licensed fiduciary.

**Motion:** It is recommended the Board move to join the Board of Legal Document Preparers’ Superior Court petition for a Cease and Desist Order, pursuant to ACJA § 7-201(E)(6), and request the Court enjoin Mr. Noseworthy from representing himself to the public, in any medium, as a licensed fiduciary until such time as he is granted licensure by the Fiduciary Board.

**Motion Proposals:** First Ted Evertsen  
Second Mary Jane Baumgarten

**Motion Results:** Pass

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### 3) ADMINISTRATIVE ISSUES

**3-A:** *Review and discussion regarding the status of work performed by the Committee on Improving Judicial Oversight and Processing of Probate Court Matters (“Probate Committee”).*

**Individuals Addressing the Board:** Nancy Swetnam

**Discussion:** Nancy Swetnam presented a PowerPoint Presentation on the status of work performed by the Committee on Improving Judicial Oversight and Processing of Probate Court Matters.

Diana L. Clarke and Pamela Johnston were members of the

Committee.

**Motion:** Move to recognize Diana L. Clarke and Pamela Johnston for their participation and efforts as members of the Committee.

**Motion Proposals:** First Ted Eversten  
Second Mary Jane Baumgarten

**Motion Results:** Pass

**3-B:** *Review, discussion and possible action regarding the implementation of SB1499 and the recommendation of the Committee on Improving Judicial Oversight and Processing of Probate Court Matters.*

**Individuals Addressing the Board:** Nancy Swetnam

**Discussion:** Nancy Swetnam presented a PowerPoint Presentation on the review of SB1499 and the recommendation of the Committee of Improving Judicial Oversight and Processing of Probate Court Matters.

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#### 4) INITIAL LICENSE APPLICATIONS

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

1. *Devon E. Forrest*
2. *Clarence S. Scott*
3. *Lori Lashley*
4. *David B. Whipple*
5. *Victor L. Hess*

**Individuals Addressing the Board:** Kimberly Siddall

**Discussion:** The following applicants have submitted a complete application, demonstrating they meet the minimum eligibility requirements, and no information has been presented during the background check which is contrary to licensure being granted. It was recommended the Board grant initial licensure to the following applicants:

1. Devon E. Forrest
3. Lori Lashley
4. David B. Whipple

**Motion:** Move to accept recommendation and grant licensure to applicants Forrest, Lashley and Whipple.

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

**Individuals Addressing the Board:** Kimberly Siddall

**Discussion:** The following applicant disclosed he was convicted of assault and domestic violence misdemeanor. Applicant completed one day of community service and completed a domestic violence program. It is recommended to grant licensure:

2. Clarence S. Scott

**Motion:** Move to accept recommendation and grant licensure to applicant Scott.

**Motion Proposals:** First Mary Jane Baumgarten  
Second Ted Evertsen  
**Motion Results:** Pass

**Individuals Addressing the Board:** Kimberly Siddall

**Discussion:** It is recommended the Board deny the application of the following applicant pursuant to ACJA § 7-201 (E)(2)(c)(1) and ACJA § 7-202 (E)(1)(b)(2):

5. Victor L. Hess

ACJA § 7-201 (E)(2)(c)(1) reads:

*The board shall deny certification of the applicant if the applicant does not meet the qualifications or eligibility requirements at the time of the application described in this section or the applicable section of the ACJA; or has not submitted a complete application with all deficiencies corrected, the applicable documents and fees.*

ACJA § 7-202 (E)(1)(b)(2) reads:

*A four year bachelor of arts or bachelor of science degree from an accredited college or university. In addition, the applicant shall have a minimum of one year of full-time equivalent work experience within the previous five years specifically related to one or a combination of the fiduciary relationships of guardianship, conservatorship or personal representatives, as defined in subsection (A), or trusts, where the applicant, in a non-familial relationship, worked and performed services in the administration of a trust, decedent's estate, guardianship or conservatorship in one or a combination of the following circumstances:*

- (a) Under the supervision of a licensed fiduciary;
- (b) Under the supervision of a bank trust or trust company officer;
- or
- (c) Under the supervision of a licensed attorney whose major emphasis is in the area of probate, trust, elder, mental health, or disability law

**Motion:** Move to accept division staff’s recommendation and deny licensure to applicant Hess.

**Motion Proposals:** First Diana L. Clarke  
 Second Mary Jane Baumgarten

**Motion Results:** Pass

**5) RENEWAL LICENSE APPLICATIONS**

**5A:** Review, discussion, and possible action regarding renewal of licensure for the following licensed fiduciaries:

1. Heather Frenette
2. Peter Frenette
3. Stephanie McCollum
4. Anita Royal

**Individuals Addressing the Board:** Kimberly Siddall

**Discussion:** The following applicants have submitted a complete application, demonstrating they meet the minimum eligibility requirements and no information was presented during the background investigation which was contrary to renewal of licensure being granted. It was recommended the Board grant renewal of fiduciary licensure to the following applicants:

1. Heather Frenette
2. Peter Frenette
3. Stephanie McCollum

**Motion:** Move to accept staff’s recommendation and grant renewal of licensure of these applicants.

**Motion Proposals:** First Diana L. Clarke  
 Second Mary Jane Baumgarten

**Motion Results:** Pass

**Discussion:** The following applicant remains incomplete pending receipt of background and/or additional information. It was recommended the following applicant be deferred to the September 8, 2011 meeting:

4. Anita Royal

**Motion:** Move to accept staff's recommendation and defer renewal of licensure of applicant Royal to the September meeting.

**Motion Proposals:** First Diana L. Clarke  
Second Mary Jane Baumgarten

**Motion Results:** Pass

**5B:** *Review, discussion, and possible action regarding renewal of business entities:*

1. *The Sun Valley Group, Inc. (Peter Frenette)*
2. *Pima County Public Fiduciary Office (Anita Royal)*

**Individuals Addressing the Board:** Alex Navarro

**Discussion:** The following business submitted a complete application, demonstrating they meet the minimum eligibility requirements, and no information was presented during the background investigation which is contrary to renewal of licensure being granted. It was recommended the Board grant renewal of fiduciary licensure to the following business entity:

1. The Sun Valley Group, Inc. (Peter Frenette)

**Motion:** Move to accept the recommendation of the Board to grant renewal of fiduciary licensure to the above business entity.

**Motion Proposals:** First Diana L. Clarke  
Second Mary Jane Baumgarten

**Motion Results:** Pass

**Discussion:** The following business renewal applicant remains incomplete pending receipt of background and/or additional information. It was recommended the following applicant be deferred to the September 8, 2011 meeting:

2. Pima County Public Fiduciary Office (Anita Royal)

**Motion:** Move to accept staff's recommendation and defer renewal of licensure of the above named business applicant to the September meeting.

**Motion Proposals:** First Diana L. Clarke  
Second Pamela Johnston  
**Motion Results:** Pass

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**CALL TO THE PUBLIC**

**Peter Frenette:** Addressed the Board in regards to the renewal of his company, The Sun Valley Group, Inc. and the current struggles of his company.

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**ADJOURNMENT**

**Motion:** Move to adjourn.

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

**Time:** 12:25 P.M.

Initials: NP

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