

FIDUCIARY BOARD



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

July 12, 2012
10:30 A.M.

Approved Regular Meeting Minutes

MEMBER ATTENDANCE:

Present:

Pamela Johnston
Mary Jane Baumgarten
Ted Evertsen
Judge Jay Polk
Deborah Primock
Shari Tomlinson

Telephonically Present:

Emily Kile
Gary Krcmarik
Leonard Montanaro
Sherry Reed

Absent

Diana Corry

OTHER ATTENDEES:

AOC Staff:

Nancy Swetnam
Linda Grau
Debbie MacDougall
Kimberly Siddall
Nina Preston
Anne Hunter
Annette Fields
Bill MacIntyre
Arnita Oliver

Guests:

CALL TO ORDER

Called to Order By: Pam Johnston

Time: 10:30 A.M.

1) REVIEW AND APPROVAL OF MINUTES

1-A: Review, discussion, and possible action regarding the regular session minutes of the meeting held June 14, 2012.

Individual Addressing the Board: Pam Johnston

Discussion: None

Motion: Move to approve the regular session minutes of the meeting on June 14, 2012.

Motion Proposals: First Judge Jay Polk
Second Shari Tomlinson

Motion Results: Pass

2) PENDING COMPLAINTS

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

- *Complaint Number 11-0013*
- *Complaint Number NC12-0005*

Individual Addressing the Board: Linda Grau

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 11-0013:

On June 22, 2012, Division Director Nancy Swetnam dismissed complaint number 11-0013 without prejudice upon determining the complaint alleged misconduct that, if true, does not constitute a violation of statute, court rule, or ACJA. Notice of the dismissal was forwarded to the complainant along with notice of their right to

request Board review of the dismissal. To date, no request for Board review has been received from the complainant. It is recommended the Board affirm the dismissal.

Motion: Affirm the Division Director's dismissal of complaint number 11-0013.

Motion Proposals: First Leonard Montanaro
Second Ted Evertsen
Recused Judge Jay Polk

Motion Results: Pass

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 NC12-0005:

On June 15, 2012, Division Director Swetnam dismissed complaint number NC12-0005 with prejudice upon determining a lack of jurisdiction and referring the matter to an entity that holds jurisdiction. Notice of the dismissal was forwarded to the complainant along with notice of their right to request Board review of the dismissal. To date, no request for Board review has been received from the complainant. It is recommended the Board affirm the dismissal.

Motion: Affirm the Division Director dismissal of complaint number NC12-0005.

Motion Proposals: First Mary Jane Baumgarten
Second Judge Jay Polk

Motion Results: Pass

2-B: *Review, discussion and possible action regarding the following complaint number 08-0025 and former licensee Jeff Lake.*

Individual Addressing the Board: Linda Grau

Discussion: On May 10, 2012, the Board reviewed, considered and accepted a recommendation from staff to affirm the original findings of grounds for formal discipline and close this complaint with no further action as nearly two years has passed since the hearing and no recommendation report has been filed. Subsequent to the Board's order being issued, counsel for Mr. Lake requested the Board reconsider the ordered disposition and dismiss the complaint in its entirety. Staff has conferred with the Assistant Attorney General assigned to the matter and there is no opposition to dismissing the

matter. Therefore, it is recommended the Board vacate the order of May 10, 2012 and dismiss complaint number 08-0025.

Motion: Move to accept the recommendation of staff.
Motion Proposals: First Leonard Montanaro
Second Mary Jane Baumgarten
Motion Results: Pass

3) ADMINISTRATIVE ISSUES

3-A: *Report regarding implementation of key recommendations from the Committee on improving Judicial Oversight and Processing of Probate Court Matters (“Probate Court Committee”).*

Individual Addressing the Board: Nancy Swetnam

Discussion: Division Director Nancy Swetnam updated the Board regarding the implementation of key recommendations from the Probate Court Committee with respect to proposed amendments to ACJA § 7-202, § 3-302 and § 3-303.

3-B: *Overview regarding licensing Consent Agreements.*

Individual Addressing the Board: Anne Hunter

Discussion: Staff recommends deferring the overview to the September 13, 2012 board meeting. Division staff and Nina Preston are working on a presentation regarding consent agreements. Therefore in order to allow for efficient time for the staff to develop these presentations, staff requests that this item be deferred to the September 13, 2012 board meeting.

Motion: Move to defer to the September 13, 2012, to allow staff adequate time to prepare the presentation.

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

4) INITIAL LICENSE APPLICATIONS

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

1. William Boston
2. Alexandra Larson
3. Glenn Gloria
4. Deborah Gilliland
5. Ann Lander
6. Dianne Keethe
7. Amanda Ubiebor
8. Bonye Barone

Individual Addressing the Board: Kimberly Siddall

Discussion: *It is recommended the Board grant initial licensure to the following applicants:*

1. William Boston
2. Alexandra Larson
4. Glenn Gloria
5. Deborah Gilliland

Motion: *Move to accept applications and grant initial licensure.*

Motion Proposals: First Pamela Johnston
Second Gary Krcmarik

Motion Results: Pass

Discussion: *It is recommended the Board grant renewal of licensure and include language regarding non-disclosure on future applications may result in denial of renewal or disciplinary action to the following applicant:*

3. Ann Lander

Motion: *Move to grant renewal of licensure and include language regarding non-disclosure on future applications may result in denial of renewal or disciplinary action.*

Motion Proposals: First Mary Jane Baumgarten
Second Gary Krcmarik

Motion Results: Pass

Discussion: *It is recommended the Board grant initial licensure to the following applicant:*

3. Bonye Barone

Motion: Move to grant initial licensure.

Motion Proposals: First Mary Jane Baumgarten

Motion Results: Second Deborah Primock
Pass

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

6. *Dianne Keethe*
7. *Amanda Ubiebor*

Motion: *Move to defer the applicants until the September 13, 2012 meeting.*

Motion Proposals: First Shari Tomlinson
Second Mary Jane Baumgarten

Motion Results: Pass

5) LICENSURE AND ELIGIBILITY

5-A: *Review, discussion, and possible action regarding request for placement on Inactive Status received from licensed fiduciary Anita L. Royal, license number 20241:*

Individual Addressing the Board: Kimberly Siddall

Discussion: *Staff's recommendation to go into Executive Session to receive advice of counsel and to discuss confidential information.*

Motion: *Move to go into executive session to receive the advice of counsel and to discuss confidential information.*

Motion Proposals: First Shari Tomlinson
Second Mary Jane Baumgarten

Motion Results: Pass

Board Entered Executive Session:

11:05 A.M.

Return to Regular Session:

11:17 A.M.

Motion: *Move to accept staff's recommendation that Anita Royal be placed on inactive status.*

Motion Proposals: First Shari Tomlinson
Second Mary Jane Baumgarten

Motion Results: Pass

5-B: *Review, discussion, and possible action regarding request for placement on Inactive Status received from licensed fiduciary Kandance French, license number 20531:*

Individual Addressing the Board: Kimberly Siddall

Discussion: *It is recommended the Board accept Ms. French's request to be placed on inactive status.*

Motion: *Move to accept staff's recommendation.*

Motion Proposals: First Mary Jane Baumgarten
Second Deborah Primock

Disclosure: Judge Jay Polk

Motion Results: Pass

5-C: *Review, discussion, and possible action regarding request for placement on Inactive Status received from licensed fiduciary Patricia Powers, license number 20586:*

Individual Addressing the Board: Kimberly Siddall

Discussion: *It is recommended the Board accept Ms. Powers's request to be placed on inactive status.*

Motion: *Move to accept staff's recommendation.*

Motion Proposals: First Mary Jane Baumgarten
Second Deborah Primock

Motion Results: Pass

6) RENEWAL OF LICENSE APPLICATIONS

6-A: *Review, discussion, and possible action regarding the following pending applications for renewal of individual licensed fiduciaries:*

1. *Kandace French*
2. *Mario Gonzales*
3. *William Langen*
4. *Patricia Powers*
5. *Evelyn Saunders*
6. *Mary Espinoza*
7. *Patricia Grenier*
8. *Shellie Hills*
9. *Sarah Holcomb*
10. *Linda Kohl*

11. *Richard Kruger*
12. *Bruce Martin*
13. *Anita Royal*
14. *Nancy Mueller*
15. *Jeffery Manley*
16. *Jeannean Sabatina*
17. *Tamarah Fitzsimmons*
18. *Jason Cobb*
19. *Lisa Price*
20. *Candy Wheeler-Ruby*

Individual Addressing the Board: Kimberly Siddall

Discussion: *It is recommended that the Board grant renewal of fiduciary licensure to the following applicants:*

1. Kandace French
2. Mario Gonzales
3. William Langen
4. Patricia Powers
5. Evelyn Saunders

Motion: Move to accept staff's recommendation.

Motion Proposals: First Shari Tomlinson
Second Mary Jane Baumgarten

Motion Results: Pass

Discussion: *It is recommended that the following applicants be deferred until the September 13, 2012 meeting:*

6. Mary Espinoza
7. Patricia Grenier
8. Shellie Hills
9. Sarah Holcomb
10. Linda Kohl
11. Richard Kruger
12. Bruce Martin

Motion: Move to accept staff's recommendation.

Motion Proposals: First Mary Jane Baumgarten
Second Pam Johnston

Motion Results: Pass

Discussion: *It is recommended the Board grant renewal of fiduciary licensure to the following applicants and order proof of resolution to the*

Division staff within 180 days from the Board's order:

- 13. Anita Royal
- 14. Nancy Mueller
- 15. Jeffery Manley

Motion: Move to accept staff's recommendation.

Motion Proposals: First Shari Tomlinson
Second Mary Jane Baumgarten

Motion Results: Pass

Discussion: *It is recommended the Board enter into a Consent Agreement and grant renewal of licensure and have the chair sign on behalf of the full board to the following applicants:*

- 16. Jeannean Sabatina
- 17. Tamarah Fitzsimmons
- 18. Jason Cobb

Motion: Move to accept staff's recommendation.

Motion Proposals: First Leonard Montanaro
Second Mary Jane Baumgarten
Recused Judge Jay Polk (#18 and #19)

Motion Results: Pass

Discussion: *It is recommended that the following applicants be deferred until the September 13, 2012 meeting:*

- 19. Lisa Price
- 20. Candy Wheeler-Ruby

Motion: Move to accept staff's recommendation.

Motion Proposals: First Pam Johnston
Second Deborah Primock
Recused Judge Jay Polk (#19)

Motion Results: Pass

CALL TO THE PUBLIC

ADJOURNMENT

Individual Addressing the Board: Pam Johnston

Motion: Move to adjourn.

Motion Proposals: First Shari Tomlinson
Second Mary Jane Baumgarten

Motion Results: Pass

Time: 11:24 A.M.

Initials: AO