



FIDUCIARY BOARD

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

July 11, 2013
10:30 A.M.

Approved Regular Meeting Minutes

MEMBER ATTENDANCE:

Present:

Deborah Primock
Mary Jane Baumgarten
Ted Evertsen
Gary Krmarik
Catherine Robbins

Telephonically Present:

Emily Kile
Mark Rubin

Absent:

Leonard Montanaro
Judge Jay M. Polk
Sherry Reed
Diana Corry

OTHER ATTENDEES:

AOC Staff:

Mark Wilson
Debbie MacDougall
Kimberly Siddall
Anne Hunter
Pasquale Fontana
Wendy Reiter
Rachel Rowland
Bill MacIntyre
Christ Dewitt
Arnita Oliver

Guests:

Raena Honan
Claudia Ramirez
April Riedel
Katherine Trojahn
Crystal Seeley

CALL TO ORDER

Called to Order By: Deborah Primock, Chair

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 on May 9, 2013.

Individual Addressing the Board: Deborah Primock

Discussion: None

Motion: Move to approve regular session minutes for the meeting of May 9, 2013.

Motion Proposals: First Catherine Robbins
Second Gary Krcmarik

Motion Results: Pass

2) PENDING COMPLAINTS:

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

- *Complaint Number 11-0001 – Donna Allison-Howard*
- *Complaint Number 11-0016 – Fiduciary Solutions, LLC*
- *Complaint Number 11-0002 – Maricopa County Public Fiduciary*
- *Complaint Number 11-0017 – David Osollo*
- *Complaint Number 12-0012 – Gila County Public Fiduciary*
- *Complaint Number 12-0003 – Patricia Hall*
- *Complaint Number 12-0013 – Robert Fleming and Fleming and Curti, PLC*
- *Complaint Number 12-0011 – Maricopa County Public Fiduciary*
- *Complaint Number 13-0001 – Mohave Estate Management Office*

Individual Addressing the Board: Linda Grau

Discussion:

Complaint Number 11-0001 – Donna Allison-Howard – The Division received this complaint on January 6, 2011. The complainant offered a total of nine allegations.

The matter was investigated and submitted for probable cause determination.

On April 29, 2013, Probable Cause Evaluator Mike Baumstark entered a finding probable cause *does not exist* in Allegations, 1, 2, 3, 4, 5, 6, 7, and 8 but *does exist* as to Allegation 9 of this complaint.

It is recommended the Board accept the finding of the Probable Cause Evaluator and dismiss Allegations 1, 2, 3, 4, 5, 6, 7, and 8.

Regarding Allegation 9, it is recommended the Board enter a finding grounds for informal disciplinary action exists pursuant to ACJA § 7-201(H)(6)(a) for an act of misconduct involving ACJA § 7-202(F)(3) and issue a Letter of Concern.

Motion:

Move to accept staff's recommendation.

Motion Proposals:

First Gary Krcmarik
Second Mary Jane Baumgarten

Motion Results:

Pass

Individual Addressing the Board:

Linda Grau

Discussion:

Complaint Number 11-0016 – Fiduciary Solutions, LLC – The Division received this complaint on October 24, 2011. The complainant alleged that Mr. Martinez and Fiduciary Solutions, LLC mismanaged her husband's trust since his passing on September 2, 2009.

The matter was investigated and submitted for probable cause determination.

On May 17, 2013, Probable Cause Evaluator Mike Baumstark entered a finding that probable cause *does not exist* in the complaint.

It is recommended the Board accept the finding of the Probable Cause Evaluator and dismiss this complaint.

Motion:

Move to accept staff's recommendation.

Motion Proposals:

First Mary Jane Baumgarten
Second Ted Evertsen

Motion Results: Pass

Individual Addressing the Board: Linda Grau

Discussion: **Complaint Number 11-0002** – Maricopa County Public Fiduciary Office – The Division received this complaint on March 1, 2011. The complainant submitted four allegations.

This matter was investigated and submitted for probable cause determination.

On May 18, 2013, Probable Cause Evaluator Baumstark entered a finding probable cause *does not exist* in Allegations 1, 2 and 3, but *does exist* as to Allegation 4.

It is recommended the Board accept the finding of the Probable Cause Evaluator and dismiss Allegations 1, 2 and 3.

Regarding Allegation 4, it is recommended the Board enter a finding grounds for informal disciplinary action exists pursuant to ACJA § 7-201(H)(6)(a) for failing to timely file an Annual Report of Guardian in Superior Court in Maricopa County case number PB2009-002349 and issue a Letter of Concern.

Motion: Move to accept staff's recommendation.

Motion Proposals: First Gary Krcmarik
Second Mary Jane Baumgarten
Recused Catherine Robbins

Motion Results: Pass

Individual Addressing the Board: Linda Grau

Discussion: **Complaint Number 11-0017** – David Osollo – This complaint was received by the Division on November 28, 2011. The complaint submitted contained four allegations.

This matter was investigated and submitted for probable cause determination.

On May 16, 2013, Probable Cause Evaluator Baumstark entered a finding probable cause *does not exist* in this complaint.

It is recommended the Board accept the finding of the Probable Cause Evaluator and dismiss this complaint.

Motion: Move to accept staff's recommendation.

Motion Proposals: First Mary Jane Baumgarten
Second Catherine Robbins

Motion Results: Pass

Individual Addressing the Board: Linda Grau

Discussion: **Complaint Number 12-0012** – Gila County Public Fiduciary – This complaint was received on October 2, 2012. The complainant submitted a total of twelve (12) allegations.

This matter was investigated and submitted for probable cause determination.

On May 15, 2013, Probable Cause Evaluator Baumstark entered a finding probable cause *does not exist* in this complaint number.

It is recommended the Board accept the finding of the Probable Cause Evaluator and dismiss this complaint.

Motion: Move to accept staff's recommendation.

Motion Proposals: First Ted Evertsen
Second Gary Krcmarik

Motion Results: Pass

Individual Addressing the Board: Linda Grau

Discussion: **Complaint Number 12-0003** – Patricia Hall – The complaint was received by the Division on May 18, 2012. The complainant submitted a total of 2 allegations.

This matter was investigated and submitted for probable cause determination.

On May 21, 2013, Probable Cause Evaluator Baumstark entered a finding probable cause *does not exist* in this complaint number.

It is recommended the Board accept the finding of the Probable Cause Evaluator and dismiss this complaint.

Motion: Move to table the matter until next board meeting.

Motion Proposals: First Mark Rubin
Second Emily Kile

Motion Results: Opposed Catherine Robbins
Pass

Individual Addressing the Board: Linda Grau

Discussion: **Complaint Number 12-0013** – Robert Fleming and Fleming and Curti, PLC – The complaint was received by the Division December 12, 2012. The complainant submitted four allegations.

This matter was investigated and submitted for probable cause determination.

On May 21, 2013, Probable Cause Evaluator Mike Baumstark entered a finding probable cause *does not exist* as to Allegations 3 and 4, but *does exist* as to Allegations 1 and 2.

It is recommended the Board accept the finding of the Probable Cause Evaluator and dismiss Allegations 3 & 4.

Regarding Allegations 1 and 2, it is recommended the Board enter finding grounds for informal disciplinary action exists and issue a Letter of Concern.

Motion: Move to accept staff's recommendation.

Motion Proposals: First Gary Krcmarik
Second Mary Jane Baumgarten
Recused Mark Rubin

Motion Results: Pass

Individual Addressing the Board: Linda Grau

Discussion: **Complaint Number 12-0011** – Maricopa County Public Fiduciary This complaint was received by the Division August 21, 2012. The complainant submitted two allegations.

This matter was investigated and submitted for probable cause determination.

On June 13, 2013, Probable Cause Evaluator Mike Baumstark entered a finding probable cause *does not exist* in this complaint.

It is recommended the Board accepts the finding of the Probable Cause Evaluator and dismiss this complaint.

Motion: Move to accept staff's recommendation.

Motion Proposals: First Mary Jane Baumgarten
Second Gary Krcmarik
Recused Catherine Robbins
Motion Results: Pass

Individual Addressing the Board: Linda Grau

Discussion: **Complaint Number 13-0001** – Mohave Estate Management Office
The complaint was received by the Division on January 3, 2013.
The complainant submitted 4 allegations.

This matter was investigated and submitted for probable cause determination.

On June 18, 2013, Probable Cause Evaluator Baumstark entered a finding probable cause *does not exist* in this complaint.

It is recommended the Board accept the finding of the Probable cause Evaluator and dismiss this complaint.

Motion: Move to accept staff's recommendation.

Motion Proposals: First Mary Jane Baumgarten
Second Gary Krcmarik
Recused Catherine Robbins
Motion Results: Pass

2-B: Review, discussion and possible action regarding the Division Director dismissal of Complaint Numbers 12-0001 and 13-0005.

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 12-0001: - On April 15, 2013, Division Director Mark Wilson dismissed complaint number 12-0001 without prejudice upon determining the complainant failed to supply information needed to remedy an insufficient complaint or failed to demonstrate the alleged acts of misconduct are within the licensee's responsibilities as required by law, court rules or the applicable ACJA sections.

Notice of the dismissal was forwarded to the complainant. The Complainant submitted a written request for Board review. At the May 9, 2013 meeting, Division staff requested the Board defer consideration of this matter to the July agenda.

It is recommended the Board affirm the dismissal.

Motion: Move to affirm dismissal of Complaint Number 12-0001

Motion Proposals: First Catherine Robbins
Second Gary Krcmarik

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 13-0005 – On May 15, 2013, Division Director Wilson dismissed complaint number 13-0005 without prejudice upon determining the complainant failed to supply information needed to remedy an insufficient complaint or failed to demonstrate the alleged acts of misconduct are within the licensee’s responsibilities as required by law, court rules or the applicable ACJA sections.

Notice of the dismissal was forwarded to the complainant along with notice of the complainant’s right to request Board review. The complainant did not request Board review of the dismissal.

It is recommended the Board affirm the dismissal.

Motion: Move to affirm dismissal of Complaint Number 13-0005.

Motion Proposals: First Catherine Robbins
Second Mary Jane Baumgarten

Motion Results: Pass

2-C: *Review, discussion and possible action regarding Complaint Number 07-0014 involving Anita Royal and the Pima County Public Fiduciary Office.*

Individual Addressing the Board: Linda Grau

Discussion: **Complaint Number 07-0014** – Anita Royal and the Pima County Public Fiduciary Office. This complaint was received by the Division on July 5, 2007. The complaint submitted contained five allegations.

This matter was investigated and submitted for probable cause determination.

On June 21, 2013, Probable Cause Evaluator Mike Baumstark entered a finding probable cause *does not* exist in Allegations, 1, 2, 3, and 4 but *does exist* as to Allegation 5.

It is recommended the Board accept the finding of the Probable Cause Evaluator and dismiss Allegations 1, 2, 3 and 4.

Regarding Allegation 5, given the serious nature of securing assets, it is recommended the Board enter a finding grounds for informal disciplinary action exists pursuant to Arizona Code of Judicial Administration § 7-201(H)(6)(a) and issue a Letter of Concern.

It is further recommended the Board include language in the Letter of Concern that acknowledges the corrective actions, process improvements and staff training intended to enhance the office's inventory and appraisal process, which has occurred under the supervisor of (now) Pima County Public Fiduciary Philip Grant.

Motion: Move to accept staff's recommendation.

Motion Proposals: First Mark Rubin
Second Mary Jane Baumgarten
Catherine Robbins

Motion Results: Pass

3) ADMINISTRATIVE ISSUES:

3-A: Update on the diversion report.

Individual Addressing the Board: Debbie MacDougall

Discussion: There are no diversion cases to report at this time.

3-B: Discussion and possible action concerning the Division's investigative findings and subsequent disclosure of information to the Board.

Individual Addressing the Board: Mark Wilson

Discussion: Discussion was held and Mark Wilson agreed to bring forward any new information that may result from the other boards and/or study groups.

4) INITIAL LICENSE APPLICATIONS:

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

1. *Pamela St. Pierre*
2. *Ramona Dewar*
3. *April Riedel*
4. *Scott Whitney*
5. *Katherine Trojahn*

Individual Addressing the Board: Wendy Reiter

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

1. *Pamela St. Pierre*
2. *Ramona Dewar*

Motion: Move to accept staff's recommendation.

Motion Proposals: First Ted Evertsen
Second Gary Krcmarik
Recused Catherine Robbins

Motion Results: Pass

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

3. *April Riedel*

Motion: Move to accept staff's recommendation.

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:

4. *Scott Whitney*

Motion: Move to accept staff's recommendation.

Motion Proposals: First Mary Jane Baumgarten
Second Gary Krcmarik
Recused Catherine Robbins

Motion Results: Pass

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

5. *Katherine Trojahn*

Motion: Move to defer applicant until next meeting.

Motion Proposals: First Mary Jane Baumgarten
Second Gary Krcmarik

Motion Results: Pass

5) LICENSURE AND ELIGIBILITY

5-A: *Review, discussion and possible action regarding request for placement on inactive status received from the following licensed fiduciary:*

1. *Connie Dohm, license number 20656*

Individual Addressing the Board: Wendy Reiter

Discussion: It is recommended that the Board grant inactive status to license holder, Connie Dohm as per her request.

Motion: Move to accept staff's recommendation.

Motion Proposals: First Mary Jane Baumgarten
Second Gary Krcmarik
Recused Catherine Robbins

Motion Results: Pass

5-B: *Review, discussion and possible action regarding request for placement on inactive status received from the following licensed fiduciaries:*

1. *Raena Honan, license number 20547*
2. *Rashara Badilla, license number 20010*

Individual Addressing the Board: Wendy Reiter

Discussion: It is recommended the Board accept the requests of the following applicants to be placed on inactive status:

1. *Raena Honan, license number 20547*
2. *Rashara Badilla, license number 20010*

Motion: Move to accept staff's recommendation.

Motion Proposals: First Mary Jane Baumgarten
Second Gary Krcmarik

Motion Results: Pass

5-C: *Informal interview with Claudia Ramirez regarding her request to retake the Fiduciary Licensing Examination*

Individual Addressing the Board: Wendy Reiter

Discussion: Ms. Ramirez discussed with the Board her request to retake the Fiduciary Licensing Examination.

Motion: Move to allow Ms. Ramirez to retake the Fiduciary Licensing Examination.

Motion Proposals: First Gary Krcmarik
Second Catherine Robbins

Motion Results: Pass

CALL TO THE PUBLIC

Deborah Primock, Chair

Individuals Addressing the Board: None

ADJOURNMENT

Deborah Primock, Chair

Motion: Move to adjourn.

Motion Proposals: First Mary Jane Baumgarten
Second Gary Krcmarik

Motion Results: Pass

Time: 11:59 A.M.

Initials: AO