



FIDUCIARY BOARD

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

March 13, 2014
10:30 A.M.

Approved Regular Meeting Minutes

MEMBER ATTENDANCE:

Present:

Deborah Primock
Emily Kile
Gary Krcmarik
Catherine Robbins

Telephonically Present:

Sherry Reed
Diana Corry
Leonard Montanaro
Mark Rubin

Absent:

Ted Evertsen
Hon. Jay Polk

OTHER ATTENDEES:

AOC Staff:

Mark Wilson
Michelle Martinez
Debbie MacDougall
Kimberly Siddall
Anne Hunter
Pasquale Fontana
Arnita Oliver

Guests:

J.D. Boren
Raena Honan

CALL TO ORDER

Called to Order By: Deborah Primock, Chair

Time: 10:33 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 January 9, 2014.*

Individual Addressing the Board: Deborah Primock

Discussion: None

Motion: Move to approve the regular session minutes for the meeting of January 9, 2014.

Motion Proposals: First Gary Krcmarik
Second Catherine Robbins

Motion Results: Pass

2) PENDING COMPLAINTS:

2-A: *Review, discussion and possible action regarding the Division Director's dismissal of complaint number 13-0014.*

Individual Addressing the Board: Debbie MacDougall

Discussion: **Complaint Number 13-0014:**

On January 9, 2014, Division Director Mark Wilson dismissal complaint number 13-0014 without prejudice and refer the matter to another entity which may hold jurisdiction for review. Notice of the dismissal was forwarded to the complainant. The complainant did not request Board review of the dismissal.

It is recommended the Board affirm the dismissal.

Motion: Move to affirm the dismissal.

Motion Proposals: First Leonard Montanaro
Second Gary Krcmarik

Motion Results: Pass

2-B: *Review, discussion and possible action regarding complaint number 13-0009 involving licensed fiduciaries Rashiel Salem and Mohave Estate Management Office.*

Individual Addressing the Board: Pasquale Fontana

Discussion: **Complaint Number 13-0009** – Rashiel Salem and Mohave Estate Management Office. – The Division received this complaint on July 18, 2013. The complainant offered 8 (eight) allegations:

The matter was investigated and submitted for probable cause evaluation.

On February 4, 2014, Probable Cause Evaluator Mike Baumstark entered a finding probable cause *does not exist* as to complaint number 13-0009.

It is recommended the Board accept the finding of the Probable Cause Evaluator and dismiss complaint number 13-0009.

Motion: Move to accept staff's recommendation.

Motion Proposals: First Emily Kile
Second Leonard Montanaro
Recused Catherine Robbins

Motion Results: Pass

3) INITIAL LICESURE AND ELIGIBILITY:

3-A: *Review, discussion and possible action regarding the following application for initial licensure:*

1. *Mitchell Keamy*
2. *Cathy Simons*
3. *Cathleen Gray*

Individual Addressing the Board: Pasquale Fontana

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

1. *Mitchell Keamy*

Motion: Move to accept staff's recommendation.

Motion Proposals: First Emily Kile
Second Gary Krcmarik
Recused Catherine Robbins

Motion Results: Pass

Individual Addressing the Board: Pasquale Fontana

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

2. *Cathy Simons*

Motion: Move to accept staff's recommendation.

Motion Proposals: First Gary Krcmarik
Second Catherine Robbins

Motion Results: Pass

Individual Addressing the Board: Pasquale Fontana

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

3. *Cathleen Gray*

Motion: Move to accept staff's recommendation.

Motion Proposals: First Leonard Montanaro
Second Emily Kile
Recused Catherine Robbins

Motion Results: Pass

4) LICENSURE AND ELIGIBILITY:

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

1. *Mary Jane Baumgarten, license number 20416*
2. *Jamie Silva, license number 20711*

Individual Addressing the Board: Kimberly Siddall

Discussion: It is recommended the Board accept the request of Mary Jane Baumgarten to be placed on inactive status.

Motion: Move to accept staff's recommendation.

Motion Proposals: First Gary Krcmarik
Second Catherine Robbins

Motion Results: Pass

Individual Addressing the Board: Kimberly Siddall

Discussion: It is recommended the Board accept the request of Jamie Silva to be placed on inactive status.

Motion: Move to accept staff's recommendation.

Motion Proposals: First Emily Kile
Second Gary Krcmarik
Recused Catherine Robbins

Motion Results: Pass

5) PROPOSED ACJA REVISION

5-A: Review, discussion and possible action regarding proposed amendment to ACJA § 7-201 to address untimely renewals.

Individual Addressing the Board: Anne Hunter

Discussion: A brief overview by Anne Hunter of the proposed amendment regarding untimely renewals. A pilot program was put into place to process untimely renewal applications and recommend to the applicable board to renew a certificate if the applicant demonstrates good cause for the untimely filing. The pilot program has been extended so that Division staff can draft and post comments to the ACJA.

6) ADMINISTRATIVE ISSUES

6-A: Review, discussion and possible action regarding the certification renewal application deadline pursuant to Arizona Code of Judicial Administration ACJA § 7-201(G)(2).

Individual Addressing the Board: Kimberly Siddall

Discussion: Active certificates expire at midnight on May 31st of each even numbered year.

Staff recommends the Board establish the 2014-2016 renewal application deadline as May 4, 2014.

Motion: Move that the renewal application deadline be 30 days after the application is available.

Motion Proposals: First Catherine Robbins
Second Gary Krcmarik

Motion Results: Pass

6-B: Discussion and possible action concerning random audits of continuing education compliance for renewal.

Individual Addressing the Board: Kimberly Siddall

Discussion: It is recommended the Board request staff to sample audit 20% of the licensed fiduciary pool for continuing education compliance. *(There are 252 licensed fiduciaries at this time and 20% would be 50.)*

Motion: Move to accept staff's recommendation.

Motion Proposals: First Emily Kile
Second Gary Krcmarik

Motion Results: Pass

6-C: Update regarding complaints processed by diversion pursuant to Administrative Order 2012-83.

Individual Addressing the Board: Deborah MacDougall

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

Additional Agenda Item: Arizona Department of Veterans Services (Complaint 11-0007)

Individuals Addressing the Board: Anne Hunter and David Withey

Discussion: Anne Hunter recommends the Board add an additional item to this agenda regarding the disciplinary action in complaint number 11-0007 – Arizona Department of Veterans Services (“ADVS”).

David Withey offers information to the Board regarding the necessity to vote in order to add the agenda item.

Additionally, information regarding ACJA § 1-202(C)(5) Executive Sessions is provided to the Board.

Motion: Move to add agenda item regarding ADVS 11-0007 to the meeting agenda

Motion Proposals: First Gary Krcmarik
Second Catherine Robbins

Motion Results: Pass

Motion: Move to go into Executive Session to receive advice of counsel and to discuss confidential information.

Motion Proposals: First Deborah Primock
Second Catherine Robbins

Motion Results: Pass

Board Entered Executive Session:

11:31 A.M.

Return to Regular Session:

12:01 P.M.

Motion: Move that the Censure remain but remove the term “fraudulent” and replace it with the language “knowing violation” and affirm that the previously imposed disciplinary action remain in place.

Motion Proposals: First Catherine Robbins
Second Gary Krcmarik
Recusal Mark Rubin

Motion Results: Pass

NOTE: David Boren addresses the Board.

CALL TO THE PUBLIC

Individuals Addressing the Board: Raena Honan

ADJOURNMENT

Motion: Move to adjourn.

Motion Proposals: First Gary Krcmarik
Second Catherine Robbins

Motion Results: Pass

Time: 12:14 P.M.

Initials: AO