

# DEFENSIVE DRIVING BOARD

## Meeting Agenda - Thursday, April 20, 2017

Arizona Supreme Court -1501 West Washington Street

Phoenix, Arizona 85007 – 10:00 A.M. – Conference Room 109

General Inquiries Call: (602) 452-3378 (Certification and Licensing Division Line)

Members of the Public May Attend Meeting in Person

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**For any item listed on the agenda, the Board may vote to go into Executive Session for advice of counsel and/or to discuss records and information exempt by law or rule from public inspection, pursuant to the Arizona Code of Judicial Administration, Code Section 1-202(C).**

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**CALL TO ORDER** ..... *Daniel Edwards, Chair*

**1) REVIEW AND APPROVAL OF MINUTES** ..... *Daniel Edwards, Chair*

*1-A: Review, discussion and possible action regarding the regular session minutes for the meeting of February 16, 2017.*

**2) PENDING COMPLAINTS**.....*Division Staff*

*2-A: Review, discussion and possible action regarding Findings of Fact, Conclusions of Law and Recommendation regarding complaint number 15-D025, involving certificate holder, Improv Traffic School.*

*2-B: Review, discussion and possible action regarding Findings of Fact, Conclusions of Law and Recommendation regarding complaint number 16-D003, involving certificate holder, Improv Traffic School.*

*2-C: Review, discussion and possible action regarding complaint number 16-D002, involving certificate holder, Traffic School Online.*

*2-D: Review, discussion and possible action regarding complaint number 16-D027, involving certificate holder, Arizona Defensive Driving School.*

*2-E: Review, discussion and possible action regarding complaint number 16-D028, involving certificate holder, Less Cost...Easier...Fun AZ Defensive Driving School.*

*2-F: Review, discussion and possible action regarding complaint number 16-D029, involving certificate holder, Ana Durazo.*

2-G: *Update regarding the status of pending complaints.*

**3) INITIAL CERTIFICATION AND ELIGIBILITY.....*Division Staff***

3-A: *Review, discussion and possible action regarding pending application for initial defensive driving instructor certification for Pamala Wyatt.*

**4) ADMINISTRATIVE ISSUES .....*Division Staff***

4-A: *Review, discussion and possible action regarding interim Board meeting in May.*

**CALL TO THE PUBLIC ..... *Daniel Edwards, Chair***

**ADJOURN ..... *Daniel Edwards, Chair***

# **DEFENSIVE DRIVING BOARD**

## **Agenda Summary – Thursday, April 20, 2017**

### **1) REVIEW AND APPROVAL OF MINUTES**

*I-A: Review, discussion and possible action regarding the regular session minutes for the meeting of February 16, 2017.*

Attached for the Board's review and approval are the regular session minutes of the February 16, 2017 meeting.

# **DEFENSIVE DRIVING BOARD**

## **Agenda Summary – Thursday, April 20, 2017**

### **2) PENDING COMPLAINTS**

*2-A: Review, discussion and possible action regarding Findings of Fact, Conclusions of Law and Recommendation regarding complaint number 15-D025, involving certificate holder, Improv Traffic School.*

This complaint was initially presented to the Board on October 20, 2016, at which time the Board issued a Censure to Improv Traffic School for violating ACJA § 7-205(F)(25)(a)(4), by failing to timely submit a student's completion. Improv also violated ACJA § 7-205(F)(28)(f), by failing to timely forward the same student's diversion fee.

On January 12, 2017, the Board filed the Notice of Formal Statement of Charges in complaint number 15-D025, involving Improv Traffic School. Division records reflect Improv Traffic School was served on January 24, 2017.

No answer or request for hearing was filed by Improv Traffic School. Staff recommends that the Board find Improv Traffic School in default and issue a Censure.

# **DEFENSIVE DRIVING BOARD**

## **Agenda Summary – Thursday, April 20, 2017**

### **2) PENDING COMPLAINTS**

*2-B: Review, discussion and possible action regarding Findings of Fact, Conclusions of Law and Recommendation regarding complaint number 16-D003, involving certificate holder, Improv Traffic School.*

This complaint was initially presented to the Board on October 20, 2016, at which time the Board issued a Censure to Improv Traffic School for violating ACJA § 7-205(F)(25)(d)(4)(c), by failing to timely submit two students' completions. Improv also violated ACJA § 7-205(F)(28)(f)(2), by failing to timely submit the diversion fees to the court.

On January 12, 2017, the Board filed the Notice of Formal Statement of Charges in complaint number 16-D003, involving Improv Traffic School. Division records reflect Improv Traffic School was served on January 24, 2017.

No answer or request for hearing was filed by Improv Traffic School. Staff recommends that the Board find Improv Traffic School in default and issue a Censure.

# **DEFENSIVE DRIVING BOARD**

## **Agenda Summary – Thursday, April 20, 2017**

### **2) PENDING COMPLAINTS**

2-C: *Review, discussion and possible action regarding complaint number 16-D002, involving certificate holder, Traffic School Online.*

Complainant alleged that Smith is attempting to use the Arizona Supreme Court to single out and endorse his school by using the following language on Traffic Scholl Online's webpage:

*"Use one of the only scientifically proven courses in Arizona. National Traffic Safety Institute brand programs are proven at reducing future traffic violations. In fact, NTSI's Arizona Defensive Driving Course is the only course that has been studied by the Arizona Supreme Court in their study Defensive Driving Program Recidivism Evaluation."*

Further down the same webpage, under the heading "Highest Quality" reads:

*Our Arizona Defensive Driving Course is the only course that has been studied by the Supreme Court in their defensive Driving Program Recidivism Evaluation.*

The study was an "in-house" evaluation that the Arizona Supreme Court conducted in 2002 to evaluate the effectiveness of defensive driving programs with respect to recidivism. The study is factual, its primary focus is the effectiveness of defensive driving schools in general and does not focus on specific programs or individual defensive driving schools. The study involved the Tucson Municipal Court and tracked numerous individuals with various traffic matters. The study concluded students who attended traffic school were less likely to become repeat traffic offenders. The study was also conducted prior to the Arizona Supreme Court's regulation of the state's Defensive Driving Program.

Alex Smith, CEO of Traffic School Online, defends his advertisement claiming it is factually correct. Smith states at the time the evaluation was done he had the sole contract for his defensive driving school with the Tucson Municipal Court. Smith owned and operated Arizona NTSI at the time and asserts since the study focused solely on his students, his assertion of being the only course studied is correct. Smith points out his curriculum utilizes the "national" National Traffic Safety Institute format which has been recognized at reducing traffic violations.

The Arizona Supreme Court completed its one and only "Recidivism" study in 2002 and utilized data from the Tucson Municipal Court for its findings. Although no specific names or programs of any particular school were referenced in the report, it clearly mentioned "defensive driving" programs as a primary focus of the study. Since Smith operated the only school contracted with the Tucson Court at the time, he is factually correct in claiming to be "the only course studied" by the AOC, therefore Staff recommends that complaint number 16-D002 be dismissed.

# **DEFENSIVE DRIVING BOARD**

## **Agenda Summary – Thursday, April 20, 2017**

### **2) PENDING COMPLAINTS**

*2-D: Review, discussion and possible action regarding complaint number 16-D027, involving certificate holder, Arizona Defensive Driving School.*

On October 26, 2016, the Division received a complaint from Pima County Consolidated Justice Court alleging that AZ Defensive Driving School allowed a juvenile defendant to enroll and complete their defensive driving course on October 10, 2016, for a speeding charge. Pima County Consolidated Justice Court indicated that this defendant did not have judicial permission, as required by A.R.S. § 28-1555, to attend a defensive driving course and rejected the completion.

The written response from AZ Defensive Driving School indicated that the defendant was found eligible to attend in error due to a miscalculation of the defendant's age.

A.R.S. § 28-1555 provides that the court must enter an order concerning the disposition of a traffic offense concerning a juvenile. ACJA § 7-205(F)(25)(d)(1)(b)(vi) requires that the school verify the diversion is court ordered. AZ Defensive Driving School admitted to the error and therefore Staff recommends that the Board issue a Letter of Concern.

# **DEFENSIVE DRIVING BOARD**

## **Agenda Summary – Thursday, April 20, 2017**

### **2) PENDING COMPLAINTS**

*2-E: Review, discussion and possible action regarding complaint number 16-D028, involving certificate holder, Less Cost...Easier...Fun AZ Defensive Driving School.*

On October 26, 2016, the Division received a complaint from Pima County Consolidated Justice Court alleging that Less Cost...Easier...Fun Arizona Defensive Driving School allowed a juvenile defendant to enroll and complete their defensive driving course on September 24, 2016, for a failure to control speed charge. Pima County Consolidated Justice Court indicated that this defendant did not have judicial permission, as required by A.R.S. § 28-1555, to attend a defensive driving course and rejected the completion.

The written response from Less Cost...Easier...Fun Arizona Defensive Driving School indicated that the defendant was found eligible to attend in error. Less Cost...Easier...Fun Arizona Defensive Driving School also indicated that the employee responsible for the error is no longer employed with their school and that they have retrained the current employees with respect to handling juvenile students.

A.R.S. § 28-1555 provides that the court must enter an order concerning the disposition of a traffic offense concerning a juvenile. ACJA § 7-205(F)(25)(d)(1)(b)(vi) requires that the school verify the diversion is court ordered. Less Cost...Easier...Fun Arizona Defensive Driving School admitted to the error and therefore Staff recommends that the Board issue a Letter of Concern.

# DEFENSIVE DRIVING BOARD

## Agenda Summary – Thursday, April 20, 2017

### 2) PENDING COMPLAINTS

*2-F: Review, discussion and possible action regarding complaint number 16-D029, involving certificate holder, Ana Durazo.*

Defensive Driving School owner Paul Hallums contacted the Division over the termination of one of his driving instructors, Ana Durazo. Hallums discovered that Durazo had been altering various school rosters to reflect “no show” students of actual participating students in order to steal their respective payments for the class. Hallums said the incidents began in June of 2016, included approximately ten (10) students and the estimated loss is about \$2,000. Hallums confronted Durazo about the matter and she subsequently confessed to the entire incident. A preliminary investigation was conducted and on November 16, 2016, Probable Cause Evaluator Mike Baumstark determined probable cause existed for the allegation supporting the justification for a summary suspension. On November 21, 2016 the Board summarily suspended Ms. Durazo’s certification.

After the summary suspension, Division staff completed its investigation and on January 24, 2017, the Probable Cause Evaluator determined that there was probable cause that Ms. Durazo violated ACJA §§ 7-205(J)(2); 7-201(H)(6)(k)(3) and (k)(11); and 7-201(E)(2)(ii) and (iii).

#### **Recommendation:**

It is recommended the Board accept the finding of the Probable Cause Evaluator and enter a finding Ana Durazo violated ACJA §§ 7-205(J)(2); 7-201(H)(6)(k)(3) and (k)(11); and 7-201(E)(2)(ii) and (iii).

Furthermore, it is recommended that the Board revoke Ms. Durazo’s certification as a defensive driving instructor.

**DEFENSIVE DRIVING BOARD**  
**Agenda Summary – Thursday, April 20, 2016**

**2) PENDING COMPLAINTS**

2-G: *Update regarding the status of pending complaints.*

As of April 14, 2017, there are currently 28 open complaints, six of which have been presented on this agenda with dispositive recommendations under agenda items 2-A through 2-F.

**DEFENSIVE DRIVING COMPLAINTS**  
**COURTOOLS MEASURE 4**  
**AGE OF PENDING CASELOAD**  
**Shaded Areas Indicate Cases within Time Standard of 22 Months**

<b>Age (Months)</b>	<b>Number Cases</b>	<b>Percent</b>	<b>Cumulative Percent</b>
<b>0-4</b>	3	11%	11%
<b>5-9</b>	22	79%	90%
<b>10-14</b>	2	7%	97%
<b>15-19</b>	1	3%	100%
<b>20-22</b>			
<b>23-35</b>			
<b>36-50</b>			
<b>Over 50</b>			
<b>Total</b>	<b>28</b>	<b>100%</b>	<b>100%</b>

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## **Agenda Summary – Thursday, April 20, 2017**

### **3) INITIAL CERTIFICATION AND ELIGIBILITY**

*3-A: Review, discussion and possible action regarding pending applications for initial defensive driving instructor certification for Pamala Wyatt.*

Pamala Wyatt applied for an initial defensive driving instructor certification. Ms. Wyatt has passed the instructor test, and submitted her certified driving record. Ms. Wyatt disclosed a 2000 termination from Walgreens, but did not disclose a 2001 bankruptcy. The bankruptcy had no adversarial actions.

Staff recommends certification for Pamala Wyatt with non-disclosure language.

# **DEFENSIVE DRIVING BOARD**

## **Agenda Summary – Thursday, April 20, 2017**

### **4) ADMINISTRATIVE ISSUES**

*4-A: Review, discussion and possible action regarding interim Board meeting in May.*

Staff will provide information to the Board.