



Arizona Supreme Court Defensive Driving Board

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

Date: June 17, 2009
Time: 10:00 a.m. – 2:00 p.m.

Regular Meeting Minutes

MEMBER ATTENDANCE:

Present:

Judge Gary J. LaFleur
Rolland (Ron) E. DeLong
Pamela K. Najera
Leonard Montanaro
Elaine Acosta Sweet
Virginia Davis
Cecile T. Woodward
Robert G. A. Hall

Telephonically Present:

Judge Daniel S. Jurkowitz
Steven Soldis
Lynette Rudow

Absent:

OTHER ATTENDEES

AOC Staff:

Kitty Boots
Nancy Swetnam
Kandace French
Linda Grau
Kimberly Siddall
Jennifer Greene
Bonnie Toms
Becky Sorenson
Tony Posante
Lori Braddock
Afton Foutz
Chris DeWitt
Robert Molina

Guests:

Cindi Thomas
Matthew Engle
Debbie Grado
Bill Reidel
Debra Grossman
Olivia Reyas
Beatriz Nena

CALL TO ORDER

Called to Order By: Judge Gary J. LaFleur

Time: 9:59 a.m.

1) REVIEW AND APPROVAL OF MINUTES

1-A: Review and discuss approval of the Regular Session Minutes for the meeting of February 18, 2009.

Discussion: None.

Motion: Move to approve the Regular Session Minutes for the meeting of February 18, 2009.

Motion Proposals: First Leonard Montanaro
Second Robert G. A. Hall

Motion Results: Pass

1-B: Review and discuss approval of the Regular Session Minutes for the meeting of April 15, 2009.

Individuals Addressing the Board: Kandace French

Discussion: Judge Daniel S. Jurkowitz is a member of the subcommittee. Mr. DeLong is not.

Motion: Move to approve the Regular Session Minutes for the meeting of April 15, 2009 with above amendment.

Motion Proposals: First Pamela K. Najera
Second Elaine Acosta Sweet

Motion Results: Pass

1-C: Review and discuss approval of the Executive Session Minutes for the meeting of March 19, 2008.

Discussion: Discussion regarding Board approval of Executive minutes.

Motion: Move to approve the Executive Session Minutes for the meeting of March 19, 2008.

Motion Proposals: First Virginia Davis
Second Pamela K. Najera

Motion Results: Pass

1-D: *Review and discuss approval of the Executive Session Minutes for the meeting of May 21, 2008.*

Discussion: None.

Motion: Move to approve the Executive Session Minutes for the meeting of May 21, 2009.

Motion Proposals: First Judge Daniel S. Jurkowitz
Second Elaine Acosta Sweet

Motion Results: Pass

2) ADMINISTRATIVE ISSUES

2-A: *Review and discussion regarding proposed new legislation.*

Individuals Addressing the Board: Nancy Swetnam

Discussion: Nancy Swetnam provided a verbal report to the Board regarding the status of Senate Bill 1028, a draft of which had been provided for the Board's review and consideration. This bill has not moved forward. Legislation is still in session. There is no legislation currently progressing that would impact the Defensive Driving Program.

Motion: No action taken.

2-B: *Report of the staff and subcommittee regarding draft proposed amendments of ACJA § 7-205 and review of the implementation of the 2007-2008 legislation.*

Individuals Addressing the Board: Kandace French

Discussion: Division staff provided a verbal report regarding the status of suggested future changes to ACJA § 7-205. The subcommittee met to review and discuss the seven day rule, reporting requirements, D.B.A. school requirements, and online testing. No other action to report at this time.

Motion: No action taken.

3) REVIEW OF PENDING COMPLAINTS

3-A: Review, discussion, and possible action regarding complaint numbers:

Complaint Number 08-D007 – Arizona Chapter National Traffic Safety Council
Complaint Number 08-D001 – I Drive Safely
Complaint Number 08-D009 – GoToTrafficSchool.com

Individuals Addressing the Board: Nancy Swetnam, Linda Grau, Jennifer Greene

Complaint Number 08-D007 – Arizona Chapter National Traffic Safety Council

Executive Session: 10:10 a.m. to 10:19 a.m.

Discussion: On April 27, 2009, Probable Cause Evaluator Mike Baumstark entered a finding probable cause does not exist in complaint number 08-D007. Staff recommended the Board accept the finding of the Probable Cause Evaluator and dismiss complaint number 08-D007 with technical correction to materials.

Motion: Board moved to accept the findings of Probable Cause Evaluator Mike Baumstark and dismiss complaint number 08-D007.

Motion Proposals: First Rolland E. DeLong
Second Lynette Rudow
Recusal Pamela K. Najera

Motion Results: Pass

Complaint Number 08-D001 – I Drive Safely

Discussion: Probable Cause Evaluator Baumstark entered a finding probable cause does exist in complaint number 08-D001. Recommendation the Board accept the finding of the Probable Cause Evaluator and enter a finding grounds for formal disciplinary action exists pursuant to Arizona Code of Judicial Administration “ACJA”) § 7-201(H)(6)(a) and (H)(6)(k)(3) for acts of misconduct involving ACJA § 7-205(F)(13), (F)(15), (F)(19)(a), (F)(21)(i), (F)(22)(d), and (F)(23)(d). Staff reported that counsel for IDS has contacted Division regarding possibility of a Consent Agreement. Further discussion included aggravating and mitigating factors, proportionality analysis, how costs are determined, non-payment of an \$80 court diversion fee, information contained in investigator’s report, and rules for requesting a formal interview.

Motion: Board moved to accept the findings of Probable Cause Evaluator

Mike Baumstark, enter a finding grounds for formal disciplinary action exists for acts of misconduct, and invite an IDS representative to attend the next board meeting for a formal interview to discuss possible resolution by a Consent Agreement.

Motion Proposals: First Judge Daniel S. Jurkowitz
Second Elaine Acosta Sweet
Motion Results: Pass

Complaint Number 08-D009 – GoToTrafficSchool.com

Discussion: Probable Cause Evaluator Baumstark entered a finding probable cause does exist in complaint number 08-D009. In considering the appropriate disposition of this complaint, it was recommended the Board consider the efforts by GoToTrafficSchool.com to adopt policies and procedures and to provide training for staff to ensure timely and accurate reporting. It was further recommended the Board enter a finding grounds for informal disciplinary action exists pursuant to Arizona Code of Judicial Administration (“ACJA”) § 7-201(H)(6)(a) and (H)(7) for acts of misconduct involving ACJA § 7-201(H)(3)(c) and ACJA § 7-205(F)(22)(e) and (F)(22)(f) and issue a Letter of Concern.

Motion: Board moved to accept the findings of Probable Cause Evaluator Mike Baumstark, enter a finding grounds for informal disciplinary action exists for these acts of misconduct, and issue a Letter of Concern.

Motion Proposals: First Elaine Acosta Sweet
Second Pamela K. Najera
Recusal Rolland E. DeLong
Motion Results: Pass

3-B: Review, discussion, and possible action regarding complaint number:

Complaint Number 08-D003 – GoToTrafficSchool.com

Individuals Addressing the Board: Nancy Swetnam

Discussion: Probable Cause Evaluator Baumstark entered a finding probable cause does not exist as to Allegations 1 and 2 and does exist as to Allegation 3 in complaint number 08-D003. Staff recommended the Board accept the finding of the Probable Cause Evaluator and dismiss Allegations 1 and 2 of complaint number 08-D003. Regarding Allegation 3, it was recommended the Board consider GoToTrafficSchool.com's incorrectly reporting a cited violation code to the court did not result in actual or potential harm to the court or the student and therefore constitutes a technical violation. It was recommended the Board dismiss Allegation 3 of complaint number 08-D003.

Motion: Board moved to accept findings of Probable Cause Evaluator Baumstark and dismiss Allegations 1 and 2 of complaint number 08-D003, and to also accept staff recommendation and dismiss Allegation 3.

Motion Proposals: First Elaine Acosta Sweet
Second Pamela K. Najera

Motion Results: Pass

4) CERTIFICATION AND ELIGIBILITY

4-A: Review and consideration and possible action regarding pending initial certification applications of the following: defensive driving instructor:

Claude Ah Sing

Individuals Addressing the Board: Kimberly Siddall

Discussion: The above applicant disclosed a citation received on December 22, 2008, for failure to control vehicle to avoid a collision and for which he attended a defensive driving class. His application is complete and no information has been presented during the background, which is contrary to certification being granted. The applicant has demonstrated he meets the minimum eligibility requirements for certification. Staff recommended initial certification be granted to Claude Ah Sing.

Motion: Move to accept staff recommendation and grant initial certification to Claude Ah Sing.

Motion Proposals: First Elaine Acosta Sweet
Second Pamela K. Najera

Motion Results: Pass

CALL TO THE PUBLIC

No response.

ADJOURNMENT

Motion: Adjourn the meeting.

Motion Proposals: First Pamela K. Najera
Second Leonard Montanaro

Motion Results: Pass

Time: 11:07 a.m.

Initials: bt