

Supreme Court Board of Certified Reporters

Arizona State Courts Building
1501 West Washington, Phoenix, AZ 85007
Conference Room CLD1
11:00 a.m. - 1:00 p.m.

March 13, 2006

Approved Regular Session Minutes

Members Present:

James Bouley
Judge Lawrence Winthrop

AOC Staff Present:

Brenda Lee Dominguez
Linda Grau
Nina Preston
Kimberly Siddall
Nancy Swetnam

Guests:

Marvin Atwood
John Bouley
Norman Hertz
Linda Hironimus
Kathy Incavo
Joseph Notaro

Members Telephonically Present:

William Druke
Judge Jan Kearney
Jean Lea
Sandra Markham
Kathleen Montalvo

Members Absent:

Patricia Seguin
Rhonda Simmons
Jennifer Stadler

Regular Session

CALL TO ORDER

The meeting was called to order by Judge Lawrence Winthrop at 10:06 a.m.

ADMINISTRATIVE ISSUES

- *Discussion and action regarding correction to approved minutes of January 9, 2006, Page 9, Standard 6, second paragraph.*

The Board Meeting Regular Session Minutes of January 9, 2006 contained an error on page 9, Standard 6, second paragraph. These minutes were approved by the Board on February 13, 2006. The Board reviewed the proposed language and amend the January 9, 2006 minutes as follows:

Standard 6. Performance in Accordance with Law.

- b. Contracts covering ~~court~~ reporter services having a fixed period of time, minimum or otherwise, between persons holding certificates under this section or any person for whom the reporters act as agents and any attorney at law or agent or any insurance company or agent or any other person, are prohibited.

~~This prohibition does not prevent any person holding a certificate~~ A reporter may enter into a fee agreement upon request of an attorney or an agent of an attorney or an insurance company, ~~from~~ quoting rates for both originals and copies of depositions for a particular deposition to be taken, or for all depositions in a case, provided that the same rate is charged to all other parties obtaining copies and provided further that the charge for the original is no less than 60 per cent higher than the charge per copy.

A **motion** was made by William Druke and seconded by Jean Lea to adopt the January 9, 2006 Regular Session Minutes as amended. Motion passed. **BCCR-06-045**

- *Discussion and possible action regarding certification determinations made pending background result; Reference to Administrative Order 2000-38.*

The Board reviewed Administrative Order 2000-38 and determined that provisional certification based on awaiting fingerprint results was approved for a specified reason and period of time and only applicable to temporary certification. Pursuant to Administrative Order 2000-38, applicants requesting initial standard certification may not be granted a provisional certificate while awaiting the fingerprint results.

- *Review, discussion and possible action regarding the validation report for the NVRA exam.*

The Board reviewed and discussed the Validation Report for the National Verbatim Reporters Association exam and whether the NVRA exam (CVR), the National Court Reporter Association exam (RPR), both or neither would be recognized by the Board as the proficiency exam for voice writers seeking certification. Dr. Norman Hertz of Comira, addressed the Board regarding the validation of the CVR. Dr. Hertz reported the exam was validated subsequent to a job analysis to identify the knowledge, skills and abilities of a voice writer. Dr. Hertz advised consultation occurred with voice writers, Judges and attorneys, and other professionals regarding the skills and knowledge required to perform the job of a verbatim reporter. The Board formed a subcommittee to identify specific areas for the Board to review and discuss regarding the CVR exam at the next Board meeting. Subcommittee members include Jim Bouley, Jean Lea, Sandra Markham and Nancy Swetnam.

Judge Jan Kearney joined the meeting telephonically at 11:37 a.m.

- *Review and discussion of proposed revisions of ACJA § 7-206 and § 7-201 and public comment received.*

Nancy Swetnam reported the proposed revisions to ACJA § 7-206 and § 7-201 are out for public comment until the end of March. In advance of the June meeting of the Arizona Judicial Council, the Board will need to make their recommendations to the AJC and the Supreme Court during the May Board meeting. The Board requested the April meeting agenda include an item to discuss the proposed revisions related to the confidentiality of complaints made against certificate holders. The proposed revisions and a summary of the public comments received are scheduled for review by the Committee on Superior Court and the AJC during June.

The Board opened the floor for a limited call to the public regarding the proposed revisions. Board member James Bouley recused and left the meeting.

Certified reporter John Bouley addressed the Board. In his comment, Mr. Bouley suggested the Board consider an alternative format to the administration of competency examinations for certified reporters to lessen the risk of otherwise qualified reporters being unable to work in the profession.

Board member James Bouley returned to the meeting.

- *Review of Requests for Hearings received and determination on whether a hearing officer should be appointed and action regarding further extensions for time to hold hearings for the following reporters: Lorraine Halberg, Denise Vaishville, Adam Gage, Lynette Rozwood, Kathleen Incavo, Sharon Flores, Jean Barclay, Lori Hetland, Ana-Leticia Quintero.*

Linda Grau reported reporters Lorraine Halberg, Denise Vaishville, Adam Gage, Lynette Rozwood, Kathleen Incavo, Sharon Flores, Jean Barclay, Lori Hetland and Ana-Leticia Quintero have requested hearings on the denial or conversion of their Provisional or Temporary certification. Ms. Grau requested the Board agree to a further extension of time for these hearings to be conducted. Ms. Grau reported the volume of pending hearing requests have posed challenges for the availability of the Assistant Attorney General who represents the Board in denial proceedings and staff is currently working with the Assistant Attorney General to resolve scheduling issues.

A **motion** was made by Judge Jan Kearney and seconded by Kathleen Montalvo to have all individual requests for hearings to be heard by hearing officers in the action regarding denial of their Provisional or Temporary certification. Motion passed. **BCCR-06-046**

- *Status update regarding previous requests for hearings and action regarding further extensions for time to hold hearings.*

Linda Grau noted the Board had previously extended time for the hearings on earlier denials to be commenced in order to secure appointment of hearing officers and coordinate with the Attorney General's Office. Citing the previously stated scheduling challenges and noting the certifications of the individuals requesting a hearing on denial remain active until such time as the Board enters a final order following the hearing, Ms. Grau recommended the Board extend the existing deadline until after the April Board meeting.

A **motion** was made by William Druke and seconded by Jean Lea to extend the hearing deadline date and directed Program staff to provide the Board with an update at the April 17, 2006 Board meeting regarding the status of the pending hearings. Motion passed. **BCCR-06-047**

- *Review of Request for Hearing for Mary Manning.*

Linda Grau reported certified reporter Mary Manning was provided notice requiring her to submit proof of having passed the RPR by January 31, 2006. Ms. Manning failed to provide the required proof by January 31, 2006 and the Board denied her renewal application for 2006-07 certification at the February Board meeting. Subsequently, Ms. Manning has requested a hearing on the denial and provided the documentation of her having successfully completed all of the components of the RPR.

EXECUTIVE SESSION STARTED – 12:35 p.m.

A **motion** was made by Judge Lawrence Winthrop and seconded by Sandra Markham to go into Executive Session for advice from legal counsel. Motion passed. **BCCR-06-048**

EXECUTIVE SESSION ENDED – 12:57 p.m.

- *Review of Request for Hearing for Mary Manning. (revisited)*

A **motion** was made by Judge Lawrence Winthrop and seconded by James Bouley to convert Mary Manning Provisional to Standard Certification and to direct Program staff to contact Ms. Manning regarding the status of her request for a hearing. Motion passed. **BCCR-06-049**

REVIEW OF CERTIFICATION APPLICATIONS

- *Applicants for Provisional Standard Certification Renewal*

Nina Preston advised the Board she was contacted by attorney Denise Blommel, legal counsel for certified reporter Kate Baumgarth. Ms. Baumgarth, through her attorney, requested the Board defer action on the pending renewal application until after Ms. Baumgarth has had the opportunity to participate in the May 2006 RPR. Ms. Preston advised discussion regarding a possible consent agreement was underway. Further, Ms. Baumgarth requested the Board direct the National Court Reporters Association to work with Ms. Baumgarth regarding the exam administration.

A **motion** was made by Judge Lawrence Winthrop and seconded by James Bouley to defer taking action on Kate Baumgarth's application for renewal of Provisional Standard Certification until after receiving the results of her May 2006 RPR participation and noting that the Board cannot guarantee accommodations being asked for from the NCRA will be granted. Motion passed. **BCCR-06-050**

- *Applicants for Initial Standard Certification.*

Kimberly Siddall reported the following applicants have submitted applications for Initial Standard Certification. The applications are complete with no information presented during

the background and fingerprint results were received. Kimberly Siddall recommended these reporters be granted Standard Certification:

Bernadette Chari
Kerry Fremerman
Randi Friedman
Christine Zavala

A **motion** was made by Jean Lea and seconded by Sandra Markham to grant Initial Standard Certification to the above listed applicants based on all documentation provided showing they meet all qualifications for certification. Motion passed. **BCCR-06-051**

Deborah Roth

Kimberly Siddall reported the Board granted Deborah Roth Provisional Standard Certification at the February Board meeting. Program staff has since received Ms. Roth's fingerprint background results which provide information contrary to the background information Ms. Roth avowed to on her application. After Program staff inquired about the matters which were not disclosed on her application, Ms. Roth requested to withdrawal her application. Kimberly Siddall recommended the Board reject Ms. Roth's request to withdrawal the application and deny Standard Certification based on ACJA § 7-206(E)(4)(c)(1)(a)(4) for failure to disclose required information on the application and rescind the earlier Board order granting Ms. Roth Provisional Standard Certification.

A **motion** was made by William Druke and seconded by Judge Lawrence Winthrop to reject Deborah Roth's withdrawal of her application and deny Standard Certification based on ACJA § 7-206(E)(4)(c)(1)(a)(4) for failure to disclose required information on the application and to rescind the earlier Board order granting Ms. Roth Provisional Standard Certification. Motion passed. **BCCR-06-052**

CERTIFICATION AND ELIGIBILITY

- *Applicants for Initial Standard Certification.*

Linda Grau reported the following requests for continuing education credit have been received by the Certified Reporter Program for Board review and consideration:

1. "Lose your Excuses & Gain a Life" presented by ASU Downtown in Phoenix, Arizona on 2/2/06 – 1 hour requested.
2. "Humble Confidence = Inspired Leadership" presented by ASU Downtown in Phoenix, Arizona on 2/9/06 – 1 hours requested.
3. "Business Writing & Grammar Skills" presented by ASU Downtown in Phoenix, Arizona

on 2/23/06 – 1 hour requested.

A **motion** was made by William Druke and seconded by Kathleen Montalvo to approve continuing education credit for the seminars “Humble Confidence = Inspired Leadership” and “Business Writing & Grammar Skills” for 1 hour each and to deny continuing education credit for “Lose your Excuses & Gain a Life” as this seminar does not appear to relate to the practice of reporting. Motion passed. **BCCR-06-053**

CALL TO THE PUBLIC

Linda Hironimus requested the Board clarify if an individual can report out of state depositions if they are not certified. Judge Lawrence Winthrop requested Ms. Hironimus submit this request in writing and the matter would then be placed on a future agenda.

ADJOURNMENT

A **motion** was made by Judge Lawrence Winthrop and seconded by Kathleen Montalvo to adjourn. Motion Passed. **BCCR-06-054**

The meeting of the Board of Certified Reporters adjourned at 1:03 p.m.

/bld