



## Board of Certified Reporters

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

Conference Room 109

Date: January 12, 2010

Time: 1:00 p.m.

### Approved Regular Meeting Minutes

#### MEMBER ATTENDANCE:

##### Present:

G. Allen Sonntag

Patricia Calabro

Hon. Peter Swann

##### Telephonically Present:

Patricia Seguin

Terri Faust

Cheryl Austin

Kathleen R. Montalvo

##### Absent:

J. Tyrell Taber

Hon. Ed Bassett

#### OTHER ATTENDEES

##### AOC Staff:

Linda Grau

Kimberly Siddall

Jennifer Greene

Tony Posante

Deborah MacDougall

Alex Navarro

Karla Clanton

Deann Barker

Addressing the Board: Linda Grau

Discussion: Introduction of new staff, Deborah MacDougall

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#### CALL TO ORDER

*Called to Order By:*

G. Allen Sonntag

*Time:*

1:07 p.m.

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**Discussion:** The following applications remain incomplete pending receipt of fingerprint information, background investigation, and/or additional information. Ms. Siddall recommended consideration of these applications be deferred to the February 6, 2010 meeting:

Shayna Montgomery  
Susan L. Reynolds

Patricia Calabro addressed wanting clarification of reason for deferrals and process of fingerprint reviews. The Board and staff discussed the fingerprinting processing.

**Motion:** To defer consideration of the applications to the February 9, 2010 meeting.

**Motion Proposals:** First Patricia Calabro  
Second Patricia Seguin

**Motion Results:** Pass **BCCR-10-03**

**Discussion:** The following applicant submitted an application for standard certification. The application is complete and no information has been presented during the background check which is contrary to certification being granted. The applicant demonstrated she meets the minimum eligibility requirements for certification. Ms. Siddall recommended standard certification be granted to:

Barbara A. Manning

**Motion:** Motion to grant certification to Barbara A. Manning.

**Motion Proposals:** First Patricia Calabro  
Second Patricia Seguin

**Motion Results:** Pass **BCCR-10-04**

**3-B: Review, discussion, and possible action regarding request for extension of continuing education requirements for certificate holder Amy Richardson.**

**Individuals Addressing the Board:** Kimberly Siddall, G. Allen Sonntag

**Discussion:** Ms. Richardson is requesting a 90-day extension to complete her continuing education. Ms. Siddall recommended the Board determine whether Ms. Richardson's request should be considered a special circumstance pursuant to ACJA § 7-206(L)(9)(c)(2)(d) and determine if the request supports an extension or waiver of the continuing education requirement.

The Board discussed the cost and types of continuing education credits available, whether Ms. Richardson's request was submitted voluntarily or upon her being asked for documentation of completion of the required hours, and the number of hours Ms. Richardson needs in order to fulfill the requirement. At 1:26 p.m., the discussion was tabled in order to permit Ms. Siddall an opportunity to review Ms. Richardson's file.

At 1:56 p.m., Ms. Siddall reported Ms. Richardson's request was of her own volition and not the result of her having been asked to submit supporting documentation she completed the required hours. Ms. Siddall reported it could not be determined how many hours Ms. Richardson has yet to complete in order to meet the requirement.

**Motion:** To grant an extension for 45 days from the date of today's meeting.

**Motion Proposals:** First Patricia Calabro  
Second Cheryl Austin

**Motion Results:** Pass **BCCR-10-07**

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## 2) PENDING COMPLAINTS

**2-A: Review, discussion and possible action regarding complaint number 09-C008 involving certificate holder Yvonne De La Torres.**

**Individual Addressing the Board:** Linda Grau

**Discussion:** On December 21, 2009, Probable Cause Evaluator Mike Baumstark entered a finding probable cause exists as to Allegations 1, 2 and 3. Staff recommended the Board 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)(2) for acts of misconduct involving ACJA § 7-201(F)(1), (F)(6) and § 7-206(F)(1), (J)(4)(c), and (J)(6)(a). Further, should the Board ultimately enter a finding this violation has occurred, the Board impose the following sanctions pursuant to ACJA § 7-201(H)(24)(a)(6):

- a) Issue a Censure to De La Torre, pursuant to ACJA § 7-201(H)(24)(a)(6)(b);
- b) Place De La Torre on probation for a period of not less than 1 year pursuant to ACJA § 7-201(H)(24)(a)(6)(e) with the following conditions:
  - (1) During the period of probation, De La Torre shall comply with all court orders regarding transcript deadlines and appearance at hearings. If De La Torre is unable to meet an ordered transcript production deadline, she shall request an extension in advance of the established deadline;
  - (2) Within 30 days of the Board's Final Order, and every 30 days thereafter through conclusion of the term of probation, De La Torre shall submit a list to the Board that contains the following information:

- (i) All pending transcripts, identified by court and case number;
  - (ii) The due date for submission;
  - (iii) The name of the scopist utilized to assist in the preparation of the transcripts;
  - (iv) The status of each transcript as to whether it is pending or has been filed;
  - (v) Any requests for extensions filed by De La Torre; and
  - (vi) Any court orders for production of transcripts, requests for extensions, or appearance at hearing and De La Torre's compliance.
- c) Assess costs associated with the investigation and related disciplinary proceedings to be remitted no later than 60 days following entry of the Board's Final Order, pursuant to ACJA § 7-201 (H)(24)(a)(6)(j).

It was further recommended the Board request Division staff contact De La Torre in advance of filing the Notice of Formal Statement of Charges to determine if De La Torre is willing to enter a Consent Agreement to the proposed sanctions to resolve the matter. If De La Torre agrees, it is recommended the Board request Division staff prepare and deliver a draft Consent Agreement to De La Torre with a date certain deadline to provide the Division with the signed Consent Agreement or report she declines the opportunity to resolve the matter by Consent Agreement. If De La Torre agrees and submit the signed Consent Agreement, the document will be returned to the Board for review and consideration at the next regularly scheduled Board meeting. If De La Torre declines the alternative resolution of the matter or fails to submit the signed Consent Agreement by the established deadline, Division staff shall proceed with the preparation, filing, and service of the Notice of Formal Statement of Charges.

The Board discussed the investigation, alleged misconduct, and Division Director Swetnam's sanction recommendation. Noting Ms. De La Torre's lack of cooperativeness with the Court of Appeals, the existence of multiple late transcripts, and Ms. De La Torre's years of experience a certified reporter, the Board discussed the process for resolving the matter by consent agreement or moving forward with the filing of formal charges.

***Motion:*** Move to accept the recommendation of the Division Director regarding acceptance of the finding of the Probable Cause Evaluator and entry of findings for formal disciplinary action. Move to amended the recommended sanction to include revocation, issuance of a cease and desist order during the period of the revocation, and the assessment of costs for the investigation and any related proceedings.

***Motion  
Proposals:***

First: Hon. Peter Swann  
Second : Patricia Seguin

***Motion  
Results:***

Pass **BCCR-10-05**

**2-B: Review, discussion and possible action regarding certificate holder complaint number 09-C009 involving Kitty Lovejoy.**

**Individuals Addressing the Board:** Linda Grau

**Discussion:** Staff recommended the Board accept the finding of the Probable Cause Evaluator and enter a finding grounds for formal disciplinary action exists pursuant to ACJA § 7-201 (H)(6)(a), (H)(6)(k)(2) and (H)(6)(k)(3) for acts of misconduct involving Arizona Revised Statutes § 32-4005, ACJA § 7-201(F)(1) and § 7-206(F)(1), (J)(1)(a), (J)(4)(c), (J)(4)(e), (J)(4)(f) and (J)(6)(a).

Staff reported in the initiation of the complaint, Lovejoy has accepted responsibility for the ordered transcripts not being timely filed as ordered by the Court of Appeals and has submitted a request to voluntarily surrender her certification. It is further recommended the Board enter a finding the violations occurred and offer Lovejoy a Consent Agreement resolution of this complaint pursuant to ACJA § 7-201(H)(24)(a)(6)(c) containing the following provisions:

- 1) Ms. Lovejoy acknowledges and accepts responsibility for the misconduct;
- 2) The Board issues a Censure to Lovejoy, pursuant to ACJA § 7-201 (H)(24)(a)(6)(b);
- 3) The Board accepts Lovejoy's pending request for voluntary surrender under discipline pursuant to ACJA § 7-201(H)(7)(b); and,
- 4) Lovejoy will be assessed costs associated with the investigation and related disciplinary proceedings to be remitted no later than 60 days following entry of the Board's Final Order, pursuant to ACJA § 7-201 (H)(24)(a)(6)(j).

Staff further recommended Ms. Lovejoy be given a date certain to accept the proposed consent agreement resolution of the complaint and with the provision if Ms. Lovejoy does not enter the proposed Consent Agreement within the stated time frame, Notice of Formal Statement of Charges will file without further action of the Board.

Patricia Calabro noted for the record she has been socially associated to Ms. Lovejoy in the past and does not feel it will influence her objective consideration of this matter and will not recuse herself.

**Motion:** Motion to adopt the recommendation of the Division Director.

<b>Motion Proposals:</b>	First	Terri Faust
	Second	Hon. Peter Swann
	Recusal	None
<b>Motion Results:</b>	Pass	<b>BCCR-10-06</b>

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**4) ADMINISTRATIVE ISSUES**

**4-A: Update regarding the status of Board Member recruitment.**

**Individuals Addressing the Board:** Linda Grau

**Discussion:** Staff introduced and welcomed Court of Appeals Judge Peter Swann recently appointed to fill the seat previously held by the Honorable Lawrence Winthrop. Staff reported Chief Justice Berch signed Administrative Order 2010-01 on January 4, 2010 reappointing Kathleen Montalvo and Patricia Seguin for additional 5 year terms. Staff noted the Honorable Edward Bassett of the Superior Court in Maricopa County was appointed to fill the seat previously held by Superior Court in Pinal County Judge Robert Carter Olson.

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**CALL TO THE PUBLIC**

No public present.

Patricia Calabro requested the following items be placed on the next meeting agenda for discussion:

Board Member training.

Budget update with respect to the \$400.00 every other year renewal fee.

“Third party control” language contained in the ACJA § 7-206(J) code of Conduct.

Update regarding the “sunset review” of the Certified Reporter Program.

G. Allen Sonntag requested information about applicable continuing education credit is assessed for newly certified individuals.

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**ADJOURNMENT**

**Motion:** Adjourn the meeting.

First: G. Allen Sonntag

Second: Patricia Calabro

**Time:** 2:11 p.m.

Initials: DB