



Supreme Court Fiduciary Board

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

Conference Room 109

Date: January 8, 2009

Time: 10:30 am – 2:30 pm

Approved Regular Meeting Minutes

MEMBER ATTENDANCE:

Present:

Shari Tomlinson
Mary E. Carlton
Diana L. Clarke
Judge Dean Fink
Kenneth Reeves, III
Pamela Johnston
Deborah Primock
Sherry Reed

Telephonically Present:

Marlin "Kip" Anderson
Mary Jane Baumgarten

Absent:

Diana M. Corry

OTHER ATTENDEES

AOC Staff:

Linda Grau
Kitty Boots
Nina Preston
Kimberly Siddall
Bonnie Toms
Lori Braddock
Tony Posante

Guests:

Don Childers
Eileen GilBride
Richard Vanderheiden
Gary B. Strickland

CALL TO ORDER

Called to Order By:

Shari Tomlinson

Time:

10:33 am

1) INTRODUCTION OF NEW BOARD MEMBERS

1-A: *Update regarding Board appointments and reappointments. Introduce and welcome Fiduciary in Private Practice Member Deborah Primock and Attorney Member Kenneth Reeves.*

Individuals Addressing the Board: Linda Grau, Shari Tomlinson

2) REVIEW AND APPROVAL OF MINUTES

2-A: *Discussion, review, and possible approval of the Regular Session Minutes of the meeting held on November 13, 2008.*

Individuals Addressing the Board: Linda Grau

Discussion: Board discussed approval of Regular Session Minutes for November 13, 2008 with the following amendments:

1. Addition of Mary E. Carlton to page 1 as being telephonically present until 12:30pm.
2. Addition of information regarding Executive Session held during Agenda Item 2-B.

Motion: Moved to accept the Regular Session Minutes of November 13, 2008 as amended.

Motion Proposals: First Mary E. Carlton
Second Pamela Johnston

Motion Results: Pass

2-B: *Discussion, review, and possible approval of the Regular Session Minutes of the meeting held on December 11, 2008.*

Individuals Addressing the Board: Linda Grau

Discussion: Regular and Executive Session Minutes of December 11, 2008 are still in process of being drafted and not yet available for Board review.

Motion: Moved to defer approval of December 11, 2008 Minutes to next Board Meeting.

Motion Proposals: First Mary E. Carlton
Second Pamela Johnston

Motion Results: Pass

3) PENDING COMPLAINTS

3-A: Formal Interview with certified fiduciary Richard Vanderheiden and possible action regarding complaint number 03-0010.

Individuals Addressing the Board: Nancy Swetnam, Linda Grau, Eileen GilBride, Richard Vanderheiden, Gary Strickland

Discussion: Materials provided to the Board in advance of the meeting included a copy of the Board's order which entered finding grounds for disciplinary action exist. Additional letters received from Ms. GilBride and Mr. Strickland, legal counsel for Mr. Vanderheiden, have been circulated to the Board.

Motion: Moved to go into Executive Session in order to consult with legal counsel.

Motion Proposals: First Sherry Reed
Second Kenneth Reeves, III
Recusal Shari Tomlinson

Motion Results: Pass

Executive Session: 10:40 am - 10:58 am

Discussion: Discussion of recommendation the Board accept the findings of the Probable Cause Evaluator and enter a finding Richard Vanderheiden committed the alleged acts of misconduct as outlined in the Allegation Analysis Report and further recommend the Board enter a finding grounds for formal disciplinary action exists. Mitigating factors, aggravating factors and proportionality analysis were discussed. Board asked if Counsel for Mr. Vanderheiden was interested in moving forward with consent agreement. Additional options were presented and discussed.

Motion: Moved to go into Executive Session in order to consult with legal counsel regarding changing previously entered motion.

Motion Proposals: First Pamela Johnston
Second Kenneth Reeves, III
Recusal Shari Tomlinson, Diana Clarke

Motion Results: Pass

Executive Session: 11:11 am - 11:22 am

Individuals Addressing the Board: Nancy Swetnam, Linda Grau, Eileen GilBride, Richard Vanderheiden, Gary Strickland

Discussion: Board and Mr. Vanderheiden discussed resolution of the complaint by Consent Agreement and issuance of a Letter of Concern. Request by Mr. Vanderheiden for private consultation with legal counsel and further discussion of this agenda item was tabled.

4) CERTIFICATION AND ELIGIBILITY

4-A: Review, discussion, and possible action regarding pending renewal application of Candace Bow.

Individuals Addressing the Board: Kimberly Siddall

Discussion: Ms. Bow was requested at last meeting to respond within 30 days to a letter sent on December 19, 2008. A response has not yet been received from her attorney. Recommendation to defer action to next Board Meeting.

Motion: Moved to defer this agenda item to March 12, 2009 Board Meeting.

Motion Proposals: First Judge Dean Fink
Second Kenneth Reeves, III
Recusal Pamela Johnston

Motion Results: Pass

4-B: Review, discussion, and possible action regarding pending renewal application of Clare Guthrie.

Individuals Addressing the Board: Kimberly Siddall

Discussion: Ms. Guthrie has rejected the offered Consent Agreement. Recommendation to defer this agenda item to next Board Meeting.

Motion: Moved to defer recommendation to March 12, 2009 meeting.

Motion Proposals: First Kenneth Reeves, III
Second Mary Jane Baumgarten

Motion Results: Pass

Return to Agenda Item 3-A

Individuals Addressing the Board: Nancy Swetnam, Linda Grau, Eileen GilBride,
Richard Vanderheiden, Gary Strickland

Discussion: Further discussion in regards to a Consent Agreement and Letter of Concern. Mr. Strickland offered to draft and forward the proposed Consent Agreement for Board review in advance of the March 12,

2009 meeting.

Motion: Moved to invite Richard Vanderheiden, Eileen GilBride, and Gary B. Strickland to March 12, 2009 meeting for presentation and discussion of proposed revision of Consent Agreement.

Motion Proposals: First Mary Jane Baumgarten
Second Kenneth Reeves, III
Recusal Shari Tomlinson

Motion Results: Pass

4-C: Review, discussion, and possible action regarding pending applications for certification submitted by:

Stephanie Walker
Constance Olsen
Tamara Fitzsimmons
Pamela Walsma

Individuals Addressing the Board: Kimberly Siddall

Discussion: Regarding applicant Stephanie Walker, the application is complete. Staff recommended the Board grant initial certification.

Motion: Motion to accept staff recommendation.

Motion Proposals: First Kenneth Reeves, III
Second Mary E. Carlton
Recusal Pamela Johnston

Motion Results: Pass

Discussion: Regarding applicants Constance Olsen and Tamara Fitzsimmons, staff recommends the Board defer review of the applications to the next meeting as fingerprint card results have not yet been received.

Motion: Moved to defer to March 12, 2009 meeting.

Motion Proposals: First Mary E. Carlton
Second Kenneth Reeves, III

Motion Results: Pass

Discussion: Regarding applicant Pamela Walsma, staff recommended the Board grant initial certification.

Motion: Motion to accept staff recommendation.

Motion Proposals: First Kenneth Reeves, III
Second Mary E. Carlton

Motion Results: Pass

4-D: *Review, discussion, and possible action regarding request from Richard Kruger to sit for a 4th examination.*

Individuals Addressing the Board: Kimberly Siddall

Discussion: Mr. Kruger has taken and failed the certification exam three times. Pursuant to ACJA § 7-201, the Board must determine if Mr. Kruger can participate in the exam a 4th time. Discussion of letter received from applicant regarding personal circumstances and plan for additional study and preparation.

Motion: Motion to allow Mr. Kruger to sit for 4th examination.

Motion Proposals: First Marlin “Kip” Anderson
Second Judge Dean Fink

Motion Results: Pass

CALL TO THE PUBLIC

No response.

ADJOURNMENT

Motion: Adjourn the meeting.

Motion Proposals: First Mary E. Carlton
Second Judge Dean Fink

Motion Results: Pass

Time: 12:01 pm

Initials: BT

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