

Supreme Court Board of Fiduciary
Arizona State Courts Building
1501 West Washington Street, Phoenix, Arizona 85007
Conference Room CLD 1
January 10, 2008
10:00 am -2:00 pm

Approved Regular Minutes

MEMBER ATTENDANCE

Present:

Mary Jane Baumgarten
Mary E. Carlton
Diana L. Clarke
Honorable Dean Fink
Pamela Johnston
Kymberlei Putz
Sherry Reed

Telephonically Present:

Marlin "Kip" Anderson
Shari J. Tomlinson
Diana M. Corry

OTHER ATTENDEES

AOC Staff:

Kitty Boots
Linda Grau
Alex Navarro
Nina Preston
Kimberly Siddall
David Geriminsky
Jeanetta Waterbury

CALL TO ORDER

Called to Order By:

Shari J. Tomlinson

Time:

10:35 a.m.

1) REVIEW AND APPROVAL OF MINUTES

I-A: Discussion, review, and possible approval of the Regular Session Minutes of the meeting held on December 13, 2007.

Individuals Addressing the Board: None

Discussion: Board discussed the Regular Session Minutes of the meeting held on December 13, 2007.

Motion: Moved to Approve the Regular Session Minutes of the meeting held on December 13, 2007.

Motion Proposals: First: Mary E. Carlton
Second: Kymberlei Putz

Motion Results: Pass

2) PENDING COMPLAINTS

2-A: Formal Interview with certified fiduciary James Clark and possible action regarding complaint number 07-0003.

Individuals Addressing the Board: James Clark, Emily Holliday, Linda Grau

Discussion: Board conducted a Formal Interview with Mr. James Clark regarding complaint number 07-0003.

Motion: Moved to request staff prepare a Consent Agreement for forwarding to Mr. Clark for review and return prior to the February meeting.

Motion Proposals: First: Judge Dean Fink
Second: Diana L. Clarke

Motion Results: Pass

2-B: Formal Interview with certified fiduciary Donna Allison-Howard and possible action regarding complaint number 06-0007.

Individuals Addressing the Board: Emily Holliday, Linda Grau

Discussion: Staff reported Ms. Allison-Howard indicated she was amenable to entering a Consent Agreement to resolve complaint number 06-0007. Board reviewed a related correspondence received from Ms. Allison-Howard and a proposed draft of the Consent Agreement.

Motion: Moved to request staff forward the proposed draft of the Consent Agreement to Ms. Allison-Howard for review and return in advance of the February meeting.

Motion Proposals: First: Kimberlei Putz
Second: Judge Dean Fink

Motion Results: Pass

2-C: Review, discussion, and possible action regarding the proposed Consent Agreement with certified fiduciary Mildred Ellis regarding complaint number 03-0014.

Individuals Addressing the Board: Emily Holliday, Linda Grau

Discussion: Board discussed the proposed Consent Agreement with certified fiduciary Mildred Ellis regarding complaint number 03-0014.

Motion: Moved to accept the Consent Agreement and to authorize Board member Kymberlei Putz sign the document on behalf of the full Board.

Motion Proposals: First: Diana L. Clarke
Second: Mary E. Carlton

Motion Results: Pass

2-D: Review, discussion and possible action regarding Maricopa County Public Fiduciary Office and Richard Vanderheiden's request for stay of the payment of the costs imposed in the Final Order regarding complaint number 03-0010 pending ruling on the Special Action filed in Superior Court in Maricopa County case number LC2007-000748-0001 DT.

Individuals Addressing the Board: Nina Preston, Linda Grau

Discussion:

Motion: Moved to go to Executive Session at 11:07 a.m.

Motion Proposals: First: Diana L. Clarke
Second: Mary E. Carlton

Motion Results: Pass

Board entered Executive Session at 11:07 a.m.

Board returned to Regular Session at 11:20 a.m.

Motion: Move to acknowledge Rule 62 (G) is applicable in this instance to support a stay of the payment of ordered costs is warranted. However, the Board acknowledges it does not have jurisdiction to order a stay as a Special Action is pending in the Superior Court. The Board requests the Assistant Attorney General to take the actions necessary to effectuate a stay.

Motion Proposals: First: Judge Dean Fink
Second: Kymberlei Putz

Motion Results: Pass

3) CERTIFICATION AND ELIGIBILITY

3-A: Review, discussion and possible action regarding Hearing Officer Frederick Berry's recommendation report regarding the denial of the certification application submitted by James D. Otis.

Individuals Addressing the Board: Linda Grau, Nina Preston

Discussion: Board discussed Hearing Officer Frederick Berry's recommendation report regarding the denial of the certification application submitted by James D. Otis.

Motion: Moved to go to Executive Session at 11:32 a.m.

Motion Proposals: First: Kymberlei Putz
Second: Judge Dean Fink

Motion Results: Pass

Board Entered Executive Session at 11:32 a.m.

Board reentered Regular Session at 11:45 a.m.

Motion: Move to adopt the findings of fact, conclusions of law, and recommendation contained in Hearing Officer Frederick Berry's report and grant certification to James D. Otis.

Motion Proposals: First: Mary E. Carlton
Second: Pamela Johnston

Motion Results: Pass

3-B: Review, discussion, and possible action regarding Voluntary Surrender request received from certified fiduciary Dinah Boynton Layman, certificate number 20486.

Individuals Addressing the Board: Kimberly Siddall

Discussion: Board discussed Voluntary Surrender request received from certified fiduciary Dinah Boynton Layman, certificate number 20486.

Motion: Moved to accept the Voluntary Surrender request received from certified fiduciary Dinah Boynton Layman, certificate number 20486.

Motion Proposals: First: Mary E. Carlton

Second: Kymberlei Putz

Motion Results: Pass

3-C: Review, discussion, and possible action regarding Voluntary Surrender request received from certified fiduciary business Above and Beyond Representative Payee Services, Inc., certificate number 20501.

Individuals Addressing the Board: Kimberly Siddall

Discussion: Board discussed the Voluntary Surrender request received from certified fiduciary business Above and Beyond Representative Payee Services, Inc., certificate number 20501.

Motion: Moved to accept the Voluntary Surrender request received from certified fiduciary business Above and Beyond Representative Payee Services, Inc., certificate number 20501.

Motion Proposals: First: Mary E. Carlton
Second: Kymberlei Putz

Motion Results: Pass

3-D: Review, discussion, and possible action regarding petition received from Leslie K. Mann-Damon requesting the Board waive the ACJA § 7-202 (E)(1)(b) requirement and permit Ms. Mann-Damon to sit for the fiduciary certification examination.

Individuals Addressing the Board: Kimberly Siddall

Discussion: Board discussed Leslie K. Mann-Damon's request that the Board waive the ACJA § 7-202 (E)(1)(b) requirement and permit Ms. Mann-Damon to sit for the fiduciary certification examination.

Motion: Moved to waive the ACJA § 7-202 (E)(1)(b) requirement and permit Ms. Mann-Damon to sit for the fiduciary certification examination.

Motion Proposals: First: Kymberlei Putz
Second: Diana L. Clarke

Motion Results: Pass

4) ADMINISTRATIVE ISSUES

4-A: Report of the Fiduciary Duties Subcommittee.

Individuals Addressing the Board: Shari Tomlinson, Diana Clarke, Linda Grau

Discussion: The Subcommittee noted receipt of a letter from the Arizona Fiduciary Association dated December 11, 2007 which contains points, references, and objections regarding the proposals being considered by the Subcommittee in relation to Arizona Code of Judicial Administration § 7-202. The Subcommittee reported it will review and consider the letter and continue discussions,

4-B: Report of the POA Subcommittee.

Individuals Addressing the Board: Judge Dean Fink, Linda Grau

Discussion: The POA Subcommittee did not meet last month but will be meeting immediately following the Board meeting.

CALL TO THE PUBLIC

Individuals Addressing the Board: No Response

ADJOURNMENT

Motion: Adjourn the meeting.

Motion Proposals: First: Kymberlei Putz
Second: Pamela Johnston

Motion Results: Pass

Time: 12:30 p.m.