

Supreme Court Board of Fiduciary
Arizona State Courts Building
1501 West Washington, Phoenix, AZ 85007
Conference room 230
10:00 a.m. – 12:00 p.m.

February 8, 2007
Approved Regular Session Minutes

MEMBER ATTENDANCE

Present:

Mary E. Carlton
Diana L. Clarke
Commissioner Dean Fink
Robin B. Fuller
Barbara Howes
Stacey L. Johnson
Melissa K. King
Kymberlei Putz
Shari J. Tomlinson

Telephonically Present:

Marlin “Kip” Anderson

OTHER ATTENDEES

AOC Staff:

Kimberly Siddall
Linda Grau
J.R. Rittenhouse
Nancy Swetman
Kitty Boots
Dara Fonseth
Nina Preston

Guests:

Marie Breon

CALL TO ORDER

Called to Order By:

Shari Tomlinson, Chair

Time:

10:10 a.m.

1) ADMINISTRATIVE ISSUES

1-A: Review, discussion, and approval of Regular Session Minutes of the meeting held on January 11, 2007.

Individuals Addressing the Board: Linda Grau

Discussion: Technical amendments to the January 8, 2007 Regular Session Minutes requested by Mary Carlton and Kymberlei Putz.

Motion: To adopt the January 8, 2007 Regular Session Minutes with the requested technical amendments.

Motion Proposals: First Mary Carlton
Second Stacey Johnson

Motion Results: Pass Motion Carries

2) CERTIFICATION AND ELIGIBILITY

2-A: Review of pending applications for Standard certification.

Mark Mitchell
Belvet Elsouhag
Diane Fuller
Jeffrey Lake
Marilou Cleland
Carole Collins
William Yeniscavich

Individuals Addressing the Board: Linda Grau, Kimberly Siddall

Discussion: Kimberly Siddall reported applications for Belvet Elsouhag, Jeffery Lake, Marilou Cleland, and Carole Collins are complete, demonstrate the applicants meet the eligibility requirements and recommended certification be granted. Ms. Siddall recommended the Board defer consideration of the remainder of the applications to the March meeting pending receipt of additional requested information from applicants.

Motion: To grant certification to Belvet Elsouhag, Jeffery Lake, Marilou Cleland, and Carole Collins and defer review of the remainder of the applications to the March meeting.

Motion Proposals: First Shari Tomlinson
Second Barbara Howes

Motion Results: Pass Carries

2) CERTIFICATION AND ELIGIBILITY

2-B: Review, discussion, and possible action regarding petition received from Diana Kay Stagg requesting the Board waive the ACJA § 7-202 subsection (E)(1)(b) requirement and permit the Ms. Stagg to sit for the fiduciary certification examination.

Individuals Addressing the Board: Kimberly Siddall, Linda Grau

Discussion: Kimberly Siddall reported Ms. Stagg does not meet the required experience in ACJA § 7-202 (E)(1)(b) to participate in the examination. Linda Grau informed member of the options open; members continued discussion with questions presented answered by staff.

Motion: To defer application to March meeting for further discussion petition to waive requirements and staff to provide application and back up information.

Motion Proposals: First Stacey Johnson
Second Commissioner Dean Fink

Motion Results: Pass Carries

Continued

Discussion: The Board revisited the motion and continued to discuss the provisions of the ACJA section related to waiver of eligibility requirements needed to sit for the examination.

Motion: To vacate the earlier motion to defer consideration of Ms. Staggs' request to the March meeting and deny the request and direct Ms. Stagg to submit the required Affidavit.

Motion Proposals: First Commissioner Dean Fink
Second Melissa King

Motion Results: Pass Carries

2) CERTIFICATION AND ELIGIBILITY

2-C: Review, discussion, and possible action regarding request for inactive status received from Bannie L. Hembree.

Individuals Addressing the Board: Kimberly Siddall

Discussion: Kimberly Siddall reported Ms. Hembree submitted a request for her certification to be placed on inactive status of her certification. The Board discussed the request and the related ACJA requirements. Staff recommended Ms. Hembree's request for inactive status be granted.

Motion: To grant Ms. Hembree's request for inactive status.

Motion Proposals: First Barbara Howes
Second Mary Carlton

Motion Results: Pass Carries

2) CERTIFICATION AND ELIGIBILITY

2-D: Review, discussion, and possible action regarding tasks requiring fiduciary certification.

Individuals Addressing the Board: Linda Grau, Nancy Swetnam

Discussion: Linda Grau provided the Board with an overview of the issue addressed by the Arizona Judicial Council pertaining to the length of time a person can be a trainee at the June 2006 meeting of the Council. Ms. Grau noted the Council requested further exploration and information of specified tasks and decisions which should be completed or made by those who hold active fiduciary certification. Staff recommendation the Board discuss the issue and develop a plan for drafting a list of specific tasks and decisions to submit to Arizona Judicial Council for consideration. Nancy Swetnam addressed current related issues pertaining to trainee and certificate holder experience and regulations. The Board discussed the issue. Staff recommended the Board form a Subcommittee to consider the issue in detail.

Motion: To form Subcommittee of Board Members, including Diana Clarke, Kimberlei Putz, Pamela Johnston, and Shari Tomlinson to meet and consider the issue and the AJC request and report back to the Board at the March meeting.

Motion Proposals: First Diana Clarke
Second Commissioner Dean Fink

Motion Results: Pass Carries

3) REVIEW OF PENDING COMPLAINTS

3-A: Review of complaints dismissed by Division Director, pursuant to Arizona Code of Judicial Administration § 7-201 (D)(4)(a) and (H)(2)(b):

Complaint Number 06-0015
Complaint Number 06-0017
Complaint Number 06-0019

Individuals Addressing the Board: Nancy Swetnam

Discussion: Nancy Swetnam provided an overview of the complaints and the dismissal orders previously entered.

Complaint Number 06-0015:

Motion: To affirm the Division Director dismissal, with prejudice, of complaint number 06-0015 as the alleged misconduct falls outside the jurisdiction of the Supreme Court and to refer the complaint to Adult Protective Services.

Motion Proposals: First Mary Carlton
Second Barbara Howes
Recusals Commissioner Dean Fink
Melissa King

Motion Results: Pass Carries

Complaint Number 06-0017:

Motion: To affirm the Division Director dismissal, with prejudice, of complaint number 06-0017 as the alleged misconduct falls outside the jurisdiction of the Supreme Court.

Motion Proposals: First Mary Carlton
Second Melissa King
Recusals Pamela Johnston

Motion Results: Pass Carries

Complaint Number 06-0019:

Motion: To affirm the Division Director dismissal, with prejudice, of complaint number 06-0019 as the alleged misconduct falls outside the jurisdiction of the Supreme Court.

Motion Proposals: First Melissa King
Second Mary Carlton
Recusals Pamela Johnston

Motion Results: Pass Carries

CALL TO THE PUBLIC

Shari Tomlinson, Chair

No response received.

ADJOURNMENT

Motion: To adjourn.

Motion Proposals: First Barabara Howes
Second Stacey Johnston

Motion Results: Pass Carries

Time: 11:45 a.m.

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