



Supreme Court Fiduciary Board

Arizona State Courts Building
1501 West Washington Street
Phoenix, Arizona 85007-3222
Conference Room 109

Date: January 14, 2010
Time: 10:30 am – 1:30 pm

Approved Regular Meeting Minutes

MEMBER ATTENDANCE:

Present:

Shari Tomlinson
Diana L. Clarke
Kenneth Reeves, III
Deborah Primock
Pamela Johnston
Sherry Reed

Telephonically Present:

Mary Jane Baumgarten
Marlin "Kip" Anderson
Diana M. Corry

Absent:

OTHER ATTENDEES

AOC Staff:

Linda Grau
Debbie MacDougall
Kimberly Siddall
Nina Preston
Bonnie Toms
Lori Braddock
Karla Clanton
Alex Navarro
Tony Posante
Kitty Boots

Guests:

Silvia Arellano
Ron Gann
Paul Burtlelt
Elizabeth Hedge
Heather Bull
Todd Butzine
Clair DiPardo
Dennis Andrew Bull

CALL TO ORDER

Called to Order By:

Shari J. Tomlinson

Time:

10:34 a.m.

1) REVIEW AND APPROVAL OF MINUTES

1-A: Discussion, review, and possible approval of the Regular Session Minutes of the meeting held on November 12, 2009.

Individual Addressing the Board: Shari Tomlinson

Discussion: No discussion.

Motion: Move to approve the Regular Session Minutes of the meeting held on November 12, 2009.

Motion Proposals: First Diana L. Clarke
Second Kenneth Reeves, III

Motion Results: Pass

1-B: Discussion, review, and possible approval of the Executive Session Minutes of the meeting held on November 12, 2009.

Individuals Addressing the Board: Shari Tomlinson

Discussion: No discussion.

Motion: Move to accept and approve the Executive Session Minutes of the meeting of November 12, 2009.

Motion Proposals: First Pamela Johnston
Second Sherry Reed

Motion Results: Pass

2) PENDING COMPLAINTS

2-A: Review, discussion and possible action regarding complaint number 07-0030 and certificate holder Southwest Fiduciary, Inc.

Individuals Addressing the Board: Linda Grau

Discussion: On December 21, 2009, Probable Cause Evaluator Mike Baumstark entered a finding probable cause does not exist in complaint number 07-0030. It was recommended the Board accept the finding of the Probable Cause Evaluator and dismiss complaint number 07-0030.

Motion: Move to accept the finding of the Probable Cause Evaluator and dismiss complaint number 07-0030.

Motion Proposals: First Kenneth Reeves, III
Second Diana L. Clarke
Recusal Deborah Primock
Motion Results: Pass

3) ADMINISTRATIVE ISSUES

3-A: Discussion regarding amendments to ACJA § 7-202 and the Fiduciary Board Regulatory Scope Subcommittee.

Individuals Addressing the Board: Linda Grau

Discussion: Chief Justice Rebecca White Berch entered Administrative Order Number 2009-105 making technical amendments to ACJA § 7-202 to implement the provisions of Chapter 138, House Bill 2317, as passed by the Arizona State Legislature during the 2009 Regular Session, effective September 30, 2009.

At the November 12, 2009 meeting, the Board received and discussed a proposal submitted by the Arizona Fiduciaries Association offering a re-write of the Code of Conduct, extending beyond the matter of HB2317. The Board requested interested volunteers for appointment to the Regulatory Scope Subcommittee; submit a request for consideration no later than December 23, 2009. No new public comments have been received to date.

The following individuals volunteered for appointment to the Regulatory Scope Subcommittee:

- Pamela Johnston of Certified Fiduciary Services, Inc.
- Tricia Powers of the Coconino County Public Fiduciary Office
- Martin Zachreson
- Jay Polk of DeConcini McDonald Yetwin & Lacy, P.C.
- Silvia Arellano of the Maricopa County Public Fiduciary Office
- The Honorable Dean Fink
- Heather Winters-Bull of The Sun Valley Group, Inc.
- Lisa Price
- Diana Clarke

It was recommended the Board:

- 1) Appoint all of the volunteers listed above as members of the Regulatory Scope Subcommittee with the stated purpose of reviewing and considering the public comments received through January 8, 2010,

- 2) Appoint Judge Dean Fink to continue to serve as the Chair of the Subcommittee,
- 3) Request the Regulatory Scope Subcommittee return to the Board with a recommendation regarding possible proposed amendments to ACJA § 7-202 relative to HB2317,
- 4) Set a deadline date for the Subcommittee to return to the board with a recommendation regarding any proposed amendments to ACJA § 7-202 at the July Board meeting.

Motion: Move to adopt the recommendation, which includes, appointment of a committee as listed above, continued chairmanship by Judge Dean Fink, with July 8, 2010 Fiduciary Board Meeting as the deadline for the subcommittee to have the report back to the Board, with the chairman having discretion with respect to setting meeting times.

Motion Proposals: First Kenneth Reeves, III
Second Diana L. Clarke

Motion Results: Pass

3-B: Report to the Board regarding status of board member recruitment.

Individuals Addressing the Board: Linda Grau

Discussion: Recommendation to reappoint those with terms that expired on December 31, 2009 has been approved. Aggressive recruitment is ongoing and we hope to have that resolved in the next several weeks.

3-C: Review, discussion, and possible action regarding the establishment of the 2010 renewal application deadline.

Individuals Addressing the Board: Kimberly Siddall

Discussion: The Fiduciary renewal deadline is coming up. All Fiduciary Certifications expire May 31. It is recommended that the Board establish April 22, 2010 as the renewal application deadline. That deadline will result in all applications submitted between April 23 through May 31 be assessed a \$50 late fee pursuant to ACJA 7-202 K(3)(D).

Motion: Move to adopt recommendation of staff.

Motion Proposals: First Kenneth Reeves, III
Second Pamela Johnston

Motion Results: Pass

4) REVIEW OF CERTIFICATION APPLICATIONS

4-A: Review, discussion, and possible action regarding pending applications for certification.

Individuals Addressing the Board: Kimberly Siddall

James J. Schmelzle
Northern Arizona Fiduciary Services, P.L.L.C (Sarah Holcomb)

Discussion: It was recommended standard certification be granted.

Motion: Move to grant as recommended.

Motion Proposals: First Kenneth Reeves, III
Second Pamela Johnston

Motion Results: Pass

Joe D. Cannon
Ellen Matthews

Discussion: It was recommended the applications be deferred to the March 11, 2010 meeting.

Motion: Move to defer to March 11, 2010 meeting.

Motion Proposals: First Diana L. Clarke
Second Kenneth Reeves, III

Motion Results: Pass

4-B: Interview with and possible action regarding pending application for Ronald R. Gann.

Individuals Addressing the Board: Kimberly Siddall, Ron Gann

Discussion: During the November 12, 2009 Board meeting, the Board requested Gann appear at this Board meeting to address the Board's questions regarding Gann's misdemeanor conviction. It was recommended the Board address the misdemeanor conviction and determine if this issue presented any information contrary to certification being granted.

Board questioned Gann.

Motion: Move to deny standard certification pursuant to ACJA 7-201 E(2)(c)(iv) for Ronald R. Gann.

Motion Proposals: First Kenneth Reeves, III
Second Diana L. Clarke

Motion Results: Pass

4-C: Interview with and possible action regarding pending application for Elizabeth Hedger.

Individuals Addressing the Board: Kimberly Siddall

Discussion: It was recommended the Board enter executive session for this agenda item.

Motion: Move to enter into Executive Session.

Motion Proposals: First Mary Jane Baumgarten
Second Diana L. Clarke

Motion Results: Pass

Executive Session 11:10 to 11:19 a.m.

Discussion: During the November 12, 2009 Board meeting, the Board requested Hedger to appear at this Board meeting to address the Board's questions regarding Hedger's financial situation. It was recommended the Board address the financial situation and determine if this issue presents any information contrary to certification being granted.

Motion: Move to grant certification to Elizabeth Hedger.

Motion Proposals: First Diana L. Clarke
Second Kenneth Reeves, III

Motion Results: Pass

5) CERTIFICATION AND ELIGIBILITY

5-A: Review, discussion, and possible action regarding request for placement on Inactive Status received from licensed fiduciary Robert Sumners, License Number 20600.

Individuals Addressing the Board: Kimberly Siddall

Discussion: Staff recommended the Board accept the transfer of the certificate holder to inactive status in good standing.

Motion: Move to accept the transfer of the certificate holder to inactive status in good standing.

Motion Proposals: First Marlin “Kip” Anderson
Second Deborah Primock
Recusal Shari J. Tomlinson

Motion Results: Pass

5-B: Review, discussion, and possible action regarding request for an extension of time to re-take the fiduciary examination.

Pam Phillips

Individuals Addressing the Board: Kimberly Siddall

Discussion: Ms. Phillips sat for the October 28, 2009 examination and results of the exam were mailed on November 5, 2009. Ms. Phillips requested to retake the examination on December 22, 2009, which is past the 30 day requirement pursuant to ACJA 7-201 (E)(1)(f)(2)(b)(ii).

Staff recommends the Board determine whether the above requests should be granted an extension of time and direct staff accordingly.

Motion: Move to grant an extension and allow Pam Phillips to retake the exam.

Motion Proposals: First Kenneth Reeves, III
Second Pamela Johnston
Recusal Sherry Reed

Motion Results: Pass

5-C: Interview with and possible action regarding request for waiver of the requirement of applicant’s experience received from Charles Butzine.

Individuals Addressing the Board: Kimberly Siddall, Mr. Butzine

Discussion: It was recommended the Board address Mr. Butzine’s education and experience and determine if ACJA § 7-202 (E)(1)(b)(9) applies. Board questioned Mr. Butzine regarding the type of experience possessed by Mr. Butzine.

Motion: Move to deny the request to waive the experience requirement as a predicate to taking exam.

Motion Proposals: First Diana L. Clarke
Second Pamela Johnston

Motion Results: Abstain Kenneth Reeves, III
Pass

CALL TO THE PUBLIC

No Response

ADJOURNMENT

Motion: Move to adjourn.

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

Motion Results: Pass

Time: 11:44 a.m.

Initials: AF

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