**JUDICIAL BRANCH CERTIFICATION COMMISSION**
**MINUTES OF THE MEETING**

Third Court of Appeals
Price Daniel Sr. Building
209 W. 14th Street, Room 101
Austin, Texas 78701
Friday, August 5, 2016
(10:00 a.m. Until Adjournment)

The meeting of the Judicial Branch Certification Commission (JBCC or Commission) was called to order by Judge Lee Hamilton, Chair, at 10:04 a.m., Friday, August 5, 2016. Members present were Judge Lee Hamilton, Chair; Judge Migdalia Lopez; Judge Polly Spencer; Velma Arellano; Mark Blenden; Don Ford; Ann Murray Moore and Judge Ben Woodward. Judge Sid Harle attended by phone for the morning session.

Staff members present were Jeff Rinard, Certification Division Director; Scott Gibson, JBCC General Counsel; Michele Henricks, Compliance Manager; Lesley Ondrechen, Licensing Manager; Tyees Holcombe, Judicial Regulatory Assistant; Jilian Stengle, Investigator; Chris Nelson, Licensing Specialist; Christelle Moore, Licensing Specialist; and Veena Mohan, Assistant Attorney General.

Complaint review committee members appearing by telephone conference call were Molly Pela, Chair of the Complaint Review Committee of the Court Reporters Certification Advisory Board; Pat Dyer, Chair of the Complaint Review Committee of the Process Server Certification Advisory Board; and Melissa Fischer, Chair of the Complaint Review Committee of the Licensed Court Interpreters Advisory Board.

Agenda Item III, Opening Remarks.
Judge Hamilton recognized Suzette Magee, a member of the Louisiana Board of Examiners of Certified Shorthand Reporters.

Jeff Rinard, Certification Division Director gave a status update on the JBCC and the Certification Division, including the February 2017 expiration of three Commissioners' terms.

Agenda Item IV, Approval of Prior Meeting Minutes.
May 6, 2016 and June 7, 2016 minutes were approved.

Agenda Item V, Disciplinary Hearing
Court Reporters Certification

A. In the Matter of Gay Richey, Cause Nos. CSR-15-07260-064 and 01-CSR-2016

Respondent Gay Richey and her attorney, Fernando Mancias, appeared in person. Complainant Hilda Garza and witness Brendaly Guerrero joined the meeting by telephone conference call.

Ms. Mohan presented the case against Ms. Richey in both complaints. Violations alleged in both complaints are failure to file complete records timely, failure to respond to Complainant and failure to file a written answer with the Commission. Additional violations in 15-CSR-07260-064 are failure to produce an itemized invoice, failure to comply with a court order to do so, and failure to maintain a current mailing address with the Commission. Another violation in 01-CSR-2016 is failure to file a record after payment of a deposit.

The Chair noted that neither the Respondent nor her attorney attended the pre-hearing conference and no exhibits were provided. He admitted the exhibits provided by Ms. Mohan for both cases.

After being duly sworn, Ms. Garza was questioned by Ms. Mohan and cross-examined by Mr. Mancias regarding cause number 01-CSR-2016. Her testimony related to the events and consequences of Ms. Richey's failure to produce complete, timely records. At the conclusion of Ms. Garza's testimony, Ms. Guerrero was sworn in. She was questioned by Ms. Mohan and cross-examined by Mr. Mancias on her testimony related to the exhibits and other documents maintained by the district clerk's office.

Mr. Mancias declined to give an opening statement. He called Ms. Richey to testify. After being duly sworn, Ms. Richey was questioned by Mr. Mancias and cross-examined by Ms. Mohan. She testified regarding the events leading to her not producing a transcript. On re-direct and re-cross, Ms. Richey described her work situation and her experience as a court reporter.

At the conclusion of Ms. Richey's testimony, Ms. Mohan recalled Ms. Garza to testify in cause number CSR-15-07260-064. She was questioned by Ms. Mohan and cross-examined by Mr. Mancias. Ms. Garza's testimony related to the events and consequences of Ms. Richey's failure to produce complete, timely records. She also testified regarding payment for a transcript. At the conclusion of Ms. Garza's testimony, Investigator Stengle was duly sworn and questioned by Ms. Mohan, with cross-examination by Mr. Mancias. Investigator Stengle testified regarding her contact with Ms. Richey regarding the complaint.

Ms. Mohan gave her closing statement, urging the Commission to find the stated violations and impose the recommended sanctions.

Mr. Mancias questioned Ms. Richey further regarding the events surrounding complaint number 15-CSR-07260-064, and Ms. Mohan cross-examined her. Ms. Richey's testimony included an explanation for missing deadlines and her failure to respond. Ms. Richey then answered questions from the Commissioners relating to her workload and job duties. Ms. Mohan questioned Investigator Stengle as a rebuttal witness.

Mr. Mancias declined to give a closing statement. A motion was made and seconded to find violations as asserted by the prosecuting attorney. The motion carried with one abstention. Mr. Gibson noted that although the findings of fact and conclusions of law are separate for each complaint, the recommended sanction would apply to both complaints.

A motion was made and seconded to issue a public reprimand; to suspend Ms. Richey's license for twelve months, with the suspension fully probated; to require her to complete a total of ten hours of continuing education in Rules and Ethics (five hours per case) in addition to the ten hours required for renewal; and to assess a $500 administrative penalty ($250 per case). The probated suspension is conditioned on completion of the continuing education and payment of the administrative penalty. An amendment was made and seconded to allow one year from the date of the final order to complete the continuing education and pay the administrative penalty. In addition, Ms. Richey is required to file a monthly report with the JBCC of records she is transcribing, including the date each record is due and the status of completion. There being no further discussion, the motion carried with one abstention. Following the vote, Chairman Hamilton and Mr. Blenden addressed comments to Ms. Richey.

The meeting adjourned at 12:08 p.m. and reconvened at 12:47 p.m.

<u>Agenda Item VI, Approval of Determination for Disciplinary Action and Issuance of Final Order by JBCC from Complaints Considered on May 6, 2016.</u>
Court Reporters Certification:
A. In the Matter of Angelia Singleton, Cause No. CSR-15-06509-084
This item was issued as a default order. Ms. Singleton did not respond to the letter notifying her of the recommended sanction and did not appear at this meeting. After discussion, a motion was made and seconded to issue a public reprimand and to impose an administrative penalty of $500 with the following terms and conditions:

- Complete four hours of continuing education in Rules and Ethics within one year of the date of the final order. This continuing education requirement is in addition to the ten hours of continuing education required for renewal of certification.
- Payment of administrative penalty of $500 is due within one year of the

date of the final order.

After discussion, the motion carried. A motion was made and seconded to find that Ms. Singleton had violated the rules as stated and to adopt the recommended disciplinary action.

Complainant Sharon Hernandez appeared by telephone. She addressed the Commission regarding three complaints heard at the May 6, 2016 meeting, including the complaint against Ms. Singleton. Ms. Hernandez alleged bias in the treatment of the Respondent court reporters in the referenced complaints, and requested that all three receive the same sanctions. Ms. Mohan and Ms. Pela denied the allegations. The Chair noted the Commission was not noticed to discuss the other two complaints, which were dismissed at the May 6 meeting.

There being no further discussion in the matter before the Commission, the motion carried.

Process Server Certification
B. In the Matter of James "Jimmy" Andrews, Cause No. 05-PS-2016
This item was issued as a default order. Mr. Andrews did not respond to the letter notifying him of the recommended sanction and did not appear at this meeting. A motion was made and seconded to issue a letter of reprimand. There was no discussion, and the motion carried.

A motion was made and seconded to find that Mr. Andrews had violated the rules as stated and to adopt the recommended disciplinary action. The motion carried.

C. In the Matter of Lillian Zapata, Cause No. 11-PS-2016
Ms. Mohan advised the Commission that Ms. Zapata had accepted the Commission's determination. A motion was made and seconded to issue a letter of reprimand with the following condition:

- Require that the Respondent retake the seven-hour precertification civil process service education course approved by the JBCC within six months of the final order.

There was no discussion, and the motion carried. A motion was made and seconded to find that Ms. Zapata had violated the rules as stated and to adopt the recommended disciplinary action. The motion carried.

D. In the Matter of Sergio Lane, Cause No. 26-PS-2016
This item was issued as a default order. Mr. Lane did not respond to the letter notifying him of the recommended sanction and did not appear at this meeting. A motion was made and seconded to adopt the facts, find that Mr. Lane had violated the rules as stated and to adopt the recommended sanction to issue a

letter of reprimand. There was no discussion, and the motion carried.

Agenda Item VII, Advisory Board Complaint Review Committee and Staff Recommendations to Dismiss Complaints.
Court Reporters Certification Complaint Review Committee – June 3, 2016
A. In the Matter of Martha Grant, Cause No. 30-CSR-2016
Ms. Mohan reported the Complaint Review Committee found no violations and recommended dismissal of this complaint. There being no discussion, and upon proper motion and second, the complaint was dismissed.

B. In the Matter of Ellie Klemens, Cause No. 41-CSR-2016
Ms. Mohan summarized the facts of the case. The Respondent and Complainant disagree whether the hearing for which Complainant requested a transcript was on record. Complainant Jason Fregia and Ellie Klemens appeared by telephone and addressed the Commission.

A motion was made and seconded to dismiss the complaint. After further discussion, the motion carried.

Process Server Complaint Review Committee – June 2, 2016
C. In the Matter of Rayvonnia Thompson, Cause No. 36-PS-2016
Ms. Mohan summarized the complaint, and Mr. Dyer addressed the Commission regarding the Complaint Review Committee's recommendation. There being no discussion, and upon proper motion and second, the complaint was dismissed.

D. In the Matter of Angela K. Austin, Cause No. 39-PS-2016
Ms. Mohan summarized the facts of the case, noting that statements made by the Complainant were not corroborated during the course of the investigation. There being no discussion, and upon proper motion and second, the complaint was dismissed.

E. In the Matter of Thomas Saucedo, Cause No. 44-PS-2016
Ms. Mohan summarized the complaint. There being no discussion, and upon proper motion and second, the complaint was dismissed.

Licensed Court Interpreters Complaint Review Committee – July 15, 2016
F. In the Matter of Mari Mattingly, Cause no 53-LCI-2016
Ms. Mohan summarized the complaint, and Ms. Fischer addressed the Commission regarding the Committee's recommendation. There being no discussion, a motion was made and seconded to dismiss the complaint. The motion carried.

Guardianship Certification
G. In the Matter of Sarah Watts, Cause No. CG-15-00353-079

Ms. Mohan advised the Commission that the complaint was withdrawn by the Complainant after the Commission's action on a previous complaint; therefore, staff recommends dismissal. There being no discussion, upon proper motion and second, the complaint was dismissed.

Staff Recommendations – Court Reporters Certification
H. In the Matter of Helen Wooten, Cause No. 51-CSR-2016
I. In the Matter of Brenna Short, Cause No. 59-CSR-2016
J. In the Matter of Brenna Short, Cause No. 64-CSR-2016
K. In the Matter of Brenna Short, Cause No. 75-CSR-2016
These four matters were taken in a bloc. Although the incidents complained of occurred while Ms. Wooten and Ms. Short were certified court reporters, neither is certified at this time due to previous disciplinary actions taken by the Commission; refusal to renew and revocation, respectively. Staff recommends dismissal based on the status of the Respondents' certifications. A motion was made and seconded to dismiss the complaints. After discussion, the motion carried and the complaints were dismissed.

Agenda Item VIII, Advisory Board Complaint Review Committee Recommendation for Disciplinary Action
Process Servers Complaint Review Committee – June 2, 2016
A. In the Matter of Pablo Ortega, Cause No. 46-PS-2016
Ms. Mohan summarized the complaint. Upon proper motion and second, the Commission found violations as stated. There being no further discussion, a motion was made and seconded to issue a letter of reprimand with the following condition:

- Require that the Respondent retake the seven-hour precertification civil process service education course approved by the JBCC within six months of the final order.

Following discussion, including comments from Mr. Dyer, the motion carried.

Agenda Item IX, Administrative Dismissal of Complaints.
Following a brief summary of each case by Ms. Mohan, and upon proper motion and second, the Commission ratified administrative dismissal of the following matters:

Court Reporter Certification
A. In the Matter of Cause No. 06-CSR-2016
B. In the Matter of Cause No. 40-CSR-2016
C. In the Matter of Cause No. CSR-15-08461-069
D. In the Matter of Cause No. 54-CSR-2016
E. In the Matter of Cause No. 58-CSR-2016

Guardianship Certification
F. In the Matter of Cause No. 50-CG-2016

Process Server Certification
G. In the Matter of Cause No. 48-PS-2016
H. In the Matter of Cause No. 74-PS-2016

Licensed Court Interpreters
I. In the Matter of Cause No. 12-LCI-2016
J. In the Matter of Cause No. 56-LCI-2016
K. In the Matter of Cause No. 57-LCI-2016

Agenda Item X, Request for Reconsideration - Administrative Dismissal of Complaints.
Ms. Mohan gave a brief summary of each case.

Court Reporter Certification
A. In the Matter of Cause No. 43-CSR-2016
The basis for the complaint concerns inaccuracies in the record. Inaccuracies in the record are not within the Commission's jurisdiction; the remedy lies with the courts. Upon proper motion and second, the Commission affirmed its previous decision to ratify the administrative dismissal.

B. In the Matter of Cause No. 58-CSR-2016
This complaint concerns inaccuracies in the record and allegations that the record is not complete, which are not within the Commission's jurisdiction. The remedy lies with the courts. The Commission ratified the administrative dismissal of the complaint earlier in this meeting. Upon proper motion and second, the Commission affirmed its previous decision to ratify the administrative dismissal.

C. In the Matter of Cause No. 57-LCI-2016
The Complainant in this case alleges that the interpreter failed to interpret all of the court proceeding and that the interpretation was not accurate. Inaccuracies in interpretation are not within the Commission's jurisdiction. The Commission ratified the administrative dismissal of the complaint earlier in this meeting. There being no discussion, and upon proper motion and second, the Commission affirmed its previous decision to ratify the administrative dismissal.

Agenda Item XI, Administrative Matters Relating to the JBCC.
A. Guardianship Compliance Project Update
Mr. Rinard gave a report on the status of the project, noting that reviews are being conducted in six counties. He updated the Commission on various aspects of the project, including the creation of a registry of all guardians similar to that used in Minnesota.

B. Guardianship Certification Code of Ethics and Minimum Standards
Mr. Rinard reported that the Code has been approved by the Supreme Court. The approved Code is now posted on the JBCC website.

C. Licensing Database Replacement Update
Mr. Rinard reported on the status of the project. He advised the Commission that demonstrations from three prospective vendors are scheduled for the end of August.

D. JBCC Meeting Dates
1. The next meeting is scheduled for November 4, 2016.

Agenda Item XII, Public Comments.
Public comment was received from Susan Perry Miller. She suggested that freelance court reporters and court reporting firms be notified by Commission staff when a court reporter's certification is revoked. Mr. Rinard will make a recommendation on any possible action at the next Commission meeting.

Ms. Miller provided a document regarding her proposal that court reporters earn continuing education credit for doing pro bono depositions. The Chair requested that Ms. Miller file a second request in writing to forward to the Court Reporters Advisory Board.

Agenda Item XIII, Report from Chair.
The Chair did not make a report, but expressed his appreciation for the work done by the Commission and its staff.

Agenda Item XIV, Adjournment.
The meeting was adjourned at 1:48 p.m.

Lee Hamilton

Judge Lee Hamilton, Chair

11-4-16

Date