

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

John H. Reagan Building
105 W. 15th Street, Room 140
Austin, Texas 78701
Friday, October 30, 2015
(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 10:06 a.m., Friday, October 30, 2015. Members present were Judge Lee Hamilton, Chair; Judge Migdalia Lopez; Judge Polly Spencer; Velma Arellano; Mark Blenden; Don Ford; and Ann Murray Moore. Judge Sid Harle and Judge Ben Woodward were not present.

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; and Veena Mohan, Assistant Attorney General.

Complaint review committee members present and appearing by telephone conference call were Molly Pela, Chair of the Complaint Review Committee of the Court Reporters Certification Advisory Board, and Jason Armstrong, Complaint Review Committee of the Guardianship Certification Advisory Board.

Agenda Item III, Opening Remarks.

Jeff Rinard, Certification Division Director gave a status update on the JBCC and the Certification Division, including administration of the required exams for guardians and court interpreters. He also updated the Commission on the guardianship auditing pilot program.

Agenda Item IV, Approval of Prior Meeting Minutes.

August 7, 2015 minutes were approved.

Agenda Item V, Approval of Determination for Disciplinary Action by JBCC and Issuance of Final Order - complaints considered by JBCC on August 7, 2015.

Items A and B, and C-G were issued as default orders.

Court Reporters Certification:

In the Matter of Brenna Short

A. Cause No. CSR-15-09210-033

B. Cause No. CSR-15-09210-035

A motion was made and seconded to suspend Ms. Short's certification as a court reporter for 12 months, fully probated, under the following terms and conditions:

- Ms. Short must complete 10 hours of continuing education with 5 hours in Rules and Ethics within six months of issuance of the final order. The 10 hours are in addition to the 10 hours of continuing education required for renewal of certification;
- Ms. Short must submit 3 certified transcripts and corresponding audio recordings for review by a mentor compensated by Ms. Short. The mentor will be approved and selected by Michele Henricks from a list of 3 candidates submitted by Ms. Short; and
- Ms. Short cannot incur any substantiated violations during the 12 month probated suspension period.

After discussion, the motion carried. Upon proper motion and second, the Commission found that Ms. Short had violated the rules as stated and adopted the recommended disciplinary action.

Guardians Certification:

In the Matter of Sarah Watts

C. Cause No. CG-15-00353-031

D. Cause No. CG-15-00353-037

E. Cause No. CG-15-00353-045

F. Cause No. CG-15-00353-056

G. Cause No. CG-15-00353-065

Upon proper motion and second, the Commission adopted the findings of violation of rules and standards. A motion was made and seconded to refuse to renew Ms. Watts' certification effective on the date of the final order; to assess an administrative penalty in the amount of \$25,500 (51 violations x \$500 per violation), due and payable within two years of the date of the final order; and to direct staff to notify Texas courts of the disciplinary taken by the Commission. After discussion, the motion carried.

To accommodate those who appeared in person and by telephone, several items relating to complaints under Agenda Items VI and VII were taken up out of order.

Agenda Item VI, Advisory Board Complaint Review Committee

Recommendations to Dismiss Complaints

Process Servers Complaint Review Committee – August 21, 2015

A. In the Matter of Danny Hinkle, Cause No. CPS-15-05692-036

Complainant Jean Smoot participated in the meeting by telephone conference call. Witness David Smoot appeared in person. Chairman Hamilton stated that

the meeting is not an evidentiary proceeding, and it is not a trial. He summarized the steps in the complaint process, and explained that the Commission receives evidence only if the Respondent requests a formal hearing.

Ms. Smoot and Mr. Smoot addressed the Commission regarding Mr. Hinkle's actions and statements. After discussion, a motion was made and seconded to refer the matter back to the Complaint Review Committee for further action, focusing on whether the Respondent presented himself as a process server and locating and interviewing a missing witness. The motion carried.

The Commission recessed at 11:10 a.m. and reconvened at 11:20 a.m.

Process Servers Complaint Review Committee - August 21, 2015 and October 15, 2015

Recommendations for dismissal of complaints against process servers enumerated in items B-F were taken up as a block. Ms. Mohan noted there are two cases in which Denise La Fleur is the Respondent; Cause No. CPS-15-10483-071 is recommended for dismissal.

- B. In the Matter of Lynda Thompson, Cause No. CPS-15-03214-038
- C. In the Matter of Julia Fowler, Cause No. CPS-15-010245-061
- D. In the Matter of Monica Krejci, Cause No. CPS-15-03911-067
- E. In the Matter of Denise La Fleur, Cause No. CPS-15-10483-071
- F. In the Matter of Carl Boodram, Cause No. CPS-15-02400-073

Upon proper motion and second, the Commission adopted the recommendation to dismiss the referenced complaints.

Guardianship Certification Complaint Review Committee - September 15, 2015

- H. In the Matter of LaFreda Smith, Cause No. CG-15-00099-055
- J. In the Matter of Sheila (Watts) Collier, Cause No. CG-15-00129-066

Upon proper motion and second, the Commission adopted the recommendation to dismiss the referenced complaints.

- I. In the matter of Ronald Turpin, Cause No. CG-15-00061-057

Ms. Mohan advised the Commission that the Complainant had withdrawn the complaint, and it is recommended for dismissal on that basis. Upon proper motion and second, the complaint was dismissed.

Court Reporters Certification Complaint Review Committee - October 14, 2015

- L. In the Matter of Beverly Dixon, Cause No. CSR-15-01627-043
- M. In the Matter of Misty McAdams, Cause No. CSR-15-05682-046
- N. In the Matter of Marcie Powell, Cause No. CSR-15-07829-047

O. In the Matter of Nancy Brewer, Cause No. CSR-15-05759-059

Ms. Mohan noted that after the recommendation for dismissal was made, the Complainant withdrew the complaint in Cause No. CSR-15-05682-046. Upon proper motion and second, the referenced complaints were dismissed.

Agenda Item VI, Advisory Board Complaint Review Committee
Recommendations to Dismiss Complaints

Court Reporters Certification Complaint Review Committee - October 14, 2015

K. In the Matter of Cassie Condry, Cause No. CSR-15-09035-042

Upon proper motion and second, the Commission adopted the recommendation to dismiss the complaint with comment that a certified shorthand reporter shall deliver a transcript or reporter's record in a timely manner as determined by statute, court order, or agreement. An official court reporter shall furnish the transcript to a person no later than the 120th day after the date the application for the transcript is received by the reporter and the transcript is paid or the person establishes indigency.

Agenda Item VII, Advisory Board Complaint Review Committee
Recommendations for Disciplinary Action

Process Servers Complaint Review Committee - October 15, 2015

B. In the Matter of Stan Sikorski, Cause No. CPS-15-02482-044

Ms. Mohan reported that this complaint is being referred back to the Complaint Review Committee to afford the Respondent an opportunity to appear before the Committee; he was unable to attend on October 15, 2015. Upon proper motion and second, the matter was referred back to the Complaint Review Committee.

C. In the Matter of James Hilow, Cause No. CPS-15-00623-070

Upon proper motion and second, the Commission issued a letter of reprimand with comment that process servers must ensure that information in an affidavit of service or return of service accurately reflects the date and time of service.

D. In the Matter of Denise La Fleur, Cause No. CPS-15-10483-072

Upon proper motion and second, the Commission suspended Ms. La Fleur's certification to serve process for 12 months, fully probated, for misconduct with the following terms and conditions: Respondent must complete a training course within 3 months of the date of the final order and must not have any substantiated violations during the 12 month probated suspension period.

A. In the Matter of Vincent Zubras, Cause No. CPS-15-06091-025

Mr. Zubras and his attorney, Dan Wyde, joined the meeting by telephone. Chairman Hamilton stated that this meeting is not an evidentiary hearing; its purpose is to consider the recommendation of the Complaint Review Committee.

Comments and legal arguments can be made.

Mr. Wyde summarized the Respondent's version of events leading to the complaint. Mr. Gibson addressed the Commission regarding good cause for imposing disciplinary action. Chairman Hamilton stated the options available to the Commission: follow the Committee's recommendation; impose different disciplinary action; reject the recommendation and dismiss the complaint; or refer the complaint back to the Committee.

With counsel's permission, the Commission members questioned the Respondent. After discussion, and upon proper motion and second, the Commission dismissed the complaint.

Agenda Item VI, Advisory Board Complaint Review Committee
Recommendations to Dismiss Complaints

Guardianship Certification Complaint Review Committee - September 15, 2015

G. In the Matter of Ginger Lott, Cause No. CG-15-00409-050

Candice Schwager, attorney for Complainant Sherry Johnston, appeared by telephone conference call. Ms. Johnston and Respondent Ginger Lott appeared in person.

Ms. Schwager addressed the Commission regarding allegations of misconduct on the part of Ms. Lott. Ms. Lott responded to Ms. Schwager's statements. Mr. Armstrong commented on the Committee's findings during the discussion.

After further discussion, a motion was made and seconded to refer the matter back to the Complaint Review Committee to investigate two issues: the extent to which Respondent encouraged visitation and participation between the ward and family members, and the extent to which Respondent interviewed and consulted with the ward's family at the outset of the guardianship to obtain information regarding the ward's medical history. The motion carried.

Chairman Hamilton allowed comment from Betty Jo Luckey regarding the complaint against Ms. Lott.

Agenda Item VII, Advisory Board Complaint Review Committee
Recommendations for Disciplinary Action

Court Reporter Certification Complaint Review Committee - October 14, 2015

E. In the Matter of Jonette Jackson, Cause No. CSR-15-07126-054

A motion was made and seconded to adopt the recommendation of the Committee to suspend Ms. Jackson's certification as a court reporter for 12 months, fully probated, under the following terms and conditions:

- Ms. Jackson must complete 10 hours of continuing education in Rules and

Ethics by December 1, 2016. The 10 hours are in addition to the 10 hours of continuing education required for renewal of certification;

- Ms. Jackson cannot incur any substantiated violations during the 12 month probated suspension period.

The motion carried. Upon proper motion and second, the Commission found that Ms. Jackson had violated the rules as stated and adopted the recommended disciplinary action.

F. In the Matter of Evelyn Coder, Cause No. CSR-15-02845-060

Upon proper motion and second, the Commission adopted the recommendation of the Committee to issue a public reprimand, and to require Ms. Coder to complete 10 hours of continuing education required for renewal of her certification expiring on December 31, 2015, with 5 of the 10 hours in Rules and Ethics. Upon proper motion and second, the Commission found violations as stated.

Agenda Item VIII, Administrative Dismissal of Complaints

Upon proper motion and second, the Commission ratified administrative dismissal of the following matters:

Court Reporter Certification

- A. In the Matter of Cause No. CSR-15-05548-048
- B. In the Matter of Cause No. CRF-15-00629-085
- C. In the Matter of Cause No. CSR-15-02657-091

Agenda Item IX, Request for Reconsideration - Administrative Dismissal of Complaints

Process Server Certification

- A. In the Matter of Cause No. CPS-15-01525-081

The basis for the complaint concerns serving a subpoena. Pursuant to Section 176.5, Texas Rules of Civil Procedure, anyone not party to a suit who is at least 18 years old may serve subpoenas. The Respondent is not a certified process server and the JBCC has no jurisdiction to prosecute the complaint which was administratively dismissed.

After discussion, and upon proper motion and second, the Commission ratified the administrative dismissal and denied the request for reconsideration.

Agenda Item X, Administrative Matters Relating to the JBCC

Mr. Rinard addressed the Commission on the following administrative matters:

- A. Proposed Rule Relating to Military Fees with JBCC (SB 807)

The proposed Rule change was posted for a 30-day public comment period following the August 7, 2015 JBCC meeting. Two comments were received and reviewed by the Commission. Upon proper motion and second, the Commission accepted the proposed Rule change.

B. Status on Proposed Licensed Court Interpreter Code of Ethics, Guardianship Certification Code of Ethics, and Proposed Process Server Certification Code of Conduct

Scott Gibson addressed the Commission regarding recent legislation including a Ward's Bill of Rights. The Guardianship Certification Code of Ethics was approved by the Commission, but in light of the recent legislation, it will be referred back to the Advisory Board for review.

The Commission discussed the "good cause" provisions in the process server portion of the JBCC Rules. The consensus was that a future Rule change may be made, but it is not an issue to be addressed in the proposed Process Server Certification Code of Conduct.

C. Status Update on Proposed Court Reporter Code of Professional Conduct
The Court Reporters Certification Advisory Board Code of Professional Conduct Committee continues its review of the Code of Professional Conduct. No action is required by the Commission at this time.

- D. Distance restrictions on how far a Guardian can live from their Ward
- E. Guardian requirement to obtain a signature verifying visit with a Ward and maintain records
- F. Requirement to notify counties when a Guardian's certification has been revoked or suspended

Commissioner Ford requested that these items be referred to the Guardianship Certification Advisory Board for review. There were no objections.

G. The next JBCC meeting date is February 5, 2016.

Agenda Item XI, Public Comments.

Public comment was received from Kristi Hood.

Agenda Item XII, Report from Chair.

The Chair expressed his pride in the work done by the JBCC staff.

Agenda Item XIII, Adjournment.

The meeting was adjourned at 1:10 p.m.

JUDICIAL BRANCH CERTIFICATION COMMISSION
Minutes of the Meeting

October 30, 2015



Judge Lee Hamilton, Chair

2-5-16
Date