

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

John H. Reagan Building
105 W. 15th Street, Room 140
Austin, Texas 78701
Friday, August 7, 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 10:00 a.m., Friday, August 7, 2015. Members present were Judge Lee Hamilton, Chair; Judge Ben Woodward; Judge Migdalia Lopez; Judge Polly Spencer; Velma Arellano; Mark Blenden; Don Ford; and Ann Murray Moore. Judge Sid Harle was 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; Veena Mohan, Assistant Attorney General; and David Slayton, OCA Administrative Director.

Agenda Item III, Opening Remarks.

Jeff Rinard, Certification Division Director gave a status update on the JBCC and the Certification Division. He also discussed a guardianship auditing pilot program in three counties without statutory probate courts. Mr. Rinard introduced Melissa Fischer, Presiding Officer - Licensed Court Interpreter Advisory Board, and Jamie MacLean, Presiding Officer - Guardianship Certification Advisory Board.

Agenda Item IV, Approval of Prior Meeting Minutes.

May 1, 2015 minutes were approved.

Agenda Item V, Selection of the JBCC Vice Chair.

Chairman Hamilton reported Judge Harle has agreed to serve as Vice Chair. Upon proper motion and second, Judge Harle was appointed.

To accommodate an applicant and his counsel who appeared in person, Item XI was taken up out of order.

Agenda Item XI, Request for Reconsideration on Denial of Process Server Application from Applicant James Mathews

Matthew Johnston, counsel for James Mathews, addressed the Commission. He

summarized the reasons for denial of Mr. Mathews' application and noted the Commission's guidelines regarding denial of applications. Mr. Johnston stated his position regarding his client's fitness to be a certified process server. He advised the Commission that Mr. Mathews was present to answer any questions.

CLOSED MEETING

The Commission went into closed session at 10:23 a.m., and reconvened in open session at 10:33 a.m. Commission members consulted with JBCC General Counsel.

OPEN MEETING

Chairman Hamilton swore in Daryl Weinman, a witness who appeared on behalf of Mr. Mathews. Ms. Weinman addressed the Commission regarding her knowledge of Mr. Mathews and his work for her. There were no questions from the Commission for Ms. Weinman, and the Commission had no questions for the applicant.

Upon proper motion and second, the Commission affirmed the denial of certification to serve process statewide.

To accommodate those who appeared by telephone, Item VII was taken up out of order.

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

Guardian Complaint Review Committee – considered on July 8, 2015
In the Matter of Cathy Howell, Cause No. CG-15-00308-032

Complainant Nancy Henry joined the meeting by telephone conference call at approximately 10:35 a.m. Chairman Hamilton explained that the meeting is not an evidentiary proceeding, and it is not a trial. The prosecutor will present the case, and Ms. Henry will have an opportunity to address the Commission.

Jamie MacLean, representing the Complaint Review Committee of the Guardianship Certification Advisory Board, commented that it appeared to the Committee that the temporary guardian's efforts were geared to protecting the ward, and that she had done her job.

Ms. Henry addressed the Commission, stating her belief that her complaint against Ms. Howell had been misrepresented and distorted. She summarized her side of the dispute, including allegations of perjury and misconduct against Ms. Howell. Chairman Hamilton noted that perjury is a criminal offense and beyond the purview of the Commission. Ms. Mohan stated that all additional

documents provided by Ms. Henry after the Committee met have been provided to the Commission members for their review.

After discussion, and upon proper motion and second, the complaint was dismissed.

Court Reporter Complaint Review Committee – considered on July 9, 2015
In the Matter of Lorie Naylor, Cause No. CSR-15-03756-029
Molly Pela, representing the Complaint Review Committee of the Court Reporters Certification Advisory Board, appeared by telephone conference call. She had no comment.

After discussion, and upon proper motion and second, the Commission dismissed the complaint, with comment that requests for records should be responded to in a timely manner.

The Commission recessed at 11:10 a.m., and reconvened at 11:25 a.m.

Agenda Item VI, Approval of Determination for Disciplinary Action by JBCC and Issuance of Final Order – complaints considered by JBCC on May 1, 2015. Item A below was issued as a default order.

Court Reporters Certification:

A. In the Matter of William Felix Thompson, Cause No. CSR-15-01076-24
Upon proper motion and second, the Commission voted to impose a public reprimand, and to require Mr. Thompson to complete 5 hours of continuing education in Rules and Ethics by his next certification renewal date of December 31, 2016. The 5 hours are in addition to the 10 hours of continuing education required to renew his certification, for a total of 15 hours of continuing education with 7.5 hours of Rules and Ethics.

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

Guardianship Certification Complaint Review Committee – July 8, 2015:
In the Matter of Sarah Watts

- A. Cause No. CG-15-00353-031
- B. Cause No. CG-15-00353-037
- C. Cause No. CG-15-00353-045
- D. Cause No. CG-15-00353-056
- E. Cause No. CG-15-00353-065

The Commission considered five complaints against certified guardian Sarah Watts. Ms. Mohan noted that Ms. Watts' certification is currently expired. She

has submitted a renewal application, but it is incomplete because she has not completed and verified attendance for the required continuing education. Two alternatives are recommended, as follows:

Recommendation 1) If certification is renewed prior to the final determination of disciplinary action by the Commission, the recommendation is to revoke certification effective the date of the final order and assess an administrative penalty in the amount of \$25,500 (51 violations at \$500 per violation) due and payable within two years from the date of the final order.

Recommendation 2) If certification is expired and not renewed prior to the final determination of disciplinary action by the Commission, the recommendation is to refuse to renew certification, effective the date of the final order and assess an administrative penalty in the amount of \$25,500 (51 violations at \$500 per violation) due and payable within two years from the date of the final order.

After discussion, and upon proper motion and second, the Commission made findings of violations of Rules and Standards as recommended by the Complaint Review Committee, and accepted both recommendations made by the Committee in their entirety, including the administrative penalty.

Mr. MacLean addressed the Commission, noting that the Committee had also recommended that upon issuance of the final order revoking Ms. Watts' certification, JBCC staff be directed to notify Texas courts of disciplinary action taken by the Commission against Ms. Watts. Upon proper motion and second, the Commission adopted the Committee's recommendation.

Later in the meeting, a motion was made and seconded to clarify that courts would be notified when the final order imposing disciplinary action (revocation or refusal to renew certification) was issued. The motion carried.

Proposed Guardianship Rule Changes: Commissioner Don Ford requested that potential rule changes for the Guardianship program be considered by the Commission at the meeting on October 30, 2015.

Court Reporter Certification Complaint Review Committee - July 9, 2015

A. In the Matter of Sondra Humphrey, Cause No. CSR-15-06160-021
Respondent Sondra Humphrey appeared in person and testified before the Commission on this matter. Molly Pela, representing the Complaint Review Committee of the Court Reporters Certification Advisory Board, appeared by telephone conference call. Ms. Pela addressed the Commission regarding Ms. Humphrey's history of non-compliance, and noted the information to which Ms. Humphrey testified was before the Committee.

A motion was made and seconded that the matter be referred back to the Complaint Review Committee for further consideration. The motion failed. After discussion, upon proper motion and second, the Commission voted to accept the Committee's recommendation to revoke Ms. Humphrey's certification.

In the Matter of Brenna Short

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

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

The Commission considered two complaints against certified court reporter Brenna Short. Molly Pela, representing the Complaint Review Committee of the Court Reporters Certification Advisory Board, appeared by telephone conference call. Ms. Mohan noted that Kim Tindall and Robin Cooksey, members of the Complaint Review Committee, recused themselves from discussions relating to these matters at the meeting on July 9, 2015. Ms. Pela addressed the Commission during discussion of the matters. Mr. Gibson also joined in the discussion.

The Commission did not adopt the Committee's recommendation in its entirety. Upon proper motion and second, the Commission suspended Ms. Short's certification for a period of 12 months, fully probated, with the following terms and conditions:

Complete an additional 10 hours of continuing education, with 5 hours in Rules and Ethics, in addition to 10 hours of continuing education required for renewal of certification, within 6 months of the date of the final order;

A mentor will be selected by Michele Henricks from a list of three candidates, Ms. Short will submit three transcripts with audiotapes to the mentor for review, the mentor will be compensated by Ms. Short; and

Ms. Short cannot incur substantiated violations of rules during the 12 month probated suspension period.

The Commission recessed at 1:00 p.m. and reconvened at 1:45 p.m.

Agenda Item IX, 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 # CSR-15-04590-030

B. In the matter of Cause # CSR-15-01306-034

C. In the matter of Cause # CSR-15-05711-058

D. In the matter of Cause # CSR-15-01445-062

- E. In the matter of Cause # CSR-15-09129-063
- F. In the matter of Cause # CSR-15-03658-075

Process Server Certification:

- A. In the matter of Cause # CPS-15-00000-039

Guardianship Certification:

- A. In the matter of Cause # CG-15-00000-041
- B. In the matter of Cause # CG-15-00000-051

Agenda Item X, Complaints Withdrawn and Recommended for Closure

The following complaint was withdrawn by the complainant. Upon proper motion and second, the Commission voted to take no further action.

Court Reporter Certification:

- A. In the Matter of Jonette Jackson, Cause No. CSR-15-07126-049

Agenda XII, 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)

Senate Bill 807 relates to the waiver of license fees in certain circumstances. Upon proper motion and second, the Commission voted to post the proposed Rule change for a 30-day public comment period.

B. Reformatted Proposed Process Server Curriculum

Following the May 1, 2015 Commission meeting, criminal cites from the 2015 legislative session were updated and the curriculum was re-formatted. The Process Server Advisory Board reviewed the re-formatting and recommended approval by the Commission. Upon proper motion and second, the Commission voted to approve the curriculum, to be effective November 1, 2015, and to send it to the current course providers for implementation by the effective date.

C. Proposed Licensed Court Interpreter Code of Ethics

Six comments were received to the proposed Code of Ethics following the 30-day public comment period. The Licensed Court Interpreter Advisory Board reviewed the comments and recommended approval of the final draft by the Commission. Following approval, it will be sent to the Supreme Court of Texas for adoption. Upon proper motion and second, the Commission approved the Code of Ethics.

D. Proposed Guardianship Certification Code of Ethics.

The Guardianship Certification Advisory Board had developed the Code of Ethics and incorporated it into the existing Minimum Standards for Guardianship Services. Two comments were received to the proposed Code of Ethics following the 30-day public comment period. The Advisory Board reviewed the

comments and recommended approval of the final draft by the Commission. Following approval, it will be sent to the Supreme Court of Texas for adoption. Upon proper motion and second, the Commission approved the Code of Ethics.

E. Status of Proposed Process Server Certification Code of Conduct

The proposed Code of Conduct was approved by the Commission at its May 1, 2015 meeting. It will be submitted to the Supreme Court of Texas for adoption, along with the Codes of Ethics for guardians and licensed court interpreters.

F. Status Update on Proposed Court Reporter Code of Professional Conduct

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

G. The next JBCC meeting date is October 30, 2015.

Agenda Item XIII, Public Comment.

Public comment was received from Tod Pendergrass, who also provided written materials to the Commission; Sherry Johnston; Kristi Hood; Debby Valdez; and Marco Hanson. Ms. Henricks noted for the record that Dana McMichael had submitted a document for public comment, which was distributed to Commission members.

Agenda Item XIV, Report from Chair.

The Chair expressed his appreciate to the JBCC staff for their high quality work, and thanked the Commission members for their efforts on behalf of the four regulatory programs.

Agenda Item XV, Adjournment.

The meeting was adjourned at 2:30 p.m.



Judge Lee Hamilton, Chair



Date