

MINUTES
THE LOUISIANA BOARD OF EXAMINERS OF
CERTIFIED SHORTHAND REPORTERS
BOARD MEETING

Friday, February 27, 2009

Pursuant to notice, the meeting was called to order at 2:00 p.m., Friday, February 27, 2009, at the Crowne Plaza, 4728 Constitution Avenue, Riverboat Room, Baton Rouge, Louisiana with a quorum present.

PRESENT BOARD MEMBERS:

Judge Perrell Fuselier
May Dunn
Suzanne Stinson
Vincent P. Borrello, Jr.
Gail Freese
Suzette Magee
Dion Young
Laura Putnam

ABSENT:

Phyllis Pool

Attorney:

David Marcello

Administrator:

Tonya R. Armentor

CALL TO ORDER: Judge Fuselier, Chairman began the meeting by asking May Dunn to say the prayer and the pledge. Judge Fuselier asked for a motion to approve the November, December, and January minutes. Laura Putnam made a motion to adopt as written. Suzanne Stinson seconded the motion, and the motion passed unanimously.

REPORT OF THE TREASURER: In the absence of a Treasurer Ms. Armentor presented the report and stated that all Board Members have been provided a copy of the report. The report shows assets and liabilities on an accrual basis. The monthly operating income and expenses cover the period of November through February 26, 2009. Total income equals \$96,653 with total expenses of \$53,794. Total assets equal \$176,612.88. May Dunn made a motion to adopt as read. Vincent Borrello, Jr. seconded the motion, and the motion passed unanimously.

REPORT OF THE CHAIRMAN: Judge Fuselier reported that he had sent all Board Members an email asking them to gather their thoughts and to be ready to report on them about the Board's Disciplinary Procedures. When a court reporter, former court reporter, or someone acting as a court reporter has been charged with a violation of our statutes or rules and are brought before our Board. Judge Fuselier is suggesting that we have a two tier procedure. We cannot have the same body or a portion of the same body hearing the complaint in front of the Disciplinary Committee and then presenting that report to the whole board and then voting as a Board with some of the same members voting on the final outcome. Most other professional organizations have a two tier process. Two tiers by analogy with the first tier being the committee would hear the complaint(s). It's like the grand jury hearing the testimony and rendering a true bill which is then forwarded on to the petit jury or finding that there is not sufficient cause and there is no true bill and basically it dies right there unless the District Attorney wants to file a separate charge. Knowing this, my goal is to find a way we can have a two tier procedure. We have to balance the rights of the person who is accused with the ability to pay for the procedure.

The first possibility I am going to propose for the Board to consider is that we hire David Marcello or a lawyer from his firm to do the initial investigation. Then the evidence could be presented to the Disciplinary Committee Chairman only. The Chairman would have to be a lawyer. That lawyer would sit in the capacity of a hearing officer and then make a report and recommendation to the Board. Then all the Board Members except the Disciplinary Committee Chairman would vote on the final action of the Board. This means that 8 out of the 9 Board Members would be voting.

The second possibility is that we could hire David or a lawyer from his firm to do the initial investigation and evidence would then be presented to a privately hired attorney sitting in the capacity of a hearing officer. They would make a report and recommendation to the Board. Then that recommendation would be presented to all the Board Member and all Board Members would vote on that final action. This is including the Disciplinary Committee Chairman.

The third possibility we could hire a retired certified court reporter or a senior court reporter that has not been on the Board for at least two or more years to complete the initial investigation and report to the Disciplinary Committee. The members of the Disciplinary Committee would not be able to vote when the whole Board takes action. In this process David Marcello would not be included in the investigation but would be sitting as the Boards Attorney when we take final action.

The fourth possibility is to hire a private investigator to do the initial investigation and the remainder would basically be just like the third possibility above.

Judge Fuselier stated that hopefully this provides food for thought. That this is not intended nor expected to be the final version but certainly a point of beginning to improve on what we have right now of which I think is unacceptable.

REPORT OF THE DISCIPLINARY COMMITTEE: Mr. Dion Young, Chairman reported that the Hearing for Mr. Thomas A. Thibodeaux was canceled today and the hearing will be rescheduled. Dion has spoken with David Marcello about this matter. David Marcello stated that the statute 2556(A.) gives us the

authority over someone who is acting in the role of official or deputy official court reporter. Dion will bring a Disciplinary form to the next meeting.

REPORT OF THE ETHICS COMMITTEE: No Report.

REPORT OF THE HANDBOOK COMMITTEE: No Report.

REPORT OF THE EXAMINATION COMMITTEE: Mr. Vincent Borrello, Jr., Chairman reported that he has spoken with Robert Melson at LSU via email. We discussed the amount of the test and the breakdown of the fees being charged by LSU. It had come to my attention that we have been being overcharged \$2,000.00 per exam for the creation of a new exam of which no new exams have been made over the past 7 years. When I brought this to Roberts attention and I stated to him that I knew that they were not intentionally over charging us and that it was an oversight. Robert responded with an email that he had spoken to his boss and stated that I think we can work a deal out. We will charge the Board \$8,000.00 per year as long as we don't have to create a new exam. We will refund the Board \$3,200. Mr. Borrello, Jr. stated that he responded to his email stating that this was inappropriate. That the \$8,000.00 was not a deal and that this is what we should have been charged from the beginning. My calculations over the past 7 years show that we are due anywhere in the neighborhood of a refund of about \$27,000.00. Mr. Borrello, Jr. again reiterated to Mr. Melson that he knew that this was not something intentional that they were doing in overcharging us but that we would need to come to an amicable resolution. Mr. Melson had asked me to come to LSU to talk with him and his boss last week. I was unable to do that and did ask them to set up a telephone conference. I did not hear back from him. My recommendation is to give him another week. I am going to try to reach him again via email. If I am unable communicate with him then I would like to have Mr. Marcello send them a letter. Mr. Borrello, Jr. moved to accept report. Suzette Magee seconded the motion, and the motion passed unanimously.

REPORT OF THE LEGISLATIVE COMMITTEE: Ms. Suzette Magee reported that the committee did meet earlier today. The committee went over all survey responses and looked over the proposed legislation. The committee would like to authorize David Marcello to prepare the report which is to be submitted next week. A partial draft and other documents were given to all Board Members. A brief discussion took place.

Judge Perrell Fuselier stated that he would like to take up the matter of Judge Thomas F. Fuselier at this time. Judge Thomas Fuselier stated that he had written a letter to the Board back on December 4, 2008 asking for an emergency certificate for a court reporter. He further gave all the details surrounding his situation and answered questions from the Board. David Marcello stated that there are a couple of things that may be useful. I believe you will like the temporary permit legislation that we will be proposing this legislative session. It will create for the first time the opportunity to issue what you are calling an emergency certificate and what we are calling a temporary permit basically that is just semantics. David Marcello explained that the Board has never had statutory authority to issue emergency certificates. This has never

been a part of the statutory landscape in Louisiana. The Intergovernmental Agreements which were an ad hoc solution of sorts to a problem that we first confronted as a Board back in the 90's. Were never intended to endure as long as they have and they were long overdue being put to rest and something like a temporary permit regime being put into place. What the temporary permit legislation will authorize the board to do is to issue a permit to somebody functioning only in a court, an official court reporter with no freelance practice capability. It will enable that person who holds a temporary permit to take every exam offered by the Louisiana CSR Board over the period of one, two, or three years however long that permit is extended for. I think it will give the Board the authority that it hasn't had and will allow it to eliminate these Intergovernmental Agreements which have been frozen for a period of some months. We are hopefully in a position were 4 months from now we might be able to do it with temporary permits rather than having to rely on the Intergovernmental Agreements. I am definitely going to send you a draft of it when I get back to New Orleans next week. I would hope that you would call me with any questions about it and we'll talk about what good things we might be able to do. Judge Thomas Fuselier asked for any suggestions of what he should do for the next 4 months? I need some guidance. David Marcello stated that what Dion described in his area may provide a partial answer. David Marcello, stated that as I understand it, in both courts the record is kept electronically and recorded directly to a cd. The occasions that arise when a transcript needs to be produced must be done by a certified court reporter and it would not be necessary for that CCR to be on a full time salary basis. That person could do it on a part-time basis. I believe that our survey indicated that there are courts that use CCR's in precisely that way, to come in after the record has been preserved electronically and do the transcription. That might provide you with a bridge. Suzanne Stinson made a motion that we grant an Intergovernmental Agreement until which time the Legislature makes a final determination on how we should handle the temporary certificate. May Dunn seconded the motion, and a discussion took place. Judge Perrell Fuselier asked for the name of the person who would be the subject of the I. A. and her background. Judge Thomas Fuselier stated, "Maranda LeBlanc." Maranda worked for the Clerks of Courts Office for about 3 years and typing up the court minutes and other court documents. Maranda was in my court every day in every session taking notes, collecting evidence, and going back to her office and typing up all the minutes from all my sessions. I see her work and I know she is very competent. I know that she types extremely well and she is very familiar with the court proceedings, the terminology and the people involved in the court system. May Dunn asked if they had had any complaints? Judge Thomas Fuselier replied, "Not one." Mr. Borrello, Jr. asked, what type of equipment is it that you have in the courthouse? Judge Thomas Fuselier stated that there is a company that sales this recording equipment to courts all around our area. It is a cd recording system. It is a digital system, we have microphones over the Jury Box, over each Attorney station, and the parties stations, the witness chair, and I have a microphone. We spent about \$10,000.00 to update the microphone system to take care of the problems like mumbling and things like that. Suzette Magee stated that the 15TH JDC has the same system by the same company and that it fails all the time. If we didn't have a person sitting there making a record in some other method there would be no record. Judge Perrell Fuselier has asked for a vote, all in favor of the motion by Suzanne Stinson to grant an Intergovernmental Agreement to Division B of the 13TH JDC for Maranda LeBlanc to serve as the court reporter until the Legislature makes a definitive decision on this. The motion passes 7 to 1. Judge Perrell Fuselier stated that until such time the Legislature makes a decision then she is authorized to

serve as your court reporter. Judge Thomas Fuselier thanked the board and stated that whatever the Legislature comes up with we will do our best to comply with it. We are not trying to change that. Thank you all again.

Judge Fuselier called for a 10 minute recess at 3:25 p.m.

The meeting reconvened at 3:40 p.m. with a quorum present and with Phyllis Pool remaining absent.

REPORT OF THE CONTINUING EDUCATION COMMITTEE: Ms. Suzanne Stinson, Chairman reported that the committee has received several requests for continuing education approval and will go down the list with our recommendations. The first item to be considered is that of a Stenograph Case CATalyst Version 10 Workshop with various dates and locations listed. The Committee voted to approve. The next item is that of the 38TH Annual Spring Seminar for Court Reporters conducted by the Mississippi Judicial College to be held on April 22-24, 2009. The Committee voted to approve. Ms. Linda Howard submitted the ESP Network 17TH Annual Convention in Las Vegas to be held on May 29-31, 2009 for approval. The Committee voted to approve. Suzanne Stinson made a motion to approve the above stated seminars. May Dunn second the motion, and the motion passed unanimously. Suzanne Stinson reported that the committee did have two requests that were not acceptable. The first item was from a Mr. Cochran of Brown College of Court Reporting which presented English Courses through email. Since, our rules do not allow online courses the Committee voted to deny. The second item was that of Ms. Monique Kronlage in that she had requested approval of a QuickBooks seminar. Because she has already taken an intermediate QuickBooks course the Committee voted to deny. Suzanne Stinson made a motion to deny continuing education credits for the English email/online courses and the duplicated QuickBooks seminar. May Dunn second the motion, and the motion passed unanimously. Suzanne Stinson made a motion to pre-approve the NCRA Convention in New Orleans with the anticipation that Louisiana reporters will want to attend. May Dunn second the motion, and the motion passed unanimously.

Suzanne Stinson reported that there is a gap in the dates of the rules that does not require that the continuing education credits be submitted at the same time as is required for the payment of renewing a license. These time frames need to match so that a reporter cannot obtain a new seal by simply paying and not having their continuing education requirements met on every even numbered year. The continuing education cycle ends on every even numbered year and a new seal should not be issued unless both requirements are met. Suzanne Stinson made a motion to approve a rule change for Chapter 6. Continuing Education, Section 607. Maintenance of Record (B.) On or before December 31 of each even-numbered calendar year, each reporter being issued a certificate by the board shall submit or cause to be submitted to the board a written record of continuing education credits earned by the reporter for the preceding two calendar years. May Dunn second the motion, and the motion passed unanimously.

Suzanne Stinson made a motion to approve a rule change for Chapter 6. Continuing Education, Section 603. Continuing Education Credits(A.) Beginning January 1, 1991, and thereafter, each certificate

holder shall be required to obtain at least 12 continuing education credits during each two-year continuing education cycle. Each continuing education cycle shall consist of two consecutive years beginning January 1 of the odd-numbered year and ending December 31 of the even-numbered year, inclusive. The board shall award one continuing education credit for each half hour of instruction time. Beginning January 1, 2010, two of the required 12 continuing education credits shall be instructions pertaining to ethics awareness. May Dunn second the motion, and the motion passed unanimously.

Vincent Borrello, Jr. made a motion to have Tonya contact the local associations and advise them of the ethics requirement for court reporters and that when they obtain their speakers to consider that those speakers discuss ethics. Suzette Magee seconded the motion, and the motion passed unanimously.

Suzanne Stinson reported that pertaining to the provider application process that we have had problems with those who have completed their continuing education with a particular provider but they have not paid the provider and the provider submitted the name and credits to the Board Office. This creates the situation of the Board Office having to find out when the reporter paid the provider. Suzanne Stinson would like to ask the providers to only submit the names that have actually paid the participation fee as part of their completion of continuing education credits. Suzanne Stinson made a motion that this policy will be recognized as an internal policy of the Board Office. May Dunn second the motion, and the motion passed unanimously.

REPORT OF THE OFFICE ADMINISTRATION COMMITTEE: Vincent Borrello, Jr., Chairman reported that the office has received a Reciprocal Application from Ms. Angela Robertson, 430 Mayfield Drive, Bossier City, LA 7111. Ms. Armentor has found all paperwork in order and we request final approval for a reciprocal license to be issued. Suzanne Stinson seconded the motion, and the motion passed unanimously.

REPORT OF THE SPECIAL OFFICE COMMITTEE ON TRANSCRIPT CERTIFICATION: Vincent Borrello, Jr., Chairman reported that he had just received a letter from Mr. Kaiser. I would like to defer his letter until the Chairman of the Board can offer discussion on the matter and maybe it would be best for David Marcello to address it at that time.

Vincent Borrello, Jr. reported that the Committee has met on several occasions and that allot was discussed. The Committee recommends that the last 26 words of the fourth paragraph, of the Ethics Advisory Notice that was mailed out with the seals this past renewal season, be held in abeyance until such time the Legislative Committee can visit this matter for possible legislation for Louisiana recognizing digital signatures and what legislation could be introduced for this legislative session. Suzette Magee seconded the motion, and the motion passed unanimously. Laura Putnam asked if anything has been drafted. Vincent Borrello, Jr. stated that nothing has been drafted. I believe there are some legal issues as far as whether the Board has the authority to recognize digital signatures in our rules or whether the Board has to do it through statutes. I had contacted Texas and the Texas Board advised me that they had changed this by statute. That

it was not in their authority for Texas to recognize digital signatures through the Board through their rules that it had to be done through statute. Gail Freese stated that it was her understanding, that at the last committee meeting they had left it to find out whether or not it was actually statute or interpretation of rules. Mr. Borrello, Jr. agreed. Vincent Borrello, Jr. state that we don't know that it is in fact statute or rules. Mr. Borrello, Jr. restated his motion that it would be turned over to the Legislative Committee if we need to pursue that avenue by having a bill drawn up to make it statutory. I don't know if the Board can interpret the rules as they are written to say that we can recognize digital signatures. The rules were written many many years ago when digital signatures didn't even exist. David Marcello stated that the safest way to incorporate digital signatures would be through statutes. David Marcello reported that he had checked with the office of the Secretary of State and their authorization to accept digital signatures is through statute. David reported that he suspected there were court reporters that would be glad to help with drafting such legislation. Mr. Borrello, Jr. made a motion to pursue digital signatures through legislation. Laura Putnam seconded the motion, and the motion passed unanimously. Mr. Borrello, Jr. added that the committee should meet again before the legislative session and thereafter to determine what results have to be taken as far as the ethics rules go. We don't intend to hold this in abeyance for a year or however long. This is something that we want to address now. Those individuals who are interested in helping with the proposed legislation please attend the committee meetings. Mr. Kaisers letter was brought up in that he stated that he didn't believe that it needed to be done by legislation. David Marcello responded that what he seems to be saying is that the Civil Code Article 3344 doesn't apply to this question. I don't quarrel with him in that regard. He says in the second to last paragraph the conclusion, "No change in any of the laws governing court reporters and the taking of depositions with which I am familiar (and I think I have seen them all) would be needed for the Board to authorize electronic signature and electronic file transfer in my opinion. David Marcello has suggested that the safest way for the Board to do this is by statute. I don't believe we are in any big conflicts. David Marcello stated that there are a whole host of associated laws that need to be looked at in terms of this authorization.

NEW BUSINESS:

A. Judge Thomas F. Fuselier. This matter has already been discussed during the Legislative Committee Report.

B. Mary V. Thompson – requesting reinstatement. Ms. Thompson is present. Ms. Thompson is currently an active RPR. Mr. Borrello, Jr. made a motion to reinstate Ms. Thompson as long as she fulfills her requirements up to date with all applicable fees. Gail Freese seconded the motion. Ms. Thompson is requesting a waiver of back fees because she didn't understand the Inactive Status rule due to the fact that she did practice in Federal Court. Mr. Borrello, Jr. amended his motion to waive half of the back fees and that fees are payable within the next 30 days. A vote was taken and the motion passes 7 to 1. Dion Young voted against.

C. Bridget Duplantis – requesting reinstatement. Ms. Duplantis is present. Ms. Duplantis explained her situation and has not practiced in the last year. She is now ready to pursue her court reporting career

again. Vincent Borrello, Jr. made a motion to reinstate upon payment of \$180.00 which includes the current reinstatement fee with one seal to be paid within the next 30 days. A vote was taken and the motion passes 7 to 1. Dion Young voted against.

D. Suspension, Revocation, and Reinstatement Rules. Requested by Phyllis Pool. Judge Fuselier asked if anyone was prepared to discuss this item and there being no one this item is tabled until the next meeting.

E. C. E. Suspension List – Tonya Armentor, Office Administrator presented. Tonya reported that two individuals had to be marked off of the list because they were granted reinstatement at the last meeting. It is requested that the Board approve the remainder of the C. E. Suspended List. Suzanne Stinson made a motion to approve the list as presented. Dion Young seconded the motion, and the motion passed unanimously. Ms. Tracy Heddon was in attendance and would like to appeal to the Board not to be suspended for not obtaining the required c. e. credits but to be granted additional time to turn them in due to uncontrollable circumstances. Dion Young made a motion to exclude her from the suspended list and to give her until the March 14, 2009 Seminar to obtain her c. e. credits. Vincent Borrello, Jr. seconded the motion, and the motion passed unanimously.

F. Renewal List – License renewals received since last meeting. Tonya Armentor, Office Administrator asked to table this matter until the next meeting.

G. LIAA Seminar approval for office employee. Tonya Armentor, Office Administrator is requesting attendance at this seminar to be held in Baton Rouge, April 1-3, 2009. Suzanne Stinson made a motion to approve. May Dunn second the motion and the motion passed unanimously.

Gail Freese made a motion to add two items to the agenda at this time. The first item is in dealing with the Handbook. The second item is to discuss the transcript in the Stockman matter. Suzette Magee seconded the motion, and the motion passed unanimously. Gail Freese stated that the Handbook has not gone very far and in light of all the major issues facing the Board that she would like to make a motion to table the writing of the Handbook at present. Suzanne Stinson seconded the motion, and the motion passed unanimously.

Gail Freese made a motion to have the Board obtain a complete transcript of the Stockman Hearing. Vincent Borrello, Jr. seconded the motion and a vote was taken. The motion fails 3 to 4.

Suzette Magee made a motion to adjourn. Vincent Borrello, Jr. seconded the motion, and the motion passed unanimously.

There being no further business the meeting adjourned.