



**BOARD OF COURT REPORTING
500 JAMES ROBERTSON PARKWAY
NASHVILLE, TENNESSEE 37243
615-741-1831**

**Board Meeting Minutes for December 9, 2016
First Floor Conference Room 1-B
Davy Crockett Tower**

The Tennessee Board of Court Reporting met on Friday, December 9, 2016 in the first floor conference room of Davy Crockett Tower in Nashville, Tennessee. Mr. Briton Collins, being the only member present in person, called the meeting to order at 9:01 a.m. and the following business was transacted:

BOARD MEMBERS PRESENT: Briton Collins.

BOARD MEMBERS PRESENT BY PHONE: Earl Houston, Ken Gibson, Judge John Rambo.

BOARD MEMBERS ABSENT: Ken Mansfield, Terri Beckham.

STAFF MEMBERS PRESENT: Roxana Gumucio, Ashley Thomas, Shilina Brown, Lindsey Shepard.

ROLL CALL/NOTICE OF MEETING

Mr. Collins, vice-chairman, called the meeting to order at which point Director Gumucio called roll. Upon establishing the absence of a physical quorum, Mr. Collins read the Statement of Necessity pursuant to TCA § 8-44-108. Mr. Collins then read the notice of the meeting into the record as follows: "Notice of December 9th, 2016 meeting of the Court Reporter's Board was posted to the Court Reporters Board website on December 6th, 2016."

AGENDA

Mr. Collins then called for a review of the day's agenda. Mr. Gibson made a motion to adopt the agenda as written, which Judge Rambo then seconded. The motion passed unanimously by voice vote.

MINUTES

Mr. Collins then asked if there should be any changes to the minutes from the Board's previous meeting, held in June. Mr. Gibson asked for clarification on Mr. Collins' comments from the rule-making portion of the previous meeting, and Mr. Collins agreed that the minutes should be amended to make clear that he raised an issue specific to third party contracts, not contracts in general. Judge Rambo put forth a motion to adopt the minutes with amended language, which Mr. Gibson seconded. The motion passed by unanimous voice vote.

DIRECTOR'S REPORT

Director Gumucio then introduced the board to a new presentation of its budgetary information. She noted that because court reporters are all scheduled to renew at once, there would be months where the

program did not make back whatever it might be spending on a monthly basis. She provided historical numbers that helped show the long-term fiscal health of the program. Mr. Gibson asked for a breakdown of some of the cost-backs, and Director Gumucio provided an explanation of the new centralized customer service center that the program had begun paying into, as well as the upgrades to the new web-based licensing and renewal system that is an ongoing conversion.

LEGAL REPORT

1. 2016-01

Respondent: Licensed Court Reporter

This is a consumer complaint alleging that Respondent failed to provide a complete and accurate transcript, in violation of Tenn. Comp. R. & Regs. 0455-01-04-.01(1)(b). Complainant alleges that Respondent was hired to transcribe an interaction with a judge. Complainant states that Respondent was paid one hundred fifty dollars (\$150.00) for a recording and transcript and states that the interaction lasted approximately two (2) minutes. Complainant states that after the conversation, he paid Respondent and was told that the transcript would be delivered in two (2) weeks based on Complainant's timeline for an appeal. Complainant states that he did not receive the transcript in two (2) weeks and, multiple attempts to reach the Respondent were unsuccessful. Complainant states that Respondent's failure to timely provide a written transcript and recording caused the Complainant's failure in filing a timely appeal.

Respondent states that scheduling conflicts prevented him from meeting the two (2) week deadline, as agreed by the parties. Respondent claims to have left the transcript with the county court clerk on two (2) occasions. Respondent states that it was difficult to hear every word spoken by during the interaction as it occurred in a courtroom breezeway and the transcript reflects only what was heard. Respondent states that he was unaware of the Complainant's intention to file an appeal, and states that Complainant could have filed for an extension to file the transcript. Respondent states that he is not liable for Complainant's failure to request an extension to file the transcript.

Complainant disputes the Respondent's account of the interaction, stating that the court reporter was near the judge and at no time did Respondent claim that he was unable to hear what was said. Complainant further states that the agreement was to have the transcript delivered to him personally and not delivered to the court clerk. Complainant also submitted a witness statement as supporting evidence of his allegations.

Recommendation: Authorize formal and send a consent order with a civil penalty in the amount of five hundred dollars (\$500.00) for violation of Tenn. Comp. R. & Regs. 0455-01-04-.01(1)(b) and (c).

Decision: The Board voted unanimously to accept counsel's recommendation.

CASES FOR RE-PRESENT

1. **2012-05**

Respondent: Court Reporter
Docket No. 67.01-130495A

This complaint opened against the Respondent by a Complainant, a licensed Tennessee, attorney who hired the Respondent for a two day hearing in April 2012. The cost of the reporter's appearance fee was split by the parties involved in the litigation and thereafter, the Complainant ordered and paid for a full transcript of the hearing with the intention of filing an appeal. The payment to the Respondent was over \$2,500 for the appearance and the transcripts. The Respondent was paid and did not provide all the transcripts that were ordered and failed to provide the Complainant with the tapes or notes. The Complainant contacted the Respondent on multiple occasions and the Respondent repeatedly promised the transcripts would be provided, but failed to provide all the transcripts for the two-day hearing. Additionally, the Respondent took possession of thirty-five exhibits during the hearing and the exhibits were not returned to the Court or to the parties despite the fact that the Respondent was contacted several times by the Complainant. The Respondent's court reporter license expired on June 30, 2012 and it has not been renewed.

The Supreme Court initiated this proceeding on behalf of the Board of Court Reporting and filed formal charges against the Respondent on May 28, 2015. In 2016, this matter was transferred to the Department of Commerce & Insurance. Following a review of this matter, it was determined that the Respondent had not been successfully served with the formal charges. As such, the Department had to continue the formal hearing and attempt to locate the Respondent to have them served with formal charges. After conducting an internal investigation and thereafter, submitting this matter for investigation with the Investigation Division of the Department of Commerce, the Department has still been unable to serve the Respondent. The Department has discovered a more current address through a Westlaw CLEAR search and had an Investigator attempt to personally serve the Respondent. The Investigator was unable to locate the Respondent or any family members and we are still unable to serve the Respondent with the formal charges that were filed in the docket. Also, the Department has made multiple attempts to serve the Respondent by U.S. First Class (Regular) Mail, Federal Express Overnight Mail and U.S. Postal Service Certified Mail to serve the Respondent and has been unsuccessful. The Department has continued this matter on two occasions. First, the matter was set for hearing when it was received by the Department and the Department had to continue it and thereafter, the Department continued the matter to a February 2017.

The Department has done an exhaustive search for the Respondent and we have utilized all available means to locate the Respondent to serve her. This docket is still open and pending with the Administrative Procedures Division.

Updated Recommendation: Since we are unable to locate the Respondent to serve formal charges and this matter has been pending since 2014, the Respondent is no longer a licensed Court Reporter by this Board and the original infraction by the Respondent occurred in 2012, it is recommended that this matter be closed and a voluntary dismissal without prejudice be filed in the docket.

Decision: The Board voted unanimously to accept counsel's recommendation.

Ashley Thomas, the board's legal counsel, provided an update on the recent rule changes, which were scheduled to take effect in February. Director Gumucio welcomed Shilina Brown and Lindsey Sheperd, who would be helping the Board with its disciplinary cases. Ms. Thomas then provided an update on the recent rule changes, which were currently scheduled to take effect in February.

NEW BUSINESS

Director Gumucio offered proposed meeting dates for 2017. Mr. Gibson motioned to adopt those dates, and Judge Rambo seconded. The motion passed unanimously and it was agreed the new dates were to be posted on the website immediately.

Mr. Collins raised an issue relating back to the new budgetary information. Mr. Collins called for the development of a fund to be used as payment for court reporting services in cases involving indigence. He cited a statutory requirement that surplus funds be used in such way, but also recognized that the biennial renewal cycle made it difficult parse out surplus funds from the operating budget when the Board technically runs at a deficit in years it's not receiving renewal funds. Mr. Collins noted that he and Mr. Mansfield had been working on a solution to this issue for some time, and that other states were already running similar programs. Judge Rambo suggested that those other programs be studied as potential models, and that the issue should be taken up again at the next available opportunity.

There being no other new business, Mr. Collins concluded the meeting at 9:45 am.