

**TENNESSEE
PRIVATE PROBATION SERVICES COUNCIL
MINUTES**

DATE: December 5, 2014

PLACE: Conference Room 1-B, Davy Crockett Tower
500 James Robertson Parkway
Nashville, Tennessee

PRESENT: Board Members – via telephone
Judge Chris Craft, Chairman
Judge J. Klyne Lauderback
Linda Byford
Stancil Ford
Judge Hugh Harvey
Judge John Hudson
Veronica Thornton

PRESENT: Staff Members –
Kimberly Whaley, Director of Licensing
Ellery Richardson, Assistant General Counsel
Eljay Elia – Paralegal

Call to Order –Chairman Craft called the meeting to order at 10:02 a.m. and the following business was transacted:

STATEMENT OF NECESSITY Chairman Craft read the following statement:

STATEMENT OF NECESSITY

According to T.C.A. 8-44-108(b)(2), “If a physical quorum is not present at the location of a meeting of a governing body, then in order for a quorum of members to participate by electronic or other means of communication, the governing body must make a determination that a necessity exists. Such determination, and a recitation of the facts and circumstances on which it was based, must be included in the minutes of the meeting.” Furthermore, T.C.A. 8-44-108(a)(3) defines a necessity as, “matters to be considered by the governing body at the meeting require timely action by the body, that physical presence by a quorum of the members is not practical within the period of time requiring action, and that participation by a quorum of the members by electronic or other means of communication is necessary.”

This is the regularly scheduled meeting for the Private Probation Services Council. The purpose of today’s meeting via teleconference is to discuss the legal report and other normal business. There is one complaint that will require the Council’s action before the next Council meeting in December. It is in the best interest of the Council and all the parties to have complaints resolved quickly. Waiting until the next meeting is unnecessary and puts parties at a disadvantage by waiting three more months to have a proposed resolution to the complaint.

While the Council needs to address these issues, the physical presence of a quorum of the members is not possible at this time, due to members' schedules and the expense of traveling. Therefore, the Council has determined that it is necessary to allow participation by teleconference.

~~Statement of Necessity – Due to the impossibility of having a quorum of members physically present, and the need to address the legal report and other regular business in a timely manner, the Council believes a necessity exists that requires this meeting be held by teleconference.~~

Roll Call – Ms. Whaley called the roll.

PRESENT: Judge Chris Craft
Judge J. Klyne Lauderback
Linda Byford
Stancil Ford
Judge Hugh Harvey
Judge John Hudson
Veronica Thornton

All members of the council were present via teleconference

Mr. Ford made the motion to adopt the statement of necessity, seconded by Judge Lauderback.

Roll Call Vote:

For
Judge Chris Craft
Judge J. Klyne Lauderback
Linda Byford
Stancil Ford
Judge Hugh Harvey
Judge John Hudson
Veronica Thornton

MOTION CARRIED

Notice Given – Ms. Whaley then read the following notice for the record:

This meeting's date, time and location have been posted on the Tennessee Private Probation Services Council's website since August 16, 2013. The agenda for this month's meeting has been posted on the Council's website since November 20, 2014, and this meeting has been noticed on the tn.gov public meeting calendar.

Judge Craft welcomed Linda Byford to the council; she works for the Department of Corrections and represents the council as a publicly employed probation officer.

Agenda – Judge Lauderback made a motion to adopt the agenda, seconded by Judge Hudson.

Roll Call Vote:

For

Judge Chris Craft
Judge J. Klyne Lauderback
Linda Byford
Stancil Ford
Judge Hugh Harvey
Judge John Hudson
Veronica Thornton

MOTION CARRIED

Minutes – The Council reviewed the minutes from the September 5, 2014. Mr. Ford made a motion to approve the minutes of the September 5, 2014 meeting, seconded by Judge Harvey.

Roll Call Vote:

For

Judge Chris Craft
Judge J. Klyne Lauderback
Linda Byford
Stancil Ford
Judge Hugh Harvey
Judge John Hudson
Veronica Thornton

MOTION CARRIED

LEGAL REPORT– ELLERY RICHARDSON, ASSISTANT GENERAL COUNSEL

1) 2014018071

The Respondent in this matter is a Limited Liability Company registered to provide private probation services. This complaint alleges that the owner of the registered LLC and one of LLC's staff gave contributions to the re-election campaign of the judge of the court for which the private entity provides services. The complaint alleged that these contributions were in violation of Rule 1177-02-.04. Upon review of this matter, it was found that an officer of the LLC also contributed to that same judge's campaign. Additionally, the owner of the LLC contributed signs to a candidate for the clerk of courts office; the candidate is a government employee.

Respondent stated that the individuals made the contributions in their individual capacity, but that the LLC itself did not contribute. Additionally, the individuals gave to re-election campaigns and not the judge or clerk individually. Respondent has stated that its employees had no corrupt purpose or intent.

Violation: Rule 1177-02-.04 [Conflict of Interest]: “No private entity that provides probation services may give or offer to give anything of value to a governmental employee.”

History: No prior complaints.

Recommendation: Close. While both the judge and the court of clerk in this matter are state employees, there is no proof at this time that the Respondent LLC gave anything of value to those persons. Rule 1177-02-.04 specifically prohibits a “private entity” from giving or offering anything of value to a governmental employee. The private entity is, specifically, the entity that contracts to provide private probation services to a court. As the rule only applies to a private entity, this prohibition does not flow to the employees or officers of a private entity giving contributions in their individual capacity.

Judge Hudson made a motion to adopt counsel’s recommendation, seconded by Mr. Ford.

Roll Call Vote:

For:

Judge Chris Craft
Linda Byford
Stancil Ford
Judge Hugh Harvey
Judge John Hudson
Veronica Thornton

Abstained:

Judge J. Klyne Lauderback

MOTION CARRIED

RULE UPDATE:

Ms. Richardson provided the Council with an update on the rules that were approved in June. In mid-October, the Department discovered that there was an error in the filed rules, and those rules had to be withdrawn and refiled. The corrected rules were filed on Oct. 29, 2014. The last day to request a hearing / effective date: January 27, 2015.

APPRENTICESHIP BILL UPDATE

Ms. Richardson provided the council with a proposed response to the legislature to comply with the requirements of Public Chapter 881, which requires the Council to develop a plan to create an apprentice program by December 31, 2014.

Private Probation Services Council Apprenticeship Report

The Private Probation Services Council is created through Tenn. Code Ann. §§ 16-3-901 et seq. The purpose is to “ensure that uniform professional and contract standards” for all companies that provide misdemeanor probation supervision, counseling, and collection services. T.C.A. § 16-3-902. The registration is not a professional license requiring specialized training or experience. The registration program was created to ensure that these businesses meet certain minimal qualifications, including maintaining insurance, professional and contract standards, and that the registrant’s employees do not have a criminal background. T.C.A. § 16-3-909. Providing probation services to courts is a business of a character that could easily harm the public if not carried out in a professional and ethical manner. The qualifications for these entities could not be equated to an apprenticeship. Therefore, no meaningful apprenticeship program could be created to allow those who wish to register with the Department to begin work sooner.

ADMINISTRATIVE REPORT – KIMBERLY WHALEY

Budget - Ms. Whaley presented the council the 2015 year to date revenues and expenses. She also advised that the council’s 2014 year end financials would most likely be presented at the March 6, 2015 meeting.

NEW BUSINESS – There was no unfinished or new business to discuss.

ADJOURN – Being no further business, the meeting adjourned at 10:18 a.m.

Judge Chris Craft, Chairman


J. Klyne Lauderback, Vice Chairman 5/19/15