

ARIZONA STATE BOARD FOR PRIVATE POSTSECONDARY EDUCATION  
1400 West Washington St., Conference Room B1  
Phoenix, AZ 85007

**BOARD MEETING MINUTES**  
**October 27, 2011**

Members Present:                    Laura Palmer Noone, Chair                    Jason Pistillo  
   KC Miller    Glen Tharp  
   Holly Helscher (by phone)                    David Walser  
   Trish Leonard

Also Present:                        Teri Stanfill, Executive Director  
   Jeanne Galvin, Asst. Attorney General  
   Keith Blanchard, Deputy Director  
   Cassandra Pinon, Program Specialist

**I.        CALL TO ORDER – 10:00 A.M.**

The meeting was called to order by Chair Noone at 10:00 a.m.

II.        Ms. Noone recognized James Dugan and Scott Rhude and thank them for their many years of service dedication to Board. Mr. Dugan and Mr. Rhude expressed their thanks for the honor of serving on the Board over their many years of service. Ms. Stanfill presented Mr. Dugan and Mr. Rhude with the Certificates of Appreciation from Governor Brewer

Ms. Noone welcomed new Board members Jason Pistillo and David Walser to the Board.

**III.      Board Meeting Minutes: August 27, 2009L**

A.        **Regular Meeting Minutes:** Ms. Noone noted a correction on page 4. Ms. Miller made a motion to approve the Minutes as corrected. Mr. Tharp seconded the motion and the motion passed. Mr. Pistillo and Mr. Walser abstained.

B.C.     Executive Sessions Minutes, Agenda Item III.A. and VI.C.: Ms. Miller made a motion to approve the Executive Session Minutes as submitted. Ms. Leonard seconded the motion and the motion passed. Mr. Pistillo and Mr. Walser abstained.

**IV.      Student Tuition Recovery Fund: Claim filed by a former student of Mobile Dynamics  
   DQ father of claimant, was present on the phone**

Mr. Blanchard reported that the STRF claim, filed by the mother of the complainant D.Q. on September 1, 2011, which is approximately 3 months after the statute of limitations of one year that a STRF claim can be filed. Mr. Blanchard explained that Mobile Dynamics closed on June 6, 2010 and that the Board has awarded refunds to two former students.

Mr. Blanchard summarized the circumstances of DQ's experience and the expectations of DQ's mother in receiving a refund from the school. DQ did complete and graduate the program through Acoustic Edge in Texas. DQ's mother stated that the program in Texas was not a teach-out but a transfer because it was DQ's only option.

Mr. Blanchard explained that there was not written communication between Mobile Dynamics and the students regarding their options after the school closure. However, Mr. Blanchard was able to confirm that a meeting was held with DQ and two other students to explain their options.

DQ, claimant's father, addressed the Board and expressed his concern that a refund was not made as was done when the Ontario school closes and that a refund was due regardless of the statute of limitations.

Ms. Noone asked how old was DQ and the father responded DQ was 19. Ms. Helscher asked why DQ has not been in contact with Staff regarding his claim and the father responded that DQ was working.

Mr. Walser explained his position that it was the Board's responsibility to follow the statutes and rules and the claim was submitted after the one year statute of limitations. DQ's father stated that was not fair. Ms. Walser stated he understood, but the claim was filed after the statute of limitations and did not have the authority to act on the claim.

Ms. Noone asked if DQ's father could act on behalf of the claimant since DQ was 19.

Ms. Noone made a motion to go into Executive Session to seek legal advice. Ms. Miller seconded the motion and the motion passed.

Regular meeting recessed at 10:10 a.m.  
Executive Session Convened at 10:11 a.m.  
Executive Session Adjourned at 10:14a.m.  
Regular meeting reconvened at 10:15 a.m.

**Motion:** Mr. Tharp made the motion to deny the claim as it was filed after the one year statute of limitations pursuant to R4-39-602(A)(1). Ms. Noone seconded the motion and the motion passed.

Ms. Noone stated for the record that Mobile Dynamics had failed to provide written notice to the students regarding the closure pursuant to R4-39-406.

## **V. Licensure Dispute:**

### **A. Holy Yoga: Represented by Brook Boone (by phone) and Jarrett Boon**

Mr. Blanchard reported that the Board received information that Holy Yoga was operating in Arizona without a license; Holy Yoga is offering a 200-hour yoga teacher training program, which is not registered by Yoga Alliance. Holy Yoga's website states that "graduates obtain accreditation as a Registered Holy Yoga Instructor (R-HYI)." Holy Yoga states the program is religious in nature and should not be required to be registered. Mr. Blanchard reported that staff had issued a Cease and Desist on June 7, 2011.

Ms. Miller asked if Holy Yoga charged tuition. Ms. Boone responded yes, \$2700.00. Ms. Miller asked if the student signs an Enrollment Agreement. Ms. Boone responded the student signs a waiver and then stated they sign an application form.

Ms. Boone stated she did not believe licensure was required as the program was religious in nature and that the training is out of state. Ms. Boone also stated the Holy Yoga is a 501(C)(3) non-profit and that religious programs are not required to be licensed based upon A.R.S. § 32-3022(C).

Ms. Stanfill stated that A.R.S. § 32-3022(C) is an exemption for degree programs, not vocational programs.

Mr. Boone asked what is the benefit of licensure. Mr. Walser responded it is the law that vocational programs be licensed, but that licensure is also a benefit to the business.

**Motion:** Ms. Miller made a motion that licensure for Holy Yoga is required and that Holy Yoga cease and desist until licensure is granted. Mr. Tharp seconded the motion and the motion passed.

**B. Jackson Hewitt, Inc. – Represented by Jennifer Rasic and Arnold Janofsky**

Ms. Stanfill reported that Jackson Hewitt had been licensed by the Board in May 2008, but has determined to offer the program only to its employees, so licensure was no longer required. Ms. Stanfill explained that Jackson Hewitt had submitted a new Letter of Intent in July and that is was Staff's determination that licensure was required.

Ms. Rouette, on behalf of Jackson Hewitt, disputed the requirement for licensure as Jackson Hewitt was not charging tuition, only \$79-199 for books and that the students could choose which of the three courses they would take.

Ms. Stanfill stated staff consulted with Ms. Galvin who stated the fact that Jackson Hewitt was not charging tuition was not a determining factor if licensure was required.

Mr. Tharp asked for clarification regarding the books. Ms. Rasic responded that the books "in-house" and supplied by Jackson Hewitt.

Ms. Stanfill explained that Jackson Hewitt was licensed in 15 other states with one exemption from New Mexico. Ms. Stanfill also stated that the Board has licensed H&R Block since 2000 and the two programs are very similar, with the exception of the marketing of the courses. Ms. Stanfill also explained that beginning in 2012, anyone who will be a tax preparer will be required to pass a mandatory federal income tax preparer exam, administered by the IRS through a third party and obtain a Preparer's Tax Identification Number.

The percentage of the students who would take the IRS test was discussed as well as Jackson Hewitt's position that the courses as avocational and/or academic improvement.

Mr. Janofsky stated the courses are intended for individuals to prepare their own taxes and that the programs may only lead to seasonal employment. Mr. Janofsky further stated he disagreed that the three courses would be sufficient to pass the text and that one would need additional training.

Mr. Pistillo asked what Jackson Hewitt gains by offering these programs. Mr. xxxx responded it is a marketing tool.

Ms. Leonard expressed her concern that the course may be only seminars. Further discussed ensued.

**Motion:** Ms. Miller made a motion that licensure was required for Jackson Hewitt and to issue a Cease and Desist Order. Mr. Tharp seconded the motion and the motion carried.

## **VI. LICENSING**

### **A. Regular Degree-Granting License Renewal Application: Asian Institute of medical Studies Represented by Alex Holland**

Ms. Stanfill summarized the report regarding the previous reviews of the renewal by the Board and the Finance Committee. Ms. Stanfill reported that the December 2010 audit had been received and forwarded to the Board as well as a copy of the ACAOM letter continuing education.

Ms. Helscher expressed her serious concerns regarding the financial stability and that management's plan to address the equity deficits is inadequate. Mr. Holland responds explaining that the debt has been reduced by \$100,000 and the enrollments have increased this year to break even, perhaps make a profit for the first time this year.

Ms. Miller states has seen improvement and that it would be important for the Board to grant AIMS additional time as ACAOM has done.

**Motion:** Ms. Miller made a motion to approve the Regular Degree-Granting License renewal with the stipulations that the \$15,000 Surety bond be maintained and to continue quarterly reporting. Ms. Leonard seconded the motion. Discussion ensued. The motion carried by a vote of 6 to 1, Ms. Helscher voting no.

### **B. Conditional to Regular Vocational Program License Renewal: Sumits Yoga Represented by Dayna and Craig Henig**

Ms. Stanfill summarized the report, correcting that Mr. Blanchard had visited Sumits Yoga and the students records were not in compliance. Mr. Blanchard worked with Ms. Henig to correct the student records at the visit.

**Motion:** Ms. Noone made the motion to approve the Conditional to Regular Vocational Program License Renewal with the stipulations that the \$15,000 Surety Bond be maintained and that Staff review the Student Records in 6 months. Mr. Pistillo seconded the motion and the motion passed.

### **C. Conditional to Provisional Degree-Granting License Renewal: Guidance College of Aviation Represented by Chris Horton**

Ms. Stanfill summarized the report and stated that Guidance has not had any students so a site visit was not conducted.

Ms. Miller asked when Guidance expects to have students enrolled. Mr. Horton responded that the changes in the GI bill revised in Congress in December 2010 and the lack of available student funding has been the problem. Mr. Horton stated Guidance is actively recruiting and intends to grant scholarships. Mr. Horton further stated it was Guidance's intent to continue for at least another year.

**Motion:** Ms. Miller made a motion to approve the Conditional to Provisional Degree-Granting License Renewal with the stipulation that the \$40,000 Surety Bond be maintained. Mr. Tharp seconded the motion and the motion passed.

### **D. Regular Degree-Granting License Application: Potomac College, LLC Represented by Walter Person and Brian Carter**

Ms. Noone recused herself. Ms. Miller acted as Chair.

Ms. Stanfill summarized the Report that Potomac will primarily operate administrative offices in Arizona. Mr. Tharp was lead. Mr. Tharp stated that the Catalog Supplement received this morning answered many of the questions he had. Mr. Tharp noted that the Enrollment Agreement was not cross-referenced with the checklist and was missing the Holder in Due Course statement.

Mr. Person responded to the questions of the Board.

Ms. Leonard noted that the first sentence on page 3 on the Enrollment Agreement needed revision.

**Motion:** Mr. Tharp made a motion to approve the Regular Degree-Granting License Application. Mr. Walser seconded the motion and the motion passed.

Ms. Noone returned to the meeting.

**VII. Call to the Public:** Dr. Lauren Rhude, previous Board member, addressed the Board and expressed his pride in the State Board.

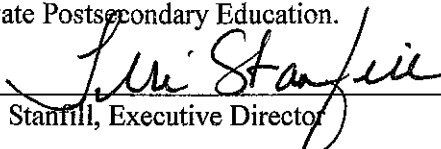
**VIII. Board Business:**

A. Executive Director's Report: Ms. Stanfill explained the LOC with the Department of Education as well as pending actions from other regulatory agencies has been updated for the licensees.

B. The 2012 Meeting Dates were included in the Board packets.

**VIII. Adjournment:** The meeting adjourned at 11:30 a.m.

The minutes were approved at the December 13, 2011 at the meeting of the Arizona State Board for Private Postsecondary Education.

  
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Teri Stanfill, Executive Director