TENNESSEE
PRIVATE PROBATION SERVICES COUNCIL
MINUTES

DATE: March 5, 2010

PLACE: 2nd Floor Conference Room- Andrew Johnson Tower
710 James Robertson Parkway
Nashville, Tennessee

PRESENT: Board Members:
Judge Chris Craft, Chairman
Judge J. Klyne Lauderbach
Judge Hugh Harvey
Judge John Hudson
Dena McCollough

PRESENT: Staff Members:
Donna Hancock, Interim Director
Susan Lockhart, Executive Administrative Assistant
Adrian Chick, Staff Attorney

ABSENT: Board Members:
Judy Harvey
Sidney Chism

GUESTS: Lillian Curvey
Joseph I. Karinuk

CALL TO ORDER:

Chairman Craft called the meeting to order at 10:00 a.m. and the following business was transacted:

Roll Call - Ms. Hancock called the roll. Five of the seven Council members were present. Judy Harvey and Sidney Chism were absent.

Adopt Robert's Rules of Order - Judge Lauderbach made a motion to adopt Robert's Rules of Order, seconded by Ms. McCollough. **MOTION CARRIED.**

Conflict of Interest Statement - Ms. Hancock advised the Council that a signed Conflict of Interest Statement is required annually and asked each member to sign the statement in their packets and submit them for the record.

Announcements - Ms. Hancock advised that she had a Private Probation Entity application to present that was not listed on the agenda. She advised that the application lacked insurance and

bond information but the applicant was present and had spoken with his insurance company and expected the documents to be faxed at any moment.

Agenda - Judge Lauderbach made a motion to adopt the agenda as amended, seconded by Judge Hudson. **MOTION CARRIED.**

Minutes - Judge Lauderbach made a motion to approve the minutes of December 4, 2009 as amended, seconded by Judge Hudson. **MOTION CARRIED.**

LILLIAN CURVEY – APPEARANCE/DISCUSSION:

Ms. Curvey appeared before the Council regarding her concerns with a private probation entity. Judge Craft advised Ms. Curvey that the Council cannot hear a particular grievance unless a complaint has been filed. Ms. Curvey stated that the company has not been licensed since 2008 and is arbitrarily charging probationer fees. She is of the opinion that this conduct constitutes enslavement, which is prohibited by the 13th Amendment. Judge Craft again advised Ms. Curvey that the Council cannot address a particular grievance unless a complaint has been filed. Ms. Curvey stated that she had filed a "complaint" with the Council's office and the Governor's Office, the State Attorney General, the city and the county. She also stated that she had previously spoken with members of the Council's staff and was invited to appear before the Council to address her concerns. Judge Craft again stated that the Council cannot address her grievance until a complaint has been filed. Mr. Chick stated that Ms. Curvey has submitted an open records request. Mr. Chick added that, although there is not an "annual report" at this time, she would receive a written response to her request by March 8, 2010. Judge Craft advised that regardless of Ms. Curvey's previous conversation with staff, the Council must follow procedure and the Council cannot act on her grievances until she files a written complaint with the Council. Ms. Curvey advised that she would be happy to file a written complaint. However, Ms. Curvey continued to talk about her grievance. Judge Craft, after advising Ms. Curvey again that she may file a written complaint, asked Ms. Curvey to leave the meeting because her conduct was disruptive.

LEGAL REPORT---ADRIAN CHICK, STAFF ATTORNEY

Mr. Chick presented the following Legal Report for consideration:

1. L09-PSC-RBS-2009016561

Complaint: The Respondent private probation company's license expired on December 20, 2007. On July 13, 2009, staff received an application for renewal of the expired license. On July 31, 2009, staff sent a letter to Respondent asking whether the company had operated during the period the license was expired.

Response: The Respondent states that it has operated continuously since December 21, 2005 and that it had unintentionally failed to renew its license. Respondent attributes the oversight to a significant turnover of its accountants and record keepers at both its corporate office and probation office, which totaled nineteen (19) employees during a four (4) year period. The invalid status of its license was not discovered until July, 2009, when it was in the process of renewing a performance bond. The Respondent immediately filed its application for renewal upon learning of this oversight.

Complaint History: None.

Recommendation: Issue a letter of warning to the Respondent.

MOTION: Judge Hudson made a motion to accept Legal's recommendation, seconded by Judge Harvey. ALL APPROVED. MOTION CARRIED.

2. L10-PSC-RBS-2009025331
COMPLAINT: The complainant states as follows:

"I was convicted on December 9, 1999 on an unlawful possession of drug charge, with intent to sell, marijuana, a class e felony. (Shelby County Criminal Court, Division 3, Judge John P. Colton Jr.) In January I paid the (Respondent) $135 for a pre-sentencing report. I was told that if I did not make the payment I would be incarcerated. I was informed the above information by my Memphis trial attorneys (names withheld). I retained an appellant lawyer from Nashville, (name withheld). On July 7, 2000, the court sentenced me to 1 year probation. On July 10, I signed a notice of arrival and I gave the probation company the monthly required fee of $45. After I informed the Probation Officer that I had been framed by the Shelby County Sheriff department and had been railroaded in division 3 court, the company refunded my money, the $45, and stated in writing that I was not on probation. For the next 9 months or until June 15, 2001 I could not get any information concerning my sentencing and probation status. (Even from my paid appellant attorney). On June 15, the Probation Supervisor, (name withheld), informed me that the Judge, John Colton, had told her to tell me to pretend that I was on probation! I have had a felony conviction on my history, that have prevented me from voting or getting a good job or going to school and I've never been sentenced! If I was really guilty of selling drugs would the court be allowing me to get off with out serving a penalty!

RESPONSE: Respondent states that the complainant was sentenced to one year, suspended, and placed on probation. While under Respondent's supervision, the complainant appealed which caused the Respondent's services to be suspended. The $45 refund was the appropriate action, and apparently the complainant became suspicious when he received the refund. Respondent denies making any statements regarding incarceration if fees were not paid.

Complaint History: None.

Recommendation: Dismiss.

MOTION: Judge Hudson made a motion to accept Legal's recommendation, seconded by Judge Harvey. ALL APPROVED. MOTION CARRIED.

ADMINISTRATIVE REPORT – DONNA HANCOCK, DIRECTOR

Complaint Statistics & Comparison Report – Ms. Hancock presented a comparison of the complaints currently pending to the complaints pending at this time last year. She advised that there are currently five (5) open complaints and two (2) of them have been open for more than one hundred eighty (180) days. Ms. Hancock advised that one of the complaints is awaiting a response and the others are in Legal. Mr. Chick advised that the Council just addressed two (2) of the complaints, one is under investigation and he has asked for more information regarding the remaining complaint.

Annual Summary - Ms. Hancock advised that she does not have the final budget for previously fiscal year to present yet. She also advised that she previously spoke with Judge Craft regarding the statutory requirement for an annual summary report and she has not found a record of one ever having been done. **MOTION:** After some discussion, Judge Hudson made a motion for an

annual report to be presented at each June meeting addressing the previous fiscal year, seconded by Judge Harvey. **ALL APPROVED. MOTION CARRIED.**

Judge Craft asked Ms. Hancock to email the report to the Council members prior to the June 2010 meeting for their review.

NEW BUSINESS:

Ms. Hancock advised that she received a question about the State no longer receiving felony post plea diversion cases and that they could be assigned to private probation entities. Judge Craft and Ms. McCullough advised that private probation companies can only work with misdemeanors offenders.

Ms. Hancock presented an application for Tennessee Counties Probation Services, LLC to obtain a license as a private probation entity. Judge Craft advised that the Council previously approved a policy to allow staff to approve applications administratively if everything is in order and if it does not meet the qualification then it must be presented to the Council. Ms. Hancock advised that there is a question regarding the applicant's education that will be addressed by the new rules once they become effective. **MOTION:** After some discussion, Ms. McCullough made a motion to approve the substitution of administrative experience for education, seconded by Judge Lauderbach. **ALL APPROVED. MOTION CARRIED.**

UNFINISHED BUSINESS:

Ms. Hancock advised that the September 2009 minutes were previously approved subject to amendments and presented a copy to be signed by the Council for the record.

MOTION was made by Judge Lauderbach and seconded by Judge Hudson to adjourn.

Judge Chris Craft, Chairman

J. Kline Lauderbach, Vice Chairman