

**OKLAHOMA ABSTRACTORS BOARD
MINUTES OF REGULAR MEETING
November 21, 2023**

1. A regular meeting of the Oklahoma Abstractors Board (OAB) was called to order by Vice-Chairperson Darla Ringo at 10:00 a.m., at the OLERS Conference Room, 421 NW 13th Street, Suite 100, Oklahoma City, Oklahoma.
2. Darla Ringo called the roll. Attending were: Darin Kent, Darla Ringo, Jeff Lower, Jeff Mapes, Lisa Yates, Randy Coffman, Rex Koller, and Scott Ward. Absent: Sue Ann Loggains.
3. The Minutes of the Regular Meeting of the OAB, conducted on October 17, 2023, were reviewed. A motion was made by Ms. Ringo to approve the minutes. The motion was seconded by Mr. Lower. Motion carried.
Yeas: Darin Kent, Darla Ringo, Jeff Lower, Jeff Mapes, Lisa Yates, Randy Coffman, Rex Koller, and Scott Ward. Nos: None.
4. **Chairperson's Report - Scott Ward:** Mr. Ward had no report but did wish everyone a nice Thanksgiving.
5. **Administrator's Report (Board Report):** Ms. Smith reported that Ayla would be out on vacation the week following Thanksgiving.
6. **Committee Reports.**
 - a.) **Budget and Finance – Jeff Mapes:** Mr. Mapes gave an update on the budget reporting that the annual budget is \$303,532.00 with encumbrances of \$64,019.84, which gives us a total Year-To-Date Encumbrances and Expenses of \$129,815.84 and a variance of \$173,717.16. The revenue for the month of September was \$21,400.00 and expenses were \$19,684.60 which leaves us with an ending cash balance of \$969,601.06. After review and discussion, Mr. Mapes made a motion to approve the report as presented. Second by Mr. Kent. Motion carried.
Yeas: Darin Kent, Darla Ringo, Jeff Lower, Jeff Mapes, Lisa Yates, Randy Coffman, Rex Koller, and Scott Ward. Nos: None.
 - b.) **Rules and Regulations – Randy Coffman:** Ms. Smith presented the timeline for rulemaking. First is the Notice of Rulemaking Intent which informs the public that the Board has the intention of making rules. That gets published and the comment period is opened. At the end of the 30 day comment period, there is a public hearing which is usually done as part of a board meeting. After the hearing, the Board can either adopt the rules without revisions, or makes revisions and adopts the revised rules, or they can choose to solicit further comment, which starts the process all over again. If a version of the rules can be finalized, the rules are adopted. Within 10 days, it has to be submitted to the Legislature and Governor. Previously the March Board Meeting was the last possible time for adoption to meet the April 1st

submission deadline. However, the date has changed for this year. Submissions to the legislature must be made by March 1st to be considered in the legislative session, and in 2025, that date changes to February 1st. If adoption fails, we have to officially retract our Notice of Rulemaking Intent. If it is submitted to the Legislature and Governor, it goes through the legislative session. If it is approved there and by the Governor, it is officially adopted and would be considered promulgated to go into effect on November 1st which is the earliest it can go into effect unless it is considered an emergency rule.

Mr. Coffman reported that the rule and proposed changes are being picked up from last month's meeting. There is the original rule, the same proposed changes as last time, and an additional alternative in the packet. He asked that Mr. Ward open the floor to comments from the board members. He also confirmed that if the board chose to move forward today, there would need to be some formulated language approved to go out with the Notice of Rulemaking Intent. He stated that as Chairman of the Rules Committee, he would recommend moving forward with the original proposed rule changes. There are similarities between those and the amended changes, but a few things had been added and some had been dropped.

Mr. Ward asked Ms. Scimeca whether there could still be changes made even if one of the options were chosen.

Mr. Coffman made a motion to enter the rulemaking process with regard to Title 5:11-5-3 Preparation of Abstracts with changes to the section regarding Electronic Abstracts. Second by Ms. Ringo. Motion failed.

Ms. Yates asked one of the committee members to explain what they are trying to accomplish with the rule change.

Mr. Coffman explained that the current rule reads that a conversion of an abstract must be conducted by a licensed abstractor employed by a Certificate of Authority holder in the county where the property is located, and the conversion must be certified thereto. There are no guidelines for that conversion and certification. It was originally suggested that an additional certificate be added but it was felt to be too burdensome. That was set aside and a discussion began on the process and whether there is a problem that has been identified that needed to be addressed. There has been no widespread problem brought to the attention of the Board, but one problem was identified at last month's meeting where an abstract was poorly converted, the original destroyed, and an additional cost was passed on to the consumer when the converting company refused to cover the cost to build a new abstract.

The current rule seems to require a duty, but it needs to be enforced. Ms. Yates suggested that the certificate itself should be a sign of correct conversion. Mr. Mapes said only if that certificate holder is the one who converted it and that he doesn't agree with someone from a different county converting abstracts that aren't from that county because they don't have authority for the county. That is currently what is

required in the rules. Ms. Smith pointed out that without some form of notation, there's no way to tell what is a properly converted abstract and what is just a copy of an abstract created by someone without authorization.

Ms. Yates asked about the addition of the language that gives a company the power to reject an abstract coming back to them that's not in its original form. Mr. Coffman explained that if it isn't in the format it was created in and wasn't processed through a certified conversion, it's much like it is now with a paper abstract being taken apart and returned not in its original form, the company can choose whether or not they want to accept it.

Mr. Coffman stated that much like creating abstracts, converting abstracts should be held under the authority of those companies licensed to do so in that county. Ms. Yates pointed out that the rule currently requires that, so it would seem that the area of concern is addressing the signing off on the completeness of the conversion. Mr. Coffman agreed that was the original starting point.

Mr. Ward confirmed that it was his understanding that the committee is not in complete agreement as to the language they would like to move forward with then asked Mr. Mark Luttrull with the Oklahoma Land Title Association about their feedback on the matter.

Mr. Luttrull stepped back to address one of Ms. Yates' questions by saying that they original idea behind the current language was that oftentimes an abstract would be sent out in a paper format then would come back as an electronic abstract but was not the same quality as what went out. The abstractor could choose or reject what they received back. The discussion has actually been going on for a long time. Originally, there were three points, one, that a digital abstract could be offered if a customer requested one. Two, that it had to be provided in a non-proprietary format, and three, the charges had to be the same or had to be listed on their rate sheet, if different. The issue is divisive, and it is important that a few things are recognized. An abstract is a collection of documents that a COA holder produces. If they didn't produce it, it's not an abstract.

Ms. Yates pointed out that the critical point is the compilation of documents, not the format it is presented in. She doesn't want to go backwards and put a lot of rules in place, but simply wants to preserve that without a lot of extraneous requirements.

Mr. Luttrull agreed and said that we've allowed the converting of the abstract to take precedence over everything else.

Mr. Ward commented that the use of the word conversion was happening a lot when really, anything not produced by an abstractor is just a copy. He went on to state that he isn't comfortable when there seems to be a lot of varying opinions as to how to handle the issue and what the language should be. Mr. Kent agreed.

Ms. Smith stated that the only part she felt was critical in the language changes was the portion that restores the customer's choice to receive an abstract in the format they prefer. There are currently companies who will refuse to produce anything but an electronic abstract and if a customer wants a paper abstract the company will tell the customer to take the electronic version home and print it. She would love to have it added back in. Ms. Yates suggested that perhaps they should go to another company, but it was pointed out that in some counties, they only have one company so have no choice for a competitor.

Mr. Coffman agreed that it is the duty of the board to ensure that the customer is being serviced in the greatest way. There are many customers that don't care, but there are some that do, and they should have the choice.

Mr. Koller stated that his proposed amended rule would make things easier and less cumbersome than the original proposed changes. All that would be required is a stamp certifying to the conversion and left off the requirement for a signature and date. It also changes the requirement for a conversion to be done by a COA holder in the county and lets any COA holder perform the conversion. He pointed out an additional change that would grandfather in any existing abstracts that has already been converted.

Mr. Ward asked for any further discussion about entering into the rulemaking process. Ms. Yates stated that she thought the Board should be complete in their goal and that doesn't seem to be in place. Mr. Ward pointed out that there was some time and confirmed that it would have to be completed to submit to the legislature by March 1st. Ms. Smith confirmed that to complete comment period, there had to be a thirty-day gap between the submission of the Notice of Rulemaking Intent and the approval/adoption to meet the deadlines.

Mr. Luttrull pointed out that weather can also impact the availability of having the required meetings.

The vote was a tie, therefore, the motion failed.

Yeas: Darla Ringo, Randy Coffman, Rex Koller, and Scott Ward. Nos: Darin Kent, Jeff Lower, Jeff Mapes, and Lisa Yates.

- c.) **Licensing and Testing-Rex Koller:** Mr. Koller reported that since the last board meeting, there were twenty-one people who took the test,+ and all passed. The next testing date is January 18th at the Basic Abstractors School.
- d.) **Inspections-Katherine Smith:** Ms. Smith reported that there had been fifteen inspections since the last Board Meeting. Ten companies were performing satisfactorily, but there were findings for five of them. The findings and suggestions from the Enforcement Committee could be found in the packet. Ms. Smith asked for a motion to accept the inspection reports as presented and authorization to proceed with

the recommended actions from the Enforcement Committee. A motion was made by Ms. Ringo. Second by Mr. Mapes. Motion passed.

Yeas: Darin Kent, Darla Ringo, Jeff Lower, Jeff Mapes, Lisa Yates, Randy Coffman, Rex Koller, and Scott Ward. Nos: None.

e.) **Enforcement Committee Reports-Jeff Lower:**

Applications for Licenses: Presented to the Board for approval was a list of applicants for abstract licenses or renewals, which are set out in the attachments hereto. A motion was made by Mr. Lower on behalf of the Enforcement Committee to approve all the licenses presented, subject to administrative review and to make sure all compliance issues were met, and appropriate fees paid. Second by Ms. Yates. Motion passed.

Yeas: Darin Kent, Darla Ringo, Jeff Lower, Jeff Mapes, Lisa Yates, Randy Coffman, Rex Koller, and Scott Ward. Nos: None.

Renewal of Certificate of Authority (With No Changes): Presented to the Board for approval was an application for renewal of Certificate of Authority with their rate sheet by Albright Abstract & Title Guaranty Company (Kay), Bailey Hans, LLC dba Garfield County Abstract Co. (Garfield), Bailey Hans, LLC dba Guarantee Abstract Co. (Garfield), Bailey Hans, LLC dba Humphrey Abstract Co. (Garfield), Bryan County Abstract Company, Inc., Fairview Abstract Company (Major), First Republic Title Co. dba Cimarron County Abstract Company (Cimarron), Grant County Abstract Company, Guaranty Abstract Partners, LLC dba Smith Brothers Abstract & Title Co., LLC (Tulsa), Jackson County Abstract Company, Jelsma Abstract Company dba Logan County Abstract Company (Logan), Modern Abstract and Title, LP (Bryan), Oklahoma Digital Abstract, LLC dba American Eagle Abstract Wagoner County (Wagoner), Sovereign Abstract & Title of Okfuskee County (Okfuskee). A motion was made by Mr. Lower on behalf of the Enforcement Committee to approve the application. Second by Mr. Kent. Motion passed.

Yeas: Darin Kent, Darla Ringo, Jeff Lower, Jeff Mapes, Lisa Yates, Randy Coffman, Rex Koller, and Scott Ward. Nos: None.

Abstention: Ms. Ringo and Mr. Koller abstained from those reports related to their employer's businesses.

Renewal of Certificate of Authority (With Fee Changes): Presented to the Board for approval was an application for renewal of Certificate of Authority with their rate sheet by American Abstract of McClain County, Buffalo Land Abstract Company (Johnston), Old Republic Title Company of Oklahoma (Oklahoma), Old Republic Title Company of Oklahoma (Cleveland), Old Republic Title Company of Oklahoma (Canadian), PHS Title, LLC dba Smith Brothers Abstract & Title Co., LLC (Pottawatomie). A motion was made by Mr. Lower on behalf of the Enforcement Committee to approve the application. Second by Ms. Ringo. Motion passed.

Yeas: Darin Kent, Darla Ringo, Jeff Lower, Jeff Mapes, Lisa Yates, Randy Coffman, Rex Koller, and Scott Ward. Nos: None.

Abstention: Ms. Ringo, Ms. Yates, Mr. Coffman, and Mr. Koller abstained from those reports related to their employer's businesses.

7. **New Business:** Mr. Ward asked for new business. There was none.
8. **Report Legal Counsel-Whitney Herzog Scimeca:** Ms. Scimeca reported that the case in Carter County has been sent to Love County and has been officially moved. It has been assigned case number CV-2023-38. The review of the motion to dismiss has been set for December 5, 2023 at 9:00 AM. Ms. Smith also state that she delivered the Administrative Record to the court while in the area doing inspections. In addition, Ms. Scimeca will be attending the Basic Abstractors School to gain a better understanding of the industry. Mr. Ward thanked her for keeping the Board informed.
9. **Visitor's Comments:** Mr. Ward asked for any visitor comments. There was none
10. **Announcement of next meeting:** Tuesday, December 19, 2023, at 10:00 a.m., 421 NW 13th Street, Suite 100 (OLERS) Conference Room, Oklahoma City, Oklahoma.
11. **Adjournment:** Mr. Ward asked for a motion to adjourn the meeting. Motion was made by Ms. Yates. Second by Mr. Mapes. Motion passed.
Yeas: Darin Kent, Darla Ringo, Jeff Lower, Jeff Mapes, Lisa Yates, Randy Coffman, Rex Koller, and Scott Ward. Nos: None.