

Minutes of the 2012 BOD Annual Meeting

Submitted by Kathleen Annunziata Nicolaides, Secretary

The ABFDE Board of Directors met for their Annual Meeting May 4 – 6th in Phoenix, Arizona. Present were: President Kirsten Singer, Vice President Lisa Hanson, Secretary Kathy Annunziata Nicolaides, Treasurer Jim Green, Frank Hicks, Jim Josey, Bonnie Beal, Marie Durina, Rick Horton, Rosalind Spencer, and Bill Riordan. Director Grant Sperry was unable to attend.

Treasurer's Report (Green): As of 3/31/12, ABFDE had \$20,839.57 in its Regular Checking account, \$338.69 in its Savings account, and a CD valued at \$7,552.89. The CD, which expires 5/14/12, will be renewed. Three payments totaling \$2,372 were made to FSAB in 2011. Payment in the amount of \$92.69 was made to the Corporate Service Company on 1/3/12 to maintain statutory representation in D.C. (corporation documents were initially filed there). Payment in the amount of \$525 was made to the Hobbs Group on 11/25/11 for filing of IRS 990-EZ, Return of Organization Exempt from Income Tax. Gross receipts were reported in the amount of \$39,357. Form BRA-25 was completed and filed with the Department of Consumer and Regulatory Affairs on 2/8/12. This submission is required every other year. A list of current members on the BOD, as well as the filing fee payment of \$80 was sent with the form. A payment of \$3,960 was made to CFM Insurance Company for BOD liability insurance. The cost of this insurance has remained the same for the past three years. During the past year, interest in the amount of \$70.10 was added to the Ames Fund, bringing the current balance to \$4,580.17. 2011 – 2012 dues payments totaled \$31,230.45. This amount includes prepayment of two members for the 2012 – 2013 period. A payment in the amount of \$17,162.67 was made to ACT, Inc. on 5/27/11. ABFDE is slowly digging out of its financial hole. The ACT testing validation has cost approximately \$60,000. They recommend conducting a validation process every 3 – 5 years. Jim recommended saving up for it.

An audit of the ABFDE finances will be conducted in the next few months. This audit, which is scheduled every three years, will cost approximately \$3,000.

The PayPal payment option implemented earlier this year has been working well. The foreign diplomats find it particularly convenient. With regard to the associated fees, PayPal collects \$7.55 for a \$250 payment. The cost seems reasonable because of the assured payment, the ease of making a payment in US dollars from a foreign country, as well as providing an expedient manner of payment common to other organizations.

Credentials Committee Report (Nicolaides): The Credentials Committee received 3 applications this year. Two of the applicants have passed into the testing phase; all of the third applicant's documentation has yet to be received. For one applicant, a committee member recused him/herself due to a possible conflict of interest. Marie Durina graciously assisted the Committee by reviewing and voting on the credentials of this applicant. In August 2011, the ABFDE Board of Directors voted to award diplomate status to candidates Jeffrey Payne and Andrew Barton. The ABFDE Testing Committee Guidelines for Credentials Evaluators was updated to include more detailed criteria for the evaluation of an applicant's training. Clarification was made to the Credentials Committee SOP to include the 5-year

period of validity on new diplomate certificates.

Continuing Education Committee Report (Hicks): There were 11 workshops approved for a total of 66 recertification points. The workshops were held across the country and in Canada, at national, regional, and local meetings.

FSAB (Nicolaides): Carl McClary, previous Secretary and FSAB Committee Chair, submitted ABFDE's application for reaccreditation on April 18, 2011. On November 29, 2011, FSAB's Application Review Committee sent an initial report to me which assessed the application and listed a number of points needing rectification before reaccreditation could be approved. The ARC committee conducted an exhaustive review of our documentation; in addition to the handful of critical concerns, the report included numerous comments. In speaking with the ARC chair, one reason for their close review was the complaint concerning ABFDE filed in 2010. Each comment and critical concern was addressed in two separate responses submitted December 30, 2011 and January 19, 2012. Changes to the RPG which would bring ABFDE into compliance with FSAB standards were proposed and voted on by the ABFDE BOD prior to the FSAB Annual Meeting held February 19, 2012. Although I was available by phone to answer any questions FSAB had when discussing our application at their meeting, no questions were asked, and FSAB reaccredited ABFDE.

FSAB requires an Annual Report from all accredited organizations. ABFDE's 2011 Annual Report was submitted on March 27, 2012.

Public Relations / Website (Durina): Major portions of the first version of the Legal Library have been posted on the ABFDE website. It is hoped that the Legal Library will become a "one-stop shopping" site for FDEs who wish to quickly access information on a variety of QD-related topics. There is a disclaimer in the beginning section of the Legal Library allowing for peer review and the submission of additional topics from FDEs. Many thanks to Kathleen Nicolaides and Laura Hammond for their invaluable assistance in the editing process, and to Laureen Leaver for her work in posting the sections to the website. You can view the progress made so far by visiting: <http://abfde.org/legallibrary.html>

The Speakers' Bureau PowerPoint presentation has been used during the past year by Peter Tytell, Dennis Ryan, and Ellen Schuetzner. Jim Josey is also planning to use it. All presentations were given to groups of attorneys. Ellen Schuetzner commented that she found it immensely helpful, especially the Daubert-related portions of the presentations. Dennis Ryan commented that he found it helpful and relevant, except for the Daubert-related portions. (Dennis stated this is because Daubert does not apply to the State of New York, where most of his casework originates.) A request to use the Speakers' Bureau presentation was received from Darla McCarly-Celentano of Aurora PD but denied because Darla is not an ABFDE diplomate. Lisa Hanson volunteered to help develop slides for the presentation that would address Frye/Mack issues. These slides would not replace the Daubert slides, but would be added to assist those states with Frye/Mack standards.

In December, 2011 a PayPal link was established on the ABFDE website. The link is located on the bottom left-hand corner of the "Contact Us" page.

On Feb. 9, 2012, a letter jointly signed by Linton Mohammed, ASQDE and Kirsten Singer, ABFDE was submitted to the editor of the JFS. The letter was written in response to two articles that appeared

in the JFS, both authored by M. Page, J. Taylor, and M. Blenkin, and both involving forensic identification science evidence since Daubert. The joint letter expressed disagreement with conclusions set forth in the Page articles and outlined in detail the empirical research undertaken since the Daubert ruling to support the validity and reliability of forensic document examination. The letter also added a recommendation that judges thoroughly evaluate credentials of every expert witness. The letter will be published in the July issues of JFS.

In February, 2012, an editor from the National Forensic Science Technology Center requested assistance in writing a primer on the subject of Forensic Document Examination. This is part of a larger project the NFSTC is working on, putting together primers for each of the forensic science disciplines submitting material. The goal of the project is to create a series of concise forensic guidebooks for the Bureau of Justice Assistance that will be easy-to-read, useful resources for non-scientists (such as policy-makers, law enforcement officers, potential jurors, attorneys, students, and the public.) This was considered an excellent opportunity to educate the public about what FDEs do, qualifications of legitimate FDEs, and to articulate research done in our profession in response to challenges. The timeline for this project was originally very short (one month) and Mr. Cote submitted a questionnaire which Durina completed prior to a verbal phone interview. The primer has undergone several edits with the help of Kathy Nicolaides and Kirsten Singer and turned out so well that it is being used as the "model primer" for the other forensic science disciplines. Durina was informed the completion of the project was delayed due to fact that the other disciplines have not submitted their input on a timely basis. While this material was not submitted on behalf of the ABFDE, information about ABFDE certification was included, and the ABFDE was acknowledged and thanked for its input. In an e-mail to Durina dated April 12, 2012, the editor wrote: "...The official title is still in flux – it will likely either be Basics of Forensic Science or Forensic Science Basics. We're a little behind schedule ...primarily because not all subject matter experts have been as forthcoming with information as you and your group ☺. Without a doubt, you and your colleagues at ABFDE were our most helpful, responsive experts! If all goes well, we will be wrapping up the editing/drafting by mid-May and will then be delivering the information to our artist/web designer who will create a site and the companion pdf eBooks. BJA will have to bless everything of course before it goes live, and this could take some time. I would hope to see the website launched in late summer/early Fall if all goes smoothly." This website will be available to the public. When the site goes live, a link to NFSTC will be put on the ABFDE website.

In April 2012, the PR Committee began drafting a letter on behalf of the ABFDE for Kirsten's signature to the DOJ EOUSA (Executive Office of US Attorneys) to explain legitimate versus not-so-legitimate FDEs. We are going to request distribution be made to attorneys nationwide.

In April 2012, ABFDE received an e-mail request to participate in a series of 3 magazine articles that will be appearing in Fraud Magazine Online, a publication of the Association of Certified Fraud Examiners. The author, Mr. Bob Tie, wished to interview ABFDE-certified FDEs to obtain "practical insights on how Certified Fraud Examiners can best gather and preserve evidence for referral to a forensic document examiner to investigate cases." Farrell Shiver has volunteered to be interviewed for the first article, and Jim Green has kindly volunteered to be interviewed for the 2nd and 3rd articles, which will appear in June.

Recertification (Horton): As of March 30th, the ABFDE has 118 active Diplomates. Two (2) new Diplomates completed the testing process, and were issued an ABFDE Certificate of Qualification and Membership Card. Twenty-one (21) Diplomates met the recertification criteria for the next five (5) year period and have received, or are in the process of receiving, their Certificate of Recertification and new Diplomate Membership card. Six (6) Diplomates who are up for recertification this period are pending receipt and/or review of their recertification application. Two (2) Diplomates retired/resigned (Jan Johnson and Bob Muehlberger). One (1) Diplomate passed away (Matt Falco.) Based on discussions with diplomates who are aging or changing direction, many are on the fence about recertification. These are examiners who are approximately 60 years old. Since the average age of QD examiners in AAFS is mid-50s, it is possible that we will lose a large number of diplomates in the coming years.

Test Preparation and Validation Committee Report (Spencer): The Test Preparation and Validation Committee expects recommendations on what the requirements for new questions and tests will be, before new tests can be prepared. The Chair of the Committee also expects to receive a number of old practical test submissions which must be reviewed and possibly revised in the light of these new practical test requirements. The Chair has been approached by some diplomates volunteering to create new practical tests, and their offer of help is gratefully appreciated. Brainstorming amongst small groups of volunteers has begun, for ideas on how to keep the practical tests relevant and challenging.

The hope is that when created and validated, these new tests will have a clear purpose, be multi-faceted, relevant and in accordance with ACT guidelines and the new test blueprint. The aim is to create a number of new tests each year for the foreseeable future to maintain a pool that is current and fit-for-purpose.

Workshop Committee Report (Josey): On September 21, 2011, a full day workshop titled “ABFDE Demystifying Certification 101” was held at the MAFS meeting in Chicago, IL. This workshop was borne as a result of requests by FDE Trainees and newly trained FDE’s to provide more information regarding preparing for ABFDE certification. The workshop was organized and presented by Lisa Hanson. Diplomates in attendance to lend support to the workshop included Ellen Schuetzner, Todd Welch, Jim Ross, Fred Panhorst, Larry Olson, Dave Sexton, Andy Syzmanski, Richard Picciochi and Richard Theis. Feedback after the workshop has been very positive and additional workshops are planned for the 2012 MAAFS meeting in Maryland and the Saturday before the 2012 ASQDE meeting in Charleston, SC.

Our information with Grants.Gov was updated to allow ABFDE to remain registered and qualified to apply for federal grants. Josey remains on the automatic notification list for government grants and monitors the grant listing regularly.

Courtney King, with the Indiana State Police Crime Lab, has been very helpful in keeping Josey updated on the number of QD trainees in the field and the type of supplemental training they would like to have.

Josey is researching the possibility of an ABFDE-sponsored course for trainees or newly trained examiners conducted by an organization such as MFRC or NFSTC. Subjects offered would be in areas which polled trainees requested additional training. ABFDE would select instructors and the organization would handle the accounting. Funding for this program would come from a government grant, which would require its own accounting and a manager.

Testing Committee Report (Hanson): Two (2) candidates successfully completed the certification testing program and achieved Diplomate status: Jeffrey Payne and Andrew Barton. There are seven (7) candidates currently in the testing process. One candidate withdrew from the testing program due to uncertainty about whether s/he will remain in the field.

Written examinations and Oral examinations will be offered at all upcoming national and regional meetings in accordance with the needs of the candidates and the availability of ABFDE Directors.

The mentorship program begun last year is working well.

There are approximately 20 current practical problems used in the testing program. Additional tests are needed.

Nominating Committee Report (Hicks): No Directors resigned during the 2011-2012 year. Two Directors, Jim Josey and Frank Hicks, will come to the end of their first terms as Directors with the May, 2012, meeting. Since both Directors have indicated a willingness to serve a second term, no nominations were sought for other candidates to fill these positions.

OLD BUSINESS

ACT Project Update (Singer for Sperry): The ACT test blueprint, compiled from the diplomate survey response, divides types of FDE exams into frequencies. ABFDE needs 2 written tests (with 123 questions each) that mirror the percentages on the test blueprint. ACT has approved 123 questions; a pool of 250 questions is needed. Work remains in categorizing questions and identifying what types of new questions are needed. The next step is to validate approved questions by having 50 diplomates take the test. Pilot testing will be scheduled at upcoming regional or national meetings.

The BOD voted to award 5 recertification points to diplomates who participate in the pilot testing.

NEW BUSINESS

Syllabus: Bill Riordan is updating syllabus with current articles. He has compared syllabuses from other agencies to the ABFDE syllabus to further assess changes to be made. He asks for help in reviewing content. The syllabus must also adhere to the ACT blueprint.

RPG Changes: Changes to the Rules and Procedures Guide were proposed and approved by majority vote of the BOD. These changes will be detailed in the forthcoming Outline of Substantive Changes.

Ethics Directive Regarding Contingency Fees: The BOD discussed whether the ABFDE should consider any exceptions to the contingency fee prohibition stated in paragraph 7 of the Code of Ethics, such as reimbursement of normal course of business expenses should an indigent client prevail in a case. Concerns were expressed that there may be nuances to case work that our Code of Ethics does not cover. The BOD decided its position was that if a case was accepted as pro bono, then the examiner was obligated to work the entire case as such and could not accept payments of any kind.

ABFDE Certification for Australian and New Zealand FDEs: The BOD was approached by examiners from Australia, requesting that the BOD consider opening the certification process to examiners in this region. ABFDE certification was desired because there is currently no certifying body in Australia and examiners believe that ABFDE credentials would help Australian courts differentiate them from inadequately trained “experts.” Their training programs are similar to US programs and they use the ASTM standard for conclusions. Debate ensued about the opportunities and the limitations of certifying Australian and New Zealand examiners. The active participation of a number of Australians in ABFDE workshops, ASQDE, and the “doceexam list” as well as a common first language (English) mitigated fears about compatibility and communication. After much discussion, the BOD voted to allow qualified examiners from Australia and New Zealand apply for ABFDE certification, under the following conditions: the written test and oral board phases would be conducted in person and must take place in the US or Canada, preferably at a professional meeting; should an AUS/NZ forensic document examiner choose to appeal any phase of ABFDE testing, and select the option of an oral presentation, this must also occur within the US or Canada; while the application fee would remain the same, an additional \$50 USD would be charged to offset administrative costs such as mailing; and a liaison would be established to assist the Credentials Committee in answering any questions regarding equivalencies in education or training.

MAFS Recognition of ABFDE: – Singer reported that MAFS recently voted to recognize ABFDE as a certifying body for forensic document examiners. The BOD voted to include MAFS as a recognizing organization in the ABFDE literature.

Election of Directors: – Frank Hicks and Jim Josey were elected by the BOD to renewed terms.