

3. APPROVAL OF WHETHER TO AUTHORIZE AN ADMINISTRATIVE LAW JUDGE TO HEAR SIFT INSTITUTE APPEAL TO THE COMMISSION

Chair Kirbo asked Executive Director Shook to provide the commissioners with background information for SIFT Institute's appeal.

Executive Director Shook presented the commissioners with the following:

- CEO & President of SIFT Institute has a past conviction for fraudulent practices
- SIFT's CEO & President did not meet Minimum Standard 1, demonstrating "good character"

The Commission proceeded to discuss the following concerns:

- Allow the ALJ to have final decision without Commission input?
- Will a court reporter be required?
- Should perimeters for a court reporter be set not to exceed a certain monetary amount?
- Give Executive Director the authority to negotiate the terms of the court reporter.
- Does the Commission want oversight over the ALJ's opinion/decision?
- Will the Commission as a whole attend the hearing or a select few attend?
- Select three Commissioners to represent the Commission as a whole
- Special Called meeting if selected Commissioners cannot come to an amicable agreement on issues discussed during the hearing

Lee Todd motioned to **APPROVE** the Administrative Law Judge to hear SIFT Institute appeal, whereas, the decision of the Administrative Law Judge is **subject to final approval and vote** by the Commission as a whole. Karen Gilbert seconded the motion.

Upon unanimous vote it was **RESOLVED** that the Administrative Law Judge hear SIFT Institute appeal, whereas, the decision of the Administrative Law Judge is subject to final approval and vote by the Commission as a whole, be adopted.

Seeing that the above was passed in the affirmative, the following items required a vote as well:

A. Adopt Rules for the Hearing (OSAH rules recommended by the Attorney General's Office)

The Commission expressed their concern of having the final rule of decision added, if OSAH (Office of State Administrative Hearings) rules are adopted. Deputy Director, Laura Vieth stated that her previous conversation with the AG's office seem to assure her that if the Commission adopted the OSAH rules, the Commission will have the flexibility to implement changes.

Chair Kirbo asked Deputy Director Vieth will these rules work with what the Commission is proposing. Deputy Director Vieth was not sure, but will check with AG's office and provide Chair Kirbo an answer soon.

Chair Kirbo suggested that the Commission can adopt the OSAH rules for now, with the exception of the Commission having the final rule of decision added. If Deputy Director Vieth returns with concerning information after consulting with the AG's office, then the Commission can reconvene and not adopt OSAH rules.

Karen Gilbert motioned that the Commission **ADOPT** OSAH rules for hearings provided the Commission have the option to make changes that conform with the Commission's final approval of decision. Norma Nunez-Cortes seconded the motion.

Upon unanimous vote it was **RESOLVED** that the Commission **ADOPT** OSAH rules for hearings provided the Commission have the option to make changes that conform with the Commission's final approval of decision.

B. Hearing Date & Reschedule Option

- March 12, 2019 is the deadline to inform SIFT Institute of the hearing date
- Give Executive Director the discretion to schedule (and/or reschedule) the hearing date

Lee Todd motioned that the Commission **GRANT** the Executive Director the discretion to schedule the hearing date for SIFT Institute's appeal. Norma Nunez-Cortes seconded the motion.

Upon unanimous vote it was **RESOLVED** that Executive Director Shook determine the hearing date for SIFT Institute's appeal.

C. Administrative Law Judge Designation

- Discretion given to the Executive Director

Toby Hinton motioned that the Commission **GRANT** the Executive Director the discretion to assign the Administrative Law Judge for SIFT Institute. Karen Gilbert seconded the motion.

Upon unanimous vote it was **RESOLVED** that the Executive Director assign the Administrative Law Judge for SIFT Institute's appeal.

D. Appeal Options

- Covered previously during the discussion of whether to authorize an ALJ to hear SIFT Institute appeal

No action required

4. APPROVAL TO ADOPT A FUTURE PROCESS

- Will the Commission always defer to an ALJ for future hearings?
- Defer discussion and decision to a later date
- Place on agenda for April's Commission Meeting
- Adopt appeal rules going forward with the ability to change them on a case-by-case basis

Toby Hinton motioned that the Commission **ADOPT** the appeal rules going forward with the Commission having the ability to change them on a case-by-case basis. Norma Nunez-Cortes seconded the motion.

Upon unanimous vote it was **RESOLVED** that the Commission **ADOPT** the appeal rules going forward with the Commission having the ability to change them on a case-by-case basis.

5. OTHER BUSINESS

There was none.

6. ADJOURN

Norma Nunez-Cortes made a motion to adjourn the meeting. Karen Gilbert seconded the motion.

There being no further business, the meeting adjourned at 10:40 a.m.

BOARD CHAIR APPROVAL:
(Signature & Date)

Holland C. Keith

**BOARD SECRETARY
APPROVAL:**
(Signature & Date)

3/26/19

Norma Nunez-Cortes

3/26/19