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8 **BEFORE THE**
PROFESSIONAL FIDUCIARIES BUREAU
DEPARTMENT OF CONSUMER AFFAIRS
9 **STATE OF CALIFORNIA**

10 In the Matter of the Statement of Issues
11 Against:

Case No. PF 2011 32

12 **KENNETH CHARLES BLICKENSTAFF**

STATEMENT OF ISSUES

13 Respondent.

14
15 Complainant alleges:

16 **PARTIES**

17 1. Gil DeLuna (Complainant) brings this Statement of Issues solely in his official
18 capacity as the Acting Bureau Chief of the Professional Fiduciaries Bureau, Department of
19 Consumer Affairs.

20 2. On or about May 6, 2011, the Professional Fiduciaries Bureau, Department of
21 Consumer Affairs, received an application for a professional fiduciary license from Kenneth
22 Charles Blickenstaff (Respondent). On or about April 25, 2011, Kenneth Charles Blickenstaff
23 certified under penalty of perjury to the truthfulness of all statements, answers, and
24 representations in the application. The Bureau denied the application on August 26, 2011.

25 **JURISDICTION**

26 3. This Statement of Issues is brought before the Professional Fiduciaries Bureau,
27 Department of Consumer Affairs, under the authority of the following laws. All section
28 references are to the Business and Professions Code unless otherwise indicated.

STATUTORY AND REGULATORY PROVISIONS

4. Section 480 of the Code states:

(a) A board may deny a license regulated by this code on the grounds that the applicant has done one of the following:

(1) Been convicted of a crime. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.

(2) Done any act involving dishonesty, fraud, or deceit with the intent to substantially benefit himself or herself or another, or substantially injure another.

(3)(A) Done any act that if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license.

(B) The board may deny a license pursuant to this subdivision only if the crime or act is substantially related to the qualifications, functions, or duties of the business or profession for which application is made.

(b) Notwithstanding any other provision of this code, no person shall be denied a license solely on the basis that he or she has been convicted of a felony if he or she has obtained a certificate of rehabilitation under Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code or that he or she has been convicted of a misdemeanor if he or she has met all applicable requirements of the criteria of rehabilitation developed by the board to evaluate the rehabilitation of a person when considering the denial of a license under subdivision (a) of Section 482.

(c) A board may deny a license regulated by this code on the ground that the applicant knowingly made a false statement of fact required to be revealed in the application for the license.

5. Section 6533 of the Code states:

In order to meet the qualifications for licensure as a professional fiduciary a person shall

1 meet all of the following requirements:

2 ...

3 (c) Have not committed any acts that are grounds for denial of a license under Section 480
4 or 6536.

5 ...

6 6. Section **6536** of the Code states:

7 The bureau shall review all applications for licensure and may investigate an applicant's
8 qualifications for licensure. The bureau shall approve those applications that meet the
9 requirements for licensure, but shall not issue a license to any applicant who meets any of the
10 following criteria:

11 (a) Does not meet the qualifications for licensure under this chapter.

12 (b) Has been convicted of a crime substantially related to the qualifications, functions, or
13 duties of a professional fiduciary.

14 (c) Has engaged in fraud or deceit in applying for a license under this chapter.

15 (d) Has engaged in dishonesty, fraud, or gross negligence in performing the functions or
16 duties of a professional fiduciary, including engaging in such conduct prior to January 1, 2009.

17 (e) Has been removed as a professional fiduciary by a court for breach of trust committed
18 intentionally, with gross negligence, in bad faith, or with reckless indifference, or has
19 demonstrated a pattern of negligent conduct, including a removal prior to January 1, 2009, and all
20 appeals have been taken, or the time to file an appeal has expired.

21 7. Section **6537** of the Code states:

22 The bureau may deny a license for the reasons specified in Section 480 or 6536. An
23 applicant notified of the denial of his or her application for licensure shall have the right to appeal
24 to the bureau as specified in Chapter 2 (commencing with Section 480) of Division 1.5.

25 8. Section **6584** of the Code states, in pertinent part:

26 A license issued under this chapter may be suspended, revoked, denied, or other
27 disciplinary action may be imposed for one or more of the following causes:

28 ...

1 (g) The revocation of, suspension of, or other disciplinary action against, any other
2 professional license by the State of California or by another state. A certified copy of the
3 revocation, suspension, or disciplinary action is conclusive evidence of that action.

4 ...

5 9. California Code of Regulations, Title 16, section **4520**, states:

6 For purposes of denial of a license pursuant to Division 1.5 (commencing with Section 475)
7 of the Business and Professions Code, a crime or act shall be considered to be substantially
8 related to the qualifications, functions or duties of a professional fiduciary if to a substantial
9 degree it demonstrates present or potential unfitness of a person holding a license to perform the
10 functions authorized by the license in a manner consistent with the public health, safety or
11 welfare. Such crimes or acts shall include but not be limited to fiscal dishonesty or breach of
12 fiduciary responsibilities of any kind.

13 10. California Code of Regulations, Title 16, section **4522**, states:

14 When considering the denial of a license under Section 480 or 6536 of the Business and
15 Professions Code, the Bureau, in evaluating the rehabilitation of the applicant and his or her
16 present eligibility for a license, shall consider the following criteria:

17 (a) The nature and severity of the act(s) or crime(s) under consideration as grounds for
18 denial.

19 (b) Evidence of any act(s) or crime(s) committed subsequent to the act(s) or crime(s) under
20 consideration as grounds for denial which also could be considered grounds for denial under
21 Sections 480 and 6536.

22 (c) The time that has elapsed since commission of the act(s) or crime(s) referred to in
23 subdivision (a) or (b).

24 (d) The extent to which the applicant has complied with any terms of parole, probation,
25 restitution or any other sanctions lawfully imposed against the applicant.

26 (e) Evidence, if any, of rehabilitation submitted by the applicant.

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1 **FIRST CAUSE FOR DENIAL OF APPLICATION**

2 (Prior Discipline Of Other Professional License)

3 11. Respondent's application is subject to denial under Code sections 480(A)(2), 6533(c),
4 6536(a), 6537 and 6584(g), and under California Code of Regulations Title 16, section 4520, in
5 that Respondent's law license was previously suspended, revoked and/or otherwise disciplined,
6 and such action was the result of conduct substantially related to the functions and duties of a
7 professional fiduciary. The circumstances are as follows:

8 12. On or about December 21, 1977, the State Bar of California issued Law License No.
9 75854 to Respondent.

10 13. On or about January 27, 1995, Respondent's law license was publicly reprovved based
11 on Respondent's misconduct including, but not limited to, failure to perform legal services
12 competently, failure to refund an unearned fee and failure to respond to client status inquiries.

13 14. On or about July 10, 1998, Respondent's law license was disciplined by actual
14 suspension. The imposition of discipline was based on multiple acts of misconduct, involving ten
15 different client matters, involving failure to perform legal services competently, failure to
16 communicate with clients, failure to keep clients informed of developments in their cases, failure
17 to promptly return unearned fees, failure to advise the Bar of a change of address, withdrawal
18 from a client representation without protecting the client's interests, engaging in improper
19 business relations with clients and failing to initiate a claim before the running of the applicable
20 statute of limitations.

21 15. On or about 2000, Respondent voluntarily resigned his law license while additional
22 charges were pending against him.

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24 **SECOND CAUSE FOR DENIAL OF APPLICATION**

25 (Act of Dishonesty, Fraud or Deceit)

26 16. Respondent's application is subject to denial under Code sections 480(A)(3),
27 6533(c), 6536(a) and 6537, and under California Code of Regulations Title 16, section 4520, in
28 Respondent committed acts involving dishonesty, fraud and/or deceit with the intent to

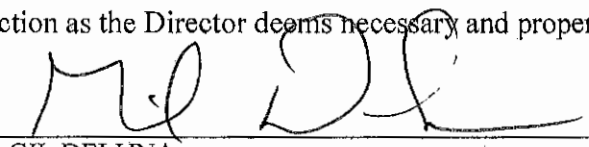
1 substantially benefit himself, or substantially injure another, as set forth above in paragraphs 12-
2 15.

3 **PRAYER**

4 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
5 and that following the hearing, the Professional Fiduciaries Bureau, Department of Consumer
6 Affairs, issue a decision:

- 7 1. Denying the application of Kenneth Charles Blickenstaff for a professional
8 fiduciary's license;
9 2. Taking such other and further action as the Director deems necessary and proper.

10 DATED: 3-22-2013



11 GIL DELUNA
12 Acting Bureau Chief
13 Professional Fiduciaries Bureau
14 Department of Consumer Affairs
15 State of California
16 *Complainant*

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