

The Guardian



A Message from the Bureau Chief

Hello friends of the Professional Fiduciaries Bureau!

As fall begins, I am grateful for a respite from the brutal Sacramento heat, Saturday morning soccer games in the crisp air, and the return of sunny orange persimmons to our local farmer's market. I am less than enthused, however, with the return to school and its associated homework grind. Parents of school-age children will understand this struggle. Kids (at least mine) are reluctant to replace the lazy days of summer with the drudgery of daily structure and hard work. And who can blame them?

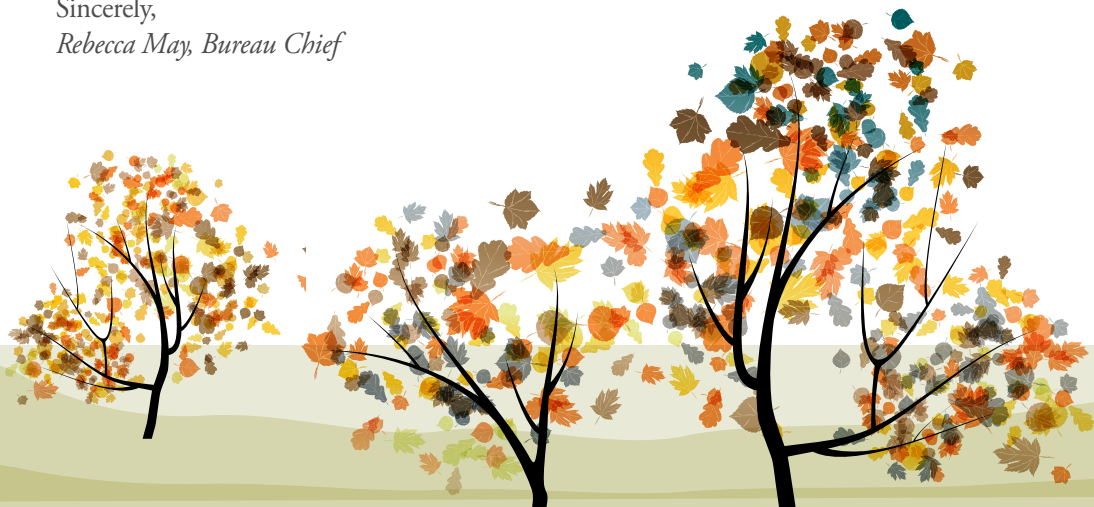
Thankfully, as an adult, I now know that learning is a good thing. And homework, though tedious, reinforces what I've learned and ensures that I am adequately prepared.

Our licensees have plenty of homework! Professional fiduciaries are required to take 15 hours of continuing education, including two hours on ethics every year, though as I understand it, many licensees fulfill more than the minimum 15 hours. And this doesn't count gleaning know-how from their colleagues in the field or researching best practices in client care.

The most important piece of homework for our licensees as it relates to their license is the completion of an Annual Statement. Submitting a completed and accurate Annual Statement **60 days prior** to the license's expiration date is not simply a recommendation, it's the law (**Business and Professions Code section 6562**). It ensures that a license can be renewed on time and that our licensees are complying with the rules under the *Professional Fiduciaries Act*.

As always, if you have suggestions for any content you'd like to see in the *The Guardian*, please send us an email at fiduciary@dca.ca.gov. I also encourage you to sign up for our interested parties list on our website at fiduciary.ca.gov/webapps/subscribe.

Sincerely,
Rebecca May, Bureau Chief



DEPARTMENT OF CONSUMER AFFAIRS



PROFESSIONAL FIDUCIARIES BUREAU

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Annual Statement

Every year like clockwork, licenses are required to submit their Annual Statement at least **60 days prior** to the expiration date of their license. This important requirement is a condition of licensure pursuant to **Business and Professions Code section 6562**.

Licenses will not be renewed unless an updated and complete Annual Statement is on file.

Further, licensees who do not send in their Annual Statement on time risk practicing with an expired license and may be subject to administrative or enforcement actions.

Need help filling out your Annual Statement? Visit our website at www.fiduciary.ca.gov for a helpful tutorial video. You are also welcome to call us at (916) 574-7340 or email us at fiduciary@dca.ca.gov.



Get to Know Our Advisory Committee Member Kathleen Thomson

Chair Kathleen Thomson has served as a public member representing court investigators to the Professional Fiduciaries Bureau's Advisory Committee since 2013. She was reappointed in January.

Tell us a bit about your background.

While attending Sacramento State University over 40 years ago, I was offered an internship working for the Department of Consumer Affairs' Complaint Assistance Unit. There I met a woman who helped shape my working career. Her name is Sherry Hanna and she ran the unit. When my internship ended, I stayed on because I enjoyed the work. Upon my graduation from college, Sherry offered me a nine-month position. It was my first real job and set the stage for the next 40 years. While attending a workshop with Sherry, I met a woman who worked for the San Francisco District Attorney's Office who was looking for someone to work in their Consumer Fraud Unit. My nine months was sadly coming to an end, so I applied for the job and was offered a position which I accepted. What I did not know at

the time was that Sherry had fought hard to have my position extended another nine months. I often wonder what would have happened if I had stayed. Flash forward, after working for the DA's office for five years, I put myself through the police academy and, upon my graduation from the academy, I was offered a position working as a criminal investigator for the DA's office. I left the world of consumer assistance, instead going into criminal investigation. I worked in various departments with my last assignment in the Welfare Fraud Unit working as a senior criminal investigator. The next 10 years is a blur as I was busy helping build a business, raising a family, working, and enjoying life. After that, I went to work for the Yolo County Public Guardian's Office. I was approached by county counsel, who suggested that I apply for a court investigator's position in Solano County. I had no idea what a court investigator did, but it sounded intriguing, so I applied for and was offered the job. That was almost 13 years ago, and I have since been promoted to the supervising court investigator. When I was nominated by a local attorney to serve as an advisory committee member, I was flattered, but it also felt that I had come full circle. I owe it all to Sherry and the Department of Consumer Affairs for the opportunity and direction that was given to me through the internship program.

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What do you hope to bring to the Bureau's Advisory Committee as Chair?

I hope to provide a court investigator's perspective of the challenges facing the courts, consumers, and licensed professional fiduciaries. I am a consumer advocate at heart and I hope to work with the bureau, licensees, and the public to provide the greatest possible protection for consumers.

How can consumers be better informed when it comes to hiring or working with a professional fiduciary?

I have to share an embarrassing yet real story that happened to my husband and me recently. I have spent my whole working career handling consumer complaints, working on fraud or criminal cases, or advocating for others. About a year ago, we needed some plumbing work done, so my husband contacted a local plumber and he came out and gave us a bid on the work. The bid came in at \$3,000. We thought the bid was high, but we needed the work done so we agreed to the price. I won't bore you with the details, but by the time the day arrived

that the work was to start, we were concerned about the plumber, so we canceled the job. Turns out, he was an unlicensed plumber who was using another company's license. He had been arrested for, and convicted of, unlicensed contracting twice. I filed a complaint against him. In the meantime, I called another company. They came out and completed the work for \$350. Months later, I received a visit from the Department of Justice who took my statement and had me identify the plumber in a photo lineup. Months after that, I received a subpoena from the local DA's office. The plumber pled guilty before the case went to trial. I thought I was an informed consumer, yet I was almost a victim of an unlicensed plumber.

When I called the Department of Consumer Affairs to report the unlicensed plumber, the woman taking my complaint said she wished that more people took the time to verify the person and the license.

You know that old saying, trust but verify. I say verify and research the individual before you trust them. Call the Bureau or check the Bureau's website to ensure the individual has an active license in good standing. Talk to professionals or other consumers and ask them direct and specific questions about the licensed professional fiduciary. Interview the licensed professional fiduciary in person. Ask questions.





2019 Legislative Update

Below are bills recently signed into law that may be of interest to our licensees. Unless otherwise stated, these new laws take effect January 1, 2020.

AB 473 (Maienschein, Chapter 122, Statutes of 2019) **Disposition of estate without administration.** This bill increases the specified dollar amounts for a small estate to qualify for disposition without a full probate administration. The bill also increases the dollar amounts for a surviving spouse to collect unpaid compensation from the decedent-spouse's employer. Additionally, this bill requires, on April 1, 2022, and at each three-year interval ending on April 1 thereafter, the Judicial Council to adjust these dollar amounts based on a particular consumer price index published by the U.S. Bureau of Labor Statistics. Further, this bill would require the Judicial Council to publish the adjusted dollar amounts and the date of the next scheduled adjustment.

AB 1396 (Oberholte, Chapter 628, Statutes of 2019) **Protective orders: elder and dependent adults.** This bill authorizes a court to order a restrained party to participate in mandatory clinical counseling or court-approved anger management courses when the court issues a protective order for abuse involving acts of physical abuse or acts of deprivation by a care custodian of goods or services that are necessary to avoid physical harm or mental suffering.

SB 303 (Wieckowski, Chapter 847, Statutes of 2019) **Guardians and conservators: compensation: residence of conservatee.** This bill changes existing guardianship-conservatorship law, which presumes the personal residence of the conservatee is the least restrictive appropriate residence for the conservatee, and provides that, in any hearing to determine if removal of the conservatee from their personal residence is appropriate, the presumption may be overcome by a preponderance of the evidence. This bill instead provides that the presumption may be overcome by clear and convincing evidence. This bill also prohibits the compensation of a guardian, conservator, or attorney with any government benefits program monies via court order under Probate Code section 2640 unless deemed necessary by a court to sustain the support and maintenance of the ward or conservatee, unless otherwise permitted by law. This bill would require a conservator to notify the court of the sale of a conservatee's current or former residence prior to beginning efforts to sell the residence, and would require clear and convincing evidence that the conservator needs to sell the residence for the benefit of the conservatee, and would end a court's authority to waive certain presale conditions.

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SB 308 (Jones, Chapter 56, Statutes of 2019)
Estates and trusts: instrument. This bill revises the definition of instrument under the Probate Code to mean a will, a document establishing or modifying a trust, a deed, or any other writing that designates a beneficiary or makes a donative transfer of property. The current Probate Code definition of “instrument” is a will, trust, deed, or other writing that designates a beneficiary or makes a donative transfer of property.

SB 314 (Dodd, Chapter 21, Statutes of 2019)
Elders and dependent adults: abandonment. This bill extends remedies under the *Elder Abuse* and *Dependent Adult Civil Protection Act* to cases in which the defendant is liable for abandonment under the existing legal standards for physical abuse or neglect.

The Act provides for the award of attorney’s fees and costs to, and the recovery of damages by, a plaintiff when it is proven by clear and convincing evidence the defendant is liable for physical abuse or neglect, as defined, and the defendant has also been found guilty of recklessness, oppression, fraud, or malice in the commission of that abuse.

SB 338 (Hueso, Chapter 641, Statutes of 2019) **Senior and disability victimization: law enforcement policies.** This bill eliminates the duty imposed on long-term care ombudsman programs

to revise or include in their policy manuals specified information regarding elder and dependent adult abuse. The bill also authorizes local law enforcement agencies to adopt a policy regarding senior and disability victimization, as defined. Additionally, this bill requires, if a local law enforcement agency adopts or revises a policy regarding senior and disability victimization on or after April 13, 2021, that the policy include specified provisions, including those related to enforcement and training. Lastly, this bill requires any written law enforcement policy to include protocols for cooperating and collaborating whenever possible with the Bureau of Medi-Cal Fraud and Elder Abuse and other agencies.

SB 496 (Moorlach, Chapter 272, Statutes of 2019) **Financial abuse of elder or dependent adults.** This bill expands the category of mandated reporters of suspected financial abuse to include broker-dealers and investment advisers. This bill authorizes a broker-dealer or investment adviser who makes a report to notify any trusted contact person who had previously been designated by the elder or dependent adult of any known or suspected financial abuse, and to temporarily delay a requested disbursement or transaction from an account of an elder or dependent adult or an account to which an elder or dependent adult is a beneficiary if specified conditions are met.





2019 PFB Enforcement Actions

LICENSEE/APPLICANTS	LICENSE NUMBER	ACTION TAKEN	EFFECTIVE DATE
Nancy L. Norris	224	Citation: Status: Order Satisfied	1/11/2019
Theresa Hawkins	59	Citation: Status: Order Satisfied	2/7/2019
Fessha Taye	201	Surrender	3/6/2019
Robin Toor	959	Citation: Status: Order Satisfied	3/26/2019
Stephen Craig	425	Citation: Status: Order Satisfied	3/25/2019
Michelle Moore	348	Citation	3/26/2019

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LICENSEE/APPLICANTS	LICENSE NUMBER	ACTION TAKEN	EFFECTIVE DATE
Tina Senteno	543	Citation: Status: Order Satisfied	3/26/2019
Andrei Andreev	685	Citation: Status: Order Satisfied	3/26/2019
Lauren Butterfield	622	Citation: Status: Order Satisfied	3/29/2019
Debra Dolch	43	Citation: Status: Order Satisfied	4/12/2019
Christie Davidson	109	Accusation	4/19/2019
Debra Trout	90	Citation	4/29/2019
Juan Guzman	674	Accusation	5/7/2019
Debra Trout	90	Citation	7/11/2019
Juan Guzman	674	Revocation	7/17/2019
Sally Cicerone	164	Accusation	8/6/2019
Daniel DiCarlo	517	Citation	8/8/2019

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LICENSEE/APPLICANTS	LICENSE NUMBER	ACTION TAKEN	EFFECTIVE DATE
Debra Rose	796	Citation	10/9/2019
Kathryn Spyrka	844	Citation	10/9/2019
Linda Maxwell	76	Citation	10/9/2019
Donna Bogdanovich	572	Citation	10/9/2019
Daniel DiCarlo	517	Citation	10/14/2019
Michelle Moore	348	Citation	10/14/2019



PFB Actions Explanation of Language

Accusation

A formal, written statement of charges filed against a licensee.

Citation and Fine

Licensee is issued a citation and required to pay a fine commensurate with the violation committed.

Default Decision

Licensee fails to respond to an accusation by filing a notice of defense or fails to appear at an administrative hearing.

Effective Decision Date

The date the disciplinary decision/order goes into operation.

Letter of Public Reprimand

A formal reprimand issued by PFB, which could be in lieu of filing a formal accusation.

Revoked

The license is voided and the right to practice has ended.

Revoked, Stayed, Probation

“Stayed” means the revocation is postponed, put off. Professional practice may continue as long as the licensee complies with specified probationary terms and conditions. Violation of probation may result in the revocation that was postponed by the stay.

Statement of Issues

Charges filed against an applicant to deny licensure due to alleged violations of the *Professional Fiduciaries Act*.

Stipulated Settlement

The case is negotiated and settled prior to hearing.

Surrender of License

While charges are still pending, the licensee agrees to turn in the license—subject to acceptance by PFB.

Suspension

The licensee is prohibited from practicing for a specified period.

Writ

An appeal filed by the licensee in Superior Court asking the court to overturn PFB's decision.

VISION AND MISSION STATEMENTS

OUR VISION

Safeguarding the well-being of consumers who receive professional fiduciary services.

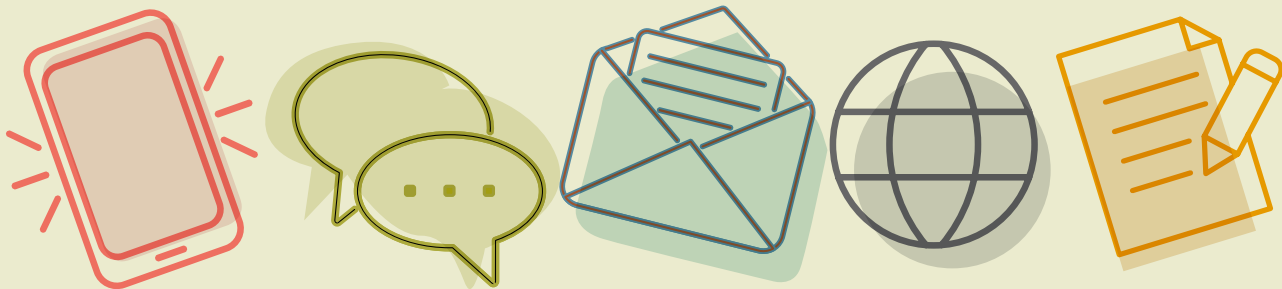
OUR MISSION

To protect consumers through licensing, education, and enforcement of the *Professional Fiduciaries Act* by promoting and upholding competency and ethical standards across the profession.

Send us your feedback

We hope you find *The Guardian* useful. PFB welcomes your comments and suggestions for future issues. You can contact us by phone at (916) 574-7340 or by email at fiduciary@dca.ca.gov. Online copies of *The Guardian* are available at www.fiduciary.ca.gov/forms_pubs/newsletter.shtml.

Please share this newsletter with your staff and let them know they can sign up to receive a copy by joining PFB's interested party list at www.dca.ca.gov/webapps/fiduciary/subscribe.php.



Important PFB Updates and How to Receive Them

PFB is now on Facebook and Twitter! Follow PFB by clicking on the following icons or going to the specified link:



or <https://www.facebook.com/CaliforniaProfessionalFiduciariesBureau/>



or <https://twitter.com/FiduciaryBureau>

Additionally, if you would like to receive notifications from PFB about upcoming events, new regulations, and meetings, please sign up to receive email notifications from PFB at the following link: www.dca.ca.gov/webapps/fiduciary/subscribe.php.

DEPARTMENT OF CONSUMER AFFAIRS



PROFESSIONAL FIDUCIARIES BUREAU

Contact Information

Location:

1625 North Market Blvd., Suite S-209
Sacramento, CA 95834

Phone: (916) 574-7340

Fax: (916) 574-8645

Email: fiduciary@dca.ca.gov

Our office will be closed on the following holidays for 2019:

Monday, November 11—Veterans Day

Thursday, November 28—Thanksgiving Day

Friday, November 29—Holiday

Wednesday, December 25—Christmas Day

Advisory Committee Members

Kathleen Thomson, chair,
probate court investigator

Wendy Hatch, vice chair
licensee

King Gee, nonprofit organization advocating
on behalf of the elderly

James Moore, licensee

Hang Le To, public member

Vacant, licensee

Vacant, public member

PFB Staff

Rebecca May, bureau chief

Angela Cuadra, program analyst

Sue Lo, enforcement analyst

Advisory Committee 2019 Meeting Dates

<u>Date</u>	<u>Location</u>
May 29	1747 North Market Blvd. 1st Floor Hearing Room—HQ2 Sacramento, CA 95834
August 14	1747 North Market Blvd. 1st Floor Hearing Room—HQ2 Sacramento, CA 95834
November 13	1747 North Market Blvd. 1st Floor Hearing Room—HQ2 Sacramento, CA 95834