



Professional Fiduciaries Bureau
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ENFORCEMENT OF THE PROFESSIONAL FIDUCIARIES ACT

June 5, 2009

Attention Interested Parties of the Professional Fiduciaries Bureau:

This Advisory relates to the enforcement program of the Professional Fiduciaries Bureau (Bureau).

The Bureau was created by legislation that passed and was enacted into law in 2007 to regulate professional fiduciaries, under the Professional Fiduciaries Act (Act) (Chapter 6 of Division 3 of the Business and Professions Code (commencing with Section 6500), who are acting as conservators, guardians, trustees, and agents under durable power of attorney for health care or finances.

The Bureau began issuing licenses to professional fiduciaries in July of 2008. In addition to establishing its licensing functions, the Bureau has developed a very specialized enforcement program. The Bureau may bring a disciplinary action for license suspension or revocation for violations of its licensing laws. In addition, the Act provides specific enforcement authority for citations and fines, for violations of the Act that do not warrant more formal disciplinary action, or for unlicensed activity, pursuant to regulations promulgated by the Bureau.

The Bureau takes all complaints seriously and investigates each one as deemed appropriate and to the extent possible. Upon receiving a complaint, the Bureau will conduct an evaluation to determine whether it is within the jurisdiction of the Bureau or not. If it is within the jurisdiction, the Bureau then must determine that sufficient evidence exists to prove a violation of the law. If so, the Bureau may initiate formal disciplinary action by requesting the Office of the Attorney General to file an accusation. An administrative action for license suspension or revocation can be justified by multiple violations or a single serious violation.

The Bureau does not have jurisdiction over acts involving:

- Individuals not required to be licensed by the Bureau
- Criminal activity
- Management of conservatorship and guardianship cases
- Trust administration
- Legal disputes between individuals

The Bureau does not have authority to:

- Order restitution
- Require any individual to comply with any term of any agreement with another person
- Overturn a court decision
- Enforce trust provisions
- Enforce other state or federal laws
- Remove a professional fiduciary from a case
- Order an accounting
- Reduce fees
- Order distribution of assets
- Regulate client bank accounts

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- Decide on a consumer's residential or medical needs

Criminal activity should be reported directly to law enforcement officials. To determine possible legal options to resolve an issue or a dispute in a fiduciary matter please consult an attorney.

During an investigation the Bureau may need to collect additional information from the parties as evidence. Information needed to prove or disprove a violation of the law could include court rulings, findings, or orders; reports from another governmental agency, including law enforcement; and, any other documentation of business dealings relevant to the complaint. Upon request, it is important to assist the Bureau in gathering information for the investigation.

If the complaint falls outside the jurisdiction of the Bureau or if the evidence is insufficient the complaint will be closed without violation.

Sincerely,

Mellonie Yang, Chief
Professional Fiduciaries Bureau