



**Professional Fiduciaries Bureau**  
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**Professional Fiduciaries Bureau  
 Advisory Committee Meeting  
 October 13, 2011**

**Department of Consumer Affairs  
 1625 N. Market Blvd., 1<sup>st</sup> Floor, Hearing Room  
 Sacramento, CA 95834**

**Committee Members Present**

Daniel Stubbs, CLPF- Chair  
 Sharon O'Neill, Supervising Probate Court Investigator-Vice Chair  
 Lisa Berg, CLPF  
 Donna Estacio, Public Member

**Committee Members Absent**

Clark Parker, Public Member

**Guests Present**

James C. Counts II, CPA  
 Stella Shvil, PFAC  
 Jerry Desmond, PFAC  
 Jackie Miller, PFAC  
 Sue Lambert, Member of the Public  
 Carole Herman, Foundation Aiding the Elderly  
 Hugh Slayden, Private Party

**DCA Staff Present**

Cynthia Alameda, DCA Budget Office  
 Debbie Balaam, DCA  
 Evin Van Outryve, DCA  
 John Brooks, DCA  
 Sean O'Conner, DCA  
 Tom Roy, DCA

**Staff Present**

Gil DeLuna, Acting Bureau Chief  
 Angela Bigelow, Program Analyst  
 Gary Duke, DCA Legal Counsel  
 Jenny Turner, Analyst  
 Dave Thornton, Investigator

**I. Call to Order – Chair**

The meeting was called to order by Chair Daniel Stubbs, at 10:02am.

**II. Roll Call – Acting Bureau Chief**

There were four members present and one member absent at time of Roll Call.

**III. Introductions**

Those in attendance introduced themselves.

**IV. Yearly election of new Chair and Vice-Chair**

Ms. Berg nominated Mr. Stubbs as Committee Chair; second, Ms. O'Neill. Motion carried. Ms. Berg nominated Ms. O'Neill as Committee Vice-Chair; second, Ms. Estacio. Motion carried.

**V. Approval of Minutes from the September 27, 2010 and April 21, 2011 Meetings**

Ms. O'Neill motioned the September 27, 2010 minutes be approved as written; second, Ms. Berg. Motion carried. Ms. Berg noted page 3, paragraph 5 of the April 21, 2011 minutes, the word "accessed" should be changed to "assessed". Ms. O'Neill motioned the April 21, 2011 minutes be approved as amended; second, Ms. Berg. Motion carried.

## VI. Bureau Updates – Chief

### i. Status of the Department and Office –

The Professional Fiduciaries Bureau (Bureau) has moved to Suite N-324 within Department of Consumer Affairs (DCA) Headquarters office. Mr. DeLuna met with the Appointment Secretary and they will be making new appointments to the Bureau's Advisory Committee soon. All of the Bureau's current members, except Donna Estacio, are set to expire at the end of their one year grace period on January 1, 2012.

### ii. Status of SB 543 –

SB 543 was Chaptered October 3, 2011 which extends the Bureau until January 1, 2015. This bill also authorizes the Bureau to enter into a settlement agreement for probation with applicants instead of forwarding all cases to the AG's office for a statement of issues. A settlement agreement is still considered a disciplinary action and will appear on the Bureau's website. AB997 specifies non-profit corporation of charitable fund is not a professional fiduciary subject to the act. AB1288 public guardians and conservators private property held in trust. Current law authorizes county public guardians or conservators to take temporary possession or control of property of a person that they will be appointed conservator or guardian of. SB541 permits the boards and bureaus to provide an exception to the state contracting process with expert consultants. This includes expert opinion on enforcement issues, assistance as subject matter experts of exams development, evaluation of occupational analysis, evaluation of mental or physical health of a licensee to protect public.

The Bureau is going through re-design of the logo and brochures. One brochure to consumers and one to professional fiduciaries. Ms. Berg requested Enrolled Agents be removed from the brochure as being exempt from licensing.

Ms. Herman wants to know what the Bureau is doing to adjudicate complaints. Mr. DeLuna stated public comment on items not on the agenda will be taken at the end of the meeting.

Ms. Lambert states it is difficult to reach a fiduciary because there are no phone numbers listed on the Bureau's website. DCA Attorney Gary Duke stated the Bureau lists the address of record on the web site, however, the telephone number is not a requirement for most licensees who are licensed with the Department of Consumer Affairs. Per Mr. Duke it may take a change in the law to post phone numbers on the Bureau's web site. Ms. Berg states that PFAC does have phone numbers listed.

### iii. Status of Regulations –

The Cite & Fine Regulations are not moving as quickly as expected. The Public Comment hearing was finished and Statement of Reasons is going through the department's approval process and will the go to OAL. A disciplinary guideline manual was created but will be amended to include stipulations. Advertising and record retention regulations are going through the approval process now.

### iv. Complaint Process –

Typical complaints the Bureau receives are for mismanagement of money, warring family members, the fiduciary leaving family out of the loop, not returning calls, not paying bills on time and overcharging for services, and non jurisdictional. About 90% of complaints received are against court appointed fiduciaries. Complaints can be filed on-line, by mail, or by calling the Bureau and we will guide the consumer through the process. All complaints are reviewed and assigned to staff by the Bureau Chief. The complaint is assigned to staff in the complaint resolution center or to the Bureau's investigator. Sometimes after investigation the complaint is referred to DOI or AG. If the complaint is non-jurisdictional

the Bureau forwards the complaint to the proper agency. The complainant is always contacted first. Then the fiduciary is contacted and closed accordingly. Some complaints require a lot more investigation but we try to investigate and close as quickly as possible. Last FY the Bureau received 82 complaints and closed 93. More complaints were closed than received because they were pending from the prior FY.

v. FY 2010/2011 Statistics –

At the end of FY 2010/2011 there were 549 licensees. To date there are 575 licensees. The Bureau is issuing about 98-100 new licenses per year. The average processing time from receipt of application to exam approval is 25 days if the application is complete. If more information is required the average days to exam approval is 67 days. As far as enforcement the Bureau revoked 1 license, there is 1 pending accusation and 2 applications denied and there are some at the AG's office waiting for the AG to review to determine if an accusation should be sent. The Bureau is also working on identifying unlicensed activity.

Ms. Shvil asked if the outcome of a complaint resolution is sent in writing. Mr. DeLuna stated the fiduciary and complainant are notified by phone or email.

Mr. Counts asked what the percentage of licensees renew. Ms. Bigelow stated we do not keep statistics but there are approximately 3 or 4 that do not renew on time then some pay at a later date including a delinquent fee.

Ms. Herman would like to request the bureau respond in writing to complainants and asked if it is the policy of bureau not to inform the complainant in writing. Mr. DeLuna stated that the complainant receives on-going updates from the Bureau throughout the complaint process. Ms. Herman stated this is not happening, she has not received an update for over a year on a complaint she filed 3 years ago. Ms. Herman wanted to know if there is any plan to increase staff for investigations. Mr. Duke stated her specific complaint should be discussed outside of the meeting forum since complaints are not public record unless there is an action taken against a license. Also, the bureau has a retired annuitant handling the bulk of the investigations. The Bureau is self funded and there are only 575 licensees that are supporting the Bureau and the Bureau cannot support additional staff at this time.

Ms. Shvil asked that the response or decision of each complaint be put in writing, or would that take a change in law. Mr. DeLuna stated this is a policy issue and if there is action taken then the decision is put in writing. Mr. DeLuna stated he will look further into this issue.

VII. Discussion – Approval Process for Approved Education Providers

The Bureau has been receiving more calls on how to become an approved education provider. We do not have a formal process at this time to approve new providers. How does PFAC approve providers and instructors?

Ms. Miller stated PFAC has an education committee and reviews bios, resumes, and presentations then the committee approves or denies the provider. PFAC has been receiving calls wanting to be approved by PFAC and they refer them to the Bureau. Mr. Duke stated the Bureau is looking for help in establishing standards. Ms. Miller suggested a sub-committee be created to work on this issue.

Mr. Counts stated some organizations may have speakers that are qualified to speak. Maybe consider approving or licensing the presenter.

Ms. Berg stated the working group had established this list and that the changes would probably have to be made legislatively to this list.

Ms. Lambert stated when she contacted the list of pre-licensing approved they all denied being approved providers for the Bureau except CSUF. She stated Northern California does not have any approved providers. Mr. Stubbs stated this is why the CSUF course is on-line, so that students do not have to attend courses at a specific location. There are other universities working on getting courses on-line such as UC Riverside and UC Irvine. Mr. Counts suggested putting links on the Bureau's website to each of the approved provider's website.

#### VIII. Budget Report – Cynthia Alameda, Budget Office

Ms. Alameda put together a summary of historical expenditures and revenue and gave an overview of the handouts provided. Revenue seems to be on the rise which is good. Two years of AG costs were paid for in last FY. That is why the AG cost was so high.

Mr. Counts stated he was pleased that there are dollars in this projection for enforcement.

11:05 – 11:15 Break

#### IX. BreEZe Project – Debbie Balaam and Sean O'Connor

Ms. Balaam explained BreEZe will be replacing all legacy systems, some of which are more than 20 years old. BreEZe will be an off-the-shelf project modified to fit our departments' needs. Accenture is the prime vendor and will be using a system called Versa. It will also replace about 90 work-around databases used at this time by the Department. There will also be a document imaging system available for application and enforcement so that the Boards and Bureaus can view each application on the system and will not need a paper file. Mr. O'Connor stated some of the specific functionality that will benefit the staff and consumers will be that applications and renewals can be done on-line with a credit card. Workflow routing will be helpful because the employee will have a work queue that is ready to be reviewed, similar to an e-mail in-box, instead of a piece of paper landing on the employee's desk. Another benefit is that applicants will not be able to submit the application or renewal unless it is complete. This should cut down on deficiency notices needing to be sent to the applicants. Boards and Bureaus will be able to share information such as a complaint being filed against a licensee when the licensee holds another license within the department. Complainants/applicants will be able to track the status of their complaint/application on line. This system will update real time for applicant/complainant to view as soon as it is updated by the employee. Ms. Balaam explained costs and how the cost is broken down for the project 51.6 million. This project was set up on a 5-year payment plan and no payments will be made until the first board is deployed on the system. The 5-year payment plan will help to reduce risk to the boards and bureaus.

Mr. Counts asked if licensees will show a status of retired instead of delinquent if they would like. Mr. Duke stated this is not a policy or procedure, it is a statutory issue that depends on each Board and Bureau's laws. Mr. Counts requested the Bureau look at legislative authority to allow fiduciaries to show retired. Mr. Stubbs stated he believes this is a good idea. Mr. Counts asked will the system be able to upload information for continuing education providers. Mr. O'Connor stated documents can be uploaded and outside organizations can interface with this system if it is something that the Board or Bureau requests. Mr. Counts asked if he enters a name will it show all licenses the person holds within DCA or would the public have to go into each Board or Bureau. Mr. O'Connor stated this is a good question and will be asked of the vendor. Mr. Counts asked if the system will send an email to licensee to alert them they have a message in their account. Mr. O'Connor stated this is covered in the system. Mr. Counts

asked would the licensee also be able to check the status of a complaint filed against them. Mr. O'Connor stated yes.

Mr. DeLuna asked if BreEZe will have the ability to display the licensee's picture. Ms. Balaam stated the system will store the picture but she is unsure if it can be displayed and will look into this. Mr. Duke stated there may be legal and privacy issues with this.

12:00 – 12:15 Break

X. Sub-Committee Reports: finalize goals, responsibilities and objectives – Evin Van Outryve  
Mr. Van Outryve reviewed the strategic plan that was approved in July 2010. A time-line was created with specific deadlines for each objective. Some objectives were removed or moved to a different section of the strategic Plan. Mr. Van Outryve will be at the next meeting to follow-up on this plan.

#### XI. Future Meeting Dates

Mr. DeLuna asked the members if they would be willing to do the meeting by teleconference. The committee members would prefer to come to Sacramento but start the meetings at 11:00am. The next meeting will be held January 26, 2012 at 11:00am in Sacramento.

#### XII. Public Comment on Items Not on the Agenda

Mr. Counts wanted to schedule sub-committee meetings. Mr. DeLuna stated there are travel restrictions and he will look into doing this via conference call.

#### XIII. Adjournment

The meeting was adjourned by Chair, Daniel Stubbs, at 2:00pm.