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**Professional Fiduciaries Bureau
Advisory Committee Meeting
April 3, 2013**

**Van Nuys State Office Bldg.
6150 Van Nuys Blvd.
Van Nuys, CA 91401
Auditorium**

Committee Members Present

Marguerite Lorenz, Chair
Barbara de Vries, Vice Chair
Donna Estacio, Public Member
Aileen Federizo, CLPF

Staff Present

Gil DeLuna, Acting Bureau Chief
Angelique Scott, DCA Legal Counsel
Jenny Turner, Analyst

I. Call to Order – Chair

The meeting was called to order by Ms. Lorenz at 11:00a.m.

II. Roll Call – Gil DeLuna, Acting Chief

There were four members present and a quorum established at time of Roll Call.

III. Introductions

Ms. Lorenz introduced the Bureau employees.

IV. Approval of Minutes from the January 23, 2013 Meeting

Ms Lorenz and Ms. de Vries asked for amendments. Ms. de Vries motioned to approve the minutes with amendments. Second by Ms. Federizo. Motion carried.

V. Update from the Director's Office – Gil DeLuna, Acting Chief

Mr. DeLuna stated at the March 4, 2013 Executive Officer/Bureau Chief quarterly meeting information was received about new legislation to waive renewal requirements for active duty military personnel and to expedite application processing for spouses of active duty military personnel.

The Department of Consumer Affairs (DCA) is also encouraging all Boards and Bureaus to update their Strategic Plan. DCA is creating a spring newsletter which will be distributed to Board and Bureau Chiefs and the Presidents of the Boards and Committees. The Professional Fiduciaries Bureau (Bureau) will distribute the spring newsletter to the interested parties which are signed up on the Bureau's list serve. Effective July 1, 2013 the Department of Real Estate (DRE), Appraisers, Chiropractic Board, and Pest Control Board will merge with DCA. DRE will become a Bureau and be under the control of the DCA Director.

The implementation of the DCA new legacy system, BreZE, has been delayed by approximately 9 months. DCA is taking this time to make sure there will be no harm to the licensees and consumers when the system is implemented. Also, the vendor who is working with DCA will not receive any

payment for their work until the system is implemented so it is in the best interest of DCA to make sure the system will work properly.

Ms. Lorenz asked if the Bureau E-Newsletter will be completed prior to the Professional Fiduciary Association of California (PFAC) conference so that it can be put in the handouts as planned. Mr. DeLuna answered it is in the review and approval process and will be ready for the conference. Mr. Counts asked if the Bureau E-Newsletter will be available to anyone who is interested. Mr. DeLuna answered it will be posted on the Bureau website and sent electronically to the Bureau's list serve.

VI. Presentation – Professional Fiduciary Certificate Program, CSU Fullerton

Presenter: Kim Tang, Program Developer, California State University, Fullerton (CSUF)

Ms. Lorenz introduced Ms. Tang. Ms. Tang presented a power point presentation with an overview of the CSUF degree and certificate programs and a snapshot of the CSUF website.

CSUF saw a need for the fiduciary management program and established an on-campus certificate program. In 2006 CSUF saw a need to reach more professionals in California and developed an on-line certificate program. Updates to this program and instructors have been made throughout the years as needed.

The Certificate in Fiduciary Management for Trustees and Conservators program consists of 2 tracks: the first track is on Trusts and the other is on Conservatorships. Both tracks share 3 required courses: Standards and Practices, Trust Administration, and Accounting and Record Keeping.

The Trust certificate requires an additional course for Management of the Investment Portfolio. The Conservatorship certificate requires an additional course for Conservatorship of the Protected Person. Each course is 15 hours and lasts 5 weeks for a total of 60 hours of course time for each certificate. The courses are available to all qualified applicants. Not all applicants are trying to become a licensed Professional Fiduciary. Some of the applicants seek the education so they are able to take care of needs for their family members. The applicant must have one of the following to qualify: a Bachelor Degree, 60 units of semester work, or 3 years experience as a Fiduciary or in Geriatrics.

The Standards and Practices module gives an overview of the roles and responsibilities of a fiduciary, basic accounting knowledge, trust administration, prudent investing, and conservatorship.

Ms. Tang presented a list of instructors and their biographies.

Each module includes reading material, assignments, chat time, and quizzes. The topics are generated by the instructor then the students are able to ask questions and discuss the topics during chat time.

Chat time is done once a week for 1 hour.

The student is required to evaluate the course at the end of each module. The student gives the course a rating of 1-5 with 5 being the highest rating. The evaluations are forwarded to the sponsoring campus department review which is the Department of Finance and Division of Politics Administration and Justice. The courses are required to receive a rating of at least 3.5 to be in compliance.

Ms. Lorenz asked to receive a copy of the presentation as the committee was not able to read the screen. Ms. Tang will email a copy of the presentation.

Enrollment history for the CSUF Fiduciary Management Program over the last 3 years was 1,732 seats filled. Individual enrollment is approximately 200 each year or 66 each term: fall, spring, and summer. 137 students completed the Trustee Certificate Program and 133 students completed the Conservatorship Certificate Program. This number includes duplicates as some students completed both certificate programs. Mr. Counts asked how many of the students become licensed Professional Fiduciaries and Ms. Tang answered; CSUF does not keep statistics on that. Ms. Lorenz commented the Bureau requires 30 hours of prelicensing education and not the complete certificate so some applicants may be only getting the required number of hours and not completing the program.

Mr. Counts commented he took this program and feels there is a lack of detailed information but the information was good. He stated if the information was all a candidate learned about being a fiduciary, they would not necessarily be prepared to work as a fiduciary upon completion of the course.

Ms. Hatch stated she was one of the original developers and instructors for the CSUF program and feels the interaction between the students and instructor when it was an in-class program was crucial to see the fiduciary in person and their professionalism and demeanor. She would like to see the program go back to an in-class program.

Ms. de Vries agreed with Ms. Hatch and stated there should be training on family issues as well.

Ms. Tang clarified 1.5 units is equivalent to 15 hours.

A public comment was made by a recent graduate of the CSUF Fiduciary Management Program, that the on-line course was more demanding of the student than she anticipated, but in a good way. The course prepares the fiduciary to take the exam but does not prepare the fiduciary on how to start and run a fiduciary business.

Mr. Hlavaty stated originally the instructors had signed a confidentiality agreement with CSUF and wanted to know if that was still in effect. Ms. Tang answered any final product that is being used by CSUF, is property of CSUF. If new content or programs are created, they are not covered under the agreement.

Ms. Peters commented the presentation stated the certificate program can be completed in one semester and she does not think this is possible. Ms. Tang stated it is possible if the student signs up for both classes simultaneously.

Mr. Hlavaty stated University California Riverside (UCR) also started with an in-class program and now is part in-class and part on-line. He feels there is better performance with an in-class program; however, to make a program successful in California you need the flexibility of both.

Ms. Federizo stated the CSUF program is good but is lacking in practical experience. She asked if the Bureau has authority to add required education for the applicant and Ms. Scott stated the Bureau can only specify what is required within the 30 hours of required pre-licensing education. The Bureau cannot add additional hours.

Mr. Hlavaty stated he had signed up to be available as a mentor with CSUF some time ago and wanted to know if that list was still offered to the students. Ms. Tang answered; CSUF does not have a formal list at this time. She does put students in contact with former students if they ask for a mentor.

Ms. de Vries, Ms. Michaels, and Mr. Stubbs stated they each offer mentoring programs. Mr. Stubbs stated when he was an instructor he would offer his contact information to students and also suggest they find a mentor in the area of California they would be working.

Mr. Counts stated he does not think CSUF should run the mentoring program as it should be done face-to-face and not on-line. He suggested PFAC run a program. Ms. Hatch stated PFAC already has a program in place.

Ms. Kreamer asked for clarification of the hands-on learning portion of the CSUF program. Ms. Tang explained students are given Inventory & Appraisals, Court Accountings, and sample Investment Portfolios to analyze. Ms. Lorenz stated she found the Investment Portfolio training to be inadequate for real life cases and proposes the course include more than information on just Mutual Funds.

Mr. Hlavaty stated practical experience is hard to teach much like case studies in law school. UCR has a business practices class which teaches how to set-up and operate a business and also has a class on marshalling and management of assets.

Ms. McNamara asked that the CSUF advisory board members be looked at and possibly re-evaluated for the make-up of the board for more diversity.

Ms. Hatch stated there should be an internship prior to being licensed and suggested partnering with the public guardian office. She asked if the Bureau could require public guardians to be licensed as is done in other states.

Ms. Scott stated Business and Profession Code 6533 lists the requirements to apply for licensure and Title 16, Section 4444 lists the pre-licensing and continuing education requirements. The Bureau has the authority to approve as stated in the law and regulation. She stated the Advisory Committee can vote to form a sub-committee to discuss the education requirements in regulation. In order for public guardians

to be required to obtain a license from the Bureau there would have to be a change in the law. This may be something PFAC could address.

A public comment was made that licensed fiduciaries are concerned about the liability for themselves when taking on an intern due to confidentiality issues.

Mr. DeLuna stated he has been invited to serve on an advisory board for Cal Berkeley to develop a fiduciary management course for their extension program. He will take the ideas from this meeting to that board. He stated there should be consistency in the content of the materials for any program that is offered.

Ms. Lorenz stated a sub-committee should explore new educational opportunities, review existing opportunities and suggest improvements, and look at improving the existing regulations. Ms. Estacio moved to develop an Education Sub-Committee. A second was made by Ms. Federizo. A vote was taken and the motion carried. Ms. de Vries and Ms. Lorenz nominated themselves to the serve on this sub-committee. Mr. Counts asked to volunteer to be part of the sub-committee and Ms. Lorenz stated once the sub-committee meets they would decide how to proceed. Ms. Tang stated CSUF would also like to be involved if possible.

Ms. McNamara asked for clarification of the relationship between CSUF and the Bureau. Mr. DeLuna answered providers are approved in the existing regulations. CSUF qualifies because they are approved by a Nationally Accrediting Agency. At this time, if a provider needs to be added and does not qualify under the existing regulations, the Bureau would have to make a change to the regulations. The Bureau would like to see the regulations reflect criteria on how to approve a course or a provider in the future.

12:23 – 1:00 Break

VII. Continuing Education Credits – Committee Chair

Ms. Lorenz requested fiduciaries who teach a course to fiduciaries is given 2 continuing education hours credit for each hour taught. This would encourage licensed fiduciaries to share their knowledge with newer fiduciaries.

Mr. DeLuna stated currently, Section 4442 of the California Code of Regulations allows 1.5 hours earned for each hour taught for a maximum of 6 of the 15 required continuing education hours. The fiduciary certifies under penalty of perjury the hours have been completed and the Bureau has the authority to audit the continuing education records of the licensed fiduciary. If the fiduciary has reported hours they have not completed, their license is subject to a citation.

VIII. Bureau Update – Gil DeLuna, Acting Chief

- Status of the Bureau – Mr. DeLuna is still Acting Bureau Chief. This is a Governor appointed position. The Advisory Committee is at quorum level, but is still awaiting appointment of 3 positions. The DCA Executive office has contacted the Governor's Appointment Secretary and is awaiting a response. At this time the Governor's office is focusing on appointing members to Boards and Advisory Committees that are not at quorum level and unable to hold required meetings. Ms. Federizo stated she was contacted by the Governor's office and asked for referrals for the vacant positions.
- FY to Date Statistics – To date 683 licenses have been issued, 90 have chosen not to renew, leaving 593 active licensees, 7 citations have been issued, 6 licensees are currently on probation, 67 complaints have been received this fiscal year, 85 complaints have been closed, and the Bureau is taking an average of 198 days to close a complaint.

Mr. Counts suggested the Bureau do a survey of the licensees who have not renewed to determine why they are not renewing.

Ms. Hatch requested a procedure be created so that licensees may be listed as retired on the Bureau's website. Mr. DeLuna answered this would have to be a change in regulation. There

was a public comment that the Bureau staff is impressive on following up on the annual statements and clarifying information.

Ms. Lorenz clarified the designations needed are delinquent, deceased, retired, and inactive. Ms. Scott stated the upcoming BreEZe system will not allow the Bureau to create their own titles and definitions; these will be standard for all of DCA. Ms. Lorenz asked to add an agenda item for the next Advisory Committee Meeting to receive an update from the Bureau of the formal designations DCA will allow and fiduciaries will have to adapt to or the possibility of a regulation change to provide appropriate designations for licensees.

Ms. Lorenz stated the courts are the first to know if a fiduciary is holding themselves out to be licensed with the Bureau and this may be a good way for the Bureau to catch unlicensed activity.

Ms. Federizo asked for additional information on the types of citations issued. Mr. DeLuna answered citations are similar to a fix-it ticket and may be for charges the Bureau considers to be self serving activities such as charging a client for talking to the Bureau in response to a complaint filed with the Bureau, not being truthful when answering the questions on the annual statement, or for unlicensed activity. Mr. Counts suggested the Advisory Committee offer the Bureau guidance for guidelines of what is acceptable behavior to be published for the licensees. Ms. Scott stated that the committee can establish a sub-committee to review the Code of Ethics, Article 4 of the California Code of Regulations. This would allow a sub-committee of 2 to discuss and come up with ideas and suggestions for changes to this Article, if necessary, to be presented to the Committee and public at a future meeting. Mr. DeLuna stated focus should remain that consumer protection is paramount.

Ms. Lorenz motioned to create a Code of Ethics sub-committee. Second, by Ms. Federizo. None were opposed and the motion carried. Ms. Federizo and Ms. Lorenz were nominated to the sub-committee.

- E-Newsletter – The newsletter has 2 more reviews to go through before it is ready. Ms. Lorenz asked if the Bureau will be providing 700 copies to PFAC for their conference and Mr. DeLuna answered the Bureau does not have a budget to provide copies and the newsletter will be sent electronically. PFAC can make copies for their conference if they would like to.
- Form 700's – Mr. DeLuna state all public officials are required to report annually on the Form 700 any gifts they have received and any potential conflicts of interest they might have. This was due by April 1, 2013. An attachment was included in the materials with the changes in the gift policy for this year.
- Budget Report – Mr. DeLuna presented the Bureau's budget to date. At this time there is a 1 ½ month reserve which is on target for what the Bureau expected.

Ms. McNamara asked how many licensed fiduciaries are needed in order for the Bureau to have more employees and be able to keep up with the work. Mr. DeLuna answered that it is hard to say at this time. Originally, there was an expectation of 1300 licensees and this has not happened yet. As the licensee base increases so will the workload

Ms. McNamara also asked how the number of non-renewals will impact the budget. Mr. DeLuna answered the Bureau should be fine for the next 1-2 years, but will need to be proactive in determining why the profession is not growing. Ms. Lorenz commented it is the duty of licensed fiduciaries to educate people that the profession exists and why the consumer may need a fiduciary.

IX. Strategic Plan Timelines - Bureau

Mr. DeLuna stated the Bureau met with the DCA SOLID employees to discuss a timeline for the PFB Strategic Plan. At the last Advisory Committee Meeting the Committee Members had decided on a date in May 2013 to meet for planning purposes, however, SOLID is not available until August 2013. A chart is included in the materials for a timeline. Preliminary set up prior to the meeting will be done by phone

with the Committee Members. The goal is to have this process completed by January 2014. The Committee Members decided on a date for the next Advisory Committee Meeting on July 31, 2013 and the Strategic Planning Meeting on August 1, 2013. The meetings will be held in Sacramento.

X. Legislative Update - Bureau

Mr. DeLuna stated there are many bills that will affect all of DCA. A complete list can be found at www.leginfo.ca.gov. There are five that will directly affect PFB licensees.

AB381 – This bill would extend existing double damage provisions in the probate court to a person who misappropriates property through undue influence in bad faith or through the commission of elder or dependent adult financial abuse. This bill would also provide for liability for attorney's fees and costs.

AB1029 – This bill would revise and recast the requirements by which a trustee is to determine whether money received from a distributing entity is to be treated as a partial liquidation.

SB60 – This bill would include victims of human trafficking and victims of specified forms of elder or dependent adult abuse within the definition of crimes that are eligible for compensation under these provisions.

SB156 – This bill would declare the intent of the Legislature to enact legislation that would limit the ability of an attorney who represents a conservator to charge a fee for managing a conservatorship when the conservator challenges this management.

AB1339 – This bill would require that when a petition to appoint a conservator or a temporary conservator is filed, and the petitioner is a professional fiduciary, as defined, the petition also include the petitioner's proposed hourly fee schedule or another statement of the petitioner's proposed compensation from the estate of the proposed conservatee for services performed.

A public member requested a copy of this information since there were not enough packets available for the public at this meeting. Mr. DeLuna stated the materials are on the Bureau's website, but if anyone would like him to email or mail the materials to please let him know after the meeting today.

Ms. Lorenz explained meeting minutes are approved by Committee vote at the following meeting and will be posted on the Bureau's website within 3 weeks after the meeting.

Mr. DeLuna explained the Bureau is required to hold 4 meetings a year, however, meetings cannot be held if a quorum cannot be established.

XI. Future Meeting Dates and Agenda items

Next quarterly meeting will be in Sacramento on July 31, 2013

Strategic Planning meeting will be in Sacramento on August 1, 2013

Agenda Items:

-Ms. Lorenz asked to add an agenda item for the next Advisory Committee Meeting to receive an update from the Bureau of the formal designations DCA will allow and fiduciaries will have to adapt to or the possibility of a regulation change to provide appropriate designations for licensees.

-Education Sub-Committee updates.

-Code of Ethics Sub-Committee update.

-Licensed Professional Fiduciary to be required to list license number on all advertisement.

XII. Public Comment on Items Not on the Agenda

Mr. Stubbs would like a requirement that licensed fiduciaries list their license number on all correspondence, business cards, invoices, and all other official documents and advertisements.

XIII. Adjournment

Time of adjournment was approximately 2 p.m..