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**Professional Fiduciaries Bureau
Advisory Committee Meeting
July 31, 2013**

**1747 N. Market Blvd., Emerald Rm., Ste.
Sacramento, CA 95834**

REVISED

Committee Members Present

Marguerite Lorenz, Chair
Barbara de Vries, Vice Chair
Aileen Federizo, CLPF
Prescott Cole, Non-Profit Advocate on Behalf of the Elderly
Kathleen Thomson, Probate Investigator

Staff Present

Julia Ansel, Bureau Chief
Gil DeLuna, Former Acting Bureau Chief
Sonja Merold, Chief, Division of Programs and Policy Review
Angelique Scott, DCA Legal Counsel
Angela Bigelow, Program Analyst

I. Call to Order – Chair

The meeting was called to order by Ms. Lorenz at 10:03am.

II. Roll Call – Gil DeLuna, Former Acting Chief

There were three members present and a quorum was not established at time of Roll Call. Ms. Lorenz stated once the new members were sworn in a quorum would be established. Ms. Lorenz thanked Mr. DeLuna for his service as Acting Bureau Chief. A quorum was established after the swear-in ceremony with five members present.

III. Introductions

Introductions were done after the swear-in ceremony. Committee Members and Professional Fiduciaries Bureau (Bureau) staff introduced themselves.

IV. Swear-in Ceremony – Denise D. Brown, Director

Ms. Lorenz introduced Ms. Brown to swear in Julia Ansel and Prescott Cole. Kathleen Thomson was sworn in prior to this meeting and her picture was taken with Ms. Brown.

V. Approval of the Meeting Minutes from April 3, 2013

Ms. de Vries motioned to approve, Ms. Federizo seconded the motion. A vote was taken and all were in favor of approving the minutes as written.

VI. Updates from the Director's Office – Christine Lally

Ms. Lally, Deputy Director of Board and Bureau Relations, introduced herself as new to the Department of Consumer Affairs. She is looking forward to working with the Bureau and offers her office as a resource to the Bureau.

VII. Education Sub-Committee Report – Barbara de Vries, Sub-Committee Chair

Ms. de Vries reported the first meeting was held on Thursday, June 20th by teleconference. The meeting was called by Mr. DeLuna. Kevin Urbatsch is an attorney who specializes in trust law and special needs trusts. Mr. Urbatsch is the Vice Chair and he is a public member on the sub-committee. The purpose of the sub-committee is to raise the quality of education for licensees and address standardization of educational programs. An example of this would be standardizing the programs being offered as certificate programs by the Universities. Mr. Urbatsch wanted the sub-committee's input for the upcoming University of California Berkeley (UCB) Program. The sub-committee stated mentoring and field work is important. The Advisory Committee previously had a presentation by University of California State Fullerton (UCSF) and today there will be a presentation by Professional Fiduciary Association of California (PFAC). In the future we will have a presentation by University of California Riverside (UCR) and UCB once their program is in place. Eventually, the sub-committee would like to see the requirements for licensing raised but understand that will have to be done through the Legislative process.

Ms. de Vries introduced Marilyn Bessey to present the education process and program offered by PFAC.

Ms. Bessey is the Vice President of the State Board of Directors and the State Education Chair for PFAC. Ms. Bessey introduced PFAC President, Scott Phipps and Association Executive Director, Jackie Miller who were in the audience. There are approximately 600 PFAC members and 500 of those are licensed fiduciaries. PFAC's main goal is to increase member's competency and performance. The members are required to have 15 education hours to continue their membership with PFAC. Courses provided by PFAC are vetted by the education committee to verify the quality and compliance of each course. PFAC is an approved provider for California State Bar Association and PFAC follows the same guidelines for the approval process and PFAC courses qualify for MCLE credits. Ms. Bessey explained the vetting process and the requirements for approval of an education course. Courses must relate directly to what a professional fiduciary does, presenters must be highly qualified, written materials are required, and the content must offer solutions. Programs which are focused on marketing, electronic discussions, mentoring of new fiduciaries, self-study, and general business topics do not qualify for credit. The relationship between approval for PFAC Continuing Education Units (CEU) and MCLE credits are much the same. One CEU is equivalent to 60 minutes of course time. PFAC provides many opportunities for CEU's such as; chapter meetings, regional meetings, regional education days, and an annual PFAC 4-day conference. The conference offers a broad range of professional content. All annually required credits can be accomplished at the conference with these sessions and workshops. Networking and mentoring is a bonus at the conferences. There was a survey of membership to re-evaluate the educational requirements for membership. The requirements are being re-evaluated as a result of the survey. Case category was one of the survey questions and the results were that most were non-court supervised trusts, second were special needs trusts (SNT), and third were conservatorships. Half of the fiduciaries are still accepting conservatorship cases. The survey showed the largest educational area of interests was in SNT's, second was in accounting and taxes, third was in the probate code, fourth was in investments, and last was in real property. PFAC was interested to find out where fiduciaries were receiving their education and found that 71% received their education at the annual PFAC conference and second was through MCLE. 42% of PFAC members earned 15-20 hours of CEU last year, then 34% earned 21-30 hours, and finally 23% earned more than 31 hours. The survey showed the number of years each respondent had as a PFAC member 31% had 1-3 years, 29% had over 10 years, 23% had 6-9 years, and 15% had 4-5 years. The level of fiduciary knowledge each respondent categorized themselves as: 46% advanced, 34% intermediate, and 19% beginners. PFAC noticed of the Bureau's approved providers 60% are from health care providers and all could be taken from a provider that is not

fiduciary related. Should requirements be required to be taken in specific areas to be rounded out? 25% of PFAC members took this survey which Ms. Bessey thinks was a pretty good sample. The education committee for PFAC has put in standards and guidelines and is now developing PFAC's own proprietary education program similar to CSUF, UCR and UCB for prelicensing and continuing education. Raising educational standards may help to drop the insurance prices for fiduciaries. Some of the programs are on-line and have lecture in addition to Skype or camera portion where the students and teacher interact with discussion. Indiana has a model with on-line visual and reading, practical hands on research, in person classes with an instructor and interact with specific problems and come up with a solution, and finally a test. PFAC has come up with a hybrid program starting with an on-line module with a quiz on each module, then the students will do a hands-on portion with research papers, then they will come into the classroom with an instructor. Ms. Lorenz asked if the insurance industry will be included in this program and Ms. Bessey stated that PFAC's next step is to talk to the insurance industry. In the classroom, students will be divided into small groups, given problems, discussion to come up with a solution. Then the small groups will report to the larger group with their solutions. Finally, there will be an assessment in the form of a test. PFAC has made the financial commitment for the hybrid module and course content has been prepared, editors are editing the content at this time and a video production company has been retained, and a web services provider has been identified. The first course will be conservatorship of the person; the second will be in accounting, and finally real property. PFAC commits to high quality relevant content courses, best practices instructional environment, and will continue to develop programs at all levels to serve members.

Mr. Cole asked about the insurance pressures and could a course be developed for financial abuse awareness. Ms. Bessey stated there is already a course that addresses financial abuse. Mr. Stramel asked if PFAC had looked at model called Coursera. He feels the model is very good.

Mr. DeLuna provided an update on the UCB advisory board. There were former probate judges, geriatric professionals, bond companies, insurance professionals, professional fiduciaries, and a court investigator. Outcome of meeting is a course outline was developed and substantive materials were developed. Two courses for 2014 are in-class courses and will be used to perfect the courses before rolling out on-line. The first course will be the Challenges and Opportunities for professional fiduciaries and personal conservatorships. Each 15 hour course will be of a 90 hour program and will be eligible for education credits.

Mr. DeLuna introduced Anna Lee from UCB. Ms. Lee took over for Paul Emery. She thanked Mr. DeLuna for working so hard to assist in developing this plan which is scheduled to begin next spring. UCB's goal is to educate new people who would like to become fiduciaries such as nurses, healthcare people, social workers, JD's, and CPA's. PFAC is establishing a program with high standards. Ms. de Vries thinks it is important to find out if a person is eligible to be bonded prior to starting the licensing process. Ms. Federizo would like to see individuals practice with professionals so that when a new fiduciary goes into the real world they know what to do. Ms. de Vries stated this may be a legislative change to allow a mentorship program. Ms. Lorenz stated to please review the minutes from the April 3, 2013 meeting as mentoring and trainee licensing was discussed. Ms. Scott stated the Bureau could consider adjusting its regulations within the parameters of the Bureau's legislative authority. Mr. Phipps stated this is a concern for new members and PFAC has looked into this but there are liability issues. PFAC has developed a peer group program for licensees to discuss cases and receive recommendations. Mr. Prescott asked about caregivers being brought in as fiduciaries, he is concerned about financial abuse if the caregiver starts taking over a clients finances. Ms. Lee stated she was listing who may be interested in the profession. Mr. DeLuna stated this is who the course may be marketed to for people wanting to change careers and they would not be doing both jobs at the same time. Ms. Lorenz stated there would have to be a division between roles and they should not be doing both duties but the more education the better. Ms. Lee added the first class will be an introductory class to talk about

these issues. There are seven courses. One of the courses is ethics and conflicts which will cover this issue. Ms. Lorenz stated UCB will be presenting at a future meeting.

Break – 11:07am-11:21am

VIII. Bureau Update – Sonja Merold, Chief, Division of Programs and Policy Review

- Status of the Bureau – Ms. Merold introduced Angelique Scott who spoke about protocol for advisory committee meetings. Ms. Scott stated she also provides legal advice on matters involving the Fiduciaries Act and Bureau regulations and also sits in on the committee meetings to make sure the members are compliant with Bagley Keene Meeting Act. A copy of the Act was provided to the new members for this meeting and there is a “cheat sheet” provided in today’s meeting packets. There are specific requirements that are required of each member including Board Member Orientation Training (BMOT). The next BMOT is scheduled on November 20, 2013. Ms. Ansel is an active fiduciary but has recused herself to not act as a fiduciary while serving as the Bureau Chief.

Ms. Merold announced the Governor has appointed a new Chief and two new Committee Members. The Bureau is going through Sunset Review process and has prepared a draft and that draft is going through internal review. A hearing will be set and posted on the Bureaus website. Sunset Review is the Bureau’s opportunity to re-justify the bureaus missions, values, and activities. The Sunset Review report goes through Agency, the Governor’s Office, and Legislative oversight hearings. The Bureau will be developing a Strategic Plan this afternoon and members of public are invited to participate. The document will be used as a road map for the Bureau to accomplish its goals.

- FY to Date Statistics – There are 78 new licenses issued, for a total of 716 issued since the Bureau’s inception and 614 of these licenses are active. The Bureau received and opened 99 complaints. The Bureau closed 122 complaints and the average days to close a complaint were 184 days. At the end of the fiscal year there were 27 complaints pending. The Bureau issued 10 citations and there are 6 licensees on probation. Ms. de Vries asked the main issues of complaints received. Mr. DeLuna stated stolen money, not all assets inventoried and are now missing, fees charged to the client, and the clients wants a new fiduciary. Ms. de Vries asked what the citations were issued for. Mr. DeLuna stated they were issued for paperwork not reporting on Annual Statement certain clients, unlicensed activity, failure to look out for best interest of client, and bounced checks. Ms. Lorenz asked percentage of complaints for new versus. experienced fiduciaries. Mr. DeLuna stated this has not been tracked but most seem to be experienced fiduciaries. Mr. Prescott asked which time period the complaints were closed in. Ms. Bigelow stated all statistics were as of the end of FY 2012-13. Mr. Prescott asked if statistics are kept on the caseload of the fiduciaries the Bureau receives complaints about. Mr. DeLuna answered that those statistics are not tracked, only the aggregate dollar amount under the supervision of the fiduciary are tracked, but a licensee’s caseload is looked at when investigating a case. Mr. Counts asked if there are statistics on why the licensees did not renew. Mr. DeLuna stated the Bureau is planning to conduct a survey because the Bureau has heard fiduciaries are not renewing because they cannot get work. The Bureau can do a survey for this. Ms. Bessey asked for the reasons there are 27 pending at the end of the FY. Ms. Merold answered the pending cases are still somewhere in the investigative process.
- E-Newsletter – The E-Newsletter is a primary tool to communicate about the work of the Bureau. The Bureau would like to invite everyone to present articles to the new Bureau Chief. Enforcement, complaints, senior gateway portal, ASK Angie, and Legislative updates are all topics from the last newsletter. The Bureau is looking to create a fall issue and will send out a

deadline for articles to be submitted for the issue in November. Ms. Lorenz feels this is very helpful for the industry especially for the complaint process.

- Regulations – Proposed regulations are in formative state for Disciplinary Guidelines that will become regulation to enhance disciplinary and enforcement functions to provide documentation to Administrative Law Judge (ALJ) when making decisions. Second, is Client Notification for the fiduciary to provide notification to clients that they are licensed. This regulation is in the process of finalizing language. Ms. Lorenz asked for clarification if this regulation is to require fiduciaries to put their license number on all marketing materials. Ms. Merold stated this regulation would require having a public notice or a document having the client sign that they are aware the fiduciary is licensed. Mr. DeLuna stated there will also be advertising regulation which would require a fiduciary to put their license number on any type of advertising. Ms. Lorenz is concerned that the language may not be appropriate and the Bureau should work with an Estate Planning Attorney to make sure it is not conflicting with other fiduciary requirements and responsibilities. Mr. DeLuna stated the regulation process includes a public comment period where this can be brought up prior to the regulation going into effect.

IX. Bureau Budget Report – Robert De los Reyes, Budget Analyst

Robert presented the budget in a PowerPoint presentation and handouts were provided in the packets. Mr. De los Reyes works with the Bureau to monitor revenues and expenditures for the Bureau. The Bureau spent 91% of their budget for FY 2012-13. The Bureau collected 97% of the revenue that was estimated. The approved Budget for FY 2013-14 is \$440,000, estimated revenue is \$575,000. Mr. Prescott asked if there is a cap on the reserve that the Bureau is able to hold. There is general language that programs cannot exceed 24 months in reserve. Then there is a protocol including addressing if renewal fees should be reduced. Mr. Counts asked whether anyone determined an ideal level of reserves for this Bureau specifically. Nothing is set in stone for the Bureau to maintain but there is an internal target of 3-4 months. Ms. Bessey asked how the basis of estimated revenue is determined. Part of the budget process is using historical trends for the last 3 years and there is an upward trend which includes growth for the FY's to come. Ms. Miller asked if the Bureau expects any additional staff hires. Mr. DeLuna stated it can be requested and the last 2 years it was not justifiable. Ms. Federizo asked if the line item for program expenditures includes staff and it does. Mr. Prescott stated the State Bar has a status for a license to be inactive. Ms. Scott stated there is not legislative authority to make a license inactive. Mr. Prescott stated this would be a revenue generator for the Bureau if the Bureau had Legislative authority. Mr. Counts asked what the annual renewal fee is and it is \$700. Mr. Counts based on that it appears the Bureau thinks there will be a dropping off of renewal fees. Mr. De los Reyes answered that this is part of the process to estimate future years. Ms. Lorenz stated this is a conservative estimate.

X. Legislative Update – Scott Allen, Legislative Analyst

Mr. Allen presented a brief update on five bills being tracked by the DCA that affects fiduciaries and attachment 6 of the meeting packet is DCA wide bills that affect all programs within DCA.

AB381 relative to estates trusts: undue influence and elder abuse.

This bill allows court to award attorney fees and costs as well as double damage fees. The bill has passed both houses at this time and is being prepared to go to Governor's Office.

AB937 an act to amend Section 2351 of the Probate Code, relating to conservators and guardians. This bill would provide that the conservator's control of the conservatee shall not extend to personal rights retained by the conservatee, including, but not limited to, the right to receive visitors, telephone calls, and personal mail, unless specifically limited by a court order. Ms. de Vries stated this may be a problem with pf getting mail of clients to weed out scams. Mr. Allen stated the court would have authority to alter this.

AB1029 relative to trusts and estates and allocation of receipts. DCA is just watching this bill. This bill would clarify how partial liquidation would be determined. This is on its way to the Governor's Office. AB1339 relative to guardians and conservators would require the fiduciary to disclose fee schedule to conservatorship cases prior to being appointed. DCA has taken a neutral position on this bill. SB156 relative to conservatorships and guardianships attorney's fees. This bill limits the fiduciary from collecting fees from the estate for any costs incurred in defending a conservator's compensation petition. This bill is on the senate floor at this time. Mr. Cole appreciates DCA tracking AB381 but asked why DCA is not tracking AB140 which changes the definition of undue influence in financial abuse in elders. This bill was not identified by Governor's Office or DCA to track but Mr. Allen will take a look at this bill. Ms. Lorenz feels this should be tracked and she is requesting this be reported on at the next meeting.

XI. Future Agenda items

- UC Riverside presentation and report from Education Committee
- Chair and Vice Chair elections
- AB140 update

XII. Future Meeting Dates

Next meeting will be November 19, 2013 in Sacramento.

XIII. Public Comment on Items Not on the Agenda

No public comment.

XIV. Adjournment

The meeting was adjourned at 12:15pm.