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**Professional Fiduciaries Bureau
Advisory Committee Meeting
February 3, 2014**

**1625 N. Market Boulevard, 1st Floor Hearing Room
Sacramento, CA 95834**

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
Diana Amaya, Public Member
Hang Le To, Public Member

Staff Present

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

1. Call to Order – Marguerite Lorenz, Committee Chair
The meeting was called to order by Ms. Lorenz, Chair at 12:32p.m.
2. Roll Call – Julia Ansel, Bureau Chief
Ms. Ansel welcomed our two newest Committee Members and read the Professional Fiduciaries Bureau's (Bureau) Mission Statement. Ms. Ansel called roll and there were seven members present and a quorum was established. Ms. Lorenz acknowledged this is the first time the Bureau has had all Committee positions filled since the inception of the Bureau.
3. Introductions
Those in attendance introduced themselves.
4. Approval of the Advisory Committee Meeting Minutes
 - July 31, 2013 Meeting Minutes (Revised)
Ms. de Vries motioned to approve the revised minutes as written; the motion was seconded by Ms. Federizo; no one opposed; and the motion carried.
 - November 19, 2013 Meeting Minutes

Ms. de Vries motioned to approve the minutes with corrections to pages 4 and 8; the motion was seconded by Ms Federizo; no one opposed; and the motion carried.

5. Update from the Director's Office – Corrine Fishman, Executive Office
Ms. Fishman introduced herself and announced the Department of Consumer Affairs (DCA) had just released its new strategic plan. Ms. Fishman passed out copies to each of the Committee Members.

6. Budget Report – Robert de los Reyes, DCA Budget Analyst
Mr. de los Reyes explained that the fund condition is a tool used to track revenue and expenditures for the Bureau. The report shows what has been approved for the Bureau in the Governor's 2014/15 Budget. The Bureau submitted a Budget Change Proposal (BCP) for an Enforcement Analyst position and a two year limited-term for a line item for Enforcement. The BCP is still subject to legislative review. Ms. Lorenz asked what the time line is for the approval or disapproval. Mr. de los Reyes stated the decision will show in the Budget Act which will be released in May of 2014 and if approved, the proposal will be for the FY 2014/15 budget.

7. Legislative Update – Scott Allen, DCA Legislative Analyst
Mr. Allen stated the disposition of the bills presented at the last meeting had not change, and that no new legislation had been introduced since the Bureau's last meeting. Ms. Lorenz asked that at the next meeting an attachment be included with current legislation (even if there are no changes) due to the fact that there may be people in attendance who were not at the last meeting. Mr. Allen stated the deadline to introduce new legislations is February 21, 2014.

There was a question from a member of the public at the last meeting with regard to the wording of AB1339. Ms. Scott stated it was appropriate to speak about it during this section of the agenda. Mr. Allen explained that AB 1339 requires a Professional Fiduciary to disclose their fees when petitioning the court in a new case. The question was whether this applies to a licensee if he/she is not required to be licensed. Mr. Allen has been in contact with the sponsor of the bill and is waiting for a reply. He hopes to clarify this at the Bureau's next meeting. Ms. Scott pointed out on page 7 of the last meeting minutes there is a reference to AB 1339. She also asked that the Bureau add this to the next meeting agenda. Ms. Federizo asked if the courts are asking for this now and Mr. Allen stated he assumed that when the law went into effect on January 1, 2014 the courts started enforcing it. Ms. Lorenz stated it may be too soon to know since there have only been a few days on calendar since the law went into effect and many fiduciaries have not been to court yet. Mr. Cole asked Mr. Allen to track a number of residential care facility bills which he believes will affect Professional Fiduciaries. He also asked about the Bureau's Sunset Bill. Mr. Allen stated it will be

introduced this year. Mr. Cole asked if legislation for continuing education requirements could be added to this bill and Ms. Lorenz directed the question to Ms. Ansel. Ms. Ansel stated this is not the correct forum for this type of legislation. Ms. Scott reminded the Committee members to stay on topic of the agenda item and stated this could be added to the next agenda. Ms. Lorenz asked that the topic of Sunset Review be added to the next agenda and Ms. Ansel stated there will be a hearing in March and she will report at the next meeting.

8. Education Subcommittee Report – Barbara de Vries, Subcommittee Chair

- Status of Subcommittee

Ms. de Vries stated the subcommittee members are she, Mr. Cole, and Mr. Urbatsch. The subcommittee held its third meeting this morning. The subcommittee has been tasked to create criteria for the Bureau staff to use to approve providers, determine the feasibility of requiring internships for licensure, and a requirement for advocacy for the elderly and elder abuse topics. For the next meeting the subcommittee members will be presenting their ideas on how to divide the preclicensing hours by percentage. Ms. Lorenz asked that the subcommittee members keep in mind the exam topics currently in use.

- University of Berkeley Presentation – Anna Lee, Program Director

Ms. de Vries introduced Ms. Lee and that this will be the final presentation from the fiduciary extension programs.

Ms. Lee stated the extension program was founded by the University of Berkeley (UCB) 123 years ago and the program provides continuing education and professional education for adults. Students take the certificate programs to advance or change careers there are 75 professional certificates and programs and over 2,000 in person and on-line courses.

The Fiduciary Program is a special studies program now and will become a certificate program in the future. For the spring of 2014 there are three courses which started January 21, 2014. In the summer of 2014 there will be three more courses then the program will apply to become a certificate program. These courses fall under the business section of UCB. Students want to come to UCB because of the academic excellence and the programs are approved by WASC. The courses are approved by an advisory committee that is made up of senior faculty members. The UCB approves the instructors and the program is specialized in fiduciary management providing professional responsibilities and requirements such as standards, practices, legal, and ethical considerations. There's a growing demand for Professional Fiduciaries due to California's growing aging

population. It is projected that the number of persons over the age of 65 will double in the next 20 years to approximately 8.4 million and qualified Professional Fiduciaries are needed. Many family members live too far away, are not interested, or lack the skills to handle accounting and medical decisions for their loved ones.

UCB strives to offer a high quality program. The goals are to:

- offer high quality relevant courses,
- help students meet the Bureau's prelicensing education requirements,
- and to work closely with the Bureau and the Professional Fiduciary Association of California (PFAC) to enhance education in the State of California.

The special studies program is starting with three in-person classes offering three units which total 45 hours of instruction. The first three courses will be:

- Introduction to being a private Professional Fiduciary, special needs trusts, public benefits
- Administration of Person (power of attorney, healthcare, conservatorship)
- Administration of Estate (probate, trust, conservatorship)

There is a fee of \$595 for each course.

In the summer of 2014 there will be three additional classes offered:

- Fiduciary Accounting and Taxation
- Financial Planning and Investment Portfolio Management and Fiduciary Ethics and Conflict Resolution
- Best practices

UCB also offers a free information session to help students learn about the program, its courses, and the instructors. At this session, the students can meet other students and ask questions. One of the questions was how to find a job after being licensed and Ms. Lorenz asked how that was answered. Ms. Lee answered the students work with classmates and instructors and talk with other licensed Professional Fiduciaries to possibly shadow them. Ms. Lee offered contact information to the Committee for the UCB program staff. Ms. Federizo asked if the units are transferable to other certificate programs, but they are not at this time. Ms. Lorenz asked if the program can survive if there are only five students and Ms. Lee stated the program is willing to take a loss for a couple of years if needed. Ms. Lorenz also asked how the program is being marketed and Ms. Lee answered at conferences, with the free information sessions, the UCB Website, and the program is looking for other avenues.

Ms. Lorenz asked if there is a budget for marketing and there is. Ms. To asked if an internship program is offered and Ms. Lee said not at this time, however, the Education Subcommittee has been discussing this and Ms. de Vries will be giving a report at the next Committee meeting. Ms. de Vries asked if the instructors are required to submit an outline and they do. Ms. Lee will send a soft copy of the syllabus to Ms. de Vries. Additionally, Ms. de Vries inquired about the portion of the presentation that states, "Our special study courses are developed using the Bureau's Education Subcommittee proposed courses guidelines" and this guideline does not exist. Ms. Lee answered UCB used the seven topics provided to her by Mr. Urbatsch that were discussed at one of the meetings. Ms. Lorenz commented that family members cannot be objective when it comes to their own family and that Professional Fiduciaries are able to be objective and have the proper training. Mr. Cole asked if the courses are offered in 45 hours of instruction, how would UCB offer continuing education (CE)? Ms. Lee replied CE that is not yet available through this program. He also asked if UCB will be able to adjust their program if the Bureau changes its requirements and Ms. Lee said they would. Ms. To asked if all classes are complete, do the students receive certification? Ms. Lee stated they will receive credits, but the program is not approved as a certificate program yet.

Ms. Lorenz commented that one of the definitions of a fiduciary is an individual in whom another has placed the utmost trust and confidence to manage and protect their property; a person legally appointed and authorized to hold assets in trust for another person. It is important to remember the duty of a fiduciary is to put the client first, sometimes even before yourself.

9. Ethics Subcommittee Report – Aileen Federizo, Subcommittee Chair

- Status of the Subcommittee

The Subcommittee held a meeting via teleconference on January 28, 2014 the attendees were Ms. Ansel, Ms. Merold, and Ms. Bigelow. The members of the Subcommittee are Ms. Federizo and Ms. Thomson. Ms. Lorenz had to step down, but fortunately Ms. Thomson was able to take her place. The purpose of the Subcommittee is to determine if the California Code of Regulation, section 4470-4484 is understandable and reasonable. The Subcommittee will make recommendations to the Bureau. One problem the Subcommittee found is a conflict relating to fees when the licensee is charging the client for responding to the Bureau on a complaint. If a complaint was made to another board or bureau in DCA, the licensee does not charge the client when talking with the Bureau and Professional Fiduciaries should not do this. Citations have been issued under regulation section 4476(b) which states this may be seen as self-serving or adverse to the consumer. The next problem is the reasonableness of fees. Some newer fiduciaries are charging for what could be considered

their learning curve. For example when submitting an accounting, the fiduciary submits on the wrong form or without the correct schedules then charges the client for fixing the error. Lastly, conflicts such as gift giving were brought up. A fiduciary purchased a pizza for the court investigators and did not understand what the problem was with this action. Gift giving is not okay and is a conflict of interest.

The Subcommittee made the following recommendations:

- When the Bureau contacts the licensee, the Bureau staff should inform the licensee not to charge the client for the time spent talking to the Bureau.
- This issue could be part of a continuing education course. Ms. Federizo will talk to PFAC about adding this to one of the courses at their annual conference

The Subcommittee discussed making the conflicts section more clear, but because the section is written in a broad general format, not every conflict can be listed, so it will not be changed at this time.

Ms. Lorenz had concerns about the learning curve. Sometimes the judge will demand changes or additional information for a perfectly good accounting. Ms. Federizo replied it would have to be reviewed on a case-by-case basis but if it is a new request that should not be a problem. Mr. Cole would like to see conflict include licensees who hold other licenses such as insurance agents not being allowed to sell annuities to their clients. Ms. Federizo stated the Subcommittee members will be reviewing the section more thoroughly over the next 4-6 weeks. Mr. Cole asked that they look into the issue as possibly self-dealing. Ms. Lorenz stated Professional Fiduciaries are prohibited from receiving referral fees and are not allowed to refer cases to family members for outside services. Ms. Scott stated that section 4476 states licensees are to avoid actual or reasonably perceived conflicts and Ms. Lorenz commented if you are in doubt, call the Bureau.

Mr. Counts made a public comment suggesting the subcommittee set up a system for the Bureau to offer interpretations of right and wrong to be distributed to licensees.

10. Outreach Discussion – Julia Ansel, Bureau Chief and Prescott Cole
Ms. Ansel reported the Bureau has created an outreach presentation for Committee members to use at outreach events and it will be available soon for the Committee. The DCA Outreach Office will be working with the Bureau staff and the Committee members to find events. Ms. Lorenz would like to see a set of rules or guidelines outlining proper conduct when speaking on behalf of the Bureau and Ms. Ansel will create this. Ms. Ansel stated the

Bureau does not see a need at this time for an outreach subcommittee but this can be discussed at a later time if the need arises. Mr. Cole would like the Bureau to allow other licensees to make this presentation, similar to a program the State Bar has called Textcom. Textcom has an outreach project where they speak about elder abuse. There is a package and a script to follow which is a safeguard for consumers as they are not allowed to deviate from the presentation. There could be a requirement for the presenter to tape their presentation for later review to ensure compliance. There were questions and concerns about if a presenter is approached after the presentation and asked to be hired and this will be clarified in the guidelines. Ms. Scott stated that the Bureau cannot authorize licensees to do the presentation on behalf of the Bureau. The Bureau can only authorize PFB staff, DCA staff, and Committee Members to be a representative of the Bureau at outreach events. Mr. Cole asked if a DVD of the presentation could be created and distributed and Ms. Scott replied this can be done if the Bureau Chief believes it is appropriate.

Mr. Counts made a public comment that the Board of Accountancy does something similar to Textcom.

11. Bureau Updates – Julia Ansel, Bureau Chief

- Status of the Bureau – Currently the Bureau is exceeding all licensing, renewal, and enforcement goals. As a reminder, due to the small staff, renewals usually take up until the expiration date. Please get all renewal requirements in on time. The Bureau staff is busy with Sunset Review and daily operations. Ms. Ansel has submitted a request to attend the PFAC conference in April.
- Fiscal Year-to-Date to date Statistics – The Bureau has issued a total of 754 licenses; 634 are active. For the fiscal year beginning July 1, 2013, the Bureau has received 56 complaints, closed 63, and has 20 pending. The average days to close a complaint is 85 days with the target for DCA being 365 days. The Bureau issued 3 citations for unlicensed activity. Mr. Cole would like a break down of the types of complaints and wants to know why the number of complaints is so low compared to the number of closed complaints. Ms. Ansel replied the Bureau can work on a list of types of complaints. Ms. Bigelow stated there is a “Bureau Actions” page on the website (listed by calendar year) the kind of action that was taken and a general breakdown of the types of complaints received. Ms. Bigelow also stated that some complaints are resolved/mediated and there is not a violation of law, the complaint is closed “no violation”. Mr. Cole would like the website to report whether a complaint is substantiated or not. Ms. Scott explained the Bureau has authority to publish enforcement actions or discipline, but the complaint itself is not public record. Mr. Cole asked if the 20 pending complaints should be listed as accusations on the

website and Ms. Scott explained an Accusation is a formal charging document once the Bureau has determined a licensee's action warrants discipline greater than a citation.

- E-Newsletter – The Bureau Chief welcomes submissions for the next E-newsletter and the deadline is April 15, 2014. The E-newsletter is expected to come out in late spring or early summer. Mr. Cole suggested the Bureau submit an article to Textcom for their newsletter.
- Regulations – The Bureau's Client Notification Regulations have passed through the Legal Office and have been submitted to the Legislative Office in DCA. The Bureau hopes to notice a hearing date in the next couple of months.
- Sunset Review – The hearing will be held in the second or third week of March and the date will be posted on the Bureau's website.

Mr. Counts made a public comment suggesting the Bureau add an "Ethics" column to the newsletter.

12. Future Agenda Items

- Education Subcommittee
- Ethics Subcommittee
- Outreach Status
- Jerry Desmond – AB 1339
- Strategic Plan Update
- Ms. Federizo – Improve Meeting Participation

"Skype" was suggested, however, the Bureau does not have the capability to do this. Ms. Lorenz suggested the public submit questions or comments to the Bureau prior to the meeting.

13. Future Meeting Dates

- Advisory Committee

May 20, 2014

August 27, 2014

November 18, 2014

- Education Subcommittee

April 2, 2014 in San Francisco at 10:00a.m.

- Ethics Subcommittee

None Scheduled

14. Public Comment on Items Not on the Agenda

None

15. Adjournment

The meeting was adjourned by Ms. Lorenz at 2:46p.m.

