

**Professional Fiduciaries Bureau  
Advisory Committee Meeting  
May 29, 2014**

**Department of Consumer Affairs - HQ2  
1747 N. Market Boulevard, Hearing Room #186  
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

- I. Call to Order – Marguerite Lorenz, Chair  
The meeting was called to order at 12:47p.m by Ms. Lorenz, Chair.
- II. Roll call – Julia Ansel, Bureau Chief  
Ms. Ansel called roll, all seven members were present and a quorum was established.
- III. Introductions  
Ms. Ansel introduced the Bureau staff, welcomed the committee members and audience, and stated the Bureau’s Mission. Ms. Ansel also provided a copy of Business and Professions Code section 6511 that explains Committee Members’ duties to the Bureau.  
Public Comment:  
None.
- IV. Approval of Advisory Committee Meeting Minutes from February 3, 2014  
Ms. de Vries motioned to approve the minutes with amendments: Ms. To seconded the motion; no one opposed; and the motion carried.  
Public Comment:  
None.
- V. Updates from the Director’s Office – Executive Staff  
Ms. Fishman congratulated Chief Ansel on her confirmation by the Senate Rules Committee unanimously on May 7, 2014. The next step is a majority vote on the Senate Floor, which is expected to go smoothly. Ms.

Ansel is an asset to the Bureau as well at the Department of Consumer Affairs.

Public Comment:

None.

VI. Budget Report – DCA Budget Analyst

Mr. de los Reyes, Budget Manager updated the Committee members the Budget Change Proposal (BCP) has been approved in both houses and expected to be approved for the 2014/15 Governor’s Budget.

Public Comment:

Mr. Counts, a member of the public, asked why there was an increase in program expenditures between Fiscal Year 13/14 and Fiscal Year 14/15. Mr. de los Reyes answered this is due to the BCP that is expected to be approved.

VII. Legislative Update – DCA Legislative Analyst

Mr. Pruden introduced five bills that directly affect the Bureau and a few others that the Department of Consumer Affairs is watching.

AB 1859 passed the Assembly May 15<sup>th</sup> and is now in the Senate and set for hearing in the Senate Judiciary Committee on June 10<sup>th</sup>.

AB 2024 passed the Assembly on May 8<sup>th</sup> and is now in the Senate and set for hearing in the Senate Business and Professions Economic Development Committee on June 9<sup>th</sup>.

AB 2034 passed the Assembly on May 28<sup>th</sup> and is now in the Senate Rules Committee pending referral to a Policy Committee.

AB 2741 passed the Assembly on May 27<sup>th</sup> and is now in the Senate Rules Committee pending referral to the appropriate Policy Committee.

SB 940 passed the Senate on May 8<sup>th</sup> and is set for a hearing in the Assembly on June 10<sup>th</sup>.

There was a request at the last meeting for the Department to track some residential care bills. AB 1572 passed the Assembly and is now in the Senate set for a hearing on June 10<sup>th</sup>. AB 1816 is on the Assembly 3<sup>rd</sup> reading, if it does not pass by tomorrow it will be dead. These bills do not directly affect the Bureau or the profession. AB 188 passed the Assembly on May 28<sup>th</sup> and is now in the Senate pending referral to the appropriate committee.

Mr. Cole suggested the Department also track AB 2171, which would set up specific rights for residents in statute and AB 1571, which will, among other things, allow information about licensed residential care facilities to be accessed through the web and would be very helpful for Professional Fiduciaries.

Public Comment:

None.

- AB 1339 Clarification – Angelique Scott

Ms. Scott stated there was a request at a previous meeting for the Bureau to clarify AB 1339 as to whether or not Probate Code section 1510(d) pertains to all fiduciaries or only licensed Professional Fiduciaries. This should apply to all fiduciaries but it will be up to the Bureau whether or

not action will be taken against individuals who are not required to be licensed in the Professional Fiduciaries Act.

Public Comment:

None.

VIII. Discussion on Current Fee Structure

Ms. Ansel explained that there is a question of why fees are so high. The Bureau operates from fees that are received from licensing applications and renewals. The Professional Fiduciaries Bureau is a small program and fees are set to meet operational needs and to maintain a prudent reserve of three to six months. The Bureau has a nine-month reserve at this time. Changing this now could inhibit the growth of the program and profession. At this time, the Bureau feels augmentation discussion is premature.

Ms. Lorenz asked if the fees have gone up since the Bureau's inception?

Ms. Ansel stated they have not. Ms. To asked if the fees are increased where will the money be allocated? Ms. Ansel stated the Bureau does not anticipate increasing fees at this time. Ms. Lorenz would like this to be an annual discussion for the Committee. Mr. Cole asked how many new hires there will be? Ms. Ansel stated there will be one new employee and a line item of \$50,000 for Attorney General costs over the next two years. Mr. Cole asked when should the Bureau consider raising fees? Ms. Ansel stated when the reserve is down to three to four months. Mr. Cole asked how long it takes to effect a fee change? Ms. Scott answered that it would be a regulation change and it would take the same amount of time as any other regulation approximately one year.

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

- Status of Subcommittee

Ms. de Vries stated the subcommittee met prior to this meeting and the committee members are working on allocating percentages by subject matter for pre-licensing and continuing education.

- Future Meetings

August 27, 2014

Public Comment:

None.

X. Ethics Subcommittee Report – Aileen Federizo, Subcommittee Chair

- Status of Subcommittee

Ms. Federizo stated the subcommittee will schedule a meeting to close up the committee.

- Future Meetings

TBD

Public Comment:

None.

XI. Bureau Updates Julia Ansel, Bureau Chief

- Status of the Bureau – The Bureau staff continues to meet or exceed our goals for licensing, renewals, and enforcement measures. The staff is caught up with renewals this month that have been received with all documents completed. We have noticed that we are receiving an increasing number of renewal packets that are incomplete. Please remember to submit your annual statement 60 days prior to expiration, renewal form signed and dated, complete your continuing education, and \$700 renewal fee. If you know your license is expiring and you believe you have submitted your renewal documents, but your license has still not renewed, please contact the Bureau. The staff does its best to contact licensees if something is missing, but we do this as a courtesy and we do not always have time to call all licensees who have submitted incomplete renewal packets. This month we received 20 incomplete renewal packets and did not have enough time to contact everyone.

The Bureau recently added a Google Translator button to the bottom of our website on the home page. This provides consumers the ability to view our website in a variety of different languages.

Additionally, our brochures and complaint form have been translated to Spanish.

The Bureau has recently created a Facebook page and a Twitter account. Please follow us on Facebook at “California Professional Fiduciaries Bureau” and on Twitter at “@fiduciarybureau”. We encourage the Advisory Committee Members to send us relevant articles and links that we can share with consumers on both Facebook and Twitter. Thanks to our DCA Communications Office for helping us get started with both of these social media tools.

- Fiscal Year to date statistics  
In the past the Bureau Chief has provide the statistics verbally. Ms. Ansel presented a graph of the data as requested by Committee member Prescott Cole. The Bureau Chief split this information into two groups. One was fiscal year to date and the other was the last meeting to date.
- E-Newsletter  
Ms. Ansel announced the Bureau’s Spring/Summer E-Newsletter would be completed and distributed in the next couple of months and asked that Committee members submit any articles for consideration to Ms. Ansel or Ms. Bigelow.
- Regulations

Ms. Ansel informed the Committee members the Client Notification Regulations are in our Legislative office for review. There was a delay in the processing of the regulations due to a form change. Once the review is complete, the Bureau will make a 45-day notification, which will allow anyone who would like to comment to do so. The Bureau will begin working on the Disciplinary Guideline Regulations soon.

- **Sunset Review**  
AB 2741 has been introduced to extend the Bureau for four additional years. The hearing was in March and the recommendation of the Senate and Assembly Committees was to extend the Bureau.
- **Committee Guidelines**  
Attachment #8 is a guideline for the Chair of the Advisory Committee to follow. This includes the role of the Chair, motions, and the format of the Agenda. Ms. Ansel feels the Committee members are doing a good job at this time and there will be a more detailed guideline presented at the next meeting.

Public Comment:

Mr. Counts noted there was an increase in the number of complaints during this time, which resulted in approximately 17% of licenses having a complaint, and he suggested the Bureau should look into why there was an increase.

Ms. Federizo asked what are the next steps for the Strategic Plan? Ms. Ansel answered the plan will be presented at the next meeting.

## XII. Complaint and Enforcement Process – Dave Thornton

Mr. Thornton introduced himself as the Investigator for the Bureau. He has been working as a Retired Annuitant for approximately four years. Prior to this, his career with the State began in 1969 as a California Highway Patrol Traffic Officer, Investigator with the Department of Consumer Affairs, and the Executive Director of the Medical Board. The Investigator position for the Bureau is a non-sworn position and he is not able to make arrests. Mr. Thornton stated he would provide an overview of the steps and process of the complaint process from the receipt of the complaint to the resolution and would answer questions at any time during the presentation or after. Protection of the public is the highest priority for the Bureau.

The investigation should determine if there was any violation of law or regulation. The Bureau receives approximately 100 complaints per year. Some types of complaints are for unlicensed activity, communication or not responsive with family members, not acting in the best interest of the client, embezzlement, negligence, incompetence, and self-dealing. An example of self-dealing by one of our licensees was that he owned a real estate investment company and was a Professional Fiduciary. The

Fiduciary removes money from a trust and invests it in his own real estate company without the knowledge of the trustor or beneficiaries. This licensee surrendered his license. Another type of complaint is for inappropriate fees. The Bureau does not get involved with fee disputes unless it is a fraud complaint. Additionally, the Bureau receives arrest/conviction records and will open a case on its own upon receipt. Complaints may be received via email, mail, fax, or phone.

Mr. Thornton provides periodic updates to the complainant as the investigation proceeds. There is usually a lot of emotion with family members and some have unreasonable requests to remove the Professional Fiduciary or for the Bureau to require the Professional Fiduciary pay back money to the estate. In both cases, the Bureau would refer the complainant to the court system.

Once the complaint is received, the Investigator contacts the complainant and the licensee (respondent) and requests documents needed for the investigation. Business and Professions Code section 6560 requires the licensee to keep complete and accurate records and to make the records available to the Bureau upon request. The Investigator also coordinates with other agencies, law enforcement, Court Investigators, the FBI, and the Secret Service. Whenever possible interviews are done face-to-face. Once the investigation is complete, a detailed report is prepared and supporting evidence is included. Sometimes an expert consultant is needed to review the case. The Bureau has contracted with five licensees for expert reviews. The investigation file is copied and given to the expert for a written opinion of any violation of laws or regulations. If there is a hearing, the Expert Consultant may be called to testify.

Once the opinion is received the Investigator and Bureau Chief discuss and decide if the case should be sent to the Attorney General's Office, a cite and fine should be issued, or a cease and desist letter should be sent. The Bureau also has the authority to enter into a negotiated settlement with the licensee and if the licensee rejects the settlement offer, the case would automatically be sent to the Attorney General's Office.

If the case is sent to the Attorney General's Office, a decision will be made as to whether an Accusation will be filed. An Accusation is a formal administrative complaint signed by the Bureau Chief and sent to the licensee. If the case goes to hearing, the Bureau would be represented by the Attorney General's Office.

After the complaint is closed both parties are notified. If no action is taken, the investigation is not a matter of public record. If action is taken, the action is posted on the Bureau's website and is public record.

Ms. To asked what moves a complaint to an investigation? Mr. Thornton answered there is a vetting process and the Bureau Chief will assign the complaint to a Customer Services Representative (CSR) or to the Investigator. If at some time the CSR determines an investigation is needed the complaint would be transferred to the Investigator. Ms. Lorenz commented every complaint is responded to, reviewed, and taken

seriously. Ms. de Vries asked how the Bureau handles a complaint if there is a concurrent complaint with the court? Mr. Thornton replied he works with the Court Investigator in these cases. Mr. Cole asked with the limited number of hours Mr. Thornton works, how many additional staff are needed? Mr. Thornton stated most cases are not as involved and take less time. Ms. Lorenz commented there is a budget item to increase enforcement by one position and Ms. Ansel stated this is why the Bureau is hiring a full-time Enforcement Analyst. Ms. Thomson asked if subsequent arrest and conviction notices were for misdemeanors or felonies? Mr. Thornton stated if a licensee is booked for a misdemeanor it would be reported to the Bureau. The Bureau does not take action until the licensee is convicted unless the nature of the crime is a danger to consumers. Ms. Thomson asked what is the Bureau's number one complaint? Mr. Thornton replied it is lack of competence. Ms. Thomson asked if there is a way for the Bureau to recoup money lost for the client who is a victim? Mr. Thornton stated the Bureau does not have that authority. The remedy for the victim would be through the court. Ms. Ansel asked Mr. Thornton to explain cost recovery to the Committee members. Mr. Thornton explained when a case goes to the AG's Office part of the order requested is to recoup the cost of the investigation from the licensee. Ms. Merold asked Mr. Thornton to explain how anonymous complaints are handled. Mr. Thornton explained if there is enough detail the complaint will be fully investigated, however, typically the Bureau does not receive enough information and does not have a way to contact the complainant for the additional information. The Bureau does as much as possible in these cases.

XIII. Future Agenda Items

- Strategic Plan next steps.
- Education requirements and reporting.
- More detailed budget with line items.
- Continuing Education audit final results.
- Breakdown of categories of complaints for Fiscal Year 13/14.

Public Comment:

Mr. Counts suggested the Bureau track complaint intake to see if there is a trend of more complaints being received.

XIV. Future Meeting Dates

- Advisory Committee  
August 27, 2014  
November 18, 2014
- Education Subcommittee  
August 27, 2014  
November 18, 2014
- Ethics Subcommittee  
None at this time.

XV. Public Comment on Items Not on the Agenda

- There was no public comment on items not on the agenda.
- XVI. Adjournment  
Ms. Lorenz adjourned the meeting at 2:40p.m.