

PROFESSIONAL FIDUCIARIES BUREAU

Sunset Review Report 2013

Presented to the Senate Committee on Business, Professions, and Economic Development



DEPARTMENT OF CONSUMER AFFAIRS



PROFESSIONAL FIDUCIARIES BUREAU

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FY 13-14

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FYs 09-13

Professional Fiduciaries Bureau

BACKGROUND INFORMATION AND OVERVIEW OF THE CURRENT REGULATORY PROGRAM

November 1, 2013

Section 1

Background and Description of the Bureau and Regulated Profession

The Professional Fiduciaries Bureau (Bureau) in the Department of Consumer Affairs (DCA) is responsible for licensing and regulating non-family member professional fiduciaries, including conservators, guardians, trustees, and agents under durable power of attorney as defined by the Professional Fiduciaries Act (Act). The Act was established in 2006 by SB 1550 (Figueroa, Chapter 491, Statutes of 2006). The Bureau currently licenses approximately 740 Professional Fiduciaries.

Professional fiduciaries provide critical services to seniors, disabled persons, and minors. They manage matters for clients including, but not limited to, daily care, housing and medical needs, and also offer financial management services ranging from basic bill paying to estate and investment management. Requirements for licensure include completing thirty (30) hours of approved education courses, passing an examination and earning fifteen (15) hours of continuing education credit each year for renewal. Licensees must comply with reporting requirements and must abide by the Professional Fiduciaries Code of Ethics so that client matters are handled responsibly and without conflict.

The Bureau began operation on July 1, 2007, and is charged with carrying out the following functions:

- Educating consumers about their rights and quality of service.
- Promoting legal and ethical standards of professional conduct.
- Investigating the background of applicants.
- Administering licensing examinations.
- Licensing Professional Fiduciaries.
- Investigating complaints from consumers.
- Taking disciplinary action and issuing citations against licensees whenever appropriate.

The current mission statement as stated in its Strategic Plan developed in 2010 in conjunction with the DCA Strategic Planning and Development unit is:

To protect the consumer through licensing and monitoring, and to ensure competent and ethical standards of practice for professional fiduciaries.

The Bureau Chief is appointed by the Governor, subject to Senate confirmation, and serves under the direction and supervision of the Director of DCA and at the pleasure of the Governor. The duty of enforcing and administering the Act is vested in the Chief, and the Act mandates that protection of the public is the highest priority for the Bureau in exercising its licensing, regulatory, and disciplinary functions.

1. Describe the make-up and functions of each of the board’s committees (cf., Section 12, Attachment B).

The Advisory Committee consists of seven members of whom five are appointed by the Governor, one by the Senate Rules Committee and one by the Speaker of the Assembly. Three members must be California Licensed Professional Fiduciaries (CLPF), two must be public members, one must be a representative of the probate courts, and one must be a member of a non-profit organization advocating on behalf of the elderly. Currently there are two vacant position. The probate court investigator and the non-profit advocate were appointed on July 31, 2013. One public member position has been vacant since January 1, 2012 and the other public member position has been vacant since September 13, 2013.

Table 1b below illustrates the current composition of the Advisory Committee.

Table 1a. Attendance

Dan Stubbs – Past member			
Date Appointed: 11/2008			
Meeting Type	Meeting Date	Meeting Location	Attended?
Advisory Committee	08/23/2010	Sacramento	Y
Advisory Committee	09/27/2010	Sacramento	Y
Advisory Committee	04/21/2011	Sacramento	Y
Workshop	04/21/2011	Sacramento	Y
Advisory Committee	10/13/2011	Sacramento	Y

Sharon O’Neill – Past member			
Date Appointed: 11/2008			
Meeting Type	Meeting Date	Meeting Location	Attended?
Advisory Committee	08/23/2010	Sacramento	Y
Advisory Committee	09/27/2010	Sacramento	Y
Advisory Committee	04/21/2011	Sacramento	Y
Workshop	04/21/2011	Sacramento	Y
Advisory Committee	10/13/2011	Sacramento	Y

Lisa Berg – Past member			
Date Appointed: 10/2008			
Meeting Type	Meeting Date	Meeting Location	Attended?
Advisory Committee	08/23/2010	Sacramento	Y
Advisory Committee	09/27/2010	Sacramento	Y
Advisory Committee	04/21/2011	Sacramento	Y
Workshop	04/21/2011	Sacramento	Y
Advisory Committee	10/13/2011	Sacramento	Y

Cynthia Morrow – Past member			
Date Appointed: 05/2008			
Meeting Type	Meeting Date	Meeting Location	Attended?
Advisory Committee	08/23/2010	Sacramento	N
Advisory Committee	09/27/2010	Sacramento	N

Clark Parker – Past member			
Date Appointed: 10/2009			
Meeting Type	Meeting Date	Meeting Location	Attended?
Advisory Committee	08/23/2010	Sacramento	N
Advisory Committee	09/27/2010	Sacramento	Y

Donna Estacio – Past member			
Date Appointed: 03/2011			
Meeting Type	Meeting Date	Meeting Location	Attended?
Advisory Committee	04/21/2011	Sacramento	Y
Workshop	04/21/2011	Sacramento	Y
Advisory Committee	10/13/2011	Sacramento	Y
Advisory Committee	08/28/2012	Sacramento	Y
Advisory Committee	01/23/2013	Sacramento	Y
Advisory Committee	04/03/2013	Van Nuys	Y
Advisory Committee	07/31/2013	Sacramento	N
Strategic Planning Session	07/31/2013	Sacramento	N
Strategic Planning Session	08/01/2013	Sacramento	N

Marguerite Lorenz – Current member			
Date Appointed: 05/2012			
Meeting Type	Meeting Date	Meeting Location	Attended?
Advisory Committee	08/28/2012	Sacramento	Y
Advisory Committee	01/23/2013	Sacramento	Y
Advisory Committee	04/03/2013	Van Nuys	Y
Advisory Committee	07/31/2013	Sacramento	Y
Strategic Planning Session	07/31/2013	Sacramento	Y
Strategic Planning Session	08/01/2013	Sacramento	Y

Barbara de Vries – Current member			
Date Appointed: 05/2012			
Meeting Type	Meeting Date	Meeting Location	Attended?
Advisory Committee	08/28/2012	Sacramento	Y
Advisory Committee	01/23/2013	Sacramento	Y
Advisory Committee	04/03/2013	Van Nuys	Y
Advisory Committee	07/31/2013	Sacramento	Y
Strategic Planning Session	07/31/2013	Sacramento	Y
Strategic Planning Session	08/01/2013	Sacramento	Y

Aileen Federizo – Current member			
Date Appointed: 05/2012			
Meeting Type	Meeting Date	Meeting Location	Attended?
Advisory Committee	08/28/2012	Sacramento	Y
Advisory Committee	01/23/2013	Sacramento	Y
Advisory Committee	04/03/2013	Van Nuys	Y
Advisory Committee	07/31/2013	Sacramento	Y
Strategic Planning Session	07/31/2013	Sacramento	Y
Strategic Planning Session	08/01/2013	Sacramento	Y

Prescott Cole – Current member			
Date Appointed: 07/2013			
Meeting Type	Meeting Date	Meeting Location	Attended?
Advisory Committee	07/31/2013	Sacramento	Y
Strategic Planning Session	07/31/2013	Sacramento	Y
Strategic Planning Session	08/01/2013	Sacramento	Y

Kathleen Thomson – Current member			
Date Appointed: 07/2013			
Meeting Type	Meeting Date	Meeting Location	Attended?
Advisory Committee	07/31/2013	Sacramento	Y
Strategic Planning Session	07/31/2013	Sacramento	Y
Strategic Planning Session	08/01/2013	Sacramento	Y

Table 1b. Bureau/Committee Member Roster

Member Name (Include Vacancies)	Date First Appointed	Date Reappointed	Date Term Expires	Appointing Authority	Type (public or professional)
Marguerite Lorenz – Chair	05/2012	N/A	01/2016	Governor	Professional
Barbara de Vries – Vice-Chair	05/2012	N/A	01/2016	Governor	Professional
Aileen Federizo	05/2012	N/A	01/2016	Governor	Professional
Vacant				Senate Rules Committee	Public
Kathleen Thomson	07/2013	N/A	01/2015	Governor	Probate Court Investigator
Prescott Cole	07/2013	N/A	01/2015	Governor	Nonprofit organization advocating on behalf of the elderly
Vacant				Speaker of the Assembly	Public

2. In the past four years, was the Bureau unable to hold any meetings due to lack of quorum? If so, please describe. Why? When? How did it impact operations?

- Yes. The Bureau was unable to hold three of its four quarterly meetings in 2012. Two of the meetings could not be held due to a lack of quorum. One meeting could not be held due to scheduling conflicts.
- The grace periods for the four previous Committee Members expired on January 1, 2012. This left one individual on the Bureau’s Advisory Committee. Three new members were appointed in May of 2012.

3. Describe any major changes to the Bureau since the last Sunset Review, including:

This is the Bureau’s second sunset review. The Bureau was last reviewed in 2011. The most significant internal changes since the inception of the Bureau are the following:

- The Governor appointed three (3) new Advisory Committee Members, all licensees.

Internal changes (i.e., reorganization, relocation, change in leadership, strategic planning)

- Julia Ansel was appointed by the Governor as Bureau Chief on June 10, 2013. Ms. Ansel has been a private professional fiduciary at Ansel Fiduciary Services since 2012. Acting Chief, Gil DeLuna has taken a position with another bureau at DCA.

- Bureau office was relocated to another suite within DCA HQ on October 26, 2012.
- The Bureau contracted with Subject Matter Experts to assist the Bureau with their most complex cases which resulted in accusations being filed with the Attorney General's Office. Some examples of such cases are:
 1. A conflict of interest case that was filed against a licensee who utilized funds from multiple trusts to invest in a company that he established and owned shares in.
 2. A gross negligence case where a licensee failed to protect the clients' money by giving confidential access to a non-employee who conducted transactions with the bank.
 3. A case where an accusation was filed against a licensee for incompetence, gross negligence, willful violation of duty, and unprofessional conduct who served as a conservator of the person and estate for an elderly woman.
- The Bureau has drafted a new Strategic Plan in conjunction with the Bureau's Advisory Committee meeting on July 31st and August 1, 2013.
- Completed updating Policy and Procedures Manual.
- Developed a bi-annual newsletter to highlight new information and enforcement cases. The newsletter will only be published electronically on the Bureau's website.
- New Staff Counsel, Angelique Scott, was assigned to the Bureau in March 2012. She is replacing long-time staff counsel Gary Duke.

All legislation sponsored by the Bureau and affecting the Bureau since the last sunset review.

- The Bureau does not sponsor legislation; however the following legislation has had an impact on the Bureau and its activities:
 - **AB 1339 (Maienschein, Chapter 248, Statutes of 2013)** requires a court-appointed conservator, or proposed conservator, to disclose their total fees or compensation at the time a petition to appoint a conservator is filed.
 - **AB 1985 (Silva, Chapter 195, Statutes of 2012)** extended existing rules regarding gifts of real property made in a will, to those made in a trust.
 - **AB 997 (Wagner, Chapter 323, Statutes of 2011)** clarified the definition of a "professional fiduciary" and provides limited exemptions from the Professional Fiduciaries Act for charitable trusts that meet certain requirements.
 - **SB 543 (Steinberg, Chapter 448, Statutes of 2011)** extended the sunset of the Bureau from January 1, 2012 to January 1, 2015. This bill also authorized the Bureau, instead of issuing an accusation or statement of issues against a licensee or applicant, to enter into a specified settlement with a licensee or applicant. Stipulated agreements have resulted in a cost savings to the Bureau due to reduced Attorney General (AG) costs.

All regulation changes approved by the Bureau since the last sunset review. Include the status of each regulatory change approved by the Bureau.

- Citation and Fine – Approved by Office of Administrative Law (OAL) on May 17, 2012, effective June 16, 2012.
- Section 100 – Address Change – Approved by OAL on May 20, 2013.

The Cite and Fine Regulation and Section 100 Address Change dealt with clean-up language regarding reporting requirements for licensees and granted authority for the Bureau to issue citations.

- Developed Draft Disciplinary Guidelines. Currently in the regulation approval process.
- Developed Draft Client Notification Regulations. Currently in the regulation approval process.

4. Describe any major studies conducted by the Bureau (cf. Section 12, Attachment C).

- No major studies have been conducted since last Sunset review.

5. List the status of all national associations to which the Bureau belongs.

While the Bureau does not belong to any national associations, it has participated in the stakeholder meetings described below.

- **Does the Bureau’s membership include voting privileges? N/A**
- **List committees, workshops, working groups, task forces, etc., on which Bureau participates.**
 - a) UC Berkeley Extension, Advisory Committee on the development of the Professional Fiduciary Certificate Program.
 - b) Elder Financial Abuse Interagency Roundtable (E-FAIR), a working group with representatives from many California state agencies that developed a one-stop website for seniors.

• **How many meetings did Bureau representative(s) attend? When and where?**

Since the last Bureau Sunset review on March 21, 2011, Bureau representatives attended the following meetings:

- California Association of Superior Court Investigators 5/4/2011, Santa Barbara
 - Dept. of Insurance Stakeholder Meeting – 10/12/2011, San Francisco
 - Professional Fiduciary Association of California (PFAC) Board Meetings – 7/27/2011, 3/22/2012, 7/10/2012, 11/28/2012, 3/22/2012, 3/21/2013, 7/10/2013, 10/09/2013 – Sacramento
 - Professional Fiduciary Association of California – Northern Chapter Meetings – 3/22/2013 – Davis, CA
 - California Association of Superior Court Investigators (CASCI) – 5/5/2011- Santa Barbara, 4/24/2012- Yosemite
 - UC Berkeley Extension Advisory Board meeting – 6/22/2013 – Berkeley – The Acting Bureau Chief was invited to be part of an advisory board to develop a Professional Fiduciary Certificate
 - Senior Health Fair – 5/15/2013 - Sacramento
- **If the Bureau is using a national exam, how is the Bureau involved in its development, scoring, analysis, and administration?**

The Bureau contracts with the Center for Guardianship Certification which develops, scores and analyzes the examination for Bureau licensure. The examination contains both the general knowledge and skill component that is given nationally, and a California specific component. The Department of Consumer Affairs, on behalf of the Bureau, contracts with a separate vendor, Psychological Services, LLC (PSI), to administer these national and CA-specific examinations using computer-based testing at sites throughout CA and across the country.

**Section 2
Performance Measures and Customer Satisfaction Surveys**

6. Provide each quarterly and annual performance measure report as published on the DCA website

See Attachment A

7. Provide results for each question in the customer satisfaction survey broken down by fiscal year. Discuss the results of the customer satisfaction surveys.

The Bureau has not completed any customer satisfaction surveys to date, but plans to implement a survey in the near future.

Section 3 Fiscal and Staff

Fiscal Issues

8. Describe the Bureau's current reserve level, spending, and if a statutory reserve level exists.

Currently, the Bureau has 9.5 months in reserve for 2012/13. Three (3) to six (6) months of reserve funds is deemed to be fiscally responsible for large programs. Small programs like the Bureau should maintain a reserve closer to six (6) months operating expenses. Per Business and Profession (B&P) Code section 128.5 (b), the Bureau's statutory fund limit should not exceed 2 years or 24 months in reserve.

9. Describe if/when a deficit is projected to occur and if/when fee increase or reduction is anticipated. Describe the fee changes (increases or decreases) anticipated by the Bureau.

Based on the Bureau's level of expenditures and projected reserve funds, there are no current plans to seek to adjust/augment the schedule fees at this time.

Table 2. Fund Condition						
(Dollars in Thousands)	FY 2009/10	FY 2010/11	FY 2011/12	FY 2012/13	FY 2013/14*	FY 2014/15*
Beginning Balance	\$85	\$140	\$58	\$234	\$348	\$484
Revenues and Transfers	\$298	\$183	\$420	\$479	\$578	\$670
Total Resources	\$383	\$323	\$478	\$713	\$926	\$1,154
Budget Authority	\$357	\$282	\$305	\$403	\$442	\$449
Expenditures	\$237	\$267	\$241	\$365	\$442	\$449
Loans to General Fund	\$0	\$0	\$0	\$0	\$0	\$0
Accrued Interest, Loans to General Fund	\$0	\$0	\$0	\$0	\$0	\$0
Loans Repaid From General Fund	\$0	\$0	\$0	\$0	\$0	\$0
Fund Balance	\$146	\$56	\$237	\$348	\$484	\$705
Months in Reserve	6.6	2.8	7.0	9.4	12.9	18.5

* Projection.

10. Describe history of General Fund loans. When were the loans made? When were payments made? What is the remaining balance?

The Bureau has no history of General Fund loans.

11. Describe the amounts and percentages of expenditures by program component. Use Table 3. Expenditures by Program Component to provide a breakdown of the expenditures by the Bureau in each program area. Expenditures by each component (except for pro rata) should be broken out by personnel expenditures and other expenditures.

Table 3. Expenditures by Program Component

	FY 2009/10		FY 2010/11		FY 2011/12		FY 2012/13	
	Personnel Services	OE&E						
Enforcement	\$25,078	\$116,006	\$41,478	\$134,611	\$46,257	\$86,652	\$61,914	\$151,028
Examination	\$0	\$1,350	\$0	\$1,460	\$0	\$110	\$0	\$61
Licensing	\$20,063	\$56,539	\$33,182	\$38,282	\$37,005	\$51,283	\$30,651	\$92,145
Administration	\$5,016	\$14,135	\$8,295	\$9,571	\$9,251	\$12,821	\$7,662	\$23,036
DCA Pro Rata	\$0	\$77,901	\$0	\$46,975	\$0	\$86,367	\$0	\$159,204
TOTALS	\$50,157	\$188,030	\$82,955	\$183,924	\$92,513	\$150,866	\$100,227	\$262,155
Grand Totals	\$238,187		\$266,879		\$243,379		\$362,382	

12. Describe license renewal cycles and history of fee changes in the last 10 years. Give the fee authority.

Professional Fiduciary licenses are renewed annually and there has not been a fee change since the inception of the Bureau which is less than 10 years. The fee authority for each fee charged by the Bureau is as follows: Application – B&P §6533(k), Initial License - B&P §134 and §6592(b), Renewal - B&P §6592(c), Delinquent - B&P §163.5, and Duplicate License - B&P §122.

Table 4. Fee Schedule and Revenue FY 2012/13

Fee	Current Fee Amount	Statutory Limit	FY 2009/10 Revenue	FY 2010/11 Revenue	FY 2011/12 Revenue	FY 2012/13 Revenue	% of Total Revenue
Application	\$400.00	Actual cost	\$50,000	\$42,000	\$42,000	\$42,400	11%
Initial License	\$600.00 + proration	Actual cost	\$86,700	\$92,845	\$69,875	\$73,441	20%
Renewal	\$700.00	Actual cost	\$160,300	\$258,300	\$305,900	\$352,800	68%
Delinquent Renewal	\$150.00	\$150.00	\$1,050	\$2,100	\$1,050	\$2,100	.40%
Duplicate/ Replacement License	\$25.00	\$25.00	0	0	0	0	0
Dishonored Check	\$25.00	N/A	0	0	\$25	0	0
TOTALS			\$298,050	\$395,245	\$418,850	\$470,742	100%

13. Describe Budget Change Proposals (BCPs) submitted by the Bureau in the past four fiscal years.

Since the last sunset review, the Bureau has submitted BCPs for FY 2012-13 and FY 2013-14 to request funding for enforcement. The two BCPs were not successful through the administration as they did not meet the policy direction.

Staffing Issues

14. Describe any staffing issues/challenges, i.e., vacancy rates, efforts to reclassify positions, staff turnover, recruitment and retention efforts, succession planning.

The Bureau was originally budgeted 4.0 positions to support the estimated workload identified in SB 1550, Chapter 491, Statutes of 2006. However, since initial licensee population estimates did not materialize, in FY 2009/2010 the Bureau's personnel were reduced to a 0.7 Bureau Chief and a 1.0 Staff Services Analyst.

The Bureau's main staffing concern is the inadequate allocation of resources to support its enforcement activities. Currently, the Bureau has filled the 0.7 Bureau Chief position and will not have any vacancy savings to redirect for its additional enforcement expenditures.

15. Describe the Bureau's staff development efforts and how much is spent annually on staff development (cf., Section 12, Attachment D).

The Bureau's staff training has been focused in the areas of regulations and contracts. This training has been given by DCA training staff and has not resulted in any costs to the Bureau. October 21-25, 2013, Bureau Chief Julia Ansel attended the mandatory Basic Supervision course at a cost of \$600.

Section 4 Licensing Program

16. What are the Bureau's performance targets/expectations for its licensing¹ program?

1110 – Department of Consumer Affairs Regulatory Bureau					
Program		Licensing Performance Targets (FY 2013-14)			
		Average Number of Days to Application Approval for Complete Applications		Average Number of Days to Application Approval for Incomplete Applications	
		2012 Avg	10% Target ²	2012 Avg	10% Target
89	Professional Fiduciaries Bureau	23	20	96	87

Is the Bureau meeting those expectations? Yes. If not, what is the Bureau doing to improve performance? N/A

17. Describe any increase or decrease in average time to process applications, administer exams and/or issue licenses. There has not been an increase or decrease in processing times.

Have pending applications grown at a rate that exceeds completed applications? No. If so, what has been done to address them? N/A.

What are the performance barriers and what improvement plans are in place? What has the Bureau done and what is the Bureau going to do to address any performance issues, i.e., process efficiencies, regulations, BCP, legislation?

Section 4424 of the California Code of Regulations allows the Bureau 90 days from receipt of an application for licensure to inform the applicant if the application is complete and accepted for filing. The Bureau continuously exceeds this goal and there are no licensing barriers at this time.

¹ The term "license" in this document includes a license certificate or registration.

² 10% represents a target percentage reduction in the number of days to approval for an application in FY 2013-2014. It is the number the Bureau is striving for in FY 2013-2014.

18. How many licenses or registrations does the Bureau issue each year? Approximately 100.

How many renewals does the Bureau issue each year? There were 504 renewals issued in Fiscal Year 2012-13.

Table 6. Licensee Population

		FY 2009/10	FY 2010/11	FY 2011/12	FY 2012/13
PF	Active	443	510	575	614
	Out-of-State	0	0	0	0
	Out-of-Country	0	0	0	0
	Delinquent	7	26	55	*102

* Optional. List if tracked by the Bureau.

Table 7a. Licensing Data by Type

	Application Type	Received	Approved	Closed	Issued	Pending Applications			Cycle Times		
						Total (Close of FY)	Outside Bureau control*	Within Bureau control*	Complete Apps	Incomplete Apps	Combined, if unable to separate out
FY 2010/11	(Exam)	N/A	N/A	N/A	N/A	-	-	-	-	-	-
	(License)	105		12	98	-	-	-	-	-	-
	(Renewal)	369		N/A	369	-	-	-	-	-	-
FY 2011/12	(Exam)	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
	(License)	105		18	94						
	(Renewal)	437		N/A	437						
FY 2012/13	(Exam)	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
	(License)	106		15	77						
	(Renewal)	504		N/A	504						

Table 7b. Total Licensing Data

	FY 2010/11	FY 2011/12	FY 2012/13
Initial Licensing Data:			
Initial License/Initial Exam Applications Received	105	105	106
License Issued	98	94	78
License Renewal Data:			
License Renewed	369	437	504

* Optional. List if tracked by the Bureau.

19. How does the Bureau verify information provided by the applicant?

a. What process is used to check prior criminal history information, prior disciplinary actions, or other unlawful acts of the applicant?

Each applicant is required to be live scan fingerprinted prior to review of the application. If there is a criminal history returned by the DOJ or FBI, the records are obtained and reviewed by the Bureau Chief. If the applicant lists other licenses or certificates they hold, the Bureau contacts the appropriate licensing agency for any disciplinary actions.

- b. **Does the Bureau fingerprint all applicants?** Yes.
- c. **Have all current licensees been fingerprinted? If not, explain.** Yes.
- d. **Is there a national databank relating to disciplinary actions? No. Does the Bureau check the national databank prior to issuing a license? N/A Renewing a license? N/A**
- e. **Does the Bureau require primary source documentation?** Yes.

20. Describe the Bureau’s legal requirement and process for out-of-state and out-of-country applicants to obtain licensure. The process is the same as for in-state applicants.

21. Does the Bureau send No Longer Interested notifications to DOJ on a regular and ongoing basis? Yes.

Is this done electronically? No, by fax.

Is there a backlog? If so, describe the extent and efforts to address the backlog. No.

Examinations

Table 8. Examination Data		
California Examination (include multiple language) if any:		
	License Type	Professional Fiduciary
	Exam Title	State Portion
FY 2009/10	# of 1 st Time Candidates	98
	Pass %	70%
FY 2010/11	# of 1 st Time Candidates	108
	Pass %	70.59%
FY 2011/12	# of 1 st Time Candidates	75
	Pass %	77.32%
FY 2012/13	# of 1 st time Candidates	87
	Pass %	63.97%
	Date of Last OA	2012
	Name of OA Developer	Center for Guardianship Certification
	Target OA Date	2017
National Examination (include multiple language) if any:		
	License Type	Professional Fiduciary
	Exam Title	National Portion
FY 2009/10	# of 1 st Time Candidates	103
	Pass %	93.64%
FY 2010/11	# of 1 st Time Candidates	110
	Pass %	94.83%
FY 2011/12	# of 1 st Time Candidates	77
	Pass %	92.77%
FY 2012/13	# of 1 st Time Candidates	86
	Pass %	72.88%
	Date of Last OA	2012
	Name of OA Developer	Center for Guardianship Certification
	Target OA Date	2017

22. Describe the examinations required for licensure.

There is one computer based exam, multiple choice which consists of a national and state portion.

Is a national examination used? Yes. **Is a California specific examination required?** Yes.

23. What are pass rates for first time vs. retakes in the past 4 fiscal years? This information is not tracked by the Bureau.

24. Is the Bureau using computer based testing? If so, for which tests? Describe how it works. Where is it available? How often are tests administered?

- Yes – national and state portions.
- The exam is a multiple choice exam.
- There are 17 sites in California: Anaheim, Atascadero, Bakersfield, Carson, El Monte, Fresno, Hayward, Redding, Riverside, Sacramento, San Diego, San Francisco, Santa Clara, Santa Rosa, Ventura, Visalia, and Walnut Creek.
- The test is administered on a daily basis Monday through Saturday, excluding holidays.

25. Are there existing statutes that hinder the efficient and effective processing of applications and/or examinations? If so, please describe. No.

School approvals

26. Describe legal requirements regarding school approval. B&P §6540 – Individuals, entities, agencies, and associations that propose to offer educational programs qualifying for the pre-licensing educational or continuing educational requirements of this chapter shall apply for and obtain the approval of the Bureau.

Who approves your schools? Schools and providers are approved by the Bureau. The criteria for approval are listed in California Code of Regulations Title 16, Division 41, Article 3, Section 4446. A regulatory change is needed to add or remove a school or provider from the approved provider list.

What role does BPPE have in approving schools? None.

How does the Bureau work with BPPE in the school approval process? N/A

27. How many schools are approved by the Bureau? How often are schools reviewed?

- There are two schools and 22 providers approved.
- The Bureau has not reviewed the schools, but a sub-committee has been created to review the current quality of education standards and report back to the Advisory Committee with suggestions.

28. What are the Bureau’s legal requirements regarding approval of international schools?

The Bureau does not approve international schools.

Continuing Education/Competency Requirements

29. Describe the Bureau’s continuing education/competency requirements, if any. Describe any changes made by the Bureau since the last review. Licensees are required to obtain 15 hours of continuing education each renewal period. Two hours must be in ethics for fiduciaries.

- a. **How does the Bureau verify CE or other competency requirements?** The licensee self-certifies the hours have been completed.
- b. **Does the Bureau conduct CE audits on its licensees? Describe the Bureau's policy on CE audits.** No.
- c. **What are consequences for failing a CE audit?** N/A
- d. **How many CE audits were conducted in the past four fiscal years? How many fails?** None.
- e. **What is the Bureau's course approval policy?** The Bureau may request documentation of approved education courses for prelicensing and continuing education credit, including records of attendance or independent study.
- f. **Who approves CE providers? Who approves CE courses? If the Bureau approves them, what is the Bureau application review process?** The Bureau approves CE providers. The approved providers are listed in California Code of Regulations Title 16, Division 41, Article 3, Section 4446. CE course requirements are developed by the Bureau and identified in CCR Section 4444. Qualifying courses are approved by the providers listed in Section 4446. The Bureau has created an education subcommittee to assist in identifying criteria for approving additional providers and courses.
- g. **How many applications for CE providers and CE courses were received? Since the previous sunset review, how many were approved?** None. **Since the previous sunset review, how many were approved?** None since the previous sunset review.
- h. **Does the Bureau audit CE providers? If so, describe the Bureau's policy and process.** No.
- i. **Describe the Bureau's effort, if any, to review its CE policy for purpose of moving toward performance based assessments of the licensees' continuing competence.**

A sub-committee was created at the Bureau's Advisory Committee Meeting on April 3, 2013. The sub-committee will review and discuss the current education regulations and possible changes and improvements.

Section 5 Enforcement Program

30. What are the Bureau's performance targets/expectations for its enforcement program? Is the Bureau meeting those expectations? If not, what is the Bureau doing to improve performance?

- The Bureau's target for intake is five days and 365 days for intake and investigation.
- The Bureau has worked hard to meet or exceed their performance targets as indicated in the quarterly reports for 2013 (see Attachment A). The Bureau is currently going through the annual budgetary process to request additional resources to increase its enforcement efforts. In addition, more emphasis will be placed on decreasing the days to complete a case.

31. Explain trends in enforcement data and the Bureau's efforts to address any increase in volume, timeframes, ratio of closure to pending, or other challenges. What are the performance barriers? What improvement plans are in place? What has the Bureau done and what is the Bureau going to do to address these issues, i.e., process efficiencies, regulations, BCP, legislation?

- The data would seem to suggest the Bureau is not seeing an increase in the volume of complaints received. It has held steady over the past three FYs.
- The challenge the Bureau faces is lack of sufficient resources to hire additional staff to handle complaints and investigations.
- The Bureau is currently going through the annual budgetary process to request additional resources for its staffing and enforcement issues.

Table 9a. Enforcement Statistics

	FY 2010/11	FY 2011/12	FY 2012/13
COMPLAINT			
Intake (Use CAS Report EM 10)			
Received	82	104	98
Closed	1	1	1
Referred to INV	87	102	99
Average Time to Close	35	12	8
Pending (close of FY)	1	2	0
Source of Complaint (Use CAS Report 091)			
Public	78	101	93
Licensee/Professional Groups	0	1	0
Governmental Agencies	1	0	1
Other	3	2	2
Conviction / Arrest (Use CAS Report EM 10)			
CONV Received	0	0	0
CONV Closed	0	0	0
Average Time to Close	0	0	0
CONV Pending (close of FY)	0	0	0
LICENSE DENIAL (Use CAS Reports EM 10 and 095)			
License Applications Denied	0	5	0
SOIs Filed	0	2	0
SOIs Withdrawn	0	3	0
SOIs Dismissed	0	0	0
SOIs Declined	0	0	0
Average Days SOI	N/A	195	N/A
ACCUSATION (Use CAS Report EM 10)			
Accusations Filed	2	0	1
Accusations Withdrawn	0	0	0
Accusations Dismissed	0	0	0
Accusations Declined	0	1	0
Average Days Accusations	N/A	701	N/A
Pending (close of FY)	2	0	1

Table 9b. Enforcement Statistics (continued)

	FY 2010/11	FY 2011/12	FY 2012/13
DISCIPLINE			
Disciplinary Actions (Use CAS Report EM 10)			
Proposed/Default Decisions	0	0	0
Stipulations	0	1	3
Average Days to Complete	N/A	360	226
AG Cases Initiated	2	6	3
AG Cases Pending (close of FY)	4	2	4
Disciplinary Outcomes (Use CAS Report 096)			
Revocation	1	0	0
Voluntary Surrender	0	0	1
Suspension	0	0	0
Probation with Suspension	0	0	0
Probation	2	0	4
Probationary License Issued	2	0	4
Other	N/A	N/A	N/A
PROBATION			
New Probationers	2	0	4
Probations Successfully Completed	0	0	0
Probationers (close of FY)	2	2	6
Petitions to Revoke Probation	0	0	0
Probations Revoked	0	0	0
Probations Modified	0	0	0
Probations Extended	0	0	0
Probationers Subject to Drug Testing	0	0	0
Drug Tests Ordered	0	0	0
Positive Drug Tests	0	0	0
Petition for Reinstatement Granted	0	0	0
DIVERSION			
New Participants	N/A	N/A	N/A
Successful Completions	N/A	N/A	N/A
Participants (close of FY)	N/A	N/A	N/A
Terminations	N/A	N/A	N/A
Terminations for Public Threat	N/A	N/A	N/A
Drug Tests Ordered	N/A	N/A	N/A
Positive Drug Tests	N/A	N/A	N/A

Table 9c. Enforcement Statistics (continued)

	FY 2010/11	FY 2011/12	FY 2012/13
INVESTIGATION			
All Investigations (Use CAS Report EM 10)			
First Assigned	88	106	99
Closed	92	97	122
Average days to close	227	133	184
Pending (close of FY)	42	50	27
Desk Investigations (Use CAS Report EM 10)			
Closed	74	79	83
Average days to close	203	69	84
Pending (close of FY)	19	22	16
Non-Sworn Investigation (Use CAS Report EM 10)			
Closed	18	16	37
Average days to close	330	438	385
Pending (close of FY)	21	26	11
Sworn Investigation			
Closed (Use CAS Report EM 10)	0	2	2
Average days to close	N/A	240	611
Pending (close of FY)	2	2	0
COMPLIANCE ACTION (Use CAS Report 096)			
ISO & TRO Issued	0	0	0
PC 23 Orders Requested	0	0	0
Other Suspension Orders	0	0	0
Public Letter of Reprimand	0	0	1
Cease & Desist/Warning	6	3	0
Referred for Diversion	0	0	0
Compel Examination	0	0	0
CITATION AND FINE (Use CAS Report EM 10 and 095)			
Citations Issued	N/A	N/A	11
Average Days to Complete	N/A	N/A	309
Amount of Fines Assessed	N/A	N/A	\$13,500
Reduced, Withdrawn, Dismissed	N/A	N/A	0
Amount Collected	N/A	N/A	\$8,000
CRIMINAL ACTION			
Referred for Criminal Prosecution	0	0	0

Table 10. Enforcement Aging

	FY 2009/10	FY 2010/11	FY 2011/12	FY 2012/13	Cases Closed	Average %
Attorney General Cases (Average %)						
Closed Within:						
1 Year	2					67%
2 Years			1			33%
3 Years						
4 Years						
Over 4 Years						
Total Cases Closed		0	1			100%
Investigations (Average %)						
Closed Within:						
90 Days	7	38	65	54	164	49%
180 Days	0	12	15	31	58	17%
1 Year	9	16	7	17	49	14%
2 Years	12	23	7	15	57	17%
3 Years	0	3	2	3	8	2%
Over 3 Years	0	0	1	2	3	1%
Total Cases Closed	28	92	97	122	339	100%

32. What do overall statistics show as to increases or decreases in disciplinary action since last review.

The Bureau has experienced an increase in disciplinary activity over the past three years. During this time, the regulations were amended to utilize the Bureau's authority to issue citations and fines. As a result, disciplinary actions have increased, as the Bureau is now able to act on complaints that do not meet the level of an accusation by issuing a citation and/or fine.

33. How are cases prioritized? What is the Bureau's complaint prioritization policy? Is it different from DCA's Complaint Prioritization Guidelines for Health Care Agencies (August 31, 2009)? If so, explain why.

- The Bureau's number one priority is protection of the public from negligent or incompetent licensees (B&P section 6516).
- In prioritizing complaints, the Bureau gives the highest priority to those complaints where there is the potential for immediate harm to the public by the licensee.
- This is similar to DCA's Complaint Prioritization Guidelines for Health Care Agencies.

34. Are there mandatory reporting requirements? For example, requiring local officials or organizations, or other professionals to report violations, or for civil courts to report actions taken against a licensee. Are there problems with receiving the required reports? If so, what could be done to correct the problems?

- The Department of Justice (DOJ) provides the Bureau with subsequent arrest notifications on licensees.
- The Bureau is not aware of any problems receiving this report.

35. Does the Bureau operate with a statute of limitations? If so, please describe and provide citation. If so, how many cases were lost due to statute of limitations? If not, what is the Bureau's policy on statute of limitations?

- The Bureau does not operate with a statute of limitations.
- The Bureau does not have a policy on statute of limitations.

36. Describe the Bureau's efforts to address unlicensed activity and the underground economy.

- Included cite and fine authority in regulations for fines up to \$5,000.
- Speaking engagements to industry and consumer groups.
- Worked with Contra Costa DA on a case involving unlicensed activity. One individual was charged criminally.
- Three citations issued for unlicensed activity or working with an expired license.

Cite and Fine

37. Discuss the extent to which the Bureau has used its cite and fine authority. Discuss any changes from last review and last time regulations were updated. Has the Bureau increased its maximum fines to the \$5,000 statutory limit?

- The Bureau has used its cite and fine authority to address problems related to unlicensed activity and working with an expired license. Also, the Bureau has issued citations to licensees who have charged client accounts for time spent responding to complaints to the Bureau.
- There have been no changes since the last review as the regulation giving the Bureau cite and fine authority was just approved in 2012.

38. How is cite and fine used? What types of violations are the basis for citation and fine?

See answer to #37. In addition, the Bureau has issued citations to licensees for their failure to timely report matters to the Probate Court and/or the Bureau.

39. How many informal office conferences, Disciplinary Review Committee reviews and/or Administrative Procedure Act appeals in the last four fiscal years?

The Bureau had four informal citation hearings since last Sunset Review.

40. What are the five most common violations for which citations are issued?

Unlicensed practice, reporting violations, and unprofessional conduct. To date, the Bureau has not issued citations for any other violations.

41. What is average fine pre and post appeal?

Pre appeal - \$750, Post appeal - \$750

42. Describe the Bureau's use of Franchise Tax Board intercepts to collect outstanding fines.

To date the Bureau has not used the services of the FTB to collect cost recovery.

Cost Recovery and Restitution

43. Describe the Bureau’s efforts to obtain cost recovery. Discuss any changes from the last review.

- In each case where an accusation is filed there is a payer for cost recovery.
- There have been no changes from the last review.

44. How many and how much is ordered for revocations, surrenders and probationers? How much do you believe is uncollectable? Explain.

- The Bureau has one case where there was a surrender of license with cost recovery ordered if/when the respondent applies for a new or reinstated license.
- The amount ordered is \$25,622.00. It is unlikely the Bureau will collect as we do not expect the licensee to seek a new or reinstated license due to health issues.

45. Are there cases for which the Bureau does not seek cost recovery? Why?

Just one case involving a default decision where no Notice of Defense was filed. The former licensee is serving time in federal prison.

46. Describe the Bureau’s use of Franchise Tax Board intercepts to collect cost recovery.

To date, the Bureau has not used the services of the FTB to collect cost recovery. Cost recovery has been paid when ordered, except in the case of answer #44.

47. Describe the Bureau’s efforts to obtain restitution for individual consumers, any formal or informal Bureau restitution policy, and the types of restitution that the Bureau attempts to collect, i.e., monetary, services, etc. Describe the situation in which the Bureau may seek restitution from the licensee to a harmed consumer.

- Professional Fiduciaries typically bill an hourly rate for their services. The Bureau does not have the statutory authority to order or seek restitution for clients of fiduciaries. Clients can seek relief in Probate Court for charges they believe are not warranted by filing a Surcharge Petition. In court appointed cases, the court retains jurisdiction to approve or disapprove charges by a fiduciary.
- In a few cases, the Bureau has issued administrative citations and fines to fiduciaries for charging client accounts when responding to complaints filed by the clients with the Bureau. In all cases, the fiduciaries have reversed the charges.

Table 11. Cost Recovery				
	FY 2009/10	FY 2010/11	FY 2011/12	FY 2012/13
Total Enforcement Expenditures	\$20,723	\$23,218	\$21,174	\$21,174
Potential Cases for Recovery *				
Cases Recovery Ordered	0	0	1	0
Amount of Cost Recovery Ordered	\$0	\$0	\$3,500	\$25,622
Amount Collected	\$0	\$0	\$3,500	\$0

* “Potential Cases for Recovery” are those cases in which disciplinary action has been taken based on violation of the license practice act.

Table 12. Restitution

	FY 2009/10	FY 2010/11	FY 2011/12	FY 2012/13
Amount Ordered	\$0	\$0	\$0	\$0
Amount Collected	\$0	\$0	\$0	\$0

Section 6 Public Information Policies

48. How does the Bureau use the Internet to keep the public informed of Bureau activities? Does the Bureau post meeting materials online? When are they posted? How long do they remain on the website? When are draft meeting minutes posted online? When does the Bureau post final meeting minutes? How long do meeting minutes remain available online?

- All meetings, announcements and changes to the website are posted and a notice is sent to the interested parties list.
- Yes, the Bureau posts meeting materials online.
- Notice and the agenda are posted at least 10 days prior to the meeting. All other materials are posted as soon as completed and prior to the meeting.
- The materials remain on the website indefinitely at this time.
- Final minutes are posted after they have been approved at the next meeting.
- Final minutes remain on the website indefinitely at this time.
- The Bureau does not post draft minutes online.

49. Does the Bureau webcast its meetings? Yes, if webcast is available at the meeting site. What is the Bureau's plan to webcast future Bureau and committee meetings?

The Bureau will post all meetings if webcast is available at the site the meeting is being held.

50. Does the Bureau establish an annual meeting calendar, and post it on the Bureau's web site? No.

51. Is the Bureau's complaint disclosure policy consistent with DCA's Recommended Minimum Standards for Consumer Complaint Disclosure? Does the Bureau post accusations and disciplinary actions consistent with DCA's Web Site Posting of Accusations and Disciplinary Actions (May 21, 2010)?

Yes, the Bureau follows the policy of DCA in regard to Consumer Complaint Disclosure. The Bureau posts on its website Accusation and Disciplinary Actions as well as Citations and Fines issued to licensees.

52. What information does the Bureau provide to the public regarding its licensees (i.e., education completed, awards, certificates, certification, specialty areas, disciplinary action, etc.)?

The following information is posted on the Bureau's license verification page on the website: license number, issue and expiration dates, address of record, disciplinary actions, citations, public record documents, total clients assets under the licensee's management, reported bankruptcy in the last 10 years, and case removals by the court.

53. What methods are used by the Bureau to provide consumer outreach and education?

Due to the Governor's Executive Order on April 26, 2011, banning non-essential travel, outreach and education was restricted to local venues. The Bureau provides consumer and licensee information on their website and through their Listserve. The consumer and licensee brochures were updated in 2011. In 2013, the Bureau published its first biannual newsletter published online. The newsletter publishes enforcement actions and contains information for both licensees and consumers. The Bureau is also part of a task force comprised of several state agencies that developed the California Senior Gateway website, www.seniors.ca.gov. The Senior Gateway is a one-stop website intended to provide seniors, their families, and caregivers with helpful resources.

The Bureau has also attended local outreach events for the elderly.

Section 7 Online Practice Issues

54. Discuss the prevalence of online practice and whether there are issues with unlicensed activity. How does the Bureau regulate online practice? Does the Bureau have any plans to regulate Internet business practices or believe there is a need to do so?

- The Bureau has not had any incidents of online practice by its licensees nor has it uncovered any online unlicensed activity.
- Currently, the Bureau has no plans to regulate the internet business practices of its licensee as we do not believe there is a need to do so at this time. The day-to-day professional activities of a fiduciary require appearances in court, personal contact with clients and personal contact with other persons or entities. These activities not amenable to being performed on the Internet.

Section 8 Workforce Development and Job Creation

55. What actions has the Bureau taken in terms of workforce development?

The Bureau Chief participated on an Advisory Board for the University of California, Extension Program in developing a Professional Fiduciary Certificate Program that will assist new students in obtaining a license.

56. Describe any assessment the Bureau has conducted on the impact of licensing delays.

N/A

57. Describe the Bureau's efforts to work with schools to inform potential licensees of the licensing requirements and licensing process.

N/A

58. Provide any workforce development data collected by the Bureau, such as:

- a. Workforce shortages:** N/A
- b. Successful training programs:** N/A

Section 9 Current Issues

59. What is the status of the Bureau's implementation of the Uniform Standards for Substance Abusing Licensees?

The Bureau was not included in this initiative as it is not a healing arts program.

60. What is the status of the Bureau's implementation of the Consumer Protection Enforcement Initiative (CPEI) regulations?

Because the Bureau is not a healing arts bureau, the regulatory changes mandated by CPEI do not apply to the Bureau. However, the Bureau strives to meet DCA's enforcement goals of 12-18 months.

61. Describe how the Bureau is participating in development of BreEZe and any other secondary IT issues affecting the Bureau.

Since the last Sunset Review, Bureau staff attended working sessions to create requirements for licensing and enforcement portions with the BreEZe team and vendor. We have also been working on "clean-up" of the Bureau's data so a smooth transition can be made from the Application Tracking System and Consumer Affairs System to BreEZe. Staff also worked with the Change Control Board on two system issues that would affect the Bureau's workflow.

Section 10 Bureau Action and Response to Prior Sunset Issues

Include the following:

1. **Background information concerning the issue as it pertains to the Bureau.**
2. **Short discussion of recommendations made by the Committee/Joint Committee during prior sunset review.**

As part of the oversight hearings held on March 21, 2011, by the Senate Business, Professions, and Economic Development Committee (Senate BP&ED), the staff of the Committee developed a report titled *Background Paper For Professional Fiduciaries Bureau*. The background paper identified issues related to the Bureau, providing background and recommendations on how to move forward. Below is the list of issues identified, background summary, Senate BP&ED staff recommendations, and the Bureau's response.

ISSUE # 1: Consolidation of the Professional Fiduciaries Bureau with another regulatory board such as the California Board of Accountancy.

Background: In May 2010, a revision of the 2009/10 Budget, former Governor Arnold Schwarzenegger in a proposal titled "Reorganization, Consolidations and Capitalizing on State Assets — Continuing the Work of the California Performance Review," suggested consolidating the Bureau under the California Board of Accountancy (Board). This consolidation was recommended because the Bureau struggled for viability, having a scarcity of licensees and minimal revenues. The Senate Rules Committee instructed various policy Committees to hold hearings on the Governor's consolidation proposals and report their findings to the Budget Conference Committee. In June 2009, the Senate held hearings on the Governor's proposal, including the proposal to consolidate the Bureau under the Board at the Senate BP&ED CBA. At that hearing the Committee approved the following motion on a 6-2 vote: "Do not consolidate the Bureau with the Board. Professional fiduciaries should continue to be licensed and regulated by a Bureau under the Department of Consumer Affairs."

Senate BP&ED Staff Recommendation: The Bureau should not be consolidated within the Board.

ISSUE # 2: Has the Bureau adopted regulations regarding the disclosure of license identification numbers?

Background: Section 138 of the Business & Professions Code (B&P Code) provides that every Board and Bureau under the jurisdiction of the Department shall initiate the process of adopting regulations to require its licensees to provide notice to clients or customers that the practitioner is licensed by the State. Notifying consumers that a professional is licensed by the State is a basic element of consumer protection. Knowing they can turn to an agency for questions or to file a complaint about the practitioner proves good customer service.

Senate BP&ED Staff Recommendation: The Bureau should update the Senate BP&ED Committee on its plans to establish regulations requiring its licensees to notify clients or consumers that they are licensed by the Bureau.

ISSUE # 3: Enrolled Agent exemption

Background: When the Legislature enacted SB 1550 (Figueroa, 2006) the law created a limited exemption for a person who is enrolled as an agent to practice before the Internal Revenue Service (IRS) acting within the scope of practice as an enrolled agent (EA).

Enrolled agents are certified to represent taxpayers before the Internal Revenue Service. Under Section 10.2 of Subpart A, Rules Governing Authority to Practice, of Part 10 of Title 31 of the Code of Federal Regulations, the following defines the scope of practice for an EA:

Practice before the IRS comprehends all matters connected with a presentation to the IRS or any of its officers or employees relating to a taxpayer's rights, privileges, or liabilities under laws or regulations administered by the IRS. Such presentations include, but are not limited to, preparing and filing documents, corresponding and communicating with the IRS, rendering written advice with respect to any entity, transaction, plan or arrangement, or other plan or arrangement having a potential for tax avoidance or evasion, and representing a client at conferences, hearings and meetings.

The Bureau's interpretation of the exemption is that, "If an EA is performing activities as a conservator, guardian, trustee, or agent under durable power of attorney for health care or finances within the definition of a professional fiduciary pursuant to the Professional Fiduciaries Act (Act) (Chapter 6, commencing with Section 6500) of Division 3 of B&P Code) that are not within the scope of practice described in Part 10 of Title 31 of the Code of Federal Regulations, they must obtain a license from the Bureau to comply with the law."

The California Society of Enrolled Agents (CSEA) has expressed concern with the Bureau's interpretation of the exemption. CSEA suggests an EA who holds himself out as a professional fiduciary or solicits fiduciary or conservatory assignments through the courts, and provides specific fiduciary services separate from tax planning, should be required to become licensed under the Act. Most EAs rarely offer fiduciary services often, when they have been asked by existing clients to act as trustees. Professional relationships have been built upon the private and confidential materials previously shared.

To clarify the exemption, CSEA recommends amending Section 6530 (d) to read:

This section does not apply to a person enrolled as an agent to practice before the IRS who is providing ancillary fiduciary services to clients at their request. Notwithstanding this section, EAs who are soliciting clients for fiduciary services or holding themselves out as fiduciaries are required to obtain a professional fiduciary license in accordance with the Act.

Senate BP&ED Committee staff notes that the Bureau's interpretation is consistent with the existing exemption, and it does not necessarily follow that an EA who is trained and educated in tax issues would be qualified or able to safely represent a tax client as a conservator of the person or guardian of the person, or to act as a durable power of attorney for health care, making health care decisions on behalf of a client, or decisions about where the client will live and treatment options for a client's mental, emotional or physical health. However, the Senate BP&ED Committee staff acknowledges that it may be appropriate to make a clarifying amendment to somewhat broaden the existing exemption in the Act.

Senate BP&ED Staff Recommendation: It would seem reasonable to make a narrowly crafted clarification to the existing exemption in B&P Code Section 6530(d) of the Act relating to EAs. However, the term "ancillary fiduciary services" is not precise and should be clearly defined, and the services should only apply to those clients with whom the EA already has an existing professional relationship.

ISSUE # 4: Enforcement Issues

Background: As a newly created regulatory program, the Bureau was only able to report very few enforcement actions. In its first full year of existence in FY 2008/09, the Bureau reported having 60 complaints and closed 28 of those complaints. In FY 2009/10, the Bureau received 47 new complaints and closed 50 complaints. During the same period of time, the Bureau referred 4 cases to the Attorney General's (AG) office and did not revoke any licenses. The report states that the Bureau continues to work to build an effective enforcement program. This effort has been significantly restricted by the underestimated licensee population and the repayment of substantial startup loans to the Bureau of Automotive Repair. The Bureau has limited staff that primarily focuses on licensing and other administrative duties. The Bureau has one part-time investigator and one borrowed staff position to review and manage consumer complaints and a part-time Acting Bureau Chief.

Since the Sunset Report was submitted, on February 11, 2010, the Bureau was extensively involved with an investigation with the U.S. Attorney's Office in a civil complaint against a licensee who was siphoning large sums of money from clients to feed a near-daily gambling habit at a casino. On February 18, the professional fiduciary pleaded guilty in federal court to wire fraud and money laundering, admitting to taking \$191,500 over a three-month period, and laundering some \$18,000 in funds through business and personal bank accounts. The fraud charge carries a maximum of 20 years in prison, and money laundering charge carries a maximum of 10 years. The Bureau's online license verification system shows the status of the license as "Suspended, Federal Temporary Restraining Order." The Bureau is also working with the AG's office to file an accusation in this case.

Although the Bureau has a number of limitations because of its size and loan repayment constraints, the Bureau efficiently performed its responsibilities in working with federal prosecutors in this enforcement matter. On January 31, 2011, the Bureau also filed an accusation against another licensee for unprofessional conduct and dishonesty.

Senate BP&ED Staff Recommendation: Although the Acting Chief may be limited in what he may be able to say about this case on the public record, he should update the Committee on this case and relay any initial conclusions that he may have reached about how to most effectively carry out the Bureau's enforcement responsibilities.

Issue # 5: Adoption of regulations establishing a system for issuing citations and fines.

Background: B&P Code Section 6583 requires the Bureau to establish a system of administrative citations and fines under B&P Code Section 125.9 for violations of the Act, the Professional Fiduciaries Code of Ethics, or any regulation adopted under the Act. The Bureau is in the process of developing a regulation package to enhance its enforcement program by implementing a cite and fine program for those that are either practicing illegally or are found to have violated the Act.

Without a citation and fine provision, if the Bureau identifies a violation by a licensee in order to take action, the Bureau would have to initiate a formal disciplinary action against the licensee, which can consume a significant amount of time and resources for enforcement and legal staff. Such formal action may not always be warranted, especially in cases where there are lesser violations of the Act, or on occasions where it is appropriate to take immediate action to assure compliance with the law rather than pursuing formal disciplinary action against a licensee.

In such cases, the ability to issue an administrative citation and fine can be an effective disciplinary tool for lesser violations. Licensees do not lose the ability to appeal an administrative citation and fine, but are given the right to request a hearing before an Administrative Law Judge. Promulgating citation and fine regulations will help both consumers and licensees, by allowing the Bureau to more quickly address violations with licensees, and by directing licensees to quickly correct those items found to be in violation.

Senate BP&ED Staff Recommendation: The Bureau should inform the Committee of the status of its citation and fine regulations, giving an estimated timeframe for the final adoption of the regulatory package.

ISSUE # 6: Should the Bureau be given authority to enter into stipulated settlements without filing an accusation against a licensee?

Background: The Administrative Procedures Act (APA) requires an agency to file an accusation or statement of issues against a licensee before the regulatory agency can reach a stipulated settlement with the licensee. While many licensees will not agree to a stipulated settlement without the pressure of a formal accusation having been filed, it is the experience of a number of regulatory boards that there are instances in which a licensee is willing to agree to a stipulated settlement earlier on in the investigation stage of the enforcement process. Licensees may be willing to do this in order to minimize the cost of an administrative hearing, or in order to expedite the resolution of a disciplinary matter. In such cases in which a licensee may be agreeable to the Bureau's disciplinary action, the ability to directly enter into a stipulated settlement would save time and money for both the licensee and the Bureau.

The provision to enter into a stipulated settlement should require the settlement to include language identifying the factual basis for the action taken and a list of the statutes or regulations violated. In addition, the provision should also allow a licensee to file a petition to modify the terms of the settlement or petition for early termination of probation if probation is part of the settlement.

Senate BP&ED Staff Recommendation: The Bureau should be authorized to enter into a settlement agreement with a licensee or applicant prior to the Bureau's issuance of an accusation or statement of issues against the licensee.

ISSUE # 7: In light of the smaller than expected licensing population, and the resulting budget limitations, is the Bureau sustainable as a viable regulatory agency?

Background: The initial projections of the Department had placed the approximate number of licensees at 1,300. Currently there are only 507 professional fiduciaries licensed by the Bureau.

As a special fund agency, the Bureau operates solely off of licensing fees. SB 1550 (Figueroa, 2005/06) did not establish any statutory fee levels; instead it required the Bureau to set the fees through regulation at a level necessary to meet the program's operational costs. As a consequence, the licensing fees are large; \$700 each year for license renewal. Revenues for the current year FY 2010/11 are projected to be \$398,000, and expenditures are projected to be \$293,000. Additionally, the Bureau expects to pay off the final loan of \$215,000 which was necessary for the Bureau startup costs in FY 2010/11. The Bureau states that once the loan is repaid, fund reserves are anticipated to increase to appropriate levels. This will also free up resources that will be directed towards enforcement.

A top goal of the Bureau, as stated in its report, is increasing the Bureau's licensee population. An increase in the number of licensees would provide more revenue for the Bureau that could help add additional staff, streamline office operations and enhance the enforcement program. The number of California's population 65 years of age or older is expected to grow from 3.6 million people in the year 2000, to 6.2 million people in the year 2020, an increase of 72 percent. As the population of California continues to grow and age, an increasing number of people in the State are unable to manage their personal needs, manage their financial resources, resist fraud or undue influence, as well as fiscal, emotional, and physical harm. The establishment of the Bureau is partially based on the premise that the number of people in California who are going to need fiduciary services is going to increase significantly in the coming decade. This increase could also result in more people wanting to become professional fiduciaries, thereby expanding the licensee base.

Staff Recommendation: The Bureau should discuss with the Committee its projections for increasing its revenue base, including its plans for expanding enforcement capabilities after all startup loans have been repaid. The Bureau should also discuss the viability of its revenue stream into the foreseeable future.

ISSUE # 8: Should the “reverse sunset” on the Bureau be eliminated, thereby indefinitely continuing the regulatory agency as a Bureau? Should the licensing and regulation of professional fiduciaries continue to be regulated by the current Bureau?

Background: The Bureau’s practice act contains what might be called a “reverse sunset provision.” Under the Department, each regulatory board has a statutorily established date upon which that board is made inoperative and is repealed. As enacted in the original bill which established the Sunset Review process in California SB 2036 (McCorquodale, Chapter 908, Statutes of 1994) when the code sections authorizing the existence of the regulatory board became inoperative and repealed, that board would be abolished and the regulatory functions would be carried out as a Bureau under the Department. In 1996, when the Legislature enacted SB 1550 (Figueroa, Chapter 491, Statutes of 2006), creating the Bureau, the legislation provided that if the Bureau sunsets and is abolished, as provided in law, the Bureau’s Advisory Committee shall succeed and be vested with all the duties, powers, purposes, responsibilities, and jurisdiction of the Bureau. The law additionally provides that the Advisory Committee would further be established as the Professional Fiduciaries Committee in the Department with the authority and function of a board under the Department.

In signing SB 1550 in September 2006, former Governor Schwarzenegger issued a signing message indicating that he believed the bill is important to protect California’s vulnerable population from the financial abuse of unscrupulous professional fiduciaries that seek to do intentional harm. The former Governor further noted:

“However, clean-up legislation will be necessary in the next legislative session because of the way the author structured the bill. This bill establishes an unnecessary and complicated mechanism of transferring the responsibilities and jurisdiction of the newly created Bureau to a newly created Advisory Committee, which would then be established as a board within the Department after July 1, 2011. The creation of this arrangement is not justified and will leave consumers and the general public more confused by this regulatory scheme. Moreover, there is no rational, analytical justification to assume that in five years the Bureau would even need to be reconstituted as a full board.”

Committee staff notes that in the more than four years since the bill was signed, this Committee has not received any phone calls from consumers, licensees, the Bureau’s staff, or the general public indicating any confusion over this provision.

In its Sunset Report, the Bureau recommends that the next sunset review be established three 3 years from now. The Bureau believes this should provide sufficient time to demonstrate the continued increase in the number of licensees, the sustainability of the Bureau’s budget and the value of the consumer protection that is provided.

Senate BP&ED Staff Recommendation: Recommend that the profession should continue to be regulated by the current Bureau in order to protect the interests of the public and be reviewed once again in three years.

3. What action the Bureau took in response to the recommendation or findings made under prior Sunset Review.

As a result of the recommendations made by the Committee, the following actions were taken:

Issue #1 – The Bureau did not consolidate with the California Board of Accountancy.

Issue #2 – Regulations for the Client Notification has been drafted and is currently under the DCA review process before final submission for approval.

Issue #3 – No exemption was granted to Enrolled Agents.

Issue #4 – Enforcement Issues – Enforcement actions have increased, partly due to the passage of SB 543, granting the Bureau authority to enter in to an agreement for licensees and applicants prior to filing a formal accusation or statement of issues with the Attorney General’s Office.

- Issue #5 – The Bureau’s cite and fine regulations were approved by the Office of Administrative Law in May 17, 2012 and effective June 16, 2012.
- Issue #6 – See Issue #4.
- Issue #7 – Revenue for the Bureau has increased, but spending authority remains the same. BCPs were submitted the last two fiscal years requesting additional PY’s and Attorney General costs and both were not successful through the administration as they did not meet the policy direction.
- Issue #8 – The Bureau is in agreement with the BP&ED staff recommendation that the Bureau continues to regulate the fiduciary profession.

4. Any recommendations the Bureau has for dealing with the issue, if appropriate.

The Bureau does not have any recommendations at this time.

**Section 11
New Issues**

This is the opportunity for the Bureau to inform the Committee of solutions to issues identified by the Bureau and by the Committee. Provide a short discussion of each of the outstanding issues, and the Bureau’s recommendation for action that could be taken by the Bureau, by DCA or by the Legislature to resolve these issues (i.e., legislative changes, policy direction, budget changes) for each of the following:

1. Issues that were raised under prior Sunset Review that have not been addressed.

All issues from last Sunset Review have or are currently being addressed.

2. New issues that are identified by the Bureau in this report.

The Bureau’s fund condition is healthy but more spending authority is needed, especially for enforcement.

3. New issues not previously discussed in this report.

The issue of excessive fees charged by fiduciaries is highlighted in a series of *San Jose Mercury* news articles titled “Loss of Trust” which began running in June 2012, regarding private professional fiduciaries — working as court-appointed conservators and trustees in Santa Clara County — and their attorneys that are charging eye-popping rates that threaten to force their vulnerable clients onto government assistance to survive. As a result, new legislation has been introduced in 2013 to address excessive fees charged by fiduciaries:

- AB 1339 (Maienschein, Chapter 248, Statutes of 2013) requires a court-appointed conservator, or proposed conservator, to disclose their total fees or compensation at the time a petition to appoint a conservator is filed.
- SB 156 (Beall, 2013) would have limited a guardian or conservator from collecting fees from a ward’s or conservatee’s estate for any costs or fees that the guardian or conservator incurred in defending the guardian or conservator’s compensation petition unless specified conditions are met.

4. New issues raised by the Committee.

No new issues have been raised by the Committee.

Section 12 Attachments

Please provide the following attachments:

A. Bureau’s administrative manual.

See Attachment B

B. Current organizational chart showing relationship of committees to the Bureau and membership of each committee (cf., Section 1, Question 1).

See Attachment C

C. Major studies, if any (cf., Section 1, Question 4).

N/A

D. Year-end organization charts for last four fiscal years. Each chart should include number of staff by classifications assigned to each major program area (licensing, enforcement, administration, etc.) (cf., Section 3, Question 15).

See Attachment D

Performance Measures

Performance Measures

Q1 Report (July - Sept 2010)

To ensure stakeholders can review the Bureau's progress toward meeting its enforcement goals and targets, we have developed a transparent system of performance measurement.

These measures will be posted publicly on a quarterly basis. In future reports, additional measures, such as consumer satisfaction and complaint efficiency, will also be added. These additional measures are being collected internally at this time and will be released once sufficient data is available.

Volume

Number of complaints received.*

Q1 Total: 18

Q1 Monthly Average: 6

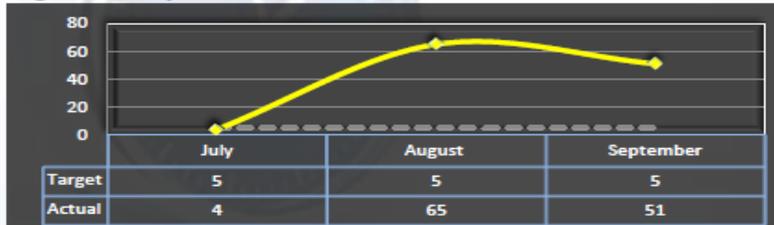


Intake

Average cycle time from complaint receipt, to the date the complaint was assigned to an investigator.

Target: 5 Days

Q1 Average: 57 Days



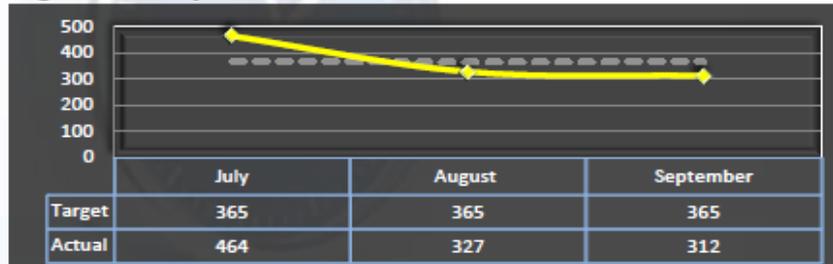
*"Complaints" in these measures include consumer complaints and complaints generated internally.

Intake & Investigation

Average cycle time from complaint receipt to closure of the investigation process. Does not include cases sent to the Attorney General or other forms of formal discipline.

Target: 365 Days

Q1 Average: 362 Days



Formal Discipline

Average cycle time from complaint receipt to closure, for cases sent to the Attorney General or other forms of formal discipline.

Target: 540 Days

Q1 Average: N/A

The Bureau did not submit any cases to the Attorney General this quarter.

Probation Intake

Average number of days from monitor assignment, to the date the monitor makes first contact with the probationer.

Target: 10 Days

Q1 Average: N/A

The Bureau did not receive any probation monitoring cases this quarter.

Probation Violation Response

Average number of days from the date a violation of probation is reported, to the date the assigned monitor initiates appropriate action.

Target: 10 Days

Q1 Average: N/A

The Bureau did not receive any probation violations this quarter.

Performance Measures

Q2 Report (October - December 2010)

To ensure stakeholders can review the Bureau's progress toward meeting its enforcement goals and targets, we have developed a transparent system of performance measurement. These measures will be posted publicly on a quarterly basis.

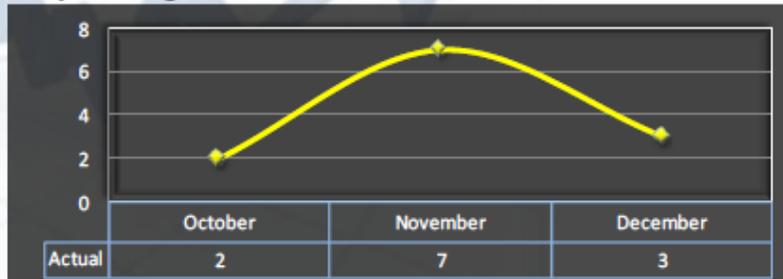
In future reports, the Department will request additional measures, such as consumer satisfaction. These additional measures are being collected internally at this time and will be released once sufficient data is available.

Volume

Number of complaints received.

Q2 Total: 12

Q2 Monthly Average: 4

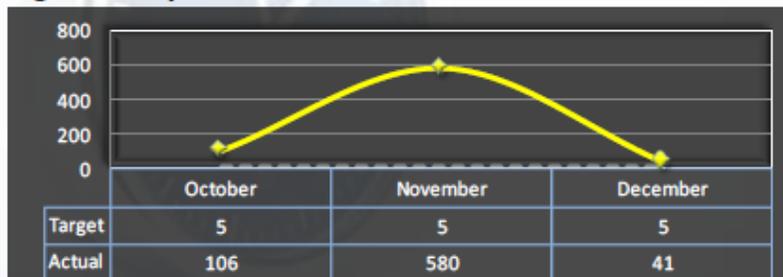


Intake

Average cycle time from complaint receipt, to the date the complaint was assigned to an investigator.

Target: 5 Days

Q2 Average: 89 Days

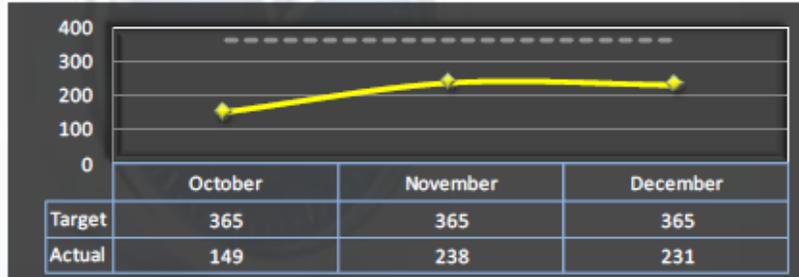


Intake & Investigation

Average cycle time from complaint receipt to closure of the investigation process. Does not include cases sent to the Attorney General or other forms of formal discipline.

Target: 365 Days

Q2 Average: 201 Days



Formal Discipline

Average number of days to complete the entire enforcement process for cases resulting in formal discipline. (Includes intake and investigation by the Bureau, and prosecution by the AG)

Target: 540 Days

Q2 Average: N/A

The Bureau did not close any disciplinary cases this quarter.

Probation Intake

Average number of days from monitor assignment, to the date the monitor makes first contact with the probationer.

Target: 10 Days

Q2 Average: N/A

The Bureau did not contact any new probationers this quarter.

Probation Violation Response

Average number of days from the date a violation of probation is reported, to the date the assigned monitor initiates appropriate action.

Target: 10 Days

Q2 Average: N/A

The Bureau did not handle any probation violations this quarter.

Performance Measures

Q3 Report (January - March 2011)

To ensure stakeholders can review the Bureau's progress toward meeting its enforcement goals and targets, we have developed a transparent system of performance measurement. These measures will be posted publicly on a quarterly basis.

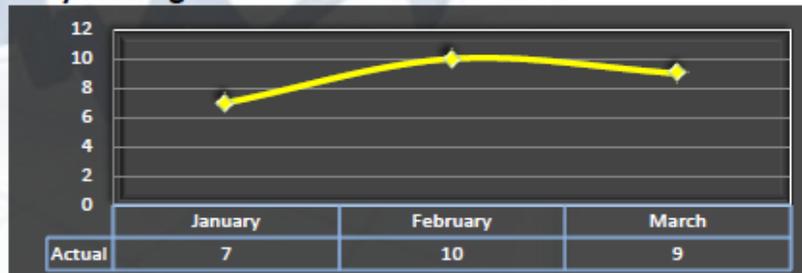
In future reports, the Department will request additional measures, such as consumer satisfaction. These additional measures are being collected internally at this time and will be released once sufficient data is available.

Volume

Number of complaints received.

Q3 Total: 26

Q3 Monthly Average: 9



Intake

Average cycle time from complaint receipt, to the date the complaint was assigned to an investigator.

Target: 5 Days

Q3 Average: 8 Days

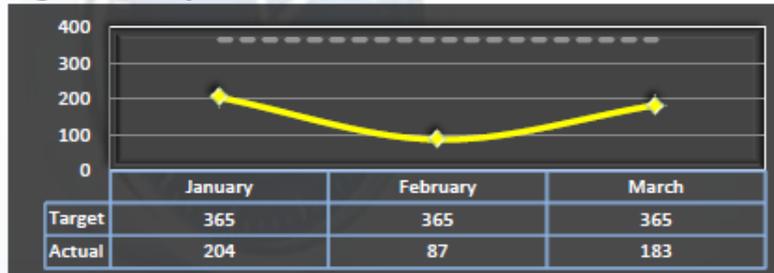


Intake & Investigation

Average cycle time from complaint receipt to closure of the investigation process. Does not include cases sent to the Attorney General or other forms of formal discipline.

Target: 365 Days

Q3 Average: 163 Days



Formal Discipline

Average number of days to complete the entire enforcement process for cases resulting in formal discipline. (Includes intake and investigation by the Bureau, and prosecution by the AG)

Target: 540 Days

Q3 Average: N/A

The Bureau did not close any disciplinary cases this quarter.

Probation Intake

Average number of days from monitor assignment, to the date the monitor makes first contact with the probationer.

Target: 10 Days

Q3 Average: N/A

The Bureau did not contact any new probationers this quarter.

Probation Violation Response

Average number of days from the date a violation of probation is reported, to the date the assigned monitor initiates appropriate action.

Target: 10 Days

Q3 Average: N/A

The Bureau did not handle any probation violations this quarter.

Performance Measures

Q4 Report (April - June 2011)

To ensure stakeholders can review the Bureau's progress toward meeting its enforcement goals and targets, we have developed a transparent system of performance measurement. These measures will be posted publicly on a quarterly basis.

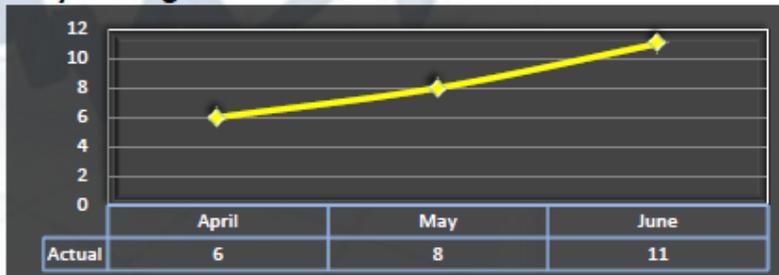
In future reports, the Department will request additional measures, such as consumer satisfaction. These additional measures are being collected internally at this time and will be released once sufficient data is available.

Volume

Number of complaints received.

Q4 Total: 25

Q4 Monthly Average: 8

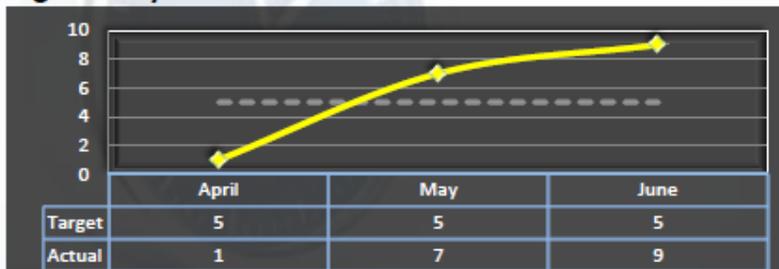


Intake

Average cycle time from complaint receipt, to the date the complaint was assigned to an investigator.

Target: 5 Days

Q4 Average: 7 Days

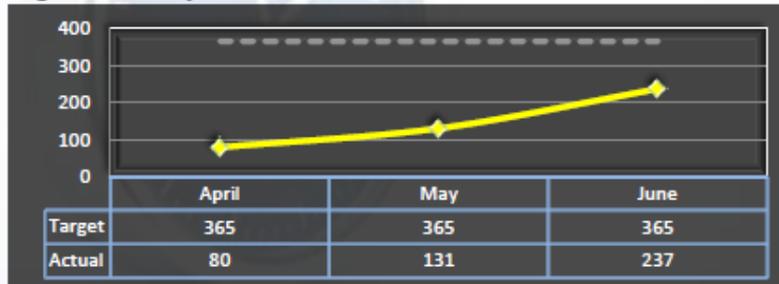


Intake & Investigation

Average cycle time from complaint receipt to closure of the investigation process. Does not include cases sent to the Attorney General or other forms of formal discipline.

Target: 365 Days

Q4 Average: 177 Days



Formal Discipline

Average number of days to complete the entire enforcement process for cases resulting in formal discipline. (Includes intake and investigation by the Bureau, and prosecution by the AG)

Target: 540 Days

Q4 Average: N/A

The Bureau did not close any disciplinary cases this quarter.

Probation Intake

Average number of days from monitor assignment, to the date the monitor makes first contact with the probationer.

Target: 10 Days

Q4 Average: N/A

The Bureau did not contact any new probationers this quarter.

Probation Violation Response

Average number of days from the date a violation of probation is reported, to the date the assigned monitor initiates appropriate action.

Target: 10 Days

Q4 Average: N/A

The Bureau did not handle any probation violations this quarter.

Performance Measures

Annual Report (2010 – 2011 Fiscal Year)

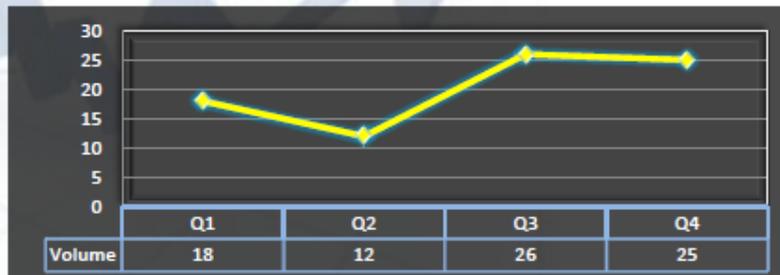
To ensure stakeholders can review the Bureau's progress in meeting its enforcement goals and targets, we have developed a transparent system of performance measurement. These measures are posted publicly on a quarterly basis.

This annual report represents the culmination of the first four quarters worth of data.

Volume

Number of complaints and convictions received.

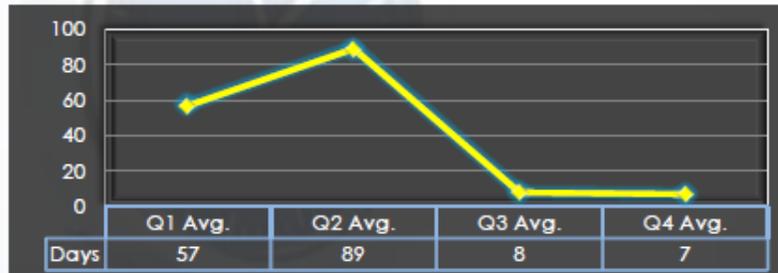
The Bureau had an annual total of 81 this fiscal year.



Intake

Average cycle time from complaint receipt, to the date the complaint was assigned to an investigator.

The Bureau has set a target of 5 days for this measure.



Intake & Investigation

Average cycle time from complaint receipt to closure of the investigation process. Does not include cases sent to the Attorney General or other forms of formal discipline.

The Bureau has set a target of 365 days for this measure.



Performance Measures

Q1 Report (July - September 2011)

To ensure stakeholders can review the Bureau's progress toward meeting its enforcement goals and targets, we have developed a transparent system of performance measurement. These measures will be posted publicly on a quarterly basis.

Volume

Number of complaints received.

Q1 Total: 23

Q1 Monthly Average: 8



Intake

Average cycle time from complaint receipt, to the date the complaint was assigned to an investigator.

Target: 5 Days

Q1 Average: 10 Days

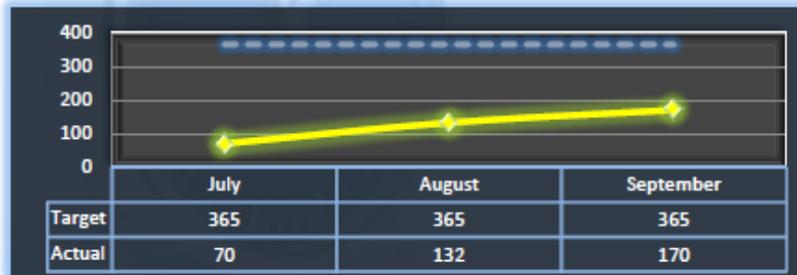


Intake & Investigation

Average cycle time from complaint receipt to closure of the investigation process. Does not include cases sent to the Attorney General or other forms of formal discipline.

Target: 365 Days

Q1 Average: 129 Days

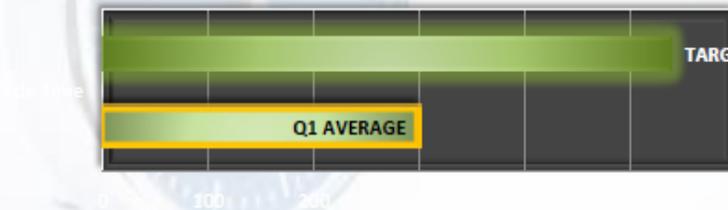


Formal Discipline

Average number of days to complete the entire enforcement process for cases resulting in formal discipline. (Includes intake and investigation by the Bureau, and prosecution by the AG)

Target: 540 Days

Q1 Average: 298 Days



Probation Intake

Average number of days from monitor assignment, to the date the monitor makes first contact with the probationer.

Target: 10 Days

Q1 Average: N/A

The Bureau did not contact any new probationers this quarter.

Probation Violation Response

Average number of days from the date a violation of probation is reported, to the date the assigned monitor initiates appropriate action.

Target: 10 Days

Q1 Average: N/A

The Bureau did not handle any probation violations this quarter.

Performance Measures

Q2 Report (October - December 2011)

To ensure stakeholders can review the Bureau's progress toward meeting its enforcement goals and targets, we have developed a transparent system of performance measurement. These measures will be posted publicly on a quarterly basis.

Volume

Number of complaints received.

Q2 Total: 20

Q2 Monthly Average: 7

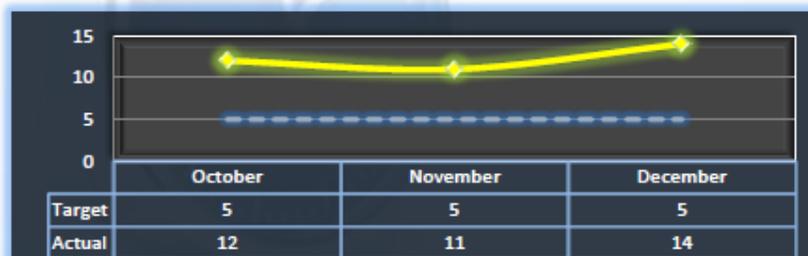


Intake

Average cycle time from complaint receipt, to the date the complaint was assigned to an investigator.

Target: 5 Days

Q2 Average: 12 Days

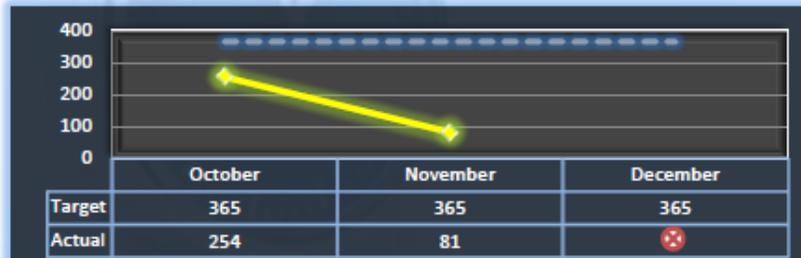


Intake & Investigation

Average cycle time from complaint receipt to closure of the investigation process. Does not include cases sent to the Attorney General or other forms of formal discipline.

Target: 365 Days

Q2 Average: 174 Days



Formal Discipline

Average number of days to complete the entire enforcement process for cases resulting in formal discipline. (Includes intake and investigation by the Bureau, and prosecution by the AG)

Target: 540 Days

Q2 Average: N/A

The Bureau did not close any formal discipline cases this quarter.

Probation Intake

Average number of days from monitor assignment, to the date the monitor makes first contact with the probationer.

Target: 10 Days

Q2 Average: N/A

The Bureau did not contact any new probationers this quarter.

Probation Violation Response

Average number of days from the date a violation of probation is reported, to the date the assigned monitor initiates appropriate action.

Target: 10 Days

Q2 Average: N/A

The Bureau did not handle any probation violations this quarter.

Performance Measures

Q3 Report (January - March 2012)

To ensure stakeholders can review the Bureau's progress toward meeting its enforcement goals and targets, we have developed a transparent system of performance measurement. These measures will be posted publicly on a quarterly basis.

Volume

Number of complaints received.

Q3 Total: 26

Q3 Monthly Average: 9



Intake

Average cycle time from complaint receipt, to the date the complaint was assigned to an investigator.

Target: 5 Days

Q3 Average: 12 Days

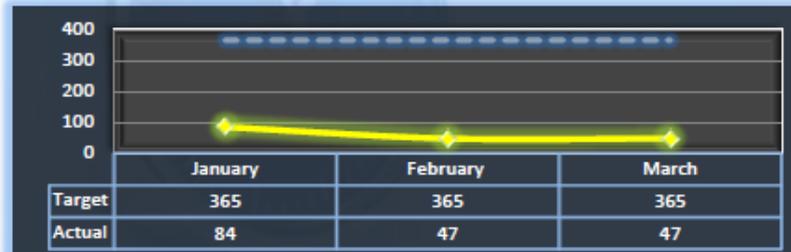


Intake & Investigation

Average cycle time from complaint receipt to closure of the investigation process. Does not include cases sent to the Attorney General or other forms of formal discipline.

Target: 365 Days

Q3 Average: 69 Days



Formal Discipline

Average number of days to complete the entire enforcement process for cases resulting in formal discipline. (Includes intake and investigation by the Bureau, and prosecution by the AG)

Target: 540 Days

Q3 Average: N/A

The Bureau did not close any formal discipline cases this quarter.

Probation Intake

Average number of days from monitor assignment, to the date the monitor makes first contact with the probationer.

Target: 10 Days

Q3 Average: N/A

The Bureau did not contact any new probationers this quarter.

Probation Violation Response

Average number of days from the date a violation of probation is reported, to the date the assigned monitor initiates appropriate action.

Target: 10 Days

Q3 Average: N/A

The Bureau did not handle any probation violations this quarter.

Performance Measures

Q4 Report (April - June 2012)

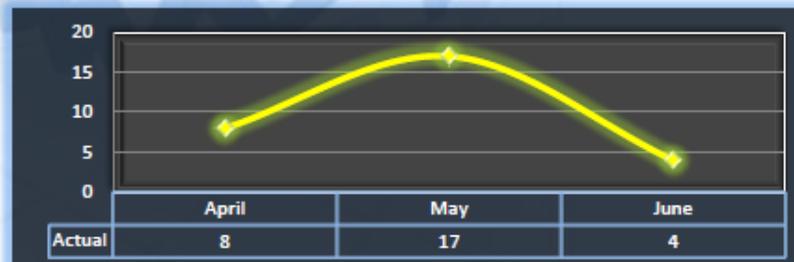
To ensure stakeholders can review the Bureau's progress toward meeting its enforcement goals and targets, we have developed a transparent system of performance measurement. These measures will be posted publicly on a quarterly basis.

Volume

Number of complaints received.

Q4 Total: 29

Q4 Monthly Average: 10



Intake

Average cycle time from complaint receipt, to the date the complaint was assigned to an investigator.

Target: 5 Days

Q4 Average: 12 Days

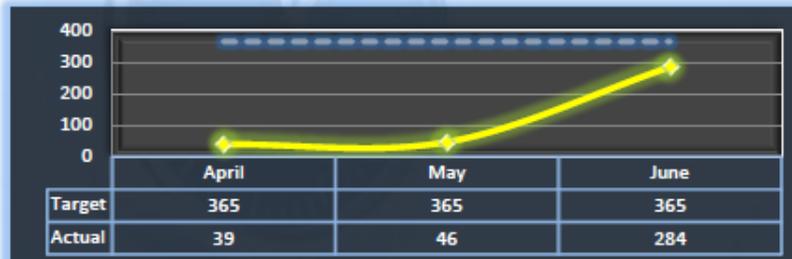


Intake & Investigation

Average cycle time from complaint receipt to closure of the investigation process. Does not include cases sent to the Attorney General or other forms of formal discipline.

Target: 365 Days

Q4 Average: 136 Days

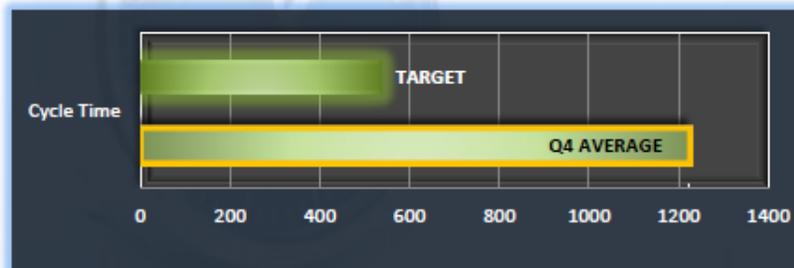


Formal Discipline

Average number of days to complete the entire enforcement process for cases resulting in formal discipline. (Includes intake and investigation by the Bureau, and prosecution by the AG)

Target: 540 Days

Q4 Average: 1,222 Days



Probation Intake

Average number of days from monitor assignment, to the date the monitor makes first contact with the probationer.

Target: 10 Days

Q4 Average: N/A

The Bureau did not contact any new probationers this quarter.

Probation Violation Response

Average number of days from the date a violation of probation is reported, to the date the assigned monitor initiates appropriate action.

Target: 10 Days

Q4 Average: N/A

The Bureau did not handle any probation violations this quarter.

Performance Measures

Annual Report (2011 – 2012 Fiscal Year)

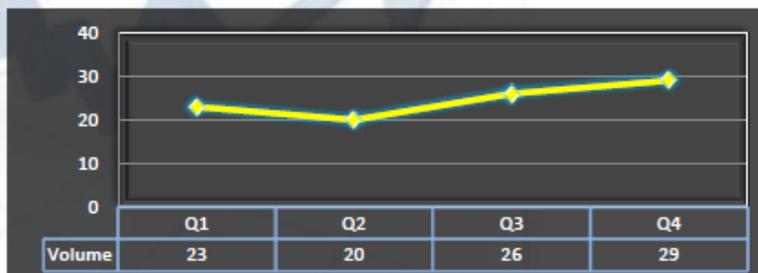
To ensure stakeholders can review the Bureau's progress in meeting its enforcement goals and targets, we have developed a transparent system of performance measurement. These measures are posted publicly on a quarterly basis.

This annual report represents the culmination of the first four quarters worth of data.

Volume

Number of complaints and convictions received.

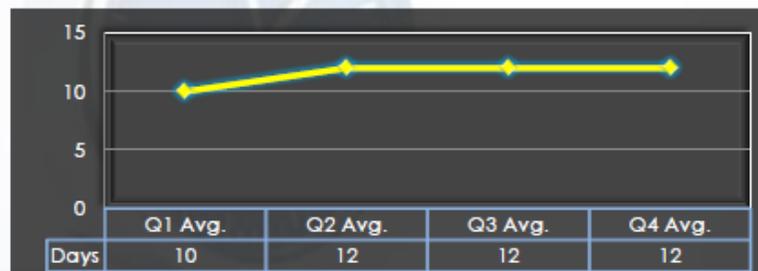
The Bureau had an annual total of 98 this fiscal year.



Intake

Average cycle time from complaint receipt, to the date the complaint was assigned to an investigator.

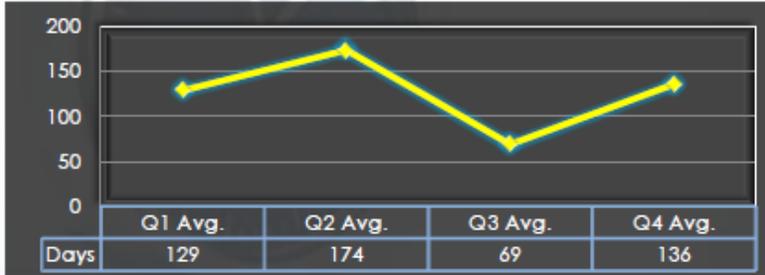
The Bureau has set a target of 5 days for this measure.



Intake & Investigation

Average cycle time from complaint receipt to closure of the investigation process. Does not include cases sent to the Attorney General or other forms of formal discipline.

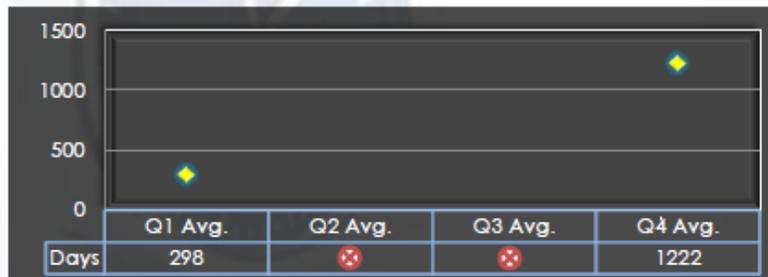
The Bureau has set a target of 365 days for this measure.



Formal Discipline

Average number of days to complete the entire enforcement process for cases resulting in formal discipline. Includes intake and investigation by the Board, and dispensation by the AG.

The Board has set a target of 540 days for this measure.



Performance Measures

Q1 Report (July - September 2012)

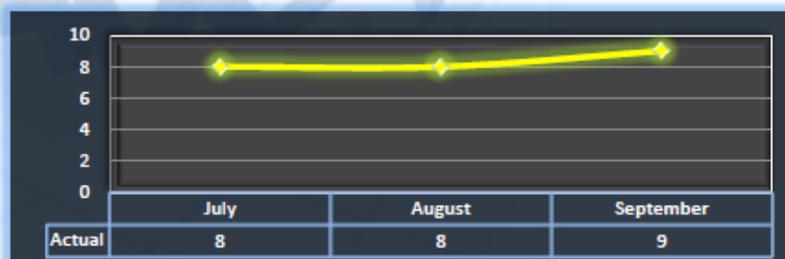
To ensure stakeholders can review the Bureau's progress toward meeting its enforcement goals and targets, we have developed a transparent system of performance measurement. These measures will be posted publicly on a quarterly basis.

Volume

Number of complaints received.

Q1 Total: 25

Q1 Monthly Average: 8



Intake

Average cycle time from complaint receipt, to the date the complaint was assigned to an investigator.

Target: 5 Days

Q1 Average: 9 Days



Intake & Investigation

Average cycle time from complaint receipt to closure of the investigation process. Does not include cases sent to the Attorney General or other forms of formal discipline.

Target: 365 Days

Q1 Average: 133 Days



Formal Discipline

Average number of days to complete the entire enforcement process for cases resulting in formal discipline. (Includes intake and investigation by the Bureau, and prosecution by the AG)

Target: 540 Days

Q1 Average: N/A

The Bureau did not report any cases of Formal Discipline this quarter.

Probation Intake

Average number of days from monitor assignment, to the date the monitor makes first contact with the probationer.

Target: 10 Days

Q1 Average: N/A

The Bureau did not contact any new probationers this quarter.

Probation Violation Response

Average number of days from the date a violation of probation is reported, to the date the assigned monitor initiates appropriate action.

Target: 10 Days

Q1 Average: N/A

The Bureau did not handle any probation violations this quarter.

Performance Measures

Q2 Report (October - December 2012)

To ensure stakeholders can review the Bureau's progress toward meeting its enforcement goals and targets, we have developed a transparent system of performance measurement. These measures will be posted publicly on a quarterly basis.

Volume

Number of complaints received.

Q2 Total: 23

Q2 Monthly Average: 8

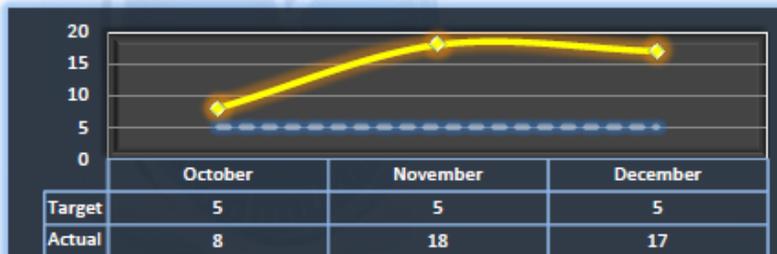


Intake

Average cycle time from complaint receipt, to the date the complaint was assigned to an investigator.

Target: 5 Days

Q2 Average: 15 Days

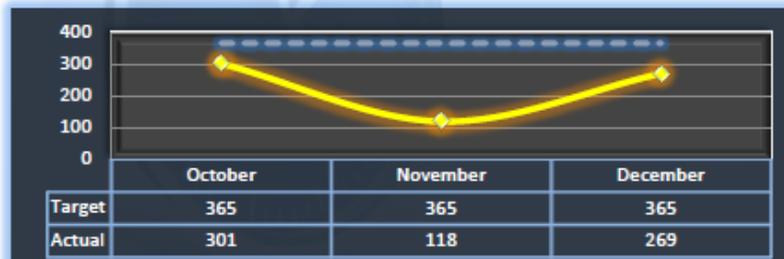


Intake & Investigation

Average cycle time from complaint receipt to closure of the investigation process. Does not include cases sent to the Attorney General or other forms of formal discipline.

Target: 365 Days

Q2 Average: 247 Days



Formal Discipline

Average number of days to complete the entire enforcement process for cases resulting in formal discipline. (Includes intake and investigation by the Bureau, and prosecution by the AG)

Target: 540 Days

Q2 Average: N/A

The Bureau did not close any formal discipline cases this quarter.

Probation Intake

Average number of days from monitor assignment, to the date the monitor makes first contact with the probationer.

Target: 10 Days

Q2 Average: N/A

The Bureau did not contact any new probationers this quarter.

Probation Violation Response

Average number of days from the date a violation of probation is reported, to the date the assigned monitor initiates appropriate action.

Target: 10 Days

Q2 Average: N/A

The Bureau did not handle any probation violations this quarter.

Performance Measures

Q3 Report (January - March 2013)

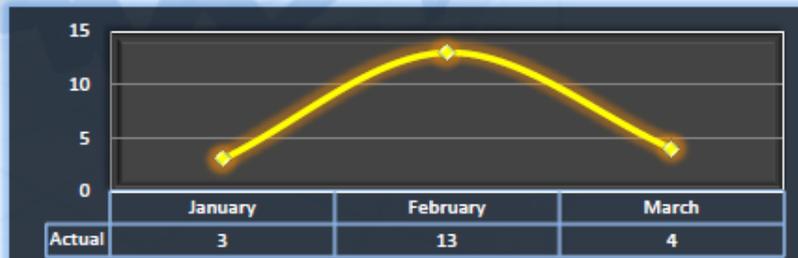
To ensure stakeholders can review the Bureau's progress toward meeting its enforcement goals and targets, we have developed a transparent system of performance measurement. These measures will be posted publicly on a quarterly basis.

Volume

Number of complaints received.

Q3 Total: 20

Q3 Monthly Average: 7

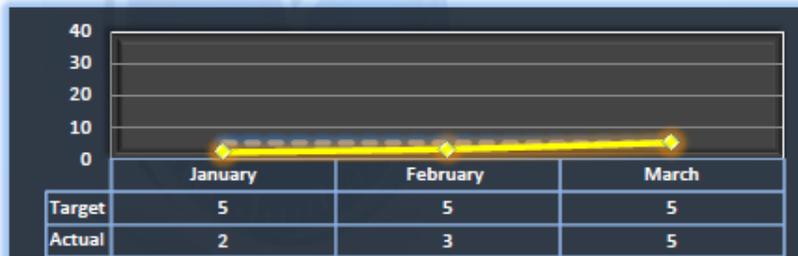


Intake

Average cycle time from complaint receipt, to the date the complaint was assigned to an investigator.

Target: 5 Days

Q3 Average: 3 Days

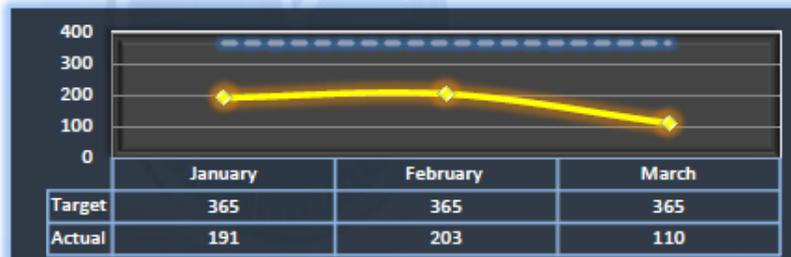


Intake & Investigation

Average cycle time from complaint receipt to closure of the investigation process. Does not include cases sent to the Attorney General or other forms of formal discipline.

Target: 365 Days

Q3 Average: 69 Days



Formal Discipline

Average number of days to complete the entire enforcement process for cases resulting in formal discipline. (Includes intake and investigation by the Bureau, and prosecution by the AG)

Target: 540 Days

Q3 Average: N/A

The Bureau did not close any formal discipline cases this quarter.

Probation Intake

Average number of days from monitor assignment, to the date the monitor makes first contact with the probationer.

Target: 10 Days

Q3 Average: N/A

The Bureau did not contact any new probationers this quarter.

Probation Violation Response

Average number of days from the date a violation of probation is reported, to the date the assigned monitor initiates appropriate action.

Target: 10 Days

Q3 Average: N/A

The Bureau did not handle any probation violations this quarter.

**Professional Fiduciaries Bureau
Administrative Manual**

Professional Fiduciaries Bureau Procedures Manual

Department of Consumer Affairs (DCA)
10/07/2013

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Professional Fiduciaries Bureau: Procedures Manual

About the Professional Fiduciaries Bureau

The Professional Fiduciaries Bureau was created by legislation that passed and was enacted into law in 2007 to regulate non-family member professional fiduciaries, including conservators, guardians, trustees, and agents under durable power of attorney as defined by the Professional Fiduciaries Act.

Professional fiduciaries provide critical services to seniors, disabled persons, and children. They manage matters for clients including daily care; housing and medical needs; and also offer financial management services ranging from basic bill paying to estate and investment management. Requirements for licensing include passing an examination and completing thirty (30) hours of approved education courses (See Pre-Licensing Education Information, California Code of Regulations 4440 and 4446. Fifteen (15) hours of continuing education credit are required each year for renewal licenses. Licensees must comply with reporting requirements and must abide by the Professional Fiduciaries Code of Ethics so that client matters are handled responsibly and without conflict.

The following individuals are required to obtain a license as a Professional Fiduciary in California, as defined in the Professional Fiduciaries Act (Act).

- **Conservators / Guardians:**
A person who acts as a conservator or guardian, for two or more persons at the same time who are not related to the professional fiduciary or to each other by blood, adoption, marriage, or registered domestic partnership.
- **Trustees / Agent Under a Durable Power of Attorney:**
A person who acts as a trustee, agent under a durable power of attorney for health care, or agent under a durable power of attorney for finances, for more than three people or more than three families, or a combination of people and families that totals more than three, at the same time, who are not related to the professional fiduciary by blood, adoption, marriage, or registered domestic partnership.
- **“Trustee”** includes an individual who is acting as a trustee or an individual acting on behalf of an entity to perform the functions of a trustee, for a trust that includes at least one individual beneficiary, and, they are acting on behalf of more than three trustors whom are not related to them.

The following individuals are not required to obtain a license, as defined in the Act:

- **A Trust Company or Employee:** A trust company, as defined in Section 83 of the Probate Code, or one of its employees or agents acting within the course and scope of employment.
- **An FDIC-Insured Institution or Employee or Agent:** An FDIC-insured institution, or its holding companies, subsidiaries, or affiliates, or an employee or agent of one of these entities acting within the course and scope of employment. An affiliate means any entity that shares an ownership interest with, or that is under the common control of, the FDIC-insured institution.

- A Public Agency or an employee of a public agency: Any public agency, including a public guardian, public conservator, or other agency of the State of California or of a county of California or any regional center for persons with developmental disabilities as defined in Welfare & Institutions Code section 4620.
- A Broker-Dealer and Investment Advisor: Any person whose sole activity as a professional fiduciary is as a broker-dealer, broker-dealer agent, investment advisor, or investment adviser representative registered and regulated under the Corporate Securities Law of 1968, the Investment Advisers Act of 1940, or the Securities Exchange Act of 1934, or involves serving as a trustee to a company regulated by the Securities and Exchange Commission under the Investment Company Act of 1940.
- Attorney: Any person licensed as an attorney under the California State Bar Act.
- Certified Public Accountant (CPA): Any person licensed as a CPA pursuant to Chapter 1 (commencing with Section 5000 of the Business and Professions Code) of Division 3 acting within the scope of practice of the CPA license.
- Enrolled Agent: Any person enrolled as an agent to practice before the Internal Revenue Service acting within the scope of practice pursuant to Part 10 of Title 31 of the Code of Federal Regulations. (See Business & Professions Code Sections 6501 and 6530 and Section 4406(e) of Article 1 of Division 41 of Title 16 of the California Code of Regulations).
- Any nonprofit corporation or charitable trust described in Internal Revenue Code section 501(c)(3).

Strategic Plan

Mission, Vision, and Values

MISSION:

- To protect the consumer through licensing and monitoring, and to ensure competent and ethical standards of practice for professional fiduciaries.

VISION:

- To maintain and enhance the physical, emotional, and financial well-being of consumers by promoting the highest professional fiduciary standards.

VALUES:

- Integrity and Ethics – We are honest, fair, and respectful in our treatment of everyone.
- Accountability – We are accountable to consumers and licensees. We operate transparently and encourage public participation in our decision-making whenever possible.
- Effectiveness – We make informed decisions in order to achieve positive, measurable results.
- Customer Service – We identify the best ways to deliver high-quality services with the most efficient use of our resources.

Goal 1: Licensure

- Increase the number of licensees by reaching out to other professions with relatable experience (i.e. social workers, gerontology, etc.).
- Partner with other government entities to increase licensure.
- Research the feasibility of creating an entry level license type for trainees, and develop the program if viable.

Goal 2: Enforcement

- Establish the Bureau's Cite and Fine program.
- Actively seek out unlicensed activity in partnership with the Department's Unlicensed Activities Unit.
- Leverage enforcement activity with Division of Investigation.
- Attend underground economy task force meetings and partner with Economic Employment Enforcement Coalition (EEEC).
- Post formal disciplinary accusations against licensed professionals on the bureau's website. (Formal accusations are drafted by the Office of the Attorney General and issued by the Bureau only after significant wrong doing has been established through investigation.)
- Participate in the Department's Consumer Satisfaction survey on closed complaints.

Goal 3: Communication and Education

- Educate consumers and provide license information to professionals (online FAQ's for licensing information and Professional Fiduciaries Bureau forms).
- Seek out media opportunities.
- Develop Professional Fiduciaries Bureau publications in multiple foreign languages.
- Work with the Department's Publications Design unit to develop new publications.
- Partner with CIC and Outreach to increase the dissemination of PFB messages and publications.
- Develop PSA's and forums for the Senior Legislature.
- Partner with the State Bar's Trust and Estate section to increase outreach.
- Attend local Professional Fiduciary Association of California PFAC and California Association Superior Court Investigators meetings and their Annual conference for training purposes.
- Establish Outreach and communication to judges through the Administrative Office of the Courts (AOC).
- Gather and disseminate examples of industry best practices.
- Gather and disseminate victims' accounts of consumer fraud and abuse.
- Clarify the license renewal process.

Goal 4: Regulation and Legislation

- Seek Legislation to require licensure for all types of Durable Power of Attorney and Estate Administration not currently covered under present statutes.

- Develop Cite and Fine regulations.
- Develop advertising regulations requiring the inclusion of a licensee's professional fiduciary license number.
- Seek ways to streamline the license process through legislation.

Strategic Plan adopted 9/27/2010

Strategic Plan scheduled for review and adoption 11/19/2013

Licensure

Initial Licensing Processing without Screen Shots

PFB Regulation Article 2 Section 4424(a) allows the bureau within 90 days of receipt of an application to inform the applicant in writing that either, 1) the application is both complete and accepted for filing; or 2) the application is deficient and the specific information or documentation needed to complete the application

- I. Central Cashiering Unit (CCU) receives the application, date stamps it, creates a record in Applicant Tracking System (ATS), and assigns a tracking number.
- II. PFB receives application and date stamps it, creates applicant folder, and matches with the applicants' fingerprint results.
- III. PFB reviews application for completeness as per regulations in Article 2, Section 4422, and fulfills the requirements in ATS.
 1. If application is complete, PFB generates an exam eligibility letter in ATS* and mails to applicant. The letter explains to the applicant how to apply with the Center for Guardianship Certification (CGC) before registering for the exam. **Go to IV**
 2. If application is **NOT** complete, but deficient due to:
 - a. Fingerprinting:
 - Delayed or rejected: PFB generates deficiency letter in ATS* and mails to the applicant. When clearance is received, **go back to III.1.**
 - b. Applicant has a record:
 - PFB generates a letter* requesting court documents and explanation of the conviction. When documents are received, PFB analyst creates a recommendation to the Bureau Chief for review. If the Bureau Chief approves the application, **go back to III.1.**
 - If the Bureau Chief denies the application, PFB generates a denial letter* and mails to the applicant. **Go to Denial Procedures.**
 - c. Education/Experience, Pre-Licensing Education, or if answers to any of the questions are yes:
 - PFB generates a deficiency letter requesting additional information or explanation if applicable in ATS* and mails to the applicant. When the information is received and if requirements are satisfied, **go back to III.1.**

- When the information is received, but if requirements are **NOT** satisfied, create a recommendation to the Bureau Chief for review. If the Bureau Chief approves application, **go back to III.1.**
- If the Bureau Chief denies application, PFB generates a denial letter* and mails to the applicant. **Go to Denial Procedures.**

**Note: Refer to ATS procedures starting on page 10 of this manual.*

- IV. Once the applicant has applied and paid for an exam fee directly to CGC, CGC notifies PFB with a spreadsheet via email.
1. PFB fulfills the exam requirement in ATS*, and the information is sent electronically to the vendor who administers the exam, Psychological Services, LLC (PSI).

****PFB Regulation Article 5, Section 4500 allows the applicant twelve (12) months from the date on the notification letter to achieve a passing score, with a maximum of 5 attempts, not to exceed one attempt every 30 days.***
 2. PSI mails a PFB candidate handbook to the applicant to inform the applicant that he/she is eligible to register to take the exam once the applicant has paid a fee to sit for the exam directly to PSI.
 3. After the applicant sits for the exam, PSI sends the exam result to PFB electronically through the ATS system. PFB verifies the applicant's results through the report system on ATS*, and enters the applicant's number on the PSI website to obtain the applicant's pass or fail results for one or both portions of the exam.
 - a. The applicant passes the exam: PFB generates a license fee due letter in ATS* and mails to the applicant.

****PFB Regulation Article 2, Section 4426(b) allows the applicant twelve (12) months from the date of the license fee due letter to pay the initial license fee or the application will be deemed abandoned.***
 - b. The Applicant fails one or both portions of the exam. PFB generates exam fail letter in ATS* and mails to the applicant. The letter explains that the applicant must to contact CGC to apply to re-take the exam and the exam process starts over with a new payment to CGC and PSI for each re-take for up to 5 exam tries in the 12 month eligibility period.
- V. CCU receives initial licensing fee, processes it in ATS and forwards the processed initial licensing application to PFB. PFB fulfills the requirement in ATS* and transfers the information from ATS to the Consumer Affairs System (CAS). The next

day the new license number shows up on CAS and Web License Look-up (WLL), and CAS transmits electronically to the Employment Development Department (EDD) to create and mail the Wall and Pocket licenses to the **Licensee**.

**Note: Please refer to ATS procedures beginning on page 10 of this manual.*

VI. Add Initial Annual Statement to CAS.

1. Access Fiduciary's Statement(s)

a.) Log onto CAS, and at CAS Startup menu:

1. Enter (1) for selected code to access the Licensing Module, then press <Enter>.
2. At the licensing screen, enter 313 to select Update Fiduciary Data, then press <Enter>.
3. At the next screen, the cursor should be blinking on the line directly underneath the column entitled NUMBER. Type the license number there and press <ENTER>.
4. Underneath the column entitled NAME, the fiduciary's name should be first on the list. Place an S on the line directly underneath the *Ac column next to the fiduciary being selected and press <Enter>.
5. The fiduciary's statement reports appear on the next screen. Place an "S" on the line next to the statement year that you need to update.

Note: Initial Annual Statement procedure applies only to new licensees. For directions on adding Annual Statements for license renewals, please refer to the directions for License Renewals.

When entering Initial Annual Statements, ensure the fiduciary has provided all cases (open and closed) he or she has ever been responsible for, whether before or after the inception of the Professional Fiduciaries Bureau.

2. Add a New Court-Appointed Case.

a.) Follow steps 1-5 under Access Fiduciary's Statements.

1. Place an "A" on the line entitled *Ac and press <ENTER>. The Fiduciary Account screen appears.
2. Enter the following data fields:
 - Case number. If there is no case number, enter, "NONE."
 - Annual report date = Date the report is due (MM/DD/YYYY).

- Case type = T, G, C, P. (If it is something other than these four, write it on the other line, e.g., PR for Personal Representative.)
 - Court Appointed? = Y (If not court appointed leave blank)
 - Appointed Date (MM/DD/YYYY)
 - Rptd = Date fiduciary signed the Annual Statement (MM/DD/YYYY).
 - Case Name. Abbreviate if necessary.
 - Court Location = Enter the county or city only.
3. Press <Enter> to submit. You will receive a CAS message that indicates the case was entered successfully.
 4. Return to the screen that displays the fiduciary's cases and repeat until all new court-appointed cases have been entered.

3. Add a New Non-Court Case – Other Clients

The steps to add a new non-court case are almost the same as those listed above except for the possible differences listed below:

- a.) If there is no case number provided, type NONE.
- b.) At the data field question, **Court Appointed?**, leave the field blank.
- c.) At the data field, **Appointed Date**, type in the appointed date, which is the date the fiduciary accepted or opened the non-court case.

4. Add a Case That Was Opened and Closed Prior to the Fiduciary Having Applied for Licensure

- a.) Follow steps 1-5 under Access Fiduciary's Statements.
 1. Place an "A" on the line entitled *Ac and press <ENTER>. The Fiduciary Account screen appears.
 2. Enter the following data fields:
 - Case number. If there is no case number, enter, "NONE."
 - Annual report date = Date the report is due (MM/DD/YYYY).
 - Case type = T, G, C, P. (If it is something other than these four, write it on the other line, e.g., PR for Personal Representative.)
 - Court Appointed? = Y (if not court appointed leave blank).
 - Appointed Date (MM/DD/YYYY) (if date is reported).
 - Rptd = Date the fiduciary signed the Annual Statement (MM/DD/YYYY).
 - Case Name. Abbreviate if necessary.
 - Court Location. Enter the county or city only.
 3. Tab down to the **End Date** field to enter the closed date.
 4. Tab to Rptd to enter the date the Fiduciary signed the statement.
 5. Press <Enter> to submit. This case will not roll over to the next annual statement.

VII. Close an Initial Annual Statement

After all client cases have been entered in the Annual Statement:

1. Select F2.
2. On the Annual Reports screen that appears, type “M” on the line next to the statement year that you want to close.
3. Enter the following data in the following data fields:
 - Compl? = Enter “Y” for “Yes.”
 - Fid Type? = C, G, T, P, or Other (as reported in Part 1. of the statement).
 - Total Client Assets? = Enter the total dollar amount of assets the fiduciary manages (as reported in Part 3. of the statement).
 - Filed Bankruptcy? = Enter “Y” for “Yes” if the licensee has filed bankruptcy in the last 10 years. Leave blank if the licensee has not filed bankruptcy. (As reported in Part 4., Section 2 of the statement or initial application).
 - Business Address = Address of Record or Business Address (as reported in Part 1. of the statement).
 - Fax Number (as reported in Part 1 of the statement).
4. Look at the Initial Application and Initial Annual Statement for the following:
 - Other License type (Initial application Part 2., Initial annual statement Part 2.).
 - Pre-Licensing Education (Initial application Part 4.).
 - Education (Initial application Part 5.).
 - Experience (Initial application Part 5.).
 - References (Initial application Part 5.).
 - Business Interests (Initial annual statement Part 4., Section 1.).
 - Bankruptcy (Initial application Part 3., Initial annual statement Part 4, Section 2.).
5. Press <Enter>. The Statement should now read, “Statement complete.”

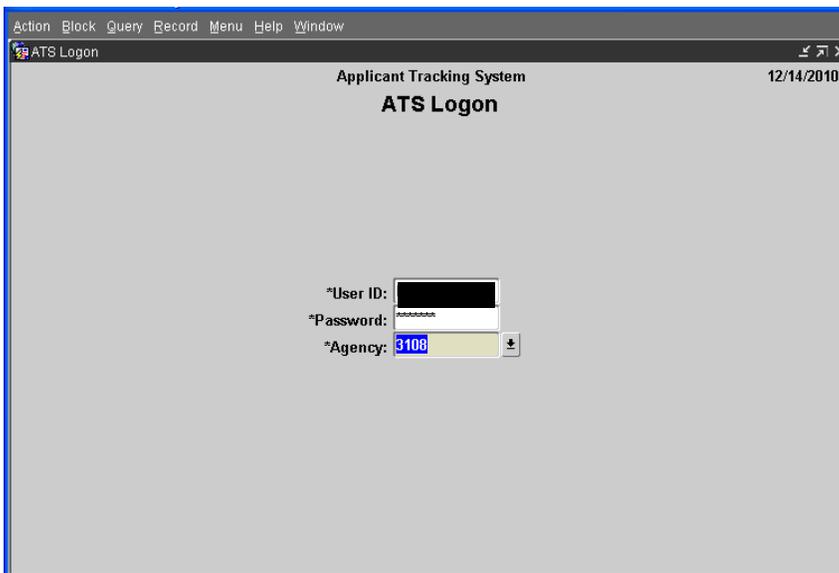
VIII. File the Annual Statement

1. Place an “X” on the colored post-it tab that contains the Annual Statement date.
2. Place the tab on page 1 of the Annual Statement.
3. Place the statement in the file.

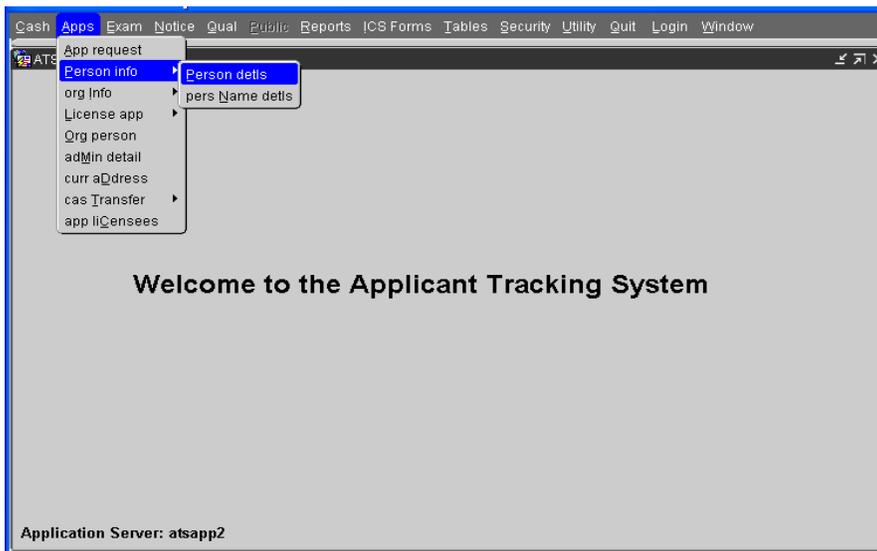
Initial Licensing Processing with Screen Shots

*PFB Regulation Article 2, Section 4424(a) allows the bureau within 90 days of receipt of an application to inform the applicant in writing that either: 1) the application is both complete and accepted for filing; or 2) the application is deficient and the specific information or documentation needed to complete the application.

- I. Access the ATS system here: <http://atsapp3.dca.ca.gov:7777/forms/frmservlet?>
 1. Enter ATS User ID, Password, and Agency ID (3108 for PFB).



- a. Click on **Apps Menu**, select **Personal Info**, then **Person Details**.



II. **Person Detail** information:

1. Hit F11
2. Enter ATS ID, then **Ctrl Key + F11**. If data entered by Cashiering does not auto-fill, then manually enter the following:
 - a. SSN
 - b. DOB
 - c. Last name
 - d. First name
 - e. Middle Name
 - f. Work number
 - g. Home number (optional)
 - h. Fax number (optional)
 - i. E-mail address (optional)
 - j. Gender (optional)
3. Hit Shift + Page Down to move to second block.
4. Enter Address of Record from application.
Use “↓” key to get to “*Add Type” to switch to Business Address.
5. In second block, enter business address information from application, then hit **Ctrl + S** to save.

The screenshot shows a software window titled "Person Detail" from the "PROFESSIONAL FIDUCIARIES BUREAU". The window contains several sections of input fields:

- Header:** ATAPERSN, PROD, PFABIGE, 12/14/2010, and Person Detail.
- Personal Information:** ID, SSN, DOB, User/Source, Adm Hold (checkbox), *L, F, M, S, Mailing Title, Work Ph, Ext, Home Ph, Fax, E-mail.
- Demographics:** Gender (dropdown), Citizen (checkbox), Ethnic (dropdown), Mail Hold (checkbox), Nat Num, ID for Agy.
- Licensing:** Dr Lic#, Lic St (dropdown), Name Pre (dropdown), Business Name.
- Address Section:** A tabbed interface with "Current Address" selected. It includes:
 - *Add Type: Address of Record (dropdown)
 - Orig Entry Date: 12/14/2010
 - *Address: (text input)
 - County: (text input)
 - *City: (text input)
 - State: (dropdown)
 - Zip: (text input)
 - Country: (dropdown)

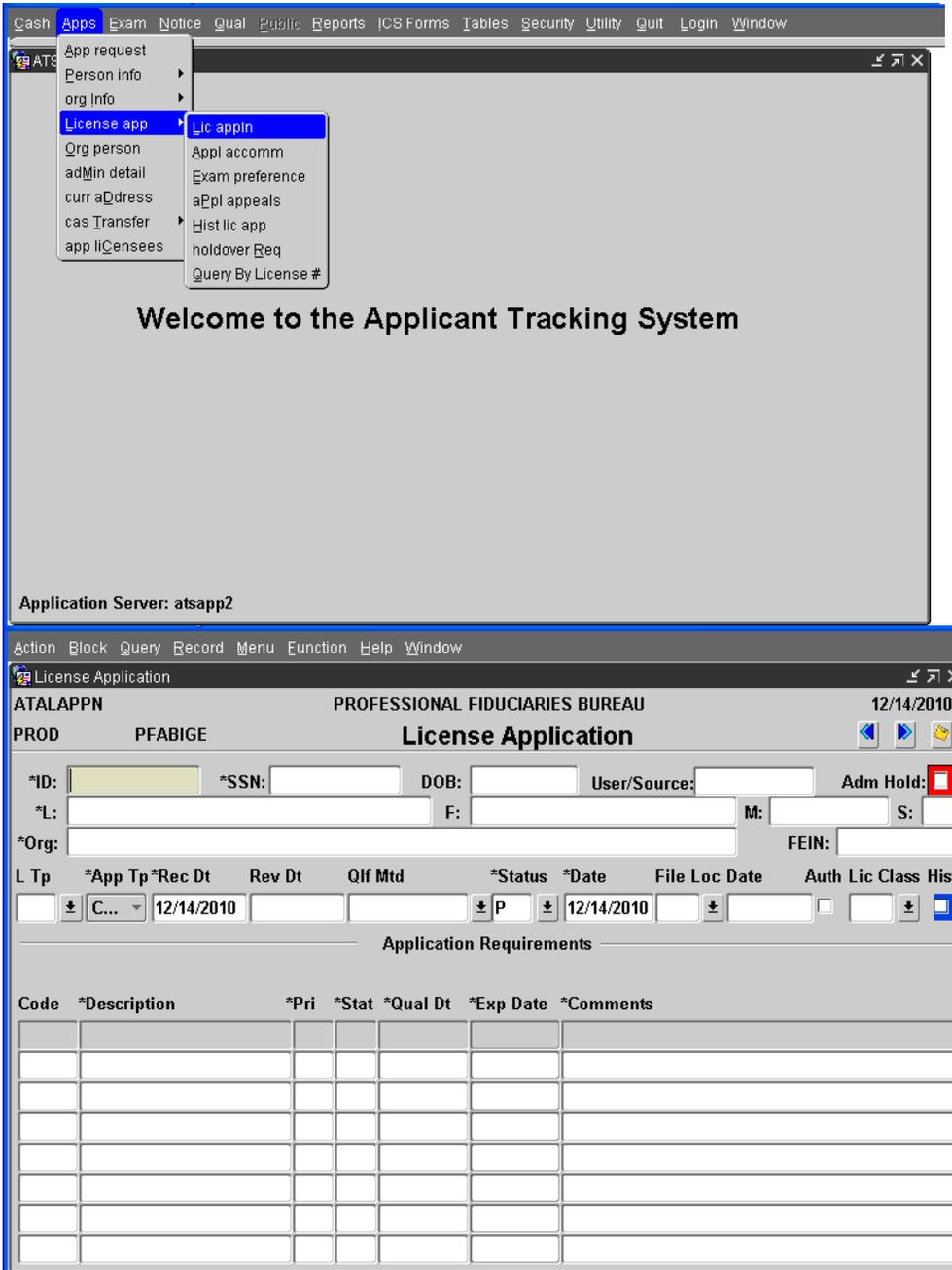
6. Hit “Shift” + “Page Down” to move to second block.
7. Use “↑” key to get to “Add Type”= Address of Record.
8. Enter address of record from application, then “Ctrl” + “S” to save.

Note: If Business Address and Address of Record are the same, hit “Ctrl” + “S” without making any changes.

9. Hit F4 to return to the main menu.

III. From **Main Menu**, select **Apps**, then **License App**, then **Lic appln**:
 (Key Bureau Shortcut: “Alt” + “A” + “L” + “L”)

1. License Application screen appears.



2. On License Application Screen, enter ATS ID, then Ctrl Key + F11 to bring up record.
3. Enter Shift + Page Down to get to L Tp field and enter the following:

L Tp = PF

App Tp = "C" if applicant is approved for exam; "D" if anything is deficient.

Rec Dt = Oldest date-stamp date on application

Qlf Mtd = Standard

4. Hit Ctrl + S to bring up Applicant requirements.
5. Hit "Shift" + "Page Down."
6. Enter "F" in all *Stat entries fields that indicate the requirement is complete, except **Livescan DOJ and FBI.**

The screenshot shows a software window titled "License Application" for the "PROFESSIONAL FIDUCIARIES BUREAU". The main title is "License Application". Fields include: *ID: 647, *SSN: [redacted], DOB: [redacted], User/Source: [redacted], Adm Hold: [redacted], *L: [redacted], F: [redacted], M: [redacted], S: [redacted], *Org: [redacted], FEIN: [redacted]. Below these is a summary row: L Tp: PF, *App Tp: C, *Rec Dt: 11/16/2010, Rev Dt: [redacted], Qlf Mtd: STANDARD, *Status: P, *Date: 12/14/2010, File Loc Date: [redacted], Auth Lic Class: [redacted], Hist: [redacted].

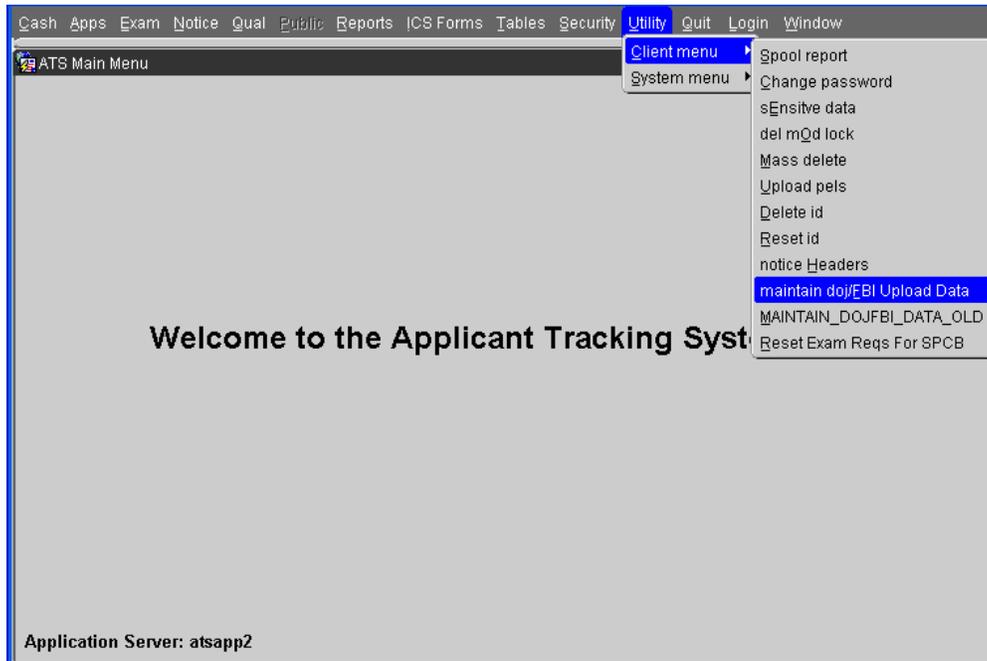
The "Application Requirements" table is as follows:

Code	*Description	*Pri	*Stat	*Qual Dt	*Exp Date	*Comments
AFF	Application Form & Fee	1	F	12/14/2010		
AFF	Affidavit Signed	1	F	12/14/2010		
LSF	LIVE SCAN FORM	1	F	12/14/2010		
LJD	LIVESCAN DOJ	1	P			
LFB	LIVESCAN FBI	1	P			
DOJ	FINGERPRINT CARDS DOJ	1	N			
FBI	FINGERPRINT CARDS FBI	1	N			
PLE	Pre-License Education	1	F	12/14/2010		

7. Hit "Ctrl" + "S" to Save.
8. Hit F4 to return to main menu

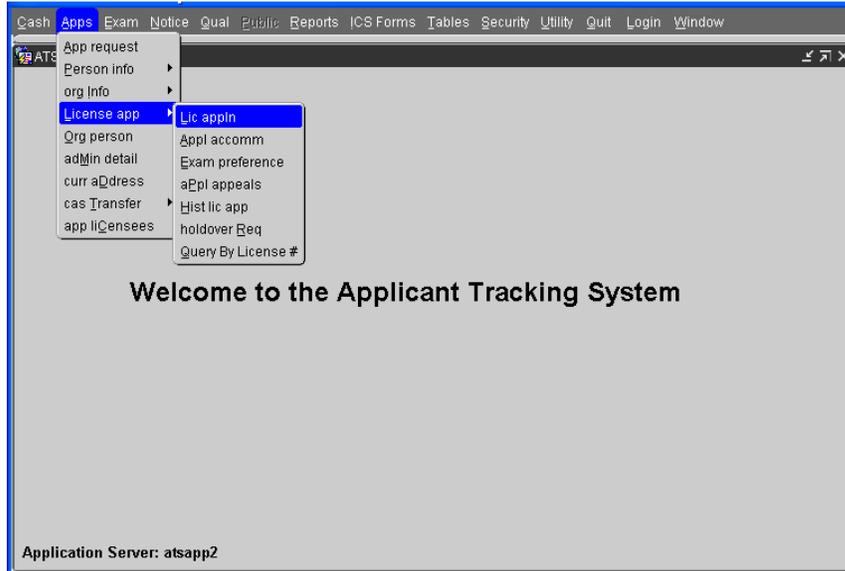
IV. Click on the **Utility Menu** and choose **Client Menu**, then **Maintain DOJ/FBI Upload Data.**

(KeyBureau shortcut: "Alt" + "U" + "C" + "F".)



1. Enter ATS ID
2. Hit “Ctrl” + “F11.”
3. Verify it is correct applicant and results
4. Click on Update ATS.
5. Verify the information
6. Click on “Yes.”
 - You will be returned to the maintenance screen.
 - Click on F11, re-enter ATS ID to search for applicant’s next record.
7. Repeat for all results of applicant.
8. Hit “F4” to return to Main Menu.

V. On the Apps Menu, select License app, then Lic appln.



(KeyBureau shortcut: "Alt" + "A" + "L" + "L".)

The screenshot shows a window titled 'MAINTAIN DOJ/FBI UPLOAD DATA' with a menu bar containing 'Action', 'Block', 'Query', 'Record', 'Menu', 'Help', and 'Window'. The window title bar also includes 'ATAMDNEW', 'PROFESSORAL FIDUCIARIES BUREAU', and '12/14/2010'. The main area contains the following fields and sections:

- Record Status:** No application (with an 'Update ATS' button)
- Remove:** Reason: [text field]
- Applicant Info:**
 - ATS ID: 547 (with a tooltip: 'This screen is mouse-enabled.') [text field]
 - Last Name: [text field] First Name: [text field] Middle Initial: [text field]
 - Aka Name: [text field]
 - SSN: [text field] DOB (Birth Date): [text field] Secondary ID: N8102696 [text field]
- Fingerprint Info:**
 - Processing Agency: DOJ [text field] App ORI Code: AA490 [text field] Resp Date: 11/02/2010 [text field]
 - ATI Code: M301TED001 [text field] SCN #: 90000 [text field] OCA #: PROFESSIONAL FIDICIA [text field]
 - Applicant Title: PROFESSIONAL FIDICIARY [text field] Status Description: Clear [text field]
- ATS Info:**
 - Agency Code: 3108 [text field] Lic Type: PF [text field] Qual Method: [text field] Requirement Code: [text field]
 - Ats Run Date: 11/02/2010 [text field] Ats Transfer Date: [text field] Sys Id: 562481 [text field]
- Show Updated and Removed Records:** Response Text: there is no information meeting dissemination criteria [text field]

1. If all requirements are complete, then to create an Applicant Exam Eligibility Notice.
2. From the **Menu** select **indiV ntc act**.
(KeyBureau Shortcut: “Alt” + “M” + “V”).

Note: If current applicant record does not appear, enter ATS ID# + “Ctrl” + “F11.”

3. Applicant information will appear.
4. Hit “Shift” + “Page Down” to get to *Notice#: field.

The screenshot shows a software application window with the following elements:

- Menu:** A dropdown menu is open, showing 'indiV ntc act' as the selected option. Other options include 'Person detail', 'Org detail', 'cUrrrent names', 'current orG nam', 'Curren address', 'admin Hold', 'appl accoM', 'eXam preference', 'exTernal exam', 'recipieNt hist', 'Internal exams', 'Qry all exams', 'app rEquest', 'ciDp', 'cRedit evaluation', 'REC INFO', 'Mail label', and 'PFB app details'.
- Header:** 'ATLAPPN', 'PROD', 'PFABIGE', 'PROFESSIONAL FIDUCIARIES BUREAU', and '12/14/2010'.
- Title:** 'License Application'.
- Fields:** *ID: 647, *L: [redacted], *Org: [redacted], DOB: 12/14/2010, User/Source: [redacted], Adm Hold: [checkbox], F: [redacted], M: [redacted], S: [redacted], FEIN: [redacted].
- Table:**

Mtd	*Status	*Date	File Loc	Date	Auth	Lic	Class	Hist
STANDARD	P	12/14/2010						
- Application Requirements Table:**

Code	*Description	*Qual Dt	*Exp Date	*Comments
AFE	Application Form	12/14/2010		
AFF	Affidavit Signed	12/14/2010		
LSF	LIVE SCAN FORM	12/14/2010		
LDJ	LIVESCAN DOJ	12/14/2010		
LFB	LIVESCAN FBI	1	F	12/14/2010
DOJ	FINGERPRINT CARDS DOJ	1	N	
FBI	FINGERPRINT CARDS FBI	1	N	
PLE	Pre-License Education	1	F	12/14/2010

Action Block Query Record Menu Function Help Window

Individual Notice Activities

ATNIACT PROFESSIONAL FIDUCIARIES BUREAU 12/14/2010

PROD PFABIGE Individual Notice Activities

*ID: [] SSN: [] DOB: [] User/Source: [] Adm Hld:

*L: [] *F: [] *M: [] S: []

Org: [] FEIN: []

*Notice #: 2 Exam Eligibility Letter Enforce Notice Reason: Enforce Admin Hold:

Lic Type: PF Professional Fiduciarie

Cycle #: [] Note: []

Recipient Notice Inserted Phrases

*Seq	Phrase Code	Phrase Text
[]	[]	[]
[]	[]	[]
[]	[]	[]

Notice Printing Parameters

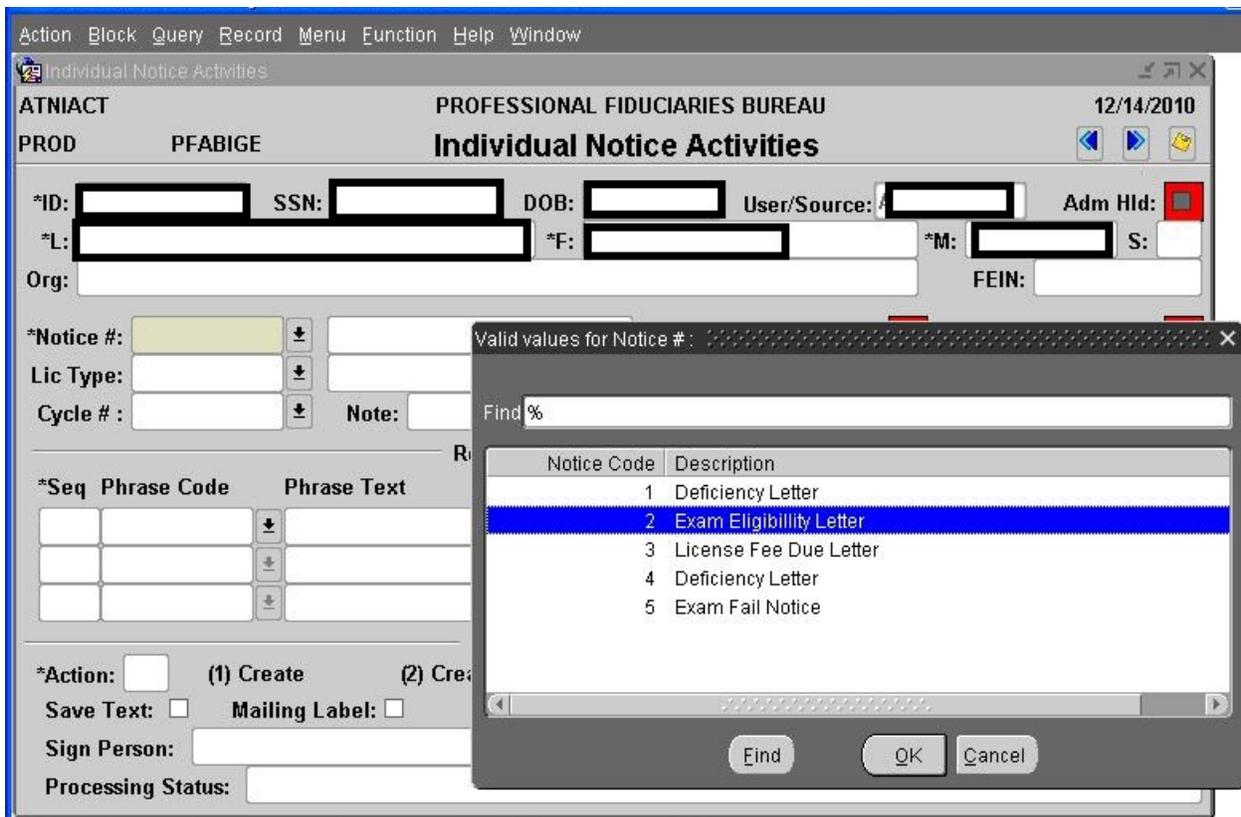
*Action: 2 (1) Create (2) Create/Print (3) Create/Edit/Print (4) Sample

Save Text: Mailing Label:

Sign Person: Angela Bigelow Title: Program Analyst

Processing Status: []

5. On the **Notice Drop-down menu**, select the correct type of notice.
6. Click "OK."



7. Hit "Tab" key 3 times, then "Shift" + "Page Down" 2 times to get to Notice Printing Parameters.
8. Hit "Ctrl" + "S" to create letter. Letter will appear in new window.
9. Print letter, sign, copy, and send to applicant.
10. Place copy of letter in applicant file and file in Pending Applications drawer.



Professional Fiduciaries Bureau
Post Office Box 969007
West Sacramento, CA 95798-9007
Telephone: (916) 574-7340 FAX (916) 928-7988
Website: www.fiduciary.ca.gov



"Caring for California's loved ones"

December 14, 2010

Examination Eligibility #: 647

[Redacted]
Dear [Redacted]

The Professional Fiduciary Bureau has determined you eligible to take the CA Professional Fiduciary Licensing Examination. Your examination eligibility period is for twelve (12) months.

The examination consists of two parts, one part that is national in scope and one part that is specific to California law. You must achieve a passing score on both parts of the exam to be considered for licensure.

The examination provider is the Center for Guardianship Certification (CGC). To register for the exam you must complete the examination application form available on the CGC web site at www.guardianshipcert.org. Following registration, you will need your examination eligibility number to schedule for the exam.

You may contact CGC at (717) 238-4689 or email, certification@guardianshipcert.org with any questions regarding the examination.

If you fail either one or both parts of the exam you may sit for re-examination a maximum of four (4) times within your twelve (12) month eligibility period not to exceed one re-examination attempt every thirty (30) days. If you do not pass both parts of the exam within your eligibility period, you must start the licensing process over from the beginning.

Sincerely,

Angela Bigelow
Program Analyst

VI. Licensee contacts CGC and registers for Exam. Refer to IV page 7.

- At the licensing screen, enter 313 to select Update Fiduciary Data, then press <Enter>.

```
L300PF          PROFESSIONAL FIDUCIARIES LICENSING BUREAU          12/14/10
                  LICENSING MENU
```

SELECTION 313

```

ADD PERSONAL LICENSE..... 310      UPDATE GENERAL NOTEBOOK.. 327
UPDATE PERSONAL LICENSE.. 320
UPDATE LICENSE STATUS.... 315      DELETE PERSONAL..... 330
UPDATE FIDUCIARY DATA.... 313
                                     MASS ADDRESS UPDATE..... 341
                                     CASHIERING..... 350
                                     SSN NUMBER UPDATE..... 360

VOID/DUP/REPL LIC NOTICE. 303      LICENSES..... 600
                                     QUERY LICENSE(PRIMARY)... 601
                                     QUERY LICENSE(SECONDARY). 602
```

PF=QUIT

- At the next screen, the cursor should be blinking on the line directly underneath the column entitled NUMBER. Type the license number there and press <ENTER>.

```
DCE120PC PF          Professional Fiduciaries Licensing Bureau          12/14/2010
DCE120MC                  Fiduciaries by License                      13:53:40.6
```

Agy: 3108 LicTp: PF

```

- L I C E N S E -          - R E P O R T -
*Ac Number Name          Tp Sched Dt Due Dt
--- 187 -----
0000187                A 20110130 20110130
0000188                A 20110901 20110901
0000189                A 20110501 20110501
0000190                A 20111001 20111001
0000191                A 20110130 20110130
0000192                A 20101101 20101101
0000193                A 20110901 20110901
0000194                A 20110901 20110901
0000195                A 20110901 20110901
0000196                A 20110601 20110601
Dec 14, 10
*Go
F1=help, F2=return, F3=quit, F4=add, F5=flip, F6=Go, F7=backwd, F8=fwrdd, F12=main
1:53 PM
SYS PROD
```

4. Underneath the column entitled **NAME**, the fiduciary's name should be first on the list. Place an "S" on the line directly underneath the *Ac column next to the fiduciary being selected and press <Enter>.

DCE120P9 PL Professional Fiduciaries Licensing Bureau 12/14/2010
 DCE120M9 Fiduciary Reports 14:18:27.2

[Redacted]
 Lic PF [Redacted]

```

- R E P O R T V E R S I O N S -
*Ac Sched Dt Due Dt Status Type FID-ID
-----
s 20110901 20110901 Incomplete Annual 0000001054
  20100901 20100901 Complete Annual 0000000494
  20080830 20080830 Complete Original 0000000068
*** End of Data ***
  
```

Dec 14,10 2:18 PM
 *Go SY5 PROD
 F1=help, F2=retrn, F3=quit, F4=add, F5=flip, F6=Go, F7=bkwrđ, F8=frwrđ, F12=main

5. The fiduciary's statement reports appear on the next screen. Place an "S" on the line next to the statement year that you need to update.

DCE120P0 PF Professional Fiduciaries Licensing Bureau 12/14/2010
 DCE120M0 Fiduciaries by License 13:53:40.6

Agy: 3108 LicTp: PF

```

- L I C E N S E - - R E P O R T -
*Ac Number Name Tp Sched Dt Due Dt
--- 137 -----
S 00000187 A 20110130 20110130
  00000188 A 20110901 20110901
  00000189 A 20110501 20110501
  00000190 A 20111001 20111001
  00000191 A 20110130 20110130
  00000192 A 20101101 20101101
  00000193 A 20110901 20110901
  00000194 A 20110901 20110901
  00000195 A 20110901 20110901
  00000196 A 20110601 20110601
  
```

Dec 14,10 1:53 PM
 *Go SY5 PROD
 F1=help, F2=return, F3=quit, F4=add, F5=flip, F6=Go, F7=bkwrđ, F8=frwrđ, F12=main

II. Add a New Court-Appointed Case

1. Follow steps 1-5 under Access Fiduciary's Statements.
2. Place an A on the line entitled *Ac and press <ENTER>. The Fiduciary Account screen appears.

```
No records with prefix 3108PF found for the current input
DCE121PC  PB          Professional Fiduciaries Licensing Bureau      12/14/2010
DCE121MC          Fiduciary Accounts                               14:20:26.2
```

```
File: FF 00000068  FidID: 0000001054
```

```
      Fid
*Ac Typ  Case Name                               Fid AcctID
-----
A                                     *** End of Data ***
```

```
Dec 14, 10                                     2:20 PM
*Go                                             SYS PROG
F1=help, F2=return, F3=quit, F4=add, F5=fl ip, F6=Go, F7=backwd, F8=fwrdd, F12=main
```

3. Enter the following data fields:

- Case number. If there is no case number, enter, "NONE."
- Annual report date = Date the report is due (MM/DD/YYYY).
- Case type = T, G, C, P. (If it is something other than these four, write it on the Other line, e.g., PR for Personal Representative.)
- Court Appointed? = Y (if not court appointed leave blank).
- Appointed Date (MM/DD/YYYY) (if date is reported).
- Rptd = Date the fiduciary signed the Annual Statement (MM/DD/YYYY).
- Case Name. Abbreviate if necessary.
- Court Location. Enter the county or city only.

```
DCF121PC EA          Professional Fiduciaries Licensing Bureau      A 12/14/2010
DCF121MC          Fiduciary Account                                14:21:03.8
```

```
Nic: FF 00000068      FidID: 0000001054      AcctID:
```

```
Case Number None_____ Fiduciary actions reported?
Annual Report date: 09/01/2010
```

```
Case Type C Other Desc _____
Court Appointed? _ Appointed Date: 08/20/2010      Rptd: 08/20/2010
```

```
Begin Date:          Rptd          End Date:          Rptd
```

```
Case Name _____
```

```
Court Location _____
```

```
Dec 14, 10          1 more >
?Go          SYS PROD
ENTER=confirm, F1=help, F2=return, F3=quit, F5=flip, F6=Go, F10=left, F11=right, F12=main
```

4. Press <Enter> to submit. You will receive a CAS message that indicates the case was entered successfully.
5. Return to the screen that displays the fiduciary's cases and repeat until all new court-appointed cases have been entered.

III. Add a New Non-Court Case – Other Clients

The steps to add a new non-court case are almost the same as those listed above, except for the possible differences listed below:

1. If there is no case number provided, type **NONE**.
2. At the data field question **Court Appointed?**, leave blank.

- At the data field Appointed Date, type in the appointed date because this represents the date the Fiduciary accepted or opened the non-court case.

```
No records with prefix 3108PF found for the current input
DCE121P0 P3      Professional Fiduciaries Licensing Bureau      12/14/2010
DCE121M0      Fiduciary Accounts                                14:20:26.2
```

```
Lic: PF [REDACTED]
```

```

      Fid
*Ac Typ Case Name                               Fld AcctID
-----
A                                     *** End of Data ***
```

```
Dec 14,10      2:20 PM
*Go           SYS PROC
F1=help, F2=return, F3=quit, F4=add, F5=flip, F6=Go, F7=bkwd, F8=frwd, F12=main
```

IV. Add a Closed Case. (Case was opened and closed before the applicant applied for licensure with PFB.)

- Place an A on any line in the *Ac column to add a closed case, and press ENTER. Enter case number. If there is no case number, enter, "NONE."
- Enter initial annual report date.
- Enter case type (T, G, C, P etc. If it is something other than these four, enter it on the OTHER line).
- If it has a case number, place a "Y" on the court appointed line; if it doesn't, leave it blank.
- Enter End Date (MM/DD/YYYY).
- Enter Reported date (date the licensee signed the statement).
- Enter case name.
- Enter court location (only if it is a court case).
- Press ENTER to submit.

DCF121P0 PA Professional Fiduciaries Licensing Bureau A 12/15/2010
DCF121M0 Fiduciary Account 14:21:57.5

Lic: PF 00000107 FidID: 000000823 AcctID:

Case Number None _____ Fiduciary actions reported?
Annual Report date: 07/30/2010

Case Type T Other Desc _____
Court Appointed? Y Appointed Date: 04/02/2010 Rptd: 07/30/2010

Begin Date: Rptd End Date: 06/08/2010 Rptd 07/30/2010

Case Name _____

Court Location Los Angeles _____

Dec 15, 10 1 more >
*Go SYS PROD
ENTER=confirm, F1=help, F2=return, F3=quit, F5=flip, F6=Go, F10=left, F11=right, F12=main

V. Close an Annual Statement

After all client cases have been entered in the Annual Statement:

1. Select F2
2. On the Annual Reports screen that appears, type "M" on the line next to the statement year that you want to close.
3. Enter the following data in the following data fields:
 - Compl? = Enter "Y" for "Yes."
 - Fid Type?= C,G,T,P, or Other (as reported in Part 1. of the statement).
 - Total Client Assets? = Enter the total dollar amount of assets the fiduciary manages (as reported in Part 3. of the statement).
 - Filed Bankruptcy? = Enter "Y" for "Yes" if the licensee has filed bankruptcy in the last 10 years. Leave blank if the licensee has not filed bankruptcy. (As reported in Part 4., Section 2 of the statement or initial application).
 - Business Address = Address of Record or Business Address (as reported in Part 1. of the statement).
 - Fax Number (as reported in Part 1 of the statement).
4. Look at the Initial Application and Annual Statement for the following:
 - Other License type (Initial application Part 2., Annual statement Part 2.).
 - Pre-Licensing Education (Initial application Part 4.).
 - Education (Initial application Part 5.).
 - Experience (Initial application Part 5.).
 - References (Initial application Part 5.).
 - Business Interests (Initial annual statement Part 4., Section 1.).
 - Bankruptcy (Initial application Part 3., Initial annual statement Part 4, Section 2.).
5. Press <Enter>. The Statement should now read, "Statement complete."

VI. Release License in CAS

1. Select F2 twice.
2. Enter 315 and press <Enter>.
3. Enter the license number and press <Enter>.
4. At Secondary Status, delete the number 24.
5. At Hold License Print, replace the Y with an N.
Press <Enter> to submit.

Note: The license will not be mailed to the licensee until the renewal fee has been cashiered.

VII. File the Annual Statement.

1. Place an "X" on the colored post-it tab that contains the Annual Statement date.
2. Place the tab on page 1 of the Annual Statement.
3. Place the statement in the file.

Renewal Process

The Professional Fiduciaries Bureau requires all licensees to renew their licenses annually. The renewal date is the last day of the birth month of the licensee.

The Employment Development Department (EDD) sends a renewal notice to the licensee 60 days prior to the renewal deadline for the licensee. The renewal notice indicates the renewal date and applicable renewal fee. The renewal notice has a detachable slip at the bottom of the notice requiring a licensee signature that indicates, under penalty of perjury, that the licensee has completed the required 15 hours of Continuing Education at a certified instructional facility (See Appendix C for list of schools which have been certified) , and a completed Annual Statement, as indicated on the [PFB Internet site](#).

The Statement is reviewed to ensure all questions are answered. As with initial licensee applications, renewal packets may also be deficient. In these cases, no official letter template exists. When such situations arise, the PFB places a phone call and follow-up email to the licensee to obtain the missing information.

Once all necessary renewal information has been received by PFB, the Annual Statement information must be entered into CAS:

Annual Statements—Adding and Closing Cases

I. Access Fiduciary's Statement(s)

1. Log onto CAS, and at CAS Startup menu:
 - a. Enter (1) for selected code to access the Licensing Module, 3108 for Outside Agency Number, then press <Enter>.

```
L001          C O N S U M E R   A F F A I R S   S Y S T E M S          12/14/10
              - Start Up Menu -

              CCCCCCCCCC   AAAAAAAAAA   SSSSSSSSS
              CCCC        AAA   AAA   SSSS
              CCCC        AAAAAAAAAA   SSSSSSSSS
              CCCC        AAA   AAA   SSSS
              CCCCCCCCCC   AAA   AAA   SSSSSSSSS

CODE  CAS OPTIONS          CODE  BAR & MISC. OPTIONS
-----
  1 = LICENSING           6 = ACTIVITY REPORTING
  2 = ENFORCEMENT        7 = BAR MAIN MENU
  3 = LICENSING TABLES  8 = INTAKE MENU
  4 = ENFORCEMENT TABLES 9 = BAR REPORTS
  5 = ENFORCMENT LETTER MAINT 0 = BAR TAS MENU
  E = ENFORCEMENT QUERY
  L = LICENSING QUERY

Enter Selected Code 1

PFI=QUIT  PFI=CONTACTS          ENTER OUTSIDE AGENCY NUMBER 3108
```


d. Underneath the column entitled **NAME**, the fiduciary's name should be first on the list. Place an "S" on the line directly underneath the *Ac column next to the fiduciary being selected and press <Enter>.

DCE12070 PF Professional Fiduciaries Licensing Bureau 12/14/2010
 DCE120M0 Fiduciaries by License 13:53:40.6

Ajy: 3108 LicTp: PF

```

- L I C E N S E - - R E P O R T -
*Ac Number Name Tp Sched Dt Due Dt
--- 137 -----
S 00000187 A 20110130 20110130
  00000188 A 20110901 20110901
  00000189 A 20110501 20110501
  00000190 A 20110601 20110601
  00000191 A 20110130 20110130
  00000192 A 20101201 20101201
  00000193 A 20110901 20110901
  00000194 A 20110901 20110901
  00000195 A 20110901 20110901
  00000196 A 20110601 20110601
Dec 14,10 1:53 PM
*Go SY5 PROD
F1=help, F2=retm, F3=quit, F4=add, F5=flip, F6=Go, F7=bkwr, F8=frwr, F12=main
  
```

e. The fiduciary's statement reports appear on the next screen. Place an "S" on the line next to the statement year that you need to update.

Professional Fiduciaries Licensing Bureau 12/14/2010
 Fiduciary Reports 14:18:27.2

Lic PF

```

- R E P O R T V E R S I O N S -
*Ac Sched Dt Due Dt Status Type FID-ID
---
s 20110901 20110901 Incomplete Annual 0000001054
  20100901 20100901 Complete Annual 0000000494
  20080830 20080830 Complete Original 0000000068
*** End of Data ***
  
```

Dec 14,10 2:18 PM
 *Go SY5 PROD
 F1=help, F2=retm, F3=quit, F4=add, F5=flip, F6=Go, F7=bkwr, F8=frwr, F12=main

II. Add a New Court-Appointed Case

1. Follow steps VI.1 under Access Fiduciary's Statements (Page 7 of this manual).
2. Place an "A" on the line entitled *Ac and press <ENTER>. The Fiduciary Account screen appears.

No records with prefix 3108PF found for the current input
DCE121P0 PB Professional Fiduciaries Licensing Bureau 12/14/2010
DCE121M0 Fiduciary Accounts 14:20:26.2

Lic: PF FidID: 0000001054

	Fid			
*Ac	Typ	Case Name		Fid AcctID
-----	-----	-----	-----	-----
A			*** End of Data ***	

Dec 14,10 2:20 PM
*Go SY5 PROD
F1=help, F2=retrn, F3=quit, F4=add, F5=flip, F6=Go, F7=bkwr, F8=frwr, F12=main

3. Enter the following data fields:

- Case number. If there is no case number, enter, "NONE."
- Annual report date = Date the report is due (MM/DD/YYYY).
- Case type = T, G, C, P. (If it is something other than these four, write it on the Other line, e.g., PR for Personal Representative.)
- Court Appointed? = Y (if not court appointed leave blank).
- Appointed Date (MM/DD/YYYY) (if date is reported).
- Rptd = Date the fiduciary signed the Annual Statement (MM/DD/YYYY).
- Case Name. Abbreviate if necessary.
- Court Location. Enter the county or city only.

```
DCF121PC PA Professional Fiduciaries Licensing Bureau A 12/14/2010
DCF121MC Fiduciary Account 14:21:03.8
```

```
Lic: FF 00000068 FidID: 000001054 AcctID:
```

```
Case Number None _____ Fiduciary actions reported?
Annual Report date: 09/01/2010
```

```
Case Type C Other Desc _____
Court Appointed? _ Appointed Date: 08/20/2010 Rptd: 08/20/2010
```

```
Begin Date: Rptd End Date: Rptd
```

```
Case Name _____
```

```
Court Location _____
```

```
Dec 14,10 1 more >
*Go SYS PROD
ENTER=confirm, F1=help, F2=return, F3=quit, F5=flip, F6=Go, F10=left, F11=right, F12=main
```

4. Press <Enter> to submit. You will receive a CAS message that indicates the case was entered successfully.
5. Return to the screen that displays the fiduciary's cases and repeat until all new court appointed cases have been entered.

III. Add a New Non-Court Case – Other Clients

The steps to add a new non-court case are almost the same as those listed above, except for the possible differences listed below:

1. If there is no case number provided, type **NONE**.
2. At the data field question **Court Appointed?**, leave blank.
3. At the data field **Appointed Date**, type in the appointed date because this represents the date the Fiduciary accepted or opened the non-court case.

IV. Add a Closed Court-Appointed or Non-Court-Appointed Case. (Case was opened and closed after the date of the last statement.)

1. Follow steps VI.1 under Access Fiduciary's Statements (Page 7 of this manual).
2. Place an A on any line in the *Ac column to add a closed case, and press ENTER.

```
No records with prefix 3108PF found for the current input
DCE121PC PB          Professional Fiduciaries Licensing Bureau      12/14/2010
DCE121MC              Fiduciary Accounts                          14:20:26.2
```

```
             hi
Lic: PF 00000068  FidID: 000001054
```

```
      Fid
*Ac Typ Case Name                               Fid AcctID
-----
A                                     *** End of Data ***
```

```
Dec 14, 10                               2:20 PM
*Go                                         SYS PRGD
F1=help, F2=return, F3=quit, F4=add, F5=flip, F6=Go, F7=bkwd, F8=fwrdd, F12=main
```

3. Enter the following:
 - Case number. If there is no case number, enter **NONE**.
 - Annual report date (MM/DD/YYYY).
 - Case type = T, G, C, P. (If it is something other than these four, write it on the Other line, e.g., PR for Personal Representative.)
 - Court Appointed? = Y; if not a court-appointed case, leave this field blank.
 - End Date. (MM/DD/YYYY).
 - Rptd = Date the fiduciary signed the Annual Statement (If appointed dated was reported)

- Case Name. Abbreviate if necessary.
- Court location (only if it is a court case, and city or county only).
- Press ENTER to submit.

PA Professional Fiduciaries Licensing Bureau A 12/15/2010
Fiduciary Account 14:21:57.5

Lic: PF FidID: AcctID:

Case Number None _____ Fiduciary actions reported?
Annual Report date: 07/30/2010

Case Type T Other Desc _____
Court Appointed? Y Appointed Date: 04/02/2010 Rptd: 07/30/2010

Begin Date: _____ Rptd _____ End Date: 06/08/2010 Rptd 07/30/2010

Case Name

Court Location Los Angeles _____

Dec 15,10 1 more >
*Go _____ SY5 PROD
ENTR=confm,F1=help,F2=retrn,F3=quit,F5=flip,F6=Go,F10=left,F11=right,F12=main

V. Close an Annual Statement

After all Annual Statement updates have been made:

1. Select F2
2. On the Annual Reports screen that appears, type "M" on the line next to the statement year that you want to close.
3. Enter the following data in the following data fields:
 - Compl? = Enter "Y" for "Yes."
 - Fid Type? = C,G,T,P, or Other.
 - Total Client Assets? = Enter the total dollar amount of assets the fiduciary manages.
 - Business Address = Address of Record or Business Address.
 - Fax Number.
4. Press <Enter>. The Statement should now read, "Statement complete."

VI. Release License in CAS

1. Select F2 twice.
2. Enter 315 and press <Enter>.
3. Enter the license number and press <Enter>.
4. At Secondary Status, delete the number 24.

5. At Hold License Print, replace the Y with an N.
6. Press <Enter> to submit.

Note: The license will not be mailed to the licensee until the renewal fee has been cashiered.

VII. File the Annual Statement.

1. Place an "X" on the colored post-it tab that contains the Annual Statement date.
2. Place the tab on page 2 of the Annual Statement.
3. Place the statement in the file.

Submission and Registration of Complaint

Complaint Intake and Processing Step-by-Step without Screen Shots

The process for submission and registration of a complaint begins when a complaint is submitted to the Professional Fiduciary Bureau via Cashiering, CIC, fax, email, other agencies, or any other source:

I. Staff Services Analyst (SSA) receives complaint via fax, email, mail, telephone, or in person.

- a. SSA date stamps complaint.
- b. SSA checks CAS to verify if the respondent is licensed with PFB. If licensed then check for existing complaints with the same licensee or complainant.

Note: If there are duplicate complaints already in the system, do not re-enter. Instead, pull the old file and place new information with existing file and give to the Customer Service Representative (CSR) for evaluation.

- c. SSA fills out Complaint Intake Form and creates complaint folder and gives to supervisor for assignment.
- d. SSA assigns complaint to a Consumer Services Representative or Investigator and sends acknowledgement letter to the complainant within ten (10) days of receipt of the complaint.

II. Consumer Services Representative (CSR) reviews complaint.

- a. CSR evaluates complaint for egregious violations requiring field investigation. If found, CSR refers the complaint to the Bureau Chief for further processing.
- b. If no serious violations or egregious violations are found, CSR inputs complaint details in CAS and sends acknowledgement letter.
- c. CSR makes initial contact with consumer complainant and discusses details of complaint and inquires for more detail as to allegations against the licensee.
- d. CSR makes initial contact with licensee, discusses details of complaint, and discusses how the licensee would like to resolve the complaint.
- e. CSR re-contacts the consumer complainant and the licensee until the complaint is resolved. If the complaint cannot be resolved and there are no violations, the consumer is advised of his or her options, such as small claims court, other regulatory agencies or pursuing litigation.
- f. If any serious violations worthy of investigation are discovered during the resolution process, the CSR refers the complaint to the Bureau Chief for further processing.

*Please refer to the Complaint Resolutions Program Policy Manual.

- III. Bureau Chief receives complaints in need of investigation from the CSR.
 - a. Bureau Chief reviews complaint to determine whether complaint should be investigated by a sworn or non-sworn investigator.
 - i. If the Chief decides the violations are serious enough to warrant investigation by a sworn investigator, the complaint is referred to the Division of Investigation.
 - ii. If the violations do not require investigation by a sworn investigator, the Chief refers the complaint to PFB's non-sworn investigator.

- IV. Non-Sworn Investigator:

Please refer to the Investigation and Enforcement portion of this manual for a Step-by-Step explanation and flow chart of Investigation and Enforcement process.

- ii. On the next line, mid-screen, ensure that “R” is entered after “NAME TYPE” to ensure you are searching for licensee records.
 - iii. Tab down to the “L” under “PERSONAL” and enter the licensee’s last name. Press Enter.
- e. The next screen will list all complaints registered against licensees with the last name entered in the screen above. Place an “X” next to the line in front of the licensee you are registering a complain against and press <Enter>.

Complaint information specific to that licensee will appear.

- i. Review the screens for information on prior complaints by pressing <Enter> to move from screen to screen, as shown below.
- ii. When all screens have been viewed, you will be returned to the screen in Step 3.
- iii. Make any necessary notes on the Complaint Intake Form.

Note: If there are duplicate complaints already in the system, do not re-enter. Instead, pull the old file and place new information with existing file and give to CSR for evaluation.

```

F701                PROFESSIONAL FIDUCIARIES LICENSING BUREAU          01/13/11
                    ENFORCEMENT QUERY MENU

SELECTION IDENT FY SEQ AGY CDE LIC/APPL TP NO DOT/AG/OAH CNTY ABBR
   000
F717                PROFESSIONAL FIDUCIARIES LICENSING BUREAU          ██████████
                    QUERY COMPLAINT VIOLATIONS
COMPL NO PF 2009 ██████ INVESTIGATION TYPE C LIC/APP NO PF ██████
RESPONDENT ██████████

          S      I      C      O
          U  CAT  N EXP I CRIM A A FIN CODE
VICL  SFX  B  CSR  V SUP I CONV G H ORD BOCK  VIOLATION DESCRIPTION
=====
1
2
3
4
5
6
7
8
9
10

PF1=QUIT  2=CAS  3=EX  5=BACKWD  6=FWWD          EX ____

```

```

F713                PROFESSIONAL FIDUCIARIES LICENSING BUREAU
                                QUERY COMPLAINT
COMPLNT NO ██████████          STATUS C18 ID ██████████ UPDATE ██████████
                                DCA CTGY 0 AGY CTGY L          REC DT ██████████
INV TYP C          SOURCE L    REPI/REPL          PRICRITY 2    CSR DATE ██████████
ASGND C ██████████ MERIT/RPT
LIC #1 3108 PF ██████████ #2
LIC #3 ██████████ #4
ISSUE DT ██████████ EXP DT ██████████
RESP BUS NAME ██████████
ADD ██████████ F ██████████ M ██████████ SEX ██████████
                                BUS HOME
                                COUNTY ██████████
CITY ██████████ ST CA ZIP ██████████
DL NO ██████████ SSN# ██████████ DCB
INCIDENT:
ADR
CITY ██████████ ST ZIP ██████████ COUNTY CASE LINK
COMMENTS
                                INCLNT DATE
                                800 AMOUNT $

PF1=QUIT 2=CAS 3=EX 5=LIC 6=PRICR 7=RSPDNT EX ____

```

- f. Check for duplicate complaints filed by the same complainant:
 - i. Follow the same procedure outlined on page 39 of this manual for checking complaints against licensees, after “NAME TYPE” enter “C” for complainant.
 - ii. Tab down to “PERSONAL” and enter the last of the complainant.

- iii. Follow the procedures as outlined above, but choose complaints based on the complainant name, rather than the licensee name.

Note: If there are duplicate complaints already in the system, do not re-enter. Instead, pull the old file and place new information with existing file and give to CSR for evaluation.

```

F701                PROFESSIONAL FIDUCIARIES LICENSING BUREAU          01/13/11
                    ENFORCEMENT QUERY MENU

SELECTION  IIDENT FY  SEQ   AGY  ODE  LIC/APPL TP  NO   DOI/AG/OAH  CNTY ABBR
713        _____  _____  _____  _____  _____  _____  _____  _____

BUSINESS    NAME TYPE C ( R - RESPONDENT/APPLICANT  C - COMPLAINANT)
PERSONAL
1 ██████████ _____ F _____ M _____ SFX _____

CNTY  CITY NAME                ( Y = STREET NO/NAME) ( N = STREET NAME/NO) (Y/N)
_____  _____  _____  _____  _____  _____  _____  _____  _____  _____
                                                                 Y

          GENERAL SELECTIONS                SPECIAL SELECTIONS
COMPL/APPS... 713  GENERAL NAME.. 481  LEGAL DESK.. 733  SITE INSPECT(all).. 703
CITATIONS.... 764  GENERAL LIC.. 483  STIPULATION 745  SITE INSP NON LIC. 705
DISCIPL CASE.. 729  LIC BY NAME.. 484  DOI NO..... 475  COMBINED INV QUERY 480
PEN/PROB..... 757  COM/CASE LINK 479  AG NO..... 476  DOI INVEST BY COMP 718
ACTIONS..... 720  GEO..... 488    OAH NO..... 478  CONSERVATORSHIP... 753

PFL=QUIT  2=CAS

```

- g. SSA fills out Complaint Intake Form and creates complaint folder.

Note: The Complaint Intake Form can be found on the PFB drive, in the PFB folder, then the Complaints folder. There is also a version of the Complaint Intake Form in Appendix D of this manual.

- h. SSA gives complaint to Supervisor for assignment.
- i. SSA assigns complaint to a CSR or Investigator.
Log onto CAS and enter “2” for Enforcement and “3108” for Agency. Press <Enter>.

```

F001                C O N S U M E R   A F F A I R S   S Y S T E M S           01/13/11
                    - Start Up Menu -

                    CCCCCCCCC  AAAAAAAAA  SSSSSSSSS
                    CCCC      AAA   AAA   SSSS
                    CCCC      AAAAAAAAA  SSSSSSSSS
                    CCCC      AAA   AAA   SSSS
                    CCCCCCCCC  AAA   AAA   SSSSSSSSS

Code  CAS Options                Code  BAR & Misc. Options
-----
  1 = LICENSING                    6 = ACTIVITY REPORTING
  2 = ENFORCEMENT                  7 = BAR MAIN MENU
  3 = LICENSING TABLES            8 = INTAKE MENU
  4 = ENFORCEMENT TABLES          9 = BAR REPORTS
  5 = ENFORCMNT LETTER MAINT       0 = BAR TAs MENU
  E  ENFORCEMENT QUERY
  L = LICENSING QUERY

                    Enter Selected Code 2

PFL=QUIT  PFG=CONTACTS  P19=MAIL                Enter Outside Agency Number 3108

```

At the next screen, Enter “113” after “SEL” for “INITIATE” and press <Enter>:

CODE	DATE	ID	COMMENTS/ACTION	REFERENCE
CRCE	[REDACTED]	[REDACTED]	COMPLAINT RECEIVED BY BOARD	[REDACTED]
CCSR	[REDACTED]	[REDACTED]	ASSIGNED TO	
CCSR	[REDACTED]	[REDACTED]	ASSIGNED TO	
CCOM	[REDACTED]	[REDACTED]	JV	
CCFC	[REDACTED]	[REDACTED]	FIRST CONTACT WITH COMPLAINANT	
CC18	[REDACTED]	[REDACTED]	CLOSED-NO RESPONSE FROM COMPLAINANT	

PF1=QUIT 2=CAS 3=EX 5=EKWD 6=FWD 7=DESC 9=GEN 10=SUP 11=EO EX ___

II. Consumer Services Representative (CSR) processes complaint.

1. CSR evaluates complaint for egregious violations requiring field investigation. If found, CSR refers the complaint to the Bureau Chief for further processing.
 - a. The CSR enters the Action Code "IASI" to transfer the complaint to PFB's Non-Sworn Investigator.
 - b. The Bureau Chief will review the complaint to determine whether the complaint will remain with the Non-Sworn Investigator or be sent to the Division of Investigation for investigation by a Sworn Investigator.
2. If no serious violations or Elder Abuse Warning Signs are found, CSR initiates complaint in CAS.

5. CSR makes initial contact with consumer complainant and discusses details of complaint and inquires for more detail as to allegations against the licensee.
6. CSR makes initial contact with licensee, discusses details of complaint, and how the licensee would like to resolve the complaint.
7. CSR re-contacts the consumer complainant and the licensee until the complaint is resolved. If the complaint cannot be resolved, the consumer is advised of his or her options, such as small claims court, other regulatory agencies or pursuing litigation.
8. If any serious violations worthy of investigation are discovered during the resolution process, the CSR refers the complaint to the Bureau Chief for further processing.

Note: As the CSR completes the resolution process, all work, research, conversations, and contacts must be documented in CAS and in a separate Disposition document. Examples of documented CAS screens from a completed complaint follow.

```

F213                PROFESSIONAL FIDUCIARIES LICENSING BUREAU                01 13 2011
                                CHANGE COMPLAINT
COMPLNT NO PF 2009 43_____ STATUS C18 ID C1310132 UPDATE 06 30 2010
                                DCA CTGY 0 AGY CTGY L REC DT 06 17 2009
INV TYP C SOURCE L REPT/REFL _____ PRIORITY 2_ CSR DATE 06 10 2010
ASGND C C1310132 MERIT/RPT _____ CONSUMER/PATIENT HARM _____
LIC #1 [REDACTED] LIC #2 _____
LIC #3 _____ LIC #4 _____
RESPONDENT 1 INFO: ISSUE DT 11 03 2008 EXP DT 10 31 2011
RESP BUS NAME _____
ADR [REDACTED] F [REDACTED] M _____ SEX _____
                                BUS _____ HOME _____
                                COUNTY 19
CITY MARINA DEL REY _____ ST CA ZIP 90292
DL NO _____ ST _____ SSN# _____ DOB _____
INCIDENT
ADR _____
                                COUNTY
CTY _____ ST _____ ZIP _____
COMMENTS _____ INCIDENT DATE _____
                                SOO AMOUNT $ _____

PF1=QUIT 2=CAS 3=EX 4=HELP 5=LIC 6=PRIOR 7=RESPDNT EX _____

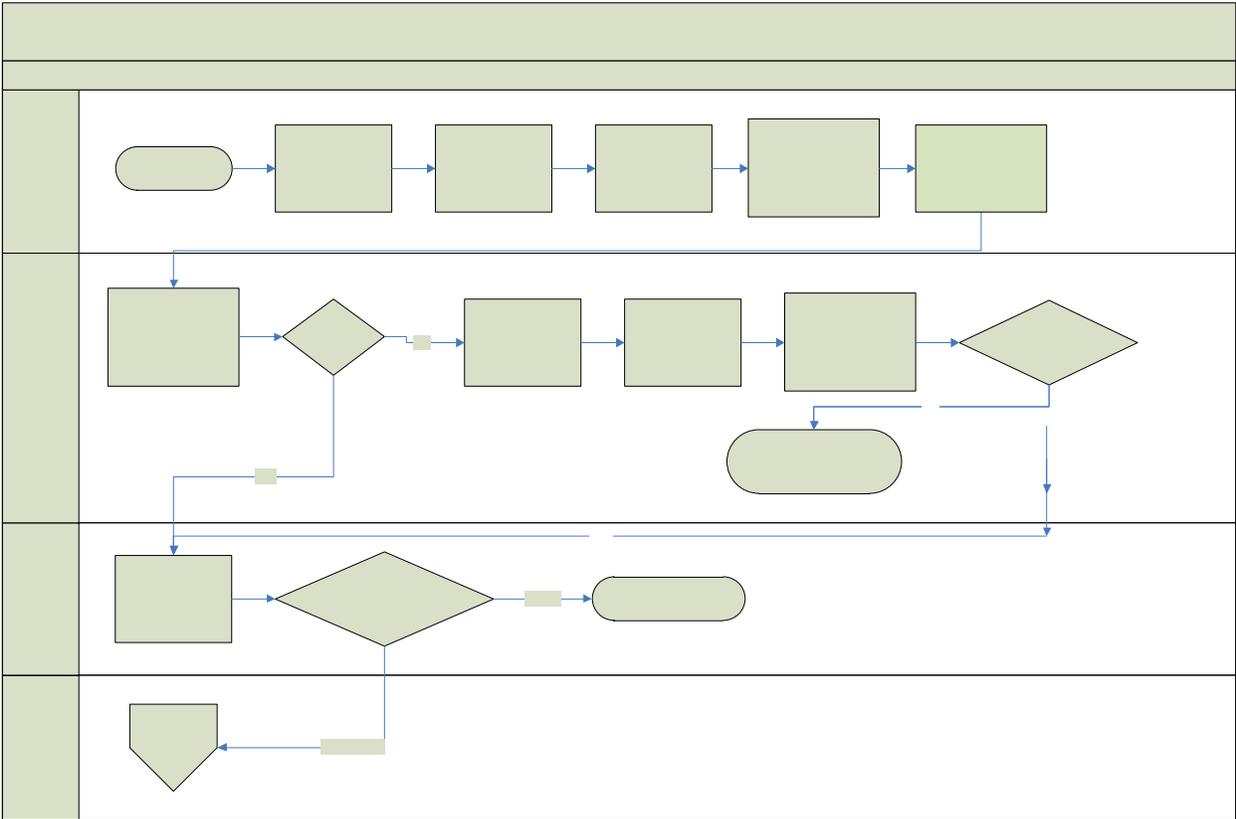
```

- III. Bureau Chief receives complaints in need of investigation from the CSR.
 - 1. Bureau Chief reviews complaint to determine whether complaint should be investigated by a sworn or non-sworn investigator.
 - a. If the Chief decides the violations are serious enough to warrant investigation by a sworn investigator, the complaint is referred to the Division of Investigation.
 - b. If the violations do not require investigation by a sworn investigator, the Chief refers the complaint to PFB’s non-sworn investigator.

Non-Sworn Investigator:

Please refer to the Investigation and Enforcement portion of this manual for a Step-by-Step explanation and flow chart of Investigation and Enforcement process.

Complaint Intake and Processing Flowchart



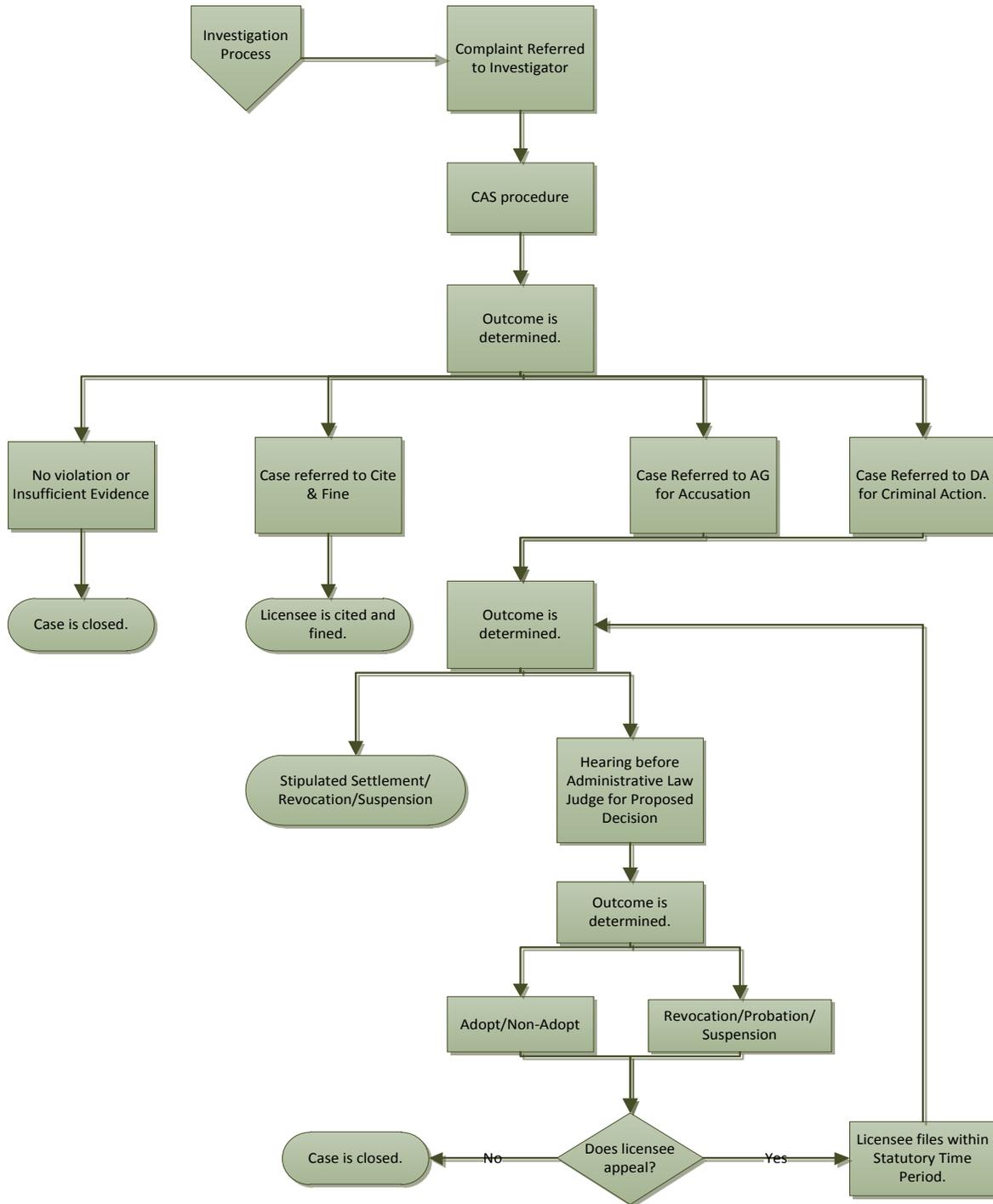
Investigation and Enforcement

Professional Fiduciary Bureau Enforcement Process Step-By-Step:

- I. Consumer Services Representative refers complaint to the Bureau Chief for referral to a sworn or non-sworn investigator if a violation is indicated.
- II. Complaint is sent to a Sworn Investigator.
 1. Complaint is referred to Division of Investigation.
- III. Complaint is sent to a Non-Sworn Investigator.
 1. Complaint is entered into CAS.
 2. Non-Sworn Investigator determines nature of violation and takes one of four actions:
 - a. A determination of No Violation or Insufficient Evidence is made, and the investigation is concluded.
 - b. The case is referred to Cite & Fine, and PFB concludes action.
 3. The case is referred to the District Attorney's Office for criminal prosecution or to the Attorney General's office for Accusation, where either:
 - a. The case is resolved via stipulation or settlement and a Disciplinary Order is issued.
 - b. The case goes to a hearing before an Administrative Law Judge (ALJ) who issues the Proposed Decision.
 - c. The Director adopts or non-adopts the proposed decision.
 4. The licensee/applicant may choose to appeal any decision, in which case an appeal must be filed within the statutory time period of 30 days.
 5. The Bureau shall serve a copy of the appeal to the Attorney General's Office.

Investigation and Enforcement Process Flowchart

Professional Fiduciaries Bureau Investigation and Enforcement Process Flow



Cite and Fine Process

- I. A citation may be issued as a result of findings from a complaint.
- II. The citation is mailed certified-return receipt and posted as a public record document on the Bureau's website.
- III. The cited person has three options:
 1. Pay the citation and satisfy the order of abatement. This will satisfy the citation and order and the citation will be closed.
 2. Request an administrative hearing within 30 days of issuance of the citation.
 3. Request an informal conference within 10 days after the citation has been served upon the cited person.
 - a. The Bureau shall hold, within 60 days from receipt of the request for an informal conference with the cited person.
 - b. At the conclusion of the informal conference the Bureau may affirm, modify, or dismiss the citation.
 - c. The Bureau shall state in writing the reasons for the action and transmit a copy of the findings and decision to the cited person.
 - d. The decision shall be deemed to be a final order with regard to the citation issued.
 - e. If modified, the original citation is considered withdrawn and a new citation issued.

I. Penalty and Consequences for Non-Compliance of Probation

A. Actions for Non-Compliance

The Probationer may not always be compliant with the conditions of his/her disciplinary order. Corrective action may need to be taken. Corrective action may include:

- **Advisory Notices:** An advisory notice warns the probationer that he/she is close to being in violation and needs to take corrective action to avoid a violation of probation and do what is required in his/her decision and order
- **Violation Letter:** Once the probationer has failed to meet a condition of probation, it is necessary to document and notify the probationer of a violation of probation. A violation does not always require further action but after multiple violations, it is necessary to pursue revocation of a licensure
- **Citations/Fines:** Refer to the Cite and Fine policies for the Professional Fiduciaries Bureau under Cite and Fine heading in the Table of Contents.
- **Suspension of Practice:** If the probationer has violated his/her probation and the reasons for the probation violations are so egregious that a suspension of practice might be urgently needed to protect public safety
- **Additional Meeting:** As in assuring compliance, it is important to meet with the probationer who is non-compliant, to assist him/her in becoming compliant with the probationary order let him/her know your intentions with the future of their license

If compliance cannot be reached or if the probationer is not willing to follow the conditions of probation, it will be necessary to pursue further discipline of the probationer's license.

B. Consequences of Non-Compliance

- Voluntary surrender of license
- Referral to the AG office for further discipline.

After trying to assist the probationer with meeting the requirements of probation, you may have no other choice than to request the Attorney General's office to pursue further action and ask for a revocation of the probationer's license.

C. Outcome of a Referral to the AG's Office

After referring the transmittal to the AG's office with the justification for a revocation of license, the process is similar to the process that Enforcement Analysts go through to put licensed individuals on probation in the first place.

- Once the accusation is filed, the probationer must respond to the paperwork that is served upon him/her.
- Timeframes exist for responding and are determined by the Attorney General's office on a case-by-case basis.
- If there is not a timely response, the probationer will enter into a default revocation of their license.
- If the probationer does respond in a timely manner, it will be necessary for the probationer or his/her lawyer to communicate with the AG's office

Examples of AG Referrals are:

- Stipulated Agreements – Extension of Probation or Surrender of License
- Request for Hearing

D. Administrative Hearing

- Probation Monitors may be called to testify as witnesses/custodians of record
- An Administrative Law Judge may recommend revocation or an extension of probation, or may order that the probation term has been completed. The Director can accept or reject the recommendation of the Judge
- Pending the outcome, the process could start over again

II. Types of Decision/Orders

- **Stipulated Settlement:** A stipulation is an agreement made by the parties or by their attorneys, in a judicial proceeding. Stipulations are also sometimes made regarding factual matters in order to save time required in producing evidence in court. A stipulation can be thought of as a contract between the Bureau and the probationer.

The Bureau considers stipulated settlements to promote cost effective consumer protection and to expedite disciplinary decisions.
- **Proposed Decision:** This is a decision that has been decided by an Administrative Law Judge (ALJ) after a hearing for a violation of probation or subsequent accusation or after a petition for modification or early termination of probation.

III. Probation Conditions/ Types of Conditions

- Standard Conditions: “Conditions that appear in all probation orders.” These are conditions that will be applied to each probationer regardless of why he/she is on probation.
- Optional Conditions: “Conditions that are appropriate to the nature and circumstance of the particular violation.” These are conditions that are applied for specific factors related to the probationer’s situation.

IV. Specific Probation Conditions

- Obey all laws/criminal court orders: Respondent shall obey all federal, state, local laws and all rules and regulations governing any practice for which Respondent is licensed. A full and detailed account of any and all violations of law shall be reported by Respondent to the Bureau in writing within seventy-two (72) hours of occurrence.

The probationer must submit fingerprints within a specified time to monitor this condition.

Examples:

- Violation of federal, state or local law (probationer must report within 72 hours of occurrence to the probation monitor)
- Felony or misdemeanor arrest
- Vehicle citation (case-by-case, usually automatic if drugs or alcohol involved)
- Violation of a regulation related to license practice

Normally, a criminal violation of county probation conditions or state parole is considered an automatic violation of these probation conditions.

- Comply with the Bureau’s probation program: Respondent shall fully comply with the conditions of the Probation Program established by the Bureau and cooperate with representatives of the Bureau in its monitoring and investigation of Respondent’s compliance with the Bureau’s Probation Program.

Examples:

- Respondent shall provide Bureau representative’s unrestricted access to inspect all business locations, including business records required to be maintained in accordance with Section 6560 of the Business and Professions Code.
- Respondent shall inform the Bureau in writing within fifteen (15) days of any address change and claim all certified mail issued by the Bureau.
- Respondent shall respond to all notices of reasonable requests timely, and submit reports, remedial education documentation, verification of employment, or other similar reports, as requested and directed by the Bureau or its representative(s).

- Failure to appear for any scheduled meeting or cooperate with the requirements of the program, including timely submission of requested information, shall constitute a violation of probation.
- Notification to Employer: Respondent shall be required to inform his/her employer and any subsequent employer during the probation period of the discipline imposed by this Decision by providing the employer with a copy of the Decision and Order in this matter. The employer will be requested to inform the Bureau, in writing, that he/she is aware of the discipline.
- Cost recovery/restitution/monitoring costs/citations: These conditions cover the authority to collect money from probationers for various situations.

Examples:

- Reimbursement for prosecution costs (Attorney General costs)
 - Reimbursement for investigation costs (internal or Division of Investigation)
 - Pay costs associated with monitoring
 - Comply with final orders of citations (citations for not complying with certain conditions: i.e., name/address change)
 - Repayment to victims for loss (appropriate in cases of drug diversion, theft, fraudulent billing, or patient harm resulting from negligence or incompetence)
 - Administrative penalty (actual monetary penalty)
- Status of license/license surrender/suspensions: The probationer must maintain an active current license while on probation; however, they have an option to voluntarily surrender their license in some cases. A license may be suspended for a specified amount of time.

Examples:

- Actual suspension of license for specific time (mode of penalty for violations of practice acts)
 - Limited practice (limitations placed on practice)
 - Maintain active and current license
 - Voluntary surrender (may turn in license if they cannot comply with probation, considered discipline)
- Notification and reports: This provides the Bureau with a mechanism for maintaining communication, gathering pertinent information, and obtaining written materials that might be deemed necessary. The probationer must submit under penalty of perjury.

Examples:

- Provide status to current and prospective employers
 - Submit quarterly declarations (status, medications, total acquisition and disposition of controlled substances)
 - Provide requested reports (mental, physical)
 - Notify clients/patients of status and limitations
 - Provide criminal probation reports and probation officer's contact information
 - Notify Bureau of change in name, employment, contact information
 - Notify any referral service to which they are a member of the probation status
- Tolling: Is when a probationer does not reside in the state of California, therefore probation is in hold or "tolled". This ensures that the probationer may not complete probation without being fully monitored for their term in California.

The time a probationer resides out-of-state will not count towards the service of probation.

Examples:

- Practice or reside out-of-state
 - Maintain employment at all times
 - Temporary absences from state
- Violation of probation: This condition provides for the event that the probationer violates probation.

Examples:

- Failure to comply with any term or condition
 - Continued jurisdiction until matter solved (the probation period will continue until final outcome of violation)
- Continuing education courses/license examinations: These conditions require the probationer to resolve deficiencies in knowledge which affects or may affect practice. Requires probationers to take and pass required examinations.

Examples:

- Take and pass license examination requirements

- Take specific courses (ethics, legal aspects, anger management)
 - Continuing education (provide evidence of efforts to maintain skill and knowledge)
 - Remedial education
- Chemical dependency: These conditions provide specific requirements for offenses involving alcohol/drug abuse. Costs incurred to fulfill these conditions are the responsibility of the probationer.

Examples:

- Abstain from use of controlled substances (must abstain from possession or use of controlled substances)
 - Abstain from use of alcohol (completely)
 - Rehabilitation program (attend or have attended a rehabilitation program of a specific duration)
 - Controlled substance restrictions
 - Submit to random biological fluid testing and samples (practice can be suspended for non-compliance)
 - Surrender of Drug Enforcement Administration (DEA) permit
 - Support/recovery groups such as Alcoholics Anonymous (AA), Narcotics Anonymous (NA); support groups related to the practice may include Pharmacy Recovery Program or Nurse Support Group
 - Diversion
 - Abstain from the use of psychotropic medication (indicate one doctor that will monitor prescriptions and come up with plan to get off medication)
 - Maintain records and access records for controlled substances
- Physical examination: Requires probationer to obtain appropriate treatment for physical problems or disabilities which could affect safe practice.

Examples:

- Undergo medical examination (within specific time)

- Undergo continued treatment (follow orders of examiner)
- Mental health examination/therapy or counseling program: Requires probationer to obtain appropriate treatment and counseling for mental health problems which could affect safe practice.

Examples:

- Psychological evaluation (within specific time frame)
- Ongoing psychotherapy (comply with orders of examiner)

- Limitations/requirements/restrictions:

Examples:

- Relinquish license and wall certificate
 - Community services: free services (provide specific amount of community services that offers free services for a community or charitable organization)
- No ownership of licensed premises
 - Separate file or records (maintain and make available for inspection a separate file of all records pertaining to the acquisition or disposition of all controlled substances)
 - Prohibition from handling funds (limitation on probationer's ability to handle funds)
 - Professional boundaries program (a structured program for those that have issues concerning professional boundaries)
 - Third party chaperone (have a chaperone present during examinations)
 - Other state discipline (Bureaus may take action on a licensee that is disciplined by the Bureau of another state).

V. Definitions

- Probation: Probation is the monitoring of licensed professional whose licenses have been disciplined and have been allowed to continue to practice pursuant to compliance with terms and conditions established by their regulatory entity. The purpose of probation is to assure the public safety by having the ability to monitor the licensee with work performance evaluations, drug screenings, and a multitude of conditions. At the end of this manual you should have an understanding of the probations conditions and reasoning for each of them.

- Respondent: Refers to the party who responds to a pleading in a civil matter. A party against whom an appeal is brought is also called a respondent. For our purposes, the respondent is the licensee who will become the probationer.
- Parties: Either of the persons or sides concerned in a legal matter.
- Jurisdiction: Jurisdiction generally means the power of a court to hear and render a decision in a given situation.
- Advisement and Waivers: Advisement generally means the act of providing advice or counsel. Waiver is the intentional and voluntary giving up of something. A waiver may be made by an express statement or by conduct, such as not enforcing a right.
- Culpability: An accused is culpable when he or she is sufficiently responsible for acts or negligence to be at fault and liable for the conduct. Culpability often implies some knowledge of the wrongfulness of one's actions.
- Contingency: Refers to an event that may or may not happen; something that is possible, uncertain, or unpredictable. It can also mean dependent upon something else.
- Disciplinary Order: A written direction or command delivered by a court or judge. It includes final decrees as well as interlocutory directions or commands. It is also referred to as a court order or judicial order.
- Interlocutory: Refers to something which is temporary or not final. Usually an order decree made provisionally pending a final determination.
- Specific Conditions: A distinct item or detail. This is where the conditions and specific information related to each condition will be noted. It is important to assure that the intended conditions are reflected in this section.
- Acceptance: To take what is offered willingly.
- Endorsement: To give approval to; support, sanction.

Appendix A: Code of Ethics

California Code of Regulations

Sections 4470 - 4484

Article 4. Code of Ethics

Section 4474. Confidentiality.

(a) The licensee shall closely guard against the disclosure of personal information regarding the consumer except when such disclosure is required by law or necessary to protect the best interest of the consumer.

(b) Disclosure of consumer information shall be limited to what is lawful, necessary and relevant to the issue being addressed.

NOTE: Authority cited: Sections 6517 and 6520, Business and Professions Code. Section 6520, Business and Professions Code.

Section 4476. Conflict of Interest.

(a) The licensee shall avoid actual conflicts of interest, and consistent with the licensee's fiduciary duties, shall not engage in any activity where there is the reasonable appearance of a conflict of interest.

(b) The licensee shall not engage in any personal, business, or professional interest or relationship that is or reasonably could be perceived as self-serving or adverse to the best interest of the consumer.

(c) The licensee shall protect the rights of the consumer and the estate against infringement by third parties.

NOTE: Authority cited: Sections 6517 and 6520, Business and Professions Code. Section 6520, Business and Professions Code.

Section 4478. Residential Placement.

(a) The provisions under this section apply to those licensed fiduciaries acting in the capacity of a conservator, guardian, or agent under durable power of attorney for health care.

(b) The licensee shall be informed and aware, and consider the options and alternatives available when establishing the consumer's place of residence.

(c) The licensee shall use every reasonable good faith effort to ascertain the desires of the consumer prior to making any decisions when establishing the consumer's residence, unless doing so would violate the licensee's fiduciary duties to the consumer or impose an unreasonable expense on the estate.

(d) If after every reasonable good faith effort the desires of the consumer cannot be ascertained or if exercising them would violate the licensee's fiduciary duties to the consumer or impose an unreasonable expense on the estate, the licensee shall select the least restrictive and appropriate residence that is available and necessary to meet the needs of the consumer that are in the best interest of the consumer.

(e) The licensee shall not remove the consumer from his or her home or separate the consumer from family and friends unless such removal is appropriate and in the best interest of the consumer.

(f) The licensee shall seek professional evaluations and assessments whenever appropriate to determine whether the current or proposed placement of the consumer represents the least restrictive and appropriate residence that is available and necessary to meet the needs of the consumer that are in the best interest of the consumer.

(g) The licensee shall monitor the placement of the consumer on an on-going basis to ensure its continued appropriateness, and shall make changes whenever necessary that are in the best interest of the consumer.

(h) The licensee shall take all action necessary to protect the consumer from financial and/or physical harm or abuse.

NOTE: Authority cited: Sections 6517 and 6520, Business and Professions Code. Section 6520, Business and Professions Code.

Section 4480. Care, Treatment and Services.

(a) The provisions under this section apply to those licensed fiduciaries acting in the capacity of a conservator, guardian, or agent under durable power of attorney for health care.

(b) The licensee shall protect the personal and pecuniary interests of the consumer.

(c) The licensee shall use every reasonable good faith effort to ascertain the desires of the consumer prior to making any decisions regarding all care, treatment, or services, unless doing so would violate the licensee's fiduciary duties to the consumer or impose an unreasonable expense on the estate.

(d) If after every reasonable good faith effort the desires of the consumer cannot be ascertained or if exercising them would violate the licensee's fiduciary duties to the consumer or impose an unreasonable expense on the estate, the licensee shall make decisions regarding care, treatment, and services that are in the best interest of the consumer.

(e) The licensee shall be cognizant of his or her own limitations of knowledge, and shall seek professional evaluations and assessments whenever appropriate to determine whether the current or proposed care, treatment, and services are appropriate and in the best interest of the consumer.

(f) The licensee shall monitor the care, treatment, and services on an on-going basis to ensure its continued appropriateness, and shall make changes whenever necessary that are in the best interest of the consumer.

NOTE: Authority cited: Sections 6517 and 6520, Business and Professions Code. Section 6520, Business and Professions Code.

Section 4482. Management of the Estate.

(a) The licensee shall protect the assets of the estate.

(b) The licensee shall pursue claims against others when it reasonably appears to be in the best interest of the consumer or the estate to do so.

(c) The licensee shall defend against actions or claims against the estate when it reasonably appears to be in the best interest of the consumer or the estate to do so.

(d) The licensee may incur expenses that are appropriate to the estate, in relation to the assets, overall investment strategy, purpose, and other relevant information and circumstances when investing and managing estate assets.

(e) Consistent with the licensee's fiduciary duties, the licensee shall manage the assets of the estate in the best interest of the consumer.

(f) The licensee shall manage the estate with prudence, care and judgment, maintaining detailed fiduciary records as required by law.

NOTE: Authority cited: Sections 6517 and 6520, Business and Professions Code. Section 6520, Business and Professions Code.

Section 4484. Limitation or Elimination of Fiduciary Powers; Restoration of Capacity; Termination of Fiduciary Relationship.

(a) When appropriate and in the best interest of the conservatee, licensed conservators under the Act shall not oppose and, in appropriate circumstances shall seek, limitations on the licensee's powers or authority to act, elimination of unnecessary or no-longer necessary powers, or termination of the proceeding and restoration of the conservatee's legal capacity.

(b) In all fiduciary relationships subject to the Act, when appropriate and in the best interest of the consumer, the licensee shall take all reasonable steps to facilitate termination of the fiduciary relationship.

(c) In all fiduciary relationships subject to the Act, the licensee shall not oppose or interfere with efforts to terminate the licensee's fiduciary relationship with a consumer for any reason other than as necessary or appropriate to protect or promote the best interest of that consumer.

NOTE: Authority cited: Sections 6517 and 6520, Business and Professions Code. Section 6520, Business and Professions Code.

Appendix B: Professional Fiduciaries Bureaus Regulations

California Code of Regulations

Sections 4400 - 4622

Article 1. General Provisions

§ 4400. Introduction.

These regulations are adopted by the Professional Fiduciaries Bureau to implement and make specific the provisions of the Professional Fiduciaries Act, commencing with Section 6500 of the Business and Professions Code.

NOTE: Authority cited: Section 6517, Business and Professions Code. Reference: Sections 6500 and 6510, Business and Professions Code.

§ 4402. Mailing Address of Bureau.

The mailing address of the Professional Fiduciaries Bureau is P.O. Box 989005, West Sacramento, CA 95798-9005.

NOTE: Authority cited: Section 6517, Business and Professions Code. Reference: Sections 6500 and 6510, Business and Professions Code.

§ 4404. Filing of Address of Record.

Each licensee shall have on file with the Bureau his or her correct street addresses, which shall include a physical business and residence address. In addition, each licensee shall designate an address of record that shall be public information, which may consist of a post office box number or other viable mailing address. Each licensee shall within fifteen (15) business days notify the Bureau in writing of any changes in his or her street or mailing addresses, giving both the old and new addresses and any changes.

NOTE: Authority cited: Sections 136 and 6517, Business and Professions Code. Reference: Sections 136, 6510 and 6534, Business and Professions Code.

§ 4406. Definitions.

For the purpose of the regulations contained in this division, the term:

(a) "Act" means the provisions of the Professional Fiduciaries Act, Chapter 6 (commencing with Section 6500) of Division 3 of the Business and Professions Code.

(b) "Bureau" means the Professional Fiduciaries Bureau within the Department of Consumer Affairs, established pursuant to 6510 of the Business and Professions Code.

(c) "Licensee" means a person who is licensed under the Professional Fiduciaries Act, Chapter 6 (commencing with Section 6500) of Division 3 of the Business and Professions Code as a "licensed professional fiduciary" pursuant to Section 6536.

(d) “Consumer,” under the Act, means an individual with whom the licensee has established a fiduciary relationship including: a conservatee when the fiduciary is acting as a court-appointed conservator; a ward when the fiduciary is acting as a court-appointed guardian, a principal when the fiduciary is acting under a durable power of attorney, and a beneficiary when the fiduciary is acting as a trustee.

(e) Trustee as a Professional Fiduciary – A person acting as a trustee under the Act is an individual who meets the requirements of paragraph (1) and (2) and shall be licensed as a professional fiduciary unless exempt under the Act.

(1) Licensing applies to the following persons:

(A) An individual acting as trustee for a trust as defined in Section 82 of the Probate Code that includes at least one individual beneficiary, or

(B) An individual, acting on behalf of an entity appointed as trustee, to perform the functions of a trustee for a trust as defined in Section 82 of the Probate Code that includes at least one individual beneficiary.

(2) Number of non-family member trustors applies as follows:

A professional fiduciary as defined in Section 6501, includes a person acting as trustee for more than three people or more than three families or a combination of people and families that totals more than three, at the same time, who are not related to the professional fiduciary by blood, adoption, marriage, or registered domestic partnership, unless excluded under the Act. Trustors shall be counted and neither beneficiaries nor trusts shall be counted.

NOTE: Authority cited: Section 6517, Business and Professions Code. Reference: Sections 6500, 6501, 6502, 6510, and 6530 Business and Professions Code.

Article 2. Application and Licensure

§ 4420. Place of Filing.

An application for licensure shall be filed with the Bureau at its designated address.

NOTE: Authority cited: Section 6517, Business and Professions Code. Reference: Sections 6500, 6510, and 6533, Business and Professions Code.

§ 4422. Application.

(a) A person applying for a license as a professional fiduciary shall submit an application for licensure to the Bureau and pay the application fee required in Section 4580.

(b) An application for licensure shall require the applicant to meet the qualifications of Section 6533 of the Business and Professions Code and, in addition, provide the following information:

(1) For a determination of compliance with the education requirements under subdivision (g) of Section 6533, if applicable, the applicant shall provide the names of the universities or colleges, the dates of graduation, and the applicable degrees awarded.

(2) For a determination of compliance with the experience requirements under subdivision (g) of Section 6533, if applicable, the applicant shall provide information regarding

the qualifying substantive fiduciary responsibilities, including type and dates of experience, and contact information for three references, and shall provide consent for the Bureau to contact the references for verification of specified experience.

(3) The applicant's physical business address, telephone number, and facsimile number.

(4) The applicant's designated address of record for public information.

(5) A list of any license or professional certificate ever held by the applicant, including information regarding the type, state/country, license or certificate number, date issued, status, and whether the license or certificate has been subject to disciplinary action, including revocation or suspension. The applicant may attach a statement of explanation.

(6) Whether the applicant has filed for bankruptcy in the last ten (10) years or held a controlling financial interest in a business when that business filed for bankruptcy in the last ten (10) years, as required by paragraph (7) of subdivision (a) of Section 6534, and the date of the bankruptcy filing. The applicant may attach a statement of explanation.

(7) Whether the applicant has ever been convicted of a crime. The applicant may attach a statement of explanation.

(8) Whether the applicant has ever been found by a court to have breached a fiduciary duty, the date, case name, court location, and case number associated with each breach of fiduciary duty. The applicant shall submit a record of the court findings and orders related to each specific case. The applicant may file an additional statement of the issues and facts pertaining to each case.

(9) Whether the applicant has ever been removed as a fiduciary by a court for breach of trust, the date, case name, court location, and case number associated with each removal. Whether all related appeals have been taken or the time to file an appeal has expired. The applicant shall submit a record of the court findings and orders related to each specific case. The applicant may file an additional statement of the issues and facts pertaining to each case.

(10) Whether the applicant has ever resigned as a fiduciary in a matter in which a complaint has been filed with the court, the date the complaint was filed, the date of the resignation, case name, court location, and case number associated with each resignation, and a statement of the issues and facts pertaining to each allegation. The applicant shall submit a record of the court findings and orders related to each specific case.

(11) Whether the applicant has ever settled as a fiduciary in a matter in which a complaint has been filed with the court, the date the complaint was filed, the date of the settlement, case name, court location, and case number associated with each settlement, and a statement of the issues and facts pertaining to each allegation. The applicant shall submit a record of the court findings and orders related to each specific case.

(c) As used in this section "complaint" means a civil complaint, a petition, motion, objection, or other pleading filed with the court against the applicant alleging the applicant has not properly performed the duties of a fiduciary.

NOTE: Authority cited: Section 6517, Business and Professions Code. Reference: Sections 141, 480, 481, 490, 6533, 6534, 6536, 6538, 6539, and 6561, Business and Professions Code.

§ 4424. Review of Application; Processing Time; Issuance of License.

(a) Within ninety (90) days of receipt of an application for licensure the Bureau shall inform the applicant in writing that it is both complete and accepted for filing or that it is deficient and what specific information or documentation is needed to complete the application. An application is considered complete if it is in compliance with Section 4422.

(b) Once the application is complete and accepted for filing, the Bureau shall inform the applicant in writing within thirty (30) days that he/she are approved or denied for licensure. Once approved for licensure, the applicant shall submit the initial license fee required in Section 4580 subject to the limitation of subdivision (b) of Section 4426 to become a licensed professional fiduciary under the Act.

NOTE: Authority cited: Sections and 6517, Business and Professions Code. Reference: Sections 141, 6535, 6536, and 6537, Business and Professions Code.

§ 4426. Abandonment of Application.

(a) An application for licensure shall be deemed abandoned and the application fee forfeited when the applicant fails to complete the application within twelve (12) months from the date of notification of deficiency or, if applicable, within twelve (12) months from date of notification of examination eligibility as provided for in Section 4500.

(b) An application for licensure shall be deemed abandoned when an applicant approved for licensure by the Bureau fails to submit the initial license fee required in Section 4580 within twelve (12) months from the date of approval for licensure.

NOTE: Authority cited: Section 6517, Business and Professions Code. Reference: Sections 142 and 6533, Business and Professions Code.

§ 4428. Duration of Initial License Period; First License Renewal Date; Proration of Initial License Fee; Continued Education Requirements for Initial License Period.

(a) To adjust the duration of the initial license period setting the renewal date for each licensee, a professional fiduciary's initial license shall expire at twelve (12) midnight on the last day of the month in which the second birthday of the licensee occurs after the issuance of the license if not renewed. No license shall be issued for less than twelve (12) or more than 24 months.

(b) The initial license fee shall be prorated as required in Section 4580.

NOTE: Authority cited: Sections 152.6, and 6517, Business and Professions Code. Reference: Sections 134, 152.6, and 6541, Business and Professions Code.

Article 3. Prelicensing and Continuing Education

Section 4440. Prelicensing Education Requirements.

To qualify for licensure under the Act an applicant shall complete thirty (30) hours of prelicensing education credit subject to the conditions of this Article. The following courses shall qualify for prelicensing education credit:

(a) Any education course taken on or after January 1, 2007, that meets the requirements of an approved education course under Section 4444.

(b) Any fiduciary management course taken from the California State University, Fullerton, Extended Education Program.

NOTE: Authority cited: Section 6517, Business and Professions Code. Reference: Section 6538, Business and Professions Code.

Section 4442. Continuing Education Requirements.

(a) Annual time requirements.

(1) To renew a license, a licensee shall earn during each annual renewal period a minimum of fifteen (15) hours of continuing education credit from approved education courses as defined in Section 4444 subject to the conditions of this Article.

(2) Courses qualifying for continuing education credit must be completed following licensure and within the one-year renewal period each cycle.

(3) A licensee who serves as an instructor in an approved education course for continuing education as provided for in subdivision (a) of Section 4444, may receive 1.5 hours of continuing education course participation credit for each hour of new course instruction presented. A maximum of 6 of the fifteen (15) hours of continuing education credit may be earned under this paragraph.

(4) A maximum of 4 of the fifteen (15) hours of continuing education credit may be earned through independent study under the supervision of an approved education provider pursuant to Section 4446 that supplies evidence of completion.

(b) Annual subject topic requirements.

(1) Continuing education credit shall be earned by taking approved education courses in at least one of the subject topics as provided for in Section 4444.

(2) At least 2 hours of continuing education credits each year shall be in ethics for fiduciaries.

NOTE: Authority cited: Section 6517, Business and Professions Code. Reference: Section 6538, Business and Professions Code.

Section 4443. Continued Education for First License Renewal.

For the initial license period established pursuant to Section 4428, each licensee must comply with the continued education requirements of Section 4442.

NOTE: Authority cited: Sections 152.6, and 6517, Business and Professions Code. Reference: Sections 134 and 152.6, Business and Professions Code.

Section 4444. Approved Education Courses.

(a) Eligible education courses, as defined in subdivision (b), offered or approved by an approved education provider listed in Section 4446, are approved education courses that meet the prelicensing and continuing education requirements of this Article.

(b) Programs, seminars, and courses of study that are relevant to fiduciary responsibilities of estate management or of fiduciary responsibilities of the person for at least one of the subject topics as specified in subdivision (e), that address the areas of proficiency, competency, and performance of a fiduciary, and impart knowledge and increase understanding of the fiduciary profession or of the California judiciary or the legal process as it relates to the administration of fiduciary responsibilities are eligible education courses.

(c) An approved education course may be offered in a real-time classroom setting, delivered by video presentation from a remote location or by other delivery means, including online.

(d) An approved education course may include independent study, subject to the limitations of paragraph (4) of subdivision (a) of Section 4442, if the education provider supplies evidence of completion. A course is not independent study if the education provider requires evidence of comprehension prior to issuing a certificate of completion, as required in subdivision (c) of Section 4448.

(e) Subject topics for eligible education courses, as defined in subdivision (b), include the following:

- (1) Conservatorship;
- (2) Guardianship;
- (3) Trust administration;
- (4) Durable Power of Attorney;
- (5) The California court system including court jurisdiction and responsibilities; the state and federal constitution, California statutes, rules of court, case law, administrative law, and current issues in the California court system relevant to the fiduciary profession;
- (6) Ethics for fiduciaries.

NOTE: Authority cited: Section 6517, Business and Professions Code. Reference: Section 6538, Business and Professions Code.

Section 4446. Approved Education Providers.

(a) Approved education providers may include accredited educational institutions, professional associations, professional continuing education entities, public or private for-profit or not-for-profit entities, and court-connected groups. An "accredited educational institution" is a college or university, including a community or junior college, accredited by a regional accrediting organization recognized by the Council for Higher Education Accreditation.

(b) The following educational entities that offer or approve eligible education courses as defined in subdivision (a) of Section 4444, in accordance with the requirements of Section 4448, are approved education providers of courses that meet the prelicensing and continuing education requirements of this Article:

- (1) An accredited educational institution;
- (2) An education provider offering courses sponsored by a local court of the State of California;
- (3) An education provider offering courses approved by the California State Bar for continuing education;

- (4) An accountancy organization or an education provider, if the education qualifies with the California State Bureau of Accountancy for continuing education credit for renewal of an individual license as a Certified Public Accountant;
- (5) An education provider offering courses registered with the Certified Financial Planner Bureau of Standards, Inc.;
- (6) An education provider offering courses approved by the California Department of Insurance;
- (7) An education provider of continuing education courses approved by the California Bureau of Registered Nursing;
- (8) An education provider offering courses approved by the California Bureau of Psychology;
- (9) An education provider offering courses approved by the California Bureau of Behavioral Sciences;
- (10) The California Department of Mental Health, Social Services and Developmental Services;
- (11) The Professional Fiduciary Association of California;
- (12) The California State Association of Public Administrators, Public Guardians, and Public Conservators;
- (13) The National Guardianship Association and its state affiliates;
- (14) The National Association of Professional Geriatric Care Managers;
- (15) The American Bar Association;
- (16) The American Society of Aging;
- (17) The Gerontological Society of America;
- (18) The National Association of Social Workers;
- (19) The National College of Probate Judges;
- (20) The National Elder Law Foundation;
- (21) The American Bankers Association and its training providers;
- (22) The Cannon Financial Institute.
- (23) Any Long Term-Care Ombudsman program certified by the California Department of Aging; and,
- (24) An Internal Revenue Service/Office of Professional Responsibility Approved Program Sponsor for Continuing Education for Enrolled Agents.

NOTE: Authority cited: Section 6517, Business and Professions Code. Reference: Section 6538, Business and Professions Code.

Section 4448. Requirements for Education Providers.

Each education provider shall:

- (a) Ensure that the instructors teaching qualified education courses are proficient and knowledgeable in the subject matter;
- (b) Monitor and evaluate the quality of courses, curricula, instructors, and instructor training;
- (c) Maintain records of attendance or independent study and distribute to each participant a certificate of completion that identifies the education provider and documents the subject

taught, the date of completion of the education course, and the amount of education credit offered;

(d) Maintain documentation of approved education courses offered for prelicensing and continuing education credit under this article for a period of at least five years from the date the education course was offered; and

(e) Provide to the Bureau upon request any documentation of approved education courses for prelicensing and continuing education credit, including records of attendance or independent study.

NOTE: Authority cited: Section 6517, Business and Professions Code. Reference: Section 6538, Business and Professions Code.

Section 4450. Proof of Compliance of Prelicensing Education.

Each applicant is responsible for ensuring compliance with the prelicensing education requirements of this Article.

(a) To demonstrate compliance an applicant shall sign under penalty of perjury on an application form, as provided for in Section 4422, provided by the Bureau that they have completed thirty (30) hours of approved prelicensing education courses.

(b) An applicant shall maintain documentation of completion of prelicensing education courses for a period of at least three years from the date of the issuance of the license.

(c) Each applicant shall provide any information requested by the Bureau within ten (10) business days of the request, to determine compliance with the prelicensing education requirements of the Act.

NOTE: Authority cited: Section 6517, Business and Professions Code. Reference: Section 6538, Business and Professions Code.

Section 4452. Proof of Compliance of Continuing Education Requirements.

Each applicant is responsible for ensuring compliance with the continuing education requirements of this Article.

(a) To demonstrate compliance a licensee shall sign under penalty of perjury on an annual renewal application form provided by the Bureau that they have completed fifteen (15) hours of approved continuing education courses.

(b) A licensee shall maintain documentation of completion of continuing education courses for a period of at least three years from the date of renewal.

(c) Each licensee shall provide any information requested by the Bureau within ten (10) business days of the request, to determine compliance with the continuing education requirements for license renewal.

NOTE: Authority cited: Section 6517, Business and Professions Code. Reference: Section 6538, Business and Professions Code.

Article 4. Code of Ethics

Section 4470. General Principles.

(a) A licensee's fiduciary duties recognized under this Article are based upon the fiduciary relationship established with the consumer as follows:

- (1) A licensee's relationship to a conservatee when acting as a court appointed conservator;
- (2) A licensee's relationship to a ward when acting as a court appointed guardian;
- (3) A licensee's relationship to a principal when acting under a durable power of attorney; and,
- (4) A licensee's relationship to a beneficiary when acting as a trustee.

(b) The licensee shall comply with all local, state, and federal laws, regulations, and requirements developed by the courts and the Judicial Council as a minimum guide for the fulfillment of the fiduciary duties recognized under this Article.

(c) The licensee shall protect all rights of the consumer that relate to licensee's fiduciary duties to the consumer.

(d) The licensee shall refrain from representing the consumer in areas outside the scope of legal authority.

(e) The licensee shall seek competent professional advice whenever appropriate for the benefit of the consumer.

(f) Consistent with the licensee's fiduciary duties, the licensee shall provide or arrange for services to the consumer, to the extent they are appropriate and reasonable based upon the needs of the consumer, that are in the best interest of the consumer.

(g) Notwithstanding any other provision of law, any expense incurred by the licensee for the delivery of services that are provided to, or arranged for, the consumer by the licensee, including attorney fees or fees to the licensee for services, shall be considered reasonable if approved by the court.

NOTE: Authority cited: Sections 6517 and 6520, Business and Professions Code. Section 6520, Business and Professions Code.

Section 4472. Decision Standards.

(a) The provisions under this section apply to those licensed fiduciaries acting in the capacity of a conservator, guardian, or agent under durable power of attorney for health care or for finances.

(b) The licensee shall provide the consumer with every reasonable opportunity to exercise those individual choices that the consumer is capable of exercising.

(c) When the licensee is making decisions on behalf of the consumer, the licensee shall use every reasonable good faith effort to ascertain the desires of the consumer prior to making any decisions, and shall make decisions therefore predicated on the ascertained desires of the consumer, unless doing so would violate the licensee's fiduciary duties to the consumer or impose an unreasonable expense on the estate.

(d) If after every reasonable good faith effort the desires of the consumer cannot be ascertained or if exercising them would violate the licensee's fiduciary duties to the consumer or

impose an unreasonable expense on the estate, the licensee shall make decisions that are in the best interest of the consumer.

(e) Decisions made on behalf of the consumer shall take into consideration all known ethnic, religious, social and cultural values of the consumer whenever possible.

NOTE: Authority cited: Sections 6517 and 6520, Business and Professions Code. Section 6520, Business and Professions Code.

Section 4474. Confidentiality.

(a) The licensee shall closely guard against the disclosure of personal information regarding the consumer except when such disclosure is required by law or necessary to protect the best interest of the consumer.

(b) Disclosure of consumer information shall be limited to what is lawful, necessary and relevant to the issue being addressed.

NOTE: Authority cited: Sections 6517 and 6520, Business and Professions Code. Section 6520, Business and Professions Code.

Section 4476. Conflict of Interest.

(a) The licensee shall avoid actual conflicts of interest, and consistent with the licensee's fiduciary duties, shall not engage in any activity where there is the reasonable appearance of a conflict of interest.

(b) The licensee shall not engage in any personal, business, or professional interest or relationship that is or reasonably could be perceived as self-serving or adverse to the best interest of the consumer.

(c) The licensee shall protect the rights of the consumer and the estate against infringement by third parties.

NOTE: Authority cited: Sections 6517 and 6520, Business and Professions Code. Section 6520, Business and Professions Code.

Section 4478. Residential Placement.

(a) The provisions under this section apply to those licensed fiduciaries acting in the capacity of a conservator, guardian, or agent under durable power of attorney for health care.

(b) The licensee shall be informed and aware, and consider the options and alternatives available when establishing the consumer's place of residence.

(c) The licensee shall use every reasonable good faith effort to ascertain the desires of the consumer prior to making any decisions when establishing the consumer's residence, unless doing so would violate the licensee's fiduciary duties to the consumer or impose an unreasonable expense on the estate.

(d) If after every reasonable good faith effort the desires of the cannot be ascertained or if exercising them would violate the licensee's fiduciary duties to the consumer or impose an unreasonable expense on the estate, the licensee shall select the least restrictive and appropriate residence that is available and necessary to meet the needs of the consumer that are in the best interest of the consumer.

(e) The licensee shall not remove the consumer from his or her home or separate the consumer from family and friends unless such removal is appropriate and in the best interest of the consumer.

(f) The licensee shall seek professional evaluations and assessments whenever appropriate to determine whether the current or proposed placement of the consumer represents the least restrictive and appropriate residence that is available and necessary to meet the needs of the consumer that are in the best interest of the consumer.

(g) The licensee shall monitor the placement of the consumer on an on-going basis to ensure its continued appropriateness, and shall make changes whenever necessary that are in the best interest of the consumer.

(h) The licensee shall take all action necessary to protect the consumer from financial and/or physical harm or abuse.

NOTE: Authority cited: Sections 6517 and 6520, Business and Professions Code. Section 6520, Business and Professions Code.

Section 4480. Care, Treatment and Services.

(a) The provisions under this section apply to those licensed fiduciaries acting in the capacity of a conservator, guardian, or agent under durable power of attorney for health care.

(b) The licensee shall protect the personal and pecuniary interests of the consumer.

(c) The licensee shall use every reasonable good faith effort to ascertain the desires of the consumer prior to making any decisions regarding all care, treatment, or services, unless doing so would violate the licensee's fiduciary duties to the consumer or impose an unreasonable expense on the estate.

(d) If after every reasonable good faith effort the desires of the consumer cannot be ascertained or if exercising them would violate the licensee's fiduciary duties to the consumer or impose an unreasonable expense on the estate, the licensee shall make decisions regarding care, treatment, and services that are in the best interest of the consumer.

(e) The licensee shall be cognizant of his or her own limitations of knowledge, and shall seek professional evaluations and assessments whenever appropriate to determine whether the current or proposed care, treatment, and services are appropriate and in the best interest of the consumer.

(f) The licensee shall monitor the care, treatment, and services on an on-going basis to ensure its continued appropriateness, and shall make changes whenever necessary that are in the best interest of the consumer.

NOTE: Authority cited: Sections 6517 and 6520, Business and Professions Code. Section 6520, Business and Professions Code.

Section 4482. Management of the Estate.

(a) The licensee shall protect the assets of the estate.

(b) The licensee shall pursue claims against others when it reasonably appears to be in the best interest of the consumer or the estate to do so.

(c) The licensee shall defend against actions or claims against the estate when it reasonably appears to be in the best interest of the consumer or the estate to do so.

(d) The licensee may incur expenses that are appropriate to the estate, in relation to the assets, overall investment strategy, purpose, and other relevant information and circumstances when investing and managing estate assets.

(e) Consistent with the licensee's fiduciary duties, the licensee shall manage the assets of the estate in the best interest of the consumer.

(f) The licensee shall manage the estate with prudence, care and judgment, maintaining detailed fiduciary records as required by law.

NOTE: Authority cited: Sections 6517 and 6520, Business and Professions Code. Section 6520, Business and Professions Code.

Section 4484. Limitation or Elimination of Fiduciary Powers; Restoration of Capacity; Termination of Fiduciary Relationship.

(a) When appropriate and in the best interest of the conservatee, licensed conservators under the Act shall not oppose and, in appropriate circumstances shall seek, limitations on the licensee's powers or authority to act, elimination of unnecessary or no-longer necessary powers, or termination of the proceeding and restoration of the conservatee's legal capacity.

(b) In all fiduciary relationships subject to the Act, when appropriate and in the best interest of the consumer, the licensee shall take all reasonable steps to facilitate termination of the fiduciary relationship.

(c) In all fiduciary relationships subject to the Act, the licensee shall not oppose or interfere with efforts to terminate the licensee's fiduciary relationship with a consumer for any reason other than as necessary or appropriate to protect or promote the best interest of that consumer.

NOTE: Authority cited: Sections 6517 and 6520, Business and Professions Code. Section 6520, Business and Professions Code.

Article 5. Examination

§ 4500. Examination.

(a) Once an applicant is deemed eligible to take the licensing examination, the applicant has twelve (12) months in which to achieve a passing score. If an applicant initially fails to pass the examination the applicant may sit for re-examination a maximum of four times within the twelve (12) month eligibility period not to exceed one re-examination attempt every 30 days.

(b) The licensing examination shall include a portion that is specific to California law.

NOTE: Authority cited: Sections 6517 and 6539, Business and Professions Code. Reference: Sections 6518, 6533, and 6539, Business and Professions Code.

Article 6. License Denial

§ 4520. Substantially Related Criteria for Denial of License.

For purposes of denial of a license pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a crime or act shall be considered to be substantially related to the qualifications, functions or duties of a professional fiduciary if to a substantial degree it demonstrates present or potential unfitness of a person holding a license to perform the functions authorized by the license in a manner consistent with the public health, safety or welfare. Such crimes or acts shall include but not be limited to fiscal dishonesty or breach of fiduciary responsibilities of any kind.

*NOTE: Authority cited: Sections 481 and 6517, Business and Professions Code.
Reference: Sections 481, 6536, and 6537, Business and Professions Code.*

§ 4522. Rehabilitation Criteria for Denial of License.

When considering the denial of a license under Section 480 or 6536 of the Business and Professions Code, the Bureau, in evaluating the rehabilitation of the applicant and his or her present eligibility for a license, shall consider the following criteria:

(a) The nature and severity of the act(s) or crime(s) under consideration as grounds for denial.

(b) Evidence of any act(s) or crime(s) committed subsequent to the act(s) or crime(s) under consideration as grounds for denial which also could be considered grounds for denial under Sections 480 and 6536.

(c) The time that has elapsed since commission of the act(s) or crime(s) referred to in subdivision (a) or (b).

(d) The extent to which the applicant has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against the applicant.

(e) Evidence, if any, of rehabilitation submitted by the applicant.

*NOTE: Authority cited: Sections 482 and 6517, Business and Professions Code.
Reference: Sections 482, 6536, and 6537, Business and Professions Code.*

Article 7. Reporting Duties of Licensee

§ 4540. Annual Reporting Requirements of Licensee.

(a) A licensee is required to file an annual statement that complies with the requirements of Section 4542, within sixty (60) days from the date of issuance of a license as a professional fiduciary. A licensee may be subject to cite or fine or disciplinary action for failure to comply with this subdivision.

(b) A licensee is required to file an annual statement that complies with the requirements of Section 4542 no later than sixty (60) days prior to the expiration of the license. A licensee may be subject to cite or fine or disciplinary action for failure to comply with this subdivision.

(c) If an annual statement is filed electronically, the licensee shall fill out the form completely and print and mail in a signed copy within five business days of the electronic filing. The signed copy must be received by the Bureau within the timeframes established in subdivisions (a) and (b) for compliance.

NOTE: Authority cited: Section and 6517, Business and Professions Code. Reference: Sections 6534, and 6561, Business and Professions Code.

§ 4542. Annual Statement.

(a) As provided for in the Act, each annual statement shall include the following information:

(1) Current addresses and telephone and facsimile numbers for licensee's place of business and place of residence.

(2) The licensee's designated address of record for public information.

(3) A list of any other license or professional certificate held by licensee, including information regarding the type, state/county, license or certificate number, date issued, status, and whether the license or certificate has been subject to disciplinary action, including revocation or suspension. The licensee may attach a statement of explanation.

(4) The case name, type of case, date of appointment, court location, and case number for all matters where the licensee has ever been appointed by the court to serve as a fiduciary.

(5) The names of the licensee's current conservatees and wards, and the respective case names, court locations, and case numbers; and the names and dates of beginning services for all trusts and estates currently administered by the licensee, and if applicable, the respective case names, court locations, and case numbers for the trusts and estates currently administered by the licensee.

(6) The aggregate dollar value of all assets currently under the licensee's supervision as a professional fiduciary.

(7) The case names, court locations, and case numbers of all conservatorships and guardianships that are closed, and the dates of closure, for which the licensee served as the conservator or guardian; and the names of all trusts or other estates that are closed for which the licensee served as the trustee or personal representative and the dates of closure, and if applicable, the case names and case numbers for the trusts or other estates that are closed for which the licensee served as the trustee or personal representative.

(8) Whether the licensee or a family member of the licensee holds any ownership or beneficial interests in any businesses or other enterprises that have received payment from a client of the licensee, including the names of the applicable businesses or other enterprises, the names of the respective clients, and the dates of any payments received.

(9) The names of any persons or entities that have an interest in the licensee's professional fiduciary business.

(10) Whether the licensee has filed for bankruptcy or held a controlling financial interest in a business when that business filed for bankruptcy in the last ten (10) years and the date of the bankruptcy filing. The licensee may attach a statement of explanation.

(11) Whether the licensee has been convicted of a crime. The licensee may attach a statement of explanation.

(12) Whether the licensee has been found by a court to have breached a fiduciary duty, the date, case name, court location, and case number associated with each breach of fiduciary duty. The licensee shall submit a record of the court findings and orders related to each specific case. The licensee may file an additional statement of the issues and facts pertaining to each case.

(13) Whether the licensee has been removed as a fiduciary by a court for breach of trust, the date, case name, court location, and case number associated with each removal. Whether all related appeals have been taken or the time to file an appeal has expired. The licensee shall submit a record of the court findings and orders related to each specific case. The licensee may file an additional statement of the issues and facts pertaining to each case.

(14) Whether the licensee has resigned as a fiduciary in a matter in which a complaint has been filed with the court, the date the complaint was filed, the date of resignation, the case name, court location, and case number associated with each resignation, and a statement of the issues and facts pertaining to each allegation. The licensee shall submit a record of the court findings and orders related to each specific case.

(15) Whether the licensee has settled as a fiduciary in a matter in which a complaint has been filed with the court, the date the complaint was filed, the date of the settlement, the case name, court location, and case number associated with each settlement, and a statement of the issues and facts pertaining to each allegation. The licensee shall submit a record of the court findings and orders related to each specific case.

(b) Unless otherwise indicated, each annual statement filed with the Bureau shall report updated information reflecting any changes from the date of reporting the information on the application for licensure as a professional fiduciary or from the date of signing the last, report as required by law, whichever is applicable, to the present.

(c) As used in this section “complaint” means a civil complaint, a petition, motion, objection, or other pleading filed with the court against the licensee alleging the licensee has not properly performed the duties of a fiduciary.

NOTE: Authority cited: Section 6517, Business and Professions Code. Reference: Sections 141, 480, 481, 490, 6534, 6536, 6560, and 6561, Business and Professions Code.

§ 4544. Ongoing Reporting Duties

(a) A licensee has a duty to report the following information to the Bureau within fifteen (15) business days of the following occurrences:

(1) Any change to addresses and telephone numbers for the licensee’s place of business or place of residence.

(2) If the licensee is removed as a fiduciary by the court for breach of trust, the date, case name, court location, and case number associated with the removal. The licensee shall submit a record of the court findings and orders related to the case. The licensee may file an additional statement of the issues and facts of the case.

(3) If the licensee files for bankruptcy or holds a controlling financial interest in a business that files for bankruptcy.

(b) Each licensee shall report any information that is required to be reported on the annual statement, as specified in Section 4542, or that is otherwise authorized by the act or regulation, or provide any information for verification of compliance with any item that is required to be reported on the annual statement or that is authorized by the Act or regulation as

requested by the Bureau to the Bureau within fifteen (15) business days of the request or later as specified. Compliance with this subdivision shall be in addition to compliance with the reporting requirements in subdivision (a).

(c) Reporting requirements pursuant to this Section shall be in addition to the annual reporting duties of Section 4540 or any other provision of law.

(d) A licensee may be subject to a citation, that may include a fine, or other disciplinary action for failure to comply with this Section.

NOTE: Authority cited: Section 6517, Business and Professions Code, Reference: Sections 141, 480, 481, 490, 6534, 6536, 6560, and 6561, Business and Professions Code.

Article 8. Renewal of License

§ 4560. Renewal.

(a) A license may be renewed for a period of twelve (12) months.

(b) For license renewal, a licensee shall have met the annual reporting requirements of subdivision (b) of Section 4540, show proof of compliance with the continuing education requirements of Section 4442, and submit the renewal fee as required in Section 4580.

(c) For the first license renewal following the initial license period as provided in Section 4428, each licensee shall comply with the continued education requirements of Section 4442.

NOTE: Authority cited: Sections 152.6 and 6517, Business and Professions Code. Reference: Sections 152.6, 6538, 6541, 6561, and 6592, Business and Professions Code.

§ 4562. Delinquency.

(a) Except as otherwise provided by law, a license which has expired may be renewed upon the filing of an application for renewal and payment of the renewal fee.

(b) If a license is renewed more than thirty (30) days after its expiration, the licensee, as a condition prior to renewal, shall also pay the late delinquency fee required in Section 4580.

NOTE: Authority cited: Section 6592, Business and Professions Code. Reference: Sections 163.5, 6541, and 6592, Business and Professions Code.

Article 9. Fees

§ 4580. Fees.

The following fees are established:

(a) The application fee for a professional fiduciary license shall be four hundred dollars (\$400).

(b) The initial license fee shall be six hundred dollars (\$600) for the first twelve (12) months plus a prorated amount of the renewal fee required in subdivision (c) to adjust the

duration of the initial license period to set the renewal date for each licensee as provided in Section 4428.

- (c) The renewal fee for a license shall be seven hundred dollars (\$700).
- (d) The delinquency fee for a license shall be one hundred and fifty dollars (\$150).
- (e) The fee for a duplicate or replacement license shall be twenty-five dollars (\$25).

*NOTE: Authority cited: Sections 6517 and 6592, Business and Professions Code.
Reference: Sections 122, 134, 152.6, 163.5, 6533, 6541, and 6592, Business and Professions Code.*

Article 10. Citations

4600. Authority to Issue Citations: Citation Format.

(a) The Bureau is authorized to issue citations containing orders of abatement and/or administrative fines pursuant to Sections 125.9 or 148 of the Business and Professions Code against a professional fiduciary or an unlicensed person who has committed any acts or omissions which are in violation of the Act or the regulations contained in this Division.

(b) A citation shall be issued whenever any order of abatement is issued or any fine is levied. Each citation shall be in writing and shall describe with particularity the nature and facts of the violation, including a reference to the statutes or regulations alleged to have been violated. The citation shall be served upon the individual.

(c) Each citation issued shall inform the cited person that, if he or she desires a hearing to contest the finding of a violation, that a hearing shall be requested by written notice to the Bureau within thirty (30) days of the issuance of the citation or assessment.

*NOTE: Authority Cited: Sections 125.9, 148, and 6517, Business and Professions Code.
Reference: Sections 124, 125.9, 148, and 6580, and 6583, Business and Professions Code.*

4602. Administrative Fines for Citations.

(a) Where citations issued pursuant to Section 4600 of this Article include an assessment of an administrative fine, the fine shall be up to \$5,000 for each violation.

(b) The Bureau shall consider the factors specified in Section 4604 when determining the amount of the administrative fine.

*NOTE: Authority cited: Sections 125.9, 148, and 6517, Business and Professions Code.
Reference: Sections 125.9, 148, 6580, and 6583, Business and Professions Code.*

4604. Citation Factors.

(a) The following factors shall be considered when determining the amount of an administrative fine:

- (1) The good or bad faith exhibited by the cited person.
- (2) The nature and severity of the violation.

- (3) Evidence that the violation was willful or not.
 - (4) History of previous violations.
 - (5) The extent to which the cited person has cooperated with the Bureau.
 - (6) The extent to which the cited person has mitigated or attempted to mitigate any damage or injury caused by his or her violation.
 - (7) Extenuating circumstances as justice may require.
 - (8) A finding by a court in a matter related to the violation.
- (b) The sanctions authorized under this section shall be separate from, and in addition to, any other civil or criminal remedy.
- (c) Any costs related to a citation issued pursuant to Section 4600, including but not limited to, the payment of the fine levied or costs related to the defense of, or compliance with, an order issued in the citation, shall not be borne by the consumer served by the licensee in the matter.

NOTE: Authority cited: Sections 125.9, 148, and 6517, Business and Professions Code. Reference: Sections 125.9, 148, 6580, and 6583, Business and Professions Code.

4606. Contest of Citations; Informal Conference.

- (a) In addition to requesting an administrative hearing as provided for in subdivision (b)(4) of Section 125.9 of the Business and Professions Code, the cited person may request an informal conference to review the acts charged in the citation. A request for an informal conference shall be made in writing, within ten (10) days after the citation has been served upon the individual.
- (b) The Bureau shall hold, within sixty (60) days from the receipt of the request, an informal conference with the cited person. At the conclusion of the informal conference, the Bureau may affirm, modify or dismiss the citation, including any fine levied or order of abatement issued. The Bureau shall state in writing the reasons for the action and transmit a copy of the findings and decision to the cited person. The decision shall be deemed to be a final order with regard to the citation issued; including any administrative fine levied or order of abatement.
- (c) If the citation, including any fine levied or order of abatement, is modified, the citation originally issued shall be considered withdrawn and a new citation issued. If the cited person desires a hearing to contest the new citation, he or she shall make a request in writing, within thirty (30) days of receipt of the informal conference decision, to the Bureau. The hearing shall be conducted as provided for in subdivision (b)(4) of Section 125.9. A cited person may not request an informal conference for a citation which has been modified following an informal conference.

NOTE: Authority cited: Section 125.9, 148, and 6517, Business and Professions Code. Reference: Sections 124, 125.9, 148, 6580, and 6583, Business and Professions code.

4608. Compliance with Citation.

The failure of a licensee to comply with a citation containing an assessment of administrative fine, an order of abatement or both an administrative fine and an order of

abatement after the citation is final and has been served in accordance with the provisions of Section 11505(c) of the Government Code shall constitute a ground for revocation or suspension of a license.

*NOTE: Authority cited: Sections 125.9 and 6517, Business and Professions Code.
Reference: Sections 125.9, 6580 and 6583, Business and Professions Code.*

4610. Compliance with Order of Abatement.

(a) The time allowed for abatement of a violation shall begin the first day after the order of abatement has been served or received. If a cited person who has been issued an order of abatement is unable to complete the correction within the time set forth in the citation because of conditions beyond his or her control after the exercise of reasonable diligence, the person cited may request an extension of time from the Bureau in which to complete the correction. Such a request shall be in writing and shall be made within the time set forth for abatement.

(b) When an order of abatement is not contested or if the order is appealed and the person cited does not prevail, failure to abate the violation charged within the time specified in the citation shall constitute a violation and failure to comply with the order of abatement. Failure to timely comply with an order of abatement or failure to pay the fine included in the citation within the time allowed may result in disciplinary action being taken by the Bureau or other appropriate judicial relief being taken against the person cited.

*NOTE: Authority cited: Sections 125.9, 148, and 6517, Business and Professions Code.
Reference: Sections 125.9, 148, 6580 and 6583, Business and Professions Code.*

Article 11. Enforcement

4620. Substantially Related Criteria for License Suspension or Revocation.

For purposes of suspension or revocation of a license pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a crime or act shall be considered to be substantially related to the qualifications, functions or duties of a fiduciary if to a substantial degree it demonstrates present or potential unfitness of a person holding a license to perform the functions authorized by the license in a manner consistent with the public health, safety or welfare. Such crimes or acts shall include but not be limited to fiscal dishonesty or breach of fiduciary responsibilities of any kind.

*NOTE: Authority cited: Sections 481 and 6517, Business and Professions Code,
Reference: Sections 481, 490, 493, 6580 and 6584, Business and Professions Code.*

4622. Rehabilitation Criteria for License Suspension or Revocation.

When considering the suspension or revocation of a license under Section 480 or 6536 of the Business and Professions Code, the Bureau, in evaluating the rehabilitation of the licensee and his or her present eligibility for a license, shall consider the following criteria:

(a) The nature and severity of the act(s) or crime(s) under consideration as grounds for suspension or revocation.

(b) Evidence of any act(s) or crime(s) committed subsequent to the act(s) or crime(s) under consideration as grounds for suspension or revocation which also could be considered grounds for suspension or revocation under Section 6584 of the Business and Professions Code.

(c) The time that has elapsed since commission of the act(s) or crime(s) referred to in subdivision (a) or (b).

(d) The extent to which the licensee has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against the licensee.

(e) Evidence, if any, of rehabilitation submitted by the licensee.

*NOTE: Authority cited: Sections 482 and 6517, Business and Professions Code,
Reference: Sections 482, 6580, and 6584, Business and Professions Code.*

Appendix C: Approved Schools for Continuing Education

PRE-LICENSING EDUCATION INFORMATION

Legislation creating the Professional Fiduciaries Bureau was passed in 2006 to license and regulate non-family member private fiduciaries including certain conservators, guardians, trustees, and agents under durable power of attorney for health care and finances as defined in the Professional Fiduciaries Act (Act).

The Act requires any person in California representing himself or herself as a professional fiduciary be licensed by January 1, 2009. However, any professional fiduciary seeking a new court appointment between July 1, 2008 and December 31, 2008 must first obtain a license. One major component of licensing is the requirement to obtain 30 hours of pre-licensing education credit in approved education courses. An approved education course must be relevant to fiduciary responsibilities of the person or of estate management for conservators, guardians, trustees, or agents under durable power of attorney, or of the court system or ethics for fiduciaries. Bureau approved courses must be taken from an accredited educational institution, or be approved or offered by an approved education provider.

APPROVED EDUCATION PROVIDERS:

A local court of the State of California	Professional Fiduciary Association of California
California State Bar or American Bar Association	California State Association of Public Administrators, Public Guardians, and Public
California State Board of Accountancy	National Guardianship Association and its state affiliates
California State Board of Behavioral Sciences	National Association of Professional Geriatric Care
Certified Financial Planner Bureau of Standards,	American Society of Aging
California Department of Insurance	Gerontological Society of America
California Board of Registered Nursing	National Association of Social Workers
California State Board of Psychology	National College of Probate Judges
California Department of Mental Health	National Elder Law Foundation
California Department of Social Services	American Bankers Association
California Department of Developmental	Cannon Financial Institution

Appendix D: Standard Letters and Forms



Professional Fiduciaries Bureau
Post Office Box 989005
West Sacramento, CA 95798-9005
Telephone: (916) 574-7340, FAX (916) 574-8645
Website: www.fiduciary.ca.gov



COMPLAINT INTAKE FORM

ANONYMOUS

COMPLAINT NUMBER:		
RESPONDENT NAME:		COMPLAINANT NAME:
Address:		Address:
		Phone
Phone #:	e-mail:	
LICENSE INFORMATION (screen print)		
License number(s):		Prior Enforcement Activity: Y/N
Issue date:		Application#/ATS ID:
Expiration date:		
Renewal Hold: Y/N		Administration Hold: Y/N
ASSESSMENT		
DCA Category:	Source Code:	Alleged violations:
Agency Category:	Report/Referral Code:	
Receive Date:	Priority:	
Investigation Type:		Non-Jurisdictional (indicate reason):
NOTES		
Initial Evaluation (tech): Date:		Initials:
Closing Evaluation (analyst): Date:		Initials:
Review of Closure: Date (manager):		Initials:

Court Authorization Request Form



Professional Fiduciaries Bureau
 Post Office Box 989005
 West Sacramento, CA 95798-9005
 Telephone: (916) 574-7340 FAX (916) 574-8645
 Website: www.fiduciary.ca.gov



COURT AUTHORIZATION REQUEST FORM

Instructions:

1. Complete this form in its entirety.
2. Your contact information completed below must pertain to your official capacity with the courts. **No personal contact information will be accepted.**
3. Send a letter on official court or authorized agency stationary requesting an account.
4. Mail the completed form and letter to the Bureau's address on the letterhead.

+ Please type or print legibly in ink.

Court Representative Name			
(Last)		(First)	
Court Name			
Mailing Address		City	State
Zip Code		County	
E-mail Address		Telephone Number	
Fax Number		State Bar Number (if applicable)	
<p>Certification:</p> <p>I, the undersign, understand that the licensee reports provided to me upon request by the Bureau to the address above contains confidential licensee information and are being submitted to me pursuant to Section 6534 of the Business and Professions Code.</p>			
_____		_____	
Court Representative Signature		Date	

6/10/2013

Deficiency Letter



Professional Fiduciaries Bureau
Post Office Box 989005
West Sacramento, CA 95798-9005
Telephone: (916) 574-7340, FAX (916) 574-8645
Website: www.fiduciary.ca.gov



June 10, 2013

ID Number: 00

John Doe
John Doe Associates
PO Box 3456
Daly City, CA 98765

RE: INCOMPLETE APPLICATION

Dear Applicant:

The Professional Fiduciary Bureau (Bureau) recently received your license application but is unable to complete the processing without more information.

On your application, under PART 5, EDUCATION AND EXPERIENCE QUALIFICATIONS, you indicate that you qualify based upon your experience. However, the information you provided us is insufficient to make this determination.

To qualify under Business and Professions Code Section 6533, you must have not less than five years:

- (1) Working as a professional fiduciary, or,
- (2) Working with **substantive fiduciary responsibilities** for a professional fiduciary, a public agency, or a financial institution, while that professional fiduciary, public agency, or financial institution *was acting* as a conservator, guardian, trustee, personal representative, or agent under a power of attorney.

If you qualify under this definition, please submit specific information regarding your applicable experience to complete your application. The Bureau is unable to process and evaluate an incomplete application. If you have any questions, please contact the Licensing Unit at (916) 574-7340.

Sincerely,

Employee
Title

Fax



Professional Fiduciaries Bureau
Post Office Box 989005
West Sacramento, CA 95798-9005
Telephone: (916) 574-7340, FAX (916) 574-8645
Website: www.fiduciary.ca.gov



FAX

Date: _____

To: ↓ _____

ATTN: _____

FAX #: _____

From: _____

PFB - FAX #: (916) 574-8645

Subject: _____

No. of Pages (including the cover page): _____

Comments:

NOTICE OF CONFIDENTIALITY:

Information contained in this report/communication is privileged and strictly confidential and may only be received by, or provided to, authorized individuals. Please be advised that any unlawful access, distribution, copying, disclosure, and/or use of the report or the confidential information contained in the report is strictly prohibited and may violate applicable laws and may be a criminal offense. If you are not authorized to receive this report, or the information contained in the report, you must not disclose, copy, use, or take any action in reliance of this report or the information contained therein. If you received this report or information contained in the report in error, please destroy all copies of any related documentation, whether in electronic or hard copy format, and immediately contact the Professional Fiduciaries Bureau at (916) 574-7340. Thank you.

January 2012

Public Records Act Request



Professional Fiduciaries Bureau
Post Office Box 989005
West Sacramento, CA 95798-9005
Telephone: (916) 574-7340, FAX (916) 574-8645
Website: www.fiduciary.ca.gov



[DATE]

[NAME]

[ADDRESS]

[CITY, STATE ZIP]

RE: Public Records Act Request

Dear Mr./Ms. [LAST NAME]:

This letter responds to your Public Records Act requested dated [DATE OF REQUEST], which was received by [BOARD/BUREAU] on [DATE RECEIVED]. You have requested [COPIES OF RECORDS/TO INSPECT RECORDS] related to [SUMMARIZE REQUEST].

Complaints and investigations related to complaints are exempt pursuant to Government Code section 6254, subdivision (f). Therefore, the [BOARD/BUREAU] is denying your request as it relates to complaints.

The [BOARD/BUREAU] does have documents related to the license and application of [SUBJECT OF REQUEST] and the [BOARD/BUREAU] will provide the copies you requested. The [BOARD/BUREAU] anticipates that approximately [NUMBER] of pages of responsive documents exist and that such documents will be made available to you with [DAYS, WEEKS, etc] of the payment of the fees associated with retrieval and copying of the documents. The cost of the records is \$[COST]. [Or is all fees are to be waived, replace the above with 'The [BOARD/BUREAU] will waive the costs associated with the productions of these documents. However, fees may be required for any or all future requests']

Sincerely,

NAME

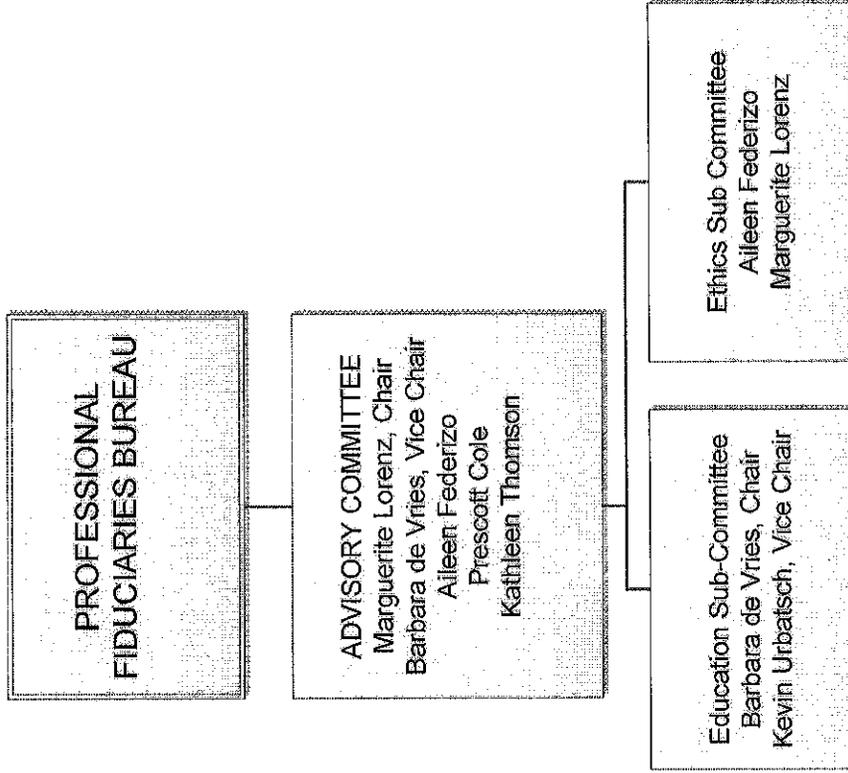
TITLE

Code Description Table

Reg Section	Description
4470(b)	Comply with all laws and regulations.
4470(c)	Protect consumer rights.
4470(d)	No representing consumer outside the scope of legal authority.
4470(e)	Seek competent professional advice.
4472(b)	Allow consumer choices that they're capable of exercising.
4472(c)	Make decisions in accordance with the desires of the consumer.
4472(d)	Make decisions that are in the best interest of the consumer.
4472(e)	Decisions should consider cultural values of consumer.
4474(a)	Guard against the disclosure of personal information.
4474(b)	Disclosure of information limited to what is necessary.
4476(a)	Engage in conflict of interest.
4476(b)	Engage in relationships perceived as self-serving/conflict of interest.
4476(c)	Protect consumer and estate from third parties.
4478(b)	Informed of options available for place of residence.
4478(c)	Make decisions for place of residence according to desires of consumer.
4478(d)	Select a residence which meet the needs of consumer.
4478(e)	Remove consumer from home or separate consumer from family.
4478(f)	Seek evaluations and assessments regarding placement.
4478(g)	Monitor placement of consumer.
4480(b)	Protect personal and pecuniary interest of consumer.
4480(c)	Make decisions for care, treatment, or services, according to desires of consumer.
4480(d)	Make decisions for care, treatment, and services in best interest of consumer.
4480(e)	Seek evaluations and assessments regarding care, treatment and services.
4480(f)	Monitor care, treatment and services.
4482(a)	Protect assets of estate.
4482(b)	Pursue claims when best interest of consumer or estate.
4482(c)	Defend against actions or claims against estate.
4482(d)	Incur expenses that are appropriate to the estate, in relation to the assets, overall investment strategy, purpose, and other relevant information and circumstances when investing and managing estate assets.
4482(e)	Manage assets of estate in best interest.
4482(f)	Manage estate with prudence, care and judgment.
4484(a)	Oppose limitations on licensee's powers, or termination of the proceeding and restoration of the conservatee's legal capacity.
4484(b)	Take all steps to facilitate termination of the fiduciary relationship.
4484(c)	Shall not oppose or interfere with efforts to terminate the licensee's fiduciary relationship with a consumer for any reason other than as necessary or appropriate to protect or promote the best interest of that consumer.
4540(a)	File annual report within 60 days from date of issuance of license.
4540(b)	File annual report no later than 60 days prior to expiration of license.
4540(c)	Follow E-filed annual statement with a completed, signed copy mailed and received by the Bureau within timeframes.
Code Section	Description
6502(a)	Those registered with Statewide Registry need to obtain licensure.
6502(b)	Those required to file with court need to obtain licensure.
6530(a)	Must be licensed as a professional fiduciary if performing fiduciary functions.
6560	Maintain account records and make available upon request.

**Organizational Charts
Fiscal Year 13-14**

Attachment 12-B
Relationship of Committees to the
Bureau
October 7, 2013



**Organizational Charts
Fiscal Years 09-13**

Department of Consumer Affairs
Bureau of Professional Fiduciaries
July 31, 2013

CURRENT
FY 2013-14
Authorized Positions: 1.7

Denise D. Brown
Director, DCA

Bureau Chief
Julia Ansel
(Exempt) 7
618-110-9605-001

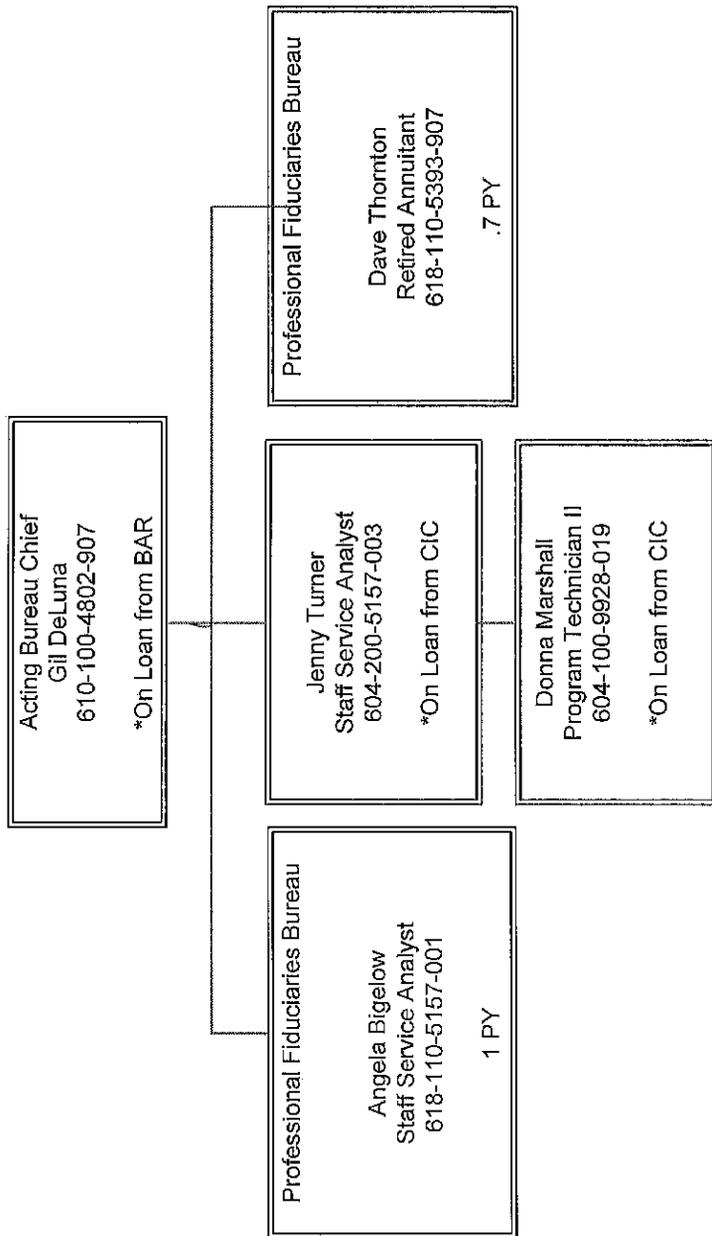
Staff Services Analyst
Angela Bigelow 1.0
618-110-5157-001

Julia Ansel, Bureau Chief _____

Christy Abate, C&P Analyst _____

Department of Consumer Affairs Professional Fiduciaries Bureau

CURRENT
Organization Chart
January 29, 2013



Human Resources _____ Date

Denise Brown, Director _____ Date



1-29-13
Date

Gil DeLuna, Acting Bureau Chief

FY 2011-12
PY 1.7
+ Loan

Department of Consumer Affairs
Professional Fiduciaries Bureau
CURRENT
Organization Chart
July 2011

Acting Bureau Chief
Gil DeLuna
610-100-4802-907

Professional Fiduciaries Bureau
Angela Bigelow
Staff Service Analyst
618-110-5157-001
1 PY

Professional Fiduciaries Bureau
Dave Thornton
Risk Assurant
618-110-5393-907
7 PY

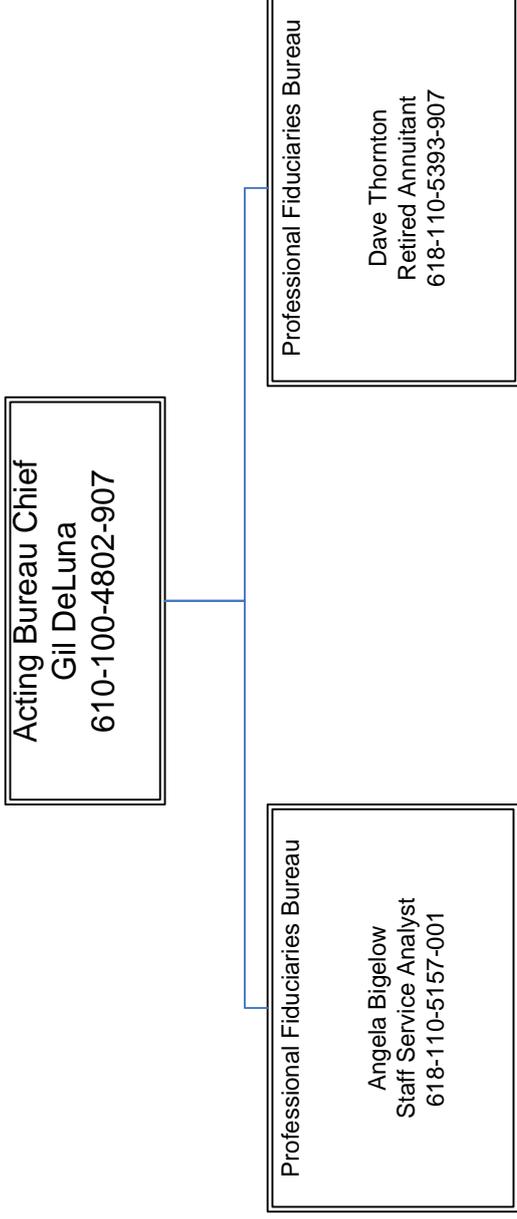
Human Resources _____ Date

Binan Stigar, Sr., Director _____ Date

_____ Date
Gil DeLuna, Acting Bureau Chief

**Department of Consumer Affairs
Professional Fiduciaries Bureau**

**CURRENT
Organization Chart
February 2011**



Human Resources _____ Date

Brian Stiger, Sr., Director _____ Date

Gil DeLuna, Acting Bureau Chief _____ Date

Department of Consumer Affairs
Professional Fiduciaries Bureau
CURRENT
Organization Chart
June 2010

Acting Bureau Chief
Gill DeLuna
610-100-4802-907

Professional Fiduciaries Bureau
Angela Bigelow
Staff Service Analyst
618-110-5157-001

Human Resources _____ Date

Brian Stiger, Sr., Director _____ Date

Gill DeLuna, Acting Bureau Chief _____ Date