

The Guardian



Message from the Advisory Chair on Retirement

I am thrilled to be serving as committee chair for 2016 and invite you to contact me with any issues to bring back to the committee concerning the Professional Fiduciaries Bureau or our profession.

Musings on Retirement

I am in the process of retiring after 26 years in practice. I am discovering it is really a process that takes time.

About a year ago I stopped taking new cases and am winding down those which are ready to close. However, I have discovered that I have some ongoing cases that are difficult to walk away from due to the relatively young age of the beneficiaries and the good care being given to my aged conservatees.

I have worked with some of my conservatees for many, many years and I have relationships with them and their families.

Some clients have run out of money long ago and it is not easy to transfer a pro-bono case to another fiduciary.

When you work for someone, a company, or an organization, you can give a date certain for retirement. However, in this

field you should start to plan many years prior to your expected retirement date in an effort to create a retirement plan that works for both you as the professional and for your clients as well.

At this point in my career, I am semi-retired and will probably remain so for the foreseeable future.

Mentoring

I will continue to mentor and teach as part of my retirement plan.

Coming from a social work background, it was always important to have peer consultation as an integral part of one's practice. It is very helpful to discuss cases, get emotional support, share resource information, and have a feeling that you are not alone.

My advice to you is attend a mentoring or peer group, start your own, or buddy up with someone a little more seasoned than you are.

Sincerely,

*Barbara deVries
CLPF, LCSW*

DEPARTMENT OF CONSUMER AFFAIRS

PFEB

PROFESSIONAL FIDUCIARIES BUREAU

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A Message From the Bureau Chief

The licensing of those who serve as trustees, conservators, guardians, and agents under the powers of attorney for finance and for health was created under the Professional Fiduciaries Bureau (Bureau) by legislation that passed and was enacted into law in 2007 by the Professional Fiduciaries Act. The Bureau is a relatively new program within the Department of Consumer Affairs (DCA). Outreach and awareness are two things we strive for at the Professional Fiduciaries Bureau. The Bureau is constantly brainstorming on how to inform and educate consumers of our State about the services a Professional Fiduciary provides. Recently, we drafted a new publication titled *What is a Professional Fiduciary? A Guide for California Consumers*. Allow me to share with you the contents of our newest publication:

A Professional Fiduciary is a licensed individual who is responsible for property or the well being of another. He or she serves vulnerable populations, such as seniors and those who can no longer care for themselves, and is an advocate that provides overall care for a client. If an individual becomes incapacitated or dies, a Professional Fiduciary can take care of managing an estate. He or she can also serve independent, productive people who need assistance in making sound financial, health care, and day-to-day decisions.

WHAT KINDS OF SERVICES CAN A PROFESSIONAL FIDUCIARY PROVIDE?

- Banking and bill paying
- Cash flow management
- Daily care and housing needs
- Estate management and administration
- Fiduciary accountings
- Tax management
- Household upkeep and maintenance

Plus, the management of certain services, including:

- Medical care needs
- Assets and distribution
- Insurance needs
- Investments
- Public benefits
- Real estate and personal property

A Professional Fiduciary may not be an expert in all areas and may hire other professionals to handle some needs at the expense of the trust or estate. However, the Professional Fiduciary is the manager over all services provided. If he or she hires another professional, the responsibility to provide appropriate and adequate services falls on the Professional Fiduciary, and he or she is the ultimate decision-maker while following your or the court's instructions.

WHY HIRE A PROFESSIONAL FIDUCIARY?

- You do not have friends or family to help in handling your affairs.
- You want to avoid possibly burdening family or friends.

- Your trusted friends and family members may not have the right skills, not be willing to assist, or live too far away to help.
- Your relatives have conflicts between them that make choosing a neutral party a better choice.
- You are seeking an experienced, qualified professional to act as an advocate for you, no matter what stage of life you're in.

WHAT DOES THE PROFESSIONAL FIDUCIARIES BUREAU DO?

The State's Professional Fiduciaries Bureau (Bureau) licenses and regulates Professional Fiduciaries and was created in 2007 under the Department of Consumer Affairs. Protection of the public is the Bureau's highest priority in exercising its licensing, regulatory, and disciplinary functions. The Bureau is responsible for reviewing and investigating consumer complaints and can also investigate potential licensee misconduct on its own initiative. As of January 1, 2009, any person who acts as a fiduciary for a nonfamily member must be licensed by the Bureau. Courts cannot appoint an individual to act as a Professional Fiduciary for nonfamily members unless the individual holds a valid Professional Fiduciary license.

WHAT ARE THE DIFFERENT TYPES OF FIDUCIARIES (REGULATED BY THE BUREAU)?

TRUSTEE

A Professional Fiduciary serving in the capacity of a trustee has the responsibility of carrying out the terms of the trust as stated in the trust document. The trustee is named by the person who created the trust. The creator of the trust or

“trustor” may name a family member, a friend, or a Professional Fiduciary to be trustee in the event he or she is incapacitated or no longer living. In some cases, there is no trustee available or no trustee named in the trust; in this instance, the court may appoint someone to serve as trustee. There are sometimes legal or tax reasons to name a Professional Fiduciary as trustee.

GUARDIAN

A Professional Fiduciary serving in the capacity of a guardian provides management over the financial and personal affairs of minors (those younger than 18). Although your estate planning documents (consult with an attorney to draft these documents) may name a specific person to act as a minor’s guardian, the guardian must seek the court’s permission to create the guardianship.

CONSERVATOR

A Professional Fiduciary serving in the capacity of a conservator provides management over the financial and personal affairs of individuals who can no longer make or communicate safe or sound decisions about their person and/or property or has become susceptible to fraud or undue influence. Although your estate planning documents (consult with an attorney to draft these documents) may name a specific person to act as a conservator, the conservator must be appointed by the court to create the conservatorship.

AGENT UNDER DURABLE POWER OF ATTORNEY

A Professional Fiduciary serving in the capacity of an agent under a

durable power of attorney (POA) is an individual entrusted to act as your agent for either your financial and/or health care matters in the event you become incapacitated. If you want to choose one person to speak for you on health care matters and someone else to make financial decisions, you can do separate financial and health care powers of attorney. Your POA should set forth the specific decisions you want your agent to control such as medical care decisions, public benefits, individual retirement accounts, and Social Security payments.

HOW CAN CONSUMERS PROTECT THEMSELVES?

Before you hire a Professional Fiduciary, verify he or she is licensed. To verify a license, go to the Bureau’s website, www.fiduciary.ca.gov. Through the website, you can do searches by using a fiduciary’s name, license number, city, or county. In addition, follow these tips:

- Write down your expectations for your estate, finances, health care, and end-of-life wishes. This may mean creating an estate plan and consulting with an attorney to complete the necessary documents.
- Plan ahead for your needs and your family’s needs.
- Consider referrals from family, friends, or another professional.
- Interview two or more Professional Fiduciaries.

I encourage you to share this information with colleagues, family, and friends. This is one way you can assist the Bureau in spreading the word about the services a Professional Fiduciary provides.

The more consumers know about fiduciary services the better they will be able to plan for their futures.

In addition, please join us in welcoming two new members to the Bureau’s Advisory Committee, Ms. Dawn Akel and Mr. King Gee. Mr. Gee will serve as the committee’s advocate for seniors in the nonprofit realm. Mr. Gee was assistant director of intergovernmental affairs at the California Department of Social Services from 1997 to 2006, where he was regulatory director of life care and continuing care retirement communities for seniors from 1992 to 1997. He serves as a member of the Asian Community Center of Sacramento Valley board and president of the Northern California Education Foundation. Ms. Akel will serve in one of the three Professional Fiduciary licensee positions. Ms. Akel has been president and Chief Executive Officer at Akel Fiduciary since 2008. She served as global business development manager at InterCall’s National Sales Division from 1998 to 2012. The Bureau looks forward to working with both of you.

Finally, please join us in a heartfelt thank you to Marguerite Lorenz for her service as a member of the Advisory Committee. The Bureau appreciates the time, expertise, and advice you have so graciously provided to our organization over the past few years. Good luck to you in all your future endeavors.

Warm Regards,

Julia G. Ansel, Chief



Why Use a Professional Licensed Fiduciary?

Making Smart Decisions with Thoughtful Planning

By Gina M. Greenwood-Meinert, California Licensed Professional Fiduciary

The responsibility and time commitment of taking care of yourself and everything you have worked so hard for can be overwhelming and emotional. Select someone who is licensed and professionally trained to understand trust documents, the Probate Code, and common professional safeguards. Family conflicts and biases can cloud judgments and interfere with the implementation of your instructions. Choosing a professional fiduciary frees family of tremendous added stress and hardship, as well as risk.

Contact a reliable estate planning attorney to document your decisions and explain the service options available to assist you in implementing your wishes.

SERVICE OPTIONS:

Corporate Bank or Trust Company
Licensed Professional Fiduciary
Attorney or CPA
Family Member or Friend

Professional fiduciaries are regulated by the Professional Fiduciaries Bureau. A Licensed Professional Fiduciary has to meet the educational training required by the State's Fiduciaries Bureau and successfully complete an exam based on that training. A private professional fiduciary will provide the greatest level of service at the lowest cost.

Keep in mind, fiduciary licensing does not apply to a licensed attorney in California or to a person licensed in California as a Certified Public Accountant (CPA) acting within the scope of practice of his/her CPA license.

Corporate fiduciaries may have internal institutional limitations regarding investing, managing, and spending the assets of an estate, trust, or guardianship. Be certain a corporate fiduciary will fulfill your expectations in order to avoid conflicts with beneficiaries who will be forced to go to court to resolve disputes with the institution. In most cases, corporate fiduciaries cost more than an individual fiduciary.

Since corporate fiduciaries use committees to make decisions, you may experience long delays in actions to be taken on behalf of an estate, trust, or guardianship, as well as slower responses to questions or concerns and time-sensitive decisions. As part of a corporation, corporate fiduciaries have a bureaucracy of various departments and offices in different locations. When trying to find the right person for help, corporate fiduciaries may have internal institutional limitations regarding investing and managing; spending the assets of an estate you need when you need them can be frustrating.

Develop a plan with your attorney so that you have the support you need in place to enforce your decisions when you need it most. Remember, you took great care with your estate planning, so let your attorney help evaluate the capability of your successor trustee to meet your expectations and implement your wishes with the same level of care. Will your successor trustee remain objective and work successfully with all beneficiaries and family members? You and your family deserve to be treated with dignity and respect, not like just an account number.

SOME CONSIDERATIONS IN SELECTING A FIDUCIARY INCLUDE:

- What type of services do you need?
- Are they insured for errors and omissions?

- What are their credentials?
- What are their office and phone hours?
- If there is an emergency after hours, who can I reach?
- What are their internal controls like? How is your confidential information protected?
- What happens to your estate if something happens to them? What is their succession plan?
- Do they have a disaster recovery plan for your data?
- What fees do they charge and when?
- If they use other professionals (certified public accountant, attorney, caregiver, etc.), what are their fees?
- Do they work alone or have staff?
- If they have staff, what types of services do they delegate to them?
- What is the fee for services provided by their staff?
- How often will they provide you with an accounting?
- Will they provide you with references of past or current clients or other professionals they have worked with who you can contact?
- Do you have a longtime financial advisor you wish to continue working with?
- What do you want to do with your real estate?
- Who is representing you and your interests?
- Do you need a successor trustee? Power of attorney–finance? Power of attorney–health care?

Some common situations where fiduciaries serve:

- Family has little knowledge of finance, business, or real estate.
- Family is busy with work, and children are not responsible or do not work well together.
- Elderly clients do not want to use an impersonal and costly financial institution.
- Serving as the successor trustee under any circumstances is a huge responsibility and time consuming burden, but with the help of your estate planning attorney you should be able to choose the right fiduciary to represent you.

Look for an upcoming article on “Qualities to Look for in Your Successor Trustee.”

VISION AND MISSION STATEMENTS

OUR VISION

To protect, maintain, and enhance the quality of life for consumers by promoting the highest Professional Fiduciary standards.

OUR MISSION

To protect consumers through licensing, education, and enforcement by ensuring the competency and ethical standards of Professional Fiduciaries.

What's New?

The Professional Fiduciaries Bureau (Bureau) has updated all applicant and licensee forms as of August 2015. Please check the Bureau website for the most updated forms prior to submitting your applications and documents.

The Bureau has new publications!! Please see the links to these publications below:

[What You Should Know Before Hiring a Professional Fiduciary](#)

[What is a Professional Fiduciary? A Guide for Consumers](#)

[Attention Licensees](#)

All publications are available as PDFs and may be printed for your office.

ASK ANGIE

Angie is the Professional Fiduciaries Bureau (Bureau) expert when it comes to answering questions related to the Bureau's functions. We always like to hear from you, both common and difficult questions that we can publicize for all to see. This forum will be used specifically for this purpose. We may not be able to answer all of your questions because we are excluded from giving any legal advice, but please submit questions regarding applications, licensing, licensing renewals, complaints, enforcement, or any other questions related to the Bureau to fiduciary@dca.ca.gov with the phrase ASK ANGIE in the subject line. Your questions will be answered directly to you and if the question becomes one of the Bureau's frequently asked questions (FAQs), the question and answer will be published in our next E-Newsletter. Below are some of the questions the Bureau is asked regularly:

From Applicants:

Q: Do I have to complete the preclicensing education requirement prior to submitting my application?

A: No. However, according to [California Code of Regulations section 4426 \(a\)](#), if the application is not complete within 12 months from the date of notification of deficiency, the application shall be deemed abandoned and the application fee forfeited.

Q: If I have another professional license, can I use the continuing education obtained for that license to count for the Bureau's preclicensing requirements?

A: Yes, as long as the hours were obtained on or after January 1, 2007, and fall under the criteria of the California Code of Regulations section 4444.

Q: If I do not have a degree, can I qualify to take the examination with experience only?

A: You may qualify with experience only if you meet the criteria stated in [Business and Professions Code section 6533 \(f\)\(3\)](#).

The criteria are: "Experience of not less than five years, prior to July 1, 2012, working as a professional fiduciary or working with substantive fiduciary responsibilities for a professional fiduciary, public agency, or financial institution acting as a conservator, guardian, trustee, personal representative, or agent under a power of attorney." (Emphasis added.) All five years of experience must have occurred prior to July 1, 2012.

Q: Can I e-mail the Bureau with a list of my experience for the Bureau to review before I submit an application and pay the \$400 application fee?

A: No, the Bureau reviews the application in its entirety once it is submitted. The \$400 application fee is the actual cost for the Bureau to process the application.

From Licensees Regarding Renewals:

Q: What do I do if I do not receive a license renewal application?

A: Your license renewal application will be mailed approximately 60 days prior to the expiration of your license. If you do not receive the license renewal application, please contact the Bureau staff. Please remember this is the form you return your payment with. The [Annual Statement](#), which is due 60 days prior to your expiration, is a separate form and will not be mailed to you. It is each licensee's responsibility to mail this to the Bureau on time.

Q: How long does it take the Bureau to process my renewal once it is received?

A: Once your renewal application is received, it may take four to six weeks to process from the date of receipt of a complete renewal package, so be sure to send in your annual statement at least 60 days prior to your expiration date and your renewal notice with payment as soon as possible.

Renewals are processed in the order they are received. If any part of the renewal documents is not received on time, your license may not renew prior to its expiration date.

Q: What happens if I am short continuing education hours for my annual renewal?

A: Your license will not be renewed until all requirements stated in [Business and Professions Code section 6541](#) are completed.

Q: How long do I need to keep proof/documentation of my completed continuing education?

A: According to [California Code of Regulations section 4452 \(b\)](#), “A licensee shall maintain documentation of completion of continuing education courses for a period of at least three years from the date of renewal.”

Q: What happens if the Bureau selects me for a continuing education audit?

A: According to [California Code of Regulations section 4452 \(c\)](#), “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.”

Q: Which clients should I report to the Bureau when renewing my license?

A: When submitting your Annual Statement for renewal, report only cases you opened or closed since the date of your LAST Annual Statement.

From Licensee Regarding Complaints:

Q: Will this complaint affect my license renewal?

A: No. Complaints are not public record and do not affect the renewal of your license. Your license is not affected by a complaint unless the Bureau takes disciplinary action or issues a citation against your license.

Q: Can I have a copy of the complaint that was filed against me?

A: No. [California Government Code section 6254 \(f\)](#), an exception to the California Public Records Act, exempts records of complaints to and investigations conducted by, among others, State agencies from disclosure.

Q: Am I required to submit documents the Bureau requests from me?

A: Yes. [Business and Professions Code section 6560](#) states: “A licensee shall keep complete and accurate records of client accounts, and shall make those records available for audit by the Bureau.” Additionally, California Code of Regulations section 4544 requires that licensees submit requested information within 15 business days. If the licensee does not comply, the licensee may be subject to a citation that may include a fine or other disciplinary action for failure to comply as stated in [California Code of Regulations section 4544 \(d\)](#).

Q: What are the top reasons the Bureau issues citations?

A: Most citations are issued for the following reasons:

- Unlicensed activity.
- Not acting in the best interest of the client.
- Inaccurate/incomplete record keeping.
- Charging the client when speaking to the Bureau in response to a complaint.



Continuing Education Requirements for Renewing Your California Professional Fiduciary License

By Julia G. Ansel, Chief

California Licensed Professional Fiduciaries are required to complete, and to keep proof of, 15 hours of continuing education (CE) each renewal cycle. Thirteen (13) hours can come from any approved topic and two (2) hours are required to be in fiduciary ethics. A fiduciaries' renewal cycle is annual based on birth month. This renewal schedule helps to keep the renewal workload for Bureau staff at a somewhat consistent level throughout the year.

Most professionals who are licensed under the Department of Consumer Affairs (DCA) are required to complete CE hours to renew their respective licenses. A licensed Professional Fiduciary in California is no exception. Many of the licensed fiduciaries have reported to the Bureau that they far exceed the required 15 hours on an annual basis.

Upon renewal of a license, the licensee signs an annual renewal statement under penalty of perjury, attesting they have completed 15 hours of approved CE. Since the Bureau is a newer

agency within DCA, it has taken time over the past few years to provide courtesy calls and e-mails to licensees who have not submitted their renewal documentation complete and/or on time. A complete renewal packet includes: an annual statement submitted no later than 60 days prior to expiration (California Code of Regulations (CCR) 4540 (b)), Renewal Slip certifying at least 15 hours of CE completion (CCR 4442), and \$700 renewal fee (CCR 4580 (c)). Due to work efficiency and strain on limited staff resources going forward, the Bureau will no longer be able to provide these courtesy calls and e-mails to licensees. The Bureau feels confident that eight years after its enactment, Professional Fiduciaries know, or at least should know, that if renewal packets are not completed properly, their licenses will not renew and this could be cause for discipline.

California Code of Regulations Article 3, section 4442 (a)(1), Continuing Education Requirements, states:

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.

California Code of Regulations Article 3, section 4442 (b)(2), Continuing Education Requirements, states:

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

Many Professional Fiduciaries have shared with the Bureau that they receive these ethics hours from classes taken from the Professional Fiduciary Association of California (PFAC).

The Bureau wants licensees to be aware that PFAC is not the only provider of acceptable ethics courses. Below are some suggestions on how a Professional Fiduciary might satisfy the required two hours of continuing education in fiduciary ethics:

- The State Bar of California. (Contact your local Probate and Estates Section of the Bar. Many groups have monthly lunches or dinners where you may be able to receive ethics units.)
- In addition to PFAC, the Bureau's website (http://www.fiduciary.ca.gov/licensees/ed_providers.shtml) offers a list of approved providers who may offer CE courses in fiduciary ethics.

Please note California Code of Regulations section 4452 (b) states:

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

This means all licensees must keep proof of completion of their continuing education documents. Typically, this is in the form of a dated and signed certificate or a dated and signed participation acknowledgement from the provider. The signature required may be of the providers or the licensees. In addition, verification documents typically outline the number of hours of CE credit.

If you are selected for a CE audit by the Bureau, we will request documents that verify the licensee completed the required 15 hours. If you do not have proper documentation of your continuing education credits, your license may be subject to discipline.

The Bureau believes continuing education is vital to the future growth and development of this important profession. If you have questions about the above requirements or any requirements listed in the Professional Fiduciary Act, please contact the Bureau by calling us at (916) 574-7341 or e-mail us at fiduciary@dca.ca.gov.

Expert Consultants Needed

The Professional Fiduciaries Bureau (Bureau) established its expert consultant program in 2011 as an impartial and professional way to support the investigation and enforcement functions of the Bureau.

Expert consultants provide expert reviews and opinions on Bureau cases.

To be an expert consultant for the Bureau, you must:

1. Possess a current California Professional Fiduciary license in good standing with no prior discipline and no accusation pending.
2. Have no history of confirmed complaints within the last three years.

3. Have an active fiduciary practice.

The Professional Fiduciaries Bureau has set the reimbursement rate for fiduciaries conducting case reviews and report writing at \$75 per hour and \$90 per hour for providing expert testimony at an Administrative Hearing.

Due to the relatively small number of licensees, it is the policy of the Bureau to use each expert no more than three times a year with prior approval of the Bureau Chief.

If you have any questions and are interested in applying, please contact Dave Thornton at (916) 574-7816 or e-mail dave.thornton@dca.ca.gov.



Is a Certified Public Accountant Exempt from Fiduciary Licensing?

By Julia G. Ansel, Chief

The short answer is “no.” The Professional Fiduciaries Act, Business and Professions Code Division 3 Licensing, Chapter 6, Article 3, section 6530 (c), reads as follows:

FIDUCIARY LICENSING

6530 (c). This section does not apply to a person licensed as, and acting within the scope of practice of, a certified public accountant (CPA) pursuant to Chapter 1 (commencing with Section 5000) of Division 3.

The section quoted above means if a certified public accountant is acting within their scope of practice, they are not required to be licensed. Note, nowhere in the Business and Professions Code does it state that a CPA is “exempt” from licensing.

The practice of public accountancy is defined in Business and Professions Code Division 3 Professions and Vocations Generally, Chapter 1, Article 3, section 5051. This section of law outlines what a CPA’s scope of practice entails:

5051. Except as provided in sections 5052 and 5053, a person shall be deemed to be engaged in the practice of public accountancy within the meaning and intent of this chapter if he or she does any of the following:

- (a) Holds himself or herself out to the public in any manner as one skilled in the knowledge, science, and practice of accounting, and as qualified and ready to render professional service therein as a public accountant for compensation.
- (b) Maintains an office for the transaction of business as a public accountant.
- (c) Offers to prospective clients to perform for compensation, or who does perform on behalf of clients for compensation, professional services that involve or require an audit, examination, verification, investigation, certification, presentation, or review of financial transactions and accounting records.
- (d) Prepares or certifies for clients reports on audits or examinations of books or records of account, balance sheets, and other financial, accounting and related schedules, exhibits, statements, or reports that are to be used for publication, for the purpose of obtaining credit, for filing with a court of law or with any governmental agency, or for any other purpose.
- (e) In general or as an incident to that work, renders professional services to clients for compensation in any or all matters relating to accounting procedure and to the recording, presentation, or certification of financial information or data.

- (f) Keeps books, makes trial balances, or prepares statements, makes audits, or prepares reports, all as a part of bookkeeping operations for clients.
- (g) Prepares or signs, as the tax preparer, tax returns for clients.
- (h) Prepares personal financial or investment plans or provides to clients products or services of others in implementation of personal financial or investment plans.
- (i) Provides management consulting services to clients.

The activities set forth in subdivisions (f) to (i), inclusive, are “public accountancy” only when performed by a certified public accountant or public accountant, as defined in this chapter.

A person is not engaged in the practice of public accountancy if the only services he or she engages in are those defined by subdivisions (f) to (i), inclusive, and he or she does not hold himself or herself out, solicit, or advertise for clients using the certified public accountant or public accountant designation. A person

is not holding himself or herself out, soliciting, or advertising for clients within the meaning of this section solely by reason of displaying a CPA or PA certificate in his or her office or identifying himself or herself as a CPA or PA on other than signs, advertisements, letterhead, business cards, publications directed to clients or potential clients, or financial or tax documents of a client.

A CPA is allowed to work as a fiduciary and not be licensed by the Professional Fiduciaries Bureau as long as the services they are providing are within the scope of practice as outlined in Business and Professions Code section 5051. If services a CPA are providing to a client are outside the delineated activities listed above, the CPA should be licensed by the Professional Fiduciaries Bureau if the activities fall under the Bureau’s jurisdiction. If you are a CPA and you are not sure if services you are providing to a client are within your scope of practice, please contact the Board of Accountancy at www.cba.ca.gov or call (916) 263-3680.

RESULTS OF THE 2014 CONTINUING EDUCATION AUDIT

The Professional Fiduciaries Bureau (Bureau) conducted an annual continuing education audit in June of 2015. Bureau staff would like to share some of what we learned.

First, we would like to thank you as we found most of our licensees complete **many** more hours than the 15-hour requirement.

The Bureau sent audit letters to 45 active licensees, which is approximately 5 percent of the total licensing population at the time of the audit. The Bureau received a 98 percent response rate and 87 percent of the audited licensees were in compliance. Once the audit was completed, the Bureau issued six citations for noncompliance. The citations were issued for the following reasons:

- No reply to the audit—1
- Ethics not completed—3
- Total number of hours not completed—2

The Bureau reminds licensees of the requirement to comply with Article 3 of the California Code of Regulations when completing and reporting continuing education hours.

All licensees are required to complete 15 hours of continuing education, and two of the hours must be in ethics for fiduciaries. The hours must be completed during the licensees’ renewal cycle dates.



DISCIPLINARY ACTIONS AND CITATIONS ISSUED BY THE PROFESSIONAL FIDUCIARIES BUREAU

Licensee/Applicant	License Number	Action Taken	Effective Date
Ronald Bradley Olund	243	2 Yr., 11 Mo. Probation	06/5/2015
Janice Kay Hall	244	Public Reprimand	06/19/2015
Gary Lee Arps	315	Revocation	08/31/2015
Michael I. Gonzalez Jr.	400	Accusation	08/31/2015
Melodie Jo Scott	545	Accusation	09/11/2015
Patricia McVey-Ritsick	67	Citation	
		Status: Order Satisfied	11/05/2015
Stuart Jacobson	422	Citation	
		Status: Order Satisfied	12/11/2015
Sarah Hardcastle	232	Citation	12/11/2015

Bureau Actions | Explanation of Language

Accusation—A formal, written statement of charges filed against a licensee.

Citation and Fine—Licensee is issued a citation and required to pay a fine commensurate with the violation committed.

Default Decision—Licensee fails to respond to an accusation by filing a Notice of Defense or fails to appear at an administrative hearing.

Effective Decision Date—The date the disciplinary decision/order goes into operation.

Letter of Public Reprimand—A formal reprimand issued by the Bureau,

which could be in lieu of filing a formal accusation.

Revoked—The license is voided and the right to practice has ended.

Revoked, Stayed, Probation—“Stayed” means the revocation is postponed, put off. Professional practice may continue so long as the licensee complies with specified probationary terms and conditions. Violation of probation may result in the revocation that was postponed by the stay.

Statement of Issues—Charges filed against an applicant to deny licensure due to alleged violations of the Professional Fiduciaries Act.

Stipulated Settlement—The case is negotiated and settled prior to hearing.

Surrender of License—While charges are still pending, the licensee agrees to turn in the license – subject to acceptance by the Bureau.

Suspension—The licensee is prohibited from practicing for a specified period.

Writ—An appeal filed by the licensee in Superior Court asking the court to overturn the Bureau’s decision.

FIDUCIARY TIME TRACKING

By Julia G. Ansel, Chief

How do you track your time? How do you keep track of all of the phone calls, e-mails, bills, letter generation, and endless hours going through a client's home who has lived in the same place for 40-plus years? The Bureau recently surveyed our licensee population and one of the questions included:

How do you track client information (case interactions, contact information, billings, etc.)?

In our recent survey, the Bureau had an approximate 20 percent participation rate among licensed Professional Fiduciaries in the State. Of this sampling, our survey uncovered the following information about the types of tracking systems licensees are using to run their businesses:

TRACKING SYSTEM	FIDUCIARY RESPONSES
Manually	13%
Microsoft Excel	30%
QuickBooks	17%
Other	40%

Other time tracking methods reported by participants included Quicken, PC Law, Time Matters, TimeSlips, Evernote, Word, and EMS Software. The Bureau realizes that tracking your time is vital to a successful fiduciary practice. Tracking time in a professional and organized manner is good for your clients, beneficiaries, the courts, your attorneys, vendors, and any other professionals you might do business with in your practice. Above all, it's good for your business and your personal peace of mind.

BAND TOGETHER AND COMBAT UNLICENSED ACTIVITY

Licensed California professionals personify quality, pride, and trust.

It's the stuff that California's professionals are made of. It's what they value. Quality. Pride. Trust. Unlicensed practitioners pose a threat to you and your business. Why?

- Unlicensed individuals and businesses operate illegally.
- They do not follow acceptable standards or abide by a code of ethics.
- They offer little or no recourse for dissatisfied customers.
- They hurt the economy because unlicensed businesses often do not pay taxes.
- They steal business away from legitimate businesses and professionals who follow the rules.
- They pose a risk to consumers by committing fraud.
- They undermine their industry's credibility.

The Professional Fiduciary Bureau's staff is not able to take action against persons who are providing services without being licensed, unless it is brought to the Bureau's attention. **The Bureau is requesting your help in combatting unlicensed activity.**

To report unlicensed activity, you can send an e-mail to fiduciary@dca.ca.gov or call (916) 574-7340.



Frequently Asked Questions From the 2015 Professional Fiduciary Association of California (PFAC) Conference

The Professional Fiduciaries Bureau (Bureau) staff attended the 2015 PFAC Conference in San Francisco in April. The staff led round table discussions available for continuing education credits and had a booth where many licensees and applicants stopped by to ask questions. Following are a few of the frequently asked questions and answers:

Q: If the Bureau receives a complaint against a licensee, is the licensee allowed to charge the client's trust/estate for the time they spend talking to the Bureau staff?

A: The Bureau's mandate is to protect consumers. According to Business and Professions Code section 6516 (in part)—“Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.”

The complaint process is the mechanism by which a consumer can file a complaint with the Bureau and the Bureau may investigate by obtaining information from the consumer and the licensee. If the consumer is going to be

charged by the licensee for filing a complaint, this does not serve to protect the consumer.

The licensee should not charge the client's trust/estate when responding to a complaint that has been filed with the Bureau.

Q: If the Bureau takes formal action against a licensee, how long does the action stay on the licensee's record?

A: Public record of formal action against a licensee is in perpetuity. Moreover, Business and Professions Code section 6580 (c) states, “The bureau shall provide on the Internet information regarding any sanctions imposed by the bureau on licensees, including, but not limited to, information regarding citations, fines, suspensions, and revocations of licenses or other related enforcement action taken by the bureau relative to the licensee.”

At this time, these public records remain on the Bureau's website indefinitely, as there is not a section of law that allows the Bureau to remove the actions from the Internet.

Q: Will the licensing fee ever be reduced?

A: The Bureau staff works closely with our budget office in tracking the amount of funds needed to run the Bureau. At this time, there is no indication that fees will be reduced in the future.

Q: Should I have my attorney contact the Bureau when I am notified a complaint has been filed against me?

A: To save time and the expense of an attorney, you may want to speak with the Bureau staff directly. When a complaint is received, the Bureau reviews the complaint and then contacts the consumer and the licensee with any questions about the allegations. In many cases, the complaint can be closed after speaking with the licensee without further action.

Q: How many hours of ethics are needed to renew a license?

A: Two hours of ethics for fiduciaries are required to renew your license.

Q: How can a licensee become an expert consultant for the Bureau?

A: Please see the article in this newsletter on page 9 with information about how to become an expert consultant.

HOW TO ACCESS PROFESSIONAL FIDUCIARIES BUREAU WEBCAST

The Professional Fiduciaries Bureau (Bureau) provides a webcast of all public meetings if the necessary technology is available at the meeting location. Webcasting allows the public to view the Bureau's public meetings; however, it is not interactive and the public is not able to participate via webcast. The Bureau welcomes the public to attend the meetings if they would like to speak on topics that are on the agenda or request that a topic be put on a future meeting agenda.

A list of past and future Bureau meetings can be found at the following link: http://www.fiduciary.ca.gov/about_us/meetings.shtml.

To access the webcast while the meeting is in progress, please go the following link: <https://thedcapage.wordpress.com/webcasts/>. The webcast will be available approximately 15 minutes prior to the start of the meeting.

Once the meeting has concluded, the video will be uploaded to the "Bureau Meetings" page and may be viewed at the following link: http://www.fiduciary.ca.gov/about_us/meetings.shtml. It may take up to two weeks for the video to appear on the page.

If you have any questions regarding webcasts, please contact Angela Cuadra at (916) 574-7341.

PENDING REGULATIONS

Client Notification—This regulation would require each licensee to notify their clients/consumers that they are licensed in California by the Bureau and how the client/consumer can contact the Bureau:

The proposed regulations were published and posted on the Bureau website on September 11, 2015. The Bureau held a hearing on October 13, 2015. The Bureau received several comments in written form and verbally at the hearing. On April 21, 2015, modified text of the proposed regulation was posted to the Bureau's website with a 15-day notice. The Bureau is currently reviewing comments received based on the 15-day notice of modified text.

The Bureau has reviewed the comments and has notified the interested parties of the updated proposed language.

Disciplinary Guidelines—These guidelines are intended

for the use of those involved in the administrative and formal disciplinary process, including but not limited to, Administrative Law Judges, Deputy Attorneys General, attorneys for respondents, licensees, and Bureau staff:

The Bureau is completing the final edits of the proposed language and will be noticing this regulation for hearing in 2016.

Retired/Inactive License Status—This regulation will establish qualifications required to put a license in retired or inactive status and qualifications to restore the license if requested later:

The Bureau anticipates this regulation will be noticed in 2016.

Important Bureau Updates and How to Receive Them

The Professional Fiduciaries Bureau (Bureau) is now on Facebook and Twitter! Follow the Bureau by clicking on the following icons or going to the specified link:



or www.facebook.com/pages/California-Professional-Fiduciaries-Bureau/281715915342772



or <https://twitter.com/FiduciaryBureau>

Additionally, if you would like to receive notifications from the Bureau about upcoming events, new regulations, and meetings, please sign-up to receive e-mail notifications from the Bureau at the following link:

www.dca.ca.gov/webapps/fiduciary/subscribe.php

Contact Information

Location:

1625 N. Market Blvd., Ste. S-209
Sacramento, CA 95834

Phone: (916) 574-7340 Fax: (916) 574-8645

E-mail: fiduciary@dca.ca.gov

Hours: Monday-Friday, 8 a.m.-5 p.m.

Send us your feedback

We hope you find the *Guardian E-Newsletter* useful. The Bureau welcomes your comments and suggestions for future issues. You can contact us by phone at (916) 574-7340 or by e-mail at fiduciary@dca.ca.gov. Online copies of the E-Newsletter are available at www.fiduciary.ca.gov/forms_pubs/newsletter.shtml.

Please share this newsletter with your staff and let them know they can sign up to receive a copy by joining the Bureau's interested party list by going online to www.dca.ca.gov/webapps/fiduciary/subscribe.php.

Advisory Committee Meeting Dates

8/24/16

1747 N. Market Blvd
1st Floor Hearing Room
Sacramento, CA 95834

11/16/16

1747 N. Market Blvd
1st Floor Hearing Room
Sacramento, CA 95834

Advisory Committee Members

Barbara de Vries, Chair, licensee

Hang Le To, Vice Chair, public member

Aileen Federizo, licensee

Dawn Akel, licensee

Jenny Chacon, public member

Kathleen Thomson, Probate Court investigator

King Gee, Nonprofit organization advocating on behalf of the elderly

Bureau Staff

Julia Ansel, Bureau Chief

Angela Cuadra, Program Analyst

Dave Thornton, Part-time Investigator

Jenny Turner, Licensing Analyst

Sara Lopez, Enforcement Analyst

Our office will be closed on the following 2016 holidays:

Monday, July 4—Independence Day

Monday, September 5—Labor Day

Wednesday, November 11—Veteran's Day

Thursday, November 24—Thanksgiving Day

Friday, November 25—Holiday

Monday, December 26—Christmas Day

Observed

