

BEFORE THE
PROFESSIONAL FIDUCIARIES BUREAU
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:)
)
TERESA M. CASTIGLIONE)
300 Carlsbad Village Drive, Suite 108A270)
Carlsbad, CA 92008)
)
Respondent.)
)


Case No. PF 2009-67
OAH No. 2011070440
STIPULATED SETTLEMENT
AND DISCIPLINARY ORDER FOR
PUBLIC REPROVAL

DECISION

The attached Stipulated Settlement and Disciplinary Order for Public Reprimand is hereby accepted and adopted as the Decision of the Director of the Department of Consumer Affairs in the above entitled matter.

This Decision shall become effective June 10, 2012.

IT IS SO ORDERED this 14th day of May, 2012


DOREATHEA JOHNSON
Deputy Director, Legal Affairs
Department of Consumer Affairs

1 KAMALA D. HARRIS
Attorney General of California
2 JAMES M. LEDAKIS
Supervising Deputy Attorney General
3 DAVID E. HAUSFELD
Deputy Attorney General
4 State Bar No. 110639
110 West "A" Street, Suite 1100
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Attorneys for Complainant

8
9 **BEFORE THE**
PROFESSIONAL FIDUCIARIES BUREAU
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

13 **TERESA CASTIGLIONE**
14 **300 Carlsbad Village Drive, Ste. 108A270**
Carlsbad, CA 92008

15 **Professional Fiduciary License No. PF 305**

16 Respondent.

Case No. PF 2009-67

OAH No. 2011070440

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER FOR PUBLIC
REPROVAL

[Bus. & Prof. Code § 495]

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19 In the interest of a prompt and speedy settlement of this matter, consistent with the public
20 interest and the responsibilities of the Director of Consumer Affairs and the Professional
21 Fiduciaries Bureau, the parties hereby agree to the following Stipulated Settlement and
22 Disciplinary Order for Public Reproval which will be submitted to the Director for his approval
23 and adoption as the final disposition of the Accusation.

24 **PARTIES**

25 1. Gil Deluna (Complainant) is the Acting Chief of the Professional Fiduciaries Bureau.
26 He brought this action solely in his official capacity and is represented in this matter by Kamala
27 D. Harris, Attorney General of the State of California, by David E. Hausfeld, Deputy Attorney
28 General.

2. Respondent Teresa Castiglione (Respondent) is represented in this proceeding by attorney Steven H. Zeigen, Esq., whose address is: 750 "B" Street, Suite 3210, San Diego, CA 92101.

3. On or about February 2, 2009, the Professional Fiduciaries Bureau issued Professional Fiduciary License No. PF 305 to Teresa Castiglione (Respondent). The Professional Fiduciary License was in full force and effect at all times relevant to the charges brought in Accusation No. PF 2009-67 and will expire on May 31, 2012, unless renewed.

JURISDICTION

4. Accusation No. PF 2009-67 was filed before the Professional Fiduciaries Bureau, Department of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on February 25, 2011. Respondent timely filed her Notice of Defense contesting the Accusation. A copy of Accusation No. PF 2009-67 is attached as Exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. PF 2009-67. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order for Public Reprimand.

6. Respondent is fully aware of her legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to confront and cross-examine the witnesses against her; the right to present evidence and to testify on her own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent hereby freely, voluntarily, and knowingly waives and gives up each and every right set forth above including, but not limited to, the right to a hearing on the charges and allegations contained in Accusation No. PF 2009-67 and the right to reconsideration and judicial review, in order to enter into this Stipulated Settlement. Respondent further waives any other

1 legal claim or defense, which she may have asserted, including, but not limited to, any time based
2 claim such as laches, in the event it is necessary to re-calendar an administrative hearing based on
3 any part of or all of Accusation No. 897-A. Respondent understands that, in signing this
4 Stipulated Settlement rather than contesting the Accusation, she is enabling the Bureau to issue its
5 order without further process.

6 CULPABILITY

7 8. Respondent admits to violating Business and Professions Code section 6584,
8 subdivision (d), when she inadvertently signed an inaccurate statement contained in a document
9 filed with the Court on or about November 24, 2008.

10 9. It is stipulated and agreed that Professional Fiduciary License No. PF 305 issued to
11 Respondent shall, by way of letter from the Acting Chief, be publicly reprovved. Said letter of
12 public reproof will issue as set forth above and shall be in substantially the same form as the
13 sample letter attached hereto as Exhibit B.

14 CONTINGENCY

15 10. This stipulation shall be subject to approval by the Professional Fiduciaries Bureau.
16 Respondent understands and agrees that counsel for Complainant and the staff of the Professional
17 Fiduciaries Bureau may communicate directly with the Bureau regarding this stipulation and
18 settlement, without notice to or participation by Respondent or her counsel. By signing the
19 stipulation, Respondent understands and agrees that she may not withdraw her agreement or seek
20 to rescind the stipulation prior to the time the Bureau considers and acts upon it. If the Bureau
21 fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary
22 Order for Public Reproval shall be of no force or effect, except for this paragraph, it shall be
23 inadmissible in any legal action between the parties, and the Bureau shall not be disqualified from
24 further action by having considered this matter.

25 11. The parties understand and agree that facsimile copies of this Stipulated Settlement
26 and Disciplinary Order for Public Reproval, including facsimile signatures thereto, shall have the
27 same force and effect as the originals.

28 ///

12. This Stipulated Settlement and Disciplinary Order for Public Reproval is intended by the parties to be an integrated writing representing the complete, final, and exclusive embodiment of their agreement. It supersedes any and all prior or contemporaneous agreements, understandings, discussions, negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary Order for Public Reproval may not be altered, amended, modified, supplemented, or otherwise changed except by a writing executed by an authorized representative of each of the parties.

13. In consideration of the foregoing admissions and stipulations, the parties agree that the Bureau may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED as follows:

A Public Reproval shall be issued to Respondent, Teresa Castiglione, Professional Fiduciary License No. PF 305.

IT IS FURTHER ORDERED that:

A. Within six (6) months from the effective date of the decision, Respondent shall attend and complete an eight hour course in fiduciary ethics. This course must be approved in advance by the Bureau or its designee. Respondent shall provide the Bureau with verifiable proof of her successful completion of said course. The Bureau will issue the public reproval upon receipt of the proof of the completion of the ethics course.

B. Within twelve (12) months from the effective date of the decision, Respondent shall reimburse the Board for its investigative and enforcement costs in the amount of \$3,500.00. Respondent may make the reimbursement in equal monthly payments subject to approval in advance by the Bureau or its designee. The filing of Bankruptcy or period(s) of non-practice by Respondent shall not relieve Respondent of his obligation to reimburse the Bureau for its costs.

C. This Order for Public Reproval as a resolution to the charges in Accusation No. PF 2009-67 is contingent upon Respondent's full compliance with all conditions of this Order. If Respondent fails to satisfy these conditions, the Bureau can file a supplemental Accusation for

1 unprofessional conduct based upon her failure to comply with this Order as an independent basis
2 for disciplinary action pursuant to Business & Professions Code section 6580, and reinstate the
3 original Accusation as if never resolved. The Bureau will be entitled to proceed against
4 Respondent on both the original Accusation and a supplemental Accusation based upon her
5 failure to comply with this Order.

6 D. Upon successful completion of all conditions in this Disciplinary Order Respondent's
7 Professional Fiduciary License No. PF 305 shall be unconditionally restored.

8 ACCEPTANCE

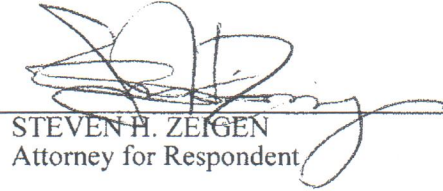
9 I have carefully read the above Stipulated Settlement and Disciplinary Order for Public
10 Reapproval and have fully discussed it with my attorney, Steven H. Zeigen. I understand the
11 stipulation and the effect it will have on my Professional Fiduciary License. I enter into this
12 Stipulated Settlement and Disciplinary Order for Public Reapproval voluntarily, knowingly, and
13 intelligently, and agree to be bound by the Decision and Order of the Professional Fiduciaries
14 Bureau.

15
16 DATED: Feb. 2, 2012


TERESA M. CASTIGLIONE
Respondent

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18
19 I have read and fully discussed with Respondent Teresa M. Castiglione the terms and
20 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order
21 for Public Reapproval. I approve its form and content.

22
23 DATED: 2/2/12


STEVEN H. ZEIGEN
Attorney for Respondent

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order for Public Reapproval is hereby respectfully submitted for consideration by the Professional Fiduciaries Bureau.

Dated:

2/3/12

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
JAMES M. LEDAKIS
Supervising Deputy Attorney General



DAVID E. HAUSFELD
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. PF 2009-67

1 KAMALA D. HARRIS
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Attorneys for Complainant

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9 **BEFORE THE**
PROFESSIONAL FIDUCIARIES BUREAU
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No.

13 **TERESA M. CASTIGLIONE**
14 **300 Carlsbad Village Drive, Ste. 108A270**
Carlsbad, CA 92008

A C C U S A T I O N

15 **Professional Fiduciary License No. PF 305**

16
17 Respondent.

18
19
20 Complainant alleges:

21 **PARTIES**

22 1. Gil DeLuna (Complainant) brings this Accusation solely in his official capacity as the
23 Acting Chief of the Professional Fiduciaries Bureau, Department of Consumer Affairs.

24 2. On or about February 2, 2009, the Professional Fiduciaries Bureau, Department of
25 Consumer Affairs, issued Professional Fiduciary License Number PF 305 to Teresa M.
26 Castiglione (Respondent). The Professional Fiduciary License was in full force and effect at all
27 times relevant to the charges brought herein and will expire on May 31, 2011, unless renewed.

28 ///

JURISDICTION

3. This Accusation is brought before the Professional Fiduciaries Bureau, Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 6580 of the Code states, in pertinent part:

(a) The bureau may upon its own, and shall, upon the receipt of a complaint from any person, investigate the actions of any professional fiduciary. The bureau shall review a professional fiduciary's alleged violation of statute, regulation, or the Professional Fiduciaries Code of Ethics and any other complaint referred to it by the public, a public agency, or the department, and may impose sanctions upon a finding of a violation or a breach of fiduciary duty.

(b) Sanctions shall include any of the following:

(1) Administrative citations and fines as provided in Section 125.9 for a violation of this chapter, the Professional Fiduciaries Code of Ethics, or any regulation adopted under this chapter.

(2) License suspension, probation, or revocation.

....

5. Section 6582 of the Code states:

All proceedings against a licensee for any violation of this chapter or any regulations adopted by the bureau shall be conducted in accordance with the Administrative Procedure Act (Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code), and shall be prosecuted by the Attorney General's office, and the bureau shall have all the powers granted therein.

6. Section 118, subdivision (b), of the Code provides that the suspension, expiration, surrender or cancellation of a license shall not deprive the Director of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

STATUTORY REGULATIONS

7. Section 6584 of the Code states, in pertinent part:

A license issued under this chapter may be suspended, revoked, denied, or other disciplinary action may be imposed for one or more of the following causes:

....

(d) Fraud, dishonesty, corruption, willful violation of duty, gross negligence or incompetence in practice, or unprofessional conduct in, or related to, the practice of a professional fiduciary. For purposes of this section, unprofessional conduct includes, but is not limited to, acts contrary to professional standards concerning any provision of law substantially related to the duties of a professional fiduciary.

....

1 **COST RECOVERY**

2 8. Section 125.3 of the Code provides, in pertinent part, that the Director may request
3 the administrative law judge to direct a licensee found to have committed a violation or
4 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
5 and enforcement of the case.

6 **FACTS**

7 9. On or about August 25, 2005 respondent was appointed as the Guardian of the Estate
8 of Garrett T., a minor. She held this position continuously until her ward reached the age of
9 majority in September of 2008.

10 10. On or about June 24, 2006, Respondent became registered in the California Statewide
11 Registry of Private Conservators, Guardians & Trustees.

12 11. On or about November 24, 2008, Respondent caused to be filed in the Superior Court
13 of San Diego County, North County Judicial District, the First and Final Account and report of
14 Guardian of the Estate (August 25, 2005 through September 27, 2008). Contained within this
15 document and in the supporting declaration signed by Respondent under penalty of perjury on
16 November 24, 2008 was a statement that Respondent was "a private, professional fiduciary,
17 registered and licensed in the State of California, according to the Professional Fiduciaries Act."
18 This statement was false.

19 12. The Professional Fiduciaries Act (The Act), California Business & Professions Code
20 section 6500, et. seq., became effective on January 1, 2007.

21 13. At the time the declaration was signed, Respondent had passed the State portion of
22 the Professional Fiduciary Licensing examination but had not yet passed the National portion of
23 the examination. Respondent did not receive her license as a professional fiduciary under The
24 Act, until February 2, 2009.

25 **CAUSE FOR DISCIPLINE**

26 **(Unprofessional Conduct - Dishonesty)**

27 14. Respondent is subject to disciplinary action under section 6584 subdivisions (d) in
28 that she falsely represented to the San Diego Superior Court that she was a licensed professional

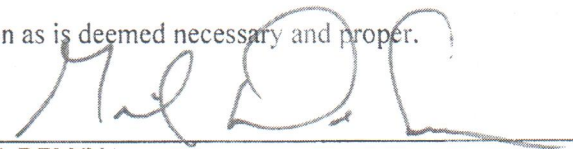
1 fiduciary when she had not yet received her license, as more fully described in paragraphs 10
2 through 14, above.

3 **PRAYER**

4 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
5 and that following the hearing, the Professional Fiduciaries Bureau, Department of Consumer
6 Affairs, issue a decision:

- 7 1. Revoking or suspending Professional Fiduciary License Number PF 305 issued to
8 Teresa M. Castiglione;
9 2. Ordering Teresa M. Castiglione to pay the Professional Fiduciaries Bureau the
10 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
11 Professions Code section 125.3;
12 3. Taking such other and further action as is deemed necessary and proper.

13 DATED: 1-31-11


14 GIL DELUNA
15 Acting Chief
16 Professional Fiduciaries Bureau
17 Department of Consumer Affairs
18 State of California
19 Complainant

20 SD2010703455
21 70411634.doc
22
23
24
25
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27
28

Exhibit B

Letter of Public Reproval in Case No. PF 2009-67

Date: _____

Teresa Castiglione
300 Carlsbad Village Drive, Ste. 108A270
Carlsbad, CA 92008

Re: LETTER OF PUBLIC REPROVAL
In the Matter of the Accusation Against:
Teresa Castiglione, Professional Fiduciary License No. PF 305

Dear Ms. Castiglione:

On February 25, 2011, the Professional Fiduciaries Bureau, State of California, filed an Accusation against your Professional Fiduciary License. The Accusation alleged that you engaged in unprofessional conduct under Business and Professions code section 6584, subdivision (d). On November 24, 2008, Respondent signed a statement under penalty of perjury stating that she was a licensed fiduciary in the State of California, when in fact she had not yet been licensed. This statement was in the original filing of the "First and Final Account and Report of Guardian" and the accompanying declaration, filed with the Court on November 24, 2008.

Taking into consideration that the statement was promptly corrected, and that there are other mitigating circumstances in this case that support the determination that you are safe to practice as a Professional Fiduciary, the Bureau has decided that the charges warrant a Public Reproval.

Accordingly, in resolution of this matter under the authority provided under Business and Professions Code section 495, the Professional Fiduciaries Bureau issues this letter of public reproval.

Sincerely,

GIL DELUNA
Acting Bureau Chief
Professional Fiduciaries Bureau