

**Professional Fiduciaries Bureau**

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**Professional Fiduciaries Bureau  
Advisory Committee Meeting  
September 27, 2010  
Department of Consumer Affairs  
Hearing Room, 1<sup>st</sup> Floor  
1625 N. Market Blvd.  
Sacramento, CA 95834**

**Committee Members Present**

Daniel Stubbs, CLPF- Chair  
Sharon O'Neill, Supervising Probate Court Investigator- Vice Chair  
Lisa Berg, CLPF  
Clark Parker, Public Member

**Committee Members Absent**

Cynthia Morrow, Public Member

**Staff Present**

Gil DeLuna, Acting Bureau Chief  
Angela Bigelow, Program Analyst  
Gary Duke, Department of Consumer Affairs Legal Counsel

**Guests Present**

Bev Brito, PFAC Regional President  
Joe Calderaro, CSEA  
Sandra Carey, PFAC Advocate

James C. Counts II, CPA  
Andrea Logue, Legal Services  
Stella Shvil, PFAC President

- I. Call to Order – Chair  
The meeting was called to order by Chair Daniel Stubbs, at 10:05am.
- II. Roll Call – Chief  
There were 4 members present and 1 absent.
- III. Introductions  
Those in attendance introduced themselves.

IV. Approval of minutes from the August 23, 2010 Meeting

Ms. O'Neill motioned to approve the minutes as drafted. Ms. Berg seconded the motion. No one opposed. The motion was carried.

V. Approval of the 2010 Strategic Plan

Mr. DeLuna explained the plan was developed during the last two meetings and it is in line with the Department's plan. The public was asked to comment on the plan, and then the committee members will vote.

Mr. Parker stated it would be helpful to the members to hear what the public thinks. Ms. Shivil is pleased with the effort taken by the Bureau to create the plan and that PFAC is willing to help with the plan. Mr. Parker stated it is important to have staff involved in setting the goals in this type of plan to ensure professionalism. Mr. Stubbs believes the plan creates a good foundation to start with.

Mr. Parker motioned to adopt the plan as written. Ms. O'Neill seconded the motion. No one opposed. The motion was carried.

VI. Bureau Updates – Chief

- i. Status of the Office – There is a hiring freeze but the Bureau was able to hire a retired annuitant as a complaint investigator. He worked at the Athletic Commission; he was also the Executive Officer of Medical Board and Chief of Enforcement. He was also a California Highway Patrol Officer previously. His name is Dave Thornton. The Bureau is attempting to contract with a subject matter expert to assist with the investigation of complaints when it comes to the practices of fiduciaries, and to assist with unlicensed activity. We will send out cease and desist letters and once the Cite and Fine Regulations are in place, issue cites and fines where applicable.
- ii. Status of Sunset Review – Date is set tentatively for November 9<sup>th</sup> or 10<sup>th</sup>. All of the Department's Boards and Bureaus that are up for review will testify on one of these dates. Public comment will be taken at the hearing. This will be posted on the Web site once it is finalized. Sunset Review document at this time has gone across the Governor's desk and has been sent to the Department of Finance. Questions from the Department of Finance were minimal but are not yet public record.
- iii. Status of Regulations – Initial Statement of Reasons was not clear enough and is being redone by Gil and Gary. Advertising regulations will be included with the new submission to require the fiduciary number on all advertising sent out to the public. Once they are drafted a public hearing will be held to start the rulemaking process. The Bureau is hoping this will be done prior to the Sunset Review hearing. Once regulations are passed, there should be more of the budget going to enforcement. Cite and Fine regulation will give the Bureau authority to issue citations on certain infractions like unlicensed activity or a fiduciary not providing paperwork as requested. Mr. Duke stated citations are not disciplinary action; it is meant to prod the licensee to do what they are required to do, similar to a speeding ticket. Mr. Counts asks if Cite and Fine will be posted on the Web site. Mr. DeLuna stated accusations are different from citations and are posted on the Web site. Mr. DeLuna does not see a reason we would post the citations on the Web site, unless the committee members feel differently, as other Boards and Bureaus post citations for transparency in government. Mr. Counts asked if the loans have been paid off, and if the Bureau will need additional loans in the future. Mr. DeLuna stated the budget has not been passed. We still have the second loan we hope to pay off this Fiscal Year, and there will be more money for enforcement. Once regulations are approved we will use additional funds for enforcement. Mr. Counts asked about the current count of licensees. Mr. DeLuna stated the current number is 452. Ms. Bigelow stated it is 461.

- iv. Status of Center for Guardianship Certification (CGC) Contract – Contract expired and Bureau is in the process of setting up a 3-year contract to continue services with CGC for our new applicant examination administration.

#### VII. DCA Updates – DCA Representative

Mr. DeLuna states there is a hiring freeze unless it is mission critical or can cause consumer harm. The Breeze project is on target for a completion date. This project will allow licensees to apply on-line, pay on-line, and we will be able to develop enforcement statistics. First Boards and Bureaus are set to come up on this system November, 2012. All Boards and Bureaus will be complete by November, 2014. If anyone is interested, Mr. DeLuna stated he could have the Breeze project manager do a presentation at the next committee meeting. We will be posting the materials on-line prior to the meeting hopefully 2 weeks prior to the meeting. We will be Web-casting all meetings as we have the last two meetings. Ms. Carey expressed that we are very lucky to have Mr. DeLuna working for the Bureau, and Mr. Stubbs agreed. Mr. DeLuna expressed that he is happy to have Ms. Bigelow as his go-to person, and others agreed. Mr. Stubbs acknowledged Mr. Duke also.

#### VIII. Committee Structure:

- i. Types of Committees – Committees will be put together by the next meeting. Committees represent heart and soul in terms of finance, enforcement, continuing education, and the formation of clear regulations. We have a legal opinion that the committees can reach out to the public to join the committees. Mr. DeLuna states we can form the types of committees today:
  - Education and outreach – Development of consumer outreach projects (newsletter, Web site, e-government issues, outside organization presentations, and representing the Bureau at outside presentations). Also, social media is big right now: twittering, blogging. Mr. DeLuna would also like the committee to help find a candidate to fill the non-profit committee member vacancy.
  - Enforcement – Develop and review policies, guidelines, and make recommendations to enforcement actions that need to be addressed.
  - Legislative and Regulatory Affairs – Identify, track, and make recommendations to the Bureau about legislation that may impact the Bureau's mandate and/or operation in consultation with legal counsel, Board staff, and other interested parties. Propose language for new legislation and regulations. Also, identify regulatory and statutory needs.Mr. DeLuna will type this up and send out on listserv to get volunteers if this is acceptable with the committee. Mr. Stubbs asked for any objections and did not receive any, so Mr. DeLuna will move forward.

- ii. Roles – Not established.

#### IX. Public Comment on Items Not on the Agenda

Ms. Shivil brought up an issue from the minutes of the last meeting about Pooled Trust. She had a conversation with an attorney who stated it is important to have a licensed fiduciary for pooled trusts. She stated there is still the issue of the entire Board being up to speed for the requirements, and the attorney would like a letter from Gil about the requirements of the Board. Ms. Shivil expressed that this is also an issue for trusts within nonprofit organizations. Mr. Duke asked which trust Ms. Shivil was referring to and she stated it was the Special Needs Trust Foundation in San Diego. There are 65 beneficiaries at this point and there is not a licensed fiduciary on the committee or Board. Mr. Duke asked Ms. Shivil to meet after the meeting to obtain contact information for this attorney.

Mr. Counts thinks if a licensed fiduciary will be required to serve on these trusts that guidelines need to be drafted as to the requirements and responsibilities of this person. It should be determined if it is an advisory position or if it will be a technical position.

Mr. Clark asked if statute covers this area of fiduciary relationship and is it being contemplated in the regulations now before the OAL.

Mr. Duke stated the proposed regulations only cover Cite and Fine at this time. Also, the definition of Professional Fiduciary is extremely broad and would probably encompass this group of fiduciaries.

Mr. DeLuna suggested we set up the next meeting and any items that need to be addressed at the next meeting.

There was one request which was not caught on the tape.

Ms. Shivil asked the advisory committee members' expiration date.

Mr. DeLuna stated they all expire January, 2011; however, there is a one year grace period.

The Governor is not making appointments at this time but anyone interested should still put in an application on the Governor's Web site.

Ms. Shivil asked whether people should wait to volunteer for the subcommittees until it is on the Web site.

Mr. DeLuna said it is ok to email the Bureau directly, but that the information should be posted on the Bureau's Web site in the next week.

Mr. Counts would like the budget reviewed at the next meeting.

Ms. Shivil would like a paper copy of the budget.

Mr. DeLuna said he will have budgets personnel make a presentation.

#### X. Adjournment

The meeting was adjourned by Chair, Daniel Stubbs, at 10:50am.