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3 **Professional Fiduciaries Bureau (Bureau)**
4 **Advisory Committee Meeting**
5 **Wednesday, November 7, 2018**

6 **Meeting Minutes**

7
8 **Committee Members Present**

9 Hang Le To, Chair
10 Jenny Chacon (via teleconference location)
11 Aileen Federizo (via teleconference location)
12 King Gee

13
14 **Committee Members Absent**

15 Barbara de Vries
16 Kathleen Thomson, Vice Chair

17
18 **Department of Consumer Affairs (DCA) Staff Present**

19 Tracy Montez, Division Chief
20 Angela Cuadra, Bureau Program Analyst
21 Fred Chan-You, DCA Legal Counsel

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23
24 1) Call to Order – Ms. To called the meeting to order at 10:07 a.m. and stated the meeting date and
25 locations. Ms. To stated the suite number at the San Francisco location was changed to suite 200
26 in order to accommodate the number of attendees. Signs were posted in the lobby of the building
27 and at the original suite location to inform attendees of this change.
28
29 2) Roll Call & Establishment of Quorum –
30 Ms. Cuadra called roll. Committee members Ms. Hang Le To and Mr. King Gee were present at
31 meeting location 1747 N. Market Blvd, 1st Floor Hearing Room, Sacramento, CA 95834. Ms.
32 Aileen Federizo was present via teleconference from teleconference location 6345 Balboa Blvd.,
33 Bldg. 1, #114, Encino, CA 91316. Ms. Jenny Chacon was present via teleconference from
34 teleconference location 5-Third Street, Suite 200, San Francisco, CA 94103. Ms. Barbara de Vries
35 and Ms. Thomson were absent. A quorum was established with four members present.
36
37 3) Advisory Committee, Bureau Chief, Staff and Legal Counsel Introductions – Committee Members
38 introduced themselves. Ms. Jordan Goldstein, Ms. Venus Gist, and Ms. Mary Vivian introduced
39 themselves from the San Francisco teleconference location and Mr. James Counts and Ms. Linda
40 Kincaid introduced themselves from the Encino location.
41 Ms. Montez stated that Rebecca May, Bureau Chief, was unable to attend due to a mandatory
42 training class, but that she looks forward to seeing everyone at the next meeting.

43
44 Public Comment: None.

- 45
46 4) Reading of the Professional Fiduciaries Bureau Mission Statement –

1 Ms. Montez read the Bureau’s mission statement.

2
3 Public Comment: None.

4
5 5) Discussion and Possible Approval of the Advisory Committee Meeting Minutes from August 15,
6 2018 –

7 Ms. Federizo motioned to approve the minutes as written. Mr. Gee seconded the motion. A vote
8 by roll call was made: Ms. Federizo, Mr. Gee, Ms. Chacon, and Ms. To were in favor. Ms. de Vries
9 and Ms. Thomson were absent for the vote. There was no discussion from the committee
10 members and the motion carried with four votes.

11
12 Public Comment: Ms. Gist commented on her experience with her fiduciary who did not follow the
13 Professional Fiduciaries Code of Ethics. Ms. To stated that any comments not related to this
14 agenda item may be brought up during the public comment segment at the end of the agenda.
15 Mr. Chan-You requested the Chair move the “public comments for items not on the agenda”
16 segment up on the agenda since there was a comment from the public requesting it. *

17
18 *13) Public Comment on Items Not on the Agenda –

19 A public attendee began talking regarding fiduciary duties and violations specific to her mother’s
20 conservator. Ms. To asked that specific names withheld since this a public forum and asked that
21 issues be directed to the Bureau in the form of a complaint. Ms. Cuadra stated the reason for not
22 using names is that the Bureau’s legal counsel is in attendance and is not allowed to be involved
23 in the complaint process. Ms. Cuadra asked that any specific questions regarding complaints be
24 sent to her at angela.cuadra@dca.ca.gov.

25 The public attendee stated they are here representing Shout-out Justice, CEDAR, and the
26 probate reform movement.

27 Ms. Federizo stated since allegations are time sensitive, there is an attorney which represents the
28 conservator. Mr. Chan-You interrupted stating the committee is not able to discuss the comments
29 being presented. This is for public comment only and the item may be placed on a future agenda.
30 Ms. Montez added there is a difference between making comments and discussing. There are
31 very specific protocols the Bureau must follow regarding discussion during a public meeting.
32 Additionally, specific complaints will not be placed on an agenda and must be processed through
33 the complaint process.

34 Another public attendee commented she has made complaints to the Bureau and it is difficult to
35 reach the Bureau and then was told the complaint had to be handled by the court so what is the
36 process to get the complaints handled. Ms. Montez stated the Bureau processes complaints
37 within its jurisdiction, if the complaint is outside of that jurisdiction, the complainant is directed to
38 the proper authority. If there is additional information, please contact the Bureau. Ms. Montez also
39 stated that while the Bureau staff is small, it is efficient and is meeting its timelines in processing
40 complaints and does not have a backlog.

41 Mr. Chan-You re-stated that the committee is not able to discuss items not on the agenda. The
42 committee will take note of the comments and the Bureau will consider adding the items to a
43 future agenda.

44 Ms. To stated the committee appreciates all the comments.

45 A public attendee from the Encino location asked if all conservatorships are court appointed then
46 does the Bureau have any supervision? Ms. Chan-You stated the committee cannot comment on
47 this since it is not on the agenda.

48 A public attendee from the Sacramento location asked what the narrow scope of the Bureau is?
49 He also asked if the Bureau follows DCA referral guidelines and why the DCA mediation program
50 not advertised to consumers. He also stated annual statements are not accurate or filed on time.

1 He then presented to the Bureau a handout of articles and alleged documented abuse by
2 professional fiduciaries.

3 Another comment from a teleconference location stated a licensee practiced without a license and
4 does not have a physical address listed on the Bureau's website and the Bureau did not do
5 anything. Ms. Montez asked that specific complaints be submitted to the Bureau.
6

7 6) Updates from the Director's Office –

8 Ms. Montez presented updates from the Director's Office. The Director's Quarterly Meeting was
9 held on October 29 and DCA provided an update on the executive officer salary study and shared
10 the draft plan to implement AB 2138 by July 2020.

11 Licensing and enforcement workgroups continue to meet to discuss business processes and best
12 practices. In September, the enforcement workgroup explored performance measure four and
13 ways to standardize performance measure two. In October and November, the Office of
14 Information Services data governance team previewed an interactive reporting tool to promote
15 openness and transparency in reporting performance metrics such as data for annual reports and
16 quarterly enforcement performance measures. The tool is designed to be interactive and intuitive
17 and allows users to create custom analysis and visualizations.

18 Finally, DCA held its kick-off meeting with the second cohort of the Future Leadership
19 Development program in September. This initiative was launched in August 2017 to develop the
20 best and brightest among DCA and its boards and bureaus into its future leaders. The program
21 includes executive mentoring, customized leadership training, and project management. This year
22 Chief May was one of seven individuals participating in the program's steering committee and the
23 Director's office thanks her for her support.
24

25 Public Comment: None.
26

27 7) Budget Report –

28 Mr. Robert de los Reyes from the DCA's Budget Office presented the expenditure projection and
29 fund condition for the current fiscal year. The projections are based off two months of
30 expenditures. Currently, there are no concerns with the Bureau's budget and the Bureau is
31 expected to expend its full budget this fiscal year.
32

33 Public Comment: A public commenter asked how to get a mechanism for enforcement on the
34 budget. Ms. Montez stated there is a process for complaints and as the complaints are processed
35 some of those will go to the Attorney General's (AG) Office. The commenter asked for the
36 committee to address the complaint process. Mr. Chan-You stated again, this is outside the scope
37 of the agenda item and may be considered for placement on a future agenda.

38 The public commenter asked why the budget expenditures has been cut in half for enforcement.
39 Ms. Montez stated it depends on the type of action taken and how much the AG Office is involved.
40

41 8) Legislative Update –

42 Mr. Alexander Millington, DCA Legislative Affairs Analyst, presented updates on the following
43 bills.

- 44 • 2018 Legislation Related to the Bureau
 - 45 1. AB 1247 (Nazarian) Professional Fiduciaries: Prelicensing and Renewal or
 - 46 Restoration: Education
 - 47 2. AB 3144 (Low) Professional Fiduciaries Bureau
 - 48 3. SB 909 (Hertzberg) Uniform Trust Decanting Act
 - 49 4. SB 931 (Hertzberg) Conservatorships: Custody Status

50 Ms. Federizo asked if this bill references Lanterman Petris-Short Conservatorships and Mr.
51 Millington answered that it does not.

- 2018 Legislation Related to the Department
 1. AB 2138 (Chiu)Licensing Boards: Denial of Application: Revocation or Suspension of Licensure: Criminal Conviction
 2. SB 1137 (Vidak) Veterans: Professional Licensing Benefits
- Previously discussed 2018 Legislation Related to the Bureau
 1. AB 2113 (Oberholte) Estates and Trusts: Guardianships
Ms. Federizo asked if the licensee can pay final debt from the trust or estate after the client has passed away and Mr. Millington answered section 3 of PC 1600 states the trust terminates except as provide by other law. Mr. Millington also stated that he does not see anything specific in the text that would change existing abilities.
 2. AB 2236 (Maienschein) Trustee: Conservatorships
 3. AB 2426 (Maienschein) Trustee: Power to Terminate Trust
 4. AB 2750 (Oberholte) Certified Copies of Death Records

Public Comment: A public commenter asked that SB 1191 be added to the Bureau’s bills to track.

9) Bureau Updates – Ms. Montez presented the following two-year comparison for statistics as of October 31 of 2017 and 2018.

- Statistics –

Two-Year Fiscal Year Statistics Comparison	As of October 2017	As of October 2018
New Licenses	17	22
Active Licenses	710	741
Total Licenses Issued	949	1,073
AG Cases Initiated	1	2
Citations Issued	5	2
Complaints Received	55	43
Complaints Closed	56	23
Complaints Pending	35	40
Average Days to Close	215	113

- Outreach events –

Ms. Montez read the events Bureau staff has participated in since the last meeting and stated there are no upcoming events at this time and if anyone becomes aware of an event the Bureau should participate, please contact Rebecca May.

- E-Newsletter –

Ms. Montez stated the fall newsletter was distributed in September to the Bureau’s interested parties list and is available on the Bureau’s website. Staff is currently working on the next newsletter and if anyone is interested in contributing an article, please contact Rebecca May. Ms. Montez added the newsletter lists administrative and enforcement actions taken against licensees since the last newsletter.

Public Comment:

Statistics: A public commenter asked if the number of licenses issued increased by 124 and active licenses increased by 31. Ms. Montez stated this is correct and the commenter stated there is a loss of active licensees.

1 A second commenter asked how the enforcement workgroup works and are public members
2 involved. Ms. Montez explained it is an internal workgroup for DCA employees to share best
3 practices. Another asked how many complaints were closed without investigation and Ms. Cuadra
4 stated all complaints are investigated or reviewed in some way unless the complaint reached our
5 office in error. There were no complaints closed without investigation which were under the
6 Bureau's jurisdiction. Another commenter asked how the total licensees increased by 124, but
7 during that time there were only 22 that were issued. Ms. Montez stated the Bureau will report
8 back to clarify that statistic. He also asked about the ratios of complaints received and actions
9 taken and asked for comparisons to be added to the agenda. Another commenter stated she
10 never received a written answer about her complaint. Ms. Montez asked that her request be
11 submitted to the Bureau since it is regarding a specific complaint. Another commenter asked that
12 a statistic be added to show any licenses lost due to a complaint or prosecution. Another
13 commenter asked if anyone at the Bureau is a mandatory reporter. Ms. Montez stated that falls
14 within the confidential parameters of the investigation process.
15

16 Outreach: There was a public comment asking what size and justification to determine if the
17 Bureau will attend the event. Ms. Montez stated each event is reviewed on a case-by-case basis.
18

19 E-Newsletter: A commenter asked if a section could be added to notify the public of resources
20 available such as links to documentaries or stories. Ms. Montez asked the commenter to send
21 that information to the Bureau for review and discussion with legal counsel.
22

23 10) Proposed Rulemakings –

24 Ms. Montez stated all four proposed regulations have been discussed at previous meetings and
25 all are in the pre-review process with the Department of Consumer Affairs. Bureau staff continue
26 to check in with the Department and will continue to update the committee as the proposed
27 regulations move through the process.
28

- 29 • Update regarding Inactive/Retired License Proposed Regulation – Sections 4560-4580 of
30 Article 8 of Title 16 of the California Code of Regulations
- 31
- 32 • Update and discussion regarding Client Notification Proposed Regulation – Section 4640
33 of Article 12 of Title 16 of the California Code of Regulations
- 34
- 35 • Introduction and Discussion of Proposed Advertising Regulation – Section 4485 of Article
36 4 of Title 16 of the California Code of Regulations and Amendment to Section 4406 of
37 Article 1 of the California Code of Regulations
- 38
- 39 • Introduction and Discussion of Proposed Amendments to Citation Sections 4600 and 4606
40 of Article 10 of Title 16 of the California Code of Regulations
41

42 Public Comment: With respect to issuing citations is there a provision for forwarding to law
43 enforcement. Mr. Chan-You stated this is outside the scope of discussion for this item and can be
44 considered for possible inclusion on a future agenda.

45 Commenter asked that the Bureau's mediation program and complaint process be added in the
46 Client Notification regulation and to the e-newsletter. Commenter asked that the Bureau research
47 to see if the mediation program still exists and Ms. Montez stated the Bureau will report back.
48

49 11) Future Agenda Items

- 50 • Complaint process

- 1 • Enforcement budget process of how the complaint goes to AG and is taken from the
- 2 enforcement budget.
- 3 • Detail of SB 931
- 4 • SB 1191
- 5 • Clarify new licensees versus total licensees on statistics handout
- 6 • Comparison of percentage of cases sent to the AG's office compared to other boards and
- 7 bureaus and percentage of actions taken compared to the number of licensees
- 8 • Addition of number of licensees who have lost their license on the statistics
- 9 • Referrals to law enforcement
- 10 • Mediation page on the DCA website
- 11 • Complaints received compared to discipline
- 12 • Mandatory reporting
- 13 • Licensee protocol and procedure regarding accountability to the Bureau

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15 Public Comment: None.

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17 12) Future Meeting Dates

- 18 -Wednesday, January 9, 2019
- 19 -Wednesday, May 29, 2019
- 20 -Wednesday, August 14, 2019
- 21 -Wednesday, November 13, 2019

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23 Committee members did not mention any scheduling conflicts.

24
25 Public Comment: None.

26
27 13) Public Comment on Items Not on the Agenda –

28 A commenter presented a copy of his handout to the committee.

29 Commenter commented on fiduciaries who misuse funds and how are the fiduciaries accountable

30 to the Bureau and what are their work ethics? Ms. Montez stated this agenda item is for public

31 comments not on the agenda and the committee is not able to answer or discuss the comments.

32 Another commenter began stating names and Mr. Chan-You asked the commenter to pause. Ms.

33 Montez asked commenters to keep to comments only and not presentations.

34
35 14) Adjournment – The meeting was adjourned at 11:59 a.m.