

**Professional Fiduciaries Bureau**

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Website: [www.fiduciary.ca.gov](http://www.fiduciary.ca.gov)BUSINESS, CONSUMER SERVICES, AND HOUSING AGENCY  
GOVERNOR EDMUND G. BROWN JR.**Citation Order****Date:** March 8, 2018**Name:** Akel, Dawn**Address:** 2228 Longport Court., Ste. 100  
Elk Grove, CA 95758**License Number:** PF-138**Case Number:** PF-2017-23

I, Rebecca May, hereby issue this citation solely in my official capacity as Bureau Chief of the Professional Fiduciaries Bureau for the Department of Consumer Affairs.

**License History:**

The records of the Professional Fiduciaries Bureau (Bureau) show that license number PF 138 was issued to you on August 4, 2008, and will expire on April 30, 2018, unless renewed.

**Citation:**

A citation is hereby issued to you in accordance with Section 125.9 and 6580(b)(1) of the Business and Professions Code (B & P Code) for the violations described below.

**Cause for Violation:**

Cause exists under Section 6584 (d) of the B & P Code for exhibiting unprofessional conduct related to the practice of a professional fiduciary, in violation of Division 41, Title 16, California Code of Regulations (CCR) Sections 4476 (b) and 4482 (a) (e) (f) of the Professional Code of Ethics, and Sections 16006, 16002 (a), and 16012 (a) and (b) of the Probate Code, based on the following conduct:

**B & P Code Section 6584 (d) states:** "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 the purpose of this section,

*unprofessional conduct includes, but is not limited to, acts contrary to the professional standards concerning any provision of law substantially related to the duties of a professional fiduciary."*

**Professional Code of Ethics, Title 16, CCR Section 4476 (b) states:** *"The licensee shall not engage in any personal, business, or professional interest or relationship that is or reasonably could be perceived as self-serving or adverse to the best interest of the consumer."*

**Professional Code of Ethics, Title 16, CCR Section 4482 states:** *"(a) The licensee shall protect the assets of the estate. (e) Consistent with the licensee's fiduciary duties, the licensee shall manage the assets of the estate in the best interest of the consumer. (f) The licensee shall manage the estate with prudence, care and judgment, maintaining detailed fiduciary records as required by law."*

**Probate Code Section 16002 (a) states:** *"The trustee has a duty to administer the trust solely in the interest of the beneficiaries."*

**Probate Code Section 16006 states:** *"The trustee has a duty to take reasonable steps under the circumstances to take and keep control of and to preserve the trust property."*

**Probate Code Section 16012 states:** *"(a) The trustee has a duty not to delegate to others the performance of acts the trustee can reasonably be required personally to perform and may not transfer the office of trustee to another person or delegate the entire administration of the trust to a co-trustee or other person. (b) In a case where a trustee has properly delegated a matter to an agent, co-trustee, or other person, the trustee has a duty to exercise general supervision over the person performing the delegated matter."*

On October 6, 2016, you accepted the position as successor Trustee of the [REDACTED] [REDACTED]. In violation of the above referenced sections of the B & P Code, the CCR, and Probate Code you failed to protect the assets of the trust and exposed the trust to harm and you failed to act in the best interest of the beneficiary.

You failed to marshal the Wells Fargo account holding trust assets until March 2017. You provided information to the Bureau that is inconsistent and did not support your reasons for being unable to marshal the account.

You failed to contact utility companies, the alarm company, and home insurance provider until months after you were appointed as trustee. Your initial contact with these companies started in March 2017, five months after you became the successor Trustee. You also failed to initiate changes to the information on the trust property deeds until May 2017, seven months after you became successor Trustee. Your stated reasons were that you did not have control of the bank account until March 2017, although you acknowledged you could have changed the information even without having control of the bank account. Further, you stated you did not have "proof" you were the successor

trustee because you did not receive the resignation letters from the other successor trustees until February 2017 and you needed "proof" to show the companies. You later stated you received the resignation letters by November 2016.

You failed to inquire about the monthly disbursements to the beneficiary stating that you were never informed by the beneficiary or the previous successor trustee that the beneficiary was receiving monthly disbursements. You acknowledged that you reviewed bank statements and noticed there were monthly payments paid to the beneficiary; however, you failed to inquire about those payments. You also acknowledged you received a copy of the accounting prepared by the previous successor trustee, which lists monthly disbursements to the beneficiary; however, you claimed that you still did not know about the monthly disbursements. Your billing invoice indicates you, as trustee, reviewed the accounting, trust, and will. Your failure to look into the disbursements as well as your explanation that you were not told about the disbursements, even though you were in possession of documents that showed the monthly payments, is a failure to act in the best interest of the beneficiary. You made no attempt to inquire about the nature of the monthly disbursements and you failed to determine if the monthly disbursements were necessary or appropriate for the needs of the beneficiary.

You acknowledged the difficulty in obtaining prior year tax information as well as the delays in filing taxes due to the volume of cases handled by your CPA; however, you failed to adequately notify the beneficiary of these delays until you were contacted by a tax advisor on behalf of the beneficiary. Your staff, without appropriately researching the matter, provided false and misleading information to the beneficiary regarding the reasons for not providing him with the K-1 statement. In addition, you failed to inquire about the filing of trust taxes or request tax information from the previous successor trustee until May 2017, after you were contacted by the beneficiary. Your actions were not in the best interest of the beneficiary and exposed him and the trust to harm and liability.

On September 6, 2017, you billed the trust for time spent responding to the complaint filed with the Professional Fiduciaries Bureau. The total charged to the trust was \$273.50. The Bureau determines this charge to be self-serving, adverse to the best interest of the beneficiary, and not an appropriate charge of the estate.

Your office stopped communications with the beneficiary, allegedly at his request for no further contact; however, the documentation you provided does not support this claim and your decision to cease communications with the beneficiary was not in his best interest.

You have delegated duties to others that you, as trustee, "can reasonably be required to perform" (Probate Code Section 16012(a) and (b)) without maintaining appropriate supervision and knowledge of the handling of the trust, which is demonstrated in your responses and documentation provided to the Bureau.

During the course of the investigation, you provided several inconsistent statements to the Bureau regarding your actions and justification for your actions, which was misleading and unprofessional.

**Order of Abatement and Corrective Action:**

The Bureau is authorized to issue citations containing orders of abatement and/or administrative fines pursuant to Sections 125.9 or 6580(b)(1) of the B & P Code against a professional fiduciary who has committed any acts or omissions which are in violation of the Act or the regulations contained in Division 41, Title 16, CCR.

There is no Order of Abatement and corrective action requested.

Unless you are contesting the citation, failure to abate the charged violation within thirty (30) days of the date of your receipt of this document may be deemed a violation of the Professional Fiduciaries Act.

Under the provisions of Title 16, CCR Section 4610(b), if the order of abatement is not contested or if the order is appealed and the person or entity cited does not prevail, failure to abate the violation charged within the time specified in the citation shall constitute a violation and failure to comply with the order of abatement. Failure to timely comply with an order of abatement may result in disciplinary action being taken by the Bureau or other appropriate judicial relief being taken against you.

**The fine for this violation is \$1000.00.**

Payment of the administrative fine, if any, and compliance with the Order of Abatement will be considered satisfactory resolution of the violation(s) cited.

In accordance with the B & P Code Section 125.9, failure to pay a fine within thirty (30) days of the date of assessment, unless the citation is being appealed, may result in disciplinary action being taken by the Bureau.

The citation will become a final order of the Bureau thirty (30) days after the date of issuance of the citation. Payment must be made payable to the Professional Fiduciaries Bureau at 1625 North Market Blvd., Suite S-209, Sacramento, CA 95834. Please indicate the citation number on the cashier's check, money order, or personal check.

**Appeal of Citation:**

• **Formal Hearing:**

As provided for in subdivision (b)(4) of Section 125.9 of the B & P Code, if you desire a formal hearing to contest the citation, the request must be made in writing within thirty (30) days of the issuance of this citation.

The Bureau will coordinate with the Office of the Attorney General to initiate the process for a formal hearing with the Office of Administrative Hearings. The process takes approximately eight months to one year for completion.

- **Informal Conference**

Pursuant to CCR, Section 4606, you may request an informal conference to review the acts charged in the citation. Your request for an informal conference must be made in writing, within ten (10) days after the citation is served. If the informal conference is requested, the Bureau will hold the conference within sixty (60) days from the receipt of your request.


*Requesting an informal conference does not waive your right to a formal hearing pursuant to Chapter 5 (commencing with Section 11500) of Part 1, Division 3 of Title 2 of the Government Code.*

After the completion of the informal conference, the Bureau may affirm, modify or dismiss the citation, including any fine levied or order of abatement issued. The Bureau will issue a written decision explaining the reasons for its action. The decision will be deemed to be a final order of the Bureau with regard to the citation issued; including any administrative fine levied or order of abatement. If the citation, including any fine levied or order of abatement, is modified, the citation originally issued shall be considered withdrawn and a new citation issued.

A request for a formal hearing to contest the new citation, or to contest the Bureau's affirmation of the citation, must be made in writing, within thirty (30) days of receipt of the informal conference decision to the Bureau. The hearing will be conducted as provided for in subdivision (b)(4) of Section 125.9. If a hearing is not requested pursuant to this section, payment of any fine shall not constitute an admission of the violation charged. You may not request an informal conference for a citation which has been modified following an informal conference.

Issuance of a citation is subject to public disclosure. Notwithstanding any other provision of law, if a fine is paid to satisfy an assessment based on the finding of a violation, payment of the fine will be represented as a satisfactory resolution of the matter for purposes of public disclosure.

Where a citation is not contested and a fine is not paid, the full amount of the assessed fine shall be added to the fee for renewal of the license. A license shall not be renewed without payment of the renewal fee in accordance with the B & P Code Section 125.9.

  
Rebecca May, Bureau Chief  
Professional Fiduciaries Bureau  
Department of Consumer Affairs

3/8/18  
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Date