

**ARIZONA SUPREME COURT
ADMINISTRATIVE OFFICE OF THE COURTS
INVESTIGATION SUMMARY and PROBABLE CAUSE ANALYSIS
and DETERMINATION REPORT**

CERTIFICATE HOLDER/LICENSEE INFORMATION	Certificate Holder:	Stephanie McCollum
	Certification Number:	20560
	Business Name:	Fiduciary Management Specialists, LLC.
	Certification Number:	N/A
	Type of Certificate/License:	Inv. Fiduciary
COMPLAINANT	Name:	Melvin Brody
INVESTIGATION INFORMATION	Complaint Number:	13-0006
	Investigator:	Pasquale Fontana

Complaint Received:	May 14, 2013
Complaint Forwarded to the Certificate Holder:	May 15, 2013
Certificate Holder/Licensee Received Complaint:	May 17, 2013
Response From Certificate Holder:	June 7, 2013
Period of Active Certification/Licensure:	August 17, 2006 to Present
Status of Certification/License:	Active
Availability of Certificate Holder/Licensee:	Active
Availability of Complainant:	Active
Report Date:	January 8, 2014

ALLEGATIONS:

1. Brody alleges McCollum did not comply with the wishes of the ward and family to discharge Frenette as care manager and by not removing her and not reducing caregiver hours allowed for excessive and unnecessary costs to the estate.
2. Brody alleges McCollum did not terminate home health services despite knowing Dr. Atienza did not think Maxine required home health care.
3. Brody alleges McCollum failed to disclose of her prior relationship with Frenette therefore creating the appearance of collusion and possible conspiracy charges.

ADDITIONAL ALLEGATIONS:

None.

List of sources for obtaining information: (Investigative, records, outside resources, etc.):

- Written complaint and documentation submitted by complainant, Melvin Brody (“Brody”)
- Written response and documentation submitted by certificate holder, Stephanie McCollum (“McCollum”)
- Review of applicable Certification and Licensing Division (“Division”) records
- Review of applicable sections of Arizona Revised Statutes (“ARS”), Arizona Codes of Judicial Administration (“ACJA”) § 7-201 and § 7-202, and Arizona Supreme Court Rules
- Review of applicable Superior Court of Arizona (“Superior Court”), Maricopa County, records regarding PB2012-051487
- Interview with Brody
- Interview with Rochelle Margucci (“Rochelle”)
- Interview with Dr. Melinda Atienza (“Dr. Atienza”)
- Interview with Paula Brody (“Paula”)
- Interview with Michael Gormley (“Gormley”), Court-appointed attorney for Maxine Brody (“Maxine”)
- Interview with McCollum and attorney Lawrence Scaringelli (“Scaringelli”)
- Interview with Dr. Pamela Willson (“Dr. Willson”)

PERSONS INTERVIEWED:

1. Melvin Brody
2. Rochelle Margucci
3. Dr. Melinda Atienza
4. Paula Brody
5. Michael Gormley
6. Stephanie McCollum
7. Dr. Pamela Willson

SUMMARY OF INVESTIGATION:

Brody alleged McCollum failed to comply with the wishes of the family by not terminating care manager, Heather Frenette (“Frenette”), and not reducing care givers hours resulting in excessive and unnecessary costs. Brody learned McCollum previously worked for Frenette and was concerned about Frenette and her husband’s past dealings. He believed McCollum should have disclosed of her prior relationship with Frenette but did not and therefore breached her fiduciary duty and created the appearance of collusion and possible conspiracy charges.

McCollum said she found no wrongdoing on Frenette’s part, retained her services, and developed a plan for Brody to increase his care giving responsibilities therefore phasing Frenette’s services out. McCollum saw no reason to disclose of her prior professional relationship with Frenette because the matter did not come up during her appointment

and attorneys of record knew Frenette was involved and of McCollum's previous relationship and no one objected to the appointment.

SUMMARY OF FACTUAL FINDINGS OF INVESTIGATION:

1. Pursuant to PB2012-051487, McCollum was appointed Limited Guardian of Maxine Brody ("Maxine") on March 19, 2013 with Letters issued April 16, 2013. McCollum was granted authority over Maxine's medical needs including medication management. McCollum expressed her intent to resign and on April 19, 2013 Brody filed a petition to discharge McCollum and appoint a successor guardian. McCollum was discharged on May 6, 2013. Prior to McCollum's appointment, Maxine's daughter, Rochelle, was appointed Temporary Guardian on November 21, 2012.

2. On May 14, 2013, the Division received a written complaint from Brody. He said prior to McCollum's appointment his daughter Rochelle hired Frenette and her company Desert Care Management ("DCM") to provide services to Maxine. He thought Frenette's costs were excessive citing an invoice of almost \$10,000.00 during a time when Maxine was hospitalized and in-home caregivers were not required. The family told McCollum, prior to her appointment, to terminate Frenette. Brody said in March 2013, McCollum and Frenette were told by Maxine's physician, Dr. Atienza ("Dr. Atienza"), Maxine did not require home care but McCollum "insisted" on 24-hour care, then 12 hours and, in the last few weeks, eight hours of daily care. Brody was displeased with the caregivers because they had difficulty understanding Frenette's direction regarding medication. He told McCollum of mistakes made with the medication and she responded by increasing caregiver hours.

Brody believed McCollum had a "fiduciary duty" to disclose that she previously served as Frenette's office manager and said the family would have requested another person serve as guardian had this been divulged. Brody asserted McCollum's failure to reveal the past relationship "created the appearance of collusion and possible conspiracy charges."

3. On June 10, 2013, the Division received McCollum's written response. She said she was appointed without any provision regarding who to "fire or hire in my capacity as Limited Guardian." She acknowledged Brody telling her, in the hallway of the courthouse, of his unhappiness with DCM and she advised she would "review the matter once appointed and make the necessary adjustments" based on Maxine's best interest. McCollum said, once appointed, she requested medical records and an account of previous events. She facilitated a meeting at the family residence on March 19, 2013 and met with Frenette, Home Health, Brody and Maxine to discuss concerns with the prior administration of the case. She said Brody did not request DCM be removed and focused his complaints toward care giving services and caregivers' pay, time scheduled in the home and duties performed. McCollum asked Maxine if she was comfortable with her care

to which she replied she liked DCM but preferred not to have the caregivers in her home for so many hours daily. A plan was developed to reduce caregivers and for Brody to take on additional responsibilities after he completed a driving evaluation, refresher First Aid class, and undergo a cognitive evaluation. After successful completion of the identified tasks Brody could assume some of the duties and caregiver hours could be reduced from 12 to eight hours daily with medication management to be supervised by Frenette. Brody completed all of what was required of him by April 12, 2013 and he was allowed to be the caregiver for the final four hours daily and DCM, through caregiver reports, was responsible for communicating any adverse conditions caused by any changes. McCollum said Brody began calling caregivers terminating their services and contacting doctors' offices to change Maxine's medication prior to McCollum receiving Dr. Diamond's cognitive evaluation on Brody. He sent several emails insisting she fire the caregivers because they were "too expensive." McCollum denied there was 24-hour care at any time during her appointment, rejected the notion she violated fiduciary responsibilities, and refuted Brody's accusation of collusion and conspiracy.

McCollum acknowledged her past employment as a fiduciary and estate manager for Sun Valley Group ("SVG") in 2007 under the direction of Peter Frenette ("Peter"). She left SVG in 2009 and started her own fiduciary practice. McCollum said Brody learned of her previous relationship with Frenette after McCollum resigned. Brody was told McCollum worked as Frenette's office manager and that Frenette lost her fiduciary license. A newspaper article about SVG was referenced as proof McCollum was implicated in unethical behavior. She denied being involved in or implicated in any of the controversy surrounding SVG.

4. On June 12, 2013, the Division received written correspondence from Brody regarding McCollum's written response restating much of the information he previously included in his complaint. Brody challenged McCollum's statement that he failed to ask for Frenette's removal during the March family meeting and said, at the meeting, McCollum acknowledged reviewing the file and determined Frenette acted professionally. Brody said McCollum did ask Maxine if she was comfortable with Frenette because the conversation was limited and Maxine went to bed shortly afterward. Brody attached an undated letter from Dr. Atienza and correspondence Brody sent his attorney dated April 24, 2013 and to McCollum, dated May 8, 2013.
5. On August 21, 2013, Division Investigator Pasquale Fontana ("Investigator Fontana") conducted a telephonic interview with Brody. He said McCollum, once appointed, hired caregivers to provide 24-hour service for Maxine and he complained staff "didn't know what they were doing." He understood Frenette's role was to oversee medication, put the medication package together weekly, and ensure Maxine had proper care. Frenette transported and accompanied Maxine to medical appointments often scheduled on the days Frenette visited. He complained Frenette's combined invoices since November 2012 totaled

approximately \$30,000.00 and she billed \$400.00 - \$500.00 weekly to organize Maxine's medication. The highest bill, \$10,000.00, was incurred when Maxine was hospitalized for two weeks on January 29, 2013 then discharged to a convalescent facility for an additional two weeks and no caregivers were needed. He said McCollum knew he did not want Frenette but McCollum saw "nothing wrong" with what Frenette was doing and had no reason to terminate her. Brody said a plan was established for him to assume caregiver responsibilities after he took a driving test, C.P.R. course, and had a medical evaluation. He verified McCollum reduced care giver hours from 12 to eight hours daily after he cleared the medical evaluation.

Brody understood McCollum's guardianship authority was limited to caring for Maxine's medical needs and said McCollum arranged the care giving service because Frenette insisted on what Maxine needed. After Maxine was released from hospital 24 hours of support was put in place and reduced to 12 hours daily because Dr. Atienza would not support the 24 hour care "for insurance purposes" and because Maxine was upset with caregivers in the home around the clock. Brody alleged McCollum increased caregiver hours from eight to 12 hours per day after he reported an incident when a caregiver mistakenly gave Maxine the wrong medication and opined it was done to punish him.

6. On August 23, 2013, Investigator Fontana conducted a telephonic interview with Rochelle. She denied there was any agreement amongst the family that McCollum, upon appointment, would terminate Frenette's services or that the guardianship appointment was contingent upon doing so. Rochelle said her sister, Paula; brother, Alan; and Brody wanted Frenette fired but the issue was not raised in Court. McCollum agreed to review the matter once appointed and found nothing wrong with what Frenette was doing. Rochelle had no complaints about Frenette's services and involvement.
7. On August 27, 2013, Investigator Fontana conducted a telephonic interview with Dr. Atienza. She said Brody asked her to write a letter regarding Maxine no longer requesting in-home support services. The letter was drafted on April 23, 2013 and given to Brody. Dr. Atienza said she thought Maxine was doing well and did not believe in-home physical therapy or other home services were needed. Dr. Atienza was aware Frenette was involved with Maxine's care because her children did not think Brody was an appropriate caregiver. Dr. Atienza said neither Frenette nor McCollum consulted with her regarding Maxine's care.
8. On August 28, 2013, Investigator Fontana conducted a telephonic interview with Paula. She said the family had concerns about Frenette and raised this with McCollum. Paula said she and Alan sent emails to McCollum regarding the quality of care Frenette was providing but McCollum chose to keep her involved. Paula opined Frenette was punishing Brody by insisting on services not covered by insurance in order to hurt him financially. Paula said she often visited her

mother and father and she did not believe her mother needed the level of service in place.

9. On August 28, 2013, Investigator Fontana conducted a telephonic interview with Gormley. He said Frenette had been providing services for approximately six months when he was appointed successor counsel. He knew the family did not want her involved as care manager for Maxine because of costs and poor quality of service. Gormley believed Maxine's children were sincere in their concerns thinking she was not getting the level of care she deserved. Maxine voiced her concerns but mirrored Brody's views. Gormley opined she would likely have been more amenable to services if uninfluenced by her husband. Gormley acknowledged Maxine had considerable health issues and required a high level of service. He said a conference, including parties and respective counsel, was held prior to McCollum's appointment and there was expectation McCollum, after appointment, would terminate Frenette's services because of the considerable animosity between Frenette and Brody and the unhealthy dynamics. The family was open to another care manager. Gormley thought McCollum would terminate Frenette but said "understandably" McCollum agreed not to make any hasty decisions without first reviewing the matter. The terms of the settlement were read into the record but there was no legal obligation for McCollum to terminate Frenette.

10. On August 28, 2013, Investigator Fontana conducted a telephonic interview with McCollum and attorney, Scaringelli. McCollum said the Limited Guardianship entailed determining the appropriateness of medical care and medication management. DCM and Home Health were providing support services when McCollum was appointed. Frenette's group coordinated services; handled the medical appointments; and gave direction to Home Health regarding medication management, scheduling medication boxes, picking up medication, and ensuring medication was in the home. Scaringelli said services were in place prior to McCollum's appointment but family members, Maxine, Frenette, and Dr. Willson stressed the need to examine the provided services and determine whether services should remain at current levels, be reduced, or see if Brody could assume more responsibility. McCollum did not make changes to the plan until she could evaluate further. McCollum said she scheduled a meeting with "all the players" to determine how things had gone prior to her involvement. Maxine indicated she liked Frenette but was not in favor of having caregivers in the home as frequently as they were and preferred not to have any during the evening when she wanted to watch television with her husband. McCollum verified Maxine received 12 hours of daily home care. Scaringelli said he heard Maxine say she was happy to have some help regarding personal hygiene areas she did not want her husband's participation. McCollum said Maxine wanted at least four hours of daily care.

McCollum acknowledged Brody's dissatisfaction with Frenette at the time of the guardianship hearing and said she addressed this issue in the courthouse "hallway" advising she would review the matter. She understood Brody thought

Frenette was too expensive and opined he did not want Frenette's involvement because she did not allow him to continue making unauthorized decisions. McCollum verified she reviewed all of DCM's billing and determined everything was appropriate. She said other family members' complaints about Frenette were limited to concerns about Frenette changing the terms of telephone contact with Maxine from random to scheduled calls in response to Maxine's discomfort with family arguing causing her distress. Scaringelli noted family raised concerns about Frenette stating they were unsure she was the best choice because of personality conflicts rather than Frenette not doing her job. He said part of McCollum's investigation was to see if Frenette was the "right fit" although Brody wanted her fired at the time of McCollum's appointment. Scaringelli said they needed to determine what kind of job Frenette was doing and if she was "doing the job right then we don't have a reason to get rid of her unless we could find someone equally qualified to take over." McCollum then acknowledged there was disagreement amongst the children about Maxine's care but said she had no opportunity to find out what their opinions were because she was "only in for six weeks." McCollum recalled receiving an email from Paula with a "bunch of allegations" she wanted checked out.

When asked what factors she considered regarding the decision to keep Frenette involved McCollum said, "I had not made a final determination as to whether or not she should stay in" due to the short duration of the guardianship. McCollum said she focused on past and present medical appointments, medication management issues, and future treatment for Maxine, all managed by Frenette. McCollum asserted, "I never found anything in that short period of weeks" indicating Frenette should be out. McCollum, Scaringelli and Frenette agreed it was best to work with the family and give Brody the care giving he requested. Scaringelli thought it was unnecessary to make a decision about Frenette because Brody was proving himself and McCollum was reducing or planning to reduce the caregiver hours and, as Brody's responsibility increased, Frenette's services would be eventually be discontinued. McCollum acknowledged a mistake was made regarding Maxine's medication but the issue was clarified and the caregiver took responsibility. McCollum denied increasing caregiver hours after reducing them to eight hours daily.

When asked how she determined the level of care Maxine required McCollum said she "would consult" with physicians if Maxine's health or functioning was adversely affected by any changes made to service levels but case management services were implemented and there were no reports of any negative impact on Maxine's health. McCollum confirmed she did not consult with Dr. Atienza or any other physician regarding Maxine's level of care but initially spoke with Dr. Willson at the time of the hearing.

McCollum said she did not disclose of her previous relationship with Frenette saying the issue "never came up." Scaringelli noted the attorneys of record knew Frenette was involved, had knowledge of McCollum's past and no one opposed

the appointment. Scaringelli saw no reason for McCollum to disclose of any past relationship with Frenette and did not “rebroadcast” it because McCollum had severed her relationship with SVG and did not like to be associated back to the group.

11. On October 30, 2013, Investigator Fontana conducted a telephonic interview with Dr. Willson. She said Frenette’s office, on behalf of Rochelle, contacted her on December 17, 2012. Dr. Willson conducted interviews, reviewed records, and saw Maxine several times but a neurological report was unnecessary although she provided Brody a summary report after he contacted her sometime after the March 2013 hearing. Dr. Willson participated in a conference prior to hearing and said she assisted in “brokering a deal” with the parties. The family was divided but everyone had a notion of what Maxine wanted. Frenette was providing caregivers and had problems with Brody because he thought he could provide the care and he complained about the costs. He wanted to find alternatives to paying out of pocket cost something McCollum said she would explore further. Dr. Willson said Maxine told her and others she did not want Frenette involved and could not “stand her” but at other times indicated Frenette was “wonderful.” Dr. Willson challenged Maxine on the inconsistency and discovered she offered a favorable view of Frenette thinking Dr. Willson liked her. She opined Maxine was “one of the malleable people” she ever met and hated hurting others’ feelings resulting in her agreeing with everyone therefore anyone speaking with her long enough would “hear what they wanted to hear.” Dr. Willson said she suggested to McCollum it would be worthwhile exploring a different care manager with whom Maxine would be more comfortable.

Dr. Willson assessed Maxine’s cognitive functioning and determined residency in any type of facility was not required but that she would benefit from taking breaks from Brody, having entertainment, and getting help doing things she enjoyed. At the March 2013 conference Dr. Willson said she strongly recommended occupational and physical therapists be utilized to evaluate Maxine’s balance and activities of daily living such as her ability to transfer safely to and from the toilet and assess her current functioning but also to see whether she would eventually regain more strength and mobility. Therapists could “look at the couple in the home” and assess whether Brody was physically strong enough or capable of providing the care Maxine needed better informing the level of care needed.

ANALYSIS OF ALLEGATIONS:

Allegation 1: Brody alleges McCollum did not comply with the wishes of the ward and family by failing to discharge Frenette as care manager and by not removing her and not reducing caregiver hours allowed for excessive and unnecessary costs to the estate.

Brody expressed his concerns about Frenette and her services and anticipated that McCollum would terminate her. Gormley believed there was expectation McCollum

would remove Frenette because of the unhealthy dynamics and considerable animosity between Frenette and Brody.

An email from Paula to McCollum, dated March 10, 2013, documented Paula and her brother did not object to McCollum's appointment but stated "it was made clear" to all parties they did not want Frenette to remain the medical provider. Paula disputed the current level of care provided, suggested a reduction in the number of service hours because her mother was able to independently perform some of the activities of daily living, and Paula noted concerns about Frenette's negative impact on family dynamics.

A review of an email from McCollum to family members, dated March 20, 2013, acknowledged Maxine's desire for a reduction in caregiver hours to a few daily and highlighted a plan established for Brody. McCollum wrote she found no evidence of wrongdoing on Frenette's part and decided to retain her services.

The Division reviewed various documents from Avalon Care Center's occupational and physical therapists, dated February 15 – February 21, 2013; and Firsat Home Health Services physical therapy, dated March 19, 2013, reflecting Maxine's ability to perform the activities of daily living. Firsat Home Health Services recommended assistance with remembering to take medication and support from a walker for ambulation purposes. An email from Frenette to McCollum, dated March 16, 2013 stated caregivers should be provided for approximately 12 hours to help with medication administration, assistance with activities of daily living, ensure safety items were in place and to help with laundry, light housekeeping, meals and transportation to various appointments. McCollum was aware of the reports.

Scaringelli, on McCollum's behalf, acknowledged the family had concerns about Frenette because of the personality conflicts rather than job performance. McCollum was to determine if Frenette was the "right fit," examine the type of job Frenette was doing and if she was doing a good job there would be no reason to terminate her unless they found someone equally qualified to take over. McCollum said she had not made a final decision on Frenette because of the very short duration of the appointment but found no wrongdoing in the short few weeks justifying Frenette's removal. McCollum met with the family and service providers and established a plan to increase Brody's care giving responsibilities with a view to reduce and eventually eliminate Frenette's service. A review of the caregiver's billing showed hours were reduced from 12 hours to eight hours daily. The Division notes McCollum's decision-making regarding the level of care appeared to be informed primarily by Frenette.

The friction and discord in this matter was evident prior to and throughout McCollum's appointment. By retaining Frenette's services, McCollum appears to have discounted the difficult and contentious relationship between Brody and Frenette, ongoing tension and conflict, and unconstructive impact on family dynamics. However, McCollum's relatively brief appointment may not have given her sufficient time to fully examine all of the issues and make a final determination as to whether or not to keep Frenette. Therefore, Allegation 1 is not substantiated.

Allegation 2: Brody alleges McCollum did not terminate home health services despite knowing that Dr. Atienza did not think Maxine required home health care.

Brody had stated in February or March 2013, Frenette accompanied Maxine to see Dr. Atienza and the doctor informed that Maxine no longer required in-home support services. Brody later acknowledged this information was given to him by Maxine upon her return from the appointment. Dr. Atienza verified neither McCollum nor Frenette consulted with her about Maxine's level of care. McCollum confirmed she did not consult with the physician. Dr. Atienza, at Brody's request, wrote a letter on April 23, 2013, offering her professional opinion Maxine was doing well and did not require in home support services. On April 19, 2013 Brody filed a petition to discharge McCollum and appoint a successor guardian. McCollum was discharged on May 6, 2013. It does not appear McCollum was aware of Dr. Atienza's recommendations. Therefore, Allegation 2 is not substantiated.

Allegation 3: Brody alleges McCollum failed to disclose of her prior relationship with Frenette therefore creating the appearance of collusion and possible conspiracy charges.

ACJA § 7-201(F)(1) and ACJA § 7-202(F)(1) require all fiduciaries to comply with the Code of Conduct contained in § 7-202(J).

ACJA § 7-202(J)(2) states:

- 2. Relationship with the Ward or Protected Person. The fiduciary shall exhibit the highest degree of trust, loyalty, and fidelity in relation to the ward, protected person, or estate.*

§ 7-202(J)(2)(b)(1) and (J)(2)(b)(2) read:

b. The fiduciary shall:

(1) Avoid self-dealing, conflict of interest impropriety, or the appearance of a conflict of interest or impropriety. Self-dealing, a conflict of interest, or impropriety arises where the fiduciary has some personal or agency interest other individuals may perceive as self-serving or adverse to the position or best interest of the ward, protected person, or decedent. A conflict of interest may also arise if the fiduciary has dual or multiple relationships with a ward that conflict with each other or has a conflict between or among the best interests of two or more wards.

(2) Maintain independence from all service providers to enable the fiduciary to coordinate services, challenge inappropriate or poorly delivered services, and act in the best interests of the ward or protected person.

McCollum worked as a licensed fiduciary and estate manager for SVG from 2007 to 2009. She did not disclose of her previous business associations with Frenette prior to

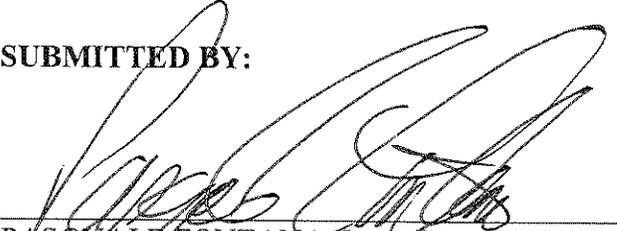
the guardianship appointment because McCollum saw no reason to do so adding the attorneys of record in this matter were aware of Frenette's involvement and McCollum's employment history with SVG and no attorney questioned or opposed the appointment.

Brody and Rochelle verified it was Frenette who recommended McCollum be appointed successor guardian after Rochelle's resignation as guardian. Although Frenette was initially hired by Rochelle, McCollum did not terminate Frenette despite strong opposition from Brody and other family members. Brody learned of McCollum's prior relationship with Frenette around the time McCollum was resigning or had already resigned.

ACJA § 7-202(J)(2)(b)(1) states that a conflict of interest or impropriety arises when the fiduciary has some personal or agency interest other individuals may perceive as self-serving or adverse to the position or best interest of the ward and obliges the fiduciary to avoid even the appearance of a conflict of interest or impropriety. McCollum's lack of transparency about her former business affiliation with Frenette incited Brody to believe the relationship prejudiced McCollum's decision-making and hindered her ability or willingness to terminate Frenette and for him to assert there was the appearance of collusion or conspiracy. Brody said he would have opposed McCollum's appointment had he known about the prior relationship between the two.

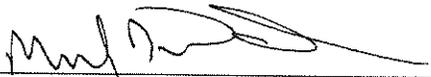
McCollum acknowledged she did not disclose of the relationship because the issue "never came up" although it was clear she was aware of the situation and of the past and ensuing conflict. She did not see a reason to "rebroadcast" this because she had severed ties with Frenette and SVG several years prior and did not like to be associated back the group. However, as previously noted, it appears Frenette recommended McCollum to the family. It is possible McCollum may not have been successfully nominated as successor guardian in this matter had she informed the family at the beginning. Given the presenting circumstances and level of animosity between Brody and family members and Frenette, McCollum's failure to divulge this very salient piece of information about her past relations with Frenette appeared to have endorsed McCollum's interests above those of the Ward and family and eventually served to create suspicion and feelings of distrust and misgiving. Therefore, Allegation 3 is substantiated.

SUBMITTED BY:


PASQUALE FONTANA, Investigator
Certification and Licensing Division


Date

REVIEWED BY:

 4/3/14
Certification and Licensing Division Date

DECISION OF THE PROBABLE CAUSE EVALUATOR:

Having conducted an independent review of the facts and evidence gathered during the course of the investigation of complaint number 13-0006, the Probable Cause Evaluator:

requests division staff to investigate further.

determines probable cause does not exist the certificate holder has committed the alleged acts of misconduct as to Allegation(s):
#1 & 2.

determines probable cause exists the certificate holder committed the alleged acts of misconduct as to Allegation(s):
#3

 4/12/14
Mike Baumstark Date
Probable Cause Evaluator

**ARIZONA SUPREME COURT
ADMINISTRATIVE OFFICE OF THE COURTS
ORDER OF THE BOARD**

CERTIFICATE HOLDER INFORMATION	Certificate Holder:	Stephanie McCollum
	Certification Number:	20560
	Business Name:	Fiduciary Management Specialist, LLC
	Certificate Number:	N/A
	Type of Certificate/License:	Inv. Fiduciary

RECOMMENDATION TO THE BOARD FIDUCIARY (“BOARD”):

It is recommended the Board accept the finding of the Probable Cause Evaluator and enter a finding Stephanie McCollum has not committed the alleged acts of misconduct as detailed in the Allegations 1 and 2 of the Investigation Summary and Allegation Analysis Report in complaint number 13-0006.

It is recommended the Board accept the finding of the Probable Cause Evaluator and enter a finding Stephanie McCollum has committed the alleged acts of misconduct as detailed in the Allegation 3 of the Investigation Summary and Allegation Analysis Report in complaint number 13-0006.

It is further recommended the Board enter a finding grounds for informal disciplinary action exists pursuant to Arizona Code of Judicial Administration (“ACJA”) § 7-201(H)(6)(a) for acts of misconduct involving ACJA § 7-201(F)(1) and ACJA § 7-202(J).

Mitigating Factors:

1. Absence of prior disciplinary record

Aggravating Factors:

1. Substantial experience in the profession
2. Refusal to recognize wrongful nature of the conduct

The stated purpose of the Fiduciary Program includes protecting the public through professional and competent performance in accordance with all applicable statutes and court rules. In this situation, Ms. McCollum was aware that members of the ward’s family were expressing dissatisfaction concerning Ms. Frenette and the services provided by Ms. Frenette. In addition, prior to her appointment, Ms McCollum was aware that members of the ward’s family wanted Ms. Frenette replace with an alternative service provider. Notwithstanding this knowledge, Ms. McCollum failed to disclose to the interested parties her prior relationship with Ms. Frenette. Timely disclosure of this relationship would have allowed the interested parties the opportunity to determine if they wished to object to the appointment of Ms. McCollum.

It is recommended if the Board ultimately finds that misconduct occurred that a Letter of Concern be issued to Ms. McCollum pursuant to AJCA § 7-201(H)(24)(a)(6)(a).

SUBMITTED BY:

 4/30/14

Mark Wilson, Division Director Date
Certification and Licensing Division

FINAL DECISION AND ORDER:

The Board having reviewed the above Investigation Summary, Allegation Analysis Report, finding of the Probable Cause Evaluator, and Recommendation regarding complaint number 13-0006 and Stephanie McCollum, certificate number 20560, makes a finding of facts and this decision, based on the facts, evidence, and analysis as presented and enters the following order:

- requests division staff to investigate further.
- refers the complaint to another entity with jurisdiction.
Referral to: _____
- dismisses the complaint, and:
 - requests division staff prepare a notice of dismissal pursuant to ACJA § 7-201(H)(5)(c)(1).
 - requests division staff prepare a notice of dismissal and an Advisory Letter pursuant to ACJA § 7-201(H)(5)(c)(2).
- determines grounds for discipline exist demonstrating the certificate holder committed the alleged act(s) of misconduct and:
 - enter a finding the alleged act(s) of misconduct or violation(s) be resolved through informal discipline, pursuant to ACJA § 7-201(H)(7) and issue a Letter of Concern.
 - enter a finding the alleged act(s) of misconduct or violation(s) be resolved through formal disciplinary proceeding, pursuant to ACJA § 7-201(H)(9).
- requests the certificate holder appear before the Board to participate in a Formal Interview, pursuant to ACJA § 7-201(H)(8).
- orders the filing of Notice of Formal Charges, pursuant to ACJA § 7-201(H)(10).

enters a finding the public health, safety or welfare is at risk, requires emergency action, and orders the immediate emergency suspension of the certificate and sets an expedited hearing for:

Date, Time, and Location: _____

adopts the recommendations of the Division Director.

does not adopt the recommendations of the Division Director and orders:



Deborah Primock, Chair Date 5/10/11
Fiduciary Board