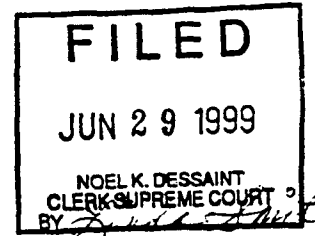


IN THE SUPREME COURT OF THE STATE OF ARIZONA



In the Matter Of:)

ADOPTION OF AMENDED RULES FOR)
THE PRIVATE FIDUCIARY)
REGISTRATION PROGRAM)

Administrative Order
No. 99- 43
(Revising and Replacing
Administrative Order No. 98-53)

On September 21, 1998, by Administrative Order No. 98-53, the Court adopted Administrative Rules in accordance with A.R.S. § 14-5651 concerning the registration, conduct, removal and definition of private fiduciaries. A subsequent Administrative Order No. 99-23, signed by the Court on April 2, 1999, established an extension of time for compliance with the bond rules applicable to financial institutions through June 30, 1999. On May 12, 1999, the Governor signed House Bill 2099, (Laws 1999, Chapter 197), approving changes to A.R.S. § 14-5651. These changes take effect August 6, 1999. The Court desires to adopt the newly amended Administrative Rules.

The amendments proposed to Administrative Rule 2, Private Fiduciary Rules are: clarification language inserted to subsection 2.1.2., ("in a will or"); inserted subsection 2.1.3, relating to persons employed by financial institutions and the applicability of A.R.S. § 14-5651; inserted subsection 2.1.4, a definition for financial institutions; deleted language in 2.14 permitting for one inclusive bond from business entities; redesignated former subsection A.R.S. § 14-5651 (D) to (F) in Rule 2.14; deleted the language in 2.14.1 requiring the placing of the bond on deposit with the State Treasurer; inserted in subsection 2.14.1 language requiring the execution of the bond on a form approved by the Director; inserted subsection (F) to A.R.S. § 14-5651 in 2.14.2; inserted subsection 2.14.4 allowing a bond waiver for financial institutions and requirements if failure to comply with A.R.S. § 14-5651(B).

Now, therefore, the Arizona Legislature enacted A.R.S. § 14-5651 in 1994 that continues to provide that the Supreme Court "administer the registration program and . . . adopt rules and establish and collect fees necessary for its implementation."

Further, in accordance with the administrative authority vested in the Supreme Court by the Arizona Constitution, Article VI, § 3 and § 7, and in compliance with A.R.S. § 14-5651 and § 8-135, the Court has considered the proposed amendments to the Administrative Rules governing the private fiduciary program; and

IT IS ORDERED that the attached Amended Administrative Rules, (Rule 1, General Rule; Rule 2, Private Fiduciary Rule, and the Appendices to Rule 2) are hereby adopted to govern private fiduciaries in the State of Arizona and replace those adopted by Administrative Order No. 98-53, and that Administrative Order No. 98-53 and Administrative Order 99-23 are hereby replaced by this Order.

IT IS FURTHER ORDERED that the Administrative Director of the Courts is specifically authorized to prepare budgets and allocate and expend funds for the administration of the private fiduciary program.

IT IS FURTHER ORDERED that no person or business entity may serve as a private fiduciary as defined in the rules appended hereto unless they are in compliance with the rules approved pursuant to this Order.

Dated this 29th day of June, 1999.

CHARLES E. JONES
Vice Chief Justice

RULE 1
GENERAL PROGRAM RULES

**ARIZONA SUPREME COURT
CERTIFICATION PROGRAM ADMINISTRATIVE RULES**

**Rule 1
General Rule**

- 1.1 Applicability.** The Supreme Court has been given the statutory responsibility to regulate certain professions or occupations. This rule applies to the registration of private fiduciaries pursuant to A.R.S § 14-5651, the registration of private process servers pursuant to A.R.S § 11-445(H), the certification of confidential intermediaries pursuant to A.R.S § 8-134 and the certification of defensive driving schools and instructors pursuant to A.R.S § 28-3395 through A.R.S. § 28-3399 upon adoption by the Arizona Supreme Court. For the purpose of uniformity, consistency and ease of reading the term "certification" will be used when referring to either certification or registration. This General Rule must be read together with the Program Specific Rules applying to the applicant's profession or occupation. In the event of any conflicts between the General Rule and the Program Specific Rules, the Program Specific Rules shall govern. Reference to "these rules" refers to this General Rule and the "Program Specific Rules" that are the individual program's specific rules governing the regulation of that profession or occupation.
- 1.2 Role of the Director.**
- 1.2.1** The Administrative Director of the Supreme Court, (Director), shall develop application and renewal forms, training, and policies and procedures in conformity with these rules. The Director is responsible for enforcement of the law and these rules. Any power, duty or function, whether ministerial or discretionary, vested in the Director may be exercised or discharged by any other person designated by the Director, acting in the Director's name and by delegated authority.
- 1.2.2** The Director upon the Director's own initiative or upon receiving a complaint may conduct such investigations as the Director deems proper to determine whether a person has violated these rules or for the purpose of securing information useful in the lawful administration of the law or these rules. All judicial officers shall, and any person may, notify the Director if it appears that a certificate holder has violated these rules. All complaints shall be in writing with sufficient specificity

to warrant further investigation. The name of the complainant and telephone number shall also be provided.

- 1.2.3 In conducting an investigation the Director may subpoena witnesses or documentary evidence, administer oaths and examine under oath any individual relative to the subject of any hearing or investigation. Subpoenas shall be served as described in section 1.21.
- 1.2.4 If a person fails to obey a subpoena served in accordance with the provisions of these rules, the Director shall forward a report of such disobedience, together with a copy of the subpoena and proof of service, to the Superior Court. The Court shall cause such person to be produced and shall impose penalties as though the person had disobeyed a subpoena issued by the Court.
- 1.2.5 Information or documents obtained or generated by the Director, Program Coordinator or court employees in the course of an open investigation or received in an initial report of misconduct shall be deemed confidential, except as provided by sections 1.2.6 and 1.2.7. Confidential information may be disclosed only to court staff, the Attorney General, and law enforcement and regulatory officials.
- 1.2.6 The Director may authorize disclosure of confidential information if the Director makes a finding that such disclosure is in the best interest of the public and such interest is not outweighed by any other interests or is not contrary to law.
- 1.2.7 Once an investigation is completed all information and documents are open, unless confidential by law. An investigation is completed when the Director makes a determination as to what action is appropriate as defined in section 1.2.8.
- 1.2.8 Upon completion of an investigation, the Director may 1) determine that no violation exists, 2) issue a letter of concern, 3) resolve the violation by consent order or other negotiated settlement between the parties, 4) request staff to prepare the Notice of Hearing for possible disciplinary action or 5) forward the findings to the Office of the Attorney General for preparation of a Notice of Hearing for possible disciplinary action. If the Director requests staff to prepare the Notice of Hearing,

staff may represent the program at any hearing.

1.2.9 The Director may appoint an advisory committee to make recommendations on any matter and may develop guidelines for the appointment, term of appointment of committee members and meeting requirements.

1.3 **Application for Certification.** Application for certification shall be made on form(s) approved by the Director and obtained from and filed with the Program Coordinator. The application shall be signed by the applicant and duly verified by oath.

1.4 **Fingerprinting.**

1.4.1 The applicant is responsible for providing the Program Coordinator with a readable fingerprint card. The applicant shall pay any costs attributable to the original fingerprinting or subsequent re-fingerprinting due to unreadable fingerprints and any fees required for the submission or resubmission of fingerprints. The applicant shall only use the fingerprint card issued in the application packet and be fingerprinted by a law enforcement agency.

1.4.2 The Program Coordinator shall submit completed applicant fingerprint cards and the fees to the Arizona Department of Public Safety. The Arizona Department of Public Safety shall conduct applicant criminal history records checks pursuant to A.R.S. § 41-1750; 28 CFR, Part 20, and any other applicable federal laws. The Arizona Department of Public Safety, on behalf of the Program Coordinator, shall exchange registration applicant fingerprint card information with the Federal Bureau of Investigation for national criminal history records checks.

1.4.3 In the event that definitive fingerprints are not obtainable, the Program Coordinator may require the applicant to make a written statement, under oath, that the applicant has not been arrested, charged, indicted, been convicted of or pled guilty to any felony or misdemeanor, other than as disclosed on the application. In the event the applicant is unable to provide such a statement the Program Coordinator may refuse to accept the application.

1.5 Denial of Certification and of Renewal.

1.5.1 The Program Coordinator may deny certification or renewal of any applicant if one or more of the following is found:

- 1.5.1.1 Material misrepresentation or fraud in the application for or attempt to obtain the certification.**
- 1.5.1.2 A record of any act constituting dishonesty or fraud on the part of the applicant or an officer, director, partner, member, trustee, or manager of the applicant in business or financial matters.**
- 1.5.1.3 A record of conduct showing the applicant or an officer, director, partner, member, trustee, or manager of the applicant to be incompetent or a source of injury and loss to the public.**
- 1.5.1.4 A record of repeated complaints by the public or the court.**
- 1.5.1.5 The applicant or an officer, director, partner, member, trustee, or manager of the applicant has a record of conviction by final judgment of a felony.**
- 1.5.1.6 A record of conviction by final judgment of a misdemeanor involving moral turpitude of the applicant or an officer, director, partner, member, trustee, or manager of the applicant.**
- 1.5.1.7 Denial, revocation, suspension or any censure of any occupational or professional license of the applicant or an officer, director, partner, member, trustee, or manager of the applicant.**
- 1.5.1.8 The applicant or an officer, director, partner, member, trustee, or manager of the applicant has been found civilly liable in an action involving fraud, misrepresentation, material omission, misappropriation, theft or conversion.**

1.5.1.9 The applicant or an officer, director, partner, member, trustee, or manager of the applicant is currently on probation, on parole or named in an outstanding arrest warrant.

1.5.2 The Program Coordinator shall refuse to certify the applicant if one or more of the following is found:

1.5.2.1 The applicant does not meet the qualifications or eligibility requirements described in the Program Specific Rules.

1.5.2.2 The applicant has not been fingerprinted pursuant to section 1.4 and the Program Coordinator has not received and reviewed the criminal background analysis. The Program Coordinator shall complete the review within 30 days of receipt of a completed background check from the Arizona Department of Public Safety. This requirement is discretionary by the Program Coordinator, for renewal applicants. The requirements of this section do not apply if exempt pursuant to Program Specific Rules.

1.5.2.3 The applicant has not completed the training requirements described in the Program Specific Rules.

1.6 Notification of Certification or Denial.

1.6.1 The Program Coordinator shall promptly certify applicants qualified for certification in accordance with these rules.

1.6.2 The Program Coordinator shall promptly notify all applicants denied certification or renewal of the certification, the reasons for the denial, and of the applicant's rights to a hearing, pursuant to section 1.6.3.

1.6.3 An applicant shall be entitled to a hearing, pursuant to these rules, on the decision to deny certification or renewal if a written request is received within fifteen days after receipt of notice of such denial. At such hearing the applicant shall be the moving party and have the burden of proof.

1.6.4 Upon certification, each applicant certified will receive a document

evidencing certification, in a form as may be determined by the Director, stating the applicant's name, date of certification, and expiration. Each certification shall expire as described in the Program Specific Rules.

1.7 Renewal and Voluntary Surrender.

- 1.7.1 The Program Coordinator may renew a certification if the certificate holder files an application on a form approved by the Director, has completed the renewal requirements and paid the renewal fees prescribed in the Program Specific Rules on or before the expiration date.**
- 1.7.2 When a certificate holder has filed a timely and complete application for the renewal of certification, the existing certification does not expire until the application has been approved or denied by the Program Coordinator. In the case that the renewal application is denied the existing certification does not expire until the last day for seeking a hearing on the decision pursuant to section 1.6.3.**
- 1.7.3 All certifications shall continue in force until expired, suspended, revoked or terminated, subject to payment received by the Arizona Supreme Court, Administrative Office of the Court before the expiration date detailed in the Program Specific Rules. Any certification for which such request for renewal and payment of the fee is not received by the Program Coordinator shall be deemed to have expired as of the expiration date in the Program Specific Rules. Any renewal application postmarked after the expiration date will be treated as a new application.**
- 1.7.4 Before granting a renewal of certification, the Program Coordinator may require additional information which is reasonably necessary to determine if the applicant continues to meet the qualifications specified in these rules, which may include fingerprinting or background information, pursuant to section 1.4.**
- 1.7.5 Voluntary surrender of a certification shall not be valid until accepted by the Program Coordinator. The Program Coordinator may require additional information which is reasonably necessary to determine if**

the certificate holder has violated any of these rules. Within 120 days of the voluntary surrender of the certification the Program Coordinator must either file a Notice of Hearing or accept the surrender.

- 1.7.6 The expiration provisions described in section 1.6.4 of these rules and the Program Specific Rules do not affect the right of the Director to suspend or revoke the certification of a certificate holder, if a complaint or investigation is pending prior to the expiration date. Non-renewal of the certification by the certificate holder does not affect this provision.

1.8 Disciplinary Action.

- 1.8.1 A certificate holder is subject to disciplinary action if the Director finds, after notice and hearing, if requested, that one or more of the following applies to the certificate holder:

1.8.1.1 Wilful violation of or wilful noncompliance with an order of the Director, or any provision of these rules.

1.8.1.2 The existence of any cause for which original certification or any renewal of the certification could have been refused as described in sections 1.5.1.1 through 1.5.1.9.

1.8.1.3 Failure to perform any duty to discharge any obligation required by these rules.

- 1.8.2 The Director shall issue an order which shall specify in what manner and to what extent such failure or violation is found and specify any sanctions pursuant to these rules.

- 1.9 **Emergency Suspension.** If the Director finds that the public health, safety or welfare requires emergency action and incorporates a finding to that effect in the order, summary suspension of a certificate holder may be ordered pending proceedings for revocation or other action. These proceedings shall be promptly instituted within 30 days. All Superior Court Presiding Judges shall be immediately notified of any summary suspension.

- 1.10 **Sanctions.** The Director may, in addition to any sanctions specified in the Program Specific Rules, place restrictions on a certification, mandate additional training, suspend a certification for a period not to exceed twenty-four months, or revoke a certification issued under these rules.
- 1.11 **Procedure after Suspension or Revocation.**
- 1.11.1 Upon suspension or revocation of any certification the Director shall forthwith serve notice upon the certificate holder either in person or by certified mail, return receipt requested, addressed to the last address of record with the Program Coordinator. Notice by mail is complete upon deposit in the United States mail.
- 1.11.2 The Program Coordinator or Director shall not again issue any certification under these rules to any person whose certification has been revoked until after expiration of one year from date of revocation, and until such person again qualifies in accordance with the applicable provisions of these rules.
- 1.12 **Assumed Business Name.** A certificate holder shall not transact business in this state under an assumed name or under any designation, name or style, corporate or otherwise, other than the real name of the individual or business entity unless such person or business entity files with the Program Coordinator a certificate setting forth the name under which business will be transacted and the true or legal full name of the certificate holder.
- 1.13 **Change of Address.** All certificate holders shall notify the Program Coordinator of any change in the business address, mailing address or home address within thirty days of any change.
- 1.14 **Fees.** The Program Coordinator shall collect in advance the fees specified in the Program Specific Rules which are not refundable. All payments shall be in cash, money order or certified check. The fees shall be made payable to and deposited with the Supreme Court, Administrative Office of the Courts, following the Supreme Court's Minimum Accounting Standards pursuant to Administrative Order 97-62 and the Generally Accepted Accounting Principles. All funds will be expended in compliance with these rules.

1.15 Hearings.

- 1.15.1** The Director shall appoint a Presiding Officer, knowledgeable in conducting hearings, to hold a hearing when required to do so pursuant to these rules, or upon written demand by a person entitled to a hearing, pursuant to these rules. All demands for hearing must specify: 1) the section of the Rules which entitles the person to a hearing, 2) the factual basis supporting the request for hearing and 3) the relief demanded. The Director may request that the Presiding Judge of the Superior Court in the county in which the alleged violation took place supply the person to be appointed Presiding Officer, a hearing room and any other necessary resources.
- 1.15.2** The hearing will be held within 45 days of receipt of the request if the request is made by an applicant, unless postponed by mutual consent. In the event the request is from the Program Coordinator, the hearing will be held as soon as practical at the discretion of the Presiding Officer but no less than 15 days after notice, as required by 1.16.1.
- 1.15.3** The Presiding Officer shall have the authority to decide all motions, conduct pre-hearing conferences, determine the order of proof and manner of presentation of other evidence, issue subpoenas, place witnesses under oath, recess or adjourn the hearing and prescribe and enforce general rules of conduct and decorum. Informal disposition may be made of any case by stipulation, agreed settlement, consent order or default.
- 1.15.4** The Presiding Officer may order a pre-hearing conference at the request of any party or on the Presiding Officer's own initiative. The purpose of the conference is to consider any or all of the following actions:

 - 1.15.4.1** To reduce or simplify the issues to be adjudicated.
 - 1.15.4.2** To dispose of preliminary legal issues, including ruling on pre-hearing motions.
 - 1.15.4.3** To stipulate to the admission of evidence, facts and

legal conclusions that are not contested.

1.15.4.4 To identify witnesses.

1.15.4.5 To consider any other matters that will aid in the expeditious conduct of the hearing.

1.16 Notice.

1.16.1 At least fifteen days prior to the date set for hearing, the parties will be given notice, prepared by the Program Coordinator, which shall include the following information:

1.16.1.2 A statement of the time, place and nature of the hearing.

1.16.1.3 A statement of the legal authority and jurisdiction under which the hearing is to be held.

1.16.1.4 A reference to the particular sections of the statutes, rules and policies involved.

1.16.1.5 A short and plain statement of the allegations or factual basis supporting the relief requested, which may be amended as necessary.

1.16.1.6 If the notice is for a violation or denial of certification and if the hearing date has not previously been set, a statement indicating that the registrant or applicant will be afforded a hearing upon request, if a request is made in writing within 15 business days of receipt of the notice.

1.16.2 Service of the notice shall be accomplished by personal service or by certified mail return receipt requested to the last business address of record with the Program Coordinator. Proof of service shall be made by filing with the Presiding Officer a verified statement that service was made. Service by mail is complete upon deposit in the United States mail.

- 1.16.3 In the event a party is represented by an attorney, service shall be made upon the attorney.

1.17 Rights of Parties.

- 1.17.1 At a hearing a party shall be entitled to enter an appearance, introduce evidence, examine and cross-examine witnesses, make arguments, and generally participate in the conduct of the proceeding.

- 1.17.2 Any person may represent themselves or appear through counsel. An attorney who intends to appear on behalf of a party shall promptly notify the Presiding Officer and the Program Coordinator providing the name, address and telephone number of the party represented and the name, address and telephone number of the attorney. A corporate officer may represent a business entity in any proceeding under these rules.

- 1.18 **Conduct During Hearing.** All persons appearing before a Presiding Officer in any proceeding shall conform to the conduct expected in the Superior Court of the State of Arizona.

1.19 Filing; Pleading.

- 1.19.1 Answers to the notices are required and must be filed within ten (10) business days after the date on which the notice is served, unless otherwise ordered by the Presiding Officer. Answers must be full and complete, and shall be in compliance with Rule 8 of the Arizona Rules of Civil Procedure. If a party fails to file an answer within the time provided, such person shall be deemed in default and the proceeding may be determined against the party by the Presiding Officer and one or more of the assertions contained in the notice may be deemed to be admitted. Any defenses not raised in the answer shall be deemed to be waived.

- 1.19.2 All motions must be filed at least five (5) business days prior to the scheduled hearing date, unless otherwise ordered by the Presiding Officer.

- 1.19.3 Responses to motions must be filed within five (5) business days of the filing of the motion.
- 1.19.4 Copies of all filings shall be delivered to the Presiding Officer, the Program Coordinator and all parties to the proceeding.
- 1.19.5 All filings shall be made in accordance with Rule 5(h), Arizona Rules of Civil Procedure.

1.20 Discovery.

- 1.20.1 Except as provided in these rules no discovery is permitted, unless mutually agreed to by the parties or permitted by the Presiding Officer.
- 1.20.2 The Presiding Officer, upon written request, shall order a party to allow the requesting party to have a reasonable opportunity to inspect and copy, at the requesting party's expense, admissible documentary evidence or documents reasonably calculated to lead to admissible evidence prior to a hearing, so long as such evidence is not privileged.
- 1.20.3 The Presiding Officer, on the Presiding Officer's motion or upon request, may require, prior to hearing, the disclosure of documentary evidence intended to be used at the hearing, so long as the evidence is not privileged.
- 1.20.4 Depositions for use as evidence may be taken of witnesses who cannot be subpoenaed or are otherwise unable to attend the hearing. In order to take a deposition, a party shall file with the Presiding Officer a written motion, with copies to all parties, setting forth the name and address of the witness, the subject matter of the deposition, the documents, if any, sought to be produced, the time and place proposed for the deposition, and the justification for the deposition.
- 1.20.5 Responses to requests for depositions, including motions to quash, shall be filed within five (5) business days after the filing of the request for deposition.

- 1.20.6 If a deposition is permitted, a subpoena and a written order shall be issued. The subpoena and order shall identify the person to be deposed, the scope of testimony to be taken, the documents, if any, to be produced, and the time and place of the deposition. The party requesting the deposition shall arrange for service of the subpoena and order. The subpoena and order shall be served on all parties five business days before the time fixed for taking the deposition unless, for good cause shown, such time is shortened by the Presiding Officer.

1.21 Subpoenas.

- 1.21.1 Subpoenas shall be issued in the same manner as provided for by Rule 45, Arizona Rules of Civil Procedure and may be served by an employee of the court or any other person as designated by Rule 45(b), Arizona Rules of Civil Procedure.

- 1.21.2 Subpoenas may be served as follows:

1.21.2.1 By personal service.

1.21.2.2 By leaving a copy at the person's dwelling house, or usual place of abode, with a person of suitable age and discretion, but not less than 14 years of age, then residing therein.

1.21.2.3 By leaving a copy at the person's usual place of business or employment with an employee, coordinator, owner, officer, partner or other similar person of suitable age and discretion.

1.21.2.4 By delivering a copy to an agent authorized by appointment or by law to receive service of process for the person to whom the subpoena is addressed.

1.21.2.5 By mailing a copy of the subpoena in an envelope addressed to the last known home or business address, postage prepaid. This envelope shall be sent by certified mail with return receipt requested. The signed return

receipt shall constitute proof of service.

- 1.21.3 A motion to modify or quash the subpoena shall be filed prior to the return date of the subpoena. The Presiding Officer may decide to modify or quash the subpoena if a finding is made that:
 - 1.21.3.1 The testimony required is not reasonably related to the subject matter of the hearing.
 - 1.21.3.2 The subpoena does not adequately describe the evidence required to be produced.
 - 1.21.3.3 The production of the evidence will impose an undue hardship.
 - 1.21.3.4 The material or testimony requested is privileged by statute, rule, or constitutional guarantee.
 - 1.21.3.5 The subpoena has been sought for the purpose of harassment or intimidation.
- 1.21.4 If a person fails to obey a subpoena lawfully served, the Presiding Officer shall forthwith forward a report of such disobedience, together with a copy of the subpoena and proof of service thereof, to the Superior Court. The court shall forthwith cause such person or records to be produced and shall impose penalties as though the person had disobeyed a subpoena issued out of such court.

1.22 Record.

- 1.22.1 Oral proceedings or any part thereof shall be electronically recorded and shall be transcribed on request of any party. The cost of the transcript shall be paid by the party making the request.
- 1.22.2 The Presiding Officer shall cause a full stenographic record of the proceedings to be made by a competent court reporter if requested by a party within five (5) days prior to a hearing. The cost of the transcript shall be the responsibility of the requesting

party. The Presiding Officer may require prepayment or a monetary deposit to cover the cost of the transcript. If transcribed, such record shall be a part of the court's record of the hearing and a copy of such stenographic record shall be furnished to any other party having a direct interest therein at the request and expense of such party. If no request is made for a stenographic record, the proceedings shall be recorded as described in section 1.22.1.

1.23 Procedure at Hearing.

- 1.23.1 Hearings are presided over by the Presiding Officer. There is no right to a jury. All hearings are open to the public. The Presiding Officer may question witnesses.
- 1.23.2 A hearing may be conducted in an informal manner and without adherence to the rules of pleading or evidence. The evidence supporting a decision must be substantial, reliable and probative. Irrelevant, immaterial or unduly repetitious evidence shall be excluded.
- 1.23.3 All testimony to be considered shall be under oath or affirmation, except matter of which judicial notice is taken or entered by stipulation. The Presiding Officer may administer oaths and affirmations.
- 1.23.4 In all matters brought at the request of the Program Coordinator, evidence in support of the Program Coordinator's action shall be presented first and carry the burden of proof. In matters brought at the request of someone other than a Program Coordinator, including requests for hearing on the denial of certification, the person seeking the hearing shall present first and carry the burden of proof.

- 1.24 **Recommendations of Presiding Officer.** The Presiding Officer shall within 30 days of the closing of the record of a hearing, prepare recommendations and deliver the recommendations to the Director. The recommendations shall be in writing and shall include recommended findings of fact and conclusions of law, separately stated. Findings of fact,

if set forth in statutory language, shall be accompanied by a concise and explicit statement of the underlying facts supporting the findings.

1.25 Decisions and Orders.

1.25.1 The final decision shall be rendered by the Director. Any final decision or order shall be in writing and shall include findings of fact and conclusions of law, separately stated. Findings of fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of the underlying facts supporting the findings. Parties shall be notified either personally or by mail to their last known address of any decision or order.

1.25.2 Findings of fact shall be based exclusively on the evidence and on matters officially noticed.

1.26 Rehearing.

1.26.1 Upon written request of a party to a hearing being filed with the Presiding Officer within 15 days after any order made pursuant to a hearing has been mailed or delivered to the person entitled to receive such order, the Presiding Officer may grant a rehearing or reargument of the matters involved in the hearing. The decision to grant or deny the request shall be made within 30 days of the date of filing of the request. A request for rehearing or review shall be based upon one or more of the grounds listed in Rule 59, Arizona Rules of Civil Procedure, which materially affected the rights of a party and shall conform to the requirements of Rule 59.

1.26.2 Any party served with a request for rehearing shall be permitted to file a response within 15 days of service.

1.27 **Appeals.** Decisions of the Director pursuant to these rules shall be subject to judicial review in Superior Court, Maricopa County pursuant to the provisions of Title 12, Chapter 7, Article 6.

RULE 2
PRIVATE FIDUCIARY PROGRAM SPECIFIC RULES

**ARIZONA SUPREME COURT
CERTIFICATION PROGRAM ADMINISTRATIVE RULES**

**Rule 2
Private Fiduciary Rule**

2.1 Applicability. This rule applies to the registration of private fiduciaries pursuant to A.R.S. § 14-5651. For the purpose of uniformity, consistency and ease of reading, the term "certification" will be used when referring to either certification or registration. Rule 2, Private Fiduciary Rule, is the "Program Specific Rule" and must be read with Rule 1, "General Rule". "These rules" refer to the Program Specific Rules and the General Rule. A "private fiduciary" or "fiduciary" is defined as:

2.1.1 A person who for a fee serves as a court appointed guardian or conservator for one or more persons who are unrelated to the fiduciary.

2.1.2 A person who for a fee serves as a court appointed personal representative and who is not related to the decedent, is not nominated in a will or by a power conferred in a will and is not a devisee in the will.

2.1.3 A person who is employed by a financial institution and who supervises or makes substantive decisions about the administration of a decedent's estate, conservatorship or guardianship, but not an employee of a financial institution who completes tasks in the administration of the decedent's estate, conservatorship or guardianship under the direction or control of the supervising employee.

For the purposes of these rules a "financial institution" is defined as:

2.1.4 A bank insured by the Federal Deposit Insurance Corporation and chartered under the laws of the United States government or any state, a trust company owned by a bank holding company that is regulated by the Federal Reserve Board of the United States or a trust company chartered under the laws of the United states government or this State.

2.2 Purpose. In order to be eligible for court appointment as a guardian, conservator or personal representative all persons including business entities must be certified and comply with the requirements of these rules, unless exempt pursuant to section 2.5.1 or 2.5.2.

2.3 Role of the Director. Reference Rule 1, General Rule, section 1.2

2.4 Role of the Program Coordinator.

2.4.1 The Director shall designate a Program Coordinator. The Program Coordinator is responsible for the administration of the Private Fiduciary Program in compliance with the law, rules of court, administrative order(s) and administrative rules. The Program Coordinator may delegate any duties and responsibilities to staff.

2.4.2 The Program Coordinator shall maintain a list of certified private fiduciaries which will be distributed to the Superior Court and made available to the public. The Program Coordinator may charge for the costs of providing copies of the certification list or any other public records of the program.

2.5 Exemptions from Certification.

2.5.1 Exemption from Certification.

No certification shall be required of:

2.5.1.1 Any person or business entity who will serve, if court appointed, as a guardian, conservator or personal representative for one or more persons for no fees or compensation monetary or otherwise.

2.5.1.2 Any person who will serve, if court appointed, as a guardian or conservator for one or more persons to whom they are related. Related for the purpose of this procedure shall be defined as a spouse or a person associated by blood or marriage within the fifth degree of consanguinity and affinity. The fifth degree is any person by blood, adoption, or marriage as follows: A spouse, child, grandchild, great-grandchild, parent, grandparent, great

grandparent, great-great grandparent, sibling, nephew or niece, grand nephew or grand niece, great-grand nephew or great grand niece, uncle or aunt, great uncle or great aunt, great-grand uncle or great-grand aunt, first cousin, first cousin once removed.

- 2.5.1.3 Any person who will serve, if court appointed, as a personal representative if they are related to the decedent. Related for the purpose of this procedure shall be defined as a surviving spouse or a person associated by blood or marriage within the fifth degree of consanguinity and affinity. The fifth degree is any person by blood, adoption, or marriage as follows: A spouse, child, grandchild, great-grandchild, parent, grandparent, great grandparent, great-great grandparent, sibling, nephew or niece, grand nephew or grand niece, great-grand nephew or great grand niece, uncle or aunt, great uncle or great aunt, great-grand uncle or great-grand aunt, first cousin, first cousin once removed.
- 2.5.1.4 Any person who will serve, if court appointed, as a personal representative who is nominated in a will or nominated by a power conferred in a will.
- 2.5.1.5 Any person who will serve, if court appointed, as a personal representative who is a devisee in the will.
- 2.5.1.6 Any person who is appointed to serve as a guardian ad litem.
- 2.5.1.7 Any person serving as a foreign personal representative in an ancillary probate administration pursuant to A.R.S. § 14-4205.
- 2.5.1.8 Any person serving as a foreign conservator pursuant to A.R.S. § 14-5431 and § 14-5432.

2.5.2 Exemption Upon Application.

- 2.5.2.1 Any person or business entity seeking a court appointment as a conservator or guardian or personal representative

may apply on the form prescribed by the Supreme Court for an emergency exemption from certification based on the criteria set forth in Rule 2, Private Fiduciary Rule, section 2.5.2.2 through section 2.5.2.2.7 and comply with these rules by filing an Application for Exemption, Appendix "C," with the Clerk of Superior Court in the county where the appointment is requested.

2.5.2.2 The Presiding Judge of Superior Court or designated judicial officer may grant or deny the exemption upon finding:

- 2.5.2.2.1** The applicant possesses the experience, education and skills necessary to meet the needs of the ward, protected person or decedent's estate. Factors to be considered in making this determination may include, but are not limited to: the nature of the relationship with the ward, protected person or deceased persons; the type of decisions to be made by the fiduciary; the amount of assets to be managed; any limitations or conditions to be placed on the appointment and the fees to be charged, and
- 2.5.2.2.2** The applicant is not acting as a fiduciary in any other case unless the wards or protected persons are related by blood or marriage, and
- 2.5.2.2.3** The applicant has known the ward, protected person or deceased person for at least two (2) years, and
- 2.5.2.2.4** No prejudice or harm is likely to occur if the exemption is granted, and
- 2.5.2.2.5** An emergency need for the temporary appointment, and

2.6.1 Qualification for Individual Certification.

In order to be qualified or eligible for certification an applicant must meet the eligibility requirements outlined in sections 2.6.1.1, 2.6.1.2, and 2.6.1.3 et seq. as well as fulfill all the requirements of sections 2.6.1.4 through 2.6.1.10 of Rule 2, Private Fiduciary Rule.

2.6.1.1 Be 21 years of age or more.

2.6.1.2 Be a citizen of the United States.

2.6.1.3 Possess one of the following:

2.6.1.3.1 A high school diploma or a general equivalency diploma (GED) evidencing the passing of the General Education Development Test; and have one year of work experience specifically related to guardianship, conservatorship or decedent estates; or

2.6.1.3.2 A four year Bachelor of Arts or Bachelor of Science degree from an accredited college or university.

2.6.1.4 File the completed application with the Program Coordinator, as prescribed in Appendix "A", and successfully complete the training requirements, as described in Rule 2, Private Fiduciary Rule, section 2.10. The application shall be signed by the applicant and duly verified under oath.

2.6.1.5 Provide a full set of fingerprints, in accordance with Rule 1, General Rule, section 1.4.

2.6.1.6 Pay all fees as outlined in Rule 2, Private Fiduciary Rule, section 2.22 and the Schedule of Fees, Appendix "E".

- 2.6.1.7 Supply the surety or cash bond as required in Rule 2, Private Fiduciary Rule, section 2.14.
- 2.6.1.8 Provide one color passport-size photograph, (2" X 2").
- 2.6.1.9 Agree to abide by the Code of Conduct attached in Appendix "F". Violations of the Code of Conduct may be used as evidence of a violation of Rule 1, General Rule sections 1.5.1.2, 1.5.1.3, 1.8.1.1, 1.8.1.2, 1.8.1.3.
- 2.6.1.10 Pass the examination testing the applicant's knowledge as a private fiduciary, described in Rule 2, Private Fiduciary Rule, section 2.11.

2.6.2 Qualification for Business Entity Certification.

In order to be qualified or eligible for business entity certification, the corporation, limited liability company or partnership must meet the following conditions prior to certification:

- 2.6.2.1 Each business entity must designate one or more principals who are certified as an individual private fiduciary. The principal must actively and directly supervise all other certified private fiduciaries and staff working for the corporation, limited liability company or partnership who work with wards, protected persons or decedent estates. In the event the designated principal no longer is able or willing to serve as the principal, the certified business entity must supply the Program Coordinator with the name of the new designated principal and within 30 days file an executed Principal Form, Appendix "D". The new designated principal must be certified as an individual private fiduciary. The designated principal may represent the business entity in any proceeding under these rules.
- 2.6.2.2 The principal must file prior to July 1st of each year with the Program Coordinator a list of all certified private fiduciaries acting for or on behalf of the business entity.

- 2.6.2.3 The principal must agree that not fewer than one certified person must be assigned primary responsibility for each court appointment as a guardian, conservator or personal representative.
- 2.6.2.4 Pay all fees as outlined in Rule 2, Private Fiduciary Rule, section 2.19 and the Schedule of Fees, Appendix "E".
- 2.6.2.5 Supply the surety or cash bond as required in Rule 2, Private Fiduciary Rule, section 2.14.
- 2.6.2.6 File the completed application with the Program Coordinator, as prescribed in the Business Entity Application, Appendix "B". The application shall be signed by the appropriate authority on behalf of the business entity and be duly verified under oath.

2.6.3 Qualification for Certification of the Arizona Veterans' Service Commission.

In order to be qualified for certification to become eligible for appointment as a private fiduciary the Commission must meet the following conditions prior to certification:

- 2.6.3.1 The Commission Director appointed pursuant to A.R.S. § 41-604 must be certified as an individual private fiduciary and designated as the principal. The principal must actively and directly supervise all other certified private fiduciaries and staff working for the Commission in furtherance of its duties pursuant to A.R.S. § 41-605 and § 41-603(A). The Commission Director may represent the Commission in any proceeding under these rules.
- 2.6.3.2 The Commission Director appointed pursuant to A.R.S. § 41-604 must file prior to July 1st each year, with the Program Coordinator a list of all certified private fiduciaries acting for or on behalf of the Commission.
- 2.6.3.3 The Commission Director appointed pursuant to A.R.S. §

41-604 must agree that not fewer than one certified person must be assigned primary responsibility for each court appointment as a guardian, conservator or personal representative.

2.6.3.4 Pay applicable initial and biennial training fees and fingerprint processing fees as outlined in Rule 2, Private Fiduciary Rule, section 2.22 and the Schedule of Fees, Appendix "E".

2.6.3.5 File the completed application with the Program Coordinator, as prescribed in the Business Entity Application, Appendix "B". The application shall be signed by the Commission Director and duly verified under oath.

2.6.4 Qualification for Certification of the Office of the Public Fiduciary.

In order to be qualified for certification to become eligible for appointment as a private fiduciary the Officer must meet the following conditions prior to certification:

2.6.4.1 The Public Fiduciary appointed pursuant to A.R.S. § 14-5601 et. seq. must be certified as an individual private fiduciary and designated as the principal. The principal must actively and directly supervise all other certified private fiduciaries and staff working for the Public Fiduciary in furtherance of its duties pursuant to A.R.S. § 14-5602, § 14-5603, § 14-5604, § 14-5605, § 14-5606. The Public Fiduciary may represent the Public Fiduciary Office in any proceeding under these rules.

2.6.4.2 The Public Fiduciary appointed pursuant to A.R.S. § 14-5601 must file prior to July 1st each year, with the Program Coordinator a list of all certified private fiduciaries acting for or on behalf of the Office.

2.6.4.3 The Public Fiduciary appointed pursuant to A.R.S. § 14-5601 must agree that not fewer than one certified person must be assigned primary responsibility for each court appointment as a guardian, conservator or personal representative.

- 2.6.4.4 Pay applicable initial and biennial training fees and fingerprint processing fees as outlined in Rule 2, Private Fiduciary Rule, section 2.22 and the Schedule of Fees, Appendix "E".
- 2.6.4.5 File the completed application with the Program Coordinator, as prescribed in the Business Entity Application, Appendix "B". The application shall be signed by the Public Fiduciary and duly verified under oath.
- 2.7 **Renewal and Voluntary Surrender.** The renewal and voluntary surrender of certifications is as specified in Rule 1, General Rule, section 1.7.
- 2.8 **Expiration Date.** All certifications shall expire on midnight, on the last business day of May on each even numbered year.
- 2.9 **Denial of Certification and of Renewal.**
- 2.9.1 In addition to the reasons specified in Rule 1, General Rule, section 1.5.1, the Program Coordinator may refuse to certify or renew any applicant if the applicant or an officer, director, partner, member, trustee or manager of the applicant has been removed as a court appointed guardian, conservator, or personal representative for cause.
- 2.9.2 In addition to the reasons specified in Rule 1, General Rule, section 1.5.2, the Program Coordinator shall refuse to certify the applicant if the applicant or an officer, director, partner, member, trustee, or manager of the applicant has a record of conviction by final judgment of a felony.
- 2.10 **Training.**
- 2.10.1 The Program Coordinator shall provide or contract to provide training for private fiduciary applicants. The training shall be held at least two times per year. The initial training for new applicants shall be a minimum of twelve hours. All new applicants shall attend the entire training session. All applicants shall pay the applicable training fees described in the Schedule of Fees, Appendix "E".

- 2.10.2 All certified private fiduciaries shall attend six hours of continuing training as described in Rule 2, Private Fiduciary Rule, section 2.10.1 at least once every two years.
- 2.10.3 Training will be available to persons not seeking certification upon application, payment of training fees, and class availability.

2.11 Examinations.

- 2.11.1 Each individual applicant for certification must personally take and pass to the Director's satisfaction an examination given by or under the supervision of the Director reasonably testing the applicant's knowledge as a private fiduciary. The examination shall be offered at least two times per year in conjunction with the training.
- 2.11.2 An examination for fiduciary certification shall be in writing.
- 2.11.3 A passing grade on the examination shall be established by the Director and announced prior to administering the test.
- 2.11.4 The program shall inform each applicant of the grade of the completed examination and whether the grade is a passing or failing requiring a reexamination.
- 2.11.5 Multiple versions of the test will be used and no copies of the test will be released to applicants or the public.
- 2.11.6 The program shall make and keep an accurate record of each examination.
- 2.11.7 The Director may update tests as required to maintain the currency of the test content. Representatives from the court community, private and public fiduciary community, public, and any other resource deemed appropriate may be used to aid in the development and validation of tests created for use by this program.

2.12 Reexaminations.

- 2.12.1** An applicant who fails an examination for certification pursuant to this article is entitled to one reexamination.
- 2.12.2** The reexamination must be taken within 90 days of the date of the failed examination.

2.13 Examination review.

- 2.13.1** An applicant may, on written request, review their examination papers and grades under the terms and conditions prescribed by the Director.
 - 2.13.1.1** The applicant shall not copy materials provided for their review.
 - 2.13.1.2** The review shall be conducted during business hours in the presence of program staff.

2.14 Bond Requirement.

This requirement applies to individuals, the business entity, and the applicable staff who are working for a certified business entity. A bond is required of each applicant, business entity and those employees of business entities assigned primary responsibility for court appointments seeking certification.

For initial or renewal certification the applicant shall file with the application a cash or surety bond as described in sections 2.14.1 and 2.14.2 for the purposes described in A.R.S. § 14-5651(F). Upon certification the certificate holder shall maintain the cash or surety bond as long as the certification is in place. Upon expiration or surrender of the certification, the certificate holder may apply in writing to the Program Coordinator for return of any cash bond not forfeited. Any cash bond not forfeited will be returned within 120 days.

- 2.14.1 Surety Bond.** A bond in favor of the State of Arizona and the Arizona Supreme Court. The bond will be executed on a bond

form approved by the Director and issued by an insurer authorized to do business in Arizona and holding a certificate of authority issued by the Director of the Arizona Department of Insurance. The total aggregate liability on the bond shall be ten thousand dollars (\$10,000), for the purpose of compensating the Arizona Supreme Court for the expenses it may incur to conduct any investigation and hearing pursuant to A.R.S. § 14-5651. The bond shall be forfeited to the Arizona Supreme Court in the event the applicant is found by the Director to have violated any rule adopted pursuant to A.R.S. § 14-5651 and the Director orders the forfeiture. In the event the bond is forfeited, the Director shall deposit the funds in the Confidential Intermediary and Private Fiduciary Fund established pursuant to A.R.S. § 8-135. The bond shall contain a provision that the bond will not be canceled by the insurer without at least 30 days prior written notice to the Arizona Supreme Court by the insurer.

- 2.14.2 **Cash Bond.** Cash in the amount of ten thousand dollars (\$10,000) to be deposited with the State Treasurer in a special non-interest bearing account for the purpose of compensating the Arizona Supreme Court for the expenses it may incur to conduct any investigation and hearing pursuant to A.R.S. § 14-5651(F). The cash bond shall be forfeited to the Arizona Supreme Court in the event the applicant is found by the Director to have violated any rule adopted pursuant to A.R.S. § 14-5651 and the Director orders the forfeiture. In the event the bond is forfeited, the Director shall deposit the funds in the Confidential Intermediary and Private Fiduciary Fund established pursuant to A.R.S. § 8-135.
- 2.14.3 **Bond Waiver for Governmental Agency.** No state or local governmental agency or agency staff are subject to Rule 2.14 the Supreme Court Private Fiduciary Certification Program bond requirement.
- 2.14.4 **Bond waiver for Financial Institutions and Employees of Financial Institutions.** Financial institutions or employees of financial institutions are not subject to Rule 2.14, The Supreme Court Private Fiduciary Certification Program bond requirement

unless the financial institution fails to comply with A.R.S § 14-5651(B).

If the financial institution fails at any time to comply with the thirty day requirement for payment pursuant to A.R.S. § 14-5651B) the financial institution and the financial institution employee shall no longer be provided a bond waiver and shall post a bond or cash deposit in the amount of \$10,000 as defined in Rule 2.14 and pursuant to A.R.S. § 14-5651(C).

- 2.15 Notification of Certification or Denial.** Reference Rule 1, General Rule, section 1.6
- 2.16 Disciplinary Action.** Reference Rule 1, General Rule, section 1.8.
- 2.17 Sanctions.**
 - 2.17.1** In addition to any other sanctions specified in Rule 1, General Rule, section 1.10, the Director may forfeit the surety or cash bond.
 - 2.17.2** The Director may determine and impose a civil penalty not to exceed five hundred dollars for each failure or violation, and not to exceed an aggregate civil penalty of fifteen thousand dollars. The certified private fiduciary shall pay the civil penalty to the Director for remission to the State Treasurer to be placed in the general fund.
- 2.18 Emergency Suspension.** Reference Rule 1, General Rule, section 1.9
- 2.19 Procedure after Suspension or Revocation.** Reference Rule 1, General Rule, section 1.11
- 2.20 Assumed Business Name.** Reference Rule 1, General Rule, section 1.12
- 2.21 Change of Address.** Reference Rule 1, General Rule, section 1.13
- 2.22 Fees.** The Program Coordinator shall collect in advance the fees specified in the Fee Schedule, Appendix "E" which are not refundable. All

payments shall be in cash, money order or certified check. The fees shall be deposited with the Supreme Court, Administrative Office of the Courts, in accordance with A.R.S. § 8-135 following the Supreme Court's Minimum Accounting Standards pursuant to Administrative Order 97-62 and Generally Accepted Accounting Principles and used for the purpose of the Private Fiduciary Program, in compliance with these rules and A.R.S. § 14-5651.

2.23 Hearings. Reference Rule 1, General Rule, sections 1.15 through 1.27.

Amended June 30, 1999

APPENDIX "A"
INDIVIDUAL CERTIFICATION APPLICATION



APPENDIX A
ARIZONA SUPREME COURT
Private Fiduciary Certification Program

CERTIFICATION APPLICATION FORM

Individual Application

Initial Application () or Renewal Application ()

This publication can be made available in large format or on audio tape upon request. Please contact the Private Fiduciary Certification Program at (602) 542-9586 or (602) 542-9545 (TDD).

1. CAREFULLY READ THE INSTRUCTIONS ON PAGE 5. Your application must be printed or typed in ink. 2. Complete ALL PAGES of this form and fulfill all other requirements shown in the attached instructions.

SECTION I: APPLICANT INFORMATION

(Legal) Last Name:		Full First Name:		Full Middle Name:	
Home Address - Physical Street Address (may not be a P.O. box):				(city)	(state) (zip)
Business Address - Physical Street Address (may not be a P.O. box):				(city)	(state) (zip)
Address to appear on license:				(city)	(state) (zip)
Home Telephone Number : ()	Business Telephone Number: ()	*Social Security Number :			
Date of Birth (Month/Day/Year) :	US Citizen : <input type="checkbox"/> Yes <input type="checkbox"/> No Naturalization Date: Place of Birth:				
Have you ever acted as a private fiduciary in any other state? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, state dates (city) (state) (zip)					

SECTION II: EMPLOYMENT HISTORY - List past ten years of work experience beginning with most recent:

Company Name and Mailing Address:		
Supervisor's Name & Title:		Telephone Number: ()
Position Held:	From: Mo/Yr	To: Mo/Yr
Brief description of job duties:		
Reason for Leaving:		

***The Social Security number will be used for identification purposes and as required by A.R.S. § 25-320(K)**

IF YOU NEED ADDITIONAL SPACE, ATTACH ADDITIONAL SHEETS TO THIS APPLICATION FORM

Company Name and Mailing Address:		
Supervisor's Name & Title:	Telephone Number: ()	
Position Held:	From: Mo/Yr	To: Mo/Yr
Brief description of job duties:		
Reason for Leaving:		

Company Name and Mailing Address:		
Supervisor's Name & Title:	Telephone Number: ()	
Position Held:	From: Mo/Yr	To: Mo/Yr
Brief description of job duties:		
Reason for Leaving:		

Company Name and Mailing Address:		
Supervisor's Name & Title:	Telephone Number: ()	
Position Held:	From: Mo/Yr	To: Mo/Yr
Brief description of job duties:		
Reason for Leaving:		

SECTION III: FIDUCIARY EXPERIENCE - Additional experience not listed in the Employment History Section:

SECTION IV: EDUCATION

High School () GED () College - Four Year Accredited College Degree ()			
Name and Location of College or University Awarding Degree	Major Field	Dates Attended	Degree Awarded

SECTION V: PROFESSIONAL CERTIFICATION LICENSE & ACCREDITATION

Have you been: Certified as a Registered Guardian-National Guardianship Association? <input type="checkbox"/> Yes <input type="checkbox"/> No			
Date and location certified RG-NGF:			
Other occupational/professional certification license and accreditation:	License No.:	Dates Held:	State:

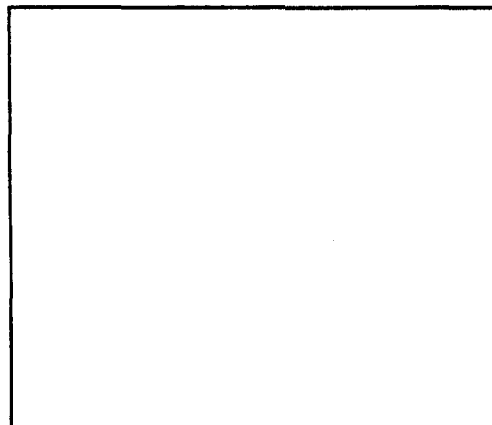
SECTION VI: BACKGROUND INFORMATION. If you answer "Yes" to any of the following questions indicate date of conviction or finding, nature and details of the case, including the case disposition, location, court, and case number (attach additional sheet if necessary).

Have you ever: been found guilty of any felony or misdemeanor? <i>(The fact that you entered into a plea bargain or pled "no contest" or that your conviction has been vacated, pardoned, expunged, dismissed, or appealed, or that your civil rights have been restored does not mean that you can answer the question no. You must answer yes and provide details of the offense and explain. Do not answer yes if you have only minor traffic violations.)</i>	<input type="checkbox"/> Yes <input type="checkbox"/> No
Have you ever: a) had any business or professional license or certification restricted, denied, suspended, or revoked, or b) voluntarily surrendered a license during the course of an investigation or disciplinary proceeding, or c) had an administrative order entered against you, or d) had any other disciplinary action taken against you whether reprimand, censure, fine or other penalty, by any state or federal administrative or regulatory agency?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Have you ever: been party to a civil lawsuit which included an allegation of misrepresentation, fraud, breach of fiduciary duty, misappropriation, material omission, theft, conversion?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Do you have: any outstanding arrest warrant(s) or charges pending for a felony or misdemeanor or are you party to any pending civil lawsuit?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Have you ever: been removed as a court appointed fiduciary for cause? <i>(If yes, give explanation.)</i>	<input type="checkbox"/> Yes <input type="checkbox"/> No

PHOTOGRAPH

In the space to the right, please use transparent tape to affix a recent passport size (2 X 2) colored photo (NON-RETURNABLE) of yourself.

PLEASE DO NOT USE STAPLES OR GLUE



IF YOU NEED ADDITIONAL SPACE, ATTACH ADDITIONAL SHEETS TO THIS APPLICATION FORM

VII: AUTHORIZATION AND RELEASE: Read the following, sign this page, and have this page notarized.

Having filed this application, I hereby consent to having an investigation made of my moral character, professional reputation, and fitness for fiduciary certification. I agree to give any further information which may be required in reference to my past record.

I also authorize and request every person, firm, company, corporation, governmental agency, court, association, or institution having control of any documents, records, and other information including documents, records, charges or complaints filed against me, formal or informal, pending or closed, or any other pertinent data, and to permit the Arizona Supreme Court Private Fiduciary Certification Program, or any of its agents or representatives to inspect and make copies of such documents, records, and other information.

I release, discharge, and exonerate the Arizona Supreme Court Private Fiduciary Certification Program, its agents and representatives, the State of Arizona, and any person furnishing information pursuant to this Authorization and Release from all liability which may arise from the investigation made by the Arizona Supreme Court Private Fiduciary Certification Program.

Willful misrepresentation of any fact required to be disclosed in any application or accompanying statement is a ground for refusing to issue or renew certification.

I further certify that the facts detailed in this application are true to the best of my knowledge.

I hereby attest that I am an adult citizen of this country, that I have not been convicted of a felony, and that I have not been found civilly liable in an action that involved fraud, material misrepresentation, material omission, misappropriation, theft or conversion. I have no record of any act constituting dishonesty or fraud in business matters, no record of conduct demonstrating incompetence or a source of injury and loss to, or repeated complaints by the public or the court. I have never been convicted of a misdemeanor involving moral turpitude. I have not had any occupational or professional license censored, denied, suspended, or revoked. Any exceptions to this statement are fully disclosed in this application and an explanation provided.

I have received a copy of the Code of Conduct and I agree to abide by the Code of Conduct for private fiduciaries found in, Rule 2, Appendix "F", as promulgated by the Arizona Supreme Court.

AFFIDAVIT OF VERIFICATION

Single Acknowledgment

THE STATE OF ARIZONA

COUNTY OF _____

Before me, the undersigned authority, on this day personally appeared _____, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he/she executed the same for the purposes expressed, and affirmed that the facts detailed are true.

Full Signature of Applicant

Given under my hand and seal of office on this _____ day of _____, 19____.

Notary Public, State of Arizona
Notary's name printed:

My commission expires: _____

INSTRUCTIONS

1. Carefully read all instructions prior to completing the application. Incomplete application submissions will result in the rejection of the application. To obtain additional assistance, call the Private Fiduciary Certification Program at (602) 542-9586, or e-mail: pfp@supreme.sp.state.az.us or at the Arizona Judicial Department Web site at: www.supreme.state.az.us/aoc/aohome.htm.

2. Clearly print or type all information.

3. **Fees.** Refer to the Fee Schedule Rule 2 Appendix "E" to determine the applicable NON-REFUNDABLE fee(s) to accompany this application. The applicable fee(s) should be made payable to the Arizona Supreme Court. The fees shall be in effect through the program biennial date printed on the certificate.

a) **TO BE LICENSED INITIALLY ON OR BEFORE A YEAR FROM DATE OF APPLICATION:**

If the Program will receive your application more than one year prior to the expiration of your license, you are required to accompany your application with the biennial license fee of \$150. Reference the Fee Schedule, Rule 2 Appendix "E".

b) **TO BE LICENSED INITIALLY ON OR AFTER A YEAR FROM DATE OF APPLICATION:**

If the Program will receive your application less than one year prior to the expiration of your license, you are required to accompany your application with half the biennial license fee, or \$75. Reference the Fee Schedule, Rule 2 Appendix "E".

4. **Fingerprint Cards.** You must use the fingerprint card in the certification application packet designated for the Private Fiduciary Certification Program pursuant to A.R.S. § 14-5651. If your fingerprints are not clear, the card will be rejected. Additional fees will be required for cards submitted a third, fifth, etc. time. A \$24 FBI processing fee must accompany each card submitted.

5. **Bond Requirements.** Proof of a surety or cash bond in the amount of \$10,000 must accompany this application.

6. **Assumed Name (or D.B.A.).** While conducting fiduciary business, a certificate holder shall use the name as shown on the license and shall not transact business in this state under an assumed name or under any designation, name or style, corporate or otherwise, other than the real name of the individual unless the individual files with the Program Coordinator a certificate setting forth the name under which business will be transacted.

7. **Background Information.** If you answered "Yes" to any question in the Background Section V of this application, you are required to submit -

a SIGNED and NOTARIZED statement describing in detail all incidents including (1) names of all parties involved, (2) dates and locations, (3) the names and localities of any courts and/or administrative agencies involved, (4) the disposition of each matter, (5) whether the conviction, plea or finding was for a felony, misdemeanor, or open-ended charge.

8. Please submit completed application, all required materials as referred to in the instructions, and a self-addressed stamped envelope to:

Arizona Supreme Court
Certification Unit
1501 W. Washington, Suite #410
Phoenix, AZ 85007
(602) 542-9586

APPENDIX “B”
BUSINESS ENTITY CERTIFICATION APPLICATION

APPENDIX B
ARIZONA SUPREME COURT
Private Fiduciary Certification Program

CERTIFICATION APPLICATION FORM

Business Entity Application
Initial Application () or Renewal Application ()

This publication can be made available in large format or on audio tape upon request. Please contact the Private Fiduciary Certification Program at (602) 542-9586 or (602) 542-9545 (TDD).

- | |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1. CAREFULLY READ THE INSTRUCTIONS ON PAGE 5. Your application must be printed or typed in ink.
2. Complete ALL PAGES of this form and fulfill all other requirements shown in the attached instructions. |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

SECTION I: APPLICANT INFORMATION

Organization Legal Name:	
List any assumed or trade names:	
Business Address to appear on license: (city) (state) (zip)	
Business Telephone Number: ()	Date business formed: (Month/Day/Year)
Check appropriate business organization: Corporation <input type="checkbox"/> Limited Liability Co. <input type="checkbox"/> Partnership <input type="checkbox"/> Copies of articles of incorporation and Certification of Good Standing issued from the Arizona Corporation Commission or partnership agreements must be attached with the application as applicable.	
Statement of limitations of the liability of any partner, member, manager, or trustee:	
Designated principal's name and address:	

SECTION II: BUSINESS ENTITY MEMBER(S) INFORMATION

Provide the following information for each of the Members, Partners, Trustees, Managers, Officers, and Directors :

Legal Last Name, Full First Name, Full Middle Name:
Home Address - Physical Street Address (may not be a P.O. box): (city) (state) (zip)
Home Telephone Number: ()
Legal Last Name, Full First Name, Full Middle Name:
Home Address - Physical Street Address (may not be a P.O. box) (city) (state) (zip)
Home Telephone Number: ()

SECTION III: BUSINESS DESCRIPTION OF BUSINESS ORGANIZATION: (Last ten years)

Complete a brief description of the general character of the business conducted:

SECTION IV: FIDUCIARY RELATED ACTIVITIES PERFORMED*List the fiduciary experience of the business if not listed in the Business Description Section above:*

Number of years the business has served as court appointed fiduciary :

List locations where business is serving as court appointed fiduciary: (city) (state)

Type of appointment:

Other occupational or professional licenses held by the business entity:
Expiration date:**SECTION V: BACKGROUND INFORMATION. If the answer to any of the following questions is "Yes", indicate date of conviction or finding, nature and details of the case, including the case disposition, location, court and case number: (attach additional sheets if necessary)**

Has the business entity or any officer, director, partner, member, trustee, or manager ever: been found guilty of any felony or misdemeanor? <i>(The fact that officer, director, partner, member, trustee, or manager entered into a plea bargain or pled "no contest" or that the conviction has been vacated, pardoned, expunged, dismissed, or appealed, or that the civil rights have been restored does not mean that the question can be answered no. If the answer is yes, give details of the offense, and explain. Do not answer yes or give details if the offenses are only minor traffic violations.)</i>	<input type="checkbox"/> Yes <input type="checkbox"/> No
Has the business entity or any officer, director, partner, member, trustee, or manager ever: a) had any business or professional license or certification restricted, denied, suspended, or revoked, or b) voluntarily surrendered a license during the course of an investigation or disciplinary proceeding, or c) had an administrative order entered against business entity, or d) had any other disciplinary action taken against a license whether reprimand, censure, fine or other penalty, by any state or federal administrative or regulatory agency?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Has the business entity or any officer, director, partner, member, trustee, or manager ever: been party to a lawsuit which included allegation of misrepresentation, fraud, breach of fiduciary duty, misappropriation, material omission, theft, conversion?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Has the business entity or any officer, director, partner, member, trustee, or manager ever: been removed as a court appointed fiduciary for cause? <i>(If yes, give explanation)</i>	<input type="checkbox"/> Yes <input type="checkbox"/> No
Does the business entity or any officer, director, partner, member, trustee, or manager have: any outstanding arrest warrant(s) or charges pending for a felony or misdemeanor or civil lawsuit?	<input type="checkbox"/> Yes <input type="checkbox"/> No

I _____, the designated principal pursuant to Rule 2.6.2.1 agree to ensure that :

- a) I will actively and directly supervise all other certified private fiduciaries and staff working for the business entity who work with the wards, protected persons, or decedents' estates.
- b) I will file with the Program Coordinator a list of all certified private fiduciaries acting for, or on behalf of, the business entity prior to July 1st of each year.
- c) I will appoint not fewer than one certified person primary responsibility for each court appointment as guardian, conservator, or personal representative.
- d) I will notify the Program Coordinator within 30 days if I am no longer in a position to continue serving as the designated principal and agent for the business entity.
- e) I will make all staff aware that they are bound by the Code of Conduct for private fiduciaries as promulgated by the Arizona State Supreme Court.

Full Signature of Designated Principal

Single Acknowledgment

THE STATE OF ARIZONA

COUNTY OF _____

Before me, the undersigned authority, on this day personally appeared _____, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he/she executed the same for the purposes expressed, and affirmed that the facts detailed are true.

Given under my hand and seal of office on this _____ day of _____, 19____.

Notary Public, State of Arizona
Notary's name printed:

My commission expires:_____

SECTION VI: AUTHORIZATION AND RELEASE: read the following, sign page 4, and have this page notarized. Having filed this application, I hereby consent to having an investigation made of the businesses character, professional reputation, and fitness for fiduciary certification. I agree to give any further information which may be required in reference to the businesses past record.

I also authorize and request every person, firm, company, corporation, governmental agency, court, association, or institution having control of any documents, records, and other information including documents, records, charges or complaints filed against the business, formal or informal, pending or closed, or any other pertinent data, and to permit the Arizona Supreme Court Private Fiduciary Certification Program, or any of its agents or representatives to inspect and make copies of such documents, records, and other information.

I release, discharge, and exonerate the Arizona Supreme Court, its agents and representatives, the State of Arizona, and any person furnishing information pursuant to this Authorization and Release from all liability which may arise from the investigation made by the Arizona Supreme Court Private Fiduciary Certification Program.

AFFIDAVIT OF VERIFICATION - BUSINESS ENTITY ACKNOWLEDGMENT

THE STATE OF ARIZONA)
COUNTY OF _____)

Being duly sworn, I, _____ on behalf of _____
deposes and says that he/she has read the foregoing, and each statement and answer made, together with the
Authorization and Release and under penalty of perjury, swears that all such answers, statements and data attached to
this application are true and correct. Wilful misrepresentation of any fact required to be disclosed in any application or
accompanying statement is a ground for refusing to issue or renew certification.

Full Signature of Person Authorized to Sign

Before me, the undersigned authority, on this day personally appeared _____

Title of _____
Exact Business Entity Name

a corporation, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged
to me that he/she executed the same for the purpose expressed, in the capacity stated and as the act and deed of said
corporation, and affirmed that the facts detailed are true.

Given under my hand and seal of office on this _____ day of _____, 19____.

Notary Public, State of Arizona

My commission expires: _____

Notary's name printed: _____

INSTRUCTIONS

1. Carefully read all instructions prior to completing the application. Incomplete application submissions will result in the rejection of the application. To obtain additional assistance, call the Private Fiduciary Certification Program at (602) 542-9586, or E-mail: pfp@supreme.sp.state.az.us or visit the Arizona Judicial Department Web site at: www.supreme.state.az.us/aoc/aochome.htm.

2. Clearly print or type all information.

3. Fees. Refer to the Fee Schedule Rule 2 Appendix "E" to determine the applicable NON-REFUNDABLE fee(s) to accompany this application. The applicable fee(s) should be made payable to the **Arizona Supreme Court**. The fees shall be in effect through the program biennial date printed on the certificate.

a) TO BE LICENSED INITIALLY ON OR BEFORE A YEAR FROM DATE OF APPLICATION:

If the Program will receive the business entity application more than one year prior to the expiration of the license, you are required to accompany the business entity application with the biennial license fee of **\$75**. Reference the Fee Schedule, Rule 2 Appendix "E".

b) TO BE LICENSED INITIALLY ON OR AFTER A YEAR FROM DATE OF APPLICATION:

If the Program will receive your application less than one year prior to the expiration of your license, you are required to accompany your application with half the biennial license fee, or **\$38**. Reference the Fee Schedule, Rule 2 Appendix "E".

4. Bond Requirements. Proof of a surety or cash bond totaling an amount equal to **\$10,000** for each: **the business entity, the designated principal, and all staff assigned primary responsibility for court appointments** must accompany this application.

5. Assumed Name (or D.B.A.). While conducting fiduciary business, a certificate holder shall use the name as shown on the license and shall not transact business in this state under an assumed name or under any designation, name or style, corporate or otherwise, other than the real name of the business entity unless the business entity files with the Program Coordinator a certificate setting forth the name under which business will be transacted.

6. Background Information. If you answered "Yes" to any question in the Background Section V of this application, you are required to submit -

a SIGNED and NOTARIZED statement describing in detail all incidents including (1) names of all parties involved, (2) dates and locations, (3) the names and localities of any courts and/or administrative agencies involved, (4) the disposition of each matter, (5) whether the conviction, plea or finding was for a felony, misdemeanor, or open-ended charge.

7. Please submit completed application, all required materials as referred to in the instructions, the completed individual application form, and a self-addressed stamped envelope to:

Private Fiduciary Certification Program Coordinator
Court Services Division
1501 W. Washington, Suite #410
Phoenix, AZ 86007
(602) 542-9586

All staff assigned primary responsibility for court appointments must be certified as a private fiduciary and complete the requirements and applications pursuant to the certification program administrative rules.

**APPENDIX “C”
APPLICATION FOR EXEMPTION**

APPENDIX C
ARIZONA SUPREME COURT
Private Fiduciary Certification Program

Application for Exemption

Individual Exemption Request () or Business Entity Exemption Request ()

Complete this application if you are seeking exemption from certification as a private fiduciary, (A.R.S. § 14-5651).

This publication can be made available in large format or on audio tape upon request. Please contact the Private Fiduciary Certification Program (602) 542-9586 or (602) 542-9545 (TDD).

CAREFULLY READ THE INSTRUCTIONS ON PAGE 3. Your application must be printed or typed in ink. Complete ALL PAGES of this form and attach supporting records detailing the nature of the emergency.

SECTION I: INDIVIDUAL APPLICANT INFORMATION

(Legal) Last Name:	Full First Name:	Full Middle Name:
Have you been known by any other name(s)? If so, indicate:		
Home Address - Physical Street Address (may not be a P.O. box):	(city)	(state) (zip)
Business Address - Physical Street Address (may not be a P.O. box):	(city)	(state) (zip)
Home Telephone Number: ()	Business Telephone Number: ()	

SECTION II: BUSINESS ENTITY APPLICANT INFORMATION

Organization Legal Name:	Business Telephone Number: ()
List any assumed or trade names:	
Business Address:	(city) (state) (zip)
*Check appropriate business organization: Corporation <input type="checkbox"/> Limited Liability Co. <input type="checkbox"/> Partnership <input type="checkbox"/> Copies of articles of incorporation and Certification of Good Standing issued from the Arizona Corporation Commission or partnership agreements must be attached with the application as applicable.	
Statement of limitations of the liability of any partner, member, manager, or trustee:	
Designated principal's name and address:	

IF YOU NEED ADDITIONAL SPACE, ATTACH ADDITIONAL SHEETS TO THIS APPLICATION FORM

SECTION III: TYPE OF COURT APPOINTMENT

Name on the captioned matter:	Court number:
Check all that apply: Guardianship () Conservatorship () Personal Representative ()	
Relationship to the ward, protected person, decedent:	Length of time acquainted in years (minimum of two years required):
Reason for court ordered appointment:	Date appointed:
Court restrictions/limitations/conditions being sought:	
Have you ever acted as a private fiduciary in this state or any other state? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, state dates and location: Have you ever acted as Representative Payee, (receiver of Government or pension funds on behalf of another individual), for the person or estate you are seeking appointment as guardian/conservator or personal representative? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, state dates and location:	

SECTION IV: ESTATE MANAGEMENT PLAN

Physical condition of ward:	
Anticipated care of ward, services to be provided:	Has any other person(s) or business entity been court appointed to serve on the case(s), for which you are seeking appointment? <input type="checkbox"/> Yes <input type="checkbox"/> No
Special needs of ward or services requested for ward:	
Anticipated annual expenses, (ie: rent, medical care, transportation, education, social activities), for the alleged ward or protected person including projected fiduciary fees and direct costs:	
Anticipated changes in finances/financial status?	

SECTION V: EDUCATION/EXPERIENCE/SKILLS (Must demonstrate the ability to meet the needs of the above-captioned person or estate.)

High School ()	GED ()	College-four years accredited college degree ()
Name and location of school:		

Experience:			
Skills:			
Name and address of interested persons, (<i>family, lawyers, guardian, conservator, personal representative, all persons required to receive notice pursuant to statute or court order</i>).	Street Address/ P.O. Box	City, State	Zip Code

SECTION VI: REASON(S) FOR REQUESTING AN EXEMPTION (Include in your statement the nature of the emergency and attach supporting documentation.)

AFFIDAVIT OF VERIFICATION

I hereby attest that the facts detailed in this exemption application are true to the best of my knowledge and that there is no relative or certified fiduciary willing and able to serve. Wilful misrepresentation of any fact required to be disclosed in any application or accompanying statement is a ground for refusing or revoking appointment as temporary guardian and/or temporary conservator or temporary personal representative.

I further certify that the facts detailed in this application are true to the best of my knowledge.

Full Signature of Applicant or Person Authorized to Sign

SUBSCRIBED AND SWORN TO BEFORE ME this _____ day of _____, 19____.

Notary Public

My Commission Expires:

INSTRUCTIONS

The application for exemption must be submitted to the Presiding Judge of Superior Court. The judge will review the application. An order will be entered denying or approving the exemption. The judge may request additional information, appoint a court investigator, or set a hearing to aid the judicial decision. IF YOU NEED ADDITIONAL SPACE, ATTACH ADDITIONAL SHEETS TO THIS APPLICATION FORM.

APPENDIX “D”
NEW DESIGNATED PRINCIPAL FORM

APPENDIX D
ARIZONA SUPREME COURT
Private Fiduciary Certification Program

NEW DESIGNATED PRINCIPAL

New Principal Designation Form

This publication can be made available in large format or on audio tape upon request. Please contact the Private Fiduciary Certification Program at (602) 542-9586 or (602) 542-9545 (TDD).

CAREFULLY READ THE INSTRUCTIONS ON PAGE 2 and 3. This form must be printed or typed in ink.

PRINCIPAL INFORMATION

Organization Legal Name:		Certification License Number:			
List any assumed or trade names:					
Business Address (as it appears on license):		(city)	(state)	(zip)	
Business Telephone Number: ()	Date business formed (Month/Day/Year):				
Newly Designated Principal: (Name)	(License Number)	(Street Address)	(city)	(state)	(zip)
Effective date of new appointment as principal:					
Former Principal: (Name)	(License Number)	(Street Address)	(city)	(state)	(zip)

I _____, the designated principal pursuant to Rule 2.6.21 agree to ensure that :

- a) I will actively and directly supervise all other certified private fiduciaries and staff working for the business entity who work with the wards, protected persons, or decedent's estates.
- b) I will file with the Program Coordinator a list of all certified private fiduciaries acting for, or on behalf of, the business entity.
- c) I will appoint not fewer than one certified person primary responsibility for each court appointment as guardian, conservator, personal representative.
- d) I will notify the Program Coordinator within 30 days if I am no longer in a position to continue serving as the designated principal and agent for the business entity.
- e) I will make all staff aware that they are bound by the Code of Conduct for private fiduciaries as promulgated by the Arizona State Supreme Court.

/////

Full Signature of Designated Principal

Single Acknowledgment

THE STATE OF ARIZONA

COUNTY OF _____

Before me, the undersigned authority, on this day personally appeared _____, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he/she executed the same for the purposes expressed, and affirmed that the facts detailed are true.

Given under my hand and seal of office on this ____ day of _____, 19____.

Notary Public, State of Arizona
Notary's name printed:

My commission expires:_____

AFFIDAVIT OF VERIFICATION

Full Signature of Person Authorized to Sign

Before me, the undersigned authority, on this day personally appeared _____
Name

_____ of _____
Title Exact Business Entity Name

a corporation, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he/she executed the same for the purpose expressed, in the capacity stated and as the act and deed of said corporation, and affirmed that the facts detailed are true.

Given under my hand and seal of office on this ____ day of _____, 19____.

Notary Public, State of Arizona

My commission expires:_____ Notary's name printed:_____

INSTRUCTIONS

1. Carefully read all instructions prior to completing the designation form. Incomplete submissions will result in the rejection of the designation. To obtain additional assistance, call the Private Fiduciary Certification Program at (602) 542-9586, or E-mail: pfpc@supreme.sp.state.az.us or visit the Arizona Judicial Department Web site at: www.supreme.state.az.us/aoc/aochome.htm.

2. Clearly print or type all information.

3. Please submit completed application, and a self-addressed stamped envelope to:

**Private Fiduciary Certification Program Coordinator
Court Services Division
1501 W. Washington, Suite 410
Phoenix, AZ 86007
(602)542-9586**

All staff assigned primary responsibility for court appointments must be certified as a private fiduciary and complete the requirements and applications pursuant to the certification program administrative rules.

**APPENDIX “E”
FEE SCHEDULE**

APPENDIX E
ARIZONA SUPREME COURT
Private Fiduciary Certification Program

Fee Schedule

Individual Certification

- * Initial Training Session: \$ 100.00
(Includes one copy of the training manual)
- * Initial Individual Certification Fee: \$ 150.00
(for certification that will expire more than one year after application date)
- * Initial Individual Certification Fee: \$ 75.00
(for certification that will expire less than one year from application date)
- * Fingerprint application processing fee: (set by A.R.S. § 41-1250)
Current rate: (subject to change.) \$ 24.00

Individual Renewal Certification

- * Biennial Training Session: \$ 75.00
(Includes one copy of the training materials)
- * Biennial Individual Certification Renewal Fee: \$ 75.00

Business Entity Certification

- * Initial Business Entity Certification Fee: \$ 75.00
(for certification that will expire more than one year from application date)
- * Initial Business Entity Certification Fee: \$ 38.00
(for certification that will expire less than one year from application date)
- * Fingerprint application processing fee: (set by A.R.S. § 41-1250)
Current rate: (subject to change.) \$ 24.00

Business Renewal Certification

- * Biennial Business Entity Renewal Fee: \$ 75.00

Governmental Agency Certification

- * Initial Training Session: \$ 100.00
(Includes one copy of the training manual)
- * Fingerprint application processing fee: (set by A.R.S. § 41-1250)
Current rate: (subject to change.) \$ 24.00

Governmental Agency Renewal Certification

- * Biennial Training Session: \$ 75.00
(Includes one copy of the training materials)

Additional materials available for purchase:

- * Initial or Biennial Training Manual: \$ 50.00

**APPENDIX “F”
CODE OF CONDUCT**

APPENDIX F
ARIZONA SUPREME COURT
Private Fiduciary Certification Program

CODE OF CONDUCT

The following Code of Conduct is hereby adopted by the Arizona Supreme Court to apply to all private fiduciaries pursuant to A.R.S. § 14-5651 in the State of Arizona:

- RULE 1** A private fiduciary shall exercise extreme care and diligence when making decisions on behalf of a ward or protected person. All decisions shall be made in a manner which protects the civil rights and liberties of the ward or protected person and maximizes independence and self-reliance.
- 1.1 The private fiduciary shall make all reasonable efforts to ascertain the preferences of the ward or protected person, both past and current, regarding all decisions which the private fiduciary is empowered to make.
- 1.2 The private fiduciary shall make decisions in accordance with the ascertainable preferences of the ward or protected person, past or current, in all instances except those in which a private fiduciary is reasonably certain that substantial harm will result from such a decision.
- 1.3 When the preferences of the ward or protected person cannot be ascertained, the private fiduciary is responsible for making decisions which are in the best interests of the ward or protected person.
- 1.4 The private fiduciary shall be cognizant of his or her own limitations of knowledge, shall carefully consider the views and opinions of those involved in the treatment and care of the ward or protected person, and shall also seek independent opinions when necessary.
- 1.5 The private fiduciary shall recognize that his or her decisions are open to the scrutiny of other interested parties and, consequently, to criticism and challenge. Nonetheless, the private fiduciary alone is ultimately responsible for decisions made on behalf of the ward or protected person.
- 1.6 A private fiduciary shall refrain from decision making in areas outside the scope of the guardianship or conservatorship order and, when necessary, assist the ward or protected person by ensuring such decisions are made in an autonomous fashion.
- RULE 2** The private fiduciary shall exhibit the highest degree of trust, loyalty, and fidelity in relation to the ward or protected person.
- 2.1 The private fiduciary shall protect the personal and pecuniary interests of the ward or protected person and foster growth, independence and self reliance to the maximum degree.
- 2.2 A private fiduciary shall avoid self-dealing and the appearance of a conflict of interest. Self-dealing or conflict of interest arises where the private fiduciary has some personal or agency interest which might be perceived as self-serving or adverse to the position or best interest of the ward, protected person, or decedent. In situations where no other services are available the potential conflict shall be disclosed in a petition to the Court seeking approval prior to the provision of services.
- 2.3 The private fiduciary shall vigorously protect the rights of the ward or protected person against infringement by third parties.

- 2.4 The private fiduciary shall, whenever possible, provide all pertinent information to the ward or protected person unless the private fiduciary is reasonably certain that substantial harm will result from providing such information.
- RULE 3** The private fiduciary acting as guardian shall assume legal custody of the ward and shall ensure the ward resides in the least restrictive environment available.
- 3.1 The private fiduciary shall be informed and aware of the options and alternatives available for establishing the ward's place of residence.
- 3.2 The private fiduciary shall make decisions in conformity with the preferences of the ward in establishing the ward's residence unless the private fiduciary is reasonably certain that such a decision will result in substantial harm.
- 3.3 When the preferences of the ward cannot be ascertained or where they will result in substantial harm, the private fiduciary shall make decisions with respect to the ward's place of abode which are in conformity with the best interests of the ward.
- 3.4 The private fiduciary shall not remove the ward from his or her home or separate the ward from family and friends unless such removal is necessary to prevent substantial harm. The private fiduciary shall make every reasonable effort to ensure the ward resides at home or in a community setting.
- 3.5 The private fiduciary shall seek professional evaluations and assessments wherever necessary to determine whether the current or proposed placement of the ward represents the least restrictive environment available to the ward. The private fiduciary shall work cooperatively with community based organizations which may be available to assist in ensuring that the ward resides in a non-institutional environment.
- 3.6 The private fiduciary shall monitor the placement of the ward on an on-going basis to ensure its continued appropriateness, and shall consent to changes as they become necessary or advantageous for the ward.
- 3.7 In the event that the only available placement is not the most appropriate and least restrictive, the private fiduciary shall advocate for the ward's rights and negotiate a more desirable placement with a minimum of delay, retaining legal counsel to assist if necessary.
- RULE 4** The private fiduciary shall assume responsibility to provide informed consent on behalf of the ward for the provision of care, treatment and services and shall ensure that such care, treatment and services represents the least restrictive form of intervention available.
- 4.1 The private fiduciary shall make decisions in conformity with the preferences of the ward when providing consent for the provision of care, treatment and services, unless the private fiduciary is reasonably certain that such decisions will result in substantial harm to the ward.
- 4.2 When the preferences of the ward cannot be ascertained or will result in substantial harm, the private fiduciary shall make decisions with respect to care, treatment and services which are in conformity with the best interests of the ward.
- 4.3 In the event the only available treatment, care or services are not the most appropriate and least restrictive, the private fiduciary shall advocate for the ward's right to a more desirable form of treatment, care or services, retaining legal counsel to assist if necessary.

- 4.4 The private fiduciary shall seek professional evaluations and assessments whenever necessary to determine whether the current or proposed care, treatment and services represent the least restrictive form of intervention available.
- 4.5 The private fiduciary shall work cooperatively with individuals and organizations which may be available to assist in ensuring the ward receives care, treatment and services which represent the least restrictive form of intervention available and are consistent with the wishes or best interests of the ward.
- 4.6 The private fiduciary shall not consent to extraordinary medical procedures without prior authorization from the court. These procedures include abortion, sterilization, organ transplants, psychosurgery, electro-convulsive therapy, medical treatment for clients whose religious beliefs prohibit such treatments and any other treatments or interventions which the court must approve pursuant to state law.
- 4.7 The private fiduciary shall be familiar with the law of the state regarding the withholding or withdrawal of life-sustaining treatment.
- 4.8 The private fiduciary shall monitor the care, treatment and services the ward is receiving to ensure their continued appropriateness, and shall consent to changes as they become necessary or advantageous to the ward.

RULE 5

The private fiduciary acting as conservator for the estate shall provide competent management of the property and income of the estate. In the discharge of this duty, the private fiduciary shall exercise intelligence, prudence and diligence and avoid any self-interest.

- 5.1 Upon appointment, the private fiduciary shall take steps to become informed of the statutory requirements for managing a protected person's estate.
- 5.2 The private fiduciary shall manage the income of the estate with the primary goal of providing for the needs of the protected person, and in certain cases, the needs of the protected person's dependents for support and maintenance.
- 5.3 The private fiduciary has a duty to exercise prudence in the investment of surplus funds of the estate.
- 5.4 Where the liquid estate of the protected person is sufficient, the private fiduciary may petition the court for authority to make such gifts as are consistent with the wishes or past behavior of the ward, bearing in mind both the foreseeable requirements of the ward and the tax advantages of such gifts.
- 5.5 There shall be no self-interest in the management of the estate by the private fiduciary; the private fiduciary shall exercise caution to avoid even the appearance of self-interest.
- 5.6 All fees and expenses incurred for the protected person by the private fiduciary, including compensation for the private fiduciary's services shall be reasonable in amount and necessarily incurred for the protected person's welfare.
- 5.7 All accountings prepared by private fiduciaries shall be complete, accurate and understandable.

RULE 6

The private fiduciary has an affirmative obligation to seek termination or limitation of the guardianship or conservatorship wherever indicated.

- 6.1 The private fiduciary shall diligently seek out information which will provide a basis for termination or limitation of the guardianship or conservatorship.

- 6.2 Upon indication that termination or limitation of the guardianship or conservatorship order is warranted, the private fiduciary shall promptly request court action, retaining legal counsel if necessary.
- 6.3 The private fiduciary shall assist the ward or protected person in termination or limiting the guardianship or conservatorship and arrange for independent representation for the ward whenever necessary.

RULE 7 The private fiduciary shall perform all duties and discharge all obligations in accordance with current Arizona law and Arizona Supreme Court rules governing the certification of private fiduciaries.

APPENDIX "G"
PRIVATE FIDUCIARY CERTIFICATION BOND FORM

APPENDIX G
ARIZONA SUPREME COURT
Private Fiduciary Certification Program

PRIVATE FIDUCIARY CERTIFICATION SURETY BOND
A.R.S. § 14-5651

Bond Number: _____

KNOW ALL MEN BY THESE PRESENTS that _____
as Principal, and _____ Corporation duly
licensed by the Director of the Department of Insurance to transact surety business in
the State of Arizona, as Surety, are held and firmly bound unto the State of Arizona and
the Arizona Supreme Court as obligee in the sum of Ten Thousand Dollars (\$10,000) in
lawful money of the United States of America, for the payment of which, well and truly
to be made, we bind ourselves, our heirs, executors, administrators, successors and
assigns, jointly and severally, by these presents.

WHEREAS, the Principal has made application for license to become a
certified fiduciary with the Arizona Supreme Court, pursuant to A.R.S. § 14-5651 and
the Arizona Supreme Court Administrative Order No. 98-53; and

WHEREAS, the Arizona Supreme Court Administrative Order No. 98-53,
Rule 2.14, requires the Principal to post a surety bond in the penal sum of Ten
Thousand Dollars (\$10,000.00), to guarantee payment to the Arizona Supreme Court of
all costs and expenses associated with any investigation or hearing conducted pursuant
to A.R.S. § 14-5651.

NOW, THEREFORE, the condition of this obligation is such that, if the
Principal shall pay all costs and expenses ordered by the obligee arising out of the
investigation and hearing of acts committed by the Principal during the term of this
bond, then this obligation shall be null and void, otherwise the bond shall remain in full
force and effect and the obligee may order the Surety to forfeit the penal sum of this
bond to the extent necessary to compensate obligee for any and all costs and
expenses it incurred to conduct the investigation and hearing in the event the principal
is found by the Director to have violated any rule pursuant to A.R.S. § 14-5651. The
Surety will be obligated to submit payment to the obligee within (60) days of the receipt
of the order.

This bond shall be continuous in form and is conditioned so that the total
aggregate liability of the Surety for all claims by the obligee shall be limited to the face
amount of the surety bond irrespective of the number of years that the bond is in force
and effect.

The effective date of this bond shall be concurrent with the date signed and sealed, provided that the Surety may cancel its liability for future acts of the Principal upon written notice by the Surety to the obligee and the Principal no less than (30) days prior to the cancellation date. Notice to the obligee of cancellation of the bond shall be provided by certified mail, addressed to the Private Fiduciary Program Coordinator, Certification Unit, Court Services Division, 1501 W. Washington St., Suite #410, Phoenix, AZ 85007.

Provided, however that, upon expiration or surrender of the Principal's certification the bond shall be returned to the Principal and the Surety one hundred twenty (120) days after said expiration or surrender provided that there is no investigation or hearing on-going at the end of the 120 day period relating to acts of the Principal that occurred during the term of the bond.

SIGNED, SEALED AND DATED this _____ day of _____

_____, 19____.

Arizona Countersignature:

Private Fiduciary:

by: _____
Arizona Resident Agent

by: _____
Principal

Name of Surety

by: _____
Attorney-in-Fact