

# BOARD OF LEGAL DOCUMENT PREPARERS

Meeting Agenda - Monday, July 25, 2011

Arizona Supreme Court -1501 West Washington Street

Phoenix, Arizona 85007 – 10:00 a.m. - 2:00 p.m. in Conference Room 109

General Inquiries Call: (602) 452-3378 (Certification and Licensing Division Line)

Members of the Public May Attend Meeting in Person

## AMENDED

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For any item listed on the agenda, the Board may vote to go into Executive Session for advice of counsel and/or to discuss records and information exempt by law or rule from public inspection, pursuant to the Arizona Code of Judicial Administration § 1-202(C).

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CALL TO ORDER .....*Les Krambeal, Chair*

INTRODUCTION OF NEW BOARD MEMBERS.....*Les Krambeal, Chair*

1) REVIEW AND APPROVAL OF MEETING MINUTES.....*Les Krambeal, Chair*

1-A: *Review, discussion, and possible action regarding approval of the regular session minutes of the meeting of June 27, 2011.*

1-B: *Review, discussion, and possible action regarding approval of the executive session minutes of the meeting of June 27, 2011.*

2) REVIEW OF PENDING COMPLAINTS.....*Division Staff*

2-A: *Review, discussion, and possible action regarding non-certificate holder complaint number NC11-L027 involving revoked former certificate holder Lori Toon.*

2-B: *Review, discussion and possible action regarding the Honorable William O'Neil's Finding of Fact and Conclusions of Law with Recommendation report in complaint number 08-L008 involving certificate holders Karina Morales and Servicios Hispanos.*

2-C: *Review, discussion and possible action regarding the Honorable Jonathan Schwartz' Report and Recommendation in complaint number 11-L001 involving Julie Star.*

2-D: *Review, discussion and possible action regarding a proposed Consent Agreement resolution of the pending formal disciplinary action in complaint number 10-L033*

*involving certificate holders Judith Alspaugh and Capital Consultants Management Corporation.*

*2-E: Review, discussion and possible action regarding a proposed Consent Agreement resolution of the pending formal disciplinary action in complaint number 10-L028 involving certificate holder Jacqueline Vigil.*

*2-F: Review, discussion, and possible action regarding complaint number 11-L028 involving certificate holder Evan Nielsen.*

**3) ADMINISTRATIVE ISSUES .....Division Staff**

*3-A: Report regarding the pending Petition to Amend Rule 31 to include an unauthorized practice of law exception regarding property management companies.*

**4) INITIAL CERTIFICATION APPLICATIONS .....Division Staff**

*4-A: Review, discussion, and possible action regarding pending applications for 2011-2013 initial certifications.*

1. Veronica Rolley
2. Krystina J. Ehrlich
3. Sally Robinson-Burke
4. Sandra L. Place
5. Marius Cailean
6. Juan Torres
7. Jennifer Hazlett
8. Sylvia C. Moreno, PC (Sylvia Moreno)
9. Arizona Document Services, LLC (Rae MacLean)
10. Hispano America Immigration Services, LLC (Martha Barraza)
11. Paralegal In Motion, LLC (Jeannie N. Collins)
12. Docuprep Solution, LLC (Cassandra J. Wagner)
13. Wellth Life, LLC (Carissa Olson)
14. Alison N. Torba
15. Jimmie E. Cannon
16. AZTec Documents (Mitchell R. Varbel)

*4-B: Review of Business Entity Exemption Request for the 2011-2013 initial certification period:*

1. Sylvia C. Moreno, PC (Sylvia Moreno)
2. Hispano America Immigration Services, LLC (Martha Barraza)
3. Paralegal In Motion, LLC (Jeannie N. Collins)
4. Docuprep Solution, LLC (Cassandra J. Wagner)

**5) RENEWAL CERTIFICATION APPLICATIONS.....Division Staff**

*5-A: Review, discussion, and possible action regarding the following pending applications for renewal of certification:*

1. Lauri Anderson
2. Laura Atwood
3. Loray Bassani
4. Marley Beard
5. Sheri Bell
6. Peteris Berzins
7. Susan Beyette
8. Roger Binyon
9. Mary Carlton
10. Elaine Carlton
11. Aldo Castaneda
12. Jeannie Collins
13. Deborah Colon-Mateo
14. Rebecca Cruz
15. Edward Daily
16. Marcie Davies
17. Dan Davis
18. Roberta Dawson
19. Daniel Dawson
20. John Dawson
21. Kellie DiCarlo
22. Angela Eastlack
23. Michelle Esslinger
24. Jeffery Esslinger
25. Emil Estopare
26. Jean Farrell
27. Yesenia Feliciano
28. Cynthia Felton
29. Myra Ferrell-Womochil
30. Valerie Fishgold
31. Patricia Flores
32. Christopher Fortier
33. Susan Fuquay
34. Scott Gamboa
35. Patricia Garvin
36. David Goodman
37. Carla Gould
38. Jennifer Hammans
39. Elizabeth Harrison
40. Jennette Heath
41. David Hendrickson

42. Christopher Hill
43. Linda Hill
44. Diane Hobson
45. Christopher Hoyt
46. David Hoyt
47. James Jenkins
48. Nannette Jones
49. Dawn Kaiser
50. Penny King
51. Mary Kortsen
52. Katherine Kredit
53. Jeanne Kuisle
54. Brian Lincks
55. Donald Lincoln
56. Tiffany Lloyd
57. Michael Mahoney
58. Jeanne Malys
59. Dawn Martin
60. Allen Merrill
61. Darlene Merrill
62. Nadia Meza
63. Brent Miller
64. Deborah Mojica
65. Pamela Moore De Gamboa
66. Sylvia Moreno
67. Marlene Morton
68. Brook Murray
69. Marcia Nolan-Malsack
70. Bonnie Ogden
71. Michael Olsen
72. Andrea Parisi
73. Nikki Parker
74. Samantha Philpot
75. Melinda Pierce
76. Vellia Pina
77. Aida Pompa
78. Lolita Prescod
79. John Price
80. Mary Jo Randall
81. Ronald Reed
82. JoAnn Regan
83. Arlene Rheinfelder
84. John Roads
85. Susan Roads
86. Michael Roberson
87. Nicole Roberson
88. Mary Rosenthal

89. Armando Saenz
90. Guadalupe Salinas
91. Phillip Salmon
92. Amy Sayler
93. George Shackelford
94. Jack Sides
95. Jennifer Skidmore
96. Edward Smith
97. Daryl Smith
98. Dawn Snead
99. Thomas Steele
100. Kara Stewart
101. Brenda Stuart
102. Janet Summers
103. Amy Swain
104. Jezzette Tailefer
105. James Tewalt
106. Jerry Thomas
107. Jesse Torres
108. Shannon Trezza
109. Betty Ulibarri
110. Mark Vincent
111. Cassandra Wagner
112. Christi Weedon
113. Chris West
114. Michael Whittle
115. Samantha Whittle
116. Billye Wilda
117. Eloy Wilson
118. Pamela Wilson
119. Andrea Winterhof (Telekesy)
120. Cynthia Wood
121. Erlinda Yount
122. William Zenk
123. Marilyn Zimmerman
124. Mitchell Varbel
125. Nancy Gilliam
126. David Bishop
127. Penny Burley
128. Karen Cooley
129. Ank-Kim Doan Pickell
130. Barbara French
131. Vivian Gallagher
132. Richard Getzen
133. Michael Law
134. Warner Lewis III
135. Brian Liu

136. Trina MacPhail
137. Raul Manzanares
138. Charles Rampenthal
139. Lisa Tonge
140. Alejandro Zalazar
141. Ranae Settle
142. Kristel Nielsen
143. Karen Kosies
144. Elaine Anghel
145. Deborah Albert
146. Martha Barraza
147. Jenifer Bone
148. Edith Funk
149. Richard Hoyt
150. James Jennings
151. Michael Anderson
152. Elizabeth Beatty
153. Antonia Bolle
154. Victor Calvario
155. Lindsay Cline
156. Christina Collura
157. David Enevoldsen
158. Dan Fore
159. Deanna Fore
160. Tannya Gaxiola
161. Joseph Glennon
162. Barry Goldman
163. Daniel Gray
164. Derek Haigh
165. Vicky Halleck
166. Mary Hopf
167. Christine Jerome
168. Kathleen Kindred
169. Leanora Lagas
170. Stephen Lee
171. Eugenia "Jeanne" Lien
172. Maria Lungo
173. Sandra Mejia
174. Michelle Messmer
175. Lupita Shestko-Montiel
176. Patricia Steward
177. Donald Steward
178. Karen Strauss
179. Patricia Taylor
180. Calah Thomas
181. Donna Vasquez
182. Sheila Webster

183. Jane Whitley
184. David Wilcox
185. Cindy Wong
186. Sandra Coffman
187. Tracey Dombroski
188. Stephen Glacy
189. Debra Griffin
190. Raymond Beltran
191. Tracy Boen
192. Bruce Davidson
193. Rae MacLean
194. Denisa Kaporalis
195. Renee Martin
196. Larry Heywood
197. Michael Chan
198. Sergio Diaz
199. Cindy McCoy
200. Karen Nogle
201. Marianne Smith
202. Georgi Aguilar (Willis)
203. Karla Wyrstek
204. Greta Shumway
205. Anabel Wright
206. Michelle Blake
207. Barton Stevens
208. Marwan Sadeddin
209. Thomas Brown
210. Mark Bluemke
211. Deborah Moldovan
212. Dawn Fountain
213. Dennis Lawrence
214. Daniel Taylor
215. Kenneth Singer
216. Melissa Tenny
217. Pamela Milburn
218. Janneth Cardenas
219. Sumer Jennings
220. Victoria King
221. Debra Pope
222. Jill Smith
223. Carol Gray
224. Darlene Landgrave
225. David Lerma
226. Carla Lief
227. Gregory Economidis
228. JoAnn Kramer
229. William Kelly

230. Donna Vangury
231. Carlos Galindo
232. Carol Aragon-Montgomery
233. Brenda Smith
234. Evan A. Nielsen
235. Nancy Anderson
236. Mark Schmit
237. Ramon Garcia
238. Lillian Stephens Murray
239. Rochelle Hoekstra
240. Jacqueline Velde
241. Allan Bonhoff
242. Maria Gil
243. Kari Kirk
244. Betsy Ross-Retchin
245. Stephen Trezza
246. Elizabeth O'Connor
247. Deborah Burt
248. Sherrene Caley
249. Cynthia Bowman
250. Constance Havens
251. Valerie Burcks
252. Angela Darling
253. Grace Da Virro
254. Vicki Fink
255. Richard Fink
256. Shannon Kline
257. Frances Langston-Hancock
258. Karen Nogle
259. Nancie Raddatz
260. Doris Fields
261. David Goulet
262. Richard Slatin
263. Laura Pavay
264. Minzell Kelly
265. Sharlene Konenko
266. Cindy McCoy
267. Ronald West
268. Judith Alspaugh
269. Deborah Blunt
270. Sergio Diaz
271. Saydee Ramos
272. George Mortensen
273. Diana Camacho
274. Michael Chan
275. Edna Gomez-Green
276. Debra Parks



277. Silvano Tanori
278. Joyce Brendel
279. Marlene Leatherwood
280. Anna Anderson
281. Patrick Ertz
282. Maria Ortiz
283. Alyssa Rivett
284. Bernadette Guzman
285. George Preston Parker
286. Joy Partridge
287. Randolph Albers
288. George Chant
289. John Kroeger
290. Cherry Blue
291. Marni Gramhill
292. Elaine Kaufman
293. Leah Keller
294. Tracey Kokumo Craig
295. Rosalie Lines
296. Jessica Mendez
297. Jodi Phelps
298. Cheryl Thurman
299. Sonya Torres
300. Lynette Torres
301. Amy Villarreal-Orantez
302. James Bruce
303. Miguel Guzman
304. Cedric Johnson
305. Cherie Koch
306. Karina Morales
307. Debra Roberts-Milbyer
308. Jose Robledo

5-B: *Review, discussion, and possible action regarding pending applications for 2011-2013 certification renewal for business entities.*

1. A.D. Scott, Ltd. DBA PMG Services (Mary Jo Edel)
2. Affordable Legal Document Services, Inc. (Carol Keller)
3. Legalezeusa, LLC (Dan Fore)
4. Southeast Arizona Paralegal Services (Misty Coppedge)
5. Lien Secure, LLC (Donald Lincoln)
6. Morrison Group, Inc. (Patricia Morrison)
7. National Contractor Services Corporation (Brian Finn)
8. Building Industry Credit Association (Andrea Parisi)
9. Center for Divorce Mediation & Alternative Dispute (Mary Marcus)
10. Valley Docs & Paralegal Services, LLC (Mary Carlton)

11. Dan Peterson Property Management, LLC (Dan Peterson)
12. Montes Multiple Services, LLC (Alicia Celis)
13. Edward M. Osinski, CPA, PC (Edward Osinski)
14. T.F.C. Ventures, Inc. (Lori Kort)
15. Planned Development (Lori Rutledge)
16. Arizona Paralegal Services, Inc. (Deborah Moldovan)
17. Legalzoom.com (Brian Liu)
18. Jurdoc, LLC (Stephen Lee)
19. Ashley Renee Enterprises Corporation (Dale Shephard)
20. CB Document Preparation, LLC (Brenda Smith)
21. Cornerstone Properties, INC. (Michael Roberson)
22. Preliminary Notice Company, LLC. (Brook Murray)
23. Titan Lien Services, Inc. (Jill Smith)
24. Montgomery & Associates, Inc. (Carol Aragon-Montgomery)
25. My Corporation Business Services, Inc. (Meghan Record)
26. Bart Stevens Special Needs Planning, LLC (Barton Stevens)
27. Metro Association Management (Linda Kellogg)
28. Ayuda Legal Help LLC (Ramon Garcia)
29. AZ Lien Services, Inc. (Lillian Stephens Murray)
30. EZ Legal Documents, LLC (Mandi Hemming)
31. Precision Legal Preparation, LLC (Michael Figueroa)
32. Assisted Document Solutions, P.L.L.C. (Rochelle Hoekstra)
33. Caprenos Inc. (Karen Paschall)
34. GFA Wealth Design LLC DBA Gentry Wealth Management (Erica Leblang)
35. Heywood Realty & Investment, Inc. (Larry Heywood)
36. Lagas & Associates Paralegal Services, LLC (Leanora Lagas)
37. Signature Documents, LLC (JoAnn Kramer)
38. Your Entity Solution, LLC (Wendy Byford)
39. Arizona Wills & Trusts of Tucson, LLC (Allan Bonhoff)
40. Cheryl A. Wall, P.C. (Cheryl Wall)
41. Essential Estate Plans, LLC (Allan Bonhoff)
42. Financial Strategies, Inc. (Michael Anderson)
43. Jemasi Inc. (Maria Gil)
44. R & R Property Management, LLC (Betsy Ross-Retchin)
45. Key Legal Document Solutions, PLC (Bernadette Deangelis)
46. Bishop & Associates, Inc. (David Bishop)
47. Guardian Estate Planning Service (Daniel Taylor)
48. Precision Paralegal Services LLC (Paris Chacon)
49. East Valley Estate Planning, LLC (Catherine Longman)
50. Emit, Inc. (Melissa Tenny)
51. Strategic Points Documentation Preparation, PLLC (Lisa Tonge)
52. American Contractor Licensing Services, Inc. (Bruce Evers)
53. Desert Schools Financial Services, LLC. (Jolie Fontana-Black)
54. Edward F. Daily CPA P.C. (Edward Daily)
55. Family First Estate & Corporate Services, LLC (Eric Schoeller)
56. Laguna Business Services, LLC (Edward Smith)

57. Law & Reed CPA'S PC (Michael Law)
58. National Document, LLC (Scott Boyer)
59. Steele Larson Anderson Legal, LLC (Thomas Steele)
60. Advanced Legal Services LLC (Marwan Sadeddin)
61. Harrison CPA & Consulting, PC (Elizabeth Harrison)
62. Today's Legal Choice, L.L.C. (Guadalupe Salinas)
63. 123 The Document Tree, LLC (Cynthia Bowman)
64. Out-of-Court Solutions (Oliver Ross)
65. Valleywide Legal Documents, LLC (Karen Cooley)
66. AZ Statewide Paralegal (Shannon Trezza)
67. Metro Tax, Inc. (Michael Whittle)
68. Stevens Paralegal Services, LLC (Jette Stevens)
69. Alliance Legal Services, LLC (Christopher Fortier)
70. Affordable Services, Inc. (David Hendrickson)
71. Alliance Estate Planning, Inc. (Jennifer Skidmore)
72. Cadden Community Management, INC. (Deborah Colon-Mateo)
73. Paradox Document Preparation Service, L.L.C. (Jennifer Bone)
74. Phoenix Success, Inc. (Denisa Kaporalis)
75. Richard C. Hoyt & Associates, Inc. (Richard Hoyt)
76. Strategic Tax Planning LLC (Lynn Forman)
77. Certified Legal Document Preparers, LLC (Allen Merrill)
78. Construction Notice Services, Inc. (Richard Fink)
79. Discount Divorce Professional, LLC (James Jennings)
80. Langston-Hancock Legal Documents (Frances Langston-Hancock)
81. Divorce, Custody & Child Support Services, Inc. (Richard Slatin)
82. Florence Paralegal Services, LLC (Elizabeth Beatty)
83. Continental Recovery Services (Laura Pavey)
84. Karla's Paralegal Services, Inc. (Karla Wyrostek)
85. Arizona Legal Document Services, LLC (Kellie DiCarlo)
86. Financial Security Group of Arizona, Inc. (JoAnn Regan)
87. Freshstart Women's Foundation (Edna Gomez-Green)
88. Tax & Money Strategies (Jack Sides)
89. Van Rylin Associates Inc. (Janet Summers)
90. West-Word Services Corp. (Chris West)
91. Affordable Document Preparation, LLC (Emil Estopare)
92. Capital Consultants Management Corporation (Judith Alspaugh)
93. Fishgold Financial Services Limited (Valerie Fishgold)
94. Kachina Management, Inc. (Christina Collura)
95. Rider Levett Bucknall LTD (Julian Anderson)
96. AA American Contractors License School, LLC (Constance Havens)
97. AAA Legal Services Inc. (Joseph Glennon)
98. Carefree Document Services, LLC (Amy Swain)
99. Paralegal Consultants, Inc. (Loray Bassani)
100. Rapid RPS (AZ), LLC (Barry Goldman)
101. American Living Trust Services, LLC (Dennis Lawrence)
102. Americana Services (Vellia Pena)

103. Cautela Corporation (Marley Beard)
104. Griffin Paralegal Services, LLC (Debra Griffin)
105. Joyce's Services Corporation (Edith Funk)
106. Northern Arizona Investment Group, Inc. (Jane Whitley)
107. Ogden Services Incorporated (Bonnie Ogden)
108. Southwest Legal Document Services, LLC (Ranae Settle)
109. Tri-City Property Management Services, Inc. (Elaine Anghel)
110. Accurate Lien and Contractor Assistance, Inc. (Lindsay Cline)
111. Arizona Legal Ease, Inc. (Sheila Webster)
112. Document Resource Center LLC (Donald Steward)
113. Economidis Mediation Services, L.L.C. (Gregory Economidis)
114. Esslinger Enterprises, LLC DBA Deed Resource (Michele Esslinger)
115. Legal Type Documents (Debra Parks)
116. Grand Canyon Planning Associates LLC (Tracey Dombroski)
117. Scottsdale Condominium Management, Inc. (Irene Mayer)
118. The Getzen Group Inc. (Richard Getzen)
119. Agencia Hispana (Carlos Galindo)
120. Guardian Financial Planning Services, Inc. (Patrick Ertz)
121. State DPS, LLC (Alyssa Rivett)
122. Parker Egan CPAS PLLC (George Preston Parker)
123. Arizona Legal Briefcase, LLC (Michelle Blake)
124. Katherine J. Kredit Enterprises, Inc. (Katherine Kredit)
125. Accounting World CPA & Consulting, PLC (Joy Partridge)
126. AAM, LLC (Jean Farrell)
127. The Lien Group, LLC (Eugene "Jeanne" Lien)
128. Asset Research Services, Inc. (Cheryl Thurman)
129. Cheaper Than A Lawyer, LLC (Tracey Kokumo Craig)
130. City Property Management Company (Jodi Phelps)
131. Corporation Lien Services, LLC (Michael Haley)
132. Saguaro Lien Service, LLC (Rosalie Lines)
133. AMCN Group, LLC (Marcia Nolan-Malsack)
134. Servicios Hispanos (Karina Morales)
135. A1 Legal Services, LLC (Ank-Kim Doan Pickell)
136. Divorce Packet Processing, LLC (Linda Seger)
137. Living Estate Solutions, Inc. (Eleanor Tarman)
138. Andrew M. Saper, L.L.C. (Andrew Saper)
139. Alta Estate Services, LLC (Alyssa Marino)
140. Suzette M. Brown, PC (Suzette Brown)
141. Celentano's Mobile Notary Service, Inc. (Judith Celentano)

5-C: *Review of Business Entity Exemption Extension Requests for the 2011-2013 certification period.*

1. Valley Docs & Paralegal Services, LLC (Mary Carlton)
2. Dan Peterson Property Management LLC (Daniel Peterson)
3. Affordable Legal Document Services, Inc. (Carol A Keller)

4. Lien Secure, LLC (Donald Lincoln)
5. Affordable Legal Document Services, Inc. (Carol A Keller)
6. Southeast Arizona Paralegal Services (Misty Coppedge)
7. Preliminary Notice Company, LLC (Brook Murray)
8. Montgomery & Associates, Inc. (Carol Aragon-Montgomery)
9. Bart Stevens Special Needs Planning, LLC (Barton Stevens)
10. Metro Association Management (Linda Kellogg)
11. Ez Legal Documents, LLC (Mandi Hemming)
12. Arizona Wills & Trusts of Tucson, LLC (Allan Bonhoff)
13. Cheryl A. Wall, P.C. (Cheryl Wall)
14. Essential Estate Plans, LLC (Allan Bonhoff)
15. Financial Strategies, Inc. (Michael Anderson)
16. R & R Property Management, LLC (Betsy Ross-Retchin)
17. Bishop & Associates, Inc. (David Bishop)
18. East Valley Estate Planning, LLC (Catharine Longman)
19. Edward F. Daily CPA P.C. (Edward Daily)
20. Family First Estate & Corporate Services, LLC (Eric Schoeller)
21. Laguna Business Services, LLC (Edward Smith)
22. Advanced Legal Services LLC (Marwan Sadeddin)
23. Today's Legal Choice, L.L.C. (Guadalupe Salinas)
24. 123 The Document Tree, LLC (Cynthia Bowman)
25. Out-Of-Court Solutions (Oliver Ross)
26. Valleywide Legal Documents, LLC (Karen Cooley)
27. Affordable Services, Inc. (David Hendrickson)
28. Alliance Estate Planning, Inc (Jennifer Skidmore)
29. Paradox Document Preparation Service, L.L.C. (Jennifer Bone)
30. Langston-Hancock Legal Documents (Frances Langston-Hancock)
31. Divorce, Custody & Child Support Services, Inc. (Richard Slatin)
32. Karla's Paralegal Services, Inc. (Karla Wyrostek)
33. West-Word Services Corp. (Chris West)
34. Fishgold Financial Services Limited (Valerie Fishgold)
35. Rider Levett Bucknall Ltd (Julian Anderson)
36. Carefree Document Services, LLC (Amy Swain)
37. Paralegal Consultants, Inc (Loray Bassani)
38. Rapid RPS (AZ), LLC (Barry Goldman)
39. American Living Trust Services LLC (Dennis Lawrence)
40. Cautela Corporation (Marley Beard)
41. Griffin Paralegal Services, LLC (Debra Griffin)
42. Southwest Legal Document Services, LLC (Ranae Settle)
43. Economidis Mediation Services, L.L.C. (Gregory Economidis)
44. Legal Type Documents (Debra Parks)
45. Peoria Nu Start Bankruptcy (Debra Parks)
46. Eastlack Paralegal Services, LLC (Angela Eastlack)
47. AZ Legal Document Solutions, LLC (Michael Mahoney)
48. Carla's Paralegal Services, LLC (Carla Lief)
49. Salmon & Associates Business Consulting, LLC (Phillip Salmon)
50. Nancy L. Anderson LLC (Nancy Anderson)

51. Scottsdale Condominium Management, Inc. (Irene Mayer)
52. Guardian Financial Planning Services, Inc. (Patrick Ertz)
53. Parker Egan CPAS PLLC (George Preston Parker)
54. Katherine J. Kredit Enterprises, Inc. (Katherine Kredit)
55. The Lien Group, LLC (Eugenia "Jeanne" Lien)
56. Cheaper Than a Lawyer, LLC (Tracey Kokumo Craig)
57. AMCN Group, LLC (Marcia Nolan-Malsack)
58. A1 Legal Services, LLC (Ank-Kim Doan Pickell)
59. Divorce Packet Processing LLC (Linda Seger)
60. Living Estate Solutions, Inc. (Eleanor Tarman)
61. Andrew M. Saper, L.L.C. (Andrew Saper)
62. Alta Estate Services, LLC (Alyssa Marino)
63. Suzette M. Brown, PC (Suzette Brown)
64. Celentano's Mobile Notary Service, Inc (Judith Celentano)

**6) CERTIFICATION AND ELIGIBILITY .....Division Staff**

6-A: *Review, discussion, and possible action regarding the Voluntary Surrender request:*

1. Angela Iserhott
2. Salina Faaborg
3. Alenda Martin
4. Shawnterry Cato
5. Mark Clark
6. TLC Enterprises, LLC (Shawnterry Cato)

6-B: *Interview with and possible action regarding applicant Cynthia M. Cooks.*

6-C: *Interview with and possible action regarding applicant Leonard W. Deehan.*

6-D: *Interview with and possible action regarding applicant Lisa Perez-Leon and Perez Paralegal Group, LLC*

6-E: *Review, discussion and possible action regarding Hearing Officer Jonathan Schwartz's Recommendation Report involving the denial of the certification application submitted by Jessica Star.*

6-F: *Review, discussion, and possible actions regarding the requests for extensions or waivers of continuing education (CE) requirements for certificate holders.*

**CALL TO THE PUBLIC..... Les Krambeal, Chair**

**ADJOURN..... Les Krambeal, Chair**

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# **BOARD OF LEGAL DOCUMENT PREPARERS**

## **Agenda Summary – July 25, 2011**

### **1) REVIEW AND APPROVAL OF MINUTES**

*I-A: Review, discussion, and possible action regarding approval of the regular session minutes of the meeting of April 25, 2011.*

A draft of the regular session minutes for the meeting of June 27, 2011 is attached for the Board's review and consideration.





**Board of Legal Document Preparers**  
Arizona State Courts Building  
1501 West Washington Street, Phoenix, Arizona 85007  
Conference Room 109

Date: June 27, 2011  
Time: 10:00 a.m. – 2:00 p.m.

**Draft Regular Meeting Minutes**

**MEMBER ATTENDANCE:**

**Present:**

Les Krambeal  
Andrew Saper  
Paul Friedman  
Bonnie Matheson  
Deborah Colon-Mateo  
Cynthia Felton (arrived 10:07)

**Telephonically Present:**

Debra A. Young  
Stephanie Gates Wolf

**Absent:**

Hon. Robert H. Oberbillig  
Debra Griffin

**OTHER ATTENDEES**

**AOC Staff:**

Nancy Swetnam  
Kandace French  
Nina Preston  
Linda Grau  
Kimberly Siddall  
Eric Thomas  
Beth Rensvold  
Debbie MacDonald  
Susan Hunt

**Guests:**

Mitchell Varbel  
Alan Ariav  
Maday Santos  
Consuelo Salazar

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**CALL TO ORDER**

*Called to Order By:* Les Krambeal, Chair

*Time:* 10:02 a.m.

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**1) REVIEW AND APPROVAL OF MEETING MINUTES**

*Individuals Addressing the Board:* Les Krambeal, Chair

*1-A: Review, discussion, and possible action regarding approval of the Regular session minutes of the meeting of April 25, 2011.*

*Discussion:* None.

*Motion:* Moved to approve the Regular session minutes of the Board meeting of April 25, 2011

*Motion Proposals:* First Paul Friedman  
Second Andrew Saper  
Recusal

*Motion Results:* Pass **LDP 11-099**

*Individuals Addressing the Board:* Les Krambeal, Chair

*1-B: Review, discussion, and possible action regarding approval of the Executive session minutes of the meeting of April 25, 2011.*

*Discussion:* None.

*Motion:* Moved to approve the Executive session minutes of the Board meeting of April 25, 2011.

*Motion Proposals:* First Paul Friedman  
Second Andrew Saper  
Recusal

*Motion Results:* Pass **LDP 11-100**

**1C:** *Review, discussion, and possible action regarding approval of the Regular session meeting minutes of June 9, 2011.*

**Discussion:** None.

**Motion:** Moved to approve the regular session minutes of the Board meeting of June 9, 2011.

**Motion Proposals:** First Paul Friedman  
Second Andrew Saper  
Recusal Bonnie Matheson

**Motion Results:** Pass **LDP 11-101**

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**2) REVIEW OF PENDING COMPLAINTS**

**2-A:** *Review, discussion and possible action regarding complaint number 08-L001 involving Deanne Vinsant and ABC Paralegal Services.*

**Individuals Addressing the Board:** Nancy Swetnam

**Discussion:** On April 25, 2011, Probable Cause Evaluator Mike Baumstark entered a finding probable cause exists regarding Allegation 2 and does not exist as Allegation 1 of complaint number 08-L001. Therefore, it was recommended the Board accept the finding of the Probable Cause Evaluator and dismiss Allegation #1. Regarding Allegation 2, it was recommended the Board enter a finding that grounds for informal disciplinary action exist pursuant to ACJA § 7-201(H)(6)(a) and (H)(7) and issue a Letter of Concern.

**Motion:** Moved to approve recommendation and dismiss Allegation #1.

**Motion Proposals:** First Paul Friedman  
Second Andrew Saper

**Motion Results:** Pass **LDP 11-102**

**Motion:** Moved to approve recommendation on Allegation #2 and issue a Letter of Concern and authorize the Chair to sign on behalf of the full committee.

**Motion Proposals:** First Paul Friedman

Second Andrew Saper

**Motion Results:** Pass **LDP 11-103**

**2-B:** *Review, discussion and possible action Judge Jonathan Schwartz' Recommendation Report regarding complaint number 09-L035 and National Future Benefits, Inc.*

**Individuals Addressing the Board:** Nancy Swetnam

**Discussion:** On December 3, 2010, a Notice of Formal Statement of Charges was filed and subsequently served to certified business entity National Future Benefits, Inc. ("NFB"). A hearing was held on April 18, 2011. In lieu of testimony, Judge Schwartz accepted the details of the proposed consent agreement resolution detailed in the Recommendation Report.

It was recommended the Board adopt the Finding of Facts and Conclusions of Law contained in Judge Schwartz' Recommendation Report and note NFB's acknowledgement and acceptance of responsibility for the alleged misconduct conduct detailed in the Investigation Summary, Allegation Analysis and probable Cause Determination Report, and Board Order in complaint number 09-L035.

It was further recommended the Board:

- Accept NFB's request to voluntarily surrender its business entity certification under discipline, pursuant to ACJA § 7-201(E)(7)(b) and (H)(24)(a)(6)(c);
- Assess cost for the investigation and related disciplinary proceedings in the amount of \$818.35, to be remitted to the Division within sixty (60) days of entry of the Board's Final Order, pursuant to ACJA § 7-201(H)(24)(a)(6)(j);
- Impose a civil penalty in the amount of \$250.00 per found violation for a total of \$750.00, to be remitted to the Division within sixty (60) days of entry of the Board's Final Order, pursuant to ACJA § 7-201(H)(24)(a)(6)(k).

NOTE: Former NFB employees also named in the action, Robin McElfresh and Victoria Cegla, were also served. The matters involving Ms. McElfresh and Ms. Cegla have previously been resolved by separate orders of the Board.

**Motion:** Moved to approve recommendation noted above and accept the

findings of facts in conclusion of laws as contained in Judge Schwartz Recommendation Report, and note that FNB Inc. acknowledges and accepts responsibility for the alleged misconduct that was detailed in the investigation summary. Also, to authorize the Chair to sign on behalf of the full committee.

**Motion Proposals:** First Paul Friedman  
Second Andrew Saper  
Recusal  
**Motion Results:** Pass **LDP 11-104**

**2-C:** *Review, discussion and possible action regarding complaint number 10-L012 involving Elizabeth Moore.*

**Individuals Addressing the Board:** Nancy Swetnam

**Discussion:** On December 13, 2010, certificate holder Elizabeth Moore was served with a Notice of Formal Statement of Charges in complaint number 10-L012. Moore timely filed an Answer and requested a hearing. During the hearing preparation phase of the proceedings, Moore, through her attorney, requested Consent Agreement consideration to resolve the pending disciplinary action.

It was recommended the Board enter the Consent Agreement and authorize the Chair to sign the Consent Agreement on behalf of the full Board.

**Motion:** Moved to approve the above recommendation and enter the Consent Agreement and authorize the Chair to sign the Consent Agreement on behalf of the full Board.

**Motion Proposals:** First Paul Friedman  
Second Andrew Saper  
Recusal

**Motion Results:** Pass **LDP 11-105**

**2-D:** *Review, discussion and possible action regarding the proposed Consent Agreement resolution of complaint number 09-L05 involving Jill Smith and Titan Lien Services.*

**Individuals Addressing the Board:** Linda Grau

**Discussion:** On April 25, 2011, the Board reviewed and considered complaint number 09-L055 involving certificate holders Jill Smith (“Smith”) and Titan Lien Services (“Titan”). The Board accepted the finding of the Probable Cause Evaluator, dismissed Allegation 1, and

determined grounds for formal disciplinary action exists regarding Allegations 2 and 3.

As ordered by the Board, the certificate holders were given written notice of the Board's action and were provided an opportunity to enter a Consent Agreement in advance of the filing of the Notice of Formal Statement of Charges. On May 4, 2011, a letter and documentation from Smith and Titan was delivered to the Division offering a proposed alternative Consent Agreement. The alternative Consent Agreement eliminates both the proposed Censure to Titan and the proposed Letter of Concern to Smith, eliminates the proposed additional 3-hour continuing education mandate for Smith, eliminates the proposed civil penalty, and asserts Smith and Titan were authorized and held authority to established by way of contractual "Service Agreements" to act as "limited agent" of Titan's customers when signing lien documents. In the alternative Consent Agreement, Smith and Titan are offering to pay the proposed costs assessment in the amount of \$204.66.

It was recommended the Board reject the proposed alternative Consent Agreement, order the filing of the Notice of Formal Statement of Charges in complaint number 09-L055, and authorize the Chair to sign the Notice of Formal Statement of Charges on behalf of the full Board.

NOTE: The proposed costs of \$204.66 include the investigative costs and will increase once expenses for formal proceedings are incurred.

**Motion:** Moved to approve the above recommendation and reject the proposed alternative Consent Agreement, order the filing of the Notice of Formal Statement of Charges in complaint number 09-L055, and authorize the Chair to sign the Notice of Formal Statement of Charges on behalf of the full Board.

**Motion Proposals:** First Paul Friedman  
Second Andrew Saper  
Recusal Nancy Swetnam

**Motion Results:** Pass LDP 11-106

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### 3) ADMINISTRATIVE ISSUES

**3-A:** Farewell to exiting board members.

**Individuals Addressing the Board:** Kandace French

**Discussion:** The term of appointment of the following Board of Legal Document Preparer members expires on June 30, 2011:

Judge Robert H. Oberbillig  
Cynthia S. Felton  
Stephanie Gates Wolf

The staff of the Certification and Licensing Division extended their appreciation to these members for their dedication during their term(s) of appointment.

**Motion:** None

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**4) INITIAL CERTIFICATION APPLICATIONS**

**4-A:** *Review, discussion and possible action regarding the following pending applicants for 2011-2013 certification.*

**Individuals Addressing the Board:** Kimberly Siddall

**Discussion:** The following applications remain incomplete pending receipt of additional information. It was recommended these applicants be deferred to the July meeting.

1. Alison N. Torba
4. Veronica Rolley
6. Krystina J. Ehrlich
8. Jimmie E. Cannon
16. Perez Paralegal Group, LLC (Lisa Perez-Leon)
18. Docuprep Solutions, LLC (Cassandra J. Wagner)
20. Wellth Life, LLC (Carissa Olson)

**Motion:** Moved to defer the above applicants to the July meeting.

**Motion Proposals:** First Paul Friedman  
Second Andrew Saper

**Motion Results:** Pass **LDP 11-107**

**Individuals Addressing the Board:** Kimberly Siddall

**Discussion:** It was recommended the following applicants receive standard certification; all information has been received.

2. Elise G. Gutierre
3. Alejandra McEwen
7. Ana C. Dabbs
9. Jennifer M. Stupski
10. Linda M. Whittle
11. Carl R. Cunningham
15. Lien Solutions, Inc (Marlene S. Morton)
17. PSK Docs, LLC (Penny S. King)
19. Siegel Document Preparation, LLC (Rondi A. Siegel)

**Motion:** Moved to accept recommendation and grant certification to the above applicants effective July 2, 2011.

**Motion Proposals:** First Paul Friedman  
Second Andrew Saper

**Motion Results:** Pass **LDP 11-108**

**Individuals Addressing the Board:** Kimberly Siddall

**Discussion:** The following applicant was formerly certified in June 24, 2003. Starting June 15<sup>th</sup>, 2006 when the Board accepted her voluntary surrender request, she disclosed on her application she received two misdemeanors for disorderly conduct; one in October 2001 and the other in November 2001. A guilty plea was entered on both cases and she was placed on deferred judgment. Both cases were dismissed and closed in March of 2002. Applicant also disclosed being a victim of domestic violence on December, 2005 and while on probation she received a misdemeanor of aggravated assault in October 2007. Therefore violating her probation in Colorado for the December 2005 misdemeanor. On April 29, 2008 Maricopa Adult Probation Interstate Combat Unit accepted her case from Colorado. All the terms of probation were completed and the case was closed in March 2010. For the October 2007 misdemeanor, applicant completed all the terms and probation and order vacating the judgment and dismissing the charges was entered in March 2011. The applicant provided a personal statement and letters of recommendation. It was recommended the Board defer consideration so staff can provide the applicants complete application for Board review. It was also requested the applicant appear at the July Board meeting.



5. Lisa Perez-Leon

**Motion:** Moved to accept the above recommendation and request the applicant attend the July meeting for an interview.

**Motion Proposals:** First Paul Friedman  
Second Andrew Saper

**Motion Results:** Pass **LDP 11-109**

**Individuals Addressing the Board:** Kimberly Siddall

**Discussion:** The following applicant disclosed being a victim of a misdemeanor in August 2000 for failure to protect her children. She completed the probation and paid the fine. It was recommended the Board grant standard certification effective July 1, 2011.

12. Laurel L. Buldoc

**Motion:** Moved to accept recommendation and grant certification to the above applicant effective July 1, 2011.

**Motion Proposals:** First Paul Friedman  
Second Andrew Saper

**Motion Results:** Pass **LDP 11-110**

**Individuals Addressing the Board:** Kimberly Siddall

**Discussion:** The following applicant disclosed being terminated from Phillips and Associates law firm as a result of a reduction in force. Applicant also disclosed a civil action regarding wrongful death regarding her father. It was recommended the Board grant standard certification effective July 1, 2011.

13. Rondi A. Siegel

**Motion:** Moved to accept recommendation and grant certification to the above applicant effective July 1, 2011.

**Motion Proposals:** First Paul Friedman  
Second Andrew Saper

**Motion Results:** Pass **LDP 11-111**

**Individuals Addressing the Board:** Kimberly Siddall

**Discussion:** The following applicant disclosed being convicted of a felony charge in July of 1979 for a lewd and lascivious act with a girl less than 15 years of age. The applicant failed to disclose 7 civil actions. It was recommended the Board invite Mr. Deehan to the July Board meeting for an informational interview regarding the non-disclosure conviction and any information the Board may request.

14. Leonard W. Deehan

**Motion:** Moved to accept recommendation to invite Mr. Deehan to the July Board meeting for an informational interview regarding the non-disclosure conviction and any information the Board may request.

**Motion Proposals:** First Paul Friedman  
Second Andrew Saper

**Motion Results:** Pass **LDP 11-112**

**Individuals Addressing the Board:** Kimberly Siddall

**Discussion:** Request to amend Motion on the granting of certification for approved applicants that the effective date is July 1, 2011.

**Motion:** Moved to accept the above recommendation to include the effective date to July 1, 2011.

**Motion Proposals:** First Paul Friedman  
Second Andrew Saper

**Motion Results:** Pass **LDP 11-113**

**Individuals Addressing the Board:** Kimberly Siddall

**Discussion:** The following applications were received and processed for Board review:

21. Sin Abogados, Inc. (Tannya R. Gaxiola)

Applicant disclosed one of the members of the business being involved in several civil actions. It was recommended the Board grant standard certification to the business effective July 1, 2011.

**Motion:** Moved to grant standard certification to the above business applicant.

**Motion Proposals:** First Andrew Saper  
Second Paul Friedman

**Motion Results:** Pass **LDP 11-114**

**Individuals Addressing the Board:** Kimberly Siddall

**Discussion:** 22. Shari L. Nestor

Applicant failed to disclose a civil action on her application. Applicant states she was not aware of the existence of the action. It was recommended the Board grant standard certification to the applicant effective July 1, 2011, and direct staff to include language regarding non-disclosure on future applications may result in denial or disciplinary action.

**Motion:** Moved to approve recommendation and grant standard certification to the above applicant.

**Motion Proposals:** First Andrew Saper  
Second Paul Saper  
Recusal Bonnie Matheson

**Motion Results:** Pass **LDP 11-115**

**Individuals Addressing the Board:** Kimberly Siddall

**Discussion:** 23. Cynthia M. Cooks

Applicant disclosed having several misdemeanors ranging from 1991 to 2006. Also, application stated she is currently in numerous civil actions based on her position as a general liability claims examiner in multiple jurisdictions handling litigated files for her employer. However, she failed to disclose 6 civil actions involving her personally. It was recommended the Board grant standard certification to the applicant effective July 1, 2011, and direct staff to include language regarding non-disclosure on future applications may result in denial or disciplinary action.

**Motion:** Moved to request applicant attend the July Board meeting to discuss the above matter.

**Motion Proposals:** First Paul Friedman

Second Andrew Saper

**Motion Results:** Pass LDP 11-116

**Individuals Addressing the Board:** Kimberly Siddall

**Discussion:** 24. Michelle Collard

Applicant has requested to withdraw her application. It was recommended the Board accept her request and withdraw her application.

**Motion:** Moved to accept recommendation applicant withdraw her application.

**Motion Proposals:** First Paul Friedman  
Second Paul Saper

**Motion Results:** Pass LDP 11-117

**Individuals Addressing the Board:** Kimberly Siddall

**Discussion:** 25. AZTec Documents (Mitchell R. Varbel)

Applicant disclosed being arrested July 15, 1977 by the Maricopa Sheriff Department for vehicle manslaughter and received probation for one year. On February 5, 1980, the applicant was arrested by the Scottsdale Police Department for possession of cocaine; was found guilty and received 3 years probation and probation was discharged. On December 3, 1980, the applicant was arrested for possession of narcotics, however, no further information was provided by the applicant as the case was purged. On January 9, 2000, the applicant was arrested for DUI, served one day in jail and paid fine. Also, the applicant disclosed being involved in an ongoing civil action regarding an election fraud.

At the February 28, 2011, Board meeting, the Board deferred consideration of the business entity and requested information from legal counsel. At the April 25, 2011, Board meeting the Board received legal advice from Nina Preston and deferred the application. It was recommended the Board go into executive session to receive information that is confidential by court rule.

**Motion:** Moved to accept the above recommendation and go into executive session to receive information that is confidential by court rule.

**Motion Proposals:** First Paul Friedman  
Second Andrew Saper  
Recusal

**Motion Results:** Pass LDP 11-118

**EXECUTIVE SESSION: Start Time: 10:25 End Time: 10:34 a.m.**

**Individuals Addressing the Board:** Kimberly Siddall

**Discussion:** It was recommended to defer the above matter to the July meeting.

**Motion:** Moved to approve recommendation and defer the above matter to the July meeting.

**Motion Proposals:** First Paul Friedman  
Second Andrew Saper  
Recusal

**Motion Results:** Pass LDP 11-119

**4-B:** Review of Business Entity Exemption Request for the 2011-2013 initial certification period:

**Individuals Addressing the Board:** Kimberly Siddall

**Discussion:** It was recommended the following Business Entity Exemption be granted:

1. Arizona Legal Ease, Inc. (Sheila R. Webster)

**Motion:** Moved to grant Business Entity Exemption to Arizona Legal Ease, Inc. (Sheila R. Webster).

**Motion Proposals:** First Andrew Saper  
Second Paul Friedman

**Motion Results:** Pass LDP – 11-120

**Individuals Addressing the Board:** Kimberly Siddall

**Discussion:** It was recommended the following Business Entity Exemptions be

granted:

2. Lien Solutions, Inc (Marlene S. Morton)
4. PSK Docs, LLC (Penny S. King)
6. Siegel Document Preparation, LLC (Rondi A. Siegel)

**Motion:** Moved to approve recommendation and grant the above Business Exemptions.

**Motion Proposals:** First Paul Friedman  
Second Andrew Saper

**Motion Results:** Pass LDP – 11-121

**Individuals Addressing the Board:** Kimberly Siddall

**Discussion:** It was recommended the following Business Entity Exemptions be deferred until the July 2011 meeting:

3. Perez Paralegal Group, LLC (Lisa Perez-Leon)
5. Docuprep Solutions, LLC (Cassandra J. Wagner)

**Motion:** Moved to approve recommendation and defer the above Business Exemptions until the July 2011 meeting.

**Motion Proposals:** First Andrew Saper  
Second Paul Friedman

**Motion Results:** Pass LDP – 11-122

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## 5) LICENSE AND ELIGIBILITY APPLICATION

**5-A:** *Review, discussion, and possible action regarding the following pending applications for renewal of certification:*

**Individuals Addressing the Board:** Kimberly Siddall

**Discussion:** The following certificate holder has requested to withdrawal her renewal application and it was recommended the Board accept her request to withdrawal.

8. Jodi Brown

**Motion:** Moved to approve the above recommendation and accept

withdrawal of certificate holder Jodi Brown.

**Motion Proposals:** First Paul Friedman  
Second Andrew Saper

**Motion Results:** Pass **LDP – 11-123**

**Individuals Addressing the Board:** Kimberly Siddall

**Discussion:** The following certificate holders have submitted applications for renewal of standard certification. The applications are complete, no information has been presented during a background review which is contrary to standard certification being granted and the certificate holders have demonstrated they meet the minimum eligibility requirements for standard certification. It was recommended renewal of standard certification be granted to the following individuals:

1. Julian Anderson
2. Kusum Behari
3. Daniel Benhaim
4. Brandee Berry
5. William Bowman
6. Scott Boyer
7. Suzette Brown
9. Teri Campbell
10. Debra Cassidy
11. Judith Celentano
12. Alicia Celis (Montes)
13. Paris Chacon
14. Glenda Collings
15. Misty Coppedge
16. Gina Cote
17. Joe Covarrubias
18. Diana Crouch
19. Bernadette Deangelis
20. Mary Dunn
21. Mary Jo Edel
22. Carolee Elliott
23. Bruce Evers
24. Susan Faris
25. Michael Figueroa

**Motion:** Moved to approve the above recommendation and grant the above individuals standard certification.

**Motion Proposals:** First Paul Friedman  
Second Andrew Saper

**Motion Results:** Pass LDP – 11-124

**Individuals Addressing the Board:** Kimberly Siddall

**Discussion:** The following certificate holders have submitted applications for renewal of standard certification. The applications are complete, no information has been presented during a background review which is contrary to standard certification being granted and the certificate holders have demonstrated they meet the minimum eligibility requirements for standard certification. It was recommended renewal of standard certification be granted to the following individuals:

26. Brian Finn
27. Michael Fisher
28. Patrick Flanery
29. Jolie Fontana-Black
30. Lynn Forman
31. Christine Gant
32. Charlotte Hargreaves
33. Joel Heller
34. Mandi Hemming
35. Michael Jaimes
36. Nancy James
37. Kathryn Kaiser
38. Carol Keller
39. Linda Kellogg
40. John Kincaid
41. Lori Kort
42. Bernard Krueer
43. Elaine Lacasella
44. Erica Leblang
45. Elizabeth Lloyd
46. Janet Logan
47. Catharine Longman
48. John Mansell
49. Walter Marcus
50. Mary Marcus

**Motion:** Moved to approve the recommendation and grant the above individuals standard certification.

**Motion Proposals:** First Paul Friedman  
Second Andrew Saper

**Motion Results:** Pass LDP – 11-125



***Individuals Addressing the Board:*** Kimberly Siddall

***Discussion:*** The following certificate holders have submitted applications for renewal of standard certification. The applications are complete, no information has been presented during a background review which is contrary to standard certification being granted and the certificate holders have demonstrated they meet the minimum eligibility requirements for standard certification. It was recommended renewal of standard certification be granted to the following individuals:

51. Alyssa Marino
52. Deborah Michalowski
53. Emma Moreno
54. Patricia Morrison
55. Dottie Ohe
56. Carissa Olson
57. Matthew Osborn
58. Edward Osinski
59. Karen Paschall
60. Claudia Plotnick
61. Meghan Record
62. Amy Richardson
63. Richard Rochford
64. Victoria Roff
65. Oliver Ross
66. Lori Rutledge
67. Andrew Sarager
68. Eric Schoeller
69. David Sears
70. Linda Seger
71. Michael Shadel
72. Linda Shadel
73. Dale Shephard
74. Jenny Sieles
75. Dubravka Sinno
76. Dorothy Sollars
77. Eleanor Tarman
78. Teresa Valles

***Motion:*** Moved to grant renewal of standard certification to the above individuals.

***Motion Proposals:*** First Andrew Saper  
Second Paul Friedman

***Motion Results:*** Pass **LDP – 11-126**

**Individuals Addressing the Board:** Kimberly Siddall

**Discussion:** The following certificate holders have demonstrated they completed the continuing education (CE) requirement. However, all or some of the continuing education hours were completed after the required timeframe. No information has been presented during the background review which is contrary to renewal of standard certification being granted and they have demonstrated they meet the minimum eligibility requirements for standard certification. It was recommended the following certificate holders be granted renewal and, pursuant to ACJA §7-208(L)(9)(e), be assessed a delinquent CE fee of \$50.00 to be remitted no later than July 18, 2011.

- 79. Wendy Byford
- 80. Patricia Lewis
- 81. Daniel Peterson
- 83. Jette Stevens
- 84. Lidia Tagliarini

**Motion:** Moved to accept the above recommendation and grand renewal and pursuant to ACJA §7-208(L)(9)(e), be assessed a delinquent CE fee of \$50.00 to be remitted no later than July 18, 2011.

**Motion Proposals:** First Paul Friedman  
Second Andrew Saper  
Recusal

**Motion Results:** Pass **LDP 11-127**

**Individuals Addressing the Board:** Kimberly Siddall

**Discussion:** The following certificate holder has submitted application for renewal of standard certification. The application is complete, no information has been presented during a background review which is contrary to standard certification being granted and the certificate holder has demonstrated he meets the minimum eligibility requirements for standard certification. It was recommended renewal of standard certification be granted to the following individual:

- 82. Andrew Saper

**Motion:** Moved to accept the above recommendation and renewal of standard certification be granted to Andrew Saper.

**Motion Proposals:** First Paul Friedman  
Second Cynthia Felton  
Recusal Andrew Saper

**Motion Results:** Pass LDP 11-128

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**6) REVIEW OF RENEWAL APPLICATIONS**

**6-A:** Interview with and possible action regarding applicant Alan N. Ariav.

**Individuals Addressing the Board:** Kimberly Siddall

**Discussion:** During the April meeting, the Board requested staff invite Alan N. Ariav to attend the June 27<sup>th</sup> meeting to provide additional information regarding his application.

Applicant was an Arizona licensed attorney. Applicant disclosed being suspended from the State Bar for 18 months; however, the Discipline Commission Order states 6 months and 1 day suspension. The suspension was due to the applicant representing a client in an employment matter and during a private mediation session; applicant made misrepresentations to the mediator and to the Attorney General's office. Applicant further misled the State about the amount of attorney fees incurred. Applicant states in his application he suffers from severe depression, anxiety, and bipolar disorder. His suspension arose out of the fact that he stopped seeing his psychiatrist and stopped taking his medication during that period. Applicant also failed to disclose 6 civil actions and a complaint filed with the State Bar UPL department.

Staff recommended the Board address the non-disclosure of the civil actions, the State Bar complaint, and the State Bar suspension and determine if the information presented is contrary to certification being granted.

**Motion:** Moved to go into Executive session.

**Motion Proposals:** First Paul Friedman  
Second Andrew Saper  
Recusal Paul Friedman

**Motion Results:** Pass LDP 11-129

**EXECUTIVE SESSION #2** Start time: 10:40 a.m. End Time: 11:20

**Motion:** Moved to grant Mr. Alan N. Ariav initial certification and that he sign an affidavit regarding the use of JD designation versus CLDP on all documentation.

<u>Nay</u>	<u>Yay</u>
Cynthia Felton	Debra Young
Deborah Colon-Mateo	Stephanie Gates Wolf
Les Krambeal	Bonnie Matheson
Paul Saper	

**Motion Proposals:** First Paul Friedman  
Second Andrew Saper  
Recusal Paul Friedman

**Motion Results:** Pass **LDP 11-130**

**6-B:** *Review, discussion and possible action regarding Hearing Officer William O'Neil's Recommendation Report involving the denial of the certification application submitted by Amber R. Jackson.*

**Individuals Addressing the Board:** Kimberly Siddall

**Discussion:** The Hearing Officer's Recommendation report regarding the denial of Ms. Jackson's certification application was provided to the Board for review. Hearing Officer O'Neil recommended the Board uphold the earlier denial.

**Motion:** Moved to approve recommendation and deny certification to applicant Amber R. Jackson.

**Motion Proposals:** First Paul Friedman  
Second Cynthia Felton

**Motion Results:** Pass **LDP 11-131**

**6-C:** *Review, discussion and possible action regarding Hearing Officer Jonathan Schwartz's Recommendation Report involving the denial of the certification application submitted by Rhonda L. Carder.*

**Individuals Addressing the Board:** Kimberly Siddall

**Discussion:** The Hearing Officer's Recommendation report regarding the denial of Ms. Carder's certification application was provided to the Board for review. Hearing Officer Schwartz recommended the Board approve Ms. Carder's application for certification.

**Motion:** Moved to approve recommendation and grant certification to applicant Rhonda L. Carder, effective date of July 1, 2011.

**Motion Proposals:** First Paul Friedman  
Second Stephanie Gates-Wolf

**Motion Results:** Pass LDP 11-132

**6-D:** *Review, discussion, and possible actions regarding the requests for extensions or waivers of continuing education (CE) requirements for certificate holders.*

**Individuals Addressing the Board:** Kimberly Siddall

**Discussion:**

1. Ranae Settle

Requesting a waiver or extension of 9 CE credits due to being diagnosed with cancer in 2010, completed 10 CE during the 2009-2010 timeframe and 1 CE during the 2010-2011 timeframe but was unable to complete the remaining 9 CD because of treatment conflicts.

6. Evan Nielsen

Requesting a 30 day extension for 2.25 credits of the CE requirement because he was unaware that 20 hours were required. Applicant has already completed 17.75 credits and provided verification.

7. Carla Gould

Requesting a 90 day extension for 10 CE credits because she was unaware that CE credits could not all be completed through self-study. Applicant has completed and provided verification for 20 CE self study credits though only 10 credits are eligible.

No action was needed; CE requirements were received so no extension is needed. These matters will be brought forward at the July Board meeting.

**Discussion:**

2. Ruby Pino

Requesting a 60-90 day extension due to being certified on 9/27/2010 and lacking time to complete credits by the deadline.

3. Cheryl Wall

Requesting a waiver of all CE credits due to financial hardship from a burglary, medical bills for her husband, and loss of jobs. Applicant provided the police report documenting the burglary, the documentation of bankruptcy claim, and a medical bill report.

4. Karen Kosies

Requesting a 30 day extension for 1 credit of ethics as required, has already registered and paid for ethics course. She has completed the 20 CE hours required and provided verification but did not satisfy the ethics portion for the 2010-2011 timeframe.

5. Lisa Widman

Requesting a waiver or extension of 8.5 CE credits due to medical issues and unemployment. Applicant has completed and provided verification for 11.5 CE hours.

Staff recommended the Board determine whether the above requests should be considered a special circumstance pursuant to ACJA § 7-208((L)(9)(c)(2)(d) that would warrant an extension or waiver of CD credits and direct staff accordingly.

2. Ruby Pino

**Motion:** Moved to grant the above applicant a 90 day extension.

**Motion Proposals:** First Paul Friedman  
Second Andrew Saper

**Motion Results:** Pass **LDP 11-133**

3. Cheryl Wall

**Motion:** Moved to not allow a waiver but to grant the above applicant a 90 day extension to complete her hours.

**Motion Proposals:** First Paul Friedman  
Second Andrew Saper

**Motion Results:** Pass **LDP 11-134**

4. Karen Kosies

**Motion:** Moved to grant a 30 day extension to the above applicant.

**Motion Proposals:** First Paul Friedman

Second Andrew Saper

**Motion Results:** Pass **LDP 11-135**

5. Lisa Widman

**Motion:** Moved to grant a 90 day extension to the above applicant

**Motion Proposals:** First Paul Friedman  
Second Andrew Saper

**Motion Results:** Pass **LDP 11-136**

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**CALL TO THE PUBLIC - None**

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#### **ADJOURNMENT**

**Motion:** Moved to adjourn the meeting.

**Motion Proposals:** First Paul Friedman  
Second Andrew Saper

**Motion Results:** Pass **LDP 11-137**

**Time:** 11:35 a.m.

# **BOARD OF LEGAL DOCUMENT PREPARERS**

## **Agenda Summary - Monday, July 25, 2011**

### **1) REVIEW AND APPROVAL OF MINUTES**

*I-B: Review, discussion, and possible action regarding approval of the executive session minutes of the meeting of June 27, 2011*

A draft of the executive session minutes of the meeting of June 27, 2011 is attached for the Board's review and consideration.

Pursuant to Arizona Code of Judicial Administration § 1-202, executive session minutes are confidential and not available for public inspection.



# BOARD OF LEGAL DOCUMENT PREPARERS

Agenda Summary - Monday, July 25, 2011

## 2) REVIEW OF PENDING COMPLAINTS

2-A: *Review, discussion, and possible action regarding non-certificate holder complaint number 11-L027 involving revoked former certificate holder Lori Toon.*

Attached is the Board's October 3, 2005 Final Order and Cease and Desist Order in complaint number 04-L016 involving Lori Toon. The Final Order revoked Toon's individual legal document preparer certificate and the Board simultaneously entered a Cease and Desist Order enjoining Toon from engaging in any activity that constitutes the unauthorized practice of law, including "any and all activities involving legal document preparation services."

On April 14, 2011, the Division received a written complaint and supporting documentation that appears to reflect Toon is offering and providing legal document preparation services in Arizona. Both the complainant and the consumer who received the services confirmed Toon was responsible for the preparation of the legal documents.

It is recommended the Board move for filing of a Superior Court Petition for Cease and Desist Order against Toon pursuant to ACJA § 7-201(E)(6) and ACJA § 7-208(E)(1) specifically noting the Board previously issued a disciplinary Cease and Desist Order. It is further recommended that if the Board determines to pursue a Superior Court action, that the Petition include a request the Superior Court order any applicable consumer reimbursements and assess costs.

**SUPREME COURT OF ARIZONA  
 BOARD OF LEGAL DOCUMENT PREPARERS**

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IN THE MATTER OF CERTIFIED )  
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**LORY TOON** )  
**Certificate No. 80436** )  
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No. LDP04-L016  
**FINAL ORDER  
 RE: DISPOSITION  
 OF COMPLAINT**  
**CEASE and DESIST ORDER**

Pursuant to the Arizona Code of Judicial Administration (“ACJA”) § 7-208: Legal Document Preparer, as adopted by Supreme Court Administrative Order No. 2003-14, the Board of Legal Document Preparers (“Board”) serves this Final Order re: Disposition of Complaint and Cease and Desist Order in LDP04-L016 regarding Lory Toon (“Toon”), certificate number 80436.

The particular sections and administrative orders relevant to this matter are Supreme Court Administrative Order No. 2003-14, Arizona Supreme Court Rule 31 (“Rule 31”), and ACJA § 7-208, including the Code of Conduct, adopted as Appendix A of ACJA § 7-208. The particular subsections of ACJA § 7-208 involved in the misconduct are (F)(2), (H)(1)(a)(1), (H)(1)(a)(2), (H)(1)(a)(4), Code of Conduct Standard (1)(a), Standard (1)(b), Standard (1)(d), Standard (2)(c), and Standard (5)(a).

**FINDINGS**

Pursuant to ACJA § 7-208 (H)(12), the Board adopts the findings of fact and conclusions of law contained in Hearing Officer Andrew Marshall’s Findings of Fact,

1 Conclusions of Law and Recommendation dated May 10, 2005 [Exhibit A].and finds Toon  
2 violated ACJA § 7-208 (F)(2), (H)(1)(a)(1), (H)(1)(a)(2), (H)(1)(a)(4) and ACJA § 7-208  
3 Appendix A, Code of Conduct Standard (1)(a), Standard (1)(b), Standard (1)(d), Standard  
4 (2)(c), and Standard (5)(a). The Board modifies the Hearing Officer's recommendation  
5 regarding the imposition of a fine, pursuant to ACJA § 7-208 (H)(15)(a)(8).

6  
7 **FINAL DECISION AND ORDER OF THE BOARD**

8 The Board having adopted the above referenced findings of violations and the attached  
9 Findings of Fact and Conclusions of Law, finds the following relief is appropriate, in the  
10 public interest and necessary for the protection of the public.

11 **IT IS ORDERED** Toon's AZCLDP certificate number 80436 is revoked, pursuant to  
12 ACJA § 7-208 (H)(15)(a)(6).

13 **IT IS FURTHER ORDERED**, Toon shall pay a fine in the amount of \$1,000.00,  
14 pursuant to ACJA § 7-208 (H)(15)(a)(8) and (H)(16)(b).

15 **IT IS FURTHER ORDERED**, pursuant to ACJA § 7-208 (H)(15)(a)(8) Toon shall  
16 pay to the Legal Document Preparer Program the following costs associated with this  
17 disciplinary proceeding:

- 18 a. \$1,689.29 for staff costs incurred;
- 19 b. \$367.20 for service of process of the Formal Notice of Charges and Right to  
20 Hearing and Witness Subpoena;
- 21 c. \$8.30 for certified mail expenses;
- 22 d. \$3,948.00 for court reporter and transcript expenses;

23 Total: \$6,012.79.

24 Toon shall make full payment of all fines and costs by December 31, 2005, payable to the  
25 "Arizona Supreme Court" and submit payment to the Legal Document Preparer Program,  
Arizona Supreme Court, 1501 West Washington, Suite 104, Phoenix, Arizona 85007.



EXHIBIT A

**FILED**  
MAY 10 2005  
ARIZONA SUPREME COURT  
ADMINISTRATIVE OFFICE OF THE COURTS

Hearing Officer Andrew F. Marshall  
State Bar No. 009762  
Arizona Supreme Court  
Certification and Licensing Division  
1501 West Washington, Suite 104  
Phoenix, Arizona 85007

**BEFORE THE ARIZONA SUPREME COURT  
BOARD OF LEGAL DOCUMENT PREPARERS**

IN THE MATTERS OF:

NO. LDP-NFC-04-L016

CERTIFIED LEGAL DOCUMENT  
PREPARERS:

**FINDINGS OF FACT, CONCLUSIONS  
OF LAW AND RECOMMENDATIONS**

LORY TOON  
Certificate No. 80436

**I PROCEDURAL STATUS**

An evidentiary hearing was conducted on March 10-11, 2005, at the request of the certificate holder, Lory Toon (hereafter Toon) after the Board issued formal charges of misconduct in violation of various subsections of A.C.J.A. §7-208 paragraphs (F) and (H) together with violations of the standards set forth in the Code of Conduct for legal document preparers.

At the hearing, numerous witnesses testified and voluminous exhibits were received in evidence.

After an in-depth review of the transcript of proceedings (600 pages), the parties' exhibits, proposed Finding of Facts and Conclusions of Law and independent research, the following Findings of Fact, Conclusions of Law and Recommendations are herewith submitted pursuant to A.C.J.A. §7-208 (H)(12) for the Board's consideration.

1 **II. FACTUAL OVERVIEW<sup>1</sup>**

2 In July of 2003, complainant, Annette Lopez (hereafter Lopez), was seeking a divorce  
3 from her husband, Ryan Lopez, when she learned about Toon's legal document preparation  
4 services through an advertisement in the Globe newspaper. Within the first two weeks of  
5 August, 2003, Toon prepared the divorce petition followed by the preparation and filing of  
6 Annette Lopez' bankruptcy petition. Although Toon did not receive her certification as a legal  
7 document preparer until August 18, 2003, on July 29 she avowed to abide by the Arizona Code  
8 of Judicial Administration §7-208 and the Code of Conduct applicable to legal document  
9 preparers.

10 Lopez expressed concern of what impact the bankruptcy might have on her future ability  
11 to purchase a home for both she and her children. Lopez was distressed both financially and  
12 emotionally. Toon said that she had investors who would buy the home within a period of  
13 weeks. Lopez believed the bankruptcy was to be withdrawn by Toon.

14 On August 29, 2003, the police raided the Lopez' home as a result of husband, Ryan  
15 Lopez' drug activity, causing damage to the home. Lopez was worried that it could not now be  
16 sold to the investors because she could not pay for the repairs. Toon told Lopez that she would  
17 pay for the repairs, and recoup the repair expenses from the investors once the home was sold.

18 On September 8, 2003, a Quit Claim Deed was prepared by Toon in which she was  
19 named as Grantee, which was at some point signed by Lopez and later by her husband. The deed  
20 bore the notary seal and signature of Toon and was filed with the Maricopa County Recorder on  
21 September 17, 2003. It was Lopez' understanding that the Quit Claim Deed was not a legal  
22 document and was not "notarized". Rather, she was going to obtain her husband's signature so  
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2 <sup>1</sup> The overview is only a rendition of certain facts in narrative form as an aid to understand this proceeding. It is  
25 followed by the Findings of Fact and Conclusions of Law in paragraph form separately stated, followed by the  
Recommendations.

1 that he would believe he could not move back into the home after the repairs were made. Toon  
2 had repairs made to the home.

3 In October or November, Lopez learned that the home had been leased when she  
4 discovered a tenant moving in. She contacted Toon and learned that Toon had leased the home  
5 to an acquaintance named Hudspeth on a lease/purchase option. In the lease/purchase option  
6 contract, Toon's representative capacity was as the owner/landlord. Hudspeth provided Toon  
7 with \$2500.00 as security pending obtaining financing for the purchase. If financing could not  
8 be obtained, the contract required that the \$2500.00 be treated as rent. Mortgage payments were  
9 not being paid.

10 A dispute arose because the home was not sold and Lopez never authorized a lease of her  
11 home and was not a party to the agreement. Lopez demanded that Hudspeth move out.

12 In December, while Hudspeth was still in possession of the home, Toon made her own  
13 offer to Lopez to purchase the home. The dispute continued and escalated. Lopez was unwilling  
14 to sign any further documents submitted by Toon. Toon then attempted to Quit Claim the  
15 property back to Lopez with a deed that did not bear Toon's husband's signature. Toon  
16 submitted to Lopez the draft of a complaint she intended to file alleging that Lopez was  
17 defaming her and demanded no further contact except through attorneys. Hudspeth did not move  
18 out until January of 2004. Toon did not apply the \$2500.00 to rent, rather, she returned it to  
19 Hudspeth. Lopez did not receive any money for Hudspeth's three-month tenancy.

20 In January of 2004, Lopez submitted written complaints to the Secretary of State  
21 regarding Toon's notarization of the Quit Claim Deed in which she was also named as Grantee.  
22 Lopez also submitted a written complaint to the State Bar, which was forwarded to the Legal  
23 Document Preparers Program for investigation. While under investigation by the Secretary of  
24 State, Toon resigned her notary commission.



1 In April and May of 2004, the Board of Legal Document Preparers ("Board") began its  
2 investigation of Lopez' complaint against Toon. Toon filed several civil complaints against  
3 Lopez in East Mesa Justice Court and Maricopa County Superior Court for defamation, abuse of  
4 process, emotional distress and for repair costs.

5 During the Board's investigation, a determination was made that information obtained  
6 from Toon, varied in content. At times, it was contradictory with information from the Board's  
7 own investigation as well as the Attorney General's investigation of the notary Complaint. Toon  
8 offered to resign her certificate, which the Board refused.

9 In July of 2004, Lopez filed a civil complaint in Gila County Superior Court seeking  
10 Toon's notary bond due to title problems. The Complaint also sought monetary damages against  
11 Toon.

12 As a result of the Board's investigation, the matter was submitted to a probable cause  
13 panelist. A recommendation was submitted to the Board for the filing of formal charges. Formal  
14 charges were filed December 16, 2004. Toon timely requested an evidentiary hearing, which  
15 culminated in the current proceedings.

### 16 III. FINDINGS OF FACT

#### 17 A. Certification and Standards

- 18 1. A legal document is defined as any document intended to affect or secure  
19 legal rights for a specific person or entity. (Rule 31 (a)(2)(A)(1), Rules of  
20 the Supreme Court; TR p. 302, ln. 6-9)
- 21 2. ACJA §7-208 is intended to protect the public through the certification of  
22 legal document preparers to ensure conformance to the highest ethical  
23 standards and performance of responsibilities in a professional and  
24 competent manner. (ACJA §7-208(C); TR p. 301, ln. 6-15)
- 25 3. The purpose of the Code of Conduct is to establish minimum standards of

1 performance by certified legal document preparers. (ACJA §7-208, App.  
2 A)

3 4. On July 30, 2003, the Board received Toon's application for initial  
4 individual certification. The Board granted Toon initial individual  
5 certification effective August 18, 2003. (Ex. B-1, B-2)

6 5. In August, 2003, Toon was responsible for having a working knowledge of  
7 the Code and had avowed to abide by the standards and requirements of  
8 ACJA §7-208, statutes and rules governing legal document preparers. (Ex.  
9 B-2)

10 6. Toon acknowledged that she had a working knowledge of ACJA §7-208  
11 and the Code of Conduct. (TR p.169, ln. 17-25; p. 170, ln. 1-11)

12 **B. Relevant Events**

13 7. In July, 2003, Lopez was seeking a divorce from her husband, Ryan  
14 Lopez, and learned about Toon's legal document preparation services  
15 through an advertisement her mother saw in a Globe newspaper. (TR p.  
16 21-23)

17 8. Toon operated her legal document preparation business out of an office in  
18 Globe and an office in her Mesa home. (TR p. 295, ln. 10-23; p. 296, ln.  
19 1-4)

20 9. The first time Lopez ever met Toon was in July 2003 at Toon's Mesa  
21 home office when Lopez employed Toon to prepare her divorce petition.  
22 (TR p.22, ln. 8-25; p. 23, ln. 1-3; TR. p. 175, ln. 5-16)

23 10. Lopez understood that Toon had stopped practicing corporate law and was  
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1 now a legal document preparer and that Toon would be more  
2 knowledgeable about Lopez' needs. (TR p.25, ln. 25 – p. 26, ln. 1-10; p.  
3 155, ln. 6 – p. 157, ln. 23)

4 11. Toon believed that she complied with the Code of Conduct writing  
5 requirement that customers be advised that she was not an attorney and  
6 could not give legal advice because she had a little laminated plaque on  
7 her desk that said that. (TR. p. 177, ln. 22-25; p. 178, ln. 1-11)

8 12. During the first meeting between Lopez and Toon, Lopez made Toon  
9 aware that she was upset about the impending divorce, upset that she had  
10 to leave her home located at 1306 West Boxelder Court (“Lopez  
11 home/property”) due to the fear of she and her children being harmed as a  
12 result of her husband’s drug activity, that she was afraid of losing her  
13 home, and that she was financially destitute. (Ex. B-5; TR p. 23-25; p. 27-  
14 28)

15 13. Lopez employed Toon as a professional legal document preparer. (TR p.  
16 156-157)

17 14. Shortly after the divorce petition was prepared, Toon prepared the Lopez  
18 bankruptcy petition, which was filed on August 8, 2003. Toon included  
19 the Lopez home mortgage/loans in the bankruptcy petition. (Ex. B-42; TR  
20 p. 29, ln. 2-19)

21 15. Lopez was concerned about filing the bankruptcy and the impact it would  
22 have on her ability to buy a home in the future for her children. (TR p. 30)

23 16. Toon told Lopez not to worry, that she had investors who would buy her  
24 home within weeks. (TR p. 30-31; p. 135)

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17. Lopez understood from Toon that the sale of her house was pretty much a "sure thing." (TR p. 39, ln. 10-15)
18. Lopez believed Toon was withdrawing the bankruptcy and therefore did not attend the trustee's meeting. Lopez' bankruptcy was dismissed for failure to attend the trustee's meeting. (TR p. 135)
19. On August 29, 2003, the police raided the Lopez home as a result of Ryan Lopez' drug activity, causing damage to the home. (TR p. 32, ln. 12-17)
20. Lopez told Toon that she could not pay for the repairs to her home. (TR p. 36, ln. 5-11; p. 196, ln. 9-11)
21. Toon told Lopez that she would pay for the repairs and that she might get some or all of the expense back from the investors. (Ex. B-34, p.2, ln. 24-27; TR p. 36, ln. 14-20; p. 39, ln. 6-9; p. 188)

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a) *The September Quit Claim Deed*

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22. Toon has had previous experience in the preparation of a quit claim deed. (TR p. 519, ln. 13-16)
23. The evidence demonstrates that Lopez was in a vulnerable position at the time the September Quit Claim Deed was prepared. (Ex. B-3, p.3 (3/12/04 Toon letter); TR p. 196-197; p. 239, ln. 11-20; p.384, ln. 19-25; p. 385, ln. 1-3 p. 476, ln. 17-21)
24. Toon listed herself as the Grantee to the Lopez property on the September Quit Claim Deed. (Ex. B-8; TR p. 198-199)
25. Toon knew or should have known that the September Quit Claim Deed she prepared was a legal document as it affected legal rights. (TR. p. 201, ln. 6-8)

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26. Lopez understood the purpose of the September Quit Claim Deed was only to be used as a scare tactic against Ryan not to move back into the house. Toon used the Quit Claim Deed as security for repairs she financed to the Lopez house. (TR p. 40, ln. 2-12, p. 41; p. 195, ln. 21-25, p. 196-197)
  27. Toon knew or should have known that the September Quit Claim Deed would hold her out to the public to be the owner of the Lopez home. (TR p. 199, ln. 14-19)
  28. The requirements and standards set forth under ACJA §7-208 and the Code of Conduct applied to Toon as a certified legal document preparer regarding the preparation of the September Quit Claim Deed. (ACJA §7-208, Code of Conduct; TR p. 337, ln. 23-25, p. 338, 339, ln. 1-6, p. 455-456)
  29. Code of Conduct Standard (1)(b) requires that a legal document preparer be alert to situations that are conflicts of interest or that may give the appearance of a conflict of interest. (ACJA §7-208, App. A)
  30. Toon was a notary public at the time she prepared the September 2003 Quit Claim Deed in which she was named as Grantee to the Lopez property. (Ex. B-8; TR p. 239, ln. 21-23)
  31. Under A.R.S. §41-328(B), a notary is required to be an impartial witness to any document he/she notarizes. (Judicial notice)
  32. Toon notarized the September Quit Claim Deed in which she was named as the Grantee to the Lopez property. (Ex. B-8; B-9; Ex. B-6 (3/12/04 letter to the Attorney General's Office); TR p. 376, ln. 13-16; p. 384, ln. 8-11; p. 386, ln. 4-9; p. 239, ln. 11-23)

1 33. Once recorded, the Maricopa County Recorder's office was instructed to  
2 mail the September Quit Claim Deed to Toon. (Ex. 8)

3 34. Toon provided conflicting evidence as to where Toon notarized the  
4 September Quit Claim Deed. Toon represented to the Attorney General's  
5 Office that she notarized it in her Globe office. At the hearing, Toon  
6 testified she prepared and notarized it while Angela Eylicio and Carrie  
7 Allen were present. Angela Eylicio and Carrie Allen testified that they  
8 were present when Toon notarized the September Quit Claim Deed at her  
9 Mesa home. Toon witness Angela Eylicio testified that she saw Annette  
10 Lopez sign the September Quit Claim Deed at Toon's Mesa home in the  
11 downstairs dining room. Contrary to Ms. Eylicio's testimony, Toon  
12 witness Carrie Allen testified that she saw Annette Lopez sign the  
13 September Quit Claim Deed at Toon's Mesa home in an upstairs  
14 bedroom/office. (Ex. B-6 (3/12/04 letter to the Attorney General's  
15 Office); TR p. 485; TR p. 376, ln. 13-16; p. 384, ln. 8-11; p. 386, ln. 4-9;  
16 TR p. 370, ln. 8-25; p. 371, ln. 1-2; TR p. 386, ln. 4-16)

17 35. Lopez told Toon that she was unable to make the mortgage payments on  
18 her home. (TR p. 48, ln. 7-9)

19 b) *The Lease/Purchase Contract*

20 36. Toon held herself out to Lopez as competent to handle the sale of the  
21 Lopez home. (TR p. 203, ln. 24-25; p. 204, ln. 1-5; p. 516, ln. 11-15)

22 37. Toon talked to Bella Hudspeth, a friend of Toon's, about leasing the  
23 Lopez home, which Hudspeth agreed to do. (TR p. 489, ln. 2-12)

24 38. Toon entered into a lease/purchase option with Hudspeth on November 1,  
25 2003. Lopez found out her home was being leased only when she

1 discovered the tenant moving into her home. (Ex. B-11; TR p. 49, ln. 13-  
2 20)

3 39. Toon understood that Hudspeth was going through a divorce and that her  
4 financial situation was such that she had filed for bankruptcy. (TR p. 212-  
5 213; p. 214, ln. 11-23)

6 40. While considering Hudspeth a "good soul," Toon did not check  
7 Hudspeth's financial background to determine if she had a reasonable  
8 likelihood of qualifying to buy the Lopez property. (TR p. 214, ln. 11-15)

9 41. Toon accepted a \$2500.00 security payment from Hudspeth. (TR p. 210,  
10 ln. 20-24)

11 42. Toon did not give any portion of that payment to Lopez, apply any portion  
to the Lopez home mortgage, or in any other manner use it to benefit  
13 Lopez. (TR p. 215, ln. 17-25)

14 43. Toon did not receive permission from Lopez to lease her home, and Lopez  
15 demanded that Hudspeth move out. (TR p. 80, ln. 19-25; p. 81, ln. 1-2,  
16 19-22)

17 44. Under the terms of the lease between Toon and Hudspeth, Toon  
18 understood that Lopez was unable to move back into her own home for the  
19 term of the lease. (TR p. 213-215)

20 45. In December, Toon offered to buy the home, which Lopez refused. (TR p.  
21 492, ln. 1-9; Ex. B-13)

22 46. Toon threatened Lopez by stating that she would file lawsuits against  
23 Lopez. (Ex. B-12)

24 47. In January, 2004, Toon threatened to deed the Lopez home to "whoever's  
25 interested in the property." (Ex. B-6 (1/22/04 letter); TR p. 238-239)

1 C. Administrative Complaints and Investigation

- 2 48. On January 5, 2004, Lopez filed a complaint against Toon with the  
3 Secretary of State's Office arising out of Toon's notarizing the September  
4 Quit Claim Deed in which she named herself as Grantee to the Lopez'  
5 property. (Ex. B-14)
- 6 49. On January 18, 2004, Toon reported to the Secretary of State that her  
7 notary journal was lost/stolen. (Ex. B-6 (1/18/04) Toon letter to  
8 Secretary of State)
- 9 50. In February, 2004, Toon granted Lopez back her property. In so doing,  
10 Toon did not include her husband as a Grantor. (Ex. B-23)
- 11 51. In March, 2004, the Arizona Attorney General's Office launched an  
12 inquiry into the circumstances surrounding Toon's naming herself as  
13 Grantee on the September Quit Claim Deed in which Toon had a personal  
14 interest. As part of the inquiry, the AGO asked Toon to provide a copy of  
15 her notary journal. (Ex. B-6 (3/2/04 letter from AGO to Toon)); (Judicial  
16 Notice)
- 17 52. On March 24, 2004, after receiving notice of the inquiry, Toon resigned  
18 her notary commission, less than one year after receiving it. (Ex. B-32  
19 (NFC), p. 14, paragraph 10; Ex. B-34, (Toon Answer), p. 4, paragraph 10;  
20 TR p. 294, ln. 21-24)
- 21 53. On April 14, 2004, the Board received Annette Lopez' complaint against  
22 Toon. (Ex. B-5)
- 23 54. Pursuant to ACJA §7-208(H)(2)(3)(4), Ms. Grau reviewed and  
24 investigated the complaint. The investigation included but was not limited  
25 to: telephone conversations and a meeting with Annette and Ryan Lopez,



1 telephone conversations between Grau and Toon, correspondence between  
2 Grau and Toon, and a face-to-face meeting with Toon on July 26, 2004.  
3 (TR p. 308, 324-326)

4 55. Once Ms. Grau concluded her investigation, she prepared a case summary,  
5 which was ultimately presented to the probable cause panelist for review  
6 pursuant to ACJA §7-208(H)(5)(a). (Ex. B-31; TR p. 308-310)

7 56. On December 14, 2004, the probable cause panelist, after review, made a  
8 recommendation that probable cause existed warranting the filing of  
9 formal charges against Toon by the Board. (Ex. B-31)

10 57. After the Legal Document Preparer Program ("Program") commenced its  
11 investigation into Toon's conduct with Lopez, Toon volunteered to resign  
her certification. (Ex. B-29)

13 58. The Board denied Toon's request to resign her certification. (ACJA §7-  
14 208(G)(2); TR p. 339, ln. 23-25; p. 340-341)

15 59. On December 16, 2004, the Board issued a Notice of Formal Charges  
16 against Toon pursuant to ACJA §7-208(H)(5)(b)(4) and (6). (Ex. B-32)

17 60. Toon did not indicate that she was unable to understand the Program's  
18 inquiries due to medication or otherwise during the course of its  
19 investigation. (TR p. 335-336)

20 61. Toon's representations protracted the Program's investigation of the  
21 Lopez complaint to the extent that:

22 [I]t was a massive endeavor with every time [the Program] had contact  
23 with Miss Toon on one level or another; the situations, the stories, the  
information, and the statements would change to the point that it became  
25 very involved merely trying to sort out what Ms. Toon was and was not

1 representing [to] this Program during the investigation regarding the  
2 events that occurred and precipitated the Lopez complaint. (TR p. 324, ln.  
3 10-17)

4 62. The Program incurred costs relating to this disciplinary matter against  
5 Toon. (Ex. B-33; TR p. 342, ln. 14-25)

6 D. Civil Litigation

7 63. Toon filed several civil lawsuits against Lopez in Maricopa County  
8 Superior Court and Chandler Justice Court. (Ex. B-24, B-25, B-26)

9 64. Lopez is presently having trouble selling her home due to a clouded title.  
10 She has filed suit in Gila County Superior Court seeking Toon's notary  
11 bond and for damages. (TR p. 69-71; Ex. P)

12 E. Stipulations

13 65. The Board voluntarily dismissed formal charge number 12 and stipulated  
14 that the formal charges do not allege fraudulent conduct.

15  
16 IV. CONCLUSIONS OF LAW

17 1. The September Quit Claim Deed is a legal document as defined under  
18 Rule 31.

19 2. The writing requirement of standard 5(c) of the Code of Conduct was not  
20 satisfied.

21 3. ACJA §7-208 and its Code of Conduct governed Toon's dealings with  
22 Lopez in her preparation of the September Quit Claim Deed and  
23 thereafter.

24 4. Toon knew or should have known that her status as Grantee on the  
25 September Quit Claim Deed was a conflict of interest and an impropriety.

- 1 5. Toon knew or should have known that taking control of the Lopez'  
2 property, illegally encumbering it and accepting a security deposit without  
3 the Lopez' consent was a conflict of interest and an impropriety.
- 4 6. Toon violated ACJA §7-208(F)(2) and Code of Conduct Standard (1)(a)  
5 by failing to act in a manner that promotes public confidence in the  
6 integrity and impartiality of the legal and judicial system when she  
7 prepared or participated in the preparation and then notarized the  
8 September Quit Claim Deed naming herself as Grantee to the Lopez  
9 property, constituting grounds for discipline under ACJA §7-  
10 208(H)(1)(a)(1), (H)(1)(a)(2) and (H)(1)(a)(4).
- 11 7. Toon violated ACJA §7-208(F)(2) and Code of Conduct Standard (1)(b)  
12 by failing to avoid a conflict of interest, and therefore failing to be alert to  
13 a situation which was a conflict of interest, when she prepared and  
14 notarized the September Quit Claim Deed naming herself as Grantee to  
15 the Lopez property, which was recorded, constituting grounds for  
16 discipline under ACJA §7-208(H)(1)(a)(1), (H)(1)(a)(2) and (H)(1)(a)(4).
- 17 8. Toon violated ACJA §7-208(F)(2) and Code of Conduct Standard (1)(d)  
18 when she engaged in unprofessional conduct detrimental to the public as a  
19 result of the notarized and recorded September Quit Claim Deed,  
20 constituting grounds for discipline under ACJA §7-208(H)(1)(a)(1),  
21 (H)(1)(a)(2) and (H)(1)(a)(4).
- 22 9. Toon violated ACJA §7-208(F)(2) and Code of Conduct Standard (2)(c)  
23 by failing to observe the highest standards of integrity and truthfulness in  
24 all professional dealings in connection with her actions regarding the  
25 September Quit Claim Deed as Grantee to the Lopez property, constituting

1  
2 grounds for discipline under ACJA §7-208(H)(1)(a)(1), (H)(1)(a)(2) and  
3 (H)(1)(a)(4).

4  
5 10. Toon violated ACJA §7-208(F)(2) and Code of Conduct Standard (5)(a)  
6 by failing to perform all duties and discharge all obligations in accordance  
7 with applicable laws and rules (i.e., ACJA §7-208, Code of Conduct and  
8 A.R.S. § 41-328(B)) in connection with her actions regarding the  
9 September Quit Claim Deed as Grantee to the Lopez property, constituting  
10 grounds for discipline under ACJA §7-208(H)(1)(a)(1), (H)(1)(a)(2) and  
11 (H)(1)(a)(4).

12  
13 11. Toon violated ACJA §7-208(F)(2) and Code of Conduct Standard (1)(a)  
14 by failing to act in a manner that promotes public confidence in the  
15 integrity and impartiality of the legal and judicial system when she  
16 assumed control over the Lopez property, constituting grounds for  
17 discipline under ACJA §7-208(H)(1)(a)(1), (H)(1)(a)(2) and (H)(1)(a)(4).

18  
19 12. Toon violated ACJA §7-208(F)(2) and Code of Conduct Standard (1)(b)  
20 by failing to avoid a conflict of interest, and therefore failing to be alert to  
21 a situation which was a conflict of interest when she assumed control over  
22 the Lopez home by agreement with Hudspeth, constituting grounds for  
23 discipline under ACJA §7-208(H)(1)(a)(1), (H)(1)(a)(2) and (H)(1)(a)(4).

24  
25 13. Toon violated ACJA §7-208(F)(2) and Code of Conduct Standard (1)(d)  
when She engaged in unprofessional conduct detrimental to the public (i.e.  
Lopez) when she assumed control over the Lopez property, optioned the  
Lopez home to Hudspeth, and accepted a security deposit without the  
Lopez' consent or knowledge, constituting grounds for discipline under  
ACJA §7-208(H)(1)(a)(1), (H)(1)(a)(2) and (H)(1)(a)(4).

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14. Toon violated ACJA §7-208(F)(2) and Code of Conduct Standard (2)(c) by failing to observe the highest standards of integrity and truthfulness in all professional dealings when she assumed control over the Lopez property, improperly encumbered it, and accepted a security deposit without Lopez' consent or knowledge, constituting grounds for discipline under ACJA §7-208(H)(1)(a)(1), (H)(1)(a)(2) and (H)(1)(a)(4).
  15. Toon violated ACJA §7-208(F)(2) and Code of Conduct Standard (5)(a) by failing to perform all duties and discharge all obligations in accordance with applicable laws and rules (i.e., ACJA §7-208, Code of Conduct) when she assumed control over the Lopez property, improperly encumbered it, and accepted a security deposit without the Lopez' consent or knowledge, constituting grounds for discipline under ACJA §7-208(H)(1)(a)(1), (H)(1)(a)(2) and (H)(1)(a)(4).
  16. Toon violated ACJA §7-208(F)(2) and Code of Conduct Standard (1)(a) failing to avoid impropriety, Standard 2(c) failing to observe the highest standards of integrity and truthfulness in all professional dealings, and Standard 5(a) failing to perform all duties and discharge all obligations in accordance with applicable laws and rules in her representation of events to the investigating entities; which constitute grounds for discipline under ACJA §7-208(H)(1)(a)(1), (H)(1)(a)(2) and (H)(1)(a)(4).

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## V. RECOMMENDATIONS

Under Rule 31 and §7-208 of the Arizona Code of Judicial Administration, persons granted certification as legal document preparers are exempt from the unauthorized practice of law. They are authorized to prepare and provide legal documents to "consumers" without the supervision of an attorney. The rationale for requiring certification is similar to the rationale for

1 licensure to practice law. Both are based upon the need to protect the public from possible harm  
2 from the provision of legal services. In the case of legal document preparers, that possible harm  
3 must be balanced against the public's need for access to those services when not provided by a  
4 lawyer.

5 The Legal Document Preparers Program was implemented in 2003. Administered  
6 through its own Board, it has a Code of Conduct and minimum standards for qualifications and  
7 certification. Arizona's program has become a prototype for other jurisdictions.

8 As a prototype program, there is an absence of a specific body of law to guide its  
9 interpretation. Because the practice of law is within the authority of the Supreme Court, and  
10 because legal document preparers are engaged in the practice of law, the existing body of law for  
11 legal discipline could be of assistance where their primary objectives are coextensive.

12 The present case illustrates the primary purpose for which certification is required. (i.e. to  
13 protect the public from possible harm caused by non-lawyers preparing documents affecting the  
14 legal rights of the public).

15 Toon raises the issue that none of the acts or omissions were undertaken "willfully"  
16 pursuant to ACJA §7-208(H)(1)(a)(1). The Board has not alleged that Toon acted  
17 "fraudulently." Hence, Toon argues that the prerequisite state of mind has not been established.  
18 Toon suggests that the ABA Standards for Imposing Lawyer Sanctions should be considered as a  
19 theoretical framework for the analysis of the misconduct alleged.<sup>2</sup> Those standards set forth a  
20 four-factor analysis: the duty violated; the mental state; the extent of any injury or potential  
21 injury; and a balancing of aggravating or mitigating factors.

22 This approach in fact aids in reaching objective recommendations and promotes  
23 uniformity. Regarding factor number two; "mental state," Toon suggests her conduct was at  
24 most negligent as defined in the ABA Standards. She suggests that "negligent" misconduct and

25 <sup>2</sup> The Supreme Court of Arizona has consistently relied upon the ABA Standards for Imposing Lawyer Sanctions in disciplinary proceedings. *In re Clark*, 207 Ariz. 414, 87 P.3d 827 (2004).

1 "willful" misconduct categorically differ under §7-208(H)(1)(a)(1). Hence, she argues that the  
2 mental state of "willful" as set forth in §7-208(H)(1)(a)(1), as a prerequisite to establishing  
3 misconduct, has not been established.

4 In Arizona, the degrees of "negligence" have been defined on a Constitutional level.<sup>3</sup> In  
5 an exhaustive line of authority, the Arizona Supreme Court has resolved that willful conduct is a  
6 form or degree of negligent conduct, not a difference in type. *Williams v. Thude*, 188 Ariz. 257,  
7 934 P.2d, 1349 (*en banc* 1997); *Waring v. Falk*, 182 Ariz. 495, 896 P.2d 1381 (App. 1995).  
8 Hence, to satisfy §7-208(H)(1)(a)(1), the Board is not required to prove that Toon intended a  
9 specific act, omission or result.

10 Prior to entering into her relationship with Lopez, Toon held herself out as a certified  
11 legal document preparer and avowed to abide by the ethical, professional and competency  
12 requirements of §7-208. Hence, it is sufficient that the Board has proven by a preponderance of  
13 the evidence that Toon "knew or should have known" to establish the mental state required to  
14 establish misconduct.

15 With respect to duty, Toon's assertion that her actions were the result of morally good  
16 intentions is not the standard by which her conduct may be considered. The standard is  
17 established by consent and oath to follow and be bound by the Arizona Code of Judicial  
18 Administration §7-208 and its Code of Conduct. It establishes the legal standards by which the  
19 best interests of the "customer" and the public are not subordinated to those of the legal  
20 document preparer, a licensed professional. Varying these standards, based upon subjective  
21 beliefs, does not promote publicly protected access to legal services by non-lawyers.

22 With respect to injury, actual or potential, Toon held herself out as a legal professional in  
23 a position superior to that of Lopez. Lopez sought Toon's legal services while in an emotionally

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<sup>3</sup> See Uniform Contribution Among Tortfeasors Act; A.R.S. §12-2501 et seq.

1 and financially vulnerable condition. The Board has sustained its burden of proof by a  
2 preponderance of the evidence that Toon violated the duties charged by gaining control over  
3 Lopez' property, in their subsequent dealings, and the investigatory process. Lopez suffered  
4 actual injury and now remains a party to ongoing civil litigation. As an additional consequence,  
5 those standards set forth in the Conclusions of Law for the benefit of the legal system and  
6 judicial process have been violated, lessening the public's confidence and trust in the legal  
7 system.

8 To the extent that a consideration of further factors of the ABA Standards are consistent  
9 with §7-208 and its Code of Conduct, aggravating factors are: vulnerability of the victim;  
10 multiple offenses and false statements during the disciplinary process. Factors in mitigation  
11 include inexperience and physical disability. ABA Standards for Imposing Lawyers Sanctions as  
12 amended (Feb. 1992).

13 Accordingly, it is recommended that the Board impose the following sanctions:

- 14 1. that her certificate (AZCLDP80436) be revoked;
- 15 2. that a cease and desist order be issued by the Board pursuant to ACJA §7-  
16 208(H)(15)(a)(5);
- 17 3. that costs be assessed under ACJA §7-208(H)(15)(a)(8).

18 As an additional sanction, the Board has requested that a fine be imposed for the  
19 aggregate maximum of \$15,000.00. §7-208(C) states that the primary purpose of the Legal  
20 Document Preparers Program is to protect the public and provide for the effective administration  
21 of the program. The issue of the assessment of a "fine" requires analysis of the primary purpose  
22 of the program and the nature of a "fine."

23 Black's Law Dictionary defines "fine" as both a verb and a noun. It is a pecuniary  
24 punishment by payment of a penalty imposed by a lawful tribunal upon a person convicted of a  
25 crime or misdemeanor. It may include a forfeiture of rights in a civil action. "Punishment" is



1 defined as any fine, penalty or confinement inflicted upon a person for some crime or offense  
2 committed by him, but does not include a civil penalty. *Black's Law Dictionary 5<sup>th</sup> Ed.*, 569,  
3 1110 (1979). Therefore, in this case would the imposition of a "fine" as an additional sanction  
4 be consistent with the primary purpose of public protection through effective administration?

5 No direct authority could be located in Arizona where a fine has been authorized or  
6 imposed in a disciplinary proceeding, as by definition they are "punishment." Little authority  
7 could be located explaining a monetary transfer within a disciplinary proceeding assessed as  
8 punishment versus restitution.

9 In a recent decision, the Ninth Circuit discussed this issue in the context of contempt  
10 proceedings as a result of counsel's misconduct resulting in a mistrial.<sup>4</sup> In that case, the court  
11 defined "fine" as a punishment to vindicate authority in which criminal due process protections  
12 would be required prior to its imposition. The court went on to explain that the purpose for the  
13 monetary sanction is more important than the identity of its recipient. In that case it was payable  
14 to the court as a cost to the system incurred up to the point of the misconduct in addition to  
15 payment of the other party's attorneys fees.

16 In this matter, the public is protected by sanctions 1 and 2. The efficient administration  
17 of the program is accomplished by the assessment of costs. The imposition of a fine appears by  
18 definition to be beyond the basic design of the program and the constitutional protections  
19 afforded. This rationale is only reinforced where restitution of the victim is not requested.

20 Therefore, it is recommended that no fine be imposed.  
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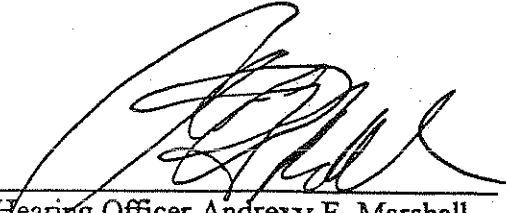
25  

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<sup>4</sup> *L.A.S.A.R. v. Ford Motor Company*, 399 F.3d 1101, (9<sup>th</sup> Cir. 2005)

DATED this 10<sup>th</sup> day of May, 2005

By

  
Hearing Officer Andrew F. Marshall

ORIGINAL AND 3 COPIES HAND DELIVERED  
This 10<sup>th</sup> day of May, 2005, to:

Linda B. Grau  
Program Coordinator  
To Be Filed With the Arizona Supreme Court  
Certification and Licensing Division  
1501 West Washington, Suite 104  
Phoenix, Arizona 85007

COPIES for distribution to the  
following:

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Certification and Licensing Division  
1501 West Washington, Suite 104  
Phoenix, Arizona 85007

By Cynthia Kauffman

# BOARD OF LEGAL DOCUMENT PREPARERS

Agenda Summary - Monday, July 25, 2011

## 2) REVIEW OF PENDING COMPLAINTS

2-B: *Review, discussion and possible action regarding the Honorable William O'Neil's Finding of Fact and Conclusions of Law with Recommendation report in complaint number 08-L008 involving certificate holders Karina Morales and Servicios Hispanos.*

On May 26, 2011, Judge O'Neil filed the attached recommendation report in the formal disciplinary action in complaint number 08-L008 which addresses the legal issues raised in the certificate holders' Motion to Dismiss and makes a recommendation (addressed below). Also attached for the Board's review are the:

- Notice of Formal Statement of Charges filed on February 18, 2011,
- Certificate holders' Motion to Dismiss filed on April 22, 2011,
- Factual Stipulation filed on May 9, 2011,
- Program's Response to the Motion to Dismiss filed on May 12, 2011,
- Certificate holders' Motion for Reconsideration filed on June 9, 2011, and,
- Order re: Ruling on Motion for Consideration.

Judge O'Neil's analysis concluded with a recommendation the proposed disciplinary sanctions be implemented.

It is recommended the Board take the following actions:

1. Adopt the Factual Allegations of Misconduct in the February 18, 2011 Notice of Formal Statement of Charges and the May 9, 2011 Factual Stipulation as the Findings of Fact in complaint number 08-L008;
2. Adopt the Formal Charge in the February 18, 2011 Notice of Formal Statement of Charges and the Legal Analysis in Judge O'Neil's May 26, 2011 recommendation report as the Conclusions of Law in complaint number 08-L008;
3. Enter a finding Morales and Servicios Hispanos violated Arizona Revised Statutes § 12-2701 and § 12-2702, ACJA § 7-201(F)(1) and ACJA § 7-208(F)(2) and (J)(5)(a) by offering, advertising and providing immigration services without being qualified by law to do so, constituting grounds for discipline pursuant to ACJA § 7-201(H)(6)(a) and (H)(6)(k)(3);
4. Issue a Letter of Concern to Morales and Servicios Hispanos, pursuant to ACJA § 7-201(H)(24)(a)(6)(a);

5. Issue a cease and desist order enjoining Morales and Servicios Hispanos from offering, advertising or providing unauthorized services or services prohibited by law, pursuant to ACJA § 7-201(H)(24)(a)(6)(g);
6. Assess costs associated with the investigation and related disciplinary proceedings in the amount of \$751.33, to be remitted no later than sixty (60) days following entry of the Board's Final Order, pursuant to ACJA § 7-201(H)(24)(a)(6)(j); and,
7. Authorize the Chair to sign the Final Order on behalf of the full Board.



1 On April 22, 2011, Respondents filed a Motion to Dismiss based upon the  
2 argument that the Board lacked subject matter jurisdiction and Respondent was  
3 otherwise entitled to the entry of judgment as a matter of law. Thereafter,  
4 respective counsel and the hearing officer telephonically and off the record,  
5 discussed the scheduling of the Motion. Based upon those discussions the  
6 parties withdrew their request for a hearing, submitted a stipulation of facts and  
7 agreed that the issue for the Board was an entirely a legal one and not a factual  
8 determination. As a result the Motion to Dismiss became a Motion for Summary  
9 Judgment except to the extent that the hearing officer issues a  
10 recommendation to the Board rather than judgment and order. The hearing  
11 officer adopts the factual stipulation of the parties filed on May 9, 2011 and  
12 those facts are incorporated herein by this reference.

### 13 Jurisdiction

14 The parties have stipulated that this matter may be ruled upon as a  
15 matter of law as the facts are not in dispute. However, subject matter  
16 jurisdiction is foundational to any consideration of the case as the parties  
17 cannot by consent confer jurisdiction which either the Board or this hearing  
18 officer otherwise would not have. *Solomon v. Findley*, 165 Ariz. 45, 796 P.2d  
19 477 (Ct. App. Div. 2 1990). Subject matter jurisdiction is an issue of law to be  
20 resolved by the hearing officer. *Mitchell v. Gamble*, 207 Ariz. 364, 86 P.3d 944  
21 (Ct. App. Div. 2004). Nothing precludes Respondent from seeking a judicial  
22 determination of the constitutionality of this hearing officer or the Board.  
23 Certainly there is nothing about this administrative process that would be  
24 harmed by the Superior Court considering such issue. Typically two doctrines  
25 interweave any analysis on such issue. Arizona has adopted the doctrine of

1 primary jurisdiction which determines whether a court or an administrative  
2 agency should make the initial decision in a case. *Wonders v. Pima County*,  
3 207 Ariz. 576, 89 P.3d 810 (Ct. App. Div. 2 2004). This doctrine is separate  
4 and distinct from the doctrine requiring the exhaustion of administrative  
5 remedies. This latter rule was created by the courts to effectuate the efficient  
6 handling of cases where an administrative agency's expertise may be helpful.  
7 The former doctrine determines who should hear the case while the latter  
8 determines when judicial review is available. Here despite the stipulation of  
9 facts, there is logic to proceeding in the administrative setting and exhausting  
10 administrative remedies.

11 This hearing officer and the Board have subject matter jurisdiction over  
12 this issue. As pointed out by Respondent in their motion, the practice of law in  
13 Arizona "is a matter exclusively within the authority of the Judiciary." *Hunt v.*  
14 *Maricopa County Employees Merit System et. al.*, 127 Ariz. 259, 619 P.2d 1036,  
15 (1980). The issue is not whether the Board has jurisdiction over Certified Legal  
16 Document Preparers. It is clear that the Supreme Court has delegated its  
17 power by amending the Arizona Code of Judicial Administration thereby creating  
18 the Board and empowering it. Nothing precludes the Supreme Court from such  
19 delegation. It appears it is a separate issue that Respondent raises.

20 **Issue**

21 The issue is whether Respondents are authorized by their certification as  
22 a Legal Document Preparers to advertise, offer and provide immigration related  
23 services, including the preparation of immigration applications, on behalf of  
24 individuals who are representing themselves in matters before the United  
25

1 States Immigration and Citizenship Service or whether those actions violate the  
2 duties of a Legal Document Preparer.

### 3 Legal Analysis

#### 4 **1. The Authority of the Supreme Court.**

5 Identifying what may be construed to be the authorized or unauthorized  
6 practice of law has prompted much controversy for many years in Arizona. In  
7 1961, the Arizona Supreme Court issued its decision in *State Bar of Arizona v.*  
8 *Arizona Land Title & Trust Co.*, 90 Ariz. 76, 366 P.2d 1 (1961). In that case the  
9 Court addressed the practice of title companies in Arizona "regularly and  
10 continuously preparing, drafting and formulating documents affecting title to  
11 real property for their numerous 'clients, patrons, and customers', and giving  
12 legal advice regarding such transactions and instruments so drafted,  
13 constituting the unauthorized practice of law." Citing *In re Greer*, 52 Ariz. 385,  
14 389-90, 81 P.2d 96, 98 (1938) the court stated its exclusive authority.  
15 "...although the legislature may impose additional restrictions which affect the  
16 licensing of attorneys, it cannot infringe on the ultimate power of the courts to  
17 determine who may practice law."

18 This ruling began the line of cases outlining that court's constitutional  
19 authority to govern the practice of law as well as the unauthorized practice of  
20 law in Arizona. This seminal case was later followed by the 1985 repeal of the  
21 Arizona law prohibiting the unauthorized practice of law. These two events cast  
22 a clarifying light on the stated authority of the Arizona Supreme Court over the  
23 practice of law. The legislature has declined to question the Supreme Court's  
24 authority in this area. While bills have been proposed by the legislature, none  
25



1 have even been submitted by the legislature to the Governor for consideration  
2 as law.

3 *In re Creasy*, 198 Ariz. 539, 12 P.3d 214 (2000), the Court addressed a  
4 controversy involving its jurisdiction over a previously disbarred lawyer. *Creasy*  
5 had argued the Supreme Court lacked jurisdiction over him because he had  
6 been disbarred and therefore was no longer an attorney. The Court  
7 acknowledged "[t]he facts of this case do not require us to determine the  
8 extent of our power to regulate 'practitioners' who are not and have never been  
9 lawyers." However the language of the case was broad and sweeping all the  
10 same. The Court stated its power over the practice of law and its power to  
11 prohibit or enjoin the unauthorized practice of law were based on Articles III  
12 and VI section 1 and 5(4) of the Arizona Constitution.

## 13 **2. The Authority of the Law Regulating Immigration Practices.**

14 In the late 1980s and early 1992 the Phoenix press chronicled the plight  
15 of immigrants who were defrauded of hundreds and, in many cases, thousands  
16 of dollars by unscrupulous and abusive notary publics who advertised in a  
17 foreign language naming themselves as "notarios." This term in Mexico and  
18 other civil law countries has a different connotation than the term "notary  
19 public" does in the United States. A notario or notario publico in civil law  
20 countries is synonymous with "attorney" as opposed to the United States where  
21 notaries public are recognized for holding a witnessing position. In response  
22 the Arizona legislature enacted the Immigration and Nationality Law Practice  
23 Act in 1993, partly in acknowledgement of these problems. This act recognizes  
24 the propriety of representation by non-lawyers that fall within one or more of  
25

1 five categories, to represent individuals before administrative agencies such as  
2 the INS. That law has a stated purpose to:

3  
4 Prevent the unauthorized practice of immigration and  
5 nationality law by nonlawyers who hold themselves out as  
6 immigration consultants rendering services in  
7 immigration, nationality or citizenship matters and who  
8 are outside pertinent federal regulations regulating the  
9 practice of immigration law and the unauthorized practice  
10 of this state's law by attorneys not admitted to the  
11 practice of law by the state bar of Arizona. The  
12 provisions...are intended to be consistent with federal  
13 immigration regulations. 1993 Ariz. Sess. Laws 503.

14 Individuals who violate the provisions of the Immigration Practice Act are guilty  
15 of a class one misdemeanor.

16 In 2003 by Administrative Order the Supreme Court established the Legal  
17 Document Preparer Program by its amendment to the Arizona Code of Judicial  
18 Administration (ACJA). The Supreme Court again discussed its inherent power  
19 to regulate the practice of law in Arizona in the case *Scheele v. Justices of the*  
20 *Supreme Court of Arizona*, 211 Ariz. 282, 120 P3d 1092 (2005).

### 21 **3. The Conflict Respondent Argues that the Supreme Court** 22 **Certification "trumps" the law.**

23 This line of cases makes clear the Supreme Court's position. The final  
24 analysis then must be based upon whether the law regarding immigration and  
25 nationality law infringes upon that exclusive authority of the Court. Certainly if  
state law does so infringe, it would be highly questionable for the Board, an  
entity created by the Supreme Court, to question the authority granted by the  
Supreme Court to document preparers certified under the ACJC. However,  
ultimately such analysis ignores a more fundamental hurdle which Respondents  
have not overcome and which drives the recommendations of this hearing

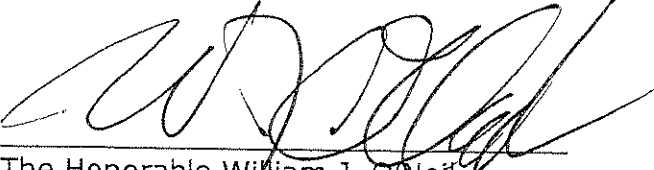
1 officer. There is an overarching reason these actions complained of by the  
2 Board are not and cannot be approved by the Supreme Court of Arizona:  
3 Immigration and Nationalization law are federal law issues. Federal law  
4 preempts this area of endeavor practiced by Respondents. As stated in its  
5 purpose above, the state law at issue merely mirrors federal law.

6 The stipulated actions of Respondents conflict with federal law. 8 C.F.R.  
7 §292.1 (1999). Even if the Arizona Supreme Court intended to authorize a  
8 Certified Document Preparer to perform the work admittedly done by  
9 Respondents, (and this hearing officer makes no such finding) federal law  
10 preempts Arizona law and the ability of the Arizona Supreme Court to authorize  
11 such conduct. The preemption doctrine derives from the Supremacy Clause of  
12 the United States Constitution. The "Constitution and the laws of the United  
13 States...shall be the supreme law of the land...anything in the constitutions or  
14 laws of any State to the contrary notwithstanding." Any federal law or  
15 regulation of a federal agency supersedes any conflicting state law including the  
16 power of the Arizona Supreme Court derived through this state's Constitution.

17 **Recommendation**

18 For these reasons, unless and until Respondents adhere to federal law  
19 governing this area of practice, the hearing officer recommends the proposed  
20 disciplinary sanctions be implemented.

21 DATED this 26 day of May, 2011.

22  
23  
24   
25 The Honorable William J. O'Neil  
Office of the Presiding Disciplinary Judge

1 Original filed with the Disciplinary Clerk  
this ~~25~~ day of May, 2011.

2 COPY of the foregoing mailed  
3 this ~~25~~ day of May, 2011, to:

4 Board of Legal Document Preparer  
1501 W. Washington, Suite 104  
5 Phoenix, AZ 85007-3231

6 Thomas C. Horne  
Attorney General

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10 Attorneys for the Legal Document  
Preparers Program

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13 Phoenix, AZ 85016  
Attorney for Karina Morales and Servicios Hispanos

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FILED

FEB 18 2011

DISCIPLINARY CLERK OF THE  
SUPREME COURT OF ARIZONA  
BY M. Smith

ARIZONA SUPREME COURT  
BOARD OF LEGAL DOCUMENT PREPARERS

IN THE MATTER OF CERTIFIED LEGAL  
DOCUMENT PREPARERS:

No. LDP-NFC-08-L008

KARINA MORALES,  
Certificate Number 80255,

NOTICE OF FORMAL  
STATEMENT of  
CHARGES and RIGHT to  
HEARING

And

SERVICIOS HISPANOS, LLC,  
Certificate Number 80256.

JURISDICTION

Pursuant to Arizona Code of Judicial Administration ("ACJA") § 7-201 and ACJA § 7-208, the Board of Legal Document Preparers ("Board") serves this Notice of Formal Statement of Charges and provides notice to Karina Morales ("Morales") and Servicios Hispanos, LLC that they have a right to request a hearing on the proposed disciplinary action involving certificate numbers 80255 and 80256. The Board has jurisdiction over this matter as both Morales and Servicios Hispanos were granted legal document preparer certification effective July 1, 2003. Morales' individual certification and Servicios Hispanos, LLC's business entity certification have been renewed without interruption and their certificates are valid through the certification period which ends June 30, 2011. Morales is the named designated principal for Servicios Hispanos, LLC.

1 The complaint was received during the period of Morales and Servicios Hispanos'  
2 active certifications and the certificate holders were provided an opportunity to respond to the  
3 complaint and participate in the investigation of the complaint. The Board holds the authority  
4 to proceed with this action pursuant to ACJA § 7-201(D)(5)(c).

5 Pursuant to ACJA § 7-201(H)(24)(a), the Board may find no violation has occurred and  
6 dismiss the complaint or may enter a finding of violation(s) and impose sanction(s) through and  
7 including revocation, assessment of costs, and civil penalties.

8  
9 On July 30, 2010, pursuant to ACJA § 7-201(H)(5)(a)(3), Probable Cause Evaluator  
10 Mike Baumstark entered a finding probable exists in complaint number 08-L008. The  
11 particular sections of laws, court rules, ACJA, and orders relevant to complaint number 08-  
12 L008 are Arizona Revised Statutes ("ARS") § 12-2701 and § 12-2702, ACJA § 7-201(F)(1)  
13 and ACJA § 7-208(F)(2) and (J)(5)(a).

14 On September 27, 2010, the Board accepted the finding of the Probable Cause  
15 Evaluator and entered a finding grounds for disciplinary action exists pursuant to ACJA § 7-  
16 201(H)(6)(a) and (H)(6)(k)(3).

#### 17 **ANSWER OF CERTIFICATE HOLDER**

18 Pursuant to ACJA § 7-201(H)(11), Morales and Servicios Hispanos, LLC shall file an  
19 Answer to this Notice of Formal Statement of Charges within fifteen (15) days of receipt of this  
20 Notice. Morales and Servicios Hispanos' Answer shall comply with Rule 8 of the Arizona  
21 Rules of Civil Procedure. Any defenses not raised in the Answer are waived. If Morales and  
22 Servicios Hispanos fail to file an Answer within the time provided, they are in default and the  
23 factual allegations in the formal charges are deemed admitted and the Board may determine the  
24 matter against Morales and Servicios Hispanos. Morales and Servicios Hispanos' Answer shall  
25

1 be filed with the Arizona Supreme Court Disciplinary Clerk, Suite 104, 1501 West  
2 Washington, Phoenix, Arizona 85007.

### 3 **NOTICE OF RIGHT TO HEARING**

4 Pursuant to ACJA § 7-201(H)(12), Morales and Servicios Hispanos may request a  
5 hearing within fifteen (15) days of receipt of the Notice of Formal Charges and Right to  
6 Hearing. Their Request for Hearing must comply with ACJA § 7-201(H)(12) and shall be filed  
7 with the Arizona Supreme Court Disciplinary Clerk, 1501 West Washington, Suite 104,  
8 Phoenix, Arizona 85007. If Morales and Servicios Hispanos do not timely file a Request for  
9 Hearing, they will not have a right to a hearing.  
10

### 11 **BACKGROUND FACTS**

12 1. On February 26, 2008, the Certification and Licensing Division (“Division”) received a  
13 written complaint from Barbara Morejon (“Morejon”) involving Morales and Servicios  
14 Hispanos, LLC.

15 2. On March 14, 2008, the Division sent Morales and Servicios Hispanos a copy of the  
16 complaint and notice of the ACJA § 7-201(H)(3)(c) requirement they submit a written response  
17 to the complaint within thirty (30) days. On the same date, under separate cover, Division  
18 Investigator Tony Posante (“Investigator Posante”) sent a letter to Morales requesting she  
19 provide a Spanish-to-English translation of Morales’ Servicios Hispanos business card  
20 submitted with the complaint and clarification of Morales’ definition of “nominal”.  
21

22 3. On March 31, 2008, Morales and Servicios Hispanos submitted their written response  
23 to the complaint, complying with time line required by ACJA § 7-201(H)(3)(c).

24 4. Arizona Corporation Commission records reflect Morales is the only Member and only  
25 Manager of Servicios Hispanos, LLC.

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## FACTUAL ALLEGATIONS OF MISCONDUCT

The Board, having knowledge sufficient to form a belief as to the truth of this information, hereby alleges and finds as follows:

5. On February 26, 2009, the Division received the written complaint from Morejon involving Morales and Servicios Hispanos which alleged Morales and Servicios Hispanos were offering and advertising to provide immigration related services in violation of ARS and Arizona Supreme Court Rule 31. With her written complaint, Morejon provided a copy of Morales' Servicios Hispanos business card, a purported Servicios Hispanos fee worksheet and an photograph of the exterior signage at the Servicios Hispanos office location.

6. Morales' business card lists (in Spanish) thirteen services offered by Morales and Servicios Hispanos. The card also contains the statement, "Esta cansado de engaños, llámenos para una Consulta Gratis. Contamos con abogado de inmigración y Criminal". [English translation: "Are you tired of lies? Call us for a free consultation. We have attorneys with specialty in immigration and criminal law."]

7. Morejon provided a copy of a purported Servicios Hispanos fee worksheet dated July 27, 2007. The worksheet offered fee estimates of \$1,510.00 for United States Citizenship and Immigration Services fees and \$1,700.00 of service fees for Servicios Hispanos.

8. ARS § 12-2701(3)(a) and (b) provide:

3. "Unauthorized practice of immigration and nationality law" means:

(a) The act of any person appearing in any case, either in person or through preparation or filing of any brief or other document, paper, application or petition on behalf of another person or client before or with the immigration and naturalization service, or any officer of the immigration and naturalization service, the executive office for immigration review or the board of immigration appeals, without authorization under this chapter.



1 (b) The study of the facts of a case and the applicable laws, coupled with giving advice  
2 and auxiliary activities, including the incidental preparation of papers, without  
3 authorization under this chapter, but does not include the lawful functions of a  
4 notary public, nonprofit organization or service consisting solely of assistance in the  
5 completion of blank spaces on printed immigration and naturalization service forms  
6 by a person whose remuneration, if any, is nominal and who does not hold himself  
7 out as qualified in legal matters or in immigration and naturalization procedure.

8 ARS § 12-2702 defined individuals and entities permitted represent a person desiring  
9 immigration and nationality services:

- 10 • An attorney in the United States
- 11 • A law student enrolled in an accredited university, or law school graduate not yet  
12 admitted to the Bar (with conditions).
- 13 • A person with a connection to the person desiring services, such as a relative, neighbor,  
14 friend; and who has declared in writing they are working for free.
- 15 • A person representing a Bureau of Immigration Appeals (“BIA”) accredited  
16 organization; and if such person is BIA accredited themselves.
- 17 • An accredited governmental official (with conditions).

18 ARS § 12-2702 states:

19 Except as otherwise provided in this section, no other person or persons may represent  
20 others in any case, prepare applications or forms or give any legal advice relating to any  
21 immigration or nationality matters in violation of this chapter.

22 9. On March 31, 2008, Morales and Servicios Hispanos submitted a written response to  
23 the complaint, complying with time line required by ACJA § 7-201(H)(3)(c). Morales’  
24 response noted complainant Morejon is former competitor and, on that basis, that Morales  
25 believed the complaint should be dismissed. Morales provided the requested Spanish-to-  
English translation of the business card presented with the complaint, reported she changed the  
content of the card, and provided a copy of the amended card. Morales’ Spanish to English  
translations of services listed on her business card were, “Family Petitions, Citizenship, Visa V  
Visa K, Labor Certification, Civil Matrimony, Investigation of your case in Immigration,  
Professional Visa, Family Unity, Adjustment, Renewal of Work Permit, Travel and residency,  
NACAR, Visa for Investors (Business Owners) E1-E2, Ministry Visa R-1.” Morales’ response

1 also indicated she has removed the "Contamos con abogado de inmigracion y Criminal"  
2 statement from her new business card noting, "I don't want a consumer or client think (sic) we  
3 might be associated with an attorney or think that we are supervised by one."

4 10. On April 3, 2008, Investigator Posante accessed and reviewed Servicios Hispanos'  
5 website, [www.hispanohelp.com](http://www.hispanohelp.com). The "About Us" page of the website provided biographical  
6 information for Morales and read:

7 Karina Morales is the founder of Servicios Hispanos and she has more than ten years  
8 experience in the Immigration and Naturalization field. Her specialty is family petitions  
9 and all immigration legal services concerning Latin Americans and Hispanic community  
10 of the United States. Presently she provides Labor Certification consultations and visas for  
11 professionals seeking work permits or employment visas such as H-1B or L-1. Her  
12 satisfaction is the accomplishment of the visa requirements of the clients. She is an expert  
13 in availing permanent residence (green card), work permits and travel document (advance  
14 parole). She also provides legal assistance for deportation hearing in collaboration with an  
15 experience immigration attorney.<sup>1</sup>

16 11. On May 3, 2008, Morales provided additional clarification request by Investigator  
17 Posante and confirmed she is the only person who prepares immigration documents for  
18 Servicios Hispanos customers and confirmed neither she nor any other employees of Servicios  
19 Hispanos are Bureau of Immigration Appeals accredited representatives.

20 12. Arizona Codes of Judicial Administration ("ACJA") § 7-201(F)(1) and § 7-208(F)(2)  
21 require all certified legal document preparers to comply with the ACJA § 7-208(J) Code of  
22 Conduct. ACJA § 7-208(J)(5)(a) reads, "A legal document preparer shall perform all duties  
23 and discharge all obligations in accordance with applicable laws, rules court orders."

24 13. Division records reflect Morales is not an attorney admitted to practice in Arizona.

### 25 **FORMAL CHARGES**

14. Morales and Servicios Hispanos violated Arizona Revised Statutes ("ARS") § 12-  
2701 and § 12-2702, ACJA § 7-201(F)(1) and ACJA § 7-208(F)(2) and (J)(5)(a) by offering,

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<sup>1</sup> The website <http://www.hispanohelp.com/>, as of the drafting of this pleading, has been amended and the only viewable content reads, "Website is under construction from October 10, 2010".

1 advertising and providing immigration services without being qualified by law to do so;  
2 constituting grounds for discipline pursuant to ACJA § 7-201(H)(6)(a) and (H)(6)(k)(3).

3 **PROPOSED DISCIPLINARY SANCTIONS**

4 The Board, based on the foregoing factual allegations of misconduct, is seeking the  
5 following disciplinary sanctions pursuant to ACJA § 7-201(H)(24)(a)(6):

- 6 a) Issue a Letter of Concern to Morales and Servicios Hispanos; pursuant to ACJA § 7-  
7 201(H)(24)(a)(6)(a);
- 8 b) Issue a cease and desist order enjoining Morales and Servicios Hispanos from offering,  
9 advertising or providing unauthorized services or services prohibited by law, pursuant to  
10 ACJA § 7-201 (H)(24)(a)(6)(g); and,
- 11 a) Assess costs associated with the investigation and related disciplinary proceedings to be  
12 remitted no later than sixty (60) days following entry of the Board's Final Order,  
13 pursuant to ACJA § 7-201(H)(24)(a)(6)(j).

14  
15 DATED this 18<sup>th</sup> day of February, 2011.

16  
17 

18 Les Krambeal, Chair  
19 Board of Legal Document Preparers

1 An original copy of the foregoing to be served to:

2 Karina Morales  
3 Servicios Hispanos  
4 2215 North 24<sup>th</sup> Street  
Phoenix, Arizona 85008

5 The original copy of the foregoing hand delivered and/or mailed this 10<sup>th</sup> day of February  
6 2011, to:

7 Kevin O. Torrey  
8 10220 North Central Avenue  
Phoenix, Arizona 85020

9 Rex Nowlan  
10 Administrative Law Section  
11 Office of the Attorney General  
15 South 15<sup>th</sup> Avenue, 4<sup>th</sup> Floor  
Phoenix, Arizona 85007

12 Nina Preston, Assistant Counsel  
13 Administrative Office of the Court  
14 1501 West Washington  
Phoenix, Arizona 85007

15 Certification and Licensing Division  
16 Arizona Supreme Court  
1501 West Washington, Suite 104  
Phoenix, Arizona 85007

17  
18 By: Debbie MacDougall  
19 Debbie MacDougall, Programs Specialist  
20 Certification and Licensing Division

21 Y:\COMPLAINT INVESTIGATIONS\OPEN COMPLAINTS\LDP MORALES, KARINA 08-L008\NFC MORALES 08-L008.DOC  
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**FILED**

APR 22 2011

1 The Law Office of Kevin O. Torrey, PLLC  
2 3221 N. 24<sup>th</sup> Street,  
3 Phoenix, Arizona 85016  
4 Kevin O. Torrey, SBN# 022300  
5 (602) 955-0139

DISCIPLINARY CLERK OF THE  
SUPREME COURT OF ARIZONA  
BY: 

6 **BEFORE THE PRESIDING DISCIPLINARY JUDGE**  
7 **OF THE SUPREME COURT OF ARIZONA**

8 IN THE MATTER OF CERTIFIED LEGAL )  
9 DOCUMENT PREPARERS: )

No. LDP-NFC-08-L008

10 KARINA MORALES,  
11 Certificate Number 80255,

**DEFENDANT'S MOTION TO DISMISS**

12 And

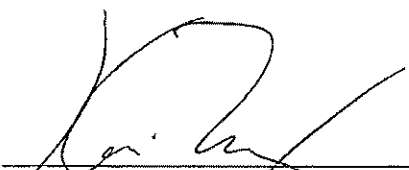
) **Honorable William J. O'Neil**

13 Servicios Hispanos,  
14 Certificate Number 80256.

15 Respondent herein, by and through undersigned counsel, hereby moves the Court,  
16 moves the Court to dismiss this matter with prejudice, on the grounds and for the reason that the  
17 Board of Legal Document Prepares lacks subject matter jurisdiction over the instant matter, and  
18 Respondent is otherwise entitled to the entry of judgment as a matter of law.

19 This Motion is supported by the accompanying Memorandum of Points and Authorities  
20 and all the pleadings of record in this matter, which are incorporated herein by this reference.

21 RESPECTFULLY SUBMITTED this 22<sup>nd</sup> day of April, 2011.

22   
23 \_\_\_\_\_  
24 The Law Office of Kevin O. Torrey, PLLC  
25 3221 N. 24<sup>th</sup> Street,  
26 Phoenix, Arizona 85016  
27 Kevin O. Torrey, SBN# 022300  
28 (602) 955-0139

1 MEMORANDUM OF POINTS AND AUTHORITIES

2 **BACKGROUND FACTS**

3 On July 25, 2007, Ms. Barbara Morejon, entered into a Consent Decree with the State  
4 Bar of Arizona whereby she agreed to cease the unauthorized practice of law.

5 On February 26, 2008, an angry Morejon filed a complaint with the Board of Legal  
6 Document Preparers ("Board") alleging that Respondent Ms. Karina Morales was herself  
7 engaged in the unauthorized practice of law and must therefore also cease to operate her  
8 business, Servicios Hispanos. The Board assigned complaint number 08-L008 to Morejon's  
9 allegation.

10 The matter was then assigned to Board investigator Tony Posante, who conducted a  
11 cursory "investigation", asking Ms. Morales if she prepared legal documents on behalf of  
12 individuals representing themselves before the United States Citizenship and Immigration  
13 Service ("USCIS"). Ms. Morales, a Certified Legal Document Preparer ("CLDP"),  
14 Certification Number 80255, affirmed that she did in fact prepare legal documents, both on her  
15 own and as a representative of her business, Servicios Hispanos, also a CLDP, Certification  
16 Number 80256, for members of the public who were representing themselves before the USCIS.  
17 After a careful review of the applicable statutes and Supreme Court Rules, Posante, who is not  
18 an attorney, prepared an Investigation Summary.

19 Issued on May 7, 2008, the Investigation Summary provided Posante's opinion that  
20 probable cause existed for the Board to take action against the licenses of both Ms. Morales and  
21 Servicios Hispanos.

22 On April 12, 2010, Ms. Linda Grau, Unit Manager for the Board's Certification and  
23 Licensing Division, issued her analysis of the allegations against Ms. Morales. Grau, who is  
24 also not an attorney, concluded that Arizona Revised Statutes §§ 12-2701 and 12-2702 prohibit  
25 Ms. Morales and Servicios Hispanos from providing immigration services.

26 On June 3, 2010, Ms. Nancy Swetnam, Division Director of the Board's Certification of  
27 Licensing Division, issued her review of Grau's findings. Swetnam, who is not an attorney,  
28 concurred with Grau's findings and approved the complaint to be forwarded to the Probable

1 Cause evaluator, recommending a finding that probable cause existed to take action against Ms.  
2 Morales.

3 On July 30, 2010, Mike Baumstark, Probable Cause Evaluator, after having conducted  
4 an independent review of the facts and evidence gathered during the course of the investigation,  
5 issued his decision. Baumstark, who is not an attorney, determined that probable cause existed  
6 to take action against Ms. Morales.

7 On September 27, 2010, the Board reviewed and discussed the complaint at their  
8 regularly scheduled meeting. At that meeting, Les Krambeal, Chairman of the Board, signed on  
9 behalf of the Board an Order adopting the Recommendations of the Division Director and  
10 entering a finding that grounds for formal disciplinary action existed.

11 On October 13, 2010, Grau, on behalf of the Board, issued a letter to Ms. Morales,  
12 indicating that the Board intended to take formal disciplinary action against Ms. Morales. In the  
13 alternative, the letter offered Ms. Morales the opportunity to enter into a Consent Decree that  
14 Grau, who is not an attorney, had prepared, in which Ms. Morales could simply admit to  
15 wrongdoing, pay a fine, and agree to cease and desist from preparing legal documents on behalf  
16 of individuals representing themselves in immigration or naturalization matters.

17 On October 30, 2010, Ms. Morales, through counsel, issued a response to the Board,  
18 indicating her belief that her conduct was legally supported and requesting that the Board enter  
19 into an alternative Consent Decree provided with her response. Ms. Morales received no  
20 response to her offer.

21 Instead, on February 18, 2011, the Board conducted its scheduled public open meeting,  
22 at which Ms. Morales's complaint was to be discussed. Ms. Morales appeared, both personally  
23 and through counsel, and requested to address the Board. The board declined to allow Ms.  
24 Morales to speak. Instead, Grau presented the Investigation Summary and other matters to the  
25 Board, after which the Board voted to take action against Ms. Morales. After entering its vote  
26 and finishing the scheduled calendar, the Board allowed Ms. Morales to comment on the action  
27 it had already taken.

28 On March 8, 2011, Ms. Morales, through counsel, provided her answer to the Board's  
Complaint, requesting that the matter be dismissed.

1 On March 16, 2011, the Presiding Disciplinary Judge issued a Notice of Assignment,  
2 setting the matter for an Initial Case Management Conference on March 31, 2011. At the  
3 conference, Ms. Morales indicated her intent to file a dispositive motion prior to setting the  
4 matter for hearing.

5 The Court, set the matter for hearing as required, but acknowledge that in the event Ms.  
6 Morales timely filed her motion, the hearing date could be moved as required.

## 7 LEGAL ARGUMENT

### 8 I. Regulation of the Practice of Law

9 Article 3 of the Arizona Constitution states that “The powers of the government of the  
10 state of Arizona shall be divided into three separate departments, the legislative, the executive,  
11 and the judicial; and, except as provided in this constitution, such departments shall be separate  
12 and distinct, and no one of such departments shall exercise the powers properly belonging to  
13 either of the others.”

14 Article 6, § 1 of the Arizona Constitution then dictates that “the judicial power shall be  
15 vested in an integrated judicial department.” Since “the practice of law is so intimately  
16 connected and bound up with the exercise of judicial power in the administration of justice ...  
17 the right to define and regulate its practice naturally and logically belongs to the judicial  
18 department.” *Scheehle v. Justices of the Supreme Court of the State of Arizona*, 211 Ariz. 282, at  
19 290, citing *In re Shannon*, 179 Ariz. 52, 876 P.2d 548 (1994). This authority has been  
20 recognized “since the early days of statehood.” *Scheehle v. Justices of the Supreme Court of the*  
21 *State of Arizona*, 211 Ariz. 282, at 290, citing *State Bar of Ariz. v. Ariz. Land Title & Trust Co.*,  
22 90 Ariz. 76, 366 P.2d 1 (1961).  
23  
24

25 As the Arizona Supreme Court has summarily stated, “the practice of law is a matter  
26 *exclusively* within the authority of the Judiciary.” *Hunt v. Maricopa County Employees Merit*  
27 *System; et. al.*, 127 Ariz. 259, at 261, 619 P.2d 1036, at 1038 (1980) (emphasis added). The  
28 plain meaning of this language indicates that neither the Legislative nor Executive branches of  
government have any authority in this area.



1           Therefore, as the Supreme Court stated, “[t]he determination of who shall practice law  
2 in Arizona and under what condition is a function placed by the state constitution in this court.”  
3 *Hunt v. Maricopa county Employees Merit System; et. al.*, 127 Ariz. 259, at 261, 619 P.2d 1036,  
4 at 1038. And in exercise of its regulatory authority, the Supreme Court crafted Rule 31 of the  
5 Arizona Rules of the Supreme Court, appropriately titled “Regulation of the Practice of Law.”

6           Rule 31(a)(1) states that “[a]ny person or entity engaged in the practice of law or  
7 unauthorized practice of law in this state, as defined by these rules, is subject to this court’s  
8 jurisdiction.”

9           **A.     What Constitutes the Practice of Law in Arizona**

10           What constitutes the practice of law in Arizona? According to Rule 31(a)(2)(A),  
11 “Practice of law” means “providing legal advice or services to or for another” in five different  
12 ways. The very first definition of the practice of law, Rule 31(a)(2)(A)(1), comes through the  
13 provision of legal services by “preparing any document in any medium intended to affect or  
14 secure legal rights for a specific person or entity.” As if to stress the importance, Rule 31  
15 reiterates in section (a)(2)(A)(4) that it is considered the practice of law to provide legal services  
16 by “preparing any document through any medium for filing in any court, administrative agency  
17 or tribunal for a specific person or entity.” Clearly, the Supreme Court views the preparation of  
18 legal documents as the practice of law.

19           **B.     Who May Practice**

20           Who, then, has the authority to practice law through the preparation of legal documents?  
21 Rule 31(b) “Authority to Practice” indicates that, “*Except as hereinafter provided in section (d)*,  
22 no person shall practice law in this state ... unless the person is an active member of the state  
23 bar.” (emphasis added) Since the state bar is the regulatory authority governing attorneys in  
24 Arizona, it is therefore clear that no person who is not a lawyer is allowed to prepare legal  
25 documents, that is, unless that person fits into the previously-mentioned section (d) of Rule 31.

26           **C.     Exceptions to the Rule**

27           Rule 31(d), titled “Exceptions”, provides a rather extensive list of exceptions for groups  
28 or individuals to whom the Supreme Court has given a limited exemption from the definition of  
unauthorized practice of law, in effect rendering these exempt groups “authorized” to practice

1 law under the limited circumstances provided in the exception. One of those exceptions, (d)(24),  
2 is of paramount importance to the instant matter.

3 "In January, 2003, the Supreme Court of Arizona, by administrative order, adopted a  
4 new section to the Code of Judicial Administration, Section 7-208, and established the Legal  
5 Document Preparer Program." *Sobol v. Alarcon*, 212 Ariz. 315, at 316, 131 P.3d 487, at 488.  
6 Pursuant to this same section, 7-208(D)(4), the Board of Legal Document Preparers was created  
7 in order to regulate the newly-established program. *Id.*

8 In ACJA § 7-208(c), titled "Purpose", the Court provides the rationale behind the  
9 creation of the new profession, but not before first reiterating that "[t]he supreme court has  
10 inherent regulatory power over all persons *providing legal services* to the public, regardless of  
11 whether they are lawyers or nonlawyers." (emphasis added) It serves no purpose to make  
12 reference to the authority over the provision of legal services by nonlawyers in the section  
13 creating the Legal Document Preparer Program unless the Supreme Court recognizes that the  
14 work to be performed by Legal Document Preparers necessarily constitutes "legal services"  
15 through the preparation of legal documents as defined in Rule 31.

16 In fact, the Court's stated "Purpose" addressed the issue of legal services directly. "The  
17 court recognizes ... that the need to protect the public from possible harm caused by nonlawyers  
18 providing legal services must be balanced against the public's need for access to legal services."  
19 Accordingly, § 7-208 was intended to "Protect the public through the certification of legal  
20 document preparers to ensure conformance to the highest ethical standards and performance of  
21 responsibilities in a professional and competent manner."

22 The services of a lawyer are often prohibitively expensive. Unfortunately, it is  
23 impossible to conduct any legal dispute without the use of legal documents, at the very least a  
24 complaint or an answer. Until the creation of the Legal Document Preparer Program,  
25 individuals engaging in self-representation would have no one to assist in the preparation of any  
26 documents unless that person could afford the services of a lawyer, because anyone else  
27 desiring to assist such a person would be prohibited from doing so, because their assistance  
28 would constitute the practice law.

1           Such a regulatory regime hampers the efficiency of the legal process as a whole. Lay  
2 parties without legal training often find it difficult to narrow down the legal issues in their  
3 matters or to cite to the relevant legal authority to resolve those issues. This makes it difficult  
4 for these parties to protect their rights in their legal matters. In addition, the courts are then  
5 placed in the position of having to decipher the intentions of the parties before they can begin to  
6 consider the merits of the claims, which can create a set of issues in its own right.

7           The Legal Document Preparer Program solves both of these problems.

8           **D.     Exemption (d)24 - Legal Document Preparers**

9           The passage of ACJA § 7-208 was incomplete standing alone. While the purpose of  
10 § 7-208 was clear, the Supreme Court recognized that a potential conflict existed between the  
11 Rule 31 prohibition against the preparation of legal documents by anyone not admitted to the  
12 State Bar of Arizona and the newly-granted authority of Legal Document Preparers to do  
13 exactly that. To resolve the conflict, on January 16, 2003, the Supreme Court issued  
14 Administrative Order No. 2003-14, which noted that “Rule 31, Rules of the Supreme Court,  
15 provides for the regulation and discipline of persons engaged in the practice of law, and  
16 provides exceptions where nonlawyers who have not been admitted to the State Bar of Arizona,  
17 may perform special legal services.”

18           The Order further states that “Legal document preparers are nonlawyers who prepare or  
19 provide legal documents, without the supervision of an attorney for an entity or a member of the  
20 public who is engaging in self representation in any legal matter.”

21           Therefore, in recognition of the obvious conflict between the Rule 31 prohibition against  
22 the preparation of legal documents by anyone not admitted to the State Bar of Arizona and the  
23 newly-granted authority of Legal Document Preparers to prepare those legal documents, the  
24 Order points out that “[t]he State Bar of Arizona filed a Rule 28 petition proposing an  
25 amendment to Rule 31 to provide an additional exception, *to permit legal document preparers*  
26 *to perform specified legal services.*” (emphasis added)

27           That amendment became the exemption listed in Rule 31(d)(24), which states that  
28 “Nothing in these rules shall prohibit a certified legal document preparer from performing

1 services in compliance with Arizona Code of Judicial Administration, Part 7, Chapter 2, Section  
2 7-208.”

3 In summary, Legal Document Preparers are exempt from the prohibition against non-  
4 attorneys preparing legal documents on behalf of those who are representing themselves, so  
5 long as their conduct falls within the grant of authority outlined in ACJA § 7-208.

6 **E. Authority Granted Under § 7-208**

7 ACJA § 7-208(F)(1), titled “Authorized Services”, states that “A certified legal  
8 document preparer is authorized to: (1) Prepare or provide legal documents, without the  
9 supervision of an attorney, for an entity or a member of the public *in any legal matter* when that  
10 entity or person is not represented by an attorney.” (emphasis added) The grant does not  
11 authorize action in “certain” legal matters or in “designated” legal matters. The grant of  
12 authority is both broad and specific – legal document preparers may provide their authorized  
13 services in *any legal matter*.

14 **F. Conclusion**

15 In creating the exemption contemporaneously with the creation of the Legal Document  
16 Preparers Program, the Supreme Court addressed the fact that ACJA § 7-208 created a group of  
17 professionals whose authorized services would otherwise have been prohibited under Rule 31.  
18 Exemption (d)(24), is very clear regarding exactly what factors might be construed to limit in  
19 some way the authority the Supreme Court was granting to Legal Document Preparers –  
20 “Nothing in these rules”.

21 Legal Document Preparers may prepare or provide legal documents in *any* legal matter.

22 **II. The Immigration & Nationality Law Practice Act**

23 In the instant matter, the Board alleges that Ms. Morales has engaged in the  
24 “unauthorized practice of immigration and nationality law” as that term is defined in A.R.S. §  
25 12-2701 and § 12-2702 of the Immigration and Nationality Law Practices Act (“INA”). The  
26 Board’s allegation suggests that preparing legal documents on behalf of those engaged in self-  
27 representation in matters involving immigration is somehow different from preparing legal  
28 documents on behalf of those engaging in self-representation in other legal matters, as if A.R.S.  
§ 12-2701 and §12-2702 created a subdivision of legal practice over which the Legislature had

1 jurisdiction and over which the Supreme Court's power to regulate the practice of law did not  
2 apply.

3         The language of § 12-2701 and §12-2702 makes it clear that practice in the area of  
4 immigration law is not open to practice by the general public any more than any other area of  
5 law is open to practice by the general public. But did the Legislature intend to make the practice  
6 of immigration law a separate entity from the practice of all other types of law, subject to its  
7 own rules and procedures? To answer that, it is necessary to understand the history and purpose  
8 of the statute at issue. As the Supreme Court has stated, "In construing [a] statute, endeavors  
9 should be made to trace the history and legislation on the subject in order to ascertain the  
10 consistent purpose of the legislation." *State ex. rel. Larson v. Farley*, 106 Ariz. 119, at 122, 471  
11 P.2d 731, at 734. The history behind the INA and § 12-2701 and § 12-2702 is well-  
12 documented.

13         During the late 1980's and early 1990's, Arizona was plagued with a rash of frauds  
14 committed by individuals acting as "immigration consultants". Many of these individuals were  
15 commissioned notaries public who advertised their services using the term "notario", which in  
16 civil law countries is synonymous with "attorney". *Notorious Notaries – How Arizona is*  
17 *Curbing Notario Fraud in the Immigrant Community*, 32 Ariz. St. L.J. 287, (2000). Immigrants  
18 from Latin American countries often hired these consultants under the mistaken belief that they  
19 were licensed attorneys.

20         In an effort to combat this wave of fraud, in 1993, the Arizona Legislature passed the  
21 Immigration and Nationality Law Practices Act, with the stated purpose to "prevent the  
22 unauthorized practice of immigration and nationality law *by nonlawyers who hold themselves*  
23 *out as immigration consultants* rendering services in immigration, nationality or citizenship  
24 matters." *Id.* (emphasis added).

25         By its own wording, the INA was intended to prevent the unauthorized practice of law  
26 by "nonlawyers who hold themselves out as immigration consultants". The statute was aimed  
27 at those using the title of "notario" to mislead the public, not at those who otherwise are  
28 authorized to provide legal services. The Board's assertion that the definition is somehow

1 intended to prevent certified legal document preparers from practicing in the area of  
2 immigration lacks historical foundation.

3 **A. Conflicting statutes**

4 According to the Board, the Legislature intended for the practice of law in immigration  
5 matters to be different from the practice of law in any other legal matter. The Board's argument  
6 rests solely upon the fact that the specific wording used to define the "practice of law" in Rule  
7 31 is not simply plagiarized in the INA definition of "unauthorized practice of immigration and  
8 nationality law". Simply stated, if the INA definition of "unauthorized practice" contains no  
9 (d)(24) exception for document preparers, this proves that the Legislature intended that certified  
10 legal document preparers have no authority in immigration matters. However, the Board's  
11 interpretation of the Legislature's intent is at odds not just with history, but with traditional rules  
12 of statutory interpretation as well.

13 As the Supreme Court has stated, it is a fundamental rule of statutory construction that  
14 "the court may look to prior and contemporaneous statutes in construing the meaning of a  
15 statute which is uncertain and on its face susceptible to more than one interpretation. If  
16 reasonably practical, a statute should be explained in conjunction with other statutes to the end  
17 that they may be harmonious and consistent." *State ex. rel. Larson v. Farley*, 106 Ariz. 119, at  
18 122, 471 P.2d 731, at 734.

19 It is reasonably practical in the instant matter to construe § 12-2701 and § 12-2702 in  
20 harmony with Rule 31 by simply acknowledging that the INA was passed to deal with the  
21 problem of nonlawyers defrauding the public by using the name "notario". Support for this  
22 proposition comes from the fact that, whereas the unauthorized practice of law in any other  
23 context is purely a civil infraction, § 12-2703 criminalizes violations of the INA. And it is the  
24 element of "fraud" present in the practice by "notarios" which elevates the unauthorized  
25 practice of law within the INA context to the level of a crime.

26 Taken in the proper historical context, it is clear that the Legislature was not creating a  
27 new statute for the purpose of excluding legal document preparers from providing assistance to  
28 those representing themselves in immigration matters. The Legislature was dictating that those  
who attempt to lure immigrants from civil law countries into retaining them as "immigration

1 consultants” by using the term “notario” are not merely practicing an unauthorized profession,  
2 they are committing a crime.

3 The Board’s argument that the definitional statutes of the INA were intended to create a  
4 whole new area of law to which the Supreme Court’s definition of practice would not apply  
5 lacks historical, constitutional, or even logical support.

6 **B. Statutory construction**

7 It should be further remembered that where statutes claimed to be at odds with one  
8 another “relate to the same subject or have the same general purpose – that is, statutes which are  
9 in pari material – they should be read in connection with, or should be construed together with  
10 other related statutes, as though they constituted one law.” *Id.* It is inescapable that the new  
11 INA definitional statutes relate to the same subject matter as Rule 31. It is therefore logically  
12 consistent with the Supreme Court’s guidance that they be read together with Rule 31 as though  
13 they constituted one law.

14 Furthermore, the Board’s interpretation of the new INA statutes relies on the literal  
15 wording of the definition of “unauthorized practice” to argue the Legislature’s intent that the  
16 two definitions should be at odds. But the Supreme Court says that this approach is incorrect.  
17 “As they must be construed as one system governed by one spirit and policy, the legislative  
18 intent therefore must be ascertained not alone from the literal meaning of the wording of the  
19 statutes but also from the view of the whole system of related statutes.” *Id.* In the instant  
20 matter, in order to construe the legislative intent behind the INA definitional statutes, it is  
21 undeniable that the “whole system of related statutes” includes Rule 31.

22 Finally, it must also be remembered that “[t]his rule of construction applies even where  
23 the statutes were enacted at different times, and contain no reference one to the other, and it is  
24 immaterial that they are found in different chapters of the revised statutes.” *Id.*

25 To read the two INA definitional statutes as creating a new definition of the practice of  
26 law creates a disharmony between the INA and Rule 31 by denying certified legal document  
27 preparers the authority granted them in ACJA § 7-208 and through the exception in Supreme  
28 Court Rule 31(d)(24). In creating disharmony, the Board’s position goes against the direction  
of the Supreme Court and therefore fails.

1           **C.     Separation of powers, revisited**

2           There exists another flaw in the Board's argument that the conflict in wording between  
3 the INA definition of "unauthorized practice of immigration and nationality law" and the Rule  
4 31 definition of "practice of law" arises as a result of the intent of the Legislature to make  
5 immigration and nationality law a separate subsection of law over which the Supreme Court  
6 lacked authority. Such an action would violate the Arizona Constitution.

7           As stated previously, this issue was settled more than thirty years ago, when the  
8 Supreme Court stated, "[t]he determination of who shall practice law in Arizona and under what  
9 condition is a function placed *by the state constitution* in this court." *Hunt v. Maricopa county*  
10 *Employees Merit System; et. al.*, 127 Ariz. 259, at 261, 619 P.2d 1036, at 1038 (1980).  
11 (emphasis added) And since Article 3 of the Arizona Constitution admonishes that "no one of  
12 such departments shall exercise the powers properly belonging to either of the others," to the  
13 extent that the Legislature attempted to circumvent the requirements of the constitution by  
14 enacting the INA and § 12-2701 and § 12-2702, the statute can not pass constitutional muster,  
15 because "[t]he legislature may not enact a statute which is in conflict with a provision of the  
16 Constitution." *Harris v. Maehling*, 112 Ariz. 590, at 591, 545 P.2d 47, at 48 (1976). The  
17 practice of law simply cannot be regulated by the Legislature. Any attempt to create an area of  
18 law over which the Supreme Court lacks authority to determine who may practice law and  
19 under what conditions is unconstitutional and void.

20           It is, after all, undeniable that in order to accuse Ms. Morales of engaging in the  
21 unauthorized practice of law, the Board is bound by the admission that the conduct it alleges  
22 constitutes the practice of law, which "is a matter *exclusively* within the authority of the  
23 Judiciary." *Hunt v. Maricopa county Employees Merit System; et. al.*, 127 Ariz. 259, at 261, 619  
24 P.2d 1036, at 1038 (1980) (emphasis added).

25           Therefore, the definition of practice of law provided in Rule 31 is the *only* definition.  
26 The exemption listed in Rule 31(d)(24), specifically states that "*Nothing* in these rules shall  
27 prohibit a certified legal document preparer from performing services in compliance with  
28 Arizona Code of Judicial Administration, Part 7, Chapter 2, Section 7-208." (emphasis added)



1 And § 7-208 specifically authorizes Legal Document Preparers to “Prepare or provide legal  
2 documents ... *in any legal matter.*”

3 Therefore, to the extent that immigration and nationality law services constitute the  
4 practice of “immigration and nationality law”, these services must be provided either by an  
5 attorney, or by an individual or entity that has been granted an exception from the prohibition  
6 against the unauthorized practice of law as defined in Rule 31. Notaries public do not have such  
7 an exception. Certified legal document preparers do. The assistance of CLDPs in preparing  
8 these immigration applications is therefore privileged under Rule 31.

9 **III. Definitional Statutes**

10 In the instant matter, the Board alleges that Ms. Morales violated § 12-2701 and § 12-  
11 2702 of the INA. INA § 12-2701 is titled “Definitions”. INA § 12-2702 is titled  
12 “Representation; definition”.

13 The Board claims that Ms. Morales has engaged in conduct that violates the definition of  
14 “unauthorized practice of immigration and nationality law”, as that term is used within the INA.  
15 As the Court is aware, the definition of “unauthorized practice of immigration and nationality  
16 law” provided in § 12-2701 applies only to those statutes *within the INA itself* that use that term.  
17 There is only one - § 12-2703. So, in order for Ms. Morales to engage in conduct in violation of  
18 that definition, she must violate that term as it used in § 12-2703. But the Board makes no  
19 allegation that Ms. Morales has violated that statute, and by themselves, § 12-2701 and § 12-  
20 2702 contain no prohibitions regarding conduct. They simply define terms used elsewhere. To  
21 the extent that the complaint alleges a violation of either § 12-2701 or § 12-2702 or both, there  
22 is simply nothing to refute.

23 **IV. Jurisdiction**

24 While jurisdictional arguments typically appear as foundational arguments, in this  
25 matter, the jurisdictional arguments required substantial contextual background. Hence they  
26 appear at the end of the instant motion.

27 There exist two separate and distinct bases for contesting jurisdiction in this matter: the  
28 Board’s lack of subject matter jurisdiction in general and the exclusive reservation of subject  
matter jurisdiction to another agency.

1           **A.     The Board's Subject Matter Jurisdiction**

2           As previously noted, to the extent that the Board alleges violations of § 12-2701 and §  
3 12-2702, there is simply nothing to refute. However, if the Board were inclined to argue that  
4 the allegation that Ms. Morales violated § 12-2701 and § 12-2702 should lead to the *implication*  
5 that she violated § 12-2703, and that Ms. Morales should therefore stand accused of violating  
6 that statute as well, then the Board deprives itself of authority to act in conjunction with the  
7 allegation.

8           It is not subject to dispute that the Board has administrative oversight of the licensure  
9 process for legal document preparers. But the authority of the Board is strictly limited to the  
10 enumerated powers in its enabling statute, the Arizona Code of Judicial Administration  
11 ("ACJA"), § 7-208. And § 7-208 contains no statutory provision giving it subject matter  
12 jurisdiction over any alleged violation of the INA. Why? Because as § 12-2703(e) points out,  
13 "A person who violates this chapter is guilty of a class 6 felony." By its own wording, the INA  
14 is a *criminal* statute, intended to prevent the unauthorized practice of law by "nonlawyers who  
15 hold themselves out as immigration consultants". The statute was aimed at criminals using the  
16 title of "notario" to mislead the public, not at those who otherwise are authorized to provide  
17 legal services. Violations of the INA are criminal, rather than civil or administrative, matters.

18           Enforcement of the law in general, and the INA in this particular instance, is a function  
19 of the Executive branch of government, reserved in the Arizona Constitution to the office of the  
20 Governor through the various law enforcement agencies of the State. Nowhere in the ACJA is  
21 the Board, or any other administrative agency for that matter, given the power to prosecute  
22 alleged violations of the Arizona Revised Statutes.

23           Therefore, even if the Complaint is somehow interpreted to allege a violation of § 12-  
24 2703, which it explicitly does not do, the Board nonetheless lacks any authority to prosecute the  
25 matter because it lacks subject matter jurisdiction over alleged criminal violations.

26           **B.     Enforcement Authority of § 12-2703**

27           Even if the Court were to somehow believe that the Board had authority to pursue  
28 criminal matters in general, the Board would nonetheless lack jurisdiction over the instant

1 criminal matter, because as A.R.S. § 12-2703(C) clearly indicates, "The attorney general shall  
2 institute appropriate proceedings to prevent or to stop violations of this chapter."

3 It could not be clearer that alleged violations of the INA are under the *exclusive*  
4 jurisdiction of the Attorney General.

5 The Board suggests that it has personal jurisdiction over Ms. Morales because she has a  
6 license over which the Board has authority. This is true. The Board then suggests that it may  
7 derive subject matter jurisdiction over the instant allegations by virtue of the potential impact of  
8 the instant allegations on Ms. Morales's license. This is not true. The Board can not usurp INA  
9 enforcement authority from the Attorney General on the basis that Ms. Morales has a license  
10 over which the Board has jurisdiction. If that were the case, the MVD would have authority to  
11 enforce violations of the INA as well, as long as the alleged violator were licensed to drive.  
12 And the State Board of Nursing would have authority to enforce the provisions of the INA as  
13 long as the alleged violator had an active nursing license.

14 The Attorney General was granted exclusive authority to enforce alleged violations of  
15 the INA. Since the instant complaint was not initiated by the Attorney General, it must be  
16 dismissed, immediately and with prejudice.

17 **1. The punishment problem**

18 Even if the Board were to somehow try to undertake a prosecution of § 12-2703 (which  
19 the Court will remember has not been alleged), any such attempt would be a course fraught with  
20 peril.

21 To begin with, the penalties provided for a violation of § 12-2703(C) are set out in § 12-  
22 2703(E): "A person who violates this chapter is guilty of a class 6 felony." Assuming the  
23 instant violation of the INA to be a first offense, the penalties for a class 6 felony are found in  
24 A.R.S. § 13-702. Assuming at least two mitigating factors listed in § 13-701(E) are present, the  
25 mitigated term of .33 years in the Arizona Department of Corrections ("ADOC") would be  
26 available to Ms. Morales. The presumptive penalty would be 1 year in ADOC, and if the Court  
27 were to find beyond a reasonable doubt that at least two of the aggravating factors found in  
28 A.R.S. § 13-701(D) were present, the maximum sentence of 2 years would be possible.

1 Obviously, since the Board has no authority to impose a term of imprisonment, the  
2 penalties prescribed in § 12-2703 can not be imposed. It would be equally silly to discuss the  
3 potential terms of probation and community service, since these are equally beyond the Board's  
4 authority.

5 Therefore, even if the Board were to somehow exert authority to pursue the instant  
6 allegations, it would be illogical to do so, since the penalties prescribed by law for felony  
7 offenses are beyond the authority of the Board to impose, and the penalties the Board intends to  
8 impose are statutorily unavailable as penalties for criminal violations.

9 It makes no sense to pursue allegations when there exists no avenue to the Board to  
10 impose any sanctions in conjunction with any finding of wrongdoing.

## 11 2. The burden of proof and other issues

12 In the same vein, an attempt to pursue criminal allegations within a civil or  
13 administrative context raises yet another set of issues involving the differences between the  
14 criminal and administrative systems. What would be the appropriate burden of proof? Would  
15 Ms. Morales be allowed to exert her privilege against self-incrimination under the Fifth  
16 Amendment and refuse to testify? Should Ms. Morales have been provided with counsel  
17 pursuant to the Sixth Amendment? Can Ms. Morales's statements made to the Board's  
18 investigator be suppressed as an unlawful confession, given that she is obligated to cooperate  
19 with the Board's investigation? Should Ms. Morales be guaranteed the right to a speedy trial,  
20 with time constraints appropriate under Rule 8 of the Arizona Rules of Criminal Procedure?  
21 Should any hearing in this matter be conducted pursuant to those rules as well?

22 All of these are fair questions considering that § 12-2703 is a criminal statute outlining  
23 criminal conduct.

## 24 C. Summary

25 The statutes upon which the Board bases its allegations against Ms. Morales are merely  
26 definitional in nature and by themselves contain no proscriptions against any conduct, leaving  
27 Ms. Morales with nothing against which she must defend. And to the extent that these statutes  
28 imply a violation of § 12-2703, such an allegation is improper. The INA is a criminal statute,  
and not only does the Board lack authority to prosecute criminal violations in general, the

1 criminal violations enumerated in § 12-2703 are under the exclusive authority of the Attorney  
2 General.

3 In addition, it is impossible to prosecute this criminal statute within a civil or  
4 administrative proceeding since the penalties prescribed for violations of criminal statutes are  
5 beyond the authority of the Board to implement, and the punishments the Board would  
6 otherwise impose are not available to criminal defendants.

7 **CONCLUSION**

8 Because applications prepared in the area of immigration and nationality law are  
9 intended to secure the rights of individuals, they are by definition legal documents. Certified  
10 Legal Document Preparers have the authority to prepare or provide those documents in  
11 conjunction with immigration (and *any* other) matters.


12 Ms. Morales admits that she has prepared documents on behalf of individuals who were  
13 engaged in self-representation before the United States Citizenship and Immigration Service. In  
14 so doing, Ms. Morales acted at all times entirely within the scope of the "Authorized Services"  
15 outlined in ACJA § 7-208(F), conduct which is specifically exempted from the definition of the  
16 practice of law. For these reasons, (and many others), there exists no cause for disciplinary  
17 action.

18 This matter must be dismissed - with prejudice.  
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FILED

MAY 09 2011

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DISCIPLINARY CLERK OF THE  
SUPREME COURT OF ARIZONA  
BY 

6 **BEFORE THE PRESIDING DISCIPLINARY JUDGE**  
7 **OF THE SUPREME COURT OF ARIZONA**

8 IN THE MATTER OF CERTIFIED  
9 LEGAL DOCUMENT PREPARERS:

No. LDP-NFC-08-L008

10 KARINA MORALES,  
11 Certificate Number 80255,

FACTUAL STIPULATION

12 And ...


Honorable William J. O'Neil


13 Servicios Hispanos,  
14 Certificate Number 80256.

15 On May 4, 2011, the Court conducted a telephonic conference with the parties.  
16 The parties agreed that the instant matter presented no legitimate dispute regarding the  
17 material underlying facts. Therefore, the parties agreed to present to the Court a set of  
18 stipulated facts. Based upon the proposal, the Court vacated the previously-scheduled  
19 hearing date of May 9, 2011.

20 The parties hereby present the proposed stipulation for the Court's consideration  
21 in making its determination in the instant matter.

22 RESPECTFULLY SUBMITTED this 9<sup>th</sup> day of May, 2011.

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**STIPULATION OF FACTS**

1. In January 2003, the Supreme Court of Arizona, by administrative order, adopted a new section of the Arizona Code of Judicial Administration (“ACJA”), Section 7-208, which established the Legal Document Preparer Program.

2. The Board of Legal Document Preparers was created pursuant to ACJA, § 7-201 for the purpose of overseeing the Legal Document Preparer Program.

3. On January 16, 2003, the Supreme Court of Arizona issued Administrative Order No. 2003-14, which created an exemption to the definition of the “practice of law” under Rule 31 for certified legal document preparers, which later became Rule 31(d)(24).

4. Karina Morales is a Certified Legal Document Preparer, Certificate Number 80255, granted July 1, 2003.

5. Karina Morales is the owner and operator of Servicios Hispanos, an Arizona Limited Liability Company, which is also a Certified Legal Document Preparer, Certificate Number 80256, granted July 1, 2003.

6. Since initial certification, the certifications of both Ms. Morales and Servicios Hispanos have been renewed without interruption.

7. The certifications of both Ms. Morales and Servicios Hispanos are currently in good standing and are valid through June 30, 2011.

8. Ms. Morales and Servicios Hispanos prepare applications on behalf of individuals who are representing themselves in matters before the United States Immigration and Citizenship Service.

9. On February 26, 2008, the Board of Legal Document Preparers (“Board”) received a complaint from Barbara Morejon involving Ms. Morales and Servicios Hispanos.

10. On February 18, 2011, the Board issued a Notice of Formal Statement of Charges and Right to Hearing, alleging that Ms. Morales and Servicios Hispanos violated Title 12, Chapter 18, Arizona Revised Statutes, the Immigration and Nationality Law Practice Act, and ACJA § 7-201(F)(1), 7-208(F)(2), 7-208(J)(5)(a), by advertising and providing

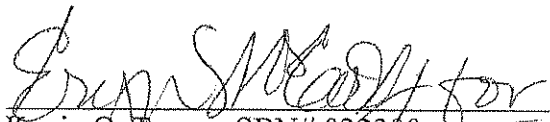
1 immigration services without being qualified by law to do so; constituting grounds for  
2 discipline pursuant to ACJA § 7-201(H)(6)(a) and (H)(6)(k)(3).

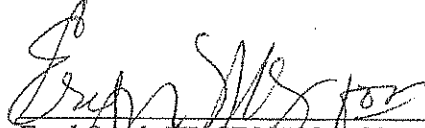
3 11. On March 8, 2011, Ms. Morales and Servicios Hispanos filed their Answer and  
4 requested a hearing.

5 12. The Board has authority to hear this complaint, pursuant to the Arizona Code of  
6 Judicial Administration, § 7-201(D)(5).

7 13. The Board has personal jurisdiction over Ms. Morales in her individual capacity as  
8 a Certified Legal Document Preparer.

9 RESPECTFULLY SUBMITTED this 9<sup>th</sup> day of May, 2011.

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OFFICE OF THE  
PRESIDING DISCIPLINARY JUDGE  
SUPREME COURT OF ARIZONA  
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14 **BEFORE THE PRESIDING DISCIPLINARY JUDGE**  
15 **OF THE SUPREME COURT OF ARIZONA**

16 IN THE MATTER OF CERTIFIED LEGAL  
17 DOCUMENT PREPARERS:

No. LDP-NFC-08-L008

18 **KARINA MORALES,**  
19 Certificate Number 80255

**RESPONSE TO MOTION TO DISMISS**

20 And

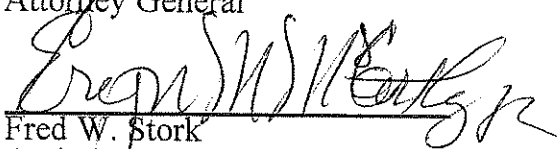
(Assigned to Hon. William J. O'Neil,  
Presiding Disciplinary Judge)

21 **SERVICIOS HISPANOS**  
22 Certificate Number 80256.

23 The Legal Document Preparer Program (the "Program"), for the reasons stated in the  
24 attached Memorandum, respectfully requests that the Certificate Holders' Motion to  
25 Dismiss be denied.

26 RESPECTULLY SUBMITTED this 12th day of May, 2011.

THOMAS C. HORNE  
Attorney General

  
Fred W. Stork  
Assistant Attorney General

1 MEMORANDUM OF POINTS AND AUTHORITIES

2 **BACKGROUND**

3  
4 The statement of "Background Facts" appearing on pages 2, 3 and 4 of the  
5 "Memorandum of Points and Authorities" accompanying the Motion to Dismiss states  
6 accurately the facts relevant to this matter. Included, hereafter is additional information to  
7 place this case in historical context.  
8

9 Although the Arizona Constitution vests in the Supreme Court the ultimate authority  
10 to determine who will be admitted to the practice of law in Arizona, the Court has shown  
11 considerable deference to the right of the Legislature to enact legislation to provide  
12 qualifications for admission to practice law. For example, the Legislature has the right to  
13 specify qualifications for admission to the bar. *In re Miller*, 29 Ariz. 582, 244 P. 376  
14 (1926); the Legislature may provide qualifications for admission to practice law. *In re*  
15 *Bailey*, 30 Ariz. 407, 278 P. 371 (1926); and the Legislature may prescribe minimum  
16 qualifications which must be possessed by attorneys and courts will require all applicants  
17 for admission to the bar to comply with the legislative conditions. *In re Greer*, 52 Ariz.  
18 385, 81 P.2d 96 (1938).  
19  
20

21 In 1993, the Legislature enacted the Immigration and Nationality Law Practice Act  
22 (A.R.S. §§ 12-2701- 12-2704)("INA"), which established qualifications for, and imposed  
23 limitations on, the practice of immigration and nationality law in Arizona.  
24  
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1 In 2003, the Supreme Court amended Rule 31 and promulgated the Arizona Code of  
2 Judicial Administration ("ACJA") which, pertinent to this matter, authorized individuals and  
3 business entities that obtained certification from the Board of Legal Document Preparers to  
4 engage in the limited practice of law in Arizona as certified legal document preparers.  
5

### 6 ARGUMENT

7 **1. Certificate Holders violated the ACJA by failing to meet the specific**  
8 **qualifications required to prepare immigration and naturalization documents**  
9 **under A.R.S. §12-2702(A)(1-5).**

10 In this case, Certificate Holders have been charged by the Board of Legal Document  
11 preparers with violating the Code of Conduct, ACJA §2-708(J)(5)(a) because they do not  
12 meet the qualifications under A.R.S. §12-2702(A)(1-5) to prepare legal documents relating  
13 to immigration and naturalization matters. They have not been charged with the  
14 unauthorized practice of law or for exceeding their authority as certified legal document  
15 preparers. Specifically, A.R.S. §12-2702(A)(1-5) sets out the requirements for which an  
16 individual/entity must qualify in order to "represent" persons in immigration and  
17 naturalization matters, including the preparation of legal documents. Certificate Holders do  
18 not meet any of the qualifications listed – regardless of whether they are certified legal  
19 document preparers under the ACJA or not. Certificate Holders make no argument in  
20 their Motion to Dismiss that they do meet those qualifications. Rather, they simply assert  
21 that because they are certified under the ACJA to prepare legal documents generally, they  
22 cannot be disciplined for violating the Code of Conduct under ACJA §7-208(J)(5)(a) for  
23 preparing legal documents under the INA. Their arguments are misguided.  
24  
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1 The INA and the ACJA must and can be read in harmony. See *Weitekamp v.*  
2 *Fireman's Fund Insurance Co.*, 147 Ariz. 274, 275-276, 709 P.2d 908, 909-910 (App.  
3 1985). Longstanding principles of statutory interpretation dictate that when a specific  
4 provision of law (i.e, INA's that only individuals who meet certain qualifications may  
5 prepare legal documents concerning immigration and nationality matters) conflicts with a  
6 general provision of law (Rule 31 and the ACJAs grant of authority to certified legal  
7 document preparers that they can prepare legal documents), the specific provision controls  
8 over the general provision. See e.g., *Desert Waters Inc. v. Superior Court*, 91 Ariz. 163,  
9 171, 370 P.2d 652-658 (1962). In this case, while the ACJA permits Certificate Holders to  
10 generally prepare legal documents, that authority must be taken into context by the specific  
11 provisions of the INA that place enumerated qualifications on those who prepare  
12 immigration and naturalization legal documents. Again, Certificate Holders do not meet  
13 those qualifications.  
14  
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17 **2. This matter may not be dismissed based on an assertion that an underlying**  
18 **statute is unconstitutional.**

19 Certificate Holders request that the present disciplinary action be dismissed for the  
20 reason that the INA violates the Separation of Powers Doctrine embodied in Article 3 of the  
21 Arizona Constitution. As a result, they contend that they, as certificated legal document  
22 preparers, cannot violate the INA, and accordingly, should not be subject to discipline by  
23 the Board. They are wrong.  
24  
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26

1           When deciding whether Certificate Holders are subject to disciplinary action under  
2 the ACJA for violating the INA, neither the Office of the Disciplinary Judge nor the Board  
3 of Legal Document Preparers has judicial or other authority to decide whether the INA  
4 violates the Separation of Powers Doctrine in Article 3 of the Arizona Constitution and if so,  
5 dismiss the disciplinary matter. Certificate Holders make no credible argument to the  
6 contrary.  
7

8           ACJA §7-201(D)(5)(c)(1)(g) provides that the Board of Legal Document Preparers  
9 shall:

10                       Make all final decisions regarding alleged acts of misconduct or  
11 violations of the statutes, court rules, or applicable sections of  
12 the ACJA by applicants, certificate holders or non-certificate  
13 holders pursuant to subsections (H)(24) and (H)(25). The board  
14 has the final decision on the disposition of a complaint and may  
15 take any action pursuant to subsection (H) (24), regardless of the  
16 recommendations of the division director or hearing officer.

17           When considering and deciding whether a certificate holder has violated a stated  
18 provision of law, which in turn, is a violation of ACJA §7-208(J)(1)(a)(6), the Board's  
19 authority is limited to determining whether a certificate holder has engaged in conduct that  
20 has violated a statute or other provision of law [ACJA §7-201(H)(24)]. The Board's  
21 authority is not extended to determining the constitutionality of the statute that a certificate  
22 holder allegedly has violated. The determination of the constitutionality of a statute that a  
23 certificate holder is charged with violating is reserved to the courts under their exercise of  
24 the judicial power of the State. In this case, unless and until the INA provisions at issue in  
25 this case are deemed unconstitutional by a court, discipline in this matter is within the  
26

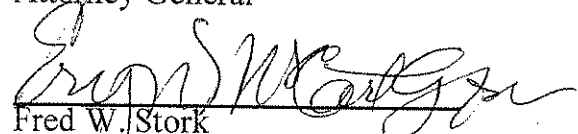
1 purview the Board's grant of authority. Likewise, the function of a hearing officer assigned  
2 by the Office of the Disciplinary Judge is to make a recommendation to the Board after  
3 conducting a hearing. The recommendation is based "exclusively on the matters officially  
4 noticed and the evidence [on those matters] presented." ACJA §7-201(H)(22)(b).  
5 Accordingly, There is no authority for the assigned hearing officer to dismiss a disciplinary  
6 matter based on the alleged unconstitutionality of an underlying statute.  
7

8 **CONCLUSION**

9 For the reasons set forth above, Certificate Holders' motion to dismiss should be  
10 denied.  
11

12 RESPECTULLY SUBMITTED this 12th day of May, 2011.

13 THOMAS C. HORNE  
14 Attorney General

15   
16 Fred W. Stork  
17 Assistant Attorney General

18 **ORIGINAL** filed this 12<sup>th</sup>  
19 day of May, 2011, with:


20 Disciplinary Clerk  
21 Office of Presiding Disciplinary Judge  
22 State Courts Building  
23 1501 West Washington, Suite 102  
24 Phoenix, Arizona 85007-3231

25 **COPY** hand-delivered this  
26 12<sup>th</sup> day of May, 2011 to:

27 Hon. William J. O'Neil  
28 Presiding Disciplinary Judge  
29 1501 West Washington  
30 Phoenix, Arizona 85007-3231

1 **COPY** mailed this 12<sup>th</sup>  
day of May, 2011 to:

2  
3 Kevin O. Torrey  
4 The Law Office of Kevin O. Torrey, PLLC  
5 3221 N. 24<sup>th</sup> Street  
6 Phoenix, AZ 85016  
7 Attorney for Karina Morales and  
8 Servicios Hispanos

9   
10 Marcia Abuse  
11 Assistant to Fred W. Stork

12 PHX-#1851162  
13 PALS11-00071  
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FILED

JUN 9 2011

1 The Law Office of Kevin O. Torrey, PLLC  
2 3221 North 24<sup>th</sup> Street,  
3 Phoenix, Arizona 85016  
4 Kevin O. Torrey, SBN# 022300  
5 (602) 955-0139

DISCIPLINARY CLERK OF THE  
SUPREME COURT OF ARIZONA  
BY \_\_\_\_\_

6 **BEFORE THE PRESIDING DISCIPLINARY JUDGE**  
7 **OF THE SUPREME COURT OF ARIZONA**

8 IN THE MATTER OF CERTIFIED LEGAL )  
9 DOCUMENT PREPARERS: )

No. LDP-NFC-08-L008

10 KARINA MORALES,  
11 Certificate Number 80255,

DEFENDANT'S MOTION TO  
RECONSIDER

12 And

13 Servicios Hispanos,  
14 Certificate Number 80256.

Honorable William J. O'Neil

15 Respondent herein, by and through undersigned counsel, hereby moves the Court to  
16 reconsider the recommendations made in the decision rendered May 26, 2011 in this matter.  
17 The Court's recommendation made reference to a statute previously un-cited by either party,  
18 and Respondent would like an opportunity to provide a more thorough statutory framework  
19 against which the Court can weigh its decision.

20 In light of the Court's recommendation, it must be reiterated that Respondent is *only*  
21 *charged in the instant Complaint with violations of Arizona Revised Statutes*. These two  
22 statutes are mere definitions and Respondent could not have violated them in any way. The  
23 only Arizona law Respondent is charged with violating is a *criminal* statute, the enforcement of  
24 which is expressly reserved to the Office of the Attorney General of Arizona. The Board has no  
25 jurisdiction to enforce *any* criminal statute, especially one that is expressly reserved to another  
26 agency. The Board is grossly overreaching its authority.

27 The Board is bound by the allegations in the Complaint, and since the complaint only  
28 alleges a violation of Arizona Statute, the Court need look no further than Arizona law to  
conclude that Respondent did not violate the provisions with which she is charged, and even if



1 she had, the Board has no authority to pursue such a claim. The Complaint should be dismissed  
2 on that basis alone. And it seems that the Court did not dispute the analysis thus far.

3 However, the Court thereafter stated that the “overarching reason” for its ultimate  
4 decision is that “Immigration and Naturalization are federal law issues.” The Court then  
5 correctly concludes that “Federal law preempts this area of endeavor practiced by Respondents”  
6 However, the Court has misinterpreted Respondent’s argument relating thereto. Respondent is  
7 not claiming that the allegations against her fail because the Arizona Supreme Court’s authority  
8 in any way “trumps” the authority of the federal government - quite the opposite.

9 Respondent was actually focusing on a separate aspect of the preemption argument:  
10 because practice before the USCIS is regulated by Title 8 of the Code of Federal Regulations,  
11 the issue of whether or not the “endeavor *practiced* by Respondents” actually constitutes  
12 “practice” as defined in 8 CFR § 1001.1 is a question of federal law, and is thus exclusively  
13 within the jurisdiction of the USCIS to determine. So once again, the Board simply lacks  
14 jurisdiction over any such claim. And it is important to remember that the Complaint makes no  
15 such allegation in the first place.

16 In pointing out that the Arizona Supreme Court has granted document preparers the  
17 authority to prepare legal documents in any legal matter, Respondent is simply saying that  
18 within the “State of Arizona” context, Respondent’s conduct falls firmly within the authority  
19 granted pursuant to ACJA § 7-208, because no provision of Arizona law declares  
20 “Immigration” matters to be outside of the authority of CLDPs. The burden of persuasion to  
21 show that it is restricted falls upon the Board.

22 However, the courts of the State of Arizona are not the only courts that have recognized  
23 the authority granted to CLDPs. The United States Bankruptcy Courts within Arizona have  
24 *formally* recognized the authority of certified legal document preparers to prepare documents  
25 for those representing themselves in bankruptcy matters, both Chapter 7 and Chapter 13. The  
26 Board could not, therefore, make its own finding that the actions of CLDPs who prepare  
27 bankruptcy petitions for filing in bankruptcy court are acting in violation of the rules of practice  
28 for the bankruptcy court and on that basis seek to take action against their licenses, since the  
federal court with jurisdiction over the matter has approved of the practice.

1 Likewise, it is exclusively within the discretion of the USCIS to determine whether it  
2 will recognize the authority of certified legal document preparers to prepare applications on  
3 behalf of those representing themselves in immigration issues. Simply because the USCIS has  
4 not *formally* rendered an opinion on the matter does mean that the matter is open to enforcement  
5 by state agencies.

6 In fact, each and every document prepared by Respondent is designated so. Pursuant to  
7 Board policy, Respondent places her document preparers identification number on every  
8 document she prepares for her immigration clients. She signs each document as well. There is  
9 no question that for the last 9 years, the USCIS are aware that the Respondent prepares USCIS  
10 applications for those representing themselves. In the last 9 years, not a single application has  
11 ever been rejected by USCIS, whether prepared by the Respondent or by any of the dozens of  
12 other document preparers who also perform such services.

13 No, the USCIS has never produced an official position formally approving of the work  
14 done by Respondent, but why should it? It is clear from the context that the USCIS courts do  
15 not see the practice of document preparers as a violation of its rules of practice. If it did, it  
16 would reject any of the hundreds of applications Respondent has prepared over the years. It  
17 hasn't rejected a single one. The USCIS courts have made their position known. And the  
18 Board has no authority to step into federal jurisdiction and overrule the practice of the actual  
19 courts to whom the rules at issue apply.

20 In fact, it must be noted that in the State of California, the USCIS formally recognizes  
21 "immigration consultants," non-attorneys who are certified by the State to prepare immigration  
22 applications (the authority for which would, in itself, otherwise be questionable). It thus seems  
23 clear that the USCIS has formally declared that the actions of non-lawyers preparing legal  
24 documents for those appearing on their own behalf before the USCIS does not violate its  
25 standards of conduct.

26 The USCIS is a federal agency. Its regulations apply in all states uniformly.

27 All speculation aside, however, what is certain is that if and when the time comes to rule  
28 upon the practices of CLDPs, only the USCIS has the authority to rule on the practice in its  
courtrooms. Therefore, if the preparation of immigration application is openly allowed by

1 USCIS, the Board has no authority to substitute its own judgment regarding whether the  
2 practice violated USCIS rule of procedure. The federal agency with authority to make that  
3 determination has already spoken. The Board must defer to USCIS's judgment.

4 If the Board continues to attempt to enforce § 12-2701, -2702, and by extension, § 12-  
5 2703, the Board could find itself the subject of a Superior Court injunction regarding its  
6 enforcement authority and a separate civil lawsuit for violation of the respondent's rights under  
7 the Arizona Rules of Criminal Procedure. More importantly, if the Board is seeking to charge  
8 the Respondent with a class 6 felony, then the Respondent is officially a Defendant, and the  
9 Defendant has been deprived of her 5<sup>th</sup> Amendment right to remain silent and her 6<sup>th</sup>  
10 Amendment right to legal counsel. Her statement constitute a violation of her Miranda Rights,  
11 and she has been denied numerous procedural rights for which the Board will be held  
12 accountable.

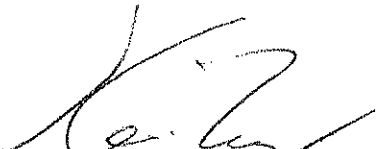
13 Frankly, the Board is going to look pretty silly before the Arizona Superior Court,  
14 attempting to explain how the Defendant's actions in preparing legal documents allowed the  
15 Board to act as a law enforcement agency.

16 If the Board continues to attempt to regulate practice before Immigration courts in  
17 Arizona, the Board could find itself the subject of a federal injunction as well.

18 The Board has simply exceeded the oversight authority provided to it in ACJA § 7-201  
19 and § 7-208. The Court should recognize this and admonish the board to discontinue its efforts  
20 in this case.

21 This Motion is supported by the accompanying Memorandum of Points and Authorities  
22 and all the pleadings of record in this matter, which are incorporated herein by this reference.

23 RESPECTFULLY SUBMITTED this 8<sup>th</sup> day of June, 2011.

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26  
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28  
  
The Law Office of Kevin O. Torrey, PLLC  
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Kevin O. Torrey, SBN# 022300  
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1 MEMORANDUM OF POINTS AND AUTHORITIES

2 **BACKGROUND FACTS**

3 The parties have previously stipulated to the underlying factual basis in this matter.

4 **LEGAL ARGUMENT**

5 **I. Issues of Federal Immigration Law**

6 To the extent that the Court believes the actions of the Respondent conflict with 8 CFR §  
7 292.1 (1999), it must be remembered that the instant Complaint makes no allegation that  
8 Respondent has engaged in "Representation" of any kind. To the extent that the Court believes  
9 that Respondent's conduct conflicts with that statute, it must be remembered that representation  
10 itself is limited to a specific definition within Title 8 of the Code of Federal Regulations,  
11 "Aliens and Nationality," which provides the statutory framework for matters involving  
12 immigration and naturalization.

13 8 CFR § 2.1 states that "All authorities and functions of the Department of Homeland  
14 Security to administer and enforce the immigration laws are vested in the Secretary of  
15 Homeland Security."

16 8 CFR § 3.0 declares that "Regulations of the Executive Office for Immigration review  
17 relating to the adjudication of immigration matters before immigration judges ... are located in  
18 8 CFR chapter V, part 1003."

19 8 CFR § 1001.1 provides the specific definition of "representation" as it is used  
20 throughout Title 8, and specifically within chapter V, part 1003. 8 CFR § 1001.1(m) provides  
21 that "The term representation before the Board and the Service includes practice and preparation  
22 as defined in paragraphs (i) and (k) of this section." 8 CFR § 1001.1(i) provides the definition  
23 of "practice" as it is used in that section, while 8 CFR § 1001.1(k) provides the definition of the  
24 term "preparation" as it pertains to the definition of "practice".

25 These statutes are the definitional foundations for the regulation found in part 1292 of  
26 Title 8 "Representation and Appearances." Specifically, 8 CFR § 1292.1 "Representation of  
27 others" articulates the circumstances under which one would be considered to have engaged in  
28 representation, a definition which mirrors that of § 292.1 previously cited.

1           However, the issue is not whether the Court or the Board believes that Respondent's  
2 conduct falls within the prescribed conduct, the question is who has the authority to make that  
3 determination. And as 8 CFR § 2.1 above answered very clearly, the Secretary of Homeland  
4 Security is charged with the enforcement of Immigration law.

5           The Court is completely correct that federal law preempts any attempted state action to  
6 codify immigration matters. But federal enforcement authority likewise usurps from the states  
7 the authority to individually, in a state-by-state and even in a person-by-person- manner,  
8 regulate practice before federal immigrations courts. Any attempt by the Board to do so not only  
9 infringes upon the authority of the Secretary of Homeland Security, but it also raises issues of  
10 equal protection under the law, since practice before the USCIS by non-lawyers is openly  
11 encouraged in California, but is being openly attacked in Arizona. This is fundamentally  
12 wrong.

13           Both of the avenues that the Board seeks to use to expand its authority beyond the reach  
14 of ACJA § 7-201 and § 7-208 are expressly denied it. In the case of the Arizona Statutes,  
15 enforcement authority is clearly given to the Attorney General.

16           In the case of the Title 8 allegations, only the USCIS immigration courts are in any  
17 position to determine who is or is not in violation of its own rules regarding representation,  
18 practice, and appearance. The Superior Court of Arizona would never tolerate an Arizona  
19 Justice Court ruling that certain individuals were in violation of the rules of civil procedure in  
20 matters before the Superior Court, why would the federal courts tolerate a state's determination  
21 that certain conduct violated USCIS's standards of practice, especially in matters where the  
22 issue was never raised before USCIS?

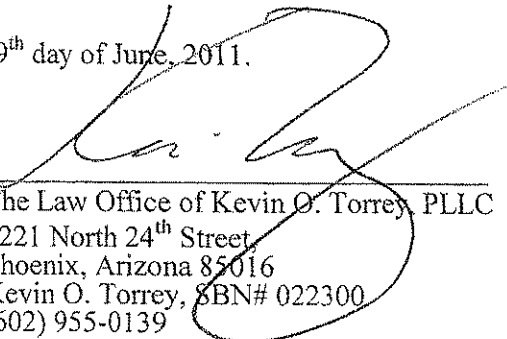
23           The Court should reconsider the implications of the Board's attempt to infringe upon the  
24 authority of a federal agency charged with enforcement of its own regulations.

25           Respondent respectfully requests that the Court reverse its recommendation in light of  
26 the above statutory citations.

27 ...

28 ...

1 RESPECTFULLY SUBMITTED this 9<sup>th</sup> day of June, 2011.  
2  
3



4 The Law Office of Kevin O. Torrey, PLLC  
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FILED

JUN 30 2011

DISCIPLINARY CLERK OF THE  
SUPREME COURT OF ARIZONA  
BY 

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**BEFORE THE SUPREME COURT OF ARIZONA  
LEGAL DOCUMENT PREPARER BOARD**

IN THE MATTER OF A CERTIFIED LEGAL  
DOCUMENT PREPARERS:

KARINA MORALES,  
Certificate Number 80255

SERVICOS HISPANOS  
Certificate Number 80256

**No. LDP-NFC-08-L008**

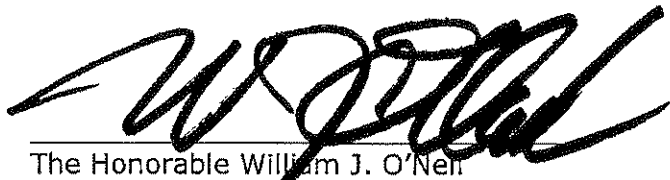
**ORDER RE RULING ON MOTION  
FOR CONSIDERATION FILED  
JUNE 9, 2011**

[Hearing Officer, Judge William J.  
O'Neil]

The Respondents Karina Morales and Servicios Hispanos having filed Defendant's Motion to Reconsider on June 9, 2011, the Legal Document Preparer Program having filed a Response on June 16, 2011 and the Hearing Officer having reviewed the submitted pleadings,

IT IS HEREBY ORDERED the motion to reconsider is denied.

DATED this 30 day of June, 2011.



The Honorable William J. O'Neil  
Office of the Presiding Disciplinary Judge

Original filed with the Disciplinary Clerk  
this 30 day of June, 2011.

COPY of the foregoing mailed  
this 30 day of June, 2011, to:

## Cost Statement

Karina Morales and Servicios Hispanos - Complaint Number 08-L008

STAFF COSTS	\$746.99
CERTIFIED MAIL	\$4.34
TOTAL	<u>\$751.33</u>

\*Costs as of July 5, 2011



# BOARD OF LEGAL DOCUMENT PREPARERS

Agenda Summary - Monday, July 25, 2011

## 2) REVIEW OF PENDING COMPLAINTS

2-C: *Review, discussion and possible action regarding the Honorable Jonathan Schwartz' Report and Recommendation in complaint number 11-L001 involving Julie Star.*

On June 15, 2011, Judge Schwartz filed the attached Hearing Officer's Report and Recommendation in the formal disciplinary action in complaint number 11-L001. Judge Schwartz report reflect his determinations Star did engage in the alleged misconduct as charged pertaining to Allegations 1, 2, 3, 4 and 5. Judge Schwartz determined Star did not commit the alleged misconduct as charged in Allegation 6. Judge Schwartz recommends the proposed disciplinary sanctions be ordered. Therefore, it is recommended the Board take the following actions:

1. Adopt the Findings of Fact contained in Judge Schwartz' Hearing Officer's Report and Recommendation filed on June 15, 2011;
2. Adopt the Conclusions of Law contained in Judge Schwartz' Hearing Officer's Report and Recommendation filed on June 15, 2011;
3. Dismiss Allegation 6 of complaint number 11-L001;
4. Regarding Allegation 1, enter a finding Star violated ACJA § 7-201(F)(1), ACJA § 7-208(F)(2), and ACJA § 7-208(J)(3)(c)(1) by improperly categorizing and charging a document preparation services fee for informal probate documents based on what she determined to be an amount equal to 5% of the value of Martha Gowens' ("Gowens") estate; constituting grounds for discipline pursuant to ACJA § 7-201(H)(6)(a), (H)(6)(k)(3) and (H)(6)(k)(7);
5. Regarding Allegation 2, enter a finding Star violated ACJA § 7-201(F)(1), ACJA § 7-208(F)(2), (J)(1)(a), (J)(1)(b), (J)(1)(d) and (J)(2)(c) by engaging in a conflict of interest by preparing documents pertaining to the sale of Gowens' residential property enabling her husband, John Star, to purchase the property; constituting grounds for discipline pursuant to ACJA § 7-201(H)(6)(a), (H)(6)(g), (H)(6)(k)(3), and (H)(6)(k)(7);
6. Regarding Allegation 3, enter a finding Star violated ACJA § 7-201(F)(1), ACJA § 7-208(F)(2), (J)(1)(a), (J)(1)(d), (J)(5)(a) and ARS § 41-311(1), § 41-311(6), § 41-311(10) when she notarized a Limited Power of Attorney she prepared for Gowens dated June 24, 2010 under a Clark County, Nevada caption which avowed Gowens "personally appeared" before Star and signed the document when Gowens was residing with family

members in Nevada; constituting grounds for discipline pursuant to ACJA § 7-201(H)(6)(a), (H)(6)(g), (H)(6)(k)(3), and (H)(6)(k)(7);

7. Regarding Allegation 4, enter a finding Star violated ACJA § 7-201(F)(1), ACJA § 7-208(F)(2), (J)(1)(a), (J)(1)(d), (J)(5)(a) and ARS § 41-311(1), § 41-311(6), § 41-311(10) when she notarized Gowens' signature on a Property Agreement Star prepared dated June 28, 2010 which subscribed and swore Gowens "personally appeared" before Star when Gowens was residing with family members in Nevada; constituting grounds for discipline pursuant to ACJA § 7-201(H)(6)(a), (H)(6)(g), (H)(6)(k)(3), and (H)(6)(k)(7);
8. Regarding Allegation 5, enter a finding Star violated ACJA § 7-201(F)(1), ACJA § 7-208(F)(2), (J)(1)(d), (J)(5)(a) and Superior Court in Maricopa County Local Rule 2.15 when she prepared informal probate documents for Gowens' daughters, Joyce Adams of Henderson, Nevada and Patricia Westwood of Surprise, Arizona, identifying Star's address as the mailing address for the pro per litigants captions; constituting grounds for discipline pursuant to ACJA § 7-201(H)(6)(a) and (H)(6)(k)(3);
9. Revoke Star's legal document preparer certification, certificate number 80294, pursuant to ACJA § 7-201(H)(24)(a)(6)(i), pursuant to ACJA § 7-201(H)(24)(a)(6)(a);
10. Issue a cease and desist order enjoining Star from preparing legal documents, representing herself to the public as a certified legal document preparer, or conducting any activity that constitutes the unauthorized practice of law until such time as any and all conditions for reinstatement are met in full, as determined by the Board, pursuant to ACJA § 7-201(H)(24)(a)(6)(g);
11. Order and mandate as a condition for reinstatement, Star participate in no less than ten (10) hours of continuing education in the curriculum areas of professional responsibility and ethics, in addition to the hours of continuing education required for renewal of certification, pursuant to ACJA § 7-201(H)(24)(a)(6)(f);
12. Assess costs associated with the investigation and related disciplinary proceedings in the amount of \$4,230.61, to be remitted no later than sixty (60) days following entry of the Board's Final Order, pursuant to ACJA § 7-201(H)(24)(a)(6)(j);
13. Impose a civil penalty in the amount of \$250.00 per found violation in the total amount of \$1,500.00 to be remitted no later than sixty (60) days following entry of the Board's Final Order, pursuant to ACJA § 7-201(H)(24)(a)(6)(k); and,
14. Authorize the Chair to sign the Final Order on behalf of the full Board.

**FILED**

JUN 15 2011

DISCIPLINARY CLERK OF THE  
SUPREME COURT OF ARIZONA

**BEFORE THE ARIZONA SUPREME COURT  
BOARD OF LEGAL DOCUMENT PREPARERS**

IN THE MATTER CERTIFIED LEGAL  
DOCUMENT PREPARER:

**JULIE STAR,**  
Certificate Number 80924.

**No. LDP-NFC-11-L001**

**HEARING OFFICER'S REPORT AND  
RECOMMENDATION**

[Hon. Jonathan H. Schwartz, Retired,  
Hearing Officer]

**PROCEDURAL HISTORY**

On January 10, 2011, the Programs and Investigations Unit of the Certification and Licensing Division of the Administrative Office of the Courts (hereinafter "Program") received a letter from attorney Gary Sundberg dated January 7, 2011. (Exhibit 4) Although the attorney said that he was not filing a complaint under section 7-201H of the Code of Judicial Administration (hereinafter "ACJA"), his seven-page letter with about 40 pages of attachments complained at length about the conduct of Julie Star. The Program treated the letter as a complaint. An investigation was begun that resulted in the Program issuing an Initial Summary of six allegations against Ms. Star on January 12, 2011. (Exhibit 1) The Program filed an Allegation Analysis Report and Probable Cause Evaluation on January 14, 2011 which was approved by the Division Director on January 19, 2011 and was evaluated and approved by the Probable Cause Evaluator on January

21, 2011. (Exhibit 2) The evaluator found probable cause that Ms. Star had in all six allegations committed violations of the ACJA Code of Conduct.

A Recommendation to the Board of Legal Document Preparers (hereinafter "Board") was submitted by the Division Director on January 21, 2011. The Director recommended that the Board find that the public health, safety and welfare was at risk and therefore the Board should enter an order of immediate summary suspension of Ms. Star's legal document preparer certification pursuant to AC JA section 7-201(H)(24)(a)(6). The Board entered an Emergency Summary Suspension Order on January 25, 2011 pursuant to ACJA sections 7-201(H)(9)(d)(1) and 7-201(H)(24)(a)(5) and set a hearing on February 8, 2011. The Hearing Officer who presided at that hearing on February 8, 2011 affirmed the Board's order of immediate summary suspension. Ms. Star requested a hearing on the allegations that she had violated certain sections of the ACJA. The hearing was held before a different Hearing Officer on May 2, 2011.

**ALLEGATION #1 - STAR IMPROPERLY CHARGED A CONTINGENT FEE**

**FINDINGS OF FACT**

1) Ms. Star had been retained in 2007 by Martha J. Gowens to prepare Ms. Gowens' will and trust. Ms. Star prepared other documents for Martha Gowens in 2009 and 2010. Martha Gowens died on August 1, 2010. On or about August 6, 2010, the five surviving children of Ms. Gowens, Robert Gowens, Ronald Gowens, Patricia Westwood, Joyce Adams and Marilyn

Larson retained Ms. Star to prepare documents related to the probate of Martha Gowens' estate. (TR194:14)

2) The letter from attorney Sundberg contained 20 exhibits. The Hearing Officer will refer to the letter as Exhibit 4 and to the attachments as sub-exhibits. Sub-Exhibit 16 to the letter was an e-mail from Ms. Star to Marilyn Larson of September 14, 2010. In the message Ms. Star complains of the fact that the children are attempting to reduce payments to Ms. Star for her work in preparing legal documents. Ms. Star stated, "Therefore, my billing seventy five hundred dollars (\$7500.00) for services concerning the informal probate is based on five percent (5%) of the estimated value of her estate."

3) At the hearing Ms. Star introduced Exhibit 13 which is dated August 24, 2010 and is signed by Ms. Star and one of the children Joyce Adams. This document is a fee agreement in which Ms. Star states that the \$7500 is a one time charge in lieu of an hourly charge.(TR 47:17)

4) Linda Grau of the Program testified that although this type of fee would not be a contingent fee in a lawyer-client setting, the Board has in another disciplinary matter determined that this is an improper contingent fee for a licensed document preparer to charge. (TR 40:22 through 44:2)

5) Ms. Grau indicated that the Program thinks that the size of an estate alone should not determine the amount of work that the legal document preparer would need to perform. Ms. Grau also testified that the

Program did not have an issue with the amount of \$7500 charged by Ms. Star. Instead, the concern was the way Ms. Star came up with the \$7500 charge. (TR 54:5 through 56:3, 65:18-24)

6) Ms. Star testified at the hearing that she selected the figure of \$7500 to charge the children for preparation of documents concerning the probate matter. Ms. Star stated that after she proposed the \$7500 figure to Marilyn Larson, Ms. Larson contacted her Nevada attorneys about this amount. Then Ms. Larson told Ms. Star that her attorneys said that \$7500 was appropriate because it was a little less than 5% of the value of Ms. Gowen's estate. (TR 170:18)

7) Ms. Star explained her e-mail communication to Ms. Larson (when Ms. Star made reference to the 5% of the estate) as Ms. Star was only using the concept that Ms. Larson introduced. (TR 178:9 through 180:16) Ms. Star denied that she arrived at the \$7500 figure by computing 5% of the value of the estate. (TR 176:18 through 177:22) Julie Star stated she did not base the \$7500 fee on difficulty in dealing with the clients, but on what work she had to do. She had to prepare the Appointment of Co-Trustees. She determined that instead of preparing just one piece of paper she would have to do the whole thing. (TR 183:6-12)

8) The Hearing Officer concludes that Ms. Star arrived at the \$7500 figure by estimating what 5% of the value of the estate would be. Ms. Star was aware that the estate included a life insurance policy of about \$20,000

and a house worth about \$145,000. (TR 172:6 through 173:11) Although 5% of \$165,000 would be \$8250, there appears to be no other way that Ms. Star estimated the \$7500 figure. She testified that her normal charge was \$85 per hour. (TR 174:13) Yet she did not give any testimony of the estimated number of hours she would need to conclude her work. She also testified that she thought the estate was worth between \$190,000 and \$200,000. (TR 173:11)

### **CONCLUSION OF LAW**

9) The Program has proven by a preponderance of the evidence that Ms. Star violated ACJA section 7-208 (J)(3)(c)(1) by establishing a contingent fee as a basis of compensation. The ACJA does not further define the term "contingent fees." The regular meaning of this term from the attorney-client context is that an attorney will be paid a fee based on a percentage of the money received by his client either through settlement or judgment at the end of a case. In that context Ms. Star did not have a contingent fee. Her e-mail of September 12, 2010 to Marilyn Larson stated (after she confirmed that her fee was based on 5% of the estimated value of the estate), "Therefore in fact, 5% of the estimated value of the estate would have actually exceeded eight thousand dollars (\$8000) and feeling that it should have been a relatively organized task I reduced the amount to \$7500, an amount which now in hindsight due to all the problematic problems set forth by the five of you was short changing myself and rest

assured I can, if I so desired, billed by the hour but at this writing, I will stay with the \$7500 providing that you're appointed representatives to me, Pat and Joyce, provide me with that information I need to close this informal probate." (Exhibit 4, sub-Exhibit 16)

10) Ms. Star's statement quoted above is a confirmation that her fee was not going up or down based on the value of the estate at the end of the informal probate proceeding. Instead she was holding her fee at \$7500. A true contingent fee would be a sum of money that could not be determined until after the proceeding was over and a percentage was applied to a later determined value of the estate.

11) But a closer reading of the appropriate ACJA section leads to the conclusion that the drafters of this section were focusing on the words "... as a basis of compensation." The entire subsection 7-208(J)(3)(c)(1) reads, "A legal document preparer shall at all times be aware of and avoid impropriety or the appearance of impropriety, which may include, but is not limited to: 1) Establishing contingent fees **as a basis of compensation.**" (Emphasis added) The Hearing Officer has found that Ms. Star used the estimated size of the estate and a percentage of that figure to arrive at an appropriate fee. The ACJA is designed to have the legal document preparer provide a more definite basis for establishing the preparer's compensation. The size of the estate may have very little relationship to the amount of work in preparing documents that must be accomplished. Instead, the document preparer



should be giving the customer either an estimate of the amount of work that will be needed or an hourly rate billing.

**ALLEGATION #2 - STAR HAD A CONFLICT OF INTEREST IN PREPARING DOCUMENTS RELATED TO THE SALE OF MS. GOWENS' RESIDENTIAL PROPERTY AND ENABLING HER HUSBAND JOHN STAR TO PURCHASE THAT PROPERTY**

**FINDINGS OF FACT**

12) On August 6, 2011 the five children of the decedent Martha Gowens hired Ms. Star to prepare documents. Ms. Star prepared Exhibit 8, the Notice of Change of Trustee(s), Appointment of Co-Trustee(s). This document states that each of the five children of Martha Gowens "...agree that they will all share an equal part in being the co-executors/trustees for Martha J. Gowens." In addition, each of the children "...will share one-fifth (1/5) of the deciding vote when deciding on any and all issue(s) regarding any and all property which previously belonged to Martha J. Gowens..." The document also states, "4) All agreements regarding property of great value (i.e. a house or car), must be in writing and signed by each of the co-executors/trustees. If this is not done, the agreement will be held invalid, unless the co-trustees appoint a person to sign for the co-trustees."

13) Julie Star testified at the hearing that the five children of Martha Gowens did not get along well. She described the animosity between the children as a lot of hatred. (TR 186:1, 188:2) After Martha Gowens died, her house was to be sold. It was the largest piece of property in the estate.

On or about August 3, 2010 only two days after her mother died, Marilyn Larson (who lived in Nevada) called Julie and John Star who spoke to Marilyn on a speaker phone. Julie Star testified that Marilyn stated that she wanted to get her mother's house, but if her siblings knew she was going to buy the house they would raise the price on her. Marilyn told Julie and John Star that her siblings thought she was rich. (TR 185:2, 187:11)

14) John Star agreed to buy the house using Marilyn's money, make a commission, and then deed the house over to Marilyn. Julie Star prepared Exhibit 8 on August 14, 2010 knowing that her husband John Star was secretly buying the house for Marilyn Larson. (TR 195:13) Julie Star knew that John Star was purchasing the house with Marilyn Larson's money. (TR 186:6)

15) At the hearing Julie Star acknowledged that she was working for all five of the children of Martha Gowens who were paying her to prepare legal documents. (TR 189:25 through 190:20) Julie Star also testified that she knew all about her husband's role in assisting Marilyn Larson in getting the house. (TR 188:11) When questioned about whether what John was doing was appropriate, Julie testified that she knew it was wrong but that John went ahead and did it. (TR 192:17-25) In her words, "I knew about the purchase of the home." (TR 193:6) In response to the Hearing Officer's questions on this topic the following occurred:

“THE HEARING OFFICER: Okay. So that's where I am. This is the bottom line of this whole thing here. Why didn't you think it was the fair and right thing to do to let all the children know that Marilyn was going to buy the house?

THE WITNESS: Her other sister knew, Joyce. She knew about it, and they just said that they were going to tell it to them at their own time. I didn't think it was up to me to tell them.

THE HEARING OFFICER: No. I'm asking you a basic question. If Joyce already knew why didn't you and John tell Marilyn on that speaker phone. There is no way we are going to have John be some straw man for you. It's not necessary. They already know you're going to buy it. Just go buy the house from them. Otherwise, it will look like just what it is here today, that you were going to help Marilyn shine the, pull the wool over the eyes of the other children. There's no need for her to use John if they already knew.

THE WITNESS: Well, we did suggest that.

THE HEARING OFFICER: I'm not asking about what was suggested. I'm asking about why he went through, with your knowledge, going through this thing where he pulls a sham on them. He was not going to be the real buyer of the house. Why is his name down there as the purchaser of the house? I need to know an answer to that. And you're the person who is experienced enough in life to know what is and what is not a sham purchase here. Now, we also call that a straw man, but it doesn't matter. What's the

reason to use him if it isn't to keep something from the others? I don't, you've indicated one knew, but I don't understand why if you thought, as far as the trust documents, you with (sic) working after her death for all five of the children, why you let one child, Marilyn, who really had meant nothing to you, and you didn't have a close relationship, just over a suggested phone call, that you, you know, and John, throw John in there as some straw purchaser to help her keep some information secret from the others. And I can't understand why she would do it if she wasn't trying to keep it secret. And you just told us in this testimony that's exactly what she said on the phone: I don't want them to know because they will jack the price up. Well, didn't you think that that wasn't fair to the others?

THE WITNESS: Oh, yes. And we told them.

THE HEARING OFFICER: So you told her you wouldn't do it?

THE WITNESS: I told her that it was wrong, that she was hiding it from the other kids.

THE HEARING OFFICER: Well then, why did John go ahead and do that, if it was wrong?

THE WITNESS: Well, in my opinion it was wrong, but he, you know, I don't know. You would have to ask him.

THE HEARING OFFICER: Oh, so you weren't involved in that?

THE WITNESS: No.

THE HEARING OFFICER: He was independent on that?

THE WITNESS: Well, of course. I mean, he does his own thing. I was doing some things. I knew about the purchase of the home.” (TR 190:21 through 193:8)

16) Julie Star did not prepare any of the documents concerning the purchase of the home, except she signed a Disclaimer Deed that she would not have a claim or interest in the property. (Exhibit 7) The five children of Martha Gowens signed the Warranty Deed on August 23, 2010 selling the home to John Star. (Exhibit 6) This Deed was prepared by Empire West Title Agency. John Star then sold the property to Marilyn Larson or Mel Larson for \$165,000. This transaction was set forth in a Quit-Claim Deed dated September 16, 2010. (Exhibit 9) Julie Star did not prepare this document.

17) Later Marilyn Larson sued both John Star and Julie Star on September 16, 2010. Marilyn claimed that she had intended to buy the property directly from the Trust, but that John and Julie Star advised her to forward the \$165,000 to John Star, who would then buy the property from the trust for \$145,000. The lawsuit alleged that John Star took title to the property “...on Plaintiff’s [Marilyn Larson] behalf on August 31, 2010 but refused to deed the property” to Marilyn Larson. In addition, the lawsuit alleged that John Star used only \$146,967.92 to close on the property, but he had been given \$165,000 by Marilyn Larson. Ms. Larson alleged that John Star refused to refund the balance of \$18,032.08. (Exhibit 10) On the

same day this lawsuit was filed September 16, 2010, John Star signed a Quit-Claim Deed transferring the property to Marilyn Larson. (Exhibit 9)

18) In his letter to the Board, attorney Sundberg wrote about this transaction as follows: "Almost as equally disconcerting is that it was reported to the beneficiaries that John Star was purchasing the home (Exhibit 17). This was done because evidently one of the daughters of the beneficiary wanted to purchase the home but that fact was concealed from three of the other beneficiaries. From my conversations with the other three beneficiaries they were suspicious of that fact all along but really did not care. I, however, find a certified document preparer participating in such deception would certainly be unethical for a lawyer to do and shocks my conscience of what a certified legal document preparer should be engaged in." (Exhibit 4, pages 5-6)

### **CONCLUSION OF LAW**

19) Julie Star has defended this allegation by pointing out the fact that the Board alleged that she engaged in a conflict of interest by preparing documents pertaining to the sale of the residential property enabling her husband to purchase the property. Julie Star asserted that she did not prepare any of the documents for her husband to purchase the property. She did however prepare Exhibit 8 in which all five co-trustees were to have knowledge of any transaction involving the property. She did this knowing that one of the co-trustees Marilyn Larson was keeping a secret from the

other four co-trustees and that John Star was assisting Marilyn in this deception.

20) The Hearing Officer concludes that this was a clear conflict of interest and that the Program has established this violation by a preponderance of the evidence. Julie Star knew that Marilyn was using the deception of John Star buying the property so that she would not have to pay a higher price if her co-trustees knew she was the real purchaser. Julie Star also knew that she was working for all five co-trustees. The applicable code sections are 7-208 (J)(1)(a), (b), (c) and (J)(2)(c). A legal document preparer must avoid impropriety and the appearance of impropriety and should act in a way that promotes public confidence in the integrity of the legal system. The document preparer should be alert to conflicts of interest and even the appearance of a conflict of interest and should not engage in unprofessional conduct. A document preparer should always observe the highest standards of integrity and truthfulness in professional dealings.

21) Julie Star failed to comply with any of the above referenced code provisions when she knew that her husband would participate in Marilyn Larson's secret from her co-trustees in buying the major piece of property in her mother's estate. As a document preparer for all five co-trustees and as the person who prepared the Appointment of Co-Trustees, Julie Star knew that all five co-trustees should have had the same information about the sale of that significant piece of property. It was a secret, a deception and a clear

conflict of interest for Julie not to inform the other co-trustees of what her husband was doing with Marilyn Larson. Julie Star should have told Marilyn that she would not permit the transaction to occur with John Star, and that if Marilyn and John insisted on the transaction, Julie would inform the other co-trustees. Julie Star did not do these things. Several times during the hearing she left the Hearing Officer with the impression that she simply did what other people said, even though she knew it was wrong.

**ALLEGATIONS #3 AND #4 - STAR NOTARIZED MARTHA GOWENS' SIGNATURE ON TWO DOCUMENTS WHEN MS. GOWENS DID NOT PERSONALLY APPEAR BEFORE STAR**

**FINDINGS OF FACT**

22) Julie Star in June 2010 sent Martha Gowens two documents. (TR 197:3, 200:9-17) Martha was living in Nevada. (TR 196:17) According to attorney Sundberg Martha was seriously ill at this time. (Exhibit 4, page 6) The first document, a Limited Power of Attorney, forms the basis for allegation #3. (Exhibit 4, sub-exhibit 19) Julie Star testified that she faxed this document to Martha. Julie Star prepared the document so that Martha could have her signature notarized in Clark County, Nevada. However, when the document was returned to Julie Star, Martha's signature was not notarized. (TR 197:16)

23) At the hearing Julie Star admitted that she notarized Martha's signature stating that Martha "personally appeared." Ms. Star confirmed that Martha never signed this document in Ms. Star's presence. (TR 197:25)



through 198:3) Julie Star testified that she recognized Martha's signature. Ms. Star asked for a doctor's note stating that Martha was competent to sign the Power of Attorney. (TR 198:20) Julie Star stated that she received a note from Dr. Marie Navasero of Henderson, Nevada stating that Ms. Gowens was competent enough to make decisions about her will. A copy of this doctor's note was received at the hearing as Exhibit 15. The note is dated July 20, 2010. Ms. Star testified that she did not know the doctor who wrote the note. (TR 202:10) Martha was in the hospital at this time. Julie Star's husband called the doctor. (TR 202:18) Julie Star notarized Martha's signature on the Limited Power of Attorney on June 24, 2010. This document still contained the designation as State of Nevada, County of Clark, when Ms. Star, an Arizona notary, signed it.

24) The Power of Attorney appointed Martha's granddaughter Vicki Lynn Adams as Martha's attorney in fact. Ms. Adams was empowered to distribute items Martha had marked in her home in Arizona. The items were marked for distribution to certain people. Ms. Adams would give these items to the people whose names were on them. Ms. Adams was to proceed to sell Martha's personal belongings and send all of the proceeds to Martha in Henderson, Nevada. (Exhibit 4, sub-exhibit 19)

25) Julie Star's notarization of Martha Gowen's signature on the Property Agreement of June 28, 2010 forms the basis for allegation #4. (Exhibit 4, sub-exhibit 18) Ms. Star testified that she sent this document to

Martha about three days before Ms. Star notarized it. (TR 200:9-17) Julie Star called Martha about the document. Julie testified that she knew she was talking to Martha during this telephone call. (TR 201:2-6) Martha did not sign this document in Julie Star's presence.

### **CONCLUSION OF LAW**

26) The Program has proven by a preponderance of the evidence that in allegations #3 and #4 Julie Star violated several provisions of the ACJA Code of Conduct. Ms. Star asserted that since she knew Martha's signature she was doing nothing wrong by notarizing that signature even though the signer did not personally appear before her. She testified that Martha's family could not get a notary to Martha in Nevada. ARS sections 41-311(1), (6) and (10) respectively define "acknowledgment," "jurat" and "oath" or "affirmation" in the notary context as requiring the person who is signing the document to appear before the notary. Julie Star is a legal document preparer. It is her business and profession to know the appropriate requirements for document preparation. If she is notarizing documents as part of her document preparation she of all people should be complying with the letter of the law.

27) Julie Star violated ACJA section 7-208(J)(1)(a) which required her to avoid impropriety and the appearance of impropriety and to respect and comply with the laws so that she would promote public confidence in the integrity of the legal and judicial system.

28) Ms. Star violated ACJA section 7-208(J)(1)(d) which required her to refrain from knowingly making an untrue representation while assisting a consumer in preparing documents. Julie Star knew that it was not true that Martha Gowens personally appeared before her.

29) Finally, Julie Star violated ACJA section 7-208(J)(5)(a) which requires certified legal document preparers to perform all of their duties in accordance with applicable laws. Ms. Star's notarization of the two documents set forth above violated the three statutes referred to in paragraph 26, that require the person signing the document to appear before the notary. Although legal document preparers are not lawyers, the Code of Conduct set forth in the ACJA requires the document preparers to conduct themselves in a professional and lawful manner. The Code recognizes that the consuming public will have an impression about the integrity of the legal and judicial system from their contacts with certified legal document preparers. Ms. Star failed to maintain this standard of conduct in allegations #3 and #4. Instead, she left the impression that the requirements of the law are merely technical niceties that can at times be ignored. Once again, Ms. Star chose an easy way out that was more convenient for her, but that was contrary to the requirements of the law.

**ALLEGATION #5 - STAR PLACED HER OWN ADDRESS ON INFORMAL PROBATE DOCUMENTS STATING THAT HER ADDRESS WAS THE MAILING ADDRESS FOR TWO PRO PER LITIGANTS**

**FINDINGS OF FACT**

30) Julie Star prepared Exhibit 17 a document to be filed in Superior Court, Maricopa County. Two of the children of Martha Gowens, Joyce Adams and Patricia Westwood were submitting this document to the court as pro per litigants in the informal probate of Martha Gowens' estate. The document appropriately contains a designation that it was prepared by Ms. Star. Above the caption is the following: "Julie D. Star, AZCLDP 80294".

31) Ms. Star placed the names of Joyce Adams and Patricia Westwood above the caption of Exhibit 17. (See also Exhibit 4, sub-exhibit 13) She also placed the home addresses of these two people under their names. Under each person's home address Ms. Star added the following: "**Mailing Address: c/o 3051 N 87<sup>th</sup> Drive, Phoenix, AZ 85037**". (Emphasis supplied) Ms. Star lived at this address. Underneath the "**Mailing Address**", the document stated that Ms. Adams and Ms. Westwood were "Representing: Self (without a lawyer)".

32) Julie Star testified that the five children of Martha Gowens decided to authorize Joyce Adams and Patricia Westwood to sign documents on behalf of all of them to speed up the process of the informal probate. (TR 202:21) (Exhibit 16) Ms. Star also stated that all of the children wanted to make sure that the documents in the informal probate got to the right place.

Julie stated that the children did not trust each other. Therefore, Julie Star used her own address as the mailing address for Joyce Adams and Patricia Westwood so that any notices coming from the court would go to her and she could then make sure that all five children would receive copies. (TR 205:13 through 207:1)

### **CONCLUSION OF LAW**

33) The Program has proven by a preponderance of the evidence that Julie Star violated ACJA sections 7-208(J)(1)(d) and (J)(5)(a) which required her to refrain from making misleading, deceptive or untrue representations and to perform her duties in compliance with applicable laws, rules or court orders. Maricopa County Superior Court Local Rule 2.15 requires that a pro per litigant place her name, address and telephone number above the caption on the first page of a document filed in court. Julie Star listed her own address as the mailing address for Joyce Adams and Patricia Westwood on the document in question. By doing so Ms. Star stated something that was not technically true, i.e., that her mailing address was an address for Ms. Adams and Ms. Westwood. Local Rule 2.15 only permits a lawyer representing the party to place her address on a document or a pro per litigant to place her address on a document. This local rule does not authorize a certified legal document preparer to place her address on the document.

**ALLEGATION #6 - STAR AT MARTHA GOWEN'S DIRECTION CHANGED MARTHA'S WILL TO REDUCE ROBERT GOWENS' INHERITANCE TO \$1.00 FROM 20% OF MARTHA'S ESTATE; BUT AFTER MARTHA'S DEATH STAR PREPARED DOCUMENTS ASSIGNING ROBERT A 20% INTEREST IN THE ESTATE**

**FINDINGS OF FACT**

34) On May 10, 2007, Julie Star prepared a document for Martha Gowens entitled "The Martha Gowens Living Trust (the "Trust") Declaration of Trust." (Exhibit 4, sub-Exhibit 1) Each of the five children (they were described as "beneficiaries" of the trust) of Martha was given a 20% interest in the residual assets of the Trust. Martha Gowens was designated as the Trustee and the Successor Trustee was Marshall & Ilsley Trust Company, NA located at 7702 E. Doubletree Ranch Rd., in Scottsdale, Arizona.

35) On May 10, 2007, Julie Star prepared a document for Martha Gowens entitled "Last Will and Testament of Martha Juanita Gowens." In this document Martha stated, "I give all the rest and residue of my estate to my children, share and share alike:(20% each) Robert Duane Gowens, Marilyn Kay Larson, Joyce Fay Adams, Patricia Louise Westwood and Ronald Eugene Gowens". (Exhibit 4, sub-exhibit 2)

36) Julie Star testified that in 2009 Martha asked Julie to reduce Robert Gowen's inheritance to one dollar. (TR 209:23) Ms. Star prepared a modification to the Will, but did not modify the Trust. Julie stated that she asked Martha to change the Trust and that she even told Martha that it

might be a problem if Martha didn't change the Trust, and Martha said she didn't want to do it at that time. (TR 210:1)

37) After Martha died Julie Star prepared the Notice of Change of Trustee, Appointment of Co-Trustee on August 14, 2010. (Exhibit 8) All five children including Robert were named as Co-Trustees. When Julie Star was confronted with the allegation that she had prepared a document after Martha's death which restored Robert to a 20% interest, Julie stated that Exhibit 8 did not restore Robert to an equal share of the proceeds of the estate. She did not interpret Exhibit 8 as returning Robert to a 20% interest. (TR 210:25) Instead, she testified that Exhibit 8 only gave Robert as a member of the family a 20% vote in matters relating to the estate. (TR 211:2)

38) A careful reading of Exhibit 8 the Notice of Change of Trustee, Appointment of Co-Trustee reveals that this document does not expressly address the interests of each co-trustee in the proceeds of the estate. Several phrases however come very close to inferring that all five children will have equal interests in the proceeds. The document states in three parts: 1) "Each of the above named persons agree that they will all share an equal part in being the co-executors/trustees for Martha J. Gowens," 2)"Each of the children mentioned herein will share one fifth(1/5) of the deciding vote when deciding on any and all issue(s) regarding any and all property which previously belonged to Martha J. Gowens, their natural mother who is

now deceased”, and 3) “All agreements regarding property of great value(i.e. a house or car), must be in writing and signed by each of the co-executors/trustees. If this is not done, the agreement will be held invalid, unless the co-trustees appointed a person(s) to sign for the co-trustees.”

37) Exhibit 8 also stated that the Trust and Living Will and “jointly known wishes of the late Martha J. Gowens are to be kept in good faith during the decision-making process. If any of the decisions go against the wishes and wants of the late Martha J. Gowens, a new route is to be taken.”

38) In an e-mail to Marilyn Larson, that was intended for all of the children dated September 14, 2010 Julie Star made several references to the fact that Martha Gowens insisted that Robert Gowens’ share of her estate be reduced to one dollar. In referring to Martha, Julie stated, “She changed her Will to allow Robert one dollar (\$1.00) upon her demise and like I said earlier in this letter, I give you general advice that you need to get a judge to change that, but again, visit with an attorney of your choice.” (Exhibit 4, sub-Exhibit 16)

### **CONCLUSION OF LAW**

39) The Program has not proven by clear and convincing evidence that Julie Star prepared documents for the Gowens’ children after Martha’s death assigning Robert a 20% interest in the estate.

40) Exhibit 8 does not expressly say anything about interests in the estate. It appears to be a document solely relating to decision-making.



Although it could be inferred from the three passages quoted above that the five children having equal authority to make decisions must necessarily have equal interests in the estate, this is not the only inference that could be drawn from this document. Robert could participate in decision-making as an equal partner with his siblings without participating in the proceeds of the estate equally. At subsection 9 of this document it states that the Trust and Living Will and jointly known wishes of Martha are to be followed in the decision-making process. Although Martha did not change her Trust from assigning Robert a 20% interest, she changed her Will to reduce his share to one dollar. The document can be read to require the decision-makers to follow Martha's last wishes to grant Robert no more than one dollar.

41) Therefore, it is not clear from this record that Julie Star prepared any document for the children after Martha's death that restored Robert to a 20% share in the proceeds of her estate. Since that appears to be the basis that the Program has adopted for allegation #6, (See Pre-Hearing Memorandum of Legal Document Preparers Program, April 27, 2011 and Notice of Formal Statement of Charges and Right to Hearing, paragraph 52) the Hearing Officer concludes that the Program has not established a violation in this matter by a preponderance of the evidence.

## MITIGATING AND AGGRAVATING FACTORS

42) The Hearing Officer finds that a mitigating factor is applicable in Julie Star's case, the absence of a prior disciplinary record. ACJA section 7-201(H)(22)(b)(1)(a)

43) The Hearing Officer finds four aggravating factors applicable in this case.

1) Julie Star had a dishonest motive when she kept from all of the co-trustees the secret that her husband was assisting Marilyn Larson in buying Martha Gowens' house. ACJA section 7-201(H)(22)(b)(2)(b)

2) Julie Star had a selfish motive when she kept the involvement of her husband in Marilyn Larson's purchase of Martha Gowen's house a secret from Marilyn's siblings. John Star expected to receive a 15% fee for assisting Marilyn Larson in deceiving her siblings when John Star purchased the home from the siblings. After Marilyn Larson sued Julie and John Star the lawyers representing the Stars filed Defendants' Rule 26.1 Initial Disclosure Statement on January 5, 2011. Counsel for John and Julie Star stated, "After Decedents [Martha Gowens] death, Plaintiff [Marilyn Larson] approached Defendants [Julie and John Star] expressing an interest in purchasing Decedent's home. The parties reached an agreement whereby Plaintiff would give \$165,000 to Defendant John Star, which would cover the purchase price of the property, the closing costs, taxes, **as well as Defendant John Star's 15% fee for his participation in the**

**transaction. At no time did Defendant John Star agree to go forward with the transaction free of charge.** Pursuant to their agreement, Defendant John Star took title to the property and promptly deeded the property over to Plaintiff. Plaintiff now claims she is entitled to a refund of the remaining balance, which was not part of the parties' original agreement." (Exhibit 12, page 2, lines 9-17) (Emphasis added) Although Julie Star signed a Disclaimer Deed (Exhibit 7) asserting that she had no interest in the home, that document does not divest Julie Star of her community property interest in any fee that John Star would have made from his participation in the transaction. ARS section 25-211 states that all property acquired by either husband or wife during marriage is the community property of the husband and wife. ACJA section 7-201(H)(22)(b)(2)(c)

3) Julie Star has committed multiple offenses in this case. She used a percentage of the estate of Martha Gowens as a basis for arriving at her fee for document preparation. She engaged in a conflict of interest by knowing that her husband was assisting Marilyn Larson in buying the home, that her husband expected to make a commission from his participation and that she was keeping this information secret from the other co-trustees. She notarized signatures of Martha on two documents in which she avowed that Martha appeared personally before her, when she knew this was not true. She placed her address as the mailing address for two pro per litigants

on a document she prepared for filing in Superior Court. ACJA section 7-201(H)(22)(b)(2)(d)

4) Julie Star has substantial experience as a certified legal document preparer. She has been certified beginning of the program in 2003. She testified at the hearing that she's been preparing legal documents since 1993. (TR 164:15) ACJA section 7-201(H)(22)(b)(2)(i)

### **PROPORTIONALITY ANALYSIS**

44) The matter regarding Julie Haigh and Majestic's Paralegal Center, 07-L028 is similar to one of the violations of Julie Star in the instant case. In *Haigh* the document preparer charged a fee based on a percentage of the value of decedent's estate. The Board suspended the document preparer's certification for one year, issued a cease and desist order, directed the document preparer to engage in continuing education and assessed costs and a civil penalty.

45) In the matter of Lory Toon the document preparer notarized and recorded a Quit Claim Deed, she took possession of the residential property that was owned by one of her customers, and made a profit for herself by renting the home to others. In addition to civil penalties, costs and the issuance of a cease and desist order, her certification was revoked.

46) In the case of Mohammed Riyad the document preparer submitted documents in Bankruptcy Court which he had notarized as being the signatures of his consumer. In fact these documents were not signed by Mr.

Riyad's consumer. The Board revoked Mr. Riyad's certification, issued a cease and desist order, ordered continuing education and imposed a civil penalty in addition to the assessment of costs.

47) The Board in the matter of Beverly Hall dealt with the issue of a legal document preparer putting her own contact information on the document filed in court. Instead of proceeding to hearing on the formal charge, Ms. Hall surrendered her certificate "under discipline."

48) In the matter of Cassandra Bruce the Board determined that the legal document preparer engaged in a scheme with a disbarred attorney in which the document preparer placed her name, signature and certification number on more than 120 bankruptcy petitions. The Board found that the conduct of Ms. Bruce threatened the health, safety and welfare of the public.

49) The cases set forth in paragraphs 44 through 48 above are of course not exactly similar to Julie Star's case. No two cases will be exactly similar. However, these cases demonstrate that the Board considers that serious consequences should occur when conduct similar to Ms. Star's occurs. Ms. Haigh received a suspension of not less than one year although her conduct was related to only one of the areas for which Ms. Star was found to be in violation. Ms. Toon's certification was revoked, but she profited directly by taking possession of property owned by one of her customers. Ms. Star's husband expected to earn a commission for his role in assisting Marilyn Larson in purchasing Martha Gowen's home. The money

that John Star would make, would also benefit the community of John and Julie Star. Julie Star's notarizing Martha Gowen's signatures when Martha did not appear personally before Julie is not as serious as Mr. Riyadh's conduct that led to the revocation of his certificate. Mr. Riyadh presented the signatures as if they were from his consumers when in fact they were not the signatures of his consumers. Beverly Hall surrendered her certificate when she was accused of putting her own address in the caption of documents filed in court.

50) In each of the cases set forth above one aspect was similar to the proven allegations against Ms. Star. However, Ms. Star has been found to have engaged in five separate violations. The cases demonstrate that it is entirely proportional for the Board to order the revocation of Ms. Star's certification, issue a cease and desist order, direct that as a condition of reinstatement Julie Star participate in no less than 10 hours of continuing education, assess the costs of these proceedings against Julie Star and impose a civil penalty of \$250 per violation.

### **RECOMMENDATION**

ACJA section 7-201(C) states, "The primary purpose of the certification and discipline processes is protection of the public. In addition, the certification programs ensure compliance to the highest ethical standards, rehabilitation of the certificate holder and deterrence of further unprofessional conduct pursuant to subsection (H)(6)(k), in accordance with

the statutes, court rules and ACJA.” Ms. Star’s conduct was serious on a number of levels. She kept secret from the people who were paying her fee the fact that her husband was helping Marilyn Larson buy their deceased mother’s home. She did this to assist Marilyn Larson who did not want to pay a higher price for the home if Marilyn’s siblings (Julie Star’s clients) knew Marilyn was the purchaser. Julie Star would have shared in John Star’s commission because his “fee” was community property. This conflict of interest involved Julie Star aiding a deception. She knew on August 3, 2010 that John Star would “buy” the home using Marilyn Larson’s money, but that this was a sham purchase to deceive the other co-trustees. Yet, on August 14, 2010 Julie Star prepared the Notice of Change of Trustees/Appointment of Co-Trustees which stated that all agreements regarding the house must be signed by each of the co-trustees. This document meant that the five co-trustees were entitled to know the real circumstances of any purchase of their deceased mother’s home. Julie Star deliberately omitted to tell them the truth about John’s purchase of the home, thereby knowingly aiding John and Marilyn in obtaining the unanimous approval of the co-trustees (and thus facilitating the sale of the home to Marilyn Larson) under false pretenses.

In notarizing the signatures of Martha Gowens on two documents when Martha did not personally appear, Julie Star demonstrated that she is willing to bend the rules if she thinks that the circumstances require it. Yet,

she knew that the law required Martha to sign in the presence of the notary because she prepared and sent the document to Martha in Nevada with a Clark County, Nevada caption for the local notary. When a Nevada notary did not notarize the documents, Julie Star avowed falsely that Martha had appeared personally before her. This was a short-cut not authorized by law.

Julie Star placed her own address on a document she prepared for two of her consumers to file as pro per litigants. Julie placed her address on the document in such a way that it would lead the Court to think that her address was a mailing address for the pro per litigants. Although Local Rule 2.15 allows an attorney to receive mail for her client, it does not permit a legal document preparer to do the same thing.

The Hearing Officer recommends the following sanctions:

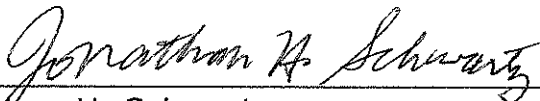
- 1) Ms. Star's certification be revoked;
- 2) A cease and desist order issue enjoining Ms. Star from preparing legal documents and from representing herself to the public as a certified legal document preparer, or from conducting any activity that constitutes the unauthorized practice of law;
- 3) An Order issue stating that as a condition of reinstatement Julie Star must participate in no less than ten (10) hours of continuing education in professional responsibility and ethics,



in addition to the hours of continuing education required for renewal of certification;

- 4) Assess against Julie Star the costs of these proceedings including costs associated with the investigation to be paid no later than sixty (60) days from the Board's Final Order;
- 5) Impose civil penalties of \$250 per violation against Julie Star to be paid no later than sixty (60) days from the Board's Final Order.

Dated this 15<sup>th</sup> day of June, 2011

  
\_\_\_\_\_  
Jonathan H. Schwartz  
Hearing Officer

ORIGINAL filed with the Disciplinary Clerk  
this 15<sup>th</sup> day of June, 2011.

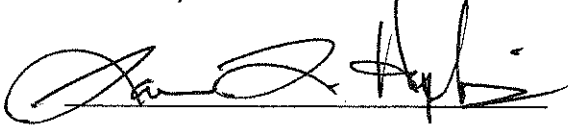
COPY of the foregoing mailed this 15<sup>th</sup>  
day of June, 2011, to:

Board of Legal Document Preparer  
1501 W. Washington, Suite 104  
Phoenix, AZ 85007-3231

Thomas C. Horne  
Attorney General

Fred W. Stork III  
Assistant Attorney General  
1275 West Washington  
Phoenix, AZ 85007  
Attorneys for the Legal Document  
Preparer  
fred.stork@azag.gov

Russell F. Wenk  
Trullinger & Wenk, PLLC  
1616 N. Litchfield Road, Suite 215  
Goodyear, AZ 85395  
Attorneys for Julie Star

A handwritten signature in black ink, appearing to read "Russell F. Wenk", written over a horizontal line.

# Cost Statement

Julie Star - Complaint Number 11-L001

<b>STAFF COSTS</b>		<b>\$2,426.58</b>
<b>PROCESS SERVER</b>		<b>\$127.00</b>
Emergency Suspension Order	\$58.70	
Notice of Formal Statement of Charges	\$68.30	
<b>CERTIFIED MAIL</b>		<b>\$4.58</b>
<b>COURT REPORTER TRANSCRIPTS</b>		<b>\$1,672.45</b>
Emergency Suspension Hearing	\$378.95	
Disciplinary Hearing	\$1,293.50	
<b>TOTAL</b>		<b><u><u>\$4,230.61</u></u></b>

\*Costs as of July 7, 2011

# BOARD OF LEGAL DOCUMENT PREPARERS

Agenda Summary - Monday, July 25, 2011

## 2) REVIEW OF PENDING COMPLAINTS

*2-D: Review, discussion and possible action regarding a proposed Consent Agreement resolution of the pending formal disciplinary action in complaint number 10-L033 involving certificate holders Judith Alsbaugh and Capital Consultants Management Corporation.*

On April 25, 2011, the Board reviewed the attached Investigation Summary and Probable Cause Determination and entered the attached Order. The attached proposed Consent Agreement has been entered by the certificate holders. Page 4, paragraph 9 (language previously approved by the Board in another unrelated matter) has been added to the Consent Agreement. Division staff recommends the Board enter the proposed Consent Agreement and authorize the Chair to sign the document on behalf of the full Board.

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3 **ARIZONA SUPREME COURT**  
4 **BOARD OF LEGAL DOCUMENT PREPARERS**

5 IN THE MATTER OF CERTIFIED  
6 LEGAL DOCUMENT PREPARERS:

NO. 10-L033

7  
8 JUDITH ALSPAUGH,  
Certificate Number 81016

CONSENT AGREEMENT

9 And

10 CAPITAL CONSULTANTS  
11 MANAGEMENT CORPORATION,  
Certificate Number 80418

12  
13 **JURISDICTION**

14 Pursuant to Arizona code of Judicial Administration ("ACJA") § 7-201 and ACJA  
15 § 7-208, the Board of Legal Document Preparers ("Board") has jurisdiction over this  
16 matter as Judith Alspaugh ("Alspaugh") and Capital Consultants Management  
17 Corporation ("CCMC") are certified legal document preparers. On May 24, 2010,  
18 Administrative Office of the Courts Director David K. Byers initiated complaint number  
19 10-L033 pursuant to ACJA § 7-201(H)(1)(b). The initiated complaint contained two  
20 allegations for investigation by the Certification and Licensing Division ("Division").  
21 Allegation 1 alleged Alspaugh and CCMC exceeded the authority of a certified legal  
22 document prepared and engaged in the unauthorized practice of law by signing a "Notice  
23 and Claim of Lien" as the "Authorized Representative" for CCMC customer Power Ranch  
24 Community Association. Allegation 2 alleged certified legal document preparer and  
25 CCMC employee Jacqueline Vigil, acting on behalf of CCMC, exceeded the authority of  
26 a certified legal document preparer and engaged in the unauthorized practice of law by

1 signing a "Notice and Claim of Lien" prepared for CCMC customer Coyote Lakes  
2 Community Association. During the investigation of the complaint, two additional  
3 allegations were derived. Allegation 3 alleged Alspaugh failed to place CCMC's business  
4 name, title and certification number on numerous "Notice and Claim of Lien" documents  
5 prepared and recorded with the Maricopa County Recorder's Office, as required by ACJA  
6 § 7-208(F)(3). Allegation 4 alleged Alspaugh failed to fulfill her responsibilities as  
7 designated principal to ensure CCMC employees were acting in compliance with Arizona  
8 Supreme Court Rule 31, ACJA § 7-201 and § 7-208.

9 On February 18, 2011, Probable Cause Evaluator Mike Baumstark entered a  
10 finding probable cause exists in complaint number 10-L033.

11 On April 25, 2011, the Board accepted the finding of the Probable Cause Evaluator  
12 in complaint number 10-L033 and entered a finding grounds for formal disciplinary action  
13 exists pursuant to ACJA § 7-201(H)(6)(a) and (H)(6)(k)(3) for acts of misconduct  
14 involving Arizona Supreme Court Rule 31(a)(2)(B), ACJA § 7-201(F)(1) and ACJA § 7-  
15 208(F)(2), (F)(3), (F)(6)(c), (J)(5)(a) and (J)(5)(b). The Board further ordered this  
16 Consent Agreement resolution of the formal disciplinary action be offered to Alspaugh  
17 and CCMC in advance of the filing of a Notice of Formal Statement of Charges. By  
18 entering this Consent Agreement, Alspaugh and CCMC understand they waive their right  
19 to hearing regarding complaint number 10-L033 and agree to the following Consent  
20 Agreement provisions pursuant to ACJA § 7-201(H)(24)(a)(6)(c):

- 21 1. The Board finds misconduct and Alspaugh and CCMC acknowledge and accept  
22 responsibility for the misconduct detailed in the Investigation Summary, Allegation  
23 Analysis and Probable Cause Determination Report and Board Order issued in complaint  
24 number 10-L033.
- 25 2. The Board will issue a Censure to Alspaugh, pursuant to ACJA § 7-  
26 201(H)(24)(a)(6)(b).

1 3. The Board will issue a Censure to CCMC, pursuant to ACJA § 7-  
2 201(H)(24)(a)(6)(b).

3 4. The Board orders and Alspaugh agrees to participate in no less than five (5) hours  
4 of continuing education in the curriculum areas of professional responsibility, ethics, and  
5 the unauthorized practice of law, in addition to any hours otherwise required for renewal,  
6 pursuant to ACJA § 7-201(H)(24)(a)(6)(f).

7 5. The Board will order and CCMC agrees to be placed on probation for a period of  
8 not less than six months pursuant to ACJA 7-201(H)(24)(a)(6)(e) with the following  
9 conditions:

10 i. CCMC shall immediately and hence forth cease and desist from offering or  
11 providing any legal services that exceed the authorities of a certified legal document  
12 preparer or otherwise constitute the unauthorized practice of law; including any and all  
13 contractual service agreements, pursuant to ACJA 7-201(H)(24)(a)(6)(g).

14 ii. No later than sixty (60) days following the board's entry into this Consent  
15 Agreement, CCMC shall develop and implement policies and procedures necessary to  
16 ensure no member of the CCMC staff, its officers, or any others acting on behalf f of the  
17 business entity are engaging in the unauthorized practice of law. A copy of the written  
18 policies and procedures shall be submitted to the Division.

19 iii. CCMC and Alspaugh shall submit to the Division an updated and  
20 comprehensive list of any and all individuals providing legal document preparation  
21 services on behalf of the certified business entity within fifteen (15) days following the  
22 Board's entry in to this Consent Agreement. The list shall indentify the certification status  
23 of each individual and identity, if applicable, whether each individual is an ACJA §7-  
24 208(F)(5) trainee along with the date the trainee meets the minimum eligibility  
25 requirements to apply for individual certification.

26 6. The Board assesses and CCMC agrees to pay the costs associated with the

1 investigation and any related administrative proceedings involving complaint number 10-  
2 L033 in the amount of \$175.80, pursuant to ACJA §7-201(H)(24)(a)(6)(j). CCMC shall  
3 remit the assessed costs to the Certification and Licensing Division, 1501 West  
4 Washington, Suite 104 Phoenix, Arizona, 85007, made payable to the "Arizona Supreme  
5 Court" within 60 days of the board's entry into this Consent Agreement.

6 7. The Board imposes and CCMC agrees to pay a civil penalty in the amount of  
7 \$250.00 per found violation totaling \$1,000.00, pursuant to ACJA §7-201(H)(24)(a)(6)(k).  
8 CCMC shall remit the imposed civil penalty the Certification and Licensing Division,  
9 1501 West Washington, #104, Phoenix, Arizona 85007, made payable to the "Arizona  
10 Supreme Court" within 670 days of the Board's entry into this Consent Agreement.

11 8. Alspaugh and CCMC understand failure to comply with the terms of this consent  
12 Agreement may result in the Board taking further disciplinary action or denying renewal  
13 of certification.

14 9. The Board, Alspaugh, and CCMC recognize that conceivably there could be  
15 additional complaints against Alspaugh, CCMC, or other CCMC employees relating to  
16 the same or substantially the same conduct or categories of conduct as set forth in the  
17 Investigative Report and the Consent Agreement, including, but not limited to preparing,  
18 filing or recording documents, which occurred prior to Alspaugh or CCMC having  
19 knowledge of the subject complaint and determinations, and that this Consent Agreement  
20 and the resolution herein are intended to resolve any and all such matters involving the  
21 same or similar categories of conduct. Additionally, should the Certification and  
22 Licensing Division receive a complaint in the future pertaining to other conduct in which  
23 Alspaugh, CCMC, or other CCMC employees engaged prior to the date of this Consent  
24 Agreement, this Consent Agreement shall be deemed a significant mitigating factor  
25 pursuant to ACJA § 7-201(H)(22)(b)(1).


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Entered into on this date by:

Entered into on this date by:

  
\_\_\_\_\_  
Judith Alspaugh                      Date 7/8/2011  
Certificate Number 81016  
Designated Principal for Capital Consultants  
Management Corporation  
Certificate Number 80418

\_\_\_\_\_  
Les Krambeal, Chair                      Date  
Board of Legal Document Preparers

1 An original copy of the foregoing hand delivered and/or mailed this \_\_\_\_\_ day of  
2 \_\_\_\_\_, 2011, to:

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Judith Alspaugh  
Capital Consultants Management Corporation  
8360 East Via de Ventura, #L-100  
Scottsdale, Arizona 85258

Krystal Aspey  
Quarles & Brady  
2 North Central Avenue  
Phoenix, Arizona 85004

Rex Nowlan  
Administrative Law Section  
Arizona Attorney General's office  
15 South 15th Avenue  
Phoenix, Arizona 85007

Nina Preston, Assistant Counsel  
Administrative Office of the Court  
1501 West Washington  
Phoenix, Arizona 85007

Certification and Licensing Division  
Arizona Supreme Court  
1501 West Washington, suite 104  
Phoenix, Arizona 85007

By: \_\_\_\_\_  
Debbie MacDougall, Programs Specialist  
Certification and Licensing Division

**ARIZONA SUPREME COURT  
ADMINISTRATIVE OFFICE OF THE COURTS  
INVESTIGATION SUMMARY**

<b>CERTIFICATE HOLDER INFORMATION</b>	<b>Certificate Holder:</b>	Judith Alspaugh
	<b>Certification Number:</b>	81016
	<b>Business Name:</b>	Capital Consultants Management Corporation
	<b>Certificate Number:</b>	80418
	<b>Type of Certificate/License:</b>	Legal Document Preparer
<b>COMPLAINANT</b>	<b>Name:</b>	David Byers, Administrative Director of the Courts
<b>INVESTIGATION INFORMATION</b>	<b>Complaint Number:</b>	10-L033
	<b>Investigator:</b>	Karla Clanton
	<b>Complaint Received:</b>	May 24, 2010
	<b>Complaint Forwarded to the Certificate Holder:</b>	May 25, 2010
	<b>Response From Certificate Holder Received:</b>	June 23, 2010
	<b>Report Date:</b>	September 8, 2010

The investigation of this complaint included the following:

- Written complaint initiated by Administrative Director of the Courts David Byers (“Director Byers”)
- Written response and documentation submitted by Attorney David T. Barton (“Barton”) on behalf of Judith Alspaugh (“Alspaugh”) and Capital Consultants Management Corporation (“CCMC”)
- Review of Certification and Licensing Division (“Division”) records
- Review of applicable sections of Arizona Revised Statutes (“ARS”), Arizona Codes of Judicial Administration (“ACJA”) § 7-201 and § 7-208, and Arizona Supreme Court Rules

**ALLEGATIONS ALLEGED BY COMPLAINANT:**

1. Certified legal document preparers Judith Alspaugh (“Alspaugh”) and Capital Consultants Management Corporation (“CCMC”) exceeded the authority of a certified legal document preparer and engaged in the unauthorized practice of law by signing a “Notice and Claim of Lien” as the “Authorized Representative” for CCMC customer Power Ranch Community Association.
2. Certified legal document preparer and CCMC employee Jacqueline Vigil (“Vigil”), acting on behalf of CCMC, exceeded the authority of a certified legal document preparer and engaged in the unauthorized practice of law by signing a “Notice and Claim of Lien” prepared for CCMC customer Coyote Lakes Community Association.

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**ADDITIONAL ALLEGATIONS:**

3. Alspaugh failed to place CCMC's business name, title and certification number on numerous "Notice and Claim of Lien" documents prepared and recorded with the Maricopa County Recorder's Office, as required by ACJA § 7-208(F)(3).
4. Alspaugh failed to fulfill her responsibilities as designated principal to ensure CCMC employees were acting in compliance with Arizona Supreme Court Rule 31, ACJA § 7-201 and § 7-208.

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**SUMMARY OF INVESTIGATION:**

No provision of law, court rule or ACJA authorizes a certified legal document preparer to act in a representative capacity or to sign documents on behalf of a customer. On May 24, 2010, Director Byers initiated this complaint involving Alspaugh and CCMC to investigate unauthorized practice of law issues involving Alspaugh and CCMC staff demonstrated by and through liens prepared for recording with the Maricopa County Recorder's Office. Alspaugh and CCMC employee Vigil, acting on behalf of CCMC, signed the Notice and Claim of Lien' documents as representatives of CCMC's HOA customers. Both Alspaugh and Vigil list their names, titles and certification numbers on the recorded documents identifying themselves as the certificate holders responsible for preparing the respective documents. However, they failed to include the required identification for the certified business on the documents.

On June 23, 2010, CCMC and Alspaugh's attorney, Barton, submitted a written response to the complaint. Barton argued CCMC and Alspaugh were in compliance with the rules that govern legal document preparers. Barton response stated Alspaugh and CCMC staff signing as an "Authorized Representative" was not the same as representing another in a judicial, quasi-judicial, or administrative proceeding, or other formal dispute resolution process as provided for in ACJA § 7-201(J)(5)(b). Barton also asserted CCMC holds contractual agreements with both HOAs listed in the allegations which specifically authorize CCMC "to institute legal actions or proceedings for the collection of delinquent amounts." Additionally, Barton cited Arizona Supreme Court Rule 31(d) ("Rule 31") and the State Bar of Arizona Unauthorized Practice of Law ("UPL") Advisory Committee Opinion 04-02 as grounds for the complaint to be dismissed.

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**INVESTIGATION:**

CCMC was granted legal document preparer business certification effective July 28, 2003. CCMC has successfully renewed its business certification without interruption through the current certification period which ends on June 30, 2011. Alspaugh was granted individual legal document preparer certification effective December 17, 2007. Alspaugh has successfully renewed her certification without interruption through the current certification period which ends on June 30, 2011. Alspaugh is the designated principal of record for CCMC and is listed with Arizona Corporation Commission

("ACC") as a CCMC director, secretary and treasurer. Vigil was granted individual certification effective July 28, 2003 and her certification has been renewed without interruption through the current certification period which ends on June 30, 2011. Vigil served as the CCMC designated principal of record from July 28, 2003 until June 23, 2008 when Alspaugh became the designated principal.

No provision of law, court rule or ACJA authorizes a certified legal document preparer to act in a representative capacity or to sign documents on behalf of a customer. On May 24, 2010, Director Byers initiated this complaint involving Alspaugh and CCMC to commence an investigation pertaining to unauthorized practice of law issues involving Alspaugh and CCMC staff demonstrated by and through liens prepared for recording with the Maricopa County Recorder's Office. Alspaugh and Vigil, on behalf of CCMC, signed "Notice and Claim of Lien" documents as representatives of CCMC's HOA customers. Both Alspaugh and Vigil list their names, titles and certification numbers on the recorded documents identifying themselves as the certificate holders responsible for preparing the respective documents. However, they failed to include the required identification for the certified business on the documents.

On May 25, 2010, the Division sent a copy of the complaint initiated by Director Byers and copies of the "Notice and Claim of Lien" documents to Alspaugh, CCMC and attorney Barton. A letter sent with the complaint and documentation notified Alspaugh and CCMC of the ACJA § 7-201(H)(3)(c) requirement they provide a written response to the complaint within thirty (30) days.

On June 23, 2010, Barton submitted a written response to the complaint and included a copy of UPL Advisory Opinion 04-02 as well as copies of the contracts CCMC entered into with Coyote Lakes Community Association ("Coyote Lakes") and Power Ranch Community Association ("Power Ranch"). Barton argued CCMC and Alspaugh were in compliance with the rules governing legal document preparers. Barton asserted CCMC's contractual agreements with the HOAs specifically authorized CCMC "to institute legal actions or proceedings for the collection of delinquent amounts." Barton stated, in part:

CCMC is a property management company. As a property manager, CCMC and Ms. Alspaugh become the contractual agents of the community associations they work for. The agreements between CCMC and its communities specifically appoint CCMC as the exclusive "managing agent" for the association, and go on to say that the relationship between the association and CCMC is one of principal and agent.

Barton asserted Alspaugh and CCMC staff signing lien documents as an "Authorized Representative" did not constitute "representing another in a judicial, quasi-judicial, or administrative proceeding, or other formal dispute resolution process" as provided for in ACJA § 7-201(J)(5)(b). Barton instead opined "the preparation and signing of liens by property management companies and their employees is authorized by Arizona Supreme Court Rule 31(d)". Barton also stated, in pertinent part:

For obvious reasons, simply signing a legal document as a “representative” of another is not engaging in the practice of law. The Arizona Supreme Court has defined the “practice of law” generally as “those acts, whether performed in court or in the law office, which lawyers customarily have carried on from day to day through the centuries.” *State Bar of Arizona v. Arizona Land Title & Trust Co.*, 90 Ariz. 76, 366 P.2d 1, 9 (1961) (en banc). Signing and recording a lien is not an act customarily performed by lawyers. Rather, liens are typically, and sometimes necessarily, signed and recorded by the individual or entity that is asserting the lien. *See, e.g.*, A.R.S. § 33-993(A) (“The notice and claim of lien shall be made under oath by the claimant or someone with knowledge of the facts...”). And, because entities cannot sign documents themselves, liens are unavoidably signed by an “authorized representative” of the liening entity. Therefore, this act of signing and recording a lien in a representative capacity is not the type of “representation” to which A.C.J.A. § 7-208(J)(5)(b) refers.

Barton cited part of ARS § 33-1807(J) stating “The association shall record in the office of the county recorder in the county in which the planned community is located a notice stating the name of the association or ***designated agent or management company for the association***, the address for the association and the telephone number of the association ***or its designated agent or management company***.” Barton argued nothing in ARS § 33-1807(J) suggested the lien process is a “judicial, quasi-judicial, or administrative proceeding, or other formal dispute resolution process.”

Regarding Barton’s assertion Rule 31(d) authorizes property management companies to prepare and sign liens, Barton cited the following excerpts of UPL Advisory Opinion 04-02:

In situations in which the management company has broad responsibilities to act on behalf of the owner or the association, it would seem inappropriate to assert that Rule 31(c)(19) [not codified as Rule 31(d)(20)] did not apply, because the management company was preparing the documents for use by a “third party”- the owner of the property – even though the Rule could technically be read to reach such a result. The more appropriate reading of Rule 31, from a public policy perspective, would appear to be that the document is being prepared by the management company and used by the management company in a manner that is incidental to the regular course of its business.

Therefore, a management company with broad responsibilities regarding management of a property or management of an association may prepare legal documents that are incidental to the management of the property (just as the owner would be allowed to do so) pursuant to Rule (c) (19) [now codified as Rule 31(d)(20)].

Barton argued CCMC and Alspaugh could prepare and file lien notices on behalf of the HOAs they work for because of two different exceptions under Rule 31; Rule 31(d)(20)

which allows businesses to prepare documents for their own use; and Rule(d)(24) allowing certified document preparers to prepare legal documents, such as lien notices.

Barton argued CCMC and Alspaugh's actions were "authorized by the Rules of the Arizona Supreme Court as interpreted by the Arizona State Bar," and requested the complaint be dismissed against them based on his arguments.

Division Investigator Karla Clanton ("Investigator Clanton") reviewed the lien notices Alspaugh and CCMC employee Vigil prepared, signed and recorded with the Maricopa County Recorder's Office for the Coyote Lakes and Power Ranch HOAs via the Maricopa County Recorder's Office website.

The document prepared by Alspaugh listed her name at the top and directly underneath Alspaugh listed her AZCLDP title and certification number. CCMC's business name and certification number were not listed on the document. Below Alspaugh's certification number was the statement "At the request of" and HOA Power Ranch name and business address were provided underneath. The signature block on the document reads, "Authorized Representative of POWER RANCH" and Alspaugh signed directly above the reference. Investigator Clanton reviewed numerous other liens notices prepared, signed and recorded by Alspaugh with the Maricopa County Recorder's Office on behalf of Power Ranch and discovered all the documents were prepared in a manner consistent with that described above.

The document prepared by Vigil was prepared in the exact same manner as Alspaugh's lien notice except the HOA referenced was Coyote Lakes. CCMC's business name and certification number were not listed on the document. Vigil's signature was directly above the statement, "Authorized Representative of COYOTE LAKES COMM ASSOC".

Investigator Clanton reviewed the contracts entered into between CCMC and the Coyote Lakes and Power Ranch HOAs. Both contracts included the following:

Bill, request, demand and receive all Assessments and other Association receipts that may at any time become due the Association. When necessary, and in accordance with any applicable Association policy, Managing Agent is authorized to institute legal actions or proceedings for the collection of delinquent amounts. The Association recognizes and agrees that all efforts to facilitate the collection of delinquent Assessments and other charges are time consuming and an additional expense to the Managing Agent. Accordingly, the Managing Agent will charge a fee as set forth in Exhibit B for its efforts involved in the extra work required for collection of delinquent amounts. Such fee shall be charged in accordance with the adopted collection policy of the Association. Managing Agent agrees to act in conformance with any applicable requirements of laws, statutes and regulations regarding the collection of debts, including the Fair Debt Collection Practices Act.





**ARIZONA SUPREME COURT  
ADMINISTRATIVE OFFICE OF THE COURTS  
ALLEGATION ANALYSIS REPORT and PROBABLE CAUSE  
EVALUATION and DECISION**

<b>CERTIFICATE HOLDER INFORMATION</b>	<b>Certificate Holder:</b>	Judith Alspaugh
	<b>Certification Number:</b>	81016
	<b>Business Name:</b>	Capital Consultants Management Corporation
	<b>Certificate Number:</b>	80418
	<b>Type of Certificate/License:</b>	Legal Document Preparer
<b>INVESTIGATION INFORMATION</b>	<b>Complaint Number:</b>	10-L033
	<b>Investigator:</b>	Karla Clanton

**ANALYSIS OF ALLEGATIONS:**

*Allegation 1. Certified legal document preparers Judith Alspaugh (“Alspaugh”) and Capital Consultants Management Corporation (“CCMC”) exceeded the authority of a certified legal document preparer and engaged in the unauthorized practice of law by signing a “Notice and Claim of Lien” as the “Authorized Representative” on behalf of CCMC customer Power Ranch Community Association.*

*Allegation 2. Certified legal document preparer and CCMC employee Jacqueline Vigil (“Vigil”), acting on behalf of CCMC, exceeded the authority of a certified legal document preparer and engaged in the unauthorized practice of law by signing a “Notice and Claim of Lien” prepared on behalf of CCMC customer Coyote Lakes Community Association.*

Arizona Supreme Court Rule 31 (“Rule 31”) (a)(2)(B) states the “unauthorized practice of law includes but is not limited to engaging in the practice of law by persons or entities not authorized to practice”. Arizona Code of Judicial Administration (“ACJA”) § 7-208 which governs legal document preparers exists as an exemption to the prohibition of the unauthorized practice of law contained in Rule 31. ACJA § 7-208(F)(1) provides specified, authorized services a certified legal document preparer may offer to consumers not represented by an attorney.

ACJA § 7-201(F)(1) and ACJA § 7-208(F)(2) requires all certified legal document preparers to comply with the Code of Conduct contained in ACJA § 7-208(J). The list of “authorized services” a certified legal document preparer can provide to non-represented parties contained in ACJA § 7-208(F)(1) does not include acting in a representative capacity on behalf of a consumer.

ACJA § 7-208(J)(5)(a) states, “A legal document preparer shall perform all duties and discharge all obligations in accordance with applicable laws, rules or court orders.”

ACJA § 7-208(J)(5)(b) includes:

A legal document preparer shall not represent they are authorized to practice law in this state, nor shall the legal document preparer provide legal advice or services to another by expressing opinions, either verbal or written, or by representing another in a judicial, quasi-judicial, or administrative proceeding, or other formal dispute resolution process...

During the investigation of this complaint, numerous recorded documents prepared by Alspaugh and Vigil, on behalf of CCMC for CCMC customers, were reviewed and considered. The reviewed "Notice and Claim of Lien" documents contained Alspaugh or Vigil's signatures as the "Authorized Representative" acting on behalf of CCMC's Homeowner's Association ("HOA") customers.

Through their attorney, David Barton, CCMC acknowledged its active participation in offering and providing litigation and collections related services to the HOA customers, asserting doing so was permissible for certified legal document preparers based on "agency law" established through contractual agreements entered into between CCMC and the respective HOAs, a non-binding Advisory Opinion issued by the State Bar of Arizona Unauthorized Practice of Law Advisory Committee, and the unauthorized practice of law exception contained in Rule 31(d)(20) which reads:

Nothing in these rules shall prohibit the preparation of documents incidental to a regular course of business when the documents are for the use of the business and not made available to third parties.

CCMC, Alspaugh and Vigil are not officers of the respective HOA corporations. Rather, they are offering and providing lien preparation and processing services to third party HOA customers. For this reason, Rule 31(d)(20) is not an applicable exception.

Rule 31(d)(3) reads:

An officer of a corporation or a managing member of a limited liability company who is not an active member of the state bar may represent such entity before a justice court or police court provided that: the entity has specifically authorized such officer or managing member to represent it before such courts; such representation is not the officer's or managing member's primary duty to the entity, but secondary or incidental to other duties relating to the management or operation of the entity; and the entity was an original party to or a first assignee of a conditional sales contract, conveyance, transaction or occurrence that gave rise to the cause of action in such court, and the assignment was not made for a collection purpose.

The Rule 31(d)(3) exception is not applicable because CCMC and its employees are not original parties or first assignees to the debts that gave rise to the causes of action. Further, the contractual assignment of the legal document preparation services to CCMC by the HOAs was specifically for collections purposes.

Similarly, “agency law” does not support or justify members of a regulated profession circumventing or expanding their authority beyond regulatory limitations. No provision of court rule, ACJA, or law authorizes Alspaugh, Vigil or CCMC to act in a representative capacity on behalf of any individual or entity. As with attempting to or establishing prohibited authorities by way of contract, the Board has previously found this premise does not support or justify members of a regulated profession circumventing or expanding their authority beyond regulatory limitations. The State Bar of Arizona Unauthorized Practice of Law Advisory Committee (non-binding) Opinion number 04-02, entitled “Property Management Companies”, does assert that certified legal document preparers may prepare and record lien related documents for third party consumers. The Opinion does not address the issue of or otherwise suggest certified legal document preparers can act as representatives of or sign legal documents on behalf of their third party HOA customers.

A review of Arizona Corporation Commission (“ACC”) records reflects CCMC is the named Statutory Agent for the Power Ranch and Coyote Lakes Community Associations. ACC records for these HOAs confirmed no officer or partner of CCMC have been appointed as officers of these HOAs. Therefore, Allegations 1 and 2 are substantiated.

***Allegation 3. Alspaugh failed to place CCMC’s business name, title and certification number on numerous “Notice and Claim of Lien” documents prepared and recorded with the Maricopa County Recorder’s Office, as required by ACJA § 7-208(F)(3).***

ACJA § 7-208(F)(3) states:

Beginning July 1, 2003, a certified legal document preparer shall include the legal document preparer’s name, the title “Arizona Certified Legal Document Preparer” or the abbreviation “AZCLDP” and the legal document preparer’s certificate number on all documents prepared by the legal document preparer, unless expressly prohibited by a non-judicial agency or entity. A legal document preparer providing services on behalf of a certified business entity shall also include the business entity name and certificate number on all documents prepared, unless expressly prohibited by a non-judicial agency or entity. The legal document preparer shall also provide their name, title and certificate number to any person upon request.

No law, rule or policy expressly prohibits a certified legal document preparer from placing their name, title or certificate number on documents prepared for recording with the Maricopa County Recorder’s Office. Numerous “Notice and Claim of Lien” documents Alspaugh prepared for CCMC customers for recording with the Maricopa County Recorder’s Office included Alspaugh’s legal document preparer information, identifying Alspaugh as the individual responsible for preparing the documents but failed to contain CCMC’s name, title and certification number as required by ACJA § 7-208(F)(3). Therefore, Allegation 3 is substantiated.

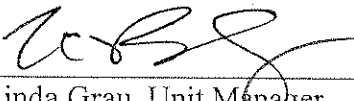
***Allegation 4. Alspaugh failed to fulfill her responsibilities as designated principal to ensure CCMC employees were acting in compliance with Arizona Supreme Court Rule 31, ACJA § 7-201 and § 7-208.***

ACJA § 7-208(F)(6)(c) states the designated principal of a certified business entity shall:  
Actively and directly supervise all other certified legal document preparers,  
subsection (F)(5) trainees, and staff working for the certified business entity.

ACJA § 7-208(J)(5)(a) states, "A legal document preparer shall perform all duties and discharges all obligations in accordance with applicable laws, rules or court orders."

By agreeing to serve as the designated principal for CCMC, Alspaugh accepted personal professional responsibility for CCMC and CCMC employees acting in compliance with all laws, rules and orders governing legal document preparers. Under Alspaugh's active and direct supervision, CCMC employee Vigil signed liens as an "Authorized Representative" of the Coyotes Lake Community Association in violation of Rule 31 and ACJA § 7-208(J)(5)(b) and failed to place the CCMC name, title and certification number on documents she prepared for CCMC consumers in violation of ACJA § 7-208(F)(3). Therefore, Allegation 4 is substantiated.

**SUBMITTED BY:**

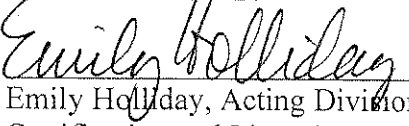
 2/11/11  
Linda Grau, Unit Manager Date  
Certification and Licensing Division

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**REFERRAL TO PROBABLE CAUSE EVALUATOR:**

The Investigation Summary and Allegation Analysis Report on complaint number 10-L033 have been reviewed and approved for forwarding to the Probable Cause Evaluator and it is recommended the Probable Cause Evaluator enter a finding probable cause exists.

**SUBMITTED BY:**

 2/11/11  
Emily Holliday, Acting Division Director Date  
Certification and Licensing Division

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**DECISION OF THE PROBABLE CAUSE EVALUATOR:**

Having conducted an independent review of the facts and evidence gathered during the course of the investigation of complaint number 10-L033, the Probable Cause Evaluator:

- requests division staff to investigate further.
  
- determines probable cause does not exist the certificate holder has committed the alleged acts of misconduct as to Allegation(s):  

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

#1, 2, 3 + 4.

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*Mike Baumstark* 2/18/11

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Mike Baumstark                      Date  
Probable Cause Evaluator

(Alspaugh/CCMC 10-L033)

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

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<b><i>CERTIFICATE HOLDER INFORMATION</i></b>	<b>Certificate Holder:</b>	Judith Alspaugh
	<b>Certificate Number:</b>	81016
	<b>Business Name:</b>	Capital Consultants Management Corporation
	<b>Certificate Number:</b>	80418

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**RECOMMENDATION TO THE BOARD OF LEGAL DOCUMENT PREPARERS  
("BOARD"):**

It is recommended the Board accept the finding of the Probable Cause Evaluator and enter a finding Judith Alspaugh ("Alspaugh") and Capital Consultants Management Corporation ("CCMC") committed the alleged acts of misconduct detailed in the Investigation Summary and Allegation Analysis Report in complaint number 10-L033.

It is further recommended the Board enter a finding grounds for formal disciplinary action exists pursuant to Arizona Code of Judicial Administration ("ACJA") § 7-201(H)(6)(a) and (H)(6)(k)(3) for acts of misconduct involving Arizona Supreme Court Rule 31(a)(2)(B), ACJA § 7-201(F)(1) and ACJA § 7-208(F)(2), (F)(3), (F)(6)(c), (J)(5)(a) and (J)(5)(b).

**Mitigating Factor:**

1. Absence of prior discipline. This is the first complaint involving Alspaugh and CCMC. [ACJA § 7-201(H)(22)(b)(1)(a)]

**Aggravating Factors:**

None noted.

**Proportionality Analysis:**

The stated purpose of the Legal Document Preparer Program, as defined by ACJA § 7-208 (C), is to:

Protect the public through the certification of legal document preparers to ensure conformance to the highest ethical standards and performance of responsibilities in a professional and competent manner, in accordance with all applicable statutes, code sections, and Arizona court rules.

Historically, the Board has recognized engaging in the unauthorized practice of law by acting in a representative capacity on behalf of a consumer as a serious matter and a threat to the protection of the public with recognition of the potential harm to the public, judicial system, and document preparer profession. Prior actions by the Board in other

matters which found violations similar to the alleged act of misconduct have included revocation or suspension of certification, restitution and cease and desist orders, imposition of civil penalties and assessment of investigative costs and the related proceedings, mandated participation in continuing education, and stated conditions for reinstatement.


In determining the appropriate disposition in this case, it is recommended the Board consider the cited mitigating factor. Therefore, it is recommended the Board offer CCMC and Alspaugh a Consent Agreement to resolve this complaint, pursuant to ACJA § 7-201(H)(24)(a)(6)(c). It is recommended the proposed Consent Agreement include an acknowledgement of the misconduct, a statement giving notice to CCMC and Alspaugh that if they enter a Consent Agreement, they waive their right to a hearing, and impose the following sanctions pursuant to ACJA § 7-201(H)(24)(a)(6):

- a) Issue a Censure to Alspaugh, pursuant to ACJA § 7-201(H)(24)(a)(6)(b);
- b) Order Alspaugh participate in no less than five (5) hours of continuing education in the curriculum areas of professional responsibility, ethics, and the unauthorized practice of law, in addition to any hours otherwise required for renewal within (60) days following the entry of the Board's Final Order, pursuant to ACJA § 7-201(H)(24)(a)(6)(f);
- c) Issue a Censure to CCMC, pursuant to ACJA § 7-201(H)(24)(a)(6)(b);
- d) Place CCMC on probation for a period of not less than six months pursuant to ACJA § 7-201(H)(24)(a)(6)(e) with the following conditions:
  - i. CCMC shall immediately and hence forth cease and desist from offering or providing any legal services that exceed the authorities of a certified legal document preparer or otherwise constitute the unauthorized practice of law; including any and all contractual service agreements, pursuant to ACJA § 7-201(H)(24)(a)(6)(g).
  - ii. No later than sixty (60) days following the entry of the Board's Final Order, CCMC shall develop and implement policies and procedures necessary to ensure no member of the CCMC staff, its officers, or any others acting on behalf of the business entity are engaging in the unauthorized practice of law. A copy of the written policies and procedures shall be submitted to the Certification and Licensing Division ("Division").
  - iii. CCMC and Alspaugh shall submit to the Division an updated and comprehensive list of any and all individuals providing legal document preparation services on behalf of the certified business entity within fifteen (15) days following entry of the Board's Final Order. The list shall identify the certification status of each individual and identify, if applicable, whether each individual is an ACJA § 7-208(F)(5) trainee along with the date the trainee meets the minimum eligibility requirement to apply for individual certification.
- e) CCMC shall be assessed costs associated with the investigation and any related disciplinary proceedings and shall remit the payment of the assessed costs no later than sixty (60) days following entry of the Board's Final Order, pursuant to ACJA § 7-201(H)(24)(a)(6)(j).

- f) CCMC shall be assessed a civil penalty in the amount of \$250.00 per found violation and shall remit the payment of the civil penalty no later than sixty (60) days following entry of the Board's Final Order, pursuant to ACJA § 7-201(H)(24)(a)(6)(k).

In the event CCMC and Alspaugh decline the opportunity to enter a Consent Agreement within twenty (20) days of receipt of the Board's offer, it is recommended the matter proceed with the filing and service of Notice of Formal Statement of Charges pursuant to ACJA § 7-201(H)(10) without further Board order.

**SUBMITTED BY:**

  
Emily Holliday, Acting Division Director Date  
Certification and Licensing Division

**FINAL DECISION AND ORDER:**

The Board having reviewed the above Investigation Summary, Allegation Analysis Report, finding of the Probable Cause Evaluator, and Recommendation regarding complaint number 10-L033 and Judith Alspaugh, certificate number 81016, and Capital Consultants Management Corporation, certificate number 80418, makes a finding of facts and this decision, based on the facts, evidence, and analysis as presented and enters the following order:

requests division staff to investigate further.

refers the complaint to another entity with jurisdiction.

Referral to: \_\_\_\_\_

dismisses the complaint, and:

requests division staff prepare a notice of dismissal pursuant to ACJA § 7-201(H)(5)(c)(1).

requests division staff prepare a notice of dismissal and an Advisory Letter pursuant to ACJA § 7-201(H)(5)(c)(2).

determines grounds for discipline exist demonstrating the certificate holder committed the alleged act(s) of misconduct and:

enter a finding the alleged act(s) of misconduct or violation(s) be resolved through informal discipline, pursuant to ACJA § 7-201(H)(7) and issue a Letter of Concern.



enter a finding the alleged act(s) of misconduct or violation(s) be resolved through formal disciplinary proceeding, pursuant to ACJA § 7-201(H)(9).

requests the certificate holder appear before the Board to participate in a Formal Interview, pursuant to ACJA § 7-201(H)(8).

orders the filing of Notice of Formal Charges, pursuant to ACJA § 7-201(H)(10).

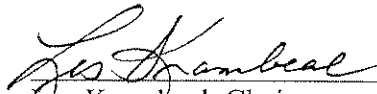
enters a finding the public health, safety or welfare is at risk, requires emergency action, and orders the immediate emergency suspension of the certificate and sets an expedited hearing for:

Date, Time, and Location: \_\_\_\_\_

adopts the recommendations of the Division Director.

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

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

 04.25.11  
Les Krambeal, Chair                      Date  
Board of Legal Document Preparers

# BOARD OF LEGAL DOCUMENT PREPARERS

Agenda Summary - Monday, July 25, 2011

## 2) REVIEW OF PENDING COMPLAINTS

*2-E: Review, discussion and possible action regarding a proposed Consent Agreement resolution of the pending formal disciplinary action in complaint number 10-L028 involving certificate holder Jacqueline Vigil.*

On April 25, 2011, the Board reviewed the attached Investigation Summary and Probable Cause Determination and entered the attached Order. The attached proposed Consent Agreement has been entered by the certificate holder. Page 3, paragraph 6 (language previously approved by the Board in another unrelated matter) has been added to the Consent Agreement. Division staff recommends the Board enter the proposed Consent Agreement and authorize the Chair to sign the document on behalf of the full Board.

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**ARIZONA SUPREME COURT  
BOARD OF LEGAL DOCUMENT PREPARERS**

IN THE MATTER OF CERTIFIED  
LEGAL DOCUMENT PREPARERS:  
  
JACQUELINE VIGIL,  
Certificate Number 80387

NO. 10-L028  
  
CONSENT AGREEMENT

**JURISDICTION**

Pursuant to Arizona Code of Judicial Administration ("ACJA") § 7-201 and ACJA § 7-208, the Board of Legal Document Preparers ("Board") has jurisdiction over this matter as Jacqueline Vigil ("Vigil") is a certified legal document preparer. On May 24, 2010, Administrative Office of the Courts Director David K. Byers initiated complaint number 10-L028 pursuant to ACJA § 7-201(H)(1)(b). The initiated complaint contained three allegations for investigation by the Certification and Licensing Division ("Division"). Allegation 1 alleged Vigil exceeded the authority of a certified legal document preparer and engaged in the unauthorized practice of law by signing a "Notice and Claim of Lien" as the "Authorized Representative" for the Coyote Lakes Community Association. Allegation 2 alleged Vigil failed to provide the Division with a written response to the complaint within thirty days of notification of the complaint, as required by ACJA § 7-201(H)(3)(c). Allegation 3 alleged Vigil failed to place Capital Consultant Management Corporation ("CCMC") business name, title and certification number on numerous "Notice and Claim of Lien" documents she prepared and recorded with the Maricopa County Recorder's Office, as required by ACJA § 7-208(F)(3). The allegations

1 were investigated and on February 18, 2011, Probable Cause Evaluator Mike Baumstark  
2 entered a finding probable cause exists in complaint number 10-L028.

3 On April 25, 2011, the Board accepted the finding of the Probable Cause Evaluator  
4 and entered a finding grounds for formal disciplinary action exists in complaint number  
5 10-L028 pursuant to ACJA § 7-201(H)(6)(a) and (H)(6)(k)(3) for acts of misconduct  
6 involving Arizona Supreme Court Rule 31(a)(2)(B), ACJA § 7-201(F)(1) and (H)(3)(c),  
7 ACJA § 7-208(F)(2), (F)(3), (J)(5)(c), (J)(5)(a) and (J)(5)(b). The Board further ordered  
8 this Consent Agreement resolution of the formal disciplinary action be offered to Vigil in  
9 advance of the filing of a Notice of Formal Statement of Charges.

10 By entering this Consent Agreement, Vigil understands she waives her right to  
11 hearing regarding complaint number 10-L028 and agree to the following Consent  
12 Agreement provisions pursuant to ACJA § 7-201(H)(24)(a)(6):

13 1. The Board finds misconduct and Vigil acknowledges and accept responsibility for  
14 the found misconduct detailed in the Investigation Summary, Allegation Analysis and  
15 probably Cause Determination Report and Board Order issued in complaint number 10-  
16 L028.

17 2. The Board will issue a Letter of Concern to Vigil, pursuant to ACJA § 7-  
18 201(H)(24)(a)(6)(a).

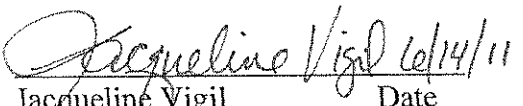
19 3. The Board orders and Vigil agrees to participate in no less than three (3) hours of  
20 continuing education in the curriculum areas of professional responsibility, ethics, and the  
21 unauthorized practice of law, in addition to any hours otherwise required for renewal, in  
22 order to be considered for active certification any point in the future, pursuant to ACJA §  
23 7-201(H)(24)(a)(6)(f).

24 4. The Board assesses and Vigil agrees to pay costs associated with the investigation  
25 and disciplinary proceedings in the amount of \$161.61, pursuant to ACJA § 7-  
26 201(H)(24)(a)(6)(j). Vigil shall remit the assessed to the Certification and Licensing

1 Division, 1501 West Washington, Suite 104 Phoenix, Arizona, 85007, made payable to  
2 the "Arizona Supreme Court" within 60 days of the board's entry into this Consent  
3 Agreement.

4 5. Vigil understands failure to comply with the terms of this Consent Agreement may  
5 result in the Board taking further disciplinary action or denying renewal of certification.

6 6. The Board and Vigil recognize that conceivably there could be additional  
7 complaints against Vigil relating to the same or substantially the same conduct of  
8 categories of conduct as set forth in the Investigative Report and the Consent Agreement,  
9 including, but not limited to preparing, filing or recording documents, which occurred  
10 during the time Vigil was a Certified Legal Document Preparer but prior to the date of this  
11 Consent Agreement, and that this Consent Agreement and the resolution herein are  
12 intended to resolve any and all such matters involving the same or similar categories of  
13 conduct. Additionally, should the Certification and Licensing Division receive a  
14 complaint in the future pertaining to other conduct in which Vigil engaged during the time  
15 she was a Certified Legal Document Preparer through the date of this Consent Agreement,  
16 this Consent Agreement shall be deemed a significant mitigating factor pursuant to ACJA  
17 § 7-201(H)(22)(b)(1).

18 Entered into on this date by:  
19   
20 Jacqueline Vigil Date 6/14/11  
21 Certificate Number 80387

Entered into on this date by:  
  
\_\_\_\_\_  
22 Les Krambeal, Chair Date  
23 Board of Legal Document Preparers  
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1 An original copy of the foregoing hand delivered and/or mailed this \_\_\_\_\_ day of  
2 \_\_\_\_\_, 2011, to:

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Jacqueline Vigil

Krystal Aspey  
Quarles & Brady  
2 North Central Avenue  
Phoenix, Arizona 85004

Rex Nowlan  
Administrative Law Section  
Arizona Attorney General's office  
15 South 15th Avenue  
Phoenix, Arizona 85007

Nina Preston, Assistant Counsel  
Administrative Office of the Court  
1501 West Washington  
Phoenix, Arizona 85007

Certification and Licensing Division  
Arizona Supreme Court  
1501 West Washington, suite 104  
Phoenix, Arizona 85007

By: \_\_\_\_\_  
Debbie MacDougall, Programs Specialist  
Certification and Licensing Division

**ARIZONA SUPREME COURT  
ADMINISTRATIVE OFFICE OF THE COURTS  
INVESTIGATION SUMMARY**

<b>CERTIFICATE HOLDER INFORMATION</b>	<b>Certificate Holder:</b>	Jacqueline Vigil
	<b>Certification Number:</b>	80387
	<b>Type of Certificate/License</b>	Legal Document Preparer
<b>COMPLAINANT</b>	<b>Name:</b>	David Byers, Administrative Director of the Courts
<b>INVESTIGATION INFORMATION</b>	<b>Complaint Number:</b>	10-L028
	<b>Investigator:</b>	Karla Clanton
	<b>Complaint Received:</b>	May 24, 2010
	<b>Complaint Forwarded to the Certificate Holder:</b>	May 25, 2010
	<b>Response From Certificate Holder Received:</b>	None Received
	<b>Report Date:</b>	September 14, 2010

The investigation of this complaint included the following:

- Written complaint initiated by Administrative Director of the Courts David Byers (“Director Byers”)
- Review of applicable Certification and Licensing Division (“Division”) records
- Review of applicable sections of Arizona Revised Statutes (“ARS”), Arizona Codes of Judicial Administration (“ACJA”) § 7-201 and § 7-208, and Arizona Supreme Court Rules

**ALLEGATION ALLEGED BY COMPLAINANT:**

1. Certified legal document preparer Jacqueline Vigil (“Vigil”) exceeded the authority of a certified legal document preparer and engaged in the unauthorized practice of law by signing a “Notice and Claim of Lien” as the “Authorized Representative” for the Coyote Lakes Community Association (“Coyote Lakes”).

**ADDITIONAL ALLEGATIONS:**

2. Vigil failed to provide the Division with a written response to the complaint within thirty days of notification of the complaint, as required by ACJA § 7-201(H)(3)(c).
3. Vigil failed to place Capital Consultant Management Corporation (“CCMC”) business name, title and certification number on numerous “Notice and Claim of Lien” documents she prepared and recorded with the Maricopa County Recorder’s Office, as required by ACJA § 7-208(F)(3).

**SUMMARY OF INVESTIGATION:**

On May 24, 2010, Director Byers initiated a complaint involving Vigil regarding an unauthorized practice of law issue presented in a "Notice and Claim of Lien" document Vigil prepared for recording with the Maricopa County Recorder's Office. Vigil, in her capacity as a Capital Consultants Management Corporation ("CCMC") employee, signed the lien document as an "Authorized Representative" of CCMC's HOA customer Coyote Lakes.

Vigil failed to provide Division with a written response to the complaint within thirty days of notification of the complaint, as required by ACJA § 7-201(H)(3)(c).

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**INVESTIGATION:**

Vigil was granted individual legal document preparer certification effective July 28, 2003. Vigil has successfully renewed her certification without interruption and her certification is active through the current certification period which ends on June 30, 2011. Vigil's employer, CCMC, was granted legal document preparer business certification effective July 28, 2003. CCMC has successfully renewed its business certification without interruption through the current certification period which ends on June 30, 2011. Vigil was the designated principal of CCMC from July 28, 2003 until June 23, 2008.

On May 24, 2010, Director Byers initiated a complaint involving Vigil regarding an unauthorized practice of law issue presented in a "Notice and Claim of Lien" document Vigil prepared for recording with the Maricopa County Recorder's Office. Vigil, in her capacity as a CCMC employee, signed the lien document as an "Authorized Representative" of CCMC's HOA customer Coyote Lakes.

On May 25, 2010, the Division faxed and mailed Vigil a copy of the complaint along with a letter notifying Vigil of the ACJA § 7-201(H)(3)(c) requirement she provide a written response to the complaint within thirty (30) days. Division records reflect Vigil signed for the mailing on June 1, 2010.

Vigil failed to provide Division with a written response to the complaint within thirty days of notification as required per ACJA § 7-201(H)(3)(c).

On September 13, 2010, Division Investigator Karla Clanton ("Investigator Clanton") reviewed Notice and Claim of Lien #45-0000 1043 01 Vigil prepared, signed and recorded with the Maricopa County Recorder's Office ("Recorder's") for the Coyote Lakes HOA via the Recorder's website. The document listed Vigil's name, title and certification number in the upper left hand side of the document identifying Vigil as the legal document preparer responsible for the document. CCMC's business name, title and certification number were not listed on the document. Below Vigil's certification identification information is the statement, "At the request of" and provides HOA Coyote Lakes name and business address. The signature block on the document reads, "Authorized Representative of COYOTE LAKES COMM ASSOC," and Vigil signed the



document on behalf of the HOA. Investigator Clanton reviewed numerous other notices prepared, signed and recorded by Vigil with the Recorder's on behalf of Coyote Lakes and discovered all the documents were prepared in a manner consistent with that described above. Investigator Clanton reviewed ACJA § 7-201(H)(3)(c) which states:

The certificate holder shall provide a written response to the complaint within thirty days of the notification of the complaint. The board shall not proceed with disciplinary action without providing the certificate holder the complaint and an opportunity to respond to the complaint, except in a matter regarding an emergency suspension pursuant to subsection (H)(9)(d). Failure by the certificate holder to accept notification of a complaint or failure to respond to the complaint shall not prevent division staff from proceeding with an investigation and the board from taking any disciplinary action.

Investigator Clanton reviewed ACJA § 7-208(F)(3) which reads:

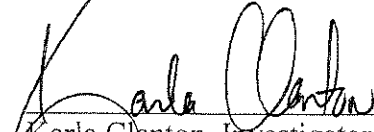
Beginning July 1, 2003, a certified legal document preparer shall include the legal document preparer's name, the title "Arizona Certified Legal Document Preparer" or the abbreviation "AZCLDP" and the legal document preparer's certificate number on all documents prepared by the legal document preparer, unless expressly prohibited by a non-judicial agency or entity. A legal document preparer providing services on behalf of a certified business entity shall also include the business entity name and certificate number on all documents prepared, unless expressly prohibited by a non-judicial agency or entity. The legal document preparer shall also provide their name, title and certificate number to any person upon request.

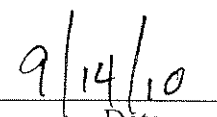
Investigator Clanton reviewed Arizona Corporation Commission ("ACC") website and noted the officers listed for the CCMC include President/CEO/Director Bart Park, III, President Donald J. Cole, Secretary/Treasurer/Director Judith Alspaugh, Vice-President Stephanie Fee, Director Wendell Pickett, Director Ed Boudreau. Investigator Clanton reviewed the ACC online records for the Coyote Lakes HOA. No CCMC officers are named as officers or directors for either HOA. CCMC is the named Statutory Agent for both HOAs.

Available records reflect Vigil is not an officer or director of Coyote Lakes and Division records reflect Vigil has never applied for or been granted admission to practice law in Arizona.

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**SUBMITTED BY:**

  
Karla Clanton, Investigator  
Certification and Licensing Division

  
Date

**ARIZONA SUPREME COURT  
ADMINISTRATIVE OFFICE OF THE COURTS  
ALLEGATION ANALYSIS REPORT and PROBABLE CAUSE  
EVALUATION and DECISION**

<b>CERTIFICATE HOLDER INFORMATION</b>	<b>Certificate Holder:</b>	Jacqueline Vigil
	<b>Certification Number:</b>	80387
	<b>Type of Certificate/License:</b>	Legal Document Preparer
<b>INVESTIGATION INFORMATION</b>	<b>Complaint Number:</b>	10-L028
	<b>Investigator:</b>	Karla Clanton

**ANALYSIS OF ALLEGATIONS:**

*Allegation 1. Certified legal document preparer Jacqueline Vigil ("Vigil") exceeded the authority of a certified legal document preparer and engaged in the unauthorized practice of law by signing a "Notice and Claim of Lien" as the "Authorized Representative" for the Coyote Lakes Community Association ("Coyote Lakes").*

Arizona Supreme Court Rule 31 ("Rule 31") (a)(2)(B) states the "unauthorized practice of law includes but is not limited to engaging in the practice of law by persons or entities not authorized to practice". Arizona Code of Judicial Administration ("ACJA") § 7-208 which governs legal document preparers exists as an exemption to the prohibition of the unauthorized practice of law contained in Rule 31. ACJA § 7-208(F)(1) provides specified, authorized services a certified legal document preparer may offer to consumers not represented by an attorney.

The list of "authorized services" a certified legal document preparer can provide to non-represented parties contained in ACJA § 7-208(F)(1) does not include acting in a representative capacity on behalf of a consumer.

ACJA § 7-201(F)(1) and ACJA § 7-208(F)(2) requires all certified legal document preparers to comply with the Code of Conduct contained in ACJA § 7-208(J). ACJA § 7-208(J)(5)(a) states, "A legal document preparer shall perform all duties and discharge all obligations in accordance with applicable laws, rules or court orders."

ACJA § 7-208(J)(5)(b) includes:

A legal document preparer shall not represent they are authorized to practice law in this state, nor shall the legal document preparer provide legal advice or services to another by expressing opinions, either verbal or written, or by representing another in a judicial, quasi-judicial, or administrative proceeding, or other formal dispute resolution process...

During the investigation of this complaint, numerous recorded documents which were prepared and signed by Vigil were reviewed and considered. The reviewed lien documents all identified Vigil as acting in a representative capacity for Coyote Lakes. Coyote Lakes is an HOA customer of Vigil's employer, certified legal document preparer

business entity Capital Consultants Management Corporation (“CCMC”). Arizona Corporation Commission (“ACC”) records reflect CCMC is the named Statutory Agent for the Coyote Lake but neither Vigil nor any of the CCMC officers or directors are named officers or directors of Coyote Lakes. No provision of court rule, ACJA, or law authorizes Vigil to act in a representative capacity on behalf of any individual or entity. Therefore, Allegation 1 is substantiated.

***Allegation 2. Vigil failed to provide the Certification and Licensing Division (“Division”) with a written response to the complaint within thirty days of notification of the complaint, as required by ACJA § 7-201(H)(3)(c).***

ACJA § 7-201(H)(3)(c) which states:

The certificate holder shall provide a written response to the complaint within thirty days of the notification of the complaint. The board shall not proceed with disciplinary action without providing the certificate holder the complaint and an opportunity to respond to the complaint, except in a matter regarding an emergency suspension pursuant to subsection (H)(9)(d). Failure by the certificate holder to accept notification of a complaint or failure to respond to the complaint shall not prevent division staff from proceeding with an investigation and the board from taking any disciplinary action.

Division records reflect Vigil failed to provide a written response to the complaint. Therefore, Allegation 2 is substantiated.

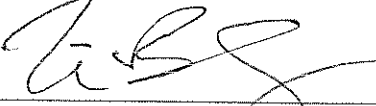
***Allegation 3. Vigil failed to place CCMC’s name, title and certification number on numerous “Notice and Claim of Lien” documents she prepared and recorded with the Maricopa County Recorder’s Office, as required by ACJA § 7-208(F)(3).***

ACJA § 7-208(F)(3) states:

Beginning July 1, 2003, a certified legal document preparer shall include the legal document preparer’s name, the title “Arizona Certified Legal Document Preparer” or the abbreviation “AZCLDP” and the legal document preparer’s certificate number on all documents prepared by the legal document preparer, unless expressly prohibited by a non-judicial agency or entity. A legal document preparer providing services on behalf of a certified business entity shall also include the business entity name and certificate number on all documents prepared, unless expressly prohibited by a non-judicial agency or entity. The legal document preparer shall also provide their name, title and certificate number to any person upon request.

No law, rule or policy expressly prohibits a certified legal document preparer from placing their name, title or certificate number on documents prepared for recording with the Maricopa County Recorder’s Office. Numerous “Notice and Claim of Lien” documents Vigil prepared for CCMC customers for recording with the Maricopa County Recorder’s Office included Vigil’s legal document preparer information, identifying Vigil as the individual responsible for preparing the documents but failed to contained CCMC’s name, title and certification number as required by ACJA § 7-208(F)(3). Therefore, Allegation 3 is substantiated.

**SUBMITTED BY:**


 2-11-11  
Linda Grau, Unit Manager Date  
Certification and Licensing Division

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**REFERRAL TO PROBABLE CAUSE EVALUATOR:**

The Investigation Summary and Allegation Analysis Report on complaint number 10-L028 have been reviewed and approved for forwarding to the Probable Cause Evaluator and it is recommended the Probable Cause Evaluator enter a finding probable cause exists.

**SUBMITTED BY:**

 2/11/11  
Emily Holliday, Acting Division Director Date  
Certification and Licensing Division

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**DECISION OF THE PROBABLE CAUSE EVALUATOR:**

Having conducted an independent review of the facts and evidence gathered during the course of the investigation of complaint number 10-L028, the Probable Cause Evaluator:

- requests division staff to investigate further.
- determines probable cause does not exist the certificate holder has committed the alleged acts of misconduct as to Allegation(s):

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

# 1, 2, & 3.

 2/18/11  
Mike Baumstark Date  
Probable Cause Evaluator

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

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***CERTIFICATE  
HOLDER  
INFORMATION***

<b>Certificate Holder:</b>	Jacqueline Vigil
<b>Certificate Number:</b>	80387

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**RECOMMENDATION TO THE BOARD OF LEGAL DOCUMENT PREPARERS  
("BOARD"):**

It is recommended the Board accept the finding of the Probable Cause Evaluator and enter a finding Jacqueline Vigil committed the alleged act(s) of misconduct as detailed in the Investigation Summary and Allegation Analysis Report in complaint number 10-L028.

It is further recommended the Board enter a finding grounds for formal disciplinary action exists pursuant to Arizona Code of Judicial Administration ("ACJA") § 7-201(H)(6)(a) and (H)(6)(k)(3) for an acts of misconduct involving Arizona Supreme Court Rule 31(a)(2)(B), ACJA § 7-201(F)(1) and (H)(3)(c), ACJA § 7-208(F)(2), (F)(3), (J)(5)(a) and (J)(5)(b).

**Mitigating Factor:**

1. Absence of prior discipline. This is the first complaint involving Vigil. [ACJA § 7-201(H)(22)(b)(1)(a)]

**Aggravating Factors:**

None noted.

**Proportionality Analysis:**

The stated purpose of the Legal Document Preparer Program, as defined by ACJA § 7-208 (C), is to:

Protect the public through the certification of legal document preparers to ensure conformance to the highest ethical standards and performance of responsibilities in a professional and competent manner, in accordance with all applicable statutes, code sections, and Arizona court rules.

Historically, the Board has recognized engaging in the unauthorized practice of law by acting in a representative capacity on behalf of a consumer as a serious matter and a threat to the protection of the public with recognition of the potential harm to the public, judicial system, and document preparer profession. Prior actions by the Board in other matters which found violations similar to the alleged act of misconduct have included revocation or suspension of certification, restitution and cease and desist orders,

imposition of civil penalties and assessment of investigative costs and the related proceedings, mandated participation in continuing education, and stated conditions for reinstatement. In matters involving employees of property management companies or individuals engaging in similar violations, the Board has offered and entered Consent Agreement resolutions of the complaints in a manner consistent with the recommendation below. (See Martin, Schmit and Heffron.)

In determining the appropriate disposition in this case, it is recommended the Board consider the cited mitigating factor and also that in this case, although there was the potential for harm to the public, no actual harm occurred. Therefore, it is recommended the Board offer Vigil a Consent Agreement to resolve this complaint, pursuant to ACJA § 7-201(H)(24)(a)(6)(c). It is recommended the proposed Consent Agreement include an acknowledgement of the misconduct, a statement giving notice to Vigil that if she enters the Consent Agreement she waives her right to a hearing, and imposes the following sanctions pursuant to ACJA § 7-201 (H)(24)(a)(6):

- a) Issue a Censure to Vigil, pursuant to ACJA § 7-201 (H)(24)(a)(6)(b);
- b) Order Vigil participate in no less than three (3) hours of continuing education in the curriculum areas of professional responsibility, ethics, and the unauthorized practice of law, in addition to any hours otherwise required for renewal, pursuant to ACJA § 7-201 (H)(24)(a)(6)(f);
- c) Impose civil penalties in the amount of \$250.00 per found violation to be remitted no later than 60 days following entry of the Board's Final Order, pursuant to ACJA § 7-201 (H)(24)(a)(6)(k).

In the event Vigil declines the opportunity to enter the Consent Agreement within 20 days of receipt of the Board's offer, it is recommended the matter proceed with the filing and service of Notice of Formal Statement of Charges pursuant to ACJA § 7-201(H)(10) without further Board order.

**SUBMITTED BY:**

Emily Holliday      2/24/11  
Emily Holliday, Acting Division Director      Date  
Certification and Licensing Division

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**FINAL DECISION AND ORDER:**

The Board having reviewed the above Investigation Summary, Allegation Analysis Report, finding of the Probable Cause Evaluator, and Recommendation regarding complaint number 10-L028 and Jacqueline Vigil, certificate number 80387, makes a finding of facts and this decision, based on the facts, evidence, and analysis as presented and enters the following order:

- requests division staff to investigate further.
- refers the complaint to another entity with jurisdiction.

Referral to: \_\_\_\_\_

- dismisses the complaint, and:
  - requests division staff prepare a notice of dismissal pursuant to ACJA § 7-201(H)(5)(c)(1).
  - requests division staff prepare a notice of dismissal and an Advisory Letter pursuant to ACJA § 7-201(H)(5)(c)(2).
- determines grounds for discipline exist demonstrating the certificate holder committed the alleged act(s) of misconduct and:
  - enter a finding the alleged act(s) of misconduct or violation(s) be resolved through informal discipline, pursuant to ACJA § 7-201(H)(7) and issue a Letter of Concern.
  - enter a finding the alleged act(s) of misconduct or violation(s) be resolved through formal disciplinary proceeding, pursuant to ACJA § 7-201(H)(9).
- requests the certificate holder appear before the Board to participate in a Formal Interview, pursuant to ACJA § 7-201(H)(8).
- orders the filing of Notice of Formal Charges, pursuant to ACJA § 7-201(H)(10).
- enters a finding the public health, safety or welfare is at risk, requires emergency action, and orders the immediate emergency suspension of the certificate and sets an expedited hearing for:

Date, Time, and Location: \_\_\_\_\_

- adopts the recommendations of the Division Director.
- does ~~not~~ adopt the recommendations of the Division Director and orders:  
Assessment of costs of the investigation and  
related disciplinary proceedings in addition  
to the recommended sanctions.

Les Krambeal      04.25.11  
Les Krambeal, Chair      Date  
Board of Legal Document Preparers

# BOARD OF LEGAL DOCUMENT PREPARERS

Agenda Summary - Monday, July 25, 2011

## 2) REVIEW OF PENDING COMPLAINTS

*2-F: Review, discussion, and possible action regarding complaint number 11-L028 involving certificate holder Evan Nielsen.*

On July 21, 2011, Probable Cause Evaluator Mike Baumstark entered a finding probable cause does not exist as to Allegation 2 of complaint number 11-L028 and does exist as to Allegations 1, 3, 4, 5, 6 and 7. Therefore, it is recommended the Board accept the finding of the Probable Cause Evaluator and dismiss Allegation 2 of complaint number 11-L028.

Regarding Allegations 1, 3, 4, 5, 6 and 7, it is recommended the Board it is recommended the Board enter a finding grounds for formal disciplinary action exists pursuant to ACJA § 7-201(H)(6)(a), (H)(6)(j), (H)(6)(k)(1), (H)(6)(k)(3), (H)(6)(k)(9) and (H)(6)(k)(11) for acts of misconduct involving Arizona Supreme Court Rule 31(a)(2)(B), ACJA § 7-201(F)(1) and (F)(5)(a), and ACJA § 7-208(F)(1)(b), (F)(2), (J)(1)(a), (J)(5)(b) and (J)(5)(c).

It is recommended the Board decline Nielsen's request to voluntarily surrender his certification.

It is recommended the Board reserve the right for future consideration and possible action regarding any and all other allegations that may be presented with respect to complaint number 11-L028 if and/or when additional probable cause determinations are entered at a later date.

It is recommended the Board enter a finding the public health, safety and welfare is at risk and order an emergency summary suspension of Nielsen's individual and business entity legal document preparer certifications pursuant to ACJA § 7-201(H)(9)(d).

Should the Board ultimately enter a finding these violations have occurred, the Board impose the following sanctions pursuant to ACJA § 7-201(H)(24)(a)(6):

- a) Revoke Nielsen's individual legal document preparer certification and the business entity certification of Nielsen & Associates, LLC, pursuant to ACJA § 7-201(H)(24)(a)(6)(i);
- b) Issue a cease and desist order enjoining Nielsen and Nielsen & Associates, LLC from preparing legal documents, representing himself and the business entity to the public as certified legal document preparers, or conducting any activity that constitutes the unauthorized practice of law until such time as any and all conditions for reinstatement are met in full, as determined by the Board, pursuant to ACJA § 7-201(H)(24)(a)(6)(g);
- c) Order and mandate as a condition for reinstatement, Nielsen participate in no less than ten (10) hours of continuing education in the curriculum areas of the unauthorized practice of law, professional responsibility and ethics, in addition to the hours of



continuing education required for renewal of certification, pursuant to ACJA § 7-201(H)(24)(a)(6)(f);

- d) Assess costs associated with the investigation and related disciplinary proceedings to be remitted no later than sixty (60) days following entry of the Board's Final Order, pursuant to ACJA § 7-201(H)(24)(a)(6)(j); and,
- e) Impose civil penalties in the amount of \$500.00 per found violation to be remitted no later than sixty (60) days following entry of the Board's Final Order, pursuant to ACJA § 7-201(H)(24)(a)(6)(k).

**ARIZONA SUPREME COURT  
ADMINISTRATIVE OFFICE OF THE COURTS  
INVESTIGATION SUMMARY**

<b><i>CERTIFICATE HOLDER INFORMATION</i></b>	<b>Certificate Holder:</b>	Evan Nielsen
	<b>Certification Number:</b>	81180
	<b>Business Name:</b>	Nielsen & Associates, LLC
	<b>Certificate Number:</b>	81195 (Expired)
	<b>Type of Certificate/License:</b>	Legal Document Preparer
<b><i>COMPLAINANT</i></b>	<b>Name:</b>	Jerry and Madelyn Kempf
<b><i>INVESTIGATION INFORMATION</i></b>	<b>Complaint Number:</b>	11-L028
	<b>Investigators:</b>	Eric Thomas Linda Grau
	<b>Complaint Received:</b>	June 14, 2011
	<b>Complaint Forwarded to the Certificate Holder:</b>	June 16, 2011
	<b>Response From Certificate Holder Received:</b>	July 15, 2011
	<b>Report Date:</b>	July 18, 2011

The investigation of this complaint included the following:

- Written complaint and documentation submitted by Jerry and Madelyn Kempf (“the Kempfs”)
- Telephonic interview with certificate holder Evan Nielsen (“Nielsen”)
- Written response to the complaint submitted by attorney Nancy Greenlee (“Greenlee”) on behalf of Nielsen
- Investigatory interviews Linda Kruszka (“Kruszka”) and Dwight Bickel (“Bickel”)
- Review of Certification and Licensing Division (“Division”) and State Bar of Arizona (“State Bar”) records
- Review of applicable Arizona Code of Judicial Administration (“ACJA”) § 7-201 and § 7-208, and Arizona Supreme Court Rules

**ALLEGATIONS ALLEGED BY COMPLAINANT:**

1. Nielsen and Nielsen & Associates, LLC violated Arizona Supreme Court Rule 31 (“Rule 31”), ACJA § 7-201(F)(1) and ACJA § 7-208(F)(2), (J)(5)(b) and (J)(5)(c) by using designations “Attorney-in-Fact”, “Esq.”, “law office”, or other equivalent words reasonably likely to induce others to believe they are authorized to engage in the practice of law in Arizona.
2. Nielsen identified himself as an attorney representing Kruszka in a property dispute with the complainants.
3. Nielsen exceeded the authority of a certified legal document preparer and engaged in the unauthorized practice of law when he attempted to negotiate a settlement of the property dispute between the Kempfs and Kruskza.

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**ADDITIONAL ALLEGATIONS:**

4. Nielsen violated Rule 31 and ACJA § 7-201(F)(1) and § 7-208(F)(1)(b), (F)(2), (J)(5)(b) and (J)(5)(c), exceeded the authority of a certified legal document preparer, and engaged in the unauthorized practice of law when he provided legal advice and made recommendations to Kruszka regarding possible legal rights, remedies and options in the property dispute involving the complainants.
5. Nielsen and Nielsen & Associates, LLC failed to disclose being the subject of a complaint to the State Bar, file number 09-1645, on their initial applications for individual and business entity certification submitted to the Division on November 30, 2009.
6. Nielsen failed to disclose being the subject of a “bar charge” by the State Bar, file number 09-2465, on his 2011-2013 individual renewal application submitted to the Division on May 27, 2011.
7. Nielsen failed to disclose being the subject of a complaint to the State Bar, file number 10-1027, on his 2011-2013 individual renewal application submitted to the Division on May 27, 2011.

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**INVESTIGATION:**

On February 22, 2010, the Board of Legal Document Preparers (“Board”) granted individual legal document preparer certification to Nielsen and business entity certification to Nielsen & Associates, LLC. Nielsen is the named designated principal of record for Nielsen & Associates, LLC. Both certificates are active through the current certification period which ends on June 20, 2011. As of the date of this report, Nielsen has applied for 2011-2013 renewal of his individual certification and as yet, the Division has not received a renewal application for the certified LLC.

Nielsen is actively admitted to the practice of law in California; bar number 239691. Division records reflect Nielsen maintains a separate non-certified business entity, E.A. Nielsen & Associate, PC, which has never applied for or been granted certification. Online information and documentation on file with the Division and the State Bar reflects E.A. Nielsen & Associate, PC is Nielsen’s California law firm, which has a branch location in Queen Creek, Arizona operating out of the same address and with the same phone number as the certified Arizona LLC, Nielsen & Associates.

On June 10, 2011, the State Bar Unauthorized Practice of Law (“UPL”) Office received a written complaint from the Kempfs alleging Nielsen contacted the Kempfs on behalf of Kruszka, identified himself as Kruszka’s attorney, and attempted to negotiate and participate in the resolution of a dispute involving a horse trailer.

The Kempfs reported they were contacted by Nielsen on June 7, 2011, purportedly on Kruszka’s behalf. Nielsen allegedly informed the Kempfs that Kruszka would not accept their offer to purchase the horse trailer and indicated if the Kempfs did not cooperate and return the trailer, which was in their physical possession, he [Nielsen] would get a court

order to remove the trailer from them. Several pieces of documentation were attached to the State Bar UPL complaint the Kempfs submitted, including an email from Heather DeVries (“DeVries”), a non-lawyer member of Nielsen’s staff. The email from DeVries provided copies of two documents, a Specific Power of Attorney for Identified Transaction (“POA”) and a Waiver and Release. The POA, signed and notarized by Kruszka on June 7, 2011, appointed Nielsen, the law firm, and “any other Authorized Agent” of the law firm as “Principal(s) Attorney-in-Fact” and granted the appointee(s) authority to act on behalf of Kruszka in any and all matters pertaining to the horse trailer. Nielsen is specifically identified in the unsigned Waiver and Release as Kruszka’s “Attorney-in-Fact”.

The Kempfs submitted a copy of Nielsen’s Lawyers.com profile dated June 13, 2011, which states, “Evan A. Nielsen is a Lawyer in Queen Creek, Arizona” and provides the contact information also on file with the Division for the certified Arizona LLC and a website for Nielsen of [www.qclawfirm.com](http://www.qclawfirm.com). The profile identifies that Nielsen was admitted in California in 2005 and is not admitted to practice in Arizona. The Kempfs provide several printouts of the [www.qclawfirm.com](http://www.qclawfirm.com) website dated June 13, 2011. The home page of the site reads:

E.A. Nielsen & Associates, P.C. is an Arizona and California law firm. We represent clients on issues pertaining to business, real estate, debt, estate planning and taxes. Our knowledgeable (sic) staff educates our clients on their legal options and advocates for our clients’ rights. This commitment to education and advocacy keeps you in touch with your situation and enables us to determinedly represent you. We look forward to working with you to meet your needs.

The website provides the address and phone number on file for the certified business entity and references E.A. Nielsen and Associate, PC, throughout. There is no reference on the website that identifies Nielsen and the business entity are certified legal document preparers in Arizona. The website provides biographical information for two other attorneys, both admitted to practice in Arizona – Dwight Bickel (“Bickel”) and Monica Lindstrom (“Lindstrom”). Available online State Bar records reflect Bickel and Lindstrom addresses and phone numbers different from one another and from Nielsen & Associates, LLC.

The Kempfs reported they contacted a Mesa, Arizona law firm after being contacted by Nielsen. The Mesa law firm informed the Kempfs that Nielsen was not an Arizona attorney and referred the Kempfs to the State Bar UPL Office.

On June 14, 2011, Programs and Investigations Unit Manager Linda Grau (“Grau”) received call from State Bar UPL Office staff member Rich Kingdon (“Kingdon”). Kingdon notified Grau of the Kempf’s complaint involving Nielsen and forwarded by email a link to the [www.qclawfirm.com](http://www.qclawfirm.com) website and an electronic copy of the Kempf’s complaint and the submitted documentation. During the review and initial screening of the Kempf’s complaint, Kingdon identified other recent action taken by the State Bar Lawyer Regulation Division involving Nielsen and Nielsen & Associates and reported

these matters to Grau. Grau requested and received electronic copies of the available records regarding the State Bar actions (addressed further below).

On the same day, Grau conducted a telephonic investigatory interview with Kempfs. The Kempfs provided background information regarding their contact with the Nielsen and Kruszka as well as a brief history of the events that transpired regarding the sale and purchase of the horse trailer. The Kempfs reported having purchased the trailer through a Craigslist ad from an individual other than Kruszka. When the individual did not ultimately turn over the title to the trailer, the Kempfs contacted the Pinal County Sheriff's Office ("PCSO") to ascertain if the horse trailer was stolen property. PCSO informed the Kempf's the trailer was never reported stolen and reported the owner of record was Stephen Tiburzi - Kruszka's brother who had passed away prior to the Kempfs purchasing and taking possession of the horse trailer. At the time, the Kempfs were unaware of how the man they bought the trailer from acquired the trailer. At some point, the Kempfs were put into contact with Kruszka and they attempted to work out a legitimate sale of the trailer. The Kempfs felt they may have been "scammed" by the man they bought the trailer from. They did not perceive the Craigslist transaction as Kruszka's fault and still wanted to purchase the trailer, so they offered to pay Kruszka for the trailer if she could provide them with documentation of her rightful ownership. In the interim, the Kempfs had several contacts with PCSO which resulted in police report number 11-0531103. When a final purchase amount could not be reached between Kruszka and the Kempfs, the Kempfs reported receiving a call from Nielsen, who allegedly identified himself as Kruszka's attorney. The Kempfs reported and Nielsen later acknowledged he attempted to negotiate the second purchase agreement between the Kempfs and Kruszka. When an agreed upon sale price could not be reached, Nielsen attempted to settle the dispute by arranging a meeting with the Kempfs where Nielsen would take control of the trailer and sign a Waiver and Release for the Kempfs on Kruszka's behalf. Nielsen threatened to go to court and get an order requiring the Kempfs to turn over the trailer if they did not comply with his demands.

On June 16, 2011, Division Investigator Eric Thomas ("Investigator Thomas") contacted PCSO Deputy Drennen. Deputy Drennen reported he was one of several officers who had contact with the Kempfs regarding the trailer and reported his portion of the review of the matter, police report number 11-0531103, was closed and categorized as a civil matter. Deputy Drennen confirmed his investigation of the matter did not involve Nielsen or Nielsen & Associates, LLC. Deputy Drennen indicated Deputy Jose Torres ("Deputy Torres") was also involved in the investigation and might have further information.

Division staff reviewed and considered the materials submitted with the Kempfs' written complaint and accessed and reviewed the content of the [www.qclawfirm.com](http://www.qclawfirm.com) website. On June 16, 2011, Grau attempted to reach attorney Lindstrom by phone and left a voicemail message requesting a return call.

Also on June 16, 2011, the Division mailed Nielsen a copy of the complaint along with a letter notifying Nielsen of the ACJA § 7-201(H)(3)(c) requirement he provide a written response to the complaint within thirty (30) days.

On June 17, 2011, Investigator Thomas conducted a telephonic investigatory interview with attorney Bickel. Bickel confirmed his association with the California law firm and identified himself as the "Managing Attorney for Arizona". Bickel reported he oversees the operations of the Arizona branch office of the law firm, provides advice in Arizona matters, and reviews the legal documents prepared by the office – making any necessary edits and modification, and ultimately approves the legal documents. Bickel reported Nielsen is the "managing attorney of the California office" and identified Nielsen as a "supervised attorney". Bickel reported he and Nielsen are fully aware Nielsen is not licensed to practice law in Arizona and therefore, Nielsen's work in Arizona cases is supervised and overseen by Bickel. Bickel acknowledged the firm represents Kruszka, that Bickel is the attorney in the matter and Nielsen "assists". Bickel indicated Nielsen drafts legal documents and sends them to Bickel for review and determination of any necessary revisions. Bickel reported all clients of the firm are made fully aware of the firm's role and expectations which is acknowledged by the clients signing a written engagement form. Bickel reported that as of the date of the telephonic interview with Investigator Thomas, he did not have any direct contact with Kruszka and identified Nielsen as the primary point of contact on the matter.

On June 17, 2011, Investigator Thomas conducted a telephonic investigatory interview with PSCO Deputy Torres who confirmed that during his involvement in the investigation (police report number 11-0606061) he had no involvement with Nielsen or Nielsen & Associates, LLC. Deputy Torres reported the matter was categorized as a civil issue and he forwarded the case to a detective.

On June 17, 2011, Investigator Thomas spoke by phone with the Kempfs who reported receiving an email letter from Bickel earlier the same day. Investigator Thomas requested and received an electronic copy of the email and letter. The letter read, in part:

Our firm has been in contact with you on repeated occasions over the past 7 days in attempts to secure return of the Trailer (sic) as directed by Ms. Kruszka. Due to your refusal to surrender the trailer, a police report has been filed for wrongful possession/theft under A.R.S. §13-802.

The Kempfs confirmed Nielsen identified himself as the attorney representing Kruszka when Nielsen initially contacted them about the trailer.

On June 17, 2011 Investigator Thomas conducted a telephonic investigatory interview with Kruszka. Kruszka reported that after she was unsuccessful in getting the trailer back from the Kempfs she hired "the firm" on June 6, 2011. Kruszka reported she found the firm online and her point of contact with the firm has always been Nielsen. Kruszka reported she has never spoken with attorneys Bickel or Lindstrom and she was not aware that Nielsen was a legal document preparer. Kruszka was asked if she was under the impression Nielsen was an Arizona attorney. Kruszka indicated she was aware Nielsen was a California attorney. Kruszka confirmed the firm prepared her legal documents and verified she approved, signed, and had the POA notarized. Kruszka confirmed she was aware of the Waiver and Release. Kruszka reported she did sign a written engagement

form with the firm and was very pleased with her representation, the advice she received from Nielsen, and the firm's handling of her case.

On June 20, 2011, in an attempt to reach Nielsen by phone, Grau and Investigator Thomas placed a call to the phone number on file for Nielsen. The call was answered by a voicemail system containing a generic outgoing message. Grau left a message requesting a return call from Nielsen. Grau and Investigator Thomas placed a second call to the phone number on file for Nielsen's assistant, Chevis Trotter ("Trotter"). A recorded outgoing message system answered, "Thank you for calling the law office. Our main line is now busy..." A series of prompts was offered in the message to expedite the call and the recording continued, "press 1 for short sales; press 2 for loan modifications or other debts; press 3 for all other reasons." Grau thought the message said for "law office" press 2, and prompt number 2 resulted in the call being transferred to voicemail for Heidi Bergman. A message was left requesting a return call from Nielsen.

A third call was placed to the phone number on file for Nielsen & Associates employee Heather DeVries. The call was answered, "Law Office. This is Chevis." After identifying herself, Grau asked to speak with Nielsen. Trotter reported Nielsen was out of the office but could be reached by email at [Evan.Nielsen@NielsenLawPC.com](mailto:Evan.Nielsen@NielsenLawPC.com). Grau sent an email to Nielsen at the address provided and requested a return call.

Later the same day, Nielsen called Grau and agreed to participate in a telephonic interview. Grau informed Nielsen a complaint was submitted relative to the Kruszka matter. Nielsen reported he has not been providing "document services" but rather he was acting as Bickel's paralegal. Nielsen confirmed he prepared the POA but did so upon Bickel's directive. Grau asked why, if Kruszka had entered a retainer agreement with Bickel and if he was acting as Bickel's paralegal, it was necessary for Kruszka to appoint Nielsen to act on her behalf by way of the POA. Nielsen clarified Kruszka had contracted with the firm and explained the POA was necessary because Kruszka is in Florida and the horse trailer is in Arizona with the Kempfs. Nielsen explained he understood the POA gave him the authority to sign the Waiver and Release form on Kruszka's behalf. Nielsen indicated the Kempfs initially agreed to meet with him and an associate of Kruszka at the PCSO for the purpose of taking possession of the horse trailer. Nielsen reported it was the Kempfs who requested they receive something in writing at the appointed time for the exchange but the Kempfs subsequently decided not to return the trailer so Nielsen never signed the Waiver and Release for Kruszka. Nielsen acknowledged he was willing to sign off on the Waiver and Release in the presence of Jerry Kempf and the PCSO under the authority of the POA. Nielsen confirmed he drafted the POA and Waiver and Release documents for Bickel's review and approval, forwarded them to Kruszka, with a copy sent to the Kempfs.

Nielsen reported he was certain Bickel had spoken with Kruszka and that he had reviewed email correspondences Bickel sent to the Kempfs. Nielsen reported both he and Bickel had contacted the Kempfs in an attempt to facilitate the transfer of the trailer. Nielsen denied he told the Kempfs he was Kruszka's attorney. Nielsen indicated each time he contacted the Kempfs, he informed them he was contacting them for E.A.

Nielsen & Associate law firm and Bickel was the attorney of record. When asked if he had participated in any attempt to negotiate a sale of the trailer between Kruszka and the Kempfs, Nielsen indicated Kruszka told him she was willing to sell the trailer for \$7,000.00 and he communicated this to the Kempfs on the behalf of Bickel and at Bickel's direction. When asked if he relayed any legal advice or directions regarding how to proceed with the matter to Kruszka directly, Nielsen acknowledged doing so, but only as directed by Bickel.

Nielsen explained he is a California attorney and he takes the lead on the California matters, while Bickel directs him on Arizona matters. Nielsen reported Kruszka and all of the firm's clients sign an agreement which identifies Nielsen is not admitted to practice in Arizona. Nielsen reported Kruszka signed the agreement before executing the POA. Nielsen clarified Nielsen & Associates, LLC is the business that holds legal document preparer certification while E.A Nielsen & Associate, P.C. is the California law firm. Nielsen asserted they are two separate business entities, with separate purposes, and he has not been offering legal document preparation service through either entity. Nielsen reiterated Kruszka retained E.A. Nielsen & Associate, PC to represent her and therefore, Bickel is Kruszka's attorney. Nielsen acknowledged using the "Esq." designation and asked, "Should I not be doing that?"

Nielsen agreed to forward a copy of the written engagement agreement entered into between Kruszka and the firm. He also agreed to forward any documentation he could locate within his possession that demonstrates he was receiving direction from Bickel regarding the handling of Kruszka's case. [NOTE: At the beginning of the phone interview with Nielsen, Grau specifically informed Nielsen when he returned from being out of town, a certified mail copy of the complaint and the notice of his requirement to respond in writing would likely be waiting for him. Grau noted Nielsen's participation in the phone interview did not supersede the ACJA § 7-201 requirement he provide a written response to the complaint within 30 days.]

On June 21, 2011, Grau conducted a follow-up telephonic investigatory interview with Bickel. Bickel confirmed Kruszka retained the firm to represent her. Bickel identified himself as the "Managing Attorney" for the firm's Arizona cases and asserted Nielsen functions as his paralegal on Arizona cases; specifying Nielsen "does nothing in final form." Bickel reported he does not frequent or have regular working hours at the Arizona branch office located in Queen Creek, Arizona, but rather, he oversees the services rendered by the firm from his home including the review and approval of all legal documents. Bickel indicated he does go to the office for staff meetings and when necessary to meet with clients. Bickel reported Nielsen does not give any legal advice in Arizona cases. Bickel reported he was aware of the Kruszka POA and Waiver and Release documents but could not recall if he reviewed and approved them. Bickel agreed to check his email to determine if he had any documentation of doing so and if so, agreed to forward the documentation to the Division. Bickel reported he has clearly directed staff at the firm – including Nielsen, no legal document should be sent out without his review and approval. Bickel confirmed he had never spoken with Kruszka personally, but that he had planned to call her the day of this follow-up interview. Bickel indicated he is aware



of the Arizona legal document preparer certification requirement but he was unaware Nielsen holds individual and/or business entity certification. Bickel was asked about the recent letter sent to the Kempfs describing the wrongful possession/theft charges that had allegedly been filed. Bickel acknowledged he sent the email and letter to the Kempfs. However, he denied personally filing a police report alleging such charges. Bickel reported he was aware Kruszka previously filed a police report but he did not know if the report involved the Kempfs or the individual who sold the trailer to the Kempfs through Craigslist. When asked if he ever directed Nielsen to relay legal advice to Kruszka on his behalf, Bickel responded he had not, as Nielsen is not authorized to give legal advice. Bickel reported he had no recollection of any possible sale negotiations between Nielsen and the Kempfs regarding the purchase of the trailer. Bickel confirmed knowledge of State Bar complaint number 09-1645 pertaining to Nielsen's activities and involvement with the firm and Arizona clients that was ultimately "dismissed with comment". Bickel reported having no knowledge of the subsequent 2010 complaint against Nielsen and the firm that resulted in Nielsen receiving an Informal Reprimand (detailed below). Bickel also agreed to forward any documentation or correspondences he could locate in his possession containing specific information or direction he gave Nielsen or other firm staff regarding the Kruszka matter.

On September 9, 2009, the State Bar Lawyer Regulation Division contacted Bickel regarding Nielsen's involvement and contacts with Bickel's Arizona clients. The complaint notice, processed as State Bar file number 09-1645, addressed internet printouts from the [www.qclawfirm.com](http://www.qclawfirm.com) website which – at the time – reported Nielsen joined Bickel's firm located in Queen Creek, Arizona. The website offered Nielsen's name beside the title "Attorney" and presented Nielsen's California bar number. Nothing in the website posting noted Nielsen was not authorized to practice law in Arizona. During the State Bar's investigation of the complaint against Bickel, Bickel presented copies of numerous email correspondences between himself and Bickel. Most notably, there is an undated email Bickel sent to Nielsen ("Subject: Notice and Demand") that was attached to Bickel's September 29, 2009 memo response to the State Bar which reads:

You are hereby notified that any consent I may have given you, or that you may have assumed, to use my name in connection with your business operations is hereby withdrawn. Demand is made that you pull down all of your internet advertising that shows my name in any manner, and that you do so before the close of business on Monday, September 21, 2009. You must meet with me immediately to discuss State Bar of Arizona complaint file 09-1645.

Also on September 29, 2009, Bickel sent a letter to State Bar Senior Bar Counsel James Lee ("Bar Counsel Lee") reporting that after Bickel returned to Idaho and resumed practicing law at his "principal office" located in Idaho, he entered an arrangement with Nielsen "to handle in-person dealings" with Bickel's Arizona estate planning clients before Nielsen was admitted to practice law in California. Bickel informed Bar Counsel Lee that Nielsen was attempting to fulfill Arizona residency requirements necessary for Nielsen to be eligible to be admitted to practice law in Arizona. Bickel acknowledged the duties he delegated to Nielsen increased following Nielsen's California admission.

Further, Bickel reported the internet materials containing Bickel's name were taken down after Bickel participated in a face-to-face meeting with Senior Bar Counsel. Bickel stated:

He [Nielsen] is very regretful about not being more cautious in his internet postings and has learned a valuable lesson about professional responsibility. I have provided clear instructions to Mr. Nielsen and his staff NO advertisements or internet postings are to be made that in any way relate to the practice of law without my prior approval, and I am confident those instructions will be followed.

On November 30, 2009, Nielsen submitted his individual application for legal document preparer certification and a business entity application for Nielsen & Associates, LLC. Nielsen is the named designated principal for the business entity. Both applications were signed by Nielsen and notarized dated November 25, 2009. Both applications contain the customary oath and verification language to which Nielsen avowed:

I understand willfull omission or misrepresentation of any fact required to be disclosed in this application or any accompanying statement is grounds for refusing to issue or renew a certificate or for suspending or revoking a certificate. Being duly sworn and under oath or affirmation, I acknowledge that I have read this application form and that all the statements are true and complete to the best of my knowledge and belief and that my Authorization and Release are freely given. [Individual application, page 8 of 8]

And,

Being duly sworn, I, Evan Nielsen on behalf of Nielsen & Associates, depose and say that I have read the foregoing, and each statement and answer made, together with the Authorization and Release and under penalty of perjury, swear that all such answers, statements and data disclosed in any application, or accompanying statement, is grounds for refusing to issue or renew certification, or for revoking or suspending a certificate. [Business entity application, page 6 of 8]

Both applications also required oath and affirmations from Nielsen confirming he had read and reviewed Rule 31 and ACJA § 7-208 and that he agreed to abide by Rule 31, ACJA § 7-208 and its Code of Conduct. Both applications contain Nielsen's notarized signature in the respective oath and affirmation sections.

As previously noted, the Board granted Nielsen and the business entity legal document preparer certifications on February 22, 2010. Based on Nielsen's having a law degree and being actively admitted as a California attorney, the Board required Nielsen to submit the customary Affidavit acknowledging his responsibilities regarding the proper use of designations and his obligation to comply with ACJA § 7-208(F)(1). On February 25, 2010, Nielsen signed and then forwarded the requisite Affidavit to the Division.

Nielsen's individual application for initial certification asked, "Have you or your past or current business entity ever been sanctioned by a court, been the subject of a complaint to the State Bar of Arizona or the Better Business Bureau, or been contacted by any prosecutorial, judicial, or administrative agency?" [Emphasis added. Page 4 of 8.] Nielsen responded "no."

On the application for business entity certification for Nielsen & Associates, LLC, Nielsen identified himself as the "owner/manager" of the entity as well as offering himself as the designated principal. The application asked, "Has the business entity, or ANY officer, director, partner, member, manager, or owner ever been the subject of a court sanction/order, a complaint to the State Bar of Arizona or the Better Business Bureau, or been contact by any prosecutorial, judicial, or administrative agency?" [Emphasis added. Page 4 of 8.] Nielsen responded "no."

On February 8, 2010, the State Bar of Arizona Staff Bar Counsel David Sandweiss sent a letter to Nielsen and Nielsen & Associates informing Nielsen his professional conduct was the subject of a "bar charge" being reviewed by the State Bar by way of a "screening investigation". Nielsen was given twenty days to submit a written response regarding nine separate "allegations and concerns" in State Bar file number 09-2465. Through attorney Nancy Greenlee ("Greenlee"), Nielsen submitted a detailed written response to the State Bar dated March 15, 2010. Following the State Bar's review of the matter, Sandweiss notified Greenlee the 09-2465 matter against Nielsen was dismissed with the following comment to be conveyed to Nielsen:

We are concerned that from Idaho, Mr. Bickel was not as able to adequately supervise you, a non-lawyer in Arizona, as you might have thought. The fact that he recently moved back to Arizona, enabling him to meet with clients, prepare documents, and regularly meet and communicate with you and your office staff regarding client matters, allays our concerns somewhat. However, the name of your firm may easily confuse the public into believing that you are licensed to practice law in Arizona. It is essential that you inform all clients that you are not licensed to practice law in Arizona. Mr. Bickel must meet with all Arizona clients, answer all of their questions, and direct the preparation of and review of all documents before you or your non-lawyer staff participate in executing and recording documents.

This message was directed to Nielsen two months after he was granted individual and business entity legal document preparer certification and two months after he signed the Affidavit acknowledging the authorization limitations imposed by ACJA § 7-208. Based on the file records provided by the State Bar regarding file number 09-2465, at no time did Nielsen inform the State Bar he had applied for or been granted legal document preparer certifications.

On June 2, 2010, consumer Donna Trocino ("Trocino") filed a "Charge Against a Lawyer" form with the State Bar Lawyer Regulation Division regarding Nielsen and Nielsen & Associates regarding mortgage loan modification services Trocino contracted for with Nielsen. On June 7, 2010, the State Bar notified Nielsen and Nielsen &

Associates of the complaint, assigned State Bar file number 10-1027, and requested Nielsen submit a written response within 10 days. On June 17, 2010, attorney Greenlee submitted a detailed written response on behalf of Nielsen. Greenlee's response identified that Nielsen was admitted to practice in California and advised Nielsen's California law firm, E. A. Nielsen & Associate PLC, had an Arizona branch location which was managed by Arizona attorney Bickel. Greenlee explained Trocino contracts for loan modification services with Nielsen & Associates, LLC; not the law firm, but rather Nielsen's "business company".

Trocino's reporting and Greenlee's response reflect the service agreement between Trocino and Nielsen through Nielsen & Associates, LLC, was established in early 2009, prior to Nielsen and the LLC applying for legal document preparer certification. Based on the file records provided by the State Bar regarding file number 10-1027, at no time did Nielsen, personally or through Greenlee, inform the State Bar he had subsequently applied for or been granted legal document preparer certifications. In a separate correspondence from Greenlee to Bar Counsel Sandweiss dated August 13, 2010, nearly six months after Nielsen and the LLC were granted business entity certification, Greenlee advised Nielsen had stopped offering new loan modification services through the non-law firm LLC during May of 2010. Greenlee stated, "While they are finishing up files for current loan modification customers, they are no longer accepting any new modification negotiations."

Trocino later provided the State Bar an internet printout of the Nielsen and Associates, LLC, business profile form [www.MerchantCircle.com](http://www.MerchantCircle.com) dated August 24, 2010. The published web posting identified the actively certified LLC business entity at the same address and phone number on file with the Division. The posting provided general information regarding loan modifications, the service Greenlee reported Nielsen and the business entity ceased offering in May of 2010. Further, the posting contained the following under a header which reads, "Can you modify your own loan or do you need the help of a professional?", which included but was not limited to:

Because of the legal ramifications and contacts involved, it's strongly recommended that you use the services of an Attorney. An Attorney will be able to level the playing field and make sure you understand what you'll be agreeing to, because your lender will.

Email our Attorney Evan Nielsen directly: [evan@azdebtservices.com](mailto:evan@azdebtservices.com) to ask any questions or set up a Free Consultation.

The blog contained the business entity name, address and phone number on file with the Division. [NOTE: The MerchantCircle.com blog was no longer available for online viewing as of June 14, 2011.]

On September 17, 2010, Nielsen sent a letter and a \$675.00 refund check to Trocino on Nielsen & Associates, LLC (the certified legal document preparer business entity) letterhead which offered an apology and informed Trocino the outstanding balance for

services had been waived. The signature line of the letter reads, "Evan A. Nielsen, DBA, Esq." The documentation contained in the files received included Nielsen's resume which reports he holds a "DBA" degree from California Coast University. Division staff contacted California Coast University and confirmed a "DBA" is a doctorate in business administration.

On October 13, 2010, the State Bar issued an Order of Informal Reprimand against Nielsen upon entry of State Bar Probable Cause Panelist Richard Platt's finding of probable cause that Nielsen violated Arizona Supreme Court Rule 42, ER 5.5 and Rule 31 by representing a client and practicing law in Arizona without authorization. On the same date, Bar Counsel Sandweiss sent a letter to Greenlee requesting a copy be provided to Nielsen. Noting the Informal Reprimand, the letter specifically addressed the State Bar's concerns about Nielsen's activities in the Trocino matter, including the ambiguity of his business card, his use of the "Esq." designation, content contained on the [www.qclawfirm.com](http://www.qclawfirm.com) website, Nielsen's failure to correct Trocino when she referred to him as her attorney, and other unauthorized practice of law concerns.

On May 27, 2011, Nielsen submitted an application for renewal of his individual legal document preparer certification for the 2011-2013 certificate period. To date, no application seeking to renew the business entity certification has been received. The Applicant Employment Information section of the application contains three disclosure questions which include, "Since you last renewed your certification, have you or your company/employer, been contacted by any court, state or federal administrative or regulatory agency or the Better Business Bureau regarding allegations of adversarial actions or complaints?, and, "Since you last renewed your certification, have you or your company/employer, been the subject of a court sanction/order, a complaint to the State Bar of Arizona or the Better Business Bureau, or been contacted by any prosecutorial, judicial, or administrative agency regarding business practices?" Nielsen responded "no." The application contains an Authorization and Release which required Nielsen's electronic avowal to the following:

I understand omission or misrepresentation of any fact required to be disclosed on this application or in any accompanying statement is grounds for denial of renewal of a certificate and/or for disciplinary action, up to and including revocation of a certificate. I acknowledge I have read this application form and that all statements are true and complete to the best of my knowledge and belief and that my Authorization and Release are freely given. I declare under penalty of perjury under the laws of the State of Arizona the foregoing is true and correct.

On June 22, 2011, Investigator Thomas spoke with Bickel again. Bickel reiterated he had no knowledge of the 2010 State Bar and Informal Reprimand action against Nielsen. Bickel confirmed he and Nielsen specifically discussed the 2009 complaint and worked together to develop a plan to ensure the firm remained in full compliance.

On June 23, 2011, Lindstorm returned Grau's call and confirmed that she is associated with the E.A. Nielsen and Associate, PC law firm. She reported she works at an

alternative office location in Scottsdale, Arizona and is not involved in the handling of civil matters. She exclusively handles bankruptcy matters for the firm and is not familiar with Kruszka or her case. Lindstorm reported Bickel handles civil cases for the firm. When asked if she was aware Nielsen was an Arizona certified legal document preparer, she recalled Nielsen had mentioned his certification previously.

On June 23, 2011, Bickel sent a follow-up email correspondence to Grau which reads, in part:

I have searched my early June 2011 records and find nothing relating to the "Specific Power of Attorney" and "Waiver and Release" documents we discussed. The "Legal Matters" report furnished to me for the office staff meetings of 6/2/2011 and 6/7/2011 do not reflect anything about Linda Kruszka. I find the first mention of the horse trailer matter on the agenda for the June 14, 2011 office staff meeting. I know I must have had telephone conversations with Evan or Heather (the paralegal) about the matter prior to that June 14 meeting because the topic was not a surprise to me, but I have no written documentation of such conversations.

On June 28, 2011, Investigator Thomas sent a follow-up letter to Nielsen requesting he submit additional information along with the required written response to the complaint. Nielsen was asked to provide a copy of any and all retainer or service agreements entered into with Kruszka; a copy of any and all correspondences or other documentation exchanged between Nielsen and Bickel regarding the Kruszka matter; any and all correspondences or other documentation of communications between Nielsen and Kruszka; a copy of any and all documents that defined Bickel's association with the firm; and for Nielsen to provide a list of any and all customers he provided legal document preparation services to during the period of his certification. Nielsen was also asked to explain why he did not disclose being the subject of State Bar complaint number 09-1645 on his initial applications for individual and business entity certification and why he failed to disclose State Bar complaint numbers 09-2465 and 10-1027 and the Informal Reprimand on his 2011-2013 individual renewal application.

Nielsen, through attorney Greenlee, submitted a written response and documentation regarding the complaint on July 15, 2011. The written response noted Nielsen's background includes having been admitted to practice law in California and having taken and passed the Arizona attorney admissions exam in February of 2011. NOTE: To date, Nielsen has not been admitted to the practice of law in Arizona. Greenlee asserted the Kempf complaint "...is not in reality related to Mr. Nielsen's legal document preparer certification." Greenlee explained Nielsen entered a verbal agreement with Arizona attorney Bickel in October of 2004 which was memorialized by written agreement on March 12, 2010, several weeks after Nielsen was granted individual and business entity legal document preparer certifications. Greenlee explained the agreement with Bickel provided he would utilize Nielsen as his paralegal, to assist with Bickel's estate planning practice. A copy of the March 12, 2010 agreement was provided, referring to Bickel as "Attorney" and to Nielsen as "Paralegal". Relevant portions of the agreement state:

**Paralegal Services to be Provided.** Upon the request of Attorney, Paralegal agrees to interview potential clients that have requested estate planning or other legal services from Attorney. Upon further request, Paralegal agrees to supervise the signing and notarization of estate planning portfolios prepared by Attorney.

**Acceptance of Engagement.** Paralegal is not authorized to act for Attorney. Only Attorney may accept the engagement with client and create an Attorney-Client relationship with a client. Paralegal is authorized only to receive a request for services initiated by a client and directed to Attorney. Paralegal agrees not to engage in any activities which would constitute solicitation of clients for Attorney. Paralegal shall forward a request for legal services to Attorney for his acceptance and shall provide notice to client of Paralegal's status and that Attorney will be providing legal services should Attorney agree to accept the engagement. Such a request for legal services shall not be binding upon Attorney until and if Attorney accepts same and communicate such acceptance to client.

Numbered paragraph 5 of the agreement is entitled "Paralegal Responsibilities" and contains six bullet point items which include:

- Paralegal agrees to participate in the initial and periodic training provided by Attorney and to follow Attorney's procedures and regulations.
- Paralegal agrees to use only forms and documents prepared by Attorney.
- Paralegal shall not give any tax or legal advice to clients (unless otherwise legally licensed to do so under the Paralegal's independent authority) or later (sic) any wills or trusts; or insure (sic) any liability on behalf of Attorney. Paralegal agrees to provide clients with explanations, clarifications and other information as is provided by Attorney and directed by Attorney to deliver to clients.

Greenlee noted Nielsen opened a California law firm, E.A. Nielsen & Associate, PC and hired Bickel to manage the Queen Creek, Arizona "branch office" of the firm. Greenlee provided a copy of a "Managing Associate Agreement" signed by Bickel and Nielsen which contains a September 1, 2009 effective date for the agreement. Numbered paragraph 6 of the Managing Associate Agreement states, in part, "Attorney shall have ultimate authority over the legal operation of the Branch, and shall not be subject to any owner, principal or officer of Firm regarding said legal services."

As a footnote contained in the written response, Greenlee explained the previously certified business entity, Nielsen & Associates, LLC, and the California law firm of E.A. Nielsen & Associate, PC are "distinct and separate" entities. Division records and documentation obtained during the course of the investigation reflect the Arizona LLC and the Queen Creek branch office of the California law firm operate out of the same location, using the same phone number and email addresses.

Greenlee reported Nielsen was informed by an unnamed staff member and understood becoming a certified legal document preparer was "an appropriate step in anticipation of admission to the State Bar of Arizona." Greenlee elaborated Nielsen was informed

becoming certified "...was a common step for law students and that it would facilitate the character and fitness examination required for attorney admission because there is a character and fitness review for the LDP designation." NOTE: Though all individual legal document preparer applicants are subjected to an FBI fingerprint check and a background review, there is not character and fitness review. Greenlee reported Nielsen has never used his certification and stated, "At all time, Mr. Nielsen has acted as a licensed California attorney or as a paraprofessional under the direction of a licensed Arizona attorney."

The written response confirmed Kruszka entered an "Engagement Agreement" with Nielsen on June 7, 2011. The copy provided appears to be the copy Kruszka signed and faxed back to Nielsen on June 7<sup>th</sup>. The fax header reflects the date, the name "Collectors Corner", a phone number containing a Florida area code and the page numbers. Pages 8, 9, 10 and 11 were not forwarded with the written response. The second page of the Engagement Agreement contains a paragraph entitled "Confidentiality" which reads:

We are very aware of the sensitive nature of this matter. Our communications with one another are considered confidential and generally are protected from disclosure under the attorney client privilege rules. The privilege is not absolute and the law may require us to reveal information necessary to prevent a crime or fraud. The privilege may also be lost if you discuss our communications with third parties or if you have third parties present during our discussions with one another. If at any time you have questions about confidentiality, please let us know.

The front page of the Engagement Agreement reflects Nielsen is admitted to practice law in California only, but the signature on page 4 of the document contains Nielsen's signature over a signature block which reads, "Evan A. Nielsen, DBA, Esq., For the Firm". The same page is by Kruszka and dated June 7, 2011. The only reference to Bickel in the Engagement Agreement is his name in the letterhead on the first page which identifies Bickel as the "Managing Attorney, AZ Office" and lists where he is admitted to practice law. Bickel did not sign the Engagement Agreement and there is no signature block for Bickel contained on the last page.

The written response provided an overview of the circumstances pertaining to the horse trailer and noted Kruszka provide the facts to Nielsen who, in turn, discussed the facts with Bickel. Greenlee asserted Bickel recommended the trailer be offered for sale to the Kempfs at a reasonable price or, if they did not agree, return the trailer to Kruszka. Greenlee stated, "Kruszka provided a purchase price she would accept for the trailer, and after he discussed the situation with Mr. Bickel, Mr. Nielsen relayed that information to Kempf." As noted in this summary, Bickel reported he had no knowledge of Nielsen's offering or attempting to negotiate the sale of the trailer to the Kempfs. Nielsen's response indicated he specifically informed Kempf he was calling at Bickel's direction, that the firm had been retained by Kruszka and Bickel "was the attorney of record." The written response reports Kempf made at least two calls to Nielsen's office (one on June 10<sup>th</sup> and one subsequently) questioning Nielsen's Arizona licensure.

The written response indicates Bickel directed the preparation of the POA Kruszka signed on June 7, 2011. During an investigative interview and later in a confirming



email, Bickel denied reviewing and approving the POA and Waiver documents Nielsen forwarded to Kruszka to sign. Greenlee noted the POA was never used and explained:

As you may know, any individual can be appointed an agent to act on someone else's behalf through use of a Power of Attorney. A Power of Attorney, however, does not make someone licensed to practice law in Arizona. It simply allows that person the legal right to do whatever the grantor has provided in the document.

In response to Investigator Thomas' request for additional information, Greenlee attached a number of email correspondence which were exchanged between Nielsen and Kruszka. On June 8, 2011 at 5:16 p.m. Nielsen emailed Kruszka and copied DeVries reporting he had spoken "at length" with Kempf about the trailer. About his call with Kempf, Nielsen stated:

We discussed several options and his bottom line is that he would like to have the trailer but does not believe it is worth more than \$6K to \$7K because of the significant repairs required however I have not yet seen the trailer. I believe there are at least two reasonable options:

1. Report the trailer stolen and work with the police to recover it. Mr. Kempf is in receipt of stolen goods and can only peaceably return it without incurring liability himself. Because of the past circumstances, the sheriff may be hesitant to charge Mr. Kempf but will probably be willing to work with us in recovering the trailer.
2. Sell the trailer to Mr. Kempf. If his description of the trailer is accurate, I believe it will be possible to reach an agreeable price for which he will buy it for cash. He is accustomed to getting deals but also recognizes that his position here may not be as good as he originally thought. This approach will also eliminate the need for police involvement and will likely save on the legal fees as well as resolve the issue more quickly.

I'd like to discuss the two options above with you at your earliest convenience. I intend to call Mr. Kempf back in the morning around 7:00am-7:30am (sic) time so if we do not make connections this evening, we can touch base in the morning early if possible. I will not enter into an agreement on your behalf regarding the trailer without conferring with you first.

The signature block of the email and all other sent from Nielsen to Kruszka contain the "Evan A. Nielsen, DBA, Esq." signature line. Kruszka replied by email at 7:04 a.m. on June 9, 2011 stating, in part:

I will take the \$7000, cash, cashier's check, bank check; Any (sic) difference that the trailer may be worth would definitely be utilized in legal costs (no offense), court costs, etc. The reason I would \$7000 rather than \$6000 is to recover your fees since Mr. Kempf was not as agreeable with me as with you and basically tried to take advantage of me as well.

At 4:08 p.m. the same day, DeVries emailed Kruszka, copying Nielsen, seeking Kruszka's approval of the waiver Nielsen would sign on Kruszka's behalf under the

authority of the POA Kruszka executed on June 7, 2011. At 5:23 p.m., Kruszka responded and offered her approval for Nielsen to sign the waiver on her behalf.

On June 13, 2011 at 8:41 a.m., Kruszka emailed Nielsen indicating she learned Kempf did not return the trailer on June 11<sup>th</sup> as previously planned. Kruszka indicated she wished to report the trailer stolen. At 8:53 a.m., Nielsen responded, copying DeVries, and reported DeVries would be calling Kempf to reschedule. Nielsen wrote:

If he's cooperative, I'd like to hold off on reporting the property stolen but if there's any substantial hint of it then I believe that's the next step. We should have a better feel by mid-day today and will keep you posted. Please holler if you have any questions as well.

On June 15, 2011 at 9:53 a.m., Nielsen emailed Kruszka, copying DeVries to report:

Spoke to the deputy – provided additional details and recommended he discuss with Assistant D.A. Kristy Hunt based on Kempf's refusal now to turn over the trailer. He confirmed trailer does not belong to Kempf. Will contact DA and then let you know. Please advise as soon as you hear from the deputy.

NOTE: On July 18, 2011, Investigator Thomas spoke with Assistant Pinal County Attorney Kristy Hunt ("Hunt"). Hunt reported having no knowledge of Nielsen or any recollection of speaking with him about the Kruszka matter.

At 8:57 p.m. on June 15th, Nielsen emailed Kruszka, copying DeVries, and stated:

Brief Update. As you know, the DA's still not willing to push forward (even tried an attorney colleague who used to work in the DA's office) so this moves us to the next step. That means more time and expense to get it resolved but may be good news as well because now it may be possible to recover some costs/fees in the end as well as the trailer. This can happen in the Justice court (less expensive and less formality) so that's also good. Essentially, we need to file a civil complaint and request the Writ of Replevin. We made the written Demand on Mr. Kempf to turn over the trailer and contact our office by tomorrow to schedule a time to do so. He did leave for Montana (but left the trailer) so I'm doubting he'll comply. We'll be prepared to file the civil complaint by Friday and request the Writ as well. We'll give you the details on that front Friday. Then it's a matter of 5 days notice for Mr. Kempf and the sheriff will serve the writ. The complaint itself will take longer to resolve in order to recover costs/fees and I'm suspecting he may be willing to settle prior to the suit finalizing to keep his own costs down but we'll have to see. We can discuss when you get a moment but wanted you to know where things stood at the moment. As always, holler with any questions.

Bickel was not copied on the above emails between Nielsen, Kruszka and DeVries.

Also provide with the response were numerous correspondence between Bickel, Nielsen and DeVries. The earliest of the correspondences is an email from DeVries to addressed Nielsen on June 14, 2011 at 4:39 p.m. which explained she spoke with Kempf and he would not be able to meet. DeVries reported Kempf indicated he might be hiring an

attorney. DeVries wrote, "I explained to them the Dwight setup and he seemed fine with it. He had in his mind that Dwight was retired for some reason." The email provided more about Kempf's demeanor and comments during the call with DeVries and DeVries asked Nielsen if they should try to get Kempf to sign "the Release Agreement" so that if Kempf refused to sign they could "...file a police report and move ahead." DeVries added, "So I am unsure how to proceed. Should I try and get him to sign it? Or should we just move ahead on the other front?" No indication was present on the documentation provided that email was sent to Bickel or whether Nielsen responded to DeVries. The next message was an email from Bickel to DeVries and Nielsen at 5:13 p.m. suggesting Kempf be given a timeline to resolve the matter or there would be "serious legal consequences" it would be in Kempf's best interest to avoid. DeVries replied a minute later saying, "I think that is a good idea. If we decide to take that avenue, I think a very short timeline would be best as this is the second time he has disregarded our client's schedule." Bickel sent a response at 6:28 p.m. which stated, "Agreed."

On June 15, 2011 at 6:51 a.m., Nielsen sent an email to DeVries and copied Bickel reporting he spoke with Kruszka, who was in the process of having a second POA document notarized, and then she would file a police report giving the police department "our" contact information. Nielsen indicated Kruszka would provide the officer's name and contact information so they could contact with the officer as well. Nielsen wrote:

I'll draft a demand letter to Mr. Kempf for your review, Dwight [Bickel], and would like to see if we can get it delivered to him this morning if possible. I believe he is violating Arizona's theft statute based on our repeated calls and information provided to him regarding proof of ownership. See 13-1802.

At 7:54 a.m., Bickel responded, "I should be available all morning. I totally agree with this course of action." At 1:32 p.m., DeVries forwarded a draft of the demand letter to Bickel for review and approval. The demand letter was ultimately emailed to Kempf on June 17, 2011.

Regarding the use of the "Esq." designation, Greenlee indicated:

Mr. Nielsen previously used the signature block "Evan A. Nielsen, DBA, Esq.," however to avoid confusion, he has removed all professional designations from his signature block, simply signing his name, "Evan A. Nielsen".

Regarding Nielsen's failure to disclose the 09-1645 State Bar complaint on his initial applications for individual and business entity legal document preparer applications, Nielsen asserted he did not receive notice of the complaint until January of 2010, after he submitted the applications. As noted on page 8 of this summary, Nielsen received communications from Bickel as early as September 29, 2009 regarding Nielsen's being the subject of the 09-1645 complaint; a full two months prior to Nielsen applying for legal document preparer certification.

Regarding his failure to disclose the 09-2465 and 10-1027 complaints on his 2011-2013 individual renewal application, Nielsen asserted his assistant (Trotter) "took it upon

herself” to go online and fill out and submit Nielsen’s renewal application and it was Trotter who “mistakenly” failed to report the complaints. Greenlee wrote:

While Mr. Nielsen acknowledges that this error is ultimately his responsibility, it was not an intentional omission on his part as he was not consulted before the renewal application was submitted. As we indicated above, Mr. Nielsen had never used his LDP certificate and his focus has been on his State Bar admission process. He extends his most sincere apologies for this mistake.

Nielsen also attributed the failure to disclose the Informal Reprimand to Trotter having completed his renewal application and apologized. In concluding the written response, Greenlee offered:

It should be apparent that Mr. Kempf’s complaint has nothing to do with Mr. Nielsen’s LDP certificate. However, in light of the apparent (or potential) confusion regarding Mr. Nielsen’s status, he is willing to voluntarily surrender his legal document prepare (sic) certificate, along with the sponsoring status of Nielsen & Associates, LLC.

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**SUBMITTED BY:**



Eric Thomas, Investigator  
Certification and Licensing Division

7/18/11

Date

**ARIZONA SUPREME COURT  
ADMINISTRATIVE OFFICE OF THE COURTS  
ALLEGATION ANALYSIS REPORT and PROBABLE CAUSE  
EVALUATION and DECISION**

<b>CERTIFICATE HOLDER INFORMATION</b>	<b>Certificate Holder:</b>	Evan Nielsen
	<b>Certification Number:</b>	81180
	<b>Business Name:</b>	Nielsen & Associates, LLC
	<b>Certificate Number:</b>	81195 (Expired)
	<b>Type of Certificate/License:</b>	Legal Document Preparer
<b>INVESTIGATION INFORMATION</b>	<b>Complaint Number:</b>	11-L028
	<b>Investigators:</b>	Eric Thomas Linda Grau

**ANALYSIS OF ALLEGATIONS:**

*Allegation 1. Evan Nielsen (“Nielsen”) and Nielsen & Associates, LLC violated Arizona Supreme Court Rule 31 (“Rule 31”), ACJA § 7-201(F)(1) and ACJA § 7-208(F)(2) and (J)(5)(c) by using designations “Attorney-in-Fact”, “Esq.”, “law office”, or other equivalent words reasonably likely to induce others to believe he is authorized to engage in the practice of law in Arizona.*

Arizona Codes of Judicial Administration (“ACJA”) § 7-201(F)(1) and § 7-208(F)(2) require all certified legal document preparers to comply with the Code of Conduct contained in ACJA § 7-208(J). ACJA § 7-208(J)(5)(c) states, in part:

A legal document preparer shall not use the designations “lawyer,” “attorney at law,” “counselor at law,” “law office,” “JD,” “Esq.,” or other equivalent words, the use of which is reasonably likely to induce others to believe the legal document preparer is authorized to engage in the practice of law in the state of Arizona.

Rule 31(a)(2)(B) defines the use of these designations and other equivalent words by any person or entity who is not authorized to practice law in this state as the unauthorized practice of law.

In addition to submitting three applications for certification on which he acknowledged, personally and on behalf of the certified business entity, that he read, reviewed and would comply with the provisions governing legal document preparers, Nielsen signed an additional Affidavit acknowledging the limitations of his authorities as a certified legal document preparer the week he and the business entity were granted certifications. In the months prior to applying for legal document preparer certification and after being granted certification, Nielsen continued to identify himself in business materials, website postings, and electronic and written correspondences using the prohibited designations. These violations of Rule 31 were repeatedly addressed to Nielsen by the State Bar of Arizona (“State Bar”) Lawyer Regulation Division.

While holding active legal document preparer certifications and in the midst of a State Bar's investigation regarding Nielsen's continued misconduct, he sent a letter to a complaining consumer on letterhead for the certified business entity containing a signature line identifying himself with the "Esq." designation. During the investigation of this complaint more than a year later, when asked about his use of the "Esq." designation, Nielsen's response was, "Should I not be doing that?"

In his written response to the complaint, Nielsen reported "to avoid confusion", he has now removed all professional designations from his signature block.

Nielsen prepared a Power of Attorney document during June 2011 which effectively appointed him as the "attorney-in-fact" in a property dispute. Nielsen & Associates, LLC shares an address and phone number with the Queen Creek, Arizona branch location of Nielsen's separate California law firm location. The phone number of record for the certified business entity is answered with a declarative greeting identifying the business reached as a "law office" when answered both personally and by a voicemail system.

Therefore, Allegation 1 is substantiated.

***Allegation 2. Nielsen identified himself as an attorney representing Linda Kruszka ("Kruszka") in a property dispute with the complainants.***

The complainants reported when they were initially contacted by Nielsen regarding their property dispute with Kruszka, Nielsen represented himself as Kruszka's attorney and threatened he would secure a court order against them if they did not meet the demands he was making on Kruszka's behalf. Nielsen denied identifying himself as Kruszka's attorney. Nielsen asserted he placed the call to Jerry and Madelyn Kempf ("the Kempfs") while acting as the paralegal for the California law firm and did so at the direction of "managing attorney" and Arizona lawyer Dwight Bickel. Nielsen asserted he informed the Kempfs that Kruszka was being represented by the firm. Yet, following the call from Nielsen, the Kempfs believed they had been contacted by an attorney and called a local law firm about the dispute. It was the law firm that informed the Kempfs Nielsen was not an Arizona attorney and referred them to the State Bar UPL Office. Attorney Bickel reported being unaware of Nielsen's initial call to the Kempfs on behalf of the firm and of being unaware of Nielsen's attempts to negotiate settlement of the dispute.

Nielsen's written response to the complaint reiterated Nielsen told the Kempfs the firm had been hired by Kruszka and Bickel was the "attorney of record" in the matter. Nielsen's response and the submitted documentation reflect the Kempfs continued to have concerns about Nielsen's authorities in Arizona and placed at least two calls to the Queen Creek office seeking clarification.

There is no evidence or corroborating information available to definitively support or dispute whether Nielsen identified himself as Kruszka's attorney. Therefore, Allegation 2 is not substantiated.

***Allegation 3. Nielsen exceeded the authority of a certified legal document preparer and engaged in the unauthorized practice of law when he attempted to negotiate a settlement of the property dispute between the Kempfs and Kruskza.***

Rule 31(a)(2)(B) states the “unauthorized practice of law includes but is not limited to engaging in the practice of law by persons or entities not authorized to practice.” ACJA § 7-208 which governs legal document preparers exists as an exemption to the prohibition of the unauthorized practice of law contained in Rule 31. Nielsen acknowledged contacting the Kempfs on Kruskza’s behalf and asserted he did so at Bickel’s direction. Bickel denied knowledge of Nielsen’s initial contact with the Kempfs or any actions by Nielsen to negotiate the settlement of the matter. With his written response, Nielsen provided documentation of a discussion with the Kempfs and email correspondences between himself and Kruskza and a member of his staff detailing and exchanging counterpoints of prospective settlement arrangements.

Nielsen’s explanation for why he had Kruskza execute a POA was not plausible and is inconsistent with Nielsen’s explanation he was fulfilling attorney Bickel’s directives. Bickel indicated he knew about and became aware of the POA just before June 14, 2011, but could not confirm he reviewed or approved the document before it was sent to Kruskza and executed June 7, 2011, appointing Nielsen and the firm as Kruskza’s “attorney-in-fact”.

The list of “authorized services” a certified legal document preparer can provide to non-represented parties contained in ACJA § 7-208(F)(1) does not include acting in a representative capacity on behalf of a consumer, engaging in the act of negotiation, or attempting to secure settlement of any dispute on behalf of a customer. Rule 31 specifically defines these acts as the practice of law. Nielsen is not admitted to practice law in Arizona and Arizona attorney Bickel did not prepare or direct the preparation of, or review and approve the POA. Bickel reported he was not aware Nielsen attempted to negotiate the settlement of the dispute. Therefore, Allegation 3 is substantiated.

***Allegation 4. Nielsen violated Rule 31 and ACJA § 7-201(F)(1) and § 7-208(F)(1)(b), (F)(2), (J)(5)(b) and (J)(5)(c), exceed the authority of a certified legal document preparer, and engaged in the unauthorized practice of law when provided legal advice and made recommendations to Kruskza regarding possible legal rights, remedies and options in the property dispute involving the complainants.***

ACJA § 7-208(F)(1)(b) provides a certified legal document preparer may:

Provide general legal information, but may not provide any kind of specific advice, opinion or recommendation to a consumer about possible legal rights, remedies, defenses, options, or strategies;

ACJA § 7-208(J)(5)(b) states, in part:

A legal document preparer shall not represent they are authorized to practice law in this state, nor shall the legal document preparer provide advice or services to another by expressing opinions, either verbal or in written, or by representing another in a

judicial, quasi-judicial, or administrative proceeding, or other formal dispute resolution process, except as authorized by Rule 31(d), Rules of the Supreme Court.

ACJA § 7-208(J)(5)(c) reads, in part:

A legal document preparer shall not provide any kind of advice, opinion or recommendation to a consumer about possible legal rights, remedies, defenses, options, or strategies.

Kruszka reported she was very pleased with the services, advice and recommendations she received from Nielsen. Nielsen acknowledged providing advice and recommendations to attorney Bickel's direction. Bickel reported he was aware Nielsen was not authorized to give advice and did not recall directing Nielsen to do so. Documentation Nielsen submitted regarding his communications with Kruszka and his communications with Bickel pertaining to the Kruszka matter did not demonstrate Bickel was involved in any dealings with Kruszka or the Kempfs until after the filing of the complaint. Rather, the forwarded communications demonstrate Nielsen and his staff proceeded to enter in an "Engagement Agreement" with Kruszka and commenced implementation of multiple courses of actions before Bickel was made aware of the Kruszka matter. Further, the subsequent communications between Bickel and Nielsen and Nielsen's staff reflect Bickel was not directing the actions taken, but passively acknowledging Nielsen's activities after they were derived and presented to Bickel by Nielsen and his staff. Bickel did not direct Nielsen to advise Kruszka regarding possible legal rights, remedies, options or strategies pertaining to the property dispute. Therefore, Allegation 4 is substantiated.

***Allegation 5. Nielsen and Nielsen & Associates, LLC failed to disclose being the subject of a complaint to the State Bar of Arizona ("State Bar"), file number 09-1645, on their initial applications for individual and business entity certification submitted to the Division on November 30, 2009.***

In his written response to the complaint, Nielsen asserted he did not become aware he was the subject of the State Bar 09-1645 complaint until January of 2010; after he applied for individual and legal document preparer certifications. State Bar records reflect Nielsen was aware his conduct was the subject of a State Bar complaint on or before September 29, 2009. Division records reflect Nielsen failed to make the required disclosure when applying for individual and business entity legal document preparer certification on November 30, 2009. In applying for the certifications, Nielsen twice avowed to the truth, completeness and veracity of the content of his application. These avowals were made with the specific understanding a failure to disclose a material fact pertinent to the certifications could result in denial of certification or disciplinary action, up to and including revocation. Therefore, Allegation 5 is substantiated.



***Allegation 6. Nielsen failed to disclose being the subject of a “bar charge” by the State Bar, file number 09-2465, on his 2011-2013 individual renewal application submitted to the Division on May 27, 2011.***

ACJA § 7-208(J)(1)(a) reads:

A legal document preparer shall avoid impropriety and the appearance of impropriety in all activities, shall respect and comply with the laws, and shall act at all times in a manner that promotes public confidence in the integrity and impartiality of the legal and judicial system.

ACJA § 7-201(F)(5)(a) regarding “Candor” provides:

A certificate holder shall not knowingly:

- (1) Make a false statement of materials fact or law to a tribunal; or
- (2) Fail to disclose a material fact to a tribunal, except as required by applicable law.

No “applicable law”, rule or court order relieves Nielsen of disclosing he was the subject of a State Bar investigation. State Bar records reflect Nielsen was aware he was the subject of a State Bar investigation in file number 09-2465 on or about February 8, 2010. Division records reflect Nielsen did not disclose being the subject of the bar charge on the application for renewal of his individual certification which he submitted to the Division on May 27, 2011. In applying for renewal of individual certification, Nielsen avowed to the truth, completeness and veracity of the content of his application. This avowal was made with the specific understanding a failure to disclose a material fact pertinent to certification could result in denial of certification or disciplinary action, up to and including revocation.

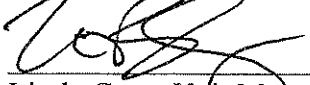
Though accepting ultimate responsibility for the failure to disclose, Nielsen reported in his written response to the complaint that his assistant “took it upon herself” to submit Nielsen’s online individual renewal application without conferring with Nielsen and she failed to disclose the complaints. Allegation 6 is substantiated.

***Allegation 7. Nielsen failed to disclose being the subject of a complaint to the State Bar, file number 10-1027, on his 2011-2013 individual renewal application submitted to the Division on May 27, 2011.***

State Bar records reflect Nielsen was aware he was the subject of a State Bar investigation in file number 10-1027 on or about June 7, 2010. Further, the State Bar ordered an Informal Reprimand and costs assessment to Nielsen on October 13, 2010 in the matter. Division records reflect Nielsen did not disclose being the subject of the bar charge on the application for renewal of his individual certification which he submitted to the Division on May 27, 2011. In applying for renewal of individual certification, Nielsen avowed to the truth, completeness and veracity of the content of his application. This avowal was made with the specific understanding a failure to disclose a material fact pertinent to certification could result in denial of certification or disciplinary action, up to and including revocation.

As with Allegation 6, Nielsen acknowledged the failure to disclose was his responsibility, but his assistant, without his knowledge, submitted his 2011-2013 renewal application and failed to disclose the Informal Reprimand. Allegation 7 is substantiated.

**SUBMITTED BY:**

  
\_\_\_\_\_  
Linda Grau, Unit Manager      Date  
Certification and Licensing Division


7/18/11

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**REFERRAL TO PROBABLE CAUSE EVALUATOR:**

The Investigation Summary and Allegation Analysis Report on complaint number 11-L028 have been reviewed and approved for forwarding to the Probable Cause Evaluator and it is recommended the Probable Cause Evaluator enter a finding probable cause does not exist as to Allegation 2 and does exist as to Allegations 1, 3, 4, 5, 6 and 7.

**SUBMITTED BY:**

  
\_\_\_\_\_  
Nancy Swetnam, Division Director      Date  
Certification and Licensing Division

7/19/11

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**DECISION OF THE PROBABLE CAUSE EVALUATOR:**

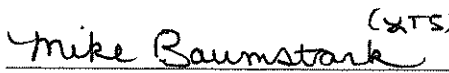
Having conducted an independent review of the facts and evidence gathered during the course of the investigation of complaint number 11-L028, the Probable Cause Evaluator:

- requests division staff to investigate further.
  
- determines probable cause does not exist the certificate holder has committed the alleged acts of misconduct as to Allegation(s):

2

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

1, 3, 4, 5, 6, 7

  
\_\_\_\_\_  
Mike Baumstark      Date  
Probable Cause Evaluator

(YTS)  
7-21-11

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

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<b><i>CERTIFICATE HOLDER INFORMATION</i></b>	<b>Certificate Holder:</b>	Evan Nielsen
	<b>Certification Number:</b>	81180
	<b>Business Name:</b>	Nielsen & Associates, LLC
	<b>Certificate Number:</b>	81195 (Expired)

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**RECOMMENDATION TO THE BOARD OF LEGAL DOCUMENT PREPARERS  
("BOARD"):**

It is recommended the Board accept the finding of the Probable Cause Evaluator and dismiss Allegation 2 of complaint number 11-L028.

Regarding Allegations 1, 3, 4, 5, 6 and 7, it is recommended the Board enter a finding Evan Nielsen ("Nielsen") and Nielsen & Associates, LLC committed the alleged acts of misconduct detailed in the Investigation Summary and Allegation Analysis Report in complaint number 11-L028.

It is further recommended the Board enter a finding grounds for formal disciplinary action exists pursuant to Arizona Code of Judicial Administration ("ACJA") § 7-201(H)(6)(a), (H)(6)(j), (H)(6)(k)(1), (H)(6)(k)(3), (H)(6)(k)(9) and (H)(6)(k)(11) for acts of misconduct involving Arizona Supreme Court Rule 31(a)(2)(B), ACJA § 7-201(F)(1) and (F)(5)(a), and ACJA § 7-208(F)(1)(b), (F)(2), (J)(1)(a), (J)(5)(b) and (J)(5)(c).

It is recommended the Board enter a finding the public health, safety and welfare is at risk and order an emergency summary suspension of Nielsen's individual and business entity legal document preparer certifications pursuant to ACJA § 7-201(H)(9)(d).

It is recommended the Board reserve the right for future consideration and possible action regarding any and all other allegations that may be presented with respect to complaint number 11-L028 if and/or when additional probable cause determinations are entered at a later date.

**Mitigating Factors:**

None noted.

**Aggravating Factors:**

1. Dishonesty. At no time during the investigations conducted by the State Bar of Arizona ("State Bar") regarding Nielsen's conduct, did Nielsen disclose he had applied for and/or been granted legal document preparer certifications. Nielsen was aware of and participated in these investigations. [ACJA § 7-201(H)(22)(b)(2)(b)]

2. Dishonesty and selfish motive. Despite repeatedly receiving, avowing to, and agreeing to abide by Rule 31 and ACJA, Nielsen continued to knowingly engage in the unauthorized practice of law under the premise that he was rightfully engaging in the activities because he was acting under the supervision and direction of an Arizona attorney. Though aware of the circumstances of the dispute underlying this complaint, the Arizona attorney disclaimed being apprised of Nielsen's actions and activities. Nielsen never informed the Arizona attorney that he and his business entity, which operates from the same location as the law firm, had applied for and been granted legal document preparer certifications. [ACJA § 7-201(H)(22)(b)(2)(c) and (d)]
3. Multiple offenses. Nielsen was repeatedly put on notice by the State Bar regarding his conduct and activities constituting the unauthorized practice of law and did not take the corrective actions necessary to ensure compliance with court rules governing the practice of law in Arizona. During the same time period and on separate occasions, Nielsen knowingly made three separate avowals to the Certification and Licensing Division regarding the accuracy and veracity of his application disclosures, or lack thereof, without disclosing being the subject of State Bar complaints or of receiving an Informal Reprimand for action he took while handling law firm matters. [ACJA § 7-201(H)(22)(b)(2)(d)]
4. False statements, multiple offenses, dishonesty. Nielsen, individually and behalf of Nielsen & Associates, LLC, knowingly made false statements and failed to disclose required information in applying for initial certifications and individual certification renewal. Nielsen willfully failed to make the required disclosures having received notice the failure to disclose could result in a denial of certification or disciplinary action up to and including revocation. [ACJA § 7-201(H)(22)(b)(2)(b), (d) and (f)]
5. False statements. Nielsen made false statements and engaged in deceptive practices when he contacted the complainants and presented himself as authorized to facilitate the resolution of the underlying property dispute. Nielsen's establishing his authority to act in a representative capacity for a consumer through a Power of Attorney was not consistent with his assertion he was acting on behalf of and at the direction of an Arizona attorney. Nielsen asserted the legal documents he prepared in the matter were directed, reviewed and approved by the law firm's Arizona attorney. They were not. Nielsen's threat he would obtain a compelling court order against the complaints was not consistent with his authority in Arizona. [ACJA § 7-201(H)(22)(b)(2)(f)]
6. Refusal to acknowledge wrongful nature of the conduct. Nielsen continues to assert the practices he engaged in were under the authority of and on behalf of an Arizona attorney. Additionally, when asked directly about his continuing to use the prohibited designations of "Esq.," "Attorney-in-Fact" and "law office" in numerous forms and mediums and in violation of Rule 31 and ACJA, Nielsen questioned "Should I not be doing that?" [ACJA § 7-201(H)(22)(b)(2)(g)]
7. Substantial experience in the profession. Though he has only held legal document preparer certification since February 22, 2010, Nielsen possesses advanced college

degrees, is admitted to practice law in California, and purports years of legal and successful high-level business experience. Additionally, Nielsen sat for and passed the Arizona Admissions Exam in February of 2011. He possesses the level of knowledge and sophistication necessary to read, understand and comply with the law, court rules and ACJA. [ACJA § 7-201(H)(22)(b)(2)(i)]

**Proportionality Analysis:**

The stated purpose of the Legal Document Preparer Program, as defined by ACJA § 7-208 (C), is to:

Protect the public through the certification of legal document preparers to ensure conformance to the highest ethical standards and performance of responsibilities in a professional and competent manner, in accordance with all applicable statutes, code sections, and Arizona court rules.

Historically, the Board has recognized engaging in the unauthorized practice of law as a serious matter and a threat to the protection of the public with recognition of the potential harm to the public, judicial system, and document preparer profession. In prior matters where it has been determined a certificate holder has committed unauthorized practice of law violations, the Board has revoked and suspended certificates, issued cease and desist orders, established conditions for reinstatement, issued Censures and Letters of Concern, mandated additional continuing education, assessed costs, and imposed civil penalties.

In prior disciplinary matters involving legal document preparers attempting to negotiate settlements or resolutions of disputes on behalf of parties, otherwise acting in a representative capacity on behalf of a consumer, or offering legal advice or recommendation regarding legal rights, remedies, options, defenses or strategies, the Board has revoked and suspended individual and business entity certificates, issued Censures and Letters of Concerns, placed certificate holders on probation, and mandated business practice changes and continuing education intended to ensure future compliance as conditions of reinstatement or the disciplinary probation. See Moreno, Toon, Sobol and Quick and Legal Paralegal Services, Meza, Riyadh and MSB Riyadh Legal Consultants, LLC, Wyner, Stevenson, Ehlinger and Mtn. Holiday, Inc., Henderson and Haigh and Majestic's Paralegal Center, Hall, Volk, Heimer and Divorce and Family Documents.

In prior disciplinary matters involving legal document preparers using prohibited designations indicative of or reasonably likely to induce others to believe an individual or entity is authorized to practice law in Arizona, the Board has revoked and suspended certifications, and mandated business practice changes and continuing education intended to ensure future compliance as conditions of reinstatement. See Riyadh and MSB Riyadh Legal Consultants, LLC, Ehlinger and Mtn. Holiday, Inc., and Ortiz and Legal Awareness Arizona, LLC.

In addition to denying a number of certification applications for material misrepresentation and failure to disclose information required and relevant to legal document preparation certification, the Board previously suspended the certification of Paul Brown for lying under oath in an administrative disciplinary proceeding.

Previously, the Board has ordered two emergency suspensions of certification. In the first, complaint number 04-L015 involving Cassandra Bruce ("Bruce"), the Board found Bruce obtained personal gain and enrichment through her involvement in a plot with a disbarred attorney where the disbarred attorney paid Bruce to place her signature, name and certification number on more than 120 bankruptcy petitions. The Board found Bruce's actions and active participation in the scheme placed the health, safety and welfare of the public at risk. In the second, complaint number 11-L001 involving Julie Star ("Star"), the Board found Star was enriched through a "straw man" scheme perpetuated by her husband and one of a group of heirs for which Star was preparing legal documents related to the estate and a residential property owned by the decedent. A relevant factor in the Star emergency suspension was Star's knowledge of the hidden transaction and the lack of honesty and integrity in failing to disclose the transaction to the unknowing heirs.

With respect to the recommendation the Board issue an emergency summary suspension, it is recommended the Board consider the following:

1. Nielsen and the certified business entity are identifying themselves to the general public in a manner reasonably likely to induce members of the public to believe that Nielsen and the business are authorized to provide legal services, when in fact, Nielsen and the business entity are not authorized to provide a number of the services offered, including, for example, representation, negotiation and securing court orders. The public welfare is at risk for those individuals who have or will unknowingly engage or obtain unauthorized legal services from Nielsen or the business entity. A consumer could unknowingly forego legal rights or remedies without recourse for the consumer or a vehicle for Nielsen to be accountable for his acts or omissions.
2. Nielsen asserts his actions in the matter underlying this complaint were directed by a "managing attorney" who is an attorney actively admitted to practice in Arizona, Dwight Bickel ("Bickel"). Bickel denies he directed Nielsen to provide advice or make recommendations to "the client", Linda Kruzka ("Kruzka") on his behalf. Bickel, who was unaware of Nielsen's active status as a certified legal document preparer, also disavowed Nielsen's assertion Bickel directed the preparation of or reviewed and approved a Power of Attorney document which authorized Nielsen and "the firm" to act in a representative capacity on Kruzka's behalf.
3. Kruzka reported she located "the firm" and made contact with Nielsen through an internet search which lead her to the [www.qclawfirm.com](http://www.qclawfirm.com) website. The website appears to demonstrate the ability of the firm and its associates to offer

legal services in a manner that reasonably led Kruzka and other unknowing consumers to believe they were receiving bona fide and authorized legal services from an attorney and a law firm. This would not be an issue had Bickel assumed and attended to representing Kruzka. He did not. Nielsen, independent of Bickel, offered advice to Kruzka, prepared documents on her behalf, contacted the opposing parties in the dispute and attempted to negotiate a resolution of the matter; made demands regarding the resolution of the dispute; and asserted court action and criminal charges were imminent.

4. An emergency summary suspension is warranted in this case because Nielsen's actions, outside of Bickel's active and direct supervision, placed Kruzka's welfare and the welfare of the opposing parties at risk. Even if the advice and recommendations Nielsen offered Kruzka were deemed sound from a legal perspective, there is no measure in which to determine what, if any, remedies or options were not offered because they were not within Nielsen's established authorities in Arizona. The complainants involved in the dispute with Kruzka were subjected to demands and threats of court action which Nielsen was not authorized to make. Further, this consumer or other prospective consumers who rely on Nielsen's background and stated expertise are likely to reasonably assume his services were appropriately offered and Nielsen possesses the authority to carry them out. He does not. The risk of harm to Kruzka and other prospective or actual consumers receiving legal services from Nielsen rests in his flawed premise under which services were offered, promised or made and the possible harm (loss of property, abdication of legal rights) that could result from the limitations placed on Nielsen as an individual who is not admitted to the practice of law in Arizona.


Should the Board ultimately enter a finding these violations have occurred, it is recommended the Board impose the following sanctions pursuant to ACJA § 7-201(H)(24)(a)(6):

- a) Revoke Nielsen's individual legal document preparer certification and the business entity certification of Nielsen & Associates, LLC, pursuant to ACJA § 7-201(H)(24)(a)(6)(i);
- b) Issue a cease and desist order enjoining Nielsen and Nielsen & Associates, LLC from preparing legal documents, representing himself and the business entity to the public as certified legal document preparers, or conducting any activity that constitutes the unauthorized practice of law until such time as any and all conditions for reinstatement are met in full, as determined by the Board, pursuant to ACJA § 7-201(H)(24)(a)(6)(g);
- c) Order and mandate as a condition for reinstatement, Nielsen participate in no less than ten (10) hours of continuing education in the curriculum areas of the unauthorized practice of law, professional responsibility and ethics, in addition to

the hours of continuing education required for renewal of certification, pursuant to ACJA § 7-201(H)(24)(a)(6)(f);

- d) Assess costs associated with the investigation and related disciplinary proceedings to be remitted no later than sixty (60) days following entry of the Board's Final Order, pursuant to ACJA § 7-201(H)(24)(a)(6)(j); and,
- e) Impose civil penalties in the amount of \$500.00 per found violation to be remitted no later than sixty (60) days following entry of the Board's Final Order, pursuant to ACJA § 7-201(H)(24)(a)(6)(k).

**SUBMITTED BY:**

  
Nancy Swetnam, Division Director      Date  
Certification and Licensing Division

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**FINAL DECISION AND ORDER:**

The Board having reviewed the above Investigation Summary, Allegation Analysis Report, finding of the Probable Cause Evaluator, and Recommendation regarding complaint number 11-L028, Evan Nielsen, certificate number 81180, and Nielsen & Associates, LLC, certificate number 81195, makes a finding of facts and this decision, based on the facts, evidence, and analysis as presented and enters the following order:

- requests division staff to investigate further.
- refers the complaint to another entity with jurisdiction.
- Referral to: \_\_\_\_\_  
dismisses the complaint, and:
  - requests division staff prepare a notice of dismissal pursuant to ACJA § 7-201(H)(5)(c)(1).
  - requests division staff prepare a notice of dismissal and an Advisory Letter pursuant to ACJA § 7-201(H)(5)(c)(2).
- determines grounds for discipline exist demonstrating the certificate holder committed the alleged act(s) of misconduct and:
  - enter a finding the alleged act(s) of misconduct or violation(s) be resolved through informal discipline, pursuant to ACJA § 7-201(H)(7) and issue a Letter of Concern.



enter a finding the alleged act(s) of misconduct or violation(s) be resolved through formal disciplinary proceeding, pursuant to ACJA § 7-201(H)(9).

requests the certificate holder appear before the Board to participate in a Formal Interview, pursuant to ACJA § 7-201(H)(8).

orders the filing of Notice of Formal Charges, pursuant to ACJA § 7-201(H)(10).

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

Date, Time, and Location: \_\_\_\_\_

adopts the recommendations of the Division Director.

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

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Les Krambeal, Chair                      Date  
Board of Legal Document Preparers

# BOARD OF LEGAL DOCUMENT PREPARERS

Agenda Summary – July 25, 2011

## 3) ADMINISTRATIVE ISSUES

3-A: *Report regarding the pending Petition to Amend Rule 31 to include an unauthorized practice of law exception regarding property management companies.*

Staff will provide a verbal report regarding the status of the Petition to Amend Rule 31.

The original petition, amended petition and all the comments filed by all the interested parties in this matter can be viewed at:

<http://azdnn.dnnmax.com/AZSupremeCourtMain/AZCourtRulesMain/CourtRulesForumMain/CourtRulesForum/tabid/91/view/topic/postid/1323/ptarget/1444/Default.aspx>

# BOARD OF LEGAL DOCUMENT PREPARERS

Agenda Summary - Monday, July 25, 2011

## 4) INITIAL CERTIFICATION APPLICATIONS

4-A: *Review, discussion and possible action regarding the following pending applicants for 2011-2013 certification.*

*The following applications remain incomplete pending receipt of additional information. It is tentatively recommended these applicants be deferred to the September meeting. In the event the anticipated information/documentation is received prior to the July meeting, an alternative verbal recommendation will be presented at the meeting:*

1. Veronica Rolley
2. Krystina J. Ehrlich
3. Sally Robinson-Burke
4. Sandra L. Place
5. Marius Cailean
6. Juan Torres
7. Jennifer Hazlett
8. Sylvia C. Moreno, PC (Sylvia Moreno)
9. Arizona Document Services, LLC (Rae MacLean)
10. Hispano America Immigration Services, LLC (Martha Barraza)
11. Paralegal In Motion, LLC (Jeannie N. Collins)
12. Docuprep Solution, LLC (Cassandra J. Wagner)
13. Wellth Life, LLC (Carissa Olson)

*The following applications were received and processed for Board review:*

14. Alison N. Torba – Applicant disclosed being involved in several civil actions and being terminated from employment. See enclosed. **It is recommended the Board grant standard certification.**
15. Jimmie E. Cannon – Applicant answered “yes” to the following questions on his application:
  1. Have you ever committed any act constituting material misrepresentation, omission, fraud, dishonesty or corruption in business or financial matters?
  2. Have you ever had conduct showing incompetence or source of injury and loss to the public?
  3. Have you ever had a professional or occupational license or certificate denied, revoked, suspended or any disciplinary action taken?
  4. Have you ever had a professional or occupational license or certificate censured, placed on probation, or any disciplinary action taken?
  5. Have you ever been or currently a party in a civil lawsuit?

Applicant disclosed the following:

1. Disbarred from the California State Bar on April 25, 1988.
2. State Bar of Arizona complaint for Unauthorized Practice of Law.
3. IRS claim against him for additional 1982 and 1983 Federal Income Taxes

See enclosed application and documentation.

**It is recommended the Board deny the applicant standard certification pursuant to ACJA 7-201 (E)(2)(c)(2)(b)(ii) has committed material misrepresentation, omission, fraud, dishonesty or corruption in business or financial matters; ACJA 7-201 (E)(2)(c)(2)(b)(vi) has a denial, revocation, suspension or any disciplinary action of any professional or occupational license or certificate; and ACJA 7-201 (E)(2)(c)(2)(b)(vii) has a censure, probation or any other disciplinary action of any professional or occupational license or certificate by other licensing or regulatory entities if the underlying conduct is relevant to the certification sought.**

16. AZTec Documents (Mitchell R. Varbel) – Applicant disclosed being arrested July 15, 1977 by the Maricopa Sheriff Department for vehicle manslaughter and received probation for one year. On February 5, 1980, the applicant was arrested by the Scottsdale Police Department for possession of cocaine; was found guilty and received 3 years probation and probation was discharged. On December 3, 1980, the applicant was arrested for possession of narcotics, however, no further information was provided by the applicant as the case was purged. On January 9, 2000, the applicant was arrested for DUI, served one day in jail and paid fine. Also, the applicant disclosed being involved in an ongoing civil action regarding an election fraud.

At the February 28, 2011, Board meeting, the Board deferred consideration of the business entity and requested information from legal counsel. At the April 25, 2011, Board meeting the Board received legal advice from Nina Preston and deferred the application. At the June 27, 2011, Board meeting the Board deferred consideration. **It is recommended the Board go into executive session to receive information that is confidential by court rule.**

# BOARD OF LEGAL DOCUMENT PREPARERS

Agenda Summary - Thursday, July 25, 2011

## 4) INITIAL CERTIFICATION APPLICATIONS

*4-B: Review of Business Entity Exemption Request for the 2011-2013 initial certification period:*

*It is recommended the following Business Entity Exemption be deferred until the September 2011 meeting:*

1. Sylvia C. Moreno, PC (Sylvia Moreno)
2. Hispano America Immigration Services, LLC (Martha Barraza)
3. Paralegal In Motion, LLC (Jeannie N. Collins)
4. Docuprep Solution, LLC (Cassandra J. Wagner)

# BOARD OF LEGAL DOCUMENT PREPARERS

Agenda Summary - Monday, July 25, 2011

## 5) RENEWAL CERTIFICATION APPLICATIONS

5-A: *Review, discussion, and possible action regarding the following pending applications for renewal of certification:*

*The following certificate holders have submitted applications for renewal of standard certification. The applications are complete, no information has been presented during a background review which is contrary to standard certification being granted and the certificate holders have demonstrated they meet the minimum eligibility requirements for standard certification. It is recommended renewal of standard certification be granted to the following individuals:*

1. Lauri Anderson
2. Laura Atwood
3. Loray Bassani
4. Marley Beard
5. Sheri Bell
6. Peteris Berzins
7. Susan Beyette
8. Roger Binyon
9. Mary Carlton
10. Elaine Carlton
11. Aldo Castaneda
12. Jeannie Collins
13. Deborah Colon-Mateo
14. Rebecca Cruz
15. Edward Daily
16. Marcie Davies
17. Dan Davis
18. Roberta Dawson
19. Daniel Dawson
20. John Dawson
21. Kellie DiCarlo
22. Angela Eastlack
23. Michelle Esslinger
24. Jeffery Esslinger
25. Emil Estopare
26. Jean Farrell
27. Yesenia Feliciano
28. Cynthia Felton
29. Myra Ferrell-Womochil
30. Valerie Fishgold

31. Patricia Flores
32. Christopher Fortier
33. Susan Fuquay
34. Scott Gamboa
35. Patricia Garvin
36. David Goodman
37. Carla Gould
38. Jennifer Hammans
39. Elizabeth Harrison
40. Jennette Heath
41. David Hendrickson
42. Christopher Hill
43. Linda Hill
44. Diane Hobson
45. Christopher Hoyt
46. David Hoyt
47. James Jenkins
48. Nannette Jones
49. Dawn Kaiser
50. Penny King
51. Mary Kortsen
52. Katherine Kredit
53. Jeanne Kuisle
54. Brian Lincks
55. Donald Lincoln
56. Tiffany Lloyd
57. Michael Mahoney
58. Jeanne Malys
59. Dawn Martin
60. Allen Merrill
61. Darlene Merrill
62. Nadia Meza
63. Brent Miller
64. Deborah Mojica
65. Pamela Moore De Gamboa
66. Sylvia Moreno
67. Marlene Morton
68. Brook Murray
69. Marcia Nolan-Malsack
70. Bonnie Ogden
71. Michael Olsen
72. Andrea Parisi
73. Nikki Parker
74. Samantha Philpot
75. Melinda Pierce
76. Vellia Pina

77. Aida Pompa
78. Lolita Prescod
79. John Price
80. Mary Jo Randall
81. Ronald Reed
82. JoAnn Regan
83. Arlene Rheinfelder
84. John Roads
85. Susan Roads
86. Michael Roberson
87. Nicole Roberson
88. Mary Rosenthal
89. Armando Saenz
90. Guadalupe Salinas
91. Phillip Salmon
92. Amy Sayler
93. George Shackelford
94. Jack Sides
95. Jennifer Skidmore
96. Edward Smith
97. Daryl Smith
98. Dawn Snead
99. Thomas Steele
100. Kara Stewart
101. Brenda Stuart
102. Janet Summers
103. Amy Swain
104. Jezzette Tailefer
105. James Tewalt
106. Jerry Thomas
107. Jesse Torres
108. Shannon Trezza
109. Betty Ulibarri
110. Mark Vincent
111. Cassandra Wagner
112. Christi Weedon
113. Chris West
114. Michael Whittle
115. Samantha Whittle
116. Billye Wilda
117. Eloy Wilson
118. Pamela Wilson
119. Andrea Winterhof (Telekesy)
120. Cynthia Wood
121. Erlinda Yount
122. William Zenk



123. Marilyn Zimmerman
124. Mitchell Varbel
125. Nancy Gilliam

*The following certificate holders have demonstrated they completed the continuing education (CE) requirement. However, all or some of the continuing education hours were completed after the required timeframe. No information has been presented during the background review which is contrary to renewal of standard certification being granted and they have demonstrated they meet the minimum eligibility requirements for standard certification. Therefore, it is recommended the following certificate holders be granted renewal and, pursuant to ACJA §7-208(L)(9)(e) be assessed a delinquent CE fee of \$50.00 to be remitted no later than August 16, 2011.*

126. David Bishop
127. Penny Burley
128. Karen Cooley
129. Ank-Kim Doan Pickell
130. Barbara French
131. Vivian Gallagher
132. Richard Getzen
133. Michael Law
134. Warner Lewis III
135. Brian Liu
136. Trina MacPhail
137. Raul Manzanares
138. Charles Rampenthal
139. Lisa Tonge
140. Alejandro Zalazar
141. Ranae Settle
142. Kristel Nielsen
143. Karen Kosies

*The following certificate holders have submitted applications for renewal of standard certification. These certificate holders have met the consent terms as stipulated in their consent agreements. The certificate holders have demonstrated they meet the minimum eligibility requirements for renewal of standard certification. It is recommended the Board grant renewal of standard certification to the following individuals:*

144. Elaine Anghel
145. Deborah Albert
146. Martha Barraza
147. Jenifer Bone
148. Edith Funk
149. Richard Hoyt
150. James Jennings

*The following certificate holders have submitted applications for renewal of standard certification. These certificate holders disclosed information required in the background information section of the application. The certificate holders have demonstrated they meet the minimum eligibility requirements for renewal of standard certification. It is recommended the Board grant renewal of standard certification to the following applicants:*

151. **Michael Anderson** – Disclosed a complaint that was filed regarding content on his website, complaint was dismissed.
152. **Elizabeth Beatty** – Disclosed she was involved in a civil suit regarding a decree of dissolution.
153. **Antonia Bolle** – Disclosed a complaint has been filed against her employer.
154. **Victor Calvario** – Disclosed a complaint filed against him that has been deemed resolved by the BBB, disclosed civil suits regarding insufficient funds that have been dismissed.
155. **Lindsay Cline** – Disclosed she was involved in a civil suit where client reported the business did not fulfill their obligations.
156. **Christina Collura** – Disclosed there was a complaint filed against her and is unaware if the issue has been resolved.
157. **David Enevoldsen** – Disclosed he was involved in a civil suit for forcible detainer against tenants, disclosed foreclosure on two homes.
158. **Dan Fore** – [REDACTED]
159. **Deanna Fore** – [REDACTED]
160. **Tannya Gaxiola** – [REDACTED]
161. **Joseph Glennon** – Disclosed he was involved in a civil suit with ex-wife for collection of debt, judgment was rendered and debt has been paid.
162. **Barry Goldman** – Disclosed he is an assignee of judgment in suits that were previously disclosed to the Board, no new civil suits to disclose.
163. **Daniel Gray** – [REDACTED]
164. **Derek Haigh** – Disclosed closed complaints filed in 2009, reported no further complaints to date that he is aware of.
165. **Vicky Halleck** – Disclosed she has filed a forcible detainer suit against a renter.
166. **Mary Hopf** – Disclosed that there are pending complaints against her employer.
167. **Christine Jerome** – Disclosed a complaint filed against her employer.
168. **Kathleen Kindred** – Disclosed she was involved in a civil suit for credit card debt.
169. **Leanora Lagas** – Disclosed she was involved in a consent agreement that was closed in 2009.

170. **Stephen Lee** – Disclosed being involved in a civil action regarding a dispute between himself and an HOA that was formed without the knowledge and consent of the property owners within the covenant.
171. **Eugenia “Jeanne” Lien** – Disclosed being involved in a personal injury civil suit, a civil suit against her business regarding a line of credit. The business is now closed and has been dissolved.
172. **Maria Lungo** – Disclosed being involved in a civil suit regarding extreme changes on “We the People Franchise” policies and fees, case was settled out of court.
173. **Sandra Mejia** – Disclosed a complaint filed in 2005 that was recently closed.
174. **Michelle Messmer** – Disclosed criminal charge that was previously disclosed to the Board during initial certification.
175. **Lupita Shestko-Montiel** – Disclosed she was involved in three civil cases, one of which was dismissed.
176. **Patricia Steward** – Disclosed she was involved in a civil suit against her insurance company, case has been dismissed.
177. **Donald Steward** – Disclosed he was involved in a civil suit for credit card breach of contract. He is making payments as agreed upon in mediation.
178. **Karen Strauss** – Disclosed a complaint has been filed against her employer.
179. **Patricia Taylor** – [REDACTED]
180. **Calah Thomas** – Disclosed a past criminal case that was previously disclosed to the Board during initial certification.
181. **Donna Vasquez** – Disclosed a complaint resulting in a letter of concern, involved in a civil suit where she acted as a statutory agent, a judgment was entered against her and all fees were paid.
182. **Sheila Webster** – Disclosed a complaint filed with BBB. She provided a refund to the complainant and the issue was deemed resolved by the BBB.
183. **Jane Whitley** – Disclosed civil suits filed against her employer and reported no direct involvement in the suits.
184. **David Wilcox** – Disclosed he was involved in a civil suit where HOA is being sued for misappropriation of homeowners’ funds.
185. **Cindy Wong** – Disclosed a complaint has been filed against her employer.

*The following certificate holders have demonstrated they completed the continuing education (CE) requirement. However, all or some of the continuing education hours were completed after the required timeframe. These certificate holders have also disclosed information required in the background information section of the application. The certificate holders have otherwise demonstrated they meet the minimum eligibility requirements for renewal of standard certification. Therefore, it is recommended the following certificate holders be granted renewal; and, pursuant to ACJA §7-208(L)(9)(e), be assessed a delinquent CE fee of \$50.00 to be remitted no later than August 16, 2011.*

186. **Sandra Coffman** – Disclosed she was involved in a civil suit regarding bankruptcy documents prepared but never collected by the client, judgment was rendered against applicant and applicant has filed a counter suit.

187. **Tracey Dombroski** – Disclosed she was involved in a couple of civil suits that were ultimately dismissed.
188. **Stephen Glacy** – Disclosed he is involved in a civil case that was previously disclosed to the Board as the suit was filed in March of 2009.
189. **Debra Griffin** – Disclosed she was involved in criminal suit that was ultimately dismissed, disclosed she is involved in a civil suit regarding debt collection and payment arrangements are being negotiated.

*The following certificate holders have submitted applications for renewal of standard certification. These certificate holders have failed to disclose information required in the background information section of the application and have responded to staff's inquiry for further information. The certificate holders have otherwise demonstrated they meet the minimum eligibility requirements for standard certification. It is recommended the Board grant renewal of standard certification to the following applicants:*

190. **Raymond Beltran** – Failed to disclose civil suit, informed Division staff he had forgotten about case filed back in 2009 due to family issues and stress, case was ultimately dismissed.
191. **Tracy Boen** – Failed to disclose four civil suits, informed Division staff the cases were Justice Court cases and didn't realize they needed to be disclosed, provided information regarding forcible detainer suit, two injunctions against harassment suits, and voluntary petition suit.
192. **Bruce Davidson** – Failed to disclose civil suit, informed Division staff he acted as a statutory agent in a civil suit but did not disclose the suit because it was not related to the Legal Document Preparer profession.
193. **Rae MacLean** – Failed to disclose civil suit, informed Division staff she didn't disclose civil suit because she was not aware that a suit had been filed against her, a counter suit for harassment was filed.
194. **Denisa Kaporalis** – Failed to disclose civil suit, informed Division staff she was unaware of any suit being filed as she had not ever been served.
195. **Renee Martin** – Failed to disclose criminal case, informed Division staff she was not aware the charge was on her record, pled not-guilty and case did not go to trial.
196. **Larry Heywood** – Failed to disclose civil suit, informed Division staff that suits are usually filed under Business name so was unaware of any suit being filed under his name.

*The following certificate holders have submitted applications for renewal of standard certification. These certificate holders have failed to disclose information required in the background information section of the application and have not responded to staff's inquiry for further information or further information is needed to process their application; therefore, it is recommended their renewal application be deferred to the September board meeting. If staff receives the necessary information on the following individuals before the July board meeting then the Board will be updated of their status at that time.*

197. **Michael Chan** – Applicant has failed to respond to Division staff's request for

- more information during background check.
198. **Sergio Diaz** - Applicant has failed to respond to Division staff's request for more information during background check.
  199. **Cindy McCoy** - Applicant has failed to respond to Division staff's request for more information during background check.
  200. **Karen Nogle** - Applicant has failed to respond to Division staff's request for more information during background check.
  201. **Marianne Smith** - Applicant has failed to respond to Division staff's request for more information during background check.
  202. **Georgi Aguilar (Willis)** - Applicant checked "yes" to a question on the renewal application but has not submitted the documentation.
  203. **Karla Wyrostek** - Applicant checked "yes" to a question on the renewal application but has not submitted the documentation.
  204. **Greta Shumway** - Applicant has failed to respond to Division staff's request for more information during background check.
  205. **Anabel Wright** - Applicant checked "yes" to a question on the renewal application but has not submitted the documentation.
  206. **Michelle Blake** - Applicant has failed to respond to Division staff's request for more information during background check.
  207. **Barton Stevens** - Applicant failed to submit verification of CE credits.
  208. **Marwan Sadeddin** - Applicant sent in partial verification of completion of CE credits.
  209. **Thomas Brown** - Applicant sent in partial verification of completion of CE credits.
  210. **Mark Bluemke** - Applicant has failed to respond to Division staff's request for more information during background check.

*The following certificate holders have submitted applications for renewal of standard certification.* [REDACTED]

[REDACTED] *The certificate holders have demonstrated they meet the minimum eligibility requirements for renewal of standard certification. It is recommended the Board grant renewal of standard certification to the following individuals:*

211. Deborah Moldovan
212. Dawn Fountain
213. Dennis Lawrence
214. Daniel Taylor
215. Kenneth Singer
216. Melissa Tenny
217. Pamela Milburn
218. Janneth Cardenas
219. Sumer Jennings
220. Victoria King
221. Debra Pope
222. Jill Smith
223. Carol Gray

- 224. Darlene Landgrave
- 225. David Lerma
- 226. Carla Lief
- 227. Gregory Economidis

*The following certificate holders have submitted applications for renewal of standard certification.* [REDACTED]

*Additionally, the following certificate holders have demonstrated they completed the continuing education (CE) requirement. However, all or some of the continuing education hours were completed after the required timeframe. The certificate holders have otherwise demonstrated they meet the minimum eligibility requirements for renewal of standard certification. Therefore, it is recommended the following certificate holders be granted renewal; and, pursuant to ACJA §7-208(L)(9)(e), be assessed a delinquent CE fee of \$50.00 to be remitted no later than August 16, 2011:*

- 228. JoAnn Kramer
- 229. William Kelly
- 230. Donna Vangury
- 231. Carlos Galindo
- 232. Carol Aragon-Montgomery
- 233. Brenda Smith

*The following renewal application was submitted and processed for Board review:*

- 234. Evan A. Nielsen – Certificate holder filed his online renewal application on May 27, 2011. Certificate holder failed to complete his continuing education in the required timeframe. Also, certificate holder failed to disclose the following:
  - 1. Being the subject of a complaint to the State Bar, file number 09-1645, on his initial applications for individual and business entity certification submitted to the Division on November 30, 2009;
  - 2. Being the subject of a “bar charge” by the State Bar, file number 09-2465, on his 2011-2013 individual renewal application submitted to the Division on May 27, 2011; and,
  - 3. Being the subject of a complaint to the State Bar, file number 10-1027, on his 2011-2013 individual renewal application submitted to the Division on May 27, 2011.

*Therefore, it is recommended to deny the renewal application of Evan Nielsen pursuant to ACJA § 7-201 (E)(2)(c)(2)(b)(i) has committed material misrepresentation, omission, fraud, dishonesty, or corruption in the application form and ACJA § 7-201 (E)(2)(c)(2)(b)(xv) failed to disclose information on the certification application subsequently revealed through the background check.*

*The following certificate holders have submitted applications for renewal of standard certification; however, further information is needed to process their application. Therefore, it is recommended their renewal application be deferred to the September board meeting. If staff receives the necessary information on the following individuals before the July board meeting then the Board will be updated of their status at that time:*

235. Nancy Anderson
236. Mark Schmit
237. Ramon Garcia
238. Lillian Stephens Murray
239. Rochelle Hoekstra
240. Jacqueline Velde
241. Allan Bonhoff
242. Maria Gil
243. Kari Kirk
244. Betsy Ross-Retchin
245. Stephen Trezza
246. Elizabeth O'Connor
247. Deborah Burt
248. Sherrene Caley
249. Cynthia Bowman
250. Constance Havens
251. Valerie Burcks
252. Angela Darling
253. Grace Da Virro
254. Vicki Fink
255. Richard Fink
256. Shannon Kline
257. Frances Langston-Hancock
258. Karen Nogle
259. Nancie Raddatz
260. Doris Fields
261. David Goulet
262. Richard Slatin
263. Laura Pavey
264. Minzell Kelly
265. Sharlene Konenko
266. Cindy McCoy
267. Ronald West
268. Judith Alspaugh
269. Deborah Blunt
270. Sergio Diaz
271. Saydee Ramos
272. George Mortensen
273. Diana Camacho
274. Michael Chan

275. Edna Gomez-Green
276. Debra Parks
277. Silviano Tanori
278. Joyce Brendel
279. Marlene Leatherwood
280. Anna Anderson
281. Patrick Ertz
282. Maria Ortiz
283. Alyssa Rivett
284. Bernadette Guzman
285. George Preston Parker
286. Joy Partridge
287. Randolph Albers
288. George Chant
289. John Kroeger
290. Cherry Blue
291. Marni Gramhill
292. Elaine Kaufman
293. Leah Keller
294. Tracey Kokumo Craig
295. Rosalie Lines
296. Jessica Mendez
297. Jodi Phelps
298. Cheryl Thurman
299. Sonya Torres
300. Lynette Torres
301. Amy Villarreal-Orantez
302. James Bruce
303. Miguel Guzman
304. Cedric Johnson
305. Cherie Koch
306. Karina Morales
307. Debra Roberts-Milbyer
308. Jose Robledo



# BOARD OF LEGAL DOCUMENT PREPARERS



Agenda Summary - Monday, July 25, 2011

5-B: *Review, discussion, and possible action regarding pending applications for 2011-2013 certification renewal for business entities.*

*The following business entities have submitted applications for renewal of standard certification. The applications are complete; no information has been presented during the background which is contrary to renewal certification being granted. The business entities have demonstrated they meet the minimum eligibility requirements for renewal certification. It is recommended renewal certification be granted to the following business entities:*

1. A.D. Scott, Ltd. DBA PMG Services (Mary Jo Edel)
2. Affordable Legal Document Services, Inc. (Carol Keller)
3. Legalezeusa, LLC (Dan Fore)
4. Southeast Arizona Paralegal Services (Misty Coppedge)
5. Lien Secure, LLC (Donald Lincoln)
6. Morrison Group, Inc. (Patricia Morrison)
7. National Contractor Services Corporation (Brian Finn)
8. Building Industry Credit Association (Andrea Parisi)
9. Center for Divorce Mediation & Alternative Dispute (Mary Marcus)
10. Valley Docs & Paralegal Services, LLC (Mary Carlton)
11. Dan Peterson Property Management, LLC (Dan Peterson)
12. Montes Multiple Services, LLC (Alicia Celis)
13. Edward M. Osinski, CPA, PC (Edward Osinski)
14. T.F.C. Ventures, Inc. (Lori Kort)
15. Planned Development (Lori Rutledge)

*The following business entities submitted applications for renewal of standard certification and disclosed information on their applications. The applications are complete; no additional information has been presented during the background which is contrary to renewal certification being granted. The business entities have demonstrated they meet the minimum eligibility requirements for renewal certification. It is recommended renewal certification be granted to the following business entities:*

16. **Arizona Paralegal Services, Inc.** (Deborah Moldovan) —   

17. **Legalzoom.com** (Brian Liu) – Business entity disclosed being involved in several civil suits, one civil suit was dismissed, one class action lawsuit is being appealed, a complaint was filed related to NADC business practices, class action lawsuit arising from California

Legal Document Assistant Act & other statutes, disclosed that 3 complaints have been resolved, 39 complaints have been closed within the last 12 months per the BBB report.

18. **Jurdoc, LLC** (Stephen Lee) – Business entity disclosed being involved in civil action regarding a dispute between designated principle and an HOA that was formed without the knowledge and consent of the property owners within the covenant.

*The following business entities have submitted applications for renewal of standard certification; however, further information is needed to process their applications. Therefore, it is recommended their renewal applications be deferred to the September board meeting. If staff receives the necessary information on the following business entities before the July board meeting then the Board will be updated of their status at that time:*

19. Ashley Renee Enterprises Corporation (Dale Shephard)
20. CB Document Preparation, LLC (Brenda Smith)
21. Cornerstone Properties, INC. (Michael Roberson)
22. Preliminary Notice Company, LLC. (Brook Murray)
23. Titan Lien Services, Inc. (Jill Smith)
24. Montgomery & Associates, Inc. (Carol Aragon-Montgomery)
25. My Corporation Business Services, Inc. (Meghan Record)
26. Bart Stevens Special Needs Planning, LLC (Barton Stevens)
27. Metro Association Management (Linda Kellogg)
28. Ayuda Legal Help LLC (Ramon Garcia)
29. AZ Lien Services, Inc. (Lillian Stephens Murray)
30. EZ Legal Documents, LLC (Mandi Hemming)
31. Precision Legal Preparation, LLC (Michael Figueroa)
32. Assisted Document Solutions, P.L.L.C. (Rochelle Hoekstra)
33. Caprenos Inc. (Karen Paschall)
34. GFA Wealth Design LLC DBA Gentry Wealth Management (Erica Leblang)
35. Heywood Realty & Investment, Inc. (Larry Heywood)
36. Lagas & Associates Paralegal Services, LLC (Leanora Lagas)
37. Signature Documents, LLC (JoAnn Kramer)
38. Your Entity Solution, LLC (Wendy Byford)
39. Arizona Wills & Trusts of Tucson, LLC (Allan Bonhoff)
40. Cheryl A. Wall, P.C. (Cheryl Wall)
41. Essential Estate Plans, LLC (Allan Bonhoff)
42. Financial Strategies, Inc. (Michael Anderson)
43. Jemasi Inc. (Maria Gil)
44. R & R Property Management, LLC (Betsy Ross-Retchin)
45. Key Legal Document Solutions, PLC (Bernadette Deangelis)
46. Bishop & Associates, Inc. (David Bishop)
47. Guardian Estate Planning Service (Daniel Taylor)
48. Precision Paralegal Services LLC (Paris Chacon)
49. East Valley Estate Planning, LLC (Catherine Longman)
50. Emit, Inc. (Melissa Tenny)

51. Strategic Points Documentation Preparation, PLLC (Lisa Tonge)
52. American Contractor Licensing Services, Inc. (Bruce Evers)
53. Desert Schools Financial Services, LLC. (Jolie Fontana-Black)
54. Edward F. Daily CPA P.C. (Edward Daily)
55. Family First Estate & Corporate Services, LLC (Eric Schoeller)
56. Laguna Business Services, LLC (Edward Smith)
57. Law & Reed CPA'S PC (Michael Law)
58. National Document, LLC (Scott Boyer)
59. Steele Larson Anderson Legal, LLC (Thomas Steele)
60. Advanced Legal Services LLC (Marwan Sadeddin)
61. Harrison CPA & Consulting, PC (Elizabeth Harrison)
62. Today's Legal Choice, L.L.C. (Guadalupe Salinas)
63. 123 The Document Tree, LLC (Cynthia Bowman)
64. Out-of-Court Solutions (Oliver Ross)
65. Valleywide Legal Documents, LLC (Karen Cooley)
66. AZ Statewide Paralegal (Shannon Trezza)
67. Metro Tax, Inc. (Michael Whittle)
68. Stevens Paralegal Services, LLC (Jette Stevens)
69. Alliance Legal Services, LLC (Christopher Fortier)
70. Affordable Services, Inc. (David Hendrickson)
71. Alliance Estate Planning, Inc. (Jennifer Skidmore)
72. Cadden Community Management, INC. (Deborah Colon-Mateo)
73. Paradox Document Preparation Service, L.L.C. (Jennifer Bone)
74. Phoenix Success, Inc. (Denisa Kaporalis)
75. Richard C. Hoyt & Associates, Inc. (Richard Hoyt)
76. Strategic Tax Planning LLC (Lynn Forman)
77. Certified Legal Document Preparers, LLC (Allen Merrill)
78. Construction Notice Services, Inc. (Richard Fink)
79. Discount Divorce Professional, LLC (James Jennings)
80. Langston-Hancock Legal Documents (Frances Langston-Hancock)
81. Divorce, Custody & Child Support Services, Inc. (Richard Slatin)
82. Florence Paralegal Services, LLC (Elizabeth Beatty)
83. Continental Recovery Services (Laura Pavey)
84. Karla's Paralegal Services, Inc. (Karla Wyrostek)
85. Arizona Legal Document Services, LLC (Kellie DiCarlo)
86. Financial Security Group of Arizona, Inc. (JoAnn Regan)
87. Freshstart Women's Foundation (Edna Gomez-Green)
88. Tax & Money Strategies (Jack Sides)
89. Van Rylin Associates Inc. (Janet Summers)
90. West-Word Services Corp. (Chris West)
91. Affordable Document Preparation, LLC (Emil Estopare)
92. Capital Consultants Management Corporation (Judith Alspaugh)
93. Fishgold Financial Services Limited (Valerie Fishgold)
94. Kachina Management, Inc. (Christina Collura)
95. Rider Levett Bucknall LTD (Julian Anderson)
96. AA American Contractors License School, LLC (Constance Havens)

97. AAA Legal Services Inc. (Joseph Glennon)
98. Carefree Document Services, LLC (Amy Swain)
99. Paralegal Consultants, Inc. (Loray Bassani)
100. Rapid RPS (AZ), LLC (Barry Goldman)
101. American Living Trust Services, LLC (Dennis Lawrence)
102. Americana Services (Vellia Pena)
103. Cautela Corporation (Marley Beard)
104. Griffin Paralegal Services, LLC (Debra Griffin)
105. Joyce's Services Corporation (Edith Funk)
106. Northern Arizona Investment Group, Inc. (Jane Whitley)
107. Ogden Services Incorporated (Bonnie Ogden)
108. Southwest Legal Document Services, LLC (Ranae Settle)
109. Tri-City Property Management Services, Inc. (Elaine Anghel)
110. Accurate Lien and Contractor Assistance, Inc. (Lindsay Cline)
111. Arizona Legal Ease, Inc. (Sheila Webster)
112. Document Resource Center LLC (Donald Steward)
113. Economidis Mediation Services, L.L.C. (Gregory Economidis)
114. Esslinger Enterprises, LLC DBA Deed Resource (Michele Esslinger)
115. Legal Type Documents (Debra Parks)
116. Grand Canyon Planning Associates LLC (Tracey Dombroski)
117. Scottsdale Condominium Management, Inc. (Irene Mayer)
118. The Getzen Group Inc. (Richard Getzen)
119. Agencia Hispana (Carlos Galindo)
120. Guardian Financial Planning Services, Inc. (Patrick Ertz)
121. State DPS, LLC (Alyssa Rivett)
122. Parker Egan CPAS PLLC (George Preston Parker)
123. Arizona Legal Briefcase, LLC (Michelle Blake)
124. Katherine J. Kredit Enterprises, Inc. (Katherine Kredit)
125. Accounting World CPA & Consulting, PLC (Joy Partridge)
126. AAM, LLC (Jean Farrell)
127. The Lien Group, LLC (Eugine "Jeanne" Lien)
128. Asset Research Services, Inc. (Cheryl Thurman)
129. Cheaper Than A Lawyer, LLC (Tracey Kokumo Craig)
130. City Property Management Company (Jodi Phelps)
131. Corporation Lien Services, LLC (Michael Haley)
132. Saguaro Lien Service, LLC (Rosalie Lines)
133. AMCN Group, LLC (Marcia Nolan-Malsack)
134. Servicios Hispanos (Karina Morales)
135. A1 Legal Services, LLC (Ank-Kim Doan Pickell)
136. Divorce Packet Processing, LLC (Linda Seger)
137. Living Estate Solutions, Inc. (Eleanor Tarman)
138. Andrew M. Saper, L.L.C. (Andrew Saper)
139. Alta Estate Services, LLC (Alyssa Marino)
140. Suzette M. Brown, PC (Suzette Brown)
141. Celentano's Mobile Notary Service, Inc. (Judith Celentano)

# BOARD OF LEGAL DOCUMENT PREPARERS

Agenda Summary - Monday, July 25, 2011

## 5) RENEWAL CERTIFICATION APPLICATIONS

*5-C: Review of Business Entity Exemption Extension Requests for the 2011-2013 certification period.*

*It is recommended the following Business Entity Exemption Extensions be granted for the 2011-2013 certification period:*

1. Valley Docs & Paralegal Services, LLC (Mary Carlton)
2. Dan Peterson Property Management LLC (Daniel Peterson)
3. Affordable Legal Document Services, Inc. (Carol A Keller)
4. Lien Secure, LLC (Donald Lincoln)
5. Affordable Legal Document Services, Inc. (Carol A Keller)
6. Southeast Arizona Paralegal Services (Misty Coppedge)

*It is recommended the following Business Entity Exemption Extensions be deferred until the September meeting:*

7. Preliminary Notice Company, LLC (Brook Murray)
8. Montgomery & Associates, Inc. (Carol Aragon-Montgomery)
9. Bart Stevens Special Needs Planning, LLC (Barton Stevens)
10. Metro Association Management (Linda Kellogg)
11. EZ Legal Documents, LLC (Mandi Hemming)
12. Arizona Wills & Trusts of Tucson, LLC (Allan Bonhoff)
13. Cheryl A. Wall, P.C. (Cheryl Wall)
14. Essential Estate Plans, LLC (Allan Bonhoff)
15. Financial Strategies, Inc. (Michael Anderson)
16. R & R Property Management, LLC (Betsy Ross-Retchin)
17. Bishop & Associates, Inc. (David Bishop)
18. East Valley Estate Planning, LLC (Catharine Longman)
19. Edward F. Daily CPA P.C. (Edward Daily)
20. Family First Estate & Corporate Services, LLC (Eric Schoeller)
21. Laguna Business Services, LLC (Edward Smith)
22. Advanced Legal Services LLC (Marwan Sadeddin)
23. Today's Legal Choice, L.L.C. (Guadalupe Salinas)
24. 123 The Document Tree, LLC (Cynthia Bowman)
25. Out-Of-Court Solutions (Oliver Ross)
26. Valleywide Legal Documents, LLC (Karen Cooley)
27. Affordable Services, Inc. (David Hendrickson)
28. Alliance Estate Planning, Inc (Jennifer Skidmore)
29. Paradox Document Preparation Service, L.L.C. (Jennifer Bone)
30. Langston-Hancock Legal Documents (Frances Langston-Hancock)

31. Divorce, Custody & Child Support Services, Inc. (Richard Slatin)
32. Karla's Paralegal Services, Inc. (Karla Wyrstek)
33. West-Word Services Corp. (Chris West)
34. Fishgold Financial Services Limited (Valerie Fishgold)
35. Rider Levett Bucknall Ltd (Julian Anderson)
36. Carefree Document Services, LLC (Amy Swain)
37. Paralegal Consultants, Inc (Loray Bassani)
38. Rapid RPS (AZ), LLC (Barry Goldman)
39. American Living Trust Services LLC (Dennis Lawrence)
40. Cautela Corporation (Marley Beard)
41. Griffin Paralegal Services, LLC (Debra Griffin)
42. Southwest Legal Document Services, LLC (Ranae Settle)
43. Economidis Mediation Services, L.L.C. (Gregory Economidis)
44. Legal Type Documents (Debra Parks)
45. Peoria Nu Start Bankruptcy (Debra Parks)
46. Eastlack Paralegal Services, LLC (Angela Eastlack)
47. AZ Legal Document Solutions, LLC (Michael Mahoney)
48. Carla's Paralegal Services, LLC (Carla Lief)
49. Salmon & Associates Business Consulting, LLC (Phillip Salmon)
50. Nancy L. Anderson LLC (Nancy Anderson)
51. Scottsdale Condominium Management, Inc. (Irene Mayer)
52. Guardian Financial Planning Services, Inc. (Patrick Ertz)
53. Parker Egan CPAS PLLC (George Preston Parker)
54. Katherine J. Kredit Enterprises, Inc. (Katherine Kredit)
55. The Lien Group, LLC (Eugenia "Jeanne" Lien)
56. Cheaper Than a Lawyer, LLC (Tracey Kokumo Craig)
57. AMCN Group, LLC (Marcia Nolan-Malsack)
58. A1 Legal Services, LLC (Ank-Kim Doan Pickell)
59. Divorce Packet Processing LLC (Linda Seger)
60. Living Estate Solutions, Inc. (Eleanor Tarman)
61. Andrew M. Saper, L.L.C. (Andrew Saper)
62. Alta Estate Services, LLC (Alyssa Marino)
63. Suzette M. Brown, PC (Suzette Brown)
64. Celentano's Mobile Notary Service, Inc (Judith Celentano)

# BOARD OF LEGAL DOCUMENT PREPARERS

Agenda Summary - Monday, July 25, 2011

## 6) CERTIFICATION AND ELIGIBILITY

6-A: *Review, discussion, and possible action regarding the Voluntary Surrender request:*

The following legal document preparers and business entity have submitted Voluntary Surrender requests:

1. Angela Iserhott
2. Salina Faaborg
3. Alenda Martin
4. Shawnterry Cato
5. Mark Clark
6. TLC Enterprises, LLC (Shawnterry Cato)

ACJA § 7-201 (E)(7) reads as follows:

*Voluntary Surrender. A certificate holder in good standing may surrender their certificate to the board. However, the surrender of the certificate is not valid until accepted by the board. The board or division staff may require additional information reasonably necessary to determine if the certificate holder has violated any provision of the statutes, court rules and this section or the applicable section of the ACJA. The surrender does not prevent the commencement of subsequent discipline proceedings for any conduct of the surrendered certificate holder occurring prior to the surrender.*

Division records confirm there are no pending complaints involving any of the above Legal Document Preparers or Business Entities.

**Staff recommends the Board accept the voluntary surrenders.**

# BOARD OF LEGAL DOCUMENT PREPARERS

Agenda Summary - Monday, July 25, 2011

## 6) CERTIFICATION AND ELIGIBILITY

6-B: *Interview with and possible action regarding applicant Cynthia M. Cooks.*

During the June meeting, the Board requested staff invite Cynthia M. Cooks to attend the July 25<sup>th</sup> meeting to provide additional information regarding her application.

Applicant disclosed having several misdemeanors ranging from 1991 to 2006. Also, application stated she is currently in numerous civil actions based on her position as a general liability claims examiner in multiple jurisdictions handling litigated files for her employer. However, she failed to disclose 6 civil actions involving her personally. See enclosed application and documentation.

**Staff recommends the Board address the misdemeanor convictions, failure to disclose civil actions, and any other information pertaining to her application and determine if the information presented is contrary to certification being granted.**



# BOARD OF LEGAL DOCUMENT PREPARERS

Agenda Summary - Monday, July 25, 2011

## 6) CERTIFICATION AND ELIGIBILITY

6-C: *Interview with and possible action regarding applicant Leonard W. Deehan.*

During the June meeting, the Board requested staff invite Leonard W. Deehan to attend the July 25<sup>th</sup> meeting to provide additional information regarding his application.

Applicant disclosed being convicted of a felony charge in July 1979 for Commission of a Lewd and Lascivious Act with a girl less than fifteen years of age. Applicant failed to disclose seven civil actions. See enclosed application and documentation.

**Staff recommends the Board address the felony conviction, failure to disclose civil actions, and any other information pertaining to his application and determine if the information presented is contrary to certification being granted.**

# BOARD OF LEGAL DOCUMENT PREPARERS

Agenda Summary - Monday, July 25, 2011

## 6) CERTIFICATION AND ELIGIBILITY

6-D: *Interview with and possible action regarding applicant Lisa Perez-Leon and Perez Paralegal Group, LLC*

During the June meeting, the Board requested staff invite Lisa Perez-Leon to attend the July 25<sup>th</sup> meeting to provide additional information regarding her application.

Applicant was originally certified on June 24, 2003 through June 15, 2006 when the Board accepted her voluntary surrender request. Applicant disclosed on her application receiving two misdemeanor disorderly conduct one on October 10, 2001 and the other on November 7, 2001. Guilty plea was entered on both cases and she was placed on a deferred judgment. Applicant complied with the conditions and both cases were dismissed and closed on March 21, 2002. Applicant also disclosed being convicted for misdemeanor domestic violence on December 28, 2005 and while on probation for this misdemeanor she received a misdemeanor aggravated assault on October 28, 2007 therefore violating her probation in Colorado for the December 2005 misdemeanor. On April 29, 2008, Maricopa Adult Probation Interstate Compact Unit accepted her case from Colorado. All terms of probation were completed and the Interstate Compact case was closed on March 9, 2010. For the October 2007 misdemeanor applicant completed all terms of probation and an order vacating the judgment and dismissing the charges was entered on March 18, 2011. See enclosed application and documentation.

**Staff recommends the Board address the misdemeanor convictions and any other information pertaining to her application and determine if the information presented is contrary to certification being granted.**

# BOARD OF LEGAL DOCUMENT PREPARERS

Agenda Summary - Monday, July 25, 2011

## 6) CERTIFICATION AND ELIGIBILITY

*6-E: Review, discussion and possible action regarding Hearing Officer Jonathan Schwartz's Recommendation Report involving the denial of the certification application submitted by Jessica Star.*

Attached is the Hearing Officer's Recommendation report regarding the denial of Ms. Star's certification application. Hearing Officer Schwartz recommends the Board uphold the earlier denial for certification.

**FILED**

JUN 2 2011

DISCIPLINARY CLERK OF THE  
SUPREME COURT OF ARIZONA  
BY \_\_\_\_\_

**BEFORE THE SUPREME COURT OF ARIZONA  
LEGAL DOCUMENT PREPARER BOARD**

IN THE MATTER OF:

**JESSICA C. STAR,**  
Applicant

**No. LDP-11-4**

**HEARING OFFICER'S REPORT AND  
RECOMMENDATION**

[Hon. Jonathan H. Schwartz, Retired,  
Hearing Officer]

**PROCEDURAL HISTORY**

On or about November 19, 2010 Jessica Star (hereinafter "Applicant") submitted an application for standard certification as an individual legal document preparer. (Exhibit B) On November 10, 2010, the Applicant had been informed by the Legal Document Preparer Program (hereinafter "Program") that she had passed the program examination. (Exhibit A) On March 2, 2011, the Applicant received a notice from the Board of Legal Document Preparers (hereinafter "Board") that her application was denied pursuant to the Arizona Code of Judicial Administration (hereinafter "AC JA"), section 7-201(E)(2)(c)(1) which states, "The board shall deny certification of the applicant if the applicant does not meet the qualifications or eligibility requirements at the time of the application described in this section or the applicable section of the AC JA..." The Board determined that Applicant did not meet the requirement for individual standard certification set forth in AC JA section 7-208(E)(3)(b)(6)(b)(iii) which requires a person who has a four-year bachelor of

arts or bachelor of science degree from an accredited college or university to also have "... a minimum of one year of law-related experience in one or a combination of the following situations: (iii) Under the supervision of a certified legal document preparer after July 1, 2003."

Applicant requested a hearing on her application for certification. The Hearing Officer, the Hon. Jonathan H. Schwartz (retired) conducted the hearing on April 26, 2011.

### **FINDINGS OF FACT**

- 1) Applicant has a Bachelor of Science degree in Criminal Justice & Criminology from Arizona State University. (Exhibit F)
- 2) Applicant has a Master of Science degree in Psychology from the University of Phoenix. (Exhibit E)
- 3) Applicant testified that either her Master degree or her work as an understudy of her mother Julie Star (a certified legal document preparer) should in addition to her Bachelor degree qualify her for certification. (Transcript of the Hearing "TR" page 4, line 18 through page 16, line 1, "4:18 through 16:1)
- 4) Applicant has been an understudy for her mother in her mother's legal document preparer practice since about 1999. Applicant started typing documents under her mother's review in 2005. She earned her Bachelor degree from 2006 to 2008. She earned her Master degree from 2009 through 2011. She assisted her mother in preparing legal documents in divorce cases, and in federal cases. She recalled that she worked on

matters that involved paternity and grandparents rights. (TR 4:18 through 6:17)

- 5) Applicant further testified that in her opinion if the AC JA required an applicant who had a high school degree to have two years of law-related experience and also required an applicant who had a Bachelor degree to have one year of law related experience, then Applicant who has a Master degree should need no more law-related experience to be qualified as a certified legal document preparer. (TR 7:5-25)
- 6) In the alternative Applicant testified that her Master degree should equal one year of law-related experience because in order to earn the Master degree Applicant had to do significant research. She likened this research to the research required of a legal document preparer. (TR 7:18 through 8:7, 17:8 through 18:1) She said that her Master degree in Psychology assisted her in putting her mother's clients at ease and discussing matters with them. Applicant also stated that she learned more cultural sensitivity in graduate school. (TR 18:21 through 19:22)
- 7) Applicant also stated that if the AC JA required a trainee to work under a licensed document preparer who was also a business entity, then her mother Julie Star is in effect a business entity even if Julie Star did not pay additional fees. But Applicant asserted that her mother is highly capable of training other people to be legal document preparers. (TR 8:8-20)
- 8) Applicant also argued that her mother should not be required to be a business entity for Applicant to have acquired at least one year of law-

related experience, because AC JA section 7-208(E)(3)(d)(3) states, "A sole proprietor who does not employ certified legal document preparers or supervise trainees pursuant to subsections (A) and (F)(5), is not required to hold certification as a business entity, provided the sole proprietor holds valid certification as an individual legal document preparer."

Applicant testified that she was not employed by her mother. (TR 8:21 through 9:18) Instead, Applicant likened her role assisting her mother to that of an intern.

- 9) Applicant would prepare a document and then put it in a review file shelf. Her mother would then review it. Her mother would interview clients, but Applicant might follow-up with clients if more information was needed. Her mother did not give Applicant written training materials. Instead, Applicant just followed the instructions that came with the documents from court. (TR 9:19 through 12:25)
- 10) She testified that her mother took continuing education classes in domestic relations, domestic violence and immigration law and apparently imparted the information that her mother learned in these courses to Applicant. (TR 12:25 through 13:4 and 13:24 through 14:5)
- 11) Applicant testified that since her mother prepared legal documents in immigration matters, Applicant became familiar with certain forms that were used in these cases. (TR 13:7-23) Applicant stated that her undergraduate thesis was on immigration law. (TR 13:24 through 14:5)
- 12) Applicant worked with her mother preparing legal documents from 2005 to the present approximately 5 to 7 hours each day when Applicant

was not working elsewhere. Applicant is on call for work at the Juvenile Court Detention Centers. From 2008 until about November 2010 Applicant was working 40 to 45 hours per week at the Detention Centers. (TR 14:7 through 16:1)

13) Applicant's mother Julie Star, a legal document preparer, testified that Applicant greeted customers, took some documents from the customers, faxed and copied documents and filed documents at court. This required Applicant to research the matter. Julie Star would ask the questions of the clients. Applicant, her daughter, would learn by listening. (TR 20:12 through 22:1)

14) Julie Star is not a certified business entity. (TR 22:9-10)

15) Julie Star also testified that her daughter Applicant typed paperwork and Julie would review the typing. Julie Star was careful to correct any mistakes made by Applicant. (TR 23:18 through 24:13)

#### **CONCLUSIONS OF LAW**

16) Applicant has not established by a preponderance of the evidence that she is qualified for certification as a legal document preparer. ACJA section 7-201(H)(21)(c)(4)

17) ACJA section 7-208 (E)(3)(b)(6)(b)(iii) literally states that a person with a four-year college degree must also have a minimum of one year of law-related experience under the supervision of a certified legal document preparer. Applicant has testified that she has worked for more than one year under the supervision of her mother Julie Star, a certified legal document preparer.



18) The section set forth in paragraph 17 above must be read in conjunction with other sections of the ACJA. Section 7-208 (E)(3)(d)(3) entitled "Eligibility for Business Entity Standard Certification", states, "A sole proprietor who does not employ certified legal document preparers or supervise trainees pursuant to subsections (A) and (F)(5), is not required to hold certification as a business entity, provided the sole proprietor holds valid certification as an individual legal document preparer. "Here the ACJA is clearly stating that if a sole proprietor supervises trainees, the proprietor must be certified as a business entity.

19) Applicant is asserting that she was not "employed" by her mother, so that the subsection in paragraph 18 above is not applicable. But Applicant does not have a persuasive argument that she should not be considered a "trainee." Applicant described herself as like an intern. But the ACJA recognizes "trainees", not interns. In section 7-208 (F)(5) "Supervision of Trainees" a trainee is basically defined as "... a person who would qualify for certification as a legal document preparer but for the lack of required experience,..." Subsection (F)(5)(a) authorizes the designated principal of the certified business entity to train the employee to meet the requirements for a certified legal document preparer, but for a period of no longer than two and one-half years.

20) Subsection (F)(5)(c) requires any designated principal who will train a person to "Assume personal professional responsibility" for guiding the trainee and for supervising the quality of the trainee's work. Subsection (F)(5)(c)(5) requires the designated principal to "Prepare and submit a

written acknowledgment of the roles and responsibilities of the designated principal and trainee pursuant to subsections (F)(5) and (F)(6). The written acknowledgment shall include the name, address, start date of the trainee, and the anticipated date the trainee will meet the minimum eligibility requirements to seek individual certification."

- 21) Subsection (F)(6) requires the designated principal of a certified business entity to submit with the application for business entity certification a list of the subsection (F)(5) trainees acting for or on behalf of the business entity. In addition, the designated principal must file with division staff by May first of each year a list of all certified legal document preparers and all subsection (F)(5) trainees acting on behalf of the business entity.
- 22) The combination of the requirements in subsections (F)(5) and (F)(6) allows the division staff to track the trainees. Staff can determine when each trainee started and when they will be expected to meet the minimum eligibility requirements to seek individual certification. Staff can determine if the trainee has exceeded the maximum time allowable to train, 2 1/2 years, under subsection (F)(5)(a). But this same information was not available to staff in Applicant's case. Her mother Julie Star was not a certified business entity, nor was she the designated principal of a certified business entity. Therefore, Julie Star was not required to submit the information in subsections (F)(5) and (F)(6). It is reasonable to conclude that the drafters of the ACJA wanted the staff of the division to have some oversight concerning trainees. For this reason, the ACJA was

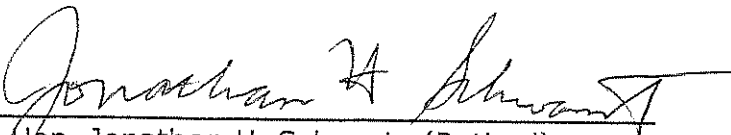
written to require information about trainees from a designated principal of a certified business entity. The ACJA deliberately did not require this information from a certified legal document preparer, because the code did not contemplate that a certified legal document preparer would be training others. This is the clear meaning of reading subsections (E)(3)(d) and (F)(5) and (F)(6) together.

- 23) The Applicant's argument that her Master degree in Psychology should be the equivalent of one year of law-related experience is not supported by the ACJA. The code recognizes only one circumstance where a graduate degree would qualify a person for certification as a legal document preparer without the need for any law-related experience; a law degree. Section 7-208 (E)(3)(f) and (g).

### **RECOMMENDATION**

The Hearing Officer for the foregoing reasons recommends that the denial of the Applicant's request for certification as a legal document preparer be upheld. Since the Applicant's mother Julie Star was not a certified business entity as required by the ACJA, her supervision of the Applicant cannot qualify under the ACJA as the equivalent of one year of law-related experience under the supervision of a certified legal document preparer. This is not just a technicality. Julie Star did not submit the information required of those individuals who supervise trainees. The division was not able to engage in any oversight concerning the Applicant's training and to determine whether the maximum time allowable for that training had expired.

DATED this 2nd day of June, 2011

  
\_\_\_\_\_  
Hon. Jonathan H. Schwartz (Retired)  
Hearing Officer

ORIGINAL filed with the Disciplinary Clerk  
this 2nd day of June, 2011.

COPY of the foregoing mailed this 2nd  
day of June, 2011, to:


Board of Legal Document Preparer  
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\_\_\_\_\_  
Jessica Star

# BOARD OF LEGAL DOCUMENT PREPARERS

Agenda Summary - Monday, July 25, 2011

## 6) CERTIFICATION AND ELIGIBILITY

6-F: *Review, discussion, and possible actions regarding the requests for extensions or waivers of continuing education (CE) requirements for certificate holders.*

1. **Staci Heinz** - requesting a 90 day extension due to being certified on 6/28/2010 and lacking time/funds to complete credits by the deadline. She has completed and submitted documentation of completion for 5.75 credits out of 10 credits required.
2. **Shelby Beerling** - requesting a 90 day extension due to lack of time to complete credits by the deadline. She has completed and submitted documentation of completion for 3 credits out of the 20 credits required.
3. **Dawn Polk** - requesting a 90 day extension due to being certified on 2/28/2011 and not realizing that 10 hours of CE credits were required by renewal date.
4. **Michael Haley** - requesting a 90 day extension due to being certified on 6/28/2010 and not realizing that CE credits were required by renewal date.

See enclosed requests for all of the above.

Pursuant to the Arizona Code of Judicial Administration ("ACJA") § 7-208((L)(9)(c)(2):

*The board shall determine whether extenuating circumstances exist. In reviewing the request, the board shall consider if the legal document preparer has been unable to devote sufficient hours to fulfill the requirements during the certification period because of:*

- (a) full-time service in the armed forces of the United States during a substantial part of the certificate period;*
- (b) an incapacitating illness documented by a statement from a currently licensed health care provider;*
- (c) a physical inability to travel to the sites of approved programs documented by a statement from a currently licensed health care provider; or*
- (d) any other special circumstances the board deems appropriate.*

**Staff recommends the Board determine whether the above requests should be considered a special circumstance pursuant to ACJA § 7-208(L)(9)(c)(2)(d) that would warrant an extension or waiver of CE credits and direct staff accordingly.**