BOARD OF LEGAL DOCUMENT PREPARERS

Meeting Agenda - Monday, April 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

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).

CALL TO ORDER ..... ***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 February 28, 2011.*

1-B: *Review, discussion, and possible action regarding approval of the executive session minutes of the meeting of February 28, 2011.*

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

2-A: *Review, discussion and possible action regarding complaints dismissed the Division Director pursuant to Arizona Code of Judicial Administration § 7-201(D)(4)(a) and (H)(2)(a):*

Complaint Number NC10-L056
Complaint Number NC10-L040
Complaint Number NC11-L003
Complaint Number 10-L023
Complaint Number NC11-L002

2-B: *Review, discussion and possible action regarding the pending formal disciplinary action involving former certificate holder Julie Haigh, Majestic's Paralegal Center and complaint number 08-L003.*

2-C: *Review, discussion and possible action regarding the pending formal disciplinary action involving former certificate holder Kenneth Volk and complaint numbers 09-L078 and 10-L010.*

2-D: *Review, discussion and possible action regarding certificate holder complaints:*

Complaint Number 06-L088 – Estate Services Group, LLC and Warner Lewis

Complaint Number 10-L036 – Sherrene Caley
Complaint Number 09-L055 – Titan Lien Services and Jill Smith
Complaint Number 10-L028 – Jacqueline Vigil
Complaint Number 10-L033 – Capital Consultants Management Corporation and Judith Alspaugh

2-E: *Review, discussion and possible action regarding a possible Consent Agreement resolution of the pending formal disciplinary action involving certificate holder Tiffany Lehr and complaint number 09-L094.*

2-F: *Review, discussion and possible action regarding non-certificate holder complaints:*

Complaint Number NC08-L030 – Jan Rust
Complaint Number NC10-L054 – Jan Rust
Complaint Number NC11-L017 – Camerin Hawthorne
Complaint Number NC11-L012 – Paul Noseworthy
Complaint Number NC11-L018 – Ken Volk and Arizona Tenant Advocates

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

3-A: *Review, discussion, and possible action regarding comment by the Board regarding the Supreme Court Rule Petition R-11-000.*

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

4-A: *Review, discussion, and possible action regarding pending applications for 2009-2011 initial certifications.*

1. Loleta Harrison
2. Michael W. Olsen
3. Leonard W. Deehan
4. Veronica Rolley
5. Marlene Morton
6. Alejandra McEwen
7. Cynthia Cooks
8. Elise G. Gutierrez
9. Alan N. Ariav
10. Rapid RPS (AZ), LLC (Barry Goldman)
11. AZTec Documents (Mitchell R. Varbel)

4-B: *Review of Business Entity Exemption Request for the 2009-2011 initial certification period:*

1. Rapid RPS (AZ), LLC (Barry Goldman)

5) LICENSE AND ELIGIBILITY APPLICATION.....Division Staff

5-A: *Review, discussion, and possible action regarding the Denial of Applicant Lynette Torres.*

6) REVIEW OF RENEWAL APPLICATIONS

6-A: *Review, discussion, and possible action regarding pending renewal applications for 2009-2011 standard certifications.*

1. Rae Heimer
2. Kenneth Volk
3. Richard C. Hoyt
4. Richard C. Hoyt & Associates, Inc (Richard Hoyt)

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

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

BOARD OF LEGAL DOCUMENT PREPARERS
Agenda Summary – April 25, 2011

1) REVIEW AND APPROVAL OF MINUTES

1-A: *Review, discussion, and possible action regarding approval of the regular session minutes of the meeting of February 28, 2011.*

A draft of the regular session minutes for the meeting of February 28, 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: February 28, 2011
Time: 10:00 a.m. – 2:00 p.m.

Draft Regular Meeting Minutes

MEMBER ATTENDANCE:

Present:	Telephonically Present:	Absent:
Les Krambeal	Bonnie Matheson	Hon. Robert H. Oberbillig
Andrew Saper	Debra A. Young	Cynthia Felton
Paul Friedman	Stephanie Gates Wolf	Deborah Colon-Mateo
		Debra Griffin

OTHER ATTENDEES

AOC Staff:	Guests:
Nancy Swetnam	Brandon Hare
Kandace French	Mitchell Varbel
Nina Preston	
Jennifer Greene	
Kimberly Siddall	
Karla Clanton	
Kitty Boots	
Susan Hunt	

CALL TO ORDER

Called to Order By: Les Krambeal, Chair

Time: 10:25 a.m.

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 January 24, 2011.

Discussion: None.

Motion: Moved to approve the regular session minutes of the Board meeting of January 24, 2011

Motion Proposals:	First	Paul Friedman
	Second	Andrew Saper
	Recusal	Stephanie Gates Wolf

Motion Results:	Pass	**LDP 11-040**

2) REVIEW OF PENDING COMPLAINTS

2-A: Update and possible action regarding the Board's Superior Court Cease and Desist Petition involving complaint number NC10-L047, Family Metro Paralegal Services and revoked former certificate holder Steven Wyner.

Individuals Addressing the Board: Nancy Swetnam

Discussion: Previously, the Board ordered a Petition for Cease and Desist Order be filed in the Superior Court against revoked former certificate holder Steven Wyner and his non-certified business entity, Family Metro Paralegal Services, pertaining to complaint number NC10-L047.

With the assistance of the Attorney General's Office, the Petition was filed. A hearing on the matter was held by the Honorable

Donald Daughton ("Judge Daughton") on January 26, 2011. Attached is the Minute Entry issued by Judge Daughton following the hearing. Judge Daughton entered the requested Cease and Desist Order, ordered Mr. Wyner to reimburse the consumer complainant and held Mr. Wyner responsible for the costs of the Superior Court action.

Therefore, it was recommended the Board close complaint number NC10-L047. If future information be presented that demonstrates the Cease and Desist Order has been violated, Division staff will return the matter to the Board for further review.

Motion: Moved to close Complaint Number NC10-L047.

Motion Proposals: First Paul Friedman
Second Andrew Saper

Motion Results: Pass **LDP 11-041**

2-B: *Review, discussion, and possible action regarding the following certificate holder complaint number 10-L031 involving certificate holders Christina Collura and Kachina Management, Inc.*

Individuals Addressing the Board: Kandace French Nancy Swetnam recused herself from this matter.

Discussion: On January 21, 2011, Probable Cause Evaluator Mike Baumstark entered a finding probable cause exists as to Allegations 1, 2, 3, 4, 5, 6, 7, 8, 9, 10 and 11 of complaint number 10-L031. It was recommended the Board accept the finding of the Probable Cause Evaluator and enter a finding grounds for formal disciplinary action exists pursuant to 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), ACJA § 7-208(F)(1), (F)(2), (J)(5)(a) and (J)(5)(b).

It was further recommended the Board offer Collura and Kachina a Consent Agreement to resolve this complaint, pursuant to ACJA § 7-201(H)(24)(a)(6)(c). It was recommended the proposed Consent Agreement include an acknowledgement of the misconduct, a statement giving notice to Collura and Kachina 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 Collura, pursuant to ACJA § 7-201(H)(24)(a)(6)(b);
b) Order Collura 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 Kachina, pursuant to ACJA § 7-201(H)(24)(a)(6)(b);

d) Place Kachina on probation for a period of not less than one year pursuant to ACJA § 7-201(H)(24)(a)(6)(e) with the following conditions:

    i. Kachina 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, Kachina shall develop and implement policies and procedures necessary to ensure no member of the Kachina 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. Kachina and Collura 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) Kachina 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) Kachina 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 Collura and Kachina decline the opportunity to enter a Consent Agreement within twenty (20) days of receipt of the Board's offer, it was 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.

Motion: Moved to approve the findings of the Probable Cause Evaluator and enter a finding that grounds for formal disciplinary action exists.

Motion Proposals:

First	Paul Friedman
Second	Andrew Saper
Recusal	Nancy Swetnam

Motion Results: Pass **LDP 11-042**

Motion: Moved to approve chair to sign any Consent Agreement on behalf of the full Board.

Motion Proposals:

First	Paul Friedman
Second	Andrew Saper
Recusal	Nancy Swetnam

Motion Results: Pass **LDP 11-043**

2-C: *Review, discussion and possible action regarding complaints dismissed the Division Director pursuant to Arizona Code of Judicial Administration § 7- 201(D)(4)(a) and (H)(2)(a):*

Complaint Number 09-L007
Complaint Number 10-L051

Individuals Addressing the Board: Nancy Swetnam

Discussion: Pursuant to ACJA § 7-201(H)(1)(g)(3), complaints dismissed by the Division Director are confidential and not a matter of public record.

Complaint Number 09-L007:
On January 18, 2011, Certification and Licensing Division Director Nancy Swetnam determined the complaint did not meet the criteria provided for in ACJA § 7-201(H)(2)(a)(2)(b) through (f) and dismissed complaint number 09-L007 with prejudice. Notice of the dismissal and the complainant's right to request Board review of the dismissal were forwarded to the complaint. The timeline for the complainant to request Board review has passed and no request for Board review has been received. Therefore, it was recommended the Board affirm the dismissal of complaint number 09-L007.

Motion: Moved to approve dismissal of complaint number 09-L007.

Motion Proposals: First Paul Friedman
Second Andrew Saper

Motion Results: Pass **LDP 11-044**

Individuals Addressing the Board: Nancy Swetnam

Discussion: Pursuant to ACJA § 7-201(H)(1)(g)(3), complaints dismissed by the Division Director are confidential and not a matter of public record.

Complaint Number 10-L051:
On January 18, 2011, Division Director Swetnam determined the complaint did not meet the criteria provided for in ACJA § 7-201(H)(2)(a)(2)(b) through (f) and dismissed complaint number 10-L051 with prejudice. Notice of the dismissal and the complainant's right to request Board review of the dismissal were forwarded to the complaint. The timeline for the complainant to request Board review has passed and no request for Board review has been received. Therefore, it was recommended the Board affirm the dismissal of complaint number 10-L051.

Motion: Moved to approve dismissal of complaint number 10-L051.

Motion Proposals: First Paul Friedman
Second Andrew Saper

Motion Results: Pass **LDP 11-045**

2-D: *Discussion regarding complaints dismissed the Division Director pursuant to Arizona Code of Judicial Administration § 7-201(D)(4)(a) and (H)(2)(a):*

Complaint Number NC10-L056
Complaint Number NC10-L040
Complaint Number NC11-L003
Complaint Number 10-L023

Individuals Addressing the Board: Nancy Swetnam

Discussion: Pursuant to ACJA § 7-201(H)(1)(g)(3), complaints dismissed by the Division Director are confidential and not a matter of public record.

On February 3, 2011, Certification and Licensing Division Director Nancy Swetnam dismissed the above referenced complaints. ACJA § 7-201(H)(2)(a)(3) states provides Division staff shall, "Report all complaints dismissed by the division director to the board at the next regularly scheduled board meeting following the determination by the division director."

Processing constraints did not permit notice of the dismissals to be forwarded to the respective complainants far enough in advance of the Board's regularly scheduled meeting to satisfy the timelines regarding the complainant's right to request Board review of the dismissals. Therefore, it was recommended the Board defer review of these dismissals to the April meeting.

Motion: Moved to defer review of these dismissals to the April meeting.

Motion Proposals: First Paul Friedman
Second Andrew Saper

Motion Results: Pass **LDP 11-046**

2-E: *Discussion regarding Complaint Number 06-L093 involving certified Legal Document Preparer Oliver Ross.*

Individuals Addressing the Board: Nancy Swetnam Note: Jennifer Greene provided legal advice to the Board. Nina Preston recused herself from this matter.

Discussion: At the June 28, 2010 Legal Document Preparer Board Meeting, action was taken regarding this complaint as reflected in the minutes (shown in italics) of the June 28, 2010 meeting:

On May 24, 2010, Probable Cause Evaluator Baumstark entered a finding probable cause does not exist as to Allegation 1 and 2 and does exist as to Allegations 3, 4 and 5 in complaint number 06-L093. Therefore, it was recommended the Board accept the finding of the Probable Cause Evaluator and dismiss Allegations 1 and 2 of complaint 06-L093.

Regarding Allegations 3, 4 and 5, it was recommended the Board entered a finding for grounds for formal disciplinary action exists. Noted mitigating factors in this case are:

1. *Absence of prior discipline*
2. *Delays in the disciplinary proceeding, this complaint was initiated on August 22, 2009 [sic] should read 2006*

The aggravating factors cited in Director Swetnam's report are:

1. *Substantial experience in the profession,*
2. *Mr. Ross is an attorney admitted to the practice of law in California who possesses a level of sophistication necessary to understand the court Rules and ACJA governing the Legal Document Preparer Program.*

It was recommended the Board offer Ross 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 Ross that if he enters the Consent Agreement he waives his right to a hearing, and imposes the following sanctions pursuant to ACJA § 7-201 (H)(24)(a)(6):

a) *Issue a Censure to Ross, pursuant to ACJA §7-201(H)(24)(a)(6)(b);*
b) *Order Ross 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) *Order Ross to issue a refund in the amount of $240.00 to the Haneys no later than 60 days following entry of the Board's Final Order, pursuant to ACJA §7-201(H)(24)(a)(6)(d);*
d) *Assess costs associated with the investigation and any related administrative proceedings involving complaint number 06-L093 no later than 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 $100.00 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 Ross declines the opportunity to enter the Consent Agreement within 20 days of receipt of the Board's offer, it was 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.

A motion was made and passed to dismiss allegations 1 and 2 in complaint number 06-L093. A motion was made and passed to accept Staff's recommendations for Allegations 3, 4, 5 in complaint 06-L093.

The proposed Consent Order was sent to the Certificate Holder on September 10, 2010. On October 1, 2010 and October 21, 2010, Nancy Swetnam received letters from Scott Rhodes, attorney for Dr. Ross, outlining Dr. Ross' position. Discussions have been ongoing.

Staff requested the Board review the actions taken at the June 28, 2010 meeting of the Board of Legal Document Preparers.

Staff recommended the Board vacate the actions taken on June 28, 2010, and dismiss the remaining allegations.

Staff further recommended the Board vote to go into Executive Session to discuss matters confidential by rule or law and for advice of counsel.

Motion:	Moved to go into Executive session.	
Motion Proposals:	First	Paul Friedman
	Second	Andrew Saper
	Recusal	Nina Preston
Motion Results:	Pass	**LDP 11-047**

Executive Session: Start Time: 10:40 a.m. End Time: 11:30 a.m.

Motion:	Moved to vacate prior orders, dismiss and adopt the recommendation of staff.	
Motion Proposals:	First	Paul Friedman
	Second	Andrew Saper
	Recusal	Nina Preston
Motion Results:	Pass	**LDP 11-048**

3) ADMINISTRATIVE ISSUES

3-A: Review, discussion, and possible action regarding Supreme Court Rule Petition R-11-0001 seeking to add an exception to the unauthorized practice of law definition contained in Rule 31 intended to allow an authorized agent of a planned community association or a condominium unit owners' association to prepare, execute, and record liens on behalf of associations; communicate with homeowners about unpaid assessments and fees; and represent associations in procedures before the small claims division in justice courts.

Individuals Addressing the Board: Kandace French Nancy Swetnam recused herself from this matter.

Discussion: On January 3, 2011, attorneys Edward Novak, Scott Rodgers and Ronda Fisk filed Rule Petition R-11-0001 requesting the Arizona Supreme Court add a new exemption to the unauthorized practice of law definition contained in Rule 3. Board members provided input regarding their concerns with the proposed language. Discussion by the Board members regarding comments to be submitted by the board.

Motion: Moved to direct staff to draft comments in accordance with the Board's discussion and provide the draft to the board at the next regularly scheduled meeting for review and approval

Motion Proposals:

First	Paul Friedman
Second	Andrew Saper
Recusal	Nancy Swetnam

Motion Results: Pass **LDP 11-049**

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4) INITIAL CERTIFICATION APPLICATIONS

4-A: Review, discussion and possible action regarding the following pending applicants for 2009-2011 certifications.

Individuals Addressing the Board: Kimberly Siddall

Discussion: It was recommended standard certification be granted to the following individuals/business entities:

1. Daryl D. Smith
2. Amy L. Sayler

6. Theresa E. Keves
8. Dawn E. Polk
16. Misty L. Coppedge
17. Michael N. Figueroa
18. Precision Legal Preparation, LLC (Michael N. Figueroa
20. Southeast Arizona Paralegal Services (Misty L. Coppedge)
21. JurDoc, LLC (Stephen T. Lee)

Motion: Moved to grant standard certification to the above listed applicants/ business entities.

Motion Proposals: First Andrew Saper
Second Paul Friedman

Motion Results: Pass **LDP 11-050**

Individuals Addressing the Board: Kimberly Siddall

Discussion: It was recommended to defer the following applicants to the April meeting:

9. Cynthia M. Cooks
10. Leonard Deehan
11. Michael W. Olsen
12. Jennifer M. Stupski
13. Marlene Morton
14. Alejandra McEwen

Motion: Moved to defer the above listed applicants to the April meeting.

Motion Proposals: First Andrew Saper
Second Paul Friedman

Motion Results: Pass **LDP 11-051**

Individuals Addressing the Board: Kimberly Siddall

Discussion: It was recommended the Board deny the application of the following applicant pursuant to ACJA § 7-201 (E)(2)(c)(1); applicant does not meet the qualifications or eligibility requirements at the time of the application as described in ACJA § 7-201 (E)(3)(b)(6)(a).

3. Amber R. Jackson

Motion: Moved to deny application of Ms. Jackson.

Motion Proposals: First Andrew Saper
Second Paul Friedman

Motion Results: Pass **LDP 11-052**

Individuals Addressing the Board: Kimberly Siddall

Discussion: It was recommended the Board grant certification to the following applicant and include language regarding non-disclosure on future applications may result in denial or disciplinary action

4. Susan C. Beyette

Motion: Moved to grant standard certification to Ms. Beyette as noted above.

Motion Proposals: First Andrew Saper
Second Paul Friedman

Motion Results: Pass **LDP 11-053**

Individuals Addressing the Board: Kimberly Siddall

Discussion: It was recommended the Board grant standard certification and require Ms. Wagner to submit an affidavit that she will comply with provisions of ACJA § 7-201 and 7-208 and Supreme Court Rule 31 regarding the unauthorized practice of law and the use of JD.

5. Cassandra J. Wagner

Motion: Moved to grant certification to Ms. Wagner as noted above.

Motion Proposals: First Andrew Saper
Second Paul Friedman

Motion Results: Pass **LDP 11-054**

Individuals Addressing the Board: Kimberly Siddall

Discussion: It was recommended the Board deny the application of the following applicant pursuant to ACJA § 7-201 (E)(2)(c)(1); applicant does not meet the qualifications or eligibility requirements at the time of the application as described in ACJA § 7-208 (E)(3)(b)(6)(b).

7. Jessica C. Star

Motion: Moved to deny the application of Ms. Star.

Motion Proposals: First Andrew Saper
Second Paul Friedman

Motion Results: Pass **LDP 11-055**

Individuals Addressing the Board: Kimberly Siddall

Discussion: It was recommended the Board deny the application of the following applicant pursuant to ACJA § 7-201 (E)(2)(c)(2)(b)(5); applicant has a conviction of final judgment of a misdemeanor pursuant to ACJA § 7-201 (E)(2)(c)(2)(b)(12) and ACJA § 7-201 (E)(2)(c)(2)(b)(15); applicant failed to disclose information on the application subsequently revealed on the background check.

15. Paul R. Noseworthy

Motion: Moved to deny the application of Mr. Noseworthy.

Motion Proposals: First Andrew Saper
Second Paul Friedman

Motion Results: Pass **LDP 11-056**

Individuals Addressing the Board: Kimberly Siddall

Discussion: Discussion regarding Mr. Varbel's individual certification and the fact that he as the operator of the business should be mentoring other individuals that may become licensed or that are licensed. Legal staff will report back to the Board at the April meeting.

19. AZ Tec Documents (Mitchell R. Varbel)

Motion: Moved to defer this matter until the April meeting.

Motion Proposals: First Paul Friedman
Second Andrew Saber

Motion Results: Pass **LDP 11-057**

Individuals Addressing the Board: Kimberly Siddall

Discussion: The following applicant has requested to withdrawal his

application. It was recommended the Board accept the withdrawal of his application.

22. Christopher Ambrosio

Motion: Moved to accept the withdrawal of Mr. Ambrosio's application.

Motion Proposals: First Paul Friedman
Second Andrew Saber

Motion Results: Pass **LDP 11-058**

Individuals Addressing the Board: Kimberly Siddall

Discussion: It was recommended the Board grant certification of the following applicant:

23. Bernadette M. Guzman

Motion: Moved to grant certification to Ms. Guzman.

Motion Proposals: First Paul Friedman
Second Andrew Saber

Motion Results: Pass **LDP 11-059**

4-B: *Review of Business Entity Exemption Request for the 2009-2011 initial certification period:*

Individuals Addressing the Board: Kimberly Siddall

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

1. Southeast Arizona Paralegal Services (Misty L. Coppedge)
2. JurDoc, LLC (Stephen T. Lee)

Motion: Moved to grant the above Business Entity Exceptions.

Motion Proposals: First Paul Friedman
Second Andrew Saber

Motion Results: Pass **LDP 11-060**

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5) LICENSE AND ELIGIBILITY APPLICATION

5-A: Review, discussion, and possible action regarding the Voluntary Surrender request received from Carrie Cresante, certification number 81154:

Individuals Addressing the Board: Kimberly Siddall

Discussion: Ms. Cresante was granted certification on October 26, 2009. On November 10, 2010, Ms. Cresante submitted a Voluntary Surrender request for her certification.

ACJA § 7-201 (E)(7) reads:

> 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.

It was recommended the Board accept the Voluntary Surrender request of Ms. Cresante.

Motion: Moved to accept the Voluntary Surrender request of Ms. Cresante.

Motion Proposals: First Paul Friedman
Second Andrew Saber

Motion Results: Pass **LDP 11-061**

CALL TO THE PUBLIC - None

ADJOURNMENT

Motion: Moved to adjourn the meeting.

Motion Proposals:	First Second	Paul Friedman Andrew Saber
Motion Results:	Pass	**LDP 11-062**
Time:	11:50 a.m.	

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BOARD OF LEGAL DOCUMENT PREPARERS

Agenda Summary - Monday, April 25, 2011

1) REVIEW AND APPROVAL OF MINUTES

1-B: *Review, discussion, and possible action regarding approval of the Executive Session Minutes of the meeting of February 28, 2011*

A draft of the executive session minutes of the meeting of February 28, 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, April 25, 2011

2-A: *Review, discussion and possible action regarding complaints dismissed the Division Director pursuant to Arizona Code of Judicial Administration § 7-201(D)(4)(a) and (H)(2)(a):*

Complaint Number NC10-L056
Complaint Number NC10-L040
Complaint Number NC11-L003
Complaint Number 10-L023
Complaint Number NC11-L002

Pursuant to ACJA § 7-201(H)(1)(g)(3), complaints dismissed by the Division Director are confidential and not a matter of public record.

Complaint Number NC10-L056:
On February 3, 2011, Certification and Licensing Division Director Nancy Swetnam determined the complaint falls outside the jurisdiction of the Board, dismissed complaint number NC10-L056 without prejudice, and referred the matter to an entity that may have jurisdiction. Notice of the dismissal and the complainant's right to request Board review of the dismissal were forwarded to the complaint. The timeline for the complainant to request Board review has passed and no request for Board review has been received. Therefore, it recommended the Board affirm the dismissal of complaint number NC10-L056.

Complaint Number NC10-L040:
On February 3, 2011, Division Director Swetnam determined the complaint falls outside the jurisdiction of the Board, dismissed complaint number NC10-L040 with prejudice, and referred the matter to entities that may have jurisdiction. Notice of the dismissal and the complainant's right to request Board review of the dismissal were forwarded to the complaint. The timeline for the complainant to request Board review has passed and no request for Board review has been received. Therefore, it recommended the Board affirm the dismissal of complaint number NC10-L040.

Complaint Number NC11-L003:
On February 3, 2011, Division Director Swetnam determined the complaint falls outside the jurisdiction of the Division, dismissed complaint number NC11-L003 with prejudice, and referred the matter to an entity that may have jurisdiction. Notice of the dismissal and the complainant's right to request Board review of the dismissal were forwarded to the complaint. The timeline for the complainant to request Board review has passed and no request for Board review has been received. Therefore, it recommended the Board affirm the dismissal of complaint number NC11-L003.

Complaint Number 10-L023:
On February 3, 2011, Division Director Swetnam determined the complaint did not meet the criteria provided for in ACJA § 7-201(H)(2)(a)(2)(b) through (f) and dismissed complaint number 10-L023 without prejudice. Notice of the dismissal and the complainant's right to request Board review of the dismissal were forwarded to the complaint. The timeline for the complainant to request Board review has passed and no request for Board review has been received. Therefore, it recommended the Board affirm the dismissal of complaint number 10-L023.

Complaint Number NC11-L002:
On February 28, 2011, Division Director Swetnam determined the complaint did not meet the criteria provided for in ACJA § 7-201(H)(2)(a)(2)(b) through (f) and falls outside the jurisdiction of the Board. Division Director Swetnam dismissed complaint number NC11-L002 with prejudice and referred the matter to an entity that may have jurisdiction. Notice of the dismissal and the complainant's right to request Board review of the dismissal were forwarded to the complaint. The timeline for the complainant to request Board review has passed and no request for Board review has been received. Therefore, it recommended the Board affirm the dismissal of complaint number NC11-L002.

BOARD OF LEGAL DOCUMENT PREPARERS

Agenda Summary - Monday, April 25, 2011

2-B: Review, discussion and possible action regarding the pending formal disciplinary action involving former certificate holder Julie Haigh, Majestic's Paralegal Center and complaint number 08-L003.

On June 28, 2008, the Board entered a Final Order in an unrelated formal disciplinary action involving Ms. Haigh, MPC and complaint numbers 05-L048, 06-L112 and 07-L028. The sanctions issued in the Final Order included but were not limited to Ms. Haigh and MPC's certifications being suspended for a period of not less than 12 months. Ms. Haigh subsequently applied for reinstatement of her individual certification and the Board denied her reinstatement application. Ms. Haigh requested and received a hearing on the denial of reinstatement and on November 22, 2010, the Board reviewed the Hearing Officer's report and upheld the denial of reinstatement.

On June 28, 2010, the Board reviewed and considered the probable cause determination in complaint number 08-L003 involving Julie Haigh and Majestic's Paralegal Center ("MPC"). At the June 28, 2010 meeting, the Board accepted the findings of the Probable Cause Evaluator and entered grounds for formal disciplinary action. The ordered Notice of Formal Statement of Charges ("NFC") was filed on August 3, 2010 and served to Ms. Haigh and MPC on August 9, 2010. On August 24, 2010, Ms. Haigh and MPC filed a timely Answer to the NFC and requested a hearing.

After further review it is recommended that the Board dismiss the complaint.

FILED

AUG 03 2010

DISCIPLINARY CLERK OF THE
SUPREME COURT OF ARIZONA
BY _____

SUPREME COURT OF ARIZONA
BOARD OF LEGAL DOCUMENT PREPARERS

IN THE MATTER OF CERTIFIED LEGAL DOCUMENT PREPARERS: JULIE HAIGH, Certificate Number 80049 And MAJESTIC'S PARALEGAL CENTER, Certificate Number 80051	No. NFC-LDP-08-L003 **NOTICE of FORMAL STATEMENT of CHARGES and RIGHT to HEARING**

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 Julie Haigh ("Haigh") and Majestic's Paralegal Center ("MPC") that they have a right to request a hearing on the proposed disciplinary action against certificate numbers 80049 and 80051. The Board has jurisdiction over this matter as Haigh and MPC became certified as legal document preparers effective July 1, 2003 and held active certification until June 23, 2008. Haigh is the named designated principal for MPC.

The complaint was received during the period of Haigh's and MPC's active certifications and Haigh and MPC were provided an opportunity to respond to the complaints and participate in the investigation of the complaints. The Board holds the authority to proceed with this action pursuant to ACJA § 7-201.

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

On June 11, 2010, pursuant to ACJA § 7-201(H)(5)(a), Probable Cause Evaluator Mike Baumstark entered a finding probable cause exists Haigh and MPC committed the alleged acts of misconduct in complaint number 08-L003.

On June 28, 2010, the Board entered a finding grounds for formal discipline exists, pursuant to ACJA § 7-201(H)(6)(a), (H)(6)(k)(2), (H)(6)(k)(3), (H)(6)(k)(7) and H)(6)(k)(11) in complaint number 08-L003. The particular subsections involved in the alleged misconduct include AJCA § 7-201(F)(1) and ACJA § 7-208(F)(2), (F)(5)(a), (J)(1)(a), (J)(1)(b), (J)(1)(d), (J)(2)(b) and (J)(2)(c).

ANSWER OF CERTIFICATE HOLDER

Pursuant to ACJA § 7-201(H)(11), Haigh and MPC shall file an Answer to this Notice of Formal Statement of Charges within fifteen (15) days of receipt of this Notice. Haigh and MPC's Answer shall comply with Rule 8 of the Arizona Rules of Civil Procedure. Any defenses not raised in the Answer are waived. If Haigh and MPC fail to file an Answer within the time provided, they are in default and the factual allegations in the formal charges are deemed admitted and the Board may determine the matter against them. Haigh and MPC's Answer shall be filed with the Certification and Licensing Division, Disciplinary Clerk and Hearing Office, Suite 104, 1501 West Washington, Phoenix, Arizona 85007.

NOTICE OF RIGHT TO HEARING

Pursuant to ACJA § 7-201(H)(12), Haigh and MPC may request a hearing within fifteen (15) days of receipt of the Notice of Formal Charges and Right to Hearing. The Request

for Hearing must comply with ACJA § 7-201 (H)(12), and shall be filed with the Certification and Licensing Division, Disciplinary Clerk and Hearings Unit, 1501 West Washington, Suite 104, Phoenix, Arizona. If Haigh and MPC do not timely file a Request for Hearing they will not have a right to a hearing.

BACKGROUND FACTS

1. On January 25, 2008, the Certification and Licensing Division ("Division") received a complaint from the Honorable Randolph Bartlett ("Judge Bartlett") involving Haigh and MPC.

2. On January 25, 2008, Division staff sent Haigh and MPC a copy of the complaint and notice of the ACJA § 7-201(H)(3)(c) requirement Haigh respond to the complaint in writing within 30 days.

3. On February 28, 2008, Haigh submitted a response to the complaint, complying with the time line required by ACJA § 7-201(H)(3)(c).

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:

4. On January 25, 2008, the Division received a fax from Judicial Assistant Janice Gardam ("Gardam") on behalf of Judge Bartlett. The fax included copies of pleadings prepared by Haigh in a dissolution of marriage case filed with the Court where Haigh appeared to have prepared documents on behalf of Petitioner Schon Eckland ("Schon") and Respondent Danny Eckland ("Danny").

5. On January 31, 2008, the Court forwarded a copy of a Minute Entry issued by Judge Bartlett which stated, in part:

> The Court declines to sign the Consent Decree of Dissolution in this matter due to the ethical issue of the Legal Document Preparer acting for both Petitioner and Respondent.

6. On January 25, 2008, the Division forwarded a copy of the original fax from Judicial Assistant Gardam along with a letter notifying Haigh of the ACJA 7-201(H)(3)(c) requirement she provide a written response within thirty (30) days. United States Postal Service ("USPS") records reflect the mailing was delivered on January 31, 2008.

7. On February 28, 2008, the Division received a written response from Haigh. Haigh denied any wrongdoing and provided a copy of a *CONFLICT OF INTEREST DISCLOSURE AND CONSENT TO DUAL PREPARATION OF DOCUMENTS ("DISCLOSURE")* form Haigh reported was signed by both Schon and Danny "at the same time" they contracted with Haigh for "all necessary documents pertaining to their uncontested dissolution of marriage." The copy of the *DISCLOSURE* document Haigh submitted reflected Schon and Danny signed the *DISCLOSURE* on October 15, 2007.

8. Haigh explained the parties were not in dispute regarding any aspect of their dissolution and they simultaneously contracted with Haigh for dissolution document preparation services. Haigh reported she was informed by "the Courts" she should have filed the *DISCLOSURE* form with the Consent Decree. Haigh asserted ACJA § 7-208(J)(1)(b) and (c) regarding conflicts of interest did "not apply" to this situation as Schon and Danny were in mutual agreement as to the terms and conditions of their divorce and no personal conflicts of interest existed between them. Haigh's written response to the complaint argued a legal document preparer utilizing a *DISCLOSURE* form was no different than an attorney acting in the same manner and, therefore, the complaint "should be dismissed."

9. Division Investigator Tony Posante ("Investigator Posante") obtained and reviewed documents filed in Superior Court in Mohave County case number DO 2007-7320. A pleading filed November 9, 2007, entitled *PETITION FOR DISSOLUTION OF MARRIAGE* contains Haigh's name, title, and certificate number in the upper left corner, and the words: "Document Preparer for Petitioner." Another pleading, filed on November 16, 2007, in the same matter,

entitled *RESPONSE TO PETITIONER'S PETITION FOR DISSOLUTION OF MARRIAGE* contains Haigh's name, title, and certificate number in the upper left hand corner, and the words "Document Preparer for Respondent."

10. On March 5, 2008, Investigator Posante conducted a telephonic investigatory interview with Schon. Schon confirmed her personal dealings with MPC were exclusively with Haigh. Schon reported being aware of Judge Bartlett's decision not to sign the *CONSENT DECREE* Haigh prepared and she went back to MPC afterward and spoke with Haigh. Haigh reportedly provided additional paperwork for Schon to fill out. Investigator Posante asked Schon if she was asked to "back-date" any documents and Schon indicated she was asked to "back-date" documents she was presented for signature. Schon asserted Haigh told her it was necessary to back-date the documents to the date of their first meeting with Haigh. Investigator Posante asked Schon if she could provide a copy of the back-dated document and Schon indicated Haigh never gave her a copy. Investigator Posante faxed a copy of the *DISCLOSURE* form Haigh previously provided to Division staff. Schon reviewed the document, contacted Danny by telephone, and then contacted Investigator Posante. Schon positively identified the document as the one she signed on February 22, 2008, when she went back to the MPC's office subsequent to Judge Bartlett not signing the *CONSENT DECREE*. Danny told Schon he signed and back-dated the document as well, on Wednesday, February 27, 2008.

11. On March 25, 2008, Investigator Posante sent a letter to Haigh requesting additional information regarding the service provided to Schon and Danny. On April 23, 2008, Haigh responded and indicated Schon and Danny jointly contracted with her for legal document preparation services and "split" the cost by paying with their own individual checks. Haigh reported after she learned Judge Bartlett denied the *CONSENT DECREE*, she contacted an unnamed attorney who advised to have the consumers sign the *DISCLOSURE* form. Haigh

further explained she contacted the Superior Court in Mohave County at Lake Havasu and spoke with a clerk named "Michelle" who purportedly told Haigh if she had filed a *DISCLOSURE* with the *CONSENT DECREE*, the Judge would not have had an issue. Haigh reversed her earlier statement that Schon and Danny had signed the *DISCLOSURE* at the time they contracted for services and admitted she prepared the *DISCLOSURE* later and asked Schon and Danny to sign and back-date the document. Haigh indicated she asked the consumers to back-date the *DISCLOSURE* "so I [Haigh] could acknowledge that my clients and I all had a verbal understanding that their (sic) was no conflict of interest between them from the date of them signing their contract."

12. On April 28, 2008, Investigator Posante spoke with Superior Court in Mohave County Clerk's Office employee Michelle Moore ("Moore"). Moore confirmed she is familiar with Haigh and noted there have been "problems" with Haigh's filings in the past. Moore indicated she is very careful when she speaks with Haigh. Moore did not recall speaking with Haigh about any conflict of interest filing and stated she would not have provided Haigh any advice on what she should have filed, even if she had spoken with Haigh.

FORMAL CHARGES

13. Haigh violated ACJA § 7-201(F)(1) and ACJA § 7-208(F)(2), (J)(1)(a), (J)(1)(b) and (J)(1)(c) by engaging in a conflict of interest when she, individually and on behalf of MPC, prepared legal documents for both the Petitioner and Respondent in Superior Court in Mohave County case number DO 2007-4320, a dissolution of marriage case; constituting grounds for discipline pursuant to ACJA § 7-201(H)(6)(a), (H)(6)(k)(2), (H)(6)(k)(3) and (H)(6)(k)(7).

14. Haigh, individually and on behalf of MPC, violated ACJA § 7-201(F)(1) and ACJA § 7-208(F)(2), (F)(5)(a), (J)(1)(a), (J)(1)(d), (J)(2)(b) and (J)(2)(c) by knowingly providing an untruthful response to Division staff during the investigation of this complaint; constituting

grounds for discipline pursuant to ACJA § 7-201(H)(6)(a), (H)(6)(k)(2), (H)(6)(k)(3), (H)(6)(k)(7) and H)(6)(k)(11).

15. Haigh, individually and on behalf of MPC, violated ACJA § 7-201(F)(1) and ACJA § 7-208(F)(2), (F)(5)(a), (J)(1)(a), (J)(1)(d), (J)(2)(b) and (J)(2)(c) by willfully manufacturing evidence in an attempt to support the above referenced untruthful statement she provided to Division staff during the investigation of this complaint; constituting grounds for discipline pursuant to ACJA § 7-201(H)(6)(a), (H)(6)(k)(2), (H)(6)(k)(3), (H)(6)(k)(7) and H)(6)(k)(11).

PROPOSED DISCIPLINARY SANCTIONS

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

a) Revocation of Haigh and MPC's legal document preparer certifications, certificate numbers 80049 and 80051, pursuant to ACJA § 7-201 (H)(24)(a)(6)(i);
b) Issuance of a cease and desist order enjoining Haigh and MPC from offering to or preparing legal documents, representing themselves 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) 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,
d) Impose civil penalties in the amount of $250.00 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).

DATED this 3rd day of August, 2010.

Les Krambeal

Les Krambeal, Chair
Board of Legal Document Preparers

The original of the foregoing to be served to:

Julie Haigh
Majestic's Paralegal Center
30 South Acoma Boulevard, Suite 205
Lake Havasu City, Arizona 86504

The original of the foregoing hand delivered and/or mailed this 3rd day of August, 2010, to:

Rex Nowlan
Administrative Law Section
Office of the Attorney General
15 South 15th Avenue, 4th Floor
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
Debbie MacDougall, Programs Specialist
Certification and Licensing Division

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BOARD OF LEGAL DOCUMENT PREPARERS

Agenda Summary - Monday, April 25, 2011

2-C: *Review, discussion and possible action regarding the pending formal disciplinary action involving former certificate holder Kenneth Volk and complaint numbers 09-L078 and 10-L010.*

On November 22, 2010, the Board entered a Final Order in an unrelated formal disciplinary action involving Mr. Volk and complaint numbers 06-L079, 06-L098 and 07-L011. The sanctions issued in the Final Order included but were not limited to the revocation of Mr. Volk's individual certification.

On September 27, 2010, the Board reviewed and considered the probable cause determination in complaint numbers 09-L078 and 10-L010 involving Kenneth Volk. At the September 27, 2010 meeting, the Board accepted the findings of the Probable Cause Evaluator, entered grounds for formal disciplinary action, and consolidated the complaints for the purpose of the formal action. The ordered Notice of Formal Statement of Charges ("NFC") was filed on October 15, 2010 and served to Mr. Volk on the same day. On November 1, 2010, Mr. Volk filed a timely Answer to the NFC and requested a hearing.

After further review, it is recommended the Board dismiss the complaint.

FILED

OCT 15 2010

DISCIPLINARY CLERK OF THE SUPREME COURT OF ARIZONA

BY

ARIZONA SUPREME COURT
BOARD OF LEGAL DOCUMENT PREPARERS

IN THE MATTER OF CERTIFIED LEGAL DOCUMENT PREPARER: KEN VOLK, Certificate Number 80845.	)	No. LDP-NFC-09-L078 LDP-NFC-10-L010 NOTICE OF FORMAL STATEMENT of CHARGES and RIGHT to HEARING

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 Ken Volk ("Volk") he has a right to request a hearing on the proposed disciplinary action involving certificate number 80845. The Board has jurisdiction over this matter as Volk became certified as an individual legal document preparer effective December 19, 2005. Volk's individual certification was renewed without interruption through the 2007-2009 certification period ending June 30, 2009. Volk's renewal application for the 2009-2011 certification period is pending. While the renewal application is pending, Volk's legal document preparer certification remains active.

The complaints were received during the period of Volk's active certification and he was provided an opportunity to respond to the complaint and participate in the investigation of the complaints. The Board holds the authority to proceed with this action pursuant to ACJA § 7-201(H)(6).

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

On July 10, 2010, pursuant to ACJA § 7-201(H)(5)(a)(3), Probable Cause Evaluator Mike Baumstark entered a finding probable cause did not exist as Allegations 1, 2 and 3 and does exists as to Allegations 4 and 5 of complaint number 09-L078. The particular sections of laws, court rules, ACJA, and orders relevant to complaint number 09-L078 are ACJA § 7-201(F)(1), ACJA § 7-208(E)(3)(d)(1), (F)(1), (F)(2), (J)(5)(a) and (J)(5)(c).

On July 30, 2010, pursuant to ACJA § 7-201(H)(5)(a)(3), Probable Cause Evaluator Baumstark entered a finding probable cause did not exist as to Allegation 2 and does exists as to Allegation 1 of complaint number 10-L010. The particular sections of laws, court rules, ACJA, and orders relevant to complaint number 10-L010 are ACJA § 7-201(F)(1), ACJA § 7-208(F)(2), (J)(1)(a) and (J)(5)(a).

On September 27, 2010, the Board entered a finding of grounds for formal disciplinary action in complaint number 09-L078 pursuant to ACJA § 7-201(H)(6)(a), (H)(6)(k)(2) and (H)(6)(k)(3).

On September 27, 2010, the Board entered a finding of grounds for formal disciplinary action in complaint number 10-L010 pursuant to ACJA § 7-201(H)(6)(j).

ANSWER OF CERTIFICATE HOLDER

Pursuant to ACJA § 7-201(H)(11), Volk shall file an Answer to this Notice of Formal Statement of Charges within fifteen (15) days of receipt of this Notice. Volk's' Answer shall comply with Rule 8 of the Arizona Rules of Civil Procedure. Any defenses not raised in the Answer are waived. If Volk fails to file an Answer within the time provided, he is in default and the factual allegations in the formal charges are deemed admitted and the Board may

determine the matter against him. Volk's answer shall be filed with the Certification and Licensing Division, Disciplinary Clerk and Hearing Office, Suite 104, 1501 West Washington, Phoenix, Arizona 85007.

NOTICE OF RIGHT TO HEARING

Pursuant to ACJA § 7-201(H)(12), Volk may request a hearing within fifteen (15) days of receipt of the Notice of Formal Charges and Right to Hearing. The request for hearing must comply with ACJA § 7-201(H)(12) and shall be filed with the Certification and Licensing Division, Disciplinary Clerk and Hearings Unit, 1501 West Washington, Suite 104, Phoenix, Arizona. If Volk does not timely file a request for hearing, Volk will not have a right to a hearing.

BACKGROUND FACTS

Complaint Number 09-L078 (O'Brien)

1. On October 31, 2009, the Division received a written complaint from Dan O'Brien ("O'Brien") involving Volk.

2. On November 3, 2009, the Division sent Volk a copy of the complaint and notice of the ACJA § 7-201(H)(3)(c) requirement Volk submit a written response to complaint number 09-L078 within thirty (30) days. Volk requested and was granted an extension to respond until December 19, 2009.

3. On December 15, 2009, Volk submitted a response to the complaint, complying with time line required by ACJA § 7-201(H)(3)(c).

Complaint Number 10-L010 (Alvrus)

4. On April 5, 2010, the Division received a written complaint from Annalisa Alvrus ("Alvrus") involving Volk.

5. On April 5, 2010, the Division sent Volk a copy of the complaint and notice of the ACJA § 7-201(H)(3)(c) submit a written response to the complaint within thirty (30) days.

6. On May 10, 2010, the Division received Volk's written response to complaint number 10-L010.

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:

Complaint Number 09-L078 (O'Brien)

7. On October 31, 2009, the Division received the written complaint from O'Brien involving Volk.

8. O'Brien reported he paid Volk's non-certified business entity, Arizona Tenants Advocates, Inc. ("ATA"), $1020.00 for "break lease services" including the preparation of any necessary legal documents. O'Brien alleged Volk guaranteed to break O'Brien's Lease but Volk's actions made matters worse between O'Brien and his landlord; Volk failed to provide copies of legal documents Volk prepared; Volk failed to respond to O'Brien's calls and emails; and Volk failed to prepare a promised "mutual rescission agreement." An additional allegation was derived from evidence obtained during the investigation that Volk failed to obtain business entity certification for and was providing legal document preparation services on behalf of ATA.

9. On November 3, 2009, the Division sent Volk a letter with a copy of the complaint. The letter informed Volk of the ACJA § 7-201(H)(3)(c) requirement he submit a written response to the complaint within thirty days. Division records reflect Volk received the complaint on November 5, 2009. Volk requested and was granted an extension of time to respond until December 19, 2009.

10. On December 15, 2009, Volk submitted his written response to the complaint denying the allegations and stating he prepared all of the legal documents O'Brien contracted for and communicated with O'Brien. Volk reported the "mutual rescission agreement" ceased to be an option for O'Brien and he (Volk) was not responsible if O'Brien's landlord acted in a manner adverse to O'Brien's attempt to break his lease.

11. O'Brien's allegations Volk and ATA guaranteed to break his lease, Volk did not provide O'Brien with copies of all of the legal documents Volk prepared, and that Volk did not respond to O'Brien's calls and emails could not be corroborated. Therefore, the Probable Cause Evaluator entered a finding probable cause did not exist as to these allegations.

12. Volk acknowledged he offered to prepare a mutual rescission agreement for O'Brien but reported he failed to do so because O'Brien failed to respond to Volk so the document could be prepared. Volk categorized the agreement as "an option" for O'Brien. Volk, as a certified legal document preparer, is prohibited by ACJA § 7-208(F)(1)(b) from offering or providing "...any kind of specific advice, opinion, or recommendation to a consumer about legal rights, remedies, defenses, options, or strategies."

13. Division records reflect ATA has never applied for or been granted legal document preparer business entity certification. Volk operates, offers and provides legal document preparation services through ATA.

Complaint Number 10-L010 (Alvrus)

14. On April 5, 2010, the Division received a written complaint from Alvrus involving Volk.

15. Alvrus alleged Volk demonstrated a lack of respect for the law by failing to pay court ordered child support. Alvrus further alleged Volk violated the law by filing a document in a family court matter which contained her tax records.

16. On April 5, 2010, the Division sent Volk a letter with a copy of the complaint. The letter informed Volk of the ACJA § 7-201(H)(3)(c) requirement he submit a written response to the complaint within thirty days. Division records reflect Volk received the complaint on April 7, 2010.

17. On May 10, 2010, Volk submitted his written response to the complaint. Volk disputed the Division had jurisdiction to review the matter and asserted possible conflicts of interest on the part of the Division.

18. During the investigation, Alvrus' allegation Volk filed a court document containing her tax records in violation of the law was determined to be unsubstantiated. Therefore, the Probable Cause Evaluator entered a finding probable cause did not exist as to the second allegation.

19. Superior Court in Maricopa County records in case number FC2001-000831 (consolidated with case number FC2001-090230) reflect Volk, subsequent to being certified as a legal document preparer on December 19, 2005, has been found in continuing contempt of court for willfully failing to make ordered child support payments. The contempt resulted in the issuance of an Order of Confinement for Volk and ultimately Volk's incarceration until specified and ordered amounts were paid.

FORMAL CHARGES

Complaint Number 09-L078 (O'Brien)

20. Volk violated ACJA § 7-201(F)(1) and ACJA § 7-208(F)(1)(b), (F)(2) and (J)(5)(b) by offering specific advice, opinion, or recommendation to consumer O'Brien about possible legal remedies and options regarding a "mutual rescission agreement", constituting grounds for formal disciplinary action pursuant to ACJA § 7-201(H)(6)(a), (H)(6)(k)(2) and (H)(6)(k)(3).

21. Volk violated ACJA § 7-201(F)(1) and ACJA § 7-208(E)(3)(d)(1), (F)(2) and (J)(5)(a) by failing to obtain business entity certification for ATA; constituting grounds for formal disciplinary action pursuant to ACJA § 7-201(H)(6)(a), (H)(6)(k)(2), and (H)(6)(k)(3).

Complaint Number 10-L010 (Alvrus)

22. Volk violated ACJA § 7-201(F)(1) and ACJA § 7-208(F)(2), (J)(1)(a) and (J)(5)(a) by failing to avoid impropriety and the appearance of impropriety and by failing to respect and comply with laws, rules or court orders by willfully failing to comply with court ordered child support payments; constituting grounds for formal disciplinary action pursuant to ACJA § 7-201(H)(6)(a), (H)(6)(k)(2), and (H)(6)(k)(3).

PROPOSED DISCIPLINARY SANCTIONS

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

a) Suspend Kenneth Volk's certification for a period of no less than 180 days, pursuant to ACJA § 7-201(H)(24)(a)(6)(h);
b) Issue a cease and desist order against Kenneth Volk enjoining Volk from preparing legal documents, representing to the public he is a certified legal document preparer, or conducting any activities that constitutes the unauthorized practice of law during the period of the suspension and until such time as any and all conditions for reinstatement are met to the satisfaction of the Board, pursuant to ACJA § 7-201(H)(24)(a)(6)(g);
c) As a condition of reinstatement, require Arizona Tenants Advocates, Inc. to comply with ACJA § 7-208(E)(3)(d), pursuant to ACJA § 7-201(H)(24)(a)(6)(h);
d) Mandate Volk participate in no less than ten (10) additional hours of continuing education in the curriculum areas of the unauthorized practice of law, ethics and professional responsibility, in addition to the annual ten (10) hour continuing education requirement, and as a condition for reinstatement, pursuant to ACJA § 7-201(H)(24)(a)(6)(f);
e) Assess costs associated with the investigation and any related administrative 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,
f) Impose a civil penalty in the amount of $250.00 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).

DATED this 15th day of October, 2010.

Les Krambeal

Les Krambeal, Chair
Board of Legal Document Preparers

An original copy of the foregoing to be served to:

Ken Volk
1200 West 6th Street
Tempe, Arizona 85281

The original copy of the foregoing hand delivered and/or mailed this 15th day of October, 2010, to:

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

Rex Nowlan
Administrative Law Section
Office of the Attorney General
15 South 15th Avenue, 4th Floor
Phoenix, Arizona 85007

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

By: Debbie MacDougall

Debbie MacDougall, Programs Specialist
Certification and Licensing Division

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BOARD OF LEGAL DOCUMENT PREPARERS

Agenda Summary - Monday, April 25, 2011

2-D: Review, discussion and possible action regarding certificate holder complaints:

Complaint Number 06-L088 – Estate Services Group, LLC and Warner Lewis
Complaint Number 10-L036 – Sherrene Caley
Complaint Number 09-L055 – Titan Lien Services and Jill Smith
Complaint Number 10-L028 – Jacqueline Vigil
Complaint Number 10-L033 – Capital Consultants Management Corporation and Judith Alspaugh

Complaint Number 06-L088 – Estate Services Group, LLC and Warner Lewis:
On March 18, 2011, Probable Cause Evaluator Mike Baumstark entered a finding probable cause exists in complaint number 06-L088. It is recommended the Board accept the finding of the Probable Cause Evaluator and adopt the Division Director's recommendation to include considering dismissal is the appropriate disposition of this case based on the following:

1. No evidence was presented or obtained that demonstrated the misconduct resulted in harm to the public.
2. The violation occurred before or during 2006.
3. The Board previously addressed and resolved the misconduct with the employees of ESG at the time the Board took action regarding their individual applications for certification.

Complaint Number 10-L036 – Sherrene Caley:
On February 18, 2011, Probable Cause Evaluator Baumstark entered a finding probable cause exists in complaint number 10-L036. Therefore, it is recommended the board accept the finding of the Probable Cause Evaluator and enter a finding grounds for informal disciplinary action exists pursuant to ACJA § 7-201(H)(6)(a) and (H)(7) for acts of misconduct involving ACJA § 7-201(F)(1), ACJA § 7-208(F)(2), (J)(4)(b), (J)(5)(a) and Arizona Rules of Civil Appellate Procedure Rules 4(a), 14(a)(3) and 14(b) and issue a Letter of Concern.

Complaint Number 09-L055 – Titan Lien Services and Jill Smith:
On March 18, 2011, Probable Cause Evaluator Baumstark entered a finding probable cause does not exist as to Allegation 1 and does exist as to Allegations 2 and 3 in complaint number 09-L055. Therefore, it is recommended the Board accept the finding of the Probable Cause Evaluator and dismiss Allegation 1.

Regarding Allegations 2 and 3, it is recommended the Board enter a finding grounds for formal disciplinary action exists pursuant to 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)(1)(c)(1), (F)(2), (F)(3) and (J)(5)(b). In determining the appropriate disposition in this case, it is recommended the Board consider the cited mitigating factors 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 Titan Lien Services ("Titan") and Smith 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 Titan and Smith that if they enter the Consent Agreement they waives their right to a hearing, and imposes the following sanctions pursuant to ACJA § 7-201 (H)(24)(a)(6):

a) Issue a Censure to Titan Lien Services, pursuant to ACJA § 7-201 (H)(24)(a)(6)(b);
b) Issue a Letter of Concern to Smith, pursuant to ACJA § 7-201(H)(a)(24)(6)(a);
c) Order Smith to 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);
d) 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 Titan Lien Services and Smith decline the opportunity to enter the Consent Agreement within 20 days of receipt of the Board's offer, it is recommended staff proceed with the filing and service of Notice of Formal Statement of Charges pursuant to ACJA § 7-201(H)(10) without further Board order.

Complaint Number 10-L028 – Jacqueline Vigil:

On February 18, 2011, Probable Cause Evaluator Baumstark entered a finding probable cause exists in complaint number 10-L028. Therefore, it is recommended the Board accept the finding of the Probable Cause Evaluator and enter a finding grounds for formal disciplinary action exists pursuant to 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).

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.

Complaint Number 10-L033 – Capital Consultants Management Corporation and Judith Alspaugh:

On February 18, 2011, Probable Cause Evaluator Baumstark entered a finding probable cause exists in complaint number 10-L033. Therefore, it is recommended the Board accept the finding of the Probable Cause Evaluator and enter a finding grounds for formal disciplinary action exists pursuant to 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).

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 Capital Consultants Management Corporation ("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.

ARIZONA SUPREME COURT
ADMINISTRATIVE OFFICE OF THE COURTS
INVESTIGATION SUMMARY

CERTIFICATE HOLDER INFORMATION	**Certificate Holder:**	Warner Lewis, III
	Certification Number:	80180
	Business Name:	Estate Services Group, LLC
	Certification Number:	80181
	Type of License/Certificate:	Legal Document Preparer
COMPLAINANT	**Name:**	Board of Legal Document Preparers
INVESTIGATION INFORMATION	**Complaint Number:**	06-L088
	Investigator:	Dara Fonseth Linda Grau
	Complaint Received:	July 16, 2006
	Complaint Forwarded to the Certificate Holder:	October 18, 2006
	Response From Certificate Holder Received:	October 26, 2006
	Report Date:	August 9, 2010

The investigation of this complaint included the following:

- Written response and documentation submitted by and investigatory interview with certificate holder Warner Lewis ("Lewis"), designated principal of record for Estate Services Group, LLC ("ESG")
- Review of applicable Certification and Licensing Division ("Division") records
- Review of applicable sections of Arizona Code of Judicial Administration ("ACJA") § 7-208 and Arizona Supreme Court Rules

ALLEGATION ALLEGED BY COMPLAINANT:

1. On the renewal application for ESG, Lewis listed two employees as trainees who did not qualify to serve as trainees pursuant to ACJA § 7-208(F)(5).

SUMMARY OF INVESTIGATION:

On July 17, 2006, the Board of Legal Document Preparers ("Board") initiated a complaint against Lewis and ESG. The Board alleged Lewis listed employees as trainees on ESG's renewal application who did not qualify to serve trainees as the employees were experientially qualified to apply for and hold individual certification. Lewis responded to the complaint stating, "I acknowledge and accept responsibility for failing to correctly interpret and follow the rules regarding the Supervision of Trainees pursuant to (H)(5)(a)."

INVESTIGATION:
Effective July 1, 2003, the Board granted individual certification to Lewis and business entity certification to ESG. Both certifications have been renewed without interruption and remain active through the current certification period which ends on June 30, 2011.

On July 16, 2006, the Board initiated the complaint after having reviewed applications for individual certification submitted by ESG employees Joelle Sammetinger ("Sammetinger") and Melissa Gray ("Gray") on June 20, 2006. Sammetinger's individual application reported she served as an ACJA § 7-208(F)(5) trainee at ESG, working under Lewis' supervision, from June of 2002 through the date of her application, June 20, 2006. Gray's individual application reported she served as an ACJA § 7-208 (F)(5) trainee at ESG, working under Lewis' supervision, from April of 2004 through the date of her application, June 20, 2006. Gray's individual application noted Gray had sixteen (16) years of law related experience under the supervision of a licensed attorney and that Gray obtained a paralegal certificate during November of 1990.

On October 18, 2006, the Division sent Lewis and ESG a letter with a copy of the complaint. The letter informed Lewis and ESG of the ACJA § 7-208(H)(4)(b) requirement they submit a written response to the complaint within ten days.

In his written response to the complaint Lewis stated, "Upon re-examining the sections in question, I acknowledge and accept responsibility for failing to correctly interpret and follow the rules regarding the Supervision of Trainees pursuant to (H)(5)(a)."

Regarding Sammetinger, Lewis stated, "I mistakenly believed that the year she worked for me prior to the official two-and-a-half-year Trainee period did not qualify her for individual certification because I am not a lawyer pursuant to ACJA Section (E)(3)(a)(5)(a)(1)." Lewis noted Gray served as ESG's Office Manager and stated, "She did not meet with customers, was not engaged in the preparation of legal documents and did not provide legal information to the public."

In an interview with Division Investigator Dara Fonseth on March 16, 2007, Lewis stated that subsequent to receiving the complaint he re-read the ACJA § 7-208 very carefully and as a result, understands Sammeting er and Gray should not have been listed as trainees on ESG's April 13, 2006 renewal application.

RELATED ITEM:
Division records reflect Sammetinger was granted individual certification upon entering into a Consent Agreement with the Board filed on September 19, 2006. The Consent Agreement acknowledged Sammetinger was not qualified to serve as an ACJA § 7-205(F)(5) trainee and required Sammetinger to pay fees she would have paid if she had applied for individual certification at the time she was eligible to do so.

Division records reflect the Board provided Gray an opportunity to enter a similar Consent Agreement. Gray declined the Consent Agreement opportunity and the Board denied Gray's individual application on September 18, 2006.

SUBMITTED BY:

8/9/10

Linda Grau, Unit Manager Date
Certification and Licensing Division

(Lewis and ESG/06-L088)

ARIZONA SUPREME COURT
ADMINISTRATIVE OFFICE OF THE COURTS
ALLEGATION ANALYSIS REPORT and PROBABLE CAUSE EVALUATION and DECISION

CERTIFICATE HOLDER INFORMATION	**Certificate Holder:**	Warner Lewis III
	Certification Number:	80180
	Business Name:	Estate Services Group, LLC
	Certification Number:	80181
	Type of License/Certificate:	Legal Document Preparer
INVESTIGATION INFORMATION	**Complaint Number:**	06-L088
	Investigator:	Dara Fonseth Linda Grau

ANALYSIS OF ALLEGATIONS:

Allegation 1. On the renewal application for Estate Services Group, LLC ("ESG"), Warner Lewis ("Lewis") listed two employees as trainees who did not qualify to serve as trainees pursuant to Arizona Code of Judicial Administration ("ACJA") § 7-208(F)(5).

ACJA § 7-208(E)(3)(a)(5) in effect at the time of the alleged misconduct contained the eligibility requirement for individual legal document preparer certification. ACJA § 7-208(F)(5)(a) stated:

> If a certificate holder employs a person who would qualify for certification as a legal document preparer *but for lack of required experience*, the certificate holder may train the employee to perform services authorized by this code section for a period not to exceed two and one-half years. [Emphasis added.]

On July 16, 2006, the Board of Legal Document Preparers initiated a complaint involving ESG after reviewing applications for individual certification submitted by Joelle Sammetinger ("Sammetinger") and Melissa Gray ("Gray") on June 20, 2006. At the time Lewis submitted ESG's 2006 business entity renewal application, neither Sammetinger nor Gray qualified to serve as ACJA § 7-208(F)(5) trainees based on their prior educational and experiential backgrounds. After receiving notice of the complaint, Lewis, in his capacity as the designated principal for ESG, acknowledged and accepted responsibility for the inaccurate interpretation of the trainee provision. Therefore, the Allegation 1 is substantiated.

SUBMITTED BY:

8/9/10

Linda Grau, Unit Manager — Date
Certification and Licensing Division

REFERRAL TO PROBABLE CAUSE EVALUATOR:
The Investigation Summary and Allegation Analysis Report on complaint number 06-L088 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:

Nancy Swetnam 2/23/11
Nancy Swetnam, Division Director Date
Certification and Licensing Division

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 06-L088, 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):

_____

[X] determines probable cause exists the certificate holder committed the alleged acts of misconduct as to Allegation(s):
#1.

_____

MBaumstark 3/18/11
Mike Baumstark Date
Probable Cause Evaluator

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

CERTIFICATE HOLDER INFORMATION	**Certificate Holder:**	Warner Lewis III
	Certification Number:	80180
	Business Name:	Estate Services Group, LLC
	Certification Number:	80181

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 Warner Lewis ("Lewis") and Estate Services Group, LLC ("ESG") committed the alleged act of misconduct detailed in the Investigation Summary and Allegation Analysis Report in complaint number 06-L088. It is further recommended that in considering the appropriate disposition of this case, the Board consider the following issues:

1. No evidence was presented or obtained that demonstrated the misconduct resulted in harm to the public.
2. The violation occurred before or during 2006.
3. The Board previously addressed and resolved the misconduct with the employees of ESG at the time the Board took action regarding their individual applications for certification.

SUBMITTED BY:

Nancy Swetnam 3/25/11

Nancy Swetnam, 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 06-L088, Warner Lewis, certificate number 80180 and Estate Services Group, LLC, certificate number 80181, 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

ARIZONA SUPREME COURT
ADMINISTRATIVE OFFICE OF THE COURTS
INVESTIGATION SUMMARY

CERTIFICATE HOLDER INFORMATION	**Certificate Holder:**	Sherrene Caley
	Certification Number:	81026
	Type of Certificate/License:	Legal Document Preparer
COMPLAINANT	**Name:**	Victoria Earle
INVESTIGATION INFORMATION	**Complaint Number:**	10-L036
	Investigator:	Tony Posante
	Complaint Received:	July 2, 2010
	Complaint Forwarded to the Certificate Holder:	June 9, 2010
	Response From Certificate Holder Received:	July 2, 2010
	Report Date:	July 29, 2010

The investigation of this complaint included the following:

- Written complaint and documentation submitted by complainant attorney Victoria Earle ("Earle")
- Written response and documentation submitted by certificate holder Sherrene Caley ("Caley")
- Review of applicable records in Court of Appeals, Division 1 ("COA1") case number CA-CV 10-0056
- 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 Rules of Civil Appellate Procedure ("ARCAP")

ALLEGATIONS ALLEGED BY COMPLAINANT:

1. Caley prepared and filed an appellate brief which was deficient; a violation of ACJA § 7-208(J)(5).

SUMMARY OF INVESTIGATION:

Earle, counsel for a party in a COA1 matter involving child custody issues, alleged a document prepared and filed by Caley was deficient. Specifically, Earle alleged the document prepared by Caley did not contain an email address in the header portion of the document as required by an Arizona Supreme Court Administrative Order ("AO"). Earle also alleged the document was deficient in form as per ARCAP rules.

Caley's response noted the AO cited by Earle did not apply as her consumer does not have email. Caley acknowledged some issues with the filing of the document she prepared for her consumer which caused COA1 to reject the filing, but indicated COA1 "allowed" the Appellee in the underlying matter to correct the errors.

INVESTIGATION:

Caley was granted individual legal document preparer certification effective February 25, 2008. Caley's 2009-2011 certification renewal application was denied by the Board of Legal Document Preparers ("Board") on July 27, 2009 upon the Board's determination Caley did not complete the continuing education ("CE") requirement. Caley requested a hearing on the denial and ultimately fulfilled the CE requirement. Caley entered into a Consent Agreement with the Board on October 26, 2009. There was no interruption in the active status of Caley's certification, which remains effective through the current certification period ending June 30, 2011.

On July 2, 2010, the Division received a written complaint from Earle, an attorney admitted to practice law in Arizona and who represents Teresa Borota ("Teresa") in COA1 case number CA-CV 10-0056, formerly heard in the Superior Court in Navajo County under case number DO2004-0401. Earle's complaint stated, in totality:

> Attached is an Appellee's brief prepared for Jack Borota by Sherrene L. Caley. Mr. Borota is the opposing party to my client in this appeal. The brief prepared by Ms. Caley and submitted to the Court of Appeals, Div. 1, in no way complies with the A.R.C.A.P. for form and contents of briefs, the number of copies delivered, or the requirements for information contained in the heading for the person filing. In violation of section 7-208(J)(5) of the Arizona Code of Judicial Administration, Ms. Caley has prepared and submitted a document that is non-compliant with the rules of procedure for the appellate court and the Supreme Court Administrative Order No. 2009-43 regarding email addresses on pleadings. Clearly, Ms. Caley has no understanding of appellate briefs and undertook to prepare one despite her lack of knowledge and skill.

Earle attached a copy of a legal document filed in COA1 in case number CA-CV 10-0056, Borota v. Borota, entitled *Response to Appellant's Brief.* The fifteen page document identifies the preparer as "S.L. Caley, AZ CLDP #81026".

On June 9, 2010, the Division sent Caley a copy of the complaint along with a letter notifying Caley of the ACJA § 7-201(H)(3)(c) requirement she provide a written response to the complaint within thirty (30) days. Division records reflect Caley signed for the mailing on June 15, 2010.

On July 2, 2010, Caley provided a written response to the complaint, including a cover letter noting an address change; a document entitled *Response to Complaint*; a COA1 Order filed June 7, 2010; printouts from Westlaw of ARCAP Rules 4 and 14; a copy of a pleading prepared by Earle entitled *Motion to Strike Appelle's* (sic) *Response Brief*; a copy of a pleading apparently prepared by Caley entitled *Objection to Motion to Strike Appellee's Response Brief*; and a copy of AO 2009-43. Caley's *Response to Complaint*, written partially in the third person in pleading style, indicated COA1 was "allowing" for a correction of the number of copies filed, the color of the cover sheet, and the absent Certificate of Compliance. Caley's response stated:

> Upon accepting this job from the client, Mr. Borota, Respondent, the Certified Legal Document Preparer ("CLDP"), explained to him that I had not done an Appellee's Response Brief in the past and had to educate myself regarding the same if I were to prepare one. He was insistent to me providing him help regarding preparation of this as he has repeatedly informed me that he was not capable of doing this Response Brief himself and could not in any fashion afford an attorney. I utilized the Arizona Bar Association Continuing Education seminars regarding one entitled "Response and Reply Briefs", read many of the A.R.C.A.P. rules governing a response/reply brief, and prepared the response brief for Mr. Borota.

Caley addressed the lack of email address in the heading of the brief, alleged by Earle to be a violation of AO 2009-43, by explaining consumer Peter J. "Jack" Borota ("Jack") does not have an email address. Caley did not specifically address the number of copies filed, alleged by Earle to be an inadequate number. Caley did not address if she filed the pleadings on behalf of Jack or merely provided the completed document to Jack. Caley did not provide with her response copies of any agreement or contract she may have had with Jack. Caley did not address what color cover sheet was filed or if she filed it. Caley did not address why a "Certificate of Compliance" was not filed with the *Response to Appellant's Brief.* Caley's response requested "Investigations Staff and Board of Legal Document Preparers" dismiss the complaint and take no further action.

Division Investigator Tony Posante ("Investigator Posante") reviewed the *Response to Appellant's Brief* prepared by Caley, which was filed in the COA1 on June 3, 2010. The pleading concerned custody and visitation issues regarding the minor children born to Petitioner/Appellant Teresa and Respondent/Appellee Jack. The fifteen page pleading recounted Jack's version of the apparently contentious history between Teresa and Jack, including the period of time after their 2006 divorce until the present. The pleading concluded with the legal opinion, "There was no erring in the findings regarding the custody change."

Investigator Posante reviewed a document filed on June 7, 2010 in COA1 prepared by Earle on behalf of Teresa, entitled *Motion to Strike Appelle's* (sic) *Response Brief.* The motion requested the Court strike the *Response to Appellant's Brief* as being deficient and failing to meet the requirements of ARCAP Rule 13(b). The motion also alleged the document deficient per ARCAP 15(b) and AO 2009-43.

Investigator Posante reviewed the COA1 Order filed June 7, 2010, regarding the *Response to Appellant's Brief.* The Order stated:

> The 'Appellee's Response Brief' was received on June 3, 2010. It does not comply with Rules 4(a), 14(a)(3), and 14(b), Arizona Rules of Civil Appellate Procedure. Therefore,
>
> **IT IS ORDERED** returning the 'Appellee's Response Brief' and granting Appellee to and including July 7, 2010 to resubmit an Response Brief in compliance with the rules.

Investigator Posante reviewed ARCAP Rule 4(a), which states, in pertinent part:

> An original and six copies of briefs, special action petitions, responses and replies shall be filed in the Court of Appeals.

Investigator Posante reviewed ARCAP Rule 14(a)(3), which states:

> The covers of briefs shall be colored as follows: the appellant's opening brief, blue; the appellee's answering brief, red; any reply brief, gray; the brief of an intervenor or amicus curiae, green.

Investigator Posante reviewed ARCAP Rule 14(b), which states, in pertinent part:

> The originals and each copy of the brief must contain a completed certificate of compliance as found in the Appendix to the rules under Form II.

Investigator Posante reviewed a document Caley prepared for Jack entitled *Objection to Motion to Strike Appellee's Response Brief*, filed in COA1 on June 22, 2010. The objection stated:

> Respondent, upon receipt of the Appellate Court's decision to allow Respondent to conform Appellee's Response Brief to its findings, Rules 4(a), 14(a)(3), and 14(b), disagrees with the Motion to Strike Appellee's Response Brief.
>
> Respondent believes the Court has found that it is in the best interests of the case to allow Respondent time to correct the errors it has found and to resubmit.

Investigator Posante reviewed AO 2009-43, effective April 20, 2009. The AO was created as an addition to AO 2009-01, a budget reduction effort allowing electronic distribution of minute entries. AO 2009-43 addressed what Court Clerks and attorneys are authorized and/or mandated to do regarding electronic distribution of Court documents and does not appear to require self-representing litigants or legal document preparers to include email addresses on filings.

Investigator Posante reviewed the COA1 case history for CA-CV 10-0056 which reflected an *Amended Appellee Response Brief* was filed on June 28, 2010. No objection or deficiency on the part of COA1 was noted in the Court record regarding the June 28, 2010 filing. The *Motion to Strike Appelle's* (sic) *Response Brief* prepared by Earle on behalf of Teresa was denied by Order on July 12, 2010.

On July 28, 2010, Investigator Posante sent a request for further information to Caley via email and regular mail. On July 29, 2010, Caley provided a response to the inquiry. Investigator Posante inquired about what specifically Caley contracted with Jack for. Caley's response indicated she contracted only to prepare the *Response to Appellant's Brief,* for the agreed upon price of $225.00. However, after informing Jack the document

was ready, Jack asked Caley if she could mail the document to the Court, and Caley agreed. Caley indicated she received no further instruction from Jack regarding filing the document, and she mailed three copies to COA1 and one copy to Teresa. All the copies including the cover page were mailed on white paper.

Regarding the statement "there was no erring in the findings regarding the custody change", which was included in the *Response to Appellant's Brief*, Caley indicated the statement was dictated by the consumer during several meetings regarding his response based on Jack stating, "The judge did not make an error."

Caley provided a copy of her "Client Information Sheet" which was signed by Jack and contains the disclaimer, "Client acknowledges that Sherrene L. Caley is not an attorney and neither the Staff, Agents, or management has given client legal advice."

SUBMITTED BY:

Tony Posante 7/29/10

Tony Posante, Investigator Date
Certification and Licensing Division

ARIZONA SUPREME COURT
ADMINISTRATIVE OFFICE OF THE COURTS
ALLEGATION ANALYSIS REPORT and PROBABLE CAUSE EVALUATION and DECISION

CERTIFICATE HOLDER INFORMATION	**Certificate Holder:**	Sherrene Caley
	Certification Number:	81026
	Type of Certificate/License:	Legal Document Preparer
INVESTIGATION INFORMATION	**Complaint Number:**	10-L036
	Investigator:	Tony Posante

ANALYSIS OF ALLEGATION:

Allegation 1. Caley prepared and filed an appellate brief which was deficient; a violation of ACJA § 7-208(J)(5).

Arizona Code of Judicial Administration ("ACJA") § 7-201(F)(1) and ACJA § 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)(4)(b) reads:

> A legal document preparer shall accept only those assignments for which the legal document preparer's level of competence will result in the preparation of an accurate document. The legal document preparer shall decline an assignment when the legal document preparer's abilities are inadequate for that assignment.

ACJA § 7-208(J)(5)(a) provides:

> A legal document preparer shall perform all duties and discharge all obligations in accordance with applicable laws, rules or court orders.

Arizona Rules of Civil Appellate Procedure ("ARCAP") Rule 14(b) states, in pertinent part:

> The originals and each copy of the brief must contain a completed certificate of compliance as found in the Appendix to the rules under Form II.

ARCAP Rule 4(a) reads, in pertinent part:

> An original and six copies of briefs, special action petitions, responses and replies shall be filed in the Court of Appeals.

ARCAP Rule 14(a)(3) states:

The covers of briefs shall be colored as follows: the appellant's opening brief, blue; the appellee's answering brief, red; any reply brief, gray; the brief of an intervenor or amicus curiae, green.

Caley acknowledged accepting a legal document preparation assignment for which she had no experience. Caley reported she attended a continuing education class in a related subject matter to familiarize herself with the "Response and Reply Briefs" process. Caley characterized the Court of Appeals Order rejecting the original filing of June 3, 2009 as "allowing" corrections to be made. The document Caley prepared did not contain a required *Certificate of Compliance*. Caley filed an incorrect number of copies with the Court of Appeals and did not provide the proper color cover page. Therefore, Allegation 1 is substantiated.

SUBMITTED BY:

12/20/10

Linda Grau, Unit Manager Date
Certification and Licensing Division

REFERRAL TO PROBABLE CAUSE EVALUATOR:

The Investigation Summary and Allegation Analysis Report on complaint number 10-L036 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:

2/3/11

Nancy Swetnam, Division Director Date
Certification and Licensing Division

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-L036, 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):

_____

[X] determines probable cause exists the certificate holder committed the alleged acts of misconduct as to Allegation(s):

#1.

M Baumstark 2/18/11

Mike Baumstark Date
Probable Cause Evaluator

(Caley/10-L036)

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

CERTIFICATE HOLDER INFORMATION	**Certificate Holder:**	Sherrene Caley
	Certificate Number:	81026
	Type of Certificate/License:	Legal Document Preparer

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 Sherrene Caley committed the alleged acts of misconduct detailed in the Investigation Summary and Allegation Analysis Report in complaint number 10-L036.

It is further recommended the Board enter a finding grounds for informal disciplinary action exists pursuant to Arizona Code of Judicial Administration ("ACJA") § 7-201(H)(6)(a) and (H)(7) for acts of misconduct involving ACJA § 7-201(F)(1), ACJA § 7-208(F)(2), (J)(4)(b), (J)(5)(a) and Arizona Rules of Civil Appellate Procedure Rules 4(a), 14(a)(3) and 14(b) and issue a Letter of Concern.

SUBMITTED BY:

Nancy Swetnam 2/23/11

Nancy Swetnam, 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-L036 and Sherrene Caley, certificate number 81026, 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

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ARIZONA SUPREME COURT
ADMINISTRATIVE OFFICE OF THE COURTS
INVESTIGATION SUMMARY

CERTIFICATE HOLDER INFORMATION	**Certificate Holder:**	Jill Smith
	Certification Number:	80894
	Business Name:	Titan Lien Services
	Certificate Number:	80895
	Type of Certificate/License:	Legal Document Preparer
COMPLAINANT	**Name:**	Mel Gustafson
INVESTIGATION INFORMATION	**Complaint Number:**	09-L055
	Investigator:	Tony Posante
	Complaint Received:	August 5, 2009
	Complaint Forwarded to the Certificate Holder:	August 11, 2009
	Response From Certificate Holder Received:	August 19, 2009
	Report Date:	June 22, 2010

The investigation of this complaint included review of the following:

- Written complaint and documentation submitted by complainant Mel Gustafson ("Gustafson")
- Written response and documentation submitted by certificate holder Jill Smith ("Smith"), designated principal for Titan Lien Services ("Titan")
- 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

ALLEGATION ALLEGED BY COMPLAINANT:

1. Titan and its employees are preparing legal documents without certification.

ADDITIONAL ALLEGATIONS:

2. Smith failed to place her individual name and certification number on documents she, as the designated principal of Titan, was responsible for which were filed with the Maricopa County Recorder's Office under numbers 2009-0498608 and 2009-0503176, as required by ACJA § 7-203(F)(3).
3. Smith acted in a representative capacity by signing recorded legal documents as the "limited agent" of Titan customers without the authority to do so, in violation of Arizona Supreme Court Rule 31 and ACJA § 7-208.

SUMMARY OF INVESTIGATION:
Gustafson, President of Prelien Services, LLC, submitted a written complaint alleging Titan and employees, specifically Black, were preparing twenty day preliminary notices and mechanics liens without certification.

Smith provided a response indicating both she and the business are certified. Smith confirmed Titan's Assistant Manager, Black, was an ACJA § 7-208(F)(5) trainee who worked under Smith's supervision.

INVESTIGATION:
Titan and Smith were granted certification effective September 18, 2006. Titan and Smith have successfully renewed their certification without interruption and their certification is active through the current certification period ending June 30, 2011. Smith is the designated principal of record for Titan. Black was an ACJA § 7-208(F)(5) trainee from May 2007 until April 2010 and is no longer employed at Titan.

On August 5, 2009, the Division received a written complaint from Gustafson regarding Titan and Black. Gustafson's complaint reads:

> The company and/or employees are not certified as Legal Document Preparers. The company and/or employees are preparing and signing 20-day preliminary notices and/or mechanics liens. Website: www.titanlien.com Maricopa County recorder Document #'s: 2009-0498608, #2009-0503176 (these are an example of the documents being prepared/signed by company an/or (sic) employees. The 20-day preliminary notice is normally at the end of the document.) There are numerous filings with the Maricopa County Recorder where Ms. Black signs the preliminary notice/and or (sic) Mechanics Lien.

Gustafson's complaint included copies of documents recorded with the Maricopa County Recorder's Office in 2009-0498608, including:

- *Notice and Claim of Mechanics Lien* dated June 1, 2009 and signed by Karen Bei, Owner of Pro-Energy Electric, LLC. The document header contains the information "Titan Lien Services AZ CLDP#80895". The document does not contain the name, title or certification number of an individual legal document preparer responsible for the document.
- *Affidavit and Proof of Service Twenty Day Notice* dated May 29, 2009 and signed by Black under the descriptor "Acting as Limited Agent for Pro-Energy LLC". The Affidavit is notarized by Smith. The Affidavit contains the statement, "Sandy Black being duly sworn upon her oath deposes and says THAT he/she is the Assistant Manager of Titan Lien Services who are acting in their capacity as Limited Agents for Pro-Energy Electric LLC located at 700 W Bentrup St, Chandler, AZ 85225". The Affidavit does not contain Titan's name, title or certificate number or the name, title or certification number of an individual legal document preparer responsible for the document.

- *Twenty Day Preliminary Notice* dated December 2, 2008 and signed by Smith and containing the statement, "Prepared by Titan Lien Services, Inc. Acting as limited agent for: Pro-energy Electric LLC". The document header contains the information "AZ LDP Cert#80895" but does not contain the name of the certified business entity or the name, title or certification number of an individual legal document preparer responsible for the document.

Division Investigator Tony Posante ("Investigator Posante") obtained copies of documents from the Maricopa County Recorder's website regarding 2009-0503176, including:

- *Notice and Claim of Mechanics Lien* dated May 29, 2009 signed by Gordon Gaisford, Office Manager for Apache Plumbing Services. The document header contains the information "Titan Lien Services AZ CLDP# 80895". The document does not contain the name, title or certification number of an individual legal document preparer responsible for the document.
- *Affidavit and Proof of Service Twenty Day Notice* dated May 26, 2009 and signed by Black under the descriptor "Acting as Limited Agent for Apache Plumbing Services". The Affidavit is notarized by Smith. The affidavit contains the statement, "Sandy Black being duly sworn upon her oath deposes and says THAT he/she is the Assistant Manager of Titan Lien Services who are acting in their capacity as Limited Agents for Apache Plumbing Services located at 6832 N 24th Dr. #2 Phoenix, AZ 85015". The Affidavit does not contain Titan's name, title or certificate number or the name, title or certification number of an individual legal document preparer responsible for the document.
- *Twenty Day Preliminary Notice* dated February 9, 2009 and signed by Smith containing the statement, "Prepared by Titan Lien Services, Inc. Acting as limited agent for: Apache Plumbing Services". The document header contains the information "AZ LDP Cert# 80895" but does not contain the name of the certified business entity or the name, title or certification number of an individual legal document preparer responsible for the document.

Investigator Posante queried Arizona Corporation Commission records for Pro-Energy Electric, LLC. Neither Smith nor Black are identified as part of the ownership structure of the LLC. Apache Plumbing Services is a dba of Lacy Rain, LLC, according to an invoice filed with the lien documents. Neither Smith nor Black are identified as part of the ownership structure of Lacy Rain, LLC.

On August 11, 2009, the Division sent Titan and Smith a copy of the complaint along with a letter notifying Titan and Smith of the ACJA § 7-201(H)(3)(c) requirement they provide a written response to the complaint within thirty (30) days. Division records reflect Smith signed for the mailing on August 17, 2009.

On August 18, 2009, the Division received a written response from Titan, authored by Smith. Smith indicated former employee Black did not sign preliminary 20-day notices or liens. Smith noted Titan's policy is to have the customers sign their own liens. Smith

acknowledged she signs the preliminary 20-day notices. Smith's response also noted she had recently spoken with Division Investigator Alex Navarro ("Investigator Navarro") and had been advised of the requirement she provide her individual certification number on recorded liens as well as Titan's business entity name and number.

Investigator Posante reviewed ARS § 33-992.01(B), which states:

> Except for a person performing actual labor for wages, every person who furnishes labor, professional services, materials, machinery, fixtures or tools for which a lien otherwise may be claimed under this article shall, as a necessary perquisite to the validity of any claim of lien, serve the owner or reputed owner, the original contractor or reputed contractor, the construction lender, if any, or reputed construction lender, if any, and the person with whom the claimant has contracted for the purchase of those items with a preliminary twenty day notice as prescribed by this section.

On March 19, 2010, Honorable J. Richard Gama ("Judge Gama"), ruling on a matter unrelated to Titan, in Superior Court in Maricopa County case number CV2009-010336, found preliminary 20-day notices are legal documents. The Court's Minute Entry for this date states:

> The Court does hold that the assistance herein provided to complete the process of securing a mechanic's lien, that is, the preparation of the 20 day preliminary notices does constitute the unauthorized practice of law. The preparation of this notice is a condition precedent to securing a legal right, i.e. a preferential lien on real property.

Investigator Posante reviewed ACJA § 7-208(F)(3), which states, in pertinent part:

> Identification. 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 nonjudicial agency or entity.

Investigator Posante reviewed ACJA § 7-208(F)(5)(c)(4), which states a designated principal who undertakes to train an employee shall:

> Provide the designated principal's name and certificate number, as required by subsection (F)(3), on any documents prepared by the trainee under the designated principal's supervision.

Investigator Posante reviewed Titan's website, www.titanlien.com. Titan's website contains a "Frequently Asked Questions" page. One question asks, "What is a Preliminary Notice?" The website explains, "The general purpose of a 20-day preliminary notice is to inform the property owner, lender and other interested parties that you are providing labor or materials for a project and that you are retaining your right to a lien in the event that you are not paid."

Investigator Posante reviewed Division records regarding ACJA § 7-208(F)(5) trainee Black. Division records reflect Black was first reported as an ACJA § 7-208(F)(5) trainee on Titan's May 3, 2007 certification renewal application. At the time of the complaint, Black had not exceeded the ACJA § 7-208(F)(5) maximum allowable trainee period of 2½ years. Black was not listed as a trainee on Titan's 2009-2011 renewal application submitted on May 7, 2009. On June 15, 2010, Investigator Posante sent Smith an email inquiring as to Black's current employment status. Smith responded the same day, stating, "Sandy Black is no longer employed with Titan Lien Services. She gave notice and finished her employ at the end of April 2010.

Maricopa County Recorder's Office records referenced above demonstrate Black signed two *Affidavit and Proof of Service Twenty Day Notice* documents with a provided descriptors identifying Black as an "Acting as Limited Agent for Apache Plumbing Services" and "Acting as Limited Agent for Pro Energy Electric LLC". The content of the Affidavit indicates Black placed copies of the respective preliminary 20-day lien notice in the mail to parties impacted by the preliminary 20-day lien notices. While acting under Smith's supervision as an ACJA § 7-208(F)(5) trainee, Black did not hold active legal document preparer certification and pursuant to ACJA § 7-208(F)(5)(c)(3), Smith was responsible to "Ensure the trainee is familiar with and adheres to the provisions of ACJA §§ 7-201 and -208".

SUBMITTED BY:

Tony Posante 6/22/10

Tony Posante, Investigator Date
Certification and Licensing Division

ARIZONA SUPREME COURT
ADMINISTRATIVE OFFICE OF THE COURTS
ALLEGATION ANALYSIS REPORT and PROBABLE CAUSE EVALUATION and DECISION

CERTIFICATE HOLDER INFORMATION	**Certificate Holder:**	Jill Smith
	Certification Number:	80894
	Business Name:	Titan Lien Services
	Certificate Number:	80895
	Type of Certificate/License:	Legal Document Preparer
INVESTIGATION INFORMATION	**Complaint Number:**	09-L055
	Investigator:	Tony Posante

ANALYSIS OF ALLEGATIONS:

Allegation 1. Titan Lien Services ("Titan") and its employees are preparing legal documents without certification.

Division record reflect Titan and designated principal Jill Smith ("Smith") hold active legal document preparer certification and did so at the time the documents underlying this complaint were prepared. Additionally, at the time of the alleged misconduct, Titan employee Susan Black ("Black") was an identified Arizona Code of Judicial Administration ("ACJA") § 7-208(F)(5) trainee working under Smith's supervision. Therefore, Allegation 1 is not substantiated.

Allegation 2. Smith failed to place her individual name and certification number on documents she, as the designated principal of Titan, was responsible for which were filed with the Maricopa County Recorder's Office under numbers 2009-0498608 and 2009-0503176, as required by ACJA § 7-203(F)(3).

ACJA § 7-208(F)(3) states:

> Identification. 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 nonjudicial agency or entity.

No prohibition exists that expressly prohibits certified legal document preparers from placing the requisite identification information on documents recorded with the Maricopa County Recorder's Office. A review of the preliminary 20-day lien notices and liens filed with the Maricopa County Recorder's Office under numbers 2009-0498608 and

2009-0503176 reflect the documents contain part but not all of the required information regarding the certified legal document preparer business entity and fail to provide any of the required identification information for the individual preparer responsible for the document. Therefore, Allegation 2 is substantiated.

Allegation 3. Smith acted in a representative capacity by signing recorded legal documents as the "limited agent" of Titan customers without the authority to do so, in violation of Arizona Supreme Court Rule 31 and ACJA § 7-208.

The Arizona Supreme Court Rule 31 ("Rule 31") definition of the "practice of law" Rule 31 specifically includes, "Representing another in a judicial, quasi-judicial, or administrative proceeding, or other formal dispute resolution process such as arbitration and mediation." 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 exists as an exemption to the prohibition of the unauthorized practice of law and provides specified authorized services a certified legal document preparer may offer to consumers not represented by an attorney.

ACJA § 7-208(F)(1) provides a list of "authorized services" a certified legal document preparer can provide to non-represented parties but this list does not include acting in a representative capacity on behalf of a consumer. ACJA § 7-201(F)(1) and § 7-208(F)(2) require all certified legal document preparers to comply with the subsection J of the Code of Conduct. ACJA § 7-208(J)(5)(b) states:

> 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...

ACJA § 7-208(F)(5)(c)(1) provides a designated principal who undertakes to train an employee shall:

> Assume personal professional responsibility for the trainee's guidance and any work undertaken and for supervising, generally or directly, as necessary, the quality of the trainee's work.

During the investigation, Smith acknowledged and Maricopa County Recorder's Office records reflect she signed preliminary 20-day lien notices on behalf of Titan customers Pro-Energy Electric, LLC and Lacy Rain, LLC dba Apache Plumbing. Smith does not have ownership interest in either LLC. No provision of law, court rule or ACJA authorizes Smith to serve as a "limited agent" for or sign documents for or on behalf of Titan customers.

Further, under Titan designated principal Smith's supervision, Black signed proof of service documents as the "limited agent" of Titan customers Pro-Energy Electric, LLC

and Lacy Rain, LLC dba Apache Plumbing without the authority to do so. Therefore, Allegation 3 is substantiated.

SUBMITTED BY:

6/23/10

Linda Grau, Unit Manager Date
Certification and Licensing Division

REFERRAL TO PROBABLE CAUSE EVALUATOR:
The Investigation Summary and Allegation Analysis Report on complaint number 09-L055 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 1 and does exist as to Allegations 2 and 3.

SUBMITTED BY:

3/2/11

Emily Holliday, Acting Division Director Date
Certification and Licensing Division

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 09-L055, the Probable Cause Evaluator:

[ ] requests division staff to investigate further.

[X] determines probable cause does not exist the certificate holder has committed the alleged acts of misconduct as to Allegation(s):

#1.

[X] determines probable cause exists the certificate holder committed the alleged acts of misconduct as to Allegation(s):

#s 2 & 3.

3/10/11

Mike Baumstark Date
Probable Cause Evaluator

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

CERTIFICATE HOLDER INFORMATION	**Certificate Holder:**	Jill Smith
	Certificate Number:	80894
	Business Name:	Titan Lien Services
	Certificate Number:	80895

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 1 of complaint Number 09-L055. Regarding Allegations 2 and 3, it is recommended the Board enter a finding Titan Lien Services and Jill Smith ("Smith") committed the alleged acts of misconduct detailed in the Investigation Summary and Allegation Analysis Report in complaint number 09-L055.

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)(1)(c)(1), (F)(2), (F)(3) and (J)(5)(b).

Mitigating Factors:

1. Absence of prior discipline. This is the first complaint involving Titan Lien Services and Smith. [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. Most recently, the Board entered a Consent Agreement with certificate holder Alenda Martin to resolve formal disciplinary action against Martin for her having signed a Notice of Claim of Lien on behalf of a consumer.

In previous matters considered by the Board wherein found violations included a certified legal document preparer's failure to place their name, title and certificate numbers on document they prepared, the Board has issued Letters of Concern.

In determining the appropriate disposition in this case, it is recommended the Board consider the cited mitigating factors 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 Titan Lien Services and Smith 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 Titan and Smith that if they enter the Consent Agreement they waives their right to a hearing, and imposes the following sanctions pursuant to ACJA § 7-201 (H)(24)(a)(6):

a) Issue a Censure to Titan Lien Services, pursuant to ACJA § 7-201 (H)(24)(a)(6)(b);
b) Issue a Letter of Concern to Smith, pursuant to ACJA § 7-201(H)(a)(24)(6)(a);
c) Order Smith to 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);
d) 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 Titan Lien Services and Smith decline the opportunity to enter the Consent Agreement within 20 days of receipt of the Board's offer, it is recommended staff 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 3/18/11

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 09-L055 and Titan Lien Services, certificate number 80895, and Jill Smith, certificate number 80894, 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

Y:\COMPLAINT INVESTIGATIONS\OPEN COMPLAINTS\LDP TITAN LIEN SERVICES 09-L055\CASE SUMMARY 09-L055.DOCX

ARIZONA SUPREME COURT
ADMINISTRATIVE OFFICE OF THE COURTS
INVESTIGATION SUMMARY

CERTIFICATE HOLDER INFORMATION	**Certificate Holder:** **Certification Number:** **Type of Certificate/License**	Jacqueline Vigil 80387 Legal Document Preparer
COMPLAINANT	**Name:**	David Byers, Administrative Director of the Courts
INVESTIGATION INFORMATION	**Complaint Number:** **Investigator:**	10-L028 Karla Clanton
	Complaint Received: **Complaint Forwarded to the Certificate Holder:** **Response From Certificate Holder Received:** **Report Date:**	May 24, 2010 May 25, 2010 None Received 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).

INVESTIGATION:
Vigil was granted individual legal document preparer certification effective July 28, 2003. Vigil has successfully renewed her ce rtification 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.

SUBMITTED BY:

Karla Clanton 9/14/10

Karla Clanton, Investigator Date
Certification and Licensing Division

ARIZONA SUPREME COURT
ADMINISTRATIVE OFFICE OF THE COURTS
ALLEGATION ANALYSIS REPORT and PROBABLE CAUSE EVALUATION and DECISION

CERTIFICATE HOLDER INFORMATION	**Certificate Holder:**	Jacqueline Vigil
	Certification Number:	80387
	Type of Certificate/License:	Legal Document Preparer
INVESTIGATION INFORMATION	**Complaint Number:**	10-L028
	Investigator:	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 Certificaiton 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

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:

Emily Holliday 2/11/11

Emily Holliday, Acting Division Director Date
Certification and Licensing Division

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):

_____

[X] determines probable cause exists the certificate holder committed the alleged acts of misconduct as to Allegation(s):

#1, 2, & 3.

M Baumstark 2/18/11

Mike Baumstark Date
Probable Cause Evaluator

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

CERTIFICATE HOLDER INFORMATION	**Certificate Holder:**	Jacqueline Vigil
	Certificate Number:	80387

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 has/has not 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 is 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

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:

_____

_____

_____

_____

_____

Les Krambeal, Chair Date
Board of Legal Document Preparers

ARIZONA SUPREME COURT
ADMINISTRATIVE OFFICE OF THE COURTS
INVESTIGATION SUMMARY

CERTIFICATE HOLDER INFORMATION	**Certificate Holder:**	Judith Alspaugh
	Certification Number:	81016
	Business Name:	Capital Consultants Management Corporation
	Certificate Number:	80418
	Type of Certificate/License:	Legal Document Preparer
COMPLAINANT	**Name:**	David Byers, Administrative Director of the Courts
INVESTIGATION INFORMATION	**Complaint Number:**	10-L033
	Investigator:	Karla Clanton
	Complaint Received:	May 24, 2010
	Complaint Forwarded to the Certificate Holder:	May 25, 2010
	Response From Certificate Holder Received:	June 23, 2010
	Report Date:	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.

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.

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.

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 prepares to prepare legal documents, such lien notices.

Barton argued CCMC and Alspaugh 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 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.

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 Power Ranch and Coyote Lakes HOAs. No CCMC officers are named as officers or directors for either HOA. CCMC is the named Statutory Agent for both HOAs.

Division records reflect Alspaugh and Vigil have never applied for or been granted admission to practice law in Arizona.

SUBMITTED BY:

Karla Clanton 9/8/10

Karla Clanton, Investigator Date
Certification and Licensing Division

ARIZONA SUPREME COURT
ADMINISTRATIVE OFFICE OF THE COURTS
ALLEGATION ANALYSIS REPORT and PROBABLE CAUSE EVALUATION and DECISION

CERTIFICATE HOLDER INFORMATION	**Certificate Holder:**	Judith Alspaugh
	Certification Number:	81016
	Business Name:	Capital Consultants Management Corporation
	Certificate Number:	80418
	Type of Certificate/License:	Legal Document Preparer
INVESTIGATION INFORMATION	**Complaint Number:**	10-L033
	Investigator:	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 Alspaughs legal document preparer information, identifying Alspaugh 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.

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

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:

Emily Holliday 2/11/11

Emily Holliday, Acting Division Director Date
Certification and Licensing Division

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):

_____

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

#1, 2, 3 + 4.

M Baumstark 2/18/11

Mike Baumstark Date
Probable Cause Evaluator

(Alspaugh/CCMC 10-L033)

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

CERTIFICATE HOLDER INFORMATION	**Certificate Holder:**	Judith Alspaugh
	Certificate Number:	81016
	Business Name:	Capital Consultants Management Corporation
	Certificate Number:	80418

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 2/24/11

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:

_____

_____

_____

_____

_____

Les Krambeal, Chair Date
Board of Legal Document Preparers

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BOARD OF LEGAL DOCUMENT PREPARERS

Agenda Summary - Monday, April 25, 2011

2-E: Review, discussion and possible action regarding a possible Consent Agreement resolution of the pending formal disciplinary action involving certificate holder Tiffany Lehr and complaint number 09-L094.

On January 24, 2011, the Board accepted the finding of the Probable Cause Evaluator involving certificate holder Tiffany Lehr and complaint number 09-L094. The Board entered findings of grounds for formal disciplinary action and ordered a proposed Consent Agreement resolution be offered to Ms. Lehr in advance of the filing of the Notice of Formal Statement of Charges.

The attached proposed Consent Agreement, signed and submitted by Ms. Lehr for the Board's consideration, includes:

- Lehr understands she waives her right to a hearing regarding complaint number 09-L094;
- Board finds misconduct and Lehr acknowledges and accepts responsibility for the misconduct detailed in Allegation 4 in the Investigation Summary, Allegation Analysis and Probable Cause Determination Report and Board Order issued in complaint number 09-L094;
- Board will issue a Censure to Lehr in complaint number 09-L094;
- Lehr requests and the Board accepts the voluntary surrender of Lehr's individual legal document preparer certificate, certificate number 80900;
- Board orders and Lehr agrees to 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, in order to be considered for active certification any point in the future;
- Lehr understands failure to comply with the terms of this Consent Agreement may result in the Board taking further disciplinary action or denying renewal of or any future application for individual certification; and,
- Board and Lehr recognize there could be additional complaints against Lehr relating to the same or substantially the same conduct or categories of conduct as set forth in the Investigative Report and the Consent Agreement, including, but not limited to preparing, filing or recording documents or assisting with small claims court matters, which occurred prior to Lehr having knowledge of the subject complaint and determinations, and that the Consent Agreement resolution is intended to resolve any and all such matters involving the same or similar categories of conduct. Additionally, should the Division receive a complaint in the future pertaining to other conduct in which Lehr engaged

during the time she was a Certified Legal Document Preparer through the date of this Consent Agreement, this Consent Agreement shall be deemed a significant mitigating factor pursuant to ACJA §7-201(H)(22)(b)(1).

It is recommended the Board accept and enter the proposed Consent Agreement.

SUPREME COURT OF ARIZONA
BOARD OF LEGAL DOCUMENT PREPARERS

IN THE MATTER OF CERTIFIED LEGAL DOCUMENT PREPARER: TIFFANY LEHR, Certificate Number 80900.	)	No. 09-L094 CONSENT AGREEMENT

JURISDICTION

Pursuant to Arizona Code of Judicial Administration ("ACJA") § 7-201and ACJA § 7-208, the Board of Legal Document Preparers ("Board") has jurisdiction over this matter as Tiffany Lehr ("Lehr") is a certified legal document preparer. Certification and Licensing Division ("Division") records reflect Lehr served as the ACJA § 7-208(E)(3)(d) and (F)(6) designated principal of record for her former employer and certified business entity, AAM, LLC ("AAM"), during the period of the alleged misconduct in complaint number 09-L094 through January 28, 2010.

On February 3, 2010, Administrative Director of the Court David Byers ("Director Byers") initiated complaint number 09-L094, pursuant to ACJA § 7-201(H)(1)(b), alleging AAM engaged in the unauthorized practice of law by contracting with third parties to establish authority to act in a representative capacity on behalf of the third parties in lien related legal matters, (Allegation 1). The initiated complaint also alleged AAM directed its certified legal document preparer employee Alenda Martin ("Martin") to sign a Notice of Claim of Lien as

the "Authorized Representative" for AAM customer Anthem Council, exceeding the scope and authority of a certified legal document preparer, (Allegation 2). Additional allegations derived during the investigation asserted AAM engaged in the unauthorized practice of law by offering recommendations on possible legal remedies, options and strategies through newsletters posted on AAM's website for Homeowners Association ("HOAs") customers (Allegation 3) and Lehr failed to fulfill her responsibilities as designated principal to ensure AAM employees were acting in compliance with Arizona Supreme Court Rule 31, ACJA § 7-201 and § 7-208, (Allegation 4).

On January 5, 2011, Probable Cause Evaluator Mike Baumstark entered a finding probable cause exists as to the allegations in complaint number 09-L094.

On January 24, 2011, the Board accepted the finding of the Probable Cause Evaluator regarding complaint number 09-L094 and entered a finding grounds for formal disciplinary action exists pursuant to ACJA § 7-201(H)(6)(a), (H)(6)(d), (H)(6)(k)(3) and (H)(6)(k)(9) for acts of misconduct involving Arizona Supreme Court Rule 31 ("Rule 31") (a)(2)(B), ACJA § 7-201(F)(1), ACJA § 7-208(F)(1)(b), (F)(2), (F)(6)(c), (J)(5)(b) and (J)(5)(c).

On January 24, 2011, the Board ordered a Consent Agreement resolution of the formal disciplinary action be offered to Lehr in advance of the filing of a Notice of Formal Statement of Charges. By entering this Consent Agreement, Lehr understands she waives her right to a hearing regarding complaint number 09-L094 and agrees to the following Consent Agreement provisions pursuant to ACJA § 7-201(H)(24)(a)(6)(c):

1. The Board finds misconduct and Lehr acknowledges and accepts responsibility for the misconduct detailed in Allegation 4 in the Investigation Summary, Allegation Analysis and Probable Cause Determination Report and Board Order issued in complaint number 09-L094.

2. The Board will issue a Censure to Lehr in complaint number 09-L094, pursuant to ACJA § 7-201(H)(24)(a)(6)(b).

3. Lehr requests and the Board accepts the voluntary surrender of Lehr's individual legal document preparer certificate, certificate number 80900, pursuant to ACJA § 7-201(E)(7).

4. The Board orders and Lehr agrees to 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, in order to be considered for active certification any point in the future, pursuant to ACJA § 7-201(H)(24)(a)(6)(f).

5. Lehr understands failure to comply with the terms of this Consent Agreement may result in the Board taking further disciplinary action or denying renewal of or any future application for individual certification.

6. The Board and Lehr recognize that conceivably there could be additional complaints against Lehr relating to the same or substantially the same conduct or categories of conduct as set forth in the Investigative Report and the Consent Agreement, including, but not limited to preparing, filing or recording documents or assisting with small claims court matters, which occurred prior to Lehr having knowledge of the subject complaint and determinations, and that this Consent Agreement and the resolution herein are intended to resolve any and all such matters involving the same or similar categories of conduct. Additionally, should the Certification and Licensing Division receive a complaint in the future pertaining to other conduct in which Lehr engaged during the time she was a Certified Legal Document Preparer through the date of this Consent Agreement, this Consent Agreement shall be deemed a significant mitigating factor pursuant to ACJA §7-201(H)(22)(b)(1).

Entered into on this date by:

Tiffany Lehr 3:29:11

Tiffany Lehr Date
Certificate Number 80900

Entered into on this date by:

_____

Les Krambeal, Chair Date
Board of Legal Document Preparers

An original copy of the foregoing hand delivered and/or mailed this ____ day of _____, 2011, to:

Tiffany Lehr
7607 West Tonto Drive
Glendale, Arizona 85308

John Buric
Warner, Angle, Hallam, Jackson and Formanek, PLLC
3550 North Central Avenue, Suite 1500
Phoenix, Arizona 85012

Nina Preston
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

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ARIZONA SUPREME COURT
ADMINISTRATIVE OFFICE OF THE COURTS
INVESTIGATION SUMMARY

CERTIFICATE HOLDER INFORMATION	**Certificate Holder:**	Tiffany Lehr
	Certification Number:	80900
	Business Name:	AAM, LLC
	Certificate Number:	80511
	Type of Certificate/License:	Legal Document Preparer
COMPLAINANT	**Name:**	David Byers, Administrative Director of the Courts
INVESTIGATION INFORMATION	**Complaint Number:**	09-L094
	Investigator:	Karla Clanton
	Complaint Received:	January 21, 2010
	Complaint Forwarded to the Certificate Holder:	February 3, 2010
	Response From Certificate Holder Received:	March 5, 2010
	Report Date:	October 15, 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 Ronda Fisk ("Fisk") on behalf of AAM, LLC ("AAM")
- Investigatory interview with former AAM designated principal Tiffany Lehr ("Lehr")
- Review of Estrella Mountain Justice Court ("EMJC") small claims complaints records
- Review of the "Homeowners Community Management Agreement" between AAM and Palm Valley Community Center Association, Inc. ("Palm Valley")
- 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

ALLEGATIONS ALLEGED BY COMPLAINANT:

1. AAM engaged in the unauthorized practice of law by contracting with third parties to establish authority to act in a representative capacity on behalf of third in lien related matters.
2. AAM directed certified legal document preparer employee Alenda Martin ("Martin") to sign a Notice of Claim of Lien as the Authorized Representative for AAM customer Anthem Council, exceeding the scope and authority of a certified legal document preparer.

ADDITIONAL ALLEGATIONS:

3. AAM engaged in the unauthorized practice of law by offering recommendations on possible legal remedies, options and strategies through newsletters posted on AAM's website for Homeowners Associations ("HOAs") customers.
4. Lehr failed to fulfill her responsibilities as designated principal to ensure AAM employees wer e acting in compliance with Arizona Supreme Court Rule 31, ACJA § 7-201 and § 7-208.

SUMMARY OF INVESTIGATION:

On April 27, 2009, the Division received a written complaint alleging AAM employee Alenda Martin ("Martin") prepared and signed a lien as the "Authorized Representative" of AAM customer Anthem Council. During the investigation of complaint number 09-L027, Fisk, acting as Martin's attorney, submitted a written response to the complaint on Martin's behalf stating AAM entered into a contractual agreement with both Anthem Council and Anthem Country Club to manage the HOAs' operations. Fisk reported one of AAM's obligations under the contract was to prepare and file liens on behalf of Anthem Council and Anthem Country Club. Fisk acknowledged Martin, in her capacity as an AAM employee, signed the Notice of Lien as the "Authorized Representative" of Anthem Community Council, Inc.

No provision or court rule of ACJA authorizes AAM or its employees to sign documents on behalf or serve as "Authorized Representatives" for their customers and no provision of court rule or ACJA authorizes an individual or entity to establish the authority to practice law in Arizona pursuant to contractual agreement. On February 3, 2010, upon review of the allegations, Director Byers initiated this complaint against AAM pursuant to ACJA § 7-201(H)(1)(b).

On March 5, 2010, Fisk, acting as AAM's attorney, submitted a written response to the complaint on behalf of the certified business entity. Fisk cited "agency law" and State Bar of Arizona Unauthorized Practice of Law Advisory Committee ("State Bar UPL Advisory Committee") Opinion 04-02 of October 2004 in support of and as rationale to demonstrate why AAM and its employees were acting within their authority to contract with the HOAs and property owners to sign liens on their behalf.

INVESTIGATION:

AAM was granted legal document preparer business certification effective December 15, 2003. AAM has successfully renewed the business entity certification without interruption through the current certification period which ends on June 30, 2011. Lehr was granted legal document preparer certification effective September 18, 2006. Lehr has successfully renewed her certification without interruption through the current certification period ending June 30, 2011. At the time of the alleged misconduct, Lehr was the designated principal of record for AAM. Lehr sent an email to the Division on January 29, 2010, stating she no longer was employed with AAM effective January 28,

2010. On February 3, 2010, a letter was received from Martin stating Lehr was terminated as the designated principal of AAM and she (Martin) was the new designated principal for the business entity. On May 18, 2010, the Division received a Change of Designated Principal Form from certified legal document preparer Christine Gant ("Gant") reporting Martin was no longer the AAM designated principal and she (Gant) would be serving as the designated principal.

On April 27, 2009, the Division received complaint number 09-L027 alleging AAM employee Martin prepared and signed a Notice of Lien as the "Authorized Representative" of AAM customer Anthem Council. During the investigation of complaint number 09-L027, Fisk, acting as Martin's attorney, submitted a written response to the complaint on behalf of Martin. Fisk stated, in part:

> AAM has management agreements with both Anthem Council and Anthem Country Club and pursuant to those agreements, the Anthem Council and Anthem Country Club appointed AAM as their agent to manage their operations. One of AAM's contractual obligations is to prepare and file liens on behalf of Anthem Council and Anthem Country Club. Alenda Martin, in her capacity as an AAM employee, signed the lien as an "Authorized Representative" of the Anthem Community Council, Inc.

No provision or court rule of ACJA authorizes AAM or its employees to sign documents on behalf or serve as "Authorized Representatives" for their customers and no provision of court rule or ACJA authorizes an individual or entity to establish the authority to practice law in Arizona pursuant to contractual agreement. On February 3, 2010, upon review of the allegations, Director Byers initiated this complaint against AAM.

On February 3, 2010, the Division sent AAM and Lehr a copy of the complaint along with a letter notifying AAM and Lehr of the ACJA § 7-201(H)(3)(c) requirement they provide a written response to the complaint within thirty (30) days. Division records reflect AAM staff member Kaylan Hill signed for the mailing on February 4, 2010.

On March 5, 2010, Fisk, acting as AAM's attorney, submitted a written response to the complaint on behalf of the business entity. Fisk cited "agency law" and State Bar UPL Advisory Committee Opinion 04-02 in support of and as rationale to demonstrate why AAM and its employees were acting within their authority to contract with HOAs and property owners to sign liens on their behalf. Fisk stated, in part:

> Under the law of agency, an agent may sign a document on behalf of a principal when the principal has assented to the signing of the document. A fundamental tenet of agency law is that a principal may assent to another person or entity serving as an agent to act on the principal's behalf, subject to the principal's control.

Fisk continued by stating:

> Officers have "broad managerial authority to manage a corporation's affairs," but they regularly delegate that authority to subordinate agents such as employees or

independent contractors. Restatement (Third) of Agency § 1.03 cmt. c. Anthem Council and Anthem Country Club, the HOA at issue here, has a volunteer board made up of elected officers who may have little understanding of the HOA's day-to-day operations, and who lack time to carry out all of the board's responsibilities. The Anthem Council and Anthem Country Club's board have made a business decision to contract with AAM, a professional property management company, to exercise the boards' broad managerial authority.

Fisk reported Anthem Country Club and Anthem Council have management agreements with AAM naming AAM as the HOA's "Managing Agent" and noted the contracts expressly granted AAM actual authority to act as the HOAs exclusive agent for certain functions. Therefore, Fisk asserted there was no distinction between Anthem Council and Anthem Country Club executing and recording notices of liens through its officer-agents and AAM as its "Managing Agent". Fisk argued, "If AAM engages in the unauthorized practice of law by signing liens on the HOA's behalf, then the HOA's officer-agents and employee-agents would also engage in the unauthorized practice of law when they sign liens on the HOAs behalf." Fisk stated "it would turn the law of agency on its head" because "who would be able to sign liens on behalf of an HOA without engaging in the unauthorized practice of law."

Division Investigator Karla Clanton ("Investigator Clanton") queried the Maricopa County's Superior Court website for Justice Court cases involving AAM. Numerous cases were identified listing AAM and HOA's as co-plaintiffs. Investigator Clanton also queried Maricopa County's Recorders website and located numerous lien documents recorded since 2003, wherein AAM employees signed as the "Authorized Representative" for the HOA's. Investigator Clanton reviewed Notice of Lien documents AAM employees prepared, signed and recorded with the Maricopa County Recorder's Office for AAM's HOA customers during 2009. All of the reviewed liens were prepared in a similar fashion by listing the HOA's name in the top left hand corner of the document and directly underneath AAM's business address and certification number. The liens reviewed were signed by AAM employees and the signature block on the documents consisted of the AAM employee's name, the title "Paralegal" and their certification number. Directly underneath the signature block the employee was identified as the "Authorized Representative of" and provided the applicable HOA's name.

On March 10, 2010, Investigator Clanton reviewed AAM's business website at http://www.associatedasset.com. The website contains a "Newsletter" link at which there are numerous articles posted. AAM also produces and posts a monthly publication specific to Arizona customers called "Neighborhood Insider". Back issues of the "Neighborhood Insider" from 2006 forward are available online. At Investigator Clanton's review, the webpage identified the "Neighborhood Insider" was "packed with useful information and HOA terms" and the "monthly publication is intended to help our homeowner boards become more successful." Investigator Clanton reviewed the "Neighborhood Insider" edition from May of 2009, which contained a piece entitled "Answers from Amanda - Small Claims" attributed to AAM President Amanda Shaw

("Shaw"). The article poses the question, "Does AAM offer an alternative method for addressing our delinquent homeowner accounts?" Shaw's published answer reads:

> As of May 1, AAM is officially offering Small Claims Court service as an additional option for our communities that must pursue past due amounts owed by their homeowners. It is a low-cost alternative for obtaining a judgment through each applicable jurisdiction's Justice Court. The process is fairly simple.
>
> After a homeowner's account has gone through the delinquent assessment cycle for your Association (i.e. late fee notice, demand letter, recordation of lien) based on your approved collection policy, our paralegal team will prepare the necessary paperwork to file a claim on behalf of the Association with the applicable Justice Court. A small claims action requires no attorney. We can file complaints against the homeowner for unpaid assessments that do not exceed $2,500 and obtain personal judgments for the unpaid assessments. In addition to our team's preparation of the court documents, our flat-rate fee includes the following: the court filing fee, a process server fee and coordinating payment plans if the homeowner contacts us after being served with the complaint, along with filing dismissal or satisfaction documents with the court once the homeowner has paid their assessments in full. The flat fee will also be included in the judgment with the expectation that it will be reimbursed to the Association along with the past due assessments.
>
> The benefits of this type of collection service are that it is a cost-effective method for a flat fee, your past due accounts stay under the Board's control with AAM's continued oversight and the turn around (sic) time for obtaining a judgment against the homeowner for unpaid assessments can be shorter than having an attorney file a lawsuit against the homeowner in Justice Court.

The January 2008 edition of the "Answers from Amanda" feature of the "Neighborhood Insider" posed the question, "How can a Board take action on behalf of its Association?" Shaw's published response provided two options an HOA Board could choose for taking action on behalf of its association. Shaw wrote, in part:

> There are two ways a Board of Directors can take action on behalf of its Association. The first way is by voting on the action item (e.g. the approval of a new landscape maintenance contract, annual assessment increase, annual budget, change in Association rules, etc.) in a duly noticed Board meeting and by achieving majority approval by a quorum of the Board members. The result of the vote is then captured in the meeting minutes and is memorialized there for implementation.
>
> The second way that a Board can take action is via unanimous written consent. This method is allowed under Arizona Revised Statutes (A.R.S § 10-3821) under the Arizona Non-Profit Corporation Act. In order for this method to be valid, note that the consent must be (1) in writing (such as in the form of a resolution) and (2) unanimous - meaning that all Board members must sign the consent, not just a majority. Unanimous written consents are used by Boards to take action typically

when the Board is unable to meet, but when immediate action is required or needed in the best interest of the Association.

Shaw offered the following options and strategies to HOAs in the June 2008 "Neighborhood Insider" regarding collection policies:

> First, if your community does not have a collection policy, we suggest that the Board implement one as soon as possible. The Board-approved collection policy dictates when to release a delinquent homeowner account to an attorney or to a collection agency for further collection efforts.
>
> Collection policies typically start by reiterating the collection procedures outlined in the community CC&Rs. First to be mentioned in the policy is a late fee date, which may be 15 days or 30 days after the assessment becomes due, but note that Arizona statute states that the assessment payment is late 15 days after it is due, unless the community's governing documents give a longer grace period (thus late fees cannot be imposed after 5 days or 10 days from the payment due date). A late fee of no more than $15 or 10 percent of the unpaid assessment, whichever is greater, is the statutory limit for late fees and should be referenced in the collection policy.
>
> An assessment collection schedule also is important to include in a collection policy. This schedule indicates when written reminder notices will be sent to homeowners (e.g. on the 16th or 31st day after the assessment is due), when demand letter (if any) will be sent to homeowners (e.g. on the 30th, 45th or 60th day after the assessment is due) and when a lien will be filed against the property. We usually see a 90-day past due date as the date to record the lien.

Division records reflect Shaw has never applied for or been granted legal document preparer certification and have never been admitted to practice law in Arizona.

In AAM's November 2009 "Neighborhood Insider," contains a "Service Spotlight" section of the publication which focuses on AAM's Small Claims Department. The Service Spotlight section provides:

> Since its inception in May, the AAM Small Claims Department has been busy helping HOA Boards collect past due assessments by helping them navigate the court system quickly and economically.
>
> The department features two small claims paralegals and one small claims coordinator, who file summonses and complaints, and complete applications for defaults and notices of dismissals in Small Claims Court. Staffers also work with homeowners to set up payment plans and attend small claims hearings. Because a small claims action does not require an attorney, AAM may file the complaint against the homeowner for unpaid assessments totaling $2,500 or less and obtain personal judgments for the unpaid funds.

Since May, the department has processed nearly 575 complaints. "The results we've seen have been very positive," said Tiffany Lehr, Paralegal Department Manager. "Homeowners are glad we are willing to work with them to pay their balances off via payment plans and Boards are happy we are successful in receiving payments from the homeowners."

If you are interested in contracting with AAM to provide this service for your community, please contact your Community Manager. AAM will provide a revised collection policy (to note that the Board may be utilizing Small Claims Court action to pursue delinquent accounts after a lien is recorded) and Board resolution for the Board's review and approval. The charge for the service is a flat fee of $350.

The March 2010 edition of the "Neighborhood Insider" contains an article entitled, "News You Can Use: Collections: Weighing Your Options". The segment reads, in part:

When it comes to collecting past-due assessments and fees, your Board of Directors has several options from which to choose. Each one carries its own pros and cons, and there usually is not a one-size-fits all answer to the "how should our community handle collections?" question.

HERE ARE A FEW OPTIONS TO CONSIDER:

Attorneys
Pros: ..... higher success rate
Cons: ..... can be more expensive in the end and may require payment for services up front, may take more time to collect

---

Collection Agencies
Pros: ..... work on contingency, do not require payment up front
Cons: ..... lower success rate, can be expensive in the end based on collection fee percentage

---

Small Claims
Pros: ..... lower up-front fee, higher success rate, more timely
Cons: ..... claimants may not be awarded all fees

If your Board decides to pursue the small claims option, please inquire about AAM's Small Claims Service. The service, launched last year, is designed to offer a quicker, cost-effective option for communities that must pursue past-due funds owed by their homeowners.

On March 26, 2010, Investigator Clanton sent an email to AAM's former designated principal Lehr requesting Lehr provide additional information pertinent to the investigation by April 2, 2009. A separate letter was sent to AAM on the same date requesting a copy of AAM's "Revised Collection Policy for Small Claims Services" and

a copy of AAM's contract with Palm Valley Community Center Association for small claims services provided during 2009. AAM was asked to provide the documentation by April 9, 2010.

On March 31, 2010, Lehr responded to Investigator Clanton's March 26th email. Lehr was asked the following questions and she provided the following answers in response:

Question: When you were the Designated Principal of AAM, LLC, did you supervise, review or sign any of the small claims documents prepared and filed in Justice Court by AAM staff for the HOA's that contracted with AAM for this service?

Lehr Response: Yes I did supervise AAM staff. Yes I did review small claim documents by AAM staff. No I did not sign any of the small claims documents.

Question: Did you supervise any of the staff involved in the small claims services by AAM to HOA's, if your answer is no please explain why not and who did supervise the staff offering these services?

Lehr Response: Yes

Question: Please explain if AAM staff represented the HOA's in Justice Courts regarding the documents filed by AAM in small claims courts? If so, please provide their names and positions in AAM?

Lehr Response: Yes, AAM staff along with AAM's CFO represented HOA's in justice court regarding the documents that were filed. Carmen Burnett, Paralegal, Patrice Stevens, Paralegal, Kevin Debloske, Chief Financial Officer.

Investigator Clanton queried the Superior Court in Maricopa County website to review AAM's Justice Court case history. Numerous small claims cases were discovered for different HOAs managed by AAM. The vast majority of these cases, listed AAM and the HOA as the plaintiffs and several of the small claims cases were filed in the Estrella Mountain Justice Court ("EMJC"), as well as in other Justice Courts. Investigator Clanton contacted EMJC court staff and requested copies of court records regarding eight (8) Small Claims cases involving AAM and various HOAs. Investigator Clanton received and reviewed the Small Claims case records requested from EMJC. Each case record provided included the Small Claims Complaint, the filed Affidavit of Service, the Judgment, the Application for Entry of Default, and the Owner Ledger listing the expenses incurred because of the collection process.

Each of the eight Small Claims Complaints filed in the EMJC listed the applicable HOA as the plaintiff in "care of" AAM. AAM listed the AAM business address as the Plaintiff's address on the Small Claims Complaints and each Complaint was signed by

either Stevens or Burnett. Investigator Clanton reviewed Division records and determined neither Debolske or Stevens have applied for or been granted individual legal document preparer certification and Debolske and Stevens are not serving as ACJA § 7-208(F)(5) trainees for AAM. Division records confirm Stevens and Debolske have never been admitted to practice law in Arizona. Division records confirm Burnett was granted individual legal document preparer certification effective October 27, 2007. Burnett later requested her certification be converted to inactive status and the Board of Legal Document Preparers granted Burnett's request effective September 15, 2008. Division records reflect Burnett has not requested any further action regarding her inactive certification and the relevant certificate period ended on June 30, 2009. Burnett has never been admitted to practice law in Arizona. None of the Small Claims Complaints filed in the EMJC contained AAM's or an individual certified legal document preparer's name, title or certificate number as required by ACJA § 7-208(F)(3).

Investigator Clanton contacted the EMJC on September 27, 2010, and spoke with staff member Amanda Baker ("Baker") regarding case CC2009-576187. Baker was asked to confirm who was in attendance at the Small Claims hearing that occurred on March 8, 2010 regarding Plaintiffs' Palm Valley Phases II & III Community Center Association and AAM and Defendant Pedro Rivera ("Rivera"). Baker reported Debolske, David Anderson ("Anderson") and Rivera were in attendance. Arizona Corporation Commission records reflect Anderson is and has been the President of Palm Valley Phases II & III Community Center Association since April 17, 2006.

Investigator Clanton sent a follow-up email to Lehr on March 31, 2010, asking Lehr to explain why the Small Claims Complaints filed in the EMJC failed to include her and AAM's name, title and certification numbers as required by ACJA § 7-208(F)(3). On March 31, 2010, Lehr responded by stating:

> I did not list my name nor my certificate on the documents because I did not prepare the documents. The documents that were filled out by AAM staff were created by the courts and are standardized court document forms from the courts website. Since I am no longer employed by AAM effective January 2010, and do not have access to those documents, I therefore can not (sic) remember if AAM's name was indeed listed on the document along with the HOA's name and you will need to inquire to AAM for your answer.

On April 12, 2010, the Division received a written response provided by Fisk on behalf of AAM regarding Investigator Clanton's inquiry for additional documents sent on March 26, 2010. AAM was asked to provide a copy of AAM's "Revised Collection Policy for Small Claims Services" and a copy of the contract entered into between AAM with Palm Valley Community Center Association for small claims services during 2009. Fisk provided a copy of the Homeowners Community Management Agreement ("Agreement") between AAM and Palm Valley. Investigator Clanton reviewed the signed Agreement between AAM and Palm Valley. The Agreement, signed by the Palm Valley president and the AAM COO, identifies numerous services AAM would provide

to Palm Valley and the related fees for AAM's management services. Of the services agreed up, paragraph 2.4 of the Agreement provides AAM will fulfill the following:

> Assessment Billing:
> To notify all unit owners of the Association of their respective assessments and common charges, as scheduled, imposed by the Association; to take all reasonable steps, other than legal, to collect and deliver the Association all assessments and common charges including the delivery of delinquency notices provided, however, Agent [AAM] shall not have the final responsibility for the collection of any delinquent assessment, common charge or other charges. [Emphasis added]

Paragraph 2.13 of the Agreement provides AAM will fulfill the following:

> Interaction with Legal Counsel:
> Agent [AAM] is not authorized to practice law. If Agent deems legal assistance necessary for any reason, including but not limited to collections, Agent shall obtain such assistance from counsel approved by Association, and approval of the selection of counsel shall not be unreasonably withheld. Any legal action undertaken shall be in the Association's name only. All legal fees, costs and expenses shall be the responsibility of the Association and from Association's funds. [Emphasis added]

Paragraph 3.8 of the Agreement provides Palm Valley will fulfill the following:

> Designated Representative:
> To designate one individual representative and an alternate who shall be authorized to conduct the business of Association with Agent on any matter relating to the management of Association and, in the absence of such designation by Association, the President of Association may be regarding by Agent as having such authority.

Paragraph 4.10 of the Agreement provides Palm Valley will fulfill the following:

> Demand Fee:
> Association [Palm Valley] hereby acknowledges that Agent charges a fee in accordance with pricing contained in Exhibit A of this Agreement for demand letters to compensate for administrative expenses associated with the collection of delinquent homeowner assessments. Agent will collect the demand letter fee from the Association upon preparation of the letter. The demand letter fee will be posted to owner's account. Upon collection of the fee, Association will be reimbursed by owner for expense.

Paragraph 4.11 of the Agreement provides Palm Valley will fulfill the following:

> Lien fee:
> Association hereby acknowledges that Agent charges a lien fee in accordance with pricing contained in Exhibit A of this Agreement to compensate for administrative expenses associated upon creation of the lien. Agent will then pay the cost of

recording the lien from Agent's funds. Lien fee will be posted to owner's account. Upon collection of lien fee, Association will be reimbursed by owner for expense.

Investigator Clanton reviewed the Exhibit A Scope of Services statement which begins on page 9 of the Agreement. Page 11 identifies "Owner-Miscellaneous Costs" in part as:

> The following collection fees would be the responsibility of the owner [emphasis included], (billed to the Association, and reimbursed by the owner upon collection of the fees):
>
> - Demand letters - $45.00
> - Lien fees - $150.00 (including all applicable filing fees)

On April 22, 2010, Investigator Clanton sent a letter to Fisk notifying Fisk and AAM of the additional allegations derived from the investigation of the complaint; allegations 3 and 4. Investigator Clanton's letter requested AAM submit a written response to the additional allegations by May 13, 2010. Division records demonstrate Fisk's office received the letter on April 24, 2010.

On July 13, 2010, Investigator Clanton sent a letter to Fisk inquiring about the lack of response from AAM regarding the additional allegations. The follow-up letter asked Fisk to respond within ten days of receipt of the letter. Division records demonstrate the letter was received by Fisk on July 14, 2010.

On July 15, 2010, Investigator Clanton sent a letter to Fisk requesting copies of demand letters AAM sent to homeowner Christina Rodriguez on behalf of Palm Valley II and III. Fisk was asked to provide the requested documents within ten days of receipt of the letter. In a letter dated July 22, 2010, Fisk requested an extension until August 2, 2010, to provide a written response to letters from Investigator Clanton dated July 13, 2010, and July 15, 2010. Fisk's extension request was granted.

On August 3, 2010, Investigator Clanton received two separate letters from Fisk in response to the earlier letters requesting additional information.

In a three page letter received from Fisk, regarding the request for copies of the demand letters AAM sent to homeowner Christina Rodriguez on behalf of Palm Valley II and III, Fisk asserted AAM objected to the request "because it exceeds the scope of Complaint No. 09-L094." Fisk noted AAM further objected to the additional allegations because Investigator Clanton's April 22, 2010 letter informing AAM of the additional allegations derived from the investigation did not address actions that AAM "may have taken on behalf of Palm Valley 2 & 3 regarding Christina Rodriguez' past due accounts from 2006-2009." Fisk added, "If any other complaint has been made against AAM, the company has a due process right to be informed of that complaint to allow AAM to properly respond to the exact issue being raised." Notwithstanding the objections raised, Fisk reported AAM did not retain copies of demand letters it sent.

Fisk cited the State Bar of Arizona UPL Advisory Committee Opinion 04-02 regarding a property management company preparing demand letters. Fisk offered the following analysis of the Opinion:

> Rule 31 (c) (19) [of the Rules of the Supreme Court of Arizona] provides: "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.
>
> 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) 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 of 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).

Fisk concluded:

> AAM has a contract with Palm Valley 2 & 3, giving it broad responsibilities regarding the management of the community. Accordingly, AAM would be authorized to prepare demand letters incidental to the management of the property, just as the community would be allowed to do.

Investigator Clanton reviewed the State Bar UPL Advisory Committee Opinion 04-02. Fisk's response failed to note the Opinion does not address or otherwise assert a certified legal document preparer can act in a representative capacity by signing a legal document on behalf of a third party property management or HOA customer. The Opinion specifically addresses the preparation of legal documents by management companies. In the Opinion, the State Bar UPL Advisory Committee addressed the question "May a property management company represent owners or homeowners' associations in mediations?" The Opinion reads:

> No, representation in mediations is specifically identified as the practice of law and there are no applicable exceptions for property management companies, even if the individual performing the work is a certified legal document preparer.
>
> Although a property management company may not represent owners or a homeowners' association in a mediation, a property management company may certainly participate with the owners or the association representatives in a mediation,

and may provide information and assistance to the owners or the homeowners' association in the mediation.

In the second six page letter received from Fisk on August 3, 2010, regarding the additional allegations derived from the investigation, Fisk offered "Procedural Background" and "Legal Argument" statements detailing why she believed the proper steps for a director initiated complaint were not followed with this complaint. No portion of the six page letter actually addresses the additional allegations.

Investigator Clanton reviewed AAM's website and the AAM's organizational limited liability company structure. Investigator Clanton determined AAMs officers are President Amanda Shaw, Chief Executive Officer Laura Ziff, Executive Vice President and Chief Financial Officer Kevin Debolske, Executive Vice President of Operations/Human Resources Nancy Larson, Executive Vice President and Chief Operations Officer Ercell Sherman, Vice President of Community Management Susan Platner, Vice President of Information Technology Scott Swanson, Partner Joel Kramer, Vice President of Customer Service Vicki Sears, Vice President of Business Development Kim Olsen, Vice President of East Valley Operations Carla Helmstadter, Vice President of On Site Operations Kevin Hearty, Vice President of West Valley Operations Kathy Johnson. Investigator Clanton conducted a query of the Arizona Corporation Commission ("ACC") website for Palm Valley Community Center Association Inc., Palm Valley Phases II and III Community Association, Anthem Community Council and Anthem Country Club. No AAM officers or partners are appointed officers of the Associations. ACC records reflect AAM CEO Laura Ziff is the Statutory Agent for these HOAs. ACC records contain AAM's corporate mailing address as the address of record for all of the Associations.

RELATED ITEM:

In a Consent Agreement entered by AAM employee Martin and the Board of Legal Document Preparers filed on March 11, 2010, the formal disciplinary action against Martin in complaint number 09-L027 was resolved by Martin acknowledging the conduct alleged and agreeing she would not list herself as an "authorized representative" on documents she prepares in her capacity as a certified legal document preparer. Through the Consent Agreement, the Board issued and Martin accepted a Censure, mandated participation in no less than three additional hours of continuing education, and a civil penalty in the amount of $250.00.

SUBMITTED BY:

Karla Clanton 10/15/10

Karla Clanton, Investigator Date
Certification and Licensing Division

ARIZONA SUPREME COURT
ADMINISTRATIVE OFFICE OF THE COURTS
ALLEGATION ANALYSIS REPORT and PROBABLE CAUSE EVALUATION and DECISION

CERTIFICATE HOLDER INFORMATION	**Certificate Holder:**	Tiffany Lehr
	Certification Number:	80900
	Business Name:	AAM, LLC
	Certificate Number:	80511
	Type of Certificate/License:	Legal Document Preparer
INVESTIGATION INFORMATION	**Complaint Number:**	09-L094
	Investigator:	Karla Clanton

ANALYSIS OF ALLEGATIONS:

Allegation 1. AAM, LLC ("AAM") engaged in the unauthorized practice of law by contracting with third parties to establish authority to act in a representative capacity on behalf of third parties in lien related legal matters.

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 definition 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, or signing document for or on behalf of a consumer. 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...

AAM's attorney, Ronda Fisk ("Fisk"), asserted AAM was acting in a representative capacity on behalf of their HOA customers based on the contractual authorities granted to AAM by the HOA's. This fails to account for or consider the limitations placed on certified legal document preparers by Rule 31, ACJA § 7-201 and ACJA § 7-208. Additionally, it also appears to contradict the provisions of the "Homeowners Community Management Agreement" ("Agreement") entered into by AAM and Palm Valley HOA provided during the investigation. The Agreement specifically

acknowledges AAM is not authorized to practice law and requires the HOA to establish an authorized "Designated Representative" of the HOA to conduct the business of the HOA with AAM. In this matter, AAM designated itself and its employees as that representative.

Fisk also offered AAM's providing representative services to the HOA's is permissible for certified legal document preparers based on "agency law"; that the HOA's authority to engage in self-representation is transferrable. 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.

Fisk's application of theory of "agency law" is supported by the argument that AAM and its certified and non-certified employees can act in a representative capacity on behalf of their HOA customers under the Rule 31 (d)(3) or (d)(20) exceptions to the unauthorized practice of law definition. This application of the exceptions is not equitable or applicable. 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.

The Rule 31 (d)(20) exception is not applicable because AAM and its employees are contracting to, preparing and making legal documents available to its third party HOA customers.

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 AAM 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 AAM by the HOA's was specifically for collections purposes.

No provision of court rule, ACJA, or law authorizes AAM or its employees to act in a representative capacity on behalf of any individual or entity. During the investigation numerous recorded lien documents were obtained identifying AAM and AAM employees as "Authorized Representatives" of their HOA customers. A review of Arizona Corporation Commission ("ACC") records for the various HOA's reflect AAM's CEO

Laura Ziff is the Statutory Agent for several of AAM's HOA customers, no officer or partner of AAM are appointed as officers of the HOA's. As noted, they are providing lien preparation services to the third party HOAs. Rule 31(d)(20) is not an applicable exception. ACC records for the HOAs provide AAM's address as the ACC address of record for the HOAs as well as the HOA corporate officers. The recorded lien document underlying the complaint also provides the AAM business address in lieu of the HOAs' address.

The State Bar of Arizona Unauthorized Practice of Law Advisory Committee (non-binding) Opinion number 04-02, entitled "Property Management Companies", does acknowledge that certified legal document preparers may prepare and record lien related documents for third party consumers. Nothing in the Advisory Committee Opinion asserts a certified legal document preparer can sign for or otherwise act in a representative capacity on behalf of a third party.

Justice Court records reflect AAM and its non-certified employees filed civil actions in an attempt to collect assessments and fees on behalf of the HOA's. The filed civil actions identified AAM as a co-plaintiff in the various matters, despite AAM not being a party in the collections action. Listing AAM as a plaintiff in the civil collections actions appears to have resulted in non-certified, non-attorney AAM employees appearing in court on behalf of the HOA's. As noted above, this conduct is prohibited pursuant to ACJA § 7-201(F)(1) and ACJA § 7-208(F)(2) and (J)(5)(b). Further, it also contradicts the language contained in the "Homeowners Community Management Agreement" which specifies, "Any legal action undertaken shall be in the Association's name only."

No provision or court rule of ACJA authorizes AAM or its employees to sign documents on behalf of or serve as "Authorized Representatives" for their customers. No provision of court rule or ACJA authorizes an individual or business entity to establish the authority to practice law in Arizona pursuant to contractual agreement. The exceptions to the unauthorized practice of law definition in Rule 31, the State Bar Unauthorized Practice of Law Committee's non-binding opinion regarding property management services, the application of "agency law", and the stated authorities and prohibitions contained in ACJA regarding legal document preparers do not provide a platform for AAM, its employees or any other certified legal document preparer to act in a representative capacity. Similarly, no such authority is conferred to AAM because its Chief Executive Officer is the named Statutory Agent for the HOA. Therefore, Allegation 1 is substantiated.

Allegation 2. AAM directed certified legal document preparer employee Alenda Martin ("Martin") to sign a Notice of Claim of Lien as the Authorized Representative for AAM customer Anthem Council, exceeding the scope and authority of a certified legal document preparer.

During the investigation of and related disciplinary proceedings in complaint number 09-L027 involving AAM employee and certified legal document preparer Martin, attorney Fisk, who represented Martin in the action and presently represents AAM in this complaint, acknowledged Martin's responsibilities as an AAM employee included

preparing liens related documents for AAM's Homeowner's Association ("HOA") customers, and specifically, for Anthem Council. As with this complaint, Fisk asserted AAM hold authority to prepare and record lien related documents by way of contractual agreement with the HOA. There is no dispute a certified legal document preparer is authorized to prepare and file/record documents on behalf of a consumer. However, certified legal document preparers are prohibited from acting in a representative capacity for a third party consumer. No provision of court rule or ACJA governing legal document preparers permits a certificate holder to supersede their obligations or expand their stated authorities by or through contract with a consumer. In complaint number 09-L027, Martin, as an employee of AAM and at AAM's direction, signed a Notice of Lien as the "Authorized Representative" of the HOA. Similarly, no such authority is conferred to AAM because its Chief Executive Officer is the named Statutory Agent for the HOA. Therefore, Allegation 2 is substantiated.

Allegation 3. AAM engaged in the unauthorized practice of law by offering recommendations on possible legal remedies, options and strategies through newsletters posted on AAM's website for Homeowners Associations ("HOAs") customers.

ACJA § 7-208(F)(1)(b) provides a certified legal document preparer is authorized to:

> 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) reads:

> 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, except as authorized in Rule 31(d), Rules of the Supreme Court. A legal document preparer shall not attend court with a consumer for the purpose of assisting the consumer in the court proceeding, unless otherwise ordered by the court.

ACJA § 7-208(J)(5)(c) states:

> 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....

In offering collections related legal services to HOA customers and prospective customers, AAM President Amanda Shaw ("Shaw") expressed legal opinions and offered recommendations regarding potential legal options, remedies and strategies in several newsletters published on AAM's website. Specifically, in the January 2008 newsletter, Shaw articulated two options available to HOA Boards in response to the question, "How can a Board take action on behalf of its Association?" The June 2008 newsletter made recommendations and offered strategies and options regarding HOA collections policies. The May 2009 newsletter asserted AAM's "Small Claims Court service" could file a

claim "on behalf of" an HOA, obtain judgments for unpaid assessments, and coordinate payment plans if the homeowner contacted AAM after being served with a court action. The November 2009 newsletter, touting the success of the small claims court services, spotlighted the composition and efforts of the AAM Small Claims Department and stated, "Staffers also work with homeowners to set up payment plans and attend small claims hearings." In this edition, Shaw offers AAM will provide a "revised" collections policy and Board resolution for review and approval by HOA Board's interested in engaging the AAM small claims court service to ensure the collection policy notes the HOA Board "...may be utilizing Small Claims Court action to pursue delinquent accounts after the lien is recorded."

Therefore, Allegations 3 is substantiated.

Allegation 4. Tiffany Lehr ("Lehr") failed to fulfill her responsibilities as designated principal to ensure AAM 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(F)(3) reads:

> Identification. 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 nonjudicial agency or entity. The legal document preparer shall also provide their name, title and certificate number to any person upon request.

Lehr acknowledged she supervised AAM employees and reviewed the small claims complaints they prepared for AAM's HOA customers. Lehr denied signing any of the small claims documents and acknowledged because she did not prepare the documents, she did not place her name, title and certification number on the legal documents. Lehr could not recall whether the small claims complaints contained AAM business name, title, and certification number. Court records reflect they did not. Lehr acknowledged being aware of AAM employees appearing and representing the HOA customers in small claims actions. Lehr permitted certified and non-certified, and non-attorney AAM employees to sign lien documents, list AAM as a co-plaintiff on small claims complaints and appear in court on behalf of the HOA customers. As the designated principal, Lehr has a proactive personal professional responsibility to ensure all staff acting on behalf of AAM complied with all laws, rules and ACJA sections applicable to legal document preparers. Therefore Allegation 4 is substantiated.

SUBMITTED BY:

10/19/10

Linda Grau, Unit Manager Date
Certification and Licensing Division

REFERRAL TO PROBABLE CAUSE EVALUATOR:
The Investigation Summary and Allegation Analysis Report on complaint number 09-L094 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:

10/19/10

Emily Holliday, Acting Division Director Date
Certification and Licensing Division

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 09-L094, 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: _____

[X] determines probable cause exists the certificate holder committed the alleged acts of misconduct as to: Allegations #1, 2, 3 & 4.

1/5/11

Mike Baumstark Date
Probable Cause Evaluator

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

CERTIFICATE HOLDER INFORMATION	**Certificate Holder:**	Tiffany Lehr
	Certificate Number:	80900
	Business Name:	AAM, LLC
	Certificate Number:	80511

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 Tiffany Lehr ("Lehr") and AAM, LLC committed the alleged acts of misconduct detailed in the Investigation Summary and Allegation Analysis Report in complaint number 09-L094.

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)(d), (H)(6)(k)(3) and (H)(6)(k)(9) for acts of misconduct involving Arizona Supreme Court Rule 31 (a)(2)(B), ACJA § 7-201(F)(1), ACJA § 7-208(F)(1)(b), (F)(2), (F)(6)(c), (J)(5)(b) and (J)(5)(c).

It is further recommended the Board consolidate this complaint with any pending complaints involving AAM where the Board has separately determined grounds for formal disciplinary action exists.

Mitigating Factors:

1. Absence of prior discipline. This is the first complaint involving AAM or Lehr. [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 Lehr and AAM, LLC 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 Lehr and AAM, LLC 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 Lehr, pursuant to ACJA § 7-201(H)(24)(a)(6)(b);
b) Order Lehr 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 AAM, LLC, pursuant to ACJA § 7-201(H)(24)(a)(6)(b);
d) Place AAM, LLC on probation for a period of not less than one year pursuant to ACJA § 7-201(H)(24)(a)(6)(e) with the following conditions:
    i. AAM, LLC 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 and the removal of publically published advertising and solicitation materials, 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, AAM, LLC shall develop and implement policies and procedures necessary to ensure no member of the AAM staff, its officers, or any others acting on behalf of the business entity are not 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. AAM, LLC and its named designated principal shall submit to the Division an updated and comprehensive list of any and all individuals providing legal document preparation services on behalf of the 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) AAM, LLC 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 60 days following entry of the Board's Final Order, pursuant to ACJA § 7-201(H)(24)(a)(6)(j).

f) AAM, LLC 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 Lehr and AAM 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 1/6/11

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 09-L094 and Lehr, certificate number 80900, and AAM, LLC, certificate number 80511, 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: _____

[X] adopts the recommendations of the Division Director.

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

_____

_____

_____

_____

Les Krambeal 01.24.11

Les Krambeal, Chair Date
Board of Legal Document Preparers

Y:\COMPLAINT INVESTIGATIONS\OPEN COMPLAINTS\LDP AAM LLC 09-L094\Case Summary AAM 09-L094.docx

BOARD OF LEGAL DOCUMENT PREPARERS

Agenda Summary - Monday, April 25, 2011

2-F: Review, discussion and possible action regarding non-certificate holder complaints:

Complaint Number NC08-L030 – Jan Rust and Rust & Associates
Complaint Number NC10-L054 – Jan Rust and Rust & Associates
Complaint Number NC11-L017 – Camerin Hawthorne and The Bankruptcy Store
Complaint Number NC11-L012 – Paul Noseworthy and Marathon Legal Forms & Services, LLC
Complaint Number NC11-L018 – Ken Volk and Arizona Tenant Advocates

Complaint Number NC08-L030 – Jan Rust and Rust & Associates,
Complaint Number NC10-L054 – Jan Rust and Rust & Associates:
Division records reflect Ms. Rust held active legal document preparer certification from July 1, 2004 through October 16, 2006. Ms. Rust and her business entity, Rust and Associates, were denied 2006-07 renewal. Ms. Rust requested and received a hearing on the denial of her renewal applications. On October 16, 2006, the Board reviewed the Hearing Officer's recommendation report and affirmed the denial of renewal of Ms. Rust's individual and business entity certifications. Division records reflect Ms. Rust received notice of the denials being affirmed.

On July 18, 2007, Ms. Rust reapplied for individual certification and her application was denied. Ms. Rust requested and received a hearing on the denial. On April 21, 2008, the Board reviewed the Hearing Officer's recommendation report and affirmed the earlier denial. Division records reflect Ms. Rust received notice of the denial being affirmed.

On July 21, 2008, the Board reviewed and considered non-certificate complaint number NC08-L030 and entered an order requesting the Arizona Attorney General's Office file a Petition for Cease and Desist Order in the Superior Court. The Petition has not yet been filed.

On December 2, 2010, the Division received a complaint forwarded from the State Bar of Arizona submitted by a consumer who alleged and provide documentation which demonstrates Ms. Rust offered to and provided legal document preparation service without certification.

ACJA § 7-201(E)(6) states:

> Cease and Desist Order. The board, upon completion of an investigation or disciplinary proceeding, may issue a cease and desist order pursuant to subsection (H)(24)(a)(6)(g). A hearing officer or a superior court judge, upon petition by the board, may enter an order for an individual or business entity to immediately cease and desist conduct constituting engagement in the practice of the profession or occupation without the required certification.

ACJA § 7-208(E)(1) provides:

Necessity. A person or qualified business entity shall not represent they are a certified legal document preparer, or are authorized to prepare legal documents, without holding valid certification pursuant to this section.

Therefore, it is recommended the Board move to include complaint number NC10-L054 in the previously ordered Superior Court Petition for Cease and Desist Order involving Ms. Rust and Rust & Associates. It is further recommended that if the Board determines to pursue a Superior Court action, that the Board request the Petition include a request the Superior Court order any applicable consumer reimbursements and assess costs.

Complaint Number NC11-L017 – Camerin Hawthorne and The Bankruptcy Store

On November 22, 2010, the Board considered and denied Mr. Hawthorne's application for individual certification. Division records reflect Mr. Hawthorne received notice of the denial. A review of the certification application reflects no reference to The Bankruptcy Store.

On March 31, 2011, the Division received a complaint from the Consumer Litigation Unit of the Attorney General's Office which alleged and provided documentation demonstrating Mr. Hawthorne is offering services and claiming to be an Arizona Supreme Court certified legal document preparer. The documentation received involves printouts of information contained on the website www.thebkstore.com. Available online search engines reflect Mr. Hawthrone is the owner/registrant of the www.thrbkstore.com domain name.

The "home" page of the website asserts, "The Bankruptcy Store is a certified by the Arizona Supreme Court as a legal document preparation entity." Division records reflect The Bankruptcy Store has never applied for or been granted certification. The "Background" tab of the biographical posting for Mr. Hawthorne which identifies him as a "Sr. Partner" provides information about his educational background, lists "Arizona Supreme Court CLDP" under the heading "Professional Associations and Memberships", and contains a header which reads, "CLDP Bar Admissions" that lists "Arizona, 2010" and "U.S. Federal Court, 2010".

It is recommended the Board move to petition the Superior Court for a Cease and Desist Order against Mr. Hawthorne and The Bankruptcy Store pursuant to ACJA § 7-201(E)(6) and ACJA § 7-208(E)(1). It is further recommended that if the Board determines to pursue a Superior Court action, that the Board request the Petition include a request the Superior Court order any applicable consumer reimbursements and assess costs.

Complaint Number NC11-L012 – Paul Noseworthy and Marathon Legal Forms & Services, LLC

On February 28, 2011, the Board reviewed and denied Mr. Noseworthy's application for individual legal document preparer certification. Division records reflect Mr. Noseworthy received notice of the denial.

On March 1, 2011, the Division received a complaint which alleged and provided documentation demonstrating Mr. Noseworthy is offering services and claiming to be an Arizona Supreme Court certified legal document preparer. The forwarded documentation included a copy of a

printout from the www.marathonlegaldocuments.com website that specifically identifies Mr. Noseworthy as an "Arizona certified legal document preparer and Arizona Licensed fiduciary." The website also asserts Mr. Noseworthy will prepare documents, explain them, notarize the documents, and arrange for courier service for filing with the Superior Court. [Note: Division records reflect Mr. Noseworthy has also been denied a fiduciary license. This issue will be considered by the Fiduciary Board at their next regularly scheduled meeting.]

On March 11, 2011, the attached letter was sent to Mr. Noseworthy noting the earlier denial of his certification application and reflecting the Division's receipt of the complaint. On March 24, 2011, the Division received the attached written response from Mr. Noseworthy dated March 22, 2011. In the letter, Mr. Noseworthy states:

> I will hereby refrain from any such action in the future until certification is obtained as I was not intentionally skirting statutes. I do not feel as if I violated the sanctity of the statutes regarding Practicing Law or even providing Legal document preparer services to individuals. I will also pull the website down even though it not active at the current time...

As of the drafting of this summary on April 11, 2011, the website continues to contain the incorrect language identifying Mr. Noseworthy as an Arizona Supreme Court certified legal document preparer and licensed fiduciary. It is recommended the Board move to petition the Superior Court for a Cease and Desist Order against Mr. Noseworthy and Marathon Legal Forms & Services, LLC pursuant to ACJA § 7-201(E)(6) and ACJA § 7-208(E)(1). It is further recommended that if the Board determines to pursue a Superior Court action, that the Board request the Petition include a request the Superior Court order any applicable consumer reimbursements and assess costs.

Complaint Number NC11-L018 – Ken Volk and Arizona Tenant Advocates:

On November 24, 2010, the Board issued the attached Final Order revoking the individual certification of Ken Volk. The formal disciplinary matter underlying the Final Order addressed unauthorized practice of law violations involving Mr. Volk and his non-certified business entity. The Final Order included a Cease and Desist Order that enjoined Mr. Volk from preparing legal documents, representing to the public he is a certified legal document preparer or otherwise authorized to prepare legal documents, and from engaging in any activities that constitute the unauthorized practice of law.

Prior to the Final Order being entered, Mr. Volk and the business entity maintained weekly "Break Yer Lease Legally" advertisements offering various landlord-tenant related services. During the course of the formal disciplinary action, the ads were discontinued. A copy of the April 29, 2010 ad is attached.

The April 7, 2011 Phoenix New Times contains a similar ad offering the same services and presenting the same contact information. Also attached are online database printouts from the Arizona Secretary of State and the Arizona Corporation Commission which confirm Arizona Tenants Advocates, Arizona Tenants Association and Arizona Tenants Advocates, Inc. are Mr. Volk.

It is recommended the Board move for filing of a Superior Court Petition for Cease and Desist Order against Mr. Volk, Arizona Tenants Advocates, Arizona Tenants Association and Arizona Tenants Advocates, Inc. 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 Board request the Petition include a request the Superior Court order any applicable consumer reimbursements and assess costs.

Complaint Numbers
NC08-L030 and NC10-L054

Jan Rust and Rust & Associates

RUST AND ASSOCIATES, LLC
JAN C RUST

Horned Toad, LLC
Maria Mabry

October 27, 2008

Dear Ms. Mabry,

This is a recap of our agreement for Rust and Associates, LLC (Jan C. Rust) to prepare 3 Judicial Foreclosures. The fee for this service 900.00 plus costs. Costs include copying, filing fees, recording fees and service. Additional services or documents will be billed separately

You understand that Rust and Associates is acting as a **legal document preparer** and is not an attorney and therefore cannot give legal advice or represent you in court. You understand neither Rust and Associates nor Jan C. Rust can predict the outcome.

You agree to cooperate fully with Rust and Associates and Jan C. Rust in order to get the documents prepared and you understand that if there is a hearing on the matter that you will be expected to attend.

Either party has the right to cancel the contract at any time, but any work that has been performed will be billed on a pro rata. Any outstanding amounts will be sent to collections at your expense.

All fees are due within 30 days of billing and a non-refundable amount of 900.00 is due at time of signing this contract.

I, Mary Herren Mabry, understand the terms of this agreement and the amounts due.

_____ 10/27/08
Date

_____ _____
Date

Received by _____ _____
Jan C. Rust Date

Amount Received: $

Complaint Number
NC11-L017

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Bankruptcy should not be a reprehensible experience nor should it be perceived as a desperate situation but repeating this view around others, especially those in the financial world, might be seen as little more than a sarcastic remark. Fiscal defeat and the fear of living in severe infamy are just a few of the reasons why bankrupt individuals hide their financial condition. However, the moment that chief pecuniary move has been deemed necessary it is common for a debtor to enter that beaten emotional mindset. With the wrath of worldwide recession looming overhead more and more alternatives for legal backing and the services of a bankruptcy attorney become valued. All it takes for those who are in knee-deep debt is to carry on their stride until they arrive at professional legal help that provides the perfect option

The Bankruptcy Store
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Phoenix, AZ 85004

Call: (602) 254-2235

Welcome To The Bankruptcy Store

The Bankruptcy Store™ is devoted to putting the law back into the hands of the people. Due to the economic conditions, more and more consumers are unable to afford high-priced attorney fees. Legal document preparers help consumers represent consumers in legal matters by preparing the necessary legal documents to Court standards on behalf of clients.

The Bankruptcy Store™ is certified by the Arizona Supreme Court as a legal document preparation entity. Pursuant to the Arizona Code of Judicial Administration § 7-208, we are authorized to prepare or provide legal documents for an entity or person who is not represented by an attorney. Although we may provide general legal and factual information, we cannot provide any kind of specific advice, opinion or recommendation to a consumer about possible legal rights, remedies, defenses, options or strategies.

We believe that, while a bankruptcy, divorce, immigration, child support situation may not be friendly, it can still be polite. A hostile bankruptcy, divorce, immigration, child support situation is damaging to families, children and bank accounts. Financially, you always end up with less in a bankruptcy, divorce, immigration, child support circumstance than you started with. You don't need a huge legal expense on top of that. Why not save what money you have left after the bankruptcy, divorce, immigration, and child support situation for yourself or your children?

Hire A Legal Document Preparer

Camerin Hawthorne

Camerin created The Bankruptcy Store due to the problems he seen his client going through financially. Prior to his current company he founded Metropolis Loans, a leading strategy and mortgage consulting firm based out of Phoenix, AZ but with offices worldwide.

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Where we strive to turn "justice for all" into reality. The primarily goal of our business is to provide the Arizona's residents with affordable alternative to the traditional judicial access which seems to have become inaccessible to many who cannot afford the cost. Although we currently offer assistant only with Immigration . . .

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Allowing Fresh Monetary Start Through Legal And Debt Responsibility Discharge

Bankruptcy should not be a reprehensible experience nor should it be perceived as a desperate situation but repeating this view around others, especially those in the financial world, might be seen as little more than a sarcastic remark. Fiscal defeat and the fear of living in severe infamy are just a few of the reasons why bankrupt individuals hide their financial condition. However, the moment that chief pecuniary move has been deemed necessary it is common for a debtor to enter that beaten emotional mindset. With the wrath of worldwide recession looming overhead more and more alternatives for legal backing and the services of a bankruptcy attorney become valued. All it takes for those who are in knee-deep debt is to carry on their stride until they arrive at professional legal

Camerin Hawthorne

Sr. Partner

Education:
- Grand Canyon State Univeristy, Phoenix, Arizona, 1999
- Masters Program, Master of Business Administration/ Innovation Leadership.
- Western International University 2006
- B.A., Arizona State University, Tempe, Arizona, 2004

Professional Associations and Memberships:
- Arizona Supreme Court CLDP
- National Federation of Independent Business
- Better Business Bureau
- National Teen Leadership Program

Areas Of Practice:
- Business, Commercial, Residential Law
- Business Organizations
- Estate Planning
- Probate & Estate Administration
- Commercial Modifications
- Taxation Negotiation
- Residential Modifications
- Automobile Modifications

CLDP Bar Admissions:
Arizona, 2010
U.S. Federal Court, 2010

The Bankruptcy Store
2323 N. 3rd Street, Suite 202
Phoenix, AZ 85004

Call: (602) 254-2235

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Complaint Number
NC11-L012

Paul Noseworthy and Marathon Legal
Forms & Services, LLC

To Whom It May Concern,

22 March 2011

I apologize if there seems to be any inconsistency or even remotely representing myself as being a certified "Legal Document preparer or Licensed Fiduciary". I developed my web site as a preliminary action for when I actually received my certification for Legal Document Preparer and Fiduciary license. The Web site is not linked to any search engines and is basically a ghost site right now. There was no malfeasance intended. I have not acted in bad faith regarding legal documentation. I have not prepared legal documents with the intent of profiting or even provided any legal advice on any matters where an attorney would be better suited to handle a situation. A friend of mine requested that I help him with some elderly patient's affairs and one other individual who required financial handling assistance after they became incapacitated. I provided generic forms downloaded from internet sites which are available to all public entities. I did not provide any services for profit in regards to legal affairs. I helped individuals with financial assistance with their affairs when requested. My only charges to these individuals was for bookkeeping and recording of all accounting of their banking transactions. I have a primary degree in "Logistics Management" as well as a Degree in "Paralegal Studies" from Everest College.

Any forms provided were given to Mr. Eugene Micula (3) at no cost and he brought these forms to the individuals. I will hereby refrain from any such action in the future until certification is obtained as I was not intentionally skirting the statutes. I do not feel as if I violated the sanctity of the statutes regarding Practicing Law or even providing Legal document preparer services to individuals. I will also pull the web site down even though it is not active at the current time...

Please feel free to call me at if you have any questions or need clarification of any items. I can assure you that my intent was not to mock or even to cause any conflict with my actions.

Thank you,

Sincerely,

Paul R, Noseworthy

ARIZONA MARATHON LEGAL FORMS AND SERVICES

FAMILY LAW FORMS, NOTARY SERVICES, FIDUCIARY SERVICES

Staff

Marathon Legal Documents and Services providing low cost document preparation with expedient and efficient delivery.

Paul Noseworthy, Arizona Certified Legal Document Preparer and Arizona Licensed fiduciary. Graduated Everest College in October, 2005 with a degree in Paralegal Studies.

Maritza Noseworthy, Se Habla Espanol.

Marathon Legal
Forms and Services
Surprise Arizona
623-208-9044
FAX623-240-9120
Marathonlegal@hotma

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Website Builder

1 LSX

ARIZONA MARATHON LEGAL FORMS AND SERVICES

FAMILY LAW FORMS, NOTARY SERVICES, FIDUCIARY SERVICES

Home Page

My name is Paul R. Noseworthy and am the sole proprietor of Marathon Legal Documents and Services. My main goal is to provide low cost document preparation while still providing expediency and efficiency to all customers. My normal business hours are from 9:00 AM to 6:00 PM Monday through Friday and I will come to you if transportation presents a problem. I do make exceptions and schedule weekend appointments as well.

I received a Paralegal Studies degree from Everest College, Phoenix Arizona in 2005. I have since provided documents in the areas of Family Law (Divorce, Custody, Parenting Time), Bankruptcies, and also for Wills and Trusts as well. I also prepare small claims forms and other forms required for civil matters on an as required basis.

I prepare your documents, explain them to you, notarize them for you when you sign and then I provide the courier service for the filing of documents in the Superior Court. This is all included in the preparation cost of the documents. The only other cost you will pay is the court filing fees as deemed by the type of documents being filed.

If you have any questions, or need more information on procedural instructions, please feel free to call me at 623-208-9044 or email me with any questions at : marathonlegal@hotmail.com.

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Complaint Number
NC11-L018

Ken Volk and Arizona Tenants Advocates, et al.

April 29, 2010:

April 7, 2011:

FILED

NOV 24 2010

DISCIPLINARY CLERK OF THE SUPREME COURT OF ARIZONA
BY

SUPREME COURT OF ARIZONA
BOARD OF LEGAL DOCUMENT PREPARERS

IN THE MATTER OF CERTIFIED LEGAL DOCUMENT PREPARER: **KEN VOLK,** Certificate Number 80845	No. LDP-NFC-06-L079 LDP-NFC-06-L098 LDP-NFC-06-L118 LDP-NFC-07-L011 **FINAL ORDER** **CEASE and DESIST ORDER**

JURISDICTION

Pursuant to Arizona Codes of Judicial Administration ("ACJA") § 7-201 and § 7-208 adopted by Arizona Supreme Court, the Board of Legal Document Preparers ("Board") served Notice of Formal Statement of Charges and Right to Hearing to Ken Volk ("Volk") on November 6, 2009. The Board has jurisdiction over this matter as Volk became certified as an individual legal document preparer effective December 19, 2005. Volk's individual certification has been renewed without interruption and Volk applied for renewal of his individual certification for the 2009-2011 certification period. Volk's 2009-2011 individual renewal application remains pending Board review.

For the purposes of this Final Order, events and actions referenced which transpired prior to midnight on December 31, 2006 are cited to the versions of ACJA § 7-208 as adopted by Administrative Order 2003-14 and in effect on the referenced dates. Events and actions transpiring or referenced on or after January 1, 2007 are provided pursuant to ACJA § 7-201

and § 7-208 as adopted by Administrative Order Nos. 2006-70 and 2006-75. The formal disciplinary proceedings pertaining to complaint numbers 06-L079, 06-L098, 06-L118 and 07-L011 were combined for the purpose of judicial and administrative economy with the specific intention of reducing costs of the proceedings for both the certificate holder and the Legal Document Preparer Program. Pursuant to ACJA § 7-201(H) and ACJA § 7-208(H), the matters were investigated and Volk was provided an opportunity to respond to the complaints, participate in the investigation of the complaints, file an Answer to the Notice of Formal Statement of Charges, and request a hearing. The Board holds the authority to proceed with this action pursuant to ACJA § 7-201(D)(5)(c).

BACKGROUND FACTS

Complaint Number 06-L079 (Lindsay Calverley)

1. On June 26, 2006, the Division received a written complaint from Calverley involving Volk.

2. On June 28, 2006, the Division sent Volk a letter with a copy of the complaint. The letter informed Volk of the ACJA § 7-208(H)(4)(b) requirement Volk submit a written response to the complaint within ten days. The letter was returned to the Division by the United States Postal Service on July 28, 2006 marked "unclaimed".

3. On August 2, 2006, the Division resent the mailing to Volk. Division records reflect Volk's written response to the complaint was received on August 15, 2006.

4. On October 9, 2009, pursuant to ACJA § 7-201(H)(5)(a)(3), Probable Cause Evaluator Mike Baumstark entered findings that probable cause exists Volk committed the alleged acts of misconduct identified as Allegation 1 of complaint number 06-L079.

5. On October 26, 2009, the Board entered a finding grounds for formal discipline exists in complaint number 06-L079 pursuant to ACJA § 7-201(H)(6)(a), (H)(6)(k)(2) and (H)(6)(k)(3). The particular subsections involved in the alleged misconduct include Arizona Supreme Court Rule 31, ACJA § 7-208(F)(1)(b), (F)(2), and ACJA § 7-208 Appendix A Code of Conduct Standards (5)(a) and (5)(c).

Complaint Number 06-L098 (Joy Aldrich)

6. On August 24, 2006, the Division received a written complaint from Aldrich involving Volk.

7. On August 25, 2006, the Division sent Volk a letter with a copy of the complaint. The letter informed Volk of the ACJA § 7-208(H)(4)(b) requirement Volk submit a written response to the complaint within ten days. Division records reflect Volk received the complaint on September 13, 2006.

8. Volk's written response to the complaint was received on September 27, 2006.

9. On October 2, 2009, pursuant to ACJA § 7-201(H)(5)(a)(3), Probable Cause Evaluator Mike Baumstark entered a finding that probable cause exists Volk committed the alleged act of misconduct in complaint number 06-L098.

10. On October 26, 2009, the Board entered a finding grounds for formal discipline exists in complaint number 06-L098 pursuant to ACJA § 7-201(H)(6)(a), (H)(6)(k)(2) and (H)(6)(k)(3). The particular subsections involved in the alleged misconduct include Arizona Supreme Court Rule 31, ACJA § 7-208(F)(1)(b), (F)(2), Appendix A Code of Conduct Standards (5)(a) and (5)(c).

Complaint Number 06-L118 (Board of Legal Document Preparers)

11. On December 18, 2006, the Board initiated a complaint against Volk pursuant to ACJA § 7-208(H)(2)(a).

12. On December 20, 2006, the Division sent Volk a letter with a copy of the complaint via certified mail. The letter informed Volk of the ACJA § 7-208(H)(4)(b) requirement Volk submit a written response to the complaint within ten days. Volk's written response acknowledged he received the letter and the complaint on December 22, 2006.

13. Division records reflect Volk's response was received on January 9, 2007.

14. On October 26, 2009, the Board entered a finding grounds for formal discipline exists in complaint number 06-L118 pursuant to ACJA § 7-201(H)(6)(a), (H)(6)(k)(2) and (H)(6)(k)(3). The particular subsections involved in the alleged misconduct include Arizona Supreme Court Rule 31(a)(2)(B), ACJA § 7-208(F)(1)(b), (F)(2), and ACJA § 7-208 Appendix A Code of Conduct Standards (1)(a), (1)(d), (2)(c), (5)(a), (5)(b) and (5)(c).

15. On October 9, 2009, pursuant to ACJA § 7-201(H)(5)(a)(3), Probable Cause Evaluator Baumstark entered findings that probable cause exists Volk committed Allegations 1 and 2 of complaint number 06-L118.

Complaint Number 07-L011 (Richard Nichols and Russell Alford)

16. On February 26, 2007, the Division received a written complaint letter from Nichols and Alford involving Volk.

17. On March 6, 2007 and March 15, 2007, the Division sent Volk a letter with a copy of the complaint via certified mail. The letter informed Volk of the ACJA § 7-201(H)(3)(c) requirement Volk submit a written response to the complaint within thirty (30) days. Division records reflect Volk received the mailing on April 5, 2007.

18. On May 7, 2007, Volk submitted a written response to the complaint.

19. On October 9, 2009, pursuant to ACJA § 7-201(H)(5)(a)(3), Probable Cause Evaluator Baumstark entered findings that probable cause exists Volk committed Allegations 1, 3, 5, 6, 7, 8, 10 and 12 of complaint number 07-L011.

20. On October 26, 2009, the Board entered a finding grounds for formal discipline exists in complaint number in 07-L011 pursuant to ACJA § 7-201(H)(6)(a), (H)(6)(g), (H)(6)(k)(2), (H)(6)(k)(3), (H)(6)(k)(7) and (H)(6)(k)(9). The particular subsections involved in the alleged misconduct include Arizona Supreme Court Rule 31(a)(2)(B), ACJA § 7-201(F)(1), ACJA § 7-208(F)(1)(b), (F)(1)(c), (F)(2), (F)(3), (J)(2)(b), Appendix A Code of Conduct Standards (1)(a), (1)(b), (1)(d), (2)(c), (5)(a), (5)(b) and (5)(c).

21. A Notice of Formal Statement of Charges and Right to Hearing in complaint numbers 06-L079, 06-L098, 06-L118 and 07-L011 was filed on November 2, 2009 and served to Volk on November 6, 2009.

22. Volk filed a timely Answer to the Notice of Formal Statement of Charges and requested a hearing. On April 28, 2010 and May 3, 2010, a hearing was held before Hearing Officer Craig Tindall ("Hearing Tindall").

23. On October 29, 2010, Hearing Officer Tindall filed Findings of Fact, Conclusions of Law and Recommendations [Exhibit A] in this matter. On November 22, 2010, the Board reviewed and considered Hearing Officer Tindall's recommendation report.

FINDINGS OF FACTS

On November 22, 2010, the Board adopted the Findings of Fact contained in Hearing Officer Tindall's recommendation report as the Findings of Fact in this matter with the following exceptions:

The reference to ACJA §§ 708(F)(1)(b) on page 1, line 21 is corrected to reference ACJA § 7-208(F)(1)(b).

The reference to Arizona Supreme Court Rule 31(c)(21) on page 2, line 3 is corrected to reference Arizona Supreme Court Rule 31(d)(24).

The reference to ACJA §§ 708(F)(1)(b) on page 2, line 12 is corrected to reference ACJA § 7-208(F)(1)(b).

The reference to ACJA §§ 708(F)(1)(b) on page 2, line 20 is corrected to reference ACJA § 7-208(F)(1)(b).

The reference to ACJA §§ 708(F)(3) on page 3, line 2 is corrected to reference ACJA § 7-208(F)(3).

CONCLUSIONS OF LAW

On November 22, 2010, the Board adopted the Conclusions of Law contained in Hearing Officer Tindall's recommendation report as the Conclusions of Law in this matter with the following exceptions:

The reference to ACJA §§ 708(F)(1)(b) on page 4, line 13 is corrected to reference ACJA § 7-208(F)(1)(b).

The reference to ACJA-2006 § 7-208(F)(3) on page 5, line 21 is corrected to reference ACJA § 7-208(F)(3).

RECOMMENDATION REPORT AMENDMENTS

In adopting the aforementioned Findings of Fact and Conclusions of Law, the Board notes the following:

The reference to ACJA §§ 708(F)(1)(b) on page 6, line 16 is corrected to reference ACJA § 7-208(F)(1)(b).

The reference to ACJA §§ 7-201(H)(24)(i) on page 7, line 23 is corrected to reference ACJA § 7-201(H)(24)(a)(6)(i).

The reference to ACJA §§ 708(F)(1) on page 8, line 4 is corrected to reference ACJA § 7-208(F)(1).

FINAL DECISION and ORDER

Having adopted the above referenced findings, conclusions and noted amendments, the Board dismisses complaint number 06-L118.

The Board finds Volk violated Arizona Supreme Court Rule 31 ("Rule 31"), ACJA § 7-208(F)(1)(b), (F)(2), and ACJA § 7-208 Appendix A Code of Conduct Standards (5)(a) and (5)(c) in complaint number 06-L079; constituting grounds for discipline pursuant to ACJA § 7-201(H)(6)(a), (H)(6)(k)(2) and (H)(6)(k)(3).

The Board finds Volk violated Rule 31, ACJA § 7-208(F)(1)(b), (F)(2), and ACJA § 7-208 Appendix A Code of Conduct Standards (5)(a) and (5)(c) in complaint number 06-L098; constituting grounds for discipline pursuant to ACJA § 7-201(H)(6)(a), (H)(6)(k)(2) and (H)(6)(k)(3).

The Board finds Volk violated Rule 31(a)(2)(b), ACJA § 7-208(F)(1)(b), (F)(1)(c), (F)(2), (F)(3) and ACJA § 7-208 Appendix A Code of Conduct Standards (5)(a), (5)(b) and (5)(c) in complaint number 07-L011; constituting grounds for discipline pursuant to ACJA § 7-201(H)(6)(a), (H)(6)(g), (H)(6)(k)(2), (H)(6)(k)(3) and (H)(6)(k)(7).

Regarding these acts of misconduct, the following disciplinary sanctions are ordered in complaint numbers 06-L079, 06-L098 and 07-L011 pursuant to ACJA § 7-201(H)(24)(a)(6):

a) Revocation of Ken Volk's individual certification, pursuant to ACJA § 7-201(H)(24)(a)(6)(i);
b) Issue a cease and desist order against Volk enjoining Volk from preparing legal documents, representing to the public he is a certified legal document preparer or

otherwise authorized to prepare legal documents, or engaging in any activities that constitutes the unauthorized practice of law until such time as any and all conditions for reinstatement are met, to the satisfaction of the Board, pursuant to ACJA § 7-201(H)(24)(a)(6)(g);

c) Assess costs associated with the investigation and disciplinary proceedings related to complaint numbers 06-L079, 06-L098 and 07-L011 in the amount of $3,614.55, 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)(j). The assessed costs shall be made payable to "Arizona Supreme Court" and submitted to the Certification and Licensing Division, 1501 West Washington, Suite 104, Phoenix, Arizona 85007, and;

d) Impose a civil penalty of $100.00 per found violation, in the amount of $400.00, 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). The imposed civil penalty shall be made payable to "Arizona Supreme Court" and submitted to the Certification and Licensing Division, 1501 West Washington, Suite 104, Phoenix, Arizona 85007.

DATED this 7th day of November, 2010.

Les Krambeal, Chair
Board of Legal Document Preparers

An original copy of the foregoing hand delivered and/or mailed this 24th day of November, 2010, to:

Ken Volk
1200 West 6th Street
Tempe, Arizona 85281

Fred Stork
Administrative Law Section
Office of the Attorney General
15 South 15th Avenue, 4th Floor
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: _____
Linda Grau, Unit Manager
Certification and Licensing Division

Y:\COMPLAINT INVESTIGATIONS\OPEN COMPLAINTS\LDP VOLK, KEN 06-L079\FINAL ORDER VOLK 06-L079 06-L098 06-L118 07-L011.DOCX

Exhibit A

FILED

OCT 29 2010

DISCIPLINARY CLERK OF THE SUPREME COURT OF ARIZONA

BY

SUPREME COURT OF ARIZONA

BOARD OF LEGAL DOCUMENT PREPARERS

IN THE MATTER OF CERTIFIED LEGAL DOCUMENT PREPARER: **KEN VOLK** Certificate Number 80845 CERTIFICATE HOLDER	)	No. LDP-NFC-06-L079 LDP-NFC-06-L098 LDP-NFC-06-L118 LDP-NFC-07-L011 **FINDINGS OF FACT, CONCLUSIONS OF LAW AND RECOMMENDATIONS**

The hearing of this matter was held on April 28, 2009 and May 3, 2009. All documentary evidence was admitted on stipulation.

During the hearing, Respondent raised certain legal arguments which, because of their nature, were to be addressed by briefs. A briefing schedule was set and reset several times to accommodate the various circumstances faced by both parties. Respondent, however, never filed briefs on his argument. As a result, Respondent has abandoned further legal argument in this matter.

Therefore, the following findings of fact, conclusions of law, and recommendations are submitted to the Board after due consideration of the evidence and arguments presented at the hearing of this matter.

FINDINGS OF FACT

1. The Board asserts with respect to LDP-NFC-06-L079, LDP-NFC-06-L098, LDP-NFC-06-L118, and LDP-NFC-07-L1011 that Respondent violated Arizona Supreme Court Rule 31, ACJA §§ 708(F)(1)(b) and (F)(2), and ACJA § 7-208, App. A, Code of Conduct Standard §§ (5)(a) and (5)(c) by providing legal advice to his customers and representing customers during the negotiations of legal rights outside the parameters of the regulations.

2. Evidence submitted upon stipulation and which was not refuted during the hearing, included the Board's investigations (Ex. P-5, P-11, P-17, P-28) and Respondent's responses to the complaints (Ex. P-4, P-10, P-22) demonstrated that the services Respondent

provided during the circumstances which are the subject of these above referenced matters, clearly exceeded the bounds permitted by the applicable regulations and standards.

3. Additionally, Respondent's testimony during the hearing demonstrated that he regularly exceeded the authority granted by Arizona Supreme Court Rule 31(c)(21), which creates a limited exception to the unauthorized practice of law (Tr. Vol. 2, 151:16-20; 152:11-16; 154:15-25; 154:1-2; 156:10-19; 162:16-25; 163:1-23; 164:1-25; 165:1-8; 174:6-16; 178:10-25; 179:1-25; 180:21-25; 181:1-25; 182:1-23; 211:18-25; 212:1-3; 212:19-25 through 231:1-25; 232:15-25; 233:1-3; 234:5-23; 235:1-23; 240:8-25; 241:1-25; 245:7-25 through 250:1-16). Respondent's testimony established his fundamental lack of understanding of or refusal to abide by the limitations upon the services he is permitted to provide to the public under applicable regulations and standards.

4. On December 18, 2006, the Board initiated a compliant, which was designated LDP-NFC-06-L118, against Respondent asserting that information on Respondent's website exceeded the type of information that could be disseminated by certificate holders in violation of Arizona Supreme Court Rule 31(a)(2)(B), ACJA §§ 708(F)(1)(b) and (F)(2), and ACJA § 7-208, App. A, Code of Conduct Standard §§ (5)(a), (5)(b), and (5)(c).

5. Respondent's response to the allegations, which included printed copies of the website under Respondent's control (Ex. P-16), reflected an attempt to disseminate general information to the public. While that information clearly is legally-oriented, the Board presented no evidence that showed the information disseminated on the website was intended to be applicable to a specific consumer's circumstances in a particular manner or otherwise violated the regulations.

6. The Board has asserted with respect to Complaint LDP-NFC-06-L118 and LDP-NFC-07-L1011 that Respondent violated Arizona Supreme Court Rule 31(a)(2)(B), ACJA §§ 708(F)(1)(b) and (F)(2), and ACJA § 7-208, App. A, Code of Conduct Standard §§ (5)(a), (5)(b), and (5)(c) by publishing on a website under Respondent's control derogatory opinions regarding justices of the peace and court process.

7. Evidence provided during the hearing reflected that Respondent's website contains expressions of harsh opinion about judicial officers and the judicial process. (Ex. P-16, P-17, P-27).

8. The Board asserted with respect to Complaint LDP-NFC-07-L1011 that Respondent violated ACJA §§ 708(F)(3) by failing to include his title and legal document preparer certificate number on documents he prepared and Respondent admitted to that violation (Trans Vol. 2, 173: 23-25; 174: 1-5).

CONCLUSIONS OF LAW

9. This is a formal disciplinary matter in which the Division bears the burden of proof by preponderance of the evidence. ACJA §7-201(H)(21)(c)(4). The Division presented its complaints and supporting documentation, which was admitted with one objection that was not sustained. [Tr. 33:21-35:13].

10. The Rules of the Supreme Court of Arizona, § V., Rule 31(b) state that:

> Except as hereinafter provided in section (c), no person shall practice law in this state or represent in away that he or she may practice law in this state unless the persons is an active member of the state bar . . . ."

Section (c) of the Supreme Court Rules, § V., Rule 31 states: "Nothing in these rules shall prohibit a certified legal document preparer from performing services in complaint with [ACJA], Part 7, Chapter 2, Section 7-208." Therefore, any activity by Respondent that constitute the "practice of law," as defined by the Supreme Court Rules, § V., Rule 31(a)(2)(A), must be authorized by the ACJA §7-208. If those activities were not authorized, or exceeded the bounds of that authorization, they would constitute the unauthorized practice of law, which would violate ACJA § 7-208(F)(2) and ACJA § 7-208, Appendix A, Legal Document Preparers Code of Conduct (the "Code of Conduct").

11. ACJA § 7-208(F)(1) grants the authorization for legal document preparers to provide limited legal services to consumers. ACJA § 7-208(F)(1)(b) authorizes certificate holders to provide general legal information, but prohibits certificate holders from providing "any kind of specific advice, opinion, or recommendations to a consumer about possible legal rights, remedies, defense, options, or strategies." This prohibition is also reflected in the Code of Conduct, Standard 5(c).

12. Respondent's services provided to individual consumer and applied to specific circumstances constitute the provision of advice, opinion, or recommendations about that

individual consumer's rights remedies, options, or strategies in specific circumstances. Such services unequivocally exceeds the authority granted by ACJA § 7-208(F)(1) and violates the express limitation of authority imposed by ACJA § 7-208(F)(1)(b).

13. Additionally, ACJA § 7-208(F)(2) requires that each certified legal document preparer to adhere to the Code of Conduct. The Code of Conduct, Standard 5(a) requires that a legal document preparer perform all duties and discharge all obligations in accordance with applicable laws, rules, or court orders. Code of Conduct, Standard 5(c) prohibits specific advice, opinion, or recommendations to a consumer about possible legal rights, remedies, defense, options, or strategies. Respondent's provision of services outside of the authority of ACJA § 7-208(F)(1) violates ACJA § 7-208(F)(2).

14. ACJA §§ 708(F)(1) does permit Respondent to provide general information to consumers on a website under his control is general information but that information was not intended to be specifically applicable to an particular consumer's immediate circumstances. The Board presented no evidence to the contrary. Therefore, the Board failed to meet its burden of proof with respect to the allegation presented in LDP-NFC-06-L118 that Respondent violated Arizona Supreme Court Rule 31(a)(2)(B), ACJA §§ 708(F)(1)(b) and (F)(2), and ACJA § 7-208, App. A, Code of Conduct Standard §§ (5)(a), (5)(b), and (5)(c) by providing information on a website.

15. Moreover, the provision of general information that is legally-oriented has not been considered to be the unauthorized practice of law.[1] Respondent may, therefore, provide such information without or with a legal document preparer certificate; although, as a legal document preparer certificate holder, Respondent would be subject to sanction by the Board if the information disseminated was misleading, deceptive, untrue, or fraudulent or otherwise detrimental or harmful to the public. The Board did not, however, present any evidence to support a violation in this respect. There may also be a concern on the Board's part that dissemination of information by persons who identifies themselves as a certificate holder would unjustifiably suggest to consumers that the information has more credibility that it would otherwise have. That concern is an issue the Board legitimately should address. In this matter,

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[1] *See In re Chimko,* 831 N.E.2d 316, 323 (Mass. 2005); *Oregon State Bar v. Smith,* 942 P.2d 793, 799 (Or.App. 1997).

however, the Board did not raise that concern and, therefore, there is no evidence to support sanctions for that type of situation in this matter.

16. Section 7-208 of the Arizona Code of Judicial Administration was amended September 6, 2006 ("ACJA-2006").[2] ACJA-2006 § 7-208(J)(2)(b) requires Respondent to refrain from, among other things, making statements that are false or made with a reckless disregard as to their truth or falsity with respect to the judicial system, judges, judicial staff, attorneys and other public officials. A website under Respondent's control contained rather harsh opinion about judicial officers, others, and the judicial process. Nevertheless, governmental restrictions on speech, particularly content specific restrictions as are found in the regulation, are subject to a specific type of scrutiny. Even in the professional regulatory context, such restrictions must further an important or substantial governmental interest unrelated to the suppression of expression.[3] The restrictions must also be formulated in a manner no greater than is necessary or essential to the protection of the particular governmental interest involved.[4] The fundamental and inalienable right protected by these requirements elevates the Board's burden of proof for violations of this regulation. In this instance, however, the Board failed to produce evidence that Respondent's expressions were sufficient to violate the standards once established. Therefore, while the expression of opinions by a certificate holder may in some circumstances arise to an actionable offense, in this instance the Board failed to meet its burden of proof that Respondent's conduct rises to the elevated standard that would potentially constituted a violation of ACJA-2006 § 7-208(J)(2)(b).

17. ACJA-2006 § 7-208(F)(3) requires that a certificate holder appropriately identify him or herself with specific information. Respondent admitted to his violation of this regulatory requirement.

18. Therefore, Respondent violated Supreme Court Rule 31(a)(2)(B), ACJA §§ 708(F)(1)(b) and (F)(2), ACJA § 7-208, App. A, Code of Conduct Standard §§ (5)(a), (5)(b), and (5)(c), and ACJA-2006 § 7-208(F)(3).

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[2] The 2006 amendment is effective with respect to LDP-NFC-07-L011but not the other Complaints.

[3] *See Gentile v. State Bar of Nevada*, 501 U.S. 1030, 1054 (1991).

[4] *Id.*

19. Respondent is subject to sanction under ACJA §§ 7-201(H)(24). The grounds for the assessment of discipline against Respondent are ACJA §§ 7-201(H)(6)(a), 7-201(H)(6)(h), 7-201(H)(6)(k)(3), (6), (7), and (8).

20. In the consideration of sanctions recommended to the Board for assessment against Respondent for the violations found above, the mitigating factors include ACJA §§ 7-201(H)(22)(a), (b), (f), and (l) and aggravating factors include ACJA §§ 7-201(H)(22)(c), (d), (g), and (i).

RECOMMENDATION

The Supreme Court has granted a limited exception to the unauthorized practice of law for legal document preparers. Legal document preparers, regardless of the many pressures to do otherwise, must consistently guard against exceeding the restrictions that are properly placed on the services they may provide. Violations of those restrictions fall within a range of wrongful actions, which provides the basis for the range of sanctions. In some instances a violation occurs as a result of a isolated instance in which that essential guard is let down momentarily. In other cases, no regard is apparent paid to the limitation and only pretext serves as any recognition that restrictions do exist.

Respondent actions fall within the latter category. Respondent's violation of Supreme Court Rule 31(a)(2)(B), ACJA §§ 708(F)(1)(b) and (F)(2), and ACJA § 7-208, App. A, Code of Conduct Standard §§ (5)(a), (5)(b), and (5)(c) in the matters undertaken was hardly isolated. On the contrary, Respondent's entire business model is fashioned to provide services outside the parameters permitted by the applicable regulation. During the hearing, Respondent boldly proclaimed his expertise in an area of the law during the hearing and admitted to repeatedly providing specific direction after ostensibly undertaking "legal analysis" of consumers' agreements. He testified that he guides consumers with—in his words—"strategic advice."

Under certain factual circumstances, as with every law or regulation, the exacting application of a regulatory prohibition to a particular factual setting may be fairly questioned. This is not such a case. Respondent has so far exceeded the boundaries of the exception to the unauthorized practice of law that has been created for legal document prepares. Respondent's own testimony shows that he has provided advice and strategic direction to clients that are designed to address their specific and immediate circumstances. That type of service is directly

contrary to prohibitions of the applicable regulations and therefore constitutes sanctionable violations of these rules.

With respect to sanctions, an effective recommendation should consider not only the nature of Respondent's violations but also the likelihood of future violation. During his testimony, Respondent proudly espoused business practices and processes he has designed and, when implemented, constitute violations of regulations. Of further concern is Respondent's well-established self-impression that clearly gives no measure of recognition to boundaries properly imposed upon his activities as a legal document preparer. Under these circumstances, there can be no assurance that Respondent will not persist with violations of the applicable rules. Therefore, significant sanctions are justified and appropriate in this matter.

The Board proposes several sanctions:

1) Suspension of Respondent for a period of not less than 180 days;

2) A cease and desist order issued against Respondent and an entity under his control, Arizona Tenant Advocates, Inc., from acting as a legal document preparer or conducting any activities that constitute the unauthorized practice of law during the period of suspension and conditions for restatement are met;

3) Reinstatement conditioned upon Arizona Tenants Advocates, Inc. securing the proper certification;

4) Reinstatement conditioned upon Respondent completing not less than 10 additional hours of continuing education in addition to the required hours of continuing education;

5) Assessment of costs associated with the investigation and related administrative proceedings within 60 days of the Board's Final Order; and

6) A civil penalty of $100 per violation within 60 days of the Board's Final Order.

Having considered the Board proposed sanctions and in light of the evidence presented at the hearing, including significant consideration of Respondent's testimony, demeanor and credibility, it is recommended that Respondent's legal document preparers certificate be revoked in accordance with ACJA §§ 7-201(H)(24)(i). Furthermore, it is recommended under authority of that same regulation, that Respondent's reinstatement be conditioned upon the Board's thorough review and approval under ACJA § 7-201(E)(1)(a)(7) and (8) of Respondent's intended business practices utilizing a legal document preparers certification.

It is also recommended that, in the interest of the public, the Board issue a cease and desist order to assure that Respondent's activities are appropriately curtailed.

Additionally, it is recommended that Respondent be assessed the costs associated with the investigation and the related administrative hearing and a civil penalty of $400 ($100 per each of violation of ACJA §§ 708(F)(1) and (F)(2) found in the Charges outline in LDP-NFC-06-L079, LDP-NFC-06-L098, LDP-NFC-06-L118 and LDP-NFC-07-L1011), with reinstatement conditioned upon his payment of fees and penalties within 60 days of the Board's Final Order, or later payment that includes statutory interest.

This recommendation does not include as a sanction or condition of reinstatement an order that the Arizona Tenant's Association be required to obtain a legal document preparer certificate. While the certification of that organization may well be in order, the failure of the Arizona Tenant's Association to secure certification and its unauthorized practice of law was not a part of the Board's Notice of Formal Statement of Charges and, therefore, no basis exists for such a sanction to issue in this matter.

DATED this 29 day of October, 2010.

Craig D. Tindall /ga

Craig D. Tindall
Hearing Officer

Original filed with the Disciplinary Clerk
this 29 day of October, 2010.

Copy of the foregoing mailed
this 29 day October, 2010 to:

Ken Volk
Respondent
1200 West 6th Street
Tempe, AZ 85281

Fred W. Stork
Office of the Attorney General
1275 W. Washington
Phoenix, AZ 85007

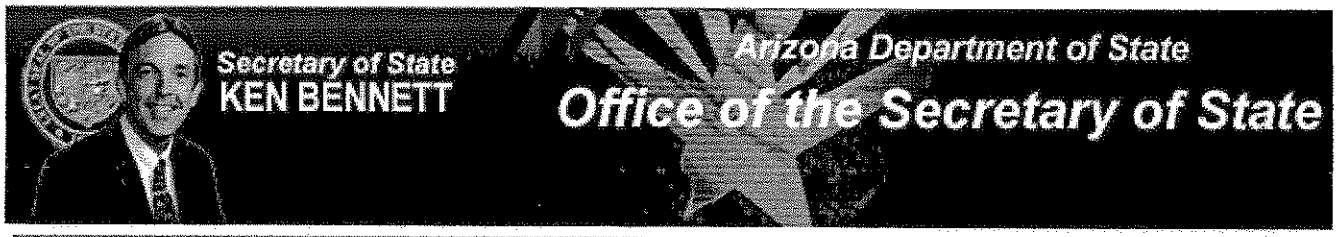
Copy of the foregoing hand-delivered
this 29 day of October, 2010, to:

Linda Grau
Programs and Investigations Unit Manager
Certification and Licensing Division
1501 W Washington, Suite 104
Phoenix, AZ 85007

Nina Preston, Assistant Counsel
Administrative Office of the Court
1501 West Washington
Phoenix, AZ 85007

by: _____

/jsa



Registered Name

Information Search

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Instructions

General Information

File ID	241172
Description	Trade Name
Status	Active
Name	ARIZONA TENANTS ADVOCATES
Address 1	1200 W. 6TH ST.
City	TEMPE
State	AZ
ZIP	85281-
Phone	480-557-8905
Business Type	EDUCATION, GUIDANCE, REFERRALS
Registered Date	12/27/2000

Agent/Owner Information

Agent ID	Type	Fullname	Address	City	State	ZIP	Phone
1038577	Owner	KENNETH A. VOLK	1200 W. 6TH ST.	TEMPE	AZ	85281-	480-557-8905

Registration Information

Received	Amended	Assigned	Expiration	Cancelled	Revoked
11/19/2010			12/27/2015		
1/9/2006			12/27/2010		
12/27/2000			12/27/2005		

Correspondence History

Description	Date	Printed	Filmed	Loc. No.	Page No.	Pages
Renewal	11/19/2010	12/6/2010 8:56:07 AM				1
Renewal	1/9/2006	1/18/2006 3:14:14 PM				1

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Corporate Inquiry	
File Number: -0975106-8	Check Corporate Status
Corp. Name: ARIZONA TENANTS ADVOCATES, INC.	

Domestic Address

1200 W 6TH ST
TEMPE, AZ 85281

Statutory Agent Information

Agent Name: KENNETH A VOLK
Agent Mailing/Physical Address:
1200 W 6TH ST
TEMPE, AZ 85281
Agent Status: APPOINTED 07/01/2003
Agent Last Updated: 07/08/2003

Additional Corporate Information

Corporation Type: NON-PROFIT	**Business Type:**
Incorporation Date: 01/09/2001	**Corporate Life Period:** PERPETUAL
Domicile: ARIZONA	**County:** MARICOPA
Approval Date: 01/09/2001	**Original Publish Date:** 02/26/2001

Officer Information

KENNETH VOLK PRESIDENT 1200 W 6TH ST TEMPE,AZ 85281 **Date of Taking Office:** 01/09/2001 **Last Updated:** 10/01/2007	

Director Information

KENNETH VOLK DIRECTOR 1200 W 6TH ST TEMPE,AZ 85281 **Date of Taking Office:** 01/09/2001 **Last Updated:** 09/02/2008	

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00472466	02 ANNUAL REPORT	04/05/2002

00660542	AGENT RESIGNATION	05/27/2003
00734412	03 ANNUAL REPORT	07/01/2003
00734296	AGENT APPOINTMENT	07/01/2003
00959737	04 ANNUAL REPORT	06/16/2004
01350926	05 ANNUAL REPORT	09/30/2005
01546697	06 ANNUAL REPORT	04/10/2006
02126906	07 ANNUAL REPORT	08/20/2007
02512228	08 ANNUAL REPORT	08/04/2008
02802442	09 ANNUAL REPORT	06/04/2009
03204185	10 ANNUAL REPORT	07/19/2010

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Date	Reason
07/14/2010	DELINQUENT ANNUAL REPORT
07/14/2008	DELINQUENT ANNUAL REPORT
08/26/2005	DELINQUENT ANNUAL REPORT

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11440017013	01/09/2001	ARTICLES
20271056019	02/26/2001	PUB OF ARTICLES
31660001403	04/05/2002	02 ANNUAL REPORT
31719002925	05/27/2003	AGENT RESIGNATION
20320069004	06/03/2003	NOTIFICATION CORP/LLC OF AGENT RESIGNATION
31731002312	07/01/2003	AGENT APPOINTMENT
31738000483	07/01/2003	03 ANNUAL REPORT
31813000365	06/16/2004	04 ANNUAL REPORT
31908001177	08/26/2005	NOTICE OF PENDING ADMINISTRATIVE DISSOLUTION
31930002189	09/30/2005	05 ANNUAL REPORT

31959000313	04/10/2006	06 ANNUAL REPORT
32077002173	08/20/2007	07 ANNUAL REPORT
32141004733	07/14/2008	NOTICE OF PENDING ADMINISTRATIVE DISSOLUTION
32157003075	08/04/2008	08 ANNUAL REPORT

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Corporate Inquiry	
File Number: -1087912-7	Check Corporate Status
Corp. Name: ARIZONA TENANTS ASSOCIATION, INC.	

Domestic Address

1200 W 6TH ST
TEMPE, AZ 85281

Statutory Agent Information

Agent Name: KENNETH A VOLK

Agent Mailing/Physical Address:
1200 W 6TH ST
TEMPE, AZ 85281

Agent Status: APPOINTED 07/28/2003
Agent Last Updated: 09/11/2003

Additional Corporate Information

Corporation Type: NON-PROFIT	**Business Type:** ADVOCACY
Incorporation Date: 07/28/2003	**Corporate Life Period:** PERPETUAL
Domicile: ARIZONA	**County:** MARICOPA
Approval Date: 07/28/2003	**Original Publish Date:** 09/08/2003

Officer Information

KENNETH VOLK PRESIDENT 1200 WEST 6TH ST TEMPE,AZ 85281 **Date of Taking Office:** 07/28/2003 **Last Updated:** 12/13/2005	

Director Information

KENNETH VOLK DIRECTOR 1200 WEST 6TH ST TEMPE,AZ 85281 **Date of Taking Office:** 07/28/2003 **Last Updated:** 07/07/2008	

Annual Reports

Next Annual Report Due: 05/28/2011	E-FILE An Annual Report Online << Click Here
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File Year	File Month	Date Received	Reason Returned	Date Returned	Extension
2010	05	09/07/2010			
2009	05	09/14/2009			
2008	05	05/28/2008			
2007	04	08/20/2007			
2006	04	04/10/2006			
2005	04	09/30/2005			
2004	04	06/16/2004			

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Document Number	Description	Date Received
00959738	04 ANNUAL REPORT	06/16/2004
01350927	05 ANNUAL REPORT	09/30/2005
01546679	06 ANNUAL REPORT	04/10/2006

02126907	07 ANNUAL REPORT	08/20/2007
02441863	08 ANNUAL REPORT	05/28/2008
02905904	09 ANNUAL REPORT	09/14/2009
03202305	10 ANNUAL REPORT	08/31/2010
03244362	10 ANNUAL REPORT	09/07/2010

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08/31/2009	DELINQUENT ANNUAL REPORT
08/26/2005	DELINQUENT ANNUAL REPORT

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11603005026	07/28/2003	ARTICLES
20324014032	09/08/2003	PUB OF ARTICLES
20324022031	09/09/2003	PUB OF ARTICLES
31813000323	06/16/2004	04 ANNUAL REPORT
31908001178	08/26/2005	NOTICE OF PENDING ADMINISTRATIVE DISSOLUTION
31930002190	09/30/2005	05 ANNUAL REPORT
31959000243	04/10/2006	06 ANNUAL REPORT
32077002174	08/20/2007	07 ANNUAL REPORT
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BOARD OF LEGAL DOCUMENT PREPARERS
Agenda Summary – April 25, 2011

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

3-A: Review, discussion, and possible action regarding approval of the comment by the Board to the Supreme Court Rule Petition R-11-000.

At the meeting on February 28, 2011, the board directed staff to prepare a comment in response to Supreme Court Rule Petition R-11-000 which seeks to add an exception to the unauthorized practice of law definition contained in Rule 31 intended to allow an authorized agent of a planned community association or a condominium unit owners' association to prepare, execute, and record liens on behalf of associations; communicate with homeowners about unpaid assessments and fees; and represent associations in procedures before the small claims division in justice courts.

A draft of the comment is attached for the board's review and approval.

Board of Legal Document Preparers
Certification and Licensing Division
1501 W. Washington Street, Suite 104
Phoenix, Arizona 85007
(602) 452-3378

IN THE SUPREME COURT
STATE OF ARIZONA

PETITION TO AMEND RULE 31(d), ARIZONA RULES OF THE SUPREME COURT.	Supreme Court No. R-11-0001 COMMENT IN RESPONSE TO PETITION TO AMEND RULE 31(d), ARIZONA RULES OF THE SUPREME COURT

Pursuant to Arizona Code of Judicial Administration ("ACJA") § 7-208(D)(4)(b), the Board of Legal Document Preparers submits this comment in response to Rule Petition R-11-0001 filed by Edward Novak, Scott Rodgers and Ronda Fisk requesting the Arizona Supreme Court add an exemption to the unauthorized practice of law provisions contained in Arizona Supreme Court Rule 31 which reads (as proposed):

> *A condominium unit owner's association, as definite by A.R.S. § 33-1241, and a planned community association, as defined by A.R.S. § 33-1802, may be represented in small claims procedures, in communicating with condominium unit owners and homeowners regarding unpaid assessments and fees, and in the preparation, execution, and recordation of notices of liens created pursuant to A.R.S. § 33-1256 and § 33-1807, by a duly authorized corporate officer, board member, employee of the association, or employee of a management company with a contract to provide management services to the association who is not an active member of the state bar.*

The body of the Petition references "...various administrative bodies have found that a community management company's execution of a lien in an association's behalf constitutes the unauthorized practice of law." It is presumed this refers to recent disciplinary actions taken

by the Board of Legal Document Preparers. Action by other "administrative bodies" could not be determined.

No provision of ACJA § 7-201 or ACJA § 7-208 authorizes a certified legal document preparer to act in a representative capacity on behalf of a customer; including signing documents for a customer, calling/writing to the Courts or opposing parties/counsel on behalf of a customer, or appearing on behalf of or to assist a consumer at a legal proceeding. The Board of Legal Document Preparers has recently entered findings that certified individuals and business entities engaging in these activities have exceeded the authority of a certified legal document preparer and thereby have engaged in the authorized practice of law and violated numerous provisions of ACJA. The Board of Legal Document Preparers recently found a certified legal document preparer (individual or business entity) cannot circumvent regulatory requirements by entering a contract with a consumer that authorizes the certified legal document preparer to exceed the stated authorities of a certified legal document preparer as provided for in ACJA § 7-208.

The ACJA § 7-208(J) Code of Conduct prohibits a certified legal document preparer from acting in a representative capacity – UNLESS authorized to do so by a Rule 31(d) exception. ACJA § 7-208(J)(5)(b) reads:

> *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, except as authorized in Rule 31(d), Rules of the Supreme Court. A legal document preparer shall not attend court with a consumer for the purpose of assisting the consumer in the court proceeding, unless otherwise ordered by the court.*

If the proposed exemption is ultimately adopted by the Court and thereby added to Rule 31(d), the Code of Conduct provision may no longer be applicable to certified legal document preparer property management companies or their certified employees. Further, it is anticipated that if the proposed exemption is adopted, property management companies

offering document preparation and other legal services will no longer obtain or maintain their legal document preparer certification and proceed outside the scope of any regulatory scheme. The Board of Legal Document Preparers requests the Court consider the following:

a) If adopted, the proposed exemption will authorize certified legal document preparer property management companies and their certified employees to communicate with opposing parties/attorneys on behalf of a customer (i.e. the homeowners) about legal actions or issues. No present provision of Rule 31, ACJA § 7-201 or ACJA § 7-208 authorizes a certified legal document preparer to act in a representative capacity or to negotiate or otherwise attempt to achieve settlement of legal disputes. Legal document preparers are authorized to provide general legal information but have no authority to offer legal advice, express legal opinions, or make recommendations to a consumer about possible legal rights, remedies, strategies, options or defenses. If certified legal document preparers were to assume the representative duties offered in the proposed exemption, they would routinely be <u>expected</u> by their customers to violate ACJA § 7-201 and ACJA § 7-208.

b) The stated purpose of the Legal Document Preparer Program [See ACJA 7-208(C)] is to protect the public through the establishment of core competencies, professional standards and accountability methods for non-attorney legal professional. Presumably, the property management companies would assert a future adoption the proposed exemption means the property management companies and their certified legal document preparer employees would no longer need to hold active legal document preparer certification. The Board of Legal Document Preparers believes the lack of oversight and absence of regulation would provide endless opportunities for non-attorney/non-LDPs (who may or may not possess

minimum core competencies) to offer and provide services without being required to observe, adhere to, or be accountable for professional or ethical standards.

c) In the past, the premise of non-attorneys who are not actively and directly supervised by actively admitted Arizona attorneys engaging in unregulated aspects of the practice of law has not been consistent with the Court's mandate to protect the public. The Board of Legal Document Preparers believes the proposed exemption is not consistent with the Court's Strategic Agenda as it would essentially authorize this small group of individuals and business entities to engage in several aspects of the practice of law that are otherwise presently regulated. Such could be said about several of the existing exemptions contained in Rule 31(d). Yet, unlike the exemptions currently in effect, the proposed exemption does not involve limited administrative proceedings, clarification or codification of self-representation rights, or other authorities established by statute.

d) The Board of Legal Document Preparers is concerned the proposed exemption appears to offer preferential treatment to property management companies and Homeowners Associations and fails to acknowledge other entities and business models that routinely process liens and pursue judicial remedies in order to resolve disputes. The Board of Legal Document Preparers believes the adoption of the proposed exemption will appear to single out property management companies and Homeowners Associations for preferential treatment and would ultimately open the door for other entities and businesses to request similar exemptions to the unauthorized practice of law.

e) The Board of Legal Document Preparers recognizes the legal ramifications of liens are significant and unique to each situation and believes it is contrary to the best interest and protection of the public to allow for the preparation and filing of liens, in addition to the

other practice of law authorities incorporated into the proposed exemption, without the oversight to mitigate potential and unnecessary harm to the public.

f) The Board of Legal Document Preparers notes the adoption of the proposed exemption does not overcome the statutory language presently reflected in Arizona Revised Statutes ("ARS") § 22-512. ARS 22-512(A) provides:

> *Any natural person, corporation, partnership, association, marital community or other organization may commence or defend a small claims action, but no assignee or other person not a real party to the original transaction giving rise to the action may commence such an action except as a personal representative duly appointed pursuant to a proceeding as provided in title 14.*

The Title 14 exception referenced in ARS § 22-512(A) is not applicable to the property management companies or in any way otherwise applicable to the Homeowners Associations. The proposed exemption does not appear to offer a property management company or its employees standing under the law to represent an association in a judicial proceeding as the property management companies and property management company employees are not real parties of interest in the original transaction underlying the necessity for a lien. Nor do the property management company employees qualify for standing to act in a representative capacity on behalf of the Homeowners Associations under ARS § 22-512(B) which reads:

> *Notwithstanding section 32-261, in a small claims action:*
>
> 1. *An individual shall represent himself.*
> 2. *Either spouse or both may represent a marital community.*
> 3. *An active general partner or an authorized full-time employee shall represent a partnership.*
> 4. *A full -time officer or authorized employee shall represent a corporation.*
> 5. *An active member or an authorized full-time employee shall represent an association.*
> 6. *Any other organization or entity shall be represented by one of its active members or authorized full-time employees.*
>
> *An attorney-at-law shall not appear or take any part in the filing or prosecution or defense of any matter designated as a small claim.*

No other existing laws or court rules, including Rule 31, could be determined that would provide a property management company or its employees alternative standing to represent an association in any other jurisdiction of the court.

DATED this _____ day of _____, 2011.

_____
Les Krambeal, Chair
Board of Legal Document Preparers

A copy of the foregoing hand delivered and/or mailed this ___ day of _____, 2011, to:

Arizona Supreme Court
Clerk of the Court
1501 West Washington Street
Phoenix, Arizona 85007

Nina Preston, Assistant Counsel
Administrative Office of the Court
1501 West Washington Street, 4th Floor
Phoenix, Arizona 85007

Edward F. Novak
Polsinelli Shughart, PC
One East Washington Street, Suite 1200
Phoenix, Arizona 85004

Scott W. Rodgers
Rhonda R. Fisk
Osborn Maledon, PA
2929 N. Central Avenue, Suite 2100
Phoenix, Arizona 85012

By: _____
Kandace French, Programs Specialist
Certification and Licensing Division

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BOARD OF LEGAL DOCUMENT PREPARERS

Agenda Summary - Monday, April 25, 2011

4) INITIAL CERTIFICATION APPLICATIONS

4-A: Review, discussion and possible action regarding the following pending applicants for 2009-2011 certification.

The following applicants have demonstrated they met the minimum eligibility requirements for standard certification, their applications are complete and no information has been presented during the background investigation which is contrary to standard certification being granted. ***Therefore, it is recommended standard certification be granted to the following individuals/business entities:***

1. Loleta Harrison
2. Michael W. Olsen

The following applications remain incomplete pending receipt of additional information. It is tentatively recommended these applicants be deferred to the June meeting. In the event the anticipated information/documentation is received prior to the April meeting, an alternative verbal recommendation will be presented at the meeting:

3. Leonard W. Deehan
4. Veronica Rolley
5. Marlene Morton
6. Alejandra McEwen
7. Cynthia Cooks
8. Elise G. Gutierrez
9. Alan N. Ariav

The following applications were received and processed for Board review:

10. Rapid RPS (AZ), LLC (Barry Goldman) - Applicant disclosed being involved in many civil actions. Applicant states he invests in (purchases) judgments. The applicant becomes the party of record as the Assignee and although not a defendant, is a party to many lawsuits (judgments) as a creditor. **It is recommended to grant standard certification.**

11. 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. Nina Preston will present the information requested by the Board.

BOARD OF LEGAL DOCUMENT PREPARERS

Agenda Summary - Thursday, April 25, 2011

4) INITIAL CERTIFICATION APPLICATIONS

4-B: Review of Business Entity Exemption Request for the 2009-2011 initial certification period:

It is recommended the following Business Entity Exemption be granted:

1. Rapid RPS (AZ), LLC (Barry Goldman)

BOARD OF LEGAL DOCUMENT PREPARERS

Agenda Summary - Monday, April 25, 2011

5) LICENSE AND ELIGIBILITY APPLICATION.....Division Staff

5-A: *Review, discussion, and possible action regarding the Denial of Applicant Lynette Torres*

At the January 24, 2011 Board meeting, the Board denied the above applicant for not meeting the qualifications or eligibility requirements at the time of application.

Applicant originally stated on her application she worked for attorney Fernando Fajardo, now a disbarred attorney, from 2/92 to 6/92 and worked for attorney Mark Goodman as a legal secretary assistant from 12/83 to 12/84. Staff asked for the applicant to provide an affidavit of employer from Mr. Fajardo. Applicant provided the detailed steps she took to try to obtain such an affidavit. Also, when applicant worked for Mr. Goodman she provided a detailed description of her job duties as follows: Legal Secretary assistant, computer typing, answer phones, office reception, file case documents with legal courts, banking and legal transactions. Staff's review of the applicant's file indicates she does not have the experience as required by code.

Ms. Torres requested a hearing. Staff received employment verification from Mark Goodman's office indicating it was "unknown, no records, no recollection of person. May have been the runner." for Ms. Torres' time of employment. However, staff also received a letter from certified legal document preparer Jodi Brown indicating Ms. Torres worked under her preparing legal documents from January 1984 to December 1984 while both were employees of Mr. Goodman. Staff has verified this information.

Therefore, it is recommended the Board vacate the January 24th denial and enter a motion to grant certification to Ms. Torres.

BOARD OF LEGAL DOCUMENT PREPARERS

Agenda Summary - Thursday, April 25, 2011

6) REVIEW OF RENEWAL APPLICATIONS

6-A: Review, discussion, and possible action regarding pending renewal applications for 2009-2011 standard certifications.

The following certificate holders had pending complaints at the time of renewal in 2009. However, those complaints have been adjudicated and their certifications have been revoked. Therefore, it is recommended the Board deny the following renewal applications pursuant to 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:

1. Rae Heimer
2. Kenneth Volk

The following certificate holder and business entity had pending complaints at the time of renewal in 2009. However, those complaints have been adjudicated; and therefore, it is recommended the Board grant renewal of standard certification to the following:

3. Richard C. Hoyt
4. Richard C. Hoyt & Associates, Inc (Richard Hoyt)