

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

<b>CERTIFICATE HOLDER/LICENSEE INFORMATION</b>	<b>Certificate Holder:</b>	Carla Jones
	<b>Certification Number:</b>	20276
	<b>Certificate Holder:</b>	Beverly Gloden
	<b>Certification Number:</b>	20591
	<b>Business Name:</b>	Northern Arizona Fiduciaries, Inc.
	<b>Certification Number:</b>	20198
	<b>Type of Certificate/License:</b>	Individual (Carla Jones), Individual (Beverly Gloden), Business (Northern Arizona Fiduciaries, Inc.)
<b>COMPLAINANT</b>	<b>Name:</b>	Catherine Mitchell
<b>INVESTIGATION INFORMATION</b>	<b>Complaint Numbers:</b>	16-0008 16-0009 16-0010
	<b>Investigator:</b>	Pasquale Fontana

**Complaint Received:** July 8, 2016  
**Complaint Forwarded to the Certificate Holder:** August 18, 2016  
**Certificate Holder/Licensee Received Complaint:** August 26, 2016  
**Response From Certificate Holder:** September 17, 2016 (Carla Jones and Northern Arizona Fiduciaries, Inc.)

**Period of Active Certification/Licensure:** November 8, 1999 – Present (Carla Jones)  
April 19 – Present (Northern Arizona Fiduciaries, Inc.)  
November 5, 2007 – September 23, 2016 (Beverly Gloden)

**Status of Certification/License:** Active (Carla Jones)  
Active (Northern Arizona Fiduciaries, Inc.)  
Suspended (Beverly Gloden)

**Availability of Certificate Holder/Licensee:** Available  
**Availability of Complainant:** Available  
**Report Date:** August 23, 2017

## **ALLEGATIONS:**

1. Beverly Gloden violated her fiduciary responsibilities by failing to properly report the possible sexual assault pursuant to Arizona Revised Statutes A.R.S. § 46-454.
2. Beverly Gloden withheld information when filing a police report regarding the possible sexual abuse of a ward causing police to not investigate.
3. Carla Jones and Northern Arizona Fiduciaries, Inc., did not conduct a criminal record history and placed the ward into the care of his mother who was previously convicted of child abuse and neglect.
4. Carla Jones/Northern Arizona Fiduciaries Inc., allowed a ward to live in deplorable living conditions despite being aware of the living conditions.

## **ADDITIONAL ALLEGATIONS:**

5. Carla Jones and Northern Arizona Fiduciaries, Inc., allowed the estate to be billed at a fiduciary rate for Beverly Gloden's services when Ms. Gloden was operating as a support staff, in violation of ACJA § 3-303(D)(2)(g)(2).
6. Carla Jones and Northern Arizona Fiduciaries, Inc., failed to cooperate with Division staff's request to interview her employees during an investigation, in violation of ACJA § 7-202(H)(6)(c).

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

- Written Complaint and documentation submitted by Complainant, Catherine Mitchell ("Mitchell"), Adult Protective Services ("APS")
- Written Response and documentation submitted by certificate holder, Carla Jones ("Jones"), Designated Principal, Northern Arizona Fiduciaries, Inc. ("NAF")
- Written Response from Angela Napper ("Napper"), attorney for Beverly Gloden ("Gloden")
- Review of applicable Certification and Licensing Division ("Division") records
- Review of applicable sections of Arizona Revised Statutes ("A.R.S."), Arizona Codes of Judicial Administration ("ACJA") § 7-201 and § 7-202, and Arizona Supreme Court Rules
- Review of records, Superior Court of Arizona, County of Yavapai, regarding P1300-GC-201500070, SR ("SR") – (name deliberately withheld by Division staff)
- Review of APS records involving SR
- Review of records provided by Laurie Wilson, Prescott Police Department
- Interview with Mitchell
- Interview with Detective Jessica Barnard "(Detective Barnard)", Prescott Police Department
- Interview with Jones and her attorney, Hans Clugston ("Clugston")

- Interview with CG, Mother of SR (names deliberately withheld by Division staff)
- Interview with Gloden and attorney, Lisa Gervase (“Gervase”), Gervase Law Firm, PLLC
- Six (6) letters of reference for Gloden, provided by Gervase:
  - 1) Mary Ellen McAtee, RN, Resident Services Director, Granite Gate Senior Living Community
  - 2) Caroline Pruett, General Manager of Home Instead Senior Care
  - 3) Malcolm Barrett Jr., Associate Broker, BloomTree Realty
  - 4) Mary Lou Hyatt, RN, Transitional Care Specialist
  - 5) Robert S. Pecharich, Attorney, Boyle, Pecharich, Cline, Whittington & Stallings, P.L.L.C.
  - 6) Selmer D. Lutey, Attorney, Selmer D. Lutey Attorney at Law

#### **PERSONS INTERVIEWED:**

1. Catherine Mitchell
2. Jessica Barnard
3. Carla Jones
4. Beverly Gloden
5. CG

#### **SUMMARY OF INVESTIGATION:**

Due to the sensitive nature of the information presented in this Investigation Summary, the Division withheld the names of family members to preserve confidentiality. Family members are identified by their respective initials.

Mitchell said Gloden contacted APS to report that NAF Ward, SR, had been taken to Yavapai Regional Medical Center (“Yavapai Medical”) due to shortness of breath and anxiety related symptoms. Gloden also reported that SR was medically examined for possible sexual abuse. Mitchell instructed Gloden to file a police report because she had first-hand information on what occurred. Although Gloden contacted the Prescott Police Department to make a report, Mitchell believed that the manner in which Gloden reported the incident was informational in nature and Gloden minimized the severity of the circumstances and denied that any abuse took place causing the police to not investigate. It was not until Mitchell called police and made her report the following day when police began its investigation into the matter.

Mitchell alleged Jones and NAF did not conduct a criminal record or background check on SR’s mother, CG, or anyone living in the household prior to allowing SR to live there. Mitchell completed a Judicial Branch of Arizona public access records search on the internet and discovered that CG had a 2012 class 6 felony charge for child/vulnerable adult abuse.

Mitchell further alleged SR was living in deplorable conditions while with CG and that Jones and NAF were aware of the conditions but allowed him to live there.

Gloden said she spoke with Mitchell about the events that caused SR to be taken for a medical evaluation. Gloden acknowledged that Mitchell asked her to call police to file a report. Gloden consulted with her employer, Jones and NAF, and Jones directed Gloden as to what she should tell police, in accordance with Jones' direction.

Jones said that Gloden and NAF reported concerns for SR to APS. Gloden called police and filed a report. Jones stated that NAF did not have evidence that SR had been abused, consistent with the findings of the physician who examined SR at Yavapai Medical. Jones was reluctant to make strong allegations against anyone without evidence.

Regarding a criminal record search, Jones acknowledged that she did not conduct a search on CG and accepted her account of her past. Jones said SR has a good relationship with his mother and does well in her care so NAF supported the relationship, reunification, and eventual move to his mother's home.

Jones conceded that CG's home was dirty and needed cleaning and was too small for the family's needs. To address the issue, NAF secured a larger, more suitable home for the family. NAF continues to monitor the home situation and has set standards for CG's housekeeping and maintenance.

#### **SUMMARY OF FACTUAL FINDINGS OF INVESTIGATION:**

1. On July 8, 2016, the Division received a written Complaint against Jones, NAF, and Gloden. In her Complaint, Mitchell, stated:

On June 30, 2016, I recieved [sic] a phone call from Beverly Gloden reporting possible sexual assault against a mutual client that Northern Arizona Fiduciaries is the Guardian/Conservator for, SR [name deliberately withheld by Division staff]. Beverly stated that SR displayed concerning signs of possible assault and other signs of anxiety. SR was taken to Yavapai Regional Medical Center to be evaluated (see attached medical records) [sic]. I requested that Beverly file a police report due to the severe allegations and she stated that she would. I found out the following day that Beverly did not file a police report but just an informational statement. I called Prescott Police Department and filed a police report due to holding a position of being a state mandated reporter. Prescott Police Department interviewed Beverly regarding the suspicions of sexual assault and she stated that the allegations did not occur. She minimized the severity of the visit to Yavapai Regional Medical Center and caused officers to stop investigations due to her denying that there were any concerns. See attached Prescott Police Report (#16-19407).

SR was also placed in a home that a convicted felon of Negligent Child Abuse (biological mother, CG) would be caring for him. SR is a vulnerable adult due to his mental capacity and deficits. When Carla Jones was questioned regarding a criminal history done on household members, Carla stated that she did not do one. An unannounced visit was done and it was photographed deplorable living conditions [sic] for SR with Ms. CG. SR continues to live in the home after concerns and criminal history was addressed with Carla Jones.

With her Complaint, Mitchell provided documents from the Prescott Police Department.

2. On September 17, 2016, Jones and NAF submitted a written Response to the Complaint. Jones said that on September 9, 2015, NAF filed, upon referral by APS, a petition to be appointed as SR's Guardian and Conservator. After multiple contested hearings, on April 7, 2016, NAF was appointed permanent Guardian and Conservator for SR.

On June 29, 2016, NAF associate, Yvonne Hignight ("Hignight") picked up SR and took him to an intake appointment at Yavapai Exceptional Industries ("YEI"), a charitable organization supporting adults with disabilities. The purpose of the appointment was to enroll SR into the YEI program so that he could have a day job appropriate to his disabilities. NAF learned that he did not qualify for the program because he cannot toilet independently therefore Hignight brought SR back to his mother's home.

Jones said NAF's Time Entry Details, dated June 29, 2016, indicated that, upon SR returning home, Hignight reported to Gloden that SR was short of breath and was having difficulty so Gloden went to the residence to assess further. Not having much history on SR, the behavior he was demonstrating was concerning so Jones decided that he should be seen at Yavapai Medical and Jones instructed Hignight to meet SR and CG at Yavapai Medical. While at Yavapai Medical, CG reported SR's shortness of breath but also stated that she suspected possible sexual assault by SR's father, BR [name deliberately withheld by Division staff]. SR was already being examined medically so, upon Jones' direction, CG requested that a physical examination be done to rule out or substantiate her concerns. Jones said that after the examination, Dr. Permar indicated that he was required to report the stated concerns to the social services department. Hospital social worker, Amy, questioned CG about SR and his behaviors. After Amy's visit, she said she would be filing a report with APS. Jones said that Hignight briefed Gloden who, in turn, told Jones.

Jones said she called and left message with Mitchell because APS was already investigating concerns for financial exploitation. Jones also wanted Mitchell to know that NAF was filing a new report to APS regarding SR. Jones left the office for the day with instructions for Gloden to update Mitchell of the day's events, should she call, including that Yavapai Medical was going to file a new report

with APS. Jones said that Gloden spoke with Mitchell who, after consulting with her supervisor, called Gloden back and “demanded that NAF call and report this to Prescott Police Department.” Gloden called Jones relaying Mitchell’s desire for NAF to file a police report. Jones said she was “very hesitant” to file a report with police because these allegations had not been substantiated and were very strong allegations to file against a person without personal knowledge or other evidence. Jones placed a call to her attorney, Clugston, and then called Gloden and instructed her to notify the police and make a report “based upon the request of Ms. Mitchell of APS.” Jones further instructed Gloden to generate a letter to BR that SR “will live with Ms. CG full time” and that BR would need to contact NAF to arrange visits with his son.

Jones said that on July 6, 2016, Mitchell contacted her regarding medical records that she had obtained. Mitchell questioned Jones’ decision regarding SR living with CG. Mitchell had recently visited the residence and said SR’s sores did not look well and that his younger brother was not dressed. Mitchell further questioned Jones about CG’s past and said she had a previous child protective services report against her and a record of a felony. Mitchell asked Jones if she was aware of this. Jones wrote that child protective services documents and cases are confidential so this information would not have been found on background checks or through Court case history. Jones added that she was not authorized to receive this information.

According to Jones, on June 30, 2016, she spoke with CG and she reported having recently been visited by Mitchell and that the “visit went well.” Jones said this was in stark contrast to the information Mitchell filed in her Complaint. In her Response, Jones stated, “If Mr. SR’s [quote does not include name deliberately withheld by Division staff] life was in such danger as Ms. Mitchell alleges, she could have removed him from the home. SR was never removed from either of his parent’s homes by APS during this 2-year plus investigation.” Jones asserted that SR’s guardianship case was complex and difficult. He is a 22 year old man who became severely disabled a few years ago and the cause is unknown. Jones said at the initial Guardianship/Conservatorship hearing in January 2016, the Court heard testimony from BR. The Court confirmed, with BR, that Jones would not remove SR from his home or his care unless it was necessary. Jones said until NAF’s appointment, SR’s contact with his mother had been all but cut off from BR. NAF re-established this relationship and, in assessing the contact between SR and his mother, the bond was undeniable and the love between them was visible.

Jones said SR has thrived since being in his mother’s care and relocating to their new home, a sentiment held by Detective Sergeant, Cecilia Strabata (“Detective Strabata”) of the Arizona Department of Economic Security (“DES”), Security Office of Inspector General Special Operations Division, stated to Jones on September 14, 2016. Detective Strabata also reported that she had recent communications with Mitchell who thought that SR was thriving in his mother’s

care. Jones said Mitchell also told Jones, in the presence of APS worker, John Perona ("Perona"), at Prescott Veterans Administration on August 17, 2016, that she has recently seen SR and is impressed with how well he is doing and what a positive change it has been for the entire family.

Jones said she received medical records from Yavapai Medical on July 6, 2016, indicating that "there did not seem to be significant evidence that sexual assault, or inappropriate sexual behavior is occurring." Jones said she has not found any evidence of sexual misconduct toward SR. As Guardian, Jones said she believes that his placement is appropriate and is proceeding as outlined in the Interim Report of Guardian filed with Yavapai County Superior Court on June 28, 2016.

With her Response, Jones provided numerous supporting documents, marked Exhibits A – S.

3. The Division notes that, pursuant to Complaint Number 16-0006, on September 19, 2016, the Board voted to suspend Gloden's fiduciary license. Please review Complaint Number 16-0006/16-0007 for additional detail.
4. On October 3, 2016, Division Investigator, Pasquale Fontana ("Investigator Fontana") conducted a telephonic interview with Mitchell. By way of background, she said that NAF was appointed Guardian for SR on January 7, 2016. He was living with his father, BR, but there were concerns reported to APS. NAF tried working with the family and eventually decided to reunify SR with his biological mother so he shared his time between both households.

Mitchell said Gloden called APS on June 30, 2016, to inform that NAF had concerns about possible sexual abuse and that SR had made statements in past. Asked if SR made specific allegations or statements of abuse, Mitchell clarified that SR was making gestures like covering his private areas saying, "I'm not gay," and he was not acting normally. SR had been at a day program for developmentally delayed adults and he had some type of issue while there. Upon returning home, he was short of breath, crying, displayed symptoms of anxiety, and he made the comments so NAF took SR to Yavapai Medical to have him evaluated. Mitchell said medical records identify Gloden's concerns about possible sexual abuse although Yavapai Medical staff did not find any signs of trauma. After that incident, NAF decided to take SR out of his father's home and moved him into CG's home on a full time basis.

Mitchell said Gloden called APS to report on the events of that day and also to inform APS about the decision to move SR from his father's home to his mother's residence. Mitchell said APS had an open case with BR and the family. She said that, as a mandated reporter, she requested that Gloden call the Prescott Police Department to file a report because Gloden had observed all of SR's behaviors. Mitchell said when Gloden called police, she did not actually file a report but made an "informational statement just saying that this possibly happened."

Mitchell claimed that this was “not a report” and that “it should have been a report.” Asked to clarify the difference between an informational statement and a formal police report, Mitchell said that it was her understanding that an informational statement “is just a statement stating this is what I observed or what we thought is happening and that’s pretty much it. It’s just a statement.” A report tells police “this is what we suspect, we believe that there may be something happening, please further investigate it...this could possibly be happening, this is our concern for this person’s wellbeing...”

Mitchell was asked whether the individual calling police is given the option of making an informational statement or a formal report and/or how the caller would know which type of report is being made at the time of the call. She said she did not know the answer and suggested that Division staff contact police to inquire further. Mitchell added that when she calls police to file a report “that’s what I state...I call their phone number and I request, I need to file a police report. These are my concerns.” Asked if she knew whether it was at the police officer’s discretion as to whether or not to proceed or act on an informational statement, Mitchell said she did not know. She said she thought that an informational statement was just information given out and police may not act but she could not verify whether that was the case and she assumed that a police officer would review the report and determine whether or not to investigate.

Per Mitchell’s assertion that Gloden denied or minimized the concerns for possible sexual abuse when she was interviewed by police, Mitchell was asked to describe her understanding of what had occurred. She said she contacted police to follow up on whether Gloden filed her report. Mitchell initially spoke with an officer who told her that a police report had not been filed so Mitchell proceeded with making a report. At a later date, Mitchell spoke with Detective Barnard who told her that Gloden had denied that any sexual abuse happened and apparently was just concerned that SR was experiencing anxiety.

Given that NAF had reported concerns for possible sexual abuse to the Yavapai Medical on the day SR was taken to hospital, then afterward reported to APS, and then to police based on Mitchell’s request, she was asked to clarify whether she believed that Gloden denied or minimized the concerns when she called police. Mitchell said Gloden “minimized that it happened then denied that SR made any statements that he was not gay” therefore the severity was not reported to police. Regarding Mitchell’s allegation that Gloden’s denial or minimizing caused police to stop its investigation, Mitchell was asked if she knew whether the police investigation had been terminated on that basis. She said because Gloden initially only made an informational statement “...nothing was looked into or investigated.” After Mitchell called police to follow up and subsequently filed her own report, the case was assigned to Detective Barnard who then contacted Mitchell.



Regarding the allegation that Jones and NAF failed to conduct a criminal record search on CG and others living in the household, Mitchell said APS had a file history with BR but did not have one with CG. Mitchell conducted a public records search and learned that CG had a prior child abuse conviction. Mitchell brought that information to her supervisor who suggested that Mitchell call Jones, inform her of the results of the public records search, and “see what protocols they took to ensure” that SR was placed in an appropriate home.

Mitchell added that after NAF notified APS, SR was moved into this mother’s home, and Mitchell asked APS Human Service Worker, Paula Crumb (“Crumb”) to conduct a home visit to see how SR was doing and to see his home environment. Crumb went to the home on June 30, 2016, and reported that the home was in deplorable condition documenting that it was “messy” and “dirty.” SR was observed to be walking around the house wearing only adult diapers. Mitchell said she knows that Jones and Gloden had been to the CG home in past and knew the conditions. Mitchell voiced her concerns to Jones, via email, and Jones told her that NAF was in the process of renting the family a different home and that NAF was going to provide family support services. On or about July 21, 2016, the family moved into their new residence. Asked if APS staff observed the newly rented home, Mitchell affirmed that she did and that she found the home clean and organized. She acknowledged that subsequent APS visits to the home revealed that CG was consistent with keeping the residence clean and maintaining SR in a structured household.

Mitchell said that on July 6, 2016, she spoke with Jones about a number of issues. Jones indicated that she had been out of town on June 30, 2016, when SR was taken to Yavapai Medical and that she had been made aware that there was an emergency room visit due to SR’s anxiety and concerns for possible sexual abuse. Mitchell said she discussed, with Jones, Gloden minimizing the actual statements when interviewed by police. Mitchell said she also addressed the lack of background check/criminal records issue with Jones.

Asked about the criminal record involving CG, Mitchell said CG had a one count felony 6 charge of child/vulnerable abuse in 2012. Mitchell was unable to access specific details on the nature of the abuse or who was involved because she had only accessed the judicial branch’s public access website. Mitchell asked Jones if she had conducted a criminal history check on CG and Jones replied that she had not but that she had previously spoken with CG about whether there was any past previous child protection involvement and CG apparently told Jones there was a prior report that did not proceed to charges and was subsequently dropped. Mitchell said when she spoke with Jones she told her about discovering that CG had pleaded guilty to child abuse and neglect/domestic violence in 2012. Jones told Mitchell that NAF was moving forward with SR living with his mother and that NAF would closely monitor his care on a weekly basis. Jones said she had “staffed” this case with her attorney and he supported her decision making. Jones said she had a note from SR’s doctor who supported reunification with CG.

5. On October 28, 2016, the Division received a written Response and attachments, from Napper, attorney for Gloden. Napper pointed out that a discrepancy existed as to the date of the events in question. She said that, in the Complaint, Mitchell alleged the date in question was June 30, 2016, but Gloden believed the event occurred on June 29, 2016, corroborated by NAF's in-house record-keeping, which Napper attached to the Complaint as "Exhibit A," and by records obtained from the Prescott Police Department. Napper said internal records from NAF include documentation by Gloden, Jones, and NAF employee Hignight. Read together, Napper said these documents provide a detailed time-line of the events as they unfolded on the day in question.

Napper said that Mitchell indicated Gloden reported concerns that SR displayed "signs of possible assault and other signs of anxiety." Gloden did not dispute doing so and she was in contact with Mitchell at the discretion and specific instruction of her supervisor, Jones. Napper said Mitchell referenced medical records attached to her Complaint but no medical records were provided to Gloden for review or consideration in the preparation of the Response and, therefore, Gloden could not address or respond to information contained in the medical report.

Napper said Mitchell stated that she requested Gloden file a police report and, specifically, Mitchell complained Gloden "did not file a police report but just an information statement." Napper said Gloden did, in fact, contact the Prescott Police Department and, working at the specific direction of her employer, Gloden called police. Napper said dispatch located Officer Michael Sischka, who returned a call to Gloden and, based upon that call, prepared department report, D.R Case #16-19338 (attached as Exhibit "B"). Gloden provided information to the police officer under the direct supervision of and after receiving specific information from her employer.

Napper noted that Mitchell suggested a substantive distinction between "filing a police report" and "giving an information statement." In doing so, Mitchell implied that Gloden somehow shirked her responsibilities. Napper said all reports relating to this matter are categorized by the Prescott Police Department as "departmental reports," not "police reports" and not "informational statements." Napper said that Mitchell's contact with law enforcement is found in departmental report, D.R. Case #16-19407, which she attached to the Complaint as "Exhibit C." Napper added that both Gloden's and Mitchell's reports were combined with departmental report, D.R. Case #16-20168, which Napper attached to the Complaint as "Exhibit D", and D.R. Case #14-30446 [sic]. Napper, for Gloden, said, as evidenced in the combined report, law enforcement completed its investigation and found no evidence of abuse or maltreatment of the ward, SR.

According to Napper, Mitchell said Gloden was interviewed by Prescott Police but none of the available police reports suggested that she was interviewed. Investigating officers met with Jones, CG, SR, and BR. Gloden was only

mentioned in the one report that she initiated at Mitchell's behest and under Jones' specific direction. Napper said she could only assume that Mitchell was working under a fundamental misunderstanding regarding the nature and extent of police investigation, as it seems unlikely that she would deliberately seek to mislead the licensing division. Napper said, regrettably, one must question Mitchell's intentions. Of concern was the anecdotal reference in NAF's internal reporting that Mitchell was apparently of the opinion that sexual abuse allegations would serve to expedite the pending financial exploitation investigation against BR's. Napper added that, regardless, Mitchell may have had and may still have fundamental disagreement with the actions taken by and decisions made by NAF; however, none of these amounted to any misconduct by Gloden.

Napper said Gloden denies any wrong-doing whatsoever in this matter. Napper said that in June 2016, Gloden was not acting in the capacity of a licensed fiduciary. She was employed at NAF as a support staff team member after having been disciplined and demoted in January 2016. Gloden repeatedly contacted her supervisor by telephone during her time on the SR case. She reported to law enforcement as specifically instructed by her employer. Gloden made no unilateral, unstaffed or unsupported decisions involving SR; she remained in contact with her supervisor and acted as a liaison among and between the family, NAF, Mitchell, and law enforcement.

[The Division notes that Prescott Police records, (16-20168-000/16-00019338, indicated that police connected reports 14-30446, 16-19338, and 16-190407]

6. On November 15, 2016, Investigator Fontana conducted a telephonic interview with Detective Barnard. She said police dispatch received a call from Gloden regarding concerns for SR and possible sexual assault. Gloden was unable to provide any additional information regarding her suspicions for a possible assault and said only that SR was not himself. When asked by the dispatch officer, Gloden could not indicate that she believed an assault had taken place.

Investigator Fontana reviewed, with Detective Barnard, two types of police reports that the Division had received:

- Miscellaneous Incident Report Prescott Police Department
- Prescott Police Department Offense Report

Detective Barnard was asked who determines how the report is taken by police dispatch and categorized as a Miscellaneous Incident Report or as an Offense Report, as referenced above. She said it is at the discretion of the police officer and not the caller but if the caller cannot give detail or reason as to why the caller believes an assault or crime occurred, it would be considered a miscellaneous report. In this instance, Detective Barnard said that given the information Gloden provided, police did not start an investigation but did so after police received a second report. Detective Barnard said she did not interview Gloden but spoke

with CG, BR, and Jones. The investigation was closed due to lack of evidence of an assault/crime.

Regarding past police involvement with CG, Detective Barnard said that several years ago she arrested CG and charged her with child abuse/neglect. At that time, SR was living with his father. In that instance, CG had left her young child in the care of her boyfriend who apparently fell asleep. The child was found outside trying to cross eight lanes of traffic on his tricycle.

7. On November 30, 2016, Investigators Fontana and Sheryll Prokop ("Investigator Prokop") conducted an onsite interview with Jones and her attorney, Clugston, at the NAF office in Prescott, Arizona. Jones said that she was at work at the time of the incident involving SR. Asked what information Jones and NAF relied upon that prompted the decision to take him for a medical evaluation, Jones said SR was experiencing labored breathing and shortness of breath. NAF was unfamiliar with his medical history and had not previously seen this behavior so he was taken to hospital for evaluation.

Jones said that earlier that day, SR had a scheduled appointment with YEI, a work program for developmentally disabled people. NAF staff, Hignight, transported SR and his mother to the YEI appointment. Jones said SR's breathing was "a little labored at that time" and they thought he had some anxiety about going to YEI. SR was denied eligibility for the program because he is unable to use the toilet independently. Hignight took SR and his mother back to her home and returned to the office. Jones added that SR had been going between BR's and CG's homes and SR had been with his father the previous night. After Hignight returned to NAF, CG called stating that SR was "breathing really heavy...he's like freaking out, he's panicking." Jones said Gloden was out in the field on another matter so Jones instructed her to go to the residence to assess the situation. After doing so, Gloden called Jones to report what she had seen so Jones decided to have SR taken to hospital. Jones instructed Hignight "probably" through Gloden, to meet SR and CG at the emergency room at Yavapai Medical.

Jones was asked if concerns about possible sexual abuse were communicated to her at that time or whether NAF was only concerned about SR's respiratory distress. She replied, "We requested an exam to rule out sexual misconduct" because there were concerns raised by CG that there "could be inappropriate behavior when he's at his father's" and that SR had returned from being at his father's home the day before. Jones said NAF had not experienced SR's presenting behaviors and did not know whether those behaviors were due to the YEI interview "so we took all the precautions" and took him to the emergency room. While SR was there, Jones said she directed Hignight to request an examination to rule out sexual misconduct.

Asked to clarify whether concerns regarding possible sexual abuse were communicated to NAF prior to SR being taken to Yavapai Medical or whether it

was imparted to NAF staff at the time SR was at Yavapai Medical, Jones said it was "around the same time" but said she needed to check her case notes to verify. Asked what behaviors CG conveyed that led her to suspect possible sexual abuse, Jones began reviewing her case notes and stated, "It was not substantiated, there was no sexual abuse" but did not elaborate and appeared to have difficulty answering the question.

Jones said that Yavapai Medical staff indicated that the hospital would be making a report to APS. Jones knew that APS had an open file on the family, so she called Mitchell that day and left a voice message telling her that NAF had taken SR to hospital for shortness of breath and to be examined to rule out sexual abuse. Jones also informed Mitchell that the hospital was going to make a report to APS. Jones left the office to deal with another matter and instructed Gloden to brief Mitchell when she called back. Gloden also reported to police. Jones was asked if she specifically instructed Gloden as to what to tell police when she called to report, Jones replied that she told Gloden to call police and indicate that APS would like NAF to "file this statement or report with them even though, at the time, we don't have any evidence substantiating or not substantiating to make such a strong allegation."

Jones was asked if, generally, NAF first required proof, evidence or a substantiation before she would consider filing a police report to which she replied, "Those are pretty strong allegations to call police and say we suspect somebody is being sexually...there is sexual misconduct going on without having anything to warrant that report on." She reiterated that NAF took SR to hospital for an examination and reported to APS, a reporting agency; and reported to police on June 29, 2016. Asked specifically if she instructed Gloden to report that NAF did not have evidence of a possible sexual abuse, Jones said "I may have told her that we're still waiting for the medical report."

Regarding the allegation that Jones failed to conduct background checks on CG and household members prior to allowing SR to live there, Jones was asked about NAF's practice regarding conducting background checks when placing vulnerable people in environments that were not licensed facilities. Jones said this was a unique situation because SR is a young adult who does not have money for private care or 24 hour care so NAF was building familial relationships. Jones acknowledged that she did not do a background check on CG but said that a background check had been done by a real estate company when NAF completed an application for the family to rent a new house. Jones said "the allegation of the child abuse" would not come up on Jones' background checks because child protection cases are restricted. She added that CG had previously told her that she had completed a drug program and did not have any felony charges. Jones added that SR was doing exceptionally well with his mother. He was "more talkative" and "coming of his shell more" and was on a toileting program. Jones said that SR's doctor was supportive of SR's relationship with his mother because SR was doing well.

Asked about the living conditions in the CG home, per the allegation, Jones said NAF was aware that the house was “dirty” and was not large enough for SR to have his own room or bed so he slept on the couch when he stayed with his mother. NAF rented a larger home for the family. Jones reiterated that SR did not have the funds to reside in a private home nor did he qualify for housing under the developmentally delayed services program. Asked about the living conditions in the new residence, Jones said she was in the home yesterday and said it was clean. Asked to explain what she believed would be different at this new location given that CG was apparently not cleaning her prior residence, Jones said NAF was now monitoring the situation and telling CG what she needed to do in order to have SR in her care including maintaining the laundry and cleaning the house. Prior to NAF’s involvement, Jones said CG did not have anyone telling her to clean, vacuum and do the laundry. Jones said, as Guardian for SR, NAF is “in and out of that home all the time” and APS and support services are also engaged with the family. Jones indicated that CG now has to report to NAF and the office has set standards for her.

8. On November 9, 2016, Division staff notified Jones, via email, of Division staff’s wanting to conduct onsite interviews with Jones and also her support staff including Hignight and Julee Pierson (“Pierson”), at the NAF office in Prescott, Arizona. A mutual time was scheduled. Upon conclusion of the interview with Jones and her attorney, Division staff requested an interview with Pierson and Hignight, separately. Jones insisted that she had to be present when Division staff interviewed any of her employees and said she would not permit an interview without her being physically present. Division staff stated that Clugston, as attorney for NAF, could be present during the interview(s) with NAF staff but reiterated that Division staff wished to interview the respective employees separate and apart from Jones. She was not agreeable to Division staff’s request and insisted that interviews could not take place without her being present. As a result of Jones’ unwillingness to cooperate and allow interviews of her staff without the specific condition that she be present during those interviews, Division staff left without interviewing Pierson or Hignight.
9. The Division notes that Napper, while counsel for Gloden, was not agreeable to Gloden being interviewed by Division staff because of possible criminal charges stemming from another incident, reflected in Complaint Number 16-0006. However, substitute counsel, Gervase, later indicated that Gloden was available for interview.
10. On January 17, 2017, Investigator Fontana conducted a telephonic interview with CG. She said SR was living with his father, BR, and his wife, so there was a period of about four years when CG did not see her son. When she started getting visitation, she thought SR was being neglected in BR’s care. She claimed that the house “reeked of urine” and she was constantly talking to BR about why SR’s ankle wounds were not being treated and about proper nutrition.

CG said when SR was in her custody, he was "mentioning that he had been touched and he had mentioned that he wasn't gay." She said SR was getting upset and would yell out, "I'm not gay, don't touch me" prompting CG to think she should probably take him to the hospital. Asked if SR made that general statement or whether he indicated who he did not want to touch him, CG said at another time, SR said, "Dad, don't touch me." She said SR "would be talking to himself and he would say, dad, I'm not gay." CG said SR had also said that his father was "basically touching him to the anal area." She said SR was "having a hard time sitting down" and was leaning more on his left side as if he was in pain. She said, previously, her other son told her that BR was allowing SR to sleep in BR's bedroom or bed.

On the day SR was having "a few crying spells" CG said she could not understand why he was crying so she called Gloden on her cell phone and she came to their home. CG said Gloden tried calming SR but he kept crying and he was not very talkative. Gloden called Jones who made the decision that SR should be taken to hospital. CG could not recall whether it was Gloden or Hignight that accompanied them to hospital. While at Yavapai Medical, CG said she told the doctor what was "going on" with her son and apparently the doctor commented that "sexual abuse" or "sexual assault" was a "big" or "strong" word. The doctor physically examined SR and determined that he was "okay" because there were no signs of trauma. Asked if she had discussed any of SR's information and concerns with Gloden, Jones, or anyone at NAF, CG said she told Gloden about SR's comments regarding being touched and about what her other son told her about BR's sleeping arrangements.

11. On March 3, 2017, Investigators Fontana and Prokop conducted an interview with Gloden and attorney, Gervase. Gloden said SR was living with his father and stepmother, R. NAF got involved with the family because BR and R were taking money from SR that he was getting from the Tribe. Gloden said when she visited SR, the entire house smelled, he had little interaction with others, and "it was not a good situation." When NAF got involved, the judge encouraged NAF to keep the family together and not pull SR out of the family home. Gloden said Jones thought that it was important to get CG "back in the picture" so NAF started doing weekly visits with SR and his mother and this eventually evolved into overnight stays. Gloden said NAF started to notice that SR, who was non-verbal, began to say, "I love you" and he asked, "How are you today?" Although SR's verbalizing was increasing he was unable to converse. Gloden said Jones made the decision to move SR into his mother's care on a full time basis around the time of the incident when SR was taken to Yavapai Medical.

Regarding the Yavapai Medical visit on June 29, 2016, Gloden was asked about the circumstances that brought SR to the emergency room. She said he had an appointment with the YEI work program. Hignight, an employee of NAF, was taking SR to the program that morning so she picked him up and transported him there. However, SR was not accepted into the program because he is incontinent

and is unable to independently toilet, information that Gloden said NAF did not have beforehand. Hignight brought SR back to his mother's house. Apparently, he experienced acute shortness of breath and was "full of some sort of anxiety, something was wrong." Gloden said she was not at work yet and she got a call from Hignight telling her what she saw. Gloden told her she would stop by on the way to work and assess further. Gloden called Jones and told her of her plans to see SR. When Gloden got to the house, SR was "in a state that was very concerning to me...his face was bright red...he was crying." Gloden said she had spent very little time with SR and had never seen him start crying. She spent time talking with CG and her boyfriend, K, who told her that earlier that morning, when CG was putting SR into the shower, SR covered his crotch area with his hands and repeated the words, "I'm not gay." Gloden said CG also told her that SR slept in the same bed as his father.

By way of background, Gloden said she was aware of "old reports" that NAF had on file. She thought they may have been police reports but she was not sure. Gloden said these reports stated that one of SR's brothers was gay and that there were "sexual things going on in the house between two boys." Asked if SR was living in the home at the time, Gloden said he may have been but the reports did not specify whether SR was involved in that behavior. Asked if that was the current makeup of the family unit when NAF got involved, Gloden said it was not and that this was all historical information and apparently had occurred when the boys were quite young and either in junior high or high school. She added, "I had this visual in my mind that this kind of activity was going on."

Gloden said there was one time when she told BR that she was going to drop something off at the home around 4:00 p.m., and when she arrived, BR "opened the door in his underwear." He seemed surprised to see her, excused himself and closed the door, then put on his pants. Gloden said BR explained that he thought it was CG at the door because she was coming to get SR. Gloden also said that when she visited SR at BR's home, the door to the master bedroom was always closed. At times it seemed that BR and SR had come out of the bedroom and SR was standing at the doorway of the bedroom. Gloden said, "I could tell he'd been in the master bedroom" and that this happened "real fast but it just seemed odd, why is SR in dad's room? I don't know." Asked if he SR was dressed, Gloden said he was. Gloden said she had previously shared this information with Jones.

Gloden stated that SR was taken to Yavapai Medical on June 29, 2016, because he was hyperventilating, had shortness of breath and he kept crying, behaviors that concerned Gloden. Asked who made the decision to take him to hospital, Gloden said she called Jones at that point. However, NAF time entry accounts indicated that Gloden made the decision to take SR to hospital and she said, "I can't undo that." Gloden told Jones that SR should be checked out and also about the comments CG made so Jones said to take SR to the hospital and to have him checked for any sexual abuse concerns. CG took SR to the hospital and Jones had Hignight meet the family there but Gloden did not attend. Gloden said Jones



instructed Hignight to have SR examined by the doctor. Gloden said hospital staff, "when anything like that happens," brought in a social worker who said that APS would be notified. Hignight was present the entire time and she was communicating with Gloden and Jones. Gloden said she knew that SR made the "I'm not gay" statements while the physician was there but the doctor did not find any signs of sexual abuse.

Gloden said afterward Jones called Mitchell and left her a message asking for a call back so that Jones could update her on what took place. Jones was leaving the office for the day and asked Gloden to speak with Mitchell should she call back. Mitchell called and Gloden said, "I was very honest with her and told her what had happened." She said she told Mitchell that SR had been moved to his mother's home and apparently Mitchell was "mad" about that because apparently she has been unhappy with how Jones has managed SR's case. Gloden said Mitchell is "convinced that we should rip him out of his home and place him in a facility." Mitchell told Gloden that NAF should have called APS prior to moving SR to his mother's home because Mitchell did not agree with the move. Gloden said she updated Mitchell on the events of the day including SR's respiratory issues and crying, information provided by CG regarding SR "sleeping with his dad," and K's information about the comments and gestures SR made when getting into the shower earlier that day. Gloden said she also informed Mitchell that SR had been taken to the emergency room and that there was a request to have him examined for sexual abuse.

Gloden was asked if she relayed to Mitchell any of the historical information regarding the brothers' past behavior, as Gloden described to the Division, she said, "No, I think she has it. I'm sure she has all that information..." Asked if she told Mitchell about any of the observations Gloden previously made regarding SR coming out of his father's room, as Gloden also described to the Division. She replied, "That wasn't relevant really to that situation." Mitchell called back several minutes later stating that she had spoken with her superior and APS wanted NAF to contact the Prescott Police and "make a report" and to call CG to ask her to "bag up" all of the clothing SR was wearing when he came from his father's house. Gloden agreed to do so and called Jones to inform her of Mitchell's requests. Jones said she would contact NAF attorney, Clugston, and then call Gloden back. When Jones called, Gloden asked Jones if she would make the call to police but Jones said she would not because APS had asked Gloden to contact police. Gloden said Jones told her to tell police that NAF had "no evidence" that any of this happened and that the physician's statement said that there was no evidence and "basically I was told not to blame anything on anybody."

Gloden said she called police dispatch to report and then an officer called her back. She said, "It was awful...it was horrible because I had nothing to tell him." Gloden said that "it was really shitty that I was asked to do this" in light of her

own pending criminal investigation with the Prescott Police Department regarding her conduct on another matter.

[The Division notes that this pertains to Complaint Numbers 16-0006/16-0007]

Asked what she reported to police, Gloden said, "It was horrible, I made this erroneous report about nothing." Asked to clarify what was erroneous in her report, Gervase interjected stating that Gloden's report was not erroneous but that "You called the police to report the facts. The facts are this young man said and did this...this is what the doctor found..." Gloden said she did not report what Mitchell told her to report or expected her to report. Asked if Mitchell specifically told her what to report, Gloden said "Yeah, she told me to call the police and make a report and tell them everything that I told her." Gloden said "and then I was told by my boss that we can't. We don't have any evidence that anything really happened." Gloden was asked what she actually reported to police at the time of her call. She said she could not recall but said, "I didn't tell them a whole lot." Gloden said that at the end of the call the police officer asked her, "Is there any reason or concern that a report be written and I said no."

Investigator Fontana reviewed police records, with Gloden, previously provided to the Division by Gloden's attorney, Napper. In those records, the police officer documented that Gloden was asked whether a crime had been committed to which she replied no. Gervase stated that a report to police should be about reporting facts and not about whether there is evidence or not whether a crime had been committed or not. Gervase said that based on what Gloden reported, police investigated the matter and interviewed a number of people.

Investigator Fontana also reviewed, with Gloden, APS records documenting discussion with Gloden regarding her stated suspicions of possible sexual abuse. According to those APS records, Gloden was asked by APS to explain her suspicious and she indicated that she had visited SR's home unannounced and that BR had to close the door because he was wearing boxer shorts and also that she found SR wearing boxer shorts while in his father's room. Records also reflected that Gloden stated to APS that she felt something was not right because of their demeanor. Asked if APS' depiction was accurate, per the documentation, Gloden said, "Pretty much, yes."

Regarding background checks on CG and others, Gloden was asked whether NAF had a policy or process regarding conducting background checks prior to moving wards into a home or with family members. She said that this was a unique situation and was the first time she dealt with "anything like this" in her 15 (fifteen) years of employment with NAF because most of NAF's wards are elderly people "who don't even know who they are anymore" but, in this case, SR was a young man. She said Jones was working with CG about "this criminal part, this criminal piece" but Gloden did not know if it occurred before or after SR's placement with his mother.

Investigator Fontana reviewed, with Gloden, NAF's billing/time entry, dated May 31, 2016, documenting that Gloden received a call from CG and that they had obtained information requested by Jones regarding household members. In that billing entry, Gloden documented that CG indicated she had felony charges dropped to a misdemeanor and that CG's partner, K, "is clean." Gloden said she remembered having that conversation with CG but thought that Jones wanted CG to get her "paper work" showing that the charges had been dismissed. Gloden said she passed this information to Jones but Gloden did not know whether this was followed on up saying that "it was very confusing...I didn't have all the pieces."

Gervase stated that Mitchell's comments, as they appeared in her Complaint about SR being placed into a home and cared for by a convicted felon regarding negligent child abuse was "overly stated." Gervase said she also looked at the public record and noted that CG went through drug court so she had a "substance issue" and because of that she neglected to properly care for her younger son and that is how she got arrested and convicted. Gervase said once someone goes through drug court the felony is designated a misdemeanor so CG is not a convicted felon adding that this is "sadly, not uncommon" for some of these families." Gloden agreed with her attorney's statements and said that CG has addressed those past issues. Asked if she or Jones were aware of those available public records and, if so, checked those records, Gloden said she did not but thought Jones "looked into it" although Gloden could not verify what was done regarding this issue.

Regarding the living conditions at the CG's home, Gloden was asked if she had concerns about the living environment to which she replied, "Yes, we all did. Everybody that went into the house did." Asked what she saw that was of concern, Gloden said "it's hard to explain...what's acceptable for people's living conditions." The couch was "filthy" and smelled like urine, the youngest child was sleeping on a foam pad and not a mattress, there was very little food in the house, and junk around the yard created a hazard. Gloden said Jones told her to go over to CG's home and tell her to clean up her house because APS was looking at NAF and CG.

Gloden said she had some difficulty with the question the Division posed because she wondered how she could apply her own standards of living to someone else's standards. Gloden said shortly after SR was moved into his mother's home NAF got the family a new place to live so the home in questionable condition was only temporary. She said CG did her best to clean up. The family has moved to a new place and NAF is monitoring the situation.

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## ANALYSIS OF ALLEGATIONS:

***Allegation 1: Beverly Gloden violated her fiduciary responsibilities by failing to properly report the possible sexual assault pursuant to Arizona Revised Statutes A.R.S. § 46-454.***

The issue presented in this allegation is whether Gloden violated her statutory responsibility to report abuse of a vulnerable adult.

Pursuant to A.R.S. § 46-454, Gloden had a statutory duty to report abuse of a vulnerable adult to a peace officer or protective services agency if she had a reasonable basis to believe that abuse or neglect had occurred. Likewise, any reasonable basis to believe that abuse occurred also compelled Gloden to immediately report to the Superior Court.

***A.R.S. § 46-454. Duty to report abuse, neglect and exploitation of vulnerable adults; duty to make medical records available; violation; classification***

*A. A physician, registered nurse practitioner, hospital intern or resident, surgeon, dentist, psychologist, social worker, peace officer or other person who has responsibility for the care of a vulnerable adult and who has a reasonable basis to believe that abuse or neglect of the adult has occurred or that exploitation of the adult's property has occurred shall immediately report or cause reports to be made of such reasonable basis to a peace officer or to a protective services worker. The guardian or conservator of a vulnerable adult shall immediately report or cause reports to be made of such reasonable basis to the superior court. All of the above reports shall be made immediately in person or by telephone and shall be followed by a written report mailed or delivered within forty-eight hours or on the next working day if the forty-eight hours expire on a weekend or holiday.*

The standard of knowledge test for whether Gloden, Jones and NAF had "...a reasonable basis to believe that abuse or neglect..." was met given the information that the fiduciaries acquired, as detailed in this Investigation Summary. In terms of statutory obligations, Gloden fulfilled her reporting duty when she contacted APS to report the noted concerns and was compliant with reporting "to a peace officer or to a protective services worker," as mandated by A.R.S. § 46-454.

The Division notes that although Gloden reported to APS, the information she reported to police did not represent the concerns she expressed to APS nor did Gloden's report to police reflect all the knowledge she had regarding this matter.

As to Allegation 1, Gloden, as a licensed fiduciary, complied with her statutory duty to report pursuant to the provision of A.R.S. § 46-454, evidenced by her report to APS. The fiduciary's report to the Prescott Police Department will be discussed further in the

analysis of Allegation 2. However, A.R.S. § 46-454 also compels the fiduciary to notify the Superior Court

*A.R.S. § 46-454(A):*

*The guardian or conservator of a vulnerable adult shall immediately report or cause reports to be made of such reasonable basis to the superior court.*

The issue of “reasonable basis” was discussed in this analysis. Prompted by the concerns for possible sexual abuse, Jones/NAF and Gloden made the decision to move SR from his father’s home into SR’s mother’s home on a full-time basis effective June 29, 2016, after SR was taken to Yavapai Medical. Jones/Gloden made the decision to have SR examined by a physician for possible sexual abuse, based on the information SR’s mother, CG, provided to Gloden that morning when Gloden went to the residence at CG’s request for assistance given SR’s distress.

Permanently moving SR out of his father’s home and having SR examined by a physician for possible sexual abuse are the “reasonable basis” upon which Gloden and Jones acted. Despite the “reasonable basis” prompting the actions taken, Jones and Gloden did not “*immediately report or cause reports to be made to the superior court,*” in violation of A.R.S. § 46-454.

Allegation 1 is substantiated.

***Allegation 2: Beverly Gloden withheld information when filing a police report regarding the possible sexual abuse of a Ward causing police to not begin an investigation.***

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

*§7 201(H)(6)(a) and (k)(7):*

*6. Grounds for Discipline. A certificate holder is subject to disciplinary action if the board finds the certificate holder has engaged in one or more of the following:*

*a. Failed to perform any duty to discharge any obligation in the course of the certificate holder’s responsibilities as required by law, court rules, this section or the applicable section of the ACJA;*

*k. Engaged in unprofessional conduct, including:*

*(7) Failed during the performance of any responsibility or duty of the profession or occupation to use the degree of care, skill and proficiency commonly exercised by the ordinary skillful, careful and prudent professional certificate holder engaged in similar practice under the same or similar conditions regardless of any level of harm or injury to the client or customer;*

§ 7-202(J)(1)(a):

*1. Duty to the Court.*

*a. The fiduciary shall perform all duties and discharge all obligations in accordance with current Arizona law, federal law, administrative rules, court orders, court rules, administrative orders, and the Arizona Code of Judicial Administration.*

§ 7-202(J)(2) and (3)(e) and (f):

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

*3. Decision Making. The fiduciary shall exercise extreme care and diligence when making decisions on behalf of a ward or protected person. The fiduciary shall make all decisions in a manner that promotes the civil rights and liberties of the ward or protected person and maximizes independence and self-reliance.*

*e. The fiduciary shall recognize their decisions are open to the scrutiny of other interested parties and, consequently, to criticism and challenge. Subject to orders of the court, the fiduciary alone is ultimately responsible for decisions made on behalf of the ward, protected person, or estate. The fiduciary shall maintain accurate and complete records to support the decisions made in the administration of a case, in compliance with court rules and the applicable sections of the Arizona Code of Judicial Administration.*

*f. The fiduciary shall refrain from decision making in areas outside the scope of the guardianship, conservatorship, or personal representative order.*

A.R.S. § 46-454. Duty to report abuse, neglect and exploitation of vulnerable adults: duty to make medical records available: violation: classification

*A. A physician, registered nurse practitioner, hospital intern or resident, surgeon, dentist, psychologist, social worker, peace officer or other person who has responsibility for the care of a vulnerable adult and who has a reasonable basis to believe that abuse or neglect of the adult has occurred or that exploitation of the adult's property has occurred shall immediately report or cause reports to be made of such reasonable basis to a peace officer or to a protective services worker. The guardian or conservator of a vulnerable adult shall immediately report or cause reports to be made of such reasonable basis to the superior court. All of the above reports shall be made immediately in person or by telephone and shall be followed by a written report mailed or delivered within forty-eight hours or on the next working day if the forty-eight hours expire on a weekend or holiday.*

Gloden, Jones and NAF have a fiduciary duty to SR because of the court-appointed Guardianship. This duty obligates them to “exhibit the highest degree of trust, loyalty and fidelity in relation to the ward...” as set out in § 7-202(J)(2). The fiduciaries must act in and promote the best interest of the vulnerable person they serve. § 7-202(J)(3) compels fiduciaries to “...exercise extreme care and diligence when making decisions on behalf of a ward or protected person. The fiduciary shall make all decisions in a manner that promotes the civil rights and liberties of the ward...”

The issue to be resolved in Allegation 2 is whether Gloden, Jones, and NAF, when reporting to police on June 29, 2016 (Report #16-19338), violated ethical responsibilities to the ward. It is apparent that Gloden and Jones had a reasonable basis to believe that SR may have been abused evidenced, in part, by Jones instructing NAF staff to take SR to Yavapai Medical to be examined for possible sexual abuse as well as for the presenting respiratory difficulties he was exhibiting on June 29, 2016.

The Division reviewed the Yavapai Medical report of June 29, 2016. It documented that SR was brought in to the hospital by CG and “fiduciary caregiver” and noted concerns and information provided by CG, as described in this Investigation Summary. The physician wrote that there did not seem to be significant evidence that sexual assault or inappropriate sexual behavior is occurring. The hospital social worker evaluated SR and a report will be made the reporting agency involved with the family.

The following facts are not disputed:

- On June 29, 2016, SR was brought to Yavapai Medical due to respiratory difficulties and also to be medically assessed for possible sexual abuse.
- Yavapai Medical report indicated that there did not seem to be significant evidence that sexual assault or inappropriate sexual behavior is occurring but that Yavapai Medical staff would report this to APS.
- Gloden contacted APS, Mitchell, and reported the events of June 29, 2016, involving SR being taken to Yavapai Medical to be examined, in part, because of concerns for possible sexual abuse.
- APS instructed Gloden to call police and file a report because Gloden had first-hand knowledge on the matter.
- Gloden consulted with her employer, Jones, and then called Prescott Police Department and made a report in accordance with Jones’ instructions.

To summarize, Gloden had knowledge of the following information/allegations:

- SR covered his crotch while showering and stated, “I’m not gay.”
- SR was or may have been sleeping in the same bed or room as his father.
- NAF had historical file information regarding sexualized behavior between siblings at BR’s home.
- During a home visit, Gloden was greeted at the door by BR who was wearing only his boxer shorts.

- Gloden had an ambiguous sense that something was not right when she thought that SR had been in BR's bedroom.

Gloden told Division staff that she filed the police report per Jones' direction. She said Jones instructed her to tell police that NAF "had no evidence that any of this happened" and that the Yavapai Medical physician who examined SR stated that there was no evidence. Gloden stated, "basically I was told not to blame anything on anybody" and she expressed some level of discontentment with the report she gave police. Gloden conceded that she did not report what Mitchell told her to report or expected her to report and stated, "...she told me to call the police and make a report and tell them everything that I told her...and then I was told by my boss that we can't. We don't have any evidence that anything really happened."

APS records of June 29, 2016, 3:30:00 PM documented, in pertinent part:

FEI received a phone call from Beverly Gloden, worker of Northern Arizona Fiduciaries, regarding the client. Beverly stated that they had to take the client to emergency room due to the client showing signs of shortness of breath and frantic crying...

...Beverly then stated that she has had a feeling that there is something going on, possible sexual abuse, between the client and his father, BR. The worker asked why does she think that [sic]. Beverly stated that there have been times that she has gone over to BR's house, unannounced to check on SR, and BR had to close the door and put pants on because he was in boxers. When Beverly has walked into the home, she has found SR in BR's room wearing only boxers. She stated that she got the feeling that things were not right because of the demeanor of BR and SR.

In Gloden's interview with the Division, the above-referenced APS record was reviewed with her. Asked if APS' depiction was accurate, per the documentation, Gloden said, "Pretty much, yes" and did not dispute any of the content.

Prescott Police Department Records in D.R. Case # 16-19338, dated June 29, 2016, taken by Officer Michael Sischka at 5:38 PM, read, in pertinent part:

...I was dispatched to call Beverly Gloden [sic] in reference to a possible delayed sexual assault. I called Gloden [sic], who told me that she wanted to file a report about SR [name withheld deliberately by Division staff].

Gloden said that she was directed to make a report to police because SR [sic] was not himself this morning. She said that he was crying, which was abnormal. Gloden said that she brought SR to the Emergency Room. The ER [sic] only found that Gloden [sic] was anxious.



I asked Gloden if there was any reason to think a crime was committed against SR. She said that there was not. As such, there is no evidence that any crime has occurred. Gloden said that she was only calling police because she was directed by her boss.

Gloden did not dispute the accuracy of the police report.

In her interview with the Division, Detective Barnard verified that it is the police officer and not the caller who categorizes any report as either a miscellaneous report or an offense report but if the caller cannot give detail or reason as to why the caller believes an assault or crime has occurred, it would be considered a miscellaneous report. In this instance, Detective Barnard said, given the information Gloden provided, an investigation was not started but an investigation did begin after police received a second report.

Police records, D.R. Case # 16-19407-000, dated June 30, 2016, taken by Officer Jeremy Sutton at 10:31 AM, detailed, pertinently:

On 6-30-16 [sic] Cathy Mitchell [sic] called the Police Station [sic] to report suspicious actions SR that she thought Police [sic] need to look into...

Mitchell, in part, further indicated that SR started making statements about not being "gay" and that the previous day he "started grabbing his crotch area and saying, "Stop, I am not gay." The report stated that the officer "took this information to investigations and discovered that they were already working the case." Police record of July 7, 2016, (#16-20168-000) stated, in part, that the officer was assigned this case for additional investigation. On September 22, 2016, police completed the case indicating that there was no evidence of abuse or maltreatment and that the allegations of possible sexual abuse were unfounded.

APS records, dated June 30, 2016, documented that Mitchell received a call from Officer Sutton at 11:00AM. In part, Officer Sutton informed Mitchell that the department had forensic child investigators that can interview SR due to his mental state and vulnerabilities. According to the APS case records, Officer Sutton also indicated that he would staff this report with his supervisors and then decide on a course of action.

NAF billing records reflected that on June 29, 2016, Gloden spoke with Mitchell twice. During one call, Gloden, in part, updated APS on the events of that day. The second call detailed, in part, that Mitchell consulted with her supervisor and Gloden documented "they see this as an urgent situation..." Mitchell wanted NAF to contact police to "file a police report, today" and to give police Mitchell's name. On that same date, Gloden documented that contacted police (Report #16-19338) and "I gave report as directed by Carla [Jones] to the officer regarding today's hospital visit with SR [name deliberately withheld by Division staff] and APS report. He will route to APS."

Billing records demonstrated that on June 29, 2016, Jones received a call from Gloden who had spoken with Mitchell and that she "wants NAF to file a police report on the

incidents of today and having SR taken to ER and YRMC [sic] doing a report to APS.” Jones documented that she contacted Clugston then called Gloden to “give specific instructions as to report.” Gloden called back indicating that she made the report to police and that “police did not want to reach out to Catherine [Mitchell], they will also make a report to APS on the report that we made to them [sic]. Records also showed that on June 30, 2016, Detective Barnard contacted Jones regarding “reports made yesterday...” and that she needed to interview SR.

Due to his disabilities and very limited ability to speak, SR is vulnerable adult, hence the Court-appointed Guardianship. Gloden, Jones and NAF have a professional duty to act in the best interest of the ward and to “exhibit the highest degree of trust, loyalty, and fidelity in relation to the ward...” pursuant to § 7-202(J)(2). Further, § 7-202(J)(3) dictates that “The fiduciary shall exercise extreme care and diligence when making decisions on behalf of a ward or protected person. The fiduciary shall make all decisions in a manner that promotes the civil rights and liberties of the ward...and maximizes independence and self-reliance.” § 7-202(J)(3)(e), in part, “...the fiduciary alone is ultimately responsible for decisions made on behalf of the ward...” § 7-202(J)(3)(f) sets out “The fiduciary shall refrain from decision making in areas outside of the scope of the guardianship...”

Police records indicated that Gloden did not provide a detailed account of the circumstances as Gloden knew them and when asked directly by the dispatch police officer, Gloden stated that she did not think a crime had been committed against SR. In doing so, Gloden and Jones appear to have made a decision that went beyond the scope of the guardianship, per § 7-202(J)(3)(f). However, neither Gloden nor Jones could have been in a position to judge and conclude whether a crime or assault had occurred or did not occur. Their respective and collective professional obligation was to provide police with all knowledge of the circumstances including evaluations performed by the Yavapai Medical professionals, referenced earlier in this analysis.

Gloden’s report failed to reflect the information provided to her by CG earlier on the morning of June 29, 2016, the basis for prompting Jones to request a medical evaluation regarding possible sexual abuse. Gloden may have been reluctant or disinclined to provide police with information regarding her own suspicions but she could have qualified her statements and clarified that those doubts or uncertainties were intangible and entirely subjective. At a minimum, Gloden’s report to police should have contained the same information that she reported to APS, pursuant to her statutory obligations to report, mandated by A.R.S § 46-454.

Instead, Jones and NAF seemed to utilize a very cautious approach in this matter. In her Response to the Complaint, Jones said that she was “very hesitant” to file a police report because the allegations of sexual abuse “had not been substantiated and they are very strong allegations to file against a person without personal knowledge or other evidence.”

In her interview, Jones acknowledged that she instructed Gloden to call police to inform that APS would like NAF to file a report but that NAF did not have evidence of abuse.

When asked if she required evidence or substantiation of abuse in order to report concerns to police involving a vulnerable person, Jones said, "Those are pretty strong allegations to call police and say we suspect somebody is being sexually...there is sexual misconduct going on without having anything to warrant that report on." She later qualified that suspicions of abuse may prompt a report and that definitive evidence was not required. Jones's reticence seemed to be based in concern that reporting to police would equate to NAF making allegations of sexual abuse against BR "without having anything to warrant that report on."

However, Jones' approach and statements can be confronted because, in addition to information Gloden and Jones had about the family via NAF files and through her own direct dealings, on the morning of June 29, 2016, CG alerted Gloden to concerns that induced Jones to her staff to have SR medically evaluated for possible abuse in addition to the presenting respiratory issues. By not providing police the information that CG relayed to Gloden, the fiduciary's office appears to have engaged in suppression of likely worthy information.

Gloden's and Jones' decision-making in this instance and, at all times, must be guided by the overarching principle that decisions are made in the best interest of the Ward. The nature of this particular matter certainly required prudence and sensitivity. However, the decision-making, as it pertains here, seems to have been influenced by factors such as whether Jones could first substantiate abuse and if she had conclusive evidence of abuse rather than being directed primarily by the safeguarding the ward's interests and using NAF as an informational source that may help facilitate a police investigation into whether a crime had been committed against a vulnerable adult. It appears that SR's best interests would have been served by transparency on the part of the fiduciary's office rather than by the evident reluctance, reservation, and withholding of pertinent information, demonstrated by Gloden, Jones and NAF in this matter.

Allegation 2 is substantiated.

***Allegation 3: Carla Jones and Northern Arizona Fiduciaries, Inc., did not conduct a criminal record history and placed the ward into the care of his mother who was previously convicted of child abuse and neglect.***

Mitchell conducted a public access search on the Judicial Branch of Arizona's website and learned that CG had child/vulnerable adult conviction from 2012. Mitchell asked Jones about history and she claimed that she had not performed a criminal record search on CG.

Gloden told Division staff that she thought Jones was working with CG about any possible past criminal charges but Gloden could not verify whether this occurred before or after SR was placed in his mother's home on a full time basis. Gloden remembered having a conversation with CG and thought that Jones wanted CG to get her "paper work" showing that the charges had been dismissed. Gloden said she passed on information related to the conversation with CG on to Jones but Gloden did not know

whether this was followed up on and said "it was very confusing...I didn't have all the pieces."

NAF's billing records showed that on May 31, 2016, Gloden received a call from CG and documented that CG had obtained information requested by Jones regarding household members. Gloden further documented that CG said she had felony charges dropped to a misdemeanor and that she "has paperwork showing this." Gloden's billing entry also documented that CG's partner, K, "is clean."

Jones told Division staff that she did not conduct a criminal history check on CG or K, prior to placing SR with his mother. Jones claimed that she had previously asked CG about her past and she informed that she had completed a drug program and did not have any felony charges. Jones said a background check was done by the real estate company at the time NAF was applying for a new rental home for the family. The Division notes that this appeared to be a credit check.

NAF billing also demonstrated that on June 14, 2016, Jones billed for CG coming to NAF office and Jones documented a number of activities that took place including that CG was "asked about criminal history, neither of them have any..."

In her interview with the Division, Detective Barnard stated that she arrested CG several years ago because had she left her young child in the care of her boyfriend and he fell asleep resulting. The child was found on a tricycle trying to cross eight lanes of traffic. SR was living with his father at that time.

The Division reviewed information from P-13300 - CR-201200635, State of Arizona v. CG. A review of the Petition To Terminate Probation to Designate Offense, date stamp December 2, 2014, stated that CG was found guilty of Negligent Child Abuse Per Domestic Violation, a class 6 undesignated felony, on June 14, 2012, and placed on standard probation for a period of three years. It went on to state that she completed over half of her probation term thus far and completed various programs. It was recommended that CG be considered for an early termination from probation. On December 4, 2012, the Court ordered that CG was terminated from probation to this cause.

Jones said that while SR was living with his father, NAF was reunifying SR with his mother because he was doing very well with her and there were concerns for the overall care SR was receiving from his father. The reunification was also supported by SR's physician, Dr. Richard Covey. The Division reviewed Dr. Covey's letter of June 27, 2016, in which he expressed his support to "the ongoing move to have Steven spend more time with his mother" adding that she is a very caring and kind person and that SR was responding "quite well to this move." The events of June 26, 2016, prompted Jones and NAF to permanently move SR to his mother's home on a full time basis.

The core issue in this Allegation is whether Jones and NAF breached any professional responsibility or violated any terms of the ACJA, statutes and laws by not performing a background check on CG or her partner. As noted in this Investigation Summary, Gloden,

Jones and NAF were aware of CG's past felony charge because she disclosed having that history to them. CG told Gloden that the felony charge was reduced to a misdemeanor due to her participation in a drug program. While NAF billing records seemed to indicate that CG was required to submit some type of documentation to support her claims, records do not show that any documentation was ever provided by CG. Billing records support Jones' statement that she asked CG about her history and CG commented that she did not have a criminal history, per billing entry of June 14, 2016.

The Division did not find provisions in the ACJA, A.R.S., or rules that compelled Jones and NAF to conduct a criminal record search prior to moving SR from his father's home into his mother's home. As such, whether Jones should have performed a criminal record search or background check particularly after learning that CG had a history of a felony charge in 2012 that she claimed was reduced to a misdemeanor charge because she complied with drug programs would appear, at face value, information that should and ought to capture a fiduciary's attention and, in practice, provoke a sense of needing to perform due diligence.

In the absence of clear regulatory or statutory provisions regarding a fiduciary performing criminal record searches when placing vulnerable persons with family members or otherwise, the Division's analysis was informed and guided by standards of care and practice, per ACJA §7-201(H)(6)(k)(6),(7), and (8), to determine whether Jones' lack of due diligence and follow up, in this instance, suggested a failure to perform a responsibility and exercise a degree of care or signified a failure to practice competently by reason of any cause by performing unsafe or unacceptable client care, such as that exercised by any other prudent professional fiduciary operating under the same circumstances or similar conditions.

By all accounts SR was doing relatively well in his mother's care and NAF was in the process of reunifying SR with his mother. Dr. Covey also supported SR's reunification with his mother. APS had an open investigation involving BR and his wife pertaining to concerns of financial exploitation. There were also concerns noted, as described in this Investigation Summary, about neglect and the quality of care that SR was receiving while in his father's custody. Moreover, the events of June 29, 2016, regarding SR's admission to Yavapai Medical prompted Jones and NAF to permanently move SR in his mother's care despite Jones' stated position regarding that matter, as detailed in this Investigation Summary.

Given Jones' and NAF's responsibility to protect SR and manage his health, safety, and welfare, prudent practice would dictate that follow up was appropriate in this matter so that Jones could, at minimum, have a clearer understanding of CG's criminal history, ensure that the information she provided to NAF was accurate, and know that there were no current or underlying criminal issues in the household. It seemed that Jones and NAF simply accepted CG's statements although, ultimately, it appears that CG had truthfully represented her history. Jones' and NAF's lack of follow up in this matter may not necessarily rise to the level of a violation under the ACJA in that Jones and NAF engaged in unprofessional conduct, but it may be suggestive of practice deficiency and illustrative

of the fiduciary's need to proceed more attentively when confronted with the type of information CG provided to the fiduciary's office.

Allegation 3 is not substantiated.

***Allegation 4: Carla Jones and Northern Arizona Fiduciaries Inc., allowed a ward to live in deplorable living conditions despite being aware of the living conditions.***

After the events of June 29, 2016, Jones moved SR into his mother's care on a full time basis. Mitchell said that, in response, APS sent a human service worker to check on SR. APS case notes reflected that the "home is in need of cleaning" and the worker took photographs. There was sufficient food in the home. On July 6, 2016, Mitchell forwarded the APS service worker's email and pictures to Detective Barnard.

By all accounts there were concerns about the living conditions at BR's home as well as the conditions at CG's home. Jones stated that SR does not have the financial means to have private care or any housing support from the Department of Developmental Disabilities. Jones also commented that if APS had sufficient concerns for SR, APS staff would have taken him out of the home.

A review of APS and NAF records showed that APS and NAF noted a strong smell of urine in BR's home. APS records also revealed that a worker conducted an unannounced home visit to the CG residence on May 19, 2016, at which time the worker described the home as "clean, a little run down and did smell of cigarette smoke."

Gloden told Division staff that everyone was concerned about CG not being a very good house keeper and that the home was not clean and the couch was "filthy." She said while she had concerns, she struggled somewhat with imposing her own standards of cleanliness upon someone else. The Division notes that several weeks after SR moved into his mother's home, NAF rented a larger and more suitable home for the family. Jones indicated that NAF is monitoring CG's home situation and has set standards for CG to follow regarding SR's care and the management of the home including cleaning, vacuuming and doing laundry.

Mitchell acknowledged that since the family moved into a new home, APS has conducted follow up visits in the new home and noted that CG has done a good job of maintaining the household and there was nothing that required any immediate attention.

Allegation 4 is not substantiated.

***Allegation 5: Carla Jones and Northern Arizona Fiduciaries, Inc., allowed the estate to be billed at a fiduciary rate for Beverly Gloden's services when Ms. Gloden was operating as a support staff, in violation of ACJA § 3-303(D)(2)(g)(2).***

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

§ 7-202(J)(1)(a):

*1. Duty to the Court.*

*a. The fiduciary shall perform all duties and discharge all obligations in accordance with current Arizona law, federal law, administrative rules, court orders, court rules, administrative orders, and the Arizona Code of Judicial Administration.*

§ 7-202(J)(5)(b)(1):

*5. Conservatorship. The fiduciary acting as conservator for the estate shall provide competent management of the property and income of the estate. The fiduciary shall exercise the highest level of fiduciary responsibility, intelligence, prudence, and diligence in the discharge of all duties. A fiduciary shall avoid any self-interest in the discharge of this duty.*

*b. Pursuant to A.R.S. § 14-1104:*

*1. The fiduciary must prudently manage costs, preserve the assets of the ward or protected person for the benefit of the ward or protected person and protect against incurring any costs that exceed probable benefits to the ward, protected person, decedent's estate or trust, except as otherwise directed by a governing instrument or court order.*

§ 7-202(J)(5)(h) and (j):

*h. The fiduciary shall have no self-interest in the management of the estate and shall exercise caution to avoid even the appearance of self-interest.*

*j. The fiduciary shall ensure that all fees and expenses incurred for the protected person by the fiduciary, including compensation for the services of the fiduciary, are reasonable in amount, necessarily incurred for the welfare of the protected person, and in compliance with ACJA § 3-303.*

§ 3-303(D)(2)(g)(2):

*g. The hourly rate charged for any given task shall be at the authorized rate, commensurate with the task performed, regardless of whom actually performed the work, but clerical and secretarial activities are not separately billable from the Professional. The Professional shall abide by the following requirements:*

*(2) A fiduciary may only bill a fiduciary rate when performing services that require the skill level of the fiduciary; a companion rate when performing companion services; a bookkeeper rate when performing bookkeeping and bill-paying services for a client; and shall not charge when performing secretarial or clerical services, for example.*

Pursuant to the facts detailed in Complaint Numbers 16-0006/16-0007, as a response to Gloden's misconduct, Jones established a document entitled, Employee Disciplinary Action ("Disciplinary Plan"), executed by Gloden on January 5, 2016. Please cross reference Complaint Numbers 16-0006/16-0007 for details.

The resultant Disciplinary Plan stated that Gloden was not authorized to perform the following functions:

- Not authorized to make any decisions on behalf of clients;
- Not authorized to sign any documents related to any client;
- Not authorized to give any instructions to other team members relating to client care;
- Not authorized to bind any client's estate or assets.

The Disciplinary Plan further specified that Gloden was "demoted to support staff status" and that Gloden "will not practice as a licensed fiduciary during this time."

A review of NAF's website (<http://www.northernarizonafiduciaries.com/services.html>), showed NAF's Fee Statement and Basis for Compensation and the following hourly fees and rate levels, effective January 1, 2015:

- Licensed Principal Fiduciary - \$105 - \$150.00
- Licensed Fiduciaries - \$95.00
- Fiduciary Assistants - \$85.00
- Office/Care Assistants - \$75.00

A review of NAF's accounting and billing, pursuant to the *Petition for Approval of Conservator's First Accounting*, for the period from January 13, 2016, through October 12, 2016, dated February 6, 2017, and filed with the Superior Court on February 6, 2017, revealed that Jones allowed the estate to be primarily billed at \$95.00 per hour for Gloden's services which represented NAF's licensed fiduciary rate.

Accounting records demonstrated that from August 7, 2015, through August 30, 2016, the estate was routinely charged at \$95.00 hourly for Gloden's services and continued until June 15, 2016, at which time the estate was billed at \$85.00 hourly for Gloden's services. The Division notes that during the period when the estate was billed \$95.00 hourly for Gloden's services, there were four occasions when estate was billed at \$85.00 per hour for Gloden's services:

- January 14, 2016 (6.30 hours)
- January 15, 2016 (0.20 hours)
- January 18, 2016 (0.10 hours)
- January 20, 2016 (0.50 hours)

In addition, on all of the above-mentioned dates, with the exception of January 14, 2016, Gloden also billed for time expended on the conservatorship at \$95.00 hourly for her



services. It is not clear why those billings were exceptions given that the tasks performed seemed to be consistent with those tasks billed at the higher licensed fiduciary rate.

The accounting, as submitted to the Court, conflicts with the expressed language of the Disciplinary Plan which purported that as of January 5, 2016, Gloden was “demoted to support staff status” and that she “will not practice as a licensed fiduciary during this time.” Moreover, records demonstrated that Jones and NAF billed the estate at Gloden’s fiduciary rate regardless of the services were rendered or functions performed.

Examples of some of the tasks and services Gloden performed at the \$95.00 hourly licensed fiduciary rate, included but was not limited to:

- Searching and reviewing websites
- Making and receiving telephone calls with community professionals, family members, and others
- Generating fax cover letters
- Forwarding letters and correspondence
- Linking bank documents to client data base system
- Reviewing reports
- Making home visits to see Ward/Protected Person
- Attending medical appointments

The Division examined the number of hours and service rates from January 5, 2016, to June 15, 2016. With the exception of the four billing entries in January 2016, referenced previously in this analysis, Jones and NAF billed the estate at \$95.00 per hour for Gloden’s services. The following identifies the billable hours for the referenced time period but does not include any hours during that time when the estate was billed at \$85.00, per the noted exceptions:

- 55.22 billable hours @ \$95.00 per hour (licensed fiduciary rate)
- Total cost to the estate: \$5,245.90

Had Jones billed the estate at \$85.00 for Gloden’s services, consistent with NAF’s fiduciary assistants’ rate, and with the terms of the Disciplinary Plan and Gloden’s demotion to support staff status, the estate would have been billed:

- 55.22 hours at \$85.00
- Total cost to the estate: \$4,693.70
- Savings to the estate: \$552.20

Although the cost differences to the estate may not be exorbitant, § 7-202(J)(5)(b)(1) and A.R.S. § 14-1104 compel Jones and NAF to ensure competent management of the estate, assure prudent management of costs, and protect against incurring costs that exceed probable benefit to the estate or protected person. § 7-202(J)(5)(h) and (j) prohibit any self-interest in the management of the estate, requires fiduciaries to exercise caution to avoid even the appearance of self-interest and mandates fiduciaries to ensure that all fees

and expenses incurred “including compensation for the services of the fiduciary are reasonable in amount, necessarily incurred for the welfare of the protected person and in complaints with ACJA §3-303.”

The provisions of § 3-303(D)(2)(g)(2) set out that “The hourly rate charged for any given task shall be a the authorized rate, commensurate with the task performed, regardless of whom actually performed the work...” and “A fiduciary may only bill a fiduciary rate when performing services that required the skill level of the fiduciary; a companion rate when performing companion services, a bookkeeper rate when performing bookkeeping and bill-paying services for a client; and shall not charge when performing secretarial or clerical services...”

Despite the Disciplinary Plan’s terms that Gloden’s reduction in pay, and was “demoted to support staff status” and “will not practice as a licensed fiduciary during this time,” Jones allowed the estate to be billed at the licensed fiduciary rate for Gloden’s services until June 15, 2016. Although Gloden was disallowed from practicing as a licensed fiduciary according to her employer’s disciplinary action, billing showed that Gloden performed a variety of tasks including conducting home visits with SR, scheduled and unannounced, and transported SR to professional appointments, the accounting specifically identified one of the home visits, on February 12, 2016, as a “Fiduciary Visit.”

Allegation 5 is substantiated.

***Allegation 6: Carla Jones failed to cooperate with Division staff request to interview her employees, in violation of ACJA § 7-202(H)(6)(c).***

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

*§ 7-202(J)(1)(a):*

*1. Duty to the Court.*

*a. The fiduciary shall perform all duties and discharge all obligations in accordance with current Arizona law, federal law, administrative rules, court orders, court rules, administrative orders, and the Arizona Code of Judicial Administration.*

*§7 201(H)(6)(c):*

*6. Grounds for Discipline. A certificate holder is subject to disciplinary action if the board finds the certificate holder has engaged in one or more of the following:*

*c. Failed to cooperate with or supply information to the director, deputy director, division staff or board by the specific time stated in any request*

On November 9, 2016, Division staff notified Jones that the Division intended to conduct onsite interviews with her and her staff, Pierson and Hignight, at NAF's place of business in Prescott, Arizona. Interview dates were mutually agreed upon and on November 30, 2016, Division staff conducted an onsite interview with Jones and her attorney, Clugston. Upon conclusion of the interview with Jones, Division staff requested an interview with Hignight and afterward with Pierson. However, Jones insisted that she had to be present when Division staff interviewed any of her employees citing a need to know what her employees were saying and Jones would not allow an interview with her staff without her being physically present during the interview. Division staff stated that Clugston, as attorney for NAF, could be present during respective interviews with Hignight and Pierson but Division staff wanted to interview NAF staff separate and apart from Jones. She was not agreeable and persisted with the condition that interviews with her staff were to include her. As a result of Jones' uncompromising requirement and evident lack of cooperation, Division staff left the premises without interviewing Hignight or Pierson.

Allegation 6 is substantiated.

**SUBMITTED BY:**

  
PASQUALE FONTANA, Investigator  
Certification and Licensing Division

8/23/17  
Date

**REVIEWED BY:**

  
Certification and Licensing Division

8/29/17  
Date

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**DECISION OF THE PROBABLE CAUSE EVALUATOR:**

Having conducted an independent review of the facts and evidence gathered during the course of the investigation of complaint number 16-0008, 16-0009, 16-0010, 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):

# 3 & 4

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

# 1, 2, 5, + 6.

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*M Baumstark*

Mike Baumstark  
Probable Cause Evaluator

*8/30/17*

Date

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

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<b><i>CERTIFICATE HOLDER/LICENSEE INFORMATION</i></b>	<b>Certificate Holder:</b>	Beverly Gloden	
	<b>Certification Number:</b>	205591	
	<b>Certificate Holder:</b>	Carla Jones	
	<b>Certificate Number:</b>	20276	
	<b>Certificate Holder:</b>	Northern Arizona Fiduciaries Inc.	
	<b>Certificate Number:</b>	20198	

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**Recommendation:**

It is recommended the Board accept the finding of the Probable Cause Evaluator and enter a finding Beverly Gloden, Carla Jones and Northern Arizona Fiduciaries Inc. have committed the alleged act(s) of misconduct as detailed in the Investigation Summary and Allegation Analysis Report in complaint numbers 16-008, 16-009 and 16-0010.

**Mitigating factors:**

- a. Absence of prior disciplinary history

**Aggravating Factors:**

- a. Dishonest or selfish motive (billing practices Jones and NAF)
- b. Multiple offenses including complaint numbers 16-006, 16-0007 and 17-0014
- c. Failure to cooperate with investigation (Jones and NAF)
- d. Vulnerability of the victim
- e. Substantial experience in the profession

It is recommended the Board enter a finding grounds for formal disciplinary action exists pursuant to Arizona Code of Judicial Administration ("ACJA") § 7-201(H)(6) for act(s) of misconduct as described in the investigative complaint.

It is further recommended the Board revoke the licenses of Beverly Gloden, Carla Jones and Northern Arizona Fiduciaries, Inc.

**SUBMITTED BY:**

  
\_\_\_\_\_  
Director  
Certification and Licensing Division

8/3/17  
\_\_\_\_\_  
Date

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**FINAL DECISION AND ORDER:**

The Board having reviewed the above Investigation Summary, Allegation Analysis Report, finding of the Probable Cause Evaluator, and Recommendation regarding complaint numbers 16-0008 and 16-0009 and Carla Jones, certificate number 20276 and Northern Arizona Fiduciaries, certificate number 20198, defers the matters for consideration at a later date. As to the aforementioned Report and Recommendation regarding complaint number 16-0010, and Beverly Gloden, certificate number 205591, 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:

Dismiss complaint number 16-0010.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



Deborah Primock, Chair  
Fiduciary Board

9/9/17  
Date