



Supreme Court
STATE OF ARIZONA

CERTIFICATION AND LICENSING DIVISION

1501 W. Washington Street, Suite 104
Phoenix, Arizona 85007-3222
602-452-3378

January 11, 2023

VIA EMAIL AND US MAIL

Mark E. Andersen
Samantha G. Stirling
17015 N. Scottsdale Road, Suite 225
Scottsdale, Arizona 85255
mandersen@andersenpllc.com
stirling@andersenpllc.com

RE: CONSENT AGREEMENT AND CENSURE ISSUED - Complaint Number FID-NFC-20-0003

Dear Patricia Flores:

This letter is to inform you of the Fiduciary Board (“Board”) action regarding the above-referenced complaint. On November 10, 2022, the Board considered the Certification and Licensing Division’s Investigation Summary and Probable Cause Analysis and Determination Report and Recommendation, the discipline proceedings that followed, and a proposed Consent Agreement to resolve complaint number FID-NFC-20-0003.

The Board ordered the issuance of the enclosed Consent Agreement, fully executed on or about December 9, 2022, finding that regulatory violations occurred in the above-referenced complaint number. Under Arizona Code of Judicial Administration (“ACJA”) § 7-201(H)(24)(a)(6)(b) and (c), the Consent Agreement includes the issuance of a Censure, a formal written disciplinary sanction. The terms of the Consent Agreement should now be complete, resolving complaint number FID-NFC-20-0003.

Under ACJA § 7-201(H)(1)(g)(2), this Consent Agreement and Censure is a matter of public record, available for public inspection and is not confidential. If you have

questions, contact the Division by email to complaints@courts.az.gov or by phone to 602-452-3378.

Sincerely,



Aaron Nash, Director
Certification and Licensing Division

cc: Patricia Flores, Fiduciary

Enclosures

1 ANDERSEN PLLC
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3 Samantha G. Stirling (SBN [REDACTED])
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8
9 **ARIZONA SUPREME COURT**
10 **Fiduciary Board**

11 **IN THE MATTER OF FIDUCIARY**
12 **LICENSE:**

13 **PATRICIA FLORES,**
14 **License Number [REDACTED]**

NO. FID-NFC-20-0003

CONSENT AGREEMENT

15
16 THE FIDUCIARY BOARD (herein, "the Board") and PATRICIA FLORES (Fiduciary
17 License No [REDACTED] (herein, "Ms. Flores") (herein, collectively, "the Parties") hereby enter into
18 the following Consent Agreement ("Agreement").

19
20 **RECITALS**

- 21 1. Ms. Flores is a licensed fiduciary in the State of Arizona. Her license number is
22 [REDACTED]
- 23 2. Ms. Flores was appointed as the Successor Trustee of The Dorothy Frances Love
24 Roberson Revocable Living Trust, dated September 11, 1998, amended and restated June 25,
25 2001 (herein, "Trust") via Pima County Superior Court order in February 2016.
26

1 3. The Trustor of the Trust was Dorothy Love Roberson (herein, "Trustor" or
2 "Decedent"). The Trustor died in November 2013 and was survived by her children, Patricia
3 Bartholomew (herein, "Patricia") a beneficiary and named successor trustee, and Russell
4 Bartholomew, Gerald Bartholomew, and Warren Bartholomew (herein, respectively, "Russell,"
5 "Gerald," and "Warren," and collectively, "Bartholomew Brothers"), beneficiaries.
6

7 4. Ms. Flores' appointment by the Court was the result of litigation between Patricia
8 and the Bartholomew Brothers related to Patricia's administration of the Trust.
9

10 5. On or about February 1, 2020, Russell filed a complaint with the Board against
11 Ms. Flores (Complaint No. 20-0003) related to her administration of the Trust, alleging in part
12 that:

13 a. Ms. Flores failed in her duty to inform and report by not providing annual
14 accountings and/or complete accountings and information requested and/or
15 answers to questions involving the estate; and
16

17 b. Ms. Flores did not timely settle the estate.

18 6. The Board's Investigator investigated these allegations and made additional
19 allegations related to the Trust administration, including that Trust funds were used to pay Ms.
20 Flores fiduciary and legal fees related to another complaint related to this same Trust
21 administration.¹ An Investigation Summary was completed on June 25, 2021.
22

23 7. Mark Wilson, Division Director of the Certification and Licensing Division at the
24 time, recommended that the Board issue a censure to Ms. Flores.
25

26 ¹ The other complaint related to this Trust administration (Complaint No. 16-0018) was not substantiated and no discipline resulted.

1 B. The Board will issue a Censure to Ms. Flores.

2 C. Ms. Flores will comply with all code, rule, and statutory obligations.

3 D. Failure to comply with any provision of this Agreement may result in further discipline.

4 E. No further hearings shall be set in this matter and any hearings previously scheduled
5 before the administrative law judge shall be vacated. Notice that the Parties have
6 resolved this matter through this Agreement shall be forwarded to the administrative law
7 judge so that the pending matter may be vacated.
8

9 F. The Parties agree that each side shall bear their own costs and attorneys' fees, if any.
10

11
12
13
14 DATED this 20 of November, 2022

15
16
17 Patricia Flores
(Fiduciary License No. [REDACTED])

15
16
17 Fiduciary Board
By: [REDACTED]

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

CERTIFICATE HOLDER/LICENSEE INFORMATION	License Holder:	Patricia Flores
	License Number:	██████████
	Business Name:	Patricia A. Flores, LLC
	Certification Number:	N/A
	Type of License:	Individual Fiduciary
COMPLAINANT	Name:	Russell Bartholomew
INVESTIGATION INFORMATION	Complaint Number:	20-0003
	Investigator:	Pasquale Fontana
Complaint Received:		February 24, 2020
Complaint Forwarded to the License Holder:		March 6, 2020
Certificate Holder/Licensee Received Complaint:		March 9, 2020
Response From License Holder:		April 5, 2020
Period of Active Certification/Licensure:		August 22, 2006 - Present
Status of Certification/License:		Active
Availability of Licensee:		Available
Availability of Complainant:		Available
Report Date:		June 25, 2021

ALLEGATIONS:

1. Patricia Flores failed her Trustee duty to inform and report by not providing:
 - a) Annual Trust accountings and/or complete accountings
 - b) Information requested and/or answers to questions involving the estate.
2. Patricia Flores did not timely settle the estate.

ADDITIONAL ALLEGATIONS:

3. Patricia Flores failed to timely control and protect estate assets.
4. Patricia Flores committed material misrepresentation and made dishonest, false, or misleading statements to Division staff.
5. Patricia Flores breached her fiduciary duty by charging and allowing the estate to be charged professional fees to defend herself against allegations of misconduct.

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

- Written complaint and documentation submitted by complainant, Russell Bartholomew ("Russell").
- Written response and documentation submitted by license holder, Patricia Flores ("Flores");
- 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 pertinent Superior Court of Arizona, Pima County records involving Probate Cause No. PB2014-1355, The Dorothy Frances Love Roberson Revocable Living Trust dated September 11, 1998, as amended and restated June 25, 2001;
- Interview with Russell Bartholomew;
- Interview with Warren Bartholomew;
- Interview with Patricia Flores;
- Interview with Gerald Bartholomew.

PERSONS INTERVIEWED:

1. Russell Bartholomew
2. Warren Bartholomew
3. Patricia Flores
4. Gerald Bartholomew

SUMMARY OF INVESTIGATION:

Background

The Dorothy Frances Love Roberson Revocable Living Trust ("Trust"), dated September 11, 1998, amended and restated June 25, 2001, was created by Dorothy Love Roberson ("Mrs. Roberson"). The Trust named Mrs. Roberson's adult children, Russell, Warren Bartholomew ("Warren"), Gerald Bartholomew ("Gerald") and Patricia Bartholomew¹ ("Patricia") as beneficiaries of the Trust. After Mrs. Roberson's death in November 2013, Patricia served as Trustee of the Trust.

¹ Patricia Bartholomew passed away in June 2018. She was Complainant on Complaint No.16-0018 filed against Flores.

On or about December 16, 2014, Russell, Gerald, and Warren, collectively, filed a lawsuit against Patricia, individually, and as Trustee of the Trust.² The litigants reached settlement resulting in a Settlement Agreement and Release ("Settlement Agreement"). The Settlement Agreement included the resignation of Patricia, as Trustee of the Trust, and for Flores (or such person or entity approved by the parties) to be appointed as Successor Trustee of the Trust and to administer the Trust in accordance with the terms of the Settlement Agreement. To the extent that any term or provision of the Trust conflicted with the Settlement Agreement, the Settlement Agreement super-ceded such term or provision.

Pursuant to Probate Cause Number, PB2014-1355, Superior Court, Pima County, on February 18, 2016, Flores was appointed as Successor Trustee of the Trust.

Russell alleged that Flores failed to keep the Trust beneficiaries informed of the administration of the Trust because she did not provide accountings and/or accountings that adequately showed Trust expenditures. He alleged that Flores had a "tendency" to avoid answering estate related questions asked of her and she did not provide information sought by the brothers. Russell further alleged that Flores did not timely administer the estate.

Flores disputed the allegations and said she has provided Trust accountings annually and has kept the brothers informed throughout her administration of the Trust. She denied that she caused any undue delay in the administration of the Trust.

SUMMARY OF FACTUAL FINDINGS OF INVESTIGATION:

Complaint

In the complaint, Russell wrote that Flores was appointed as Successor Trustee to replace Patricia on August 28, 2016.³ Around the time of Flores' appointment, the three brothers thought they would meet with Flores "and find out what was the procedure for finalizing the estate and what her fees were," but the meeting and discussion about her fiduciary fees did not occur. Russell said, since then, many of their questions and their attorney's questions have not been answered by Flores. When Flores emailed the brothers, Russell said she did not "fill us in on what is happening but to ask about something else" and she did not provide the information the brothers sought. Russell said he was attaching "some of

² Cause Number PB2014-1355, filed February 12, 2016, Superior Court, Pima County.

³ Flores was named as Successor Trustee of the Roberson Trust/Settlement Agreement on February 12, 2016, pursuant to the Notice of Settlement and Stipulated Motion for Related Relief, filed with the Superior Court records, Pima County, in Probate Case Number PB2014-1355. The Court ordered Flores' appointment as Successor Trustee on February 18, 2016.

the many documents...to indicate this tendency” and included various emails he said supported his allegation.

Russell wrote that in December 2018, the brothers met with Flores at which time she gave them “a large portion of the residual estate” and told them she was reserving some estate funds for any potential expenses but she did not provide information about her fiduciary fees. In January 2019, Russell emailed Flores with a specific request again asking for a “full run down of the Estate [sic].” Russell said he filed the complaint because he had not heard from Flores.

Fiduciary's Response to Complaint

Flores said the Trust was slated for closure in early 2019 “waiting only for all tax returns to be filed.” She said Patricia was a beneficiary and the original Successor Trustee, and the tax preparer Patricia hired to prepare the tax returns “did so based not on a calendar but instead on the fiscal year of November 1 through October 31.” Flores said tax returns were not prepared during Patricia's term as Successor Trustee for the taxation years 2014, 2015, and 2016. Flores said based on the late filings of these returns after she was named Successor Trustee, the tax returns were prepared and filed, and Flores paid the penalties and interest owing.

In November 2018, Flores was contacted by Russell, as Personal Representative⁴ of the estate, under a probate filed by Russell to address any assets outside of the Roberson Trust. He had not filed a Status Report as required and an Order to Show Cause Hearing was to be held on November 14, 2018. Russell asked if Flores would attend the hearing with him since he was not well versed in the questions he may be asked, if it required any explanation that may touch on the Trust. Flores attended the hearing.

Flores said Warren contacted her on November 6, 2018,⁵ to advise of his sister Patricia's death in June 2018. Before the correspondence with Warren, Flores had not been informed of Patricia's death. Despite Patricia's passing, Flores determined that rather than “hold up moving forward with closing this Trust, I would provide the three gentlemen what would be their final distribution.” Before the final distribution checks were prepared, Flores said a mining interest that had been transferred to the three brothers had not been addressed. She assisted by contacting a reputable firm and arranging a meeting between the three brothers and counsel from this firm. Flores said she had not been advised of the outcome of that meeting.

⁴ Cause Number PB2015-1314, Superior Court, Pima County.

⁵ Records show Warren emailed Flores on October 19, 2018 informing that he just learned his sister died in June 2018.

In December 2018, a distribution of assets was made to the three beneficiaries at which time Flores said she provided them accounting information along with their final distribution checks. Afterward, Flores communicated with the firm that represented Patricia prior to her death. Flores expressed surprise that she had not been notified of Patricia's death, however that was met several weeks later with a request for Patricia's final distribution and Flores was instructed that funds were to be provided to the gentleman Patricia had lived with for many years, Carter Childs ("Childs"). Flores said from what she was advised, Childs did not file a probate petition in Arizona or in California where they resided part-time. Flores was contacted again by the attorney who had represented Patricia prior to her death and, along with advice from Flores' attorney at the time, she prepared a check to Patricia's estate. Flores said she provided the tax firm that had worked with her in clarifying the tax issues "I had inherited" with the same tax information that had been used prior to Patricia's death. Final distribution was made, and the check was negotiated in July 2019.

Flores said the Trust's final tax return was filed at the end of December 2019, and, to date, there have been no additional fees or expenses requested by the IRS. The accounting firm that prepared the final return sent the necessary tax accounting/financial paperwork that Flores provided to the three beneficiaries and to the recipient of the funds for Patricia's estate. Flores said recent communication she had with the same tax preparer allowed her to clarify there had not been enough qualifying income for the November 1, 2019 to date, an additional return will not be necessary, and the Trust will be closed.

Complainant's Reply to Fiduciary's Response

Russell received a copy of Flores' response to the complaint. He emailed the Division stating that, in her response, Flores "was less than honest." Russell reiterated that Flores, "has never answered many of our Emails [sic] where we asked specific questions about the status of the Estate[sic], the expenses, residual money, her salary and many other items." He added, "in most of her Emails [sic] to us ignored our requests or responded with other questions not asked."

Russell said after Flores was required to answer the complaint, "she sent us a 64-page Email of Bank Statements [sic] to show and other info [sic] that was supposed to be a summary of everything but will take quite a few days to put in a readable format that was more informative if she had used a decent accounting system." Russell included an email he sent to Flores on February 6, 2018 but said Flores did not respond to the email. Russell provided the Division with the following attachments that he received from Flores:

- Attachment A: 2/1/2016 - 3/31/2020 - Account Activity
- Attachment B: Invoices: Patricia A. Flores
- Attachment C: Wells Fargo Advisors: Annual Summary: 2016, 2017, 2018, and 2019

Allegation 1 a): Patricia Flores failed to provide Annual Trust accountings and/or complete accountings

Division staff interviewed Russell. He said early in Flores' administration of the estate she sent Wells Fargo bank statements, "but it never actually referred to what was going...it was not totally comprehensive...nothing in a finite way that says we spent X dollars and bought this particular part of it and we spent so much money to the CPAs and we spent this much money...on the lawyer." The brothers wanted more comprehensive information about the expenditures and a breakdown of the professional fees and costs. He said it was not until Flores provided a 65-page document to them⁶ after he filed his complaint with the Division, that he realized Flores' fiduciary fees.

Russell provided the Division a copy of the above-referenced 65-page document he received from Flores. The document's "Attachment B Invoices – Patricia A. Flores," contained Flores' monthly invoices for the period from January 20, 2016 through January 17, 2018. The invoices included, but not limited to, date of service, description of tasks, time expended, rate, and the amount of each transaction.

Warren told Division staff that Flores did not provide them with a complete Trust accounting. He could not recall when but said the brothers met with Flores at her office and she provided them with a distribution check. At that meeting, Warren said Flores may have given them what she considered an accounting but, "it didn't account to anything. We wanted to see a complete accounting as to what was spent, how the money was spent, what her bills were, so we'd know where everything was so the thing could be accounted...to see what really transpired on my mother's estate. Never got anything in paper that shows what the heck went on, what her billing was...we never got to see any of that, we kept asking..."

Gerald told Division staff that Flores did not provide information that showed a breakdown of "where and how" the estate money was spent, particularly involving a breakdown of her fiduciary fees. He said whatever the brothers received from Flores was "in my view, unsatisfactory" adding that there was nothing "that indicated where the money was going and how much time she was putting into it...we were basically blind as to how much money she was taking." Gerald said they did not receive anything until close to the end of Flores' "active" period. He said she was not very communicative.

In her interview, Flores was asked if any of the brothers' requests for Trust accountings or other information were unreasonable to which she stated, "No." She said the brothers received accountings from May 2016 to July 31, 2017, adding, "they had been receiving information and input and help along the way, the entire time from me." Flores said she provided Trust accounting to the brothers once annually and has given them three

⁶ Flores provided a Final Accounting to the brothers, via email, on April 13, 2020.

accountings. Flores said she provided bank statements, snapshots, or annual summaries which showed "each check, who it was written to."

Prior to Flores' interview with the Division, on June 2, 2020, Division staff had requested the following from Flores:

1. All written and electronic correspondence, including any attachments contained therein, between your office and any of the three Roberson Trust beneficiaries: Gerald Bartholomew, Warren Bartholomew, and Russell Bartholomew ("Brothers"). The records should include all correspondence involving the Brothers and/or any attorney representing the Brothers. Please provide the requested records for the period from September 1, 2017 to date.
2. Records demonstrating that you provided financial information/records and accountings when requested by any beneficiary and the information and records provided.
3. Records demonstrating that you provided Annual Trust accounts to Trust beneficiaries and the annual accountings provided since you were appointed Successor Trustee of the Roberson Trust.

On June 9, 2020, Flores sent two emails to the Division which included the following:

- Flores' answer to the complaint, dated April 5, 2020
- Attachment A: 2/1/2016 - 3/31/2020 - Account Activity
- Attachment B: Invoices: Patricia A. Flores
- Attachment C: Wells Fargo Advisors: Annual Summary: 2016, 2017, 2018, 2019
- Attachment D: 2018: Federal 1041 and State AZ 141
- Attachment E: 2017: Federal 1041 and State AZ 141
- Attachment F: Final Distributions to Beneficiaries

On June 10, 2020, Division sent an email to Flores indicating that she had not been responsive to our initial request on June 2, 2020. The Division reiterated to Flores in the email the records that the Division requested for her to produce.

On June 14, 2020, Flores submitted the following documentation:

- Various email correspondence
- Attachment A: 2/1/2016 - 3/31/2020 - Account Activity (65-page pdf document 20200413160925496.pdf)
- Attachment B: Invoices: Patricia A. Flores
- Attachment C: Wells Fargo Advisors: Annual Summary: 2016, 2017, 2018, 2019

Flores also forwarded numerous documents to the Division that were not requested.

On July 20, 2020, Russell sent the Division various emails and documents, including a copy of the following that he received from Flores:

- Trust accounting the brothers had received from Flores which was identified as "ROBERSON FIRST TRUST ACCOUNTING." This represented the accounting for the period from May 1, 2016 through July 31, 2017.
- The Trust accounting's Attachment A, "DISBURSEMENTS," represented the total annual amounts including the total of Flores' fiduciary fees, legal fees, and various other fees. The accounting did not include itemized billing and invoices for the professional fees and costs, which was specific information the brothers said they sought to obtain from Flores.
- The accounting's Attachment B consisted of Wells Fargo Advisors monthly bank statements (account ending ***005), as a "SNAPSHOT," from May 1, 2016 through July 31, 2017.

The Division notes that Flores did not provide a copy of the First Trust Accounting to the Division when she submitted records to the Division on June 9, 2020 and June 14, 2020.

Flores provided an incomplete accounting to the brothers. The First Trust Accounting contained, but was not limited to, a monthly bank statement "SNAPSHOT" that represented only the first of several pages i.e. Page 1 of 14, Page 1 of 15; etc. The accounting covered the period from May 1, 2016 through July 31, 2017, but Flores provided an Annual Statement Information (Page 4 of 5 only) representing certain transactions from January 8, 2016, through July 26, 2016. She did not provide the brothers with a record showing the transactions for the entire accounting period through July 31, 2017. See below:

Annual Statement Information

Page 4 of 5

Activity detail by type

DATE	DESCRIPTION	AMOUNT	BALANCE
1/26	Deposits		
1/26	Bank	1,457.00	1,457.00
1/27	Bank	175.50	1,632.50
	Total Deposits	\$ 1,632.50	
1/27	Other additions		
1/27	Bank	51.45	1,684.00
	Total Other Additions	\$ 51.45	
1/27	Withdrawals by check		
1/27	UHAUL	51.45	1,632.55
1/28	FLETCHER STRUSE	1,457.00	175.55
1/28	MUNGER CHADWICK	175.50	0.05
1/29	FLETCHER STRUSE	530.00	530.05
1/29	UHAUL	51.45	478.60
1/29	FLETCHER STRUSE	100.00	378.60
1/30	PIMA COUNTY TREASURER	1,099.39	127.21
1/30	PIMA COUNTY TREASURER	676.75	150.46
1/30	FLETCHER STRUSE	190.00	0.00

Schedule C, shown below, represents the following expenditures from the estate's bank account:

**DOROTHY LOVE ROBERSON REVOCABLE TRUST
CHECKS WRITTEN BY PATRICIA BARTHOLOMEW
POST SETTLEMENT AGREEMENT
JANUARY 8 2016 THROUGH APRIL 18, 2016****

CHECK 224	U HAUL	\$ 51.45
CHECK 225	FLETCHER STRUSE	\$1,457.00
CHECK 226	MUNGER CHADWICK	\$ 175.50
CHECK 227	FLETCHER STRUSE	\$ 530.00
CHECK 228	U HAUL	\$ 51.45
CHECK 229	FLETCHER STRUSE	\$ 100.00
CHECK 230	PIMA COUNTY TREASURER	\$ 1,099.39
CHECK 231	PIMA COUNTY TREASURER	\$ 676.75
CHECK 232	FLETCHER STRUSE	\$ 190.00

** Pursuant to Wells Fargo Advisors, Ms. Bartholomew did not sign off on the necessary transfer of Trustee document(s) giving Successor Trustee full account access until May 26, 2016 despite the Court's Order having been signed in February 2016.

Records show Flores billed for time on Trust related tasks beginning on January 10, 2016. In addition, Flores' attorney, Paul Willman ("Willman") billed the estate for legal services beginning on March 10, 2016. The accounting reporting period should start when Flores was appointed as Successor Trustee.

On July 20, 2020, in addition to the First Trust Accounting, as previously noted in this Investigation Summary, Russell provided the Division a copy of the 65-page pdf document, titled "2020-04-15 pat flores [sic]," that Flores sent the brothers after Russell filed his complaint with the Division. The document included:

- Attachment A: 2/1/2016 - 3/31/2020 - Account Activity
- Attachment B: Invoices: Patricia A. Flores
- Attachment C: Wells Fargo Advisors: Annual Summary: 2016, 2017, 2018, 2019

Attachment A included, but was not limited to, financial activities; a Transaction Report from August 1, 2017, through December 10, 2018; Flores' billing and invoices from January 10, 2016, through April 13, 2018; and Wells Fargo Advisors Annual Summary for 2016 through 2019. The Annual Statement Information for each year included all pages in contrast to the single Page 4 of 5 of the Annual Statement Information that Flores sent the brothers in the First Trust Accounting.

On October 25, 2020, Division staff requested, from Flores, records demonstrating that she satisfied the brothers' requests for certain information, per a September 25, 2017 letter that the brothers' attorney, Shanelle Schmitz ("Schmitz") sent to Willman and Flores. The contents of the referenced letter will be detailed later in this Investigation Summary.

Germane to Trust accountings and financial information, the Division's October 25, 2020, letter to Flores requested:

Please provide supporting documentation demonstrating when you provided the beneficiaries with annual Trust accountings and financial statements and include a copy of the Trust accountings and/or statements your office sent to the beneficiaries at the time the Trust accountings and/or statements were sent. [italics added]

Flores responded on November 5, 2020, sending various records represented as Attachments A through N. Specific to accountings, Attachment I contained the First Trust Accounting that Flores did not previously include when she submitted records to the Division. The First Trust Accounting that Flores provided appeared to be consistent with the First Trust Accounting that Russell had furnished to the Division on July 20, 2020.

Flores also included emails showing that she sent the brothers a final accounting. Attachment L represented two emails dated April 13, 2020.

The first email was sent to Flores from reception@downtownexecutiveoffices.com, Subject Line: FINAL ACCOUNT INFORMATION – ATTACHMENTS A THROUGH C. The attachments contained in that email were not accessible to Division staff.

The second email was from Flores to Russell and Warren and identified attachments, "20200413160925495.pdf,"⁷ and "answer to complaint.docx." In that email, Flores said she was sending banking activity for the Trust funds that were released to her on February 21, 2016 through March 30, 2020; invoices generated by her office; and Wells Fargo Account Summary statements for 2016 through 2019. The attachments of that email were not accessible to Division staff, but the attachments seemed to be the same as those previously provided to the Division.

Prior to April 13, 2020, Russell sought accountings from Flores. On December 6, 2019, he emailed Flores writing, pertinently:

We need a fully detailed financial print out accounting of all funds that have been processed from the estate

This accounting will include outside accounting, all the legal fees, all IRS fees, any other fees paid to outside vendors, sales, or unknown personnel. Especially the financial accounting should show your fees as they have never been expressed to us from the beginning of our association, nor have been indicated over the term of the estate settlement. The accounting should cover all expenses during your term of employment.

On December 8, 2019, Flores replied to Russell's December 6, 2019, email, wherein she stated, pertinently:

I fully plan to provide a final accounting to include the numbers reflecting all distributions both to you and your brothers and to Patricia's estate fully taking into consideration the expenses that were the responsibility of you those that were attributable to Patricia's actions.

Russell told Division staff that Flores did not provide the final accounting on or about December 31, 2019 but sent a 65-page document containing financial information after he filed his complaint with the Division. He said the document showed that Flores spent \$50,000.00 in attorneys' and accountant's fees and that the Trust was in debt of almost \$2,000.00 but said he was not certain.

The 65-page document Russell referenced was the final account information Flores provided to Warren and Russell in her email of April 13, 2020.

⁷ The referenced pdf document was consistent with the pdf document Flores provided to the Division on June 14, 2020, and the same as the one Russell provided on July 20, 2020 (2020-04-15 pat flores) [sic].

The brothers met with Flores in December 2018 after which she provided final distribution checks. On November 28, 2018, in an email to Warren, Flores stated, pertinently:

I would like to set a time next week for you to come in and meet with me and review the accounting before I write any checks.

Flores' billing documents a meeting with the brothers on December 10, 2018⁸ involving final distributions. See below:

12/10/2018	PAF	FINAL DISTRIBUTION	MEETING WITH BARTHOLOMEWS. PRESENT ACCOUNTING REPORT OF DISTRIBUTIONS MADE FOR THE 2017-2018 TIME FRAME. DISCUSSED DISTRIBUTIONS TO BE MADE TO EITHER PATRICIA'S ESTATE OR TO HER HUSBAND CARTER CHILD DIRECTLY. DISCUSSED MY NOT HAVING A BREAK OUT YET OF WILLMAN'S FEES IN ORDER TO ALLOW ME TO CHARGE THE APPROPRIATE BENEFICIARY WITH THE FEES FOR THE WORK PERFORMED. PROVIDED PARTIES WITH CHECKS, AND ACKNOWLEDGEMENT OF RECEIPT OF FINAL DISTRIBUTION.	\$150.00	2.30	\$290.00
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In his complaint, Russell alleged that Flores did not provide Trust accountings and/or did not provide complete accountings that fully reflected all expenditures from the Trust. The brothers told Division staff they sought accountings and information from Flores that provided details as to how the estate money was spent and they wanted to review her fiduciary fees.

Flores provided the brothers the First Trust Accounting on or about August 29, 2017. However, this was an incomplete accounting, in part, because it did not include invoices or itemized statements of her fiduciary fees and costs or Willman's fees and costs. Flores did not include all pages of bank statements in the accounting.

After reviewing the First Trust Accounting, the brothers, by and through counsel, Schmitz, sent a letter, dated September 25, 2017, to Flores and her attorney, Willman. The brothers sought clarification for various expenditures and requested additional financial statements and itemized statements of the fiduciary and legal fees. The letter is detailed further in Allegation 1 b).

In response, Flores emailed Schmitz on October 12, 2017, wherein Flores stated, pertinently:

The information you request below is not overly burdensome at all. Aside from Willman's bill which I have in monthly increments, I will ask him to provide one billing

⁸ A document that appears to be signed by Russell involving receipt of various Trust related items, was dated December 10, 2018.

statement for the time frame indicated. Since I mention the time frame, yes, I did mean July 2017.

As for the statements, I provided the statements as are called for in a court accounting which is the statement in full for the last month of the accounting period. I should have provided more than a Snapshot of the activity. I am happy to provide those statements and would like to email them as pdf docs if you are ok with that.

On October 18, 2017, Flores provided the brothers Wells Fargo Advisors monthly bank statements for the period from January 2016 through July 2017.

A.R.S. §14-10813. Duty to inform and report sets out, pertinently:

A. Unless the trust instrument provides otherwise, a trustee shall keep the qualified beneficiaries of the trust reasonably informed about the administration of the trust and of the material facts necessary for them to protect their interests. Unless the trustee determines that it is unreasonable under the circumstances to do so, a trustee shall promptly respond to a beneficiary's request for information related to the administration of the trust.

C. A trustee shall send to the distributees or permissible distributees of trust income or principal and to other beneficiaries who request it, at least annually and at the termination of the trust, a report of the trust property, liabilities, receipts and disbursements, including the source and amount of the trustee's compensation, a listing of the trust assets and, if feasible, their respective market values. [italics added]

A.R.S. §14-10813 (C) requires a Trustee to provide annual accountings to beneficiaries. This means Flores should have provided the following Trust accountings:

- | | |
|----------------|-------------------------------|
| 1) 2016 – 2017 | (First Annual Accounting) |
| 2) 2017 – 2018 | (Second Annual Accounting) |
| 3) 2018 – 2019 | (Third Annual Accounting) |
| 4) 2019 – 2020 | (Fourth and Final Accounting) |

Notwithstanding Flores' representations to Division staff that she provided three Trust accountings to the brothers and "one a year," her statements are not supported by facts. Flores provided two Trust accountings however those accountings were incomplete accountings. For example, Flores provided the First Trust Accounting on or about August 29, 2017 but the accounting did not include fiduciary invoices/billing, legal invoices/billing or monthly bank statements and checks. Flores later provided Wells Fargo bank statements to the brothers but did not include any of her fiduciary billing information or any of the legal billings/invoices. On April 13, 2020, the brothers received what appears to be the

final Trust accounting from Flores. This accounting included invoices for Flores' fiduciary fees and costs, but the invoices represented her fees and costs only to April 2018 and not beyond. The final accounting did not include invoices for Willman's legal fees and costs that were paid by the estate.

Allegation 1 a) is substantiated.

Allegation 1 b): Patricia Flores failed to provide information requested and/or answered questions involving the estate.

Russell alleged that Flores had a "tendency" to avoid answering the brothers' estate related questions and/or did not provide information they requested from her.

After receiving the First Trust Accounting, the brothers had questions and sought clarification and information on numerous items. The brothers, by and through counsel, sent their September 25, 2017, letter to Willman and Flores. The main points of the letter are summarized as follows:

- The brothers were not provided with an itemized statement regarding Flores' fiduciary fees of \$9,722.55. They requested an itemized statement showing a description of the tasks Flores completed and the amount of time she is billing for each of those tasks.
- The brothers did not receive an itemized statement of Willman's legal fees of \$7,864.86 and requested an itemized statement showing a description of the tasks Willman completed and the amount of time he billed for each of those tasks.
- Brothers requested a "breakdown" of the fees of \$147,734.73 paid to Patricia Bartholomew.
- Regarding the accounting's Attachment B, only the first pages for each of the statements from Wells Fargo Advisors were provided. There was no explanation regarding the cash amounts withdrawn for the following months:
 - July 2016 (\$112.90)
 - August 2016 (\$10,326.78)
 - September 2016 (\$194,779.99)
 - October 2016 (\$8,502.33)
 - November 2016 (\$2,694.65)
 - January 2017 (\$363.00)
 - March 2017 (\$3,635.80)
 - April 2017 (\$105,403.28)

The brothers requested explanations regarding the reason these amounts were withdrawn and a breakdown regarding what this cash was used to purchase.

- Regarding Schedule C, the brothers requested an explanation or tracking of the following cash amounts withdrawn:

▪ March 2016	(\$1,876.14)
▪ April 2016	(\$190.00)

- The brothers had questions regarding the checks paid to Fletcher Struse Fickbohm & Wagner and wanted to know when and why their services were provided and whether Flores agreed that these were legitimate trust expenses.
- The brothers wanted to know what property taxes were paid with checks numbered 230 and 231⁹ to the Pima County Treasurer. They had concerns that these checks may have been used to pay Patricia Bartholomew's own property taxes.
- The brothers wanted clarity regarding the difficulties Flores encountered which delayed her from "taking over as a fiduciary" and an explanation of why this increased her fees.
- The brothers had concerns regarding the remaining actions Flores plans to take in administering the Trust because it has been a lengthy and expensive process for the brothers.
- The brothers requested that Flores provide them with a list of action items that she must complete in "wrapping up her administration" of the Trust, an estimate for the cost of completion and if the items are being completed by a third party to identify the third party responsible for completing each item.
- The brothers wanted to know the status of the Trust's tax returns for 2014, 2015, and 2016, and whether they have been submitted for preparation; the identity of the party preparing the taxes; an estimate for the costs of preparation; and an estimate for the amount that is expected to be owed by the Trust.
- The brothers wanted to know whether the 2013 taxes were filed and accepted for the Trust. If so, they would like a copy of the 2013 taxes.

Flores did not address many of the requests in the above referenced letter. Flores answered the brothers' question involving the 2014 and 2015 taxes. On October 12, 2017, Flores emailed Schmitz, writing, in part, that Patricia did not have the Trust taxes prepared for 2014 or 2015 and that the IRS may fine the estate for not filing the taxes and for interest

⁹ Checks numbered 230 and 231 were negotiated by Patricia Bartholomew after she had resigned as Trustee. The two checks were used to pay Patricia's property taxes.

and penalties. Flores informed that the 2014 and 2015 taxes had been paid and that she prepared and filed the 2016 taxes and there were no tax obligations for that year.

In the email, Flores said she did not have access to the Wells Fargo Advisors Account until June 2016 because Patricia had failed to "sign off on a release of trustee duties that was REQUIRED [sic]. Flores added, "I can't account nor accept responsibility for what she [Patricia] did during this four-month period despite the court's order of appointment, my requests and the requests of Wells Fargo Advisors office asking her to sign the necessary documentation."

In her email, Flores answered questions regarding expenditures to Fletcher Struse and Patricia using estate money to pay her income taxes. Flores said during the four months that Flores did not have access to the estate funds, Patricia paid Fletcher Struse for "what they say was data entry, she paid her own property taxes and a few other items." Flores commented on various matters unrelated to the concerns raised in Schmitz's September 25, 2017, letter, but Flores did not address many of outstanding points of the letter.

Schmitz responded to Flores on October 12, 2017. Regarding the outstanding items, Schmitz commented that she did not believe that "most of the items are too burdensome to answer and have listed them below." Schmitz also requested a copy of the 2014 and 2015 tax returns. The outstanding items were identified as follows:

- Itemized billing statements of fiduciary fees and Willman's legal fees
- A breakdown of fees that involved Patricia receiving distribution in the amount of \$147,734.73
- Explanation for money withdrawals in Attachment B of the accounting:

▪ July 2016	\$112.90
▪ August 2016	\$10,326.78
▪ September 2016	\$194,779.09
▪ October 2016	\$8,502.33
▪ November 2016	\$2,694.65
▪ January 2017	\$363.00
▪ March 2017	\$3,635.80
▪ April 2017	\$105,403.28

- List of actions items Ms. Flores must complete the wrap up her administration of the Trust, an estimate for the time it will take to complete these items, and an estimate for the cost. If these items are being completed by a third party, we requested that she identify such third party.

Flores timely replied to Schmitz on October 12, 2017, in part, stating that the information requested "is not overly burdensome at all." Flores said aside from Willman's billing which

she said she had in monthly increments she would request that Willman provide one billing statement for the time frame indicated. Flores said she provided statements in the accounting "as are called for in a court accounting which is the statement in full for the last month of the accounting period." Flores said she should have provided more than a "Snapshot" of the activity and would submit those statements. She agreed to share the 2014 and 2015 tax returns sought by the brothers.

On or about October 18, 2017, Flores emailed Schmitz and included Wells Fargo Advisors bank statements from January 2016 through July 2017. In her email, Flores reiterated that she had advised Patricia in March 2016 that she was required to "sign off" on the Wells Fargo account and despite "numerous requests from me," Patricia did not sign off the account until May 26, 2016.

In her reply to Schmitz, Flores did not address many of the outstanding issues raised in the brothers' September 25, 2017, letter and Schmitz's follow up email of October 12, 2017. Flores did not provide an itemized statement of her fiduciary fees and did not comment on when any such statement would be provided; did not speak to the distribution of \$147,734.73 involving Patricia; did not explain the numerous money withdrawals for the months identified in the September 25, 2017, letter and email of October 12, 2017; and did not address a "list of actions" she had to complete to close out the estate or provide an estimate for the time it would take to complete any such items and the cost. Flores did not include Willman's invoices.

Division staff reviewed the September 25, 2017, letter with Russell. He told Division staff that Flores did not provide the requested information. The brothers scheduled a meeting with Flores and Willman in December 2017, "because we were frustrated...to get her attention that we really did want to know more about what was going on...we felt we were in the dark all the way along the line as to what was going on, where was things happening, and we never had any real heart to heart communications with her to voice our frustrations."

During Warren's interview, Division staff referenced the September 25, 2017, letter and follow up email from Schmitz. He told Division staff that Flores did not provide the requested information including any itemized statements of fiduciary or legal fees and costs.

Prior to Flores' interview with the Division, on October 15, 2020, Division staff sent a letter to her seeking supporting documentation that she had responded to and satisfied the brothers' requests in the letter dated September 25, 2017, where they requested the following information:

- Itemized statements of your fiduciary fees.
- Itemized statements of Mr. Willman's fees.

- Clarification on difficulties you had which delayed you from taking over as fiduciary and explanation why this increased your fees.
- Explanation involving certain cash withdrawals (specified in the letter as Attachments B).
- Explanation of certain expenditures (specified in the letter as Schedule C) involving Fletcher Struse Fickbom & Wagner.
- Explanation of expenditures involving Check Nos. 230 and 231, paid to Pima County Treasurer for property taxes.
- List of remaining actions needed to close the Trust.
- Please provide supporting documentation that demonstrates your response to the September 25, 2017 letter, and documentation that demonstrates you satisfied the beneficiaries' requests, as detailed in the referenced letter.

In response, Flores sent various records to the Division, but she did not submit supporting documentation demonstrating that she resolved many of the beneficiaries' specific inquiries.

During the interview with Flores, Division staff reviewed the September 25, 2017, letter, and Flores' October 12, 2017, email to Schmitz which addressed some of the tax related concerns and some other matters but did not resolve all the issues identified in the letter. Flores said she addressed "all the outstanding issues" during a telephone conference which included her attorney, Willman, and the brothers' attorneys.

With the exception of what Flores included in the final Trust accounting that she provided Russell and Warren on April 13, 2020, Flores did not provide supporting documentation to the Division demonstrating that she sent the brothers an itemized statement of her fiduciary fees prior to April 13, 2020. Flores provided the Division a copy of Willman's monthly billing for the period from March 10, 2016 through May 16, 2019, but she did not provide supporting documentation demonstrating that she sent the brothers Willman's billing for legal services rendered on behalf of the estate, as the brothers had requested.

Other Examples of Requests for Information

In the First Trust Accounting, Flores documented that she did not take control of the estate bank account until May or June 2016 and that Patricia had negotiating several checks against the estate during the time when Flores did not have control of the bank account. After learning of Patricia's actions, Warren emailed Flores on August 28, 2017 asking Flores about letters involving Ruby Mines and about Patricia writing checks against the estate. Pertinent to Patricia, Warren wrote:

Zack [Ronald Zack, PLC] indicated that you had said that Patricia had written checks against the estate after she had been replaced??

During the interview with Flores, Division staff reviewed, with Flores, Warren's August 28, 2017, email, referenced above. Asked if she responded to Warren's question about Patricia writing checks against the estate prior to Flores commenting on the same issue in her October 12, 2017, email to Schmitz. Flores stated, "legal decorum calls for when a person is represented by counsel...you're supposed to stick with counsel." Flores said it was possible that she did not respond directly to Warren "because he had counsel."

Flores' statement about "legal decorum" and that she may not have responded directly to Warren "because he had counsel" is undermined by her actions. Flores replied directly to Warren on August 28, 2017, without a copy to Schmitz, wherein Flores addressed Warren's question about letters involving the Ruby Mines, but Flores failed to comment on Warren's question about Patricia having access to estate funds and writing checks. Flores' email to Warren:

Dear Warren - The letters were sent regular mail over two weeks ago. I had my attorney review the correspondence before it went out. To date I have received no response. I have a follow up calendared for August 31st to be sent certified return receipt requested.

Flores evaded Warren's question about Patricia accessing estate funds and writing checks against the estate. If Flores adhered to the "legal decorum" principle, as she represented, she could have answered Warren's question and copied Schmitz, or Flores could have sent an email directly to Schmitz addressing Warren's question. The facts suggest that Flores waited until October 12, 2017, when she addressed the issue with Schmitz, approximately six weeks after Warren's initial inquiry into the matter on August 28, 2017.

Flores was Court appointed as Successor Trustee. On February 18, 2016, the Honorable Jeffrey Bergin, Superior Court, Pima County, signed an order,¹⁰ pertinently:

IT IS ORDERED that the resignation of Patricia Bartholomew as trustee of the Dorothy Frances Love Roberson Revocable Living Trust hereby is acknowledged.

IT FURTHER IS ORDERED that Patricia Flores hereby is appointed as successor trustee of the Dorothy Roberson Revocable Living Trust.

Pursuant to A.R.S. §14-10802 Flores is required to administer the Trust solely in the interest of the beneficiaries. Flores has a fiduciary duty to the brothers and must act with candor and loyalty in her dealings with them. Despite Patricia's breach in early 2016, Flores did not inform the brothers until late August 2017, well over a year later, when she noted the issue on the First Trust Accounting. Although Warren inquired about this on August 28, 2017, Flores did not respond to Warren and instead waited until October 12, 2017, when Flores emailed Schmitz.

¹⁰ Probate Cause Number PB20141355.

The brothers met with Flores and Willman to discuss the status of estate on December 7, 2017. Russell told Division staff that the brothers left that meeting thinking they had reached an agreement that Flores "would keep us informed and that she would move the thing forward as fast as she could." Russell said there was discussion about having the estate finalized by April 15, 2018. He said Flores failed to keep the brothers informed of any progress she was making.

Warren told Division staff the brothers met with Flores "to try to figure out where the hell we were because she was very, very casual about her information processing out to us." He said she "gave very minimum of what she had to give." Warren said Flores, "had to work with the tax people which she did very, very slowly then she wouldn't allow us to talk to the tax people, so we could find out where they were. She forbid that. I called once and I got scolded for it."

Gerald told Division staff the brothers met with Flores and Willman in December 2017 "to lay out what it took to finish it." He said that Flores had mentioned withholding about \$5,000.00 from the estate in case of tax liabilities. Gerald's recollection was that the IRS could take anywhere from three months to a year to review the taxes but that "everything had been filed."

During her interview with Division staff, Flores had difficulty answering questions about any goals and timelines that appeared to be established at the December 7, 2017, meeting with the brothers. Flores seemed to be searching for documentation and said she would have documented any goals or timelines set at that meeting and that she would provide that documentation to the Division. Flores did not provide any documentation to the Division despite the Division's email request for such records on June 20, 2020 and letter of October 15, 2020.

Russell's frustration with Flores is apparent in an email to Flores, dated March 7, 2018. Pertinently:

When my brothers and I meet [sic] with you and your lawyer, I believed that we had two agreements. One was that the estate of Dorothy Love Roberson would be completed by April 15, 2018. Two, you would keep us informed of the progress of your work. I would like to remind you that April 15, 2018, is coming up very fast [sic] I expect that date to be adhered to or a very compelling reason why it will not be complied with in writing prior to that date. It was discussed at that meeting that you had everything in order, except the CPA's IRS filings and a letter to the Roberson kids which was dated in August but not sent.

What is the definite state of the Estate at this time? Will you make the agreed deadline?

Have the IRS reports been filed?

You have had more than two years to complete this work for which my brothers and I have not been informed of the fees that you charge. An accounting of the number of hours that you have invested? [sic]

The Division did not find any record demonstrating that Flores responded to Russell's March 7, 2018 email and his questions.

The brothers' frustration with Flores further prompted them to write a letter to Willman and Flores, dated April 8, 2018, wherein they expressed their grievances. Pertinently:

Subject: Follow-up to joint meeting of Pat Flores and yourself with Gerald, Russell, and Warren Bartholomew (the Bartholomew brothers) in your office on 7 Dec 2017 pertaining to our mother's estate – Dorothy L. Roberson.

We brothers are taking this extraordinary step of communicating directly with you because you were the host of the meeting (and we believe you are also Pat Flores' friend) along with the fact you were an active member when commitments were made. We are extremely dissatisfied with Pat Flores' lack of communication suggesting a lack of progress...

Specifically, we have sent Pat Flores two emails within the last month and you were cc, which have gone unanswered.

We are hoping you will be able to help bring our situation to a speedy conclusion.

The subject meeting was held to address some of the same long-standing issues (most traceable to Pat Flores' silence). We learned, for example, more details about her (Pat Flores') recently revealed difficulties with our sister's (Patricia Bartholomew) handling of the estate, meaning Pat Flores had to re-generate the paperwork required for the tax CPA to complete Dorothy L. Roberson's estate tax returns, and about the CPA's negotiations with the IRS regarding fees and fines from our sister's lack of cooperation and inaction (in our opinion, all costs from re-generating work, related costs, fees and fines should be solely Patricia Bartholomew's responsibility). We also learned of Pat Flores' very informal (and untraceable) [sic] communication with Genevieve Roberson's children regarding information missing from the Genevieve Roberson will.

We brothers left the subject meeting with the understanding that by "15 April" (meaning the official date on which taxes must be filed):

1. the dispute with the IRS over relief from certain fees would have been agreeably resolved, and the CPA would also have submitted all outstanding estate forms to both the IRS and AZ state folks – thus resolving all estate tax issues;

2. the status of the missing paper from Genevieve Roberson's will would be established, thus allowing the Bartholomew brothers to determine their future legal actions concerning Ruby Mine. Note the only communication from Pat Flores since the subject meeting was an email on 7 Dec 2017 that she had formally sent out the letters to the Roberson children – no word from any source since then;
3. that Pat Flores would communicate with us on a monthly (or so) basis (while we would refrain from bothering her); AND THAT [sic]
4. all activities requiring Pat Flores' efforts would be completed; including closing the estate, making final distribution with a suitable report, and transferring the legal requirements for the estate to Russell Bartholomew.

Based on the "15 April" schedule, we all made plans. Russell especially planned a long business and entertainment trip which has certain time-critical dates, requiring he leave on 15 April. With no communication from Pat Flores regarding the state of the four understandings above, all of us brothers are left hanging.

The letter was digitally signed by the three brothers.

Division staff reviewed the brothers' April 8, 2018 letter with Flores. She was asked if any part of the brothers' understanding of the December 7, 2017, meeting, as represented in the April 8, 2018, letter, was incorrect. Flores could not answer the question and instead stated that she needed to "find out" and said she had to first speak with Willman to see if there was any communication on record. Flores said she would look again in her files for documentation.

Regarding communication and keeping the brothers informed of the progress of the administration of the estate, Flores told Division staff she would not have agreed to communicate with the brothers monthly. She could not answer whether there was an estimated deadline of April 15, 2018 to close out the estate, as presented in the brother's April 8, 2018, letter. Flores said she needed to see what information Willman had in his files.

Flores responded to the brothers on April 11, 2018, but she addressed only an issue related to actions involving the Ruby Mines and she did not address the other issues raised in the April 8, 2018 letter.

Willman responded to the brothers' April 8, 2018, letter. On April 16, 2018, Willman replied that the accountant was working on completing the final tax returns and that the taxes would not be done "by April 15, 2018." Willman said once the taxes were completed, they would be able to determine the necessary offsets and prepare a proposal for distribution.

Another example of Flores not responding or not timely responding to the beneficiaries' questions or request for information is noted. On December 12, 2018, Warren emailed Flores, discussing issues relating to his sister's passing, Ruby Mines, and other estate related matters. Pertinently, Warren sought answers and information from Flores:

In so far as my meeting with Mr. Lacy, he doesn't have the time at this moment...so he got Nathan Hannah from his firm involved. He has asked us to come up with a couple of different items.

Flores - inventory of mom's estate

Zack - The document that shows that Patricia Bartholomew didn't want anything to do with Ruby Mine.

Another question:

Did you determine if there was any value to the stock certificates you had in the package we picked up?

Flores replied to Warren on December 14, 2018, commenting on various issues, but she did not address the inventory of the estate, did not answer whether she determined if there was any value to the stock certificate, nor did she mention anything about a document that showed Patricia did not want anything to do with Ruby Mine.

Warren followed up with an email to Flores on December 14, 2018, stating, in part:

Once again what have they provided you in way of documentation that proofs [original bold and underline] Carter has the responsibility for Patricia's estate. It is time to finish the estate.

I still need the following to provide to Nathan Hannah - the inventory of mom's estate. I got the other information he requested from Mr. Zack, so all that is left is what you can provide me. I believe all he is really interested in is Ruby Mine.

I also need answers on the other question I sent you:

Did you determine if there was any value to the stock certificates you had in the package we picked up?

On December 18, 2018, Warren followed up with an email to Flores, Subject line: Where we at? Pertinently:

I still need the following to provide Nathan Hannah- the inventory of mom's estate.

If you still want to talk to him go ahead, but this needs to be taken care of so we can move ahead with Ruby Mines.

In regards to Carter [sic] – where do we stand, remember we feel you should move ahead based upon the following:

Why are you talking with Ruiz since he said he wasn't representing Carter and why is he talking with Willman?

You have supporting documentation for what you are charging for Patricia's inability to do her job when she was the Executor.

Have you ever gotten Patricia's death certificate?

Have you gotten anything in writing that shows Carter has responsibility for Patricia's estate?

It is time to get this taken care of.

Flores replied to Warren on December 24, 2018, but she provided limited information. She noted that Childs had not done much to finalize Patricia's estate and Flores said she would provide a settlement check and releases to the brothers by no later than December 28, 2018. Flores also noted that Ronald Zack, the brothers' former attorney, "should have the inventory. I would need to see if it's on file with the court." Neither of her responses resolved Warren's request for the inventory or noted when he could reasonably expect to receive a copy or indicate what she was going to do about the inventory.

It is not clear why Flores would not have a copy of the estate inventory in her records. Warren told Division staff that he vaguely remembered talking to Flores about the inventory of the estate. He said, at some point, Flores answered his question about the value of the stock certificates.

An additional example of Flores not responding to specific information requested can be seen in Russell's email to Flores, dated December 6, 2019. Russell wrote, in part:

Now the following are very specific questions that we are looking for answers to. We believe that you should have the ability to lay hands on the answers in an expedient manor [sic].

1. How much Trust money was held in reserve for unexpected need?
2. How long do you usually hold these funds?
3. We need a fully detailed financial print out accounting that have been processed from the estate.

4. This accounting will also include outside accounting, all of the legal fees, all of the IRS fees, any other fees paid to outside vendors, sales, or unknown personnel. Especially the financial accounting should show YOUR FEES [sic] as they have never been expressed to us from the beginning of our association, nor have been indicated over the term of the estate settlement. The accounting should cover all expenses during your term of employment.

You can probably see that we are exacerbated with all of the efforts to change the requests or discussions. For this I am not sorry and do not know what I should do. Maybe you can suggest some other direction that I should do to move the request forward?

My brothers and I are anxious so that we can feel free to continue our lives. It only takes a few minutes to respond.

Just so you know, We [sic] the brothers keep copies of all correspondence and dates of all posting and replies.

Flores replied to Russell on December 3, 2019, commenting on various matters, none of which were raised by Russell in his email of December 6, 2019. For example, Flores mentioned having to prepare a 2019 tax return because of distributions made to Patricia's estate after her death. Flores also discussed Ruby Mines, a K-1 for 2019 involving Patricia's estate, and other issues. Flores told Russell that she intended to provide a final accounting "to include the numbers reflecting all distributions both to you and your brothers and to Patricia's estate fully taking into consideration that expenses that were the responsibility of you three and those that were attributable to Patricia's actions. I look to have the final numbers to you by December 31." Flores did not answer Russell's questions regarding how much money she was holding in reserve and for how long she was holding the funds.

During Russell's interview, Division staff reviewed the December 6, 2019, email he sent to Flores. He told Division staff that Flores did not answer the questions regarding the estate funds. He said he received an accounting only after he filed his complaint with the Division.

During Flores' interview, Division staff reviewed Russell's December 6, 2019, email and asked if she answered Russell's specific questions and requests. She said she "sent them all an email later on with all of the information..." Flores indicated that she could provide the supporting documentation, but she did not provide any such documentation to the Division.

A.R.S. §14-10813. Duty to inform and report sets out, pertinently:

- A. Unless the trust instrument provides otherwise, a trustee shall keep the qualified beneficiaries of the trust reasonably informed about the administration of the trust and of the material facts necessary for them to protect their interests. Unless the trustee determines that it is unreasonable under the circumstances to do so, a trustee shall promptly respond to a beneficiary's request for information related to the administration of the trust [bold emphasis and italics added].*

Flores told Division staff that she did not consider any of the brothers' requests for information to be unreasonable. Notwithstanding Flores' statements, the facts suggest that Flores was often evasive, and she did not directly answer the brothers' questions and/or did not timely answer questions and/or failed to provide or timely provide information requested by the brothers.

Allegation 1 b) is substantiated

Allegation 2: Flores failed to timely settle the estate

The Settlement Agreement was the blueprint from which Flores was to proceed with administration of the Trust. Flores does not dispute that, generally, the Settlement Agreement required her to:

- Pay the parties' legal fees and costs (from past litigation);
- Distribute to designated beneficiaries Trust assets including a vehicle, various real property, contents of a U-Haul storage unit, and transfer 18,700 shares of stock in Ruby Mines;
- Pay proper administrative costs;
- Make final distributions to beneficiaries.

Records¹¹ demonstrate that the beneficiaries' respective legal fees were paid on or about September 6, 2016, and September 9, 2016. The contents of the U-Haul storage unit were transferred on September 27, 2016; the vehicle was transferred on August 3, 2016; and real properties were transferred on October 4, 2016.

In the First Trust Accounting, Flores noted that Trust property, except the interest in Ruby Mines, had been transferred. See below:

¹¹ Acknowledgment of Receipt of Partial Distribution records filed with the Court in FB2014-1355.

7. Assets on hand as of May 1, 2016:

Real Property:


Coahoma County - Sun Elms

Santa Cruz County - Ruby Mines

Automobiles:

1989 Mercedes Benz

Collections:

Miscellaneous art work

Transferred to W. Bartholomew
Transferred to P. Bartholomew
Transferred to Warren, Russell
and Gerald Bartholomew
Pending

Transferred to P. Bartholomew

Transferred to Warren, Russell,
and Gerald Bartholomew

Assets on hand on July 31, 2017: Property listed above with the exception of Ruby Mines has been transferred pursuant to that certain Settlement Agreement dated January 23, 2016.

Market Value of Assets on Hand \$204,759.53

Tax returns for this Trust were not maintained by the previous trustee. Tax returns for the tax years 2014, 2015, and 2016 are currently being prepared.

W
I certify that this is a true and accurate accounting of the assets of this Trust for the period described.

8/29/2017

X PATRICIA A. FLORES

PATRICIA A. FLORES
SUCCESSION TRUSTEE/ALPP 2016

According to the accounting, as of August 29, 2017, the estate tax returns for 2014, 2015, and 2016 and the transfer of 18,700 shares of Ruby Mine stock to the brothers were the remaining items to resolve before Flores could close out the estate.

The brothers' September 25, 2017, letter to Flores asked, in part, about the status of the tax returns and requested that Flores provide a list of actions she must complete to close out the estate. Pertinently:

Additionally, our clients have concerns regarding the remaining actions Patricia Flores plans to take in administering the trust. The administration of the trust has been a lengthy and expensive process for our clients. They are requesting that Patricia Flores provide them with a list of actions items that she must complete in wrapping up her administration of the trust, an estimate for the time it will take for the completion of these items, and an estimate for the cost of completion...

Regarding the trust's tax returns for 2014, 2015, and 2016, our clients want to know the status of the tax returns, including whether or not they have been submitted for

preparation, the identity of the party preparing the taxes, and an estimate for the amount of taxes that are expected to be owed by the trust.

Flores did not provide a list of actions she needed to take to close the estate that was requested. In her reply to Schmitz on October 12, 2017, Flores noted that the 2014 and 2015 taxes had been paid but there may be interest and penalties to the estate because Patricia had not filed the 2014 and 2015 taxes. Flores informed that the 2016 taxes have been prepared and filed and there was "no tax obligation for that year."

Flores required that Russell sign a power of attorney document which would allow the accountants to obtain information from the IRS regarding any Trust income in 2014 and 2015 that may have been reported to the IRS under Mrs. Roberson's personal social security number instead of the Tax Trust Identification number. On November 10, 2017, Warren emailed Flores with the attached the executed power of attorney that Flores had requested.

The brothers told Division staff that after meeting with Flores and Willman on December 7, 2017, they thought they had an agreement that Flores would keep them informed of the progress of the administration of the estate and that she anticipated finalizing the estate by April 15, 2018, but the estate was not closed by that date.

Flores was unable to tell Division staff what goals and/or timelines were established at the December 7, 2017 meeting. However, an email Flores sent to Russell and the brothers, on December 4, 2017, suggests that a plan to close out the estate would be established at their forthcoming meeting. Flores wrote, pertinently:

We will be meeting at Mr. Willman's office this week. The goal I have from this meeting is to discuss the trust process as it has been, as it should have been, and to set a plan to move forward with closing this estate as soon as possible.

Gerald told Division staff they met with Flores in December 2017 to "lay out what it took to finish." At that time, they established that the tax returns had been filed and Flores was close to completion. She was withholding approximately \$5,000.00 in case the IRS had problems with the taxes filed.

Russell's email to Flores, dated March 7, 2018,¹² noted that Flores had agreed to closing out the estate by April 15, 2018, and that she would keep them informed of her progress. Russell sought answers as to the "definite state" of the estate, whether the IRS reports had been filed, and if Flores would meet the agreed upon deadline.

Warren, on behalf of Russell, emailed Flores, with a copy to Willman, on March 26, 2018; Subject line: Checking in. The email stated, in part, "I'm frustrated that mom's estate has

¹² Referenced on Pages 21 and 22.

stretched so long. Since I think you are also quite frustrated, please look past my outburst." He said when they all met weeks ago at Willman's office, the brothers left with the belief that by April 15, 2018, the dispute over relief from IRS fees would be resolved and the accountant would have submitted all outstanding estate forms to the IRS and state taxes thereby resolving all estate tax issues. Russell added his understanding was that Flores would communicate with them on a "timely basis" and that "all would be over, enabling you to close the state and make final distribution with a suitable report."

After not receiving responses from Flores, the brothers wrote their April 8, 2018 letter¹³ to Willman and Flores wherein the brothers' frustration with Flores was apparent. Flores responded to the brothers on April 11, 2018, but she addressed only an issue related to actions involving the Ruby Mines and she did not address the other issues raised in the April 8, 2018 letter.

Division staff reviewed, with Flores, the brothers' April 8, 2018, letter. She was unable to provide an answer as to whether any part of the referenced letter was inaccurate. She deferred the question and said, "I need to find out. First I need to ask Mr. Willman if there was any communication that he has on record and I'll look again in my files from December of 2017 through April 8 with them." Flores disputed that she agreed to any specific timeframe in which she would communicate with the brothers and said, "let me see what Mr. Willman has as well..." when asked about any established close out date of April 15, 2018. Flores also deferred answering what remained to be done to close out the estate by April 15, 2018 and said she needed to review her documentation. Flores did not provide any such documentation to the Division.

Warren and Gerald each told Division staff that they reached out to the accountants Flores had retained to prepare the estate tax returns so they could obtain an update on the estate tax returns, but the brothers were reprimanded for doing so. On April 13, 2018, Flores emailed Russell, with a copy to Warren, Gerald, and Willman noting that the brothers made multiple calls to Kerrie Sivilli's¹⁴ office. Flores told the brothers to not call the accountant because the office was busy, and that the accountant was not authorized to discuss the specifics or generalities of the Trust with anyone but Flores or Willman.

Willman replied to the brothers' April 8, 2018, letter on April 16, 2018, wherein Willman wrote, in part, that the accountant was working on completing the final returns and hoped to have them done soon but they "will not be completed before April 15." Willman said he was aware the brothers contacted the accountant and he informed Warren that the accountant would not be responding, that the tax returns could be made available when they are completed, and if the brothers had any questions after the estate taxes are prepared, Willman or Flores would respond to questions.

¹³ Referenced on Pages 22 and 23.

¹⁴ Kerrie A. Sivilli Tax & Accounting, Inc.

On May 13, 2018, Flores emailed Warren informing, in part, that she was meeting with the accountant during the week "to sign the tax return."

On June 21, 2018, Flores emailed Warren noting, in part, that she met with the accountant and said the estate Federal and State taxes were timely filed. While penalties were due and owing on the 2014 and 2015 taxes that Patricia had failed to file, both the 2016 tax return filed last year, and the 2017 tax return filed last week indicated that there is no tax or interest penalty due. In the email, Flores went on to explain to Warren that fees and costs paid from the Trust assets "must be broken out" to reflect what the brothers are responsible for and those fees and costs that Patricia had to pay. Flores wrote, "I have been waiting for a break out [sic] of those fees and costs from Paul Willman's office as to his attorney's fees and costs" and said she had just again requested that information from Willman.

Break-out of professional fees and costs

The task and process of Flores breaking-out the professional fees and costs per beneficiary or beneficiary group (brothers vs. Patricia) seemed to have taken considerable time for Flores. In her June 21, 2018 email to Warren, referenced above, Flores informed him that she had been waiting for Willman to break-out his fees and costs and that she had just requested that information from him. Subsequent emails demonstrate that Warren continued to ask Flores when the professional fees would be itemized per beneficiary.

On June 28, 2018, Warren emailed Flores asking, in part, "What is left to do to close this all out?" Flores replied to Warren on June 29, 2018, "I am waiting for attorney Willman's bill that reflects a breakout of fees that Patricia and you and your brothers are specifically responsible for to allow any adjustments to the final distribution."

On July 11, 2018, Warren emailed Flores asking, in part, "Do you have a projected date for the distribution of our mother's estate and an estimate of the amounts?"

On July 12, 2018, Flores replied to Warren's inquiry stating, in part, "Let me look to when the fees break out will be a revised to me by att Willman [sic]."

On September 12, 2018, Warren emailed Flores stating, "Where do we stand now, two months later. If your Lawyer [sic] hasn't provided his bill by now, he evidently doesn't have one. I believe it's time to close the books on this - what are your thoughts?"

On September 13, 2018, Flores stated, in part, "I am preparing to close this Trust by October 15, 2018."

On October 15, 2018, Flores emailed Warren stating, in part, "...it's taken me longer to break out the numbers that are to be charged to you and your brothers vs. [sic] those that must be paid for by Patricia. I also need to give Paul Willman time to review what I have

determined as the appropriate accounting. I am going to need to request from you an additional two weeks to get it finished and then submitted to you and the court for approval."

During the interview, Division staff reviewed, with Flores, the above-referenced emails from June 21, 2018 to October 15, 2018. Flores was asked what she was required to do regarding the break-out of her fees and costs, to which she stated Willman "would do his and I would do mine." As to when she started and finished breaking out her fees and costs, Flores said, "from my own, I could look at the check book and easily set aside what would have been their responsibility but it didn't turn out that way as far as them finding out from Warren that Patricia had passed away." Asked what caused the four-month delay, from June to October, Flores said she could not speak to Willman's timeframe, but said she could check her documentation to see if she had any communication regarding the timeframes.

Flores was unable to provide Division staff with a clear answer as to the reason it took her several months to resolve the breaking out the respective fees and costs. In addition, Flores did not provide documentation involving communication on the timeframes.

After Flores' interview with the Division, she later submitted additional documentation for the period from February 2018 through February 2019 that was not previously included in the final Trust accounting. The Division reviewed Flores' and Willman's records involving the break-out of fees and costs:

a) Flores billing records:

On June 21, 2018, Flores emailed Willman, but the billing entry did not elaborate further than the following:

06212018	PAF	EMAIL	EMAIL TO WILLMAN LAW RE WILLMAN'S TOTAL FEES BROKEN OUT TO HELP ME DETERMINE FINAL DISTRIBUTIONS			
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On July 6, 2018, Flores billed for time involving an email from and to Willman's office "with information regarding a breakdown of attorney's fees/costs for final distribution..."

07262018	PAF	EMAIL	EMAIL FROM AND TO WILLMAN LAW WITH INFORMATION REGARDING A BREAK DOWN OF ATTY'S FEES/COSTS FOR FINAL DISTRIBUTION TO THE ESTATE OF PATRICIA SARTHOLEMEN	\$100.00	0.00	\$90.00
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After July 6, 2018, Flores' billing did not reflect any further follow-up with Willman's office regarding the break-out of the legal fees. Flores did not provide any documentation showing that she followed-up with Willman on the matter.

b) Willman's billing records:

DATE	DESCRIPTION		HOURS	AMOUNT
Jun-20-18	Review invoices to separate amounts regarding Ruby Misses, property transfers, and trust administration.	KLH	0.3	45.00
Jun-21-18	Review billing invoices to separate charges between Ruby Misses, property transfers and administration matters.	KLH	0.3	45.00
Jun-22-18	Review settlement agreement.	FEW	0.3	90.00
Jun-26-18	Review bills to allocate attorney fees.	FEW	0.4	120.00
	Totals		1.30	\$300.00

DATE	DESCRIPTION		HOURS	AMOUNT
Jul-03-18	Go through all invoices and breakdown between three different categories and prepare chart for total charged to each.	KLH	0.8	120.00
	Totals		0.80	\$120.00

After July 3, 2018, Willman's billings did not reflect time involving the breaking-out of fees legal fees and costs. This suggests that Willman's office completed the task on or about July 3, 2018 which also appears to be consistent with Flores' own last billing entry of July 6, 2018 on the issue of breaking out fees and costs.

By December 2018, Flores still had not completed the task of breaking-out the fees and costs. Flores' billing showed that on December 10, 2018, she met with the brothers and discussed final distributions. In her billing, Flores noted, "discussed my not having a break out yet of Willman's fees in order to allow me to charge the appropriate beneficiary with fees for the work performed. Provided parties with checks and acknowledgement of receipt of final distribution." See below:

12/10/2018	PAF	FINAL DISTRIBUTION	MEETING WITH BART CLOWERS. PRESENT ACCOUNTING REPORT OF DISTRIBUTIONS MADE FOR THE 2017-2018 TIME FRAME. DISCUSSED DISTRIBUTIONS TO BE MADE TO EITHER PATRICIA'S ESTATE OR TO HER HUSBAND CARTER CHILD DIRECTLY. DISCUSSED MY NOT HAVING A BREAK OUT YET OF WILLMAN'S FEES IN ORDER TO ALLOW ME TO CHARGE THE APPROPRIATE BENEFICIARY WITH THE FEES FOR THE WORK PERFORMED. PROVIDED PARTIES WITH CHECKS, AND ACKNOWLEDGEMENT OF RECEIPT OF FINAL DISTRIBUTION.	\$100.00	1.80	\$180.00
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Flores' statements to Division staff that she could look at her checkbook and "easily set aside" the brothers' responsibility but that "it didn't turn out that way" because they learned that Patricia passed away suggests 1) that Flores' task was not complicated, and 2) that Patricia's death somehow hindered Flores's ability to timely complete the task of breaking

out the professional fees and costs. It is not clear how Patricia's death hindered Flores' ability to break out fees and costs as related to the brothers.

Warren notified Flores on October 19, 2018 when he first learned his sister had died in June 2018. By October 19, 2018, Flores should have completed the task of breaking out the professional fees and costs because she told Warren in June 21, 2018,¹⁵ via email, that she was waiting only on Willman to provide his billing. Willman's billing records suggest that Willman's office completed the task by July 3, 2018, yet Flores did not have the professional fees and costs separated by December 2018.

Likewise, in a December 5, 2018, email to attorney, David Ruiz, who was assisting in facilitating communication between Flores and Patricia's surviving husband (Childs) and beneficiary of Patricia's estate, Flores told Ruiz, in part, that there was little remaining in the Trust and that final distributions would be determined "by the expenses in transferring the property..." and she referenced separating those costs that would be borne by the brothers and those costs that were Patricia's responsibility.

The facts suggest that Flores did not timely complete the task of breaking out professional fees and costs which delayed the closing out of the estate.

Estate Taxes

The issue of filing estate tax returns appeared to be an ongoing issue in Flores' administration of the estate. In the First Trust Accounting, dated August 29, 2017, Flores documented that the 2014, 2015, and 2016 estate tax returns were being prepared.

In Flores' reply to Schmitz on October 12, 2017, Flores noted that the 2014 and 2015 taxes had been paid but there may be interest and penalties to the estate because Patricia had not filed the 2014 and 2015 taxes while she was Trustee. In her email, Flores informed Schmitz that the 2016 estate taxes have been prepared and filed and there was "no tax obligation for that year."

Flores emailed Warren on May 13, 2018, stating, in part, that she was going to the accountant's office to "sign the tax return this week!"

On June 21, 2018, Flores emailed Warren informing him that she met with the accountants and that the estate Federal and State taxes were timely filed. While penalties were due and owing on the 2014 and 2015 taxes that Patricia had failed to file, both the 2016 tax return filed last year, and the 2017 tax return filed last week indicated that there is no tax or interest penalty due.

¹⁵ Referenced on Page 31.

Therefore, by May 13, 2018 or by June 21, 2018, the estate tax returns from 2014 through 2017 appear to have been filed. Flores had informed the brothers there was no tax liability for taxation year 2016 and 2017. The remaining tax issue seemed to be whether the estate was subject to any penalties and interest for the 2014 and 2015 taxes as Flores noted in August 2017.

Division staff reviewed available tax records, provided by Flores. Consistent with Flores' representations, the estate's Federal and State taxes were reported from November 1 through October 31 of each calendar year, rather than the typical January through December period.

Kerrie A Sivilli Tax & Accounting, Inc., completed the estate Federal and State tax returns, summarized as follows:

2014 taxes

- November 1, 2015 through October 31, 2015
- Executed by Sivilli on September 21, 2017
- Taxable income: \$29,920.00 (Line 22 - Form 1041 US)
- Tax due: \$8,049.00 (Line 27 - Form 1041 US)
- State balance of tax: \$856.00 (Line 19 - Form 141 AZ)

2015 taxes

- November 1, 2015 through October 31, 2016
- Executed by Sivilli on September 21, 2017
- Taxable income: \$-206,490 (Line 22 - Form 1041 US)
- Tax due: \$0.00 (Line 27 - Form 1041 US)
- State balance of tax: \$0.00 (Line 19 - Form 141 AZ)

2016 taxes

- November 1, 2016 through October 31, 2017
- Executed by Sivilli on May 9, 2018
- Taxable income: \$-9,970.00 (Line 22 - Form 1041 US)
- Tax due: \$0.00 (Line 27 - Form 1041 US)
- State balance of tax: \$0.00 (Line 19 - Form 141 AZ)

2017 taxes

- November 1, 2017 through October 31, 2018
- Executed by Sivilli on July 31, 2019
- Taxable income: \$-11,336.00 (Line 22 - Form 1041 US)
- Tax due: \$0.00 (Line 27 - Form 1041 US)

- State balance of tax: \$0.00 (Line 19 – Form 141 AZ)

2018 taxes

- November 1, 2018 through October 31, 2019
- Executed by Sivilli on December 3, 2019
- Taxable income: \$-5,240.00 (Line 22 – Form 1041 US)
- Tax due: \$0.00 (Line 28¹⁶ – Form 1941 US)

After Flores learned from Warren on October 19, 2018 that Patricia passed away in June 2018, Flores inquired as to whether a probate had been filed in California and/or Arizona, states in which Patricia and her husband, Childs, had resided; and as to who was authorized to accept final distributions on behalf of Patricia's estate.

Flores told Division staff she issued final distributions to the brothers in December 2018 and was withholding \$1,500.00 of estate money in the Wells Fargo Advisors Account in case the IRS indicates there was an under or overpayment in future.

However, the estate tax returns filed by the accountants, referenced above, showed that the estate did not have any tax liability for taxation years 2015 through 2018. Flores' records show that on January 7, 2019, she received receipt of "NTC CP210 from the IRS regarding overpayment of previously filed return. Notice that funds of over \$5,000.00 will be refunded to the estate." Flores' account activity from the final accounting shows that on January 14, 2019 a deposit of \$5,045.43 was made for "2015 Tax payment adjustment."

On February 1, 2019, Flores emailed Willman writing, pertinently, "I met with the Bartholomews in December. I had held back funds of approximately \$20K to accommodate any argument regarding Patricia's final distribution. Ironically, a refund for an overpayment of taxes was sent back to me (\$5,045.00) so that amount would lower the what Patricia Bartholomew should be held responsible for as to the taxes that should have been paid during her time as Trustee."

Records demonstrate that Flores issued final distributions of \$22, 824.00, respectively, to each of the brothers in January 2019. In July 2019, a final distribution check was made to Patricia's estate in the amount of \$18,640.43.

Available tax records show that Kerri A. Sivilli Tax & Accounting, Inc., filed the estate 2018 tax returns on or about December 3, 2019 reporting that the estate did not owe taxes for that taxation year and estate taxes from 2015 onward indicate that the estate had negative taxable income. Despite this, the issue of Flores having to file estate tax returns

¹⁶ While previous Form 1041 US returns identified Line 27 for taxable income, the 2018 Form 1041 US noted the same on Line 28.

prior to closing out the estate seemed to be a persistent theme and a factor in Flores' ability to timely close out the estate.

Allegation 2 is substantiated

Allegation 3: Patricia Flores failed to timely control and protect estate assets

The brothers alleged that Patricia misused estate funds while she served as Trustee. Flores told Division staff she was aware of the familial history including the acrimonious litigation between the brothers and Patricia, and the brothers' allegations that Patricia had mishandled estate monies.

In the First Trust Accounting, dated August 29, 2017, for the period from May 1, 2016 through July 31, 2017, Schedule C, Flores wrote, partly:

Pursuant to Wells Fargo Advisors, Ms. Bartholomew did not sign off on the necessary transfer of Trustee document(s) giving Successor Trustee full account access until May 26, 2016 despite the Court's Order having been signed in February 2016.

According to the accounting, Patricia negotiated nine checks, numbered 224 through 232, from January 8, 2016 through April 18, 2016, totaling \$4,331.54.

▪ January 8, 2016	Check No. 224	\$51.45
▪ January 13, 2016	Check No. 225	\$1,47.50
▪ January 13, 2016	Check No. 226	\$175.50
▪ February 10, 2016	Check No. 228	\$51.45
▪ February 16, 2016	Check No. 227	\$530.00
▪ March 10, 2016	Check No. 230	\$1,009.39
▪ March 10, 2016	Check No. 231	\$676.75
▪ March 14, 2016	Check No. 229	\$100.00
▪ April 18, 2016	Check No. 232	\$190.00

Checks numbered 224 through 228 predate Flores' appointment as Successor Trustee, but checks numbered 229 through 232 (\$2,399.14) were negotiated after Flores was appointed as Successor Trustee.

Flores began the First Trust Accounting on May 1, 2016, documenting an opening balance of \$585, 691.61. She started the Trust accounting on May 1, 2016, rather than at the time of her appointment on or about February 18, 2016, likely because she did not marshal and secure the Wells Fargo Advisors Account until May 26, 2016 or later.

In her October 12, 2017, email to Schmitz, Flores wrote that Patricia "failed to go to Wells Fargo Advisors and sign off on a release of trustee duties that was REQUIRED [sic]. It

was not an option and she did not do that until May 26, 2016 so I had no access to estate funds until June 2016. Flores stated, "...but I do know that I can't account nor accept responsibility for what she did during this four-month period despite the court's order of appointment..."

On October 18, 2017, Flores again emailed Schmitz, writing, pertinently that Patricia, "was advised by me when I initially met with her and her attorney, David Ruiz, in early March 2016 that she would need to contact WF Advisors as soon as possible since I had been advised that Patricia would be required to sign off the account turning the account over to me. Despite numerous requests made by me, Patricia Bartholomew did not sign off on the WF Advisors account until May 26, 2016. That is a full four months from the date that the parties signed the settlement agreement. As stated in the accounting I provided, Patricia Bartholomew continued to write checks after I was appointed which gives the appearance that she did NOT [sic] want to give me access of the finances."

Flores told Division staff that, once appointed as Successor Trustee, her immediate priorities were to inventory the estate assets and determine, "What did they look like? How were they titled? Were they easily transferrable? What kind of financial assets were there in the Trust?" When asked if it was a priority for her to immediately take control of and protect the estate assets, Flores said, "Yes, yes it was."

Flores said she exhibited "due diligence" by immediately meeting with Patricia in March 2016 at which time Flores said she gave Patricia information that Flores had received from Wells Fargo Advisors regarding the Trust. Flores told Division staff that Wells Fargo Advisors knew "as soon as I was named, that a new Trustee had stepped in, so they were already alerted" that Patricia was no longer the Successor Trustee. Flores said before she could have the account put into her name, Patricia "had to sign off."

Flores was asked to identify what specific steps and actions she immediately took to control and protect the estate bank account. She said she "immediately contacted Wells Fargo Advisors" and discussed it with her attorney at that time. Flores said she discussed the issue with Patricia and her attorney in March 2016 and "attempted" to contact Patricia several times regarding her need to go to Wells Fargo Advisors.¹⁷ Flores was asked for the name(s) of any Wells Fargo Advisors representative(s) whom she contacted. She said she called Shaun McKeever¹⁸ and "wrote to Renee."¹⁹ Flores noted that the Division should have the emails Flores provided regarding the communication she had with

¹⁷ Flores' billing records document a meeting with Patricia Bartholomew and her attorney, David Ruiz, on March 10, 2016. Billing records do not reflect billing for any calls to Patricia and/or her attorney prior to the March 10, 2016, meeting nor of any follow up with Patricia and/or her attorney after the meeting.

¹⁸ Later in the interview, Flores indicated that she had spoken with Bill Fedor of Wells Fargo Advisors.

¹⁹ Wells Fargo Advisors representative, Renee Crandall.

"Renee."²⁰ Flores told Division staff she would have documented her initial contact with Wells Fargo Advisors and said she would search her documentation for those records.²¹ Flores said she first went to the bank in February 2016 after having the Court's order because she needed to give Wells Fargo Advisor's "something to send to them to show that there had been a transfer of Trustee..." and said she met personally with Wells Fargo representative, Renee Crandall ("Crandall").

Billing records do not reflect billing for travel to Wells Fargo Advisors to deliver Court documents. Records showed that Flores first met with a representative of Wells Fargo on April 12, 2016 regarding "the transfer of check writing" to Flores.

On April 21, 2016, Flores received the following email from Crandall:

Attached are two forms for you to complete, sign, date and return. Please complete all areas marked with asterisks (*). [sic] We also require a letter from Patricia Bartholomew resigning as trustee and appointing you. Do you have those documents?

Crandall sent a second email to Flores on April 25, 2016 wherein Crandall wrote, pertinently:

The documents are attached and my email message to you is below:

The Division was unable to access the email's PDF attachments. Flores was asked about the forms and documents Crandall referenced to which Flores replied that it was "just a form that any financial institution would have me sign. My name, my address, my capacity... some require my social security number, some require my net worth... they're all different."

Flores' records show that on April 25, 2016, she billed for time involving a telephone call with Wells Fargo. On April 27, 2016, Flores billed for time involving "telephone calls to and from Wells Fargo Advisors and prepare fax sheet to same, provide all court documents to change access to accounts, fax to Wells Fargo Advisors."

Flores was asked if the Court's order she said she provided Wells Fargo Advisors representatives in February 2016, was insufficient documentation and that the bank instead

²⁰ Flores provided the Division a copy of two emails from Renee Crandall, dated April 21, 2016 and April 25, 2016, respectively.

²¹ Flores' billing records beginning January 20, 2016, do not demonstrate billing for time involving contact with Wells Fargo Advisors. Billing show it was on April 12, 2016 when Flores communicated with bank representatives regarding transfer of checking writing to Successor Trustee and on April 25, 2016, Flores called Wells Fargo Advisors.

required that Flores complete and return routine internal form. Flores said, "that's their process...it's frustrating." Asked if Wells Fargo representatives were unwilling to accept the Court's Order/documentation, Flores stated, "well, they frequently don't." Pressed if this is what had occurred in this specific instance, Flores said, "they have a process that they have to protect themselves and if that requires a Court order saying you have one person in then the other person, if that's what they require, then that's what they require."

Flores remarked that she could bring documents to Wells Fargo Advisors "all day long" but unless Patricia would "comply with what they need her to do, then I'm not going to gain access to anything." Flores was asked if she knew that Patricia executed a letter of resignation as Trustee, Flores said, "I'm assuming she did."

Flores' billing records did not document when she met with Patricia and her attorney, David Ruiz, although a meeting may have occurred sometime between March 10, 2016 and April 5, 2016. Flores' billing noted that on March 10, 2016, Flores billed for time to set up an appointment with Patricia and her attorney, and on April 5, 2016, Flores billed for time to call Willman to discuss the outcome of the meeting with Patricia and her attorney. There was no record of a meeting or conference with Patricia and/or her attorney nor was there any record of Flores following up with contacting Patricia or her attorney or of Flores contacting her own attorney, Willman, regarding the issue.

Flores was asked what Patricia was specifically required to do regarding the Wells Fargo Advisors account. Flores replied, "there was a form that she was supposed to go in there and sign" indicating that Patricia "understood and was stepping out" and would no longer be Successor Trustee. Flores said, "Yeah, as far as I know...I called her, I spoke with her and her lawyer"²² when asked if Patricia was aware. Flores remembered that "Renee" from Wells Fargo Advisors contacted her alerting that Patricia was present at the bank and was asking for information about the account and wanted copies of statements.²³

Because Flores did not timely take control of the Wells Fargo Advisors account and Patricia negotiated nine checks against the estate, Division staff asked Flores whether anyone other than Patricia had access to the estate bank account. Flores stated, "I would hope not, but that's not my responsibility, I guess, to determine who she gives access to but as far as I know there should only have been access to the account by her."

²² Flores' billing records document the March 10, 2016 meeting with Patricia and her attorney, but records do not reflect any billing involving calling Patricia or her attorney prior to March 10, 2016, or of any follow up on the issue after March 10, 2016.

²³ Flores' billing records show that on June 6, 2016, Flores received a call from Renee at Wells Fargo Advisors informing that Patricia was at the bank demanding copies of statements. Flores advised Renee that Patricia should not be given statements and that Patricia should call Flores if she wanted statements.

Flores told Division staff that she had discussed the issue with her attorney, Willman. Willman's billing records demonstrate that Willman first billed the estate 0.20 hours on March 10, 2016, for time involving "Telephone call from Pat with information regarding a new case on trust administration she has." Specific to Wells Fargo, on June 16, 2016, Willman billed 0.30 hours for "Telephone call from Pat regarding the lack of information she has received from prior trustee and her inability to get bank statements from Wells Fargo for prior time periods." On June 20, 2016, Willman billed 0.10 hours for time involving "Telephone call from Pat regarding the Wells Fargo Advisors account and that she still hasn't received the deeds she has requested from prior trustee."

To better understand what documents and forms Crandall had attached to her April 25, 2016, email to Flores that Crandall required Flores to complete, sign and return to Wells Fargo, Division staff asked Flores to provide a copy of those documents and forms. In response, Flores submitted a fax sheet identifying 15 pages, dated April 27, 2016, that her office sent to Crandall. Flores' fax sheet stated, pertinently:

Please contact me once the attached documentation has been reviewed and approved. I will need access to these funds for distribution as outlined in the Settlement Agreement and Release. In addition, I would like to obtain copies of the account statements reflecting the activity in these accounts taking place since the death of Dorothy Love.

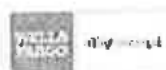
The "Communication Result Report" was dated April 28, 2016. The attached documents included the following Wells Fargo Advisors forms:

- Trustee Certification of Investment Powers - three pages - dated April 26, 2016
- Associated Person Information - four pages - dated April 26, 2016

Flores did not provide any documentation that demonstrated she sent Wells Fargo a Court order.

Flores did not provide the Division supporting documentation that she contacted Wells Fargo Advisors or traveled to Wells Fargo to provide a copy of the Court's order around the time when she was first appointed as Successor Trustee.

Wells Fargo Advisors bank statements identify Patricia as the Trustee on the April 30, 2016 statement and identify Flores as Trustee on the May 31, 2016 statement. See below:



SNAPSHOT

Current period ending April 30, 2016

ACCOUNT NAME

DOROTHY FRANCIS LOVE
ROBERTSON TR
PATRICIA A BARTHOLOMEW TRS
WIA LTD GEN TRS



SNAPSHOT
Current period ending May 31, 2016

ACCOUNT NAME

DOROTHY FRANKIE LOVE
ROBERTSON TR
PATRICIA A FLORES TRIR
LWA DTG 05/11/16

A.R.S. §14-10809. Control and protection of trust property:

A trustee shall take reasonable steps to take control of and protect the trust property.

ACJA §7-202(J)(7):

Trustee and Power of Attorney. A licensed fiduciary who is acting as a trustee or agent under a power of attorney shall abide by this code of conduct, regardless of whether that person is acting pursuant to court appointment.

ACJA §7-202(J)(5)(c):

On appointment, the fiduciary shall take reasonable steps to marshal and secure the property and income of the protected person's estate as soon as possible. The fiduciary shall provide stewardship of the property for safekeeping and, at a minimum, record pictorially and establish and maintain accurate records of all real and personal property.

The facts suggest Flores did not timely act to marshal and secure the estate assets. Flores' billing records demonstrate that on April 12, 2016, she billed for time to meet with Wells Fargo representatives regarding the "transfer of check writing" to Successor Trustee, but records show that it was not until on or about April 27, 2016, when Flores faxed Wells Fargo Advisors Court documents "to change access to accounts." By Flores' own account, she obtained access to the bank account on or about May 26, 2016, or possibly later.

The Wells Fargo Advisors Account had substantial resources, evidenced by the First Trust Accounting which documented an opening balance of \$585,691.61 on May 1, 2016. Flores was Court-appointed as Successor Trustee on February 18, 2016. She had a responsibility to marshal and secure the estate assets. Notwithstanding Flores' statements to Division staff that marshaling the estate assets was an immediate priority after she was appointed as Successor Trustee, Flores' billing did not demonstrate that Flores pursued Patricia to have her sign a resignation letter or to discuss the issue, nor was there supporting documentation showing that Flores regularly contacted Wells Fargo regarding marshaling the financial assets. The facts suggest that Flores did not take substantive action to marshal and secure the estate bank account until late April 2016.

Allegation 3 is substantiated.

Allegation 4: Patricia Flores committed material misrepresentation and made dishonest, false, or misleading statements to Division staff.

The facts presented in Allegation 4 suggest that Flores altered an email, dated December 4, 2016, in what appears to be an effort to mislead Division staff.

At issue are two emails of the same date and time. In the emails, Flores was replying to Russell's email to her regarding what Russell described as Flores' lack of contact with him in over 11 months. The two subject emails differed in some of the content although Flores denied that she sent two emails to Russell on December 4, 2019 and stated that she only sent one reply on December 4, 2019. Flores was unable to provide an explanation for the two email replies and the difference in content.

With his complaint, Russell included an email that he sent to Flores on December 4, 2019, at 9:22 p.m., wherein he stated, in part:

It has been over 11 months since I sent you an E Mail [sic] requesting a lot of information that I feel that you should have on hand, as you had used it to finish Dorothy Love Roberson's Estate. You have not E Mailed [sic] a message acknowledged [sic] the request or that you needed more time.

Russell also included, with his complaint, Flores' email reply of December 4, 2019, at 10:35 p.m.



In furtherance of the investigation, on June 2, 2020, the Division requested, from Flores, copies of all written and electronic involving this case. Pertinently:

As you know, the complaint involves allegations that you did not timely settle the Trust and you did not respond to requests from beneficiaries for information including, but not limited to, financial accountings.

At this time, we are seeking preliminary documentation for our review as follows:

1. All written and electronic correspondence, including any attachments contained therein, between your office and any of the three Roberson Trust beneficiaries: Gerald Bartholomew, Warren Bartholomew, and Russell Bartholomew ("Brothers"). The records should include all correspondence involving the Brothers and/or any attorney representing the Brothers. Please provide the requested records for the period from September 1, 2017 to date.

Flores provided various emails from her records including a copy of Russell's December 4, 2019 email to her, and her December 4, 2019 reply to Russell. See below:

From: Russ Bartholomew <Russ_B@nyk.com>
Sent: Wednesday, December 4, 2019 10:35 AM
To: Patricia Flores <patflo@nyk.com>
Subject: Dorothy Roberson Estate

[The following email content is extremely faint and largely illegible. It appears to be the body of an email exchange between Russ Bartholomew and Patricia Flores.]

The Division noticed that Flores' December 4, 2019, 10:35 p.m., email reply to Russell that she provided to the Division differed from Flores' December 4, 2019, 10: 35 p.m. email reply that Russell had included with the complaint. Specifically, the email that Flores provided to the Division did not contain the language involving her being without her email for 30 days and her requiring a temporary address during that time:

On July 20, 2020, Russell provided the Division various emails including his December 4, 2019 email to Flores and her reply to him of December 4, 2019. See below:

From: Russ Russell [mailto:russell_russell@yaho.com]
Sent: Wednesday, December 4, 2019 10:35:43 PM
To: Patricia Flores <cflores@penn.com>
Subject: Dorothy Robinson Estate

12/4/19

This is the only communication I have in 2019 from Gmail regarding a change of address sent to me in August. Prior to that we all met in December of 2018 at the time of the hearing on the Personal Representative Issue. There was also communication at that time between us when I referred you to Nathan Nearch at the Probate Court. I apologize if I haven't responded to your referenced email. If you would be so kind as to resend the I would appreciate it.

I was without my email for more than 30 days after our last and a temporary address was necessary for that time frame. I can only assume that your message went into that now defunct mailbox. In addition, my sister died this year and it has a short and human times. I was distracted by the loss.

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The December 4, 2019 email reply from Flores that Russell provided to the Division shows a time stamp of 9:35:43 p.m. PST (Pacific Standard Time). The email Russell included in his complaint reveals a time stamp of 10:35 p.m. explained by time zone changes. The time stamp of the email Russell provided in his complaint is consistent with the email that Flores provided to the Division, although the content differed.

In addition, both Flores and Russell provided the Division a copy of Russell's December 6, 2019 email response to Flores' email of December 4, 2019. In both email Russell wrote, pertinently:

I'm sure that you did not allow your temporary address to go away without a careful review of its contents.

Russell's December 6, 2019, email to Flores specifically references Flores' temporary address which is consistent with him having received information that Flores was without her email for more than 30 days, that she required a temporary email address for a time and that she assumed Russell's email had gone into the defunct mailbox. This supports the version of the December 4, 2019, reply from Flores that Russell included in his email and provided to the Division.

The December 4, 2019 email version that Flores provided to the Division does not include language involving any problem with her email and of her needing a temporary email address.

During the interview with Russell, Division staff reviewed the email he sent to Flores, dated December 4, 2019 and her response of the same evening. He was asked if Flores

provide any other response on the evening of December 4, 2019, to which he said she did not. Division staff reviewed, with Russell, part of his December 6, 2019, reply to Flores' December 4, 2019, email, wherein he stated, pertinently:

I'm sure that you did not allow your temporary address to go away without a careful review of its contents.

Russell was asked if Flores, other than in the December 4, 2019 email, had communicated to him that she had any problem with her email account to which he said, "No sir." In addition, Russell said, "No sir" when asked if Warren or Gerald ever mentioned to him that they were aware of any problems with Flores' emails. Russell said Flores only used one email address and said he did not know about any defunct email address, as noted by Flores in her December 4, 2019, email reply to him.

Warren told Division staff that he was not aware of Flores having any problems with her email, stating, "No, that's a typical excuse." Asked to clarify, Warren said, "every time we had we had a problem...we had a problem with my phone, we had a problem with my email. There was always an excuse to why we couldn't get it done." Warren said, "No, not to my knowledge" regarding whether Flores informed that she needed to use a temporary email address or provided one.

During her interview, Division staff reviewed, with Flores, a copy of the December 4, 2019, email reply to Russell, a copy of which Flores had provided to the Division. Flores was asked if she sent any other emails to Russell on the evening of December 4, 2019, to which she stated, "No." Division staff reviewed, with Flores, a copy of Russell's email reply to Flores, dated December 6, 2019, wherein he pertinently wrote, "*I'm sure that you did not allow your temporary address to go away without a careful review of its contents.*" [italics added]

Division staff pointed out to Flores that in Russell's December 6, 2019, email, he specifically referenced that Flores would not allow a temporary address to go away with a careful review of its' contents. But the December 4, 2019, email reply to Russell that Flores provided the Division made no mention of any problems with her email for 30 days and of Flores needing a temporary email address. Flores told Division staff, "I was just trying to think what temporary address is that I'm talking about..."

Division staff reviewed, with Flores, a copy of the December 4, 2019 email reply Flores sent Russell, which he had included in the complaint, wherein Flores specially noted that she was without her email for more than 30 days and a temporary address was required and that Russell's emails to her may have gone into her now defunct mailbox.

Asked to explain the differences in the content and wording of the two December 4, 2019, emails to Russell, Flores said, "I'm looking at the one I sent on December 4, 2019 at 10:35 p.m. that I wrote to Russ and it's got everything you say that about Ruby Mine and the second paragraph regarding the temporary email address and my sister's death."

Flores was unable to provide a clear and coherent answer as to how the two emails of December 4, 2019, time stamped 10:35 p.m. could be different if she only sent one email on the evening of December 4, 2019. Flores denied making any changes to her original email. Division staff asked her if she had changed the wording on the December 4, 2019, email that she sent to the Division to exclude the words, "I was without my email address for more than 30 days and a temporary address was necessary for that timeframe." Flores replied, "I wouldn't have any reason to do that because, I mean, I have no issue with my email was down, locked up for 30 days by Microsoft because somebody had tried to get into, apparently, apparently, I don't know into my email address so I had to, an email address, my name, my date of birth and that is the only other email that I would have been referring to." Flores said, "I have no reason to leave that out... there is nothing about it that I would find upsetting. at this point in my career I don't want to tip-toe around two paragraphs..." Flores restated, "I haven't changed anything."

The facts suggest that Flores provided the Division with an alternative email version of December 4, 2019, email she contemporaneously sent to Russell on the evening of December 4, 2019. Russell was frustrated that it had been 11 months since he last emailed Flores and that she had not responded. The facts suggest that Flores altered the email she provided to the Division to exclude language involving any difficulties with her email to mislead the Division, possibly to avoid regularity scrutiny and any potentially adverse or negative evaluation of her actions.

Allegation 4 is substantiated.

Allegation 5: Patricia Flores breached her fiduciary duty to the estate by charging and allowing the estate to be charged fees to defend herself against allegations of misconduct.

Patricia Flores breached her fiduciary duty to the estate by charging and allowing the estate to be charged professional fees to defend herself against allegations of misconduct. Pursuant to A.R.S. § 14-10801, Flores had a duty to administer the trust in "good faith" and A.R.S. §14-10802 compelled Flores to "administer the trust solely in the interests of the beneficiaries."

Patricia is a fiduciary pursuant to ACJA §7-202(A) which defines "Fiduciary" as provided in A.R.S. § 14-5651(K)(1) to mean: (a) A person who for a fee serves as a court appointed guardian or conservator for one or more persons who are unrelated to the fiduciary.

Flores was appointed by the Court. Under Probate Cause Number PB2014-1355, on February 18, 2016, the Court appointed Flores "as successor trustee of the Dorothy Roberson Revocable Living Trust." ACJA §7-202(J)(7) states, "A licensed fiduciary who is acting as a trustee... shall abide by this code of conduct, regardless of whether that person is acting pursuant to court appointment." The code of conduct under §7-202(J) does not mention Trustees however the conservatorship provisions of ACJA §7-202(J)(5) are

analogous and applicable to Trustees. ACJA §7-202(J)(5) requires fiduciaries to "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."

Further, ACJA §7-202(J)(5)(j) sets out, "The fiduciary shall ensure that all fees and expenses 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.

ACJA §3-303(B)(2)(a)(1) and (3) sets out that the Statewide Fee Guidelines apply to Court-appointed fiduciaries and attorneys. ACJA §3-303(D)(2)(l) reads:

l. Time or expenses to respond or defend against a regulatory complaint against the professional and the professional's licensed business entity are not billable to the Estate.

ACJA §3-303(B)(2)(b)(1) states the fee guidelines do not apply:

(1) To compensation paid by a trust or decedent's estate, if compensation is specified or set forth in the relevant trust or testamentary instrument;

In this instant matter, the Trust or testamentary instrument is silent as to a Trustee's fees and/or legal fees incurred by a Trustee to defend against a regulatory complaint to the Division regarding possible violations of the ACJA or relevant statutes.

The Dorothy Frances Love Roberson Revocable Living Trust's ARTICLE VIII Powers and Duties of Trustee clauses 5, 6 and 7 permit the Trustee:

5. To employ and compensate attorneys, accountants, brokers, agents, and custodians;

6. To pay all costs and expenses of the trust and its property, including reasonable compensation to Trustee for its services;

7. To arbitrate, settle, compromise, contest, foreclose, extend or abandon claims or demands in favor of or against the trust or its assets;

Clause 6, referenced above, allows "reasonable" compensation to the Trustee for its services. Flores was compensated by the estate for fiduciary services rendered on behalf of the Trust.

Clause 7, referenced above, includes language specific to the Trustee resolving claims or demands in favor of or against *the trust or its assets*. Conversely, the Trust did not

contemplate or contain language that authorized the Trustee to be compensated for fees and costs associated with defending allegations of fiduciary misconduct. Patricia's fiduciary complaint, Complaint No. 16-0018,²⁴ was not a claim against the Trust or its assets; it was exclusively a complaint containing allegations of professional misconduct against Flores.

According to Flores' billing records, Invoice No. 1083, dated October 31, 2018, she billed the estate \$2,514.84 for time expended on various actions involving her defense of the fiduciary complaint against her involving Complaint Number 16-0018.

The Trust accounting shows that Flores transferred \$2,514.84 on December 11, 2018, shown below.

DATE	DESCRIPTION	AMOUNT
12/11/18	TO FLORES PATRICIA ON RE PAIDING FEEBANKWORLD TRANSFER EP EP	-2514.84

In addition, Flores allowed the estate to be billed for her attorney's legal fees and costs associated with his representation of Flores involving the regulatory complaint against her. Trust accounting records reflected legal fees paid by Check No. 387, regarding the Bartholomew complaint. See below:

DATE	DESCRIPTION	AMOUNT
10/29/2018	CHECK 387 PATRICIA A. FLORES LLC	3401.00
	BARTHOLOMEW COMPLAINT - ROBERSON TRUST	
	LEGAL FEES PAID	

The corresponding Wells Fargo Advisors Annual Summary showed that Check No. 387, referenced above, was in the amount of \$3,401.00 but the transaction was identified as payment to Patricia Flores and not to Willman Law. See below:

DATE	CHECK NUMBER	DESCRIPTION	EXPENSE CODE	AMOUNT
10/29	[REDACTED]	WILLMAN LAW	Unapplied	3401.00
11/15	[REDACTED]	WILLMAN LAW	Unapplied	3401.00
11/17	[REDACTED]	WILLMAN LAW	Unapplied	3401.00
11/20	[REDACTED]	PATRICIA FLORES LLC	Unapplied	-3401.00

The Division's review of Willman's time entries for services rendered, demonstrate that he billed approximately \$8,000.00 for time expended on tasks involving the regulatory complaint against Flores. The amount Willman billed is higher than what Flores paid Willman, as represented by Wells Fargo Annual Summary, Check No. 387.

Flores discussed the issue of expenses for her defense of the complaint Patricia brought against Flores, with Ruiz. When Flores emailed Ruiz on December 6, 2019, to discuss final distributions to Patricia's estate, Flores stated, in part:

²⁴ Complaint No. 16-0018 filed by Patricia Bartholomew.

...I don't know that the brothers should be responsible for paying interest and fees to the IRS that Patricia failed to process while she was the Trustee and the expenses for my defense in the claim that Patricia brought against me with the Fiduciary Board.

Contrary to the provisions of A.R.S. §14-10802 and ACJA §§7-202 and 3-303, Flores did not administer the estate solely in the interests of the beneficiaries and acted in a self-serving manner when she compensated herself and her attorney from the estate for fees and costs associated with her defense of the regulatory complaint brought against Flores by Patricia in 2016.

Allegation 5 is substantiated.

ANALYSIS OF ALLEGATIONS:

Allegation 1: Patricia Flores failed her Trustee duty to inform and report by not providing:

- a) Annual Trust accountings and/or complete accountings***
- b) Information requested and/or answers to questions involving the estate.***

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).

ACJA §7-201(H)(6)(a):

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;***

ACJA §7-202(B)(3):

3. Pursuant to A.R.S. § 14-5651(J), "This section applies to any supreme court licensed fiduciary who is acting as a guardian, conservator, personal representative, trustee or agent under a power of attorney, whether or not that person is acting pursuant to court appointment."

ACJA §7-202(J)(7):

7. Trustee and Power of Attorney. A licensed fiduciary who is acting as a trustee or agent under a power of attorney shall abide by this code of conduct, regardless of whether that person is acting pursuant to court appointment.

A.R.S. § 14-10801. Duty to administer trust

On acceptance of a trusteeship, the trustee shall administer the trust in good faith, in accordance with its terms and purposes and the interests of the beneficiaries and in accordance with this chapter.

A.R.S. § 14-10802. Duty of loyalty

A. A trustee shall administer the trust solely in the interests of the beneficiaries.

A.R.S. § 14-10804. Prudent administration

A trustee shall administer the trust as a prudent person would, by considering the purposes, terms, distributional requirements and other circumstances of the trust. In satisfying this standard, the trustee shall exercise reasonable care, skill and caution.

A.R.S. § 14-10813. Duty to inform and report

A. Unless the trust instrument provides otherwise, a trustee shall keep the qualified beneficiaries of the trust reasonably informed about the administration of the trust and of the material facts necessary for them to protect their interests. Unless the trustee determines that it is unreasonable under the circumstances to do so, a trustee shall promptly respond to a beneficiary's request for information related to the administration of the trust.

C. A trustee shall send to the distributees or permissible distributees of trust income or principal and to other beneficiaries who request it, at least annually and at the termination of the trust, a report of the trust property, liabilities, receipts and disbursements, including the source and amount of the trustee's compensation, a listing of the trust assets and, if feasible, their respective market values. On a vacancy in a trusteeship, unless a cotrustee remains in office, a report must be sent to the qualified beneficiaries by the former trustee. A personal representative, conservator or guardian may send the qualified beneficiaries a report on behalf of a deceased or incapacitated trustee.

The facts suggest that Flores did not keep the beneficiaries of the Trust reasonably informed about the administration of the Trust and of material facts necessary for them to protect their interests. Flores has acknowledged that the beneficiaries' requests for

accountings and other information were reasonable. However, she did not provide the beneficiaries annual Trust accountings in accordance with A.R.S. § 14-10813 and did not provide complete Trust accountings.

Flores did not keep the qualified be reasonably informed by failing to provide information requested and/or timely providing the information and/or failing to answer questions from the beneficiaries involving the estate and her administration of the Trust.

Allegation 1 a) is substantiated.

Allegation 1 b) is substantiated.

Allegation 2: Patricia Flores did not timely settle the estate.

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).

ACJA §7-201(H)(6)(a):

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;

ACJA §7-202(B)(3):

3. Pursuant to A.R.S. § 14-5651(J), "This section applies to any supreme court licensed fiduciary who is acting as a guardian, conservator, personal representative, trustee or agent under a power of attorney, whether or not that person is acting pursuant to court appointment."

ACJA §7-202(J)(7):

7. Trustee and Power of Attorney. A licensed fiduciary who is acting as a trustee or agent under a power of attorney shall abide by this code of conduct, regardless of whether that person is acting pursuant to court appointment.

A.R.S. § 14-10801. Duty to administer trust

On acceptance of a trusteeship, the trustee shall administer the trust in good faith, in accordance with its terms and purposes and the interests of the beneficiaries and in accordance with this chapter.

A.R.S. § 14-10802. Duty of loyalty

A. A trustee shall administer the trust solely in the interests of the beneficiaries.

A.R.S. § 14-10804. Prudent administration

A trustee shall administer the trust as a prudent person would, by considering the purposes, terms, distributional requirements and other circumstances of the trust. In satisfying this standard, the trustee shall exercise reasonable care, skill and caution.

In the First Trust Accounting, dated August 29, 2017, Flores documented that all Trust property except Ruby Mines had been transferred to beneficiaries in accordance with the Settlement Agreement, and that the tax returns for 2014, 2015, and 2016 were currently being prepared.

Flores met with the brothers in December 2017 at which time the brothers came away with the understanding that Flores would close out the estate on or around April 15, 2018, apparently after the 2017 estate tax returns were filed. In May 2018, Flores met with the accountant and informed Warren, per the brothers, that she was signing off on the tax returns and that the estate did not have a tax liability for that taxation year. According to Flores, by June 21, 2018, the only remaining item to close out the estate was the breaking out of professional fees and costs, particularly Willman's fees and costs, per her email to Warren.

The facts suggest that Flores did not timely complete the task of breaking out the professional fees and costs. By December 10, 2018, when Flores met with the brothers to provide distributions, her billing documented that she informed them she was still waiting on Willman's office to breakout the legal fees and costs. But Flores' and Willman's billing records suggest that Willman's office had completed the task and had provided the information to Flores by on or around July 3, 2018.

There are no records that show any further communication between Flores and Willman's office related to the breaking out of fees and costs after July 6, 2018, nor has Flores provided any supporting documentation of such.

In addition, at the time of Flores' interview with Division staff on November 24, 2020, she had not formally closed the estate although she said she had "everything buttoned up." She said she issued final distributions to the brothers in December 2018 and was withholding \$1,500.00 of estate money in the Wells Fargo Advisors Account in case the IRS indicates there was an under or overpayment in future. Flores did not provide the brothers with a closing letter informing them that the estate had been formally closed.

Records demonstrate that Flores issued distributions to the brothers in December 2018 and final distributions to each of the three brothers in January 2019, with respective final distributions payments of \$22,824.00.

In July 2019, a final distribution check was made to Patricia's estate in the amount of \$18,640.43.

The amount of estate monies Flores withheld for potential tax liabilities is unclear. Flores told Division staff that she withheld \$1,500.00 from the estate. Gerald told Division staff that Flores told them in December 2017, that Flores intended to withhold \$5,000.00 for potential tax liability.

There was a question as whether the IRS would levy penalties and interest to the estate for taxation years 2014 and 2015 because Patricia did not file those returns on behalf of the estate when Patricia served as Trustee. Flores' tax records demonstrate that the estate did not have a tax liability for taxation years 2015 through 2018.

On January 14, 2019, Flores received a deposit from the IRS in the amount of \$5,045.43 for "2015 Tax payment adjustment" according to Flores's billing records.

On February 1, 2019, Flores emailed attorney, Willman, writing, pertinently, "I met with the Bartholomews in December [2018]. I had held back funds of approximately \$20K to accommodate any argument regarding Patricia's final distribution. Ironically, a refund for an overpayment of taxes was sent back to me (\$5,045.00) so that amount would lower the what Patricia Bartholomew should be held responsible for as to the taxes that should have been paid during her time as Trustee."

The issue of transparency and Flores not providing the brothers with a clarity on the estate spending has been at issue with the brothers and has been detailed in this Investigation Summary. Beneficiaries are entitled to know precisely how much money remains in the Trust account, if any, and they should receive a full accounting of the remaining dollars along with a letter formally closing the administration of the Trust.

As to the timely administration of the estate, the facts suggest that Flores had several opportunities throughout her management of the estate to close out the estate but she did not, thereby prolonging the process and, seemingly, not administering the Trust solely in the best interest of the beneficiaries.

Allegation 2 is substantiated.

Allegation 3: Patricia Flores failed to timely control and protect estate assets.

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).

ACJA §7-201(H)(6)(a):

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;*

ACJA §7-202(B)(3):

3. *Pursuant to A.R.S. § 14-5651(J), "This section applies to any supreme court licensed fiduciary who is acting as a guardian, conservator, personal representative, trustee or agent under a power of attorney, whether or not that person is acting pursuant to court appointment."*

ACJA §7-202(J)(7):

7. Trustee and Power of Attorney. *A licensed fiduciary who is acting as a trustee or agent under a power of attorney shall abide by this code of conduct, regardless of whether that person is acting pursuant to court appointment.*

ACJA §7-202(J)(5)(c):

c. *On appointment, the fiduciary shall take reasonable steps to marshal and secure the property and income of the protected person's estate as soon as possible. The fiduciary shall provide stewardship of the property for safekeeping and, at a minimum, record pictorially and establish and maintain accurate records of all real and personal property.*

A.R.S. § 14-10801. Duty to administer trust

On acceptance of a trusteeship, the trustee shall administer the trust in good faith, in accordance with its terms and purposes and the interests of the beneficiaries and in accordance with this chapter.

A.R.S. § 14-10802. Duty of loyalty

A. A trustee shall administer the trust solely in the interests of the beneficiaries.

A.R.S. § 14-10804. Prudent administration

A trustee shall administer the trust as a prudent person would, by considering the purposes, terms, distributional requirements and other circumstances of the trust. In satisfying this standard, the trustee shall exercise reasonable care, skill and caution.

A.R.S. § 14-10809. Control and protection of trust property.

A trustee shall take reasonable steps to take control of and protect the trust property.

As described in Allegation 3 of this Investigation Summary, the Division did not find evidence that Flores immediately and effectively acted to take control of and protect the estate assets. Although Flores was appointed as Successor Trustee on February 12, 2016, she marshaled and secured the estate's sole bank account sometime in May 2016 or June 2016.

Allegation 3 is substantiated.

Allegation 4: Patricia Flores committed material misrepresentation and made dishonest, false or misleading statements to Division staff.

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).

ACJA §7-201(H)(6)(a):

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;

ACJA §7-202(B)(3):

3. Pursuant to A.R.S. § 14-5651(J), "This section applies to any supreme court licensed fiduciary who is acting as a guardian, conservator, personal representative, trustee or agent under a power of attorney, whether or not that person is acting pursuant to court appointment."

ACJA §7-202(J)(7):

7. Trustee and Power of Attorney. A licensed fiduciary who is acting as a trustee or agent under a power of attorney shall abide by this code of conduct, regardless of whether that person is acting pursuant to court appointment.

ACJA §§7-201(E)(2)(c)(2)(b)(xiv) and (G)(4)(c):

2. Decision Regarding Certification.

c. Denial of Initial Certification.

(2) The board may deny certification of any applicant if one or more of the following is found:

(b) The applicant or an officer, director, partner, member, trustee, or manager of the applicant:

(xiv) Has made a false or misleading oral or written statement to division staff or the board;

G. Renewal of Certification.

4. Decision Regarding Renewal.

c. The board may deny renewal of certification for any of the reasons stated in subsection (E)(2)(c). Division staff shall promptly notify the applicant, in writing, within ten days of the board's decision to deny renewal of certification. The notice shall include the board's reasons for the denial of renewal of certification and the right of the applicant to a hearing, pursuant to subsection (G)(4)(d).

During the Division's review of the emails submitted to the Division by Russell and by Flores, Division staff noted discrepancies between an email reply of December 4, 2019, time stamped 10:35 p.m. that Flores provided to the Division, and the same email reply of December 4, 2019, which Russell provided to the Division. Specially, the difference was the omission of language involving Flores explaining to Russell why she had not communicated with him for over 11 months due to her having been without her email for 30 days and requiring a temporary email address so that any communication from Russell may have been delivered to a defunct email address.

Flores and Russell told Division staff that Flores provided only one reply to Russell on the evening of December 4, 2019. Flores was unable to account for the difference in the content of the email she provided to the Division verses the email Russell provided. Flores denied that she intentionally altered the email version she provided to the Division.

The facts suggest that Flores did alter the email she sent the Division to exclude language involving any difficulties with her email in efforts to mislead the Division and avoid scrutiny and the potentially adverse or negative evaluation of her actions.

Allegation 4 is substantiated.

Allegation 5: Patricia Flores breached her fiduciary duty to the estate by charging and allowing the estate to be charged professional fees to defend herself against allegations of misconduct.

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).

ACJA §7-201(H)(6)(a):

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;

ACJA §7-202(B)(3):

3. Pursuant to A.R.S. § 14-5651(J), "This section applies to any supreme court licensed fiduciary who is acting as a guardian, conservator, personal representative, trustee or agent under a power of attorney, whether or not that person is acting pursuant to court appointment."

ACJA §7-202(J)(7):

7. Trustee and Power of Attorney. A licensed fiduciary who is acting as a trustee or agent under a power of attorney shall abide by this code of conduct, regardless of whether that person is acting pursuant to court appointment.

ACJA §7-202(J)(5):

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.

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.

ACJA §3-303(B)(2):

2. These fee guidelines:

a. Apply to the compensation of the following individuals who are paid by an estate:

(1) Court-appointed fiduciaries, specifically guardians, conservators, and personal representatives, licensed and unlicensed;

(3) Attorneys.

ACJA §3-303(D)(2)(1):

1. Time or expenses to respond or defend against a regulatory complaint against the professional and the professional's licensed business entity are not billable to the Estate.

A.R.S. § 14-10801. Duty to administer trust

On acceptance of a trusteeship, the trustee shall administer the trust in good faith, in accordance with its terms and purposes and the interests of the beneficiaries and in accordance with this chapter.

A.R.S. § 14-10802. Duty of loyalty

A. A trustee shall administer the trust solely in the interests of the beneficiaries.

Flores billed the estate for actions involving her defense of a regulatory complaint, Complaint Number 16-0018, filed by Patricia in 2016. Flores' billing was evident during the investigation of the current complaint (Complaint Nos. 20-0003). Flores also allowed the estate to be billed for her attorney's fees and costs for actions involving legal representation for defense of the regulatory complaint against her.

By compensating herself and her attorney for fees and costs associated with defense of the complaint, Flores did not administer the Trust in good faith and solely in the best interest of the best interest of the beneficiaries as required by the referenced sections of the statutes.

Allegation 5 is substantiated.



**PASQUALE FONTANA, Investigator
Certification and Licensing Division**

6/25/2025

Date

REVIEWED BY:



6/29/21

MARK WILSON, Division Director
Certification and Licensing Division

Date

DECISION OF THE PROBABLE CAUSE EVALUATOR:

Having conducted an independent review of the facts and evidence gathered during the course of the investigation of complaint number 20-0063, the Probable Cause Evaluator:

- requests division staff to investigate further.
- determines probable cause does not exist the certificate holder has committed the alleged acts of misconduct as to Allegation(s):

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

2, 3, 4 and 5
(a) and (b)



7/1/21

Mike Baumstark
Probable Cause Evaluator

Date

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

**CERTIFICATE
HOLDER
INFORMATION**

Certificate Holder: Patricia Flores
Certification Number: [REDACTED]
Business Name: Patricia A. Flores, LLC
Certificate Number:
Type of Certificate/License: Individual Fiduciary

RECOMMENDATION:

It is recommended the Board accept the finding of the Probable Cause Evaluator and enter a finding Patricia Flores has committed the alleged act(s) of misconduct as detailed in the Investigation Summary and Allegation Analysis Report in complaint number 20-0003.

It is further recommended the Board enter a finding grounds for formal disciplinary action exists pursuant to Arizona Code of Judicial Administration ("ACJA") § 7-201(H)(6) for act(s) of misconduct described in the Investigation Summary and Probable Cause Analysis and Determination Report.

It is further recommended that the Board issue a censure to Patricia Flores...

SUBMITTED BY:

[REDACTED] 7/7/21
Mark Wilson, Division Director Date
Certification and Licensing Division

FINAL DECISION AND ORDER:

The Board having reviewed the above Investigation Summary, Allegation Analysis Report, finding of the Probable Cause Evaluator, and Recommendation regarding complaint number 20-0003 and Patricia Flores, certificate number [REDACTED] 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).

- 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:

The Board accepts the determination of the Probable Cause Evaluator and orders that Patricia Flores receive a censure and be placed on probation, the terms of which are:

- Ms. Flores submits to an audit of her fiduciary files and practices, at Ms. Flores' expense, to be performed by a third party mutually agreed upon by the Division and Ms. Flores. At request of the Division, the auditor shall provide interim reports or information to the Division. The auditor shall also monitor Ms. Flores' correction of any deficiencies. If the Division and Ms. Flores cannot agree on the auditor, the matter shall be brought back to the Board at the next regularly scheduled meeting for a final determination.
- Ms. Flores' license be restricted so that she cannot accept any new clients for which she must be licensed or would otherwise serve in a fiduciary capacity. The license restriction and the probationary period shall continue until the audit is completed and Ms. Flores has resolved to the satisfaction of the Board any deficiencies uncovered by the audit, but in no event shall the probationary period be less than one year from the date the audit begins.
- Ms. Flores will reimburse professional fees charged to the estate for defending herself against allegations of misconduct.
- This Order does not affect or limit, in any manner, further disciplinary action if the audit uncovers violations of statutes, rules or the administrative code.


Deborah Primock, Chair
Fiduciary Board

8/19/21
Date