

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

CERTIFICATE HOLDER/LICENSEE INFORMATION	Certificate Holder:	Michael D. Bogle
	Certification Number:	20628
	Business Name:	East Valley Fiduciary Services, Inc.
	Certification Number:	20592
	Type of Certificate/License:	Prn & BUE
COMPLAINANT	Name:	Justin Huehne
INVESTIGATION INFORMATION	Complaint Number:	14-0017 & 14-0018
	Investigator:	Hal White

Complaint Received:	12/12/2014
Complaint Forwarded to the Certificate Holder:	12/23/2014
Certificate Holder/Licensee Received Complaint:	12/29/2014
Response From Certificate Holder:	1/27/2014
Period of Active Certification/Licensure:	11/12/2009 & 11/8/2007
Status of Certification/License:	Both active
Availability of Certificate Holder/Licensee:	Available
Availability of Complainant:	Available
Report Date:	8/5/2015

ALLEGATIONS:

Allegation 1. Mr. Huehne claims he did not receive his profit sharing in a timely manner.

Allegation 2. Mr. Huehne claims he incurred legal and other expenses on top of his monthly HOA assessment, and wants a total of \$7,065 because he did not receive his profit sharing in a timely manner.

ADDITIONAL ALLEGATIONS:

None

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

- Written complaint and documentation submitted by complainant Justin Huehne (Mr. Huehne).
- Written response and documentation submitted by certificate holder and Principal of East Valley Fiduciary Services, Michael Bogle (Mr. Bogle).
- Review of applicable Certification and Licensing Division (“Division”) records
- Review of applicable sections of Arizona Revised Statutes (“ARS”), Arizona Codes of Judicial Administration (“ACJA”) § 7-201 and § 7-208, and Arizona Supreme Court Rules
- Review of Superior Court documents PB2012-002498,
- Review of Mandile Family Trust and Mandile Family Survivor’s Trust.
- Review of letter to Benetech from Bogle to Margaret Cole dated August 23, 2013.

PERSONS INTERVIEWED:

Michael Bogle who is also the primary for East Valley Fiduciary Services (Mr. Bogle)
 Barbara Rail, bookkeeper for T&M Hardware, Inc.
 Justin Huehne, complainant.

SUMMARY OF INVESTIGATION:

East Valley Fiduciary Services (EVFS), was acting as successor trustee to The Mandile Family Trust and The Mandile Family Survivor’s Trust since June 20, 2013. As trustee, Fiduciary Michael Bogle was responsible for T&M Hardware including certain profit sharing issues. T&M has contracted with Benetech for assistance with its profit sharing program.

Mr. Huehne was eligible for a distribution from the profit sharing plan and claims that the profit sharing check was paid untimely. Mr. Huehne first requested a disbursement on or about October 22, 2013.

Mr. Bogle received the profit sharing distribution on October 20, 2014 and personally traveled to complete and sign the form with Barbara Rail, the hardware company bookkeeper on October 21, 2014. The distribution check was sent out from T&M Hardware on January 12, 2015. The check took 14 months from order to distribution.

SUMMARY OF FACTUAL FINDINGS OF INVESTIGATION:

On June 20, 2013 EVFS and Mr. Bogle were appointed trustee of the Mandile Family Trust and The Mandile Family Survivor’s Trust. As trustee, they were responsible for the overall management of T&M Hardware, which owns three Ace Hardware Stores. T&M Hardware

Mr. Bogle contends in his response the delay was caused by Ms. Croteau and that Ms. Croteau continued to exercise authority over the trust until a settlement conference was held in May, 2014, resulting in a settlement that Mr. Bogle contends gave EVFS the authority to act for the Benetech plan.” While there is support for Mr. Bogle’s contention (see below) Mr. Bogle’s statement seems to directly contradict EVFS’s and Mr. Bogle’s court ordered appointment as trustee and Bogle’s August 23, 2013 letter to Ms. Cole.

Statements made by Ms. Croteau are conflicting. On April 29, 2014 Ms. Mandile Croteau filed an objection to various matters related to the trusts. In that objection, Ms. Croteau denies that she currently is the Trustee of the Profit Sharing Plan for T&M Hardware, Inc. She also objected to Mr. Mike Bogle’s being Trustee of the profit sharing plan due to his exorbitant expenses that will be associated with such action. It is not required by ACE corporate nor Benetech as per Margaret Cole of Benetech. *Therefore this should be overturned.*

On May 13, 2014, however, Ms. Croteau, sent an email to Mr. Bogle requesting “Please do the same for Benetech and advise Scott Bigham at Smith Barney that I’m to be in charge of the profit sharing plan for the North and South stores for the time being. Thank you, Pamela Mandile Croteau.”

ANALYSIS OF ALLEGATIONS:

Allegation 1: Mr. Huehne claims he did not receive his profit sharing in a timely manner.

Finding: Allegation 1 is substantiated. ACJA § 7-202(J)(7) 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

Investigation shows that EVFS and Mr. Bogle were appointed by the court as Successor Trustee on June 20, 2013. Mr. Huehne was a beneficiary in a pension plan. As successor trustee, EVFS and Mr. Bogle had a responsibility to process the profit sharing benefit in a timely fashion, and the investigation has indicated that 14 months is not timely.

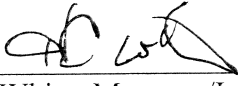
The normal payment time to pay a profit sharing claim is four to five months, according to the T&M Bookkeeper, Barbara Rail.

Allegation 2: Mr. Huehne claims he incurred expenses on top of his monthly HOA assessment because he did not receive a timely payment and wants a total of \$7,064.75 as compensation.

Finding: Allegation 2 is unsubstantiated. Division found, the charges that complainant wants paid in, Allegation 2, are for his late HOA dues and related fees. \$4,887 of the \$7,064.75 was due before complainant even requested the profit sharing be paid out.

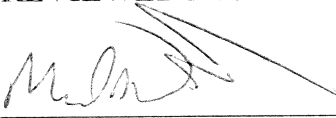
There is nothing in the code that allows payment of claims.

SUBMITTED BY:



Hal White, Manager/Investigator 8/5/15
Certification and Licensing Division Date

REVIEWED BY:



Mark Wilson, Director 8/14/15
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(s) 14-0017 and 14-0018, the Probable Cause Evaluator:

requests division staff to investigate further.

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

2.

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

1.

 8/20/15

Mike Baumstark
Probable Cause Evaluator

Date

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

<i>CERTIFICATE HOLDER/LICENSEE INFORMATION</i>	Certificate Holder:	Michael D. Bogle
	Certification Number:	20628
	Business Name:	East Valley Fiduciary Services, Inc.
	Certificate Number:	00887

Recommendation:

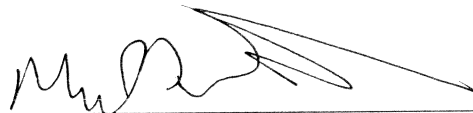
It is recommended the Board accept the finding of the Probable Cause Evaluator and enter a finding East Valley Fiduciary Services and Michael Bogle have committed the alleged act(s) of misconduct as detailed in Allegation 1 of the Investigation Summary and Allegation Analysis Report in complaint numbers 14-0017/14-0018.

It is recommended the Board accept the finding of the Probable Cause Evaluator and enter a finding East Valley Fiduciary Services and Michael Bogle have not committed the alleged act(s) of misconduct as detailed in Allegation 2 of the Investigation Summary and Allegation Analysis Report in complaint numbers 14-0017/14-0018.

It is recommended the Board enter a finding grounds for informal disciplinary action exists pursuant to Arizona Code of Judicial Administration ("ACJA") § 7-201(H)(6)(a) for act(s) of misconduct involving § 7-202(J)(5),(6) and (7) by failing to timely process payments.

It is further recommended the Board issue a Letter of Concern.

SUBMITTED BY:

 9/1/15

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 numbers 14-0017 and 14-0018 and Michael Bogle and East Valley Fiduciary Services, Inc. certificate numbers 20628 and 00887 respectfully, makes a finding of facts and this decision, based on the facts, evidence, and analysis as presented and enters the following order:

requests division staff to investigate further.

refers the complaint to another entity with jurisdiction.

Referral to: _____

dismisses the complaint, and:

requests division staff prepare a notice of dismissal pursuant to ACJA § 7-201(H)(5)(c)(1).

requests division staff prepare a notice of dismissal and an Advisory Letter pursuant to ACJA § 7-201(H)(5)(c)(2).

determines grounds for discipline exist demonstrating the certificate holder committed the alleged act(s) of misconduct and:

enter a finding the alleged act(s) of misconduct or violation(s) be resolved through informal discipline, pursuant to ACJA § 7-201(H)(7) and issue a Letter of Concern.

enter a finding the alleged act(s) of misconduct or violation(s) be resolved through formal disciplinary proceeding, pursuant to ACJA § 7-201(H)(9).

requests the certificate holder appear before the Board to participate in a Formal Interview, pursuant to ACJA § 7-201(H)(8).

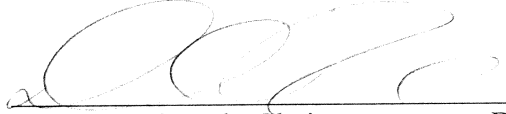
orders the filing of Notice of Formal Charges, pursuant to ACJA § 7-201(H)(10).

enters a finding the public health, safety or welfare is at risk, requires emergency action, and orders the immediate emergency suspension of the certificate and sets an expedited hearing for:

Date, Time, and Location: _____

adopts the recommendations of the Division Director.

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



Deborah Primock, Chair Date 9/10/15
Fiduciary Board

Y:\COMPLAINT INVESTIGATIONS\OPEN COMPLAINTS\FID East Valley Fiduciary Svcs; Bogle, Michael 14-0017;
14-0018\Informal Case Summary East Valley Fid - Mike Bogle 14-0017 & 14-0018.docx



Supreme Court

STATE OF ARIZONA
ADMINISTRATIVE OFFICE OF THE COURTS

September 10, 2015

Scott Bales
Chief Justice

David K. Byers
Administrative Director
of the Courts

Mr. Michael Bogle
East Valley Fiduciary Services, Inc.
7165 East University, Suite 171
Mesa, AZ 85207

RE: LETTER OF CONCERN - Complaint Numbers 14-0017 and 14-0018

Dear Mr. Bogle:

On September 10, 2015, the Fiduciary Board ("Board"), pursuant to the Arizona Code of Judicial Administration ("ACJA") § 7-201(H)(6)(a), (H)(7), and (H)(24)(a)(6)(a):

1. Reviewed the attached Investigation Summary, Probable Cause Evaluation Report, and Recommendation;
2. Entered a finding grounds for discipline exist in this complaint;
3. Ordered resolution of the complaint through an informal disciplinary sanction; and,
4. Entered the enclosed Order to issue this Letter of Concern as to Allegation 1 only.

ACJA § 7-201(H)(24)(b)(2) provides:

A letter of concern is a written informal discipline sanction and is not appealable. A certificate holder may file a response to the letter of concern no later than fifteen days after the date of the letter of concern. The certificate holder's response is public and division staff shall file the response in the complaint file.

If you choose to submit a written response, please address it to the Board. Pursuant to ACJA § 7-201(H)(1)(g) and (H)(24)(b)(2), this Letter of Concern and your response are not confidential.

Sincerely,

A handwritten signature in cursive script, appearing to read "Deborah Primock".

Deborah Primock, Chair
Fiduciary Board

Enclosures