

# FIDUCIARY BOARD

## Meeting Agenda – Thursday, January 9, 2020

Arizona Supreme Court -1501 West Washington Street

Phoenix, Arizona 85007 - 10:30 A.M. Conference Room 109

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

Members of the public may attend meeting in person.

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

**CALL TO ORDER .....Deborah Primock, Chair**

**1) REVIEW AND APPROVAL OF MINUTES.....Deborah Primock, Chair**

*1-A: Review, discussion and possible action regarding the regular session minutes of the meeting held on November 19, 2019.*

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

*2-A: Review, discussion and possible action regarding complaints 17-0023 and 19-0017 involving license holder James Otis.*

*2-B: Review, discussion and possible action regarding complaint 18-0006 involving license holder Stephanie McCollum.*

*2-C: Review, discussion and possible action regarding complaint 18-0038 involving license holder Leslie Mann-Damon.*

*2-D: Review, discussion and possible action regarding complaint 18-0050 involving license holder Custom Care & Financial Solutions.*

*2-E: Review, discussion and possible action regarding complaint 19-0005 involving license holder Dawn Walters.*

**3) INITIAL LICENSURE AND ELIGIBILITY.....Division Staff**

*3-A: Review, discussion and possible action regarding the following applications for initial individual and business licensure:*

1. Lina Garcia
2. Stephanie Smith

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

*4-A: Review, discussion and possible action regarding the following applications for renewal of individual and/or business entity licensure:*

- |                      |   |
|----------------------|---|
| 1. Braddock, Lori    | 11. Integrated Fiduciary Services, Inc. |
| 2. Crosby, Elizabeth | 12. Arizona Elder Care, LLC             |
| 3. Flores, Patricia  | 13. Stubler Fiduciary Services LLC      |
| 4. Fuss, Charles     | 14. Sanelli, Mark                       |
| 5. Goldman, Ronald   | 15. Jason Cobb                          |
| 6. Goldman, Jennifer | 16. Compass Fiduciary                   |
| 7. Holcomb, Sarah    | 17. Jane Anne Geisler                   |
| 8. Hoover, Taryn     | 18. Managed Protective Services, Inc.   |
| 9. Lauro, Christina  | 19. Miller, Tara                        |
| 10. Paz, Sandra      | 20. Murray, Cheri                       |

**5) LICENSURE AND ELIGIBILITY.....Division Staff**

*5-A: Review, discussion, and possible action regarding the voluntary surrender of licensure received from Donal Childers.*

*5-B: Review, discussion, and possible action regarding the request to retake the Fiduciary Program Examination from the following individuals:*

1. Antoinette Nelson
2. Lorena Velasquez

**6) ADMINISTRATIVE ISSUES.....Division Staff**

*6-A: Nomination and election of the Fiduciary Board Vice Chair.*

*6-B: Review, discussion and possible action regarding the certification renewal application deadline pursuant to Arizona Code of Judicial Administration § 7-201 (G)(2).*

*6-C: Review, discussion and possible action concerning random audits of continuing education compliance for renewal.*

**CALL TO THE PUBLIC .....Deborah Primock, Chair**

**ADJOURN.....Deborah Primock, Chair**

**FIDUCIARY BOARD**  
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**1) REVIEW AND APPROVAL OF MINUTES**

*1-A: Review, discussion and possible action regarding the regular session minutes of the meeting held on November 19, 2019.*

A draft of the regular session minutes for the meeting of November 19, 2019, has been provided for the Board's review and consideration.

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### 2) PENDING COMPLAINTS

*2-A: Review, discussion and possible action regarding complaints 17-0023 and 19-0017 involving license holder James Otis.*

Complaint number 17-0023 was brought before the Board on November 19, 2019. The Board requested the matter be deferred to a meeting date at which Mr. Otis and his counsel could be present. Complaint number 19-0017 was filed with the Division on June 24, 2019 and was in the investigation process.

Division staff has been informed by Mark Harrison, counsel for Mr. Otis that Mr. Otis passed away on or about December 3, 2019. Mr. Harrison further notified the Division that Mr. Otis' wards/protected persons were being appropriately transferred to other licensed fiduciaries.

#### **Recommendation:**

Staff recommends that the Board dismiss complaint numbers 17-0023 and 19-0017.

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### 2) PENDING COMPLAINTS

*2-B: Review, discussion and possible action regarding complaint 18-0006 involving license holder Stephanie McCollum.*

On April 20, 2018, the Certification and Licensing Division received a written complaint against Arizona licensed fiduciary, Stephanie McCollum.

The complaint contained three (3) allegations:

1. Stephanie McCollum failed to pay the ward's rent causing the facility to evict him.
2. Stephanie McCollum was depleting the ward's account and should have planned to move the ward sooner and not put him at risk of being homeless.
3. Stephanie McCollum failed to give notice to interested parties regarding court dates and did not provide annual reports.

The investigation yielded an additional allegation:

4. Stephanie McCollum did not work cooperatively with individuals and organizations involved in the ward's care.

#### **Summary:**

Please review the Investigation Summary for full details of the Division's investigation.

Ms. McCollum was appointed permanent guardian of and conservator for the ward/protected person on or about October 30, 2014.

The ward had been living in an assisted living facility in Tempe since July 2013. By January 2018, Ms. McCollum was spending down the estate and on or about January 18, 2018, applied for Arizona Long Term Care System ("ALTCS") benefits for the ward. Two (2) days prior, on January 16, 2018, McCollum gave the facility "30-days" notice, as required by the facility, indicating that the estate was being spent down, ALTCS planning was in place, and the ward could no longer afford the assisted living facility. On January 18, 2018, Ms. McCollum paid for part of February's room and board charges to the facility. An outstanding balance remained for the remainder of February.

By February 14, 2018, Ms. McCollum had not paid February's outstanding room and board charges, did not provide the facility with a move out date for the ward, and was refusing to move the ward, according to the facility. As a result, the facility served Ms. McCollum with a Discharge Notice for the ward for failure to pay the ward's rent. The Discharge Notice established a deadline

of March 5, 2018, by which the ward was to vacate the premises if the outstanding room and board charges were not paid in full.

On or about March 2, 2018, the ward was moved into another assisted living facility and a small deposit was paid to hold a room/bed for the ward. The owner of this facility normally accepts ALTCS approved residents, but not residents who are ALTCS pending. The owner asserts she made an exception for this ward because she had previously been his caregiver for approximately six (6) years while she worked at the assisted living facility in which the ward had been residing.

Ms. McCollum signed a Residency Agreement on behalf of the ward. The Residency Agreement, by its terms, required a \$3,500 a month payment. Despite the terms of the Residency Agreement, Ms. McCollum asserts she did not agree to pay \$3,500 per month and only paid a portion of the monthly room and board charges for March, April, and May 2018. The facility owner asserts she attempted to contact Ms. McCollum to secure the balance of the charges on numerous occasions but that M. McCollum did not communicate with her. The facility owner's husband also attempted to contact Ms. McCollum with the same result.,

Other service providers also complained about a lack of communication. As detailed in the Investigative Report, the first assisted living facility complained, among other things, that Ms. McCollum did not adequately communicate concerning the ward's financial condition, the date he would be moved from the facility or the arrangements for the move. Hospice billing records indicate the social worker had difficulty having Ms. McCollum return calls

The ward passed away on May 18, 2018.

The Division did not substantiate Allegations 1, 2, and 3, as detailed in the Investigation Summary.

The Division substantiated Allegation 4, as detailed in the Investigation Summary.

### **Recommendations:**

It is recommended the Board accept the finding of the Probable Cause Evaluator and enter a finding Stephanie McCollum has not committed the alleged act(s) of misconduct as detailed in Allegations 1, 2 and 3 in the Investigation Summary and Allegation Analysis Report in complaint number 18-0006.

It is recommended the Board accept the finding of the Probable Cause Evaluator and enter a finding Stephanie McCollum has committed the alleged act(s) of misconduct as detailed in Allegation 4 in the Investigation Summary and Allegation Analysis Report in complaint number 18-0006.

It is further recommended the Board enter a finding grounds for informal disciplinary action exists pursuant to Arizona Code of Judicial Administration ("ACJA") §§ 7-201(H)(6)(a) and (k) for act(s) of misconduct involving ACJA § 7-202(J)(4)(m) for failure to communicate and cooperate with various service providers as further described in the Investigation Summary and Allegation

Analysis Report and ACJA § 7-202(J)(3)(e) for failure to maintain records describing/supporting her assertions regarding Healing Gardens the monthly residency costs as further described in the Investigation Summary and Allegation Analysis Report.

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

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## 2) PENDING COMPLAINTS

*2-C: Review, discussion and possible action regarding complaint 18-0038 involving license holder Leslie Mann-Damon.*

Complainant in this case has been diagnosed with various cognitive issues and currently has a conservatorship and co-guardianship (along with complainants' son) with Mann-Damon. Complainant feels the guardianship/conservatorship are unnecessary and alleges Mann-Damon:

1. Refuses to provide financial statements.
2. Has engaged in unprofessional conduct by gossiping about the complainants' medical situation to others.
3. Has engaged in unprofessional conduct by interfering with the complainants' physician visits by providing inaccurate and misleading information.
4. Denied the complainant access to her inhaler.
5. Charged excessive fees.

The matter was investigated and on October 7, 2019, Probable Cause Evaluator determined probable cause did not exist as to the allegations.

### **Recommendation:**

It is recommended the Board accept the finding of the Probable Cause Evaluator and enter a finding Leslie Mann-Damon has not committed the alleged act(s) of misconduct as detailed in Allegations 1, 2, 3, 4 & 5 of the Investigation Summary and Allegation Analysis Report in complaint number 18-0038.

It is further recommended the Board dismiss complaint 18-0038.

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## 2) PENDING COMPLAINTS

*2-D: Review, discussion and possible action regarding complaint 18-0050 involving license holder Custom Care & Financial Solutions.*

Complainant managed an assisted living facility which housed a ward under guardianship/conservatorship with Custom Care & Financial Solutions (“CCFS”) (Philip DeVico). Complainant alleges;

1. CCFS has consistently been late with the wards’ rent payment.
2. CCFS has refused hospice care despite evidence of its necessity.
3. CCFS has refused to communicate with the complainant.

The matter was investigated and submitted to the Probable Cause Evaluator who determined probable cause does not exist as to the allegations.

### **Recommendation:**

It is recommended the Board accept the finding of the Probable Cause Evaluator and enter a finding CCFS has not committed the alleged act(s) of misconduct as detailed Allegation 1, 2 and 3 of the Investigation Summary and Allegation Analysis Report in complaint number 18-0050.

It is further recommended the Board dismiss complaint 18-0050.

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### 2) PENDING COMPLAINTS

*2-E: Review, discussion and possible action regarding complaint 19-0005 involving license holder Dawn Walters.*

This matter was presented to the Board at its November 19, 2019 meeting. The Board considered staff's presentation and recommendations as well as representations from the licensee to include that licensee had filed documentation with the Court seeking instruction on the matter. The Board deferred the complaint, instructing the licensee to appear at the next meeting with a status update. As of the date of posting, staff has not received any updated information from licensee.

The summary provided to the Board at the November meeting follows:

In May of 2014, Ms. Walters was appointed permanent Guardian and Conservator for a ward ("TD"). TD had been deemed incapacitated and incompetent to stand trial for a criminal matter in 2006. TD, of his own volition, resides alone on a parcel of land he owns in Rainbow Valley, Arizona, located approximately 20 miles south of Avondale and 20 miles east of Buckeye, Arizona. By all accounts, TD seldom leaves his residence, has no driver's license and relies on friends and neighbors to provide him with the majority of his food, water and clothing.

Two third party individuals (the "complainants") have befriended TD over several years. The complainants live near TD in Rainbow Valley, Arizona. The complainants had volunteered to ensure TD had what he needed including food, water and other personal items. There is no formal agreement concerning complainants' assistance and they receive no compensation from the fiduciary for performing the service. Since initially volunteering, complainants now allege that Ms. Walters is not meeting TD's needs.

Generally, TD's needs appear to have been met to TD's satisfaction with this volunteer arrangement.

Ms. Walters said she had never had any adversarial issues or dealings with complainants until recently. Apparently, as a result of the adversarial issues and other issues Ms. Walters caused a protective order to be issued prohibiting complainants contact with TD. Notwithstanding the protective order, the complainants continue to assist TD with his needs believing such assistance is necessary.

The complaint details six allegations of misconduct. The investigation unsubstantiated five of the allegations. The investigation substantiated allegation one finding that Ms. Walters has not satisfactorily worked with the complainants or some other third party for the provision of TD needs. While the complainants are volunteers and are willing to assist, the investigation found that they do not believe Ms. Walters is as engaged in the process as necessary. In addition, given the

protective order, Ms. Walters' conduct of allowing the complainants to continue providing assistance demonstrates she is comfortable with that assistance, but has failed to reach out and formalize any arrangement instead relying on the complainants' volunteerism or feeling of obligation.

**Recommendation:**

This matter was presented to the Probable Cause Evaluator who determined that probable cause exists that Ms. Walters committed the alleged act(s) of misconduct described in allegation 1, but that probable cause does not exist for allegations 2 through 6. Staff recommends that the Board accept the findings of the Probable Cause Evaluator and issue the sanctions as described in the Investigation Summary and Probable cause Analysis Report.

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### **3) INITIAL LICENSURE AND ELIGIBILITY**

*3-A: Review, discussion and possible action regarding the following applications for initial individual and business licensure.*

The following applicants applied for initial individual licensure. They have submitted completed applications demonstrating they meet the minimum eligibility requirements for licensure. No information has been presented or obtained during the background check which would preclude licensure. The applicants have completed the required fiduciary professional training.

The Division recommends approval of initial individual entity fiduciary licensure for the following applicants:

1. Lina Garcia
2. Stephanie Smith

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### 4) RENEWAL CERTIFICATION APPLICATIONS

*4-A: Review, discussion and possible action regarding the following applications for renewal of individual and/or business entity Fiduciary certification:*

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

- |                      |   |
|----------------------|---|
| 1. Braddock, Lori    | 8. Hoover, Taryn                        |
| 2. Crosby, Elizabeth | 9. Lauro, Christina                     |
| 3. Flores, Patricia  | 10. Paz, Sandra                         |
| 4. Fuss, Charles     | 11. Integrated Fiduciary Services, Inc. |
| 5. Goldman, Ronald   | 12. Arizona Elder Care, LLC             |
| 6. Goldman, Jennifer | 13. Stubler Fiduciary Services LLC      |
| 7. Holcomb, Sarah    | 14. Mark Sanelli                        |

- 15. Jason Cobb
- 16. Compass Fiduciary

Jason Cobb applied for renewal of certification for himself and his business Compass Fiduciary. Staff performed a background investigation which revealed Mr. Cobb did not disclose a civil case CV2016-054764. The case was a complaint by a ward that was resolved when the plaintiff (ward) did not file a response to a Motion for Summary Judgment.

It is recommended renewal of standard licensure be granted to Jason Cobb and Compass Fiduciary Group, LLC with non-disclosure language.

- 17. Jane Anne Geisler
- 18. Managed Protective Services, Inc.

Jane Anne Geisler and Managed Protective Services, Inc. ("MPS") applied for renewal of standard certification for the 2016-2018 renewal period and the 2018-2020 renewal period. There were pending complaints which precluded Division from presenting the applications for renewal. Division performed background investigations on all applications.

On the 2016-2018 the applicant answered "No" to the background history concerning civil suits. MPS was the Plaintiff in CC2016-088047. MPS was not paid for providing geriatric case management and sued for payment. The case was settled.

MPS responded that, "The inadvertent omission of this case on the renewal application was simply an oversight . . . . There was no intention of not disclosing these matters."

It is recommended renewal of standard licensure be granted to Jane Anne Geisler and Managed Protective Services, Inc. for both renewal periods to include non-disclosure language for the 2016-2018 renewal period.

19. Tara K. Miller applied for renewal of standard certification. The application is complete. A background check was performed by Division staff.

The applicant answered "No" to the Applicant Continuing Education Information section of the renewal application. Ms. Miller was initially certified 20 days before renewal applications were due on May 10, 2018.

It is recommended the Board waive Ms. Miller's continuing education requirement for the 2018-2020 renewal period. It is further recommended renewal of standard licensure be granted to Tara K. Miller.

20. Cheri L. Murray applied for renewal of standard certification. The application is complete. A background check was performed by Division staff.

The applicant answered "No" to the Applicant Continuing Education Information section of the renewal application. Ms. Murray was initially certified 20 days before renewal applications were due on May 10, 2018.

It is recommended the Board waive Ms. Murray's continuing education requirement for the 2018-2020 renewal period. It is further recommended renewal of standard licensure be granted to Cheri L. Murray.

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### 5) LICENSURE AND ELIGIBILITY

*5-A: Review, discussion, and possible action regarding the voluntary surrender of licensure received from Donal Childers.*

Donal Childers was granted licensure on March 2, 1999. On September 6, 2019 the Division received Mr. Childers' request to voluntarily surrender his license.

ACJA § 7-201(E)(7) reads:

*A certificate holder in good standing may surrender their certificate to the board. However, the surrender of the certificate is not valid until accepted by the board. The board or division staff may require additional information reasonably necessary to determine if the certificate holder has violated any provision of the statutes, court rules and this section or the applicable section of the ACJA. The surrender does not prevent the commencement of subsequent discipline proceedings for any conduct of the surrendered certificate holder occurring prior to the surrender.*

Division records indicate that there are no pending complaints against Mr. Childers.

It is recommended the Board accept the request of Donal Childers to voluntarily surrender his individual fiduciary license.

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### **5) LICENSURE AND ELIGIBILITY**

*5-B: Review, discussion, and possible action regarding the request to retake the Fiduciary Program Examination from the following individuals:*

Pursuant to ACJA § 7-201(E)(1)(f)(2)(d)(i) “Any applicant who was unsuccessful on the third attempt to pass the examination may request the Board for permission to sit for a fourth examination...”

1. Antoinette Nelson has participated in the examination on May 10, 2017, August 23, 2017 and December 6, 2017, obtaining scores of 62, 68 and 64 respectively.

By letter dated September 11, 2019, Ms. Nelson is requesting the Board’s permission to sit for the examination for a fourth time.

2. Lorena Velasquez has participated in the examination on May 8, 2019, July 10, 2019 and September 11, 2019, obtaining scores of 49, 53 and 54 respectively.

By letter dated October 16, 2019, Ms. Velasquez is requesting the Board’s permission to sit for the examination for a fourth time.

# **FIDUCIARY BOARD**

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### **6) ADMINISTRATIVE ISSUES**

*6-A: Nomination and election of the Fiduciary Board Vice Chair.*

ACJA § 7-201 (I)(3)(b) reads:

*Vice Chair. The board shall elect a vice chair from among the appointed members of the board. The vice chair shall serve in the capacity as vice chair for a specified term. If the vice chair resigns or ceases to be a member of the board, the board shall vote to elect a new vice chair from among the existing members. The vice chair shall act as chair in the absence of the chair.*

The Fiduciary Board is currently without a Vice Chair. It is, therefore, recommended the Board nominate and appoint a new Vice Chair.

# FIDUCIARY BOARD

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### 6) ADMINISTRATIVE ISSUES

6-B: *Review, discussion and possible action regarding the certification renewal application deadline pursuant to Arizona Code of Judicial Administration § 7-201 (G)(2).*

ACJA § 7-201 (G)(2) reads:

*Application. A certificate holder is responsible for applying for a renewal certificate. The certificate holder shall apply for renewal of certification on the form provided by division staff. The board shall set a deadline renewal application date, in advance of the expiration date, to allow a reasonable time frame for processing the renewal application.*

Active certificates expire at midnight on May 31<sup>st</sup> of each even numbered year.

**Staff recommends the Board establish the 2020-2022 renewal application deadline as midnight, May 31, 2020. The renewal period will open on April 1, 2020. An additional \$50 fee will be charged for applications received after April 30, 2020.**

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### 6) ADMINISTRATIVE ISSUES

6-C: *Discussion and possible action concerning random audits of continuing education compliance for renewal.*

ACJA § 7-202(L)(8)(d) reads:

*Random Audits of Continuing Education Compliance. During each renewal period the board shall request division staff to randomly specify a number of fiduciaries to demonstrate continuing education requirement compliance through submission of proof of continuing education participation. Refusal or failure to respond to the request for continuing education compliance audit documentation may result in denial of renewal of licensure or disciplinary action pursuant to ACJA § 7-201(H) and this section.*

It is recommended the Board request staff to audit 10% of the renewal applicants in the Fiduciary pool for continuing education compliance.