BOARD OF LEGAL DOCUMENT PREPARERS

Meeting Agenda - Monday, December 17, 2012

Arizona Supreme Court -1501 West Washington Street
Phoenix, Arizona 85007 – 12 noon – Conference Room 109
General Inquiries Call: (602) 452-3378 (Certification and Licensing Division Line)
Members of the Public May Attend Meeting in Person

AMENDED AGENDA

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

CALL TO ORDER ..... ***Mary Carlton, Chair***

1) REVIEW OF PENDING COMPLAINTS ..... ***Linda Grau***

1-A: Review, discussion and possible action regarding the following certificate holder complaints:

Complaint Number 05-L019 – Carol Gray
Complaint Number 12-L045 – Susan Fuquay
Complaint Number 11-L058 – Werner Von Borries
Complaint Number 11-L032 – Carla Gould
Complaint Number 10-L049 – Richard Dandis
Complaint Number 06-L087 – Michael Fisher and Western Estate Services
Complaint Number 10-L038 – Silviano Tanori
Complaint Number 05-L041 – Tamara Martin
Complaint Number 08-L005 – Jerrie Ortiz
Complaint Number 08-L021 – Jerrie Ortiz
Complaint Number 12-L006 – Misty Coppedge
Complaint Number 12-L018 – Misty Coppedge

1-B: Review, discussion and possible action regarding the possible Consent Agreement resolution of complaint number 07-L075 involving Maria Ortiz.

1-C: Review, discussion and possible action regarding the following certificate holder complaints:

Complaint Number 12-L007 – Dubravka Sinno
Complaint Number 05-L053 – Roy Warden
Complaint Number 08-L045 – Jody Patterson and Simply Legal, Inc.
Complaint Number 11-L011 – Estelle Gaudreau

CALL TO THE PUBLIC..... ***Mary Carlton, Chair***

ADJOURN..... ***Mary Carlton, Chair***

Y:\BOARDS COMMITTEES COMMISSION\LEGAL DOCUMENT PREPARERS\AGENDA - MATERIALS\2012\December 2012\AMENDED Agenda LDP 12-17-12.doc

BOARD OF LEGAL DOCUMENT PREPARERS

Meeting Agenda – Monday, December 17, 2012

Arizona Supreme Court -1501 West Washington Street
Phoenix, Arizona 85007 – 12 noon – Conference Room 109
General Inquiries Call: (602) 452-3378 (Certification and Licensing Division Line)
Members of the Public May Attend Meeting in Person

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

CALL TO ORDER ..... ***Mary Carlton, Chair***

1) REVIEW OF PENDING COMPLAINTS ..... ***Linda Grau***

1-A: Review, discussion and possible action regarding the following certificate holder complaints:

Complaint Number 05-L019 – Carol Gray
Complaint Number 12-L045 – Susan Fuquay
Complaint Number 11-L058 – Werner Von Borries
Complaint Number 11-L032 – Carla Gould
Complaint Number 10-L049 – Richard Dandis
Complaint Number 06-L087 – Michael Fisher and Western Estate Services
Complaint Number 10-L038 – Silviano Tanori
Complaint Number 05-L041 – Tamara Martin
Complaint Number 08-L005 – Jerrie Ortiz
Complaint Number 08-L021 – Jerrie Ortiz
Complaint Number 12-L006 – Misty Coppedge
Complaint Number 12-L018 – Misty Coppedge

CALL TO THE PUBLIC ..... ***Mary Carlton, Chair***

ADJOURN ..... ***Mary Carlton, Chair***

Y:\BOARDS COMMITTEES COMMISSION\LEGAL DOCUMENT PREPARERS\AGENDA - MATERIALS\2012\December 2012\Agenda LDP December 2012.doc

BOARD OF LEGAL DOCUMENT PREPARERS

Agenda Summary – December 17, 2012

1) REVIEW OF PENDING COMPLAINTS

1-A: Review, discussion and possible action regarding the following certificate holder complaints:

Complaint Number 05-L019 – Carol Gray
Complaint Number 12-L045 – Susan Fuquay
Complaint Number 11-L058 – Werner Von Borries
Complaint Number 11-L032 – Carla Gould
Complaint Number 10-L049 – Richard Dandis
Complaint Number 06-L087 – Michael Fisher and Western Estate Services
Complaint Number 10-L038 – Silviano Tanori
Complaint Number 05-L041 – Tamara Martin
Complaint Number 08-L005 – Jerrie Ortiz
Complaint Number 08-L021 – Jerrie Ortiz
Complaint Number 12-L006 – Misty Coppedge
Complaint Number 12-L018 – Misty Coppedge

Complaint Number 05-L019 – Carol Gray:
On November 20, 2012, Probable Cause Evaluator Mike Baumstark entered a finding probable cause does not exist as to Allegation 1 but does exist as to Allegations 2 and 3 in complaint number 05-L019. It is recommended the Board accept the finding of the Probable Cause Evaluator, dismiss Allegation 1, and issue a Letter of Concern regarding Allegations 2 and 3.

Complaint Number 12-L045 – Susan Fuquay:
On November 20, 2012, Probable Cause Evaluator Baumstark entered a finding probable cause exists in complaint number 12-L045. It is recommended the Board accept the finding of the Probable Cause Evaluator and enter a finding grounds for formal disciplinary action exist pursuant to ACJA § 7-201(H)(6)(a), (H)(6)(c), (H)(6)(k)(3) for acts of misconduct involving ACJA § 7-201(F)(1) and (H)(3)(c), ACJA § 7-208(F)(1), (F)(2), (J)(5)(a), (J)(5)(b) and (J)(5)(c).

Considering the aggravating factors, should the Board ultimately enter a finding these violations have occurred, it is recommended the Board impose the following sanctions pursuant to ACJA § 7-201(H)(24)(a)(6):

a) Revoke Fuquay's individual legal document preparer certification, pursuant to ACJA § 7-201(H)(24)(a)(6)(i);
b) Issue a cease and desist order enjoining Fuquay from offering to or preparing legal documents, representing herself to the public as certified legal document preparer, or conducting any activity that constitutes the unauthorized practice of law until such time

as any and all conditions for reinstatement are met in full, as determined by the Board, pursuant to ACJA § 7-201(H)(24)(a)(6)(g);

c) Order and mandate as a condition for reinstatement, Fuquay participate in no less than ten (10) hours of continuing education in the curriculum areas of the unauthorized practice of law, professional responsibility and ethics, in addition to the hours of continuing education required for renewal of certification, pursuant to ACJA § 7-201(H)(24)(a)(6)(f);
d) Assess costs associated with the investigation and related disciplinary proceedings to be remitted no later than sixty (60) days following entry of the Board's Final Order, pursuant to ACJA § 7-201(H)(24)(a)(6)(j); and,
e) Impose civil penalties in the amount of $250.00 per found violation to be remitted no later than sixty (60) days following entry of the Board's Final Order, pursuant to ACJA § 7-201(H)(24)(a)(6)(k).

Complaint Number 11-L058 – Werner Von Borries:
On November 28, 2012, Probable Cause Evaluator Baumstark entered a finding probable cause does not exist in complaint number 11-L058. It is recommended the Board accept the finding of the Probable Cause Evaluator and dismiss the complaint.

Complaint Number 11-L032 – Carla Gould:
On November 27, 2012, Probable Cause Evaluator Baumstark entered a finding probable cause does not exist in complaint number 11-L032. It is recommended the Board accept the finding of the Probable Cause Evaluator and dismiss the complaint.

Complaint Number 10-L049 – Richard Dandis:
On November 28, 2012, Probable Cause Evaluator Baumstark entered a finding probable cause exists in complaint number 10-L049. It is recommended the Board accept the finding of the Probable Cause Evaluator and enter a finding grounds for formal disciplinary action exist pursuant to ACJA § 7-201(H)(6)(a), (H)(6)(d), (H)(6)(k)(2), (H)(6)(k)(3) (H)(6)(k)(4) and (H)(6)(k)(13) for acts of misconduct involving ACJA § 7-201(F)(1), ACJA § 7-208(E)(d)(1), (F)(2), (J)(1)(a), (J)(2)(c) and (J)(5)(a), and the October 26, 2009 Cease and Desist Order (entered by Consent Agreement) in complaint numbers 07-L030, 07-L039 and 08-L017.

Considering the aggravating factors, should the Board ultimately enter a finding these violations have occurred, it is recommended the Board impose the following sanctions pursuant to ACJA § 7-201(H)(24)(a)(6):

a) Revoke Dandis' certification, pursuant to ACJA § 7-201(H)(24)(a)(6)(i);
b) Issue a cease and desist order against Dandis enjoining Dandis from preparing legal documents, representing to the public he is a certified legal document preparer, assisting in or conducting any activities that constitutes the unauthorized practice of law during the period of the revocation and until such time as any and all conditions for reinstatement are met, to the satisfaction of the Board, pursuant to ACJA § 7-201(H)(24)(a)(6)(g);
c) Assess costs associated with the investigation and any related administrative proceedings involving complaint number 10-L048, pursuant to ACJA § 7-201 (H)(24)(a)(6)(j), and;
d) Impose a civil penalty in the amount of $250.00 per found violation, pursuant to ACJA § 7-201(H)(24)(a)(6)(k).

Complaint Number 06-L087 – Michael Fisher and Western Estate Services:
On November 28, 2012, Probable Cause Evaluator Baumstark entered a finding probable cause does not exist in complaint number 06-L087. It is recommended the Board accept the finding of the Probable Cause Evaluator and dismiss the complaint.

Complaint Number 10-L038 – Silviano Tanori:
On November 28, 2012, Probable Cause Evaluator Baumstark entered a finding probable cause does not exist in complaint number 10-L038. It is recommended the Board accept the finding of the Probable Cause Evaluator and dismiss the complaint.

Complaint Number 05-L041 – Tamara Martin:
On November 28, 2012, Probable Cause Evaluator Mike Baumstark entered a finding probable cause does not exist as to Allegation 1 but does exist as to Allegation 2 in complaint number 05-L041. It is recommended the Board accept the finding of the Probable Cause Evaluator and dismiss Allegation 1. Regarding Allegation 2, considering the mitigating factors, it is recommended the Board enter a finding grounds for informal disciplinary action exists, close the complaint with no further action, and maintain a record of the matter to be considered by the Board if at some time in the future Martin applies for legal document preparer certification.

Complaint Number 08-L005 – Jerrie Ortiz:
On November 27, 2012, Probable Cause Evaluator Baumstark entered a finding probable cause does not exist as to Allegation 1 but does exist as to Allegations 2, 3 and 4 in complaint number 08-L005. It is recommended the Board accept the finding of the Probable Cause Evaluator and dismiss Allegation 1. Regarding Allegations 2, 3 and 4, it is recommended the Board enter a finding grounds for formal disciplinary action exists, close the complaint with no further action, and maintain a record of the matter to be considered by the Board if at some time in the future Ortiz applies for legal document preparer certification.

Complaint Number 08-L021 – Jerrie Ortiz:
On November 27, 2012, Probable Cause Evaluator Baumstark entered a finding probable cause does not exist as to Allegation 2 but does exist as to Allegations 1, 3 and 4 in complaint number 08-L021. It is recommended the Board accept the finding of the Probable Cause Evaluator and dismiss Allegation 2. Regarding Allegations 1, 3 and 4, it is recommended the Board enter a finding grounds for formal disciplinary action exists, close the complaint with no further action, and maintain a record of the matter to be considered by the Board if at some time in the future Ortiz applies for legal document preparer certification.

Complaint Number 12-L006 – Misty Coppedge:
On November 28, 2012, Probable Cause Evaluator Baumstark entered a finding probable cause does not exist as to Allegation 2 but does exist as to Allegation 1 in complaint number 12-L006. It is recommended the Board accept the finding of the Probable Cause Evaluator and dismiss Allegation 2. Regarding Allegation 1, it is recommended the Board enter a finding grounds for formal disciplinary action exists pursuant to ACJA § 7-201(H)(6)(a) for an act of misconduct involving ACJA § 7-201(F)(1), ACJA § 7-208(F)(1), (F)(2) and (J)(5)(b) and Arizona Supreme Court Rule 31.

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

It is recommended the Board offer Coppedge a Consent Agreement to resolve this complaint, pursuant to ACJA § 7-201(H)(24)(a)(6)(c). It is recommended the proposed Consent Agreement include an acknowledgement of the misconduct, a statement giving notice to Coppedge that if she enters the Consent Agreement she waives her right to a hearing, and imposes the following sanctions pursuant to ACJA § 7-201(H)(24)(a)(6):

a) Issue a Censure to Coppedge and Southeast Arizona Paralegal Services, pursuant to ACJA § 7-201 (H)(24)(a)(6)(b);
b) Order Coppedge participate in no less than ten (10) hours of continuing education in the curriculum areas of professional responsibility, ethics, and the unauthorized practice of law, in addition to any hours otherwise required for renewal, pursuant to ACJA § 7-201 (H)(24)(a)(6)(f);
c) Impose civil penalties in the amount of $100.00 per found violation to be remitted no later than 60 days following entry of the Board's Final Order, pursuant to ACJA § 7-201 (H)(24)(a)(6)(k).

In the event Coppedge declines the opportunity to enter the Consent Agreement within 20 days of receipt of the Board's offer, it is recommended the matter proceed with the filing and service of Notice of Formal Statement of Charges pursuant to ACJA § 7-201(H)(10) without further Board order.

Complaint Number 12-L018 – Misty Coppedge:
On November 28, 2012, Probable Cause Evaluator Baumstark entered a finding probable cause does not exist as to Allegations 1 and 2 but does exist as to Allegation 3 and 4 in complaint number 12-L018. It is recommended the Board accept the finding of the Probable Cause Evaluator and dismiss Allegations 1 and 2. Regarding Allegations 3 and 4, it is recommended the Board enter a finding grounds for formal disciplinary action exists pursuant to ACJA § 7-201(H)(6)(a) for an act of misconduct involving ACJA § 7-201(F)(1), ACJA § 7-208(F)(1), (F)(2) and (J)(5)(b) and Arizona Supreme Court Rule 31.

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

It is recommended the Board offer Coppedge a Consent Agreement to resolve this complaint, pursuant to ACJA § 7-201(H)(24)(a)(6)(c). It is recommended the proposed Consent Agreement include an acknowledgement of the misconduct, a statement giving notice to Coppedge that if she enters the Consent Agreement she waives her right to a hearing, and imposes the following sanctions pursuant to ACJA § 7-201(H)(24)(a)(6):

a) Issue a Censure to Coppedge and Southeast Arizona Paralegal Services, pursuant to ACJA § 7-201 (H)(24)(a)(6)(b);
b) Order Coppedge participate in no less than ten (10) hours of continuing education in the curriculum areas of professional responsibility, ethics, and the unauthorized practice of

law, in addition to any hours otherwise required for renewal, pursuant to ACJA § 7-201 (H)(24)(a)(6)(f);

c) Impose civil penalties in the amount of $100.00 per found violation to be remitted no later than 60 days following entry of the Board's Final Order, pursuant to ACJA § 7-201 (H)(24)(a)(6)(k).

In the event Coppedge declines the opportunity to enter the Consent Agreement within 20 days of receipt of the Board's offer, it is recommended the matter proceed with the filing and service of Notice of Formal Statement of Charges pursuant to ACJA § 7-201(H)(10) without further Board order.

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

CERTIFICATE HOLDER INFORMATION	**Certificate Holder:**	Carol Gray
	Certification Number:	80046
	Business Name:	Affiliated Document Preparers, Corp.
	Certificate Number:	80621 (Expired)
	Type of Certificate:	Legal Document Preparer
COMPLAINANT	**Name:**	Honorable Barry Schneider
INVESTIGATION INFORMATION	**Complaint Number:**	05-L019
	Investigators:	William MacIntyre Alex (Navarro) Vilchis David Stone
	Report Date:	July 30, 2012

Complaint Received:	March 4, 2005
Complaint Forwarded to the Certificate Holder:	March 8, 2005
Response From Certificate Holder Received:	March 17, 2005
Status of Certification:	Active (Gray)
Availability of Certificate Holder:	Available
Availability of Complainant:	Available

The investigation of this complaint included consideration of the following:

- Written complaint and documentation submitted by the Honorable Barry Schneider ("Judge Schneider")
- Written response and documentation submitted by and investigatory interview with certificate holder Carol Gray ("Gray") on behalf of Affiliated Document Preparers, Corp. ("ADP")
- Review of applicable records in Superior Court in Maricopa County case number CV2004-021073
- Review of applicable Certification and Licensing Division ("Division") records
- Review of applicable sections of Arizona Revised Statutes ("ARS"), Arizona Codes of Judicial Administration ("ACJA") § 7-201 and § 7-208, and Arizona Supreme Court Rules

ALLEGATION:

1. Gray and ADP charged a $5,000.00 fee in an excess proceeds case that may not be reasonable or legal.

ADDITIONAL ALLEGATIONS:

2. Gray and ADP violated ACJA § 7-208(F)(2) and Appendix A, Code of Conduct Standard (3)(c)(1) by entering into a contingency fee agreement with the Davis'.
3. Gray and ADP failed to include their name, title, and certificate number on documents prepared for and filed in Superior Court in Maricopa County case number CV2004-021073, as required by the ACJA § 7-208(F)(3).

SUMMARY OF COMPLAINT:

On December 1, 2004, Cindy and Frank Davis ("the Davis'") hired Gray and ADP to prepare of a Motion to Compel Distribution (Excess Proceeds) ("Motion"). Gray drafted the Motion with language requesting the Court order the excess proceeds be released to the Davis' and Gray. The Motion specifically directed $5,000.00 be paid to Gray for her document preparation services, a fee was contingent upon a favorable outcome for the Davis'. In a Minute Entry dated April 1, 2005, Judge Schneider referred the matter to the Board of Legal Document Preparers ("Board") and expressed concerns the $5,000.00 fee was unreasonable.

Gray responded to the complaint and stated she performed work for the Davis' other than preparing the excess proceeds Motion and the contracted $5,000.00 was intended to cover the cost of all of her work. Based on the distribution amount to the Davis' being less than originally anticipated, Gray purportedly informed the Court she would not be accepting any payment from the Davis'.

SUMMARY OF FACTUAL FINDINGS OF INVESTIGATION:

1. Effective July 1, 2003, the Board granted individual legal document preparer certification to Gray. Gray's individual certification remains active through the current certification period which ends on June 30, 2013. Effective June 28, 2004, the Board granted business certification to ADP. ADP did not apply for 2011-2013 renewal and the business certification expired June 30, 2011.

2. In a Minute Entry dated March 1, 2005, Judge Schneider referred the matter of Superior Court in Maricopa County excess proceeds case number CV2004-021073, Anderson v. Maricopa County Treasurer, to the Board of Legal Document Preparers and attached a copy of the filed Motion and an unsigned Order on Application For Distribution (Excess Proceeds) ("Order") prepared by Gray. The Motion contains Gray's name, title and certificate but fails to contain the business entity name, title and certificate number as required by ACJA § 7-208(F)(3). Judge Schneider also provided a copy of the "engagement agreement" entered into between the Davis' and Gray's husband, certified legal document preparer Daniel Gray ("Daniel"). The

December 1, 2004 agreement entered into and signed by the Davis' and Daniel asserted the approximate value of the excess proceeds to be $34,504.30 and included:

> In consideration of the recovery of the Proceeds for the Claimant [the Davis'], ADP shall receive a fee to be paid out of the recovered Proceeds as set forth below.
>
> Claimant hereby agrees and acknowledges that ADP shall prepare documents for the Claimant to file Pro Se which request the Proceeds be distributed by the trustee of the Foreclosed Property or by the Court handling the excess proceeds matter by way of two party check payable to Claimant and ADP and that such Proceeds will thereafter be distributed in the following order to the following persons or entities:
>
> > N/A % (or a fixed dollar amount of $5,000.00) of the gross recovered Proceeds to ADP and the remaining balance to Frank and Cindy Davis (Claimant(s)).
> >
> > In the event that efforts to recover Proceeds are unsuccessful, no fee shall be payable to ADP.
> >
> > Fees. I understand that The Affiliated Document Preparers fees and expenses are not contingent in any way upon the outcome of my matter (Bankruptcy, Divorce or other Document Preparation) other than that ADP agrees not to charge fees unless the matter is concluded and the funds are collected from the Trustee or the Treasurer.

3. On March 8, 2005, the Division sent Gray and ADP a letter with a copy of the complaint. The letter informed Gray and ADP of the ACJA § 7-208(H)(4)(b) requirement they submit a written response to the complaint within ten days. Division records reflect the mailing was delivered on March 10, 2005.

4. On March 17, 2005, the Division received Gray and ADP's written response. Gray reported having contacted the Court to explain the service agreement and to clarify the $5,000.00 fee included payment for other services ADP had provided to the Davis' during the previous year. Gray indicated that when it was determined the amount of the excess proceeds were less that initial anticipated, she and ADP formally withdrew their fee request. Gray provided a copy of a Motion Re: Withdrawal of Request for Fees (Excess Proceeds) document she prepared and filed with the Court on March 16, 2005. The document contains the required ACJA § 7-208(F)(3) identification for Gray and ADP. However, the proposed form of order regarding the withdrawal of the fee request which was signed by the Court and filed on March 21, 2005 does not contained any ACJA § 7-208(F)(3) identification.

5. On March 27, 2012, Division Investigator Alex Vilchis spoke to Gray and inquired about Daniel's involvement in the services provided to the Davis' regarding the

excess proceeds matter. Gray asserted Daniel handled the legal research necessary so she could cite ARS in documents she prepared. Gray indicated Daniel had extensive experience in area of legal research and that is why Daniel helped her but he did not prepared the documents. When asked about the services she provided to the Davis', Gray stated she previously prepared a bankruptcy petition for the Davis', and they had discussed the filing of an unrelated civil lawsuit which was ultimately never pursued. Gray indicated the fees requested in the excess proceeds matter were intended to cover the Davis' ADP services for the excess proceeds case, the ultimately unfiled civil matter, and the Davis' bankruptcy petition. Gray reported after the March 21, 2005 Minute Entry was issued by Judge Schneider, the Davis' moved and Gray could no longer locate them to request payment for the bankruptcy petition she prepared.

SUBMITTED BY:

7/30/12

William MacIntyre, Investigator — Date
Certification and Licensing Division

ANALYSIS OF ALLEGATIONS:

Allegation 1. Gray and ADP charged a $5,000.00 fee in an excess proceeds case the fee may not be reasonable or legal.

ACJA § 7-208 Appendix A Code of Conduct Standard (3)(b) in effect at the time of the alleged misconduct read:

> A legal document preparer shall determine fees independently, except when otherwise established by law, entering into no unlawful agreements with other legal document preparers on the fees to any user.

Gray and ADP independently set the fee for services amount charged to the Davis'. No evidence was presented or obtained that fees for services regarding excess proceeds matters is are governed by established law. Therefore, Allegation 1 is not substantiated.

Allegation 2. Gray and ADP violated ACJA § 7-208(F)(2) and Appendix A, Code of Conduct Standard (3)(c)(1) by entering into a contingency fee agreement with the Davis'.

ACJA § 7-208(F)(2) in effect at the time of the alleged misconduct required all certified legal document preparers to comply with the ACJA § 7-208 Appendix A Code of Conduct. ACJA § 7-208 Appendix A Code of Conduct Standard (3)(c)(1) read:

> A legal document preparer shall at all times be aware of and avoid impropriety or the appearance of impropriety, which include, but is not limited to:

(1) Establishing contingent fees as a basis of compensation.

The service agreement ADP entered with the Davis' specifically established a fee for services contingent upon the Davis' excess proceeds case being resolved by the Court in the Davis' favor. Only after the Court raised concerns about the reasonableness and legality of the fee, did Gray and ADP formally withdraw their request for the fee. Therefore, Allegation 2 is substantiated.

Allegation 3. Gray and ADP failed to include their name, title, and certificate number on documents prepared for and filed in Superior Court in Maricopa County case number CV2004-021073, as required by the ACJA § 7-208(F)(3).

Court records reflect the Motion Gray prepared for the Davis' failed to include ADP's name, title and certificate number as required by ACJA § 7-208(F)(3). The conformed form of Order withdrawing the fees failed to contain Gray or ADP's name, title and certificate number as required by ACJA § 7-208(F)(3). Therefore, Allegation 3 is substantiated.

REFERRAL TO PROBABLE CAUSE EVALUATOR:

The Investigation Summary and Allegation Analysis Report on complaint number 05-L019 have been reviewed and approved for forwarding to the Probable Cause Evaluator and it is recommended the Probable Cause Evaluator enter a finding probable cause does not exist as to Allegation 1 and does exist as to Allegations 2 and 3.

SUBMITTED BY:

10/19/12

Linda Grau, Unit Manager Date
Certification and Licensing Division

DECISION OF THE PROBABLE CAUSE EVALUATOR:

Having conducted an independent review of the facts and evidence gathered during the course of the investigation of complaint number 05-L019, the Probable Cause Evaluator:

[ ] requests division staff to investigate further.

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

#1.

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

#2 & 3.

M Baumstark 11/20/12

Mike Baumstark Date
Probable Cause Evaluator

(ADP-Gray/05-L019)

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

CERTIFICATE HOLDER INFORMATION	**Certificate Holder:**	Carol Gray
	Certification Number:	80046
	Business Name:	Affiliated Document Preparers, Corp.
	Certificate Number:	80621 (Expired)

RECOMMENDATION TO THE BOARD OF LEGAL DOCUMENT PREPARERS ("BOARD"):

It is recommended the Board accept the finding of the Probable Cause Evaluator and dismiss Allegation 1 of complaint number 05-L019. Regarding Allegations 2 and 3, it is recommended the Board enter a finding Carol Gray ("Gray") and Affiliated Document Preparers, Corp. ("ADP") committed the alleged acts of misconduct detailed in the Investigation Summary and Allegation Analysis Report.

It is recommended the Board consider the complaint was received on March 4, 2005 and no other complaints of this nature have been presented involving Gray and ADP. Therefore, 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 acts of misconduct involving ACJA § 7-208(F)(2), (F)(3) and Appendix A Code of Conduct Standard (3)(c)(1) and issue a Letter of Concern.

SUBMITTED BY:

11/26/12

Mark Wilson, 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 05-L019, Carol Gray, certificate number 80046, and Affiliated Document Preparers, Corp., certificate number 80621, 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:

_____

_____

_____

_____

_____

Mary Carlton, Chair Date
Board of Legal Document Preparers

ARIZONA SUPREME COURT
ADMINISTRATIVE OFFICE OF THE COURTS
INVESTIGATION SUMMARY

CERTIFICATE HOLDER INFORMATION	**Certificate Holder:**	Susan Fuquay
	Certification Number:	81035
	Type of Certificate:	Legal Document Preparer
COMPLAINANT	**Name:**	Heather C. Vinci
INVESTIGATION INFORMATION	**Complaint Number:**	12-L045
	Investigator:	Richard Sczerbicki

Complaint Received:	September 25, 2012
Complaint Forwarded to the Certificate Holder:	September 25, 2012
Certificate Holder Received Complaint:	September 27, 2012
Response From Certificate Holder:	October 29, 2012
Period of Active Certification:	March 17, 2008 – Present
Status of Certification:	Active
Availability of Certificate Holder:	Available
Availability of Complainant:	Available
Report Date:	October 30, 2012

ALLEGATIONS:

1. Susan Fuquay ("Fuquay") engaged in the unauthorized practice of law and exceeded the authority of a certified legal document preparer by expressing legal opinions in documents she prepared for consumer Bruce Burton in Superior Court in Yuma County case number SC1400DO201000892, Burton v. Lussier.
2. Fuquay engaged in the unauthorized practice of law and exceeded the authority of a certified legal document preparer by contacting and attempting to consult with Lussier's Arizona attorney, Heather Vinci, on behalf of Burton, for the purpose of discussing a possible settlement in Superior Court in Yuma County case number SC1400DO201000892.
3. Fuquay engaged in the unauthorized practice of law and exceeded the authority of a certified legal document preparer by contacting and consulting with Lussier's California attorney, Ned Ardagna, on behalf of Burton attempting to negotiate the settlement of a property dispute.
4. Fuquay engaged in the unauthorized practice of law and exceeded the authority of a certified legal document preparer by contacting opposing party Lussier on behalf of Burton, seeking to convince Lussier to sign documents that would transfer property to Burton.

ADDITIONAL ALLEGATIONS:

5. Fuquay engaged in the unauthorized practice of law and exceeded the authority of a certified legal document preparer by contacting Yuma County Chief Deputy

Treasurer Ann Hernandez on behalf of Burton, seeking to have a check reissued in Burton's name only.

6. Fuquay failed to submit a written response within 30 days of receiving notice of the complaint, as required by ACJA § 7-201(H)(3)(c).

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

- Written complaint and documentation submitted by Arizona attorney Heather Vinci ("Vinci")
- Written response from certificate holder Susan Fuquay
- Email documentation obtained from California attorney Ned Ardagna ("Ardagna")
- Written statement received from Bruce Burton
- Investigatory interview with Denise Lussier ("Lussier")
- Review of applicable records in Superior Court in Yuma County in case number S1400DO2010 00892.
- 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

PERSONS INTERVIEWED:

1. Bruce Burton
2. Heather Vinci
3. Denise Lussier
4. Ned Ardagna

SUMMARY OF INVESTIGATION:

Vinci submitted a written complaint alleging Fuquay engaged in the unauthorized practice of law by expressing legal opinions on behalf Burton and by acting as if she [Fuquay] was opposing counsel in the Burton v. Lussier case. Vinci stated Fuquay came to Vinci's office to discuss the case. Vinci reported Fuquay also communicated with Lussier's California attorney, Ned Ardagna, on behalf of Burton. Vinci expressed concern about Fuquay making direct contact with Lussier while knowing Lussier was represented by counsel. Vinci reported Fuquay attended a court hearing with Burton on September 17, 2012. Vinci provided a copy of the Reply to Response to Petition to Modify Court Order document prepared by Fuquay prepared for Burton which was filed on October 9, 2012. In the document, Fuquay described the contacts she made with California attorney Ardagna, Yuma County Chief Deputy Treasurer Ann Hernandez, and Lussier on behalf of Burton.

Fuquay received notice and a copy of the complaint on September 27, 2012. On October 29, 2012, Fuquay submitted a written response by email to the Division. In her response,

Fuquay denied violating Rule 31 and did not engage in the unauthorized practice of law. Fuquay also denied violating ACJA § 7-201 or 7-208.

SUMMARY OF FACTUAL FINDINGS OF INVESTIGATION:

On September 25, 2012, the Division received a complaint forwarded from the State Bar of Arizona Unauthorized Practice of Law Office. In the written complaint, attorney Vinci alleged Fuquay was engaging in the unauthorized practice of law. Vinci, who represents Lussier in Burton v. Lussier, expressed concern about Fuquay's involvement in the case while purportedly providing document preparation services to Burton, including that Fuquay was engaging in the unauthorized practice of law. Vinci indicated she contacted Burton seeking case related disclosure and Burton directed her to Fuquay to secure information. Vinci reported Fuquay came to her office on Thursday, September 13, 2012. Vinci stated:

> Our conversation was very concerning to me. She [Fuquay] spoke to me as if she represented Bruce [Burton], as if she were opposing counsel. I have never met Susan before but she told me she has been a document preparer in Yuma for a long time. One of the most concerning statements was when she stated, "Doctors and lawyers practice, I play with the law."

Vinci reported Fuquay turned over to Vinci original checks written to Fuquay from Lussier's California attorney explaining she [Fuquay] never cashed the checks because of the ongoing issues in the case. Vinci had contacted Burton seeking disclosure and a stipulation to continue. In response, while meeting with Vinci, Fuquay stated she knew the judge would not continue the hearing.

Vinci reported Burton and Fuquay later returned to her office together. During this second visit, Fuquay indicated she would be at the court hearing scheduled for the following Monday as "...she liked to see what happens with her documents." Vinci confirmed Fuquay attended the hearing and sat in the gallery of the courtroom.

Vinci alleged approximately 40 minutes after the hearing, Fuquay called Lussier directly and asked Lussier to sign foreclosure documents "...since she [Fuquay] knew that was what the judge is going to do anyway." Lussier declined and contacted Vinci. Vinci advised Lussier not to speak to Fuquay and then called Fuquay, leaving a voice mail message requesting Fuquay not contact Lussier directly.

On September 26, 2012, Investigator Richard Sczerbicki ("Investigator Sczerbicki") conducted a telephonic interview with Vinci. Vinci stated when Fuquay came and met with her, she thought she was bringing her the sought after discovery documents. Vinci noted Fuquay did not make an appointment, she just stopped in. Vinci alleged Fuquay was asking her if she was going to accept Burton's settlement. Vinci reported Fuquay asked Vinci how much she knew about tax liens and starting telling Vinci about tax liens and that Fuquay does tax lien work as well. Fuquay continued asking Vinci questions,

which made Vinci wonder if Fuquay had a financial interest in the case. Vinci stated after Fuquay left from her initial visit, she later returned a short time later with Burton. Fuquay allegedly sat with Burton while he made a settlement offer that Vinci indicated she would speak with Lussier about. Vinci noted Fuquay did not interject while Burton was speaking but appeared very interested in what was being discussed.

At the September 17th hearing, Vinci provided Burton a copy of her Motion to Continue Fuquay purportedly asserted, "I guess she is not accepting the settlement offer." Vinci noted the Court granted the requested continuance and upon exiting the courtroom, Burton asked her if they could negotiate the matter at that time. Vinci told Burton they could make an appointment to discuss settlement at a later date. Vinci reported she went to another court hearing and later received a phone call from Lussier stating Fuquay called indicating she [Fuquay] knew what the Judge was going do in the case and Lussier should come sign the paper work and not waste everyone's time. Vinci instructed Lussier not to speak with Fuquay and decided to file the complaint because she felt Fuquay was over-stepping boundaries.

On September 26, 2012, Division Investigator Sczerbicki conducted a telephonic interview with Burton. Burton was asked how he came to use Fuquay as a legal document preparer. Burton confirmed he found Fuquay in the phone book while searching for a legal document preparer. Burton was asked what services Fuquay offered and Burton indicated she informed him she could only prepare documents. Burton was asked if Fuquay provided suggestions as to what he should do or what he should file in his case. Burton stated she did not. Burton stated he was dealing with a matter involving his ex-wife and only needed Fuquay to prepare his court documents. Burton asserted he provided Fuquay with the information he wanted included the documents and Fuquay prepared the documents based on what he told her. Burton explained Fuquay prepared the documents and then emailed them to Burton for him to review for spelling and content. Burton stated he would correct any misspelled words and ask Fuquay make changes if she noted anything was not accurate. Burton was asked about the information in the Petition to Modify Court Orders Fuquay prepared for him. Burton stated most of the information was obtained from what had come out of his divorce case. Burton was asked about the recommendations that were made to the court in this document. Burton stated he provided the information with the help of Fuquay. Burton stated the only thing he relied on Fuquay to do was the needed legal research. Burton confirmed the legal opinions and statutory references noted in the documents came from Fuquay. Burton was asked if Fuquay had attempted to negotiate any matters with his ex-wife's attorneys. Burton stated she did not and noted he tried to negotiate with the attorneys directly. Burton indicated Lussier did not accept his settlement proposal and the Judge recommended they continue to negotiate. Burton stated he was informed he could not speak directly with his ex-wife and had to make contact through her attorney. Burton confirmed Fuquay attended the September 17th hearing as a spectator. Burton acknowledged he wanted to meet with Vinci after but she had another hearing to attend but they could meet after that hearing.

Burton confirmed he was present when Fuquay called Lussier after the hearing about signing a document but Lussier would not talk with them. Burton was asked when Lussier's attorney contacted him, if he would refer them to Fuquay. Burton stated when Fuquay prepared his documents he relied on her to do all of the legal research and thought it was her job as a legal document preparer. He explained he thought Fuquay had to research the legal issues because he did not have a clue about legal matters. Burton stated Fuquay did not provide him with legal advice or recommendations as to what to file. Burton stated if he wanted something prepared she would tell him what he could file or if something would have been illegal. Burton was asked if Fuquay provided him any suggestions or recommendations as to what to put in the documents and he stated, "Not really." Burton explained Fuquay knew what he was trying to accomplish and would sometimes call him about types of documents he should consider filing. Burton stated when Fuquay would recommend he file a certain document, he would ask her why and she would explain why the document was necessary and Burton would decide whether to file the recommended document or not.

Burton was asked if Fuquay made contact with a California attorney on his behalf. Burton responded, "Apparently she did.", but he did not know for sure. Burton stated California attorney Ned Ardagna told him not to make direct contact with Lussier. Burton indicated Ardagna had asked Fuquay for various forms of what he already started. Burton stated he did not know the entire story regarding the Fuquay's contact with Ardagna. Burton denied he asked Fuquay to contact counsel on his behalf. Burton was asked if Fuquay ever tried to contact Vinci and he reported Fuquay was with him the first time he met with Vinci. Burton indicated Fuquay just listened to what he offered Vinci as a possible settlement. Burton confirmed Fuquay attended the court hearing but said she sat in the gallery with Lussier's boyfriend and did not say anything. Burton reported he specifically asked Fuquay if she was available to go with him to meet with the attorney and to go to court and she informed him she was available. Burton denied knowledge of Fuquay having met with Vinci without him.

On October 2, 2012, Investigator Sczerbicki conducted a telephonic interview with Lussier regarding her contact with Fuquay. Lussier reported Fuquay sent her emails and called approximately 7 times in the past 4 to 5 months. Lussier indicated Fuquay had basically been attempting to have her sign over everything to Burton. Lussier stated each time Fuquay called, she attempted to get Lussier to sign documents and/or pay money to resolve a property dispute with Burton. Lussier described Fuquay as being "a legal advisor" to Burton and noted Fuquay attended the last court hearing with Burton. Lussier stated approximately 30 minutes after the court hearing Fuquay called her and asked if she was still in town. Fuquay wanted her to come to Fuquay's office to sign papers to resolve the matter. Lussier reported Fuquay even went to Vinci's office making an effort to resolve the matter. Lussier stated she was not comfortable with Fuquay contacting her.

On October 4, 2012, Investigator Sczerbicki contact Lussier's California attorney, Ardagna, to obtain information about any direct contact he had with Fuquay while he was representing Lussier. Ardagna stated Fuquay made direct contact with him at least a dozen times. Ardagna reported she sent him numerous emails with requests as well.

Ardagna described Fuquay as an "over enthusiastic document preparer." Ardagna stated he became involved with this matter because Lussier was being harassed by Burton about signing papers to sign over property from their divorce. Ardanga stated he really could not make contact with Burton and all of his correspondence with Burton was made through Fuquay. Ardagna indicated he was dealing with Fuquay as he would with another attorney. Ardagna stated when he received the contract Fuquay prepared he advised Lussier they could not sign the contract. Ardagna stated it was after he received the contract that he started to become suspicious of Fuquay. NOTE: In Fuquay's communications with Ardagna regarding the dispute between Burton and Lussier, Fuquay drafted and presented several drafts of a service agreement contracting to provide service to both Lussier and Burton, with each party to pay portions of Fuquay's document preparation fees. Ardagna explained that because Lussier was suspicious of Fuquay, they opted to pay Lussier's portion of Fuquay's service fees through Ardagna's trust account. Though Lussier never signed Fuquay's service contract, she did agree to and paid portions of owed property taxes and fees to Fuquay. Ardagna confirmed Fuquay also communicated with him by email and he provided copies of some of the emails he received from Fuquay. Two examples of the emails Fuguay sent to Ardagna include:

From: Susan Fuquay
Sent: 09/01/12 01:12 AM
To: Denise Lussier, Bruce Burton, Ned Ardagna, Susan Fuquay, AZCLDP
Subject: received check for 776.00
I received a second check for $776.00, but no comment addressing the concern I expressed in the email on August 18, 2012. So we are still NOT on the same page.
--
Susan Fuquay, AZ CLDP

And,

From: Susan Fuquay
Sent: 07/19/12 03:38 PM
To: Denise Lussier, Bruce Burton, Ned Ardagna, Susan Fuquay, AZCLDP
Subject: Cost and Fees and Funds

Dear Ms Lussier,

Yesterday, about noon time, I received a call from Attorney Ned Ardagna. He said he was calling let me know that Mr. Burton presented you an *Assignment of Certificate of Purchase*, with an offer to reimburse you your interest in the Certificate of Purchase in the amount of $300.00, and you refused his offer. So, I should be aware that if Mr. Burton presented me with a signed Assignment of a Certificate of Purchase, that you had not signed it.

I assured Mr. Ardagna Mr. Burton had already informed me that you refused Mr. Burton's offer for to buy-you-out and you declined to sign *Assignment of Certificate of Purchase*.

Attorney Ned Ardagna also stated that upon receipt of my revision of the Agreement of Terms and Disclosures, removing the 12126 S Shell Ave, Yuma AZ 85367 Tax Lien Property which had already been redeemed, you would be signing the Agreement and sending me the funds for my fees and the estimated cost. I informed Attorney Ned Ardagna that my Agreement did not include your portion of the tax lien that Mr. Burton has paid towards the tax lien.

Attorney Ned Ardagna also asked me if I could provide you with that amount.

....

Mr. Burton has told me he will not move forward until you have fully complied with the Court Order.

And if you do not voluntarily comply, he go back to court to force either compliance buy-out and he will ask the Court for an Order reimbursing him for the Cost, Attorney fees, or legal document preparers fees, expended to take her to court.

(As you may know statistically, the most tax liens are redeemed prior to the issuance of a tax deed and are purchased by investors primarily for the 9 to 16% interest they will earn on their money.

The previous redemption of the Shell Avenue property is an example:

They were sent the "30 day Preliminary Notice" and they redeemed within the 30 days time frame.

On October 25, 2012, Vinci emailed Investigator Sczerbicki a copy of the Reply to Response to Petition to Modify Court Order ("Reply") prepared by Fuquay for Burton and filed on October 9, 2012. This pleading contains numerous references to Fuquay's actions, identifying herself as "the AZ CLDP" throughout the document. For example, page 2, paragraph 2 of the Reply states:

AZ CLDP discovered this while doing research for the Respondent and her California Attorney Ned Ardagna and AZ CLDP included this information in correspondence with Respondent, Petitioner, and Respondent's California Attorney, on August 12, 2012.

Page 3, paragraph 20, line 15 of the Reply provides:

August 13, 2012, Anna Hernandez, Yuma County Chief Deputy Treasure (928) 539-779, was contacted by the AZ CLDP, regarding the re-issuance of the check in Mr. Burton's name only....

On page 4, line 18 of the Reply, Fuquay notes an email she sent to Lussier which stated, in part:

> Per our telephone conversation Thursday morning, August 9, 2012, I am sending you a revised Agreement of Terms and Disclosures. ....And you will be paying Mr. Burton for the endorsements he paid to keep the liens from being loss... A copy of this email was also sent to Mr. Burton and your Attorney Ned Ardagna.

Page 7, paragraph 39, line 5 of the Reply reads:

> The Respondent's California Attorney Ned Ardagna made the initial contact with the Respondent and the AZ CLDP to complete the AGREEMENT between the AZ CLPD and the Respondent. The Attorney requested the AZ CLDP provide the Respondent with the calculations of what the Respondent owed towards subsequent payment of the Tax Lien.

Page 7, paragraph 40, line 10 of the Reply states:

> The AZ CLDP has an written Agreement with the Respondent regarding the *Judicial Foreclosure of the Right to Redeem a Tax Lien* that was executed by the respondent under advice of Respondent's California Attorney Ned Ardagna, August 14, 2012.

Page 11, paragraph 62, line 19 of the Reply asserts:

> ... Under the "Doctrine of Unclean Hands", the respondent is not entitled collect cost or attorney's fees....

On October 22, 2012, the Division received an unsolicited letter from Burton. Burton asserted he contacted Fuquay during June of 2012 to prepare documents necessary to foreclose on tax liens. Burton acknowledged Fuquay forwarded emails to him that she received from Ardagna, including an email directing all communication with Lussier be directed to Ardagna. Burton explained Ardagna and Lussier were non-responsive in the tax lien negotiations and he then pursued Fuquay for legal document preparation services to modify Burton and Lussier's decree of dissolution.

Superior Court in Yuma County records in case number S1400DO2010 00892 reflect Burton filed a Petition to Modify Court Orders ("Petition") on August 17, 2012, seeking to amend Burton and Lussier's decree of dissolution. The Petition contains Fuquay's name, title and certificate number identifying Fuquay as the legal document preparer responsible for the pleading.

In an October 25, 2012 email, Vinci reported Fuquay did not show up at the October 24, 2012 court hearing in the case.

On October 29, 2012, Fuquay submitted a late written response to the complaint. Fuquay denied violating Rule 31 and did not engage in the unauthorized practice of law and denied violating ACJA § 7-201 or 7-208. Fuquay provided a 35 page, line by line, breakdown of Vinci's complaint and offered a copy of the aforementioned Reply.

Fuquay denies she engaged in the unauthorized practice of law or violated any provision of ACJA. Fuquay acknowledged that September 12, 2012, she proceeded to Vinci's office to deliver documents. When Vinci's staff indicated she would need to make an appointment with Vinci in case Vinci had questions about the document, Fuquay made an appointment for the next day. Fuquay admits she met with Vinci on September 13th and engaged in a discussion with Vinci regarding tax liens. Fuquay stated:

> The AZ CLDP also explained to Attorney Vinci what the tax lien related documents were and way the AZ CLDP believed was the significance about the document.

In recognizing the dispute between Burton and Lussier could possibly be resolved by settlement in advance of the ensuing court hearing, Fuquay injected herself into the settlement negotiations by offering to hold the then un-cashed checks she received from Lussier's California attorney; hoping this would assist in a resolution being achieved.

Regarding the hire date at which Fuquay's services were engaged, she offered:

> ...Attorney Vinci also failed to mention both Ms. Lussier and Mr. Burton hired the AZ CLDP in June 2012 to prepare documents for the Judicial Foreclosure of the Right to Redeem Tax Lien. Both parties signed Agreements with the AZ CLDP and more specifically Ms. Lussier signed the Agreement to hire AZ CLDP under the direct supervision of her California Attorney Ned Ardagna.

This statement reflects Fuquay was aware Lussier was represented by counsel at the time Lussier entered the Agreement (which was modified by Lussier) and not actually entered into until August 14, 2012.

Fuquay reported on September 11, 2012, Burton asked her to do what she could to help Vinci. Fuquay had no authority to engage with or offer assistance to opposing counsel. While meeting with Vinci on September 13th, Fuquay reported:

> While in the office, Attorney Vinci began questioning the AZ CLDP about her experience and about the Judicial Foreclosure case that AZ CLDP was working on. The AZ CLDP freely provided information about the document (sic) relating to the Judicial Foreclosure of a Tax Lien. The Judicial Foreclosure is the case both Ms. Lussier and Mr. Burton paid the AZ CLDP to prepare the documents.
>
> We also talked briefly about Mr. Burton's *Petition to Modify a Court Order*. This is the case Attorney Vinci was currently working. Mr. Burton was not the attorney's client. Attorney Vinci (sic) clien was Ms. Lussier, the Respondent and ex-wife of Mr. Burton.

According to Fuquay's acknowledgements regarding the judicial foreclosure action, she was simultaneously preparing documents for Lussier and Burton in one matter, shortly after she had prepared documents for Burton in the family court petition to modify case where in Burton and Lussier were opposing parties. Fuquay acknowledged she told Vinci, "Doctors and Lawyers practice, I play with the law." Fuquay asserted this meant she was acting in accordance with Arizona Supreme Court Rules governing legal document preparers.

In addressing Vinci allegation Fuquay stated she knew the judge would not continuing the upcoming hearing, Fuquay explained:

> The AZ CLDP did not say the judge WOULD NOT honor the motion. The AZ CLDP did said (sic) the AZ CLDP didn't believe a Judge will honor a request for a continuance, when the continuance is requested three business days before the scheduled hearing, the party requesting the continuance had notice of the hearing for more than three weeks, and the other party traveled more than 250 miles to attend the hearing.
>
> The AZ CLDP discussed legal theories with attorneys in the past and giving opinions as to why a judicial officer may or may not rule in a specific way, which is exactly what the AZ CLDP did with Attorney Vinci.
>
> The AZ CLDP was giving Attorney Vinci an opinion as to why the judge would probably not grant the continuance. It was not a statement of fact as Attorney Vinci described. That type of presumptive attitude would be discourteous and disrespectful to the court and the legal system.

Regarding Vinci's report Fuquay attended the September 17, 2012 court hearing, Fuquay stated, "The AZ CLDP being in court as an observer is not a violation of Rule 31 or the ACJA § 7-208. Attending court is a learning experience." Regarding her making direct contact with Lussier, outside Vinci involvement, following the September 17th hearing, Fuquay offered:

> The AZ CLDP contacted Ms. Lussier after the hearing in regards to the *Judicial Foreclosure of the Right to Redeem a Tax Lien.* The AZ CLDP called to ask Ms. Lussier if she wanted to sign the papers (the Revised *30 Day Preliminary Notice*), while she was in town, because it was difficult to get a response from Ms. Lussier. Ms. Lussier said she would call Attorney Vinci to see what Attorney Vinci wanted her [Lussier] to do.
>
> During the hearing on September 17, 2012, the Court stated there are limited reason (sic) why the court would go back and modify a decree that was filed more than a year ago and it did not appear this action fell into any of those categories, and unless the Petitioner had some reason for modifying the decree other than what he had already stated, the orders would stand as is, but the court would issue a judgment if he

found a party was not in compliance with payments that were previously ordered by the court.

Fuquay offered a "history of events" section in her response. In this section, Fuquay acknowledged she contacted the Yuma County Treasurer's office on June 26, 2012 in an attempt to ascertain whether the tax liens had been redeemed. Fuquay also included a the narrative of a July 19, 2012 email she received from attorney Ardagna which purportedly read, in part, "Also, if you are in communication with Bruce please advise him to discontinue all communications with my client [Lussier]. She now desires all communication go to me as her legal representative." Fuquay provided an email she sent to Ardagna on August 2, 2012, (after she was informed all communication needed to go through Ardagna) in which she offered "to assist her [Lussier] after Court."

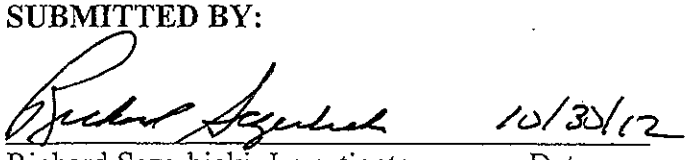
Fuquay provided an excerpt of "Agreement 3" which references paragraph 8 of the agreement to read:

> An AZ CLDP is authorized to file and arrange for service of legal forms and documents <u>for a person in a legal matter when that person is not represented by an attorney</u>,... [Emphasis added.]

Paragraph 27 identified in the same excerpt reflects Fuquay knowledge of Lussier being represented by attorney Ardagna at the time the agreement was drafted and entered. The initialed and signed version of the agreement with Lussier that Fuquay provided with her written response contained numerous strike-throughs of the provision in Fuquay draft. On August 14, 2012, Lussier sent a letter to Fuquay with the returned, modified and signed agreement. The letter stated, in part:

> I took the liberty of crossing-out language in the Agreement that is not relevant to my position in this matter and apparently meant to gain an advantage for my ex-husband. As you already know he improperly obtained a "replacement" check from the County of Yuma, Arizona in his name only, that should have been made in both our names. He then cashed the check and retained the funds for himself, monies not fully accounted for in you calculation. In reviewing the Agreement (and the other that have been offered by you) it has clearly been written to favor Bruce's interest over mine: begging the question – are you a legal advocate for Bruce?

SUBMITTED BY:



Richard Sczerbicki, Investigator — Date 10/30/12
Certification and Licensing Division

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

CERTIFICATE HOLDER INFORMATION	**Certificate Holder:**	Susan Fuquay
	Certification Number:	81035
	Type of Certificate:	Legal Document Preparer
INVESTIGATION INFORMATION	**Complaint Number:**	12-L045
	Investigator:	Richard Sczerbicki

ANALYSIS OF ALLEGATIONS:

Allegation 1: Fuquay engaged in the unauthorized practice of law and exceeded the authority of a certified legal document preparer by expressing legal opinions in documents she prepared for consumer Bruce Burton in Superior Court in Yuma County case number SC1400DO201000892, Burton v. Lussier.

Arizona Supreme Court Rule 31 ("Rule 31") (a)(2)(B) states the "unauthorized practice of law includes but is not limited to engaging in the practice of law by persons or entities not authorized to practice". The definition of the practice of law contained in Rule 31 states:

> "Practice of law" means providing advice or services to or for another by:
> (1) preparing any document in any medium intended to affect or secure legal rights for a specific person or entity;
> (2) preparing or expressing legal opinions;
> (3) representing another in a judicial, quasi-judicial, or administrative proceeding, or other formal dispute resolution process such as arbitration and mediation;
> (4) preparing any document through any medium for filing in any court, administrative agency or tribunal for a specific person or entity;
> (5) negotiating legal rights or responsibilities for a specific person or entity.

Arizona Code of Judicial Administration ("ACJA") § 7-208 exists as an exception to the prohibition of the unauthorized practice of law [Rule 31(d)(24)] and provides specifically authorized services a certified legal document preparer may offer and provide. ACJA § 7-208(F)(1) provides a list of "authorized services" a certified legal document preparer can provide to non-represented parties but this list does not include authorization for a certified legal document preparer engage in motion practice. ACJA § 7-208(F)(1)(b) provides a certified legal document preparer may:

> Provide general legal information, but may not provide any kind of specific advice, opinion, or recommendation to a consumer about possible legal rights, remedies, defenses, options, or strategies;

ACJA § 7-201(F)(1) and § 7-208(F)(2) require all certified legal document preparers to comply with the Code of Conduct contained in ACJA § 7-208(J). ACJA § 7-208(J)(5)(a) requires all certified legal document preparers to perform all duties and discharge all obligations in accordance with applicable laws, rules or court orders. ACJA § 7-208(J)(5)(b) states, in part:

> A legal document preparer shall not represent they are authorized to practice law in this state, not shall the legal document preparer provide advice or services to another by expressing opinions, either verbal or in written, or by representing another in a judicial, quasi-judicial, or administrative proceeding, or other formal dispute resolution process, except as authorized by Rule 31(d), Rules of the Supreme Court.

ACJA § 7-208(J)(5)(c) reads, in part:

> A legal document preparer shall not provide any kind of advice, opinion or recommendation to a consumer about possible legal rights, remedies, defenses, options, or strategies.

No provision of Rule 31 or ACJA authorizes a certified legal document preparer to conduct case specific legal research, engage in motion practice or offer compelling arguments on behalf of a self-representing litigant. Fuquay did so in the Reply to Response to Petition to Modify Court Order. Burton, Fuquay's customer, explained during the investigation he told Fuquay what he wanted and she decided on the content of the legal documents. Burton confirmed Fuquay handle legal research for him and presented with options for what documents he could file and he would decide how to proceed based on the option Fuquay offered. Burton was candid with Investigator Sczerbicki that he [Burton] did not know about legal matters and, therefore, relied on Fuquay. Whether the options offered by Fuquay to Burton, or to any other prospective or actual customer, are or were accurate, complete, and legally sound cannot be established. The potential and risk of actual harm to Burton and other unknowing consumers is Fuquay is high. Therefore, Allegation 1 is substantiated.

Allegation 2: Fuquay engaged in the unauthorized practice of law and exceeded the authority of a certified legal document preparer by contacting and attempting to consult with Lussier's Arizona attorney, Vinci, on behalf of Burton, for the purpose of discussing a possible settlement in Superior Court in Yuma County case number SC1400DO201000892.

Allegation 3: Fuquay engaged in the unauthorized practice of law and exceeded the authority of a certified legal document preparer by contacting and consulting with Lussier's California attorney, Ned Ardagna, on behalf of Burton attempting to negotiate the settlement of a property dispute.

Allegation 4: Fuquay engaged in the unauthorized practice of law and exceeded the authority of a certified legal document preparer by contacting opposing party Lussier

on behalf of Burton, seeking to convince Lussier to sign documents that would transfer property to Burton.

Allegation 5: Fuquay engaged in the unauthorized practice of law and exceeded the authority of a certified legal document preparer by contacting Yuma County Chief Deputy Treasurer Ann Hernandez on behalf of Burton, seeking to have a check reissued in Burton's name only.

Rule 31(a)(2)(B) states the "unauthorized practice of law includes but is not limited to engaging in the practice of law by persons or entities not authorized to practice." ACJA § 7-208 which governs legal document preparers exists as an exemption to the prohibition of the unauthorized practice of law contained in Rule 31. As detailed in the Reply to Response to Petition to Modify Court Order prepared by Fuquay for Burton and filed on October 9, 2012, Fuquay took numerous actions and made numerous contacts acting on behalf of Burton in an attempt to negotiate the settlement of the dispute between Burton and Lussier. Even Burton was unaware Fuquay had met with Vinci about the case prior to Fuquay's joining Burton in a meeting with Vinci at Vinci's office where Burton offered a proposed settlement.

The list of "authorized services" a certified legal document preparer can provide to non-represented parties contained in ACJA § 7-208(F)(1) does not include acting in a representative capacity on behalf of a consumer, engaging in the act of negotiation, or attempting to secure settlement of any dispute on behalf of a customer. Rule 31 specifically defines these acts as the practice of law. ACJA § 7-208(F)(1) also does not authorize Fuquay to contact or communicate with the Yuma County Treasurer's Office on Burton's behalf or establish herself as the recipient of or accept Lussier's tax payment. Fuquay repeatedly communicated with the opposing party, both of her attorneys, and a County agency on behalf of Burton. Fuquay acknowledged expressing legal opinions in some of these conversations and appeared to attempt to justify these actions as necessary to assist her customer. Fuquay's pattern of exceeding the authority of a certified legal document preparer by establishing and engaging in communications on behalf of her customer suggests either a lack of understanding of Rule 31 and ACJA, a flagrant disregard for and disinterest in complying, or both. Therefore, Allegation 2, 3, 4 and 5 are substantiated.

Allegation 6: Fuguay failed to submit a written response within 30 days of receiving notice of the complaint, as required by ACJA § 7-201(H)(3)(c).

ACJA § 7-201(H)(3)(c) provides:

> Certificate Holder's Response to Notification of Complaint. The certificate holder shall provide a written response to the complaint within thirty days of the notification of the complaint. The board shall not proceed with disciplinary action without providing the certificate holder the complaint and an opportunity to respond to the complaint, except in a matter regarding an emergency suspension pursuant to subsection (H)(9)(d). Failure by the certificate holder to accept notification of a

complaint or failure to respond to the complaint shall not prevent division staff from proceeding with an investigation and the board from taking any disciplinary action.

Division records reflect Fuquay received a copy of the complaint and notice of the response requirement. Fuquay's late written response was received by the Division on the thirty-third day following her receipt of notice of the complaint and the response requirement. Therefore, Allegation 6 is substantiated.

REFERRAL TO PROBABLE CAUSE EVALUATOR:

The Investigation Summary and Allegation Analysis Report on complaint number 12-L045 have been reviewed and approved for forwarding to the Probable Cause Evaluator and it is recommended the Probable Cause Evaluator enter a finding probable cause exists.

SUBMITTED BY:

11/6/12

Linda Grau, Unit Manager Date
Certification and Licensing Division

DECISION OF THE PROBABLE CAUSE EVALUATOR:

Having conducted an independent review of the facts and evidence gathered during the course of the investigation of complaint number 12-L045, the Probable Cause Evaluator:

[ ] requests division staff to investigate further.

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

_____

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

#1, 2, 3, 4, 5, & 6.

11/20/12

Mike Baumstark Date
Probable Cause Evaluator

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

CERTIFICATE HOLDER INFORMATION	**Certificate Holder:**	Susan Fuquay
	Certification Number:	81035

RECOMMENDATION TO THE BOARD OF LEGAL DOCUMENT PREPARERS ("BOARD"):

It is recommended the Board accept the finding of the Probable Cause Evaluator and enter a finding Susan Fuquay committed the alleged acts of misconduct detailed in the Investigation Summary and Allegation Analysis Report in complaint number 12-L045.

It is further recommended the Board enter a finding grounds for formal disciplinary action exists pursuant to Arizona Code of Judicial Administration ("ACJA") § 7-201(H)(6)(a), (H)(6)(c), (H)(6)(k)(3) for acts of misconduct involving ACJA § 7-201(F)(1) and (H)(3)(c), ACJA § 7-208(F)(1), (F)(2), (J)(5)(a), (J)(5)(b) and (J)(5)(c).

Mitigating Factors:

None noted.

Aggravating Factors:

1. Multiple offenses. Fuquay, by her own presentation to the Superior Court in Yuma County, communicated directly with both Arizona and California attorneys representing the party opposing her customer in a dispute in an attempt to negotiate the settlement of the dispute. Additionally, Fuquay contact the Yuma County Treasurer's Office seeking action on behalf of her customer. Fuquay accepted payments from the opposing party for assessed taxes and document preparation services. Fuquay accepted and sent correspondences and emails to and from the California attorney on her customer's behalf. [ACJA § 7-201(H)(22)(b)(2)(d)]

2. Refusal to acknowledge wrongful nature of the conduct. When questioned by opposing counsel (Arizona attorney Vinci) about her role and involvement in the case, Fuquay purportedly asserted, "Doctors and lawyers practice, I play with the law." Court records and Fuquay's written response to the complaint reflect Fuquay repeatedly undertook to engage in misconduct with respect to communicating with the parties, counsel, and governmental agencies on behalf of her customer(s) without the authority to do so. Fuquay's written response to the complaint denied she engaged in the unauthorized practice of law, exceeded the authority of a certified legal document preparer, or engaged in any misconduct. Fuquay's denial, at the very least, demonstrates an indifference to her obligations as a certified legal document

preparer and the Arizona Supreme Court Rules and ACJA. [ACJA § 7-201(H)(22)(b)(2)(g)]

3. Substantial experience in the profession. Division records reflect Fuquay has held certification since 2008. However, she advertizes having 35 years of experience in the legal profession, including 20 years providing legal document preparation services. [ACJA § 7-201(H)(22)(b)(2)(i)]

Proportionality Analysis:

The stated purpose of the Legal Document Preparer Program, as defined by ACJA § 7-208 (C), is to:

> Protect the public through the certification of legal document preparers to ensure conformance to the highest ethical standards and performance of responsibilities in a professional and competent manner, in accordance with all applicable statutes, code sections, and Arizona court rules.

Historically, the Board has recognized engaging in the unauthorized practice of law as a serious matter and a threat to the protection of the public with recognition of the potential harm to the public, judicial system, and document preparer profession. In prior matters where it has been determined a certificate holder has committed unauthorized practice of law violations, the Board has revoked and suspended certificates, ordered the emergency suspension of certifications, issued cease and desist orders, established conditions for reinstatement, issued Censures and Letters of Concern, mandated additional continuing education, assessed costs, and imposed civil penalties.

In prior disciplinary matters involving legal document preparers attempting to negotiate settlements or resolutions of disputes on behalf of parties, otherwise acting in a representative capacity on behalf of a consumer, or offering legal advice or recommendation regarding legal rights, remedies, options, defenses or strategies, the Board has revoked and suspended individual and business entity certificates, issued Censures and Letters of Concerns, placed certificate holders on probation, and mandated business practice changes and continuing education intended to ensure future compliance as conditions of reinstatement or the disciplinary probation. [See Moreno, Toon, Sobol and Quick and Legal Paralegal Services, Meza, Riyad and MSB Riyad Legal Consultants, LLC, Wyner, Stevenson, Ehlinger and Mtn. Holiday, Inc., Henderson and Haigh and Majestic's Paralegal Center, Hall, Volk, Heimer and Divorce and Family Documents, Thomas and Vasquez.]

Should the Board ultimately enter a finding these violations have occurred, it is recommended the Board impose the following sanctions pursuant to ACJA § 7-201(H)(24)(a)(6):

a) Revoke Fuquay's individual legal document preparer certification, pursuant to ACJA § 7-201(H)(24)(a)(6)(i);

b) Issue a cease and desist order enjoining Fuquay from offering to or preparing legal documents, representing herself to the public as certified legal document preparer, or conducting any activity that constitutes the unauthorized practice of law until such time as any and all conditions for reinstatement are met in full, as determined by the Board, pursuant to ACJA § 7-201(H)(24)(a)(6)(g);

c) Order and mandate as a condition for reinstatement, Fuquay participate in no less than ten (10) hours of continuing education in the curriculum areas of the unauthorized practice of law, professional responsibility and ethics, in addition to the hours of continuing education required for renewal of certification, pursuant to ACJA § 7-201(H)(24)(a)(6)(f);

d) Assess costs associated with the investigation and related disciplinary proceedings to be remitted no later than sixty (60) days following entry of the Board's Final Order, pursuant to ACJA § 7-201(H)(24)(a)(6)(j); and,

e) Impose civil penalties in the amount of $250.00 per found violation to be remitted no later than sixty (60) days following entry of the Board's Final Order, pursuant to ACJA § 7-201(H)(24)(a)(6)(k).

SUBMITTED BY:

11/29/17

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 12-L045 and Susan Fuquay, certificate number 81035, 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:

_____

_____

_____

_____

_____

Mary Carlton, Chair Date
Board of Legal Document Preparers

Y:\COMPLAINT INVESTIGATIONS\OPEN COMPLAINTS\LDP Fuquay, Susan 12-L045\FINAL Formal Case Summary Fuquay 12-L045.docx

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

CERTIFICATE HOLDER/LICENSEE INFORMATION	**Certificate Holder:**	Werner Von Borries
	Certification Number:	81350
	Type of Certificate/License:	Legal Document Preparer
COMPLAINANT	**Name:**	Gloria Briseno
INVESTIGATION INFORMATION	**Complaint Number:**	11-L058
	Investigators:	Richard Sczerbicki
	Report Date:	May 2, 2012

Complaint Received:	December 21, 2011
Complaint Forwarded to the Certificate Holder:	December 28, 2011
Response From Certificate Holder Received:	March 6, 2011
Status of Certification/License:	Active
Availability of Certificate Holder/Licensee:	Available
Availability of Complainant:	Available

ALLEGATIONS:

1. Von Borries prepared a Divorce Complaint, Default Application and Divorce Decree with no certification.
2. Von Borries advertised legal document preparation service when he was not certified as an LDP.
3. Von Borries committed fraud indicating Briseno accepted service of a Divorce Decree and notarized her signature when Briseno alleges she did not sign for acceptance.

SUMMARY OF COMPLAINT:

The complainant Briseno alleges Von Borries committed fraud because she did not sign the Family Court Acceptance of Service for Case Number FC2001-001151 that was notarized by Von Borries. Briseno alleged Von Borries prepared the legal documents for Alejandro Rosas-Najera and Von Borries was not a certified legal document preparer at that time. Briseno also alleged Von Borries was advertising legal document preparation service when he was not certified.

Von Borries stated he did not prepare documents for Alejandro and was only hired to deliver a copy to Briseno for her to sign. Alejandro signed a notarized letter also stating that Von Borries was only hired to provide service and not to prepare documents. Von Borries provided a copy of the Minute Entry for case number FC2001-001151 in which the Judge had ruled there was no fraud involved.

SUMMARY OF FACTUAL FINDINGS OF INVESTIGATION:

The investigation of this complaint included the following:

- Written complaint and documentation submitted by complainant Gloria Briseno ("Briseno").
- Written response and documentation submitted by and investigatory interview with certificate holder Werner Von Borries ("Von Borries")
- Notarized written statement submitted by Alejandro Rosas-Najera ("Alejandro")
- 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

1. Von Borries was granted legal document preparer certification effective November 28, 2011 and current through the certification period ending June 30, 2013.

2. On December 21, 2011, the complainant Briseno submitted a written complaint alleging the following:

   > Mr. Werner Von Borries prepared the Divorce Complaint, Default Application, and Divorce Decree on behalf of my husband Alejandro Rosas with no certificate.
   >
   > Mr. Werner Von Borries is advertising legal document preparation with no license.
   >
   > Mr. Werner Von Borries notarized the acceptance of service without (Gloria Briseno) having been present, committing fraud since he knew that in order to complete the Divorce Decree the respondent needed the signature of Gloria.

   Briseno provided a copy of the following documents with her written complaint:

   > Family Court Acceptance of Service for Case Number FC2001-001151 with the signature of Brieno dated 2/21/2011 and notarized by Von Borries.
   >
   > Decree of Dissolution of a Non-Covenant Marriage with Children, Case Number FC2011-001151 dated May 20, 2011.
   >
   > A copy of a magazine advertisement in "TV y Mas" written in Spanish with the name Lime2Lime.com. The advertisment is for auto insurance and also states "Divorcios Rapidos".

3. On December 28, 2011, the Division sent Von Borries a copy of the complaint along with a letter notifying Von Borries of the ACJA § 7-201(H)(3)(c) requirement he provide a written response to the complaint within thirty (30) days. Division records reflect this letter was returned to the Division on February 6, 2012 stating the letter was unclaimed. On February 21, 2012, the Division sent a second notification to Von Borries.

4. A written response was received from Von Borries on March 6, 2012. In Von Borries response he stated the following:

   > Alejandro Rosas-Najera did not hire him to prepare his legal divorce documents. Von Borries stated he was only hired to deliver a copy of the petition to the respondent, and obtain a signature for the Acceptance of Service document. According to Von Borries, Briseno accused him of committing fraud, claiming she never signed the document. Von Borries stated Briseno filed a complaint with the Secretary of State to help her argument in court. According to Von Borries, he handed the Judge his Notary book in court that had Briseno's signature and her AZ ID data. Von Borries stated the Judge determined the signature in his Notary book was valid and that no fraud had been committed. Von Borries provided a copy of the court Minute Entry dated 2/21/2012 for FC2011-001151. In the Minutes Entry it indicated Briseno, Alejandro and Von Borries provided sworn testimony and the Court found there was no evidence to indicate fraud. Von Borries did not address the advertisement allegation in his response.

   Von Borries also provided a notarized letter from Alejandro which stated he had only hired Von Borries to notarize the Acceptance of Service for his divorce. Von Borries also provided a photo copy of Alejandro's driver's license.

5. Division Investigator Richard Sczerbicki ("Investigator Sczerbicki") checked the Arizona Office of the Secretary of State records and learned Von Borries has been a Notary, Commission Number 249594, since April 30, 2005 and is current through August 13, 2013.

6. On April 25, 2012, Division Investigator Richard Sczerbicki ("Investigator Sczerbicki") conducted a telephonic interview with Von Borries. Von Borries stated he went to Briseno's residence to have her sign the Acceptance of Service document. Von Borries stated he fully explained to her what she was signing and she did sign the document he notarized. Von Borries stated he did not prepare any documents for Alejandro and he submitted a letter for Alejandro with his complaint which Alejandro stated Von Borries did not prepare any documents for him. Von Borries stated Alejandro had him write the letter with the information Alejandro provided. Von Borries stated Alejandro had asked him to write the letter because he could not write in English very well.

Von Borries was asked about when he placed his advertisement with TV y Mas" written in Spanish with the name Lime2Lime.com that was attached to the complaint. Von Borries stated he did not add the information concerning document preparation until after he obtained his LDP certification. Von Borries stated he owns Lime2Lime and also sells insurance. Von Borries stated he would contact the magazine to obtain the information as to the date he added the document preparation to the advertisement. Von Borries stated it was at the end of 2011 when he changed his logo after his obtained his LDP certification from a "lime" to a "giraffe." The Lime2Lime logo submitted by the complainant had the giraffe logo.

7. On May 2, 2012, Von Borries provided Investigator Sczerbicki a letter from Aracely Lopez of TV y Mas that stated Von Borries had a contract for advertisement with them from November 11, 2011 to December 11, 2011. Lopez stated they also ran weekly advertisement on and off without a contract from December 18, 2011 to present.

ANALYSIS OF ALLEGATIONS:

Allegation 1: Von Borries prepared a Divorce Complaint, Default Application and Divorce Decree with no LDP certification.

The complainant Briseno alleged that Von Borries prepared a Divorce Complaint, default Application and Divorce Decree and was not certified to do so. Von Borries stated he did not prepare any documents for Alejandro and he submitted a letter from Alejandro with his complaint in which Alejandro stated Von Borries did not prepare any documents for him. Von Borries stated he was only asked to Notarize Briseno's signature accepting receipt of the documents. Therefore, allegation 1 is not substantiated.

Allegation 2: Von Borries advertised legal document preparation service when he was not certified as an LDP.

The complainant Briseno alleged advertised legal document preparation service when he was not certified as an LDP. Briseno provided a copy of an advertisement of Von Borries which indicated they assisted with divorce document preparation. Von Borries stated he did not add the information concerning document preparation until after he obtained his LDP certification. Von Borries stated he owns Lime2Lime and also sells insurance. Von Borries stated it was at the end of 2011 when he changed his logo after his obtained his LDP certification from a "lime" to a "giraffe." The Lime2Lime logo submitted by the complainant had the giraffe logo. TV y Mas indicated Von Borries contracted for advertisement with them starting on November 11, 2011 and Von Borries was not certified as an LDP until November 28, 2011. Since there was no date on the advertisement provided, it could not be substantiated as to when this advertisement was printed. Therefore, allegation 2 is not substantiated.

Allegation 3: Von Borries committed fraud indicating Briseno accepted service of a Divorce Decree and notarized her signature when Briseno alleges she did not sign for acceptance.

The complainant Briseno stated Von Borries committed fraud by indication Briseno accepted service of a Divorce Decree and notarized her signature when Briseno alleges she did not sign for acceptance. Von Borries stated Briseno did sign for these documents and he Notarized them after she had signed for them. According to Von Borries, he handed the Judge his Notary book in court that had Briseno's signature and her AZ ID data. Von Borries stated the Judge determined the signature in his Notary book was valid and that no fraud had been committed. The Court Minute Entry dated 2/21/2012 for FC2011-001151 indicated Briseno, Alejandro and Von Borries provided sworn testimony and the Court found there was no evidence to indicate fraud. Therefore, allegation 3 is not substantiated.

SUBMITTED BY:

5/21/12

Richard Sczerbicki, Investigator — Date
Certification and Licensing Division

REVIEWED BY:

11/23/12

Certification and Licensing Division

DECISION OF THE PROBABLE CAUSE EVALUATOR:
Having conducted an independent review of the facts and evidence gathered during the course of the investigation of complaint number 11-058, the Probable Cause Evaluator:

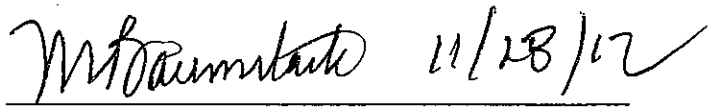
[ ] requests division staff to investigate further.

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

#1, 2 & 3.

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

_____



Mike Baumstark Date
Probable Cause Evaluator

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

CERTIFICATE HOLDER/LICENSEE INFORMATION	**Certificate Holder:**	Werner Von Borries
	Certification Number:	81350

RECOMMENDATION TO THE BOARD OF LEGAL DOCUMENT PREPARERS ("BOARD"):

It is recommended the Board accept the finding of the Probable Cause Evaluator and dismiss complaint number 11-L058.

SUBMITTED BY:

11/30/12

Mark Wilson, 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 11-L058 and Werner Von Borries, certificate number 81350, 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:

_____

_____

_____

_____

_____

Mary Carlton, Chair Date
Board of Legal Document Preparers

Y:\COMPLAINT INVESTIGATIONS\OPEN COMPLAINTS\LDP Von Borries, Werner 11-L058\EBS 11-L058 Von Borries.docx

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

CERTIFICATE HOLDER/LICENSEE INFORMATION	**Certificate Holder:**	Carla Gould
	Certification Number:	80867 (Active)
	Type of Certificate/License:	Legal Document Preparer
COMPLAINANT	**Name:**	Mark S. Clark
INVESTIGATION INFORMATION	**Complaint Number:**	11-L032
	Investigators:	Richard Sczerbicki
	Report Date:	April 4, 2012

Complaint Received:	July 11, 2011
Complaint Forwarded to the Certificate Holder:	July 12, 2011
Response From Certificate Holder Received:	July 19, 2011
Status of Certification/License:	Active
Availability of Certificate Holder/Licensee:	Available
Availability of Complainant:	Available

ALLEGATIONS:

1. The debt collection letter allegedly prepared by Gould dated April 11, 2011, did not contain any of the fair debt collection notices required by federal and state law.
2. Gould allegedly made material misrepresentations of fact in the documents.
3. The judgment prepared is not valid and Gould allegedly indicated service was made on the complainant at an address that he never occupied.
4. Gould allegedly failed to domesticate this foreign judgment by filing a copy with the Clerk of Pima County Superior Court in violation of A.R.S. § 33-967.
5. Gould allegedly acted in unethical ways by violating certain laws pursuant to A.R.S. § 12-162 and 12-1702.

SUMMARY OF COMPLAINT:

The complainant, Mark Clark ("Clark") is alleging that LDP Carla Gould ("Gould") prepared several documents and letters for debt collection agency Harris & MacNeil, LLP ("H&M"). According to Clark, Gould works for H&M in order to prepare and legitimize their legal documents and filings. Clark stated on or about April 12, 2011, he received a letter with attachments from H&M identifying themselves as a debt collection agency and that the judgment they provided was now assigned to them for collection. The debt collection letter allegedly prepared by Gould dated April 11, 2011, did not contain any of the fair debt collection notices required by federal and state law. According to Clark, Gould allegedly made material misrepresentations of fact in the

documents. Clark indicated the judgment prepared is not valid and Gould allegedly indicated service was made on the complainant at an address that he stated he never occupied. Clark alleged Gould failed to domesticate this foreign judgment by filing a copy with the Clerk of Pima County Superior Court in violation of A.R.S. § 33-967. According to Clark, Gould allegedly acted in unethical ways by violating certain laws.

The investigation revealed the only document prepared by Gould for H&M was an Acknowledgement of Assignment of Judgment at the request of Sharol Harris. This document prepared by Gould contained her name and AZLDP number as required and was properly prepared with content and format. Gould did not prepare any other documents Clark had alleged she prepared in his complaint. Clark stated he had only assumed Gould had prepared all the documents he provided in his complaint. Clark stated of Gould only prepared the "Acknowledgement of Assignment of Judgment" then the complaint against her should be dropped.

SUMMARY OF FACTUAL FINDINGS OF INVESTIGATION:

The investigation of this complaint included the following:

- Written complaint and documentation submitted by and investigatory interview with complainant Mark S. Clark ("Clark")
- Written response and documentation submitted by and investigatory interview with certificate holder Carla Gould ("Gould")
- Review of Arizona Revised Statutes § 12-162, § 12-1702, and § 33-967
- Review of Certification and Licensing Division ("Division") records
- Review of applicable sections of Arizona Codes of Judicial Administration ("ACJA") § 7-201 and § 7-208, and Arizona Supreme Court Rules

On March 20, 2006, the Board of Legal Document Preparers granted individual legal document preparer certification to Gould. Gould has successfully renewed her certification without interruption and her certification is active through the current certificate period which ends on June 30, 2013.

1. On July 11, 2011, the State Bar of Arizona forwarded a written complaint submitted by Mark S. Clark against LDP Gould concerning documents she had prepared for Harris & MacNeil, LLP ("H&M").

2. In Clark's complaint, he alleges Gould works for the debt collection agency H&M to "prepare and legitimize their legal documents and fillings." Clark alleges Gould violated several laws and ethical rules in that capacity. Clark attached the following documents with his written complaint:

   Notice of Assignment of Judgment – Demand of Payment letter addressed to Clark dated April 11, 2011, signed by S. Harris

Pima County "Judgment Lien & Acknowledgement of Assignment of Judgment" dated March 10, 2011 addressed to Sharol Harris c/o Harris & MacNeil, LLP.

United States District Court, District of Massachusetts, Civil Action No. 99-40024-NMG "Default Judgment" dated Sept 18, 2001 and filed with the Clerk of U.S. District Court of Arizona February 22, 2011 with Clark listed as a defendant.

"Acknowledgement of Assignment of Judgment" Civil Action No. 99-40024-NMG filed with filed with the Clerk of U.S. District Court of Arizona February 22, 2011 with Clark listed as a defendant. Gould's name and AZCLDP # 80867 was located on document.

"Money Judgment Information Sheet" pursuant to A.R.S. § 33-967, U.S. District Court for the District of Pima Court Case No. 11-MC-3-FRZ

In the written complaint, Clark claims he received the above documents from H&M on or about April 12, 2011 claiming the referenced judgment against him had been assigned to them and the person who originally won the suit was no longer involved and its business is involved with collecting judgments. Clark listed the several complaints against Gould. (1) According to Clark, the debt collection letter did not contain any of the fair debt collection notices required by federal and state law. (2) Gould and H&M had made material misrepresentations of facts. (3) The Money Judgment Information Sheet stated the service of process was made upon him at 32 N. Stone, #808, Tucson, AZ 85701 and this was not possible because he has never been associated with this address. (4) Gould failed to domesticate this foreign judgment by filing a copy of it with the Clerk of Pima County Superior Court. According to Clark, Gould violated the law and acted unethically by circumventing the required process of collecting a foreign judgment and proceeded to file a Notice of Lien that contained false information and had lied to him about H&M's status as owners of the debt.

3. On July 19, 2011, the Division received a written response to the complaint from Gould. Gould stated she had only prepared the "Acknowledgement of Assignment of Judgment" at the request of Sharol Harris ("Harris"). Gould stated the document she prepared was "proper and correct insofar as content and format." Gould stated she did not prepare any other documents Clark had provided in his complaint. In Gould's response, she stated that Clark had also filed a complaint with the Arizona Department of Financial Institutions against Harris and MacNeil, LLP which mirrored this complaint filed against her. Gould provided copies of the complaint filed by Clark to the Arizona Department of Financial Institutions and the written response from Sharol Harris addressing this complaint. The complaint letter sent by Clark to the Arizona Department of Financial Institutions was dated June 29. 2011and date stamped being received by the Arizona Department of Financial Institutions on

July 1, 2011. (It should be noted that this complaint was identical to the complaint Clark sent to the Division except that any reference to Gould was removed)

4. On April 2, 2012, Division Investigator Richard Sczerbicki ("Investigator Sczerbicki") conducted a telephonic interview with Gould. Gould stated Clark alleged she was employed by Harris & MacNeil, LLC. Gould stated she is not employed by H&M. Gould stated she only prepared the "Acknowledgement of Assignment of Judgment" document for Sharol Harris and used only the information that was provided to her by Harris. Gould stated she did not file this document as Clark claimed in his complaint. Gould stated that she did not prepare any of the other documents Clark provided in his complaint. Gould stated she is a general partner of H&M but does not collect a salary. Gould stated she is part owner and partner with Harris & McNeil, LLC but she does not supervise anyone. Gould stated she is the only document preparer H&M uses when document preparation service is contracted as needed. Gould stated her legal document preparation service she provides is not associated with H&M. .Gould stated she only bills H&M for document preparation service she provides and bills H&M the same way she does for other clients. Gould stated, as with any other client, she does not provide any legal advice or other advice to H&M. Gould stated H&M does not advertise or provide legal document preparations service as part of the partnership.

5. On April 3, 2012, Investigator Sczerbicki contacted Sharol Harris of H&M. Harris stated that Gould is not an employee of H&M and does not collect a salary. Harris stated Gould is used by their company to prepare legal documents as needed. Gould bills the company for her document preparer services that she provides. Harris stated that Gould only prepared the "Acknowledgement of Assignment of Judgment" for them and had transferred the information over from the judgment she had provided Gould. Harris stated she was the person who prepared the other documents Clark referred to in his complaint. Harris stated Clark had filed the same complaint with the Arizona Department of Financial Institutions against H&M which has been dismissed.

6. On April 4, 2012, Investigator Sczerbicki conducted a telephonic interview with Clark. Clark stated this matter originally started in Massachusetts 10 years ago and learned that H&M had taken over the recovery of the debt. Clark was asked if he was certain Gould had prepared all of the documents he had provided in his complaint. Clark stated he only assumed she did because of her name on the "Acknowledgement of Assignment of Judgment" that was filed. Clark stated if that was the only document she prepared then he felt the complaint should be dropped. Clark stated he had also filed a complaint with the Arizona Department of Financial Institutions and they informed him there was nothing they could do and recommended he take the matter to court. Clark stated he was no longer concerned about the entire matter with H&M because they only placed a lien on his house and since he was upside down on the mortgage he let the bank take the house which eliminates the lien on him.

ANALYSIS OF ALLEGATIONS:

Allegation 1: The debt collection letter allegedly prepared by Gould dated April 11, 2011, did not contain any of the fair debt collection notices required by federal and state law.

The complainant, Clark, stated he only assumed Gould had prepared this letter since Gould's name was on the "Acknowledgement of Assignment of Judgment" she had prepared. Sharol Harris of Harris & MacNeil, LLP ("H&M") had stated she was the person who had prepared the document and that Gould had only prepared the "Acknowledgement of Assignment of Judgment" for her. Therefore allegation 1 is not substantiated.

Allegation 2: Gould allegedly made material misrepresentations of fact in the documents.

The complainant, Clark, stated he only assumed Gould had prepared the documents that contained information that he felt contained misrepresentations. Clark stated if Gould only prepared the "Acknowledgement of Assignment of Judgment" then she (Gould) did not make any misrepresentations of fact. Sharol Harris of H&M stated she was the person who had prepared all documents except the "Acknowledgement of Assignment of Judgment." Therefore allegation 2 is not substantiated.

Allegation 3: The judgment prepared is not valid and Gould allegedly indicated service was made on the complainant at an address that he never occupied.

The complainant, Clark, stated he only assumed Gould had prepared the documents that contained in his complaint. Clark stated if Gould only prepared the "Acknowledgement of Assignment of Judgment" then this allegation should not be held against Gould. Sharol Harris of H&M stated she was the person who had prepared all documents except the "Acknowledgement of Assignment of Judgment." Therefore allegation 3 is not substantiated.

Allegation 4: Gould allegedly failed to domesticate this foreign judgment by filing a copy with the Clerk of Pima County Superior Court in violation of A.R.S. § 33-967.

The complainant, Clark, stated he only assumed Gould had prepared and filed the document with the Clerk of Pima County Superior Court. Clark stated if Gould only prepared the "Acknowledgement of Assignment of Judgment" then she (Gould) did not commit the violations he had identified. Sharol Harris of H&M stated she was the person who had filed the document with the Clerk of Pima County Superior Court. Therefore allegation 4 is not substantiated.

Allegation 5: Gould allegedly acted in unethical ways by violating certain laws pursuant to A.R.S. § 12-162 and §12-1702.

The complainant, Clark, stated he only assumed Gould had prepared the documents that contained information that he felt contained misrepresentations and he based this allegation on the assumption Gould had prepared these documents. Clark stated if Gould only prepared the "Acknowledgement of Assignment of Judgment" then she (Gould) did not make any misrepresentations of fact and did not act in unethical ways. Sharol Harris of H&M stated she was the person who had prepared all documents except the "Acknowledgement of Assignment of Judgment." Therefore allegation 5 is not substantiated.

SUBMITTED BY:

4/9/12

Richard Sczerbicki, Investigator Date
Certification and Licensing Division

REVIEWED BY:

11/23/12

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 11-L032, the Probable Cause Evaluator:

[ ] requests division staff to investigate further.

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

#1, 2, 3, 4 & 5

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

11/27/12

Mike Baumstark Date
Probable Cause Evaluator

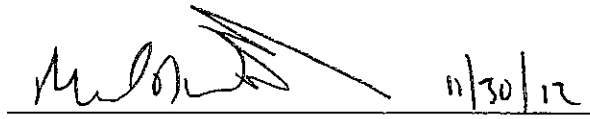
ARIZONA SUPREME COURT
ADMINISTRATIVE OFFICE OF THE COURTS
ORDER OF THE BOARD

CERTIFICATE HOLDER INFORMATION	**Certificate Holder:**	Carla Gould
	Certification Number:	80867 (Active)

RECOMMENDATION TO THE BOARD OF LEGAL DOCUMENT PREPARERS ("BOARD"):

It is recommended the Board accept the finding of the Probable Cause Evaluator and dismiss complaint number 11-L032.

SUBMITTED BY:



11/30/12

Mark Wilson, 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 11-L032 and Carla Gould, certificate number 80867, 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:

_____

_____

_____

_____

_____

Mary Carlton, Chair Date
Board of Legal Document Preparers

Y:\COMPLAINT INVESTIGATIONS\OPEN COMPLAINTS\LDP Gould, Carla 11-L032\EBS Gould 11-L032.docx

ARIZONA SUPREME COURT
ADMINISTRATIVE OFFICE OF THE COURTS
INVESTIGATION SUMMARY

CERTIFICATE HOLDER INFORMATION	**Certificate Holder:**	Richard D. Dandis
	Certification Number:	80019 (Expired)
	Business Name:	White Mountain Preparation Service, PLLC
	Certification Number:	Non-certified
	Type of Certificate:	Legal Document Preparer
COMPLAINANT	**Name:**	R.D. Lippen/ Patricia Tinervin
INVESTIGATION INFORMATION	**Complaint Number:**	10-L049
	Investigator:	Richard Sczerbicki
	Complaint Received:	August 23, 2010
	Complaint Forwarded to the Certificate Holder:	August 24, 2010
	Response From Certificate Holder Received:	September 20, 2010
	Report Date:	March 14, 2012

The investigation of this complaint included the review of the following:

- Written complaint and documentation submitted by complainant R.D. Lippen ("Lippen") and Patricia Tinervin ("Tinervin")
- Written response and documentation submitted by certificate holder Richard D. Dandis ("Dandis")
- Interviews of Dandis and Prue
- Documents of Lippen/Tinervin file provided by LDP Sherrene Caley ("Caley")
- Review of Arizona Corporation Commission ("ACC") records
- Review of Certification and Licensing Division ("Division") records
- Review of applicable sections of Arizona Revised Statutes ("ARS"), Arizona Codes of Judicial Administration ("ACJA") § 7-201 and § 7-208, and Arizona Supreme Court Rules

ALLEGATIONS ALLEGED BY COMPLAINANT:

1. Dandis did not deliver promised paperwork and failed to respond back to the complainants in a timely manner.

ADDITIONAL ALLEGATIONS:

2. White Mountain Preparation Service, PLLC is a non-certified business.
3. Dandis did not refund the $348.00 to Lippen/Tinervin for services they did not receive.

4. Dandis violated his October 2009 Consent Agreement and Cease and Desist Order, prohibiting him from serving as an ACJA §7-208 business entity designated principal.

SUMMARY OF INVESTIGATION:

The complaint alleges Dandis was paid to assist Lippen/Tinervin with the filing of a small claims case against Olympic Stain. Lippen/Tinervin paid Dandis $348.00 to assist with this claim and complete the necessary paper work. Lippen/Tinervin stated when they went to the business they met with a female that was at a desk with a name plate for R. D. Dandis and they assumed they were meeting with Dandis. They later learned the female was Debra Prue and not Dandis. Lippen/Tinervin stated that Dandis had not produced the documents they requested and they had not heard from Dandis or Prue since July 29, 2010. On the back of the personal check Tinervin made out to R.D. Dandis, there was a stamp that stated for deposit only, "WHT MTN PREPARATION SERVICE PLLC". Division records reflect that White Mountain Preparation Service, PLLC has never applied for business entity certification. ACC records reflect the company was incorporated on October 2, 2009 and the Statutory Agent is listed as R.D. Dandis. The record also reflects the purpose of the business is for legal document preparation. Division records reflect Dandis entered into and signed a Consent Agreement and Cease and Desist Order on October 26, 2009, prohibiting him from serving as an ACJA §7-208 business entity designated principal.

INVESTIGATION:

Dandis was granted certification effective June 10, 2003. Dandis's certification expired on June 30, 2011.

White Mountain Preparation Service, PLLC is a non-certified business entity. ACC records reflect the company was incorporated on October 2, 2009 and the Statutory Agent is listed as R.D. Dandis. The ACC record reflects that the business purpose is "to prepare legal and other documents for the public." Division records reflect that White Mountain Preparation Service, PLLC has not applied for or obtained business entity certification. Dandis entered into and signed a Consent Agreement and Cease and Desist Order on October 26, 2009, prohibiting him from serving as an ACJA §7-208 business entity designated principal.

On August 23, 2010, the Division received a written complaint from Lippen/Tinervin regarding Dandis. According to the complaint, on June 17, 2010, Lippen/Tinervin paid $348.00 to Dandis to file a small claims case against Lowe's store and Olympic Paint. Tinervin later clarified that when she and Lippen first went to meet with Dandis, they met with a female, later identified as Debra Prue, who at the time Lippen/Tinervin thought was R.D. Dandis, since the name plate on the desk that Prue was sitting at read "R.D. Dandis." According to Tinervin, Prue never provided her name when they first met and they assumed they were meeting with Dandis. In the complaint, Lippen/Tinervin indicated they met with Dandis (later identified as Prue)

and took her the original receipts and a gallon can of Olympic stain. Lippen/Tinervin was told copies of the receipts would be made and the original receipts would be mailed back to them. Lippen/Tinervin indicated they did not receive the receipts. Lippen/Tinervin indicated they went to the business office on July 14, 2010 and were told by Dandis (Prue) that business was slow and Dandis (Prue) would come to their home on July 23, 2010 to sign the papers. Lippen/Tinervin indicated they tried to call Dandis (Prue) two times but she never came by. They called Dandis (Prue) four to five times after that. Lippen/Tinervin indicated that on July 29, 2010, Dandis (Prue) stopped by their home and informed them they could not file a claim against Lowe's store because it was not their product and that they could only take Olympic Paint to civil court and not small claims court. They were also told the fees would be higher but were not told how much. Lippen/Tinervin was told by Dandis (Prue) that she would have the paperwork back to them by August 5, 2010 or August 12, 2010. Lippen/Tinervin indicated as of August 19, 2010, they had not heard back from her and they had also tried to call six or seven times with no success. Lippen/Tinervin provided a copy of the check they made out to "R.D. Dandis" for $348.00. On the back of the check there was a stamp that read in part: "For Deposit Only, Wht Mtn Preparation Service PLLC".

On August 24, 2010, the Division sent Dandis a copy of the complaint along with a letter notifying him of the ACJA § 7-201(H)(3)(c) requirement that he provide a written response to the complaint within thirty (30) days. Division records reflect Dandis signed for the mailing on August 31, 2010.

On September 20, 2010, the Division received a written response from Dandis. In the response letter dated September 13, 2010, Dandis provided the following information:

1. I have never met Mr. R.D. Lippen/P. Tinervin and the only contact I have had with him/her has been through my office manager, Debra Prue, as I was out of town at the time he came into my office.
2. Mrs. Prue advised me of his request for us to file a small claims action against Lowe's Hardware in regards to warranty claim against Olympic stain.
3. I informed Mrs. Prue that R.D. Lippen/P. Tinervin could file the action himself, but she informed me that he wanted to use our services.
4. I told Mrs. Prue that before we could do anything, she was to look into the matter to see what the procedure would be though Lowe's.
5. Mrs. Prue found out that he would have to file against the manufacturer, and not the distributor, which R.D. Lippen/P. Tinervin were advised before. He said he wanted to talk the matter over with his friend, Judge Steven Price before he would take his money back and get an attorney.
6. I told Mrs. Prue to inform R.D. Lippen/P. Tinervin of such and to return any sums of money he had deposited with the office.
7. On July 15, 2010, I closed down my office and went on vacation. Upon my return on August 28, 2010, I received a copy of the complaint by certified mail.

8. I feel that R.D. Lippen/P. Tinervin has filed this complaint because he/she does not want to spend the money for an attorney, which we advised him to do so, and is taking his vengeance out on my office through advice from a third party.

Dandis enclosed a copy of a statement written by Debra Prue and a copy of the cashier's check receipt refunding Lippen/Tinervin their money.

Dandis also provided a copy of a written statement made by Debra Prue concerning this complaint. The written statement by Prue was dated August 9, 2010. In Prue's statement she related the following:

> Prue stated Lippen came to the office asking for help in processing a small claim in the Show Low Justice Court. At that time, she let Lippen know he could file this on his own. Prue stated Lippen wanted them to do the paperwork. Prue stated at first Lippen wanted to sue Lowe's for stain/sealer that did not work and caused damage to his deck. Prue stated she would need all information that pertained to the case. Prue stated she spoke with Dandis and he asked that she look into the issue. Prue stated at that time the office processed the small claims paperwork. Prue stated she went to Lowe's to learn the procedure and was told by the Lowe's manager that it needed to be a civil suit as there would be attorneys and investigators with litigation involved. Prue indicated the Lowe's manager told her he would give her all of the information on Olympic Stain Company and she had received this information a few days later. Prue stated that Dandis told her to go to Lippen and inform Lippen what she had learned. Prue stated at that time she offered to return Lippen's money so he could retain an attorney. According to Prue, Lippen stated he did not want his money returned until he spoke with Judge Price, as they were golfing buddies and Lippen would call her after that. Prue stated she told Lippen at that time she was going to Phoenix for two weeks to be with her disabled son, who would be in the hospital. Prue stated she spoke with Dandis about Lippen's case and it was decided this case was for an attorney. Prue stated she was in the process of getting a cashier's check and returning all of the information to Lippen when Dandis informed her that Lippen had filed a complaint. Prue stated she had not heard back from Lippen after she returned home. According to Prue, "as of today, all money and documents have been mailed to Mr. Lippen." This referred to the date August 9, 2010, the date of her written statement. (It should be noted that the cashier's check made out to Lippen was dated September 8, 2010 and Prue is indicating the refund had been returned to Lippen as of August 9, 2010.)

On September 22, 2010, pursuant to Arizona Code of Judicial Administration § 7-201(H)(1)(e)(3)(b), the Division sent the initial response from Dandis to Lippen/Tinervin. On October 30, 2010, Tinervin provided additional information to address the written response Dandis submitted to the complaint. In the letter provided by Tinervin, she informed the Division that Richard Lippen had passed away.

Tinervin provided the following information in response to the information provided by Dandis:

1. We thought we were dealing with R.D. Dandis, in actuality we did not meet with him, we met with Debra Prue. When we walked into the office, Debra Prue was sitting at a desk which had "R.D. Dandis" nameplate prominently displayed. She misrepresented herself by not stating her name. By sitting behind his desk and not stating otherwise she gave us the natural presumption that we were dealing with R.D. Dandis.
2. Thinking that we were dealing with Mr. Dandis, we gave Debra all copies of paperwork that was needed for the lawsuit. She stated that she would make copies and they would be returned on our next visit.
3. We were never informed that the office would be closed for any period of time. When we returned at a later date we found them in the process of closing the office and they stated all paperwork had been sent to Springerville.
4. We have not received our paperwork nor this cashier's check. I went to the bank that it was drawn on and the check had not been cashed.

Due to Mr. Lippen's death, I no longer wish to file this lawsuit, but would like the refund of $350.00 and the paperwork sent to me at my current address of: 1889 N. Camino Alicante, Tucson, AZ 85715.

On February 23, 2012, Division Investigator Richard Sczerbicki ("Investigator Sczerbicki") conducted a telephonic follow-up interview with Tinervin. Tinervin stated she has not had any further contact with Dandis or Prue since the complaint was filed. Tinervin stated she did not recall if she and Lippen had signed any documents or a contract when they met with Prue and provided Prue the receipts and check. Tinervin stated the receipts and documents provided to Prue and Dandis were never returned. She stated that she never received the refund of the $348.00. Tinervin stated she and Lippen were living together and stated the cashier's check Dandis had provided a copy of in his response to the complaint, made out to Lippen, was never received while Lippen was alive. The cashier's check was dated September 8, 2010 and Lippen had passed away on September 13, 2010. Tinervin stated that cashier's check should have been made out to her since she was the one who wrote the check to pay Dandis for the document preparation. Tinervin stated if the check was mailed after September 13, 2010, Richard Lippen's son, Mitch Lippen, could have possibly obtained the cashier's check when picking up Richard Lippen's mail. Tinervin provided the phone number of Mitch Lippen for follow-up on the check. Tinervin stated that she and Lippen never actually met Dandis and when they first went to the business they were under the assumption that Prue was Dandis. Tinervin was asked if Prue had offered Lippen to return his money and if he (Lippen) had told her no at that time until he checked with Judge Price. Tinervin stated that Lippen did state that after speaking with Judge Price, he elected to get a refund and file a civil suit. According to Tinervin, Prue stated she would bring them the refund and documents but never did.

On March 12, 2012, Investigator Sczerbicki conducted a telephonic interview with Dandis. Dandis stated Prue had all dealings with Lippen/Tinervin concerning this complaint. Dandis stated the first time he became aware of the issue with Lippen/Tinervin was when he received a copy of the complaint from the Division. Dandis stated he never met with Lippen or Tinervin and was not sure whether there was a file for them or not. He stated he did not see any records on this. Dandis stated when he received the complaint he immediately contacted Prue about the complaint. He stated Prue had advised him of the action Lippen and Tinervin wanted to take against Olympic Stain and the hardware store. Dandis stated he told Prue that this could not be handled in small claims court and that it was a warranty issue with Olympic stain. Dandis informed Prue to give all the paper work back to Lippen and Tinervin and to refund their money. Dandis stated Prue was the person who obtained the cashier's check payable to R.D. Lippen for $350.00. Dandis stated he assumed Prue had returned the documents and money back to Lippen/Timervin. Dandis stated he requested that Prue document what occurred with her dealings with Lippen and Tinervin and also provide a copy of the check to show they were refunded the money. Dandis stated he sent in Prue's written letter and a copy of the cashier's check with his response to the complaint. Dandis was asked about the deposit being stamped on the check provided by Lippen/Tinervin which showed the check was deposited into the account of White Mountain Preparation Service, PLLC. Dandis stated he formed this as a holding company to get away from the White Mountain Paralegal Service, LLC business he had sold to Prue. He indicated he was trying to help Prue get out of some financial difficulties. Dandis stated that Prue had informed him at the time that she was a certified LDP and he later found out she was not. Dandis indicated that Prue had conducted a lot of business he was not aware of. Dandis first stated that White Mountain Preparation Service, PLLC was not a legal document preparation business. When Dandis was informed that the ACC records reflected the purpose of the company was for legal document preparation he stated "I screwed up" and everything was very hectic at that time. Dandis stated he really wanted to retire and no longer wanted to be an LDP. Dandis stated he only created this company to help Prue since her business, White Mountain Paralegal Service, LLC lost their business entity certification. Dandis was asked if he still had his business records that may contain the file on Lippen/Tinervin. Dandis stated Prue had kept all of the files and when he made a request for those files, Prue had turned them over to her attorney (he could not recall the name) and he picked up the files from the attorney. Dandis stated he turned over all of his files to LDP Sherrene Caley ("Caley") since he was no longer preparing documents. Dandis provided the phone number for Caley. Dandis stated if Prue did make up a file and provided the file to her attorney, Caley would now have it. Dandis admitted to making a mistake by not applying for business certification for White Mountain Preparation Service, PLLC, but had no involvement with the Lippen/Tinervin complaint except to tell Prue to return all documents and refund the money paid.

On March 12, 2012, Investigator Sczerbicki contacted LDP Caley concerning the files that Dandis had provided her. Caley confirmed that Dandis did turnover files to

her and noted that the Lippen/Tinervin file was listed. Caley located the file and stated there was a client sheet and agreement, a copy of the Tinervin check for $348.00 and a check made out to Prue for $350.00 from her husband's account, Ron Prue. Caley stated there was not a copy of the cashier's check for $350.00 in the file. Caley provided the contact information she had on Prue. Caley stated she would fax a copy of all of the documents in the file.

On March 12, 2012, Investigator Sczerbicki contacted National Bank of Arizona to determine if the cashier's check made out to Lippen had been cashed. Shirley Hoebee of National Bank of Arizona, (602) 212-5593, indicated this check is still outstanding and has not been cashed.

On March 12, 2012, Investigator Sczerbicki received the fax from Caley containing the following documents:

- Case Activity Log – reflects the refund was sent on September 23, 2010
- Client Information Sheet – Letter head states "Office of R.D. Dandis"
- Client Responsibility Agreement – signed by Lippen and Tinervin on June 17, 2010
- Copy of check made out to R.D. Dandis from Tinervin
- Show Low Justice Court document for small claims
- Copy of written complaint filed by Lippen/Tinervin dated August 10, 2010
- Division complaint notification letter to Dandis dated August 24, 2010
- Copy of personal check made out to Debra Prue from Ronald Prue for $350.00 stating "payback Lippen"

On March 14, 2012, Investigator Sczerbicki conducted a telephonic interview with Prue concerning the complaint. Prue stated at the time this complaint was filed, Dandis had started a new company called White Mountain Preparation Service, PLLC because the Board had made her close down her business White Mountain Paralegal Service, LLC. Prue stated this happened because she could not obtain LDP certification. Prue stated she closed down the business around August of 2010, because the Board wanted the company shut down. Prue stated that Dandis started his business so they could complete the current open files that they had. She stated they also took on some small cases, such as the Lippen/Tinervin case, to pay the bills until they could close out all of the files. Prue stated she originally purchased the White Mountain Paralegal Service, LLC business from Dandis in 2006, but was not aware that if she was not certified she could not get her business certified. Prue stated she recalled Lippen/Tinervin coming to the business office to have them assist with an issue concerning deck stain. Prue stated she recalled that Lippen had informed her he wanted to pursue a complaint with the stain company in small claims court and was adamant he did not want to hire a lawyer. Prue stated at the time she tried to tell Lippen he could file a claim in small claims court on his own, but he wanted her business to handle this matter. Prue stated she did not believe Dandis had ever met with Lippen or Tinervin. She stated Dandis would come to the office two to three times a week and review all of the files to make sure they were doing everything they

needed to do. Prue stated Dandis would speak with clients when they wanted him to but she really did not recall if he ever met with Lippen/Tinervin, but did not think he did. Prue stated she had Lippen/Tinervin complete some paperwork and obtained a check for payment from them. Prue recalled going to Lowes to gather some information about the stain company and that she had put in a lot of research on this issue. Prue stated she went to Lippen's house several times and tried to tell him this was something she did not think they could really do. Prue stated Lippen was still adamant about her company handling the matter even though she told him she did not think this was something they could handle. Prue stated after she did her research on this matter, she took the information to Dandis and he told her they should not handle this case and to return the documents and money back to Lippen/Tinervin. Dandis told her that if Lippen wanted to pursue this he would have to get an attorney. Prue stated she went back to the Lippen residence and Lippen even wanted to show her the deck where the stain failed and indicated it was not really about the money but the fact that the stain failed. Prue stated she finally wrote Lippen a letter stating that her company was not going to do this. Prue stated she would check to see if she had a copy of this letter if it was not located in the documents provided to the Division from the file. Prue stated she did obtain the cashier's check for $350.00 and believed she mailed the check back to Lippen with the documents they had provided and did not personally take them to Lippen. Prue was informed that the records in the Lippen file had an activity log indicating the refund was sent on September 23, 2010. Prue confirmed that she kept the log and that would probably be the date she mailed the check to Lippen. Prue was asked about her role with the White Mountain Preparation Service, PLLC business. She stated she would meet with clients that came to the business and discuss their case. She would gather all the information and provide the information to Dandis to complete the work. Prue stated she would tell the clients if the business could not do their case and their money would be refunded. Prue stated she would tell clients if the work they wanted done was not in their scope of work they would need to go see someone else. Prue was asked if the business, White Mountain Preparation Service, PLLC was certified at the time she was working with Lippen/Tinervin. Prue stated she was not sure because that is something Dandis would have dealt with when he started the business.

ANALYSIS OF ALLEGATIONS:

Allegation 1: Dandis did not deliver promised paperwork and respond back to the complainants in a timely manner.

The complaint alleges Dandis/Prue did not follow-up with or prepare Lippen/Tinervin documents to assist them with a small claims filing they wanted to make. Lippen/Tinervin first met with Prue on June 17, 2010 and paid $348.00 for the assistance in document preparation. Lippen/Tinervin then met with Prue at the business office on July 14, 2010 and last met with Prue on July 29, 2010. Prue informed Lippen/Tinervin that Dandis could not file a claim against Lowe's store but

they could take Olympic Stain to civil court and not small claims court. According to the complaint, Lippen/Tinervin indicated Prue would have the paperwork for them by August 5, 2010 or August 12, 2010. The complaint indicated as of August 19, 2010, they had not heard from Prue or Dandis. Tinervin had stated Lippen passed away on September 13, 2010 and did not know if he (Lippen) may have had further contact with Prue or Dandis. Tinervin stated if the refund check or documents would have been mailed after Lippen passed away, Lippen's mail would have been picked up by his son, Mitch Lippen. Division staff was not able to locate Mitch Lippen to confirm if he had received mail from Prue or Dandis. The records obtained during the investigation show that a cashier's check was issued for $350.00, payable to R.D. Lippen; and Prue confirmed she did mail the documents and cashier's check on September 23, 2010, as indicated on the activity log in the Lippen file. Prue indicated she had met several times with Lippen/Tinervin and informed them both, Dandis did not want to work on their small claims case and she had mailed the check and documents back to them. Pure stated each time she had met with Lippen, he was adamant about filing in small claims and not wanting to hire an attorney. This information could not be confirmed since Lippen has passed away. Based on this information, allegation 1 is not substantiated.

Allegation 2: White Mountain Preparation Service, PLLC is a non-certified business.

ACJA § 7-208(E)(d)(1) Certification reads:

> d. Eligibility for Business Entity Standard Certification:
>
> (1)All corporations, limited liability companies, partnerships, and sole proprietorships that offer authorized legal document preparation services to non-represented parties and employs certified legal document preparers, or supervises trainees pursuant to subsection (F)(5), shall obtain certification as a business entity. The business entity shall execute and submit a principal form designating a certified individual legal document preparer pursuant to this section. The designated principal shall have the duties and responsibilities set forth in subsections (F)(4), (F)(5) and (F)(6). In the event a designated principal is no longer able or willing to serve as the principal, a certified business entity shall immediately designate another certified individual legal document preparer as the new designated principal and within twenty days file an updated designated principal form with the division staff.

On the back of the personal check that was written by the complainant Tinervin, made out to R.D. Dandis on June 17, 2010, there was a stamp that stated for "Deposit Only WHT MTN PREPARATION SERVICE PLLC". The ACC records indicate White Mountain Preparation Service, PLLC was incorporated on October 2, 2009. Division records reflect that Dandis had never applied for business entity certification for White Mountain Preparation Service, PLLC and admitted to Investigator Sczerbicki he had "screwed up" and did not apply for business entity certification. Prue stated that Dandis started White Mountain Preparation Service, PLLC, when her

company, White Mountain Paralegal Service, LLC, lost business entity certification and they wanted to complete all of the open files. Based on this information, allegation 2 is substantiated.

Allegation 3: Dandis did not refund the $348.00 to Lippen/Tinervin for services they did not receive.

In the complaint filed by Lippen/Tinervin, they indicated that on June 17, 2010, they paid Dandis $348.00 for document preparation and indicated they have not received a refund of the $348.00. Dandis indicated he informed Prue to return all documents and a refund to Lippen/Tinervin because he felt they should not handle this case. In the response provided by Dandis, he provided a copy of a cashier's check in the amount of $350.00 made out to R.D. Lippen. The cashier's check was dated September 8, 2010. Division records reflect that Lippen passed away on September 13, 2010 and Tinervin indicated she was not aware a check was ever received. Prue stated she mailed the cashier's check to Lippen on September 23, 2010, based on the activity log in the file. Investigator Sczerbicki contacted National Bank of Arizona to determine if the cashier's check was issued and if it was cashed. The bank confirmed the check was issued and their records reflect the check is still outstanding and was not cashed. Tinervin had indicated that after Lippen passed away all of his mail was picked up by his son. The Division was unable to locate Lippen's son, Mitch Lippen, to determine if he had obtained the cashier's check when picking up Lippen's mail. Based on this information, allegation 3 is not substantiated.

Allegation 4: Dandis violated his October 2009 Consent Agreement and Cease and Desist Order, he signed prohibiting him from serving as an ACJA §7-208 business entity designated principal.

ACJA § 7-208(J)(5)(a) Code of Conduct provides:

5. Performance in Accordance with Law

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

ACJA § 7-208(J)(2)(c) Code of Conduct states:

2. Professionalism

(a) A legal document preparer shall maintain and observe the highest standards of integrity and truthfulness in all professional dealings.

On October 26, 2009, Dandis entered into and signed a Consent Agreement and Cease and Desist Order on October 26, 2009, prohibiting him from serving as an ACJA §7-208 business entity designated principal. ACC records reflect that on October 2, 2009, White Mountain Preparation Service, PLLC was incorporated and the records reflect the company's purpose was for legal document preparation. Prue stated that during the time of the Lippen/Tinervin complaint filed on August 23, 2010. Dandis was using this business name and on the back of the check made out to Dandis on June 17, 2010, there was a stamp that stated for "Deposit Only WHT MTN

PREPARATION SERVICE, PLLC". Dandis stated to Investigator Sczerbicki, he had formed this corporation to help out Prue when her company, White Mountain Paralegal Service, LLC lost their business entity certification. Prue stated that Dandis started White Mountain Preparation Service, PLLC when her company lost business entity certification and they wanted to complete all of the open files and that Dandis was the only LDP. Based on this information, allegation 4 is substantiated.

SUBMITTED BY:

3/12/12

Richard Sczerbicki, Investigator — Date
Certification and Licensing Division

REVIEWED BY:

11/29/12

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 10-L049, the Probable Cause Evaluator:

[ ] requests division staff to investigate further.

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

#1 & 3.

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

#2 & 4

M Baumstark 11/28/12

Mike Baumstark Date
Probable Cause Evaluator

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

CERTIFICATE HOLDER INFORMATION	**Certificate Holder:** **Certificate Number:**	Richard D. Dandis 80019 (Expired)

RECOMMENDATION TO THE BOARD OF LEGAL DOCUMENT PREPARERS ("BOARD"):

It is recommended the Board accept the finding of the Probable Cause Evaluator and dismiss Allegations 1 and 3. Regarding Allegations 2 and 4, it is recommended the board enter a finding Richard Dandis ("Dandis") committed the alleged acts of misconduct detailed in the Investigation Summary and Allegation Analysis Report in complaint number 10-L049.

It is further recommended the Board enter a finding grounds for formal disciplinary action exists pursuant to Arizona Code of Judicial Administration ("ACJA") § 7-201(H)(6)(a), (H)(6)(d), (H)(6)(k)(2), (H)(6)(k)(3) (H)(6)(k)(4) and (H)(6)(k)(13) for acts of misconduct involving ACJA § 7-201(F)(1), ACJA § 7-208(E)(d)(1), (F)(2), (J)(1)(a), (J)(2)(c) and (J)(5)(a), and the October 26, 2009 Cease and Desist Order (entered by Consent Agreement) in complaint numbers 07-L030, 07-L039 and 08-L017.

Mitigating Factors: None noted.

Aggravating Factors:

1. Prior disciplinary record. [ACJA § 7-201(H)(22)(b)(2)(a)]

<u>Complaint Number 07-L030:</u>
On June 22, 2009, the Board entered a finding of grounds for formal disciplinary action against Dandis and White Mountain Paralegal Services ("WMPS") for acts of misconduct involving ACJA § 7-201(F)(1) and § 7-208 (E)(3)(d)(8)(a), (F)(2), (F)(4), (F)(5)(a), (F)(5)(c)(3), (F)(5)(c)(5), (F)(6), (J)(1)(a), (J)(2)(c), (J)(4)(a), and (J)(5)(a). Specifically, the Board found Dandis and WMPS failed to provide paid for document preparation services after Dandis sold the business. The Board found Dandis violated ACJA § 7-201(F)(4) by failing to provide to Division staff a requested Affidavit during the course of the investigation. The Board found WMPS was sold to Debra Prue (aka Debra Shaffer) ("Prue"), a previously denied applicant for legal document prepare certification who was prohibited from obtaining or maintaining ownership of the business entity pursuant to ACJA § 7-208(E)(3)(d)(8)(a). The Board found Dandis failed in his responsibilities as the designated principal to ensure WMPS and WMPS staff were complying with ACJA. The Board consolidated this complaint with complaint numbers 07-L039 and 08-L017.

Complaint Number 07-L039:
On June 22, 2009, the Board entered a finding of grounds for formal disciplinary action against Dandis and WMPS for acts of misconduct involving ACJA § 7-201 (F)(1) and § 7-208 (F)(1), (F)(2), (F)(5)(b), (F)(5)(c), (F)(6)(c), (J)(5)(a), and (J)(5)(b). Specifically, the Board found WMPS served an improperly prepared lien document that was signed by a WMPS § 7-208(F)(5) trainee working under Dandis supervision who signed the document as the "agent" of the WMPS customer. The Board found Dandis failed in his responsibilities as the designated principal to ensure WMPS and WMPS staff were complying with ACJA. The Board consolidated this complaint with complaint numbers 07-L030 and 08-L017.

Complaint Number 08-L017:
On June 22, 2009, the Board entered a finding of grounds for formal disciplinary action against Dandis and WMPS for acts of misconduct involving ACJA § 7-201(F)(1) and § 7-208(E)(3)(d)(8)(a), (F)(1)(b), (F)(2), (F)(6), (J)(1)(a), (J)(1)(b), and (J)(4)(b). Specifically, the Board found Prue, acting on behalf of WMPS, gave legal advice to a consumer regarding a civil matter. The Board found WMPS and Dandis engaged in a conflict of interest by preparing legal documents for both the Plaintiff and Defendants in the same case. The Board found Dandis prepared legal documents that contained errors and omissions. The Board found Dandis failed in his responsibilities as the designated principal to ensure WMPS and WMPS staff were complying with ACJA. The Board consolidated this complaint with complaint numbers 07-L030 and 07-L039.

Notice of Formal Statement of Charges in complaint numbers 07-L030, 07-L039 and 08-L017 was filed on June 22, 2009 and was served to Dandis and WMPS. In advance of a hearing being held, a proposed Consent Agreement resolution of the matter was reached and presented to the Board for review and consideration. Dandis and Prue appeared at an open meeting of the Board to address the matter. The Board entered the Consent Agreement resolution of complaint numbers 07-L030, 07-L039 and 08-L017 on October 26, 2009. Provisions of the Consent Agreement included the suspension of WMPS' business entity certification; issuance of a Cease and Desist order against WMPS enjoining WMPS from preparing legal documents, representing to the public the business is a certified legal document preparer, or conducting any activities that constitutes the unauthorized practice of law during the period of the suspension; and an assessment of costs and civil penalties against WMPS. With respect to Dandis, who had reported he sold and was no longer associated with WMPS, the Board issued a Censure, issued a Cease and Desist Order prohibiting Dandis from serving as an ACJA § 7-208 business entity designated principal, mandated Dandis participate in additional continuing education and imposed a civil penalty.

Complaint Number 09-L075:
On September 27, 2010, the Board entered a finding grounds for informal disciplinary and issued a Letter of Concern to Dandis and WMPS for having failed to placed the

required ACJA § 7-208(F)(3) legal document preparer identification on documents prepared during the period of WMPS' active certification.

2. Bad faith obstruction of the disciplinary proceedings by intentionally failing to comply with the applicable sections of ACJA and the October 26, 2009 Cease and Desist Order. [ACJA § 7-201(H)(22)(b)(2)(e)]

During the investigation and disciplinary proceedings related to complaint numbers 07-L030, 07-L039 and 08-L017, Dandis reported having disassociated himself from WMPS. The investigation of this complaint, received nearly a year after Dandis and WMPS entered the disciplinary Consent Agreement, revealed Dandis not only continued to work with and on behalf of WMPS, he did so with full knowledge of the Cease and Desist Order against WMPS. Dandis initially reported his formation of White Mountain Preparation Service, PLLC as a holding company (shortly after Dandis and Prue signed the disciplinary Consent Agreement) was to get away from Prue and then suspended business entity WMPS. Yet, Arizona Corporation Commission records reflect the stated purpose of the PLLC was legal document preparation. Ultimately, Dandis asserted he simply wanted to retire and admitted he formed the PLLC to help Prue circumvent the WMPS suspension.

3. Substantial experience in the profession. Division records reflect Dandis held active certification from July 1, 2003 until June 30, 2011. Further, Dandis reported years of law related experience prior to the certification requirement. [ACJA § 7-201(H)(22)(b)(2)(i)]

Proportionality Analysis:

The stated purpose of the Legal Document Preparer Program, as defined by ACJA § 7-208(C), is to:

> Protect the public through the certification of legal document preparers to ensure conformance to the highest ethical standards and performance of responsibilities in a professional and competent manner, in accordance with all applicable statutes, code sections, and Arizona court rules.

Historically, the Board has considered misconduct determined to have occurred with intent to deceive or circumvent regulatory requirements or court or Board orders and very serious matters. In these instances, the Board has emergency suspended, suspended and revoked certifications. [See Moreno, Bruce, Stevenson, Paul Brown, Riyad, Sobol, Star, Derek Haigh, Darren Ortiz, and Nielsen.]

Based on the noted aggravating factors, should the Board ultimately enter a finding Dandis committed the alleged violations, it is recommended the Board impose the following sanctions pursuant to ACJA § 7-201 (H)(24)(a)(6):

a) Revoke Dandis' certification, pursuant to ACJA § 7-201(H)(24)(a)(6)(i);

b) Issue a cease and desist order against Dandis enjoining Dandis from preparing legal documents, representing to the public he is a certified legal document preparer, assisting in or conducting any activities that constitutes the unauthorized practice of law during the period of the revocation and until such time as any and all conditions for reinstatement are met, to the satisfaction of the Board, pursuant to ACJA § 7-201(H)(24)(a)(6)(g);
c) Assess costs associated with the investigation and any related administrative proceedings involving complaint number 10-L048, pursuant to ACJA § 7-201 (H)(24)(a)(6)(j), and;
d) Impose a civil penalty in the amount of $250.00 per found violation, pursuant to ACJA § 7-201(H)(24)(a)(6)(k).

It is further recommended Dandis be given the opportunity to consent to the above reference findings and proposed sanctions. In the event Dandis declines the opportunity to enter a Consent Agreement within 20 days of receipt of the Board's offer, it is recommended staff proceed with the filing and service of Notice of Formal Statement of Charges pursuant to ACJA § 7-201(H)(10) without further Board order.

SUBMITTED BY:

11/25/12

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 10-L049 and Richard Dandis, certificate number 80019, makes a finding of facts and this decision, based on the facts, evidence, a nd 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:

_____

_____

_____

_____

_____

Mary Carlton, Chair Date
Board of Legal Document Preparers

Y:\COMPLAINT INVESTIGATIONS\OPEN COMPLAINTS\LDP Dandis, R.D. 10-L049\Final Case Summary 10-L049.docx

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

CERTIFICATE HOLDER/LICENSEE INFORMATION	**Certificate Holder:**	Michael Fisher
	Certification Number:	80527
	Business Name:	Western Estate Services
	Certificate Number:	80526 (Expired)
	Type of Certificate/License:	Legal Document Preparer
COMPLAINANT	**Name:**	Walter L. Henderson
INVESTIGATION INFORMATION	**Complaint Number:**	06-L087
	Investigators:	Eric Thomas Alex Navarro William MacIntyre
	Report Date:	July 6, 2012

Complaint Received:	**July 19, 2006**
Complaint Forwarded to the Certificate Holder:	**July 27, 2006**
Response From Certificate Holder Received:	**August 3, 2006**
Status of Certification/License:	**Active**
Availability of Certificate Holder/Licensee:	**Available**
Availability of Complainant:	**Unk**

The investigation of this complaint included the following:

- Written complaint and documentation submitted by complainant Attorney Walter L. Henderson ("Henderson")
- Written response and documentation submitted by certificate holder Michael Fisher ("Fisher"), Designated Principal for Western Estate Services ("WES")
- Review of Certification and Licensing Division ("Division") records
- Review of applicable sections of Arizona Code of Judicial Administration ("ACJA") §§ 7-201 and 7-208, and Arizona Supreme Court Rules

ALLEGATIONS:

1. WES is advertising legal services outside the limitation of a legal document preparer by advertising estate planning in a local newspaper.

SUMMARY OF FACTUAL FINDINGS OF INVESTIGATION:

Effective January 26, 2004, the Board of Legal Document Preparers ("Board") granted individual legal document preparer certification to Fisher. Effective January 26, 2004,

the Board granted initial business entity certification to WES. WES's legal document preparer certificate expired June 30, 2009. Fisher's individual certification was renewed on July 1, 2011 and remains active until June 30, 2013.

On July 19, 2004, Henderson submitted a complaint against WES alleging the business was advertising legal services on the local newspaper. Henderson reported "the whole ad appears to be blatant solicitation to plan and create a legal entity (living trust), to direct one's estate plan affecting the rights of the client, as well as the legal rights of those receiving the property when the client dies." Henderson reported the ad further provides services affecting legal rights of the receiving the property when the client dies. Henderson provided a copy of WES's ad which states in pertinent part:

> A will is merely a ticket for your family to spend unnecessary time, energy and money with the Probate Court and attorneys.
>
> Wills DO NOT (sic) keep your privacy and may not help in the event you or your loved ones are disabled, incapacitated or in need of long-term care.
>
> Our Estate Plans are easy to establish, affordable and include Power(s) of Attorney for healthcare and asset management, Medical Directive(s), Living Will(s), the Abstract of Trust as well as funding documents and complete instructions for your loved ones on how to settle the estate.

On July 27, 2006, the Division sent Fisher a copy of the complaint for review pursuant to ACJA § 7-208(H)(4)(b) requiring a written response to the complaint. Division records reflect the mailing was delivered on July 31, 2006. A response to the allegations from WES was received by the Division on August 7, 2006.

In the response, WES denied there was any merit to the complaint. The response noted that WES does not engage in the unauthorized practice of law or provide any specific legal advice. WES reports it provides free seminars throughout the State of Arizona to inform the public about the advantages of a living trust. WES reports any member of the public attending a seminar is afforded an opportunity to engage WES as a certified legal document preparer to prepare living trust documents for a set fee. Upon engaging WES, the individual is provided forms to be filled out. After the information is received the individual is contacted by a paralegal supervised by Fisher as the certified legal document preparer to verify information and resolve any potential discrepancies. During the course of the communication, WES denies providing any specific legal advice, but rather "general factual information pertaining to the rights and procedures encompassed by the living trust documents." The complaint response continued with the following:

> In the event that a client has a specific question that requires the provision of legal advice, the client is advised to consult an Arizona attorney of their own choosing.

Moreover, if the client wants or needs legal services regarding their estate, their money is refunded and they are advised to consult an attorney.

On December 14, 2010, Division Investigator Alex Navarro ("Investigator Navarro") contacted Fisher. Fisher stated WES was no longer in service and he only retained his individual certificate for future opportunities that may arise since he was not providing any services in the state of Arizona. Fisher asserted he has never provided any type of legal advice to clients and offered to provide a copy of the templates he used while working as a legal document preparer in Arizona.

ANALYSIS OF ALLEGATIONS:

Allegation 1. Western Estate Services ("WES") is advertising legal services outside the limitation of a legal document preparer affecting the rights of clients.

No information was provided to corroborate WES was providing legal advice. The advertisement provides general information related to the types of documents prepared by WES. There is no indication in the advertisement that legal advice was being offered to clients. WES reports it provides free seminars to the public, but no legal advice. In the event specific questions are presented that required legal advisement, WES instructs the individual to consult an Arizona attorney. The business entity is no longer in service as the certification expired on June 30, 2009 and was not renewed. Therefore, Allegation 1 is not substantiated.

SUBMITTED BY:

7/6/12

William MacIntyre, Investigator — Date
Certification and Licensing Division

REVIEWED BY:

11/19/12

Manager — Date
Certification and Licensing Division

DECISION OF THE PROBABLE CAUSE EVALUATOR:
Having conducted an independent review of the facts and evidence gathered during the course of the investigation of complaint number **06-L087**, the Probable Cause Evaluator:

[ ] requests division staff to investigate further.

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

#1.

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

Mike Baumstark 4/28/12

Mike Baumstark Date
Probable Cause Evaluator

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

CERTIFICATE HOLDER/LICENSEE INFORMATION	**Certificate Holder:**	Michael Fisher
	Certification Number:	80527
	Business Name:	Western Estate Services
	Certificate Number:	80526 (Expired)

RECOMMENDATION TO THE BOARD OF LEGAL DOCUMENT PREPARERS ("BOARD"):

It is recommended the Board accept the finding of the Probable Cause Evaluator and dismiss complaint number 06-L087.

SUBMITTED BY:

11/25/12

Mark Wilson, Director Date
Certification and Licensing Division

FINAL DECISION AND ORDER:
The Board having reviewed the above Investigation Summary, Allegation Analysis Report, finding of the Probable Cause Evaluator, and Recommendation regarding complaint number 06-L087, Michael Fisher, certificate number 80527, and Western Estate Services, certificate number 80526, 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:

_____

_____

_____

_____

_____

Mary Carlton, Chair Date
Board of Legal Document Preparers

Y:\COMPLAINT INVESTIGATIONS\OPEN COMPLAINTS\LDP Western Estate Services 06-L087\Final CasSumm06-L087New.docx

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

CERTIFICATE HOLDER/LICENSEE INFORMATION	**Certificate Holder:**	Silviano Tanori
	Certification Number:	80465
	Business Name:	
	Certificate Number:	
	Type of Certificate/License:	Legal Document preparer
COMPLAINANT	**Name:**	Debra D. Middleton
INVESTIGATION INFORMATION	**Complaint Number:**	10-L038
	Investigators:	Tony Posante William MacIntyre
	Report Date:	July 12, 2012

Complaint Received:	**June 11, 2010**
Complaint Forwarded to the Certificate Holder:	**June 14, 2010**
Response From Certificate Holder Received:	**July 7, 2010**
Status of Certification/License:	**Active**
Availability of Certificate Holder/Licensee:	**Available**
Availability of Complainant:	**Unk**

The investigation of this complaint included review of the following:

- Written complaint and documentation submitted by complainant Debra D. Middleton ("Debra"), formerly Debra LaPuzza
- Written response and documentation submitted by certificate holder Silviano Tanori ("Tanori")
- Review of Certification and Licensing Division ("Division") records
- Review of applicable records in Superior Court in Santa Cruz County dissolution case DR2005-0393 in which Debra is the Petitioner, and James LaPuzza ("James") is the Respondent
- Review of applicable sections of Arizona Revised Statutes ("ARS"), and Arizona Codes of Judicial Administration ("ACJA") § 7-201 and § 7-208

ALLEGATIONS:

1. Tanori did not prepare a divorce decree properly causing complainant Debra to lose her home.

SUMMARY OF COMPLAINT:

Debra provided a complaint suggesting an error in divorce paperwork prepared by Tanori caused her to lose her longtime home. Tanori responded by stating the legal documents he prepared for Debra were prepared as she requested. Tanori provided documentary proof Debra reviewed the legal documents he prepared before they were filed. The investigation revealed Tanori did not make an alleged punctuation error in the divorce decree, but instead copied a minute entry from the Superior Court in Santa Cruz County exactly. Debra herself provided information her home was foreclosed upon when the mortgage was not paid.

(For further details see Report #10-L038)

ANALYSIS OF ALLEGATIONS:

Allegation 1. Silviano Tanori (Tanori")did not prepare a divorce decree properly, causing complainant Debra Middleton ("Debra") to lose her home.

Debra alleged a document preparation error by Tanori caused her to lose her longtime home. The investigation revealed Tanori properly prepared legal documents for Debra. Furthermore, Debra reviewed the documents prepared by Tanori prior to them being filed. Debra, purportedly a paralegal by profession, appeared in Court at her default hearing and there is no evidence she objected to the paperwork prepared by Tanori at that time. Debra's former home appears to have been foreclosed by an unnamed Bank for non-payment of the mortgage. Tanori used the exact language and punctuation from the Court's minute entry for the default decree he prepared for Debra. Debra's unfortunate circumstances do not appear to be a result of the actions of Tanori. Allegation 1, therefore, is not substantiated.

SUBMITTED BY:

7/12/10

William MacIntyre, Investigator — Date
Certification and Licensing Division

REVIEWED BY:

11/17/12

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 **10-L038**, the Probable Cause Evaluator:

[ ] requests division staff to investigate further.

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

#1.

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

M Baumstark 11/28/12

Mike Baumstark Date
Probable Cause Evaluator

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

CERTIFICATE HOLDER INFORMATION	**Certificate Holder:**	Silvano Tanori
	Certification Number:	80465

RECOMMENDATION TO THE BOARD OF LEGAL DOCUMENT PREPARERS ("BOARD"):

It is recommended the Board accept the finding of the Probable Cause Evaluator and dismiss complaint number 10-L038.

SUBMITTED BY:

11/25/12

Mark Wilson, Director Date
Certification and Licensing Division

FINAL DECISION AND ORDER:
The Board having reviewed the above Investigation Summary, Allegation Analysis Report, finding of the Probable Cause Evaluator, and Recommendation regarding complaint number 10-L038 and Silvano Tanori , certificate number 80465, 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:

_____

_____

_____

_____

_____

Mary Carlton, Chair Date
Board of Legal Document Preparers

Y:\COMPLAINT INVESTIGATIONS\OPEN COMPLAINTS\LDP Tanori, Silviano 10-L038\Final CaseSumm10-L038N.docx

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

CERTIFICATE HOLDER/LICENSEE INFORMATION	**Certificate Holder:** **Certification Number:** **Type of Certificate/License:**	Tamera Martin 80508 (Expired) Legal Document Preparer
COMPLAINANT	**Name:**	Sally Hawley
INVESTIGATION INFORMATION	**Complaint Number:** **Investigators:**	05-L041 Eric Thomas Tony Posante Kirk Smith
	Report Date:	April 11, 2012

Complaint Received:	January 12, 2005
Complaint Forwarded to the Certificate Holder:	April 13, 2005
Response From Certificate Holder Received:	None provided
Status of Certification/License:	Expired
Availability of Certificate Holder/Licensee:	Expired
Availability of Complainant:	Available

The investigation of this complaint included consideration of the following:

- Written complaint and documentation submitted by complainant Sally Hawley ("Hawley") of the Superior Court in Maricopa County, staff for the Honorable John Rea ("Judge Rea")
- Investigatory interview with consumer Danielle Hunziker ("Hunziker")
- Review of applicable records in Superior Court in Maricopa County case FC2002-090560
- Review of applicable Certification and Licensing Division ("Division") records
- Review of applicable sections of Arizona Codes of Judicial Administration ("ACJA") § 7-201 and § 7-208, Arizona Supreme Court Rules

ALLEGATION:

1. Tamera Martin ("Martin") prepared an improperly formatted document that was rejected by the Court.

ADDITIONAL ALLEGATION:

2. Martin failed to respond to this complaint as required by ACJA § 7-208(H)(4)(b).

SUMMARY OF COMPLAINT:
The Division received a written complaint from Superior Court staff member Hawley alleging Martin improperly prepared documents in the matter of Superior Court in Maricopa County case number FC2002-090560. According to the consumer, Danielle Hunziker, the documents were emailed by Martin to Hunziker, whom subsequently printed them and took them to the Clerk's Office for filing. Hunziker reported the documents were initially accepted, but later she was told the documents were not properly formatted. Hunziker reported she then received a call from the Clerk's Office and was informed the documents were unacceptable. Hunziker reported she informed Martin and Martin suggested Hunziker's computer altered the documents during the printing process. Hunziker reported Martin later sent corrected documents, which were successfully filed. Martin did not provide a written response to the complaint.

SUMMARY OF FACTUAL FINDINGS OF INVESTIGATION:

1. On December 13, 2003, the Board of Legal Document Preparers ("Board") granted individual certification to Martin. Martin renewed her certification without interruption through the certification period which ended June 30, 2005. Martin did not seek 2005-06 renewal and her certification expired on June 30, 2005.

2. On January 12, 2005, the Division received a complaint from Hawley alleging Martin prepared incorrectly formatted documents. Hawley provided a copies of documents presented relative to a petitions to modify custody, parenting time and support. The unsigned and therefore not notarized Modification (Change) of Custody and the Petition to Modify Parenting Time and Support documents contained Martin's name, title and certificate number identifying Martin as the legal document preaprer responsible for the pleadings. The documents lacked required the margins and numbering and Hawley stated:

   > The format does not even slightly resemble the appropriate filing of pleading in Maricopa County. I was troubled by the work product and her [Martin] charging clients for this work product.

3. On April 13, 2005, the Division sent Martin a letter with a copy of the complaint. The letter informed Martin of the ACJA § 7-208(H)(4)(b) requirement she submit a written response to the complaint within ten days. Division records reflect delivery of the mailing on April 14, 2005. Martin did not provided the required written response to the complaint.

4. On May 31, 2006, Division Investigator Kirk Smith ("Investigator Smith") sent an email to Martin requesting further information including a response to the complaint and copies of the correctly prepared documents. No response was received from Martin concerning this request.

5. On May 31, 2006, Investigator Smith commenced an investigatory interview with Hunziker. Hunziker reported the documents prepared by Martin were improperly prepared and thus unacceptable for filing with the Court. Hunziker reported Martin

prepared the documents and sent them to Hunziker by email. Hunziker reported she opened the email attachment (containing the documents) on her computer and printed them. Hunziker noted she thought the document looked different on the computer screen than they did printed. Hunziker took the document to the Clerk's Office for filing where she was informed the documents were not in the proper format, but the Clerk's Office accepted the documents anyway. Hunziker reported she later received a call from the Clerk's Office and was told the documents were unacceptable. Hunziker said she contacted Martin and informed her of the Court having rejected the documents. Hunziker reported Martin was "upset" and suggested the documents may have been altered during the printing process. Hunziker reported Martin produced the documents again and had hard copies delivered Hunziker. Hunziker reported she filed the revised document with the Clerk's Office.

6. On May 31, 2006, Investigator Smith faxed a request to the Clerk of the Superior Court of Maricopa County for copies of the filed documents. The document received was a correctly formated Amended Petition to Modify Parenting Time and Support prepared by Martin and filed on January 19, 2005.

7. On November 6, 2007, Division Investigator Tony Posante ("Investigator Posante") reviewed Division records and determined Martin had not renewed her certification nor provided a written response to the complaint.

8. Rules of Civil Procedure for the Superior Courts of Arizona Rule 10(d) (Form of Pleading) was the applicable statute on January 10, 2005, when Hunziker attempted to file the motion prepared by Martin. Rules of Family Law Procedure, Rule 30, were not enacted until October 1, 2006. A review of the pleading provided by Hawley to Division staff revealed the document did not conform to the Rule 10(d) regarding margins, as the top and left margins on most pages were insufficient to the required 2" top margin and 1" left margin. Additionally, the pleading did not contain the required page numbering.

SUBMITTED BY:

for 4/11/12

Eric Thomas, Investigator Date
Certification and Licensing Division

ANALYSIS OF ALLEGATIONS:

Allegation 1. Martin prepared an improperly formatted document that was rejected by the Court.

At the time of the alleged misconduct, pursuant to ACJA § 7-208(F)(2), all certified legal document preparers were required to comply with the Code of Conduct contained in ACJA § 7-208 Appendix A. ACJA § 7-208 Appendix A Code of Conduct Standard (5)(a) read:

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

The Rules of Civil Procedure in effect at the time of the alleged misconduct were instructive as to required formatting for legal documents filed with the court. The initial pleadings presented to the Clerk's Office and ultimately delivered to Judge Rea's chambers did not comply with the Rules of Civil. However, it cannot be determined as to whether the formatting was effected by the email transfer or at the time the consumer printed the documents. Therefore, Allegation 1 is not substantiated.

Allegation 2. Martin failed to respond to this complaint as required by ACJA § 7-208(H)(4)(b).

ACJA § 7-208(H)(4)(b) in effect at the time of the alleged misconduct read:

> Response from Certificate Holder. The program coordinator shall deliver the complaint to the certificate holder within fifteen days after commencement of the investigation and shall require the certificate holder to provide a written response within ten days of delivery of the complaint.

Martin was notified of the complaint and the requirement she submit a written response. Martin failed to submit a written response. Therefore, Allegation 2 is substantiated.

REFERRAL TO PROBABLE CAUSE EVALUATOR:

The Investigation Summary and Allegation Analysis Report on complaint number 05-L041 have been reviewed and approved for forwarding to the Probable Cause Evaluator and it is recommended the Probable Cause Evaluator enter a finding probable cause exists does not exist as to Allegation 1 and does exist as to Allegation 2.

SUBMITTED BY:

10/15/12

Linda Grau, Manager Date
Certification and Licensing Division

DECISION OF THE PROBABLE CAUSE EVALUATOR:

Having conducted an independent review of the facts and evidence gathered during the course of the investigation of complaint number 05-L041, the Probable Cause Evaluator:

[ ] requests division staff to investigate further.

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

#1

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

#2.

MBaumstark 11/28/12

Mike Baumstark Date
Probable Cause Evaluator

(Martin/05-L041)

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

CERTIFICATE HOLDER INFORMATION	**Certificate Holder:** **Certification Number:**	Tamera Martin 80508 (Expired)

RECOMMENDATION TO THE BOARD OF LEGAL DOCUMENT PREAPRERS ("BOARD"):

It is recommended the Board accept the finding of the Probable Cause Evaluator and dismiss Allegation 1 complaint number 05-L041. Regarding Allegation 2, it is recommended the Board enter a finding Tamera Martin ("Martin") committed the alleged act of misconduct detailed in the Investigation Summary and Allegation Analysis Report.

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) for an act of misconduct involving ACJA § 7-208(H)(4)(b).

Mitigating Factors:

1. Delays in the disciplinary proceeding. The complaint was filed on January 12, 2005. [ACJA § 7-201(H)(22)(b)(1)(l)]
2. Martin's certification expired on June 30, 2005 and her present whereabouts is unknown.

Aggravating Factors – None noted.

It is recommended the Board consider the mitigating factors, enter a finding of grounds for informal disciplinary action, close the complaint with no further action and maintain the records of this matter to be considered by the Board if at some time in the future Martin applies for legal document preparer certification.

SUBMITTED BY:

11/25/12

Mark Wilson, 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 05-L041 and Tamera Martin, certificate number 80508, 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:

_____

_____

_____

_____

_____
Mary Carlton, Chair Date
Board of Legal Document Preparers

Y:\COMPLAINT INVESTIGATIONS\OPEN COMPLAINTS\LDP Martin, Tamera 05-L041\FINAL EBS Martin 05-L041.docx

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

CERTIFICATE HOLDER INFORMATION	**Certificate Holder:** **Certification Number:** **Type of Certificate:**	Jerrie Ortiz 80858 (Expired) Legal Document Preparer
COMPLAINANT	**Name:**	Carleen Sue Girgenti
INVESTIGATION INFORMATION	**Complaint Number:** **Investigators:**	08-L005 Richard Sczerbicki Alex Vilchis
	Report Date:	July 3, 2012

Complaint Received:	February 11, 2008
Complaint Forwarded to the Certificate Holder:	February 13, 2008
Response From Certificate Holder Received:	March 28, 2008
Status of Certification:	Expired
Availability of Certificate Holder:	Unknown
Availability of Complainant:	Unknown

The investigation of this complaint included consideration of the following:

- Written complaint and documentation submitted by and investigatory interview with complainant Carleen Sue Girgenti ("Girgenti")
- Written response from Certificate Holder Jerrie Ortiz ("Ortiz")
- Review of Superior Court in Maricopa County case number FN2008-000625
- Review of Certification and Licensing Division ("Division") records
- Review Arizona Code of Judicial Administration ("ACJA") §§ 7-201 and 7-208, and Arizona Supreme Court Rules

ALLEGATIONS:

1. Ortiz failed to prepare legal documents as contracted and paid to prepare.
2. Ortiz failed to contact her consumer after Ortiz was evicted from her business office.

ADDITIONAL ALLEGATIONS:

3. Ortiz failed to timely respond to this complaint as required by ACJA § 7-201(H)(3)(c).
4. Ortiz engaged in the unauthorized practice of law by providing legal advice and opinions in the preparation of the RESPONSE TO "PETITION FOR DISSOLUTION OF MARRIAGE (DIVORCE) WITHOUT CHILDREN", Maricopa County Superior Court Case No FN2008-000625.

SUMMARY OF COMPLAINT:

On February 11, 2008, Girgenti reported she had entered into a written service agreement with Ortiz and paid $806.00 for preparation of dissolution document. Ortiz failed to prepare the documents and failed to contact Girgenti, even after Ortiz' was evicted from her business office.

Ortiz indicated she contacted Girgenti asking her to return to Ortiz' office to sign the document prepared by Ortiz but Girgenti did not have transportation for a month. Ortiz reported she lost her telephone contract as a result of a legal dispute and her office had been "lock off" as a result of financial hardships. Ortiz stated she contacted Girgenti as soon as she was able to remove her files from the rented office space.

SUMMARY OF FACTUAL FINDINGS OF INVESTIGATION:

1. Effective July 1, 2005, the Board of Legal Document Preparers granted individual legal document preparer certification to Ortiz. Ortiz did not seek 2009-11 renewal and her individual certification expired on June 30, 2009.

2. On February 11, 2008, the Division received a written complaint from Girgenti involving Ortiz. Girgenti reported she entered into a written service agreement and paid Ortiz $806.00 to prepare a divorce petition. Girgenti indicated she made numerous unsuccessful attempts to contact Ortiz by phone from November 2007 through January 2008 and did not received a call back from Ortiz. Girgenti went to Ortiz' business address on February 4, 2008 and found a note on the door advising Ortiz was in default on her rental agreement with her landlord. Girgenti spoke to revoked former certificate holder Allan Sobol ("Sobol") who confirmed no document had been filed in Girgenti's case. Girgenti stated Sobol gave her with a copy of the Division complaint form. Girgenti provided a copy of an invoice purportedly prepared and signed by Ortiz on November 8, 2007. The header of the invoice reads: "JLOw Legal Services, LLC" in the amount of $806.00. Girgenti also provided a copy of the signed written agreement between her and Ortiz. The Agreement is signed November 8, 2008.

3. On February 13, 2008, the Division sent Ortiz a copy of the complaint with a letter notifying Ortiz of the ACJA § 7-208(H)(3)(c) requirement she submit a written response to the complaint within thirty (30) days. Division records reflect Ortiz received the complaint on February 22, 2008.

4. On March 28, 2008, Ortiz submitted a written response stating she contacted Girgenti and asked Girgenti to return to Ortiz' office to sign the documents Ortiz prepared but Girgenti did not have transportation and did not return to Ortiz's office until approximately a month later. Ortiz indicated she was on vacation until January 2, 2008 and as a result, Girgenti was unable to locate Ortiz. Ortiz stated after she returned from vacation, she contacted Girgenti. Ortiz stated she had missed required

signatures but could not get in touch with Girgenti because the telephone number provided to Ortiz by Girgenti was no longer in service. Ortiz reported she left messages at Girgenti's employment. Ortiz confirmed her business telephone number was disconnected as a result of an ongoing legal dispute with the telephone company. As it took more than a month for Ortiz to secure alternative telephone service, she acknowledged delays in being able to communicate with her customers. Ortiz admitted she was "locked out" of her office on January 25, 2008 and could not access her working files until she reached an agreement with her landlord. Ortiz said she contacted Girgenti after she was able to access to the working files and has subsequently been providing services to Girgenti.

5. On April 11, 2008, Division Investigator Alex Vilchis ("Investigator Vilchis") contacted Girgenti to confirm she had heard from Ortiz. Girgenti indicated Ortiz has been in contact since the complaint was filed. Girgenti was aware Ortiz was having financial problems and had been ill and unable to work for a period of time. Girgenti reported Ortiz continued preparing the Response to "Petition for Dissolution of Marriage Without Children" filed in Superior Court in Maricopa County case number FN2008-000625. Ortiz' name, tile, and certificate number are listed on the document identifying Ortiz as the certified legal document preparer responsible for the pleading. Girgenti informed Investigator Vilchis she was trying to enter into a settlement agreement with her husband for $24,000.00. Girgenti reported Ortiz was helping negotiate a settlement. Girgenti stated "She [Ortiz] told me not to go any less than $25,000.00 and she is also doing everything. She is really going to whip him hard." Girgenti was asked if she was providing Ortiz with the information she wanted including in the legal documents. She indicated Ortiz was preparing all of the documents without her help. Girgenti stated she is very happy Ortiz advised her not to take anything less than $25,000.00 as a settlement in her divorce case. Girgenti stated she wanted the investigation to stop since Ortiz has been doing everything for her.

6. On April 10, 2008, April 11, 2008, and April 15, 2008, Investigator Vilchis left voice messages for Ortiz on the telephone number listed on Division records however; Ortiz never returned the phone calls.

ANALYSIS OF ALLEGATIONS:

Allegation 1. Ortiz failed to prepare legal documents as contracted and paid to prepare. The complainant confirmed Ortiz contacted her after receiving notice of the complaint and Ortiz the provided the contracted and paid for services. Therefore, Allegation 1 is not substantiated.

Allegation 2. Ortiz failed to contact her consumer after Ortiz' was evicted from her business office.

ACJA § 7-201(F)(1) and § 7-208(F)(2) require all certified legal document preparers to comply with the Code of Conduct contained in ACJA 7-208(J). ACJA § 7-208(J)(4)(a) reads, in pertinent part:

> A legal document preparer shall provide immediate notification to the consumer of any delays.

Ortiz admitted for a period of months she was unavailable to her customers for an extended period of time as the result of numerous circumstances, including being locked out of her office, without access to working files, being sick, being on vacation, and having her phone service interrupted. Ortiz confirmed she was unable to reach her customers, specifically Girgenti, because she did not have access to her working files. Therefore, Allegation 2 is substantiated.

Allegation 3. Ortiz failed to timely respond to this complaint as required by ACJA § 7-201(H)(3)(c).

ACJA § 7-201(H)(3)(c) reads:

> Certificate Holder's Response to Notification of Complaint. The certificate holder shall provide a written response to the complaint within thirty days of the notification of the complaint.

Division records reflect Ortiz received a copy of the complaint and notice of the response requirement. on February 22, 2008 and submitted a written response to the Division on March 28, 2008, six (6) days after the due date. Therefore, Allegation 3 is substantiated.

Allegation 4: Ortiz engaged in the unauthorized practice of law by providing legal advice and opinions in the preparation of the RESPONSE TO "PETITION FOR DISSOLUTION OF MARRIAGE (DIVORCE) WITHOUT CHILDREN", Maricopa County Superior Court Case No FN2008-000625.

Rule 31 (a)(2)(B)(1) states the "unauthorized practice of law includes but is not limited to engaging in the practice of law by persons or entities not authorized to practice". Arizona Code of Judicial Administration ("ACJA") § 7-208 exists as an exemption to the prohibition of the unauthorized practice of law and provides specified authorized services a certificated legal document preparer may offer to consumers not represented by an attorney. ACJA § 7-208 (F)(1)(b) provides a certified legal document preparer may,

> Provide general legal information, but may not provide any kind of specific advice, opinion, or recommendation to a consumer about possible legal rights, remedies, defenses, options, or strategies;

Rule 31 (a)(2)(A)(3) defines the practice of law to include "Representing another in a judicial, quasi-judicial, or administrative proceeding...." Rule 31 (a)(2)(a)(5) includes the following in the definition of the practice of law, "negotiating legal rights or responsibilities for a specific person or entity". ACJA § 7-208 (F)(1) provides a list of "authorized services" a certified legal document preparer can provide to non-represented parties and does not include authorization for a certified document preparer to negotiate

or otherwise seek settlements on behalf of a consumer. ACJA § 7-208 (F)(2) requires certified legal document preparers to comply with section J Code of Conduct. ACJA § 7-208 (5)(b) and (5)(c) read:

b. A legal document preparer shall not represent they are authorized to practice law in this state, nor shall the legal document preparer provide legal advice or services to another by expressing opinions, either verbal or written, or by representing another in a judicial, quasi-judicial, or administrative proceeding, or other formal dispute resolution process...

c. A legal document preparer shall not provide any kind of advice, opinion or recommendation to a consumer about possible legal rights, remedies, defenses, options, or strategies. This shall not, however, preclude a certified legal document preparer from providing the type of information permitted in subsection F(1) of this code section. A legal document preparer shall inform the consumer in writing that a legal document preparer is not a lawyer, is not employed by a lawyer, and cannot give legal advice, and that communications with a legal document preparer are not privileged.

During the course of the investigation, Girgenti stated Ortiz had been advising her not to accept anything less than $25,000.00 as an agreement in her Dissolution case. Girgenti stated Ortiz had been conducting the necessary Legal research and prepared all court documents for Girgenti's case without Girgenti's assistance. The information provided by Girgenti demonstrates Ortiz engaged in the unauthorized practice of law and exceeded her authority as certified legal document preparer by advising Girgenti in how to negotiate a settlement in a pending family court action. Therefore, Allegation 4 is substantiated.

SUBMITTED BY:

7/3/12

Richard Sczerbicki, Investigator — Date
Certification and Licensing Division

REVIEWED BY:

11/23/12

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 08-L005, the Probable Cause Evaluator:

[ ] requests division staff to investigate further.

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

#1.

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

#2, 3 + 4.

M Baumstark 11/27/12

Mike Baumstark Date
Probable Cause Evaluator

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

CERTIFICATE HOLDER INFORMATION	**Certificate Holder:**	Jerrie Ortiz
	Certification Number:	80858 (Expired)

RECOMMENDATION TO THE BOARD OF LEGAL DOCUMENT PREPARERS ("BOARD"):

It is recommended the Board accept the finding of the Probable Cause Evaluator and dismiss Allegation 1 of complaint number 08-L005. Regarding Allegations 2, 3 and 4, it is recommended the Board enter a finding Jerrie Ortiz ("Ortiz") committed the alleged acts of misconduct detailed in the Investigation Summary and Allegation Analysis Report.

It is recommended the Board enter a finding grounds for disciplinary action exists pursuant to Arizona Code of Judicial Administration ("ACJA") § 7-201(H)(6)(a) for acts of misconduct involving ACJA § 7-201(F)(1) and (H)(3)(c), ACJA § 7-208(F)(1)(b), (F)(2), (J)(5)(b) and (J)(5)(c) and Arizona Supreme Court Rule 31.

Mitigating Factors:

1. Delays in the disciplinary proceeding. The complaint was filed on February 11, 2008. [ACJA § 7-201(H)(22)(b)(1)(l)]
2. Ortiz's certification expired on June 30, 2009 and her present whereabouts is unknown.

Aggravating Factors – None noted.

It is recommended the Board consider the mitigating factors, enter a finding of grounds for formal disciplinary action, close the complaint with no further action and maintain the records of this matter to be considered by the Board if at some time in the future Ortiz applies for legal document preparer certification.

SUBMITTED BY:

11/30/12

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 08-L005 and Jerrie Ortiz, certificate number 80858, 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:

Mary Carlton, Chair Date
Board of Legal Document Preparers

Y:\COMPLAINT INVESTIGATIONS\OPEN COMPLAINTS\LDP Ortiz, Jerrie 08-L005\Final EBS 08-L005 ORTIZ - LG REVIEWED 7-25-12.doc

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

CERTIFICATE HOLDER INFORMATION	**Certificate Holder:** **Certification Number:** **Type of Certificate:**	Jerrie Ortiz 80858 (Expired) Legal Document Preparer
COMPLAINANT	**Name:**	Paul O'Connor
INVESTIGATION INFORMATION	**Complaint Number:** **Investigators:**	08-L021 Richard Sczerbicki Alex Vilchis
	Report Date:	July 3, 2012

Complaint Received:	April 1, 2008
Complaint Forwarded to the Certificate Holder:	April 1, 2008
Response From Certificate Holder Received:	None received
Status of Certification:	Expired
Availability of Certificate Holder:	Unknown
Availability of Complainant:	Unknown

The investigation of this complaint included consideration the following:

- Written complaint and documentation submitted by and investigatory interview with complainant Paul O'Connor ("O'Connor")
- Investigator interview with Jerrie Ortiz ("Ortiz")
- Review of applicable records in District of Arizona Bankruptcy Court case number 07-02342
- Review of applicable Certification and Licensing Division ("Division") records
- Review of applicable sections of Arizona Codes of Judicial Administration ("ACJA") § 7-201 and § 7-208 and Arizona Supreme Court Rules

ALLEGATIONS:

1. Ortiz failed to prepare legal documents in a timely manner as contracted and paid to prepare and failed to contact consumer O'Connor.
2. Ortiz failed to returned original supporting documentation to O'Connor.

ADDITIONAL ALLEGATIONS:

3. Ortiz failed to respond to this complaint as required by ACJA § 7-208(H)(4)(b).
4. Ortiz failed to include her name and certificate number on documents she prepared.

SUMMARY OF COMPLAINT:

O'Connor submitted a written complaint to the Division after numerous unsuccessful attempts to locate Ortiz. O'Connor stated on April 5, 2007 he paid Ortiz $1,000.00 to file a Chapter 7 bankruptcy petition but Ortiz failed to file his petition resulting in O'Connor losing a timeshare property. O'Connor asserted Ortiz retained the original supporting documentation he provided for the preparation and filing of Chapter 7 petition. Ortiz failed to submit the required written response to this complaint.

SUMMARY OF FACTUAL FINDINGS OF INVESTIGATION:

1. Effective July 1, 2005, the Board of Legal Document Preparers granted individual legal document preparer certification to Ortiz. Ortiz did not seek renewal for the 2009-2011 period and her individual certification expired on June 30, 2009.

2. On April 1, 2008, the Division received a written complaint from O'Connor stating he paid Ortiz $1000.00 on April 5, 2007 to draw up a civil complaint, file bankruptcy and do Repair Credit Letters. O'Conner stated he paid $1000.00 for the civil complaint; $250.00 for bankruptcy; and $250.00 for the repair Credit Letters. O'Connor stated as of the date of his complaint, 3/29/08, Ortiz had not performed any of the services p aid for. O'Connor indicated he had a timeshare foreclosed on because Ortiz had not filed the bankruptcy in a timely manner.

3. On April 3, 2008, the Division sent Ortiz a copy of the complaint with a letter notifying Ortiz of the ACJA § 7-201(H)(3)(c) requirement she submit a written response to the complaint within thirty (30) days. Division records reflect the mailing was delivered on April 7, 2007. Ortiz failed to submit a written response to this complaint.

4. On May 28, 2008, Division Investigator Alex Vilchis ("Investigator Vilchis") contacted O'Connor inquiring for copies of any cleared checks paid to Ortiz. O'Connor stated he had copies of the receipts given to him by Ortiz and would fax them to Investigator Vilchis. O'Connor stated he lost a timeshare as a result of Ortiz' lack of knowledge in preparing the petition for his bankruptcy case. He stated he did not know if Ortiz had ever added the timeshare as part of this bankruptcy petition.

5. The O'Connor's chapter 7 bankruptcy petition was reviewed. Court records reflect a Chapter 7 Voluntary Petition in case number 7-02342 was filed on May 22, 2007 however, the documents do not reflect Ortiz's name, title, and certificate number on the petition identifying her as the certified legal document preparer responsible for the petition. The United States Bankruptcy Court local Rule 2090-2 (c) which states:

   > Certificate Number. In addition to the requirements of Bankruptcy Code § 110, a bankruptcy petition preparer, certified as a legal document preparer under

Arizona law, shall provide his or her certificate number and a business phone number on any document prepared for filling.

The "Declaration and Signature of Non-Attorney Bankruptcy Petition Preparer" could not be located which is required by the United States Bankruptcy Court federal Rule Title 11, Chapter 1, 11 USC §110 (b)(2)(A) which states:

> Before preparing any document for filing or accepting any fees from a debtor, the bankruptcy petition preparer shall provide to the debtor a written notice which shall be on an official form prescribed by the Judicial Conference of the United States in accordance with rule 9009 of the Federal Rules of Bankruptcy Procedure.

6. A review of a Deficiency Notice to Debtor (Missing Documents Form) was filed on May 22, 2008 reflecting the List of Creditors; Schedules of Assets and Liabilities and Financial Affairs; Chapter 7 Individual Debtor Statement of Current Monthly Income and Means Test Calculations, and a Declaration of Employer Payments were not filed in the United States Bankruptcy Court case number 7-02342 filed and an Order to Dismissing the case was filed May 31, 2008.

7. On June 4, 2008, Investigator Vilchis spoke to O'Connor and asked if he ever prepared any documents for Ortiz while he was a volunteer. O'Conner stated no. O'Connor reiterated he paid Ortiz $1,000.00 to file a civil law suit; $250 to file Bankruptcy; and $250 to prepare letter to his creditors but Ortiz only filed the bankruptcy petition. O'Connor stated he paid the $1,000.00 in cash and did not ask for a receipt because he trusted Ortiz. O'Conner was asked if Ortiz had any other employees working for her and he stated only a receptionist. O'Connor reported Glen Hadley ("Hadley"), who was previously denied renewal of legal document preparer certification, could verify O'Connor had asked Ortiz to file the civil lawsuit. O'Conner stated he had explained to Hadley he was not able to locate Ortiz. O'Conner stated both he and Hadley have been trying to get a hold of Ortiz, but she will not return their phone calls.

8. On June 5, 2008, O'Connor spoke to Division Investigator Tony Posante and told him Ortiz prepared his Master Mailing list and Preliminaries only for the petition filed May 22, 2007 and he paid her $250.00. He stated Ortiz did not prepare any schedules or do any filing. The second filing from April 7, 2008 he had done by himself.

9. On June 4, 2008, Investigator Vilchis contacted Ortiz and asked if she had prepared a bankruptcy petition for O'Connor and she said "yes". Ortiz was asked if she had prepared a civil law suit for O'Connor and she said "yes". Ortiz was asked her if she ever returned any supporting documentations to O'Connor and she said O'Connor kept copies of what she prepared. Ortiz was asked how much O'Connor had paid for the bankruptcy petition and she said she charged him $1000.00 total to do the

bankruptcy petition, civil law suit, and for the preparation of letters to the creditors. Ortiz could not recall if he had paid the full $1000 or only $700 but if he did paid $1000, she stated, "I am willing to pay him back $300.00 because I don't want anything to do with O'Connor, Alan Sobol ("Sobol"), Steve Wyner or Glen Hadley."

Ortiz was asked how many employees she had. She stated two who were doing receptionist work. When asked if O'Connor had ever volunteered to work for her, she stated "yes" but only doing filing in the office or as a "runner". Ortiz was asked if Hadley had ever worked for her. She stated Hadley has been doing work for her the past three years but it was personal work such as creating a Will, Post-Nuptial Agreement, a Real State case for her brother and research. When asked if Hadley had ever worked on any of her cases for her clients she stated "if he ever took any of my clients, I have no clue."

Ortiz stated her business was robbed and she strongly believed O'Connor was involved in it. Ortiz was asked if she completed the work O'Connor paid her (according to O'Connor $1000.00). Ortiz stated she prepared a civil action for O'Connor but she had not filed the petition because she was still trying to locate the person that needed to be served. Ortiz was again asked if she had filed the bankruptcy court petition and if she knew what the requirements were for filing bankruptcy petitions in Arizona. Ortiz stated she only helped O'Connor prepare the petition but she did not do it for him. Ortiz stated she knows what the requirements are for filing a bankruptcy petition. When asked why she had stated at the beginning of the conversation she had in fact prepared the petition for O'Conner, she changed the subject saying her files had been locked up when she lost the lease of her business. Ortiz stated Sobol was the person who packed her files. The question was repeated to Ortiz and she said she was going to look in her files and see what she had done for him on the bankruptcy petition because she couldn't remember since it was back in November or December of 2007.

10. On June 6, 2008, Investigator Vilchis sent Ortiz a letter with copies of the complaint as requested by Ortiz on June 4, 2008. Ortiz had until June 18, 2008 to submit a written response. Ortiz has never submitted a written response.

ANALYSIS OF ALLEGATIONS:

Allegation 1. Ortiz failed to prepare legal documents as contracted and paid to preparer and failed to contact consumer O'Connor.

ACJA § 7-208 (J)(4)(a) reads:

> A legal document preparer shall provide completed documents to a consumer in a timely manner. The legal document preparer shall make a good faith effort to meet, provide delivery dates, and make timely delivery of documents when no date is specified. A legal document preparer shall meet document preparation deadlines in accordance with rules, statutes, court orders, or agreement with the parties. A legal

document preparer shall provide immediate notification to the consumer of any delays.

O'Connor reported in his complaint that Ortiz did not complete and file the civil lawsuit documents he had paid her to complete. Ortiz admitted she had not filed the documents because she was unable to locate the person who was to be served.

Court documents filed in the United States Bankruptcy Court District of Arizona case number 07-02342 reflect that on May 22, 2008, a "Deficiency Notice to Debtor" was filed demonstrating Ortiz failed to prepare the following documents required for the filing of O'Connor's bankruptcy petition:

> A list of creditors in the required format of a master mailing list.
> Schedule of Assets and Liabilities and Statement of Financial Affairs.
> Chapter 7 Individual Debtor Statement of Current Monthly Income and Means Test Calculation.
> Declaration of Employer Payments.

Therefore allegation 1 is substantiated.

Allegation 2. Ortiz failed to returned original supporting documentation to O'Connor

There is no evidence Ortiz failed to provide copies of the documents she prepared for O'Connor. During a telephonic interview with Division Investigator Alex Navarro ("Investigator Navarro"), Ortiz stated she gave O'Connor copies of all documents she prepared in his case and told O'Connor to make sure he had copies since Ortiz was not responsible for the safety of any document. Therefore, Allegation 2 is not substantiated.

Allegation 3. Ortiz failed to respond to this complaint as required by ACJA § 7-208 (H)(3)(c).

ACJA § 7-201(H)(3)(c) states:

> Certificate Holder's Response to Notification of Complaint. The certificate holder shall provide a written response to the complaint within thirty days of the notification of the complaint. Failure by the certificate holder to accept notification of a complaint or failure to respond to the complaint shall not prevent division staff from proceeding with an investigation and the board from taking any disciplinary action.

Division records reflect a number of attempts were made to provide Ortiz with the complaint. United States Postal Service records show the complaint was delivered on April 7, 2008. On June 6, 2008, Investigator Navarro mailed a letter with the copy of the complaint to the address given by Ortiz and gave Ortiz until June 18, 2008 to respond to the complaint. Ortiz did not provide the Division with a written response. Therefore, Allegation 3 is substantiated.

Allegation 4. Ortiz failed to include her name and certificate number on documents she prepared.

ACJA § 7-208 (F)(3) reads:

> Beginning July 1, 2003, a certified legal document preparer shall include the legal document preparer's name, the title "Arizona Certified Legal Document Preparer" or the abbreviation "AZCLDP" and the legal document preparer's certificate number on all documents prepared by the legal document, unless expressly prohibited by a non-judicial agency or entity.

United States Bankruptcy Court local Rule 2090-2 (c) states:

> **Certificate Number**. In addition to the requirements of Bankruptcy Code § 110, a bankruptcy petition preparer, certified as a legal document preparer under Arizona law, shall provide his or her certificate number and a business phone number on any document prepared for filling.

Bankruptcy documents filed in the United States Bankruptcy Court District of Arizona case number 07-02342 reflect Ortiz failed to include her name, title, and certificate number indentifying Ortiz as the certified legal document preparer responsible for preparing the documents for O'Connor. Therefore Allegation 4 is substantiated.

SUBMITTED BY:

7/31/12

Richard Sczerbicki, Investigator — Date
Certification and Licensing Division

REVIEWED BY:

11/23/12

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 08-L021, the Probable Cause Evaluator:

[ ] requests division staff to investigate further.

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

#2.

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

#1, 3, 4.

M Baumstark 11/27/12

Mike Baumstark Date
Probable Cause Evaluator

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

CERTIFICATE HOLDER/LICENSEE INFORMATION	**Certificate Holder:**	Jerrie Ortiz
	Certification Number:	80858 (Expired)

RECOMMENDATION TO THE BOARD OF LEGAL DOCUMENT PREAPRERS ("BOARD"):

It is recommended the Board accept the finding of the Probable Cause Evaluator and dismiss Allegation 2 of complaint number 08-L021. Regarding Allegations 1, 3 and 4, it is recommended the Board enter a finding Jerrie Ortiz ("Ortiz") committed the alleged acts of misconduct detailed in the Investigation Summary and Allegation Analysis Report.

It is recommended the Board enter a finding grounds for disciplinary action exists pursuant to Arizona Code of Judicial Administration ("ACJA") § 7-201(H)(6)(a) for acts of misconduct involving ACJA § 7-201(F)(1) and (H)(3)(c), ACJA § 7-208(F)(2), (F)(3) and (J)(4)(a).

Mitigating Factors:

1. Delays in the disciplinary proceeding. The complaint was filed on April1, 2008. [ACJA § 7-201(H)(22)(b)(1)(l)]
2. Ortiz's certification expired on June 30, 2009 and her present whereabouts is unknown.

Aggravating Factors – None noted.

It is recommended the Board consider the mitigating factors, enter a finding of grounds for formal disciplinary action, close the complaint with no further action and maintain the records of this matter to be considered by the Board if at some time in the future Ortiz applies for legal document preparer certification.

SUBMITTED BY:

11/30/12

Mark Wilson, 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 08-L021 and Jerrie Ortiz, certificate number 80858, 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:

Mary Carlton, Chair Date
Board of Legal Document Preparers

Y:\COMPLAINT INVESTIGATIONS\OPEN COMPLAINTS\LDP Ortiz, Jerrie 08-L021\EBS 08-L021 ORTIZ - LG REVIEWED 7-25-12.doc

ARIZONA SUPREME COURT
ADMINISTRATIVE OFFICE OF THE COURTS
INVESTIGATION SUMMARY

CERTIFICATE HOLDER/LICENSEE INFORMATION	**Certificate Holder:**	Misty Coppedge
	Certification Number:	81287
	Business Name:	Southeast Arizona Paralegal Services
	Certification Number:	81288
	Type of Certificate/License:	Legal Document Preparer
COMPLAINANT	**Name:**	P. Randall Bays
INVESTIGATION INFORMATION	**Complaint Number:**	12-L006
	Investigators:	Richard Sczerbicki

Complaint Received:	January 26, 2012
Complaint Forwarded to the Certificate Holder:	January 27, 2012
Certificate Holder/Licensee Received Complaint:	January 30, 2012
Response From Certificate Holder:	March 1, 2012
Period of Active Certification/Licensure:	2/28/2011 – current period
Status of Certification/License:	Active
Availability of Certificate Holder/Licensee:	Available
Availability of Complainant:	Available
Report Date:	September 12, 2012

ALLEGATIONS:

1. Coppedge engaged in the unauthorized practice of law by expressing legal opinions in court documents she prepared for Aundreya Lawson.
2. Coppedge engaged in the unauthorized practice of law by expressing legal opinions in court documents she prepared for Morgan Benton.

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

The investigation of this complaint included the following:

- Written complaint and documentation submitted by and investigatory interview with complainant P. Randall Bays ("Bays")
- Written response and documentation submitted by and investigatory interview with certificate holder Misty Coppedge ("Coppedge")
- Review of Superior Court in Cochise County records in case number DO201100719

- Review of Superior Court in Cochise County records in case number DO201101211
- Review of Superior Court in Cochise County records in case number DO201100704
- Review of Certification and Licensing Division ("Division") records
- Review of applicable sections of Arizona Codes of Judicial Administration ("ACJA") § 7-201 and § 7-208 and Arizona Supreme Court Rules

PERSONS INTERVIEWED:

1. Aundreya Lawson
2. Morgan Benton

SUMMARY OF INVESTIGATION:

Attorney Bays submitted a complaint alleging Coppedge was going beyond her scope as a legal document preparer. Bays provided County of Cochise Court Records in which he felt Coppedge was practicing law. Coppedge denied these allegations claiming she does not offer legal advice or opinions to her clients.

Aundrey Lawson, a client of Coppedge, stated Coppedge had provided her with legal advice in assisting her with the preparation of documents in a divorce case.

SUMMARY OF FACTUAL FINDINGS OF INVESTIGATION:

On January 26, 2012, attorney Bays submitted a written complaint against CLDP Coppedge alleging she was representing a number of parties in the practice of law in opposition to clients Bays is representing. Bays stated he believed Coppedge is going beyond the scope of her duties as a legal document preparer. Bays attached the following court documents prepared by Coppedge:

- County of Cochise Superior Court Case No. DO201100719 Motion for Reconsideration (Rule 35(D), A.R.F.L.P.) prepared for Aundrey Lawson
- County of Cochise Superior Court Case No. DO201100719 Affidavit of Legal Document Preparer Fees and Costs (A.R.S. § 12-341.02) prepared for Aundrey Lawson
- County of Cochise Superior Court Case No. DO201101211 Motion for Pre-decree Temporary Orders prepared for Morgan Benton
- County of Cochise Superior Court Case No. DO201101211 Affidavit of Financial Information prepared for Morgan Benton
- County of Cochise Superior Court Case No. DO201101211 Proposed Resolution Statement of Husband prepared for Morgan Benton

Bays also attached a copy of County of Cochise Superior Court Case No. DO201100704 Motion to Strike Pleadings, prepared by Bays for Petitioner Victor Matthew Alsen.

On March 1, 2012, the Division received a written response from Coppedge addressing the allegations made by attorney Bays. Coppedge denied the allegations made by Bays. Coppedge stated she informs all of her customers she is not an attorney and no legal representation is offered. Coppedge stated she does not provide legal advice and she only provides her customers with "general, factual legal information necessary to represent themselves, and prepare and arrange for service of the documents required for their specific legal needs." Coopedge stated: "on occasions, these documents do include legal arguments; however, I do not formulate or suggest arguments to be made. I simply type the arguments provided to me by my customers." Coppedge stated she does provide general legal information, including statutes, case law, and procedural rules in compliance with ACJA § 7-208(F)(1)(b). Coppedge stated the case law is provided only after the customer has identified the legal argument to be made and only in support of the legal arguments provided by the customer. Coppedge addressed each of the above Cochise County Superior Court documents submitted by Bays with the complaint.

In reference to County of Cochise Superior Court Case No. DO201100719, Motion for Reconsideration (Rule 35(D), A.R.F.L.P.), and County of Cochise Superior Court Case No. DO201100719, Affidavit of Legal Document Preparer Fees and Costs (A.R.S. § 12-341.02) prepared for Aundrey Lawson, Coppedge stated the following:

> Coppedge stated she did not provide any legal advice or opinions to Lawson. Coppedge stated Lawson had consulted with attorney Nancy L. Bourke ("Bourke") during the process and based on those consultations, she (Coppedge) prepared the documents for Lawson. Coppedge stated she provided no representation, negotiation, or legal advice with regard to any of the documents she prepared for Lawson. Coppedge provided billing receipts that reflected the billing of Lawson's consultations with attorney Bourke. Coopedge stated she attached a copy of Bourke's invoice to the Affidavit of Legal Document Preparer's Fees and Costs to attest to both Bays and the Court that, "although legal advice was rendered in connection with the document, said legal advice was provided by a licensed attorney-at-law."

In reference to County of Cochise Superior Court Case No. DO201101211, Motion for Pre-decree Temporary Orders and County of Cochise Superior Court Case No. DO201101211, Affidavit of Financial Information prepared for Morgan Benton, Coppedge stated the following:

> Coppedge stated Benton approached her in regard to requesting temporary orders for possession of the marital vehicle. Coppedge stated "in Mr. Benton's presence, and incorporating the arguments and requests made by Mr. Benton, I prepared the Motion for Pre-Decree Temporary Orders, in compliance with A.C.J. A. 7-208(F)(1)(a). At no time during the preparation of this document did I suggest any specific cause of action or argument to Mr. Benton." Coppedge stated the Proposed Resolution Statement and Affidavit of Financial Information were prepared in compliance with A.C.J.A. § 7-208(F)(1)(a) and Rule 49, Arizona Rules of Family Law Procedure. She stated Benton was present during the preparation of these documents and he provided the information to be included in the documents.

On August 6, 2012, Division Investigator Richard Sczerbicki ("Investigator Sczerbicki") conducted a telephonic interview with Aundreya Lawson concerning the documents Coppedge had prepared for her in County of Cochise Superior Court Case No. DO201100719. Investigator Sczerbicki reviewed the documents submitted in this complaint and complaint number 12-L018. Complaint number 12-L018 also addressed concerns in the Lawson matter. Lawson was asked if she had consulted with attorney Nancy Bourke prior to having Coppedge prepare her documents. Lawson stated she did meet with Bourke but could not afford to have an attorney prepare and handle her case. Lawson stated Bourke provided her with some direction in the types of documents she should consider following but Bourke did not provide any advice or opinions that were stated in the documents. Lawson stated Coppedge prepared all of the documents filed with the court related to this case. Lawson stated she would meet with Coppedge to discuss matters she (Lawson) wanted to address and add in the documents. She stated Coppedge would prepare the documents based on those needs. Lawson stated Coppedge would research and add the appropriate legal rules and statutes that pertained to what she (Lawson) was requesting and put the documents together. Lawson stated she would read and review the documents prepared by Coppedge to approve the information that was provided. Lawson stated Coppedge would add the appropriate rules, statutes and opinions in the document and she (Lawson) would review and agree with what Coppedge had documented. As an example, Lawson was asked about the request made to the Court to grant certain matters in the Response to Petition for Annulment of Marriage and Counter-Petition for Dissolution of Non-Covenant Marriage (Without Children). Lawson stated Coppedge provided advice in helping to develop the seven reliefs requested that included the following:

1. Find that no legal impediment to the marriage exists.
2. Enter a Decree of Dissolution of Marriage.
3. Equitably divide the parties' community property and community assests, debts, and obligations
4. Award each party his or her premarital and/or sole and separate property, gifts, inheritances and personal property.
5. Order Petitioner to pay a reasonable sum as and for spousal maintenance.
6. Order petitioner to pay a reasonable sum as and for attorney's fees, legal documents preparation fees, and costs of court.
7. Award such other and further relief as is deemed just and proper.

Statutes quoted in this document include the following on page 3 of the Response to Petition for Annulment of Marriage and Counter-Petition for Dissolution of Non-Covenant Marriage (Without Children):

> "The marriage is irretrievably broken and the conciliation provisions of A.R.S. § 25-381.09 do not apply or have been met."

> "...Respondent requests that Petitioner be orders to pay her spousal maintenance in this matter, in accordance with A.R.S. § 25-319."

Lawson stated in the Motion for Reconsideration (Rule 35(D), A.R.F.L.P.), Coppedge added the information citing Rule 8(A), A.R.F.L.P. and Rule 14, Cochise County Local Rule.

On August 15, 2012, Investigator Sczerbicki conducted a telephonic interview with Morgan Benton ("Benton") concerning the County of Cochise Superior Court Case No. DO201101211 documents Coppedge had prepared for him. Benton contacted Coppedge and met with her about having her prepare documents for him concerning the divorce issues. Benton stated Coppedge made it very clear when they met that she was not an attorney and could not provide him with any legal advice or opinions. Benton stated Coppedge did not provide him with advice or opinions during the process. Benton stated he did his own Internet research on divorce matters and would document the information he wanted filed and Coppedge would file the documents and information he requested. Benton used the website "Ask an Attorney" and paid $50.00 to access this site to get several questions he needed answered. Benton stated he wrote all of the information in the documents that were prepared by Coppedge and she only changed a couple of words around were needed. Benton stated if he would ask Coppedge questions during the process, she would tell him when she could not provide him information if it may have required her to provide any advice or opinions. Benton stated he was pleased with her service and Coppedge had performed all of the work he requested.

ANALYSIS OF ALLEGATIONS:

Allegation 1: Coppedge engaged in the unauthorized practice of law by expressing legal opinions in court documents she prepared for Aundreya Lawson.

Arizona Supreme Court Rule 31 ("Rule 31") (a)(2)(B) states the "unauthorized practice of law includes but is not limited to engaging in the practice of law by persons or entities not authorized to practice." Arizona Code of Judicial Administration ("ACJA") § 7-208 which governs legal document preparers exists as an exemption to the prohibition of the unauthorized practice of law contained in Rule 31. ACJA § 7-208(F)(1) provides specified, authorized services a certified legal document preparer may offer to consumers not represented by an attorney. The list of "authorized services" a certified legal document preparer can provide to non-represented parties contained in ACJA § 7-208(F)(1) does not include acting in a representative capacity on behalf of a consumer, engaging in the act of negotiation, or attempting to secure settlement of any dispute on behalf of a customer. ACJA § 7-201(F)(1) and ACJA § 7-208(F)(2) requires all certified legal document preparers to comply with the Code of Conduct contained in ACJA § 7-208(J). ACJA § 7-208(J)(5)(b) includes:

> A legal document preparer shall not represent they are authorized to practice law in this state, nor shall the legal document preparer provide legal advice or services to

another by expressing opinions, either verbal or written, or by representing another in a judicial, quasi-judicial, or administrative proceeding, or other formal dispute resolution process...

The complainant Bays alleged that Coppedge was practicing law based on the documents Coppedge prepared for Aundreya Lawson in a divorce case. Coppedge provided a written response denying the allegations stating she did not provide any legal advice or opinions to Lawson when she prepared her documents. Lawson was interviewed and stated Coppedge would research and add the appropriate legal rules and statutes that pertained to what she (Lawson) was requesting and put the documents together. Lawson stated she would read and review the documents prepared by Coppedge to approve the information that was provided. Lawson stated Coppedge would add the appropriate rules, statutes and opinions in the document and she (Lawson) would review and agree with what Coppedge had documented. Therefore allegation 1 is substantiated.

Allegation 2: Coppedge engaged in the unauthorized practice of law by expressing legal opinions in court documents she prepared for Morgan Benton.

The complainant Bays alleged that Coppedge was practicing law based on the documents Coppedge prepared for Morgan Benton in a divorce case. Coppedge denied these allegations stating she only provided information in the documents provided by Benton. Benton was interviewed and stated Coppedge did not provide him with any legal advice or opinions when she assisted him in preparing documents for his divorce case. Benton stated Coppedge informed him at their first meeting she was not an attorney and was limited to the information she could provide him. Benton stated he conducted all of his legal research and provided Coppedge with all of the information that was stated in his documents. Therefore, allegation 2 is not substantiated.

SUBMITTED BY:

9/12/12

Richard Sczerbicki, Investigator — Date
Certification and Licensing Division

REVIEWED BY:

11/23/12

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 12-L006, the Probable Cause Evaluator:

[ ] requests division staff to investigate further.

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

#2

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

#1.

M Baumstark 11/28/12

Mike Baumstark Date
Probable Cause Evaluator

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

CERTIFICATE HOLDER INFORMATION	**Certificate Holder:**	Misty Coppedge
	Certification Number:	81287
	Business Name:	Southeast Arizona Paralegal Services
	Certificate Number:	81288

RECOMMENDATION TO THE BOARD LEGAL DOCUMENT PREAPRERS ("BOARD"):

It is recommended the Board accept the finding of the Probable Cause Evaluator and dismiss Allegation 2 of complaint number 12-L006. Regarding Allegation 1, it is recommended the Board enter a finding Misty Coppedge ("Coppedge") and Southeast Arizona Paralegal Services committed the alleged act of misconduct detailed in the Investigation Summary and Allegation Analysis Report. It is further recommended the Board enter a finding grounds for formal disciplinary action exists pursuant to Arizona Code of Judicial Administration ("ACJA") § 7-201(H)(6)(a) for an act of misconduct involving ACJA § 7-201(F)(1), ACJA § 7-208(F)(1), (F)(2) and (J)(5)(b) and Arizona Supreme Court Rule 31.

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

Mitigating Factors:

1. Absence of prior discipline. [ACJA § 7-201(H)(22)(b)(1)(a)]
2. Lack of experience in the profession. Coppedge was granted certification on February 28, 2011. [ACJA § 7-201(H)(22)(b)(1)(h)]

Aggravating Factors: None noted.

Proportionality Analysis:

The stated purpose of the Legal Document Preparer Program, as defined by ACJA § 7-208(C), is to:

> Protect the public through the certification of legal document preparers to ensure conformance to the highest ethical standards and performance of responsibilities in a professional and competent manner, in accordance with all applicable statutes, code sections, and Arizona court rules.

Historically, the Board has recognized engaging in the unauthorized practice of law as a serious matter and a threat to the protection of the public with recognition of the potential harm to the public, judicial system, and legal document preparer profession. Prior actions

by the Board in other matters which found violations similar to the alleged act of misconduct have included revocation or suspension of certification, restitution and cease and desist orders, imposition of civil penalties and assessment of investigative costs and the related proceedings, mandated participation in continuing education, and stated conditions for reinstatement.

It is recommended the Board offer Coppedge a Consent Agreement to resolve this complaint, pursuant to ACJA § 7-201(H)(24)(a)(6)(c). It is recommended the proposed Consent Agreement include an acknowledgement of the misconduct, a statement giving notice to Coppedge that if she enters the Consent Agreement she waives her right to a hearing, and imposes the following sanctions pursuant to ACJA § 7-201 (H)(24)(a)(6):

a) Issue a Censure to Coppedge and Southeast Arizona Paralegal Services, pursuant to ACJA § 7-201 (H)(24)(a)(6)(b);
b) Order Coppedge participate in no less than ten (10) hours of continuing education in the curriculum areas of professional responsibility, ethics, and the unauthorized practice of law, in addition to any hours otherwise required for renewal, pursuant to ACJA § 7-201 (H)(24)(a)(6)(f);
c) Impose civil penalties in the amount of $100.00 per found violation to be remitted no later than 60 days following entry of the Board's Final Order, pursuant to ACJA § 7-201 (H)(24)(a)(6)(k).

In the event Coppedge declines the opportunity to enter the Consent Agreement within 20 days of receipt of the Board's offer, it is recommended the matter proceed with the filing and service of Notice of Formal Statement of Charges pursuant to ACJA § 7-201(H)(10) without further Board order.

SUBMITTED BY:

12/4/12

Mark Wilson, 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 12-L006, Misty Coppedge, certificate number 81287, and Southeast Arizona Paralegal Services, certificate number 81288, 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:

_____

_____

_____

_____

_____

Mary Carlton, Chair Date
Board of Legal Document Preparers

ARIZONA SUPREME COURT
ADMINISTRATIVE OFFICE OF THE COURTS
INVESTIGATION SUMMARY

CERTIFICATE HOLDER/LICENSEE INFORMATION	**Certificate Holder:**	Misty Coppedge
	Certification Number:	81287
	Business Name:	Southeast Arizona Paralegal Services
	Certification Number:	81288
	Type of Certificate/License:	Legal Document Preparer
COMPLAINANT	**Name:**	Honorable Judge Charles A. Irwin, Cochise County
INVESTIGATION INFORMATION	**Complaint Number:**	12-L018
	Investigators:	Richard Sczerbicki

Complaint Received:	April 16, 2012
Complaint Forwarded to the Certificate Holder:	April 17, 2012
Certificate Holder/Licensee Received Complaint:	Not Listed
Response From Certificate Holder:	May 2, 2012
Period of Active Certification/Licensure:	2/28/2011 – current period
Status of Certification/License:	Active
Availability of Certificate Holder/Licensee:	Available
Availability of Complainant:	Available
Report Date:	September 12, 2012

ALLEGATIONS:

1. Coppedge engaged in the unauthorized practice of law by expressing legal opinions in court documents she prepared for Milicient Hughes.
2. Coppedge engaged in the unauthorized practice of law by expressing legal opinions in court documents she prepared for Jessica Salina Montoya.
3. Coppedge engaged in the unauthorized practice of law by expressing legal opinions in court documents she prepared for Roy Sheppard.
4. Coppedge engaged in the unauthorized practice of law by expressing legal opinions in court documents she prepared for Aundreya Lawson.

ADDITIONAL ALLEGATIONS:

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

- Written complaint and documentation submitted by complainant Honorable Judge Charles A. Irwin ("Judge Irwin")
- Written response and documentation submitted by and investigatory interview with certificate holder Misty Coppedge ("Coppedge")
- Review of Cochise County Superior Court in case number DO201101290
- Review of Cochise County Juvenile Court records in case number SV201200003
- Review of Cochise County Superior Court records in case number DO201100732
- Review of Cochise County Superior Court records in case number DO201100719
- Review of Certification and Licensing Division ("Division") records
- Review of applicable sections of Arizona Codes of Judicial Administration ("ACJA") § 7-201 and § 7-208 and Arizona Supreme Court Rules

PERSONS INTERVIEWED:

1. Aundreya Lawson
2. Roy Shepherd

SUMMARY OF INVESTIGATION:

Honorable Judge Charles A. Irwin submitted a written complaint against CLDP Coppedge alleging she was providing legal services to clients. Judge Irwin provided copies of Cochise County Court records prepared by Coppedge which reflected Coppedge may have provided legal advice or expressed legal opinions in the documents she prepared.

Coppedge clients Lawson and Shepherd were interviewed and documents Coppedge prepared were reviewed. Both Lawson and Shepherd stated Coppedge had researched and quoted the statutes noted in the documents she had prepared.

Coppedge denied providing any legal advice or expressing any legal opinions to her clients.

SUMMARY OF FACTUAL FINDINGS OF INVESTIGATION:

On April 16, 2012, Honorable Judge Charles A. Irwin submitted a written complaint against CLDP Coppedge alleging she was providing legal services to clients. Judge Irwin stated the most recent incident involved litigant Milicent Hughes ("Hughes") who appeared at her trial and had no witnesses or exhibits prepared to submit to support her claims. Judge Irwin stated he was informed by Hughes she had paid Coppedge $900.00

to complete all required documents for her case and that she had provided Coppedge the opposing party's Exhibits. Judge Irwin stated Hughes had been unable to reach Coppedge due to her phone number being disconnected. According to Hughes, prior phone messages were not returned.

Judge Irwin stated their Juvenile Presiding Judge provided him with a document Coppedge prepared for Jessica Montoya which involved the filing of a Petition for Termination of Parent Rights. Judge Irwin stated the court appointed attorney for the natural father filed a Motion to Dismiss which outlines the lack of any basis to terminate the father's rights and further identifies issues surrounding the alleged "waiver" prepared and notarized by Coppedge. Judge Irwin stated it was clear to the Bench that legal advice is being offered to pro se litigants.

Judge Irwin stated Judge Conlogue submitted court documents prepared by Coppedge for Roy Shepherd and raised concern that the documents support the conclusion that Coppedge is acting as an attorney in providing advice and service that far exceeds mere document preparation.

Judge Irwin stated Judge Kelliher provided him with a series of pleadings filed in DO201100719 which were prepared by Coppedge. Judge Irwin stated a review of these pleadings suggested Coppedge is actively involved in litigation and her services go beyond what they believe to be the scope of document preparation.

Judge Irwin attached the following court documents prepared by Coppedge:

- Cochise County Superior Court Case No. DO201101290, Response to Petition for Dissolution of Non-Covenant Marriage (With Children), prepared for Milicient Hughes.
- Cochise County Juvenile Court Case No. SV201200003, Waiver by parent of Notice of Hearing and Appearance on Petition for Termination of Parent/Child Relationship, prepared for Jessica Salina Montoya.
- Cochise County Juvenile Court Case No. SV201200003, Voluntary Termination of Parent Rights and Consent to Adoption, prepared for Jessica Salina Montoya.
- Cochise County Superior Court Case No. DO201100732, Motion for Pre-Decree Temporary Orders, prepared for Roy Shepherd.
- Cochise County Superior Court Case No. DO201100732, Affidavit of Legal Document Preparer Fees and Costs (A.R.S. § 12-341.02), prepared for Roy Shepherd.
- Cochise County Superior Court Case No. DO201100719, Affidavit of Legal Document Preparer Fees and Costs (A.R.S. § 12-341.02), prepared for Aundreya Lawson.
- Cochise County Superior Court Case No. DO201100719, Objection to Motion to Appear Telephonically, prepared for Aundreya Lawson.
- Cochise County Superior Court Case No. DO201100719, Motion for Reconsideration (Rule 35(D), A.R.F.L.P.), prepared for Aundreya Lawson.

- Cochise County Superior Court Case No. DO201100719, Affidavit of Aundreya M. Lawson, prepared for Aundreya Lawson.
- Cochise County Superior Court Case No. DO201100719, Notice of Service, prepared for Aundreya Lawson.
- Cochise County Superior Court Case No. DO201100719, Motion to Continue/Motion for Reasonable Accomodation, prepared for Aundreya Lawson.
- Cochise County Superior Court Case No. DO201100719, Affidavit of Financial Information, prepared for Aundreya Lawson.
- Cochise County Superior Court Case No. DO201100719, Notice of Service, prepared for Aundreya Lawson.
- Cochise County Superior Court Case No. DO201100719, Response to Petition for Annulment of Marriage and Counter Petition for Dissolution of Non-Convenant Marriage (Without Children), prepared for Aundreya Lawson.

On May 2, 2012, the Division received a written response from Coppedge addressing each of the allegations and documents submitted by Judge Irwin. Coppedge denied acting outside of the scope for Supreme Court Rule 31 and ACJC § 7-208. Coppdege stated she did not offer her customers any legal advice and extended representation. Coppedge stated she prepared the documents as requested by her customers using the information, arguments, and special requests provided by the customers.

Coppedge related the following information concerning Cochise County Superior Court Case No. DO201101290, Response to Petition for Dissolution of Non-Covenant Marriage (With Children), prepared for Milicient Hughes and the comments made in Judge Irwin's complaint:

> "Coppedge stated she did prepare documents for Hughes but did not prepare a list of witnesses or exhibits and was not paid to prepare this list. Coppedge stated on March 22, 2012 she had received a message from Hughes indicating she (Hughes) was interested in having her prepare the list of witnesses and exhibits documents for her trial. Coppedge stated she responded to Hughes indicating she would prepare these documents but never received a response from Hughes or indicating which documents Hughes intended to use as exhibits and a list of witnesses. Coppedge stated she eventually received an acknowledgment from Hughes on April 2, 2012 but by that time she was unable to prepare the documents due to her (Coppedge) pending relocation. Coppedge stated on April 2, 1012 she mailed via priority mail to Hughes her complete case file and informed Hughes that her list if exhibits and witnesses were due to the court prior to the trial. Coppedge recommended the services of Cheryl Wall to complete the list of exhibits and witnesses because she (Coppedge) would not be available. Coppedge provided a copy of the letter sent to Hughes. Coppedge stated she was not paid $900.00 for her services as Judge Irwin had stated in his complaint. Coppedge stated Hughes was charged $611.50 for the documents she prepared and $201.00 for the Superior Court Filing fee. Coppedge attached a copy of the billing statements. Coppedge stated she did change her phone number but Hughes had previous used her secure messaging service and could have made contact with her using this service. Coppedge denied not returning any of the calls Hughes

had made. Coppedge denied the allegation she violated Rule 31 and ACJA as stated in Judge Irwin's complaint.

Coppedge related the following information concerning Cochise County Juvenile Court Case No. SV201200003, Waiver by parent of Notice of Hearing and Appearance on Petition for Termination of Parent/Child Relationship, prepared for Jessica Salina Montoya and Cochise County Juvenile Court Case No. SV201200003, Voluntary Termination of Parent Rights and Consent to Adoption, prepared for Jessica Salina Montoya:

> Coppedge stated she did not offer Montoya any legal advice when preparing her documents. Coppedge stated she had referred Montoya to attorney Laura Cardinal for legal advice. Coppedge stated she did not know if Montoya met with Cardinal but she (Coppedge) was aware of multiple meetings after the preparation of the documents because Cardinal and her (Coppedge) discussed the documents at length. Coppedge stated she (Coppedge) was not aware of the "Motion to Dismiss" until she received a copy of this complaint by Judge Irwin. Coppedge stated she was never contacted by the Court with regard to the "issues surrounding the alleged 'waiver'." Coppedge stated she did prepare and notarize the Waiver at the request of Montoya. Coppedge stated Vesci was present at the time the waiver was signed and notarized and expressed no concern of the contents of the waiver or other documents. Coppedge stated at Vesci's request, she read the waiver and all other documents to him prior to his signing the documents. Coppedge stated she referred Montoya to a private process server to have Vesci served with the documents. Coppedge stated she charged Montoya $275.00 to prepare these documents and provided a copy of the billing invoice.

Coppedge related the following information concerning Cochise County Superior Court Case No. DO201100732, Motion for Pre-Decree Temporary Orders, prepared for Roy Shepherd and Cochise County Superior Court Case No. DO201100732, Affidavit of Legal Document Preparer Fees and Costs (A.R.S. § 12-341.02), prepared for Roy Shepherd:

> Coppedge stated she did not provide Shepherd any legal advice or representation. Coppedge stated she used the information and arguments she was provided by Shepherd to prepare his documents. Coppedge stated the documents were prepared in compliance with the Arizona Rules of Family Law Procedure, which requires specific information to be included in the Motion for Pre-Decree Temporary Orders. Coppedge stated the information to be included was provided by Shepherd except for the legal authorities cited. Coppedge stated no advice was given with regard to what arguments should be made and what requests should be included. Coppedge stated the temporary orders were granted by the court and she had no further involvement with this matter.

Coppedge related the following information concerning Cochise County Superior Court Case No. DO201100719 and the documents she prepared for Aundreya Lawson:

Coppedge stated she was unsure why Judge Kelliher would provide the documents for the Cochise County Superior Court Case No. DO201100719 matter since Judge Irwin was the assigned Judge for this case. Coppedge stated the documents provided for this matter have been the subject of prior complaint 12-L006 and have been previously discussed with the Court. Coppedge stated she did not provide any legal advice, as evidenced by the invoice from attorney Nancy L. Bourke, and did not extend representation or act outside of her certification regarding these documents.

On August 6, 2012, Division Investigator Richard Sczerbicki ("Investigator Sczerbicki") conducted a telephonic interview with Aundreya Lawson concerning the documents Coppedge had prepared for her in County of Cochise Superior Court Case No. DO201100719. Investigator Sczerbicki addressed the documents submitted in this complaint and complaint number 12-L006. Lawson was asked if she had consulted with attorney Nancy Bourke prior to having Coppedge prepare her documents. Lawson stated she did meet with Bourke but could not afford to have an attorney handle her case. Lawson stated Bourke provided her with some direction in the types of documents she should consider filing, but Bourke did not provide any advice or opinions that were stated in the documents. Lawson stated Coppedge prepared all of the documents filed with the court related to this case. Lawson stated she would meet with Coppedge to discuss matters she wanted to address and add in the documents. She stated Coppedge would prepare the documents based on those needs. Lawson stated Coppedge would research and add the appropriate legal rules and statutes that pertained to what she (Lawson) was requesting and put the documents together. Lawson stated she would read and review the documents prepared by Coppedge to approve the information that was provided. Lawson stated she did not know what statutes or rules that would pertain to her matter. Lawson stated Coppedge would add the appropriate rules, statutes and opinions in the document and she (Lawson) would review and agree with what Coppedge had documented and have her add anything else she felt needed to be addressed. Lawson stated Coppedge would make some recommendations to her as to information that should be added. As an example, Lawson was asked about the request made to the Court to grant certain matters in the Response to Petition for Annulment of Marriage and Counter-Petition for Dissolution of Non-Covenant Marriage (Without Children). Lawson stated Coppedge provided advice in helping to develop the seven reliefs requested that included the following:

1. Find that no legal impediment to the marriage exists.
2. Enter a Decree of Dissolution of Marriage.
3. Equitably divide the parties' community property and community assests, debts, and obligations
4. Award each party his or her premarital and/or sole and separate property, gifts, inheritances and personal property.
5. Order Petitioner to pay a reasonable sum as and for spousal maintenance.
6. Order petitioner to pay a reasonable sum as and for attorney's fees, legal documents preparation fees, and costs of court.
7. Award such other and further relief as is deemed just and proper.

Statutes quoted in this document include the following on page 3 of the Response to Petition for Annulment of Marriage and Counter-Petition for Dissolution of Non-Covenant Marriage (Without Children):

> "The marriage is irretrievably broken and the conciliation provisions of A.R.S. § 25-381.09 do not apply or have been met."

> "Respondent requests that Petitioner be orders to pay her spousal maintenance in this matter, in accordance with A.R.S. § 25-319."

Lawson stated in the Motion for Reconsideration (Rule 35(D), A.R.F.L.P.), Coppedge added the information citing Rule 8(A), A.R.F.L.P. and Rule 14, Cochise County Local Rule.

On August 20, 2012, Investigator Sczerbicki conducted a telephonic interview with Roy Shepherd. Shepherd stated when he met with Coppedge she had informed him that she could not offer any legal advice or opinions and that she was not a lawyer. Shepherd stated he was very pleased with the service Coppedge had provided him preparing his documents. Shepherd stated he really had no idea about the process for filing documents in his divorce. He stated he provided Coppedge with information as to what he wanted to do and she would prepare the appropriate documents based on what he wanted. Shepherd stated he relied on Coppedge to direct him on what needed to be done since she was familiar with divorce filings. Shepherd stated that Coppedge researched and provided the information in the documents relating to the statutes and case law that was stated in his filings. Shepherd stated all of the A.R.S. statutes listed in his documents where added by Coppedge. Shepherd stated he had no idea what laws or statutes would be relevant in his case. Below is an example of the case law Coppedge provided on page 5 of the MOTION FOR PRE-DECREE TEMPORARY ORDERS prepared by Coppedge for Shepherd:

> "A military veteran's disability benefits are separate property" *Perras v Perras,* 726P.2d617 (App. 1986) citing *Rickman v Rickman,* 124 Ariz 507, 605 P.2d 909 (App. 1980).

> "[D]isability benefits are the disabled spouse's separate property." *Davies v Beres,* 224 Ariz 560, 223 P.3d 1139 (App. 2010)

Shepherd stated Coppedge researched and provided the above case law information that was relevant to his case. Shepherd stated after he would provide Coppedge with information he wanted to have filed, she would prepare the documents and he would review for approval. Shepherd stated he could not recall if Coppedge provided him with legal advice or opinions when preparing the documents. He did confirm the statutes and case law cited in his documents were provided by Coppedge.

On August 15 and 27, 2012 Investigator Sczerbicki left voice messages for Jessica Salina Montoya and Milicient Hughes in an effort to contact them to discuss the document

preparation services provided by Coppedge. Neither Hughes nor Montoya have returned phone calls to address this matter.

ANALYSIS OF ALLEGATIONS:

Allegation 1: Coppedge engaged in the unauthorized practice of law by expressing legal opinions in court documents she prepared for Milicient Hughes.

Attempts to make contact with Hughes to address the documents Coppedge had prepared have been unsuccessful. Hughes has not returned calls to messages left by Investigator Sczerbicki. Therefore allegation 1 is not substantiated.

Allegation 2: Coppedge engaged in the unauthorized practice of law by expressing legal opinions in court documents she prepared for Jessica Salina Montoya.

Attempts to make contact with Montoya to address the documents Coppedge had prepared have been unsuccessful. Montoya has not returned calls to messages left by Investigator Sczerbicki. Therefore allegation 1 is not substantiated.

Allegation 3: Coppedge engaged in the unauthorized practice of law by expressing legal opinions in court documents she prepared for Roy Sheppard.

Arizona Supreme Court Rule 31 ("Rule 31") (a)(2)(B) states the "unauthorized practice of law includes but is not limited to engaging in the practice of law by persons or entities not authorized to practice." Arizona Code of Judicial Administration ("ACJA") § 7-208 which governs legal document preparers exists as an exemption to the prohibition of the unauthorized practice of law contained in Rule 31. ACJA § 7-208(F)(1) provides specified, authorized services a certified legal document preparer may offer to consumers not represented by an attorney. The list of "authorized services" a certified legal document preparer can provide to non-represented parties contained in ACJA § 7-208(F)(1) does not include acting in a representative capacity on behalf of a consumer, engaging in the act of negotiation, or attempting to secure settlement of any dispute on behalf of a customer. ACJA § 7-201(F)(1) and ACJA § 7-208(F)(2) requires all certified legal document preparers to comply with the Code of Conduct contained in ACJA § 7-208(J). ACJA § 7-208(J)(5)(b) includes:

> A legal document preparer shall not represent they are authorized to practice law in this state, nor shall the legal document preparer provide legal advice or services to another by expressing opinions, either verbal or written, or by representing another in a judicial, quasi-judicial, or administrative proceeding, or other formal dispute resolution process...

In Judge Irwin's complaint he alleged Coppedge was providing legal advice and provided copies of Cochise County Superior Court Case No. DO201100732 documents prepared for Roy Shepherd by Coppedge. Coppedge denied these allegations. Shepherd was

interviewed and stated that Coppedge researched and provided the information in the documents relating to the statutes and case law that was stated in his filings. Shepherd stated all of the A.R.S. statutes listed in his documents where added by Coppedge. Therefore allegation 3 is substantiated.

Allegation 4: Coppedge engaged in the unauthorized practice of law by expressing legal opinions in court documents she prepared for Aundreya Lawson.

Arizona Supreme Court Rule 31 ("Rule 31") (a)(2)(B) states the "unauthorized practice of law includes but is not limited to engaging in the practice of law by persons or entities not authorized to practice." Arizona Code of Judicial Administration ("ACJA") § 7-208 which governs legal document preparers exists as an exemption to the prohibition of the unauthorized practice of law contained in Rule 31. ACJA § 7-208(F)(1) provides specified, authorized services a certified legal document preparer may offer to consumers not represented by an attorney. The list of "authorized services" a certified legal document preparer can provide to non-represented parties contained in ACJA § 7-208(F)(1) does not include acting in a representative capacity on behalf of a consumer, engaging in the act of negotiation, or attempting to secure settlement of any dispute on behalf of a customer. ACJA § 7-201(F)(1) and ACJA § 7-208(F)(2) requires all certified legal document preparers to comply with the Code of Conduct contained in ACJA § 7-208(J). ACJA § 7-208(J)(5)(b) includes:

> A legal document preparer shall not represent they are authorized to practice law in this state, nor shall the legal document preparer provide legal advice or services to another by expressing opinions, either verbal or written, or by representing another in a judicial, quasi-judicial, or administrative proceeding, or other formal dispute resolution process...

This allegation concerning documents prepared for Lawson by Coppedge was also the subject of a complaint in case number 12-L006. This allegation was investigated and substantiated in case number 12-L006.

In Judge Irwin's complaint he alleged Coppedge was providing legal advice and provided copies of Cochise County Superior Court Case No. DO201100719 documents prepared for Lawson by Coppedge. Coppedge provided a written response denying the allegations stating she did not provide any legal advice or opinions to Lawson when she prepared her documents. Lawson was interviewed and stated Coppedge would research and add the appropriate legal rules and statutes that pertained to what she (Lawson) was requesting and put the documents together. Lawson stated she would read and review the documents prepared by Coppedge to approve the information that was provided. Lawson stated Coppedge would add the appropriate rules, statutes and opinions in the document and she (Lawson) would review and agree with what Coppedge had documented. Therefore allegation 4 is substantiated.

SUBMITTED BY:

8/12/12

Richard Sczerbicki, Investigator — Date
Certification and Licensing Division

REVIEWED BY:

11/23/12

Certification and Licensing Division

DECISION OF THE PROBABLE CAUSE EVALUATOR:
Having conducted an independent review of the facts and evidence gathered during the course of the investigation of complaint number 12-L018, the Probable Cause Evaluator:

[ ] requests division staff to investigate further.

[X] determines probable cause does not exist the certificate holder has committed the alleged acts of misconduct as to Allegation(s):
#1 & 2.

[X] determines probable cause exists the certificate holder committed the alleged acts of misconduct as to Allegation(s):
#3 & 4.

11/28/12

Mike Baumstark — Date
Probable Cause Evaluator

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

CERTIFICATE HOLDER INFORMATION	**Certificate Holder:**	Misty Coppedge
	Certification Number:	81287
	Business Name:	Southeast Arizona Paralegal Services
	Certificate Number:	81288

RECOMMENDATION TO THE BOARD LEGAL DOCUMENT PREAPRERS ("BOARD"):

It is recommended the Board accept the finding of the Probable Cause Evaluator and dismiss Allegations 1 and 2 of complaint number 12-L018. Regarding Allegations 3 and 4, it is recommended the Board enter a finding Misty Coppedge ("Coppedge") and Southeast Arizona Paralegal Services committed the alleged acts of misconduct detailed in the Investigation Summary and Allegation Analysis Report. It is further recommended the Board enter a finding grounds for formal disciplinary action exists pursuant to Arizona Code of Judicial Administration ("ACJA") § 7-201(H)(6)(a) for an act of misconduct involving ACJA § 7-201(F)(1), ACJA § 7-208(F)(1), (F)(2) and (J)(5)(b) and Arizona Supreme Court Rule 31.

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

Mitigating Factors:

1. Absence of prior discipline. [ACJA § 7-201(H)(22)(b)(1)(a)]
2. Lack of experience in the profession. Coppedge was granted certification on February 28, 2011. [ACJA § 7-201(H)(22)(b)(1)(h)]

Aggravating Factors: None noted.

Proportionality Analysis:

The stated purpose of the Legal Document Preparer Program, as defined by ACJA § 7-208(C), is to:

> Protect the public through the certification of legal document preparers to ensure conformance to the highest ethical standards and performance of responsibilities in a professional and competent manner, in accordance with all applicable statutes, code sections, and Arizona court rules.

Historically, the Board has recognized engaging in the unauthorized practice of law as a serious matter and a threat to the protection of the public with recognition of the potential

harm to the public, judicial system, and legal document preparer profession. Prior actions by the Board in other matters which found violations similar to the alleged act of misconduct have included revocation or suspension of certification, restitution and cease and desist orders, imposition of civil penalties and assessment of investigative costs and the related proceedings, mandated participation in continuing education, and stated conditions for reinstatement.

It is recommended the Board offer Coppedge a Consent Agreement to resolve this complaint, pursuant to ACJA § 7-201(H)(24)(a)(6)(c). It is recommended the proposed Consent Agreement include an acknowledgement of the misconduct, a statement giving notice to Coppedge that if she enters the Consent Agreement she waives her right to a hearing, and imposes the following sanctions pursuant to ACJA § 7-201 (H)(24)(a)(6):

a) Issue a Censure to Coppedge and Southeast Arizona Paralegal Services, pursuant to ACJA § 7-201 (H)(24)(a)(6)(b);
b) Order Coppedge participate in no less than ten (10) hours of continuing education in the curriculum areas of professional responsibility, ethics, and the unauthorized practice of law, in addition to any hours otherwise required for renewal, pursuant to ACJA § 7-201 (H)(24)(a)(6)(f);
c) Impose civil penalties in the amount of $100.00 per found violation to be remitted no later than 60 days following entry of the Board's Final Order, pursuant to ACJA § 7-201 (H)(24)(a)(6)(k).

In the event Coppedge declines the opportunity to enter the Consent Agreement within 20 days of receipt of the Board's offer, it is recommended the matter proceed with the filing and service of Notice of Formal Statement of Charges pursuant to ACJA § 7-201(H)(10) without further Board order.

SUBMITTED BY:

Mark Wilson, 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 12-L018, Misty Coppedge, certificate number 81287, and Southeast Arizona Paralegal Services, certificate number 81288, 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:

_____

_____

_____

_____

_____

Mary Carlton, Chair Date
Board of Legal Document Preparers

BOARD OF LEGAL DOCUMENT PREPARERS

Agenda Summary – December 17, 2012

1) REVIEW OF PENDING COMPLAINTS

1-B: Review, discussion and possible action regarding the possible Consent Agreement resolution of complaint number 07-L075 involving Maria Ortiz.

On September 24, 2012, the Board entered a finding of grounds for formal disciplinary action in complaint umber 07-L075 and offered a proposed Consent Agreement resolution to Ms. Ortiz with a 20 day deadline for entering the agreement. Due to extenuating circumstances, delays prevented Ms. Ortiz from submitting the executed agreement before the deadline. However, she has subsequently submitted the signed agreement. It is recommended the Board move to enter the proposed Consent Agreement resolution of complaint number 07-L075 and authorize the Chair to sign the agreement on behalf of the full Board.

ARIZONA SUPREME COURT
BOARD OF LEGAL DOCUMENT PREPARERS

IN THE MATTER OF CERTIFIED LEGAL DOCUMENT PREPARER: MARIA ORTIZ, Certificate Number 80773.	)	No. 07-L075 CONSENT AGREEMENT

JURISDICTION

Pursuant to Arizona Code of Judicial Administration ("ACJA") § 7-201and ACJA § 7-208, the Board of Legal Document Preparers ("Board") has jurisdiction over this matter as Maria Ortiz ("Ortiz") is a certified legal document preparer. On November 20, 2007, the Certification and Licensing Division ("Division") received a complaint alleging Ortiz failed to obtain and maintain legal document preparer business entity certification for business entity Independent Paralegal Services, LLC, as required by ACJA § 7-208(E)(3)(d)(1). Further, Ortiz failed to submit a timely written response to the complaint as required by ACJA § 7-201(H)(3)(c). On September 11, 2012, Probable Cause Evaluator Mike Baumstark entered a finding probable cause exists in complaint number 07-L075.

On September 24, 2012, the Board accepted the finding of the Probable Cause Evaluator the Board entered a finding grounds for formal disciplinary action exists pursuant to

ACJA § 7-201(H)(6)(a) for acts of misconduct involving ACJA § 7-201(H)(3)(c) and ACJA § 7-208(E)(3)(d)(1).

By entering this Consent Agreement, Ortiz understands she waives her right to a hearing regarding complaint number 07-L075 and agrees to the following Consent Agreement provisions pursuant to ACJA § 7-201(H)(24)(a)(6):

1. The Board finds misconduct and Ortiz acknowledges and accepts responsibility for the found misconduct detailed in the Investigation Summary, Allegation Analysis and Probable Cause Determination Report and Board Order issued in complaint number 07-L075.

2. The Board will issue a Letter of Concern to Ortiz pursuant to ACJA § 7-201(H)(24)(a)(6)(a).

3. Ortiz shall apply for any applicable business entity certification no later than 60 days following the Board's entry into the Consent Agreement, pursuant to ACJA § 7-201(H)(24)(a)(6)(c).

4. The Board imposes and Ortiz agrees to pay a civil penalty in the amount of $2,100.00, the amount equivalent to the business entity certification fees Ortiz would have paid if she had complied with ACJA § 7-208(E)(3)(d)(1). Ortiz shall remit payment of the civil penalty within 60 days of the Board entry into the Consent Agreement. Payment of the civil penalty shall be submitted to the Certification and Licensing Division made payable to the "Arizona Supreme Court".

5. Ortiz understands failure to comply with the terms of this Consent Agreement may result in the Board taking further disciplinary action or denying renewal of certification.

Entered into on this date by:

11/30/2012

Maria Ortiz Date
Certificate Number 80773

Entered into on this date by:

Mary Carlton, Chair Date
Board of Legal Document Preparers

An original copy of the foregoing hand delivered and/or mailed this ____ day of _____, 2012, to:

Maria Ortiz

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

Rex Nowlan, Assistant Attorney General
15 South 15th Avenue
Phoenix, Arizona 85007

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

By: _____
Linda Grau, Manager
Certification and Licensing Division

Y:\COMPLAINT INVESTIGATIONS\OPEN COMPLAINTS\LDP ORTIZ, MARIA 07-L075\CONSENT AGREEMENT ORTIZ 07-L075.DOCX

BOARD OF LEGAL DOCUMENT PREPARERS

Agenda Summary – December 17, 2012

1) REVIEW OF PENDING COMPLAINTS

1-C: Review, discussion and possible action regarding the following certificate holder complaints:

Complaint Number 12-L007 – Dubravka Sinno
Complaint Number 05-L053 – Roy Warden
Complaint Number 08-L045 – Jody Patterson and Simply Legal, Inc.
Complaint Number 11-L011 – Estelle Gaudreau

Complaint Number 12-L007 – Dubravka Sinno:
On November 28, 2012, Probable Cause Evaluator Mike Baumstark entered a finding probable cause does not exist as to Allegations 2 and but does exist as to Allegation 1 in complaint number 12-L007. It is recommended the Board accept the finding of the Probable Cause Evaluator, dismiss Allegations 2 and 3.

Regarding Allegation 3, it is recommended the Board consider, unrelated to this matter and pursuant to Arizona Code of Judicial Administration ("ACJA") § 7-201(D)(5)(c)(1)(a)(vi), recommending the Arizona Supreme Court consider establishing formalized authorities and, if applicable, restrictions pertaining to the use of the Arizona Supreme Court Seal.

Regarding Allegation 1, it is recommended the Board enter a finding Sinno committed the alleged act of misconduct detailed in the Investigation Summary and Allegation Analysis Report. It is further recommended the Board exists pursuant to ACJA § 7-201(H)(6)(a) for an act of misconduct involving ACJA § 7-208(E)(3)(d)(1).

It is recommended the Board offer Sinno a Consent Agreement intended to resolve this complaint, pursuant to ACJA § 7-201(H)(24)(a)(6)(c). It is recommended the proposed Consent Agreement include an acknowledgement of the misconduct, a statement giving notice to Sinno that if she enters the Consent Agreement she waives her right to a hearing, and imposes the following sanctions pursuant to ACJA § 7-201 (H)(24)(a)(6):

a) Issue a Letter of Concern to Sinno, pursuant to ACJA § 7-201(H)(24)(a)(6)(a); and,
b) Impose a civil penalty in the amount of $325.00 to be remitted no later than 60 days following the Board's entry into the Consent Agreement, pursuant to ACJA § 7-201 (H)(24)(a)(6)(k).

In the event Sinno declines the opportunity to enter the Consent Agreement within 20 days of receipt of the Board's offer, it is recommended the matter proceed with the filing and service of Notice of Formal Statement of Charges pursuant to ACJA § 7-201(H)(10) without further Board order.

Complaint Number 05-L053 – Roy Warden:
On November 20, 2012, Probable Cause Evaluator Baumstark entered a finding probable cause does not exists in complaint number 05-L053. It is recommended the Board accept the finding of the Probable Cause Evaluator and dismiss the complaint.

Complaint Number 08-L045 – Jody Patterson and Simply Legal, Inc.:
On November 28, 2012, Probable Cause Evaluator Baumstark entered a finding probable cause exists in complaint number 08-L045. It is recommended the Board enter a finding grounds for disciplinary action exists pursuant to ACJA § 7-201(H)(6)(a) for an act of misconduct involving ACJA § 7-201(F)(1) and ACJA § 7-208(F)(2) and (J)(5)(a). It is recommended the Board close the complaint with no further action other than to maintain the records of this matter for Board consideration if at some time in the future Patterson applies for legal document preparer certification.

Complaint Number 11-L011 – Estelle Gaudreau:
On December 3, 2012, Probable Cause Evaluator Dave Byers entered a finding probable cause exists in complaint number 11-L011. It is recommended the Board accept the finding of the Probable Cause Evaluator and enter a finding grounds for formal disciplinary action exists pursuant to ACJA § 7-201(H)(6)(a), (H)(6)(d), (H)(6)(k)(2), (H)(6)(k)(3) and (H)(6)(k)(9) for acts of misconduct involving ACJA § 7-201(F)(1), ACJA § 7-208(F)(1)(b), (F)(2), (J)(1)(a), (J)(1)(d), (J)(2)(c), (J)(5)(a), (J)(5)(b), Arizona Supreme Court disbarment order in SB-99-0023, Arizona Supreme Court Rule 31 and 11 United States Code § 110(f).

It is recommended the Board enter a finding of grounds for formal disciplinary action, consider the mitigating factor, close the complaint with no further action, and maintain the records of this matter to be considered by the Board if at some time in the future Gaudreau applies for legal document preparer certification. It is further recommended the Board specify this complaint not be used in any future proportionality considerations.

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

CERTIFICATE HOLDER INFORMATION	**Certificate Holder:**	Dubravka Sinno
	Certification Number:	81110 (Active)
	Type of Certificate:	Legal Document Preparer
COMPLAINANT	**Name:**	Eric Smith
INVESTIGATION INFORMATION	**Complaint Number:**	12-L007
	Investigator:	Richard Sczerbicki
	Complaint Received:	January 29, 2012
	Complaint Forwarded to the Certificate Holder:	February 4, 2012
	Response From Certificate Holder Received:	February 8, 2012
	Report Date:	February 14, 2012

The investigation of this complaint included consideration the following:

- Written complaint and documentation submitted by complainant Eric Smith ("Smith")
- Written response and documentation submitted by certificate holder Dubravka Sinno ("Sinno")
- Review of the website http://www.anthemparalegal.com for Anthem Paralegal Services, LLC dba Anthem Legal Services ("ALS")
- Review of applicable Arizona Corporation Commission records
- Review of Secretary of State of Arizona records
- Review of Certification and Licensing Division ("Division") records
- Review of applicable sections of Arizona Codes of Judicial Administration ("ACJA") and § 7-201 and § 7-208 and Arizona Supreme Court Rules

ALLEGATIONS ALLEGED BY COMPLAINANT:

1. Sinno advertises legal document preparation services online for ALS, a non-certified business entity.
2. Non-certificate holder, non-ACJA § 7-208(F)(5) trainee Chip Souza ("Souza") prepares legal documents on behalf of the non-certified business entity.

ADDITIONAL ALLEGATIONS:

3. Sinno and the non-certified business entity displayed the Arizona Supreme Court Seal on the www.anthemparalegal.com website.

SUMMARY OF INVESTIGATION:
Complainant Smith alleged Sinno advertised legal document preparation services online not as an individual, but as a business called "Anthem Legal Services" and the business is not certified. Smith noted the business entity website indicated Souza, a non-certificate holder, is identified on the website as an individual who specializes in and holds expertise in that may lead the public to believe Souza is involved in providing document preparation services on behalf of the business entity. Smith alleged Sinno offers her individual certification on the website in a false and misleading manner to suggest the business is certified.

Division records, Anthem Paralegal Services, LLC dba Anthem Legal Services have never applied for business certification as required by ACJA § 7-208(E)(3)(d)(1). During the investigation, it was discovered the Anthem Legal Services website displays the Arizona Supreme Court Seal in a manner that could mislead the public to believe the business entity is certified or otherwise approved by the Arizona Supreme Court.

INVESTIGATION:
Effective February 23, 2009, the Board of Legal Document Preparers granted individual legal document preparer certification to Sinno. Sinno renewed her individual certification on July 1, 2011 and remains active though the current certification period which ends on June 30, 2013.

On January 29, 2012, the Division received a written complaint from Eric Smith ("Smith") involving Sinno and Anthem Legal Services, LLC. Smith alleged Sinno advertised legal document preparation services online not as an individual, but as a business called "Anthem Legal Services" and the business is not certified. Smith noted the business entity website indicated Souza, a non-certificate holder, is identified on the website as an individual who specializes in and holds expertise in that may lead the public to believe Souza is involved in providing document preparation services on behalf of the business entity. Smith alleged Sinno offers her individual certification on the website in a false and misleading manner to suggest the business is certified. Smith provided the following website link: http://www.anthemparalegal.com/Contact-Us.html. Smith stated:

> Additionally, "Anthem Legal Services" and Ms. Sinno, advertise a Mr. "Chip Souza" as specializing in "business forms and technical writing," yet Mr. Souza is not LDP certified. The general public is led to believe that Mr. Souza is a member of this LDP business and is providing technical expertise in Legal Doc preparation. "Anthem Legal Service" states that Ms. Souza is "OUR certified Legal Document Preparer" which means the business claims to be operating under Ms. Sinno's certification. This is false and misleading. Ms. Sinno should be required to apply for business certification or cease advertising as such.

On February 2, 2012, the Division sent Sinno a copy of the complaint along with a letter notifying Sinno of the ACJA § 7-201(H)(3)(c) requirement she submit a written response

to the complaint within thirty days. Division records show Sinno received the mailing on February 4, 2012.

On February 8, 2012, the Division received a written response of the complaint from Sinno. The written response was presented on "Anthem Legal Services" letterhead and was signed by Sinno, offering her individual certification number and the website www.anthemlegal.com.

In the written response to the complaint, Sinno indicated Souza's role with the business is marketing and advertizing. Sinno reported Souza's legal name is Chip J. Von Guten and noted Souza, under his legal name, is the Manager of the LLC. Souza schedules appointments, handles website administration attends business meetings, but "...is not involved in legal work." Sinno reported she meets with customers, provides information and prepares legal documents; noting she is also a notary. Sinno asserted she is the legal document preparer, Souza is the "marketing director", and ALS customers are "clearly informed" of Sinno's and Souza's differing distinctions. Sinno indicated she believed the LLC was in compliance with ACJA § 7-208 because it does not employ, supervise or train legal document preparers. Sinno confirmed ALS became Anthem Paralegal Services, LLC effective January 24, 2011. Sinno added, "We advertise Legal Document Preparation services as a business because it is a business."

On February 8, 2012, Division Investigator Richard Sczerbicki ("Investigator Sczerbicki") reviewed the Division records and confirmed Souza has never applied for certification. Division records reflect that Anthem Paralegal Services, LLC or Anthem Legal Services does not hold active business certification and has not applied for a business certification. Investigator Sczerbicki reviewed the web link http://www.anthemparalegal.com and observed the home page reads, "Anthem Legal Services." There are five tabs to the website labeled as " home," "wills & trusts," "contracts," "bankruptcy" and "divorce." On the home page contained a section entitled, "Hire an Independent Paralegal" and another section entitled, "Legal Document Preparation." In the left portion of the home page offered, "Independent Paralegal, Monday thru Friday, 9:00 – 5:00pm, 34975 N. Valley Parkway, N/E corner I 17 and Carefree." Sinno confirmed in her written response with this the leased commercial property at which ALS conducts business. The "Hire an Independent Paralegal" stated:

> With more and more people taking it upon themselves to resolve their own legal issues, the court systems are more often being utilized by ordinary citizens representing themselves. Individuals can reserve the right to self-help, and to have open access into the legal system at a reasonable cost.
>
> It is good assurance to know that your legal document preparation can be done by a local expert, in person, and at a reasonable cost, all according to Arizona Statutes and certified by the Supreme Court of Arizona.

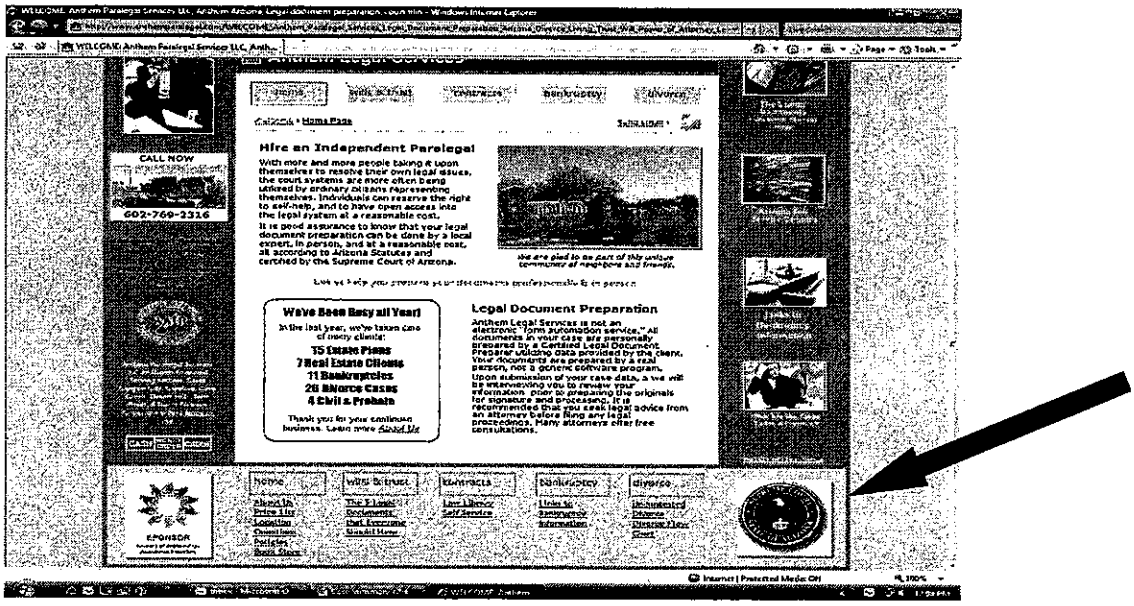
The section "Legal Document Preparation" read:

Anthem Legal Services is not an electronic "form automation service." All documents in your case are personally prepared by a Certified Legal Document Preparer utilizing data provided by the client. Your documents are prepared by a real person, not a generic software program.

Upon submission of your case data, we will be interviewing you to review your information prior to preparing the originals for signature and processing. It is recommended that you seek legal advice from an attorney before filing any legal proceedings. Many attorneys offer free consultations.

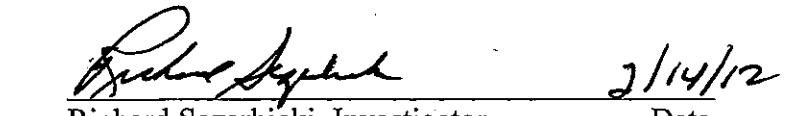
The website pictures a female with a notation, "Debbie Sinno is our licensed Legal Document Preparer."

The Arizona Supreme Court State Seal is also shown on the website pages located in the lower right corner of each page as it is opened. This advertisement could mislead the public to believe that the legal service offered by Anthem Legal Services is certified by the Arizona Supreme Court. Below is a screenshot of the ALS website which displays the Arizona Supreme Court Seal.



On February 9, 2012, Investigator Sczerbicki reviewed the Arizona Corporation Commission records for Anthem Paralegal Services, LLC. The records reflect Souza, by his legal name of Chip Van Gouten, is the Statutory Agent, Member and Manager of the LLC, Sinno is a Member of the LLC. The incorporation date is October 25, 2010 and approval date is March 4, 2011. The stated purpose for the LLC in the Corporation Commission record is "Legal Document Preparation". Investigator Sczerbicki reviewed the Arizona Secretary of State records for ALS and confirmed Anthem Legal Services is an active trade name, beginning December 7, 2010 with a registration date of March 23, 2011 Sinno is identified as the "Agent/Owner" and the business type is listed as "Legal Document Preparation and Mediation, Business Services".

SUBMITTED BY:



Richard Sczerbicki, Investigator — Date
Certification and Licensing Division

ANALYSIS OF ALLEGATIONS:

Allegation 1. Sinno advertises legal document preparation services online for ALS, a non-certified business entity.

ACJA § 7-201(E)(3)(d)(1) provides, in pertinent part:

> Eligibility for Business Entity Standard Certification. All corporations, limited liability companies, partnerships, and all sole proprietorships that offer authorized legal document preparation services to nonrepresented parties and employs certified legal document preparers, or supervises trainees pursuant to subsection (F)(5), shall obtain certification as a business entity.

Sinno acknowledges an ownership/management role in the non-certified LLC and confirmed the purpose of the LLC is to offer and provide document preparation services. While the business entity website accurately identifies Sinno as a certified legal document preparer, it does so in a manner reasonably likely to induce others to believe the business entity is certified. Sinno asserted compliance with the business entity requirement as ALS does not employ, supervise or train legal document preparers. Pursuant to ACJA § 7-201(E)(3)(d)(1), the LLC is required to hold business entity certification. Therefore, Allegation 1 is substantiated.

NOTE: Division records reflect Sinno applied for business entity certification for ALS on October 29, 2012. Sinno failed to disclose this complaint on the business entity application.

Allegation 2.Non-certificate holder, non-ACJA § 7-208(F)(5) trainee Souza prepares legal documents on behalf of the non-certified business entity.

No evidence was presented or obtained that demonstrates Souza has or does provide legal document preparation service on behalf of ALS. Therefore, Allegation 2 is not substantiated.

Allegation 3: Sinno and the non-certified business entity displayed the Arizona Supreme Court Seal on the www.anthemparalegal.com website.

Arizona Revised Statues ("ARS") § 12-103 reads:

> The supreme court shall have a seal as devised and adopted by the judges of the court. The seal shall be kept by the clerk of the court.

Concern regarding the presence of the Arizona Supreme Court Seal ("Seal")on the www.anthemparalegal.com website is twofold. First, the business entity is not certified and the presence of the seal is likely to induce others to believe the business entity held Arizona Supreme Court certification. The business website elaborated by stating in the narrative:

> It is good assurance to know that your legal document preparation can be done by a local expert, in person, and at a reasonable cost, all according to Arizona Statutes and certified by the Supreme Court of Arizona.

The second concern surrounds the actual use of the Seal. ARS § 41-130 establishes the Arizona Secretary of State's authority over the use of the Great Seal of the State of Arizona (the official State Seal) and places restrictions on the use of Great Seal. ARS § 12-103 provides for the existence of the Arizona Supreme Court Seal, to be held in the control of the Arizona Supreme Court Clerk of the Court. However, no provision of ACJA or Arizona Supreme Court Rules authorizes (or appears to prohibits) the commercial use of the Seal.

To the extent ALS' use of the Seal on the www.anthemparalegal.com could have mislead the public to believe ALS held active legal document preparer certification, Allegation 3 is substantiated. However, absent a definitive rule or policy regarding certificate holders or others using the Court's Seal for commercial purposes, if it recommended probable cause not be found with respect to Allegation 3.

REFERRAL TO PROBABLE CAUSE EVALUATOR:

The Investigation Summary and Allegation Analysis Report on complaint number 12-L007 have been reviewed and approved for forwarding to the Probable Cause Evaluator and it is recommended the Probable Cause Evaluator enter a finding probable cause does exist as to Allegation 1 and does not exist as to Allegations 2 and 3.

SUBMITTED BY:

11/8/12

Linda Grau, Unit Manager Date
Certification and Licensing Division

DECISION OF THE PROBABLE CAUSE EVALUATOR:

Having conducted an independent review of the facts and evidence gathered during the course of the investigation of complaint number 12-L007, the Probable Cause Evaluator:

[ ] requests division staff to investigate further.

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

#2 & 3

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

#1

M Baumstark 11/28/12

Mike Baumstark Date
Probable Cause Evaluator

(Sinno/12-L007)

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

CERTIFICATE HOLDER INFORMATION	**Certificate Holder:** **Certification Number:**	Dubravka Sinno 81110 (Active)

RECOMMENDATION TO THE BOARD OF LEGAL DOCUMENT PREPARERS ("BOARD"):

It is recommended the Board accept the finding of the Probable Cause Evaluator and dismiss Allegations 2 and 3 of complaint number 12-L007.

Regarding Allegation 3, it is recommended the Board consider, unrelated to this matter and pursuant to Arizona Code of Judicial Administration ("ACJA") § 7-201(D)(5)(c)(1)(a)(vi), recommend the Arizona Supreme Court consider establishing formalized authorities and, if applicable, restrictions pertaining to the use of the Arizona Supreme Court Seal.

Regarding Allegation 1, it is recommended the Board enter a finding Dubravka Sinno ("Sinno") committed the alleged act of misconduct detailed in the Investigation Summary and Allegation Analysis Report. It is further recommended the Board exists pursuant to ACJA § 7-201(H)(6)(a) for an act of misconduct involving ACJA § 7-208(E)(3)(d)(1).

Mitigating Factors:

1. Absence of prior discipline. This is the first complaint being considered by the Board which involves Sinno. [ACJA § 7-201(H)(22)(b)(1)(a)]
2. Inexperience in the profession. Sinno has held individual certification since February 23, 2009. [ACJA § 7-201(H)(22)(b)(1)(h)]

Aggravating Factors:

None noted.

Proportionality Analysis:

The stated purpose of the Legal Document Preparer Program, as defined by ACJA § 7-208(C), is to:

> Protect the public through the certification of legal document preparers to ensure conformance to the highest ethical standards and performance of responsibilities in a professional and competent manner, in accordance with all applicable statutes, code sections, and Arizona court rules.

Historically, the Board has addressed business entity certification non-compliance by acting in a manner intended to establish compliance either through Consent Agreement resolution. The Board's proposed Consent Agreements have included the imposition of a civil penalty in the amount equivalent to the certification fees which would have been remitted if the business entity had applied for certification as required. In this instance, the LLC was formed in October of 2010 but Sinno did not apply for business entity certification until October of 2012. Sinno acknowledged she provides document preparation services through the business entity. The business entity certification application is presently being processed for Board review.

Based on the mitigating factors and the lack of aggravating factors, it is recommended the Board offer Sinno a Consent Agreement intended to resolve this complaint, pursuant to ACJA § 7-201(H)(24)(a)(6)(c). It is recommended the proposed Consent Agreement include an acknowledgement of the misconduct, a statement giving notice to Sinno that if she enters the Consent Agreement she waives her right to a hearing, and imposes the following sanctions pursuant to ACJA § 7-201 (H)(24)(a)(6):

a) Issue a Letter of Concern to Sinno, pursuant to ACJA § 7-201(H)(24)(a)(6)(a); and,
b) Impose a civil penalty in the amount of $325.00 to be remitted no later than 60 days following the Board's entry into the Consent Agreement, pursuant to ACJA § 7-201 (H)(24)(a)(6)(k).

In the event Sinno declines the opportunity to enter the Consent Agreement within 20 days of receipt of the Board's offer, it is recommended the matter proceed with the filing and service of Notice of Formal Statement of Charges pursuant to ACJA § 7-201(H)(10) without further Board order.

SUBMITTED BY:

12/10/12

Mark Wilson, 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 12-L007 and Dubravka Sinno, certificate number 81110, 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:

_____

_____

_____

_____

Mary Carlton, Chair Date
Board of Legal Document Preparers

Y:\COMPLAINT INVESTIGATIONS\OPEN COMPLAINTS\LDP Sinno, Dubravka 12-L007\Case Summary 12-L007.docx

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

CERTIFICATE HOLDER INFORMATION	**Certificate Holder:** **Certification Number:** **Type of Certificate/License:**	Roy Warden 80736 Legal Document Preparer
COMPLAINANT	**Name:**	Lisa Perez-Leon
INVESTIGATION INFORMATION	**Complaint Number:** **Investigators:**	05-L053 Linda Grau Tony Posante Dara Fonseth

Complaint Received:	June 2, 2005
Complaint Forwarded to Certificate Holder:	June 9, 2005
Certificate Holder Received Complaint:	June 15, 2005
Response from Certificate Holder:	June 17, 2005
Period of Active Certification:	January 31, 2005 – June 30, 2005
Statius of Certification:	Expired
Availability of Certificate Holder:	Unknown
Availability of Complainant:	Available
Report Date:	October 5, 2012

ALLEGATION:

1. Roy Warden ("Warden") sent an email to all certified legal document preparers critical of attorneys, judges, and an unnamed Arizona Supreme Court justice.

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

- Written complaint and documentation submitted by Lisa Perez-Leon ("Perez-Leon")
- Written response and documentation submitted by certificate holder Warden
- Review of applicable Certification and Licensing Division ("Division") records
- Review of applicable sections of Arizona Code of Judicial Administration ("ACJA") § 7-208 in effect at the time of the alleged misconduct, including the ACJA § 7-208 Appendix A Code of Conduct

SUMMARY OF INVESTIGATION:

Perez-Leon forwarded a copy of a document authored by Warden which Perez-Leon believed to be "unbecoming" of a certified legal document preparer. In his written response, Warden was apologetic for inadvertently sending the article to all certified legal document preparers. Warden asserted the article was not written in his capacity as a legal document preparer.

SUMMARY OF FACTUAL FINDINGS OF INVESTIGATION:

1. On June 2, 2005, Division staff received an emailed complaint with an attachment from Perez-Leon. The email stated:

   > This was just emailed to all CLDP's by Roy Warden (AZCLDP#80736); the content of which is unbecoming of a Certified Legal Document Preparer.

2. Perez-Leon attached a copy of the email sent by the organization known as "Common Sense." (commonsense@Syninfo.com). The "To:" section of the email lists known legal document preparer email addresses. The subject of the email was "TUCSON ATTORNEYS KAHN & EUCHNER ARE COWARDS". Attached to the email was a document entitled, "PUBLIC CHALLENGE TO EDMUND KAHN AND DAVID EUCHNER, TUCSON'S OWN "DIRTY LITTLE COWARDS". The document was presented as authored by Warden and Warden is identified in the document as the "Publisher of Common Sense II". Warden wrote, in part:

   > In public, with a "snubby" stuffed in his pants, Kahn likes to swagger, "talk tough" and carefully craft his persona as a "Champion of the People". But behind the scenes both he and Euchner whisper slander, bend over, and spread their buttocks to satisfy the needs of a few corrupt Pima County Superior Court Judges, and a judge who sits on the Arizona Supreme Court.

3. Division records reflect Warden received a notice letter and a copy of the complaint on June 15, 2005 and submitted a written response to the Division on June 17, 2005. In the written response, Warden apologized for having "inadvertently" sending the article to other certified legal document preparers. Regarding the content of the document Warden stated:

   > Regarding the spirit and clear meaning of §7-208: I respectfully point out that I do not publish <u>CSII Press</u> within my capacity or identity as a document preparer.

4. On January 31, 2008, Division Investigator Tony Posante ("Investigator Posante") assumed this investigation. Investigator Posante queried the Division records and determined Edmund Kahn and David Euchner are attorneys admitted to practice law in Arizona. The Superior Court in Pima County judges and Arizona Supreme Court justice reported as being corrupt in Warden's distributed document were not named.

ANALYSIS OF ALLEGATIONS:

Allegation 1. Warden sent an email to all certified legal document preparers critical of attorneys, judges, and an unnamed Arizona Supreme Court justice.

ACJA § 7-208(F)(2) in effect at the time of the alleged misconduct required all certified legal document preparers to comply with the ACJA § 7-208 Appendix A Code of Conduct. Code of Conduct Standard (2)(b) states:

> A legal document preparer shall refrain from denigrating or otherwise calling into disrepute the products or services offered by any other legal document preparer or attorney.

Warden acknowledged he authored, published and distributed a document containing denigrating statements regarding two named attorneys. However, a review of the materials presents no evidence Warden was acting in a legal document preparer capacity. Therefore, Allegation 1 is not substantiated.

REFERRAL TO PROBABLE CAUSE EVALUATOR:
The Investigation Summary and Allegation Analysis Report on complaint number 05-L053 have been reviewed and approved for forwarding to the Probable Cause Evaluator and it is recommended the Probable Cause Evaluator enter a finding probable cause does not exist.

SUBMITTED BY:

10/5/12

Linda Grau, Manager Date
Certification and Licensing Division

DECISION OF THE PROBABLE CAUSE EVALUATOR:
Having conducted an independent review of the facts and evidence gathered during the course of the investigation of complaint number 05-L053, the Probable Cause Evaluator:

[ ] requests division staff to investigate further.

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

#1.

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

_____

Mike Baumstark Date
Probable Cause Evaluator

(Warden/05-L053)

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

CERTIFICATE HOLDER INFORMATION	**Certificate Holder:**	Roy Warden
	Certification Number:	80736

RECOMMENDATION TO THE BOARD OF LEGAL DOCUMENT PREPARERS ("BOARD"):

It is recommended the Board accept the finding of the Probable Cause Evaluator and dismiss complaint number 05-L053.

SUBMITTED BY:

12/5/12

Mark Wilson, 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 05-L053 and Roy Warden, certificate number 80736, 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:

_____

_____

_____

_____

_____

Mary Carlton, Chair Date
Board of Legal Document Preparers

Y:\COMPLAINT INVESTIGATIONS\OPEN COMPLAINTS\LDP Warden, Roy 05-L053\Informal Case Summary Warden 05-L053.docx

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

CERTIFICATE HOLDER INFORMATION	**Certificate Holder:**	Jody Patterson
	Certification Number:	80411 (Expired)
	Business Name:	Simply Legal Inc.
	Certification Number:	80857 (Expired)
	Type of Certificate/License:	Legal Document Preparer
COMPLAINANT	**Name:**	Dennis Arrington
INVESTIGATION INFORMATION	**Complaint Number:**	08-L045
	Investigator:	William MacIntyre Alex (Navarro) Vilchis

Complaint Received:	September 8, 2008
Complaint Forwarded to the Certificate Holder:	September 9, 2008
Certificate Holder Received Complaint:	September 11, 2008
Response From Certificate Holder:	October 9, 2008
Period of Active Certification:	July 28, 2003-June 30, 2009
Status of Certification:	Expired
Availability of Certificate Holder:	Unknown
Availability of Complainant:	Unknown
Report Date:	October 10, 2012

ALLEGATIONS:

1) Dennis Arrington ("Arrington") alleged Jody Patterson ("Patterson") contacted him by phone with questions regarding his pending divorce action and attempted to get Arrington to discuss parenting time and child support.

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

- Written complaint and documentation submitted by complainant Arrington.
- Written response and documentation submitted by certificate holder Patterson
- 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

SUMMARY OF INVESTIGATION:

Arrington alleged Patterson called him and left a message requesting a return call. When he called back, Arrington purportedly told Patterson he would not discuss the pending case with her but Paterson continued to ask case specific questions about Arrington

contesting parenting time and possibly the child support amount. Patterson allegedly told Arrington his refusal to talk to her about the case would result in Patterson drafting his estranged wife Kristen's documents to include he be ordered to pay fees for Kristen.

Patterson submitted a written response to the complaint indicating she was confused about Arrington's complaint. Patterson acknowledged she called Arrington to discuss the case.

SUMMARY OF FACTUAL FINDINGS OF INVESTIGATION:

On September 8, 2008, the Division received a complaint from Arrington alleging he had received an unsolicited phone call from his then estranges wife's legal document preparer, Patterson. Arrington alleged Patterson asked questions about issues pertaining to the divorce action, including whether he wanted to file a joint pre-trial statement, if he was only disputing parenting time, if he had hired a lawyer or paralegal, and if Arrington was disputing the child support amount. Arrington reported he informed Patterson he would not speak to her about the case. Arrington alleged Patterson then told him his refusal to talk to her about the case would result in Patterson drafting Kristen's documents to include he be ordered to pay some of Kristen's fees.

On October 9, 2008, Patterson submitted a written response to the complaint expressing confusion of the nature of Arrington's complaint. However, in the written response, Patterson acknowledged calling Arrington to discuss the then pending divorce action.

Court records reflect the Honorable Hugh Hegyi signed and filed the Decree for Dissolution in open court on September 10, 2008. The Court's Minute Entry of the same date reflects no reference to Arrington incurring fees for Kristen.

SUBMITTED BY:

10/10/12

William MacIntyre, Investigator Date
Certification and Licensing Division

ANALYSIS OF ALLEGATIONS:

Allegation 1. Arrington alleged Patterson contacted him by phone with questions regarding his pending divorce action and attempted to get Arrington to discuss parenting time and child support.

Arizona Supreme Court Rule 31(a)(2)(B) ("Rule 31") defines the unauthorized practice of law. Rule 31(d) provides a list of exemption to the unauthorized practice of law. Rule 31(d)(24) reads, in pertinent part:

> Nothing in these rules shall prohibit a certified legal document preparer from performing services in compliance with Arizona Code of Judicial Administration, Part 7, Chapter 2, Section 7-208.

ACJA § 7-208(F)(1) provides a list of authorized services for legal document preparers. No provision of Rule 31 or ACJA § 7-208 authorizes a certified legal document to contact an opposing party of their customer or attempt to negotiate a settlement of a dispute.

ACJA § 7-201(F)(1) and § 7-208(F)(2) require all certified legal document preparers to comply with the Code of Conduct contained in ACJA § 7-208(J). ACJA § 7-208(J)(a) requires:

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

Patterson acknowledged she contacted Arrington for the purpose of discussing the case. Therefore, Allegation 1 is substantiated.

REFERRAL TO PROBABLE CAUSE EVALUATOR:
The Investigation Summary and Allegation Analysis Report on complaint number 08-L045 have been reviewed and approved for forwarding to the Probable Cause Evaluator and it is recommended the Probable Cause Evaluator enter a finding probable cause exists.

SUBMITTED BY:

10/23/12

Linda Grau, Unit Manager Date
Certification and Licensing Division

DECISION OF THE PROBABLE CAUSE EVALUATOR:
Having conducted an independent review of the facts and evidence gathered during the course of the investigation of complaint number 08-L045, the Probable Cause Evaluator:

[ ] requests division staff to investigate further.

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

_____

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

#1.

M Baumstark 11/26/12

Mike Baumstark Date
Probable Cause Evaluator

(Patterson/08-L045)

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

CERTIFICATE HOLDER INFORMATION	**Certificate Holder:**	Jody Patterson
	Certification Number:	80411 (Expired)
	Business Name:	Simply Legal Inc.
	Certificate Number:	80857 (Expired)

RECOMMENDATION TO THE BOARD OF LEGAL DOCUMENT PREAPRERS ("BOARD"):

It is recommended the Board accept the finding of the Probable Cause Evaluator and enter a finding Jody Patterson committed the alleged act of misconduct detailed in the Investigation Summary and Allegation Analysis Report in complaint number 08-L045.

It is recommended the Board enter a finding grounds for disciplinary action exists pursuant to Arizona Code of Judicial Administration ("ACJA") § 7-201(H)(6)(a) for an act of misconduct involving ACJA § 7-201(F)(1) and ACJA § 7-208(F)(2) and (J)(5)(a).

Mitigating Factors:

1. Delays in the proceeding. This complaint was received on September 8, 2008. [ACJA § 7-201(H)(22)(b)(1)(l)]
2. Patterson's individual and business entity certifications expired on June 30, 2009 and her present whereabouts is unknown.

Aggravating Factors – None noted.

It is recommended the Board consider the mitigating factors, enter a finding of grounds for disciplinary action, close the complaint with no further action, and maintain the records of this matter to be considered by the Board if at some time in the future Patterson applies for legal document preparer certification.

SUBMITTED BY:

12/5/12

Mark Wilson, 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 08-L045 and Jody Patterson, certificate number 80411, 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:

_____

_____

_____

_____

_____

Mary Carlton, Chair Date
Board of Legal Document Preparers

Y:\COMPLAINT INVESTIGATIONS\OPEN COMPLAINTS\LDP Patterson, Jody 08-L045\Final Informal Case Summary 08-L045.docx

ARIZONA SUPREME COURT
ADMINISTRATIVE OFFICE OF THE COURTS
INVESTIGATION SUMMARY

CERTIFICATE HOLDER INFORMATION	**Certificate Holder:** **Certification Number:** **Type of Certificate/License:**	Estelle Gaudreau 80039 (Expired) Legal Document Preparer
COMPLAINANT	**Name:**	Mike Baumstark, Arizona Office of the Court, Deputy Director
INVESTIGATION INFORMATION	**Complaint Number:** **Investigators:**	11-L011 Alex Vilchis Richard Sczerbicki
	Complaint Received: **Complaint Forwarded to the Certificate Holder:** **Response From Certificate Holder Received:** **Report Date:**	March 7, 2011 March 7, 2011 March 22, 2011 July 9, 2012

The investigation of this complaint included the following:

- Written complaint and documentation submitted by complainant
- Written response and documentation submitted by certificate holder Estelle Gaudreau ("Gaudreau")
- Review of Bankruptcy Court records
- Review of Certification and Licensing Division ("Division") records
- Review of applicable Arizona Code of Judicial Administration ("ACJA") §§ 7-201 and 208, and Arizona Supreme Court Rules

ALLEGATIONS ALLEGED BY COMPLAINANT:

1. Certified legal document preparer Estelle Gaudreau ("Gaudreau") engaged document preparation activities while offering bankruptcy petition preparation services that constitute violation of the ACJA § 7-208(J) Code of Conduct and 11 United States Code ("USC") § 110.
2. Gaudreau engaged in the unauthorized practice of law by providing legal advice to consumers regarding their bankruptcy petition filings.
3. Gaudreau knowingly offered and engaged in providing legal document preparation services with support and assistance from disbarred attorney Duane Varbel ("Varbel"), in violation of a disbarment order issued in Arizona Supreme Court case number SB-99-0023 on June 11, 1999.

SUMMARY OF INVESTIGATION:

In his written complaint, Deputy Director Baumstark indicated Gaudreau appeared to have violated the ACJA § 7-208(J) Code of Conduct and 11 United States Code ("USC")

§ 110 by engaging in numerous activities while offering bankruptcy petition preparation services. Further, Deputy Director Baumstark stated Gaudreau engaged in the unauthorized practice of law by providing her consumers with legal advice regarding their bankruptcy petition filings and knowingly offered and engaged in providing document preparation services with the support and assistance of disbarred attorney Varbel. In her written response, Gaudreau denied all allegations stating she only types on the template forms the information that is provided to her by her consumers. Regarding Varbel, Gaudreau indicated she knows him because she rents office space from Varbel and rarely saw or spoke to him.

INVESTIGATION:

Gaudreau was granted certification effective July 1, 2003. Gaudreau has not successfully renewed her certification by not sending in money with her application therefore her certification expired on June 30, 2011. Gaudreau' business entity, ABC E-Z Legal Forms and Packets, held active certification from July 1, 2003 through June 30, 2006. Gaudreau was the named designated principal for the business entity and when she did not seek renewal of business entity certification for the 2006-07 certificate periods, ABC's certification expired on June 30, 2006.

On March 7, 2011, the Division received a Director Initiated Complaint from Acting Director Baumstark regarding Gaudreau's possible unauthorized practice of law, and in engaged in numerous activities while offering bankruptcy petition preparation services that, if true, constitute violation of the ACJA § 7-208(J) Code of Conduct and 11 United States Code ("USC") § 110.

Deputy Director Baumstark indicated Gaudreau knowingly offered and engaged in providing legal document preparation services with support and assistance from disbarred attorney Varbel, in violation of a disbarment order issued in Arizona Supreme Court case number SB-99-0023 on June 11, 1999.

Division staff reviewed Chief Justice Thomas A. Zlaket's (Chief Justice Zlaket") Judgment and Order dated June 11, 1999 indicating Varbel was disbarred from the practice of law in the State of Arizona.

Division staff reviewed Trustee Russell Brown's ("Trustee Brown") petition of a *Chapter 13 Trustee's Application for Order to Show Cause Against Duane Varbel and Estelle Gaudreau* ("Order to Show Cause") on November 5, 2008, under Bankruptcy Court case number 2-08-BK-08613 RTB (In re: Rowedder) reads in part,

> The Trustee has reason to believe that Estelle Gaudreau (hereinafter "Gaudreau") aided and assisted Varbel in this practice by acting as a front/shill/straw-person for Varbel. Gaudreau has allowed Varbel to circumvent and disregard the Permanent Injunctions by allowing him to engage in the proscribed activates under the umbrella of her certification.

Trustee Brown indicate he had identified at least eleven other Chapter 13 cases assigned to him which gave him reason to believe Varbel had acted as a bankruptcy petition preparer and a debt relief agency in violation of the Permanent Injunctions issued by the Bankruptcy Court. Brown stated each of the Chapter 13 petitions include the name, address, and AZCLDP number identifying Gaudreau as the person responsible for preparing the document. Further, Gaudreau was subject to a $500.00 penalty for each case she prepared pursuant to §110(1)(1) for providing legal advice as prohibited by 11 U.S.C. §110(e)(2)(A). The cases are as followed:

Williams case number 2-07-bk-07008 GVN was filed December 20, 2007. Trustee Brown indicated,

> At the February 13, 2008 Meeting of Creditors, the Trustee showed the Debtor a picture of Varbel and the Debtor positively identified Varbel as the person he met with at the Document Preparer's office. He explained that he and Varbel had discussed his financial situation and that Varbel had advised/assisted him...Debtor paid Gaudreau $200.00.

Miles case number 2-07-bk-07034 GBN was filed on December 21, 2007. Trustee Brown indicated,

> At the January 30, 2008 Meeting of Creditors, the Trustee showed the Debtor a picture of Varbel and the Debtor positively identified Varbel as the person he met with at the Document Preparer's office. He explained that he and Varbel had discussed his financial situation and that Varbel had advised/assisted him...Debtor paid Gaudreau $200.00.

Michaelson case number 2-08-bk-00567 EWH was filed on January 22, 2008. Trustee Brown stated,

> At the March 5, 2008 Meeting of Creditors, the Trustee showed the Debtor a picture of Varbel and the Debtor positively identified Varbel as the person he twice met with at the Document Preparer's office. In fact, he noted that Varbel was the *only* person that he had met with... [Enphasis included] Debtor paid Gaudreau $200.00.

Hargraves case number 2-08-bk-01035 GBN was filed on February 4, 2008 and debtor has subsequently retained attorney Larry Karandreas ("Karandreas") to represent them. Trustee Brown stated,

> According to information supplied by Karandreas, the Debtors believe they may have met with Varbel. In addition, they were specifically told by Gaudreau that they did not need to list certain assets, including non-exempt household goods, several firearms, and three of their four vehicles...Debtors paid Gaudreau $200.00.

Holifield case number 2-08bk-01645 GBN was filed on February 22, 2008 and Debtors subsequently retained Karandreas to represent them. Trustee Brown indicated,

> According to information supplied by Karandreas, the Debtors believe they met with Varbel. They were told that document preparers do the same job as an attorney, but they don't charge as much. The February 23, 2008 Disclosure of Compensation of Bankruptcy Petition Preparer (Docket #5) fails to identify the amount Debtors paid to their document preparer.

McLemore case number 2-08-bk-05040 GBN was filed May 1, 2008. Trustee Brown indicated,

> At the June 11, 2008 Meeting of Creditors, the Trustee showed the Debtors a picture of Varbel and the Debtors positively identified Varbel as the person they met with at the Document Preparer's office. They explained that they discussed their financial situation with Varbel and that he had reviewed their credit report and bank account information...Debtors paid Gaudreau $200.00.

Andrews case number 2-08-bk-05052 GBN was filed May 1, 2008. Trustee Brown indicated,

> At the June 11, 2008 Meeting of Creditors, the Trustee showed the Debtor a picture of Varbel and the Debtors positively identified Varbel as the person they met with at the Document Preparer's office. She explained that she and Varbel had discussed her financial situation and that Varbel had advised/assisted her...Debtor paid Gaudreau $200.00.

Bentancourt/Garcia case number 2-08-bk-08538 GBN was filed on July 11, 2008. Trustee Brown stated,

> At the August 13, 2008 Meeting of Creditors, the Trustee showed the Debtors a picture of Varbel and the Debtors positively identified Varbel as the person they met with at the Document Preparer's office. They explained that they had discussed their financial situation with Varbel and that he had advised/assisted her...Debtor paid Gaudreau $200.00.

Grochowski case number 2-08-bk-08566 SSC was filed July 11, 2008. Trustee Brown stated,

> At the August 13, 2008 Meeting of Creditors, the Trustee showed the Debtors a picture of Varbel and the Debtors positively identified Varbel as the person they met with at the Document Preparer's office. They explained that they had discussed their financial situation with Varbel and that he had advised/assisted her...Debtor paid Gaudreau $200.00.

Hess case number 2-08-bk-10240 CGC was filed August 11, 2008. Trustee Brown stated,

> At the September 17, 2008 Meeting of Creditors, the Trustee showed the Debtor a picture of Varbel and the Debtors positively identified Varbel as the person they met with at the Document Preparer's office. She explained that she and Varbel had discussed her financial situation and that Varbel and advised her about the different bankruptcy chapters and the bankruptcy process...Debtor paid Gaudreau $200.00.

Trustee Brown stated his office was assigned fourteen other cases in which Gaudreau had signed the petition in her capacity as a legal document preparer; however, because the debtors were not examined by Trustee Brown during their Meeting of Creditors regarding possible contact with Varbel, Trustee Brown was unable "to state definitively without further discovery, whether these debtors had any involvement with Varbel."

Page 8 line 10 of the Order to Show Cause stated that the Bankruptcy Petition Preparer ("BPP") [Gaudreau and Varbel] failed to include the required three disclosures [signature, print his name and address, and identifying number] in representation of a separate violation which subjected Gaudreau and Varbel to a $500.00 penalty for each violation pursuant to 11 U.S.C. §110(1)(1).

Page 8, line 18 reads in part,

> While Gaudreau has provided the required disclosures on the Petition, Statement of Financial Affairs, and the Schedules A-J, she has failed to include the required disclosures on the Master Mailing List, Declaration of Evidence of Employer Payments, Statement of Current Monthly Income and Disposable Income, and Chapter 13 Plan. She is therefore liable for $6,000.00 per case.

Page 9, line 10 indicates Gaudreau was advertising legal services in violation of 11 U.S.C. §110(f) which prohibits a BPP from using the word "legal" or any similar term in his/her advertisements and Gaudreaus advertised her services under the trade name "ABC E-Z Legal Forms & Packets" and was subject to a $500.00 penalty for each case she prepared pursuant to §110(1)(1).

Pursuant to 11 U.S.C §110(g), a BPP is prohibited from collecting or receiving any payment from a debtor for the court filing fees. Page 9, line 17 reads in part,

> In the Miles case and McLemore case, Debtors' responses on the Trustee's Pro Per Questionnaires indicated that they paid the court filing fee to Gaudreau...Collecting the filing fees subjects Gaudreau to a $500.00 penalty for each case pursuant to §110(1)(1). Bringing the total to $1,000.00 for both cases. There may be other, as yet undiscovered, filing fees collected by Gaudreau in other cases.
>
> Since Gaudreau advised Hargraves to exclude assets in violation of 11 U.S.C. §110(1)(2)(A) and Varbel and Gaudreau have each prepared at least one

> document for filing in a manner that failed to disclose his identity in violation of 11 U.S.C. §110(1)(2)(D), the Court is required to triple the amount of all fines assessed pursuant to 11 U.S.C. §110(1)(1).

On page 11, line 4, Trustee Brown indicates Varbel violated previous injunctions with the cooperation and assistance of Estelle Gaudreau, "by knowingly providing Varbel with a means/mechanism to evade the terms of these Orders, Gaudreau should also be held in contempt of court" referring to the June 11, 1999 disbarment order signed by Chief Justice Zlaket's; the November 5, 2002, Order requiring Varbel to comply with the 11 U.S.C. § 110 signed by the Honorable Randall J. Haines; the agreed Order permanently enjoining Varbel, Heimer, Alfred McEwen and Bankruptcy and Divorce from providing any bankruptcy related services.

On March 7, 2011, the Division sent Gaudreau a copy of the complaint along with a letter notifying Gaudreau of the ACJA § 7-201(H)(3)(c) requirement she provide a written response to the complaint within thirty (30) days. Division records reflect Gaudreau signed for the mailing on March 14, 2011.

On March 22, 2011, Gaudreau submitted a written response to the complaint. In her written response, Gaudreau indicated she contacted Rae Heimer ("Heimer") [no date provided] who agreed to share the cost for adding the word Bankruptcy to Heimer's advertisement. Heimer also agreed to share the rent for office space at 802 W. Osborn Rd, Phoenix, Arizona and agreed to share the cost of phone number 602-0253-5292 provided to Heimer by Varbel. Gaudreau asserted she has since move back to her old office space on Bethany Home Road.

Gaudreau stated, she "rarely saw or spoke with Varbel," and indicated Varbel told her he could not provide any type of help preparing bankruptcies but since Gaudreau had enough experience, she did not need any help with the preparation of bankruptcy petitions for her clients.

Regarding Trustee Brown's concerns she helped aid and assist Varbel in preparing bankruptcy petitions by "acting as a front/shill/straw-person for Varbel," Gaudreau stated "Russell Brown does not state any bases for his belief, he just slanders me without any foundation." Gaudreau asserted Varbel owns other businesses which he runs from his office [same office space Gaudreau rented/leased with Heimer at some point] but indicated Varbel has never been part of her business operation. Gaudreau stated:

> I have never authorized Duane to talk to any of my customers about their bankruptcy petitions.
>
> On the other hand, the attorney for the Hargraves by stating I told them to leave out something on their bankruptcy petition could relieve this client from the sanctions of the Bankruptcy Court. Or maybe the Hargraves made up the story to tell their attorney to avoid sanctions of the court.

On January 12, 2010, Gaudreau entered a *Stipulation for an Order Requiring Bankruptcy Petition Preparer Estelle Gaudreau to Comply with 11 U.S.C. §§ 110, 526, 527, and 528; Not to Engage in the Unauthorized Practice of Law; and Enjoining her From Preparing Documents for Filing Under Chapter 13* with Trustee Brown. In the Stipulation, Gaudreau agreed to no longer prepare Chapter 13 bankruptcies, acknowledged having business relationship with Varbel, offering and providing bankruptcy related services through a commercial location for which Varbel holds the lease, and to using the same business phone number as Varbel through various advertizing mediums.

On January 13, 2010, the Honorable Redfield T. Baum entered an *Order Requiring Bankruptcy Petition Preparer Estelle Gaudreau to Comply with 11 U.S.C. §§ 110, 526, 527, and 528; Not to Engage in the Unauthorized Practice of Law; and Enjoining her From Preparing Documents for Filing Under Chapter 13*. The Order includes:

> Gaudreau is enjoined from any role, directly or indirectly, in the preparation of bankruptcy or other documents to be filed with the United States Bankruptcy Court for the District of Arizona under Chapter 13 of Title 11. Prohibited activities include but are not limited to assisting, advising, instructing, or counseling potential Chapter 13 Debtors, and preparing, filing, causing to have prepared, or causing to have filed any Chapter 13 bankruptcy documents.
>
> Pursuant to 11 U.S.C. § 110(e)(2)(A), Gaudreau shall not provide any debtor or potential bankruptcy debtor with any legal advice.
>
> Gaudreau shall not engage in any activity which may be construed as the practice of law regardless of bankruptcy chapter.
>
> Gaudreau shall not make any statement, or counsel or advise any debtor or prospective debtor to make a statement in a document filed in a case that is untrue or misleading or that upon the exercise of reasonable care, should have been known by Gaudreau to be untrue or misleading.
>
> Gaudreau shall not do any act or attempt to evade this Order by any scheme, entity, business organization (e.g. corporation, limited liability company or partnership), device, mechanism, artifice, or use of an attorney. This Order applies regardless of individual name, capacity, trade name or "front," and whether acting as, by or through an individual, franchisee, franchiser, partner, employee, employer, investor, shareholder or attorney.
>
> Pursuant to Local Rule 2090(sic)-2(a), should Gaudreau no longer be licensed as a Certified Legal Document Preparer by the Arizona Supreme Court, then she can no longer act as a bankruptcy petition preparer.

ANALYSIS OF ALLEGATIONS:

Allegation 1. Certified legal document preparer Estelle Gaudreau ("Gaudreau") engaged in document preparation activities while offering bankruptcy petition preparation services that constitute violation of the ACJA § 7-208(J) Code of Conduct and 11 United States Code ("USC") § 110.

ACJA § 7-201(F)(1) and ACJA § 7-208(F)(2) require all certified legal document preparers to comply with the ACJA § 7-208(J) Code of Conduct. ACJA § 7-208(J)(1)(a) states:

> A legal document preparer shall avoid impropriety and the appearance of impropriety in all activities, shall respect and comply with the laws, and shall act at all times in a manner that promotes public confidence in the integrity and impartiality of the legal and judicial systems.

ACJA § 7-208(J)(1)(d) reads, in part:

> A legal document preparer shall not engage in unethical or unprofessional conduct in any professional dealings that are harmful or detrimental to the public.

ACJA § 7-208(J)(2)(c) states:

> A legal document preparer shall maintain and observe the highest standards of integrity and truthfulness in all professional dealings.

ACJA § 7-208(J)(5)(a) states:

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

11 USC § 110(f) states:

> (f) A bankruptcy petition preparer shall not use the word "legal" or any similar term in any advertisements, or advertise under any category that includes the word "legal" or any similar term.

Trustee Brown indicate he had identified at least eleven Chapter 13 cases assigned to him which gave him reason to believe Varbel had acted as a bankruptcy petition preparer and a debt relief agency in violation of the Permanent Injunctions issued by the Bankruptcy Court. Brown stated each of the Chapter 13 petitions include the name, address, and AZCLDP number identifying Gaudreau as the person responsible for preparing the document. Varbel was identified in these cases as the person Graudeau's customers had consulted with about their bankruptcy.

The Order to Show Cause stated that the Bankruptcy Petition Preparer Page 9, line 10 indicates Gaudreau was advertising legal services in violation of 11 U.S.C. §110(f) which

prohibits a BPP from using the word "legal" or any similar term in his/her advertisements and Gaudreau advertised her services under the trade name "ABC E-Z Legal Forms & Packets." Therefore allegation 1 is substantiated.

Allegation 2. Gaudreau engaged in the unauthorized practice of law by providing legal advice to consumers regarding their bankruptcy petition filings.
The Arizona Supreme Court Rule 31(a)(2)(A) definition of the "practice of law" includes legal document preparation; preparing or expressing legal opinions; representing another in a judicial, quasi-judicial, or administrative proceeding, or other formal dispute resolution process; and negotiating legal rights or responsibilities for a specific person or entity. Rule 31(a)(2)(B) contained a definition of the "unauthorized practice of law" and Rule 31(d) provides a list of "exceptions" to the unauthorized practice of law which included:

> Nothing in these rules shall prohibit a certified legal document preparer from performing services in compliance with Arizona Code of Judicial Administration, Part 7, Chapter 2, Section 7-208.

ACJA § 7-208(F)(1) provides a list of "authorized services" for certified legal document preparers and the then Appendix A Code of Conduct established additional standards for certificate holder. ACJA § 7-208(F)(1)(b) provides a certified legal document is authorized to:

> Provide general legal information, but may not provide any kind of specific advice, opinion, or recommendation to a consumer about possible legal rights, remedies, defenses, options, or strategies.

ACJA § 7-201(F)(1) and ACJA § 7-208(F)(2) required all certified legal document preparers to comply with the ACJA § 7-208(J) Code of Conduct. ACJA § 7-208(J)(5)(b) reads, in part:

> A legal document preparer shall not represent they are authorized to practice law in this state, nor shall the legal document preparer provide legal advice or services to another by expressing legal opinions, either verbal or written, or by representing another in a judicial, quasi-judicial, or administrative proceeding, or other formal dispute resolution process, except as authorized by Rule 31(d)...

No provision of Rule 31, ACJA or the Code of Conduct authorizes a certified legal document preparer to engage in providing legal advice. The Hargraves's were specifically told by Gaudreau that they did not need to list certain assets, including non-exempt household goods, several firearms, and three of their four vehicles. Therefore allegation 2 is substantiated.

Allegation 3. Gaudreau knowingly offered and engaged in providing legal document preparation services with support and assistance from disbarred attorney Duane

Varbel ("Varbel"), in violation of a disbarment order issued in Arizona Supreme Court case number SB-99-0023 on June 11, 1999.
Arizona Supreme Court Rule 31(c) reads:

> Restrictions on Disbarred Attorneys' and Members' Right to Practice. No member who is currently suspended or on disability inactive status and no former member who has been disbarred shall practice law in this state or represent in any way that he or she may practice law in this state.

ACJA § 7-208(J)(1)(a) states:

> A legal document preparer shall avoid impropriety and the appearance of impropriety in all activities, shall respect and comply with the laws, and shall act at all times in a manner that promotes public confidence in the integrity and impartiality of the legal and judicial systems.

ACJA § 7-208(J)(1)(d) reads, in part:

> A legal document preparer shall not engage in unethical or unprofessional conduct in any professional dealings that are harmful or detrimental to the public.

ACJA § 7-208(J)(2)(c) states:

> A legal document preparer shall maintain and observe the highest standards of integrity and truthfulness in all professional dealings.

ACJA § 7-208(J)(5)(a) states:

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

Trustee Brown indicated he had identified at least eleven other Chapter 13 cases assigned to him which in which persons identified Varbel assisting them with their bankruptcy filings. Brown stated each of the Chapter 13 petitions included the name, address, and AZCLDP number identifying Gaudreau as the person responsible for preparing the documents in these cases.

On January 12, 2010, Gaudreau entered a *Stipulation for an Order Requiring Bankruptcy Petition Preparer Estelle Gaudreau to Comply with 11 U.S.C. §§ 110, 526, 527, and 528; Not to Engage in the Unauthorized Practice of Law; and Enjoining her From Preparing Documents for Filing Under Chapter 13* with Trustee Brown. In the Stipulation, Gaudreau acknowledged having business relationship with Varbel, offering and providing bankruptcy related services through a commercial location for which Varbel holds the lease, and to using the same business phone number as Varbel through various advertizing mediums. Therefore allegation 3 is substantiated.

SUBMITTED BY:

11/9/12

Richard Sczerbicki, Investigator — Date
Certification and Licensing Division

REVIEWED BY:

11/13/12

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 11-L011, 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):

_____

12-3-12

~~Mike Baumstark~~ — Date
Probable Cause Evaluator

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

CERTIFICATE HOLDER INFORMATION	**Certificate Holder:** **Certification Number:**	Estelle Gaudreau 80039 (Expired)

RECOMMENDATION TO THE BOARD OF LEGAL DOCUMENT PREPARERS ("BOARD"):

It is recommended the Board accept the finding of the Probable Cause Evaluator and enter a finding Estelle Gaudreau ("Gaudreau") committed the alleged acts of misconduct detailed in the Investigation Summary and Allegation Analysis Report in complaint number 11-L011.

It is further recommended the Board enter a finding grounds for formal disciplinary action exists pursuant to Arizona Code of Judicial Administration ("ACJA") § 7-201(H)(6)(a), (H)(6)(d), (H)(6)(k)(2), (H)(6)(k)(3) and (H)(6)(k)(9) for acts of misconduct involving ACJA § 7-201(F)(1), ACJA § 7-208(F)(1)(b), (F)(2), (J)(1)(a), (J)(1)(d), (J)(2)(c), (J)(5)(a), (J)(5)(b), Arizona Supreme Court disbarment order in SB-99-0023, Arizona Supreme Court Rule 31 and 11 United States Code § 110(f).

Mitigating Factor:

1. Gaudreau no longer holds legal document preparer certification.

Aggravating Factors:

1. Bad faith. Gaudreau knowingly and willingly assisted disbarred attorney Duane Varbel ("Varbel") in violating the Arizona Supreme Court disbarment order issued against Varbel on June 11, 1999. [ACJA § 7-201(H)(22)(b)(2)(e)]
2. Refusal to acknowledge wrongful nature of the misconduct. [ACJA § 7-201(H)(22)(b)(2)(g)]

Proportionality Analysis:

The stated purpose of the Legal Document Preparer Program, as defined by ACJA § 7-208(C), is to:

> Protect the public through the certification of legal document preparers to ensure conformance to the highest ethical standards and performance of responsibilities in a professional and competent manner, in accordance with all applicable statutes, code sections, and Arizona court rules.

Historically, the Board has recognized engaging in the unauthorized practice of law, assisting others in circumventing certification requirements and disbarment orders, and violating court orders and bankruptcy court rules as serious matters and a threat to the protection of the public with recognition of the potential harm to the public, judicial system, and legal document preparer profession. Prior actions by the Board in other matters which found violations similar to the alleged act of misconduct have included revocation or suspension of certification, restitution and cease and desist orders, imposition of civil penalties and assessment of investigative costs and the related proceedings, mandated participation in continuing education, and stated conditions for reinstatement.

It is recommended the Board enter a finding of grounds for formal disciplinary action, consider the mitigating factor, close the complaint with no further action, and maintain the records of this matter to be considered by the Board if at some time in the future Gaudreau applies for legal document preparer certification.

It is further recommended the Board specify this complaint not be used in any future proportionality considerations.

SUBMITTED BY:

12/12/12

Mark Wilson, 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 11-L011 and Estelle Gaudreau, certificate number 80039, 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:

_____

_____

_____

_____

_____

Mary Carlton, Chair Date
Board of Legal Document Preparers

Y:\COMPLAINT INVESTIGATIONS\OPEN COMPLAINTS\LDP Gaudreau, Estelle 11-L011\Final Case Summary 11-L011.docx