

**ARIZONA SUPREME COURT
ADMINISTRATIVE OFFICE OF THE COURTS
INVESTIGATION SUMMARY**

CERTIFICATE HOLDER/LICENSEE INFORMATION	Certificate Holder:	Greg Sulzer
	Certification Number:	20623
	Business Name:	Arizona Department of Veterans' Services
	Certification Number:	20135
	Type of Certificate/License:	Fiduciary

COMPLAINANT	Name:	Honorable Rosa Mroz Superior Court in Maricopa County
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INVESTIGATION INFORMATION	Complaint Number:	10-0014
	Investigators:	Alex Navarro Eric Thomas Richard Sczerbicki Anne Hunter

Complaint Received:	October 15, 2010
Complaint Forwarded to the Certificate Holder:	October 18, 2010
Certificate Holder/Licensee Received Complaint:	October 20, 2010
Response From Certificate Holder:	November 11, 2010
Period of Active Certification/Licensure:	9/10/2009 – 05/10/2012
Period of Business Active Certification/Licensure:	3/30/1999 - current
Status of Certification/License:	Vol. Surrender 05/10/12
Status of Business Certification/License:	Active
Availability of Certificate Holder/Licensee:	Available
Availability of Complainant:	Available
Report Date:	November 27, 2013

ALLEGATIONS:

1. ADVS failed to meet reporting deadlines in the following cases: a.) PB0000-59279 (Rudolfo B. Corrales), b.) PB0000-68215 (Alex Buckner), c.) PB1996-000864 (Fred S. Tinal) and d.) PB2005-001678 (Sally A. Hoppe).
2. ADVS failed to provide an Inventory and Appraisement to the heirs of the decedent within 90 days of Letters of Appointment ("Letters") having been issued as required by Rule 31(A)(1) in PB0000-59279 (Rudolfo B. Corrales), PB1996-000864 (Fred S Tinal) and PB2008-000514 (Joseph Bonfante).
3. ADVS acted as a fiduciary in the estates of PB2001-000667 (Joseph Polidoro) and PB2009-090576 (Howard Uhr) without the authority to act as no Letters had been issued.

ADDITIONAL ALLEGATIONS:

4. ADVS failed to include its name and fiduciary license number on court documents as required by ACJA § 7-202(F)(3).
5. ADVS designated principal, Greg Sulzer, failed to actively and directly supervise ADVS staff to ensure ADVS complied with the law and court orders.

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

The investigation of this complaint included review the following:

- PB2010-000055 Ruling, Honorable Rosa Mroz (“Judge Mroz”)
- Arizona Department of Veterans’ Services (“ADVS”) written response and documentation submitted by the designated principal Greg Sulzer
- Applicable Certification and Licensing Division (“Division”) records
- Maricopa County Superior Court records for:
 - PB0000-59279 (Rudolfo Corrales)
 - PB0000-68215 (Alex Buckner)
 - PB2005-001678 (Sally A. Hoppe)
 - PB1996-000864 (Fred S. Tinall)
 - PB2008-000514 (Joseph Bonfante)
 - PB2001-000667 (Joseph Polidoro)
 - PB2009-090576 (Howard Uhr)
- Applicable sections of Arizona Revised Statutes (“ARS”), Arizona Code of Judicial Administration (“ACJA”) §7-201 and §7-202, and Arizona Supreme Court Rules

PERSONS INTERVIEWED:

1. Greg Sulzer, ADVS Designated Principal (**see Appendix A**)
2. Michael Bosco, Attorney, Tiffany and Bosco, P.A.
3. Khalil Chuck Saigh, Attorney, Dyer and Ferris law firm
4. Susan Court, Attorney
5. Peggy Timms, Paralegal, Jackson White law firm

SUMMARY OF INVESTIGATION:

On October 15, 2010, the Division received and reviewed a Minute Entry/Ruling from Judge Mroz (dated October 8, 2010) which indicated that the Probate Court Administration performed a compliance review of ADVS cases and found multiple instances in which ADVS failed to discharge the duties of a fiduciary. Specifically, the Court found that in four (4) cases ADVS failed to meet required time frames in filing case accountings, in three (3) cases failed to provide Inventory and Appraisements to the heirs of a decedent within required time frames and in two (2) cases acted as a fiduciary without the authority to do so. This compliance review and Judge Mroz's subsequent ruling are referenced throughout this case summary as PB2010-000055. Additionally, while investigators in the Division were investigating the above allegations they discovered further areas of non-compliance. Specifically, investigators found that the ADVS designated principal failed to adequately supervise staff to ensure compliance with applicable laws and court orders. Moreover, the fiduciary name and license number was not included on court documents as required.

Mr. Sulzer reported that ADVS has been working with the attorneys handling all the matters listed on Judge Mroz's ruling to ensure the appropriate corrections were made. Mr. Sulzer indicated that ADVS is taking measures and developing new policies and procedures to ensure similar mistakes do not occur in the future.

SUMMARY OF FACTUAL FINDINGS OF INVESTIGATION:

Allegation #1:

In her ruling regarding PB2010-000055, Judge Mroz states that ADVS failed to meet reporting deadlines for: a.) PB0000-59279 (Rudolfo B. Corrales), b.) PB0000-68215 (Alex Buckner), c.) PB1996-000864 (Fred S. Tinall) and d.) PB2005-001678 (Sally A. Hoppe).

In the matter of **PB0000-59279 (Rudolfo B. Corrales)**, per Judge Mroz's ruling, the annual accounting was due to the court on September 30, 2010 and had not been filed with the court as of October 4, 2010. Court records reflect ADVS filed a *Statement Enlarging the Duties and Powers of Conservator Pursuant to A.R.S. § 74-1525(D) to Personal Representative* on April 23, 2010 and ADVS was ordered to file the Annual and Final Accounting in the case by September 30, 2010 and failed to do so. In the *Response to Probate Counsel's Report Dated October 4, 2010 Regarding Items NOS. (sic) 1, 2, 6, 9, and 10* in case number PB2010-000055, Mr. Bosco acknowledged the Final Accounting was to be submitted by September 30, 2010. In regards to the late filing he stated, "...on September 30, 2010, a Request for Enlargement of Time was given to the process server for filing but apparently was not filed until Monday, October 4, 2010."

In the matter of **PB0000-68215 (Alex Buckner)**, per Judge Mroz's ruling in PB2010-000055, ADVS did not meet reporting deadlines in submitting an accounting for PB0000-68215. Specifically, "an accounting was due on March 12, 2010. ADVS filed a Motion to Extend the

deadline on March 15, 2010, after the due date. The court extended the deadline to August 6, 2010. ADVS filed the accounting on August 11, 2010.” In the *Response to Probate Counsel’s Report Dated October 4, 2010 Regarding Items NOS. (sic) 1, 2, 6, 9, and 10* in case number PB2010-000055, Mr. Bosco states, “On March 12, 2010, a Motion to Extend Time was given to the process server for filing, but apparently it was not filed until March 15, 2010” and with regards to the Amended 44th annual accounting, “The response to the Court Accountant’s Report and the Amended 44th annual accounting was given to the process server on August 6, 2010, but for some unknown reason, it appears it did not get filed until August 11, 2010.”

In the matter of **PB1996-000864 (Fred S. Tinall)**, the PB2010-000055 ruling states that ADVS did not meet reporting deadlines in submitting a final accounting for PB1996-000864. Specifically, “A final accounting was due by January 13, 2010. After the Court issued a Notice of Non-Compliance on April 16, 2010, ADVS does not file a final accounting. Instead it filed a petition to enlarge its powers to that of Personal Representative, and Letters were subsequently issued on April 21, 2010.” Court records show that on April 15, 2010, a Notice of Non-Compliance with Court Order Minute Entry was issued by Commissioner Cunanan noting ADVS had been ordered to file the Final Accounting in the Tinall matter “on or before January 15, 2010.” Commissioner Cunanan ordered ADVS to file the Final Accounting no later than May 17, 2010. On April 21, 2010, ADVS filed a petition to enlarge its personal representative authority and acceptance letters were subsequently issued on April 21, 2010. In response to the Notice of Non-Compliance filed on May 12, 2010, ADVS reported that its participation in case number PB2010-000055, “...delayed all filings by ADVS due to the nature of that action.”

In the matter of **PB2005-001678 (Sally A. Hoppe)**, Judge Mroz ruled that ADVS did not meet required time frames in submitting an accounting for PB2005-001678. Specifically, in its order dated March 13, 2009, the Court required ADVS to file a Supplemental Accounting “upon final distribution of the remaining assets of the Conservatorship estate to the rightful heirs of the deceased Ward.” Judge Mroz found that over eighteen months had passed since the order was issued and no Supplemental Accounting was submitted until October 6, 2010, after the Compliance Review Report was issued on October 4, 2010. On October 6, 2010, attorney Charles M. Dyer (“Dyer”) filed a *Response to Compliance Review Report by Probate Court Administration* on behalf of ADVS. Dyer asserts, “The court did not set a deadline for the filing of the Supplemental Accounting, and as such, no deadlines have been neglected or missed by ADVS” and “ADVS acknowledges it took them several months to file their Supplemental Accounting, however, no deadline was ignored or missed by ADVS, and the Estate was properly administered.”

Allegation #2:

In her ruling regarding PB2010-000055, Judge Mroz states that ADVS failed to provide an Inventory and Appraisal to the heirs of the decedent within 90 days of Letters of Appointment (“Letters”) having been issued as required by Rule 31(A)(1) in PB0000-59279 (Rudolfo B. Corrales), PB1996-000864 (Fred S Tinall) and PB2008-000514 (Joseph Bonfante).

In the *Response to Probate Counsel’s Report Dated October 4, 2010 Regarding Items NOS. (sic) 1, 2, 6, 9, and 10* in case number PB2010-000055, Mr. Bosco states, “...there is no need to file

an Inventory and Appraisalment after the Expansion of Powers of the Conservator to proceed in the capacity of a Personal Representative. There is no statutory requirement to do so; nor is it practical inasmuch as the assets of the Estate are reflected in the current annual accounting and any accountings done thereafter” (with regards to PB0000-59279 and PB1996-000864). On October 6, 2010, attorney Charles M. Dyer (“Dyer”) filed a Response to Compliance Review Report by Probate Court Administration on behalf of ADVS. Dyer asserts, “In years past, ADVS did not file Inventories and Appraisements on matters in which they had their powers of Conservator endorsed to become Personal Representative. The ending balance of the Conservatorship that was provided to all interested parties, including beneficiaries, acted as a defacto Inventory and Appraisalment for the Decedent estate”(with regards to PB2008-000514).

In footnote 1 of PB2010-000055, Judge Mroz addresses this issue with the following, “*Although ADVS argues that an Inventory and Appraisalment for the decedent’s estate is unnecessary because the final balance for the ward’s estate is the beginning balance of the decedent’s estate, the Court disagrees. The Rules of Probate Procedure and statute requires it to be filed. There are no exemptions for estates that previously managed as a conservatorship. Furthermore, the purpose of filing the Inventory and Appraisalment is to inform the heirs of what is in the estate, and heirs to the estate may not be the same as interested parties who received notice in the ward’s conservatorship matter.*”

Allegation #3:

The compliance review performed by Probate Court Administration and the resulting ruling by Judge Mroz in PB2010-000055 also alleges that ADVS acted as a fiduciary in the estates of PB2001-000667 (Joseph Polidoro) and PB2009-090576 (Howard Uhr) without the authority to act, as no Letters had been issued.

In the matter of **PB2001-000667 (Joseph Polidoro)**, Judge Mroz ruled that ADVS acted as a fiduciary in this estate where it had no authority to act because no Letters had been issued. Specifically, Letters of personal representative were finally issued on October 5, 2010, after the Compliance Review Report was issued on October 4, 2010. On October 30, 2009, Court noted the ward was presumed dead. The Court directed ADVS to file a petition for appointment as Personal Representative. The matter was set forth in the formal written order signed by the Court on October 28, 2009. ADVS filed a *Presumption of Death*, which was approved by Commissioner Ellis on October 30, 2009 and ADVS’ court appointment as conservator ended on October 30, 2009. Judge Mroz found ADVS acted as a fiduciary without the authority to do so because requisite Letters of Acceptance had not been issued. On March 23, 2010, a *Notice to Creditors* was given with ADVS identifying itself as Conservator with Authority to Administer the Estate as Personal Representative. Judge Mroz noted ADVS letters of acceptance were filed on October 5, 2010, after the compliance review report was issued on October 4, 2010 regarding PB2010-000055 involving ADVS. In a *Response to Minute Entry Dated October 4, 2010* filed by ADVS attorney Stephanie Bivens stated, “In this matter, the Letters of Personal Representative were not issued until October 5th, due to an oversight by Bivens and Associates, P.L.L.C., and not that of ADVS.”

In the matter of **PB2009-090576 (Howard Uhr)**, Judge Mroz ruled that ADVS acted as a fiduciary in the estate where it had no authority to act because no Letters had been issued. During the course of the investigation, Investigator Navarro reviewed court records in Uhr's probate case which showed ADVS was court appointed as Guardian and Conservator on September 2, 2009. Division records reflect that on October 5, 2010, ADVS attorney Susan Court responded to an email from Maricopa County Court Administrator Diana Clarke ("Clarke") requesting clarification of Uhr's probate case number. Attorney Court's reply acknowledged the Letters of Acceptance contained a typographical error and confirmed the case number was from a prior ADVS appointment was inadvertently left on the document. Further correspondence with Peggy Timms, Court's legal assistant and Attorney Court, herself, indicated that Attorney Court had not filed the corrected Letters of Acceptance subsequent to Ms. Clarke's request for clarification.

Allegation #4:

In the course of the investigation, the Division derived an additional allegation ADVS failed to include its name and fiduciary license number on court documents as required by ACJA § 7-202(F)(3).

Upon reviewing court records, Investigator Navarro identified a number of documents filed with the Court that failed to list ADVS' and Sulzer's fiduciary license number as required by ACJA § 7-202(F)(3) in the following cases: PB2001-000667 (Joseph Polidoro), PB2008-000514 (Joseph Bonfante) and PB2009-090576 (Howard Uhr).

Allegation #5:

As a direct result of the documentation evidenced in allegations 1 through 4, the Division derived an additional allegation that ADVS's designated principal, Greg Sulzer, failed to actively and directly supervise ADVS staff to ensure that ADVS complied with the law and court orders.

In a letter dated May 25th, 2011, Mr. Sulzer responded to the Department initiated allegations and stated, "... the FID has experienced a great deal of turn-over in personnel and consequent hiring and training of replacement personnel. The FID is enabled to hire fiduciary staff as authorized under the requirements of ADVS and the Arizona Department of Administration. Training and supervision of the fiduciary staff will continue."

Appendix A

Interview with ADVS Principal Fiduciary, Greg Sulzer

On May 27, 2011, Investigator Navarro and Programs and Investigations Unit Manager Linda Grau ("Manager Grau") conducted an investigatory interview with Mr. Sulzer. Mr. Sulzer provided an overview of ADVS' policies prior to him becoming the ADVS' designated principal and acknowledged the prior policies "needed to be turned around". Mr. Sulzer reported developing and recently hiring a "Case Investigator" intended to assist with overcoming prior processing and case management gaps. Mr. Sulzer asserted he is working towards having all of the ADVS' staff obtain the qualifications necessary to obtain individual fiduciary licensure in an additional effort to ensure all ADVS' clients are receiving the necessary fiduciary services. Mr. Sulzer reported he believes making ADVS a "full fiduciary agency" will also enable ADVS to avoid further mistakes and delays in filing of court documents.

Mr. Sulzer discussed employee turnover issues and provided a copy of the organizational chart for the office. He noted that prior to him joining the organization one employee had been responsible for managing assets and accountings. He also indicated that his improvement efforts have included securing ADVS' Director approval to split the asset and accounting duties into two separate positions. Additionally, Mr. Sulzer reported an increase in the number of case workers. Sulzer acknowledged past ADVS' procedures pertaining to taking on new clients and appointments were inadequate due to a lack of procedural structure. Sulzer explained ADVS' staff are now directed to consider three factors when considering possible new appointments; the veterans' status, the veterans' needs (including financial), and whether ADVS can meet the identified needs. Sulzer reported he is continuously endeavoring to change the culture at ADVS and lay the foundation for constant communication between ADVS' employees and the attorneys working for ADVS.

Sulzer indicated efforts have been undertaken to ensure service providers are not making decisions about care plans or entering into contracts for services. Sulzer explained a focus of his work to change the culture within the organization included establishing viable policies and procedures; adding structure to business practices; and adopting a "client comes first" approach. Sulzer acknowledged the formalization of the policies and procedures remains an on-going endeavor. Sulzer voiced his hope to have a permanent internal auditor position allocated at ADVS to ensure future compliance with A.R.S. and A.C.J.A. In the interim, he is refocusing ADVS' staff to use "an audit trail" documentation system regarding each client. Further, Sulzer noted as a result of turnover, only three of the eleven employees are licensed fiduciaries, including him. [Note: At the time of the interview, it was known one of the three licensed fiduciary employees was leaving ADVS employment the following week.] Manager Grau asked what, if anything, ADVS had begun to develop continuity planning, given the on-going high employee turnover rates ADVS has offered as a systemic problem which has resulted in compliance issues. -Sulzer stated he is working on a plan to reclassify ADVS' professional staff positions in an attempt to incentivize longer term tenures of employees.

Sulzer explained he cannot get his people in compliance "when they are making unilateral decisions on their own." Therefore, he is trying to run ADVS like a "military chain of command"

stating ADVS is an "infantry company." Sulzer stated, "in the past, people would just sign everything and nobody knew what or who was doing what." Sulzer acknowledged attaining the sought after intra-agency culture shift was more challenging and, at times, more frustrating than initially anticipated and stated, "...there are things in here that scare the hell out of me."

Regarding ADVS' attorneys, Sulzer explained the past dynamics between ADVS and its attorneys, resulting in the attorneys directing ADVS' actions. Sulzer indicated this is no longer the case and the attorneys currently handling ADVS' matters understand ADVS' priority is to ensure the needs of the veterans are being addressed. When asked to explain how ADVS' structure has changed, Sulzer reported that within six months of his becoming the ADVS' designated principal, he fired attorney Michael Bosco and transferred 80 cases from the Tiffany and Bosco law firm to other attorneys. Sulzer indicated the new attorneys are communicating more with ADVS or at least "cc-ing" ADVS regarding matters involving legal issues and deadlines.

Manger Grau asked what new policies and procedures, if any, ADVS had implemented with regard to due dates for court filings. Sulzer stated that as part of the "culture change" he is constantly reminding ADVS' staff to track filing due dates and to follow up with the assigned attorney. Sulzer stated he understands the courts frustration when documents are filed late and acknowledged compliance is ADVS' responsibility. Sulzer provided examples of Excel spreadsheets he developed to assist staff in tracking inventory and accounting due dates. Sulzer further indicated his goal is for ADVS' staff to be able to provide attorneys the accountings and inventories 30 to 45 days prior to the due dates so documents are filed in advance, but indicated it has not been an easy task since he constantly faces conflicts with outside counsel.

Sulzer confirmed ADVS had, at the time of the interview, a total of 250 appointments; 219 Conservator/Guardian, 27 decedent estates, and 12 Personal Representative ("PR"). He noted when he was initially hired by ADVS, the organization nearly had 100 backlogged (open) decedent cases, including one case in which the veteran died in 2001, but the case remained open because the assigned attorney could not locate the files.

Regarding the Uhr case, Sulzer was asked if ADVS was court appointed as a PR. Sulzer responded by saying ADVS was not court appointed. He signed the Letters of Acceptance on May 26, 2011 after Investigator Navarro spoke to ADVS' attorney about Uhr's appointment. Sulzer indicated ADVS' staff member Brian Williamson ("Williamson") was working with the courts to update due dates. Sulzer stated ADVS continued to work as the PR for Uhr even though ADVS did not file the Letters of Acceptance. Sulzer stated:

Some of the things just don't get done, didn't get done. The first week I was here, I was given this file, here fix it... It had to do with a death that for some inexplicable reason the people in this office just sat on the death notice and didn't do a damn thing for nine months. Just ignored it."

Sulzer indicated he wants to do an internal review of the case before documents are mailed to the attorney to ensure accuracy. Sulzer stated he and Williamson are trying to maintain accurate

records of all cases to avoid discrepancies such as the errors noted on the quarterly reports currently being submitted to the Division.

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

<i>CERTIFICATE HOLDER INFORMATION</i>	Certificate Holders:	Greg Sulzer
	Certification Numbers:	20623
	Business Name:	Arizona Department of Veteran's Services
	Certification Number:	20135
<i>INVESTIGATION INFORMATION</i>	Complaint Number:	10-0014
	Investigators:	Alex Navarro Eric Thomas Richard Sczerbicki Anne Hunter
	Report date:	November 27, 2013

ANALYSIS OF ALLEGATIONS:

Allegation #1. ADVS failed to meet reporting deadlines in the following cases: a.) PB0000-59279 (Rudolfo B. Corrales), b.) PB0000-68215 (Alex Buckner), c.) PB1996-000864 (Fred S. Tinal) and d.) PB2005-001678 (Sally A. Hoppe).

Arizona Rules of Probate Procedure Rule 31(B)(2) reads in part:

Unless otherwise ordered by the court, all subsequent accountings shall reflect all activity relating to the conservatorship estate from the ending date of the most recent previously filed accounting through and including the last date of the twelfth month thereafter, and shall be filed with the court on or before the anniversary date of the issuance of the conservator's permanent letters.

Arizona Rules of Probate Procedure Rule 31(B)(4) reads:

If the conservator is unable to file an accounting within the time set forth in this rule, the conservator shall, before the deadline, file a motion that requests additional time to file the accounting. The motion shall, at a minimum, state why additional time is required and how much time additional time is required to file the accounting.

Arizona Code of Judicial Administration ("ACJA") § 7-202(J)(2)(e) states:

The fiduciary shall ensure any document filed with the superior court is timely.

ACJA § 7-202(J)(7) provides:

Compliance. The fiduciary shall perform all duties and discharge all obligations in accordance with current Arizona law and the administrative rules, court orders, administrative orders, ACJA § 7-201 and this section adopted by the supreme court governing the certification of fiduciaries.

Narrative:

In the *Response to Probate Counsel's Report Dated October 4, 2010 Regarding Items NOS. (sic) 1, 2, 6, 9, and 10* in case number PB2010-000055, Mr. Bosco acknowledged the Final Accounting in PB0000-59279 (Rudolfo B. Corrales) was to be submitted by September 30, 2010 and that it was not in fact filed until October 4, 2010.

In the matter of PB0000-68215 (Alex Buckner), court records indicate that the accounting was due on March 12, 2010 and in the *Response to Probate Counsel's Report Dated October 4, 2010 Regarding Items NOS. (sic) 1, 2, 6, 9, and 10* in case number PB2010-000055, Mr. Bosco acknowledges that a "*Motion to Extend Time was given to the process server for filing, but apparently it was not filed until March 15, 2010.*" Additionally, the Amended 44th annual accounting was due August 6, 2010, both Mr. Bosco and court documentation confirm that it did not get filed until August 11, 2010.

In the matter of PB1996-000864 (Fred S. Tinall), a review of court documents reflects a final accounting was due on January 13, 2010. After the Court issued a Notice of Non-Compliance on April 16, 2010, ADVS did not file a final accounting but filed a petition to enlarge its powers to that of Personal Representative, and Letters were subsequently issued on April 21, 2010.

In the matter of PB2005-001678 (Sally A. Hoppe), in PB 2010-000055 Judge Mroz ruled that ADVS did not meet required time frames in submitting an accounting for PB2005-001678. Specifically, in its order dated March 13, 2009, the Court required ADVS to file a Supplemental Accounting "upon final distribution of the remaining assets of the Conservatorship estate to the rightful heirs of the deceased Ward." On October 6, 2010, attorney Charles M. Dyer ("Dyer") filed a *Response to Compliance Review Report by Probate Court Administration* on behalf of ADVS, with regards to PB2005-001678 Dyer asserts, "The court did not set a deadline for the filing of the Supplemental Accounting, and as such, no deadlines have been neglected or missed by ADVS." A review of the March 13, 2009 order reveals that the order did not specify a date that the Supplemental Accounting was to be filed, therefore ADVS did not miss the reporting deadline for PB2005-001678.

Conclusion: *ADVS failed to meet reporting deadlines in the following cases: a.) PB0000-59279 (Rudolfo B. Corrales), b.) PB0000-68215 (Alex Buckner), c.) PB1996-000864 (Fred S. Tinall), therefore allegation 1 is substantiated.*

Allegation #2. ADVS failed to provide an Inventory and Appraisalment to the heirs of the decedent within 90 days of Letters of Appointment ("Letters") having been issued as required by Rule 31(A)(1) in PB0000-59279 (Rudolfo B. Corrales), PB1996-000864 (Fred S Tinall) and PB2008-000514 (Joseph Bonfante).

Arizona Rules of Probate Procedure Rule 31(A)(1) reads:

Unless otherwise ordered by the court, a personal representative who is required to prepare an inventory shall, not later than 90 days after the personal representative's letters are issued, either:

- a. File the original of the inventory with the court and send a copy of the inventory to interested persons who request it; or
- b. Deliver or mail a copy of the inventory to each of the heirs of an intestate estate, or to each of the devisees if a will has been probated, and to any other interested persons who request it, and shall provide proof of the mailing by notice to the court.

A.R.S. § 14-3706 Duty of personal representative, inventory and appraisalment reads:

A. Within ninety days after his appointment, a personal representative, who is not a special administrator or a successor to another representative who has previously discharged this duty, shall prepare an inventory of property owned by the decedent at the time of his death, listing it with reasonable detail, and indicating as to each listed item, its fair market value as of the date of the decedent's death, its nature as community or separate property and the type and amount of any encumbrance that may exist with reference to any item.

B. The personal representative may file the original of the inventory with the court and send a copy of the inventory only to interested persons who request it; or, if he elects not to file the inventory with the court, he must deliver or mail a copy of the inventory to each of the heirs in an intestate estate, or to each of the devisees if a will has been probated, and to any other interested persons who request it.

Arizona Code of Judicial Administration ("ACJA") § 7-202(J)(2)(e) states:

The fiduciary shall ensure any document filed with the superior court is timely.

ACJA § 7-202(J)(7) provides:

Compliance. The fiduciary shall perform all duties and discharge all obligations in accordance with current Arizona law and the administrative rules, court orders, administrative orders, ACJA § 7-201 and this section adopted by the supreme court governing the certification of fiduciaries.

Narrative:

Although ADVS argues that an Inventory and Appraisalment for the decedent's estate is unnecessary and impractical subsequent to the filing of Expansion of Powers of the

Conservator to proceed in the capacity of the Personal Representative, as stated in *Response to Probate Counsel's Report Dated October 4, 2010 Regarding Items NOS. (sic) 1, 2, 6, 9, and 10* in case number PB2010-000055, consistent with Judge Mroz's response, the Rules of Probate Procedure and statute require the Inventory and Appraisal and no exemptions for estates previously managed as conservatorships are apparent.

Conclusion: *ADVS acknowledges that the documents were not filed and A.R.S. § 14-3706 and Rules of Probate Procedure Rule 31(A)(1) require filing of the Inventory and Appraisal within 90 days of appointment. Therefore, Allegation 2 is substantiated.*

Allegation #3. ADVS acted as a fiduciary in the estates of PB2001-000667 (Joseph Polidoro) and PB2009-090576 (Howard Uhr) without the authority to act as no Letters had been issued.

Arizona Rules of Probate Procedure Rule 25 orders a Fiduciary to file Letters of Guardian and/or Conservator after the court has entered an order to the guardian and/or conservator and the Letters are signed by the fiduciary according to Arizona Rules of Probate Procedure Rule 26.

ACJA § 7-202(J)(7) provides:

Compliance. The fiduciary shall perform all duties and discharge all obligations in accordance with current Arizona law and the administrative rules, court orders, administrative orders, ACJA § 7-201 and this section adopted by the supreme court governing the certification of fiduciaries.

Narrative:

Division records reflect that on October 5, 2010, attorney Susan B. Court on behalf of ADVS responded via email to Maricopa County Court Administrator Diana Clarke stating the Letters of Acceptance had a typographical error and the wrong case number inadvertently was left from a previous ADVS matter. ADVS was not, in fact, court appointed in PB2009-090576 (Howard Uhr.) In addition, Attorney Stephanie Bivens on behalf of ADVS stated that the Letters of Personal Representative were not issued in the Polidoro estate (PB2001-000667) until October 5, 2010, due to an oversight by Bivens & Associates, L.L.L.C.

Conclusion: *With regards to the Uhr estate, ADVS was never appointed as personal representative, yet Letters of Acceptance were issued in the estate as a result of a typographical error on the part of ADVS. In the case of the Polidoro estate, court records and Judge Mroz's findings in PB2010-000055 indicate that Letters of Acceptance were not issued until October 5, 2010, seven months after ADVS identified itself as Conservator with Authority to Administer the Estate as Personal Representative in a March 23, 2010 Notice to Creditors. Therefore, Allegation 3 is substantiated.*

Allegation #4. ADVS failed to include its name and fiduciary license number on court documents as required by ACJA § 7-202(F)(3).

ACJA § 7-202(F)(3) reads:

A fiduciary, when filing a document with the superior court, shall include the fiduciary's personal license number on the document and when appropriate, the business entity's number.

Narrative:

A review of court documents in case number PB2010-000055 in the matter of Arizona Department of Veteran Services, *Response to the Compliance Review Report by Probate Court Administration* filed October 6, 2010 by attorney Brian P. Luse on behalf of ADVS failed to include the name and license number of both ADVS and the designated principal, Sulzer.

A review of court documents filed by attorney Stephanie A. Bivens ("Bivens") on behalf of ADVS's case number PB2010-000055, *Response to Minute Entry Dated October 4, 2010*, filed on October 6, 2010, failed to include ADVS and Sulzer's license number. Bivens on behalf of ADVS filed the *Letters of Conservatorship With Authority to Administer The Estate as Personal Representative Pursuant to A.R.S. § 14-5425(D)* in the matter of Joseph T. Polidoro on October 5, 2010, which failed to identify ADVS' and Sulzer's license number also.

Conclusion: *ADVS failed to include its name and fiduciary license number on court documents as required by ACJA § 7-202(F)(3). Therefore, Allegation 4 is substantiated.*

Allegation #5. *ADVS designated principal, Greg Sulzer, failed to actively and directly supervise ADVS staff to ensure ADVS complied with the law and court orders.*

ACJA § 7-202(E)(3)(f) states, in relevant part:

Responsibilities of Principal.

(1) The principal shall:

- (a) Provide active and direct supervision of all other certified fiduciaries, trainees and support staff who work with wards, protected persons or decedent estates and who work for the corporation, limited liability company, or partnership, Department of Veterans' Services or Office of the Public Fiduciary;
- (b) Adopt policies and procedures giving reasonable assurance all certified fiduciaries and trainees conform to the applicable rules, statutes and sections of the ACJA and non-certified staff conduct themselves in accordance with the applicable rules, statutes and sections of the ACJA;
- (c) In compliance with subsections F and J, properly delegate and assume personal professional responsibility for ensuring the tasks performed by the certified fiduciaries, professionals, support staff, and others who provide services for wards or decedent estates are within the scope of their training and experience and have been properly delegated by the principal;

ACJA § 7-202(J)(7) states:

The fiduciary shall perform all duties and discharge all obligations in accordance with current Arizona law and the administrative rules, court orders, administrative orders, ACJA § 7-201 and this section adopted by the supreme court governing the certification of fiduciaries.

Narrative:

As the designated principal for ADVS, Sulzer had the responsibility to supervise all ADVS staff, including staff attorneys to ensure court dates were being met. In addition, as the designated principal for ADVS, Sulzer accepted and had an affirmative responsibility "to actively and directly supervise all other certified fiduciaries and staff working for the public fiduciary in furtherance of its duties pursuant to A.R.S. §§ 14-5602, -5603, -5604, -5605 and -5606." The designated principal is obligated to ensure policies and procedures are in place for compliance with rules, statutes and sections of the ACJA.

During a review of court documents, it was demonstrated Sulzer failed to ensure due dates were met for filings in Maricopa County Superior Court for case numbers:

- PB0000-59279, In the matter of Rudolfo Corrales;
- PB0000-68215, In the matter of Alex Buckner;
- PB1996-000864, In the matter of Fred S. Tinall;
- PB2008-000514, In the matter of Joseph Bonfante;
- PB2001-000667, In the matter of Joseph Polidoro; and
- PB2009-090576, In the matter of Howard Uhr.

Conclusion: *The aforementioned late filings demonstrate that ADVS designated principal, Greg Sulzer, failed to actively and directly supervise ADVS staff to ensure that ADVS complied with laws and court orders. This failure resulted in late filings in at least six cases that were reviewed. Therefore, Allegation 5 is substantiated.*

SUBMITTED BY:



Anne Hunter, Investigator
Certification and Licensing Division

11/27/13
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 **10-0014**, 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 *does* exist the certificate holder committed the alleged acts of misconduct as to Allegation(s):

#1, 2, 3, 4, 5.

Mike Baumstark

Mike Baumstark
Probable Cause Evaluator

12/5/13

Date

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

**LICENSEE
INFORMATION**

**Licensee:
License Number:**

Arizona Department of
Veterans' Services
20135

RECOMMENDATION TO THE BOARD FIDUCIARY ("BOARD"):

It is recommended the Board accept the finding of the Probable Cause Evaluator and enter a finding the Arizona Department of Veterans' Services ("ADVS") committed the alleged acts of misconduct detailed in the Investigation Summary and Allegation Analysis Report.

In complaint number 10-0014, 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 Arizona Rules of Probate Procedure 25, 26, 31(A)(1), 31(B)(2), 31(B)(4), Arizona revised Statutes § 14-3706(A) and (B), ACJA § 7-201(F)(1), ACJA § 7-202(E)(3)(f)(1), (F)(1), (F)(3), (J)(2)(e) and (J)(7) and issue a Letter of Concern.

SUBMITTED BY:



1/3/14

Anne Hunter, Manager 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 10-0014 and the Arizona Department of Veterans' Services, license number 20135, makes a finding of facts and this decision, based on the facts, evidence, and analysis as presented and enters the following order:

- requests division staff to investigate further.
- refers the complaint to another entity with jurisdiction.

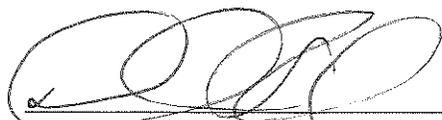
Referral to: _____

- dismisses the complaint, and:
 - requests division staff prepare a notice of dismissal pursuant to ACJA § 7-201(H)(5)(c)(1).

- requests division staff prepare a notice of dismissal and an Advisory Letter pursuant to ACJA § 7-201(H)(5)(c)(2).
- determines grounds for discipline exist demonstrating the certificate holder committed the alleged act(s) of misconduct and:
 - enter a finding the alleged act(s) of misconduct or violation(s) be resolved through informal discipline, pursuant to ACJA § 7-201(H)(7) and issue a Letter of Concern.
 - enter a finding the alleged act(s) of misconduct or violation(s) be resolved through formal disciplinary proceeding, pursuant to ACJA § 7-201(H)(9).
- requests the certificate holder appear before the Board to participate in a Formal Interview, pursuant to ACJA § 7-201(H)(8).
- orders the filing of Notice of Formal Charges, pursuant to ACJA § 7-201(H)(10).
- enters a finding the public health, safety or welfare is at risk, requires emergency action, and orders the immediate emergency suspension of the certificate and sets an expedited hearing for:

Date, Time, and Location: _____

- adopts the recommendations of the Division Director.
- does not adopt the recommendations of the Division Director and orders:



 Deborah Primock, Chair 1/8/14
 Fiduciary Board Date