

FIDUCIARY BOARD

Meeting Agenda – Thursday, September 7, 2017

Arizona Supreme Court -1501 West Washington Street

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

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

Members of the Public May Attend Meeting in Person

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

CALL TO ORDER *Deborah Primock, Chair*

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

1-A: Review, discussion and possible action regarding the regular session minutes of the meeting held on July 13, 2017.

1-B: Review, discussion and possible action regarding the regular session minutes of the interim meeting held on August 16, 2017.

1-C: Review, discussion and possible action regarding the executive session minutes of the interim meeting held on August 16, 2017.

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

2-A: Review, discussion and possible action regarding complaint number 17-0007, involving licensee, Maricopa County Public Fiduciary.

2-B: Review, discussion and possible action regarding complaint number 17-0013, involving licensee, Lori Braddock.

2-C: Review, discussion and possible action regarding complaint numbers 16-006, 16-007 and 17-0014, involving licensees Beverly Gloden, Northern Arizona Fiduciaries, Inc. and Carla Jones.

2-D: Review, discussion and possible action regarding complaint numbers 16-008, 16-009 and 16-0010, involving licensees Northern Arizona Fiduciaries, Inc., Carla Jones and Beverly Gloden.

2-E: Update regarding complaint numbers 17-0018, 17-0019 and 17-0020 involving licensees Ayudando Alpha, Inc. and Bradley Torch.

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

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

1. Coy Vernon
2. Judy Lackey
3. Jon Fleck
4. Terra Kirk
5. Jennifer Leitch
6. Kathryn Wallace

3-B: Review, discussion and possible action regarding the following applications for initial business licensure and renewal of individual licensure:

1. San Pedro Fiduciary Services, LLC (Designated Principal, Paul Melo)
2. Paul Melo

4) RENEWAL OF LICENSURE APPLICATIONS..... Division Staff

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

1. Entrust Fiduciary Services, Inc. (Lisa Price)
2. Lisa Price

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

5-A: Review, discussion, and possible action regarding the voluntary surrender of licensure received from Kathryn Munro.

5-B: Review, discussion and possible action regarding request for placement on Inactive Status from the following licensed fiduciaries:

1. Sherry Reed
2. Brian Tetrault

6) ADMINISTRATIVE ISSUES Division Staff

6-A: Review, discussion and possible action regarding the establishment of the 2018 Board meeting schedule.

CALL TO THE PUBLIC *Deborah Primock, Chair*

ADJOURN *Deborah Primock, Chair*

FIDUCIARY BOARD

Agenda Summary – Thursday, September 7, 2017

1) **REVIEW AND APPROVAL OF MINUTES**

1-A: Review, discussion, and possible action regarding the regular session minutes of the meeting held on July 13, 2017.

A draft of the regular session minutes for the meeting of July 13, 2017, is attached for the Board's review and consideration.

FIDUCIARY BOARD
Agenda Summary – Thursday, September 7, 2017

1) REVIEW AND APPROVAL OF MINUTES

1-B: Review, discussion, and possible action regarding the regular session minutes of the interim meeting held on August 16, 2017.

A draft of the regular session minutes for the meeting of August 16, 2017, is attached for the Board's review and consideration.

FIDUCIARY BOARD

Agenda Summary – Thursday, September 7, 2017

1) REVIEW AND APPROVAL OF MINUTES

1-C: Review, discussion, and possible action regarding the executive session minutes of the interim meeting held on August 16, 2017.

A draft of the executive session minutes for the meeting of August 16, 2017, is attached for the Board's review and consideration.

FIDUCIARY BOARD
Agenda Summary - Thursday, September 7, 2017

2) PENDING COMPLAINTS

2-A: Review, discussion and possible action regarding complaint number 17-0007, involving licensee, Maricopa County Public Fiduciary.

Maricopa County Public Fiduciary is the guardian of complainant's adult son. Complainant alleges her son, has not received proper medical care. As part of her written complaint, Complainant included a letter from a doctor which expressed concerns about the medical care.

Division staff interviewed the doctor and the doctor acknowledged writing the letter but did so based upon the fact that he has not seen any medical records for several years. When the current situation was explained, the doctor replied that he was aware of the son's court placement status, assumed the son was getting adequate care and clarified that he was in no way alluding the son wasn't being cared for.

Division staff submitted the complaint to the Probable Cause Evaluator who determined that probable cause does not exist. Division Staff recommends that the Board accept the findings of the Probable Cause Evaluator and dismiss the complaint.

FIDUCIARY BOARD

Agenda Summary – Thursday, September 7, 2017

2) PENDING COMPLAINTS

2-B: Review, discussion and possible action regarding complaint number 17-0013, involving licensee, Lori Braddock.

Since the early 1960s, ADVS was the conservator of Complainant, managing an annuity and a social security disability stipend while also paying his bills. In March of 2017, ADVS successfully petitioned for its termination of the conservatorship. The complainant was made aware of the termination and had questions/concerns about the future of his accounts and bill payments which he brought to Braddock. Complainant alleged Braddock/ADVS refused to cooperate/communicate with him and further insinuates ADVS may be withholding some of his finances.

Braddock responded that Complainant moved back to West Virginia in 2007 while ADVS continued with the conservatorship up until its termination. Braddock stated that even though ADVS has not technically been responsible for Complainant's finances after their termination, it continued to pay some of his bills due to the slow reassignments of "payee" status on his accounts. Braddock insists they have provided him with full documentation of all their activities. Braddock added that ADVS issued him a final distribution check on May 15, 2017 for \$2,129.04 which he cashed just a few days after filing his complaint.

This matter was submitted to the Probable Cause Evaluator who determined that probable cause does not exist. Division staff recommends that the Board accept the findings of the Probable Cause Evaluator and dismiss the complaint.

FIDUCIARY BOARD

Agenda Summary - Thursday, September 7, 2017

2) PENDING COMPLAINTS

2-C: Review, discussion and possible action regarding complaint numbers 16-006, 16-007 and 17-0014, involving licensees Beverly Gloden, Northern Arizona Fiduciaries, Inc. and Carla Jones.

On December 18, 2015, licensed fiduciary, Beverly Gloden (“Gloden”) and Northern Arizona Fiduciaries (“NAF”) permanently moved ward, Hannelore Butterfield, (“Ms. Butterfield”) from her home into assisted living facility, Alta Vista. On that date, while at Ms. Butterfield’s home, Gloden gave Ms. Butterfield a half of a Klonopin tablet, which is a tranquilizer/sedative type of medication. The Klonopin was not prescribed to Ms. Butterfield, but was prescribed to Gloden. After Gloden transported Ms. Butterfield to Alta Vista, over lunch, Gloden gave Ms. Butterfield the remaining half of the Klonopin tablet.

On December 18, 2015, after being contacted by police, Gloden alerted NAF Principal, Carla Jones, (“Jones”) as to what had occurred. The following day, Jones left for a scheduled 10-day family vacation in Hawaii. While Jones was gone, Gloden, was the only remaining licensed fiduciary at NAF, in charge of operations and fiduciary decision-making.

Upon Jones’ return from vacation, she placed Gloden on a disciplinary plan. The plan appears to demote Gloden and reduce her pay. Jones, however, told Division staff that she did not believe Gloden posed any risk or danger to the public and Jones allowed Gloden unrestricted access to NAF clients until September 23, 2016, at which time Gloden’s fiduciary license was summarily suspended by the Board.

On December 18, 2015, by and through counsel, NAF filed, with the Superior Court, a Petition for Appointment Emergency/Temporary Guardian and Conservator (Without Notice); Petition for Appointment of Permanent (General) Guardian and Conservator; and Petition for Appointment of Attorney, Medical Professional, and Investigator.

Letters of Temporary Guardian were issued on December 21, 2015.

The Division notes that Complaint Numbers 16-0006 and 16-0007, contained allegations of misconduct involving Gloden and NAF. During the investigation into those complaints, Division staff determined that Jones’ conduct as a licensed fiduciary in this matter also warranted investigation because she was directly involved in making decisions pertaining to Gloden. A resultant Director Initiated Complaint (17-0014) was commenced and is included in the Investigation Summary.

The investigation pertained to five separate allegations. Each allegation is more fully described in the investigative report but are set forth briefly below:

1. Gloden, Vice President of Northern Arizona Fiduciaries, Inc., intentionally gave Butterfield a prescription medication that had not been medically prescribed to Butterfield.
2. Jones, Designated Principal of Northern Arizona Fiduciaries, Inc., failed to properly supervise Gloden, after she disclosed that she gave Butterfield, a prescription medication that had not been medically prescribed to Butterfield.
3. Jones allowed the Butterfield estate to be billed for time expended on issues related to fiduciary malfeasance, in violation of ACJA §73-303(D)(2)(j).
4. Jones allowed the estate to be billed at a fiduciary rate for Gloden's services when Gloden was operating as a support staff.
5. Jones failed to cooperate with Division staff's request to interview support staff/employees during a regulatory investigation, in violation of ACJA § 7-202(H)(6)(c).

Division staff submitted the investigation to the Probable Cause Evaluator who determined that probable cause exists that Beverly Gloden, Carla Jones and North Arizona Fiduciaries, Inc. committed the violations as described in the investigative report. Division staff recommends that the Board accept the findings of the Probable Cause Evaluator and revoke the licenses of Beverly Gloden, Carla Jones and Northern Arizona Fiduciaries.

FIDUCIARY BOARD

Agenda Summary - Thursday, September 7, 2017

2) PENDING COMPLAINTS

2-D: Review, discussion and possible action regarding complaint numbers 16-008, 16-009 and 16-0010, involving licensees Northern Arizona Fiduciaries, Inc., Carla Jones and Beverly Gloden.

NOTE: The Division has withheld the names of family members to preserve confidentiality. Family members are identified by their respective initials.

Complainant (an Adult Protective Services employee) filed a complaint stating that licensed fiduciary, Beverly Gloden, ("Gloden") contacted APS to report that Northern Arizona Fiduciaries, Inc.'s ("NAF") ward, SR, had been taken to Yavapai Regional Medical Center ("Yavapai Medical") due to shortness of breath and anxiety related symptoms. Gloden also reported that SR was medically examined for possible sexual abuse. Complainant instructed Gloden to file a police report because she had first-hand information on what occurred. Although Gloden contacted the Prescott Police Department to make a report, Complainant believed that the manner in which Gloden reported the incident was informational in nature and Gloden minimized the severity of the circumstances and denied that any abuse took place causing the police to not investigate. It was not until Complainant called police and made her report the following day when the police began their investigation into the matter.

Complainant alleged Designated Principal, Carla Jones, ("Jones") and NAF did not conduct a criminal record or background check on SR's mother, CG, or anyone living in the household prior to allowing SR to live there. Complainant completed a Judicial Branch of Arizona public access records search on the internet and discovered that CG had a 2012 class 6 felony charge for child/vulnerable adult abuse.

Complainant further alleged SR was living in deplorable conditions while with CG and that Jones and NAF were aware of the conditions but continued to allow him to live there.

Gloden acknowledged that Complainant asked her to call police to file a report. Gloden consulted with her employer, Jones and NAF, and Jones directed Gloden as to what she should tell police, in accordance with Jones' direction.

Jones said that Gloden and NAF reported concerns for SR to APS. Gloden called police and filed a report. Jones stated that NAF did not have evidence that SR had been abused, consistent with the findings of the physician who examined SR at Yavapai Medical. Jones was reluctant to make strong allegations against anyone without evidence.

Regarding a criminal record search, Jones acknowledged that she did not conduct a search on CG and accepted her account of her past. Jones said SR has a good relationship with his mother and

does well in her care so NAF supported the relationship, reunification, and eventual move to his mother's home.

Jones conceded that CG's home was dirty and needed cleaning and was too small for the family's needs. To address the issue, NAF secured a larger, more suitable home for the family. NAF continues to monitor the home situation and has set standards for CG's housekeeping and maintenance.

The investigation pertained to six separate allegations. Each allegation is more fully described in the investigative report but are set forth briefly below:

1. Licensees violated their fiduciary responsibilities by failing to properly report the possible sexual assault pursuant to A.R.S. § 46-454.
2. Licensees withheld information when filing a police report regarding the possible sexual abuse of a ward causing police to not investigate.
3. Jones and NAF, did not conduct a criminal record history and placed the ward into the care of his mother who was previously convicted of child abuse and neglect.
4. Jones/NAF, allowed a ward to live in deplorable living conditions despite being aware of the living conditions.
5. Jones and NAF, allowed the estate to be billed at a fiduciary rate for Gloden's services when Gloden was operating as a support staff, in violation of ACJA § 3-303(D)(2)(g)(2).
6. Jones and NAF, failed to cooperate with Division staff's request to interview her employees during an investigation, in violation of ACJA § 7-202(H)(6)(c).

Division staff submitted the investigation to the Probable Cause Evaluator who determined that probable cause existed as to allegations 1, 2, 5 and 6 that Beverly Gloden, Carla Jones and Northern Arizona Fiduciaries, Inc. committed the violations as described in the investigative report. The Probable Cause Evaluator determined that probable cause did not exist as to allegations 3 and 4. Division staff recommends that the Board accept the findings of the Probable Cause Evaluator as to allegations 1, 2, 5 and 6 and revoke the licenses of Beverly Gloden, Carla Jones and Northern Arizona Fiduciaries.

FIDUCIARY BOARD

Agenda Summary - Thursday, September 7, 2017

2) PENDING COMPLAINTS

2-E: *Update regarding complaint numbers 17-0018, 17-0019 and 17-0020 involving licensees Ayudando Alpha, Inc. and Bradley Torch.*

Staff will provide information at the meeting.

FIDUCIARY BOARD

Agenda Summary - Thursday, September 7, 2017

3) INITIAL LICENSURE AND ELIGIBILITY

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

The following applicants have applied for initial fiduciary licensure. The applicants successfully passed the program examination and have submitted completed applications demonstrating that they meet the minimum education and experience requirements and all applicants have completed the required fiduciary professional training.

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

1. Coy Vernon
2. Judy Lackey
3. Jon Fleck

4. Terra Kirk applied for initial fiduciary licensure. The applicant successfully passed the program examination and has submitted a complete application demonstrating that she meets the minimum education and experience requirements. The applicant has also attended the fiduciary professional training. Ms. Kirk disclosed a 2001 dissolution of marriage and couple of disciplinary actions she had incurred while working as a "trainee" under a licensed fiduciary.

Ms. Kirk failed to disclose a 1993 Misdemeanor conviction for Possession of Marijuana. Ms. Kirk was 20 years of age at the time of the offense and was sentenced to two years of probation. Ms. Kirk stated that she failed to disclose the misdemeanor conviction in her application because she "could barely remember the details."

Ms. Kirk's criminal matter was over 24 years ago and at the conclusion of Division's investigation, she has not incurred any additional criminal charges or convictions.

Division recommends the Board grant initial fiduciary licensure to Terra Kirk with the standard non-disclosure language.

5. Jennifer Leitch applied for initial fiduciary licensure. The applicant successfully passed the program examination and has submitted a complete application demonstrating that she meets the minimum education and experience requirements. The applicant has also attended the fiduciary professional training. Ms. Leitch failed to disclose a 2009 Maricopa County Superior Court case in which she is listed as the plaintiff, regarding a dispute for an incorrect property appraisal. Ms. Leitch stated that she forgot to disclose the case because she "didn't think it was a court case" and "it was a long time ago." Ms. Leitch further stated, "I apologize for the fact that I simply forgot this matter, which at the time, felt more like a bureaucratic hurdle than an actual legal matter."

Division recommends the Board grant initial fiduciary licensure to Jennifer Leitch with the standard non-disclosure language.

6. Kathryn Wallace submitted an application demonstrating that she meets minimum education and experience requirements for licensure and she has attended the fiduciary training. Regarding Ms. Wallace's experience, she has a high school diploma or a general equivalency, and would be required to have a minimum of three years of full-time equivalent work experience pursuant to ACJA 7-202(E). She has worked as a Guardian Administrator in a trainee role for the Yavapai County Public Fiduciary since May 2016. Prior to her position as Guardian Administrator, Ms. Wallace was employed as a legal secretary for the Yavapai County Public Fiduciary from August 2014 to May 2016. With regard to her duties as a legal secretary, Ms. Wallace stated that part of her job duties included drafting compliance documents; assisting guardian administrators in visitation of wards and marshalling of assets; conducted and oversaw storage of inventoried items; monitored files; tracked court due dates; and fielded telephone calls from wards and other interested parties, answering questions when appropriate.

Ms. Wallace failed to disclose a bankruptcy from 1995, and a dissolution of marriage from 1997. Ms. Wallace stated that it was an oversight on her part, and that she was not attempting to conceal these proceedings.

The Division recommends initial fiduciary licensure for Kathryn Wallace with standard non-disclosure language.

FIDUCIARY BOARD

Agenda Summary – Thursday, September 7, 2017

3) INITIAL LICENSURE AND ELIGIBILITY

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

1. San Pedro Fiduciary Services, LLC (Designated Principal, Paul Melo) has applied for initial business fiduciary licensure. The applicant has submitted a complete application demonstrating that it meets the minimum requirements.

The Division recommends approval of initial fiduciary licensure for San Pedro Fiduciary Services, LLC.

2. Paul Melo applied for renewal of his individual fiduciary license. In his renewal application he answered “Yes” that he had met the continuing education (“CE”) requirements. Mr. Melo was randomly audited and selected to produce his CE to Division Staff. Mr. Melo reported 20 hours of CE including three (3) hours of ethics. All of the CE that Mr. Melo submitted to Division was in the form of self-study.

ACJA § 7-202(L)(4)(g) provides:

“Self Study. A fiduciary may receive continuing education credit for self study, including correspondence courses, procedure manuals, video and audio tapes, on-line computer seminars, and other methods of independent learning. The self study shall have accompanying written materials. A fiduciary shall not receive credit for simply reading books, seminar materials or other printed materials. A fiduciary may receive a maximum of five continuing education credits for self study in any one renewal period. A fiduciary shall not use self study as the qualifying method for the three hours of ethics credit during the renewal cycle. A fiduciary shall document the continuing education credit for self study on a form approved and provided by the board.”

Furthermore ACJA § 7-202(L)(4)(b)(11) provides:

“Ethics for fiduciaries, including cooperation with lawyers, judges and fellow fiduciaries, professional attire, courtesy and impartiality to all litigants, information vs. legal advice and public relations. A fiduciary shall complete a minimum of three hours of ethics continuing education during each renewal cycle as part of the total required hours. The three hours of ethics must stand alone and may only be credited as ethics and not as a portion of the other seventeen hours of required continuing education.”

Based on the code provisions, Mr. Melo would be short by 10 hours including the three (3) hours in ethics. Division recommends approval of renewal of the fiduciary licensure for Paul Melo with the following continuing education remedial actions. On or before May 31, 2018, the applicant will provide to Division proof of an additional 10 hours of CE including the three (3) hours of ethics to be completed for the present licensure period. The 10 hours of CE earned during this renewal period shall not be in the form of self-study and will not count towards current requirements.

FIDUCIARY BOARD

Agenda Summary - Thursday, September 7, 2017

4) RENEWAL OF LICENSURE APPLICATIONS

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

The following individual and business license holders have submitted applications for renewal of licensure. The applications are complete and they meet the minimum eligibility requirements. It is recommended renewal of licensure be granted to the following:

1. Entrust Fiduciary Services, Inc. (Lisa Price)
2. Lisa Price

FIDUCIARY BOARD

Agenda Summary – Thursday, September 7, 2017

5) LICENSURE AND ELIGIBILITY

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

Kathryn Munro, License Number 20730, was granted licensure on June 1, 2014. On July 31, 2017, the Division received Ms. Munro's request to voluntarily surrender her license.

ACJA § 7-201(E)(7) reads:

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

Division records indicate there are no pending complaints against her license.

It is recommended the Board accept the request of Ms. Munro to voluntarily surrender her license.

FIDUCIARY BOARD

Agenda Summary – Thursday, September 7, 2017

5) LICENSURE AND ELIGIBILITY

5-B: Review, discussion and possible action regarding request for placement on Inactive Status from the following licensed fiduciaries:

1. Sherry Reed, License Number 20028
2. Brian Tetrault, License Number 20746

The Division has confirmed there are no pending complaints filed against the above-named licensees.

The Division recommends that the Board accept the requests and place the above-named licensees on Inactive Status.

FIDUCIARY BOARD
Agenda Summary – Thursday, September 7, 2017

6) ADMINISTRATIVE ISSUES

6-A: *Review, discussion, and possible action regarding the establishment of the 2018 Board meeting schedule.*

The Fiduciary Board is asked to consider and approve the 2018 meeting calendar.

Therefore, it is recommended the 2018 meeting calendar be set as follows:

January 11, 2018
March 8, 2018
May 10, 2018
July 12, 2018
September 6, 2018
November 15, 2018