

# FIDUCIARY BOARD

## Meeting Agenda – Thursday, September 5, 2019

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.

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**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).**

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**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 11, 2019.*

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

*2-A: Review, discussion and possible action regarding complaint numbers 18-0039, 18-0040, and 18-0041 involving license holders Greg DeVico, Peggy Dovico, and Phillip Dovico.*

*2-B: Review, discussion and possible action regarding complaint numbers 18-0044, 18-0045, and 18-0046 involving license holders Ronald Goldman, Jennifer Goldman and Arizona Elder Care, LLC.*

*2-C: Review, discussion and possible action regarding complaint numbers 19-0006 and 19-0007 involving license holders Philip DeVico and Custom Care and Financial Solutions.*

*2-D: Review of response from complainant regarding the Board dismissal of complaint number 18-0060.*

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

*3-A: Review, discussion and possible action regarding application for initial individual licensure for Rachel Pearson.*

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

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

1. Jeanette Bloss
2. Teresa Lancaster
3. Maureen L. Edwards, LLC
4. Rochelle Pones

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

*5-A: Review, discussion, and possible action regarding the voluntary surrender of licensure received from Pamela Bensmiller and Bensmiller Fiduciary Services.*

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

*6-A: Review, discussion, and possible action regarding the establishment of the 2020 Board meeting schedule.*

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

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

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**1) REVIEW AND APPROVAL OF MINUTES**

*1-A: Review, discussion and possible action regarding the regular session minutes of the meeting held on July 11, 2019.*

A draft of the regular session minutes for the meeting of July 11, 2019, has been provided for the Board's review and consideration.

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### 2) PENDING COMPLAINTS

*2-A: Review, discussion and possible action regarding complaint numbers 18-0039, 18-0040, and 18-0041 involving license holders Gregory DoVico, Peggy DoVico, and Phillip DoVico.*

Complainant, prior to receiving Social Security benefits, was required by the Social Security Administration (SSA) to select a “representative payee” and designated “Social Security Services of Arizona (SSSAZ),” as his payee. The SSA subsequently discovered the complainant was no longer eligible for benefits and instructed SSAZ to return all funds. Complainant alleges:

- 1) An appeal process was pending and SSSAZ had no cause to return funds to the SSA.
- 2) SSSAZ refused to communicate with the complainant to explain the problems with the SSA.
- 3) SSSAZ refused to pay his bills.

As detailed in the Investigative Summary, the Division conducted a number of interviews and a review of documentary evidence. After the investigation, the Division determined that it had not uncovered evidence that supported the allegations in the complaint.

On January 23, 2019, the Probable Cause Evaluator determined that Probable Cause does not exist that Gregory DoVico, Peggy DoVico, and Phillip DoVico committed that acts alleged in the complaints.

### **Recommendation:**

Division staff recommends the Board dismiss complaint numbers 18-0039, 18-0040 and 18-0041.

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### 2) PENDING COMPLAINTS

*2-B: Review, discussion and possible action regarding complaint numbers 18-0044, 18-0045, and 18-0046 involving license holders Ronald Goldman, Jennifer Goldman and Arizona Elder Care, LLC.*

Ron Goldman and Jennifer Goldman were retained to pay bills on behalf of David and Barbara Jahsman Sr. The Jahsman's daughter, Elizabeth, has a power of attorney and made the decisions concerning purchase of services and which debts to incur. The Goldmans have no other power of attorney authority and all financial decisions are the responsibility of Elizabeth.

Complainant alleges that other siblings are being avoided by the Goldmans and intentionally left out of all the decisions and further complains the other siblings are not being informed of decisions regarding the parents' care and the parents are not receiving appropriate care.

In their written response, the Goldmans state that it is Elizabeth who utilized her POA to make financial decisions and contract for the services for the parents which the Jahsman's initiated themselves and the Goldmans simply pay the bills for the services and goods that she selects.

The complaint investigation was submitted to the Probable Cause Evaluator who found that probable cause concerning the complaint allegations did not exist.

#### **Recommendation:**

Division staff recommends the Board accept the findings of the Probable Cause Evaluator and dismiss complaints number 18-0044, 18-0045 and 18-0046.

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### 2) PENDING COMPLAINTS

*2-C: Review, discussion and possible action regarding complaint numbers 19-0006 and 19-0007 involving license holders Philip DoVico and Custom Care and Financial Solutions.*

Phillip DoVico was contracted by a VA beneficiary to be the beneficiary's payee for benefits.

In addition to paying rent, DoVico paid other miscellaneous bills as needed and issued beneficiary a "Truelink" card where \$25 a week was deposited as a personal allowance. This continued through early 2019 when the VA decided to do a random audit on beneficiary's case and ultimately terminated DoVico's services.

VA investigator Kenneth Richter (the complainant) was assigned the case and, after conversations with beneficiary and his care facility administrators, concluded several transgressions were occurring. Richter said his main concern was the fact Negrete claimed he had not been receiving his personal allowance for the past few months and attempts to contact DoVico were difficult. Richter stated he also was unable to contact DoVico, insisting he called several times and left several messages on his answering machine. Due to the lack of responsiveness, Richter felt Negrete was clearly not receiving the level of attention he needed and discontinued the services of DoVico and CCSF. Richter said Negrete was immediately placed into the VA Fiduciary program and will eventually be assigned an approved fiduciary.

The complaint raises two allegations concerning DoVico's failure to pay bills or provide cash in a timely manner. The investigation did not uncover facts that supported these allegations.

The complaint also raised an allegation that DoVico was unresponsive to the beneficiary and others. The investigation uncovered facts that supported this allegation.

The investigation report was submitted to the Probable Cause Evaluator who determined that probable cause did not exist as to allegations 1 and 2 (failure to pay bills or provide cash) and did exist as to allegation 3 (unresponsiveness).

### **Recommendation:**

Division staff recommends the Board accept the findings of the Probable Cause Evaluator and dismiss allegations 1 and 2. Division staff further recommends that the Board accept the findings of the Probable Cause Evaluator and find that probable cause does exist as to allegation 3 and issue a Letter of Concern.

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## 2) PENDING COMPLAINTS

*2-D: Review of response from complainant regarding the Board dismissal of complaint number 18-0060.*

Following the Board's decision to dismiss complaint number 18-0060 at the July 11, 2019 meeting the complainant submitted a response which has been provided in the Board materials.

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

*3-A: Review, discussion and possible action regarding Rachel Pearson application for initial individual licensure.*

Rachel Pearson 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. Pearson disclosed a 2010 D.U.I. misdemeanor conviction.

The Division recommends approval of initial individual fiduciary licensure for Rachel Pearson.

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### 4) RENEWAL CERTIFICATION APPLICATIONS

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

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

1. Jeanette Bloss
2. Teresa Lancaster
3. Maureen L. Edwards, LLC
4. Rochelle Pones

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**5) LICENSURE AND ELIGIBILITY**

*5-A: Review, discussion, and possible action regarding the voluntary surrender of licensure received from Pamela Bensmiller and Bensmiller Fiduciary Services.*

Pamela Bensmiller and Bensmiller Fiduciary Services were granted licensure on March 11, 2010 and November 15, 2018, respectively. On August 7, 2019, the Division received Ms. Bensmiller'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 that there are no pending complaints against Ms. Bensmiller's or Bensmiller Fiduciary Services' licenses.

It is recommended the Board accept the request of Pamela Bensmiller and Bensmiller Fiduciary Services to voluntarily surrender her individual and business fiduciary licenses.

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### **6) ADMINISTRATIVE ISSUES**

*6-A: Review, discussion, and possible action regarding the establishment of the 2020 Board meeting schedule.*

The Fiduciary Board is asked to consider and approve the 2020 meeting calendar.

Therefore, it is recommended the 2020 meeting calendar be set as follows:

January 9, 2020  
March 12, 2020  
May 7, 2020  
July 9, 2020  
September 10, 2020  
November 12, 2020

All meetings to begin at 10:30 a.m.