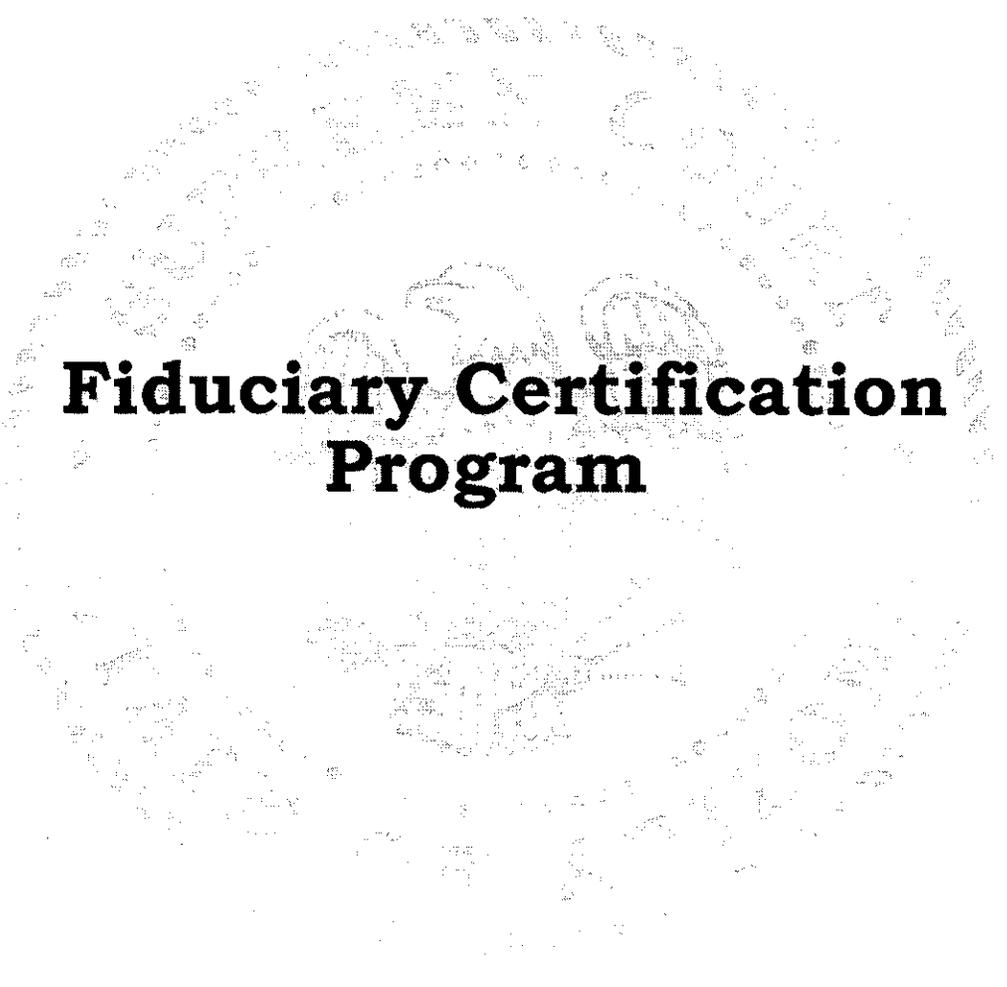


Arizona Supreme Court
Administrative Office of the Courts



**Fiduciary Certification
Program**

Compliance Audit

Candace Bow & Clare Guthrie

May, 2007

Arizona Supreme Court
CLD, Compliance



Supreme Court

STATE OF ARIZONA
ADMINISTRATIVE OFFICE OF THE COURTS

Ruth V. McGregor
Chief Justice

David K. Byers
Administrative Director
of the Courts

May 30, 2007

Candace Bow
16206 Sawik Circle
Fountain Hills, AZ 85268

RE: Fiduciary Compliance Audit

Dear Ms. Bow:

Enclosed is the final compliance audit report for the Candace Bow and Clare Guthrie.

Given the number of findings and the need for assurance of corrective actions to mitigate the audit findings, the audit team will again audit you and Clare within twelve calendar months. During the follow-up audit the team will focus primarily on the identified non-compliance.

Thank you for the cooperation and assistance during the compliance audit process exhibited by you and your staff. Your and your staff's hard work throughout the audit process has been appreciated. To the extent the fiduciary audit process will assist the court to ensure the safety, health and welfare of individuals and estates entrusted by the court to your management, we have benefited from our audit. I hope you, Clare and your clients will equally benefit.

If you have any questions, please let me know at (602) 452-3362.

Sincerely,

A handwritten signature in cursive script that reads "Nancy Swetnam".

Nancy Swetnam, Director
Certification and Licensing Division

Enclosures

Copy: Honorable Karen O'Connor, Presiding Probate/Mental Health Judge, Superior
Court in Maricopa County
Dave Byers, Director, Administrative Office of the Courts
Mike Baumstark, Deputy Director, Administrative Office of the Courts

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Candace Bow and Clare Guthrie

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Disclaimer

This final report represents the information and conditions encountered at the point in time of the audit and does not purport to represent conditions prior to or subsequent to the performed audit. The information presented does not represent an endorsement or denunciation of the audited fiduciary or business.

After this report is distributed to the audited fiduciary, presiding judge of the county and, if a public fiduciary, the county supervisors, it becomes public record.

Executive Summary

Section 1

**Candace Bow & Clare Guthrie
Certified Fiduciaries
Compliance Audit Report**

<p><i>Finding # 1</i></p> <p>➤ <i>Certification Number</i></p> <p><u><i>Related Attributes:</i></u></p> <p><i>Arizona Code of Judicial Administration § 7-202(F)(5)</i></p> <p><i>Requirement</i></p>	<p>Documents submitted to the Superior Court in Maricopa County did not include the fiduciaries' certification numbers.</p> <ul style="list-style-type: none"> • Court documents filed for clients were missing the certification number (one or both fiduciaries' certification numbers) – Clients # 1 & 3 <p>Certified fiduciaries must include the required certification numbers on all documents submitted to the superior court.</p>
<p><i>Auditee's Response</i></p>	<p><i>"Agree"</i></p>
<p><i>Corrective Action</i></p>	<p><i>"Numbers will be on all documents, implemented immediately."</i></p>

**Candace Bow & Clare Guthrie
 Certified Fiduciaries
 Compliance Audit Report**

<p><i>Finding # 2</i></p> <p style="margin-left: 20px;">➤ <i>Timeliness</i></p> <p><i>Related Attributes:</i></p> <p><i>A.R.S. § 14-5315(A)</i></p> <p><i>Arizona Code of Judicial Administration § 7-202(J)(2)(e)</i></p> <p><i>Requirement</i></p>	<p>A statutorily required report on a fiduciary client was submitted to the court after the due date triggering an <i>Order to Show Cause</i>.</p> <ul style="list-style-type: none"> • Late Annual Guardianship Report – Client # 2 <p>The fiduciary must submit the guardianship reports on or before the statutorily required due date or court ordered due date for each client.</p>
<p><i>Auditee's Response</i></p>	<p><i>"Agree"</i></p>
<p><i>Corrective Action</i></p>	<p><i>"Communications breakdown caused this problem. Our report was submitted to Jackson White. We understood the attorney Melody Seal would be filing the report. They did not. In the future, we will always file."</i></p>

Candace Bow & Clare Guthrie
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Finding #3

➤ ***Documentation***

Related Attributes:

A.R.S. § 14-5418(B)

By statute a fiduciary must keep suitable records of the administration of client cases and exhibit those records upon request. Suitable records include conformed copies of client court documents and documentation which includes decision-making and tracks the disposition, storage, disbursement and appreciation of items in a client's estate. Examples of missing documentation are:

- (a) Proof of restricted accounts were not in the client's files – Client # 1
- (b) Appraisal for real property missing – Clients # 3
- (c) Tax assessments for real property missing – Client # 3
- (d) Deposits slips for \$50,000 and for Culinary pension (*a pension fund*) not found – Client # 1
- (e) Bank transfer was not supported by a deposit slip or bank statement verifying withdrawal, no indication transfer was approved by an authorized person – Client # 1
- (f) Not all receipts found – Clients # 1, 2 & 3
- (g) Invoices were not found for all of the disbursements – Clients # 1, 2 & 3
- (h) Bank deposit slips were not in client file – Client # 3
- (i) Unable to verify/match for time charged in case notes on client invoices – All
- (j) Unable to verify staff time record for client visit period – Client # 3
- (k) Unable to verify credit cards accounts are closed or resolution of past due accounts – Client # 2
- (l) Check numbers do not match recorded disbursements – Client # 2
- (m) Disbursement from one client account paid for other clients – Client # 3

Requirement

A fiduciary must develop a systematic process for marshalling, securing and documenting the administration of a client's estate and/or care to include all assets, transactions, activities and decision-making for each court appointed client.

Candace Bow & Clare Guthrie
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<i>Auditee's Response</i>	"Agree"
<i>Corrective Action</i>	<p><i>"(a) Agree: Client # 3, house comparables were used instead of appraisal. We felt comps were adequate. An appraisal on all real property will be ordered in the future."</i></p> <p><i>"(b) Agree: Discovered in county tax search. Our records show this was paid in 10-06. Now we have record of taxes paid in file."</i></p> <p><i>"(c) Agree: Deposit slip was inside client's checkbook waiting for reconciliation before filing. Pension check was not direct deposited at that time."</i></p> <p><i>"(d) Agree: Bank transfer was initiated by Candace Bow using the Power of Attorney. Deposit slip was in checkbook waiting for reconciliation before filing. New procedures implemented: checks are copied and matched with deposit slips, then filed."</i></p> <p><i>"(e) Agree: We are restructuring our filing procedures and plan to keep filing up to date. We are verifying receipts are in numerical order of checks written."</i></p> <p><i>"(f) Agree: Company invoicing was filed separately and now will have copy of invoice in file. Procedure has begun."</i></p> <p><i>"(g) Agree: Deposit slips in checkbook until reconciliation, then filed. New procedure: Checks are copied when received."</i></p> <p><i>"(h) Agree: Deposit slips in checkbook until reconciliation, then filed. New procedure: checks are copied when received and matched with deposit slips, then filed."</i></p> <p><i>"(i) Agree: We will check all the charges in case notes against invoices."</i></p>

Candace Bow & Clare Guthrie
Certified Fiduciaries
Compliance Audit Report

“(j) Agree: We will check all the charges of staff time against invoices.”

“(k) Agree: Client # 2 had no credit cards and no bills were received in the mail. New procedure: credit report will be requested immediately. This will be documented in the future.”

“(l) Agree: A new procedure has been implemented for client’s recorded disbursements.”

“(m) Agree: Clerical error. Client has been reimbursed for funds mistakenly used.”

**Candace Bow & Clare Guthrie
 Certified Fiduciaries
 Compliance Audit Report**

<p><i>Finding # 4</i></p> <p>➤ <i>Inventory</i></p> <p><u><i>Related Attributes:</i></u></p> <p><i>A.R.S. § 14-5418(A)</i></p> <p><i>Requirement</i></p>	<p>Arizona statute requires a fiduciary to list with reasonable detail and indicate the market value of an estate as of the date of appointment or date of death of each item listed on the inventory.</p> <ul style="list-style-type: none"> • The detail, values and location of client assets are not listed on an inventory of personal property – Client # 1 • Client files contained no proof of an estate inventory – Clients # 2 & 3 <p>The fiduciary must provide detail on an inventory, even if it is of nominal value, to avoid giving erroneous or misleading information to either the court and/or interested parties.</p>
<p><i>Auditee's Response</i></p>	<p><i>"Agree"</i></p>
<p><i>Corrective Action</i></p>	<p><i>"Agree: New procedure to search and document."</i></p>

Candace Bow & Clare Guthrie
Certified Fiduciaries
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<p><i>Finding # 5</i></p> <p>➤ <i>Securing Assets</i></p> <p><u><i>Related Attributes:</i></u></p> <p><i>A.R.S. § 14-5417</i></p> <p><i>Arizona Code of Judicial Administration § 7-202(J)(4)(b)</i></p> <p><i>Requirement</i></p>	<p>A fiduciary must take reasonable steps to marshal and secure the property and income of the protected person's estate as soon as possible.</p> <ul style="list-style-type: none"> • (a) Client files contained no verification of inquiries on other possible assets owned – Clients # 1, 2 & 3 • (b) Bank accounts and investments are not titled in the name of the conservatorship – Clients # 1, 2 & 3 • (c) There is no proof letters were recorded against real property – Client # 3 • (d) No evidence of real property insurance – Client # 3 • (e) Title for home not in conservatorship name – Client # 3 <p>The fiduciary appointed as a conservator must observe the standard of care of a prudent man dealing with the property of another and if the fiduciary has special skills or expertise (i.e. certification) she is under a duty to exercise prudence, intelligence and diligence.</p>
<p><i>Auditee's Response</i></p>	<p>“Agree”</p>
<p><i>Corrective Action</i></p>	<p>“(a) Agree. New procedure to search and document.”</p> <p>“(b) Agree. Clients # 1 and # 3, original title was in name of POA, transfer to conservatorship title now completed.”</p> <p>“(c) Agree. This will be done in the future.”</p> <p>“(d) Agree. This will be done in the future.”</p> <p>“(e) Agree. This will be done in the future.”</p>

**Candace Bow & Clare Guthrie
Certified Fiduciaries
Compliance Audit Report**

<p><i>Finding # 6</i></p> <p>➤ <i>Fiduciary Compensation</i></p> <p><i>Related Attributes:</i></p> <p><i>Arizona Code of Judicial Administration § 7-202(J)(4)(i)</i></p> <p><i>Requirement</i></p>	<p>All fees and expenses must be reasonable in amount and necessarily incurred for the welfare of the protected person.</p> <ul style="list-style-type: none"> • Visits to clients were too frequent or too high a level of care unnecessarily dissipating client assts – Client # All <p>A fiduciary must ensure all fees and expenses incurred for the protected person by the fiduciary, including compensation for the services of the fiduciary are reasonable in amount and necessarily incurred for the welfare of the protected person.</p>
<p><i>Auditee's Response</i></p>	<p><i>“Agree”</i></p>
<p><i>Corrective Action</i></p>	<p><i>“Agree. We will make visits at client’s request, or as needed. We will watch that our visits are appropriate.”</i></p>

**Candace Bow & Clare Guthrie
Certified Fiduciaries
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<p><i>Finding # 7</i></p> <p>➤ <i>Failure to File Required Court Document</i></p> <p><u>Related Attributes:</u></p> <p>A.R.S. § 14-5419(A)</p> <p>Arizona Code of Judicial Administration § 7-202(J)(2)(e) & (f)</p> <p><i>Requirement</i></p>	<p>Every conservator must account to the court for the administration of the estate not less than annually and on resignation or removal and on termination of the conservatorship.</p> <ul style="list-style-type: none"> • A final accounting was not filed – Client # 2 • An inventory and appraisal was not filed – Client # 2 • Proof of restricted accounts were not filed per court order – Client # 3 <p>The fiduciary must provide all required court reports/documents accurately and timely.</p>
<p><i>Auditee's Response</i></p>	<p>“Agree”</p>
<p><i>Corrective Action</i></p>	<p>“Agree: We will make certain this is done.”</p> <p>“Agree: We will make certain this is done.”</p> <p>“Agree: We were in the process of getting restricted accounts at audit.”</p>

**Candace Bow & Clare Guthrie
Certified Fiduciaries
Compliance Audit Report**

<p><i>Finding # 8</i></p> <p>➤ <i>Improper Execution of a Power of Attorney</i></p> <p><u>Related Attributes:</u></p> <p>A.R.S. §§ 14-5501(D)(4), 14-5506(D), 14-5506(F)(2)</p> <p><i>Requirement</i></p>	<p>A power of attorney (POA) can only be executed by an individual of sound mind. If a person does not have capacity, the power of attorney is invalid.</p> <ul style="list-style-type: none"> • Fiduciary has had individuals sign a contract (Power of Attorney) when case file records indicated the individuals lacked the capacity to execute a contract – Clients # 1 & 3 <p>A fiduciary must ensure an individual is of sound mind when executing a power of attorney.</p>
<p><i>Auditee's Response</i></p>	<p>"Agree"</p>
<p><i>Corrective Action</i></p>	<p>"Agree: Client # 1 Did not know evaluation had been done. Her attorney accompanied me at the time of the client's signing powers of attorney. Her attorney felt she was competent but would change her mind daily."</p> <p>Auditor's Note: An attorney is not a medical professional. A medical professional had already noted in a medical evaluation that Client # 1 lacked capacity.</p> <p>"Agree: Client # 3 I believed he was of sound mind. His conversations with me were positive. In the future a medical evaluation or MMI will be completed before signing."</p> <p>Auditor's Note: The medical evaluation and/or the MMI should be completed and signed by a medical professional.</p>

**Candace Bow & Clare Guthrie
Certified Fiduciaries
Compliance Audit Report**

<p><i>Finding # 9</i></p> <p>➤ <i>Disclosure</i></p> <p><u><i>Related Attributes</i></u></p> <p><i>Arizona Code of Judicial Administration § 7-202 (J)(2)(h)</i></p> <p><i>Requirement</i></p>	<p>A fiduciary must disclose to the public, ward or client their supreme court certification does not pertain to their service as a power of attorney, trustee or legal custodian for the federal veterans' services division.</p> <ul style="list-style-type: none"> • There was no proof of disclosure statements on contracts in the client files – Clients # All <p>The fiduciary must develop and include on their power of attorney contracts a disclosure statement.</p>
<p><i>Auditee's Response</i></p>	<p><i>"Agree"</i></p>
<p><i>Corrective Action</i></p>	<p><i>"Agree: We will have document preparer or legal counsel prepare document to disclose this information as part of our New Client Package."</i></p> <p>Auditor's Note: Any website offering power of attorney services must also contain a disclosure statement.</p>

**Candace Bow & Clare Guthrie
Certified Fiduciaries
Compliance Audit Report**

<p><i>Finding # 10</i></p> <p>➤ <i>Legal Document Preparation</i></p> <p><u><i>Related Attributes</i></u></p> <p><i>Arizona Code of Judicial Administration § 7-202 (J)(2)(g)</i></p> <p><i>Requirement</i></p>	<p>A fiduciary may only prepare legal documents if also certified as a Legal Document Preparer.</p> <ul style="list-style-type: none"> • Non-certified Legal Document Preparers (staff) are preparing legal documents for clients. <p>The fiduciary shall only prepare powers of attorney or other legal documents, if also certified as a legal document preparer pursuant to ACJA § 7-208, except as ordered by the court.</p>
<p><i>Auditee's Response</i></p>	<p><i>"Agree"</i></p>
<p><i>Corrective Action</i></p>	<p><i>"Agree: Only attorneys or Legal Document Preparer will draft documents. Implemented."</i></p>

Appendix A

Section 3

ARIZONA GUARDIANS & CONSERVATORS

April 23, 2007

Katherine Boots
Compliance Unit Manager
Certification and Licensing Division
Arizona Supreme Court
1501 W Washington Street
Phoenix, Az 85007-3231

Dear Ms. Boots:

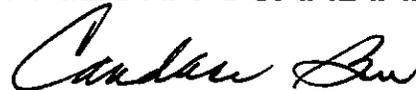
Please see attached to this letter, our answers to the compliance audit.

We believe we have answered all questions and begun new procedures to rectify the situations brought to our attention.

Please feel free to contact us if there are further matters you wish to discuss.

We appreciated your and Dara's company during the audit. You both deserve our thanks.

Sincerely,
ARIZONA GUARDIANS



Candace Bow, RG, CF#20388

Certified Fiduciaries #20388, #20542
Registered Guardians and Conservators
16206 Sawik Circle, Fountain Hills, AZ 85268
Phone: 480.836.1221 Fax: 480.816.5089
Email: AZGuardians@gmail.com ArizonaGuardians.com

CERTIFICATION & LICENSING
2007 APR 26 PM 1:54

#1: Agree. Numbers will be on all documents, implemented immediately.

#2: Agree. Communications breakdown caused this problem. Our report was submitted to Jackson White. We understood the attorney Melody Seal would be filing the report. They did not. In future, we will always file.

#3: Agree. Client #1, proof of restricted accounts. This procedure was in process on date of audit.

(a) Agree: Client #3, house comparables were used instead of appraisal. We felt comps were adequate. An appraisal on all real property will be ordered in the future.

(b) Agree: Discovered in county tax search. Our records show this was paid in 10-06. Now we have record of taxes paid in file.

(c) Agree: Deposit slip was inside client's checkbook waiting for reconciliation before filing. Pension check was not direct deposited at that time.

(d) Agree: Bank transfer was initiated by Candace Bow using the Power of Attorney. Deposit slip was in checkbook waiting for reconciliation before filing. New procedures implemented: checks are copied and matched with deposit slips, then filed.

(e) Agree: We are restructuring our filing procedures and plan to keep filing up to date. We are verifying receipts are in numerical order of checks written.

(f) Agree: Company invoicing was filed separately and now will have copy of invoice in file. Procedure has begun.

(g) Agree: Deposit slips in checkbook until reconciliation, then filed. New procedure: Checks are copied when received.

(h) Agree: Deposit slips in checkbook until reconciliation, then filed. New procedure: checks are copied when received and matched with deposit slips, then filed.

(i) Agree: We will check all the charges in case notes against invoices.

(j) Agree: We will check all the charges of staff time against invoices.

(k) Agree: Client #2 had no credit cards and no bills were received in the mail. New procedure: credit report will be requested immediately. This will be documented in the future.

(l) Agree. A new procedure has been implemented for client's recorded disbursements.

(m) Agree: Clerical error. Client has been reimbursed for funds mistakenly used.

#4 Agree. New current procedure: inventory first

#5 (a) Agree: New procedure to search and document.

(b) Agree. Clients #1 and #3, original title was in name of POA, transfer to conservatorship title now completed.

(c) Agree. This will be done in the future

(d) Agree. This will be done in the future

(e) Agree. This will be done in the future

#6 Agree. We will make visits at client's request, or as needed. We will watch that our visits are appropriate.

#7 Agree: We will make certain this is done:

Agree: We will make certain this is done.

Agree: We were in the process of getting restricted accounts at audit.

#8 Agree: Client #1 Did not know evaluation had been done. Her attorney accompanied me at the time of client's signing powers of attorney. Her attorney felt she was competent but would change her mind daily.

Agree: Client #3 I believed he was of sound mind. His conversations with me were positive. In the future a medical evaluation or MMI will be completed before signing.

#9 Agree: We will have document preparer or legal counsel prepare document to disclose this information as part of our New Client Package.

#10 Agree: Only attorneys or Legal Document Preparer will draft documents. Implemented.

