

Arizona Supreme Court
Administrative Office of the Courts



Compliance Audit

Pimental Associates, LLC

January & May 2004



Supreme Court
STATE OF ARIZONA
ADMINISTRATIVE OFFICE OF THE COURTS

Charles E. Jones
Chief Justice

David K. Byers
Administrative Director
of the Courts

August 26, 2004

Dian Pimental
Pimental Associates, LLC
P.O. Box 1309
Sun City, AZ 85372-1309

Re: Pimental Associates, LLC Fiduciary Audit Report

Dear Ms. Pimental:

Enclosed is the final compliance audit report for Pimental Associates, LLC. Thank-you for your prompt responses to the draft audit and your corrective action plan.

Thank-you also for your cooperation and assistance during the compliance audit process. The hard work exhibited by you 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 of Pimental Associates, LLC. I hope you and your clients will equally benefit.

If you have any questions, please let me know at (602) 364-2378.

Sincerely,

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

Nancy Swetnam, Division Director
Certification and Licensing Division

Enclosures

c: Dave Byers, Director, Administrative Office of the Courts
Honorable Barbara Mundell, Associate Presiding Judge
Mike Baumstark, Deputy Director, Administrative Office of the Courts

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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.

SECTION ONE

EXECUTIVE SUMMARY

Executive Summary

Pimental Associates, LLC

Compliance Audit Report

The Arizona Supreme Court, Fiduciary Certification Program conducted a compliance audit of Pimental Associates, LLC pursuant to Arizona Revised Statutes §14-5651 and Arizona Supreme Court Administrative Order 2003-31. During the period of December 17, 2003 through December 18, 2003, January 6, 2004 through January 7, 2004 and May 18, 2004 through May 21, 2004 the Fiduciary Program audited and re-audited the fiduciary activities of the principal, the only employee of Pimental Associates, LLC. The following is a summary of the audit findings.

Finding #1 – Fiduciary Certification Number

The fiduciary did not include the fiduciary certification and business certification number on court documents.

The fiduciary agreed with the finding and has agreed to include both certification numbers on all court documents beginning immediately.

Finding #2 – Timeliness

The fiduciary's court filings did not meet statutorily required or local rule required filing time lines.

The fiduciary has agreed to comply with the law and court orders for timely filings. In addition the fiduciary will instruct an attorney to file an extension if necessary.

Finding #3 – Guardianship Reports

The Annual Guardianship Report(s) filed by the fiduciary did not include all of the statutorily required information.

The fiduciary agreed and will include all of the required information in future Annual Guardianship Report(s) beginning immediately.

Finding #4 – Documentation

Suitable records of the administration of guardianships and/or conservatorships were not maintained as required by statute.

The fiduciary has agreed to keep suitable records and documentation of the administration of fiduciary court appointments.

Finding #5 – Fiduciary Fees

The fiduciary did not have documentation to justify fiduciary fee statements or expenses presented to the court to ensure all fees and expenses are reasonable and incurred for the welfare of the ward and/or in the administration of the estate.

The fiduciary has agreed to develop the documentation in support of fiduciary fee and expense statements.

Finding #6 – Guardian Resignation

The fiduciary did not submit a Guardianship Report to the court on resignation as a guardian as required by statute.

The fiduciary did submit a Petition to Terminate Guardianship to the court but not a Guardianship Report.

Finding #7 – Accounting Accuracy

The fiduciary did not accurately state the payee on certain disbursements and failed to reimburse a ward's account for a retail cash refund.

The fiduciary has been instructed to accurately reflect the payee on each disbursement in annual court accountings. The fiduciary has also reimbursed in full the estate of a ward for the cash refund paid to the fiduciary.

Finding #8 – Estate Plans

Estate Management Plans required by Local Rule were not complete and did not include plans for estate administration.

The fiduciary has agreed to fully complete Estate Management Plans.

Finding #9 – Competent Management

The audit was unable to determine the competency of the fiduciary due to the condition of the client case files. The competency of the fiduciary's management was demonstrated by the lack of or misfiling of documentation or court orders, requirements not timely met and basic business practices not followed.

The fiduciary has agreed to improve and change methods as necessary.

Finding #10 – Diligence

Limited business hours, extended and frequent absences from the business and lack of evidence of professional consultations on behalf of the ward or estate demonstrated a lack of fiduciary diligence.

The fiduciary has agreed to have another fiduciary on call if she is ever unavailable.

Finding #11 – Compliance

The fiduciary must ensure she will perform all of her duties and discharge all of her obligations to meet the requirements of the statutes, codes and code of conduct.

The fiduciary has agreed to make every effort to comply fully in the future.

Finding #12 – Co-Mingling

The fiduciary advanced funds to herself from a ward's account to pay out-of-pocket costs and allowances for the ward.

The fiduciary has agreed to not write checks to herself from a ward's account for anything other than court approved fees.

SECTION TWO

FINAL REPORT

Pimental Associates, LLC, Fiduciary Compliance Audit Report

Objective

The compliance audit of the Pimental Associates, LLC Fiduciary Office was conducted pursuant to the Fiduciary Program's responsibilities as set forth in A.R.S. §14-5651 and Arizona Supreme Court Administrative Order No. 2003-31.

The objective of the compliance audit was to determine compliance with applicable statutes, Arizona Supreme Court orders and rules and the Fiduciary Program rules and codes and the Code of Conduct.

Methodology

In preparation for the compliance audit, preliminary survey questions were requested and responded to by Pimental Associates, LLC. The response was reviewed and compiled to assist in the development of case file samples. In addition, information was requested from the Superior Court in Maricopa County to verify court appointment information.

In preparation for testing for compliance, the program has developed and currently utilizes a set of fiduciary compliance attributes consisting of Arizona statutes, Arizona Supreme Court rules and codes and the Fiduciary Program Certification rules and codes. Compliance with these requirements was tested by interviewing the fiduciary who is the sole staff member of Pimental Associates, LLC and reviewing a sample of client case files.

A stratified sampling approach was used. The selected samples of court appointed client case files were designed to provide conclusions about the accuracy, validity and timeliness of transactions, internal controls and compliance with the fiduciary attributes utilizing a cross-section of samples of court appointment types. Client case files were selected by type of appointment, length of appointment, type of required client protection and initiation or termination of appointment during the review time frame.

Scope

The audit included the fiduciary activities of the principal of Pimental Associates, LLC, Dian Pimental, the only employee. The scope of the audit was the fiduciary court appointments and terminations as a guardian, conservator, personal representative or a combination thereof from January 1, 2001 through December 31, 2003.

Pimental Associates, LLC, Fiduciary Compliance Audit Report

Dian Pimental listed herself as the court appointed fiduciary on 15 guardian, conservator and combination guardian/conservator client cases. However, a review of court data and comparison with court provided data indicates Dian Pimental to have 17 open court cases during the review period. Working with the fiduciary and the court this discrepancy was resolved.

The compliance audit team reviewed a sample of five (5) of the 17 cases of court appointments and terminations, focusing on the compliance, internal controls and processes of the fiduciary.

Fieldwork

During the period of December 17, 2003 through December 18, 2004 and January 6, 2004 through January 7, 2004, the Fiduciary Certification Program conducted the compliance audit fieldwork consisting of client case file reviews of the Pimental Associates, LLC. Since Pimental Associates, LLC does not have a business office, the office of Mathis Becker, Esq., an attorney associated with the fiduciary was used for the audit case file reviews.

A second period of audit fieldwork was conducted from May 18, 2004 through May 21, 2004 due to the initial audit fieldwork being scope impaired. The initial scope impairment was a result of the lack of suitable client case records for review. The fiduciary took steps to remediate the condition of the client records and the auditors were able to complete the audit fieldwork.

Summary of Findings

The compliance audit and subsequent re-audit of Pimental Associates, LLC had findings all of which were related to compliant fiduciary business practices. The detail of the twelve findings follow in this report.

During the audit process period, Pimental Associates, LLC reduced their caseload from 17 open court cases to 4 open court cases. The corrective actions detailed in this report will be applied to those open court cases.

Please note: Boxes titled Auditee's Response and Corrective Action are verbatim responses from the fiduciary.

**Pimental Associates, LLC, Fiduciary
Compliance Audit Report**

<p><i>Finding # 1</i></p> <p>➤ <i>Fiduciary Certification Number</i></p> <p><i>Related Attributes:</i></p> <p><i>Arizona Code of Judicial Administration §7-202, F.8</i></p> <p><i>Requirements</i></p>	<p>Documents submitted to the Superior Court in Maricopa County did not include the fiduciary certification and the business certification number on court documents. – Clients # 1, 2, 3, 4 & 5</p> <p>The fiduciary will include required certification numbers on all documents submitted to the superior court.</p>
<p><i>Auditee's Response</i></p> <p><i>Fiduciary's Response</i></p>	<p>“Fiduciary agrees with the finding.”</p>
<p><i>Corrective Action Plan</i></p> <p><i>Fiduciary's Response</i></p>	<p>“On May 12, 2004, a Notice of Fiduciary’s Current Information was filed with the Court and mailed to this Unit and to the respective parties to each open (client) case. All letterhead and billings contain the appropriate Arizona Fiduciary Certification numbers. On or about May 12, 2004, I orally and in writing advised all attorneys of this requirement. Pursuant to your request I will include my certification numbers under my name.”</p>

**Pimental Associates, LLC, Fiduciary
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<p><i>Finding # 2</i></p> <p>➤ <i>Timeliness</i></p> <p><u><i>Related Attributes:</i></u></p> <p><i>ARS §14-5315(A)</i> <i>§14-5418(A)</i> <i>§14-5419(A)</i></p> <p><i>Maricopa County</i> <i>Local Rule, 5.7(b)</i></p> <p><i>Arizona Code of</i> <i>Judicial</i> <i>Administration §7-202,</i> <i>Appendix A, Code of</i> <i>Conduct, Standard</i> <i>2.e., 4.i. and 5.h.</i></p> <p><i>Requirements</i></p>	<p>The preliminary data requested of the fiduciary was incomplete and the client files were not complete. However, county court files of the sampled client files detailed court filings as not meeting required court timelines.</p> <ul style="list-style-type: none"> • Late Annual Guardianship Report – Client # 1 • Late Inventory – Clients # 4 & 5 • Late Accountings – Client # 5 • Estate Management Plan – Client # 5 <p>The fiduciary will submit the inventory and appraisal, annual accountings, guardianship reports and estate management plans on or before the statutorily or local rule required due date for each client.</p>
<p><i>Auditee's Response</i></p> <p><i>Fiduciary's Response</i></p>	<p>“I have maintained a computer and/or personal calendar docketing system since 1986. While Arizona requires reports to be filed on the anniversary date of an appointment, the Court has adopted a more realistic date of 3 months after any such date so that third parties can provide the fiduciary with the pertinent information required each year.</p> <p>I have always docketed the anniversary date and the Court’s Minute Entry Orders with its own required dates. Generally, I comply with those Court set dates.”</p>
<p><i>Program Auditor Response to Auditee</i></p>	<p><u>Guardianship Report</u> -- The statutes cited (ARS §14-5315(A)) with the finding are very specific as to the required date of guardianship report submissions. On June 13, 2003 the Superior Court, Maricopa County notified you and ordered you to file an “Annual Report of Guardian” by a specific date and setting a date for review to confirm the filing for client # 01. This order was by the Honorable Diana L. Clarke, Judge Pro Tem for the Honorable Norman J. Davis. Your corrective action</p>

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will need to be changed to reflect your commitment to meeting the requirements of the law.

Inventory – The statutes cited (ARS §14-5418(A)) with the finding are very specific as to the required date the inventory is to be submitted to the court. If an inventory is incomplete due to unusual circumstances, the fiduciary may file an amended inventory at a future date and/or request an extension of time to file the inventory with the court. Your corrective action will need to be changed to reflect your commitment to meeting the requirements of the law.

Accountings -- The statutes cited (ARS §14-5419(A)) with the finding are very specific as to the required date the annual accounting is to be submitted to the court. If you know an accounting will be late, the court should be informed. Your corrective action will need to be changed to reflect your commitment to meeting the requirements of the law.

Estate Management Plan -- Among the documents you provided us is a copy of an *Order to Show Cause* filed March 21, 2001 referring to the failure to file an estate management plan and an inventory and appraisal as required by the court. This is an example of violating the law. Your corrective action will need to be changed to reflect your commitment to meeting the requirements of the law.

***Corrective Action
Plan***

*Fiduciary's
Response*

“From now on I shall advise attorney to file an extension if necessary. I intend to comply with the law and Court Orders for timely filings.”

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<p><i>Finding #3</i></p> <p>➤ <i>Guardianship Reports</i></p> <p><u><i>Related Attributes:</i></u></p> <p><i>ARS §14-5315(C)</i></p> <p><i>Requirements</i></p>	<p>A fiduciary acting as guardian must include the specific items detailed in statute in the annual guardianship report. The following files were missing:</p> <ul style="list-style-type: none"> • Person-in-Charge – Client # 1 • Number of times the guardian has seen the ward – Client # 4 <p>The fiduciary will include all of the statutorily required information in the annual guardianship reports and attach the documentation to the annual accountings.</p>
<p><i>Auditee's Response</i></p> <p><i>Fiduciary's Response</i></p>	<p>“Fiduciary agrees with the finding.”</p>
<p><i>Corrective Action Plan</i></p> <p><i>Fiduciary's Response</i></p>	<p>“I shall list all relevant persons involved with the care of the ward. In this manner, all parties will know all relevant contact persons, so no time is lost by working one’s way down the line.”</p> <p>“I shall itemize each visit date. I have developed a form to document each visit.”</p>

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<p><i>Finding #4</i></p> <p>➤ <i>Documentation</i></p> <p><u><i>Related Attributes:</i></u></p> <p><i>ARS §14-5418(B)</i></p>	<p>A fiduciary appointed as a conservator must keep, according to state statutes, “suitable” records of the administration of the client’s estate and be able to exhibit those records upon request. Suitable records include conformed copies of client court documents, records of client contact and/or consultations, verification of fees charged and documentation which tracks the disposition, storage, disbursement, and/or appreciation of items in a client’s estate.</p> <p>Examples of missing or misfiled documentation leading to an inability to verify information are:</p> <ul style="list-style-type: none"> • Could not put file together after nine (9) hours of review; missing estate management plans, asset description records; \$20,000 gain on house sale not reflected as a gain; also, had a loss not reflected. – Client # 2 • Receipts not reconcilable or readable, no check numbers associated with checks, no dates received or paid noted, receipts for cash to client missing. – Clients # 4 & 5 • No documentation found on amended inventory. – Client # 5 • Proof of client visitations missing or misfiled. – Client # 4 • Documentation justifying fiduciary fees missing or misfiled. – Clients # 1, 2, 3, 4 & 5
<p><i>Requirements</i></p>	<p>The fiduciary must maintain client case files in “suitable” or auditable condition to exhibit upon request at any time to any interested person.</p>
<p><i>Auditee's Response</i></p> <p><i>Fiduciary's Response</i></p>	<p>“Could not put file together – Client # 2”</p> <p>“Most of the appropriate documents and case notes were in the file. Several years ago I purged many files that were 10-15 years old. I also cleaned out files because lack of storage room and purged some of the legal documents and statements that were over three years old.”</p> <p>“Receipts not reconcilable – Clients # 4 & 5”</p> <p>“When I write a check I always annotate every receipt with the date and check number. If I don’t have a receipt, then I usually make a copy of the check. Several of the receipts are difficult to read, because they are several years old and very faded; however, originals are available upon request.”</p>

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	<p>“Documentation justifying fees – Clients # 1-5” “I use time slips for my billing system. Since my practice is small, I did not think it was necessary to make hand written notes, memos, graphs & charts; I usually post everything I did daily on my time slips program and keep my back-up information in the client file. It would be too costly to make a copy of everything in the file and attach it to the time slip.”</p>
<p><i>Program Auditor Response to Auditee</i></p>	<p>Could not put file together – Client # 2 – The documents from your attorney are helpful in understanding the course of events for this client’s case. It does not alter the finding of a lack of documentation because these documents along with appropriate case notes are to be in your file.</p> <p>Receipts not reconcilable – Clients # 4 & 5 – Receipts are not readable and are not annotated with the date and check number when paid.</p> <p>Proof of client visits – Client # 4 -- Fee statements are not evidence of client visitation, professional consultations and/or decision-making.</p> <p>Documentation justifying fees – Clients # 1 through 5 – Documentation which “backs-up” or is evidence of performing your services for which you are charging the client a fee.</p> <p>This finding is a result of the condition of your case files and has no relationship to the attorneys representing your clients. ARS §14-5418(B) specifically states you must keep suitable records of your administration of the client’s estate and be able to exhibit (<i>provide</i>) those records upon request. Suitable records include conformed copies of client court documents, records of client contact and/or consultations, verification of fees charged and documentation which tracks the disposition, storage, disbursement and/or appreciation of items in a client’s estate.</p>
<p><i>Corrective Action</i></p> <p><i>Fiduciary’s Response</i></p>	<p>“Could not put file together – Client # 2 From now I will not purge anything in a file that is still open. I will make duplicate copies and separate files for all of the categories instead of filing the corresponding items with the accounting. The client file(s) shall be organized in a calendar year along with a fiscal year so records and documentation will easier to locate.”</p>

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“Receipts not reconcilable – Clients # 4 & 5”

“I will always double check each time I write a check that there is always a receipt for each check...”

“Proof of visits – Client #4”

“A visitation form will now be kept for each visit, so if myself or another person from my office visits there will be another written record along with my time slips. File memoranda will be written regarding any consultation. My computer program is constantly updated and tracks all receipts, disbursements and the gains/losses for each client.”

“Documentation justifying fees -- Clients # 1-5”

“Pursuant to your request I will also keep hand written notes.”

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<p>Finding #5</p> <p>➤ Fiduciary Fees</p> <p><i>Related Attributes:</i></p> <p>Arizona Code of Judicial Administration §7-202, Appendix A, Code of Conduct, Standard 4.h. & 5.g.</p> <p>Requirements</p>	<p>The fiduciary must ensure all fees and expenses are reasonable and incurred for the welfare and/or administration of the estate. Client files did not contain documentation to justify the fee statements or expenses presented to the court.</p> <ul style="list-style-type: none"> • Documentation missing or misfiled justifying fees charged. -- Clients # 1, 2, 3, 4 & 5 <p>All fee statements presented to the court will have backup documentation to present upon request as a justification for the fees charged.</p>
<p>Auditee's Response</p> <p><i>Fiduciary's Response</i></p>	<p>"I use time slips for my billing system. Since my practice is small, I did not think it was necessary to make hand written notes, memos, graphs & charts; I usually post everything I did daily on my time slips program and keep my back-up information in the client file. It would be too costly to make a copy of everything in the file and attach it to the time slip."</p>
<p>Program Auditor Response to Auditee</p>	<p>There was no documentation found which justified the fee statements or expenses presented to the court.</p>
<p>Corrective Action</p> <p><i>Fiduciary's Response</i></p>	<p>"Pursuant to your request I will also keep hand written notes."</p>

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<p><i>Finding #6</i></p> <p>➤ <i>Guardian Resignation</i></p> <p><u><i>Related Attributes:</i></u></p> <p><i>ARS §14-5315(A)</i></p> <p><i>Requirements</i></p>	<p>A fiduciary must submit a report to the court when acting as a guardian on resignation as a guardian.</p> <ul style="list-style-type: none"> • Evidence of a guardianship report having been filed was either not filed, missing or misfiled. – Client # 3 <p>The fiduciary must submit a written report to the court on resignation or removal as a guardian. (If this guardianship report has not been filed, the fiduciary must submit one to the court)</p>
<p><i>Auditee's Response</i></p> <p><i>Fiduciary's Response</i></p>	<p>“My attorney did submit a petition to the court to terminate the guardianship. I was only guardian for less than two months and the ward died. The annual report was not due, I considered the Petition to terminate as sufficient. Neither the court or any interested party raised any questions regarding this issue.”</p>
<p><i>Program Auditor Response to Auditee</i></p>	<p>Fiduciary submitted evidence of a petition filing terminating the guardianship.</p>
<p><i>Corrective Action</i></p>	<p>None required.</p>

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<p><i>Finding #7</i></p> <p>➤ <i>Accounting Accuracy</i></p> <p><i>Related Attributes:</i></p> <p><i>Arizona Code of Judicial Administration §7-202, Appendix A, Code of Conduct, Standard 4.i.</i></p> <p><i>Requirements</i></p>	<p>It could not be definitively determined whether the inventories and/or accountings were complete and accurately prepared due to the incomplete condition of the client files. Records routinely did not reconcile with the accounting summary. However, from the information found the following was not in compliance:</p> <ul style="list-style-type: none"> • Listed payee on disbursement reports was inaccurately reported. The payee was the fiduciary – Client # 4 • A retail store refund for cash was never credited to the Client’s account – Client # 4 <p>A fiduciary must prepare complete, accurate and understandable accountings.</p>
<p><i>Auditee's Response</i></p> <p><i>Fiduciary's Response</i></p>	<p>“The accounting was not inaccurate; I posted the entries exactly as they happened. My attorney instructed me to specify “Custodian for Amanda” for her petty cash expenditure checks. I am not allowed to make checks payable directly to Amanda because this could compromise her State & Federal benefit status. The “reimbursement for taxi” (<i>payee line</i>) was exactly as shown, to reimburse me, since I expended my own funds to pay for several different taxi services. Most taxi drivers will not take checks.”</p>
<p><i>Program Auditor Response</i></p>	<p>The fiduciary has been instructed to accurately reflect the payee on each disbursement in order to provide a clearer picture to the court of client account activity.</p> <p>The fiduciary has reimbursed in full the estate of Client # 4 for the cash which had not been credited to the Client’s account.</p>

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<p>Finding #8</p> <p>➤ Estate Plans</p> <p><u>Related Attributes:</u></p> <p><i>Maricopa County, Local Rule 5.7.c.</i></p>	<p>A fiduciary must file an estate management plan on the court-approved form providing (a) an estimate of the fiduciary fees anticipated for the accounting period and (b) a summary of the management plan for the next accounting period to include any major changes in the management of the estate or placement of the ward expected to occur.</p> <ul style="list-style-type: none"> • Estate management plans submitted to the court were exactly the same each year and did not possess the elements of a “plan”. Elements of a plan would include goals for the coming year and a program of action to achieve those goals. – Client # 4
<p>Requirements</p>	<p>A complete estate management plan is to be developed and submitted to the court each accounting period.</p>
<p>Auditee's Response</p> <p><i>Fiduciary's Response</i></p>	<p>“Obviously, the Court form for the Estate Management Plan does not provide space for more than a brief summary of the Individual Service Plan for Client # 4 along with a contact person and a telephone number. There are confidentiality issues with this case and treatment.”</p>
<p>Program Auditor Response to Auditee</p>	<p>Estate Management Plans submitted to the court should provide more information than a few word response to the form’s questions. By definition a plan is a detailed formulation of a program of action (Merriam-Webster). The plans submitted for client # 4 to the court were almost identical each year including a response of undetermined to the question of anticipated expenses for the ward. After almost five years as the client’s conservator, with the client in a stable environment, the fiduciary should be able to anticipate expenses. The court needs a more detailed and considered estate management plan from a court appointed conservator. A well prepared estate management plan is, in part, evidence of competent management of the client’s estate.</p>
<p>Corrective Action</p> <p><i>Fiduciary's Response</i></p>	<p>“I generally list anticipated expenses or state that there will be no change. Before I file the Estate Management Plan I shall double check each year and ask that my attorney(s) and the Court-appointed attorney review this item and my plan for services and to forward immediately</p>

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any questions or comments they may have. Thereafter, I shall file any revised Estate Management Plan.”

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<p><i>Finding #9</i></p> <p>➤ <i>Competent Management</i></p> <p><u><i>Related Attributes:</i></u></p> <p><i>Arizona Code of Judicial Administration §7-202, Appendix A, Code of Conduct, Standard 4.</i></p> <p><i>Requirements</i></p>	<p>The audit was unable to determine the competency of the management for each of the client's estate property and income due to the condition of the client files. It was apparent, however, the management of client affairs was not professionally performed as evidenced by the following:</p> <ul style="list-style-type: none"> • Documentation of events was missing or misfiled • Court orders and requirements have not been met timely • Documentation of decision-making for clients was not found in the files <ul style="list-style-type: none"> ○ Documentation demonstrating how independence was encouraged for wards • Basic business practices were not followed: <ul style="list-style-type: none"> ○ Policies and procedures have not been developed ○ Receipts/invoices do not have received/paid dates to prevent double payments ○ Receipts/invoices do not have check numbers for tracking or reconciliation ○ Verification or back-up documentation justifying fees charged to the client are not in the files <p>A fiduciary acting as a conservator for an estate shall provide competent management of the property and income of the estate. The fiduciary shall exercise intelligence, prudence and diligence and avoid any self-interest in the discharge of this duty.</p>
<p><i>Auditee's Response</i></p> <p><i>Fiduciary's Response</i></p>	<p>"Arizona Law and the Court require filing by a fiduciary on the anniversary date of an appointment. It is my intent to maintain annual and fiscal filing systems. I attended all required training sessions of your Unit. Basic business practices have always been maintained and improved."</p>
<p><i>Corrective Action</i></p> <p><i>Fiduciary's Response</i></p>	<p>"I will continue to improve and change methods as necessary."</p>

Pimental Associates, LLC, Fiduciary Compliance Audit Report

<p><i>Finding #10</i></p> <p>➤ <i>Diligence</i></p> <p><i>Related Attributes:</i></p> <p><i>Arizona Code of Judicial Administration §7-202, Appendix A, Code of Conduct, Standard 1</i></p> <p><i>Requirements</i></p>	<p>The fiduciary must exercise extreme care and diligence when making decisions on behalf of a ward or protected person. There were:</p> <ul style="list-style-type: none"> • Shortened business hours limiting the fiduciary’s availability for client business and/or raising the cost of fiduciary services for “after business hours” work; • Extended and frequent absences from the business. No local fiduciary was left in charge in case of an emergency; and, • Evidence of regular professional consultations on behalf of the ward or estate was not in the client files. <p>Assiduous attention to a ward or protected person is the function of a court-appointed fiduciary.</p>
<p><i>Auditee's Response</i></p> <p><i>Fiduciary's Response</i></p>	<p>“I have never left any of my clients without a backup contact person if I knew that I was going to be unavailable; there has always been a Power of Attorney for my business in case of an emergency.”</p> <p>“In the past when I had a very large case load I kept my office open 7 days a week. Now that I have scaled back to a small practice (by choice), it is not necessary to keep long hours. I have always been on call for emergencies 24 hours a day 7 days a week. However, I do encourage clients to contact me during my business hours of 9 a.m. to 4 p.m. Monday through Thursday. If my office is “closed” or my voice mail picks up that does not mean that I am not at work. I always return every call & message and then tell someone that they could not contact me. Numerous times in the past 20 years I have worked 7 days a week, 15 or more hours a day, many hours before my “office opens” and many hours after “closing” and I have never charged a cent for many of those hours. However when a client demands that I do something after hours that could have waited until the next business day, then there is an overtime charge. I inform my client of this procedure. Many fiduciaries charge “overtime” fees. According to generally accepted business practices, overtime is charged for weekends and any time expended during the week before or after a regular 8-hour day, which is before 8 a.m. and after 5 p.m. There is usually an expedited handling charge for any emergency which necessitates a change in normal business.”</p>

**Pimental Associates, LLC, Fiduciary
Compliance Audit Report**

<p><i>Program Auditor Response to Auditee</i></p>	<p>As you detailed to us verbally, your business hours are 9 a.m. to 4 p.m., Monday through Thursday. If you are required to perform fiduciary services on a Friday or the weekend, you charge overtime rates. You stated that due to family residing out-of-state, you have several extended absences annually.</p> <p>While the Fiduciary Program has no position on mobile offices, it is essential and required for a fiduciary to have documentation of the administration of their court appointments and the ability to provide that documentation upon request. This includes documentation of professional consultations and decision making. Annual fee statements alone do not constitute that documentation.</p>
<p><i>Corrective Action Fiduciary's Response</i></p>	<p>“In the future, I shall have another Fiduciary on call if I am ever unavailable.”</p>

**Pimental Associates, LLC, Fiduciary
Compliance Audit Report**

<p><i>Finding #11</i></p> <p>➤ <i>Compliance</i></p> <p><u><i>Related Attributes:</i></u></p> <p><i>Arizona Code of Judicial Administration §7-202, Appendix A, Code of Conduct, Standard 7</i></p> <p><i>Requirements</i></p>	<p>A fiduciary must perform all of their duties and discharge all of their obligations in accordance with current Arizona law and the administrative rules, administrative orders, Arizona Code of Judicial Administration §7-201: General Requirements and this code (§7-202) section adopted by the supreme court governing the certification of fiduciaries. Each finding (#'s 1 through 10) is illustrative of not meeting the <i>Code of Conduct, Standard 7</i>.</p> <p>The Pimental Associates, LLC aka Dian Pimental must ensure she will perform all of her duties and discharge all of her obligations to meet the requirements of <i>Standard 7</i>.</p>
<p><i>Auditee's Response</i></p> <p><i>Fiduciary's Response</i></p>	<p>"I am currently taking courses to improve my business skills. I attend all required Fiduciary training sessions. The changes and corrective actions listed above are an indication of my compliance with Arizona law and your requests."</p>
<p><i>Corrective Action</i></p> <p><i>Fiduciary's Response</i></p>	<p>"I shall make every effort to comply fully in the future."</p>

Pimental Associates, LLC, Fiduciary Compliance Audit Report

<p><i>Finding #12</i></p> <p>➤ <i>Co-Mingling</i></p> <p><u><i>Related Attributes:</i></u></p> <p><i>Arizona Code of Judicial Administration §7-202, Appendix A, Code of Conduct, Standard 4.b.</i></p> <p><i>Requirements</i></p>	<p>During the re-audit of the files, it was discovered checks/disbursements were advanced to the fiduciary to pay “out-of-pocket” to the ward for various expenses or allowances. Each time a check was written to the fiduciary for anything other than court approved fees or a reimbursement of items constitutes co-mingling of funds with the fiduciary. Client # 4.</p> <ul style="list-style-type: none"> • Listed payee on disbursement reports was “Custodian for Amanda” or as a reimbursement for various expenses. – Client # 4 <p>The fiduciary shall not co-mingle any property or assets of the protected person’s estate with the fiduciary’s own property or assets.</p>
<p><i>Auditee's Response</i></p> <p><i>Fiduciary's Response</i></p>	<p>“I will not make cash advances to client # 4 which would need to be reimbursed to me by check.”</p>
<p><i>Corrective Action</i></p> <p><i>Fiduciary's Response</i></p>	<p>“I will not make cash advances to client # 4 which would need to be reimbursed to me by check...”</p>

SECTION THREE

APPENDIX ONE

PIMENTAL ASSOCIATES, LLC

Dian B. Pimental
P.O. Box 1309
Sun City, AZ 85372-1309
License # 20129 & 20130

Telephone 623-977-2130

Fax 623-537-3630

DATE: June 3, 2004
TO: J.R. Rittenhouse, Fiduciary Program Manager
Kitty Boots, Fiduciary Program Review Specialits
FAX 602-364-0358 *15 pages*
RE: My Response to Your letter dated April 13, 2004 re: Draft Response
Concerning Fiduciary Compliance Audit

Finding 1- Certification Numbers:

On May 12, 2004, a Notice of Fiduciary's Current Information was filed with the Court and mailed to this Unit and to the respective parties to each open case. All letterhead and billings contain the appropriate Az. Fiduciary Certification numbers. On or about May 12, 2004, I orally and in writing advised all attorneys of this requirement. See attached.

Findings 2-Timeliness:

I have maintained a computer and/or personal calendar docketing system since 1986. While Arizona requires reports to be filed on the anniversary date of an appointment, the Court has adopted a more realistic date of 3 months after any such date so that third parties can provide the fiduciary with the pertinent information required each year. I have always docketed the anniversary date and the Court's Minute Entry Orders with its own required dates. Generally, I comply with those Court set dates. From now on I shall calendar this requirement 60 days before it is due, and provide the information timely. I intend to comply with the law and Court Orders for timely filings.

Finding 3-Guardianship Reports:

I shall list all relevant persons involved with the care of the ward, such as the Director or administrator and the person who is responsible for the daily care. In this manner, all parties will know all relevant contact persons so no time is lost by working one's way down the line.

I shall itemize each visit date. I provided you with a copy of my visit form on the May 18, 2004 audit along with medical records that were sent to court for the 2001, 2002 and 2003 for client #4.

Finding 4-Documentation:

Inventory missing Client #3

As I have previously explained, I was **not** conservator or trustee and not required to file an Inventory. I was requested as a courtesy to pay a very few of the bills until the trustee could be appointed; then I simply prepared an accounting so he could see how the funds were distributed. The reason no evidence of personal property was found was because I was **not** conservator or trustee in charge of the finances and I did not do an inventory of the personal items. I was only the guardian for a few weeks.

Could not put file together-Client 2

Most of the appropriate documents and case notes were in the file. Several years ago I purged many files that were 10-15 years old, I also cleaned out files because lack of storage room and purged some of the legal documents and statements that were over three years old. From now I will not purge anything in a file that is still open. I will make duplicate copies and separate files for all of the categories instead of filing the corresponding items with the accounting. The client file(s) shall be organized in a calendar year along with a fiscal year so records and documentation will be easier to locate.

Receipts not reconcilable-Clients 4&5

When I write a check I always annotate every receipt with the date and check number, if I don't have a receipt, then I usually make a copy of the check. If the copies of the receipts I gave you are not readable I will be happy to meet with you and show you the originals. I will always double check each time I write a check that there is **always** a receipt for each check.

Proof of visits-Client #4

A visitation form like the one attached will now be kept for each visit, so if I or another person from my office visits there will be another written record along with my time slips. File memoranda will be written regarding any consultation. At the very least, a copy of billing statements for any action will be kept in the appropriate file, for example, files for health matters; or bank accounts or other financial matters will be maintained. My computer program is constantly updated and tracks all receipts, disbursements and the gains/losses of each client.

Documentation justifying fees: Client 1-5 See response for finding 5

Finding 5-Fiduciary Fees:

I use time slips for my billing system. Most attorneys use this program to keep track of their billed time. I see no need for individual time sheets when a running record can be kept on a billing system on a computer. I will now reflect memos of my activities and maintain a written log.

Bond for client #3. When the trustee/conservator was appointed it was his responsibility to collect the bond refund. I did not have any authority at that time to request a refund; I was only the guardian for a few weeks. I only had permission (for approximately 4-5

weeks) to pay for the bond before the current trustee was appointed. The letter was not in my files because I had no authority or authorization to collect the funds. I requested that letter to show you that I never did receive or collect the refund; because your Unit wanted to know what I did with the bond refund. I never received the bond refund as it was beyond the scope of my limited authority to pursue this issue.

Finding 6-Guardian Resignation:

My attorney, Mathis Becker did indeed submit a petition to the court to terminate the guardianship. I was only guardian for less than two months and the ward died. The annual report was not due, I considered the Petition to terminate as sufficient. Neither the court or any interested party raised any questions regarding this issue.

Finding 7- Accounting accuracy, finding reversed

Finding 8-Estate Plans:

The Court form for the Estate Management Plan does not provide space for more than a brief summary of the Individual Service Plan for Client 4 along with a contact person and a telephone number. Please remember there are confidentiality issues with this case and treatment.

I generally list anticipated expenses or state that there will be no change. Before I file the Estate Management Plan I shall double check each year and ask that my attorney(s) and the Court -appointed attorney review my plan forward immediately any questions or comments they may have. I shall file timely Estate Management Plan(s)

Finding 9-Competent Management:

Arizona Law and the Court require filing by a fiduciary on the anniversary date of an appointment. Consequently, it is imperative that files are maintained on a fiscal year basis. It is my understanding that your Unit would prefer my files to be kept on a calendar year system. It is my intent to maintain both systems in order to comply with Arizona law and your requirements. Regretfully, this duplication will add to the cost for each client. I do not see how "post-dated" checks lose any interest since they cannot be cashed until the date of the check, since you are "not in the business of telling fiduciaries how to run their business" I am unsure how I can respond to your concerns.

I have attended all required training sessions of your Unit. Basic business practices have always been maintained and improved. I will continue to improve and change methods as necessary, and will maintain my business not inconsistent with the business Fiduciary practices reflected in the Fiduciary Certification training manual. If you are aware of any "basic practice" standards, I would appreciate you informing me.

Finding 10-Diligence

Attached is a copy of a letter to Jane Ann Geisler of Managed Protective Services to confirm to your Unit that I shall have another Fiduciary on call if I am ever unavailable. Copy of letter given to you on May 18, 2004 audit.

In the past when I had a very large case load I kept my office open 7 days a week. Now that I have scaled back to a small office (by choice), it is not necessary to keep long hours. I have always been on call for emergencies 24 hours a day 7 days a week. However, I do encourage clients to contact me during my business hours of 9 a.m. to 4 a.m. Monday through Thursday. If my office is "closed" or my voice mail picks up that does not mean that I am not at work. I always return every call & message that is left; many times a person does not leave a message and then tells someone that they could not contact me. Numerous times in the past 20 years I have worked 7 days a week, 15 or more hours a day, many hours before my "office opens" and many hours after "closing" and I have never charged a cent for many of those hours, however, when a client **demand**s that I do something after hours when it could have waited until the next business day, then there is an overtime charge, I normally inform my client of this procedure. Many fiduciaries charge "overtime" fees, I do when someone demands something right now that could have waited until "normal business hours". According to generally accepted business practices, overtime is charged for weekends and any time expended during the week before or after a regular 8-hour day, that is, before 8am and after 5pm (1 hour for lunch). There is also an expedited handling charge for any emergency which necessitates a change in normal business.

If the concern is about my unavailability on Friday. I am always available for emergencies on Friday and in order to resolve your concerns, I will not bill any overtime for Friday work. If I am not in the office due to client needs or unable to answer the phone I pick up my messages on a regular daily basis. I use a mobile phone, call forwarding and my laptop computer, and currently all client bills are paid on line. I will maintain more detailed records both in client files and daily logs.

Finding 11-Compliance:

I am currently taking the courses listed below to improve my business skills. I attend all required fiduciary training sessions. The changes and corrective actions listed above are an indication of my compliance with Arizona law and your requests.

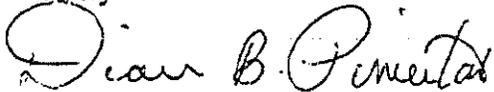
MS excel 2002

MS word 2002

My time frame for implementing these procedures and practices is immediately.

I will be at Mathis Becker's office on May 4, 2004 at 9:00 am for your telephone exit interview. The number is (623)974-4735. If this is not acceptable please call me as soon as possible so that I can let Mr.Becker's office know that I will not be using the conference room at that time.

Sincerely



Dian B. Pimental

PIMENTAL ASSOCIATES, LLC

P.O. Box 1309
Sun City, Az. 85372-1309

Telephone 623-977-2130

Fax 623-537-3630

DATE: June 25, 2004
TO: J.R. Rittenhouse, Fiduciary Program Manager
Kitty Boots, Fiduciary Program Review Specialist
RE: My Response to Your Exit Interview of June 15, 2004

Finding 1- Certification Numbers: Response and Corrective Action

On May 12, 2004, a Notice of Fiduciary's Current Information was filed with the Court and mailed to this Unit and to the respective parties to each open case. All letterhead and billings contain the appropriate Az. Fiduciary Certification numbers. On or about May 12, 2004, I orally and in writing advised all attorneys of this requirement. Pursuant to your request I will include my certification numbers under my name.

Findings 2-Timeliness:

Response and Corrective Action

I have maintained a computer and/or personal calendar docketing system since 1986. While Arizona requires reports to be filed on the anniversary date of an appointment, the Court has adopted a more realistic date of 3 months after any such date so that third parties can provide the fiduciary with the pertinent information required each year. I have always docketed the anniversary date and the Court's Minute Entry Orders with its own required dates. Generally, I comply with those Court set dates. From now on I shall advise attorney to file an extension if necessary. I intend to comply with the law and Court Orders for timely filings.

Finding 3-Guardianship Reports:

Response and Corrective Action

I shall list all relevant persons involved with the care of the ward. In this manner, all parties will know all relevant contact persons, so no time is lost by working one's way down the line.

I shall itemize each visit date. Attached is a copy of my visit form. Sch.A

Finding 4-Documentation:

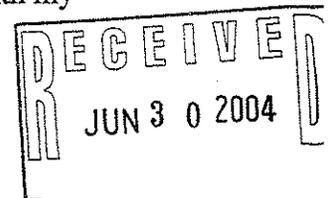
Response and Corrective Action

Receipts not reconcilable-Clients 4&5

When I write a check I always annotate every receipt with the date and check number. If I don't have a receipt, then I usually make a copy of the check. Several of the receipts are difficult to read, because they are several years old and very faded; however, originals are available upon request. I will always double check each time I write a check that there is **always** a receipt for each check.

Proof of visits-Client #4

A visitation form like the one attached will now be kept for each visit, so if myself or another person from my office visits there will be another written record along with my



unavailable.

In the past when I had a very large case load I kept my office open 7 days a week. Now that I have scaled back to a small practice (by choice), it is not necessary to keep long hours. I have always been on call for emergencies 24 hours a day 7 days a week. However, I do encourage clients to contact me during my business hours of 9 a.m. to 4 p.m. Monday through Thursday. If my office is "closed" or my voice mail picks up that does not mean that I am not at work. I always return every call & message that is left. Many times a person does not leave a message and then tells someone that they could not contact me. Numerous times in the past 20 years I have worked 7 days a week, 15 or more hours a day, many hours before my "office opens" and many hours after "closing" and I have never charged a cent for many of those hours. However when a client **demand**s that I do something after hours that could have waited until the next business day, then there is an overtime charge. I inform my client of this procedure. Many fiduciaries charge "overtime" fees. According to generally accepted business practices, overtime is charged for weekends and any time expended during the week before or after a regular 8-hour day, that is before 8am and after 5pm. There is usually an expedited handling charge for any emergency which necessitates a change in normal business.

Finding 11-Compliance:

Response and Corrective Action

I am currently taking courses to improve my business skills. I attend all required Fiduciary training sessions. The changes and corrective actions listed above are an indication of my compliance with Arizona law and your requests and I shall make every effort to comply fully in the future.

Finding 12- Co-Mingling

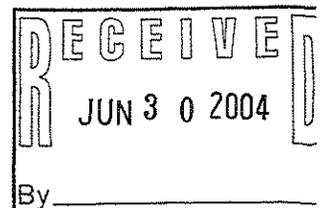
Response and Corrective Action I will not make cash advances to client #4 which would need to be reimbursed to me by check.

My time frame for implementing these procedures and practices is immediate.

Sincerely



Dian B. Pimental
License # 20129 & 20130



Vaughan & Becker, P.C.

MAR 12 2004

7310 North 16th Street
Suite 226
Phoenix, Arizona 85020

Law Offices of
Barron & Polk, P.L.L.C.

Received

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March 09, 2004

Ms. J.R. Rittenhouse
Fiduciary Program Manager
Certification and Licensing Division
Arizona Supreme Court
1501 West Washington
Suite 104
Phoenix, Arizona 85007-3231

Re: [REDACTED] Guardianship and Conservatorship

Dear J.R.:

This correspondence is in partial response to the report of February 23, 2004 regarding [REDACTED], also identified as client #4 in said report. As counsel for Pimental Associates, L.L.C., with respect to this particular matter, our office has reviewed the report generated by the Fiduciary Audit Program and responds in part thereto.

With respect to finding #1, it is unclear from the Fiduciary Program Audit Report as to specifically which documents the audit refers. Nonetheless, the firm of Barron & Polk, P.L.L.C., has revised the electronic file and document generation mechanism for this matter to ensure that all documents filed with the Court through this office will contain the fiduciary certification number.

Finding #2 late inventory with respect to client #4. It should be first noted that at the time of appointment the firm of Michael Hintze and Associates was representing Pimental Associates. As Mr. Hintze's firm has ceased the practice of law, as of several years ago, it is very difficult to gather specific information regarding the circumstances surrounding the appointment and subsequent administration of the conservatorship. Nonetheless, a review of the Court's docket indicates that while the hearing on appointment of Pimental & Associates as Successor/Conservator and Successor/Trustee occurred on or about January 5, 1999, Letters of Appointment did not issue until August 11, 1999. It should also be noted, and this was not referred to in the Fiduciary Audit, that there was a companion or related case in this matter which is [REDACTED]. A review of the docket in that matter indicates that the inventory was filed on May 12, 1999. When one reviews and juxtaposes the two sets of dockets in these related cases arising from an unusual set of circumstances surrounding the settlement on behalf of two minors, and then the subsequent appointment of Pimental Associates, L.L.C., it is somewhat understandable why the inventory may have been filed shortly after the deadline to do so. Regardless of the source of error five years ago, the firm of Barron & Polk, P.L.L.C., ensures redundancy in docketing of deadline by not only using leading edge software for docketing in

*Certified Private Fiduciary

†Also admitted to practice law in Georgia

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By _____

March 09, 2004

Page 2 of 2

case management, but by also ensuring all copies of minute entries, pleadings, correspondence and other case materials are copied to the client as soon as such materials are received. Thus, it is believed, and every confidence exists, that errors which had occurred in the past will not occur in the future.

Finding #3 with respect to copy of physician's report. It is wholly unclear from the Fiduciary Program Audit as to which Guardianship Report the Fiduciary Audit makes reference. There is no indication of date of report, date of filing, or time period to which the report in question might be related. Obviously this paucity of information makes it difficult to adequately respond to the Fiduciary Audit's concerns. Nonetheless, in a good faith effort to respond, it should be noted that a review of the file in this matter demonstrated that the most recent Guardian's Report as filed on or about May 28, 2003, contains and has attached thereto a copy of the individual service plan by the therapist, [REDACTED], as well as the safety/support plan, and the consent for disclosure of confidential information. [REDACTED] speaks on behalf of Jewish Family Children Services with respect to this particular client, and includes in this report all the most current information from the various service providers and medical team including nurse practitioner, [REDACTED] and other information from Value Options. It appears therefore that Pimental Associates, L.L.C., is in compliance with the statutory requirements with respect to Guardianship Reports.

Item #4 relating to documentation. With respect to client #4 the following concerns were noted by the Fiduciary Audit: A) Receipts not reconcilable or readable, no check numbers associated with checks, no dates received or paid noted, receipts for cash to client missing; B) Proof of client visitations missing or misfiled; and C) Documentation justifying fiduciary fees missing or misfiled. It is unclear from this report as to exactly which aspects of the concerns relate to client #4 or other clients as set forth in the report. Additionally it is unclear as to whether all components of the various concerns or only some of the components of the concern relate to this specific client. As a consequence it is difficult to respond clearly in light of the ambiguity of the report.

The Fiduciary Audit Program is requested to give a higher specificity with respect to the issues set forth in order to permit Pimental Associates, L.L.C., and undersigned counsel, to respond adequately.

Pimental Associates, L.L.C., will supplement this response and request. It should be noted, however, that a general review of counsel's file with respect to this matter appears to have full documentation with respect to the request for Fiduciary Fees as submitted to the Court pursuant to Maricopa County Local Rule 5.7.

Item #5 relating to fiduciary fees. The Fiduciary Audit indicates that documentation is missing or misfiled justifying fees charged. This is the same concern as raised in item "C" of issue #4 above. It is unclear from the report as to specifically what the auditor's area of concern really was with respect to client #4. Undersigned counsel requests that the auditor clarify what areas or documents appear to be missing. However, as noted in issue #4, a review of undersigned's case file generally indicates that all documentation relating to Rule 5.7 statements are in order.

The name, address & telephone number of the physician were on the reports.

Corrective action: none necessary

Number of times the guardian has seen the ward – Client 4

Visits were inadvertently missing on 2002, 2001 & 2000. However visits are clearly listed on my fee statements which have been filed with the court.

Detailed reports, notes & documents of treatment and care are produced by Amanda's caregivers and kept in [REDACTED]'s group home, personal file and Social service files. Also see letter from Attorney John Barron.

Corrective action: It is my intention to make every effort to comply.

Copy of Physician's Report – Client 4

Reports were included Corrective action: none necessary

Finding 4 – Documentation

Inventory missing, etc – client 3

Guardians are not required to file an inventory. I prepared a “**preliminary Inventory**” as an accommodation for the trustee, as guardian I did not handle the wards finances, except for a short time as an accommodation I paid three bills, one in particular was so my ward could continue living where she was because she was two months past due and was at risk of being evicted. Attached is an accounting. I was appointed guardian on July 25, 2002 and I named another Fiduciary as Medical Power of Attorney on September 16, 2002 (see attached Med. POA) because I was going out of town. If I was ever going to be unavailable I have always had an emergency back-up. I have never left my ward without back-up. I am on call twenty four hours a day seven days a week for over 18 years for emergencies.

Corrective action: If I am ever going to be unavailable I will have another fiduciary as back-up.

Could not put file together – Client 2

See documents from attorney Lynn Anderson, which includes a copy of Local Rule 5.7(c) stating that Personal Representatives are not required to file an Estate Management Plan.

Receipts not reconcilable – Client 4 & 5

Receipts are readable and can be reconciled. All bills are annotated with the date and check number when paid. Each client has a personal petty cash allowance which is listed in the annual accounting. No receipts are requested from the client, in conformance with the directive that the guardian and conservator shall preserve the dignity of the ward by implementing the lease restrictive procedures. Corrective Action: I will use a date stamp.

Client 5- see letter with attachments from Wilford Taylor

Proof of Client Visits – Client 4

All visit documentation was indicated on my fee statements, group home reports, Amanda's personal file and social service file.

Corrective action: none necessary

Documentation justifying fees – Clients 1,2,3,4 & 5

Fee statements were not missing or misfiled they were attached to the annual accountings. Corrective action: Fee statements are now separately filed.

Finding 5 – Fiduciary fees – Clients 1,2,3,4 & 5

Documentation missing – Clients 1,2,3,4 & 5
Fee statements were not missing or misfiled; they were attached to the annual Accountings.

Corrective action: Fee statements are now separately filed.

Bond refund – Client 3

See attached letter from bonding company stating that they did not return the refund to me.

Finding 6 – Guardian resignation – Client 3

I was only guardian from July 25, 2002 to September 22, 2002. It is my understanding that guardian reports are only required to be filed annually.

Finding 7 – Accounting Accuracy - Client 2

Receipts did not match accounting from July 199 to November 1999

I was not appointed during that period. That accounting was the former Personal Representative's accounting. I was appointed 11/24/199.

Corrective action: none necessary

Finding 8 – Estate Plans Client 4

Same estate plans – Client 4

Client has annual ISP which is approximately 20 pages and is confidential. Estate Plan forms do not give enough room except for a cursory explanation. Client was in High School until two years ago, obviously her goal was to complete her education. Daily life skills and traveling are now the main focus for [REDACTED]

Corrective action: None. [REDACTED] is a special needs child who is still coping with daily life skills.

Finding 9 – Competent Management

I cannot respond to these generalized allegations. My filing system was done for fiscal year of each client and corresponding documents were grouped together. The auditors have informed me their preferences for filing. I have complied with this request and now keep calendar records instead of fiscal filing.

Basic business practices have been followed with respect to issues concerning fees, receipts, etc. Please see prior responses and corrective actions.

All decisions concerning a client are made after consulting with appropriate people and are annotated in the file and my fee statements.

No client losses interest by post dating a check or pre-paying a bill, instead they save money. I do not charge per each check as many fiduciaries do or by line item.

Finding 10 - Diligence

I maintain regular business hours during the week with Fridays reserved for paperwork. Many times I am at work before daylight, after sunset and most weekends. I retrieve my telephone message every couple of hours, I have call forwarding and I am available 24 hours a day 7 days a week for emergencies. All other matters can be handled during normal business hours. I also embrace the modern concept of the mobile office. With telecommunications being what they are today, I do not find it necessary to be located physically at a desk for eight hours a day. I have always had appropriate back-up personal when necessary. At present I only have one guardianship.

Corrective action: If I am ever going to be unavailable I will have another

Fiduciary as back-up.

Finding 11 -- Compliance

I have complied with the Code of Conduct standards. My responses to items 1 through 10 indicate that I have carried out my duties. I have changed my system filing system to meet the auditors concerns.

I have discharged all other duties on all cases required by law. No court has ever found cause to remove me as a fiduciary. I have been a fiduciary for over 18 years. I have always conducted my practice according to the highest ethical standards, and I continue to do so. I have instructed all of my attorneys to include my certification numbers on all court documents.

I am willing to make improvements that will benefit my wards.

Sincerely


Dian B. Pimental