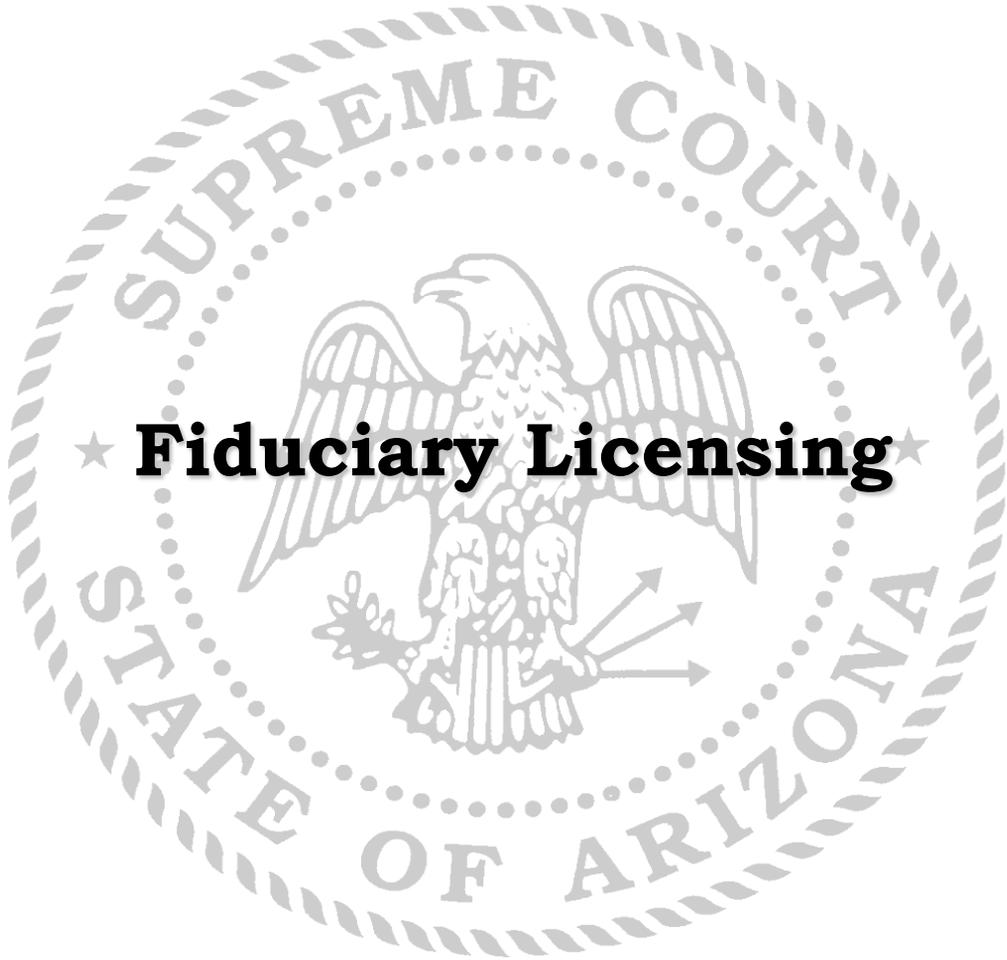


Arizona Supreme Court
Administrative Office of the Courts



Fiduciary Licensing

Compliance Audit

JOHN HARRIS

May 2012

May 25, 2012

John Harris
P.O. BOX 4081
Scottsdale, AZ 85261

RE: Fiduciary Compliance Audit

Dear Mr. Harris:

Enclosed is your final compliance audit report. Based on your response to the draft audit report and our meeting with you on December 30, 2011, we have made some revisions and added language in order to clarify the findings.

Thank you for your cooperation and assistance during the compliance audit process. 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 your court appointment. I hope you and your client will equally benefit.

If you have any questions, please contact Anne Hunter at (602) 452-3415.

Sincerely,

Nancy Swetnam, Director
Certification and Licensing Division

Enclosures

cc. Honorable Rose Mroz, Probate Presiding Judge, Superior Court in Maricopa County
Michael K. Jeanes, Clerk of the Court, Superior Court in Maricopa County

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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

Executive Summary

John Harris

Compliance Audit Report

The Arizona Supreme Court, Fiduciary Licensing Program conducted a compliance audit of John Harris, #20655, pursuant to Arizona Revised Statutes § 14-5651 and Arizona Supreme Court Administrative Order 2003-31. During the period of October 12, 2011 through October 14, 2011 the Compliance Unit audited the fiduciary activities of John Harris and his unlicensed employees.¹ The following is a summary of the audit findings.

Finding # 1 – Accuracy

Mr. Harris’ Initial Inventory and Appraisement document was not accurate and required Annual Accountings documents did not appear to be accurate.

Mr. Harris agrees with the finding.

Finding # 2 – Late Filings

Mr. Harris did not file Annual Accountings with the superior court timely.

Mr. Harris did not agree or disagree with the finding.

Finding # 3 – Certified Staff

Mr. Harris’ staff signed for authorization of the client’s care without documenting that the authority was at his direction.

Mr. Harris agrees with the finding.

Finding #4 – Inventory

Mr. Harris did not list client asset values as of the date of appointment.

Mr. Harris agrees with the finding.

¹ Pursuant to ACJA § 7-201 and § 7-202, licensed fiduciaries are required to provide active and direct supervision of other licensed fiduciaries, trainees and support staff who are employed by the fiduciary.

Executive Summary

Finding # 5 – Conflict of Interest

A fiduciary must avoid the appearance of a conflict of interest.

Mr. Harris disagrees with the finding.

Finding stands.

FINAL REPORT

John Harris #20655 Compliance Audit Report

<p>Objective</p>	<p>The compliance audit of John Harris was conducted pursuant to the Fiduciary Program's responsibilities as set forth in A.R.S. § 14-5651, Arizona Supreme Court Administrative Order No. 2003-31 the Arizona Code of Judicial Administration (“ACJA”) § 7-201: General Requirements and § 7-202: Fiduciaries, and the Arizona Rules of Probate Procedure (“ARPP”).¹</p> <p>The objective of the compliance audit was to determine compliance with applicable statutes, Arizona Supreme Court orders and rules and ACJA § 7-201 and § 7-202.</p>
<p>Methodology</p>	<p>In preparation for the compliance audit, preliminary survey questions were provided to John Harris (“Harris”). The responses were 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.</p> <p>In order to test for compliance, the program has developed and currently utilizes a set of fiduciary compliance attributes consisting of Arizona statutes, Arizona Supreme Court rules and ACJA §§ 7-201 and 7-202. Compliance with these requirements was tested using staff interviews, observations, and review of the client case file.</p> <p>The review of the court appointed client case file was designed to provide conclusions about the accuracy, validity and timeliness of transactions, internal controls, and compliance with the fiduciary attributes.</p> <p>Beginning October 12, 2011 and prior to beginning the onsite fieldwork, the auditors reviewed client court files from the Superior Court in Maricopa County and conducted an internal controls interview with Harris staff.</p>

¹ Arizona Codes of Judicial Administration, General Requirements & Fiduciaries, January 1, 2007.

John Harris #20655 Compliance Audit Report

<p><i>Scope</i></p> <p><i>Summary</i></p>	<p>During the period of October 12, 2011 through October 14, 2011 audit staff conducted the onsite compliance portion of the audit of the Harris fiduciary practice. The onsite compliance portion of the audit consisted primarily of fiduciary client case file review. The audit also included the fiduciary activities of the principal fiduciary and unlicensed staff.² An exit interview was conducted October 14, 2011.</p> <p>Harris was the court appointed fiduciary on 1 combination guardian/conservator case. Also as of October 3, 2011 Harris had approximately \$300,000 in court-appointed client assets under management.</p> <p>The compliance audit team reviewed the case file of the court appointment, focusing on timeliness, accuracy, the adequacy of internal controls and processes, and compliance with the statutory and ACJA requirements of client case administration.</p> <p>Harris' staff extended professional courtesies and cooperation to the audit team during the course of the audit.</p> <p>The compliance audit found non-compliance in five (5) areas. The non-compliance was found in the areas of accuracy, late filings, inventory, licensed staff, and the appearance of conflict of interest. These findings are discussed as follows:</p>
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² Pursuant to the Arizona Code of Judicial Administration §7-201 and §7 -202, licensed fiduciaries are required to provide active and direct supervision of other licensed fiduciaries, trainees and support staff who are employed by the fiduciary.

John Harris #20655 Compliance Audit Report

<p><i>Finding # 1</i></p> <p><u>Accuracy</u></p> <p><u>Related Attributes:</u></p> <p><i>Arizona Code of Judicial Administration § 7-202 (J)(4)(j)</i></p> <p><i>Requirement</i></p>	<p>Mr. Harris’ Initial Inventory and Appraisement document was not accurate and required Annual Accountings documents did not appear to be accurate.</p> <ul style="list-style-type: none"> • The beginning balance of the first Annual Accounting does not reflect the ending balance of the Inventory and Appraisal – Client # 1 • The Annual Accounting does not reflect the total of the bank summary – Client # 1 • Math errors were found within Annual Accountings – Client # 1 • Check written on March 1, 2010 was recorded in records on February 28, 2010 – Client # 1 <p>Mr. Harris must ensure every document filed with the Superior Court is complete, accurate and understandable.</p>
<p><i>Auditee's Response</i></p>	<p><i>“John Harris' first annual accounting for the applicable Estate was the 24th Annual Accounting for the period of August 1, 2007 through December 31, 2007. The Annual Accounting was approved by the Court on March 25, 2010.</i></p> <ul style="list-style-type: none"> • <i>Harris' Inventory and Appraisement did not include a listing of the monies of the Ward in his bank accounts. It included a listing of the Estate's tangible personal property and real property. In future conservatorships, the Conservator will include the Ward's bank held monies in his Initial Inventory and Appraisement.</i> • <i>The beginning balance of John Harris' first accounting, however, reflected the ending balance of the 23rd Annual Accounting for January 1, 2007 through July 31, 2007, the previous accounting period for this Estate. In this regard, then, the Accounting was accurate but the error was only in the Inventory and Appraisement.</i> • <i>There was minor math or arithmetic errors in the accounting. Care will be taken to insure that the Estate's ~accountant and the Conservator do not have math or arithmetic errors in future accountings.</i> • <i>I was unable to locate the check which was said to be written on March 1, 2010 and recorded on February 28, 2010. Care will be taken to insure that checks are recorded on the actual date of the check.”</i>

John Harris #20655
Compliance Audit Report

<p><i>Finding # 2</i></p> <p><i>Late Filings</i></p> <p><i>ARS § 14-5418(A)</i></p> <p><i>Arizona Code of Judicial Administration § 7-202(J)(2)(e)</i></p> <p><i>Arizona Rules of Probate Procedure Rule 30(A)</i></p> <p><i>Requirement</i></p>	<p>Mr. Harris did not file Annual Accountings with the superior court timely.</p> <ul style="list-style-type: none">• The 24th, 25th, 26th, and 27th Annual Accountings filed by Mr. Harris were filed late – Client # 1 <p>Mr. Harris must submit required Annual Accountings on or before the statutorily required due date or court ordered due date for his client.</p>
<p><i>Auditee's Response</i></p>	<p><i>“The following is an explanation of John Harris' filings of the applicable Annual Accountings. The Annual Accounting for the next or later year was filed after the prior year's Annual Accounting was approved by the Court. Frequently, there is delay in having an Annual Accounting approved. This creates a dilemma with the Court Order that Harris file the Annual Accounting by June 15 of the following year. It may also create additional work and expense for the Conservator and his Attorney if the original Annual Accounting is filed before the prior year's Annual Accounting is approved and then must later be amended (and filed with the Court) based upon a Court-ordered change of the prior year's accounting's ending balance figures.</i></p> <p><i>24th Annual Accounting (August 1 - December 31, 2007). Harris filed this 24th Annual Accounting on November 17, 2008. The 23rd Annual Accounting was approved by Order of the Court on June 10, 2008. The 24th Accounting was the subject of three separate reviews by the Court Accountant with the first one (Initial Report and Recommendations) filed by the Court Accountant on April 6, 2009. The Conservator's Attorney timely filed his responses thereto. Such responses were evaluated on two more review reports prepared and filed by the Court Accountant. Thereafter, the Court approved this 24th Accounting on March 25, 2010.</i></p> <p><i>25th Annual Accounting (Calendar year 2008). Harris filed this 25th Accounting on May 11, 2010, less than 60 days after the 24th Annual Accounting was approved by Court Order. The Court Accountant filed its Report and Recommendations (Initial Review) on June 16, 2010. Harris filed his response on July 19, 2010. The Court Accountant filed its first Response Review on September 3, 2010. Harris filed his response on October 13, 2010. The Court approved the 25th annual accounting later on December 1, 2010.</i></p>

John Harris #20655 Compliance Audit Report

26th Annual Accounting (Calendar year 2009). Harris filed the 26th Annual Accounting on February 9, 2011. Thereafter, the Court Accountant filed his Report and Recommendations (Initial Report) on April 15, 2011. The Court then ordered an audit of the Conservator's activities for the second half of 2007, for 2008 and for 2009. The Conservator's attorney responded to the Initial Report on May 16, 2011. The Court Accountant asked for an extension of time to file his audit report, originally due on July 15, 2011. The Court granted the Court Accountant a 3 week extension. The Conservator's attorney timely filed his response to the Audit Report on August 29, 2011. The Court appointed a fiduciary expert to evaluate more issues. The Conservator's attorney filed a response to the fiduciary's report on September 16, 2011. A number of other accounting related issues were addressed and argued in Court pleadings. The Court Accountant prepared and filed a supplemental report on August 26, 2011 and the Conservator's attorney responded to that supplemental report on September 6, 2011. On October 13, 2011, the Court held a hearing on this 26th Annual Accounting. The Court issued a minute entry on the 26th Annual Accounting dated October 18, 2011. Thereafter, the Conservator's attorney filed a Motion for Reconsideration on November 21, 2011.

27th Annual Accounting (Calendar year 2010). Harris filed the 27th Annual Accounting on October 3, 2011, before the 26th Annual Accounting was approved. The Court Accountant has now asked Harris to amend the 27th Annual Accounting.

Summary: The Court ordered on August 7, 2007 that Harris, as Conservator, file his accountings for the subject conservator estate by June 15 of the year immediately following the accounting year of the Conservator's duties and Estate's administration. This Order of the Court extended the general statutory requirement to file accountings by March 15. The Court Accountant ignored the Court's Order regarding the June 15 filing date and recommended that Harris work toward filing the annual accountings by March 15. Harris has agreed to work toward that recommendation and may be able to accomplish same in the future. Pursuant to the August 7, 2007 Order, however, the June 15, 2011 filing date is both appropriate and acceptable.)”

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<p><i>Finding # 3</i></p> <p><i>Licensed Staff</i></p> <p><i>Related Attributes:</i></p> <p><i>ARS § 14-5651(A)</i></p> <p><i>Arizona Code of Judicial Administration §§ 7-202 (E)(3)(f)(1)(a-g), (F)(8)(a)(b), (J)(2)(h)</i></p> <p><i>Requirement</i></p>	<p>Mr. Harris' staff signed for authorization of the client's care without documenting that the authority was at his direction.</p> <ul style="list-style-type: none">• The Fiduciary did not sign for authorization of client's care. For example the consultant hired by Mr. Harris signed care plans for the ward without documenting that it was under the direction of the Fiduciary. – Client # 1 <p>All staff performing fiduciary duties must be licensed or act at the discretion of the principal fiduciary.</p>
<p><i>Auditee's Response</i></p>	<p><i>“The fiduciary's staff work at the discretion and direction of the fiduciary. No decisions are made regarding the Ward's care without the fiduciary, John Harris' involvement and decision-making. In the future, John Harris will make sure that he personally signs applicable documents or in some way documents the authority or authorizes the Ward's care so as to demonstrate that authorization for the Ward's care was at his direction.”</i></p>

John Harris #20655
Compliance Audit Report

<p><i>Finding # 4</i></p> <p><i>Inventory</i></p> <p><u><i>Related Attributes:</i></u></p> <p><i>ARS § 14-5418 (A)</i></p> <p><i>Arizona Code of Judicial Administration §§ 7-202 (J)(4)(j)</i></p> <p><i>Requirement</i></p>	<p>Mr. Harris did not list client asset values as of the date of appointment.</p> <ul style="list-style-type: none">• Personal property is not listed in detail, appraised, or valued on court documents of clients under conservatorship as of date of appointment. – Client # 1 <p>Mr. Harris must list all tangible belongings of client(s) on a detailed inventory even if it is of nominal value as of the date of appointment. All belongings are defined as; any tangible possession be it personal property, liquid or non-liquid asset, land, monies, etc. The purpose is to avoid giving erroneous or misleading information to the court and/or interested parties as well as protection for the client, client’s family and the fiduciary. ACJA also requires a pictorial record of all real and personal property.</p>
<p><i>Auditee's Response</i></p>	<p><i>“Personal property was listed in detail. In this situation, bank funds were not included in the Inventory. This was a Conservator's error. Such bank monies have been included in each annual accounting filed for this Estate. Should it be appropriate, the Conservator could prepare an updated Inventory and Appraisement using a more complete list, appraised at fair market values or fire sale values.”</i></p>

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<p>Finding # 5</p> <p><u>Conflict of Interest</u></p> <p><u>Related Attributes:</u></p> <p><i>Arizona Code of Judicial Administration § 7-202 (J) (2)(b)</i></p> <p>Requirement</p>	<p>Mr. Harris did not avoid the appearance of a conflict of interest.</p> <ul style="list-style-type: none">• The Fiduciary’s wife and daughter are employed by the fiduciary to assist with this case. At the time of the audit, the Fiduciary’s wife was employed as a full time consultant and his daughter was employed part time to do clerical work. – Client # 1 <p>Mr. Harris must avoid the appearance of a conflict of interest. Conflict of interest arises where the fiduciary has some personal or agency interest other individuals may perceive as self-serving or adverse to the position or best interest of the protected person. The fiduciary must avoid the appearance of conflict of interest in order to maintain the highest degree of trust, loyalty and fidelity in relation to the ward, protected person, or estate. While Mr. Harris’ initial appointment as fiduciary was understandable because of his long-standing professional relationship with the ward’s family, his continued appointment has led to both real and perceived issues of conflict of interest. Mr. Harris approves the wages paid to both his wife and daughter and under these circumstances there does not appear to be an independent person acting in the best interest of the ward.³</p>
<p>Auditee's Response</p>	<p><i>“Following the filing of conservator and guardian appointment petitions, nominations of Harris by the prior Co-Conservators and the prior Guardian, the recommendation of the Ward's Court appointed Attorney, and noticed Court hearings, the Maricopa County Superior Court issued Orders on two (2) occasions-August 7, 2007 and July 30, 2008 which (a) authorized John Harris to serve without compensation as Conservator and Guardian without being a licensed fiduciary and (b) to also serve as the attorney for the Conservator and Guardian with payment for such attorney services. These 2 Orders also (c) specifically authorized John Harris to employ his wife, Mary Lynn Harris (hereafter "L~ Harris"), as a consultant to the Estate with compensation paid for her services to be approved by the Court. The charges for the services of Lynn Harris have been approved by the</i></p>

³ The finding of the appearance of a conflict of interest was noted in additional reports and court documents released prior and subsequent to the fieldwork for this audit. See *Court Accountant's Report and Recommendations* filed with the Maricopa County Superior Court on April 15, 2011; *Report of Independent Fiduciary Regarding the Guardianship/Conservatorship of [REDACTED]* filed with the Maricopa County Superior Court on August 26, 2011; Minute Entry #PB [REDACTED] *In the Matter of the Guardianship of and Conservatorship For [REDACTED]* filed with the Maricopa County Superior Court on October 14, 2011; and, Ruling #PB [REDACTED] *In the Matter of the Guardianship of and Conservatorship For [REDACTED]* filed with the Maricopa County Superior Court on October 19, 2011.

John Harris #20655 Compliance Audit Report

Court not less than 32 times in separate applications and Court Orders on a monthly or quarterly basis through December 31, 2010. The calendar year 2011 applications for Lynn Harris' charges are pending. John Harris has not sought payment and has not been paid for any of his fiduciary services in 2007, 2008, 2009, and 2010. He will seek payment for his services as a fiduciary since the date of his licensure in late 2010 in the 2010 Annual Accounting.

Orders of the Maricopa County Superior Court have meaning. For some reason, this concept is not recognized. As a matter of law, such Orders have res judicata effect. Court Orders are not to be ignored. In this audit, the Supreme Court, while overseeing this conservatorship and guardianship estate, must consider (a) the needs of the ward, (b) the nominations and recommendations of John Harris and Lynn Harris to serve as Conservator/Guardian and Consultant, respectively, (c) the Ward's Court-Appointed attorney's recommendation and approval of John Harris and Lynn Harris to serve in the previously stated positions, and (d) the factors presented in a properly noticed hearing in an open Superior Court before it issued Orders appointing John Harris as Conservator and Guardian and Lynn Harris as John Harris' Consultant.

If the auditors make a finding of an appearance of a conflict of interest or an appearance of self dealing, they must consider the following: the alleged subjective appearances were previously made known to and disclosed to all of the important persons involved with this Estate (i.e. the Ward's relatives, the prior Co-Conservators, the prior Guardian, the Ward's Court-appointed attorney and the Court) and such persons have already weighed in on this issue and determined that they, and each of them, find no appearance of conflict of interest or of self-dealing or that they waive any idea that a conflict of interest or any self-dealing exists. Had there been such appearances as alleged here in this audit, John Harris would not have been Court-Appointed into his current fiduciary positions. There is nothing else that one can reasonably or objectively determine from the Court's 2007 and 2008 appointment Orders. In fact, if the thought that such appearances existed, such a finding should not have been made after thoroughly reviewing this case and considering the facts and court rulings in this particular Estate.

Further, it is not reasonable or appropriate to make a finding that John Harris did not avoid the appearance of self-dealing or the appearance of a conflict of interest. To make this finding as to John Harris' use of the services of Lynn Harris is to ignore the Court's record, including the applicable Orders of the Maricopa County Superior Court herein.

With regard to the support staff services of John Harris' adult daughter, her services to the Conservator are authorized by Arizona State Statute. See A.R.S. Section 14 - 5424.C23. A.R.S. Section 14-5424.C.23, in effect since 2005, specifically authorizes a Conservator

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to hire a third party to perform clerical services for the Estate. Such a third party could even include the Conservator and Guardian's adult daughter.

A.R.S. Section 14-5424.C.23 provides such specific authorization and gives the fiduciary discretion to hire the appropriate person for the job and tasks without Court authorization. A.R.S. Section 14-5424.C.23 authorizes a Conservator to do the following:

" ... 23. Employ persons, including attorneys, auditors, investment advisors or agents, even though they are associated with the conservator, to advise or assist the conservator in the performance of administrative duties, act upon their recommendation without independent investigation and, instead of acting personally, employ one or more agents to perform any act of administration, whether or not discretionary" (emphasis supplied).

By the very terms of the Paragraph 23, supra., the fiduciary is allowed to employ agents and other staff members even though they are associated with the fiduciary to assist the fiduciary in the performance of any administrative duties instead of acting personally in the same capacity.

AUDITOR'S NOTE: Finding stands.

APPENDIX

RESPONSE TO FINAL REPORT

Law Office of
John Harris, Esq.
Fiduciary License No. 20655
P.O. Box 4081
Scottsdale, Arizona
Phone: (602) 418 - 9687
Fax: (480) 951 - 5072
Email: jdharris.esq.az@gmail.com

November 30, 2011

VIA Electronic Delivery

Ms. Anne Hunter
Compliance Manager
Certification and Licensing Division
Arizona Supreme Court
1501 West Washington Street
Phoenix, Arizona 85007-3231

RE: Fiduciary Compliance Audit

Dear Ms. Hunter:

The following is my response to the draft report of the compliance audit. I look forward to speaking further with you about this matter.

Finding 1. Mr. Harris' required court documents did not appear to be accurate. (Requested change: Mr. Harris' Initial Inventory and Appraisalment document was not accurate.)

Auditee's Response

John Harris' first annual accounting for the applicable Estate was the 24th Annual Accounting for the period of August 1, 2007 through December 31, 2007. The Annual Accounting was approved by the Court on March 25, 2010.

- Harris' Inventory and Appraisalment did not include a listing of the monies of the Ward in his bank accounts. It included a listing of the Estate's tangible personal property and real property. In future conservatorships, the Conservator will include the Ward's bank held monies in his Initial Inventory and Appraisalment.
- The beginning balance of John Harris' first accounting, however, reflected the ending balance of the 23rd Annual Accounting for January 1, 2007 through July 31, 2007, the

previous accounting period for this Estate. In this regard, then, the Accounting was accurate but the error was only in the Inventory and Appraisalment.

- There were minor math or arithmetic errors in the accounting. Care will be taken to insure that the Estate's accountant and the Conservator do not have math or arithmetic errors in future accountings.
- I was unable to locate the check which was said to be written on March 1, 2010 and recorded on February 28, 2010. Care will be taken to insure that checks are recorded on the actual date of the check.

Finding 2. Mr. Harris did not file Annual Accountings with the superior court timely.

Auditee's Response.

The following is an explanation of John Harris' filings of the applicable Annual Accountings. The Annual Accounting for the next or later year was filed after the prior year's Annual Accounting was approved by the Court. Frequently, there is delay in having an Annual Accounting approved. This creates a dilemma with the Court Order that Harris file the Annual Accounting by June 15 of the following year. It may also create additional work and expense for the Conservator and his Attorney if the original Annual Accounting is filed before the prior year's Annual Accounting is approved and then must later be amended (and filed with the Court) based upon a Court-ordered change of the prior year's accounting's ending balance figures.

24th Annual Accounting (August 1 – December 31, 2007). Harris filed this 24th Annual Accounting on November 17, 2008. The 23rd Annual Accounting was approved by Order of the Court on June 10, 2008. The 24th Accounting was the subject of three separate reviews by the Court Accountant with the first one (Initial Report and Recommendations) filed by the Court Accountant on April 6, 2009. The Conservator's Attorney timely filed his responses thereto. Such responses were evaluated on two more review reports prepared and filed by the Court Accountant. Thereafter, the Court approved this 24th Accounting on March 25, 2010.

25th Annual Accounting (Calendar year 2008). Harris filed this 25th Accounting on May 11, 2010, less than 60 days after the 24th Annual Accounting was approved by Court Order. The Court Accountant filed its Report and Recommendations (Initial Review) on June 16, 2010. Harris filed his response on July 19, 2010. The Court Accountant filed its first Response Review on September 3, 2010. Harris filed his response on October 13, 2010. The Court approved the 25th annual accounting later on December 1, 2010.

26th Annual Accounting (Calendar year 2009). Harris filed the 26th Annual Accounting on February 9, 2011. Thereafter, the Court Accountant filed his Report and Recommendations (Initial Report) on April 15, 2011. The Court then ordered an audit of the Conservator's activities for the second half of 2007, for 2008 and for 2009. The Conservator's attorney responded to the Initial Report on May 16, 2011. The Court Accountant asked for an extension of time to file his audit report, originally due on July 15, 2011. The Court granted the Court Accountant a 3 week extension. The Conservator's attorney timely filed his response to the Audit Report on August 29, 2011. The Court appointed a fiduciary expert to evaluate more issues. The Conservator's attorney filed a response to the fiduciary's report on September 16, 2011.

A number of other accounting related issues were addressed and argued in Court pleadings. The Court Accountant prepared and filed a supplemental report on August 26, 2011 and the Conservator's attorney responded to that supplemental report on September 6, 2011. On October 13, 2011, the Court held a hearing on this 26th Annual Accounting. The Court issued a minute entry on the 26th Annual Accounting dated October 18, 2011. Thereafter, the Conservator's attorney filed a Motion for Reconsideration on November 21, 2011.

27th Annual Accounting (Calendar year 2010). Harris filed the 27th Annual Accounting on October 3, 2011, before the 26th Annual Accounting was approved. The Court Accountant has now asked Harris to amend the 27th Annual Accounting.

Summary: The Court ordered on August 7, 2007 that Harris, as Conservator, file his accountings for the subject conservator estate by June 15 of the year immediately following the accounting year of the Conservator's duties and Estate's administration. This Order of the Court extended the general statutory requirement to file accountings by March 15. The Court Accountant ignored the Court's Order regarding the June 15 filing date and recommended that Harris work toward filing the annual accountings by March 15. Harris has agreed to work toward that recommendation and may be able to accomplish same in the future. Pursuant to the August 7, 2007 Order, however, the June 15, 2011 filing date is both appropriate and acceptable.

Finding 3. Mr. Harris' staff signed for authorization of the client's care without documenting that the authority was at his direction.

Auditee's Response.

The fiduciary's staff work at the discretion and direction of the fiduciary. No decisions are made regarding the Ward's care without the fiduciary, John Harris' involvement and decision-making. In the future, John Harris will made sure that he personally signs applicable documents or in some way documents the authority or authorizes the Ward's care so as to demonstrate that authorization for the Ward's care was at his direction.

Finding 4. Mr. Harris did not list client asset values as of the date of appointment.

Auditee's Response.

Personal property was listed in detail. In this situation, bank funds were not included in the Inventory. This was a Conservator's error. Such bank monies have been included in each annual accounting filed for this Estate. Should it be appropriate, the Conservator could prepare an updated Inventory and Appraisal using a more complete list, appraised at fair market values or fire sale values.

Finding 5. Mr. Harris did not avoid the appearance of self-dealing or the appearance of a conflict of interest.

Auditee's Response.

Following the filing of conservator and guardian appointment petitions, nominations of Harris by the prior Co-Conservators and the prior Guardian, the recommendation of the Ward's Court-appointed Attorney, and noticed Court hearings, the Maricopa County Superior Court issued

Orders on two (2) occasions--August 7, 2007 and July 30, 2008 which (a) authorized John Harris to serve without compensation as Conservator and Guardian without being a licensed fiduciary and (b) to also serve as the attorney for the Conservator and Guardian with payment for such attorney services. These 2 Orders also (c) specifically authorized John Harris to employ his wife, Mary Lynn Harris (hereafter "Lynn Harris"), as a consultant to the Estate with compensation paid for her services to be approved by the Court. The charges for the services of Lynn Harris have been approved by the Court not less than 32 times in separate applications and Court Orders on a monthly or quarterly basis through December 31, 2010. The calendar year 2011 applications for Lynn Harris' charges are pending. John Harris has not sought payment and has not been paid for any of his fiduciary services in 2007, 2008, 2009, and 2010. He will seek payment for his services as a fiduciary since the date of his licensure in late 2010 in the 2010 Annual Accounting.

Orders of the Maricopa County Superior Court have meaning. For some reason, this concept is not recognized. As a matter of law, such Orders have *res judicata* effect. Court Orders are not to be ignored. In this audit, the Supreme Court, while overseeing this conservatorship and guardianship estate, must consider (a) the needs of the ward, (b) the nominations and recommendations of John Harris and Lynn Harris to serve as Conservator/Guardian and Consultant, respectively, (c) the Ward's Court-Appointed attorney's recommendation and approval of John Harris and Lynn Harris to serve in the previously stated positions, and (d) the factors presented in a properly noticed hearing in an open Superior Court before it issued Orders appointing John Harris as Conservator and Guardian and Lynn Harris as John Harris' Consultant.

If the auditors make a finding of an appearance of a conflict of interest or an appearance of self-dealing, they must consider the following: the alleged subjective appearances were previously made known to and disclosed to all of the important persons involved with this Estate (i.e. the Ward's relatives, the prior Co-Conservators, the prior Guardian, the Ward's Court-appointed attorney and the Court) and such persons have already weighed in on this issue and determined that they, and each of them, find no appearance of conflict of interest or of self-dealing or that they waive any idea that a conflict of interest or any self-dealing exists. Had there been such appearances as alleged here in this audit, John Harris would not have been Court-Appointed into his current fiduciary positions. There is nothing else that one can reasonably or objectively determine from the Court's 2007 and 2008 appointment Orders. In fact, if the thought that such appearances existed, such a finding should not have been made after thoroughly reviewing this case and considering the facts and court rulings in this particular Estate.

Further, it is not reasonable or appropriate to make a finding that John Harris did not avoid the appearance of self-dealing or the appearance of a conflict of interest. To make this finding as to John Harris' use of the services of Lynn Harris is to ignore the Court's record, including the applicable Orders of the Maricopa County Superior Court herein.

With regard to the support staff services of John Harris' adult daughter, her services to the Conservator are authorized by Arizona State Statute. See A.R.S. Section 14 – 5424.C23. A.R.S. Section 14-5424.C.23, in effect since 2005, specifically authorizes a Conservator to hire a third party to perform clerical services for the Estate. Such a third party could even include the Conservator and Guardian's adult daughter.

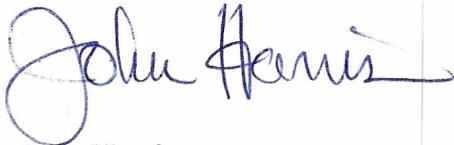
A.R.S. Section 14-5424.C.23 provides such specific authorization and gives the fiduciary discretion to hire the appropriate person for the job and tasks without Court authorization. A.R.S. Section 14-5424.C.23 authorizes a Conservator to do the following:

“...23. Employ persons, including attorneys, auditors, investment advisors or agents, even though they are associated with the conservator, to advise or assist the conservator in the performance of administrative duties, act upon their recommendation without independent investigation and, instead of acting personally, employ one or more agents to perform any act of administration, whether or not discretionary” (emphasis supplied).

By the very terms of the Paragraph 23, *supra.*, the fiduciary is allowed to employ agents and other staff members even though they are associated with the fiduciary to assist the fiduciary in the performance of any administrative duties instead of acting personally in the same capacity.

If it is appropriate to meet and discuss the matters in this audit, I would be interested in doing so. I believe a personal meeting would be beneficial.

Sincerely,

A handwritten signature in blue ink that reads "John Harris". The signature is written in a cursive style with a large, looped initial "J".

John Harris

JH:nas