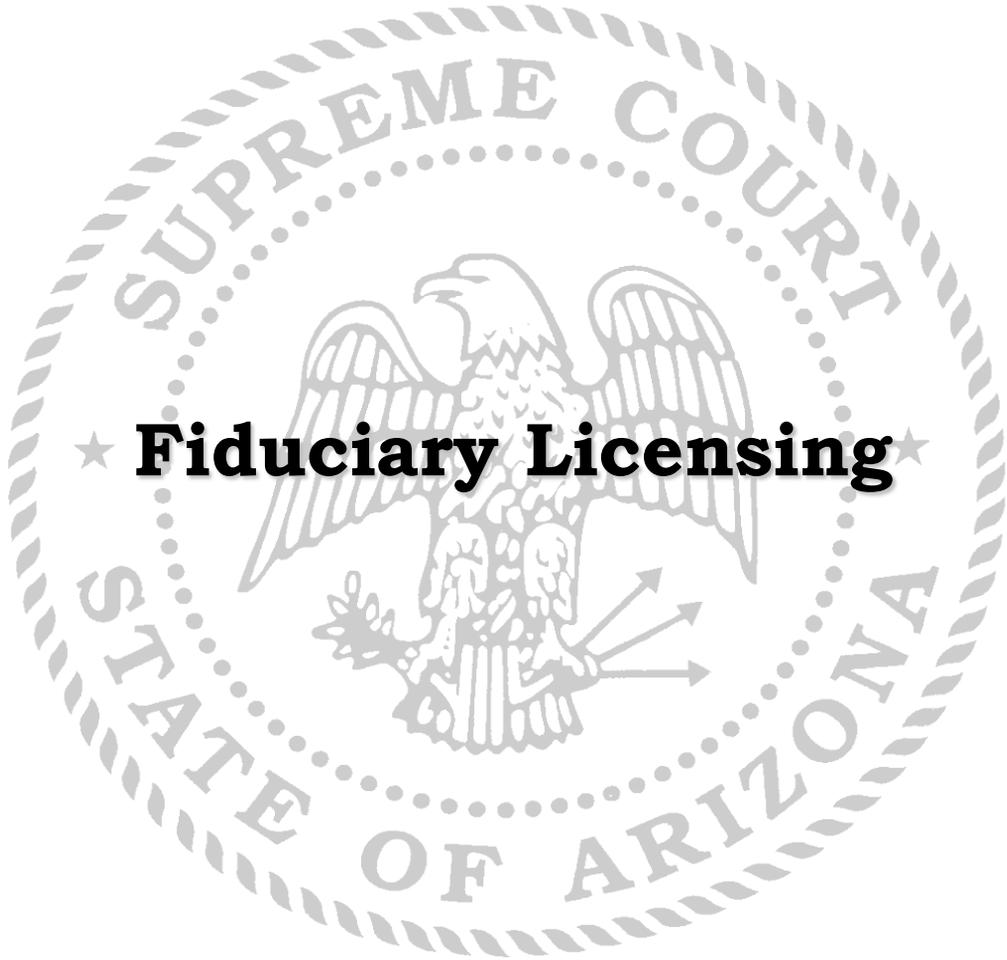


Arizona Supreme Court  
Administrative Office of the Courts



**Fiduciary Licensing**

*Compliance Audit*

***Yavapai County Public Fiduciary***

February 13, 2012

Shari Tomlinson  
Yavapai County Public Fiduciary  
500 South Marina Street  
Prescott, AZ 86303

**RE: Fiduciary Compliance Audit**

Dear Ms. Tomlinson:

Enclosed is your final compliance audit report.

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 appointments. I hope you and your clients 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 David L. Mackey, Presiding Judge, Superior Court in Yavapai County  
Deborah M. Schaefer, Court Administrator, Superior Court in Yavapai County  
Thomas Thurman, Chairman, Yavapai County Board of Supervisors

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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**

## **Yavapai County Public Fiduciary**

### **Compliance Audit Report**

The Arizona Supreme Court, Fiduciary Licensing Program conducted a compliance audit of Yavapai County Public Fiduciary, YCPF, pursuant to Arizona Revised Statutes § 14-5651 and Arizona Supreme Court Administrative Order 2003-31. During the period of October 26, 2011 through November 16, 2011 the Compliance Unit audited the fiduciary activities of YCPF and its licensed and unlicensed employees. The following is a summary of the audit findings.

#### ***Finding # 1 – Accuracy***

*Some Annual Accountings were inaccurately prepared and/or documented.*

YCPF did not agree or disagree with the finding.

#### ***Finding # 2 – Late Filings***

*YCPF did not file an Inventory and Appraisement, Annual Guardianship Report, or Annual Accounting as required by Arizona statute.*

YCPF did not agree or disagree with the finding.

#### ***Finding # 3 – Documentation***

*YCPF was missing documentation of their administration of client accounts.*

YCPF did not agree or disagree with the finding.

#### ***Finding #4 – License Number***

*YCPF submitted documents to the Superior Court without the fiduciary's license number.*

YCPF did not agree or disagree with the finding.

# **FINAL REPORT**

# Yavapai County Public Fiduciary Compliance Audit Report

***Objective***

The compliance audit of the Yavapai County Public Fiduciary was conducted by staff from the Compliance Unit of the Certification and Licensing Division of the Administrative Office of the Courts, Arizona Supreme Court, 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<sup>1</sup>, and the Arizona Rules of Probate Procedure (“ARPP”).

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.

***Methodology***

Preliminary survey questions were provided to the Yavapai County Public Fiduciary (“YCPF”) and auditors reviewed the responses to prepare for the compliance audit and to assist in the development of case file samples. In addition, information was requested from the Superior Court in Yavapai County to verify court appointment information.

In order to test for compliance, auditors used a set of fiduciary compliance attributes taken from 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 client case files.

A stratified sampling approach was used to select client case files for review. The 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. The selected sample of court appointed client case files was designed to provide conclusions about the accuracy, validity and timeliness of transactions, compliance with the fiduciary attributes, and the adequacy of internal controls.

Prior to beginning the onsite fieldwork, the auditors reviewed client court files from the Superior Court in Yavapai County and on November 7, 2011 conducted an internal controls interview with YCPF staff.

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<sup>1</sup> Arizona Codes of Judicial Administration, General Requirements & Fiduciaries, January 1, 2007

# Yavapai County Public Fiduciary Compliance Audit Report

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	<p>During the period of November 7, 2011 through November 16, 2011 audit staff conducted the onsite compliance portion of the audit of the YCPF office. The onsite compliance portion of the audit consisted primarily of fiduciary client case file review. The audit also included a review of fiduciary activities of the principal fiduciary and un-licensed staff. An exit interview was conducted November 16, 2011.</p> <p>YCPF was the court appointed fiduciary on 57 guardian, 5 conservator, and 5 combination guardian/conservator cases as of October 24, 2011. YCPF has approximately \$550,000 in court-appointed client assets under management.</p> <p><i>Scope</i></p> <p>The compliance audit team reviewed a selected stratified sample of seven (7) client case files of court appointments and terminations, focusing on the internal controls, processes, timeliness, accuracy, and statutory and ACJA requirements of client case administration.</p> <p><i>Summary</i></p> <p>YCPF 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 four (4) areas. The non-compliance was found in the areas of accuracy, late filings, documentation and licensure number. These findings are discussed as follows:</p>
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## Yavapai County Public Fiduciary Compliance Audit Report

<p><b><i>Finding # 1</i></b></p> <p><b><u>Accuracy</u></b></p> <p><u>Related Attributes:</u></p> <p><i>Arizona Code of Judicial Administration § 7-202 (J)(4)(j)</i></p> <p><b><i>Requirement</i></b></p>	<p>Some of YCPF required court documents are not accurate.</p> <ul style="list-style-type: none"> <li>• An invoice marked paid states a different amount than listed on the accounting. – Client #1 (Invoice 20636, 3/25/2011)</li> <li>• A receipt was not depicted accurately in annual accounting. – Client #2 (Wal-Mart charge receipt on 6/23/2010)</li> <li>• The 1<sup>st</sup> Accounting did not begin as of the date of appointment. – Clients #6 &amp;7</li> </ul> <p>YCPF must ensure every document filed with the Superior Court is complete, accurate and understandable.</p>
<p><b><i>Auditee's Response</i></b></p>	<p><i>“More than the invoice was inadvertently paid. This was for a pharmacy account and the account was credited in the following months, reducing subsequent bills. It is believed the error occurred because of the check writing system which defaults to the last amount paid to a particular vendor and the accountant missed correcting the auto-fill feature.</i></p> <p><i>“YCPF acknowledges that the accounting showed a check for \$300 to Walmart. The receipt indicates an amount of \$300.03.”</i></p> <p><i>“YCPF acknowledges that in the case of clients #6 &amp; #7 the accountings actually began prior to the date of appointment.”</i></p>
<p><b><i>Corrective Action</i></b></p>	<p><i>“We are in the process of changing to a new software program for the management of office accounts which does not have the auto-fill feature.”</i></p> <p><i>“The three cents difference was paid by the staff member assisting with the purchase and was considered a donation to the client. Because reimbursement of the three cents would create an additional transaction fee of \$8.25 to the ward for this purchase, no corrective action will be taken.”</i></p> <p><i>“As both accountings were done many, many years ago and in both instances covered more than required no action will be taken.”</i></p> <hr/> <p><b>AUDITOR’S NOTE: Finding Stands.</b></p>

## Yavapai County Public Fiduciary Compliance Audit Report

<p><b><i>Finding # 2</i></b></p> <p><b><u>Late Filings</u></b></p> <p><i>Related Attributes:</i></p> <p><i>Arizona Rules of Probate Procedure Rule 30(A)</i></p> <p><i>ARS § 14-5315(A), ARS § 14-5418(A), &amp; ARS § 14-5419(A);</i></p> <p><i>Arizona Code of Judicial Administration § 7-202 (J)(2)(e)</i></p> <p><b><i>Requirement</i></b></p>	<p>YCPF did not file the Inventory and Appraisement, Annual Guardianship Report or Annual Accountings with the superior court timely.</p> <ul style="list-style-type: none"> <li>• An Inventory and Appraisement was filed late. – Client #6</li> <li>• An Annual Guardianship Report was filed late. – Client #3</li> <li>• An Annual Accounting was filed late – Client #7 (1<sup>st</sup> Accounting, 16<sup>th</sup> Accounting)</li> </ul> <p>YCPF must submit required Inventory and Appraisements, Annual Guardianship Reports and Annual Accountings on or before the statutorily required due date or court ordered due date for their clients.</p>
<p><b><i>Auditee's Response</i></b></p>	<p><i>“YCPF acknowledges that the inventory in this case was due on 11/19/1996 and was not filed until 12/12/1996.”</i></p> <p><i>“YCPF acknowledges that in this case the Guardianship report was due on or before 10/28/07 but was not filed until 11/26/2007.”</i></p> <p><i>“YCPF acknowledges that the date of appointment was 4/14/1990 and the 16<sup>th</sup> Annual Accounting was due on April 14, 2008 but was not filed until May 5, 2008.”</i></p>
<p><b><i>Corrective Action</i></b></p>	<p><i>“This occurred 15 years ago. Since that time the office has a procedure by which inventory due dates are calendared with reminders one month prior to the due dates as well as a week prior to the due date to assure inventories are filed in a timely manner.”</i></p> <p><i>“The report was not filed timely due to difficulties in obtaining the required physicians report. The YCPF was aware of this late filing at the time in 2007 and since has put the following into practice: 1. Two months prior to the due date, request for physician reports are sent out and followed up on until report is received. 2. Legal Secretary sends out email reminders and</i></p>

## Yavapai County Public Fiduciary Compliance Audit Report

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*follows up as necessary to ensure reports are timely submitted. 3.*

*If Physician report is not received, Guardianship report is filed without the statement with the notation that upon receipt, the report will be filed with the Court.”*

*“The office has a procedure by which Inventory due dates are calendared with reminders one month prior to the due date as well as a week prior to the due date to assure inventories are filed in a timely manner.*

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**AUDITOR’S NOTE: Finding Stands.**

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## Yavapai County Public Fiduciary Compliance Audit Report

<p><b><i>Finding # 3</i></b></p> <p><b><u>Documentation</u></b></p> <p><i>Related Attributes:</i></p> <p>ARS § 14-5418(B)</p> <p><b><i>Requirement</i></b></p>	<p>In one case YCPF did not keep suitable records of their administration and exhibit them upon request.</p> <ul style="list-style-type: none"> <li>• An Annual Accounting is missing the summary of documentation and receipts. – Client #4 (20<sup>th</sup> Accounting)</li> </ul> <p>By Arizona Statute YCPF must keep suitable records of their administration and exhibit them upon request.</p>
<p><b><i>Auditee's Response</i></b></p>	<p><i>“The summary sheet may have been missing from the file but was in fact filed with the court.”</i></p>
<p><b><i>Corrective Action</i></b></p>	<p><i>“Upon notice of this finding the YCPF printed out a copy from the Court electronic file of the summary sheet and placed it in the file. A copy is attached to this letter.”</i></p>
	<p><b>AUDITOR’S NOTE: Finding Dismissed.</b></p>

## Yavapai County Public Fiduciary Compliance Audit Report

<p><b><i>Finding # 4</i></b></p> <p><b><u><i>License Number</i></u></b></p> <p><i>Related Attributes:</i></p> <p><i>Arizona Code of Judicial Administration § 7-202 (F)(3)</i></p> <p><b><i>Requirement</i></b></p>	<p>YCPF filed documents with the Superior Court that did not include both the fiduciary and the business' license number on the documents submitted.</p> <ul style="list-style-type: none"> <li>• The court documents filed for clients were missing the license number (one or both fiduciary and business' license numbers). – All Clients</li> </ul> <p>Documents filed with the Superior Court must include both the fiduciary and the business' license number on the documents submitted.</p>
<p><b><i>Auditee's Response</i></b></p>	<p><i>“The YCPF had changed its practice of including both numbers in the header of all pleadings to include only the business entity number on the header and the individual number under the signature at the end of the petition. It does appear that in some cases the number under the signature was the entity number. This practice had been started to try and clarify that in cases involving the public fiduciary, it was the office being appointed not the public fiduciary as an individual, to avoid confusion at banks and the like. In cases where there was no reason for the public fiduciary to sign, the filings contain only the business number.”</i></p>
<p><b><i>Corrective Action</i></b></p>	<p><i>“Based upon the recommendation from the audit, the YCPF has returned to the practice of including both numbers on the header caption of all filings.”</i></p> <hr/> <p><b>AUDITOR’S NOTE: Finding Stands.</b></p>

# **APPENDIX**

## **RESPONSE TO FINAL REPORT**

# Yavapai County Public Fiduciary



500 South Marina Street, Room 14, Prescott, Arizona 86303 Shari Tomlinson, Director  
December 15, 2011

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

Re: Yavapai County Fiduciary Compliance Audit

Dear Ms. Hunter:

We have received and reviewed the compliance audit draft report. Please find our response to the findings and corrective actions as follows:

**Finding #1** Required Court documents are not accurate.

- An invoice marked paid states a different amount and listed on the accounting.  
**Response:** More than the invoice amount was inadvertently paid. This was for a pharmacy account and the account was credited in the following months, reducing subsequent bills. It is believed the error occurred because of the check writing system which defaults to the last amount paid to a particular vendor and the accountant missed correcting the auto-fill feature.

**Corrective Action:** We are in the process of changing to a new software program for the management of office accounts which does not have the auto-fill feature.

- A receipt was not depicted accurately in the accounting.

**Response:** YCPF acknowledges that the accounting showed a check for \$300 to Walmart. The receipt indicates an amount paid of \$300.03.

**Corrective Action:** The three cents difference was paid by the staff member assisting with the purchase and was considered a donation to the client. Because reimbursement of the three cents would create an additional transaction fees of \$8.25 to the ward for this purchase, no corrective action will be taken.

- The 1<sup>st</sup> Accounting did not begin as of the date of appointment on Clients #6 & #7.

**Response:** YCPF acknowledges that in the case of clients #6 & #7 the accountings actually began prior to the date of appointment.

**Corrective Action:** As both accountings were done many, many years ago and in both instances covered more than required no action will be taken.

**Finding #2** YCPF did not file the Inventory and Appraisal Annual Guardianship Report or Annual Accountings with the superior court timely

- An Inventory and appraisal was filed late – Client #6

**Response:** *YCPF acknowledges that the inventory in this case was due on 11/19/1996 and was not filed until 12/12/1996.*

**Corrective Action:** *This occurred 15 years ago. Since that time the office has a procedure by which Inventory due dates are calendared with reminders one month prior to the due date as well as a week prior to the due date to assure inventories are filed in a timely manner.*

- Late Annual Guardianship Report – Client 3

**Response:** *YCPF acknowledges that in this case the Guardianship report was due on or before 10/28/07 but was not filed until 11/26/2007.*

**Corrective Action:** *The report was not filed timely due to difficulties in obtaining the required physician's report. The YCPF was aware of this late filing at the time in 2007 and since has put the following into practice: 1. Two months prior to the due date, requests for physician's reports are sent out and followed up on until report is received. 2. Legal Secretary sends out email reminders and follows up as necessary to ensure reports are timely submitted. 3. If Physician's report is not received, Guardianship report is filed without the statement with the notation that upon receipt, the report will be filed with the Court.*

- Late Accounting, Client 7, 1<sup>st</sup> Accounting, 16<sup>th</sup> Accounting.

**Response:** *YCPF acknowledges that the date of appointment was 4/14/1990 and the 16<sup>th</sup> Annual Accounting was due on April 14, 2008 but was not filed until May 5, 2008.*

**Corrective Action:** *The office has a procedure by which Inventory due dates are calendared with reminders one month prior to the due date as well as a week prior to the due date to assure inventories are filed in a timely manner.*

**Finding #3 Documentation**

- An Annual Accounting is missing the summary of documentation and receipts- client #4.

**Response:** *The summary sheet may have been missing from the file but was in fact filed with the court.*

**Corrective Action:** *Upon notice of this finding the YCPF printed out a copy from the Court electronic file of the summary sheet and placed it in the file. A copy is attached to this letter.*

**Finding #4** YCPF filed documents with the Superior Court that did not include both the fiduciary and the business license number on the documents submitted.

**Response:** *The YCPF had changed its practice of including both numbers in the header of all pleadings to include only the business entity number on the header and the individual number under the signature at the end of the petition. It does appear that in some cases the number under the signature was the entity number. This practice had been started to try and clarify that in cases involving the public fiduciary, it was the office being appointed not the Public Fiduciary as an individual, to avoid confusion at banks and the like. In cases where there was no reason for the Public Fiduciary to sign, the filings contained only the business number.*

**Corrective Action:** *Based upon the recommendation from the audit, the YCPF has returned to the practice of including both numbers on the header caption of all filings.*

Please let me know if any additional information is required. I want to thank you and your staff for their professionalism in conducting this audit.

Sincerely yours,



Shari Tomlinson  
Yavapai County Public Fiduciary