

Arizona Supreme Court
Administrative Office of the Courts



Fiduciary Licensing

Compliance Audit

Fiduciary Solutions, LLC
Mario Martinez, Principal

August 2012

August 3, 2012

Fiduciary Solutions, LLC
Mario Martinez, Principal

RE: Fiduciary Compliance Audit

Dear Mr. Martinez:

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 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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Fiduciary Solutions, LLC **Mario Martinez, Principal**

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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

Fiduciary Solutions, LLC Mario Martinez, Principal

Compliance Audit Report

The Arizona Supreme Court, Fiduciary Licensing Program conducted a compliance audit of Fiduciary Solutions, LLC, #20375 and principal, Mario Martinez, #20346 pursuant to Arizona Revised Statutes § 14-5651 and Arizona Supreme Court Administrative Order 2003-31. During the period of May 11 through May 18, 2012 the Compliance Unit audited the fiduciary activities of Mario Martinez and his unlicensed employees.¹ The following is a summary of the audit findings.

Finding # 1 – Inventory

A client inventory was not filed with the courts.

Mr. Martinez agrees with the finding.

Finding # 2 – Documentation

Suitable documentation was not provided.

Mr. Martinez agrees with the finding.

Finding # 3 – License Number

Documents filed with the Superior Court did not include both the fiduciary and the business' license number.

Mr. Martinez 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.

FINAL REPORT

Fiduciary Solutions, LLC #20375
Mario Martinez, Principal #20346
Compliance Audit Report

Objective

The compliance audit of Fiduciary Solutions, LLC and Mario Martinez, principal, 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

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

In preparation for the compliance audit, preliminary survey questions were provided to Mario Martinez, (“Martinez”). The responses were reviewed and compiled to assist in the development of case file samples. In addition, information was requested from the Maricopa County Superior Court to verify court appointment information.

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 of Probate Procedure and ACJA § 7-201 and § 7-202. Compliance with these requirements was tested by staff interviews, observation 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.

Prior to beginning the onsite fieldwork, the auditors reviewed client court files from the Maricopa County Superior Court and on May 11, 2012 conducted an internal controls interview with Martinez.

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

Fiduciary Solutions, LLC #20375
Mario Martinez, Principal #20346
Compliance Audit Report

	<p>During the period of May 11, 2012 through May 18, 2012 audit staff conducted the onsite compliance portion of the audit of Martinez and Fiduciary Solutions, LLC. 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.² An exit interview was conducted May 18, 2012.</p> <p>Martinez was the court appointed fiduciary on 5 conservatorship cases, 1 combination guardian/conservatorship case, and 4 personal representative cases as of May 1, 2012. Also as of May 1, 2012, Martinez had approximately \$7,500,000 in court-appointed client assets under management.</p> <p><i>Scope</i></p> <p>The compliance audit team reviewed a stratified sample of six (6) 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>Martinez extended professional courtesies and cooperation to the audit team during the course of the audit.</p> <p>The compliance audit found non-compliance in three (3) areas. The non-compliance was found in the areas of inventory, documentation, and license number. 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.

Fiduciary Solutions, LLC #20375
Mario Martinez, Principal #20346
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<p><i>Finding # 1</i></p> <p><u><i>Inventory</i></u></p> <p><i>ARS § 14-5418 (A)</i></p> <p><i>Arizona Rules of Probate VI.</i> <i>Rule 30 (A)(1)</i></p> <p><i>Requirement</i></p>	<p>Mr. Martinez did not prepare an inventory and indicate the fair market value of each asset as of the date of appointment.</p> <ul style="list-style-type: none"> • An inventory was not filed with the courts. – Client #4 <p>By Arizona statute a fiduciary must prepare an inventory with reasonable detail and indicate the fair market value of each asset of the estate as of the date of death or as of the date of appointment.</p>
<p><i>Auditee's Response</i></p>	<p><i>“I agree with the aforementioned finding.</i></p> <p><i>Root Cause:</i> <i>A computer system was installed with redundant backup hardware to preserve critical Fiduciary Solutions, LLC data. Hard drives failed and information was not protected.</i></p> <p><i>Additionally, court order did not require an inventory.”</i></p>
<p><i>Corrective Action</i></p>	<p><i>“New hardware/software system was replaced and periodically updating to an offsite data preservation network. Verified to ensure it is actually backing up critical data necessary for timely compliance.</i></p> <p><i>Hard copy of compliance date is being maintained and reviewed weekly for timely compliance.</i></p> <p><i>Although, court order may be silent, in the future Fiduciary Solutions, LLC, will comply with the Arizona Statutes unless otherwise directed by the court.”</i></p>

Fiduciary Solutions, LLC #20375
Mario Martinez, Principal #20346
Compliance Audit Report

<p><i>Finding # 2</i></p> <p><u>Documentation</u></p> <p>ARS § 14-5418(B)</p> <p><i>Requirement</i></p>	<p>Mr. Martinez did not keep suitable records of the wards' administration.</p> <ul style="list-style-type: none"> • Unable to distinguish between receivership, personal representative, trustee services on attorney billings. – Client #2 <p>By Arizona statute a fiduciary must keep suitable records of their administration and exhibit them upon request.</p>
<p><i>Auditee's Response</i></p>	<p><i>“I agree with the aforementioned finding.</i></p> <p><i>Root Cause:</i> <i>The aforementioned case is a combination of Receivership, Trust and P/R. For efficiency reasons, the same attorney is being utilized for the three above functions. Additionally, Road Runner Express, (the Receivership), is 100% owned by the Trust. The attorney is only written one letter for the benefit of the Receivership. All other activities have been for the benefit of the PR/Trustee which is contested and under complex litigation.”</i></p>
<p><i>Corrective Action</i></p>	<p><i>“Effective immediately, the attorney has been instructed to clearly label invoices for the Trust and/or the PR versus any activity for the Receivership.”</i></p>

Fiduciary Solutions, LLC #20375
Mario Martinez, Principal #20346
Compliance Audit Report

<p><i>Finding # 3</i></p> <p><u>License Number</u></p> <p><i>Arizona Code of Judicial Administration § 7-202 (F)(3)</i></p> <p><i>Requirement</i></p>	<p>Mr. Martinez did not include his fiduciary license number on documents filed with the court.</p> <ul style="list-style-type: none">• Court documents filed for clients were missing the license number (The business and/or fiduciary’s license numbers) – Clients’ #2, 5, & 6 <p>Documents filed with the Superior Court must include both the fiduciary and the business license number on the documents submitted.</p>
<p><i>Auditee's Response</i></p>	<p><i>“I agree with the aforementioned findings.</i></p> <p><i>Root Cause:</i> <i>Not all documents were being reviewed for the inclusion of the business and the individual fiduciary license.”</i></p>
<p><i>Corrective Action</i></p>	<p><i>“Effective immediately, all documents whether generated from attorneys or Fiduciary Solutions, LLC, will include both the business license and the individual fiduciary license number.”</i></p>

APPENDIX

RESPONSE TO FINAL REPORT

Fiduciary Solutions, LLC #20375
Mario Martinez, Principal
Compliance Audit Report Draft

<p><i>Finding # 1</i></p> <p><u>Inventory</u></p> <p><i>ARS § 14-5418 (A)</i></p> <p><i>Arizona Rules of Probate VI.</i> <i>Rule 30 (A)(1)</i></p> <p><i>Requirement</i></p>	<p>Mr. Martinez did not prepare an inventory and indicate the fair market value of each asset as of the date of appointment.</p> <ul style="list-style-type: none"> • An inventory was not filed with the courts. – Client #4 <p>By Arizona statute a fiduciary must prepare an inventory with reasonable detail and indicate the fair market value of each asset of the estate as of the date of death or as of the date of appointment.</p>
<p><i>Auditee's Response</i></p>	<p>I agree with the aforementioned finding.</p> <p>Root Cause: A computer system was installed with redundant backup hardware to preserve critical Fiduciary Solutions, LLC data. Hard drives failed and information was not protected.</p> <p>Additionally, court order did not require an inventory.</p>
<p><i>Corrective Action</i></p>	<p>New hardware/software system was replaced and periodically updating to an offsite data preservation network. Verified to ensure it is actually backing up critical data necessary for timely compliance.</p> <p>Hard copy of compliance date is being maintained and reviewed weekly for timely compliance.</p> <p>Although, court order may be silent, in the future Fiduciary Solutions, LLC, will comply with the Arizona Statues unless otherwise directed by the court.</p>

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Mario Martinez, Principal
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<p><i>Finding # 2</i></p> <p><u>Documentation</u></p> <p>ARS § 14-5418(B)</p>	<p>Mr. Martinez did not keep suitable records of the wards' administration.</p> <ul style="list-style-type: none">• Unable to distinguish between receivership, personal representative, trustee services on attorney billings. – Client #2
<p><i>Requirement</i></p>	<p>By Arizona statute a fiduciary must keep suitable records of their administration and exhibit them upon request.</p>
<p><i>Auditee's Response</i></p>	<p>I agree with the aforementioned finding.</p> <p>Root Cause: The aforementioned case is a combination of Receivership, Trust and P/R. For efficiency reasons, the same attorney is being utilized for the three above functions. Additionally, Road Runner Express, (the Receivership), is 100% owned by the Trust. The attorney is only written one letter for the benefit of the Receivership. All other activities have been for the benefit of the PR/Trustee which is contested and under complex litigation.</p>
<p><i>Corrective Action</i></p>	<p>Effective immediately, the attorney has been instructed to clearly label invoices for the Trust and/or the PR versus any activity for the Receivership.</p>

Fiduciary Solutions, LLC #20375
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<p><i>Finding # 3</i></p> <p><i>License Number</i></p> <p><i>Arizona Code of Judicial Administration § 7-202 (F)(3)</i></p> <p><i>Requirement</i></p>	<p>Mr. Martinez did not include his fiduciary license number on documents filed with the court.</p> <ul style="list-style-type: none">• Court documents filed for clients were missing the license number (The business and/or fiduciary's license numbers) – Clients' #2, 5, & 6 <p>Documents filed with the Superior Court must include both the fiduciary and the business license number on the documents submitted.</p>
<p><i>Auditee's Response</i></p>	<p>I agree with aforementioned findings.</p> <p>Root Cause: Not all documents were being reviewed for the inclusion of the business and the individual fiduciary license.</p>
<p><i>Corrective Action</i></p>	<p>Effective immediately, all documents whether generated from attorneys or Fiduciary Solutions, LLC, will include both the business license and the individual fiduciary license number.</p>



Fiduciary Solutions, LLC
Licensed, Bonded & Insured

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July 5, 2012

Distribution Via E-mail

Subject: Audit Finding

During a recent audit by the office of Arizona Code of Judicial Administration (ACJA), it was found that several documents filed with the Probate Court did not have both the business and individual licenses as required by ACJA Section 7-202 (F) (3).

As part of our corrective action this communication is being sent to all attorneys, which have active cases with us, to ensure both licenses are on future documents filed with the Probate Court.

If you have and questions, please contact me. Thanks in advance for your cooperation.

Sincerely,



Mario S. Martinez
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