

Atty Knudson, David N., sole practitioner (for Cynthia Blackstock, Executor)

Atty Lampe, Michael J., sole practitioner of Visalia (for J.W. Stone and Mildred Stone; and The Money Man Corp.)

Pro Per Manuel, Sr., Mickey (Surviving Spouse, Claimant)

Probate Status Hearing Re: Failure to file a First Account or Petition for Final Distribution (Prob. C. 12200, et seq.)

DOD: 10/8/1997	<p>CYNTHIA BLACKSTOCK, daughter, was appointed Executor on 8/26/1998 without bond, following objections by and litigation with MICKEY MANUEL, SR., surviving spouse, who had filed a Will Contest on 6/3/1998, objecting to the validity of Decedent's estate planning documents.</p> <p>Background:</p> <p>Court Trial on the Preliminary Injunction Restraining Foreclosure Sale Under Deed of Trust filed 11/9/2006 by Cynthia Blackstock was held on 11/14/2006, upon which date the preliminary injunction was granted by Judge James Quaschnick.</p> <p>Minute Order dated 11/14/2006 from the hearing on the preliminary injunction ordered all defendants [MICKEY MANUEL; MONEY MAN CORP.; FORECLOSURE LINK, INC.; J.W. STONE and MILDRED STONE, Trustees; GOLDSTEIN, GELLMAN, et al; and FIRST AMERICAN TITLE INSURANCE CO.] are restrained from selling or causing to be sold the subject property either under the power of sale, deed of trust or by foreclosure.</p> <p style="text-align: center;">~Please see additional page~</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>Continued from 12/7/2012.</p> <p>Reference Point Note: Status Report of Executor filed by Attorney Knudson for Cynthia Blackstock on 6/11/2012 states in pertinent part regarding the status of the estate: "The plan for administration is to try to obtain a loan on the North Pleasant residence so administrative expenses can be paid; Petitioner requests that administration of the estate continue." Court may require the filing of an interim or first account during the loan process, if that remains the Petitioner's plan.</p> <p>Note: Petition to Confirm Title to Real Property in the Estate filed by Cynthia Blackstock, Executor, on 10/30/2012 was heard on 12/5/2012; the Petition was granted, and the Order Confirming Title to Real Property in the Estate signed 12/11/2012 finds in pertinent part:</p> <ul style="list-style-type: none"> The residence located on North Pleasant is an asset of the Estate of Wilma Ruth Manuel, and Mickey Manuel, Sr., has no interest therein; The temporary restraining order entered by this Court on 10/29/2012 is extended to 2/4/2013 or until an adverse ruling is obtained in Case #12CECL05667 [unlawful detainer]; Mickey Manuel, Sr., the Fresno County Sheriff, and their agents, [etc.], are restrained and enjoined from executing that Writ of Possession entered 10/5/2012 in Case #12CECL05667.
Cont. from 061812, 082412, 100512, 120712		
Aff.Sub.Wit.		
Verified		
Inventory		
PTC		
Not.Cred.		
Notice of Hrg		
Aff.Mail		
Aff.Pub.		
Sp.Ntc.		
Pers.Serv.		
Conf. Screen		
Letters		
Duties/Supp		
Objections		
Video Receipt		
CI Report		
9202		
Order		
Aff. Posting		
Status Rpt		
UCCJEA		
Citation		
FTB Notice		
	Reviewed by: LEG	
	Reviewed on: 1/11/13	
	Updates:	
	Recommendation:	
	File 1 - Manuel	

Background, continued:

Minute Order dated 2/22/2007 from the hearing on the *Complaint to Enjoin Foreclosure, for Conveyance of the Property claimed to Belong to Decedent, for Declaratory Relief; and for Damages* filed by Cynthia Blackstock set a Settlement Conference on 6/5/2007. *Notice of Settlement of Entire Case* filed 5/31/2007 by Michael J. Lampe indicates the 6/5/2007 Settlement Conference, and a 6/19/2007 trial date.

Declaration filed by Mickey Manuel, Sr., surviving spouse, on 9/24/2009 includes his written statement pertaining to property assets held by Wilma Manuel prior to her death in 1997, which he states were left in trust to him (her husband) at the time of her death to be handled and disposed of as he deemed suitable as Trustee of her estate.

Notice of Probate Status Hearing filed 5/7/2012 set a status hearing on 6/18/2012 for failure to file a first account or petition for final distribution. *Clerk's Certificate of Mailing* shows Cynthia Blackstock and Attorney David Knudson were mailed notice of this status hearing on 5/7/2012.

Status Report of Executor filed by Attorney Knudson for Cynthia Blackstock on 6/11/2012 states:

- Wilma Ruth Manuel's Will left her Fresno residence to two daughters, **CYNTHIA BLACKSTOCK** and **ANGELA MANUEL**, and a residence in Kent, Washington, to three grandchildren, **ALYSHA WATTS**, **TSION MULUGETA**, and **LEONARD WILLIAMS**;
- Wilma was not married at the time of her death on 10/8/1997; she had previously been married to **A. D. MANUEL**, commonly known as, "**MICKEY MANUEL**" or "**MICKEY MANUEL, SR.**;"
- Wilma was survived by a son, **MICKEY MANUEL**, also known as "**MICKEY MANUEL**" or "**MICKEY MANUEL, JR.**;" "**MICKEY JUNIOR MANUEL**" and/or **MICKEY J. R. MANUEL**;" Mickey Manuel, Jr., sometimes also poses as Mickey Manuel, Sr.;
- Cynthia (Executor) believes the petition filed in this proceeding was actually filed by Mickey Manuel, Jr., even though it is signed "Mickey Manuel, Sr.;" **MICKEY MANUEL, SR.** aka **A. D. MANUEL** is not a beneficiary under Wilma's Will; Mickey Manuel, Jr. is disinherited with a gift of **\$1.00** under Wilma's Will; *Status Report details a long history of proceedings in this matter on pages 2 and 3*;
- In 2006, it was discovered that **MICKEY MANUEL, JR.**, had forged Wilma's signature against the North Pleasant property, the only asset of the estate, and obtained a loan secured by Deed of Trust against the North Pleasant residence; a petition was filed to obtain a restraining order to prevent the foreclosure, and on 11/14/2006, Judge Quashnick entered a preliminary injunction prohibiting the trustee to the Deed of Trust from foreclosing on the property; subsequently, the matter was settled and a *Notice of Settlement* was filed on 6/21/2007;
- **Present status of the estate:** Nothing further occurred in the estate proceedings until **MICKEY MANUEL, SR.**, filed an *Application for Waiver of Court Fees* in February 2009 and in September 2009, both of which were denied; on **3/27/2012**, he filed a further *Application for Waiver of Court Fees*, which was **granted**, and thereupon he filed his *Petition to Secure Appointment as "Successor Trustee"* for the Wilma Manuel Family Trust [*please refer to Page 22 of this calendar*]; Cynthia Blackstock has not been given notice of the hearing on that petition, nor to her knowledge have any other interested parties;
- The North Pleasant residence is the only asset of the estate; it passes to Cynthia Blackstock under the Will since Angela Manuel is deceased; Wilma also owned a residence in Kent, Washington, of which **Mickey Manuel, Jr.**, obtained possession and fraudulently sold, taking the proceeds;
- There are no funds available to pay expenses of administration; Wilma's former attorney **EDWARD A. KENT, JR.**, had possession of some of her funds, but Mr. Kent resigned from the State Bar in 2003 with disciplinary charges pending.

~Please see additional page~

Background, continued:

- **Minute Order dated 6/18/2012 states** the Court advises Mr. Manuel, Sr. that he can file a creditor's claim if he wishes. The court does not guarantee that it is in a timely manner.
- **Mickey Manuel, Sr. filed on 8/23/2012 a Declaration of Mickey Manuel Sr., in Opposition to Petition for Final Distribution** [Note: a Petition for Final Distribution has not been filed in this matter]; Declaration alleges in brief sum that Mr. Manuel, Sr. was never divorced from the Decedent, that the Will was a forgery, and that the property was in the Decedent's trust.
- **Minute Order dated 8/24/2012 states** Mr. Manuel was informed his creditor's claim is deficient. Matter was continued to 10/5/2012. *Creditor's Claim* filed 8/23/2012 by Mickey Manuel, Sr., indicates a claim of **\$29,000.00**, but provides no further information in support of the claim; the entirety of page two is incomplete, and there is no indication that the claim has been served on the Executor.

Note: Creditor's Claim filed 12/5/2012 by **MICKEY MANUEL, SR., aka A.D. MANUEL**, is dated 11/15/2012 and states **\$8,513.86** is owed to him based on the following:

- Attached to the claim are receipts for payments made on property with parcel #406-172-01-S; [Note: documents attached consist of copy of 2011-2012 Fresno County Secured Property Tax Bill; copy of Abstract of Delinquent Secured Taxes or Certificate of Redemption; copy of County of Fresno Tax Collection Division letter regarding payment of delinquent taxes under an installment plan of redemption for APN 406-172-01, indicating \$90.00 installment plan fees and first payment of 20% or more of the unpaid redemption amount and any current taxes must be paid by June 30, signed by Mickey Manuel and dated 5/4/2012];
- Cynthia Blackstock owes this money; she was residing and still resides in the residence and chose not to pay property taxes for years;
- The Trust was about to lose the house but he stepped up and saved it;
- Once it is settled that the home is back in the Trust, and now that the home is already back in his name in the Trust, he will take care of the taxes from now on;
- This creditor's claim is in no way a settlement of what Cynthia owes the Trust; he is still pursuing the assets from Wilma's life insurance policy, which he was the beneficiary of, and all assets that have not been accounted for;
- Wilma and he were never divorced; enclosed you will find a copy of the marriage license [Note: copy of marriage license is not attached to claim.]
- Explanation of money owed totaling **\$8,513.86**:
 - **\$4,839.86** – 20% of taxes owed had to be paid
 - **\$3,184.00** – current year taxes for 2011
 - **\$400.00** – one month that he paid
 - **\$90.00** – start-up fee.

Note Re Creditor's Claim filed by Mickey Manuel, Sr. on 12/5/2012: Proof of service portion on page 2 of the claim is incomplete at Item 3 regarding service to the personal representative of the estate.

Atty Jaech, Jeffrey A. (for proposed conservatee)

Atty Amador, Catherine A. (for Michael H. Smith & Jenna R. Smith – son & granddaughter/Petitioners)

Atty Kruthers, Heather H. (for Public Guardian – nominated Conservator)

Petition for Appointment of Probate Conservator of the Person and Estate (Prob. C. 1820, 1821, 2680-2682)

Age: 85	<u>NO TEMPORARY REQUESTED</u>		NEEDS/PROBLEMS/COMMENTS:
	<p>MICHAEL H. SMITH, son, and JENNA R. SMITH, granddaughter, are Petitioners and request that the PUBLIC GUARDIAN be appointed as Conservator of the Person with Medical Consent powers and Dementia Powers to administer medications and for placement in a secured perimeter facility and as Conservator of the Estate without Bond.</p>		<p>CONTINUED FROM 11/28/12 Minute Order dated 11/28/12 states: Also present in the courtroom are Michael Smith, Jr. and Youa Her. Mr. Jaech informs the Court that he is representing Ben Smith through his agent. Ms. Kruthers informs the Court that the inventory & appraisal is being prepared. Parties are ordered to meet and confer between now and 12/20/12. The Court directs Ms. Amador to facilitate the meeting. Mr. Jaech is directed to provide the Public Guardian whatever information they request. Ms. Amador consents to having the document provided to Ms. Kruthers circulated to counsel. With respect to visitation, the Court orders that persons wishing to visit Ben Smith communicate with Robin Kent who will coordinate the visits.</p> <p>Court Investigator advised rights on 10/23/12.</p> <p>Voting rights affected. Need Minute Order.</p> <p>As of 01/14/13, the following remains outstanding:</p> <ol style="list-style-type: none"> The petition indicates that the proposed conservatee receives or is entitled to receive benefits from the U.S. Dept. of Veterans Affairs. Therefore, need proof of service by mail at least 15 days before the hearing of <i>Notice of Hearing</i> with a copy of the <i>Petition for Appointment of Conservator</i> to The Office of the Veterans Administration. Capacity Declaration filed 11/16/12 is not marked at item 7 regarding medical consent and does not include attachment regarding Dementia Powers requested. Need revised Capacity Declaration. Need Order and Letters.
Cont. from 103112; 11/28/12	<p>Estimated Value of the Estate: Personal property - \$ 20,000.00 Annual income - 35,000.00 Real property - 500,000.00 Total - \$555,000.00</p>		
Aff.Sub.Wit.		Voting rights affected.	
✓ Verified		Petitioners state that they are concerned that the proposed conservatee appears to be declining in health and they are unsure if he is receiving the level of care he needs due to tension between Petitioners and the proposed conservatee's grandson "Butch".	
Inventory		Petitioners allege that Butch exerts undue influence over the proposed conservatee and limits other family members from visiting.	
PTC		Petitioners also state that they are concerned that Butch may be using the proposed conservatee's funds for his own use under a Durable Power of Attorney.	
Not.Cred.		Due to the conflict in the family, Petitioners are requesting that the Public Guardian be appointed as conservator of the Person & Estate.	
✓ Notice of Hrg			
✓ Aff.Mail	w/		
Aff.Pub.			
Sp.Ntc.			
✓ Pers.Serv.			
✓ Conf. Screen			
Letters	x		
✓ Duties/Supp			
Objections			
Video Receipt	n/a		
✓ CI Report			
9202			
Order	x		
Aff. Posting			
Status Rpt			
UCCJEA			
✓ Citation			
FTB Notice			
Continued on Page 2			<p>Reviewed by: JF</p> <p>Reviewed on: 11/26/12</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 2A - Smith</p>

Court Investigator Samantha Henson filed a report on 10/25/12.

Opposition to Petition for Appointment of Probate Conservator of the Person and Estate filed 11/27/12 by Benjamin Smith, Jr. by and through his attorney in fact Michael H. Smith, Jr. states:

1. The Conservatorship is not permissible under the code because it is not the least restrictive alternative.
2. The Conservatorship is unnecessary because the proposed conservatee, when competent, executed an advance health care directive, durable power of attorney, and a living trust naming his grandson, "Butch", as his agent and trustee to manage his health care and his estate. Further, Butch and his mother, Robin Kent, live with the proposed conservatee and provide consistent care. Both the Court Investigator and the social worker Althea Parks have made unannounced visits and both have reported that the proposed conservatee appeared appropriately dressed and groomed, his home was clean, and there was adequate food supply. The proposed conservatee is happy with the situation having told the court investigator, "You couldn't ask for better people. They help me so much." Since ben has constant care from his own appointed health care agent, a conservator of the person is not necessary.
3. A conservator of the estate is also not necessary because substantially all of the property the proposed conservatee owns is in his living trust, which would not be part of any established conservatorship.
4. Objector alleges that the petition for conservatorship is Petitioner Michael Smith's ("Mike") attempt to avoid accountability for a debt that he owes to the proposed conservatee. The proposed conservatee discovered in 2011 that as much as \$50,000.00 had been taken from an account of the proposed conservatee and his wife, with most of the checks and transfers going to Mike or Paradise Cleaners, Mike's business, purportedly as loans or investments. Since July, Mike has stated that he would provide an accounting of the money he took from the proposed conservatee, but he has yet to provide such an accounting. Mike has also stated that he is in the process of repaying the loans, however, to date he has not made any payments to the proposed conservatee. Mike was also the subject of an elder abuse claim brought by the proposed conservatee in connection with the missing money.
5. The Petitioners claim that Butch keeps the proposed conservatee from seeing family members or makes them uncomfortable when visiting. However, in reality, both Butch and the proposed conservatee are merely cautious around Mike.
6. This petition is an attempt by Mike to avoid any accountability for the money he took or borrowed. The Public Guardian does not have the resources to investigate the missing money and to litigate to obtain recovery. Thus if a conservatorship is granted, Butch and the proposed conservatee will not be able to hold Mike accountable for the money he owes.

Note: If the petition is granted status hearings will be set as follows:

- **Friday, 05/24/13 at 9:00a.m. in Dept. 303** for the filing of the inventory and appraisal **and**
- **Friday, 03/21/14 at 9:00a.m. in Dept. 303** for the filing of the first account and final distribution.

Pursuant to Local Rule 7.5 if the required documents are filed 10 days prior to the hearings on the matter the status hearing will come off calendar and no appearance will be required.

Dept. 303, 9:00 a.m. Friday, January 18, 2013

Atty Jaech, Jeffrey A. (for proposed conservatee)

Atty Amador, Catherine A. (for Michael H. Smith & Jenna R. Smith – son & granddaughter/Petitioners)

Atty Kruthers, Heather H. (for Public Guardian – nominated Conservator)

Status Hearing

Age: 85	<p>MICHAEL H. SMITH, son, and JENNA R. SMITH, granddaughter, Petitioned to have the PUBLIC GUARDIAN appointed as Conservator of the Person and Estate with Medical Consent and Dementia Powers and for placement in a secured perimeter facility.</p> <p>An Opposition to Petition for Appointment of Probate Conservator of the Person and Estate was filed 11/27/12 by the proposed conservatee by and through his attorney in fact, Michael H. Smith, Jr. ("Butch"/grandson) alleging that a Conservatorship was not necessary due to his authority under a durable power of attorney.</p> <p>Minute Order from hearing on 11/28/12 set this matter for a Status Hearing.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p>
Cont. from		
Aff.Sub.Wit.		
Verified		
Inventory		
PTC		
Not.Cred.		
Notice of Hrg		
Aff.Mail		
Aff.Pub.		
Sp.Ntc.		
Pers.Serv.		
Conf. Screen		
Letters		
Duties/Supp		
Objections		
Video Receipt		
CI Report		
9202		
Order		
Aff. Posting		
Status Rpt		
UCCJEA		
Citation		
FTB Notice		
	Reviewed by: JF	
	Reviewed on: 01/14/13	
	Updates:	
	Recommendation:	
	File 2B - Smith	

Probate Status Hearing Re: Filing Inventory and Appraisal

DOD: 06/05/12		<p>KATHLEEN ANN CRAWFORD, daughter, was appointed Executor without bond on 08/06/12 and Letters were issued on 08/20/12.</p> <p>Minute Order from 08/06/12 set this matter for status re filing of the Inventory & Appraisal.</p> <p>Clerk's Certificate of Mailing filed 12/10/12 indicates that a copy of the Minute Order dated 12/07/12 was mailed to Cheryl Brown on 12/10/12.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p style="text-align: center;"><u>OFF CALENDAR</u></p> <p style="text-align: center;">Inventory & Appraisal filed 01/17/13</p> <p>CONTINUED FROM 12/07/12 Minute Order from 12/07/12 states: No appearances. Ms. Browns must personally appear unless Inventory & Appraisal is filed before the next hearing.</p> <p>As of 01/14/13, the following needs remain:</p> <p style="padding-left: 40px;">1. Need Inventory & Appraisal.</p>
Cont. from 120712			
<input type="checkbox"/>	Aff.Sub.Wit.		
<input type="checkbox"/>	Verified		
<input checked="" type="checkbox"/>	Inventory		
<input type="checkbox"/>	PTC		
<input type="checkbox"/>	Not.Cred.		
<input type="checkbox"/>	Notice of Hrg		
<input type="checkbox"/>	Aff.Mail		
<input type="checkbox"/>	Aff.Pub.		
<input type="checkbox"/>	Sp.Ntc.		
<input type="checkbox"/>	Pers.Serv.		
<input type="checkbox"/>	Conf. Screen		
<input type="checkbox"/>	Letters		
<input type="checkbox"/>	Duties/Supp		
<input type="checkbox"/>	Objections		
<input type="checkbox"/>	Video Receipt		
<input type="checkbox"/>	CI Report		
<input type="checkbox"/>	9202		
<input type="checkbox"/>	Order		
<input type="checkbox"/>	Aff. Posting		
<input type="checkbox"/>	Status Rpt		
<input type="checkbox"/>	UCCJEA		
<input type="checkbox"/>	Citation		
<input type="checkbox"/>	FTB Notice		
		<p>Reviewed by: JF</p> <p>Reviewed on: 01/14/13</p> <p>Updates: 01/17/13</p> <p>Recommendation:</p> <p>File 3 - Crawford</p>	

Atty Dowling, Michael; Burnside, Leigh; Matlak, Steven; of Dowling Aaron (for Petitioner Barbara L. Pearson, Successor Trustee)
 Atty Werner, David D., Field, Stefanie; of Gresham Savage Nolan & Tilden, Riverside (for Objector Tracy Spreier, Beneficiary)

Petition for Settlement of First Account and Report of Trustee of the LaBree Family Trust; and Approval of Trustee Fees [Cal. Prob. C. 1064(a), 17200, 17200(b)(5), CRC., Rule 7.902]

Frank DOD: 8/15/2006	BARBARA L. PEARSON , Trustors' daughter, Trust Beneficiary and Successor Trustee of the LABREE FAMILY TRUST , is Petitioner.		<p>NEEDS/PROBLEMS/ COMMENTS:</p> <p>Page 4B is the Status Conference set by Court in this matter.</p> <p>Page 7 is the related matter of the Frank H. Labree Irrevocable Trust (12CEPR00893.)</p> <p>Continued from 11/29/2012. Minute Order states Mr. Werner is appearing via conference call. Ms. Burnside informs the Court that there is an objection to the petition. Mr. Werner requests a continuance.</p>
Roberta DOD: 3/25/2012	Account period: 3/25/2011 – 2/29/2012		
Cont. from 112912	Accounting - \$1,735,662.68		
Aff.Sub.Wit.	Beginning POH - \$1,627,499.40		
✓ Verified	Ending POH - \$1,563,236.09		
Inventory	(\$1,899,065.77 is cash; cash balance exceeds ending property on hand balance due to negative \$518,182.00 amount held in constructive trust by Trustee for the benefit of the Frank H. LaBree Exemption Trust.)		
PTC	Trustee - \$25,066.50		
Not.Cred.	(per Declaration filed 11/14/2012 containing itemization for 294.90 hours @ \$85.00/hour. NOTE: Trustee has previously been paid compensation of \$14,302.50 (not itemized) from the Trust for this account period without court order per Trust terms entitling Trustee to reasonable compensation for services rendered as Trustee;)		
✓ Notice of Hrg	Attorney - \$53,312.30 (paid)		
✓ Aff.Mail	(to Dowling Aaron & Keeler/Dowling Aaron, as listed in Disbursements schedule; not itemized other than for legal fees)		
Aff.Pub.	Accountant - \$1,405.00 (paid)		
Sp.Ntc.	(to Erickson & Assoc., CPAs, as itemized in Disbursements schedule; Petitioner is employed by Erickson & Assoc.)		
Pers.Serv.	Petitioner states:		
Conf. Screen	<ul style="list-style-type: none"> ROBERTA LABREE and FRANK H. LABREE, Jr., created the LABREE FAMILY TRUST on 4/13/1981, as amended on 5/2/1984, and as amended in full on 12/20/1991, and were the original co-trustees until Frank's death on 8/15/2006, when Roberta became the sole Trustee, and the Trust served as the Survivor's Trust for Roberta; 		
Letters	~Please see additional page~		
Duties/Supp			
Objections			
Video Receipt			
CI Report			
9202			
Order	X		
Aff. Posting			
Status Rpt			
UCCJEA			
Citation			
FTB Notice			
Reviewed by: LEG			
Reviewed on: 1/16/13			
Updates:			
Recommendation:			
File 4A - LaBree			

Petitioner states, continued:

- Upon Roberta's death on 3/25/2012, Petitioner Barbara L. Pearson became and is currently the Successor Trustee; (copy of Second Amendment to Declaration of Trust attached as Exhibit A);
- Pursuant to probate Code § 17200, the Trustee is requesting Court review of the first account and of the acts of the Trustee, and submits her first account and report of administration of the Trust for settlement and allowance;
- During the period of administration of this account, Petitioner discovered excess income distributions totaling **\$60,756.82** were made in 2008, 2009 and 2010 to Roberta LaBree by the **FRANK H. LEBREE EXEMPTION TRUST**, of which Roberta was the sole beneficiary during her lifetime; this amount was paid to the LaBree Family Trust; at Roberta's death, income owed to her from the Exemption Trust for 2011 was **\$3,427.00**, which when applied to the 2011 amount owed for excess distributions leaves a balance owing of **\$57,329.82**; (please refer to Schedule J of the account); the full amount owed by the Family Trust of **\$57,329.82** has been paid to the Exemption Trust and will be reflected in the next account;
- During the period of administration of this account, Petitioner discovered the Family Trust had underfunded the Exemption Trust by **\$500,000.00**, which accrued interest of **\$18,182.00**, and the full amount of **\$518,182.00** has been paid to the Exemption Trust and will be reflected in the next account.

Petitioner prays for an Order:

1. Settling and allowing the First Account and Report of the Trustee, and ratifying, confirming and approving all acts and transactions of the Petitioner as Trustee;
2. Ratifying and approving the Trustee's fees of **\$14,302.50** already paid from the Trust;
3. Authorizing payment of **\$25,066.50** to the Trustee for services rendered through 2/29/2012; and
4. Ratifying and approving the Attorney's fees of **\$53,312.30** already paid from the Trust.

Objections to Petition for Settlement of First Account and Report of Trustee of the LaBree Family Trust; and Approval of Trustees Fees; Request for Attorneys' Fees Pursuant to Probate Code § 17211(b) filed 11/16/2012 by TRACY SPREIER, Trustors' daughter and Trust Beneficiary, states she objects to the account filed by Barbara Person on the following grounds:

- **Accounting includes an incredibly inflated and false appraisal for a faux diamond ring that was not a part of the family trust during a time of the account period:**
 - In December 2010, Trustor Roberta gifted a ring to Objector; when Roberta died on 3/25/2011, the gift of the ring had already been made at least three months before; accordingly, the ring was not a part of the Family Trust's assets on 3/25/2011, Roberta's date of death; 3/25/2011 is also the beginning date for the First Account;
 - The First Account states the value of the ring as of 3/25/2011 was **\$26,000.00**, shown on [Schedule G, Distributions in an entry dated 3/25/2011] for a distribution to Tracy Spreier of a diamond ring; this statement is false (contrary to Trustee's verification of the accounting), as the ring had already been given to the Objector as a gift by her mother;
 - As the entry pertaining to the ring is incorrect, the corresponding entry regarding the Trust's ownership of a diamond ring and other jewelry worth a total of **\$35,216.00** is also false;

~Please see additional page~

Tracy Spreier's Objections to Petition for Settlement of First Account filed 11/16/2012, continued:

Accounting includes an incredibly inflated and false appraisal for a faux diamond ring, continued:

- Successor Trustee also materially misrepresents the value of the ring that was gifted to Objector by her mother in December 2010; accounting makes reference to an appraisal obtained for a ring and include an entry of **\$100.00** paid to have ring appraised, and Objector asserts that the ring appraised, if any ring was actually appraised, is not the same ring given to her by her mother in December 2010 which Successor Trustee alleges was distributed to Objector on 3/25/2011; the reason for this is that Objector has been in possession of the ring ever since her mother gave it to her in December 2010, thus to the extent that any appraisal was prepared at Successor Trustee's request, the appraisal was either a totally fictitious appraisal or was based upon a ring other than the one give to Objector by her mother;
- Objector took the ring her mother had given to her in December 2010 to a Certified Gemologist Appraiser to obtain a professional appraisal of the ring's value, and the appraiser's conclusion is that the stones in the ring are cubic zirconium set in a sterling silver cast and die-struck ring with a value of **\$60.00** (please refer to copy of appraisal attached as Exhibit A);
- Objector believes that **TARA AHEARNE**, who was paid \$100.00 by Successor Trustee to state that the value of the ring given to Objector by her mother was worth **\$26,000.00**, is a friend of Successor Trustee's daughter; it can only be inferred that her appraisal was based solely on whatever was told to her by the Successor Trustee, as the appraisal could not have been based on an actual inspection of the ring in order to determine its attributes or value, as Objector was never asked to produce the ring for any inspection or appraisal, and never did so; no communication was ever made by the Successor Trustee to the Objector at any time about the ring;
- Because the ring appraisal obtained by the Successor Trustee was false and deceitful, she should be ordered to reimburse the Family Trust the **\$100.00** cost of the appraisal.
- **The Trustee paid for an appraisal of real property not owned by the Trust:**
 - *Schedule E, Disbursements* shoes an entry for an appraisal by **DIANA A. GARDA** of **\$1,077.00** for an appraisal of the South El Monte property; the real property owned by the Trust listed on *Schedule A Property on Hand* [at beginning of account period] shows only real property owned by Family Trust is Trustor's home in Bullhead Arizona and two timeshare interests; as there is no explanation given for an appraisal to be obtained by the Family Trust for the South El Monte property, the Successor Trustee should be ordered to reimburse the Family Trust **\$1,077.00** for that expenditure; South El Monte property is commercial property that was owned by the Family Trust and was gifted by their mother to Objector and her two sisters in 2010 to a partnership they owned.
- **The Court should not approve the reimbursement made to the Successor Trustee for the cost of an appraisal that was never used.**
- **The Court should not approve the Successor Trustee's action of selling the Family Trust's tax-free bond and certificate of deposit investments, then depositing the cash into extremely low interest-bearing bank accounts instead of distributing the assets to the beneficiaries.**
- **The Court should require the Successor Trustee's report to explain why its cash assets of over \$1.5 million are not being distributed.**

~Please see additional page~

Tracy Spreier's Objections to Petition for Settlement of First Account filed 11/16/2012, continued:

- The Court should instruct the Successor Trustee to adhere to her fiduciary duty to deal impartially with the beneficiaries.
- Funeral costs are not an allowable expense under the terms of the Family Trust and should not be approved by the Court in light of the fact that the Trustor had a prepaid cremation and memorial plan.
- Family photograph reprints are not a trust expense that can be approved by the Court.
- The travel costs and other expenses purportedly related to the sale of the Trustor's residence and which were incurred by Successor Trustee's relatives are not allowable Trust expenses.
- The Successor Trustee's fee request should not be granted as it is not supported by any time records for the work done by her, and the accounting does not reflect the amount that the report states has already been paid to her by the Trust.
- The Court cannot ratify the amounts paid by the Successor Trustee to her attorneys for legal fees as they are not supported by any time records that show any justification for the amounts paid.
- The Court should award Objector her attorney's fees with regard to the objection to the accounting.
- **One of the named beneficiaries in the Trust, SEAN WOODS, was not given notice of the petition.** [Note: Waiver of Notice on Petition for Settlement of First Account and Report of Trustee of the LaBree Family Trust signed by Sean Woods was filed on 11/21/2012.]

Objector requests:

1. That Barbara Pearson an Successor Trustee be ordered to amend and correct the accounting for the Family Trust to delete the faux diamond ring as an asset of the Family Trust, and to make all other entries to the accounting that are necessary as a result of that correction, without any cost to the Family Trust;
2. That Barbara Pearson be order to pay the amount of **\$100.00** to the Family Trust as reimbursement for the false appraisal that was obtained for the faux diamond ring that was not even a Family Trust asset at the time that she became Successor Trustee;
3. That Barbara Pearson be ordered to pay the Family Trust the amount of **\$1,077.00** for the appraisal by Diana A. Garda of the South El Monte property that was not property of the Family Trust at the time that appraisal was obtained;
4. That Barbara Pearson be ordered to correct the accounting to reflect the value of the Trustor's residence at the time of the death, as determined by the appraisal prepared by Larry Stewart, and make all other entries in the accounting necessary to correct the accounting with regard to the sale of the residence, without any cost to the Family Trust, and that Barbara Pearson be ordered to pay the Family Trust **\$375.00**;
5. That Barbara Pearson be ordered to distribute all assets of the Family Trust among the three remaining beneficiaries of the Family Trust, except for any funds reasonably anticipated to be needed for future expenses and liabilities, and for the prudent investment of those funds in interest-bearing bonds;

~Please see additional page~

Tracy Spreier's Objections to Petition for Settlement of First Account filed 11/16/2012, continued:

6. That Barbara Pearson be ordered to deal impartially with each of the Family Trust's beneficiaries and ordered that any future distributions to the three remaining beneficiaries of the Family Trust are to be in equal amounts to each of the three beneficiaries unless otherwise ordered by the Court, and that the Successor Trustee not reimburse any beneficiary or herself any costs or expenses unless and until first order by the Court;
7. That the Successor Trustee pay the Family Trust the amount of **\$1,537.06** that she improperly paid from the Family Trust for "funeral expenses;"
8. That the Successor Trustee pay the Family Trust the amount of **\$42.86** to reimburse it for the amount she improperly paid from the Family Trust for "family photograph reprints;"
9. That the Successor Trustee pay the Family Trust the amount of **\$6,899.08** to reimburse it for the amount of improper expenses paid by the Family Trust for travel and meal expenses of the beneficiaries to whom the Trustor's personal property was being distributed;
10. That the Successor Trustee's request for the ratification of the fees paid to her for her services as the Successor Trustee and the request for payment of additional fees be denied because of the lack of any entry in the accounting showing when the amount paid to the Successor Trustee for her services was actually paid, and because of lack of any evidence showing that the amount paid and the amount requested be paid is reasonable;
11. That the Successor Trustees' request for ratification of her act of paying Dowling Aaron & Keeler and Dowling Aaron the amount of **\$53,312.30** be denied because of lack of evidence showing that the payment of that amount was reasonable; and
12. That the Court award Objector the amount of her attorney's fees and costs, according to proof, pursuant to Probate Code § 17203 and against the Successor Trustee, Barbara Pearson, and that the award be paid to Objector as a charge against Successor Trustee's compensation or other interest she has in the Family Trust.

Reply to Objections to Petition for Settlement of First Account and Report of Trustee of the LaBree Family Trust filed 11/26/2012 by Barbara Pearson, Successor Trustee, states:

- **The ring, which does have an appraised value of \$26,000.00, was taken by Objector as a preliminary distribution of the Trust estate, and is properly included in the accounting to explain equalizing distributions required to other Trust beneficiaries.**
- **The appraisal of the South El Monte property was a proper Trust expense.**
- **The appraisal fee of \$375.00 was a proper Trust expense.**
- **The sale of the tax-free bond was appropriate and within the Trustee's discretion.**
- **The Trustee's lack of Trust distributions during the accounting period was appropriate and within her discretion.**
- **If the Court orders the Trustee to adhere to her fiduciary duty to deal impartially with Trust beneficiaries, as requested by Objector, Objector will lose \$42,748.00.**
- **Funeral costs are allowable expenses, and travel and meals are commonly covered estate administration expenses.**
- **Copies of family photographs were proper trust expenses.**

~Please see additional page~

Successor Trustee's Reply to Objections filed 11/26/2012, continued:

- **Travel costs related to the sale of the residence were proper Trust expenses.**
- **Documentation regarding Trustees fees has not been provided to Objector and to the Court.** [Declaration filed 11/14/2012.]
- **A separate attorney fee declaration will be submitted prior to the hearing.**
- **The Court should deny Objector's request for attorney fees for the objection.** There is no adjudication that the Trustee's defense of the accounting is frivolous; therefore, Objector's attorney is not entitled to fees.
- **M. Sean Woods filed a Waiver of Notice for the Hearing** [on 11/21/2012.]

Petitioner Barbara Pearson requests the Court deny Objector Tracy Sprier's objection and grant the petition.

Declaration of Steven Matlack in Support of Request for Ratification of Attorney's Fees filed 12/14/2012 sets forth attorney and paralegal qualifications, scope of the representation detailing the complex issues, and a copy of the firm's time entries containing the vast majority of entries, with certain privilege-protected entries redacted (itemized on *Exhibit B*); the services performed from 3/25/2011 through 2/29/2012 involved expenditure of 148.40 hours of attorney time and 85.40 hours of paralegal time, for a total fee of **\$53,173.00**.

Second Declaration of Barbara L. Pearson in Support of Petition for Settlement of First Account and Report of Trustee of the LaBree Family Trust; and Approval of Trustee Fees filed 1/15/2013 states she paid herself **\$14,302.50** from the Trust assets for trustee services rendered by her during the account period without prior court order pursuant to the terms of the Trust; the services related specifically to accounting and tax preparation work (itemized on *Exhibit A.*)

Atty Dowling, Michael; Burnside, Leigh; Matlak, Steven; of Dowling Aaron (for Petitioner Barbara L. Pearson, Successor Trustee)
 Atty Werner, David D., Field, Stefanie; of Gresham Savage Nolan & Tilden, Riverside (for Objector Tracy Spreier, Beneficiary)

Status Conference

Frank DOD: 8/15/2006	BARBARA L. PEARSON, Trustor's daughter, Trust Beneficiary and Successor Trustee of the LABREE FAMILY TRUST dated 4/13/1981, filed on 10/5/2012 a <i>Petition for Settlement of First Account and Report of Trustee of the LaBree Family Trust</i> , which was set for hearing on 11/29/2012.	NEEDS/PROBLEMS/COMMENTS:
Roberta DOD: 3/25/2012		
Cont. from	TRACY SPREIER, Trustor's daughter and Trust Beneficiary, filed on 11/16/2012 <i>Objections to the Petition for Settlement of First Account and Report of Trustee of the LaBree Family Trust</i> , alleging self-dealing and breach of fiduciary duties by the Trustee.	
Aff.Sub.Wit.		
Verified	Minute Order dated 11/29/2012 from the hearing on the petition and the objections set this status conference on 1/18/2013.	
Inventory		
PTC		
Not.Cred.		
Notice of Hrg		
Aff.Mail		
Aff.Pub.		
Sp.Ntc.		
Pers.Serv.		
Conf. Screen		
Letters		
Duties/Supp		
Objections		
Video Receipt		
CI Report		
9202		
Order		
Aff. Posting		
Status Rpt		
UCCJEA		
Citation		
FTB Notice		
		Reviewed by: LEG
		Reviewed on: 1/16/13
		Updates:
		Recommendation:
		File 4B - LaBree

5 Sergio Flores (Estate)

Case No. 12CEPR00736

Atty Hogue, David M.

Atty Wall, Jeffrey L

Status Re: Spousal Petition Filed

Age:		NEEDS/PROBLEMS/COMMENTS: <u>OFF CALENDAR</u> New Petition filed 12/14/12 and set for hearing on 02/05/13
DOD:		
Cont. from		
Aff.Sub.Wit.		
Verified		
Inventory		
PTC		
Not.Cred.		
Notice of Hrg		
Aff.Mail		
Aff.Pub.		
Sp.Ntc.		
Pers.Serv.		
Conf. Screen		
Letters		
Duties/Supp		
Objections		
Video Receipt		
CI Report		
9202		
Order		
Aff. Posting		
Status Rpt		
UCCJEA		
Citation		
FTB Notice		
		Reviewed by: JF
		Reviewed on: 01/14/13
		Updates:
		Recommendation:
		File 5 - Flores

Atty Hemb, Richard E., Hemb Law Office (for Administrator Karen K. Williams)

Status Hearing Re: Filing of the Bond

DOD: 6/22/2012	<p>KAREN K. WILLIAMS, daughter, was appointed Administrator with Full IAEA with Bond fixed at \$170,000.00 on 9/24/2012.</p> <p>Minute Order dated 9/24/2012 from the hearing on the appointment set a status hearing on 10/26/2012 for filing of the bond.</p> <p>Minute Order dated 10/26/2012 from the continued status hearing states Counsel advises the Court that the personal representative has been declined bond. The Court continues the matter to 11/16/2012. Counsel is directed to file an amended petition with limited powers and a blocked account. Clerk's Certificate of Mailing filed 11/19/2012 shows a copy of the <i>Minute Order</i> dated 11/16/2012 was mailed to Attorney Richard Hemb on 11/19/2012.</p> <p>Minute Order dated 11/16/12 from the last status hearing for filing of the bond states: No appearances. Matter continued to 12/7/2012. If the bond is not filed by 12/7/2012, Richard Hemb is ordered to be personally present on that date. Clerk's Certificate of Mailing filed 12/11/2012 shows the Minute Order dated 12/7/2012 and OSC was mailed to Karen Williams at her address in Reseda, CA, on 12/11/0212.</p> <p>Order filed 12/11/2012 orders Karen Williams to appear on 1/18/2013 to show cause why she should not be sanctioned for failure to appear.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>Continued from 12/7/2012. Minute Order states Mr. Hemb informs the Court that he has lost contact with his client, Ms. Williams. Order to show cause is ordered for Ms. Williams. Ms. Williams is ordered to personally appear at the next hearing on 1/18/2013. Mr. Hemb may file a withdrawal of attorney and it can be heard on 1/18/2013.</p> <p>1. Need amended petition for letters of administration requesting limited powers and authorizing all funds be placed into a blocked account, as directed by Court on 10/26/2012.</p>
Cont. from 102612, 111612, 120712		
Aff.Sub.Wit.		
Verified		
Inventory		
Proof of Bond		
Not.Cred.		
Notice of Hrg		
Aff.Mail		
Aff.Pub.		
Sp.Ntc.		
Pers.Serv.		
Conf. Screen		
Letters		
Duties/Supp		
Objections		
Video Receipt		
CI Report		
9202		
Order		
Aff. Posting		
Status Rpt		
UCCJEA		
Citation		
FTB Notice		
Reviewed by: LEG		
Reviewed on: 1/14/13		
Updates:		
Recommendation:		
File 6 - Williams		

Atty Dowling, Michael; Burnside, Leigh; Matlak, Steven; of Dowling Aaron (for Petitioner Barbara L. Pearson, Successor Trustee)
 Atty Werner, David D., Field, Stefanie; of Gresham Savage Nolan & Tilden, Riverside (for Objector Tracy Spreier, Beneficiary)

Petition for Settlement of First Account and Report of Trustee of the Frank H. LaBree Irrevocable Trust Dated March 26, 1992 [Cal. Prob. C. 1064(a), 17200, 17200(b)(5), CRC., Rule 7.902]

Frank DOD: 8/15/2006	<p>BARBARA L. PEARSON, Trustor's daughter, Trust Beneficiary and Successor Trustee of the FRANK H. LABREE IRREVOCABLE TRUST, is Petitioner.</p> <p>Account period: 10/10/2008 – 12/31/2011</p> <p>Accounting - \$456,694.10 Beginning POH - \$421,894.79 Ending POH - \$423,435.60 (\$334,115.35 is cash)</p> <p>Trustee (Initial) - \$3,510.00 (services prior to 10/10/2008 for initial Trustee, paid to Law Offices of Earl O. Bender)</p> <p>Trustee (Current) - \$600.00 (paid)</p> <p>Trustee Costs - \$1,379.84 (paid) (reimbursement of 2010 travel expense)</p> <p>Attorney - <i>Not requested</i></p> <p>Accountant - \$615.00 (paid) (to Erickson & Assoc., CPAs, as itemized in Disbursements schedule; Petitioner is employed by Erickson & Assoc.)</p> <p>Petitioner states:</p> <ul style="list-style-type: none"> FRANK H. LABREE, Jr., created the FRANK H. LABREE IRREVOCABLE TRUST on 3/26/1992, which was funded initially by a life insurance policy on Frank (copy of Trust Agreement attached as Exhibit A); The initial Trustee was EARL O. BENDER, who resigned on 10/9/2008, and Petitioner succeeded as trustee; Petitioner is a resident of Aubery, California; <p align="center">~Please see additional page~</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>Page 7B is the Status Conference set by Court in this matter.</p> <p>Continued from 11/29/2012. Minute Order states Mr. Werner is appearing via conference call. Ms. Burnside informs the Court that there is an objection to the petition. Mr. Werner requests a continuance.</p> <p>1. Need proposed order.</p>	
Roberta DOD: 3/25/2012			
Cont. from 112912			
Aff.Sub.Wit.			
✓ Verified			
Inventory			
PTC			
Not.Cred.			
✓ Notice of Hrg			
✓ Aff.Mail			W /
Aff.Pub.			
Sp.Ntc.			
Pers.Serv.			
Conf. Screen			
Letters			
Duties/Supp			
Objections			
Video Receipt			
CI Report			
9202			
Order	X		
Aff. Posting			
Status Rpt			
UCCJEA			
Citation			
FTB Notice			
<p>Reviewed by: LEG</p> <p>Reviewed on: 1/14/13</p> <p>Updates:</p> <p>Recommendation: File 7A – Labree</p>			

Petitioner states, continued:

- Pursuant to probate Code § 17200, the Trustee is requesting Court review of the first account and of the acts of the Trustee, and submits her first account and report of administration of the Trust for settlement and allowance;
- On 1/30/2009, Trustee loaned herself and her husband, **PAUL E. PEARSON**, the sum of **\$95,000.00** per a written promissory note dated 1/30/2009 at 6% per annum interest with monthly payments of **\$860.00**, and such note is secured by a manufactured home located in Auberry, California; the note was modified on 12/1/2010 to reduce the annual interest to 4%, with all other terms remaining the same; at all times and during the account period, the note remained current and all payments are reflected in the account; the note was subsequently paid in full as will be reflected in the next account; the loan was done with the consent of Roberta LaBree who was the surviving spouse of the Trustor and was the primary beneficiary of the Irrevocable Trust at that time;
- On 9/10/2009, Trustee made an unsecured loan to **SHANNON BADELLA** and **ANTHONY BADELLA**, Trustee's daughter and her husband, in the sum of **\$14,300.00**; the loan was evidenced by a written promissory note at 6% per annum interest with monthly payments of **\$400.00**, commencing 11/1/2009; the note was modified on 12/1/2010 to reduce the interest rate to 4% per annum with all other terms remaining the same; on 3/24/2011, Petitioner assumed the obligation and payment of the note, which at that time had a balance of **\$9,317.97**; at all times and during the account period, the note remained current and all payments are reflected in the account; the loan was done with the consent of Roberta LaBree, who was the surviving spouse of the Trustor and was the primary beneficiary of the Irrevocable Trust at that time;
- The current and "Present Beneficiaries" of the Trust are Barbara L. Pearson (of Auberry), Roxanne McWilliams (of West Hills), and Tracy I. Sprier (of Temecula); each Present Beneficiary has an unrestricted right to "withdraw from principal the entire balance of her trust at any time" pursuant to Subsection 5.02(b)(c) of the Trust, thus Probate Code §§ 15802 and 15803 apply and the Present Beneficiaries' rights to withdraw limit the Trustee's duty to notify any future beneficiaries.

Petitioner prays for an Order:

5. Settling and allowing the First Account and Report of the Trustee;
6. Ratifying, confirming and approving all acts and transactions of the Petitioner as Trustee relating to matters set forth in the First Account; and
7. Ratifying and approving the Trustee's fees already paid as set forth in the First Account.

Objection to Petition for Settlement of First Account and Report of Trustee of the Frank H. LaBree Irrevocable Trust dated 3/26/1992; Request for Attorneys' Fees filed 11/16/2012 by TRACY SPREIER, Trustor's daughter and Trust Beneficiary, states she objects to the account filed by Barbara Person on the following grounds:

- The Court should not approve the Successor Trustee's acts of unilaterally reducing the interest rate of the loans that she made from the Trust's funds to herself and her daughter, without any evidence of the reasonableness and justification of such self-dealing.
- The Court should not approve the Successor Trustee's unusual travel expenses without evidence of the reasonableness of such charges to the Trust.
- The Account and Report fails to explain the reason for the unusual omission of any payment to the Successor Trustee for her fees for 2010 and 2011, and it is unknown whether those fees are waived or if the Successor Trustee was compensated in some other way.

~Please see additional page~

Reply to Objections to Petition for Settlement of First Account and Report of Trustee of the Frank H. LaBree Irrevocable Trust dated 3/26/1992 filed 11/26/2012 by Barbara Pearson, Trustee, states:

- The Objection is somewhat economically bewildering because the objection questions actions by the Trustee which benefitted the Trustee or her daughter a total of **\$5,170.12**, and if successful in her objection, Objector stands to gain at most **\$1,723.37** based on her 1/3 share.
- Petitioner's counsel was never contacted to see if Objector's questions could be adequately addressed, or the issues perhaps settled on an informal basis; Petitioner wonders why Objector's counsel did not simply call to discuss Objector's concerns with this accounting.
- In her service as Trustee for the three+ years presented in the accounting, Petitioner's benefit of **\$5,170.12** would be well within a reasonable Trustee fee for her service given her active involvement with investment decisions and her assistance with preparation of the Trust's tax returns each year.
- The reduction of the interest rate from 6% to 4% was consented to by a life-time beneficiary of the Trust, and was economically reasonable.
- The Successor Trustee's travel expenses for **\$1,379.84** were reasonably related to the administration of the Trust.
- The Trustee is not requesting Trustee fees for 2010 or 2011.
- The Court should deny Objector's request for attorney fees for the Objection.

Atty Dowling, Michael; Burnside, Leigh; Matlak, Steven; of Dowling Aaron (for Petitioner Barbara L. Pearson, Successor Trustee)

Atty Werner, David D., Field, Stefanie; of Gresham Savage Nolan & Tilden, Riverside (for Objector Tracy Spreier, Beneficiary)

Status Conference

Frank DOD: 8/15/2006	BARBARA L. PEARSON, Trustor's daughter, Trust Beneficiary and Successor Trustee of the FRANK H. LABREE IRREVOCABLE TRUST , filed on 10/5/2012 a <i>Petition for Settlement of First Account and Report of Trustee of the Frank H. LaBree Irrevocable Trust</i> , which was set for hearing on 11/29/2012.	NEEDS/PROBLEMS/COMMENTS:
Roberta DOD: 3/25/2012		
Cont. from	TRACY SPREIER, Trustor's daughter and Trust Beneficiary, filed on 11/16/2012 an <i>Objection to the Petition for Settlement of First Account and Report of Trustee</i> , alleging self-dealing and breach of fiduciary duties by the Trustee.	
Aff.Sub.Wit.		
Verified	TRACY SPREIER, Trustor's daughter and Trust Beneficiary, filed on 11/16/2012 an <i>Objection to the Petition for Settlement of First Account and Report of Trustee</i> , alleging self-dealing and breach of fiduciary duties by the Trustee.	
Inventory		
PTC	TRACY SPREIER, Trustor's daughter and Trust Beneficiary, filed on 11/16/2012 an <i>Objection to the Petition for Settlement of First Account and Report of Trustee</i> , alleging self-dealing and breach of fiduciary duties by the Trustee.	
Not.Cred.		
Notice of Hrg	TRACY SPREIER, Trustor's daughter and Trust Beneficiary, filed on 11/16/2012 an <i>Objection to the Petition for Settlement of First Account and Report of Trustee</i> , alleging self-dealing and breach of fiduciary duties by the Trustee.	
Aff.Mail		
Aff.Pub.	TRACY SPREIER, Trustor's daughter and Trust Beneficiary, filed on 11/16/2012 an <i>Objection to the Petition for Settlement of First Account and Report of Trustee</i> , alleging self-dealing and breach of fiduciary duties by the Trustee.	
Sp.Ntc.		
Pers.Serv.	TRACY SPREIER, Trustor's daughter and Trust Beneficiary, filed on 11/16/2012 an <i>Objection to the Petition for Settlement of First Account and Report of Trustee</i> , alleging self-dealing and breach of fiduciary duties by the Trustee.	
Conf. Screen		
Letters	TRACY SPREIER, Trustor's daughter and Trust Beneficiary, filed on 11/16/2012 an <i>Objection to the Petition for Settlement of First Account and Report of Trustee</i> , alleging self-dealing and breach of fiduciary duties by the Trustee.	
Duties/Supp		
Objections	TRACY SPREIER, Trustor's daughter and Trust Beneficiary, filed on 11/16/2012 an <i>Objection to the Petition for Settlement of First Account and Report of Trustee</i> , alleging self-dealing and breach of fiduciary duties by the Trustee.	
Video Receipt		
CI Report	TRACY SPREIER, Trustor's daughter and Trust Beneficiary, filed on 11/16/2012 an <i>Objection to the Petition for Settlement of First Account and Report of Trustee</i> , alleging self-dealing and breach of fiduciary duties by the Trustee.	
9202		
Order	TRACY SPREIER, Trustor's daughter and Trust Beneficiary, filed on 11/16/2012 an <i>Objection to the Petition for Settlement of First Account and Report of Trustee</i> , alleging self-dealing and breach of fiduciary duties by the Trustee.	
Aff. Posting		
Status Rpt	TRACY SPREIER, Trustor's daughter and Trust Beneficiary, filed on 11/16/2012 an <i>Objection to the Petition for Settlement of First Account and Report of Trustee</i> , alleging self-dealing and breach of fiduciary duties by the Trustee.	
UCCJEA		
Citation	TRACY SPREIER, Trustor's daughter and Trust Beneficiary, filed on 11/16/2012 an <i>Objection to the Petition for Settlement of First Account and Report of Trustee</i> , alleging self-dealing and breach of fiduciary duties by the Trustee.	
FTB Notice		
		Reviewed by: LEG
		Reviewed on: 1/14/13
		Updates:
		Recommendation:
		File 7B - LaBree

7B

Atty Kruthers, Heather H., of County Counsel's Office (for Public Administrator, Court-appointed Successor Administrator)

Atty Walker, Keith S., sole practitioner of Claremont (formerly representing Nitza Peña, former Administrator)

Status Hearing Re: Estate Administration

DOD: 6/12/1995	<p>PUBLIC ADMINISTRATOR was appointed by the Court as Successor Administrator of the Estate on 5/9/2012, following removal of the former Administrator, NITZA PEÑA, niece, who had been initially appointed personal representative on 12/6/1995.</p> <p>Letters with Full IAEA Authority issued to the Public Administrator on 5/16/2012.</p> <p>Minute Order dated 11/13/2012 from the last hearing on the <i>First and Final Account</i> of Former Administrator Nitza Peña filed 8/8/2012 states:</p> <ul style="list-style-type: none"> • A photocopy of Nitza Peña's driver's license is accepted by the Court and filed; • The Court advises all counsel that it will accept the accounting as filed, but is not going to approve or ratify it; • The Court indicates to all counsel that it is not inclined to grant costs as prayed, but will approve the \$830.00 in filing costs; • The Court finds sanctions to be appropriate; • Matter set for Status Hearing on 1/18/2013; • Counsel is directed to contact the controller. 	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>Notes for background:</p> <ul style="list-style-type: none"> • <i>Minute Order 9/27/2012</i> states Counsel advises the Court that she spoke with Mr. Walker yesterday and she believed he would be appearing here today. Ms. Kruthers is directed to look into any surcharges. • <i>First and Final Account</i> of Former Administrator filed 8/8/2012 includes the following information: On an unknown date, a total of \$8,535.12 represented by cash of \$8,462.50 at Wells Fargo Bank and a \$72.62 refund check from Scripps Health was turned over to the State Controller as unclaimed property. • <i>Community Regional Medical Center</i> filed an amended claim against the estate for \$198,043.68 on 6/21/1996. Processing of the <i>Allowance of Creditor's Claim</i> submitted by Attorney Walker for Nitza Peña is halted due to lack of authority of former Administrator. <p align="center">~Please see additional page~</p>
Cont. from		
Aff.Sub.Wit.		
Verified		
Inventory		
PTC		
Not.Cred.		
Notice of Hrg		
Aff.Mail		
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Sp.Ntc.		
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Conf. Screen		
Letters		
Duties/S		
Objections		
Video Receipt		
CI Report		
9202		
Order		
Aff. Posting		
Status Rpt		
UCCJEA		
Citation		
FTB Notice		
	<p>Reviewed by: LEG</p> <p>Reviewed on: 1/14/13</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 8 - Vaughn</p>	

NEEDS/PROBLEMS/COMMENTS, continued:

Note Re Bond: Potential exists for recovery of lost assets via the **\$20,000.00** Bond filed 12/15/1995, pursuant to **Probate Code § 8487 – 8488, and 9822** (successor personal representative may sue on the bond of former personal representative.) **NITZA PEÑA** was appointed Administrator with **Limited IAEA** on **12/6/1995** with bond fixed at **\$20,000.00**. **Proof of Bond posted in the amount of \$20,000.00** was filed on 12/15/1995, and *Letters* issued on that date. *Minute Order* dated 3/21/2012 directed Keith Walker to put the bonding company on notice. Keith Walker filed on 5/4/2012 and on 9/10/2012 proof of notice to a different bonding company, American Contractors Indemnity Co., than the one that issued the **\$20,000.00** bond on 12/15/1995, at an incorrect address. *Proof of Bond* filed 12/15/1995 indicates **Highlands Insurance Company (Southern California Bonding Service)** is the bond company that issued the **\$20,000.00** bond to Petitioner. Court fixed bond in this estate per *Order for Probate* filed 12/6/1995 based upon the following: *Initial Petition for Probate* filed 10/31/1995 indicated an estimated value of the estate of **\$62,000.00**, consisting of real property (**\$42,000.00**) and personal property (**\$20,000.00**). *First and Final Account* of the former Administrator does not mention or explain disposition of the real property of the estate with a value of **\$42,000.00** which was listed on the initial *Petition for Probate* filed 10/31/1995. Two years ago, information was presented before this Court per the *Minute Order* dated **9/9/2010** [Judge Gallagher], which states: "Attorney Walker represents to the Court that he lost contact with his client for a period of time but has now obtained a current address and should be able to close the estate quickly as the property has been lost."

Note Re Failure to Close Estate: Relevant code sections regarding closing an estate are as follows, including regarding sanctions: **Probate Code § 12200, Time required for closing or status report. Probate Code § 12205, Sanction for failure to timely close estate.**

Note Re Former Administrator: Attorney Keith Walker submitted at the hearing on 11/13/2012 a driver's license for Nitza Peña as proof of her identity and current involvement in this case to refute the previously noted signature disparity of Nitza Peña throughout the case file. Attorney Walker also filed on 11/9/2012 an *Affidavit of Former Administratrix Re Execution of First and Final Account and Report of Petition for Family Allowance*, **which Affidavit is not verified by Nitza Peña** but contains a notarized signature of Nitza Peña, in order to dispute the issues raised of signature inauthenticity and the fact that Court records do not show any notice mailed to Nitza Peña since the *Notice of Petition to Administer Estate* filed on 11/8/1995. Therefore, it appears Nitza Peña as former Administrator of the estate has retained liability along with Attorney Walker for sanctions and/or surcharges imposed for mishandling of the estate.

Case Chronology for Background:

- **12/6/1995:** **NITZA PEÑA** was appointed Administrator with **Limited IAEA** with bond fixed at **\$20,000.00**.
- **12/15/1995:** **Proof of Bond posted in the amount of \$20,000.00** was filed and *Letters* issued.
- **5/20/1996:** **Proof of Service by Mail – Failure to File Inventory and Appraisal was filed** indicating the notice of failure to file an inventory and appraisal, a first account or petition for final distribution was mailed to Attorney Keith Walker on 5/20/1996. Court file contains no record of any response by Attorney Walker to this notice (no hearing date was set by the Court; notice was a courtesy to Attorney.)
- **7/28/2010:** **Notice of Status Hearing filed and set a status hearing on 9/9/2010** for failure to file the inventory and appraisal, and failure to file a first account or petition for final distribution. *Clerk's Certificate of Mailing* shows the *Notice* was mailed to Keith S. Walker on 7/28/2010.

Please see additional page~

Case Chronology for Background, continued:

- **9/9/2010: Minute Order [Judge Gallagher]** states Attorney Walker represents to the Court that he lost contact with his client for a period of time but has now obtained a current address and should be able to close the estate quickly as the property has been lost. If the accounting is filed, no appearance is necessary on 12/6/2010.
- **12/6/2010 Minute Order [Judge Hamlin]** states Attorney Walker states his intention to file a Petition to Set Aside in this matter and requests a continuance. If said petition is filed, then no appearance is necessary on 1/27/2011.
- **1/27/2011 Minute Order [Judge Oliver]** states Counsel is directed to file the inventory with the petition. If filed by 4/6/2011 and reviewed by an examiner no appearance will be necessary.
- **4/6/2011 Minute Order [Judge Oliver]** states Mr. Walker is appearing via conference call. Counsel advises the Court that he has managed to re-establish contact with his client and has made contact with an attorney in San Diego. Counsel further advises that he will be filing a Petition for Family Allowance.
- **6/7/2011 Minute Order [Judge Oliver]** states Mr. Walker is appearing via conference call. Counsel requests a continuance. Matter continued to 9/6/2011.
- **9/6/2011 Minute Order [Judge Oliver]** states Keith Walker states that he has had a medical procedure keeping him away from court. Mr. Walker requests a continuance, stating, for example, a pending creditor's claim. The Court notes the creditor's claim and understands the matter will be finished at the next court hearing of 11/8/2011.
- **11/8/2011 Minute Order [Judge Oliver]** states Mr. Walker is appearing via conference call. Mr. Walker informs the Court that he has the Petition for Family Allowance largely prepared, but needs a continuance due to medical issues. Matter continued to 12/13/2011.
- **12/13/2011 Minute Order [Judge Oliver]** states Mr. Walker appears by CourtCall. Mr. Walker advises the Court that he should have the petition filed by the end of this year.
- **2/8/2012 Minute Order [Judge Oliver]** states Keith Walker appears via Courtcall. Court orders Mr. Walker and Ms. Pena to personally appear if the Inventory and Appraisal is not filed by the next hearing on 3/21/2012.
- **3/21/2012 Minute Order [Judge Oliver]** states Mr. Walker is appearing via conference call. The Court directs counsel to put the bonding company on notice. The matter is continued to 5/9/2012. The Court orders that the hearing currently set for 5/3/2012 be vacated and rescheduled for 5/9/2012.
- **5/9/2012 Minute Order [Judge Oliver]** states Mr. Walker is appearing via conference call. The Court removes Keith Walker as counsel. Additionally, the Court removes Nitza Peña as the Administrator and appoints the Public Administrator. Mr. Walker is directed to provide the necessary information to the Public Administrator. Petition for Family Allowance is denied. Matter set for status hearing for filing inventory and appraisal and petition for final distribution on 7/11/2012. *[Note re Denial of Petition for Family Allowance: Court required legal authority to support request for family allowance after the minors reached adulthood per Probate Code § 6540(b)(1), which Mr. Walker did not provide.]*
- **5/16/2012: Letters with Full IAEA Authority issued to the Public Administrator.**

~Please see additional page~

Case Chronology for Background, continued:

- **7/11/2012 Minute Order [Judge Oliver]** states Mr. Walker is appearing via conference call. Mr. Walker advises the Court that he will have the accounting done sometime next week. Mr. Walker requests a continuance. Matter continued to 8/8/2012. If everything is completed by 8/8/2012, no appearance will be necessary. In the event Mr. Walker is unable to complete the necessary documents by 8/8/2012, he and his client are to be personally present on that date. The Court directs Mr. Walker to provide Ms. Kruthers and the court examiner any information he has on Ms. Peña including her address and telephone number.
- **8/8/2012 Minute Order [Judge Oliver]** states Keith Walker appears via Courtcall. Mr. Walker informs the Court he submitted an accounting.
- **8/8/2012: First and Final Account of Former Administrator NITZA PEÑA was filed.**
- **9/27/2012 Minute Order [Judge Oliver]** states Counsel advises the Court that she spoke with Mr. Walker yesterday and she believed he would be appearing here today. Ms. Kruthers is directed to look into any surcharges.
- **11/13/2012 Minute Order [Judge Oliver]** states: A photocopy of Nitza Peña's driver's license is accepted by the Court and filed. The Court advises all counsel that it will accept the accounting as filed, but is not going to approve or ratify it. The Court indicates to all counsel that it is not inclined to grant costs as prayed, but will approve the **\$830.00** in filing costs. The Court finds sanctions to be appropriate; Matter set for Status Hearing on 1/18/2013; Counsel is directed to contact the controller.

Probate Status Hearing Re: Status of Administration; Filing of an Account or Petition for Final Distribution

DOD: 02/26/01	<p>ANNA N. FOSTER, daughter/Administrator with limited IAEA with bond of \$100,000, is petitioner. Letters issued 5/11/2007.</p> <p>Background:</p> <ul style="list-style-type: none"> • Sole asset of estate is real property located in Fresno. The value of the real property at the date of death was \$65,000.00. • Decedent died intestate, survived by five children who are now living, and the living issue of two children who are now deceased. • Since decedent's death, Petitioner has advanced funds for property taxes and homeowner's insurance. • Department of Health Services filed a creditor's claim for \$17,181.64, which was allowed by Petitioner on 10/30/07. <p>There is no cash in estate to pay creditor's claim or to reimburse Petitioner for advanced funds.</p> <p>Status Report filed 01/08/13 states: The sole asset of the estate was listed for sale and a buyer has been found. The buyer and Administrator have entered into a sale agreement, which is subject to overbid and Court confirmation. A Report of Sale and Petition for Order Confirming Sale of Real Property has been prepared and is with the Administrator to be signed. A Notice of Sale will be filed, served and published. It is anticipated the Petition will be filed prior to 01/18/13. Upon Court confirmation, the Property will be sold and the Administrator will promptly take the requisite steps to close the Estate.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p>
Cont. from		
Aff.Sub.Wit.		
Verified		
Inventory		
PTC		
Not.Cred.		
Notice of Hrg		
Aff.Mail		
Aff.Pub.		
Sp.Ntc.		
Pers.Serv.		
Conf. Screen		
Letters		
Duties/Supp		
Objections		
Video Receipt		
CI Report		
9202		
Order		
Aff. Posting		
Status Rpt		
UCCJEA		
Citation		
FTB Notice		
	<p>Reviewed by: JF</p> <p>Reviewed on: 01/14/13</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 9 - Foster</p>	

Status Hearing Re: Filing of First Account or Petition for Final Distribution

DOD: 7/2/2008	<p>PUBLIC ADMINISTRATOR is the Successor Administrator of the Estate.</p> <p>STEVE GAUCIN, son, was appointed as Administrator on 9/186/2008 without bond and with full IAEA authority.</p> <p>Letters never issued. Mr. Gaucin failed to administer the estate.</p> <p>On 9/29/2011 the Court removed Mr. Gaucin and appointed the Public Administrator.</p> <p>Status Report filed on 11/9/2012 states the Public Administrator has sold the sole asset of the estate, real property located in Selma. They are currently finishing the taxes. In order to allow time to finish the taxes and to prepare the final account it is requested that the next status hearing be set no earlier than 60 days from the date of this hearing.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>OFF CALENDAR. First and Final Account filed and set for hearing on 2/27/13.</p>		
Cont. from				
Aff.Sub.Wit.				
Verified				
Inventory				
PTC				
Not.Cred.				
Notice of Hrg				
Aff.Mail				
Aff.Pub.				
Sp.Ntc.				
Pers.Serv.				
Conf. Screen				
Letters				
Duties/Supp				
Objections				
Video Receipt				
CI Report				
9202				
Order				
Aff. Posting				
Status Rpt				
UCCJEA				
Citation				
FTB Notice				
			Reviewed by: KT	
			Reviewed on: 1/15/13	
			Updates:	
		Recommendation:		
		File 10 - Gaucin		

Atty Barron, Richard B., of Luke & Barron, Visalia (for Petitioner Perine & Dicken, Conservator)

Status Hearing Re: Filing of Proof of Increased Bond

Age: 51 years		<p>PERINE & DICKEN PROFESSIONAL FIDUCIARIES AND CONSERVATORS was appointed Conservator of the Person and Estate on 12/30/2010.</p> <p>Minute Order dated 12/12/2012 from the hearing on the <i>Report of Conservator and Petition for Approval of Second Account Current, etc.</i>, states Mr. Barron is appearing via conference call. The Court grants the petition with the increased bond in the amount of \$60,000.00. Matter set on 1/18/2013 for status hearing re: proof of increased bond.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <ol style="list-style-type: none"> 1. Need proposed order approving <i>Report of Conservator and Petition for Approval of Second Account, etc.</i>, for the Court's signature ex parte per Minute Order dated 12/12/2012. [Note: Proposed order contained in the case file during the 12/12/2012 hearing was not signed by the Court, and a revised proposed order has not been submitted for signature ex parte as indicated on the Minute Order.] 2. Need proof of increased bond to be filed with the Court (current bond of \$19,000.00 requires an additional \$41,000.00 resulting in a total bond amount of \$60,000.00.) <p>Note: Minute Order dated 12/12/2012 set a status hearing for a two-year accounting on 2/13/2015 at 9:00 a.m. in Department 303. Pursuant Local Rule 7.5, if the accounting is filed 10 days prior to that date, the hearing will be taken off calendar and no appearance will be required.</p> <p>Reviewed by: LEG</p> <p>Reviewed on: 1/14/13</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 11 - Adona</p>
Cont. from			
Aff.Sub.Wit.			
Verified			
Inventory			
PTC			
Not.Cred.			
Notice of Hrg			
Aff.Mail			
Aff.Pub.			
Sp.Ntc.			
Pers.Serv.			
Conf. Screen			
Letters			
Duties/Supp			
Objections			
Video Receipt			
CI Report			
Incr. Bond	X		
Order	X		
Aff. Posting			
Status Rpt			
UCCJEA			
Citation			
FTB Notice			

Atty Fields, Larry L., sole practitioner of Bakersfield (for Donald P. Toppin, Administrator)

Status Hearing Re: Filing of the First Account or Petition for Final Distribution

DOD: 5/26/2011	<p>DONALD PAUL TOPPIN, brother-in-law, was appointed Executor with Full IAEA Authority without bond on 9/26/2011, and Letters issued on that date.</p> <p>Minute Order dated 9/26/2011 from the hearing on the appointment of Executor set this status hearing on 11/13/2012 for status regarding filing of the first account or petition for final distribution.</p> <p>Final Inventory and Appraisal was filed on 12/15/2011 showing an estate value of \$90,000.00, consisting of real property in Riverdale, CA.</p> <p>Notice of Proposed Action was filed 3/9/2012 indicating the estate real property would be sold pursuant of escrow instructions dated 10/2/2011 for a purchase price of \$89,000.00.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>OFF CALENDAR</p> <p>Status of Administration filed 12/17/2012 set for hearing on 2/6/2013.</p> <p>Note: <i>Substitution of Attorney</i> filed 11/13/2012 indicates Attorney Larry Fields represents Donald Toppin as of 11/9/2012.</p> <p>1. Need first account, petition for final distribution, or current status report pursuant to Local Rule 7.5(B).</p>
Cont. from 111312		
Aff.Sub.Wit.		
Verified		
Inventory		
PTC		
Not.Cred.		
Notice of Hrg		
Aff.Mail		
Aff.Pub.		
Sp.Ntc.		
Pers.Serv.		
Conf. Screen		
Letters		
Duties/Supp		
Objections		
Video Receipt		
CI Report		
9202		
Order		
Aff. Posting		
Status Rpt		
UCCJEA		
Citation		
FTB Notice		
Reviewed by: LEG		
Reviewed on: 1/16/13		
Updates:		
Recommendation:		
File 12 - Toppin		

Probate Status Hearing Re: Filing Inventory and Appraisal and First Account

Age: 42		<p>JUSTINE SEREFINE, Mother, was appointed Conservator of the Estate on 8-8-11 without bond, including the power to purchase real property (a house) for the Conservatee under Probate Code §2591(g). The order states the Conservator will seek Court approval for the purchase.</p> <p>On 9-29-11 the Court signed Order Granting Ex Parte Application Authorizing Conservator to Complete Purchase of Real Property.</p> <p>On 9-25-12, Conservator filed a "First Accounting" that was heard on 11-5-12; however, per prior Examiner Notes, the document was not an accounting as required by applicable Probate Code in conservatorship estates.</p> <p>On 11-5-12, the Court informed Counsel that the Investigation fees are due, and set status hearing on 11-30-12 for filing of the Inventory and Appraisal.</p> <p>The Court continued the status hearing to 1-18-13.</p> <p>On 12-7-12, a Final I&A was filed reflecting a total estate value of \$29,016.11.</p> <p>On 1-4-13, "Declaration of Justine Serefine in Support of First Accounting" was filed.</p> <p>The Declaration contain an accounting as follows:</p> <p>Account period: 8-8-11 through 8-7-12 Accounting: \$205,008.07 Beginning POH: \$29,016.11 Ending POH: \$133,217.46 (\$8,217.46 cash plus real property)</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <ol style="list-style-type: none"> 1. Need Notice of Hearing pursuant to Probate Code §§ 2621, 1460, 1461.5 and proof of service of Notice of Hearing at least 15 days prior to the hearing on: <ul style="list-style-type: none"> - Conservator Justine Serefine - Conservatee James R. Danielson, - Office of the Veterans Administration 2. I&A is incomplete in that it is not presented on the mandatory Judicial Council form in its entirety, including attachments. 3. Need account statements pursuant to Probate Code §2620(c)(2). 4. It appears that the conservatorship estate is paying the entirety of the household bills; however, it appears that the Conservatee's mother and sister reside in the home with him. The Court may require clarification as to whether the other residents contribute to household expenses. 5. Aside from the \$28,013.67 in disbursements presented in this accounting, an additional \$17,232.00 was disbursed (\$1,436/month) to "VA-approved account for use by Conservatee." The Court may require conservatorship accountings to include disbursements from this account. The Court may also require clarification regarding the numerous \$25 wire transfer fees that appear to be associated with this monthly transfer. <p style="text-align: right;">SEE PAGE 2</p>
Cont. from 113012			
<input type="checkbox"/> Aff.Sub.Wit.			
<input checked="" type="checkbox"/> Verified			
<input checked="" type="checkbox"/> Inventory	X		
<input checked="" type="checkbox"/> PTC			
<input type="checkbox"/> Not.Cred.			
<input type="checkbox"/> Notice of Hrg	X		
<input type="checkbox"/> Aff.Mail	X		
<input type="checkbox"/> Aff.Pub.			
<input type="checkbox"/> Sp.Ntc.			
<input type="checkbox"/> Pers.Serv.			
<input type="checkbox"/> Conf. Screen			
<input type="checkbox"/> Letters			
<input type="checkbox"/> Duties/Supp			
<input type="checkbox"/> Objections			
<input type="checkbox"/> Video Receipt			
<input type="checkbox"/> CI Report			
<input type="checkbox"/> 2620(c)	X		
<input type="checkbox"/> Order	X		
<input type="checkbox"/> Aff. Posting			
<input type="checkbox"/> Status Rpt	X		
<input type="checkbox"/> UCCJEA			
<input type="checkbox"/> Citation			
<input type="checkbox"/> FTB Notice			
		<p>Reviewed by: skc</p> <p>Reviewed on: 1-14-13</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 13 – Danielson</p>	

Page 2

NEEDS/PROBLEMS/COMMENTS (Continued):

6. The disbursements schedule indicates DMV registration fees; however, the conservatorship estate does not appear to contain a vehicle. Need clarification.
7. The disbursements schedule indicates numerous blank/unspecified line items. The Court may require clarification.
8. The disbursements schedule indicates payment to Attorney Krbechek of \$392.50. However, there does not appear to be a Court order for this amount, or itemization if these were appropriate costs pursuant to Local Rules. Need clarification.
9. Neither Attorney Krbechek's "First Accounting for Period Ending August 31, 2012" filed 9-25-12 nor the Conservator's Declaration filed 1-4-13 appears to contain a prayer with reference to this accounting. The Court may require clarification and further accountings to be presented appropriately to this Court in petition form pursuant to applicable Probate Code.

If this accounting is approved as presented, need order.

Note: If approved, the Court will set status hearing for the filing of the next accounting as follows:

- Friday 12-13-13 if a one-year account is required

OR

- Friday 12-12-14 if a two-year account is required

(Please note that these potential dates are status dates only. When the petition is filed, a new date will be assigned.)

DOD:	CATHERINE A. AMADOR , attorney for Conservators of the Person, MICHAEL H. SMITH and JENNA R. SMITH , is petitioner.		<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>Continued from 10-25-12, 11-30-12.</p> <p>Minute Order 11-30-12: The Court notes for the minute order that Dorothy Smith passed away. Ms. Kruther informs that Court that she has some objections which she will be discussing with Ms. Amador informally. Ms. Amador requests a partial payment of attorney's fees. The Court indicates to counsel that given the size of the estate, it believes it can grant the request while still honoring Probate Code 2640. The Court grants a partial payment of attorney's fees in the amount of \$7,000.00. Ms. Amador is directed to prepare the order. Continued to 1-18-13. Set on 1-18-13 for Status Hearing Re: Filing of the Inventory and Appraisal.</p> <p>The following issues remain:</p> <p>SEE PAGE 2</p> <p>Reviewed by: KT / skc</p> <p>Reviewed on: 1-14-13</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 14B - Smith</p>
Cont. from 102512	MICHAEL H. SMITH and JENNA R. SMITH were appointed Conservators of the person and the PUBLIC GUARDIAN was appointed as Conservator of the estate on 7/12/12.		
<input type="checkbox"/> Aff.Sub.Wit.			
<input checked="" type="checkbox"/> Verified	Petitioner states she represented Michael H. Smith and Jenna R. Smith in their petition to be appointed conservator of the person and estate of Dorothy Jean Smith.		
<input type="checkbox"/> Inventory			
<input type="checkbox"/> PTC			
<input type="checkbox"/> Not.Cred.			
<input checked="" type="checkbox"/> Notice of Hrg	Objections were filed by the Conservatee's husband, Benjamin Smith and their grandson, Michael H. Smith, Jr. (Butch).		
<input checked="" type="checkbox"/> Aff.Mail	W/	At the hearing, the parties agreed to the appointment of Michael and Jenna as conservators of the person and the Public Guardian as conservator of the estate.	
<input type="checkbox"/> Aff.Pub.			
<input type="checkbox"/> Sp.Ntc.			
<input type="checkbox"/> Pers.Serv.			
<input type="checkbox"/> Conf. Screen			
<input type="checkbox"/> Letters	Petitioner states she spent 58.9 hours at \$265.00 per hour on this matter for a total of \$13,894.50 .		
<input type="checkbox"/> Duties/Supp	In addition, Petitioner requests reimbursement of costs totaling \$632.00 and \$277.89 in administrative expenses.		
<input type="checkbox"/> Objections	Supplement filed 1-14-13 states billed fees and costs were \$7453 + \$552, and the Court has already ordered payment of \$7000 against those fees and costs. Petitioner requests the balance of \$975 be approved at this time.		
<input type="checkbox"/> Video Receipt			
<input type="checkbox"/> CI Report			
<input type="checkbox"/> 9202			
<input type="checkbox"/> Order	X	Petitioner has worked an additional 33.1 hours on this matter since the petition was granted and billed fees in the amount of \$8,771.50. The majority of that time was spent collecting and providing information about the estate to the Public Guardian and County Counsel in an effort to allow them to complete the I&A (described). In addition, Petitioner anticipates incurrent fees of approx. 1 hour to make the appearance on this request.	
<input type="checkbox"/> Aff. Posting			
<input type="checkbox"/> Status Rpt			
<input type="checkbox"/> UCCJEA			
<input type="checkbox"/> Citation			
<input type="checkbox"/> FTB Notice	Petitioner requests the Court approve this petition and direct the payment of \$9,746.50 from Conservator's estate to Pascuzzi, Moore & Stoker.		

NEEDS/PROBLEMS/COMMENTS:

1. Probate Code 2640 states that a request for attorney fees can be filed at any time after the filing of the inventory and appraisal, but not before 90 the expiration of 90 days from the issuance of letters or at any time the court for good cause orders. The inventory and appraisal has not been filed in this matter and the petition does not state a good cause reason why the court should grant an award of fees prior to the filing of the inventory and appraisal.
2. Costs include Court runner fees totaling \$80.00. Local Rule 7.17B states runner services are considered by the court to be a part of the cost of doing business and are not reimbursable costs or fees.
3. Petition requests the reimbursement of administrative expenses without stating what the administrative expenses are.
4. The itemization of the attorney's fees includes several entries after the appointment of the Public Guardian as conservator of the estate that appear to be for issues involving the estate. It appears that charges involving the estate are beyond what should have been charged by the attorney for the conservator of the person.
5. Need Order.
6. Pursuant to the Supplement filed 1-14-13, it appears that Attorney Amador is requesting an additional \$8,771.50 in fees, copies served by mail on 1-11-13, which is 7 days before the continued hearing on the prior petition.

The Court may require continuance for appropriate service of this request.

7. Also pursuant to the Supplement, need clarification. The supplement appeared to indicate that the original amount requested was \$7453 + \$552 in costs, which totals \$8005.

However, the original petition requested \$13894.50 + \$632 + 277.89 (total \$14,804.39).

According to the Supplement, Petitioner is only requesting the new amount \$8771.50 plus \$975 left unpaid from previously.

Need clarification on the amount requested.

Probate Status Hearing Re: Filing of Inventory and Appraisal

DOD: 05/22/12	<p>JIM D. REIS, brother, was appointed as Administrator with full IAEA without Bond on 08/14/12. Letters were issued on 08/15/12.</p> <p>Notice of Status Hearing filed 09/11/12 set this matter for status on 01/18/13 for filing of the Inventory & Appraisal and on 10/25/13 for filing of First Account or Petition for Final Distribution. Clerk's Certificate of Mailing indicates that the Notice of Status Hearing was mailed to the Administrator and his Counsel on 09/11/12.</p> <p>Status Report by Administrator filed 01/16/13 states: the estate assets includes a gun collection, coin collection, and huge collection of die cast cars. In order to save the estate a very large expense, the Administrator is in the process of cataloging the car collection before having it professionally appraised. The gun collection has been secured and appraised and he is also in the process of cataloging the coin collection. Further, the Administrator states that his efforts to complete the inventory have been delayed due to an unexpected illness in his family. The Administrator requests a 60 day extension to complete the Inventory & Appraisal.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>1. Need Inventory & Appraisal.</p>
Cont. from		
Aff.Sub.Wit.		
Verified		
Inventory		
PTC		
Not.Cred.		
Notice of Hrg		
Aff.Mail		
Aff.Pub.		
Sp.Ntc.		
Pers.Serv.		
Conf. Screen		
Letters		
Duties/Supp		
Objections		
Video Receipt		
CI Report		
9202		
Order		
Aff. Posting		
Status Rpt		
UCCJEA		
Citation		
FTB Notice		
		<p>Reviewed by: JF</p> <p>Reviewed on: 01/14/13</p> <p>Updates: 01/17/13</p> <p>Recommendation:</p> <p>File 15 - Reis</p>

Atty Ragsdale, Wanetta (pro per, former Guardian)

Status Hearing Re: Status of Guardianship in Colorado

Angelina age: 17	<p>WANETTA RAGSDALE, maternal grandmother, was appointed guardian of the person on 1/29/2001.</p> <p>Wanetta Ragsdale petitioned the court to terminate the guardianship stating the children had been living in Colorado for the past ten years and that for the past year they had been residing with their paternal aunt, Rachel Miller. The court terminated the guardianship on 10/23/12 in order to allow the paternal grandmother to petition for guardianship in Colorado. Minute order dated 10/23/12 set a status hearing regarding the status of the Colorado guardianship.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>Continued from 12/7/12. Minute order states the court received documents however they are not filed. Ms. Wanette is ordered to file the documents.</p>
Emileo age: 16		
Cont. from		
Aff.Sub.Wit.		
Verified		
Inventory		
PTC		
Not.Cred.		
Notice of Hrg		
Aff.Mail		
Aff.Pub.		
Sp.Ntc.		
Pers.Serv.		
Conf. Screen		
Letters		
Duties/Supp		
Objections		
Video Receipt		
CI Report		
9202		
Order		
Aff. Posting		
Status Rpt		
UCCJEA		
Citation		
FTB Notice		
	Reviewed by: KT	
	Reviewed on: 1/15/13	
	Updates:	
	Recommendation:	
	File 16 - Boyce	

Status Hearing Re: Filing of the Account and/or Petition for Final Distribution

DOD: 10/19/87	<p>CURTIS LEE, son, was appointed Administrator with Will Annexed with bond in the amount of \$9,000.00 on 01/13/04.</p> <p>Bond was filed 02/19/04 and Letters were issued on 03/30/04.</p> <p>I & A showing the value of the estate at \$9,000.00 was filed on 03/22/04 and Reappraisal for Sale I & A filed 04/01/01 showed the value of the estate at \$13,000.00.</p> <p>On 8/29/12 the attorney of record, Darlene Kelly, was relieved as counsel.</p> <p>Minute Order from 8/29/12 the court set an Order to Show Cause hearing regarding Curtis Lee's failure to file an accounting. Curtis Lee was ordered to be personally present on 9/28/12. Counsel need not appear.</p> <p>On 9/28/12 there were no appearances.</p> <p>Minute order dated 11/16/12 states the court on its own motion removes Curtis Lee as the administrator and appoints the Public Administrator.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>1. Current written status report.</p>	
Cont. from 092812, 111612			
Aff.Sub.Wit.			
Verified			
Inventory			
PTC			
Not.Cred.			
Notice of Hrg			
Aff.Mail			
Aff.Pub.			
Sp.Ntc.			
Pers.Serv.			
Conf. Screen			
Letters			
Duties/Supp			
Objections			
Video Receipt			
CI Report			
9202			
Order			
Aff. Posting			
Status Rpt			
UCCJEA			
Citation			
FTB Notice			
			<p>Reviewed by: KT</p> <p>Reviewed on: 1/15/13</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 18 – Baker</p>

Pro Per Griffith, Estella (Pro Per Administrator)

Status Hearing Re: Filing of the First Account or Petition for Final Distribution

DOD: 8/18/2010	<p>ESTELLA GRIFFITH, sister, was appointed Administrator with Full IAEA Authority without bond on 9/26/2011, and <i>Letters</i> issued on that date.</p> <p>Final Inventory and Appraisal filed 3/11/2011 (prior to appointment of Petitioner as Administrator) shows an estate value of \$193,100.00, consisting of a 1/5th interest in real property located in Los Angeles, California (total real property value stated as \$965,000.00 per Probate Referee Rick Smith.)</p> <p>Documents entitled Waiver of Account, each stating that the undersigned beneficiary of the estate "hereby waives the filing and settlement of a final account," have been filed by the Petitioner on the following dates, signed by the following persons (these persons do not constitute all heirs listed in the initial petition for letters of administration):</p> <ul style="list-style-type: none"> • Pedro S. Escandon, nephew, filed 10/29/2012; • Esther E. Tinajero, niece, filed 10/29/2012; • Estella Griffith, sister (Petitioner), filed 10/23/2012; • Donna Stevens, niece, filed 6/25/2012; • Steven Escandon, nephew, filed 6/21/2012; • Jay Alamo, nephew, filed 5/29/2012; • Raymond Beltran, nephew, filed 5/21/2012; • Albert Oliva, nephew, filed 3/16/2012; • Erlinda Lopez, (<i>relationship unstated</i>), filed 3/16/2012; • Arthur Robles, nephew, filed 3/15/2012; • Raquel Pena, sister, filed 3/15/2012; • Christina Escandon, niece, filed 3/15/2012. 	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>Continued from 11/13/2012. <i>Minute Order</i> states Ms. Griffith informs the Court that Arthur Robles passed away. Examiner notes are provided to Ms. Griffith. The Court directs Ms. Griffith to cure the defects.</p> <p>The following issues from the last hearing remain:</p> <ol style="list-style-type: none"> 1. Need first account, petition for final distribution, or current status report pursuant to Local Rule 7.5(B). 2. Need date of death of Arthur Robles, deceased nephew, pursuant to Local Rule 7.1.1(D).
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Reviewed by: LEG		
Reviewed on: 1/16/13		
Updates:		
Recommendation:		
File 19 - Escandon		

Atty Molsenbocker, Gary L., sole practitioner (for Petitioner Public Guardian, Conservator)
 Atty Knudson, David, sole practitioner (for Respondent Virginia Greggains, daughter)
 Atty J. Stanley, Teixeira, sole practitioner (Court-appointed for Conservatee)
 Atty Thornton, Douglas V., of Perkins Mann & Everett (for Objector Julie Banks)

Status Hearing

Age: 90 years	<p>PUBLIC GUARDIAN, Conservator of the Person and Estate appointed 11/5/2008, Petitioned for relief from Respondent, VIRGINIA "GINGER" GREGGAINS, daughter, for breach of fiduciary duty, for conversion of personal property, and for elder abuse, and requested an accounting and payment of damages.</p> <p>Minute Order dated 10/16/2012 from a Status Conference in this case states in pertinent part:</p> <ul style="list-style-type: none"> Mr. Thornton informs the Court that his client [JULIE BANKS, granddaughter] is objecting to the settlement terms "dismissal with prejudice" as well as the scope of the release; Mr. Thornton requests the matter be set for trial with regards to the settlement agreement; The matter is set for Trial on 12/4/2012 with a one hour estimate; Mr. Thornton waives the 30-day rule. <p>Stipulation to Continue Trial Date was filed 11/6/2012, in which the attorneys stipulated to change the existing trial date to 1/9/2013, and stipulated continuance of all discovery deadlines in accordance with the new trial date.</p> <p>Order Continuing Trial Date signed 11/7/2012 [Judge Orozco] finds the 12/4/2012 trial date is vacated, and that the Court resets the trial for 1/9/2013. Minute Order dated 12/14/2012 from the last status hearing states counsel informs the Court that they are working on a resolution. Counsel requests that the 1/9/2013 trial date be vacated. Court grants the request. Matter continued to 1/11/2013.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>Continued from 1/11/2013. Minute Order states Mr. Molsenbocker informs the Court that the agreement has not yet been signed. The Court orders all counsel in this matter to be personally present on 1/18/2013.</p> <p>Page 20B is Status Re: Petition Requesting Relief for Breach of Fiduciary Duty; and (2) for an Accounting and (3) for Conversion of Personal Property and (4) for Elder Abuse and (5) for Damages filed 9/2/2011 by Public Guardian.</p> <p>Page 20C is Second Account Current and Report of Conservator, etc. filed 2/14/2012 by Public Guardian.</p> <p>Page 20D is Petition for Confirmation of Actions of Attorney-in-Fact, Response to Petition Requesting Relief for Breach of Fiduciary Duty, for an Accounting, etc., and Objection to Second Account of Conservator filed 3/26/2012 by Virginia Greggains.</p> <p>Page 20E is the Petition Requesting Approval of Settlement Agreement in the Matter of: Petition Requesting Relief for Breach of Fiduciary Duty, etc. filed 8/14/2012 by Public Guardian.</p> <p>Reviewed by: LEG</p> <p>Reviewed on: 1/16/13</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 20A - Fly</p>
Cont. from 021612, 041712, 050912, 071112, 081512, 092612, 101612, 112712, 121412, 011113		
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Citation		
FTB Notice		

Atty Molsenbocker, Gary L, sole practitioner (for Petitioner Public Guardian, Conservator)
 Atty Knudson, David, sole practitioner (for Respondent Virginia Greggains, daughter)
 Atty J. Stanley, Teixeira, sole practitioner (Court-appointed for Conservatee)
 Atty Thornton, Douglas V., of Perkins Mann & Everett (for Objector Julie Banks)

Status Re: (1) Petition Requesting Relief for Breach of Fiduciary Duty; and (2) for an Accounting and (3) for Conversion of Personal Property and (4) for Elder Abuse and (5) for Damages

Age: 90 years	<p>PUBLIC GUARDIAN, Conservator of the Person and Estate appointed 11/5/2008, is Petitioner.</p> <p>Petitioner states:</p> <ul style="list-style-type: none"> The Conservatee was at all relevant times a dependent adult under the care, custody and control of Respondent, VIRGINIA "GINGER" GREGGAINS, daughter; The Conservatee was not competent or capable of handling her personal finances or financial affairs and was entirely dependent upon Respondent to do so for her; Respondent had a confidential relationship with the Conservatee and her husband, ELMER FLY (DOD 11/8/2008), as their child; Petitioner alleges Respondent was responsible in some manner for the occurrences alleged herein and the damages proximately caused thereby; Elmer and the Conservatee executed a DECLARATION OF TRUST, ELMER V. AND JULIA B. FLY, naming Respondent as Successor Trustee; the Trust was amended several times, the latest being the <i>Third Amendment</i> dated 3/24/2008 (copy of Restated Trust and two subsequent amendments attached as Exhibits A, A-1 and A-2); Petitioner has no knowledge if there was an intervening amendment between the <i>Restatement of Trust</i> dated 9/25/2000 and the <i>Second Amendment</i> dated 2/7/2008; <p align="center">~Please see additional page~</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p><u>Continued from 1/11/2013.</u></p>	
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<p>Reviewed by: LEG</p> <p>Reviewed on: 1/16/13</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 20B - Fly</p>			

Petitioner states, continued:

- Respondent has been the sole Successor Trustee of the Trust since December of 2007 or early 2008, and she acted in several matters on behalf of the Conservatee and Elmer using General Durable Powers of Attorney (*copy attached as Exhibit B*);
- Petitioner possesses certain transactional documents and forms which Respondent signed in her capacity as "power of attorney in fact" in which she indicated she held the power for both Conservatee and Elmer, and these transactional documents conclusively establish that Respondent was acting in a fiduciary capacity for Conservatee;
- Petitioner possesses copies of a number of checks written on an account in the names of Conservatee, Elmer, and Virginia "Ginger" Greggains (Respondent); the transactions in this account are the prime source of a number of questionable expenditures made by Respondent from Conservatee's funds; the address on the checks is the personal residence of Respondent; a number of checks were written, signed and made payable to Respondent as well as to Respondent's husband, **STEPHEN ROY GREGGAINS**, each in the amount of **\$5,000.00**;
- In early 2008, Respondent contacted **SOUTAS & ASSOCIATES**, a firm engaged in Medi-Cal planning services, and in connection with the consultation, Respondent agreed to purchase an annuity on behalf of Conservatee and signed an application for an annuity with OM Financial Life Insurance on 5/29/2009 of **\$159,983.79**;
- On the annuity application, Respondent stated Conservatee held cash and investment accounts valued at **\$357,000.00**; the application contains handwritten entries detailing **\$82,000** in "Investment Experience and Holdings," **\$200,000** in "Money Market" accounts, and **\$75,000** in "Other Mutual Funds" accounts;
- As of 9/12/2008, the date of **PUBLIC GUARDIAN'S** appointment as temporary conservator, Respondent surrendered **~\$231,000.00** in accounts, and it appears that **\$120,000.00** in cash and investments accounts asserted to have existed by Respondent in May 2008 is missing;
- **Respondent should be ordered to account for all of the cash and investment accounts held by Conservatee from 12/1/2007 to the date Respondent surrendered the assets in her possession to the Public Guardian;**
- Respondent arranged for the removal and disposition of jewelry, motor vehicles, household furniture and furnishings, and several personal property items belonging to the Conservatee contained in her personal residence, in anticipation of the sale of the residence by Respondent; Petitioner alleges Respondent personally took and/or made gifts to family members of a number of the items from the residence, she sold some of the personal property at several yard sales, and she did not account to the principals for any of the proceeds or disposition of the items;
- Petitioner alleges that Respondent made gifts of motor vehicles that belonged to the Conservatee to family members without consideration; she removed and disposed of a number of plants growing on the residential property of Conservatee which are believed at the time to be worth thousands of dollars; she used funds belonging to the Conservatee to purchase and make improvements on her own residence, to make the down payment on a personal vehicle for herself, and to pay off a personal loan that she and her husband owned on a travel trailer;
- The Conservatee's financial status at present is tenuous at best; her annuity payments and monthly income are sufficient to fund her care for ~2 years; Petitioner has been unable to modify the annuity payments from the original terms to allow monthly payments, which combined with her income would sustain payments of **\$5,625.00 per month** to her residential facility; it is anticipated that additional funds will be necessary to sustain the Conservatee in her present environs.

Note: Second Additional Page through Fourth Additional Page have been omitted.

Atty Motsenbocker, Gary L, sole practitioner (for Petitioner Public Guardian, Conservator)
 Atty Knudson, David, sole practitioner (for Respondent Virginia Greggains, daughter)
 Atty J. Stanley, Teixeira, sole practitioner (Court-appointed for Conservatee)
 Atty Thornton, Douglas V., of Perkins Mann & Everett (for Objector Julie Banks)

(1) Second Account Current and Report of Conservator and (2) Petition for Allowance of Compensation to Conservator and Attorneys (Prob. C. 2620, 2623, 2640, 2942)

Age: 90 years	PUBLIC GUARDIAN , Conservator of the Person and Estate appointed 11/5/2008, is Petitioner.	NEEDS/PROBLEMS/COMMENTS:
	Account period: 1/20/2010 – 1/19/2012	<u>Continued from 1/11/2013.</u>
Cont. from 032712, 041712, 050912, 071112, 081512, 92612, 101612, 112712, 121412, 011113	Accounting - \$313,100.83 Beginning POH - \$287,627.99 Ending POH - \$140,331.40 (\$128,831.40 is cash)	
Aff.Sub.Wit.		
✓ Verified	Conservator - \$3,660.40 (26.95 Deputy hours @ \$96/hr and 14.20 Staff hours @ \$76/hr)	
Inventory		
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Not.Cred.	Attorney (County Counsel)- \$690.00	
✓ Notice of Hrg	(4.6 hours @ \$150/her)	
✓ Aff.Mail W/	Attorney (Motsenbocker) - \$6,863.83 (25.50 hours @ \$250/hr plus filing fee of \$395.00 and Fed Ex copies of \$93.83)	
Aff.Pub.		
Sp.Ntc.		
Pers.Serv.	Bond fee - \$1,510.50	
Conf. Screen	(o.k.)	
Letters		
Duties/Supp	Petitioner prays for an Order:	
Objections	1. Approving, allowing and settling the Second Account and Report of Conservator;	
Video Receipt	2. Authorizing conservator's compensation;	
✓ CI Report	3. Authorizing payment of attorney fees;	
9202	4. Authorizing payment of the bond fee.	
✓ Order		
Aff. Posting		Reviewed by: KT / LEG
Status Rpt		Reviewed on: 1/16/13
UCCJEA		Updates:
Citation		Recommendation:
FTB Notice		File 20C - Fly

Atty Molsenbocker, Gary L., sole practitioner (for Petitioner Public Guardian, Conservator)
 Atty Knudson, David, sole practitioner (for Respondent Virginia Greggains, daughter)
 Atty J. Stanley, Teixeira, sole practitioner (Court-appointed for Conservatee)
 Atty Thornton, Douglas V., of Perkins Mann & Everett (for Objector Julie Banks)

**Petition for Confirmation of Actions of Attorney-in-Fact, Response to Petition
 Requesting Relief for Breach of Fiduciary Duty, for an Accounting, Etc., and
 Objection to Second Account of Conservator [Prob. C. 4541 et seq.; 1720 et seq; 850 et
 seq.; 16440(b) et seq; W & I Code 15657.5]**

Age: 90 years	<p>VIRGINIA GREGGAINS (aka "GINGER"), daughter, is Respondent.</p> <p>Respondent states:</p> <ul style="list-style-type: none"> • She is the only child of Elmer and Julia Fly; prior to Elmer's death on 11/8/2008, he was under a conservatorship with the PUBLIC GUARDIAN as Conservator (Case 08CEPR00829), and those proceedings were concluded in 2010; • Julia continues under conservatorship with the Public Guardian as Conservator of her person and estate; • Elmer and Julia entered into a trust designated as the ELMER V. AND JULIA B. FLY TRUST, in which they declared they held various assets as Trustees; • On 9/25/2000, Elmer and Julia executed an AMENDED AND RESTATED DECLARATION of the Trust (copy attached as Exhibit A); • On 2/7/2008, Julia as Trustor and Trustee signed a purported "Second Amendment" to the Trust (copy attached as Exhibit A-1); • On 3/24/2008, Attorney MELISSA WEBB with [Dowling Aaron], which firm drafted the Flys' restated Trust, met with Julia and at or following that meeting Julia individually and as attorney-in-fact for Elmer executed a "Third" Amendment to the Trust (copy attached as Exhibit A-2); • The Third Amendment reversed the dispositive provisions of the Second Amendment and remains the most recent amendment to the Trust; <p align="center">~Please see additional page~</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p><u>Continued from 1/11/2013.</u></p>	
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		Reviewed by: LEG/KT/LEG	
		Reviewed on: 1/16/13	
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		Recommendation:	
		File 20D - Fly	

Respondent states, continued:

- Per the Restated Trust as amended by the Third Amendment, all assets are held in trust for the benefit of Elmer and Julia during their lifetimes and during the lifetime of the survivor; following Julia's death, the assets are to be distributed $\frac{1}{2}$ to **Ginger** and $\frac{1}{2}$ to the **Settlor's three grandchildren, ERIC (RICK) GREGGAINS, JULIE BANKS and TINA COX in equal shares;**
- Trust provides that on failure of the initial Trustees Elmer and Julia to act as Trustees, Ginger was to act as Successor Trustee, and the original Trust named **JULIE BANKS**, granddaughter, as an alternate, while the Third Amendment named Ginger's spouse, **STEPHEN ROY GREGGAINS** (Roy) as alternate successor trustee to Ginger;
- On 3/21/2008, Julia also executed a General Durable Power of Attorney (POA) (*copy attached as Exhibit B*), which designated Ginger as attorney-in-fact and Stephen as alternate agent;
- In December 2007, Elmer suffered a massive stroke and heart attack, and was moved several times to different care facilities due to his becoming violent and disruptive, and after a second heart attack, he was moved on 3/5/3008 to Alzheimer's Living Center at Elim ("Elim");
- In June 2008, after Julia's condition declined and was taken by ambulance several times to the hospital, she was required to live at Elim, as she could no longer live with Ginger and her husband in their home in the room they had prepared in August 2007 with safety rails and monitors for Julia and Elmer in the event they were no longer able to live independently;
- From the time of Elmer's hospitalization in December 2008, the family was constantly harangued by Ginger's daughter, **JULIE BANKS** and her husband **JOHN BANKS**, and they also had disrupted the living facilities, and had to be asked to leave or restricted from visiting Elmer and Julia at Elim;
- Elmer had asked John Banks after Elmer's hospitalization to remove guns from under Elmer's bed and put them in the gun safe at his residence; after the gun safe was checked at a later time, it was discovered the guns and **\$5,000.00** cash in the safe was missing; this and the Banks' disruptive conduct caused Julia mental suffering and anguish;
- Ginger and her husband have at all times followed the advice of physicians, hospitals and care providers for the care of Elmer and Julia; Ginger's intent was always to keep them well cared for;
- As it became evident Elmer and Julia would not return to their own residence, Ginger and family members with concurrence of Julia began cleaning out the residence to prepare it for sale with proceeds to be used for their care if needed; 50 years of belongings were sorted through;
- Following Julia's hospitalization, Ginger paid Elmer and Julia's bills, as she was a joint account holder with Elmer and Julia that was previously established, and their monthly **\$4,700.00** in social security and pensions was deposited into the account which was used to pay their bills;
- Ginger's action was taken first as daughter to provide care for her parents, and as attorney-in-fact under the POA; she did not specifically take actions as Trustee though she was designated successor trustee;
- **Medi-Cal planning to preserve assets:** Ginger sought advice regarding Elmer qualifying for Medi-Cal and the Elim staff referred her to **SOUTAS & ASSOCIATES**; Ginger followed their recommendations to qualify Elmer & Julia to receive Medi-Cal for their continuing care; Ginger was advised in order to qualify Elmer & Julia to move a substantial portion of their liquid assets, make certain pre-need arrangements, and that other funds could be transferred by gift in ways that would not cause ineligibility for Medi-Cal.

Note: Second Additional Page and Third Additional Page have been omitted.

Atty Molsenbocker, Gary L, sole practitioner (for Petitioner Public Guardian, Conservator)
 Atty Knudson, David, sole practitioner (for Respondent Virginia Greggains, daughter)
 Atty J. Stanley, Teixeira, sole practitioner (Court-appointed for Conservatee)
 Atty Thornton, Douglas V., of Perkins Mann & Everett (for Objector Julie Banks)

Petition Requesting Approval of Settlement Agreement in the Matter of: Petition Requesting Relief for Breach of Fiduciary Duty, and for an Accounting, and for Conversion of Personal Property, and for Elder Abuse, and for Damages

Age: 90 years	<p>PUBLIC GUARDIAN, Conservator of the Person and Estate appointed 11/5/2008, is Petitioner.</p> <p>Petitioner requests the Court approve the settlement agreement reached in this matter, based upon the following:</p> <ul style="list-style-type: none"> This matter involved the management, disposition and handling of the real and personal property of ELMER G. FLY (DOD 11/8/2008), and JULIA B. FLY (Conservatee), by their daughter, VIRGINIA "GINGER" GREGGAINS, Respondent; On 8/21/1997, Elmer and the Conservatee executed a DECLARATION OF TRUST, ELMER V. AND JULIA B. FLY, naming Respondent as Successor Trustee; the Trust was amended several times, the latest being the <i>Third Amendment</i> dated 3/24/2008; Pursuant to the Trust, all assets were to be held for the benefit of Elmer and Julia during their lifetimes and the lifetime of the survivor; following the death of the survivor, the assets are distributed ½ to Settlor's daughter Virginia, and ½ to Settlor's three grandchildren, ERIC ("RICK") GREGGAINS, JULIE BANKS, and TINA COX, in equal shares; On 3/21/2008, Julia executed a General Durable Power of Attorney designating Ginger Greggains to act as attorney-in-fact; STEPHEN ROY GREGGAINS, Ginger's husband, was designated as alternate attorney-in-fact; 	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p><u>Continued from 1/11/2013.</u></p> <p>Note: <i>Mutual General Release and Settlement Agreement</i> was filed by Attorney Molsenbocker on 1/17/2013.</p> <p>Note: <i>Proposed Order on Petition Requesting Approval of Settlement Agreement in the Matter of Petition for Relief for Breach of Fiduciary Duty; for an Accounting; for Conversion of Personal Property; for Elder Abuse; and for Damages</i> was received from Attorney Molsenbocker on 1/17/2013, containing faxed or photocopied signatures approving as to form and content by Attorney Knudson (for Respondent) and Attorney Thornton (for Objector); proposed order is in the file for the Court's consideration.</p>
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~Please see additional page~

Petitioner states, continued:

- Interested parties, including granddaughter Julie Banks, questioned Greggains' motives for her handling of Elmer and Julia's finances, her placement of Elmer and Julia in a care facility, the proposed sale of the Flys' residence, and the purchase of an annuity; at the request of Julie, proceedings initiated by the **PUBLIC GUARDIAN** as Conservator of the person and estate of Julia against Greggains for financial mismanagement, alleging breach of fiduciary duty and contending the disposition of the couple's assets were ill-advised and in contravention of the Flys' estate plan and existing Trust; Julie Banks insisted a formal accounting was necessary;
- Greggains response detailed the actions taken with the Flys' resources, with respect to Medi-Cal planning, and the purchase of the annuity; she provided an accounting of funds in her possession that were transferred or used for the benefit of Elmer and Julia, and an accounting of funds turned over to the Public Guardian; she objected to the Public Guardian's actions in changing the Annuity making Julia ineligible for Medi-Cal and to the Public Guardian's accounting and fees requested;
- Following several meetings between counsel and clients, the parties concluded it was in the best interest of the Conservatee and her estate that this matter be settled; it became apparent after lengthy discussions that Greggains had little or no liquid assets, the her real property was encumbered in excess of its fair market value, and her only source of income was Social Security benefits, such that she was in effect "judgment proof," and it became apparent that trial costs and expenses would be substantial and could be borne by the estate of the Conservatee, thus unnecessarily depleting her assets.

Petitioner states the parties entered into an agreement to settle and compromise in full the dispute by and between the Public Guardian and Greggains in order to avoid further expense, acrimony and controversy in regard to all issues raised and alleged; *(copy of the fully executed Mutual General Release and Settlement Agreement is attached as Exhibit A)*; a brief summary follows:

- (a) Any funds remaining in the Conservatorship estate upon Julia Fly's death, including any proceeds payable on the annuity contract, after payment of fees, costs and expenses, shall be paid to the named Trustee of the Trust to be distributed as part of the Trust;
- (b) The Public Guardian as Conservator of the Person and Estate of Julia withdraws and dismisses with prejudice its *Petition Requesting Relief for Breach of Fiduciary Duty, etc.*, and the Public Guardian waives any further accounting by Respondent Greggains as Trustee of the Trust or as Attorney in Fact for Julia;
- (c) Respondent withdraws and dismisses with prejudice her Objections to the Conservator's Second Account and for payment of attorney fees, Conservator fees and costs, and any and all objections which may be deemed in nature of a cross-complaint raised in her response;
- (d) Public Guardian agrees that it will initiate no further actions or complaints, nor initiate any other proceedings in this matter as to Respondent, including any civil and/or criminal actions.

Petitioner prays for an Order that:

1. The settlement of this matter is approved as prayed;
2. Any funds remaining in the Conservatorship estate upon the death of the Conservatee shall be paid to the Trustee of the **Elmer V. and Julia B. Fly Trust**, and that Respondent is to [agree] that any funds received by her, no matter the source, shall be paid to and held by the Trustee of the Trust;
3. The petition filed by the Public Guardian is dismissed with prejudice and any further accounting by Respondent is waived;

~Please see additional page~

Petitioner prays for an Order, continued:

4. The objections of the Respondent are withdrawn and dismissed with prejudice as to the Conservator's second account and for payment of attorney's fees and costs, as well as all objections raised by the Respondent in her response to the Public Guardian's petition and any and all objections raised by her which might be deemed in the nature of a cross-complaint; and
5. The Public Guardian shall initiate no further actions or complaints or other proceedings in that matter as to the Respondent as to the rights or damages allegedly sustained by the Conservatee.

Objection to Petition Requesting Approval of Settlement Agreement in the Matter of Petition for Relief for Breach of Fiduciary Duty; for an Accounting; for Conversion of Personal Property; for Elder Abuse; and for Damages filed on 9/21/2012 by JULIE BANKS, granddaughter of Conservatee, states:

- She objects to the settlement agreement [statements of factual background omitted];
 - In the spring of 2008, following Elmer's stroke and heart attack and move into the Alzheimer's center at Elim, Greggains purportedly determined that Elmer and Julia would not be able to return to their residence and began a systematic theft of all of their property; as part of that scheme, on 3/21/2008, Greggains caused Julia to execute a General Durable Power of Attorney, designating Greggains as attorney-in-fact, and **STEPHEN ROY GREGGAINS**, (Ginger) Greggains' husband, was named as alternate attorney-in-fact;
1. **Theft of Cash through purchase of Annuity:** After obtaining the Power of Attorney, Greggains contacted **SOUTAS & ASSOC. (S&A)** for the purported reason to qualify Elmer and Julia for Medi-Cal for the cost of their care; in reality it was to further her scheme to take assets out of the Trust, to countermand the inheritance directions of Julia and Elmer, and ultimately put money in her own pocket; the Annuity application submitted by Greggains on 3/29/2008 reveals that Greggains purchased a **\$159,983.79** Annuity and she and her husband (Stephen) listed themselves as the primary and contingent beneficiaries to the Conservatee, and did not list Settlor's grandchildren as instructed, nor was the beneficiary listed as the Trust as Greggains stated to the Court in a lie on 8/25/2008 (*copy of Reporter's Transcript attached as Exhibit D to the Declaration of Julie Banks in Support of Objection to Petition Requesting Approval of Settlement Agreement filed 9/21/2012*); Greggains elected the Annuity to pay out **~\$10.00** per month with the balance to be paid in 5 years, in order to maximize the benefit to her and her husband; Greggains' plan was obvious: take the money out of the Trust and hope that Julia and Elmer pass away before the Annuity matured; an Annuity that paid out **\$10.00** per month was not appropriate for a couple with substantial needs in their twilight years.
 2. **Theft of Conservatee's vehicles:** In 2008, Conservatee and Elmer owned and possessed a Nissan Pathfinder (~2004 model), and Objector believes that Greggains transferred the Pathfinder to her son, **ERIC GREGGAINS**, without value;
 3. **Theft of Conservatee's furnishings and personal belongings:** Greggains and her close family took and either sold or kept for themselves the furnishings and personal belongings of Conservatee; Objector believes the Inventory filed by the Public Guardian does not include furnishings and personal property of **~\$75,000.00** (*Declarations previously filed with Court on 10/10/2008 and 10/15/2008 listing the property are attached as Exhibits B and C to Banks' Declaration*);
 4. **Theft of Nevada property:** Conservatee and her husband own 40 acres of land in Nevada, per the parcel number indicated on the property profile of the Annuity application dated 4/24/2009; even though the County of Fresno and Greggains is aware of the Nevada property, it is mysteriously absent from the Inventory without explanation.

Note: Third Additional Page and Fourth Additional Page have been omitted.