

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

**Report of Successor Administrator of Insolvent Estate; Request for Discharge**

<b>DOD: 5/1/2004</b>	<b>PUBLIC ADMINISTRATOR</b> , Successor Administrator, is Petitioner.	<b>NEEDS/PROBLEMS/COMMENTS:</b>
	<b>Petitioner states:</b>	
	<ul style="list-style-type: none"> <li><b>KIMBERLY HOLLABAUGH</b>, former Administrator, was removed by the Court on 8/28/2008; the <i>Minute Order</i> from that date includes that the Court directed that a copy of the minute order be mailed to Kimberly Hollabaugh;</li> <li>There is no record that the Public Administrator was ever notified of his appointment; therefore, no Letters of Successor Administration were issued.</li> <li>According to the <i>Inventory and Appraisal</i> filed by the former administrator on 9/29/2004, the estate consisted of bank accounts, a savings bond, one parcel of real property and general personal property, totaling <b>\$218,062.16</b>;</li> <li>Through investigation the Public Administrator was able to determine that the real property and furnishings were sold, and the bank accounts were closed;</li> <li>The Court's docket provides information regarding several creditor's claims and their dispositions (of six claims, two satisfactions were filed with the Court);</li> <li>The Public Administrator has attempted to contact the former administrator and the other 2 heirs, Patricia Hollabaugh and Jeff Hollabough, but none of the 3 has returned calls or responded to letters;</li> <li>No assets exist from which to pay the remaining creditors, the Court, the former administrator's attorney, <b>RICHARD HEMB</b>, or the other 2 heirs; [<i>Notice of Order Granting Attorney's Request to be Relieved as Counsel filed 7/22/2008</i>];</li> <li><b>KIMBERLY HOLLABAUGH</b> has breached her fiduciary duty by misappropriating <b>\$218,062.16</b> from the estate, and is therefore liable to the creditors, the Court, Mr. Hemb, , Patricia Hollabaugh and Jeff Hollabough;</li> <li>The right to collect from <b>KIMBERLY HOLLABAUGH</b> is assigned to each of them;</li> <li>Petitioner and his attorney waive all fees and commissions; in addition, Petitioner requests to be discharged as administrator, as there are no assets; nor does he expect to receive any.</li> </ul>	
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<input type="checkbox"/> <b>FTB Notice</b>		
	~Please see additional page~	<b>Reviewed by:</b> LEG <b>Reviewed on:</b> 2/24/14 <b>Updates:</b> <b>Recommendation:</b> <b>File 1 – Hollabaugh</b>

**Petitioner prays for an Order:**

1. Settling, allowing and approving the final report as filed; and all acts and proceedings of the Petitioner as successor administrator be confirmed and approved;
2. Finding that **KIMBERLY HOLLABAUGH** is personally liable to the creditors: American Ambulance, Citicorp Credit Service, Union Bank, and Providian c/o Phillips & Cohen, as well as to the Court, attorney Richard Hemb, and the other 2 beneficiaries, Patricia Hollabaugh and Jeff Hollabough, for the amount of **\$218,062.16**;
3. The administration of this estate be closed; and
4. The Public Administrator be discharged as administrator of the instant estate.

<b>Age:</b>		<b>NEEDS/PROBLEMS/COMMENTS:</b>
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Atty Hemb, Richard E., of Hemb Law Office (for Petitioner Christi Lawrence, Administrator)

(1) First and Final Account and Report of Executor and (2) Petition for Settlement, Allowance of Commissions and Fees, Extraordinary Fees and (3) Final Distribution

<b>DOD: 10/3/2010</b>		<p><b>CHRISTI LAWRENCE</b>, former spouse and Administrator, is Petitioner.</p> <p><b>Account period: 10/3/2010 – 11/30/2013</b></p> <p>Accounting - <b>\$254,446.69</b>                  Beginning POH - <b>\$248,144.18</b>                  Ending POH - <b>\$ 16,491.48 (all cash)</b></p> <p>Administrator - <b>\$1,428.00</b>  <i>(statutory)</i></p> <p>Administrator XO - <b>\$1,072.00</b>  <i>(not itemized; sum fashioned to equal \$2,500.00 when added to statutory fee; services to the estate for attempted sale; efforts for prevention of real property vandalism; efforts to avoid foreclosure;)</i></p> <p>Attorney - <b>\$1,428.00</b>  <i>(statutory)</i></p> <p>Attorney XO - <b>\$1,072.00</b>  <i>(not itemized; sum fashioned to equal \$2,500.00 when added to statutory fee; services to the estate for attempted sale; efforts for prevention of real property vandalism; efforts to avoid foreclosure;)</i></p> <p><b>Distribution pursuant to intestate succession and to allowed Creditor's Claims is to:</b>                  AMERICAN INFO. SERVCIES FOR BANK OF AMERICA – <b>\$4,237.00;</b>                  WEST ASSET MANAGEMENT FOR AMERICAN EXPRESS – <b>\$1,662.71;</b>                  CITIBANK – <b>\$3,382.27;</b>                  GRANT MERCANTILE AGENCY – <b>\$1,246.56;</b>                  REBECCA BRUSHWOOD – <b>\$481.47;</b>                  JOHNATHON BRUSHWOOD – <b>\$481.47</b>, to CHRISTI LAWRENCE, to hold in trust for minor until age 18.</p>	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p>	
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		<b>Reviewed by:</b> LEG		
		<b>Reviewed on:</b> 2/24/14		
		<b>Updates:</b>		
		<b>Recommendation:</b>		
		<b>File 3 – Brushwood</b>		

<b>DOD: 04/09/12</b>	<p><b>SCOTT WORTHINGTON</b>, son, filed a Petition for Probate on 04/18/13, seeking to admit decedent's will to probate and be appointed as Executor without bond.</p> <p><b>CYNTHIA SCHMIDT</b>, daughter, filed an Objection to Petition for Probate of Will on 05/29/13.</p> <p>The parties participated in a settlement conference on 01/13/14. <b>Minute Order from 01/13/14</b> states: Counsel will submit settlement agreement per conference conversation. Status Hearing on 02/27/14, Courtcall allowed.</p>	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <p><b>See page 6 for a related matter.</b></p> <p><b>As of 02/25/14, nothing further has been filed in this matter.</b></p> <ol style="list-style-type: none"> <li>1. Need Settlement Agreement and/or Status Update Report.</li> </ol>		
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			<b>Updates:</b>	
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		<b>File 4 – Worthington</b>		

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**Dale W. Balagno Revocable Trust**  
Armo, Lance E. (for Joseph Balagno – Beneficiary – Petitioner)  
Gromis, David Paul (for Nicholas Kovacevich – Former Trustee)  
Kruthers, Heather (for Public Administrator)  
Motsenbocker, Gary L. (for Mary Pond – Respondent)

Case No. 13CEPR00389

**Status Hearing Re: Assets and Accounting**

	<p><b>PUBLIC ADMINISTRATOR</b> was appointed as Trustee pursuant to Minute Order 9-9-13.</p>	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p>
<p>Cont. from 120913, 011614, 013014</p>	<p>The Court set this Status Hearing Re: Assets and Accounting.</p>	<p><b><u>OFF CALENDAR</u></b></p>
<p>Aff.Sub.Wit.</p>	<p><b>HISTORY:</b></p>	<p>Accounting of original successor trustee filed 2-21-14 is set for hearing on 4-10-14.</p>
<p>Verified</p>	<p><b>JOSEPH BALAGNO</b>, Beneficiary, filed a Petition to Remove Trustee, to Appoint Public Administrator as Trustee, and to Compel Trustee to Account.</p>	
<p>Inventory</p>	<p><b>NICHOLAS T. KOVACEVICH</b>, Trustee, filed a Declaration on 8-8-13 (prior to Settlement Conference) indicating information provided to Petitioner's attorney.</p>	
<p>PTC</p>	<p><b>Minute Order 9-9-13:</b> The Court is informed that Mr. Kovacevich has agreed to step down. The Court grants the petition and appoints the Public Administrator as the personal representative. The Court directs that any fees come before the court. Parties stipulate to having the minute order become the order of the court. Set on 12-9-13 for status hearing re assets and accounting.</p>	
<p>Not.Cred.</p>	<p><b>On 11-1-13, Attorney David Paul Gromis</b>, Attorney for former trustee Nicholas Kovacevich, filed a Petition for Payment of Attorney's Fees and Payment for Trustee's Fees that is set for hearing on 12-19-13. The petition requests payment of \$5,976.00 from the trust estate to the attorney and \$16,452.00 from the trust estate to Nick Kovacevih, CPA, for services as successor trustee.</p>	
<p>Notice of Hrg</p>	<p><b>In addition, on 11-18-13</b>, Joseph Balagno, Linda Balagno, and Lori Jo Brown filed a Petition for Court Order to Determine Title and Require Transfer of Personal Property to Petitioner that is set for hearing on 1-16-14.</p>	
<p>Aff.Mail</p>		<p><b>Reviewed by:</b> skc</p>
<p>Aff.Pub.</p>		<p><b>Reviewed on:</b> 2-24-14</p>
<p>Sp.Ntc.</p>		<p><b>Updates:</b></p>
<p>Pers.Serv.</p>		<p><b>Recommendation:</b></p>
<p>Conf. Screen</p>		<p><b>File 5A – Balagno</b></p>
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<p>Duties/Supp</p>		
<p>Objections</p>		
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<p>Citation</p>		
<p>FTB Notice</p>		

**5B Dale W. Balagno Revocable Trust**  
**Atty Armo, Lance E. (for Joseph Balagno – Beneficiary)**  
**Atty Gromis, David Paul (for Nicholas Kovacevich – Former Trustee)**  
**Atty Kruthers, Heather (for Public Administrator)**  
**Atty Moisenbocker, Gary L. (for Mary Pond – Respondent)**

**Case No. 13CEPR00389**

**Petition for Payment of Attorney's Fees and Payment for Trustee's Fees**

<b>Dale W. Balagno</b> <b>DOD: 3-16-13</b>	<b>NICHOLAS KOVACEVICH</b> , Successor Trustee, is Petitioner.	<b>NEEDS/PROBLEMS/COMMENTS:</b>
	<b>Petitioner states:</b>	<b>Examiner's Note:</b> On 9-9-13, per Corrected Minute Order, Mr. Kovacevich agreed to step down and the Court directed that any fees come before the Court. Accordingly, this petition was filed on 11-1-13.
<b>Cont. from 011614</b>	<ul style="list-style-type: none"> <li>Dale W. Balagno died on 3-16-13. The trust provides names Petitioner as first successor trustee.</li> </ul>	
<input type="checkbox"/> <b>Aff.Sub.Wit.</b>	<ul style="list-style-type: none"> <li>On 4-23-13, Petitioner provided information on the trust estate to his attorney, David Gromis.</li> </ul>	
<input checked="" type="checkbox"/> <b>Verified</b>	<ul style="list-style-type: none"> <li>On 9-9-13, Petitioner agreed to allow the Public Administrator to become the Trustee.</li> </ul>	<b>This petition requests attorney and trustee fees totaling \$22,428.00. However, at this point, the value of the trust/assets has not been provided to the Court so Examiner does not have a basis for review other than hourly rates and services.</b>
<input type="checkbox"/> <b>Inventory</b>		
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<input type="checkbox"/> <b>Not.Cred.</b>		
<input checked="" type="checkbox"/> <b>Notice of Hrg</b>	<b>Attorney: \$5,976.00</b>	
<input checked="" type="checkbox"/> <b>Aff.Mail</b>	Exhibit A is a schedule of the attorney's billing in this proceeding from 4-23-13 through 9-9-13. All services were reasonable and necessary in representing Mr. Kovacevich. 24.9 hours @ \$240/hr.	
<input type="checkbox"/> <b>Aff.Pub.</b>		
<input type="checkbox"/> <b>Sp.Ntc.</b>		
<input type="checkbox"/> <b>Pers.Serv.</b>		
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<input type="checkbox"/> <b>Letters</b>	<b>Successor Trustee: \$16,452.00</b>	
<input type="checkbox"/> <b>Duties/Supp</b>	Exhibit B is a schedule of the successor trustee's services provided to the estate from 3-19-13 through 9-9-13. All services were reasonable and necessary in his role as successor trustee. 91.4 hours @ \$180/hr.	
<input type="checkbox"/> <b>Objections</b>		
<input type="checkbox"/> <b>Video Receipt</b>		
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<input type="checkbox"/> <b>Order</b>	<b>Petitioner requests an order:</b>	
<input type="checkbox"/> <b>Aff. Posting</b>	<ol style="list-style-type: none"> <li>Directing the Public Guardian to pay David Paul Gromis, Attorney at Law, the sum of \$5,976.00 from the trust estate for legal services rendered to Nick Kovacevich while he was acting as trustee for the D.W. Balagno Trust dated 3-6-13;</li> </ol>	
<input type="checkbox"/> <b>Status Rpt</b>	<ol style="list-style-type: none"> <li>Directing the Public Guardian to pay Nick Kovacevich, CPA, the sum of \$16,452.00 for time spent and for services rendered to the D.W. Balagno Trust dated 3-6-13 as the successor trustee; and</li> </ol>	
<input type="checkbox"/> <b>UCCJEA</b>	<ol style="list-style-type: none"> <li>For such other relief as the Court deems just and proper.</li> </ol>	
<input type="checkbox"/> <b>Citation</b>		
<input type="checkbox"/> <b>FTB Notice</b>		

**5C Dale W. Balagno Revocable Trust**

**Case No. 13CEPR00389**

**Atty Armo, Lance E. (for Petitioners Joseph Balagno, Linda Balagno, and Lori Jo Brown)**

**Atty Gromis, David Paul (for Nicholas Kovacevich – Former Trustee)**

**Atty Kruthers, Heather (for Public Administrator)**

**Atty Motsenbocker, Gary L. (for Mary Pond – Respondent)**

**First Amended Petition for Court Order to Determine Title and Require Transfer of Personal Property to Petitioner**

<b>DOD: 3-16-13</b>	<p><b>JOSEPH BALAGNO, LINDA BALAGNO, and LORI JO BROWN</b>, Beneficiaries, are Petitioners.</p> <p><b>Petitioners state</b> the trust corpus consists primarily of bank and investment accounts held with several banking institutions, cash, and other personal property. The beneficiaries and "interested persons" are: Petitioners, <b>MARY E. POND</b>, a former personal acquaintance of the decedent, and former successor trustee <b>NICHOLAS KOVACEVICH</b>, who was removed by the Court. The <b>FRESNO COUNTY PUBLIC ADMINISTRATOR</b> is the current Successor Trustee.</p> <p>Petitioners allege that the former trustee has wrongfully conveyed certain property of the trust to Ms. Pond without accounting, notice or acknowledgment to Petitioners. Petitioners also believe that other accounts, insurance proceeds, and personal property have been wrongfully distributed to Ms. Pond by the former trustee, or individually retained by the former trustee without notice or accounting after having demanded such information. Additionally, Petitioner believes the former trustee allowed mailing addresses and ownership of several bank and investment accounts to be changed shortly prior to the decedent's death to that of Ms. Pond from the decedent's address without notice to beneficiaries. Only upon contacting the various institutions did Petitioner learn of such.</p> <p>To the detriment of the estate, Ms. Pond changed the mailing address of the decedent's important financial papers thereby learning confidential financial information that she was not privy prior thereto, and subsequently convinced, encouraged, and manipulated the decedent, while extremely ill and vulnerable, to add her to accounts, real and personal assets, and to conceal other assets of the estate which are not nor have ever been intended for Ms. Pond.</p> <p style="text-align: center;"><b>SEE ADDITIONAL PAGES</b></p>	<p><b>NEEDS/PROBLEMS/ COMMENTS:</b></p> <p><b><u>SEE ADDITIONAL PAGES</u></b></p> <hr/> <p><b>Reviewed by:</b> skc</p> <p><b>Reviewed on:</b> 2-25-14</p> <p><b>Updates:</b></p> <p><b>Recommendation:</b></p> <p><b>File 5C – Balagno</b></p>
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## Page 2

**Petitioners state** Ms. Pond was the decedent's girlfriend for nearly 15 years and was never added to his estate until shortly before his demise, not to mention ever informed of the financial wherewithal of the decedent. The decedent had stated to his family shortly before his passing that his estate was "all set up" as he had transfer-on-death (TOD) completed for most of his assets that did not include Ms. Pond. However, Ms. Pond still added herself to bank accounts, financial investment and life insurance accounts, and liquidated an \$80,000 annuity shortly before his death. The testamentary plan created by the decedent shortly before his death coincidentally was also identical and matching to a plan prepared on behalf of Ms. Pond at the same time, and by the same person, who is not a licensed attorney.

Petitioners state Ms. Pond excluded close family members from the decedent's final hours of life, including his children, as she did not want them to interfere with her plan of manipulating him to sign the necessary forms for transfers, etc.

Petitioners provide descriptions of various accounts and assets including estimated balances and questions about disposition. See petition for details.

Petitioners state Ms. Pond and Mr. Kovacevich refused to provide copies of documents authorizing Ms. Pond's name to be added to the various accounts whether as owner, TOD, or beneficiary. She also refused to provide proof that the decedent authorized her to change the mailing address of the bank account statements from Decedent's home to her address exclusively, and refused to reply to questions asking how/why she changed the mailing addresses.

**KARA BALAGNO** (relationship not stated) was present in the hospital room on one occasion in which she was told by the decedent clearly and unequivocally: "Ms. Pond was only to be added to this one account and none others." The account initially had a mailing address to the decedent's home, but after Ms. Pond's name was added, the mailing address was changed to her address. Shortly before his passing, the decedent informed his family that Ms. Pond could "only" be added to this one bank account in order to pay the "health expense bills" of the decedent, although she took the liberty of adding herself to multiple accounts. Thereafter, Ms. Pond withdrew, transferred, and liquidated hundreds of thousands of dollars from the decedent's accounts to her own, claiming such transfers and withdrawals do not need to be accounted for because they were not part of the trust estate.

**Additionally**, Petitioners state Ms. Pond and Mr. Kovacevich have provided conflicting statements about where the decedent's guns are, and Petitioners further believe that the decedent provided the safe combination to Mr. Kovacevich, who opened the safe and accumulated the contents thereof without recording or transcribing any inventory. Ms. Pond and Mr. Kovacevich now deny the existence of various items in the safe, which were removed and are not vanished. For example, the decedent informed his children that the safe contained \$100,000 in "cash." Ms. Pond uttered to a friend that she had discovered over \$80,000 and had "better go home and count the rest." Ms. Pond now declares there was only \$47,000 cash in the safe. Petitioners state there were also several pieces of jewelry, bonds, and other items in the safe that Ms. Pond denies. The decedent's timeshare has not been accounted for See petition for details.

**SEE ADDITIONAL PAGES**

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**Petitioners state** there are other issues as well and allege that Ms. Pond obtained and sold stocks that the decedent owned and concealed such information without accounting to the family. Petitioners state Ms. Pond was reimbursed \$12,000 for funeral expenses by Mr. Kovacevich without evidencing proof of expenses. Ms. Pond's name was added to a 2007 pickup truck shortly before the decedent's death, which truck contained all of the decedent's work tools and equipment, and which was never returned to the family.

Demand has been made repeatedly for account and information, but none has been provided. Petitioners believe Ms. Pond has taken most of the decedent's possessions and sold them or given them away. Ms. Pond has two safes in her home that are believed to contain many of the decedent's possessions that she has unlawfully taken and kept from the family.

It was alleged that Mr. Kovacevich, who has been removed, and Ms. Pond, were working so close together that they were acting as one and the same in theory. Petitioners state that Joseph Balagno is still the personal representative of the estate of Dale Balagno. Probate Code §850(a)(2)(C) provides that the personal representative may file a petition requesting that the court order where the decedent died in possession of, or holding title to, real or personal property, and the property or some interest therein is claimed to belong to another. In this matter, Ms. Pond claims an interest in much of the assets of the estate, and Petitioners believe she is in possession of the assets mentioned above. She and the former trustee have refused and failed to provide any information or instruction of the decedent authorizing her claims. Petitioners believe Ms. Pond will claim she was "told" by the decedent to take such assets, however, fails for several reasons.

Petitioners state the decedent dated Ms. Pond for nearly 15 years and never told her she could share in his wealth, and she didn't learn of it until she changed the mailing addresses on his accounts. She uttered statements to friends and relatives confirming such newly acquired knowledge, and shortly before he died, said to family members: "I wish he would hurry and die as I have a trip planned." During his final days, Ms. Pond tried over and over to get the decedent to marry her. The decedent obviously refused. Ms. Pond also lied to the family that he was restricted to "bed rest" only they later learned that he was supposed to get up and walk around. The day before he died the Decedent told his daughter Linda that he believes "Mary has done wrong things and you need to fix them immediately." He told his entire family his desire and wishes for his estate.

**Mary E. Pond must be ordered by this Court to transfer all assets herein mentioned and provide copies of statements, canceled checks, and financial records for every account she either withdrew, transferred, wired, or deposited funds of the decedent. Ms. Pond clearly exerted undue influence, pressure and coercive conduct towards the decedent in his last days and hours with intent to obtain his assets to the detriment of his family.**

**SEE ADDITIONAL PAGES**

Page 3

Petitioners pray for an order as follows:

1. The Court grant and distribute the vehicles along with all cash, guns, jewelry, bonds, coins, and other items located in the safe and removed by Ms. Pond and/or the former trustee to Petitioners as the representatives of the estate;
2. The Court grant and distribute all investment accounts as set forth herein to Petitioners as representatives of the estate;
3. The Court grant and distribute all bank accounts as set forth herein to Petitioners as representatives of the estate;
4. The Court grant and distribute all bonds and insurance proceeds as set forth herein to Petitioners as representatives of the estate;
5. For costs of suit incurred, and
6. For such other relief as the Court may deem just and proper.

**NEEDS/PROBLEMS/COMMENTS:**

1. Notice of Hearing filed 1-23-14 indicates service on attorneys only, and further indicates that a copy of the amended petition was not served with the notice. The Court may require amended service with copies, including direct notice to the interested persons pursuant to Cal. Rules of Court 7.51.
2. Notice of Hearing filed 1-23-14 does not indicate that a copy of the amended petition was served with the notice pursuant to Probate Code §851.
3. Petitioners request distribution of specific assets to them as personal representatives of the decedent's estate; however, there is no probate estate open for this decedent and there has been no personal representative appointed.

Petitioner Joseph Balagno previously requested, and the Court granted, that the Public Administrator be appointed as the trustee of the decedent's trust.

**Need clarification: Are the petitioners alleging that these assets are assets of the TRUST, or are they now alleging that these are assets of the ESTATE, for which a probate will be filed?**

4. It appears Petitioner is requesting that the Court make findings as to undue influence/financial abuse of the decedent prior to his death, which would be a civil action under the W&I code. The Court may require authority for proceeding as requested.

**Note:** An Accounting filed by the former Trustee Nicholas Kovacevich filed 2-21-14 is set for hearing on 4-10-14. Therefore, the Status Hearing for the filing of the accounting has been taken off calendar.

**SEE ADDITIONAL PAGES**

**Response of Mary Pond filed 2-14-14 states:**

Dale Balagno died 3-16-13 and up to the date of his death was the sole trustee of the D.W. Balagno Revocable Trust dated 3-6-13. The respondent and the decedent lived together in a close committed relationship for 15 years in the respondent's home. The decedent moved into the respondent's home in the late 1990s and resided there until his death. During the time he lived there, Respondent provided food, clothing and shelter to the decedent, as he represented to her that he had limited resources and lived on a small monthly fixed income – in effect, “poverty-stricken.”

Respondent was aware that the decedent owned several houses prior to entering the relationship, and allowed his son to live in one of them. He had his mail delivered to that address and would go over frequently to “check on the house” and review the mail. The decedent was secretive about his affairs; however, Respondent trusted him and was not suspicious about his misrepresentations until he asked his son Joe to pick up his mail at “the house” a month or so before his death. At this time, he shared the fact that he had significant investment account and a number of bank accounts with substantial balances as well as other assets. Respondent was shocked and felt betrayed. She became upset with the decedent as she had often ended up paying for most occasions over the years.

Respondent states that when the decedent realized she was upset with him, he became contrite and remorseful and told her that he planned “to make things right by her.” He stated that he intended to pay off the mortgage on her house and make substantial gifts of cash and personal property. He thereafter contacted the bank and made the necessary arrangements to transfer funds to Ms. Pond and to name her on some accounts. The bank personnel became aware of his concerns and objectives in as much as he told them what he intended to do and expressed concern about what his “children” would try to do to Ms. Pond after he was gone. All transfers and naming her on accounts took place while he was fully competent to make gifts.

Respondent states that contrary to the assertions of the petitioner, the successor trustee did not become trustee or act in that capacity until the decedent died on 3-16-13, and contrary to the groundless assertions and sheer speculations made by the petitioners, he did not transfer title of any assets to the respondent nor did he change the address of the decedent's mail to the home of the respondent. The transfers and the change of address were accomplished by the decedent alone or pursuant to his permission and on his instructions.

Respondent states the decedent did not hold his children in very high esteem and for the most part was disappointed in them. He seldom spoke of them and they seldom visited. For the most part, he had a favorable relationship with his grandchildren and great grandchildren. He did speak to his children on the phone on occasions, but this contact was sporadic and limited.

Respondent denies assertions that she unduly influenced the decedent in any manner at any time and denies that she isolated him from his family and that she attempted to influence him against his children. Respondent asserts that for reasons best known to him, the decedent had issues with his children and on many occasions expressed displeasure with the manner that he had been treated by them or with their behavior or conduct.

**SEE ADDITIONAL PAGES**

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**Respondent asserts that** the decedent had no "emotional problems" that would have subjected him to being "easily influenced by the Respondent." Respondent affirmatively contends that the decedent knew his own mind and was subject to holding strong and unwavering opinions, including the poor relationships he had with his children. He was rational in his thinking and beliefs and knew his own mind. If anything, he was concerned with what "his children" might do to Respondent after he passed away.

Respondent denies allegations made by the petitioners that she is a disqualified transferee under §850 et seq., and states the decedent was competent to make decisions, determinations and designations as he saw fit for the ultimate disposition of his estate.

Respondent denies that she exerted undue influence on the decedent to induce him to execute the trust and/or his last will and testament, and further denies that she participated, advised or arranged the execution of these documents. The decedent dictated the terms to a third party of his own choosing and arranged for their completion and execution.

Respondent is informed based on said information and alleges that the Court has no jurisdiction in this proceeding in regard to the will, as that matter is not properly before the Court in that a petition to admit the will to probate has not been filed.

Respondent objects to this matter in as much as the pleadings were not verified and are therefore not property before the court.

Respondent denies the petitioners' unfounded assertions regarding the decedent's lacking capacity to execute the documents or make gifts and transfers prior to his death.

As to Paragraphs 6-31, Respondent objects as they are not in the proper form, are unsubstantiated, unmitigated, supposition, and/or suspicions, with no basis in fact, reason or law to support them; they are assumptions.

Pursuant to CCP §431.30(d) this answering respondent generally denies each and every allegation in the complaint and further specifically denies that the petitioners are entitled to the relief sought. Affirmative defenses listed. See response.

**Respondent requests judgment by the Court that:**

- 1. Petitioners take nothing pursuant to their First Amended Petition;**
- 2. The request to invalidate alleged transfers to Respondent be denied as there is no basis in law or fact requiring restoration of the decedent's property to his trust and/or estate;**
- 3. The request of the petitioners to find the "2013" trust invalid due to undue influence and/or incompetency be denied;**
- 4. Find that it has no jurisdiction to rule in regard to the validity of the decedent's last will and testament as that matter is not properly before the court;**
- 5. Find that the respondent did not exercise undue influence over the decedent;**
- 6. Deny the Petitioners' request for attorney fees and costs;**
- 7. The request by the petitioners to invalidate all documents purporting to make dispositive distributions to the respondent assets be denied; and**
- 8. For such other orders as the Court deems just and proper.**

**6**      **Worthington Family Grantor Trust 12-28-11**

**Case No. 13CEPR00455**

**Atty**      Rube, Melvin K. (for Scott Worthington – son/Petitioner)  
**Atty**      Ramseyer, Ryan (for Cynthia Schmidt – daughter/Respondent)  
**Atty**      Kruthers, Heather H. (for Public Guardian)

**Status Hearing Re: Settlement Agreement**

<b>Celia DOD: 04/09/12</b>	<b>SCOTT WORTHINGTON</b> , son, filed a Petition to Terminate an Irrevocable Trust on 05/23/13 and set for hearing on 07/15/13.	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <p><b>Note:</b> Public Guardian filed a Petition for Fees that was granted on 12/09/13. The Petition for Fees was filed without payment of a filing fee. Minute Order from hearing on 12/09/13 ordered that the Trustee of the Trust was to pay the filing fees. As of 02/25/14, the filing fees have not been paid and the Order for Fees has not been signed.</p> <p>1.    Need Settlement Agreement and/or Status Update Report.</p> <p><b>Note to Judge:</b> the Order for Fees for the Public Guardian and her attorney is in the file for signature, however, because the filing fees have not been paid, the order should not be signed yet.</p>
	At the 07/15/13 hearing, the Court set the matter for a settlement conference on 08/12/13.	
<b>Cont. from</b>	<p><b>Minute Order</b> from settlement conference on 08/12/13 states: Parties engage in settlement discussions with the Court. Based on the discussions, the Public Guardian is appointed for the benefit of Fred Worthington. The Court directs the Public Guardian to meet with Fred Worthington and speak with counsel regarding an evaluation to determine the appropriate level of care for him. The Court obtains consent from all counsel to engage in ex parte communications with the Public Guardian. The Court directs that a list of items be prepared within two weeks and an order as set forth be prepared by counsel. The Court sets a Status Hearing for the Public Guardian on 09/09/13. The Court indicates for the minute order that Mr. Dornay's presence will not be required on 09/09/13. The Court will expect appropriate status reports to be filed for the upcoming hearings.</p> <p><b>Minute Order from status hearing on 09/09/13 states:</b> Mr. Picone is appearing via Courtcall. Mr. Picone informs the Court that his client has complied with the requirements thus far. Ms. Kruthers informs the Court that the Public Guardian believes Fred Worthington's needs can be taken care of at home, but trust funds would be needed. The Court is satisfied with the report from the Public Guardian. The Court thanks the Public Guardian for their services in this matter. The Court orders that Fred Worthington not be moved without a prior court order.</p> <p><b>Minute Order from further settlement conference on 01/13/14 states:</b> Counsel will submit settlement agreement per conversation. Status Hearing on 02/27/14, Courtcall allowed.</p>	
<input type="checkbox"/> <b>Aff.Sub.Wit.</b>		
<input type="checkbox"/> <b>Verified</b>		
<input type="checkbox"/> <b>Inventory</b>		
<input type="checkbox"/> <b>PTC</b>		
<input type="checkbox"/> <b>Not.Cred.</b>		
<input type="checkbox"/> <b>Notice of Hrg</b>		
<input type="checkbox"/> <b>Aff.Mail</b>		
<input type="checkbox"/> <b>Aff.Pub.</b>		
<input type="checkbox"/> <b>Sp.Ntc.</b>		
<input type="checkbox"/> <b>Pers.Serv.</b>		
<input type="checkbox"/> <b>Conf. Screen</b>		
<input type="checkbox"/> <b>Letters</b>		
<input type="checkbox"/> <b>Duties/Supp</b>		
<input type="checkbox"/> <b>Objections</b>		
<input type="checkbox"/> <b>Video Receipt</b>		
<input type="checkbox"/> <b>CI Report</b>		
<input type="checkbox"/> <b>9202</b>		
<input type="checkbox"/> <b>Order</b>		
<input type="checkbox"/> <b>Aff. Posting</b>		
<input type="checkbox"/> <b>Status Rpt</b>		
<input type="checkbox"/> <b>UCCJEA</b>		
<input type="checkbox"/> <b>Citation</b>		
<input type="checkbox"/> <b>FTB Notice</b>		
Continued on Page 2		

**Status Conference Statement of Petitioner Scott J. Worthington** filed 02/25/14 states:

1. A settlement conference was held in this matter on 01/13/14. The parties are to submit a settlement agreement, and are still working on that agreement. The Settlement agreement is to include, but is not limited to the following:
  - a. The appointment of a neutral successor trustee to administer the assets of the Trust. Bruce Bickel has agreed to act as the successor trustee for the trust.
  - b. The transfer of Bank of America Acct. ending in 3121, amounting to approximately \$211,000.00 (the sole asset of Fresno County Superior Court Case No. 13CEPR00336) into *The Worthington Family Grantor Trust dated 12/28/11* (the "Trust").
  - c. All assets of Trust, including the residence located at 22561 Auberry Road, Auberry, CA are to be administered for the benefit of Frederick A. Worthington.
  - d. The successor trustee is to select the contractor from the bids submitted to make the necessary repairs to the residence located at 22561 Auberry Road, Auberry, CA so that Frederick Worthington can live at the residence with in-home care. The costs of the repairs are to be paid out of the assets of the Trust.
  - e. Frederick Worthington will require in home care services while he resides at the residence located at 22561 Auberry Road, Auberry, CA. In home care services are to be provided on a 24-hour basis for seven days a week. Said in home care services are to be paid with any income earned by Frederick Worthington while he resides at the Auberry residence and out of the Trust.
  - f. The successor trustee shall select the in-home care provider to provide the in home care services required for Frederick Worthington.
  - g. Petitioner shall be responsible for moving Frederick Worthington into the Auberry residence once the necessary repairs have been made.
  - h. The successor trustee shall take possession of all tangible and intangible personal property of Frederick Worthington currently in the possession of petitioner and respondent and deliver said property to Frederick Worthington.
2. Although certain items of tangible personal property have been returned to Frederick Worthington by Respondent, Cynthia Schmidt, according to petitioner, Scott Worthington, the following items of tangible and intangible personal property have not been returned:
  - a. The *Certificate of Crossing the Equator*.
  - b. The Merchant Marine ring from WWII.
  - c. The matching rings worn by Frederick Worthington and his brother.
  - d. Celia Worthington's ashes.
  - e. The glass figurines that were on the fireplace mantle.
  - f. The family photo album of Frederick Worthington's family.
  - g. Some old plates in a wooden box.
  - h. Three butterfly trays.
  - i. A life insurance policy belonging to Frederick Worthington.
  - j. Military dog tags belonging to Frederick Worthington.
3. Petitioner is also concerned that Cynthia Schmidt has not accounted for or provided an explanation for the following:
  - a. Bank of America CD ending in 1508 held in the name of Celia Worthington and having a value of \$35,135.26 on 02/15/11, which Petitioner believes was not added to Bank of America Acct ending in 3121 and is not part of the approximately \$211,000.00 held in that account.
  - b. The status of the car owned by Frederick Worthington.

**7 Richard Michael Noroyan (Estate)**

**Case No. 13CEPR00542**

Atty Shafer, Claudia Y. (of Murphys, CA for Hugo Noroyan – father)  
 Atty Kruthers, Heather H. (for Public Administrator – Administrator)  
 Atty Motsenbocker, Gary L. (for Patricia English – mother/Objector)  
 Atty Keeler, William J. (for Ian Mitchinson – friend/Petitioner)

**Petition for Probate of Will and for Letters Testamentary; Authorization to Administer Under IAEA (Prob. C. 8002, 10450)**

<b>DOD: 03/28/13</b>	<b>IAN W. MITCHINSON</b> , friend, is Petitioner and requests appointment as Administrator with Will Annexed with bond set at (not stated).	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <p><b>Notes:</b> Father, Hugo Noroyan and Mother, Patricia English, both filed competing Petitions to be appointed as Administrator. On 08/19/13, the Court denied both petitions and appointed the Public Administrator. Letters of Administration were issued to the Public Administrator on 08/30/13.</p> <p>Status Hearing Report filed 09/30/13 by the Public Administrator attached the purported holographic will and requested that the Court determine its validity. The Public Administrator states that the Holographic will does not appear to be in the decedent's handwriting and points out other irregularities. The Will was deposited with the Court on 10/08/13 but has not been admitted to Probate.</p> <p>The Public Administrator filed a final Inventory &amp; Appraisal on 10/21/13 valuing the estate at \$974,961.00.</p> <ol style="list-style-type: none"> <li>The Public Administrator has already been appointed and is currently acting as Administrator in this matter.</li> <li>Petitioner is seeking to admit decedent's will to Probate, therefore, need proof of holographic instrument.</li> <li>The Petition is inconsistent regarding bond. It is marked at item 2(d) that bond be fixed, but no amount was specified. Attachment 3(d)(4) to the Petition states that the proposed administrator is the only heir to the estate and appears to be requesting that no bond be required. Need clarification.</li> <li>Need typed copy of the Will pursuant to Probate Code § 8002(b)(1).</li> <li>Need Letters.</li> </ol>
<b>Cont. from</b>	Full IAEA – OK	
<input type="checkbox"/> <b>Proof Holo Inst.</b>	x Holographic Will dated 11/02/12	
<input checked="" type="checkbox"/> <b>Verified</b>	Residence: Fresno	
<input type="checkbox"/> <b>Inventory</b>	Publication: The Business Journal	
<input type="checkbox"/> <b>PTC</b>	<b>Estimated Value of the Estate:</b>	
<input type="checkbox"/> <b>Not.Cred.</b>	Personal property - \$1,000,000.00	
<input checked="" type="checkbox"/> <b>Notice of Hrg</b>	Probate Referee: <b>STEVEN DIEBERT</b>	
<input checked="" type="checkbox"/> <b>Aff.Mail</b>	w/	
<input checked="" type="checkbox"/> <b>Aff.Pub.</b>		
<input type="checkbox"/> <b>Sp.Ntc.</b>	<b>Contest and Grounds of Objection to Probate of Purported Will</b> filed 02/21/14 by Patricia English (mother) states:	
<input type="checkbox"/> <b>Pers.Serv.</b>	<ol style="list-style-type: none"> <li>She has standing to contest and object to the purported because she is an intestate heir of the decedent.</li> <li>The alleged document proffered as decedent's will does not meet the statutorily prescribed validity requirements of the Probate Code for a will.</li> <li>Contestant alleges that the "will" is not, and never was, decedent's last will and testament and that at the time of its alleged execution, said execution was procured by fraud, duress and/or undue influence by Respondent, Ian W. Mitchinson. The Contestant alleges and contends that the latter portion of the document purported to be decedent's "will" was added without the decedent's knowledge or consent. Contestant is informed and believes that the decedent never intended to leave his estate or his "winnings" to the Ian Mitchinson.</li> </ol>	
<input checked="" type="checkbox"/> <b>Conf. Screen</b>		
<input type="checkbox"/> <b>Letters</b>	x	
<input checked="" type="checkbox"/> <b>Duties/Supp</b>		
<input checked="" type="checkbox"/> <b>Objections</b>		
<input type="checkbox"/> <b>Video Receipt</b>		
<input type="checkbox"/> <b>CI Report</b>		
<input type="checkbox"/> <b>9202</b>		
<input checked="" type="checkbox"/> <b>Order</b>		
<input type="checkbox"/> <b>Aff. Posting</b>		
<input type="checkbox"/> <b>Status Rpt</b>		
<input type="checkbox"/> <b>UCCJEA</b>		
<input type="checkbox"/> <b>Citation</b>		
<input type="checkbox"/> <b>FTB Notice</b>		
	<b>Continued on Page 2</b>	
	<b>Reviewed by:</b> JF	
	<b>Reviewed on:</b> 02/25/14	
	<b>Updates:</b>	
	<b>Recommendation:</b>	
	<b>File 7 – Noroyan</b>	

4. Contestant alleges that the "will" was not executed by the decedent and/or attested in the manner and in the form required by law for the due execution of a will.
5. Contestant alleges that on the date of the alleged execution of the "will", decedent lacked the requisite testamentary intent.
6. Contestant alleges that Respondent took unfair advantage of the Decedent; that Respondent arranged for the "witnessing" of the purported will; that the will was not the free and voluntary act of decedent; that the "will" was the product of Respondent's undue influence, duress and/or coercion that it unduly profited the Respondent.
7. Contestant alleges that the underlying agreement is invalid and unenforceable as it is against public policy agreement by its terms and that the agreement is "usurious" and that the express purpose of the loan is contrary to public policy in that it is a gambling related agreement or activity of gambling; and that such agreements are either expressly prohibited by law or are unenforceable as "otherwise contrary to good morals" which is in violation of the public policy of this state.
8. Contestant alleges that if the agreement and/or any provision of the agreement is in furtherance of a gambling related agreement or activity it is expressly and impliedly against public policy and that as such it is unenforceable; that the agreement by its terms is unconscionable and if enforced the Respondent would be unjustly enriched; that the Respondent would reap an undue profit; and that the disposition proposed by the instrument is unnatural.
9. Contestant alleges that the underlying debt was paid by the decedent, further that the note should have been returned to the decedent marked "paid in full"; and that pursuant to law all terms of the note were discharged upon the payment of debt; or in the alternative that the note and all obligations under the agreement were extinguished upon the payment of the underlying obligation.

**Objector/Contestant requests that this Court order that:**

1. The *Contest and Grounds of Objection to Probate of Purported Will* be allowed and approved as filed;
2. The purported "will" be denied admission to Probate;
3. The Petitioner's petition be denied in its entirety;
4. The petition be dismissed with prejudice;
5. The Contestant be awarded reasonable attorney's fees; and
6. The Contestant be awarded costs of the suit.



## Page 2

**Petitioner states:** Ian Kinsey is the Court-appointed conservator of the person and estate and has standing to bring this petition under Probate Code §3602(b). Anthony Kinsey is disabled due to an automobile accident in which he sustained severe head injuries at the age of five. As a result of these injuries, his cognitive function is impaired, affecting his ability to live independently and be employed. Petitioner is a SSI and Medi-Cal recipient as a result of his disability and must meet certain income and resource restrictions. Petitioner relies on Medi-Cal for all of his medical needs.

Description of claim: A personal injury lawsuit was threatened but never filed as the parties agreed to mediate the dispute. As a result of the mediation, a settlement was reached: The defendant's insurance company agreed to pay \$250,000.00 and the defendant agreed to pay \$100,000.00 of his own funds for a total settlement of \$350,000.00. Agreement attached. After payment of attorney's fees (which are in dispute), liens (which are being negotiated), and expenses from the settlement, Anthony Kinsey will receive approx. \$270,000.00.

If received outright, the lump sum would eliminate his continuing eligibility for SSI and Medi-Cal. The only way to preserve eligibility is via special needs trust, recognized under federal law as a "safe harbor" trust. The SNT is necessary to provide for Anthony's current and future needs while preserving his eligibility for public benefits.

Therefore, Petitioner requests an order of the Court that the settlement funds be paid to the trustee of the Anthony Kinsey Special Needs Trust pursuant to Probate Code §§3604, 3611. The proposed SNT complies with all federal and state law requirements including payback provision and Cal. Rules of Court 7.903. See petition and attached proposed trust for references.

Petitioner requests that the Court for good cause allow the funds to be placed into a blocked account and expand the trustee's investment powers beyond those in Probate Code §2574 to include authority to purchase mutual funds and US government bonds with maturity dates later than five years. Court authorization is necessary pursuant to Cal. Rules of Court 7.903(c)(4). Petitioner states investment in mutual funds permits investment across several asset classes, subclasses and sectors while avoiding high transaction costs. Because they are highly diversified, mutual funds are inherently less risky than individual securities in which a conservator may invest pursuant to code.

Petitioner requests that **IAN KINSEY**, Anthony's brother and conservator, be named as the initial trustee and shall be responsible for all investments and general management. Petitioner requests that no bond be required and instead the Court order that funds be deposited to a blocked account.

Petitioner also requests authorization to pay attorney Philip M. Flanigan fees of \$6,340.00 for legal services including consultation on public benefits, petitioning the Court for establishing a conservatorship of the person and this special needs trust, and costs of \$899.50 for filing and process server fees for a total of \$7,239.50.

**SEE ADDITIONAL PAGES**

Page 3

Petitioner prays that the Court make the following findings and order:

1. That all notices have been given as required by law;
2. That the Court establish the ANTHONY KINSEY SPECIAL NEEDS TRUST, the Petitioner is directed to execute it, and the Court has continuing jurisdiction over the ANTHONY KINSEY SPECIAL NEEDS TRUST;
3. That IAN KINSEY shall serve as initial trustee of the ANTHONY KINSEY SPECIAL NEEDS TRUST with no bond required although under the direction that funds be deposited into a blocked account;
4. That Petitioner ANTHONY KINSEY has a disability that substantially impairs his ability to provide for his own care or custody and constitutes a substantial handicap;
5. That Petitioner ANTHONY KINSEY is likely to have special needs that will not be met without the trust;
6. That money to be paid to the trust does not exceed the amount that appears reasonably necessary to meet ANTHONY KINSEY's special needs;
7. That payment of all monies due plaintiff ANTHONY KINSEY by and through his Conservator IAN KINSEY shall be paid to the trustee of the ANTHONY KINSEY SPECIAL NEEDS TRUST;
8. That any proceeds of the settlement award received by plaintiff's attorney before the hearing of this petition and deposited into the attorney's attorney/client trust account shall not be considered received by ANTHONY KINSEY for public benefit eligibility purposes;
9. That the assets of the trust are unavailable to the beneficiary and shall not constitute a resource for ANTHONY KINSEY's financial eligibility for Medi-Cal, SSI, regional center assistance, or any other program of public benefits;
10. That the trustee provide the Court with a biennial account and report beginning one year after the date of approval and every two years thereafter;
11. That the trustee is authorized to invest in mutual funds and in US government bonds with maturity dates later than five years;
12. That the Court approve and direct payment of \$6,340.00 to the attorney for services and \$899.50 for costs;
13. That such other and further orders be issued by the Court as it may deem just and proper.

SEE ADDITIONAL PAGES

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## NEEDS/PROBLEMS/COMMENTS (Cont'd):

3. Need clarification regarding investment in funds with maturity dates later than five years with regard to availability of funds for the beneficiary's current special needs in addition to future needs, if necessary.
4. The Court may require clarification as to the anticipated uses for the special needs trust funds. Major purchases will require Court approval.

For example, it is the Court's understanding that Anthony current resides in a group home setting. However, the trust at Section 2.03 indicates a desire to live in a private residence. Does the trust anticipate purchasing real property?

5. Petitioner requests the Court waive bond and instead deposit funds to a blocked account. However, bond is required pursuant to Probate Code §2320(c)(4) and Cal. Rules of Court 7.207. Based on receipt of \$270,000.00, bond including cost of recovery should be \$297,000.00 pursuant to Probate Code §2320(c)(4) and Cal. Rules of Court.

Note: Section 12.04 "Banking Powers" does not indicate blocked account. The Court may require further language clarifying blocking and court authorization for withdrawal.

6. Need itemization for attorney fees and costs. Cal. Rules of Court 7.751, Local Rule 7.17.
7. Attorney requests costs including process server fees. This is considered by the Court to be a cost of doing business and not reimbursable. Local Rule 7.17.
8. The trust at Section 2.05 supports the possible use of funds for the beneficiary's attendance at family activities such as reunions, vacations, or other family events. However, it also states: "*This also includes funds for family to visit Anthony Kinsey.*" The Court may require authority as to how travel expenses for non-beneficiaries can be included in a special needs trusts, and may strike this language.
9. The trust provides for the employment of an advocate for the benefit of Anthony Kinsey to provide advisement concerning his needs, rights, and entitlement to public benefits, and requests to establish a separate bank account for payments to the advocate. The Court may require clarification and language requiring blocking and Court approval of compensation for such advocate upon petition and itemization, and language requiring that this account be included in the biennial accounting for the SNT.
10. Many of the terms and language of the trust (for example at Section 12, 13) appear to be general terms for a typical family trust rather than for this special needs trust. The Court may require clarification or revision.
11. Need MC-355 Order to Deposit Funds into blocked account.
12. Need revised order based on the outcome of the hearing. Note that pursuant to Local Rules, the signature line should appear LAST (after the attachment of the trust).

Note: If granted, the Court will set status hearings as follows:

- Friday 4-25-14 for filing of bond or receipt for blocked account
- Friday 6-26-15 for filing of the first account

Atty Wright, Judith A., of Wright & Wright (for Petitioner Monika Smith)

Petition for Letters of Administration (Prob. C. 8002, 10450)

DOD: 6/19/2012		<p>NEEDS/PROBLEMS/COMMENTS:</p> <p><b>CONTINUED TO 3/27/2014</b></p> <p>Per Attorney request</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: LEG
		Reviewed on: 2/24/14
		Updates:
		Recommendation:
		File 9 – Smith

Petition to Determine Succession to Real Property (Prob. C. 13151)

<b>DOD: 01/18/2013</b>	<b>JASON D. SMITH</b> , son is petitioner.		<b>NEEDS/PROBLEMS/COMMENTS:</b>  1. Inventory and Appraisal was not signed by the Attorney pursuant to California Rules of Court rule 7.501(c).
	40 days since DOD		
	No other proceedings		
<b>Cont. from</b>	I&A - <b>\$115,000.00</b>		
<input type="checkbox"/> <b>Aff.Sub.Wit.</b>	Decedent died intestate		
<input checked="" type="checkbox"/> <b>Verified</b>	Petitioner requests Court determination that decedent's 100% interest in real property located at 6362 N. Fisher St. Fresno, Ca. pass to Jason D. Smith pursuant to intestate succession.		
<input checked="" type="checkbox"/> <b>Inventory</b>			
<input type="checkbox"/> <b>PTC</b>			
<input type="checkbox"/> <b>Not.Cred.</b>			
<input checked="" type="checkbox"/> <b>Notice of Hrg</b>			
<input checked="" type="checkbox"/> <b>Aff.Mail</b>	w/o		
<input type="checkbox"/> <b>Aff.Pub.</b>			
<input type="checkbox"/> <b>Sp.Ntc.</b>			
<input type="checkbox"/> <b>Pers.Serv.</b>			
<input type="checkbox"/> <b>Conf. Screen</b>			
<input type="checkbox"/> <b>Letters</b>			
<input type="checkbox"/> <b>Duties/Supp</b>			
<input type="checkbox"/> <b>Objections</b>			
<input type="checkbox"/> <b>Video Receipt</b>			
<input type="checkbox"/> <b>CI Report</b>			
<input type="checkbox"/> <b>9202</b>			
<input checked="" type="checkbox"/> <b>Order</b>			
<input type="checkbox"/> <b>Aff. Posting</b>			
<input type="checkbox"/> <b>Status Rpt</b>			
<input type="checkbox"/> <b>UCCJEA</b>			
<input type="checkbox"/> <b>Citation</b>			
<input type="checkbox"/> <b>FTB Notice</b>			
			<b>Reviewed by:</b> LV
			<b>Reviewed on:</b> 02/25/2014
			<b>Updates:</b>
			<b>Recommendation:</b>
			<b>File 10 – Smith</b>

Probate Status Hearing Re: Failure to File a First Account or Petition for Final Distribution [Prob. C. 12200, et seq.]

<p>DOD: 12-1-02</p> <hr/> <hr/> <hr/> <p>Cont from 041213, 062113, 092013, 120613</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr><td style="width: 15px;"> </td><td style="width: 100px;">Aff.Sub.Wit.</td><td style="width: 15px;"> </td></tr> <tr><td> </td><td>Verified</td><td> </td></tr> <tr><td> </td><td>Inventory</td><td> </td></tr> <tr><td> </td><td>PTC</td><td> </td></tr> <tr><td> </td><td>Not.Cred.</td><td> </td></tr> <tr><td> </td><td>Notice of Hrg</td><td> </td></tr> <tr><td> </td><td>Aff.Mail</td><td> </td></tr> <tr><td> </td><td>Aff.Pub.</td><td> </td></tr> <tr><td> </td><td>Sp.Ntc.</td><td> </td></tr> <tr><td> </td><td>Pers.Serv.</td><td> </td></tr> <tr><td> </td><td>Conf. Screen</td><td> </td></tr> <tr><td> </td><td>Letters</td><td> </td></tr> <tr><td> </td><td>Duties/Supp</td><td> </td></tr> <tr><td> </td><td>Objections</td><td> </td></tr> <tr><td> </td><td>Video Receipt</td><td> </td></tr> <tr><td> </td><td>CI Report</td><td> </td></tr> <tr><td> </td><td>9202</td><td> </td></tr> <tr><td> </td><td>Order</td><td> </td></tr> <tr><td> </td><td>Aff. Posting</td><td> </td></tr> <tr><td> </td><td>Status Rpt</td><td> </td></tr> <tr><td> </td><td>UCCJEA</td><td> </td></tr> <tr><td> </td><td>Citation</td><td> </td></tr> <tr><td> </td><td>FTB Notice</td><td> </td></tr> </table>		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><b>RICHARD ALLEN CANADA</b>, Son, was appointed Administrator with Full IAEA with bond of \$17,000.00 on 5-4-04.</p> <p>Bond of \$17,000.00 was filed and Letters issued on 5-7-04.</p> <p>Inventory and Appraisal filed 7-6-04 indicates a total estate value of \$90,000.00 consisting of real property located at 2365 South Lily in Fresno.</p> <p>On 2-25-13, Attorney C. Michael Farmer filed a Notice of Change of Address, which prompted review of the status of this case.</p> <p>On 3-1-13, the Court set status hearing for 4-12-13 for failure to file a first account or petition for final distribution.</p> <p>The matter was continued to 6-21-13. On that date, there were no appearances. The Court removed Mr. Canada and appointed the <b>FRESNO COUNTY PUBLIC ADMINISTRATOR</b>.</p> <p><b>Status Report filed 9-9-13 states</b> the Public Administrator has attempted to contact the former administrator by contacting his daughter and the attorney; however, has not been able to make contact. The former administrator's former attorney, C. Michael Farmer, reported that the former administrator may have distributed the proceeds from the sale of the house, the only asset, to him and his sister. If so, the surviving spouse did not receive her 1/3 share, and none of the several creditors were paid. The Public Administrator will continue to attempt to find the former administrator, and requests the Court set an Order to Show Cause requiring Mr. Canada to personally appear, and that this matter be set out for at least 60 days to allow time to investigate.</p>	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <p><u>Minute Order 4-12-13:</u> Counsel informs the Court that Mr. Canada has agreed to work with him with respect to this matter.</p> <p><u>Minute Order 6-21-13:</u> No appearances. The Court removes Richard Canada as the administrator and appoints the Public Administrator as the personal representative. Continued to 9-20-13.</p> <p><u>Minute Order 9-20-13:</u> Ms. Kruthers informs the Court that she will be filing a petition for surcharge and will provide notice to the bonding company at that time. The Court sets the matter for an Order to Show Cause on 12/6/13 regarding failure to appear and imposition of sanctions in the amount of \$500.00 as to Richard Canada. Richard Canada is ordered to be personally present on 12/6/13. Continued to: 12/6/13 at 09:00a.m. in Dept 303. Set on: 12/6/13 at 09:00a.m. in Dept 303 for: Order to Show Cause Re: Failure to Appear; Imposition of Sanctions in the Amount of \$500.00</p> <p><u>Minute Order 12-6-13:</u> Continued to 2-27-14</p> <ol style="list-style-type: none"> <li>1. Need first account or petition for final distribution or <u>current status report</u>.</li> <li>2. Need proof of service of Notice of Hearing with a copy of the status report on parties that have requested special notice pursuant to Probate Code §1252.</li> </ol> <p><b>Note:</b> The file indicates that the decedent left a spouse who relocated to Lapu Lapu City, Philippines, after the decedent's death, and two adult children, including the Administrator, who reside in Fresno.</p> <p><b>Note:</b> There have been numerous creditor's claims filed in this estate totaling \$11,748.70.</p> <p>Reviewed by: skc</p> <p>Reviewed on: 2-24-14</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 11A - Canada</p>
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Status Hearing Re: Filing of the Fourth Account

<b>Age: 13 years</b>	CAROLYN BATES-WELCH is Trustee	<b>NEEDS/PROBLEMS/COMMENTS:</b>
	The third account for the account period ending 12/31/12 was approved on 7/11/13.	
	<b>Current bond is \$250,000.00.</b>	1. <b>Need fourth account <u>or</u> current written status report</b> pursuant to Local Rule 7.5 which states in all matters set for status hearing verified status reports must be filed no later than 10 days before the hearing. Status Reports must comply with the applicable code requirements. Notice of the status hearing, together with a copy of the Status Report shall be served on all necessary parties.
<b>Cont. from</b>	<b>Minute Order dated 7/11/13</b> set this status hearing for the filing of the fourth account.	
<input type="checkbox"/> Aff.Sub.Wit.		
<input type="checkbox"/> Verified		
<input 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.		
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<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		
		<b>Reviewed by: KT</b>
		<b>Reviewed on: 2/25/14</b>
		<b>Updates:</b>
		<b>Recommendation:</b>
		<b>File 12 – Welch</b>