

Petition for Surcharge Against Former Administrator for Breach of Duty

DOD: 11/15/2002	PUBLIC ADMINISTRATOR , Successor Administrator, is petitioner.	NEEDS/PROBLEMS/
		COMMENTS:
Cont. from	Petitioner states: on June 21, 2007, the Court issued a minute order reading, "the court orders the Public Administrator is appointed...Personal Representative Christopher O'Neal is Removed."	
Aff.Sub.Wit.		
✓ Verified	The Court is respectfully referred to the PA's status report filed on 05/20/2014. Therein, the PA reported that she has been unable to make contact with any of the heirs, including the former administrator.	
Inventory		
PTC		
Not.Cred.		
✓ Notice of Hrg	On 03/29/2004, the former administrator filed a final Inventory and Appraisal showing the value of the estate to be \$145,000.00 consisting solely of real property. The PA was able to determine that Christopher O'Neal put the property in his name, took out a loan against it, and then lost the house to foreclosure. He used part of the loan proceeds to purchase a new pick up, which the PG was able to marshal and sell for \$16,400.00.	
✓ Aff.Mail		
Aff.Pub.		
Sp.Ntc.		
Pers.Serv.		
Conf. Screen		
Letters	Christopher O'Neal never filed an accounting with the Court or provided any documents to the PA as directed by the Court. Due to his breach of fiduciary duty as personal representative, he should be surcharged the full value of the estate, \$145,000.00, less the amount recovered, \$16,400, for a total surcharge of \$128,600.	
Duties/Supp		
Objections		
Video Receipt		
CI Report		
9202		
✓ Order	On 12/08/2003, proof of a \$50,000 bond was filed, as required by the Court. The bond company that issued it was Western Surety Company. Since it appears the PA will not be able to collect the judgment from Christopher O'Neal, he requests an order directing Western Surety Company, or the successor of that company, to pay the \$50,000 bond to the PA. Proper notice of this hearing will be given to the bond company.	
Aff. Posting	Wherefore, petitioner prays for an order that:	
Status Rpt	<ol style="list-style-type: none"> 1. The Court find Christopher O'Neal breached his fiduciary duty as personal representative of the above-named estate; 	Reviewed by: LV
UCCJEA	<ol style="list-style-type: none"> 2. The Court find that Christopher O'Neal's breach cost the estate the amount of \$128,600, and surcharge him that amount; 	Reviewed on: 03/11/2015
Citation	<ol style="list-style-type: none"> 3. The Court make an order that Western Surety Company, or any successor of that company, be ordered to pay the bond of \$50,000 to the PA; and 	Updates:
FTB Notice	<ol style="list-style-type: none"> 4. The Court make any other proper orders. 	Recommendation:
		File 1 – O'Neal
	Please see additional page for Objection	

Objection to Petition for an Order of Surcharge and Demand for Evidentiary Hearing After Completion of Discovery filed on 03/09/2015 by Attorney Timothy J. Tomlin for Western Surety Company states they object to the Petition for surcharge filed by the Fresno County Public Administrator and requests an evidentiary hearing be set in late 2015 to permit WSC sufficient time to defend the allegations raised in the petition.

WSC issued a \$50,000.00 fiduciary bond to secure the faithful performance of fiduciary Christopher O'Neal as administrator. As such, it may be jointly and severally liable for any defalcations committed by Mr. O'Neal. WSC is an "interested person" in this proceeding and is entitled to participate in discovery and otherwise defend the surcharge claim to minimize any potential exposure on the administrator bond.

WSC and the personal representative Christopher O'Neal are entitled to an evidentiary hearing on the allegations raised. Each of the categories of alleged misconduct and related issues must be fully explored prior to the imposition of any surcharge. Ultimately, a trial may have to be set if a settlement cannot be reached and evidence hearing on the allegations. The Court should afford WSC and Mr. O'Neal with an opportunity to defend the allegations. This prevents the injustice of binding the principal and the sureties to the consequences of a proceeding in which there has been an insufficient opportunity to engage in discovery, present evidence, and cross examine the witnesses.

For the foregoing reasons, WSC requests that the Court set an evidentiary hearing with a time estimate of three (3) days for a date in August, 2015.

Notice of Motion to Expunge Notice of Pendency of Action from Record

Age:		NEEDS/PROBLEMS/COMMENTS: <p style="text-align: center;"><u>OFF CALENDAR</u> Request for Dismissal filed by Petitioner on 03/10/15</p>
DOD:		
Cont. from		
Aff.Sub.Wit.		
Verified		
Inventory		
PTC		
Not.Cred.		
Notice of Hrg		
Aff.Mail		
Aff.Pub.		
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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: 03/11/15
		Updates:
		Recommendation:
		File 2 – O'Hannesian

3A In the Matter of the Verni Family Trust

Case No. 10CEPR00639

Atty Marchini, Joseph; Fashing, Peter; of Baker Manock & Jensen (for Petitioner Carmela DeSantis, daughter and Trust Beneficiary)
Atty Baldwin, Kenneth A.; Thompson, Timothy; Cunningham, Nikole; of McCormick Barstow (for Co-Trustees Antonietta "Rosa" Verni, daughter, and Nicola "Nick" Verni, son)
Atty Phillips, John, of Wild, Carter & Tipton (for Leonard "Dino" Verni, son)
Atty Childs, Jerry; Bohn, Jeffrey D., sole practitioner (for Erlinda M. Verni, surviving spouse)

Status Hearing

Leonarda DOD: 7/31/2000	<p>CARMELA DeSANTIS, daughter and Trust Beneficiary, filed the following pleadings in this matter:</p> <ul style="list-style-type: none"> <i>Petition to Remove Trustees; Appoint Receiver; Surcharge Trustees; Deny Trustees Compensation; Impose Constructive Trust on Assets; and Cause Proceedings to Trace and Recover Assets on 7/26/2012.</i> <i>Amended Objections to First Account Current of Trustee, and Objections to Second Account Current of Trustee on 7/26/2012.</i> <i>Petition to Construe Trust Provision on 7/26/2012.</i> <i>Petition to Establish Claim of Ownership, in Favor of Trust, to Property and for Order Directing its Transfer to the Trustees to Hold in Trust on 8/14/2012.</i> <p>NICOLA "NICK" VERNI, son and Successor Trustee of the SURVIVOR'S TRUST, and ANTONIIETA "ROSA" VERNI, daughter and Trustee of the MERGED FAMILY SUB-TRUST, filed the following pleadings in this matter (<i>pending</i>):</p> <ul style="list-style-type: none"> <i>Response to Petition to Remove Trustees, etc. on 9/27/2012.</i> <i>Response to Petition to Construe Trust Provision on 9/27/2012.</i> <i>Response to Petition to Establish Claim of Ownership on 9/27/2012.</i> <p>Petitioner Carmela DeSantis' Status Report [filed by Attorney Joseph Marchini] on 3/2/2015 states, in sum:</p> <ul style="list-style-type: none"> The Trustees have provided, but not filed with the Court, accountings for 2011 and 2012; Petitioner filed Objections on 9/25/2013, and served them on 10/8/2013; the Trustees have provided, but not filed with the Court, an accounting for 2013; Petitioner anticipates an objection will be filed soon; Petitioner requests Trustees to advise when the accounting for 2014 operations will be available. Petitioner has deposed numerous produce buyers who engaged in transactions posted to the disputed accountings; the depositions of the accountants who prepared the accounts are still to be taken. On 8/4/2014, the Court issued its <i>Statement of Decision</i>; The Notice of Entry of Judgment was served 11/26/2014; <i>Notice of Appeal</i> was filed [by Carmela DeSantis] 1/23/2015; the appeal is pending. 	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>Page 4B is the <i>Petition to Remove Trustees, etc.</i></p> <p>Page 4C is the <i>Petition to Construe Trust Provision.</i></p> <p>Page 4D is the <i>Petition to Establish Claim of Ownership in Favor of Trust to Property, etc.</i></p> <p>Page 4E is the <i>Petition for Review of Accounts and Acts of Trustees.</i></p> <p>Note: Minute Order dated 9/15/2014 from the last <i>Status Hearing</i> states matter continued to 3/16/2015.</p>
Saverio DOD: 5/25/2009		
Cont. from 032114, 053014,080414, 091514		
Aff.Sub.Wit.		
✓ Verified		
Inventory		
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✓ Status Rep.		
Notice of Hrg		
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CI Report		
9202		
Order		
Aff. Posting		
Status Rpt		
UCCJEA		
Citation		
FTB Notice		
	<p>Reviewed by: LEG</p> <p>Reviewed on: 3/11/15</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 3A – Verni</p>	

3B In the Matter of the Verni Family Trust (Trust) Case No. 10CEPR00639

Atty Marchini, Joseph; Fashing, Peter; of Baker Manock & Jensen (for Petitioner Carmela DeSantis, daughter and Trust Beneficiary)
Atty Baldwin, Kenneth A.; Thompson, Timothy; Cunningham, Nikole; of McCormick Barstow (for Co-Trustees Antonietta "Rosa" Verni, daughter, and Nicola "Nick" Verni, son)
Atty Armo, Lance, sole practitioner (for Leonard "Dino" Verni, son)
Atty Childs, Jerry; Bohn, Jeffrey D., sole practitioner (for Erlinda M. Verni, surviving spouse)

Petition to: (1) Remove Trustees; (2) Appoint Receiver; (3) Surcharge Trustees; (4) Deny Trustees Compensation; (5) Impose Constructive Trust on Assets; and (6) Cause Proceedings to Trace and Recover Assets [Prob. C. 15642, 16420 & 17200]

Leonarda DOD: 7/31/2000	<p>CARMELA DeSANTIS, daughter and Trust Beneficiary, is Petitioner. Petitioner states:</p> <ul style="list-style-type: none"> The VERNI FAMILY TRUST of 1999 was created by SAVERIO VERNI and LEONARDA VERNI on 6/10/1999, and was amended once by Settlor on the following day, 6/11/1999; Leonarda died on 7/31/2000, thereby causing the Trust to be divided into three sub-trusts: the VERNI MARITAL TRUST, the VERNI FAMILY TRUST, (which was amended once during both Trustors' lifetimes), and the VERNI SURVIVOR'S TRUST (copies of Trusts attached as Exhibit A); following Leonarda's death, Saverio amended the SURVIVOR'S TRUST seven times, with the <i>Eighth Amendment</i> (the final) amending the SURVIVOR'S TRUST in its entirety; Saverio served as sole trustee of the three sub-trusts until his death on 5/25/2009, and upon his death the Marital Sub-Trust terminated and its principal was added to the Family sub-trust, which became the MERGED FAMILY SUB-TRUST; Pursuant to the Trust terms, ANTONIETTA ROSA VERNI, daughter, is first appointed and currently serves as Successor Trustee of the Merged Family Sub-Trust; pursuant to the <i>Eighth Amendment</i> to Trust, NICOLA VERNI, son, is first appointed and currently serves as Successor Trustee of the SURVIVOR'S TRUST; The beneficiaries of each of the Sub-Trusts are the Settlor's five children: ANTONIETTA ROSA VERNI (Rosa), NICOLA VERNI (Nick), LEONARD VERNI (Dino), MARIA STANZIALE, and CARMELA DeSANTIS (Petitioner); and specific distributions from the Survivor's Sub-Trust are to ERLINDA MARCIANO VERNI (\$200,000.00) and ST. ANTHONY OF PADUA CATHOLIC CHURCH (\$200,000.00); Following the death of Saverio and Leonarda, the Merged Family Sub-Trust names Rosa as First Successor Appointee, and Maria as Second Successor Appointee; Eighth Amendment provides that upon Saverio's ceasing to act as trustee, Nick will serve as trustee of the Survivor's Sub-Trust; Petitioner seeks a Court order pursuant to Probate Code § 15642 removing Rosa as trustee of the Merged Family Sub-Trust, and removing Nick as trustee of the Survivor's Sub-Trust; Petitioner also seeks a determination by the Court that Dino is not qualified to serve as next successor trustee of the Survivor's Sub-Trust. 	NEEDS/PROBLEMS/COMMENTS:	
Saverio DOD: 5/25/2009			Note: Minute Order dated 9/15/2014 from the last Status Hearing states matter continued to 3/16/2015 .
			Note: Additional notes pages originally prepared with respect to this petition have been omitted.
Conf. from 091112, 100212, 120512, 010313, 022113, 032213, 052413, 062113, 062813, 083013, 092713, 103013, 120613, 012714, 032114, 053014, 080414, 091514			
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<input type="checkbox"/> CI Report			
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<input type="checkbox"/> UCCJEA			
<input type="checkbox"/> Citation			
<input type="checkbox"/> FTB Notice			
		Reviewed by: LEG	
		Reviewed on: 3/11/15	
		Updates:	
		Recommendation	
		File 3B - Verni	

3C In the Matter of the Verni Family Trust (Trust) Case No. 10CEPR00639

Atty Marchini, Joseph; Fashing, Peter; of Baker Manock & Jensen (for Petitioner Carmela DeSantis, daughter and Trust Beneficiary)
Atty Baldwin, Kenneth A.; Thompson, Timothy; Cunningham, Nikole; of McCormick Barstow (for Co-Trustees Antonietta "Rosa" Verni, daughter, and Nicola "Nick" Verni, son)
Atty Phillips, John, of Wild, Carter & Tipton (for Leonard "Dino" Verni, son)
Atty Childs, Jerry; Bohn, Jeffrey D., sole practitioner (for Erlinda M. Verni, surviving spouse)

Petition to Construe Trust Provision [Prob. C. 17200]

<p>Leonarda DOD: 7/31/2000</p> <p>Saverio DOD: 5/25/2009</p> <p>Cont. from 100212, 120512, 010313, 022113, 032213, 052413, 062113, 062813, 083013, 092713, 103013, 120613, 012714, 032114, 053014,080414, 091514</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr><td style="width: 10px;"></td><td style="width: 100px;">Aff.Sub.W</td><td style="width: 10px;"></td></tr> <tr><td style="text-align: center;">✓</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 style="text-align: center;">✓</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/S</td><td></td></tr> <tr><td></td><td>Objectn</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 style="text-align: center;">✓</td><td>Order</td><td></td></tr> <tr><td></td><td>Aff. Post</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 Notc</td><td></td></tr> </table>		Aff.Sub.W		✓	Verified			Inventory			PTC			Not.Cred.			Notice of Hrg			Aff.Mail			Aff.Pub.			Sp.Ntc.		✓	Pers.Serv.			Conf. Screen			Letters			Duties/S			Objectn			Video Receipt			CI Report			9202		✓	Order			Aff. Post			Status Rpt			UCCJEA			Citation			FTB Notc		<p>CARMELA DeSANTIS, daughter and Trust Beneficiary, is Petitioner.</p> <p>Petitioner states:</p> <ul style="list-style-type: none"> The VERNI FAMILY TRUST of 1999 was created by SAVERIO VERNI and LEONARDA VERNI on 6/10/1999, and was amended once by Settlor on the following day, 6/11/1999; Leonarda died on 7/31/2000, thereby causing the Trust to be divided into three sub-trusts: the VERNI MARITAL TRUST, the VERNI FAMILY TRUST, (which was amended once during both Trustors' lifetimes), and the VERNI SURVIVOR'S TRUST (copies of Trusts attached as Exhibit A); The instant petition relates to a provision contained in the SURVIVOR'S SUB-TRUST; over Petitioner's objections, Trustees Nick and Rosa have provided a commingled accounting for the Merged Family and Survivor's Sub-Trusts, which fails to segregate each Sub-Trust's assets, liabilities, receipts and disbursements; The failure to appropriately segregate assets, liabilities, receipts and disbursements among the Sub-Trusts prevents the Court, trustee and beneficiaries from determining the size and holdings of the SURVIVOR'S SUB-TRUST; because the SURVIVOR'S SUB-TRUST will be used to fund the above-referenced equalization provision, any appropriate increase in size to that particular Sub-Trust will allow greater realization of the Trustor's intent and will provide a means for effectuating the equalization of prior distributions; conversely, any inappropriate decrease in the size of the SURVIVOR'S SUB-TRUST will undermine the Trustor's intent and deny the Trustee the ability to effectuate an equalization; The Trustee of the SURVIVOR'S SUB-TRUST believes that distributions made during Saverio's lifetime should not be considered for purposes of the equalization process; Petitioner believes this to be contrary to the language of the provision and intent of the Trustor. <p>Petitioner requests a judicial declaration from the Court concerning the proper construction of Subsection 1, of Section B, or Article IV of the SURVIVOR'S SUB-TRUST [refer to copy of Trust or Paragraph 11 of Petition for exact language requiring apportionment of the residue of the trust estate into equal shares for Trustor's living children.]</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>Note: Minute Order dated 9/15/2014 from the last Status Hearing states matter continued to 3/16/2015.</p> <p>Note: Additional notes pages originally prepared with respect to this petition have been omitted.</p>
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3D In the Matter of the Verni Family Trust (Trust) Case No. 10CEPR00639

Atty Marchini, Joseph; Fashing, Peter; of Baker Manock & Jensen (for Petitioner Carmela DeSantis, daughter and Trust Beneficiary)
Atty Baldwin, Kenneth A.; Thompson, Timothy; Cunningham, Nikole; of McCormick Barstow (for Co-Trustees Antonietta "Rosa" Verni, daughter, and Nicola "Nick" Verni, son)
Atty Phillips, John, of Wild, Carter & Tipton (for Leonard "Dino" Verni, son)
Atty Childs, Jerry; Bohn, Jeffrey D., sole practitioner (for Erlinda M. Verni, surviving spouse)

Petition to Establish Claim of Ownership, in Favor of Trust, to Property and for Order Directing its Transfer to the Trustees to Hold in Trust (Prob. C. 850, 17200.1)

Leonarda DOD: 7/31/2000	<p>CARMELA DeSANTIS, daughter and Trust Beneficiary, is Petitioner.</p> <p>Summary of Petitioner's requests for specific relief:</p> <ol style="list-style-type: none"> Determining that the following is property of the Trust estate: <ol style="list-style-type: none"> Almond crops: (i) The almond meat inventory on hand at the date of Saverio's death; (ii) all almond crops grown on Trust land since Saverio's death; and (iii) proceeds from the sale of the almond inventory and crops; Olive crops: (i) The olive oil, olive crop and olive inventory on hand at the date of Saverio's death; (ii) all olive crops grown on Trust land since Saverio's death; and (iii) proceeds from the sale of the olive oil, inventory and crops; Other crops (Stone Fruit, Grapes, Etc.): (i) The inventory of other crop grown on Trust land, on hand at the time of Saverio's death but not reported in the Trustee's First Account; (ii) all such crops grown on Trust land since Saverio's death and during 2009; and (iii) proceeds from the sale of the inventory and crops; Other Inventory on Hand: (i) The inventory of firewood and olive oil on hand at the time of Saverio's death but not reported in the Trustee's First Account; (ii) all such items produced from products grown on Trust land since Saverio's death and during 2009; [and (iii) proceeds from the sale of the other inventory;] Proceeds from Sale of Trust Real Property: The money received by Nick and Dino from DeYoung Properties in connection with the option to purchase land and used by DeYoung Properties to actually purchase Trust land which sum is believed to be not less than \$1,000,000.00; Directing each of the beneficiaries in possession or holding the property to transfer such property to the Trustees to hold for the benefit of the Trust and the appropriate Sub-Trust(s); Directing each of the beneficiaries in possession or holding any proceeds from the sale or exchange of any of the property to transfer such proceeds to the Trustees to hold for the benefit of the Trust and the appropriate Sub-Trust(s); For judgment in favor of the Trustees of the Trust against any beneficiary who received the Trust property and proceeds, in an amount to be determined and as required to compensate for all of the detriment and damages cause to the Trust; and For treble damages pursuant to Probate Code § 859. 	NEEDS/PROBLEMS/ COMMENTS:
Saverio DOD: 5/25/2009		<p>Note: Minute Order dated 9/15/2014 from the last Status Hearing states matter continued to 3/16/2015.</p>
Cont. from 100212, 120512, 010313, 022113, 032213, 062113, 062813, 083013, 092713, 103013, 120613, 012714, 032114, 053014, 080414		<p>Note: Additional notes pages originally prepared with respect to this petition have been omitted.</p>
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UCCJEA		
Citation		
FTB Notice		
		Reviewed by: LEG
		Reviewed on: 3/11/1
		Updates:
		Recommendation:
		File 3D - Verni

3E In the Matter of the Verni Family Trust (Trust)

Case No. 10CEPR00639

Atty Marchini, Joseph; Fashing, Peter; of Baker Manock & Jensen (for Petitioner Carmela DeSantis, daughter and Trust Beneficiary)
Atty Baldwin, Kenneth A.; Thompson, Timothy; Cunningham, Nikole; of McCormick Barstow (for Co-Trustees Antonietta "Rosa" Verni, daughter, and Nicola "Nick" Verni, son)
Atty Phillips, John, of Wild, Carter & Tipton (for Leonard "Dino" Verni, son)
Atty Childs, Jerry; Bohn, Jeffrey D., sole practitioner (for Erlinda M. Verni, surviving spouse)

Petition for Review of Accounts and Acts of Trustees [Prob. C. 16063(a)(5); 17200(b)(5)]

Leonarda DOD: 7/31/2000	<p>CARMELA DeSANTIS, daughter and Trust Beneficiary, is Petitioner.</p> <p>Summary of Petitioner's requests in the Prayer for Relief:</p> <ul style="list-style-type: none"> • That each of the Second, Third, and Fourth Accounts Current submitted to Petitioner by the Co-Trustees be disallowed; • That the Co-Trustees, and each of them, be ordered to compensate the estate for any loss caused by their acts and omissions; • That the Trustees be directed to prepare and file a true and full account of their acts and proceedings within such time as may be allowed by this Court; and • That Petitioner be reimbursed attorney's fees and costs. <p>Petitioner states the following in support of the requests for relief:</p> <p>Accounts Provided by the Trustees</p> <ul style="list-style-type: none"> • On or about 8/26/2010, the Co-Trustees, Rosa and Nick Verni, filed a <i>First Account Current and Report of Trustees and Petition for its Settlement</i>; • On 10/5/2010, Petitioner filed written objections to the <i>First Account Current</i> based on, among other things, the limited scope of the Account, the Trustees' failure to render separate accountings for each Sub-Trust, the failure to provide information pertaining to transactions involving the Trustees, as well as with respect to various farming operations being managed by the Trustees on behalf of the Trust; • At Petitioner's request, the Trustees provided Petitioner with a <i>Second Account Current</i>, covering the period of 1/1/2010 through 12/31/2010; 	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>Note: Minute Order dated 9/15/2014 from the last Status Hearing states matter continued to 3/16/2015.</p> <p>Note: Petitioner's prayer requests the Court disallow the accounts. Petitioner requests in the body of the <i>Petition</i> that the Court review the Second, Third and Fourth Accounts, but because the subject accounts have not been filed with the Court by the Co-Trustees as the fiduciaries, the accounts have not been reviewed by the Court.</p> <p>Note: Additional notes pages originally prepared with respect to this petition have been omitted.</p>	
Saverio DOD: 5/25/2009			
Cont. from 120613, 012714, 032114, 053014, 080414, 091514			
Aff.Sub.Wit.			
✓ Verified			
Inventory			
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Notice of Hrg			X
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CI Report			
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Order			X
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Status Rpt			
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Citation			
FTB Notice			
Reviewed by: LEG			
Reviewed on: 3/11/15			
Updates:			
Recommendation:			
File 3E – Verni			

4 Dorothy Jean Smith (CONS/PE)

Case No. 12CEPR00452

Atty Kruthers, Heather H. (for Public Guardian – Conservator of the Estate/Petitioner)

(1) First and Final Account and Report of Conservator; (2) Petition for Allowance of Compensation to Conservator and his Attorney; and (3) Distribution

DOD: 10/18/12		PUBLIC ADMINISTRATOR , Conservator of the Estate, is Petitioner.	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>CONTINUED FROM 02/09/15 Minute Order from 02/09/15 states: Ms. Amador states 45 days is necessary for the Public Guardian to issue subpoena's regarding the missing monies.</p>
		Account period: 06/26/12 – 10/18/12	
		Accounting - \$733,869.23 Beginning POH - \$655,215.93 Ending POH - \$578,727.55	
Cont. from 042414, 052714, 062414, 072114, 092214, 102714, 121514, 020915		Subsequent account period: 10/19/12 – 02/20/14	
<input type="checkbox"/>	Aff.Sub.Wit.	Accounting - \$728,711.54 Beginning POH - \$578,727.55 Ending POH - \$605,382.95 (\$62,645.20 is cash)	
<input checked="" type="checkbox"/>	Verified	Conservator - \$7,482.62 (26.09 staff hours @ \$76/hr. and 57.29 deputy hours @ \$96/hr.)	
<input type="checkbox"/>	Inventory	Attorney - \$2,500.00 (ok per Local Rule)	
<input type="checkbox"/>	PTC	Bond fee - \$769.44 (ok)	
<input type="checkbox"/>	Not.Cred.	Costs - \$539.00 (filing fees and certified copies)	
<input checked="" type="checkbox"/>	Notice of Hrg	Petitioner states that the conservatee has a trust and her assets will pass to that trust. Michael Smith, conservatee's son, is the trustee of her trust. Petitioner requests distribution of the remaining cash of \$51,354.17 and personal and real property be made to her son, in his capacity as trustee of her trust.	
<input checked="" 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"/>	2620	Petitioner prays for an Order:	
<input checked="" type="checkbox"/>	Order	1. Finding that the conservatorship of the person and estate terminated on 10/18/12, the conservatee's date of death;	
<input type="checkbox"/>	Aff. Posting	2. Approving, allowing and settling the first and final account;	
<input type="checkbox"/>	Status Rpt	3. Authorizing the conservator and attorney fees and commissions;	
<input type="checkbox"/>	UCCJEA	4. Authorizing payment of the bond fee and costs; and	
<input type="checkbox"/>	Citation	5. Authorizing distribution of the balance of property as stated in the Petition (and above).	
<input type="checkbox"/>	FTB Notice		
		Continued on Page 2	
		Reviewed by: JF	
		Reviewed on: 03/10/15	
		Updates:	
		Recommendation:	
		File 4 – Smith	

Objection to First and Final Account and Report of Conservator and Petition for Distribution filed 04/22/14 by Mike (Butch) Smith, Jr. states:

1. The Petition for Distribution requests to distribute the remaining assets of the conservatorship estate to the conservatee's trust – to Michael Smith, as trustee of that Trust.
2. Petitioner reports that the conservatorship estate is holding cash assets in the amount of \$62,645.29 and other non-cash assets.
3. Objecting party alleges that the Jean Smith conservatorship estate owes Ben Smith (conservatee's husband) \$116,398.12 [itemization and reasoning provided].
4. Objector further alleges that the conservatee owes \$6,203.99 to the State of California for the 2011 tax year and states this should be cleared before distribution of the conservatorship estate.

Declaration of Randolph Krbecek Regarding Status Hearing filed 12/10/14 states: The Conservatee's husband, Ben Smith, was also subject to conservatorship in Fresno County. Mr. Smith died on 06/28/14. According to the records provided by the Public Guardian, the conservatorship estate of Ben Smith has made payments to Gary Istanboulian, CPA for tax services for both conservatorship estates. This conservatorship is not ready to be closed because 2012 tax returns have not been completed. Likewise, the 2012 and 2013 tax returns have not been completed for Ben Smith's conservatorship estate. In November, 2014 Mike (Butch) Smith, was asked to provide 1099's for Ben Smith's trust assets, which were delivered to the Public Guardian on 12/03/14. Another problem that has come to their attention is regarding a promissory note payable by Mahill Farms. The Public Guardian collected payments for 2012, 2013 and 2014 and deposited all of the funds into the Jean Smith conservatorship estate totaling \$146,941.20. The Mahill Farms note was not community property, but was payable to Jean and Ben Smith as joint tenants. Jean Smith died before the end of 2012, such that the 2013 and 2014 payments should go entirely to the Ben Smith conservatorship estate. The Public Guardian transferred \$88,980.40 to Ben Smith's conservatorship estate and Mr. Krbecek calculates that another \$33,470.60 is still owed to his estate. Despite written requests, the owing sum has not been transferred.

Declaration of Michael H. Smith, Sr. filed 12/12/14 states: he was the original petitioner in this conservatorship matter as Dorothy Smith is his mother. Upon being appointed, the Public Guardian (PG) began identifying and marshal estate assets. In this care, assets included community property assets belonging to Conservatee and her husband, Ben Smith. At the time the PG was appointed, Ben had delegated responsibility for management of his estate, including his interest in community property assets by a power of attorney to his grandson, Michael H. Smith, Jr. ("Butch"). Ben suffered from dementia and was unable to manage his own affairs at that time. In usual circumstances, the spouse of a conserved person will manage community property assets owned by the Conservatee, however the statute addressing these circumstances doesn't allow a 3rd person to do so under a power of attorney. Therefore, the PG sought and obtained an Order from the Court permitting their office to marshal and manage all community property assets belonging to Conservatee and her spouse. Ben was subsequently conserved also with the PG service as Conservator of his person and estate, although Butch continued to manage certain separate property assets belonging to my father. These assets were held in a Trust with Butch named as trustee. Declarant states that he has consistently worked with the PG to collect and provide the information they need, but Butch has better access to Ben's financial records and has personal knowledge of numerous acts he took on Ben's behalf.

Continued on Page 3

The PG has been attempting to complete the final account and obtain approval of a Petition for distribution of Conservatee's assets pursuant to her estate plan since March 2014. After objections were lodged to this petition, an extensive review and analysis of the account, including credits and debits owed between Conservatee's estate and Ben's estate followed. Declarant is aware that certain significant community funds belonging to Conservatee and Ben were not accounted for. Namely, Ben sold a cattle operation, which was a community asset, in late 2009 or early 2010. Prior to succumbing to dementia, Conservatee indicated that she had not been informed by either Ben or Butch about what had happened to the proceeds of the sale, although she repeatedly asked for the information. Declarant states that he knows that the proceeds of the sale of the business were delivered to Butch who was acting under his power of attorney. Further, declarant states that there were 2 separate checks made out either to Ben alone or Ben and Dorothy together both in excess of \$50,000.00 and both were delivered to Butch. Shortly after the sale, a Trust was ostensibly set up by Ben for the benefit of Butch, naming Butch as trustee. Declarant states that Butch has substantial cash assets in this trust. The PG needs to marshal this asset and divide it appropriately between Ben and Dorothy's respective conservatorship accounts. Requests for information have been made to Butch's attorney but no response has been received. Despite frequent request from the PG's office, Butch has failed or refused to provide any information regarding the source of the funds ostensibly used by Ben to set up the trust in Butch's name. It is quite possible that community funds were inappropriately used to fund the trust without Dorothy's agreement or knowledge. It is also possible that Butch abused his position as Ben's agent under the power of attorney by directing funds belonging to both Ben and Dorothy for his own benefit.

Declarant and his brother are the sole beneficiaries of Dorothy's estate and have been waiting 2 years for distribution of her estate to occur. Declarant requests that the Court direct Butch and/or his attorney to provide the requested information to the PG without further delay so the final account can be completed and the Petition for Distribution can be addressed by the Court.

Declaration of Randolph Krbechek Regarding Status Hearing filed 02/03/15 states: On 12/03/14, the Public Guardian provided tax returns for the 2010 and 2011 tax years, included with the returns was an amendment and notes. The Jean Smith Conservatorship estate is not ready to be closed because the 2012 income tax returns have not been completed.

Declaration of Mike "Butch" Smith, Jr. regarding Cattle Payments filed 02/03/15 states: at the last hearing on 12/15/14, Judge Hamlin ordered Mike "Butch" Smith, Jr. (Declarant) to provide counsel all information regarding payments received from the sale of the cattle. Butch states that he does not have any documents reflecting any payments received from the sale of his grandparents' cattle. Mike Smith, Sr. claims that one cattle payment was made by Western Stockman's Market and that a second cattle payment was made by Harris Feeding Company and Cattle Sales. Butch states that he recalls that there were two payments and both checks were delivered to Ben Smith to deposit. He does not know what happened to the checks after they were delivered to Ben. He did not receive any of the proceeds from the sale of the cattle. All documentation regarding the cattle checks was taken from the house by Mike Smith, Sr. Butch states that he does have documentation regarding the January 2010 payment on the Mahill note that was a joint asset of Ben and Jean Smith until her death. Butch provides a scanned copy of a deposit slip for \$48,980.40 which Ben Smith deposited on 01/06/10 at 9:11 am. Butch states that Mike Smith, Sr. received \$51,000.00 from Ben Smith's account immediately thereafter and provides a scanned copy of a deposit slip. Butch states that he remembers the day that Ben made this deposit and alleges that Mike Smith, Sr., took Ben to the bank to make the deposit and transfer. Later that evening Ben told Butch that he was missing some money and provided him copies of the bank slips. When they contacted Mike Smith, Sr. regarding the transaction he stated that Dorothy Jean Smith (conservatee) had requested that the transaction take place. Butch alleges that Mike Smith, Sr. absconded with \$51,000.00 from Ben Smith's account. This information has been submitted to the Public Guardian, but nothing has been done to recover this money for the benefit of Ben Smith.

Continued on Page 4

Status Report Regarding Non-Cooperation of Grandson filed 02/03/15 states: the minute order from the last hearing on 12/15/14 ordered Michael Smith, Jr. ("Butch") to provide counsel all information regarding payments received from the sale of cattle. It is unknown if Butch provided the information to his counsel, but the information has not been given to the Public Guardian. A reminder and additional request was sent to Mr. Krbechek on 01/21/15. No response was received. The public guardian has provided the tax returns for years 2010 and 2011 to Mr. Krbechek and he has told him that the returns for 2012 and 2013 are not yet complete and cannot be completed until Butch provides the information that he was ordered to provide. It is anticipated that rather than provide the information or an explanation as to why he has not, Mr. Krbechek will again deflect any responsibility from his client for failing to provide the information. This really is so simple. Butch needs to provide his attorney, who in turn needs to provide an explanation of the whereabouts or expenditure of funds as ordered by the court, with this information this matter can be resolved.

Declaration of Catherine A. Amador Re: Request to Conservator to Retain Funds in Conservatee's Account filed 02/06/15 states: In December 2014, the Court ordered Butch to produce certain specific financial information regarding the amount and disposition of the proceeds from the 2010 sale of the community property cattle operation. This information is required to complete tax returns for both Dorothy and Ben Smith. It is also required so that the Public Guardian can determine the appropriate distribution of funds from the Conservatorship estate of Ben Smith, including payments owed to the Conservatorship estate of Dorothy Smith. Declarant states that the proceeds from the sale of the cattle operation were received and retained by Butch, ostensibly on behalf of Ben. It is necessary to determine the amount of the sale proceeds and to account for any amount owed to Dorothy's estate before either estate can be distributed to their respective heirs. The Public Guardian received the final payment on a note owed to Ben Smith in the amount of \$48,000 in December 2014. Declarant requested that the Public Guardian retain these funds in Ben's Conservatorship account to ensure that adequate funds remain in his Conservatorship account to pay Dorothy's estate her share of the proceeds from the cattle operation sale. To the best of Declarant's knowledge, Butch has not yet provided the information ordered by the Court. Status of the ordered information has been requested at least twice of Butch's counsel without a reply.

5 Cynthia Carla Chavez (CONS/PE)

Case No. 12CEPR00809

Atty Amador, Catherine A (for former Conservators of the estate and current conservators of the person Manuel Chavez and Susan Chavez-Leon)

Atty Kruthers, Heather (for current Conservator of the estate, Public Guardian)

Fifth Amended First Account and Report of Conservators; Petition for Allowance of Fees to Attorney for Conservators

		MANUEL CHAVEZ , father, and SUSAN CHAVEZ-LEON , sister, Co-Conservators of the Person and Estate, are Petitioners.	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>Note: Manual Chavez and Susan Chavez-Leon were removed as Co-Conservators of the Estate and the Public Guardian appointed by minute order dated 12/11/15.</p> <p>Continued from 2/9/15. As of 3/11/15 issues with the accounting include but are not limited to:</p> <ol style="list-style-type: none"> 1. Corrected Inventory and Appraisal was not signed by Susan Chavez-Leon. 2. Bank account #XXX0433 is a "joint account" the names of Manuel Chavez and Susan Chavez Leon and not the conservatorship. California Rules of Court, Rule 7.1059(b)(6) states the conservator of the estate must keep the money and property of the estate separate from the conservator's or any other persons money or property.
		Account period: 11/26/12 - 11/30/13	
Cont. from 031615			
	Aff.Sub.Wit.	Accounting - \$321,923.66	
✓	Verified	Beginning POH - \$238,464.60	
	Inventory	Ending POH - \$237,282.98 (<i>\$15,282.98 is cash</i>)	
	PTC	Conservator - not requested	
	Not.Cred.	Attorney - \$6,625.00 (<i>per declaration and itemization, for 25.00 hours (reduced from 36.90 hours) @ \$265.00 per hour;</i>)	
✓	Notice of Hrg	Costs - \$1,035.00 (<i>filing fees, process service fee; certified copies</i>)	
✓	Aff.Mail W/	Bond - \$324,640.00 (<i>sufficient</i>)	
	Aff.Pub.	Petitioner prays for an order:	
	Sp.Ntc.	1. Approving, allowing, and settling the [First] Account and acts of Co-Conservators; and	
	Pers.Serv.	2. Authorizing the Attorney fees and costs advanced to the Conservatorship during the accounting period; and	
	Conf. Screen	3. Finding that the Conservatee is not able to complete an affidavit of voter registration and is not entitled to vote.	
	Letters	Court Investigator Report filed 9/8/2014	
	Duties/Supp		
	Objections		
	Video Receipt		
	CI Report		
✓	2620		
✓	Order		
	Aff. Posting		
	Status Rpt		
	UCCJEA		
	Citation		
	FTB Notice		
		Reviewed by: KT	
		Reviewed on: 3/11/15	
		Updates:	
		Recommendation:	
		File 5 – Chavez	

3. Most of the deposits listed in the Receipt schedule do not include the source of the funds as required.
4. Most of the disbursements do not include the nature and purpose of the disbursement as required.
5. There are several disbursement listed with just a question mark (?) that do not state what they are for, including one disbursement on 9/17/13 for \$2,000.00 listed as "cash"
6. Petition asks for attorney fees totaling **\$6,625.00**. Attorney fees appear to include duplication of work by the attorney and the paralegal. For instance billing statement includes time for the attorney to prepare all the pleadings and also for the paralegal to prepare all the pleadings. The billing statement includes .30 hours (\$79.50) for the attorney to prepare the Duties of Conservator. In addition the billing statement also includes paralegal time of .20 (\$5.00) to prepare the same form. The only thing that needs to be prepared on the Duties of Conservator form is the case name and case number. The billing statement also includes time to prepare a Petition for Exclusive Authority to Give Medical Treatment that was filed at the same time as the Petition for Appointment of Conservator. This was an unnecessary petition in that the request can be made in Petition for Appointment of Conservator. The fees also include time for the preparation of the first amended petition.
7. Need original care facility statements for Sierra Vista Skilled Nursing Facility. Probate Code §2620(c)(5). Note: A Resident Account Report from Sierra Vista Health Care was filed on 7/30/14 however, the copy is not legible.
8. Need proof of service of the Notice of Hearing on the current Conservator, Public Guardian.
9. Letters for the Public Guardian as conservator of the Estate have not been issued.

Petition for Settlement of First and Account and Report of Successor Administrator

DOD: 02/18/10	BRUCE BICKEL , Successor Administrator, is Petitioner.	NEEDS/PROBLEMS/COMMENTS: 1. Need Order.
	Account period: 04/14/14 – 01/15/15	
Cont. from	Accounting - \$108,980.66	
<input type="checkbox"/> Aff.Sub.Wit.	Beginning POH - \$108,977.67	
<input checked="" type="checkbox"/> Verified	Ending POH - \$108,524.66 (all cash)	
<input checked="" type="checkbox"/> Inventory	Administrator - not addressed	
<input checked="" type="checkbox"/> PTC	Attorney - not addressed	
<input checked="" type="checkbox"/> Not.Cred.	Creditor's Claim filed by the DHS in the amount of \$163,847.89	
<input checked="" type="checkbox"/> Notice of Hrg	Petitioner prays for an Order that:	
<input checked="" type="checkbox"/> Aff.Mail w/	1. The First Account and Report of Petitioner as Successor Administrator be settled, allowed and approved as filed;	
<input type="checkbox"/> Aff.Pub.	2. All acts, transactions, sales, and proceedings of the personal representative be ratified, approved, and confirmed;	
<input type="checkbox"/> Sp.Ntc.	3. That the Successor Administrator has in his possession belonging to the estate \$108,524.66 cash.	
<input type="checkbox"/> Pers.Serv.	Objections to Petition for Settlement of First Account and Report of Successor Administrator filed 02/17/15 states: in the First Account and Report of Successor Administrator, the Successor Administrator identified 4 cashier's checks as being assets of the decedent. Objector alleges that these 4 cashier's checks are his property and not an asset of the estate and has filed a <i>Petition to Determine Ownership of Estate Property and for an Order Authorizing and Directing the Personal Representative to Transfer Property Held in the Trust Estate</i> (See page 6B).	
<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 checked="" type="checkbox"/> 9202		
<input type="checkbox"/> Order X		
<input type="checkbox"/> Aff. Posting		
<input type="checkbox"/> Status Rpt		
<input type="checkbox"/> UCCJEA		
<input type="checkbox"/> Citation		
<input checked="" type="checkbox"/> FTB Notice		
	Reviewed by: JF	
	Reviewed on: 03/11/15	
	Updates:	
	Recommendation:	
	File 6A - Girazian	

Petition to Determine Ownership of Estate Property and for Order Authorizing and Directing Successor Administrator to Transfer Estate Property to Petitioner

DOD: 02/18/10	DAVID J. EDWARDS , former spouse and former Administrator, is Petitioner.	NEEDS/PROBLEMS/COMMENTS: 1. Need Order.
Cont. from	Petitioner states that Decedent died in possession of \$108,957.43 consisting of 4 cashier's checks made payable to Jeane Girazian. All 4 checks escheated to the State of California and were held by the Controller and were obtained from the Controller by the Successor Administrator, Bruce Bickel on or about 11/25/14 and Mr. Bickel now has these assets in his possession.	
<input type="checkbox"/> Aff.Sub.Wit.		
<input checked="" type="checkbox"/> Verified		
<input type="checkbox"/> Inventory		
<input type="checkbox"/> PTC		
<input type="checkbox"/> Not.Cred.		
<input checked="" type="checkbox"/> Notice of Hrg	Petitioner claims that \$108,957.43 of the \$108,977.67 currently in possession of Bruce Bickel belongs to him. From 1961 through 03/31/12, Petitioner was a physician and surgeon practicing medicine at his medical practice called Sunnyside Medical. Decedent was employed by Petitioner from approximately 1994 through April of 2004 as the office manager for Sunnyside Medical. Her duties included managing Petitioner's accounts receivable and accounts payable, billing, paying bills and compiling financial information for Petitioner's accountant. Decedent and Petitioner were also married from 12/31/98 until the marriage was annulled on 03/22/04. At no time while Decedent was employed by or married to Petitioner did Decedent have or acquire an ownership interest in Sunnyside Medical or in any of its assets. Petitioner authorized the Decedent as office manager of Sunnyside Medical to establish and manage bank accounts in decedent's name along with Petitioner. Petitioner expected that the Decedent would make notations on the bank accounts that the funds were held in trust for Sunnyside Medical and that said bank accounts were to be funded only Petitioner's income derived from Sunnyside Medical.	
<input checked="" type="checkbox"/> Aff.Mail	w/	
<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	x	
<input type="checkbox"/> Aff. Posting		
<input type="checkbox"/> Status Rpt		
<input type="checkbox"/> UCCJEA		
<input type="checkbox"/> Citation		
<input type="checkbox"/> FTB Notice		

Continued on Page 2

Pursuant to Petitioner's authorization, decedent opened two Citibank accounts under the name Jeane Girazian with Sunnyside Medical's mailing address, another Citibank Account under the name Jeane Girazian, DBA Sunnyside Medical also with Sunnyside Medical's mailing address and a Bank of America Account under the name Sunnyside Medical Jeane Girazian. Decedent, as the office manager of Sunnyside Medical, had petitioner's consent and permission to issue and sign checks on all of these accounts.

In November 2013, Decedent caused three cashier's check totaling \$78,957.45 to be made payable to herself from these bank accounts without Petitioner's knowledge or consent and in April 2004 Decedent caused another cashier's check in the amount of \$30,000.00 to be made payable to herself without Petitioner's knowledge of consent. The accounts from which these checks were drawn were funded solely with Petitioner's income derived from his medical practice and his other investment sources and Petitioner used these accounts to pay the vendors of his medical practice, pay his personal expenses, pay his payroll and other related expense.

These 4 cashier's checks were not discovered by Petitioner until after Decedent's death on 02/18/10, some 6 years after the checks were issued to Decedent. The cashier's checks were purchased with funds from the bank accounts established for Sunnyside Medical and are therefore the property of Petitioner and not of Decedent's estate.

Petitioner prays for an Order:

1. Directing Bruce Bickel, the Successor Administrator of the Estate of Jeane Girazian aka Sandra Jean Girazian, aka Jeane Girazian Edwards, to distribute the sum of \$108,957.43 to Petitioner David J. Edwards.

7 Christina DeLaCruz Irlas (Estate)

Case No. 14CEPR00634

Atty Nielson, Bruce (for Petitioner Irene Preciado Irlas)
Atty Lawson, Pamela (of Las Vegas NV, licensed in CA) for Fernando Irlas and Ruben Irlas, Objectors)
Atty Gomez, Esmeralda (pro per Objector)

Petition for Letters of Administration; Authorization to Administer Under IAEA (Prob. C. 8002, 10450)

DOD: 2/27/14	IRENE PRECIADO IRLAS , daughter, is petitioner and requests appointment as Administrator without bond.	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>Continued from 2/9/15.</p> <p>Status Declaration filed on 2/6/15 states the parties have reached an agreement. An amended petition will be filed. An additional two weeks are requested to finish the amended petition and obtain waivers from the 12 heirs.</p> <p>As of 3/11/15 the following issues remain:</p> <ol style="list-style-type: none"> 1. Need bond set at \$150,300.00 or waivers of bond from: <ol style="list-style-type: none"> a. Ruben Irlas (son) b. Fernando Irlas (son) c. Esmeralda Irlas (daughter) d. Manuel Pena (grandson) e. Ciriaco Pena (grandson) f. Pearl Toledo (granddaughter) g. Frank Pena (son) <p style="text-align: center;">Please see additional page</p> <hr/> <p>Reviewed by: KT</p> <p>Reviewed on: 3/11/15</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 7 – Irlas</p>
	Full IAEA – o.k.	
Cont. from 082514, 092314, 102714, 121514, 031615	Decedent died intestate.	
<input type="checkbox"/> Aff.Sub.Wit.	Residence: Selma	
<input checked="" type="checkbox"/> Verified	Publication: Selma Enterprise	
<input type="checkbox"/> Inventory	Estimated value of the estate:	
<input type="checkbox"/> PTC	Personal property - \$ 300.00	
<input type="checkbox"/> Not.Cred.	Real property - \$150,000.00	
<input type="checkbox"/> Notice of Hrg	Total - \$150,300.00	
<input checked="" type="checkbox"/> Aff.Mail	Probate Referee – Steven Diebert.	
<input checked="" type="checkbox"/> Aff.Pub.	Objections of Fernando Irlas filed on 9/8/14 states he objects to Petitioner's appointment based on the following:	
<input type="checkbox"/> Sp.Ntc.	1. Irene's mental health is questionable.	
<input type="checkbox"/> Pers.Serv.	2. Irene failed to inform him that their mother was seriously ill. Did not keep him informed about their mother's arrangements. Assets of the decedent were allowed to be transferred to other family members.	
<input type="checkbox"/> Conf. Screen	It is believed that decedent's life insurance policy was altered to name their brother Joe as beneficiary.	
<input checked="" type="checkbox"/> Letters	3. The petition for probate is filled with errors and misstatements. Personal property of the estate exceeds the \$300 listed.	
<input checked="" type="checkbox"/> Duties/Supp		
<input type="checkbox"/> Objections		
<input type="checkbox"/> Video Receipt		
<input type="checkbox"/> CI Report		
<input type="checkbox"/> 9202		
<input checked="" 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		

Supplement to Objections to the Petition filed by Fernando Irlas on 12/8/14 states the Petitioner should not be appointed as Administrator because she is not a person likely to manage the estate properly. After the Decedent's death she physically moved into the home of the decedent without notice or consultation with the Contestant; not only did she move into the home she moved her daughter and her two children into the home. Petitioner and her daughter and her grandchildren are living in the home rent free. Petitioner permitted or acquiesced in decedent's truck being transferred to Joe Irlas. Petitioner has permitted the home's back yard to become a junk yard. Petitioner is biased against her brother, contestant herein. This bias is long before the death of their mother but has escalated after her death.

In addition, Contestant states the petitioner's mental health appears to be questionable. Petitioner suffered a severe bout of depression at or immediately following the death of decedent. Petitioner did not work for two to three months; even after filing her petition she was still not competent as evidenced by her recent Facebook postings. 9/13/14, Petitioner states that she "Decided to finally comb my hair and put some make up." 10/13/14 Petitioner states, "I feel a lot better still can't breathe but thank God I made it to work gotta pay the bills." 11/11/14 Petitioner states in pertinent part: "My ears are ringing constantly I'm seeing people that no one else sees and people are telling me that I look so happy. . ."

Contestant requests an independent fiduciary be appointed to administer the estate. Contestant has been communicating with Ron Dickem who is an independent fiduciary with his business in the area. There is no downside to the Estate in the appointed of an independent fiduciary, the fees are statutory and the same for both a lay person and/or a professional a professional fiduciary.

In the alternative, Contestant requests that the court appoint Ruben Irlas (child of the decedent) as co-administrator.

Contestant further requests that in the event petitioner is appointed bond be required in an amount sufficient to protect the assets of the estate.

Contest of Appointment of Personal Representative filed by Ruben Irlas on 9/8/14 states he opposes the appointment of Irene Preciado Irlas as personal representative for the following reason:

1. Not all assets of the estate are listed.
2. He and his brother were left out of the obituary.
3. Irene has moved into the estate property and has not paid any rent for the benefit of the estate, the only benefit is for her and her family to live there rent free.

Contest of Appointment of Personal Representative filed by Esmeralda Gomez on 9/8/14 states he opposes the appointment of Irene Preciado Irlas as personal representative for the following reason:

1. Not all assets of the estate are listed.
2. Irene verbally told her that she was suffering from depression.

Please see additional page

NEEDS/PROBLEMS/COMMENTS (cont.):**For Objector/Contestants:**

1. Objection of Fernando Irlas filed on 9/8/14 does not include a proof of service showing it has been served on all interested parties.
2. Contest of Ruben Irlas does not include a proof of service showing it has been served on all interested parties.
3. Contest of Esmeralda Gomez does not include a proof of service showing it has been served on all interested parties.
4. Substitution of Attorney filed by Pamela Lawson on behalf of Fernando Irlas was not on the mandatory Judicial Council form.

Note: The Contest filed by Ruben Irlas and the Contest filed by Esmeralda Gomez state that they each have filed a petition for their own appointment as personal representative and have served notice of hearing on that petition. However, there is no record that another Petition for Probate has been filed for this decedent.

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

- **Wednesday, April 22, 2015** at 9:00 a.m. in Department 303, for the filing of the bond.
- **Wednesday, August 19, 2015** at 9:00 a.m. in Department 303, for the filing of the inventory and appraisal.
- **Wednesday, May 18, 2016** at 9:00 a.m. in Department 303, for the filing of the first account or petition for final distribution.

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

Page 2

NEEDS/PROBLEMS/COMMENTS:**The following defect remains noted:**

1. **Need Estimated Value of Estate. Probate Code §8002(a)(4). This information is necessary for bond calculation.**

Supplement to Petition filed 2-26-15 states the character and estimated value is unknown except for real property with estimated value of \$1,000.00. Petitioner has requested from Hilton Grand Vacations the encumbrance owed on the time share in Maui and its value as of the decedent's date of death. Petitioner believes that at her death, the decedent was a co-owner of D. Danz & Sons, Inc. Petitioner has been unable to determine the value of the decedent's 50% interest in that corporation and business.

Petitioner's Declaration filed 2-26-15 states on 10-15-14, his attorney received a letter from Richard M. Aaron, Esq., enclosing a copy of the Declaration of Patricia J. Rader dated 4-18-14, wherein Ms. Rader declared that the decedent relinquished and assigned her entire interest in D. Danz & Sons, Inc., in 1993. As of this date, Antonio Alcorta, decedent's former spouse, the corporation, and Patricia J. Rader have failed to produce such relinquishment. It is highly suspicious that the copy of such document allegedly in the decedent's mother's possession was shredded after the decedent's death. At no time during his marriage did she ever mention that she had relinquished her co-ownership of the corporation. Approximately two months prior to her death, the decedent was having heated arguments with Antonio Alcorta because he was wanting to buy out her interest in the business and she did not want to sell. Said business was equally owned by Mr. Alcorta and the decedent pursuant to their Marital Settlement Agreement. Prior to her death, she was working full time at said business and was involved in the decision-making and management thereof.

Declaration of Angela Burke, Objector, filed 3-6-15 states the accusation that she entered their mother's home and removed all papers, documents, computer, insurance papers, documents of title, before the surviving spouse arrived home is false. She did not enter the home and remove any documentation papers or a computer. After her mother died, her spouse, Ramon Guiba, asked Objector for help because he did not know what to do as to her mother's affairs. At Mr. Guiba's request, Objector reviewed bills and other correspondence for him. She assisted him with payment of expenses, including payoff of the decedent's auto loan, which was over \$21,000, and helped him open his own checking account because he did not know how to do so. She provided \$200 to him to open the account.

Objector states her mother had a life insurance policy with no named beneficiary. Mr. Guiba presented collected the whole of the proceeds, which totaled \$100,000.00.

Mr. Guiba alleges that the decedent was a co-owner of D. Danz & Sons, Inc. Objector is informed and believes that her mother relinquished her interest in the corporation following her divorce in 1990. Exhibit A is a copy of the declaration of Patricia Rader, the decedent's mother, regarding the relinquishment.

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

- **Monday 5-4-15 for filing of bond**
- **Monday 8-17-15 for the filing of the Inventory and Appraisal**
- **Monday 5-16-16 for the filing of the first account or petition for final distribution**

If the proper items are on file pursuant to Local Rules, the status hearings may be taken off calendar.

Dept. 303, 9:00 a.m. Monday, March 16, 2015

Atty Larson, Timothy J
 Atty THIRKELL, EDWARD D

Petition to Remove Co-Trustee; Accept Co-Trustee Resignation; and Appoint Neutral Third Party Trustee

Age:		NEEDS/PROBLEMS/COMMENTS: <p style="text-align: center;"><u>CONTINUED TO 04/08/15</u> Per request of counsel</p>
DOD:		
Cont. from		
<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.	
<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	
		Reviewed by: JF
		Reviewed on: 03/11/15
		Updates:
		Recommendation:
		File 10 - Gallardo

Billie Joe Murray DOD: 4-3-13	NGOC TRAN MURRAY is Petitioner.	NEEDS/PROBLEMS/COMMENTS:
	Petitioner requests that the Court establish that her marriage to BILLIE JOE MURRAY , deceased, took place in Saigon, Vietnam on November 30, 1974.	
<input type="checkbox"/> Aff.Sub.Wit.	Petitioner states a certified copy of the official record cannot be obtained because the records were destroyed by the Vietnamese government.	
<input checked="" type="checkbox"/> Verified		
<input type="checkbox"/> Inventory	Declaration in Support of Petition refers to documents attached.	
<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	Reviewed by: skc Reviewed on: 3-11-15 Updates: Recommendation: File 11 - Murray	
<input type="checkbox"/> Objections		
<input type="checkbox"/> Video Receipt		
<input type="checkbox"/> CI Report		
<input type="checkbox"/> 9202		
<input checked="" 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		

Petition for Appointment of Temporary conservatorship of the Person

Age: 84		<p><u>Please see Petition for details</u></p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>Court Advised Rights on 03/09/2015.</p> <p>1. Need proof of <u>personal service</u> of the Notice of Hearing and a copy of the Temporary Petition on the proposed conservatee.</p>	
Cont. from				
	Aff.Sub.Wit.			
✓	Verified			
	Inventory			
	PTC			
	Not.Cred.			
✓	Notice of Hrg			
✓	Aff.Mail			w/
	Aff.Pub.			
	Sp.Ntc.			
	Pers.Serv.			x
✓	Conf. Screen			
✓	Letters			
✓	Duties/Supp			
	Objections			
	Video Receipt			
✓	CI Report			
	9202			
✓	Order			
	Aff. Posting			
	Status Rpt			
	UCCJEA			
✓	Citation			
	FTB Notice			
			Reviewed by: LV	
			Reviewed on: 03/11/2015	
			Updates:	
			Recommendation:	
			File 12 - Glaser	

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

DOD: 7/29/2010	FRANK SCOTT HINE was appointed Administrator with Full IAEA and bond set at \$118,260.00 on 1/5/2011.	NEEDS/PROBLEMS/COMMENTS: OFF CALENDAR. 1 st Account filed and set for 4/15/15.
	Minute order dated 6/15/2012 states the court orders bond set at \$45,000.00 and Limited IAEA authority.	
	Bond of \$45,000.00 filed on 8/10/12.	
	Letters issued 10/24/12.	
Conf. from 062113, 080213, 091313, 111513, 31714, 040214, 042214, 060314, 080514, 091614, 111714, 120814	Inventory and Appraisal filed on 6/6/2012 showing the estate valued at \$134,550.00	
Aff.Sub.Wit.	Creditor's Claims filed:	
Verified	CitiBank - \$12,563.66	
Inventory	DCM Services - \$ 260.80	
PTC	Frank Hine - \$ 4,743.41	
Not.Cred.	Donna Langley - \$17,625.99	
Notice of Hrg	Wesley Langley - \$ 1,397.38	
Aff.Mail	FTB - \$ 2,660.09	
Aff.Pub.	Total \$39,351.63	
Sp.Ntc.	Order Confirming Sale of Real Property was signed on 4/22/14 with proceeds from the sale ordered into a blocked account.	
Pers.Serv.	Receipt for Blocked account in the amount of \$90,984.51 was filed on 9/24/14.	
Conf. Screen	Minute order dated 11/17/14 states Mr. Krbechek is to file a written status report by 12/4/14. If the report is filed as ordered, then no appearance is necessary on 12/8/14.	
Letters		
Duties/Supp		
Objections		
Video Receipt		
CI Report		
9202		
Order		
Aff. Posting		
Status Rpt		
UCCJEA		
Citation		
FTB Notice		
		Reviewed by: KT
		Reviewed on: 3/11/15
		Updates:
		Recommendation:
		File 13 - Hine

	<p>JOAN ST. LOUIS, Former Conservator, filed her First Amended First Account on 7-31-14 for account period 4-25-12 through 12-31-13.</p> <p>At hearing on 11-19-14, the Court took the First Amended First Account under submission.</p> <p>Pursuant to Order Granting Conservator Leave to Resign as Conservator of the Person and Estate filed 12-4-14, Mrs. St. Louis' resignation would be effective at 12-31-14, and she was ordered to render a final account on or before 3-1-15.</p> <p>Subsequently, the Court's Order on First Amended First Account filed 2-10-15 denied the First Amended First Account and ordered that a Second Amended First Account be filed no later than 3-16-15.</p> <p>On 2-25-15, Mrs. St. Louis filed an Ex Parte Petition for Extension of Time to File Final Account, given that a Second Amended First Account is now required.</p> <p>On 3-2-15, the Court set this status hearing regarding the filing of the Second Amended First Account, and stated that it will address the Ex Parte Petition for Extension of Time to File Final Account at this hearing as well.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <ol style="list-style-type: none"> 1. Need Second Amended First Account (for account period 4-25-12 through 12-31-13). 2. Need Final Account (for account period 1-1-14 through 12-31-14). <p>Note: Proposed Order extends the time for filing the final account from 3-1-15 to 5-15-15.</p>
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: skc
		Reviewed on: 3-11-15
		Updates:
		Recommendation:
		File 14A - Bingham

DOD: 08/17/12		<p>EDWARD SIMPSON, brother, was appointed Administrator with Limited IAEA, without bond, with deposits of \$1,000,000.00 to be placed into a blocked account on 10/16/13. Letters of Administration were issued on 10/22/13.</p> <p>Status Hearing Report filed 01/09/15 states: The Decedent was killed in an auto accident. After the accident the family learned that there was an insurance policy for \$1,000,000 and that an Administrator would be needed to handle the insurance matter and therefore Edward Simpson petitioned and was appointed as Administrator. In the car accident that killed decedent, there was a passenger who was injured and was seeking the full \$1,000,000 of insurance proceeds. The parties participated in mediation on 06/20/14 and settled the matter. There was some confusion on possible modifications to the settlement agreement and the final settlement agreement was approved by the Court in September. The Administrator was unsure if the estate was receiving part of the settlement or it was going to be given to the Decedent's son, who is his only heir. Clarification was received and it was confirmed that the estate will not be receiving any funds. A sum of money was placed into a blocked account according to a Minor's Compromise for the benefit of Decedent's son and when he turns 18, he will also start receiving structured lump sum payments. No receipt for deposit of funds into blocked account or Inventory & Appraisal can be filed because no funds will be distributed to the estate and there are no other assets in the estate. A Petition to Terminate proceedings will be prepared and a 60 day continuance is requested.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p><u>CONTINUED FROM 01/12/15</u></p> <p>1. Need Receipt & Acknowledgement of Order for the Deposit of Money into Blocked Account.</p> <p>Note: It does not appear that an Order to Deposit Money into Blocked Account has been submitted/signed.</p>
Cont. from 111513, 031714, 071514, 090914, 111014, 011215			
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: 03/11/15</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 15A – Simpson</p>	

Status Hearing Re: Filing of the Inventory and Appraisal

DOD: 08/17/12	<p>EDWARD SIMPSON, brother, was appointed Administrator with limited IAEA, without bond, with deposits of \$1,000,000.00 to be placed into a blocked account on 10/16/13.</p>	NEEDS/PROBLEMS/COMMENTS:
Cont. from 012114, 031714, 071514, 090914, 111014, 011215	<p>Letters of Administration were issued on 10/22/13.</p>	<u>CONTINUED FROM 01/12/15</u>
Aff.Sub.Wit.	<p>Minute order dated 8/20/13 set this status hearing for the filing of the inventory and appraisal.</p>	<p>1. Need inventory and appraisal.</p>
Verified	<p>Status Hearing Report filed 01/09/15 states: The Decedent was killed in an auto accident. After the accident the family learned that there was an insurance policy for \$1,000,000 and that an Administrator would be needed to handle the insurance matter and therefore Edward Simpson petitioned and was appointed as Administrator. In the car accident that killed decedent, there was a passenger who was injured and was seeking the full \$1,000,000 of insurance proceeds. The parties participated in mediation on 06/20/14 and settled the matter. There was some confusion on possible modifications to the settlement agreement and the final settlement agreement was approved by the Court in September. The Administrator was unsure if the estate was receiving part of the settlement or it was going to be given to the Decedent's son, who is his only heir. Clarification was received and it was confirmed that the estate will not be receiving any funds. A sum of money was placed into a blocked account according to a Minor's Compromise for the benefit of Decedent's son and when he turns 18, he will also start receiving structured lump sum payments. No receipt for deposit of funds into blocked account or Inventory & Appraisal can be filed because no funds will be distributed to the estate and there are no other assets in the estate. A Petition to Terminate proceedings will be prepared and a 60 day continuance is requested.</p>	Reviewed by: JF
Inventory		Reviewed on: 03/11/15
PTC		Updates:
Not.Cred.		Recommendation:
Notice of Hrg		File 15B – Simpson
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		

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

DOD: 08/17/12	<p>EDWARD SIMPSON, brother, was appointed Administrator with limited IAEA, without bond, with deposits of \$1,000,000.00 to be placed into a blocked account on 10/16/13.</p> <p>Letters of Administration were issued on 10/22/13.</p> <p>Minute order dated 8/20/13 set this status hearing for the filing of the First Account and/or Petition for Final Distribution.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p><u>CONTINUED FROM 01/12/15</u></p> <p>1. Need First Account or Petition for Final Distribution or current written status report 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.</p>
Cont. from 102314, 111014, 011215		
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: 03/11/15	
	Updates:	
	Recommendation:	
	File 15C – Simpson	

Petition for Appointment of Guardian of the Person (Prob. C. 1510)

Victoria, age 3	<u>Please see petition for details</u>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>1. Need proof of personal service fifteen (15) days prior to the hearing of the Notice of Hearing along with a copy of the Petition for Appointment of Guardian or consent and waiver of notice or declaration of due diligence for:</p> <ul style="list-style-type: none"> • Oseas Juarez Perez (Father) – Unless the Court waives notice. <p>Note: Declaration of Due Diligence states they are unable to locate him. The last contact with the father was after Court in 2012.</p> <p>2. Need proof of service fifteen (15) days prior to the hearing of the Notice of Hearing along with a copy of the Petition for Appointment of Guardian or consent and waiver of notice or declaration of due diligence for:</p> <ul style="list-style-type: none"> • Paternal Grandfather (Unknown) – Unless the Court dispenses with notice <p>Note: Declaration of Due Diligence states petitioners have never met this person, they have no name for this person and therefore unable to do a search.</p> <ul style="list-style-type: none"> • Paternal Grandmother (Unknown) – Unless the Court dispenses with notice <p>Note: Declaration of Due Diligence states petitioners have never met this person, they have no name for this person and therefore unable to do a search.</p>	
Annamaria, age 3			
Cont. from			
Aff.Sub.Wit.			
✓ Verified			
Inventory			
PTC			
Not.Cred.			
✓ Notice of Hrg			
Aff.Mail			x
Aff.Pub.			
Sp.Ntc.			
✓ Pers.Serv.			w/
✓ Conf. Screen			
✓ Letters			
✓ Duties/Supp			
Objections			
Video Receipt			
✓ CI Report			
9202			
✓ Order			
Aff. Posting			
Status Rpt			
✓ UCCJEA			
Citation			
FTB Notice			
Reviewed by: LV			
Reviewed on: 03/11/2015			
Updates:			
Recommendation:			
File 16 - Perez			

Pro Per De La Cruz, Kamberlyn (Pro Per Petitioner, maternal aunt)

Pro Per De La Cruz, Reyes (Pro Per Petitioner, maternal uncle)

Petition for Appointment of Guardian of the Person (Prob. C. 1510)

		NO TEMPORARY REQUESTED	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>Note: Declaration of Due Diligence has not been filed regarding the father and paternal grandparents to support the Petitioners' request that the Court dispense with notice to the father based on his being unknown to the mother. All 6 of the child's siblings who are age 12 or older (2 siblings are under age 12 and 1 sibling's whereabouts are unknown) have signed consents and waivers of notice.</p>
		<p>KAMBERLYN DE LA CRUZ and REYES DE LA CRUZ, maternal aunt and uncle, are Petitioners.</p> <p style="text-align: center;">~Please see Petition for details~</p> <p>Court Investigator's Report was filed on 3/9/2015.</p>	
Cont. from			
<input type="checkbox"/>	Aff.Sub.Wit.		
<input checked="" type="checkbox"/>	Verified		
<input type="checkbox"/>	Inventory		
<input type="checkbox"/>	PTC		
<input type="checkbox"/>	Not.Cred.		
<input type="checkbox"/>	Notice of Hrg	N/A	
<input type="checkbox"/>	Aff.Mail		
<input type="checkbox"/>	Aff.Pub.		
<input type="checkbox"/>	Sp.Ntc.		
<input type="checkbox"/>	Pers.Serv.		
<input checked="" type="checkbox"/>	Conf. Screen		
<input checked="" type="checkbox"/>	Letters		
<input checked="" type="checkbox"/>	Duties/Supp		
<input type="checkbox"/>	Objections		
<input type="checkbox"/>	Video Receipt		
<input checked="" type="checkbox"/>	CI Report		
<input type="checkbox"/>	Clearances	X	
<input checked="" type="checkbox"/>	Order		
<input type="checkbox"/>	Aff. Posting		
<input type="checkbox"/>	Status Rpt		
<input checked="" type="checkbox"/>	UCCJEA		
<input type="checkbox"/>	Citation		
<input type="checkbox"/>	FTB Notice		
			<p>Reviewed by: LEG</p> <p>Reviewed on: 3/12/15</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 17 – De La Cruz</p>

Atty Kruthers, Heather H. (for Petitioner Public Administrator)
 Atty Risner, Randy J. (for Objector Gordon Panzak, son)

First Account of Successor Trustee of No Asset Trust

DOD: 3/12/2010	<p>PUBLIC ADMINISTRATOR, Successor Trustee court-appointed on 4/29/2013, is Petitioner.</p> <p>Petitioner states:</p> <ul style="list-style-type: none"> JOHN R. PANZAK, JR., son (DOD 2/15/2013), was trustee of the Trust, and upon his death, his wife SHARON PANZAK, petitioned for appointment as Successor Trustee, to which GORDON PANZAK, son, objected; The Court denied Ms. Panzak's petition and appointed the Public Administrator on 4/29/2013; According to the petition filed by Ms. Panzak on 3/11/2013, Gordon Panzak has already received the two assets to which he was entitled: a house in Fowler and \$200,000.00 cash; Petitioner finds no denial in Mr. Panzak's objections filed 4/24/2013 that he received those assets; The Public Administrator, as Successor Trustee, has never had possession of trust assets since they were distributed prior to his appointment pursuant to the Trust; On 3/13/2014, Attorney James Shekoyan filed a first and final account and report on behalf of the deceased personal representative [of the Estate of John R. Panzak, Case 10CEPR00505]; However, according to the account, there is over \$500,000.00 to be distributed to the Decedent's Trust; Due to the on-going litigation in this matter, that distribution cannot be made at this time; The beneficiary of the estate is the subject trust, so the trust matter cannot be closed either; Petitioner requests the right to defer seeking any payment for services until the estate and trust are ready to be closed; Petitioner expects that to take at least 6 months to occur. <p style="text-align: center;">~Please see additional page~</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>Page 1B is the Beneficiary and 2nd Successor Trustee (Gordon Panzak's) Petition to Remove 3rd Successor Trustee (Public Administrator).</p> <p>Page 1C is the Hearing on Fee Waiver.</p> <p>Continued from 1/29/2015. Minute Order [Judge Sanderson] states the matter is set in Dept. 72 due to 170.6 disqualification.</p>
Cont. from 012915		
<input type="checkbox"/> Aff.Sub.Wit.		
<input checked="" type="checkbox"/> Verified		
<input type="checkbox"/> Inventory		
<input type="checkbox"/> PTC		
<input type="checkbox"/> Not.Cred.		
<input checked="" type="checkbox"/> Notice of Hrg		
<input checked="" type="checkbox"/> Aff.Mail W/		
<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 checked="" type="checkbox"/> Objections		
<input type="checkbox"/> Video Receipt		
<input type="checkbox"/> CI Report		
<input type="checkbox"/> 9202		
<input checked="" 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: LEG</p> <p>Reviewed on: 3/12/15</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 1A – Panzak</p>	

Petitioner prays that the Court:

1. Find that notice of hearing of this First Report of Successor Trustee has been given as required by law, and make and order approving the Report;
2. Ratify and approve all actions taken by the Successor Trustee to this point; and
3. Authorize Petitioner and Petitioner's attorney to seek payment for services as part of the final account.

Beneficiary's Objections to First Accounting of Successor Trustee of a No Asset Trust filed by GORDON PANZAK on 1/28/2015 states:

- In 2010, John Robert Panzak, Sr. ("Senior"), died and John Robert Panzak, Jr. ("Junior") became the Successor Trustee;
- During the time that Junior was Trustee, the assets of the Trust were dissipated by him, in derogation of existing lawful and valid Creditors Claims, and said dissipation of assets was done with the intent to defraud creditors and others;
- Gordon Panzak was to receive a **\$200,000.00** cash gift from the Trust; no such payment was made from the assets of the Trust to Gordon Panzak;
- No compliance with notice under Probate Code § 16061.7 was made; no copy of the Trust was ever supplied to Beneficiary Gordon Panzak;
- Junior died in 2013 and Gordon Panzak became the Successor Trustee by operation of law;
- In an attempt to cover up the theft from the Estate of Senior and Trust of Senior, the spouse of Junior, **SHARON PANZAK**, with the participation of the attorney, **JAMES SHEKOYAN**, in breach of his fiduciary/attorney client relationship to the Trust, filed a petition for Sharon to become the Successor Trustee;
- This petition was a direct attack on the Trust and disinherited both Junior and Sharon;
- The Court rejected Sharon's petition, since she had no standing by law to file it and it was otherwise without merit;
- Judge Oliver, in an effort to avoid litigation, unlawfully appointed the Public Administrator to become Successor Trustee;
- Despite numerous requests by Gordon Panzak, Junior failed to account for the Trust assets;
- The Public Administrator has been derelict in his fiduciary obligations to the Trust and the beneficiary in that *[listed in brief sum]*:
 - They filed no accounting for over a year in violation of Probate Code § 16062;
 - They filed a misleading accounting with the Court stating the Trust was a No Asset Trust;
 - They failed to marshal the Trust assets;
 - Took no steps to file an action to recover assets although aware of massive fraud and theft by Junior;
 - Breached their duty to investigate and bring criminal theft to attention of Court and authorities;
 - Filed the instant account in an attempt to judicially wash their hands of the complex matter;
 - Took no actions on the theft and Petitioner was compelled to file a financial elder abuse case in Superior Court.

Objecting Beneficiary requests the Court:

1. Only "accept" this accounting without approving the accounting;
2. Make no orders to ratify or approve any actions of the Successor Trustee; the Successor Trustee is Junior (the Public Administrator being the 3rd Successor Trustee) because if the Court were to ratify the conduct of Junior, his estate and Trust would be immune from civil prosecution and such acts would make the Court an accessory to the prior criminal acts of Junior.

1B John R. Panzak Living Trust 11-27-2000

Case No. 13CEPR00196

Dept. 303, 9:00 a.m. Monday, March 16, 2015

Beneficiary and 2nd Successor Trustee (Gordon Panzak's) Petition to Remove 3rd Successor Trustee (Public Administrator)

DOD: 3/12/2010		<p>GORDON PANZAK, son and Beneficiary, is Petitioner.</p> <p>Petitioner states:</p> <ul style="list-style-type: none"> • Prior to the death of John Robert Panzak, Sr. ("Senior"), he created and modified a Living Trust; • The Trust became irrevocable at the death of Senior, and John Robert Panzak, Jr. ("Junior") became the Successor Trustee; • During the Trusteeship of Junior: <ul style="list-style-type: none"> ○ No complete copy of the Trust was ever obtained by the Trustee or provided to the Beneficiary; ○ Creditor's Claims were made, rejected and a lawsuit was filed to enforce claims against the Trust; ○ Money was removed from the Trust to pay the attorney fees for the defense of the lawsuit against the Trust; the Trust instrument does not allow for such payments and no petition for instructions regarding the defense of the lawsuit was filed with the Court; ○ Junior refused to compromise and settle the litigation; ○ Although a beneficiary requested an accounting, none was ever done; ○ Assets of the Trust were distributed in derogation of the Creditor's Claims and with the intent to defraud creditors; ○ No bank account for the Trust was created to pay the just debts or for payment of distributions from the Trust; ○ Several bank accounts and/or CDs were held in the name of the Trust and were taken by Junior personally; ○ A \$200,000.00 gift to a beneficiary was not paid by the Trust; • Upon the death of Junior in 2013, Gordon Panzak became Successor Trustee by operation of law; ~Please see additional page~ 	<p>NEEDS/PROBLEMS/ COMMENTS:</p> <ol style="list-style-type: none"> 1. Need proof of 30 days' service prior to hearing of <i>Notice of Hearing</i> along with a copy of the <i>Petition to Remove 3rd Successor Trustee</i> pursuant to Probate Code § 17203(a)(1) to the Public Administrator, Successor Trustee. 2. Need proposed order pursuant to Local Rule 7.1 which provides a proposed order shall be submitted with all pleadings that request relief. <p>Note: Creditor's Claims mentioned in the instant <i>Petition</i> appear to refer to claims filed in the <i>Estate of John R. Panzak, Sr.</i>, Case 10CEPR00505 (not before the Court in this Trust matter.)</p> <p>Reviewed by: LEG</p> <p>Reviewed on: 3/12/15</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 1B - Panzak</p>	
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Petitioner states, continued:

- In an attempt to cover up the massive theft by Junior, his widow [Sharon Panzak] filed a petition to become Successor Trustee; the petition was without merit or lawful authority and was rejected by the Court;
- Judge Oliver appointed the Public Administrator in an attempt to avoid litigation between the Trust and beneficiary;
- The Public Administrator has been derelict in its duties as 3rd Successor Trustee as follows:
 - Despite the knowledge by the Public Administrator of the extensive theft and fraud perpetrated by Junior on the Trust and the estate of Senior, no action was taken by the Public Administrator to identify and place equitable liens on the property stolen from the Trust;
 - The Trust is the beneficiary of a pour-over will, massive theft was discovered in the estate and the Public Administrator has taken no action to identify and recover these assets on behalf of the Trust;
 - Filed a wholly inadequate accounting which will no address the issues identified in A & B above and which accounting tried to characterize the Trust as "No Assets Trust" to avoid having to do its duty to identify and recover assets and litigate same;
 - Failed to settle creditor's claims now pending; failed to find a complete copy of the Trust and provide to beneficiary; failed to obtain copy of any bank accounts maintained on behalf of the Trust to determine propriety of distribution from the Trust;
 - Failed to file any cause of action against Junior and/or his estate to recover the assets stolen from the Trust; failed to determine preserve and control Trust assets that had been stolen;
 - Was prepared to let statutes of limitation run on some of the actions that could be used to recover Trust assets necessitating the filing of the appropriate suits by a beneficiary;
 - Failed to designate the distributed assets as Trust property and to enforce claims against Junior; failed to use a standard of care in performing duties of trustee; failed to inform beneficiary of the Trust's administrator and actions or inaction being taken;
- All of the above acts are sufficient grounds to remove the 3rd Successor Trustee.

Petitioner prays that the Court find that:

1. Petitioner has proven the petition by clear and convincing proof;
2. The 3rd Successor Trustee is removed;
3. Gordon Panzak is re-instated as Successor Trustee;
4. Petitioner is awarded costs of litigation and attorney fees.

Agreement of Public Administrator to Resign Upon Appointment of Successor Trustee; Objection to Removal for Cause filed 3/6/2015 states:

- The Public Administrator (PA) was appointed as Successor Trustee on 4/29/2013, after the death of the former trustee;
- The PA filed her final account as Successor Trustee on 12/15/2014, to which Gordon Panzak objected on 1/27/2015; the next day he filed a petition to remove the PA;
- The PA has no objection to resigning as successor trustee, particularly since she asserts there are no assets in the trust; however, she does object to her removal for cause;
- If Mr. Panzak refuses to accept a resignation in lieu of removal, the PA will strongly oppose this petition, and any others, requesting the Court make a finding that there is cause to remove her as Successor Trustee.

Public Administrator prays that the Court grant Gordon Panzak's petition for appointment as successor trustee, except as to the removal of the PA as Trustee.