

**(1) Fifteenth Account and Report of Conservator and (2) Petition for Authority to Deposit Funds in Special Needs Trust Account for Attorney's Fees (Prob. C. 2620, 2640, 3602, & 3604)**

<b>Age: 48</b>	<p><b>ISABEL OLIVARES</b>, Mother, was appointed Conservator of the Estate on 12-1-83.</p> <p>Bond is \$14,300.00 (ok)</p> <p>Account period: 1-1-10 through 12-31-11</p> <p>Accounting: \$237,874.44          Beginning POH: \$212,934.18          Ending POH: \$212,952.15</p> <p>Conservator: Waived</p> <p>Attorney: \$1,600.00 (less than Local Rule)</p> <p>Costs: \$685.00 (filing fee, bond premium, filing fee for request in SNT)</p> <p><i>(Authorized Attorney fees and costs to be paid from the Special Needs Trust.)</i></p> <p><b>The GLORIA OLIVARES SPECIAL NEEDS TRUST</b> was created per Order Settling the 13<sup>th</sup> Account on 7-25-08 (09CEPR00580). Conservatee receives \$1,000/month in connection with a personal injury settlement plus a \$20,000 lump sum payment every five years. In order to retain the Conservatee's Medi-Cal benefits, Petitioner requests authority to deposit the next lump sum payment upon receipt in <b>November 2013</b> to the trustee of the Special Needs Trust.</p> <p>Pursuant to Order of 8-24-09 in the Special Needs Trust, accountings for the trust were eliminated as long as trust assets remained under \$20,000.00. Therefore, upon receipt of said funds, accounting will be required for the two-year period beginning after receipt of said funds.</p> <p><b>Petitioner prays for an order:</b></p> <ol style="list-style-type: none"> <li>1. Settling and allowing the 15th account;</li> <li>2. Authorizing payment of attorney fees;</li> <li>3. Authorizing Petitioner to cause the lump sum settlement payment to be received in November 2013 in the sum of \$20,000.00 to be deposited in the blocked account for the GLORIA OLIVARES SPECIAL NEEDS TRUST; and</li> <li>4. Such other and further relief as the Court may deem proper.</li> </ol> <p><b>Court Investigator Charlotte Bien's report filed 9-28-10 recommends conservatorship continue as is.</b></p>	<b>NEEDS/PROBLEMS/COMMENTS:</b>
<b>DOB: 12-12-63</b>		
<b>Aff.Sub.Wit.</b>		
<input checked="" type="checkbox"/> <b>Verified</b>		
<b>Inventory</b>		
<b>PTC</b>		
<b>Not.Cred.</b>		
<input checked="" type="checkbox"/> <b>Notice of Hrg</b>		
<input checked="" type="checkbox"/> <b>Aff.Mail</b>		W
<b>Aff.Pub.</b>		
<b>Sp.Ntc.</b>		
<b>Pers.Serv.</b>		
<b>Conf. Screen</b>		
<b>Letters</b>		
<b>Duties/Supp</b>		
<b>Objections</b>		
<b>Video Receipt</b>		
<input checked="" type="checkbox"/> <b>CI Report</b>		
<input checked="" type="checkbox"/> <b>2620(c)</b>		
<input checked="" type="checkbox"/> <b>Order</b>		
<b>Aff. Posting</b>		
<b>Status Rpt</b>		
<b>UCCJEA</b>		
<b>Citation</b>		
<b>FTB Notice</b>		
		<p><b>Reviewed by:</b> skc</p> <p><b>Reviewed on:</b> 3-12-12</p> <p><b>Updates:</b></p> <p><b>Recommendation:</b></p> <p><b>File 1 – Olivares</b></p>

**Atty Shepard, Jefferson S. (for Javier Benitey and Rosalie Spate – Co-Conservators)**

**(1) Ninth and Final Account and Report of Conservator Petition for Nunc Pro Tunc Order Exonerating Bond for Settlement of Account, (2) Fees to Conservators and Attorney, (3) Reimbursement for Home Repairs and (4) Termination of Conservatorship of Estate (Prob. C. 2620, 2621, 2640, 2642, 2630)**

<b>Age: 89</b>	<b>JAVIER BENITEY</b> , Son and remaining Co-Conservator, is Petitioner.	<b>NEEDS/PROBLEMS/COMMENTS:</b>
<b>DOB: 3-18-1923</b>	Co-Conservator Rosalie Spate passed away on 10-16-11.	<p><b>1. Co-Conservator Rosalie Spate passed away on 10-16-11. Petitioner requests that her commission be paid to her husband Louis Spate under Probate Code §13100. <u>Therefore, need affidavit pursuant to Probate Code §13101 from Louis Spate.</u></b></p> <p><b>2. Petitioner requests the bond be exonerated NUNC PRO TUNC as of 12-31-11; however:</b></p> <p><b>a. This account period through 1-17-12 is not yet approved; and</b></p> <p><b>b. There are currently still funds in the conservatorship estate. <u>The Court may require clarification regarding the requested date or authority for such order on NUNC PRO TUNC basis.</u></b></p> <p><b>3. Need order.</b></p>
	Current bond: \$168,000.00	
	Account period: 4-1-09 through 1-17-12	
	Accounting: \$ 156,118.32	
	Beginning POH: \$ 91,619.29	
	Ending POH: \$ 9,480.87 (cash)	
<input type="checkbox"/> <b>Aff.Sub.Wit.</b>	Co-Conservator Rosalie Spate: \$1,000.00 (4 hours/month from 4-1-09 through 3-31-11, payable to her husband under Probate Code §13100)	
<input checked="" type="checkbox"/> <b>Verified</b>	Co-Conservator Javier Benitey: \$500.00 (4 hours/month from 4-1-11 through 12-31-11 for balancing bank accounts, issuing checks, bookkeeping, etc.)	
<input type="checkbox"/> <b>Inventory</b>	Attorney: \$1,000.00 (per Local Rule)	
<input type="checkbox"/> <b>PTC</b>	<b>Petitioner states</b> he cared for his mother in his home since 1992. For about two years prior to moving her to the care facility, the conservatee’s severely diminished capacity caused her to become extremely destructive and also incontinent. These conditions caused extensive damage to the conservator’s home and repairs are needed. Petitioner has obtained estimates totaling \$12,822.87 by Genaro’s Home Repair Service and requests the Court approve payment to the extent possible from the conservatorship account.	
<input type="checkbox"/> <b>Not.Cred.</b>	<b>Petitioner states</b> the conservatorship estate consists only of social security income which has been assigned to Medi-Cal for application toward her care in the facility. There are insufficient funds and assets with which to continue the conservatorship of the estate, the court’s filing fee for accounts and reports, and the ongoing Court Investigation fees. Pursuant to Probate Code §2626 it is in the best interest of the conservatorship estate that the conservatorship of the estate be terminated and that the conservatorship bonds be cancelled NUNC PRO TUNC as of 12-31-11.	
<input checked="" type="checkbox"/> <b>Notice of Hrg</b>	<b>Petitioner prays for an Order:</b>	
<input checked="" type="checkbox"/> <b>Aff.Mail</b>	<ol style="list-style-type: none"> <li>1. Settling and allowing the account and report and approving and confirming the acts of Petitioner as Co-Conservator;</li> <li>2. Fixing and allowing the sum of \$1,000.00 as the commission for Co-Conservator Rosalie Spate and allowing payment of said commission to Louis Spate pursuant to Probate Code §13100;</li> <li>3. Fixing and allowing the sum of \$500.00 as the commission for Co-Conservator Javier Benitey;</li> <li>4. Fixing and allowing the sum of \$1,000.00 as the fee for the attorney’s ordinary legal services;</li> <li>5. Authorizing payment for repairs to the home of Co-Conservator Javier Benite to the extent available from the conservatorship account;</li> <li>6. Exonerating the surety bond NUNC PRO TUNC 12-31-11; and</li> <li>7. Terminating the conservatorship of the estate of conservatee.</li> </ol>	
<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 checked="" type="checkbox"/> <b>CI Report</b>		
<input checked="" type="checkbox"/> <b>2620(c)</b>		
<input type="checkbox"/> <b>Order</b>	X	
<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>		
		<p><b>Reviewed by:</b> skc</p> <p><b>Reviewed on:</b> 3-13-12</p> <p><b>Updates:</b></p> <p><b>Recommendation:</b></p> <p><b>File 2 - Benitey</b></p>

<p>DOD: 6/12/1995</p> <hr/> <p>Cont. from: 090910, 120610, 012711, 040611, 060711, 090611, 110811, 121311, 020812</p> <p>Aff.Sub.W</p> <p>Verified</p> <p>Inventory</p> <p>PTC</p> <p>Not.Cred.</p> <p>Notice of Hrg</p> <p>Aff.Mail</p> <p>Aff.Pub.</p> <p>Sp.Ntc.</p> <p>Pers.Serv</p> <p>Conf. Screen</p> <p>Letters</p> <p>Duties/S</p> <p>Objection</p> <p>Video Receipt</p> <p>CI Report</p> <p>9202</p> <p>Order</p> <hr/> <p>Aff. Post</p> <p>Stat Rpt</p> <p>UCCJEA</p> <p>Citation</p> <p>FTB Notc</p>	<p><b>NITZA PEÑA</b>, niece, was appointed Administrator with <b>Limited IAEA</b> on <u>12/6/1995</u> with bond fixed at <b>\$20,000.00</b>.</p> <p><b>Proof of Bond</b> posted in the amount of <b>\$20,000.00</b> was filed on 12/15/1995, and <i>Letters</i> issued on that date.</p> <p>The <b>Inventory and Appraisal</b> was due on <u>3/15/1996</u>. The first account or petition for final distribution was due on <u>12/15/1996</u>.</p> <p><b>Proof of Service by Mail – Failure to File Inventory and Appraisal</b> was filed on <u>5/20/1996</u> indicating the notice of failure to file an inventory and appraisal, a first account or petition for final distribution was mailed to Attorney Keith Walker on 5/20/1996. <b>Notice of Status Hearing filed on 7/28/2010 set a status hearing on 9/9/2010</b> for failure to file the inventory and appraisal, and failure to file a first account or petition for final distribution. <i>Clerk’s Certificate of Mailing</i> shows the <i>Notice</i> was mailed to Keith S. Walker on 7/28/2010.</p> <p><b>Final Inventory and Appraisal filed on 3/20/2012</b> shows an estate value of <b>\$9,080.37 cash</b>. However, this value appears not to reflect a correct estate value <b>as of the date of Decedent’s death of 6/12/1995</b>, based upon the following:</p> <ol style="list-style-type: none"> <li>1. Initial <i>Petition for Probate</i> filed 10/31/1995 indicated an estimated value of the estate of <b>\$62,000.00, consisting of real property (\$42,000.00) and personal property (\$20,000.00);</b></li> <li>2. <i>Order for Probate</i> filed 12/6/1995 fixed bond at <b>\$20,000.00</b>; proof of bond was filed 12/15/1995, and <i>Letters</i> issued on that same date;</li> <li>3. Administrator Nitza Pena was authorized for <b>Limited IAEA Authority only</b>.</li> </ol> <p><b>Notes from the previous status hearings for background:</b></p> <ul style="list-style-type: none"> <li>• <i>Minute Order</i> dated 9/9/2010 [Judge Gallagher] states Attorney Walker represents to the Court that he lost contact with his client for a period of time but has now obtained a current address and should be able to close the estate quickly as the property has been lost. If the accounting is filed, no appearance is necessary on 12/6/2010.</li> <li>• <i>Minute Order</i> dated 12/06/10 [Judge Hamlin] states Attorney Walker states his intention to file a <i>Petition to Set Aside</i> in this matter and requests a continuance. If said petition is filed, then no appearance is necessary on 1/27/2011.</li> </ul> <p style="text-align: center;">~Please see additional page~</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p><u>Continued from 2/8/2012.</u> <i>Minute Order</i> states Keith Walker appears via Courtcall. Court orders Mr. Walker and Ms. Pena to personally appear if the Inventory and Appraisal is not filed by the next hearing on 3/21/2012.</p> <p><u>Note: Final Inventory and Appraisal was filed on 3/20/2012.</u></p> <p><u>Note: Petition for Family Allowance was filed on 3/20/2011 and is set for hearing on 5/3/2012.</u></p> <p>The following issues remain:</p> <ol style="list-style-type: none"> <li>1. Need <b>Final Inventory and Appraisal</b> pursuant to Probate Code § 8800.— <i>Filed 3/20/2012; please refer to notes at center.</i></li> <li>2. Need first account, petition for final distribution, or current status report pursuant to Local Rule 7.5(B) and (C).</li> </ol> <p><u>Note: An Amended Creditor’s Claim</u> was filed in this case on 6/21/1996 by Valley Medical Center [now Community Medical Center] for <b>\$198,043.68</b>.</p> <p>Reviewed by: LEG</p> <p>Reviewed on: 3/12/12</p> <p>Updates: 3/20/12</p> <p>Recommendation:</p> <p>File 3 - Vaughn</p>
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**Notes from the previous status hearings for background, continued:**

- *Minute Order* dated 1/27/2011 [Judge Oliver] states Counsel is directed to file the inventory with the petition. If filed by 4/6/2011 and reviewed by an examiner no appearance will be necessary.
- *Minute Order* dated 4/6/2011 [Judge Oliver] states Mr. Walker is appearing via conference call. Counsel advises the Court that he has managed to re-establish contact with his client and has made contact with an attorney in San Diego. Counsel further advises that he will be filing a Petition for Family Allowance.
- *Minute Order* dated 6/7/2011 [Judge Oliver] states Mr. Walker is appearing via conference call. Counsel requests a continuance. Matter continued to 9/6/2011.
- *Minute Order* dated 9/6/2011 [Judge Oliver] states Keith Walker states that he has had a medical procedure keeping him away from court. Mr. Walker requests a continuance, stating, for example, a pending creditor's claim. The Court notes the creditor's claim and understands the matter will be finished at the next court hearing of 11/8/2011.
- *Minute Order* dated 11/8/2011 [Judge Oliver] states Mr. Walker is appearing via conference call. Mr. Walker informs the Court that he has the Petition for Family Allowance largely prepared, but needs a continuance due to medical issues. Matter continued to 12/13/2011.
- *Minute Order* dated 12/13/2011 states Mr. Walker appears by CourtCall. Mr. Walker advises the Court that he should have the petition filed by the end of this year.



Atty Kruthers, Heather H., of County Counsel's Office (for Petitioner Public Administrator)  
 Atty Bagdassarian, Gary G., sole practitioner (for Objector Jose Miramontes, Beneficiary)  
 Atty O'Neill, Patricia Bone, sole practitioner (for former Administrator Beatriz Lopez Loza)

(1) First and Final Account and Report of Successor Administrator and (2) Petition for Allowance of Ordinary and Extraordinary Commissions and Fees and (3) for Distribution [Prob. C. 10800; 10810; 10951; 11600; 11850(a)]

<b>DOD: 6/14/2006</b>	<b>PUBLIC ADMINISTRATOR</b> , Successor Administrator, is Petitioner.	<b>NEEDS/PROBLEMS/COMMENTS:</b>
	<u>Account period: 3/25/2010 – 12/31/2011</u>	
	Accounting - <b>\$170,000.00</b>	
<b>Cont. from</b>	Beginning POH - <b>\$170,000.00</b>	
<input type="checkbox"/> Aff.Sub.Wit.	Ending POH - <b>\$ 13,570.19 (all cash)</b>	
<input checked="" type="checkbox"/> Verified	Administrator - <b>\$1,200.00</b> <i>(statutory)</i>	
<input checked="" type="checkbox"/> Inventory	Administrator XO - <b>\$1,248.00</b> <i>(for sale of real property @ \$1,000.00 per Local Rule 7.1; and for tax return preparation @ \$248.00 – 1 deputy hour @ \$96/hr and 2 probate assistant hours @ \$76/hr)</i>	
<input checked="" type="checkbox"/> PTC		
<input checked="" type="checkbox"/> Not.Cred.		
<input checked="" type="checkbox"/> Notice of Hrg		
<input checked="" type="checkbox"/> Aff.Mail		W/
<input type="checkbox"/> Aff.Pub.	Attorney - <b>\$1,200.00</b> <i>(statutory)</i>	
<input checked="" type="checkbox"/> Sp.Ntc.		W/
<input type="checkbox"/> Pers.Serv.	Bond Fee - <b>\$131.25 (ok)</b>	
<input type="checkbox"/> Conf. Screen	Costs - <b>\$420.50</b> <i>(certified copies; filing fee)</i>	
<input type="checkbox"/> Letters		032510
<input type="checkbox"/> Duties/Supp	Closing - <b>\$500.00</b>	
<input checked="" type="checkbox"/> Objections	<b>Distribution pursuant to intestate succession is to:</b>	
<input type="checkbox"/> Video Receipt	<ul style="list-style-type: none"> <li>• JOSE MIRAMONTES – \$2,956.82 cash;</li> <li>• RICARDO MIRAMONTES – \$1,478.40 cash;</li> <li>• HUGO MIRAMONTES – \$1,478.40 cash;</li> <li>• MARIO MIRAMONTES – \$1,478.40 cash to be placed into a blocked account accessible without further court order upon beneficiary attaining age of majority; <b>Petitioner requests authority to take this action because this beneficiary is a minor (age 16);</b></li> <li>• GUILERMINA MIRAMONTES – \$1,478.40 cash.</li> </ul>	
<input type="checkbox"/> CI Report	<b>Petitioner requests that in the event the whereabouts of the heirs are not known, Petitioner is authorized to deposit any remaining balance of funds with the Fresno County Treasury pursuant to Probate Code § 11850(a).</b>	
<input checked="" 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 checked="" type="checkbox"/> FTB Notice		
<i>~Please see additional page~</i>		
		<b>Reviewed by:</b> LEG
		<b>Reviewed on:</b> 3/13/12
		<b>Updates:</b> 3/19/12
		<b>Recommendation:</b> File 5 - Miramontes

**Objection to First and Final Account and Report of Successor Administrator and Petition for Allowance of Ordinary and Extraordinary Commissions and Fees and for Distribution filed on 3/16/2012 by Jose Miramontes, spouse and beneficiary, states:**

- He objects to Paragraph 10 of the First Account, Character of Estate, [which states that all assets of the estate are the Decedent's separate property], in that assets of the estate were community property of the Decedent and himself for the following reasons:
  1. The Decedent was not employed during the entire term of their marriage;
  2. He was a farm laborer, traveling all over the Central Valley in connection with his work; he was very concerned about his safety, and he did not want to be on title to the real property asset of the Estate in the event he was involved in an accident or passed away based on some other circumstances; therefore, since the time when the property was purchased in 1993, the property remained in the name of the Decedent, although there was a clear understanding between the Decedent and himself that it was their community property;
  3. He also objects to the reimbursement made to **BEATRIZ LOPEZ LOZA** in the amount of **\$3,540.38** for funeral expenses of the Decedent based on the *Declaration of Rosario Carrillo Concerning Contribution to Funeral Expenses for Graciela Miramontes* filed 9/20/2011; it is his understanding that the monies used to pay for the funeral expenses were accumulated from donations for funeral expenses through car washes and other means, rather than being the funds of Ms. Loza; furthermore, it is his understanding that the Court has not issued an *Order Approving the First and Final Account and Report* of Ms. Loza which was filed 10/14/2009.

**Objector requests: (1) That the character of the real property be determined to be community property and that the Objector be the sole beneficiary; and (2) that Beatriz Lopez Loza be directed to repay the Estate the sum of \$3,540.38.**

**Notes regarding reimbursement:**

- *Schedule D, Disbursements* of the Public Administrator's *First and Final Account* shows Beatriz Lopez Loza was reimbursed on 5/11/2011 the amount of **\$10,241.41** for costs of administration and funeral expenses.
- *Declaration of Rosario Carrillo Concerning Contribution to Funeral Expenses for Graciela Miramontes filed on 9/20/2011 by Jose Miramontes* indicates the declarant, Maria Carrillo who was a friend of the Decedent, worked with three other families and they worked two car washes for the purpose of raising funds for Decedent's funeral; several of the children from the family also went to various houses to ask for donations for the funeral expenses; the amount accumulated was **\$3,600.00** in total, and the monies were delivered to **LORZARO LOPEZ**, brother of Decedent (and also brother of Beatriz Lopez), as a contribution toward the funeral expenses of the Decedent; it was their understanding that the funds would be used to pay for Decedent's funeral expenses at Palm Memorial Chapel in Fresno.
- *Exhibit I* attached to former Executor Beatriz Loza's *First and Final Account* filed 10/14/2009 contains a copy of the statement for receipt for payment to Palm Memorial Chapel (with a contract date of 6/15/2006) showing **\$3,540.38** was paid for funeral arrangements, with the "purchaser" name as Mrs. Beatriz L. Loza.

**Notes for background:**

- On 1/25/2010, Beatriz Lopez Loza, who was the acting Administrator of the Estate (represented by Attorney Bone O'Neill), petitioned to have the Public [Administrator] appointed as administrator of the estate, citing the reason for her resignation as Administrator was because she was not able to bring the estate to closure.
- *Minute Order* dated 3/11/2010 appointed the Public Administrator as successor administrator who was to take control of all assets and initiate any actions necessary, including but not limited to eviction, to secure the property.
- *Status Report of Public Administrator Regarding Estate Assets* filed 9/3/2010 states after the death of the Decedent on 6/14/2006, Jose Miramontes moved into Decedent's residence with one adult son, and the Public Administrator believed illegal activity was occurring on the property, that the house was a target of gunfire, the house was deteriorating because trash was allowed to pile up inside and outside of the property, and utilities at the house had been shut off for non-payment.
- Jose Miramontes refused to vacate the premises and an unlawful detainer action was initiated; *Minute Order* dated 10/14/2010 states Mr. Bagdasarian reported that Mr. Miramontes intended to be out of the property by 10/24/2010, the due date of the *Writ of Possession* that had been issued. *Notice of Proposed Action* filed 2/2/2011 for the sale of the real property is signed on Page 2 by Jose Miramontes for his Objection to the Proposed Action, which objection was later withdrawn by Attorney Bagdasarian at the hearing on 4/12/2011 per *Minute Order* of that date.

Petition to Remove Executor, for an Accounting, for Appointment of Successor Personal Representative, for Surcharge, and to Enforce Settlement AGREEMENT

(Prob. C. 8500, 8501, 8502, 8520 et seq., 8540 et seq., 10952, 12200, 12204, 12205, and CCP 664.6)

DOD: 7/4/08	NORMA G. LITTLE, surviving spouse, is Petitioner.	NEEDS/PROBLEMS/COMMENTS
	Petition states:	
	<ul style="list-style-type: none"> <li>Petitioner Norma Little (“Petitioner”) is the surviving spouse of Decedent; they were married on 5/22/04 and were married at the time of Decedent’s death;</li> </ul>	
Cont. from: 091310, 100410, 102710, 120810, 021611, 033011, 051811, 080311, 091411, 102611, 011112, 030712	<ul style="list-style-type: none"> <li>On 7/18/08, Respondent Christopher Little (“Respondent”), who is Decedent’s brother, was appointed personal representative of Decedent’s estate by the Pinal County Superior Court, state of Arizona (“Arizona court”);</li> </ul>	
Aff.Sub.Wit	<ul style="list-style-type: none"> <li>On 11/12/08, the Fresno County Superior Court (“Fresno court”) appointed Respondent as the California Executor with bond of \$400,000.00;</li> </ul>	
√ Verified	<ul style="list-style-type: none"> <li>Thomas McCarville (“T. McCarville”) and David McCarville (“D. McCarville”) are Arizona attorneys who represent Respondent in the Arizona proceedings;</li> </ul>	<p><b><u>Continued from 3/7/12. Minute Order states: Mr. Knudson advises the Court that the Arizona Court approved the settlement agreement. The Court continues the matter to 3/21/12 so counsel from the DAK firm can be present.</u></b></p>
Inventory	<ul style="list-style-type: none"> <li>Petitioner previously filed 3 petitions in this matter: 1) <i>Petition to Determine Distribution Rights</i>; 2) <i>Petition for an Order Setting Apart Probate Homestead</i>; and 3) <i>Petition for Payment of Family Allowance</i>, and the matters were set for trial;</li> </ul>	
PTC	<ul style="list-style-type: none"> <li>Prior to trial, the parties agreed to settle all of Petitioner’s claims subject to approval from the Fresno and Arizona courts (Settlement AGREEMENT and Mutual General Release (“AGREEMENT”) attached to Petition as Exhibit A);</li> </ul>	
Not.Cred.	<ul style="list-style-type: none"> <li>The AGREEMENT states in part:                             <ul style="list-style-type: none"> <li>Respondent is to file petitions for approval of the AGREEMENT in each court no later than 8/21/09; upon approval by both courts, Respondent is to distribute property to Petitioner pursuant to said AGREEMENT;</li> <li>Settling parties are to execute or deliver any instrument, furnish any information, or <b><u>perform any other act necessary</u></b> to carry out the AGREEMENT’s provisions without undue delay or expense, including appearing at court hearings concerning the status of disputes (<i>emphasis added in Petition</i>);</li> <li>Prevailing party in an action to enforce terms of AGREEMENT is entitled to costs and reasonable attorneys’ fees;</li> <li>AGREEMENT is enforceable pursuant to CCP section 664.6.</li> </ul> </li> </ul>	<p><b><u>Note: Notice of Lien, filed on 2/22/12 by the Dowling, Aaron firm (counsel for Norma Little), indicates the law firm is claiming a lien on any and all claims and entitlements of Norma Little in the amount of \$112,393.41 as of 2/1/12.</u></b></p>
√ 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		

SEE ATTACHED PAGE-

Updates:

Reviewed: 3/13/12

Recommendation:

Reviewed by: NRN

File: 6A - Little

- On 9/22/09, Respondent petitioned the Fresno court to approve the AGREEMENT; on 9/29/09 he similarly petitioned the Arizona court for approval; on 12/14/09, the Fresno court approved the AGREEMENT;
- On 5/17/10, the Arizona court ordered Respondent's attorney, D. McCarville, to provide all parties with an updated accounting no later than 7/16/10; in disregard of said order, D. McCarville provided the parties with a "First Supplemental Inventory and Appraisalment," instead of the court-ordered updated accounting (*note: per Declaration of Petitioner, filed 9/9/10, this Inventory filed by Respondent shows values for Decedent's property that are significantly less than the date of death values*); nearly a year has passed since the AGREEMENT was executed, and 7 months have passed since the Fresno court approved it;
- Respondent has failed to obtain the Arizona court's approval of the AGREEMENT, has failed to respond to objections filed in Arizona, and has failed to timely administer Decedent's estate, all in violation of the AGREEMENT and his fiduciary duties;
- Respondent's failure to secure Arizona court approval is due in part to D. McCarville's conflicts of interest and Respondent's failure to retain counsel without such conflicts;
  - Specifically, on 11/13/09, Respondent's attorney D. McCarville petitioned the Arizona court for instructions relating to several conflicts of interests, including:
    - D. McCarville's brother and in-laws have an ownership interest in estate assets;
    - Prior to Decedent's death, D. McCarville's brother took out a loan to improve the assets he apparently owns with the estate and is apparently owed money by the estate for this loan;
    - D. McCarville's father, T. McCarville, was previously a partner with the attorney who prepared Decedent's ante nuptial AGREEMENT and who now faces potential malpractice claims by the estate relating to the ante nuptial AGREEMENT; and
    - D. McCarville represents (in other matters) the fiduciary company, East Valley Fiduciary Services/James C. Clark, that has been appointed as guardian and conservator of Jeremy R. Little, who is Decedent's grandson and the only party objecting to the AGREEMENT with claims adverse to Executor and Petitioner.
    - The Arizona court never issued instructions on these conflicts of interests.
- D. McCarville is delaying Respondent from timely administering Decedent's estate, in part because of conflicts of interest;
- Due to the failures of Respondent and D. McCarville, Petitioner has received none of the property to which she is entitled;
- Petitioner has sought approval from the Arizona court through her counsel, but has been unsuccessful.

**Petitioner Requests an order:**

1. Removing Respondent as personal representative (Executor) and revoking Letters;
2. That Respondent file an accounting within 60 days of his removal as personal representative;
3. Denying appointment of Thomas McCarville as nominated Successor Executor;
4. Appointing Petitioner Norma Little as successor personal representative, or in the alternative, appointing a neutral third party as successor personal representative;
5. Surcharging Respondent's compensation as Executor pursuant to PrC 12205;
6. Enforcing the AGREEMENT by requiring Respondent or successor personal representative to vigorously prosecute the enforcement of the AGREEMENT in the Arizona court and defend objections thereto at the expense of Decedent's estate, requiring Respondent or successor personal representative to obtain counsel who does not represent a conflict of interest with regard to the estate, and by requiring that Respondent or successor personal representative to do all acts necessary to perform the obligations of the AGREEMENT without undue delay;
7. For attorneys' fees and costs and for such other orders as the Court deems proper.

**Response to Petition, filed by Respondent Christopher Little on 9/27/10, states:**

- The sole heirs under Decedent's Will are Decedent's son James D. Little and his grandson Jeremy Little;
- Petitioner Norma G. Little ("Petitioner) and Decedent entered into a written agreement prior to their marriage; included in this agreement was a waiver by Petitioner of any right to inherit property from Decedent's estate;
- Currently, the Arizona court has not approved the parties' 8/4/09 AGREEMENT; as such, there is no enforceable settlement of the matters and issues between Petitioner and Respondent in this Court, as the terms of the AGREEMENT are expressly conditioned upon the approval of the AGREEMENT's terms by both the Fresno Court and the Arizona Court and without both court's approval, the AGREEMENT has no force and effect.

**SEE ATTACHED PAGE**

**6A**

- On 10/5/09, the Arizona court held a status review hearing regarding the AGREEMENT; at that hearing, Petitioner, Jim Little, and the guardian of Jeremy Little stated their objections to the AGREEMENT; a further status review was scheduled for 11/16/09;
  - a. Between 11/16/09 and 4/19/10, the court held several status hearings on matters relating to the administration of the estate and petition to approve the AGREEMENT;
  - b. On 5/17/10, the Arizona court ordered Respondent to provide an updated accounting by 7/16/10, with objections to the AGREEMENT to be filed by 8/20/10, and responses to the objections filed by 9/17/10;
  - c. Respondent filed a 1<sup>st</sup> Supplemental Inventory with the Arizona court on 7/16/10; and thereafter filed a Petition for Approval of 1<sup>st</sup> Interim Accounting on 7/30/10;
  - d. On 8/9/10, counsel for Jim Little's conservator filed an objection to Respondent's petition to approve the AGREEMENT; objections were also filed by counsel for Jeremy Little's guardian on 8/19/10, to which Jim Little filed a joinder;
  - e. Jim and Jeremy Little's primary objections to the AGREEMENT focus on Petitioner's status as an omitted spouse and the reduced value of assets of Decedent's estate;
  - f. The Arizona court set a settlement conference for 10/19/10;
  - g. Petitioner also filed and MSJ in the Arizona court to compel the court to approve the AGREEMENT and the matter is currently before that court;
  - h. The Arizona court has also set a status review hearing on 11/1/10.
  - i. Petitioner has attended all proceedings before the Arizona court.
- Petitioner has a significant conflict of interest disqualifying her from serving as personal representative because she has pending creditor's claims and Petitions now pending before this court; though a settlement has been reached through the AGREEMENT, the AGREEMENT has not been approved by the Arizona court and the matter is currently pending;
- Petitioner has not filed a petition in the Arizona court for removal of Respondent as personal representative; as such, appointment of Petitioner in the Fresno court would provide an unworkable and inconsistent administration of the Decedent's estate, and only further delay the ultimate resolution of this case;
- Finally, the hearing on David McCarville's Petition for instructions on the conflicts of interest has been continued by the Arizona court each time, and Petitioner's attorney has not objected to any such continuance;
- **Respondent requests:** An evidentiary hearing; that Petitioner Norma Little's Petition be dismissed with prejudice, and that Petitioner be required to pay Respondent's reasonable attorneys' fees and the costs of this proceeding.

STATUS REPORT, FILED 10/25/10 BY ATTORNEY MILNES, STATES: A mediation was conducted on 10/19/10 and a complete settlement agreement was reached between all parties, and Atty Keeler has undertaken to reduce the settlement agreement to writing as recited on the record.

Status Report, filed 3/25/11 by Counsel for Norma Little, states:

- *The 10/19/10 mediation (as referenced above) resulted in a complete settlement of all matters existing between the parties; and was confirmed by the Pinal County, Arizona Superior Court ("the settlement agreement");*
- *A draft of the settlement agreement was originally prepared in 11/10 and since then the parties have been negotiating the agreement amongst themselves;*
- *At the last status conference on 2/16/11, the agreement was still being negotiated and the Court continued the matter to 3/10/11;*
- *To date, the parties have not been able to agree upon the agreement's provisions relating to primary jurisdiction of this matter; Norma Little contends that as Decedent died in Fresno County, jurisdiction is proper in Fresno County; respondents contend jurisdiction should be set in either Pinal County, AZ or a neighboring AZ county;*
- **THEREFORE, NORMA LITTLE REQUESTS A FURTHER CONTINUANCE TO ALLOW PARTIES ADD'L TIME TO AGREE ON A SETTLEMENT AGREEMENT AND/OR PETITION THE PINAL CTY SUPERIOR COURT FOR ENFORCEMENT OF THE 11/10 SETTLEMENT AGREEMENT.**

SEE ATTACHED PAGE

6A

Dept. 303, 9:00 a.m. Wednesday, March 21, 2012

Status Report, filed 9/13/11 by Attorney Michael Milnes (for Executor/Respondent Christopher Little) states:

- Disputes regarding the AZ Settlement are still ongoing;
- Attorney Milnes has not been involved in the AZ settlement discussions, as what is ultimately resolved in AZ will have to return to this Court for approval (AZ court minute orders attached to Status Report and shows the case's activity for the past 3 months);
- The personal representative has also recently filed an accounting of his activities in AZ and petitions for fees, to be heard in AZ on 10/3/11, and parties to this AZ probate case have until 9/23/11 to file their objections to the accounting and/or petitions for fees;
- As such, future AZ proceedings are dependent upon what occurs as a result of these filings;
- The AZ parties have agreed that Christopher Little shall remain as Executor in both the AZ and CA probate matters;
- Attorney Milnes suggests this matter be set for a further status hearing in 60-90 days.

6A

DOD: 7/4/08	<p><b><u>This Status Hearing was set by the Court on 1/11/12, on the Petition to Remove Executor (see Page 1A). Minute Order states: Ms. Berger-Hoang and James Clark are appearing via conference call as well as Ken Peace. Ms. Burnside informs the Court that a settlement was submitted to the court in Arizona.</u></b></p>	NEEDS/PROBLEMS/COMMENTS:
	<p><b><u>Need Proof of Exoneration of bond and Dismissal, or Status Report.</u></b></p>	
Cont. from 3/7/12		<b><u>CONTINUED FROM 3/7/12</u></b>
Aff.Sub.Wit.		
Verified		
Inventory		1. Need proof of exoneration of bond and dismissal, or status report.
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		Reviewed by: NRN
Status Rpt		Reviewed on: 3/13/12
UCCJEA		Updates:
Citation		Recommendation:
FTB Notice		File 6B – Little

**Final Report and Account of the Public Administrator [Prob. C. § 7660]**

<b>DOD: 12-18-08</b>		<b>PUBLIC ADMINISTRATOR</b> is Petitioner.	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <ol style="list-style-type: none"> <li><b>1. The account period ends 1-27-12, but the Property On Hand is cash as of 6-30-11. The Court may require clarification.</b></li> <li><b>2. Need \$395.00 Court filing fee for this Final Report per Probate Code §11420.</b></li> </ol> <p><b>Accordingly, need recalculation of payments to creditors after payment of the Court filing fee as an expense of administration.</b></p>
		Account period: 1-5-09 through 1-27-12	
		Accounting: \$61,032.58	
		Beginning POH: \$60,400.00	
		Ending POH: \$7,877.19 (as of 6-30-11)	
	Aff.Sub.Wit.	Public Administrator (Statutory): \$2,441.30	
✓	Verified	Attorney: (Statutory): \$2,441.30	
	Inventory	Bond fee: \$457.74 (ok)	
	PTC	Petitioner intended to treat this like all 7660 final reports, which is to pay all fees and distributions and then report to the Court what occurred; however, given the insolvency of the estate, notice was given to review the account and proposed distributions.	
	Not.Cred.	<b>After payment of the above fees totaling \$5,340.34, payment of the remaining estate in the amount of \$2,536.85 shall be made to the following creditors:</b>	
✓	Notice of Hrg	<ul style="list-style-type: none"> <li>• Joanne Sanoian - \$91.11</li> <li>• Valley Health Care - \$24.69</li> <li>• Pharmerica - \$65.90</li> <li>• Avalon Care Center - \$2,036.13</li> <li>• Fresno County Public Guardian - \$183.72</li> <li>• Fresno County Treasurer - \$3.27</li> <li>• Fresno County Counsel - \$132.03</li> </ul>	
✓	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		
			<b>Reviewed by:</b> skc
			<b>Reviewed on:</b> 3-13-12
			<b>Updates:</b>
			<b>Recommendation:</b>
			<b>File 7 - Sprague</b>

Third Amended Petition for Account, Removal of Trustee, and Appointment of Successor

<b>Age:</b>	<b>JAMES R. WILKINSON</b> , son and beneficiary of the <b>WILLIAM and DORTHEA WILKINSON TRUST</b> (“Trust”) is Petitioner.		<b>NEEDS/PROBLEMS/COMMENTS:</b> <u><b>CONTINUED TO 5/8/12 PER STIPULATION OF THE PARTIES (ORDER FOR CONTINUATION OF HEARING SIGNED BY THIS COURT ON 3/20/12.</b></u>  <u>Continued from 2/8/12. Minute Order states:</u> Court requests Mr. Simonian to contact Mr. Clark regarding the filing of the 4 <sup>th</sup> amended account he stated he would file at the 1/25/12 hearing.  <i>[1/25/12 Minute Order states: Mr. Clark is appearing via conference call. Mr. Clark advises the Court that he will be preparing a fourth amended petition. The Court orders that there be no acceptance of any offers as to the 7800 Van Ness property pending court approval. The Court will entertain an Order Shortening Time.]</i>  <u>As of 3/13/12 nothing further has been filed.</u>
<b>DOD:</b>	<b>ROSS W. WILKINSON</b> , son, is the current Trustee.		
Cont. from 102511, 120811, 012512, 020812	Petitioner states that pursuant to the Trust’s 4 <sup>th</sup> Amendment, which is a Survivor’s Trust, Trustee Ross Wilkinson (“Ross”) was to exercise powers in the Trust as a fiduciary and has no power to enlarge or shift any beneficial interest in the Trust ( <i>copy of Trust attached to Petition</i> ).		
<input type="checkbox"/> Aff.Sub.Wit.	Petitioner states Ross has breached PrC §§16000-16001(5) by converting Trust property for his own personal use and benefit. Specifically, Ross has absconded Trust property in a minimum amount of approximately \$98,686.75, and has wrongfully paid money to his wife Cindi from the Trust, in the approximate amount of \$39,457.75 ( <i>copies of Bank of America check summaries from Trust assets for the years 2007 and 2008 attached to Petition</i> ).		
<input checked="" type="checkbox"/> Verified	Petitioner further states that on 3/26/07, Ross directed \$200,000.00 to be wire transferred from the Trust’s Wachovia stock account to Pacific Northwest Title Company. These funds were then used to purchase real property located in Monroe, Washington in the name of Ross and Cindi Wilkinson, and is not listed as Trust property ( <i>copies of the Wachovia withdrawal attached to Petition</i> ).		
<input type="checkbox"/> Inventory	Petitioner requests that Ross be relieved as Trustee to ensure that no other Trust assets are converted or misappropriated.		
<input type="checkbox"/> PTC	Petitioner states that though the Trust provides for Petitioner to act as Trustee in Ross’ place, Petitioner lives in Florida and therefore it is not practical for him to act as Trustee; therefore, Petitioner requests that Bill Bickel be appointed. Mr. Bickel is willing to act as Trustee.		
<input type="checkbox"/> Not.Cred.	There has been no agreement between the adult beneficiaries to enter into an agreement to provide for a successor trustee pursuant to PrC §15660(c).		
<input checked="" type="checkbox"/> Notice of Hrg	<b>Petitioner requests:</b> 1) Ross be removed as Trustee; 2) Bruce Bickel be appointed as Trustee; 3) that Ross be compelled to submit his report of information regarding the Trust assets of the Trust, A,B, and C, and submit an accounting of his acts as Trustee from 4/8/05 to the present; 4) that Ross be compelled to address the Trust breach by repaying all monies wrongfully absconded for his own personal benefit, payable back to the Trust; 5) that Ross pay for costs incurred herein and 6) for all other orders the Court deems proper.		
<input checked="" type="checkbox"/> Aff.Mail	<i>See attached page</i>		
<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			
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			

## 8 (1st addt'l page) William and Dorothea Wilkinson Trust Case No. 11CEPR00222

### Objections to Third Amended Petition, was filed 10/24/11 by Ross W. Wilkinson ("Respondent")

#### Petitioner states:

- As a result of Dorothea Wilkinson's (Dorothea) death on 1/19/97 (prior to William D. Wilkinson's ("William") death on 2/3/09, the Trust was divided into 3 separate sub-trusts, Trust A - Exemption Trust ("Trust A") Trust B-Q-Tip Trust ("Trust B") and Trust C - Survivor's Trust ("Trust C") – (these three Trusts also referred to collectively as the "Wilkinson Trusts");
- A Fourth Amendment to the Trust was executed by William 4/8/05, and was entitled *Fourth Amendment to Trust Agreement –Survivor's Trust for the William and Dorothea Wilkinson Trust* ("Fourth Amendment");
- From 1/9/97 through 2/3/09, William acted as sole Trustee of Trust A and Trust B;
- From 1/9/97 through 4/8/05, William acted as sole Trustee of Trust C;
- From 4/8/05 through 2/3/09, William and Ross acted as Co-Trustees of Trust C pursuant to the Fourth Amendment;
- Since 2/3/09, Ross has acted as the sole Trustee of all three Wilkinson Trusts;
- From 1/9/97 through the date of his death on 2/3/09, William was the sole beneficiary of the Wilkinson Trusts;
- The sole beneficiaries of the Wilkinson Trusts following William's death are Petitioner James and Respondent, Ross;
- Fresno County is the principal place of administration of the Wilkinson Trusts;
- The Wilkinson Trusts are not revocable;
- Trust A holds title to an undivided 65.29% interest in real property located at 7800 N. Van Ness Boulevard, in Fresno;
- Trust B holds title to an undivided 34.71% interest in that same real property (7800 N. Van Ness, Fresno);
- Trust C is of nominal value, having been substantially depleted and exhausted during William's lifetime.

#### Issue of Removal of Trustee/Reappointment of Successor Trustee

- Petitioner's *Third Amended Petition* raises the issue of the removal of the Trustee and reappointment of a successor trustee for the first time; this issue was not presented in the original *Petition for Account* filed 3/21/11, nor was it raised in the *Amended Petition for Account* filed 5/18/11. As such, *Notice of Hearing* is required pursuant to PrC §17203 and Rule 7.53(a) of the CRC, however, no such *Notice of Hearing* has been provided to or served on Respondent; and similarly, no *Notice of Hearing* has been provided to or served on other parties interested in these proceedings, and specifically including those parties named to act as successor Trustee under the Trust terms (PrC §17203(a)(1));
- Furthermore, the copy of the *Third Amended Petition* sent to Respondent's attorney did not have a verification attached as required under PrC §1021 and finally, the *Third Amended Petition* fails to list the names and last known addresses of all vested and contingent beneficiaries of the Wilkinson Trust as required under Rule 7.903 of the CRC;
- There has been no agreement between the adult beneficiaries of the Wilkinson Trusts to provide for a successor trustee, and signed declination to act as Trustee by Petitioner James has not been filed (James is named as successor trustee);
- Petitioner's interpretation of the Wilkinson Trusts concerning the removal of Respondent as Trustee and appointment of a successor trustee is incorrect. Pursuant to the Trust, Trusts A and B are irrevocable upon formation and therefore matters regarding the removal of the Trustee and appointment of successor Trustee are controlled by the Trust as executed by Dorothea and William on 4/9/92; said Trust specifically names Jane Morton as successor Trustee of Trusts A and B and if unable, unwilling or fails to serve, Union Bank is specifically named;

*See attached page*

Dept. 303, 9:00 a.m. Wednesday, March 21, 2012

CONT'D:

- Respondent therefore objects to the appointment of Bruce Bickel as successor trustee for Trusts A and B as he is not named in the trust instrument and as neither Jane Morton nor Union Bank have been provided notice of these proceedings and as neither has declined to accept their appointment;
- Respondent further objects to the appointment of Bruce Bickel as the *Third Amended Petition* fails to disclose his fee schedule for fiduciary services, the manner in which his compensation is determined, and it is unknown whether Mr. Bickel will charge an hourly rate or a percentage fee for his services;
- With respect to Trust C (a revocable Trust), the Trust provides that William had the right, during his life, to modify, amend, or revoke the provision of Trust C; William in fact exercised that right on 4/8/05 with the Fourth Amendment;
- Pursuant to that Amendment, Respondent Ross has the sole power to designate a successor Trustee of Trust C, without Court approval; Respondent has not declined to exercise this power, and reserves this right in the event he (Respondent) is removed as Trustee; furthermore, Petitioner has made no attempt to reach an agreement with Respondent to appoint a successor Trustee;
- If Ross is removed as Trustee of Trust C and is either not entitled to designate a successor trustee for Trust C or if he declines to do so, appointment of successor trustee should be consistent with the settlors' wishes as expressed in the Trust with respect to Trusts A and B –to wit, Jane Morton and Union Bank, after having been provided notice of these proceedings – as well as for the reason of convenience of administration since Trust C is of nominal value.

Allegations regarding Respondent's violation of his Fiduciary Duties as Trustee

- Respondent confirms Petitioner's allegation that \$200,000.00 was wired from Wachovia Securities on 3/26/07, in the name of the Trust to Pacific Northwest Title Company;
- Said funds were used to purchase real property in Washington State and title is held by Respondent;
- Acquisition of the property was part of a tax-free exchange by Respondent that involved the sale of another piece of real property;
- Said action however was taken with the knowledge and consent of William, Co-Trustee of Trust B and sole beneficiary of Trust B;
- The transfer of these funds was intended as a short-term unsecured loan to Respondent until the tax-free exchange involving Respondent was completed;
- In fact, the *Third Amended Petition* fails to disclose that on 7/2/07, \$160,000.00 was wire transferred at Respondent's direction to the Wachovia Securities account in the name of Trust B, in partial payment of the unsecured loan, and received by Respondent at the completion of the tax free exchange (copy of said \$160,000.00 transfer from Respondent to Wachovia attached to *Objections* as Exh. A);
- Respondent attaches to his *Objections* (as Exh. B) a list of disbursements totaling \$44,252.91 made from the Wilkinson Trusts and/or assets the source of which can be traced to the assets of the Wilkinson Trusts during the time period in question, and acknowledged by Respondent to be to and/or for Respondent or Respondent's spouse's benefit;
- However, all other amounts distributed to Respondent or his spouse during William's life from the Wilkinson Trusts (and set forth in Exhibits B and C to Petitioner's *Third Amended Petition*) were used primarily for the care and benefit of William and /or for maintenance of the Trust assets during William's life and in accordance with the terms and provisions of the Wilkinson Trusts;

*See attached page*

- These disbursements as identified in Petitioner's Exhibits B and C indicate they were payments to "Emily Alonzo" or are designated in the notes as "Emily" – were, in fact, used to provide for William's care in accordance with the Wilkinson Trusts;
- Amounts distributed to Respondent or to his spouse during William's lifetime from the Trusts or from assets traceable to the Trusts equaled or did not exceed those distributions from the Trusts made to Petitioner James;
- Respondent attaches to his *Objections* (as Exh. C) a list of disbursements made to James from 4/8/05 (when Respondent was appointed Co-Trustee) through to William's death on 2/3/09; these disbursements total \$156,238.74 (this is not a complete list, however Respondent is in the process of completing a trust accounting for that stated time period as ordered by this Court);
- Additionally, Respondent is currently preparing a trust accounting for the period 2/3/09 – 6/30/11; Respondent believes said accounting can be completed within the next two weeks for Petitioner's review and filing with the Court;
- Respondent is entitled to reasonable compensation for his services as Trustee and as Co-Trustee during the period 4/8/05 to the present and has not received any compensation to date for his fiduciary services;
- To the extent the trust accounting shows disbursements for Respondent's benefit exceeding disbursements to Petitioner James, such amount can be offset against the reasonable compensation to which Respondent is entitled;
- Since William's death, Respondent has performed his fiduciary duties as required by law, including making regular disbursements of trust income and principal to the trust beneficiaries in accordance with the Wilkinson Trusts; as stated the primary asset of the Wilkinson Trusts is real property on Van Ness Boulevard in Fresno, which Respondent has listed for sale;
- To date, only one offer has been received at substantially less than the asking price;
- Removal of Respondent as Trustee is neither warranted nor necessary to protect the Trust or the beneficiaries, and appointment of a professional fiduciary will only serve to increase Trust expenses;
- If the Court orders Respondent to repay any monies disbursed to Respondent for his benefit (or his spouse's), Petitioner should similarly be ordered to repay all monies disbursed to Petitioner for his benefit.

**Respondent prays:**

1. All of relief prayed for by Petitioner James excluding Respondent's obligation to provide an accounting for Trust activities on or after 4/8/05 be denied and the *Third Amended Petition* be dismissed;
2. Petitioner be ordered to provide proper notice of the date and time for hearings of these proceedings to all Trust beneficiaries and all other interested parties including, parties named under the Trust to act as successor Trustee of Trusts A and B;
3. Petitioner be ordered to amend his *Third Amended Petition* to comply with the applicable Rules of Court;
4. Petitioner be ordered to pay all costs incurred herein by Respondent, including Respondent's attorney's fees, or alternatively, that Respondent be entitled to reimbursement from Trust assets for said costs.

**Respondent Trustee's Status Report**, filed 1/19/12, states:

- **At the 10/25/11 hearing, the Court ordered accountings for the Wilkinson Trusts for two account periods (4/5/05-1/31/09 and 2/1/09-7/13/11), and pursuant to a stipulation of the parties, these accountings were to be filed 7 days before the 1/25/12 hearing;**
- **Respondent attaches both Court-ordered accountings for the Wilkinson Trusts, for review by the Court and Petitioner's counsel; however, due to the length of the first account period and the number of transactions involved with respect to the three trusts, Respondent's counsel has not been able to include all of the information in each accounting for the joint account that was maintained during the account period by Respondent and William Wilkinson as that information is still being reviewed to appropriately characterize and allocate the receipts received and disbursements made. Respondent's counsel believes he will complete the accountings by the 1/25/12 hearing. However, this Status Report is provided to inform the Court as to the above status given the stipulated filing date (7 days prior to the hearing).**

**See attached page**

Respondent's Supplement to Status Report, filed 1/24/12, states:

- Respondent was ordered on 10/25/11 to provide Petitioner with an accounting for the disposition of any funds or accounts the source of which can be traced to either Trust A, B, or C, from 4/4/05 through the date of the account;
- Respondent attaches as Exhibit A an accounting for the Bank of America Joint checking account, held in both Petitioner and Respondent's names, for the period 12/15/06-12/18/09;
- A portion of the deposits made to this checking account can be traced to Wachovia Securities Account #6651 held in the name of Wilkinson Trust C. Respondent is in the process of obtaining additional account statements for the Bank of America account for the time period prior to 12/15/06, and will provide a further account for activities prior to that date when statements are received;
- In preparing the Bank of America accounting it was discovered that a deposit to Wachovia Securities reported on Schedule B of the 4/1/05-1/31/09 accounting (attached to prior Status Report) was incorrectly characterized as a "miscellaneous receipt" in the amount of \$21,169.58, received 11/28/07 from the Winifred Petersen Residual Trust. This deposit however should have been characterized as a payment by Ross Wilkinson against the unpaid principal balance of the unsecured loan reported on Schedule G of the Accounting, as the source of the deposit can be traced to Ross Wilkinson;
- As such, pages 1,8,17, and 18 of the Trustee's Accounting for the 4/1/05-1/31/09 period have been revised, and are attached to this Supplemental Status Report as Exhibit B;
- Additionally, in order to reflect the changes to the 4/1/05-1/31/09 account, it was necessary to correct the beginning and ending balance of the unsecured loan to Ross Wilkinson reported in the Accounting for the 2/1/09-7/31/11 Accounting – and attached as Exhibit C are the revised pages to this 2/1/09-7/31/11 Accounting.

(1) Second and Final Account and Report of Conservator of the Person and the Estate and (2) Petition for Allowance of Attorney Fees and (3) for Delivery of Asset (Prob. C. 1860, 2620 & 2632)

<b>DOD: 8-25-11</b>	<b>CHARLES LAMBETECCHIO</b> , Conservator with bond of \$110,297.00, is Petitioner.	<b>NEEDS/PROBLEMS/COMMENTS:</b>  <b>Note: Petitioner was appointed Executor of the Conservatee’s estate in 11CEPR00798 on 10-20-11.</b>	
	Account period: 7-30-11 through 1-13-12		
	Accounting: \$137,444.41		
	Beginning POH: \$134,235.74		
	Ending POH: \$110,249.56 (\$80,249.56 is cash)		
	Conservator: Waived		
	Attorney: \$1,000.00 (per local rule)		
	Costs: \$395.00		
	<b>Petitioner prays for an Order:</b>		
	1. Approving, allowing and settling the account and report;		
	2. Authorizing payment of the attorney fees and costs;		
	3. Authorizing and directing Petitioner to deliver the property remaining in his possession to the Executor of the estate; and		
	4. Upon filing of the proper receipts, discharge of the estate and surety on the bond.		
			<b>Reviewed by:</b> skc
			<b>Reviewed on:</b> 3-13-12
			<b>Updates:</b>
			<b>Recommendation:</b> SUBMITTED
			<b>File 9 - Brinkhaus</b>
<b>Aff.Sub.Wit.</b>			
<input checked="" type="checkbox"/> <b>Verified</b>			
<b>Inventory</b>			
<b>PTC</b>			
<b>Not.Cred.</b>			
<input checked="" type="checkbox"/> <b>Notice of Hrg</b>			
<input checked="" type="checkbox"/> <b>Aff.Mail</b>	w		
<b>Aff.Pub.</b>			
<b>Sp.Ntc.</b>			
<b>Pers.Serv.</b>			
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<b>CI Report</b>			
<b>9202</b>			
<input checked="" type="checkbox"/> <b>Order</b>			
<b>Aff. Posting</b>			
<b>Status Rpt</b>			
<b>UCCJEA</b>			
<b>Citation</b>			
<b>FTB Notice</b>			

Atty LeVan, Nancy J. (for Demetria Mijangos – daughter/Petitioner)

ProPer Villareal, Monica (pro per – Petitioner/objector)

Atty Kruthers, Heather (for Public Administrator)

Petition to Revoke Probate of Will and for Instructions to Public Administrator (Original Exhibit Attached)

DOD: 05/11/11		<p>MONICA VILLAREAL, daughter, is Petitioner.</p> <p>On 07/26/11, Demetria Mijango’s, decedent’s daughter, filed a petition for probate to be appointed Administrator with Will Annexed and admit decedent’s Will dated 11/06/08 to Probate.</p> <p>On 08/08/11, Monica Villareal, filed a Declaration in Opposition to Demetria Mijango’s Petition for Probate.</p> <p>On 08/30/11 the Court appointed the Public Administrator as Administrator of the Estate.</p> <p>On 09/16/11, Monica Villareal filed this Petition to Revoke Probate of Will and For Instructions to Public Administrator. The Petition states that at the hearing on 08/30/11 another daughter of the decedent, Ruth Reyes, presented a holographic Will of the decedent dated 02/09/09 that leaves the entire estate to Ruth Reyes. Also presented was a handwritten note by the decedent declaring that the deed she signed giving joint tenancy to Demetria and Jose Mijangos was a product of fraud and undue influence. The note further completely disinherits the Mijangos. Ms. Villareal states that the Court would not accept these documents during the 08/30/11 hearing, but states that these documents should be accepted by the Court as the decedent’s last Will. Further, Ms. Villareal requests the Court to direct the Public Administrator to act on these two holographic documents.</p> <p><b>Declaration of Ramona Azevedo filed 02/24/12</b> states that the signature on the holographic will and letter omitting Demetria Mijangos is not Mary Corrales’ signature. Ms. Azevedo states that Mary Corrales told her several times that Demetria Mijangos would do the right thing with her estate.</p>	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <p><u>CONTINUED FROM 02/08/12</u> Minute order from 02/08/12 hearing states: Parties are ordered to give Susan Banuelos their contact information.</p> <ol style="list-style-type: none"> <li>1. Need Summons and proof of service of Summons on Personal Representative. (The Public Administrator was appointed as Administrator with Will Annexed on 08/30/11; however, they were subsequently dismissed as Administrator for this Will. A Holographic Will dated 02/01/09 was subsequently admitted to probate and the Public Administrator was appointed as Administrator with Will Annexed of the 02/01/09 Will on 10/24/11.)</li> <li>2. Need Order.</li> </ol>
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Aff.Sub.Wit.			
✓ Verified			
Inventory			
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Duties/Supp			
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Video Receipt			
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Status Rpt			
UCCJEA			
Citation			
FTB Notice			
		<p><b>Reviewed by:</b> JF</p> <p><b>Reviewed on:</b> 03/13/12</p> <p><b>Updates:</b></p> <p><b>Recommendation:</b></p> <p><b>File 10 - Corrales</b></p>	

Atty Rindlisbacher, Curtis D., of Perkins Mann & Everett (for Petitioner Linda M. Schroer)

(1) Report of Executor and (2) Petition for its Settlement on Waiver of Account, for  
 (3) Allowance of Compensation to Executor and Attorneys for Ordinary Services  
 and for (4) Final Distribution (Prob. C. 11640)

<b>DOD: 5/27/2011</b>		<p><b>LINDA MARTHA SCHROER</b>, daughter and Executor, is Petitioner.</p> <p>Accounting is waived.</p> <p>I &amp; A - \$125,452.25                  POH - \$125,452.25</p> <p>Executor (statutory) - \$4,763.57</p> <p>Attorney (statutory) - \$4,763.57</p> <p>Costs (filing fees, publication, certified copies) - \$1,145.00</p> <p><b>Distribution pursuant to Decedent's Will is to:</b></p> <ul style="list-style-type: none"> <li><b>LINDA MARTHA SCHROER</b> as Trustee of <b>THE HORSCHMAN FAMILY TRUST OF 1993 dated 5/7/1993</b> – entire estate consisting of \$125,452.25 contained in mutual fund.</li> </ul>	<b>NEEDS/PROBLEMS/COMMENTS:</b>
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<input type="checkbox"/>	<b>Aff.Sub.Wit.</b>		
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		Reviewed by: LEG Reviewed on: 3/13/12 Updates: Recommendation: SUBMITTED File 11 - Horschman	

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

<b>DOD: 1-25-12</b>		<p><b>DEBRA M. GUNN</b>, Daughter and named Executor without bond, is Petitioner.</p> <p>Full IAEA – ok</p> <p>Will dated 3-14-05</p> <p>Residence: Fresno Publication: Fresno Business Journal</p> <p><b>Estimated Value of Estate:</b>                  Personal property: \$ 3,000.00                  Real property: \$ 135,000.00                  Total: \$ 138,000.00</p> <p>Probate Referee: Rick Smith</p>	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p>		
<input type="checkbox"/>	<b>Aff.Sub.Wit.</b>			S/P	
<input checked="" type="checkbox"/>	<b>Verified</b>				
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				<b>Reviewed by:</b> skc	
				<b>Reviewed on:</b> 3-13-12	
				<b>Updates:</b>	
				<b>Recommendation:</b> SUBMITTED	
			<b>File 12 - Gunn</b>		

Atty Thomas, Wm. Lanier, of Lang Richert & Patch (for Petitioner Cynthia Morgan-Gunner)

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

<b>DOD: 10/8/2011</b>	<b>CYNTHIA MORGAN-GUNNER</b> , souse and named Executor without bond, is Petitioner.	<b>NEEDS/PROBLEMS/COMMENTS:</b>  <b>1. Attachment 3(e)(2) to the Petition contains a copy of Decedent’s Will that is missing Page 5, upon which the Decedent’s signature would be contained.—Complete copy attached to Declaration filed 3/20/2012.</b>  <b>2. Item 8 of the Petition does not list as required the following person mentioned in Decedent’s Will: Terry Johnson, named alternate executor. — Declaration filed 3/20/2012 provides response.</b>  <b>3. A beneficiary of the estate is the Eddie H. Gunner Revocable Living Trust Agreement. Item 8 of the Petition does not list the trustee or beneficiaries of the Trust, nor do Court records contain proof of whether the trustees and trust beneficiaries were sent notice of this Petition pursuant to Probate Code § 1208(b).—Declaration filed 3/20/2012 provides response</b>  <b>4. Item 5(a) of the Petition is incomplete as to (7) or (8) re: issue of a predeceased child.— Declaration filed 3/20/2012 provides response.</b>
<b>Cont. from</b>	Full IAEA – o.k.	
<input type="checkbox"/> <b>Aff.Sub.Wit.</b>		
<input checked="" type="checkbox"/> <b>Verified</b>		
<input type="checkbox"/> <b>Inventory</b>		
<input type="checkbox"/> <b>PTC</b>		
<input type="checkbox"/> <b>Not.Cred.</b>	Will dated: 4/1/2010	
<input checked="" type="checkbox"/> <b>Notice of Hrg</b>		
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<input checked="" type="checkbox"/> <b>Aff.Pub.</b>	Residence – Clovis	
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<input checked="" type="checkbox"/> <b>Duties/Supp</b>		
<input type="checkbox"/> <b>Objections</b>	<b>Estimated value of the Estate:</b>	
<input type="checkbox"/> <b>Video Receipt</b>	Personal property - \$200,000.00	
<input type="checkbox"/> <b>CI Report</b>	Annual income from P/P - \$ 11,000.00	
<input type="checkbox"/> <b>9202</b>	<b>Total - \$211,000.00</b>	
<input checked="" type="checkbox"/> <b>Order</b>	<b>Probate Referee: Steven Diebert</b>	
<input checked="" type="checkbox"/> <b>Letters</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: LEG</b>
		<b>Reviewed on: 3/13/12</b>
		<b>Updates: 3/20/12</b>
		<b>Recommendation: SUBMITTED</b>
		<b>File 13 - Gunner</b>

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

<b>DOD: 11-14-11</b>		<b>DENNIS B. SMITH</b> , Son, is Petitioner.	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <p>1. Need verification of the petition by all heirs succeeding to the property pursuant to Probate Code §§ 13152(a) and 1020.</p> <p>(The petition should be brought by all heirs who are succeeding to the property; however, at this point, the Court may accept separate verifications via declaration.)</p> <p>2. Need new order. The order does not contain the legal description of the property at #9.</p> <p>(The order references an attachment, but there is nothing attached.)</p>
		40 days since DOD	
		No other proceedings	
	Aff.Sub.Wit.	I&A - \$95,000.00	
✓	Verified	Will dated 1-5-07	
	Inventory	Petitioner requests Court determination that Decedent's 100% interest in certain real property passes to his three children in 1/3 shares pursuant to Decedent's will.	
	PTC		
	Not.Cred.		
✓	Notice of Hrg		
✓	Aff.Mail	W	
	Aff.Pub.		
	Sp.Ntc.		
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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 on: 3-13-12
			Updates:
			Recommendation:
			File 14 - Smith

Pro Per Silva, Rosa Elia (Pro Per Petitioner, maternal grandmother)

Petition for Appointment of Temporary Guardian of the Person (Prob. C. 2250)

Lino Age: 3 years DOB: 10/3/2008		<p style="text-align: center;"><u>General Hearing set for 5/7/2012</u></p> <p>ROSA ELIA SILVA, maternal grandmother, is Petitioner.</p> <p>Father: <b>MANUEL ERNEST RUELAS</b></p> <p>Mother: <b>SOPHIA ISABEL SILVA</b></p> <p>Paternal grandfather: <i>Not listed</i> Paternal grandmother: <i>Not listed</i></p> <p>Maternal grandfather: Jose Silva</p> <p><b>Petitioner states both parents are in jail, and the children have been living with her since 10/20/2011.</b></p>	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <ol style="list-style-type: none"> <li>1. Need <i>Notice of Hearing</i>.</li> <li>2. Need proof of five (5) court days' notice by personal service of the <i>Notice of Hearing</i> and a copy of the <i>Petition for Appointment of Temporary Guardian, or Consent to Appointment of Guardian and Waiver of Notice, or a Declaration of Due Diligence</i> for:                     <ul style="list-style-type: none"> <li>• Sophia I. Silva, mother;</li> <li>• Manuel E. Ruelas, father.</li> </ul> </li> <li>3. <i>UCCJEA</i> form filed on 3/7/2012 does not provide the residence information of the children for the last 5 years as required.</li> <li>4. Item 2 of the <i>Child Information Attachment</i> for both children does not list as required the names of the paternal grandparents.</li> </ol> <p><u>Note:</u> Proof of service by mail of the <i>Notice of Hearing</i> to all of the grandparents is not required for this temporary hearing, but such proof or due diligence to locate them will be required for the general hearing on 5/7/2012.</p>
Daymien Age: 1 year DOB: 3/25/2011			
Cont. from			
Aff.Sub.Wit.			
✓ Verified			
Inventory			
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Not.Cred.			
Notice of Hrg	X		
Aff.Mail			
Pers.Serv	X		
Sp.Ntc.			
Aff.Pub.			
✓ Conf. Screen			
Aff. Posting			
✓ Duties/Supp			
Objections			
Video Receipt			
CI Report			
9202			
✓ Order			
✓ Letters			
Status Rpt			
✓ UCCJEA			
Citation			
FTB Notice			
		Reviewed by: LEG	
		Reviewed on: 3/13/12	
		Updates:	
		Recommendation:	
		File 15 - Ruelas	

**Petition for Distribution of Trust Income and Principal; Memorandum of Points and Authorities in Support Thereof**

<b>Age:</b>	<b>DAVID ANDERSON, JOHN D. ANDERSON, AND JOY ANDERSON JACKMAN</b> , beneficiaries, are Petitioners.		<b>NEEDS/PROBLEMS/COMMENTS:</b>
<b>DOD:</b>			
<b>Cont. from 031312</b>			
<b>Aff.Sub.Wit.</b>			
<b>Verified</b>	x		
<b>Inventory</b>			
<b>PTC</b>			
<b>Not.Cred.</b>			
√ <b>Notice of Hrg</b>			
√ <b>Aff.Mail</b>	w/o		
<b>Aff.Pub.</b>			
<b>Sp.Ntc.</b>			
<b>Pers.Serv.</b>			
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<b>Letters</b>			
<b>Duties/Supp</b>			
<b>Objections</b>			
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<b>CI Report</b>			
<b>9202</b>			
<b>Order</b>	x		
<b>Aff. Posting</b>			
<b>Status Rpt</b>			
<b>UCCJEA</b>			
<b>Citation</b>			
<b>FTB Notice</b>			

**Petitioners request** a Court order:

- 1) instructing Trustee Donna Hanneman (“Trustee”) to distribute trust income and principal of the Exemption Trust pursuant to the terms of the Anderson Family Living Trust dated 11/23/92 (“Family Trust”) and
- 2) removing Trustee as the Trustee of the Exemption Trust and appointing Petitioner Joy Anderson Jackman as Successor Trustee of the Exemption Trust, pursuant to the terms of the Family Trust.

**I. Petitioners’ Request for Order to Instruct Trustee to Distribute Exemption Trust Income and Principal**

**Petitioners state:**

1. They are 3 of the 6 Family Trust beneficiaries (*Copies of the Family Trust and Amendments 1-4 are attached to Petition*);
2. Trust John Anderson died 12/15/95, at which time the Family Trust was split into the Marital Trust and the Exemption Trust;
3. Surviving Settlor Edna Anderson made several amendments to the Marital Trust during her lifetime, and she died on 7/19/09;
4. Petitioners have made several requests to the Trustee to distribute the Trust income and principal according to the Family Trust, however, Trustee has failed to distribute said income;
5. The corpus of the Exemption Trust, at the time of Edna’s death, consisted of mutual funds, commercial real estate and a promissory note, as well as a checking account held at Wells Fargo Bank;
6. Petitioners therefore request the Court order Trustee to comply with the terms of the Family Trust and distribute the Exemption Trust income to its beneficiaries.

**SEE ATTACHED PAGE**

<b>Reviewed by:</b> NRN
<b>Reviewed on:</b> 3/2/12
<b>Updates:</b> 3/12/12
<b>Recommendation:</b>
<b>File 16 - Anderson</b>

**II. Petitioners' Request for Removal of Trustee and Appointment of Petitioner Joy Jackman as Successor Trustee****Petitioners state:**

1. Trustors John and Edna ("Trustors") appointed 3 separate individuals as successor trustees of the Family Trust in the event of Trustors' deaths;
2. Trustors did not appoint Donna Hanneman as a successor trustee of the Exemption Trust;
3. After John's death in 1995, Edna made changes to the Marital Trust and appointed Donna Hanneman as Successor Trustee of the Marital Trust;
4. Since Edna's death in 2009, Donna Hanneman has been acting as the Successor Trustee of both the Marital and Exemption Trust;
5. Trustee submitted an accounting of the Exemption Trust for the period of 7/19/09 through 4/30/11; Schedule D of that accounting shows no income or principle distributions to the Exemption Trust beneficiaries in over two years;
6. Per the Family Trust terms, Kaye Cooper was to have been appointed as first successor trustee of the Exemption Trust;
7. Kaye Cooper passed away on 10/26/09;
8. Therefore, Richard Cooper should have been appointed, pursuant to the Family Trust; if Richard Cooper was unable or unwilling to act, then Petitioner Joy Anderson Jackman should have been appointed;
9. Instead, Donna Hanneman has been acting as the Successor Trustee since 2009; this is erroneous as she was not originally appointed as such by the Trustors;
10. Therefore, Trustee Hanneman should be removed as Trustee of the Exemption Trust and either Richard Cooper or Petitioner Joy Anderson Jackman appointed (**note: the prayer and proposed order specifically request that Joy Anderson Jackman be appointed**).

***Note: Also filed in support of Petition is a statement from heir Jennifer Sharp, indicating she is in agreement with the Petition.***

**Donna Y. Hanneman's Response to Petition for Distribution, filed 3/12/12, states:**

1. Donna Hanneman ("Respondent") admits that she has received inquiries about or requests for distribution from the Exemption Trust. Respondent further admits that she has not distributed income and principal and has declined to do so on the basis of provisions contained in paragraphs 7.4 and 7.5 of the Trust, and her discretionary determination as to the reasonable circumstances of the Trust and its assets.
2. Respondent admits that the corpus of the Exemption Trust (which at the time of Decedent's death consisted of mutual funds, commercial real estate, a promissory note and a Wells Fargo checking account) was set forth in Respondent's (as Trustee) Exemption Trust Accountings, which have been served on the Trust beneficiaries, including Petitioner and joining parties.
3. Regarding Petitioners' Request for a court order compelling Respondent to comply with the Trust terms and to distribute the income of the Exemption Trust to the beneficiaries, Respondent states that she has complied with the Trust's terms, has fully accounted, including for Exemption Trust receipts and the net income, and has exercised the discretion afforded a trustee under Paragraphs 7.4 and 7.5 of the Trust (***which are quoted by Respondent in her Response***).
4. As to Petitioners' contention that the Trustors did not appoint Respondent as a successor trustee of the Exemption Trust, Respondent denies that allegation and requests the Court take note of Section 1.1 of the Trust as amended.

**SEE ATTACHED PAGE**

**16**

5. Respondent has actively marketed the Twin View real property, which is the most significant asset of the Exemption Trust, working with an experience area realtor, has exercised her discretion with regard to mutual funds held in the Exemption Trust and the Bankston Promissory Note, and has maintained a reserve of the limited cash resources of the Exemption Trust in order to better administer the Trust assets and plan for income and property taxes, contingencies, repairs and maintenance of the Twin View property.
6. Furthermore, Respondent states that on 9/14/09, Petitioners and joining party Jennifer Sharp were served with Respondent's Notification by Trustee, pursuant to C.C.P. §16061.7; attached to said Notification were copies of the Anderson Family Living Trust and copies of the 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup>, and 4<sup>th</sup> Amendments to the Trust, as well as the required warning that an action to contest the Trust had to be brought within a 120-day period.
7. Petitioners are therefore time-barred from contesting the amended Trust provisions nominating Responding Party as Successor Trustee, as the Notification also informed the Trust beneficiaries, including Petitioners and Jennifer Sharp, that Respondent was Trustee of the Trust.
8. Finally, Respondent alleges 10 affirmative defenses, including: Failure to State a Cause of Action, Excuse, Justification, Estoppel, Causation, Statute of Limitations, Laches, Waiver, Failure to Mitigate, and Unclean Hands.

**Respondent requests that the Court: 1) Deny the request that Trustee be instructed to distribute the income and principal of the Exemption Trust to the Trust beneficiaries; 2) Deny the request that Trustee be removed as Trustee of the Exemption Trust; and 3) Deny the request that Joy Anderson Jackman be appointed as Successor Trustee of the Exemption Trust. [Note: Respondent Trustee has also filed 6 Receipts for Distributive Share, from Leland Patric Sharp, Jason Beck, The Salvation Army, PBS Public Television, and Haven Humane Society.]**

**Petitioners' Reply to Trustee Donna Hanneman's Response, filed 3/20/12, states:**

- Respondent Trustee asserts that she has not distributed any income per her right of discretion under paragraphs 7.5 and 7.6 of the Anderson Family Living Trust. Paragraph 7.5 provides in part that "Upon attaining the age of twenty-one (21) years, the Trustee *shall pay* all income of such Beneficiary's Trust Estate of such Beneficiary at least annually." (*Emphasis added in Petition*). Therefore, in view of the words "shall pay," Respondent has no discretion in retaining any income of the Exemption Trust under the herein circumstances, since Petitioners are all over the age of 21. Despite this fact, Petitioners have received no income, annually or otherwise, as admitted by Respondent.
- Respondent Trustee next admits that she has not distributed any assets of the Exemption Trust, but again under discretion permitted under Paragraph 7.6 of the Trust. Respondent's argument is based on management and efforts to sell the real property asset located at Twin View Boulevard in Redding, CA ("Twin View Property").
- Petitioners rebut that management over the Twin View Property beyond a period of 2.5 years is not reasonable, especially since 1) a realtor is the one charged with marketing the property, 2) the real property is already leased for a period of time, and 3) Petitioners are receiving 1099's for the rent received, yet have been denied the ability to pay any of the taxes with actual income received or write-off any expenses attributable to the income property.
- Respondent Trustee's argument that Petitioners' Petition is time-barred under PrC §16061.7 is disingenuous. Paragraph 1.1 of the 3<sup>rd</sup> Amendment of the Trust merely names Donna Hanneman as Successor Trustee of the Marital Trust, not the Exemption Trust, which is the trust at issue here.
- By the terms of PrC §16061.7, Respondent Trustee is time-barred from challenging the provisions of the Trust, which names Joy Anderson Jackman as the Trustee of the Exemption Trust, not Respondent.
- As Petitioners' Petition asserts, the Trust became irrevocable as to the terms of the Exemption Trust when Mr. John D. Anderson died on 12/15/95. It is true that Surviving Trustor Edna U. Anderson could modify the Marital Trust terms of the Trust – but not the terms of the Exemption Trust.

**SEE ATTACHED PAGE**

**16**

- Since Edna's death, Petitioners became aware of the death of Kaye Cooper, and believed the issue of whether Richard Cooper was alive or not remained at issue, during the efforts to secure an accounting. Upon learning that the issue regarding Richard Cooper was not being pursued and securing an accounting of the Trust, Petitioners filed their Petition.
- Petitioners never surrendered the right to pursue the appointment of Joy Anderson Jackman, who is willing and able to serve as trustee of the Exemption Trust, and no provision of the Trust has ever deleted Joy Anderson from serving as trustee of the Exemption Trust.