**1 Dolores S. Neitzel (CONS/PE)** **Case No. 06CEPR00474**

**Atty Ratzlaff, Ruth E. (Court Appointed for the Conservatee)**

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

**(1) Third and Final Account and Report of Successor Conservator and (2) Petition for Allowance of Compensation to Successor Conservator and Attorney and (3) Distribution**

**DOD: 08/18/2012**

**Cont. from 020613**

| | | |
|---|---|---|
| | Aff.Sub.Wit. | |
| ✓ | Verified | |
| | Inventory | |
| | PTC | |
| | Not.Cred. | |
| ✓ | Notice of Hrg | |
| ✓ | Aff.Mail | w/ |
| | Aff.Pub. | |
| | Sp.Ntc. | |
| | Pers.Serv. | |
| | Conf. Screen | |
| | Letters | |
| | Duties/Supp | |
| | Objections | |
| | Video Receipt | |
| | CI Report | |
| | 9202 | |
| ✓ | Order | |
| | Aff. Posting | |
| | Status Rpt | |
| | UCCJEA | |
| | Citation | |
| | FTB Notice | |

**PUBLIC GUARDIAN,** conservator, is petitioner.

Account period: 08/10/2011 – 08/18/2012

Accounting - **$22,153.31**
Beginning POH - **$4,691.41**
Ending POH - **$2,074.21**

Subsequent Account Period: 08/19/2012 - 09/18/2012

Accounting - **$7,29.45**
Beginning POH - **$2,074.21**
Ending POH - **$5,256.57**

Conservator - **$1,435.16**
(10.85 Staff Hours x $76/hr and 6.36 Deputy Hours x $96/hr)

Attorney - **$1,250.00** (per Local Rule)

Bond - **$25** (o.k.)

**Petitioner prays for an Order**:

1. Approving, allowing and settling the third account.
2. Authorizing the conservator and attorney fees and commissions.
3. Payment of the bond fee.
4. Authority to distribute the remaining $763.06 to the following heirs:
   - Vicki Barbato, surviving daughter - $207.30
   - Timothy Neitzel, Grandson - $555.76

**NEEDS/PROBLEMS/COMMENTS:**

1. Need 13100 Affidavit for Victoria Barbato.

**Reviewed by:** LV

**Reviewed on:** 03/14/2013

**Updates:**

**Recommendation:**

**File 1 - Neitzel**



**Dept. 303, 9:00 a.m. Friday, March 22, 2013**

**2** **Consuelo Garza (Estate)** **Case No. 06CEPR00816**

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

**(1) First and Final Account and Report of Insolvent Estate by Successor Administrator; and (2) Petition for Allowance of Ordinary and Extraordinary Commissions and Fees and (3) for Distribution [Prob. C. 9202; 10800; 10810; 10951; 11600]**

**DOD: 05/05/2006**

**Cont. from 021313**

| | | |
|---|---|---|
| | Aff.Sub.Wit. | |
| ✓ | Verified | |
| | Inventory | |
| ✓ | PTC | |
| ✓ | Not.Cred. | |
| ✓ | Notice of Hrg | |
| ✓ | Aff.Mail | w/ |
| | Aff.Pub. | |
| | Sp.Ntc. | |
| | Pers.Serv. | |
| | Conf. Screen | |
| | Letters 01/02/2007 | |
| | Duties/Supp | |
| | Objections | |
| | Video Receipt | |
| | CI Report | |
| ✓ | 9202 | |
| ✓ | Order | |
| | Aff. Posting | |
| | Status Rpt | |
| | UCCJEA | |
| | Citation | |
| | FTB Notice | |

**PUBLIC ADMINISTRATOR,** successor administrator, is petitioner.

Account Period 05/18/2012-12/07/2012

Accounting - **$175,000.00**
Beginning - **$175,000.00**
POH - **$11,512.29**

Administrator - **$2,600.00**
(Statutory)
X/O - **$1,248.00**
(per Local Rule for sale of real property and preparation of taxes)

Attorney Richard Henderson - **$1,300.00**
(Statutory)
Attorney - **$1,300.00**
(Statutory)
Court Costs - **$25.50**

Bond - **$218.75**

Closing - **$1,500.00**

Distribution to:
Patricia Greenup - **$2,509.98**
Daniel Garza - **$375.06**

Petitioner states after only partial payment of the reimbursements for funeral expenses, there is no estate remaining to distribute to the heirs or the State.

**Petitioner prays for an Order:**

1. Approving, allowing and settling the first and final account.
2. Authorizing the administrator and attorney fees and commissions.
3. Payment of Bond fee.

**NEEDS/PROBLEMS/COMMENTS:**

1. Declaration filed by Attorney Kruthers states that she and former Attorney for the Estate, Richard Henderson, have agreed to divide the Attorney fees equally however nothing has been filed by Attorney Henderson regarding this agreement.

2. Personal representative, Patricia Greenup, would be entitled to a portion of the statutory fees pursuant to Probate Code §10805 and §10814.

**Reviewed by:** LV
**Reviewed on:** 03/14/2013
**Updates:**
**Recommendation:**
**File 2 - Garza**



**Dept. 303, 9:00 a.m. Friday, March 22, 2013**

**3 Sukhjinder Ashat (Estate)** **Case No. 08CEPR00834**

**Atty Cowin, William L. (for Administrator Kamljit K. Ashat)**

**Probate Status Hearing Re: (1) Failure to File Inventory & Appraisal; (2) Failure to File a First Account or Petition for Final Distribution [Prob. C. 12200, et seq.)**

| DOD: 12/21/2005 | | |
|---|---|---|
| | | |
| | | |
| | | |
| Cont. from 022213 | | |
| | 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 | |

**KAMLJIT K. ASHAT,** surviving spouse, was appointed as Administrator with full IAEA authority and without bond on 2/10/2009.

At the time of the filing of the Petition for Probate the estate was estimated to be $2,761,000.00.

The decedent died intestate survived by his spouse and three children, one of which is a minor.

**Inventory and appraisal was due July 2009.**

**First account or a petition for final distribution was due April of 2010.**

Notice of Status Hearing was mailed to attorney William Cowin on 12/19/2012.

**Preliminary Status Report filed on 2/21/13 states** but for several lawsuits that arose after the death of the decedent, this probate could have been finalized at an earlier date. With the exception of a parcel of real property located on Blackstone Avenue, all real and personal property assets on the estate are community property. The piece of property on Blackstone was purchased with community funds by the decedent when Mrs. Ashat was temporarily out of the country and title was taken in the name of the decedent temporarily. The above referenced litigation involved a case where Mrs. Ashat and the Estate brought an unlawful detainer action against tenants regarding a portion of the Blackstone property. That case was settled. The second case is a Federal case, case no. 1:121-CV-00224-AWI-SMS styled *Delgado v. Abdo Saleh, USA Gas & Grocery and Kamaljit K. Ashat.* This issue is a man in a wheel chair who habitually files complaints against businesses whose bathrooms do not meet code standards. The estate attorney is of the opinion that the estate cannot be closed until this Federal case is concluded. The Federal case has finally been resolved and closed in late 2012 and the attorney's office was only recently informed that the Federal case has been concluded. They will now be moving forward with completing a final accounting, transfer of title to Mrs. Ashat and closing this estate.

**NEEDS/PROBLEMS/ COMMENTS:**

1. Need Inventory and Appraisal, first account, petition for final distribution or current written status report pursuant to Local Rule 7.5 which states in all matter set for Status Hearing (unless inventory and appraisal <u>and</u> accounting or petition for final distribution has been filed) **verified Status Reports must be filed no later than ten (10) days before the hearing** and shall be served on all interested parties.

| |
|---|
| **Reviewed by: KT** |
| **Reviewed on: 3/14/13** |
| **Updates:** |
| **Recommendation:** |
| **File 3 - Ashat** |



**Dept. 303, 9:00 a.m. Friday, March 22, 2013**

## 4A 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 E.; of McCormick Barstow (for Antonietta "Rosa" Verni, daughter and Co-Trustee, and Nicola "Nick" Verni, son and Co-Trustee)

**Atty** Armo, Lance, sole practitioner (for Leonard "Dino" Verni, son)

**Atty** Bohn, Jeffrey D., sole practitioner (for Erlinda M. Verni, surviving spouse)

**Status Hearing**

| | | |
|---|---|---|
| Leonarda DOD: 7/31/2000 | | |
| Saverio DOD: 5/25/2009 | | |
| | | |
| | | |
| Cont. from 120512, 010313, 022113 | | |
| | Aff.Sub.Wit. | |
| | Verified | |
| | Inventory | |
| | PTC | |
| | Status Rep. | X |
| | Notice of Hrg | X |
| | Aff.Mail | X |
| | 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 | |

**CARMELA DeSANTIS,** daughter and Trust Beneficiary, filed a *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.

**NICOLA "NICK" VERNI**, son and Successor Trustee of the **SURVIVOR'S TRUST,** and **ANTONIETTA "ROSA" VERNI,** daughter and Trustee of the **MERGED FAMILY SUB-TRUST,** filed a *Response to Petition to Remove Trustees, etc. on 9/27/2012*.

**CARMELA DeSANTIS** filed a *Petition to Construe Trust Provision* on 7/26/2012.

**NICK VERNI and ROSA VERNI** filed a *Response to Petition to Construe Trust Provision* on 9/27/2012.

**CARMELA DeSANTIS** filed a *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.

**NICK VERNI and ROSA VERNI** filed a *Response to Petition to Establish Claim of Ownership* on 9/27/12.

**CARMELA DeSANTIS** filed *Amended Objections to First Account Current of Trustee*, and filed *Objections to Second Account Current of Trustee*, both filed on 7/26/2012.

**NEEDS/PROBLEMS/COMMENTS:**

**Continued from 2/21/2013.** *Minute Order* states Mr. Marchini informs the Court that they are looking towards bifurcating some of the issues. Mr. Marchini requests a continuance to review documents.

**Note for background:**
*Minute Order* dated 12/5/2012 states Mr. Jaech requests additional time to review the ruling on the court trial that was just issued. Mr. Marchini requests to set the matter for court trial. **Matter set for Court Trial on 9/10/2013** with a 15-day estimate.

**Page 1B** is the *Petition to Remove Trustees, etc.*

**Page 1C** is the *Petition to Construe Trust Provision*.

**Page 1D** is the *Petition to Establish Claim of Ownership in Favor of Trust to Property, etc.*

1. Need verified Status Report and proof of service of notice of the status hearing pursuant to Local Rule 7.5(B).

**Reviewed by:** LEG

**Reviewed on:** 3/14/13

**Updates:**

**Recommendation:**

**File 4A - Verni**

## 4B 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 Antonietta "Rosa" Verni, daughter and Co-Trustee, and Nicola "Nick" Verni, son and Co-Trustee)**

**Atty** **Armo, Lance, sole practitioner (for Leonard "Dino" Verni, son)**

**Atty** **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**

**Saverio DOD: 5/25/2009**

**Cont. from** 091112, 100212, 120512, 010313, 022113

| | | |
|---|---|---|
| | Aff.Sub.W | |
| ✓ | Verified | |
| | Inventory | |
| | PTC | |
| | Not.Cred. | |
| | Notice of Hrg | X |
| | Aff.Mail | |
| | Aff.Pub. | |
| | Sp.Ntc. | |
| ✓ | Pers.Serv. | |
| | Conf. Screen | |
| | Letters | |
| | Duties/S | |
| | Objection | |
| | Video Receipt | |
| | CI Report | |
| | 9202 | |
| ✓ | Order | |
| | Aff. Posting | |
| | Status Rpt | |
| | UCCJEA | |
| | Citation | |
| | FTB Notice | |

**CARMELA DeSANTIS**, daughter and Trust Beneficiary, is Petitioner.

**Petitioner states:**

- The **VERNI FAMILY TRUST of 1999** was created by **SAVERIO VERNI** and **LEONARDA VERNI** on 6/10/1999, and was amended once by Settlors 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 *Eighth Amendment* (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 *Eighth Amendment* 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:**

**Continued from 2/21/2013.**

**Note:** Additional notes pages originally prepared with respect to this petition have been omitted.

**Reviewed by:** LEG

**Reviewed on:** 3/14/13

**Updates:**

**Recommendation**

**File 4B - Verni**

**Dept. 303, 9:00 a.m. Friday, March 22, 2013**

## 4C 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 Antonietta "Rosa" Verni, daughter and Co-Trustee, and Nicola "Nick" Verni, son and Co-Trustee)

**Atty** Armo, Lance, sole practitioner (for Leonard "Dino" Verni, son, and Nicola "Nick" Verni, son and Co-Trustee)

**Atty** Bohn, Jeffrey D., sole practitioner (for Erlinda M. Verni, surviving spouse)

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

| | | |
|---|---|---|
| Leonarda DOD: 7/31/2000 | | |
| Saverio DOD: 5/25/2009 | | |
| | | |
| | | |
| Cont. from 100212, 120512, 010313, 022113 | | |
| | 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 | |

**CARMELA DeSANTIS**, daughter and Trust Beneficiary, is Petitioner.

**Petitioner states:**

- The **VERNI FAMILY TRUST of 1999** was created by **SAVERIO VERNI** and **LEONARDA VERNI** on 6/10/1999, and was amended once by Settlors 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 <u>not</u> 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.**

**Petitioner requests a judicial declaration from the Court concerning the proper construction of Subsection1, 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.]*

**NEEDS/PROBLEMS/ COMMENTS:**

**<u>Continued from 2/21/2013</u>.**

**<u>Note</u>:** Additional notes pages originally prepared with respect to this petition have been omitted.

| | |
|---|---|
| **Reviewed by:** LEG | |
| **Reviewed on:** 3/14/13 | |
| **Updates:** | |
| **Recommendation:** | |
| **File 4C – Verni** | |

**Dept. 303, 9:00 a.m. Friday, March 22, 2013**

## 4D 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 E.; of McCormick Barstow (for Antonietta "Rosa" Verni, daughter and Co-Trustee, and Nicola "Nick" Verni, son and Co-Trustee)

**Atty** Armo, Lance, sole practitioner (for Leonard "Dino" Verni, son, and Nicola "Nick" Verni, son and Co-Trustee)

**Atty** 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

Saverio DOD: 5/25/2009

Cont. from 100212, 120512, 010313, 022113

| | | |
|---|---|---|
| | Aff.Sub.W | |
| ✓ | Verified | |
| | Inventory | |
| | PTC | |
| | Not.Cred. | |
| | Notice of Hrg | |
| | Aff.Mail | |
| | Aff.Pub. | |
| | Sp.Ntc. | |
| ✓ | Pers.Serv. | |
| | Conf. Screen | |
| | Letters | |
| | Duties/S | |
| | Objection | |
| | Video Receipt | |
| | CI Report | |
| | 9202 | |
| ✓ | Order | |
| | Aff. Post | |
| | Status Rpt | |
| | UCCJEA | |
| | Citation | |
| | FTB Notice | |

**CARMELA DeSANTIS**, daughter and Trust Beneficiary, is Petitioner.

**Summary of Petitioner's requests for specific relief:**

1. Determining the that following is property of the Trust estate:
   (a) **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;
   (b) **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;
   (c) **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;
   (d) **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;]
   (e) **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**;
2. 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);
3. 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);
4. 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
5. For treble damages pursuant to Probate Code § 859.

**NEEDS/PROBLEMS/ COMMENTS:**

**Continued from 2/21/2013.**

**Note:** Additional notes pages originally prepared with respect to this petition have been omitted.

**Reviewed by:** LEG

**Reviewed on:** 3/14/13

**Updates:**

**Recommendation:**

**File 4D - Verni**

**Dept. 303, 9:00 a.m. Friday, March 22, 2013**

**5** **Clifford Lopez (CONS/PE)** **Case No. 11CEPR00171**

**Atty** **Kruthers, Heather H (for Public Guardian)**

**(1) Second and Final Account and Report of Conservator and (2) Petition for Allowance of Compensation to Conservator and Attorney**

| | | |
|---|---|---|
| **DOD: 08/18/2012** | | |
| | | |
| | | |
| | | |
| **Cont. from 021313** | | |
| | **Aff.Sub.Wit.** | |
| ✓ | **Verified** | |
| | **Inventory** | |
| | **PTC** | |
| | **Not.Cred.** | |
| ✓ | **Notice of Hrg** | |
| ✓ | **Aff.Mail** | w/ |
| | **Aff.Pub.** | |
| | **Sp.Ntc.** | |
| | **Pers.Serv.** | |
| | **Conf. Screen** | |
| | **Letters** | |
| | **Duties/Supp** | |
| | **Objections** | |
| | **Video Receipt** | |
| | **CI Report** | |
| | **9202** | |
| ✓ | **Order** | |
| | **Aff. Posting** | |
| | **Status Rpt** | |
| | **UCCJEA** | |
| | **Citation** | |
| | **FTB Notice** | |

**PUBLIC GUARDIAN,** conservator, is petitioner.

Account period: 04/05/2012 – 08/18/2012

Accounting - **$8,660.96**
Beginning POH - **$3,624.02**
Ending POH - **$2,469.67**

Subsequent period: 08/19/2012 – 10/02/2012

Accounting - **$6,847.67**
Beginning POH - **$2,496.67**
Ending POH - **$3,902.00**

Conservator - **$1,731.68**
(5 Staff Hours x $76/hr and 14.08 Deputy Hours x $96/hr)

Attorney - **$625.00**
(Per Local Rule)

Bond Fee - **$25.00** (o.k.)

Petitioner requests that due to the insufficiency of the estate to pay fees and commissions that a lien be imposed upon the estate for any unpaid balances of the authorized fees and commissions.

**Petitioner prays for an Order:**

1. Approving, allowing and settling the second account.
2. Authorizing the conservator and attorney fees and commissions.
3. Payment of the bond fee.
4. Authorized petition to impose a lien on the estate for any unpaid balances of authorized fees and commissions.

**NEEDS/PROBLEMS/COMMENTS:**

**Minute Order of 02/13/2013 states if everything is completed by 03/22/2013 no appearance will be necessary.**

**Reviewed by:** LV
**Reviewed on:** 03/14/2013
**Updates:**
**Recommendation:**
**File 5 - Lopez**



**Dept. 303, 9:00 a.m. Friday, March 22, 2013**

**6** **Charles Robert Fitzgerald (Estate)** **Case No. 12CEPR00163**

**Atty** **Gin, Robert W. (for Susie Fitzgerald – Executor/Petitioner)**

**(1) Petition for Final Distribution to Distributees on Waiver of Accounting, Waiver of Executor's Commission, and (2) for Allowance of Statutory Compensation to Attorneys (Prob. C. 10810, 10954, 11640)**

**DOD: 12/04/11**

**Cont. from 022113**

| | | |
|---|---|---|
| | Aff.Sub.Wit. | |
| ✓ | Verified | |
| ✓ | Inventory | |
| ✓ | PTC | |
| ✓ | Not.Cred. | |
| ✓ | Notice of Hrg | |
| ✓ | Aff.Mail | w/ |
| | Aff.Pub. | |
| | Sp.Ntc. | |
| | Pers.Serv. | |
| | Conf. Screen | |
| | Letters | 05/03/12 |
| | Duties/Supp | |
| | Objections | |
| | Video Receipt | |
| | CI Report | |
| ✓ | 9202 | |
| ✓ | Order | |
| | Aff. Posting | |
| | Status Rpt | |
| | UCCJEA | |
| | Citation | |
| ✓ | FTB Notice | |

**SUSIE FITZGERALD,** Executor, is Petitioner.

**Accounting is waived.**

I & A - **$860,551.60**
POH - **$832,520.16** ($219,363.66 is cash)

Executor - **waived**

Executor cost reimbursement- **$39,237.21** (for funeral costs, decedent's doctor's bills, and ½ of household expenses (mortgage, taxes, etc.))

Attorney - **$20,036.03** (less than statutory)

Costs - **$531.19** (for Certified copies, Publication, bank fees)

Closing- **$1,500.00**

Petitioner states that she and decedent executed an Agreement that Joint Tenancy Property is Actually Community property on 05/31/96. Petitioner requests that the Court find that an account at Morgan Stanley and an account at Charles Schwab, both that were held in joint tenancy at the time of decedent's death, were community property and that ½ of the cash and stock in the Charles Schwab account belongs to Susie Fitzgerald as her community property.

**Distribution, pursuant to decedent's will is to:**

**Susie Fitzgerald**- Household furniture, furnishings, appliances, valued at $2,000.00 and a 2009 Toyota Automobile valued at $10,500.00.

**Dorothy Moore**- $10,000.00 cash

**Susie Fitzgerald, Trustee of the Charles Robert Fitzgerald Testamentary Bypass Trust** - $148,590.42 cash plus ½ interest in real property, ½ interest in an unsecured promissory note, ½ interest in an unsecured obligation, ½ interest in various brokerage accounts, and proceeds from litigation.

**NEEDS/PROBLEMS/COMMENTS:**

**CONTINUED FROM 02/21/13**

1. The cash to be distributed to Susie Fitzgerald as trustee does not appear to take into consideration payment of the $531.19 costs reimbursement requested by the attorney. The Court may require clarification.

**Reviewed by:** JF

**Reviewed on:** 03/18/13

**Updates:**

**Recommendation:**

**File 6 - Fitzgerald**



**Dept. 303, 9:00 a.m. Friday, March 22, 2013**

**7A** **Dorothy Jean Smith (CONS/PE)** **Case No. 12CEPR00452**

**Atty** **Kruthers, Heather (for Public Guardian/Conservator of the Estate)**

**Status Re Inventory and Appraisal**

| | | | |
|---|---|---|---|
| | | | **NEEDS/PROBLEMS/COMMENTS:** |
| | | | **CONTINUED TO 6-7-12** Per Examiner |
| | Aff.Sub.Wit. | | |
| ✓ | Verified | | |
| | Inventory | | |
| | PTC | | |
| | Not.Cred. | | |
| ✓ | Notice of Hrg | | |
| ✓ | Aff.Mail | W/ | |
| | Aff.Pub. | | |
| | Sp.Ntc. | | |
| | Pers.Serv. | | |
| | Conf. Screen | | |
| | Letters | | |
| | Duties/Supp | | |
| | Objections | | |
| | Video Receipt | | |
| | CI Report | | |
| | 9202 | | |
| | Order | X | |
| | Aff. Posting | | **Reviewed by:** skc |
| | Status Rpt | | **Reviewed on:** 3-14-13 |
| | UCCJEA | | **Updates:** |
| | Citation | | **Recommendation:** |
| | FTB Notice | | **File 7B - Smith** |

**7A**

**Dept. 303, 9:00 a.m. Friday, March 22, 2013**

**7B** **Dorothy Jean Smith (CONS/PE)** **Case No. 12CEPR00452**

**Atty** **Amador, Catherine A (for Michael H. Smith & Jenna R. Smith/Conservators of the Person)**

**Atty** **Kruthers, Heather (for Public Guardian/Conservator of the Estate)**

**Petition for Attorney's Fees [Prob. C. 2640**

| DOD: | | |
|---|---|---|
| | | |
| | | |
| | | |
| Cont. from 102512, 011813 | | |
| | Aff.Sub.Wit. | |
| ✓ | Verified | |
| | Inventory | |
| | PTC | |
| | Not.Cred. | |
| ✓ | Notice of Hrg | |
| ✓ | Aff.Mail | W/ |
| | Aff.Pub. | |
| | Sp.Ntc. | |
| | Pers.Serv. | |
| | Conf. Screen | |
| | Letters | |
| | Duties/Supp | |
| | Objections | |
| | Video Receipt | |
| | CI Report | |
| | 9202 | |
| | Order | X |
| | Aff. Posting | |
| | Status Rpt | |
| | UCCJEA | |
| | Citation | |
| | FTB Notice | |

**CATHERINE A. AMADOR**, attorney for Conservators of the Person, **MICHAEL H. SMITH** and **JENNA R. SMITH,** is petitioner.

**MICHAEL H. SMITH** and **JENNA R. SMITH** were appointed Conservators of the person and the **PUBLIC GUARDIAN** was appointed as Conservator of the estate on 7/12/12.

Petitioner states she represented Michael H. Smith and Jenna R. Smith in their petition to be appointed conservator of the person and estate of Dorothy Jean Smith.

Objections were filed by the Conservatee's husband, Benjamin Smith and their grandson, Michael H. Smith, Jr. (Butch).

At the hearing, the parties agreed to the appointment of Michael and Jenna as conservators of the person and the Public Guardian as conservator of the estate.

Petitioner states she spent 58.9 hours at $265.00 per hour on this matter for a total of **$13,894.50.**

In addition, Petitioner requests reimbursement of costs totaling **$632.00** and **$277.89** in administrative expenses.

**Supplement filed 1-14-13 states** billed fees and costs were $7453 + $552, and the Court has already ordered payment of $7000 against those fees and costs. Petitioner requests the balance of $975 be approved at this time.

Petitioner has worked an additional 33.1 hours on this matter since the petition was granted and billed fees in the amount of $8,771.50. The majority of that time was spent collecting and providing information about the estate to the Public Guardian and County Counsel in an effort to allow them to complete the I&A (described). In addition, Petitioner anticipates incurrent fees of approx. 1 hour to make the appearance on this request.

**Petitioner requests the Court approve this petition and direct the payment of $9,746.50 from Conservator's estate to Pascuzzi, Moore & Stoker.**

**NEEDS/PROBLEMS/ COMMENTS:**

**Continued from 10-25-12, 11-30-12, 1-18-13**

**Minute Order 11-30-12:** The Court notes for the minute order that Dorothy Smith passed away. Ms. Kruther informs that Court that she has some objections which she will be discussing with Ms. Amador informally. Ms. Amador requests a partial payment of attorney's fees. The Court indicates to counsel that given the size of the estate, it believes it can grant the request while still honoring Probate Code 2640. The Court grants a partial payment of attorney's fees in the amount of $7,000.00. Ms. Amador is directed to prepare the order. Continued to 1-18-13. Set on 1-18-13 for Status Hearing Re: Filing of the Inventory and Appraisal.

Note: I&As were filed 2-26-13 reflecting a total of $938,375, including community and separate property.

**Minute Order 1-18-13:** Also present in the courtroom are Ben Smith, Michael Smith, Jr., (Butch) and Youa Her. Matter continued to 3-22-13.

**The following issues remain:**

**SEE PAGE 2**

**Reviewed by:** KT / skc

**Reviewed on:** 3-13-13

**Updates:**

**Recommendation:**

**File 7B - Smith**



**Dept. 303, 9:00 a.m. Friday, March 22, 2013**

## 7B Dorothy Jean Smith (CONS/PE) Case No. 12CEPR00452

**NEEDS/PROBLEMS/COMMENTS**:

1. Probate Code 2640 states that a request for attorney fees can be filed at any time after the filing of the inventory and appraisal, but not before 90 the expiration of 90 days from the issuance of letters or at any time the court for good cause orders. This petition was filed prior to I&A.

   *Update: I&A has now been filed.*

2. Costs include Court runner fees totaling $80.00. Local Rule 7.17B states runner services are considered by the court to be a part of the cost of doing business and are not reimbursable costs or fees.

3. Petition requests the reimbursement of administrative expenses without stating what the administrative expenses are.

4. The itemization of the attorney's fees includes several entries after the appointment of the Public Guardian as conservator of the estate that appear to be for issues involving the estate. It appears that charges involving the estate are beyond what should have been charged by the attorney for the conservator of the person.

5. Need Order.

6. *Pursuant to the Supplement filed 1-14-13, it appears that Attorney Amador is requesting an additional $8,771.50 in fees, copies served by mail on 1-11-13, which is 7 days before the continued hearing on the prior petition.*

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

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

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

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

   *Need clarification on the amount requested.*

**Dept. 303, 9:00 a.m. Friday, March 22, 2013**

**8** **Barnett Seymour Salzman (CONS/PE)** **Case No. 12CEPR00588**

**Atty** **Wright, Janet L. (for Conservatee Barnett Seymour Salzman)**

**Probate Status Hearing Re: Filing of Inventory and Appraisal**

| | | |
|---|---|---|
| **Age: 74** | | |
| | | |
| | | |
| | | |
| | | |
| | **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** | |

**VANCE SEVERIN and TERRI SEVERIN**, Brother and Sister of Mr. Salzman's wife, Stacy Salzman, were appointed as Temporary Co-Conservators of the Person and Estate without bond (bond upon permanent appointment) on 9-25-12.

At a hearing on 11-5-12, the Court set this status hearing for the filing of the I&A.

On 12-10-12, The Temporary Co-Conservators were authorized to sell the Conservatee's real property, with proceeds to be deposited into a blocked account.

At hearing on 1-7-13, the petition for conservatorship of the *person* was withdrawn, and the conservatorship of the *estate* was extended to 3-29-13, but limited to the sale of the property and negotiate and settle with the Conservatee's creditors, including California Franchise Tax Board and IRS.

The Court set a status hearing on 3-29-13 for filing of the First or Final Account of Temporary Conservator.

**NEEDS/PROBLEMS/COMMENTS:**

1. **Need receipt for blocked account (sale proceeds)**
2. **Need I&A.**
3. **Need status of the conservatorship estate at this time. Has the house sold? Have the debts been settled?**

**Note: An additional upcoming status hearing is set for 3-29-13 for the filing of an account.**

| | |
|---|---|
| **Reviewed by:** skc | |
| **Reviewed on:** 3-14-13 | |
| **Updates:** | |
| **Recommendation:** | |
| **File 8 - Salzman** | |

## 9A LaBree Family Trust 12/20/91 (Trust) Case No. 12CEPR00628

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

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

**Status Conference**

| | | |
|---|---|---|
| Frank DOD: 8/15/2006 | | |
| Roberta DOD: 3/25/2012 | | |
| | | |
| | | |
| Cont. from 011813 | | |
| | Aff.Sub.Wit. | |
| | Verified | |
| | Inventory | |
| | PTC | |
| ✓ | Status Rep | |
| | Notice of Hrg | |
| ✓ | Aff.Mail | W/ |
| | Aff.Pub. | |
| | Sp.Ntc. | |
| | Pers.Serv. | |
| | Conf. Screen | |
| | Letters | |
| | Duties/S | |
| | Objections | |
| | Video Receipt | |
| | CI Report | |
| | 9202 | |
| | Order | |
| | Aff. Posting | |
| | Status Rpt | |
| | UCCJEA | |
| | Citation | |
| | FTB Notice | |

**BARBARA L. PEARSON**, Trustor's daughter, Trust Beneficiary and Successor Trustee of the **LABREE FAMILY TRUST dated 4/13/1981**, filed on 10/5/2012 a ***Petition for Settlement of First Account and Report of Trustee of the LaBree Family Trust***, which was set for hearing on 11/29/2012.

**TRACY SPREIER**, Trustor's daughter and Trust Beneficiary, filed on 11/16/2012 ***Objections to the Petition for Settlement of First Account and Report of Trustee of the LaBree Family Trust***, alleging self-dealing and breach of fiduciary duties by the Trustee.

***Minute Order* dated 11/29/2012** from the hearing on the petition and the objections set a status conference on 1/18/2013.

***Status Report* by Objector, Tracy I. Spreier, filed 3/12/2013 states:**

- In Response to Objector Tracy Spreier's Objection, Petitioner Barbara Pearson provided some information on an informal basis to resolve some of the issues raised by the Objection;
- However, several issues remain to be resolved at this time, including (1) whether a certain ring is appropriately included in the accounting, regardless of what its actual value may be; (2) whether the payment of certain appraisal fees can be included in the accounting; and (3) the failure to state the appraised date of death value for certain real property owned by the Trust; and (4) certain expenses improperly paid from the Trust's funds.
- Written discovery in the form of a request for production of documents, requests for admissions, special interrogatories, and form interrogatories, were propounded by Objector to the Petitioner on 3/6/2013;

***~Please see additional page~***

**NEEDS/PROBLEMS/COMMENTS:**

**Page 9B** is the *Petition for Settlement of First Account and Report of Trustee of the LaBree Family Trust*.

**Page 11** is the related matter of the *Frank H. Labree Irrevocable Trust* (12CEPR00893.)

**Continued from 1/18/2013.** *Minute* Order states Mr. Werner is appearing via conference call. Ms. Burnside informs the Court that a majority of the objections to the accounting have been worked out, but additional time is needed to do some discovery. Matter continued to 3/22/2013. Counsel is directed to submit a joint status report. The Court indicates to both counsel that notice can be waived for purposes of the status report.

**Note:** *Status Report* by Petitioner Barbara Pearson, Successor Trustee, filed 3/15/2013 states that based upon [the discovery due date of 4/10/2013], counsel for Ms. Pearson submits **a further status hearing in 45 days** would be appropriate.

**Reviewed by:** LEG

**Reviewed on:** 3/15/13

**Updates:** 3/18/13; 3/19/13

**Recommendation:**

**File 9A - LaBree**

**Dept. 303, 9:00 a.m. Friday, March 22, 2013**

***Status Report* by Objector filed 3/12/2013, continued:**

- Although the attorney for Petitioner previously indicated a need to depose a potential witness in Arizona in regard to the issue pertaining to the ring, it is Objector's contention that any facts known by the potential witness in Arizona are irrelevant to the determination of whether the ring is even properly included within the accounting;
- It is unknown at this time as to whether the Objection to the accounting and the Trustee's request for the Court's approval of her actions can be resolved through settlement or one of the various forms of ADR; at this time, Objector is waiting for responses to the discovery that has been propounded to make a determination as to the best way in which to proceed with regard to the issues;
- Other related cases before the Court are as follows:
    - Frank H. LaBree Exemption Trust (12CEPR00892) – Accounting was approved *[on 11/29/2012]*, but a petition may need to be filed for an order for the distribution of the Trust's assets;
    - Frank H. LaBree Irrevocable Trust (12CEPR00893) – An Objection is pending to the Account in this matter;
    - The LaBree Irrevocable Trust (12CEPR00894) – Account was approved *[on 11/29/2012]*, but a petition may need to be filed for an order for the distribution of the Trust's assets;
- There is also a Riverside County related case entitled *Barbara Pearson, Successor trustee of the LaBree Family Trust v. Tracy I. Spreier and Cal-Duct, Inc.* (RIC 1213819) – the Plaintiff's first amended complaint was filed on 3/2/2013, following the sustaining of the demurrer to the original complaint that was filed; that action generally alleges, among other things, that Tracy Spreier is the beneficiary of an agreement entered into by Roberta LaBree, the previous Trustee of the LaBree Family Trust, and that because of her medical condition, Mrs. LaBree was extremely susceptible to undue influence; that action seeks a variety of remedies, including rescission of the agreement and damages;
- It is expected that the attorneys for the parties will meet and confer after the discovery propounded by Objector in this particular matter is responded to in order to determine whether the matter can be resolved by agreement, or whether the issues will have to be decided by the Court.

***Status Report* by Petitioner Barbara Pearson, Successor Trustee, filed 3/15/2013 states:**

- As one of the beneficiaries of the LaBree Family Trust, Tracy Spreier objected to several things in Petitioner's Trust accounting, including:
    (a) The appraisal of a diamond ring that Ms. Pearson relied upon in determining the value of this assets which had been distributed to Ms. Spreier;
    (b) Ms. Pearson's payment, from Trust funds, for an appraisal of certain real property that had been gifted by the deceased Settlor, Roberta La Bree, to her three daughters in 2010;
    (c) Ms. Pearson's payment for an appraisal of Trust real property that she ultimately decided not to use in valuing the real property;
    (d) Ms. Pearson's liquidation of certain Trust investments;
    (e) Ms. Pearson's use of Trust funds to pay for expenses related to the Settlor's funeral;
    (f) The compensation received by Ms. Pearson for services provided by her as Successor Trustee; and
    (g) The compensation paid by Ms. Pearson to her attorneys, Dowling Aaron Inc., for services provided by the firm to Ms. Pearson as Successor Trustee.

***~Please see additional page~***

***Status Report* by Petitioner Barbara Pearson, Successor Trustee, filed 3/15/2013, continued:**

- On 11/14/2012, Ms. Pearson filed a Declaration in which she detailed the services provided by her during the account period and for which she has requested compensation of **$25,055.50**;
- On 11/26/2012, Ms. Pearson filed a Reply addressing many of the issues raised in the Objection;
- On 12/14/2012, her attorneys filed a Declaration detailing the services provided by them on behalf of Ms. Pearson;
- Ms. Pearson subsequently filed a further Declaration on 1/15/2013, detailing the services provided by her and for which she has already received compensation in the amount of **$14,302.50**;
- Ms. Pearson submits that the Reply and fee Declarations address many of the issues raised in Ms. Spreier's Objection, and counsel for Ms. Pearson anticipates that most of the disputed items will be resolved informally;
- However, one of the issues – that of the diamond ring – has not been resolved, and more information regarding the ring is needed;
- Ms. Spreier recently provided Ms. Pearson with a color photograph of the ring and served written discovery;
- Ms. Pearson's responses to said discovery are due 4/10/2013;
- Counsel for the parties are also discussing the proposed deposition of one of Mrs. LaBree's caregivers in Arizona;
- **Based upon the above, counsel for Ms. Pearson submits a further status hearing in 45 days would be appropriate.**

***Notice of Intent to Appear Telephonically at Status Conference* filed 3/19/2013** indicates that Objector, Tracy Spreier, intends to appear telephonically at the Status Conference on 3/22/2013.

## 9B The LaBree Family Trust 12/20/91 (Trust) Case No. 12CEPR00628

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

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

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

**Frank DOD: 8/15/2006**

**Roberta DOD: 3/25/2012**

**Cont. from 112912, 011813**

| | | |
|---|---|---|
| | Aff.Sub.Wit. | |
| ✓ | Verified | |
| | Inventory | |
| | PTC | |
| | Not.Cred. | |
| ✓ | Notice of Hrg | |
| ✓ | Aff.Mail | W/ |
| | Aff.Pub. | |
| | Sp.Ntc. | |
| | Pers.Serv. | |
| | Conf. Screen | |
| | Letters | |
| | Duties/Supp | |
| ✓ | Objections | |
| | Video Receipt | |
| | CI Report | |
| | 9202 | |
| | Order | X |
| | Aff. Posting | |
| | Status Rpt | |
| | UCCJEA | |
| | Citation | |
| | FTB Notice | |

**BARBARA L. PEARSON**, Trustors' daughter, Trust Beneficiary and Successor Trustee of the **LABREE FAMILY TRUST**, is Petitioner.

Account period: 3/25/2011 – 2/29/2012

Accounting - **$1,735,662.68**
Beginning POH - **$1,627,499.40**
Ending POH - **$1,563,236.09**
*($1,899,065.77 is cash; cash balance exceeds ending property on hand balance due to negative $518,182.00 amount held in constructive trust by Trustee for the benefit of the Frank H. LaBree Exemption Trust.)*

Trustee - **$25,066.50**
*(per Declaration filed 11/14/2012 containing itemization for 294.90 hours @ $85.00/hour. NOTE: Trustee has previously been paid compensation of **$14,302.50** (not itemized) from the Trust for this account period without court order per Trust terms entitling Trustee to reasonable compensation for services rendered as Trustee; )*

Attorney - **$53,312.30** *(paid)*
*(to Dowling Aaron & Keeler/Dowling Aaron, as listed in Disbursements schedule; not itemized other than for legal fees)*

Accountant - **$1,405.00** *(paid)*
*(to Erickson & Assoc., CPAs, as itemized in Disbursements schedule; Petitioner is employed by Erickson & Assoc.)*

**Petitioner states:**

- **ROBERTA LABREE** and **FRANK H. LABREE, Jr.,** created the **LABREE FAMILY TRUST** on 4/13/1981, as amended on 5/2/1984, and as amended in full on 12/20/1991, and were the original co-trustees until Frank's death on 8/15/2006, when Roberta became the sole Trustee, and the Trust served as the Survivor's Trust for Roberta;

***~Please see additional page~***

**NEEDS/PROBLEMS/ COMMENTS:**

**Continued from 11/29/2012**. *Minute Order* states Mr. Werner is appearing via conference call. Matter continued to 3/22/2013.

1. Need proposed order.

**Reviewed by:** LEG
**Reviewed on:** 3/14/13
**Updates:**
**Recommendation:**
**File 9B - LaBree**



**Dept. 303, 9:00 a.m. Friday, March 22, 2013**

**Petitioner states, continued:**

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

**Petitioner prays for an Order:**

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

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

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

***~Please see additional page~***

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

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

- Successor Trustee also materially misrepresents the value of the ring that was gifted to Objector by her mother in December 2010; accounting makes reference to an appraisal obtained for a ring and include an entry of **$100.00** paid to have ring appraised, and Objector asserts that the ring appraised, if any ring was actually appraised, is not the same ring given to her by her mother in December 2010 which Successor Trustee alleges was distributed to Objector on 3/25/2011; the reason for this is that Objector has been in possession of the ring ever since her mother gave it to her in December 2010, thus to the extent that any appraisal was prepared at Successor Trustee's request, the appraisal was either a totally fictitious appraisal or was based upon a ring other than the one give to Objector by her mother;
- Objector took the ring her mother had given to her in December 2010 to a Certified Gemologist Appraiser to obtain a professional appraisal of the ring's value, and the appraiser's conclusion is that the stones in the ring are cubic zirconium set in a sterling silver cast and die-struck ring with a value of **$60.00** *(please refer to copy of appraisal attached as Exhibit A);*
- Objector believes that **TARA AHEARNE**, who was paid $100.00 by Successor Trustee to state that the value of the ring given to Objector by her mother was worth **$26,000.00**, is a friend of Successor Trustee's daughter; it can only be inferred that her appraisal was based solely on whatever was told to her by the Successor Trustee, as the appraisal could not have been based on an actual inspection of the ring in order to determine its attributes or value, as Objector was never asked to produce the ring for any inspection or appraisal, and never did so; no communication was ever made by the Successor Trustee to the Objector at any time about the ring;
- Because the ring appraisal obtained by the Successor Trustee was false and deceitful, she should be ordered to reimburse the Family Trust the **$100.00** cost of the appraisal.

- **The Trustee paid for an appraisal of real property not owned by the Trust:**
  - *Schedule E, Disbursements* shoes an entry for an appraisal by **DIANA A. GARDA** of **$1,077.00** for an appraisal of the South El Monte property; the real property owned by the Trust listed on *Schedule A Property on Hand* [at beginning of account period] shows only real property owned by Family Trust is Trustor's home in Bullhead Arizona and two timeshare interests; as there is no explanation given for an appraisal to be obtained by the Family Trust for the South El Monte property, the Successor Trustee should be ordered to reimburse the Family Trust **$1,077.00** for that expenditure; South El Monte property is commercial property that was owned by the Family Trust and was gifted by their mother to Objector and her two sisters in 2010 to a partnership they owned.
- **The Court should not approve the reimbursement made to the Successor Trustee for the cost of an appraisal that was never used.**

- **The Court should not approve the Successor Trustee's action of selling the Family Trust's tax-free bond and certificate of deposit investments, then depositing the cash into extremely low interest-bearing bank accounts instead of distributing the assets to the beneficiaries.**

- **The Court should require the Successor Trustee's report to explain why its cash assets of over $1.5 million are not being distributed.**

***~Please see additional page~***

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

- **The Court should instruct the Successor Trustee to adhere to her fiduciary duty to deal impartially with the beneficiaries.**

- **Funeral costs are not an allowable expense under the terms of the Family Trust and should not be approved by the Court in light of the fact that the Trustor had a prepaid cremation and memorial plan.**

- **Family photograph reprints are not a trust expense that can be approved by the Court.**

- **The travel costs and other expenses purportedly related to the sale of the Trustor's residence and which were incurred by Successor Trustee's relatives are not allowable Trust expenses.**

- **The Successor Trustee's fee request should not be granted as it is not supported by an time records for the work done by her, and the accounting does not reflect the amount that the report states has already been paid to her by the Trust.**

- **The Court cannot ratify the amounts paid by the Successor Trustee to her attorneys for legal fees as they are not supported by any time records that show any justification for the amounts paid.**

- **The Court should award Objector her attorney's fees with regard to the objection to the accounting.**

- **One of the named beneficiaries in the Trust, SEAN WOODS, was not given notice of the petition.** *[Note: Waiver of Notice on Petition for Settlement of First Account and Report of Trustee of the LaBree Family Trust signed by Sean Woods was filed on 11/21/2012.]*

**Objector requests:**

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

***~Please see additional page~***

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

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

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

- **The ring, which does have an appraised value of $26,000.00, was taken by Objector as a preliminary distribution of the Trust estate, and is properly included in the accounting to explain equalizing distributions required to other Trust beneficiaries.**

- **The appraisal of the South El Monte property was a proper Trust expense.**

- **The appraisal fee of $375.00 was a proper Trust expense.**

- **The sale of the tax-free bond was appropriate and within the Trustee's discretion.**

- **The Trustee's lack of Trust distributions during the accounting period was appropriate and within her discretion.**

- **If the Court orders the Trustee to adhere to her fiduciary duty to deal impartially with Trust beneficiaries, as requested by Objector, Objector will lose $42,748.00.**

- **Funeral costs are allowable expenses, and travel and meals are commonly covered estate administration expenses.**

- **Copies of family photographs were proper trust expenses.**

***~Please see additional page~***

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

- **Travel costs related to the sale of the residence were proper Trust expenses.**

- **Documentation regarding Trustees fees has not been provided to Objector and to the Court.** *[Declaration filed 11/14/2012.]*

- **A separate attorney fee declaration will be submitted prior to the hearing.**

- **The Court should deny Objector's request for attorney fees for the objection.** There is no adjudication that the Trustee's defense of the accounting is frivolous; therefore, Objector's attorney is not entitled to fees.

- **M. Sean Woods filed a Waiver of Notice for the Hearing** *[on 11/21/2012.]*

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

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

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

## 10A Joaquin Perez Verduzco (Estate) Case No. 12CEPR00820

**Atty** Markeson, Thomas A. (for Susie S. Verduzco-Samanc – Executor – Petitioner)
**Atty** Givental, Alisa A. (for Green Tree Mortgage Servicing, LLC – Objector)

**Petition to Determine Administrative Expenses Allocable to Encumbered Property Prior to Satisfaction of Lien, and for Deposit of Purchase Money With Court in Satisfaction of Lien and Expenses [Prob. C. 10360, et seq.]**

**DOD: 7-13-12**

**Cont From 013113**

| | | |
|---|---|---|
| | Aff.Sub.Wit. | |
| ✓ | Verified | |
| ✓ | Inventory | |
| | PTC | |
| | Not.Cred. | |
| ✓ | Notice of Hrg | |
| ✓ | Aff.Mail | w |
| | Aff.Pub. | |
| | Sp.Ntc. | |
| | Pers.Serv. | |
| | Conf. Screen | |
| ✓ | Letters | |
| | Duties/Supp | |
| ✓ | Objections | |
| | Video Receipt | |
| | CI Report | |
| | 9202 | |
| | Order | X |
| | Aff. Posting | |
| | Status Rpt | |
| | UCCJEA | |
| | Citation | |
| | FTB Notice | |

**SUSIE S. VERDUZCO-SAMANC**, Daughter and Executor with Full IAEA without bond, is Petitioner.

One of the assets of the estate is real property located at 5230 E. Belmont Ave. in Fresno (valued at $120,000.00). Petitioner has entered into an agreement for a "short sale" of the property for $120,000.00; however, the outstanding loan balance is greater than this amount. The lender scheduled a foreclosure sale on 12-12-12, which Petitioner expects will be postponed. Whether the property is sold via short sale or at foreclosure, Petitioner seeks an order determining the amount of expenses of administration that are reasonably related to the administration of the encumbered property as provide for by Probate Code §10361.5.

Petitioner states the expenses of sale are $24,399.01, as set forth on Exhibit D, which include commissions, escrow charges, fees and taxes, including unpaid property taxes and penalties. Petitioner will incur additional charges in serving notice of hearing on this petition and may incur additional attorney fees for appearing at this hearing that will be presented in a supplement prior to hearing.

Petitioner requests that the court order on approval of this petition that the purchase money be paid to the clerk of the court to be disbursed as provided for by Probate Code §10362. In the alternative, Petitioner requests an order requiring the lender or other holder of the funds to pay over to Petitioner the expenses and fees of which the estate is otherwise entitled to pursuant to this petition and pursuant to the Probate Code.

***SEE ADDITIONAL PAGES***

**NEEDS/PROBLEMS/COMMENTS:**

**Continued from 1-31-13**

**Minute Order 1-31-13: The Court notes for the minute order that the hour is 9:15 a.m. and Alisa Givental is not present via CourtCall as scheduled. The Court sets a Status Conference for 3/22/13. The Court directs the parties to provide chambers copies of any documents filed. Continued to 3/22/13 at 9:00am in Dept. 303. Set on 3/22/13 at 9:00am in Dept. 303 for Status Conference.**

1. **The petition is not signed by Attorney Markeson.**

**Reviewed by:** skc
**Reviewed on:** 3-13-13
**Updates:**
**Recommendation:**
**File 10A - Verduzco**

**Petitioner prays for the following:**
1) That the court determine the expenses of administration reasonably related to the administration of the encumbered property;
2) That the court determine expenses of sale of said property;
3) That the court order proceeds from the sale to be paid to the clerk of the court or to the escrow holder, or to petitioner;
4) That the court order that upon such payment the lien on the property be discharged;
5) That the clerk of the court or escrow holder or Petitioner be ordered to pay and disburse the proceeds of the sale requested in this petition or as otherwise ordered by this court; and
6) For such other and further orders as the court deems appropriate.

**Objector Green Tree Mortgage Servicing, LLC states none of the expenses at issue were reasonably related to the administration of the property, and even if they were, such expenses are properly recoverable only from the assets of the estate, not from proceeds of a foreclosure sale conducted by Green Tree. Objector requests the petition be denied.**

**Objector provides a statement of relevant facts and legal argument, including authority:**

- **Applicable sections of the Probate Code:** Not all recoverable expenses will take priority over a secured obligation.

- **Petitioner is not entitled to expenses associated with a short sale because no short sale took place:** See Request for Judicial Notice re Trustee's Deed Upon Sale. Therefore, Petitioner's plea for $9,205.01 as reimbursement for sale expenses should be denied.

- **Ordinary compensation does not take priority over a lien:** Petitioner seeks to recover $9,200.00 in ordinary compensation, but does not provide any support for the notion that ordinary compensation can be paid out piece-meal as certain assets, or in this case liabilities, of an estate are liquidated. That petitioner can seek an "allowance" before approval of the final account does not change the fact that such allowance is only payable from the assets of the estate. Even if it were appropriate for the court to consider this request to receive a portion of ordinary compensation from the proceeds of the foreclosure sale, Petitioner does not provide any support for the prerequisite proposition that the ordinary compensation requested is in payment for the expenses ***reasonably related*** to the property sold. That Petitioner's calculation is based on a percentage of the value does not establish that this amount is "reasonably related" to the administration of the property. To the contrary, the very fact that ordinary compensation is not discretionary but formulaic demonstrates that it is impossible for the court or petitioner to establish "reasonably related" element that is a prerequisite to any administration expenses taking priority over the secured obligation.

  Since there is no legal basis for determining whether the ordinary expenses is "reasonably related" to the administration of the property, there is also no basis for awarding such compensation from the proceeds of a foreclosure sale. Petitioner should seek recovery from the assets of the estate when the estate has been fully "accounted for by [her - ] the personal representative." (Probate Code §10800(a)).

***SEE ADDITIONAL PAGES***

- **Extraordinary expenses cannot take priority over a lien if they do not benefit the estate:** $2,000.00 in extraordinary fees and costs of $435 for filing this petition should be denied for several reasons. Extraordinary compensation is paid from the assets of the estate, not proceeds of a foreclosure sale by a third party. The request should be denied on this ground alone. Second, Petitioner relies on local rule, which permits extraordinary fees for attorneys without further justification for "court-confirmed sales of real property." Surely the local rules exception to the Cal. Rules of Court is not intended as a loophole to compensation both Petitioner and attorney for a sale conducted by a third party and then recover that compensation from the third party. To the extent that Petitioner contends that her attempts to negotiate a short sale that never occurred warrant the extraordinary compensation from the proceeds of the foreclosure sale that took place instead, the argument should be rejected because there is no benefit to the estate for a short sale if it should have been clear to Petitioner from the beginning that the estate could not gain assets as a result of either.

- **The remaining expenses were not necessary:** $207 for appraisal, $2000 for "post death" trash pickup, $303 for "post death" water, $220 for "post death" PG&E, and $129 for "post death" City of Fresno should be denied because Petitioner fails to present any explanation for the notion that any of these expenses were "necessary." Only necessary expenses are recoverable. It is unclear why a property that was about to be sold at a foreclosure sale was generating trash, water and electricity bills. Petitioner provides no authority why these should be recoverable from the sale rather than the assets of the estate; therefore, it is unclear why these are either necessary or reasonably related to the administration of the property.

**Objector's Request for Judicial Notice references the following recorded documents:**

- The Corporate Assignment of Deed of Trust recorded 7-17-12 in the official records of Fresno County as instrument number 2012-0099188
- The Trustee's Deed Upon Sale, recorded 12-28-12 in the official records of Fresno County as instrument number 2012-0187908

---

**Petitioner's Response filed 1-30-13 states:**

- Green Tree omits one important fact: Even before Petitioner's appointment as Administrator on 10-24-12, Petitioner began the process for a short sale of the property. Those efforts continued after appointment and resulted in a contract of sale. Everything was in place for escrow to close on 12-13-12, but for Green Tree's acceptance of the contract. Instead, Green Tree, without notice to Petitioner or to the potential buyer, proceeded with its foreclosure and sold the property to another buyer. Green Tree now wishes to avoid its responsibility to pay expenses of administration relating to the property.

- The issue is what expenses of administration are reasonably related to 5230 E. Belmont Ave that have priority over Green Tree's lien and should be paid from the proceeds received from sale under 10631 and 11420.

***SEE ADDITIONAL PAGES***

- Ordinary compensation does take priority over the deed of trust. Cites provided. Objector focuses on Rule 7.701 regarding payment of fees pursuant to court order. Petitioner is not requesting payment at this time; only determination and payment to the estate. Regardless, in an attempt to satisfy Rule 7.701, Petitioner provides an estimate of the statutory compensation payable in this estate. See Response.

- Ordinary services performed to date include petition, publication, I&A, handling debts, etc. Additional work is required in this estate, however, all effort associated with this property has been completed.

- Objector argues that the fact ordinary fees are pursuant to a formula makes it impossible to establish the fees reasonably related to the property in question is belied by the fact that Petitioner is only asking for ordinary expenses in the form of ordinary fees based on the property only.

- Extraordinary fee request of $2,500 plus filing fee for research, review, preparation of this petition, and court appearance. Rule 7.703 list a number of examples of extraordinary nature. Cal. Decedent Estates Practice states services for which extraordinary fees may be claimed include litigation regarding collection of funds, sale of real property, and defenses of fee requests. CEB §20.29. It would not appear that the petition at hand would be classified as ordinary, rather that it would be included as activity associated with the sale of the property, litigation undertaken to benefit the estate, and litigation/defense in support of a request for extraordinary fees.

- Petitioner maintains her request for $1,000.00 for fees relating to herself. Local Rule 7.18 provides for fees to the personal representative without restriction.

- <u>Petitioner withdraws the request for $1,000.00 to the attorney</u> inasmuch as the rule allows for such payment only on court – confirmed sales.

- Appraisal and utilities are appropriate in that in negotiations for short sale the property required maintenance, including garbage and PG&E. This also maintained the illusion that the property was occupied for security purposes. These expenses were directly related to the property and helped maintain its value.

- The Law Revision Commission Comments of Section 11004 state the section permits expenses such as gardening, pool maintenance and maintenance pending sale. The expenses requested fit within such examples and are directly related to the property at hand and should be included in any order of the court.

- Petitioner agrees that the real estate commissions of $7,200 are inappropriate because no commission was payable. However, the other expenses requested would have been paid from escrow from the proceeds. See Exhibit A to moving papers. Petitioner is willing to withdraw the request for expenses requested and instead request an order of the court that requires Green Tree to pay all settlement costs, according to proof, paid from proceds from the sale. In the alternative, Petitioner requests the Court determine all sales expenses except the commissions are reasonably related to the property in question.

**10B Joaquin Perez Verduzco (Estate)** **Case No. 12CEPR00820**

**Atty** **Markeson, Thomas A. (for Susie S. Verduzco-Samanc – Executor – Petitioner)**

**Atty** **Givental, Alisa A. (for Green Tree Mortgage Servicing, LLC – Objector)**

**Status Conference**

| | | |
|---|---|---|
| **DOD: 7-13-12** | **SUSIE S. VERDUZCO-SAMANC**, Daughter and Executor with Full IAEA without bond, is Petitioner.<br><br>On 12-11-12, Petitioner filed a Petition to Determine Administrative Expenses Allocable to Encumbered Property Prior to Satisfaction of Lien, and for Deposit of Purchase Money with Court in Satisfaction of Lien and Expenses pursuant to Probate Code §10360, et seq.<br><br>**GREEN TREE MORTGAGE SERVICING, LLC,** filed an Objection on 1-25-13.<br><br>At hearing on 1-31-13, Attorney Givental (for Objector) was not present. The Court set this status conference and directed the parties to provide chambers copies of any documents filed.<br><br>As of 3-13-13, nothing further has been filed. | **NEEDS/PROBLEMS/COMMENTS:** |
| | | |
| | | |
| | | |
| | | |
| **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** | | **Reviewed by:** skc |
| **Status Rpt** | | **Reviewed on:** 3-13-13 |
| **UCCJEA** | | **Updates:** |
| **Citation** | | **Recommendation:** |
| **FTB Notice** | | **File 10B - Verduzco** |



**Dept. 303, 9:00 a.m. Friday, March 22, 2013**

## 11A Frank H. LaBree Irrevocable Trust (Trust) Case No. 12CEPR00893

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

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

**Status Conference**

| | | |
|---|---|---|
| Frank DOD: 8/15/2006 | | |
| Roberta DOD: 3/25/2012 | | |
| | | |
| | | |
| Cont. from 011813 | | |
| | Aff.Sub.Wit. | |
| | Verified | |
| | Inventory | |
| | PTC | |
| ✓ | Status Rep | |
| | 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 | |

**BARBARA L. PEARSON**, Trustor's daughter, Trust Beneficiary and Successor Trustee of the **FRANK H. LABREE IRREVOCABLE TRUST**, filed on 10/5/2012 a ***Petition for Settlement of First Account and Report of Trustee of the Frank H. LaBree Irrevocable Trust***, which was set for hearing on 11/29/2012.

**TRACY SPREIER**, Trustor's daughter and Trust Beneficiary, filed on 11/16/2012 an ***Objection to the Petition for Settlement of First Account and Report of Trustee***, alleging self-dealing and breach of fiduciary duties by the Trustee.

***Minute Order* dated 11/29/2012** from the hearing on the petition and the objections set this status conference on 1/18/2013.

***Status Report* by Objector, Tracy I. Spreier, filed 3/12/2013 states:**

- In Response to Objector Tracy Spreier's Objection, Petitioner Barbara Pearson provided some information on an informal basis to resolve two of the three issues raised by the Objection;
- The third issue, apparent self-dealing by the Trustee by modifying the interest rate of two different promissory notes owed to the Trust, remains to be resolved at this time;
- Written discovery in the form of a request for production of documents, requests for admissions, special interrogatories, and form interrogatories, were propounded by Objector to the Petitioner on 3/6/2013;
- It is not anticipated that Petitioner has a need or expects to conduct discovery with regard to the matter;

***~Please see additional page~***

**NEEDS/PROBLEMS/COMMENTS:**

**Page 11B** is the *Petition for Settlement of First Account and Report of Trustee of the LaBree Family Trust*.

**Continued from 1/18/2013.** *Minute* Order states Mr. Werner is appearing via conference call. Ms. Burnside informs the Court that a majority of the objections to the accounting have been worked out, but additional time is needed to do some discovery. Matter continued to 3/22/2013. Counsel is directed to submit a joint status report. The Court indicates to both counsel that notice can be waived for purposes of the status report.

**Note:** *Status Report* by Petitioner Barbara Pearson, Successor Trustee, filed 3/15/2013 states that based upon [the discovery due date of 4/10/2013], counsel for Ms. Pearson submits **a further status hearing in 45 days** would be appropriate.

| | |
|---|---|
| **Reviewed by:** LEG | |
| **Reviewed on:** 3/14/13 | |
| **Updates:** 3/18/13 | |
| **Recommendation:** | |
| **File 11A - LaBree** | |

***Status Report* by Objector Tracy Spreier filed 3/12/2013, continued:**

- It is unknown at this time as to whether the Objection to the accounting and the Trustee's request for the Court's approval of her actions can be resolved through settlement or one of the various forms of ADR; at this time, Objector is waiting for responses to the discovery that has been propounded to make a determination as to whether there are indeed any defenses to the apparent self-dealing;
- Other related cases before the Court are as follows:
  - The LaBree Family Trust (12CEPR00628) – An Objection is pending to the Account in this matter;
  - Frank H. LaBree Exemption Trust (12CEPR00892) – Accounting was approved *[on 11/29/2012]*, but a petition may need to be filed for an order for the distribution of the Trust's assets;
  - The LaBree Irrevocable Trust (12CEPR00894) – Account was approved *[on 11/29/2012]*, but a petition may need to be filed for an order for the distribution of the Trust's assets;
- There is also a Riverside County related case entitled *Barbara Pearson, Successor Trustee of the LaBree Family Trust v. Tracy I. Spreier and Cal-Duct, Inc.* (RIC 1213819) – the Plaintiff's first amended complaint was filed on 3/2/2013, following the sustaining of the demurrer to the original complaint that was filed; that action generally alleges, among other things, that Tracy Spreier is the beneficiary of an agreement entered into by Roberta LaBree, the previous Trustee of the LaBree Family Trust, and that because of her medical condition, Mrs. LaBree was extremely susceptible to undue influence; that action seeks a variety of remedies, including rescission of the agreement and damages;
- **The proximity in time for when the interest rates for the promissory notes relating to this [Frank H. LaBree Irrevocable] trust were modified and when the agreement that is the subject of the above-noted civil action in Riverside Superior Court was signed occurred within just a few months of each other and are relatively close in time** *[emphasis added]*;
- It is expected that the attorneys for the parties will meet and confer after the discovery propounded by Objector in this particular matter is responded to in order to determine whether the matter can be resolved by agreement, or whether the issue as to whether the Trustee engaged in impermissible self-dealing will have to be decided by the Court.

***Status Report* by Petitioner Barbara Pearson, Successor Trustee, filed 3/15/2013 states:**

- As one of the beneficiaries of the Frank H. LaBree Irrevocable Trust, Tracy Spreier objected to Petitioner's Trust accounting, including:
  (h) Ms. Pearson's reduction of the interest rate of two loans she made from the Trust, one loan to herself and one loan to her daughter, **SHANNON BADELLA**;
  (i) Ms. Pearson's travel expenses in the amount of **$1,379.84**; and
  (j) The lack of an explanation as to why Ms. Pearson did not collect any Trustee compensation for 2010 or 2011;
- Ms. Pearson filed a Reply on 11/26/2012, addressing the issues raised in the Objections; Ms. Pearson submits the Reply sufficiently addresses all of the issues raised in Ms. Spreier's Objection, and that the challenges raised by Ms. Spreier should be denied;
- Since the filing of the Reply, counsel for the parties have engaged in discussions regarding the items at issue, and counsel for Ms. Pearson anticipates that most of the items will be resolved informally; however, Ms. Spreier desires to engage in discovery for the purpose of learning additional facts, and recently served written discovery; Ms. Pearson's responses to said discovery are due 4/10/2013;
- **Based upon the above, counsel for Ms. Pearson submits a further status hearing in 45 days would be appropriate.**

## 11B Frank H. LaBree Irrevocable Trust (Trust) Case No. 12CEPR00893

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

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

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

Frank DOD: 8/15/2006
Roberta DOD: 3/25/2012

Cont. from 112912, 011813

| | | |
|---|---|---|
| | Aff.Sub.Wit. | |
| ✓ | Verified | |
| | Inventory | |
| | PTC | |
| | Not.Cred. | |
| ✓ | Notice of Hrg | |
| ✓ | Aff.Mail | W/ |
| | Aff.Pub. | |
| | Sp.Ntc. | |
| | Pers.Serv. | |
| | Conf. Screen | |
| | Letters | |
| | Duties/Supp | |
| ✓ | Objections | |
| | Video Receipt | |
| | CI Report | |
| | 9202 | |
| | Order | X |
| | Aff. Posting | |
| | Status Rpt | |
| | UCCJEA | |
| | Citation | |
| | FTB Notice | |

**BARBARA L. PEARSON**, Trustor's daughter, Trust Beneficiary and Successor Trustee of the **FRANK H. LABREE IRREVOCABLE TRUST**, is Petitioner.

Account period: 10/10/2008 – 12/31/2011

Accounting - **$456,694.10**
Beginning POH - **$421,894.79**
Ending POH - **$423,435.60**
*($334,115.35 is cash)*

Trustee (Initial) - **$3,510.00**
*(services prior to 10/10/2008 for initial Trustee, paid to Law Offices of Earl O. Bender)*

Trustee (Current) - **$600.00** *(paid)*

Trustee Costs - **$1,379.84** *(paid)*
*(reimbursement of 2010 travel expense)*

Attorney - *Not requested*

Accountant - **$615.00** *(paid)*
*(to Erickson & Assoc., CPAs, as itemized in Disbursements schedule; Petitioner is employed by Erickson & Assoc.)*

**Petitioner states:**

- **FRANK H. LABREE, Jr.,** created the **FRANK H. LABREE IRREVOCABLE TRUST** on 3/26/1992, which was funded initially by a life insurance policy on Frank *(copy of Trust Agreement attached as Exhibit A);*
- The initial Trustee was **EARL O. BENDER**, who resigned on 10/9/2008, and Petitioner succeeded as trustee; Petitioner is a resident of Auberry, California;

***~Please see additional page~***

**NEEDS/PROBLEMS/ COMMENTS:**

**Continued from 1/18/2013.** *Minute* Order states Mr. Werner is appearing via conference call.

2. Need proposed order.

**Reviewed by:** LEG
**Reviewed on:** 3/14/13
**Updates:**
**Recommendation:**
**File 11B – Labree**



**Dept. 303, 9:00 a.m. Friday, March 22, 2013**

**Petitioner states, continued:**

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

**Petitioner prays for an Order:**

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

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

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

***~Please see additional page~***

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

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

## 12 Maria DeJesus Vaughn (Estate) Case No. 0547150

**Atty** **Kruthers, Heather H., of County Counsel's Office (for Public Administrator, Court-appointed Successor Administrator)**
**Atty** **Walker, Keith S., sole practitioner of Claremont (*formerly representing* Nitza Peña, *former* Administrator)**

**Status Hearing Re: Revised Order; Estate Administration**

| DOD: 6/12/1995 | | |
|---|---|---|
| | | |
| | | |
| | | |
| Cont. from 011813 | | |
| | Aff.Sub.Wit. | |
| | Verified | |
| | Inventory | |
| | PTC | |
| | Not.Cred. | |
| | Notice of Hrg | |
| | Aff.Mail | |
| | Aff.Pub. | |
| | Sp.Ntc. | |
| | Pers.Serv. | |
| | Conf. Screen | |
| | Letters | |
| | Duties/S | |
| | Objections | |
| | Video Receipt | |
| | CI Report | |
| | 9202 | |
| | Order | |
| | Aff. Posting | |
| | Status Rpt | |
| | UCCJEA | |
| | Citation | |
| | FTB Notice | |

**PUBLIC ADMINISTRATOR** was appointed by the Court as Successor Administrator of the Estate on 5/9/2012, following removal of the former Administrator, **NITZA PEÑA**, niece, who had been initially appointed personal representative on 12/6/1995. Estimated value of the estate at filing of the initial petition by Attorney Keith Walker on 10/31/1995 was **~$62,000.00** consisting of real and personal property.

***Letters* with Full IAEA Authority issued to the Public Administrator on 5/16/2012.**

***Minute Order* dated 11/13/2012** from the last hearing on the *First and Final Account* of Former Administrator Nitza Peña filed 8/8/2012 states:

- A photocopy of Nitza Peña's driver's license is accepted by the Court and filed;
- The Court advises all counsel that it will accept the accounting as filed, but is not going to approve or ratify it;
- The Court indicates to all counsel that it is not inclined to grant costs as prayed, but will approve the **$830.00** in filing costs;
- The Court finds sanctions to be appropriate;
- Matter set for Status Hearing on 1/18/2013;
- Counsel is directed to contact the controller.

**NEEDS/PROBLEMS/COMMENTS:**

**Continued from 1/18/2013.** *Minute Order* states Counsel informs the Court that she received an order from Mr. Walker to review which was incorrect so it was returned. Matter set for Status Hearing on 3/22/2013 regarding the revised order. If the revised order is not submitted by 3/22/2013, Mr. Walker is to be personally present or appear via CourtCall.

***Clerk's Certificate of Mailing* filed 2/1/2013** shows a copy of the *Minute Order* dated 1/18/2013 was mailed to Keith Walker on 2/1/2013.

**Note:** *First and Final Account* of Former Administrator filed 8/8/2012 includes the following information: On an unknown date, a total of **$8,535.12** represented by cash of **$8,462.50** at Wells Fargo Bank and a **$72.62** refund check from Scripps Health was turned over to the State Controller as unclaimed property.

***~Please see additional page~***

| | |
|---|---|
| **Reviewed by:** | LEG |
| **Reviewed on:** | 3/18/13 |
| **Updates:** | |
| **Recommendation:** | |
| **File 12 - Vaughn** | |

**NEEDS/PROBLEMS/COMMENTS, continued:**

**Note Re Creditor's Claim:** *Community Regional Medical Center* filed an amended claim against the estate for **$198,043.68** on 6/21/1996. Processing of the *Allowance of Creditor's Claim* submitted by Attorney Walker for Nitza Peña is halted due to lack of authority of former Administrator.

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

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

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

***Please see additional page~***

**Case Chronology for Background:**

- **12/6/1995: NITZA PEÑA** was appointed Administrator with **Limited IAEA** with bond fixed at **$20,000.00**.
- **12/15/1995: *Proof of Bond* posted in the amount of $20,000.00** was filed and *Letters* issued.
- ***5/20/1996: Proof of Service by Mail – Failure to File Inventory and Appraisal* was filed** indicating the notice of failure to file an inventory and appraisal, a first account or petition for final distribution was mailed to Attorney Keith Walker on 5/20/1996. Court file contains no record of any response by Attorney Walker to this notice (notice was a courtesy to Attorney; no hearing date set.)
- **7/28/2010: *Notice of Status Hearing* filed and set a status hearing on 9/9/2010** for failure to file the inventory and appraisal, and failure to file a first account or petition for final distribution. *Clerk's Certificate of Mailing* shows the *Notice* was mailed to Keith S. Walker on 7/28/2010.
- ***9/9/2010: Minute Order* [Judge Gallagher]** states Attorney Walker represents to the Court that he lost contact with his client for a period of time but has now obtained a current address and should be able to close the estate quickly as the property has been lost. If the accounting is filed, no appearance is necessary on 12/6/2010.
- ***12/6/2010 Minute Order* [Judge Hamlin]** states Attorney Walker states his intention to file a Petition to Set Aside in this matter and requests a continuance. If said petition is filed, then no appearance is necessary on 1/27/2011.
- ***1/27/2011 Minute Order* [Judge Oliver]** states Counsel is directed to file the inventory with the petition. If filed by 4/6/2011 and reviewed by an examiner no appearance will be necessary.
- ***4/6/2011 Minute Order* [Judge Oliver]** states Mr. Walker is appearing via conference call. Counsel advises the Court that he has managed to re-establish contact with his client and has made contact with an attorney in San Diego. Counsel further advises that he will be filing a Petition for Family Allowance.
- ***6/7/2011 Minute Order* [Judge Oliver]** states Mr. Walker is appearing via conference call. Counsel requests a continuance. Matter continued to 9/6/2011.
- ***9/6/2011 Minute Order* [Judge Oliver]** states Keith Walker states that he has had a medical procedure keeping him away from court. Mr. Walker requests a continuance, stating, for example, a pending creditor's claim. The Court notes the creditor's claim and understands the matter will be finished at the next court hearing of 11/8/2011.
- ***11/8/2011 Minute Order* [Judge Oliver]** states Mr. Walker is appearing via conference call. Mr. Walker informs the Court that he has the Petition for Family Allowance largely prepared, but needs a continuance due to medical issues. Matter continued to 12/13/2011.
- ***12/13/2011 Minute Order* [Judge Oliver]** states Mr. Walker appears by CourtCall. Mr. Walker advises the Court that he should have the petition filed by the end of this year.
- ***2/8/2012 Minute Order* [Judge Oliver]** states Keith Walker appears via Courtcall. Court orders Mr. Walker and Ms. Pena to personally appear if the Inventory and Appraisal is not filed by the next hearing on 3/21/2012.
- ***3/21/2012 Minute Order* [Judge Oliver]** states Mr. Walker is appearing via conference call. The Court directs counsel to put the bonding company on notice. The matter is continued to 5/9/2012. The Court orders that the hearing currently set for 5/3/2012 be vacated and rescheduled for 5/9/2012.

***~Please see additional page~***

**Case Chronology for Background, continued:**

- ***5/9/2012 Minute Order* [Judge Oliver]** states Mr. Walker is appearing via conference call. The Court removes Keith Walker as counsel. Additionally, the Court removes Nitza Peña as the Administrator and appoints the Public Administrator. Mr. Walker is directed to provide the necessary information to the Public Administrator. Petition for Family Allowance is denied. Matter set for status hearing for filing inventory and appraisal and petition for final distribution on 7/11/2012. *[Note: Court required legal authority to support request for family allowance after the minors reached adulthood per Probate Code § 6540(b)(1), which Mr. Walker did not provide.]*
- **5/16/2012: *Letters* with Full IAEA Authority issued to the Public Administrator.**
- ***7/11/2012 Minute Order* [Judge Oliver]** states Mr. Walker is appearing via conference call. Mr. Walker advises the Court that he will have the accounting done sometime next week. Mr. Walker requests a continuance. Matter continued to 8/8/2012. If everything is completed by 8/8/2012, no appearance will be necessary. In the event Mr. Walker is unable to complete the necessary documents by 8/8/2012, he and his client are to be personally present on that date. The Court directs Mr. Walker to provide Ms. Kruthers and the court examiner any information he has on Ms. Peña including her address and telephone number.
- ***8/8/2012 Minute Order* [Judge Oliver]** states Keith Walker appears via Courtcall. Mr. Walker informs the Court he submitted an accounting.
- ***8/8/2012: First and Final Account* of Former Administrator NITZA PEÑA was filed.**
- ***9/27/2012 Minute Order* [Judge Oliver]** states Counsel advises the Court that she spoke with Mr. Walker yesterday and she believed he would be appearing here today. Ms. Kruthers is directed to look into any surcharges.
- ***11/13/2012 Minute Order* [Judge Oliver]** states: A photocopy of Nitza Peña's driver's license is accepted by the Court and filed. The Court advises all counsel that it will accept the accounting as filed, but is not going to approve or ratify it. The Court indicates to all counsel that it is not inclined to grant costs as prayed, but will approve the **$830.00** in filing costs. The Court finds sanctions to be appropriate; Matter set for Status Hearing on 1/18/2013; Counsel is directed to contact the controller.

## 13 Parmie Foster (Estate) Case No. 06CEPR01177

**Atty** **Magness, Marcus D. (for Anna N. Foster – Administrator)**

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

| | | |
|---|---|---|
| **DOD: 02/26/01** | | |
| | | |
| | | |
| | | |
| **Cont. from 011813** | | |
| | **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** | |

**ANNA N. FOSTER**, daughter/Administrator with limited IAEA with bond of $100,000, is petitioner. Letters issued 5/11/2007.

**Background:**

- Sole asset of estate is real property located in Fresno. The value of the real property at the date of death was $65,000.00.
- Decedent died intestate, survived by five children who are now living, and the living issue of two children who are now deceased.
- Since decedent's death, Petitioner has advanced funds for property taxes and homeowner's insurance.
- Department of Health Services filed a creditor's claim for $17,181.64, which was allowed by Petitioner on 10/30/07.

There is no cash in estate to pay creditor's claim or to reimburse Petitioner for advanced funds.

**Status Report filed 01/08/13** states:
The sole asset of the estate was listed for sale and a buyer has been found. The buyer and Administrator have entered into a sale agreement, which is subject to overbid and Court confirmation. A Report of Sale and Petition for Order Confirming Sale of Real Property has been prepared and is with the Administrator to be signed. A Notice of Sale will be filed, served and published. It is anticipated the Petition will be filed prior to 01/18/13. Upon Court confirmation, the Property will be sold and the Administrator will promptly take the requisite steps to close the Estate.

**Order Confirming Sale of Real Property** was entered 03/05/13.

**NEEDS/PROBLEMS/COMMENTS:**

**CONTINUED FROM 01/18/13**

1. Need status update.

**Reviewed by:** JF

**Reviewed on:** 03/18/13

**Updates:**

**Recommendation:**

**File 13 - Foster**

## 14 Wayne Johnson (CONS/E) Case No. 08CEPR00079

**Atty** Smith, Jane T.; Redmond, Zachary; of County Counsel's Office (for Conservator Public Guardian)
**Atty** Sanoian, Joanne, sole practitioner (Court-appointed for Conservatee)

**Next Accounting**

| Age: 48 | | |
|---|---|---|
| | | |
| | | |
| | | |
| Cont. from 011713 | | |
| | 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 | |

**PUBLIC GUARDIAN** was appointed as Conservator of the Estate on 2/26/2008.

**Pursuant to *Order Settling First and Final Account* filed 3/11/2010 in the Estate of BEATRICE E. JOHNSON** (Case #06CEPR00945), the Conservatee inherited a 100% interest in real property on Vine Avenue in Fresno from his mother, and was distributed the real property valued at **$47,000.00**.

***Order Settling First Account Current, etc.*** was filed 1/6/2011, which dispenses with further accounts as long as the conditions of Probate Code § 2628(b) continue to be met; at the time of the First Account (period of 2/26/2008 through 6/30/2010), the real property had not been reflected in the Conservatee's estate property on hand at the end of the account. The *Order Settling First Account* placed a lien on the real property for all outstanding fees, commissions and costs approved in the First Account.

***Minute Order* dated 1/6/2011** set a status hearing on 1/17/2013 for the filing of the next accounting.

***Status Report Regarding the Second Account* filed 1/15/2013 by the Public Guardian states:**

- Pursuant to the *Order Settling First and Final Account* filed 3/10/2010 in the Estate of Beatrice E. Johnson (Case #06CEPR00945), the Conservatee inherited a 100% interest in real property on Vine Ave. in Fresno at **$47,000.00**;

***~Please see additional page~***

**NEEDS/PROBLEMS/COMMENTS:**

**Continued from 1/17/2013.** *Minute Order* states Ms. Kruthers requests a continuance. Ms. Sanoian informs the Court that her client is in agreement with the sale of the house. Matter set for Status Hearing on 3/22/2013 regarding the accounting and the sale of the property. The Court to address the issue of releasing Ms. Sanoian as counsel for the Conservatee at the next hearing.

**Note:** *Order Allowing Payment of Attorney Fees* filed 7/6/2011 authorizes payment from the Conservatorship estate the sum of **$1,250.00** to Attorney Joanne Sanoian for legal services rendered to the Conservatee, and orders that in the event there are insufficient funds in the estate with which to pay the fees, the order shall become a judgment and lien upon the conservatorship assets and estate property. The appointment of Attorney Sanoian to represent the Conservatee has not been terminated.

**Note:** *Supplemental Inventory and Appraisal* filed 3/7/2013 shows real property of the estate valued at **$35,000.00**.

| |
|---|
| **Reviewed by:** LEG |
| **Reviewed on:** 3/18/13 |
| **Updates:** |
| **Recommendation:** |
| **File 14 – Johnson** |

***Status Report* filed 1/15/2013, continued:**

- Public Guardian filed the first account in this matter, which was approved on 1/6/2011, and the *Order Settling First Account Current* dispensed with further accounts as long as the conditions of Probate Code § 2628(b) continued to be met;
- The First Account covered the period of 2/26/2008 through 6/30/2010, and the real property was not reflected in the Conservatee's estate property on hand at the end of the account as it had not yet been received into the estate;
- The *Order Settling First Account* placed a lien on the real property for all outstanding fees, commissions and costs approved in the First Account;
- The *Minute Order* dated 1/6/2011 set a status hearing for 1/17/2013 for the filing of the next accounting; it recently came to the Public Guardian's attention that the documents necessary to transfer title from the Estate of Beatrice Johnson to her son's conservatorship estate had not been recorded;
- The *Preliminary Change of Ownership Statement*, *Letters of Conservatorship*, and *Order* were submitted to the Recorder on 1/9/2013; the *Letters* and the *Order* were recorded that same day;
- Wayne Johnson is currently on an LPS Conservatorship of the Person and it is apparent he continues to require conservatorship and will not be able to live independently in the foreseeable future; therefore, it is the Public Guardian's plan to sell the real property and to use the proceeds to pay the fees and costs owed in both the estate of Beatrice Johnson and the Conservatee's estate; the residual will be used for the Conservatee's benefit;
- Therefore, it is respectfully requested that the Court set another status hearing at least 60 days from the date of this status hearing.

**15** **Guerrini John Bucci (Estate)** **Case No. 09CEPR00510**

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

**Status Hearing**

| | | | | |
|---|---|---|---|---|
| **DOD: 6-5-09** | | | **FRESNO COUNTY PUBLIC ADMINISTRATOR** was appointed Administrator with Full IAEA without bond on 10-18-12 and Letters issued on 10-26-12. | **NEEDS/PROBLEMS/COMMENTS:** |
| | | | | **OFF CALENDAR** |
| | | | | **Petition for final distribution of insolvent estate filed 3-5-13 is set for hearing on 4-16-13** |
| **Cont from 110912, 011113** | | | | |
| | **Aff.Sub.Wit.** | | | |
| | **Verified** | | | |
| | **Inventory** | | | |
| | **PTC** | | | |
| | **Not.Cred.** | | | |
| | **Notice of Hrg** | | | |
| | **Aff.Mail** | | | |
| | **Aff.Pub.** | | | |
| | **Sp.Ntc.** | | | |
| | **Pers.Serv.** | | | |
| | **Conf. Screen** | | | |
| ✓ | **Letters** | 10-26-12 | | |
| | **Duties/Supp** | | | |
| | **Objections** | | | |
| | **Video Receipt** | | | |
| | **CI Report** | | | |
| | **9202** | | | |
| | **Order** | | | |
| | **Aff. Posting** | | | **Reviewed by:** skc |
| ✓ | **Status Rpt** | | | **Reviewed on:** 3-13-13 |
| | **UCCJEA** | | | **Updates:** |
| | **Citation** | | | **Recommendation:** |
| | **FTB Notice** | | | **File 15 - Bucci** |



**Dept. 303, 9:00 a.m. Friday, March 22, 2013**

## 16 Gertrude Graber (Estate) Case No. 10CEPR00593

**Atty** **Hemb, Richard E (for Executor David D. Graber)**

**Status Hearing Re: Property and all Outstanding Matters**

| DOD: 7/2/2010 | | |
|---|---|---|
| | | |
| | | |
| | | |
| Cont. from 083112, 101912, 021513 | | |
| | 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 | |

**DAVID D. GRABER**, Son and Executor with Full IAEA with bond of $564,000.00, petitioned the court to purchase the estate's real property for $275,000.00.

On 6/28/12 the court confirmed the sale and set this status hearing regarding the property.

**Status Report of Attorney Richard Hemb filed on 2/13/13** states the remaining administrative activities involve the disposition of the real property. The Decedent's real property in Madera was appraised at the date of death at $80,000.00. The asking price was reduced to $60,000.00. No activity presented itself at that level. As reported at the last status conference, the real estate broker noticed activity for similar property at a selling price of $25,000.00. Since the last status conference the personal representative lowered the asking price to $25,000.

By Order Confirming Sale of Real Property issued on 6/28/2012, the court approved the sale of the Decedent's Fresno property to the Personal Representative. Closing of the sale has been accomplished.

The only remaining asset in the estate is the Madera property. Because the personal representative has not received any offers even at the significantly reduced selling price, the personal representative plans to ask this court to allow the estate to be closed with an order to distribute the title to the real property equally to the beneficiaries.

A final accounting is in progress and should be filed with the court very soon.

**NEEDS/PROBLEMS/ COMMENTS:**

1. Need current written status report pursuant to Local Rule 7.5 which states in all matter set for Status Hearing **verified Status Reports must be filed no later than ten (10) days before the hearing** and shall be served on all interested parties.

| |
|---|
| **Reviewed by: KT** |
| **Reviewed on: 3/14/13** |
| **Updates:** |
| **Recommendation:** |
| **File 16 - Graber** |

**17 Shannon Lee Hine (Estate)** **Case No. 10CEPR00981**

**Atty Krbechek, Randolf (for Frank Hine – Brother – Administrator)**

**Probate Status Hearing Re: Filing of Inventory and Appraisal**

| DOD: 7-29-10 | | | | |
|---|---|---|---|---|
| | | | **FRANK HINE**, Brother, was originally appointed Administrator with Full IAEA with bond of $118,260.00 on 1-5-11.<br><br>On 2-23-12, Attorney Jeff Reich filed a motion to be relieved as counsel. At hearing on 4-4-12, a Substitution of Attorney was filed and the Court noted for the record that Attorney Krbechek is now attorney of record.<br><br>**I&A filed 6-6-12** indicates a total estate value of $134,550 including real property and various vehicles and personal property items.<br><br>On 6-15-12, the Court decreased the bond amount to $45,000.00 and reduced Administrator's authority under the IAEA to limited authority requiring confirmation of sale.<br><br>Letters issued on 10-24-12.<br><br>On 10-24-12, The Court set this status hearing for filing of the I&A, and also set a status hearing for 6-21-13 for filing of the first account or petition for final distribution. Notice was mailed to Attorney Krbechek on 10-24-12. | **NEEDS/PROBLEMS/COMMENTS:**<br><br>***Note**: It appears that the I&A was previously filed on 6-6-12 (prior to the setting of this date).*<br><br>***However**, Examiner did not take this hearing off calendar because it appears that although only limited authority was authorized by the Court upon the reduction of the bond on 6-15-12, the Letters submitted and issued on 10-24-12 indicate full authority. The Court may wish to address this discrepancy at this time and may require revised Letters.* |
| | **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** | | | **Reviewed by:** skc |
| | **Status Rpt** | | | **Reviewed on:** 3-14-13 |
| | **UCCJEA** | | | **Updates:** |
| | **Citation** | | | **Recommendation:** |
| | **FTB Notice** | | | **File 17 - Hine** |



**Dept. 303, 9:00 a.m. Friday, March 22, 2013**

## 18 Debra Kay Hawkins (Estate) Case No. 11CEPR00513

**Atty** Kruthers, Heather (for Public Administrator)
**Atty** Hawkins, Randy (Pro Per Former Administrator)

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

| | | |
|---|---|---|
| **DOD: 01/07/11** | **RANDY HAWKINS**, Son, was appointed Administrator with Full IAEA without bond on 10-24-11.<br><br>On 10-24-11, the Court set a status hearing for filing of the First Account and Petition for Final Distribution on 10/29/12.<br><br>On 11-16-12, after numerous status hearings, Mr. Hawkins did not appear, and the Court removed Mr. Hawkins and appointed the **FRESNO COUNTY PUBLIC ADMINISTRATOR**. | **NEEDS/PROBLEMS/COMMENTS:**<br><br>**OFF CALENDAR**<br><br>**Petition for final distribution of insolvent estate filed 2-15-13 is set for hearing on 3-27-13.** |
| | | |
| | | |
| | | |
| **Cont. from 102912, 111612, 011113** | | |
| **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** | | **Reviewed by:** skc |
| **Status Rpt** | | **Reviewed on:** 3-13-13 |
| **UCCJEA** | | **Updates:** |
| **Citation** | | **Recommendation:** |
| **FTB Notice** | | **File 18 - Hawkins** |

**19** **Ben H. Smith (CONS/PE)** **Case No. 11CEPR00782**

**Atty** **Kruthers, Heather H**

**Status Hearing Re: Filing of the Inventory and Appraisal**

| | | | |
|---|---|---|---|
| **Age:** | | | **NEEDS/PROBLEMS/COMMENTS:** |
| **DOD:** | | | **CONTINUED TO 6-7-12** Per Examiner |
| | | | |
| | | | |
| **Cont. from** | | | |
| | **Aff.Sub.Wit.** | | |
| | **Verified** | | |
| | **Inventory** | | |
| | **PTC** | | |
| | **Not.Cred.** | | |
| | **Notice of Hrg** | | |
| | **Aff.Mail** | | |
| | **Aff.Pub.** | | |
| | **Sp.Ntc.** | | |
| | **Pers.Serv.** | | |
| | **Conf. Screen** | | |
| | **Letters** | | |
| | **Duties/Supp** | | |
| | **Objections** | | |
| | **Video Receipt** | | |
| | **CI Report** | | |
| | **9202** | | |
| | **Order** | | |
| | **Aff. Posting** | | **Reviewed by:** skc |
| | **Status Rpt** | | **Reviewed on:** 3-14-13 |
| | **UCCJEA** | | **Updates:** |
| | **Citation** | | **Recommendation:** |
| | **FTB Notice** | | **File 19 - Smith** |



**Dept. 303, 9:00 a.m. Friday, March 22, 2013**

**20 Adin Davis (Estate)** **Case No. 11CEPR01023**

**Atty Davis, David (pro per Administrator)**

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

| | | |
|---|---|---|
| **DOD: 7/25/2011** | **DAVID DAVIS**, son, was appointed Administrator with full IAEA authority and without bond on 1/11/2012.<br><br>Inventory and appraisal shows an estate valued at $325,344.45 (of which $291,344.45 was cash)<br><br>**Creditor's Claims filed as follows:**<br><br>Franchise Tax Board - $ 9,769.87<br>American Express - $ 6,892.33<br>American Express - $ 999.45<br>DMC Services - $ 352.56<br>DMC Services - $ 604.60<br>GE Capital Bank - $ 300.84<br>CitiBank - $ 7,071.24<br>Bank of America - $ 877.11<br>**Total - $26,868.00**<br><br>**Notice of Status Hearing was mailed to Attorney Gary Motsenbocker and Administrator David Davis on 11/15/13.**<br><br>**Administrator, David Davis, was formerly represented by Gary Motsenbocker. Mr. Motsebocker filed a Motion to be Relieved as Counsel on 11/7/12.** Stating he had difficulties communicating with the Administrator. The Administrator was refusing to provide information requested by counsel necessary to bring the matter to a conclusion. On 1/2/13 and order was signed granting Mr. Motsenbockers Motion to be Relieved as Counsel.<br><br>**Minute Order dated 1/2/13 ordered David Davis to be personally present at the status hearing on 3/22/13.**<br><br>**A copy of the Minute Order was mailed to David Davis on 1/8/13.** | **NEEDS/PROBLEMS/COMMENTS:** |
| **Cont. from** | | |
| **Aff.Sub.Wit.** | | |
| **Verified** | | |
| **Inventory** | | |
| **PTC** | | |
| **Not.Cred.** | | |
| **Notice of Hrg** | | |
| **Aff.Mail** | | |
| **Aff.Pub.** | | |
| **Sp.Ntc.** | | |
| **Pers.Serv.** | | |
| **Conf. Screen** | | |
| **Letters** | | |
| **Duties/Supp** | | |
| **Objections** | | |
| **Video Receipt** | | |
| **CI Report** | | |
| **9202** | | |
| **Order** | | |
| **Aff. Posting** | | **Reviewed by: KT** |
| **Status Rpt** | | **Reviewed on: 3/22/13** |
| **UCCJEA** | | **Updates:** |
| **Citation** | | **Recommendation:** |
| **FTB Notice** | | **File 20 - Davis** |

**21 James L. Rutherford (Estate)** **Case No. 12CEPR00016**

Atty Keeler, William J.

Atty LeVan, Nancy J.

Status Hearing Re: Receipt of Signed Settlement Agreement

| | | | |
|---|---|---|---|
| Age: | | | NEEDS/PROBLEMS/COMMENTS: |
| DOD: | | | **OFF CALENDAR** |
| | | | |
| | | | |
| Cont. from | | | Order Granting Petition for Approval of Settlement Agreement was filed 3-12-13. |
| | 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 | | Reviewed by: |
| | Status Rpt | | Reviewed on: |
| | UCCJEA | | Updates: |
| | Citation | | Recommendation: |
| | FTB Notice | | File 21 - Rutherford |

## 22 Edward J. Crable (S.N.T) Case No. 12CEPR00565

**Atty** **Jambeck, Jay T., of Leigh Law Group, San Francisco (for Patricia A. Crable, Trustee)**

**Status Hearing Re: Proof of Blocked Account**

| | | |
|---|---|---|
| **Age: 15 years** | | |
| **DOB: 12/11/1996** | | |
| | | |
| | | |
| **Cont. from 101912, 120712, 020813, 030113** | | |
| | **Aff.Sub.Wit.** | |
| | **Verified** | |
| | **Inventory** | |
| | **Proof of Bond** | |
| | **Blocked Recpt.** | X |
| | **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** | |

**PATRICIA A. CRABLE**, mother, was appointed Trustee of the **EDWARD JAMES CRABLE SPECIAL NEEDS TRUST** established by this Court following hearing on 9/19/2012, by the *Order Approving Amended Verified Ex Parte Petition to Exclude Funds from Estate and Directing Proceeds to a Special Needs Trust and a Blocked Account* signed on 9/25/2012.

***Order to Deposit Money into Blocked Account* signed 9/25/2012** finds that **$9,250.00** will be deposited into a blocked account for the minor.

***Minute Order* dated 9/19/2012** from the hearing on the petition states the Court approves the petition and sets the bond at **$11,000.00**. Counsel is directed to submit an order.

***Minute Order* dated 10/19/2012** states Mr. Jambeck is appearing via conference call. Counsel advises the Court that his clients have the bond papers and he has yet to receive them. He further advises that the check(s) have not been received from the District so there is no money in the blocked account. Matter continued to 12/7/2012. The Court directs Counsel to file the bond and receipt by 12/7/2012.

***Qualifying Bond of Trustee* was filed 12/3/2012** showing bond was posted by Patricia Crable in the amount of **$11,000.00**. (Copy of the *Edward James Crable Special Needs Trust* executed by Trustee Patricia A. Crable was also filed 12/3/2012.)

***Minute Order* dated 2/8/2013** states: No appearances. The Court indicates for the minute order that the Receipt and Acknowledgment of Order for the Deposit into Blocked Account is not on the mandatory form. The Court directs that a copy of the minute order be sent to Jay Jambeck. *(Clerk's Certificate of Mailing shows copy was mailed on 2/8/2013.)*

**NEEDS/PROBLEMS/COMMENTS:**

**Continued from 3/1/2013.** *Minute Order* states Mr. Jambeck is appearing via conference call. Mr. Jambeck informs the Court that he received the document and it should be filed sometime today.

The following issue remains:

1. Need *Receipt and Acknowledgment of Order for the Deposit of Money into Blocked Account (*mandatory-use Judicial Council form MC-356) for the sum of **$9,250.00**.

| |
|---|
| **Reviewed by:** LEG |
| **Reviewed on:** 3/18/13 |
| **Updates:** |
| **Recommendation:** |
| **File 22 - Crable** |

**23 Henry Francis Reis Jr (Estate)** **Case No. 12CEPR00618**

**Atty Janian, Paulette (for Jim D. Reis – Administrator)**

**Probate Status Hearing Re: Filing of Inventory and Appraisal**

| | | |
|---|---|---|
| **DOD: 05/22/12** | | |
| | | |
| | | |
| | | |
| **Cont. from 011813** | | |
| | **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** | |

**JIM D. REIS,** brother, was appointed as Administrator with full IAEA without Bond on 08/14/12. Letters were issued on 08/15/12.

**Notice of Status Hearing** filed 09/11/12 set this matter for status on 01/18/13 for filing of the Inventory & Appraisal and on 10/25/13 for filing of First Account or Petition for Final Distribution. **Clerk's Certificate of Mailing** indicates that the Notice of Status Hearing was mailed to the Administrator and his Counsel on 09/11/12.

**Status Report by Administrator filed 01/16/13** states: the estate assets includes a gun collection, coin collection, and huge collection of die cast cars. In order to save the estate a very large expense, the Administrator is in the process of cataloging the car collection before having it professionally appraised. The gun collection has been secured and appraised and he is also in the process of cataloging the coin collection. Further, the Administrator states that his efforts to complete the inventory have been delayed due to an unexpected illness in his family. The Administrator requests a 60 day extension to complete the Inventory & Appraisal.

**Status Report by Administrator filed 03/13/13** states: the Inventory & Appraisal has been completed and mailed to the Probate Referee. It will be filed upon receipt back from the Probate Referee.

**NEEDS/PROBLEMS/COMMENTS:**

1. **Need Inventory & Appraisal.**

**Reviewed by:** JF

**Reviewed on:** 03/18/13

**Updates:**

**Recommendation:**

**File 23 - Reis**



**Dept. 303, 9:00 a.m. Friday, March 22, 2013**

## 24 Miguel Castillo (Det Succ) Case No. 12CEPR00631

**Atty** Stott, Richard F (for Petitioner Mindy Castillo)
**Atty** Gin, Robert (for Objector Carol Ackerman)

**Status Hearing Re: Settlement Agreement**

| DOD: 3/5/11 | | |
|---|---|---|
| | | |
| | | |
| | | |
| Cont. from 010413, 032213 | | |
| | 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 | |

**MINDY CASTILLO**, daughter, filed a Petition to Determine Succession requesting Court determination that decedent's 100% interest in real property located at 760 E. Valley Street in Coalinga, 50% interest in real property located at 360 E. Houston Street in Coalinga, 100% interest in a 2005 Chevy pick-up and a 1992 Chevy pick-up and an investment account pass to her pursuant to intestate succession.

**Carol Ackerman filed objections to the Petition alleging** she has filed a Petition under Probate Code §850 (see page 19 of this calendar), seeking to have the court determine that the Decedent was holding title to the real property located at 360 E. Houston in Coalinga as a constructive trustee for the objecting party.

**Minute Order from the settlement conference dated 11/16/12 states** the court is informed that a resolution has been reached in case #12CEPR00631 as fully set forth by Mr. Gin. Parties also agree to dismiss case no. 12CEPR00808 with prejudice upon the entry of the order in this case. Upon inquiry by the Court, each party individually agrees to the terms and conditions of the settlement. Counsel is directed to prepare necessary documents. Matter set for status hearing on 1/4/13, if all the necessary documents are filed by 1/4/13, no appearance will be necessary.

**Status Report filed 3/19/13** states Counsel for Carol Ackerman has prepared the Stipulation of the parties. The Stipulation has been signed by Carol Ackerman, but as of this date there is no evidence that the Stipulation has been signed by Mindy Castillo or her counsel.

**NEEDS/PROBLEMS/COMMENTS:**
**Related case on page 25**

**Continued from 2/8/13. Minute Order states Mr. Stott informs the court that he has the stipulation however it has not been signed by the parties. As of 3/14/13 the following issues remain:**

1. An Order Determining Succession to the real property located at 760 E. Valley Street has been signed. The issue of the property located at 360 E. Houston was reserved. Petitioner has submitted a proposed order which would pass the decedent's ½ interest in the real property located at 360 E. Houston to Mindy Castillo subject to a life estate in favor of Carol Ackerman. The order further states that upon the death of Carol Ackerman the property shall be sold and the net proceed distributed equally to Mindy Castillo and Sara Lynn Orozco. This court has no authority make any orders regarding the ½ interest in the property that is not subject to these proceedings.
2. Minute order states that an agreement was reached. Need stipulation signed by all parties to the agreement.
3. It appears by the terms of the settlement agreement that Sara Lynn Orozco is the current owner of the other ½ interest in this real property. It appears that Carol Ackerman gifted a ½ interest to Sara in 2006. Sara Lynn Orosco in not a party to this action and it appears is not involved in the settlement agreement even though her ½ interest in the property would be affected by the proposed settlement agreement.
4. Notice to Sara Lynn Orosco was sent in c/o Carol Ackerman. California Rules of Court, Rule 7.51 requires direct notice.

**Reviewed by: KT**
**Reviewed on: 3/14/13**
**Updates: 3/20/13**
**Recommendation:**
**File 24 - Castillo**

**25** **Miguel Castillo (Estate 850)** **Case No. 12CEPR00808**

**Atty** **Gin, Robert W. (for Petitioner Carol Ackerman)**

**Status Hearing Re: Settlement Agreement**

| | | |
|---|---|---|
| **DOD: 3/5/11** | **CAROL ACKERMAN** filed an Petition under Probate Code §850 alleging the right and title to the real property located at 360 E. Houston Street in Coalinga, CA.<br><br>Petitioner's claims were based upon the fact that Petitioner, acting under erroneous information, believed that she would lose her Medicare eligibility because she owned property located at 360 E. Houston. As a result of this misinformation, Petitioner executed a deed for the property transferring title to Sara Lynn Orozco and to the decedent.<br><br>Petitioner alleged had known the truth, that she would have still been eligible for Medicare benefits while retaining title to the property, she never would have transferred the property to Sara Lynn Orozco and the decedent.<br><br>**Minute order from the settlement conference held on 11/16/12** states the court is informed that a resolution has been reached in case no. 12CEPR00631 (page 17 of this calendar) ad fully set forth by Mr. Gin. Parties also agree to dismiss the petition in this case with prejudice upon the entry of the order in case no. 12CEPR00631 (page 17). Upon inquiry by the Court, each party individually agrees to the terms and conditions of the settlement. Counsel is directed to prepare the necessary documents. Matter set for Status Hearing on 1/4/13. If all necessary documents are filed by 1/4/13, no appearance will be necessary.<br><br>**Minute order dated 2/8/13** states Mr. Stott informs the Court that he has the stipulation however it has not been signed by the parties. | **NEEDS/PROBLEMS/ COMMENTS:**<br><br>**Continued from 2/8/13.**<br><br>Related case on page 24 of this calendar. |
| | | **Reviewed by: KT** |
| | | **Reviewed on: 3/14/13** |
| | | **Updates:** |
| | | **Recommendation:** |
| | | **File 25 – Castillo** |

| | | |
|---|---|---|
| **Cont. from 010413, 020813** | | |
| | **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** | |

**26 Dollie Boothe Tolman (CONS/PE)** **Case No. 12CEPR00843**

**Atty Amador, Catherine A (for Conservator Christine Tolman)**

**Status Hearing Re: Filing of the Inventory and Appraisal and Confirmation of the VA Benefits**

| | | |
|---|---|---|
| **Age: 67 years**<br>**DOB: 8/31/1945** | **CHRISTINE TOLMAN** was appointed conservator of the person and estate on 10/30/12 with bond set at $38,920.00.<br><br>Bond was filed on 11/30/12 and Letters issued on 12/3/12.<br><br>Minute Order dated 10/29/12 set this status hearing for the filing of the Inventory and Appraisal.<br><br>**Status Report filed by Attorney Amador on 3/15/13** states the inventory and appraisal will be filed prior to the status hearing date. | **NEEDS/PROBLEMS/COMMENTS:**<br><br>1. Need Inventory and Appraisal<br><br>2. Status Report was not verified. Probate Code §1021. |
| **Cont. from** | | |
| **Aff.Sub.Wit.** | | |
| **Verified** | | |
| **Inventory** | | |
| **PTC** | | |
| **Not.Cred.** | | |
| **Notice of Hrg** | | |
| **Aff.Mail** | | |
| **Aff.Pub.** | | |
| **Sp.Ntc.** | | |
| **Pers.Serv.** | | |
| **Conf. Screen** | | |
| **Letters** | | |
| **Duties/Supp** | | |
| **Objections** | | |
| **Video Receipt** | | |
| **CI Report** | | |
| **9202** | | |
| **Order** | | |
| **Aff. Posting** | | **Reviewed by: KT** |
| **Status Rpt** | | **Reviewed on: 3/14/13** |
| **UCCJEA** | | **Updates: 3/18/13** |
| **Citation** | | **Recommendation:** |
| **FTB Notice** | | **File 26 - Tolman** |



**Dept. 303, 9:00 a.m. Friday, March 22, 2013**

**Pro Per** **Watkins, James Ray (Pro Per Executor)**

**Probate Status Hearing Re: Filing of Inventory and Appraisal**

| | | |
|---|---|---|
| **DOD: 12/3/2011** | **JAMES RAY WATKINS**, son, was appointed Executor with Full IAEA authority without bond on 7/31/2012, and Letters issued on that date.<br><br>***Final Inventory and Appraisal* was due on 11/30/2012.**<br><br>***Minute Order* dated 7/31/2012** from the hearing on the appointment of personal representative set this status hearing on 1/11/2013 for filing of the final inventory and appraisal. | **NEEDS/PROBLEMS/COMMENTS:**<br><br>**Continued from 1/11/2013.** *Minute Order* states: No appearances. The Court notes for the minute order that a partial inventory and appraisal was received. Matter continued to 3/22/2013. The Court orders James Watkins to be personally present on 3/22/2013 if the full inventory and appraisal is not filed by that date.<br><br>***Clerk's Certificate of Mailing* filed 1/11/2013** shows a copy of the *Minute Order* dated 1/11/2013 was mailed to James Watkins (at both addresses on file) on 1/11/2013.<br><br>The following issue remains:<br><br>1. Need *Final Inventory and Appraisal* pursuant to Probate Code § 8800(b), or verified status report and proof of service of notice of the status hearing pursuant to Local Rule 7.5(B). |
| | | **Reviewed by:** LEG |
| | | **Reviewed on:** 3/18/13 |
| | | **Updates:** |
| | | **Recommendation:** |
| | | **File 27 - Watkins** |

| | | |
|---|---|---|
| **Cont. from 011113** | | |
| | **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** | |