



ATTENTION

Probate cases on this calendar are currently under review by the probate examiners. Review of some probate cases may not be completed and therefore have not been posted.

If your probate case has not been posted please check back again later.

Thank you for your patience.

(1) Petition for Settlement of First and Final Account and Report by Administrator, (2) for Final Distribution, and (3) for Order Fixing and Allowing Statutory Compensation, Extraordinary Compensation, and (4) Reimbursement of Costs

DOD: 9-18-08		ROBERT OLIVAS , Administrator, is Petitioner.	NEEDS/PROBLEMS/COMMENTS:
		Account period: 4-29-10 through 11-4-11	<u>Minute Order 1-4-12</u> : Matter continued to 3-12-12 at the request of counsel.
Cont. from 010412, 031212		Accounting: \$67,500.00	<u>Minute Order 3-12-12</u> : Matter continued to 4-17-12.
	Aff.Sub.Wit.	Beginning POH: \$67,500.00	<p><u>Note</u>: Page 5B is Attorney Robertson’s Motion to be Relieved as Counsel, which was filed on 3-9-12 (prior to the last hearing).</p> <p><u>As of 4-6-12, nothing further has been filed in connection with this petition. The following issues remain:</u></p> <ol style="list-style-type: none"> 1. Need proof of service of Allowance or Rejection of Creditor’s Claim (Mandatory Judicial Council Form DE-174) on the Franchise Tax Board per Probate Code §9250. <u>Note</u>: A creditor has 90 days to act on a rejected claim. Therefore, this matter cannot go forward unless the time has run or waiver of notice and/or action is provided. <u>Note</u>: The claim is \$530.51. 2. The Inventory and Appraisal is not verified by the Administrator pursuant to Probate Code §1020. 3. The Account is not verified by the Administrator pursuant to Probate Code §§ 1020, 1023, 11640(a). 4. Attorney’s statutory fee calculation does not include the loss on the property. Per Estate of Stein (1968) Cal.App. 2, 631, the loss on a foreclosed property is the difference between the Inventory and Appraisal value and the encumbrances. Therefore, need information regarding the encumbrance(s) and recalculation of statutory fee. <p style="text-align: center;">SEE PAGE 2</p>
	Verified	Ending POH: \$0.00	
	Inventory	Administrator: Waived	
	PTC	Attorney: \$2,700.00 (Statutory – See Notes)	
	Not.Cred.	Attorney (Extraordinary): \$1,380.00	
	Notice of Hrg	<ul style="list-style-type: none"> • Attorney Robertson states these extraordinary fees are calculated at \$350.00/hr, a reduced rate from his ordinary billing rate of \$450.00/hr. • Declaration (Exhibit 2) itemizes 1.4 attorney hours and 8.9 law clerk’s hours in connection with the foreclosure of the property. 	
	Aff.Mail	Costs: \$2,186.32 (Itemized – See Notes)	
	Aff.Pub.	Petitioner states the estate is insolvent and there are no assets with which to pay creditors, costs of administration, or distribute to heirs. The only asset of the estate was a 50% interest in certain real property (Decedent’s residence) that was foreclosed. Petitioner is aware of two Creditor’s Claims. The Franchise Tax Board filed their claim and a Request for Special Notice, but another creditor did not formally file a claim. Due to the insolvency of the estate, the creditors have not been paid.	
	Sp.Ntc.	However, Petitioner’s attorneys reserve their right to receive fees and costs in the event that assets are discovered.	
	Pers.Serv.	Attorney Robertson states his office has attempted to communicate with the Administrator; however, he has not responded to letters regarding the estate. Attorney Robertson requests to withdraw as attorney of record.	
	Conf. Screen		
	Letters		
	Duties/Supp		
	Objections		
	Video Receipt		
	CI Report		
	9202		
	Order		
	Aff. Posting		
	Status Rpt		
	UCCJEA		
	Citation		
	FTB Notice		
			Reviewed by: skc
			Reviewed on: 4-6-12
			Updates:
			Recommendation:
			File 5A - Olivas

**(1) Petition for Settlement of First and Final Account and Report by Administrator,
(2) for Final Distribution, and (3) for Order Fixing and Allowing Statutory
Compensation, Extraordinary Compensation, and (4) Reimbursement of Costs**

NEEDS/PROBLEMS/COMMENTS:

5. Cost itemization includes \$784.32 in costs considered by the Court to be costs of doing business and not reimbursable pursuant to Local Rule 7.17, including:
 - Fed Ex \$65.12
 - Runner Services \$598.31
 - Photocopies \$14.00
 - Research \$106.89

6. Declaration of Angela F. Gerovac (Attorney Robertson's office) indicates that she had a telephone conversation in August with the Administrator during which he seemed agreeable; however, he then did not respond to letters.

The declaration states the office has not received any communications or returned mail indicating change of phone or address; however, the declaration also does not indicate any further diligence to contact the Administrator other than sending a letter and an email in August 2011 and another letter in October 2011.

The Court may require further diligence regarding the Administrator with regard to closing this estate and with regard to the attorney's request for withdrawal as attorney of record.

Note: This matter cannot move forward unless these items are addressed.

Note: The only relatives of the decedent were the Administrator (a brother) and another brother.

Status Report filed 3-9-12 states that due to the administrator's refusal to communicate with counsel and effectively participate in the administration of the estate, it is unreasonably difficult to carry out counsel's employment.

Concurrently filed with the Status Report is a Notice of Motion and Motion to be Relieved as Counsel and supporting Declaration which is set for hearing on 4-17-12 (Page 5B).

(1) Petition for Final Distribution on Waiver of Account and (2) Request for Determination of Attorney's Fees

Age:		NEEDS/PROBLEMS/COMMENTS: OFF CALENDAR Continued to 04/30/12 per request of Counsel
DOD:		
Cont. from		
<input type="checkbox"/> Aff.Sub.Wit.		
<input type="checkbox"/> Verified		
<input type="checkbox"/> Inventory		
<input type="checkbox"/> PTC		
<input type="checkbox"/> Not.Cred.		
<input type="checkbox"/> Notice of Hrg		
<input type="checkbox"/> Aff.Mail		
<input type="checkbox"/> Aff.Pub.		
<input type="checkbox"/> Sp.Ntc.		
<input type="checkbox"/> Pers.Serv.		
<input type="checkbox"/> Conf. Screen		
<input type="checkbox"/> Letters		
<input type="checkbox"/> Duties/Supp		
<input type="checkbox"/> Objections		
<input type="checkbox"/> Video Receipt		
<input type="checkbox"/> CI Report		
<input type="checkbox"/> 9202		
<input type="checkbox"/> Order		
<input type="checkbox"/> Aff. Posting		
<input type="checkbox"/> Status Rpt		
<input type="checkbox"/> UCCJEA		
<input type="checkbox"/> Citation		
<input type="checkbox"/> FTB Notice		
		Reviewed by: JF
		Reviewed on: 04/06/12
		Updates:
		Recommendation:
		File 10 - Berlese

