



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.

Amended Waiver of Accounting and Petition for Final Distribution and for Allowance of Compensation

DOD: 11-17-07		BRENT WISE , Son, is Petitioner.	NEEDS/PROBLEMS/COMMENTS: Continued from 2-19-14, 3-27-14, 4-14-14 As of 5-12-14, nothing further has been filed. The following issues remain: 1. Petitioner Brent Wise has not been appointed as Successor Administrator and therefore has no standing to bring this petition. Brent Wise will first need to be appointed as Successor Personal Representative. 2. The original petition for probate alleged \$13,033.80 in personal property assets. However, I&A filed 3-14-08 indicated "various household furnishings and personal effects" valued at \$500.00 by the Administrator Jack Wise, rather than by the Probate Referee as required by Probate Code §8900. The Court may require clarification regarding the discrepancy in the amounts, and may require amended appraisal in accordance with applicable law. 3. Petitioner requests distribution to himself as the heir of both this decedent and the former Administrator/spouse of the decedent, who is entitled to a 1/2 share of this estate. However, Pursuant to Probate Code §11802, distribution to a post-deceased heir must be made to the personal representative of his estate. Court records show that Petitioner was appointed as Executor of his father's estate on 10-2-13 in 13CEPR00643. Therefore, need amended distribution. <u>Note:</u> Petitioner filed a Petition for Final Distribution of the estate of Jack Wise that was continued to 4-29-14; however, without distribution from <u>this</u> estate, it does not appear that <u>that</u> estate is in a position to close. 4. Petitioner includes a fee computation of \$20.00 based on the Administrator's value assigned to personal property assets in the I&A. Petitioner does not appear to request payment, but does appear to reduce the proposed distribution by \$20. Need clarification: If the assets on hand consist solely of personal property items rather than cash, as stated, how is the distribution reduced by \$20? Who is \$20 to be paid to? Pursuant to Probate Code §12205, compensation may be reduced due to delay in closing the estate. 5. Need order. Reviewed by: skc Reviewed on: 5-12-14 Updates: Recommendation: File 7 – Wise
		JACK WISE , Spouse, was appointed as Administrator with Full IAEA without bond on 3-25-08.	
Cont. from 021914, 032714, 041414		Petitioner states the former Administrator died 4-18-13.	
	Aff.Sub.Wit.		
✓	Verified		
✓	Inventory	X	
✓	PTC		
	Not.Cred.		
	Notice of Hrg		
	Aff.Mail		
	Aff.Pub.		
	Sp.Ntc.		
	Pers.Serv.		
	Conf. Screen		
	Letters	X	
	Duties/Supp		
	Objections		
	Video Receipt		
	CI Report		
	9202		
	Order	X	
	Aff. Posting		
	Status Rpt		
	UCCJEA		
	Citation		
N/A	FTB Notice		

(1) First Account and Report of Conservator and (2) Petition for Allowance of Fees for Attorney and (3) Petition for Reduction of Bond

		BEVERLY ANN HALL , Sister and Conservator of the Person and Estate, is Petitioner.	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>Continued from 4-14-14</p> <p><u>SEE ADDITIONAL PAGES</u></p> <hr/> <p>Reviewed by: skc</p> <p>Reviewed on: 5-12-14</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 11- Dhooghe</p>
		Account period: 4-4-13 through 1-31-14	
		Accounting: \$117,221.72	
		Beginning POH: \$0.00	
		Ending POH: \$66,121.73	
Cont from 041414		Conservator: Not requested.	
	<input type="checkbox"/> Aff.Sub.Wit.	Note: Pursuant to Petition and Order dated 11-12-13, Petitioner has received \$6,396.08 for services and reimbursement.	
	<input checked="" type="checkbox"/> Verified		
	<input type="checkbox"/> Inventory		
	<input type="checkbox"/> PTC		
	<input type="checkbox"/> Not.Cred.		
	<input checked="" type="checkbox"/> Notice of Hrg	Attorney Teixeira: \$1,700.00 for services from 10-1-13 through 2-22-14 – see itemized declaration.	
	<input checked="" type="checkbox"/> Aff.Mail w/o	Note: Pursuant to Petition and Order dated 11-12-13, Attorney Teixeira has received a total of \$14,792.76 in fees and costs for the period of 1-15-13 to 9-30-13.	
	<input type="checkbox"/> Aff.Pub.	Attorney Helon: \$1,054.50 – Court appointed attorney for Conservatee. See itemized declaration.	
	<input type="checkbox"/> Sp.Ntc.	Current Bond: \$182,600.00	
	<input type="checkbox"/> Pers.Serv.	Petitioner states the current bond is excessive because the accounting shows the current balance of the conservatorship is \$66,121.73. That amount will be reduced by the fees and costs requested to approx. \$63,000.00. Therefore, the bond should be reduced to \$69,476.00 based on annual gross income of \$160.00 (interest) and 10% recovery cost. The Conservatee will not suffer harm as a result of reduction of the bond because the only asset of the conservatorship estate is the Wells Fargo account. The conservatee's daily needs and care are provided by resources outside of the conservatorship estate and those resources will continue to be available for her needs and care.	
	<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 checked="" type="checkbox"/> Order		
	<input type="checkbox"/> Aff. Posting		
	<input type="checkbox"/> Status Rpt		
	<input type="checkbox"/> UCCJEA		
	<input type="checkbox"/> Citation		
	<input type="checkbox"/> FTB Notice	Petitioner requests an order:	
		<ol style="list-style-type: none"> 1. Approving, allowing and settling the account and report as filed; 2. Authorizing payment to Attorney Teixeira in the amount of \$1,700.00 for services to the conservatorship estate; 3. Authorizing payment to Attorney Helon of \$1,054.50 for services on behalf of the Conservatee; 4. Reducing the bond to \$69,476.00; and 5. Any and all further relief that the Court deems just and proper. 	

NEEDS/PROBLEMS/COMMENTS:

The following items were previously noted. Please see summary of Declaration filed 5-7-14 following the notes:

1. Petitioner states the conservatee's daily needs and care are provided by resources outside of the conservatorship estate. Need clarification. The original petition for conservatorship indicated that Petitioner was already a "payee" for the Conservatee, but did not request to continue to hold assets outside of the conservatorship. Cal. Rules of Court 7.1059, Standards of Conduct for Conservator of the Estate, provides that the Conservator shall hold title reflecting the conservatorship in accounts. Probate Code §2890 et seq., provides the procedure for taking control of assets and accounts. Probate Code §2620(c) requires account statements at accounting. Therefore, need clarification: What are the "resources outside of the conservatorship estate" and why are they not included? There does not appear to be any order authorizing assets to be held outside of the conservatorship estate.

~~For example: The Disbursements Schedule indicates a payment of \$3,007.70 to "Motorola Pension Plan." The attorney fee declaration indicates that he spent time handling a pension overpayment. Therefore, it appears that the Conservatee receives pension income that is not accounted for in this accounting. Further, if an overpayment of such outside funds required repayment, why was it taken from the conservatorship estate instead of the account that the payments were paid to?~~

In reviewing the file for clues as to the conservatee's income, it appears that a declaration filed 11-8-13 states that the conservatee's income consists of SSI payments handled by "a representative payee" and not subject to conservatorship. ~~However, this does not explain the Motorola pension overpayment.~~ Further, since conservatorship has been established, income and expenses from all sources should be included in the account, including Social Security. See Conservatorship handbook.

Therefore, need amended account including all assets and income as well as documentation such as account statements as required by Probate Code §2620(c).

2. Petitioner requests that the bond be reduced. However, pursuant to #2 above, this does not appear appropriate, given that no information has been provided to the Court regarding the conservatee's income.
3. Probate Code §1063(h) states if the conservator has knowledge of real property located in a foreign jurisdiction, an additional schedule shall be included in the account that identifies the real property with a fair market value and state what actions have been taken to preserve and protect the property.

This Conservatee owns residential real property in Arizona. The Disbursements Schedule indicates that expenses of \$24,581.14 were paid in connection with that property, including property tax, repairs, and payoff of the mortgage (\$21,931.54).

Therefore, need explanation. What is the status of the house – Vacant? Occupied? Is there rent being received? If not, why not? Does the Conservator intend to sell the property in the future? How was it in the conservatee's best interest to pay off the mortgage in its entirety?

4. Disbursements Schedule indicates a payment of \$941.10 to an Arizona attorney, which does not appear to have been authorized by this Court. Need clarification with reference to Probate Code §2640 et seq., Cal. Rules of Court.

SEE ADDITIONAL PAGES

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Declaration of Beverly Ann Hall filed 5-7-14 states that references to "other resources" refer only to funds received as representative payee. Other than those funds and funds held in the conservatorship estate, there are no other resources. Although perhaps not explicitly stated in the petition for conservatorship, the estimates contained in the petition, the reasons stated therein for requesting conservatorship of the estate, and the declaration of Mr. Teixeira concerning the amount of the original bond had only to do with assets that the Conservatee might be entitled to as a result of her husband's death, which was the payments he had been receiving from the Motorola pension plan. The Motorola Pension Plan did not know that he had died and thus payments continued after his death into an account which existed for the purpose of making mortgage payments on the property to which the Conservatee became entitled. It took a while to clear this matter up with the credit union and the pension plan. However, no pension payments were made to the Conservatee during this account period.

The Conservatee received two residential properties in Arizona upon her husband's death. One was sold and proceeds are held by the conservator of the estate. It was an oversight that the other was not identified on a schedule. Please see attached exhibit A. The family home has not been sold. It is property insured. Family members in Arizona check on it regularly. It is available and used for family gatherings and use of the swimming pool in order to make it appear occupied.

The accounting presented disbursements of only \$1,733.00 for property repairs. Some of that was for work that had been done on the property that was sold and the contractor had agreed to wait until the property was sold so that funds would be available for that work and to complete some work on the remaining property. Ms. Hall states she has also used her own personal funds, time, and effort, without requesting compensation, for repair, improvement, and maintenance of the remaining AZ property.

It is a matter of simple mathematics that it was in the conservatee's best interest to pay off the mortgage of the remaining home. The interest earned on funds held in the conservatorship estate is far less than interest being paid out on the mortgage. The payoff is saving money.

For sale of the AZ property, it was required to employ an attorney for the transaction. It may have been possible to include that expense as a cost paid out of escrow, but it was nonetheless a necessary expenditure to conclude the sale. To seek approval for this aspect of the sale process would have included additional expense and delay.