



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.

First Amended Petition of the First Accounting and Report of the Conservator of the Estate and Person of Jamie McGlashan (Prob. C. 2620)

Age: 89	CRAIG MACGLASHAN , Son and Conservator with bond of \$1,099,584.00, is Petitioner.	NEEDS/PROBLEMS/COMMENTS:
DOB: 10-6-22		
	Account period: 5-24-10 through 5-31-11	<u>Continued from 5-23-12</u>
Cont. from 052312	Accounting: \$ 1,762,874.98	Minute Order 5-23-12: Mr. Howk requests a continuance. Matter continued to 7-25-12.
<input type="checkbox"/> Aff.Sub.Wit.	Beginning POH: \$ 0.00	As of 1-18-12, nothing further has been filed. The following issues remain: <u>SEE PAGE 2</u>
<input checked="" type="checkbox"/> Verified	Ending POH: \$ 1,661,990.18	
<input type="checkbox"/> Inventory	Conservator: Waived	
<input type="checkbox"/> PTC	Attorney (Estate planning for Conservatee’s late husband): \$800.00	
<input type="checkbox"/> Not.Cred.	Attorney (This accounting): not addressed	
<input type="checkbox"/> Notice of Hrg X	Petitioner states the current bond of \$1,099,584.00 is less than the value of the estate; however, the Conservator is a member of the State Bar and the only child of the Conservatee and requests to leave the bond set at the current amount because to increase the bond is to decrease the estate.	
<input type="checkbox"/> Aff.Mail X	Petitioner requests:	
<input type="checkbox"/> Aff.Pub.	1. Notice of hearing of this account, report and petition have been given as required by State law;	
<input type="checkbox"/> Sp.Ntc.	2. Petitioner be directed to pay the sum of \$800.00 to the Law Office of Howk and Downing, LLP;	
<input type="checkbox"/> Pers.Serv.	3. The Court order that the Conservatee is not able to complete an affidavit of voter registration;	
<input type="checkbox"/> Conf. Screen	4. All acts and transactions of the Conservator as set forth in this Petition be ratified, confirmed and approved.	
<input type="checkbox"/> Letters		Reviewed by: skc
<input type="checkbox"/> Duties/Supp		Reviewed on: 7-18-12
<input type="checkbox"/> Objections		Updates:
<input type="checkbox"/> Video Receipt		Recommendation:
<input type="checkbox"/> CI Report		File 3 - McGlashan
<input type="checkbox"/> 9202		
<input checked="" type="checkbox"/> Order		
<input type="checkbox"/> Aff. Posting		
<input type="checkbox"/> Status Rpt X		
<input type="checkbox"/> UCCJEA		
<input type="checkbox"/> Citation		
<input type="checkbox"/> FTB Notice		

1. **Petitioner states the Beginning Property on Hand is \$0. As previously noted in prior Examiner Notes, the Beginning Property on Hand should be the amount of the Inventory and Appraisals.**

Corr. Partial #1:	\$ 550,929.64
Corr. Partial #2:	\$ 110,000.00
Final:	\$ 424,000.00
Supp #1:	\$ 99,606.25
Total:	\$ 1,184,535.89

Instead, Petitioner indicates \$1,705,851.66 is the amount of "Additional Property Received" during the account period.

This appears to include the existing inventoried assets plus the interests received from the Conservatee's husband upon his death, *but with updated account totals. This is not a correct accounting summary.*

POH should include the assets as inventoried, and *Additional Property Received* would include the Conservatee's husband's joint tenancy interests in any joint tenancy assets received at his death – not the entire value of the asset at the date of his death.

Note: Petitioner states at Page 3 Line 9 that all accounts were held in joint tenancy; *therefore, they were not part of the Conservatee's estate until the death of her husband. This is not correct. Regardless of the how accounts are held, the Conservatee's interest in those accounts is part of the conservatorship estate.*

Petitioner may be confusing conservatorship estates with decedent estate practice regarding accounts held in joint tenancy. In a decedent's estate, a joint tenancy account is not an asset of the estate because it reverted to the joint tenant upon death. However, a Conservator is responsible for the Conservatee's interest in a joint tenancy account upon appointment, and as such, the Conservatee's portion of the account is an asset of the conservatorship estate. When the joint tenant passes away, as in this case, that joint tenant's interest at his date of death a "receipt" to the conservatorship estate.

In this case, the assets inventoried included the Conservatee's 50% community property interest in various accounts and real and personal property. If held in joint tenancy, then upon the death of her husband, the conservatorship estate received his portion which would be reflected as "receipts" on the accounting. *(The "receipt" is not the entire asset.)*

Due to the incorrect organization of assets/receipts in this accounting, Examiner is unable to determine if it balances correctly. Amended account is necessary.

2. **Need clarification re: prayer.** Petitioner requests an order that the Conservatee is not able to complete an affidavit of voter registration. The original conservatorship order from 5-25-10 included this finding pursuant to Probate Code §1910 and Elections Code §§2208, 2209, and the minute order from the hearing on 5-25-10 was mailed to the Fresno County Election Office. It does not appear circumstances have changed. Why is this request included?

3. **Petitioner states bond is insufficient, but requests to leave as is because:** He is an attorney, he is the only child, and because much of the estate is in bonds and savings which he does not need to use to provide care for the Conservatee and because to increase bond is to decrease the estate. **Examiner notes Probate Code §2320(c)(4) and Cal. Rules of Court 7.207 require sufficient bond, including cost of recovery, for conservators of the estate.**

Therefore, need updated calculation of the appropriate bond amount based on amended accounting per #1 above. Alternatively, the Court may require blocked accounts. Status hearing will be set for increased bond and/or proof of blocked account(s) upon clarification.

4. **Petitioner requests to pay Attorney Howk \$800.00 associated with estate planning completed for the Conservatee's late husband during his lifetime. Examiner notes that this would be a fee associated with his estate, not the Conservatee's estate. Further, the "Description of Liabilities" indicates that it is an estimated amount.**

Note: Petitioner's previous request to establish a trust for the Conservatee was denied on 7-11-11, and Petitioner states that her husband died before he could sign the trust that was prepared for him (these requested fees). A declaration filed 6-8-11 states that rather than send a separate bill, the fees were added to the fees for the Conservatee's bill.

Note: At that time, it was unclear from the itemization how much was the total associated with the husband's estate planning; however, per minute order 8-1-11, the Court considered the issue of attorney fees, and approved certain fees and stated the "\$840 to be billed separately." Here, \$800 is requested, but no itemization is provided.

5. **Attorney Howk does not address attorney fees associated with this account period. Need clarification.**
6. **As previously noted in prior Examiner Notes, need itemization for the following disbursements:**
Attorney Costs: \$2,743.04
Conservator Expenses paid prior to establishment of conservatorship: \$947.50
(Attorney appears to break down the \$2,743.04 by noting that "filing fees/cert. fees 4/7/10-2/2/11 were \$1,975.00; however, this breakdown is not sufficient.)
7. **Numerous "inventory" lists are attached to this accounting. Need clarification as to the purpose of these lists. Are they different from the Inventory and Appraisal assets?**
8. **Examiner is not able to completely review based on these items. There may be additional issues upon review of an amended accounting per #1 above.**