

(1) Substituted Judgment Petition for Order Establishing Special Needs Trustee, for
 (2) Authority to Invest in Mutual Funds and U.S. Government Bonds with Maturity
 Dates Later Than 5 years, and for (3) Attorney Fees [Prob. C. 2580 CRC 7.903(c)]

Age: 46	
DOB: 07/16/66	
Cont. from	
Aff.Sub.Wit	
✓ Verified	
Inventory	
PTC	
Not.Cred.	
✓ Notice of Hrg	
✓ Aff.Mail	w/
Aff.Pub.	
Sp.Ntc.	
Pers.Serv.	
Conf. Screen	
Letters	
Duties/Su pp	
Objections	
Video Receipt	
CI Report	
9202	
✓ Order	
Aff. Posting	
Status Rpt	
UCCJEA	
Citation	
FTB Notice	

RONALD MILLER, Conservator of the Person and Estate, is Petitioner.

Petitioner seeks an Order under Probate Code § 2580(b)(5) to establish a Special Needs Trust (SNT) with Lisa Miller as the Beneficiary, to be funded with proceeds from death benefits from CalPERS following the death of her mother Evelyn C. Miller based upon the following:

- Ronald Miller, was appointed as the Conservator of the Person and Estate of Lisa and Letters were issued on 04/06/12.
- Lisa has been diagnosed with Downs Syndrome. As a result of this disability, Lisa's cognitive and physical functioning is impaired, significantly affecting her ability to live independently and maintain competitive employment.
- As a result of her disability, Lisa receives Supplemental Security Income (SSI) in order to meet her needs for food and shelter; as a recipient of SSI, Lisa is "categorically eligible" for Medi-Cal benefits, which she relies on to meet her medical needs. Because these benefits are "needs based", outright distribution of the CalPERS benefits would eliminate her continuing eligibility for SSI and Medi-cal unless the assets are directed to a SNT. The establishment of the SNT is necessary to provide for Lisa's needs while preserving her eligibility for public benefits.
- Lisa is entitled to death benefits from CalPERS following the death of her mother, Evelyn C. Miller, consisting of a one-time payment of \$14,497.12 and monthly payments of \$1,812.14 for life thereafter.
- Petitioner seeks an Order that the assets from the CalPERS proceeds be paid to **Ronald Miller** as the initial Trustee of the **LISA SUSAN MILLER SPECIAL NEEDS TRUST** (please refer to Exhibit B for a copy of the SNT). Petitioner requests that bond be fixed at \$35,932.45 (please see additional page for calculation). **Petitioner (Ronald Miller) also requests that he be authorized to sign the SNT as grantor.**

Continued on Page 2

NEEDS/PROBLEMS/COMMENTS:

- The date of hearing listed on the Notice of Hearing 07/27/12; however, the actual hearing date is 07/26/12. Need proof of service by mail at least 15 days before the hearing of Notice of Hearing with correct hearing date.
- The Order does not include item 4 of the prayer that all monies due Lisa from CalPERS shall be paid to the Trustee of the Special Needs Trust. **Note:** Counsel may provide a new Order, or the Examiner can interlineate the order provided, if desired.

Note: The Bond and all documents relating to the Special Needs Trust must be filed in a new case that will be the case for the Special Needs Trust going forward.

Note: If the petition is granted status hearings will be set as follows:

- Friday, 08/31/2013 at 9:00a.m. in Dept. 303** for the filing of the bond in a new case for the Special Needs Trust; and
- Friday, 09/27/2013 at 9:00a.m. in Dept. 303** for the filing of the first account for the Special Needs Trust.

The status hearing for the First Account will be set in the new case opened for the Special Needs Trust.

Note: Status hearings regarding the Conservatorship of the Estate were initially set in a separate case (12CEPR00160); that case has since been consolidated with this case. A Status hearing is set on 07/30/12 regarding filing of the Inventory & Appraisal for the Conservatorship estate. The Court may wish to address the status of the I & A of the Conservatorship estate during this hearing instead of holding a separate hearing on 07/30/12. Further the status hearing for the filing of the First Account in the Conservatorship of the Estate was set in the old case for 06/12/13. A new status hearing will be set in this Conservatorship case (0439065) for 09/27/13 for filing the first account to coincide with the filing of the first account for the Special Needs Trust.

Reviewed by: JF

Reviewed on: 07/23/12

Updates:

Recommendation:

File 1 - Miller

- Petitioner is informed and believes that Lisa is not opposed to the proposed action. After the proposed action is taken, the SNT assets will be adequate to provide for the conservatee's supplemental needs, taking into account the age, physical condition, standards of living, and all other relevant circumstances of the conservatee under Probate Code § 2582. There are no persons legally entitled to support, maintenance or education from the conservatee.
- **The proposed SNT is to be established pursuant to 42 USC § 1396(d)(4)(A)**, and Lisa meets the federal eligibility requirements in that she is under age 65 years, she is "disabled" as defined in 42 USC § 1382c(a)(3), and the SNT provides that on Lisa's death or termination of the trust, Medi-Cal will receive reimbursement for all medical assistance provided to her.
- **The Court has jurisdiction and authority to create a SNT** as authorized under 42 USC § 1396(d)(4)(A) to preserve a disabled conservatee's eligibility for public benefits on a substituted judgment petition. *Conservatorship of Kane* (2006) 137 Cal.App.4th 400. Probate Code § 2580(a)(1) allows for a petition for a court order authorizing or requiring the conservator to take a proposed action benefiting the conservatee, and Probate Code § 2580(b)(5) allows the court to order the creation of a revocable or irrevocable trust. The appellate court in *Kane* held that a SNT for an inheritance of a person with a disability who is conserved may be established under Probate Code § 2580(b)(5).
- **The proposed SNT complies with CA Rule of Court 7.903(c) as follows:**
 1. The trust does not contain a "no-contest" provision;
 2. The trust prohibits modification or revocation without court approval;
 3. The trust clearly identified the trustee and any other person with authority to direct the trustee to make disbursements;
 4. The trustee's investment powers are requested by Petitioner to be expanded by the Court, for good cause, beyond Probate Code § 2574 (regarding investment powers available to guardians and conservators without court order) such that the trustee's investment powers include authority to invest trust assets in mutual funds and US Government bonds with maturity dates later than (5) years;
 5. The trust requires that the person identified in #3 to post bond in the amount required under Probate Code § 2320 – 2335;
 6. The trust requires the trustee to file accounts and reports for Court approval in the manner and frequency required by Probate Code §§ 1060 – 1064 and 2620 and 2628;
 7. The trust requires court approval of changes in trustees and a court order appointing any successor trustee;
 8. The trust requires that compensation of the trustee, the members of any advisory committee, or the attorney for the trustee to be in just and reasonable amounts that must be fixed and allowed by the court.
- **The proposed SNT meets all requirements of Local Rule 7.19 as follows:**
 1. A copy of the proposed trust instrument is attached to the petition to establish the trust;
 2. The trust complies with CA Rule of Court 7.903 (see above);
 3. The trust must require court confirmation of sales of trust real property;
 4. Petitioner requests the Court enter an order that the trust shall be subject to the Court's continuing jurisdiction and shall be subject to periodic accounts as required in guardianship and conservatorship matters;
 5. The trust prohibits payment of fees to attorneys, trustees, or others without prior court approval.

Continued on Page 3

- **Investments:** Petitioner requests that pursuant to CA Rule of Court 7.903(c)(4), for good cause shown, and pursuant to Probate Code § 2574(c), the investment standard set forth in Probate Code § 2574(a) be modified so that the Trustee has the authority to purchase mutual funds and United States government bonds with maturity dates later than 5 years; investment in mutual funds permits investment across several asset classes, subclasses and sectors, while avoiding high transactions costs; because they are highly diversified, mutual funds are inherently less risky than individual securities listed on an established stock or bond exchange, which is a permissible investment allowed by the code without court authorization; the ability to invest in mutual funds will permit the SNT to hold individual securities across several asset classes, while at the same time providing the flexibility to cost-effectively change its investment position in response to shifts in the market; a portfolio that includes US Government bonds with maturity dates later than 5 years will provide better diversification and is expected to receive higher total returns along with the minimal risk associated with such funds.
- **Bond:** Petitioner requests bond be fixed at **\$35,932.45** calculated as follows: The estimated CalPERS value after payment of plaintiff's attorney's fees and costs will be **\$10,602.12**, which will be deposited into the special needs trust account. It is anticipated that this will earn an estimated **3%** annual return or **\$318.06**. In addition, CalPERS will pay a monthly benefit of **\$1,812.04** or **\$21,745.68** yearly. Thus, the value of the Trust estate plus the probable annual gross income is **\$32,665.86 (\$10,920.18 plus \$21,745.68)**. The estimated cost of recovery to collect on the bond is **\$3,266.59**, which is **10%** of **\$32,665.86**. The sum of **\$3,266.59** and **\$32,665.86** is **\$35,932.45**.
- **Medi-Cal Lien:** this SNT is being established under Probate Code § 2580(b)(5) and is not a §§3600-3613 litigation SNT, there is no legal requirement to satisfy a Medi-Cal lien prior to trust funding.
- **Remainder Beneficiary:** As a result of Lisa's disabilities, she lacks testamentary capacity. In the event of Lisa's passing, and after satisfaction of any government claims, any remaining trust assets would pass to Lisa's legal heirs.
- **Attorney Fees:** Petitioner requests the Court approve a flat legal fee in the amount of **\$3,500.00** for providing the services to the Petitioner for establishment of the SNT such as counseling the client, preparing the trust and this petition, and other related services; and requests reimbursement of costs advanced of **\$395.00** for filing fees; Petitioner believes such fees and costs are reasonable and customary in this community and requests the Court approve payment to the attorney for such amounts;
- **Petitioner fees for Conservatorship:** Petitioner seeks reimbursement for costs associated with amending the conservatorship to name Petitioner as conservator of the person and estate of Lisa. Petitioner had to amend the conservatorship to be appointed conservator of Lisa's estate, as it was required by CalPERS in order for them to even discuss the CalPERS benefits with Petitioner. Petitioner seeks reimbursement of the **\$395.00** filing fee he paid for the conservatorship petition, and **\$179.00** he paid for the bond required in the conservatorship to handle the CalPERS benefits. Petitioner also seeks reimbursement of the \$377.00 he paid to Advanced Court Services, a paralegal service he hired for assistance in preparing the conservatorship paperwork. Finally, Petitioner seeks reimbursement of the \$500.00 he paid to attorney Thomas Boyajian, Esq. for 1) assistance with obtaining bond for the conservatorship, 2) exploring options for the CalPERS benefits, and 3) advice on the use of a Special Needs Trust to protect the CalPERS benefits.

Continued on Page 4

Petitioner prays for an Order as follows:

1. That the conservatee is not opposed to the proposed action;
2. That the Court establish the **LISA SUSAN MILLER SPECIAL NEEDS TRUST**, that the Petitioner is directed to execute it, and the Court has continuing jurisdiction over the SNT;
3. That **Ronald Miller** shall serve as the initial Trustee of the **LISA SUSAN MILLER SPECIAL NEEDS TRUST** with bond fixed at **\$35,932.45**;
4. That the payment of all monies due Lisa from CalPERS shall be paid to the Trustee of the Special Needs Trust;
5. That the assets of the trust estate are unavailable to the beneficiary and shall not constitute a resource to Lisa for Lisa's financial eligibility for Medi-Cal, SSI, regional center assistance, or any other program of public benefit;
6. That the Trustee provide the Court with a biennial account and report of the Special Needs Trust, beginning with the period 1 year after the date the Court approves the establishment of the trust and every 2 years thereafter;
7. That the Trustee is authorized to invest in mutual funds and in the United States government bonds with maturity dates later than 5 years;
8. That the Court approve and direct the payment of **\$3,500.00** to the law firm of **Dowling Aaron Incorporated**, and reimbursement for out-of-pocket costs in the amount of **\$395.00** for their legal services rendered in connection with this Petition;
9. That the Court approve and direct payment of **\$1,451.00** to the **Petitioner** for reimbursement of costs associated with the conservatorship; and
10. That the notice of hearing of this Petition has been regularly given as prescribed by law.

Petition for an Order Approving Extraordinary Commissions for the Public Administrator

DOD: 6/11/2009	PUBLIC	<p>ADMINISTRATOR/ADMINISTRATOR of the Estate is petitioner.</p> <p>Petitioner states he was appointed as Administrator of the estate under Probate Code 7660.</p> <p>In the course of the administration of the estate the Public Administrator's office has performed extraordinary services regarding the sale of the Decedent's real property. Pursuant to Local Rule 7.18(B)(1) the reasonable fee for such services is \$1,000.00.</p> <p>In addition, petitioner filed the First and Final Fiduciary tax return for this estate. The reasonable value of such services is \$248.00.</p> <p>Therefore, Petitioner prays for an Order that:</p> <p>The Court authorize payment to the Fresno County Public Administrator of \$1,248.00 as reasonable compensation for extraordinary services to the estate.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>1. Need proof of service of the Notice of Hearing on Fred Comenero (son) pursuant to Probate Code §10831.</p>
Cont. from			
<input type="checkbox"/> Aff.Sub.Wit.			
<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			
<input type="checkbox"/> Aff.Mail			
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<input checked="" type="checkbox"/> Sp.Ntc.	w/		
<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 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			
		<p>Reviewed by: KT</p> <p>Reviewed on: 7/20/12</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 2 - Comenero</p>	

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

DOD: 01/15/2012		COLLEEN (KELLY) M. GOVIER , daughter / named executor without bond, is Petitioner. Full IAEA – o.k. Will dated: 05/18/2002 Residence: Reedley Publication: The Reedley Exponent	NEEDS/PROBLEMS/COMMENTS: Note: If the petition is granted status hearings will be set as follows: <ul style="list-style-type: none"> • Friday, 01/11/2013 at 9:00a.m. in Dept. 303 for the filing of the inventory and appraisal and • Friday, 10/04/2013 at 9:00a.m. in Dept. 303 for the filing of the first account and final distribution. Pursuant to Local Rule 7.5 if the required documents are filed 10 days prior to the hearings on the matter the status hearing will come off calendar and no appearance will be required.	
Cont. from 061812				
<input type="checkbox"/>	Aff.Sub.Wit. s/p			Estimated value of the Estate: Personal Property - \$20,000.00 Annual Gross Income from Personal Prop. \$100 Real Property - \$250,000.00 Encumbrances (- \$151,000.00) Total: - \$119,000.00 Probate Referee: Rick Smith
<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 W			
<input checked="" type="checkbox"/>	Aff.Mail			
<input checked="" type="checkbox"/>	Aff.Pub.			
<input type="checkbox"/>	Sp.Ntc.			
<input type="checkbox"/>	Pers.Serv.			
<input type="checkbox"/>	Conf. Screen			
<input checked="" type="checkbox"/>	Letters			
<input checked="" 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			
		Reviewed by: KT /LV Reviewed on: 07/24/2012 Updates: Recommendation: Submitted File 3 - Govier		

**Petition for Letters of Administration; Authorization to Administer Under IAEA
(Prob. C. 8002, 10450)**

DOD: 12/07/2011	KIRK HAGOPIAN , son of first cousin to the decedent is petitioner and requests appointment as Administrator without bond.	<p>NEEDS/PROBLEMS/COMMENTS:</p> <ol style="list-style-type: none"> 1. Need name and date of death of decedent's spouse per Local Rule 7.1.1D. 2. Need Notice of Petition to Administer Estate. 3. Need proof of service of the Notice of Petition to Administer Estate on the following: <ul style="list-style-type: none"> • Gloria Hagopian • Lorraine Magarian • Paula Morrissey • Patti Warnke • Ann Taylor • Cynthia McChensney • Donald Filipas • David Filipas <p>Note: If the petition is granted status hearings will be set as follows:</p> <ul style="list-style-type: none"> • Friday, 12/07/2012 at 9:00a.m. in Dept. 303 for the filing of the inventory and appraisal and • Friday, 09/06/2013 at 9:00a.m. in Dept. 303 for the filing of the first account and final distribution. <p>Pursuant to Local Rule 7.5 if the required documents are filed 10 days prior to the hearings on the matter the status hearing will come off calendar and no appearance will be required.</p>
Cont. from 070212	All heirs waive bond.	
<input type="checkbox"/> Aff.Sub.Wit.	Full IAEA – o.k.	
<input checked="" type="checkbox"/> Verified	Decedent died intestate	
<input type="checkbox"/> Inventory		
<input type="checkbox"/> PTC		
<input type="checkbox"/> Not.Cred.		
<input type="checkbox"/> Notice of Hrg	Residence: Fresno Publication: The Business Journal	
<input type="checkbox"/> Aff.Mail		
<input checked="" type="checkbox"/> Aff.Pub.	Estimated Value of the estate:	
<input type="checkbox"/> Sp.Ntc.	Personal Property - 218,000.00	
<input type="checkbox"/> Pers.Serv.	Real Property - \$60,000.00	
<input type="checkbox"/> Conf. Screen	Total: -\$278,000.00	
<input checked="" type="checkbox"/> Letters		
<input checked="" type="checkbox"/> Duties/Supp	Probate Referee: Steven Diebert	
<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		
Reviewed by: KT / LV		
Reviewed on: 07/24/2012		
Updates:		
Recommendation:		
File 4 – Smart		

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

DOD: 05/16/2012		TROY THOMAS SNYDER, stepson/named executor without bond, is petitioner.	NEEDS/PROBLEMS/COMMENTS:		
Cont. from 070312				Full IAEA – o.k.	
Aff.Sub.Wit.	s/p				
✓ Verified					
Inventory					Will dated: 02/24/2012
PTC					
Not.Cred.					
✓ Notice of Hrg		Residence: Fresno Publication: The Business Journal			
✓ Aff.Mail	w/				
✓ Aff.Pub.					
Sp.Ntc.					
Pers.Serv.			Estimated value of the Estate: Personal property - \$950,000.00 Total: - \$950,000.00		
Conf. Screen					
✓ Letters					
✓ Duties/Supp				Probate Referee: Steven Diebert	
Objections					
Video Receipt					
CI Report					
9202					
✓ Order					
Aff. Posting					
Status Rpt					
UCCJEA					
Citation					
FTB Notice					

1. Proposed personal representative is a resident of Oregon. Probate Code §8751 states notwithstanding a waiver of bond, the Court in its discretion may require a nonresident personal representative to give a bond in an amount determined by the Court.

Note: If the petition is granted status hearings will be set as follows:

• **Friday, 01/11/2013 at 9:00a.m. in Dept. 303** for the filing of the inventory and appraisal **and**

• **Friday, 10/04/2013 at 9:00a.m. in Dept. 303** for the filing of the first account and final distribution.

Pursuant to Local Rule 7.5 if the required documents are filed 10 days prior to the hearings on the matter the status hearing will come off calendar and no appearance will be required.

Reviewed by: KT / LV

Reviewed on: 07/24/2012

Updates:

Recommendation:

File 5 - Pawlik

**Petition for Determination of Property Belonging to Trust (Prob. C. 850, 1660 and 17200)
 Points and Authorities in Support of Petition**

		<p>PAUL G. WASEMILLER, as Trustee of the LOUISE E. GOOD 1989 TRUST dated 8/21/1989, is petitioner.</p> <p>Petitioner states on 8/21/1989, LOUISE E. GOOD established the LOUISE E. GOOD 1989 TRUST, naming PAUL G. WASEMILLER as the sole trustee. On 4/17/1991, a first amendment to the Trust was signed by the Trustor.</p> <p>On 3/4/1992 Trustor, LOUISE E. GOOD died.</p> <p>The introductory paragraph of the LOUISE E. GOOD 1989 TRUST dated 8/21/1989 provides that LOUISE E. GOOD, as Trustor, "hereby transfers and delivers to PAUL G. WASEMILLER, herein after referred to as "Trustee", IN TRUST all the property described on the attached schedule "A" which shall constitute the Trust Estate, to be held, administered, and distributed as hereinafter provided . . ."</p> <p>On Schedule A of the Trust, Trustor transferred all of her mineral interest in Fresno County to the Trust, specifically, APNs 65-030-13M, 50-100-03M, 30-150-19 M, 060-090-14 M, 60-090-12 M and 60-050-49M. Trustor received the mineral interests that were transferred to the Trust from her mother, Bess E. Schaefer. On 6/9/1982, Judge Stephen R. Henry signed a Judgment of Final Distribution on Waiver of Accounting Under Will.</p> <p>It was Trustor's intent by use of this language and by her actions to transfer all her mineral interest that she owned to the Trust. In the First Amendment to the LOUISE E. GOOD 1989 TRUST, which was signed on 4/17/1991, LOUISE E. GOOD leaves "All of Trustor's mineral interests shall be distributed to PAUL G. WASEMILLER, if he survives, and if not to his spouse, JOLINE WASEMILLER, if she survives, and if not to the issue of PAUL G. WASEMILLER and JOLINE WASEMILLER, who survive by right of representation.</p> <p style="text-align: center;">Please see additional page</p>	<p>NEEDS/PROBLEMS/ COMMENTS:</p> <ol style="list-style-type: none"> 1. A copy of the Judgment recorded June 22, 1982, showing distribution of the additional mineral rights to Louise E. Good was not attached to the petition. 2. Page 5, paragraph 8 of the Petition states "the original Trust, which was signed on May 3, 1988" The Trust document attached to the Petition was signed on August 21, 1989. Court may require clarification. 3. Need Order
Cont. from			
<input type="checkbox"/>	Aff.Sub.Wit.		
<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		
<input checked="" type="checkbox"/>	Aff.Mail W/		
<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 X		
<input type="checkbox"/>	Aff. Posting		
<input type="checkbox"/>	Status Rpt		
<input type="checkbox"/>	UCCJEA		
<input type="checkbox"/>	Citation		
<input type="checkbox"/>	FTB Notice		
		<p>Reviewed by: KT</p> <p>Reviewed on: 7/23/12</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 6 - Good</p>	

Petitioner states additional mineral interests have been discovered which are titled in the name of LOUISE E. GOOD. In addition to the six mineral interests owned by LOUISE E. GOOD and transferred to the LOUISE E. GOOD 1989 TRUST, PAUL G. WASEMILLER has been recently that LOUISE E. GOOD owns the following additional mineral interest in Fresno County: APNs 073-030-15m, 060-150-54m, 075-020-40m & 47m, 060-090-27m & 57M & 58m, and 028-081-25m, 63m, 77m & 78m.

All six of the additional mineral interests were obtained by LOUISE E. GOOD from Bess E. Schaefer in a Judgment recorded on 6/22/1982. Said Judgment was made 13 days after Judge Stephen Henry signed the Judgment which transferred the original six parcels to LOUISE E. GOOD. These additional mineral rights were overlooked in the settlement of the Estate of Bess E. Schaefer and had they not been overlooked would have been included with the other six mineral interests.

The original Trust and the First Amendment to the Trust show settlor's intent that the additional 6 mineral interest are to be of the trust, and thus distributable to PAUL G. WASEMILLER.

Trustor's Will is a "Pour-over" Will. Trustor's Will executed the same day as the LOUISE E. GOOD 1989 TRUST and provides that all assets will pass to the Trust. This Petition and the Order pass the additional six mineral interests to PAUL G. WASEMILLER as intended by the Trustor without the expense and delay of probate.

Wherefore, petitioner prays for an order of this Court:

- A. Confirming and determining that LOUISE E. GOOD's interest in the 6 additional mineral rights described in the petition are owned by PAUL G. WASEMILLER, as Trustee of the LOUISE E. GOOD 1989 TRUST.

DOD: 6-6-12		SIGRID E. ANDERSON , Daughter, is Petitioner and requests appointment as Administrator with Full IAEA without bond.	NEEDS/PROBLEMS/COMMENTS: Note: The Court will set status hearings as follows: <ul style="list-style-type: none"> • Friday 12-7-12 for filing of Inventory and Appraisal • Friday 12-6-13 for filing of first account or petition for final distribution
		Petitioner is the sole heir and waives bond.	
	Aff.Sub.Wit.		
✓	Verified		
	Inventory	Full IAEA – ok	
	PTC	Decedent died intestate	
	Not.Cred.		
N/A	Notice of Hrg	Residence: Fresno Publication: Fresno Business Journal	
	Aff.Mail		
✓	Aff.Pub.	Estimated Value of Estate: Personal property: \$200,000.00	
	Sp.Ntc.		
	Pers.Serv.	Probate Referee: Steven Diebert	
	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: 7-20-12
			Updates: 7-24-12
			Recommendation: SUBMITTED
			File 8 - Bremer

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

DOD: 4-5-12		LESLIE ANNE CHESTER , Daughter and named executor without bond, is Petitioner. Petitioner is a resident of Waddell, AZ. Full IAEA – ok Will dated: 8-25-11 Residence: Fresno Publication: Fresno Business Journal Estimated Value of Estate: Personal property: \$ 299,643.65 Annual income: \$ 2,000.00 Total: \$ 301,643.65 Probate Referee: Steven Diebert	NEEDS/PROBLEMS/COMMENTS: 1. Petitioner is a resident of Waddell, AZ. Pursuant to Probate Code §8571 and Cal. Rules of Court 7.201(b), the Court may require bond if the proposed personal representative resides outside California or for other good cause, even if heirs waive bond. <i>Examiner notes that waivers have been received from some, but not all, of the listed heirs. However, pursuant to the sections cited above, the Court may still require bond.</i> Note: The Court will set status hearings as follows: <ul style="list-style-type: none"> • Friday 12-7-12 for filing of Inventory and Appraisal • Friday 12-6-13 for filing of first account or petition for final distribution
<input type="checkbox"/>	Aff.Sub.Wit.		
<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		
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		Reviewed by: skc	
		Reviewed on: 7-20-12	
		Updates: 7-24-12	
		Recommendation:	
		File 9 - Porter	

	<p>The SPECIAL NEEDS TRUST OF SAMUEL APPLETON was first funded in August 2006.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p>										
<p>Cont. from 062812</p>	<p>The Fourth Account and Report of Trustee; Petition of Allowance of Fees to Conservator of the Estate and Attorney for the Conservator was filed on 04/27/12. The Petitioner stated Master Trust of California has historically charged an annual fee of 0.75% of the trust assets in quarterly fees for a total of \$1,284.00 during the Fourth account period.</p>	<p>CONTINUED FROM 06/28/12</p>										
<p><input type="checkbox"/> Aff.Sub.Wit.</p>	<p>Petitioner revised the Master Trust of California Fee Schedule on 2-14-12 and requests authority to allow future annual fees pursuant to the revised schedule.</p>	<p>Minute Order from 06/28/12 states: Matter continued to 07/26/12. The Court advises counsel that it will be expecting to hear at the next hearing how the investment piece is handled. Counsel is directed to submit a supplemental declaration.</p>										
<p><input checked="" type="checkbox"/> Verified</p>	<p>The requested revised fee schedule is:</p>	<p>Note to Judge: A supplemental declaration was filed on 07/23/12 (see page 3).</p>										
<p><input type="checkbox"/> Inventory</p>	<table border="1"> <tr> <td>\$1,000 on the first</td> <td>\$50,000</td> </tr> <tr> <td>2.00% on the next</td> <td>\$250,000</td> </tr> <tr> <td>1.65% on the next</td> <td>\$450,000</td> </tr> <tr> <td>1.50% on the next</td> <td>\$250,000</td> </tr> <tr> <td>1.25% on the balance over</td> <td>\$1,000,000</td> </tr> </table>	\$1,000 on the first	\$50,000	2.00% on the next	\$250,000	1.65% on the next	\$450,000	1.50% on the next	\$250,000	1.25% on the balance over	\$1,000,000	<p>Background: CA Dept. of Developmental Services (DDS) was appointed Limited Conservator of the Person and Estate in Conservatorship Case #0435446 on 4-19-91. Mr. Appleton resides in a residential care facility in Fresno, receives services from CVRC, and participates in a community center day program. Original conservatorship estate assets included various personal property items and a 50% interest in real property. Accountings were dispensed in the conservatorship in 2004; however, in 2005, the Conservator entered into a quiet title action on behalf of the Conservatee and this Special Needs Trust was established with funds from that action in 2006.</p>
\$1,000 on the first	\$50,000											
2.00% on the next	\$250,000											
1.65% on the next	\$450,000											
1.50% on the next	\$250,000											
1.25% on the balance over	\$1,000,000											
<p><input type="checkbox"/> PTC</p>	<p>Minute order from 05/17/12 set this hearing for status re: the Annual Fees. <u>The Minute Order states:</u> The Court approves the petition including the amount for Mr. Brunick (former counsel for Trustee). The Court does not approve the increase in annual fees.</p>	<p>See Page 3 for Notes to Judge</p>										
<p><input type="checkbox"/> Not.Cred.</p>	<p>Declaration of Robert Britton filed 06/20/12 states: He is the Trust Administrator for the Master Trust of California. The Master Trust of California is a California Nonprofit Benefit Corporation that began managing trusts for developmentally disabled persons in 1979. The current and past Fee Schedules only applied to the management of the financial assets held in a pooled fund. To date, management fees have not been assessed on other assets held in a trust, such as houses, trailers, vehicles, etc. From the inception of the Master Trust of California (formerly called the Inland Counties Master Trust) until April 1, 2005, there had not been an increase in the management fees on the financial assets.</p>	<p>Reviewed by: JF</p>										
<p><input type="checkbox"/> Notice of Hrg</p>	<p>Continued on Page 2</p>	<p>Reviewed on: 07/20/12</p>										
<p><input type="checkbox"/> Aff.Mail</p>		<p>Updates: 07/24/12</p>										
<p><input type="checkbox"/> Aff.Pub.</p>		<p>Recommendation:</p>										
<p><input type="checkbox"/> Sp.Ntc.</p>		<p>File 10 - Appleton</p>										
<p><input type="checkbox"/> Pers.Serv.</p>												
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<p><input type="checkbox"/> Citation</p>												
<p><input type="checkbox"/> FTB Notice</p>												

Over the years the daily administration of the trusts had been conducted part-time by regional center staff that was also tasked with normal regional center business. During that period, the Inland Regional Center had been able to absorb the additional costs of providing these trust services. Due to the growth in the number of trusts and the increased complexity of the administration of the trusts it became a necessity for the Master Trust of California to hire a professional Trust Officer who would be able to devote his full time to management of the trust program. Therefore, in April 2005, it became necessary to increase the fees for the first time in 25 years.

The next change to the fee schedule occurred on 11/11/08 when a multi-tiered fee schedule was adopted which reduced fees for trusts with holdings over \$300,000.00. Due to worsening budget problems faced by the State of California over the last several years, it has become necessary for the Master Trust of California to become more self-sufficient. As of 07/01/12, the staffing will change from 1 full time trust officer and 1 full time assistant to the trust officer, 1 full time regional case worker and 2 part time regional center case workers to 1 full time trust officer and 1 assistant and 2 full time regional center case workers. In anticipation of this change, fees were increased as of 02/14/12 for the first \$50,000.00 of a trust's financial holdings. The Master Trust of California utilizes specialized regional center case workers, who are knowledgeable in case management and of how the trust program works, that are assigned to interact and assist the trust beneficiaries. They routinely visit the trust beneficiaries to interact and assist them in the requests for funds from the trust. This eliminates the need to utilize care managers to assist in the management of the trusts. The Master Trust does not charge for additional case management on each trust.

The Master Trust of California provides trust services only to clients who are receiving services from one of the California Regional Centers. There are currently approximately 240 active trusts with a balance in the pooled fund of \$17,609,013 as of 04/30/12. The average trust size is \$73,677.88. Over half of the trusts have a balance less than \$50,000.00 and 35 of the trusts have balances under \$10,000.00. The Trust manager actively seeks ways to distribute the smaller trusts without adversely affecting the beneficiary's public benefits. The new fee schedule should generate revenue that is close to the breakeven point. Much of the fee schedule is driven by two factors: 1) the average balance of \$73,677.88 is considered small. Trust balances under \$100,000.00 is considered too small for many institutions that provide trust services. By accepting and managing smaller balances, the Master Trust is providing a badly needed service of providing professional trust services to the clients of the CA Regional Center system; and 2) There are several pooled special needs trusts in the state of California, each with its own management fee schedule. One of factors affecting the management fee schedule is if the fund has a retention clause in the trust agreement that enables them to retain assets from closing trusts. This retention of funds allows the funds to create an endowment fund to help keep the management fees down. Because the Trustee for the Master Trust of California is Inland Counties Regional Center, Inc., and the Master Trust Committee is a standing committee of the Board of Trustee, the Board has determined that any retention language in our trust documents would be a conflict of interest.

The trust officer for the Master Trust of California is a professional Trust Officer who has many years of Personal Trust and Investment Compliance and Trust administration experience with a major national bank prior to joining the Master Trust of California. He is a Certified Trust and Financial Advisor (CTFA) in good standing. CTFA is a professional credential offered by the American Bankers Association for financial professionals. The designation requires a minimum of 3 years experience, completion of a trust training program and 45 credits of continuing education must be completed every 3 years. Mr. Britton asserts that you will find very few trustees outside the Master Trust of California that are able to provide this level of trust management expertise for special needs trusts, whether they be in a pooled fund or the trustee is an individual.

Continued on Page 3

Declaration of Matthew F. Bahr filed 06/20/12 includes an itemization of the services he rendered and the time spent on behalf of the trust estate. Mr. Bahr states that he has not previously billed for these items and has deeply discounted his fees, requesting only \$1,200.00 in fees for \$2,600.00 in work performed. He is now requesting fees in the amount of \$1,880.00.

Supplemental Declaration of Robert Britton filed 07/23/12 states: The fees charged by the Master Trust of California to administer and service the Appleton Special Needs Trust for last year was \$326.26 (1st Quarter), \$326.50 (2nd Quarter), \$313.57 (3rd Quarter), and \$317.51 (4th Quarter), for a total of \$1,283.84. The Master Trust of California receives no other compensation from the Appleton Trust and does not request additional fees for the social workers who visit the clients and coordinate disbursements for their needs. The Master Trust of California utilizes specialized regional center case workers who are knowledgeable in case management and of how the trust program works, that are assigned to interact and assist the trust beneficiaries. They routinely visit the trust beneficiaries to interact with them and assist them in their requests for funds from the trust. They present the requests for funds to the Master Trust Committee and, in some cases, they make purchases and deliver the items to the trust beneficiaries. Therefore, there is no need for the Master Trust of California to utilize care managers to assist in the management of the trusts. The Master Trust does **not charge** for additional case management on each trust, it is built into the set Fee Schedule. [Emphasis in original]

Petition for Appointment of Temporary Guardianship of the Person

Age: 3	TEMPORARY GRANTED EX PARTE EXPIRES 7-26-12	NEEDS/PROBLEMS/COMMENTS: 1. Proof of Service does not indicate that a copy of the petition was served on the parents with the Notice of Hearing. The Court may require amended service per Probate Code §2250(e). <hr/> Reviewed by: skc <hr/> Reviewed on: 7-20-12 <hr/> Updates: <hr/> Recommendation: <hr/> File 11 - Lambert
	SALLY SHEPARD , Maternal Grandmother, is Petitioner.	
	Father: JOHNNY LAMBERT - Personally served 7-17-12	
	Mother: COURTNEY SHEPARD - Personally served 7-16-12	
	Paternal Grandfather: Deceased Paternal Grandmother: Sherry Lambert Maternal Grandfather: Philip Shepard	
	Petitioner states Mother has become addicted to meth. While Tyler was in her custody, she was using and dealing drugs and allowed drug dealers and guns in the home. She neglected him and is now homeless and broke.	
	Tyler has been living with Petitioner and her husband since they realized that the mother had a drug problem on 5-1-12. Mother is aware that Tyler is with them. Father is also a meth addict and is homeless. Father lost custody – Tyler has never spent a night with his father.	
	Per the UCCJEA, Tyler and his mother lived with Petitioner from his birth in 2008 through Oct. 2011, and Tyler was returned to Petitioner's sole care in May 2012.	
Aff.Sub.Wit.		
✓ Verified		
Inventory		
PTC		
Not.Cred.		
✓ Notice of Hrg		
Aff.Mail		
Aff.Pub.		
Sp.Ntc.		
✓ Pers.Serv.	w/o	
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Letters		
✓ Duties/Supp		
Objections		
Video Receipt		
CI Report		
9202		
Order		
Aff. Posting		
Status Rpt		
✓ UCCJEA		
Citation		
FTB Notice		

NEEDS/PROBLEMS/COMMENTS (Cont'd):

3. **Need actual POH pursuant to Cal. Rules of Court 7.550.** (Petitioner states the approximate POH includes cash in the same amount as originally inventoried as of the date of death. However, Petitioner also states the real properties were rented during administration, with rents received and deposited and income used to pay the property expenses.)
- Declaration filed 7-24-12 states the actual POH is \$719.00. The real properties are rented but the amount of rent received is less than the costs to maintain the properties. The additional money required to pay expenses is coming out of the pocket of the individual beneficiaries from funds not part of the probate estate. Therefore, Paragraph 14 should reflect that the actual POH is \$719.00 and Paragraph 18 should reflect that each beneficiary will receive \$11,859.50 in remaining property.
4. **The petition does address the Co-Administrators' statutory compensation.** If waived, need waivers from both Co-Administrators.
- Both co-administrators waive their right to compensation and no compensation is being claimed.

Examiner notes that declaration as to waiver is verified only by Carol Ellsworth. The petition, although verified by Daniel Ellsworth, does not address waiver of compensation.

13 Nicholas Ivan Balero, Alyssa Lexie Duarte, Lucas Moises Duarte, Starr Monique Duarte, and Dominick Alexander Duarte (GUARD/P)

Case No. 11CEPR00774

Atty Perez, Rosie (Pro Per – Paternal Grandmother – Petitioner)

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

<p>Nicholas Ivan Balero (11) DOB: 1-30-01</p>	<p>TEMPORARY GRANTED EX PARTE EXPIRES 7-26-12</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p>
<p>Alyssa Lexie Duarte (10) DOB: 2-12-02</p>	<p>ROSIE PEREZ, Paternal Step-Grandmother of Alyssa, Lucas, Starr, and Dominique, is Petitioner.</p>	<p>1. If diligence is not found, the Court may require further diligence or notice to Nicholas' father "Ralfie."</p>
<p>Lucas Moises Duarte (9) DOB: 12-27-02</p>	<p>Father (Nicholas): UNKNOWN ("RALFIE") - Declaration of Due Diligence filed 7-16-12 states the mother will not disclose any information other than the first name "Ralfie"</p>	
<p>Starr Monique Duarte (7) DOB: 7-6-05</p>	<p>Father (Alyssa, Lucas, Starr, Dominique): LUCAS PEREZ DUARTE - Consent and Waiver of Notice filed 7-16-12</p>	
<p>Dominick Alexander Duarte (4) DOB: 5-28-08</p>	<p>Mother: VANESSA BALERO - Personally served 7-17-12</p>	
<p><input type="checkbox"/> Aff.Sub.Wit.</p>	<p>Paternal grandfather (Nicholas): Unknown</p>	
<p><input checked="" type="checkbox"/> Verified</p>	<p>Paternal grandfather (Alyssa, Lucas, Starr, Dominique): Lucas N. Duarte - Consent and Waiver of Notice filed 7-16-12</p>	
<p><input type="checkbox"/> Inventory</p>	<p>Maternal Grandfather: Manuel Balero Maternal Grandmother: Julie Salinas</p>	
<p><input type="checkbox"/> PTC</p>	<p>Petitioner states the mother brought the children back to live with her on 5-20-12 because they had been evicted from their apartment. Dominick (4) has been in Petitioner's care since March.</p>	
<p><input type="checkbox"/> Not.Cred.</p>	<p>The mother is living somewhere else with her boyfriend. She does not pay attention to the children and forgets that she is their mother. She seldom calls and does not visit often. She forgets that the children need her. She does not provide financial assistance. Petitioner states she and her husband are raising their grandchildren as best they know how, but it is not fair that the mother gets all their income and does not provide for them.</p>	<p>Reviewed by: skc Reviewed on: 7-20-12 Updates: Recommendation:</p>
<p><input checked="" type="checkbox"/> Notice of Hrg</p>	<p>Petitioner requests the Court excuse notice to the mother because the children are scared to go back to live with the mother's boyfriend because they say he is mean.</p>	<p>File 13 – Duarte & Balero</p>
<p><input type="checkbox"/> Aff.Mail</p>		
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