

Atty Kruthers, Heather H., of County Counsel's Office (for Public Guardian)

Status Hearing Re: Filing of the Fourth Account

		<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <p><b>OFF CALENDAR</b></p> <p><i>Fourth Account Current and Report of Conservator was filed on 7/28/2014, and is set for hearing on 9/4/2014.</i></p>
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Citation		
FTB Notice		
		Reviewed by: LEG
		Reviewed on: 8/5/14
		Updates:
		Recommendation:
		File 1 - Green

**Petition for Substituted Judgment to Modify Conservatee's Revocable Survivor's Trust**

		<b>BROOKE A. CASTLE</b> , Granddaughter and Conservator, is Petitioner.	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <p><b>Note:</b> \$435 remains due from Clayton James Stott for the hearing required on the matter of his Ex Parte Application for Order Limiting Powers of Conservator as ordered per minute order on 2-5-14.</p> <p><b>Note:</b> Pursuant to Minute Order 2-5-14, both matters were granted and orders as modified by the minute order were to be submitted for signature; however, it does not appear that orders were submitted.</p> <p><b>Note:</b> Clayton James Stott was previously represented by Attorney Paul Franco; however, pursuant to Substitution filed 2-19-14, he is now represented by Attorney Gary Molsenbocker.</p> <ol style="list-style-type: none"> <li>1. This petition for substituted judgment, in essence, seeks to remove the existing current trustee Clayton James Stott, from office in a trust which was previously created by the Conservatee prior to conservatorship. An action for removal would need to be brought in a separate case under applicable law and with appropriate notice. See Probate Code §§ 17200, 15642, etc. Regardless of whether substituted judgment is granted, a separate trust action must be filed and heard under applicable law.</li> <li>2. The Court may require clarification as to why substituted judgment for an entirely new trustee is preferable to the named successor trustee, Darlene Stott, if Clayton James Stott is removed.</li> <li>3. Petitioner appears to assume that this modification requires continuing jurisdiction. However, Cal. Rules of Court 7.903 applies to trusts <u>funded</u> by Court order under Probate Code §2580. This trust was already funded and the modification does not affect the assets or funding. Therefore, need clarification and authority for continuing jurisdiction.</li> </ol> <p>Please also note, again, that if this petition is granted, a <u>separate</u> trust action must be filed. See #1 above and Local Rule 7.1.2.</p>
		<b>Petitioner states</b> she was appointed as Conservator of the Person and Estate of Patricia Stott on 8-15-13.	
<b>Cont. from 031114</b>		Patricia Stott's immediate family consists of a sister, a daughter-in-law, adult grandchildren, and her stepson, Clayton James "Jim" Stott, who is currently the trustee of the Conservatee's revocable survivor's trust executed on 2-15-13.	
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<input checked="" type="checkbox"/>	Order	<p>Petitioner requests to modify the Conservatee's current revocable Survivor's Trust solely for the purpose of appointing a third party professional fiduciary, <b>H.F. RICK LEAS</b>, with Central Valley Fiduciary Services, as sole acting trustee. The Conservatee has indicated to Petitioner that in an effort to diminish any continued conflict between the trustee (Mr. Stott) and the conservator (Petitioner), she wishes to have a neutral fiduciary act as the sole trustee of her survivor's trust.</p> <p>Currently, Ms. Castle, as conservator of the estate, is reliant upon Mr. Stott to provide sufficient funds from the trust to the conservatorship estate in order to pay the conservatee's numerous bills and living expenses. As this Court is well aware, the parties in this matter have sought the Court's assistance on several occasions to resolve their disputes.</p> <p>Mr. Leas is agreeable to act as trustee and is named in the proposed trust (Exhibit A). On the conservatee's death, the trustee will distribute as currently provided in the conservatee's existing estate plan. Petitioner is informed and believes that the Conservatee is in favor of the proposed action, and the proposed action would have no adverse effect on the estate.</p>	
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		<b>SEE ADDITIONAL PAGES</b>	
		Reviewed by: skc	
		Reviewed on: 8-6-14	
		Updates:	
		Recommendation:	
		File 2A – Stott	

## Page 2

**Petitioner states** the Conservatee as a reasonably prudent person would indeed take the proposed action herself if not under a conservatorship. Petitioner states the Conservatee originally felt "badgered" by Mr. Stott with issues related to her financial assets, most of which are held in the trust, and therefore nominated Petitioner as her conservator. Most recently, for several months, Mr. Stott has failed to provide any funds to Ms. Castle from the trust which are necessary for Ms. Castle to pay the conservatee's bills and expenses. As such, Ms. Castle is unable to perform her duties as conservator.

As stated, the Conservatee has requested that a neutral person take over the responsibilities as trustee of her trust in order to alleviate the ongoing conflict between Mr. Stott and Ms. Castle and for the Conservatee's personal well-being and benefit.

The proposed modified trust (Exhibit A) includes the same provisions for distribution on the conservatee's death as the current trust, and becomes a trust subject to continuing jurisdiction under Cal. Rules of Court 7.903.

**Petitioner requests an order:**

1. **Authorizing and directing BROOK A. CASTLE, as Conservator of the person and estate of PATRICIA G. STOTT, to execute and date the modified proposed trust (entitled THE PATRICIA STOLL GREGORY STOTT REVOCABLE SURVIVOR'S TRUST ESTABLISHED PURSUANT TO COURT ORDER), attached as Exhibit A to this order, on behalf of PATRICIA G. STOTT, pursuant to California Probate Code Sections 2580(a)(1) and 2580(b)(11)(A); and**
2. **For such other and further relief as the Court deems proper.**

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**Objections filed 3-10-14 by Clayton James Stott state** he has served as successor trustee for a number of years, is presently serving as the sole successor trustee at the special request and insistence of Patricia Stott Gregory Stott aka Patricia Stott, the Conservatee. Objector is informed and believes that there is no basis in law for Petitioner's request; neither Probate Code §2580(a) nor §2580(b)(11)(A) and §2580 provide for removal of a currently serving successor trustee who is not in breach of his duties as trustee. The Conservatee, while fully competent prior to appointment of Petitioner as conservator, nominated, elected, and appointed Objector as a successor trustee over her estate, entrusted and surrender her investment account to Objector and his brother Timothy Stott as successor co-trustees some years ago. Timothy Stott passed away in July 2012. Objector has had recent discussions with the Conservatee and she has assured him that it is her preference that he remain in place.

**Hearing Re: the Accounting on the Conservatorship and the Trust**

	<b>BROOKE CASTLE</b> , Granddaughter, was appointed Conservator of the Person and Estate on 8-15-13 without bond.	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <p><b>Note:</b> At the original hearing on appointment on 8-15-13, the Court set a status hearing for the filing of the Conservator's first account for 9-5-14.</p> <p><b>Note:</b> As noted at Page A, the trust is not before the Court. Any issues involving the trust, including petitions regarding modification or accounting, must be brought in a separate case under applicable law and with appropriate notice. See Probate Code §17200 et seq.</p> <p><b>Update:</b> Status Report filed 8-6-14 by Attorney Motsenbocker (attorney for Clayton James Stott) states the trust accounting is in the works and will be filed within 45 days.</p> <p><b>Examiner's Note:</b> If an accounting is to be filed regarding the trust, it should be filed into a new case for the trust, and <u>not</u> in this conservatorship case.</p>
	On 2-3-14, the Conservator filed the Petition for Substituted Judgment to Modify Conservatee's Revocable Survivor's Trust. The matter was set for hearing on 3-11-14. See Page A.	
	At the hearing on 3-11-14, the matter was continued to 8-8-14, and the Court also set this Status Hearing Re: The Accounting on the Conservatorship and the Trust.	
<b>Aff.Sub.Wit.</b>		
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<b>Citation</b>		
<b>FTB Notice</b>		
		<b>Reviewed by:</b> skc
		<b>Reviewed on:</b> 8-6-14
		<b>Updates:</b>
		<b>Recommendation:</b>
		<b>File 2B – Stott</b>

Atty Ratzlaff, Ruth E., sole practitioner, of Kingsburg

Status Hearing Re: Filing of the Thirteenth Account

<b>Age: 58 years</b>	SYLVIA GONZALES, sister, was appointed Conservator of the Person and Estate in 1986. Bond is posted of <b>\$42,000.00</b> .	<b>NEEDS/PROBLEMS/COMMENTS:</b>
	<i>Order Settling Twelfth Account and Report of Sole Surviving Successor Co-Conservator, Petition for Issuance of Letters to Surviving Co-Conservator as Sole Conservator, etc. filed 6/11/2013</i> shows the balance at the end of the account period as <b>\$202,555.53</b> (which includes cash in the sum of <b>\$52,642.16</b> .)	1. Need Thirteenth Account.  <b>Note:</b> Minute Order dated 8/16/2013 from the Status Hearing Re Issuance of Amended Letters of Conservatorship states: "Counsel informs the Court that she now has the necessary paperwork to obtain the amended letters." It appears from the <i>Order Settling Twelfth Account</i> filed 6/11/2013 that Sylvia Gonzales had been affirmed as sole surviving Co-Conservator, and amended letters of conservatorship were to be issued reflecting that status. Court records show that on 8/21/2013, first amended orders were submitted to the Clerk's Office. However, Court records do not show that amended order or letters were ever issued.
<b>Cont. from</b>		
<input type="checkbox"/> Aff.Sub.Wit.	<i>Minute Order dated 6/11/2013</i> from the hearing on the Twelfth Account set the matter for status hearing on 8/8/2014 for filing of the thirteenth account of the conservatorship.	
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		<b>Reviewed by:</b> LEG
		<b>Reviewed on:</b> 8/5/14
		<b>Updates:</b>
		<b>Recommendation:</b>
		<b>File 3 – Larssen</b>

**4 Abelina Z. Hernandez (Estate)**

**Case No. 13CEPR00087**

**Atty Willoughby, Hugh W. (for Oswald L. Hernandez – son)**

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

<b>DOD: 04/24/10</b>	OSWALD L. HERNANDEZ, son, was appointed Executor with full IAEA and without bond on 03/06/13. Letters Testamentary were issued on 03/07/13.	<b>NEEDS/PROBLEMS/COMMENTS:</b>
	Inventory & Appraisal, Final, filed 05/28/13 - \$32,000.00	1. Need Account/Report on Waiver of Account and Petition for Final Distribution <u>and/or</u> current written status report.
<b>Cont. from</b>		
<b>Aff.Sub.Wit.</b>		
<b>Verified</b>		
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<b>Citation</b>		
<b>FTB Notice</b>		
		<b>Reviewed by:</b> JF
		<b>Reviewed on:</b> 08/05/14
		<b>Updates:</b>
		<b>Recommendation:</b>
		<b>File 4 – Hernandez</b>

<b>DOD: 11/26/12</b>	<p><b>BETTY PHILLIPS and ROSE LEE LITTLE,</b> sisters, were appointed Co-Executors with full IAEA and without bond on 06/11/13. Letters Testamentary were issued on 06/11/13.</p>	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <p>2. Need Account/Report on Waiver of Account and Petition for Final Distribution <u>and/or</u> current written status report.</p>
<b>Cont. from</b>		
<b>Aff.Sub.Wit.</b>	Inventory & Appraisal, partial no. 1, filed 02/13/14 - \$615,000.00	
<b>Verified</b>		
<b>Inventory</b>		
<b>PTC</b>	Inventory & Appraisal, final, filed 07/17/14 - \$63,096.95	
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		<b>Reviewed by: JF</b>
		<b>Reviewed on: 08/05/14</b>
		<b>Updates:</b>
		<b>Recommendation:</b>
		<b>File 5 – Kiramidjian</b>

DOD: 01/21/14		<b>NEEDS/PROBLEMS/COMMENTS:</b>  <p style="text-align: center;"><b><u>OFF CALENDAR</u></b>  <b>Final Inventory &amp; Appraisal</b>  <b>filed 05/09/14</b></p>
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		Reviewed by: JF
		Reviewed on: 08/05/14
		Updates:
		Recommendation:
		File 6 – Watson