

Atty Motsenbocker, Gary L., sole practitioner (for Petitioner Public Guardian, Conservator)
 Atty Knudson, David, sole practitioner (for Respondent Virginia Greggains, daughter)
 Atty J. Stanley, Teixeira, sole practitioner (Court-appointed for Conservatee)

Status Re: (1) Petition Requesting Relief for Breach of Fiduciary Duty; and (2) for an Accounting and (3) for Conversion of Personal Property and (4) for Elder Abuse and (5) for Damages

| | | | |
|---|--|---|----|
| Age: 90 years | <p>PUBLIC GUARDIAN, Conservator of the Person and Estate, is Petitioner.</p> <p>Petitioner states:</p> <ul style="list-style-type: none"> The Conservatee was at all relevant times a dependent adult under the care, custody and control of Respondent, VIRGINIA "GINGER" GREGGAINS, daughter; The Conservatee was not competent or capable of handling her personal finances or financial affairs and was entirely dependent upon Respondent to do so for her; Respondent had a confidential relationship with the Conservatee and her husband, ELMER FLY (DOD 11/8/2008), as their child; Petitioner alleges Respondent was responsible in some manner for the occurrences alleged herein and the damages proximately caused thereby; Elmer and the Conservatee executed a DECLARATION OF TRUST, ELMER V. AND JULIA B. FLY, naming Respondent as Successor Trustee; the Trust was amended several times, the latest being the <i>Third Amendment</i> dated 3/24/2008 (copy of Restated Trust and two subsequent amendments attached as Exhibits A, A-1 and A-2); Petitioner has no knowledge if there was an intervening amendment between the <i>Restatement of Trust</i> dated 9/25/2000 and the <i>Second Amendment</i> dated 2/7/2008; <p align="center">~Please see additional page~</p> | <p>NEEDS/PROBLEMS/COMMENTS:</p> <p>Page 1B is <i>Second Account Current and Report of Conservator, etc.</i> filed 2/14/2012 by Public Guardian.</p> <p>Page 1C is <i>Petition for Confirmation of Actions of Attorney-in-Fact, Response to Petition Requesting Relief for Breach of Fiduciary Duty, for an Accounting, etc., and Objection to Second Account of Conservator</i> filed 3/26/2012 by Virginia Greggains.</p> <p>Page 1D is the Status Hearing set at the last hearing.</p> <p>Continued from 7/11/2012. Minute Order states Counsel advises the Court that they are in the process of settling the matter. Counsel requests that the matter be set for status hearing.</p> | |
| Cont. from 021612, 041712, 050912, 071112 | | | |
| Aff.Sub.Wit. | | | |
| ✓ Verified | | | |
| Inventory | | | |
| PTC | | | |
| Not.Cred. | | | |
| ✓ Notice of Hrg | | | |
| ✓ Aff.Mail | | | W/ |
| ✓ Summons | | | |
| ✓ Sp.Ntc. | | | W/ |
| ✓ Pers.Serv. | | | W/ |
| Conf. Screen | | | |
| Letters | | | |
| Duties/Supp | | | |
| Objections | | | |
| Video Receipt | | | |
| CI Report | | | |
| 9202 | | | |
| Order | | | X |
| Aff. Posting | | | |
| Status Rpt | | | |
| UCCJEA | | | |
| Citation | | | |
| FTB Notice | | | |
| <p>Reviewed by: LEG /KT</p> <p>Reviewed on: 8/9/12</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 1A - Fly</p> | | | |

Petitioner states, continued:

- Respondent has been the sole Successor Trustee of the Trust since December of 2007 or early 2008, and she acted in several matters on behalf of the Conservatee and Elmer using General Durable Powers of Attorney (*copy attached as Exhibit B*);
- Petitioner possesses certain transactional documents and forms which Respondent signed in her capacity as "power of attorney in fact" in which she indicated she held the power for both Conservatee and Elmer, and these transactional documents conclusively establish that Respondent was acting in a fiduciary capacity for Conservatee;
- Petitioner possesses copies of a number of checks written on an account in the names of Conservatee, Elmer, and Virginia "Ginger" Greggains (Respondent); the transactions in this account are the prime source of a number of questionable expenditures made by Respondent from Conservatee's funds; the address on the checks is the personal residence of Respondent; a number of checks were written, signed and made payable to Respondent as well as to Respondent's husband, **STEPHEN ROY GREGGAINS**, each in the amount of **\$5,000.00**;
- In early 2008, Respondent contacted **SOUTAS & ASSOCIATES**, a firm engaged in Medi-Cal planning services, and in connection with the consultation, Respondent agreed to purchase an annuity on behalf of Conservatee and signed an application for an annuity with OM Financial Life Insurance on 5/29/2009 of **\$159,983.79**;
- On the annuity application, Respondent stated Conservatee held cash and investment accounts valued at **\$357,000.00**; the application contains handwritten entries detailing **\$82,000** in "Investment Experience and Holdings," **\$200,000** in "Money Market" accounts, and **\$75,000** in "Other Mutual Funds" accounts;
- As of 9/12/2008, the date of **PUBLIC GUARDIAN'S** appointment as temporary conservator, Respondent surrendered **~\$231,000.00** in accounts, and it appears that **\$120,000.00** in cash and investments accounts asserted to have existed by Respondent in May 2008 is missing;
- **Respondent should be ordered to account for all of the cash and investment accounts held by Conservatee from 12/1/2007 to the date Respondent surrendered the assets in her possession to the Public Guardian;**
- Respondent arranged for the removal and disposition of jewelry, motor vehicles, household furniture and furnishings, and several personal property items belonging to the Conservatee contained in her personal residence, in anticipation of the sale of the residence by Respondent; Petitioner alleges Respondent personally took and/or made gifts to family members of a number of the items from the residence, she sold some of the personal property at several yard sales, and she did not account to the principals for any of the proceeds or disposition of the items;
- Petitioner alleges that Respondent made gifts of motor vehicles that belonged to the Conservatee to family members without consideration; she removed and disposed of a number of plants growing on the residential property of Conservatee which are believed at the time to be worth thousands of dollars; she used funds belonging to the Conservatee to purchase and make improvements on her own residence, to make the down payment on a personal vehicle for herself, and to pay off a personal loan that she and her husband owned on a travel trailer;
- The Conservatee's financial status at present is tenuous at best; her annuity payments and monthly income are sufficient to fund her care for ~2 years; Petitioner has been unable to modify the annuity payments from the original terms to allow monthly payments, which combined with her income would sustain payments of **\$5,625.00 per month** to her residential facility; it is anticipated that additional funds will be necessary to sustain the Conservatee in her present environs.

~Please see additional page~

Dept. 303, 9:00 a.m. Wednesday, August 15, 2012

Petitioner states, continued:Causes of Action:

1. **Breach of Fiduciary Duty:** Respondent as Successor Trustee owed a fiduciary duty to the Petitioner and Respondent had a duty to exercise the utmost care, integrity, honesty and loyalty in her dealings with Conservatee's property in her capacity as attorney in fact for Conservatee or in her capacity as trustee of Conservatee's Trust; in breach of her fiduciary duty, Respondent deposited Trust funds into her own personal account; she took Conservatee's funds and used them for her own benefit, she took possession of Conservatee's personal property and the proceeds from sale of such property and converted those funds to her own use; the actions of Respondent accrued to the detriment of the Conservatee; Respondent know or should have known that her acts would accrue to the detriment of the Conservatee and that she did all of these acts in patent "bad faith" with the intent of depriving the Conservatee of her property without good and sufficient consideration and in violation of her duty to the Conservatee;
 - Respondent has not rendered an account of her administration of the personal property and funds of Conservatee as required by law, and has not accounted to Conservatee or her legal representative for her actions as to the Conservatee's assets and their disposition; she has provided inaccurate and incomplete information regarding the assets taken for her benefit; **Petitioner requests the Court order Respondent to render a verified detailed account of her handling of the financial and personal affairs of the Conservatee from 12/1/2007 to the present and to serve that account to Petitioner within 90 days of the hearing.**
 - Respondent owed the Conservatee a duty to act in scrupulous good faith and absolute candor; Respondent breached her fiduciary duty to the Conservatee by failing to preserve the Conservatee's property, failing to deal impartially with the Conservatee's assets, failing to administer the affairs in Conservatee's best interest, failing to keep the Conservatee and her representatives reasonably informed, failing to keep Conservatee's property separate from her own property, converting Conservatee's property to her own use and enjoyment, and failing to maintain cash held on behalf of Conservatee in interest bearing accounts; Respondent should be ordered to respond in damages for each and every breach of fiduciary duty, wrongful act and/or both as provided for in the law;
 - Respondent's acts in this mater constitute breach of fiduciary duty, as she engaged in self-dealing, she breached her duties of loyalty and impartiality, and all acts of Respondent alleged herein were patently unfair and prejudicial to the interest of the Conservatee and her estate; Respondent failed to observe the directions and intent of the Settlers as expressed in their Trust, and all acts of Respondent in regards to the Trust were done "in bad faith" with intent to deprive Conservatee of property to which she is rightfully entitled and constitute breach of trust; **Petitioner alleges Conservatee is entitled to damages with interest as provided in the Code, or in the alternative that Respondent be ordered to pay damages in an amount equal to double the value of all property taken, concealed and/or disposed of by Respondent in bad faith according to proof.**
 - Petitioner alleges Respondent did all of the acts alleged with the intent to deprive the Conservatee of her property while she held a fiduciary relationship with Conservatee, and that any and all actions of Respondent were in violation of her fiduciary duty and **should be adjudged voided and set aside, and the assets or the value of the assets should be ordered returned and any loss incurred should be surcharged against Respondent.**

~Please see additional page~

Causes of Action, continued:

2. **Conversion:** The acts of Respondent as set forth constitute conversion of the Conservatee's property; Respondent without legal claim, privilege or right seized and disposed of the tangible personal property of the Conservatee, the Conservatee and/or her estate sustained damages thereby equal to the value of the property at the time it was converted by Respondent; **Respondent should be ordered to respond in damages proximately caused by her actions.**

3. **Abuse of an Elderly Person:** For a time period to be proven at trial, but no later than December 2007, the Conservatee was elderly, suffering from diminished mental capacity and was easily subjected to be taken advantage of by designing persons such as Respondents; with knowledge of this, each Respondent schemed to take advantage of the Conservatee and intended to cheat her out of her interest in the property; in furtherance of said scheme, which each Respondent concealed from the Conservatee, each Respondent exercised complete dominion and control over the Conservatee's assets and gained knowledge of her assets and property; the conduct of each Respondent resulted in the deprivation of Conservatee's assets which are necessary for her care and ongoing maintenance;
 - The conduct of each Respondent constitutes financial abuse under Welfare & Inst. Code § 15657 as defined in § 15610.30; each Respondent is guilty of recklessness, oppression, and fraud, and acted with malice against the Conservatee in the commission of the abuse; the conduct of each Respondent was in no way for the benefit of Conservatee and was willful and wanton, and was intended to cause injury to her; **the Conservatee is entitled to an award of exemplary or punitive damages;**
 - **Under Welfare & Inst. Code § 15657(a), each Respondent is liable to the Conservatee for reasonable attorney fees and costs, including reasonable fees for the services of the Public Guardian, as Conservator of her Estate, and their attorney for his services provided to litigate this claim necessitated by conduct of each Respondent.**

4. **Constructive Trust:** Respondent Greggains and the unnamed Respondents each have wrongfully taken, transferred, concealed and otherwise deprived the Conservatee of funds and/or personal property which rightfully belongs to her, and they therefore have become the involuntary trustees of said property for the benefit of the Conservatee; **Respondents should be ordered to surrender and deliver said property to the Conservatee and/or the Petitioner, her legal representative.**

Petitioner prays the Court Order:

1. Respondent must render a detailed and correct account for all property held and administered by her, either as Trustee and/or as agent under her power of attorney within 90 days of the date of the initial hearing, for the period from 12/1/2007 to the date she surrendered the Conservatee's funds and property to the Public Guardian;
2. Respondent must respond in damages for all property taken and/or wrongfully appropriated by her, or for funds and/or property that is missing or unaccounted for, together with interest at the legal rate per annum, from the date of the breach of trust and/or fiduciary obligation;
3. Respondent must respond in damages together with interest at the legal rate per annum from the date of breach of trust and/or fiduciary obligation;
4. Respondent and the unnamed Respondents must respond in exemplary damages for their outrageous, reckless, oppressive, fraudulent and malicious conduct in this matter;

~Please see additional page~

Petitioner prays the Court Order, continued:

5. In the alternative, Respondents must respond in damages in an amount equal to twice the value of property taken, concealed and/or disposed of by her "in bad faith;"
6. Respondent and the unnamed Respondents must respond in actual damages caused to the Conservatee by their conversion of her tangible personal property;
7. Respondent and the unnamed Respondents are found guilty of elder abuse and are assessed all the damages afforded the Conservatee under the law, including actual damages, exemplary damages, and attorney fees and costs;
8. A Constructive Trust is imposed on all assets taken by the Respondent and the unnamed Respondents for any property and sums the Court determines are rightfully due the Conservatee for their wrongful conduct; and
9. Attorney's fees and costs of suit are awarded as provided for in the law.

Atty Motsenbocker, Gary L., sole practitioner (for Petitioner Public Guardian, Conservator)
 Atty Knudson, David, sole practitioner (for Respondent Virginia Greggains, daughter)
 Atty J. Stanley, Teixeira, sole practitioner (Court-appointed for Conservatee)

(1) Second Account Current and Report of Conservator and (2) Petition for Allowance of Compensation to Conservator and Attorneys (Prob. C. 2620, 2623, 2640, 2942)

| | | |
|---|--|--|
| Age: 90 years | PUBLIC GUARDIAN , conservator, is petitioner. | NEEDS/PROBLEMS/COMMENTS: Continued from 7/11/2012. Minute Order states Counsel advises the Court that they are in the process of settling the matter. Counsel requests that the matter be set for status hearing. |
| | Account period: 1/20/2010 – 1/19/2012 | |
| | Accounting - \$313,100.83 | |
| | Beginning POH - \$287,627.99 | |
| | Ending POH - \$140,331.40 | |
| Cont. from 032712, 041712, 050912, 071112 | Conservator - \$3,660.40 (26.95 Deputy hours @ \$96/hr and 14.20 Staff hours @ \$76/hr) | |
| Aff.Sub.Wit. | Attorney (County Counsel)- \$690.00 (4.6 hours @ \$150/her) | |
| ✓ Verified | Attorney (Motsenbocker) - \$6,863.83 (25.50 hours @ \$250/hr plus filing fee of \$395.00 and Fed Ex copies of \$93.83) | |
| Inventory | Bond fee - \$1,510.50 (o.k.) | |
| PTC | Petitioner prays for an Order: | |
| Not.Cred. | 1. Approving, allowing and settling the Second Account and Report of Conservator; | |
| ✓ Notice of Hrg | 2. Authorizing conservator's compensation; | |
| ✓ Aff.Mail W/ | 3. Authorizing payment of attorney fees; | |
| Aff.Pub. | 4. Authorizing payment of the bond fee. | |
| Sp.Ntc. | Court Investigator Jennifer Young's Report filed on 1/24/12. | |
| Pers.Serv. | | |
| Conf. Screen | | |
| Letters | | |
| Duties/Supp | | |
| Objections | | |
| Video Receipt | | |
| ✓ CI Report | | |
| 9202 | | |
| ✓ Order | | |
| Aff. Posting | | |
| Status Rpt | | |
| UCCJEA | | |
| Citation | | |
| FTB Notice | | |
| | | Reviewed by: KT / LEG /KT |
| | | Reviewed on: 8/9/12 |
| | | Updates: |
| | | Recommendation: |
| | | File 1B - Fly |

Respondent states, continued:

- Per the Restated Trust as amended by the Third Amendment, all assets are held in trust for the benefit of Elmer and Julia during their lifetimes and during the lifetime of the survivor; following Julia's death, the assets are to be distributed $\frac{1}{2}$ to **Ginger** and $\frac{1}{2}$ to the **Settlor's three grandchildren, ERIC (RICK) GREGGAINS, JULIE BANKS and TINA COX in equal shares**;
- Trust provides that on failure of the initial Trustees Elmer and Julia to act as Trustees, Ginger was to act as Successor Trustee, and the original Trust named **JULIE BANKS**, granddaughter, as an alternate, while the Third Amendment named Ginger's spouse, **STEPHEN ROY GREGGAINS (Roy)** as alternate successor trustee to Ginger;
- On 3/21/2008, Julia also executed a General Durable Power of Attorney (POA) (*copy attached as Exhibit B*), which designated Ginger as attorney-in-fact and Stephen as alternate agent;
- In December 2007, Elmer suffered a massive stroke and heart attack, and was moved several times to different care facilities due to his becoming violent and disruptive, and after a second heart attack, he was moved on 3/5/3008 to Alzheimer's Living Center at Elim ("Elim");
- In June 2008, after Julia's condition declined and was taken by ambulance several times to the hospital, she was required to live at Elim, as she could no longer live with Ginger and her husband in their home in the room they had prepared in August 2007 with safety rails and monitors for Julia and Elmer in the event they were no longer able to live independently;
- From the time of Elmer's hospitalization in December 2008, the family was constantly harangued by Ginger's daughter, **JULIE BANKS** and her husband **JOHN BANKS**, and they also had disrupted the living facilities, and had to be asked to leave or restricted from visiting Elmer and Julia at Elim;
- Elmer had asked John Banks after Elmer's hospitalization to remove guns from under Elmer's bed and put them in the gun safe at his residence; after the gun safe was checked at a later time, it was discovered the guns and **\$5,000.00** cash in the safe was missing; this and the Banks' disruptive conduct caused Julia mental suffering and anguish;
- Ginger and her husband have at all times followed the advice of physicians, hospitals and care providers for the care of Elmer and Julia; Ginger's intent was always to keep them well cared for;
- As it became evident Elmer and Julia would not return to their own residence, Ginger and family members with concurrence of Julia began cleaning out the residence to prepare it for sale with proceeds to be used for their care if needed; 50 years of belongings were sorted through;
- Following Julia's hospitalization, Ginger paid Elmer and Julia's bills, as she was a joint account holder with Elmer and Julia that was previously established, and their monthly **\$4,700.00** in social security and pensions was deposited into the account which was used to pay their bills;
- Ginger's action was taken first as daughter to provide care for her parents, and as attorney-in-fact under the POA; she did not specifically take actions as Trustee though she was designated successor trustee;
- **Medi-Cal planning to preserve assets:** Ginger sought advice regarding Elmer qualifying for Medi-Cal and the Elim staff referred her to **SOUTAS & ASSOCIATES**; Ginger followed their recommendations to qualify Elmer & Julia to receive Medi-Cal for their continuing care; Ginger was advised in order to qualify Elmer & Julia to move a substantial portion of their liquid assets, make certain pre-need arrangements, and that other funds could be transferred by gift in ways that would not cause ineligibility for Medi-Cal;

~Please see additional page~

Second Additional Page 1C, Julia B. Fly (CONS/PE) Case No.08CEPR00917

Respondent states, continued:

- Julia agreed to the proposed plan and actions taken with her authorization included: prepayment of funeral expenses; payoff of loans, reimburse Ginger and her husband for remodeling expenses done for Elmer and Julia; purchase of annuity (**\$159,983.79**); payment of expenses and transfer of funds; and gifting totaling **\$87,000.00** in amounts not exceeding **\$5,000.00** to family members (*during May, June and July 2008; please refer to summary of dates of gifts and donees attached as Exhibit C*);
- Gifts were made to Ginger her husband Roy (**\$69,000**), Ginger's son Eric and his wife Trina (**\$6,000**), Ginger's daughter, Tina and her husband Curtis (**\$12,000**); because Julie Banks had removed herself from the family and adopted an adversarial position, Julie was not the recipient of any gifts;
- The funds gifted to Ginger and her husband were deposited into the account set aside for her parent's benefit at Washington Mutual and were used to pay certain expenses and costs; (*please refer to summary of transactions in the Washington Mutual account containing the \$69,000 gifted funds to Ginger for the benefit of Elmer and Julia, attached as Exhibit E*);
- Following appointment of Public Guardian as Conservator, the funds in the Washington Mutual account were transferred on 1/13/2009 to Deputy **YOUA HER** along with other accounts in Elmer and Julia's names; unfortunately, by transferring the funds back to Julia's name, the Flys no longer qualified for Medi-Cal;
- **Allegations regarding personal property:** In spring 2008, Ginger and family cleaned up the residence for sale, and held a yard sale where **\$1,400** was received and paid to Eric and Tina and their spouses for the work in readying the property for sale; the payment of **\$1,116** was for hauling away the remaining junk; this information is detailed in an email to Deputy Youa Her on 10/19/2008 (*copy attached as Exhibit G*); Ginger was acting within her POA authority in taking these actions;
- The vehicles were a 1994 truck which was given by Elmer and Julia gave to their grandson Rick and Rick's wife Trina insisted on paying **\$800.00**, and a check was given to Julia when she was managing her own finances; the 2004 Nissan Pathfinder was transferred to Trina in June 3008, as Julia signed it over to Ginger, but Ginger did not need it; the travel trailer acquired in 2006 for taking Julia and Elmer to Idaho had a loan balance due (purchase was made by turning in Ginger and Roy's own trailer as down payment) and per the Souta's recommendation the loan was paid off and trailer sold;
- Respondent (Ginger) is concerned that the Public Guardian's unwinding the annuity has been draining Julia's funds rather than having Julia's expenses paid in part by Medi-Cal, and that the funds will be dissipated more quickly than anticipated; Respondent has been advised that Elmer's pension could be received by Julia and provided this information to the Public Guardian, but they have failed to take action to secure these benefits;
- **Respondent's defense to the accusations of breach of fiduciary duty:** In all of Respondent's dealings she undertook whether under power of attorney or as trustee of her trust, she was in direct communication with her parents concerning the transactions; Julia was fully advised of the transactions and agreed to the gifts, to the Medi-Cal qualification and ratified the gifts and transactions taken on her behalf; Julia (the Conservatee) suffered no detriment as a result of the transactions and in fact Conservatee was benefited by enabling Medi-Cal qualification; at no time did Ginger act recklessly, wantonly or in bad faith, nor did she ever intend to deprive Julia of her property for any purpose; in all actions Ginger took on behalf of her mother and father, she acted with utmost good faith and fairness, with intent to enhance the quality of their living situation and to preserve their assets for their use; any actions taken were authorized under the POA, and all acts and transactions were reported to the Public Guardian Deputy Youa Her and information was fully and completely provided again and again;

~Please see additional page~

Dept. 303, 9:00 a.m. Wednesday, August 15, 2012

Respondent states, continued:

- If the Court determines that in some manner Respondent breached her fiduciary duty by an act not authorized by the trust, the POA or by express consent of Elmer or Julia, Respondent requests that any such breach be excused per Probate Code § 16440(b) such that the financial benefit accruing to Elmer and Julia exceeded any possible loss that might have arisen as a result of Respondent's actions which were taken reasonably and in good faith;
- **Conversion. Elder Financial Abuse. Constructive Trust:** Respondent denies that any of her acts as set forth in the petition with respect to Julia's property constitute conversion as claimed and denies any liability therefor; Respondent denies any financial elder abuse, as Julia did not suffer diminished mental capacity and remained aware of her financial affairs; Respondent has made it known to the Public Guardian that Julia was distraught over actions of harassment and physical and financial abuse by the Banks, but they have taken no actions to explore the charges; Respondent denies that she has wrongfully taken, transferred, concealed or otherwise deprived Julia of funds or personal property and denies she is the voluntary trustee of said property;
- **Respondent believes that Petitioner in bringing these allegations is bringing this petition in bad faith, despite having been in possession of the information set forth in this response, and the Public Guardian should be required to pay damages and attorney's fees to Respondent.**

Respondent's Objection to Petition and to Conservator's Second Account:

- Respondent renews her objection to the Conservator's Second Account that the Conservator has failed to obtain survivor's benefits due to the Conservatee from the Veteran's Administration;
- Respondent further objects to the bringing of the petition in that at all times since Petitioner's appointment as Conservator, Petitioner has been in possession of much of the information which is once again requested in the petition;
- Respondent further objects to the Public Guardian's petition to the extent that the account requests attorney's fees (which will further dissipate the estate) for the research and bringing of such a petition which will not benefit the Conservatee and will further reduce the assets available for her care, now that the Public Guardian has decimated the Medi-Cal planning that would have preserved assets for the Conservatee's benefit.

Respondent requests:

1. That the information set forth herein be accepted by the Public Guardian, and that upon its review the Public Guardian determine that Respondent has adequately and fully accounted for actions taken on behalf of Elmer and Julia Fly;
2. That the request of the Public Guardian for damages of any sort whatsoever be denied;
3. That the Court ratify, confirm and approve all acts taken by Respondent whether as attorney-in-fact under the POA or as trustee of the Elmer V. Fly and Julia Fly Trust as set forth herein; and
4. That the attorney's fees necessarily incurred by Respondent in responding to the allegations of the petition be paid by Petitioner.

1D Julia B. Fly (CONS/PE)

Case No. 08CEPR00917

Atty Molsenbocker, Gary L., sole practitioner (for Petitioner Public Guardian, Conservator)

Atty Knudson, David, sole practitioner (for Respondent Virginia Greggains, daughter)

Atty J. Stanley, Teixeira, sole practitioner (Court-appointed for Conservatee)

Status

| | | | |
|---------------------------------|--|--|---------------------|
| Age: 90 years DOB: 8/11/1922 | <p>PUBLIC GUARDIAN was appointed as Conservator of the Person and Estate on November 4, 2008.</p> <p>PUBLIC GUARDIAN, as conservator of the person and estate, filed a Petition for Relief of Fiduciary Duty, and for an Accounting, and for Conversion of Personal Property alleging the Conservatee's daughter VIRGINIA "GINGER" GREGGINS breached her fiduciary duties under a power of attorney and as Trustee of the conservatee's Trust (see page 1A).</p> <p>PUBLIC GUARDIAN, as conservator of the person and estate, also filed the 2nd Account of the conservatorship (see page 1B).</p> <p>VIRGINIA "GINGER" GREGGINS, daughter and respondent, filed a Petition for Confirmation of Actions of Attorney-in-Fact, Response to Petition Requesting Relief for Breach of Fiduciary Duty, for an Accounting, etc, and Objections to the Second Account of Conservator (see page 1C)</p> <p>Minute Orders from the hearings on 7/11/12 on the above pleadings (page 1A- 1C) indicated the parties are in the process of settling the matters.</p> | <p>NEEDS/PROBLEMS/COMMENTS:</p> <p>1. Need current status report.</p> | |
| Cont. from | | | |
| Aff.Sub.Wit. | | | |
| Verified | | | |
| Inventory | | | |
| PTC | | | |
| Not.Cred. | | | |
| Notice of Hrg | | | |
| Aff.Mail | | | |
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| Letters | | | |
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| Objections | | | |
| Video Receipt | | | |
| CI Report | | | |
| 9202 | | | |
| Order | | | |
| Aff. Posting | | | |
| Status Rpt | | | |
| UCCJEA | | | |
| Citation | | | |
| FTB Notice | | | |
| | | | Reviewed by: KT |
| | | | Reviewed on: 8/9/12 |
| | Updates: | | |
| | Recommendation: | | |
| | File 1D - Fly | | |

1D

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

Second Account Current and Report of Trustee; Petition for Allowance of Compensation to Trustee and Attorney

| | | |
|--|---|---|
| Age: 32 years | Public Guardian , Trustee appointed 11/2/2009, is Petitioner. | <p>NEEDS/PROBLEMS/COMMENTS:</p> <p>Note: Court may require current status report regarding the purchase of the 2010 Ford E150 van from Nor-Cal Mobility for \$44,858.82 as authorized by the Court per order signed 4/21/2011, with title to be held in the SNT; <i>Disbursements</i> schedule of this accounting does not list purchase of the van.</p> <p>Note: <i>Disbursements Schedule C(2)</i> indicates the SNT paid a \$10,000.00 down payment on a real property residence for the SNT Beneficiary and his mother, ELISA MORA, with the property title to be held in his mother's name, per the Court's orders signed 4/21/2011 and 2/14/2011.</p> <p align="center">~Please see additional page~</p> |
| | Account period: 12/24/2010 – 4/30/2012 | |
| Cont. from 071112 | Accounting - \$217,286.24 | |
| Aff.Sub.W | Beginning POH - \$216,854.46 | |
| it | Ending POH - \$204,280.04 (\$194,967.04 is cash) | |
| <input checked="" type="checkbox"/> Verified | Trustee - \$761.60 (6.35 Deputy hours @ \$96/hr and 2.00 Staff hours @ \$76/hr) | |
| Inventory | | |
| PTC | | |
| Not.Cred. | | |
| <input checked="" type="checkbox"/> Notice of Hrg | Attorney - \$1,000.00 (less than per Local Rule 7.16 of \$1,250.00 for timely filed subsequent account, cited by analogy to conservatorship fees) | |
| <input checked="" type="checkbox"/> Aff.Mail | | |
| Aff.Pub. | | |
| Sp.Ntc. | | |
| Pers.Serv. | Bond fee - Waived (SNT beneficiary receives SSI benefits) | |
| Conf. Screen | | |
| Letters | Petitioner prays for an Order: | |
| Duties/S | 1. Approving, allowing and settling the Second Account; and | |
| Objectio | 2. Authorizing the trustee and attorney fees and commissions for services rendered during this account period. | |
| Video Receipt | | |
| CI Report | | |
| 9202 | | |
| <input checked="" type="checkbox"/> Order | | |
| Aff. Post | | |
| Status Rpt | | |
| UCCJEA | | |
| Citation | | |
| FTB Notice | | |
| Reviewed by: LEG / KT | | |
| Reviewed on: 8/9/12 | | |
| Updates: | | |
| Recommendation: | | |
| File 2 - Mora | | |

Additional Page 2, Guillermo Mora Special Needs Trust, Case No. 09CEPR00286

Note: Charges section of the *Summary of Account* contains recording errors as to property on hand and receipts; however, examiner has re-calculated and reviewed the accounting taking into consideration the needed corrections.

Note: Court will set a status hearing for the next account in the following alternatives:

- **Friday, September 13, 2013 at 9:00 a.m. in Dept. 303** if a one-year accounting is required;
OR
- **Friday, September 12, 2014 at 9:00 a.m. in Dept. 303** if a two-year accounting is required.

Pursuant Local Rule 7.5, if the next account is filed 10 days prior to the Court's selected date as noted above, the hearing will be taken off calendar and no appearance will be required.

Dept. 303, 9:00 a.m. Wednesday, August 15, 2012

(1) Petition for Final Distribution on Waiver of Accounting and (2) for Allowance of Compensation for Ordinary Services [Prob. C. 10954]

| | | | | |
|-------------------------------------|-------------------------|--|--|--------------------------------|
| DOD: 06/09/09 | | <p>MAUREEN Y. CLARK, Administrator, is petitioner.</p> <p>I & A - \$300,499.36 POH - \$300,000.00</p> <p>Administrator - waives</p> <p>Attorney - \$8,400.00 (less than statutory to be paid outside of Probate)</p> <p>Costs - \$1,440.00 (Filing Fees, Probate Referee, Publication to be paid outside of Probate)</p> <p>Distribution, pursuant to intestate succession, and agreement of all heirs, is to:</p> <p>Maureen Y. Clark – Real Property</p> <p>Bart M. Fortner - \$21,956.00 (to be paid outside of probate by Maureen Y. Clark)</p> <p>Shannon Rose - \$21,956.00 (to be paid outside of probate by Maureen Y. Clark)</p> | <p>NEEDS/PROBLEMS/COMMENTS:</p> | |
| Cont. from | | | | |
| <input type="checkbox"/> | Aff.Sub.Wit. | | | |
| <input checked="" type="checkbox"/> | Verified | | | |
| <input checked="" type="checkbox"/> | Inventory | | | |
| <input checked="" type="checkbox"/> | PTC | | | |
| <input checked="" 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 checked="" type="checkbox"/> | Letters 10/18/11 | | | |
| <input type="checkbox"/> | Duties/Supp | | | |
| <input type="checkbox"/> | Objections | | | |
| <input type="checkbox"/> | Video Receipt | | | |
| <input type="checkbox"/> | CI Report | | | |
| <input checked="" 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 checked="" type="checkbox"/> | FTB Notice | | | |
| | | | | Reviewed by: KT / LV |
| | | | | Reviewed on: 08/13/2012 |
| | | Updates: | | |
| | | Recommendation: Submitted | | |
| | | File 3 - Clark | | |

4A James L. Rutherford (Estate)

Case No. 12CEPR00016

Atty Keeler, William J., of Garvey Schubert Barer in Portland, OR, and
 Burnside, Leigh W., of Dowling Aaron Incorporated in Fresno, CA
 (together, for Michelle L. Eacret – Niece – Administrator)

Atty LeVan, Nancy (for Robert Jones and Denise Jones – Co-Administrators of the Estate of Sharon Rutherford)

Petition by Personal Representative to Determine Ownership of Estate Property, for Order Authorizing and Directing Conveyance of Title to Petitioner [Probate Code 850(a)(2)(C)] and Memorandum of Points and Authorities in Support Thereof

| | | |
|------------------------------------|---|--|
| James Rutherford DOD: 10-12-11 | MICHELLE L. EACRET, Niece and Administrator with Full IAEA with bond of \$200,000.00, is Petitioner. | NEEDS/PROBLEMS/COMMENTS: <u>Note:</u> Order for Probate filed 3-16-12 specifies that both the Administrator and Objectors Robert Jones and Denise Jones shall not destroy any documents or papers of the decedent or his spouse, Sharon Rutherford (12CEPR00101) and that the parties shall preserve and maintain any such documents or paperwork which they currently have in their possession, or which may come into their possession, and that the parties shall make available for inspection all such documents until further order of the Court. <u>Note:</u> Robert Jones and Denise Jones were appointed Co-Administrators on 3-16-12 of the Estate of Sharon Rutherford (this Decedent’s spouse) in 12CEPR00101. <u>Note:</u> I&A Partial #1 filed 8-1-12 indicates the value of the residence is \$110,000.00. <u>Note:</u> Petitioner filed a Report of Sale on 7-25-12 for Court confirmation of the sale of <u>this property</u> due to objections. <u>Hearing is set for 8-23-12.</u> 1. The residence appears to be a <u>community property</u> asset of the marriage that was held in joint tenancy. Need clarification with reference to Probate Code §100. |
| Sharon Rutherford DOD: 10-11-11 | <p>Petitioner states title to the Decedent's residence was held in joint tenancy by Decedent and his wife, Sharon, who predeceased him. The couple was involved in a car accident and Sharon died first at the scene of the accident on 10-11-11 at 5:15 p.m. James Rutherford survived Sharon, but later died on 10-12-11 at 11:15 a.m.</p> | |
| Aff.Sub.Wit. | <p>Pursuant to California's law of joint tenancy and California Probate Code §§ 6402.5 and 223, once Sharon died, her interest in the residence held in joint tenancy vanished and the estate survived to the then-surviving joint tenant, to the exclusion of Sharon's heirs.</p> | |
| ✓ Verified | <p>James, as the survivor, automatically succeeded to the entirety of the joint tenancy property and thus the residence now belongs entirely and exclusively to the Estate of James Rutherford.</p> | |
| Inventory | Points and Authorities include: | |
| PTC | <ul style="list-style-type: none"> • 1994 Grant Deed reflecting the couple as "Husband and Wife as Joint Tenants" • Probate Code §223 • Numerous cases involving joint tenancy • Standard of "clear and convincing evidence" to determine survivorship of joint tenants. | |
| Not.Cred. | | |
| ✓ Notice of Hrg | | |
| ✓ Aff.Mail | | |
| Aff.Pub. | | |
| Sp.Ntc. | | |
| Pers.Serv. | | |
| 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: 8-10-12 | | |
| Updates: | | |
| Recommendation: | | |
| File 4A - Rutherford | | |

| | | | |
|-----------------------|--|--|---|
| Age: 02/07/11 | <p>ALONDRA PUGA, daughter, MARIA SOCORRO LOPEZ, surviving spouse, MANUEL LOPEZ, JR., son, and ALMA BEJERANO, daughter, are Petitioners.</p> <p>40 days since DOD</p> <p>No other proceedings</p> <p>I & A - \$????? (Not appraised)</p> <p>Decedent died intestate</p> <p>Petitioner requests Court determination that decedent's 50% interest in real property located at 1857 Merlot Way, Salinas, CA pass to ALONDRA PUGA pursuant to intestate succession</p> | <p>NEEDS/PROBLEMS/COMMENTS:</p> <ol style="list-style-type: none"> The Amended Inventory & Appraisal filed 07/11/12 has not been completed by the Probate Referee and no dollar value of the property is stated. Pursuant to Probate Code § 8902(b), real property must be appraised by a Probate Referee. <u>Need Inventory & Appraisal with appraisal of the property by a Probate Referee.</u> The Petition is not marked at item 9(a)(3) regarding issue of a predeceased child. The Petition indicates that decedent died intestate leaving a spouse and 3 living children (due to number 2 above, it is unknown if he also had any predeceased children that left issue). Pursuant to Probate Code § 6401(c)(3), the decedent's surviving spouse is entitled to a 1/3 share of the property and the decedent's 3 children are entitled to equally split a 2/3 share of decedent's estate (assuming he had no pre-deceased children that left issue). Three of the Petitioners (surviving spouse and 1 son and 1 daughter) have filed disclaimers of interest in the property hoping that the property will then pass to daughter, Alondra Puga; <u>however, there is no provision for the use of disclaimers of interest in this type of summary proceeding.</u> Further, pursuant to Probate Code § 282, disclaimers have the effect as if the person disclaiming interest predeceased the decedent. Therefore, even if disclaimers could be validly used in this type of summary proceeding, the disclaimants share would pass to his or her issue and not to Alondra Puga. The Petition does not state whether those persons disclaiming interest have any issue. If there are any other heirs (issue of a predeceased child), need <i>Notice of Hearing</i> and proof of service by mail of the <i>Notice of Hearing</i> at least 15 days before the hearing on all such heirs. | |
| Cont. from | | | |
| Aff.Sub.Wit. | | | |
| ✓ Verified | | | |
| Inventory | | | |
| PTC | | | |
| Not.Cred. | | | |
| Notice of Hrg | | | x |
| Aff.Mail | | | x |
| Aff.Pub. | | | |
| Sp.Ntc. | | | |
| Pers.Serv. | | | |
| Conf. Screen | | | |
| Letters | | | |
| Duties/Supp | | | |
| Objections | | | |
| Video Receipt | | | |
| CI Report | | | |
| 9202 | | | |
| ✓ Order | | | |
| Aff. Posting | | | |
| Status Rpt | | | |
| UCCJEA | | | |
| Citation | | | |
| FTB Notice | | | |
| Reviewed by: JF | | | |
| Reviewed on: 08/10/12 | | | |
| Updates: | | | |
| Recommendation: | | | |
| File 5 – Lopez | | | |

Atty **Hicks, Julie A. (for Linda Strickland – maternal grandmother/Petitioner)**

Atty **Oliva, Anjanina Marie (pro per – mother/objector)**

Petition for Appointment of Guardian of the Person (Prob. C. 1510)

| | | |
|---|--|--|
| Louis, 8 DOB: 09/25/03 | TEMPORARY EXPIRES 08/15/12 | NEEDS/PROBLEMS/COMMENTS: |
| Dawn, 1 year DOB: 07/09/11 | LINDA STRICKLAND , maternal grandmother, is Petitioner. | 1. Need proof of personal service at least 15 days before the hearing of <i>Notice of Hearing</i> with a copy of the <i>Petition for Appointment of Guardianship of the Person</i> <u>or</u> Consent & Waiver of Notice <u>or</u> Declaration of Due Diligence for: - Louis Ledesma (Louis' father) - Dawn's father (unknown) - Anjanina Oliva (mother) 2. Need proof of service by mail at least 15 days before the hearing of <i>Notice of Hearing</i> with a copy of the <i>Petition for Appointment of Guardianship of the Person</i> <u>or</u> Consent & Waiver of Notice <u>or</u> Declaration of Due Diligence for: - paternal grandparents - Juan Oliva* *The Petition states that the maternal grandfather is Dale Barrera, however, per the CI report, the maternal grandfather is Juan Oliva, need clarification and/or proof of service on Mr. Oliva. |
| Cont. from | Father (Louis): LOUIS LEDESMA Father (Dawn): UNKNOWN | |
| <input type="checkbox"/> Aff.Sub.Wit. | Mother: ANJANINA OLIVA – <i>Consent & Waiver of Notice filed 05/23/12; however, objection filed 08/01/12 indicates that she does not agree</i> | |
| <input checked="" type="checkbox"/> Verified | Paternal grandparents (all): UNKNOWN | |
| <input type="checkbox"/> Inventory | Maternal grandfather: DALE BARRERA – served by mail on 06/18/12 | |
| <input type="checkbox"/> PTC | Petitioner states that the children are currently living with her and have lived with her on and off in the past. The mother of the children is addicted to painkillers and alcohol and has had 3 or 4 DUI's since 11/2010, she drives with the children in the car. She sleeps all day and parties all night, leaving Louis to care for Dawn, which is too much for an 8 year old. Dawn has not had her immunizations. Petitioner believes mother may also have mental health issues and she often screams and uses obscenities at the children. Petitioner further states that the mother moves a lot and fails to enroll Louis in school in a timely manner causing him to miss several weeks at a time. Petitioner states that Louis grades are suffering. Petitioner states that the children are in danger of harm if left in their mother's care and guardianship is necessary to keep them safe. | |
| <input type="checkbox"/> Not.Cred. | | |
| <input checked="" type="checkbox"/> Notice of Hrg | | |
| <input checked="" type="checkbox"/> Aff.Mail | | |
| <input type="checkbox"/> Aff.Pub. | | |
| <input type="checkbox"/> Sp.Ntc. | | |
| <input type="checkbox"/> Pers.Serv. | | |
| <input checked="" type="checkbox"/> Conf. Screen | | |
| <input checked="" type="checkbox"/> Letters | | |
| <input checked="" type="checkbox"/> Duties/Supp | | |
| <input checked="" type="checkbox"/> Objections | | |
| <input type="checkbox"/> Video Receipt | | |
| <input checked="" type="checkbox"/> CI Report | | |
| <input type="checkbox"/> 9202 | | |
| <input checked="" type="checkbox"/> Order | | |
| <input type="checkbox"/> Aff. Posting | | |
| <input type="checkbox"/> Status Rpt | | |
| <input checked="" type="checkbox"/> UCCJEA | | |
| <input type="checkbox"/> Citation | | |
| FTB Notice | <p>Objection to Guardianship filed 08/01/12 by Anjanina Oliva, mother, states that there is no detriment to placing the children back in her care. She has cared for them on her own their entire lives. She states that she took care of her legal issues in Oregon and only agreed to temporary guardianship until those issues were resolved. She is now ready for her children to be returned to her care.</p> <p>Court Investigator Julie Negrete filed a report on 07/13/12.</p> | Reviewed by: JF |
| | | Reviewed on: 08/10/12 |
| | | Updates: |
| | | Recommendation: |
| | | File 6 - Barrera |

Probate Status Hearing Re: Status on Estate and Report of Budget

| | | |
|---------------------------------|---|---|
| Age: 62 years DOB: 2/28/1950 | <p>PUBLIC GUARDIAN was appointed conservator of the estate on 7/31/12.</p> <p>At the hearing on the temporary appointment the court extended the Public Guardian's temporary appointment to 5/30/12 [the hearing on the general appointment].</p> <p>At the hearing on the general appointment [5/30/12] the court continued the matter to 6/20/12 at 11:30 a.m. and also set a status conference.</p> <p>At the status conference on 6/20/12 per request of County Counsel the Court dismissed the Conservatorship of the person only. Mr. Lee opposed the conservatorship. Parties were ordered to file a declaration on status of the person and estate including the nearest AA meetings to Mr. Lee's residence. Phone plan was to be worked out between Mr. Lee and Public Guardian. Later and off the record the Court extended the temporary Letters to 7/25/12.</p> <p>Status Report filed by the Public Guardian on 7/23/12 states Deputy Public Guardian Anita Harper received a phone call from the administrator at Harvest, where Mr. Lee is living. Deputy Harper does not give Mr. Lee any cash; the goods he needs are purchased for him. The administrator reported that Mr. Lee has begun leaving the facility and panhandling and going through trash cans of neighbors to get cans, etc. to redeem for cash. He has come back to the facility smelling of alcohol but is not so inebriated that he can't stand. The neighbors have mentioned to the administrator that Mr. Lee is doing these things as well as talking to folks, letting them know about his divorce, the infidelity and the fact that he has \$150,000 in the bank.</p> | <p>NEEDS/PROBLEMS/COMMENTS:</p> <p>Continued from 7/25/12. Minute Order states Mr. Aguirre informs the Court that he needs the accounting.</p> |
| | | |
| | | |
| | | |
| Cont. from 072512 | | |
| Aff.Sub.Wit. | | |
| Verified | | |
| Inventory | | |
| PTC | | |
| Not.Cred. | | |
| Notice of Hrg | | |
| Aff.Mail | | |
| Aff.Pub. | | |
| Sp.Ntc. | | |
| Pers.Serv. | | |
| Conf. Screen | | |
| Letters | | |
| Duties/Supp | | |
| Objections | | |
| Video Receipt | | |
| CI Report | | |
| 9202 | | |
| Order | | |
| Aff. Posting | | |
| Status Rpt | | |
| UCCJEA | | |
| Citation | | |
| FTB Notice | | |
| | <p>Reviewed by: KT</p> <p>Reviewed on: 8/9/12</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 7A - Lee</p> | |

Petition for Payment of Attorney's Fees

| | | | |
|--|----|--|---|
| Age: 62 years | | <p>L. KIM AGUIRRE, attorney for the Conservatee, is petitioner.</p> <p>PUBLIC GUARDIAN was appointed Conservator of the Estate on 7/31/12.</p> <p>Petitioner requests fees in connection with the representation of the Conservatee for the PUBLIC GUARDIAN'S petition to appoint a conservator.</p> <p>Petitioner asks that he be paid from the conservatorship estate for 8.80 hours @ \$275.00 per hour for a total of \$2,420.00.</p> <p>Services are itemized by date and include review of documents, visits with client, and court appearances.</p> | <p>NEEDS/PROBLEMS/COMMENTS:</p> <ol style="list-style-type: none"> Petition is not verified. Probate Code §1021. Need proof of service of the Notice of Hearing on: <ol style="list-style-type: none"> Mark Carlson Lee (conservatee) pursuant to Probate Code §1460(b)(2). Heather Kruthers (attorney for the Public Guardian) pursuant to California Rules of Court, Rule 7.51 (b). |
| DOB: 2/28/1950 | | | |
| Cont. from | | | |
| Aff.Sub.Wit. | | | |
| Verified | X | | |
| Inventory | | | |
| PTC | | | |
| Not.Cred. | | | |
| <input checked="" type="checkbox"/> Notice of Hrg | | | |
| Aff.Mail | | | |
| Aff.Pub. | | | |
| Sp.Ntc. | | | |
| <input checked="" type="checkbox"/> Pers.Serv. | W/ | | |
| Conf. Screen | | | |
| Letters | | | |
| Duties/Supp | | | |
| Objections | | | |
| Video Receipt | | | |
| CI Report | | | |
| 9202 | | | |
| <input checked="" type="checkbox"/> Order | | | |
| Aff. Posting | | | |
| Status Rpt | | | |
| UCCJEA | | | |
| Citation | | | |
| FTB Notice | | | |
| | | Reviewed by: KT | |
| | | Reviewed on: 8/9/12 | |
| | | Updates: | |
| | | Recommendation: | |
| | | File 7B - Lee | |

(1) Third Account Current and Report of Conservator and (2) Petition for Allowance of Compensation to Conservator and her Attorney

| | | | |
|--|--|------------------------------|--|
| Age: 71 | PUBLIC GUARDIAN , Conservator, is | | <p>NEEDS/PROBLEMS/COMMENTS:</p> <p>Note: A Status hearing will be set as follows:</p> <ul style="list-style-type: none"> Friday, 08/08/2014 at 9:00am in Dept. 303 for the filing of the fourth account. <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> |
| DOB: 10/13/1940 | Petitioner. | | |
| | Account period: 03/18/2011-06/15/2012 | | |
| | Accounting - | \$401,323.79 | |
| | Beginning POH - | \$389,406.79 | |
| | Ending POH - | \$136,080.15 | |
| Cont. from | Conservator - | \$2,754.60 (18.60 | |
| | Deputy hours @ \$96/hr and 12.75 Staff hours | at \$76/hr) | |
| <input type="checkbox"/> Aff.Sub.Wit. | Attorney - | \$1,562.50 (per Local | |
| <input checked="" type="checkbox"/> Verified | Rule) | | |
| <input type="checkbox"/> Inventory | Bond fee - | \$480.98 (o.k.) | |
| <input type="checkbox"/> PTC | Petitioner prays for and Order: | | |
| <input type="checkbox"/> Not.Cred. | 1. Approving, allowing and settling the | | |
| <input checked="" type="checkbox"/> Notice of Hrg | third account. | | |
| <input checked="" type="checkbox"/> Aff.Mail w/ | 2. Authorizing the conservator and | | |
| <input type="checkbox"/> Aff.Pub. | attorney fees and commissions. | | |
| <input type="checkbox"/> Sp.Ntc. | 3. Payment of the bond fee. | | |
| <input type="checkbox"/> Pers.Serv. | Court Investigator Julie Negrete's report filed | | |
| <input type="checkbox"/> Conf. Screen | 11/23/2010. | | |
| <input type="checkbox"/> Letters | | | |
| <input type="checkbox"/> Duties/Supp | | | |
| <input type="checkbox"/> Objections | | | |
| <input type="checkbox"/> Video Receipt | | | |
| <input checked="" 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: 08/10/2012 |
| | | | Updates: |
| | | | Recommendation: |
| | | | File 8 - Green |

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

| | | |
|---|---|---|
| DOD: 7/11/10 | <p>JONATHAN BEYER was appointed Administrator with full IAEA without bond on 9/15/10.</p> <p>Inventory and Appraisal filed 2/28/11 reflects a total estate value of \$353,473.00, including \$67,773.00 cash, real properties, a vehicle, furnishings and personal effects, and a sole proprietorship (“Boxcar Cafe”).</p> <p>On 9/15/11, the court set a status hearing for filing of the first account or petition for final distribution for 11/9/11.</p> <p>Minute Order from 11/9/2011 states there were no appearances at the status hearing. The court set the matter for Order to Show Cause and ordered Jonathan Beyer to be present on 1/25/12 and have the first account filed.</p> <p>Minute Order from 1/25/12 state the Court dispenses with the Order to Show Cause. Mr. Beyer is directed to file a first account or petition for final distribution.</p> <p>On 1/25/12, Mr. Beyer appeared. The Court dispensed with the OSC and set further status hearing for filing a first account or petition for distribution on 3/14/12.</p> <p>On 3/14/12, there was no appearance and the Court set this second Order to Show Cause.</p> <p>On 4-25-12, the OSC was taken off calendar, and the Administrator was directed to file the First Account or Petition for Final Distribution.</p> | <p>NEEDS/PROBLEMS/COMMENTS:</p> <p><u>Continued from 3-14-12, 4-25-12, 6-6-12.</u></p> <p><u>Minute Order 6-6-12: Examiner notes provided to Mr. Beyer. Matter continued to 8-15-12. If all appropriate documents have been received by 8-15-12, no appearance will be necessary.</u></p> <p><u>As of 8-9-12, nothing further has been filed. The following issue remains:</u></p> <ol style="list-style-type: none"> 1. Need first account current or petition for final distribution. |
| Cont. from 031412, 042512, 0606912 | | |
| Aff.Sub.Wit. | | |
| Verified | | |
| Inventory | | |
| PTC | | |
| Not.Cred. | | |
| Notice of Hrg | | |
| Aff.Mail | | |
| Aff.Pub. | | |
| Sp.Ntc. | | |
| Pers.Serv. | | |
| Conf. Screen | | |
| Letters | | |
| Duties/Supp | | |
| Objections | | |
| Video Receipt | | |
| CI Report | | |
| 9202 | | |
| Order | | |
| Aff. Posting | | |
| Status Rpt X | | |
| UCCJEA | | |
| Citation | | |
| FTB Notice | | |
| | | <p>Reviewed by: skc</p> <p>Reviewed on: 8-9-12</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 9 - Beyer</p> |

10 David Scott Weaver (Estate)

Case No. 12CEPR00521

Atty Molsenbocker, Gary L. (for David Morse – Named Executor)

Atty Ogden, Ralph C. (of Modesto, for John Weaver – Nephew – Contestant)

Atty Kruthers, Heather H (for Public Administrator)

Contest of Will and Objection to Probate

| | | |
|---------------|--|---|
| Age: | | <p>NEEDS/PROBLEMS/COMMENTS:</p> <p><u>CONTINUED TO 10-1-12</u> Per Attorney Ogden's request</p> |
| DOD: | | |
| | | |
| | | |
| Cont. from | | |
| Aff.Sub.Wit. | | |
| Verified | | |
| Inventory | | |
| PTC | | |
| Not.Cred. | | |
| Notice of Hrg | | |
| Aff.Mail | | |
| Aff.Pub. | | |
| Sp.Ntc. | | |
| Pers.Serv. | | |
| 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: 8-9-12 |
| | | Updates: |
| | | Recommendation: |
| | | File 10 - Weaver |

Petition for Appointment of Guardian of the Person (Prob. C. 1510)

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|---|---|---|---|
| Age: 7 DOB: 07/14/05 | <p align="center"><u>NO TEMPORARY REQUESTED</u></p> <p>MANUEL VALENZUELA, III and MICHELLE LARA, brother and friend, are Petitioners.</p> <p>Father: MANUEL VALENZUELA, JR. – consent and waiver of notice filed 06/14/12</p> <p>Mother: BARBARA VILLA VALENZUELA – consent and waiver of notice filed 06/14/12</p> <p>Paternal grandfather: MANUEL VALENZUELA - deceased</p> <p>Paternal grandmother: PAULINE VALENZUELA</p> <p>Maternal grandfather: ROBERT VILLA – deceased</p> <p>Maternal grandmother: PAULINA GUTIERREZ</p> <p>Siblings: ROXANNA VALENZUELA (17), LANESEA HOLGUIN (2)</p> <p>Petitioners state that Bobby has lived with them for the past 3.5 years. His parents don't have a safe or stable environment for him. Petitioners state that they would love to have guardianship of Bobby.</p> <p>Court Investigator Jennifer Young filed a report on 08/08/12.</p> | <p>NEEDS/PROBLEMS/COMMENTS:</p> <ol style="list-style-type: none"> 1. Need Notice of Hearing. 2. Need proof of service by mail of Notice of Hearing with a copy of the Petition for Appointment of Guardian of the Person <u>or</u> Consent and Waiver of Notice <u>or</u> Declaration of Due Diligence for: <ul style="list-style-type: none"> - Pauline Valenzuela (paternal grandmother) - Paulina Gutierrez (maternal grandmother) - Roxanna Valenzuela (sister) | |
| Cont. from | | | |
| Aff.Sub.Wit. | | | |
| ✓ Verified | | | |
| Inventory | | | |
| PTC | | | |
| Not.Cred. | | | |
| Notice of Hrg | | | x |
| Aff.Mail | | | x |
| Aff.Pub. | | | |
| Sp.Ntc. | | | |
| Pers.Serv. | | | x |
| ✓ Conf. Screen | | | |
| ✓ Letters | | | |
| ✓ Duties/Supp | | | |
| Objections | | | |
| Video Receipt | | | |
| ✓ CI Report 9202 | | | |
| ✓ Order | | | |
| Aff. Posting | | | |
| Status Rpt | | | |
| ✓ UCCJEA | | | |
| Citation | | | |
| FTB Notice | | | |
| <p>Reviewed by: JF</p> <p>Reviewed on: 08/10/12</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 11 – Valenzuela</p> | | | |

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| Age: 11 DOB: 05/18/01 | <u>NO TEMPORARY REQUESTED</u> | NEEDS/PROBLEMS/COMMENTS: |
| | VIRGINIA LUCILLE BELTRAN , non-relative, is Petitioner. | 1. Need <i>Notice of Hearing</i> . |
| | Father: JAMES MINA – deceased | 2. Need proof of service by mail at least 15 days before the hearing of <i>Notice of Hearing</i> with a copy of the <i>Petition for Appointment of Guardian of the Person</i> <u>or</u> Consent & Waiver of Notice for: |
| Cont. from | Mother: SONIA ROCHA – Consent & Waiver of Notice filed 08/06/12 | - All siblings 12 and over (unless diligence is found) |
| <input type="checkbox"/> Aff.Sub.Wit. | Paternal grandparents: DECEASED | |
| <input checked="" type="checkbox"/> Verified | Maternal grandparents: DECEASED | |
| <input type="checkbox"/> Inventory | Siblings: HOPE ROCHA, EIZME SANCHEZ, MELISSA ROCHA, JEREMY MINA, JAMES MINA, KIMBERLY MINA, JOSHUA MINA (ages unknown)– <i>Declarations of Due Diligence</i> filed 08/06/12 state that the whereabouts of the minor's siblings is unknown | |
| <input type="checkbox"/> PTC | Petitioner states that the mother left Sadie in her care on 02/03/12. Since then she has provided for all of Sadie's needs. Petitioner states that Sadie has special needs and guardianship is necessary to that she can provide for her medical needs and continue to provide a safe and stable home for her. | |
| <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 checked="" type="checkbox"/> Letters | | |
| <input checked="" type="checkbox"/> Duties/Supp | | |
| <input type="checkbox"/> Objections | | |
| <input type="checkbox"/> Video Receipt | | |
| <input checked="" type="checkbox"/> CI Report | | |
| <input type="checkbox"/> 9202 | | |
| <input checked="" type="checkbox"/> Order | | |
| <input type="checkbox"/> Aff. Posting | | |
| <input type="checkbox"/> Status Rpt | | |
| <input checked="" type="checkbox"/> UCCJEA | | |
| <input type="checkbox"/> Citation | | |
| <input type="checkbox"/> FTB Notice | | |
| | Court Investigator Dina Calvillo filed a report on 08/09/12. | |
| | | Reviewed by: JF |
| | | Reviewed on: 08/10/12 |
| | | Updates: |
| | | Recommendation: |
| | | File 12 - Mina |

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| Tabitha Anne Lozano (8) DOB: 10-31-03 | | GENERAL HEARING 10-10-12 | NEEDS/PROBLEMS/COMMENTS: |
| | | SHARON ANN FANCIULLO , Maternal Grandmother, is Petitioner. | <u>Note: This petition is for Tabitha only.</u> |
| | | Father: ISMAEL LOZANO, JR. | 1. Need Notice of Hearing. |
| | | Mother: BRITTANI ANNE FANCIULLO | 2. Need proof of service of Notice of Hearing at least five (5) Court days prior to the hearing pursuant to Probate Code §2250(e) or consent and waiver of notice or declaration of due diligence on: |
| | | Paternal Grandfather: Not listed | Paternal Grandmother: Not listed |
| | | Maternal Grandfather: Not listed | - Ismael Lozano, Jr. (Father) |
| | | Siblings: Frankie Sandoval, Richard Lozano, Denise Lozano | - Brittani Anne Fanciullo (Mother) |
| | | Petitioner states the minor has been with her since November 2011 because of drug use and dangerous activity in the home. In January 2012 the mother was arrested for three felonies. Her live-in boyfriend was also arrested. Her son Frankie went to live with his other grandparents, the Sandovals. Since January, the mother has been homeless, staying with various friends with no permanent address. Petitioner needs Court documents to enroll Tabitha in school in her district. | |
| <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 type="checkbox"/> | Notice of Hrg | X | |
| <input type="checkbox"/> | Aff.Mail | | |
| <input type="checkbox"/> | Aff.Pub. | | |
| <input type="checkbox"/> | Sp.Ntc. | | |
| <input type="checkbox"/> | Pers.Serv. | X | |
| <input checked="" 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 checked="" type="checkbox"/> | UCCJEA | | |
| <input type="checkbox"/> | Citation | | |
| <input type="checkbox"/> | FTB Notice | | |
| | | | Reviewed by: skc |
| | | | Reviewed on: 8-10-12 |
| | | | Updates: |
| | | | Recommendation: |
| | | | File 13 – Sandoval & Lozano |