

Probate Status Hearing Re: Failure to File a First Account or Petition for Final Distribution [Prob. C. 12200, et seq.]

DOD: 12-1-02	RICHARD ALLEN CANADA , Son, was appointed Administrator with Full IAEA with bond of \$17,000.00 on 5-4-04.	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>Minute Order 4-12-13: Counsel informs the Court that Mr. Canada has agreed to work with him with respect to this matter.</p> <p>Minute Order 6-21-13: No appearances. The Court removes Richard Canada as the administrator and appoints the Public Administrator as the personal representative. Continued to 9-20-13.</p> <p>Minute Order 9-20-13: Ms. Kruthers informs the Court that she will be filing a petition for surcharge and will provide notice to the bonding company at that time. The Court sets the matter for an Order to Show Cause on 12/6/13 regarding failure to appear and imposition of sanctions in the amount of \$500.00 as to Richard Canada. Richard Canada is ordered to be personally present on 12/6/13. Continued to: 12/6/13 at 09:00a.m. in Dept 303. Set on: 12/6/13 at 09:00a.m. in Dept 303 for: Order to Show Cause Re: Failure to Appear; Imposition of Sanctions in the Amount of \$500.00</p> <p>Update: See Pages B (OSC) and C (Petition for Surcharge).</p> <ol style="list-style-type: none"> 1. Need first account or petition for final distribution <u>or current status report.</u> 2. Need proof of service of Notice of Hearing with a copy of the status report on parties that have requested special notice pursuant to Probate Code §1252. <p>Note: The file indicates that the decedent left a spouse who relocated to Lapu Lapu City, Philippines, after the decedent's death, and two adult children, including the Administrator, who reside in Fresno.</p> <p>Note: There have been numerous creditor's claims filed in this estate totaling \$11,748.70.</p> <p>Reviewed by: skc</p> <p>Reviewed on: 8-21-14</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 2A - Canada</p>
	Bond of \$17,000.00 was filed and Letters issued on 5-7-04.	
	Inventory and Appraisal filed 7-6-04 indicates a total estate value of \$90,000.00 consisting of real property located at 2365 South Lily in Fresno.	
Cont from 041213, 062113, 092013, 120613, 022714, 052814, 072314		
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	<p>On 2-25-13, Attorney C. Michael Farmer filed a Notice of Change of Address, which prompted review of the status of this case.</p> <p>On 3-1-13, the Court set status hearing for 4-12-13 for failure to file a first account or petition for final distribution.</p> <p>The matter was continued to 6-21-13. On that date, there were no appearances. The Court removed Mr. Canada and appointed the FRESNO COUNTY PUBLIC ADMINISTRATOR.</p> <p>Status Report filed 9-9-13 states the Public Administrator has attempted to contact the former administrator by contacting his daughter and the attorney; however, has not been able to make contact. The former administrator's former attorney, C. Michael Farmer, reported that the former administrator may have distributed the proceeds from the sale of the house, the only asset, to him and his sister. If so, the surviving spouse did not receive her 1/3 share, and none of the several creditors were paid. The Public Administrator will continue to attempt to find the former administrator, and requests the Court set an Order to Show Cause requiring Mr. Canada to personally appear, and that this matter be set out for at least 60 days to allow time to investigate.</p>	
Aff. Posting		
Status Rpt		
UCCJEA		
Citation		
FTB Notice		

Petition for Surcharge Against Former Administrator for Breach of Fiduciary Duty

DOD: 12-1-02	PUBLIC ADMINISTRATOR is Petitioner.	NEEDS/PROBLEMS/COMMENTS:
	Petitioner states on 6-21-13, the Court on its own motion removed the former administrator RICHARD CANADA and appointed the Public Administrator. Letters issued to the Public Administrator on 7-1-13.	Note: Former Administrator Richard Canada filed bond of \$17,000 on 5-7-04.
<input type="checkbox"/> Aff.Sub.Wit.		1. Need proof of service of Notice of Hearing at least 15 days prior to the hearing on the surety Great American Insurance Company pursuant to Probate Code §1213. (Continuance will be required for notice.)
<input checked="" type="checkbox"/> Verified		2. Petitioner notes that the creditor's claims filed in this case were not paid; however, Petitioner does not address here whether there may be additional creditors. For example, it is not known whether DHS or other entities were given notice of administration pursuant to Probate Code §9202. The Court may require clarification as to whether notice according to this section and the possibility of additional claims might affect this petition.
<input type="checkbox"/> Inventory	The former administrator filed an Inventory and Appraisal on 7-6-04 showing the value of the estate to be \$90,000, consisting solely of real property. On 7-8-04, he filed a Notice of Proposed Action regarding the sale of the real property for \$92,000 cash.	
<input type="checkbox"/> PTC		
<input type="checkbox"/> Not.Cred.		
<input checked="" type="checkbox"/> Notice of Hrg	Five creditor's claims were filed and accepted by the former administrator; however, the Public Administrator has confirmed that none were paid.	
<input checked="" type="checkbox"/> Aff.Mail		
<input type="checkbox"/> Aff.Pub.		
<input type="checkbox"/> Sp.Ntc.		
<input type="checkbox"/> Pers.Serv.		
<input type="checkbox"/> Conf. Screen	The Public Administrator has no other information regarding the sale or the proceeds therefrom, and therefore argues that Richard Canada should be surcharged the full amount of the proposed sale, \$92,000.	
<input type="checkbox"/> Letters		
<input type="checkbox"/> Duties/Supp		
<input type="checkbox"/> Objections		
<input type="checkbox"/> Video Receipt		
<input type="checkbox"/> CI Report	Petitioner prays that the Court find that the former administrator RICHARD CANADA breached his fiduciary duty to the beneficiaries and creditors of this estate and order surcharge against the former administrator in the amount of \$92,000 and any other orders that the Court considers proper.	Note: According to the original petition for probate, the decedent was survived by the following heirs: - Juanita Canada – spouse - Richard Canada – son - Kimberly Canada – daughter
<input type="checkbox"/> 9202		Note: The decedent's spouse resides in Philippines.
<input checked="" type="checkbox"/> Order		Note: The I&A filed 7-6-04 by the former administrator does not state whether the real property was the decedent's separate property or community or quasi-community property pursuant to Probate Code §8850(c). Therefore, it is unclear who would be the heir(s), after creditors are paid.
<input type="checkbox"/> Aff. Posting		Reviewed by: skc
<input type="checkbox"/> Status Rpt		Reviewed on: 8-21-14
<input type="checkbox"/> UCCJEA		Updates:
<input type="checkbox"/> Citation		Recommendation:
<input type="checkbox"/> FTB Notice		File 2C - Canada

		BOSTON PRIVATE BANK AND TRUST COMPANY is petitioner.	NEEDS/PROBLEMS/COMMENTS:
		Petitioner states on 4/10/1961 John Edward O'Neill died. In due course his will was admitted to probate and testamentary trusts were created for the benefit of his children. Only the trust for John Edward O'Neill, Jr. (the "Trust") remains in force.	
Cont. from		The current beneficiaries of the Trust are CHRISTIAN CAGLE and NICHOLAS CAGLE , the twin great-grandsons of John Edward O'Neill. The Trust will terminate upon their reaching the age of 25 (i.e. February 6, 2016), or their earlier graduation from a four-year college, and at that time they will receive the remaining Trust principal outright.	
<input type="checkbox"/>	Aff.Sub.Wit.		
<input checked="" type="checkbox"/>	Verified		
<input type="checkbox"/>	Inventory		
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<input checked="" type="checkbox"/>	Notice of Hrg		
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<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>The original co-trustees of the Trust were H.S. Baker, Joseph A. O'Neill, Jr., and Security First National Bank. H.S. Baker resigned as was succeeded by Edwin R. O'Neill and Mr. O'Neill's trusteeship was confirmed by this Court's order on 03/10/97. Edwin R. O'Neill is still acting as an individual co-trustee. Joseph A. O'Neill, Jr. died on 05/06/2000, having not appointed a successor co-trustee to act in his place. Edwin R. O'Neill, exercised his power under Paragraph 12(j) of Exhibit A and appointed John E. O'Neill, III as an individual co-trustee. John E. O'Neill, III is still acting as an individual co-trustee. Security First National Bank was eventually acquired by Bank of America which was subsequently acquired by Wells Fargo Bank. By order of this Court on 3/10/1997, the resignation of Wells Fargo Bank as co-trustee was accepted and the appointment of Boston Private Bank and Trust Company was confirmed.</p> <p>Recently, in an effort to minimize trust administration expenses, the individual co-trustees asked Boston Private Bank & Trust Company to resign as co-trustee. Boston Private Bank & Trust agreed to resign and a Petition to accept the resignation and confirm the appointment of John E. O'Neil, III was filed in this matter on 03/14/14 and set for hearing on 05/13/14.</p>	
			Reviewed on: 08/21/14
			Updates:
			Recommendation:
			File 3 - O'Neill

Upon further review of the governing trust instruments, it was determined that a corporate co-trustee was required at all times and thus a continuance of the petition in order to locate a successor corporate co-trustee was requested and granted. After diligent search, the parties have been unable to locate a corporate co-trustee willing to accept the co-trusteeship and thus have determined that it is in the best interests of the Trust and its beneficiaries that Boston Private Bank & Trust Company remain as the corporate co-trustee. Accordingly, Boston Private Bank & Trust Company hereby withdraws its resignation and requests that it be re-confirmed as a co-trustee of the Trust.

Therefore, Boston Private Bank & Trust Company, Edwin R. O'Neill and John E. O'Neill, III should be confirmed as the co-trustees of the Trust.

Wherefore, Petitioner requests that this Court:

1. Confirm that Boston Private Bank & Trust Company, Edwin R. O'Neill and John E. O'Neill, III are the co-trustees of the Trust established under the Will of John Edward O'Neill, also known as J. E. O'Neill, deceased, for the benefit of John Edward O'Neill, Jr.

Atty LeVan, Nancy J. (for Petitioner/daughter I'isha Cooley)
 Atty Farmer, C. Michael (for Spouse, Roger Elizabeth Cooley)

Petition for Appointment of Successor Probate Conservator of the Person

Age: 71	<u>There is no temporary.</u> <u>Temporary was denied.</u>		<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>Court Investigator Advised Rights on 8/7/2014.</p> <p>Voting Rights Affected need minute order.</p> <ol style="list-style-type: none"> Petition does not address bond. Bond should be set at \$81,863.34. Probate Code §2320. Need Capacity Declaration re: medical consent powers. Note: Order Appointing Ruby Jones as Conservator did not include medical consent powers. Need Conservatorship Video Viewing Receipt. <p>Note: If the petition is granted, status hearings will be set as follows:</p> <ul style="list-style-type: none"> Wednesday, September 24, 2014 at 9:00 a.m. in Department 303, for the filing of the bond. Wednesday, September 24, 2014 at 9:00 a.m. in Department 303, for the filing of receipt for blocked account. Tuesday, November 25, 2015 at 9:00 a.m. in Department 303, for the filing of the first account of successor conservator. <p>Pursuant to Local Rule 7.5 if the required documents are filed 10 days prior the date set the status hearing will come off calendar and no appearance will be required.</p>
	<p>I'ISHA COOLEY, daughter, is petitioner and requests appointment as Conservator of the Person with medical consent powers and of the Estate without bond and with \$101,066.14 placed into a blocked account.</p> <p>RUBY JONES, sister, was appointed conservator of the person and the estate on 03/25/2008. Ms. Jones passed away on 6/5/14 leaving a vacancy.</p> <p>Capacity Declaration: Need</p> <p>Estimated value of the estate: Personal property - \$134,177.80 Annual income- \$ 29,122.00 Total - \$166,290.80</p> <p>Petitioner states: the proposed conservatee suffered a traumatic brain injury and is unconscious and unable to care for himself or provide food, shelter and clothing for himself. Conservator, Ruby Jones, passed away on 06/05/2014. There is no one to make decisions for the proposed conservatee. Petitioner states she is willing and able to be his conservator.</p> <p>Court Investigator Charlotte Bien's report filed 8/12/14.</p>		
Cont. from 072914			
Aff.Sub.Wit.			
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✓ Notice of Hrg			
✓ Aff.Mail	W/		
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Pers.Serv.			
✓ Conf. Screen			
✓ Letters			
✓ Duties/Supp			
Objections			
Video Receipt	X		
✓ CI Report			
9202			
✓ Order			
Aff. Posting			
Status Rpt			
UCCJEA			
Citation			
FTB Notice			
			<p>Reviewed by: KT</p> <p>Reviewed on: 8/21/14</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 4A – Cooley</p>

Atty LeVan, Nancy J. (Daughter I'isha Cooley)

Atty Farmer, C. Michael (for Petitioner/Spouse, Roger Elizabeth Cooley)

Petition for Appointment of Probate Conservator of the Person and Estate (Prob. C. 1820, 1821, 2680-2682)

Age: 71		<p style="text-align: center;"><u>There is no temporary.</u> <u>Temporary was not requested.</u></p> <p>ROGER ELIZABETH COOLEY, spouse, is petitioner and requests appointment as Conservator of the Person with medical consent powers and of the Estate without bond and with \$101,066.14 placed into a blocked account.</p> <p>RUBY JONES, sister, was appointed conservator of the person and the estate on 03/25/2008. Ms. Jones passed away on 6/5/14 leaving a vacancy.</p> <p>Capacity Declaration: Need</p> <p>Estimated value of the estate: Inventory & Appraisal -\$123,319.00 Annual income -\$ 29,122.00 Total -\$152,441.00</p> <p>Petitioner states: the conservatee is in a near vegetative state and requires 24 hour care for all of his needs. .</p> <p>Court Investigator Charlotte Bien's report filed 8/12/14</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>Court Investigator Advised Rights on 8/7/2014.</p> <p>Voting Rights Affected need minute order.</p> <ol style="list-style-type: none"> Petition does not address bond. Bond should be set at \$66,618.96. Probate Code §2320. Need proof of service of the Notice of Hearing on I'isha Cooley. Probate Code §2683. Need proof of personal service of the Notice of Hearing on conservatee, William Cooley, Sr. Probate Code 2683 and §1460. Need Capacity Declaration re: medical consent powers. Note: Order Appointing Ruby Jones as Conservator did not include medical consent powers. Need Conservatorship Video Viewing Receipt. Need Duties of Conservator. Need order and Letters <p>Note: If the petition is granted, status hearings will be set as follows:</p> <ul style="list-style-type: none"> Wednesday, September 24, 2014 at 9:00 a.m. in Department 303, for the filing of the bond. Wednesday, September 24, 2014 at 9:00 a.m. in Department 303, for the filing of receipt for blocked account. Tuesday, November 25, 2015 at 9:00 a.m. in Department 303, for the filing of the first account of successor conservator. <p>Pursuant to Local Rule 7.5 if the required documents are filed 10 days prior the date set the status hearing will come off calendar and no appearance will be required.</p>	
Cont. from				
	Aff.Sub.Wit.			
✓	Verified			
	Inventory			
	PTC			
	Not.Cred.			
✓	Notice of Hrg			
✓	Aff.Mail			W/
	Aff.Pub.			
	Sp.Ntc.			
	Pers.Serv.			X
✓	Conf. Screen			
	Letters			X
	Duties/Supp			X
	Objections			
	Video Receipt			
✓	CI Report			
	9202			
	Order			X
	Aff. Posting			
	Status Rpt			
	UCCJEA			
	Citation			
	FTB Notice			
		<p>Reviewed by: KT</p> <p>Reviewed on: 8/21/14</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 4B – Cooley</p>		

Atty Kruthers, Heather H., of County counsel's Office (for Petitioner Public Guardian)
 Atty Walters, Jennifer, of Walters & Moshrefi (Court-appointed for Conservatee)
 Atty Amador, Catherine A., of Pascuzzi, Moore & Stoker (for Albert Rousseau, son)

Petition for Appointment of Probate Conservatorship of the Estate

Age: 87 years	TEMPORARY GRANTED EX PARTE EXPIRES 7/30/2014; extended to 8/26/2014	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>Page 5B is a <i>Petition for Attorney Fees</i> of Catherine Amador, Attorney for Albert Rousseau.</p> <p>Court Investigator Advised Rights on 7/23/2014.</p> <p>Note: Ex Parte Order Appointing Temporary Conservator of the Estate filed 7/30/2014 grants the following specific powers: The temporary Conservator may access and use funds from any account held in any institution for the benefit of the Conservatee, regardless of the vesting (i.e., individual, joint, or trust.)</p> <p>Note: Minute Order dated 7/30/2014 [Judge Smith] from the hearing on the <i>Appointment of Temporary Conservator of the Estate</i> states: Ms. Horton is appearing specially for Attorney Jennifer Walters. The Court is advised that Albert Rousseau as well as two of the three children have indicated that they have no objections to the petition. Ms. Horton advises the Court that she has no objections. The temporary is extended to 8/26/2014. The Settlement Conference [on 8/26/2014] and Court Trial [on 9/15/2014] are vacated.</p> <p>1. Proposed First Amended Letters of Conservatorship are unsigned by proposed Conservator. Need signed proposed Letters.</p>
Conf. from	<p>PUBLIC GUARDIAN, Conservator of the Person court-appointed on 2/10/2014 with medical consent and dementia powers, is Petitioner and requests appointment as Conservator of the Estate without bond.</p> <p>Estimated Value of the Estate: Personal property - Unknown* *Assets held in trust by proposed Conservatee's children.</p> <p>Petitioner states that on 2/10/2014 Petitioner (Public Guardian) was appointed the Conservator of the person of the Conservatee with medical powers; her son, ALBERT ROUSSEAU, had filed a petition for his daughter, ANDREA ROUSSEAU, to become Conservator, and it was denied; since 2/11/2014 the Public Guardian has been acting as temporary conservator of the person, coordinating Conservatee's care providers, and Albert and the Conservatee's other son, JEAN ROUSSEAU, as Co-Trustees, have been managing the estate assets, the majority of which are primarily held in the LIZIBET E. ROUSSEAU LIVING TRUST;</p> <p>~Please see additional page~</p>	
Aff.Sub.Wit.		
✓ Verified		
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✓ Notice of Hrg		
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Sp.Ntc.		
✓ Pers.Serv. W/		
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Letters		
Duties/Supp		
Objections		
Video Receipt		
✓ CI Report		
9202 Order		
Aff. Posting		
Status Rpt		
UCCJEA		
✓ Citation		
FTB Notice		
		<p>Reviewed by: LEG</p> <p>Reviewed on: 8/21/14</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 5A – Rousseau</p>

Petitioner states, continued:

- However, the care providers are not paid on time, they are not given enough money to buy all the groceries and prescriptions, and the house needs repairs that the family has not made; despite assurances by Albert and Jean, nothing improved, which was why the Public Guardian filed on 5/30/2014 a *Petition for Appointment of Probate Conservator of the Estate*.
- Prior to filing on 5/30/2014 the *Petition for Appointment of Probate Conservator of the Estate*, Petitioner had expressed concerns to the sons regarding their mishandling of the Conservatee's finances, and since the filing it appears that Albert, who was primarily responsible, now wants to step back and let Jean, who was mostly absent, handle the assets;
- Since the hearing on 7/7/2014, the Public Guardian's attorney put on hold the preparation of a petition for temporary conservatorship due to Albert's attorney advising the Public Guardian that he no longer objected to the general petition;
- Thus the Public Guardian expected Jean to begin paying bills and ensuring his mother has money; not only has Jean not provided for her care, he is not responding to calls or texts from Albert's attorney, the Conservatee's care provider, or the Public Guardian;
- Since the 7/7/2014 hearing, the Conservatee's cable has been turned off, and the care provider has had to use her personal funds to cover the Conservatee's lunch; the care provider does not have money for co-pays for medical appointments, and she is still not being paid on time;
- Public Guardian asserts that a temporary conservatorship of the estate is absolutely necessary to provide for the Conservatee's needs, even the most basic of food and medical expenses;
- Public Guardian has tried to work with the family, now particularly Jean, but it has become too urgent a matter to wait any longer for him to respond;
- Because some or all of the Conservatee's funds may be held in trust, the Public Guardian requests authority to access and use all accounts, regardless of their vesting.

Court Investigator Jennifer Daniel's Reports were filed on 6/30/2014 and 7/24/2014.

Atty Amador, Catherine A., of Pascuzzi, Pascuzzi & Stoker (Petitioner)

Petition for Attorneys Fees

Age: 87 years	CATHERINE A. AMADOR , Attorney for ALBERT ROUSSEAU , son, is Petitioner.	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>Note: Because a general conservator of the estate is currently pending appointment, and an <i>Inventory and Appraisal</i> is not required per Probate Code § 2610 to be filed in this matter until 90 days after appointment of a conservator of the estate, there is no actual basis upon which to evaluate the justness and reasonableness of the amount of this fee request per Local Rule 7.16(A), in relation to the total value of the conservatorship estate. For the Court's reference, the initial <i>Petition for Appointment of Conservator of the Estate</i> filed 5/30/2014 estimates the value of the estate as \$16,481.98 in personal property, and states that most of Conservatee's assets are in trust.</p>
Cont. from	PUBLIC GUARDIAN was appointed Conservator of the Person on 2/10/2014; Letters issued on 2/20/2014.	
<input type="checkbox"/> Aff.Sub.Wit.		
<input checked="" type="checkbox"/> Verified	PUBLIC GUARDIAN filed on 5/30/2014 a Petition for Appointment of Conservator of the Estate, which is currently pending.	
<input type="checkbox"/> Inventory		
<input type="checkbox"/> PTC		
<input type="checkbox"/> Not.Cred.	Petitioner states:	
<input checked="" type="checkbox"/> Notice of Hrg	<ul style="list-style-type: none"> Petitioner has represented Albert Rousseau since 11/20/2013, when the family began experiencing problems providing care for Conservatee due to disagreements between Conservatee's children regarding her care, appropriate caretakers, and where she should live; 	
<input checked="" type="checkbox"/> Aff.Mail	<ul style="list-style-type: none"> Petitioner met with the family and submitted a capacity declaration to Conservatee's neurologist, DR. ABBAS MEHDI; 	
<input type="checkbox"/> Aff.Pub.	<ul style="list-style-type: none"> Petitioner prepared a petition for placement of a conservatorship of the person filed on 12/6/2013; 	
<input type="checkbox"/> Sp.Ntc.	<ul style="list-style-type: none"> On 1/3/2014, Attorney Jennifer Walters was appointed as counsel for Conservatee; 	
<input type="checkbox"/> Pers.Serv.	<ul style="list-style-type: none"> Petitioner had some difficulty in obtaining the capacity declaration from Conservatee's primary care physician, and eventually the matter was referred to her neurologist, who was extremely uncooperative; Petitioner was called upon to assist in obtaining the neurologist's cooperation in completing the declaration; 	
<input type="checkbox"/> Conf. Screen	<ul style="list-style-type: none"> During this time, Petitioner was also called upon to determine the status of an investigation by APS regarding accusations between various family members and caregivers regarding misuse of Conservatee's funds and poor care; 	
<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		
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<input type="checkbox"/> Aff. Posting		
<input type="checkbox"/> Status Rpt		
<input type="checkbox"/> UCCJEA		
<input type="checkbox"/> Citation		
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~Please see additional page~

Reviewed by: LEG
Reviewed on: 8/21/14
Updates:
Recommendation:
File 5B – Rousseau

Petitioner states, continued:

- On 1/3/2014, Petitioner attended the first hearing on the petition, at which time Attorney Walters requested additional time to conduct her investigation and determine the Conservatee's needs and best interests; Petitioner continued to pressure Dr. Mehdi to complete the capacity declaration and was finally able to file that document on 2/6/2014;
- Petitioner worked with Ms. Walters and County Counsel to reach a Stipulation appointing the Public Guardian as Conservator of the person;
- At the continued hearing on the petition held 2/10/2014, the parties stipulated to the recommendation of Ms. Walters that the Public Guardian be appointed due to strife within the family regarding Conservatee's care and residence and Petitioner's work-related travel;
- Petitioner incurred some additional time assisting the Public Guardian in collecting information regarding Conservatee's home, her caregivers and other information requested by the Public Guardian; Petitioner also attempted to coordinate the work of the Public Guardian as Conservator of the person with the Trustees of Conservatee's Trust, to assist with the payment of necessary bills and repairs to her home.

Petitioner requests payment from the [Conservatee's] Trust as follows:

1. The payment of fees in connection with the representation of the proposed Conservator from the period of **11/20/2013 through 2/10/2014**;
2. That she be paid for **17.90 hours, including 1 hour of anticipated time for Court appearance on this request, at \$275.00 per hour for a total of \$4,922.50**; and
3. That she be reimbursed the costs advanced of **\$617.00** related to the preparation, filing and service of the Petition, and a **[\$75.00]** "copying fee" imposed by Dr. Abbas Mehdi in order to obtain the capacity declaration.

NEEDS/PROBLEMS/COMMENTS, continued:

1. *Proof of Service by Mail of the Notice of Hearing* filed 7/22/2014 does not show the Conservatee Lizibet Rousseau was served with notice of this *Petition*. Need proof of 15 days' service of notice to the Conservatee pursuant to probate Code §§ 2640.1(b) and 1460(b)(2).
2. *Exhibit A* to the *Petition* contains an itemization of costs which includes the following non-reimbursable costs pursuant to Local Rule Local Rule 7.17(B) totaling **\$135.46**, such that the proposed order has been interlineated to deduct these costs from the amount of allowable costs:
 - Court runner fees: **\$70.00**
 - Legal research fees: **\$57.17**
 - Mileage fees: **\$8.29**
3. Probate Code 2640.1(a) provides that the Court must determine that the petition for appointment of a particular conservator who was not appointed was filed **in the best interests of the Conservatee**. Probate Code § 2640.1(c)(2) provides the Court may make an order to allow any compensation or costs requested in the petition that the Court determines is just and reasonable to the attorney for the person who petitioned for appointment but was not appointed, for the attorney's services rendered in connection with and to facilitate appointment of a conservator, and costs incurred in connection therewith. **Any compensation and costs allowed shall be charged to the estate of the conservatee**. Court may require Petitioner to provide authority for payment from Conservatee's Trust, or **consent** from the Trustees of the Trust and from the Public Guardian as Conservator of the Person and as Temporary Conservator of the Estate for payment of the requested fees from the Conservatee's Trust.

Petition for Clarification or Modification of Trust Terms and for Combination of Sub-Trusts

DOD: 11/10/11	BRUCE BICKEL , successor trustee, of the ANNA LORRAINE MCNALLY LIVING TRUST, is Petitioner.	NEEDS/PROBLEMS/COMMENTS:
Cont. from	Petitioner states:	
<input type="checkbox"/> Aff.Sub.Wit.	<ol style="list-style-type: none"> 1. ANNA LORRAINE McNALLY ("Anna") established THE ANNA LORRAINE MCNALLY LIVING TRUST (the "Trust") under Declaration of Trust dated 04/19/91 and served as the initial trustee of the Trust. On 06/14/11, Anna executed and Amended and Restated Declaration of Trust which completely amended and restated the terms of Trust. On 10/07/11, Anna executed a First Amendment to the Amended Trust. Pursuant to the First Amendment, Bruce Bickel was to serve as the successor trustee of the Trust after the death of Anna. 2. Anna passed away on 11/10/11 and Bruce Bickel is the current acting Trustee of the Trust. 3. At the time of her death, Anna was survived by 5 children, Michael McNally, Maureen Patton, Timothy McNally, Marc McNally and Teresa Brymer. The terms of the Trust as Amended state that trust assets specifically devised to Maureen, Michael and Marc are to be held in trust for their benefit during their lifetime. 4. Upon the death of Maureen, Michael or Marc, the Trust terms direct that the trust assets held for their benefit be distributed pursuant to Section 7.2(d) of the First Amendment. Section 7.2(d) also serves as the distribution provision for the residue of the estate. As a result, the distribution of a deceased child's share results in an anomalous distribution. 	Reviewed by: JF
<input checked="" type="checkbox"/> Verified		Reviewed on: 08/21/14
<input type="checkbox"/> Inventory		Updates:
<input type="checkbox"/> PTC		Recommendation:
<input type="checkbox"/> Not.Cred.		File 6 – McNally
<input checked="" type="checkbox"/> Notice of Hrg		
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	Continued on Page 2	

5. Pursuant to the terms of Section 7(d), upon the death of Maureen, Michael or Marc, the assets held in trust for their lifetime benefit are to be distributed in equal shares as follows:
 - a. One share to the Maureen S. Patton Trust;
 - b. One share to the Michael D. McNally Trust;
 - c. One share to the Marc S. McNally Special Needs Trust;
 - d. One share to Timothy McNally, free of trust; and
 - e. One share to Teresa A. Brymer, free of trust.
6. Marc S. McNally died on 11/25/13. Pursuant to the terms of the Trust, the assets held in trust for the benefit of Marc consist of the following:
 - a. Mobile home located at 105 W. Herndon Ave., Pinedale
 - b. Real property commonly known as 1581 N. Winery, Fresno
 - c. One-half of the shares of the Foundation Fund, LLC Sterling Pacific Financial, account # PL-3061-1
 - d. One-half of the Allianz Life Insurance Annuity, contract #DAG15284; and
 - e. One-fifth of the life insurance proceeds from Lincoln Benefit Life Insurance Co., policy #01N1058761
7. As currently drafted, the distribution scheme of the Settlor's children whose beneficial interest remains in trust specifically includes all five children of the Settlor and does not account for the subsequent death of any of the Settlor's children whose interest is held in Trust. As a result, the distribution provisions require that upon the death of Maureen, Michael or Marc, a one-fifth interest of the assets held in trust for their benefit be distributed outright to the Timothy and Teresa and distributed to the trusts held for the benefit of Maureen, Michael and Marc, which would include the Trust established for a recently deceased beneficiary. The result of this distribution scheme is a circuitous distribution of an ever decreasing share to the trust established for the benefit of the already deceased child of the Settlor. This anomaly specifically affects the trusts established for the benefit of Maureen, Michael or Marc. This appears to be an oversight or clerical error by the drafting attorney and does not appear to be the intended result by the Settlor.
8. Under Probate Code § 15409, the Court is authorized to modify the terms of the dispositive provisions of a trust where "owing to circumstances not known to the settlor and not anticipated by the settlor, the continuation of the trust under its terms would...substantially impair the purposes of the trust."
9. The circuitous distribution as described appears to be a drafting anomaly or clerical oversight by the drafter and not the Settlor's true intent.
10. Petitioner proposes a clarification or modification of the Trust to clarify the terms of the Trust that in the event of a death of a beneficiary for whom a trust was established under the terms of the Trust, their interest would be distributed equally to or on behalf of the remaining surviving beneficiaries – to be distributed outright or held in trust – consistent with the terms of the Trust. [Specific modification language stated in Petition].
11. As stated above, pursuant to the terms of the Trust, as amended by the First Amendment, after the death of Settlor Anna Lorraine McNally, the trust assets specifically devised to three of Settlor's children, Maureen, Michael & Marc, are to be held in trust for their benefit during their lifetimes. In addition to those trusts, the First Amendment also establishes a separate sub-trust to hold and administer a piece of real property for the benefit of Maureen at Section 7.2(c)(4) called the "Buckingham Way" trust. [Trust terms specified in Petition].

Continued on Page 3

12. The singular asset of the Buckingham Way sub-trust is the real property. The real property currently generates rental income, but because the net income is distributable to the sub-Trust established for the benefit of Maureen, limited funds exist to fund a major repair of the property, if necessary. Such funds would need to be advanced to the Buckingham Way sub-trust from the sub-Trust established for Maureen. Additionally, the net income of the Buckingham Way sub-trust is governed by the same terms as the sub-trust established for Maureen's benefit. Consequently, in an effort to streamline the administration of both sub-trusts, Petitioner requests that the Buckingham Way sub-trust be combined into the sub-trust established for the benefit of Maureen, subject to the provisions governing the administration of the real property found in Section 7.2(c)(4)(A)-(C). Pursuant to Probate Code § 15411, the Court is authorized to combine two or more trusts where the terms are substantially similar and where the joint administration of the trust does not "defeat or substantially impair the accomplishment of the trust purposes or the interests on the beneficiaries." The terms of the Buckingham Way sub-trust and the sub-trust established for the benefit of Maureen satisfy both requirements of Probate Code § 15411 and militate in favor of combining the two sub-trusts. Here, the income beneficiary of the two sub-trusts sought to be combined is Maureen and the dispositive provisions at Maureen's death are governed by the same provisions in the Trust. As a result, a combination of the two sub-trusts would not defeat or substantially impair the accomplishment of the trust purpose and would instead streamline and reduce the duplicity of costs of administration of the two sub-trusts.

Petitioner prays for an Order that:

1. The clarification and modification of The Anna Lorraine McNally Trust be approved and the terms of the Trust be modified as specified in the Petition; and
2. The Buckingham Way sub-trust and the assets thereof be combined into the sub-trust established for the benefit of Maureen N. Patton, subject to the provisions governing the administration of the real property found in Section 7.2(c)(4)(A)-(C) of the Trust, as amended by the First Amendment.

Pro Per Valdez, Olga (Pro Per Petitioner, sister)

Petition for Appointment of Successor Probate Conservator of the Person (Prob. C. 1820, 1821, 2680-2682)

Age: 53 years	NO TEMPORARY REQUESTED		<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>Court Investigator Advised Rights on 8/18/2014.</p> <p>Voting Rights Affected – Need Minute Order.</p> <p>1. <i>Petition</i> requests successor conservatorship; however, there is no vacancy for Conservator, as IMELDA GARCIA, mother, was appointed Conservator of the Person on 7/5/1984, and the <i>Petition</i> does not indicate whether she wishes to resign as Conservator. If the current Conservator wishes to resign, need petition tendering the resignation of IMELDA GARCIA as the current Conservator of the person pursuant to Probate Code § 2660. If the current Conservator wishes the Petitioner to be added as Co-Conservator, Petitioner must file a signed consent from IMELDA GARCIA indicating that she consents to the appointment of Petitioner as Co-Conservator.</p> <p>2. Need proof of 15 days' mailed service prior to hearing of the <i>Notice of Hearing</i> with a copy of the <i>Petition for Appointment of Successor Conservator</i> to the following persons pursuant to Probate Code §§ 2683, 1460(b)(2), and 1821(b):</p> <ul style="list-style-type: none"> • Lilia Garcia, Conservatee; • Imelda Garcia, Conservator and mother; • Maria De La Cruz Licon, sister; • Roger Garcia, brother; • Eusebio Garcia, brother; • John Garcia, brother. <p>~Please see additional page~</p>
	<p>OLGA VALDEZ, sister, is Petitioner and requests appointment as Successor Conservator of the Person with medical consent powers.</p> <p>Capacity Declaration of Dolores Leon, M.D., filed 6/1/1984 supports request for medical consent powers; the Conservatee's incapacity to consent to any form of medical treatment was determined by order filed in this matter on 7/5/1984.</p> <p>Voting Rights Affected.</p> <p>Petitioner states the Conservatee was born physically handicapped and mentally retarded.</p> <p>Court Investigator Julie Negrete's Report was filed on 8/20/2014.</p>		
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✓ Duties/Supp			
Objections			
Video Receipt	X		
✓ CI Report			
9202			
✓ Order			
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Citation			
FTB Notice			
Reviewed by: LEG			
Reviewed on: 8/21/14			
Updates:			
Recommendation:			
File 7 – Garcia			

NEEDS/PROBLEMS/COMMENTS, continued:

3. *Need Conservatorship Video Viewing Certificate* pursuant to Local Rule 7.15.9(A).
4. *Order Appointing Conservator* of the person filed 7/5/1984 finds that the Conservator was granted powers relating to the capacity of the Conservatee to enter into a valid marriage under Probate Code § 1901. *Petition* does not request those powers be granted to the proposed Successor Conservator (or Co-Conservator, as the case may be.) Need information as to whether Petitioner would seek the same order regarding capacity to marry under Probate Code § 1901, and if so, such request must be made in the *Petition*.
5. *Confidential Supplemental Information* filed 7/22/2014 is incomplete at most items, providing only Conservatee's residence address and the dated signature of the Petitioner.
6. *Confidential Conservator Screening Form* filed 7/22/2014 contains the same date of birth listed in Item 1(b) as the date of birth of the Conservatee. Need clarification as to whether the information provided on the *Confidential Conservator Screening Form* relates to the proposed Conservator, or relates to the Conservatee, and if to the latter, need revised *Confidential Conservator Screening Form* containing the information relating to the proposed Conservator.

Pro Per **Gallegos-Bates, Mary (Pro Per Petitioner, Administrator)**

(1) First and Final Account and (2) Petition for Final Distribution

DOD: 4/15/2005		<p>MARY GALLEGOS-BATES, sister and Administrator appointed without IAEA Authority and without bond on 8/2/2005, is Petitioner. <i>Letters</i> issued on 8/11/2005.</p> <p>Account period: Not stated</p> <p>Accounting - Not stated Beginning POH - \$200,000.00 Ending POH - \$0.00</p> <p>Administrator - Not requested</p> <p>Attorney - \$7,000.00 <i>(statutory; paid to Attorney Patricia Carrillo without Court authorization;)</i></p> <p>Petitioner states:</p> <ul style="list-style-type: none"> The sole asset of the estate, the Decedent's residence, was distributed to the beneficiaries of the estate, the Decedent's mother and father, VIRGINIA GALLEGOS [DOD 2010] and THEODORE GALLEGOS [DOD 2009]; The Decedent's parents purchased the residence in 2000 and the Decedent and his brother, ROBERT B. GALLEGOS, lived with them; The Decedent's name was on the title as joint tenant with his parents; The Decedent took out 2 subprime loans on the property, and in order to do so, he had to take his parents' names off the property and put the property in his name; when one subprime loan would become due, he would take out another one, and so on; <p>~Please see additional page~</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>Note: Petitioner was granted no independent authority to administer the estate, hence court supervision has been required to administer this estate pursuant to Probate Code § 10401, such that judicial order, authorization, approval, confirmation or instructions are required for many actions during administration, including most importantly the final distribution of property pursuant to Probate Code § 10501(a)(4), which the <i>Petition</i> states has already been done. Based upon Court records, it appears court supervision has never been sought by the Administrator for any actions taken during this estate administration in violation of Probate Code §§ 9610 et seq., and §§ 9650 et seq., which require court supervision of specific administrative transactions and actions taken where no IAEA authority has been granted.</p> <p>1. <i>Order on Court Fee Waiver</i> filed 7/7/2014 grants Petitioner's fee waiver. Filing fees are considered costs of administration and must be paid prior to distribution of assets and property from an estate. The estate property has been distributed by Petitioner; therefore a \$435.00 filing fee to the Court is due from Petitioner prior to issue and processing of a final order for closing this estate.</p> <p>~Please see additional page~</p>	
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<input type="checkbox"/>	FTB Notice	N/A		
		<p>Reviewed by: LEG</p> <p>Reviewed on: 8/22/14</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 8 – Gallegos</p>		

Petitioner states, continued:

- The subprime loan payments increased, and Decedent and his parents and brother, Robert, attempted to make the payments but it became very difficult for them to do so;
- After Decedent's death in 2005, the payments fell behind and the only way to save the house was to get a refinance modification and reduce the monthly payment amount; the estate beneficiaries, Decedent's parents (Virginia and Theodor Gallegos) continued to live in the residence;
- It was also necessary to refinance the property in order to pay the creditor's claims filed in the estate and to pay Petitioner's attorney at the time, **PATRICIA CARRILLO**, her statutory fees; there was no other cash to do so;
- Decedent's parents were the two beneficiaries of his estate, but they did not qualify for the loan because they were both living on Social Security benefits only;
- Attorney Carrillo would not continue handling the estate unless we deposited **\$7,000.00** for attorney's fees in her trust account; she wanted to get paid and said she would introduce us to someone who could help get a loan despite the low income;
- Attorney Carrillo sent us to a man named **PAUL WILLINGHAM**, who said he could get their brother, Robert, qualified for a loan even though his sole source of income was Social Security Disability, but in order to refinance the loan, he had to be on title to the home;
- In 2007, at the close of escrow, the residence was deeded to Robert Gallegos, Decedent's brother (*copy of escrow statement attached as Exhibit A*);
- As can be seen from the escrow statement, the creditor's claims were paid from the escrow, and the attorney's fees were paid out of the escrow;
- The balance of the funds in the approximate amount of **\$13,000.00** was given to Robert Gallegos [*escrow statement shows \$13,629.12 was the borrower's refund*];
- Petitioner and Robert were under the impression that because the estate had been distributed, that it was now closed;
- The estate had been distributed to the Decedent's mother and father (Virginia and Theodor Gallegos) because after the close of escrow, Robert added his them back on title to the home as joint tenants as his parents requested;
- Decedent's parents Virginia and Theodor Gallegos wanted Robert on the title as a joint tenant in case something happened to them because Robert is disabled and they wanted to make sure he would always have a place to live;
- Robert gave the **\$13,000.00** "overage" from the escrow to his parents Virginia and Theodor Gallegos who paid off their bills;
- It was not until December 2013 that the petitioner learned that the probate had never been closed and the Court set a status hearing to complete the probate;
- Title to the Decedent's property is now held in the name of Robert Gallegos, Virginia and Theodor Gallegos, as joint tenants (*copy of Deed attached as Exhibit B*).

Distribution pursuant to intestate succession (§ 6402(b)) is to: Virginia Gallegos and Theodor Gallegos as to the entire interest in Decedent's real property.

~Please see additional page~

Dept. 303, 9:00 a.m. Tuesday, August 26, 2014

NEEDS/PROBLEMS/COMMENTS, continued:

2. Need *Notice of Hearing of the First and Final Account and Petition for Final Distribution*, and proof of mailed service of 15 days' notice prior to hearing pursuant to Probate Code §§ 1220, 11000 and 11601 for the following persons:
 - **ROBERT B. GALLEGOS**, brother;
 - **PATRICIA S. CARRILLO**, former attorney for the Petitioner.
3. *Final Inventory and Appraisal* filed on 9/28/2005 is incomplete at Item 5 re: property tax certificate, as required by Probate Code § 8800(d). Need statement regarding Property Tax Certificate. (Revenue and Tax Code § 480.)
4. Need proposed order pursuant to Local Rule 7.6.1, containing a statement as to the property that was distributed and to whom distribution was made.

Note Re Creditors' Claims: Paragraph 9 of the *Petition* states: "All creditor's claims have been paid, and Withdrawals of Creditor's Claims have been filed with the Court." Court records show no withdrawals of creditors' claims have been filed with the Court. However, Exhibit A containing a copy of the Chicago Title escrow statement from the loan funds obtained against the estate real property appears to demonstrate payment of the following creditors' claims filed in this proceeding:

- **\$2,444.54** filed by **CAPITAL ONE** on 9/27/2005;
- **\$5,165.74** filed by **HOUSEHOLD FINANCE CORP.** on 9/6/2005;
- **\$1,219.00** filed by **CITIBANK USA** on 8/9/2005.

Note Re Administration and Distribution of the Estate Property: Paragraph 10 of the *Petition* states Petitioner took the following action without court supervision: "The sole asset of the estate, the Decedent's residence, was distributed to the beneficiaries of the estate, the Decedent's mother and father, **VIRGINIA GALLEGOS [DOD 2010]** and **THEODORE GALLEGOS [DOD 2009]**." Probate Code § 10501 lists the actions that must be brought before the Court even when the personal representative has been granted full IAEA authority, or limited IAEA authority, some of which are as follows:

- 10501(a)(2) – Allowance of compensation to the attorney for the personal representative [*please refer to Note Re Payment of Attorney Fees, below*];
- 10501(a)(3) – Settlement of accounts [*pending*];
- 10501(a)(4) – Final distributions and discharge [*pending*];
- 10501(b)(4) – Borrowing money with the loan secured by an encumbrance upon real property.

In violation of the Probate Code provisions, the Petitioner has proceeded without court supervision with respect to each of the above-noted actions. However, in light of the complicated background of this matter, it appears the Court may take into account the totality of circumstances of this case, including Petitioner's previous representation by an attorney, when making a determination regarding the acceptability of the Petitioner's *First and Final Account and Petition for Final Distribution*.

~Please see additional page~

NEEDS/PROBLEMS/COMMENTS, continued:

Note Re Payment of Attorney Fees: Based on the pleadings, Attorney Patricia Carrillo has been **paid a minimum of \$7,690.00 in fees and costs** from the estate and/or the Petitioner. The following case history and information is provided for the Court's reference regarding this payment of attorney fees:

- **Letters issued to the Petitioner for this estate on 8/11/2005**, while she was represented by Attorney Carrillo. The complete lack of the Petitioner's IAEA authority, which IAEA authority is typically requested and granted as standard practice in probate proceedings before this Court, was the result of the initiation of these proceedings by Attorney Carrillo. Petitioner in her proceeding as a self-represented party likely was unaware of the lack of her authority as Administrator. The lack of communication between Petitioner and Attorney Carrillo was a burden upon Attorney Carrillo to timely rectify.
- **Status Report filed 2/14/2014 by Attorney Carrillo**, which was filed in response to the Court setting a status hearing on 2/21/2014 for failure to file a first account or petition for final distribution is quoted as follows:
"The statutory attorney fees have been paid on or about 4/27/2011 [sic]. A First and Final Account and Petition for Final Distribution (the 'Final Petition for Distribution') has not been filed in this case. All associated costs or expenses incurred in the administration of the estate have been paid or reimbursed to the attorney for the Administrator, Patricia S. Carrillo (the 'Attorney')."
- **Order Granting Attorney's Motion to be Relieved as Counsel filed 4/2/2014** granted Attorney Carrillo's request to withdraw from representation of the Petitioner. **Minute Order dated 4/2/2014 states:** Ms. Carrillo is directed to provide Ms. Gallegos-Bates any documents she has. Matter continued to 5/7/2014 for Ms. Gallegos-Bates to hire new counsel.
- **Copy of Chicago Title escrow statement dated 4/27/2007**, following Attorney Carrillo's release as attorney of record, shows that the following payments pertinent to the estate administration and closing were made from the loan funds obtained against the estate real property:
 - Broker compensation and Origination fee of **\$1,952.00** to **PAUL D. WILLINGHAM DBA iFINANCIAL**;
 - Broker processing to **iFINANCIAL REAL ESTATE** of **\$475.00**;
 - **HOUSEHOLD FINANCE CORP.** for pay in escrow of **\$5,165.74** [valid creditor's claim];
 - **CITIBANK USA** for pay in escrow of **\$1,219.00** [valid creditor's claim];
 - **CAPITAL ONE** for pay in escrow of **\$2,444.54** [valid creditor's claim];
 - **LAW OFFICES OF PATRICIA S. CARRILLO** for legal fees due of **\$7,090.00**.

The following provisions appear to provide support for the attorney fees received by Attorney Patricia Carrillo being reduced and returned to the estate:

- **Probate Code §§ 10830, 10831, and 10501(a)(2)** require the allowance of compensation to the attorney only by court order authorizing such payment. Compensation must be allowed by the Court before it is taken.
- **Probate Code § 12205** allows the Court to reduce the compensation of the attorney if responsible for an unreasonable delay in closing the estate. The time taken for administration of the estate was within the control of the attorney whose compensation would be reduced in that the estate was allowed to linger by the attorney during the communication breakdown between attorney and personal representative.
- **California Rule of Court 7.700 provides: (a) No compensation in advance of court order.** The personal representative must neither pay nor receive, and the attorney for the personal representative must not receive, statutory commissions or fees or fees for extraordinary services in advance of an order of the court authorizing their payment. **(b) Surcharge for payment or receipt of advance compensation.** In addition to removing the personal representative and imposing any other sanctions authorized by law against the personal representative or the attorney for the personal representative, the court may surcharge the personal representative for payment or receipt of statutory commissions or fees or fees for extraordinary services in advance of an order of the court authorizing their payment. The surcharge may include interest at the legal rate from the date of payment.
- **In re Estate of Wong, 207 Cal. App.4th 366, 2012:** "...Attorney compensation for services rendered to the personal representative of a probate estate is not paid by the client, but out of the estate itself."

		<p>BRYAN JENSEN was appointed conservator on 4/1/2009.</p> <p>Court Investigator JENNIFER DANIEL filed a Petition for Transfer on 6/25/14 requesting this proceeding be transferred to Los Angeles County because the conservatee has resided there since 11/12/2010, and it is presumed pursuant to Probate Code §2215 that transfer of the conservatorship case to the county of residence is in the best interests of the conservatee.</p> <p>Court Investigator further recommends that the fees and costs related to this transfer be waived.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>Continued to 9/3/14 per minute order dated 7/29/14</p> <p>Note: If the petition is granted a status hearing will be set on Wednesday, September 24, 2014 for the confirmation of receipt of transfer.</p>	
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		Reviewed by: KT		
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		File 13 – Jensen		

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

DOD: 01/31/2010		<p>LORENZO PEREZ SAMBRANO, son is petitioner and requests appointment as Administrator without bond.</p> <p>Full IAEA - ?</p> <p>Decedent died intestate</p> <p>Residence: Clovis Publication: Need</p> <p>Estimated value of the Estate</p> <table> <tr> <td>Personal property</td> <td>\$437.00</td> </tr> <tr> <td>Real property</td> <td>\$60,000.00</td> </tr> <tr> <td>Total</td> <td>\$60,437.00</td> </tr> </table> <p>Probate Referee: Steven Diebert</p>	Personal property	\$437.00	Real property	\$60,000.00	Total	\$60,437.00	<p>NEEDS/PROBLEMS/COMMENTS:</p> <ol style="list-style-type: none"> 1. Need Affidavit of Publication. 2. Need Notice of Petition to Administer Estate. 3. Need proof of service of the Notice of Petition to Administer Estate pursuant to Probate Code §8110 on the following: <ul style="list-style-type: none"> • Martin Sambrano • Johnny Sambrano • Domingo Sambrano • Beatrice Nebre • Isabel Torres Lopez 5. Need a Waiver of Bond from Martin Sambrano or Bond in the amount of \$60,437.00 <p>Note: An Inventory and Appraisal was filed on 07/22/2014 however it was not signed by the Probate Referee.</p> <p>Note: If the petition is granted status hearings will be set as follows:</p> <ul style="list-style-type: none"> • Tuesday, 01/27/2015 at 9:00a.m. in Dept. 303 for the filing of the inventory and appraisal <u>and</u> • Tuesday, 10/27/2015 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>
Personal property	\$437.00								
Real property	\$60,000.00								
Total	\$60,437.00								
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Reviewed on: 08/20/2014									
Updates:									
Recommendation:									
File 10 – Sambrano									

		<u>TEMPORARY Granted as to Spring Langston only EXPIRES 08/26/2014</u>	NEEDS/PROBLEMS/COMMENTS: 1. Petitioner Erin Langston did not verify the temporary petition.
		<u>GENERAL HEARING 10/16/2014</u>	
		SPRING LANGSTON , aunt, is petitioner.	
	Aff.Sub.Wit.		
✓	Verified	Father: JOSHUA LAYTON - Personally served 8-19-14	
	Inventory		
	PTC	Mother: CHRISTINA STAGGS - Personally served 8-18-14	
	Not.Cred.		
✓	Notice of Hrg	Paternal Grandfather: James Rodggerson	
	Aff.Mail	Paternal Grandmother: Tamorah Wilson	
	Aff.Pub.		
	Sp.Ntc.	Maternal Grandfather: Steve Staggs	
✓	Pers.Serv.	Maternal Grandmother: Darlene Staggs	
✓	Conf. Screen	Petitioner states: mom has been committed on a 5150 twice in the last four months and both parents show signs of possible substance abuse. The request for temporary guardianship is to enroll the eldest child in school.	
✓	Letters		
✓	Duties/Supp		
	Objections		
	Video Receipt		
	CI Report		
	9202		
✓	Order		
	Aff. Posting		
	Status Rpt		
✓	UCCJEA		
	Citation		
	FTB Notice		
			Reviewed by: LV
			Reviewed on: 08/20/2014
			Updates: 08/25/14 (skc)
			Recommendation:
			File 11 – Layton

