

2 Manuel Vela (Estate)

Case No. 07CEPR01147

Atty Kruthers, Heather H (for Petitioner/Successor Administrator Public Administrator)

(1) First and Final Account and Report of Successor Administrator and (2) Petition for Allowance of Ordinary Commissions and Fees and (3) for Distribution

DOD: 9/27/2007		PUBLIC ADMINISTRATOR , Successor Administrator, is petitioner.	NEEDS/PROBLEMS/COMMENTS:
		Account period: 6/10/08 – 7/18/13	
Cont. from		Accounting - \$523,584.70	
<input type="checkbox"/>	Aff.Sub.Wit.	Beginning POH - \$370,000.00	
<input checked="" type="checkbox"/>	Verified	Ending POH - \$161,982.09	
<input checked="" type="checkbox"/>	Inventory	Administrator (statutory) - \$11,271.69	
<input checked="" type="checkbox"/>	PTC	Administrator x/o - \$1,248.00	
<input checked="" type="checkbox"/>	Not.Cred.	(sale of real property and preparation of taxes)	
<input checked="" type="checkbox"/>	Notice of Hrg	Attorney (statutory) - \$11,271.69	
<input checked="" type="checkbox"/>	Aff.Mail	W/	
	Aff.Pub.	Bond fee - \$1,308.97	
	Sp.Ntc.	(o.k.)	
	Pers.Serv.	Court fees - \$76.50	
	Conf. Screen	(certified copies)	
<input checked="" type="checkbox"/>	Letters	12/19/07	
	Duties/Supp	Closing - \$5,000.00	
	Objections	Distribution, pursuant to intestate succession, is to:	
	Video Receipt	Manuel Vela, Jr. - \$29,193.39	
	CI Report	Virginia Vela - \$29,193.39	
<input checked="" type="checkbox"/>	9202	Matthew Vela, Jr. - \$29,193.39	
<input checked="" type="checkbox"/>	Order	Evangelia Madrigal - \$43,790.08	
	Aff. Posting		
	Status Rpt		
	UCCJEA		
	Citation		
<input checked="" type="checkbox"/>	FTB Notice		
			Reviewed by: KT
			Reviewed on: 9/16/2013
			Updates:
			Recommendation:
			File 2 – Vela

Atty Shekoyan, James E., of Baker Manock & Jensen (for John R. Panzak, Jr., Deceased Executor;
 Atty Panzak, Gordon, sole practitioner (Self-represented Objector, Beneficiary)

First and Final Account of Deceased Personal Representative (PC 10953)

DOD: 3/12/2010	JAMES E. SHEKOYAN , legal representative for JOHN R. PANZAK, JR. , Executor appointed on 8/11/2010, is Petitioner.	<p>NEEDS/PROBLEMS/ COMMENTS:</p> <p>Continued from 9/4/2013. Minute Order dated 9/4/2013 [Judge Cardoza] states Mr. Shekoyan advises the Court that the accounting has been filed. The Court continues the matter to 9/18/2013 to allow counsel to review the objections.</p> <p>Note: Letters of Administration with Will Annexed issued to the Public Administrator on 6/3/2013. Court may set status hearing for the filing of the final account of the successor personal representative on Friday, March 7, 2014, at 9:00 a.m. in Department 303.</p> <p>~Please see additional page~</p> <p>Reviewed by: LEG</p> <p>Reviewed on: 9/13/13</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 3 – Panzak</p>
Cont. from 090413	Account period: 3/12/2010 – 2/15/2013	
	Accounting - \$620,182.86	
	Beginning POH - \$575,843.31	
	Ending POH - \$558,887.37	
	<i>(POH consists of brokerage account and vehicle.)</i>	
<input checked="" type="checkbox"/> Aff.Sub.W	Executor - not requested	
<input checked="" type="checkbox"/> Verified	Attorney - not requested	
<input checked="" type="checkbox"/> Inventory	Costs - \$1,765.86	
<input checked="" type="checkbox"/> PTC	<i>(filing fees, publication, certified copies; research by runner; parking fees and travel/mileage to Court)</i>	
<input checked="" type="checkbox"/> Not.Cred.	Petitioner states:	
<input checked="" type="checkbox"/> Notice of Hrg	<ul style="list-style-type: none"> Most of Decedent's assets were in the JOHN R. PANZAK LIVING TRUST, which are not part of the probate estate; GORDON PANZAK, son, filed two litigation matters between himself and the deceased personal representative, JOHN PANZAK, JR., as the Executor of the estate; one of the litigation matters involves the probate estate; the second matter is a civil litigation action filed by Gordon Panzak (Case # 11CECG00789) regarding the Decedent's trust and trust assets; John Jr. was prepared to commence trial in the civil litigation action, which was scheduled to begin on 12/12/2012; however, on 12/6/2012, Gordon dismissed this case without prejudice, and on the same day, he filed a new civil litigation action (Case # 12CECG03842) citing the same causes of action grievances as alleged in the action he just dismissed, such that the new complaint is a copy of the complaint dismissed the same day [Note: Court records show the Case Management Conference in 12CECG03842 was continued to 10/15/2013, citing the reason "service."] 	
<input checked="" type="checkbox"/> Aff.Mail	~Please see additional page~	
Aff.Pub.		
Sp.Ntc.		
Pers.Serv.		
Conf. Screen		
Letters		
Duties/S		
Objection		
Vid Rcpt		
CI Report		
<input checked="" type="checkbox"/> 9202		
<input checked="" type="checkbox"/> Order		
Aff. Post		
Status Rpt		
UCCJEA		
Citation		
<input checked="" type="checkbox"/> FTB Notice		

Petitioner states, continued:

- The issues in the civil litigation matter are entwined with the issues in the probate estate; as soon as the civil litigation is resolved, John Jr. intended to close the probate estate;
- **SHARON PANZAK**, spouse of John Jr., petitioned this Court to become the successor personal representative citing conflicts of interest in the appointment of Gordon, who also petitioned this Court to be appointed as personal representative;
- On 4/29/2013, the Court appointed the **PUBLIC ADMINISTRATOR** as the successor personal representative of this estate;
- All claims filed with the Court or presented against the estate, consisting of claims by Gordon Pazak filed 12/8/2010 for claims such as rent waste, damage to property, conversion of truck, ½ interest in Santa Cruz real property, and various other items of personal property, totaling **~\$1,582,940.00**, were rejected on 2/28/2011;
- The sole beneficiary of the estate is the **JOHN R. PANZAK LIVING TRUST**; Gordon has received the distributions he was entitled to under the terms of the Trust; the remaining assets of the Trust estate are distributed solely to John R. Panzak, Jr.;
- When John Jr. opened the estate brokerage account, he arranged to have the dividends paid into the account distributed to him monthly (*please refer to Schedule D, Distributions to Beneficiary*); Schedule D shows dividends from pre-August/2010 to 2/15/2013 distributed to John Jr. in the sum of **\$61,168.76**;
- John Jr. was entitled to receive the dividends through the Trust estate; additionally, John Jr. was paying the Decedent's bills and probate administration expenses from these assets;
- **Petitioner requests approval of the monthly distributions to John Panzak, Jr.**

Petitioner prays for an Order:

1. Settling, allowing and approving the First and Final Account of the attorney for the deceased personal representative;
2. Confirming and approving all acts and proceedings of the deceased personal representative, including the monthly distributions of the dividends paid to himself totaling **\$61,168.76**; and
3. Authorizing and directing the successor personal representative to pay to Baker Manock & Jensen the sum of **\$1,765.86** for costs advanced to the estate.

NEEDS/PROBLEMS/COMMENTS, continued:

Note: The devisee of the estate pursuant to Decedent's Will admitted to probate on 8/11/2010 is **JOHN R. PANZAK, JR.**, Trustee of the **JOHN R. PANZAK LIVING TRUST**. *Petition* states the remaining assets of the Trust estate are distributed solely to John R. Panzak, Jr. It appears John R. Panzak, Jr. has received payments of **\$61,168.76** from this Decedent's estate prior to court order approving such payments in contravention of Probate Code §§ 11603(a), 11640, and 11641.

Note: *Petition* requests reimbursement of **\$9.72** for parking expenses and mileage to Court, and **\$36.00** for research by a runner service, which pursuant to Local Rule 7.17(B)(3), (5) and (7) are not reimbursable costs, such that the total cost reimbursement amount should be **\$1,720.14**. Proposed order has been interlined to reflect costs allowed of **\$1,720.14**.

~Please see additional page~

Beneficiary's Objections to Inventory and Appraisal and Beneficiary's Objections to First and Final Accounting, and Declaration in Support filed by GORDON PANZAK on 9/3/2013 states:

- John Panzak, Sr. died on 3/12/2010; John Panzak, Jr., became Executor of the estate [on 8/11/2010], and in turn died on 2/15/2013;
- No inventory and appraisal was filed until November of 2012, when the Court ordered it to be done;
- The account filed with the Court was not furnished to Beneficiary Gordon Panzak; no accounting was filed until the one presently before the Court;
- Gordon is a named beneficiary of the estate, and was entitled to copies of the accounting and notice of actions by the Executor; none were given;
- In reviewing the November 2012 documents filed with the Court, the Executor lied by declaring that the only beneficiary of the estate was the **JOHN PANZAK TRUST**; both John R. Panzak, Jr., and Gordon Panzak were to share the personal property of the estate;
- John Panzak, Jr., sold the pick-up truck which is the subject of a separate creditor's claim and action by Charles Panzak;

Beneficiary Gordon Panzak's Objections filed 9/3/2012, continued:

- The current *First and Final Accounting* shows that John R. Panzak, Jr., **embezzled** [partial emphasis in original] the proceeds from the sale, thereby committing a felony under Penal Code § 484, et seq.
- It is a fair inference that the remaining personal property was also embezzled by John R. Panzak, Jr., since it was not listed;

Inventory and appraisal and First and Final Accounting are incomplete and were presented so with intent to defraud the Court, the Beneficiary, and to cover up the theft of certain property and funds; John Panzak, Sr., died in possession of the following property which is not reflected in either document:

1. At least one Savings Account;
2. At least one Checking Account;
3. At least one Certificate of Deposit;
4. Antique furniture;
5. Guns;
6. A new pick-up truck (the inventory shows the truck is still in the estate, when in fact it was sold and the proceeds were embezzled).

First and Final Accounting contains many grievous lies in the narrative part, as follows:

1. Paragraph 5 omits the numerous items stated in this objection, and hence is false and fraudulent by omission;
2. Paragraph 11 states all debts of Decedent have been paid; where is the accounting? What debts? How much? When Paid? The Accounting filed in November 2012 stated all debts of Decedent had been paid as of November 2012 if not sooner, yet the excuse given in Paragraph 26 for the Executor's embezzlement is that the money was needed to pay the Decedent's expenses; if they were paid in November, clearly the last 4 payments to John Panzak, Jr., listed in Schedule D are embezzled funds since all expenses of John Panzak Sr. were paid no later than October 2012; the last payment was made on the same date John Panzak, Jr. lay on his deathbed and is highly questionable;

~Please see additional page~

Beneficiary Gordon Pazak's Objections filed 9/3/2012, continued:**First and Final Accounting contains many grievous lies, continued:**

3. Paragraph 15 states all taxes were paid; there is no accounting of those funds;
4. Paragraph 17 states John Panzak, Sr. had accounts in interest-bearing accounts when he died; where are the accounts? Paragraph 17 is ambiguous in that "John" could refer to the Executor John Panzak, Jr. as opposed to Decedent; the trust accounts set up should be included in the account and inventory, especially in light of the embezzlement;
5. Paragraph[s 19 and 20] restate the same lie that has been published by John Panzak Jr. and his lawyers several times in these proceedings [that the beneficiary of the estate is the successor trustee of the **JOHN R. PANZAK LIVING TRUST**]; why do they persist in that lie? Gordon Panzak is a beneficiary of the estate;
6. In Paragraph 20, Attorney Shekoyan tries to cover up a massive embezzlement by John Panzak, Jr. by creating a series of lies and by blurring the distinction between John Panzak Sr, the Decedent, and John Panzak, Jr., the Executor;
 - (a) The Estate and Trust [*emphasis in original*] are the subjects of litigation on Creditor's Claims that exceed the value of the combined entities; NO [*emphasis in original*] distribution to any beneficiary should have been made while the issue is pending; any such transfer is, per se, done with the intent to defraud Creditors;
 - (b) Attorney Shekoyan refers to "John" as opening a Merrill Lynch Account; again, does he mean John Panzak Sr. or John Panzak Jr.? No Merrill Lynch Account is listed in the inventory or the accounting; In Paragraph 5, Attorney Shekoyan states the Merrill Lynch account was in the estate and set up by John Panzak, Sr., not John Panzak Jr., but neither account is listed;
 - (c) John Panzak, Jr. had a right to set up a probate trust account and pay the Decedent's bills; he did not have a right to embezzle the funds to himself; no accounting has been done for those expenses or of any Estate Trust Account; there was never a petition for distribution from the estate to John Panzak, Jr. or any other person;
 - (d) Per the account filed in November 2012, there were no longer any expenses of John Panzak Sr. to pay; at least the last 4 payments of Schedule D were therefore embezzled;

Litigation: The Estate was engaged in litigation for over a year; no claim for those attorney fees has been made; the estate would be the entity to pay the fees;

- The Will of Decedent does not [*emphasis in original*] allow for the hiring of an attorney for litigation;
- The Trust of the Decedent does not allow for the hiring of an attorney for litigation;
- The proper procedure would have been for the Estate and/or Trust to file a petition for instructions in regards to the litigation before incurring the expenses;
- This would have brought the matter to the direct scrutiny of the Court and would have assisted in a rapid conclusion to the litigation by Settlement; this was not done;
- It is obvious that Shekoyan and Paloutzian conspired to prolong the litigation and to have John Panzak Jr. launder the money to them;
- On 3 separate occasions, Paloutzian referred to John R. Panzak, Jr. in his personal capacity [*emphasis in original*] as his client, as opposed to John Panzak Jr.'s status as Executor or Trustee; this shows the funds embezzled by John Panzak Jr. went to Paloutzian as fees bypassing the Estate and Court scrutiny;

~Please see additional page~

Beneficiary Gordon Pazak's Objections filed 9/3/2012, continued:

Litigation, continued:

- The payments to John Panzak, Jr., listed in Schedule D start with the commencement of litigation; the sum total is close to the amount of attorney fees due Paloutzian;
- No claim or lien for fees due to the litigation is reflected in the documents filed; Shekoyan states they have been paid, yet they are not reflected in those documents; no petition for instructions was filed; no lien for fees was filed; no petition for distribution from the Estate was filed [emphasis in original];
- The money goes to John Panzak Jr. and is laundered to Shekoyan and Paloutzian to avoid Court scrutiny and to defraud Creditors and needlessly prolong litigation;
- Schedule D and Paragraph 20 reflect a preferential payment to a beneficiary in deference to creditors and to avoid scrutiny of the Court and without Court permission;
- The pick-up truck payment listed on Schedule D should in no way be ratified by the Court as the Court would become accessory after the fact to the commission of the felony of embezzlement by John Panzak, Jr., which was done with the connivance of his attorneys Shekoyan and Paloutzian.

Beneficiary Gordon Panzak prays that the Court:

1. Reject the Inventory and appraisal;
2. Order that the missing assets be located, inventoried and appraised;
3. Reject the First and Final Accounting;
4. Order all accounts, assets, transactions and supporting documents be produced;
5. Order that the Public Administrator and/or Beneficiary be authorized to audit the accounts of the Estate of John Panzak, Sr., including the documents showing payments of attorney fees to Baker, Manock & Jensen for litigation;
6. Order that the Public Administrator and/or Beneficiary be authorized to examine all financial records of John Panzak, Jr. from 3/12/2010 to present;
7. Order that no fees or costs be authorized to Shekoyan given the false and fraudulent manner in which the accounting and inventory were presented.

Note: Proof of Service filed 9/3/2013 by Gordon Panzak shows a copy of the *Beneficiary's Objections* was served on Attorney James Shekoyan and the Public Administrator on 9/3/2013.

(1) Petition for Final Distribution on Waiver of Accounting and (2) for Allowance of Compensation for Ordinary Services

DOD: 11/23/2010	MARIAN J. MOSLEY , Administrator, is petitioner.		NEEDS/PROBLEMS/COMMENTS: 1. A Withdrawal of Request for Special Notice from the Franchise Tax Board was filed 12/23/2011 however since then a new request for Special Notice was filed on 08/27/2012. Attached to the request for Special Notice is a creditor's claim in the amount of \$570.34. 2. Need Allowance or Rejection of Creditor's Claim for Franchise Tax Board pursuant to California Rules of Court 7.401 3. Need Allowance or Rejection of Creditor's Claim for Credit First National pursuant to California Rules of Court 7.401. 4. Need Property On Hand Schedule pursuant to California Rules of Court 7.550b(4). 5. Need proof of service of the Notice of Hearing with a copy of the petition to be served on the Franchise Tax Board pursuant to their request for Special Notice filed on 08/27/2012. 6. Need Order.
	Accounting is waived		
Cont. from	I&A –	\$80,000.00	
<input type="checkbox"/> Aff.Sub.Wit.	POH –		
<input checked="" type="checkbox"/> Verified	Administrator - Waives		
<input checked="" type="checkbox"/> Inventory	Attorney -	\$3,200.00	
<input type="checkbox"/> PTC	(Statutory)		
<input checked="" type="checkbox"/> Not.Cred.	Costs -	\$1,555.00 (filing fee, probate referee, publication, certified copies)	
<input checked="" type="checkbox"/> Notice of Hrg	Distribution pursuant to intestate succession:		
<input checked="" type="checkbox"/> Aff.Mail		Marian J. Mosley – 100%	
<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	06/01/2011		
<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 type="checkbox"/> Order		x	
<input type="checkbox"/> Aff. Posting			
<input type="checkbox"/> Status Rpt			
<input type="checkbox"/> UCCJEA			
<input type="checkbox"/> Citation			
<input type="checkbox"/> FTB Notice			
			Reviewed by: LV
			Reviewed on: 09/16/2013
			Updates:
			Recommendation:
			File 4 – Hanson

DOD: 07/17/12	<p>KATHRYN LOPEZ, daughter, was appointed Administrator with limited IAEA authority and bond set at \$150,000.00 on 10/03/12. Letters were issued on 10/26/12.</p>	NEEDS/PROBLEMS/COMMENTS:		
Cont. from 051013, 081613			<p>Minute Order from hearing on 10/03/12 set this matter for status regarding filing of the Inventory & Appraisal.</p> <p>Inventory & Appraisal, partial #1 filed 03/05/13 - \$138,225.00</p> <p>Inventory & Appraisal, partial #2 filed 05/06/13 - \$9,500.00</p> <p>Inventory & Appraisal, supplemental filed 09/13/13 - unable to value</p>	<p>CONTINUED FROM 08/16/13</p> <p>Minute Order from 08/16/13 states: Counsel advises the Court that he has the deed of trust for \$48,000.00. Counsel further advises that he submitted the deed of trust to the Probate referee and it was returned with the notation "unable to value"</p> <ol style="list-style-type: none"> Supplemental I&A Partial filed 09/13/13 states "unable to value" with reference to a Deed of Trust with Assignment of Rents for certain real property in Marysville, CA. Need more information as to why the probate referee was unable to value this asset. It is noted that the Administrator previously valued this asset at \$48,000.00. Need Final Inventory & Appraisal.
<input type="checkbox"/> Aff.Sub.Wit.				
<input type="checkbox"/> Verified				
<input checked="" type="checkbox"/> Inventory				
<input type="checkbox"/> PTC				
<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 type="checkbox"/> Letters				
<input type="checkbox"/> Duties/Supp				
<input type="checkbox"/> Objections				
<input type="checkbox"/> Video Receipt				
<input type="checkbox"/> CI Report				
<input type="checkbox"/> 9202				
<input type="checkbox"/> Order				
<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: JF		
		Reviewed on: 09/17/13		
		Updates:		
		Recommendation:		
		File 5A – Lopez		

Report of Sale and Petition for Order Confirming Sale of Real Property

DOD: 07/17/12		KATHRYN LOPEZ, Administrator, is Petitioner.		NEEDS/PROBLEMS/COMMENTS:	
		Sale Price - \$85,000.00		1. Need proof of service by mail at least 15 days before the hearing of <i>Notice of Hearing</i> for:	
		Overbid - \$89,750.00		- Leonard Louis Lopez (son)	
				- Rachel Ben (daughter)	
Cont. from		Reappraisal - \$90,000.00 (real property)		- All other interested parties	
	Aff.Sub.Wit.	\$ 8,000.00 (tractors)			
✓	Verified	\$98,000.00			
	Inventory			2. The Petition states that commissions in the amount of \$3,400.00 will be paid, but does not state to whom the commission is to be paid.	
	PTC	Property - 12829 E. Jefferson			
	Not.Cred.	Del Rey, CA 93616			
	Notice of Hrg	Plus 2 tractors			
✓	Aff.Mail	valued at \$8,000.00		3. The Petition does not address whether additional bond will be necessary or whether the proceeds of the sale will be placed into a blocked account. Need more information.	
	Aff.Pub.	Publication - The Fresno Bee			
	Sp.Ntc.	Buyers - Bernardino & Gloria			
	Pers.Serv.	Villalobos		4. The sale price is not within 90% of the appraised value as required pursuant to Probate Code § 10309.	
	Conf. Screen	Broker - \$3,400.00 (4% - payable to			
	Letters	?????)			
	Duties/Supp	Petitioner has posted bond in the amount of			
	Objections	\$150,000.00.			
	Video Receipt				
	CI Report				
	9202				
✓	Order			Reviewed by: JF	
✓	Aff. Posting			Reviewed on: 09/17/13	
	Status Rpt			Updates:	
	UCCJEA			Recommendation:	
	Citation			File 5B – Lopez	
	FTB Notice				

Petition of Administrator for Admission of Holographic Will to Probate and for Confirmation of Children as Beneficiaries [Prob. C. 6122; 6451; 8226]

DOD: 6/27/2012		<p>PUBLIC ADMINSTRATOR, Administrator, is petitioner.</p> <p>Petition states Petitioner was appointed to distribution any assets in accordance with the Decedent's Will dated September 21, 1990.</p> <p>An original holographic Will dated January 15, 2005 was located and deposited on 4/17/2013 by petitioner.</p> <p>The 1990 Will which was previously admitted to probate states that all property goes to John C. Broome, II ("Jack"). The 2005 Will sought to be admitted to probate states that each of the decedent's children, Jack, Derek and Stephanie, are to receive \$1 each, and the rest of his possessions are to go to his wife Fanny Broome. Subsequent to executing the 2005 Will, the decedent divorced his wife. Pursuant to Probate Code §6122, the distribution to Fanny Broome is invalid; thus his estate would be distributed pursuant to intestate succession.</p> <p>The Decedent' was survived by three biological children, as noted above. These three children were later adopted by their mother's husband. Petitioner asserts that the children fall within the exception of severance of parent child relationship as set forth in Probate Code §6451 (a)(1) and (2).</p> <p>At one point during the proceedings, the decedent's former wife asserted that since the children were adopted, the decedent's siblings would be his intestate heirs. Both of them, Claudia Broome and David Broome have signed disclaimers, which includes their agreement with petitioner's argument in favor of the children being the rightful heirs.</p> <p style="text-align: center;">Please see additional page</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p>	
Cont. from				
✓	Proof of Holographic Instrument.			
✓	Verified			
	Inventory			
	PTC			
	Not.Cred.			
✓	Notice of Hrg			
✓	Aff.Mail			W/
	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: 9/16/13</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 6 – Broome</p>		

Petitioner prays for an Order:

1. Admitting the Decedent's holographic Will dated 1/15/2005 to probate, thereby revoking admission of the 1990 Will;
2. Determining that the three children are the heirs of this estate.

7 **Mark T. Felmus (CONS/E)**
 Atty **Wright, Janet L (for Petitioner, Jeremy Felmus)**
 Atty **Johnson, Summer (for Petitioner, Jeremy Felmus)**
 Atty **Poochigian, Mark S. (for Proposed Conservatee Mark T. Felmus)**

Case No. 13CEPR00104

Status Conference

Petition for Approval of Settlement Agreement

		<p>MARK T. FELMUS, proposed conservatee, is petitioner.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p>
		<p>Petitioner states JEREMY FELMUS, son, petitioned to have the PUBLIC GUARDIAN appointed as conservator of the estate of his father, MARK T. FELMUS.</p>	
<p>Cont. from 090413</p>			
	Aff.Sub.Wit.	<p>On 2/7/2003 the court appointed the PUBLIC GUARDIAN (ex parte) as temporary Conservator of the estate.</p>	
✓	Verified		
	Inventory	<p>MARK T. FELMUS, conservatee, filed a Motion for Reconsideration of Order Granting Temporary Conservatorship.</p>	
	PTC		
	Not.Cred.	<p>Among the allegations contained in the petition was that Mark T. Felmus was subject to undue influence from Jamie N. Pearcy ("Jamie"), who is now Mark's wife. Specifically, the Conservatorship petitions allege that Jamie wrongfully procured (i) a conveyance of an undivided ½ interest in Mark's residence from Mark to Jamie, and (ii) an assignment of the proceeds of a Lincoln Financial Life Insurance policy having a death benefit of approximately \$500,000.00 from Mark to Jamie. Mark disputed the allegations of the Conservatorship petition.</p>	
✓	Notice of Hrg		
✓	Aff.Mail	W/	
	Aff.Pub.		
	Sp.Ntc.		
	Pers.Serv.		
	Conf. Screen		
	Letters		
	Duties/Supp		
	Objections		
	Video Receipt		
	CI Report		
	9202		
	Order	X	
	Aff. Posting		<p>Reviewed by: KT</p>
	Status Rpt		<p>Reviewed on: 9/13/2013</p>
	UCCJEA		<p>Updates:</p>
	Citation		<p>Recommendation:</p>
	FTB Notice		<p>File 7 – Felmus</p>
		<p>Please see additional page</p>	

Settlement Agreement:

Mark and Jeremy have entered into a Settlement Agreement ("the Agreement") effective as of July 18, 2013. The Agreement is conditional upon approval by this court. The Settlement Agreement is also conditional upon, among other things, (i) Jamie's conveyance of Jamie's Undivided Interest to Mark, and (ii) Jamie's assignment of the Policy Proceeds to Mark.

Petitioner hereby requests that this Court enter an order approving the Settlement Agreement. Approval of the Settlement Agreement would be in the best interest of Mark. Moreover, it would allow Mark and Jeremy to end their dispute regarding the proposed conservatorship.

Pursuant to Paragraph 8 of the Settlement Agreement, following the Court's approval of the Settlement Agreement, and upon receipt by the parties of certain certifications required under paragraphs 6(a) and 6(b) of the Settlement Agreement, the parties intend to jointly request that the Court enter a further order vacating the Order Appointing temporary Conservator and the Order After Hearing (extending the temporary conservatorship). Petitioner requests that the Court entertain an ex parte joint request of the parties following court approval of the Settlement Agreement, and upon receipt by the parties of the certifications required under paragraphs 6(a) and 6(b) of the Settlement Agreement.

Wherefore, Petitioner prays for an Order:

1. Approving the Settlement Agreement;
2. Authorizing the parties to jointly file a request (by motion or otherwise) for vacation of the Order Appointing Temporary Conservator and the Order after Hearing, and providing that such request shall be considered ex parte.

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

Age: 84	TEMP EXPIRES 9-18-13	<p>NEEDS/PROBLEMS/ COMMENTS:</p> <p>CONTINUED TO 10/30/2013 Per Stipulation and Order</p> <p><u>Court Investigator advised rights on 3-19-13</u></p> <p><u>Voting rights are affected - Need minute order.</u></p> <p>Note: Petitioners, relatives, and attorneys Bagdasarian (for Petitioners) and Sanoian (for the proposed Conservatee) have met in mediation and reached agreement, in part, that conservatorship is in the proposed conservatee's best interest, but agreed to mediate further. Agreements dated 3-5-13 and 5-6-13 are in the file for reference.</p> <p>Note: The 5-6-13 agreement indicated further mediation on 7-22-13; however, nothing further has been received.</p> <p>Reviewed by: skc</p> <p>Reviewed on: 9-16-13</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 8 - Greenberg</p>
	STANLEY GREENBERG and CHERYL TAYLOR, Son and Daughter, are Petitioners and request appointment as Co-Conservators of the Person with medical consent powers and dementia medication and placement powers.	
Cont. from 032813, 052313, 080113	Voting rights affected	
<input type="checkbox"/> Aff.Sub.Wit.	Capacity Declaration was filed 2-26-13.	
<input checked="" type="checkbox"/> Verified	A second Capacity Declaration was filed 6-24-13.	
<input type="checkbox"/> Inventory	Petitioners state their mother suffers from advanced Alzheimer's Disease and dementia. She resides at a care facility in Fresno. Petitioners are agents under a Power of Attorney dated 12-5-06 and an Advance Health Care Directive dated 12-5-06. Two of the conservatee's other three children, Michele Torres of Gilroy and Nadine Walker of Fresno, claim the care the Conservatee is receiving at her current placement, Serenity Living Care, Inc., is not satisfactory and have threatened to remove her to a residence or some other facility. Petitioners have been made aware from speaking with their mother and staff that while the proposed Conservatee shows an interest in knowing about her personal residence, if she is moved, she may become very confused and agitated. The Conservatee is the settlor of a living trust in which her assets are located. Petitioner Stanley Greenberg is the trustee. Petitioners do not believe any movement is in the proposed conservatee's best interest and request upon appointment to obtain authorization to keep her in a living arrangement suited for her condition.	
<input type="checkbox"/> PTC		
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<input type="checkbox"/> Aff. Posting		
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<input checked="" type="checkbox"/> Citation		
<input type="checkbox"/> FTB Notice	Court Investigator Jennifer Young filed a report on 3-19-13.	

DOD: 4/26/2013		<p>CHRISTOPHER TANGE, SUZANNE TANGE and CLYDE TANGE, siblings, are petitioners.</p> <p>40 days since DOD.</p> <p>No other proceedings.</p> <p>Decedent died intestate.</p> <p>I & A - \$83,333.00</p> <p>Petitioners request Court determination that Decedent's ½ interest in real property pass to them, in equal shares, pursuant to intestate succession.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p>	
Cont. from				
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<input type="checkbox"/>	Letters			
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<input type="checkbox"/>	Status Rpt			
<input type="checkbox"/>	UCCJEA			
<input type="checkbox"/>	Citation			
<input type="checkbox"/>	FTB Notice			
<p>Reviewed by: KT</p> <p>Reviewed on: 9/16/2013</p> <p>Updates:</p> <p>Recommendation: SUBMITTED</p> <p>File 9 – Tange</p>				

Age: 6		<p>SABRINA PRINDIVILLE and KURT PRINDIVILLE, non-relatives, are Petitioners. Petitioners were appointed guardians on 08/04/2011.</p> <p>Father: DESMOND ROWTON Mother: ALISA ADAMS</p> <p>Paternal grandfather: Presumed deceased Paternal grandmother: Angela Urias</p> <p>Maternal grandfather: Robert Adams Maternal grandmother: Mary Hutchins</p> <p>Petitioners state: Hannah is now living with her maternal grandparents in Nevada. It is in her best interest to grow up with her biological family.</p> <p>Court Investigator Julie Negrete's report filed 07/31/2013.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>Minute Order of 08/07/2013: The petitioners are directed to cure the defects in the Examiner notes.</p> <p>The following issues still remain:</p> <ol style="list-style-type: none"> 1. Need proof of service fifteen (15) days prior to the hearing of the Petition for Termination on the following: <ul style="list-style-type: none"> • Desmond Rowton (Father) • Alisa Adams (Mother) • Angela Urias (Paternal Grandmother) • Robert Adams (Maternal Grandfather) • Mary Hutchins (Maternal Grandmother)
Cont. from 080713			
<input type="checkbox"/>	Aff.Sub.Wit.		
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		<p>Reviewed by: LV</p> <p>Reviewed on: 09/13/2013</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 10 – Rowton</p>	

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

DOD: 3-24-13		<p>TOM MIYAKE, Brother and named executor without bond, is Petitioner.</p> <p>Full IAEA – ok</p> <p>Will dated 11-16-10</p> <p>Residence: Clovis, CA Publication: Fresno Business Journal</p> <p>I&A filed 7-3-13 indicates \$392,127.43 cash plus personal property valued at \$1,600.00 (vehicles, boat)</p> <p>Probate Referee: Rick Smith</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>Note: The Court will set a status hearing for Friday 9-12-14 for filing of the first account or petition for final distribution.</p> <p>(Petitioner has already filed a Final Inventory and Appraisal.)</p>	
Cont. from 061213, 071013				
✓	Aff.Sub.Wit.			
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	Inventory			
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	Not.Cred.			
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	Pers.Serv.			
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✓	Letters			
✓	Duties/Supp			
	Objections			
	Video Receipt			
	CI Report			
	9202			
✓	Order			
	Aff. Posting			
	Status Rpt			
	UCCJEA			
	Citation			
	FTB Notice			
			Reviewed by: skc	
			Reviewed on: 9-16-13	
			Updates:	
			Recommendation:	
			File 11 – Miyake	

Age: 3 months	TEMP GRANTED TO EXPIRES 9-18-13.	NEEDS/PROBLEMS/COMMENTS:
	HELEN JOHNSON , Third Cousin, is Petitioner.	<p>1. The Court may require notice to all family members per Probate Code §1511.</p>
	Father: Unknown - Notice dispensed per Minute Order 6-26-13	
	Mother: LANDREA TOWNSEND	
	Paternal Grandparents: Unknown Maternal Grandfather: Not listed Maternal Grandmother: Katrina Reaves	
	Petitioner states the mother is temporarily unfit to raise the child. He was living with Melva Palms, who is not related, and no one inside the family knows her besides the mother. On 6-24-13, CPS placed the child with Ms. Johnson.	
	Court Investigator Samantha Henson filed a report on 9-11-13.	
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<input checked="" type="checkbox"/> UCCJEA		
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<input type="checkbox"/> FTB Notice		
		Reviewed by: skc
		Reviewed on: 9-16-13
		Updates:
		Recommendation:
		File 12B – Townsend-Palms

Atty Herrera, Lourdes (pro per – maternal grandmother/Petitioner)

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

<p>Giselle, 7 DOB: 09/12/05</p> <p>Priscilla, 7 DOB: 09/12/05</p> <p>Bianca, 2 mos. DOB: 06/14/13</p> <p>Cont. from 082813</p> <p><input type="checkbox"/> Aff.Sub.Wit.</p> <p><input checked="" type="checkbox"/> Verified</p> <p><input type="checkbox"/> Inventory</p> <p><input type="checkbox"/> PTC</p> <p><input type="checkbox"/> Not.Cred.</p> <p><input checked="" type="checkbox"/> Notice of Hrg</p> <p><input checked="" type="checkbox"/> Aff.Mail</p> <p><input type="checkbox"/> Aff.Pub.</p> <p><input type="checkbox"/> Sp.Ntc.</p> <p><input checked="" type="checkbox"/> Pers.Serv.</p> <p><input checked="" type="checkbox"/> Conf. Screen</p> <p><input checked="" type="checkbox"/> Letters</p> <p><input checked="" type="checkbox"/> Duties/Supp</p> <p><input type="checkbox"/> Objections</p> <p><input type="checkbox"/> Video Receipt</p> <p><input checked="" type="checkbox"/> CI Report</p> <p><input type="checkbox"/> 9202</p> <p><input checked="" type="checkbox"/> Order</p> <p><input type="checkbox"/> Aff. Posting</p> <p><input type="checkbox"/> Status Rpt</p> <p><input checked="" type="checkbox"/> UCCJEA</p> <p><input type="checkbox"/> Citation</p> <p><input type="checkbox"/> FTB Notice</p>	<p style="text-align: center;"><u>TEMPORARY EXPIRES 09/18/13</u></p> <p>LOURDES HERRERA, maternal grandmother, is Petitioner.</p> <p>Father: UNKNOWN – <i>Declarations of Due Diligence filed 07/03/13; Court dispensed with notice on 07/11/13</i></p> <p>Mother: BRENDA HERRERA – <i>Personally served on 07/05/13</i></p> <p>Paternal grandparents: UNKNOWN – <i>Declarations of Due Diligence filed 07/16/13</i></p> <p>Maternal grandfather: JOSE HERRERA – <i>Served by mail on 07/03/13</i></p> <p>Petitioner alleges that the mother suffers from mental illness and cannot care for the children. A social worker has advised petitioner to seek guardianship or the children will be removed.</p> <p>Court Investigator Jennifer Daniel filed a report on 08/22/13. The report recommends that the petition be <u>GRANTED.</u></p> <p>Court Investigator Jennifer Daniel filed a supplemental report on 09/10/13. The report states: Guardianship appears necessary, appropriate and to be in the children’s best interest. It appears it would be detrimental for the minors to be in the care of their mother at this time. It does not appear appropriate for Brenda Herrera to be residing in the home with the proposed guardian and the minors. Petitioner informed the investigator that she was going to have her daughter leave the home immediately. If Brenda Herrera (mother) does not vacate the home, it is recommended that the petition be DENIED and a referral be made to the Department of Social Services.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p><u>CONTINUED FROM 08/28/13</u> Minute Order from 08/28/13 states: The Petitioner informs the Court that mother is still living with her as she has no place to go. Matter is continued to 09/18/13 for the Court to explore the issue further.</p> <p>1. Declarations of Due Diligence filed 07/16/13 state that all of the paternal relatives are unknown due to the father’s being unknown. If diligence is not found, need proof of service by mail at least 15 days before the hearing of <i>Notice of Hearing with a copy of the Guardianship Petition or Consent & Waiver of Notice</i> for: - Paternal grandparents</p> <p>Notes to Judge: Per CI report, the mother has several DSS referrals for exhibiting bizarre behavior and physical abuse. The mother has 2 other children who live in San Jose with their father that she is not able to visit due to her psychological problems. According to the CI report, the mother was living in the Petitioner’s home with the children. The DSS has recommended to the Petitioner that the mother not be allowed to live in the home with the children.</p> <p>Per Supplemental CI report, the CI reviewed the DSS narratives from the many referrals against the mother. It appears that the Petitioner has been advised on several occasions that it is her responsibility to protect the children from their mother due to her instability and that if she is unable or unwilling to protect them the children may be removed by the DSS.</p> <p>Reviewed by: JF</p> <p>Reviewed on: 09/17/13</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 13 – Herrera</p>
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Pro Per Frierson, Emma (Pro Per Petitioner, maternal aunt)

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

Age: 9 years		<p align="center"><u>General Hearing set for 11/5/2013</u></p> <p>EMMA FRIERSON, maternal aunt, is Petitioner.</p> <p>Father: UNKNOWN</p> <p>Mother: TANYANNA GARDNER; <i>consents and waives notice.</i></p> <p>Paternal grandfather: Unknown Paternal grandmother: Unknown</p> <p>Maternal grandfather: <i>Not listed</i> Maternal grandmother: <i>Not listed</i></p> <p>Petitioner states a temporary guardianship is needed to meet the child's medical and educational needs. Petitioner states the child's mother had asked her to keep the child because the mother has no steady place to live, and when CPS got involved with the child's mother due to a different issue, the child told CPS he wanted to live with Petitioner forever. Petitioner states she has been taking care of the child for over 3 months with her income, and she is home to care for him after school so she does not need anyone else to watch him, and he knows he is expected to make good grades and have good behavior in school, and he has.</p> <p>Petitioner requests to be excused from giving notice to the father because he is unknown.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <ol style="list-style-type: none"> <i>If Court does not excuse notice as Petitioner requests, need proof of five (5) court days' notice by personal service of the Notice of Hearing with a copy of the Petition for Appointment of Temporary Guardian, or Consent to Appointment of Guardian and Waiver of Notice, or a Declaration of Due Diligence for:</i> <ul style="list-style-type: none"> Unknown father. UCCJEA form filed on 9/4/2013 does not provide residence information for the last 5 years as required. Need Attachment 3 explaining affirmative answer to Item 3 of Confidential Guardian Screening form filed on 9/4/2013 re: felony or misdemeanor. 	
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<input type="checkbox"/>	Status Rpt			
<input checked="" type="checkbox"/>	UCCJEA			
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		Reviewed by: LEG		
		Reviewed on: 9/16/13		
		Updates:		
		Recommendation:		
		File 14 - Gardeley		

Pro Per Young, Jami A. (Pro Per Petitioner, Non-relative Godmother)
 Pro Per Young, Kristopher (Pro Per Petitioner, Non-relative Godfather)

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

Age: 3 years		<p style="text-align: center;"><u>General Hearing set for 11/6/2013</u></p> <p>KRISTOPHER YOUNG and JAMI YOUNG, child's Godparents (non-relatives), are Petitioners.</p> <p>Father: DAVID W. BROWN</p> <p>Mother: CHERICE L. McMILLIAN; Declaration of Due Diligence filed 9/16/2013.</p> <p>Paternal grandfather: Gary Brown; sent notice by mail 9/14/2013.</p> <p>Paternal grandmother: Margaret Peterson (Pearson?); personally served 9/14/2013.</p> <p>Maternal grandfather: Allen J. McMillian, III</p> <p>Maternal grandmother: Terry Herrold; sent notice by mail 9/14/2013.</p> <p>Petitioners state the child's mother is unavailable and unable to care for the child due to drug abuse, homelessness, and illegal activity, and the child's father is serving a long-term incarceration at Corcoran State Prison. Petitioners state the child needs to go to a doctor for current physical and immunizations, and also needs to be enrolled in preschool. Petitioners state they have been a steady important role to the child since her birth, they have provided her with all her living necessities since her birth, and she is part of their family.</p> <p>Petitioners request to be excused from giving notice to the mother because her whereabouts are unknown, and the last physical address of the mother was her mother's home, and the home occupants state they do not know where she is; mutual friends and family do not know the mother's whereabouts.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>4. If Court does not excuse notice as Petitioner requests, need proof of five (5) court days' notice by personal service of the Notice of Hearing with a copy of the Petition for Appointment of Temporary Guardian, or Consent to Appointment of Guardian and Waiver of Notice, or a Declaration of Due Diligence for:</p> <p>2) David W. Brown, father.</p>	
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<input type="checkbox"/>	FTB Notice			
		<p>Reviewed by: LEG</p> <p>Reviewed on: 9/16/13</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 15 – McMillian</p>		

Petition for Letters of Special Administration (Prob. C. 8002, 10450)

DOD: 05/22/13		<p>RANDI A. JEAN, daughter, is Petitioner and requests appointment as Special Administrator with any monies collected to be deposited into a blocked account [bond not addressed].</p> <p>Petitioner requests appointment as Special Administrator under Probate Code § 8544(a) and (b) for the purpose of: (1) taking possession of decedent's real and personal property to preserve it from damage, waste and injury; (2) Collect all claims, rents, and other income belonging to the estate; (3) Commence and maintain or defend suits or other legal proceedings; (4) Sell perishable property; (5) borrow money, or lease mortgage or execute a deed of trust on real property, in the same manner as an administrator; (6) pay the interest due or all or any part of an obligation secured by a mortgage, lien, or deed of trust on property in the estate. Petitioner states that the decedent owns several vehicles, real property and valuable construction tools and equipment, all of which was the separate property of the decedent. Petitioner alleges that the decedent's widow may be selling some of the property, transferring ownership of some of the vehicles, and living in the real property of the estate without paying rent. Petitioner believes the assets of the estate are in jeopardy of immediate conversion by Decedent's widow, without supervision of this Court and therefore, require immediate inventory and constant attention in order to safeguard and preserve them by collecting rent and preventing theft.</p> <p>Full IAEA – <i>not requested</i></p> <p>Decedent died intestate</p> <p>Residence: Selma Publication: N/A</p> <p>Estimated Value of the Estate: Personal property - \$102,700.00 Annual income - 14,400.00 Real property - 675,000.00 Total - \$792,100.00 [Petition states \$859,200.00]</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>CONTINUED FROM 09/16/13 Minute Order from 09/16/13 states: Mr. Winter is appearing specially for Attorney Gary Winter. Ms. Sanoian is appearing as counsel for Terri Jean. Ms. Sanoian informs the Court that she will be filing a petition on behalf of her client.</p> <p>As of 09/17/13, nothing further has been filed.</p> <ol style="list-style-type: none"> The Petition does not address bond, but requests that any funds collected will be placed into a blocked account. The Petition alleges that the assets of the estate consists of both real and personal property and annual income. The Court may determine that bond is necessary due to the nature of the assets unless waivers of bond are filed by all beneficiaries. If bond is required it should be set at \$792,100.00. The Petition is not marked at item 5(a)(7 or 8) regarding issue/no issue of a predeceased child. One of the limited powers requested includes to commence and maintain or defend suits and other legal proceedings; however, pursuant to Probate Code § 8544(c) except where powers, duties, and obligations of a general personal representative are granted under section 8545, the special administrator is not a proper party to an action on a claim against the decedent. The Petition was opened with a fee waiver. However, as it is alleged that the estate has assets, the Court may require payment of the filing fees (\$260.00 to date). Need Notice of Hearing and proof of service of Notice of Hearing at least 10 days before the hearing. Note: Proof of Service filed 09/12/13 is not on the <u>Mandatory Judicial Council Form</u> and does not appear to provide the Court with the necessary information to determine if notice was provided as required. The calculation of the total assets of the estate appears to be incorrect. Need Order & Letters.
Cont. from 091613			
Aff.Sub.Wit.			
✓ Verified			
Inventory			
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Notice of Hrg	x		
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Letters	x		
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Video Receipt			
CI Report			
9202			
Order	x		
Aff. Posting			
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UCCJEA			
Citation			
FTB Notice			
		<p>Reviewed by: JF</p> <p>Reviewed on: 09/17/13</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 16 - Jean</p>	

1 Fred Otto Loeffler (CONS/PE)
 Atty Downing, Marcella (for Diane Marie Huerta & Linda Plitt – daughters/Petitioners)
 Atty Rube, Melvin K. (for proposed conservatee)
 Atty Janisse, Ryan (for Michael Loeffler – son/objector)

Case No. 13CEPR00655

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

Age: 91	NO TEMPORARY IN PLACE; TEMPORARY DENIED ON 08/19/13		NEEDS/PROBLEMS/COMMENTS: <u>CONTINUED FROM 09/03/13</u> Court Investigator advised rights on 09/06/13. 1. Petitioners have requested medical consent powers. Therefore need Capacity Declaration from a Medical Doctor supporting that the proposed conservatee lacks capacity to make medical decisions. (Form GC-335)
	<p>DIANE HUERTA and LINDA PLITT, daughters, are Petitioners and request appointment as Conservator of the person with medical consent powers and conservator of the estate with bond set at \$1,850,000.00.</p> <p>Estimated Value of the Estate: Personal property - \$1,700,000.00 Annual income - 23,328.00 Real Property - 300,000.00 Total - \$2,023,328.00</p> <p>Declaration of Dr. – NEED DOCTOR'S DECLARATION</p> <p>Petitioners allege that their parents had put together estate planning documents intended to provide for them during their elderly years. Recently, Michael Loeffler, son, has unduly influenced their parents to change their durable power of attorney, trustee of their trust, and advanced health care directive so that he is now acting on behalf of his parents under these instruments. Petitioners allege that Michael has an "atomic temper" and he uses yelling and intimidation to get his way. Petitioners believe that their parents are now afraid to express their own opinions and defer to Michael. Petitioners indicate that Michael lives in their parents' home rent-free and is paid a monthly amount by their parents. The conservatee now resides in a skilled nursing facility and the staff at the facility have reported that Michael has been combative and made multiple complaints regarding the care provided to the conservatee. The conservatee and other family members have no concerns over the care received.</p> <p>Court Investigator Charlotte Bien filed a report on 09/06/13.</p> <p style="text-align: center;">Continued on Page 2</p>		
Cont. from 090313			
<input type="checkbox"/> Aff.Sub.Wit.			
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			Reviewed by: JF
			Reviewed on: 09/16/13
			Updates:
			Recommendation:
			File 1 – Loeffler

Objection to Petition for Appointment of Permanent Conservators of the Person and Estate of Fred Loeffler filed 09/13/13 by Mick Loeffler states: The thrust of the Petitioner's Petition is that the Objector is isolating, emotionally abusing, financially abusing, and interfering with those providing care for the Proposed Conservatee. In actual fact, Objector is a devoted son who has attended to his parents' needs and his parent are grateful for his efforts. Objector has engaged in no financial, physical or emotional abuse and is not isolating his parents. Petitioners' allegations cannot be substantiated. The Petition lacks merit and should be denied.

Petitioners are unable to meet the clear and convincing evidentiary standard to support their petition for a conservatorship of the person. The Conservatee lives in an assisted living facility at Sierra View Homes. Petitioners have presented no evidence to support a finding that a conservatorship of the person is necessary. Proposed Conservatee's personal needs for physical health, food, clothing, and shelter are all provided by Sierra View Homes and are supplemented by Mrs. Loeffler and Objector. The proposed conservatee executed an Advanced Health Care Directive on 07/18/13. On 06/20/13, a neurologist, Dr. Loren Alving, M.D., met with the proposed conservatee and determined that he had capacity to make the decisions as to who would make health care decisions for him. A conservatorship of the person is not warranted. The evidence does not support a clear and convincing finding that the proposed conservatee is substantially unable to provide properly for his needs for physical health, food, clothing, or shelter. Even if the Court were to make such a finding, proposed conservatee's Advanced Health Care Directive renders the conservatorship of the person not the least restrictive alternative. The Petition for conservatorship of the person should be denied.

It is unclear from Petitioners' pleadings on what grounds they contend a conservatorship of the estate is warranted. Irrespective, Petitioners are unable to meet the clear and convincing evidentiary standard to support their petition for a conservatorship of the estate. The proposed conservatee created a plan for the management of his financial resources and therefore, a conservatorship of the estate is not necessary. The proposed conservatee and his wife, Mrs. Loeffler, are settlors of the Loeffler Family Trust dated August 1, 1972, as amended (the "Trust"). The Trust has been in place since 1972 and the proposed conservatee has been represented consistently by estate planning attorneys since on or about the year 2000. The Trust provides a clear plan for the management of the proposed conservatee and Mrs. Loeffler's assets. The Trust provides that Objector has the authority to nominate a professional licensed fiduciary as successor trustee of the Trust. Objector has exercised this power and nominated Pat Dicken of Perine & Dicken as successor trustee. Objector states that substantially all of the proposed conservatee's assets are held in Trust. The Court has no jurisdiction over the Trust or its assets rendering a conservatorship of the estate superfluous. Even if the Court finds that the proposed conservatee is unable to manage his financial resources, a conservatorship of the estate is not the least restrictive alternative.

Petitioners are slinging mud in the hopes that something will stick. Petitioners contend that Objector is a violent threat, is isolating the proposed conservatee, and physically and financially abusive. There is no truth to these allegations. A thread that runs through the Petition and supporting declarations is that Objector is some sort of violent threat, yet none of the concerns or allegations have ever materialized. Petitioners can point to no evidence of Objector engaging in physical abuse or becoming violent with the proposed conservatee (or anyone else). Admittedly, Objector is a retired police officer and gun collector. Owning guns is Objectors right. Objector does not have a concealed carry permit and does not carry a firearm. There are no allegations (or evidence) of Objector brandishing a firearm. Objector is not a threat to the proposed conservatee.

Continued on Page 3

Petitioners allege the Objector is isolating the proposed conservatee. This is patently false. The proposed conservatee resides at Sierra View Homes. Objector lacks the ability to deny anyone access to see the proposed conservatee. Any of proposed conservatee's children can visit when they please without being denied access by the Objector. Objector does not have his parents under "lock and key" and does not spend every moment of every day at Sierra View Homes. It is not isolation if Petitioners' dislike for the brother is so deep that they forego visiting their parents because they wish to avoid Objector. There is more than adequate time for Petitioners to visit. The fact is, Petitioners have chosen not to take advantage of the opportunities they have to visit their parents.

The allegations that Objector is physically, emotionally, or financially abusing the proposed conservatee are also false. The staff at the facility where the proposed conservatee lives are mandatory reporters of any suspected abuse under Welfare & Institutions Code § 15630(a). No report or investigation has occurred. There is no evidence of physical, emotional or financial abuse. Objector has received no undue benefit from his parents. Petitioners contend that the monthly payments he received from his parents and the fact that he lives rent free in their home are evidence that Objector is financially abusing his parents. To the contrary, proposed conservatee and Mrs. Loeffler had their previous attorney prepare a draft of a caretaker agreement that would memorialize their arrangement to provide monthly payments to Objector for the care he provides. Furthermore, proposed conservatee and Mrs. Loeffler communicated their intention to their previous attorney that Objector reside rent free in their home. All of proposed conservatee's assets can be accounted for. The allegations regarding financial elder abuse cannot be substantiated.

The Petitioners seek to take away the proposed conservatee's ability to choose who makes health care decisions for him and his ability to participate in the management of his financial resources. While the Petitioners may not like the decisions their parents have made, and clearly do not like their brother, it does not give them a right to impose their will over that of the proposed conservatee.

Objector asserts the following objections:

1. Conservatorship of the Person is not the least restrictive alternative.
2. Conservatorship of the Estate is not the least restrictive alternative.
3. Petitioners failed to meet evidentiary standard of clear and convincing evidence.
4. Should the Court determine that a conservatorship is necessary, proposed conservatee has nominated Objector as Conservator of the Person under his Advanced Health Care Directive.

Evidentiary Objections:

1. Objector objects to the Declaration of Diana E. Asami in Support of Conservatorship of the Person of Fred Loeffler on the following grounds:
 - a. It is inadmissible character evidence under Evidence Code § 1101(a).
 - b. It is irrelevant. Relationships between intimate partners and husband and wife differ from relationships with one's parents. Evidence Code § 350.
 - c. Its probative value is slight compared by its prejudicial impact. Evidence Code § 352.

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