



ATTENTION

Probate cases on this calendar are currently under review by the probate examiners. Review of some probate cases may not be completed and therefore have not been posted.

If your probate case has not been posted please check back again later.

Thank you for your patience.

Probate Status Hearing RE: Proof of Bond for Special Needs Trust

		<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>OFF CALENDAR. Bond filed in the Special Needs Trust, Case no. 16CEPR00844.</p>
Cont. from		
<input type="checkbox"/>	Aff.Sub.Wit.	
<input type="checkbox"/>	Verified	
<input type="checkbox"/>	Inventory	
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<input type="checkbox"/>	Notice of Hrg	
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<input type="checkbox"/>	Letters	
<input type="checkbox"/>	Duties/Supp	
<input type="checkbox"/>	Objections	
<input type="checkbox"/>	Video Receipt	
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<input type="checkbox"/>	Order	
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<input type="checkbox"/>	Status Rpt	
<input type="checkbox"/>	UCCJEA	
<input type="checkbox"/>	Citation	
<input type="checkbox"/>	FTB Notice	
		Reviewed by: KT
		Reviewed on: 9/19/16
		Updates:
		Recommendation:
		File 2- Assadourian

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

DOD: 8/13/14	MAXINE RODRIGUEZ was appointed Administrator with Limited IAEA and bond set at \$10,000.00 on 12/18/14.	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>1. Need first account or petition final distribution or current written status report pursuant to Local Rule 7.5 which states in all matters set for status hearing verified status reports must be filed no later than 10 days before the hearing. Status Reports must comply with the applicable code requirements. Notice of the status hearing, together with a copy of the Status Report shall be served on all necessary parties.</p>
Cont. from 042116, 072816	Bond of \$10,000.00 was filed on 11/20/14.	
Aff.Sub.Wit.	Letters issued on 12/18/14.	
Verified		
Inventory	I & A, partial no.1, filed on 2/13/15 shows a value of \$15,918.38.	
PTC		
Not.Cred.		
Notice of Hrg	I & A, final, filed on 3/30/16 shows a value of \$117,500.00	
Aff.Mail	Minute order dated 12/18/14 set this status hearing for the filing of the first account or petition for final distribution.	
Aff.Pub.		
Sp.Ntc.		
Pers.Serv.		
Conf. Screen	Former Status Report filed on 7/21/16 states the real property asset of the estate is in escrow and due to close on 8/15/16. Therefore, request is made for a continuance 60 days to file the First and Final Account and Report of Administrator.	
Letters		
Duties/Supp		
Objections		
Video Receipt		
CI Report		
9202		
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Aff. Posting		
Status Rpt		
UCCJEA		
Citation		
FTB Notice		
		Reviewed by: KT
		Reviewed on: 9/19/16
		Updates:
		Recommendation:
		File 5- Rodriguez

6A In Re: Gramenz Family Living Trust Agreement Case No. 15CEPR00398

Attorney: Steven S. Picone, (for Objectors Daniel Caballero & Baldermar Martinez)

Attorney: Lisa Horton (for Petitioner Rande L Gramenz)

Amended First Account and Report of Trustee and Petition for its Settlement

		RANDE L. GRAMENZ , Successor Trustee, is petitioner.	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>Continued from 7/28/16. Minute order states parties have a signed settlement agreement.</p>
		Petitioner states settlor, Opal E. Gramenz, died on 12/28/12.	
		Account period: 12/29/12 – 6/30/15	
		Accounting - \$1,575,344.83	
		Beginning POH - \$1,432,128.43	
		Ending POH - \$1,334,752.81	
Cont. from 090115, 101315, 011916, 032216, 051216, 062316, 072816		Petition states pursuant to Article V section 1 of the trust he has paid his attorney \$5,000.00. Pursuant to Probate Code §15681 he is entitled to reasonable compensation from the Trust. Trust funds totaling \$14,850.00 have been used to pay Trustee's reasonable compensation for his services. This figure was derived from 1% of the total sale price (\$1,485,000) of the duplex.	
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<input type="checkbox"/>	Video Receipt		
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<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		
		Petitioner prays that the Trustee's first account and report be settled, allowed and approved as filed.	
		Reviewed by: KT	
		Reviewed on: 9/19/16	
		Updates:	
		Recommendation:	
		File 6A - Gramenz	

6A In Re: Gramenz Family Living Trust Agreement Case No. 15CEPR00398

Objections to Amended First Account and Report filed by Daniel Caballero and Baldemar Martinez on 8/31/15. Objectors object to the Accounting with respect to Petitioner Trustee's assertion that the joint checking account titled in the name of Kenneth Caballero and Opal Gramenz was a Trust asset and that Kenneth Caballero's beneficial interest in the Trust should be reduced by the amounts left in the joint account at the date of Opal Gramenz's death.

Petitioner's assertion that the funds in the Chase Bank joint account are trust assets and should be counted against Kenneth Caballero's share is flatly wrong as a matter of law. As such the accounting should be revised.

Probate Code §5302 (a) establishes in pertinent part that:

"Sums remaining on deposit at the death of a party to a joint account belong to the surviving party or parties as against the estate of the decedent unless there is clear and convincing evidence of a different intent. . ."

Petitioner has not alleged, let alone proven, that Opal Gramenz and Kenneth Caballero intended for the money held in the Chase joint checking account to be distributed in a different manner other than that provided for by law.

Wherefore, Objectors pray as follows:

1. That the Petition to Approve the Amended Account be denied;
2. That Rande L. Gramenz be ordered to file and serve a code compliant amended accounting of the Trust within 45 days of issuance of the order;
3. For costs, and for such other and further relief as the Court deems just and proper.

Supplemental Objections to Amended First Account, Request for Surcharge, and Removal of Trustee and Appointment of Successor Co-Trustees filed on 6/10/16. Objectors state:

1. The Successor Trustee has failed to account for the proceeds of accounts at Wells Fargo that were titled in the name of Opal Gramenz, which proceeds were misappropriated by Rande L. Gramenz on or around March 1, 2013.
2. Petitioners repeatedly requested information from Mr. Gramenz, through counsel, regarding his authority for removing these account proceeds. Respondent, Mr. Gramenz only provided them with documents which are attached as Exhibit "A" [a document from Wells Fargo Beneficiary Services showing Rande Gramenz as beneficiary/successor to the account.] It was only after issuing a subpoena to Wells Fargo Bank that Petitioners obtained the document attached as Exhibit "B" [13100 Affidavit]. As detailed in Exhibit "B", Mr. Gramenz executed a "California Affidavit of Collection of Estate Assets" in which he averred, under penalty of perjury, that he personally was the success in interest to Decedent Opal Gramenz' interest in the accounts.
3. The Wells Fargo account proceeds rightfully belong to the Trust, sinc Opal Gramenz had executed a pour-over will on 6/30/89. Mr. Gramenz was well aware that the Wells Fargo account proceeds did not belong to him, and instead belonged to the Trust, pursuant to the pour-over will. Mr. Gramenz' actions in taking the account proceeds were therefore in bad faith under Probate Code §859.

Please see additional page

6A In Re: Gramenz Family Living Trust Agreement Case No. 15CEPR00398

4. In executing the small estate affidavit, in failing to them marshal the Wells Fargo Bank account proceeds for the Gramenz Family Trust, in personally taking the Wells Fargo Bank proceeds, then failing to account for them to the Trust beneficiaries, Rande Gramenz breached the Trust, and violated his fiduciary duty to Petitioners as beneficiaries.
5. The proceeds of these accounts should have been accounted for, but they are not identified in the Accounting filed by Respondent. Petitioners therefore object to the Accounting on this basis, and seek other relief as set forth below.

Request for Surcharge:

A redacted copy of a Wells Fargo Statement of Accounts (attached to objections) demonstrated that as of January-February 2013 (the month following the death of Opal Gramenz) the accounts held a total of \$17,146.05. It has now been determined that Mr. Gramenz removed the contents of the Wells Fargo accounts and simply kept the proceeds.

Since Respondent Rande Gramenz is the currently acting Successor Trustee to the Trust, and is also the named Executor under the Last Will and Testament of Opal E. Gramenz, it is clear that Rande Gramenz knew that Wells Fargo Bank account proceeds were rightfully property of the Trust. As such, his taking of those account proceeds was willful and in bad faith. Pursuant to Probate Code §859, Petitioner requests that the Court surcharged Respondent, Rande Gramenz in the amount of twice the value of the property taken.

Petition for Removal:

Probate Code §16002 establishes that a Trustee has a duty to administer the trust solely in the interest of the beneficiaries.

Probate Code §16004 establishes that a Trustee has a duty not to use or deal with trust property for the trustee's own profit or for any purpose unconnected with the trust.

Probate Code §16006 establishes that a Trustee has a duty to take reasonable steps under the circumstances to take and keep control of and to preserve the trust property.

Probate Code §16061 establishes that a Trustee has a duty to report to a beneficiary by providing requested information relating to the administration of the trust relevant to the beneficiary's interest.

Respondent Rande Gramenz violated all of the foregoing duties by taking property which was rightfully belonged to the Trust for his own use and benefit, and by then failing to acknowledge that he had done so. The Petitioners ultimately only confirmed that Rande Gramenz had taken Trust property with the use of a small estate affidavit from Wells Fargo Bank pursuant to a subpoena.

Since the Trustee has misappropriated money belonging to the Trust, and has attempted to cover up his actions in this regard by failing to acknowledge what he had done to the beneficiaries, the Trutee should be removed.

Please see additional page

6A In Re: Gramenz Family Living Trust Agreement Case No. 15CEPR00398

Petition Appointment of Successor Co-Trustees:

The Trust provides that upon the death, resignation or inability to act of Rande L. Gramenz, Cupertino National Bank of Cupertino, California, shall act as sole Successor Trustee.

Unfortunately, Cupertino National Bank is no longer in existence. Petitioners therefor respectfully request that they be appointed as successor Co-Trustees.

Wherefore, Objectors pray for the following:

1. That the Petition to Approve the Amended Account be denied;
2. That Successor Trustee be surcharged for the amounts taken by him from the Wells Fargo Accounts and the Franklin Templeton Investments IRA;
3. That Successor Trustee be additionally surcharged under Probate Code §859;
4. That the Court issue and order removing Rande L. Gramenz as Successor Trustee of the Gramenz Family Living Trust;
5. That the Court issue and Order appointing Daniel Caballero and Baldemar Martinez as Successor Co-Trustees of the Gramenz Family Living Trust.
6. For attorney's fees and costs, and for such other and further relief as the Court deems just and proper,

6B In Re: Gramenz Family Living Trust Agreement Case No. 15CEPR00398

Attorney: Steven S. Picone, (for Objectors Daniel Caballero & Baldermar Martinez)

Attorney: Lisa Horton (for Petitioner Rande L Gramenz)

Probate Status Hearing: Resolution

	RANDE L. GRAMENZ , Successor Trustee, filed an Amended First and Final Account and Report of Trustee.	NEEDS/PROBLEMS/COMMENTS: Continued from 7/28/16. Minute order states parties have a signed settlement agreement.
	Daniel Caballero and Baldemar Martinez filed objections to the accounting.	
	Minute order dated 10/13/15 set this status hearing.	<p>1. Need current written status report pursuant to Local Rule 7.5 which states in all matters set for status hearing verified status reports must be filed no later than 10 days before the hearing. Status Reports must comply with the applicable code requirements. Notice of the status hearing, together with a copy of the Status Report shall be served on all necessary parties.</p>
Cont. from 011916, 032216, 051216, 062316, 072816		
Aff.Sub.Wit.		
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Notice of Hrg		
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Citation		
FTB Notice		
		Reviewed by: KT
		Reviewed on: 9/19/16
		Updates:
		Recommendation:
		File 6B- Gramenz

11
 Petitioner
 Objector

Angelee Ibarra (GUARD/P)
 Ragsdale, Alyssabeth Rose (Pro Per – Sister – Petitioner)
 Ibarra, Rosenda (Pro Per – Mother – Objector)

Case No. 16CEPR00537

Petition for Appointment of Guardian of the Person

		See petition for details.	NEEDS/PROBLEMS/ COMMENTS: Note: See Minute Order of 8/25/16 re visitation for Rosenda Ibarra (mother). 1. Need proof of personal service of Notice of Hearing with a copy of the petition at least 15 days prior to the hearing, or consent and waiver of notice, or declaration of due diligence on: - RICHARD IBARRA, Father 2. Per the Investigator's report, the petitioner has moved to Merced with the minor. Therefore, need Change of Address and revised order, letters reflecting the new address.	
Cont. from 072116, 082516				
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<input type="checkbox"/>	FTB Notice			
		Reviewed by: skc		
		Reviewed on: 9/19/16		
		Updates:		
		Recommendation:		
		File 11- Ibarra		

Petition for Appointment of Guardian of the Person

		See petition for details.	NEEDS/PROBLEMS/COMMENTS: Minute Order 8/11/16: Examiner notes provided in open court. The Court grants temporary orders; Letters are to issue forthwith. 1. Petitioner's Declaration filed 8/17/16 sets forth the legal (adoptive?) siblings; however, Petitioner has not provided a complete list of adoptive relatives, maternal and paternal. Therefore, need clarification: - Is there an adoptive father? If so, need notice to him and his parents, who would be the adoptive paternal grandparents. - Lillian Bannerman-Smith's parents would be the adoptive maternal grandparents. If living, they are entitled to notice. If deceased, please so state.	
Cont. from 081116				
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	Objections			
	Video Receipt			
✓	DSS Report			
✓	Clearances			
✓	Order			
	Aff. Posting			
	Status Rpt			
✓	UCCJEA			
	Citation			
	FTB Notice			
		Reviewed by: skc		
		Reviewed on: 9/19/16		
		Updates:		
		Recommendation:		
		File 14- Turner-Smith		

Petitioner Gonzales, Elena (Pro Per – Sister – Petitioner)

Petitioner Flores, Olivia (Pro Per – Mother – Petitioner)

Petition for Appointment of Probate Conservator of the Person

		See petition for details.	NEEDS/PROBLEMS/ COMMENTS: Court Investigator advised rights on 8/9/16 Voting rights affected – need minute order <u>Minute Order 8/18/16:</u> Examiner notes provided in open court. As of 9/19/16, nothing further has been filed. The following issues remain noted: 1. Need Capacity Declaration in support of medical consent powers. 2. The list of relatives at #11 does not specify relationships. Need clarification. Also, are these all relatives within the second degree? The list should include grandparents, parents, siblings, children, grandchildren. If deceased, please so state.	
Cont. from 081816				
	Aff.Sub.Wit.			
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	PTC			
	Not.Cred.			
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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: 9/19/16		
		Updates:		
		Recommendation:		
		File 16- Gonzalez		