



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.

Petition of Beneficiary to Remove Successor Co-Trustees, Appoint Temporary Successor Trustee, and for Payment of Attorneys' Fees and Costs (Probate Code 15642, 16000, 16002, 16003, 16004, 16006, 16007, 16009, 16060, 16062, 17200, 17206)

Frank K. Ishii DOD: 11-10-93	<p>GERALD ISHII, Beneficiary and Co-Trustee, is Petitioner.</p> <p>Petitioner states he and LESLIE ISHII (Respondent) were named successor co-trustees of the ISHII FAMILY TRUST DATED 3-3-92 (the "Trust"). The Trust consisted of interests in 8 parcels of real property, stocks, bonds, securities, cash, and other assets in Prudential-Bache Securities, and 300 shares of common stock in Frank K. Ishii & Sons, Inc., a California corporation owned by the Settlor.</p> <p>At the death of Frank K. Ishii on 11-10-93, two irrevocable and one revocable sub-trusts were created:</p> <ul style="list-style-type: none"> • The FRANK K. ISHII TRUST • The ISHII FAMILY MARITAL DEDUCTION TRUST • The ISHII FAMILY SUVIVOR'S TRUST (revocable) <p>On 3-15-95, Lily Ishii, individually and as Trustee of the Trust, assigned a 36.44% interest to the FRANK K. ISHII TRUST, a 13.56% interest to the ISHII FAMILY MARITAL DEDUCTION TRUST, and a 50% interest to the ISHII FAMILY SUVIVOR'S TRUST of the assets listed on Exhibit F, including accrued rent payable from the corporation of \$105,548 as of 11-10-93, a receivable due from the corporation of \$26,089 as of 11-10-93, and a proprietorship known as Lily's Hair Stylists consisting of furniture and fixtures, cash, supplies, inventory and goodwill.</p> <p>Lily Ishii died on 3-7-05 and he and LESLIE ISHII (Respondent) became Co-Trustees.</p> <p>Pursuant to Section 5.02 of the Trust, the three sub-trusts were to be combined on the death of the surviving settlor and certain distribution was to occur:</p> <ul style="list-style-type: none"> • \$75,000.00 to Sharon J. Shoji (daughter) • One-half of the remaining balance to Gerald • One-half of the remaining balance to Leslie <p>As to the corporation: Petitioner and Leslie each hold 300 shares individually and the Trust holds 300 shares. Petitioner and Leslie as individuals and as Co-Trustees may vote an equal number of shares, but have been in a deadlock as to the operation of the corporation since approx. 2007. As such, the corporation's status has become suspended with many tax liabilities remaining outstanding, which continues to decrease the value of the corporation.</p> <p style="text-align: center;">SEE PAGE 2</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>Continued from 7-2-12, 7-27-12, 8-31-12, 9-27-12, 11-26-12, 1-14-13, 2-25-13, 3-29-13, 5-17-13, 6-28-13, 8-30-13, 9-27-13</p> <p>See Page 3 for details.</p>	
Lily Y. Ishii DOD: 3-7-05			
Cont. from 070212, 072712, 083112, 092712, 112612, 011413, 022513, 032913, 051713, 062813, 083013, 092713			
Aff.Sub.Wit.			
✓ Verified			
Inventory			
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✓ Notice of Hrg			
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Objections			
Video Receipt			
CI Report			
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Order	X		
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Status Rpt			
UCC/JEA			
Citation			
FTB Notice			

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A meeting of the directors of the corporation was noticed on 6-3-10 by Gerald, who is secretary; however, the meeting did not occur because Leslie found the principal place of business of the corporation to be an inconvenient meeting location, although it is approx. one mile from her home. No meetings have occurred since. Because the corporation is one-third owned by the trust, the deadlock between the Co-Trustees is impairing the administration of the Trust and causing trust assets to lose value.

Petitioner requests that the Court remove both Co-Trustees of the Trust and subtrusts because due to hostility and lack of cooperation among Co-Trustees, administration of the Trust and sub-trusts continue to be impaired and trust assets neglected. Probate Code §§ 15642(a)(3), 17200(b)(10). The Trust does not appoint a successor trustee in the event of removal; rather, it provides only the manner of successor appointments should one of the two become unable to perform. Petitioner requests appointment of **BRUCK BICKEL** as Successor Trustee with compensation to be approved by the Court. Mr. Bickel consents to act. Petitioner requests appointment without bond for one year to allow the corporate affairs to be brought to order, with authority to apply for an extension by Mr. Bickel should the corporate affairs remain unresolved and the Trust assets undistributed. Petitioner believes this appointment is in the best interests of the Trust and sub-trusts, and those persons interested in the Trust estate.

Petitioner requests that:

1. **The Court temporarily and partially remove Gerald Ishii and Leslie Ishii as Co-Trustees of the ISHII FAMILY TRUST DATED 3-3-92;**
2. **The Court appoint Bruce Bickel as temporary Successor Trustee to serve without bond for a period of one year, with the ability of Mr. Bickel to petition the Court for additional time should the corporate affairs remain deadlocked;**
3. **The Court award reasonable compensation to the temporary Successor Trustee;**
4. **The Co-Trustees to deliver the Trust assets to the temporary Successor Trustee within 30 days after issuance of an Order;**
5. **The Court order Leslie Ishii to file an accounting with the Court detailing their respective acts as Co-Trustees no later than four weeks after the Court makes its order;**
6. **The Court order Petitioner's attorneys' fees in the amount of \$1,000.00 and costs advanced to be paid to such attorneys directly from the Trust, to be charged 100% to income, and paid within 10 days after the Court makes its order; and**
7. **Such further orders as the Court deems proper.**

Objection of LESLIE ISHII states this probate proceeding is not the proper forum or vehicle to resolve such corporate issues. This lawsuit is premature at best and legally inapposite to the issues it proposes to resolve at worst. The corporation is deadlocked; however, the instant petition filed as a trust proceeding does not request any form of relief that will serve to end the shareholders' deadlock and restore the corporation to operational status. Specifically, the appointment of a neutral third party trustee will not resolve any issues with regard to the operation of the corporation. While a trustee may have the right to vote shares of stock held in trust, a trustee's paramount duty is to distribute trust property pursuant to the terms of the trust instrument. Here, the trust instrument requires the residue be distributed one-half each to Petitioner and Respondent. If a neutral third party trustee is appointed, he will be obligated to distribute the shares held in trust accordingly, not to vote the shares, and, in effect run the business of the corporation.

Respondent has no objection to the immediate equal distribution of the shares of the corporation currently held in trust. In the likely event that said distribution does not resolve the deadlock, however, Petitioner's only recourse will be to file a lawsuit for involuntary dissolution in the unlimited civil department of the Superior Court.

SEE PAGE 3

PAGE 2

Respondent requests that the Court issue an order requiring the Co-Trustees to immediately distribute 150 shares of Frank K. Ishii & Sons, Inc., each to Petitioner and Respondent, and for reasonable attorneys' fees and costs incurred herein.

Alternatively, Respondent requests the Court issue an order removing Petitioner and Respondent as Co-Trustees, but only as to their fiduciary ownership of the Trust's 300 shares of Frank K. Ishii & Sons, Inc.; appointing Bruce Bickel as temporary successor trustee without bond solely for the purpose of administering the Trust's 300 shares of Frank K. Ishii & Sons, Inc.; authorizing Mr. Bickel to petition to continue to serve should it be in the best interests of the beneficiaries or the affairs of the corporation that he remain in such role; awarding reasonable compensation to the temporary Successor Trustee; requiring the Co-Trustees to deliver the shares of Frank K. Ishii & Sons, Inc., to the temporary Successor Trustee by a date certain; for reasonable attorneys' fees and costs incurred herein; and for any and all other relief the Court deems just and proper.

Status Report filed 1-7-13 by Attorney Fanucchi states further continuance is needed. Gerald Ishii maintains his brother Leslie is wasting the vineyard known as Candy Ranch by inappropriately pruning, tying, tilling, chemical control, and irrigating control which has diminished the value of the realty.

Status Report filed 1-9-13 by Attorney Burnside states inquiry has been made to Les' accountant Jim Horn whether he has any documents in his possession regarding the expenses Les incurred to operate the Candy Ranch, but Mr. Horn has been unable to review his files due to his year-end workload. Counsel will follow up this week.

Status Report filed 2-19-13 by Attorney Fanucchi states Gerald Ishii is unable to accept or reject what has been presented to date and has forwarded information to his accountant. Further continuance is needed.

Status Report filed 2-19-13 by Attorney Burnside states the accountants had to reschedule their meeting and further continuance is needed.

Minute Order 5-17-13: Ms. Burnside advises the Court that they have resolved a few things and are making progress. Ms. Burnside further advises that the CPSs are still trying to get together.

Minute Order 6-28-13: Continued to 8-30-13.

Minute Order 8-30-13: Counsel informs the Court that they will be going forward with the evaluation of the property and meeting with the accountants. The Court notes that this is the eleventh appearance and parties have been waiting for information that can only be provided by the accountants. Parties are informed that the Court will be expecting a declaration to be submitted before the next hearing. Continued to 9/27/13.

Minute Order 9-27-13: Continued to 10-25-13.

Status Conference

Frank K. Ishii DOD: 11-10-93	GERALD ISHII , Beneficiary and Co-Trustee, filed the petition at Page 6A on 5-17-12.	NEEDS/PROBLEMS/COMMENTS:
Lily Y. Ishii DOD: 3-7-05	LESLIE ISHII , Beneficiary and Co-Trustee, filed an objection on 6-21-12.	Note: See Page 2A for details of the petition and file to date.
Cont. from 032913, 051713, 062813, 083013, 092713	Hearings have been continued since 7-2-12.	
<input type="checkbox"/> Aff.Sub.Wit.	Minute Order 8-30-13: Counsel informs the Court that they will be going forward with the evaluation of the property and meeting with the accountants. The Court notes that this is the eleventh appearance and parties have been waiting for information that can only be provided by the accountants. Parties are informed that the Court will be expecting a declaration to be submitted before the next hearing. Continued to 9/27/13.	
<input type="checkbox"/> Verified		
<input 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.	On 9-27-13 the matter was continued to 10-25-13.	
<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		Reviewed by: skc
<input type="checkbox"/> Order		Reviewed on: 10-22-13
<input type="checkbox"/> Aff. Posting		Updates:
<input type="checkbox"/> Status Rpt		Recommendation:
<input type="checkbox"/> UCCJEA		File 2B - Ishii
<input type="checkbox"/> Citation		
<input type="checkbox"/> FTB Notice		

Probate Status Hearing Re: Failure to File First Account or Petition for Final Distribution

DOD: 06/22/07	LARRY A. DONALDSON , friend, was appointed as Executor without bond on 05/27/08 and Letters were issued on 06/18/08.	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>CONTINUED FROM 10/04/13 Minute order from 10/04/13 states: No appearances. Matter is continued to 10/25/13. The Court orders Larry Donaldson to be personally present on 10/25/13.</p> <p>Minute order from 07/26/13 states: Mr. Donaldson advises the Court that he filed a status statement yesterday. He further advises that the accounting is being done however he may have a conflict which may require another attorney to complete the work in this matter. The Court on its own motion accepts Mr. Donaldson's withdrawal as Executor in this matter and appoints the Public Administrator. Mr. Donaldson is directed to contact Ms. Kruthers.</p> <p>Note: Letters of Administration were issued to the Public Administrator on 08/01/13.</p> <p>As of 10/01/13, the following remains outstanding:</p> <ol style="list-style-type: none"> 1. Need Final Inventory & Appraisal. 2. Need Accounting and/or Petition for Final Distribution.
Cont. from 012513, 032913, 042613, 072613, 100413	Notice of Status Hearing filed 11/28/12 set this matter for status. Clerk's Certificate of Mailing states that the Notice of Status Hearing was mailed to Larry A. Donaldson on 10/19/12.	
Aff.Sub.Wit.	<p>Declaration of Beneficiary Laura Leonard re Probate Status Hearing – Failure to File First Account or Petition for Final Distribution filed 01/13/11 states: she and her brother (both beneficiaries of the estate) have made many written and verbal requests to Mr. Donaldson requesting an accounting and for their father's estate be brought to a close. Ms. Leonard states that Mr. Donaldson has ignored their requests and repeatedly failed to communicate with them regarding the estate. Ms. Leonard and her brother had an attorney, Frederick Borges, contact Mr. Donaldson on their behalf to request that he move forward with the estate. Mr. Donaldson responded that he would move forward, but has failed to do so. Ms. Leonard states that she and her brother have also made a complaint to the state bar of California regarding Mr. Donaldson's failure to act. Ms. Leonard states that after all of these efforts, Mr. Donaldson recently provided them with a sloppy, incomplete "accounting", however several years' worth of information is absent and many of the transactions are questionable. Declarant further states that she and her brother were supposed to receive a distribution in early January, but have not received anything.</p>	
Verified		
Inventory		
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Notice of Hrg		
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Aff.Pub.		
Sp.Ntc.		
Pers.Serv.		
Conf. Screen		
Letters		
Duties/Supp		
Objections		
Video Receipt		
CI Report		
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Order		
Aff. Posting	<p>Reviewed by: JF</p> <p>Reviewed on: 10/22/13</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 6 - Wallace</p>	
Status Rpt		
UCCJEA		
Citation		
FTB Notice		

Status Hearing Re: Filing of the Inventory and Appraisal

DOD: 02/14/12	RICHARD DEWAYNE PHILLIPS , father, was appointed Administrator with Full IAEA and without bond on 12/04/12.	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p><u>CONTINUED FROM 04/26/13</u> Minute Order from 04/26/13 states: Counsel informs the Court that they are waiting on the litigation to get underway. Counsel requests a continuance.</p> <p>1. Need Inventory & Appraisal <u>or</u> 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 042613	Minute Order from hearing on 12/04/12 set this matter for status regarding filing of the Inventory & Appraisal.	
Aff.Sub.Wit.	<p>Status Report filed 04/25/13 by Richard Dewayne Phillips, states: On 04/15/13, Petitioner, in his capacity as personal representative of decedent's estate, filed a complaint against the County of Fresno and other defendants in United States District Court, Eastern District of California, alleging violation of the decedent's civil rights. The lawsuit is based on the fact that decedent was murdered while in custody of Fresno County. The complaint was filed by Anthony Boskovich, Esq. of the Law Office of Anthony Boskovich in association with the law firm of Bode & Grenier, LLP. At this time, there are no assets in the Decedent's estate except for the causes of action currently being litigated. For the purposes of the lawsuit, Mr. Boskovich entered into a written contingent fee agreement with Petitioner. In the next several days, Petitioner intends to file a Petition for Approval of the Contingent Fee Agreement with this Court. Petitioner requests the Court set a further status conference in November or December 2013.</p> <p>Order Approving Contingency Fee Agreement was filed 08/15/13.</p>	
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Pers.Serv.		
Conf. Screen		
Letters		
Duties/Supp		
Objections		
Video Receipt		
CI Report		
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Aff. Posting		
Status Rpt		
UCCJEA		
Citation		
FTB Notice		
		Reviewed by: JF
		Reviewed on: 10/22/13
		Updates:
		Recommendation:
		File 18 – Phillips

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

DOD: 06/27/01	<p>KATHLEEN KAY FRANCIS, niece, was appointed Executor on 10/09/01 and Letters were issued on 10/09/01.</p> <p>Inventory & Appraisal has not been filed and was due in March 2002.</p> <p>Petition for Distribution has not been filed and was due in 2003.</p> <p>Notice of Status Hearing was filed 12/11/12. Clerk's certificate of mailing indicates that the Notice was mailed to Kathleen Kay Francis on 12/11/12.</p> <p>Inventory & Appraisal filed 10/17/13 - \$1,616,795.15</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p><u>CONTINUED FROM 09/20/13</u> Minute order from 09/20/13 states: Ms. Francis informs the Court that Michael Buettner is assisting her with this matter and all documents have been found and she is ready to proceed. Ms. Francis requests a continuance.</p> <p>As of 10/22/13, the following items remain due:</p> <ol style="list-style-type: none"> 1. Need Accounting and Petition for Final Distribution.
Cont. from 020113, 041913, 092013		
Aff.Sub.Wit.		
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Status Rpt		
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Citation		
FTB Notice		
Reviewed by: JF		
Reviewed on: 10/22/13		
Updates:		
Recommendation:		
File 24 - Steele		