

Second Amended First and Final Account and Report of Personal Representative, Petition for Settlement, for Allowance of Statutory Commission, Attorneys' Fees for Ordinary Services and Extraordinary Services, Costs and for Final Distribution (Prob. C. 11623, CRC Rule 7.70)

DOD: 5-8-08		JUAN J. GONZALEZ, Administrator, is Petitioner.		NEEDS/PROBLEMS/COMMENTS: <u>See Page 2</u>
		Account period: 5-8-08 through 8-31-11		
		Accounting: \$77,791.94		
		Beginning POH: \$80,000.00		
		Ending POH: \$54,770.77 *		
<input type="checkbox"/>	Aff.Sub.Wit.			
<input checked="" type="checkbox"/>	Verified			
<input checked="" type="checkbox"/>	Inventory			
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	Objections			
	Video Receipt			
	CI Report			
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<input checked="" type="checkbox"/>	Order			
	Aff. Posting			
	Status Rpt			
	UCCJEA			
	Citation			
	FTB Notice			
		* Administrator made unauthorized withdrawals totaling \$32,230.90 from the estate and states that \$26,379.23 has been paid back, but he still owes \$5,851.67 to the estate. Administrator requests that his commission (\$3,111.68) and a portion of his distributive share (\$2,739.99) be used to repay that amount. Therefore, Ending POH is actually \$60,622.44.		
		Administrator (Statutory): \$3,111.68*		
		* To be used toward repayment of unauthorized withdrawals		
		Attorney (Statutory): \$3,111.68*		
		* To be paid from Administrator's distributive share		
		Attorney (XO): \$2,450 (8.9 attorney hours @ \$200.00/ and 6.7 paralegal hours @ \$100/hr)		
		Costs: \$1,050.55		
		Proposed Distribution pursuant to Decedent's will and including distribution to the heir of Decedent's predeceased spouse:		
		Rodolfo Iglesias: \$10,688.69 (son of predeceased spouse)		
		Juan J. Gonzalez (Administrator): \$2,286.24 (\$5,026.23 - \$2,739.99 = \$2,286.24)		
		Josephine P. Orozco: \$5,026.23	Diane Perez: \$1,005.25	
		Henry Perez: \$5,026.23	Joe Perez: \$1,005.24	
		Jessie Perez: \$5,026.23	Robert Perez: \$1,005.24	
		Mary Lou Mares: \$1,675.41	Ruby Heinrichs: \$1,005.25	
		Gloria Calderon: \$1,675.41	Benjamin Alarcon: \$718.03	
		Jessie Jaurequi: \$1,675.41	Alex Manuel Alarcon: \$718.03	
		Rosie Perez: \$1,256.56	Christina Frances Alarcon: \$718.03	
		Raymond Perez: \$1,256.56	Evelyn Denise A. Rodriguez: \$718.03	
		Rudy Perez: \$1,256.56	Fred Alarcon: \$718.03	
		Roy R. Perez: \$1,256.55	Helen Marie Alarcon: \$718.03	
		Jenie P. Armenta: \$1,005.25	Glenda Sue Soreno \$718.05	
		Reviewed by: skc		
		Reviewed on: 10-20-11		
		Updates:		
		Recommendation:		
		File 1 - Perez		

NEEDS/PROBLEMS/COMMENTS:

1. The prior accountings indicated that the Administrator had made unauthorized withdrawals totaling \$16,080.90. It appears that during this extended amended account period, that that figure doubled to \$32,230.90.

When Administrator filed his first accounting in August 2010, Examiner Notes reflected that the unauthorized withdrawals were an issue, among other things. However, even after this date, the Administrator continued to make frequent unauthorized withdrawals, as reflected in Schedule D.

Regardless of whether the Administrator was also making "payments" back to the estate, the Court may require an explanation of why this activity continued even after it was brought to the Administrator's and the Attorney's attention that it is inappropriate.

These unauthorized withdrawals are treated as interest-free loans to the Administrator, which is detrimental to the estate and beneficiaries because an Administrator has a duty to keep estate accounts separate and to invest in interest-bearing accounts for the benefit of the estate.

2. Examiner Notes previously noted that the Receipts Schedule includes dividends of approx. \$30/month; however, the Inventory and Appraisal did not indicate any estate assets that would be paying dividends. Need clarification. What is the source of this income to the estate? Are there securities that should have been appraised by the Probate Referee? This item has not been addressed.
3. Petitioner requests that the attorney's statutory fee of \$3,111.68 be deducted from his distributive share; however, with the repayment of the rest of the funds owing, Petitioner's distributive share is \$2,286.24, and the distribution schedule contemplated does not appear to reflect this. Need clarification.

Petition to Remove Executor, for an Accounting, for Appointment of Successor Personal Representative, for Surcharge, and to Enforce Settlement AGREEMENT

(Prob. C. 8500, 8501, 8502, 8520 et seq., 8540 et seq., 10952, 12200, 12204, 12205, and CCP 664.6)

DOD: 7/4/08	<p>NORMA G. LITTLE, surviving spouse, is Petitioner.</p> <p>Petition states:</p> <ul style="list-style-type: none"> • Petitioner Norma Little (“Petitioner”) is the surviving spouse of Decedent; they were married on 5/22/04 and were married at the time of Decedent’s death; • On 7/18/08, Respondent Christopher Little (“Respondent”), who is Decedent’s brother, was appointed personal representative of Decedent’s estate by the Pinal County Superior Court, state of Arizona (“Arizona court”); • On 11/12/08, the Fresno County Superior Court (“Fresno court”) appointed Respondent as the California Executor with bond of \$400,000.00; • Thomas McCarville (“T. McCarville”) and David McCarville (“D. McCarville”) are Arizona attorneys who represent Respondent in the Arizona proceedings; • Petitioner previously filed 3 petitions in this matter: 1) <i>Petition to Determine Distribution Rights</i>; 2) <i>Petition for an Order Setting Apart Probate Homestead</i>; and 3) <i>Petition for Payment of Family Allowance</i>, and the matters were set for trial; • Prior to trial, the parties agreed to settle all of Petitioner’s claims subject to approval from the Fresno and Arizona courts (Settlement AGREEMENT and Mutual General Release (“AGREEMENT”) attached to Petition as Exhibit A); • The AGREEMENT states in part: <ul style="list-style-type: none"> ○ Respondent is to file petitions for approval of the AGREEMENT in each court no later than 8/21/09; upon approval by both courts, Respondent is to distribute property to Petitioner pursuant to said AGREEMENT; ○ Settling parties are to execute or deliver any instrument, furnish any information, or perform any other act necessary to carry out the AGREEMENT’s provisions without undue delay or expense, including appearing at court hearings concerning the status of disputes (<i>emphasis added in Petition</i>); ○ Prevailing party in an action to enforce terms of AGREEMENT is entitled to costs and reasonable attorneys’ fees; ○ AGREEMENT is enforceable pursuant to CCP section 664.6. • On 9/22/09, Respondent petitioned the Fresno court to approve the AGREEMENT; on 9/29/09 he similarly petitioned the Arizona court for approval; on 12/14/09, the Fresno court approved the AGREEMENT; • On 5/17/10, the Arizona court ordered Respondent’s attorney, D. McCarville, to provide all parties with an updated accounting no later than 7/16/10; in disregard of said order, D. McCarville provided the parties with a “First Supplemental Inventory and Appraisalment,” instead of the court-ordered updated accounting (<i>note: per Declaration of Petitioner, filed 9/9/10, this Inventory filed by Respondent shows values for Decedent’s property that are significantly less than the date of death values</i>); <p style="text-align: center;"><u>SEE ATTACHED PAGE-</u></p>	<p>NEEDS/PROBLEMS/COMMENTS</p> <p><u>Continued from 9/14/11</u></p> <p>NOTE: Status Report filed 9/13/11 by Attorney Milnes (see last page of these examiner notes) requested a continuance of 60-90 days as settlement negotiations were still ongoing in the AZ case. Per that Status Report, a 10/3/11 hearing was scheduled on the AZ personal representative’s accounting and petition for fees. Nothing has been filed since the last hearing on 9/14/11.</p>
Cont. from: 091310, 100410, 102710, 120810, 021611, 033011, 051811, 080311, 091411		
Aff.Sub.Wit		
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✓ Notice of Hrg		
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Letters		
Duties/Supp		
Objections		
Video Receipt		
CI Report		
9202		
✓ Order		
Aff. Posting		
✓ Status Rpt		
UCCJEA		
Citation		
FTB Notice		
		Updates:
		Reviewed: 10/20/11
		Recommendation:
		Reviewed by: NRN
		File: 2 - Little

- Nearly a year has passed since the AGREEMENT was executed, and 7 months have passed since the Fresno court approved it;
- Respondent has failed to obtain the Arizona court's approval of the AGREEMENT, has failed to respond to objections filed in Arizona, and has failed to timely administer Decedent's estate, all in violation of the AGREEMENT and his fiduciary duties;
- Respondent's failure to secure Arizona court approval is due in part to D. McCarville's conflicts of interest and Respondent's failure to retain counsel without such conflicts;
 - Specifically, on 11/13/09, Respondent's attorney D. McCarville petitioned the Arizona court for instructions relating to several conflicts of interests, including:
 - D. McCarville's brother and in-laws have an ownership interest in estate assets;
 - Prior to Decedent's death, D. McCarville's brother took out a loan to improve the assets he apparently owns with the estate and is apparently owed money by the estate for this loan;
 - D. McCarville's father, T. McCarville, was previously a partner with the attorney who prepared Decedent's ante nuptial AGREEMENT and who now faces potential malpractice claims by the estate relating to the ante nuptial AGREEMENT; and
 - D. McCarville represents (in other matters) the fiduciary company, East Valley Fiduciary Services/James C. Clark, that has been appointed as guardian and conservator of Jeremy R. Little, who is Decedent's grandson and the only party objecting to the AGREEMENT with claims adverse to Executor and Petitioner.
 - The Arizona court never issued instructions on these conflicts of interests.
- D. McCarville is delaying Respondent from timely administering Decedent's estate, in part because of conflicts of interest;
- Due to the failures of Respondent and D. McCarville, Petitioner has received none of the property to which she is entitled;
- Petitioner has sought approval from the Arizona court through her counsel, but has been unsuccessful.

Petitioner Requests an order:

1. Removing Respondent as personal representative (Executor) and revoking Letters;
2. That Respondent file an accounting within 60 days of his removal as personal representative;
3. Denying appointment of Thomas McCarville as nominated Successor Executor;
4. Appointing Petitioner Norma Little as successor personal representative, or in the alternative, appointing a neutral third party as successor personal representative;
5. Surcharging Respondent's compensation as Executor pursuant to PrC 12205;
6. Enforcing the AGREEMENT by requiring Respondent or successor personal representative to vigorously prosecute the enforcement of the AGREEMENT in the Arizona court and defend objections thereto at the expense of Decedent's estate, requiring Respondent or successor personal representative to obtain counsel who does not represent a conflict of interest with regard to the estate, and by requiring that Respondent or successor personal representative to do all acts necessary to perform the obligations of the AGREEMENT without undue delay;
7. For attorneys' fees and costs and for such other orders as the Court deems proper.

Response to Petition, filed by Respondent Christopher Little on 9/27/10, states:

- The sole heirs under Decedent's Will are Decedent's son James D. Little and his grandson Jeremy Little;
- Petitioner Norma G. Little ("Petitioner) and Decedent entered into a written agreement prior to their marriage; included in this agreement was a waiver by Petitioner of any right to inherit property from Decedent's estate;
- Currently, the Arizona court has not approved the parties' 8/4/09 AGREEMENT; as such, there is no enforceable settlement of the matters and issues between Petitioner and Respondent in this Court, as the terms of the AGREEMENT are expressly conditioned upon the approval of the AGREEMENT's terms by both the Fresno Court and the Arizona Court and without both court's approval, the AGREEMENT has no force and effect.

SEE ATTACHED PAGE

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- On 10/5/09, the Arizona court held a status review hearing regarding the AGREEMENT; at that hearing, Petitioner, Jim Little, and the guardian of Jeremy Little stated their objections to the AGREEMENT; a further status review was scheduled for 11/16/09;
 - a. Between 11/16/09 and 4/19/10, the court held several status hearings on matters relating to the administration of the estate and petition to approve the AGREEMENT;
 - b. On 5/17/10, the Arizona court ordered Respondent to provide an updated accounting by 7/16/10, with objections to the AGREEMENT to be filed by 8/20/10, and responses to the objections filed by 9/17/10;
 - c. Respondent filed a 1st Supplemental Inventory with the Arizona court on 7/16/10; and thereafter filed a Petition for Approval of 1st Interim Accounting on 7/30/10;
 - d. On 8/9/10, counsel for Jim Little's conservator filed an objection to Respondent's petition to approve the AGREEMENT; objections were also filed by counsel for Jeremy Little's guardian on 8/19/10, to which Jim Little filed a joinder;
 - e. Jim and Jeremy Little's primary objections to the AGREEMENT focus on Petitioner's status as an omitted spouse and the reduced value of assets of Decedent's estate;
 - f. The Arizona court set a settlement conference for 10/19/10;
 - g. Petitioner also filed and MSJ in the Arizona court to compel the court to approve the AGREEMENT and the matter is currently before that court;
 - h. The Arizona court has also set a status review hearing on 11/1/10.
 - i. Petitioner has attended all proceedings before the Arizona court.
- Petitioner has a significant conflict of interest disqualifying her from serving as personal representative because she has pending creditor's claims and Petitions now pending before this court; though a settlement has been reached through the AGREEMENT, the AGREEMENT has not been approved by the Arizona court and the matter is currently pending;
- Petitioner has not filed a petition in the Arizona court for removal of Respondent as personal representative; as such, appointment of Petitioner in the Fresno court would provide an unworkable and inconsistent administration of the Decedent's estate, and only further delay the ultimate resolution of this case;
- Finally, the hearing on David McCarville's Petition for instructions on the conflicts of interest has been continued by the Arizona court each time, and Petitioner's attorney has not objected to any such continuance;
- **Respondent requests:** An evidentiary hearing; that Petitioner Norma Little's Petition be dismissed with prejudice, and that Petitioner be required to pay Respondent's reasonable attorneys' fees and the costs of this proceeding.

STATUS REPORT, FILED 10/25/10 BY ATTORNEY MILNES, STATES: A mediation was conducted on 10/19/10 and a complete settlement agreement was reached between all parties, and Atty Keeler has undertaken to reduce the settlement agreement to writing as recited on the record.

Status Report, filed 3/25/11 by Counsel for Norma Little, states:

- *The 10/19/10 mediation (as referenced above) resulted in a complete settlement of all matters existing between the parties; and was confirmed by the Pinal County, Arizona Superior Court ("the settlement agreement");*
- *A draft of the settlement agreement was originally prepared in 11/10 and since then the parties have been negotiating the agreement amongst themselves;*
- *At the last status conference on 2/16/11, the agreement was still being negotiated and the Court continued the matter to 3/10/11;*
- *To date, the parties have not been able to agree upon the agreement's provisions relating to primary jurisdiction of this matter; Norma Little contends that as Decedent died in Fresno County, jurisdiction is proper in Fresno County; respondents contend jurisdiction should be set in either Pinal County, AZ or a neighboring AZ county;*
- **THEREFORE, NORMA LITTLE REQUESTS A FURTHER CONTINUANCE TO ALLOW PARTIES ADD'L TIME TO AGREE ON A SETTLEMENT AGREEMENT AND/OR PETITION THE PINAL CTY SUPERIOR COURT FOR ENFORCEMENT OF THE 11/10 SETTLEMENT AGREEMENT.**

SEE ATTACHED PAGE

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Status Report, filed 9/13/11 by Attorney Michael Milnes (for Executor/Respondent Christopher Little) states:

- Disputes regarding the AZ Settlement are still ongoing;
- Attorney Milnes has not been involved in the AZ settlement discussions, as what is ultimately resolved in AZ will have to return to this Court for approval (AZ court minute orders attached to Status Report and shows the case's activity for the past 3 months);
- The personal representative has also recently filed an accounting of his activities in AZ and petitions for fees, to be heard in AZ on 10/3/11, and parties to this AZ probate case have until 9/23/11 to file their objections to the accounting and/or petitions for fees;
- As such, future AZ proceedings are dependent upon what occurs as a result of these filings;
- The AZ parties have agreed that Christopher Little shall remain as Executor in both the AZ and CA probate matters;
- **Attorney Milnes suggests this matter be set for a further status hearing in 60-90 days.**

Probate Status Hearing Re: Failure to File a First Account or Petition for Final Distribution (Prob. C. 12200, et seq) and Other: Corrected Final Inventory and Appraisal

DOD: 3/26/10	<p>JONATHAN DAVID JENSEN, JR., brother, was appointed Executor, without bond on 5/20/11.</p> <p>A Petition for Order Directing Transfer of Decedent’s Property; to Authorize Sale or Redemption of Securities; or in the Alternative for Instructions was heard by Judge Gallagher on 7/20/11. Judge Gallagher found that the current value of the stock is not in the best interest of the estate. Further the court found that the value of the stock at \$120,990 was not consistent with the SRA. The petition was denied without prejudice.</p> <p>This status hearing was set for failure to file the first account or petition for final distribution and for a corrected inventory and appraisal.</p> <p>Corrected Inventory and Appraisal filed on 10/13/11.</p> <p>Status Report of Administration filed on 10/3/11 states the estate is not ready for distribution. The remaining issue is the sale of the capital stock of a closely held family corporation, J.D. Jensen Builders, Inc. held by the decedent. A petition to approve the sale of the shares to the corporation was heard on 7/20/11, an objection to the sale was filed by beneficiary James Jensen, and the proposed action was denied by Judge Gallagher.</p> <p>Since the hearing, the shares of stock were revalued under the terms of the Stock Purchase Agreement, a new petition to confirm the sale was filed on 9/21/11, and scheduled for hearing on 10/26/11. It is necessary to complete the sale of the stock to comply with the executor terms of the Stock Purchase Agreement and to finalize the liquidation of the assets of decedent for purposes of cash distribution to the beneficiaries.</p> <p>The personal representative has submitted a “Corrected” inventory and appraisal for the valuation of the corporate stock to the probate referee and is awaiting its return.</p> <p>The personal representative will file his First Account and Report and petition for distribution upon completion of the above sale and receipt of sales proceeds to the estate.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>Please see page 3B.</p>
Cont. from 101311		
Aff.Sub.Wit.		
<input checked="" type="checkbox"/> Verified		
Inventory		
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Notice of Hrg		
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Conf. Screen		
Letters		
Duties/Supp		
Objections		
Video Receipt		
CI Report		
9202 Order		
Aff. Posting		
Status Rpt		
UCCJA		
Citation		
FTB Notice		

Petition for Order Directing Transfer of Decedent's Property, to Authorize Sale or Redemption of Securities, or, in the Alternative, for Instructions (Prob. C. 850(a), 10200, 9611)

DOD: 3/26/10	<p>JONATHAN DAVID JENSEN, JR., brother and Executor, is Petitioner. Letters Testamentary were issued 5/20/11.</p> <p>Petitioner states:</p> <ol style="list-style-type: none"> During his lifetime, Decedent was a shareholder in a family corporation, known as J.D. Jensen Builders, Inc.; Decedent's owned ½ of outstanding shares (which was 1 share of common stock) at the date of his death; Petitioner and his wife, Linda Jensen, were the owners of the other ½ shares of the corporation (1 share of common stock); On 5/12/1998, Decedent, Petitioner and Petitioner's wife entered into a "Stock Repurchase Agreement" (SRA); Pursuant to the SRA, upon Decedent's death, the corporation shall redeem from Decedent's personal representative all stock owned by Decedent; The SRA further provides certain guidelines for the determination of the purchase (redemption) price for such shares; The corporation's accountant, Robert S. Swanton, of the firm of Morris, Yardumian & Wittwer, LLP has been engaged to prepare a valuation of the decedent's share(s) in the corporation; Mr. Swanton thereupon prepared his valuation, identified the "Asset-Based Approach per Stock Repurchase Agreement – adjusted the Balance Sheet as of 3/26/2010." Mr. Swanton's valuation of the 50% ownership interest of the Decedent in the corporation as \$195,946.00; The corporation, J.D. Jensen Builders, Inc., has provided notice to Petitioner as personal representative, of its intention to purchase the share of Decedent's estate at the adjusted balance sheet value of \$\$195,946.00, pursuant to the Notice to Purchase Shares, from J.D. Jensen Builders; <p style="text-align: center;"><i>Please see additional page</i></p>	<p>NEEDS/PROBLEMS/COMMENTS:</p>
Cont. from		
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<input checked="" type="checkbox"/> Order		
Aff. Posting		
Status Rpt		
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Citation		
FTB Notice		
Reviewed by: KT		
Reviewed on: 10/24/11		
Updates: 10/25/11		
Recommendation:		
File 3B - Jensen		

11. Pursuant to Probate Code § 850(a)(2)(B), Decedent entered into a contract (the SRA) which binds his personal representative to transfer certain property (the common stock) upon his death, and said contract is “specifically” enforceable per the terms of the SRA;
12. In the alternative, pursuant to Probate Code § 9611, Petitioner herein requests authorization to conduct the sale and transfer of the common stock for the value of same as set forth in Exhibit “B”.

Petitioner therefore requests a court order: Directing Petitioner to transfer all shares of common stock held by Decedent to J.D. Jensen Builders in exchange for \$195,946.00, and to transfer possession and title of the 1 (one) share to the corporation pursuant to the SRA.

Declaration of Robert S. Swanton, CPA filed on 9/21/11.

Objections to Petition for Order Directing Transfer, filed 10/19/11 by Decedent’s brother and beneficiary, James A. Jensen, states:

1. Objector, Decedent’s brother and a beneficiary under his Last Will, states this is the second time he has had to come before the court to object to the Petitioner’s attempt to employ the Court in order to facilitate Petitioner’s purchase of Decedent’s interest in the closely-held family corporation;
2. At the time of Decedent’s death, there were only 2 outstanding shares of common stock – Decedent owned one and Petitioner and his wife owned the other, which they held jointly;
3. By entering into the SRA, Petitioner entered into a binding contract, individually and also as President of the corporation, and he agreed to the repurchase of a shareholder’s stock pursuant to the terms of the SRA;
4. Petitioner comes before the Court again with a request for the estate to sell to the corporation the Decedent’s interest at the “book value” as determined by the “corporate accountant.”
5. Previously, the Petitioner had submitted a petition in an attempt to purchase the Decedent’s share at the based on the “inventory and appraisal” value. That Petition was summarily rejected by the court as being in contravention of the terms of the SRA;
6. Pursuant to the SRA, the deceased share was to be calculated by the corporate accountant, who was to determine the “book value” of the corporation, without adding consideration for “good will” of the company; said figure was to be multiplied by 124%, which would provide the resulting value of the deceased’s share;
7. It is of note that in Morse firm’s initial report in connection with the initial inventory and appraisal that they had calculated the “book value” of the Corporation as \$491,910.00.
8. Mr. Robert Swanton, CPA filed a supporting declaration in the matter presently before the court wherein he states he has been the firm’s accountant since 1988; he further states he is a member of the Morse firm and has been since August 1, 2008. This is of interest because one would assume that he participated in the creation of the initial report by the Morse et al., which was submitted by Petitioner to establish the value for the initial inventory and appraisal. Presently, Mr. Swanton declares in his sworn statement that the book value of the corporate stock is \$391,893.00 as opposed to \$491,910.00 value espoused by his own company in their prior report. How did we get a difference in the two statements of value of \$100,017.00?

Please see additional page

9. Objector contends that the Petitioner has an obvious conflict of interest in the matter before the court; The Petitioner and his wife are the owners of one of the outstanding shares of stock. After the redemption of the Decedent's stock, the Petitioner and his wife will become the sole shareholders; he has a personal stake in the matter presently before the court;
10. Objector observes that the Petitioner is wearing several "hats" in this matter; as the personal representative, as the ultimate shareholder, and as a beneficiary;
11. Objector believes that as Executor the Petitioner has a fiduciary duty to all the beneficiaries of the estate and must avoid circumstances in which his personal interests would conflict with those to whom he owes such duty;
12. When a conflict is present, Petitioner has a duty to disclose the conflict to the effected parties and the burden of demonstrating the fairness of the transaction he is proposing;
13. In this matter the Petitioner had not been candid in regard to his conflict of interest nor had he offered evidence to support the fairness of his proposal. Objector contends, Petitioner needs to explain why the Morse firm has maintained three different positions as to the "book value" of the corporation.
14. Objector is requesting the court order the Petitioner to furnish to the court with the accounting records, balance sheets and worksheets which support Petitioner's position and that he send copies to Objector and his attorney.
15. Objector is requesting that the Petitioner explain why the figures he has presented the court have varied between the various evaluations. Especially, one item in particular that is listed under Current Liabilities and is referenced as "Warranty Work Payable." It is the understanding of the Objector that the subcontractors are employed by the corporation and are responsible for performing and/or paying for any work deemed substandard or defective. Additionally, Objector is under the impression that a contractor's performance bond is required to be maintained by subcontractors and that they are solely responsible for this expense/expenditure.
16. Additionally, the Objector alleges that Petitioner's counsel has an ethical and legal obligation to protect the interest of all the beneficiaries of the estate. In this matter counsel has lobbied and advocated for Petitioner's personal interest, which have been antagonistic to the interests of the two other beneficiaries.
17. The Objector requests that the Court award reasonable attorney fees and costs to the Objector as this matter and attendant circumstances call for such remedy considering and given the facts and circumstances as stated herein.

Wherefore, Objector requests that:

- 1. The relief requested by Petitioner be denied;**
- 2. Petitioner be instructed to present evidence which supports the fairness of the position he has taken in this matter given he has a conflict of interest and under the law a duty to demonstrate the fairness of the request he made to the court;**
- 3. Petitioner be ordered to produce copies of account records; the balance worksheets the accountants used to arrive at the figures submitted to the court for review by Objector and his counsel;**
- 4. The court determine a reasonable amount of attorney fees and cost to be assessed and awarded to the Objector.**

Please see additional page

Declaration of Robert S. Swanton filed on 10/24/11 states he makes this declaration to supplement his previous declaration and as a response to the objections wherein the objector questions the difference between the “Book Value” of the stock corporation, pursuant to the “Adjusted Balance Sheet” prepared by Mr. Swanton and attached to the earlier declaration, in contrast to a value stated as “Shareholder’s Equity” of \$491,910.00 in the Valuation Report of Kenneth Wittwer, CPA which has previously been filed with this court. Unfortunately, the objector confuses two different asset-based approaches and, in effect, compares “apples to oranges.”

It should be preliminary noted that Mr. Wittwer’s report is defined as a “Fair Market Value of Assets” approach while the “Asset-Based Approach per Stock Repurchase Agreement” is based on the Stock Repurchase Agreement (SRA) and represents “Book Value” of the shares as opposed to “Net Asset Value.”

Therefore, Mr. Swanton concludes, based upon the SRA and the values of the corporate assets, less accumulated depreciation and accrued liabilities, the Adjusted Balance Sheet that he prepared is the proper valuation approach to determine “Net Book Value” (not “Net Asset Value”) of the corporation and the decedent’s ½ share of same.

(1) First Account Current and Report of Conservator and (2) Petition for Allowance of Compensation to Conservator and Attorney (Prob. C. 2620; 2623; 2942)

Age: 96 DOB: 03/04/15	PUBLIC GUARDIAN , Conservator, is Petitioner.	NEEDS/PROBLEMS/COMMENTS:
	Account period: 07/29/10 – 07/31/11	
	Accounting - \$78,172.43	
Cont. from	Beginning POH - \$16,794.61	
Aff.Sub.Wit.	Ending POH - \$36,956.06	
<input checked="" type="checkbox"/> Verified	Conservator - \$3,743.20 (30.60 deputy hours @ \$96/hr. and 10.60 staff hours @ \$76/hr.)	
Inventory	Attorney - \$1,500.00 (less than allowed per Local Rule)	
PTC	Bond fee - \$106.20 (ok)	
Not.Cred.	Petitioner prays for an Order:	
<input checked="" type="checkbox"/> Notice of Hrg	1) Approving, allowing and settling the first account;	
<input checked="" type="checkbox"/> Aff.Mail w/	2) Authorizing the conservator and attorney fees and commissions; and	
Aff.Pub.	3) Authorizing payment of the bond fee.	
Sp.Ntc.	Court Investigator Jennifer Daniel's annual report was filed 07/22/11.	
Pers.Serv.		
Conf. Screen		
Letters		
Duties/Supp		
Objections		
Video Receipt		
<input checked="" type="checkbox"/> CI Report		
2620(c) n/a		
<input checked="" type="checkbox"/> Order		
Aff. Posting		
Status Rpt		
UCCJEA		
Citation		
FTB Notice		
		Reviewed by: JF
		Reviewed on: 10/21/11
		Updates:
		Recommendation:
		File 4 – Lopez

(1) First and Final Report of Personal Representative, and (2) Petition for Final Distribution and Allowance of Attorney's Fees on Waiver of Accounting (Probate Code 12200)

DOD: 05/22/10	EVELYN HOWARD , Executor, is Petitioner.	NEEDS/PROBLEMS/COMMENTS:
	Accounting is waived.	
Cont. from	I & A - \$123,283.89	
<input type="checkbox"/> Aff.Sub.Wit.	POH - \$123,283.89	
<input checked="" type="checkbox"/> Verified	Executor - waives	
<input checked="" type="checkbox"/> Inventory	Attorney - \$4,698.52 (statutory)	
<input checked="" type="checkbox"/> PTC	Costs - \$841.00 (filing fees, certified copies)	
<input checked="" type="checkbox"/> Not.Cred.	Distribution pursuant to decedent's Will, is to:	
<input checked="" type="checkbox"/> Notice of Hrg	Evelyn Gail Howard, Trustee of the Gary L. Howard and Evelyn Gail Howard 1996 Living Trust dated January 13, 1996 - \$117,744.37	
<input checked="" type="checkbox"/> Aff.Mail w/o		
Aff.Pub.		
Sp.Ntc.		
Pers.Serv.		
Conf. Screen		
Letters 12/08/10		
Duties/Supp		
Objections		
Video Receipt		
CI Report		
<input checked="" type="checkbox"/> 9202		
<input checked="" type="checkbox"/> Order		
Aff. Posting		
Status Rpt		
UCCJEA		
Citation		
<input checked="" type="checkbox"/> FTB Notice		
	Reviewed by: JF	
	Reviewed on: 10/21/11	
	Updates:	
	Recommendation: SUBMITTED	
	File 5 – Howard	

Probate Status Hearing Re: Filing of Inventory and Appraisal

<p>Age: 81 DOB: 05/28/30</p>	<p>CAROL LOPEZ, daughter, was appointed Conservator of the Person and Estate 02/09/11 and Letters were issued on 04/27/11.</p> <p>Notice of Status Hearing filed 08/23/11 set this matter for hearing on 10/17/11.</p> <p>Minute Order from 10/17/11 hearing continued this matter to 10/26/11.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p><u>CONTINUED FROM 10/17/11</u></p> <p>1. Need Inventory & Appraisal.</p>
<p>Cont. from 101711</p>		
<input type="checkbox"/> Aff.Sub.Wit.		
<input type="checkbox"/> Verified		
<input type="checkbox"/> Inventory x		
<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		
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<input type="checkbox"/> Aff. Posting		
<input type="checkbox"/> Status Rpt		
<input type="checkbox"/> UCCJEA		
<input type="checkbox"/> Citation		
<input type="checkbox"/> FTB Notice		
		<p>Reviewed by: JF</p> <p>Reviewed on: 10/20/11</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 6A - Eaton</p>

Age: 81 DOB: 05/28/30	CAROL LOPEZ, Conservator, is Petitioner.	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>1. Need Inventory & Appraisal. (See page 6A) The sale price does not appear to meet the requirement that the sales price be within 90% of the appraised value (Probate Code §10309). Further, without an appraisal, the court is unable to determine if a reappraisal is necessary pursuant to Probate Code §10309. <i>Note: The petition states that the property was appraised in the Estate of James R. Eaton matter and is included on an Inventory & Appraisal in that matter. However, no Inventory & Appraisal has been filed in this conservatorship matter, therefore the Court is unable to determine/verify the assets of the Conservatorship Estate, their value or the date that the assets were appraised.</i></p> <p>Note: The Petition states that the conservatee’s 50% interest in the property to be sold is <u>not an asset of her conservatorship</u>, but is an asset of the James R. Eaton and Esther Eaton Living Trust and is being administered through the estate of the conservatee’s husband in Tulare County. Since the residence is not an asset of the conservatorship estate, it appears that this Report of Sale and Petition for Order Confirming Sale of Real Property is not appropriate and/or necessary in this Conservatorship matter. The Court may require more information.</p>
	Sale Price - \$135,000.00	
	Overbid - \$142,250.00	
Cont. from	Appraisal - \$165,000.00	
Aff.Sub.Wit.	Reappraisal - Not Stated	
✓ Verified	Property - 40 Philip Ave. Clovis, CA 93612	
Inventory	Publication - Not Published (Will of deceased spouse authorizes sale)	
PTC	Buyers - Fred A. Osterberg, as Trustee of the Fred A. Osterberg Survivor’s Trust created under the Osterberg Family Living Trust under Declaration of Trust dated August 14, 1996.	
Not.Cred.	Broker - None	
✓ Notice of Hrg	Bond - None	
✓ 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		

Reviewed by: JF

Reviewed on: 10/20/11

Updates:

Recommendation:

File 6B - Eaton

Spousal or Domestic Partner Property Petition (Prob. C. 13650)

DOD: 03/17/11		EVELYN IRENE JOHNSTON , surviving spouse, is Petitioner.	NEEDS/PROBLEMS/COMMENTS: <u>CONTINUED FROM 09/07/11</u> Minute Order from 09/07/11 hearing states: Counsel advises the Court that she believes the 10/03/10 date was a typographical error. Counsel further advises that she was unaware that there are two wills. The Court directs counsel to prepare an amended petition regarding the tangible property and a declaration regarding the varying dates.
		No other proceedings	
Cont. from 080411, 090711		Will signed 10/04/11 devises entire estate to Evelyn Irene Johnson except NY Life Account that is to go to Shantel Lynn Roberts to be used as a college fund for Nicholas Taylor Pettey; and the Dodge, complete die-cast model car collection, all model airplanes, kits, and all parts, supplies, and tools related to aircraft modeling that is to go to Nicholas Taylor Pettey.	
<input type="checkbox"/>	Aff.Sub.Wit.	x	
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<input type="checkbox"/>	Inventory		
<input type="checkbox"/>	PTC		
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<input checked="" 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		
<input type="checkbox"/>	CI Report		
<input type="checkbox"/>	9202		
<input checked="" type="checkbox"/>	Order		
<input type="checkbox"/>	Aff. Posting		
<input type="checkbox"/>	Status Rpt		
<input type="checkbox"/>	UCCJEA		
<input type="checkbox"/>	Citation		
<input type="checkbox"/>	FTB Notice		
		<p>Petitioner requests court confirmation that the following assets of the decedent pass to her pursuant to decedent's Will:</p> <ol style="list-style-type: none"> 1) House and real property located at 4140 N. Brix, Fresno; 2) 1990 Cadillac; and 3) all household furnishings and tangible personal property. <p>Declaration of Evelyn Johnston in Support of Spousal Property Petition filed 09/13/11 states that all of the specific bequests to Nicholas Taylor Pettey have been transferred to him and are not part of the tangible personal property of the decedent. Ms. Johnston further states that the decedent's Will dated 10/03/10 was a complete Will and not an amendment to a previous Will. Ms. Johnston states that the Will was not prepared by an attorney and that it is her understanding that the decedent signed the Will on 10/04/10 because he also signed a living will on the same date. Ms. Johnston states that the witnesses to the Will also witnessed the living will and they dated their signatures 10/14/10 on the living will also. Ms. Johnston states that the signatures are illegible and she has made inquiries to the paralegal who assisted the decedent, the decedent's bank, and the pack and ship store where the decedent had documents notarized, and decedent's friends and was unable to identify the witnesses.</p> <p style="text-align: center;">See Page 2 for more</p>	
		Reviewed by: JF	
		Reviewed on: 10/20/11	
		Recommendation:	
		Updates:	
		File 7 – Johnston	

Memorandum of Points and Authorities in Support of Spousal Property Petition filed 09/13/11 states the decedent's Will was validly executed under Probate Code § 6110. Furthermore, decedent's Will complies with the affidavit procedure under Probate Code § 8220(b). The decedent intended the will to be his testamentary document, there is no contesting party, and should be admissible as his last will and testament.

- 1) Probate Code § 6110 states a will is validly executed if it was signed by the testator and witnessed by a least two persons who were present at the same time and witnessed (i) either the signing of the will or (ii) the testator's acknowledgement of the signature or the will.
- 2) Even if the will was not properly executed under 6110(c)(2), the will is treated as being validly executed if it is established by clear and convincing evidence that at the time the testator signed the will, he intended it to constitute his will.
- 3) Probate Code § 6110 does not require that the witnesses sign the will in the presence of the testator or each other. The witnesses are only required to sign after the testator and before the testator's death. Estate of Saueressig (2006) 38 C4th 1045, 44 CR3d 672.
- 4) The decedent's will appears to be validly executed under Probate Code § 6110 even though the witnesses signed the will ten days after the decedent. Furthermore, clearly the decedent intended the will to be his testamentary document and there is no contesting party.
- 5) Probate Code § 8220(b) permits proving an uncontested will by an affidavit in the original will that includes or incorporates the attestation clause stating the facts required for a valid execution under Probate Code 6110. The decedent's will contains an affidavit from the witnesses, stating under oath that the decedent signed the will in the presence of the witnesses, declared it to be his last will and at his request the witnesses are attesting to such in the presence of the testator and each other and that the testator is of sound mind and memory. Therefore, decedent's will complies with the affidavit procedure under Probate Code § 8220(b) and is admissible as decedent's will.

Age: 79	<p>TEMPORARY EXPIRES 10-26-11</p> <p>KATINA SAPIEN LOZANO PAULEY, Daughter, is Petitioner and requests appointment as Conservator of the Person with medical consent powers and dementia medication and powers, and as Conservator of the Estate with bond of \$100,000.00</p> <p>Voting rights affected.</p> <p>Estimated Value of Estate: Personal Property: \$70,000.00 Annual income: \$18,000.00 Total: \$88,000.00</p> <p>Need Capacity Declaration</p> <p>Petitioner states Angie has severe rheumatoid arthritis and was prescribed medication, but did not fill the prescription. She has memory problems and has to have someone pay her bills and separate her medications. She does not drive, and has either family or her friend, Sheila, take her places or run errands for her.</p> <p>Angie’s son, Richard Lozano, is incarcerated at Wasco (details included), is a hoarder, and is storing all of his stuff at Angie’s house (photos attached). Richard wrote a “disturbing letter” explaining that he will be out around 9-21-11 and not to let anyone help her with her finances or she would be put in an old folks home and loser her house and he would be homeless too. The letter also addresses allegations that Richard’s wife, Carol Lozano, was stealing from Angie. Petitioner explains that Carol was helping with Angie’s bills at one point, but was using the money for her own personal use, and Petitioner had to step in. Within the last week, Carol has been talking to Angie and telling her not to trust Petitioner. Richard also wrote a “disturbing letter” to Petitioner and Angie’s two sisters (letters attached).</p> <p style="text-align: center;">SEE PAGE 2</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p><u>Court Investigator advised rights on 9-20-11 and 10-19-11.</u></p> <p><u>Voting rights affected – need minute order</u></p> <p>1. Petitioner requests appointment with bond of \$100,000.00, which is appropriate (Probate Code 2620(c)(4) and Cal. Rule of Court 7.207.</p> <p><u>Petitioner is currently bonded for \$60,000.00. Therefore, need bond increased by \$40,000.00.</u></p> <p><u>Note:</u> At the temporary stage, Petitioner indicated \$60,000.00 bond would be sufficient because certain accounts would be blocked. If bond is not increased, need proof of blocked account(s).</p> <p>2. Need Capacity Declaration in support of medical consent and dementia medication and placement powers.</p>
DOB: 8-2-32		
Aff.Sub.Wit.		
✓ Verified		
Inventory		
PTC		
Not.Cred.		
✓ Notice of Hrg		
✓ Aff.Mail W		
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✓ Pers.Serv. W		
✓ Conf. Screen		
✓ Letters		
✓ Duties/Supp		
Objections		
✓ Video Receipt		
✓ CI Report		
9202		
✓ Order		
Aff. Posting		
Status Rpt		
UCCJEA		
✓ Citation		
FTB Notice		
	<p>Reviewed by: skc</p> <p>Reviewed on: 10-20-11</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 8 - Lozano</p>	

SUMMARY (Continued):

Petitioner was called by Principal Financial regarding suspicious activity with Angie’s finances –there have been frequent requests for money to be transferred to her checking account, including a recent request for \$6,400.00 to pay Richard’s rent. Richard’s friend “Skip” has been picking up Angie and taking her to the bank to withdraw money. Angie made other cash withdrawals of \$1,000.00 on 8-17-11 and \$1,280.00 on 8-19-11. A copy of the account activity is attached. **Petitioner states Angie does not remember making any of these withdrawals.**

Richard asks in his letter that Angie pick him up when he is released, and plans to live with her. Petitioner is concerned that he will take control of her finances and use her money for his personal use again. Angie’s friend Sheila no longer wishes to help because of the problems caused by Richard and Carol. Angie needs someone to help her every day with meals and sorting her medication.

Attorney Lisa Horton (Law Offices of Joanne Sanoian) filed a Declaration on 10-24-11 with a letter received from Angie’s sister Ramona Sapien Gutierrez describing the state of Angie’s home during a recent visit. The letter states Angie was bathing in the garage because the tub was plugged. The letter states the daughter-in-law [*Carol-Richard’s wife*] who was supposedly helping her did nothing about this, but when Katina found out, she took care of it. She drew a diagram of a portion of the house that she helped to clean (it took them four hours to clear a path from the kitchen). She also included some pictures from 2009.

Court Investigator Julie Negrete filed a report on 10-20-11.

Atty Roberts, David A., of Caswell Bell & Hillison (for Petitioner David J. St. Louis, Successor Co-Trustee)

Ex Parte Petition for Instructions to Appoint Successor Co-Trustees

Byrum Age: 94 years DOB: 4/17/1917		<p>DAVID J. ST. LOUIS, Successor Co-Trustee of the BYRUM C. AND WANDA H. BINGHAM FAMILY TRUST dated 4/1/1998, is Petitioner.</p> <p>Petitioner states:</p> <ul style="list-style-type: none"> • BYRUM C. BINGHAM and WANDA H. BINGHAM (“the Bingham’s”) are the Initial Co-Trustees of the Trust [<i>copy of the relevant portions of the Trust consisting of the Tenth Amendment attached as Exhibit A</i>]; • The Bingham’s are advanced in age, and have been diagnosed with dementia and declared incapacitated by two physicians (<i>please refer to Declaration of David J. St. Louis in Support of Petition for Instructions filed on 10/11/2011, including Exhibits C and D</i>); • Attached as <i>Exhibit B</i> to Petitioner’s <i>Declaration</i> is a letter from Markham Kirsten, M.D, regarding the capacity of the Bingham’s and the urgency of placement; • Petitioner’s <i>Declaration</i> states that he is the first alternate agent under the Advance Healthcare Directive of each of the Bingham’s (<i>attached as Exhibits E and F</i>) if the primary agents (the Bingham’s) are not reasonably able to make health care decisions; • A <i>Petition to Appoint Temporary Probate Conservator</i> for each of the Bingham’s [has been filed and is set for hearing on 10/31/2011 in Case #11CEPR00949 and #11CEPR00950]; Petitioner’s <i>Declaration</i> states that he is the first alternate named Conservator of the Person and Estate of each of the Bingham’s; <p style="text-align: center;"><i>~Please see additional page~</i></p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p><i>Note: Order on the Ex Parte Petition for Instructions to Appoint Successor Co-Trustees signed on 10/12/11 set the petition for this hearing with notice of 5 calendar days to be provided to all interested parties.</i></p> <p><i>Note: The two Petitions for Appointment of Temporary Conservator for each of the Bingham’s are set for hearing on 10/31/2011, with Letters of Temporary Conservatorship of the Person issued on 10/20/2011 in both cases set to expire on 10/31/2011.</i></p>	
Wanda Age: 96 years DOB: 6/29/1915				
Cont. from				
<input type="checkbox"/>	Aff.Sub.Wit.			
<input checked="" type="checkbox"/>	Verified			
<input type="checkbox"/>	Inventory			
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<input type="checkbox"/>	Video Receipt			
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<input type="checkbox"/>	Status Rpt			
<input type="checkbox"/>	UCCJEA			
<input type="checkbox"/>	Citation			
<input type="checkbox"/>	FTB Notice			
		Reviewed by: LEG		
		Reviewed on: 10/24/11		
		Updates:		
		Recommendation:		
		File 9 - Bingham		

Petitioner states, continued:

- Trust terms provide that upon the death, resignation, inability, incompetency or refusal to act of either Initial Co-Trustee, then **WELLS FARGO BANK** and **DAVID J. ST. LOUIS** shall act as Successor Co-Trustees along with the surviving Trustor, or if both Initial Co-Trustees cease to act, then Wells Fargo and David J. St. Louis shall act as Co-Trustees;
- The *Declarations* from the two physicians show that both of the Bingham have been declared incompetent, and accordingly the Successor Co-Trustees should be appointed to act as Co-Trustees of the Trust;
- While it is not normally necessary to petition the Court for instructions when a [named] successor trustee is to serve in that capacity, the assets of this Trust estate are extremely large, and it is necessary to have a court order to exercise the Trust powers.

Petitioner prays for an Order instructing the Successor Co-Trustees, Wells Fargo Bank and David J. St. Louis, to become active Successor Co-Trustees of the Trust with the powers set forth in the Trust.

Memorandum of Points and Authorities in Support of Ex Parte Petition for Instructions to Appoint Successor Co-Trustees was filed on 10/11/2011.

Order to Show Cause Re: Failure to File the Fourteenth Account

Age: 84	<p>MARY J. FERGUSON, Sister, is Conservator of the Person and Estate.</p> <p>The 13th Account for the 5-year period covering 5-16-04 through 2-11-09 was settled on 9-9-09. At that time, property on hand consisted of minimal cash and personal effects plus various annuity and life insurance policies, etc., with a total value of \$63,858.57.</p> <p>On 9-9-09, the court set a status hearing for the next accounting on 9-7-11.</p> <p>Status Report filed 8-26-11 stated the account was being prepared; however, there were no appearances on 9-7-11, and the Court set this Order to Show Cause and ordered Attorney James Hays to be personally present on 10-26-11. A copy of the minute order was mailed to Attorney Hays on 9-9-11.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>Minute Order 9-7-11: No appearances. The Court sets the matter for an Order to Show Cause for 10-26-11. The Court orders James Hays to be present on 10-26-11.</p> <p>Note: Filing a status report does not excuse appearance at a status hearing (Local Rule 7.5).</p> <p>1. As of 10-21-11, no account has been filed. Need account or current status report.</p>
DOB: 3-15-27		
Aff.Sub.Wit.		
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PTC		
Not.Cred.		
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Letters		
Duties/Supp		
Objections		
Video Receipt		
CI Report		
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Order		
Aff. Posting		
Status Rpt X		
UCCJEA		
Citation		
FTB Notice		
	<p>Reviewed by: skc</p> <p>Reviewed on: 10-21-11</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 10 - Ferguson</p>	

Eileen M. Kerr DOD: 10-27-07	<p>JUNE M. DEETER was appointed Conservator of the Person and Estate of EILEEN M. KERR on 8-14-98 and served as such until Conservatee's death on 10-27-07. Conservator JUNE M. DEETER died on 4-29-08.</p>	NEEDS/PROBLEMS/COMMENTS:
June M. Deeter DOD: 4-29-08		<u>OFF CALENDAR</u>
	<p>MARVIN T. HELON, attorney for deceased Conservator JUNE M. DEETER, filed a final account on her behalf, which was approved on 8-24-11. Property on hand included cash in the amount of \$2,422.63.</p>	<p>Status Report and Receipt filed 9-22-11 reflect compliance with the Court's order of 8-24-11.</p>
Aff.Sub.Wit.		
Verified	<p>The Court set this status hearing and directed Atty Helon to file a declaration. <u>If filed, no appearance is necessary at this hearing.</u></p>	<p>Reviewed by: skc</p> <p>Reviewed on: 10-21-11</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 11 - Kerr</p>
Inventory		
PTC	<p>Status Report filed 9-22-11 states that the bank issued checks as ordered and a receipt from the Dept. of Health Services for the remainder amount of \$979.63 is provided.</p>	
Not.Cred.		
Notice of Hrg		
Aff.Mail		
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Duties/Supp		
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CI Report		
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UCCJEA		
Citation		
FTB Notice		

Probate Status Hearing Re: Proof of Funds in Blocked Account

Age: 15 years DOB: 2/15/1996	<p>JULIE FULCHER, mother, was appointed guardian of the estate on 6/9/11.</p> <p>Order states \$240,000 was to be placed into a blocked account at Union Bank in Fresno with receipts to be filed.</p> <p>Receipt for Blocked Account filed on 10/4/11 showing \$121,103.77 was deposited into the blocked account at Union Bank.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <ol style="list-style-type: none"> 1. Receipt for blocked account was not on the mandatory Judicial Council form therefore does not include all the information required. 2. Order Appointing Guardian dated 6/9/11 ordered \$240,000 to be placed into a blocked account. Receipt shows a deposit of \$121,103.77 a difference of \$118,896.23. Need receipt for the additional \$118,896.23.
Cont. from 081711, 092111		
Aff.Sub.Wit.		
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Video Receipt		
CI Report		
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Order		
Aff. Posting		
Status Rpt		
UCCJEA		
Citation		
FTB Notice		
	Reviewed by: KT	
	Reviewed on: 10/24/11	
	Updates:	
	Recommendation:	
	File 12 - Fulcher	

Petition to Establish Child Care and Visitation of the Minor Child Gabriel Villa

<p>Gabriel Villa Age: 7 DOB: 8-4-04</p>	<p>SYLVIA QUINTANA LOPEZ, Maternal Grandmother and Guardian since 10-2-06, is Petitioner.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p>	
	<p>Mother: Corina Villa Maternal Grandfather: Ramon Adame Father and Paternal Grandparents: Unknown</p>		
	<p>Petitioner states there have been changes in the needs of the child and it would be to his benefit to modify the orders.</p>		
<table border="1"> <tr> <td>Aff.Sub.Wit.</td> <td></td> </tr> </table>	Aff.Sub.Wit.		<p>Regarding visits with Maternal Great-Grandmother Mary Serafin: The Court previously restricted visits with Mary Serafin. Petitioner requests the restrictions be removed and the child be allowed to visit unrestricted and that she be permitted to provide child care if needed. Mary has been a positive influence in Gabriel’s life and has been a Fresno County Foster Grandmother for about 10 years. Gabriel is close with her and they enjoy spending time together. Gabriel’s Great-Aunt Alice Silvas also lives with Mary and Petitioner requests that no restrictions be placed on Gabriel’s ability to visit and spend time with either of them.</p>
Aff.Sub.Wit.			
<table border="1"> <tr> <td><input checked="" type="checkbox"/> Verified</td> <td></td> </tr> </table>	<input checked="" type="checkbox"/> Verified		<p>Regarding child-care: The Court previously ordered that Stephanie Leyva be the <u>only</u> child care provider. Ms. Leyva now has four small children of her own and is unable to care for Gabriel. Petitioner requests that her son Manuel Villa, Jr., be allowed to provide child care at Petitioner’s residence. He is 25 years old and has lived with Petitioner since she was appointed Guardian. CPS has performed a background investigation and he has been given clearance to be left alone with Gabriel.</p>
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Inventory			
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Aff.Pub.			
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Citation			
<table border="1"> <tr> <td>FTB Notice</td> <td></td> </tr> </table>	FTB Notice		<p>Regarding Mother’s visitation: The Court previously ordered that Mother’s boyfriend Frankie Padilla, who is the person specifically found to have caused bodily harm and emotional distress and trauma to Gabriel and was ordered to not be around him at any time, not be present around the minor at any time. Petitioner states that for the last several months, Mother has caused internal problems with family members, has stopped visiting regularly, and is expecting another child with Frankie Padilla. Gabriel is still traumatized by just the mention of his name, and Mother intends to continue her relationship with him and is opposition of the court’s order regarding him. Petitioner asks that visits with Mother be terminated until further review and that the stay-away order remain in full force and effect.</p> <p>Petitioner states that Gabriel’s only real family are those that are currently being restricted from being involved in his life.</p>
FTB Notice			

Reviewed by: skc
Reviewed on: 10-21-11
Updates:
Recommendation:
File 13 - Villa

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

Age: 2 years DOB: 09/29/09	<u>TEMPORARY EXPIRES 10/26/11</u>	NEEDS/PROBLEMS/COMMENTS: <u>Continued from 9/21/11. Minute Order states:</u> Court Investigator Jennifer Young is sworn and testifies. The matter is continued to allow the court investigator an opportunity to contact mother, Ashley Smothers for further investigation. Ashley Smothers is ordered to contact the court investigator and let her know when she will be available to meet with her. The Court continues the matter to 10/26/11. The temporary is extended to 10/26/11. The Court terminates overnight visitation with mother and orders unsupervised visits on Saturday from 9:00 a.m. to 5:00 p.m. Guardian to drop-off the child at mother's home, and mother to return the child to the guardian's home.
	LESLIE SMOTHERS, maternal great-aunt, is Petitioner.	
	Father: UNKNOWN - <u>Declaration of Due Diligence filed 07/08/11</u>	
Cont. from 080311, 092111	Mother: ASHLEY QUINN SMOTHERS - <u>personally served 06/17/11</u>	
Aff.Sub.Wit.	Paternal grandfather: UNKNOWN Paternal grandmother: UNKNOWN	
✓ Verified	Maternal grandfather: UNKNOWN - <u>declaration of due diligence filed 07/08/11</u>	
Inventory	Maternal grandmother: BONNIE SMOTHERS - <u>Consent and Waiver of Notice filed 07/05/11</u>	
PTC	Petitioner states she was previously Guardian of Mother when she was a minor, and this child has lived with Petitioner continually since his birth. Petitioner states she is unable to seek medical care for the child and he is behind on his vaccinations. She fears for his physical/emotional needs.	
Not.Cred.	<u>Court Investigator Jennifer Young's report filed 07/25/11.</u>	
✓ Notice of Hrg	<u>Court Investigator Jennifer Young's Supplemental C.I. Report, filed 9/16/11.</u>	
Aff.Mail x	<u>Court Investigator Jennifer Young's Supplemental C.I. Report, filed 10/19/11.</u>	
Aff.Pub.	<u>**Various Declarations and Letters filed both in support of Petitioner Leslie Smothers, and Mother (who objects to Guardianship).</u>	
Sp.Ntc.		
✓ Pers.Serv.		
✓ Conf. Screen		
✓ Letters		
✓ Duties/Supp		
Objections		
Video Receipt		
✓ CI Report		
9202		
✓ Order		
Aff. Posting		
Status Rpt		
✓ UCCJEA		
Citation		
FTB Notice		
		Updates:
		Contacts:
		Recommendation:
		Reviewed by:
		File 14 - Smothers

**Petition for Appointment of Guardian of the Person (Prob. C. 1510) and
 Status of Guardianship in Virginia**

Raymond, 15 DOB: 04/23/96	TEMPORARY EXPIRES 10-26-11	NEEDS/PROBLEMS/COMMENTS:
Faith, 12 DOB: 10/27/98		
	<p>NANCY BELEN CINCO, Maternal Aunt, filed a temporary and a general petition for guardianship of the two minors in order to take them to live with her in Virginia.</p>	
	<p>At the temporary hearing on 7-27-11, the Court granted temporary guardianship, but vacated the general hearing date and set this status hearing for filing of an equivalent petition in Virginia.</p>	
<input type="checkbox"/> Aff.Sub.Wit.		
<input type="checkbox"/> Verified	<p>The Court Investigator has since received copies of Petitioner’s documents from Virginia, and it appears the process has been started and is set for hearing there on 11-16-11.</p>	
<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.		
<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		
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<input type="checkbox"/> Aff. Posting		
<input checked="" type="checkbox"/> Status Rpt		<p>Reviewed by: skc</p> <p>Reviewed on: 10-21-11</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 15 -Esqueda</p>
<input type="checkbox"/> UCCJEA		
<input type="checkbox"/> Citation		
<input type="checkbox"/> FTB Notice		

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

Age: 4		<p>TEMPORARY EXPIRES 10-26-11</p> <p>DEMETRIA MURPHY, Maternal Aunt, is Petitioner.</p> <p>Father: Unknown <i>- Declaration filed 9-8-11</i></p> <p>Mother: Latrice Monique Rochelle Jones <i>- Deceased</i></p> <p>Paternal Grandfather: Unknown <i>- Declaration filed 9-8-11</i></p> <p>Paternal Grandmother: Unknown <i>- Declaration filed 9-8-11</i></p> <p>Maternal Grandfather: Henry L. Jones <i>- Consent and Waiver of Notice filed 9-8-11</i></p> <p>Maternal Grandmother: Elise R. Jones <i>- Consent and Waiver of Notice filed 9-8-11</i></p> <p>Petitioner states Mother passed away on 8-22-11. Petitioner has helped with Akiyah since she was born and Mother asked her to be her God-Parent. Father is unknown.</p> <p>Court Investigator Jennifer Young filed a report on 10-18-11.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>1. Petitioner's declaration filed 9-8-11 states Akiyah's father has never been in her life. Petitioner has never met the father or his parents and does not have an address or phone number.</p> <p><i>If diligence is not found</i>, the court may require notice pursuant to Probate Code §1511 or further diligence.</p>				
DOB: 9-14-07							
	Aff.Sub.Wit.						
✓	Verified						
	Inventory						
	PTC						
	Not.Cred.						
	Notice of Hrg			X			
N/A	Aff.Mail						
	Aff.Pub.						
	Sp.Ntc.						
	Pers.Serv.			X			
✓	Conf. Screen						
✓	Letters						
✓	Duties/Supp						
	Objections						
	Video Receipt						
✓	CI Report						
✓	Clearances						
✓	Order						
	Aff. Posting						
	Status Rpt						
✓	UCCJEA						
	Citation						
	FTB Notice						
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Reviewed by: skc							
Reviewed on: 10-21-11							
Updates:							
Recommendation:							
File 16 - Anderson							

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

Age: 2 DOB: 10/11/09	<p align="center"><u>TEMPORARY EXPIRES 10/26/11</u></p> <p>DONNA LEA MITTIE, paternal grandmother, is petitioner.</p> <p>Father: MATTHEW RYAN MITTIE – <i>consents and waives notice.</i></p> <p>Mother: JENNA LYNN BETHELL - <i>consents and waives notice.</i></p> <p>Paternal grandfather: Charles Leroy Mittie – <i>served by mail on 10/04/11</i></p> <p>Maternal grandfather: Mr. Bethell – <i>declaration of due diligence filed 10/17/11</i></p> <p>Maternal grandmother: Kimberly Hadden – <i>served by mail on 10/04/11</i></p> <p>Petitioner states both parents are addicted to drugs and living in a drug house. Petitioner fears for the safety of her grandson if the parents decide to change their minds and take him from her.</p> <p>Court Investigator Samantha Henson’s report was filed 10/19/11.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>1. Declaration of due diligence filed 10/17/11 regarding maternal grandfather states that his whereabouts are unknown and no family members want to have contact with him. If diligence is not found, need proof of service by mail at least 15 days before the hearing of <i>Notice of Hearing</i> with a copy of the <i>Petition for Guardianship or Consent and waiver of notice on maternal grandfather (Mr. Bethell).</i></p>
Cont. from		
<input type="checkbox"/> Aff.Sub.Wit.		
<input checked="" type="checkbox"/> Verified		
<input type="checkbox"/> Inventory		
<input type="checkbox"/> PTC		
<input type="checkbox"/> Not.Cred.		
<input checked="" type="checkbox"/> Notice of Hrg		
<input checked="" type="checkbox"/> Aff.Mail w/		
<input type="checkbox"/> Aff.Pub.		
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<input checked="" type="checkbox"/> Order		
<input type="checkbox"/> Aff. Posting		
<input type="checkbox"/> Status Rpt		
<input checked="" type="checkbox"/> UCCJEA		
<input type="checkbox"/> Citation		
<input type="checkbox"/> FTB Notice		
		<p>Reviewed by: JF</p> <p>Reviewed on: 10/21/11</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 17 - Mittie</p>

Age: 2	<p align="center"><u>TEMPORARY GRANTED EX PARTE;</u> <u>EXPIRES 10/26/11</u></p> <p align="center"><u>GENERAL HEARING 12/13/11</u></p> <p>SHARON BUSHMAN, paternal grandmother, is Petitioner.</p> <p>Father: AARON DANIELS</p> <p>Mother: STACY GOMEZ</p> <p>Paternal grandfather: NOT LISTED</p> <p>Maternal grandparents: NOT LISTED</p> <p>Siblings: HANNAH DANIELS</p> <p>Petitioner states that the mother left the minor in her care on 04/20/11 and has not returned. The father lived with the Petitioner for a short time after the minor was left in her care, but has since left. Petitioner states that the minor has breathing problems and has medical appointments that need to be kept and needs stability in his life.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>1. Need proof of personal service at least 5 court days before the hearing of <i>Notice of Hearing</i> along with a copy of the <i>Petition for Temporary Guardianship or Consent and Waiver of Notice or Declaration of Due Diligence</i> on:</p> <ul style="list-style-type: none"> - Aaron Daniels (father) - Stacy Gomez (mother)
DOB: 09/03/09		
Cont. from		
Aff.Sub.Wit.		
✓ Verified		
Inventory		
PTC		
Not.Cred.		
Notice of Hrg		x
Aff.Mail		
Aff.Pub.		
Sp.Ntc.		
Pers.Serv.		x
✓ Conf. Screen		
✓ Letters		
✓ Duties/Supp		
Objections		
Video Receipt		
CI Report		
9202		
✓ Order		
Aff. Posting		
Status Rpt		
✓ UCCJEA		
Citation		
FTB Notice		
		Reviewed by: JF
		Reviewed on: 10/21/11
		Updates:
		Recommendation: copy of notes in file
		File 18 - Daniels