



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.

3 Herbert C. Hamby (Estate)

Case No. 07CEPR00788

Atty Kruthers, Heather (for Public Administrator)
Atty Rackley, Elaine (Pro Per Administrator with Will Annexed)

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

DOD: 9-6-05	DORIS ELAINE RACKLEY , Daughter, was appointed as Administrator with Will Annexed with Limited IAEA without bond and Letters issued on 8-28-07.	NEEDS/PROBLEMS/COMMENTS:
		1. Need petition for final distribution.
Cont. from 092013, 111513, 022114, 061314, 092914, 033015, 060115, 072715, 092114	On 11-15-13 , the Court removed Ms. Rackley and appointed the PUBLIC ADMINISTRATOR .	Note: The beneficiaries of the estate are Elaine Rackley, Marilyn Hamby, and the Estate of Irene Hamby.
Aff.Sub.Wit.	<p>Status Report filed 11/4/15 states the Public Administrator has been delayed due to outstanding balances due the IRS for prior tax years. The PA's CPA received the IRS and FTB transcripts, and after reviewing them, determined that the tax returns from 2001-2005 needed to be prepared. The 1999 and 2000 taxes were written off by the IRS and FTB. The accountant has completed the individual federal and state returns from 2003-2005 and is finalizing 2001 and 2002. It is anticipated these will be completed soon. It is respectfully requested that the next status hearing be set for 60 days from the date of this hearing.</p>	
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		Reviewed by: skc
		Reviewed on: 11/10/15
		Updates:
		Recommendation:
		File 3 – Hamby

Attorney LeVan, Nancy J. (for Jonathan Holcomb, Executor)

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

DOD: 10/26/2007	<p>JONATHAN HOLCOMB, son, was appointed Executor with Full IAEA authority without bond on 5/26/2009. Letters issued on <u>5/26/2009</u>.</p> <p>Pursuant to Probate Code § 8800(b), Final Inventory and Appraisal was due 9/26/2009. Final Inventory and Appraisal was filed on 3/25/2014 showing an estate value of \$23,738.31.</p> <p>First account and/or petition for final distribution was due in May 2010.</p> <p>Notice of Status Hearing filed 11/15/2013 set a status hearing on 1/10/2014 for failure to file the inventory and appraisal and first account and petition for final distribution.</p> <p>Status Report filed by Jonathan Holcom on 9/16/2015 for the previous status hearing states:</p> <ul style="list-style-type: none"> To date, the estate brokerage account total is \$20,941.21; The brokerage firm now has in their possession the 279.219 shares of Principal Investors stock valued at close to \$3,000.00, and he has requested the brokerage firm to sell the stock, and he is hoping to have the funds deposited by 9/18/2015; The State Controller has indicated they have tried to send the 45.83 shares of Principal Investors Money stock to the brokerage firm two times, and both times it was rejected and returned due to an error with the numbers; After the shares have been deposited, he will be able to file the final accounting and petition for distribution. 	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>Continued from 9/21/2015. Minute Order states counsel requests 60 days.</p> <p>Note for background: Minute Order dated 7/20/2015 states counsel requests an additional 60 days. The Court orders that if the First Account is not filed at least two court days prior to 9/21/2015, then a declaration verified by Jonathan Holcomb must be filed by then, or the Court will consider imposing sanctions.</p> <p>1. Need first and final account, or verified status report pursuant to Probate Code § 12200, and proof of service of notice of the status hearing pursuant to Local Rule 7.5(B).</p>	
Cont. from 011014, 031114, 081114, 111014, 012615, 072015, 092115			
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		Reviewed by: LEG	
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		Updates:	
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		File 4 – Holcomb	

8 Natalie Ortega & Vanity Saldivar (GUARD/P) Case No. 13CEPR00151

Petitioner Saldivar, Rosalinda Galvan (pro per – paternal grandmother/Petitioner)
Petitioner Saldivar, Richard (pro per – paternal grandfather/Petitioner)
 Petition - Appoint Guardian

		<u>TEMPORARY EXPIRES 11/16/15</u>	NEEDS/PROBLEMS/COMMENTS:
		RICHARD SALDIVAR and ROSALINDA SALDIVAR , paternal grandparents, are Petitioners.	This Petition pertains to Vanity only.
		Father: RUSTY SALDIVAR	Cutberto & Irene Jimenez were appointed as co-guardians of Natalie on 03/25/15.
Cont. from 062915, 080315, 091415		Mother: AMBER STICKLES – <i>Consent & Waiver of Notice filed 04/24/15</i>	<u>CONTINUED FROM 09/14/15</u> Minute order from 09/14/15 states: Petitioners represent that the father will be released from prison on October 27 and will be living in their home thereafter. Matter is continued for consent from the father.
<input type="checkbox"/>	Aff.Sub.Wit.	Maternal grandfather: CARL SHARP Maternal grandmother: TONYA SHARP	As of 11/10/15, nothing has been filed since the last hearing and the following notes remain: 1. Need <i>Notice of Hearing</i> . 2. Need proof of service at least 15 days before the hearing of <i>Notice of Hearing</i> with a copy of the <i>Petition for Appointment of Guardian of the Person</i> <u>or</u> <i>Consent & Waiver of Notice</i> <u>or</u> <i>Declaration of Due Diligence</i> for: a. Rusty Saldivar (father) – <i>personal service needed</i> b. Carl Sharp (maternal grandfather) – <i>service by mail sufficient</i> c. Tonya Sharp (maternal grandmother) – <i>service by mail sufficient</i>
<input checked="" type="checkbox"/>	Verified	Petitioners state [see petition for details].	
<input type="checkbox"/>	Inventory	Court Investigator Samantha Henson filed a report on 06/22/15.	
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			Reviewed by: JF
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			File 8 – Ortega & Saldivar

9 2013 Walter Edward Eastwood Revocable Trust Case No. 14CEPR00069

**Attorney LeVan, Nancy J. (for Susan Brown – Trustee – Petitioner)
Amended First and Final Account of Trustee; Petition for Allowance of Fees for her
Attorney; Reimbursement to Trustee for Out of Pocket Expenses Petition; Reimbursement
of Labor and Materials and for Distribution and Termination of the Trust**

DOD: 3/21/14		<p>SUSAN BROWN, Trustee with bond of \$74,000.00, is Petitioner.</p> <p>Account period: 8/23/13 – 4/4/15 Accounting: \$236,090.27 Beginning POH: \$205,417.82 Ending POH: \$111,831.88 (cash)</p> <p>Trustee (Reimbursement): \$6,557.22 Petitioner states the total amount of deposits made to the trust account by Susan Brown is \$12,657.22. The amount that has been repaid to Susan Brown during the course of administration is \$6,100.00. The remaining balance owing to Susan Brown is \$6,557.22. Declaration details extensive work required on the residence and the benefit to the estate of such work performed by family, etc.</p> <p>Buyers: \$3,488.98. Petitioner states the decedent's home was sold to the Kerbys, who purchased materials and provided labor to bring the home up to code into a condition where it could be sold. In addition to what the trust has paid them up to this point, the trustee requests authorization to pay the Kirbys an additional \$3,488.98. Declaration provides itemization, explanation.</p> <p>Attorney: \$1,500.00 Petitioner requests distribution to the five beneficiaries in the amount of \$19,457.13 each and termination of the trust. (The five heirs are Susan Brown, Cynthia Taylor, Gregory Eastwood, Rebecca Garrison, and Lori Eastwood.)</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>Minute Order 9/30/15: The Court is willing to approve \$5,000 to each beneficiary between now and 11/16/15. (Orders signed 10/5/15.)</p> <ol style="list-style-type: none"> 1. Petitioner states the total deposits made to the trust account by Susan Brown is \$12,657.22, and she has been repaid \$6,100.00 during the course of administration, for a balance owing of \$6,557.22. However, the schedules appear to show receipts of \$8,450.00 during this account period from Susan Brown (not \$12,657.22), and disbursements to her of \$5,833.80 (not \$6,100.00). Need clarification. The Court may require that these loans to the trust estate be detailed in separate schedules for review, rather than Examiner sifting through to identify relevant individual line items. 2. As previously noted, need itemization for requested attorney compensation or authority for this amount without itemization. 3. Need recalculated distribution with reference to the preliminary distribution previously approved. 4. Need order.
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File 9 – Eastwood			

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

DOD: 6/17/13	<p>HOWARD YOUNG was appointed Administrator with limited IAEA and without bond.</p> <p>Letters issued on 9/5/14.</p> <p>Inventory and Appraisal filed on 2/13/15 showing the estate valued at \$150,000.00</p> <p>Minute order dated 7/14/14 set this status hearing re: filing of the first account or petition for final distribution.</p> <p>First account or petition for final distribution is now due.</p> <p>Further Status Report filed 11/03/15 states: The Estate's sole asset is real property located in Richmond, CA. A report of Sale and Petition for Order Confirming Sale of the sole asset is now scheduled for 01/04/16. Petitioner is working with the probate referee to have the necessary updated appraisal of the property completed. The sale is being re-noticed taking into account the value the probate referee has tentatively placed on the property. Petitioner is taking all the necessary steps to obtain the highest possible sale price for the property. Once the sale of the property is concluded, the estate will be in a position to be closed.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>1. Need first account, petition for final distribution.</p>
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	<p>Reviewed by: KT/JF</p> <p>Reviewed on: 11/10/15</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 11 – Young</p>	

Probate Status Hearing RE: Filing of the Inventory and Appraisal

DOD: 12/17/14	<p>ALENE Y. SOLEY, Surviving Spouse, was appointed Executor with Full IAEA without bond and Letters issued on 4/15/15.</p> <p>At the hearing on 4/15/15, the Court set this status hearing for the filing of the I&A.</p> <p>Partial I&A No. 1 was filed on 11/4/15 and reflects the decedent's ½ community property interest in real property valued at \$125,000.00.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>1. Need Final I&A per Probate Code §8800 or written status report pursuant to Local Rule 7.5.</p>
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		Reviewed by: skc
		Reviewed on: 11/10/15
		Updates:
		Recommendation:
		File 20 - Soley

Attorney
Attorney

Magness, Marcus D. (for Jeri Buchman Weil – Trustee – Petitioner)
Brennan, Stacey (of Sacramento, for Objectors Jan van Lienden and Jill Buchman)
Petition to Approve: (1) First Account and Report; and (2) Second and Final
Account and Report; and Petition for Instructions [Prob. Code §17200(b)(5), (b)(6)]

Ruth Buchman DOD: 12/9/01	<p>JERI BUCHMAN WEIL, Trustee of the Ruth Buchman Credit Bypass Trust, is Petitioner.</p> <p>Account period: 3/19/14 – 12/31/14 Accounting: \$466,358.12 Beginning POH: \$459,090.70 Ending POH: \$102,042.75</p> <p>Account period: 1/1/15 – 5/31/15 Accounting: \$103,977.51 Beginning POH: \$102,042.75 Ending POH: \$ 70,763.11</p> <p>Receipts, Disbursements, Distributions, etc., are detailed in the petition.</p> <p>Trustee waives compensation.</p> <p>Attorney: \$26,584.71 (\$16,357.21 during the first account period and \$10,227.50 during the second account period, detailed in attorney's declaration.</p> <p>Petitioner reimbursed herself \$12,788.56 during the second account period for funds advanced to the attorney during the first account period because the trust did not recover any assets until November 2014.</p> <p>Attorney Magness was paid \$10,227.50 for services and costs during the second account period, as detailed in the attorney's declaration.</p> <p>William Patterson, CPA, was paid \$1,315.00 during the first account period and \$50.00 during the second account period.</p> <p style="text-align: center;">SEE ADDITIONAL PAGES</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p><u>Note:</u> On 9/2/15, Jan van Lienden and Jill Allison Buchman filed a Petition for Relief from Breach of Trust (Page C of this calendar).</p> <p><u>Minute Order 9/8/15:</u> Continued to meet up with the Petition for Relief from Breach of Trust filed 9/2/15.</p>				
Roy Buchman DOD: 12/13/13						
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File 22A – Buchman						

Page 2

Petitioner states: Ruth and Roy Buchman established the Buchman Trust on 4/7/99. Ruth died in 2001 and under its terms, the trust was divided into two subtrusts: The Survivor's Trust and the Bypass Trust. Roy acted as trustee of both subtrusts until his death on 12/13/13.

On 10/4/07, Roy amended the Trust Agreement to name his new wife, Mary Ruth Buchman as successor trustee to the Survivor's Trust and to provide a pecuniary bequest to Mary Ruth. Roy died 12/13/13.

Upon assuming the role of trustee of the Bypass Trust, Petitioner learned that Mary Ruth had somehow closed all of the Bypass Trust accounts and comingled the Bypass Trust and Survivor's Trust assets. Petitioner engaged legal counsel to recover the assets belonging to the Bypass Trust, and through their respective counsel, Petitioner and Mary Ruth were able to negotiate a deal whereby the Bypass Trust was made substantially whole and in November 2014, assets were returned to the Bypass Trust's accounts.

Both subtrusts were to terminate upon Roy's death. Following recovery of the Bypass Trust's assets, Petitioner distributed a significant portion of the trust's assets to the beneficiaries thereof. Mary Ruth also made a preliminary distribution from the Survivor's Trust, but held back approx. 25% of the Survivor's Trust assets.

During the Second Account Period, Petitioner's counsel inquired of Mary Ruth's counsel over her plans to distribute the balance of the Survivor's Trust estate. Mary Ruth's counsel stated it was being held as a reserve in case suit was ever brought to recover real or perceived damages caused by the misappropriation of the Bypass Trust's assets. He suggested that all affected parties enter into a settlement agreement and mutual release and upon execution thereof, the Survivor's Trust assets would be distributed.

A draft agreement was prepared by Petitioner's counsel. Almost immediately after circulating the draft agreement, Mary Ruth fired her second attorney. The other trust beneficiaries then implied that Petitioner or her attorney were somehow guilty of wrongdoing by circulating such a document. Beneficiary Jan Van Lienden also demanded that Petitioner provide a quarterly accounting, which led to the instant petition.

Petitioner states Mary Ruth has conditioned the distribution of the balance of the Survivor's Trust upon an agreement by the remainder beneficiaries that they not sue her. To date, Mary Ruth has not prepared or submitted a formal fiduciary accounting, so it is possible that she continues to hold assets that rightfully belong to the Bypass Trust. Petitioner is in doubt as to whether she, as trustee of the Bypass Trust, should incur expense to compel Mary Ruth to account for her actions as trustee of the Survivor's Trust, to confirm that the Bypass Trust has recovered all asset wrongfully taken by Mary Ruth, and to compel the final distribution of the Survivor's Trust.

SEE ADDITIONAL PAGES

Alternatives: Petitioner states any of the individual beneficiaries of the Survivor's Trust could file such petition on their own behalf, but the beneficiaries of the Bypass Trust could also allege that Petitioner violated her fiduciary duty as trustee of the Bypass Trust for not taking this action on their behalves, as such action would require that they individually bear the expense for such action. Further, if the accounting reveals that the Bypass Trust should recover additional assets, then the beneficiaries could allege that Petitioner violated her fiduciary duty by not recovering same. Of course, the ultimate distribution whether under the Survivor's Trust or the Bypass Trust would be the same, as the remainder beneficiaries and their respective shares are identical.

Therefore, Petitioner requests that this court instruct Petitioner to either file the petition on behalf of the Bypass Trust against the trustee of the Survivor's Trust, or alternatively, not to file such petition, leaving the burden on the individual beneficiaries to seek such relief.

If the Court instructs Petitioner to compel the trustee of the Survivor's Trust to account, then Petitioner will comply with said instructions and termination of the Bypass Trust will be delayed until that action is resolved. If this court instructs Petitioner to not file such petition, then Petitioner plans to terminate the Bypass Trust and distribute \$15,000.00 to each beneficiary, holding \$15,000.00 as a reserve to cover final costs of administration.

Petitioner prays for an order as follows:

1. **The First Account and Report of Petitioner be settled, allowed and approved as filed;**
2. **The Second Account and Report of Petitioner be settled, allowed and approved as filed;**
3. **That all acts and proceedings of Petitioner as trustee be confirmed and approved;**
4. **That this Court instruct Petitioner, acting in her capacity as trustee of the Bypass Trust, to either file, or not file, a petition to compel Mary Ruth to account for her actions as trustee of the Survivor's Trust, to confirm that the Bypass Trust has recovered all assets wrongfully taken by Mary Ruth, and to compel the final distribution of the Survivor's Trust; and**
5. **For all other orders that are just and proper.**

Examiner's Note: If Petitioner is instructed to file a petition to compel Mary Ruth to account, such petition should be filed as a separate case for the Survivor's Trust pursuant to Local Rule 7.1.2.

SEE ADDITIONAL PAGES

Objection filed 7/27/15 by Jan van Lienden and Jill Buchman states Petitioner's actions, specifically her need to "be in control," have wasted approx. \$50,000.00 of trust assets in payment of attorneys' fees that would not have been needed but for Petitioner's demand to serve as trustee of the Bypass Trust. Following their father's death in December 2013, his surviving spouse, Mary Ruth Buchman, informed Objectors that her attorney advised her that she was the successor trustee of the Survivor's Trust and the Bypass Trust. After receiving trust documents, Morgan Stanley recognized Mary Ruth as trustee of both trusts, confirmed that the beneficiaries were identical, and recommended that the accounts be consolidated. Mary Ruth informed Objectors that the broker combined the accounts without her prior approval. The broker received \$3,400.00 commission on the combination of the accounts which he was subsequently forced to return to the trust.

In March 2014, Petitioner determined that since the Bypass trust was irrevocable, the amendment that appointed Mary Ruth as successor only applied to the Survivor's Trust and the prior appointment of Petitioner still applied to the Bypass Trust. Mary Ruth assured Objectors that she and her counsel would cooperate with Petitioner's request that the Bypass Trust assets be transferred to Petitioner.

However, the accounting indicates that Petitioner continued to spend tens of thousands in attorneys' fees accusing Mary Ruth of misappropriating funds, which in turn forced Mary Ruth to spend thousands from the Survivor's Trust to defend herself.

As successor trustee of the Bypass Trust, Petitioner had a fiduciary duty to take actions to preserve the trust assets for all beneficiaries, and spending in excess of \$27,000 to aggressively attack Mary Ruth without cause was not consistent with this fiduciary duty. Petitioner and Objectors are equal beneficiaries of the residue of the Survivor's Trust and Bypass Trust. While Petitioner had a duty to take appropriate steps to ensure the Bypass Trust assets were accounted for, she did not need to spend this much wrestling for control of assets that were all to be distributed to the same beneficiaries.

Objectors provide facts and specific objections and respectfully request that the Court deny the petition as to approval of payment of attorneys' fees, deny Petitioner's request that all acts and proceedings of Petitioner as trustee be confirmed and approved, and deny Petitioner's request for instructions in its entirety.

SEE ADDITIONAL PAGES

Petitioner's Reply filed 8/17/15 states Objectors' argument that Petitioner's acts as trustee were for her own benefit and "need to be in control" and were a waste of trust assets completely lacks substance. Jeri accepted the trusteeship and has dutifully acted in such capacity. When she accepted the trusteeship, she discovered that all assets held at Morgan Stanley had been moved to the Survivor's Trust and were under the control of Mary Ruth. She then undertook to unwind the transfer and ensure the assets were protected for the beneficiaries. Objectors take issue with her successful recovery of the Bypass Trust assets and characterize her efforts as aggressive. Apparently, Objectors would have had her do nothing to recover the assets transferred to the Survivor's Trust. According to Objectors, since the beneficiaries are the same, such recovery was unnecessary. This position ignores reality. If Jeri had taken no action to marshal the Bypass Trust assets, Mary Ruth could have absconded with the funds. Certainly, had the assets disappeared, Objectors would now be suing Jeri. Such a position creates a catch-22 and flies in the face of Jeri's well established fiduciary duties. Jeri notes that the attorney for Mary Ruth and Objectors are the same law firm.

Petitioner states Objectors mischaracterize the efforts undertaken by Jeri to regain control of the assets and contend that somehow Jeri's actions needlessly increased attorneys' fees. See Reply for specific inaccuracies including reference to communications, etc. Petitioner states Objectors put much stock in the fact that Mary Ruth was advised by counsel to combine the trust assets. Assuming, *arguendo*, that this assertion is even true, it does not obfuscate the fact that commingling assets was wrongful and violated the terms of the trust. At best it creates a malpractice claim by Mary Ruth against her attorney in the event she is surcharged or found liable for damages to the Bypass Trust.

Petitioner states she is bound by her fiduciary duties to administer the trust according to its terms, take steps to control and preserve assets, keep property separate, enforce claims. Objectors would have Jeri ignore her fiduciary duties, allowing another person to control Bypass Trust assets, and essentially do nothing to carry out her duties, and apparently would rather risk having assets dissipated than pay attorneys fees to ensure they are protected.

Jeri did not benefit by serving as trustee. She waived all compensation. Objectors do not state how Jeri benefitted. The accounting confirms that Jeri even advanced her own funds to recover assets. See Reply for replies to specific objections.

Petitioner states Objectors fail to point to any grounds for refusing to approve the First or Second Accounts. Objectors mischaracterize Jeri's actions to perform her fiduciary duties as her "desire for control," which is disingenuous and should not distract the Court from granting the relief requested in the petition. There is no legal argument that the fees expended were not for the benefit of the beneficiaries. Assets were recovered and promptly distributed. Jeri's petition should be approved as prayed.

22B

L. Ruth Buchman Credit Bypass Trust Case No. 15CEPR00609

Attorney
Attorney

Magness, Marcus D. (for Jeri Buchman Weil – Trustee – Petitioner)
Brennan, Stacey (of Sacramento, for Objectors Jan van Lienden and Jill Buchman)

Status RE: Trial Setting

	JERI BUCHMAN WEIL filed Petition to Approve: 1) First Account and Report; and 2) Second and Final Account and Report; and Petition for Instructions on 6/17/15.	NEEDS/PROBLEMS/COMMENTS: Note: On 9/2/15, Jan van Lienden and Jill Allison Buchman filed a Petition for Relief from Breach of Trust (Page C of this calendar). 1. Need status re date.
Cont. from 090815, 101615	JAN VAN LIENDEN and JILL BUCHMAN filed Objections on 7/27/15.	
Aff.Sub.Wit.	At the hearing on 7/28/15, the Court directed counsel to come on 9/8/15 prepared with an agreed upon Tuesday date for trial assignment.	
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		File 22B – Buchman

22B

22C
 Attorney
 Attorney

L. Ruth Buchman Credit Bypass Trust Case No. 15CEPR00609
 Brennan, Stacey (of Sacramento, for Jan van Lienden and Jill Buchman – Petitioners)
 (Associated counsel for Petitioners: Summer Johnson of Dowling Aaron Incorporated)
 Magness, Marcus D. (for Jeri Buchman Weil – Trustee)
Petition for Relief From Breach of Trust

Ruth Buchman DOD: 12/9/01	JAN VAN LIENDEN and JILL BUCHMAN, Beneficiaries, are Petitioners.	NEEDS/PROBLEMS/ COMMENTS:
Roy Buchman DOD: 12/13/13		
Cont. from 101515	<p>Petitioners state their sister, JERI BUCHMAN WEIL, is trustee of the Bypass Trust. Background: Upon their mother's death in 2001, the Buchman Trust was divided into two subtrusts, the Bypass Trust and the Survivor's Trust. Roy Buchman served as trustee of both subtrusts. The Bypass Trust was irrevocable and the Survivor's Trust remained fully revocable by Roy. The Bypass Trust provided that the remaining assets were to be divided equally to Petitioners and Jeri.</p>	<p>1. Notice of Hearing was not served directly on the trustee Jeri Buchman Weil pursuant to Probate Code §1214 and Cal. Rule of Court 7.51. Only on her attorney, Marcus Magness was served.</p>
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Reviewed by: skc
Reviewed on: 11/10/15
Updates:
Recommendation:
 File 22C- Buchman

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Petitioners state (Cont'd): On 2/10/15, Petitioners and Jeri received an email from Mary Ruth stating that she now had access to Roy's trust accounts, that she mailed payments to the Central Valley Monument company, and that hopefully the trust would be closed as soon as possible after 6/21/14.

Four months into the trust administration, Jeri's attorney asserted *for the first time* that Jeri was in fact the successor trustee of the Bypass Trust. Unfortunately, instead of agreeing to work with Mary Ruth, Jeri demanded the assets be separated back into two separate subtrust accounts and that Jeri be in control of the Bypass Trust assets. On 4/6/14, Jeri forwarded Petitioners an email from 4/4/14 from Mary Ruth stating she would like to transfer the Bypass Trust information to Jeri as soon as possible, that she was happy to hand it over, that she regretted Jeri had been deprived of taking care of the Bypass Trust, and that she wished the attorney had read things more carefully.

Although it was clear that Mary Ruth was willing to cooperate, Jeri was so aggressive in her approach that Morgan Stanley froze all accounts and it took months to sort through the financial institution's bureaucracy and complete the separation of assets. In August 2014, four months later, Attorney Magness sent Petitioners an email stating that if all goes according to plan, Morgan Stanley will divide the assets and Jeri will have control of the assets that would have been in the account had the commingling not occurred. Petitioners state this was the exact same situation that Petitioners were in on 2/10/14 when Mary Ruth informed them that she hoped to distribute soon after 6/21/14. The only difference was that Jeri's name was on the account and Mr. Magness had billed the Bypass Trust approx. \$10,000 for more than 31.1 hours of attorney time. An additional \$2,794 for 8.1 hours was billed before Jeri finally obtained control of the account.

Petitioners state but for Jeri's actions, the trust assets could have been distributed promptly to the remainder beneficiaries and significant attorney fees would not have been needed.

Notwithstanding the fact that Jeri's petition states that the ultimate distribution would be the same, Jeri spend tens of thousands of dollars from the Bypass Trust on attorney fees and forced Mary Ruth to spend Survivor's Trust assets on attorney fees to unwind Morgan Stanley's unauthorized combination of the accounts and extricate the Bypass Trust assets into a separate account under Jeri's control. None of these fees would have been necessary if Jeri had simply cooperated with Mary Ruth to complete the trust administration. More than \$50,000 that would have been distributed to Petitioners and Jeri has been paid in attorneys' fees from the trusts and Petitioners individually all because of Jeri's actions.

Petitioners state by September 2014, the attacks by Jeri and her husband against Mary Ruth's character became so severe that Mary Ruth retained the Law Offices of Nuttall and Coleman to obtain counsel regarding a possible defamation and harassment suit against Jeri and her husband Doug Weil. A cease and desist letter was sent in September, with response by Jeri's attorney. A second letter was sent confirming that the letter was sent to Jeri and Doug individually and not as trustee, with evidence of their defamatory and harassing behavior.

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Petitioners state (Cont'd): Finally, in March 2015, after preliminary distributions were made from both trusts, counsel for Jeri and Mary Ruth discussed entering into a settlement agreement. Mr. Magness drafted an agreement which was forwarded to Petitioners on 4/1/15. The recitals in the agreement included many erroneous and unnecessary statements, including reference to disputes as to Roy's care prior to his death. Further, the mutual release included language to protect Jeri in her individual capacity from claims by Mary Ruth, Jan, and/or Jill that were unrelated to Jeri's actions as trustee of the Bypass trust.

Petitioners state contrary to Jeri's allegations, Mary Ruth never agreed to sign the Magness agreement. A new agreement was then drafted by Boutin Jones Inc., at Mary Ruth's request, which was sent to Mr. Magness and Petitioners on 5/27/15.

Petitioners state Morgan Stanley was responsible for the commingling, not Mary Ruth. The Boutin agreement contained standard release language. Mr. Magness responded that the Boutin agreement was not acceptable and contained misstatements of fact and "leaves open the possibility of litigation." Jeri chose to be the sole party to refuse to sign the Boutin agreement and instead filed her petition for approval of accounts.

Petitioners state Jeri's actions are inconsistent with that of a prudent trustee. A prudent trustee, after confirming the status of the Bypass Trust assets, would have worked cooperatively with Mary Ruth to carry out the distribution of trust assets according to the terms of the trust.

Petitioners state Jeri breached her duty of loyalty because she failed to act in the best interests of the trust. She and her counsel should have recognized that there was no benefit to Mary Ruth and no detriment to the other beneficiaries that the trust accounts had been combined by Morgan Stanley. After Mary Ruth's specific bequest of \$200,000, Jan, Jill and Jeri were to share equally in the remaining assets. Jeri chose to incur significant fees and delay administration so she could have complete and independent control of the Bypass Trust assets. Her sisters should not bear the cost of Jeri's detrimental actions. Jeri placed her own interest above those of petitioners.

Petitioners state Jeri is personally responsible for the attorneys' fees she incurred. Authority cited. Jeri spent trust assets arguing that Roy's amendment did not affect the appointment of trustee as to the Bypass Trust and she had a right and duty to obtain separate control of Bypass Trust assets. The only person that benefitted from this litigation was Jeri – she was able to be "in control" and obtained a platform and funds to allow her to further humiliate Mary Ruth. Petitioners did not benefit from the attorneys' fees incurred and in fact were harmed by Jeri's actions and should not be forced to bear the cost of her attorneys' fees. Further, Jeri should not be allowed to use trust assets to oppose this petition.

As a proximate result of the trustee's breach of trust, the assets that would have been available to the beneficiaries has decreased by more than \$50,000. But for Jeri's actions, less than \$5,000 would have been paid to attorneys before the residue was distributed.

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Petitioners request:

1. Trustee Jeri Buchman Weil be enjoined from breaching her trust by using Bypass Trust assets to pay attorneys' fees to oppose this petition;
2. Trustee Jeri Buchman Weil be enjoined from breaching her trust by using Bypass Trust assets to pay attorneys' fees pursuing actions in her capacity as beneficiary of the Survivor's Trust;
3. The Court set aside Trustee's prior payments to her attorneys from trust assets;
4. Trustee be compelled to redress her breach of trust by payment of money damages in the amount of \$50,000 or more according to proof, plus interest, to reimburse the beneficiaries for trust assets spent on attorneys' fees and costs;
5. Trustee be compelled to waive compensation during the entire trust administration; and
6. The Court make all other further and proper orders.