

PROBATE NOTES: Friday, March 22, 2019

These notes are not updated based on subsequent filings once they are posted.

PR10045 Conservatorship of Merle R. Tibbetts

Hearing type: Further hearing re sixth and final account and report of conservator;
petition for fees and discharge
Conservator: Tuolumne County Public Guardian
Conservator’s counsel: County Counsel

The Court has read and considered the amendment filed on March 7, 2019, to the pleading filed on October 4, 2018. The pleading, as amended, is recommended for approval. Appearance not required.

PR11096 LPS Conservatorship

Hearing types: (1) Further hearing re fourth account and report of conservator;
petition for fees
 (2) Petition to Confirm Irrevocable Burial Trust
Conservator: Tuolumne County Public Guardian
Conservator’s counsel: County Counsel

The Court has read and considered the amendment filed on March 7, 2019, to the account, report, and related petition filed on October 4, 2018. A decision on this pleading, as amended, will be deferred until the Court renders a decision on the related Petition to Confirm Irrevocable Burial Trust, which is addressed below.

The Court also has read and considered the Petition to Confirm Irrevocable Burial Trust filed on March 6, 2019. Appearance required. Conservator shall lodge a full copy of the Preneed Funeral Trust Agreement, including the referenced Statement of Funeral Goods and Services Selected, prior to the hearing.

PR11509 Conservatorship of Sigried Fountain

Hearing type: Further review re inventory and appraisal
Conservator: Teresa Barnhart
Conservator’s counsel: Kimberly Sullivan Gray

The Court has reviewed the Inventory and Appraisal form that was filed on March 11, 2019, to correct the Inventory and Appraisal form filed on February 22, 2019. This correction resolves the issues described in the minute order dated March 1, 2019. Appearance not required.

At the time of the Court’s review of this case on March 20, 2019, the file did not reflect that Conservator had filed an accounting covering her first year as conservator. (Prob. Code, § 2620, subd. (a); local rule 6.14.0, subd. (a).) A review hearing re the first accounting will be set for April 5, 2019, at 8:30 a.m.

PROBATE NOTES: Friday, March 22, 2019

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PR11510 **Conservatorship of Gerald Fountain**

Hearing type: Further review re inventory and appraisal
Conservator: Teresa Barnhart
Conservator's counsel: Kimberly Sullivan Gray

The Court has reviewed the Inventory and Appraisal form that was filed on March 11, 2019, to correct the Inventory and Appraisal form filed on January 24, 2019. This correction resolves the issue described in the minute order dated March 1, 2019. Appearance not required.

At the time of the Court's review of this case on March 20, 2019, the file did not reflect that Conservator had filed an accounting covering her first year as conservator. (Prob. Code, § 2620, subd. (a); local rule 6.14.0, subd. (a).) A review hearing re the first accounting will be set for April 5, 2019, at 8:30 a.m.

PR11522 **Estate of Paul G. Barendregt**

Hearing type: Further hearing re petition for final distribution and compensation
Executor: Gwen Barendregt
Executor's counsel: James A. Gianelli

At the time of the Court's review of this case on March 20, 2019, the file did not reflect that Executor had filed the amendment required by the minute order dated March 1, 2019. The hearing will be continued again to April 12, 2019, at 8:30 a.m. Appearance not required on March 22, 2019.

PR11553 **Conservatorship of Hubert F. Leaycraft**

Hearing types: (1) Further hearing re amended account and report of conservators
 (2) Further hearing re petition for attorney fees and costs
 (3) Ex parte application for order increasing bond
Conservators: Diane L. Souders and Leland V. Souders, Jr.
Conservators' counsel: Michael R. Germain

The Court has reviewed the "Corrected Supplemental" Inventory and Appraisal form filed on February 26, 2019. Appearance required to address the following issues:

1. Based on the Court's review of the file, only one Inventory and Appraisal form previously was filed in this case: the "Final" Inventory and Appraisal form filed on July 10, 2017, in the Superior Court for Riverside County and then filed in this Court on May 8, 2018, upon transfer of the case to this Court. As such, it is unclear what supplemental Inventory and Appraisal form the form filed on February 26, 2019, is intended to correct.
2. If Conservators intended to correct errors in the form filed on July 10, 2017/May 8, 2018, they should have filed a "Corrected Final" Inventory and Appraisal form. It appears

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Conservators did intend to correct the balance of the One West Bank account (item 3 on attachment 1) and to remove the Social Security Administration check (item 6 on attachment 1).

3. At the hearing on February 1, 2019, Conservators were ordered to file a supplemental Inventory and Appraisal form reflecting the \$850 in “unclaimed funds” they received on June 14, 2018, more than one year after their appointment. Conservators erroneously included this amount in the form filed on February 26, 2019. This asset should be reflected in a separate supplemental Inventory and Appraisal form, not in a form that also includes the assets on hand at the time of Conservators’ appointment.

The Court intends to strike the Inventory and Appraisal form filed on February 26, 2019, so that the record will be clear when Conservators file the additional Inventory and Appraisal forms that appear to be required.

The Court also has read and considered the amendment filed on February 21, 2019, and the supplement filed on March 7, 2019, to the amended accounting filed on January 16, 2019. Appearance required to address the following issues:

1. The need for further amendment of the summary of account that was filed on February 21, 2019, to correct the following figures:
 - a. The cash assets on hand at the beginning of the accounting period, which appears to depend on the filing of a corrected final Inventory and Appraisal form.
 - b. The total property on hand at the beginning of the accounting period.
 - c. The additional property received during the accounting period.
 - d. Other figures affected by the issues listed below.
2. The need for a schedule of additional property received during the accounting period to reflect the \$850 in “unclaimed funds.”
3. The reason why not all payments made to Highland Springs Care Center during the accounting period, as reflected on the statements from the facility that are attached to the declaration filed on February 21, 2019, are included on page 1 of the version of schedule C that was filed on February 21, 2019. Specifically, the payments dated May 30, 2017, and June 15, 2017, do not appear on schedule C.
4. The need for an amended schedule E correcting the Edward Jones balance as of the end of the accounting period. This issue was discussed at the hearing on March 1, 2019, and addressed at paragraph 4 of the supplement filed on March 7, 2019. Conservators assert that schedule E is consistent with the financial statements filed on November 29, 2018. The Court disagrees. Conservators offer no explanation for using the maturity values of the CDs to calculate the balance as of the end of the accounting period when none of the CDs had matured prior to the end of the accounting period. When the balance of \$226,343.28 as of October 26, 2018, is added to the two interest payments totaling \$296.80 on October 29, 2018, the balance is \$226,640.08, which is \$961.92 less than the balance on the version of schedule E that was filed on February 21, 2019.

The Court acknowledges Conservators’ use of the supplement to correct the incorrect amount of the reissued royalty check, which was a subject of the hearing on March 1, 2019, but notes that Conservators inadvertently cited the account and report filed on November 29, 2018, which was

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superseded by the amended account and report filed on January 16, 2019. (Supplement ¶ 4.) For clarity of the record, it appears Conservators meant to correct the figure at line 6 on page 9 of the amended account and report.

The Court will authorize the reimbursement to Conservators from the estate of the estate expenses set forth in these pleadings.

The Court also has read and considered the amendment filed on March 7, 2019, to the petition for attorney fees and costs filed on November 29, 2018. The amendment seeks an additional \$4,320.00 in attorney fees for (1) preparing the aforementioned “Corrected Supplemental” Inventory and Appraisal form, amended account and report, and amendment and supplement to the amended account and report, (2) appearing at hearings thereon, and (3) preparing the ex parte application re bond addressed below. The amendment brings counsel’s request for attorney fees for preparing the instant accounting and appearing at hearings thereon, as well as handling related impacts on the inventory and appraisal and bond amount, to a total of \$12,150.00. Reduction of this total amount, as well as reduction of the amount counsel seeks in cost reimbursement, will be discussed at the hearing.

Finally, the Court has read and considered the application for an order increasing bond that was filed on March 7, 2019. Conservators will be required to amend their application to resolve the following issues:

1. Their estimated probable annual gross income of the estate is based on interest and royalties received during the 17.5-month accounting period and includes interest in a blocked account. As such, the figure they presented would result in an unnecessarily high bond amount and cause the estate to incur an unnecessarily high premium. Conservators shall recalculate the estimated probable annual gross income using a 12-month period and excluding interest in the blocked account.
2. Conservators failed to calculate the cost of recovery to collect on the bond. (Prob. Code, § 2320, subd. (c)(4); Cal. Rules of Court, rule 7.207.)

PR11564

Guardianship of Elias Bennett Jason Wilke

Hearing type: Further hearing re petition for order confirming sale of real property
Petitioner/Guardian: Nicole Fay Rogerson
Guardian’s counsel: Jennifer J. Lothert

The Court has read and considered the amendment to the petition filed on January 18, 2019. Although the amendment is stamped as having been filed on March 1, 2019, it originally was filed in the wrong case because it bore an incorrect case number (PR11390), and it was not filed in the instant case until March 18, 2019, pursuant to the minute order dated March 15, 2019. The effective filing date of the amendment only four days prior to the hearing creates notice issues. Moreover, the amendment does not fully resolve the failure to comply with the requirements of local rule 5.16.0, subdivision (d) re fractional interests described in the probate notes for the March 15, 2019, hearing. Given these defects, Guardian will be required to file an amended

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petition, to give notice by mail of the hearing on the amended petition, and to both publish and post notice of the continued hearing and sale in compliance with all applicable authorities. The hearing will be continued to April 19, 2019, at 8:30 a.m. Appearance not required on March 22, 2019.

PR11571 Estate of Margaret Van Ausdal

Hearing type: Further review re inventory and appraisal
Administrator: Catherine M. Howard
Administrator's counsel: None

The Court has reviewed the Inventory and Appraisal form filed on March 15, 2019, which reflects that Administrator purported to appraise non-cash assets herself, including vehicles, housewares, and real property. These assets are required to have been appraised by the probate referee. The form also incorrectly states at item 4 on page 1 that no probate referee is required. Administrator shall file a corrected Inventory and Appraisal form. The hearing will be further continued to May 3, 2019, at 8:30 a.m. Appearance not required on March 22, 2019.

PR11591 Estate of Wanda M. Stagnaro

Hearing type: Review re inventory and appraisal
Administrator: Kristine McDonald
Administrator's counsel: Daniel A. Presher

At the time of the Court's review of this case on March 20, 2019, the file did not reflect that Administrator had filed an Inventory and Appraisal form. Appearance required if it is not filed prior to the hearing.

PR11607 Matter of James William Brune

Hearing type: Amended petition to determine succession to real and personal
property
Petitioner: Joseph William Brune
Petitioner's counsel: None

The Court has read and considered the amended petition filed on March 4, 2019, which resolves the issues described in the minute order dated February 22, 2019. The amended petition is recommended for approval with the following modification: the order will additionally state at item 7a that the other beneficiary under Decedent's will, Patricia Luoto, disclaimed her interest in Decedent's estate. Appearance not required.

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PR11635

In re Disputed Claim of Grace Dickerson

Hearing type: Further hearing re petition to approve compromise of disputed claim of a minor
Petitioner: April Dickerson
Petitioner's counsel: None
Claimant: Grace Dickerson
Defendants: David Bell, Holly Bell, and CSAA, IE
Defendants' counsel: Bruce E. Leonard

The Court has read and considered the amendment filed on February 28, 2019, to the petition filed on January 4, 2019. The amendment resolves the issues raised at the hearing on February 22, 2019. The petition, as amended, will be granted. However, the figures in the proposed order do not match the figures in the petition as amended, so Petitioner will be required to lodge a corrected proposed order.