

Department 5 Probate Notes for Friday, February 16, 2024

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8:30 a.m.

1. **Conservatorship of Jardine (PR11602).** This was to be the hearing on the 3rd accounting, covering the period 11/15/21 – 11/14/23. Although §2620 does not prescribe the time period in which the conservator is to “present the accounting of the assets of the estate of the conservatee to the court for settlement and allowance,” (nor does CRC 7.575 or TCSC Rule 5.17.1), the ordinary rule of thumb is four months. The accounting is tardy. Petitioner to advise.
2. **Estate of Madrid (PR12308).** Pursuant to §8800, a final Inventory & Appraisal is to be on file within four months from when Letters issue. Given that Letters here issued 08/22/23, the I&A is tardy. Petitioner to advise.
3. **Estate of Babbitt (PR12375).** No appearance is necessary. Previous notes regarding the *Petition for Probate and Letters Testamentary* (publication (§8124) and lodging/filing of the original will (§8200 TCSC Local Rule 5.12.0)) have been cleared. The petition is ready for approval. Court to set §8800 and §12200 dates.
4. **Estate of Stevenson (PR12381).** The Petition for Letters of Administration is not ready for approval due to the lack of publication proof (§8124) and absence of nominations from heirs with co-equal authority (§8465(a)(1)). Fact that siblings filed bond waivers informs this Court that nominations should be easy to secure.
5. **Estate of Taylor (PR12264).** The Petition for Final Distribution is not ready for approval. There is no description therein regarding the stocks/shares identified as Items 2-14 on the DE-161 (see CRC 7.651 TCSC Rule 5.18.0), and no settled statement regarding the real property sale. See CRC 7.550, 7.651; TCSC Rule 5.18.0. Given the balance in the estate account, it appears as though those intangibles may have been liquidated, but an explanation is needed.
6. **Estate of Hopper (PR12187).** Pursuant to §12200, if Letters were issued more than 12 months ago, petitioner is required to have on file either a petition for final distribution or a status report on the state of the estate. Neither appears in the court file, though Letters were just issued 02/10/23 (so this is not too tardy). Petitioner to advise.
7. **Estate of Shaver (PR12246).** No appearance is necessary. This Court, having considered petitioner’s request for additional time to finalize the I&A, and finding good cause therefor, grants the request for additional time. §8800(b). To avoid additional hearings, petitioner is ordered to have the final I&A on file prior to the review hearing on 06/14/24. Matter continued to that date.
8. **Estate of Walsh (PR12267).** No appearance is necessary, as a final I&A is on file.
9. **Estate of Schmidig (PR12117).** No appearance is necessary. The Court having received petitioner’s status report hereby vacates the OSC. However, petitioner is required to give all

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interested persons a copy of the report in advance of the hearing, coupled with the statutory notice regarding the right to petition for an accounting. See §12201(b). Petitioner shall serve a copy of the report and this Note. Petitioner's request for an additional six months is excessive. Review hearing set for 05/03/24 at 8:30 a.m. Petitioner to give notice.

10. **In re Hardin Trust (PR12351).** No appearance is necessary. Matter has been continued to 02/23/24 to be considered with related petition. Parties to advise whether these petitions can be resolved using the summary procedures in §§ 1022 and 9620, with briefing consistent with CCP §§ 437c, 1010, 1005(b), 1005.5, and CRC 3.1306. If not, parties should be prepared at the upcoming hearing to select trial date(s), and to advise whether either party is of the opinion that Cal. Const. Art. 1 §16 provides any right to a jury regarding any factual dispute involving a question of law herein. See, e.g., §§ 825, 17006.
11. **In re N. Shrader (PR12386).** No appearance is necessary. Petition is not ready for approval. Court requires copies of (1) *all* retainer agreements; (2) any written settlement agreement(s); (3) the law enforcement investigative report(s); (4) insurance declaration page(s) for all drivers/owners; and (5) a declaration from counsel regarding efforts to identify/exhaust alternate recovery sources beyond the single liability policy which forms the basis for the settlement. All submissions are to be filed on or before 03/01/24. Hearing continued to 03/15/24 at 1:30 pm. See also #18-20, *infra*.
12. **In re Personius Trust (PR12326).** No appearance is necessary. The petition is not ready for approval. Although petitioner did an admirable job clearing *most* of the previous notes, the single note which remains is proof that decedent had an ownership interest in APN 045-030-018 at the time of his passing. Neither the 2014 Grant Deed nor the death certificate are sufficient for this purpose. See, e.g., *Carne v. Worthington* (2016) 246 Cal.App.4th 548, 558-560; *Ukkestad v. RBS Asset Finance, Inc.* (2015) 235 Cal.App.4th 156, 160-161; *Estate of Powell* (2000) 83 Cal.App.4th 1434, 1443; *Estate of Heggstad* (1993) 16 Cal.App.4th 943, 950-951. All submissions are to be filed on or before 03/01/24. Hearing continued to 03/15/24 at 8:30 pm.
13. **Estate of Thode (PR12379).** No appearance is necessary. The petition is not ready for approval, as there is no evidence included therewith demonstrating (1) decedent's *present* ownership interest in the subject property (APN 086-020-012) or (2) that petitioner is the same person identified in Para IV of decedent's Last Will and Testament. All submissions are to be filed on or before 03/01/24. Hearing continued to 03/15/24 at 8:30 pm.

9:30 a.m.

14. **Guardianship of Parker (PR10561).** No appearance is necessary. This Court has reviewed the GC-251 and finds that the guardianship remains necessary and convenient for both children, and that the guardians are serving the wards' best interests. Court will set annual review hearing date.

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10:00 a.m.

15. **Conservatorship of Ferriera (PR12354).** Limited conservatorship referred in from Alameda County. Court would like to see capacity declarations (none transferred over) and a renewed court investigation with home study to determine the appropriateness of this arrangement.
16. **Conservatorship of Smith (PR10905).** This was to be the hearing on the 6th accounting, covering the period 07/01/21 – 06/30/23. Although §2620 does not prescribe the time period in which the conservator is to “present the accounting of the assets of the estate of the conservatee to the court for settlement and allowance,” (nor does CRC 7.575 or TCSC Rule 5.17.1), the ordinary rule of thumb is four months. The accounting is tardy. Petitioner to advise.

1:30 p.m.

17. **Guardianship of Leonard (PR12347).** Petition for permanent guardianship by paternal grandparents, over biological Mother’s objection. Minor’s counsel appointed. Ward previously interviewed. Parties were ordered to update Court regarding visitations in FL14286 and the CPO in CRF72691, to file copies of any and all County/CWS Safety Plans involving ward, and to address alternate living arrangements for bio dad and step-dad. Mother filed new RFO for visitation; bio dad filed new RFO in FL14286 to remove supervision requirement. Trial will need to be reset to align with new RFOs. Temporary guardianship to remain in effect until further court order.
18. **In re A. Slawinsky (PR12389).** No appearance is necessary. See #11, supra.
19. **In re A. Schrader (PR12387).** No appearance is necessary. See #11, supra.
20. **In re J. Shrader (PR12388).** No appearance is necessary. See #11, supra.

3:00 p.m.

21. **In re Galloway (PR12349).** Concerns previously raised by the Court have now been resolved to this Court’s satisfaction. In California, a person is presumed dead if that person “has not been seen or heard from for a continuous period of five years by those who are likely to have seen or heard from that person, and whose absence is not satisfactorily explained after diligent search or inquiry.” Prob. Code §12401; in accord Evid. Code §667; *In re Starr* (2002) 104 Cal.App.4th 487, 497. Petitioner to advise whether date of death should be 01/13/16 or 01/13/21.