

1. CONSERVATORSHIP OF TRENT J., SP20120040

Biennial Review Hearing

Before the court is the biennial review of the conservatorship of the person. The court investigator's report indicates that continuation of the conservatorship is recommended.

TENTATIVE RULING # 1: THE CONSERVATORSHIP SHALL CONTINUE. THE COURT FINDS THAT ASSESSMENT OF THE COURT INVESTIGATOR FEE WOULD CAUSE A HARDSHIP TO THE CONSERVATORSHIP AND WILL NOT REQUIRE REIMBURSEMENT OF THE FEE. THE COURT SETS THE NEXT BIENNIAL REVIEW OF CONSERVATORSHIP AT 8:30 A.M., FRIDAY, MARCH 7, 2025, IN DEPARTMENT FOUR.

2. ESTATE OF MULLINAX, 23PR0016

(A) Inventory and Appraisal

(B) Status of Administration

This matter was continued from July 14, October 20, and December 15, 2023.

Letters Testamentary were issued on March 8, 2023. To date, the Final Inventory and Appraisal is not in the court's file.

TENTATIVE RULING # 2: APPEARANCES ARE REQUIRED AT 8:30 A.M., FRIDAY, MARCH 8, 2024, IN DEPARTMENT FOUR.

3. GUARDIANSHIP OF RYLEIGH S., 24PR0009**Petition to Appoint Guardian**

The paternal grandmother of the minor petitions to be appointed guardian of the person. Petitioner filed the mandated (1) Child Information Attachment form for the Probate Guardianship petition (Form GC-210(CA)); (2) Duties of Guardian and Acknowledgment of Receipt form (Form GC-248); (3) Confidential Guardian Screening form (Form GC-212); (4) Declaration under UCCJEA (Form FL-105/GC-210); and (5) Consent of Proposed Guardian (Form GC-211). To date, the mandated Parental Notification of Indian Status (Form ICWA-020) is not in the court's file.

Petitioner alleges that on September 26, 2022, the Shasta County Superior Court ordered that the paternal uncle, Ryan Shannon, be appointed guardian of the person in case 22PG-0031546. However, petitioner alleges the paternal uncle is no longer able to be the minor's guardian and has nominated petitioner to be the successor guardian. Petitioner further alleges that the Shasta County Superior Court transferred its case to El Dorado County Superior Court conditional upon petitioner's filing of a guardianship petition in this court.

To date, the court has not received a certified copy of the Shasta County Superior Court's file. Therefore, it is premature for the court to act in this matter.

TENTATIVE RULING # 3: APPEARANCES ARE REQUIRED AT 8:30 A.M., FRIDAY, MARCH 8, 2024, IN DEPARTMENT FOUR.

**4. IN RE: THE LONG TRUST DATED JANUARY 16, 2013, AS AMENDED AND RESTATED,
23PR0319**

Petition for Order Confirming Trust and Trust Assets

Petitioner seeks an order confirming that: (1) the Long Trust dated January 16, 2013, is valid; (2) the amendment dated June 13, 2019, restating the Long Trust dated January 16, 2013, is valid and controlling; (3) the property listed in Exhibit “G”¹ shall be transferred forthwith to petitioner; (4) petitioner, as personal representative of the decedent’s estate, shall be empowered to sign any and all documents necessary to convey the property listed in Exhibit “G” to petitioner; (5) any real and personal property, later discovered titled in decedent’s name, shall be transferred forthwith to petitioner; and (6) notice of this hearing may be served upon the contingent heir, Kathleen Devlin, by publication in the Lake Tahoe Tribune. No objections have been raised.

1. Background

On January 16, 2013, Robert Charles Long (“decedent”) entered into a revocable trust agreement wherein he declared himself to be the trustee, settlor, and beneficiary of the Long Trust dated January 16, 2013 (the “Trust”). (Petn., ¶ 3.) The original or copy of the Trust has not been found. (*Ibid.*)

Decedent amended and completely restated the Trust on November 27, 2018, and June 13, 2019.² (Petn., ¶ 4.) Neither of these restatements include a schedule of assets or identify the assets being placed in the Trust. (See Exs. A & C.) The June 13, 2019, restatement states: “Settlor has conveyed and/or intends to convey and transfer, without

¹ Exhibit “G” is an attachment to the instant petition entitled, “Property of Decedent to Be Placed into Trust.” It identifies the real property located at 1877 Osage Circle in South Lake Tahoe, California; as well as any real and personal property later discovered titled in the decedent’s name. There is no allegation that Exhibit “G” was attached to any trust or will document.

² Petitioner alleges that decedent also amended and completely restated the Trust on March 22, 2019. However, the document that petitioner submitted (Ex. D) is not signed by decedent. (See Ex. D at p. 35.)

consideration, to said Trustee, Settlor's property to be designated, which property shall be held, administered and distributed by said Trustee as provided in this declaration of Trust." (Ex. A, ¶ 2.01 ["Conveyance"].) "Settlor may from time to time add other property acceptable to the Trustee to the Trust estate by conveyance, assignment, transfer or will. Such property when received and accepted by the Trustee shall become part of the Trust estate and be subject to all the terms and provisions of this declaration of Trust." (Ex. A, ¶ 2.02 ["Additions to Trust"].)

Also on June 13, 2019, decedent executed a will, which contains a trust pour-over provision giving the residue of the estate to the trustee of the Trust. (Petn., ¶ 9; Ex. F.)

At the time of his death, decedent was allegedly the owner in "various capacities" of various real and personal property, as listed in Exhibit "G," including the real property located at 1877 Osage Circle in South Lake Tahoe, California (the "Osage Circle Property").³ (Petn., ¶ 10.)

2. Discussion

Probate Code section 17200, subdivision (a)⁴ allows a trustee or beneficiary of a trust to petition the probate court "concerning the internal affairs of the trust or to determine the existence of the trust." (§ 17200, subd. (a).)

2.1. Validity of the Original Trust

"The essential necessary elements of a valid trust are (1) a trust intent (§ 15201); (2) trust property (§ 15202); (3) trust purpose (§ 15203); and (4) a beneficiary (§ 15205)." (*Dudek v. Dudek* (2019) 34 Cal.App.5th 154, 164.) Petitioner claims he is unable to locate the original or copy of the Trust document. (Petn., ¶ 3.) Further, the petition does not allege the essential necessary elements of a valid trust. Therefore, the court does not have sufficient information to confirm the validity of the original Trust.

³ Petitioner did not provide any deed establishing that decedent was the owner of the Osage Circle Property at the time of his death.

⁴ Undesignated statutory references are to the Probate Code.

2.2. Validity of the June 13, 2019, Amendment

Section 15402 governs modification of a trust. It states: “[u]nless the trust instrument provides otherwise, if a trust is revocable by the settlor, the settlor may modify the trust by the procedure for revocation.” (§ 15402.) Under section 15402, when “the trust instrument is silent on modification, the trust may be modified in the same manner in which it could be revoked, either statutorily or as provided in the trust instrument.” (*King v. Lynch* (2012) 204 Cal.App.4th 1186, 1192.) When the trust instrument “specifies how the trust is to be modified,” however, that “method must be used to amend the trust.” (*Id.* at pp. 1192–1193.) Section 15402 “ ‘recognizes a trustor may bind himself or herself to a specific method of ... amendment of a trust by including that specific method in the trust agreement.’ ” (*Id.* at p. 1193.)

As previously mentioned, the original or copy of the Trust document has not been found. (Petn., ¶ 3.) Petitioner alleges that the original Trust was revocable (*ibid.*) but does not indicate whether the original Trust specifies how it is to be modified. In the absence of such evidence, the court does not have enough information to confirm the validity of the June 13, 2019, amendment. The court notes that each of the three restatements were prepared by the same attorney in Alameda, California. If he has not done so already, petitioner may consider contacting the attorney to obtain additional information regarding the terms of the original Trust.

2.3. The Property Listed in Exhibit “G”

Because the court is presently unable to confirm the validity of the Trust documents, it is similarly unable to confirm whether the property listed in Exhibit “G” shall be transferred to petitioner under the terms of the Trust.

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2.4. Successor Trustee's Authority to Sign Documents to Convey the Property in Exhibit "G" to Petitioner

Because the court is presently unable to confirm the validity of the Trust documents, it is similarly unable to confirm the successor trustee's authority to sign documents under the terms of the Trust.

2.5. Transfer of Later-Discovered Property

Because the court is presently unable to confirm the validity of the Trust documents, it is similarly unable to confirm whether later-discovered property titled in decedent's name shall be transferred to petitioner under the terms of the Trust.

2.6. Notice by Publication

On January 5, 2024, the court ordered that completion of notice by publication of the instant petition (in the Lake Tahoe Tribune or a newspaper that serves Alameda County) shall be deemed sufficient notice of the hearing under Probate Code section 17100 as to Kathleen Devlin, a contingent beneficiary.

TENTATIVE RULING # 4: PETITION IS DENIED WITHOUT PREJUDICE. NO HEARING ON THIS MATTER WILL BE HELD (*LEWIS v. SUPERIOR COURT* (1999) 19 CAL.4TH 1232, 1247), UNLESS A NOTICE OF INTENT TO APPEAR AND REQUEST FOR ORAL ARGUMENT IS TRANSMITTED ELECTRONICALLY THROUGH THE COURT'S WEBSITE OR BY TELEPHONE TO THE COURT AT (530) 573-3042 BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. NOTICE TO ALL PARTIES OF AN INTENT TO APPEAR MUST BE MADE BY TELEPHONE OR IN PERSON. PROOF OF SERVICE OF SAID NOTICE MUST BE FILED PRIOR TO OR AT THE HEARING.