

**1. PP20180234 CONSERVATORSHIP OF SHEREE BOATMAN**

**Final Accounting Hearing**

Letters of conservatorship were issued to Petitioner on February 6, 2019. The conservatee died on January 7, 2023.

The third accounting period covers the period of February 7, 2022, through January 7, 2023. The post-death accounting period covers the period between January 7, 2023, through August 7, 2023. Summaries of accounts are attached as Exhibits A and B to the Petition.

Probate Code § 2623 allows the conservator to be reimbursed for reasonable expenses incurred in the exercise of the powers and the performance of the duties of the conservator, including reasonable attorney's fees. Petitioner has provided 48.5 hours of services at a rate of \$30 per hour for a proposed amount of total compensation of \$1,455.00. Those services that required him to incur mileage expenses as described in Exhibit C to the Petition (500 miles at the federal rate of \$0.625-\$0.65.5 per mile during the accounting period). Petitioner has engaged legal services that are detailed in Exhibit D to the Petition for 17.5 hours at hourly rates that ranged between \$350 and \$400 during the accounting period.

Notice of the hearing on the Petition in compliance with Probate Code Division 4, Part 1, Chapter 3 (Probate Code §§ 1460-1469) was filed with the court on October 19, 2023.

The Petition requests that the court issue an Order:

1. Approving, allowing and settling the account and report of the conservator as filed;
2. Authorizing Petitioner to pay himself \$1,455.00 as compensation for services rendered and \$318.50 for mileage;
3. Authorizing Petitioner to pay his attorney \$6,690 for legal services during the accounting period and \$524.36 for costs advanced;
4. Authorizing Petitioner to deliver the remaining property in his possession to Michelle Marischen, the conservatee's sister, upon presentation of an Affidavit for Collection of Personal Property per Probate Code § 13100.

There is no objection to the Petition in the court's file.

**TENTATIVE RULING #1: ABSENT OBJECTION, THE PETITION IS GRANTED AS REQUESTED.**

**IF A PARTY OR PARTIES WISH TO APPEAR BY ZOOM PLEASE CONTACT THE COURT AT (530) 621-5867 AND MEETING INFORMATION WILL BE PROVIDED.**

**2. 22PR0087 ESTATE OF MCCOMB**

**Petition for Final Distribution**

Decedent died intestate on November 9, 2021. Letters of Administration were issued on May 27, 2021, with full authority under the Independent Administration of Estates Act.

A Final Inventory and Appraisal was filed on September 22, 2022, and a Supplemental Inventory and Appraisal was filed on June 21, 2023.

On September 19, 2023, a notarized Disclaimer was filed on behalf of decedent's three adult children disclaiming their interest in the estate with the understanding that it would be distributed to Petitioner, who is their mother and the decedent's widow.

Notice of the hearing on the Petition was filed on October 24, 2023.

The Petition requests:

1. The administration of the estate be brought to a close;
2. The first and final account of Petitioner as Administrator be settled, allowed and approved as filed;
3. All acts and proceedings of the Administrator be confirmed and approved;
4. The Administrator be authorized to pay statutory attorney fees in the amount of \$19,765.96;
5. The Administrator be authorized to retain \$2,000 in closing expenses of administration and to pay liabilities, recording costs and to deliver the unused part to the beneficiaries of the estate without further court order after closing expenses have been paid;
6. Petitioner be ordered to execute a grant deed conveying the real property that is part of the estate to Anne L. McComb, an unmarried woman as her sole and separate property;
7. Distribution of the estate in Petitioner's hands and any other property of the estate not now known or later discovered that may belong to the estate or in which the decedent or the estate may have any interest be made to the beneficiaries as set forth in the Petition.

**TENTATIVE RULING #2: ABSENT OBJECTION, THE PETITION IS GRANTED AS REQUESTED.**

**IF A PARTY OR PARTIES WISH TO APPEAR BY ZOOM PLEASE CONTACT THE COURT AT (530) 621-5867 AND MEETING INFORMATION WILL BE PROVIDED.**

**3. 22PR0334 ESTATE OF JEFFRIES**

**Petition for Final Distribution on Waiver of Account**

Decedent died intestate on October 11, 2022. Letters of Administration were issued on March 27, 2023, with full authority under the Independent Administration of Estates Act. Petitioners, decedent's adult children, were appointed co-Administrators and both filed bond waivers.

A Final Inventory and Appraisal was filed on September 18, 2023.

A Release of the only creditor's claim against the estate was filed on October 23, 2023, after it was paid in full.

Waivers of Account were executed by Petitioners as the sole the heirs entitled to distributions under the estate.

Notice of the Petition was not required to be filed pursuant to Probate Code § 1201 because Petitioners are the only people who would be required to be noticed.

The Petition proposes to distribute the estate in equal shares to the two surviving children of decedent, who are also the Petitioners.

The Petition requests:

1. The administration of the estate be brought to a close without the requirement of an accounting;
2. All acts and proceedings of the Administrators be ratified, confirmed and approved;
3. The Administrator be authorized to pay statutory attorney fees in the amount of \$25,286.17;
4. Distribution of the estate in Petitioner's hands and any other property of the estate not now known or later discovered be distributed made to the beneficiaries as set forth in the Petition.
5. That Petitioners be discharged.

**TENTATIVE RULING #3: ABSENT OBJECTION, THE PETITION IS GRANTED AS REQUESTED.**

**IF A PARTY OR PARTIES WISH TO APPEAR BY ZOOM PLEASE CONTACT THE COURT AT (530) 621-5867 AND MEETING INFORMATION WILL BE PROVIDED.**

**4. PP20210139 ESTATE OF KELLER**

**Petition for Final Distribution**

Decedent died intestate on December 17, 2022. Letters of Administration were issued on August 25, 2021, with full authority under the Independent Administration of Estates Act.

A Final Inventory and Appraisal was filed on November 29, 2022.

Notice of the hearing on the Petition was filed on September 26, 2023.

The sole heir to the estate filed a waiver of accounting on September 20, 2023.

Decedent's surviving spouse, Julie Keller, filed a creditor's claim which she withdrew on September 19, 2023. A second creditor's claim was filed by the Grant Mercantile Agency, which was rejected, and no further action has been taken on the claim. More than 90 days having passed, the creditor's claim is now barred. Probate Code § 9353.

The assets of the estate were decedent's separate property, and he is survived by his spouse and two children. Pursuant to Probate Code § 6401(c)(3), Petitioner proposes to distribute one-third to the surviving spouse, one-third to each of the two children.

The Petition requests:

1. The administration of the estate be brought to a close;
2. Settling, allowing and approving the First and Final Account of Petitioner as personal representative as filed;
3. All acts and proceedings of the personal representative be ratified, confirmed and approved;
4. The personal representative be authorized to pay herself \$11,172.09 in statutory compensation for ordinary services, and an additional \$1,491.00 for extraordinary services as detailed in invoices attached to Exhibit B to the Petition, including services related to management of tenants residing in the real property and the sale of the real property, as well as coordinating mediation between the heirs;
5. The personal representative be authorized to pay statutory attorney fees in the amount of \$11,172.09;
6. Distribution of the estate in Petitioner's hands and any other property of the estate not now known or later discovered be distributed made to the beneficiaries as set forth in the Petition.
7. That Petitioner be discharged upon filing of receipts and that she and her sureties be released from all liability to be incurred hereafter.

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**TENTATIVE RULING #4: ABSENT OBJECTION, THE PETITION IS GRANTED AS REQUESTED.**

**IF A PARTY OR PARTIES WISH TO APPEAR BY ZOOM PLEASE CONTACT THE COURT AT (530)  
621-5867 AND MEETING INFORMATION WILL BE PROVIDED.**

**5. 23PR0008 ESTATE OF CASSELL**

**Fial Distribution on Waiver of Account**

Decedent died intestate on December 17, 2022. Letters of Administration were issued on May 10, 2023, with full authority under the Independent Administration of Estates Act.

A Final Inventory and Appraisal was filed on July 13, 2023.

On September 20, 2023, Petitioner, as the sole heir, filed a waiver of account.

Notice of the hearing on the Petition was filed on September 26, 2023.

The verified Petition requests:

1. The administration of the estate be brought to a close;
2. The waiver of account be approved;
3. All acts, transactions sales and investments of the personal representative be ratified, confirmed and approved;
4. The personal representative be authorized to pay statutory attorney fees in the amount of \$10,080.00, as well as costs advanced to the estate in the amount of \$1,492.75;
5. Distribution of the estate in Petitioner's hands and any other property of the estate not now known or later discovered be distributed made to the beneficiaries as set forth in the Petition.
6. That Petitioner be discharged upon filing of receipts and that she and her sureties be released from all liability to be incurred hereafter.

**TENTATIVE RULING #5: ABSENT OBJECTION, THE PETITION IS GRANTED AS REQUESTED.**

**IF A PARTY OR PARTIES WISH TO APPEAR BY ZOOM PLEASE CONTACT THE COURT AT (530) 621-5867 AND MEETING INFORMATION WILL BE PROVIDED.**

**6. 23PR0197 ESTATE OF BUTLER**

**Letters Testamentary**

Decedent died testate on July 1, 2022. Petitioner named as executor in the Will and requests full authority to administer the estate under the Independent Administration of Estates Act.

The Will was lodged with the court on August 18, 2023, as an attachment to the Petition, and is admitted to probate.

Waivers of bond have been filed with the court by the beneficiaries.

A Duties/Liabilities Statement (DE 147) was filed on August 18, 2023.

Proof of service of Notice of the Petition was filed on September 14, 2023.

At a hearing on October 2, 2023, the court approved the Petition contingent on the filing of a DE-147s form and proof of publication with the court.

A DE-147s form was filed with the court on October 4, 2023, and proof of publication was filed with the court on October 7, 2023.

**TENTATIVE RULING #6: ABSENT OBJECTION, THE PETITION IS GRANTED AS REQUESTED. A STATUS OF ADMINISTRATION HEARING IS SET AT 8:30 A.M. ON MONDAY, NOVEMBER 18, 2024, IN DEPARTMENT NINE.**

**IF A PARTY OR PARTIES WISH TO APPEAR BY ZOOM PLEASE CONTACT THE COURT AT (530) 621-5867 AND MEETING INFORMATION WILL BE PROVIDED.**

**7. 23PR0210 MATTER OF DOUGLAS SCOTT**

**Petition to Confirm Trust Assets**

Decedent Daniel Scott inherited a 45 percent interest in the real property described in the Petition (“Property”). See Petition, Exhibit A.

On February 9, 2021, a deed was executed by which decedent Daniel Scott was deeded a 45 percent interest in the Property as an unmarried man, and as tenant in common with Kim Scott, who was deeded the other 55 percent interest in the Property. See Petition, Exhibit B.

The Daniel Scott Trust (“Trust”) was created by decedent (“settlor”) on October 6, 2022, and is attached to the Petition as Exhibit C. Schedule A of the Trust states that “the Settlor hereby intends to transfer, and by way of this agreement does hereby transfer, to the trust to which this schedule is attached all of the Settlor’s assets . . . .” See Petition, Exhibit D, emphasis in original. Schedule A specifically references settlor’s interest in the Property as an asset to be transferred to the Trust. Additionally, the settlor’s pour-over will leaves all of the settlor’s assets to the Trust. See Petition, Exhibit E.

Decedent died on August 6, 2023, but did not execute any deed transferring his interest in the Property to the name of the Trust.

The Petition requests that the court issue an Order confirming:

1. That Douglas Scott is the successor trustee of the Trust;
2. That the decedent’s interest in the Property is an asset of the Trust and is subject to the management and control of Douglas Scott as successor trustee.

Probate Code § 850(a)(3) permits a trustee who has a claim to property, the title to or possession of which is held by another, to file a petition requesting that the court make an order pursuant to Probate Code § 856 authorizing and directing the person having title to or possession of real property to execute a conveyance or transfer to a person entitled thereto, or granting other appropriate relief. Probate Code § 851 requires the Petitioner to serve notice of the hearing and a copy of the Petition at least 30 days prior to the hearing to each person claiming an interest in or having title to or possession of the property. Probate Code § 851(a)(2). When the matter concerns a decedent estate, notice shall also be given to any heir or devisee whose interest may be affected by the Petition in accordance with Probate Code § 1200. Probate Code § 851(b)(1).

Probate Code § 857 provides that in the event that the court issues such an Order:



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(a) The order is prima facie evidence of the correctness of the proceedings and of the authority of the personal representative or other fiduciary or other person to make the conveyance or transfer.

(b) After entry of an order that the personal representative, other fiduciary, or other person execute a conveyance or transfer, the person entitled thereunder has the right to the possession of the property, and the right to hold the property, according to the terms of the order as if the property had been conveyed or transferred in accordance with the terms of the order.

According to the guidelines established in the case of Est. of Heggstad, 16 Cal. App. 4th 943, there is sufficient evidence to conclude that the settlor intended to convey his interest in the Property to his Trust:

Section 17 of the Restatement Second of Trusts provides that a trust may be created by “(a) a declaration by the owner of property that he holds it as trustee for another person; or [(1)] (b) a transfer inter vivos by the owner of property to another person as trustee for the transferor or for a third person ....” The comment to clause (a) states: “If the owner of property declares himself trustee of the property, a trust may be created without a transfer of title to the property.” (*Ibid.*)

Est. of Heggstad, (1993) 16 Cal. App. 4th 943, 948.

The settlor transferred his interest both as an express declaration in the Trust document as well as by the terms of his pour-over will. These documents satisfy the requirements of the statute of frauds.

As to the successor trustee, the Trust clearly identifies Douglass Scott as successor trustee following the death of the settlor. For these reasons, the substance of the Petition may be granted pursuant to the applicable statutes; however, Probate Code § 851(b)(2) requires notice of the hearing on the Petition to be given to “[e]ach person claiming an interest in, or having title to or possession of the property.” In this case, notice was provided to the Trust beneficiaries, but not to Kim Scott, who is the owner of the other 55 percent interest in the Property that was not owned by the decedent/settlor. Probate Code § 851 requires this notice and a copy of the Petition to be provided at least 30 days prior to the hearing. Accordingly, the matter will be continued to allow Petitioner to provide this notice as required by law.

**TENTATIVE RULING #7: THE MATTER IS CONTINUED TO 8:35 A.M. ON MONDAY, DECEMBER 18, 2023, IN DEPARTMENT NINE.**

**IF A PARTY OR PARTIES WISH TO APPEAR BY ZOOM PLEASE CONTACT THE COURT AT (530) 621-5867 AND MEETING INFORMATION WILL BE PROVIDED.**

**8. 23PR0226 IN THE MATTER OF EDMOND GAYLEN GALUSHA**

**Petition for Letters Testamentary**

Decedent died testate on June 27, 2023, survived by two adult children. Petitioner is decedent's daughter.

The Petition requests full authority under the Independent Administration of Estates Act.

The Will was lodged with the court on September 19, 2023, as an attachment to the Petition.

The Will waives bond.

A Duties/Liabilities Statement (DE 147/DE-147s) was filed on September 19, 2023, as required by Local Rules of El Dorado County Superior Court, Rule 10.02.10.

Proof of service of Notice of the Petition was filed on October 20, 2023.

Proof of publication was filed on October 20, 2023.

Petitioner was named as Executors in the Will.

There is no objection to the Petition on file with the court.

**TENTATIVE RULING #8: ABSENT OBJECTION, THE PETITION IS GRANTED AS REQUESTED. A STATUS OF ADMINISTRATION HEARING IS SET AT 8:30 A.M. ON MONDAY, NOVEMBER 18, 2024, IN DEPARTMENT NINE.**

**IF A PARTY OR PARTIES WISH TO APPEAR BY ZOOM PLEASE CONTACT THE COURT AT (530) 621-5867 AND MEETING INFORMATION WILL BE PROVIDED.**

**9. 23PR0227 IN THE MATTER OF STARRANNE MEYERS**

**Petition to Confirm Title to Personal Property**

The Cyrus J. and Mary M. Maxwell Family Living Trust (“Trust”) was created on January 10, 1991, and both settlors executed a restatement of the Trust on May 14, 2012. See Petition, Exhibit A. The Petition cites Probate Code § 16060.5<sup>1</sup> in stating that the terms of the Trust are represented by the May 14, 2012, restatement.

Mary Maxwell, the last surviving settlor passed away on March 19, 2023. Petitioner is the child of the Mary Maxwell and is nominated by the Trust to serve as the first successor trustee.

The Petition states that Mary Maxwell intended to include the Lincoln Financial Group Annuity specified in the Petition as a Trust asset, but inadvertently designated Petitioner as a beneficiary of that account in her individual capacity instead of in her capacity as first successor trustee of the Trust. The Petition states that it was the intention of both settlors to include the Lincoln Financial Group Annuity among the assets of the Trust to be distributed among all of the Trust beneficiaries.

The Petition requests that the court issue an Order confirming:

1. That the Lincoln Financial Group Annuity specified in the Petition is a just and proper asset of the Trust;
2. That the Lincoln Financial Group Annuity specified in the Petition should be paid to Petitioner as trustee of the Trust.

Probate Code § 850(a)(3) permits a trustee who has a claim to property, the title to or possession of which is held by another, to file a petition requesting that the court make an order pursuant to Probate Code § 856 authorizing and directing the person having title to or possession of real property to execute a conveyance or transfer to a person entitled thereto, or granting other appropriate relief.

Probate Code § 851 requires the Petitioner to serve notice of the hearing and a copy of the Petition at least 30 days prior to the hearing to each person claiming an interest in or having title to or possession of the property. Probate Code § 851(a)(2). When the matter concerns a decedent estate, notice shall also be given to any heir or devisee whose interest may be affected

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<sup>1</sup> “As used in this article, “terms of the trust” means the written trust instrument of an irrevocable trust or those provisions of a written trust instrument in effect at the settlor’s death that describe or affect that portion of a trust that has become irrevocable at the death of the settlor. In addition, “terms of the trust” includes, but is not limited to, signatures, amendments, disclaimers, and any directions or instructions to the trustee that affect the disposition of the trust. . . .” Probate Code § 16060.5.

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by the Petition in accordance with Probate Code § 1200. Probate Code § 851(b)(1). The court finds that notice has been given as required.

Probate Code § 857 provides that in the event that the court issues such an Order:

1. (a) The order is prima facie evidence of the correctness of the proceedings and of the authority of the personal representative or other fiduciary or other person to make the conveyance or transfer.
2. (b) After entry of an order that the personal representative, other fiduciary, or other person execute a conveyance or transfer, the person entitled thereunder has the right to the possession of the property, and the right to hold the property, according to the terms of the order as if the property had been conveyed or transferred in accordance with the terms of the order.

In this case, the settlors executed a General Transfer and Assignment of Property on May 14, 2012, the same day that they executed the restatement of the Trust. That General Transfer is attached to the Petition as Exhibit C. In particular, Paragraph 4.01 of the General Transfer references “all of the retirement and death benefits (except life insurance) of Grantors; these benefits include, but are not limited to, qualified and non-qualified retirement plans, KEOGH plans, SEP’s and IRA’s.” Further, the General Transfer at Paragraph 2.02 states that “all of the Grantors’ interests in all tangible and intangible personal property, of whatever nature and wherever situated” “whether now owned or later acquired” is transferred to the Trust.

Further, the distribution of Trust assets upon the death of the surviving settlor indicates an intention to divide the assets among the settlors’ surviving children and does not indicate any intention to favor Petitioner with specific distributions. See Petition, Exhibit A, Article Six.

According to the guidelines established in the case of Est. of Heggstad (1993) 16 Cal. App. 4th 943, there is sufficient evidence to conclude that the settlor intended to convey her interest in the annuity account to the Trust:

Section 17 of the Restatement Second of Trusts provides that a trust may be created by “(a) a declaration by the owner of property that he holds it as trustee for another person; or [¶] (b) a transfer inter vivos by the owner of property to another person as trustee for the transferor or for a third person ....” The comment to clause (a) states: “If the owner of property declares himself trustee of the property, a trust may be created without a transfer of title to the property.” (*Ibid.*)

Illustration “1” of section 17 of the Restatement Second of Trusts is instructive. It reads: “A, the owner of a bond, declares himself trustee of the bond for designated beneficiaries. A is the trustee of the bond for the beneficiaries. [¶] So also, the owner of property can create a trust by executing an instrument conveying the property to himself as trustee. In such a case there is not in fact a transfer of legal title to the property, since

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he already has legal title to it, *but the instrument is as effective as if he had simply declared himself trustee.*" (Italics added.)

(3, 1c) Section 28 of the Restatement Second of Trusts announces the rule that no consideration is necessary to create a trust by declaration.<sup>4</sup> This rule applies both to personal and real property, . . .

Est. of Heggstad, (1993) 16 Cal. App. 4th 943, 948-949.

The court finds that the settlors transferred their interest in the annuity account to the Trust through an express declaration in the terms of the Trust and by execution of the General Transfer and Assignment of Property. There is no objection to the Petition on file with the court.

**TENTATIVE RULING #9: ABSENT OBJECTION, THE PETITION IS GRANTED AS REQUESTED.**

**IF A PARTY OR PARTIES WISH TO APPEAR BY ZOOM PLEASE CONTACT THE COURT AT (530) 621-5867 AND MEETING INFORMATION WILL BE PROVIDED.**

**10. PP20210122 IN THE MATTER OF THE ALOHA JUNE SAUNDERS TRUST**

**Order to Show Cause Hearing**

Following a hearing on October 20, 2023, on motions to compel responses to discovery requests, the court set a hearing for an order to show cause why Teri Stevens and Andrea Stevens should not be sanctioned for misuse of discovery.

This action relates to the Aloha June Saunders Living Trust ("Trust"). As part of his authority to defend against any contest of any Trust provisions pursuant to the terms of the Trust, the successor trustee propounded multiple discovery requests on Trust beneficiaries Teri Stevens and Andrea Stevens ("Petitioners"), in response to their June 1, 2021, Petition for Instructions to set aside the January 20, 2020 Fourth Amended and Restated Trust as invalid and to have the trustee removed.

These discovery requests include:

1. A deposition notice served on Petitioner Teri Stevens on April 20, 2023 for a deposition scheduled on May 22, 2023, to which the Teri Stevens did not appear, has not communicated any objections and has not responded to the trustee's attempts to reschedule.
2. A Request for Production of Documents, Set Two, served on Petitioners Teri Stevens and Andrea Stevens on November 11, 2022 with a deadline for production of December 14, 2022, to which Petitioners did not respond.
3. A Request for Production of Documents, Set Three, served on Petitioners Teri Stevens and Andrea Stevens on April 14, 2023 with a deadline for production of May 16, 2023, to which Petitioners did not respond.

Pursuant to Code of Civil Procedure § 2025.450(a) A meet and confer declaration was filed by trustee's counsel on July 10, 2023, in accordance with Code of Civil Procedure § 2025.450(b)(2). See Declaration of Jarom B. Phipps, dated June 21, 2023.

Neither the motion to compel nor the motion for sanctions was opposed by Petitioners. Because the motion to compel was unopposed, monetary sanctions under Section 2031.300(c) were not available. Code of Civil Procedure § 2031.300(a) does allow the court to find that the party who has failed to respond to a demand for production of documents has waived any objection other than an objection based on privilege. Code of Civil Procedure § 2023.030 authorizes the court, after notice and opportunity for hearing, to impose sanctions against anyone engaging in conduct that is a misuse of the discovery process, as defined in §2023.010,

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including the failure to respond to an authorized method of discovery. Code of Civil procedure § 2023.010(d). The trustee requests the court to impose sanctions against Teri Stevens for failure to appear at her deposition. Code of Civil Procedure § 2025.450(g) requires the court to impose this sanction unless the court finds that the party subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.

**TENTATIVE RULING #10: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, NOVEMBER 13, 2023, IN DEPARTMENT NINE.**

**IF A PARTY OR PARTIES WISH TO APPEAR BY ZOOM PLEASE CONTACT THE COURT AT (530) 621-5867 AND MEETING INFORMATION WILL BE PROVIDED.**