DEPARTMENT TWENTY-TWO
JUDGE ALESIA JONES
707-207-7322

PROBATE NOTES FOR
MATTERS SCHEDULED FOR

MONDAY, DECEMBER 12, 2016

Probate notes are not posted for conservatorship matters, ex parte petitions, or status conferences.

Probate notes supplement—but do not replace—the posting of intended rulings on probate matters. Please check the court's website for intended rulings on probate matters ("pregrants") after 2:00 p.m. the court day before the scheduled hearing.

If the notes identify defects, you can file documents with the court to correct them. Defects that are not corrected may result in your petition being denied or the hearing delayed.

Because of processing times and staff shortages, documents filed one or two court days prior to the hearing might not be reviewed in time to alter the court's intended pregrant ruling.

Questions?

You may e-mail the court's probate staff at probate@solano.courts.ca.gov.

Remember:

(1) Probate staff cannot give legal advice or discuss your case with you.

(2) Parties or attorneys may not submit via e-mail any documents intended to address the probate notes. **Attachments e-mailed directly to probate staff will not be opened.**

PROBATE NOTES

Case Name: **In re the Bumatay Family Trust 1994**
Case Number: **FPR044368**

Calendar Date: **December 12, 2016**
Prior Calendar History:

Petition(s) or Motion(s): Third Account and Report of Trustee and Petition for Approval of Account and Report
Filed On: October 11, 2016
Filed By: James Moore
Represented By: Tosh Yamamoto

Objections: None
Filed On:
Filed By:
Represented By:

Reviewed By: C. Donovan, Staff Attorney
Date of Review: December 6, 2016

SUMMARY/COMMENTS

Petition to approve third account of trustee.

IDENTIFIED DEFECTS OR ISSUES

1. Account, Schedule 1:
    a. All schedules of property on hand at the beginning of the account subsequent to the first account must include both carry value and market value. (Prob. C. 1063(a).) While values are provided, it is unstated whether they are carry or market value.
    b. There is no total value given for the Edward Jones account. Furthermore, all assets in the Edwards Jones account must be provided, including the number of shares, the acquisition price per share, the carry value of the shares, and the market value of the shares.
2. Account, Schedule 2:
    a. The jewelry must be more specifically identified with values for each piece or set.
    b. The acquisition share price for the stock must be provided.

3. Account, Schedule 3:
    a. The rental property generating the rental income must be identified. Rental income shall be grouped by property, then chronologically.
    b. There is no “Josephine’s personal account” identified as a trust asset. The transfer of $6,000 to the trust on November 19, 2013 from that account is unexplained.
    c. The transfer of funds from the conservatorship to the trust in November 2013 and November 2014 is unexplained.
4. Account, Schedule 4:
    a. For each sale, the schedule should indicate how many shares were sold and at what price per share.
5. Account, Schedule 6:
    a. It is unclear why there is a large gap in payments to Belmont Village Assisted Living, e.g. from January 2014 to September 2015.
    b. The payments to Elyse Prunty are unclear. The timing, frequency, and amount of payments to her varies with no apparent consistency.
    c. What furniture was being rented and why?
    d. The out-of-pocket expenses by Harry Bumatay, Lorna Johnson, and Ernie Bumatay are unexplained.
    e. Expenses related to specific rental properties shall be identified as such. Rental expenses shall be grouped by property, then by category (e.g. utilities), then chronologically.
6. Account, Schedule 9:
    a. The distribution of $169,959.20 to the conservatorship estate is unexplained.

RECOMMENDATION

The petitioner shall address the issue(s) identified above.

PROBATE NOTES

Case Name: **In re the Estate of Lillian Robinson, Deceased**
Case Number: **FPR047041**

Calendar Date: **December 12, 2016**
Prior Calendar History:

Petition(s) or Motion(s): First and Final Account and Report of Executor, and Petition for Final Distribution, for Allowance of Compensation to Executor and to Attorneys for Ordinary and Extraordinary Services
Filed On: October 28, 2016
Filed By: Jeffery Rose
Represented By: M. Kendall Hillman

Objections: None
Filed On:
Filed By:
Represented By:

Reviewed By: C. Donovan, Staff Attorney
Date of Review: December 6, 2016

SUMMARY/COMMENTS

Petition to close estate administration.

IDENTIFIED DEFECTS OR ISSUES

1. There is no proposed order on file.

RECOMMENDATION

Petitioner to address issue(s) identified above.

PROBATE NOTES

Case Name: **In re the Estate of Anthony Washington, Deceased**
Case Number: **FPR047340**

Calendar Date: **December 12, 2016**
Prior Calendar History:

Petition(s) or Motion(s): First and Final Report of the Estate Representative; Petition for Final Distribution; Request for Statutory Fees, Commissions, and Reimbursements
Filed On: September 12, 2016
Filed By: Regina Huerls-Washington
Represented By: Danny Stokes, G. Cat Stokes

Objections: None
Filed On:
Filed By:
Represented By:

Reviewed By: C. Donovan, Staff Attorney
Date of Review: December 6, 2016

SUMMARY/COMMENTS

Petition to close estate administration.

IDENTIFIED DEFECTS OR ISSUES

1. There is no allowance or rejection of Wells Fargo Bank's creditors claim filed April 12, 2016.
2. There is no indication Wells Fargo Bank was served with the petition.
3. Petition, p. 2, Item 7: The petition indicates that $18,956.43 in cash was marshaled by the personal representative. No Inventory and Appraisal on file reflects any cash assets.
4. Petition, p. 3, Item 11: This item omits the claim filed by Wells Fargo Bank on April 12, 2016.
5. Petition, p. 5: What evidence does the petitioner have to support the existence of "secret trusts" concerning the bank account and house? Even if the trust were proven, how are assets held by the decedent in trust for another individual considered part of the decedent's estate?
6. Petition, p. 5, Item 16(A): The petition does not explain whether the bank account held in "secret trust" between the decedent and his mother was a joint tenancy account. If so, it is unclear how the account is an asset of the decedent's estate.
7. Petition, p. 5, Item 16(B): The petition does not state the form of title for the house held in "secret trust" between the decedent and his mother. Petitioner should provide this information

so the court may determine whether this is an asset of the decedent's estate or the mother's estate.

8. Per the proposed distribution on Exhibit C, James Ray Washington and Calvin Lee Fowler are each recipients of a 1/6th share of specified funds. Because both individuals are incarcerated, notice must be given to the Director of the California Victim Compensation Board under Probate Code section 9202(b).
9. Accounting:
    a. The schedule of property on hand at the beginning of the account is missing.
    b. The amount stated for "Amount of Inventory and Appraisements" does not match the Inventory and Appraisal forms on file.
    c. Schedule C: There are no dates for the receipts. The receipts from TransAmerica are unexplained as no such asset is disclosed on the Inventory and Appraisal forms.
    d. Schedule D: The costs of sale must be broken out.
10. Exhibit B: The reimbursement request includes costs of $4,256.25 for a funeral home and $5,195.23 for cemetery expenses. Funeral expenses of the decedent are within the definition of a claim per Probate Code section 9000 and are barred unless a creditor's claim is filed against the estate within the time allowed for claims. (Prob. C. 9002.) There is no evidence of a creditor's claim being filed against the estate for funeral expenses. On what grounds may the court approve the reimbursement?
11. Exhibit B: The expense for "Attorney fees" on August 31, 2015 is unexplained. There is handwriting but it is difficult to read.

RECOMMENDATION

Petitioner to address issue(s) identified above.

PROBATE NOTES

Case Name: **In re the Estate of William Eliot Flagg, Deceased**
Case Number: **FPR047446**

Calendar Date: **December 12, 2016**
Prior Calendar History: **November 7, 2016**

Petition(s) or Motion(s): **Petition for Final Distribution of the Estate**
Filed On: September 28, 2016
Filed By: Linda Flagg
Represented By: Timothy Walsh

Objections: None

Petition(s) or Motion(s): **Final Accounting**
Filed On: September 28, 2016
Filed By: Linda Flagg
Represented By: Timothy Walsh

Objections: None

Reviewed By: C. Donovan, Staff Attorney
Date of Review: December 6, 2016

SUMMARY/COMMENTS

Petition to close estate administration.

IDENTIFIED DEFECTS OR ISSUES

1. Inventory & Appraisal, p. 2: Items 3, 4, and 5 must be completed. **// Issue previously identified and unresolved.**
2. Inventory & Appraisal, Attachment 2, p. 2: The statement that 1047 Justin Way in Dixon is community property is contrary to the statement in the petition that the property was held by the decedent in his own name as his sole and separate property pursuant to a 2012 grant deed. **// Issue previously identified and unresolved.**
3. Petition, p. 2, lines 13-17: The petition indicates the real property at 1047 Justin Way in Dixon was titled in the decedent's name as "a married man as his sole and separate property," as the result of a 2012 interspousal transfer grant deed. This form of title raises the presumption that the asset is separate property, not community, which in turn requires that ½ be distributed to the decedent's surviving spouse and ½ be distributed to the decedent's son. (Prob. C. 6401, 6402.) What clear and convincing evidence does the petitioner have that the

parties had an agreement for the asset to be a community property asset notwithstanding the form of title? (Evid. C. 662.) **// Issue previously identified and unresolved.**

4. Account, p. 2, lines 23-27: The value of the mortgage is not properly reported as a credit. **// Issue previously identified and unresolved.**

RECOMMENDATION

Petitioner to address issue(s) identified above.

PROBATE NOTES

Case Name:	**In re the Estate of Augustina Colisao Cagonot, Deceased**
Case Number:	**FPR047713**
Calendar Date:	**December 12, 2016**
Prior Calendar History:	**November 7, 2016**
Petition(s) or Motion(s):	**Petition for Final Distribution of the Estate**
Filed On:	October 6, 2016
Filed By:	Tina Marie Carreon
Represented By:	Timothy Walsh
Petition(s) or Motion(s):	**Final Accounting**
Filed On:	October 6, 2016
Filed By:	Tina Marie Carreon
Represented By:	Timothy Walsh
Reviewed By:	C. Donovan, Staff Attorney
Date of Review:	December 6, 2016

SUMMARY/COMMENTS

Petition to close estate administration.

IDENTIFIED ISSUES OR DEFECTS

1. On November 7, 2016, the court ordered the petitioner to file a declaration after November 14, 2016 stating whether any creditor claims were filed or received by the petitioner between the date the petition was filed and the date of the declaration. No declaration is on file as of December 6, 2016.
2. The accounting must commence with the value of the assets as listed in the Inventory and Appraisal, not the estimated values used in the petition. It is therefore improper to state that the property on hand at the beginning is $230,500. Moreover, an increase in an asset's market value is not reportable on an accounting. Only gains and losses on sale or other disposition are properly reported. **// Issue previously identified and unresolved.**
3. The estate contains no cash assets. The petition does not explain how the costs and fees will be paid out of an illiquid estate. **// Issue previously identified and unresolved.**

RECOMMENDATION

Petitioner to address issue(s) above.

PROBATE NOTES

Case Name:	**In re the Estate of Linda A. Davis, Deceased**
Case Number:	**FPR048006**
Calendar Date:	**December 12, 2016**
Prior Calendar History:	
Petition(s) or Motion(s):	Petition for Letters of Administration and for Authorization to Administer Under the Independent Administration of Estates Act
Filed On:	October 28, 2016
Filed By:	Nicholas Davis
Represented By:	Matthew Lucas
Objections:	None
Filed On:	
Filed By:	
Represented By:	
Reviewed By:	C. Donovan, Staff Attorney
Date of Review:	December 6, 2016

SUMMARY/COMMENTS

Petition to open estate administration.

IDENTIFIED DEFECTS OR ISSUES

1. There is no affidavit of publication on file as required by Probate Code section 8124.

RECOMMENDATION

Petitioner to address issue(s) identified above.

PROBATE NOTES

Case Name: **In re the Estate of Blas Murillo, Deceased**
Case Number: **FPR048009**

Calendar Date: **December 12, 2016**
Prior Calendar History:

Petition(s) or Motion(s): Petition for Probate of Lost Will and for Letters of Administration with Will Annexed and for Authorization to Administer Under the Independent Administration of Estates Act
Filed On: November 1, 2016
Filed By: Frances A. Murillo
Represented By: S. Scott Reynolds

Objections: None
Filed On:
Filed By:
Represented By:

Reviewed By: C. Donovan, Staff Attorney
Date of Review: December 6, 2016

SUMMARY/COMMENTS

Petition to open estate administration and admit lost will.

IDENTIFIED DEFECTS OR ISSUES

1. The Declaration of Rita Dougherty re: Diligent Search for Heir at Law filed November 1, 2016 does not indicate whether a "search of the real and personal property indexes in the recorder's and assessor's offices for the county where the person was last known or believed to reside" was done per CRC 7.52(a)(3).
2. The proposed order does not include findings that the decedent's original will was lost and that the presumption of revocation has been overcome, nor does it include the terms of the will. (Prob. C. § 8223.) A revised order should be submitted.
3. If the petitioner seeks an order waiving notice to Deena Murillo, a proposed order to that effect should be submitted.

RECOMMENDATION

Petitioner to address issue(s) identified above.