

Tentative Rulings
October 16, 2017
Department 7
1:30/2:30

CONSERVATORSHIPS
CONS OF EUGENIA ADAM
Case Number: 28759

This matter is on calendar for hearing on the First Account and Report of Conservator. The matter has been properly noticed with proof of service on file. No objections have been raised. The paperwork appears to be in order. The requested orders are **GRANTED** as prayed. A proposed order was submitted and will be executed by the Court. The Second account shall cover the period of July 1, 2017 through June 30, 2019, and must be filed no later than September 30, 2019. The matter is set for **Monday, October 21, 2019, at 2:30 p.m. in Department 7** for hearing on the Second Account and Report. The Court confirms the future date of November 6, 2017, for further proceedings on the Annual Review. **No appearance is necessary on today's calendar.**

CONS OF DAVID AMOS
Case Number: 28849

This matter is on calendar for Annual Review. The Court has read and considered the report filed by the Court Investigator on October 6, 2017, which recommends that the Conservatorship continue. The Court **FINDS** that continued Conservatorship is in the best interest of the Conservatee. The Court **ORDERS** that the Conservatorship shall continue. This matter is set for Biennial Review on **Monday, October 21, 2019, at 2:30 p.m. in Department 7**. The Court Investigator's report shall be filed at least 30 days prior to hearing. **No appearance is necessary on today's calendar.**

CONS OF WILLIAM BATES
Case Number: 29331

This matter is on calendar for hearing on a Petition for Appointment of a Conservator of the Person and Estate. The matter has been properly noticed, with proof of service on file. The Citation has been filed with proper proof of service. No objections have been raised. Dementia powers are requested, and the required supporting documents have been submitted. The paperwork appears to be in order. The Court Investigator's report, filed October 2, 2017, indicates that the proposed Conservatee will not appear and does not wish to contest the conservatorship. The Court Investigator's report also indicates that the conservatorship is necessary and appropriate, and recommends that the Petition be granted. The Petition is **GRANTED** as prayed. A proposed order was submitted, and will be executed by the Court. The matter is set for **Monday, January 22, 2018, at 2:30 p.m. in Department 7** for

confirmation of filing of the Conservatorship Care Plan, Determination of Appropriate Level of Care Form, and Inventory and Appraisal. The matter is set for **Monday, October 22, 2018, at 2:30 p.m. in Department 7** for Annual Review. **No appearance is necessary on today's calendar.**

CONS OF MATHEW BENNETT

Case Number: 22010

This matter is on calendar for Biennial Review. The Court has read and considered the report filed by the Court Investigator on October 6, 2017, which recommends that the Conservatorship continue. The Court **FINDS** that continued Conservatorship is in the best interest of the Conservatee. The Court **ORDERS** that the Conservatorship shall continue. This matter is set for Biennial Review on **Monday, October 21, 2019, at 2:30 p.m. in Department 7**. The Court Investigator's report shall be filed at least 30 days prior to hearing. **No appearance is necessary on today's calendar.**

CONS OF SHANNON BOWMER

Case Number: 19594

This matter is on calendar for Biennial Review. The Court has read and considered the report filed by the Court Investigator on October 12, 2017, which recommends that the Conservatorship continue. The Court **FINDS** that continued Conservatorship is in the best interest of the Conservatee. The Court **ORDERS** that the Conservatorship shall continue. This matter is set for Biennial Review on **Monday, October 21, 2019, at 2:30 p.m. in Department 7**. The Court Investigator's report shall be filed at least 30 days prior to hearing. **No appearance is necessary on today's calendar.**

CONS OF GEORGE COSTA

Case Number: 20020

This matter is on calendar for Biennial Review. The Court has read and considered the report filed by the Court Investigator on October 6, 2017, which recommends that the Conservatorship continue. The Court **FINDS** that continued Conservatorship is in the best interest of the Conservatee. The Court **ORDERS** that the Conservatorship shall continue. This matter is set for Biennial Review on **Monday, October 21, 2019, at 2:30 p.m. in Department 7**. The Court Investigator's report shall be filed at least 30 days prior to hearing. **No appearance is necessary on today's calendar.**

CONS OF PAUL CRANSTON

Case Number: 21072

This matter is on calendar for further proceedings regarding Status of Transfer. A Status Report was filed on October 12, 2017, which indicates that the Conservatee is being moved back to Shasta County. Counsel requests a continuance to allow for the change in residence to occur. This matter is continued to **Monday, January 22, 2018, at 2:30 p.m. in Department 7**. **No appearance is necessary on today's calendar.**

CONS OF RUBEN ESTRADA

Case Number: 29277

This matter is on calendar for further proceedings on a Petition for Appointment of a Limited Conservator of the Person. The matter was continued to today's date to give Counsel the opportunity to meet with the proposed Conservatee. **An appearance is necessary on today's calendar to apprise the Court of whether or not Counsel intends to object to the Petition. Absent any objections, the Court intends to adopt its previous tentative ruling granting the Petition.**

CONS OF JEAN FAETH

Case Number: 29313

This matter is on calendar for hearing on a Petition for Appointment of a Conservator of the Person and Estate. The matter has been properly noticed, with proof of service on file. The Citation has been filed with proper proof of service. No objections have been raised. The Court Investigator's report, filed September 27, 2017, indicates that the conservatorship is necessary and appropriate, and recommends that the Petition be granted. The report indicates that the proposed Conservatee does not oppose the Petition, and will not appear at the hearing.

The Court notes that the Petition requests dementia powers relating to the treatment of the Conservatee; however, the Dementia Attachment to the Capacity Declaration, while signed by the physician, does not indicate that Dementia powers are appropriate or necessary. The Petition is **GRANTED**, with the exception of the request for dementia powers. An order was submitted and will be modified to delete dementia powers and executed by the Court. The matter is set for **Monday, January 29, 2018, at 2:30 p.m. in Department 7** for confirmation of filing of the Conservatorship Care Plan, Determination of Appropriate Level of Care form, and the Inventory and Appraisal. **No appearance is necessary on today's calendar.**

CONS OF RUTH GMEINDER

Case Number: 28851

This matter is on calendar for hearing on the First Account and Report of Conservator; Second and Final Account and Report of Conservator; and Termination of Conservatorship. The matter has been properly noticed with proof of service on file. No objections have been raised. The paperwork appears to be in order. The requested orders are **GRANTED** as prayed. The original documents lodged with the court shall be returned to counsel. A proposed order was submitted and will be executed by the Court. The matter is set for **Monday, January 22, 2018, at 2:30 p.m. in Department 7** for confirmation of filing of receipts and Petition for Discharge. **No appearance is necessary on today's calendar.**

CONS OF BARBARA GRANBERRY

Case Number: 29225

This matter is on calendar for further proceedings regarding a Petition for Appointment of Conservator of the Person and Estate. The Court has not yet received the Court Investigator's Report. The Court Investigator has submitted a memorandum which indicates that the Order Appointing Court Investigator is incomplete and that the Court Investigator cannot start its

investigation until a completed Order is filed with the Court. Counsel is ORDERED to submit a new Order Appointing Court Investigator. This matter is continued to **Monday, November 20, 2017, at 2:30 p.m. in Department 7** for further proceedings. **No appearance is necessary on today's calendar.**

CONS OF ETHAN GRECIAN

Case Number: 27233

This matter is on calendar for Biennial Review. The Court has read and considered the report filed by the Court Investigator on October 12, 2017, which recommends that the Conservatorship continue. The Court **FINDS** that continued Conservatorship is in the best interest of the Conservatee. The Court **ORDERS** that the Conservatorship shall continue. This matter is set for Biennial Review on **Monday, October 21, 2019, at 2:30 p.m. in Department 7**. The Court Investigator's report shall be filed at least 30 days prior to hearing. **No appearance is necessary on today's calendar.**

CONS OF TERRY HARRIS

Case Number: 25791

This matter is on calendar for Biennial Review. The Court Investigator has requested a continuance to allow additional time for the preparation of their report. The matter is continued to **Monday, October 30, 2017, at 2:30 p.m. in Department 7** for further proceedings regarding the Review. **No appearance is necessary on today's calendar.**

CONS OF DOROTHY JUNE

Case Number: 28536

This matter is on calendar for Annual Review. The Court has read and considered the report filed by the Court Investigator on October 12, 2017, which recommends that the Conservatorship continue. The Court **FINDS** that continued Conservatorship is in the best interest of the Conservatee. The Court **ORDERS** that the Conservatorship shall continue. This matter is set for Biennial Review on **Monday, October 21, 2019, at 2:30 p.m. in Department 7**. The Court Investigator's report shall be filed at least 30 days prior to hearing. **No appearance is necessary on today's calendar.**

CONS OF DAVID KOVACIK

Case Number: 17807

This matter is on calendar for further proceedings regarding Biennial Review. The matter was continued to today's date to give Counsel the opportunity to discuss the potential transfer of this case to Butte County. The Court otherwise **FINDS** that continued Conservatorship remains in the best interest of the Conservatee. The Court **ORDERS** that the Conservatorship shall continue. This matter is set for Biennial Review on **Monday, October 7, 2019, at 2:30 p.m. in Department 7**. The Court Investigator's report shall be filed at least 30 days prior to hearing. **Absent an appearance on today's calendar, the Court confirms the future date of November 13, 2017, for hearing on an Order to Show Cause re Transfer to Butte County.**

CONS OF STEVEN LOZOYA

Case Number: 19903

This matter is on calendar for further proceedings regarding Status of the Oregon Guardianship Proceeding. The Status Report filed on October 12, 2017, indicates that the Oregon Guardianship has been applied for, but that the Conservators are unaware of the status. The Conservators requests a three month continuance. The matter is continued to **Monday, January 22, 2018, at 2:30 p.m. in Department 7.** The Conservator is ORDERED to file a detailed Status Report no later than three court days prior to the continued hearing date. **No appearance is necessary on today's calendar.**

CONS OF CATHERINE MAIKRANZ

Case Number: 29292

This matter is on calendar for hearing on a Petition for Appointment of a Limited Conservator of the Person. The matter has been properly noticed, with proof of service on file. The Citation has been filed with proper proof of service. No objections have been raised. The paperwork appears to be in order, with the exception that Petitioner has failed to list himself as a relative in Item 11. Based on the other information contained in the Petition, the court will overlook that defect. The Court Investigator's report, filed October 12, 2017, indicates that the conservatorship is necessary and appropriate, and recommends that the Petition be granted. The Petition is **GRANTED** as prayed. A proposed order was submitted, and will be executed by the Court. The matter is set for **Monday, January 22, 2018, at 2:30 p.m. in Department 7** for confirmation of filing of the Conservatorship Care Plan, Determination of Appropriate Level of Care Form. The matter is set for **Monday, October 22, 2018, at 2:30 p.m. in Department 7** for Annual Review. **No appearance is necessary on today's calendar.**

CONS OF HAZEL MCKIM

Case Number: 25214

This matter is on calendar for hearing on Ninth and Final Account and Report of Conservator; Petition for Fees; and Petition to Set Aside Order to Transfer Proceedings. The matter has been properly noticed with proof of service on file. No objections have been raised. The paperwork appears to be in order. The Petition seeks an order that the conservator distribute the estate assets to the named executor in the conservatee's will, terminate the conservatorship, and discharge the conservator. Probate Code Section 2647 requires that the conservator distribute assets to the personal representative of the estate. While the conservatee's will may have nominated an executor, the nominated executor does not have authority to act until appointed by the Court. At this time, the Court will approve the Account and Report, grant the petition for Fees, and Vacate the order to transfer the proceedings. However, the Court cannot terminate the conservatorship and discharge the conservator until the estate assets are appropriately transferred to the personal representative of the estate. The requested orders are **GRANTED** as stated above. A proposed order was submitted and will be modified to indicate that the conservator shall deliver the property of the conservatorship to the personal representative of the estate, and executed by the Court. The original documents lodged with the court shall be returned to counsel. The matter is set for **Monday, January 29, 2018, at 2:30**

p.m. in Department 7 for confirmation of filing of receipts and Petition for Discharge. **No appearance is necessary on today's calendar.**

CONS OF MACE MILLSAP

Case Number: 25057

This matter is on calendar for further proceedings regarding Deborah Noble's Petition to Enforce a Visitation Order. The Court previously issued an order regarding shared responsibility/visitation, and directed the parties to work together toward a reunification plan with the mother. Counsel for the Conservatee filed a Status Report on October 11, 2017, which shows that the parties have continued to work together but that the successfulness of these interactions cannot yet be determined. It would appear that some additional time is necessary for Ms. Lafferty to work with Mace to help determine the best course of action. **An appearance is necessary on today's calendar to address the status of reunification and a plan for moving forward.**

CONS OF ELIZABETH MORRIS

Case Number: 10765

This matter is on calendar for further proceedings regarding Status of Conservatorship. The Court was previously advised that the current Conservator may no longer be able to continue to carry out her duties as conservator. Counsel was thereafter appointed for the Conservatee. The matter was continued to today's date to give Counsel the opportunity to address the issue of whether a successor Conservator should be appointed, or the conservatorship terminated. **An appearance is required of to address the status of the Conservatorship.**

CONS OF SAWYER PATTON

Case Number: 29305

This matter is on calendar for hearing on a Petition for Appointment of a Limited Conservator of the Person. The matter has been properly noticed, with proof of service on file. The Citation has been filed with proper proof of service. No objections have been raised. The paperwork appears to be in order, with the exception that the Petitioner failed to list herself as a relative, as required in Item 11. Based on other information contained in the paperwork, the court can overlook this defect. The Court Investigator's report, filed October 6, 2017, indicates that the conservatorship is necessary and appropriate, and recommends that the Petition be granted. The Petition is **GRANTED** as prayed. A proposed order was submitted, and will be executed by the Court. The matter is set for **Monday, January 22, 2018, at 2:30 p.m. in Department 7** for confirmation of filing of the Conservatorship Care Plan and Determination of Appropriate Level of Care Form. The matter is set for **Monday, October 22, 2018, at 2:30 p.m. in Department 7** for Annual Review. **No appearance is necessary on today's calendar.**

CONS OF WENDY SCHULTZ

Case Number: 23100

This matter is on calendar for Biennial Review. The Court has read and considered the report filed by the Court Investigator on October 6, 2017, which recommends that the

Conservatorship continue. The Court **FINDS** that continued Conservatorship is in the best interest of the Conservatee. The Court **ORDERS** that the Conservatorship shall continue. This matter is set for Biennial Review on **Monday, October 21, 2019, at 2:30 p.m. in Department 7.** The Court Investigator's report shall be filed at least 30 days prior to hearing. **No appearance is necessary on today's calendar.**

CONS OF HILLARY SHARP

Case Number: 27288

This matter is on calendar for Biennial Review. The Court has read and considered the report filed by the Court Investigator on October 6, 2017, which recommends that the Conservatorship continue. The Court **FINDS** that continued Conservatorship is in the best interest of the Conservatee. The Court **ORDERS** that the Conservatorship shall continue. This matter is set for Biennial Review on **Monday, September 23, 2019, at 2:30 p.m. in Department 7.** The Court Investigator's report shall be filed at least 30 days prior to hearing. **No appearance is necessary on today's calendar.**

CONS OF JAMES SNAPP

Case Number: 28795

This matter is on calendar for Annual Review. The Court has read and considered the report filed by the Court Investigator on October 2, 2017, which recommends that the Conservatorship continue. The Court **FINDS** that continued Conservatorship is in the best interest of the Conservatee. The Court **ORDERS** that the Conservatorship shall continue. This matter is set for Biennial Review on **Monday, October 21, 2019, at 2:30 p.m. in Department 7.** The Court Investigator's report shall be filed at least 30 days prior to hearing.

The Court notes that the Conservatee appears to reside in Chico, California, with no intention to return to Shasta County. The Court will issue an Order to Show Cause as to why these proceedings should not be transferred to Butte County. Hearing on the Order to Show Cause re Transfer to Butte County is set for **Monday, December 4, 2017, at 2:30 p.m. in Department 7.** The clerk is **directed** to prepare a separate Order to Show Cause. **No appearance is necessary on today's calendar.**

CONS OF KATHERINE SWENSON

Case Number: 27359

This matter is on calendar for further proceedings relating to the Third and Final Account and Report of Conservator. The Court previously intended to grant this Petition. However, Attorney Johnson advised at the hearing that she had concerns about the accounting and that she needed time to file an objection. No objection has been filed. **Absent an appearance on today's calendar, the Court intends to adopt its original tentative ruling granting the Petition.**

CONS OF ELIZABETH TAYLOR

Case Number: 28650

This matter is on calendar for (1) further proceedings regarding Annual Review; and (2) a Report of Sale and Petition for Order Confirming Sale of Real Property. The hearing on the Annual Review was continued to today's date to give Counsel the opportunity to meet with the Conservatee regarding concerns she raised with the Court Investigator.

The Report of Sale and Petition for Order Confirming Sale of Real Property was also continued to today's date, as the Petition was defective.

The Court notes that the Public Guardian has subsequently obtained an ex parte order authorizing the Conservator to enter into an exclusive right-to-sell agreement. A Petition Confirming Sale is to follow. As such, the Court treats the Public Guardian's former Report of Sale and Petition for Order Confirming Sale of Real Property as moot, and orders that it be dropped from calendar. Presumably, another Report of Sale and Petition for Order Confirming Sale of Real Property will be filed in relation to the current authorization. **An appearance remains necessary to address the status of the Conservatorship and the Conservatee's placement.**

ESTATES

EST OF CATHERN ACEVEDO

Case Number: 28860

This matter is on calendar for hearing on a Petition for Preliminary Distribution. The matter has been properly noticed, with proof of service on file. No objections have been raised. The court notes numerous issues with the Petition. First, the Petition states that it is a Petition for Preliminary Distribution, yet it seeks to obtain approval for the payment of creditors' claims. Creditors' claims are not "distributions." Distribution refers to the share of an estate to which a beneficiary is entitled. Distributions can only be made to devisees under a will or intestate heirs. Probate Code section 11620. The Court therefore deems the Petition to be a request for approval of payment of the creditors' claims. The personal representative sought, and was granted, full authority under the IAEA. As such, court approval of creditors' claims is not required, unless the creditor is the personal representative or the attorney. The creditors' claims have all been approved by the personal representative, and may be paid in the ordinary course of administration. This portion of the Petition is **DENIED**.

Similarly, the administrator and counsel seek payment of \$6,000 each from their statutory compensation. Again, this is not a "distribution," as the personal representative and counsel are not heirs entitled to a share of the estate. It appears that the request is for an advance payment of a portion of the statutory compensation that might be paid to them upon the closing of the estate administration. The value of that compensation has not yet been established, as there may still be gains or losses on the sales of estate property, and there remains the potential for surcharge. No reason is provided as to why an advance payment is appropriate at this time. This request is **DENIED**.

With respect to the request to make preliminary distributions of \$57,300 each to the three heirs, the Court notes that necessary information is missing. The Petition indicates that these distributions are less than 50% of the value of the estate. That is apparent, based on the value of the estate as set forth in the Inventory and Appraisal. However, Probate Code section 11623 provides that the preliminary distribution shall not exceed 50% of the *net value* of the estate, and that term is defined in that section. Here, no information is provided as to what is the net value of the estate at this time. It appears that the real property was sold for \$335,000, but no information is provided as to what the net proceeds of that sale were, or how much will be left in the estate after payment of the unpaid creditors' claims. Without that information, the Petition cannot be granted. The Petition is **DENIED** without prejudice. The Court confirms the future date of October 23, 2017, for Status of Administration. **No appearance is necessary on today's calendar.**

EST OF ROBERT ADAMS

Case Number: 29023

This matter is on calendar for further proceedings on a Third Amended Petition for Letters of Administration, with authority under the IAEA. The matter has now been properly noticed, with proof of service on file. No objections have been raised. Proof of Publication was previously filed with respect to the original Petition. The paperwork appears to be in order. The Petition is **GRANTED**. A proposed order was submitted and will be executed by the Court. The matter is set for **Monday, March 5, 2018, at 2:30 p.m. in Department 7** for confirmation of filing of the Inventory and Appraisal. The matter is set for **Monday, October 15, 2018, at**

2:30 p.m. in Department 7 for Status of Administration. The Personal Representative is required to comply with Probate Code sections 12200, et seq. **No appearance is necessary on today's calendar.**

EST OF THEODORE ARMAN

Case Number: 27929

This matter is on calendar for (1) a Petition to Confirm Acts of Personal Representative; and (2) further proceedings on a First and Final Account and Report of Administrator with Will Annexed; Petition for Compensation; and Petition for Final Distribution.

Starting with the Petition to Confirm Acts of Personal Representative, the matter has been properly noticed, with proof of service on file. The Petition seeks to approve the Administrator's entry into a Letter of Understanding with a business entity known as Nzyme2HC, LLC (Nzyme2HC) for the purpose of accessing the Iron Mountain Mine to investigate the commercial feasibility of monetizing the mine's acid mine drainage, including the production of hydrogen as an energy source. An objection to the Petition was filed on October 2, 2017 by Felisa De Jesus Rivera. The objection claims that the Petition fails to show that irreparable harm is likely under Probate Code section 9613; that the Petition provides no explanation for why the Letter of Understanding needs to be exclusive; and that Nzyme2HC does not appear to be qualified to do business in the State of California.

As an initial matter, the Court notes that while the Petition is labeled as a Probate Code section 9613 Petition, it does not appear to actually be a Probate Code section 9613 petition. A petition pursuant to Probate Code section 9613 is generally brought by an interested person seeking an order "directing" the representative to take action to avoid "great or irreparable injury." Probate Code Section 9613. Here, the instant Petition is not being brought by "any interested person," but by the Personal Representative, who seeks confirmation of acts taken by the personal representative. As such, the Court deems it to be a Petition brought pursuant to Probate Code section 9611.

As for the other objections raised by Ms. Rivera relating to the exclusive nature of this Letter of Understanding, and questions as to Nzyme2HC's ability to do business in the State of California, the Court may need to hear evidence on these issues prior to ruling on the Petition. Once ruled upon, however, the Court is not convinced that it will need to keep this Estate open for the duration of the Letter of Understanding solely because of the Letter of Understanding's existence. As these contractual rights are assignable, nothing has been presented to the Court showing that a distribution of the Estate would frustrate the Letter of Understanding's purpose.

Finally, this matter is also on calendar for further proceedings on a First and Final Account and Report of Administrator with Will Annexed; Petition for Compensation; and Petition for Final Distribution ("Second Petition"). The Second Petition seeks to transfer the Estate's sole asset, the Iron Mountain Mine, to the trust in accordance with the will, and to have the asset remain subject to the substantial liabilities encumbering the property. The Second Petition sets forth that the Estate is insolvent in light of its liabilities. Ms. Rivera has objected to this Second Petition, on the grounds that she had previously petitioned to purchase the property for \$10,000, and that the Court had denied that relief. Ms. Rivera requests the Court either revisit its previous denial of her petition; order a quitclaim of the asset to Ms. Rivera; or, in the alternative, remove the present administrator.

It appears that Ms. Rivera is requesting the Court to revisit its prior ruling. The Court is

not inclined to do so. **An appearance is necessary of the parties to address the current issues and to potentially set dates for a contested hearing on the items outlined in the pending Petitions.**

EST OF BARBARA BENNETTE

Case Number: 28866

This matter is on calendar for Status of Administration. A properly noticed Status Report was filed on September 27, 2017, which indicates that the Estate is not currently in a position to be closed. The matter is continued to **Monday, April 16, 2018, at 2:30 p.m. in Department 7** for Status of Administration. The Personal Representative is reminded that if a Petition for Final Distribution cannot be filed prior to the continued date, then the Personal Representative is **ORDERED** to comply with Probate Code sections 12200 and 12201, and file and serve a properly noticed Status Report for the above hearing date. **No appearance is necessary on today's calendar.**

EST OF CARLIS BROWN

Case Number: 28542

This matter is on calendar for Status of Administration. A properly noticed Status Report was filed on September 27, 2017, which indicates that the Estate is not currently in a position to be closed. The matter is continued to **Monday, December 18, 2017, at 2:30 p.m. in Department 7** for Status of Administration. The Personal Representative is reminded that if a Petition for Final Distribution cannot be filed prior to the continued date, then the Personal Representative is **ORDERED** to comply with Probate Code sections 12200 and 12201, and file and serve a properly noticed Status Report for the above hearing date. **No appearance is necessary on today's calendar.**

EST OF FRANKLIN CIBULA

Case Number: 25945

This matter is on calendar for further proceedings regarding Status of Administration. The matter was continued to today's date to give the parties more time to streamline the remaining issues moving forward in this case. **An appearance is required to discuss whether the parties have reached an agreement on the issues, or if it is necessary to set this matter for a contested hearing.**

EST OF KAREN COFFEY

Case Number: 28953

This matter is on calendar for hearing on a First and Final Report on Waiver of Account; and Petition for Final Distribution. The matter has been properly noticed, with proof of service on file. No objections have been raised. Waiver of accounting is on file. The Petition is **GRANTED**. A proposed order has been submitted and will be executed by the Court. The Court will retain the date of **Monday, January 8, 2018, at 2:30 p.m. in Department 7** for Confirmation of Filing of Receipts and a Petition for Discharge. **No appearance is necessary on today's calendar.**

EST OF RAYMOND COPPLE

Case Number: 29325

This matter is on calendar for hearing on a Petition for Probate of Lost Will and for Letters Testamentary, with authority under the IAEA. The Petition suffers from the following defects:

- (a) The Court cannot determine if proper notice has been given, as attachment 8 does not appear to list those individuals identified in Item 5. The Petition states that the decedent was not survived by any issue of pre-deceased children, yet grandchildren are listed in Attachment 8. If the decedent was survived by children who are now deceased, they are required to be listed in Attachment 8. If the grandchildren are listed because they are issue of predeceased children, then box 5a(8) was improperly checked.
- (b) The Petition checks box 3(e)(2), but there are no waivers of bond attached to the Petition.
- (c) The submitted proof of service is invalid, as it was not signed.
- (d) The Petition states that it seeks to probate a will executed on August 21, 1997; however, it appears that the Will attached to the Petition was executed on August 21, 1987.
- (e) Though a copy of the alleged correct Last Will and Testament was provided by way of an amendment filed September 21, 2017, a copy should be re-submitted as an attachment to the First Amended Petition.
- (f) There is no proof of publication on file.
- (g) There is no Order to Execute on file.

This matter is continued to **Monday, November 13, 2017, at 2:30 p.m.in Department 7** to give Petitioner time to address the above-listed defects. **No appearance is necessary on today's calendar.**

EST OF AARON DOWLING

Case Number: 29334

This matter is on calendar for hearing on a Petition for Letters of Administration, with authority under the IAEA. The Petition suffers from the following defects:

- (a) The bond waiver is incomplete, as it does not specify that the heir is waiving the posting of a bond for any particular individual.
- (b) The submitted proof of service is invalid, as it does not provide a mailing date.

This matter is continued to **Monday, November 13, 2017, at 2:30 p.m.in Department 7** to give Petitioner time to address the above-listed defects. **No appearance is necessary on today's calendar.**

EST OF ROBERT FLEMING

Case Number: 28593

This matter is on calendar for (1) hearing on an Order to Show Cause re Monetary Sanctions for failure to properly submit a Status Report; and (2) further proceedings on Status of Administration.

Regarding the Order to Show Cause, no response was filed by counsel. A declaration of the personal representative was filed, which indicates that she was not aware of the statutory requirements regarding notice. This is disturbing to see in a declaration from a personal representative who is represented by counsel, as counsel is required to know and follow all of the statutory requirements regarding the administration of an estate. Rather than submitting a response to the Order to Show Cause accepting responsibility for this failure, counsel instead prepared a declaration for signature by his client in which she improperly takes responsibility.

Counsel is presumed to be aware of the requirements of Probate Code Sections 12200 et seq. Counsel was reminded of those requirements when the initial Petition was granted, as contained in the minutes from May 2, 2016. Counsel failed to comply, and this failure was again pointed out to counsel in the minutes for the May 8, 2017 hearing, and counsel was again ordered to comply with the requirements of Probate Code Section 1200 et seq. Counsel again failed to comply, and this was again pointed out in the minutes from June 19, 2017, and counsel was again ordered to comply with the relevant code sections. Counsel again failed to comply, and this was again pointed out in the minutes of August 28, 2017, when the Court ordered the present Order to Show Cause to issue. Counsel has repeatedly failed to comply with the statutory requirements for properly administering an estate, and has repeatedly ignored reminders and orders from the Court to do so. No response to the present Order to Show Cause has been submitted by counsel. The Court will impose monetary sanctions in the amount of \$250 against counsel for the personal representative. Said sanctions are to be paid within 30 days of the Court's order.

Regarding the Status of Administration, a Status Report was filed on October 5, 2017, with a properly served notice of hearing in compliance with Probate Code Sections 12200 et seq. The hearing on the Status Report is set for hearing on October 30, 2017. That date is confirmed. **No appearance is necessary on today's calendar.**

EST OF ARTHUR FORRESTER

Case Number: 29326

This matter is on calendar for hearing on a Petition for Letters of Administration with authority under the IAEA. The Petition has been properly noticed, with proof of service on file. No objections have been raised. Proof of Publication has been filed. The paperwork appears to be in order. The Petition is **GRANTED**. Bond shall be fixed at \$250,000. A proposed order was submitted and will be executed by the Court. The matter is set for **Monday, March 5, 2018, at 2:30 p.m. in Department 7** for confirmation of filing of the Inventory and Appraisal. The matter is set for **Monday, October 15, 2018, at 2:30 p.m. in Department 7** for Status of Administration. The Personal Representative is required to comply with Probate Code sections 12200, et seq. **No appearance is necessary on today's calendar.**

EST OF FRANK GREER

Case Number: 28760

This matter is on calendar for hearing on a Report of Sale and Petition for Order Confirming Sale of Real Property. The matter has been properly noticed, with proof of service on file. Proof of proper publication has been filed. No objections have been raised. The Court notes an error in the calculation of the overbid. The minimum overbid is \$231,500. **An appearance is necessary to determine if there have been any higher bids submitted prior to the hearing, or if there will be any written bids or offers presented at the time of the hearing.**

EST OF CAROL HARTLEY

Case Number: 28642

This matter is on calendar for (1) Status of Administration; and (2) a Motion to be Relieved as Counsel. Turning first to the Motion to be Relieved as Counsel, The papers submitted by Attorney Arel comply with the declaration portions of California Rules of Court Rule 3.1362, which specifies the requirements for a motion to be relieved as counsel. The matter has been properly noticed, with proof of service on file. No objections have been raised. The motion is **GRANTED**. A proposed order has been submitted and will be executed by the Court.

As for Status of Administration, a Status Report was filed on September 13, 2017, which indicates that the Estate is not currently in a position to be closed. In light of Counsel's withdrawal in this matter, the Court will issue a Citation to Appear to the personal representative, and an Order to Show Cause as to why monetary sanctions in the sum of \$250 should not be imposed for failure to timely close the estate administration. The hearing is set for **Monday, December 4, 2017, at 2:30 p.m. in Department 7.** **No appearance is necessary on today's calendar.**

EST OF MARY HULTMAN

Case Number: 29000

This matter is on calendar for a Status Conference. At the hearing on October 2, 2017, future dates were set, and today's hearing should have been vacated at that time. The future dates of February 5, 2017, for further Status Conference and March 12, 2018, for contested hearing are confirmed. **No appearance is necessary on today's calendar.**

EST OF CALLEY JONES

Case Number: 27679

This matter is on calendar for hearing on a First and Final Account and Report of Administrator; and Petition for Final Distribution. The matter has been properly noticed with proof of service on file. No objections have been raised. The Court notes that the personal representative filed a "Statement of No Objection and Waiver of Accounting." This Statement does not contain original signatures and was therefore filed in error. The statement appears to be a color copy of an original, not a facsimile. The Court intends to strike this document.

The document erroneously states it is a "fax filing." Merely because a document contains a faxed signature does not meet the requirements for "fax filing." This court does not accept

direct fax filings under California Rules of Court, Rule 2.304, therefore, any “fax filing” must be done through a fax filing agency in accordance with CRC Rule 2.303. It does not appear that counsel utilized a fax filing agency, as required by that Rule of Court. As such, it would appear that counsel, by submitting a document as “fax filed”, is representing that he is in possession of the original, pursuant to CRC Rule 2.305(a). The Court will grant the Petition and execute the order, upon filing of the original Statement of No Objection and Waiver of Accounting. **An appearance is necessary to address the manner of preparation and filing of the submitted statement of no objection and waiver of accounting, and to set a date to confirm receipt of the original.**

EST OF ELDON JONES

Case Number: 29344

This matter is on calendar for hearing on a Petition to Determine Succession to Real and Personal Property. The Petition suffers from the following defects:

- (a) Under Item 9, the Petition fails to check box (7) or (8). As such, the Court cannot determine whether proper notice has been given to all individuals entitled to notice.
- (b) Attachment 14 will need to be updated as Item 9 is updated.
- (c) The submitted Inventory and Appraisal is incomplete, and is not signed by the Probate Referee, nor does it contain any monetary values.

For these reasons, the Petition cannot be granted. The Petition is **DENIED** without prejudice to Petitioners ability to file an amended Petition. **No appearance is necessary on today’s calendar.**

EST OF DEANNA KELLEY

Case Number: 28791

This matter is on calendar for further proceedings confirming filing of the Inventory and Appraisal. The Final Inventory and Appraisal has not been filed. The Court notes that multiple documents were filed, with a Notice of Hearing setting them for hearing on November 20, 2017. That date is confirmed. The Court also confirms the date of December 11, 2017 for Status of Administration. The Personal Representative is reminded that if a Petition for Final Distribution cannot be filed prior to the continued date, then the Personal Representative is **ORDERED** to comply with Probate Code sections 12200 and 12201, and file and serve a properly noticed Status Report for the above hearing date. **No appearance is necessary on today’s calendar.**

EST OF SHANE MILLER

Case Number: 28070

This matter is on calendar for a Petition for Approval of Proposed Compromise of Creditor’s Claim. The Petition was filed on September 20, 2017. The Court notes that the Proof of Service is invalid, as Item 3 is not completed. Objections have been filed, from which it appears a contested hearing will be required. The Court notes that the matter is currently set for December 11, 2017, for further proceedings on the First and Final Account and Report, and

Motion for Order Regarding Sandy Miller's Community Property Share of Assets. The Court also notes that a Notice of Appeal has been filed. **An appearance is necessary on today's calendar to address coordinating the hearing on the current motion to the already pending motions, and what proceedings, if any, are stayed by the filing of the Notice of Appeal.**

EST OF FRED MITCHELL

Case Number: 28776

This matter is on calendar for Status of Administration. A Status Report was filed on September 20, 2017, which indicates that the Estate is not currently in a position to be closed. The matter is continued to **Monday, April 16, 2018, at 2:30 p.m. in Department 7** for Status of Administration. The Personal Representative is reminded that if a Petition for Final Distribution cannot be filed prior to the continued date, then the Personal Representative is **ORDERED** to comply with Probate Code sections 12200 and 12201, and file and serve a properly noticed Status Report for the above hearing date. **No appearance is necessary on today's calendar.**

EST OF CAROL PRYATEL

Case Number: 28256

This matter is on calendar for hearing on a First and Final Account and Report; and Petition for Final Distribution. The matter has been properly noticed, with proof of service on file. No objections have been raised. The Petition is **GRANTED**. A proposed order has been submitted and will be executed by the Court. The Court will retain the date of **Monday, January 8, 2018, at 2:30 p.m. in Department 7** for Confirmation of Filing of Receipts and a Petition for Discharge. **No appearance is necessary on today's calendar.**

EST OF RICHARD SMITH

Case Number: 29346

This matter is on calendar for hearing on a Spousal Property Petition. The Court cannot determine if the matter has been properly noticed. The Petition was not completed correctly, and does not provide the required information from which it can be determined if proper notice was given. Item 5a indicates that decedent was survived by children. The names and relationships of those children to decedent are required to be listed in item 9. Additionally, this information is missing from Attachment 9. This matter is continued to **Monday, November 13, 2017, at 2:30 p.m. in Department 7** for further proceedings to allow Petitioner time to file an Amended Petition that addresses the above defect. **No appearance is necessary on today's calendar.**

EST OF BECKY SMITH

Case Number: 28808

This matter is on calendar for further proceedings on an Amended Petition for Probate of Lost Will and for Letters Testamentary, with authority under the IAEA. A stipulation and settlement was filed on October 5, 2017, regarding the filing of a Second Amended Petition for Probate. The Second Amended Petition was filed on October 10, 2017. However, notice on the Second Amended Petition is not proper, as it only provides six days' notice, rather than the

statutory fifteen days. While a stipulation has been entered into with respect to Ms. Hostetter being appointed administrator, not all individuals who are entitled to notice are parties to this stipulation, and they are entitled to notice of hearing on the latest Petition. This matter is continued to **Monday, November 13, 2017, at 2:30 p.m. in Department 7** for further proceedings on the Second Amended Petition. Petitioner is **ORDERED** to properly notice the Second Amended Petition for hearing on the continued hearing date, and to provide proof of service of the same. **No appearance is necessary on today's calendar.**

EST OF WARREN STEELE

Case Number: 28731

This matter is on calendar for further proceedings on Status of Administration. A Status Report was filed on September 6, 2017, which requested a continuance to today's date for filing of the Account and Report. A separate Notice of Hearing was provided, with proper proof of service for today's date. The Court notes that a First and Final Account and Report and Petition for Final Distribution was filed on October 11, 2017, which indicates on the front page it is set for hearing on October 16, 2017. Proof of Service is on file, indicating this document was served on October 12, 2017. This is insufficient notice. Furthermore, the executor is required to file and timely serve a Notice of Hearing in order to have the matter properly placed on calendar. This matter is continued to **Monday, November 13, 2017, at 2:30 p.m. in Department 7** for further proceedings regarding Status of Administration. The Personal Representative is ordered to timely serve a notice of hearing for the continued hearing date. **No appearance is necessary on today's calendar.**

TRUSTS

IN RE THE CLYDE C. GRECO & HELEN J. GRECO

Case Number: 28925

This matter is on calendar for a Status Conference. The Court is informed that the parties have stipulated to have this case consolidated with Case Numbers 180682 and 28032. The court is in receipt of the stipulation and proposed order, which will be executed. **No appearance is necessary on today's calendar.**

IN RE THE EASLEY FAMILY REVOCABLE TRUST

Case Number: 29288

This matter is on calendar for further proceedings on a Petition for Approval of First Account and Report; Final Account and Report; Allowance of Fees; and Instructions for Distributing Trust. The matter was continued to today's date to provide Counsel time to determine whether or not an objection would be filed to the Petition. **An appearance is necessary to discuss whether an Objection will be filed, and whether a contested hearing will be necessary.**

IN RE THE MARGUERITE S. HOLLAND TRUST

Case Number: 28718

This matter is on calendar for a Status Conference. The Court notes that a Petition for Instructions was filed, with hearing scheduled for November 6, 2017. Therefore, in the interest of judicial economy, this matter is continued to **Monday, November 6, 2017, at 2:30 p.m. in Department 7.** **No appearance is necessary on today's calendar.**