

1. GUARDIANSHIP OF CHLOE B., 22PR0219**Petition to Appoint Guardian**

The maternal grandmother of the proposed ward petitions to be appointed guardian of the person.

“Upon hearing of the petition, if it appears necessary or convenient, the court may appoint a guardian of the person or estate of the proposed ward or both.” (Prob. Code, § 1514(a).) The court applies a clear and convincing evidence standard of proof to its determination of whether or not it appears necessary or convenient to appoint a guardian, whether or not granting custody to a parent would be detrimental to the child, and whether or not granting custody to the nonparent is required to serve the best interests of the child. (*Guardianship of Jenna G.* (1998) 63 Cal.App.4th 387, 394.)

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/GC120); and (5) Consent of Proposed Guardian (Form GC-211).

Letters of Temporary Guardianship of the person were issued on August 17, 2022.

Notice

The mother was personally served with the notice of hearing and a copy of the petition on August 12, 2022. (Prob. Code, § 1511(b).)

The Child Information Attachment Form states that the father’s and paternal grandparents’ identities are unknown. Petitioner has not provided any information by declaration from which the court can determine whether or not service of the notice of hearing and a copy of the petition should be dispensed with because the father and paternal grandparents cannot be identified and with reasonable diligence be given notice, or the giving of notice would be contrary to the interest of justice. (Prob. Code, § 1511(g); Cal. Rules of Ct., rule 7.52.)

The maternal grandfather is deceased.

Reports

To date, there is no DOJ Live Scan report concerning petitioner in the court's file.

The court investigator recommends that the petition be granted.

**TENTATIVE RULING # 1: APPEARANCES ARE REQUIRED AT 8:30 A.M.,
WEDNESDAY, SEPTEMBER 21, 2022, IN DEPARTMENT FOUR.**

2. MATTER OF NICHOLAS AND LOUISE BOGDANOFF TRUST, 22PR0171**Petition for Order to Provide Rendered Accountings, to Compel an Accounting, Request for Financial Documents, Request for Attorney Fees and Costs**

In Nicholas Bogdanoff's amended petition, filed July 18, 2022, he requests that the court order respondent Michael Phillips, as Successor Trustee of The Nicholas and Louise Bogdanoff 2002 Trust ("Trust"), (1) to provide copies of accountings previously rendered by him while acting as Successor Trustee; (2) to provide an accounting for the period from July 7, 2009, to the present; (3) to provide any and all available documentation for any and all assets owned by Surviving Settlor Nicholas J. Bogdanoff ("Nicholas J.") as of the date of his death on July 7, 2009, to the present; (4) to suspend respondent as Successor Trustee and appoint an independent private fiduciary pending the outcome of this petition; and (5) for reasonable attorney fees and costs incurred in bringing this petition.

The proof of service to the notice of hearing declares that respondent, respondent's attorneys, and the other beneficiaries of the Trust were served by mail with the notice of hearing and a copy of the petition on August 10, 2022.

On September 16, 2022, respondent filed his response to the amended petition.

It should be noted that petitioner and Morgan Palma, another beneficiary, brought a similar petition in January 2019. (Resp., Ex. B.) The petition was denied, and the order denying the petition was entered on April 3, 2019. (Resp., Exs. C, D.)

By way of background, Nicholas J. and Louise established the Trust in May 2002. The Trust was amended in 2005, 2007, and 2008. Louise passed away in 2005. (Am. Pet., Ex. A, p. 2, § 1.4.) Nicholas J. passed away on July 7, 2009. (Am. Pet., ¶ 4.) He was survived by two children, John Bogdanoff and Beverly Phillips. Respondent is named as Successor Trustee in the Trust. (Am. Pet., Ex. A, pp. 14–15, § 7.1.)

Section 5.6 of the Trust provides that "[i]f the settlor is survived by JOHN BOGDANOFF and BEVERLY PHILLIPS, then on the death of the settlor the trustee shall divide the remaining trust estate into two shares of equal market value as are necessary

to create” one share for John and one share for Beverly. (Am. Pet., Ex. A, p. 8, § 5.6 [capitalization in original].)

Sections 6.1 (re: John) and 6.3 (re: Beverly) of the Trust address disposition of the trust estate during John’s and Beverly’s lives. Sections 6.2 (re: John) and 6.4 (re: Beverly) address disposition of the trust estate upon John’s and Beverly’s deaths.

Beverly passed away in October 2017, and John passed away on January 16, 2022. (Am. Pet., ¶¶ 12–13.) Section 5.6 of the Trust states that “[s]hould [John or Beverly] ... die during the term of his or her trust, then that deceased person’s share shall be held, administered and distributed to the trust for the surviving person” (Am. Pet., Ex. A, p. 8, § 5.6.) Thus, after Beverly’s death, her remaining share of the trust estate was to be held, administered, and distributed for the benefit of John, the income beneficiary.

Upon John’s death, “if the trust property is not completely disposed of by the provisions of Section 6.1 ..., then the trustee shall distribute the remaining trust estate of the Trust ... pursuant to the provisions of Section 5.6 or 5.7” (Resp., Ex. A, p. 11, § 6.2.)

Petitioner was a remainder beneficiary until John’s death on January 16, 2022. (Am. Pet., Ex. A, p. 9, § 5.7.) Probate Code § 24 defines “beneficiary” of a trust to include “a person who has any present or future interest, vested or contingent.” (*Ibid.*) As such, while John was still living, petitioner was considered a beneficiary, even though his interest was a future interest.

Probate Code § 16061 states that “on reasonable request by a beneficiary, the trustee shall report to the beneficiary by providing requested information to the beneficiary relating to the administration of the trust relevant to the beneficiary’s interest.” (*Ibid.*) However, information relating to the administration of a trust relevant to a beneficiary’s interest is not tantamount to an accounting. With regard to an accounting, Probate Code § 16062 states, in relevant part: “[T]he trustee shall account at least annually, at the termination of the trust, and upon a change of trustee, *to each beneficiary to whom income*

or principal is required or authorized in the trustee's discretion to be currently distributed.”
(*Id.*, subd. (a) [italics added].)

While John was still living, petitioner was not a “beneficiary to whom income or principal [was] required or authorized in the trustee’s discretion to be currently distributed.” (Prob. Code § 16062(a).) Thus, respondent was not obligated to render an accounting to petitioner during the time period John was still living and was the income beneficiary. Instead, petitioner was only entitled, “on reasonable request[,]” to information “relating to the administration of the trust relevant to the beneficiary’s interest.” (Prob. Code, § 16061.)

Given the foregoing, petitioner’s request that the court compel respondent to provide copies of all accountings rendered by respondent while he was acting as Successor Trustee, i.e., from July 7, 2009, to the present, is denied as petitioner is not entitled to accountings rendered prior to John’s death. Petitioner is also not entitled to an order compelling respondent to account for the period from July 7, 2009, until John’s death on January 16, 2022.

Petitioner is, however, entitled to an accounting from January 16, 2022, to the present. (Prob. Code, § 17200(b)(7)(C).) Respondent has provided an accounting for the period of January 16, 2022, to September 8, 2022, which is attached as Exhibit J to his response. Accordingly, the petition to compel an accounting is moot.

The court finds that petitioner’s request to order respondent “to provide any and all available documentation for any and all assets owned by” Nicholas J. as of the date of his death (July 7, 2009) to the present is overly broad and not reasonable, especially since he was a remainder beneficiary until January 16, 2022. The court is inclined to order that respondent provide the requested documentation and records for the time period of January 1, 2021, to the present, as such documentation/records from 2021 is relevant to the preparation of the 2022 accounting.

There is no basis shown by petitioner that justifies an order suspending respondent as Successor Trustee pending outcome of this petition. As such, that request is denied.

Petitioner did not cite any law to support that he is entitled to an award of attorney fees and costs in bringing the petition, and petitioner's counsel did not submit a declaration setting forth her hourly rate, the hours worked on the petition, or the fees incurred. The request for attorney fees and costs is denied.

TENTATIVE RULING # 2: THE PARTIES ARE REFERRED TO THE FULL TEXT OF THE TENTATIVE RULING.

3. ESTATE OF VEIDMANN, SP20210020

Status of Administration

This matter was continued from July 13, 2022, and August 24, 2022.

Letters of Administration were issued on June 16, 2021. The Final Corrected Inventory and Appraisal was filed on December 20, 2021. To date, there is no final account and request for order of final distribution in the court's file.

**TENTATIVE RULING # 3: APPEARANCES ARE REQUIRED AT 8:30 A.M.,
WEDNESDAY, SEPTEMBER 21, 2022, IN DEPARTMENT FOUR.**

4. ESTATE OF ANDELMAN, SP20210032

Status of Administration

Letters Testamentary were issued on September 22, 2021. The Final Inventory and Appraisal was filed on January 6, 2022. To date, there is no final account and request for order of final distribution in the court's file.

TENTATIVE RULING # 4: APPEARANCES ARE REQUIRED AT 8:30 A.M., WEDNESDAY, SEPTEMBER 21, 2022, IN DEPARTMENT FOUR.