

1. BOSWELL FAMILY LIVING TRUST

23PR0090

Petition Confirming Trust Assets

Petitioner is the sole surviving Trustee of the Boswell Family Living Trust, dated December 28, 1999 ("Trust"). The principal place of administration of the Trust is in El Dorado County. The Petition addresses an undivided 25 percent interest as tenant in common in real property located in Santa Clara, California (the "Property").

The Trust was created on the same day that the settlors executed a Will, which was lodged with the court on April 27, 2023. The Will provides that "[a]ll of my property of whatever nature and kind, wherever situated, shall be distributed to my revocable living trust. The name of my trust is: . . . the BOSWELL FAMILY LIVING TRUST, dated December 28, 1999, and any amendments thereto."

On the same day as the execution of the Trust and Will, Constance Boswell executed a General Transfer of her property into the Trust, which is attached to the Petition as Exhibit C. The Petition alleges that by this transfer Constance Boswell indicated her intention to assign all of her real property interests to the Trust.

On June 25, 2001, Constance Boswell's mother, Florine Bell, executed a Gift Deed to Constance Boswell, reserving a life estate for herself. This Gift Deed is attached to the Petition as Exhibit D. On January 11, 2002, Florine Bell died, ending the life estate and vesting title to the Property in Constance Boswell. On January 28, 2023, Constance Boswell died. Petitioner Michael Boswell is the sole surviving trustee of the Trust, and he represents that he is not aware of any other claim to the Property.

The settlors' adult daughter is the sole beneficiary of the Trust, and the Petition names two other tenants in common who have an interest in the Property.

The Petition seeks a judgment quieting title to the Property in favor of the Trust.

Probate Code § 850 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. 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.

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Proof of service of notice of the Petition was filed with the court on July 19, 2023.

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. ESTATE OF COTE

22PR0276

Petition for Letters of Administration

Decedent died intestate, survived by two adult siblings. Petitioner, decedent's brother, requests to be appointed personal administrator of the estate.

Proof of service of the hearing on the Petition was filed on June 26, 2023.

Proof of publication was filed on July 17, 2023.

The required duties/liabilities forms (Form DE 147, 147s) were filed with the court on July 17, 2023.

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

TENTATIVE RULING #2: ABSENT OBJECTION, THE PETITION IS GRANTED AS REQUESTED. A STATUS OF ADMINISTRATION HEARING IS SET AT 8:30 A.M. ON MONDAY, JULY 22, 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.

3. ESTATE OF SMITH

23PR0084

Petition for Letters Testamentary

Decedent died testate on July 31, 2021, survived by two adult children. Petitioner is decedent's son.

The Will was lodged with the court on April 18, 2023. The Will does not waive bond, but waivers of bond have been filed with the court by both beneficiaries.

A Duties/Liabilities statement (DE 147/DE 147s) was filed on April 18, 2023.

Proof of service of Notice of the Petition was filed on May 12, 2023.

Proof of publication was filed on June 21, 2023.

Petitioner is named as Personal Representative of the estate in the Will.

TENTATIVE RULING #3: ABSENT OBJECTION, THE PETITION IS GRANTED AS REQUESTED. A STATUS OF ADMINISTRATION HEARING IS SET AT 8:30 A.M. ON MONDAY, JULY 22, 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.

4. ESTATE OF KEELER

22PR0284

Petition for Final Distribution on Waiver of Account

Letters of Administration were issued on December 7, 2022.

A Final Inventory and Appraisal was filed on February 14, 2023.

Waivers of Account were executed by both heirs entitled to distributions under the estate.

Notice of the Petition was filed on June 26, 2023.

The proposed distribution of the estate is to the two surviving heirs in equal shares.

The Administrator waives statutory compensation.

The petition requests:

1. The administration of the estate be brought to a close without the requirement of an accounting;
2. All acts and transactions and proceedings of the Administrator be ratified, confirmed and approved;
3. The Administrator be authorized to pay statutory attorney fees in the amount of \$12,923.37, plus \$951.00 for costs advanced to the estate;
4. Approval of distribution of the estate to the two surviving heirs in equal shares;
5. Distribution of the estate in Petitioner's hands and any other property of the estate not now known or later discovered be distributed to the two surviving heirs in equal shares;
6. Upon filing of receipts that Petition may apply to be discharged and released from all liability that may be incurred hereafter.

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. ESTATE OF PRESCOTT

22PR0039

Petition for Final Distribution on Waiver of Account

Letters of Administration were issued on April 27, 2023..

A Final Inventory and Appraisal is filed concurrently with the Petition.

Petitioner is the sole beneficiary of the estate and waives and account.

The proposed distribution of the estate is to Petitioner as the sole beneficiary of the estate. The Administrator waives statutory compensation.

The Petition requests:

1. The administration of the estate be brought to a close without the requirement of an accounting;
2. That the First and Final Report of Administrator and Petition for Final Distribution and for Allowance of Statutory Fees to Attorney be settled, allowed and approved as filed;
3. All acts and transactions and proceedings of the Administrator be ratified, confirmed and approved;
4. The Administrator be authorized to pay attorney fees in the amount of \$13,267, which is a negotiated amount approximately \$500 less than the statutory fee of \$13,767.20;
5. Distribution of the estate in Petitioner's hands and any other property of the estate not now known or later discovered be distributed to petitioner as set forth in the Petition.

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.

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6. ESTATE OF JELENIC
Status of Administration

22PR0129

TENTATIVE RULING #6: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, JULY 24, 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. IN THE MATTER OF
ANTHONY MARTIN PEREZ JR. REVOCABLE LIVING TRUST 2023**

23PR0101

Petition to Confirm Trust Assets

The Trust was established on January 23, 2023, and a copy of the Trust and the pour-over Will are attached as exhibits to the Petition. The settlor died on February 15, 2023. The settlor is survived by three adult children. Petitioner is the settlor's daughter, holds a power of attorney for settlor that was executed on January 23, 2023, and is named as trustee upon the death of the settlor. The Will devises all of the settlor's assets to the Trust. The Trust provides that its assets be divided equally among his three children, with the exception of a specific bequest to decedent's partner from a real property interest that is not relevant to this Petition.

With the exception of the Bank of America accounts that are the subject of the petition, all of decedent's other assets were designated as Trust assets at the time the Trust was created. The Petition declares that the decedent was mistaken in his belief that certain bank accounts held in the Bank of America had beneficiary designations and did not need to be transferred to the Trust for distribution upon his death. The Petition requests that the court issue an Order transferring title of those Bank of America accounts listed in the Petition to the Trust.

A Declaration of Annie R. Embree, the attorney who prepared the Trust for the decedent, is attached to Petition. The Declaration states that decedent was careful to prepare his estate to be split equally among his children, and that he did not include the Bank of America accounts because he thought that those accounts designated beneficiaries and did not need to be included within the trust in order to be distributed in accordance with his intentions. The Declaration states that the Petition is in accordance with decedent's expressed intent for his estate.

Notice of the Petition was filed in compliance with Probate Code § 851.

Probate Code § 850 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.

TENTATIVE RULING #7: 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.

**8. IN THE MATTER OF
LORAYNE M. CAMPBELL REVOCABLE TRUST**

23PR0125

Petition Confirming Trust Property – Instructing Trustees

This Petition concerns real property located in Strawberry, California that is held in the name of the settlor of the Lorayne M. Campbell Revocable Trust, which is being administered in El Dorado County. The Trust was created on June 21, 2006, and is attached to the Petition as Exhibit A. The Trust recites that “[t]he Settlor has transferred and delivered to the Trustee. . . the property described in the attached Schedule ‘A’ The Settlor desires that said property, . . . shall constitute the trust estate and shall be held, administered and distributed by the Trustee as provided herein.” Schedule A includes the referenced real property interest (“Strawberry Property”).

Settlor died on June 29, 2020, and at the time of her death the Strawberry Property was held in her name, notwithstanding her expressed intention to include it within the Trust assets. On June 21, 2006, the settlor signed a document titled “Assignment of Asset” purporting to convey title to the Strawberry Property to the Trust. See Petition Exhibit D. Petitioners believe that settlor was unaware that this document was not sufficient to convey title to the Trust.

Petitioners Gina Capella and Joseph Capella, as well as Julie Capella, the settlor’s three adult children, are co-trustees of the Trust. Petitioners desire to sell the Strawberry Property in accordance with the terms of the Trust. They have received an offer for the property, and have entered into a purchase and sale contract; however, a dispute has arisen among the three co-trustees.

Co-trustee Julie Capella has refused to participate in the sale of the Strawberry Property. Petitioners assert that sale of the property is necessary because:

- a) It is a specialized property interest on federal land subject to a special use permit that is so restricted as to prevent generating income from the property;
- b) It is the sole asset of the Trust and there are no Trust funds that can be used to maintain it;
- c) The current offer for purchase is for the full appraised value as established by the Probate Referee;
- d) The Trust calls for distribution of its assets to the beneficiaries and the beneficiaries of the Trust do not want to co-own the property with the other beneficiaries;
- e) Petitioners allege that liquidation of the property to distribute the cash from the sale would be in the best interests of the beneficiaries;
- f) The co-trustees are authorized to sell the property by the terms of the Trust;
- g) Two of the three co-trustees have voted in favor of the sale but the third co-trustee has not cooperated in the sale of the property.

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Petitioners request an Order of the court:

1. Confirming title of the Strawberry Property to be held by the Trust, subject to the terms of the Trust and under the control of the trustees of the Trust;
2. Confirming the sale of the Strawberry Property in accordance with the terms of the Residential Purchase Agreement attached to the Petition as Exhibit C, and instructing the co-trustees to execute the necessary documents to complete the transaction; and
3. Instructing the co-trustees to provide reimbursement from escrow proceeds to Gina Capella for the attorney fees (\$10,000) and costs (\$880) associated with bringing this Petition, and to reimburse Joseph Capella for administrative expenses (\$2,400) incurred in repairs to the Trust property, all of which were advanced from personal funds.

Notice of the Petition was filed in compliance with Probate Code § 851.

Probate Code § 850 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 § 17200 permits a trustee or beneficiary of a trust to petition the court concerning the internal affairs of the trust, including a petition for the court to instruct a trustee.

TENTATIVE RULING #8: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, JULY 24, 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.

**9. IN THE MATTER OF MERRY J. CAMPBELL
Petition for Letters Testamentary**

23PR0069

This Petition was filed on March 16, 2023. Decedent died on January 28, 2023. The Petition attaches decedent's Will, dated January 19, 1994. The Will leaves the entire estate to Helen DeNoble, but if Helen DeNoble should pre-decease her, then the Will provided for distribution among her nieces and nephews, with three-fourths of the estate to be divided equally among her sister Helen DeNoble's three children, and that the remaining one-fourth of the estate be divided between Petitioner and his brother Michael Flanner, who are the children of decedent's pre-deceased brother.

A Duties/Liabilities statement (DE 147/DE 147s) was filed on March 16, 2023.

The Will appoints John M. Jewell as executor of the estate, or if he cannot or will not serve, then Pulaski Bank and Trust is designated as executor. The Petition indicates that the named executors have declined to serve, but there is no declination on file with the court.

The Petition indicates that the beneficiaries have all waived bond, but Petitioner is the only beneficiary whose signed bond waiver is on file with the court.

There is no proof of service of Notice of the Petition on file with the court.

This case appears to be identical to the Estate of Merry J. Campbell, 23PR0058, filed with this court on March 2, 2023. That case has a hearing scheduled on July 31, 2023, and many of the defects noted in this tentative ruling have been addressed with respect to the Petition filed in that case. These cases should be consolidated.

**TENTATIVE RULING #9: THIS MATTER IS CONTINUED TO 8:30 A.M., MONDAY, JULY 31, 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.**

10. JENNIFER GOULD SPECIAL NEEDS TRUST

PP20210097

Accounting Hearing

Petitioner is Trustee of the Trust that was created by Order of the court on October 9, 2019. The period covered by the report of account is April 2021-March 2023.

Proof of Service of Notice of the Petition was filed on June 28, 2023.

The Petition requests the court to issue an Order:

1. Settling and allowing the account and ratifying, approving and confirming all actions and transactions of the trustee as set forth in the report;
2. Authorizing Petitioner to pay herself compensation in the amount of \$5,956 for her services as Trustee, and in the amount of \$3,411 for her services as Conservator;
3. Authorizing Petitioner to pay attorney fees in the amount of \$2,932.50 for legal services to the Trustee, \$1,671 for legal services to the Conservator, and \$34.30 for reimbursement of costs;
4. Reducing the bond amount to a total of \$237,768 to reflect the reduction in Trust assets from \$257,000 during the accounting period.

TENTATIVE RULING #10: 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.

11. MATTER OF ISAAC YOON SPECIAL NEEDS TRUST

PP20180198

Accounting Hearing

This special needs trust was created, and Petitioner was appointed Trustee of the Trust, by order of the Yolo County Superior Court on August 6, 2015. The period covered by the report of account is August 26, 2020-September 25, 2022.

The Petition requests the court to issue an Order:

1. Settling and allowing and approving the account as filed;
2. Confirming and approving all reported acts and transactions of Petitioner;
3. Authorizing Petitioner to pay attorney fees in the amount of \$9,780.00 for legal services to the Trustee, and \$200.00 for reimbursement of costs.

Paragraph 17 of the Petition lists the names and addresses of persons and entities who are entitled to notice of the Petition; however, there is no proof of service of notice of the Petition on file with the court.

TENTATIVE RULING #11: THIS MATTER IS CONTINUED TO 8:30 A.M., MONDAY, SEPTEMBER 18, 2023, IN DEPARTMENT NINE, TO ALLOW PETITIONER AN OPPORTUNITY TO FILE PROOF OF SERVICE OF NOTICE OF THE HEARING TO PARTIES ENTITLED TO RECEIVE NOTICE.

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

12. ROSE MARIE PANE 2001 REVOCABLE LIVING TRUST

23PR0091

Petition to Modify Trust

Petitioner is the sole Trustee of an irrevocable trust created by her aunt for the benefit of Petitioner and her brother Curtis Pane. The settlor died on September 10, 2012, and upon her death, half of the Trust assets were distributed to Petitioner outright, and half is being administered as the Curtis A. Pane Special Needs Trust. The trust document is attached to the Petition as Exhibit A.

The Settlor had no issue, and her parents and her only brother pre-deceased her. Denise and Curtis Pane are her brother's children. Curtis Pane is an unmarried 58-year-old man with disabilities. Neither Curtis Pane nor Denise Pane have children, and both Curtis and Denise Pane have executed Declarations of their intention not to have children. These Declarations are attached to the Petition as Exhibits B and C. On this basis, notwithstanding the rebuttable presumption of fertility in Probate Code § 15406 and the court's discretion to appoint guardian ad litem pursuant to Probate Code § 15405, the Petition requests the court to find that the interests of any unborn and unascertained beneficiaries are adequately represented without the appointment of a guardian ad litem.

Section 5.7(g) of the Trust ("Trustee's Discretion to Terminate Trust") provides that if the SNT terminates during Curtis Pane's lifetime (for example, in the event of legislative changes to Curtis Pane's eligibility for public benefits), the funds are to be distributed to Denise Pane, but if Denise Pane is deceased to her issue, and if she has no issue the trust specifies that such proceeds are to be distributed to Denise Pane, which is a nonsensical result.

Section 5.7(i) of the Trust ("Disposition of Trust on Death of Curtis") provides for distribution of the Trust on Curtis death to his then living issue, of if none, to the settlor's then-living issue. Neither Curtis Pane nor the Settlor have children.

Section 5.7(j) of the Trust ("Final Disposition") specifies that any undisposed of portions of the Trust assets shall be divided between the heirs of the deceased settlor and the one half to the heirs of the surviving settlor. Because there is only one settlor of this Trust, who is deceased, this language is also nonsensical.

Section 6.2 of the Trust ("Successor Trustee") provides that if the office of Trustee becomes vacant, Manuel Mateo, settlor's friend, shall serve as Trustee. Manuel Mateo's declination to serve as trustee is attached to the Petition as Exhibit D. The appointment of a successor Trustee as specified by the Trust in Section 6.2 after Manuel Mateo is by majority vote of the named residuary beneficiaries, Carlo, Angela, Anthony, Allison and Jared Pane (who

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would have received distributions from the Trust if both Denise and Curtis Pane had pre-decease the settlor—see Trust Sections 5.2 and 5.6), all of whom have filed declinations to serve and releases of their power to appoint successor Trustees that are attached as Exhibits E, F, G, H and I to the Petition.

Probate Code § 15403(a) provides that if all beneficiaries of an irrevocable trust consent, they may petition the court for modification or termination of the trust. Modification of the Trust is requested to provide for transition of the Trusteeship, to fix scrivener's errors, and modify the remote contingent beneficiaries. Attached as Exhibits J and K to the Petition are the written consents of the now-living current beneficiaries.

Specifically, the Petition requests an Order from the court:

1. Deleting Section 5.7(i) and 5.7(j) in their entireties, and replacing them with language, as detailed in the Petition, that provides for distribution of the Trust property to Denise Pane upon Curtis Pane's death, and if Denise Pane is deceased, that the Trust property be distributed as follows:
 - a. 40% to Special Olympics Northern California
 - b. 40% to Epilepsy Foundation of America
 - c. 20% to Foothill Dog Rescue of the Sierras
2. Deleting Section 6.2 and replacing it with language, as detailed in the Petition, allowing Denise Pane to appoint a professional fiduciary, a corporate fiduciary, a CPA, an attorney, or any individual who knows Curtis Pane and has or is willing to acquire specific knowledge in the administration of a special needs trust as successor Trustee.

Proof of service of Notice of the Petition was filed on May 26, 2023.

TENTATIVE RULING #12: 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.

13. ESTATE OF REESE

22PR0115

Petition to Determine Succession to Personal Property

Decedent died intestate on January 24, 2023, and no probate proceedings are being conducted to distribute the estate. Each of the two Petitioners claim a half interest in the decedent's manufactured home, which is located in a mobile home park.

Probate Code § 13151 provides that a successor of the decedent may file a petition with the court to determine the right to succession of real property. Incidental to that petition, the successor in interest to the decedent may also request a determination of succession with respect to personal property of the decedent.

A manufactured home is personal property, not real property, unless it is permanently affixed to real estate, which is not the case when, as here, it is located in a mobile home park. See Revenue and Taxation Code §5801.

Probate Code §§ 13100 et seq. specifies a procedure for realizing the transfer of personal property held by another based upon intestate succession to a decedent's interest. Those statutes do not provide for petitioning a court for a judicial determination.

TENTATIVE RULING #13: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, JULY 24, 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.

14. THE LARRY L. SMITH LIVING TRUST DATED APRIL 20, 2022

23PR0130

Petition to Confirm Trust Assets

Settlor Larry Smith was the owner of record of the bank account and safe deposit box at Bank of America that is the subject of this Petition, and which is specifically listed in Exhibit 6 to the Petition. Settlor created the Trust while in the hospital and transferred his real property to the Trust, but he was not able to personally appear at the Bank of America in order to transfer his bank account and safe deposit box into the name of the Trust. However, decedent did list the Bank of America account and safe deposit box on the list of Trust assets in Schedule A of the Trust, which is attached to the Petition as Exhibit 1. Decedent died on November 23, 2022.

Decedent's Will, filed with the court on June 12, 2023, specifies that the entire probate estate is to be distributed to the Trustee of the Larry L. Smith Living Trust dated April 20, 2022. The Trust, Section 1.03 states: "By execution of this agreement, I transfer, convey, and assign to my Trustee, the trust property described on Schedule A, . . ." Schedule A of the Trust lists two assets: 1) specified real property and 2) "Bank of America Accounts".

Petitioner alleges and asks the court to issue an Order confirming that it was decedent's intent to include the Bank of America account and safe deposit box as part of the Trust assets.

Proof of service of notice of the hearing on the Petition was filed with the court on July 6, 2023.

The Petition requests the court to issue an Order:

1. That the Trust is valid;
2. That Petitioner is the Trustee of the Trust;
3. That all property listed in Exhibit 2 of the Petition is a Trust asset subject to the management and control of the Trustee, including the Bank of America account;
4. Bond is not required; and
5. Notice has been given as required by law.

TENTATIVE RULING #14: 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.

15. THE MINDY K. LIVINGSTON REVOCABLE TRUST

23PR0093

Petition to Confirm Trust Assets

Settlor created the Trust, which is attached to the Petition as Exhibit A, on December 14, 2018. The settlor died on April 7, 2023 and the Trust became irrevocable. Schedule A of the Trust lists real property located in Modesto, California (specifically described in Exhibit C to the Petition) as a Trust asset. The Trust document is attached to the Petition as Exhibit A.

Decedent's/settlor's pour-over Will provides: "I give all of my estate to the trustee then in office of the . . . Mindy K. Livingston Revocable Trust." Petition, Exhibit E.

Section 2.01 of the Trust specifies that "All of the property described in Schedule A, attached to this instrument, any other property that may hereafter be subject to this trust, is referred to in this instrument as the 'trust estate' and shall be held, administered, and distributed as provided in this instrument."

On April 28, 2020, settlor sold the Modesto property listed in Schedule A of the Trust, and on May 6, 2020, with the funds realized from the sale, settlor purchased another piece of real estate located in South Lake Tahoe, California, specifically described in Exhibit C to the Petition. Although settlor specified during escrow that the newly acquired property was to be held in the name of the Trust (see Exhibit D to the Petition), in fact it was recorded in the name of the settlor as an individual. Petitioner represents, and asks the court to confirm, that it was the settlor's intent to hold the South Lake Tahoe property in the name of the Trust.

The Petition requests the court to issue an Order confirming that the South Lake Tahoe property is an asset of the Trust.

In the case of Est. of Heggstad, 16 Cal. App. 4th 943 (1993) the court recognized that a written document declaring a real property to be held in trust is sufficient evidence of the settlor's intent to hold the property in trust, even though there is no separate conveyance of the property to the trust. In this case, the settlor specified in escrow instructions that the South Lake Tahoe property should be held in the name of the Trust. Petition Exhibit D.

Probate Code § 850 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. When the matter

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

(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.

Proof of service of notice of the hearing on the Petition was filed with the court on May 2, 2023.

TENTATIVE RULING #15: 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.