

1. ESTATE OF SAMANIEGO PP-20180051

Review Hearing Re: Status of Administration.

The order of final distribution was entered on October 2, 2019. At the hearing on July 15, 2021 the court was advised that one of the beneficiaries lost capacity and resides out of state; and the parties were attempting to take action in New York to get authority for someone to be able to sign on his behalf. The court continued the hearing. The court has not received any further word about any progress in obtaining a court order granting someone authority to execute documents on behalf of the beneficiary who lacks capacity.

A receipt for payment of a settlement agreement in full executed by Traelynn Lewis' counsel was filed on April 26, 2021. The settlement related to the creditor's claim by Traelynn Lewis described in paragraph 19 of the Final Report of Administration on Waiver of Account filed on July 17, 2019, which resulted in a promissory note for \$100,000 being executed that was secured by the estate's real property .

There are no receipts of distribution in the court's file and no ex parte Petition for Final Discharge (Judicial Council Form DE-295.) in the court's file.

TENTATIVE RULING # 1: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON WEDNESDAY, MARCH 30, 2022 IN DEPARTMENT EIGHT. IF A PARTY OR PARTIES WISH TO APPEAR TELEPHONICALLY THEY MUST APPEAR BY "VCOURT", WHICH MUST BE SCHEDULED AND PAID THROUGH THE COURT WEBSITE AT www.eldorado.courts.ca.gov/online-services/telephonic-appearances.

2. ESTATE OF ROSS PP-20210021

1st and Final Account and Report.

TENTATIVE RULING # 2: THE PETITION IS GRANTED. FEES ARE FIXED AND PAYMENT ALLOWED AS REQUESTED. THE COURT ORDERS FINAL DISTRIBUTION TO THE TRUSTEE OF THE CARL E. ROSS LIVING TRUST. THE COURT CONTINUES THE REVIEW HEARING RE: STATUS OF ADMINISTRATION FROM 8:30 A.M. ON WEDNESDAY, APRIL 13, 2022 TO 8:30 A.M. ON WEDNESDAY, JUNE 29, 2022 IN DEPARTMENT EIGHT AT WHICH TIME THE COURT ANTICIPATES THAT THE RECEIPT OF FINAL DISTRIBUTION EXECUTED BY THE TRUSTEE OF THE CARL E. ROSS LIVING TRUST WILL HAVE BEEN FILED AND AN EX PARTE PETITION FOR FINAL DISCHARGE (JUDICIAL COUNCIL FORM DE-295.) SUBMITTED.

3. ESTATE OF PIERROZ PP-20210058

(1) Petition for Final Distribution on Waiver of Account.

(2) Review Hearing Re: Status of Administration

TENTATIVE RULING # 3: THE PETITION IS GRANTED. FEES ARE FIXED AND PAYMENT ALLOWED AS REQUESTED. THE COURT ORDERS FINAL DISTRIBUTION TO THE TRUSTEE OF THE CHERYL HARNAGE FAMILY TRUST. THE COURT CONTINUES THE REVIEW HEARING RE: STATUS OF ADMINISTRATION TO 8:30 A.M. ON WEDNESDAY, JUNE 29, 2022 IN DEPARTMENT EIGHT AT WHICH TIME THE COURT ANTICIPATES THAT THE RECEIPT OF FINAL DISTRIBUTION EXECUTED BY THE TRUSTEE OF THE CHERYL HARNAGE FAMILY TRUST WILL HAVE BEEN FILED AND AN EX PARTE PETITION FOR FINAL DISCHARGE (JUDICIAL COUNCIL FORM DE-295.) SUBMITTED.

4. ESTATE OF FRANSHAM 22PR0026

Petition to Admit Will to Probate.

The petition is not executed/verified. Therefore, the court can not consider the petition.

A petition, report, or account filed pursuant to the Probate Code shall be verified. (Probate Code, § 1021(a)(1).)

Petitioner failed to attach a copy of the will to the petition as mandated by Probate Code, § 8002(b)(1).

“(b) If the decedent left a will: ¶ (1) The petitioner shall attach to the petition a photographic copy of the will. In the case of a holographic will or other will of which material provisions are handwritten, the petitioner shall also attach a typed copy of the will.” (Probate Code, § 8002(b)(1).)

The original will was not lodged with the court. This must be remedied.

There is no proof of service of a copy of the petition on the interested persons in the court’s file. “Where the court determines that the notice otherwise required is insufficient in the particular circumstances, the court may require that further or additional notice, including a longer period of notice, be given.” (Probate Code, § 1202.) The court has determined that failure to serve a copy of the petition referred to in a notice of hearing is insufficient to meet the requirements of fundamental due process and, therefore, petitioner is required to serve a copy of the petition along with the notice of hearing.

The court is unable to determine whether Robyn Kramer was served by mail to Robyn Kramer’s address as the unexecuted petition does not list the street number of her address. This needs to be corrected.

TENTATIVE RULING # 4: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON WEDNESDAY, MARCH 30, 2022 IN DEPARTMENT EIGHT. IF A PARTY OR PARTIES WISH TO APPEAR TELEPHONICALLY THEY MUST APPEAR BY "VCOURT", WHICH MUST BE SCHEDULED AND PAID THROUGH THE COURT WEBSITE AT www.eldorado.courts.ca.gov/online-services/telephonic-appearances.

5. ESTATE OF LUTZ PP-20200052**1st and Final Account and Report.**

The 1st and Final Account and report states in paragraph 24.a) that the beneficiaries of decedent's Trust disputed the distribution of decedent's real property and raised issues as to whether any portion of the real property would be administered in the probate estate and whether any settlement could be made. The court had previously been advised that the parties were waiting on an agreement. At the February 9, 2022 hearing re: Status of Administration the court ordered a settlement conference to take place on March 24, 2022 and reserved March 30, 2022 for any motions to be filed. The March 24, 2022 MSC was dropped before the hearing date.

Paragraph 6 of the 1st and Final Account states that no creditor's claims were filed. On December 29, 2020 Karen Lutz filed a creditor's claim in the amount of \$45,000. The court is unable to find a rejection or allowance of the claim in the court's file. The account does not state that the creditor's claim was paid during administration of the estate.

It does not appear that the estate is in a condition to close.

TENTATIVE RUIING # 5: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON WEDNESDAY, MARCH 30, 2022 IN DEPARTMENT EIGHT. IF A PARTY OR PARTIES WISH TO APPEAR TELEPHONICALLY THEY MUST APPEAR BY "VCOURT", WHICH MUST BE SCHEDULED AND PAID THROUGH THE COURT WEBSITE AT www.eldorado.courts.ca.gov/online-services/telephonic-appearances.

6. ESTATE OF STEWART PP-20200115

(1) Review Hearing Re: Inventory and Appraisal.

(2) Review Hearing Re: Status of Administration.

Letters of Administration were issued on November 13, 2020. Although partial inventory and appraisal numbers 1-5 were filed on February 3, 2021, November 12, 2021, and March 15, 2022, there is no Final Inventory and Appraisal in the court's file. There is no Final Account and Request for Order of Final Distribution in the court's file.

The personal representative reports that it is anticipated that the 6th and Final Inventory and Appraisal will be filed.

Intestate heir Jeffrey Stewart filed a petition to confirm that a TD Ameritrade account was an asset of the trust estate. A settlement was reached at the MSC on September 23, 2021 and a written stipulation for settlement was drafted and executed by all parties. The court inquired at the MSC and each of the parties confirmed in the MSC hearing that they agreed to the stipulation as written. It was agreed that Paul Stewart would draft a more formal order and written settlement agreement. The formal order and written settlement agreement was entered on January 11, 2022.

The personal represented also reports that upon filing partial Inventory and Appraisal Number 6 and Final Inventory and Appraisal, the personal representative can move to petition the court to close administration.

The personal representative also requests that the court authorize the allocation of an Apple Laptop to heir Paul Stewart without any explanation as to why he should be allocated the laptop. This needs to be clarified.

TENTATIVE RULING # 6: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON WEDNESDAY, MARCH 30, 2022 IN DEPARTMENT EIGHT. IF A PARTY OR PARTIES WISH TO APPEAR TELEPHONICALLY THEY MUST APPEAR BY “VCOURT”, WHICH MUST BE SCHEDULED AND PAID THROUGH THE COURT WEBSITE AT www.eldorado.courts.ca.gov/online-services/telephonic-appearances.

7. ESTATE OF RUMSEY 22PR0029

Petition to Admit Will to Probate.

Petitioner failed to attach a copy of the will to the petition as mandated by Probate Code, § 8002(b)(1).

“(b) If the decedent left a will: ¶ (1) The petitioner shall attach to the petition a photographic copy of the will. In the case of a holographic will or other will of which material provisions are handwritten, the petitioner shall also attach a typed copy of the will.” (Probate Code, § 8002(b)(1).)

The original will was not lodged with the court. This must be remedied.

TENTATIVE RULING # 7: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON WEDNESDAY, MARCH 30, 2022 IN DEPARTMENT EIGHT. IF A PARTY OR PARTIES WISH TO APPEAR TELEPHONICALLY THEY MUST APPEAR BY “VCOURT”, WHICH MUST BE SCHEDULED AND PAID THROUGH THE COURT WEBSITE AT www.eldorado.courts.ca.gov/online-services/telephonic-appearances.

8. ESTATE OF MOSSER 21PR0037

Petition to Administer Estate.

At least 15 days before the hearing of a petition for administration of a decedent's estate, the petitioner shall serve notice of the hearing by mail or personal delivery on all of the following persons: (a) Each heir of the decedent, so far as known to or reasonably ascertainable by the petitioner. (b) Each devisee, executor, and alternative executor named in any will being offered for probate, regardless of whether the devise or appointment is purportedly revoked in a subsequent instrument." (Probate Code, § 8110.)

The notice of hearing of a petition for administration of a decedent's estate that is served on the interested persons shall substantially state the language set forth in Section 8100. (Probate Code, § 8100.)

There is no proof of service of notice of the hearing and a copy of the petition on the three interested persons listed in the verified petition. (Judicial Council Form DE-121.) The court can not rule on the merits of the petition absent proof of adequate service on the interested persons.

The petition requests that the bond requirement be waived. The mandated Judicial Council Form Waiver executed by the intestate heirs are attached to the petition. The petitioner/proposed personal representative is not a resident of California.

"Notwithstanding any other provision of this chapter and notwithstanding a waiver of a bond, the court in its discretion may require a nonresident personal representative to give a bond in an amount determined by the court." (Probate Code, § 8571.)

Should the petition be granted, the court is inclined to set bond in the amount of \$92,500.

TENTATIVE RULING # 8: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON WEDNESDAY, MARCH 30, 2022 IN DEPARTMENT EIGHT. IF A PARTY OR PARTIES WISH TO APPEAR TELEPHONICALLY THEY MUST APPEAR BY "VCOURT", WHICH MUST BE SCHEDULED AND PAID THROUGH THE COURT WEBSITE AT www.eldorado.courts.ca.gov/online-services/telephonic-appearances.

9. ESTATE OF ARANDA PP-20200127

Review Hearing Re: Status of Administration.

Letters of Administration were issued on October 7, 2020. The Final Inventory and Appraisal was filed on May 19, 2021. There is no Final Account and Request for Order of Final Distribution in the court's file.

TENTATIVE RULING # 9: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON WEDNESDAY, MARCH 30, 2022 IN DEPARTMENT EIGHT. IF A PARTY OR PARTIES WISH TO APPEAR TELEPHONICALLY THEY MUST APPEAR BY "VCOURT", WHICH MUST BE SCHEDULED AND PAID THROUGH THE COURT WEBSITE AT www.eldorado.courts.ca.gov/online-services/telephonic-appearances.

10. ESTATE OF NASH PP-20210138

Review Hearing Re: Inventory and Appraisal.

Letters Testamentary were issued on September 20, 2021. Partial Inventory and Appraisal Number 1 was filed on January 14, 2022. There is no Final Inventory and Appraisal in the court's file.

TENTATIVE RULING # 10: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON WEDNESDAY, MARCH 30, 2022 IN DEPARTMENT EIGHT. IF A PARTY OR PARTIES WISH TO APPEAR TELEPHONICALLY THEY MUST APPEAR BY "VCOURT", WHICH MUST BE SCHEDULED AND PAID THROUGH THE COURT WEBSITE AT www.eldorado.courts.ca.gov/online-services/telephonic-appearances.

11. ESTATE OF REX WIGHT PP-20190232

Review Hearing Re: Status of Administration.

Letters of Administration With Will Annexed were issued on July 8, 2020. The Final Inventory and Appraisal was filed on March 17, 2020. There is no Final Account and Request for Order of Final Distribution in the court's file.

TENTATIVE RULING # 11: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON WEDNESDAY, MARCH 30, 2022 IN DEPARTMENT EIGHT. IF A PARTY OR PARTIES WISH TO APPEAR TELEPHONICALLY THEY MUST APPEAR BY "VCOURT", WHICH MUST BE SCHEDULED AND PAID THROUGH THE COURT WEBSITE AT www.eldorado.courts.ca.gov/online-services/telephonic-appearances.

12. ESTATE OF FARR 22PR0030

Petition to Administer Estate.

TENTATIVE RULING # 12: THE PETITION IS GRANTED. BOND IS SET IN THE AMOUNT OF \$250,000. THE COURT SETS A REVIEW HEARING RE: INVENTORY AND APPRAISAL AT 8:30 A.M. ON WEDNESDAY, JULY 27, 2022 IN DEPARTMENT EIGHT. (PROBATE CODE, § 8800 (b).) THE COURT FURTHER SETS A REVIEW HEARING RE: STATUS OF ADMINISTRATION AT 8:30 A.M. ON WEDNESDAY, MARCH 29, 2023 IN DEPARTMENT EIGHT. (PROBATE CODE, § 12200.)

13. ESTATE OF SHERRY WIGHT PP-20190231

Review Hearing Re: Status of Administration.

Letters of Administration were issued on July 8, 2020. The Final Inventory and Appraisal was filed on March 17, 2020. There is no Final Account and Request for Order of Final Distribution in the court's file.

TENTATIVE RULING # 13: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON WEDNESDAY, MARCH 30, 2022 IN DEPARTMENT EIGHT. IF A PARTY OR PARTIES WISH TO APPEAR TELEPHONICALLY THEY MUST APPEAR BY "VCOURT", WHICH MUST BE SCHEDULED AND PAID THROUGH THE COURT WEBSITE AT www.eldorado.courts.ca.gov/online-services/telephonic-appearances.

14. ESTATE OF SPENCER PP-20180228**Review Hearing Re: Status of Administration.**

Creditor Claimants Dellamaria and Dellamaria on behalf of her minor daughter objected to the final distribution of the estate until their creditor claims are resolved and provided notice that on May 9, 2019 they commenced litigation in the Los Angeles Superior Court against the personal representative for the estate after their claims for alleged severe injuries they allegedly sustained in an aircraft accident where decedent was the pilot were rejected. The creditor claimants further state that the summons and complaint were served on the personal representative on September 5, 2019, defense counsel was retained, and an answer to the complaint filed and served.

This estate was not in a condition wherein administration could be brought to a close and the assets distributed at hearing on February 19, 2020. The prior petition for final distribution on waiver of account was denied without prejudice on February 19, 2020. The court continued the February 17, 2021 Hearing Re: Status of Administration to 8:30 a.m. on Wednesday, September 15, 2021 in Department Nine.

A status report and objection to distribution of the estate was filed on September 13, 2021 by claimant Dellamaria's counsel. Counsel reported that trial in the civil case was continued to February 28, 2022 in the Los Angeles County Superior Court; motions for summary judgment were set for hearing on October 19, 2022; and the parties were engaged in settlement negotiations.

The court has not received any further word on the progress, if any, concerning the civil litigation.

TENTATIVE RULING # 14: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON WEDNESDAY, MARCH 30, 2022 IN DEPARTMENT EIGHT. IF A PARTY OR PARTIES WISH TO APPEAR TELEPHONICALLY THEY MUST APPEAR BY “VCOURT”, WHICH MUST BE SCHEDULED AND PAID THROUGH THE COURT WEBSITE AT www.eldorado.courts.ca.gov/online-services/telephonic-appearances.

15. MATTER OF THE CHRISTOPHER GOLD TRUST 22PR0023**Petition to Confirm Resignation of Trustee and to Appoint Successor Trustee.**

The current trustee of the Christopher Gold Trust petitions for the court to accept his resignation as trustee and to appoint private professional fiduciary Kathryn Cain as successor trustee. The verified petition states that the two alternate successor trustees nominated in the Trust instrument are deceased, there are no adult beneficiaries who could vote to designate a successor trustee, which is the alternate method to designate a successor trustee set forth in the Trust instrument, and the final alternate method to designate a successor trustee is court appointment of a new trustee. (See Petition Exhibit A – Trust Instrument, paragraph 7.1(a).)

Paragraph 7.2(c) of the Trust instrument provides that any reference to “the trustee” in the instrument shall be deemed to be whoever is serving as trustee or co-trustees including alternate or successor co-trustees, unless the context requires otherwise; and paragraph 7.2(d) provides that “No bond or undertaking shall be required of any individual who serves as a trustee under this instrument.” (Petition, Exhibit A – Trust Instrument.)

A trustee or beneficiary of a trust may petition the court to accept the resignation of a trustee and appoint a successor trustee. (Probate Code, §§ 17200(a), 17200(b)(10) and 17200(b)(11).)

A trustee who has accepted the trust may only resign by means of one of several statutory methods, including “Pursuant to a court order obtained on petition by the trustee under Section 17200. The court shall accept the trustee’s resignation and may make any orders necessary for the preservation of the trust property, including the appointment of a receiver or a temporary trustee.” (Probate Code, § 15640(d).)

“There is a vacancy in the office of trustee in any of the following circumstances: * * * The trustee resigns or is removed...” (Probate Code, § 15643(c).)

“If the vacancy in the office of trustee is not filled as provided in subdivision (b) or (c), on petition of any interested person or any person named as trustee in the trust instrument, the court may, in its discretion, appoint a trustee to fill the vacancy. If the trust provides for more than one trustee, the court may, in its discretion, appoint the original number or any lesser number of trustees. In selecting a trustee, the court shall give consideration to any nomination by the beneficiaries who are 14 years of age or older.” (Probate Code, § 15660(d).)

“(a) At least 30 days before the time set for the hearing on the petition, the petitioner shall cause notice of hearing to be mailed to all of the following persons: ¶ (1) All trustees. ¶ (2) All beneficiaries, subject to Chapter 2 (commencing with Section 15800) of Part 3. ¶ (3) The Attorney General, if the petition relates to a charitable trust subject to the jurisdiction of the Attorney General. ¶ (b) At least 30 days before the time set for hearing on the petition, the petitioner shall cause notice of the hearing and a copy of the petition to be served in the manner provided in Chapter 4 (commencing with Section 413.10) of Title 5 of Part 2 of the Code of Civil Procedure on any person, other than a trustee or beneficiary, whose right, title, or interest would be affected by the petition and who does not receive notice pursuant to subdivision (a). The court may not shorten the time for giving notice under this subdivision. ¶ (c) If a person to whom notice otherwise would be given has been deceased for at least 40 days, and no personal representative has been appointed for the estate of that person, and the deceased person's right, title, or interest has not passed to any other person pursuant to Division 8 (commencing with Section 13000) or otherwise, notice may instead be given to the following persons: ¶ (1) Each heir and devisee of the decedent, and all persons named as executors of the will of the decedent, so far as known to the petitioner. ¶ (2) Each person

serving as guardian or conservator of the decedent at the time of the decedent's death, so far as known to the petitioner." (Probate Code, § 17203.)

The proof of service declares that notice of the hearing and a copy of the copy of the petition were served by mail to the interested persons, including private professional fiduciary Kathryn Cain. There are no objections or oppositions to the petition in the court's file.

TENTATIVE RULING # 15: ABSENT OBJECTIONS OR OPPOSITIONS, THE PETITION IS GRANTED.

16. MATTER OF GASSAWAY 22PR0027

Petition to Determine Succession to Real Property.

TENTATIVE RULING # 16: THE PETITION IS GRANTED.

17. MATTER OF THE CAROL CALZA TRUST PP-20210082**Petition to Remove The Trustee and Compel Trustee for an Accounting of the Trust.**

The petitioning beneficiary of the Trust seeks issuance of the following orders: removal of the trustee; appointing himself as successor trustee to serve without a bond; ordering the trustee to provide an accounting within 60 days; and ordering the Trust to reimburse the petitioner the amount of \$7,930 for attorney fees purportedly incurred in this action. The verified petition alleges: the trustee engaged in certain misconduct that constitutes a breach of duty of impartiality; caused a conflict of interest by using the Trust's real property for her own benefit to operate her dog breeding business to the detriment of the Trust; the trustee has delayed the sale of the Trust's real property as the settlor passed away in November 2019; petitioner has not received any distribution from the Trust; and despite demand for an accounting, the trustee refused to provide an accounting on the ground that Article X on page seven of the Trust instrument waives the accounting requirement.

The waiver of accounting requirement states: "The Trustee shall not be required to make any accounting of the trust to the Settlor or the beneficiaries of the trust, except as required by Section 17200 of the California Probate Code." (Emphasis added.) (Petition, Exhibit A – Trust Instrument, Section X.)

As cited later in this ruling, pursuant to Section 17200(b)(7) a trustee can be compelled by court order to account where the trustee has failed to provide an annual accounting after the remainder beneficiaries became entitled to current distributions from the Trust and to submit a requested account within 60 days after written request of the beneficiary and no account has been made within six months preceding the request. Section X on its face does not waive the accounting requirement where the beneficiary requests an accounting.

A trustee or beneficiary of a trust may petition the court under this chapter concerning the internal affairs of the trust. (Probate Code, § 17200(a).)

Proceedings concerning the internal affairs of a trust include, among other things, “(7) Compelling the trustee to do any of the following: ¶ (A) Provide a copy of the terms of the trust. ¶ (B) Provide information about the trust under Section 16061 if the trustee has failed to provide the requested information within 60 days after the beneficiary's reasonable written request, and the beneficiary has not received the requested information from the trustee within the six months preceding the request. ¶ (C) Account to the beneficiary, subject to the provisions of Section 16064, if the trustee has failed to submit a requested account within 60 days after written request of the beneficiary and no account has been made within six months preceding the request.” (Probate Code, § 17200(b)(7).)

“Proceedings concerning the internal affairs of a trust include, but are not limited to, proceedings for any of the following purposes: ¶ * * * (10) Appointing or removing a trustee.” (Probate Code, § 17200(b)(10).)

“At least 30 days before the time set for the hearing on the petition, the petitioner shall cause notice of hearing to be mailed to all of the following persons: ¶ (1) All trustees. ¶ (2) All beneficiaries, subject to Chapter 2 (commencing with Section 15800) of Part 3. ¶ (3) The Attorney General, if the petition relates to a charitable trust subject to the jurisdiction of the Attorney General.” (Probate Code, § 17203(a).)

The proof of service declares that notice of the hearing and a copy of the petition were served by mail on the trustee/beneficiary and her counsel on April 23, 2021.

“A trustee may be removed in accordance with the trust instrument, by the court on its own motion, or on petition of a settlor, cotrustee, or beneficiary under Section 17200.” (Probate Code, § 15642(a).)

“If a trustee commits a breach of trust, or threatens to commit a breach of trust, a beneficiary or cotrustee of the trust may commence a proceeding for any of the following purposes that is appropriate: ¶ (1) To compel the trustee to perform the trustee's duties. ¶ (2) To enjoin the trustee from committing a breach of trust. ¶ (3) To compel the trustee to redress a breach of trust by payment of money or otherwise. ¶ (4) To appoint a receiver or temporary trustee to take possession of the trust property and administer the trust. ¶ (5) To remove the trustee. ¶ (6) Subject to Section 18100, to set aside acts of the trustee. ¶ (7) To reduce or deny compensation of the trustee. ¶ (8) Subject to Section 18100, to impose an equitable lien or a constructive trust on trust property. ¶ (9) Subject to Section 18100, to trace trust property that has been wrongfully disposed of and recover the property or its proceeds.” (Probate Code, § 16420(a).)

“A violation by the trustee of any duty that the trustee owes the beneficiary is a breach of trust.” (Probate Code, § 16400.)

The Third District Court of Appeal has stated: “A trustee may be removed by a court for misconduct, unfitness, or acquisition of an adverse interest. (See, e.g., Prob.Code, § 15642; 11 Witkin, Summary of Cal.Law (9th ed. 1990) Trusts, § 55.)” (Claypool v. Wilson (1992) 4 Cal.App.4th 646, 676.)

“The violation by a trustee of any duty owed to the beneficiaries of the trust constitutes a breach of trust. (Rest.2d Trusts, § 201, pp. 442–444.) Such duties include the duty of loyalty, the duty to avoid conflicts of interest, the duty to preserve trust property, the duty to make trust property productive, the duty to dispose of improper investments, and the duty to report and account. (*Pierce v. Lyman*, *supra*, 1 Cal.App.4th at pp. 1102–1103, 3 Cal.Rptr.2d 236; Prob.Code, §§ 16002–16006, 16060; Rest.2d Trusts, §§ 175–176, 181, 230–231.)” (City of Atascadero v. Merrill Lynch, Pierce, Fenner & Smith, Inc. (1998) 68 Cal.App.4th 445, 462.)

“The remedies of a beneficiary against the trustee are exclusively in equity.” (Probate Code, § 16421.)

“Except as otherwise provided in this section and in Section 16064, the 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.” (Emphasis added.) (Probate Code, § 16062(a).)

“The trustee has a duty to keep the beneficiaries of the trust reasonably informed of the trust and its administration.” (Probate Code, § 16060.) “[T]he general duty provided in this section is ordinarily satisfied by compliance with Sections 16061 and 16062 unless there are special circumstances requiring particular information to be reported to beneficiaries.” (Law Review Commission Comment to 1990 Enactment of Probate Code, § 16060.) “Except as provided in Section 16064, on reasonable request by a beneficiary, the trustee shall provide the beneficiary with a report of information about the assets, liabilities, receipts, and disbursements of the trust, the acts of the trustee, and the particulars relating to the administration of the trust relevant to the beneficiary's interest, including the terms of the trust.” (Probate Code, § 16061.)

“Trustees are * * * under an obligation to render to beneficiaries a full account of all their dealings with the trust property, and where there has been a negligent failure to keep true accounts all presumptions are against them upon a settlement.” (*Estate of McCabe* (1950) 98 Cal.App.2d 503, 505, 220 P.2d 614, 616; see also, *Purdy v. Johnson* (1917) 176 Cal. 521, 527, 163 P. 893.)” (Blackmon v. Hale (1970) 1 Cal.3d 548, 560.)

The respondent trustee filed an answer and response to the petition on June 25, 2021.

Both sides presented argument at the hearing on June 30, 2021. The court continued the hearing on the petition and objections to November 3, 2021.

At the hearing on November 3, 2021, the court continued the hearing to February 2, 2022.

On February 2, 2022 the respondent trustee filed a notice of unconditional settlement of the entire case on January 24, 2022 and that a dismissal will be filed within 45 days of the settlement.

On February 3, 2022 petitioner Michael Calza filed a notice of unconditional settlement of the entire case and that a dismissal will be filed within 45 days of the settlement.

There is no dismissal of the petition in the court's file.

TENTATIVE RULING # 17: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON WEDNESDAY, MARCH 30, 2022 IN DEPARTMENT EIGHT. IF A PARTY OR PARTIES WISH TO APPEAR TELEPHONICALLY THEY MUST APPEAR BY "VCOURT", WHICH MUST BE SCHEDULED AND PAID THROUGH THE COURT WEBSITE AT www.eldorado.courts.ca.gov/online-services/telephonic-appearances.

18. ESTATE OF TWIST PP-20210170

Petition to Administer Estate.

One of decedent's children, Ginger Twist, petitions to be appointed personal representative of the decedent's estate and that the bond requirement be waived. The petition estimates that the value of decedent's assets is \$300,000. The petition lists three intestate heirs. Only petitioner has executed and filed a Judicial Council Form DE-142/DE 111(A-3e) waiver of the bond requirement.

Should Ginger Twist's petition be granted, the court is inclined to set bond in the amount of \$300,000.

Decedent's surviving spouse, Jeannie Twist, appeared at the hearing on November 3, 2021 and stated she would oppose the petition by filing a competing petition.

The competing petition was filed on November 10, 2021. The competing petition asserts there are no known assets to administer in probate and the sole purpose of the petition is to investigate assets.

At the hearing on December 8, 2021 the court appointed professional fiduciary Kathryn Cain as special administrator with limited authority to investigate whether there are any assets in the estate and ordered the parties to split of the costs of the fiduciary. The court then continued the hearing on the competing petitions for general administration to March 9, 2022.

At the hearing on March 9, 2022, the court continued the hearing to March 30, 2022 and ordered Kathryn Cain to appear.

TENTATIVE RULING # 18: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON WEDNESDAY, MARCH 30, 2022 IN DEPARTMENT EIGHT. IF A PARTY OR PARTIES WISH TO APPEAR TELEPHONICALLY THEY MUST APPEAR BY "VCOURT", WHICH

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