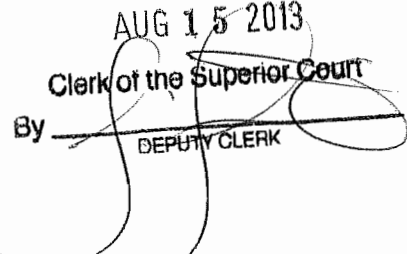


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FILED
SAN MATEO COUNTY

AUG 15 2013

Clerk of the Superior Court

By  DEPUTY CLERK

5 Attorneys for San Mateo County Public Guardian
6

8 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

9 IN AND FOR THE COUNTY OF SAN MATEO

**EX PARTE APPLICATION FOR STANDING
ORDER GRANTING AUTHORITY TO
ACCESS JOINT BANK TENANCY SAFE
DEPOSIT BOXES OF CONSERVATEES AND
DECLARATION OF AIMEE B. ARMSBY IN
SUPPORT THEREOF**

14 I, Aimee B. Armsby, declare as follows:

15
16 1. This ex parte application for a standing order is made on behalf of the San Mateo County
17 Public Guardian in relation to the Probate Conservatorship and LPS Conservatorship cases now pending
18 before the Court.

19 2. I am employed as a Deputy County Counsel for the County of San Mateo, and licensed and
20 authorized to practice law in all Courts of the State of California.

21 3. I represent the Public Guardian in and for the County of San Mateo (the "Public Guardian") in
22 all conservatorship proceedings pending before this Court.

23 4. The Public Guardian has had a recurring problem accessing conservatees' safe deposit boxes
24 that are held in joint tenancy. A conservator of the estate has the same legal authority to access a
25 conservatee's safe deposit box as the conservatee would have, but for the disability of the
26 conservatorship. Many banks, however, as a practical matter customarily refuse the Public Guardian
27 access to conservatee safe deposit boxes which are held in joint tenancy, regardless of the relationship or
28 lack of same between the conservatee and the other joint tenants(s) and regardless of the ownership of the

1 property contained in the boxes.

2 5. In most cases where access has been a problem, the property in the boxes in question have
3 been the sole property of the conservatee, and the joint tenant has been placed on the account for
4 convenience purposes only. In some cases, the joint tenant is a relative or close friend who actually has
5 the best interests of the conservatee in mind. In many cases, unfortunately, the joint tenant is a financial
6 abuser, sometimes related to the conservatee, many times not. The position of some banks has been that
7 a joint tenant may access a safe deposit box at any time, regardless of the ownership of the contents, but
8 that a conservator does not have that authority absent a court order.

9 6. The Public Guardian has a compelling need to access the safe deposit boxes of conservatees as
10 expeditiously as possible. In many cases, there is ongoing financial abuse of the conservatee and an
11 exigent need exists to take control of wills and other important documents, and sometimes cash, before
12 the abuser can abscond with them. If the Public Guardian is not permitted to stand in the shoes of a
13 conservatee and exercise the same authority over a joint tenancy safe deposit box as the conservatee or
14 any other joint tenant, there is nothing to prevent a wrongdoer from wrongfully removing and stealing the
15 conservatee's property and documents from the boxes. The Public Guardian has no desire to expropriate
16 the property of individuals who have legitimately a safe deposit box with a conservatee. Rather, the
17 Public Guardian requests only to have enforced the same authority over conservatees' safe deposit boxes
18 as any joint tenant, including the conservatee, would have.

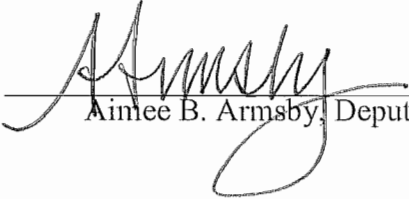
19 7. In order to protect the due process rights of joint tenants, the standing order could include a
20 requirement that the Public Guardian make a reasonable attempt to notify the joint tenant(s) that the
21 Public Guardian has taken control of the safe deposit box, and that the joint tenant(s) has/have thirty (30)
22 days to provide written evidence of any claimed ownership interest in any of the contents in said box.

23 8. This application supersedes the application made May 30, 1997.

24 WHEREFORE, Petitioner prays for a standing order of this Court authorizing the Public
25 Guardian to exercise control over the joint tenancy safe deposit boxes of conservatees, whether the
26 conservatorship is permanent or temporary, to the same degree as could a joint tenant, and requiring all
27 banks and other financial institutions situated in California allow the Public Guardian full access to, and
28 control over, safe deposit boxes of which a conservatee of the Public Guardian is a joint tenant and for

1 such other relief as the Court may deem proper.

2 I declare under penalty of perjury under the laws of the State of California that the foregoing is
3 true and correct except as to those matters asserted on information and belief and as to those matters, I
4 believe them to be true. Executed this 14 day of August, 2013 at Redwood City, California.

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8 Aimee B. Armsby, Deputy
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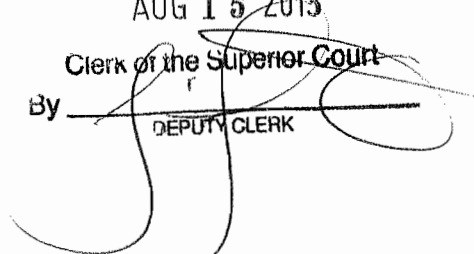
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SAN MATEO COUNTY

AUG 15 2013

Clerk of the Superior Court

By  DEPUTY CLERK

8 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 IN AND FOR THE COUNTY OF SAN MATEO

10 **STANDING ORDER GRANTING**
11 **AUTHORITY TO ACCESS JOINT TENANCY**
12 **SAFE DEPOSIT BOXES OF CONSERVATEES**

13
14 Based upon the Ex Parte Application of Aimee B. Armsby, Deputy County Counsel, as attorney
15 for the Office of the San Mateo County Public Guardian and, for good cause appearing,

16 IT IS HEREBY ORDERED that:

17 1. The San Mateo County Public Guardian (the "Public Guardian") as conservator of the estate
18 of conservatees possessing joint tenancy safe deposit boxes in banks and other financial institutions, is
19 hereby authorized to access said joint tenancy boxes and to exercise control over the contents of those
20 boxes to the same degree as could a joint tenant;

21 2. All banks and other financial institutions in the State of California offering safe deposit boxes
22 for rent, and the officers and employees of such institutions, are required to comply with a valid demand
23 by the Public Guardian or its duly deputized representative, as conservator of the estate of a conservatee
24 retaining a safe deposit box at such institution to access said box, whether or not held in joint tenancy;

25 3. A demand by the Public Guardian or its duly deputized representative shall be considered
26 valid if accompanied by a certified copy of this Order and a certified copy of Letters of Conservatorship
27 naming the Public Guardian as conservator of the estate of any person named as a joint tenant in said safe
28 deposit box;

1 4. Upon demand by the Public Guardian, the bank or other financial institution shall immediately
2 attempt to notify any and all joint tenants of this Order and of the Public Guardian's demand for access.
3 An officer of the institution and a duly deputized representative of the Public Guardian shall agree on a
4 time during normal banking hours not less than ten (10) days nor more than fifteen (15) days following a
5 demand by the Public Guardian for opening the box and conducting an inventory of the contents. Any
6 joint tenant may be present at the time the box is opened and the contents inventoried. Any contents that
7 are not clearly the property of a joint tenant other than the conservatee shall be released to the duly
8 deputized representative of the Public Guardian, as conservator of the estate of the conservatee. A copy
9 of an inventory conducted pursuant to this Order shall be provided on the same day to the Public
10 Guardian;

11 5. Following receipt of a valid demand by the Public Guardian accompanied by a certified copy
12 of this Order, neither the institution nor its officers nor the employees of any such institution may allow
13 access to the safe deposit box in question to any joint tenant unless a duly deputized representative of the
14 Public Guardian is present when the box is opened. If the box is opened at the request of a joint tenant
15 other than the conservatee, such joint tenant may remove only such property as the joint tenant can
16 unequivocally demonstrate is his or her property;

17 6. The Public Guardian or its duly deputized representative is authorized to remove any and all
18 contents from any safe deposit box and finally to close said box, unless the box is found to contain
19 property that is clearly the property of a joint tenant other than a conservatee for whom the Public
20 Guardian is conservator;

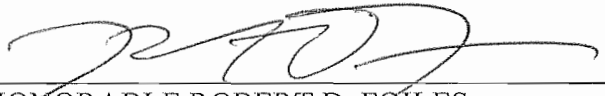
21 7. The Public Guardian is instructed not to remove, and the institutions referenced above are
22 instructed not to permit the removal from a safe deposit box of any property than can positively be
23 identified as belonging to a joint tenant other than a conservatee for whom the Public Guardian is
24 conservator. The Public Guardian is instructed not to dispose of any property of which it takes control
25 pursuant to this Order and whose origin or ownership is uncertain until the fact of ownership is
26 established in a noticed hearing held in this Court or in the context of a separate civil action.

27 8. This Order supersedes Standing Order 97-17.

28 9. This Order shall be a Standing Order of the Court and shall remain in full force and effect until

1 it has been revoked or superseded by order of this Court.

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3 DATED: 8/15/13


HONORABLE ROBERT D. FOILES
PRESIDING JUDGE OF THE SUPERIOR COURT

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