

STANDING ORDER NO. 97-16

**SUPERIOR AND MUNICIPAL COURTS OF SAN MATEO COUNTY
COUNTY OF SAN MATEO, STATE OF CALIFORNIA**

IN THE SUPERIOR COURT)
FOR THE)
COUNTY OF SAN MATEO) ss.
STATE OF CALIFORNIA)

FILED
SUPERIOR AND MUNICIPAL COURTS
OF SAN MATEO COUNTY

JUN 16 1997

Peggy Thompson Ct. Executive Officer/Clerk
By  Deputy

**STANDING ORDER RE: GRANTING AUTHORITY TO ACCESS
JOINT BANK ACCOUNTS OF CONSERVATEES**

GOOD CAUSE APPEARING THEREFOR, based upon the *ex parte* application submitted on behalf of the Public Guardian for the County of San Mateo,

IT IS HEREBY ORDERED as follows:

1. The San Mateo County Public Guardian as Conservator of the Estate of conservatees possessing joint tenancy accounts in banks and other financial institutions, is hereby authorized to exercise control over the assets in those conservatees' joint accounts to the same degree as could a joint tenant;
2. All banks, savings and loan associations, credit unions, brokerage firms and other financial institutions in the state of California holding intangible assets for individual depositors are subject to this standing order and are required to comply with a demand by the public Guardian of San Mateo County to access funds in a joint tenancy account when such demand is accompanied by a certified copy of this order and a certified copy of Letters of Conservatorship naming the Public Guardian of San Mateo County as conservator of the estate of any person named as a joint tenant in said account;
3. The public Guardian is instructed not to remove, and financial institutions referenced above are instructed not to release, any funds that can positively be identified as belonging to a joint tenant other than a conservatee for whom the Public Guardian of San Mateo County is conservator. The Public Guardian is instructed not to disburse any funds of which it takes control pursuant to this

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order and whose origin or ownership is uncertain until the fact of ownership is established in a noticed hearing held in this Court or in the context of a separate civil action;

4. The Public Guardian is directed to use reasonable efforts to notify any and all joint tenants that the Public Guardian has taken control of the account and the joint tenant(s) has/have thirty days in which to provide written evidence of any claimed ownership interest in said account.
5. All financial institutions in California, their officers and employees are ordered to provide the Public Guardian of San Mateo Conservator of the estate of the conservatee in question, information regarding the accounts of conservatees for whom the Public Guardian of San Mateo County is appointed conservator of the estate, either individually or in joint tenancy with one or more other persons;
6. This order shall apply with equal effect in cases where the Public Guardian has been appointed temporary conservator as where the Public Guardian has been appointed permanent conservator; and
7. The liability of any financial institution for disbursing funds pursuant to this order shall be the same as the liability it would incur for disbursing funds to a joint tenant of the account in question.

This order shall supersede any previous order(s) and shall remain in effect indefinitely and until such time as the order is vacated or superseded by the Presiding Judge.

Dated: 6-16-97



Mark R. Forcum

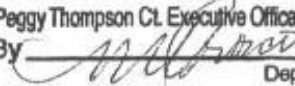
Mark R. Forcum, Presiding Judge

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SUPERIOR AND MUNICIPAL COURTS
OF SAN MATEO COUNTY

MAY 30 1997

Peggy Thompson Ct. Executive Officer/Clerk
By  Deputy

5 Attorneys for San Mateo County
6 Public Guardian

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

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11 **EX PARTE APPLICATION FOR**
12 **STANDING ORDER GRANTING**
13 **AUTHORITY TO ACCESS JOINT BANK**
ACCOUNTS OF CONSERVATEES and
DECLARATION OF STEVEN L. DYLLINA
14 **IN SUPPORT THEREOF**

15 I, STEVEN L. DYLLINA, declare as follows:

16 1. I am employed as a Deputy County Counsel for the County of San Mateo and I am
17 licensed and authorized to practice in all courts of the State of California.

18 2. I represent the Public Guardian in and for the County of San Mateo in all
19 conservatorship proceedings pending before this Court.

20 3. The San Mateo County Public Guardian has had a recurring problem accessing the
21 funds of conservatees that are on deposit in joint tenancy accounts in banks and other financial
22 institutions. A conservator of the estate has the same legal authority to manage the conservatee's
23 financial affairs as the conservatee would have, but for the disability of the conservatorship. Many
24 banks, however, as a practical matter customarily refuse the Public Guardian access to conservatee
25 bank accounts which are held in joint tenancy, regardless of the relationship or lack of same between
26 the conservatee and the other joint tenant(s) and regardless of the source of funds in the accounts.
27 Some banks and other financial institutions go so far as to refuse to turn over to the Public Guardian
28 funds in the nature of Social Security benefit payments received via direct deposit, even though by

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1 federal law these funds may be used only for the benefit of the named beneficiary.

2 4. In most cases where access has been a problem, the funds in the accounts in question
3 have been attributable solely to the conservatee, and the joint tenant has been placed on the account
4 for convenience purposes only. In some cases, the joint tenant is a relative or close friend who actually
5 has the best interests of the conservatee in mind. In many cases, unfortunately, the joint tenant is a
6 financial abuser, sometimes related to the conservatee, many times not. The position of the banks and
7 other financial institutions is that a joint tenant may withdraw any funds, up to the total amount on
8 deposit, at any time, regardless of the source of the funds in the account, but that a conservator does
9 not have that authority absent a court order.

10 5. The Public Guardian has a compelling need to access funds in conservatees' financial
11 accounts as expeditiously as possible. In many cases, there is ongoing financial abuse of the
12 conservatee and an exigent need exists to stem the financial hemorrhage of the conservatee's assets.
13 If the Public Guardian is not permitted to stand in the shoes of a conservatee and exercise the same
14 authority over a joint account as the conservatee or any other joint tenant, there is nothing to prevent
15 a wrongdoer from wrongfully withdrawing and stealing the conservatee's funds. The Public Guardian
16 has no desire to expropriate the assets of individuals who have legitimately commingled their assets
17 with those of a conservatee. Rather, the Public Guardian requests only to have enforced the same
18 authority over conservatees' joint accounts as any joint tenant would have.

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

23 WHEREFORE, Petitioner prays for a standing order of this Court that the Public Guardian of
24 San Mateo County, as conservator, whether permanent or temporary, of the estate of a conservatee
25 possessing funds in an account with a bank, savings and loan association or other financial institution,
26 is specifically authorized to assert the same authority over such joint tenancy account as could any joint
27 tenant, requiring all banks, savings and loan associations and other financial institutions situated in
28 California to allow the San Mateo County Public Guardian full access to and control over joint tenancy

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1 accounts of which a conservatee of the Public Guardian, regardless of whether the conservatorship is
2 permanent or temporary, is a joint tenant and for such other relief as the Court may deem proper.

3 I declare under the penalty of perjury under the laws of the state of California that the foregoing
4 is true and correct except as to those matters asserted on information and belief and as to those matters
5 I believe them to be true. Executed this 20th day of May, 1997, at Redwood City, California.

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STEVEN L. DYLINE, DEPUTY

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