


**STANDING ORDER NO. 97-17**  
**SUPERIOR AND MUNICIPAL COURTS OF SAN MATEO COUNTY**  
**COUNTY OF SAN MATEO, STATE OF CALIFORNIA**

**FILED**  
SUPERIOR AND MUNICIPAL COURTS  
OF SAN MATEO COUNTY

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

JUN 16 1997

Peggy Thompson Cl. Executive Officer/Clerk  
By  Deputy

**STANDING ORDER RE: GRANTING AUTHORITY TO ACCESS JOINT TENANCY  
SAFE DEPOSIT BOXES OF CONSERVATEES**

**GOOD CAUSE APPEARING THEREFOR**, based on the *ex parte* application 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 safe deposit boxes in banks and other financial institutions, is authorized to access said joint tenancy boxes and to exercise control over the contents of those boxes to the same degree as could a joint tenant;
2. All banks and other financial institutions in the state of California offering safe deposit boxes for rent, and the officers and employees of such institutions, are required to comply with a valid demand by the Public Guardian of San Mateo County or its duly deputized representative, as conservator of the estate of a conservatee retaining a safe deposit box at such institution to access said box, whether or not held in joint tenancy;
3. A demand by the Public Guardian of San Mateo County or its duly deputized representative shall be considered valid if 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 safe deposit box;
4. Upon demand by the Public Guardian of San Mateo County the Bank shall immediately attempt to notify any and all joint tenants of this order and of the Public Guardian's demand for access. An officer of the institution and a duly deputized representative of the Public Guardian of San Mateo County shall agree on a time during normal banking hours not less than ten days nor more than fifteen days following a demand by the Public Guardian for opening the box and conducting

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an inventory of the contents. Any joint tenant may be present at the time the box is opened and the contents inventoried. Any contents that are not clearly the property of a joint tenant other than the conservatee shall be release to the duly deputized representative of the Public Guardian of San Mateo County, as conservator of the estate of the conservatee. A copy of an inventory conducted pursuant to this order shall be provided on the same day to the public Guardian of San Mateo County;

5. Following receipt of a valid demand by the Public Guardian of San Mateo County accompanied by a certified copy of this order, neither the institution nor its officers nor the employees of any such institution may allow access to the safe deposit box in question to any joint tenant unless a duly deputized representative of the Public Guardian of San Mateo County is present when the box is opened. If the box is opened at the request of a joint tenant other than the conservatee, such joint tenant may remove only such property as the joint tenant can unequivocally demonstrate is his or her property;
6. The Public Guardian of San Mateo County, or its duly deputized representative, is authorized to remove any and all contents from any safe deposit box and finally to close said box, unless the box is found to contain property that is clearly the property of a joint tenant other than a conservatee for whom the Public Guardian of San Mateo County is conservator;
7. The Public Guardian is instructed not to remove, and the institutions referenced above are instructed not to permit the removal from a safe deposit box of any property than 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 dispose of any property of which it takes control pursuant to this 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.

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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1 THOMAS F. CASEY, III, COUNTY COUNSEL  
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2 BY: STEVEN L. DYLYNA, DEPUTY  
STATE BAR NO. 76301  
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5 Attorneys for San Mateo County  
6 Public Guardian

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SUPERIOR AND MUNICIPAL COURTS  
OF SAN MATEO COUNTY

MAY 30 1997

Peggy Thompson Ct. Executive Officer/Clerk  
By  Deputy

7  
8 IN THE SUPERIOR COURT FOR THE STATE OF CALIFORNIA  
9 IN AND FOR THE COUNTY OF SAN MATEO

10  
11 **EX PARTE APPLICATION FOR**  
12 **STANDING ORDER GRANTING**  
13 **AUTHORITY TO ACCESS JOINT**  
14 **TENANCY SAFE DEPOSIT BOXES OF**  
15 **CONSERVATEES and DECLARATION**  
16 **OF STEVEN L. DYLYNA IN SUPPORT**  
17 **THEREOF**

18 I, STEVEN L. DYLYNA, declare as follows:

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

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

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

4. In most cases where access has been a problem, the property in the boxes in question

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

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

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

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

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1 I declare under the penalty of perjury under the laws of the state of California that the foregoing  
2 is true and correct except as to those matters asserted on information and belief and as to those matters  
3 I believe them to be true. Executed this 30th day of May, 1997, at Redwood City, California.

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5   
6 STEVEN L. DYLINE, DEPUTY

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8 G:\CONSERVE\PETBOXES.WPD