

**Source:** Estate Planning/Handling a Fiduciary Accounting (Action Guide)/Introductory Material

Handling a Fiduciary Accounting

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Scope of Guide

This Action Guide explains when and how to prepare a fiduciary accounting in a conservatorship, guardianship, trust, or estate administration. Step-by-step instructions include sample schedules presented in the format required for all court accountings.

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**Abbreviations**

Conserv Prac	<u>California Conservatorship Practice (Cal CEB 2005)</u>
Decedent Estate Prac	<u>California Decedent Estate Practice (2d ed Cal CEB 2009)</u>
Guardian Prac	<u>California Guardianship Practice (Cal CEB Annual)</u>
Trust Admin	<u>California Trust Administration (2d ed Cal CEB 2001)</u>
Trust & Prob Litig	<u>California Trust and Probate Litigation, chap 13 (Cal CEB 1999)</u>

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About the Authors

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### **Cutoff Dates**

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**Source:** Estate Planning/Handling a Fiduciary Accounting (Action Guide)/Anticipating the Account/STEP 1.  
DETERMINE WHETHER ACCOUNT IS REQUIRED

Anticipating the Account

STEP 1. DETERMINE WHETHER ACCOUNT IS REQUIRED

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"ACCOUNT" DEFINED

The account of a fiduciary is a detailed financial statement of the transactions of the fiduciary, presented in a particular format, verified, and supported by certain schedules and documents. All accounts filed with the court under the Probate Code, including interim and final accounts, must include a financial statement and a report of administration. Prob C §§1060-1064.

conservatorship OR guardianship

WHEN ACCOUNT IS DUE

The conservator or guardian of the estate must file an account (Prob C §2620(a)):

Periodic Accounts

- a. 1 year after the date of appointment.
- b. At least every 2 years after the first account.
- c. At more frequent intervals if ordered by the court.

NOTE

The Probate Code does not specify the period to be covered in a conservatorship or guardianship account or the date by which the account must be filed. Most courts and practitioners interpret Prob C §2620(a) to mean that the account due at the end of 1 year from the time of appointment should cover all transactions within that year, and that a reasonable time, usually 60 days, is permitted after the anniversary date to file the account. Courts are required to ensure compliance with the filing of accounts by either placing compliance dates on the court calendar or by establishing internal means for order compliance and sanctions. Prob C §1456.5. The attorney should consult local rules. See, e.g., Santa Clara Ct R 9(A)(2)(c) (court must set compliance date no later than 60 days after first anniversary of appointment).

On Court Order

The court may order the *conservator* to submit an accounting under Prob C §2620(a):

- a. In response to the additional court investigator report that is required 6 months after appointment of the conservator. Prob C §1850(a)(1)(B).
- b. On the court's own motion at any time. Prob C §1850(b).

NOTE

An ex parte communication from any source regarding a person subject to a conservatorship or guardianship that leads to an inquiry about the financial management by a conservator or guardian could trigger a court-ordered accounting. Prob C §1051(b), (d); Cal Rules of Ct 7.10(c)(2)(A).

- c. At the request of any interested party at any time. Prob C §1850(b).

Account of Temporary Guardian or Conservator

If a temporary guardian or conservator is appointed permanent guardian or conservator, the account for the temporary period is

included in the first regular account. Prob C §2256(b).

## FINAL ACCOUNTS

The conservator or guardian of the estate must file a final account:

On Death of Ward or Conservatee

After the death of the ward or conservatee (Prob C §2620(b)):

- a. For the period ending on the date of death; and
- b. A supplemental final account covering the period after the date of death through the date of the last transaction handled by the guardian or conservator.

## JUDGE'S PERSPECTIVE

Failure to file a supplemental final account frequently causes delay in the discharge of the fiduciary.

On Termination of Guardianship or Conservatorship

If the guardianship or conservatorship has terminated. Prob C §§1601, 1863(c); Cal Rules of Ct 7.1004(c), 7.1052(c).

On Removal, Resignation, or Expiration of Term of Guardian or Conservator

- a. If the conservator or guardian of the estate resigns or is removed (Prob C §§2653(b), 2660).
- b. For a temporary guardian or conservator, within 90 days after appointment of a permanent guardian or conservator who is someone other than the temporary guardian or conservator, unless the court fixes another time. Prob C §2256(a).

On Death or Incapacity of Guardian or Conservator

If the guardian or conservator dies or becomes incapacitated and:

- a. A legal representative is appointed for the deceased or incapacitated guardian or conservator, in which case the legal representative must file an account within 60 days after the appointment (Prob C §2632(b)); or
- b. No legal representative is appointed, or the guardian or conservator absconds, in which case the court may compel the attorney for the guardian or conservator to file an account. Prob C §2632(c).

## WHEN ACCOUNT IS NOT REQUIRED

Guardian or Conservator of the Person Only

A guardian or conservator of the *person only* is not required to account. See Prob C §2600.

## NOTE

Although an account may not be required, a "report" should be filed with the court for approval and to obtain fees.

Small Estates

On noticed hearing, the court may dispense with the accounts in small estates during any accounting period when all three of the following conditions are satisfied (Prob C §2628(a)):

- a. The total net value of the estate property at the beginning and the end of the accounting period, exclusive of the residence of the conservatee or minor, is less than \$15,000;
- b. The estate's income, not including public benefit payments, is less than \$2000 per month; and
- c. All income of the estate during the accounting period, if not retained, was spent for the benefit of the conservatee or minor.

Good Faith Settlement With Ward Who Has Reached Majority

- a. The guardian may avoid the need to present a formal, final account to the court by settling accounts in good faith and without

undue influence and obtaining a release from a ward who has reached age 18. Prob C §2627.

b. The guardian is not entitled to be discharged until 1 year after the minor has reached majority.

## JUDGE'S PERSPECTIVE

Most, if not all courts will require the former ward to appear at the hearing so the court can ascertain whether the waiver was in fact obtained fairly and without undue influence.

**Further Research:** For local rules requiring personal attendance to make the waiver, see, *e.g.*, Alameda Ct R 7.780(b); Los Angeles Ct R 10.63(b); San Francisco Ct R 14.3(A)(2).

Estate administration

## WHEN ACCOUNT IS DUE

### Final Account

The representative must file the final account and petition for an order for final distribution when all debts have been paid or adequately provided for and the estate is in a condition to be closed or, if the estate is insolvent, when the estate is in a condition to be closed. Prob C §§10951, 11640.

### NOTE

Many courts set compliance dates when the letters are originally issued for either the filing of the final account and petition for distribution or the status report.

### Requirements Under Independent Administration of Estates Act

Unless waived, the representative must file an account before final distribution even when the estate is being administered under the Independent Administration of Estates Act (IAEA) (Prob C §§10400-10592). Prob C §10501(a)(4).

### Interim Accounts

a. The court may order the personal representative to file a verified account at any time. Prob C §§1021(a)(1), 10950.

### NOTE

An ex parte communication from any source regarding a personal representative that leads to questions about the financial management by a personal representative could trigger a court-ordered accounting. Prob C §1051(b), (d); Cal Rules of Ct 7.10(c)(2)(A).

b. The court will order an account on the petition of an interested person (Prob C §10950):

- (1) If more than 1 year has elapsed since letters were issued to the personal representative;
- (2) If more than 1 year has elapsed since the last account was filed.

### NOTE

Interim accounts are not usually filed unless considerable time is expected to elapse before the estate is closed. In that event, and particularly if persons interested in the estate are critical of the representative, filing an interim account is advisable.

### On Resignation or Removal of Representative

If the personal representative resigns or is removed, the account is due within 60 days after termination of authority. Prob C §10952.

### On Death or Incapacity of Representative

If the personal representative dies or becomes incapacitated and:

a. A legal representative is appointed for the deceased or incapacitated personal representative, the legal representative must file an account within 60 days after the appointment ([Prob C §10953\(b\)](#)); or

b. No legal representative is appointed, or the personal representative absconds, the court may compel the personal representative's attorney to file an account ([Prob C §10953\(c\)](#)).

## WHEN ACCOUNT IS NOT REQUIRED

### Waiver of Final Account

a. The personal representative need not file a final account if all the persons entitled to distribution of the estate sign and file ([Prob C §10954\(a\)\(1\)](#)):

(1) A written waiver of account (see [Appendix 1](#)); or

(2) A written acknowledgment that their share of the estate has been satisfied (see [Appendix 2](#)).

b. If the account is waived, the personal representative must still file a report at the time the formal account would otherwise have been required. [Prob C §10954\(c\)](#). For contents of report, see [step 11](#) below.

### NOTE

Consider filing an account, even if the beneficiaries are willing to waive the account, to protect the personal representative from subsequent liability. Although making a formal accounting will add to the expense of administration, the cost is payable from the estate and all of the beneficiaries will share the cost of protecting the representative from liability.

### Adequate Provision Made

The personal representative does not have to file a final account if adequate provision has been made for full satisfaction of the interest of each person entitled to distribution. [Prob C §10954\(a\)\(2\)](#).

### NOTE

This alternative does not apply to a residuary devisee or devisees whose interests are subject to abatement, payment of expenses, or accrual of interest or income. [Prob C §10954\(a\)\(2\)](#).

### Preliminary Distribution

The representative may petition for preliminary distribution without an account. [Prob C §§11600, 11623](#) (limited to 50 percent of the estate's net value under IAEA). See [Prob C §11951](#).

**Further Research:** For discussion of the requirements for preliminary distribution, see [California Decedent Estate Practice, chap 25 \(2d ed Cal CEB 2009\)](#), referred to throughout this Action Guide as Decedent Estate Prac.

## FILING STATUS REPORT

In addition to the accounting requirements, the personal representative must file a verified report on the status of the estate or the petition for final distribution within ([Prob C §12200](#)):

### When to File

a. 1 year after issuance of letters in estates not required to file a federal estate tax return; or

b. 18 months after issuance of letters in estates required to file a federal estate tax return.

### NOTE

Although [Prob C §§12200-12205](#) appear to contemplate the filing of a separate status report, there seems to be no reason that the status report could not be combined with an interim account or petition for preliminary distribution.

### Contents of Status Report

The status report must show ([Prob C §12201\(a\)](#)):

- a. The condition of the estate;
- b. The reasons the estate cannot be distributed and closed; and
- c. The estimated time needed to close the estate.

#### Notice of Hearing

Notice of hearing of the report is given to persons interested in the estate under Prob C §1220 and must include the following statement in at least 10-point boldface type (Prob C §12201(b)):

**YOU HAVE THE RIGHT TO PETITION FOR AN ACCOUNT UNDER SECTION 10950 OF THE CALIFORNIA PROBATE CODE.**

#### JUDGE'S PERSPECTIVE

Failure to use the foregoing language is a frequent cause of a continuance of the hearing.

#### Filing With Court

The status report is set for hearing in the same manner as any other probate petition. Prob C §12201(b).

#### Court's Order

At the hearing, the court may order (Prob C §12201(c)):

- a. That administration continue for such time and on such conditions as the court deems reasonable (including an account under Prob C §10950) if continued administration appears to be in the best interests of the estate or interested parties; or
- b. The personal representative to file a petition for final distribution.

#### JUDGE'S PERSPECTIVE

The court typically may set a compliance date certain by which the personal representative must file a Petition for Final Distribution or Status Report.

#### Compelling Status Report

If the personal representative does not file a status report:

- a. Anyone interested in the estate may petition the court to obtain a status report; or
- b. The court on its own motion may cite the personal representative to appear in court to comply. Prob C §12202.

#### NOTE

Failure of the personal representative to comply with the order is grounds for revocation of letters. Prob C §12204.

trusts
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#### WHEN ACCOUNT IS DUE

The trustee must provide an account to each beneficiary "to whom income or principal is required or authorized in the trustee's discretion to be currently distributed" (Prob C §16062(a)):

- a. At least annually;
- b. If there is a change of trustee; and
- c. When the trust terminates.

#### NOTE

Each member of a group entitled to receive sprinkling distributions of income or principal invasions is entitled to an account, whether or not he or she received any amount from the trust during the accounting period or at any time.

#### Testamentary Trust Created by Will Executed Before July 1, 1977

The trustee of a trust created by will executed before July 1, 1977, that has been removed from court jurisdiction under former Prob C §1120.1a must account as though that provision still existed, but an account that satisfies Prob C §16063 is considered satisfactory. Prob C §16062(d). See step 10, below.

#### WHEN COURT ACCOUNT IS REQUIRED

##### Trusts Funded by Court Order

Certain "trusts funded by court order," that will have total assets of more than \$20,000 after receipt of those funds, must require the trustee, in the trust instrument, to file accounts and reports for court approval in the manner and frequency required by Prob C §§1060-1064 (governing court accounts) and Prob C §§2620-2633 (governing accounts in conservatorships and guardianships). Cal Rules of Ct 7.903(a)(1), (c)(6), (d).

##### Open Proceeding Under Probate Code

When there is an open proceeding under the Probate Code, an ex parte communication from any source regarding a trustee's performance of his or her duties and responsibilities could trigger a court-ordered accounting if it appears that an accounting should have been filed by the trustee. Prob C §1051(b), (d); Cal Rules of Ct 7.10(c)(2)(A).

#### WHEN ACCOUNT NOT REQUIRED

##### Waiver of Account

An account is not required:

a. If the trust instrument waives the account. Prob C §16064(a).

**Exception:** Any waiver in the trust instrument is void if a disqualified person (as defined in Prob C §21350.5) is the sole trustee. Prob C §16062(e).

b. To a beneficiary who has waived the right to an account in writing. Prob C §16064(c). The waiver may be withdrawn in writing at any time; thereafter, the trustee must provide the most recent account and all future accounts.

#### NOTE

Even if the trust instrument contains a waiver, a court may require the trustee to account if a showing is made that it is reasonably likely that a material breach of the trust has occurred. Prob C §16064(a).

##### Withdrawal of Waiver

The waiver can be withdrawn in writing at any time "as to the most recent account and future accounts." Prob C §16064(c).

##### Effect on Prob C §17200 Petition

A Prob C §16064 waiver has no effect on the beneficiary's right to petition for a report or account under Prob C §17200.

#### NOTE

Because there is no practical way to secure a permanent waiver, and a written waiver of account is of value only as long as the beneficiaries do not change their minds, a trustee should seriously consider preparing an account even if the beneficiaries are willing to waive. A waiver does not start the running of the statute of limitations under Prob C §16460 and it is easier and safer for the trustee to account and be prepared to defend the matters that the account discloses when the facts are fresh.

##### Beneficiaries of Revocable Trust

The trustee is not required to account to beneficiaries of the trust who do not hold the power to revoke during the period when a revocable trust (Prob C §§15800, 16064(b)):

a. May be revoked; and

b. The person holding the power to revoke is competent.

NOTE

The power holder is treated as the sole beneficiary of the trust for accounting purposes.

Instruments Executed Before July 1, 1987

An account is not required for:

a. A living trust created by an instrument executed before July 1, 1987 (Prob C §16062(b)); or

b. A trust created by a will executed before July 1, 1987, except that if the trust has been removed from continuing court jurisdiction under Prob C §§17350-17354, the duty to account under Prob C §16062(a) applies to the trustee. Prob C §16062(c).

NOTE

Beneficiaries of trusts for which trustees are not required by Prob C §16062 to account annually (*e.g.*, living trusts created by an instrument executed before July 1, 1987) are entitled to information on the administration of the trust under Prob C §16060, which requires the trustee to keep the beneficiaries "reasonably informed." But see Prob C §§15800, 16064(b) for beneficiaries of revocable trusts, discussed above. There is no statute specifying frequency. Of course, a beneficiary may compel an account under Prob C §17200(b)(7).

**Source:** Estate Planning/Handling a Fiduciary Accounting (Action Guide)/Anticipating the Account/STEP 2.  
DETERMINE WHETHER ADDITIONAL PERIODIC ACCOUNTS SHOULD BE PREPARED

STEP 2. DETERMINE WHETHER ADDITIONAL PERIODIC ACCOUNTS SHOULD BE PREPARED

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WHEN OPTIONAL ACCOUNTS ARE ADVISABLE

For many conservatorships, guardianships, and trusts, filing the required account is all that is necessary. Consider filing subsequent periodic accounts more often than every 2 years for a conservator or guardian of the estate, or every year for a trustee if:

- a. The estate or trust is very large.
- b. The account is extensive because of assets such as a business operation.
- c. The estate or trust is incurring unusual expenses.
- d. There are unusual market events.
- e. Legal action is pending.
- f. Some or all of the independent powers are being used and the administration of the fiduciary is an active one.
- g. The trustee is making large discretionary payments, or, owing to some unusual situation, large expenditures have been made from the conservatorship or guardianship.
- h. The fiduciary's ability to keep records for an extended period is in doubt.
- i. The fiduciary is a professional fiduciary and wants annual fees.

**Note:** The Professional Fiduciaries Act (Bus & P C §§6500-6592) requires every professional fiduciary to be licensed. Bus & P C §6530; Prob C §§60.1(b), 2340. "Professional fiduciary" is broadly defined as a person who acts as a conservator of the person, the estate, or both or as a guardian of the estate or the person and estate, for two or more individuals at the same time who are not related to the professional fiduciary or to each other by blood, adoption, marriage, or registered domestic partnership. Bus & P C §6501(f)(1), (3). "Professional fiduciary" also generally includes a person who acts as a trustee, an agent under a durable power of attorney for health care, or an agent under a durable power of attorney for finances for more than three individuals at the same time who are not related to the fiduciary. Bus & P C §6501(f)(2). For detailed counting rules and exceptions, see Bus & P C §6501(f).

**Further Research:** See California Conservatorship Practice §12.12 (Cal CEB 2005), referred to throughout this Action Guide as Conserv Prac.

- j. The attorney performs extra services, other than litigation, not expressly authorized by the court.
- k. The conservator is an institutional fiduciary handling a large volume of cases and has internal audit requirement.
- l. The trustee wants to file a court accounting to reduce the trustee's liability exposure.

NOTE

Consider a Prob C §17200 petition for instructions for actions that materially affect beneficiaries, rather than simply filing an account. See, e.g., Hasso v Hasso (2007) 148 CA4th 329, 55 CR3d 667 (proper allocation of principal and interest on distributions from entities under Prob C §16350). An account only reports what "has happened," not what should happen.

CAN SHOWING BE MADE THAT TRUST ACCOUNT TO COURT IS REASONABLY NECESSARY?

When a trust is not under continuing court supervision, a showing must be made that the petition and account are reasonably necessary to protect the interests of the trustee or the beneficiary. See Prob C §17202.

When Advising Fiduciary on Recordkeeping

STEP 3. EXPLAIN RECORDKEEPING DUTIES TO FIDUCIARY

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FIDUCIARY'S RESPONSIBILITY

Regardless of the size or complexity of a guardianship, conservatorship, trust, or estate, the fiduciary is ultimately responsible for recordkeeping for accounting and tax purposes.

**Further Research:** For Judicial Council Forms regarding record maintenance, see Duties of Guardian (Judicial Council Form GC-248); Duties of Conservator and Acknowledgment of Receipt of Handbook (Judicial Council Form GC-348); Duties and Liabilities of Personal Representative (Judicial Council Form DE-147).

NOTE

The Handbook's sample accounts and descriptions of accounting schedules do not yet reflect the requirements of [Prob C §2620.2](#), [Cal Rules of Court 7.575](#), and the Judicial Council accounting forms listed in [Appendix 35](#).

ATTORNEY'S ROLE IN PRELIMINARY RECORDKEEPING ARRANGEMENTS

Explain Fiduciary's Role

- a. Discuss the fiduciary's role in detail at the outset, explaining the types of records that should be kept.
- b. Instruct noncorporate fiduciaries to keep accurate and complete records of every transaction throughout administration. Most fiduciaries, unless they are professional fiduciaries or have prior experience, will need detailed directions from the attorney or some other qualified person.

NOTE

The attorney must sign accounts presented to the court. If the information provided by the fiduciary is inaccurate because of poor recordkeeping, the attorney may have liability. Consequently, the attorney should review all bank statements, brokerage statements, and income tax returns for the account period to determine the accuracy of the account.

**Further Research:** On shared responsibility and delegation when there are cotrustees, see [California Trust Administration §§7.4-7.8 \(2d ed Cal CEB 2001\)](#), referred to throughout this Action Guide as Trust Admin. On fiduciary's potential liability for failing to account, see [Decedent Estate Prac §§24.30, 29.108-29.114](#); [Trust Admin §7.2](#); [Conserv Prac §§19.6, 21.8](#); and [California Guardianship Practice §§14.5A, 16.9 \(Cal CEB Annual\)](#), referred to throughout this Action Guide as Guardian Prac; and [California Trust and Probate Litigation, chap 13 \(Cal CEB 1999\)](#), referred to throughout this Action Guide as Trust & Prob Litig.

Assess Fiduciary's Abilities

- a. Determine whether an individual fiduciary is capable of adequately performing recordkeeping and accounting duties.
- b. Make sure the noncorporate fiduciary fully understands the tasks involved in preparing the account and that any fees incurred when someone else prepares the account will be deducted from the fiduciary's fees.

NOTE

Although preparing the account is the fiduciary's statutory duty, he or she may hire others to perform that duty and pay them from the fiduciary's compensation, *e.g.*, the fiduciary may need to retain an accountant to do the recordkeeping and accounting. See Note at end of [step 4](#), below, on effect on statutory fees.

Having Attorney's Staff Maintain Records

- a. It may be less expensive and time-consuming for the attorney's staff to maintain the records, rather than attempting to unravel the fiduciary's records. Some attorneys regard this as the representative's function, however, and consider it improper for the attorney to assume it.
- b. At a minimum, the fiduciary must be able keep a record of all receipts and disbursements. See [step 4](#), below. The attorney has the duty to put the account into a format that the court will approve.

#### NOTE

When your staff performs the recordkeeping and you are seeking adequate compensation, you should enter into a written agreement with the fiduciary, acknowledging that the attorney will be paid for recordkeeping and that the fiduciary understands that his or her court-ordered fees will be reduced accordingly.

#### FINANCIAL DATA NECESSARY FOR ACCOUNTING PURPOSES

Explain to the fiduciary that records must show:

- a. Amounts received and spent and their allocations to principal, income, or both (see [step 6](#), below);
- b. An inventory of all assets at the time of death or the time of appointment for a conservator or guardian, and for the beginning and end of each accounting period;
- c. Gains and losses incurred on sale of assets and other dispositions (see [step 17](#), below);
- d. Net income or loss from any trade or business (see [step 16](#), below); and
- e. Ending account information including both carry value and market values (see [step 19](#)).

**Source:** Estate Planning/Handling a Fiduciary Accounting (Action Guide)/When Advising Fiduciary on Recordkeeping/STEP 4. SET UP RECORDKEEPING SYSTEMS FOR FINANCIAL DATA

STEP 4. SET UP RECORDKEEPING SYSTEMS FOR FINANCIAL DATA

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ACCOUNT BOOK

Depending on the experience and capabilities of the fiduciary and on the practice of the law firm, the fiduciary may maintain a record or account book and merely record all receipts and disbursements. If this method is used, someone in the attorney's office, usually a secretary or paralegal, prepares the more detailed record of receipts and disbursements shown in [Appendixes 5-8](#).

**Sample Form:** For sample account book, see [Appendix 4](#).

Making Detailed Entries

a. Instruct the fiduciary to make detailed and complete entries of all receipts and disbursements so that it is not necessary to constantly refer to the actual receipts and checks to complete the cash receipts and disbursements records. Entries should:

- (1) Identify the source or payee;
- (2) Include the date received or disbursed; and
- (3) Describe the transaction.

b. It is often helpful to make a copy of all checks received. See [step 7](#), below.

Reviewing Account Book

A copy of this account should be sent to the attorney regularly, so that any erroneous acts of the fiduciary are detected as soon as possible.

RECORD OF CASH RECEIPTS AND DISBURSEMENTS

A record of cash receipts and disbursements can be maintained by the fiduciary or in the attorney's office. Properly maintained, the record of cash receipts and disbursements supplies information for many purposes, including accounting and tax purposes, so that repetitious reviews and reworking of financial data unnecessary.

**Sample Form:** For sample records of receipts and disbursements, see [Appendixes 5-8](#).

Recordkeeping Problems

For a fiduciary who is not a professional fiduciary, one area that can cause recordkeeping problems is the use of credit cards and ATM cards as well as the use of automatic transfers and online bill-paying. The fiduciary should be counseled to:

- a. Avoid using ATM and credit cards whenever possible, and to keep receipts and credit card statements to document disbursements for small expenditures, such as the purchase of gasoline to transport the conservatee;
- b. Not include more than one item on the same deposit slip; the bank statement will only show the total amount of the deposit, thus making it difficult to trace the individual deposits;
- c. Not take cash back at the same time a check is deposited. Counsel the fiduciary to always treat each transaction as a unique event, so that each transaction appears as a distinct line item on the bank statement;
- d. Designate electronic fund transfers (EFT) and autodebited transfers as such, regardless of the method of recordkeeping used. For example, designate disbursements as EFT in the "Check Number" column in the appropriate schedule. See [step 15](#), below.

Updating Record of Cash Receipts

a. Advise the fiduciary to regularly enter and deposit receipts as they are received to reduce the possibility of:

- (1) A deposit being omitted;

(2) A check becoming lost or stale.

b. Items of a similar nature may not be combined under one entry, *e.g.*, interest paid, but must be listed separately by date and amount.

#### NOTE

All income notification letters such as SSA letters and pension letters should be kept. See [step 7](#), below.

#### Updating Record of Cash Disbursements

Disbursements should be entered as of the date the check is issued. A copy of the corresponding bills, invoices, and receipts should be retained. See [step 7](#), below.

#### NOTE

Instruct the fiduciary to channel all deposits and withdrawals, including transfers or deposits to savings accounts, through a single checking account. The checking account then becomes the principal record for financial transactions in the estate, trust, conservatorship, or guardianship, and the amount on hand can be verified by the balances in both checking and savings accounts. See [Appendix 19](#). All bank statements should be kept. See [step 7](#), below.

**Example:** If proceeds of a sale of assets are to be deposited into an interest-bearing savings account, the deposit should be made into the checking account and then immediately transferred from the checking account to the savings account. If the amount is not transferred immediately, it creates a loss-of-interest-income problem.

#### RECORD OF ASSETS

In addition to keeping records of cash receipts and disbursements, the fiduciary must maintain a record of all assets. This record:

a. Describes each asset;

**Example:** 100 shares XYZ Co., common; 100 shares ABC, Ltd., class B 6-percent preferred

b. Keeps track of any additions or reductions in its value, *e.g.*:

(1) The record for stock in a corporation would list the stock splits and stock dividends related to that stock;

(2) A record for real property would list any improvements to the real property that increase its value; and

c. Includes the tax basis of each asset.

#### NOTE

Recordkeeping and accounting become much more complex when dividends are automatically reinvested and when there are frequent investment trades; weigh any economic advantage resulting from these actions against the additional costs incurred to trace and report these transactions.

**Further Research:** For further discussion of keeping a record of assets and determining basis, see [Trust Admin §§7.24-7.32](#).

#### EXPLAIN RECORDKEEPING SYSTEMS TO FIDUCIARY

Records can be kept manually in a ledger or on a computer using spreadsheet software.

#### COMPUTER SYSTEMS

Personal computer systems with spreadsheet software allow fiduciaries to:

a. Keep a running total of receipts and disbursements that provides instant access to the cash position at all times;

b. Keep track of receipts from a single source, particularly interest and dividends for tax preparation;

c. Maintain current lists of assets held (including cost-basis information);

d. Monitor their movement, *e.g.*, sale, purchase, exchange, and tender.

## MANUAL SYSTEMS

Financial records can also be kept in a ledger.

### Using Ledger for Simple Assets

Adequate records can be kept in a ledger for estates and trusts with a few simple assets such as stocks, bonds, and a residence.

### Disadvantages of Manual Systems

A ledger system is cumbersome and time-consuming if there are:

- a. A large number of assets, or assets such as a business that require an extensive accounting; or
- b. Complicated provisions for:
  - (1) Disbursement to beneficiaries;
  - (2) Depreciation schedules; or
  - (3) Accumulation provisions.

## HIRING ACCOUNTANT OR OTHER AGENT

Advise the fiduciary of a complex estate or trust to consider hiring an accountant, a financial institution, or a brokerage house to keep the financial records. The fiduciary remains responsible, however, for keeping, maintaining, and supplying the documentation, such as:

- a. Returned checks;
- b. Credit card statements;
- c. Bank statements;
- d. Receipts;
- e. Bills; and
- f. Invoices.

## NOTE

When the fiduciary incurs expenses for work he or she has a duty to perform (*e.g.*, keeping the financial records and preparing the account), those expenses may be charged against the statutory commissions and reduce the fiduciary's compensation. See *Estate of Lampman* (1940) 15 C2d 212, 100 P2d 488; *Estate of Billings* (1991) 228 CA3d 426, 278 CR 439 (portion of accountant's fees attributable to personal representative for carrying out duty to provide probate accounting paid out of statutory fees).

## STEP 5. ITEMIZING RECEIPTS AND DISBURSEMENTS

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### RECORD OF RECEIPTS AND DISBURSEMENTS

- a. Records of receipts and disbursements must always be itemized. This information is necessary for a court accounting. Prob C §1062.
- b. The record of receipts and disbursements must include enough detail about the source and purpose of the receipt or the payee and purpose of the disbursement to avoid having to refer to other records. See step 10, below.

### RECEIPTS

Receipt entries must show:

- a. The nature and purpose of each item;
- b. The source of the receipt; and
- c. The date.

**Example:** The fiduciary should separately list each dividend in each deposit, identifying the security that paid it and the date it was received. It is not sufficient to record a bank deposit simply as "dividends." Without this detail, there is no way to monitor the relative performance of particular assets or verify that all dividends or other distributions have been received.

### DISBURSEMENTS

Disbursement entries should state:

- a. The payee's name;
- b. The services or products for which payment was made; and
- c. The date.

### NOTE

Items that are deductible for tax purposes (*e.g.*, interest) should be separately classified or noted.

### JUDGE'S PERSPECTIVE

Incomplete or inadequate descriptions of the reasons for disbursements are the cause of many delays in approval of an account.

**Source:** Estate Planning/Handling a Fiduciary Accounting (Action Guide)/When Advising Fiduciary on Recordkeeping/STEP 6. ALLOCATING RECEIPTS AND DISBURSEMENTS TO PRINCIPAL OR INCOME

STEP 6. ALLOCATING RECEIPTS AND DISBURSEMENTS TO PRINCIPAL OR INCOME

trusts

RECORD AS PRINCIPAL OR INCOME TRANSACTION

All trust receipts and disbursements must be recorded as either principal or income transactions, to correlate with the differing interests and rights of income and remainder beneficiaries. See [Appendixes 12-15](#).

NOTE

Be sure to review the trust instrument to determine if income and remainder beneficiaries are the same; if so, it may not be necessary to segregate principal and income.

ADVISE FIDUCIARY ON ALLOCATION

Explain to the fiduciary:

- a. Provisions in trust instrument directing allocations to principal or income;
- b. Allocations to principal and income under the Uniform Principal and Income Act (UPAIA) ([Prob C §§16320-16375](#)) that are not contrary to the trust instrument. See [Prob C §§16350-16367](#) (receipts); [Prob C §§16370-16375](#) (disbursements); [Prob C §§16345-16347](#) (apportionment at beginning and end of income interest).

**Table:** For a table showing how funds received and paid out by the trust during administration must be allocated under the UPAIA, see [Appendix 9](#).

NOTE

Proper allocation is a particularly complex task if receipts consist of payments other than dividends and interest, or if depletion or depreciation must be accounted for. Theoretically, the fiduciary makes the allocation during administration, but in practice it depends on the level of complexity of the trust and the level of sophistication of the fiduciary. The attorney should be available to the fiduciary and encourage him or her to consult the attorney about allocation.

**Further Research:** For full discussion of UPAIA, see [Trust Admin, chap 8](#).

ADVISE FIDUCIARY ON WHEN TO ALLOCATE EXPENDITURES TO PRINCIPAL

Nonliquid Principal Assets

Explain to the fiduciary the practical difficulties that may arise in allocating expenditures to principal for trusts with nonliquid principal assets.

**Example:** In a net income trust in which the sole asset is an apartment building, all of the rents received are considered income and many of the expenses incurred are attributable, at least in part, to principal. The trust may receive \$100,000 in rental income during the year and (ignoring other operating expenses) incur \$10,000 in legal, accounting, and trustee fees. All of these expenses are attributable one-half to principal and one-half to income. The \$5000 in fees chargeable to income is easily paid for. However, there are no liquid assets from which to pay the share of the expenses chargeable to principal. The income beneficiary is expecting a check for \$95,000, but there is only \$90,000 left in the account after the expenses are paid.

POSSIBLE SOLUTIONS

Possible solutions include:

Converting Trust Income to Principal

- a. The trustee may be able to convert trust income to principal to pay the principal expenditures (see [Prob C §16336\(a\)](#)); but
- b. Before converting trust income, the trustee must first make a determination that to do so would not improperly favor the principal beneficiaries. See [Prob C §16335](#).

#### Retaining Earnings as Working Capital

Accounting separately for the nonliquid asset and retaining a portion of the earnings as working capital. See [Prob C §16352\(a\)](#), (b).

#### NOTE

Paying legal, accounting, and administrative expenses of the trust probably does not qualify as "working capital."

#### Selling or Borrowing Against Nonliquid Asset

- a. Selling the nonliquid asset and investing in both liquid and nonliquid assets (such as real property and a money market fund); or
- b. Borrowing against the nonliquid assets (such as an apartment building) to generate a fund for paying principal expenditures.

#### NOTE

A trustee in this situation may feel the need to temporarily "borrow" a portion of the income of the trust to make timely payments of expenditures chargeable to principal. If this is done, presumably interest should be paid to the income beneficiary. The question then arises of how much interest should be paid. The trustee should do a liquidity analysis before or immediately following acceptance of the office of trustee to plan for this situation.

#### CHECK FIDUCIARY'S ALLOCATION

- a. When the account is prepared, the attorney should check the allocations and correct any errors made by the fiduciary.
- b. Discuss any unusual trust provisions with the fiduciary's accountant or tax preparer to make sure that they are treated consistently for tax preparation purposes.

#### NOTE

The trustee has the power to make adjustments between principal and income to compensate for specific investment decisions. [Prob C §16336](#). The adjustment power is intended to allow trustees to invest trust assets in a manner that will produce the best total return without being constrained by the need to consider whether the desired investment portfolio will produce whatever balance between trust income yield and principal preservation was originally contemplated by the settlor or was deduced from the trustee's duty of impartiality.

**Further Research:** See [Trust Admin §§8.4-8.8](#).

Estate administration

#### WHEN ALLOCATION IS REQUIRED

Income and principal of a decedent's estate must be segregated in certain circumstances, *e.g.*:

- a. When all or part of the estate will be distributed to a testamentary trust, disbursements should be allocated to the principal or income accounts so that the net income passing to the trust can be determined;
- b. When a decedent's estate will be distributed to an income beneficiary (for requirement of additional accounting schedule, see Additional Schedules, [step 11](#), below); or
- c. When real property is specifically devised.

**Sample Forms:** For sample accounts of receipts and disbursements with allocations to principal and income, see [Appendixes 12-15](#). As good practice, this procedure might be followed generally.

## PRINCIPAL DISBURSEMENTS

Principal disbursements of a decedent's estate consist in part of:

- a. The principal portion of mortgage or note payments;
- b. Estate taxes;
- c. Property taxes that were a lien or delinquent as of the date of death;
- d. Income taxes owed on decedent's final tax returns;
- e. A family allowance except to the extent that the allowance is allocated to income by the order awarding the family allowance;
- f. Expenses of the probate administration, unless the will provides otherwise; and
- g. Replacement of capital items or major repairs to real property, *e.g.*, a new roof or fixing structural defects.

## INCOME DISBURSEMENTS

Income disbursements consist in part of:

- a. The interest portion of mortgage or note payments;
- b. Estate income tax;
- c. Accountant's fees to prepare the estate income tax returns;
- d. Interest on estate taxes;
- e. Bank service and check-printing charges;
- f. Property taxes that are a lien after death; and
- g. Routine expenses of operating estate property, *e.g.*:
  - (1) Utility bills;
  - (2) Ordinary repairs;
  - (3) Maintenance costs;
  - (4) Insurance; and
  - (5) Caretaker and gardener fees.

## SEPARATING RECEIPTS WHEN ALLOCATION NOT REQUIRED

It is recommended that income receipts be separated from principal receipts even when it is not required. Differentiation is necessary to:

- a. Determine statutory compensation, based in part on income (see Decedent Estate Prac §30.37);
- b. Ascertain what the remaining principal is on items for which periodic installments of principal and interest are paid; and
- c. Prepare tax returns.

**Sample Forms:** For sample accounts of receipts, see Appendixes 12-13.

**Source:** Estate Planning/Handling a Fiduciary Accounting (Action Guide)/When Advising Fiduciary on Recordkeeping/STEP 7. KEEPING RECORDS OF TRANSACTIONS

STEP 7. KEEPING RECORDS OF TRANSACTIONS

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RECORDS OF TRANSACTIONS

Advise the fiduciary that records of all transactions must be retained and organized to reflect their connection to the required financial data (see [step 3](#), above), *e.g.*:

All Fiduciaries

All fiduciaries should keep:

- a. Bank statements and canceled checks;
- b. Brokerage statements;
- c. Form 1099s;
- d. Deposit slips and other income items;
- e. Paid bills, *e.g.*, phone, utility, and medical bills;
- f. Cashier's receipts, invoices, credit card slips, and bills;
- g. Mortgage statements, property tax records, and escrow statements;
- h. Copies of tax returns;
- i. Records of the status of assets;
- j. List of transactions of any business operated by the estate or trust;
- k. Tax audit reports;
- l. Public benefit records and notices.

Trustees

Trustees should keep:

- a. Completed discretionary action forms and information;
- b. List of beneficiaries to whom discretionary payments are made;
- c. A copy of the trust agreement and all amendments and restatements;
- d. Correspondence and memorandums.

DURATION OF RECORD RETENTION

Advise the fiduciary to retain all records for *at least 5 years* after:

- a. The conservatorship, guardianship, or trust terminates or the probate estate closes, the fiduciary's final accounting is settled, the fiduciary is discharged and released, and the bond, if any, is exonerated; or
- b. The waiver of final account and receipts is filed, the fiduciary is discharged and released, and the bond is exonerated.

NOTE

Even after exoneration, a fiduciary is always open to attack for, *e.g.*, misrepresentations or omissions, so the fiduciary should

consider the circumstances of the case before discarding the records.

#### Reasons for Retention

- a. Problems or questions can arise years after a disputed event has occurred, and without records the fiduciary could not reconstruct the causes that justified their actions.
- b. Taxing authorities and beneficiaries who were minors at the time of a particular event may raise questions about the propriety of an action taken.

#### Professional Fiduciaries

Professional fiduciaries either retain indefinitely or for many years after the trust has ended virtually *all* records of transactions.

#### Individual Fiduciaries

Advise an individual fiduciary, with less available space, to retain all records that cannot be obtained elsewhere, *e.g.*, copies of correspondence between the fiduciary and other parties. Petitions or accounts on file with the court do not have to be saved, because they are available from the county clerk's office or from court archives.

#### Conservator and Guardian

Advise conservator or guardian that:

- a. Every account is subject to random or discretionary review by the court, which may include consideration of any information necessary to determine the account's accuracy. Prob C §2620(d).
- b. The conservator or guardian must make all books and records, including receipts for any expenditures, available for inspection and copying, on reasonable notice, to persons designated by the court to verify the account's accuracy. Prob C §2620(e).
- c. If the court finds material errors in the accounting, it may take appropriate action, including immediate suspension or removal of the conservator or guardian. Prob C §2620(d).

**Source:** Estate Planning/Handling a Fiduciary Accounting (Action Guide)/When Advising Fiduciary on Recordkeeping/STEP 8. FOLLOW UP IN WRITING

STEP 8. FOLLOW UP IN WRITING

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#### LETTER TO FIDUCIARY

Follow up the discussion of recordkeeping and accounting duties with a letter to the fiduciary, repeating in writing the details that were presented verbally and providing the fiduciary with a sample form of account.

*Forms:* For form letter advising trustee of what records to keep, see [Appendix 3](#). For sample recordkeeping ledgers and form of account, see [Appendixes 4-8](#).

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When Monitoring the Fiduciary's Recordkeeping Systems

## STEP 9. REVIEW FIDUCIARY'S ACCOUNTING RECORDS

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### PERIODIC REVIEW

Have the fiduciary bring the accounting records in periodically for review (even if they are maintained by an accountant) so that errors or simple noncompliance can be corrected before any harm is done.

### IF ATTORNEY HAS DOUBTS ABOUT FIDUCIARY'S ABILITIES

If you have doubts about the fiduciary's abilities, advise the fiduciary to:

- a. Hire a bookkeeper or an accountant to keep the records;
- b. Employ a financial institution as custodian and recordkeeper; or
- c. Resign as fiduciary voluntarily so that a successor who can keep acceptable records can be appointed.

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When Preparing Account for Trust Beneficiaries

## STEP 10. UNDERSTAND REQUIREMENTS FOR ACCOUNTS TO TRUST BENEFICIARIES

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### CONTENTS

The account to trust beneficiaries must contain ([Prob C §16063](#)):

#### Receipts and Disbursements

A statement of the receipts and disbursements of principal and income that have occurred either during the last complete fiscal year of the trust or since the last account.

#### Assets and Liabilities

A statement of the assets and liabilities of the trust as of the end of the last complete fiscal year of the trust or as of the end of the period covered by the account.

#### Trustee's Compensation

The trustee's compensation for the last complete fiscal year of the trust or since the last account.

#### Agents Hired by Trustee

The agents hired by the trustee, their relationship to the trustee, if any, and their compensation, for the last complete fiscal year of the trust or since the last account.

#### Right to Petition for Court Review

A statement that the recipient of the account may petition the court under [Prob C §17200](#) to obtain court review of the account and of the trustee's acts.

#### Time Period to Make Claims for Breach of Trust

A statement that claims against the trustee for breach of trust may not be made once 3 years have elapsed after the date the beneficiary receives an account or report disclosing facts giving rise to the claim. See [Prob C §16460\(a\)\(1\)](#).

### WHEN TIME TO BRING CLAIM SPECIFIED IN TRUST

- a. The trust instrument may contain language that relieves the trustee of liability for a breach of trust if the beneficiary does not object to a trustee's account or report within a specified period of time, which cannot be less than 180 days. [Prob C §16461](#).
- b. If the instrument specifies a period less than 3 years within which to make claims, the account or report must include a prescribed form of notice in 12-point boldface type, informing the beneficiaries of their right to object within the specified time.

**Sample Form:** For a form of notice to beneficiary, see [Appendix 31](#).

**Further Research:** See [Trust Admin §7.65](#).

### COMMENCEMENT OF NOTICE PERIOD

The notice periods under [Prob C §§16063](#) and [16461](#) both commence on the beneficiary's *receipt* of the notice.

#### Confirming Receipt of Notice

You can get confirmation of receipt by an individual addressee by using United States Postal Service (USPS) Restricted Delivery combined with Delivery Confirmation, Signature Confirmation, or Return Receipt.

### NOTE

Other delivery options from overnight carriers and the USPS may provide proof of delivery, but if the individual beneficiary does not sign for receipt of the package, that will only prove delivery to the address, not receipt by the beneficiary.

#### Only Adequate Disclosure Commences Period of Limitations

The 3-year statute of limitations on a proceeding against a trustee for breach of fiduciary duty begins to run from the date the beneficiary receives an account or report that contains sufficient information so that the beneficiary knows of the claim, or reasonably should have inquired into the existence of the claim, regardless of whether the written account or report satisfies the requirements of [Prob C §16061](#) or [§16063](#). *Noggle v Bank of America* (1999) 70 CA4th 853, 82 CR2d 829.

#### Outer Limit of Statute of Limitations

When the account does not adequately disclose the grounds of the claim, or if a beneficiary does not receive any written account or report, the statute of limitations on actions against the trustee begins to run when the breach is discovered or reasonably should have been discovered. [Prob C §16460\(a\)\(2\)](#).

#### NOTICE OF ACCOUNT TO MINOR OR INCAPACITATED BENEFICIARIES

The 3-year statute of limitations may also apply to incapacitated adult and minor beneficiaries if the account is served on the legal representative, guardian, or parents under [Prob C §16460\(b\)](#). However, under [CCP §352.1\(a\)](#) the statute of limitations may still be extended up to 2 years for beneficiaries in prison.

#### NOTE

The trustee's liability to incapacitated adult and minor beneficiaries does not appear to be addressed in [Prob C §16461](#). However, it appears that service of the notice under [Prob C §16460\(b\)](#) will be effective.

#### FORMAT OF ACCOUNT

[Probate Code §16063](#) mandates the information that must be provided, but does not require a particular format. As long as the items stated in [Prob C §16063\(a\)](#) are present, the account does not have to be in the form specified for court accounts.

#### NOTE

This makes it easier to attach receipts and disbursements schedules produced by financial management programs such as Microsoft Money, Quickbooks, or Quicken, which cannot be customized.

#### Using Format for Court Accounts

Although it is not required, in many instances the format for court accounts is the default format, particularly when you have contentious beneficiaries or reason to expect the case to end up in litigation. See [steps 11-21](#), below.

#### NOTE

If all trust assets are in a brokerage account, the detail provided in the periodic brokerage report may provide a sufficient showing of transactions and changes in values. Although this is common practice and may be acceptable to most beneficiaries, some courts will require a complete itemization of the information in receipt schedules.

**Form:** For a form of notice see form letter to beneficiary about account in [Appendix 31](#).

#### RELEASING TRUSTEE FROM LIABILITY

If the beneficiary has been provided with an account, the beneficiary's release or contract (*i.e.*, a waiver) will preclude the beneficiary from holding the trustee liable for any acts shown in the account. [Prob C §16464](#).

**Exceptions:** Review [Prob C §16464\(b\)](#) concerning each release to make sure that there are no factors (such as beneficiary's incapacity) that would make the release ineffective to discharge the trustee's liability.

**Form:** For a form of release, see [Appendix 32](#).

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**Source:** Estate Planning/Handling a Fiduciary Accounting (Action Guide)/When Preparing Court Account/STEP 11.  
UNDERSTAND REQUIREMENTS FOR ACCOUNTS FILED WITH COURT

When Preparing Court Account

STEP 11. UNDERSTAND REQUIREMENTS FOR ACCOUNTS FILED WITH COURT

---

CONTENT OF COURT ACCOUNT

All accounts, whether categorized (standard) or chronological (simplified), filed with the court under the Probate Code, including conservatorship, guardianship, probate estate, and trust accounts, must include financial data contained in a summary of account with supporting schedules as provided in Prob C §§1060-1063.

FORMAT OF COURT ACCOUNT

Trusts and Estates

Determine whether to use categorized or chronological account for trusts and estates. See step 13, below.

Conservatorships and Guardianships

Determine whether to file a "standard accounting" or a "simplified accounting." Prob C §2620(a); Cal Rules of Ct 7.575. See step 13, below.

REQUIRED CONTENTS OF SUMMARY

a. The account must state the period covered and contain a summary, supported by detailed schedules, showing the following (Prob C §§1061(a), 1062; see step 21, below):

- (1) The property on hand at the beginning of the period covered by the account (*i.e.*, the inventory value of all assets if it is the first account, and the property on hand at the end of the prior account if a subsequent account);
- (2) Additional property received during the accounting period (at cash value for cash assets, and carry value for non-cash assets), excluding property listed in an inventory;

NOTE

If there was an asset that was unknown when the Inventory and Appraisal was filed, a supplemental Inventory and Appraisal must be filed. This property should be listed in additional property received during the accounting period.

- (3) Income and principal receipts, excluding items listed under items (1) and (2) and receipts from a trade or business;
- (4) Net income from a trade or business;
- (5) Gains on sales;
- (6) The amount of disbursements, excluding disbursements for a trade or business or distributions;
- (7) Loss on sales;
- (8) Net loss from a trade or business;
- (9) Distributions to beneficiaries, wards, or conservatees;
- (10) Property on hand at the end of the accounting period, stated at its carry value (appraised value for assets included in inventory, purchase price for assets acquired later) and at its current market value; and

b. Total charges must equal total credits (Prob C §1061(c)).

Additional Requirements for Conservatorships and Guardianships

a. The mandatory Summary of Account form, Summary of Account—Standard and Simplified Accounts (Judicial Council Form GC-400(SUM)/GC-405(SUM)), has two additional entries for:

- (1) Other charges;
- (2) Other credits.

b. The Summary of Account form requires that property on hand at the beginning and the end of account period be broken down into Cash Assets and Non-Cash Assets (at current market value and carry value, *i.e.*, appraised value for assets included in an inventory and purchase price for assets acquired later).

#### NOTE

"Net income" and "net loss" are used in accordance with general accounting principles, but there is no requirement that the summary include "net income" and "net loss" as reflected in the tax returns governing the period of the account. Prob C §1061(d).

#### REQUIRED SCHEDULES

The summary of account (see step 21, below) must be supported by detailed schedules of (Prob C §1062):

- a. Receipts, showing the nature and purpose, the source, and the date of each item (see step 14, below);
- b. Disbursements, showing the date and nature or purpose of each item and the payee's name (see step 15, below);
- c. Net income or loss from a trade or business when applicable (the information disclosed on Schedule C or F of the federal income tax return is sufficient) (see step 16, below);
- d. Calculation of gains or losses on sale or other disposition, when applicable (see step 17, below);
- e. Distributions of cash or property to beneficiaries, minor, or conservatee, showing the date and amount when applicable, with the distribution of property shown at its carry value (see step 18, below);
- f. Itemized list of property on hand (see step 19, below), describing each item at its carry value (*i.e.*, value as appraised in the inventory or cost if acquired during the accounting period, or at the time of receipt for assets received from settlor or former trustee (see step 18, below) and at its current market value.

#### JUDGE'S PERSPECTIVE

The total amount on each schedule must equal the amount in the corresponding summary of account.

#### ADDITIONAL SCHEDULES

The following additional schedules are required when applicable under Prob C §1063:

##### Market Value of Assets

A schedule showing the estimated market value of assets on hand, required at (Prob C §1063(a)):

- a. The end of the accounting period; and
- b. The beginning of the accounting period (for all accounts after the initial account).

#### NOTE

The value of real estate, a closely held business, or other assets without a "ready" market may be estimated in good faith by the fiduciary. Prob C §1063(a).

##### Changes in Assets

A schedule showing purchases or other changes in the form of assets (*e.g.*, allocations of payments from promissory notes between principal and interest). No report is required, however, for transfers between cash or accounts in a financial institution or money market mutual funds as defined in Prob C §8901(d). Prob C §1063(b). See step 20, below.

#### NOTE

Including Accounting Notes at the end of a schedule or a reference at the end of the account is helpful when greater explanation is required. To keep track of the accounting notes, a footnote number system is efficient and easily understood.

#### Allocation of Receipts and Disbursements Between Principal and Income

A schedule showing allocation of receipts and disbursements between principal and income if the distributee is an estate or trust and the remainder and income beneficiaries are different. Prob C §1063(c).

#### NOTE

If the person preparing the account is an accountant, make certain that he or she is familiar with court accounts and the Uniform Principal and Income Act (UPAIA). Most CPAs are focused on preparing an account for income tax purposes rather than for trust accounting purposes. When there are income and principal beneficiaries, the person preparing the account must be familiar with the differences between tax accounting and the UPAIA; otherwise, inaccurate distributions to the income beneficiary may occur.

#### Specifically Devised Property

If there is specifically devised property, a schedule showing income, disbursements, and proceeds of sale in accordance with (Prob C §1063(d)):

- a. Prob C §12002 (specific devises); and
- b. Prob C §16340(a) (trust distributions).

#### Interest Calculations

If a right to distribution bears interest, a schedule showing how the interest is calculated. Prob C §1063(e).

#### Proposed Distributions

If the account contemplates a proposed distribution, a schedule showing the proposed distribution, including allocation of income as required by Prob C §12006 (to residuary or intestate distributees) (Prob C §1063(f)):

- a. *Allocation Between Trusts*: If the distribution requires an allocation among trusts, the allocation must be included on the schedule unless the allocation is to be made by the trustee after the assets are distributed.
- b. *If Date-of-Distribution Valuation*: If the distribution requires that the assets be valued as of the date of distribution, the schedule must also include the fair market value of those assets.

#### Liabilities

If applicable, a schedule showing all of the liabilities of the estate or trust, except for current or future periodic payments of rent, utilities, salaries, or other recurring expenses. Prob C §1063(g). See step 21, below.

#### Non California Real Property of Conservatee or Ward

a. If the conservator or guardian knows that the conservatee or ward has real property in a foreign jurisdiction, a schedule that (Prob C §1063(h)):

- (1) Identifies the real property;
- (2) Provides a good faith estimate of the property's fair market value; and
- (3) States what action will or has been taken to preserve and protect the property, including a recommendation whether an ancillary proceeding is necessary.

b. The conservator or guardian must use ordinary care and diligence to determine whether the conservatee or ward owns real property in a foreign jurisdiction and to preserve and protect that property. Prob C §2401.1.

#### NOTE

Although the conservator or guardian of the estate must include a schedule of real property located in a foreign jurisdiction, the

conservator or guardian does not have a duty to inventory or account for the property. Prob C §2401.1. See also Prob C §§2400(b), 2600(b).

## VERIFYING THE ACCOUNT

a. The account must be verified by the person who has the duty to make the account. Prob C §1021.

### NOTE

An account filed by the fiduciary in the proceeding must be verified by that person; it may not be verified by the fiduciary's attorney. Prob C §§1021(b), 1023; Cal Rules of Ct 7.103(c).

b. When two or more joint fiduciaries have a duty to make the report or account, it may be verified by any of them. Prob C §1021(b)(2); Cal Rules of Ct 7.103(b).

c. If the account is filed by an estate representative or attorney of record for a deceased, incapacitated, or absconding fiduciary, it may be verified on information and belief. Prob C §2632.

## CONSULT LOCAL RULES

Although the Probate Code sets forth the information that is required in a court account and requires that the summary be in a format substantially the same as that in Prob C §1061(b), local rules must be consulted to ascertain whether a particular format is required in the presentation of the information.

**Example:** Some counties may require certain titles for the categories in the required summary and assign specific schedule letters to each category. Some counties, in their local rules, may require additional schedules and reports with their own forms, or require that bank statements be attached to the account.

## CONSULT WITH COURT STAFF

The attorney planning to file an account in an unfamiliar jurisdiction should also try to consult court staff or an attorney who regularly appears before the court in question about local custom and practice.

### NOTE

Most courts have websites now with local rules and information posted.

conservatorship OR guardianship

## DOCUMENTS THAT MUST BE SUBMITTED WITH ACCOUNT

Financial Institution Account Statements:

a. As part of all accountings, including the final accounting, the conservator or guardian of the estate must file *original* account statements from certain institutions, defined below, where money belonging to the estate is held or deposited (Prob C §2620(c)(1)):

(1) Any institution defined in Prob C §2890(c), *i.e.*, insurance company, broker, or agent, investment company or bank, securities broker-dealer, investment adviser, financial planner or adviser; and

(2) Any financial institution defined in Prob C §2892(b), *i.e.*, bank trust, savings and loan association, industrial bank, or credit union.

b. The conservator or guardian must provide all account statements from these institutions showing the account balance as of the closing date of the period of the accounting. Prob C §2620(c)(2).

c. With the first court accounting, the conservator or guardian must also provide all account statements from these institutions showing the account balance immediately preceding the appointment date. Prob C §2620(c)(2).

### NOTE

If the period of the account ends on a date other than the closing date of the bank statement, a reconciliation of the property on

hand and the bank statement should be included as an attachment to the account.

**Sample Form:** For sample Cash Reconciliation Schedule, see [Appendix 33](#).

#### Additional Documents

The conservator or guardian must also file:

- a. The original closing escrow statements resulting from the sale of real property during the accounting period ([Prob C §2620\(c\)\(4\)](#)); and
- b. If the conservatee or minor is in a residential care facility or long-term care facility, all original bill statements from the facility where the conservatee has been a resident or patient during the accounting period. [Prob C §2620\(c\)\(5\)](#).

#### Enhanced Requirements for Professional Conservators and Guardians

In addition to the requirements discussed above, professional licensed) conservators and guardians must file all original account statements showing the balance for all periods covered by the accounting. [Prob C §2620\(c\)\(3\)](#). This requires the filing of all original statements received *during* the accounting period and not just at the beginning and end of the accounting period.

#### NOTE

The court may provide by local rule that account statements will be lodged with the court only until the account has become final and then be returned. [Prob C §2060\(c\)\(8\)](#). Some counties, *e.g.*, Contra Costa County, require an extra copy of the account, including financial statements for the court investigator (Contra Costa Court Rule 820), while others, *e.g.*, Alameda County, do not.

#### If Statement Contains Confidential Information

- a. If any statement contains confidential information (*e.g.*, the conservatee's or conservator's Social Security number; but see c, below), it should be attached to a separate affidavit describing the character of the document in proper form for filing and captioned "CONFIDENTIAL FINANCIAL STATEMENT" in capital letters.
- b. The clerk must keep the statement confidential to everyone except the court. [Prob C §2620\(c\)\(7\)](#).
- c. The conservator or guardian may redact the conservatee's or minor's social security number from any document lodged with the court under [§2620](#). [Prob C §2620\(c\)\(7\)](#).

#### Compensation of Conservator or Guardian and Their Attorneys

- a. Consider whether to request compensation in the petition to approve the conservator's or guardian's account. The report and petition accompanying the account may include a request for compensation for the conservator or guardian and their attorney. [Prob C §1064\(b\)](#).
- b. Prior court approval is required for payment of such fees or compensation. [Prob C §2430\(a\)\(4\)](#); [Cal Rules of Ct 7.755-7.756](#).

**Forms:** For request for compensation, see [Appendix 28](#).

**Further Research:** [Conserv Prac, chap 20](#).

#### INFORMATION REQUIRED UNDER LOCAL RULES

Individual counties may require that additional information or forms be submitted in or with the petition. For example, some counties require:

- a. A status report, general plan, or other similar document, be filed under certain circumstances.
- b. A local court form, initially prepared and filed with the order appointing a conservator, that gives the conservator's address and basic information about the conservator and the conservatee. This information is used in connection with the biennial court investigator's reviews.

Counsel should consult local probate rules.



## ADDITIONAL REQUIREMENTS: REPORT OF ADMINISTRATION

In addition to the financial statement, an account must include a report of administration. Prob C §10900(a). The purpose of the report of administration is to provide a complete summary of the estate's administration; it may be necessary to append additional statements to clarify particular events or circumstances and to permit interested persons to understand the report. Prob C §§1060-1064, 10900(a).

### Compensation of Personal Representative and Estate Attorney

The report of administration included in the final account must:

- a. Include the amount of compensation paid or payable to the personal representative and to the attorney; and
- b. Set forth the basis for determining these amounts. See Prob C §10800.

**Sample Form:** For sample Schedule of Estate Accounted For, see Appendix 25.

### Statement of Liabilities

The statement of liabilities in the report of administration must include (Prob C §10900(b)):

- a. Whether notice was given to creditors under Prob C §9050;
- b. Creditors' claims filed, including:
  - (1) The date of filing;
  - (2) The name of the claimant;
  - (3) The amount of the claim; and
  - (4) The action taken; and
- c. Creditors' claims not paid, satisfied, or adequately provided for, including:
  - (1) Whether the claim is due;
  - (2) The due date;
  - (3) The date of any notice of rejection;
  - (4) Whether a creditor has brought action on a claim; and
  - (5) Specific real or personal property that is security for the claim.

**Sample Form:** For a sample Statement of Estate Liabilities, see Appendix 26.

## NOTE

In some cases, the report of administration may refer to such matters as the investment of cash in interest-bearing accounts, or other proper investments.

### Waiver of Account

- a. Even if all distributees waive an account, the personal representative must still file a final report at the time the formal account would otherwise have been required. Prob C §10954(c).
- b. Although the details of receipts and disbursements do not have to be listed in the report of administration when the account is waived, the report required under Prob C §10954(c)(1) must still list the information required by law, including information about (Cal Rules of Ct 7.550(b)):

- (1) Creditors' claims;
- (2) Sales;
- (3) Purchases or exchanges of assets;
- (4) Changes in the form of assets;
- (5) Assets on hand;
- (6) Whether the estate is solvent;
- (7) A detailed schedule of receipts and gains or losses on sale, if the request for statutory commissions or fees includes any amount other than the amount of the inventory and appraisal in the fee basis (see Cal Rules of Ct 7.705(b));
- (8) Costs of administration, if reimbursement is requested;
- (9) The amount of fees or commissions paid or to be paid and the basis for the fees (see Prob C §§10800-10805, 10810); and
- (10) The calculation of fees or commissions according to Cal Rules of Ct 7.705.

#### INTERIM ACCOUNTS

An interim account may be combined with a petition for:

- a. Preliminary distribution;
- b. Partial payment of representative's and attorney's compensation;
- c. Instructions;
- d. Determination of heirship;
- e. Proration of estate taxes; or
- f. Other relief related to the account.

**Further Research:** See Decedent Estate Prac, chap 25, on preliminary distribution.

#### FINAL ACCOUNTS

The final account is generally combined with the petition for distribution or other relief, and usually one order is entered rather than separate orders approving the account and ordering final distribution. See Decedent Estate Prac §§31.16-31.95 for a form for order settling final account and ordering final distribution.

**Sample Form:** For sample First and Final Account and Report of Executor and Petition for its Settlement, for Allowance of Compensation to Executor and Attorneys for Ordinary Services, and for Final Distribution, see Appendix 27.

**Source:** Estate Planning/Handling a Fiduciary Accounting (Action Guide)/When Preparing Court Account/STEP 12.  
UNDERSTAND REQUIREMENTS FOR PETITION

STEP 12. UNDERSTAND REQUIREMENTS FOR PETITION

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WHAT PETITION CONTAINS

The petition for the approval of the report or account must:

Describe Financial Transactions Not Readily Understandable From Schedules

Describe all the financial transactions that occurred during the accounting period that are not readily understandable from the schedules in the account. Prob C §1064(a)(1). Transactions easily discernible in the schedules may be referred to in the petition in summary form for the purpose of requesting fees for additional services performed.

**Examples:** Investments, stock splits, and stock dividends during the accounting period should be explained in the petition unless they are detailed in the account schedules. Details of financial transactions that are easily discernible from the schedules, *e.g.*, capital gains and losses, need not be explained.

NOTE

In some instances, the activities of the fiduciary should be explained in summary form, so that the disbursements in the account will be more understandable to the court.

Explain Unusual Items

Explain any unusual items in the account and provide other information as previously required by the court. Prob C §1064(a)(2).

Disclose Compensation Paid Without Court Order

Disclose compensation paid, if compensation has been paid without a prior court order to the fiduciary, or to his or her attorney, during the accounting period. Prob C §1064(a)(3).

NOTE

Personal representatives, conservators, and guardians may not pay or receive, and their attorneys may not receive compensation without a court order authorizing payment. Cal Rules of Ct 7.700(a), 7.755. See also Prob C §2430(a)(4). In addition to removing the fiduciary, the court may surcharge the fiduciary for paying or receiving compensation without a prior court order. Cal Rules of Ct 7.700(b), 7.755(b).

Disclose Family or Affiliate Relationship

Disclose any family or affiliate relationship that exists between the fiduciary and any agent hired by the fiduciary during the accounting period. Prob C §1064(a)(4).

a. "Family" relationship means a relationship created by blood or marriage, and "affiliate" is defined as an entity that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, the fiduciary. Prob C §1064(c).

b. Although "agent" is not defined in the statute, some courts broadly interpret it to mean *any* person or entity whom the fiduciary pays for services.

NOTE

Most courts interpret Prob C §1064(a)(4) to also require an affirmative statement that there is *no* family or affiliate relationship when none exists.

Allege That All Cash Invested

Allege whether all cash has been invested and maintained in interest-bearing accounts or in authorized investments except for an amount of cash that is reasonably necessary for orderly administration of the estate. Prob C §1064(a)(5).

## NOTE

Fiduciaries should keep in mind the maximum insurance limits (currently \$250,000 per depositor) provided by the federal government.

## VERIFY PETITION

The petition to approve the account must be verified by the petitioner. Prob C §1021(b). Cal Rules of Ct 7.103(b), (c).

## NOTE

A petition filed by the fiduciary in the proceeding must be verified by that person; it may not be verified by the fiduciary's attorney. Prob C §§1021(b), 1023; Cal Rules of Ct 7.103(c).

## FORMAT OF PETITION

The petition and the proposed order must include the full title and clearly and completely indicate all relief sought or granted. Cal Rules of Ct 7.102. When the petition covers several matters, each matter should be listed separately in the heading and the notice of hearing.

**Example:** If the petition to approve the account is filed with a petition for final distribution, the notice of hearing must specifically state that fact. Prob C §11000(c).

**Further Research:** For petition requirements, see Conserv Prac §§19.22-19.37; Guardian Prac §§14.21-14.35; Decedent Estate Prac §§31.16-31.95.

**Sample Forms:** For sample First and Final Account and Report of Executor and Petition for its Settlement, for Allowance of Compensation to Executor and Attorneys for Ordinary Services, and for Final Distribution, see Appendix 27; for Petition to Approve Conservator's or Guardian's Account, see Appendix 28; for Trustee's Petition for Settlement of Account and Approval of Compensation and Fees, see Appendix 29.

**Source:** Estate Planning/Handling a Fiduciary Accounting (Action Guide)/When Preparing Court Account/STEP 13.  
SELECT TYPE OF ACCOUNT

STEP 13. SELECT TYPE OF ACCOUNT

Trust and estate administration

TYPES OF ACCOUNTS

Accounts of receipts and disbursements can be presented in chronological order or by type of entry, although some local rules require one method rather than the other.

Categorized Account

A categorized account lists receipts and disbursements by category (*e.g.*, dividends, interest, rents, and principal).

**Sample Form:** For sample Categorized Schedule of Receipts and Disbursements, see [Appendixes 12, 14](#).

Chronological Account

A chronological account lists receipts and disbursements separately, in chronological order.

**Sample Form:** For sample Chronological Schedule of Receipts and Disbursements, see [Appendixes 13, 15](#).

CHOOSING TYPE

If local rules do not require one method, the attorney and the fiduciary determine what form the accounts should take. Some preliminary analysis is required in preparing a categorized account, while a chronological account permits the use of financial data in almost its original state. If the account is complex with numerous items to include, a categorized account provides greater clarity.

Categorized Account

a. A categorized account may be preferable for individuals, because it is easier for the attorney to verify that all regular income is included. If receipts are grouped by category, it is easier to see whether all periodic receipts (*e.g.*, quarterly dividends) have been received.

b. Many courts prefer categorized accounts because they facilitate review and make it easier to ascertain what was spent or received by category.

NOTE

A categorized account should be kept chronologically within categories.

Chronological Account

A chronological account is usually closer to the way bookkeeping records are kept by most fiduciaries. The chronological account has the advantages of showing readily what the fiduciary has been doing and the status of the estate or trust at any given date.

NOTE

It is recommended, but not required, that even in the chronological account, income receipts be separated from principal receipts. Whatever method is used, however, the account should be as self-contained as possible and should contain enough information to show the bases for its computations.

conservatorships and guardianships

## TYPES OF ACCOUNTINGS

### Standard Accounting

A standard accounting lists receipts and disbursements by category (*e.g.*, dividends, interest, rents, and principal), with each category subtotaled. Cal Rules of Ct 7.575(a).

### Simplified Accounting

A simplified accounting lists receipts and disbursements chronologically without subject-matter categories. Cal Rules of Ct 7.575(a).

## WHEN STANDARD ACCOUNTING REQUIRED

A conservator or guardian *must* use a standard accounting if (Cal Rules of Ct 7.575(b)):

- a. The estate contains income real property;
- b. The estate contains a whole or partial interest in a trade or business;
- c. The appraised value of the estate is \$500,000 or more, not including the conservatee's or minor's personal residence;
- d. Either the receipts schedule (Schedule A) or the disbursements schedule (Schedule C) prepared in simplified accounting format is more than five pages long; or

### NOTE

Only a schedule of receipts or disbursements that is more than five pages must be prepared in standard accounting format, the rest of the accounting can be prepared as a simplified accounting.

- e. The court directs that a standard accounting be filed.

## WHEN SIMPLIFIED OR STANDARD ACCOUNTING AUTHORIZED

If the estate contains none of the items listed in Cal Rules of Ct 7.575(b) (see above), the conservator or guardian may file either a simplified or a standard accounting. Cal Rules of Ct 7.575(b)-(c).

### Deciding to File Standard Accounting

Most attorneys who prepare accountings, as well as professional (*i.e.*, licensed) conservators and guardians and trust companies, will choose the standard accounting because:

- a. It requires use of only one Judicial Council form, Summary of Account—Standard and Simplified Accounts (Judicial Council Form GC-400(SUM)/GC-405-(SUM)); and
- b. It can be prepared with the accounting program used by the preparer.

### NOTE

If you are not using the optional Judicial Council forms you still must provide the same information in the same general layout as the applicable Judicial Council form.

### Deciding to File Simplified Accounting

In many cases, even an experienced preparer might choose a simplified accounting, *e.g.*, if there are very few different expense categories; and it is possible to automatically transfer totals from the schedules to the summary form.

### NOTE

The Judicial Council accounting forms must be used for a simplified account.

## REVIEW JUDICIAL COUNCIL FORMS

### Become Familiar with Judicial Council Forms

The Judicial Council has created 34 forms and one worksheet for standard (categorized) and simplified (chronological) accounts:

- a. Only the Summary of Account—Standard and Simplified Accounts (Judicial Council Form GC-400(SUM)/GC-405(SUM)) (see [Appendix 11](#) for copy of form) is *mandatory* for all accounts.
- b. Judicial Council forms designated only as GC-400 are standard accounting forms and their use is *optional*. If they are not used, the account must follow rules specified in [Cal Rules of Ct 7.575\(e\)\(2\)](#). See below.
- c. Forms designated as GC-400/GC-405 are *optional* for standard accounts but *mandatory* for simplified accounts. [Cal Rules of Ct 7.575\(d\)](#), (e)(1). Standard accounting filers who elect not to use the optional Judicial Council forms must follow all content and general layout requirements of the applicable Judicial Council forms. [Cal Rules of Ct 7.575\(e\)\(2\)](#).
- d. Two forms, Receipts—Simplified Account (Judicial Council Form GC-405(A)) and Disbursements—Simplified Account (Judicial Council Form GC-405(C)), are for simplified accounts only and their use is *mandatory*.
- e. One form, Schedules A and C, Receipts and Disbursements Worksheet—Standard Account (Judicial Council Form GC-400(A)(C)) is an optional form that is not to be filed with the accounting, but may be used to make sure that no schedule is inadvertently omitted when preparing the account.

#### NOTE

Fillable forms can be downloaded from the Judicial Council website at <http://www.courtinfo.ca.gov>.

#### Requirements When Not Using Optional Judicial Council Forms

Standard accounting filers who do not use the optional Judicial Council forms must ([Cal Rules of Ct 7.575\(e\)\(2\)](#)):

- a. State receipts and disbursements in the subject-matter categories specified in the optional Judicial Council forms for receipts and disbursements schedules;
- b. Provide the same information about any asset, property, transaction, receipt, disbursement, or other matter that is required by the applicable Judicial Council accounting form; and
- c. Provide that information in the same general layout as the applicable Judicial Council accounting form.

#### NOTE

Even if you are not using the optional Judicial Council forms, you should get copies of the optional forms because each form contains useful information about what must be included in the schedule as well as how to present the information.

For list of Judicial Council accounting forms, see [Appendix 35](#).

**Source:** Estate Planning/Handling a Fiduciary Accounting (Action Guide)/When Preparing Court Account/STEP 14.  
PREPARE SCHEDULE OF RECEIPTS

STEP 14. PREPARE SCHEDULE OF RECEIPTS

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SCHEDULE OF RECEIPTS

The listing of receipts and disbursements is an important part of any court account. For disbursements, see [step 15](#), below.

WHAT SCHEDULE MUST SHOW

The schedule of receipts must show ([Prob C §1062\(a\)](#)):

- a. The nature and purpose of each item;
- b. The source of the receipt; and
- c. The date.

**Sample Forms:** For sample Categorized Schedule of Receipts, see [Appendix 12](#). For sample Chronological Schedule of Receipts, see [Appendix 13](#).

NOTE

Only noncapital receipts are shown in the total on the Schedule of Receipts and in the Summary of Account. Otherwise there would be a duplication of principal in the inventory and receipts.

SEGREGATING CASH PRINCIPAL ITEMS

- a. Although it is not required, generally income receipts should be separated from principal receipts. It may be confusing to include the collection of principal items such as uncashed checks at decedent's death, refunds, dividends of record at date of death but received after death, and the principal portion of note payments in the schedule of receipts if the income and principal receipts are not segregated as shown in [Appendixes 12-13](#). For allocation of items to principal and income, see [step 6](#), above.
- b. Returns of principal listed in the Schedule of Receipts are not included in the dollar amounts in the total.
- c. The total of principal payments received is shown in an informational recapitulation schedule. It is sometimes called Schedule for Receipt of Cash Capital Items (see [Appendix 23](#)); or for Conservatorship and Guardianship accountings, Schedule A1, Return of Principal (even though there is no form for this schedule). See directions in header of Schedule A, Receipts, Dividends—Standard Account (Judicial Council Form GC-400(A)(1)) and Schedule A, Receipts—Simplified Account (Judicial Council Form GC-405(A)).

**Further Research:** On treatment of return of principal in conservatorship accounts, see [Conserv Prac §19.44A](#). See also [Conserv Prac §§19.42-19.43](#).

NOTE

Items that are deductible for tax purposes (*e.g.*, interest) should be separately classified or noted.

REPORTING PAYMENTS ON NOTES

The interest and principal payments on notes must be kept separate. Interest and principal payments increase the cash on hand. The principal payments also reduce the principal due on notes listed in the Schedule of Property on Hand at End of Accounting Period. See [step 19](#), below.

REPORTING INTEREST ON SAVINGS ACCOUNTS

The attorney should make certain that income items such as interest on savings accounts that are not deposited in the commercial bank account are included in the receipts.

REPORTING RECEIPTS FROM SALE OF PROPERTY

a. For purposes of the account, receipts from sales of estate or trust property are shown at the gross sales price on the Schedule of Gain or Loss on Sales or Other Disposition (see [step 17](#), below), with the cost of sales included on the Schedule of Disbursements (see [step 15](#), below).

b. If the fiduciary had sold an asset at its carry value, the transaction would be reported only in the Schedule of Changes in Form of Assets (see [step 11](#), above).

## REPORTING ADDITIONAL SHARES OF STOCK

### On Schedule of Receipts

Additional shares of corporate stock received because of a stock split or stock dividend of the issuing corporation are *generally not income* and are not included on this schedule *unless*:

- a. The shareholder has the right to accept money or property instead of the shares; or
- b. The shares are a dividend on preferred stock for the current year or year immediately preceding. See IRC §305.

### List as Property on Hand

In all cases:

- a. Report the stock split or stock dividend on the Schedule of Changes in Form of Assets (see [step 11](#), above); and
- b. List the additional shares as on the Schedule of Property on Hand at End of Accounting Period (see [step 19](#), below) so that the change in the number of shares is accounted for.

## REPORTING MUTUAL FUND DIVIDENDS

Dividends from mutual funds are shown at their cash equivalents as income, whether they are received in cash or used to purchase additional shares, *e.g.*, under an automatic dividend reinvestment program.

### Regular Dividends

List regular dividends here as income.

### Capital Gains

List capital gains on the Schedule of Gain on Sales (see [step 17](#), below).

## NOTE

Some practitioners prefer to list mutual fund capital gains distributions on Schedule A, because these distributions do not reduce the numbers of shares held.

## ORDER OF RECEIPTS IN CATEGORIZED ACCOUNT

Listing inventory items in the categorized schedule of receipts in the order in which they appear in the inventory will simplify preparation of the Schedule of Property on Hand. See [step 19](#), below, and [Appendix 19](#).

## ITEMS NOT INCLUDED ON SCHEDULE OF RECEIPTS

### Transfers Between Estate Accounts

Do not include transfers between accounts in the same estate on the accounting schedules.

### Conservatee's Wages

Unless ordered by the court at the creation of the conservatorship, do not include a conservatee's wages. See [Prob C §2601](#).

conservatorship OR guardianship

## WHEN PREPARING A STANDARD ACCOUNT

Conservators and guardians must do either of the following to present receipts and other charges:

- a. Use optional Judicial Council Forms GC-400(A)(1)-GC-400(A)(6) Receipts—Standard Account and GC-400(OCH)/GC-405(OCH) Other Charges—Standard and Simplified Accounts; or
- b. Use attorney-generated account forms as long as they provide the same information in the same general layout as the applicable Judicial Council form (Cal Rules of Ct 7.575(e)(2); see step 13, above).

**Further Research:** For in-depth discussion of each Judicial Council receipt form, see Conserv Prac §§19.14B, 19.41C.

## WHEN PREPARING A SIMPLIFIED ACCOUNT

- a. You must use mandatory Schedule A, Receipts—Simplified Account (Judicial Council Form GC-405(A)), *unless* the receipts exceed five pages.
- b. If the receipts exceed five pages, Schedule A must be prepared in a standard accounting format (see step 13, above). Although you must use the standard accounting format, you do not have to use the Judicial Council category forms for Schedule A. Cal Rules of Ct 7.575(c).

## NOTE

It may be difficult for the conservator or guardian to keep within the five page limit for receipts for 2-year accounts. Because much of each Judicial Council schedule consists of header and footer content, less than six inches per page is available for data entries. At eight lines an inch, Schedule A would have a total limit of 240 entries, or an average of ten per month for a 2-year account period.

**Further Research:** See Conserv Prac §§19.62G-19.62H.

## JUDGE'S PERSPECTIVE

In reviewing the schedule of receipts, the court will look at whether:

- The period of receipts corresponds to the accounting period; and
- The total receipts agree with the summary of account figure.

In reviewing the receipts for a conservatorship or guardianship, the court will also look at whether:

- There are receipts from all income-producing assets noted in the inventory and appraisal or property on hand;
- There are assets that fail to produce expected income;
- There is income from each monthly source for every month of the account;
- There is income from each quarterly source for every quarter of the account;
- The conservatee's wages are excluded as required by Prob C §2601; and
- There are any questionable receipts.

**Source:** Estate Planning/Handling a Fiduciary Accounting (Action Guide)/When Preparing Court Account/STEP 15.  
PREPARE SCHEDULE OF DISBURSEMENTS

STEP 15. PREPARE SCHEDULE OF DISBURSEMENTS

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WHAT SCHEDULE MUST SHOW

Disbursement entries must state (Prob C §1062(b)):

- a. The payee's name;
- b. The amount and nature or purpose of each item for which payment was made; and
- c. The date.

NOTE

Monthly payments made during the accounting period may be lumped together in a categorized schedule of disbursements, as is the family allowance in Appendix 14. However, in conservatorship and guardianship accounts, recurring monthly payments may *not* be lumped together. See below.

**Sample Forms:** For sample Categorized Schedule of Disbursements, see Appendix 14. For sample Chronological Schedule of Disbursements, see Appendix 15.

VOUCHERS AND CANCELED CHECKS

The voucher or check numbers for disbursements *can* be added to the disbursement schedule if the fiduciary wishes and *must* be added in conservatorship and guardianship accountings. See, *e.g.*, Judicial Council Forms GC-400(C)(1)-GC-400(C)(11) – Standard Account, discussed below. Adding voucher numbers can ensure that all payments are included in the account.

NOTE

Vouchers and canceled checks do not need to be filed unless ordered by the court or requested by an interested person. Prob C §10901.

JUDGE'S PERSPECTIVE

If the judicial officer senses that something is not right in the accounting provided, he or she will request collateral sources of information to support the accounting (*e.g.*, bank statements, brokerage statements, receipts).

EXPENSES OF SALE

Expenses of sale are included on the schedule of disbursements. It is often advantageous to have a separate categorized schedule of disbursements for expenses of sale. This is helpful in using the account to document basis for income tax purposes.

NOTE

Although expenses of sale are not supported by the fiduciary's canceled check, they should be evidenced by the selling agent's receipted bills or final escrow statement.

DISBURSEMENTS FOR INVESTMENTS NOT INCLUDED

- a. Disbursements to acquire investment assets during the accounting period are not included on the schedule of disbursements:
  - (1) Investments are included on the Schedule of Changes in Form of Assets (see step 11, above, and Appendix 24); and
  - (2) If the investment is still on hand at the end of the period, it is listed in the Schedule of Property on Hand at the End of Account Period (see step 19, below).
- b. Disbursements for investment *expenses* are included in the schedule of disbursements. You should use this category for direct payments made for broker and investment services. See, *e.g.*, for conservatorships and guardianships accounts, Schedule C,

estate administration

#### SEGREGATING EXPENSES OF SPECIFICALLY DEVISED PROPERTY

If property is specifically devised, related expenses should be segregated to make it easier to calculate the recipient's net income from the property.

#### ACCOUNT OF DISBURSEMENTS WHEN ALL OR PART OF ESTATE DISTRIBUTED TO TESTAMENTARY TRUST

When all or part of the estate will be distributed to a testamentary trust, disbursements should be allocated to the principal or income accounts so that the net income passing to the trust can be determined.

##### Principal Disbursements

Principal disbursements consist, in part, of:

- a. The principal portion of mortgage or note payments;
- b. Estate taxes;
- c. Property taxes that were a lien or delinquent as of the date of death (real property taxes on California property are considered a lien at death and therefore a principal charge (Rev & T C §2192));
- d. Income taxes owed on decedent's final tax returns;
- e. A family allowance; and
- f. Expenses of the probate administration, unless the will provides otherwise.

##### Income Disbursements

Income disbursements consist, in part, of:

- a. The interest portion of mortgage or note payments;
- b. Estate income tax;
- c. Accountant's fees to prepare the estate income tax returns;
- d. Interest on estate taxes;
- e. Bank service and check-printing charges;
- f. Property taxes that are a lien after death; and
- g. Routine expenses of operating estate property, *e.g.*, utility bills, maintenance costs, insurance, and caretaker and gardener fees. Major repairs to real property, such as a new roof or fixing structural defects, are considered principal expenditures.

**Sample Forms:** For sample Chronological Account of Disbursements with allocations to principal and income, see [Appendix 15](#).

conservatorship OR guardianship

#### WHEN PREPARING A STANDARD ACCOUNT

Conservators and guardians must do either of the following to present disbursements and other credits:

- a. Use Judicial Council Forms GC-400(C)(1)-GC-400(C)(11) Disbursements—Standard Account and GC-400(OCR)/GC-

405(OCR) Other Charges—Standard and Simplified Account; or

b. Use attorney-generated account forms as long as they provide the same information in the same general layout as the applicable Judicial Council form (Cal Rules of Ct 7.575(e)(2)); see step 13, above).

**Further Research:** For in-depth discussion of each Judicial Council disbursement form, see Conserv Prac §§19.48-19.53.

#### WHEN PREPARING A SIMPLIFIED ACCOUNT

a. You must use mandatory: Schedule C, Disbursements—Simplified Account (Judicial Council Form GC-405(C)), unless the disbursements exceed five pages for Schedule C.

b. If the disbursements exceed five pages, Schedule C must be prepared in standard accounting format (see step 13, above). Although you must use the standard accounting format, you do not have to use the actual category forms for Schedule C. Cal Rules of Ct 7.575(c).

#### NOTE

It may be difficult for the conservator or guardian to keep within the five page limit for disbursements for 2-year accounts. Because much of each Judicial Council schedule consists of header and footer content, less than six inches per page is available for data entries. At eight lines an inch, Schedule C would have a total limit of 240 entries, or an average of ten per month for a 2-year account period.

**Further Research:** See Conserv Prac §§19.62I-19.62J.

#### IDENTIFY DISBURSEMENTS

Identify each disbursement by either check number or court order. Electronic funds transfers from the conservatorship or guardianship checking account can be denoted as "EFT" in the "Check Number" column.

#### REPORTING PAYMENTS FOR SUPPORT AND MAINTENANCE

a. List disbursements made to third parties for the conservatee's or minor's support on Schedule C. The schedule must show individual items paid for the conservatee's or minor's support and maintenance, even if made to the conservator or guardian of the person by order of the court. It is not sufficient to list lump-sum payments to the conservator or guardian of the person.

b. For standard accounts, you must use the following Judicial Council GC-400 disbursement form categories, even if you are not using the optional forms:

- (1) Conservatee's caregiver expenses (GC-400(C)(1));
- (2) Conservatee's residential or long-term care facility expenses (GC-400(C)(2));
- (3) Ward's education expenses (GC-400(C)(3));
- (4) Living expenses (GC-400(C)(7)); and
- (5) Medical expenses (GC-400(C)(8)).

#### NOTE

Expenses that recur periodically in the same amount, *e.g.*, rent, must be listed separately and may not be listed in one sum for the entire period. See Prob C §1062(b).

**Further Research:** For payments to third parties for a conservatee's or minor's support, see Conserv Prac §19.52; Guardian Prac §14.46.

#### REPORTING MONTHLY PERSONAL ALLOWANCE

a. If the court has authorized distribution of a monthly allowance to the conservatee or minor for his or her personal use, details of the use of the allowance are not required to be included in the account. It is sufficient to list the monthly disbursement.

b. List disbursement to conservatee or minor on Schedule [specify schedule letter], Distributions to Conservatee or Ward—Standard and Simplified Accounts (Judicial Council Form GC-400(DIST)/GC-405(DIST)). See step 18.

## JUDGE'S PERSPECTIVE

In reviewing the conservator's or guardian's schedule of disbursements, the court will look at whether:

- The purpose of each disbursement is clear;
- Timely payments were made for all regular monthly bills;
- Storage fees exceed the value of stored items;
- Disbursements for clothing and personal items are made and are reasonable;
- There are excessive disbursements for bank service, late charges, or non-sufficient funds (NSF) charges;
- Disbursements were made for the bond premium;
- Disbursements for the probate referee and court investigator were correct;
- Property taxes were paid or deferred and explained;
- Income tax returns were filed and paid;
- Payroll taxes were paid if the conservatee had paid home attendants;
- Fees paid to the attorney and commissions paid to the conservator for the prior account were equal to the amounts approved by the court;
- "Cash" or "ATM" disbursements are excessive;
- Reimbursements to the conservator or others are explained or excessive;
- All credit card payments are explained;
- There are any miscellaneous or unknown disbursements;
- Any gifts are authorized;
- The personal spending allowance was approved by the court;
- Disbursements for routine home maintenance are excessive; and
- Any disbursements are questionable.

**Source:** Estate Planning/Handling a Fiduciary Accounting (Action Guide)/When Preparing Court Account/STEP 16.  
**PREPARE SCHEDULE OF NET INCOME OR LOSS FROM TRADE OR BUSINESS**

**STEP 16. PREPARE SCHEDULE OF NET INCOME OR LOSS FROM TRADE OR BUSINESS**

---

**WHAT SCHEDULE MUST SHOW**

The schedule of net income or loss from a trade or business is sufficient for the account if it provides the information disclosed on Schedule C or Schedule F of the federal income tax return. Prob C §1062(c).

**NOTE**

When the account cut-off dates are not the same as the business owner's tax year, use of the Schedule C or Schedule F information can be misleading, because the cash flow amounts may differ from the bottom-line figure on the tax return schedule.

**Sample Form:** For sample Schedule of Net Income or Loss from Trade or Business, see Appendix 16.

**PROVIDING INFORMATION ON SCHEDULE C OR F OF FEDERAL INCOME TAX RETURN**

**Attach Copy**

Attach a copy of Schedule C (Profit or Loss from Business) or Schedule F (Profit or Loss from Farming) of the federal income tax return to the account.

**Transfer Information to Account Schedule**

Transfer the same information to an account schedule of net income or loss.

**NOTE**

For purposes of the summary of account, the terms "net income" and "net loss" are to be used according to general accounting principles; there is no requirement that the terms are to be used as reflected in the tax returns governing the period of the account. Prob C §1061(d).

conservatorship OR guardianship

**USE OR FOLLOW REQUIREMENTS OF JUDICIAL COUNCIL FORMS**

If the estate contains a whole or partial interest in a trade or business, and a gain or loss is incurred, a standard account must be prepared by either:

a. Using the following Judicial Council forms:

(1) Net Income from Trade or Business—Standard Account (Judicial Council Form GC-400(NI)) to report net income from a trade or business.

(2) Net Loss from Trade or Business—Standard Account (Judicial Council Form GC-400(NL)) to report net loss from a trade or business.

b. If the Judicial Council forms are not used, the account must nevertheless follow the format and content requirements of the forms described above. Cal Rules of Ct 7.575(e)(2).

**NOTE**

For conservatorships and guardianships that do not have accounting cut-off dates on the same tax year as the business owner, use of the Schedule C or Schedule F information can be misleading, because the cash amounts flowing to the conservatee or minor may differ from the bottom-line figure on the tax return schedule.



**Source:** Estate Planning/Handling a Fiduciary Accounting (Action Guide)/When Preparing Court Account/STEP 17.  
PREPARE SCHEDULE OF GAINS OR LOSSES ON SALE OR OTHER DISPOSITION

STEP 17. PREPARE SCHEDULE OF GAINS OR LOSSES ON SALE OR OTHER DISPOSITION

---

WHAT SCHEDULE MUST SHOW

Preparing Separate Schedules for Gain and Loss

If many sales have occurred during the accounting period, separate gain and loss schedules should be prepared showing:

- a. The price for which the property was sold;
- b. Its value;
- c. The gain or loss; and
- d. The date of sale.

*Sample Form:* For sample Schedules of Gains and Losses, see [Appendix 17](#).

Combining Gains and Losses

You also may prepare only one schedule (except for conservatorship and guardianship accountings) showing the net result when there are both gains and losses, and title it either "Gains on Sale" or "Losses on Sale." All sales are listed in the schedule, with the net effect as shown in the heading. For a schedule showing net gain from sales, see [Appendix 17](#).

NOTE

Although some local rules require that losses be shown separately, placing gains and losses on the same schedule is acceptable to most courts except for conservatorship and guardianship accountings (see below).

CALCULATING GAIN OR LOSS

Conservatorship and Guardianship Property

For conservatorship and guardianship property, gain or loss is the difference between the gross sales price and the appraised value of the asset, as shown in the inventory, or for later-acquired property, its purchase price.

Estate Property

For estate property, gain or loss is the difference between the gross sales price and the appraised value of the asset, as shown in the inventory.

Trust Property

For trust property, gains or losses from any sales, tenders, or other dispositions during the accounting period must be shown as computed against actual cost, not against the inventory or book value, unless the trust is a testamentary trust.

Use Gross Sales Price

Showing the sales price as the gross rather than the net amount received increases any gain and reduces any loss. The fiduciary frequently receives a check in the net amount from a selling agent, but the attorney should make certain that the gross amount is shown on the sale schedules. Separating sales of property in the cash-receipts record (see [Appendixes 5-6](#)) provides a relatively simple method of cross-checking.

TREATMENT OF GAINS AND LOSSES DIFFERENT FOR INCOME TAX PURPOSES

The amount of gain or loss shown in the account is not necessarily gain or loss for income tax purposes.

Adjusted Basis

A conservatee's or minor's adjusted basis, from which gain or loss for income tax purposes is computed, is usually quite different from the appraised value of the asset.

#### Expenses of Sale

Expenses of sale are deductible in determining gain for income tax purposes. In real property transactions particularly, expenses of sale are shown in disbursements or reflected on the schedule for gains or losses on sales. See [Appendixes 7-8](#); see [Appendixes 5-6](#) on reporting sale proceeds in receipts. See also Schedule C, Disbursements, Property Sale Expenses—Standard Account (Judicial Council Form GC-400(C)(9)).

#### Depreciation

Other elements affecting gain or loss for income tax purposes, *e.g.*, depreciation, are not included in the account.

#### DIVIDENDS FROM MUTUAL FUNDS

Capital gain dividends from mutual funds are shown here; regular dividends are listed on the schedule of receipts as income.

#### NOTE

Some practitioners prefer to list mutual fund capital gains distributions on Schedule A, because these distributions do not reduce the numbers of shares held.

#### OTHER DISPOSITION

This schedule also lists property included in the inventory that is no longer in the fiduciary's possession and is not otherwise accounted for.

**Example:** The schedule may include property destroyed by fire or other casualty loss not entirely covered by insurance, or property lost through litigation.

#### NOTE

Although [Prob C §1062](#) includes "other disposition of assets," the corresponding Judicial Council forms for gains and losses on sale do not include this language anywhere in the form.

conservatorship OR guardianship

#### DETERMINE USE OF JUDICIAL COUNCIL FORMS

You must use the following Judicial Council forms when preparing a simplified account, and you may use them when preparing a standard account (as an alternative, when preparing a standard account, you may follow the format and content requirements of the Judicial Council forms):

- a. Schedule B, Gains on Sale—Standard and Simplified Accounts (Judicial Council Form GC-400(B)/GC-405(B)). The description of the property sold must include the Inventory and Appraisal item number and date of the Inventory and Appraisal.
- b. Schedule D, Losses on Sales—Standard and Simplified Accounts (Judicial Council form GC-400(D)/GC-405(D)).

**Source:** Estate Planning/Handling a Fiduciary Accounting (Action Guide)/When Preparing Court Account/STEP 18.  
PREPARE SCHEDULE OF DISTRIBUTIONS

STEP 18. PREPARE SCHEDULE OF DISTRIBUTIONS

---

WHAT IS INCLUDED

The schedule of distributions should include all distributions of cash or property to beneficiaries, the conservatee, or the minor. Prob C §1062(e). The schedule must show:

- a. The date of the distribution; and
- b. The amount of the distribution shown at its carry value.

**Sample Form:** For sample Schedule of Distributions to an estate's beneficiary, see Appendix 18.

SCHEDULE OF DISTRIBUTIONS TO CONSERVATEE OR WARD

Simplified Accounts

For simplified accounts, list distributions to conservatee or minor on Schedule [assign schedule letter], Distributions to Conservatee or Ward—Standard and Simplified Accounts (Judicial Council Form GC-400(DIST)/GC-405(DIST)).

NOTE

Use of this Judicial Council form is mandatory for simplified accounts. Cal Rules of Ct 7.575(e)(2).

Standard Accounts

Using Judicial Council Form GC-400(DIST)/GC-405(DIST) is optional for standard accounts. If you do not use the Judicial Council form, you must still follow the format and content requirements of that form. Cal Rules of Ct 7.575(e)(2).

**Further Research:** For payments to a conservatee or minor, see Conserv Prac §19.54A; Guardian Prac §14.46.

DETERMINING CARRY VALUE

Asset Included in Inventory and Appraisal

The carry value for an asset included in the inventory and appraisal is its appraised value (normally its fair market value at the date of the inventory or date of death).

Asset Acquired by Purchase

The carry value for an asset later acquired by purchase is its purchase price (value when "acquired" by the fiduciary).

Asset Received from Decedent When No Inventory and Appraisal

- a. If there is no inventory and appraisal, the fiduciary uses date-of-death values found on the estate tax return if the values are close to the value of the assets when the trustee receives them.
- b. If an estate tax return was not filed, but the death was recent, the fiduciary values the assets as of the date of death.
- c. If the death occurred long before the fiduciary began to serve, the assets are valued at the market value they have when they are received.

Asset Received from Settlor or Former Trustee

The carry value for an asset received from the trust settlor or a former trustee is the value of the asset at the time of receipt.

**Source:** Estate Planning/Handling a Fiduciary Accounting (Action Guide)/When Preparing Court Account/STEP 19.  
PREPARE SCHEDULE OF PROPERTY ON HAND

STEP 19. PREPARE SCHEDULE OF PROPERTY ON HAND

---

WHAT SCHEDULE MUST SHOW

The Schedule of Property on Hand must (Prob C §§1062(f), 1063(a)):

- a. Separately describe the items on hand; and
- b. Describe each item at its current market value and at its carry value (for definition of carry value, see step 18, above).

DETERMINING CARRY VALUE

Stock Splits or Stock Dividends Not Included as Income

Stock splits or stock dividends that are not included as income (see step 14, above) increase the total number of shares but do not increase the stock's carry value.

Dividend Reinvestment

Mutual fund shares purchased from either regular or capital gains dividends and stock dividends that are income are investments, and are shown in the carry value at cost.

Verify Bank Accounts

Bank accounts should be verified with the latest bank statements at the end of the accounting period.

*Sample Form:* See Appendix 19.

conservatorship and guardianship

PROPERTY ON HAND AT BEGINNING OF ACCOUNT

An accounting for a conservatorship or a guardianship must include a Schedule of Property on Hand at Beginning of Account Period and a Schedule of Property on Hand at End of Account Period. The Schedule of Property on Hand at Beginning of Account Period should (Prob C §§1062(f), 1063(a)):

- a. Itemize each item of property;
- b. Describe each item at its carry value (the appraised value of property included in an inventory and the cost of property purchased later) for the first account, or the value of the property on hand at the end of the prior account for a subsequent account; and
- c. Show the market value for all accounts after the initial account.

DETERMINE USE OF JUDICIAL COUNCIL FORMS

You must use the following Judicial Council forms when preparing a simplified account, and you may use them when preparing a standard account (as an alternative, when preparing a standard account, you may follow the format and content requirements of the Judicial Council forms):

- a. Cash Assets on Hand at Beginning of Account Period—Standard and Simplified Accounts (Judicial Council Form GC-400(PH)(1)/GC-405(PH1)) and Non-Cash Assets on Hand at Beginning of Account Period—Standard and Simplified Accounts (Judicial Council Form GC-400(PH)(2)/GC-405(PH(2))).
- b. Schedule E, Cash Assets on Hand at End of Account Period—Standard and Simplified Account (Judicial Council Form GC-400(E)(1)/GC-405(E)(1)) and Schedule E, Non-Cash Assets on Hand at End of Account Period—Standard and Simplified

Account (Judicial Council Form GC-400(E)(2)GC-405(E)(2)).

## DETERMINE VALUE

### Determine Carry Value

- a. Inventory Items: Items that were in the inventory are shown at the appraised value.
- b. Investments: Investments made during the conservatorship or guardianship are shown at cost. Property on hand representing investments during the accounting period should be identified as investments and explained in the petition. See [step 11](#), above.

### Include Market Value

For accountings subsequent to the first, you must provide the estimated market value and the carry value, of each noncash item. [Prob C §§1062\(f\), 1063\(a\)](#).

## NOTE

Although the carry value for an asset acquired by investment made by the conservator or guardian is often its income tax basis (see IRC §1012), there is no similar correlation between the carry value of inventoried assets and their income tax basis. Of course, the actual fair market value of each asset is an entirely different value not dependent on either the carry value or the income tax basis.

## SUBSEQUENT ACCOUNTS

The total carry value of property on hand is the figure to be used as the first item chargeable in the summary (see [step 21](#), below) of the next account.

## JUDGE'S PERSPECTIVE

In reviewing the schedule of property on hand, the court will look at whether:

- The total in the schedule agrees with the figure in the summary of account;
- The assets are fully described;
- Each item is listed at its carry value;
- The bond is sufficient to cover liquid assets and annual income;
- Receipts for the bond are in the file;
- The estate is being conserved or is being depleted at an unreasonable rate.

estate aDministration

## PROPERTY ON HAND AT BEGINNING OF ACCOUNT

Some attorneys also include a Schedule of Property on Hand at the Beginning of Account that duplicates the Inventory and Appraisal. This makes it easier for the court to review the account without having to look through the court file for the inventory.

## INVENTORY ITEMS

Inventory items are listed at their inventory value. The description of inventory items should:

- a. Correspond to the description shown in the inventory and appraisal;
- b. Be identified by the inventory item number with appropriate additions for stock splits; and
- c. Be listed in the same order as in the inventory for easy identification.

## INVESTMENTS

Any investments (*e.g.*, dividend reinvestments) are listed at cost.

## SECURITIES HELD IN BROKERAGE ACCOUNT

For securities held in a brokerage account, the schedule must include the complete description of each individual security held in "street name." Cal Rules of Ct 7.651(b)(4).

## REAL PROPERTY

For real property, the schedule must include the complete legal description, any street address, and the assessor's parcel number. Cal Rules of Ct 7.651(b)(3).

## PROMISSORY NOTES

For promissory notes, the schedule must indicate whether the notes are secured or unsecured, and describe the security interest of any secured notes in detail, including the nature of the security and the recording information. Cal Rules of Ct 7.651(b)(2).

## VERIFYING THAT PROPERTY IS ACTUALLY ON HAND

Because the Schedule of Property on Hand represents the estate that will be distributed, it is essential that the representative verify that the property listed is actually on hand.

### Check Inventory Against the Account

In preparing the schedule of property on hand, the attorney should check the inventory against the account, particularly the schedule of receipts. See Appendix 20.

## CASH RECONCILIATION

The cash reconciliation required by some counties can be completed fairly easily from either the categorized account or the chronological account. See Appendix 21.

Trusts

## PROPERTY ON HAND AT BEGINNING OF ACCOUNT

- a. The schedule of property on hand lists the current trust assets for which the trustee accepts responsibility as comprising all of the assets of the trust.
- b. If there is a list of assets received from a predecessor trustee or from an executor, these items are included in the Property on Hand at Beginning of Account schedule.
- c. By placing an asset on this schedule, the trustee is acknowledging responsibility for its management and for collection of income due on it.
- d. Each item should be listed at its carry value. Prob C §1062(f).

**Sample Form:** See the sample asset list shown in Appendix 22.

## NOTE

It is easier for the beneficiary to understand the account if there are two columns containing values—one for fiduciary acquisition value, and one for market value. If ownership of some assets is in question, *e.g.*, because of a quiet title action, the trustee should note this fact for the court's information.

**Source:** Estate Planning/Handling a Fiduciary Accounting (Action Guide)/When Preparing Court Account/STEP 20.  
PREPARE SCHEDULE OF CHANGES IN FORM OF ASSETS

STEP 20. PREPARE SCHEDULE OF CHANGES IN FORM OF ASSETS

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WHAT SCHEDULE MUST SHOW

The schedule must show (Prob C §1063(b)):

- a. Purchases; and
- b. Other changes in the form of assets during the accounting period.

Cash Transfers Not Included

Transfers between cash or accounts in a financial institution or money market mutual funds do not have to be reported. However, some practitioners prefer to include all account closings and openings on this schedule, even when only cash accounts are involved.

NOTE

These transactions do not fit into the mathematics of the account, because they do not fall into the debits or credits category; they simply add detail helpful in understanding later transactions on the other account schedules.

**Sample Form:** For sample form of Schedule of Changes in Form of Assets, see Appendix 24.

conservatorship and guardianship
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DETERMINE USE OF JUDICIAL COUNCIL FORMS

- a. You *must* use Schedule F, Changes in Form of Assets—Standard and Simplified Accounts (Judicial Council Form GC-400(F)/GC-405(F)) when preparing a simplified account.
- b. For a standard account, use of the Judicial Council form is optional. As an alternative, you may follow the format and content requirements of the Judicial Council form.

NOTE

Probate Code §2574(a), which lists investments that can be made without court authorization, does not provide for automatic dividend or capital gain reinvestments of mutual funds. It is recommended that the conservator or guardian seek an order ratifying an automatic reinvestment plan under Prob C §2574(c), either at the time of the initial petition to establish the conservatorship or guardianship or with a subsequent petition.

**Source:** Estate Planning/Handling a Fiduciary Accounting (Action Guide)/When Preparing Court Account/STEP 21.  
PREPARE SCHEDULE OF LIABILITIES AT END OF ACCOUNTING PERIOD

STEP 21. PREPARE SCHEDULE OF LIABILITIES AT END OF ACCOUNTING PERIOD

---

WHAT SCHEDULE MUST SHOW

If the estate or trust has liabilities at the end of the accounting period (other than periodic payments, including rent, salaries, utilities, or other recurring expenses), you must include a schedule that lists (Prob C §1063(g)):

- a. Liabilities that are liens on estate assets (such as property taxes);
- b. Taxes due but unpaid as shown on filed tax returns;
- c. Notes payable;
- d. Any judgments for which the estate or trust is liable; and
- e. Any other material liability.

NOTE

Some courts require a statement that the estate or trust has no liabilities when a schedule is not required.

conservatorship and guardianship

DETERMINE USE OF JUDICIAL COUNCIL FORMS

Simplified Account

You *must* use Schedule G, Liabilities at End of Account Period—Standard and Simplified Account (Judicial Council Form GC-400(G)/GC-405(G)) for a simplified account. Schedule G uses a free-form field that permits entry of data as a list, without specific formatting.

Standard Account

The Judicial Council form is optional for a standard account. As an alternative, you may follow the format and content requirements of the Judicial Council form without using the actual Judicial Council form.

**Sample Form:** For sample form of Schedule of Liabilities at End of Account Period, see Appendix 34.

NOTE

Schedule G is not shown in the Summary of Account—Standard and Simplified Account (Judicial Council Form GC-400(SUM)/GC-405(SUM)).

**Source:** Estate Planning/Handling a Fiduciary Accounting (Action Guide)/When Preparing Court Account/STEP 22.  
PREPARE SUMMARY OF ACCOUNT

STEP 22. PREPARE SUMMARY OF ACCOUNT

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FORMAT OF SUMMARY OF ACCOUNT

The summary must be in a format substantially similar to the following (Prob C §1061(b)):

<b>Charges</b>	
<i>[If first report]</i>	
<b>Amount of inventory and appraisal</b>	\$_____
<b>Amount of supplemental inventories</b>	\$_____
<i>[If subsequent report]</i>	
<b>Property on hand at beginning of account</b>	\$_____
<b>Additional property received</b>	\$_____
<i>[Continue]</i>	
<b>Receipts during accounting period, other than capital items</b>	
— <i>[Schedule A]</i> —	\$_____
<b>Gains on sales or other disposition</b> — <i>[Schedule B]</i> —	\$_____
<b>Net income from trade or business</b> — <i>[Schedule ___]</i> —	\$_____
<b>Total Charges</b>	\$_____
<b>Credits</b>	
<b>Disbursements during accounting period</b> — <i>[Schedule C]</i> —	\$_____
<b>Losses on sale or other disposition</b> — <i>[Schedule D]</i> —	\$_____
<b>Net loss from trade or business</b> — <i>[Schedule ___]</i> —	\$_____
<b>Distributions</b> — <i>[Schedule E]</i> —	\$_____
<b>Property on hand at close of account</b> — <i>[Schedule F]</i> —	\$_____
<b>Total Credits</b>	\$_____

NOTE

Although inapplicable categories do not have to be shown, listing inapplicable categories, *e.g.*, as "Gains on Sales: None" ensures that you do not inadvertently omit a category, lets the court know that a category was not omitted because of an oversight, and is required by some courts. See, *e.g.*, Alameda Ct R 7.380. Consult local probate rules for the designation of schedules required by Prob C §1062.

**Sample Form:** For a sample Summary of Account, see Appendix 10.

MANDATORY JUDICIAL COUNCIL FORM SUMMARY OF ACCOUNT FOR CONSERVATORSHIP AND GUARDIANSHIPS

For conservatorships and guardianships, for both the standard and the simplified accounting you must use the Judicial Council form Summary of Account—Standard and Simplified Accounts (Judicial Council Form GC-400(SUM)/GC-405(SUM)).

NOTE

If the accounting software used by the person who provides the accounting includes a Summary of Account, that summary can be included with the accounting, as long as form GC-400(SUM)/GC-405(SUM) is also filed.

**Sample Form:** For the Summary of Account—Standard and Simplified Accounts (Judicial Council Form GC-400(SUM)/GC-405(SUM)), see Appendix 11.

WHICH RECEIPTS ARE INCLUDED

Only the income receipts in the schedule of receipts are included in the summary of account. Otherwise, there would be a duplication of principal in the inventory and in the receipts.

## BALANCING SUMMARY OF ACCOUNTS

The total charges must equal the total credits. Prob C §1061(c).

## JUDGE'S PERSPECTIVE

When the total charges do not equal the total credits, the court will consider whether the difference is of such a magnitude as to require outright disapproval or further information, or whether the cost to the estate of the production of further information outweighs the significance of the difference.

## REASONS FOR NOT BALANCING

The most common reasons for not balancing are:

- a. Receipts include items listed in original inventory;
- b. Receipts were deposited or disbursements made during the period between distribution and receipt by the trustee;
- c. Reinvested dividends or interest are not included in receipts;
- d. Ending assets are valued at market value instead of acquisition value;
- e. Bank and brokerage accounts were not balanced, so items are wrong or missing;
- f. If a computer is used, certain categories of receipts or disbursements were not selected to be included in the schedule;
- g. The beginning property on hand reflected bank statement balances that were not the exact balance on the beginning date of the account and consequently a receipt or disbursement is duplicated;
- h. Duplicated receipts or disbursements that were included in the prior account.

**Source:** Estate Planning/Handling a Fiduciary Accounting (Action Guide)/When Preparing Court Account/STEP 23. SET HEARING ON ACCOUNT

## STEP 23. SET HEARING ON ACCOUNT

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### OBTAIN HEARING DATE

The court clerk sets the date for the court hearing on the account. Prob C §1041.

### CHECK LOCAL RULES

Procedures vary from county to county, *e.g.*:

- a. In some counties the attorney may be able to reserve a date by telephone and then send the papers to the court;
- b. In other counties, hearing dates are not given by telephone but are obtained when the petition and notice of hearing are submitted to the court clerk. See, *e.g.*, Los Angeles Ct R 10.5; San Francisco Ct R 14.2.

### NOTE

When the petition is heard in a county that limits the number of matters that can be placed on the calendar in a single day, try to reserve the date in advance. The date of the hearing can be particularly significant if the court is being asked to approve fees. The approval must come before the close of the tax year to get the benefit of the deduction.

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**Source:** Estate Planning/Handling a Fiduciary Accounting (Action Guide)/When Preparing Court Account/STEP 24.  
GIVE NOTICE OF HEARING ON ACCOUNT

STEP 24. GIVE NOTICE OF HEARING ON ACCOUNT

conservator or guardian

GIVING NOTICE OF HEARING

Time Required

Mail notice of the time and place of the hearing on the account of the conservator or guardian at least 15 days before the day of the hearing, unless notice has been waived (Prob C §1204). Prob C §§1460, 2621.

NOTE

The notice period is not extended because notice is mailed. Prob C §1215(e).

File Proof of Service

Proof of mailing should be filed with the court before the date set for the hearing.

WHO MUST BE SENT NOTICE

Mail notice to:

Guardian or Conservator

The guardian or conservator when the fiduciary is not the petitioner. Prob C §1460(b)(1).

Ward or Conservatee

The ward or conservatee. Prob C §1460(b)(2).

NOTE

Notice is not required to any child under 12 if (Prob C §1460.1):

- Notice is given to a parent, guardian, or other person having legal custody of the child, with whom the child resides; or
- The petition is brought by a parent, guardian, or other person having legal custody of the child, with whom the child resides.

Ward or Conservatee's Spouse or Domestic Partner

The spouse or domestic partner of the ward or conservatee, if the ward or conservatee has a spouse or domestic partner. Prob C §1460(b)(3).

NOTE

A domestic partner is defined as a person who has registered his or her domestic partnership by filing a Declaration of Domestic Partnership with the Secretary of State under Fam C §§297-299.6. Prob C §37.

Person Requesting Special Notice

Anyone who has requested special notice. Prob C §1460(b)(4).

Other Persons

Any other person who is required to be sent notice under local rules, *e.g.*, Alameda County requires service on the court

investigator.

#### When Combined With Petition for Termination, Resignation, or Removal

The persons entitled to notice of a petition for appointment of a conservator or guardian under Prob C §§1510 and 1821, when the account is coupled with a petition to (Prob C §1460(b)(5)-(6)):

- a. Terminate the conservatorship or guardianship; or
- b. For resignation or removal of the conservator or guardian.

#### When Ward or Conservatee Is State Hospital Patient

The Director of Mental Health or the Director of Developmental Services in Sacramento, when the ward or conservatee is or has been a patient in a state hospital during the conservatorship or guardianship. Prob C §1461.

#### NOTE

Notice is not required to the Director of Mental Health or the Director of Developmental Services if :

- The total guardianship or conservatorship assets are less than \$1500;
- Annual gross income (not including any public assistance) is less than \$6000; and
- The ward or conservatee is not a patient at the time of filing of the petition. Prob C §1461(b)(2).

#### When Ward or Conservatee Received VA Benefits

The office of the Veterans Benefits Administration that has jurisdiction over the area where the court is located, if the ward or conservatee has or will receive VA benefits. Prob C §1461.5.

#### NOTE

The Probate Code does not require that the copy of the petition or other document sent to the VA be a signed duplicate or a certified copy, but the VA requires certified copies of orders approving accountings for persons receiving funds from the VA.

#### MISSING PERSONS

When a conservator of the estate has been appointed for a person who is missing, and a petition, report, or account is filed under any of the sections listed in Prob C §1461.7(b), notice must be given to the following persons regardless of age (Prob C §§1461.7, 2581):

- a. The conservator;
- b. The conservatee's spouse or domestic partner;
- c. Relatives of the conservatee within the second degree;
- d. Others required to be named in the petition for appointment under Prob C §1821, if no spouse, domestic partner, or relatives are known to the petitioner;
- e. Beneficiaries under any document executed by the conservatee with a possible testamentary effect; and
- f. The conservatee's intestate heirs.

**Further Research:** For additional discussion of notice requirements, see Conserv Prac, chap 4, §§19.64-19.67; Guardian Prac, chap 4, §14.58.

**Form:** See Notice of Hearing-Guardianship or Conservatorship (Judicial Council Form GC-020).

personal representative

## GIVING NOTICE OF HEARING

Mail notice of the time and place of the hearing on the account of the personal representative at least 15 days before the time set for the hearing, unless notice has been waived (Prob C §1204). Prob C §§1220, 11000.

### NOTE

The notice time is not extended because notice is mailed. Prob C §1215(e).

## FILING PROOF OF SERVICE

Proof of mailing should be filed with the court before the date set for the hearing.

## WHO MUST BE SENT NOTICE

Mail notice to:

- a. The personal representative, if the personal representative is not the petitioner (Prob C §§1201, 1220(a)(2)(A));
- b. All persons who have requested special notice under Prob C §1250 (Prob C §1220(a)(2)(B));
- c. Each known heir or devisee whose interest would be affected by the account (subject to the stepchild/foster child exception of Prob C §1207) (Prob C §11000(a)(2)-(3));
- d. The Attorney General, if any portion of the estate will escheat to the state and its interest would be affected by the account (Prob C §11000(a)(4));
- e. Each creditor whose claim is allowed or approved but unpaid, if the estate is insolvent. Prob C §11000(a)(5).

### NOTE

Only notice of the hearing has to be mailed, but most attorneys include a copy of the account so that persons receiving notice do not feel that information is being kept from them.

## NOTICE TO MINORS AND INCOMPETENT, MISSING, AND UNASCERTAINED PERSONS

Notice should be served on a duly appointed conservator or guardian. If none has been appointed for a beneficiary, it is good practice to petition the court for additional notice requirements, such as appointment of a guardian ad litem under Prob C §1003 to represent the interests of:

- a. Minors;
- b. Incapacitated, unborn, or unascertained persons;
- c. Persons whose identity or address is unknown; or
- d. A designated class of persons who are not ascertained or are not in being.

**Further Research:** For discussion of appointing a guardian ad litem, see Trust & Prob Litig §§4.31-4.32.

## WHAT NOTICE OF HEARING MUST INCLUDE

If the petition for approval of the account requests compensation of the personal representative or the attorney for the personal representative, or an order for final distribution, the notice of hearing and the proposed order must state that. Prob C §11000(b)-(c); Cal Rules of Ct 7.102.

**Form:** See Notice of Hearing-Decedent's Estate or Trust (Judicial Council Form DE-120).

trustee

## GIVING NOTICE OF HEARING

Mail notice of the time and place of hearing on the petition to settle the accounts at least 30 days before the time set for the hearing, unless notice has been waived (Prob C §1204). Prob C §§17200(b)(5), 17203.

#### NOTE

The notice time is not extended because notice is mailed. Prob C §1215(e).

#### WHO MUST BE SENT NOTICE

Mail notice to:

- a. All nonpetitioning trustees (Prob C §17203(a)(1));
- b. All nonpetitioning beneficiaries whose right to notice is not restricted by Prob C §15802 or §15804 (Prob C §17203(a)(2));
- c. The Attorney General if the account relates to a charitable trust that is subject to Attorney General jurisdiction under Govt C §12581 (Prob C §17203(a)(3)); and
- d. Any beneficiary who has requested special notice under Prob C §17204.

#### NOTE

Under Prob C §17203(b), notice of the hearing and a copy of the petition must be served in the manner of service of a summons under CCP §§413.10-417.40 on any person, other than a trustee or beneficiary, whose right, title, or interest would be affected by the petition to approve the account who does not receive notice under Prob C §17203(a).

#### NOTICE TO MINORS AND INCOMPETENT, MISSING, AND UNASCERTAINED PERSONS

For notice to minors, incapacitated, unborn, missing, and unascertained persons, see this step, above.

#### COPY OF PETITION

Send a copy of the petition to any trustee or beneficiary who serves and files (Prob C §17205):

- a. A notice of appearance; or
- b. A written request for a copy of the petition that includes an address where the petition should be mailed or delivered.

#### TIME TO PROVIDE NOTICE

The copy must be mailed within **5 days** after:

- a. Service of the notice of appearance; or
- b. Receipt of the request.

**Form:** See Notice of Hearing- Decedent's Estate or Trust (Judicial Council Form DE-120).

**Source:** Estate Planning/Handling a Fiduciary Accounting (Action Guide)/When Preparing Court Account/STEP 25.  
**UNDERSTAND HEARING REQUIREMENTS**

STEP 25. UNDERSTAND HEARING REQUIREMENTS

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WHEN APPEARANCE REQUIRED

- a. In some counties, courts require the fiduciary's personal appearance and his or her testimony in support of the allegations in the account, report, and petition.
- b. Appearance by the attorney is often required when fees for extraordinary services are sought. See Decedent Estate Prac §30.55.

UNCONTESTED PETITION AND ACCOUNT

- a. In most counties, courts will accept the verified account, report, and petition when the petition and account are uncontested and meet all legal requirements. See Prob C §§1000, 1022; CCP §2009.
- b. The court may require appearance of the fiduciary's attorney if the court wants further information on any actions contained in the account.

Tentative Ruling

Many counties have a tentative ruling or pre-grant system. If the matter is pre-granted and no one appears to object, appearance is excused.

NOTE

Because the procedures governing the hearing on an account differ from county to county, consult local rules, and, if necessary, the probate court staff or an attorney who regularly appears before the court. Some courts have websites that provide information on practice and procedure.

REVIEW BY COURT

Before the hearing, the verified petition and the account are reviewed by the court to ensure that they conform to procedural and substantive requirements of the Probate Code and local rules.

JUDGE'S PERSPECTIVE

Qualitative Review

The court will look at the following key questions in performing a qualitative review of the accounting to see whether it makes sense:

- Did the quantitative review reveal any problems or red flags?
- Does the estate appear to be managed *frugally*, without waste, and for the benefit of the conservatee, ward, or beneficiary?
- Is the fiduciary in compliance with previous court orders regarding management of the estate?
- Does the quantitative review "fit" with the qualitative review?
- Does the account pass the "smell test"?

Red Flags From Quantitative Review

In performing the quantitative review, the following will raise red flags that there are problems with the accounting:

- Account significantly out of balance;
- Missing, confusing, or incomplete information, lack of attention to detail, *too much* detail/information;

- Disbursements for the benefit of someone other than the conservatee, ward, or beneficiaries; cash or ATM disbursements;
- Disbursements for car expenses such as registration, insurance, or repairs when there is no car on the inventory;
- Numerous sales, purchases, or transfers of assets without clear benefit to the conservatee, ward, or beneficiary;
- A "to balance" figure included anywhere in the accounting (either in the Summary of Account or the individual schedules). A "to balance" figure may be a cheat. It may be equated with the amount of surcharge.

#### Overall Estate Management

In looking at overall estate management, the court will consider whether:

- There is a sense that the fiduciary's overall management of the estate is appropriate;
- The current account is consistent with previous accounts in a positive or negative sense;
- Current or previous accounts have been compelled by an order to show cause (OSC);
- There are recurring problems, such as lack of detail or failure to balance;
- There are discrepancies in the qualitative review and the quantitative review. Does something seem not to "fit"?

#### Rate of Depletion of Estate

The court will calculate the ratio of receipts and gains to disbursements and losses. A value of less than one is the *rate of depletion* and means that expenses exceed income. If disbursements and losses exceed income and gains, the court will:

- Review the Summary of Account for prior accounts;
- See if the rate of depletion is consistent with the prior accounts;
- Calculate how long the estate will last at the current rate of depletion; and
- Determine whether court action is needed to manage the rate of depletion. For example, if annual gifts or a large personal spending allowance were previously authorized, those orders may be reevaluated.

The court will also review:

- The schedule of receipts to see whether any assets failed to produce expected income and whether investments are appropriate;
- The schedules of gains and losses to see whether losses exceed gains;
- The schedule of disbursements to see how much of the spending could be considered "discretionary"; and
- Any disbursements that should be paid for by insurance or reimbursed by other persons, *e.g.*:
- Medical insurance not billed for medical bills or no reimbursement reported;
- Losses not billed to hazard insurance;
- Payment of utility bills for tenants or tenants not charged for damages;
- Large phone bills attributed to live-in caretakers.

**Source:** Estate Planning/Handling a Fiduciary Accounting (Action Guide)/When Preparing Court Account/STEP 26.  
PREPARE AMENDED ACCOUNTS

STEP 26. PREPARE AMENDED ACCOUNTS

---

AMENDING FINAL ACCOUNT

Formal Amendment Not Required for Minor Errors

If a minor error is discovered in the account:

- a. After it is filed but before the hearing date—*e.g.*, a typographical error or a minor error in addition—the court may allow the account to be amended orally on the record at the time of the hearing without requiring further notice. However, the better practice is to amend a typographical or minor error by written declaration to clarify the issue at the time of the hearing and avoid a possible continuance.
- b. After it has been approved, the error should be pointed out and amended in a subsequent account so as not to constitute an omission under Prob C §2103(b).

Formal Amendment Not Appropriate for Clarifications

If a point of clarification has to be made regarding an account already filed and set for hearing, and the point does not alter the substance of the account itself but merely clarifies the account or responds to the court's questions, a "Declaration," "Response," or "Supplement to Account" should be filed instead of an amendment.

NOTE

The title of the document should clearly refer to the account in question, *e.g.*, "Declaration in Support of Fifth Account," "Response to Court's Questions Regarding Fifth Account," or "Supplemental Fifth Account."

Formal Amendments

- a. An account can be amended by filing an amended account or filing an amendment to an account:
  - (1) An amended account replaces the originally filed account in its entirety (Cal Rules of Ct 7.3(3));
  - (2) An amendment to an account modifies only portions of the account and must be read together with it. Cal Rules of Ct 7.3(4).
- b. Because an account may have to be amended more than once, title the amending document so that it identifies itself clearly, *e.g.*, "First Amended Fifth Account," or "Second Amended Fifth Account," or "First Amendment to Sixth Account," or "Second Amendment to Sixth Account."

JUDGE'S PERSPECTIVE

Amended accounts occasionally exacerbate problems in the original account or introduce new problems.

Give Notice of Amendment

If the error was of such nature as to require a formal amendment—*e.g.*, omission of a receipt or disbursement, or a request for additional relief—file an amended account or an amendment to the account and give notice of its settlement in the same manner as the original account. Cal Rules of Ct 7.53(a).

NOTE

If the amended account is filed sufficiently in advance of the hearing date on the original account, the hearing on the amended account can be noticed for the same date.

CONTINUING HEARING DATE

If the error is discovered too late to allow sufficient notice before the original hearing date, set and notice the amendment for a later date and request a continuance of the original hearing date to the new date.



**Source:** Estate Planning/Handling a Fiduciary Accounting (Action Guide)/When Preparing Court Account/STEP 27.  
**PREPARE ORDER SETTLING ACCOUNT**

STEP 27. PREPARE ORDER SETTLING ACCOUNT

---

CONTENTS OF PROPOSED ORDER

The proposed order should contain the name of the judge hearing the case, the hearing date, and the department.

Order Must Be Complete

All probate orders or decrees should be complete in themselves. The order should set forth with the same particularity required of judgments in civil matters:

- a. All matters actually passed on by the court;
- b. The relief granted;
- c. The names of persons involved; and
- d. Descriptions of property or amounts of money affected.

Order Settling Account

The order settling the account should state:

- a. The amount of property on hand; and
- b. The amount of cash included.

NOTE

Although not specifically required by [Prob C §1456.5](#) or the California Rules of Court, the order settling the conservatorship or guardianship account should include a date when the next account is due.

**Sample Form:** For order settling the account of conservator or guardian, see [Appendix 30](#).

**Further Research:** For order on final account of conservator, see [Conserv Prac §21.59](#); for order on final account of guardian, see [Guardian Prac §16.57](#); for order settling final account and judgment of final distribution, see [Decedent Estate Prac §§31.107-31.148](#); for order settling account and report of trustee, see [Trust Admin §7.123](#).

NOTE

A supplemental account is no longer required for property acquired or discovered after the order for final distribution of a decedent's estate. See [Prob C §11642](#). The court may, however, require a supplemental account in an appropriate case.

WHEN TO PRESENT PROPOSED ORDER

The proposed order is usually submitted before the hearing date.

Inquire About Local Practice

Some counties prefer that the proposed order be submitted with the petition so that both are reviewed together by the probate attorney; other counties will accept the order only after the petition has been calendared.

**Source:** Estate Planning/Handling a Fiduciary Accounting (Action Guide)/Appendixes/Appendix 1 Waiver of Account by Distributees

Appendix 1  
Waiver of Account by Distributees

[Title of court]

[Title of case] ) No. \_\_\_\_\_

)

)

WAIVER OF ACCOUNT BY

)

DISTRIBUTEES

I, \_\_[name]\_\_, \_\_[being the sole distributee/one of the distributees]\_\_ of the estate of \_\_[name]\_\_, deceased, do hereby waive the filing and settlement of a final account by \_\_[name]\_\_ as \_\_[executor/administrator/etc.]\_\_.

Date: \_\_\_\_\_ \_\_[Signature]\_\_

\_\_[Typed name]\_\_

Distributee

*Copies:* One original for each distributee for filing; one copy of each for each representative; copy for each distributee; office copies.

*Comment:* This form is used for distributees who are not representatives. A personal representative who is also a distributee can waive an account in the body of petition for final distribution itself, or a separate waiver can be filed if he or she wishes. The waivers of account signed by distributees should be filed in the probate proceeding either with the petition for final distribution on waiver of account or separately. Although more than one distributee can sign the same waiver of account, it is usually easier to send a separate waiver to each distributee. For information that must be included in the petition for final distribution on waiver of account, see Decedent Estate Prac §31.11.

**Source:** Estate Planning/Handling a Fiduciary Accounting (Action Guide)/Appendixes/Appendix 2 Acknowledgment of Satisfaction of Interest by Distributee

Appendix 2  
Acknowledgment of Satisfaction of Interest by Distributee

[Title of court]

[Title of case]

)

No. \_\_\_\_\_

)

)

ACKNOWLEDGMENT OF

)

SATISFACTION OF INTEREST BY

)

DISTRIBUTEE

I, \_\_[name]\_\_, acknowledge having received from the estate of \_\_[name of decedent]\_\_, deceased, in \_\_[partial/complete]\_\_ satisfaction of my interest in that estate, the following property:

[List of property]

Date: \_\_\_\_\_

\_\_[Signature]\_\_

\_\_[Typed name]\_\_

Distributee

*Copies:* One original for each distributee for filing; one copy of each for each representative; one copy for each distributee; office copies.

*Comment:* See Comment to Appendix 1.

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**Source:** Estate Planning/Handling a Fiduciary Accounting (Action Guide)/Appendixes/Appendix 3 Letter Advising Fiduciary What Records to Keep

Appendix 3

Letter Advising Fiduciary What Records to Keep

Dear \_\_[name]\_\_ ,

As a \_\_[trustee/personal representative/conservator/guardian]\_\_ , you have a responsibility to keep complete and accurate records of your actions. You will need these records to show the \_\_[beneficiaries/court]\_\_ that all of your actions have been performed with the best interests of the \_\_[trust/estate/conservatee/minor]\_\_ in mind and according to law \_\_[and the terms of the \_\_[trust/will]\_\_ ]\_\_ . Records are also needed to prepare the federal and state income \_\_[and estate]\_\_ tax returns.

[If guardianship or conservatorship, add]

Note that every account is subject to random or discretionary review by the court, which may include consideration of any information necessary to determine the account's accuracy (*i.e.*, all books and records).

[Continue]

To fulfill your responsibilities as fiduciary, you should maintain the following records:

1. Detailed ledgers or spreadsheets showing all funds received and paid out.

[If appropriate, add]

I enclose a sample ledger to suggest how this should be done.

[Continue]

2. Copies of all bank statements and canceled checks for all accounts maintained by you as \_\_[trustee/personal representative/conservator/guardian]\_\_ and copies of all checks deposited.

3. All tax returns \_\_[include, e.g., a copy of the estate/gift tax return allocating the generation-skipping transfer tax exemption to the trust]\_\_ .

4. All confirmations of purchases and sales of securities and all statements from your broker detailing all transactions for the \_\_[trust/estate/conservatorship/guardianship]\_\_ , and all information showing the cost of assets.

5. Copies of all bills and receipts.

6. Copies of all checks deposited.

7. All correspondence from any persons or to any persons concerning the \_\_[trust/estate/conservatorship/guardianship]\_\_ .

8. All real estate tax bills, repair vouchers and bills, insurance policies, mortgage statements, and other documents pertaining to real estate belonging to the \_\_[trust/estate/conservatorship/guardianship]\_\_ . If you pay any expenses for the \_\_[trust/estate/conservatorship/guardianship]\_\_ in cash, be sure to obtain a receipt.

9. A synopsis of the \_\_[trust/estate/conservatorship/guardianship]\_\_ administration that contains information a successor \_\_[trustee/personal representative/conservator/guardian]\_\_ would need to know immediately if something happened to you and that can serve as a reference for you.

[For trust, add]

10. All records of discretionary actions undertaken by you authorized by the trust terms. \_\_[I enclose a sample suggested form for you to use; for sample form, see Trust Admin §7.34.]\_\_ .

[Continue]

[11.] Lists of the assets in the \_\_[trust/estate]\_\_ , updated as changes take place, identifying the name on title or on the account, account numbers, addresses and telephone numbers of account representatives, date account opened or asset purchased, and any

special tax elections pertaining to assets (*e.g.*, subchapter S election, IRC §754 election in partnership or LLC). For California real property, keep a list of purchase dates or new construction and assessed values as of those dates (base-year values), and similar information for any closely held legal entities owning California real property.

[12.] \_ \_ [*Specify any other records appropriate to the particular trust or estate*] \_ \_.

If you have any questions about what records should be kept or how to keep them, feel free to contact me.

Date: \_ \_ \_ \_ \_

Sincerely,

\_\_ [*Signature of attorney*] \_\_

\_ \_ [*Typed name of attorney*] \_ \_

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**Source:** Estate Planning/Handling a Fiduciary Accounting (Action Guide)/Appendixes/Appendix 4 Account Book

Appendix 4  
Account Book

**CASH RECEIPTS**

Enter on these pages all cash receipts of every description, including proceeds of sales of assets listed in the inventory in chronological order. These pages and the record of cash receipts and cash disbursements constitute a complete record of all your cash transactions. The total of your receipts, less the total of your disbursements, should always equal the cash balance in your hands. Each page should be consecutively numbered and kept in order. If bank or other statements are received indicating that interest has been credited to the estate's account, that interest amount should be entered in the same way as other receipts.

Date	From Whom and for What	Amount	
	Cash on hand or in banks at time of your appointment (same amount as in inventory, excluding accrued but unpaid interest)		
Total receipts this page:			

**CASH RECEIPTS (Continued)**

Date	From Whom and for What	Amount	
	Total carried forward from previous page		
TOTAL RECEIPTS:  (Add all amounts listed on this page, including the amount carried forward from previous page)			

**CASH DISBURSEMENTS**

Enter on these pages all money disbursements, whether by check or in cash, of every description from the estate's account(s). Disbursements should be made only from the estate's account(s). If a bank statement is received indicating that a bank charge has been levied on an estate account (such as a monthly fee), that amount should be entered below as well.

Date	Check Number	To Whom and for What	Amount	
Total disbursements this page:				

**CASH DISBURSEMENTS (Continued)**

	Check			
--	-------	--	--	--

Date	Number	To Whom and for What	Amount	
		Total carried forward from previous page:		
TOTAL DISBURSEMENTS:				
(Add all amounts listed on this page, including the amount carried forward from previous page)				

**Source:** Estate Planning/Handling a Fiduciary Accounting (Action Guide)/Appendixes/Appendix 5 Sample Record of Probate Estate Cash Receipts

Appendix 5  
Sample Record of Probate Estate Cash Receipts

CASH RECEIPTS										
Date	From Whom Rec'd / Description	A Amount	B Bank Deposit	C1 Interest	C2 Dividend	C3 Rent	C4 Income Included in I & A	D Payments on Note Principal	E Sale of Assets	F Principal and Inventory Items
2009 Jan 14	William Brown – Rent	300.00	300.00			300.00				
15	Cash in decedent's possession	45.78								45.78
	Transfer from Bank of Sierra	2,765.98								2,765.98
	John Harold	44.40								44.40
	Sears-Exchange of light fixture	120.86	2,977.02							120.86
24	American Life Ins. Co. – proceeds	10,000.00	10,000.00							10,000.00
Feb 2	ABC Gas & Elec. – Dividend	75.00					75.00			
	W. Brown – Rent	300.00	375.00			300.00				
Mar 5	W. Brown – Rent	300.00				300.00				
	XYZ Tel. Co. – Dividend	250.00			250.00					
	A. A. Abbott – Note	1,600.00	2,150.00	596.44			298.21	705.35		
Apr 3	W. Brown – Rent	300.00	300.00			300.00				
May 5	W. Brown – Rent	300.00				300.00				
	ABC Gas & Elec. – Dividend	80.00			80.00					
	Smith & Co. – Sale XYZ pfd.	17,532.73	17,912.73						17,532.73	
June 2	W. Brown – Rent	300.00				300.00				
	A. A. Abbott – Note	1,600.00	1,900.00	878.78				721.22		
July 3	W. Brown – Rent	300.00	300.00			300.00				
Aug 17	ABC Gas & Elec. – Dividend	80.00			80.00					
	W. Brown – Rent	300.00	300.00			300.00				
Sept 5	W. Brown – Rent	300.00				300.00				
	A. A. Abbott – Note	1,600.00		862.55				737.45		
	Musician's Qtrly. – Refund	4.78								4.78
	Atlas Health – Refund	73.00	1,977.78							73.00
Oct 5	W. Brown – Rent	300.00	300.00			300.00				
Nov 2	W. Brown – Rent	300.00				300.00				
	ABC Gas & Elec. – Dividend	80.00	380.00		80.00					
Dec 3	W. Brown – Rent	300.00				300.00				
	A. A. Abbott – Note	<u>1,600.00</u>	<u>1,900.00</u>	<u>846.95</u>	-	-	-	<u>754.05</u>	-	-
<b>Totals</b>		<u>41,152.53</u>	<u>41,152.53</u>	<u>3,183.72</u>	<u>490.00</u>	<u>3,600.00</u>	<u>373.21</u>	<u>2,918.07</u>	<u>17,532.73</u>	<u>13,054.80</u>

ABC Gas & Elec. — Dividend				240.00		75.00		
XYZ Co.— Dividend				250.00				
Abbott Note— Int. & Principal			3,183.72			298.21	2,918.07	

*Comment: Columns A, B:* Column A is the amount of each item as received. One or more of the other columns describe the items further. Column B contains only the total of the deposits when made, entered on the same line as the last item deposited. Column B can be reconciled with bank deposits, because each deposit shown in the bank statement should correspond to an entry in this Column. The totals of columns A and B should be identical.

*Columns C1, C2, C3, C4:* These columns further identify the sources of income entered in column A for income tax purposes. Entering different types of income in separate columns permits the use of each column for reporting that type of income on the accounting and the tax returns. For example, the income tax return reports dividends by the name of the paying company. Income from real property is generally reported by individual parcel. Payments on notes are best reported in the accounting by separating interest and principal (Column D) so that the amount of income and the reduction in principal balance due may be reconciled. On interest-bearing installment notes, amortization tables may be used because they show the amount of each payment applicable to interest and to principal, and the new balance due on the note. The use of such a table eliminates the need to recalculate for each payment.

The entries in the first six columns should be further broken down into the categories shown in the last three columns of the cash receipts record. Dividend and interest entries can be checked against IRS Form 1099 received from payors of dividend and interest in excess of \$10 annually.

*Note:* Some items included as part of the estate inventory are considered income for tax purposes. IRC §691. Dividends with a record date before death but a payment date after death are in this category. By itemizing them separately in Column C4, they are separated from other income and principal items and their significance and the difference in treatment in accounting and tax returns is called to the attorney's attention.

*Column D:* This amount represents the principal portion on an installment note. See Comment to Column C. The sum of the entries in Columns C1 through D must equal the entry in Column A, which is the total of the interest and principal receipts.

*Column E:* Gain or loss on sale of assets is essential for accounting and income tax return preparation. When assets are sold, the fiduciary deposits the *net* proceeds (*i.e.*, gross sale proceeds less expenses of sale deducted by the title company, stockbroker, or other sales agent remitting the proceeds), but reports the *gross* proceeds on accounting and income tax returns. Therefore, the fiduciary should retain escrow statements, sales slips, or other documents showing the expense items, so that these disbursements, which are not made directly by the fiduciary, can be supported. The cash record may show only the net proceeds, as in the example in Columns A and E. A more accurate method lists the net proceeds deposited (Column A), the net proceeds of sales of assets (Column E), and adds columns that list the gross proceeds and the sales expense as a negative item. The sale of property reported on May 5, 2009, would then appear:

(A)			(E)
Amount	Gross Proceeds	Expenses of Sale	Net Proceeds of Sales of Assets
\$17,532.73	\$17,750.00	(\$217.27)	\$17,532.73

Information on the sales of assets should also be noted in the records maintained for each asset. See [step 4](#), above.

*Column F:* This column represents receipts that are not income items, because they were part of the decedent's estate at death and are listed on the inventory. Compare the Comment to Column C with IRC §691 income that is part of the decedent's estate, but also considered income in respect of decedent and included on the decedent's tax return and entered in Column C4.

The totals of all columns (except A and B) should equal Column A. This total should be checked as each entry is made and extended because it is a quick way to make sure that the numbers are entered correctly.

After the column has been totaled, the entries in it should be analyzed and broken down into their components, as shown on the last 3 lines of the cash record. The accuracy of the records for dividends and interest can be checked against Internal Revenue Service Form 1099s received from payors of dividends and interest in excess of \$10 annually.

**Source:** Estate Planning/Handling a Fiduciary Accounting (Action Guide)/Appendixes/Appendix 6 Sample Record of Trust Cash Receipts

Appendix 6  
Sample Record of Trust Cash Receipts

CASH RECEIPTS										
Date 2009	From Whom Rec'd Description	A Amount	B Bank Deposit	C1 Interest	C2 Dividend	C3 Rent	C4 Other	D Payments on Note Principal	E Sale of Assets	F Other Principal Items
Jan. 14	William Brown—Rent	300.00	300.00			300.00				
15	Transfer from Bank of Sierra - savings account	2,765.98								2,765.98
	Sears-Exchange of light fixture	120.86	2,886.84				120.86			
Feb. 2	ABC Gas & Elec.—Dividend	75.00			75.00					
	W. Brown—Rent	300.00	375.00			300.00				
Mar. 5	W. Brown—Rent	300.00				300.00				
	XYZ Tel. Co.—Dividend	250.00			250.00					
	A.A. Abbott—Note	1,600.00	2,150.00	894.65				705.35		
Apr. 3	W. Brown—Rent	300.00	300.00			300.00				
May 5	W. Brown—Rent	300.00				300.00				
	ABC Gas & Elec.—Dividend	80.00			80.00					
	Smith & Co.—Sale of 100 shares XYZ pfd.	17,532.73	17,912.73						17,532.73	
June 2	W. Brown—Rent	300.00				300.00				
	A.A. Abbott—Note	1,600.00	1,900.00	878.78				721.22		
July 3	W. Brown—Rent	300.00	300.00			300.00				
Aug. 17	ABC Gas & Elec.—Dividend	80.00			80.00					
	W. Brown—Rent	300.00	300.00			300.00				
Sept. 5	W. Brown—Rent	300.00				300.00				
	A. A. Abbott—Note	1,600.00		862.55				737.45		
	Atlas Heating—Refund	73.00	1,977.78							73.00
Oct. 5	W. Brown—Rent	300.00	300.00			300.00				
Nov. 2	W. Brown—Rent	300.00				300.00				
	ABC Gas & Elec.—Dividend	80.00	380.00		80.00					
Dec. 3	W. Brown—Rent	300.00				300.00				
	A.A. Abbott—Note	1,600.00	1,900.00	845.95	-	-	-	754.05	-	-
<b>Totals</b>		<u>41,152.53</u>	<u>41,152.53</u>	<u>3,481.93</u>	<u>565.00</u>	<u>3,600.00</u>	<u>120.86</u>	<u>2,918.07</u>	<u>17,532.73</u>	<u>2,838.98</u>
	ABC Gas & Elec.—Dividend				315.00					
	XYZ Co.—Dividend				250.00					
	Abbott Note—Int. & Principal			3,481.93				2,918.07		

Comment: See Comment to [Appendix 5](#).

**Source:** Estate Planning/Handling a Fiduciary Accounting (Action Guide)/Appendixes/Appendix 7 Sample Record of Probate Estate Cash Disbursements

Appendix 7  
Sample Record of Probate Estate Cash Disbursements

CASH DISBURSEMENTS										
Date 2009	Payee and Purpose	Check No.	Amount	Administration Expenses	Claims	Expenses of Real Property			Misc.	Principal
						Interest	Taxes	Other		
			1	2	3	4	5	6	7	8
Jan. 29	Richard Roe, M.D.— medical services	101	150.00		150.00					
	Mary Smith, R.N.— medical services	102	24.00		24.00					
	Chapel Mortuary— funeral	103	498.00		498.00					
	Mercy Hospital —med. serv.	104	230.00		230.00					
	PT&T Co.— closing bill	105	8.94		8.94					
Mar. 10	Able & Co.— premium on bond	106	30.00	30.00						
	Jones & Co.— insurance	107	52.00					52.00		
Apr. 10	Tax Collector— real prop.	108	357.00				357.00			
	Attorney disbursements	109	27.50	27.50						
	James Crown, probate referee— appraisal	110	128.07	128.07						
15	Int Rev Serv— decedent's final income tax	111	173.29		173.29					
May 1	Family Allowance	112	1,500.00						1,500.00	
10	Mt. Diablo S&L—transfer	113	15,000.00							15,000.00
	Joseph Smith —creditor	114	293.48		293.48					
	White Dep't Store—cred.	115	182.95		182.95					
June 15	Nat'l Bank— deed of trust	116	900.00			800.00		100.00		
	Daily Journal —notice	117	15.00	15.00						
Aug. 1	Family Allowance	118	900.00						900.00	
Nov. 1	Family Allowance	119	900.00						900.00	
15	Nat'l Bank— deed of trust	120	900.00			780.00		120.00		
Dec. 10	Tax Collector— real prop.	121	372.30				372.30			
	Totals		22,642.53	200.57	1,560.66	1,580.00	729.30	272.00	3,300.00	15,000.00



**Source:** Estate Planning/Handling a Fiduciary Accounting (Action Guide)/Appendixes/Appendix 8 Sample Record of Trust Cash Disbursements

Appendix 8  
Sample Record of Trust Cash Disbursements

CASH DISBURSEMENTS								
Date 2009	Payee and Purpose	Check No.	Amount	Expenses of Real Property			Principal	Misc.
				Income	Taxes	Other		
			1	2	3	4	5	6
Jan. 29	Richard Roe— discretionary payment	101	150.00				150.00	
	PT&T Co.—closing bill	102	8.94	8.94		8.94		
Mar. 10	Able & Co.— premium on bond	103	30.00	30.00				
	Jones & Co.— real estate insurance	104	52.00	52.00		52.00		
Apr. 10	Tax Collector—real prop.	105	357.00	357.00	357.00			
	Attorney costs advanced	106	27.50	27.50				
15	Internal Revenue Service—income tax due	107	173.29				173.29	
	Franchise Tax Board	108	34.00				34.00	
May 10	Mt. Diablo S&L— transfer to savings	109	15,000.00				15,000.00	
	Joseph Smith— gardener	110	35.00	35.00		35.00		
	White Dep't Store —light fixtures	111	182.95	182.95		182.95		
June 15	Nat'l Bank—loan payment	112	900.00	800.00			100.00	
	Daily Journal—ad for rental	113	15.00	15.00		15.00		
Aug. 1	Net income disbursement— Henry Black	114	900.00	900.00				
Nov. 1	Net income disbursement— Henry Black	115	900.00	900.00				
15	Nat'l Bank—loan payment	116	900.00	780.00			120.00	
Dec. 10	Tax Collector—real prop.	117	372.30	372.30	372.30			
	<b>Totals</b>		19,977.98	3,720.69	729.30	293.89	2,620.00	

*Comment:* Entries such as those shown in this sample record of disbursements section should be made when checks are drawn. Check numbers should be entered to reduce the likelihood of omitting an item. Disbursements whose character cannot be determined when the checks are drawn could be entered under Miscellaneous, Column 6, as a signal that further analysis is needed.



**Source:** Estate Planning/Handling a Fiduciary Accounting (Action Guide)/Appendixes/Appendix 9 Table: Allocating Receipts and Disbursements Under the California Uniform Principal and Income Act (UPAIA) During Trust Administration

Appendix 9

Table: Allocating Receipts and Disbursements Under the California Uniform Principal and Income Act (UPAIA) During Trust Administration

<i>Description</i>	<i>Probate Code Section</i>	<i>Principal</i>	<i>Income</i>
<b>RECEIPTS</b>			
<i>Note:</i> See <u>Prob C §§16336</u> and <u>16365(a)</u> for discretionary adjustments and <u>Prob C §16361(f)</u> for adjustments that may be requested by the surviving spouse; see also <u>Trust Admin §§8.4-8.8</u> .			
<b>Entities:</b>			
Money, unless otherwise provided below	<u>16350(b)</u>		100%
Property other than money	<u>16350(c)(1)</u>	100%	
Money received for interest in entity, including full liquidation	<u>16350(c)(2)-(3)</u>	100%	
Money received on partial liquidation	<u>16350(c)(3), (d)-(e)</u>	Balance	Amount of income tax
Sale or exchange proceeds, including capital gains	<u>16355(b), 16365(b)</u>	100%	
Capital gain dividends from RIC or REIT	<u>16350(b)(4)</u>	100%	
Dividends accrued before administration	<u>16346(a)</u>	100%	
Dividends accrued during administration	<u>16346(b)</u>		100%
Interest	<u>16357</u>		100%
<b>Debt instruments:</b>			
Interest accrued during administration	<u>16346(b), 16357(a)</u>		100%
Amount received as consideration for prepaying principal	<u>16357(a)</u>		100%
On obligations maturing after 1 year, sales amount received including premium over value	<u>16357(b)</u>	100%	
On obligations maturing within 1 year, difference between cost and maturity	<u>16357(b)</u>		100%
Interest accrued before administration	<u>16346(a)</u>	100%	
<b>Derivatives:</b>			
Rights	<u>16366(b)</u>	100%	
Options	<u>16366(c)</u>	100%	
<b>Asset-backed securities:</b>			
<i>Note:</i> If the allocation between income and principal under <u>§16367</u> is insubstantial, all may be allocated to principal. <u>Prob C §16360</u> .			
Payment from interest, current return, or other	<u>16367(b)</u>	Balance	Portion identified as interest or current return
Payment in exchange for entire interest in security	<u>16367(c)</u>	100%	
Payment that is one of series of payments resulting in liquidation of trust's interest	<u>16367(c)</u>	90%	10%
<b>Payments from "separate fund" (annuities, or retirement or stock plans):</b>			
<i>Note:</i> If the allocation between income and principal under <u>§16361</u> is insubstantial, all may be allocated to principal. <u>Prob C §16360</u> .			
Payments to marital deduction qualifying trust (QTIP trust) other than payments from qualified survivor	<u>16361(d), (e)</u>		

annuities if trust would not qualify under <u>§16361(b)-(c)</u> :			
If documentation from payor reflects internal income of separate fund	<u>16361(f)</u>	Balance	Amount of internal income
If no documentation from payor reflects internal income of separate fund and trustee cannot determine value of separate fund	<u>16361(g)</u>		4% of fund value; or product of interest rate and present value of future payments per IRC §7520
Payments not to marital deduction qualifying trust from separate fund and all other payments:	<u>16361(a)</u>	100%	
Portion of payment characterized as interest or dividends, or in lieu thereof	<u>16361(b)</u>	Balance	100% of such portion
No part of payment characterized as interest or dividend or equivalent payment:			
When all or part of payment is required to be made	<u>16361(c)</u>	90%	10%
When no part of payment is required to be made	<u>16361(c)</u>	100%	
When payment is entire amount to which trustee is entitled	<u>16361(c)</u>	100%	

**Minerals, water, and natural resources interests:**

*Note:* If the allocation between income and principal under §16363 is insubstantial, all may be allocated to principal.  
Prob C §16360.

Nominal rental	<u>16363(a)(1)</u>		100%
Production payment (if factor for interest)	<u>16363(a)(2)</u>	Balance	Interest amount
Production payment (no factor for interest)	<u>16363(a)(2)</u>	100%	
Royalty (more than nominal)	<u>16363(a)(3)</u>	90%	10%
Other mineral payment	<u>16363(a)(4)</u>	90%	10%
Payment for renewable water interest	<u>16363(b)</u>		100%
Payment for nonrenewable water interest	<u>16363(b)</u>	90%	10%

**Timber:**

*Note:* If the allocation between income and principal under §16364 is insubstantial, all may be allocated to principal.  
Prob C §16360.

Payments for renewable timber if beneficiary has a mandatory income interest; or lease	<u>16364(a)(1), (a)(3)</u>		100%
Payments for timber exceeding growth rate; or lease	<u>16364(a)(2), (a)(3)</u>	100%	
Net receipts from sale of standing timber	<u>16364(a)(2)</u>	100%	
Other advance payments	<u>16364(a)(4)</u>	100%	
Deduction of reasonable amount for depletion	<u>16364(b)</u>	Add amount	Deduct amount

**Real estate (not accounted for separately as a business under Prob C §16352):**

Rents	<u>16356</u>		100%
Amount received for cancellation of lease	<u>16356</u>		100%
Amount received for renewal of lease	<u>16356</u>		100%
Rental deposits	<u>16356</u>	100%	
Sale or exchange proceeds, including capital gains	<u>16355(b), 16365(b)</u>	100%	
Eminent domain proceeds in general	<u>16355(d)</u>	100%	
Eminent domain—separate award for loss of income if a beneficiary has a mandatory income interest	<u>16355(d)</u>		100%

**Insurance policies:**

Dividends if premiums paid from principal	<u>16358(a)</u>	100%	
Dividends if premiums paid from income	<u>16358(a)</u>		100%

Proceeds of insurance policy in general	<u>16358</u> (a)	100%	
Proceeds insuring loss of income	<u>16358</u> (b)		100%
Proceeds insuring loss of profits from business if not accounted for separately under <u>§16352</u>	<u>16358</u> (b)		100%
<b>Receipt from trust or estate:</b>			
Distribution of income	<u>16351</u>		100%
Distribution of principal	<u>16351</u>	100%	
<b>Other receipts:</b>			
Sales, exchange, or liquidation proceeds, including capital gains	<u>16355</u> (b), <u>16365</u> (b)	100%	
Reimbursement not based on lost income	<u>16355</u> (c)	100%	
Net income if there is no income beneficiary	<u>16355</u> (e)	100%	
Receipts from liquidating assets (if no reserve for depreciation) ( <i>e.g.</i> , leasehold, patent, royalty right, copyright)	<u>16362</u>	90%	10%

**Note:** If the allocation between income and principal under §16362 is insubstantial, all may be allocated to principal.  
Prob C §16360.

## DISBURSEMENTS

### Administration expenses:

**Note:** See Prob C §16336 and Trust Admin §§8.4-8.8 for discretionary adjustments; Prob C §16340 re disbursements after decedent's death or income interest in trust ends (see also Prob C §16373(c)); Prob C §16372 re transfers from income to principal for depreciation; and Prob C §16373 re transfers from income to principal to reimburse principal disbursement or future interest.

Trustee fees (regular compensation)	<u>16370</u> (a), <u>16371</u> (a)(1)	50%	50%
Trustee fee calculated on principal for acceptance, distribution, or termination, and disbursements made to prepare property for sale	<u>16371</u> (a)(2)	100%	
Investment advisor fees	<u>16370</u> (a), <u>16371</u> (a)(1)	50%	50%
Custody fees	<u>16370</u> (a), <u>16371</u> (a)(1)	50%	50%
Accounting fees	<u>16370</u> (b), <u>16371</u> (a)(1)	50%	50%
Judicial proceedings involving both income and remainder interests	<u>16370</u> (b), <u>16371</u> (a)(1)	50%	50%
Judicial proceedings construing or protecting trust and trust property	<u>16371</u> (a)(4)	100%	
Judicial proceedings concerning primarily principal	<u>16371</u> (a)(4)	100%	
Judicial proceedings concerning primarily income	<u>16370</u> (c)		100%
Ordinary expenses re administration, management, or preservation of trust property	<u>16370</u> (c)		100%
<b>Taxes:</b>			
Tax on ordinary income	<u>16374</u> (a)		100%
Tax on trust's share of entity's taxable income:			
To extent receipts from entity are allocable only to income	<u>16374</u> (c)(1)		100%
To extent receipts from entity are allocable only to principal	<u>16374</u> (c)(2)	100%	
To extent receipts from entity are allocated to both principal and income	<u>16374</u> (c)(3)	Balance	Proportion allocated to income
To extent tax paid exceeds total receipts from entity	<u>16374</u> (c)(4)	100%	

**Note:** Principal and income receipts adjusted to the extent taxes reduced because trust receives tax deduction (*i.e.*,

none for electing small business trust) for payment made to beneficiary. Prob C 16374(d); see Trust Admin §8.35.

Tax on capital gains	<u>16374(b)</u>	100%	
Estate and other transfer taxes, including penalties apportioned to the trust	<u>16371(a)(6)</u>	100%	
Property taxes; regularly recurring taxes assessed against principal	<u>16370(c)</u>		100%
<b>Real-estate-related expenses:</b>			
Management expenses	<u>16370(c)</u>		100%
Disbursements to prepare property for sale	<u>16371(a)(2)</u>	100%	
Ordinary repairs	<u>16370(c)</u>		100%
Principal portion of mortgage payments	<u>16371(a)(3)</u>	100%	
Interest portion of mortgage payments	<u>16370(c)</u>		100%
Casualty insurance premiums	<u>16370(d)</u>		100%
Contamination-related expenses and legal fees	<u>16371(a)(7)</u>	100%	
<b>Trust Debts:</b>			
Payments on principal of a trust debt	<u>16371(a)(3)</u>	100%	
Payments of interest on a trust debt	<u>16370(c)</u>		100%
 <i>Note:</i> If principal asset is encumbered with obligation requiring income to be paid to creditor, see <u>Prob C §16371(b)</u> re transfer of funds from principal to income.			
<b>Other expenses:</b>			
Premiums on insurance policies covering loss or a principal asset or loss of income from asset	<u>16370(d)</u>		100%
Premiums on insurance policies other than loss if trust is owner and beneficiary	<u>16371(a)(5)</u>	100%	

**Source:** Estate Planning/Handling a Fiduciary Accounting (Action Guide)/Appendixes/Appendix 10 Sample Summary of Account

Appendix 10  
Sample Summary of Account

SUMMARY OF ACCOUNT

**Charges**

[If first report]

Amount of inventory and appraisal \$394,090.03

Amount of supplemental inventories none

[If subsequent report]

Property on hand at beginning of account \$ \_\_\_\_\_

Additional property received \$ \_\_\_\_\_

[Continue]

Receipts during accounting period, other than capital items (Schedule A) 7,273.72

Gains on sale or other disposition (Schedule B) none

Net income from trade or business (Schedule \_\_\_) none

Total Charges \$401,363.75

**Credits**

Disbursements during accounting period (Schedule C) \$7,859.80

Losses on sale or other disposition (Schedule D) 2,250.00

Net loss from trade or business (Schedule \_\_\_) none

Distributions (Schedule E) 125,000.00

Property on hand at close of account (Schedule F) 266,253.95

Total Credits \$401,363.75

*Comment:* This summary can easily be incorporated in the body of the report of administration, with supporting schedules attached as an exhibit to the petition, or the summary and schedules together can be attached as an exhibit to the petition. See Decedent Estate Prac §31.30.

Doe Administrative Trust

Summary of Account

January 1, 2008-December 31, 2008

**Charges**

Beginning Assets (Schedule \_\_\_) \$2,646,693.00

Additions to Assets (Schedule \_\_\_) 2,125.00

Receipts (Schedule \_\_\_) 13,104.91

Gains on Sales (Schedule \_\_\_) 2,218.16

Total Charges \$2,664,141.07

**Credits**

Disbursements (Schedule \_\_\_) 16,039.00

Specific Bequests (Schedule \_\_\_) 32,170.00

Ending Assets (Schedule \_\_\_) 2,615,932.07

Total Credits \$2,664,141.07

Doe Marital Trust

Summary of Account

January 1, 2009-December 31, 2009

**Charges**

Beginning Assets (Schedule \_\_\_) \$681,595.67

Receipts (Schedule \_\_\_) 5,463.31

Total Charges \$687,058.98

**Credits**

Disbursements (Schedule \_\_\_) 7,911.00

Losses on Sales (Schedule \_\_\_) 50.00

Ending Assets (Schedule \_\_\_) 679,097.98

Total Credits

\$687,058.98

**Doe Bypass Trust**

**Summary of Account**

**January 1, 2009-December 31, 2009**

**Charges**

Beginning Assets (Schedule ___)	\$2,000,000.00
Receipts (Schedule ___)	3,513.61
Net Income From Trade or Business (Schedule ___)	4,055.00
Gains on Sales (Schedule ___)	<u>1,025.00</u>
Total Charges	<u>\$2,008,593.61</u>

**Credits**

Disbursements (Schedule ___)	1,922.00
Cash Distributions (Schedule ___)	3,000.00
Asset Distributions (Schedule ___)	700.00
Ending Assets (Schedule ___)	<u>2,002,971.61</u>
Total Credits	<u>\$2,008,593.61</u>

**Source:** Estate Planning/Handling a Fiduciary Accounting (Action Guide)/Appendixes/Appendix 11 Summary of Account--Standard and Simplified Accounts (Judicial Council Form GC-400(SUM)/GC-405(SUM))

Appendix 11

Summary of Account—Standard and Simplified Accounts (Judicial Council Form GC-400(SUM)/GC-405(SUM))



<input type="checkbox"/> CONSERVATORSHIP <input type="checkbox"/> GUARDIANSHIP OF (Name): _____ <div style="text-align: right; margin-top: 10px;"> <input type="checkbox"/> Conservatee    <input type="checkbox"/> Minor             </div>	CASE NUMBER: _____
--	-----------------------

**SUMMARY OF ACCOUNT—STANDARD AND SIMPLIFIED ACCOUNTS**

(Check if final.) and Final Account     (Check if interim.) Account Current

Account number ("First," etc.) \_\_\_\_\_ through \_\_\_\_\_  
 Opening date of account \_\_\_\_\_ Closing date of account \_\_\_\_\_

**C H A R G E S\***

<b>Property on Hand at Beginning of Account Period, consisting of:</b>		
1a	Cash Assets	\$ _____
1b	Non-Cash Assets (carry value)	_____
1c	<b>Total Property on Hand at Beginning of Account Period (add 1a and 1b)</b>	\$ _____
2	<b>Additional Property Received During Period of Account</b>	— Schedule _____
3	<b>Receipts During Period of Account</b>	— Schedule A _____
4	<b>Gains on Sales During Period of Account</b>	— Schedule B _____
5	<b>Other Charges (describe):</b>	— Schedule _____
6	<b>Net Income From Trade or Business During Period of Account</b>	— Schedule _____
7	<b>TOTAL CHARGES (add 1c, 2, 3, 4, 5, and 6)</b>	\$ _____

**C R E D I T S\***

8	<b>Disbursements During Period of Account</b>	— Schedule C \$ _____
9	<b>Losses on Sales During Period of Account</b>	— Schedule D _____
10	<b>Distributions to Conservatee or Ward</b>	— Schedule _____
11	<b>Other Credits (describe):</b>	— Schedule _____
12	<b>Net Loss From Trade or Business During Period of Account</b>	— Schedule _____
<b>Property on Hand at End of Account Period — Schedule E, consisting of:</b>		
13a	Cash Assets	\$ _____
13b	Non-Cash Assets (carry value)	_____
13c	<b>Total Property on Hand at End of Account Period (add 13a and 13b)</b>	_____
14	<b>TOTAL CREDITS (add 8, 9, 10, 11, 12, and 13c)</b>	\$ _____

\* (Enter "0" for all categories of charges or credits for which you have no entries. Do not include schedules for these categories, but do not relabel or redesignate the schedules that are included.)



*Comment:* If an account has no content for any of the Summary categories, those categories can be left blank or "0" can be entered.

See notation on bottom of GC-400(SUM)/GC-405(SUM). If the accounting software used includes a Summary of Account, that summary can be included with the accounting, as long as form GC-400(SUM)/GC-405(SUM) is also filed.

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**Source:** Estate Planning/Handling a Fiduciary Accounting (Action Guide)/Appendixes/Appendix 12 Sample Categorized Schedule of Receipts

Appendix 12  
Sample Categorized Schedule of Receipts

**Schedule A: RECEIPTS**

		<u>Principal</u>	<u>Income</u>
<b>2008</b>			
<b>Dividends:</b>			
ABC Gas & Electric Co. (Inv. Attach. 2, Item 3)			
Feb. 2, 2009		\$75.00	
May 5, Aug. 5, Nov. 2, 2009: \$80.00 each			\$240.00
XYZ Telephone Co., pfd. stock, Mar. 5, 2009			250.00
<b>Interest:</b>			
A.A. Abbott note	Principal		Income
(Inv. Attach. 2, Item 6)			
Mar. 5, 2009	\$1,003.56*		\$596.44
June 2, 2009	721.22		878.78
Sept. 5, 2009	737.45		862.55
Dec. 3, 2009	<u>754.05</u>		<u>845.95</u>
	\$3,216.28	3,216.28	3,183.72
<b>Rent:</b>			
William Brown, rent on 9236 Maple Lane, Los Angeles, California (Inv. Attach. 2, Item 2): 12 months' rent for Jan.-Dec. 2009, at \$300 per month			3,600.00
<b>Receipts of other principal items:</b>			
200 shares XYZ Telephone Co. pfd. stock (Inv. Attach 2, Item 4)			
May 15, 2009		17,750.00**	
Cash in decedent's possession (Inv. Attach. 1, Item 1)			
Jan. 15, 2009		45.78	
Bank of Sierra (Inv. Attach. 1, Item 2)			
Jan. 15, 2009		2,765.98	
John Harold (Inv. Attach. 1, Item 4)			
Jan. 15, 2009		44.40	
Sears (Inv. Attach. 1, Item 4)			
Jan. 15, 2009		120.86	
American Life Insurance Co., Policy No. 99999, lump sum proceeds (Inv. Attach. 1, Item 5)			
Jan. 24, 2009		10,000.00	
Musician's Quarterly (Inv. Attach. 2, Item 7)			
Sept. 5, 2009		4.78	
Atlas Health (Inv. Attach. 2, Item 8)			
Sept. 5, 2009		<u>73.00</u>	
Total Principal Receipts		<u>\$34,096.08</u>	
Total Income Receipts			<u>\$7,273.72</u>

\*Includes \$298.21 interest accrued to date of death (Inv. Attach. 2, Item 6)

\*\*Includes total amount received; \$217.27 expenses of sale included on disbursement schedule

*Comment:* Receipts of items listed in the inventory that are income in respect of a decedent, *e.g.*, interest accrued on bank accounts to the date of death and dividends of record at death but received after death, are considered principal for purposes of the account. Thus, the \$75 dividend on ABC Gas & Electric Co., received on February 2, and the interest on the Abbott note accrued to the date of death of \$298.21, received on March 5, are treated for accounting purposes as principal, even though they are reported as income for income tax purposes. Similarly, receipts from sales are considered principal, with gain or loss reported on the appropriate schedule. Segregating income included in the inventory in a separate column for cash receipts (see [Appendix 5](#)) enables the attorney to pinpoint items of this nature.

Receipts of income and principal equal the total receipts shown in [Appendix 5](#), adjusted for expenses of sale not included in those receipts. Generally, this will be true when all receipts are channeled through the commercial account. Frequently, however, income items such as interest on savings accounts are not deposited in the commercial bank account, and the attorney should make certain that they are included in the receipts.

Shares of stock received as a stock dividend or stock split are not included as income. Their receipt is reported in the petition, and the total shares are shown in Schedule F, Property on Hand. See [Appendix 19](#).

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**Source:** Estate Planning/Handling a Fiduciary Accounting (Action Guide)/Appendixes/Appendix 13 Sample Chronological Schedule of Receipts

Appendix 13

Sample Chronological Schedule of Receipts

**Schedule A: RECEIPTS**

<u>Date</u>	<u>Paid to</u>	<u>Principal</u>	<u>Income</u>
2009			
Jan. 4	William Brown—Rent		\$300.00
Jan. 15	Cash in decedent's possession (Inv. Attach. 1, Item 1)	\$45.78	
	Bank of Sierra (Inv. Attach. 1, Item 2)	2,765.98	
	John Harold (Inv. Attach. 1, Item 4)	44.40	
	Sears (Inv. Attach. 1, Item 4)	120.86	
Jan. 24	American Life Insurance Company, Policy No. 99999, lump sum proceeds (Inv. Attach. 1, Item 5)	10,000.00	
Feb. 2	William Brown—Rent		300.00
	ABC Gas & Electric—Dividend of record (Inv. Attach. 2, Item 3)	75.00	
Mar. 5	William Brown—Rent		300.00
	XYZ Telephone Co.—Dividend		250.00
	A.A. Abbott—Payment on note (Inv. Attach. 2, Item 6)	1,003.56*	596.44
Apr. 3	William Brown—Rent		300.00
May 5	William Brown—Rent		300.00
	ABC Gas & Electric Co.—Dividend		80.00
May 15	Smith & Co.—Sale of XYZ Telephone Co. pfd. stock (Inv. Attach. 2, Item 4)	17,750.00**	
June 2	William Brown—Rent		300.00
	A.A. Abbott—Payment on note (Inv. Attach. 2, Item 6)	721.22	878.78
July 3	William Brown—Rent		300.00
Aug. 5	ABC Gas & Electric Co.—Dividend		80.00
	William Brown—Rent		300.00
Sept. 5	William Brown—Rent		300.00
	A.A. Abbott—Payment on note (Inv. Attach. 2, Item 6)	737.45	862.55
	Musician's Quarterly—Refund (Inv. Attach. 2, Item 7)	4.78	
	Atlas Health—Refund (Inv. Attach. 2, Item 8)	73.00	
Oct. 5	William Brown—Rent		300.00
Nov. 2	William Brown—Rent		300.00
	ABC Gas & Electric Co.—Dividend		80.00
Dec. 3	William Brown—Rent		300.00
	A.A. Abbott—Payment on note (Inv. Attach. 2, Item 6)	754.05	845.95
	Total Principal Receipts	<u>\$34,096.08</u>	
	Total Income Receipts		<u>\$7,273.72</u>

\*Includes \$298.21 interest accrued to date of death (Inv. Attach. 2, Item 6)

\*\*Includes total amount received; \$217.27 expenses of sale included on disbursement schedule

*Comment:* It is recommended, but not required, that even in the chronological account, income receipts be separated from principal receipts. This may be done by either separating the items in two columns, as shown, or differentiating principal with an asterisk or other mark. For further discussion of schedule of receipts, see Comment to [Appendix 12](#).

**Source:** Estate Planning/Handling a Fiduciary Accounting (Action Guide)/Appendixes/Appendix 14 Sample Categorized Schedule of Disbursements

Appendix 14  
Sample Categorized Schedule of Disbursements

**Schedule** \_\_[letter]\_\_ : **DISBURSEMENTS**

<u>Date</u>	<u>Paid to</u>	<u>Purpose</u>	<u>Principal</u>	<u>Income</u>
2009				
<b>Expenses of administration:</b>				
Mar. 10	Able & Co.	Premium on bond	\$30.00	
Apr. 10	James Crown	Probate referee — appraisal	128.07	
	Bill Bailey	Attorney's disbursements	27.50	
June 15	Daily Journal	Notice of death, petition to administer estate	15.00	
May 5	Smith Co.	Expenses of sale, XYZ Stock	<u>217.27</u>	
			\$417.84	
<b>Expenses relating to 9236 Maple Lane, Los Angeles, California</b>				
(Inv. Attach. 2, Item 2):				
Mar. 10	Jones & Co.	Insurance		\$52.00
Apr. 10	Tax collector	Real property tax	357.00	
June 15	National Bank	Payment on deed of trust	100.00	800.00
Nov. 15	National Bank	Payment on deed of trust	120.00	780.00
Dec. 10	Tax collector	Real property taxes		<u>372.30</u>
			<u>577.00</u>	2,004.30
		Total disbursements for expenses relating to 9236 Maple Lane		\$2,581.30
<b>Claims paid:</b>				
Jan. 29	Richard Roe, M.D.	Medical services, last illness	\$150.00	
	Mary Smith, R.N.	Medical services, last illness	24.00	
	Mercy Hospital	Last illness	230.00	
	Chapel Mortuary	Funeral	498.00	
	P T & T	Closing bill	8.94	
Apr. 15	Internal Revenue Service	Decedent's final tax return	173.29	
May 10	Joseph Smith	Creditor's claim	293.48	
	White Dep't Store	Creditor's claim	<u>182.95</u>	
			\$1,560.66	
<b>Miscellaneous:</b>				
May 10	Mt. Diablo S&L	Transfer	\$15,000.00	
June 15	Family allowance	(11 months at \$300 per month)	<u>3,300.00</u>	
	Total Principal Disbursements		<u>\$20,855.50</u>	
	Total Income Disbursements			<u>\$2,004.30</u>
	<b>Total Disbursements</b>			<u>\$22,859.80</u>

*Comment:* If disbursements are not broken down between principal and income, payments on deeds of trust should be itemized for principal and interest.

**Source:** Estate Planning/Handling a Fiduciary Accounting (Action Guide)/Appendixes/Appendix 15 Sample Chronological Schedule of Disbursements

Appendix 15  
Sample Chronological Schedule of Disbursements

**Schedule** \_\_[letter]\_\_ : **DISBURSEMENTS**

<u>Date</u>	<u>Paid to</u>	<u>Purpose</u>	<u>Principal</u>	<u>Income</u>
2009				
Jan. 2	Richard Roe, M.D.	Medical services, last illness	\$150.00	
	Mary Smith, R.N.	Medical services, last illness	24.00	
	Mercy Hospital	Last illness	230.00	
	Chapel Mortuary	Funeral	498.00	
	P T & T Co.	Closing bill	8.94	
Mar. 10	Able & Co.	Premium on bond	30.00	
	Jones & Co.	Insurance on bldg.		\$52.00
Apr. 10	Tax collector	Real property taxes a lien after death		
			357.00	
	James Crown	Probate referee — appraisal		
			128.07	
	Bill Bailey	Attorney's disbursements	27.50	
Apr. 15	Internal Revenue Service	Decedent's final tax return	173.29	
May 1		Family allowance	1,500.00	
May 5	Smith & Co.	Expenses of sale, XYZ stock	217.27	
May 10	Mt. Diablo S&L	Transfer	15,000.00	
	Joseph Smith	Creditor's claim	293.48	
	White Dep't Store	Creditor's claim	182.95	
June 15	National Bank	Payment on deed of trust	100.00	800.00
	Daily Journal	Administration exp., notice of death, petition to administer estate	15.00	
Aug. 1		Family allowance	900.00	
Nov. 1		Family allowance	900.00	
Nov. 15	National Bank	Payment on deed of trust	120.00	780.00
Dec. 10	Tax collector	Real property taxes a lien after death		
				<u>372.30</u>
	Total Principal Disbursements		<u>\$20,855.50</u>	
	Total Income Disbursements			<u>\$2,004.30</u>
	Total Disbursements		<u>\$22,859.80</u>	

*Comment:* Real property taxes on California property are considered a lien at death and therefore a principal charge. Although real property taxes are *assessed* later in the year, the taxes become a lien on the owner of the real property as of January 1. Rev & T C §2192. If a decedent dies before paying the first installment of real property tax due on December 10, both installments of tax due on December 10 and April 10 are liens and therefore principal charges. If the decedent dies after making the December 10 payment but before January 1 of the next year, only the April installment of the unpaid tax is a principal charge. If the decedent dies after January 1 but before April 10, the April 10 installment, if not paid before death, and the next two installments due on December 10 and April 10 of the next year, are principal charges. See property tax allocation in April 10 and December 10 entries.

**Source:** Estate Planning/Handling a Fiduciary Accounting (Action Guide)/Appendixes/Appendix 16 Sample Schedule of Net Income or Loss from Trade or Business

Appendix 16  
Sample Schedule of Net Income or Loss from Trade or Business

Schedule __[letter]__: NET INCOME FROM TRADE OR BUSINESS		
Gross Receipts/Sales		\$150,000.00
Less:		
Returns and allowances		(10,000.00)
Cost of goods sold		
Gross Profit		140,000.00
Other Income		
Gross Income		140,000.00
Less Expenses		
Advertising	\$1,000.00	
Bad debts from sales or services	500.00	
Car and truck expenses	1,500.00	
Commissions and fees		
Depletion		
Depreciation and IRC §179 expense deduction		
Employee benefit programs		
Insurance (other than health)	800.00	
Interest:		
Mortgage		
Other		
Legal and professional services	1,000.00	
Office expense		
Pension and profit-sharing plans		
Rent or lease		
Vehicles, machinery, and equipment		
Other business property		
Repairs and maintenance		
Supplies (not included in cost of goods sold)	200.00	
Taxes and licenses		
Travel, meals, and entertainment:		
Utilities	1,000.00	
Wages (less employment credits)	48,000.00	
Other expenses		
Total Expenses		(54,000.00)
Tentative Profit (loss)		86,000.00
Expenses for business use of home		
Net Income or (loss) from Trade or Business		86,000.00

*Comment:* See Schedules C and F of the federal income tax return.

**Source:** Estate Planning/Handling a Fiduciary Accounting (Action Guide)/Appendixes/Appendix 17 Sample Schedules of Gains or Losses on Sale or Other Disposition

Appendix 17  
Sample Schedules of Gains or Losses on Sale or Other Disposition

Schedule \_\_[letter]\_\_: GAINS ON SALE OR OTHER DISPOSITION

<u>Date</u>	<u>Description</u>	<u>Sold at</u>	<u>Inventory Value</u>	<u>Gain</u>
May 15, 2009	Sold 200 shares of XYZ Telephone Co. 6% first preferred stock, par value of \$100 (Inv. Attach. 2, Item 4):	\$22,250	\$20,000	<u>\$2,250</u>
	Total Gains			\$2,250

Schedule D: LOSSES ON SALE OR OTHER DISPOSITION

<u>Date</u>	<u>Description</u>	<u>Sold at</u>	<u>Inventory Value</u>	<u>Loss</u>
May 15, 2009	Sold 200 shares of XYZ Telephone Co. 6% first preferred stock, par value of \$100 (Inv. Attach. 2, Item 4):	\$17,750	\$20,000	<u>(\$2,250)</u>
	Total Losses			(\$2,250)

Schedule B: GAINS ON SALE OR OTHER DISPOSITION

<u>Date</u>	<u>Description</u>	<u>Sold at</u>	<u>Inventory or Carry Value</u>	<u>Gain/Loss</u>
May 15, 2009	Sold 200 shares of XYZ Telephone Co. 6% first preferred stock, par value of \$100 (Inv. Attach. 2, Item 4):	\$17,750	\$20,000	(\$2,250)
November 15, 2009	Sold 5,000 shares of Pacific Corp.:	20,000	15,500	<u>4,500</u>
	Net Gains on Sale			\$2,250

**Source:** Estate Planning/Handling a Fiduciary Accounting (Action Guide)/Appendixes/Appendix 18 Sample Schedule of Distributions

Appendix 18  
Sample Schedule of Distributions

Schedule \_\_[*letter*]\_\_: DISTRIBUTIONS

708 Elm Street, Los Angeles, California; Attach. 2, Item 1, Inventory and Appraisal; distributed to decedent's surviving spouse by order of preliminary distribution dated October 1, 2009:	\$125,000
---	-----------

**Source:** Estate Planning/Handling a Fiduciary Accounting (Action Guide)/Appendixes/Appendix 19 Sample Schedule of Property on Hand

Appendix 19  
Sample Schedule of Property on Hand

Schedule \_\_[letter]\_\_: PROPERTY ON HAND

On hand as of December 31, 2009:

<u>Property</u>	<u>Carry Value</u>	<u>Fair Market Value</u>
Real property located at 9236 Maple Lane, Los Angeles, California, described as Lot 78, Tract ABC, per map recorded in Book 83, Page 304 of Maps, Records of Los Angeles County, improved with two-story residence, subject to unrecorded contract of purchase in which decedent is purchaser and Jay Smith is seller. Assessor's Parcel No. 935-44-2 (Inv. Attach. 2, Item 2)	\$180,000.00	\$200,000.00
300 shares of ABC Gas & Electric Co. (Inv. Attach. 2, Item 3)	6,000.00	6,300.00
Dividend reinvestment—15 shares of ABC Gas & Electric Co. (Schedule __: Changes in Assets)	315.00	325.50
3 US Series E Bonds, \$100 each (Inv. Attach. 2, Item 5)	277.08	285.18
Balance on note to A.A. Abbott, dated 8/23/98, secured by deed of trust on 389 First Street, Midville, California (Inv. Attach. 2, Item 6)	36,844.02	36,844.02
Antique collection (Inv. Attach. 2, Item 9)	1,000.00	1,200.00
Household furniture, furnishings, and personal effects (Inv. Attach. 2, Item 10)	5,000.00	5,000.00
Cash, Bank of Sierra, Account No. 000 (see Schedule __: Changes in Assets)	18,195.00	18,195.00
Cash, Mt. Diablo Sav. & Loan Ass'n, Account No. 0000	<u>18,622.85</u>	<u>18,622.85</u>
Total Property on Hand	\$266,253.95	\$286,772.55

*Comment:* The carry value for an asset included in the inventory and appraisal is its appraised value (normally its fair market value at the date of death or date of the inventory for conservatorship and guardianships). The carry value for an asset later acquired by purchase is its purchase price (value when "acquired" by the fiduciary).

**Source:** Estate Planning/Handling a Fiduciary Accounting (Action Guide)/Appendixes/Appendix 20 Sample Disposition of Inventory Items

Appendix 20  
Sample Disposition of Inventory Items

<u>Inventory</u>	<u>Disposition</u>	<u>Account</u>
Attach. 1		
Item No.		
1	Receipt reported in Schedule A (see <u>Apps 11-12</u> )	In cash on hand
2	Receipt reported in Schedule A (see <u>Apps 11-12</u> )	In cash on hand
3		In cash on hand
4	Receipt reported in Schedule A (see <u>Apps 11-12</u> )	In cash on hand
5	Receipt reported in Schedule A (see <u>Apps 11-12</u> )	In cash on hand
Attach. 2		
Item No.		
1	Distributed to surviving spouse, listed in Schedule E (see <u>App 17</u> )	
2		On hand
3		On hand
4	Sold, reported in Schedule D (see <u>Apps 11-12, 16</u> )	In cash on hand
5	Div. in cash on hand; stock in property on hand	On hand
6	Receipt of \$3216.28 of inventory amount, including \$298.21 accrued interest, reported in Schedule A	On hand
7	Receipt reported in Schedule A (see <u>Apps 11-12</u> )	In cash on hand
8	Receipt reported in Schedule A (see <u>Apps 11-12</u> )	In cash on hand
9		On hand
10		On hand

*Comment:* This schedule is for the attorney's use in checking the disposition of estate assets. It is based on the schedules in Appendixes 11-18. It should not be included in the formal court proceeding.

**Source:** Estate Planning/Handling a Fiduciary Accounting (Action Guide)/Appendixes/Appendix 21 Sample Cash Reconciliation

Appendix 21  
Sample Cash Reconciliation

Cash Reconciliation Schedule

Charges

Cash per Inventory and Appraisal (Attach. 1, Items 1, 2, and 3)		\$6,434.61
Income Receipts (Schedule A)	\$7,273.72	
Gross Proceeds from Sales:		
Gains on Sales (Schedule B)	-0-	
Losses on Sales (Schedule D)	17,750.00	
Receipts of Cash Capital Items (Schedule G)	<u>13,534.32</u>	
		<u>38,558.04</u>
Total Charges		<u>\$44,992.65</u>

Credits

Disbursements (Schedule C)	\$7,859.80	
Dividend Reinvestment (Schedule ____)	<u>315.00</u>	
Total Disbursements		8,174.80
Balance of Cash on Hand (Schedule F):		
Bank of Sierra, Account No. 000	\$18,195.00	
Mt. Diablo Sav. & Loan Ass'n, Account No. 0000	<u>18,622.85</u>	
Total Cash on Hand		<u>36,817.85</u>
Total Credits		<u>\$44,992.65</u>

-

*Comment:* Investments, including dividend reinvestments, are included on the Schedule of Changes in Form of Assets. See Appendix 24.

**Source:** Estate Planning/Handling a Fiduciary Accounting (Action Guide)/Appendixes/Appendix 22 Sample Schedule of Property on Hand (Trust)

Appendix 22  
Sample Schedule of Property on Hand (Trust)

**Doe Administrative Trust**  
**Schedule** \_ \_*[letter]*\_ \_  
**Ending Assets as of December 31, 2008**

<u>Description</u>	<u>Market Value</u>	<u>Fiduciary Acquisition Value</u>
<b>Cash and Cash Equivalents:</b>		
Large Town Bank, C/A (checking acct.) 999-9999	500.00	500.00
Large Town Broker Money Market Account	48,582.07	<u>48,582.07</u>
Total Cash and Cash Equivalents		49,082.07
<b>Securities:</b>		
Large Town Broker acct. 67890:		
100 shares ABC Corp	2,500.00	2,250.00
10,000 U.S. Treasury Note 6.5%, due 12/31/05	8,700.00	8,000.00
<b>Individual Retirement Account:</b>		
Small Town Bank IRA acct. No. 123	637,000.00	630,000.00
<b>Receivable:</b>		
Rent owed by Jason Grey	700.00	1,600.00
<b>Real Estate:</b>		
Single-family residence located at 100 Jones Street, Small Town, California	900,000.00	875,000.00
Duplex located at 1 Elm Street, Small Town, California	<u>1,090,000.00</u>	<u>1,050,000.00</u>
Total Noncash Assets:	<u>2,638,900.00</u>	<u>2,566,850.00</u>
Total Assets:	<u>2,687,982.07</u>	<u>2,615,932.07</u>

**Doe Marital Trust**  
**Schedule** \_ \_*[letter]*\_ \_  
**Ending Assets as of December 31, 2009**

<u>Description</u>	<u>Market Value</u>	<u>Fiduciary Acquisition Value</u>
Large Town Money Market acct. 456	42,097.98	42,097.98
Small Town Bank IRA acct. 123	640,000.00	637,000.00
Total Assets:	682,097.98	679,097.98

**Doe Bypass Trust**  
**Schedule** \_ \_*[letter]*\_ \_  
**Ending Assets as of December 31, 2009**

<u>Description</u>	<u>Market Value</u>	<u>Fiduciary Acquisition Value</u>
C/A 123 Large Town Bank	4,221.61	4,221.61
ABC Corp.	1,275.00	1,250.00
Vanguard Index Fund	8,001.00	7,500.00
Single-family residence located at 100 Jones Street, Small Town, California	<u>900,000.00</u>	<u>900,000.00</u>
Rental Business: Duplex at 1 Elm Street, Small Town, California	<u>1,154,000.00</u>	<u>1,090,000.00</u>
Total Assets:	<u>2,067,497.61</u>	<u>2,002,971.61</u>

*Comment:* The above schedule shows asset activity during the year 2008, the year of the administrative trust, and provides a sample of a schedule for asset activity in the year 2009, the first year after the administrative trust has been allocated and distributed to the subtrusts.



**Source:** Estate Planning/Handling a Fiduciary Accounting (Action Guide)/Appendixes/Appendix 23 Sample Schedule for Receipt of Cash Capital Items

Appendix 23  
Sample Schedule for Receipt of Cash Capital Items

Schedule \_\_[*letter*]\_\_ : RECEIPT OF CASH CAPITAL ITEMS

John Harold (Inv. Attach. 1, Item 4)	\$44.40
Sears (Inv. Attach. 1, Item 4)	120.86
American Life Ins. Co.—Insurance proceeds (Inv. Attach. 1, Item 5)	10,000.00
ABC Gas & Electric Co.—Dividend of record (Inv. Attach. 2, Item 3)	75.00
Principal payments on A.A. Abbott note (Inv. Attach. 2, Item 6):	
Mar. 5	1,003.56
June 2	721.22
Sept. 5	737.45
Dec. 3	754.05
Musician's Quarterly refund (Inv. Attach. 2, Item 7)	4.78
Atlas Health refund (Inv. Attach. 2, Item 8)	<u>73.00</u>
Total Receipts	<u>\$13,534.32</u>

**Source:** Estate Planning/Handling a Fiduciary Accounting (Action Guide)/Appendixes/Appendix 24 Sample Schedule of Changes in Form of Assets

Appendix 24  
Sample Schedule of Changes in Form of Assets

Schedule \_\_[*letter*]\_\_: CHANGES IN ASSETS

<u>Date</u>	<u>Description</u>	
2009		
Feb 2	Dividend reinvestment—1.75 shares of ABC Gas & Electric Co.	\$75.00
May 5	Dividend reinvestment—2 shares of ABC Gas & Electric Co.	80.00
Aug 5	Dividend reinvestment—2 shares of ABC Gas & Electric Co.	80.00
Nov 2	Dividend reinvestment—2 shares of ABC Gas & Electric Co.	80.00
Dec 3	Stock split ABC Gas & Electric 2:1	
		<hr/>
		\$315.00

**Source:** Estate Planning/Handling a Fiduciary Accounting (Action Guide)/Appendixes/Appendix 25 Sample Schedule for Estate Accounted for

Appendix 25

Sample Schedule for Estate Accounted for

**Schedule** \_ \_[letter]\_ \_: ESTATE ACCOUNTED FOR

Fee Base

Inventory and Appraisal	\$394,090.03	
Receipts Not Accounted for	<u>7,273.72</u>	\$401,363.75
Less Losses on Sales (Schedule D)		<u>-2,250.00</u>
Total Estate Accounted for:		<u>\$399,113.75</u>

Fee Computation

4% of first	\$100,000.00	\$4,000.00
3% of next	100,000.00	3,000.00
2% of next	<u>199,113.75</u>	<u>3,982.28</u>
Total Estate Accounted for	<u>\$399,113.75</u>	Total Fees <u>\$10,982.28</u>

*Comment:* Ordinarily, this schedule is attached as an exhibit to the petition; it can also be included in the petition itself.

Statutory compensation is set out in Prob C §10800(a). Compensation is 4 percent on the first \$100,000, 3 percent on the next \$100,000, 2 percent on the next \$800,000, 1 percent on the next \$9,000,000, one-half of 1 percent on the next \$15,000,000, and a reasonable amount to be determined by the court on amounts greater than \$25,000,000.

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**Source:** Estate Planning/Handling a Fiduciary Accounting (Action Guide)/Appendixes/Appendix 26 Sample Statement of Estate Liabilities

Appendix 26  
Sample Statement of Estate Liabilities

STATEMENT OF LIABILITIES

1. Claims filed with the court, served, fully allowed, and paid.

<u>Date Paid</u>	<u>Claimant</u>	<u>Nature of Claim</u>	<u>Amount</u>
2009			
Jan. 29	Mary Smith, R.N. 123 Faraway St. San Francisco	Medical services, last illness	\$24.00
Jan. 29	Richard Roe, M.D. Mercy Hospital San Francisco	Medical services, last illness	150.00
Jan. 29	Mercy Hospital	Last illness	230.00
Jan. 29	Chapel Mortuary	Funeral	498.00
May 10	Joseph Smith	Service rendered	293.48
	White Dep't Store	Goods sold and delivered	182.95

2. Claims filed and rejected

<u>Date of Service of Claim</u>	<u>Claimant</u>	<u>Claim Due</u>	<u>Date of Notice of Rejection</u>	<u>Action Filed</u>	<u>Security for Claim</u>	<u>Amount</u>
2009						
Feb. 10	A.B. Veep	Jan. 3, 2009	Mar. 12, 2009	No	None	\$250.00

**Source:** Estate Planning/Handling a Fiduciary Accounting (Action Guide)/Appendixes/Appendix 27 Sample First and Final Account and Report of Executor and Petition for Its Settlement, for Allowance of Compensation to Executor and Attorneys for Ordinary Services, and for Final Distribution

Appendix 27

Sample First and Final Account and Report of Executor and Petition for Its Settlement, for Allowance of Compensation to Executor and Attorneys for Ordinary Services, and for Final Distribution

[Title of case] ) No. \_\_\_\_\_  
)  
) FIRST AND FINAL ACCOUNT AND  
) REPORT OF EXECUTOR AND  
) PETITION FOR ITS SETTLEMENT,  
) FOR ALLOWANCE OF  
) COMPENSATION TO EXECUTOR  
) AND ATTORNEYS FOR  
) ORDINARY SERVICES, AND FOR  
) FINAL  
) DISTRIBUTION  
)  
)  
) Hearing: \_\_[date; time]\_\_  
)  
) Dep't: \_\_[number]\_\_  
)  
) Hearing judge: \_\_[if known]\_\_  
)  
)  
)  
)  
)  
)  
\_\_\_\_\_ )

Petitioner, \_\_[name]\_\_, the executor of the will of \_\_[name]\_\_, deceased, alleges:

1. *Date of Death and Domicile.* \_\_[Name]\_\_ died testate on \_\_[date]\_\_, in \_\_\_\_\_ County, \_\_[state]\_\_, and at the time of \_\_[his/her]\_\_ death was domiciled in that county.
2. *Will Admitted to Probate; Letters Issued.* The decedent's will dated \_\_[date]\_\_, \_\_[and codicil(s) dated \_\_[date]\_\_], \_\_[was/were]\_\_ admitted to probate by order of this court on \_\_[date]\_\_. Petitioner qualified as and was appointed executor of the will and letters testamentary were issued to petitioner on \_\_[date]\_\_. At all times since then, petitioner has been and now is the duly qualified executor of the decedent's will.
3. *Authority Granted Under Independent Administration of Estates Act.* On \_\_[date]\_\_, petitioner was granted full authority by order of this court to administer the estate without court supervision under the Independent Administration of Estates Act. This authority has not been revoked.
4. *Notice of Petition to Administer Estate.* Notice of the petition to administer estate has been published for the period and in the manner prescribed by law.
5. *Notice to Public Entities Not Required.* The estate is not required to give notice to any "public entity" described in Probate Code §9201.
6. *Notice to Director of Health Services Not Required.* Notice to the Director of Health Services under Probate Code §9202(a) is not required because the decedent did not receive and was not the surviving spouse or registered domestic partner of a person who received any Medi-Cal benefits.

7. *Notice to Director of California Victim Compensation and Government Claims Board Not Required.* Notice to the Director of California Victim Compensation and Government Claims Board under Probate Code §9202(b) is not required because petitioner does not know and has no reason to believe that an heir is in correctional facility.

8. *Notice to Franchise Tax Board Mailed.* The notice required by Probate Code §9202(c) was served on the Franchise Tax Board on \_\_[date]\_\_, in the form specified by the Franchise Tax Board, a copy of which is attached to this petition as Exhibit \_\_[letter]\_\_.

9. *Request for Special Notice.* No one has filed a request for special notice in this proceeding.

10. *Inventory and Appraisal.* A final inventory and appraisal of the estate was filed on \_\_[date]\_\_, showing the value of the estate to be \$394,090.03. Petitioner alleges that this inventory totaling \$394,090.03 contains all the assets of the estate that have come to petitioner's knowledge or into \_\_[his/her]\_\_ possession.

11. *Character of Estate Property.* The estate consists entirely of the community property of the decedent \_\_[and his/her]\_\_ surviving spouse.

12. *Election by Surviving Spouse.* By document filed herein on \_\_[date]\_\_, the surviving spouse elected to subject the decedent's interest in the community property that under the will passes to the surviving spouse to administration herein.

13. *Summary of Account.* Petitioner's account covers the period beginning \_\_[date]\_\_ and continuing through \_\_[date]\_\_. Petitioner should be charged and credited as shown in the following summary of account, which is supported by the schedules attached as \_\_[e.g., Exhibit A]\_\_ and incorporated here by reference:

#### CHARGES

Amount of inventory and appraisal	\$394,090.03
Amount of supplemental inventories	none
Receipts during account period other than principal items (Schedule A)	7,273.72
Gains on sale or other disposition (Schedule B)	none
Net income from trade or business (Schedule ___)	<u>none</u>
Total Charges	<u>\$401,363.75</u>

#### CREDITS

Disbursements during accounting period (Schedule C)	\$7,859.80
Losses on sale or other disposition (Schedule D)	2,250.00
Net loss from trade or business (Schedule ___)	none
Distributions (Schedule E)	125,000.00
Property on hand at close of account (Schedule F)	<u>266,253.95</u>
Total Credits	<u>\$401,363.75</u>

14. *Transactions During Account Period.* There were no transactions during the account period that are not otherwise readily understandable from the Schedules (Probate Code §1064(a)(1)).

15. *Unusual Expenditures.* There are no unusual account expenditures (Probate Code §1064(a)(2)).

16. *Compensation Paid During Account Period.* No compensation has been paid to petitioner or to petitioner's attorney during the account period other than pursuant to a prior court order (Probate Code §1064(a)(3)).

17. *No Person Hired with Family or Affiliate Relationship.* During the account period, petitioner has not hired any person or entity who has a family or affiliate relation with petitioner or with petitioner's attorney (Probate Code §1064(a)(4)).

18. *Investment of Cash.* All investments shown in the account were authorized and proper investments under the provisions of the will and the laws of California and were made, retained, and changed as set forth in this account for the best interests of the estate and all persons interested therein. Petitioner has kept all cash of the estate in interest-bearing accounts or other investments authorized by law except amounts needed to administer the estate (Probate Code §1064(a)(5)).

19. The balance on hand in the estate at the close of the account period on \_\_[date]\_\_, is \$266,253.95 of which \$36,817.85 is cash. A list of assets of the estate on hand is attached as \_\_[e.g., Exhibit B; see Appendix 19]\_\_.

20. *Independent Actions Taken with Notice of Proposed Action.* Petitioner took the following actions without court supervision after having sent a notice of proposed action to all persons entitled: Property located at 708 Elm Street, Los Angeles, California (Attach. 2, Item 1, Inventory and Appraisal) was distributed to decedent's surviving spouse by order of preliminary distribution dated \_\_[date]\_\_, as shown on Schedule E: Distributions, attached as part of Exhibit A and incorporated here by reference.

21. *Notice to Creditors.* Petitioner has made all reasonable efforts to ascertain creditors of the decedent. Notice of administration has been sent to all known and reasonably ascertainable creditors. More than 4 months have elapsed since the date letters first issued. The time for filing creditors' claims expired on \_\_[date]\_\_. *[The time for filing late-discovered creditors' claims expired on \_\_[date]\_\_].*

22. *No Debts Paid Without Creditor Claims.* No creditors have been paid except those creditors who have properly filed and served formal claims.

23. *Creditors' Claims.* No claims have been filed with the court.

24. *Estate Taxes.* No federal estate tax return has been filed because the estate was not sufficient to require such a return, and no estate taxes are due.

25. *Income Taxes.* All California and federal income taxes due and payable by the estate have been paid or are adequately secured.

26. *Certificate of California Franchise Tax Board.* A Certificate of the California Franchise Tax Board required by Revenue and Taxation Code §19513 does not have to be filed because there are no nonresident devisees of the Estate.

27. *Personal Property Taxes.* No personal property taxes are due or payable by the estate.

28. *Executor's Ordinary Compensation.* The executor has rendered valuable services to the estate and ordinary compensation should be allowed. The executor's compensation for ordinary services is \$10,982.28, computed on a fee base of \$399,113.75, arrived at as shown in the attached \_\_[Exhibit \_\_[letter]\_\_]. *[See Appendix 25.]*

29. The attorneys for the executor have rendered valuable services to the estate and ordinary compensation should be allowed. The attorney's compensation for ordinary services is \$10,982.28, computed on a fee base of \$399,113.75, arrived at as shown in the attached \_\_[Exhibit \_\_[letter]\_\_]. *[See Appendix 25.]*

30. *Estate in Condition to be Closed.* More than four months have elapsed since the issuance of letters. Notice of administration has been given to creditors as required by law. The time for filing and serving creditors' claims has expired. Petitioner has performed all required duties as executor of the decedent's will. The estate is solvent. All costs of administration incurred to date, \_\_[except (specify, e.g., compensation of petitioner as executor or administrator of the estate and attorney fees)]\_\_ have been paid. The estate is in a condition to be closed.

31. *Reserve for Closing Expenses.* Petitioner requests authorization to withhold \$\_\_[dollar amount]\_\_ for closing expenses \_\_[and as a reserve for any liabilities that may hereafter be determined to be due from the estate]\_\_. Petitioner further requests authorization to distribute the balance of the reserve account to \_\_[name]\_\_ without further court order.

32. *Names and Residences of Testate Beneficiaries and Heirs.* The following are the beneficiaries named in the will \_\_[and codicil(s)]\_\_, admitted to probate by this court on \_\_[date]\_\_, who constitute all the heirs of decedent: \_\_[For each beneficiary, list name, age (over or under 18), relationship to decedent, and residence address]\_\_.

33. *Advance Distributions.* By court order of \_\_[date]\_\_, petitioner has made advance distributions as follows: \_\_[Specify]\_\_.

The distributions are shown on Schedule \_\_[letter]\_\_ of the attached account, and the receipt(s) of the distributee(s) \_\_[is/are]\_\_ on file.

34. *Proposed Distribution.* By the terms of the will \_\_[and codicil(s)]\_\_ \_\_[and the order determining interests]\_\_, the estate in the possession of the executor remaining for distribution should be distributed to each beneficiary as follows: \_\_[List specific property to be distributed to each distributee/as shown in Attachment \_\_ and incorporated here by reference]\_\_.

34. *Omnibus Clause.* Any other property of the estate not now known or discovered that may belong to the estate or in which the decedent or the estate may have any interest should be distributed as follows: \_\_[Specify]\_\_.

WHEREFORE, petitioner requests this court to order that:

1. The administration of this estate be brought to a close;

2. The first and final account of petitioner as executor be settled, allowed, and approved as filed;
3. All the acts and proceedings of petitioner as executor as set forth in this petition be confirmed and approved;
4. Petitioner be allowed and credited with \$10,982.28 as ordinary compensation for services as executor.
5. Petitioner be authorized and directed to pay to \_\_ *[name of attorney]* \_\_, \$10,982.28 as ordinary compensation for services to petitioner and to the estate;
6. Petitioner be authorized to retain \_\_ *[dollar amount]* \_\_ in cash for closing expenses of administration \_\_ *[and to pay liabilities]* \_\_ and to deliver the unused part to the beneficiaries of the estate, without further court order, after the closing expenses have been paid;
7. Distribution of the estate in petitioner's hands and any other property of the decedent or the estate not now known or discovered that may belong to the estate or in which the decedent or the estate may have any interest be made to the persons entitled to it, as set forth in the petition;
8. On the filing of receipts, petitioner be discharged and petitioner and \_\_ *[his/her]* \_\_ sureties be discharged and released from all liability to be incurred hereafter; and that
9. Such further order be made as the court considers proper.

Date: \_\_\_\_\_ *[Signature of representative]* \_\_\_\_\_  
 \_\_ *[Typed name]* \_\_  
 Petitioner

By: \_\_ *[Signature]* \_\_  
 \_\_ *[Typed name]* \_\_  
 Attorney for representative

\_\_ *[Name of attorney or law firm]* \_\_

[Verification (see [step 12](#), above)]

I, \_\_ *[name]* \_\_, the petitioner in this matter, declare that I have read the petition and know its contents, which are true to my own knowledge except for those matters stated on my information and belief, and as to those matters I believe the petition to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: \_\_\_\_\_ *[Signature]* \_\_\_\_\_  
 \_\_ *[Typed name]* \_\_  
 Petitioner

*Comment:* For discussion of reserve for closing expenses (item 31), see [Decedent Estate Prac §31.66](#). For discussion of omnibus clause (item 34), see [Decedent Estate Prac §§31.91 and 31.143](#). The petition and account must be verified. [Prob C §1021](#). For contents of a verification of a civil pleading used in probate proceedings, see [CCP §446](#). See [Decedent Estate Prac §§1.27-1.28](#).



Property on Hand at Beginning of Account Period, consisting of: \$ \_\_\_\_\_

Schedule PH(1): Cash Assets: \$ \_\_\_\_\_

Schedule PH(2): Non-Cash Assets: \$ \_\_\_\_\_

Schedule AP: Additional Property Received During Period of Account \$ \_\_\_\_\_

Schedule A: Receipts During Period of Account [other than capital items, see Conserv Prac §19.42] \$ \_\_\_\_\_

Schedule A1: Return of Principal: \$ \_\_\_\_\_  
[excluded from computation of amounts; see Conserv Prac §19.44A] \_\_\_\_\_

Schedule B: Gains on Sales During Period of Account \$ \_\_\_\_\_

\_\_-[Schedule \_\_\_]\_\_: Other Charges \$ \_\_\_\_\_

\_\_-[Schedule \_\_\_]\_\_: Net Income from Trade or Business During Period of Account \$ \_\_\_\_\_

Total Charges \$ \_\_\_\_\_

**Credits**

Schedule C: Disbursements During Period of Account \$ \_\_\_\_\_

Schedule D: Losses on Sales During Period of Account \$ \_\_\_\_\_

Schedule DIST: Distributions to Conservatee \$ \_\_\_\_\_

\_\_-[Schedule \_\_\_]\_\_: Other Credits \$ \_\_\_\_\_

\_\_-[Schedule \_\_\_]\_\_: Net Loss from Trade or Business During Period of Account \$ \_\_\_\_\_

Schedule E: Property on Hand at End of Account Period, consisting of: \$ \_\_\_\_\_

Schedule E(1): Cash Assets: \$ \_\_\_\_\_

Schedule E(2): Non-Cash Assets: \$ \_\_\_\_\_

Total Credits \$ \_\_\_\_\_

4. During the period of this account, all of the cash of this estate has been invested and maintained in interest-bearing accounts or in investments authorized by law, except for an amount of cash that is reasonably necessary for the orderly administration of the estate.

5. In the management of the estate during the period of this account, Petitioner has performed the services \_\_-[described in the report/set forth in Petitioner's Declaration attached to this petition as Exhibit \_\_-[letter]\_\_-\_\_].

Petitioner has managed and administered the \_\_-[conservatee's/minor's]\_\_ estate frugally and without waste, collecting income and principal, investing the sums available for investment, retaining and disposing of property and investments, and applying or disposing of the income or corpus of the estate as required by law and the orders of this Court, as detailed in the schedules attached to this petition. Petitioner has expended \_\_-[number]\_\_ hours in collecting the income of the \_\_-[conservatee/minor]\_\_, \_\_-[number]\_\_ hours in paying \_\_-[his/her]\_\_ expenses, and \_\_-[number]\_\_ hours managing estate real property.

No compensation has been received by Petitioner for \_\_-[his/her]\_\_ services as \_\_-[conservator/guardian]\_\_. A detailed description of the services rendered is set forth in the Declaration of \_\_-[name]\_\_ attached to this petition as Exhibit \_\_-[letter]\_\_. The reasonable value of all services is \_\_-[dollar amount]\_\_.

[If Court has previously authorized payment on account]

Petitioner has paid \_\_-[himself/herself]\_\_ on account as permitted by prior order of this Court and requests that the Court approve and allow such fees and allow additional fees as follows: \_\_-[List fees]\_\_.

6. Petitioner retained the services of \_\_-[name]\_\_ as \_\_-[his/her]\_\_ attorney in all matters concerning the \_\_-[conservatorship/guardianship]\_\_ in which it was necessary to have advice of counsel in the proper administration and conduct of the \_\_-[conservatorship/guardianship]\_\_. A detailed description of those services is set forth in the Declaration of \_\_-[name]\_\_ attached hereto as Exhibit \_\_-[letter]\_\_.

No payments have been made to the attorney for services to the estate. The attorney, by endorsing \_\_-[his/her]\_\_ name to this

petition, represents that the reasonable value of services is \_\_[dollar amount]\_\_\_. \_\_[Petitioner requests that such fees be allowed and that they be ordered as a lien against the \_\_[conservatorship/guardianship]\_\_ estate]\_\_.

7. During the accounting period, Petitioner \_\_[has/has not]\_\_ hired \_\_[name and title of agent/any agent]\_\_ who has a family or affiliate relationship with Petitioner.

[Add if appropriate]

8. \_\_[Name]\_\_ was appointed \_\_[conservator/guardian]\_\_ of the person of \_\_[name]\_\_, the \_\_[conservatee/minor]\_\_, on \_\_[date]\_\_, and has acted in that capacity since that date. During the period of this accounting \_\_[he/she]\_\_ has performed the services set forth in the Declaration of \_\_[name]\_\_ attached hereto as Exhibit \_\_[letter]\_\_.

The \_\_[conservator/guardian]\_\_ has received no payments for these services to the \_\_[conservatee/minor]\_\_. By endorsing \_\_[his/her]\_\_ name to this petition, \_\_[he/she]\_\_ represents that the reasonable value of \_\_[his/her]\_\_ services is \$ \_\_[amount]\_\_.

[Continue]

[9.] The \_\_[conservatee/minor]\_\_ is \_\_[not]\_\_ receiving \_\_[and will not receive]\_\_ money from or through the Veterans Benefits Administration. The \_\_[conservatee/minor]\_\_ \_\_[receives/does not receive]\_\_ revenue or profit from money obtained from the Veterans Benefits Administration or from property wholly or in part acquired with money from the Veterans Benefits Administration. The \_\_[conservatorship/guardianship]\_\_ estate \_\_[includes/does not include]\_\_ property acquired, wholly or in part, from money from the Veterans Benefits Administration.

[10.] The \_\_[conservatee/minor]\_\_ has \_\_[not]\_\_ been confined in a state hospital in California during the pendency of these proceedings.

[11.] The following are entitled to notice: \_\_[List name(s) and address(es)]\_\_. \_\_[No one has filed a request for special notice/The following have filed request(s) for special notice: \_\_[List name(s) and address(es)]\_\_].

WHEREFORE, Petitioner requests that:

1. Notice of hearing of this account, report, and petition be given as required by law;
2. The Court make an order approving, allowing, and settling the attached account and report of the \_\_[conservator/guardian]\_\_ as filed;
3. The Court authorize Petitioner to pay to \_\_[himself/herself]\_\_ \$ \_\_[amount]\_\_ as compensation for services rendered as conservator of the estate \_\_[and person]\_\_ during the accounting period;
4. The Court authorize Petitioner \_\_[to pay \_\_[name]\_\_, as \_\_[conservator/guardian]\_\_ of the person, \_\_[dollar amount]\_\_ for \_\_[his/her]\_\_ services and]\_\_ to pay \_\_[his/her]\_\_ attorney, \_\_[name]\_\_, \_\_[dollar amount]\_\_ for legal services rendered to the \_\_[conservatorship/guardianship]\_\_ during the accounting period; and
5. The Court make such other relief as it considers proper.

Date: \_\_\_\_\_ \_\_[Signature of petitioner]\_\_  
\_\_[Typed name]\_\_  
Petitioner, \_\_[conservator/guardian]\_\_ of the estate \_\_[and person]\_\_

Date: \_\_\_\_\_ \_\_[Signature of attorney]\_\_  
\_\_[Typed name]\_\_  
Attorney for Petitioner

[Verification (see step 12, above)]

I, the undersigned, say:

I, \_\_[name]\_\_, am \_\_[one of]\_\_ the \_\_[conservator(s)/guardian(s)]\_\_ of the \_\_[person and]\_\_ estate of the above-named \_\_[conservatee/minor]\_\_. The account and petition are true of my own knowledge, except as to the matters that are stated in it on my information and belief, and as to those matters I believe them to be true.

This account contains a full statement of all charges against me \_\_[and my co-conservator(s)/co-guardian(s)]\_\_ and of all credits to

which \_\_[I am/we are]\_\_ entitled in the estate during the accounting period.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: \_\_\_\_\_  
\_\_ [Typed name] \_\_  
Petitioner

\_\_ [Signature of petitioner] \_\_

*Comment:* The petition and account must be verified. Prob C §1021. For contents of a verification of a civil pleading used in probate proceedings, see CCP §446. See Conserv Prac §19.37; Guardian Prac §14.35.

When a guardian or conservator petitions for approval of a purchase, lease, or rental of real or personal property from a ward or conservatee's estate, the petition must disclose any family or affiliate relationship between the guardian or conservator and (1) the purchaser, lessee, or renter of the property; and (2) any agent hired by the guardian or conservator. Prob C §2359(c)(1). Check local rules for required allegations. Some courts may require an allegation in the petition for approval of the accounting that no sale, lease, or rental of real or personal property has occurred with a party that has a family or affiliate relationship with the guardian or conservator. Local rules should also be checked to see if any additional allegations are required.

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**Source:** Estate Planning/Handling a Fiduciary Accounting (Action Guide)/Appendixes/Appendix 29 Trustee's Petition for Settlement of Account and Approval of Compensation and Fees

Appendix 29

Trustee's Petition for Settlement of Account and Approval of Compensation and Fees

In re Trust created under the Will of \_\_\_\_\_ ) No. \_\_\_\_\_  
\_ [name of decedent]\_, deceased )  
)  
)  
[or] ) PETITION FOR SETTLEMENT OF  
) ACCOUNT AND APPROVAL OF  
) TRUSTEE AND ATTORNEY FEES  
) (PROBATE CODE §17200(b)(5),  
) (b)(9))  
In re \_ [name]\_ Trust, Established under )  
\_ [Declaration of Trust/Trust Agreement]\_ dated )  
\_ [date]\_ )  
) Hearing: \_ [date; time]\_ )  
) Dep't: \_ [number]\_ )  
) Hearing judge: \_ [if known]\_ )  
\_\_\_\_\_) )  
)

Petitioner, \_ [name]\_, the Trustee (hereafter referred to as "Petitioner") of the Trust under the \_ [Will of \_ [name]\_, deceased, and the decree of distribution of decedent's estate/Declaration of Trust/Trust Agreement created by \_ [name]\_ on \_ [date]\_]\_, hereby presents the \_ [e.g., first]\_ account and report of the administration of the Trust, covering the period from \_ [date]\_ to \_ [date]\_.

Petitioner respectfully shows:

1. Jurisdiction and Venue:

[If trust is not under continuing court supervision, include allegations demonstrating the existence of the trust, e.g., the following]

The \_ [Name]\_ Family Trust was established by \_ [name]\_ (Decedent) and Petitioner as Settlers and Cotrustees, pursuant to the Declaration of Trust dated \_ [date]\_ (Trust Instrument). Attached to this Petition are true and correct copies of the Trust Instrument with the following redactions: \_ [list portions omitted, if any, and reasons for omission, e.g., to keep certain family matters private]\_. Decedent died on \_ [date]\_, at which time, under the terms of the Trust Instrument, the \_ [name]\_ Family Trust terminated and the \_ [name]\_ Family Administrative Trust came into existence. On \_ [date]\_, the \_ [name]\_ Family Administrative Trust was distributed in full to the following subtrusts created under the terms of the Trust Instrument: \_ [names and descriptions of subtrusts]\_. As used in this Petition, the term "Trust" collectively refers to the \_ [name]\_ Family Administrative Trust and all subtrusts created under the Trust Instrument following Decedent's death. Petitioner, as initial cotrustee of the \_ [name]\_ Family Trust has remained the sole trustee of all trusts created under the Trust Instrument.

[Continue]

The Trust is administered in \_ [name]\_ County, California.

[Add the following paragraph if trust is not under continuing court jurisdiction (see Prob C §17202) ]

2. Necessity of Petition:

This petition is reasonably necessary for the protection of the interests of \_ [the Trustee/the beneficiaries/both the Trustee and the

beneficiaries]\_\_ because \_\_ [e.g., one or more beneficiaries have raised several questions regarding the trustee's administration of the trust. Without approval of the court as to the account, the Trustee would be required to hold back substantial funds from distribution to the beneficiaries to cover potential costs of litigating any claims made during the approximately three years until the statute of limitations has expired. By means of this petition, the Trustee seeks timely determination of all matters presented in this account so that other beneficiaries may continue to receive ongoing distributions without lengthy delay.]\_\_

[3.] Summary of Account:

Petitioner should be charged and credited as shown in the following Summary of Account supported by the schedules referred to, which are incorporated here by reference:

\_\_ [Insert Summary of Account] \_\_.

[4.] Beneficiaries:

Pursuant to Probate Code §§15800-15804, 17203, and California Rules of Court 7.902, the name and mailing address of each beneficiary of the Trust entitled to notice, so far as known to Petitioner after diligent inquiry, \_\_ [all of whom are over 18 years of age,] \_\_ are as follows:

[List name, address, relationship to settlor, and age of each beneficiary]

[If representative interests are used (see Trust Admin §7.65C), add the following, as applicable]

Petitioner is informed and believes that the beneficiaries named in Paragraph 4 constitute all beneficiaries of the Trust entitled to notice; that all indispensable parties have been listed; that sufficient identity exists between the interests of any person (Representative Beneficiary) virtually representing any future contingent or remainder beneficiary, whether living, unborn, a minor, potentially or actually incapacitated, unascertained, whose identity or address is unknown, or a member of a designated class of persons who are not ascertained (each a Represented Beneficiary) and the interests of each Representative Beneficiary to naturally motivate and induce the Representative Beneficiary to adequately protect the interests of each Represented Beneficiary with regard to the subject matter of this Petition; that each Representative Beneficiary has no conflict of interest with each Represented Beneficiary with regard to the subject matter of this Petition; that general family benefits will accrue to the living members of the family of each Represented Beneficiary; that each Representative Beneficiary \_\_ [has waived notice and consented to the granting/will receive notice] \_\_ of this Petition on behalf of himself or herself, as well as all Represented Beneficiaries, and that the interests of every one of the Represented Beneficiaries are adequately protected. To that end, Petitioner makes the following disclosures:

(a) The present beneficiaries as to Trust income and principal are \_\_ [names] \_\_ (each a Present Beneficiary), whose interests continue for their respective lives.

(b) \_\_ [Names] \_\_ have each previously received his or her interest in full from the Trust and no longer have any interest in the Trust.

(c) Each such Present Beneficiary has a testamentary \_\_ [limited/special] \_\_ power of appointment over his or her respective share of Trust income and principal, which may be exercised only in favor of a class of persons who constitute his or her respective issue. (The term "issue" is defined in the attached Trust Instrument.) No Present Beneficiary has a right to withdraw property from the trust \_\_ [except in regard to the following:] \_\_. Probate Code §15803 does not apply and Probate Code §15804(a)(1) applies. The persons in being who would constitute this class of each respective Present Beneficiary are as follows:

[List name, address, relationship to Present Beneficiary, and age of each beneficiary]

(d) Upon the respective deaths of each Present Beneficiary, any unappointed balance of that Present Beneficiary's trust estate remains in trust for the benefit of that Present Beneficiary's children, by right of representation; and if the deceased Present Beneficiary then has no children, the trust estate is added to the remaining trusts of the other Present Beneficiaries as then existing, by right of representation. Probate Code §15804(a)(2) applies. As to all other future interests (contingent or remainder beneficiary, whether living, unborn, a minor, potentially or actually incapacitated, unascertained, whose identity or address is unknown, or a member of a designated class of persons who are not ascertained), Probate Code §15804(a)(3) applies, such that only the children of each respective Present Beneficiary are to be given notice, inasmuch as all other future interests (Represented Beneficiaries) are virtually represented by the persons to be noticed (Representative Beneficiaries). The children of each Present Beneficiary are as follows:

[List name, address, and age of each child of each Present Beneficiary]

[Continue]

[5.] Itemization of services of Petitioner:

Petitioner has performed all required duties, including: \_ \_ [e.g., the care and custody of the assets composing the corpus of the trust; collection and disbursements of income; periodic review of the trust assets; making investments and reinvestments in the best interest of the trust estate; preparation and filing of fiduciary income tax returns and the preparation of this account; see also checklist at Cal Rules Ct 7.756] \_ \_ ; and other services pertaining to the management and administration of the Trust estate.

[6.] Itemization of services of attorneys:

Attorneys \_ \_ [names] \_ \_ , employed by Petitioner, performed the following services: being available to Petitioner during the period of the account for all required legal services connected with the Trust and its administration by Petitioner; preparation of this petition for settlement of the account; filing account and petition and setting for hearing, and notifying beneficiaries of hearing on account. Attorneys will in addition present the account and petition to Court, prepare the order of settlement, and present the order to the Court for signature.

[If attorney fees include paralegal time for extraordinary services, consider declaration according to Cal Rules of Ct 7.703(e)]

[7.] Requested compensation:

Petitioner alleges that Petitioner and attorneys for Petitioner are entitled to reasonable compensation from the Trust for their respective services and that the following sums are reasonable compensation:

a. To Petitioner, the sum of \$ \_ \_ [amount] \_ \_ .

b. To attorneys for Petitioner, the sum of \$ \_ \_ [amount] \_ \_ .

The compensation to Petitioner and attorneys should be charged \_ \_ [e.g., one half to principal and one half to income] \_ \_ .

[8.] Trust investments:

All investments of the Trust principal shown in this account were authorized and proper investments of the principal of this Trust under its provisions and under the laws of this state, and were made or retained as set forth in this account for the best interests of the Trust and for all interested persons. All cash has been invested and maintained in interest-bearing accounts or in investments authorized by law or the governing instrument, except for that reasonably necessary for the orderly administration of the trust.

[Add narrative report describing the following: sales, purchases, changes in the form of assets, and all significant or unusual transactions in the account to the extent necessary to constitute adequate disclosure for statute of limitations purposes]

[9.] Agents of the Trustee:

During the accounting period, Petitioner \_ \_ [has/has not] \_ \_ hired \_ \_ [name and title of agent/any agent] \_ \_ who has a family or affiliate relation with Petitioner.

[10.] Notice:

The sole trustee is Petitioner, who therefore is not required to be given notice. The Trust beneficiaries entitled to notice, all of whom have attained age 18, are set forth in paragraph 4, above, and will be given notice. This Petition does not relate to a charitable trust subject to the jurisdiction of the Attorney General. Therefore, no notice to the Attorney General is required. Petitioner has not received any request for special notice and none are on file to Petitioner's knowledge.

PETITIONER THEREFORE REQUESTS that:

1. Finding that all facts stated in the Petition are true and that all notices required by law have been duly given.

[If representative interests are used (see Trust Admin §7.65C), add the following paragraph 2]

2. Finding that the Court has received full disclosure regarding the relationships between \_ \_ [names] \_ \_ (the Representative Beneficiaries in this Petition) and each beneficiary of the Trust who is a minor, potentially or actually incapacitated, unascertained, whose identity or address is unknown, or a member of a designated class of persons who are not ascertained (i.e., the Represented Beneficiaries); they have an identity of interests with regard to all matters related to the Petition without any conflict; each of the Representative Beneficiaries has adequately virtually represented each of the Represented Beneficiaries as to







**Source:** Estate Planning/Handling a Fiduciary Accounting (Action Guide)/Appendixes/Appendix 31 Account to Beneficiary

Appendix 31  
Account to Beneficiary

\_\_ [Date] \_\_

To: \_\_ [Name of beneficiary] \_\_

\_\_ [Address] \_\_

Re: \_\_ [Name] \_\_ Trust

Account for period beginning \_\_ [date] \_\_ and ending \_\_ [date] \_\_.

Dear \_\_ [name] \_\_:

Beneficiaries are entitled to receive an account containing the following information:

1. Receipts and disbursements of principal and income that have occurred during the last complete fiscal year of the trust or since the last account.
2. Assets and liabilities of the trust as of the beginning of the period and as of the end of the period covered by the account.

Enclosed with this letter are schedules showing this information.

Information concerning fees paid to \_\_ [name of trustee] \_\_ as trustee or to \_\_ [its/his/her] \_\_ agents appears in the disbursement schedule. Unless otherwise indicated, agents of the trustee are neither related to nor affiliated with the trustee.

\_\_ [We are/I am] \_\_ also required to notify you that you are entitled under Probate Code §17200 to petition the court to obtain a court review of the account and of the acts of the trustee. Claims for breach of trust may not be made after the expiration of 3 years from the date you receive an account or report disclosing facts giving rise to the claim. See Probate Code §16063.

[If Prob C §16461 applies and the trustee elects to give the required notice, add]

However, this 3-year period is shortened to \_\_ [180 days/ \_\_ [period shorter than 180 days specified in trust instrument] \_\_] \_\_ but this period is lengthened 180 days by Probate Code §16461(d)/ \_\_ [period longer than 180 days specified in trust instrument] \_\_] \_\_. Probate Code §16461(c) requires the trustee to give you the following notice:

[In boldface 12-point type]

**YOU HAVE \_\_ [180 DAYS/ \_\_ [period longer than 180 days specified in trust instrument] \_\_] \_\_ FROM YOUR RECEIPT OF THIS ACCOUNT OR REPORT TO MAKE AN OBJECTION TO ANY ITEM SET FORTH IN THIS ACCOUNT OR REPORT. ANY OBJECTION YOU MAKE MUST BE IN WRITING; IT MUST BE DELIVERED TO THE TRUSTEE WITHIN THE PERIOD STATED ABOVE; AND IT MUST STATE YOUR OBJECTION. YOUR FAILURE TO DELIVER A WRITTEN OBJECTION TO THE TRUSTEE WITHIN THE PERIOD STATED ABOVE WILL PERMANENTLY PREVENT YOU FROM LATER ASSERTING THIS OBJECTION AGAINST THE TRUSTEE. IF YOU DO MAKE AN OBJECTION, THE 3-YEAR PERIOD PROVIDED IN SECTION 16460 OF THE PROBATE CODE FOR COMMENCEMENT OF LITIGATION WILL APPLY TO CLAIMS BASED ON YOUR OBJECTION AND WILL BEGIN TO RUN ON THE DATE THAT YOU RECEIVE THIS ACCOUNT OR REPORT.**

[Continue]

[Add if trust instrument provides for alternative dispute resolution]

Please also take notice of Article \_\_ [number or letter of relevant section of trust instrument] \_\_ of the \_\_ [Declaration of Trust/Trust Agreement] \_\_, which requires that you take the following steps before the filing of any claim or petition with the Superior Court: \_\_ [list provisions of trust instrument] \_\_

[Continue]

If you have any questions concerning the trust or the account, please call me at \_\_[*telephone number*]\_\_.

Very truly yours,

\_\_[*Signature of trustee*]\_\_

\_\_[*Typed name*]\_\_

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**Source:** Estate Planning/Handling a Fiduciary Accounting (Action Guide)/Appendixes/Appendix 32 Beneficiary Release of Trustee

Appendix 32  
Beneficiary Release of Trustee

RELEASE

\_\_[Name]\_\_ TRUST

I am a beneficiary under the \_\_[name]\_\_ Trust under \_\_[trust agreement/declaration of trust]\_\_ dated \_\_[date]\_\_, and have been provided with an accounting for the Trust for the period from \_\_[date]\_\_ to \_\_[date]\_\_.

\_\_[In order that I might receive my distribution under such Trust without further delay,]\_\_ I hereby release \_\_[name of trustee]\_\_, Trustee, for any and all claims pertaining any of the acts of the Trustee reflected in such account.

I have been advised to have this Release reviewed and explained to me by counsel of my own choosing prior to my signing, and I have had sufficient time to do so.

Date: \_\_\_\_\_  
\_\_[Typed name]\_\_

\_\_[Signature]\_\_

*Comment:* Counsel should review Prob C §16464(b) to make sure there are no factors that would make the release ineffective to discharge the trustee's liability.

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**Source:** Estate Planning/Handling a Fiduciary Accounting (Action Guide)/Appendixes/Appendix 33 Sample Cash Reconciliation Schedule

Appendix 33  
Sample Cash Reconciliation Schedule

Cash Reconciliation Schedule

Charges

Cash per Inventory and Appraisal (Attach. 1, Items 1, 2, and 3)		\$6,434.61
Income Receipts (Schedule A)	\$7,273.72	
Gross Proceeds from Sales:		

Gains on Sales (Schedule B)	-0-	
Losses on Sales (Schedule D)	17,750.00	
Receipts of Cash Capital Items (Schedule G)	<u>13,534.32</u>	

38,558.04

Total Charges		\$44,992.65
---------------	--	-------------

Credits

Disbursements (Schedule C)	\$7,859.80	
Dividend Reinvestment (Schedule ___)	<u>315.00</u>	
Total Disbursements		8,174.80

Balance of Cash on Hand (Schedule F):		
Bank of Sierra, Account No. 000	\$18,195.00	
Mt. Diablo Sav. & Loan Ass'n, Account No. 0000	<u>18,622.85</u>	

Total Cash on Hand		<u>36,817.85</u>
Total Credits		<u>\$44,992.65</u>

**Source:** Estate Planning/Handling a Fiduciary Accounting (Action Guide)/Appendixes/Appendix 34 Sample Schedule of Liabilities at End of Account Period

Appendix 34  
Sample Schedule of Liabilities at End of Account Period

<b>SCHEDULE G: LIABILITIES</b>
<b>Description of Liabilities</b>
<b>1. Attorney fees prayed for but not yet granted or paid, in the approximate sum of \$ _-[amount]_-, to attorney _-[name]_-.</b>
<b>2. Conservator fees prayed for but not yet granted or paid, in the approximate sum of \$ _-[amount]_-, to conservator _-[name]_-.</b>
<b>3. Property taxes on real property of conservatorship for period 7/1/10-6/30/11, in the sum of \$ _-[amount]_-, a lien not yet due.</b>

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**Source:** Estate Planning/Handling a Fiduciary Accounting (Action Guide)/Appendixes/Appendix 35 Judicial Council Conservator and Guardian Accounting Forms

Appendix 35  
Judicial Council Conservator and Guardian Accounting Forms

**Simplified and Standard Accounts** (mandatory):

GC-400/GC-405(SUM) Summary of account

**Simplified and Standard Accounts** (optional for standard accounts; mandatory for simplified accounts):

GC-400/GC-405(PH)(1) Cash assets on hand at beginning of account period

GC-400/GC-405(PH)(2)\* Non-cash assets on hand at beginning of account period

GC-400/GC-405(AP)\* Additional property received during period of account

GC-400/GC-405(B)\* Gains on sales

GC-400/GC-405(OCH)\* Other charges

GC-400/GC-405(D)\* Losses on sales

GC-400/GC-405(DIST)\* Distributions to conservatee or ward

GC-400/GC-405(OCR)\* Other credits

GC-400/GC-405(E)(1) Cash assets on hand at end of account period

GC-400/GC-405(E)(2)\* Non-cash assets on hand at end of account period

GC-400/GC-405(F)\* Changes in form of assets

GC-400/GC-405(G)\* Liabilities at end of account period

**Standard Accounts Only** (optional; see Cal Rules of Ct 7.575(e)(2)):

GC-400(A)(1) through (A)(6) Receipts

GC-400(A)(1) Dividends

GC-400(A)(2) Interest

GC-400(A)(3) Pensions, annuities, and other regular periodic payments

GC-400(A)(4) Rent

GC-400(A)(5) Social Security, veterans' benefits, other public benefits

GC-400(A)(6) Other Receipts

GC-400(C)(1) through (C)(11) Disbursements

GC-400(C)(1) Conservatee's caregiver expenses

GC-400(C)(2) Conservatee's residential or long-term care facility expenses

GC-400(C)(3) Ward's education expenses

GC-400(C)(4) Fiduciary and attorney fees

GC-400(C)(5) General administration expenses

GC-400(C)(6) Investment expenses

GC-400(C)(7) Living expenses

GC-400(C)(8) Medical expenses

GC-400(C)(9) Property sale expenses

GC-400(C)(10) Rental property expenses

GC-400(C)(11) Other expenses

GC-400(NI) Net income from trade or business

GC-400(NL) Net loss from trade or business

GC-400(A)(C) Receipts and disbursements worksheet (do not file)

**Simplified Accounts Only** (mandatory):

GC-405(A) Receipts

GC-400(C) Disbursements

*Comment:* Forms marked with asterisks may be omitted if the accounting has no information for those forms, *i.e.*, if there are no non-cash assets, no additional property received, no gains or losses on sales, no changes in form of assets, no other charges, no other credits, no distributions, or no liabilities at the end of the account period, the conservator can omit those schedules. See notation on bottom of GC-400(SUM)/GC-405(SUM) and GC-400(F)/GC-405(F).

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**Source:** Estate Planning/Handling a Fiduciary Accounting (Action Guide)/TABLE OF STATUTES AND RULES

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