

**JUDICIAL COUNCIL OF CALIFORNIA
ADMINISTRATIVE OFFICE OF THE COURTS**

455 Golden Gate Avenue
San Francisco, California 94102-3688

Report

TO: Members of the Judicial Council

FROM: Probate and Mental Health Advisory Committee
Hon. Don Edward Green, Chair
Douglas C. Miller, Committee Counsel,
415-865-7535, douglas.miller@jud.ca.gov

DATE: September 10, 2008

SUBJECT: Probate—Conservatorships and Guardianships: Reporting by
Institutions and Financial Institutions About Transactions
in Assets, Accounts, and Safe-Deposit Boxes of Wards and
Conservatees Held by the Institutions (adopt Cal. Rules of Court,
rules 7.1011 and 7.1061; revise forms GC-050, GC-150, GC-250,
and GC-350) (Action Required)

Issue Statement

Since 2001, Probate Code sections 2890–2893 have required institutions and financial institutions¹ to report directly to courts supervising guardians and conservators certain transactions in assets, accounts, and safe-deposit boxes of wards and conservatees held by the institutions or financial institutions. Mandatory Judicial Council forms² have been adopted for these organizations to use for their reports to the court, but their compliance with the requirements of the statute has been uneven.

¹ An “institution” is defined in Probate Code section 2890(c) as an insurance company, insurance broker or agent, investment company, investment bank, securities broker-dealer, investment advisor, financial planner, financial advisor or any other person who takes, holds, or controls an asset subject to a guardianship or conservatorship that is not a “financial institution” as defined in section 2892(b). The latter section defines a “financial institution” as a bank, trust, savings and loan association, savings bank, industrial bank, or credit union.

² Institutions must use the *Notice of Taking Possession or Control of an Asset of Minor or Conservatee* (form GC-050). Financial institutions must use the *Notice of Opening or Changing a Guardianship or Conservatorship Account or Safe-Deposit Box* (form GC-051).

The Probate Code provisions neither sanction institutions and financial institutions for failure to comply with the requirements of the law nor require guardians or conservators to take steps to help these organizations comply with them. This proposal would address this situation by (1) requiring court-appointed conservators and guardians to deliver copies of their *Letters of Conservatorship* and *Letters of Guardianship* (collectively referred to as “Letters”) and the appropriate reporting form to institutions and financial institutions when the fiduciaries engage in transactions subject to the law, and (2) revising the forms of temporary and general Letters to provide detailed advice to the affected institutions and financial institutions about their responsibilities under the law.

Recommendation

The Probate and Mental Health Advisory Committee proposes that the Judicial Council, effective January 1, 2009:

1. Adopt rules 7.1011 and 7.1061 of the California Rules of Court to require guardians and conservators of estates to deliver their *Letters of Guardianship* and *Letters of Conservatorship* and the appropriate Judicial Council report forms to affected institutions and financial institutions when these fiduciaries collect assets, accounts, or the contents of safe-deposit boxes of their wards or conservatees held by the institutions or financial institutions;
2. Revise the temporary and general *Letters of Guardianship* and *Letters of Conservatorship* (forms GC-150, GC-250, and GC-350) to include instructions to institutions and financial institutions concerning their responsibilities under Probate Code sections 2890–2893; and
3. Revise the *Notice of Taking Possession or Control of an Asset of Minor or Conservatee* (form GC-050) to enable institutions to report all transactions in a ward’s or conservatee’s assets held by the institution in a single report.

The text of rules 7.1011 and 7.1061 is attached at pages 7–9; copies of revised forms GC-150, GC-250, GC-350, and GC-050 are attached at pages 10–16.

Rationale for Recommendation

Probate Code sections 2890–2893 require institutions and financial institutions to report directly to the court certain transactions in assets, accounts, and safe-deposit boxes of wards and conservatees held by them.³ These transactions usually take

³ Reportable transactions in an asset held by an institution are referred to in rule 7.1011(a)(3) and 7.1061(a)(3) as those in which the fiduciary takes possession or control of the asset. Taking possession or control of an asset includes changing its title and withdrawing or transferring all or any portion of it from the institution (Prob. Code, § 2890(b)). Reportable transactions in an account or safe-deposit box held by a financial institution are referred to in rules 7.1011(c) and

the form of transfers of title to the assets to the guardians and conservators of the estates of the wards and conservatees in their fiduciary capacity, most often shortly after the fiduciaries are appointed by the court. These transactions are part of the normal function of these fiduciaries to marshal or collect the assets of the wards or conservatees.

The Probate Conservatorship Task Force, court probate staffs, and judicial officers hearing guardianships and conservatorships have reported to the advisory committee that institutions and financial institutions have substantially failed to comply with the law.⁴ This failure may be attributable to the following:

- The institutions and financial institutions with a duty to report are not parties in the guardianship or conservatorship proceedings. The court does not have direct control over their activities in the ordinary course of the proceedings.
- Although the court does have direct control and authority over the appointed guardian or conservator, the law does not obligate these fiduciaries to take any action to help an institution or financial institution fulfill its obligations under the law.
- The statute does not prescribe a sanction the court (or any other agency of government) may impose on the institution or financial institution for its failure to report a transaction.

Rules 7.1011 and 7.1061

The advisory committee seeks to improve the performance of institutions and financial institutions under sections 2890–2893 by recommending adoption of rules of court that require a guardian (rule 7.1011) or conservator (rule 7.1061) to deliver a blank copy of the appropriate reporting form (GC-050 or GC-051) together with a certified copy of the fiduciary’s *Letters of Temporary Guardianship or Conservatorship, Letters of Guardianship, or Letters of Conservatorship* (forms GC-150, GC-250, or GC-350) to an institution or financial institution when entering into a transaction concerning an asset, account, or safe-deposit box of a ward or conservatee held by the institution.

7.1061(c) and Probate Code section 2892(b) as opening or changing the name on the account or safe-deposit box.

⁴ The Final Report of the Probate Conservatorship Task Force, accepted by the Judicial Council in October 2007, includes Recommendation No. 34, which states:

It is the task force’s view that the provisions of Probate Code sections 2892 and 2893 are not being uniformly followed. A procedure should be developed to follow up on a statewide basis to ensure that banking institutions comply with mandatory reporting requirements.

Forms GC-150, GC-250, and GC-350

The temporary and general *Letters of Guardianship* and *Letters of Conservatorship* that would be delivered to institutions and financial institutions under the proposed new rules of court are revised to provide detailed advice to institutions or financial institutions concerning their reporting duties under sections 2890–2893 and how to discharge these responsibilities. The advice is added to the second page of each form.

Form GC-050

The form designed for use by reporting institutions under Probate Code section 2890 is revised to comply with Probate Code section 2891(c) by clarifying that the institution may report on all assets of a ward or conservatee held by the institution in a single form (see last sentence of the first paragraph of the “Note to Institution” at the top of the form). Item 3 of the form would be revised to refer to an attachment for showing information about additional assets.

Alternative Actions Considered

In response to a comment received from the Superior Court of San Diego County, the advisory committee considered establishing by rule requirements that fiduciaries collect completed transaction reports from institutions and financial institutions and file them with the court. The committee elected not to do so because it believes that one of the major purposes of the law is to provide courts with information about financial transactions of guardians and conservators from independent sources.

Comments From Interested Parties

This proposal was circulated for comment to a list of judicial officers, probate examiners and attorneys, other court staff interested in probate matters, court self-help center representatives, probate-interest sections of the State Bar and local bar associations, and representatives of other organizations interested in probate matters. It was also circulated to court executive officers, presiding judges, individuals, and organizations with a more general interest in court-related issues.

Seven comments were received. A chart showing the comments received and the advisory committee’s responses is attached at pages 17–20. All commentators approved of the proposal, but most also suggested additional modifications.

Ms. Cheryl Kanatzar, the Deputy Executive Officer of the Superior Court of Ventura County, recommended that the *Letters of Conservatorship* (form GC-350) be revised to provide an expiration date in the body of the form. The advisory committee declined to implement this recommendation because there is no authority under the Probate Code for an automatic expiration date for general *Letters of Conservatorship*.

The Superior Court of Los Angeles County made three recommendations. The recommendations and the committee's responses are described below.

1. The two report forms, GC-050 and GC-051, should be combined into a single form.

The committee does not support this recommendation. The information requested in these two forms differs considerably. A combined form would be longer than each of the two forms now in use and would force each type of institution to consider questions inapplicable to it, leading to increased confusion, compliance time, and expense. This in turn might increase resistance and could result in less rather than greater compliance by affected institutions and financial institutions.

2. The captions of the temporary and general *Letters of Guardianship* and *Letters of Conservatorship* (forms GC-150, GC-250, and GC-350) should refer to the advice to institutions and financial institutions that would be added by this proposal.

The committee declined to propose this change. *Letters of Guardianship* and *Letters of Conservatorship* perform many functions unrelated to their role proposed in this report to give advice to institutions and financial institutions. The affected institutions would become aware of their responsibilities under Probate Code sections 2890–2893 as they receive more copies of the revised Letters over time; there should be no need to emphasize the advice they would receive by retitling the forms.

3. The fiduciary's affirmation should precede the Notice to Institutions and Financial Institutions on page 2 of the Letters.

The advisory committee believes the affirmation should be kept in its present location in the revised forms, just above the clerk's certification at the bottom of the second page. The notice text includes advice that the fiduciary will provide a copy of the appropriate report form (form GC-050 or form GC-051). Placing this advice immediately before the fiduciary's affirmation should emphasize to the fiduciary his or her responsibility under the new rules of court to deliver the report forms to affected institutions.

The Superior Court of Sacramento County recommended that the report forms (forms GC-050 and GC-051) should instruct institutions and financial institutions to serve a copy of completed forms on the fiduciaries. The advisory committee disagrees with this recommendation. Probate Code sections 2890–2893 do not require affected institutions and financial institutions to serve copies of the completed report forms on the guardian or conservator, who would already be

aware of the transactions he or she had initiated. Imposition of this duty and increased expense on reporting institutions and financial institutions could discourage greater compliance with the statutory requirements.

As noted above under Alternative Actions Considered, the Superior Court of San Diego County recommended that legislation should be sought to require fiduciaries to collect completed report forms from affected institutions and financial institutions and see that they are filed with the court. The advisory committee believes that this change would interfere with the statutory purpose of the current law to provide the court with independent information about the transactions covered by the law.

Implementation Requirements and Costs

This proposal will result in the usual costs associated with the adoption and distribution of new California Rules of Court and the revision of Judicial Council forms. The increased duties of guardians and conservators required by the new rules would also increase the costs incurred by these fiduciaries in the performance of their duties and the compensation requested by them. Some of these costs and all increases in compensation approved by courts will be paid by the estates of the wards and conservatees in their charge. The advisory committee believes, however, that these costs and additional compensation would be modest.

Rules 7.1011 and 7.1061 of the California Rules of Court are adopted, effective January 1, 2009, to read:

1 **Rule 7.1011. Taking possession of an asset of the ward at an institution or**
2 **opening or changing ownership of an account or safe-deposit box in a**
3 **financial institution**

4
5 **(a) Definitions**

6
7 As used in this rule, the following terms have the meanings stated below:

- 8
9 (1) An “institution” is an insurance company, insurance broker, insurance
10 agent, investment company, investment bank, securities broker-dealer,
11 investment adviser, financial planner, financial adviser, or any other
12 person who takes, holds, or controls an asset subject to a guardianship
13 that is not a “financial institution” within the meaning of this rule;
14
15 (2) A “financial institution” is a bank, trust (except as provided in (d)),
16 savings and loan association, savings bank, industrial bank, or credit
17 union; and
18
19 (3) “Taking possession” or “taking control” of an asset held or controlled
20 by an institution includes changing title to the asset, withdrawing all or
21 any portion of the asset, or transferring all or any portion of the asset
22 from the institution.

23
24 **(b) Responsibilities of the guardian when taking possession or control of an**
25 **asset of the ward at an institution**

26
27 When taking possession or control of an asset held by an institution in the
28 name of the ward, the temporary or general guardian of the estate must
29 provide the following to the institution:

- 30
31 (1) A certified copy of the guardian’s *Letters of Temporary Guardianship*
32 or *Conservatorship* (form GC-150) or *Letters of Guardianship* (form
33 GC-250) containing the Notice to Institutions and Financial Institutions
34 on the second page; and
35
36 (2) A blank copy of a *Notice of Taking Possession or Control of an Asset*
37 of *Minor or Conservatee* (form GC-050).

1 **(c) Responsibilities of the guardian when opening or changing the name on**
2 **an account or a safe-deposit box in a financial institution**

3
4 When opening or changing the name on an account or a safe-deposit box in a
5 financial institution, the temporary or general guardian of the estate must
6 provide the following to the financial institution:

7
8 (1) A certified copy of the guardian’s *Letters of Temporary Guardianship*
9 or *Conservatorship* (form GC-150) or *Letters of Guardianship* (form
10 GC-250) containing the Notice to Institutions and Financial Institutions
11 on the second page; and

12
13 (2) A blank copy of a *Notice of Opening or Changing a Guardianship or*
14 *Conservatorship Account or Safe-Deposit Box* (form GC-051).

15
16 **(d) Application of this rule to trust arrangements**

17
18 This rule applies to Totten trust accounts, but does not apply to any other
19 trust arrangement described in Probate Code section 82(b).

20
21
22 **Rule 7.1061. Taking possession of an asset of the conservatee at an institution**
23 **or opening or changing ownership of an account or safe-deposit box in a**
24 **financial institution**

25
26 **(a) Definitions**

27
28 As used in this rule, the following terms have the meanings stated below:

29
30 (1) An “institution” is an insurance company, insurance broker, insurance
31 agent, investment company, investment bank, securities broker-dealer,
32 investment adviser, financial planner, financial adviser, or any other
33 person who takes, holds, or controls an asset subject to a guardianship
34 that is not a “financial institution” within the meaning of this rule;

35
36 (2) A “financial institution” is a bank, trust (except as provided in (d)),
37 savings and loan association, savings bank, industrial bank, or credit
38 union; and

39
40 (3) “Taking possession” or “taking control” of an asset held or controlled
41 by an institution includes changing title to the asset, withdrawing all or
42 any portion of the asset, or transferring all or any portion of the asset
43 from the institution.

1
2 **(b) Responsibilities of the conservator when taking possession or control of**
3 **an asset of the conservatee at an institution**

4
5 When taking possession or control of an asset held by an institution in the
6 name of the conservatee, the temporary, general, or limited conservator of
7 the estate must provide the following to the institution:

- 8
9 (1) A certified copy of the conservator’s *Letters of Temporary*
10 *Guardianship or Conservatorship* (form GC-150) or *Letters of*
11 *Conservatorship* (form GC-350) containing the Notice to Institutions
12 and Financial Institutions on the second page; and
13
14 (2) A blank copy of a *Notice of Taking Possession or Control of an Asset*
15 *of Minor or Conservatee* (form GC-050).

16
17 **(c) Responsibilities of the conservator when opening or changing the name**
18 **on an account or a safe-deposit box at a financial institution**

19
20 When opening or changing the name on an account or a safe-deposit box in a
21 financial institution, the temporary, general, or limited conservator of the
22 estate must provide the following to the financial institution:

- 23
24 (1) A certified copy of the guardian’s *Letters of Temporary Guardianship*
25 *or Conservatorship* (form GC-150) or *Letters of Conservatorship* (form
26 GC-350) containing the Notice to Institutions and Financial Institutions
27 on the second page; and
28
29 (2) A blank copy of a *Notice of Opening or Changing a Guardianship or*
30 *Conservatorship Account or Safe-Deposit Box* (form GC-051).

31
32 **(d) Application of this rule to Totten trust accounts**

33
34 This rule applies to Totten trust accounts, but does not apply to any other
35 trust arrangement described in Probate Code section 82(b).

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):
 After recording return to:

TELEPHONE NO.:
 FAX NO. (Optional):
 E-MAIL ADDRESS (Optional):
 ATTORNEY FOR (Name):

SUPERIOR COURT OF CALIFORNIA, COUNTY OF
 STREET ADDRESS:
 MAILING ADDRESS:
 CITY AND ZIP CODE:
 BRANCH NAME:

TEMPORARY GUARDIANSHIP CONSERVATORSHIP
 OF (Name): MINOR CONSERVATEE

FOR RECORDER'S USE ONLY

CASE NUMBER:

LETTERS OF TEMPORARY GUARDIANSHIP CONSERVATORSHIP
 Person Estate

FOR COURT USE ONLY

LETTERS

1. (Name):
 is appointed temporary guardian conservator of the person
 estate of (name):

2. Other powers that have been granted or restrictions imposed on the temporary
 guardian conservator are specified in Attachment 2.
 specified below.

3. These Letters shall expire
 a. on (date): _____ or upon earlier issuance of Letters to a general guardian or conservator.
 b. on other date (specify): _____

4. The temporary guardian conservator is not authorized to take possession of money or any other property without a specific court order.

5. Number of pages attached: _____

WITNESS, clerk of the court, with seal of the court affixed.

(SEAL)

Date: _____
 Clerk, by _____, Deputy

This form may be recorded as notice of the establishment of a temporary conservatorship of the estate as provided in Probate Code section 1875.

| | |
|--|----------------------|
| TEMPORARY <input type="checkbox"/> GUARDIANSHIP <input type="checkbox"/> CONSERVATORSHIP OF _____ (Name): <div style="text-align: center; margin-top: 10px;"> <input type="checkbox"/> MINOR <input type="checkbox"/> CONSERVATEE </div> | CASE NUMBER: |
|--|----------------------|

NOTICE TO INSTITUTIONS AND FINANCIAL INSTITUTIONS
(Probate Code sections 2890–2893)

When these *Letters of Temporary Guardianship* or *Letters of Temporary Conservatorship* (Letters) are delivered to you as an employee or other representative of an *institution* or *financial institution* (described below) in order for the temporary guardian or temporary conservator of the estate (1) to take possession or control of an asset of the minor or conservatee named above held by your institution (including changing title, withdrawing all or any portion of the asset, or transferring all or any portion of the asset) or (2) to open or change the name of an account or a safe-deposit box in your financial institution to reflect the guardianship or conservatorship, you must fill out Judicial Council form GC-050 (for an institution) or form GC-051 (for a financial institution). An officer authorized by your institution or financial institution must date and sign the form, and you must file the completed form with the court.

There is no filing fee for filing the form. You may either arrange for personal delivery of the form or mail it to the court for filing at the address given for the court on page 1 of these Letters.

The temporary guardian or temporary conservator should deliver a blank copy of the appropriate form to you with these Letters, but it is your institution's or financial institution's responsibility to complete the correct form, have an authorized officer sign it, and file the completed form with the court. If the correct form is not delivered with these Letters or is unavailable for any other reason, blank copies of the forms may be obtained from the court. The forms may also be accessed from the judicial branch's public Web site free of charge. The Internet address (URL) is www.courtinfo.ca.gov/forms/. Select the form group *Probate—Guardianships and Conservatorships* and scroll down to form GC-050 for an institution or form GC-051 for a financial institution. The forms may be printed out as blank forms and filled in by typewriter (nonfillable form), or may be filled out online and printed out ready for signature and filing (fillable form).

An *institution* under California Probate Code section 2890(c) is an insurance company, insurance broker, insurance agent, investment company, investment bank, securities broker-dealer, investment advisor, financial planner, financial advisor, or any other person who takes, holds, or controls an asset subject to a conservatorship or guardianship other than a financial institution. Institutions must file a *Notice of Taking Possession or Control of an Asset of Minor or Conservatee* (form GC-050) for an asset of the minor or conservatee held by the institution. A single form may be filed for all affected assets held by the institution.

A *financial institution* under California Probate Code section 2892(b) is a bank, trust (including a Totten trust account but excluding other trust arrangements described in Probate Code section 82(b)), savings and loan association, savings bank, industrial bank, or credit union. Financial institutions must file a *Notice of Opening or Changing a Guardianship or Conservatorship Account or Safe-Deposit Box* (form GC-051) for an account or a safe deposit box held by the financial institution. A single form may be filed for all affected accounts or safe deposit boxes held by the financial institution.

LETTERS OF TEMPORARY GUARDIANSHIP CONSERVATORSHIP

AFFIRMATION

I solemnly affirm that I will perform according to law the duties of temporary guardian. conservator.

Executed on (date): _____, at (place): _____

| | |
|-------------------------------|-----------------------------------|
| _____ (TYPE OR PRINT NAME) | _____ (SIGNATURE OF APPOINTEE) |
|-------------------------------|-----------------------------------|

CERTIFICATION

I certify that this document, including any attachments, is a correct copy of the original on file in my office and that the Letters issued to the person appointed above have not been revoked, annulled, or set aside and are still in full force and effect.

| | |
|--------|--|
| (SEAL) | Date: _____ Clerk, by _____, Deputy |
|--------|--|

| | |
|--|---------------------------|
| ATTORNEY OR PARTY WITHOUT ATTORNEY <i>(Name, State Bar number, and address):</i> <hr style="width: 20px; margin-left: 0;"/> TELEPHONE NO.: _____ FAX NO. <i>(Optional)</i> : _____ E-MAIL ADDRESS <i>(Optional)</i> : _____ ATTORNEY FOR <i>(Name)</i> : _____ | FOR COURT USE ONLY |
| SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME: | |
| GUARDIANSHIP OF <i>(Name):</i> _____ | MINOR |
| LETTERS OF GUARDIANSHIP <input type="checkbox"/> Person <input type="checkbox"/> Estate | CASE NUMBER: _____ |

LETTERS

1. *(Name)*: _____ is appointed guardian of the person estate
of *(name)*: _____

2. Other powers have been granted and conditions have been imposed as follows:
- a. Powers to be exercised independently under Probate Code section 2590 are specified in attachment 2a *(specify powers, restrictions, conditions, and limitations)*.
 - b. Conditions relating to the care and custody of the property under Probate Code section 2402 are specified in attachment 2b.
 - c. Conditions relating to the care, treatment, education, and welfare of the minor under Probate Code section 2358 are specified in attachment 2c.
 - d. Other powers granted or conditions imposed are specified on attachment 2d. specified below.

3. The guardian is not authorized to take possession of money or any other property without a specific court order.

4. Number of pages attached: _____

WITNESS, clerk of the court, with seal of the court affixed.

(SEAL)

Date: _____
 Clerk, by _____, Deputy

| | |
|----------------------------------|--------------|
| GUARDIANSHIP OF _____ (Name): | CASE NUMBER: |
| MINOR | |

**NOTICE TO INSTITUTIONS AND FINANCIAL INSTITUTIONS
(Probate Code sections 2890–2893)**

When these *Letters of Guardianship* (Letters) are delivered to you as an employee or other representative of an *institution* or *financial institution* (described below) in order for the guardian of the estate (1) to take possession or control of an asset of the minor named above held by your institution (including changing title, withdrawing all or any portion of the asset, or transferring all or any portion of the asset) or (2) to open or change the name of an account or a safe-deposit box in your financial institution to reflect the guardianship, you must fill out Judicial Council form GC-050 (for an institution) or form GC-051 (for a financial institution). An officer authorized by your institution or financial institution must date and sign the form, and you must file the completed form with the court.

There is no filing fee for filing the form. You may either arrange for personal delivery of the form or mail it to the court for filing at the address given for the court on page 1 of these Letters.

The guardian should deliver a blank copy of the appropriate form to you with these Letters, but it is your institution’s or financial institution’s responsibility to complete the correct form, have an authorized officer sign it, and file the completed form with the court. If the correct form is not delivered with these Letters or is unavailable for any other reason, blank copies of the forms may be obtained from the court. The forms may also be accessed from the judicial branch’s public Web site free of charge. The Internet address (URL) is www.courtinfo.ca.gov/forms/. Select the form group *Probate—Guardianships and Conservatorships* and scroll down to form GC-050 for an institution or form GC-051 for a financial institution. The forms may be printed out as blank forms and filled in by typewriter (nonfillable form) or may be filled out online and printed out ready for signature and filing (fillable form).

An *institution* under California Probate Code section 2890(c) is an insurance company, insurance broker, insurance agent, investment company, investment bank, securities broker-dealer, investment advisor, financial planner, financial advisor, or any other person who takes, holds, or controls an asset subject to a conservatorship or guardianship other than a financial institution. Institutions must file a *Notice of Taking Possession or Control of an Asset of Minor or Conservatee* (form GC-050) for an asset of the minor or conservatee held by the institution. A single form may be filed for all affected assets held by the institution.

A *financial institution* under California Probate Code section 2892(b) is a bank, trust (including a Totten trust account but excluding other trust arrangements described in Probate Code section 82(b)), savings and loan association, savings bank, industrial bank, or credit union. Financial institutions must file a *Notice of Opening or Changing a Guardianship or Conservatorship Account or Safe-Deposit Box* (form GC-051) for an account or a safe-deposit box held by the financial institution. A single form may be filed for all affected accounts or safe-deposit boxes held by the financial institution.

**LETTERS OF GUARDIANSHIP
AFFIRMATION**

I solemnly affirm that I will perform according to law the duties of guardian.

Executed on (date): _____, at (place): _____

| | |
|-------------------------------|-----------------------------------|
| _____ (TYPE OR PRINT NAME) | _____ (SIGNATURE OF APPOINTEE) |
|-------------------------------|-----------------------------------|

CERTIFICATION

I certify that this document, including any attachments, is a correct copy of the original on file in my office, and that the Letters issued to the person appointed above have not been revoked, annulled, or set aside, and are still in full force and effect.

(SEAL)

Date:

Clerk, by _____, Deputy

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):
 After recording return to:

 TELEPHONE NO.:
 FAX NO. (Optional):
 E-MAIL ADDRESS (Optional):
 ATTORNEY FOR (Name):

SUPERIOR COURT OF CALIFORNIA, COUNTY OF
 STREET ADDRESS:
 MAILING ADDRESS:
 CITY AND ZIP CODE:
 BRANCH NAME:

FOR RECORDER'S USE ONLY

| | |
|-------------------------------|--------------|
| CONSERVATORSHIP OF (Name): | CASE NUMBER: |
| CONSERVATEE | |

| | |
|---|---------------------------|
| LETTERS OF CONSERVATORSHIP <input type="checkbox"/> Person <input type="checkbox"/> Estate <input type="checkbox"/> Limited Conservatorship | FOR COURT USE ONLY |
| <p>1. <input type="checkbox"/> (Name): _____ is the appointed <input type="checkbox"/> conservator <input type="checkbox"/> limited conservator of the <input type="checkbox"/> person <input type="checkbox"/> estate of (name):</p> <p>2. <input type="checkbox"/> (For conservatorship that was on December 31, 1980, a guardianship of an adult or of the person of a married minor) (Name): was appointed the guardian of the <input type="checkbox"/> person <input type="checkbox"/> estate by order dated (specify): _____ and is now the conservator of the <input type="checkbox"/> person <input type="checkbox"/> estate of (name):</p> <p>3. <input type="checkbox"/> Other powers have been granted or conditions imposed as follows:</p> <p>a. <input type="checkbox"/> Exclusive authority to give consent for and to require the conservatee to receive medical treatment that the conservator in good faith based on medical advice determines to be necessary even if the conservatee objects, subject to the limitations stated in Probate Code section 2356.</p> <p>(1) <input type="checkbox"/> This treatment shall be performed by an accredited practitioner of the religion whose tenets and practices call for reliance on prayer alone for healing of which the conservatee was an adherent prior to the establishment of the conservatorship.</p> <p>(2) <input type="checkbox"/> (If court order limits duration) This medical authority terminates on (date): _____</p> <p>b. <input type="checkbox"/> Authority to place the conservatee in a care or nursing facility described in Probate Code section 2356.5(b).</p> <p>c. <input type="checkbox"/> Authority to authorize the administration of medications appropriate for the care and treatment of dementia described in Probate Code section 2356.5(c).</p> <p>d. <input type="checkbox"/> Powers to be exercised independently under Probate Code section 2590 are specified in Attachment 3d (specify powers, restrictions, conditions, and limitations).</p> <p>e. <input type="checkbox"/> Conditions relating to the care and custody of property under Probate Code section 2402 are specified in Attachment 3e.</p> <p>f. <input type="checkbox"/> Conditions relating to the care, treatment, education, and welfare of the conservatee under Probate Code section 2358 are specified in Attachment 3f.</p> <p>g. <input type="checkbox"/> (For limited conservatorship only) Powers of the limited conservator of the person under Probate Code section 2351.5 are specified in Attachment 3g.</p> <p>h. <input type="checkbox"/> (For limited conservatorship only) Powers of the limited conservator of the estate under Probate Code section 1830(b) are specified in Attachment 3h.</p> <p>i. <input type="checkbox"/> Other powers granted or conditions imposed are specified in Attachment 3i.</p> | |

(SEAL)

4. The conservator is **not** authorized to take possession of money or any other property without a
specific court order.

5. Number of pages attached: _____

WITNESS, clerk of the court, with seal of the court affixed.
Date: _____
Clerk, by _____, Deputy

This form may be recorded as notice of the establishment of a conservatorship of the estate as provided in Probate Code section

1875n Adopted for Mandatory Use
Judicial Council of California
GC-350 [Rev. January 1, 2009]

LETTERS OF CONSERVATORSHIP
(Probate—Guardianships and Conservatorships)

Probate Code, §§ 1834,
2890–2893;
Code of Civil Procedure, § 2015.6
www.courtinfo.ca.gov

| | |
|--|--------------|
| CONSERVATORSHIP OF (Name): CONSERVATEE | CASE NUMBER: |
|--|--------------|

NOTICE TO INSTITUTIONS AND FINANCIAL INSTITUTIONS
(Probate Code sections 2890–2893)

When these *Letters of Conservatorship* (Letters) are delivered to you as an employee or other representative of an *institution* or *financial institution* (described below) in order for the conservator of the estate (1) to take possession or control of an asset of the conservatee named above held by your institution (including changing title, withdrawing all or any portion of the asset, or transferring all or any portion of the asset) or (2) to open or change the name of an account or a safe-deposit box in your financial institution to reflect the conservatorship, you must fill out Judicial Council form GC-050 (for an institution) or form GC-051 (for a financial institution). An officer authorized by your institution or financial institution must date and sign the form, and you must file the completed form with the court.

There is no filing fee for filing the form. You may either arrange for personal delivery of the form or mail it to the court for filing at the address given for the court on page 1 of these Letters.

The conservator should deliver a blank copy of the appropriate form to you with these Letters, but it is your institution's or financial institution's responsibility to complete the correct form, have an authorized officer sign it, and file the completed form with the court. If the correct form is not delivered with these Letters or is unavailable for any other reason, blank copies of the forms may be obtained from the court. The forms may also be accessed from the judicial branch's public Web site free of charge. The Internet address (URL) is www.courtinfo.ca.gov/forms/. Select the form group *Probate—Guardianships and Conservatorships* and scroll down to form GC-050 for an institution or form GC-051 for a financial institution. The forms may be printed out as blank forms and filled in by typewriter (nonfillable form) or may be filled out online and printed out ready for signature and filing (fillable form).

An *institution* under California Probate Code section 2890(c) is an insurance company, agent, or broker; an investment company; an investment bank; a securities broker-dealer; an investment advisor; a financial planner; a financial advisor; or any other person who takes, holds, or controls an asset subject to a guardianship other than a financial institution. Institutions must file a *Notice of Taking Possession or Control of an Asset of Minor or Conservatee* (form GC-050) for an asset of the conservatee held by the institution. A single form may be filed for all affected assets held by the institution.

A *financial institution* under California Probate Code section 2892(b) is a bank, a trust, a savings and loan association, a savings bank, an industrial bank, or a credit union. Financial institutions must file a *Notice of Opening or Changing a Guardianship or Conservatorship Account or Safe-Deposit Box* (form GC-051) for an account or a safe-deposit box held by the financial institution. A single form may be filed for all affected accounts or safe-deposit boxes held by the financial institution.

LETTERS OF CONSERVATORSHIP

AFFIRMATION

I solemnly affirm that I will perform according to law the duties of conservator limited conservator.

Executed on (date): _____, at (place): _____



 (TYPE OR PRINT NAME)

 (SIGNATURE OF APPOINTEE)

CERTIFICATION

I certify that this document, including any attachments, is a correct copy of the original on file in my office, and that the Letters issued to the person appointed above have not been revoked, annulled, or set aside, and are still in full force and effect.

| |
|--|
| (SEAL) |
|--|

Date: _____

Clerk, by _____, Deputy

| | |
|---|---------------------------|
| NAME OF INSTITUTION: ADDRESS: CONTACT PERSON: TITLE: _____ TELEPHONE NO: _____ | FOR COURT USE ONLY |
| SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME: | |
| <input type="checkbox"/> GUARDIANSHIP <input type="checkbox"/> CONSERVATORSHIP OF (Name): _____ <div style="text-align: right;"><input type="checkbox"/> MINOR <input type="checkbox"/> CONSERVATEE</div> | NO FILING FEE |
| NOTICE OF TAKING POSSESSION OR CONTROL OF AN ASSET OF MINOR OR CONSERVATEE | CASE NUMBER: _____ |

NOTE TO INSTITUTION

When a guardian or conservator of the estate of a minor or conservatee takes possession or control of an asset of the minor or conservatee held or controlled by an institution, Probate Code section 2890 requires the institution to file a statement with the court having jurisdiction over the guardianship or conservatorship and identified in the *Letters of Guardianship* or *Letters of Conservatorship*. The statement must contain the information specified below concerning the institution, the minor or conservatee, and the asset. The statement must be on this form and must be signed by an authorized officer of the institution. A single statement may cover all assets of a minor or conservatee held by the institution.

An "institution" is defined in Probate Code section 2890(c) as an insurance company, insurance broker, insurance agent, investment company, investment bank, securities broker-dealer, investment advisor, financial planner, financial advisor, or any other person who takes, holds, or controls an asset subject to a conservatorship or guardianship (other than a financial institution as defined in Probate Code section 2892(b)). "Taking possession or control of an asset" includes changing title to the asset, withdrawing all or any portion of the asset, or transferring all or any portion of the asset from the institution.

1. Personal information

- a. Minor or conservatee (*name*):
- b. Guardian or conservator of the estate (*name*):

2. Institution information

- a. Institution (*name and type*):
- b. Address:

3. Asset information

- a. Account, policy, or other identification number:
- b. Type of asset:
- c. Value or, if it is not known, the estimated value of the asset on the date *Letters of Guardianship* or *Letters of Conservatorship* were issued by the court to the guardian or conservator (*this information must be given to the extent it is routinely provided in statements from the institution to asset owners*):

Information on additional assets of the minor or conservatee named above held by the institution is stated in attachment 3.

- 4. The guardian or conservator presented *Letters of Guardianship* or *Letters of Conservatorship* that identify the guardian or conservator as the guardian or conservator of the estate of the minor or conservatee named above.
- 5. I am an officer of the institution identified in this statement, and I am authorized to sign this statement on its behalf.

I declare under penalty of perjury under the laws of the State of California that the foregoing, including statements in all attachments, is true and correct.

Date: _____ _____

(TYPE OR PRINT NAME)

(AUTHORIZED SIGNATURE)

Title: _____ Telephone no.: _____

SPR08-44

Probate—Conservatorships and Guardianships: Reporting by Institutions and Financial Institutions About Transactions in Assets, Accounts, and Safe-Deposit Boxes of Wards and Conservatees Held by the Institutions

(adopt Cal. Rules of Court, rules 7.1011, 7.1061, revise forms GC-050, GC-150, GC-250, and GC-350)

All comments are verbatim unless indicated by an asterisk (*).

| | Commentator | Position | Comment | Advisory Committee Response |
|----|--|-----------------|---|--|
| 1. | Hon. Mary Ann Grilli Judge of the Superior Court of Santa Clara County San Jose | AM | <p>Rule 7.1011(b) appears to deal with both guardianships and conservatorships, but its title refers only to guardianships. If the intent here is to deal with both, then the word conservatee needs to be added on line 27 and letters of conservatorship need to be added to (1). This recurs in (c). This same issue occurs in rule 7.1061. On its face, the rule appears to deal only with conservatorships, however, guardianships are mentioned in (b)(1) and (2) and (c)(1) and (2).</p> <p>Perhaps the sections could be combined into a single section. Alternatively, the sections relating to guardianships could be one section and the ones for conservatorships could be another.</p> | <p>Rule 7.1011 governs only guardianships and rule 7.1061 governs only conservatorships. The words “conservatorship” in rule 7.1011(b) and (c) and “guardianship” in rule 7.1061(b) and (c) are references to <i>Letters of Temporary Guardianship or Conservatorship</i> (form GC-150) and the reporting forms for institutions (form GC-050) and financial institutions (form GC-051). These forms are used in both guardianships and conservatorships.</p> <p>There are separate rules for guardianships and conservatorships because of the structure of title 7 of the rules of court, which places rules concerning each type of proceeding in separate chapters (except for rules that deal with accountings in these matters and in decedents’ estates, which are in a third chapter).</p> |
| 2. | Ms. Cheryl Kanatzar Deputy Executive Officer Superior Court of Ventura County Ventura | AM | <p>The text in the Notice to Institutions and Financial Institutions on form number GC-350 should be modified to fit in the text box. Unable to read last sentence in the draft of the form attached to the Invitation to Comment.</p> <p>The Letters of Conservatorship should reflect an expiration date.</p> | <p>The text has been corrected.</p> <p>There is no authority in the Probate Code for an automatic expiration date in general Letters of Conservatorship.</p> |

Positions: A = Agree; AM = Agree if modified; N = Do not agree.

SPR08-44

Probate—Conservatorships and Guardianships: Reporting by Institutions and Financial Institutions About Transactions in Assets, Accounts, and Safe-Deposit Boxes of Wards and Conservatees Held by the Institutions

(adopt Cal. Rules of Court, rules 7.1011, 7.1061, revise forms GC-050, GC-150, GC-250, and GC-350)

All comments are verbatim unless indicated by an asterisk (*).

| | Commentator | Position | Comment | Advisory Committee Response |
|----|--|-----------------|--|--|
| 3. | Staff Counsel Services and Self-Help Division Superior Court of San Bernardino County San Bernardino | A | Agree with proposed changes | No response necessary. |
| 4. | Superior Court of Los Angeles County Los Angeles | A, AM | <p>Forms GC-050 and GC-051 could be combined into a single form. This action would eliminate the possibility that the conservator or guardian (including temporary conservators or guardians) would deliver the incorrect form to the institution or financial institution. If the forms are combined, Rules 7.1011 and 7.1061 must be amended.</p> <p>If the report forms are not combined:</p> <p>Rules 7.1101 and 7.1061: Agree with proposals.</p> <p>Judicial Council forms:</p> <p>Form GC-050: Agree with proposal.</p> <p>Forms GC-150, GC-250 and GC-350: Should the captions include references to</p> | <p>The advisory committee declines to make this change. The information requested of institutions and financial institutions in these two forms differs significantly. A combined form would be overly long, would present institutions and financial institutions with potentially confusing inquiries not relevant to their respective operations, and would likely decrease rather than increase cooperation of the affected institutions.</p> <p>No response necessary.</p> <p>No response necessary.</p> <p>The Letters of Guardianship and Conservatorship perform many important functions not related to</p> |

Positions: A = Agree; AM = Agree if modified; N = Do not agree.

SPR08-44

Probate—Conservatorships and Guardianships: Reporting by Institutions and Financial Institutions About Transactions in Assets, Accounts, and Safe-Deposit Boxes of Wards and Conservatees Held by the Institutions

(adopt Cal. Rules of Court, rules 7.1011, 7.1061, revise forms GC-050, GC-150, GC-250, and GC-350)

All comments are verbatim unless indicated by an asterisk (*).

| | Commentator | Position | Comment | Advisory Committee Response |
|----|---|-----------------|--|--|
| | | | <p>“Notice to Institutions and Financial Institutions?” This would alert the Institutions and Financial Institutions that information concerning them is in the forms.</p> <p>Shouldn’t the fiduciary’s affirmation appear before the “Notice To Institutions and Financial Institutions?”</p> | <p>their proposed role to notify institutions and financial institutions of their responsibilities under the law. Newly appointed fiduciaries would be required under the new rules of court to deliver copies of the Letters to affected institutions and financial institutions. These organizations will soon become aware of the information provided in the forms concerning their duties.</p> <p>The advisory committee believes the affirmation should be kept in its present location, just above the clerk’s certification. The notice text includes advice that the fiduciary will provide a copy of the appropriate notice form (GC-050 or GC-051). Placing this advice immediately before the fiduciary’s affirmation should emphasize to the fiduciary his or her responsibility under the proposed rules of court and increase delivery of the forms to affected institutions.</p> |
| 5. | Superior Court of Sacramento County Mr. Ed Pollard Chief Deputy Court Executive Officer Sacramento | AM | We recommend that the forms (GC-050 and GC-051) instruct the institution or financial institution to serve the guardian or conservator with the notice. | The advisory committee declines to follow this recommendation. Probate Code sections 2890–2893 do not require affected institutions and financial institutions to serve copies of completed reports on the fiduciaries. Guardians and conservators who desire to receive copies could request the institutions to provide them, and perhaps deliver a self-addressed stamped envelope to the institutions for the purpose. However, |

Positions: A = Agree; AM = Agree if modified; N = Do not agree.

SPR08-44**Probate—Conservatorships and Guardianships: Reporting by Institutions and Financial Institutions About Transactions in Assets, Accounts, and Safe-Deposit Boxes of Wards and Conservatees Held by the Institutions**

(adopt Cal. Rules of Court, rules 7.1011, 7.1061, revise forms GC-050, GC-150, GC-250, and GC-350)

All comments are verbatim unless indicated by an asterisk (*).

| | Commentator | Position | Comment | Advisory Committee Response |
|----|--|-----------------|---|--|
| | | | | imposition of a duty and expense on affected institutions and financial institutions beyond the responsibilities required by statute would discourage rather than encourage their cooperation and greater compliance. |
| 6. | Superior Court of San Diego County Mr. Michael M. Roddy Court Executive Officer San Diego | AM | As noted in the discussion section of Invitation to Comment on this proposal, the institutions and financial institutions rarely comply with the requirements of Probate Code sections 2890–2893 and the court has no teeth to enforce the requirement. It may be better to amend the law to require the court appointed guardian or conservator to obtain the completed form from the relevant institution or financial institution and then file the form with the court. | The advisory committee disagrees with this recommendation. The purpose of the statutory scheme’s imposition of the reporting duty on institutions and financial institutions rather than on the fiduciary is to give the court a source of information about the transaction that is independent of the fiduciary. |
| 7. | Trusts and Estates Section State Bar of California Sacramento | A | Agree with proposed changes. DISCLAIMER This position is only that of the TRUSTS & ESTATES SECTION of the State Bar of California. This position has not been adopted by either the State Bar’s Board of Governors or overall membership, and is not to be construed as representing the position of the State Bar of California. | No response necessary. |

Positions: A = Agree; AM = Agree if modified; N = Do not agree.