

SALES OF PROPERTY

Sale of any kind of property are allowed only when the Will specifically allows; otherwise, they are only allowed in order to raise cash to pay debts, pay legacies, Family Allowance, expenses of Administration, taxes, or "for the advantage, benefit, and best interests of the estate". If a item of property has been specifically bequeathed to someone, the property cannot be sold without the beneficiary's consent, unless there is no other property available for sale. The court may require a hearing to see if there is any way to avoid the sale.

REAL PROPERTY

Sales may be public or private: either is OK, but usually a sale is private and done through a broker. But a personal rep should consider doing an auction if the particular piece of property is not drawing much interest.

FULL IAEA METHOD:

If the personal rep has full IAEA powers, he/she can prepare a Notice of Proposed Action and attach a Proof of Mailing form. If no objection is received within 15 days, the sale goes forward. It is important to work with the realtor and escrow company, title company, and lender. The attorney will have to provide a certified copy of the Letters, Notice of Proposed Action with Proof of Service, and perhaps other documents to escrow. Often a letter from the attorney is required stating that no estate taxes are due.

Most courts prefer that sales proceed using this method, rather than the more formal procedure outlined below (where a court hearing is required). If you didn't get your client full IAEA in the initial petition for probate, you can file a petition after the fact and set it for a hearing. In authorizing full authority, the judge will require your client to post a higher bond equal to the amount you expect to realize from the sale. Make sure you ask your client whether he/she has any credit problems that would prevent them from getting bonded for a higher amount.

LIMITED IAEA OR NO IAEA:

1. Prepare an Ex Parte Petition for Exclusive Listing. These are usually good for 90 days and authorize the broker/agent to act for the estate.

2. Sales Contract/Deposit Receipt: Once the agent finds a buyer, the Executor signs as for the estate, SUBJECT TO COURT APPROVAL.

3. Notice of Sale: The attorney must publish a Notice of Sale in a local newspaper (three publications over a ten day period) unless the Will authorizes or directs the sale. Once the publication is complete, the newspaper (or the attorney) files an Affidavit of Publication with the Court. In actual practice, the publication can be done at any time once the personal rep

decides a sale is necessary. However, if the sale process takes longer than a year, it may be necessary to re-publish.

4. Inventory & Appraisal: The attorney must get the property reappraised if the original appraisal is dated more than 12 months prior to the court hearing. Since the original appraisals are done as of the date of death, any hearing held more than a year after that date will require reappraisal.

5. Deposit: At one time a 10% deposit was required, but courts generally do not demand this any more.

6. Escrow: Should you open before or after the hearing? That depends on whether you think someone will overbid at the hearing. If this is unlikely, the buyer can open escrow and get a head start on the process. However, if the sale is not consummated, getting the deposit back may take some effort.

7. Financing Problems: The buyer may assume the note that the decedent owed on, but courts are wary of this unless the estate is off the hook completely.

8. Report of Sale: Once the personal rep signs the contract, the attorney has 30 days to file a petition for confirmation of the sale. The petition is entitled "Report of Sale and Petition for Confirmation of Sale of Real Property. The petition is set for hearing by the court, usually in four or five weeks time.

9. Additional Bond: The court may require a higher bond if the initial bond was only for the amount of the personal property. The court will usually take into consideration the costs of sale and escrow payouts in determining the bond amount.

10. Notice of Hearing: At the hearing, anyone can bid on the property if they can come up with the minimum overbid. (Avoid this by calling potential bidders into office.) The first Overbid is calculated as follows (and is included in the Petition):

[Initial price] + \$500.00 + 5% of initial price; OR
[Initial price] + 10% of 1st \$10,000 + 5% over \$10,000

11. The Petition must list the personal rep's efforts to expose the property to the market. See e.g. Orange County rule 606.07, which lists several things that the attorney must list in the petition to convince the court that the personal rep has used his/her "best efforts" to sell the property:

- a. Several brokers?
- b. Ad in papers?
- c. Multiple listing?
- d. Many prospective buyers?

- e. Sign on Property?
- f. Caravans?
- g. Open houses?

12. At the hearing, anyone can bid on the property, as long as they are willing to offer at least as much as the first overbid. If someone overbids, ask them if they have a check for at least 10%. Some courts provide forms to the buyers to make formal written offers if they become the successful bidders. Once the overbidder has made his offer, the court then sets the amount that each person must offer (for example, \$1,000 increments) over the previous bid if they want to stay in the bidding. Basically, then, the court merely conducts an auction.

13. Order: Once the court approves the sale, either to the original buyer or an overbidder, the attorney prepares the Order Confirming Sale of Real Property and provides a certified copy to the escrow company.

14. Commissions: Brokers/Agents commissions are usually fixed by the court, although the amount charged by realtors is generally known in any particular area. 6% is typical in California for improved real estate, but 10% is usually allowed for vacant land. But check local rules of court. Los Angeles allows only 5% for improved real estate, while Orange County will allow 6%.

Where an overbidder is successful and is represented by a broker, the commission is split between the old and new brokers, but the new broker gets slightly more: the original broker gets 1/2 of the commission on original price, while the new broker gets the balance.

In no event can a commission paid to a broker who produces a successful bidder other than the original bidder exceed one-half the difference between the original offer and the successful overbid. The reason for this is that there must be a net gain to the estate.

If the overbidder has no broker, the original broker gets all of the commission on the original price.

PERSONAL PROPERTY SALES

The reasons for the sale of personal property are the same as for real property: either the Will must authorize or direct the sale, or the personal rep must give the court reasons for the sale: to pay debts, expenses of administration, etc.

When the personal representative has full or limited IAEA, it is only necessary to mail a Notice of Proposed Action to all interested persons.

If the personal rep has NO IAEA, it will be necessary to prepare a Petition (no court form) asking for confirmation of the sale. Notice of Sale is not required to be published if the Will authorizes or directs the sale. Otherwise, publish the Notice as in the case of real property.

Other types of sales may be allowed, particularly if the personal rep has independent powers:

Garage sales

Auctions (get court order authorizing if no IAEA)

Give the balance to Goodwill or junk it: If the executor has independent powers, do Notice of Proposed Action of intent to abandon/junk the property.

No reappraisal is needed, but you should sell at or near the appraised value to avoid problems. If a hearing is required, the court can sell to the highest bidder.

SALE OF SECURITIES OR DEPRECIATING PROPERTY

Securities usually means stocks or bonds. These can be sold Ex Parte (even if no IAEA), and no Notice of Sale is required. Use the Judicial Council form and file it with the court. No hearing is held. If the executor has independent powers, just sell the stocks or bonds. It is not necessary to do a Notice, but it might be a good idea anyway (unless the securities are not "listed" on a stock exchange; then you should do a Notice).

Over-the-counter securities can be sold ex parte also, but you should tell the court their most recent bid/offer.

Types of depreciating property:

Cars, boats, Leisure World condos, mobile homes. Orange County Rule 6.04 says that you can sell without notice if a loss or expense will be incurred by keeping the property (insurance, storage charges, etc.). In some cases, an item (such as a cooperative apartment) can be sold as either a security or depreciating property. Use the Judicial Council form.

LEASES

A lease of property can be entered into by the executor with independent powers merely by mailing a Notice of Proposed Action to the appropriate people. Notice is not necessary, however, if the lease is for less than one year, or if it's for personal property.

Without independent powers, the executor must get court approval, unless the rent does not exceed \$1,500/month and the term is under 1 year, or it's only a month-to-month tenancy.

However, the lease must be to the estate's advantage. If court approval is necessary, the executor must file a petition with the court and set for it for a hearing; the petition must show a description of the property, the term of the lease, the rental conditions, and attach a copy of the lease. Publication of a Notice of Intention to Lease is required unless the Will authorizes the executor to lease the property. At the hearing, the court can consider new offers to lease at more favorable terms. But it must be acceptable to the executor. The Court generally won't approve leases over 10 years, and can't if a beneficiary objects (except for oil and gas leases).

The actual lease document must state that it is given by authority of the court, giving the date of the Order. The Order must be recorded, just like a deed.

PERSONAL REPRESENTATIVE'S LOANS

An executor with independent powers must mail a Notice of Proposed Action to the interested persons outlining the proposed borrowing and the reasons. However, if the executor intends to mortgage real property (give a note secured by a Deed of Trust), he/she must have FULL independent powers to avoid a court hearing. Otherwise, court approval will be necessary.

With NO OR LIMITED IAEA, it is required that the personal rep file a petition with the court, telling the purpose for the loan (necessary to pay legacies, debts, encumbrances, expenses, etc.) and indicating that the loan is to the advantage of the estate instead of selling. The petition must give the terms (how much is to be borrowed, terms of repayment, etc.), and indicate whether any security is to be given for the loan (collateral). The court may require an additional bond to be posted if one was originally required. Again, if a Deed of Trust is to be given on real property, a court hearing is required, unless the executor has full powers.

Following the hearing, the attorney prepares an order authorizing the loan and records a certified copy of order (or sends a certified copy to the loan company, along with a certified copy of the Letters).

PETITIONS TO COMPEL TRANSFER OF PROPERTY

PC 850, et seq. (formerly 9860 - 9868)

Two situations occur often that require what is commonly known as an 850 (formerly 9860) petition:

1. Someone claims that property in the Decedent's name actually belonged to someone else;
2. The estate claims that some other person holds property that belonged to the decedent.

This petition can be used for an uncompleted escrow contract, or contracts to be performed at death. Sometimes people will take property from the decedent immediately after death, which should rightfully belong to the estate. Or the decedent might have agreed to keep some item for another person prior to death. This latter situation occurs when the decedent has agreed to give (or sell) his car to an heir. Prior to the actual (or physical) transfer, the decedent dies.

It is necessary to file a petition with the court, which the clerk sets for hearing *at least* 30 days away. Notice and a copy of the petition must be personally served on all persons named as respondents, the executor, and/or trustee, at least 30 days prior to the hearing (which is why

you should probably ask the clerk to set the hearing 45 - 60 days off). When serving the executor or trustee, you *may* have to ask the clerk to issue a Citation to get personal jurisdiction over him/her (although not all courts require the issuance of a citation; check local rules of court). Other courts do not require a Citation, but merely follow the Probate Code in requiring personal service of the Notice of Hearing form. Los Angeles County local rule 10.24 requires that the caption of the petition reference Pr.C. section 850 and that the hearings be set at least six weeks off. In addition, the Notice of Hearing form must contain a description of the property that is the subject of the petition and a statement that any person interested in the property may file an answer to the petition.

Other interested persons (e.g., other heirs, beneficiaries, or those requesting Special Notice) should be mailed a Notice of Hearing with a copy of the petition at least 15 days before the hearing.

Any interested person can respond and do discovery, etc., just in the case of a civil lawsuit. In addition, if the action affects real property, a Lis Pendens can be recorded to prevent its transfer while the case is pending. The court must grant reasonable continuances so that any interested party can respond or perform discovery.

If a civil action is pending (yes, the petitioning party can also file a civil case in addition to the probate case), the court must abate this action until the civil case is over, or it can refer the matter to the civil court for trial.

If the executor has independent powers and wishes to complete a contract entered into by the decedent, he should mail a Notice of Proposed Action to the interested persons outlining the action to be taken.

PETITION FOR INSTRUCTIONS (PC 9611)

Any Executor/Administrator can petition the court for instructions when he is confronted with a difficult situation. There are three basic requirements before the court will entertain a petition for instructions:

- a. No other procedure is provided by law;
- b. It's within the probate court's jurisdiction;
- c. It's within the Court's discretion to grant.

Be forewarned: a petition for instructions is NOT an alternative method of getting court approval merely because the attorney or the personal rep doesn't know what else to do. It is necessary to give the court all the facts, quote law if appropriate, and give the court choices (with suggestions, as well).

The following are examples (but not exclusive) as to the types of questions that the court will consider when a petition for instructions is filed:

1. Are the provisions in a Will mandatory or precatory?
2. How should the executor vote corporate stock in a closely held corporation.
3. Is property community or separate?
4. Can heirs in a foreign country inherit (treaty?)?
5. Has ademption (satisfaction) occurred? Is an asset no longer in existence?
6. Does the executor have the authority to hire counsel, or defend or prosecute a difficult lawsuit (use IAEA?)?
7. Should the personal rep allow (or reject) a large and somewhat questionable creditors' claim?

Check local rules: they may give you some clues as to how the court will act in any particular area.

Also, if someone wants the personal rep. to act in a specific way and he won't, any interested person can file a PC 9613 petition and allege that the estate will suffer great or irreparable harm if petition isn't granted. Suppose, for example, that the heirs want the executor to vote stock in a close corporation in a specific way and he won't. The heirs can file a 9613 petition and ask the court to order him to do so.

Additionally, anyone can petition under PC 9614 to suspend the executor's powers if it appears that the personal rep. may take some action that would unreasonably jeopardize the interests of the Petitioner. In the above example, if the executor was about to vote the stock in a manner apparently contra to the wishes of the heirs, this type of petition would be appropriate.

DETERMINATION OF HEIRSHIP

PC 11700 - 11705

A Petition to Determine Heirship, also known as a Petition to Determine Entitlement to Distribution, can be filed to determine what a Will means (interpretation of the Will), or it can be used to determine who gets what. Also, questions involving the estate or the Will can be solved.

In the petition, the attorney should give the judge an analysis of what the problem is, how

the Will can be interpreted, or whatever is pertinent. In most cases it will be necessary to give the judge Points and Authorities on pertinent areas of the law. After filing the petition, the attorney gives notice, and mails copies of the petition to all heirs, beneficiaries, etc. The executor is supposed to take a neutral position (formally), but typically gives the judge a suggestion on how he/she should rule. The Notice of Hearing should inform the heirs that they have the right to file a "Statement of Interest" through counsel. This is a statement setting forth the heir's interest in the estate and the petition. No other pleadings are necessary, including answers/responses.

This type of petition can also be used to establish an equitable parent-child relationship, the validity of a marriage, the share of an heir, etc.

PETITION TO ESTABLISH FACT OF DEATH

PC 200 - 204

This type of petition, which is usually filed ex parte, can be used to obtain a court determination whenever title to property is in question as a result of someone's death. Sometimes there's a mistake on the Deed, or the person's name is spelled incorrectly. It can also be used to terminate a joint tenancy when court approval is desired (rather than using the Affidavit - Death of Joint Tenant procedure).

If there is a pending probate action, the petition can be filed under the existing case number, and no additional filing fee is required. It can also be filed **with** the Petition for Probate.

The petition can be filed by the personal rep or any interested person, but must be filed prior to final distribution. If the petitioner indicates to the court that there is "no known opposition" to the petition, it can be heard ex parte. Otherwise, it must be set on the court's regular calendar, and notice must be given. Once the judge has made his/her ruling, a certified copy of the order must be recorded in order to transfer real property.

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3
4 TEL: (714) 614-0422
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5 Attorney for I. L. GETRICH, Executor
6
7

8 SUPERIOR COURT OF CALIFORNIA
9 COUNTY OF ORANGE

10
11 Estate of:) CASE NO. A 123456
12 I. M. DECEASED,)
13) PETITION BY EXECUTOR TO ESTABLISH
14) ESTATE'S CLAIM OF OWNERSHIP TO
Deceased.)) PROPERTY AND FOR ORDER DIRECTING
I. L. GETRICH,) ITS TRANSFER TO THE ESTATE.
15) [Probate Code § 850]
Petitioner,)
16)
vs.)
17)
TAMMY DECEASED and)
18 DAVID DECEASED,)
19 Respondents.)

20 Petitioner, I. L. GETRICH, Executor of the above-named estate,
21 alleges as follows:

22 1. The decedent died on December 1, 1994. Petitioner is the
23 surviving spouse of the decedent. Petitioner was appointed
24 executor of the estate on January 31, 1995, and has acted as such
25 executor ever since.

26 2. Prior to the time of decedent's death, decedent
27 transferred a savings account and checking account at Home Savings
28 of America to her two children, David Deceased and Tammy Deceased,

1 along with approximately 25 U.S. Series EE Savings Bonds. The
2 total value of the two accounts is approximately \$39,611.93, while
3 the bonds have a face value of approximately \$12,500.00.

4 3. Petitioner has demanded the return of this money and
5 bonds to the estate, but as of this date, neither has been
6 returned.

7 4. Decedent's Will states that Petitioner is "to have all
8 our savings accounts..."

9 5. Petitioner requests that the court, pursuant to Probate
10 Code Section 850, determine that title to the property described
11 herein is vested in Petitioner as administrator of the decedent's
12 estate. Petitioner further requests that this court exercise its
13 equitable powers to hold that David Deceased and Tammy Deceased are
14 constructive trustees and hold said property in trust for the
15 Estate of I. M. Deceased, deceased.

16 WHEREFORE, Petitioner prays as follows:

17 1. For an order determining that the property described
18 herein belongs to the Estate of I. M. Deceased;

19 2. That David Deceased and Tammy Deceased be directed to
20 convey said property to Petitioner as executor, and that David
21 Deceased and Tammy Deceased hold said property as constructive
22 trustees for the Estate of I. M. Deceased;

23 3. For issuance of a citation to David Deceased and Tammy
24 Deceased;

25 4. And for such other relief as the court deems proper.

26 Dated: _____

I. L. GETRICH

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28 _____
Alan D. Davis
Attorney at Law

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VERIFICATION

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on _____ at Santa Ana, California.

I. L. GETRICH

ORDER

Let a citation issue.

Dated: _____

JUDGE OF THE SUPERIOR COURT

1 Alan D. Davis Bar# 81783
Attorney at Law
2 1323 N. Broadway
Santa Ana, CA 92706

3
4 TEL: (714) 614-0422
FAX: (714) 285-1425

5 Attorney for I. L. GETRICH

6
7

8 SUPERIOR COURT OF CALIFORNIA
9 COUNTY OF ORANGE

10

11 Estate of:) CASE NO. A 123456
12 I. M. DECEASED,) PETITION TO DETERMINE ENTITLEMENT
13) TO DISTRIBUTION.
14)
_____ Deceased.) P.C. SECTION 11700

15 I. L. Getrich, Executor of the estate of I. M. Deceased,
16 alleges as follows:

17 1. Decedent died testate on December 1, 1994, a resident of
18 Orange County, California.

19 2. Letters Testamentary were issued to petitioner on
20 January 31, 1995, and petitioner has acted as executor with full
21 independent powers ever since.

22 3. No order of final distribution has been entered.

23 4. Decedent's Will contains an ambiguity in that it attempts
24 to distribute property to Arthur Smith, decedent's grandson,
25 pursuant to Paragraph Seven as follows:

26 "To ARTHUR SMITH, my grandson, I leave the
27 property located at 5555 South Main Street,
28 in the City of Santa Ana."

1 5. An ambiguity exists in that this property does not
2 independently exist except as part of the Main Street Church,
3 located at 5553 South Main Street, Santa Ana, California

4 6. Attached hereto is a copy of a Plot Plan, incorporated
5 herein as Exhibit A, showing the church building, storage building,
6 and parking lot. Presumably, the decedent meant the storage
7 building at 5555 South Main Street when she referred to this
8 property in her Will.

9 7. The decedent's beneficiaries, pursuant to his Will, and
10 their addresses, are as follows:

11 NAME ADDRESS
12 (List names and addresses of all heirs, beneficiaries, etc.)

13 WHEREFORE, petitioner prays for an order of this court as
14 follows:

15 1. For an order determining distribution of the property
16 located at 5555 South Main Street, Santa Ana, California;

17 2. For such further orders as the court deems proper.

18 Dated: _____
19 I. L. GETRICH

20 I declare under penalty of law under the laws of the State of
21 California that the foregoing is true and correct.

22 Executed on _____ at La Mirada, California.

23 _____
24 I. L. GETRICH

25 ORDER

26 LET A CITATION ISSUE.

27 Dated: _____

28 _____
JUDGE OF THE SUPERIOR COURT

1 Alan D. Davis Bar# 81783
Attorney at Law
2 1323 N. Broadway
Santa Ana, CA 92706
3
4 TEL: (714) 614-0422
FAX: (714) 285-1425
5 Attorney for I. L. GETRICH

8 SUPERIOR COURT OF CALIFORNIA
9 COUNTY OF ORANGE

10
11 Estate of:) CASE NO. A 123456
12 I. M. DECEASED,)
13) EX PARTE PETITION TO ESTABLISH
14) FACT OF DEATH

14 Deceased.) [P.C. SECTION 200, et seq.]

15 Petitioner, I. L. Getrich, alleges as follows:

- 16 1. Decedent died testate on December 1, 1994, a resident of
17 Orange County, California. Petitioner is her surviving spouse. A
18 copy of her death certificate is attached hereto as Exhibit A.
19 2. At the time of her death, decedent owned unimproved real
20 property in Anaheim, California, in her name legally described as:
21 Lot 1111, Tract 2222, as per map recorded in Book 3333,
22 Page 4444, of Maps, records of Orange County.
23 3. Prior to her death, the property had been owned by
24 petitioner and decedent as joint tenants. On September 18, 1994,
25 petitioner and decedent deeded said property to decedent and her
26 two children, Harvey Deceased and Goldilocks Deceased as joint
27 tenants.
28 4. Sometime thereafter, but prior to her death, someone

1 changed the Grant Deed to read: I. L. Getrich and I. M. Deceased,
2 husband and wife as joint tenants, hereby grant to I. M. Deceased,
3 as her separate property... The deed has been obviously altered
4 from the original. A copy of the deed is attached hereto as
5 Exhibit B.

6 5. Petitioner desires that the court establish the fact of
7 decedent's death, and that decedent died owning the above-described
8 real property in joint tenancy with her two children named above.

9 6. Petitioner knows of no opposition to this petition.

10 WHEREFORE, petitioner prays as follows:

11 1. For an order establishing decedent's death;

12 2. For an order establishing that decedent owned the above-
13 described real property at her death in joint tenancy with her two
14 children named herein.

15 3. For such other orders as the court deems proper.

16 Dated: _____

17 _____
18 I. L. GETRICH

19 I declare under penalty of perjury under the laws of the State
20 of California that the foregoing is true and correct.

21 Executed on _____ at Santa Ana, California.

22 _____
23 I. L. GETRICH

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ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Alan D. Davis, #81783 Law Office of Alan D. Davis 1323 N. Broadway Santa Ana, CA 92706 TELEPHONE NO.: (714) 614-0422 FAX NO. (Optional): (714) 285-1425 E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name): I. L. GETRICH	FOR COURT USE ONLY CASE NUMBER: A 123456 HEARING DATE AND TIME: DEPT.: 1-31-05 L73
SUPERIOR COURT OF CALIFORNIA, COUNTY OF ORANGE STREET ADDRESS: 341 THE CITY DRIVE MAILING ADDRESS: P.O. BOX 14169 CITY AND ZIP CODE: ORANGE, CA 92613-1569 BRANCH NAME: LAMOREAUX JUSTICE CENTER	
<input checked="" type="checkbox"/> ESTATE <input type="checkbox"/> CONSERVATORSHIP <input type="checkbox"/> GUARDIANSHIP OF (Name): I. M. DECEASED, <input checked="" type="checkbox"/> DECEDENT <input type="checkbox"/> CONSERVATEE <input type="checkbox"/> MINOR	
REPORT OF SALE AND PETITION FOR ORDER CONFIRMING SALE OF REAL PROPERTY <input type="checkbox"/> and Sale of Other Property Sold as a Unit	

1. **Petitioner (name of each):** I. L. GETRICH

is the personal representative conservator guardian of the estate of the decedent, conservatee, or minor
 purchaser (30 days have passed since the sale) (Attach supporting declaration (Prob. Code, § 10308(b).))

and requests a court order for (check all that apply):

- a. confirmation of sale of the estate's interest in the real property described in Attachment 2e
 b. confirmation of sale of the estate's interest in other property sold as a unit as described in Attachment 2c.
 c. approval of commission of (specify): 5 % of the amount of: \$ 10,000
 d. additional bond is fixed at: \$ is not required.

2. **Description of property sold**

- a. Interest sold: 100% Undivided (specify): %
 b. Improved Unimproved
 c. Real property sold as a unit with other property (describe in Attachment 2c).
 d. Street address and location (specify): 123 S. Main St., Santa Ana, California

e. Legal description is affixed as Attachment 2e.

3. **Appraisal**

- a. Date of death of decedent or appointment of conservator or guardian (specify): 12-1-04
 b. Appraised value at above date: \$ 200,000
 c. Reappraised value within one year prior to the hearing: \$ 200,000 Amount includes value of other property sold as a unit. (If more than one year has elapsed from the date in item 3a to the date of the hearing, reappraisal is required.)
 d. Appraisal or reappraisal by probate referee has been filed will be filed
 has been waived by order dated:

4. **Manner and terms of sale**

- a. Name of purchaser and manner of vesting title (specify): John & Mary Smith, Husband and wife, as community property
 b. Purchaser is the the personal representative attorney for the personal representative.
 c. Sale was private public on (date): 1-5-06
 d. Amount bid: \$ 200,000 Deposit: \$ 20,000
 e. Payment Cash Credit (specify terms on Attachment 4e.)
 f. Other terms of sale (specify terms on Attachment 4f.)
 g. Mode of sale specified in will. Petitioner requests relief from complying for the reasons stated in Attachment 4g.
 h. Terms comply with Probate Code section 2542 (guardianships and conservatorships).

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):

After recording return to:

Alan D. Davis, #81783
Law Office of Alan D. Davis
1323 N. Broadway
Santa Ana, CA 92706

TELEPHONE NO.: (714) 614-0422

FAX NO. (Optional): (714) 285-1425

E-MAIL ADDRESS (Optional):

ATTORNEY FOR (Name): I. L. GETRICH

SUPERIOR COURT OF CALIFORNIA, COUNTY OF ORANGE

STREET ADDRESS: 341 THE CITY DRIVE

MAILING ADDRESS: P.O. BOX 14169

CITY AND ZIP CODE: ORANGE, CA 92613-1569

BRANCH NAME: LAMOREAUX JUSTICE CENTER

FOR RECORDER'S USE

ESTATE OF

CONSERVATORSHIP OF (Name): I. M. DECEASED

GUARDIANSHIP OF

DECEDENT CONSERVATEE MINOR

ORDER CONFIRMING SALE OF REAL PROPERTY

And Confirming Sale of Other Property as a Unit

CASE NUMBER:

A 123456

FOR COURT USE ONLY

1. Hearing date: 1-31-05 Time: 9:00 A.M. Dept.: L73 Rm.:

THE COURT FINDS

2. All notices required by law were given and, if required, proof of notice of sale was made.

3. a. Sale was authorized or directed by the will

b. Good reason existed for the sale

of the property commonly described as (street address or location):

123 S. Main St., Santa Ana, California

4. The sale was legally made and fairly conducted.

5. The confirmed sale price is not disproportionate to the value of the property.

6. Private sale: The amount bid is 90% or more of the appraised value of the property as appraised within one year of the date of the hearing.

7. An offer exceeding the amount bid by the statutory percentages cannot be obtained was obtained in open court. The offer complies with all applicable law.

8. The personal representative conservator guardian of the estate of the decedent, conservatee, or minor has made reasonable efforts to obtain the highest and best price reasonably attainable for the property.

THE COURT ORDERS

9. The sale of the real property legally described in item 15 on page 2 on Attachment 9 and other property sold as a unit described in item 15 on page 2 on Attachment 9 is confirmed to (name): John & Mary Smith

(manner of vesting title): Husband and wife, as community property

for the sale price of: \$ 200,000

on the following terms (use item 15 on page 2 or Attachment 9 if necessary):

"AS IS"

Continued in item 15 on page 2. Continued on Attachment 9.

10. The personal representative conservator guardian of the estate of the decedent, conservatee, or minor (name): I. L. Getrich

is directed to execute and deliver a conveyance of the estate's interest in the property described in item 9

and other property described in item 9 sold as a unit upon receipt of the consideration for the sale.

<input checked="" type="checkbox"/> ESTATE <input type="checkbox"/> CONSERVATORSHIP <input type="checkbox"/> GUARDIANSHIP OF (Name): I. M. DECEASED	CASE NUMBER: A 123456
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11. a. No additional bond is required.
 b. Additional bond is required in the amount of: \$ _____, surety, or otherwise, as provided by law.
 c. Net sale proceeds must be deposited by escrow holder in a blocked account to be withdrawn only on court order.
 Receipts must be filed. (Specify institution and location):

12. a. No commission is payable.
 b. A commission from the proceeds of the sale is approved in the amount of: \$ 10,000
 to be paid as follows (specify): 50% to ABC Realty and 50% to XYZ Realty

13. Other (specify, use Attachment 13 if necessary):

14. Number of pages attached: -0-

Date: 1/31/06

 JUDICIAL OFFICER
 HARECOM D'JUDGE
 Signature follows last attachment.

15. (Check all that apply): Legal description of the real property personal property in item 9:
 Additional terms of sale from item 9:

Lot 1 of Tract 44444, as per map recorded in Book 600, Page 6 of Maps, records of Orange County, California.

[SEAL]	<p style="text-align: center;">CLERK'S CERTIFICATE</p> <p>I certify that the foregoing <i>Order Confirming Sale of Real Property</i>, including any attached description of real or personal property, is a true and correct copy of the original on file in my office.</p> <p>Date: _____ CLERK, by _____, Deputy</p>
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PRELIMINARY CHANGE OF OWNERSHIP REPORT

To be completed by the transferee (buyer) prior to a transfer of subject property, in accordance with section 480.3 of the Revenue and Taxation Code. A *Preliminary Change of Ownership Report* must be filed with each conveyance in the County Recorder's office for the county where the property is located. Please answer all questions in each section, and sign and complete the certification before filing. This form may be used in all 58 California counties. If a document evidencing a change in ownership is presented to the Recorder for recordation without the concurrent filing of a *Preliminary Change of Ownership Report*, the Recorder may charge an additional recording fee of twenty dollars (\$20).

NOTICE: The property which you acquired may be subject to a supplemental assessment in an amount to be determined by the County Assessor. Supplemental assessments are not paid by the title or escrow company at close of escrow, and are not included in lender impound accounts. **You may be responsible for the current or upcoming property taxes even if you do not receive the tax bill.**

SELLER/TRANSFEROR I.M. DECEASED	ASSESSOR'S PARCEL NUMBER 123-45-456
BUYER/TRANSFeree I.L. GETRICH	BUYER'S DAYTIME TELEPHONE NUMBER ()
STREET ADDRESS OR PHYSICAL LOCATION OF REAL PROPERTY 12345 Main St., Santa Ana, CA 92701	
MAIL PROPERTY TAX INFORMATION TO (NAME)	

ADDRESS	CITY	STATE	ZIP CODE
<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO This property is intended as my principal residence. If YES, please indicate the date of occupancy or intended occupancy.		MO	DAY YEAR

PART 1. TRANSFER INFORMATION

Please complete all statements.

- YES NO
- YES NO A. This transfer is solely between spouses (*addition or removal of a spouse, death of a spouse, divorce settlement, etc.*).
 - YES NO B. This transfer is solely between domestic partners currently registered with the California Secretary of State (*addition or removal of a partner, death of a partner, termination settlement, etc.*).
 - YES NO * C. This is a transfer between: parent(s) and child(ren) grandparent(s) and grandchild(ren).
 - YES NO * D. This transaction is to replace a principal residence by a person 55 years of age or older. Within the same county? YES NO
 - YES NO * E. This transaction is to replace a principal residence by a person who is severely disabled as defined by Revenue and Taxation Code section 69.5. Within the same county? YES NO
 - YES NO F. This transaction is only a correction of the name(s) of the person(s) holding title to the property (*e.g., a name change upon marriage*). If YES, please explain: _____
 - YES NO G. The recorded document creates, terminates, or reconveys a lender's interest in the property.
 - YES NO H. This transaction is recorded only as a requirement for financing purposes or to create, terminate, or reconvey a security interest (*e.g., cosigner*). If YES, please explain: _____
 - YES NO I. The recorded document substitutes a trustee of a trust, mortgage, or other similar document.
 - J. This is a transfer of property:
 - YES NO 1. to/from a revocable trust that may be revoked by the transferor and is for the benefit of the transferor, and/or the transferor's spouse registered domestic partner.
 - YES NO 2. to/from a trust that may be revoked by the creator/grantor/trustor who is also a joint tenant, and which names the other joint tenant(s) as beneficiaries when the creator/grantor/trustor dies.
 - YES NO 3. to/from an irrevocable trust for the benefit of the creator/grantor/trustor and/or grantor's/trustor's spouse grantor's/trustor's registered domestic partner.
 - YES NO 4. to/from an irrevocable trust from which the property reverts to the creator/grantor/trustor within 12 years.
 - YES NO K. This property is subject to a lease with a remaining lease term of 35 years or more including written options.
 - YES NO L. This is a transfer between parties in which proportional interests of the transferor(s) and transferee(s) in each and every parcel being transferred remain exactly the same after the transfer.
 - YES NO M. This is a transfer subject to subsidized low-income housing requirements with governmentally imposed restrictions.
 - YES NO * N. This transfer is to the first purchaser of a new building containing an active solar energy system.

* If you checked YES to statements C, D, or E, you may qualify for a property tax reassessment exclusion, which may allow you to maintain your previous tax base. If you checked YES to statement N, you may qualify for a property tax new construction exclusion. A claim form must be filed and all requirements met in order to obtain any of these exclusions. Contact the Assessor for claim forms.

Please provide any other information that will help the Assessor understand the nature of the transfer.

THIS DOCUMENT IS NOT SUBJECT TO PUBLIC INSPECTION

PART 2. OTHER TRANSFER INFORMATION

Check and complete as applicable.

A. Date of transfer, if other than recording date: _____

B. Type of transfer:

Purchase Foreclosure Gift Trade or exchange Merger, stock, or partnership acquisition (Form BOE-100-B)

Contract of sale. Date of contract: _____ Inheritance. Date of death: 12-01-2004

Sale/leaseback Creation of a lease Assignment of a lease Termination of a lease. Date lease began: _____

Original term in years (including written options): _____ Remaining term in years (including written options): _____

Other. Please explain: _____

C. Only a partial interest in the property was transferred. YES NO If YES, indicate the percentage transferred: _____%

PART 3. PURCHASE PRICE AND TERMS OF SALE

Check and complete as applicable.

A. Total purchase or acquisition price. Do not include closing costs or mortgage insurance. \$

Down payment: \$ _____ Interest rate: _____ % Seller-paid points or closing costs: \$ _____

Balloon payment: \$ _____

Loan carried by seller Assumption of Contractual Assessment* with a remaining balance of: \$ _____

* An assessment used to finance property-specific improvements that constitutes a lien against the real property.

B. The property was purchased: Through real estate broker. Broker name: _____ Phone number: (____) _____

Direct from seller From a family member

Other. Please explain: _____

C. Please explain any special terms, seller concessions, financing, and any other information (e.g., buyer assumed the existing loan balance) that would assist the Assessor in the valuation of your property.

PART 4. PROPERTY INFORMATION

Check and complete as applicable.

A. Type of property transferred

Single-family residence Co-op/Own-your-own Manufactured home
 Multiple-family residence. Number of units: _____ Condominium Unimproved lot
 Other. Description: (i.e., timber, mineral, water rights, etc.) Timeshare Commercial/Industrial

B. YES NO Personal/business property, or incentives, are included in the purchase price. Examples are furniture, farm equipment, machinery, club memberships, etc. Attach list if available.

If YES, enter the value of the personal/business property: \$ _____

C. YES NO A manufactured home is included in the purchase price.

If YES, enter the value attributed to the manufactured home: \$ _____

YES NO The manufactured home is subject to local property tax. If NO, enter decal number: _____

D. YES NO The property produces rental or other income.

If YES, the income is from: Lease/rent Contract Mineral rights Other: _____

E. The condition of the property at the time of sale was: Good Average Fair Poor

CERTIFICATION

I certify (or declare) under penalty of perjury under the laws of the State of California that the foregoing and all information hereon, including any accompanying statements or documents, is true and correct to the best of my knowledge and belief. This declaration is binding on each and every buyer/transferee.

SIGNATURE OF BUYER/TRANSFeree OR CORPORATE OFFICER _____ DATE _____

NAME OF BUYER/TRANSFeree/LEGAL REPRESENTATIVE/CORPORATE OFFICER (PLEASE PRINT) _____ TITLE _____

E-MAIL ADDRESS _____

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, state bar number, and address): Alan D. Davis, #81783 Law Office of Alan D. Davis 1323 N. Broadway Santa Ana, CA 92706 ATTORNEY FOR (Name): I. L. GETRICH	TELEPHONE AND FAX NOS.: (714) 614-0422 (714) 285-1425	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF ORANGE STREET ADDRESS: 341 THE CITY DRIVE MAILING ADDRESS: P.O. BOX 14169 CITY AND ZIP CODE: ORANGE, CA 92613-1569 BRANCH NAME: LAMOREAUX JUSTICE CENTER		
ESTATE OF (Name): I. M. DECEASED <input checked="" type="checkbox"/> DECEDENT <input type="checkbox"/> CONSERVATEE <input type="checkbox"/> MINOR		
EX PARTE PETITION FOR AUTHORITY TO SELL SECURITIES AND ORDER		CASE NUMBER: A 123456

1. Petitioner (name of each. See footnote ¹ before completing): I. L. GETRICH

is the personal representative conservator guardian of the estate and requests a court order authorizing sale of estate securities.

2. a. The estate's securities described on the reverse should be sold for cash at the market price at the time of sale on an established stock or bond exchange, or, if unlisted, the sale will be made for not less than the minimum price stated on the reverse.

b. Authority is given in decedent's will to sell property; or

c. The sale is necessary to raise cash to pay

- (1) debts
- (2) legacies
- (3) family allowance
- (4) expenses
- (5) support of ward
- (6) other (specify):

d. The sale is for the advantage, benefit, and best interests of the estate, and those interested in the estate.

e. Other facts pertinent to this petition are as follows:

- (1) Special notice has not been requested.
- (2) Waivers of all special notices are presented with this petition.
- (3) No security to be sold is specifically bequeathed.
- (4) Other (specify):

Date:

*(Signature of all petitioners also required (Prob. Code , § 1020).)

(SIGNATURE OF ATTORNEY*)

Alan D. Davis, #81783

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

I. L. GETRICH

(TYPE OR PRINT NAME)

(SIGNATURE OF PETITIONER)

(TYPE OR PRINT NAME)

(SIGNATURE OF PETITIONER)

¹ Each personal representative, guardian, or conservator must sign the petition.

(Continued on reverse)

ESTATE OF (Name): I. M. DECEASED	CASE NUMBER: A 123456
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LIST OF SECURITIES

<u>Number of shares or face value of bonds</u>	<u>Name of security</u>	<u>Name of exchange (when required by local rule)</u>	<u>Recent bid asked (when required by local rule)</u>	<u>Minimum selling price</u>
100 shares	IBM	NYSE	90	

ORDER AUTHORIZING SALE OF SECURITIES

THE COURT FINDS the sale is proper.

THE COURT ORDERS

the personal representative guardian conservator is authorized to sell the securities described above upon the terms and conditions specified. Notice of hearing on the petition is dispensed with.

Date:

JUDGE OF THE SUPERIOR COURT

SIGNATURE FOLLOWS LAST ATTACHMENT

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, state bar number, and address): _____ (714) 614-0422 Alan D. Davis, #81783 Law Office of Alan D. Davis 1323 N. Broadway Santa Ana, CA 92706	TELEPHONE AND FAX NOS.: (714) 285-1425	FOR COURT USE ONLY
ATTORNEY FOR: I. L. GETRICH		
SUPERIOR COURT OF CALIFORNIA, COUNTY OF ORANGE SUPERIOR COURT 341 THE CITY DRIVE P.O. BOX 14169 ORANGE, CA 92613-1569		
ESTATE OF (Name): I. M. DECEASED <input checked="" type="checkbox"/> DECEDENT <input type="checkbox"/> CONSERVATEE <input type="checkbox"/> MINOR		
EX PARTE PETITION FOR APPROVAL OF SALE OF PERSONAL PROPERTY AND ORDER		CASE NUMBER: A 123456

1. **Petitioner** (name of each; see footnote ¹ before completing): I. L. GETRICH
 is the personal representative conservator guardian
 of the estate and requests a court order approving sale of personal property under Probate Code section 10252.

2. a. The estate's personal property described on the reverse has been sold for cash at the price and on the date specified.
- b. The property
 - (1) would have depreciated in value if not disposed of promptly.
 - (2) would have incurred loss or expense by being kept. (State reasons in item 2e(3).)
 - (3) was sold to provide family allowance pending receipt of other sufficient funds.
- c. Specific legatee of this property:
 - (1) none
 - (2) legatee's consent is attached as Attachment 2c(2).
- d. The sale price was not less than the actual value of the property sold and the sale was in the best interests of the estate.
- e. Other facts pertinent to this petition are as follows:
 - (1) Special notice has has not been requested.
 - (2) Waivers of all special notices are attached as Attachment 2e(2).
 - (3) Other (specify):

Date: _____
 (SIGNATURE OF ATTORNEY*)

*(Signature of all petitioners also required (Prob. Code, § 1020).)

Alan D. Davis, #81783

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: _____
 I. L. GETRICH
 (TYPE OR PRINT NAME) (SIGNATURE OF PETITIONER)

 (TYPE OR PRINT NAME) (SIGNATURE OF PETITIONER)

¹ Each personal representative, guardian, or conservator must sign the petition.

(Continued on reverse)

ESTATE OF (Name): I. M. DECEASED	CASE NUMBER: A 123456
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PROPERTY SOLD

<u>Date of sale</u>	<u>Name of purchaser</u>	<u>Item sold</u>	<u>Sale price</u>	Appraised value <i>(when required by local rule)</i>
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ORDER APPROVING SALE OF PERSONAL PROPERTY

THE COURT FINDS the sale is proper.

THE COURT ORDERS

the personal representative guardian conservator is authorized to sell the property described above upon the terms and conditions specified. Notice of hearing on the petition is dispensed with.

Date:

JUDGE OF THE SUPERIOR COURT

SIGNATURE FOLLOWS LAST ATTACHMENT

1 Alan D. Davis Bar# 81783
Attorney at Law
2 1323 N. Broadway
Santa Ana, CA 92706
3
4 TEL: (714) 614-0422
FAX: (714) 285-1425
5 Attorney for I. L. Getrich
6
7

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **FOR THE COUNTY OF LOS ANGELES**
10

11 Estate of:) CASE NO. BP 123456
12 I. M. DECEASED,)
13) PETITION FOR EXECUTOR'S
14) AUTHORITY TO BORROW MONEY WITH A LOAN
SECURED BY AN ENCUMBRANCE ON REAL
PROPERTY.
Deceased.)

15 Petitioner declares as follows:

16 1. I am the executor of the referenced estate.

17 2. I request court authority to borrow money from Big Money
18 Finance Company in order to pay a creditor's claim presented by the
19 Department of Incurable Insanity. This claim, which I have
20 approved, is in the amount of \$51,869.47.

21 3. I propose borrowing \$126,000.00 on the following terms
22 and conditions:

23 a. 24 monthly payments of \$447.18 beginning January 1,
24 2001, at 9.990% interest per annum;

25 b. 335 monthly payments of \$522.09 beginning January 1,
26 2003, at 11.990% interest per annum;

27 c. 1 payment of \$532.34 due on December 1, 2030, at
28 11.990% interest per annum.

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VERIFICATION

I, I. L. Getrich, am the Petitioner in this action. I have read the foregoing Petition For Authority to Borrow Money, etc., and know it to be true of my own knowlege, except as to those matters alleged under information and belief.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on _____ at Los Angeles, California.

I. L. GETRICH