



## Judicial Council of California

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# REPORT TO THE JUDICIAL COUNCIL

For business meeting on: October 28, 2014

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Title	Agenda Item Type
Probate Conservatorship and Guardianship: Accounting Schedules for Gains and Losses on Sales of Estate Assets	Action Required
	Effective Date
	January 1, 2015
Rules, Forms, Standards, or Statutes Affected	Date of Report
Revise forms GC-400(B)/GC-405(B) and GC-400(D)/GC-405(D)	August 8, 2014
Recommended by	Contact
Probate and Mental Health Advisory Committee	Douglas C. Miller, 818-558-4178 <a href="mailto:douglas.c.miller@jud.ca.gov">douglas.c.miller@jud.ca.gov</a>
Hon. Mitchell L. Beckloff, Chair	

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### Executive Summary

The Probate and Mental Health Advisory Committee recommends that the Judicial Council revise the accounting schedules that may be, or in some cases must be, used by conservators and guardians of estates to show the gains and losses on the sale of estate assets. The revision would request the total of the carry values of the property sold and the total of the sale prices, in addition to the total of the gains or losses on the sales. This change is recommended to facilitate reconciliation of the accountings by judicial officers and court staff in their review and analysis of the accounts filed by these fiduciaries.

### Recommendation

The Probate and Mental Health Advisory Committee recommends that, effective January 1, 2015, the Judicial Council revise *Schedule B, Gains on Sales—Standard and Simplified Accounts* (form GC-400(B)/GC-405(B)) and *Schedule D, Losses on Sales—Standard and Simplified Accounts* (form GC-400(D)/GC-405(D)) to require the totals of the carry values and sale prices of the property sold, in addition to the total of the gains or losses on sales, to facilitate the court's

reconciliation, review, and analysis of the accountings filed by conservators and guardians on these forms.

The revised forms follow this report at pages 5 and 6.

### **Previous Council Action**

Judicial Council forms of standard and simplified accounting schedules to be used by conservators and guardians of estates in presenting their accountings for court approval, and a rule of court to govern their use, were mandated by Probate Code section 2620(a), as amended by the Omnibus Conservatorship and Guardianship Reform Act of 2006.<sup>1</sup> The Judicial Council responded to the Legislature by adopting rule 7.575 of the California Rules of Court and approving 35 forms, designated as GC-400 for forms for use by standard account filers and GC-405 for use by simplified account filers under the rule. Each form designator also includes a suffix in one or more letters to denote its specific function. All of the forms and the rule of court became effective on January 1, 2008.

Forms that have the designator GC-400/GC-405 are to be used by both standard and simplified account filers. Under rule 7.575(e)(1), the dual-use forms approved as optional forms, including the two addressed in this report, are optional for standard account filers only. They are mandatory for simplified account filers.<sup>2</sup>

### **Rationale for Recommendation**

This proposal came to the advisory committee from the managing attorney of a superior court's probate department. It is intended to facilitate the court's review and approval of the accounts of conservators and guardians and, to a lesser extent, the accounts of many self-represented personal representatives of decedent estates, who increasingly use these forms. That review, initially by court probate staff—probate attorneys or examiners, involves a cash reconciliation as a means of verifying the cash entries in the accounting. Provision of the totals of carry values and sales prices as well as the total of gains or losses on asset sales will help in that reconciliation. Moreover, the required placement of those totals in the forms immediately below the figures leading to them should serve to help fiduciaries catch addition, transposition, or other misstatement errors before carrying them over to the summary schedules of the accounting.

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<sup>1</sup> Assem. Bill 1363 (Stats. 2006, ch. 493), § 24 (operative July 1, 2007). The rule of court is rule 7.575. A link to the rule is provided at the end of this report.

<sup>2</sup> Standard accounts are those in which estate receipts and disbursements are listed in the appropriate schedules in subject-matter categories. Simplified accounts show these entries in chronological order. Compare forms GC-400(A)(1)–(7) and GC-405(A) (receipts), and forms GC-400(C)(1)–(11) and GC-405(C) (disbursements). Any fiduciary may choose to file a standard account and fiduciaries of larger or more complex estates must do so. In some cases, a fiduciary may file a simplified account except for receipts and disbursements, which must be on schedules for standard accounts. See rule 7.575(a)–(c).

## **Comments, Alternatives Considered, and Policy Implications**

### **External comments**

This proposal was circulated as part of the spring 2014 comment cycle. Seven comments were received, all of which approved the proposal. No commenters recommended changes. A chart of the comments received and the committee's responses is attached at pages 7–10. Five of the comments were from court probate staff members or from court executives. Another favorable comment was from the Trial Court Presiding Judges Advisory Committee/Court Executives Advisory Committee Joint Rules Working Group, which concluded as follows:

Approve as submitted. This proposal should be implemented because it adds information to forms GC-400(B)/GC-405(B) and GC-400(D)/GC-405(D), to determine if reconciliation amounts are correct and thereby, assists judges and probate staff when they review these accounts/schedules.

Specific comments were requested concerning (1) whether the proposal would result in net implementation and training costs or court staff expense savings over time; (2) what implementation requirements for courts would be; and (3) whether the proposal would work well in courts of varying sizes. Ms. Christine Donovan, a Senior Staff Probate and Family Law Attorney from the Superior Court of Solano County, responded to this request. Her responses were: (1) There would be a savings in court staff time in reviewing accountings that would exceed any implementation and staff training costs imposed by the change; (2) those costs would be minimal; and (3) the revised forms would work identically in courts of all sizes. Court staff could be initially trained to look for the additional totals requested in the forms and provided by the fiduciary and to verify their accuracy instead of having to calculate those totals on their own and then confirm the calculations.

### **Alternatives considered**

The proposal as circulated for public comment called for only the total of the sales prices of the assets sold at a gain or loss, in addition to the total of the gains or losses when those prices are compared to the carry values in the estate of those assets. When the committee considered the proposal and the comments received, a committee member recommended that the forms be further modified to also request the total of the carry values of the assets sold. The committee approved this additional change and it has been made in the proposed revised forms. Committee staff provided copies of the modified forms to the originator of the proposal, who supports the change.

This proposal is so modest that the committee initially considered its rejection. Had it come from a member of the committee, rejection might have been its fate as too small to support its imposition on the courts. However, the committee decided to proceed because the idea came from a court staff attorney intimately familiar with the reconciliation process his staff and judicial officers must complete in their review of fiduciary accountings. The uniformly positive comments from other court staff attorneys, in addition to direct input from probate staff

committee members who perform similar functions for their courts, and the support of the Joint Rules Working Group and other court executives, suggest that the committee’s decision to proceed was sound.

### **Implementation Requirements, Costs, and Operational Impacts**

In addition to the usual costs to provide any new or revised form to the courts and for them to make copies available to the public, there will be modest familiarization and staff training costs. As noted above, costs saved by reducing court staff time reviewing and reconciling accounts filed on the revised forms should ultimately exceed these expenses.

### **Relevant Strategic Plan Goals and Operational Plan Objectives**

The recommendations in this report support Strategic Plan Goal III.B.2 (“Ensure that . . . court forms promote the fair, timely, effective, and efficient processing of cases and make court procedures easier to understand), and Operational Objective III.B.5.a (“Statewide . . . new or improved forms . . . to implement and improve practices and procedures in all court venues”).

### **Attachments and Links**

1. Forms GC-400(B)/GC-405(B) and GC-400(D)/GC-405(D), at pages 5–6;
2. Chart of comments, at pages 7–10;
3. Cal. Rules of Court, rule 7.575:  
[www.courts.ca.gov/cms/rules/index.cfm?title=seven&linkid=rule7\\_575](http://www.courts.ca.gov/cms/rules/index.cfm?title=seven&linkid=rule7_575)

<input type="checkbox"/> CONSERVATORSHIP (Name):	<input type="checkbox"/> GUARDIANSHIP OF  <input type="checkbox"/> Conservatee <input type="checkbox"/> Minor	CASE NUMBER:
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**Schedule B, Gains on Sales—Standard and Simplified Accounts**

**Gains on sales during period of account**

Date <i>(mm/dd/yyyy)</i>	Property Sold	Carry Value *	Sale Price	Gain
		\$	\$	\$
<input type="checkbox"/> <b>Totals, Carry Values, Sale Prices, and Gains:</b>		\$ _____	\$ _____	\$ _____

\* See form GC-400(PH)(2)/GC-405(PH)(2) for information about Carry Value.

*(List all property sold during the account period that resulted in gains (gross sale price higher than carry value). Include each property's Inventory and Appraisal item number and the date the Inventory and Appraisal containing the property was filed. Add pages as required. Check the box at the bottom of the last page of this schedule and total the carry values, sale prices, and the gains. Carry the total of gains over to line 4 of the Summary of Account (form GC-400(SUM)/GC-405(SUM)). The page total to the right is the number of pages in Schedule B.)*

<input type="checkbox"/> CONSERVATORSHIP <input type="checkbox"/> GUARDIANSHIP OF (Name):	CASE NUMBER:
<input type="checkbox"/> Conservatee <input type="checkbox"/> Minor	

**Schedule D, Losses on Sales—Standard and Simplified Accounts**

**Losses on sales during period of account**

Date (mm/dd/yyyy)	Property Sold	Carry Value *	Sale Price	Loss
		\$	\$	\$
<input type="checkbox"/> <b>Totals, Carry Values, Sale Prices, and Losses:</b>		\$ _____	\$ _____	\$ _____

\* See form GC-400(PH)(2)/GC-405(PH)(2) for information about Carry Value.

*(List all property sold during the account period that resulted in losses (carry value higher than gross sale price). Include each property's inventory item number and the date the inventory containing the property was filed. Add pages as required. Check the box at the bottom of the last page of this schedule and total the carry values, sale prices, and the losses. Carry the total of losses over to line 9 of the Summary of Account (form GC-400(SUM)/GC-405(SUM)). The page total to the right is the number of pages in Schedule D.)*

**SPR14-15**

**Probate Conservatorship and Guardianship: Accounting Schedules for Gains and Losses on Sales of Assets**  
 (forms GC-400(B)/405(B), GC-400(D)/405(D))

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

	<b>Commentator</b>	<b>Position</b>	<b>Comment</b>	<b>Committee Response</b>
1.	Christine Donovan, CFLS Senior Staff Attorney Superior Court of Solano County Fairfield	A	<p>Comments</p> <p><input type="checkbox"/></p> <p><b>Does the proposal appropriately address the stated purpose?</b></p> <p>Yes, it does.</p> <ul style="list-style-type: none"> <li><b>Would the proposal result in a net cost of implementation and training expenses over savings in court staff expense in their review and reconciliation of accountings filed by fiduciaries, or would such savings exceed the costs over time? If so please quantify.</b></li> </ul> <p>Although I am not responding on behalf of a court, I am a court employee with experience in this area. The proposal is a simple and smart way for court staff to expedite reviews and reconciliations of accountings. The change is minor and would therefore result in negligible implementation and training expenses. Any such expenses would be quickly outweighed by staff time savings.</p> <ul style="list-style-type: none"> <li><b>What would the implementation requirements be for courts? For example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems.</b></li> </ul>	No response required.

**SPR14-15**

**Probate Conservatorship and Guardianship: Accounting Schedules for Gains and Losses on Sales of Assets**  
 (forms GC-400(B)/405(B), GC-400(D)/405(D))

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

	Commentator	Position	Comment	Committee Response
			<p>Although I am not responding on behalf of a court, I am a court employee with experience in this area.</p> <p>The implementation requirements would be minimal. Probate staff would be trained to check this additional column of information on accountings, and procedures would be revised accordingly. No other training would be required. There will be no need to modify any case management systems or docket codes.</p> <ul style="list-style-type: none"> <li>• <b>Would two months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?</b></li> </ul> <p>Although I am not responding on behalf of a court, I am a court employee with experience in this area. Two months would provide ample time.</p> <ul style="list-style-type: none"> <li>• <b>How well would this proposal work in courts of different sizes?</b></li> </ul> <p>Although I am not responding on behalf of a court, I am a court employee with experience in this area. The proposal should be equally effective in courts of all sizes.</p>	



**SPR14-15****Probate Conservatorship and Guardianship: Accounting Schedules for Gains and Losses on Sales of Assets**  
(forms GC-400(B)/405(B), GC-400(D)/405(D))

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

	<b>Commentator</b>	<b>Position</b>	<b>Comment</b>	<b>Committee Response</b>
2.	Orange County Bar Association By Thomas Bienert, Jr., President Newport Beach	A	No specific comment made.	No response required.
3.	Superior Court of Los Angeles County Los Angeles	A	No specific comment made.	No response required.
4.	Superior Court of San Joaquin County By Julie M. Watts Probate Examiner Stockton	A	No specific comment.	No response required.
5.	Superior Court of Riverside County Riverside	A	Agree with proposal.  This proposal adds a total for the sale price column to the judicial council forms for gains and losses on sale. This total is necessary for our probate attorneys and paralegals to complete a cash reconciliation to verify that the figures in the accounting balance. Presently, we have to calculate this total. It will be a substantial time savings for this total to be supplied, especially for larger estates. This should have no negative effect on court operations, as these are already existing forms.	No response required.

## SPR14-15

### Probate Conservatorship and Guardianship: Accounting Schedules for Gains and Losses on Sales of Assets (forms GC-400(B)/405(B), GC-400(D)/405(D))

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

	<b>Commentator</b>	<b>Position</b>	<b>Comment</b>	<b>Committee Response</b>
6.	Superior Court of San Diego County By Michael M. Roddy, Court Executive Officer San Diego	A	Our court is very much in favor of this proposed change. The probate code requires calculation of the gross sale price so the updated forms will benefit the probate examiners when reviewing calculations for conservatorship and guardianship accountings.	No response required.
7.	Trial Court Presiding Judges Advisory Committee/Court Executives Advisory Committee Joint Rules Working Group	A	The proposal will provide some efficiencies.  <b>General comments:</b> Approve as submitted. The proposal should be implemented because it adds information to forms GC-400(B)/GC-405(B) and GC-400(D)/GC-405(D), to determine if reconciliation amounts are correct and thereby, assists judges and probate staff when they review these accounts/schedules.	No response required.