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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FOUR

JOAN LORNA MARINO,

Petitioner and Respondent,

v.

CATHERINE SAINZ, Trustee of  
the Schnetz Family Trust dated  
June 23, 2009,

Objector and Appellant.

B265258

(Los Angeles County  
Super. Ct. No. BP143700)

APPEAL from an order of the Superior Court of Los Angeles  
County, Maria E. Stratton, Judge. Affirmed.

Charlton Weeks and Bradley T. Weeks for Objector and Appellant.

Mary C. Wickham, County Counsel, Leah D. Davis, Assistant  
County Counsel, and Mary Jines, Principal Deputy County Counsel for  
the Los Angeles County Office of the Public Guardian, Conservator of  
the Person and Estate of Joan Lorna Marino.

Appellant Catherine Sainz (Sainz) appeals from a probate court order overruling her objections to a conservator's accounting of Sainz's former stepmother's estate. Finding no error, we affirm.

## **BACKGROUND**

Joan Lorna Marino (Marino, or Conservatee) has been under a court-ordered conservatorship since August 2013. Respondent Los Angeles County Office of the Public Guardian (Conservator), was appointed Marino's temporary conservator in August 2013, and became the permanent conservator of her person and estate in January 2014, and Letters of Guardianship were issued. Sainz, Marino's former step-daughter, is a trustee of the Schnetz Family Trust dated June 23, 2009.

In September 2013, pursuant to Probate Code section 2610, subdivision (a)<sup>1</sup> the Conservator filed an Inventory and Appraisal of Conservatee's assets. Although Sainz was notified of the filing of the Inventory and Appraisal (§ 2610, subds. (a), (c)), it is undisputed that she did not file objections to that Inventory and Appraisal. In May 2014, the Conservator submitted for court approval a Supplemental Inventory and Appraisal, reflecting an estate balance of \$1,114,318.23. Sainz was notified of the procedure for objecting to the inventory and/or appraised value of the property, but again no objections were filed.

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<sup>1</sup> Undesignated statutory references are to the Probate Code.

On January 29, 2015, the Conservator filed a verified “First Account Current and Report of Conservator (Prob. Code, §§ 1060-1064, 2620 et seq.), Petition for Settlement, for Allowance of Conservator’s and Attorney’s Compensation and Extension of Periodic Payments” (First Account Current). (§§ 1061, 2620.) A hearing on the First Account Current was scheduled for March 20, 2015, and timely notice of the hearing was served on counsel representing Sainz and her brothers.

On March 19, 2015, Sainz filed an Objection to the First Account Current (Objection). The Conservator filed a response, and the hearing was continued to May 29, 2015.

After argument at the hearing on the First Account Current, the trial court concluded Sainz lacked standing to object to the accounting, overruled the Objection and granted the petition for First Account Current. On June 29, 2015, after the hearing but before the court issued its written ruling, Sainz filed a premature but timely Notice of Appeal. On July 22, 2015, the trial court entered an order overruling Sainz’s Objection and approving the Petition for First Account Current and Report of Conservator. We construe the Notice of Appeal to refer to said order.

## **DISCUSSION**

### **1. *Sainz’s Objection was Properly Overruled***

Sainz contends that the trial court erred in overruling her Objection to the First Account Current and, by doing so, denied her the right to trial. Her assertions lack merit. The court overruled the

Objection because, as Sainz herself acknowledged in the Objection, she sought a remedy unavailable in the proceeding then before the probate court. In addition, the Objection fails for the independent reason that it does not satisfy the requirements of section 2622.

As stated in her Objection, Sainz's stated interest in the instant petition seeking approval of the First Account Current, was not that the Conservator's accounting is not correctly calculated or that the estate's assets were not employed for Marino's maintenance or support. Rather, Sainz maintains that the property held in the name of Marino's conservatorship estate actually belongs to the trust of Sainz's late father (Marino's late husband), the Schnetz Family Trust. In light of a purported dispute over ownership of assets (which Sainz claimed had only come to her attention in February 2015), Sainz informed the trial court that she planned to file "an action . . . in short order for the purpose of resolving the title issues."

With respect to the instant proceeding, however, the trial court properly found that Sainz lacked standing to object to the First Account Current. As Conservator, the Public Guardian acts as a fiduciary. The Conservator is responsible for the "management and control" of a conservatee's personal and real property so as "to protect the conservatorship estate for the benefit of the conservatee" and those who will ultimately inherit it. (§§ 2400, et. seq., 2101; *Johnson v. Kotyck* (1999) 76 Cal.App.4th 83, 89.) As part of its duties, the Conservator is required to file with the court an annual or biennial accounting report detailing the status of conservatorship's assets, and the conservatee's

accounts and expenditures during the accounting period, and how the assets and expenditures have been used for the conservatee's care and benefit. (§ 2620; see *Conservatorship of Hume* (2006) 140 Cal.App.4th 1385, 1390.)

Sainz's principal contention is that some or all of the assets in the conservatorship estate belong to a trust of which she is a trustee. But the validity of this claim has not been established and was not at issue at the hearing which is the subject of the appeal. The sole question there, as here, is whether the trial court erred in overruling Sainz's Objection to the First Account Current.

To legitimately object to a conservator's accounting, such as the First Account Current at issue here, Sainz must first establish standing as an "interested person" under section 2622. Section 2622 provides that the "ward or conservatee, the spouse of the ward or the spouse or domestic partner of the conservatee, any relative or friend of the ward or conservatee, or any creditor or other interested person may file written objections to the account of the guardian or conservator, stating the items of the account to which objection is made and the basis for the objection." An "interested person" is generally defined as "(a) Any interested state, local, or federal entity or agency. [¶] Any interested public officer or employee of this state or of a local public entity of this state or of the federal government." (§ 1424.) While Sainz was free to pursue an ownership interest in the conservatee's estate as a trustee of her late father's trust pursuant to section 850, she did not qualify as an "interested person" for purposes of objecting to the accounting.

Moreover, even if she had qualified as an interested person, Sainz was required to submit “written objections to the account . . . stating the items of the account to which objection is made and the basis for the objection.” (§ 2622.) She failed to do so. Sainz identified no specific bases for her “objection,” and offered no documentary or other substantive proof to support any of the objections, which consisted only of facial denials and protestations that assets inventoried in the First Account Current did not belong to the conservatorship. This was insufficient to satisfy section 2622, and the Objection was properly overruled on this independent ground.<sup>2</sup>

2. *No Sanctions Will be Assessed on Appeal*

The Conservator requests that we assess sanctions against Sainz to cover its cost of defending the First Account Current, including attorney fees. If a “court determines that the objections were without reasonable cause and in bad faith, the court may order the objector to pay the compensation and costs of the conservator or guardian and other expenses and costs of litigation, including attorney’s fees, incurred to defend the account. The objector shall be personally liable to the guardianship or conservatorship estate for the amount ordered.” (§ 2622.5, subd. (a).)

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<sup>2</sup> We also reject Sainz’s assertion that the court’s ruling was based on inadmissible hearsay. The First Account Current is an admissible writing as a business record, and as a document prepared by a public employee within the scope of duty and pursuant to a statutory mandate. (See Evid. Code, §§ 1271, 1280; Prob. Code, § 2620.)

An order imposing sanctions requires a showing of bad faith and objective lack of reasonable cause. (*Guardianship of K.S.* (2009) 177 Cal.App.4th 1525, 1533–1534.) We decline the Conservator’s invitation to impose sanctions on appeal. A determination as to whether sanctions are in order is, in our view, best left in the first instance to the trial court. To date, the Conservator has not made such a request of the trial court.

### **DISPOSITION**

The order is affirmed.

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WILLHITE, J.

We concur:

EPSTEIN, P. J.

MANELLA, J.