

PFAC NEWS

SUMMER 2021



PFAC STATEMENT OF PURPOSE

**The purpose of the Professional
Fiduciary Association of California is to:**

1. Promote high standards of ethics and practice
2. Maintain high qualifications for membership
3. Require and provide continuing education
4. Enhance awareness of and respect for the Professional Fiduciary Association of California and its members
5. Contribute to the development and support of effective regulation, legislation and licensing
6. Promote communication among members to share resources



PRESIDENT'S MESSAGE

*by LeAndra McCormick,
PFAC President*

What a long, strange trip it's been! As I take office as President for the 2021|2022 term, I find myself comparing this year to my previous four years on the PFAC Board. We have all been through the wringer these past 15+ months with COVID-19, California wildfires, power outages, scathing media, and personal challenges all our own. And yet, through it all, we endure and not just endure, but thrive. I have never been more proud to be a member of PFAC and even more proud and humbled to serve as President for the next 12 months.

Despite the many challenges, your PFAC chapter, region and state leaders met on July 15 for an all-day intensive leadership retreat at the Mission Inn in Riverside. Attendees discussed communication throughout the organization and how to improve the process to ensure everyone receives timely, efficient and effective communication. They also reviewed PFAC's strategic plan, adding elements that pave the way for the next year of progress. It was a fun and invigorating day and you will be seeing programs and processes implemented as a result of that meeting over the next weeks and months.

(Continued on page 4)



“ I look forward to another year supporting PFAC and its dedication to advancing excellence in fiduciary standards and practices. — Michael Stephens, Realtor ”



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PRESIDENT'S MESSAGE

(Continued from page 1)



The 26th Annual PFAC Educational Conference is just around the corner August 25-28 at the Hotel Del Coronado. Every year, PFAC “takes it up a notch” with the conference and this year is no exception. We are offering the conference as an in-person or virtual event for those who aren’t quite ready to travel or just don’t want to make the trip. A great benefit this year for members who attend the full conference is that you’ll be able to watch breakout sessions you weren’t able to attend at the conference as recordings after the conference – FOR FREE! Members who attend the full conference receive five additional CEs of recorded content that you can take advantage of through April 30, 2022. What a deal! And, if you worried about COVID-19, know that we are implementing safety precautions including mask requirement in all meeting rooms on site.

One of the items that comes to light at each PFAC strategic planning meeting is raising the credibility and expertise of professional fiduciaries. To that end, PFAC is offering a digital education program to prepare you to take the Center For Guardianship Certification Finance Management Certificate test. Upon completion of this test, you receive a seal from the CGC indicating your mastery of the topic. Place this seal on your website, business card or other marketing materials to show your clients and colleagues objective evaluation of your knowledge in this area. The next certificate program to be launched will be a Special Needs Trust Administration Certificate. PFAC is currently working with the CGC to establish the core competencies and we expect to launch the certificate test and education program at the beginning of 2022.

As we head into the lazy days of summer, I hope you find the time to connect—or reconnect—with family and friends for some laughter, relaxation, and fun. I hope to see you at the conference for some of that too!

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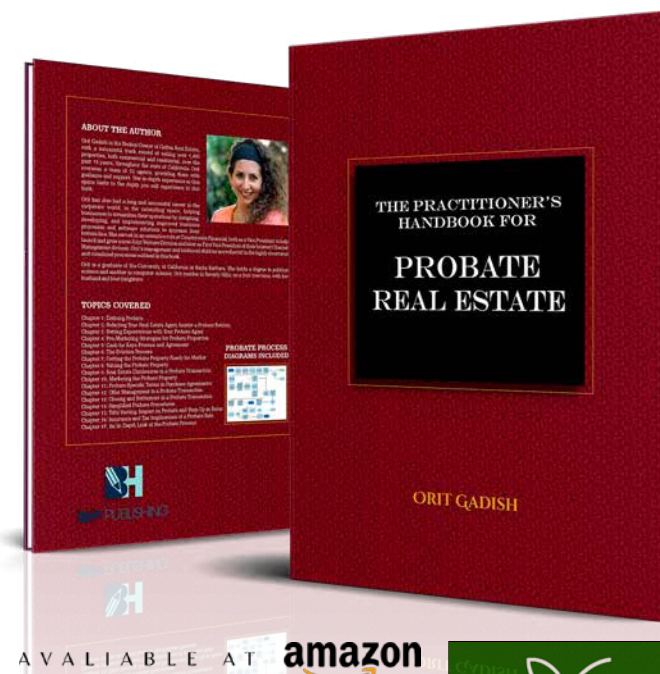
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FROM THE EXECUTIVE DIRECTOR



Amy Olsen
Executive Director

Did You Hear The One About A Mouse On A Motorcycle?

It goes without saying that there is a “stink in the air” about conservatorships these days. Every time you watch, listen to, or read the news, we are bombarded with #FreeBrittney or a movie depicting cruel and devious conservators. All of us in PFAC know the regulations and laws governing conservatorships in California, but unfortunately the public and media tends to point at the “mouse on a motorcycle”, generalizing conservatorship and conservators in a negative light based on one highly public case or even fictionalized stories. It may leave you asking, what is PFAC going to do about it?

PFAC’s Board of Directors and Communications Committee has consulted with professional public relations companies and has been actively engaged in strategies to address issues. The first step is identifying the issue. While there has been generalized negativity about conservatorships, there has not been a specific negative media focus on PFAC or conservators. The focus of attention has been on the system of conservatorship in California. In order to address what appears to be a

lack of understanding regarding conservatorship in California as opposed to specific issues with the organization, PFAC has created several communication tactics that you, as an individual fiduciary or industry professional, can share with your clients and colleagues to help educate the community about conservatorship in California.

1. [CaliforniaConservatorshipFacts.com](https://www.californiaconservatorshipfacts.com). This website, developed by PFAC with the assistance of respected probate and conservatorship attorneys, answers questions about conservatorship in California in an FAQ (Frequently Asked Questions) format. Using this specific URL helps to catch those searching for information and the questions use California Probate Code as reference.
2. Heeding the Call: The Story of California Professional Fiduciaries. This 15-minute video produced in 2020 describes how the fiduciary profession was started and how California fiduciaries work with clients, families, attorneys and courts. [CLICK HERE](#) for a link to the video.
3. Stories of Care: How Professional Fiduciaries Change Lives. Two short video stories from PFAC member fiduciaries about conservatorships that they personally handle and how their services impacted the lives of their clients. [CLICK HERE](#) for links to the videos.
4. Brochures and Rack Cards. PFAC has produced professional brochures and rack cards that can help educate your clients, colleagues and prospects about the work you do as a fiduciary. You can even personalize the cards with your specific business information. [CLICK HERE](#) for more information or to place an order.
5. UPCOMING. PFAC has plans, working with selected California Probate Court judges, to hold a virtual question and answer panel regarding California conservatorships. Watch your email for more information.

Please consider sharing some of the information shown above through your website, email or social media. Professional fiduciaries, more than many other professions, are under intense scrutiny in the work that they do, so keeping the highest adherence to regulations and ethics is of utmost importance. Working together, we can help shape a more accurate view of conservatorship in California.



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We look forward to continuing to work with you over the years to come.



From left: **Gena M. DeMartini Evans**, Senior Client Associate; **Mark Passalacqua**, First Vice President – Investment Officer; **David Clarke**, Managing Director – Investments; **Kathy Sowl Chelini**, Vice President – Investments; **Justin Pribilovics-Wade**, Financial Advisor; **Danielle Lee**, Senior Registered Client Associate

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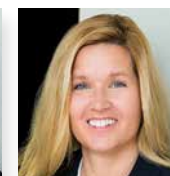
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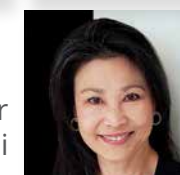
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*As of April 8, 2021

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**While most classes are on-demand, a few are scheduled as live presentations.*

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This program provides the necessary 30 units of approved education to satisfy the licensing requirement for the Professional Fiduciary exam in California. The courses in the program correspond with the core competencies prescribed by the center for Guardianship Certification and PFAC provides links to recommended self-study information round out your knowledge. The program is self-paced, self-directed and includes a one-year Student membership in PFAC (upon approval) and the 4-hour Exam Review course. [CLICK HERE FOR MORE INFORMATION](#)

Fiduciary Academy

PFAC offers a host of approved and credited educational sessions through its online Fiduciary Academy. Sessions include both CE and MCLE education with expert speakers from a wide range of fields. Categories include Ethics, Practice Management, Person, Trust and Estate. Upon successful completion, registrants receive a Certificate of Completion for the related credit category. [CLICK HERE FOR MORE INFORMATION](#)

Courses are added on a regular basis so check back often.

Finance Certificate Recipients

Congratulations to PFAC members who successfully passed the CGC Finance Certificate exam. The certificate, valid for three years, testifies to the holder's expertise in the field of financial decision-making for those under conservatorship.

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Sandoval Legacy Group
Associate Member
- **Janice Kittredge**
CSC Fiduciaries Inc.
General Member
- **Elaine Watrous**
Elite Fiduciary Services
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- **Jennifer Hans**
Hans Probate & Trust Services
General Member
- **Mark Olson**
Olson Fiduciary Services
General Member

REGIONAL REPORTS



PFAC NORTHERN REGIONAL REPORT



Jean McClune
Northern Region President

I'm hoping everyone gets a chance for a little break or a real vacation this summer. It's been an intense year so far for all the fiduciaries I've heard from. Always a challenge to remember to take care of ourselves as well as others. (I'm saying it to remind myself too!)

Chapters are getting active again, setting up some in-person meetings and getting those great speakers and sponsors lined up. Congratulations to all the new and returning chapter leadership for 2021-22. Remember to say thank you to your chapter leaders, whose volunteering for these roles makes it all happen, and to the wonderful sponsors and speakers without whom our meetings couldn't be as enjoyable or valuable. Reach out and welcome new members to your chapter, be they student members, new fiduciaries, or affiliates...all want to experience being welcomed and part of PFAC.

By the time you read this, some of your chapter leaders will have attended the annual PFAC Leadership Retreat where we work on goals and strategy for the coming year. And of course in August we're looking forward to seeing many of you in person (what a treat!) in San Diego at the conference.

Fall plans include hosting our annual Education Day once again as well as a Regional Dinner. Dates will be announced soon so you can get them on the calendar.

In the meantime, stay safe, stay healthy, and try to take a little time off for yourself...

PFAC SAN DIEGO REGIONAL REPORT



Susanna Starcevic
San Diego Region Director

"The San Diego Region is counting down the days until we are able to join with other PFAC members and PFAC supporters at the beautiful Hotel Del Coronado for our 2021 Annual Conference.

We are also looking into planning our first post-covid in-person get together for the Fall and starting ramping up in person meetings.

Please stay tuned."



Ron Miller
Southern Region President

PFAC SOUTHERN REGIONAL REPORT

PFAC Southern Region members, I'm pleased to introduce my team: Nancy Howland, Region Director; Denise Klein, Region Vice President; Cyndi Troup, Region Treasurer; and Monique Cain, Region Secretary. Please go to the PFAC website and select "About" on the toolbar - familiarize yourselves with the State Board of Directors, Region and Chapter Leadership and State Committee chairs, all of whom are volunteers who work very hard to make this organization work for you. Please contact any of us if you have suggestions, comments or concerns.

The past roughly year-and-a-half has been one of the most difficult times in our professional careers. Work in the estate planning ecosystem increased dramatically, as clients found themselves with more free time and considered their own mortality, real estate prices skyrocketed, and recent laws covering real estate transfers and possible

changes in tax laws triggered more frenzied activity than had been seen in decades. Initially, the court system found itself overwhelmed and understaffed, without suitable technological solutions, and it took some time to adjust to a world that required social distancing, masks, vaccinations, and few permitted in-person hearings. Courts adapted by introducing telephonic and video platforms for remote hearings, rescheduling existing hearings to later dates and shifting the court calendar to meet the demand - there were some speed bumps but, overall, case management has improved compared to the first six months of 2020.

Though some aspects of our work must be handled in-person, it looks like many professionals will continue to operate remotely when possible - this will drive the need to find better, more efficient, more cost-effective and safer ways to serve our clients when and as requested while protecting ourselves, staff and other professionals. We have proven our ability to improvise, adapt and act as needed to deliver top-notch fiduciary services to our stakeholders. That said, recent events in the media and entertainment fields continue to challenge us to raise the bar professionally in the face of strong, often misguided and uninformed resistance. Don't let this upset your applecart - just keep delivering a high level of service. Our State Leadership is actively engaged in responding to the "noise" and I believe we will persevere and excel despite these challenges.

A few notices:

- This year, Nancy Howland and I serve as the state co-chairs of the Education Committee - among other things, we will evaluate presentations for continuing education credit, which is always in high demand. The Southern Region Education Day is scheduled for November 4, 2021, and we expect that the meeting will be in-person, if COVID-19 restrictions have been lifted. We are presently seeking speakers and content. If you have ideas, please contact Denise Klein, Nancy Howland or myself as soon as possible.
- If you haven't yet registered for the annual conference being held at the Hotel Del Coronado August 25-28, do so at your earliest convenience. I look forward to meeting and reconnecting with each of you. A special thanks to Susan Ghormley and Aaron Jacobs, both of the Southern Region, for chairing the Conference Committee and doing the thousands of things that make the Conference successful, and to Amy Olsen, Tammy Willits, Amanda Allen and Fred Eblin, the PFAC administrative staff who are the backbone that enables and facilitates so much of what we do at PFAC.
- The Region Leadership attended a training course at the Mission Inn in Riverside July 15-16 to prepare us to perform our duties to the best of our ability.
- The Region is making some operational changes which we hope will make the duties of future leaders a bit easier. One of the most difficult tasks of any organization is developing a succession plan and a body of knowledge that are easily transferred to and used by other members so that transitions can happen quickly and seamlessly.
- Interesting factoid: As of July 1, 2021, the Professional Fiduciaries Bureau website shows that there are 295 actively licensed professional fiduciaries in the Southern Region - of these, approximately 170 are PFAC members. One of our goals in the Southern Region this year will be to increase participation and membership of licensees.

This is going to be a good year, my friends.



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FEATURED ARTICLES



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Prudent Investors Network

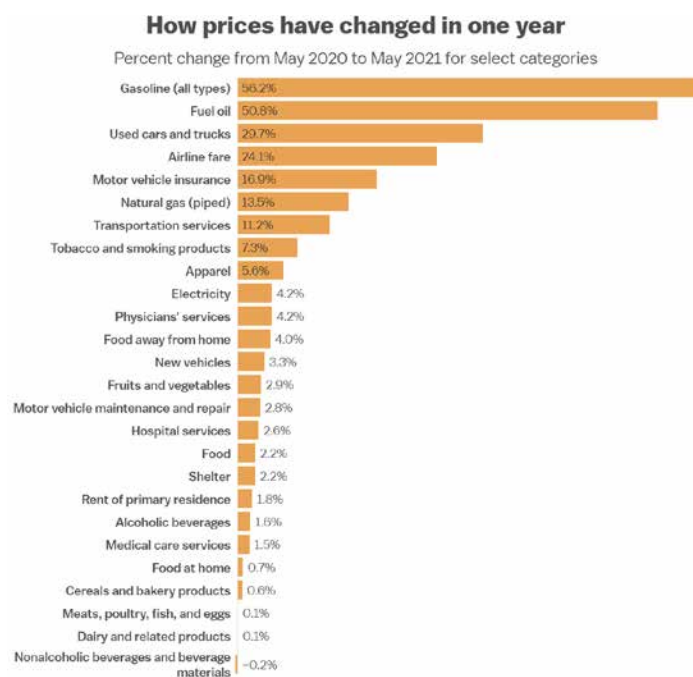
THE PRUDENT PERSPECTIVE

"There are downsides to everything; there are unintended consequences to everything." - Steve Jobs

Discovering Unintended Consequences

After closing the first half of 2021, we are beginning to get a glimpse of some of the unintended consequences that may lie ahead following the unprecedented measures taken to address a once-in-a-century pandemic. The idea of unintended consequences was first introduced to the world in the middle of the Enlightenment by the preeminent John Locke, who argued in 1692 against a parliamentary bill that would cut the maximum permissible interest rate from 6% to 4%. Locke submitted that the reduction in rates could actually end up hurting borrowers rather than help them over the long term.

Now more than three centuries later, we engage in a similar debate and wonder whether artificially low rates combined with unlimited bond purchasing may be causing more harm than good. So far, while the sweeping measures have certainly contributed to stimulating the overall economy and accelerating the recovery, the accompanied jump in stock markets and home prices have also served to exacerbate wealth inequality. Furthermore, supply chain imbalances, labor shortages, changes in landlord laws, and how and where we work are just a few among many other unintended consequences we are experiencing as we move forward.



The Return of Inflation

Much of what has driven that widening amongst the rich and poor can be attributed to a significant pickup in inflation, which author James Cook described, "Inflation makes the wealthiest people richer and the masses poorer." The most recent report from the Bureau of Labor Statistics (BLS) indicated that the consumer price index rose by 5.0% in May from a year ago, the largest expansion since August 2008. It is worth noting, however, that while the headline figure alarmed some, much of the increase can be attributed to the negative inflation experienced last spring. In fact, the most significant price changes that have occurred over the last 12 months have primarily been centered around the energy and transportation sectors—specifically related to automobiles, fuel prices, and travel costs. This is why many economists believe the recent surge in inflation we are experiencing is largely transitory and is expected to stabilize in the coming years.

Continued on next page



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Administering a Special Needs Trust

10 Costly Mistakes to Avoid When Administering a Special Needs Trust

1. Confusing the Type of Special Needs Trust Being Administered
2. Confusing the Public Benefit Programs
3. Failing to Keep Current with Changing Laws
4. Misunderstanding the 'Sole Benefit' Rule
5. No SNT Disbursement System
6. Improperly Refusing to Make Disbursements
7. Failing to Distribute for Beneficiary's Food or Shelter
8. Reimbursing with Cash
9. Failing to Maintain Excellent Records
10. Not Following Proper SNT Termination Procedure

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Inflation Fears Gradually Receding

That is not to say that the inflation readings this year have not caught many economists by surprise. Even at the recent June 15-16 Federal Reserve meeting, senior central bankers admitted being caught off guard by the magnitude of the jump in inflation, with the meeting minutes indicating that they “attributed the upside surprise to more widespread supply constraints in product and labor markets than they had anticipated and to a larger-than-expected surge in consumer demand as the economy reopened.” Consequently, the Fed increased its 2021 PCE inflation target from 1.8% to 3.4%, but expects it will slow to 2.1% in 2022. Fed Chairman Jay Powell has maintained a consistent tone that inflation will likely wane in the coming years, and while the bond market sold off earlier this year, rates have pulled back to reflect a similar view. 10-year and 30-year treasury yields have fallen considerably from their highs in March.

Although inflation in the United States has been more pronounced than many other developed economies, the inflation phenomenon has been worldwide. Most other central bankers around the world also share Mr. Powell’s opinion. In recent days, German Finance Minister Olaf Scholz was quoted as saying, “We are looking at this development of inflation... all experts, all the central bankers around the globe say it is temporary.”

Already many economies are starting to experience varying degrees of slowdown from earlier levels of activity this year, generally not attributed to a lack of demand but a lack of product due to supply bottlenecks. For this reason, the Fed is keeping its accommodative monetary policy and for now will hold off tapering and maintain its monthly purchase of \$120 billion bonds. While a few Fed officials have not ruled out a 2022 rate hike, the general view is that the next rate increase will not occur until 2023.

The Most Critical Bottleneck

The most essential supply shortage, though, may be human capital. Last week, the Labor Department reported the U.S. had more than 9.2 million job openings in May, compared to 7 million prior to the pandemic, and workers are looking for higher pay to address many years of relatively stagnant wages. According to the Federal Reserve Bank of New York, the “reservation” wage (lowest pay for which someone is willing to work) for non-degree workers rose 17% from late-2019. Consequently, wages rose in May by the most since 1983 - the largest gains coming in restaurants, hospitality, and retail.

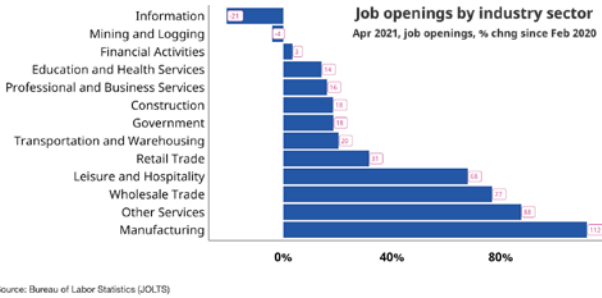
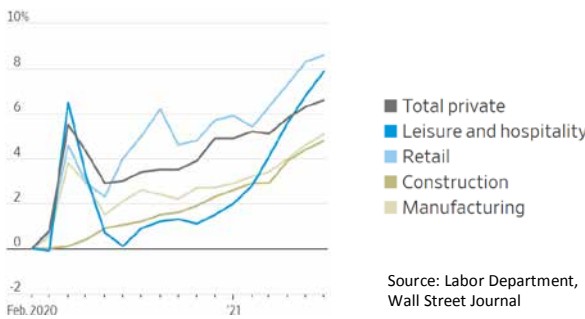
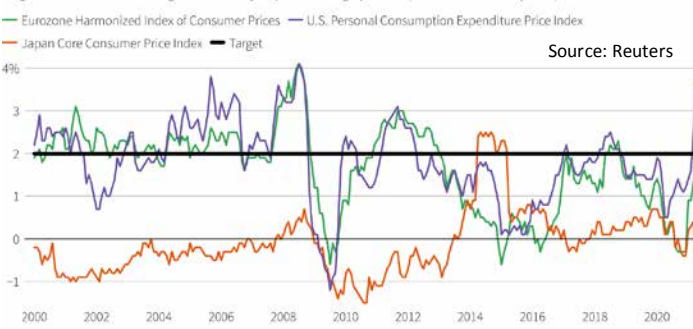
A Worker Shortage, or Something Else?

Yet despite higher wages, employers are struggling to hire workers. It may come as a surprise, then, that there are also over 9 million Americans looking for jobs who can’t find them. So why is that? Is there actually a shortage of labor or do employers just need to pay more? While pay plays a big part, there are also other factors at force. Many workers moved during the pandemic and there is now a mismatch between available jobs and the people who can fill them. A survey from ZipRecruiter indicated that 70% of job seekers who last worked in leisure and hospitality are now pursuing work in a different industry and 55% of job applicants want to work remotely. There is also the issue of increased unemployment benefits giving workers more time to be selective about the jobs they would accept.

Source: Labor Department, Wall Street Journal

The world's inflation problem

Central banks beat high inflation in the 1970s and 1980s only to face a new problem in price increases that fell below their targeted 2% level, an amount considered healthy for a modern economy. The failure to maintain that target has led to new strategies. A recent jump is due largely to the pandemic and may not persist.



Socioeconomic Forces Playing into Policy

With significant discussion around a large jump in the wealth gap and wages finally seeing real growth, the Biden administration has taken a bolder approach in proposing a \$2.25 trillion American Jobs Plan and a \$1.8 trillion American Families Plan, these coming on the heels of the \$1.9 trillion American Rescue Plan that was already enacted in March. These two new plans, which the White House hopes to fund through a dramatic tax overhaul on individuals, corporations, and estates, are already facing significant pushback from the GOP.

Accelerating the Transfer of Wealth to Next Gen

The prospect of higher taxes is encouraging older Americans to begin handing over some of their wealth to younger generations sooner. Federal data shows Americans age 70 and above had a net worth of \$35 trillion at the end of March, amounting to 27% of all US wealth (compared to 20% three decades ago) and 157% of US GDP (double the proportion 30 years ago).

According to consulting firm, Cerulli Associates, older generations will hand down approximately \$70 trillion between 2018 and 2042, with \$61 trillion going to heirs and the remainder to philanthropy. With the higher 2018 gift tax exemption scheduled to roll back in 2026, and the Biden proposal to eliminate the basis step up at death, the Wall Street Journal reported, “Now they have started parceling it out to their heirs and others, unleashing a torrent of economic activity including buying homes, starting businesses, and giving to charity. And many recipients are guided by different priorities and politics than their givers.” The impact of the timing and manner of this wealth transfer may reverberate for years to come.

A Resilient Economy

The US has rebounded considerably faster than most had expected and data has been very positive from a number of directions. The economy added 850,000 jobs in June and over 3.2 million jobs since the start of the year, bringing the unemployment rate down to 5.9% from 14.8% last April. Most economists anticipate the US will be back to full employment before the end of the year. Moreover, the International Monetary Fund (IMF) raised its US GDP forecast to 7.0% for 2021 (from an April projection of 4.9%) and expects the US to grow 4.9% in 2022 (from a previous 3.5% target).

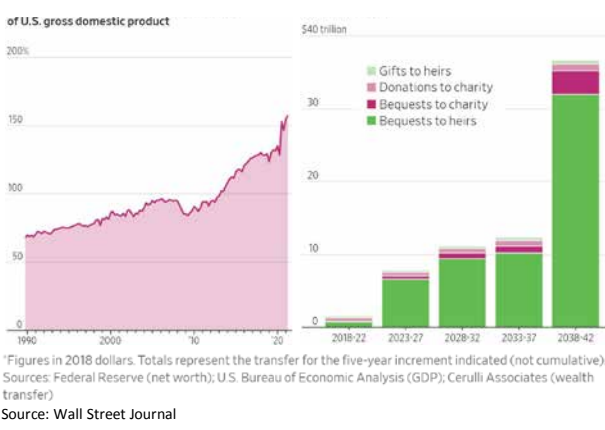
Earnings have also been very strong so far this year. In the first quarter, according to FactSet, earnings grew by 52.1% from a year ago and are expected to grow 64% in the second quarter, lifting the full-year earnings per share (EPS) estimate for 2021 to \$191.49. If realized, this would far exceed pre-pandemic levels and would be over 17% higher than 2019.

Consumer sentiment, which accounts for roughly 70% of economic activity, has risen consistently to a 16-month high. Despite supply chain challenges and labor shortages, manufacturing activity has risen for 12 straight months and industrial production for seven of the last eight months. Given the bevy of positive data in the first half of the year, it may come as no great surprise that the stock market posted its second-best first half in 23 years.

New Day, New Environment

For most places, while life now more closely resembles to the one we left in early 2020, there have been decisions made and forces occurring that make the future look different than what otherwise might have been. A powerfully rebounding economy, soaring home prices, and a jump in stocks, while good for many, may bring some downsides as well. It is hard to predict the societal repercussions that will result from actions taken over the last several months, but as Steve Jobs aptly reminded us, “There are unintended consequences to everything.”

Source: Wall Street Journal





SHINING A LIGHT ON SOLAR SCAMS

The saying, there's nothing new under the sun, is unfortunately true when it comes to scams, be they old snake oil salesmen or today's pseudo-scientists peddling fake cures for serious diseases.

The first word in the term con artist, meaning a person who tricks people to get their money, is short for the word confidence. That is precisely how these tricksters operate. They gain your "CONFidence" and "CONvince" you to fall for their nefarious scheme.

Ron Greenwald
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REALTOR®, MBA,
SRES®, CRS®
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Solar scams have become a favorite of current con artists, with seniors often being their favorite prey. Why seniors? Because scam artists see them as trusting and therefore vulnerable. They know that many older people own their homes outright and may have abundant savings; that aging people may exhibit diminished cognition and even dementia; and can be susceptible to anxiety-inducing tactics and intimidated into hasty, impulsive action that they or their survivors may later regret.

American seniors buy into fraudulent transactions costing more than \$3 billion a year. Many frauds are perpetrated by rooftop solar scammers.

Advantages of Solar Energy

The benefits of solar are many, and becoming increasingly compelling as we confront the challenges of a changing climate. Installing solar panels cuts down on electricity costs, saving you money while helping to preserve our environment. This natural, renewable energy source that converts sunlight to energy is clean and green. More and more municipalities as well as developers and homeowners are opting for solar. Should you?

Installing a rooftop solar system has several benefits. Foremost among them, it helps reduce your personal and our entire planet's carbon emissions, so it is not only financially viable but also environmentally-friendly. A solar system requires minimal maintenance, provides savings you will enjoy on your monthly utility bills and adds value to your home. Thus, it can be a good investment ... if you choose wisely and well.

SPPAs Are Not a Homeowner's BFF

Not all or even most purveyors of solar are scam artists. Some are. Most unfortunately, lax government regulations make it easier for companies to fast-talk seniors into a Solar Power Purchase Agreement (SPPA) that benefits the company far more than the homeowner.

According to the federal Environmental Protection Agency (EPA), an SPPA "is a financial arrangement in which a third-party developer owns, operates, and maintains the photovoltaic (PV) system, and a host customer agrees to site the system on its property and purchases the system's electric output from the solar services provider for a predetermined period. This financial arrangement allows the host customer to receive stable and often low-cost electricity, while the solar services provider or another party acquires valuable financial benefits, such as tax credits and income generated from the sale of electricity."

Read that last portion carefully. Who receives the valuable financial benefits? Not the homeowner, who does not own the system, but the company.

The framework of this program is called a Solar Services Model. SPPA companies call themselves Solar Service Providers. While appearing reputable and focused on helping the senior homeowner, they may talk them into signing 20-year agreements to purchase electricity at a lower rate than from the provider utility such as SDG&E. If the homeowner dies (a likely scenario if they are on their late 70s or 80s at the time of purchase), the contract is not voided.

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At that juncture, the new homeowner must continue the SPPA for a monthly fee until the contract has been completed. Alternatively, the person selling on behalf of the deceased homeowner must make a one-time pre-payment of the years remaining on the contract; if the contract has completed its sixth year, the seller can buy out the contract and own the equipment.

If there is a dispute between the deceased person's seller, the new buyer and the SPPA company, the problem can bring the escrow process to a screeching halt. The company obviously would prefer receiving the recurring monthly payment as opposed to the overall pre-payment. This dilemma can cause an overwhelming, time-consuming hassle for the seller, who may be a family member already grieving the loss of their relative and enmeshed in a host of financial and related issues.

Is It Green or Is It a Scheme? Buyer Beware!

Older homeowners and the people who love them need to be cognizant of all facets of any major, expensive, home renovation; including up-front, ongoing and possible future costs. Stay clear of door-to-door salespeople and out-of-the-blue telephone/text solicitations.

When considering a solar installation, you need to carefully research the topic based on reliable print/online sources such as the EPA's <https://www.epa.gov/greenpower/solar-power-purchase-agreements>. If you decide to go green, great, but make sure that greening the environment is not putting a bunch of green – as in your hard-earned dollars – into the pocket of an SPPA scammer. We strongly urge you to do your homework, consider your options, obtain more than one quote, and avoid making a quick decision, especially if pressured to do so. Consult with a trusted family member, financial professional, or a Realtor who specializes in senior realty services.

And always remember: whether someone is offering you a "free" vacation or "free" rooftop solar, if a deal sounds too good to be true, it probably is.



Orit Gadish
Owner/Broker,
Geffen Real Estate

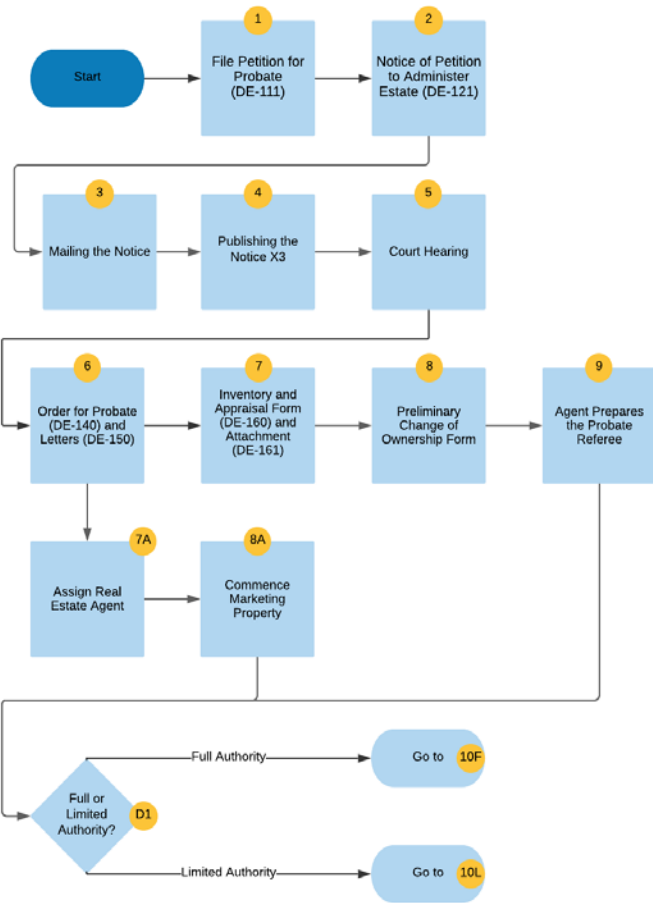
HANDLING PROBATE OF REAL ESTATE ASSETS: A VISUAL PERSPECTIVE

As a PPF, you may find yourself having to handle assets that require to be probated, in which case the probate court gets involved. It is important to gain an in-depth knowledge of the probate process so that you can work efficiently and effectively with your agent and attorney and be able to take a leadership role.

The probate process is broken down into phases, then into steps within the phases, and documented in diagrams to make the information more digestible. First, the initial phase of the general probate process is reviewed, followed by the full and limited authority probate processes.

This article is focused on the initial phase of the general probate process from a real estate perspective and is presented in the figure provided. The steps in this phase are precursors to both the full and limited authority paths of the probate process.

The procedure for selling real property in probate is governed by Probate Code 10300. The PPF acts as the Personal Representative (PR) and may be appointed with full or limited authority under the Independent Administration of Estates Act (IAEA). Per Probate Code 10400, if the PR is appointed with limited authority, court supervision is required to sell, exchange, or grant an option to purchase the estate’s real property. The PR appointed with full authority may elect to have the sale confirmed by the court but is not required to.



The following diagram to the left showcases the steps of the initial phase of the probate process (see Figure 1).

Step 1: Petition for Probate (Form DE-111)

Filing the Petition for Probate with the court officially launches the probate process. If there is a will, a copy is required to be attached to the petition. Once the filing is made, the court assigns a case number and the initial court hearing date. The petition requests that the judge grant either full or limited authority to the Petitioner. Once the court appoints the Petitioner, they become the Personal Representative (PR) of the estate, required to be appointed to administer the estate. If the decedent died without a will, the PR is referred to as the administrator, and if the decedent died with a will, the PR is referred to as the executor.

Step 2: Notice of Petition to Administer Estate (Form DE-121)

Once the petition for probate has been filed, the next step is to provide proper notice to everyone interested in the estate. The Notice of Petition to Administer Estate is completed, and it includes the location and the date and time of the hearing.

Step 3: Mailing the Notice

The Notice must be mailed to all heirs listed in the petition no less than 15 days before the hearing date. A copy of the Petition for Probate should be included with the Notice of Petition to Administer Estate. It should be sent to everyone entitled to the Notice, anyone who is named in the will. All heirs at law must be served the notice and must be included. This includes the spouse, children, parents, brothers, and sisters. The Notice should be filed with the court, notifying the court that action has been taken. This is proof that everyone received proper notice, which must be done before the hearing.

Step 4: Publishing the Notice

The notice must also be published in a newspaper of general circulation, in the city where the decedent resided at the time of death, or, in the city or county where the property is located. The notice must be published three times before the date of the court hearing, and the first publication must be made 15 days before the date of the hearing.

Step 5: The First Court Hearing

The first court hearing date is usually scheduled 30 days from the date the Petition for Probate is filed. The purpose of the hearing is to have the judge grant what has been requested in the petition – to appoint the Personal Representative and determine whether limited or full authority is granted. The heirs may appear in court objecting to the Petition for Probate or requesting to serve as the Personal Representative.

Step 6: Order for Probate (Form DE-140) and Letters (Form DE-150)

The Order for Probate should be drawn up when preparing the Petition for Probate. Some courts require these forms to be submitted when submitting the Petition for Probate, others allow for the order to be submitted at or after the hearing. Once the judge decides to move forward with the petition, the order is signed. Once the judge signs the order, and it is filed, the order is in place, and the process proceeds with the execution of the letters. The letters are signed and issued by the court clerk.

The Order for Probate and the Letters allow the Personal Representative to act on behalf of the decedent to handle the real property. This includes permission to sign the listing agreement, purchase agreement, and escrow documents. The letters allow your real estate agent to proceed with the sale of real property.

The types of Letters include:

1. Letters of Testamentary: If the decedent had a will.
2. Letters of Administration: If the decedent didn’t have a will.
3. Letters of Administration with Will Annexed: If the decedent had a will, but the named executor isn’t available to act.
4. Letters for Special Administration: If there’s a sensitive matter such as a foreclosure on a property and the PR hasn’t been appointed yet, an “ex-parte petition” is filed, and the probate attorney will appear in court on an emergency basis, and a request is made to the judge to appoint the PR temporarily so the PR can communicate with the lender and also request a temporary restraining order to stop the sale. The court will issue an “Order Appointing Special Administrator” and the Letters for Special Administration which identifies the specific limited powers being granted to the PR.

Assign the real estate agent (Step 7A) and have your agent commence the subject property’s marketing (Step 8A).

Figure 1 - The Initial Phase of the Probate Process

Step 7: Inventory and Appraisal Form (Form DE-160) and Attachment (Form DE-161)

Per Probate Code 8800, the PR must file with the court clerk an inventory of property to be administered in the decedent’s estate together with an appraisal of the property in the inventory, using the Inventory and Appraisal Form. This form is used in conservatorship and guardianship cases as well.

This form must be filed within four months after letters are first issued to the PR. There’s an option for the PR to file a partial inventory and appraisal, depending on the estate’s complexity. Some assets take longer to appraise than others, so it is possible to break up the requests for appraisal by specifying that it is a partial.

The Inventory and Appraisal form identifies all of the decedent’s assets that existed as of the date of death and their respective fair market values at the date of death. The court appoints a California Probate Referee, a neutral third-party professional who evaluates the assets identified on the form, including the real property.

Form DE-161, the Inventory and Appraisal Attachment, is attached and referenced by both the personal representative and the probate referee. For real property that needs to be appraised, the PR lists the address(es), and the probate referee will specify the value in the field next to the address, sign the form, and mail it back to the PR. Once the values are specified, the PR can go back to form DE-160 and specify those assets’ value.

Completing the Inventory and Appraisal form is a team effort. The PR completes a portion of the form and then mails it to the probate referee for completion. The Inventory and Appraisal form is then filed with the court to establish the date of death value of the estate assets.

The probate referee must act promptly, per Probate Code 8940(a), and with reasonable diligence appraise the property and shall, no later than 60 days after receipt of the form should either: (1) return the completed appraisal to the PR, or (2) report of the status of the appraisal and specify the reason why the property hasn’t been appraised along with an estimate of time required to complete the appraisal. This report should be delivered to the PR and then filed with the court.

This form helps the IRS and state taxing authorities determine estate taxes and any applicable capital gain taxes once the real property is sold. The appraisal generated by the probate referee expires after one year.

Step 8: Preliminary Change of Ownership Form

The PR must also file a certification that the requirements of Section 480 of the Revenue and Taxation Code are either not applicable, because the decedent did not own real property in California at the time of death, or, it has been satisfied by filing a change in ownership statement with the county recorder or assessor of each county in California in which the decedent owned property at the time of death that is subject to probate proceedings.

Step 9: Your Agent Prepares the Probate Referee

The probate referee conducts a drive-by evaluation of the property, which does not result in accurate pricing without considering its condition.

Since the probate referee does not enter the property and therefore does not conduct a valuation based on the property’s interior condition, your agent should provide you with interior photos and a repair list with estimated costs for repair so that it can be provided to the probate referee for more accurate pricing.

Full or Limited Authority? (Decision Point D1)

The Independent Administration of Estates Act (IAEA) issues either full or limited authority to the PR of the decedent’s estate. Unless the decedent’s will states otherwise, PRs have full authority to act under IAEA. The selling or exchanging of real property is one of the many actions that require issuing a Notice of Proposed Action (NOPA), when the PR has full authority, and there is no court-supervised hearing. The PR gives notice to the beneficiaries that some actions will be

taken and to either agree and consent to it, or give their written objections. This allows for any objections to be made known before the sale, which can be addressed. If the PR doesn’t issue a NOPA and sells a home, a beneficiary can later file a lawsuit.

If the decedent’s will states that the PR has limited or specific authority, court approval is required before the PR can take action. The PR may decide that they want a court-supervised process due to contentious beneficiaries or heirs or other reasons, and Probate Code 10404 allows for that. PRs who have limited authority may not sell or exchange real property without first obtaining the court’s approval.

Other Considerations

Aside from the probate process, the PPF handling the sale of real estate should consider a wide range of topics that will result in the highest possible return while mitigating risk. They include setting proper expectations with your probate agent, pre-marketing strategies, getting the property vacant either via CFK/voluntary buyout agreement or eviction process, getting the probate property ready for market, valuations, real estate disclosures, marketing, probate specific terms in purchase agreements, offer management, as well as insurance and tax implications.

**This article is an excerpt from Orit’s recently published book, titled “The Practitioner’s Handbook for Probate Real Estate”.*



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Meredith Prichard Jensen
Wealth Management
at Morgan Stanley

PLANNING FOR THE RISING COSTS OF HEALTH CARE

Health care costs are rising—especially for retirees, and many will need long-term care. Learn the moves you can make to help prepare yourself.

Longer lifespans and rising health care costs are driving investors to control their financial exposure to uncovered bouts of care—particularly in retirement.

According to the U.S. Centers for Medicare and Medicaid Services, the U.S. spends approximately \$3.6 trillion a year on health care, or nearly \$11,172 per person. Overall spending rose 4.6% in 2018,¹ faster than the pace of inflation or wage growth. As spending rises, patients are also shouldering a larger share of treatment costs—driving up out-of-pocket expenses. The elderly, who require the most care, often bear the brunt of the costs.

It is important to take steps to minimize your financial exposure to uncovered medical costs. But whereas your incentives for saving for retirement are easy to digest—to be able to afford a desired lifestyle after your working years—planning for the less palatable aspects of old age can be more challenging.

Health Care Costs Planning

A report from the U.S. Department of Health and Human Services estimates that 70% of people turning 65 will need some type of long-term care services in their remaining years.²

One year in a private room in a nursing home costs \$105,266 today and is projected to reach \$190,122 in 20 years.³ Even with a robust portfolio, you may have trouble handling such large costs with savings on hand.

Many adults nearing retirement age are concerned about health-care costs but unsure how to budget for them. More than half of affluent, older Americans are unsure or can't estimate what their annual health care (53%) or long-term care costs (67%) in retirement will be.⁴

Those fears are warranted. An average retired couple age 65 in 2020 may need approximately \$295,000 in after-tax savings to cover health care expenses in retirement. Their actual cost will depend on when they retire, lifespan, and health situation.⁵

Should they encounter serious medical trouble, the costs will be even higher. Many Americans aren't even aware of the uninsured costs they may face in these cases. A stroke, for example, may cause paralysis, warranting expensive 24-hour assistance.

Medicare Part A covers nursing facility care for a limited time, but only after a qualified hospitalization. However, Medicare will not pay for nursing homes when custodial care is the only care needed; nor will it pay for care for conditions such as Alzheimer's disease. Patients suffering from Alzheimer's or other cognitive ailments may live for many years, all the while requiring assistance and, as the disease worsens, expensive hands-on assistance.

Protection for Retirement Savings

By the time people reach their 30s, they tend to have a pretty good idea of the lifestyle they want to pursue, including in retirement, says Kristi Rodriguez, the National Sales Manager for insurance provider Nationwide. There are a number of ways to save for retirement with your future health care needs in mind.

Investors in their 30s or early 40s, Rodriguez says, may weight their retirement-funding strategies toward a portfolio of mutual funds or a managed-account solution, to provide upside exposure to the market. Given lower premiums for younger policyholders, long-term care insurance should also be a consideration, she says.

These days, only a handful of insurers offer long-term care insurance, so another option may be life insurance with a long-term care rider, which allows families to tap into the benefits they would receive upon the policyholder's death, while he or she is alive and requires care.

Another option for funding long-term care expenses is to withdraw or borrow money from life insurance policies, or generate income from annuities. Note that either of these options would probably fall short of covering costs if someone needs care for many years.

Paying for Unexpected Health Care Costs

A final consideration is what to do when you're faced with a large unexpected medical bill today. One answer may be a securities-based loan, which allows qualified clients to use the eligible securities in a brokerage account as collateral for a loan or line of credit, often at a competitive rate. When faced with a large health-care expense, investors often liquidate financial assets to pay for immediate needs. However, this strategy may have unintended costs, such as tax consequences, potential loss of future growth or an imbalance in your portfolio's asset allocation.

Once approved, a securities-based loan can provide quick access to funds for a variety of needs with the potential to maintain your long-term investment strategy. Your Morgan Stanley Financial Advisor can provide you with additional information and help determine if this is the right strategy for you.

Protect Your Finances and Your Health

As health care costs continue to rise, it's important to understand the options you have to help protect the assets you've spent a lifetime accumulating. Your Morgan Stanley Financial Advisor has access to multiple long-term-care products from a wide variety of respected insurers and can help you choose the one that offers the optimal combination of cost and benefits.

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1 Source: U.S. healthcare spending to climb 5.3% in 2018 Agency: <https://www.reuters.com/article/us-usa-healthcare-spending/us-healthcare-spending-to-climb-53-percent-in-2018-agency-idUSKCN1FY2ZD>

2 LongTermCare.gov, "How Much Care Will You Need?" October 2020, <https://longtermcare.acl.gov/the-basics/how-much-care-will-you-need.html>

3 Genworth 2017 Cost of Care Survey, conducted by CareScout®, June 2017

Cost estimate based on 365 days of care. Estimates how much care might cost in future years based on 3% annual inflation. <https://www.genworth.com/aging-and-you/finances/cost-of-care.html>

4 Source: Retirement Healthcare Cost: <https://www.nationwide.com/personal/about-us/newsroom/press-release?title=062618-nf-healthcare-survey>

5 Source: How to plan for rising health-care costs: <https://www.fidelity.com/viewpoints/personal-finance/plan-for-rising-health-care-costs>

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LEGISLATIVE UPDATE



Jerry Desmond
PFAC Legislative Advocate,
Desmond & Desmond, LLC

ADVOCATING TO PROTECT PROFESSIONAL FIDUCIARIES SERVING IN THE ROLE OF CONSERVATORS/ GUARDIANS

Your Leadership and Legislative Committee, together with PFAC's legislative advocate, continue advocacy efforts to ensure that the policy makers understand the vital role of licensed professional fiduciaries. A key measure we continue to work on is AB 1194 which is authored by Assembly Business and Professions Committee Chair Evan Low. The measure is described as follows:

"This bill, with respect to guardians and conservators, enhances oversight and investigations, augments remedies and penalties for misconduct, and imposes certain restrictions on fees and compensation. The bill also requires the Judicial Council, by January 1, 2023, to conduct a study regarding conservatorship cases."

AB 1194 continues to be revised as it moves forward through the legislative process, and our efforts continue. PFAC continues to advocate that specific amendments, relevant to professional fiduciaries, be included in AB 1194. Specifically PFAC's efforts are focused on:

- The provision of AB 1194 that would require fiduciaries with an internet presence to include their fee schedules on their websites;
- The provision of AB 1194 that would require the Fiduciary Bureau to revoke a fiduciary license upon notification by the court that the court had removed a fiduciary for cause or been found to have breached a fiduciary duty; and
- The provision of AB 1194 that eliminates the court's discretion to award fees and costs to a fiduciary who unsuccessfully defends a fee request resulting in the fee request being either reduced or denied.

Other Legislation PFAC's leadership and legislative committee continue to be engaged and to lobby on PFAC's behalf.

1. Additions to Title 16 of the California Code of Regulations proposed by the Fiduciary Bureau which would require licensed fiduciaries to give notice that the licensee is licensed by the Bureau at the inception of a matter and as part of any and all communications with "interested persons". As currently drafted, the Bureau has defined "interested persons" quite broadly to include not only interested persons as defined by the probate code, any person who is interested in a fiduciary's performance in a particular matter. For purposes of potential inspection by the Bureau, licensed Fiduciaries would be required to maintain copies of or maintain a record of any and all notices given in compliance with this requirement
2. AB 1062 (Mathis) which would (a) amend Probate Code Section 2465 to require a guardian or conservator to give 15-days written notice of their intention to dispose of or abandon valueless property and allows those who receive such notice to file a petition with the court to resolve any dispute concerning such property; and would (b) add Section 2465.5 to the Probate Code which would require that where a guardian or conservator become successor trustee of the minor's or conservatee's trust, such trust would be under the continuing jurisdiction and supervision of the court.



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3. AB 465 (Nazarian) which would amend Section 64538 of the Business and Professions Code (fiduciary act) to (a) require that pre-licensing education include one-hour of instruction in cultural competency; and (b) as part of continuing education requirements, would require licensees to complete one-hour of instruction in cultural competency each year.

We will continue to provide updates as information becomes available.

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CONFERENCE UPDATES

REUNITED AND IT FEELS SO GOOD!

It's been 15 long months since PFAC's last in-person conference and what better place to celebrate coming back together than the beautiful Hotel Del Coronado! The 2021 program is full of education for new and seasoned fiduciaries and features fun networking opportunities as well.

COVID-19

PFAC has structured the 2021 conference as a hybrid event. We welcome those who feel comfortable meeting in person and for those who don't want to gather, you can take advantage of pre-conference intensives and all General Sessions through a livestream experience. Members who attend the full conference receive an additional benefit of up to five CEs of recorded breakout sessions from the conference accessible through April 30, 2022 – for FREE!

If you attend in person, rest assured that PFAC is taking all necessary precautions regarding COVID-19. Masks will be required in all meeting rooms and sanitation stations will be set up at meeting room entrances. Pick up your wristband at registration that will let people know your greeting preference. Green means HANDSHAKES/HIGH 5's; Yellow means OKAY WITH TALKING, NO TOUCHING; Red means KEEPING MY DISTANCE.

Program Highlights

The 2021 Conference Program includes over 15 CEs, 10.5 MCLE, and new this year, 9.5 LSW CEs. The program includes a host of expert speakers including sitting and retired judges, estate and probate attorneys, probate referees, and experienced professional fiduciaries. This is one of the most content-rich conferences to date. You won't want to miss it!

Networking Highlights

This is the time to reconnect with your fiduciary colleagues after a long COVID-19 inspired hiatus. The networking begins at the Wednesday evening Welcome Reception. Enjoy some appetizers and beverages while you chat with friends new and established. On Thursday, stroll through the Exhibit Hall, participate in the raffle, and enjoy California wines at the afternoon tasting. You'll even get to take home a souvenir glass. On Friday, enjoy dinner on the beautiful ocean-front Windsor Lawn and then dance in the sand to Radio Thieves while you play beach games and enjoy dessert.

There are so many places to be outdoors, COVID-safe, while you chat and network with colleagues. The Hotel Del Coronado is the perfect place to experience the conference on your own terms.

Games and Prizes

Make sure to download the app when you're at the conference to participate in all of the virtual fun. We'll be running lots of fun games with wonderful prizes that will help you experience all of our world-class sponsors and exhibitors offers. Please visit the conference page and check out our sponsors and exhibitors. They help make it possible to hold the conference at a destination like the Hotel Del Coronado and we are so appreciative of their support.

[Visit PFACmeeting.org](https://PFACmeeting.org) for further information and to register.



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