

**Chapter 13**

**Blocked Accounts in Guardianships, Conservatorships, Decedent’s Estates and Trusts**

**Rule 613.01 Forms**

Orange County forms are available in connection with blocked accounts and must be used where applicable. The forms are described below:

Deposit of Minor’s Funds

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|----|---|-----|
| A. | Petition for Order Re Deposit of Money Belonging to Minor [Probate Code Sections 3410 et seq.] (Probate Department) | 735 |
| B. | Order Re Deposit of Minor’s Funds [Probate Code Sections 3412 (a) and 3413 (a)] (Probate Department – Ex Parte)     | 738 |
| C. | Order to Deposit Money and Receipt of Depository (Minor)  | 880 |

Transfer of Minor’s Funds

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|----|---|-----|
| D. | Ex Parte Petition for Order Re Transfer of Money Belonging to Minor and Order | 754 |
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Deposit of Decedent, Conservatee’s Trust Funds

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|----|---|-----|
| E. | Order to Deposit Money and Receipt of Depository (Probate Department – Decedent or Conservatee) | 732 |
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Withdrawal of Funds (Minor, Decedent, Conservatee, Trust)

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|----|---|-----|
| F. | Petition for Authority to Withdraw Funds Deposited pursuant to Court Order (Minor, Conservatee or Deceased) | 69  |
| G. | Order for Withdrawal (Minor, Conservatee or Deceased)   | 153 |

(Revised effective July 1, 1993; revised effective July 1, 2008)

**Rule 613.02 General Information on Blocked Accounts**

A. Notice of Hearing

If the petition merely seeks the deposit of funds or the deposit of funds subject to reimbursement for costs expended for the filing of the petition, the petition may be granted by the court without notice. If, however, attorneys’ fees (or other

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items) are sought, the matter may be set by the court for hearing on calendar, in which case, the clerk will notify the attorney, or, if there is no attorney, the petitioner of the hearing date and time. Upon such notification, such person shall give mailed notice of the hearing and proceeding to all interested persons at least 15 days before the date of the hearing and submit proof of service thereof no later than 4:00 p.m. four court days prior to the hearing.

B. Title to Account

The title to any blocked account shall show the name of the minor, conservatee or estate.

C. Account Requirements

All deposits into blocked accounts shall be into federally insured, interest bearing accounts having no maturity date unless otherwise ordered by the court. If funds are to be placed in an account having a maturity date, the applicant and counsel are cautioned that sufficient funds should be maintained in another account to pay reasonably foreseeable expenses, such as taxes, without incurring penalties or loss of interest.

D. Maximum Amount in Blocked Account

The maximum initial deposit into any one blocked account shall be Ninety Thousand Dollars (\$90,000). In no event shall more than One Hundred Thousand Dollars (\$100,000) be held in any one federally insured depository. If it is necessary to transfer funds to an additional federally insured depository to comply with this rule, a petition to transfer funds (such as Form 754) shall be submitted.

E. Withdrawals

Except in the case where a minor becomes an adult and the order for deposit provides for automatic withdrawal by the minor upon attaining majority, no withdrawals of principal or interest shall be made without the prior written order of the court. (See Rule 613.04 for minors who attain majority.)

A certified copy of the court's order bearing the impression seal of the court must be submitted to the depository at the time of withdrawal and the certified copy will be retained by the depository. Only one certified copy of the order for withdrawal will be provided by the court. A copy of the order to be certified and the certification fee should be submitted with the petition and order, together with the copies requested to be conformed.

F. Depository Receipts

The orders for deposit (Forms 732 and 880) are quadruplicate forms, the original of which will be signed by the court and filed. The remaining three copies will be returned to the attorney or applicant for delivery to the depository. The branch manager or office of the depository must sign the receipt on the blue copy and return it to the court, present the white copy to the attorney or applicant, and retain the yellow copy.

All depository receipts of depository must be completed by the depository and the blue copy filed with the court within 30 days of the date that the order for deposit

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is signed. If the receipt is not on file by that date and no extension of time has been granted, the applicant will be cited to appear before the court. In addition to the court's other remedies, sanctions pursuant to Code of Civil Procedure section 177.5, not to exceed fifteen hundred dollars (\$1,500), may be imposed if funds are not deposited as required. Requests for an extension of time should be made by ex parte written application submitted prior to 4:30 p.m. on the day which is two court days before the end of the 30 day period.

### **G. Separate Petitions and Blocked Accounts for Each Minor**

A separate petition must be filed for each minor whose funds are to be deposited in a blocked account. A separate blocked account shall be established for the funds of each minor.

(Revised effective July 1, 1993; revised effective July 1, 2008)

### **Rule 613.03 Deposit of Minors' Funds in Blocked Accounts (No Guardianship Estate)**

To obtain an order for the deposit of a minor's funds in a blocked account, Form No. 735 should be submitted with Form No. 738 and Form No. 880, all of which should be completed and signed by the applicant.

If the applicant has reason to believe the minor will be unable to manage his or her own financial affairs upon attaining majority because of mental or physical incapacity, the applicant should file a verified declaration with the petition explaining the situation. The court may strike the language in the orders requiring automatic release to the minor upon attaining majority.

(Revised effective July 1, 1993)

### **Rule 613.04 Withdrawal of Funds of Former Minor Now 18 Years or Older**

If the court order establishing the blocked account states the funds are to be paid by the depository without further order of the court to the former minor when the former minor reaches the age of majority, the depository may pay the funds directly to the former minor without further court order. If the depository requires a certified copy of such order, the amount of the certification fee (together with a copy of the order, request for certification, and a stamped, self-addressed envelope) should be sent to the Probate Division of the Clerk's Office.

If the court order establishing the blocked account does not provide for payment to the former minor without further court order, or if the depository requires a new order for withdrawing the funds, a completed Form 69.4 and Form 153.4 should be submitted. The petition must be signed by the former minor and the former trustee/guardian and it must be verified by the former minor. If the funds were deposited in a guardianship, the attorney of record must also sign the petition. If the applicant cannot locate the attorney through local directories, the applicant should contact the membership section of the California State Bar. If the attorney's signature cannot be obtained, a declaration of explanation should be submitted.

The forms should be submitted with a certified copy of the birth certificate (or the former minor may appear with a valid California driver's license) and either:

- A. an updated savings passbook or statement showing all entries since the account was opened; or

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(issued 07/01/08)

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- B. a letter from the depository identifying the account and setting forth the dates and amounts of all withdrawals and the current balance.

A certified copy of the order should be submitted to the depository. To obtain a certified copy, the amount of the certification fee (together with a stamped, self-addressed envelope) should be sent to the Probate Division of the Clerk's Office.

(Adopted effective July 1, 1992)

### **Rule 613.05 Withdrawals during Minority**

All requests for withdrawal of minors' funds held in blocked accounts (including funds deposited pursuant to orders compromising minor's claims) shall be made by petition (Form 69.4) to the probate court. Requests for withdrawals may be presented ex parte. In all cases, whether or not set for hearing, sufficient documentation to support the request must be submitted with the petition.

In addition to the trustee/guardian, minors age 14 or over must sign and date the petition or an explanation for the absence of the minor's signature must be provided.

Except for withdrawals to pay taxes on a minor's funds, orders for withdrawals will ordinarily not be granted if either or both parents are living and financially able to pay the requested expenditure. Except for petitions for withdrawals to pay taxes, a financial declaration by the parents or parent describing their income and expenses must be attached to the petition.

A statement regarding the minor's employment and income, if any, must be attached.

Copies of bills, statements or letters related to the request must be attached to the petition.

For requests for payments of taxes on the minor's funds, copies of the applicable tax returns must be submitted separately with the petition but should not be attached to the petition.

If a withdrawal is requested for the purchase of a car, a copy of the proposed purchase/sale agreement must be attached to the petition showing the type of car, year, purchase price, and whether payment will be made in full or in specified installments. A binding agreement should not be entered into before obtaining a court order as the petition may be denied. In addition, a casualty insurance quote must be attached to the petition showing that the minimum public liability coverage equals or exceeds the funds which will remain on deposit after the purchase, and the petition must contain an explanation of who will pay for the insurance.

If the request for withdrawal pertains to medical care or an accident or other casualty, an explanation as to why the expense is not covered by insurance must be included.

If the request is for reimbursement for an expense already paid, proof of payment (i.e. canceled check or receipt) must be attached to the petition.

(Adopted effective July 1, 1992)

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### **Rule 613.06 Deposit of Funds of Guardianship Estate in Blocked Account**

A request to deposit funds of a guardianship estate in blocked accounts may be included in the petition for appointment or made by subsequent petition for the purpose of reducing bond. Form 880, completed and signed by the applicant, should be submitted along with the order granting the petition before the court.

If the applicant has reason to believe the minor will be unable to manage his or her own financial affairs upon attaining majority because of mental or physical incapacity, the applicant should file a declaration with the petition explaining the situation. The court may strike the language in the order requiring automatic release to the minor upon attaining majority.

If a minor's estate consists of money only, a guardian of the estate may not be necessary as the funds may be deposited in blocked accounts as set forth in Rule 613.03. However, where a guardian of the estate has been appointed, the deposit of funds of the guardianship estate into blocked accounts does not relieve the guardian of his or her duty to file the inventory. The guardian must file accounts unless the Court has made an order dispensing with accounts pursuant to Probate Code section 2628. If the minor's estate consists entirely of funds which can be deposited in blocked accounts, the guardian may wish to terminate the guardianship of the estate.

(Revised effective July 1, 1993)

### **Rule 613.07 Withdrawal of Guardianship Estate Funds from Blocked Account**

For the withdrawal of funds of a guardianship estate from a blocked account, the procedures described in Rules 613.04 and 613.05 are to be followed. In addition the guardian's attorney of record should also sign the petition.

(Adopted effective July 1, 1992)

### **Rule 613.08 Deposit of Decedent's or Conservatee's Estate Funds in Blocked Account**

A request to deposit a decedent's or a conservatee's funds in blocked accounts may be included in the petition for the appointment or made by subsequent petition for the purpose of reducing bond. Form 732 completed and signed by the applicant should be submitted along with the order granting the petition before the court.

(Adopted effective July 1, 1992)

### **Rule 613.09 Withdrawal of Decedent's or Conservatee's Estate Funds from Blocked Account**

Form 69.4, completed and signed by the applicant should be submitted along with Form 153.4. A certified copy of the order is to be submitted to the depository. To obtain a certified copy, send the amount of the certification fee with a stamped, self-addressed envelope to the Probate Division of the Clerk's Office.

(Adopted effective October 1, 1985; revised eff. September 1, 1986; revised eff. January 1, 1988; revised eff. February 10, 1989; revised eff. August 28, 1989; revised eff. July 1, 1992)

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(issued 07/01/08)