

CHAPTER 41
ESTATES OF MISSING PERSONS

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§ 41101. Estates of Missing Persons: Petition for Trustee.

Whenever any resident of the Territory of Guam, who owns or is entitled to the possession of any real or personal property situated therein, is missing, or his whereabouts unknown, for 90 days, and a verified petition is presented to the Superior Court by his wife or any of his family or friends, representing that his whereabouts have been, for such time, and still are unknown, and that his estate requires attention, supervision and care of ownership, the court must order such petition to be filed, and appoint a day for its hearing, not less than 10 days from the date of the order. The clerk of the court must thereupon publish, for at least 10 days prior to the day so appointed, a notice on the public bulletin boards in Agana, stating that such petition will be heard at the courtroom of the court at the time appointed for the hearing. The court may direct further notice of the application to be given in such manner and to such persons as it may deem proper. At the time so fixed for such hearing, or at any subsequent time to which the hearing may be postponed, the court must hear the petition and the evidence offered in support of or in opposition thereto, and, if satisfied that the allegations thereof are true, and that such person remains missing, and his whereabouts unknown, must appoint some suitable person to take charge and possession of such estate, and manage and control it under the direction of the court. In appointing a trustee, the court must prefer the wife of the missing person (if any such there is), or her nominee, and, in the absence of a wife, some person, if such there is who is willing to act, entitled to participate in the distribution of the missing person's estate, were he dead.

SOURCE: CCP § 1822 (Part III, Title XI of the CCP.)

§ 41102. Bond of Trustee.

Every person appointed under the provisions of the preceding section must give bond in the amount determined by the judge of the Superior Court, conditioned that the trustee shall faithfully execute the duties of the trust according to law.

SOURCE: CCP § 1822a.

§ 41103. Powers and Duties of Trustee.

The trustee must take possession of the real and personal estate in Guam of such missing person, and collect and receive the rents, income, and proceeds thereof, collect all indebtedness owing to him, and pay the expenses thereof out of the trust funds, and pay such indebtedness of the missing person as may be authorized by the court. The court may direct the trustee to pay to the person or persons constituting the family of the missing person such sum or sums of money for family expenses and support from the income of the estate as it may, from time to time, determine. The trustee must, from time to time, when directed by the court, account to and with it for all his acts as trustee, and the court may, at any time, upon good cause shown, remove any trustee, and appoint another in his place.

SOURCE: CCP § 1822b.

§ 41104. Sale of Property: Procedure: Court Order.

The trustee may sell any or all of the personal or real property of the missing person when it is considered by the court as being in the best interest of the estate and all parties concerned, including the heirs at law or legatees, and for that purpose shall file a petition with the court asking for an order directing and authorizing such sale. This petition shall be set for hearing not sooner than 10 days after the filing of said petition and notice thereof shall be given by the clerk of the court by posting a notice at the place where the court is held. Notice shall also be given to each of the persons who would be heirs at law of the missing person if he were dead, and if it appears that such missing person left a will, then like notice to each legatee mentioned therein, at their respective places of address. If the address of any such person is unknown, said notice may be by publication.

On the day of hearing the petition, proof shall be offered in behalf thereof showing the reasons for the making of said sale, and if the court finds that it will be for the best interests of all persons concerned in the estate of said missing person to have said sale made, it shall order the trustee to sell any or all said property, real, personal or both in the manner provided for sales of property of deceased persons, and all the provisions of law regarding such sales shall govern the sales of property of missing persons under this section, including the provisions concerning confirmation of the sales by the court; provided however, that any such sale of real property shall not take place before the expiration of eight (8) months from the date of the appointment and qualification of the trustee.

SOURCE: CCP § 1822c.