

Linda Kincaid, MPA

20255 Glasgow Drive
Saratoga, CA 95070
408-998-4642

November 1, 2013

Teri Scarlett
Chief Deputy Public Guardian
Monterey County Public Guardian
2620 1st Avenue
Marina, CA 93933

RE: Conservatorship of Margarita Zelada & Abuses by the Public Guardian

Dear Ms. Scarlett,

The Monterey County Board of Supervisors requested I contact you for information concerning the conservatorship of Margarita Zelada. I have a number of concerns about the activities of Deputy Public Guardian Jennifer Empasis and the situations created by her activities.

The conservatorship of Margarita Zelada was based on false allegations by Ms. Empasis. The conservatorship has been characterized by gross violations of civil rights and heinous elder abuse by Ms. Empasis. It is time to terminate the inappropriate and abusive conservatorship and to make Ms. Zelada whole to whatever degree is possible. It is also time to hold Ms. Empasis accountable for her actions.

My understanding of the narrative below is from interviews of multiple witnesses and review of relevant documents. As more information comes to light, I anticipate I will have additional questions.

Margarita Zelada Begs for Her Liberty

Ms. Zelada has been unlawfully confined and isolated since March 2013. Senior Paradise keeps doors locked and denies nearly all visitation and phone calls, all of which are flagrant violations of Title 22 licensing regulations.

On August 2, 2013, Margarita's niece Bonnie Lind flew from Texas to Monterey County, expecting to visit with Ms. Zelada on Saturday and Sunday. Ms. Zelada was allowed a one-hour visit with Ms. Lind on Saturday. Further visitation was denied. Ms. Camara sent the following email to Ms. Lind.

Hi Bonnie,

I think we are going to need to postponed the visit on Sunday to another day.

*Margarita had a very upsetting day and it is best to postpone the visit.
If you have any questions, please contact Jennifer on her cell 831-594-6550
Thank you so very much for understanding
Margaret*

Ms. Lind responded with the email below.

This deeply saddens me. Shall we postpone until Monday, then? Or are you saying I can't visit her at all? I have gone to considerable expense to visit my aunt. I doubt she has many visitors. I only spent a short time with her yesterday. Please let me know how she is doing today and if you will please change your mind.

Bonnie Lind

Ms. Lind also left numerous phone messages for Ms. Camara and for Ms. Empasis. There was no response to Ms. Lind's requests to visit with her aunt. Ms. Zelada did not see her niece again.

On October 20, 2013, elder advocate Dr. Robert Fettgather and I attempted to visit Ms. Zelada at Senior Paradise. We found the front door secured with three locks, a violation of 22 CCR 87468(a)(6). No one was allowed to enter or leave the facility. Ms. Camara admitted knowledge of the resident's right to visitation under 22 CCR 87468(a)(11). She also admitted knowledge of the conservatee's right to visitation stated in the Notice of Conservatee's Rights (GC-341).

However, Ms. Camara told us that Ms. Empasis gave instructions to call the police if anyone asked to visit Ms. Zelada. Ms. Camara chose to follow unlawful instructions from Ms. Empasis and violate the rights of her resident.

On October 31, 2013, Margarita Zelada and her daughter Patricia Conklin were allowed to see each other for the first time in seven months. Mother and daughter flew into each other's arms, sobbing and embracing for an extended period of time. Ms. Zelada asked her daughter over and over why they had been apart and why Ms. Zelada was kept in prison. The visit was attended by two large and intimidating guards who often intruded in the conversation.

Ms. Zelada was a shadow of the person had been prior to her ordeal with the Public Guardian. Video from early 2013 shows a spirited and forceful woman who was self-assured and quick to give her opinion. After seven months under Ms. Empasis' control, Ms. Zelada appeared physically feeble and emotionally traumatized. Her demeanor was that of a person who endures continual abuse. Ms. Zelada's teeth (dental implants) were gone, leaving her with poorly fitting dentures. Ms. Conklin said she had never seen her mom so fearful.

Although fearful, Ms. Zelada clearly stated her wish to end the conservatorship.

The most important thing for any person is their liberty. I want my liberty. I am in prison.

Ms. Zelada begged for her isolation to end.

Please come and see me. It would make me so happy to have visitors, and I would love to talk to you. Please come visit with me.

Ms. Camara separated mother and daughter, Ms. Zelada still clinging to her only child. When this reporter asked Ms. Camara if Senior Paradise would now honor Ms. Zelada's right to visitation, she responded:

I'm not going to get into this with you.

In violation of Ms. Zelada's wishes, Ms. Camara transported Ms. Zelada away from her daughter. Ms. Zelada is again locked in her despised "prison."

1. Under what authority does the Public Guardian order a conservatee to be locked inside a facility and denied her right to leave?
2. Under what authority does the Public Guardian order that a conservatee be denied her right to visitation and phone calls?
3. Under what authority does the Public Guardian have a resident's dental implants removed?

Jennifer Empasis Violates the Probate Code

The Probate Code requires that a conservatee be placed in the least restrictive residence. The least restrictive residence is presumed to be the conservatee's own home.

Probate Code 2352.5. (a) It shall be presumed that the personal residence of the conservatee at the time of commencement of the proceeding is the least restrictive appropriate residence for the conservatee.

Ms. Zelada owns a comfortable home in San Francisco's very desirable Outer Sunset district. The family home has many special amenities lovingly crafted by Ms. Zelada's late husband. Ms. Zelada has ample financial resources to install a stair elevator if needed to improve accessibility. Alternately, Ms. Zelada could reside in the downstairs apartment with convenient access to her beloved rose garden.

However, Ms. Zelada is unlawfully confined and isolated at Senior Paradise; a facility that she believes is a prison. Ms. Zelada stated that she is required to help care for other residents, including changing sheets on their beds. Family and advocates confirmed that Ms. Zelada is denied her right to not be locked inside the facility, and she is denied her right to visitation. Ms.

Empasis pays \$7K/month from Ms. Zelada's estate to Senior Paradise for their violation of Ms. Zelada rights.

While Ms. Zelada languishes at Senior Paradise, her home at 2200 47th Avenue in San Francisco sits vacant. Property taxes have not been paid since November 13, 2012.

Ms. Empasis changed the locks on Ms. Zelada's home. Ms. Conklin is denied access to her own personal property in the San Francisco home.

1. Under what authority does the Public Guardian determine that confinement and isolation of a conservatee in an abusive facility is less restrictive than residing in the conservatee's own home?
2. Under what authority does the Public Guardian require a conservatee to perform menial chores at a care facility?
3. Under what authority does the Public Guardian leave a conservatee's residence vacant and unmaintained?
4. Under what authority does the Public Guardian refuse to pay property taxes on a conservatee's residence?
5. Under what authority does the Public Guardian deny a family member access to her own personal property in the conservatee's primary residence?

Jennifer Empasis Violates Margarita Zelada's Rights as a Conservatee

The Notice of Conservatee's Rights states that a conservatee retains the right to have visitors. However, Ms. Empasis instructed Senior Paradise to unlawfully violate Ms. Zelada's rights, and the facility follows those unlawful instructions. It is grossly inappropriate for Ms. Zelada's estate to pay for unlawful confinement and isolation in an abusive situation.

The Notice of Conservatee's Rights further states that a conservatee has the right to object to the conservatorship. However, Ms. Zelada's March 2013 temporary conservatorship hearing was conducted ex parte and without input from Ms. Zelada, family, or friends. Ms. Zelada was not allowed to participate in her June 2013 general conservatorship hearings. Family and friends were again excluded. At each stage, Ms. Empasis denied Ms. Zelada's right to due process.

When Ms. Zelada was brought to Ms. Conklin's September 2013 criminal trial, Ms. Empasis told Ms. Zelada that she was in court for her immigration hearing. Ms. Zelada had no opportunity to give testimony on the events leading to her daughter's prosecution for elder abuse.

1. Under what authority does the Public Guardian deny a conservatee her right to object to a conservatorship proceeding?
2. Under what authority does the Public Guardian deny a conservatee her right to visitors?
3. Under what authority does the Public Guardian deny a conservatee her right to testify in her daughter's defense at trial?

Jennifer Empasis Made Unsubstantiated Allegations of Financial Abuse

It is my understanding that Ms. Empasis, in late July 2012, made numerous allegations that Ms. Conklin financially abused Ms. Zelada. As a result of those allegations, the Public Guardian was appointed temporary conservator of Ms. Zelada's estate.

Ms. Empasis alleged that Ms. Conklin isolated Ms. Zelada, when Ms. Zelada was in fact visiting family in Peru for six months. Ms. Empasis alleged that Ms. Conklin improperly accessed Ms. Zelada's funds, when in fact Ms. Conklin had power of attorney and was managing Ms. Zelada's financial affairs as instructed by Ms. Zelada.

Ms. Empasis took control of both Ms. Zelada's and Ms. Conklin's assets. Ms. Empasis confiscated Ms. Conklin's automobiles and personal property. Ms. Empasis terminated Ms. Conklin's lease on the Pacific Grove home that Ms. Zelada and Ms. Conklin were in contract to purchase.

Court appointed attorney Chris Campbell required that Ms. Conklin terminate renters in Ms. Zelada's primary residence in San Francisco. At this point, it is not yet clear what illicit agreements might exist between Ms. Empasis and M.s Campbell.

It is my understanding that allegations of financial abuse were not substantiated, and no charges of financial abuse were filed. It is not clear why the Public Guardian retained control of the combined Zelada / Conklin estates.

1. What investigations did the Public Guardian conduct to determine whether Ms. Conklin isolated Ms. Zelada during the time Ms. Zelada was in Peru?
2. What investigations did the Public Guardian conduct to determine whether Ms. Conklin managed Ms. Zelada's financial affairs according to Ms. Zelada's instructions?
3. Under what authority did the Public Guardian seize control of Ms. Conklin's assets?
4. Under what authority did the Public Guardian confiscate Ms. Conklin's automobiles?
5. Under what authority did the Public Guardian terminate Ms. Conklin's lease on her home?
6. Under what authority did the Public Guardian retain conservatorship of Ms. Zelada's estate after allegations of financial abuse were deemed to be unfounded?
7. Under what authority did the Public Guardian retain control of Ms. Conklin's assets?
8. Did the Public Guardian instruct Ms. Campbell to require Ms. Conklin to terminate the renters in Ms. Zelada's home?

Jennifer Empasis Made False Allegations of Physical Abuse

It is my understanding that Ms. Empasis, beginning in March 2013, made numerous allegations that Ms. Conklin physically abused Ms. Zelada. Ms. Zelada stated to numerous witnesses on numerous occasions that Ms. Conklin never abused her in any way. Ms. Zelada has consistently held the position that her March 1, 2013 fall was an accident.

Ms. Empasis alleged that on March 1, 2013, Ms. Conklin shoved Ms. Zelada to the floor during an argument. However, Ms. Empasis was aware that Ms. Zelada repeatedly stated the fall was an accident.

Ms. Empasis alleged that Ms. Empasis sustained a hip fracture that required surgery. However, Ms. Empasis was aware the injury was a hairline fracture that did not require surgery. Ms. Zelada opposed elective surgery for the hairline fracture.

On March 2, 2013, Ms. Zelada received an unwanted elective surgical procedure. Medical records show that consent was “implied” rather than by actual signature. The Public Guardian had not been appointed as conservator of Ms. Zelada’s person. Ms. Conklin, who was Ms. Zelada’s next of kin and health care agent, was not contacted or informed. Ms. Empasis concealed Ms. Zelada’s location and condition from Ms. Conklin for a number of days.

On March 4, 2013, the Public Guardian was appointed temporary conservator of Ms. Zelada’s person and estate. The hearing was ex parte. Ms. Zelada and Ms. Conklin were not notified. Ms. Empasis placed Ms. Zelada at Windsor Monterey Care Center and instructed staff to violate Ms. Zelada’s right to visitors. Ms. Empasis retained the only copy of the letters of conservatorship and did not disclose the conservatorship of the person until late on March 9.

On March 9, 2013, Ms. Zelada was walking well, directing her own care, and asking to leave Windsor. Ms. Zelada called Ms. Conklin numerous times, demanding to return to Ms. Conklin’s home in Pacific Grove. Ms. Conklin engaged Tara Robinson, LVN to attend to Ms. Conklin’s personal needs at home. On that date, Ms. Empasis had not yet served letters of conservatorship on any interested persons.

Ms. Empasis alleged that on March 9, 2013, Ms. Conklin endangered Ms. Zelada by taking Ms. Zelada home from Windsor Monterey Care Center. However, Ms. Empasis was aware that Ms. Zelada demanded to leave Windsor and go home with Ms. Conklin. Ms. Empasis was also aware that any conservatorship of Ms. Zelada’s person had been obtained ex parte and was not served on any interested persons.

Ms. Empasis alleged that on March 9, 2013, Ms. Conklin placed Ms. Zelada in a situation that was likely to cause harm. However, Ms. Empasis was aware that Ms. Conklin took Ms. Zelada to the home they had shared since Ms. Zelada returned from Peru in June 2012. At no time prior to March 9, 2013 had Ms. Empasis found the home to be a situation that was likely to cause harm.

1. Did the Public Guardian authorize Ms. Zelada’s unwanted elective surgery prior to receiving conservatorship of the person?
2. Under what authority can the Public Guardian conceal a person from her next of kin and health care agent?
3. Under what authority can the Public Guardian prevent a temporary conservatee from leaving a skilled nursing facility, prior to serving documents on interested parties?

4. Under what authority can the Public Guardian remove a temporary conservatee from her home, prior to serving documents on interested parties?
5. Under what authority can the Public Guardian determine that a previously acceptable home has become unsafe without inspecting the home?

Jennifer Empasis Took Possession of Conklin's Home, Evicted Renter, Removed Pets

On March 25, 2013, Ms. Empasis entered Ms. Conklin's home at 171 Laurel in Pacific Grove. Through means that are yet to be discovered, Ms. Empasis engaged Sergeant Foster of Pacific Grove Police Department to accompany her to Ms. Conklin's home. Ms. Empasis referred to visiting neighbor Tara Robinson as a squatter and ordered her off the property.

Ms. Empasis falsely alleged that renter Jim Kramer was a squatter and ordered him off of the property. Kramer was given thirty minutes to collect his possessions. No notice to quit was served. No eviction complaint was filed. However, Ms. Empasis told Mr. Kramer that he would be arrested if he returned to the home. Mr. Kramer observed Ms. Empasis remove Ms. Conklin's personal property, including Ms. Conklin's Mercedes and another automobile.

On March 26, 2013, Ms. Empasis had Ms. Conklin's pets removed by animal control.

On May 15, 2013, neighbor Susan Kelly and private investigator Flora Pasqual observed and photographed Ms. Empasis entering Ms. Conklin's home with two men. Those individuals removed televisions, computers, cameras, and mobile devices from the home and placed Ms. Conklin's personal property into Ms. Empasis' vehicle. Ms. Empasis left the front door standing open when she left the home.

Ms. Empasis told Ms. Conklin the home had been burglarized, alleging that burglars entered through the upstairs office window. Ms. Empasis never filed a police report on the alleged burglary. A property inspection report establishes that the upstairs office window is secured and cannot be opened.

As of this writing, Ms. Conklin is still denied entry into her home. Ms. Conklin has no access to warm clothing or shoes needed for cold weather. Personal property removed by Ms. Empasis has not been returned.

Your October 24, 2013 email to Ms. Conklin stated:

Ms. Conklin – our office is not responsible for your personal property. You entered into a rental agreement with Tijuana Walker and should be contacting her about the return of your personal property.

On October 27, 2013, property owner Tijuana Walker sent the following email to Ms. Conklin.

Patty,

I can't get in touch until tomorrow and will let you know. It will take time to coordinate with the public guardian but I know they will be happy to schedule something.

Tia

Ms. Walker's October 27 email to Ms. Conklin is not consistent with your October 24 email. Those discrepancies require explanation.

1. Under what authority can the Public Guardian take possession of a home that is leased by a family member of a conservatee?
2. Under what authority can the Public Guardian order a renter out of a home that is leased by a family member of a conservatee?
3. Under what authority can the Public Guardian order a renter out of his home with only thirty minutes notice?
4. Under what authority can the Public Guardian remove pets belonging to a family member of a conservatee?
5. Under what authority can the Public Guardian to possession of automobiles belonging to a family member of a conservatee?
6. Under what authority can the Public Guardian remove televisions, computers, cameras, and mobile devices belonging to a family member of a conservatee?
7. Under what authority can the Public Guardian terminate a lease held by a family member of a conservatee?

Jennifer Empasis Confiscated Evidence & Threatened Witnesses

It is my understanding that Ms. Empasis confiscated computers, mobile devices, and cameras containing evidence that could have been used to Ms. Conklin's benefit at her trial. It is also my understanding that Ms. Empasis threatened witnesses Jim Kramer and Tara Robinson that they would be subject to criminal prosecution if they testified in Ms. Conklin's favor.

1. Under what authority can the Public Guardian suppress evidence in a criminal investigation?
2. Under what authority can the Public Guardian bring criminal prosecution against witnesses in a criminal investigation?

Conclusion & Request for Correction

Margarita Zelada's conservatorship was based on false allegations by Jennifer Empasis. The conservatorship has been characterized by unbridled abuse of power and violation of rights under color of law. The lives of both Margarita Zelada and Patricia Conklin have been irreparably harmed by Ms. Empasis.

Ms. Zelada and Ms. Conklin have suffered enough at the hands of the Public Guardian. Ms. Zelada asks for her freedom from those abuses. Ms. Conklin asks for her property to be

returned and the harassment to cease. Advocates request a thorough investigation of abuses of power.

The only acceptable action at this point is for the Public Guardian to terminate the conservatorship of Margarita Zelada. It is time to stop the abuse and take steps to make Ms. Zelada and Ms. Conklin whole to whatever degree possible. It is time for justice to be served.

Regards,

Linda Kincaid, MPH