Grand Jury
County of San Joaquin
Courthouse
222 East Weber Avenue-Room 303
Stockton, California 95202
(209)468-3855

FINAL REPORT
CASE #0301 PUBLIC CONSERVATOR'S OFFICE

REASON FOR INVESTIGATION:

At the request of last year's Grand Jury after several serious violations were noted the 2001 - 2002 San Joaquin County Civil Grand Jury did a follow-up review of the Conservator's Office. The scope of the review was to evaluate the daily operations of the Conservator's Office to assure compliance with generally accepted accounting principles (GAAP) and overall preservation of monies under the control of said office.

BACKGROUND:

The Public Conservator's Office is a department of Mental Health Services. It is the responsibility of the Conservator's Office to provide conservatorship investigations, administration and case management services (including safeguarding the conservatee's legal, civil and property rights) for all persons in need of such services.

Therefore, this report reflects the current policy, procedures, and the overall operation of the Public Conservator's Office.

METHOD OF INVESTIGATION:

Members of the Grand Jury reviewed, in detail, previous Grand Jury files and in particular last year's Grand Jury working papers. In addition, we reviewed the working file of the CPA firm, Moss Adams LLP, who provided an external compliance exam. Further, the Grand Jury met several times with senior management at the Conservator's Office, including Mr. Roger Speed, Director of San Joaquin County Health Services, Mr. Bruce Hopperstad, Director of Mental Health Services, Mr. Glade Gessell, Public Conservator, and Ms. Lauri Tribbey, Deputy Public Guardian.

Finally, the Grand Jury interviewed three (3) members of last year's Grand Jury about their working papers and overall investigation.

This review took over six (6) months to complete and was extremely hampered by the continued stonewalling of all senior management personnel at the Conservator's Office. Failure to return calls, miscommunicate, intentionally mislead and finally, lie to this Grand Jury, stalled our investigation numerous times. The Grand Jury is well aware of the subpoena powers afforded us, yet we are equally aware of their judicial use. As a body, the Grand Jury was not convened to micro manage Government Agencies but to act in an oversight capacity.

If an Agency chooses to ignore, impede the investigation, or mislead the Grand Jury when no apparent human life is at risk, as in the scope of this investigation, this Grand Jury declined issuing subpoenas, but chose to use our report to clearly and emphatically delineate shortcomings. As such, this Grand Jury cannot, with any level of assurance, report that anything previously agreed to by the Conservator's Office, in both written form as in their response to the Moss Adams LLP report, and last year's Grand Jury Report CASE #1800, or verbally to this Grand Jury, has been implemented. Regardless of the lack of leadership and accountability at the top and prevalent throughout the entire Conservator's Office, the Grand Jury analyzed all available material and created the following findings.

FINDINGS:

1. The 2001 - 2002 SJCCGJ found that the Conservator's Office, through correspondence with the Board of Supervisors dated August 28, 2001, concurred with last year's Grand Jury on nine (9) of the ten (10) findings. This concurrence assured the Board of Supervisors that all nine findings had merit and would be implemented. Additionally, the response of the Board of Supervisors assured the Presiding Judge of the Superior Court, County of San Joaquin, and last year's Grand Jury, that the Conservator's Office would not only implement said findings but would make additional recommendations, above and beyond those recommendations contained in last year's Grand Jury report.

2. During our review, several times we requested documentation supporting the Public Conservator's claim that nine (9) of the ten (10) findings, in last year's Grand Jury Report CASE #1800 had been implemented. We received no such documentation.

3. The Public Conservator purchased, at taxpayer expense, new, sophisticated software to track and inventory citizen assets under the Conservator's control. On numerous occasions the Grand Jury asked for, and failed to receive, a printout showing that this new software had been installed and is being used correctly. Failure to utilize this software to its capacity will continue to perpetrate an environment wherein employee theft and/or embezzlement has and will continue to occur.

CONCLUSION:

The 2001 - 2002 Civil Grand Jury conducted an extensive six (6) month review of the Office of the Conservator. During this review we met with, interviewed, and consulted all the main participants associated directly or indirectly with the Conservator's Office. It was the Grand Jury's expectation to report that the numerous and serious accounting irregularities reported in previous Grand Jury reports and external audits had been corrected. Regrettably, we are unable to do so. It is this Grand Jury's conclusion that many, if not all, accounting irregularities previously reported, and subsequently acknowledged by senior administration at the Conservator's Office, with the assurance to correct, remain.[1]

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[1] Letter of Response as required by Penal Code Section 933.05, dated 09/12/01, Chairman Marenco, Board of Supervisors.

As such, the Grand Jury concludes that efforts to correct these problems have received only token attention from administration. The Grand Jury recognizes that Messrs. Speed and Hopperstad are extremely busy and the Conservator's Office is but a small department under their control; however they have appointed a department head in Public Conservator, Mr. Gessell. The Public Conservator should be held accountable for failing to implement recommendations from previous Grand Jury reports, when through communication with the Board of Supervisors, he indicated that said recommendations had merit and would be implemented.

During the course of our review we received at least one more citizen complaint concerning similar irregularities as to the nature of the business practices at the Conservator's Office. The basis of this complaint, alleging inappropriate language, lack of candor, and aggressive physical behavior, although hearsay, does nevertheless parallel citizen complaints of the last several years. It is clear that if any corrective measures have been taken, they are not nearly enough, nor do they go far enough to clear the dark cloud hovering over the Conservator's Office.

RECOMMENDATIONS:

1. It is time for a complete independent review of the Public Conservator's Office; this is not to say one or more haven't already been done. The County Auditor-Controller completed a comprehensive review and issued a report in June 2000, as did the CPA firm of Moss Adams LLP, in October 2001. Neither last year's Grand Jury, or this year's Grand Jury could find any evidence that these recommendations had been addressed. The independent review this Grand Jury is asking for should focus on the competence level and management style of the Public Conservator and his immediate management staff.

2. The 2001-2002 SJCCGJ recommends that the Public Conservator's Office continue to have annual compliance audits by either the Office of the County Auditor-Controller or an independent CPA. A response to that audit should be filed with the Board of Supervisors within 90 days of completion.

3. The 2001-2002 SJCCGJ strongly recommends that the 2002-2003 SJCCGJ follow-up on the above recommendations to determine their level of implementation.

RESPONSE REQUIRED:
Pursuant to Sections 933.05 of the Penal Code:

The Board of Supervisors and the Public Conservator's Office shall report to the Presiding Judge of the Superior Court, in writing and within ninety (90) days of the publication of this report, the response shall indicate the following:

As to each finding in the report, a response indicating one of the following:

a. The respondent agrees with the finding.

b. The respondent disagrees with the finding with an explanation of the reasons therefore.

As to each conclusion in the report, a response indicating one of the following:

a. The respondent agrees with the conclusion.
b. The respondent disagrees with the conclusion with an explanation of the reasons therefore.

As to each recommendation, a response indicating one of the following:

a. The recommendation has been implemented, with a summary of the action taken.
b. The recommendation has not yet been implemented, but will be with a time frame for implementation.
c. The recommendation requires further analysis, with an explanation of the scope of the analysis and a time frame not to exceed six (6) months.
d. The recommendation will not be implemented, with an explanation therefore.