

## § 72.8

### PERSONAL ESTATES OF DECEASED UNITED STATES CITIZENS AND NATIONALS

#### **§ 72.8 Regulatory responsibility of consular officer.**

(a) A consular officer should act as provisional conservator of the personal estate of a United States citizen or non-citizen national who dies abroad in accordance with, and subject to, the provisions of §§ 72.9 through 72.27. The consular officer may act as provisional conservator only with respect to the portion of the personal estate located within the consular officer's district.

(b) A consular officer may act as provisional conservator only to the extent that doing so is:

- (1) Authorized by treaty provisions;
- (2) Not prohibited by the laws or authorities of the country where the personal estate is located; or
- (3) Permitted by established usage in that country.

#### **§ 72.9 Responsibility if legal representative is present.**

(a) A consular officer should not act as provisional conservator if the consular officer knows that a legal representative is present in the foreign country.

(b) If the consular officer learns that a legal representative is present after the consular officer has taken possession and/or disposed of the personal estate but prior to transmission of the proceeds and effects to the Secretary of State pursuant to § 72.25, the consular officer should follow the procedures specified in § 72.22.

#### **§ 72.10 Responsibility if a will intended to operate locally exists.**

(a) If a will that is intended to operate in the foreign country is discovered and the legal representative named in the will qualifies promptly and takes charge of the personal estate in the foreign country, the consular officer should assume no responsibility for the estate, and should not take possession, inventory and dispose of the personal property and effects or in any way serve as agent for the legal representative.

(b) If the legal representative does not qualify promptly and if the laws of

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the country where the personal estate is located permit, however, the consular officer should take appropriate protective measures such as—

(1) Requesting local authorities to provide protection for the property under local procedures; and/or

(2) Placing the consular officer's seal on the personal property of the decedent, such seal to be broken or removed only at the request of the legal representative.

(c) If prolonged delays are encountered by the local or domiciliary legal representative in qualifying and/or making arrangements to take charge of the personal estate, the consular officer should consult the Department concerning whether the will should be offered for probate.

#### **§ 72.11 Responsibility if a will intended to operate in the United States exists.**

The consular officer immediately should forward any will that is intended to operate in the United States and that is among the effects taken into possession to the person or persons designated as executor(s). When the executor(s) cannot be located, the consular officer should send the will to the appropriate court in the State of the decedent's domicile. Until the consular officer knows that a legal representative is present in the foreign country and has qualified or made arrangements to take charge of the personal estate, the consular officer should act as provisional conservator in accordance with § 72.8.

#### **§ 72.12 Bank deposits in foreign countries.**

(a) A consular officer is not authorized to withdraw or otherwise dispose of bank accounts and other assets deposited in financial institutions left by a deceased United States citizen or non-citizen national in a foreign country. Such deposits or other assets are not considered part of the personal estate of a decedent.

(b) The consular officer should report the existence of bank accounts and other assets deposited in financial institutions of which the officer becomes aware to the legal representative, if any. The consular officer should inform