

1. ESTATE OF JOHNSON PP-20210160

Review Hearing Re: Inventory and Appraisal.

Letters of Administration were issued on October 13, 2021. There is no Final Inventory and Appraisal in the court's file.

TENTATIVE RULING # 1: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON WEDNESDAY, APRIL 6, 2022 IN DEPARTMENT EIGHT. IF A PARTY OR PARTIES WISH TO APPEAR TELEPHONICALLY THEY MUST APPEAR BY "VCOURT", WHICH MUST BE SCHEDULED AND PAID THROUGH THE COURT WEBSITE AT [www.eldorado.courts.ca.gov/online-services/telephonic-appearances](http://www.eldorado.courts.ca.gov/online-services/telephonic-appearances).

2. ESTATE OF WYTKIND PP-20200210

Review Hearing Re: Inventory and Appraisal.

Letters Testamentary were issued on January 27, 2022. There is no Final Inventory and Appraisal in the court's file.

TENTATIVE RULING # 2: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON WEDNESDAY, APRIL 6, 2022 IN DEPARTMENT EIGHT. IF A PARTY OR PARTIES WISH TO APPEAR TELEPHONICALLY THEY MUST APPEAR BY "VCOURT", WHICH MUST BE SCHEDULED AND PAID THROUGH THE COURT WEBSITE AT [www.eldorado.courts.ca.gov/online-services/telephonic-appearances](http://www.eldorado.courts.ca.gov/online-services/telephonic-appearances).

3. ESTATE OF THIEL PP-20200240

Review Hearing Re: Status of Administration.

The hearing on 1<sup>st</sup> and Final Account and Report was held on February 16, 2022. Two creditor's claims remained pending payment – Bank of America in the amount of \$899.60 and Bank of America in the amount of \$50,951.78. The court ordered preliminary distribution of the estate and directed that a cash reserve in the amount of \$56,000 be withheld to pay these creditor claims and closing expenses of administration. The court also set a hearing on April 6, 2022 regarding the status of satisfaction of the creditor's claims and to determine if the estate is in a condition to be closed.

Bank of America's satisfaction and release of creditor's claim in the amount of \$889.60 was filed on March 10, 2022. At the time this ruling was prepared there was no satisfaction and release of creditor's claim in the court's file concerning the Bank of America claim for \$50,951.78.

**TENTATIVE RULING # 3: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON WEDNESDAY, APRIL 6, 2022 IN DEPARTMENT EIGHT. IF A PARTY OR PARTIES WISH TO APPEAR TELEPHONICALLY THEY MUST APPEAR BY "VCOURT", WHICH MUST BE SCHEDULED AND PAID THROUGH THE COURT WEBSITE AT [www.eldorado.courts.ca.gov/online-services/telephonic-appearances](http://www.eldorado.courts.ca.gov/online-services/telephonic-appearances).**

4. ESTATE OF DUNNAGAN 21PR0012

Review Hearing Re: Inventory and Appraisal.

Letters Testamentary were issued on December 8, 2021. There is no Final Inventory and Appraisal in the court's file.

The court further notes that on March 29, 2022 the personal representative filed executed consents to notices of proposed action, which consented to the personal representative's proposed sale of real property of the estate for \$545,000, yet the personal representative has failed to file an inventory and appraisal by the probate referee that lists and appraises that real property.

TENTATIVE RULING # 4: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON WEDNESDAY, APRIL 6, 2022 IN DEPARTMENT EIGHT. IF A PARTY OR PARTIES WISH TO APPEAR TELEPHONICALLY THEY MUST APPEAR BY "VCOURT", WHICH MUST BE SCHEDULED AND PAID THROUGH THE COURT WEBSITE AT [www.eldorado.courts.ca.gov/online-services/telephonic-appearances](http://www.eldorado.courts.ca.gov/online-services/telephonic-appearances).

5. ESTATE OF SCHOTT PP-20210134

Review Hearing Re: Inventory and Appraisal.

Letters Testamentary were issued on August 25, 2021. There is no Final Inventory and Appraisal in the court's file.

TENTATIVE RULING # 5: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON WEDNESDAY, APRIL 6, 2022 IN DEPARTMENT EIGHT. IF A PARTY OR PARTIES WISH TO APPEAR TELEPHONICALLY THEY MUST APPEAR BY "VCOURT", WHICH MUST BE SCHEDULED AND PAID THROUGH THE COURT WEBSITE AT [www.eldorado.courts.ca.gov/online-services/telephonic-appearances](http://www.eldorado.courts.ca.gov/online-services/telephonic-appearances).

6. ESTATE OF DEISENROTH PP-20210211

Review Hearing Re: Inventory and Appraisal.

Letters of Administration were issued on December 8, 2021. There is no Final Inventory and Appraisal in the court's file.

TENTATIVE RULING # 6: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON WEDNESDAY, APRIL 6, 2022 IN DEPARTMENT EIGHT. IF A PARTY OR PARTIES WISH TO APPEAR TELEPHONICALLY THEY MUST APPEAR BY "VCOURT", WHICH MUST BE SCHEDULED AND PAID THROUGH THE COURT WEBSITE AT [www.eldorado.courts.ca.gov/online-services/telephonic-appearances](http://www.eldorado.courts.ca.gov/online-services/telephonic-appearances).

7. ESTATE OF ADAMS PP-20180159

Review Hearing Re: Status of Administration.

The order of final distribution was entered on January 13, 2022. There are no receipts of distribution in the court's file and no ex parte Petition for Final Discharge (Judicial Council Form DE-295.) in the court's file.

TENTATIVE RULING # 7: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON WEDNESDAY, APRIL 6, 2022 IN DEPARTMENT EIGHT. IF A PARTY OR PARTIES WISH TO APPEAR TELEPHONICALLY THEY MUST APPEAR BY "VCOURT", WHICH MUST BE SCHEDULED AND PAID THROUGH THE COURT WEBSITE AT [www.eldorado.courts.ca.gov/online-services/telephonic-appearances](http://www.eldorado.courts.ca.gov/online-services/telephonic-appearances).

8. ESTATE OF CRAGUN 22PR0040

**Petition to Admit Lost Will to Probate.**

It appears that the petition and affidavit re: will has proved up the lost will. The lost will is a pour-over will, which leaves the residue of the estate to the trustee of the Cragun Family Trust. The petition does not identify the name and address of the current trustee of that Trust, therefore, the court can not determine whether notice of the hearing and a copy of the petition were served on the trustee. The court can not rule on the merits of the petition to admit the lost will to probate absent confirmation that the trustee of the Cragun Family Trust was served adequate notice of this proceeding and a copy of the petition.

**TENTATIVE RULING # 8: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON WEDNESDAY, APRIL 6, 2022 IN DEPARTMENT EIGHT. IF A PARTY OR PARTIES WISH TO APPEAR TELEPHONICALLY THEY MUST APPEAR BY "VCOURT", WHICH MUST BE SCHEDULED AND PAID THROUGH THE COURT WEBSITE AT [www.eldorado.courts.ca.gov/online-services/telephonic-appearances](http://www.eldorado.courts.ca.gov/online-services/telephonic-appearances).**



9. ESTATE OF HUGHES PP-20200244

Review Hearing Re: Status of Administration.

Letters of Administration were issued on March 12, 2021. The Final Inventory and Appraisal was filed on July 23, 2021. There is no Final Account and Request for Order of Final Distribution in the court's file.

TENTATIVE RULING # 9: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON WEDNESDAY, APRIL 6, 2022 IN DEPARTMENT EIGHT. IF A PARTY OR PARTIES WISH TO APPEAR TELEPHONICALLY THEY MUST APPEAR BY "VCOURT", WHICH MUST BE SCHEDULED AND PAID THROUGH THE COURT WEBSITE AT [www.eldorado.courts.ca.gov/online-services/telephonic-appearances](http://www.eldorado.courts.ca.gov/online-services/telephonic-appearances).

10. ESTATE OF HOWERTON PP-20210018

Review Hearing Re: Status of Administration.

The order of final distribution was entered on November 17, 2022. There are no receipts of distribution in the court's file and no ex parte Petition for Final Discharge (Judicial Council Form DE-295.) in the court's file.

TENTATIVE RULING # 10: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON WEDNESDAY, APRIL 6, 2022 IN DEPARTMENT EIGHT. IF A PARTY OR PARTIES WISH TO APPEAR TELEPHONICALLY THEY MUST APPEAR BY "VCOURT", WHICH MUST BE SCHEDULED AND PAID THROUGH THE COURT WEBSITE AT [www.eldorado.courts.ca.gov/online-services/telephonic-appearances](http://www.eldorado.courts.ca.gov/online-services/telephonic-appearances).

11. ESTATE OF FINLEY PP-20200100

- (1) 1<sup>st</sup> and Final Account and Report.
- (2) 1<sup>st</sup> Supplement to 1<sup>st</sup> and Final Account and Report.
- (3) Review Hearing Re: Status of Administration.

The 1<sup>st</sup> supplement adequately addresses the concerns raised in the tentative ruling for the January 18, 2022 hearing on the 1<sup>st</sup> and final account and report.

TENTATIVE RULING # 11: THE PETITION IS GRANTED. THE 1<sup>ST</sup> AND FINAL ACCOUNT IS ALLOWED, SETTLED, APPROVED AND CONFIRMED. FEES ARE FIXED AND PAYMENT ALLOWED AS REQUESTED. FINAL DISTRIBUTION IS ORDERED AS REQUESTED. THE COURT CONTINUES THE REVIEW HEARING RE: STATUS OF ADMINISTRATION TO 8:30 A.M. ON WEDNESDAY, AUGUST 10, 2022 IN DEPARTMENT EIGHT AT WHICH TIME THE COURT ANTICIPATES THAT A RECEIPT OF FINAL DISTRIBUTION EXECUTED BY THE TRUSTEE OF THE FINLEY FAMILY REVOCABLE TRUST WILL HAVE BEEN FILED AND AN EX PARTE PETITION FOR FINAL DISCHARGE (JUDICIAL COUNCIL FORM DE-295.) SUBMITTED.

12. ESTATE OF VAN NESS PP-20210129

(1) Petition to Administer Estate.

(2) OSC Re: Sanctions for Failure to Appear.

There is no proof of publication in the court's file. (See Probate Code, §§ 8120 and 8121(a).) The court can not consider this petition absent proof of publication.

The court notes that there is no proof of service of notice of the hearing and a copy of the petition by mail on the heirs, devisees and executors in the court's file at the time this ruling was prepared. "At least 15 days before the hearing of a petition for administration of a decedent's estate, the petitioner shall serve notice of the hearing by mail or personal delivery on all of the following persons: (a) Each heir of the decedent, so far as known to or reasonably ascertainable by the petitioner. (b) Each devisee, executor, and alternative executor named in any will being offered for probate, regardless of whether the devise or appointment is purportedly revoked in a subsequent instrument." (Probate Code, § 8110.) The court can not consider this petition in the absence of adequate proof of service.

The petition fails to state whether decedent died testate or intestate. This must be corrected.

The petitioner failed to appear at the hearing on September 10, 2021. The court continued the hearing to January 5, 2022 at 8:30 a.m. in Department Eight and ordered that the petitioner's counsel appear at the continued hearing. The September 10, 2021 minute order was mailed to petitioner's counsel's address of record.

The petitioner and counsel failed to appear at the January 5, 2022 hearing. The court ordered the personal representative to appear at the hearing at 8:30 a.m. on Friday, March 9,

2022 to show cause why the personal representative's counsel should not be sanctioned for failure to appear. The petitioner did not appear.

Unfortunately, the January 5, 2022 minute order was not served on the personal representative's counsel. Therefore, the hearing was continued to April 6, 2022 and the minute order was served by mail on counsel.

**TENTATIVE RULING # 12: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON WEDNESDAY, APRIL 6, 2022 IN DEPARTMENT EIGHT. IF A PARTY OR PARTIES WISH TO APPEAR TELEPHONICALLY THEY MUST APPEAR BY "VCOURT", WHICH MUST BE SCHEDULED AND PAID THROUGH THE COURT WEBSITE AT [www.eldorado.courts.ca.gov/online-services/telephonic-appearances](http://www.eldorado.courts.ca.gov/online-services/telephonic-appearances).**

**13. ESTATE OF LANNER 22PR0038**

**Petition to Admit Will to Probate.**

The will is a pour-over will, which leaves the residue of the estate to the trustee of the Lanner Family Trust. The petition does not identify the name and address of the current trustee of that Trust, therefore, the court can not determine whether notice of the hearing and a copy of the petition were served on the trustee. The court can not rule on the merits of the petition to admit the will to probate absent confirmation that the trustee of the Lanner Family Trust was served adequate notice of this proceeding and a copy of the petition.

**TENTATIVE RULING # 13: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON WEDNESDAY, APRIL 6, 2022 IN DEPARTMENT EIGHT. IF A PARTY OR PARTIES WISH TO APPEAR TELEPHONICALLY THEY MUST APPEAR BY “VCOURT”, WHICH MUST BE SCHEDULED AND PAID THROUGH THE COURT WEBSITE AT [www.eldorado.courts.ca.gov/online-services/telephonic-appearances](http://www.eldorado.courts.ca.gov/online-services/telephonic-appearances).**

14. ESTATE OF CLARK PP-20200219

(1) Petition for Final Distribution on Waiver of Account.

(2) Review Hearing Re: Status of Administration.

TENTATIVE RULING # 14: THE PETITION IS GRANTED. FEES ARE FIXED AND PAYMENT ALLOWED AS REQUESTED. FINAL DISTRIBUTION IS ORDERED AS REQUESTED. THE COURT CONTINUES THE REVIEW HEARING RE: STATUS OF ADMINISTRATION TO 8:30 A.M. ON WEDNESDAY, AUGUST 3, 2022 IN DEPARTMENT EIGHT AT WHICH TIME THE COURT ANTICIPATES THAT AN EX PARTE PETITION FOR FINAL DISCHARGE (JUDICIAL COUNCIL FORM DE-295.) WILL BE SUBMITTED THAT STATES THE ORDER OF FINAL DISTRIBUTION OR A PERSONAL REPRESENTATIVE'S DEED WAS RECORDED CONCERNING THE DISTRIBUTION OF THE REAL PROPERTY AND THAT NO RECEIPTS OF DISTRIBUTION ARE REQUIRED, BECAUSE THE PERSONAL REPRESENTATIVES ARE THE SOLE DISTRIBUTEES.

15. ESTATE OF PRESCOTT 22PR0039

Petition to Administer Estate.

The petitioner/proposed personal representative is a resident of Washington State and seeks appointment with full authority under the Independent Administration of Estates Act. The personal representative as sole intestate heir waived the bond requirement by filing an executed Judicial Council Form DE-142/DE-111(A-3e).

“Notwithstanding any other provision of this chapter and notwithstanding a waiver of a bond, the court in its discretion may require a nonresident personal representative to give a bond in an amount determined by the court.” (Probate Code, § 8571.).

The court is inclined to set bond in the amount of \$420,000.

TENTATIVE RULING # 15: THE PETITION IS GRANTED. BOND IS SET IN THE AMOUNT OF \$420,000. THE COURT SETS A REVIEW HEARING RE: INVENTORY AND APPRAISAL AT 8:30 A.M. ON WEDNESDAY, AUGUST 10, 2022 IN DEPARTMENT EIGHT. (PROBATE CODE, § 8800 (b).) THE COURT FURTHER SETS A REVIEW HEARING RE: STATUS OF ADMINISTRATION AT 8:30 A.M. ON WEDNESDAY, APRIL 5, 2023 IN DEPARTMENT EIGHT. (PROBATE CODE, § 12200.)



16. ESTATE OF RYDER PP-20210112

Review Hearing Re: Inventory and Appraisal.

Letters of Administration were issued on August 12, 2021. Partial Inventory and Appraisal Number 1 was filed on January 31, 2022. There is no Final Inventory and Appraisal in the court's file.

TENTATIVE RULING # 16: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON WEDNESDAY, APRIL 6, 2022 IN DEPARTMENT EIGHT. IF A PARTY OR PARTIES WISH TO APPEAR TELEPHONICALLY THEY MUST APPEAR BY "VCOURT", WHICH MUST BE SCHEDULED AND PAID THROUGH THE COURT WEBSITE AT [www.eldorado.courts.ca.gov/online-services/telephonic-appearances](http://www.eldorado.courts.ca.gov/online-services/telephonic-appearances).

**17. MATTER OF THE LYNDIA L. MCGHIE TRUST 22PR0037****Petition for Order Confirming Title to Trust Property.**

The successor trustee of the Trust petitions for the court to confirm that certain real and personal property held in the settlor's name are assets of the Trust estate by virtue of the declaration of trust in Article THREE A. of the Trust instrument, entitled "**POWER TO FUND THE TRUST**" (Emphasis in original.), Schedule A of the Trust, and a Comprehensive Transfer Document executed by the decedent settlor before a notary.

"All proceedings concerning the transfer of property of the trust shall be conducted pursuant to the provisions of Part 19 (commencing with Section 850) of Division 2." (Probate Code, § 17200.1.)

The trustee or any interested person may file a petition to determine ownership of real or personal property and to obtain an order directing the conveyance or transfer real or personal property in any of the following cases: "(A) Where the trustee is in possession of, or holds title to, real or personal property, and the property, or some interest, is claimed to belong to another. (B) Where the trustee has a claim to real or personal property, title to or possession of which is held by another. (C) Where the property of the trust is claimed to be subject to a creditor of the settlor of the trust." (Probate Code, § 850(a)(3).)

Where the petition to determine ownership of property involves a Trust, notice of the hearing and a copy of the petition must be served at least 30 days prior to the hearing on the trustee and each person claiming an interest in, or having title to or possession of, the subject property in the same manner as service of a summons and complaint and by mail to all beneficiaries and the Attorney General, if the petition relates to a charitable trust subject to the jurisdiction of the Attorney General. (Probate Code, §§ 851(a)(2), 851(b)(3) and 17203(a).)

The verified petition lists the personal representative and Kraig McGhie as Trust beneficiaries entitled to notice of the proceeding and a copy of the petition. There is no proof of service of notice of the hearing and a copy of the petition on Trust beneficiary Kraig McGhie in the court's file. The court can not rule on the merits petition absent proof of adequate service on Kraig McGhie.

Settlors who are also the trustees of a trust may create a trust by written declaration in the Trust instrument that certain real and personal property that they own is held as trustees of the Trust without having to formally transfer or convey the property to the Trust in a separate instrument such as a deed. (Estate of Heggstad (1993) 16 Cal.App.4th 943, 947-948.)

In addition, where the Trust Instrument or another writing states that all of settlor's right, title and interest to all of his or her real property is included in the Trust's assets, and it is possible by resorting to extrinsic evidence to determine that the settlor held title to the real property that is sought to be confirmed as a Trust asset, the statute of frauds creates no bar to a petition for an order confirming that the real property is part of the Trust's assets. (See Ukkestad v. RBS Asset Finance, Inc. (2015) 235 Cal.App.4th 156, 164.)

In fact, the appellate court in Ukkestad, supra, stated a general assignment of personal property in a written instrument is legally effective. "The rule expressed in *Sterling* and in *Beverage* is consistent with our Supreme Court's long-standing view that a general assignment of a party's real and personal property in a written instrument is sufficiently certain to be legally effective..." (Ukkestad v. RBS Asset Finance, Inc. (2015) 235 Cal.App.4th 156, 162, fn. 6.)

Article THREE A. of the Trust instrument, Schedule A of the Trust incorporated by reference into the Trust instrument by Article THREE A. of the Trust instrument, and the Comprehensive Transfer Document are written general transfers of all property, real and personal, whether presently owned by the settlor or later acquired by the settlor to the Trust estate, and written

declarations that such property is held by the settlor as trustee of the Trust. Therefore, it appears that the personal and real property listed in the petition are assets of the Trust estate despite title to those assets being held by the decedent settlor as an individual.

Unfortunately, as stated earlier in this ruling, the court can not rule on the merits of the petition absent proof of adequate service on Kraig McGhie.

TENTATIVE RUIING # 17: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON WEDNESDAY, APRIL 6, 2022 IN DEPARTMENT EIGHT. IF A PARTY OR PARTIES WISH TO APPEAR TELEPHONICALLY THEY MUST APPEAR BY "VCOURT", WHICH MUST BE SCHEDULED AND PAID THROUGH THE COURT WEBSITE AT [www.eldorado.courts.ca.gov/online-services/telephonic-appearances](http://www.eldorado.courts.ca.gov/online-services/telephonic-appearances).