

1. ESTATE OF FIELDS PP-20170176

Review Hearing Re: Status of Administration.

Letters of Administration were issued on March 8, 2018. The Final Inventory and Appraisal was filed on September 4, 2018. At the hearing on June 24, 2020 the court was advised that a hearing on a Family Law matter was set for trial regarding arrears in payments owed to decedent.

The personal representative previously reported that the Family Law trial was scheduled for May 4, 2021. The court has not received any further word on that proceeding.

TENTATIVE RULING # 1: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON WEDNESDAY, SEPTEMBER 1, 2021 IN DEPARTMENT EIGHT. IF YOU WOULD LIKE TO APPEAR BY ZOOM PLEASE CONTACT THE COURT AT tdavy@eldoradocourt.org AND MEETING INFORMATION WILL BE PROVIDED.

2. ESTATE OF VANBLARICOM PP-20190066

Petition for Final Distribution on Waiver of Account.

TENTATIVE RULING # 2: THE PETITION IS GRANTED. FEES ARE FIXED AND PAYMENT ALLOWED AS REQUESTED. REIMBURSEMENT IS 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, JANUARY 26, 2022 IN DEPARTMENT EIGHT AT WHICH TIME THE COURT ANTICIPATES THAT THE RECEIPTS OF FINAL DISTRIBUTION WILL HAVE BEEN FILED AND AN EX PARTE PETITION FOR FINAL DISCHARGE (JUDICIAL COUNCIL FORM DE-295.) SUBMITTED.

3. ESTATE OF TRIGG PP-20190182

(1) Petition for Final Distribution.

(2) Review Hearing Re: Status of Administration.

The proof of service filed on July 15, 2021 declares that the petition for probate with will annexed together with notice of the hearing on the petition for probate with will annexed were served on the will beneficiary on July 13, 2021. There is no proof of service of notice of this hearing and a copy of the petition for final distribution on the sole will beneficiary in the court's file. The court can not rule on the petition for final distribution on waiver of account until proof of adequate service has been submitted.

TENTATIVE RULING # 3: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON WEDNESDAY, SEPTEMBER 1, 2021 IN DEPARTMENT EIGHT. IF YOU WOULD LIKE TO APPEAR BY ZOOM PLEASE CONTACT THE COURT AT tdavy@eldoradocourt.org AND MEETING INFORMATION WILL BE PROVIDED.

4. ESTATE OF RICHARD PP-20200014

(1) Petition for 1st and Final Report.

(2) Review Hearing Re: Status of Administration.

Paragraph 13 of the 1st and Final Report states that no creditors' claims were filed. American Express National Bank filed a creditor's claim in the amount of \$24,978.56 on April 3, 2020 one day after Letters Testamentary were issued on April 2, 2020. The Allowance or Rejection of Claim Form (Form DE-174) filed on May 20, 2021 states that the entire claim was rejected on May 19, 2021. The proof of service declares that the rejection was served by mail to the creditor by mail on May 19, 2021. The court has not received any verified word as to whether American Express National Bank filed a lawsuit to collect on the claim within 90 days of notice of rejection of the claim. This needs to be clarified by declaration of the personal representative.

TENTATIVE RULING # 4: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON WEDNESDAY, SEPTEMBER 1, 2021 IN DEPARTMENT EIGHT. IF YOU WOULD LIKE TO APPEAR BY ZOOM PLEASE CONTACT THE COURT AT tdavy@eldoradocourt.org AND MEETING INFORMATION WILL BE PROVIDED.

5. ESTATE OF RUBISH PP-20200051

Review Hearing Re: Status of Administration.

TENTATIVE RULING # 5: THE RECEIPTS OF DISTRIBUTION HAVING BEEN FILED ON AUGUST 18, 2021 AND THE EX PARTE PETITION FOR FINAL DISCHARGE (JUDICIAL COUNCIL FORM DE-295.) HAVING BEEN SUBMITTED, THIS MATTER IS DROPPED FROM THE CALENDAR.

6. ESTATE OF WILBUR PP-20200164

(1) Review Hearing Re: Inventory and Appraisal.

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

Letters of Administration with Will Annexed were issued on December 10, 2020. There is no Final Inventory and Appraisal in the court's file.

The personal representative failed to appear at the June 30, 2021 hearing and was ordered to appear at this continued hearing to show cause why sanctions should not be imposed for failure to appear. The June 30, 2021 minute order was served by mail on the personal representative's counsel.

TENTATIVE RULING # 6: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON WEDNESDAY, SEPTEMBER 1, 2021 IN DEPARTMENT EIGHT. IF YOU WOULD LIKE TO APPEAR BY ZOOM PLEASE CONTACT THE COURT AT tdavy@eldoradocourt.org AND MEETING INFORMATION WILL BE PROVIDED.

7. ESTATE OF POWERS PP-20200178

1st and Final Account.

The verified Account and Report does not state that notice was served on the California Franchise Tax Board. "(c)(1) Not later than 90 days after the date letters are first issued to a general personal representative, the general personal representative or estate attorney shall give the Franchise Tax Board notice of the administration of the estate. The notice shall be given as provided in Section 1215. ¶ (2) The provisions of this subdivision shall apply to estates for which letters are first issued on or after July 1, 2008." (Probate Code, § 9202(c).)

This needs to be remedied.

TENTATIVE RULING # 7: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON WEDNESDAY, SEPTEMBER 1, 2021 IN DEPARTMENT EIGHT. IF YOU WOULD LIKE TO APPEAR BY ZOOM PLEASE CONTACT THE COURT AT tdavy@eldoradocourt.org AND MEETING INFORMATION WILL BE PROVIDED.

8. MATTER OF THIELKE PP-20200190

Petition to Determine Succession to Real Property.

An amended petition was filed on March 1, 2021, which corrected the ambiguity relating to the existence of a will. Unlike the initial petition, the amended petition does not claim at paragraph 16 that the petitioner is the trustee of a trust that is a devisee under the decedent's will.

The Final Inventory and Appraisal filed on March 8, 2021 declares that all of the estate's property that has come to the petitioners' knowledge or possession has been truly, honestly and impartially appraised. The value of all the property of the estate is appraised to be worth \$146,222.20.

The Final Inventory and Appraisal filed on March 8, 2021 fails to certify that the requirements of Revenue and Taxation Code, § 480 has been satisfied by filing a statement of change of ownership of the estate's real property. This needs to be remedied.

At the hearing on June 9, 2021 one of the petitioners, Gail Allison, stated she would be consulting with an attorney on that date and the hearing was continued to September 1, 2021. The failure to provide a Section 480 certification was not remedied at the time this ruling was prepared.

TENTATIVE RULING # 8: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON WEDNESDAY, SEPTEMBER 1, 2021 IN DEPARTMENT EIGHT. IF YOU WOULD LIKE TO APPEAR BY ZOOM PLEASE CONTACT THE COURT AT tdavy@eldoradocourt.org AND MEETING INFORMATION WILL BE PROVIDED.

9. ESTATE OF GORDON PP-20200222

Review Hearing Re: Inventory and Appraisal.

Letters of Administration were issued on February 10, 2021. There is no Final Inventory and Appraisal in the court's file.

TENTATIVE RULING # 9: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON WEDNESDAY, SEPTEMBER 1, 2021 IN DEPARTMENT EIGHT. IF YOU WOULD LIKE TO APPEAR BY ZOOM PLEASE CONTACT THE COURT AT tdavy@eldoradocourt.org AND MEETING INFORMATION WILL BE PROVIDED.

10. ESTATE OF KAMINE PP-20200228**Petition to Reclaim Property of the Decedent.**

The personal representative petitions for issuance of a court order determining that certain real property is an asset of the decedent's estate despite record title being held in the name of the Kamine Family Trust, dated July 8, 2003.

The verified petition states: a grant deed was recorded on September 14, 1998, which granted the property from the purported 1992 Trust to Ervin Kamine and Dorothy Kamine in joint tenancy; a grant deed was recorded on September 21, 1998, which granted the property from Ervin Kamine and Dorothy Kamine to themselves as trustees of the purported 1992 Trust; Dorothy Kamine passed away on February 14, 2003; on July 31, 2003 an affidavit of death of trustee was recorded, which removed Dorothy Kamine from title; on July 25, 2003 Ervin Kamine as trustee of the purported 1992 Trust executed a deed granting title to the subject property to himself as trustee of the purported 2003 Trust, which was recorded on July 31, 2003; Ervine Kamine passed away on October 25, 2019 leaving one child and grandchildren of four predeceased children; petitioner has been unable to locate any originals or copies of the purported Trust; on information and belief, there are no acting trustees of either purported Trust; on August 19, 2020 the court denied petitioner's petition to confirm trust; petitioner is currently administering the estate, however, the personal representative is unable to sell the subject real property as record title to the property remains in a nonexistent trust; the estate is the rightful owner of the real property; the grant deeds were ineffective to transfer title to the purported Trust as the Trusts were previously found by the court to be invalid; and notwithstanding the state of record title to the property, the real property is rightfully in decedent's name and an asset of his estate.

On August 19, 2020 in Matter of the Kamine Family Trust, PC-20200085, the court denied a petition to appoint a successor trustee on the grounds there was no evidence before the court to establish a critical element required to create a Trust – the identification of the beneficiaries of the Trust with reasonable certainty; there were no copies of the 1992 Trust or the 2003 Trust before the court and it appeared from the verified petition that these Trust instruments could not be found despite the exercise of due diligence; and the failure to establish that Trust beneficiaries were designated resulted in two invalid Trusts and title to the property is as it was before the attempted transfers to the 1992 and 2003 trusts where the real property was held the names of Ervin and Dorothy Kamine, leaving the property to be administered in probate and subject to a personal representative's Section 850 claim that the property belongs in the probate estate.

The personal representative or any interested person may petition the court for an order in any of the following cases: "(A) Where the decedent while living is bound by a contract in writing to convey real property or to transfer personal property and dies before making the conveyance or transfer and the decedent, if living, could have been compelled to make the conveyance or transfer. (B) Where the decedent while living binds himself or herself or his or her personal representative by a contract in writing to convey real property or to transfer personal property upon or after his or her death and the contract is one which can be specifically enforced. (C) Where the decedent died in possession of, or holding title to, real or personal property, and the property or some interest therein is claimed to belong to another. (D) Where the decedent died having a claim to real or personal property, title to or possession of which is held by another." (Probate Code, § 850(a)(2).)

At least 30 days prior to the hearing the petitioner shall serve notice of the hearing and a copy of the petition on the personal representative, conservator, guardian, or trustee as

appropriate and each person claiming an interest in, or having title to or possession of, the subject property. Service on those persons must be made in the same manner as service of summons in a civil action. (Probate Code, § 851(a).) Service of notice of the hearing and a copy of the petition must also be served by mail 15 days prior to the hearing on the personal representative all persons requesting special notice, and any heir or devisee whose interest in the property may be affected by the petition. (Probate Code, § 851(b).)

The appellate court in Osswald v. Anderson (1996) 49 Cal.App.4th 812 found that there was no valid trust created by the initial 1987 Trust instrument, because the Trust lacked an essential element to lawful creation of a Trust – there was no trust property due to the Trust instrument stating the trust property consisted of property listed in Schedule A and then the settlor failed to attach any Schedule A to the instrument. (See Osswald v. Anderson (1996) 49 Cal.App.4th 812, 818,)

The appellate court went on to determine that the failure to create a valid Trust in the land by the initial 1987 Trust instrument rendered invalid the subsequent transfers of the real property to later Trusts by the settlors executing and recording deeds as trustees of the previous Trust transferring the property to the newer Trusts; and that the invalidity of the Trusts resulted in title to the property remaining as it was prior to the recorded deeds attempting to convey the property to the invalid Trusts. The appellate court held: “If a transfer to a trust is invalid, the legal title to the property remains in the grantor. Because neither the 1987 trust nor the 1988 trust was validly formed, title to the property is as it was before the attempted transfer to the 1987 trust. (*Booge v. Reinicke* (1941) 45 Cal.App.2d 260, 265, 114 P.2d 427.) [FN 4] Linda's trial exhibit F shows title to the condominium was granted in February 1987 to “Otto A. Osswald and Heidi Osswald, husband and wife as joint tenants.” There is no evidence that the title changed between February and July of 1987 (the date of the attempted transfer to the

1987 trust), nor does Gary contend otherwise. Accordingly, Heidi's one-half interest passed to Otto as the surviving joint tenant on Heidi's death, and he had the power to sell the home and cause the entire proceeds to be transferred into the 1991 revocable trust for Linda and Christian. ¶ FN 4. In light of our holding that the 1987 trust was never validly created, the trial court's finding that Otto and Heidi held title as former trustees of the 1987 trust was erroneous." (Osswald v. Anderson (1996) 49 Cal.App.4th 812, 820–821)

Paragraph 26 of the petition lists seven persons entitled to service of notice of the hearing and a copy of the petition. The court is unable to find any proof of service on these interested persons in the court's file. Unless proof of service is submitted, the court will have no alternative other than to deny the petition without prejudice.

TENTATIVE RULING # 10: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON WEDNESDAY, SEPTEMBER 1, 2021 IN DEPARTMENT EIGHT. IF YOU WOULD LIKE TO APPEAR BY ZOOM PLEASE CONTACT THE COURT AT tdavy@eldoradocourt.org AND MEETING INFORMATION WILL BE PROVIDED.

11. ESTATE OF CAMPBELL PP-20210128

Petition to Admit Will to Probate.

TENTATIVE RULING # 11: THE PETITION IS GRANTED. THE WILL IS ADMITTED TO PROBATE. THE COURT SETS A REVIEW HEARING RE: INVENTORY AND APPRAISAL AT 8:30 A.M. ON WEDNESDAY, JANUARY 12, 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, SEPTEMBER 7, 2022 IN DEPARTMENT EIGHT. (PROBATE CODE, § 12200.)

12. ESTATE OF VAN NESS PP-20210129

Petition to Administer Estate.

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

The court notes that there was no proof of service 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.

TENTATIVE RULING # 12: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON WEDNESDAY, SEPTEMBER 1, 2021 IN DEPARTMENT EIGHT. IF YOU WOULD LIKE TO APPEAR BY ZOOM PLEASE CONTACT THE COURT AT tdavy@eldoradocourt.org AND MEETING INFORMATION WILL BE PROVIDED.

13. ESTATE OF GEIGER PP-20210131

Petition to Admit Will to Probate.

Petitioner seek to be appointed personal representative with full authority under the Independent Administration of Estates Act. The petitioner is a resident of Florida.

“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 \$227,200.

TENTATIVE RULING # 13: THE PETITION IS GRANTED. THE WILL IS ADMITTED TO PROBATE. BOND IS SET IN THE AMOUNT OF \$227,200. THE COURT SETS A REVIEW HEARING RE: INVENTORY AND APPRAISAL AT 8:30 A.M. ON WEDNESDAY, JANUARY 12, 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, SEPTEMBER 7, 2022 IN DEPARTMENT EIGHT. (PROBATE CODE, § 12200.)

14. MATTER OF THE LEWIS FAMILY TRUST PP-20210135

Petition to Settle, Allow, and Approve Trustee's Account.

TENTATIVE RULING # 14: THIS MATTER IS CONTINUED TO 8:30 A.M. ON WEDNESDAY,
OCTOBER 20, 2021 IN DEPARTMENT EIGHT.