

Aspen 32648

HENRY C. CLAUSEN
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FILED

JUN 22 1964

JOHN A. BRUNING, Clerk
By *Pauline Johnson*
DEPUTY CLERK

Attorneys for Petitioner

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA, IN AND FOR THE
COUNTY OF SAN MATEO

In the Matter of the Estate)

of)

NO. 32160

AUGUST FERDINAND HEUER,
also known as A. Ferdinand Heuer,)

Deceased.)

JUDGMENT SETTLING FIRST AND FINAL ACCOUNT AND REPORT OF
EXECUTOR, ALLOWING FEES FOR EXTRAORDINARY SERVICES, AND
FOR FINAL DISTRIBUTION UNDER WILL.

THE BANK OF CALIFORNIA, National Association, as
executor under the Will of AUGUST FERDINAND HEUER, also known
as A. FERDINAND HEUER, the above named decedent, having on June
1, 1964 rendered and filed herein its First and Final Account and
Report of Executor and Petition for its Settlement, for Allowance
of Fees for Extraordinary Services, and for Final Distribution,
and said Account and Petition on June 19, 1964 coming on regularly
to be heard, on proof having been made to the satisfaction of
this Court, the Court finds that the notice of hearing of said
Account and Petition has been regularly given as required by law,
and, it appearing to the Court, the Court finds:

1. That all the allegations of said Account, Report,
and Petition are true and correct; that said account is in all
respects true and correct and supported by proper vouchers; that
the residue of money in the hands of said Executor at the time

of filing said Account was \$11,857.50.

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2. That notice to creditors of said estate has been duly given and published; that within 30 days after the completion of publication of such notice an affidavit showing due publication of said notice was filed with the clerk in the manner and form required by law; that more than six months have elapsed since the appointment of said executor; and the time for filing or presenting of claims against said estate has expired.

3. That said executor has duly made and returned to this Court a true and correct Inventory and Appraisement of all the assets of said estate of said decedent which have come into its possession or knowledge; that all said estate was the separate property of said decedent.

4. That all claims presented, allowed and approved against said estate have been fully paid; that all administration expenses, funeral expenses, expenses of last illness and debts of decedent and of said estate have been paid; that all personal property taxes due and payable by said estate have been paid; that all inheritance taxes upon said estate or upon the share of any distributee therein have been determined to be in the amount of \$1,294.83, which amount has been paid, and the Certificate of the County Treasurer showing such full payment is on file herein; that no allocation or proration of said inheritance need be made, because under Paragraph FIFTH of said decedent's Will all such taxes are to be paid from the residue of said decedent's estate; that there is no income tax presently due or payable to the United States or to the State of California by said estate; that the United States Fiduciary Income Tax Returns and the California Fiduciary Income Tax Returns for the years due were filed, and the taxes due as shown thereby were paid; a Federal Estate Tax Return has been filed for this estate showing no Federal Estate Tax to be due and the Estate Tax Closing Letter of the Internal Revenue Service also showing no such Federal Estate Tax to be due

1 or owing has been received by said Executor and a Certificate
2 releasing said Executor from personal liability from any such
3 estate tax has also been received by the executor from the
4 Internal Revenue Service.

5 5. That on June 21, 1963 this Court rendered its
6 Judgment of Preliminary Distribution, and that distribution to
7 the specific legatees of said decedent's Will was made as set
8 forth therein; that distribution was made in full of all the
9 specific legacies provided for in Paragraph THIRD of said decedent's
10 Will; that by said judgment said executor was authorized and
11 directed and in fact did pay its attorney \$2,700.00 on account of
12 statutory compensation for ordinary legal services performed by
13 said attorney.

14 6. That said Executor should be authorized and directed
15 to withhold the sum of \$200.00 for closing expenses, and as a
16 reserve for any and all contingencies, and for any additional
17 taxes hereafter assessed against said estate.

18 7. That said Executor should be authorized and directed
19 to pay itself the sum of \$3,792.00 as and for the statutory
20 commission for its services rendered in the administration of this
21 estate.

22 8. That said executor should be authorized and directed
23 to pay itself this sum of \$400.00 for its extraordinary services
24 rendered in the administration of this estate, which sum is hereby
25 found to be reasonable compensation for said extraordinary services.

26 9. Said Executor should be authorized and directed to
27 pay to Henry C. Clausen, as its attorney, the sum of \$1,500.00
28 for his extraordinary services rendered in the administration of
29 this estate, which sum is hereby found to be reasonable compensa-
30 tion for said extraordinary services.

31 10. That said estate, after considering said judgment
32 of preliminary distribution, should be distributed as prayed in

1 said petition and as hereinafter specified.

2 WHEREFORE IT IS HEREBY ORDERED, ADJUDGED AND DECREED
3 that said First and Final Account and Report of said Executor be,
4 and it is hereby finally settled, allowed and approved; and

5 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that said
6 Executor be, and it is hereby authorized and directed to withhold
7 the sum of \$200.00 from said distribution in a special account
8 for closing expenses as and for a reserve for any and all
9 contingencies and for any additional taxes hereafter assessed
10 against said estate; and

11 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that all
12 the property of said decedent, now in the hands of said executor
13 for distribution, less said sums to be paid said executor and
14 its attorney as compensation for ordinary and extraordinary
15 services, and said sum to be retained by said executor for closing
16 expenses and as a reserve for all contingencies and for any taxes
17 hereafter assessed against said estate be distributed in accord-
18 ance with Paragraph FOURTH of said decedent's Will to THE BANK
19 OF CALIFORNIA, National Association, of San Francisco, in trust,
20 subject to the uses, conditions, and limitations as described in
21 said Paragraph FOURTH of said decedent's Will as follows:

22 FOURTH: All the rest, residue and remainder of my
23 estate, I give and bequeath to THE BANK OF CALIFORNIA,
24 National Association, of San Francisco, California, IN
TRUST, nevertheless, subject to the following uses, con-
ditions and limitations:

25 (a) My Trustee shall pay to or expend for and on
26 behalf of the following:

- 27 1. FRANK HEUER, my brother;
- 28 2. MATILDE HEUER, my sister-in-law;
- 29 3. FRANCES M. ENGLEHARDT, my niece;
- 30 4. HENRY W. HEUER, my brother, also known
as HARRY HEUER;

31 5. MYRTLE HEUER, my sister-in-law; and
32 6. ROBERT HEUER, my nephew
the sum of Fifty Dollars (\$50.00) per month to each;
and in the event of the death of either of my said
brothers that the surviving spouse of the deceased
brother or sister-in-law shall receive the sum of
One Hundred Dollars (\$100.00) per month thereafter.
If either of my brothers or my sisters-in-law should
predecease me, then the surviving spouse shall become

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entitled from the time of my death to the increased amount provided for herein. It is my direction that these sums shall be paid only to or for the benefit of my brothers or their widows. In the event that one of my brothers should predecease his wife and the widow should remarry and die leaving a surviving spouse, it is my intention and direction that such surviving spouse of my brother's widow shall not receive anything from my estate or the trust created in my Will; all of said payments to commence on the first day of the month following my death and to continue on each succeeding first day of each month thereafter during his or her respective life; and if my said Trustee shall determine at any time, and in its sole discretion, that any of said persons require additional funds for support, maintenance or care, then my said Trustee shall pay to or expend for and on behalf of said person so much of the income or principal of said trust estate as in the sole and absolute discretion of my said Trustee shall be required.

(b) When all the beneficiaries mentioned in subparagraph (a) of this paragraph FOURTH hereof shall die, the trust estate then remaining shall be held for the uses and purposes of the MASONIC HOMES OF CALIFORNIA, a non-profit corporation, to be known and designated as the HEUER SCHOLARSHIP FUND to aid and assist in providing from the income of said trust estate a college, university or post-graduate education for boys or girls from the home maintained at Covina, California, by the said MASONIC HOMES OF CALIFORNIA, and for boys or girls whose fathers were members in good standing of the Masonic Order, and shall be administered and distributed in the manner following: My said Trustee shall, for said educational purposes, pay to or expend for and on behalf of such boys or girls such amounts from the net income of the said trust estate as may be designated and selected by the successive occupants of the office of Grand Master of THE MOST WORSHIPFUL GRAND LODGE OF FREE AND ACCEPTED MASONS OF THE STATE OF CALIFORNIA, an unincorporated fraternal association duly organized and existing as such in the State of California since April 19, 1850, during each year there is sufficient income for said purposes.

(c) Whenever in the absolute discretion of the Trustee the income and principal of the trust estate shall exceed the amount necessary to meet all expenditures provided in subparagraph (a) of this paragraph FOURTH, the Trustee shall, as it may in its absolute discretion deem advisable and best calculated to carry out my wishes, use the remainder of such income, up to the whole thereof, as it is provided in subparagraph (b) above that the income shall be used upon termination of payments to the named individuals.

(d) In the event after the death of all the beneficiaries mentioned in subparagraph (a) of this paragraph FOURTH the annual income available for said educational purposes is not all expended for said

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1 purposes, I authorize the Trustee to pay to said
2 MASONIC HOMES OF CALIFORNIA, for its general uses
3 and purposes, any unexpended income; and in the
4 event any portion of my trust estate may not be
5 received by the Trustee and used for the educa-
6 tional purposes herein, by reason of any provision
7 of law now or hereafter enforced, then and in such
8 event and upon termination of payments to the per-
9 sons named in subparagraph (a) of paragraph FOURTH
10 hereof, I give, devise and bequeath to the indivi-
11 duals then constituting the Board of Trustees of
12 MASONIC HOMES OF CALIFORNIA, as joint tenants, all
13 the trust estate then remaining, without intending
14 to create any trust or other charge, condition or
15 limitation enforceable in law or in equity, and I
16 request the persons so receiving said property to
17 use and dispose of it so as to carry out my wishes.

18 (e) I direct that all real property in my estate
19 and all personal property, not specifically be-
20 queathed, which are not invested in income-produc-
21 ing securities, be sold as quickly as may be con-
22 veniently possible and, after reserving cash suf-
23 ficient to pay expenses of administration, including
24 taxes, invest the remainder in securities producing
25 income, and preferably in securities such as those
26 found in my estate whether or not of the character
27 permitted by law for the investment of trust funds.
28 And any such operation, sale or liquidation shall
29 be at the risk of my estate and without liability
30 on the part of my Executor for any losses resulting
31 therefrom.

32 (f) For all the purposes of the trust herein created,
my said Trustee shall own, hold, manage, care for
and protect all the said trust estate and the income
thereof, and shall have the power to sell, exchange,
partition and convey the trust estate, or any part
thereof, and to lease all or any property constitut-
ing a part of the trust estate for terms within or
extending beyond the duration of the trust; to borrow
money and as security for the payment thereof to
pledge or hypothecate by mortgage or deed of trust
all or any part of the trust estate; from time to
time invest, or reinvest, or to lend, or relend, the
principal of the trust estate whether or not of the
character permitted by law for investment of trust
funds.

(g) My Trustee shall be the sole judge of what
shall constitute principal or income of the trust
estate, and there shall be no obligation upon my
said Trustee to amortize the premiums on securities
purchased above par, nor to accumulate the discount
on securities purchased below par.

(h) Should any real property be acquired under
foreclosure proceedings, or in lieu thereof, it
shall be regarded for all purposes of the trust as
principal of the trust estate, and no duty shall
devolve upon my said Trustee, in the event of the
subsequent sale of any such real property, to appor-
tion the proceeds thereof between principal and

1 income of the trust estate.

2 (i) It is expressly understood that the net income
3 arising from the trust estate and the principal thereof
4 are intended for the sole and individual use and en-
5 joyment of my said beneficiaries, subject to the
6 terms and conditions hereof, and none of the said
7 beneficiaries shall in any event, either jointly or
8 severally, sell, assign, transfer, convey, pledge,
9 hypothecate or otherwise encumber his, her, or
10 their interest or interests under this trust, nor
11 shall the principal of the trust estate hereunder,
12 nor any part thereof, be liable for any debt of any
13 one or more or all of the said beneficiaries, nor
14 subject to attachment or garnishment, nor subject
15 to any judgment rendered against any one or more or
16 all of the said beneficiaries, nor to the process
17 of any court in aid or execution of any judgment so
18 rendered."

19 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that any
20 other property of said estate not now known or discovered which
21 may belong to said estate or in which said decedent or said
22 estate may have any interest is hereby distributed in accordance
23 with said Paragraph FOURTH of said decedent's Will as aforesaid,
24 and that after all closing expenses, amounts on account of contin-
25 gencies and any additional taxes assessed against said estate
26 have been paid, any balance remaining in the said reserve withheld
27 for such items be distributed as aforesaid.

28 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that said
29 Executor be and it is hereby authorized and directed to pay itself
30 the sum of \$3,792.00 as and for said statutory commission due and
31 payable.

32 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that said
Executor be and it is hereby authorized and directed to pay
itself the sum of \$400.00 as and for reasonable compensation for
extraordinary services rendered by said Executor to said estate.

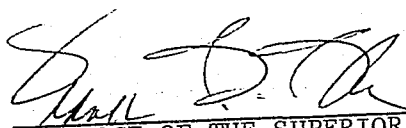
IT IS FURTHER ORDERED, ADJUDGED AND DECREED that said
executor be and it is hereby authorized and directed to pay said
HENRY C. CLAUSEN, ESQ., the sum of \$1,092.00 as and for the
balance of statutory fees due and payable.

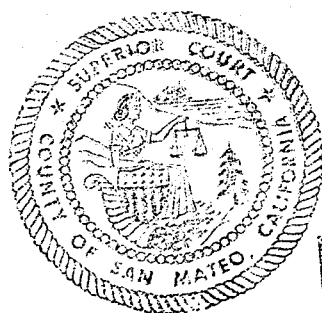
IT IS FURTHER ORDERED, ADJUDGED AND DECREED that said

1 said executor be, and it is hereby authorized and directed to pay
2 said HENRY C. CLAUSEN, ESQ., the sum of \$1,500.00 as and for
3 reasonable compensation for extraordinary services performed by
4 said attorney on behalf of said estate.

5 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that all
6 the acts, transactions and proceedings of said Executor relating
7 to the matters set forth in said account, petition and report
8 be and they are hereby ratified, confirmed and approved.

9 DATED: June 19, 1964.

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12 JUDGE OF THE SUPERIOR COURT
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STATE OF CALIFORNIA } ss.
COUNTY OF SAN MATEO

I, WARREN SLOCUM, County Clerk of the above entitled County, and ex-officio Clerk of the Superior Court thereof, do hereby certify that the foregoing is a full, true and correct copy of the original on file in my office, and that I have carefully compared the same with the original.

Witness my hand and seal of said Superior Court this 11 day of October 19 64

WARREN SLOCUM
County Clerk and Ex-Officio Clerk, Superior Court
By CHARLES M. BAKER Deputy Clerk

Name, Address and Telephone No. of Attorney

Space Below for Use of Court Clerk Only

HENRY C. CLAUSEN
 CLAUSEN & ST. CLAIR
 234 Van Ness Avenue
 San Francisco 2, California
 Telephone: Market 6-0234

FILED

OCT 13 1962

JOHN A. BRUNING, Clerk

By Serrano Maura
DEPUTY CLERK

Attorney S for Executor

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
 IN AND FOR THE COUNTY OF

In the Matter of the Estate of

AUGUST FERDINAND HEUER,

ALSO KNOWN AS A. FERDINAND HEUER,

No. 3 2 1 6 0

Dept.

LETTERS TESTAMENTARY

Deceased

STATE OF CALIFORNIA

County of

ss.

THE LAST WILL of the above named decedent, having been proved in the above entitled Court, THE
 BANK OF CALIFORNIA NATIONAL ASSOCIATION, named therein as such, hereby is appointed executor
 thereof.

WITNESS, JOHN A. BRUNING, Clerk of the above entitled Court, with the seal of the Court
 affixed.

Dated: Oct. 3, 1962

By order of the Court

(SEAL)

JOHN A. BRUNING

, Clerk

By: Serrano Maura, Deputy Clerk

STATE OF CALIFORNIA

County of

ss.

OATH

The undersigned, being duly sworn, deposes and says, as follows:

I am an Assistant Trust Officer of The Bank of California National Association, the executor named in the
 foregoing Letters Testamentary, and I am authorized to make and subscribe oaths on its behalf.

I do solemnly swear that said The Bank of California National Association will support the Constitution of
 the United States and the Constitution of the State of California, and that it will faithfully perform, according to
 law, the duties of executor of the last will of the above named decedent.

Subscribed and sworn to before me on Oct. 3, 1962Serrano Maura
(SEAL)Daniel O. Crawford

Deputy County Clerk and ex-officio Deputy Clerk
 of the Superior Court of the State of California,

CERTIFICATION

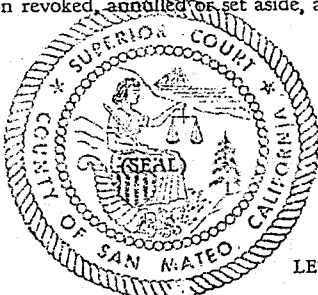
I do hereby certify that the foregoing is a true copy of the original on file in my office, and that said letters
 have not been revoked, annulled or set aside, and are still in full force and effect.

Dated:

OCT 11 1988

WARREN SLOCUM

, Clerk

By: Charlene Kresovich, Deputy Clerk

LETTERS TESTAMENTARY

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STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of Aspen Title Co. the 7th day
of Feb. A.D., 1989 at 8:41 o'clock AM., and duly recorded in Vol. M89,
of Deeds on Page 2307
Evelyn Bienn County Clerk

FEE \$53.00

Return: A.T.C.

By Pauline Muelenbore