

MAIL TO

Henry Butler  
Box 5367  
State line  
NU. 87449

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SEAL

ATTEST: DEC 23 1987

ANN REED

County Clerk and ex-officio Clerk of the  
Superior Court of the State of California  
for the County of Shasta.

By: W. Longue Deputy

1 BERRY, KLOTZ & DOSH  
496 Main Street  
2 Placerville, CA 95667

3 (916) 622-2186

4 Attorneys for Co-Executors

5

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7

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SUPERIOR COURT OF CALIFORNIA, COUNTY OF SHASTA

9

10 Estate of

No. 15249

11 JOHN JACOB GERKEN,

DECREE SETTLING FIRST AND FINAL  
ACCOUNT, ALLOWING FINAL DISTRIBUTION  
AND EXTRAORDINARY ATTORNEYS'  
FEES

12 Deceased.

13

14

15

16 JOHN W. GERKEN and THOMAS E. GERKEN, as Co-Executors of  
17 the Estate of JOHN JACOB GERKEN, having heretofore filed their First  
18 and Final Account, Report, Petition for Final Distribution and for  
19 Allowance of Extraordinary Attorneys' Fees, and the account and  
20 report and petition coming on this day regularly for hearing, the  
21 Court finds:

21

22

23 Due and legal notice of the settlement of the account  
24 and of the hearing on the petition for final distribution of the  
25 Estate has been regularly given for the period and in the manner  
26 prescribed by law.

26

All the acts and transactions of the Co-Executors during

BOOK 181249  
688 PAGE 4644

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BOOK 2920 PAGE 356

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P.O. Box 5367  
State line, NV  
89449

LAW OFFICES  
BERRY, KLOTZ & DOSH  
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1 the period of the account are truly shown and should be approved,  
2 and all the allegations of the petition for its settlement and for  
3 preliminary distribution are true.

4 There were no claims against said Estate.

5 That said Estate is now in a condition to be finally  
6 settled and distributed.

7 That the statutory fee payable to BERRY, KLOTZ & DOSH,  
8 attorneys for the Co-Executors, is \$5,423.26 which has not been  
9 paid.

10 That BERRY, KLOTZ & DOSH, attorneys for the Co-Executors  
11 rendered extraordinary service to the Estate of a value of \$545.00.

12 That the whole of said Estate was the separate property  
13 of said decedent.

14 The Co-Executors ask that they be authorized to maintain  
15 a reserve of \$1,000 in cash in order to pay for preparation of state  
16 and federal income tax returns, any taxes due and closing administra-  
17 tion expenses. Any unexpended portion of said reserve for closing  
18 expenses to be distributed one-half each to JOHN W. GERKEN as  
19 Trustee of children of JOHN W. GERKEN, and THOMAS E. GERKEN as  
20 Trustee of children of THOMAS E. GERKEN.

21 Distribution should be made as hereinafter ordered.

22

23 IT IS ORDERED AND ADJUDGED THAT:

24 1. The administration of this Estate is brought to a  
25 close.

26 2. All the acts and proceedings of the Co-Executors are  
27 ratified, confirmed and approved.

28 3. The Co-Executors are authorized and directed to pay

1 their attorneys, BERRY, KLOTZ & DOSH, the sum of \$5,423.26 as their  
2 statutory fees for their services rendered in the administration of  
3 this Estate.

4 4. Extraordinary fees of \$545.00 are awarded to BERRY,  
5 KLOTZ & DOSH, and the Co-Executors are authorized and directed to  
6 pay said sum to BERRY, KLOTZ & DOSH.

7 5. The Co-Executors are authorized and directed to  
8 maintain a reserve of \$1,000.00 in cash in order to pay for prepara-  
9 tion of state and federal income tax returns, any taxes due, and  
10 closing administration expenses. Any unexpended portion of said  
11 reserve for closing expenses to be distributed one-half each to  
12 JOHN W. GERKEN as Trustee of children of JOHN W. GERKEN, and THOMAS  
13 E. GERKEN as Trustee of children of THOMAS E. GERKEN.

14 6. Any other property not now known or discovered which  
15 may belong to said Estate or in which said Estate may have any  
16 interest, be and the same is hereby distributed one-half each to  
17 JOHN W. GERKEN as Trustee of children of JOHN W. GERKEN, and THOMAS  
18 E. GERKEN as Trustee of children of THOMAS E. GERKEN.

19 7. The following described property on hand for  
20 distribution is ordered distributed as follows:

<u>Name and Address</u>	<u>Share</u>
21 To JOHN W. GERKEN in Trust 22 as Trustee for the child- 23 ren of JOHN W. GERKEN, to 24 be held, administered, and 25 distributed as set forth in 26 the Trust for the children of JOHN W. GERKEN contained in decedent's Will.	(1) Undivided 36.925% interest in note secured by Deed of Trust executed by JOHN W. GERKEN and THOMAS E. GERKEN to JOHN J. GERKEN and EDITH R. GERKEN, Principal amount \$306,000 with interest from 7-1-76 on unpaid principal at the rate of 7% per annum payable at the time of the

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To THOMAS E. GERKEN in Trust as Trustee for the children of THOMAS E. GERKEN, to be held, administered, and distributed as set forth in the Trust for the children of THOMAS E. GERKEN contained in decedent's Will.

- principal payments; principal payable in installments of \$6,250.00 or more on the first day of October 1976, and continuing until said principal and interest have been paid.
- (2) 600 shares of Portland General Electric Company; common stock; listed on the New York Stock Exchange.
- (3) 600 shares of Sierra Pacific Power Company; common stock; listed on the New York Stock Exchange.
- (4) A one-half interest in a 1981 Oldsmobile automobile; License No. 1DWB447; Vehicle I.D. No. 1G3AY69NXBM278947.
- (5) A one-half interest in a 1974 Audi automobile; License No. 778TVQ; Vehicle I.D. No. 8041085251 (inoperable and in bad condition)
- (6) Cash in the sum of \$36,336.93.
- (1) Undivided 36.925% interest in note secured by Deed of Trust executed by JOHN W. GERKEN and THOMAS E. GERKEN to JOHN J. GERKEN and EDITH R. GERKEN. Principal amount \$306,000 with interest from 7-1-76 on unpaid principal at the rate of 7% per annum payable at the time of the principal payments; principal payable in installments of \$6,250.00 or more on the first day of October 1976, and continuing until said principal and interest have been paid.
- (2) 500 shares of Central Illinois Public Service; common stock; listed on the New York Stock Exchange.
- (3) 500 shares of Pacific Power and Light Company; common stock; listed on the New York Stock Exchange.



TRUST PROVISIONS

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A. PROVISIONS REGARDING TRUST FOR BENEFIT OF CHILDREN OF JOHN W. GERKEN: The shares allocated to the children of JOHN W. GERKEN, are given to JOHN W. GERKEN in trust, to be held, administered and distributed as follows:

(1) So long as no child of testator's son, JOHN W. GERKEN, has reached age twenty-one (21), the Trustee shall pay to or apply for the benefit of the children of JOHN W. GERKEN, including those who are age twenty-one (21) or older, as much of the net income and principal of the trust as the Trustee in the Trustee's discretion shall deem necessary for their proper support, care, maintenance, and education, after taking into consideration, to the extent the Trustee shall deem advisable, any other income or resources of said children, known to the Trustee and reasonably available for these purposes. The Trustee shall not pay to said children any support which the Trustee as parent is legally obligated to provide for the child. Any net income not distributed shall be accumulated and added to principal. In exercising the discretions conferred by this subparagraph, the Trustee may pay more to or apply more for some beneficiaries than others and may make payment to or applications of benefits for one or more beneficiaries to the exclusion of others if the Trustee shall deem this necessary or appropriate in the light of

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1 the circumstances, the size of the trust estate, and the probable  
2 future needs of the beneficiaries. Any payment or application of  
3 benefits pursuant to this subparagraph shall be charged against  
4 the trust estate in whole rather than against the ultimate  
5 distributive share of a beneficiary to whom or for whose benefit  
6 the payment is made.

7 (2) When the first child of testator's son, JOHN W.  
8 GERKEN, reaches the age of twenty-one (21), the Trustee shall  
9 divide the trust estate into as many equal shares as there are  
10 children of testator's son, JOHN W. GERKEN, then living. Each  
11 such share shall be distributed, or retained in trust, as  
12 hereafter provided:

13 a. Each share allocated to a living  
14 child of testator's son, JOHN W. GERKEN,  
15 who is twenty-one (21) shall be  
16 distributed to said child outright  
17 at the time said child reaches the  
18 age of twenty-one (21).

19  
20 b. Each share allocated to a living  
21 child of testator's son, JOHN W. GERKEN,  
22 who is under the age twenty-one shall  
23 be retained and administered by the  
24 Trustee in a separate trust as follows:

25  
26 (i) So long as said child of

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testator's son, JOHN W. GERKEN, is living and is under the age of twenty-one (21), the Trustee shall pay to or apply for the benefit of said child, as much of the net income and principal of the trust as the Trustee in the Trustee's discretion shall deem necessary for his proper support, care, maintenance, and education, after taking into consideration, to the extent the Trustee shall deem advisable, any other income or resources of said child, known to the Trustee and reasonably available for these purposes. The Trustee shall not pay to said child any support which the Trustee as parent is legally obligated to provide for the child.

(ii) When the child attains the age of twenty-one (21), the Trustee shall distribute to the child all of his trust as then constituted.

(iii) If a child of JOHN W. GERKEN dies before becoming entitled to receive distribution of his entire trust, the

1 undistributed balance of that child's  
2 trust shall thereupon be distributed  
3 free of the trust to his then living  
4 siblings and if there are none to the  
5 then living issue of testator's son,  
6 THOMAS E. GERKEN by right of  
7 representation; provided, however,  
8 that if a part of that balance would  
9 otherwise be distributed to a person  
10 for whose benefit a trust is then  
11 being administered under this Will of  
12 testator, that part shall instead be  
13 added to that trust and shall thereafter  
14 be administered according to its terms.  
15

16 B. PROVISIONS REGARDING TRUST FOR BENEFIT OF CHILDREN  
17 OF THOMAS E. GERKEN: The shares allocated to the children of  
18 THOMAS E. GERKEN, in trust, to be held, administered and  
19 distributed as follows:

20 (1) So long as no child of testator's son, THOMAS  
21 E. GERKEN, has reached age twenty-one (21), the Trustee shall pay  
22 to or apply for the benefit of the children of THOMAS E. GERKEN,  
23 including those who are age twenty-one (21) or older, as much of  
24 the net income and principal of the trust as the Trustee in the  
25 Trustee's discretion shall deem necessary for their proper support,  
26 care, maintenance, and education, after taking into consideration,

1 to the extent the Trustee shall deem advisable, any other income  
2 or resources of said children, known to the Trustee and reasonably  
3 available for these purposes. The Trustee shall not pay to said  
4 children any support which the Trustee as parent is legally  
5 obligated to provide for the child. Any net income not  
6 distributed shall be accumulated and added to principal. In  
7 exercising the discretions conferred by this subparagraph, the  
8 Trustee may pay more to or apply more for some beneficiaries than  
9 others and may make payments to or applications of benefits for  
10 one or more beneficiaries to the exclusion of others if the  
11 Trustee shall deem this necessary or appropriate in the light of  
12 the circumstances, the size of the trust estate, and the probable  
13 future needs of the beneficiaries. Any payment or application of  
14 benefits pursuant to this subparagraph shall be charged against  
15 the trust estate in whole rather than against the ultimate  
16 distributive share of a beneficiary to whom or for whose benefits  
17 the payment is made.

18 (2) When the first child of testator's son,  
19 THOMAS E. GERKEN, reached the age of twenty-one (21), the Trustee  
20 shall divide the trust estate into as many equal shares as there  
21 are children of testator's son, THOMAS E. GERKEN, then living.  
22 Each such share shall be distributed, or retained in trust, as  
23 hereafter provided:

24 a. Each share allocated to a living  
25 child of testator's son, THOMAS E.  
26 GERKEN, who is twenty-one (21) shall

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-10-

BOOK 2920 PAGE 365

BOOK 688 PAGE 4653

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be distributed to said child outright at the time said child reaches the age of twenty-one (21).

b. Each share allocated to a living child of testator's son, THOMAS E. GERKEN, who is under the age of twenty-one (21), shall be retained and administered by the Trustee in a separate trust as follows:

(i) So long as said child of testator's son, THOMAS E. GERKEN, is living and is under the age of twenty-one (21), the Trustee shall pay to or apply for the benefit of said child as much of the net income and principal of the trust as the Trustee in the Trustee's discretion shall deem necessary for his proper support, care, maintenance, and education after taking into consideration, to the extent the Trustee shall deem advisable, any other income or resources of said child, known to the Trustee and reasonably available for these purposes. The Trustee shall not pay to said children any support which

1 the Trustee as parent is legally  
2 obligated to provide for the child.

3 (ii) When the child attains the  
4 age of twenty-one (21), the Trustee  
5 shall distribute to the child all  
6 of his trust as then constituted.

7 (iii) If a child of THOMAS E.  
8 GERKEN dies before becoming entitled  
9 to receive distribution of his entire  
10 trust, the undistributed balance of  
11 that child's trust shall thereupon  
12 be distributed free of the trust to  
13 his then living siblings and if there  
14 are none to the then living issue  
15 of testator's son, JOHN W. GERKEN  
16 by right of representation; provided,  
17 however, that if a part of that  
18 balance would otherwise be distributed  
19 to a person for whose benefit a trust  
20 is then being administered under this  
21 Will, that part shall instead be added  
22 to that trust and shall thereafter be  
23 administered according to its terms.

24  
25 C. POWERS, ADMINISTRATIVE PROVISIONS AND MISCELLANEOUS  
26 PROVISIONS CONCERNING EACH TRUST:

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BOOK 688 PAGE 4655

-12-

BOOK 2920 PAGE 367

1 (1) Whenever provision is made in said trusts  
2 for payment for the "education" of a beneficiary, the term  
3 "education" shall be construed to include college and post-  
4 graduate study, so long as pursued to advantage by the  
5 beneficiary, at an institution of the beneficiary's choice; and  
6 in determining payment to be made for such college or  
7 postgraduate education, the Trustee shall take into consideration  
8 the beneficiary's related living expenses to the extent that they  
9 are reasonable.

10  
11 (2) No interest on the principal or income of any  
12 said trust shall be anticipated, assigned, or encumbered, or  
13 subject to any creditor's claim or to legal process, prior to its  
14 actual receipt by the beneficiary.

15  
16 (3) Unless sooner terminated in accordance with  
17 other provisions of said trusts, each trust shall terminate  
18 twenty-one (21) years after the death of the last survivor of  
19 JOHN W. GERKEN and THOMAS E. GERKEN.

20  
21 (4) To carry out the purposes of any said trust,  
22 and subject to any limitations stated elsewhere herein, the  
23 Trustee is vested with the following powers with respect to the  
24 trust estate and any part of it, in addition to those powers and  
25 or hereafter conferred by law:

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a. To continue to hold any property and to operate at the risk of the trust estate any business received or acquired under the trust by the Trustee as long as the Trustee shall deem advisable;

b. To manage, control, grant options on, sell (for cash or on deferred payments), convey, exchange, partition, divide, improve, and repair trust property;

c. To lease trust property for terms within or beyond the term of the trust and for any purpose, including exploration for and removal of gas, oil, and other minerals; and to enter into community oil leases, pooling and unitization agreements;

d. To borrow money, and to encumber or hypothecate trust property by mortgage, deed of trust, pledge, or otherwise;

e. To invest and reinvest the trust estate in every kind of property, real, personal, or mixed, and every kind of investment, specifically including, but not by way of limitation, corporate obligations of every kind, stocks,

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preferred or common, shares of investment trusts, investment companies, and mutual funds and mortgage participations, which men of prudence, discretion, and intelligence acquire for their own account;

f. In any case in which the Trustee is required pursuant to the provisions of the trust, to divide any trust property into parts or shares for the purpose of distribution, or otherwise, the Trustee is authorized, in the Trustee's discretion, to make the division and distribution in kind, including undivided interests in any property, or partly in kind and partly in money, and for this purpose to make such sales of the trust property as the Trustee may deem necessary on such terms and conditions as the Trustee shall see fit.

(5) The Trustee in the Trustee's discretion may make payments to a minor or other beneficiary under disability by making payments to the guardian of his person, or to any suitable person with whom he resides, or the Trustee may apply payments

1 directly for the beneficiary's benefit. The Trustee in the  
2 Trustee's discretion may make payments directly to a minor if in  
3 the Trustee's judgment he is of sufficient age and maturity to  
4 spend the money properly.

5  
6 (6) There need be no physical segregation or  
7 division of the various trusts except as segregation or division  
8 may be required by the termination of any of the trusts, but the  
9 Trustee shall keep separate accounts for the different undivided  
10 interests.

11  
12 (7) Notwithstanding any other provisions, no  
13 Trustee, who is not an independent Trustee as defined by Internal  
14 Revenue Code Section 2613(e) (2), shall have power to make  
15 discretionary distributions or otherwise establish or alter  
16 beneficial enjoyment of the corpus or income of the trust, [except  
17 to the lineal descendants of the testator as defined in Internal  
18 Revenue Code Section 2613(e) (1)]. In the event that it becomes  
19 necessary to determine whether or not discretionary distributions  
20 should be made which are prohibited by this subparagraph, a  
21 special Trustee (who is an independent Trustee as defined in  
22 Internal Revenue Code Section 2613(e) (2)), shall be appointed by  
23 a court of competent jurisdiction only for such purposes.

24  
25 (8) The Trustee of any trust established hereby  
26 shall be entitled to compensation for his services only as follows:

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The Trustee shall receive 10% of the income of the trust and 10% of the realized capital gains of the trust. In the event that there is no income or realized capital gains, the Trustee shall receive no compensation for his services as Trustee.

Dated: JAN 9 1984

*[Signature]*  
\_\_\_\_\_  
JUDGE OF THE SUPERIOR COURT

015551

OFFICIAL RECORDS  
EL DORADO COUNTY-CALIF.  
RECORD REQUESTED BY:

John W. Berken  
MAR 30 12 10 PM '88

DOROTHY GARR  
COUNTY RECORDER

37<sup>00</sup> pd

(17)

REQUESTED BY  
*Henry R. Butler*  
IN OFFICIAL RECORDS OF  
EL DORADO COUNTY, CALIFORNIA

'88 JUN 30 AM 11:29

LEAH BEAUBREAU  
RECORDER  
#21<sup>00</sup> PAID *[Signature]* DEPUTY  
181249