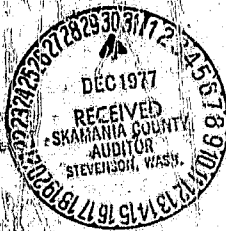


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COPY
ORIGINAL FILED
DEC 27 1977
WILMA SCHMIDT
Clerk, Clerk Co.

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF CLARK

In the Matter of the Estate

of

HERBERT MALARKEY, aka
JAMES MALARKEY,

Deceased.

No. 23928

ORDER APPROVING FINAL ACCOUNT
AND DECREE OF DISTRIBUTION

George B. Malarkey, personal representative with will annexed

of this estate, having on November 28, 1977, filed in this court a Final
Account and Petition for Distribution, said matter coming on regularly to be
heard this day, the personal representative with will annexed appearing
personally and by attorney, and the minor heirs of the decedent appearing by
their guardian ad litem, and it appearing to the court that the estate is in a
condition to be closed and notice of this hearing has been duly given by
publication and mailing as required by law, and that no objections to said
report have been filed, the court finds:

1. PRELIMINARY DATA:

Petitioner is the personal representative with will annexed of
the estate of Herbert Malarkey, aka James Malarkey, deceased.

That on July 29, 1975, Herbert Malarkey, aka James Malarkey,
died testate in the County of Multnomah, State of Oregon, being at the time of
his death a resident thereof.

This is an ancillary administration of the decedent's estate.

The domiciliary administration is in the State of Oregon.

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and Decree of Distribution
Page 1

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1 The United States National Bank of Oregon, a national banking
2 association, named as executor in the will of the decedent, was not qualified
3 to act as personal representative in this state; that the surviving spouse,
4 Elizabeth Boschke Malarkey, did not desire to act as personal representative in
5 this state; that both the United States National Bank of Oregon and Elizabeth
6 Boschke Malarkey nominated George B. Malarkey, son of the decedent, as
7 administrator with will annexed.

8 On December 11, 1975, an order was entered herein admitting
9 to probate the foreign will of decedent dated December 22, 1966, and codicil
10 thereto dated March 29, 1974, and appointing George B. Malarkey as adminis-
11 trator with will annexed; that thereafter petitioner qualified and at all times since
12 has been the duly qualified and acting administrator with will annexed of
13 decedent's Washington estate. An Order of Solvency was entered herein on
14 June 25, 1976.

15 2. NOTICES AND CLAIMS:

16 Notice of appointment of the personal representative with will
17 annexed and of the pendency of ancillary probate proceedings was mailed to
18 the heirs, distributees and persons named in the will within 20 days of the date
19 of appointment. Notice to creditors has been published and filed, the time for
20 filing claims has expired, and no claims have been presented or filed.

21 3. INVENTORY AND APPRAISAL:

22 That portion of the estate within the State of Washington was
23 inventoried and was appraised by the personal representative. The appraised
24 value was \$1,383,692.00, with said value subsequently changed to \$1,251,130.00
25 after sales and negotiation with the Internal Revenue Service and the State of
26 Washington.

27 4. TAXES:

28 Based upon an inheritance tax report filed with the Inheritance

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1 Tax Division and subsequent computations, there was inheritance tax due and
2 owing the State of Washington in the sum of \$104,998.65, and its amount
3 release is on file herein.

4 A federal estate tax return was filed in connection with the
5 domiciliary administration of the estate and the tax due from the estate is
6 shown therein in the total amount of \$3,132,200.00, and said amount was paid
7 that 10.49% of that amount, or \$328,567.76, was attributable to the decedent's
8 Washington estate. The estate tax closing letter was received by the
9 domiciliary executor, and a copy of the same is on file herein.

10 5. SALE OF REAL ESTATE:

11 The residence real property located on the Washington Road in
12 Clark County, Washington, inventoried at \$17,800.00, has been sold at
13 price received by the estate of \$27,427.66.

14 Following the mailing and publication of an offer for sale to
15 numerous possible prospects, the timber and land known as DeLeon
16 Sections 4, 5 and 10, in Clark County, Washington, described and inventoried
17 in the Inventory filed for this estate at \$56,575.00 and \$22,000.00, or a total
18 of \$78,515.00, has been sold to Prudence Miller as the highest bidder for
19 \$250,000.00.

20 Following the mailing and publication of an offer for sale to
21 numerous possible prospects, the timberland properties of this estate in
22 Skamania County, Washington, in Sections 6, 5, 4 and 3, 10 and 15, in
23 Township 2 North, Range 5 East of the Willamette Meridian, and in Section 33
24 in Township 3 North, Range 6 East of the Willamette Meridian, described and
25 inventoried in the Inventory of this estate at \$462,062.00, \$297,120.00,
26 \$347,745.00 and \$109,210.00, or a total of \$1,216,137.00, was sold to
27 Longview Fibre Co., following a rejection of all bids by this estate, for a
28 negotiated price of \$900,000.00, which, in the administrator's opinion, was

1 the highest and best bid.

2 That there remains unsold at this time that 120 acre tract of
3 land in Skamania County, Washington, in Section 20, Township 2 North, Range
4 5 East of the Willamette Meridian, valued at \$48,000.00 in the Inventory, and
5 that tract of approximately 70.9 acres in Skamania County, Washington, in
6 Section 27, Township 2 North, Range 5 East of the Willamette Meridian,
7 valued at \$23,180.00 in the inventory.

8 6. ACCOUNTING:

9 The accounting of the personal representative correctly sets
10 forth the receipts and disbursements up to and including November 28, 1977.
11 Since that date the personal representative has made no disbursements. The
12 bank accounts listed on Exhibit "A" to the Final Account and Petition for Distribu-
13 tion at page 1 have accrued additional interest as follows:

14 Re: Account No. 1-5455-02 involving the sale of the
15 Washougal residence property:

16 Balance shown on final account \$ 29,701.13

17 Plus interest accrued through
18 5 December 1977 200.34

\$. 29,901.47

19 Re: Account No. 1-5455-03 involving the sale of the
20 Lola Valley property:

21 Balance shown on final account \$ 263,057.78

22 Plus interest accrued through
23 23 December 1977 497.47

263,555.25

24 Re: Account No. 1-5455-04 involving the sale of certain
25 of the Skamania County property:

26 Balance shown on final account \$ 922,858.50

27 Plus interest accrued through
28 22 December 1977 4,959.31

927,817.81

Order Approving Final Account
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1 The total of the above three accounts is \$1,221,274.53, and said accounts
2 will continue to accrue interest to date of closing. The personal representa-
3 tive has fully accounted for all property of the estate.

4 7. HEIRSHIP AND DISTRIBUTION:

5 The following are the only heirs of the decedent, together
6 with their ages and addresses:

7	<u>Name/Address</u>	<u>Age</u>
8	Elizabeth Boschke Malarkey	
9	1717 SW Elm	
10	Portland, Oregon 97219	72
11	Elizabeth Boschke Malarkey Brooke	
12	13300 SW Iron Mountain Boulevard	
13	Portland, Oregon 97219	45
14	George Boschke Malarkey	
15	1708 SW Hawthorne Terrace	
16	Portland, Oregon 97201	42
17	Michael O'Neil Malarkey	
18	Route 2, Box 21	
19	Scappoose, Oregon 97056	35
20	Gregory Boschke Malarkey	
21	Post Office Box 485	
22	Jacksonville, Oregon 97530	17
23	Herbert Holman Malarkey	
24	Post Office Box 485	
25	Jacksonville, Oregon 97530	16
26	Allen Prag Malarkey	
27	Post Office Box 485	
28	Jacksonville, Oregon 97530	12
	John Lee Bosley Brooke	
	13300 SW Iron Mountain Boulevard	
	Portland, Oregon 97219	9
	Helen Theresa Malarkey	
	1708 SW Hawthorne Terrace	
	Portland, Oregon 97201	9
	Elizabeth Huntington Brooke	
	13300 SW Iron Mountain Boulevard	
	Portland, Oregon 97219	4

28 ///

1	Palmer Nicholas Malarkey	
2	Route 2, Box 21	
3	Scappoose, Oregon 97056	4
4	Brian Huntington Malarkey	
5	Route 2, Box 21	
6	Scappoose, Oregon 97056	3
7	Lonie Motley	
8	3706 NE Cleveland	
9	Portland, Oregon 97212	65
10	Valma Motley	
11	3706 NE Cleveland	
12	Portland, Oregon 97212	64
13	Julie Strain	
14	2023 NE Rodney	
15	Portland, Oregon 97212	73
16	Mamie Newman	
17	8021 SE Cora	
18	Portland, Oregon 97206	83
19	Leslie Palmer Malarkey	
20	Route 2, Box 21	
21	Scappoose, Oregon 97056	30
22	Barbara Mills Malarkey	
23	1708 SW Hawthorne Terrace	
24	Portland, Oregon 97201	49
25	Gretchen Prag Paulson	
26	Post Office Box 485	
27	Jacksonville, Oregon 97530	37
28	John Brooke	
29	13300 SW Iron Mountain Boulevard	
30	Portland, Oregon 97219	9
31	Sally Mills	
32	1708 SW Hawthorne Terrace	
33	Portland, Oregon 97201	17
34	Leigh Mills	
35	1708 SW Hawthorne Terrace	
36	Portland, Oregon 97201	23
37	United States National Bank of Oregon	
38	Trustee	
39	321 SW Sixth Avenue	
40	Portland, Oregon 97204	n/a

28 ///

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1	Endowment Fund of Trinity	
2	Episcopal Church	
3	147 NW 19th	n/a
4	Portland, Oregon 97209	
5	Reed College of Portland, Oregon	
6	3203 SE Woodstock Boulevard	
7	Portland, Oregon 97202	n/a
8	Leland Stanford Junior University	
9	Palo Alto, California 94305	n/a
10	Oregon Museum of Science & Industry	
11	4015 SW Canyon Road	
12	Portland, Oregon 97221	n/a
13	Boys & Girls Aid Society of Oregon	
14	2301 NW Glisan	
15	Portland, Oregon 97210	n/a

11 By the terms of the will, the decedent devised and bequeathed the estate to
 12 the following persons in the manner indicated:

13		Actual Devise	Payable from Washington property
14	Charitable Devises:		
15	Trinity Episcopal Church	\$ 5,000.00	-0-
16	Reed College	5,000.00	-0-
17	Leland Stanford Junior University	5,000.00	-0-
18	Oregon Museum of Science & Industry	5,000.00	-0-
19	Boys & Girls Aid Society	5,000.00	-0-
20	Class C Beneficiaries:		
21	Lanie Motley	5,000.00	-0-
22	Julia Strain	3,500.00	-0-
23	Velma Motley	2,000.00	-0-
24	Mamie Newman	1,500.00	-0-
25	Gretchen Paulsen	5,000.00	-0-
26	Sally Mills	5,000.00	-0-
27	Leigh Mills	5,000.00	-0-
28	Leslie Malarkey	5,000.00	-0-
29	Class A Beneficiaries:		
30	Barbara Malarkey	5,000.00	-0-
31	John R. Brooke	5,000.00	-0-
32	Gregory Malarkey	10,000.00	-0-
33	Herbert H. Malarkey	10,000.00	-0-
34	Allen Malarkey	10,000.00	-0-
35	John L. Brooke	10,000.00	-0-
36	Helen Malarkey	10,000.00	-0-
37	Elizabeth H. Brooke	10,000.00	-0-
38	Palmer Malarkey	10,000.00	-0-

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1 Brian Malarkey 10,000.00 -0-

2 All of the above bequests have been paid from the Oregon estate and receipts
3 therefor are on file in that court.

4 Additional Class A Beneficiaries:

5 Elizabeth Malarkey)
6 Elizabeth Brooke) RESIDUE
7 George Malarkey)
8 Michael Malarkey)

9 That the specific bequests mentioned above have all been paid from the assets
10 of the domiciliary estate; that the property remaining for distribution in this
11 ancillary probate should be distributed to the executor of the domiciliary estate
12 in the State of Oregon for distribution in accordance with the provisions of the
13 residual bequest of the will.

14 8. ALLOWANCE OF FEES:

15 A reasonable allowance for the attorneys for their services in
16 this ancillary probate is:

17 To George Black, Jr., of Black, Kendall, Tremaine,
18 Boothe & Higgins, the sum of \$30,000.00 plus costs
advanced;

19 To Donald C. Blair of Blair, Schaefer, Hutchison, Wynne,
20 Potter, Horton & Johnson, the sum of \$20,000.00 plus
costs advanced;

21 that a reasonable allowance for the personal representative with will annexed
22 in this ancillary probate is the sum of \$15,000.00, and the guardian ad litem
23 has waived her fee. Now, therefore, it is

24 ORDERED that the Final Account and Petition for Distribution of
25 the personal representative with will annexed is hereby approved and confirmed
26 and the following payments are directed:

27 To George Black, Jr., of Black, Kendall, Tremaine,
28 Boothe & Higgins, the sum of \$30,000.00 plus costs
advanced, less the sum of \$15,000.00 paid pursuant
to court order of December 8, 1976; and

To Donald C. Blair, of Blair, Schaefer, Hutchison, Wynne,
Potter, Horton & Johnson, the sum of \$20,000.00 plus

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costs advanced, less the sum of \$10,000.00
paid pursuant to court order of December 8,
1976; and

To George B. Malarkey, personal representative
with will annexed, the sum of \$15,000.00, less
the sum of \$7,500.00 paid pursuant to court order
of December 8, 1976.

IT IS DECREED that the balance of cash on hand and of the assets
of this ancillary probate remaining, together with any property not now known
which may belong to said ancillary estate, is distributed as follows:

To the personal representative of the domiciliary
estate for distribution to the persons entitled to
receive the same.

IT IS FINALLY ORDERED that upon the filing of receipts showing
payments and distribution to have been made in accordance with this decree
the personal representative with will annexed be discharged, the bond exonerated,
and the estate closed.

DONE in open court this 27 day of December, 1977.

JUDGE

Presented by:

Donald C. Blair
Donald C. Blair
Of Attorneys for Personal
Representative with will annexed.

85559

STATE OF WASHINGTON
COUNTY OF SKAGAMIA

I HEREBY CERTIFY THAT THE WITHIN
INSTRUMENT OF WRITING, FILED BY
Rich. J. J. J. J. J.
OF Portland, Oregon
AT 1:00 P.M. Dec 30, 1977
WAS RECORDED IN BOOK 74
OF Deeds AT PAGE 56
RECORDS OF SKAGAMIA COUNTY, WASH.
W. J. J. J.
COUNTY CLERK
By E. J. J. J.
DEPUTY

REGISTERED	☒
INDEXED - DR.	☐
FILED	☐
COMPILED	☐
MAILED	☐

STATE OF WASHINGTON }
COUNTY OF CLATSOP }
I, James J. J. J. County Clerk of the Superior
Court, do hereby certify that the within instrument is a
true and correct copy of the original of
the same as the same is on file in my office.

12/27/77

By James J. J. J. Deputy