

1 CASE NO.: P-12361

2 DEPT. NO.: I

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Quade

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6 IN THE NINTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
7 IN AND FOR THE COUNTY OF DOUGLAS

8
9 In the Matter of the Estate of
10 BENNIE MICHAEL McGEE,
11 Deceased.

PETITION FOR APPROVAL OF
FINAL ACCOUNTING AND DECREE
OF DISTRIBUTION

12
13 COMES NOW J. THOMAS SUSICH, ESQ., of the firm of CROW-
14 ELL, CROWELL, CROWELL, BAKER & SUSICH, LTD., on behalf of the
15 above-named Petitioner and petitions this Honorable Court for
16 an order approving the final accounting and a decree of distri-
17 bution as follows:

18 1. The Last Will and Testament of the deceased was
19 duly filed in the above-entitled Court on November 10, 1981.

20 2. A petition for probate of the will and a request
21 for issuance of letters testamentary was filed on November 10,
22 1981.

23 3. A petitioner for appointment of special adminis-
24 trator with will annexed was filed on November 25, 1981.

25 4. Special letters of administration with will
26 annexed was issued to JAMES D. McGEE on December 8, 1981.

27 5. Notice of the petition for appointment of executor
28 was duly published in accordance with law and proof thereof was
29 filed on December 22, 1981.

30 6. Letters testamentary were issued to JAMES D. McGEE
31 on December 22, 1981.

32 ///

CROWELL, CROWELL, CROWELL & BAKER, LTD.
A PROFESSIONAL LAW CORPORATION
Members
WM. J. CROWELL
ROBERT L. CROWELL
J. THOMAS SUSICH

POST OFFICE BOX 1000
CARSON CITY, NEVADA
89702

DO-13531-BG

1 7. JAMES D. MCGEE signed the oath as executor and
2 letters testamentary were filed on December 22, 1981.

3 8. Notice to creditors was filed on January 20, 1982,
4 and was duly published as required by law with proof of publi-
5 cation filed on March 15, 1982.

6 9. One creditors claim was filed by Security Pacific
7 Bank of California on March 3, 1982, and March 16, 1982, for
8 \$1,572.77.

9 10. No action was taken on the claim, and it was,
10 therefore, rejected 15 days from its filing. Notice of rejec-
11 tion was forwarded to the claimant on August 12, 1982, and no
12 action was filed within 60 days as required by NRS § 147.130;
13 therefore, the claim is waived pursuant to law.

14 11. A personal income tax return was prepared and
15 filed by the executor to the Internal Revenue Service evidenc-
16 ing a total tax liability to the United States of America in
17 the amount of \$14,941.00, and to the State of California in the
18 amount of \$2,047.38. Corporation taxes were paid to the United
19 States in the amount of \$250.00, and to the State of California
20 in the amount of \$679.20. The tax liability was paid by the
21 executor to the governmental agencies from the assets of the
22 Estate.

23 12. No federal estate tax or California tax is owed.

24 13. The executor retained KEN KJER REALTY of State-
25 line, Nevada, to be the appraisers of the real estate owned by
26 the Estate. KEN KJER REALTY billed the estate \$100.00 for said
27 services which was paid from the assets of the Estate.

28 14. The executor retained Ms. JACKIE NORRIS to act as
29 appraiser of the personal property of the Estate. Ms. NORRIS
30 billed the Estate \$200.00 for said services, which amount was
31 paid from the assets of the Estate.

32 ///

1 15. The executor retained J. THOMAS SUSICH, ESQ. of
2 CROWELL, CROWELL, CROWELL, BAKER & SUSICH, LTD., to act as
3 attorney for the Estate. Mr. SUSICH billed the Estate
4 \$4,917.00 to handle legal matters concerning the Estate which
5 amount was paid to said attorney with the approval and as
6 ordered by the Court from the assets of the Estate.

7 16. The executor incurred various expenses to adminis-
8 ter the Estate in the amount of \$1,418.23, which expenses were
9 reimbursed to the executor from the assets of the Estate with
10 the approval of the Court.

11 17. The executor has prepared and filed herewith an
12 accounting of the Estate's activity since the death of the
13 decedent. It is requested that the accounting be approved by
14 the Court.

15 18. The Estate currently holds the following assets:

- 16 a. The townhouse. \$ 43,924.00
17 b. Cash 17,579.21
18 c. Personal property. 1,275.00

19 19. The decedent's surviving spouse has received
20 \$8,894.00 in advances upon her share of the Estate reflecting a
21 \$5,000.00 advance as ordered by the Court, and \$3,894.00 in
22 funds received by her after the death belonging to the decedent
23 but never turned over to the executor. (The parties, by separ-
24 ate agreement, had permitted the wife to retain the funds with
25 the understanding that they would be deducted from her share at
26 the time of distribution.)

27 20. The Will makes no mention of the decedent's wife.
28 The marriage occurred after the Will was written. No codicil
29 or other evidence of the decedent's intentions with regard to
30 his wife's inheritance has been located by or turned over to
31 the executor. Pursuant to NRS § 133.010, it is, therefore,
32 presumed that the decedent intended that the Will be revoked as

1 to the wife. Pursuant to NRS § 134.040, the wife would then be
2 entitled to one-third (1/3) of the Estate.

3 21. The parties, by separate agreement, have deter-
4 mined to divide the Estate as follows:

5 A. The wife may retain all advanced monies total-
6 ing \$8,894.00.

7 B. In addition, the wife will receive cash in the
8 amount of \$8,167.45.

9 C. Wife agrees to convey any and all interest in
10 the real property to the remaining heirs and to waive
11 any claim thereto.

12 D. Wife also, upon receipt of said amount, waives
13 any and all claim to any other asset of the Estate.

14 E. A copy of the signed agreement is attached
15 marked Exhibit "A" and incorporated herein by reference.


16 22. Petitioner requests the Court to approve the
17 agreement of the parties and to direct the parties to abide by
18 its provisions.

19 23. It is requested that the rest and remainder of the
20 assets be distributed to the trust created by the Will with
21 JAMES D. MCGEE as trustee in favor of the surviving children to
22 be administered in accordance with the trust document left by
23 the decedent.

24 WHEREFORE, it is hereby requested that this Court enter
25 its decree approving the final accounting and directing distri-
26 bution of the Estate in accordance with this Petition, and upon
27 completion of said distribution releasing the executor from any
28 further duties under the Will.

29 DATED: April 13, 1983.

30 CROWELL, CROWELL, CROWELL,
31 BAKER & SUSICH, LTD.

32 
J. THOMAS SUSICH, ESQ.
(102 North Carson Street)
Post Office Box 1000
Carson City, Nevada 89702
Attorney for Petitioner

A G R E E M E N T

WHEREAS, BENNIE MICHAEL McGEE died as a result of an automobile accident on the 8th day of October, 1981; and

WHEREAS, the decedent, BENNIE MICHAEL McGEE, left a Will executed on August 11, 1978, by which his estate was left in trust to his minor children, and JAMES D. McGEE, his brother, was appointed Executor; and

WHEREAS, after executing said Will, BENNIE MICHAEL McGEE married MICHELLE McGEE and did not execute a Will thereafter; and

WHEREAS, pursuant to the statutory law of the state of Nevada, MICHELLE McGEE is therefore entitled to one-third (1/3) of the estate since she is a surviving spouse which was not mentioned in the Will; and

WHEREAS, the Executor, JAMES D. McGEE and the widow, MICHELLE McGEE desire to fully and finally settle any and all disputes concerning the disbursement of MICHELLE McGEE's share of the estate to her; and

WHEREAS, the parties have entered into negotiation and reached an agreement concerning said disbursement;

NOW, THEREFORE, based upon the mutual consideration set forth herein, the parties hereby agree as follows:

1. For the purposes of this Agreement, the parties agree that the townhouse owned by the decedent prior to his death located at Round Hill, Douglas County, Nevada, may be assessed as having a value of \$62,000.00. It is understood by the widow that a separate appraisal on said property indicated a value of \$81,000.00. However, in order to receive a cash settlement in this matter, the widow is willing to agree that the townhouse has a value of \$62,000.00.

2. The estate therefore consists of the following:
 - a. A townhouse; value \$62,000.00;
 - b. Checking account #14-0673988, Nevada National Bank: \$2,993.83;
 - c. Savings account #14-2062639, Nevada National Bank, \$13,922.90;
 - d. An advance paid to MICHELLE McGEE per court order: \$5,000.00;
 - e. Two checks cashed by MICHELLE McGEE after the death of the decedent: \$3,894.00;Total Value of the Estate: \$87,810.73.

3. The townhouse currently has a balance owing on it pursuant to a First Deed of Trust to Eldorado Savings and Loan in the amount of \$36,626.37.

4. The current value of the Estate is \$51,184.36.

5. MICHELLE McGEE is entitled to one-third (1/3) of \$51,184.36 or \$17,061.45. MICHELLE McGEE has already received in advances and checks cashed by her \$8,894.00. She therefore is entitled to \$8,167.45.

6. In consideration of her agreement to accept a lower appraised value on the townhouse, the Executor agrees to pay MICHELLE McGEE cash in the amount of \$8,167.45, being a full and complete payment of any and all interests said MICHELLE McGEE has in the Estate of BENNIE MICHAEL McGEE. Upon receipt of said amount, MICHELLE McGEE agrees to execute any and all documents necessary to renounce claim to any other asset of the Estate.

7. This Agreement will become final upon the signature of both parties and the approval of it by the Court.

DATED this 31st day of March, 1983.

Michelle M. McGee
MICHELLE McGEE, Widow

James D. McGee
JAMES D. MCGEE, Executor

APPROVED AS TO FORM:

Edmund L. Lambert
ATTORNEY for MICHELLE MCGEE

Thomas Susich
THOMAS SUSICH, ESQ.
Attorney for the Estate of
BENNIE MICHAEL MCGEE
(402 North Carson Street)
Post Office Box 1000
Carson City, NV 89702

COPY

CERTIFIED COPY

The document to which this certificate is attached is a full, true and correct copy of the original on file and of record in my office.

DATE: 8-16-88
Breed Clerk of the 9th Judicial District Court
of the State of Nevada, in and for the County of Douglas.

by J. Zinn Deputy
SEAL

REQUESTED BY
FIRST CENTENNIAL TITLE CO.

OFFICIAL RECORDS OF
DOUGLAS CO., NEVADA

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JOY ANNE BEAUDREAU
RECORDER

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