

FILED

1 CASE NO. 99-PB-0138
2 99-PB-0136

NO. _____

3 DEPT. NO. II

'00 DEC 18 P2:45

4 RECEIVED

5 DEC 18 2000

DOUGLAS COUNTY
DISTRICT COURT CLERK

BARBARA REED
CLERK

BY WILLIAMS DEPUTY

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

9 In the Matter of the
10 Guardianship of:

11 OSCAR GOGGANS,

12 An Adult Ward.

13 ORDER CONFIRMING SALE OF
PROPERTY AND PAYMENT OF COSTS

14 In the Matter of the
15 Guardianship of:

16 HELEN GOGGANS,

17 An Adult Ward.

18 THIS MATTER was brought on before the Court on the 18th day of
19 December, 2000, on the Verified Petition for Confirmation of Sale of
20 Real Property and Payment of Costs filed by the Public Administrator
21 of Douglas County as the Guardian of the above-referenced Adult
22 Wards, OSCAR GOGGANS and HELEN GOGGANS. Present in Court were the
23 Public Administrator, together with her counsel MICHAEL SMILEY ROWE,
24 ESQ. of ROWE & HALES, LLP. Based upon the Verified Petition on file
25 herein, all previous pleadings filed in both guardianship matters,
26 together with the representations made in open Court at the hearing
27 on the Petition, the Court hereby finds and orders as follows:

28 1. The property which is the subject of this order, the sale
of which is hereby confirmed, is commonly known as 575 Buchanan,

0506013

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1 Stateline, Douglas County, Nevada. This property may also be known
2 as Lot 8, Ansaldo Acres. This property has been assigned Douglas
3 County, Nevada Assessor's Parcel No. 7-732-080 (hereinafter referred
4 to as "the property").

5 2. Petitioner retained Peter S. Bowie, SRA to appraise the
6 property. Filed with the Court as Exhibit "A" to the Petition is a
7 copy of the Uniform Residential Appraisal Report dated September 29,
8 2000, which estimated the market value of this property and
9 improvements of the Wards at TWO HUNDRED FORTY FIVE THOUSAND DOLLARS
10 (\$245,000.00).

11 The Court finds that the fair market value of the
12 property is not less than \$245,000.00.

13 3. Petitioner has represented to the Court, and the Court
14 accepts such representations as true, that the Grant Deed recorded
15 for this property reflects title to the real property and
16 improvements as being vested in both Wards as "husband and wife as
17 joint tenants with right of survivorship".

18 4. Filed on December 1, 2000 in both of the Court's files
19 for these two guardianships is a Notice of Private Sale of Real
20 Property. The Notice provides that the Petitioner would conduct a
21 private sale of the property on the 18th day of December, 2000, at
22 the hour of 11:00 o'clock a.m. at 1638 Esmeralda Avenue, Minden,
23 Nevada. In open Court, Petitioner advised that she and counsel had
24 conducted the private sale of the property. Petitioner further
25 reported that the result of the private sale was the subject of her
26 Petition to this Court for confirmation of the sale.

27 5. Filed with the Court on December 18, 2000, was the
28 Affidavit of Publication submitted by the Record-Courier, a

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1 newspaper of general circulation printed and published in Douglas
2 County, Nevada. The Affidavit of Publication reveals that the
3 Notice of Private Sale of Real Property was published on December 2,
4 December 9, and December 16, 2000.

5 Also filed with the Court on December 1, 2000, were the
6 Notice of Private Sale of Real Property and the Notice of the
7 Hearing the Court has conducted on December 18, 2000. The Court has
8 reviewed both notices, particularly the Certificate of Service
9 attached to the Notice of Private Sale of Real Property and the
10 first and second pages of the Notice of Hearing. The Court finds
11 that all those entitled to notice of these proceedings have been
12 supplied or provided with notice by virtue of the publication of the
13 Notice of Private Sale of Real Property and/or by the receipt of a
14 copy of the Notice of Hearing, Verified Petition and/or Notice of
15 Private Sale of Real Property.

16 6. The Court concludes as a matter of law that notice
17 pursuant to NRS 148.220 has been duly and properly given by the
18 Petitioner. The private sale and notice of private sale have been
19 given in accordance with NRS 148.240. The Court concludes as a
20 matter of law that due and proper notice of the sale of real
21 property and the Court's hearing on the Petition to Confirm the Sale
22 of Real Property has been given as required by law.

23 7. The Court concludes as a matter of law that it has
24 jurisdiction to confirm the sale of the property in view of the
25 Petitioner's compliance with all applicable statutes. The Court
26 concludes that the procedure for its confirmation of the sale is
27 governed by NRS 148.260 and NRS 148.270.

28 With regard to NRS 148.260, the Court finds that the

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1 property has been appraised within one (1) year before the time of
2 sale. The Court further finds that the offers received exceed the
3 fair market value as established by the appraiser's report.

4 With regard to the latter statute, NRS 148.270, the Court
5 finds that it is necessary for the estate to sell the real property
6 of the Wards, and that the estate will realize an advantage, benefit
7 and interest in having the sale made. Good reason exists for the
8 sale, and the sale has been legally made and fairly conducted, the
9 sale complies in all respects with the requirement of the NRS, and
10 the sum bid is not disproportionate to the value.

11 8. The Court has been supplied with the written
12 recommendation of the Petitioner that the Court confirm the sale of
13 the property for the purchase price of TWO HUNDRED NINETY EIGHT
14 THOUSAND DOLLARS (\$298,000.00) on the terms and conditions set forth
15 in the Petition. However, and of necessity, the Petitioner's
16 recommendation of the highest offer on the property preceded the
17 Court's confirmation hearing. As referenced, the confirmation
18 hearing is governed by NRS 148.270 which provides, in relevant part:

19 "3. If a written offer of 5% or \$5,000.00 more in
20 amount than that named in the return is made to the
21 Court by a responsible person, as provided in
22 subsection 2, and the bid complies with all
23 provisions of the law, the Court may accept the
24 offer and confirm the sale to that person, order a
25 new sale or conduct a public auction in open
26 court."

27 Subsection 4 of the statute provides that if a higher bid is
28 received at the hearing to confirm the sale, the Court may accept
29 the higher bid if the original bidder was provided with notice of
30 the hearing. As referenced, the Court concludes that all of the
31 offerors to purchase the property have received notice of the

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1 hearing and notice of the private sale of real property.
2 Accordingly, the Court accepts the higher bid received in open
3 court.

4 9. At the hearing to confirm the sale conducted on December
5 18, 2000, several interested parties were present in Court. The
6 Court, in accordance with NRS 148.270, conducted a public auction in
7 open Court of those interested in the property and purchasing the
8 same. At the conclusion of the Court's auction, The Shou Mee Trust
9 emerged as the highest bidder. Accordingly, the Court accepts the
10 highest bid received in open Court.

11 10. It is the order of the Court that the sale of the real
12 property and improvements of the Wards to The Shou Mee Trust in the
13 amount of THREE HUNDRED NINE THOUSAND DOLLARS (\$309,000.00), be, and
14 the same hereby is, **CONFIRMED**, upon the following terms and
15 provisions:

- 16 • No personal property of the Wards is sold excepting
- 17 • only the clothes dryer and generator.
- 18 • Close of escrow shall occur on or before December
- 19 • 31, 2000.
- 20 • Purchase price to be paid all cash.
- 21 • Title and escrow fees to be shared equally (50%
- 22 • seller; 50% buyer).
- 23 • Real property transfer tax paid by seller.
- 24 • Buyer to pay for any inspections desired within
- 25 • seven (7) working days of December 18, 2000.
- 26 • First American Title Company ("Kathy") will be used
- 27 • for the transaction.
- 28 • Seller to remain in possession of the residence for
- a period of time not to exceed thirty (30) days
- following close of escrow to remove the Wards'
- personal property.
- "As is" sale; Seller makes no warranties or
- representations.

26 11. In open Court, the Public Administrator requested the
27 Court's authorization and approval of accepting a "back-up offer" on
28 the property. The Court deems this request to be a wise one, and

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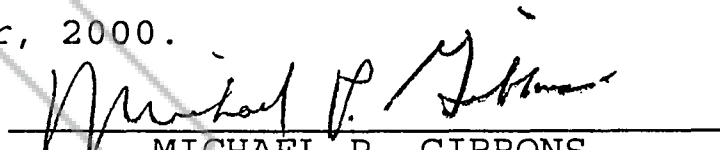
Physical Address
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1 approves of the Public Administrator accepting a back-up offer to
2 purchase the property. If the highest bidder has not satisfied the
3 Public Administrator by December 28, 2000 that all conditions, terms
4 and provisions of the sale of the property to the highest bidder
5 have been met, the Public Administrator, in her discretion, is
6 hereby authorized to accept the back-up offer and to close escrow on
7 the back-up offer.

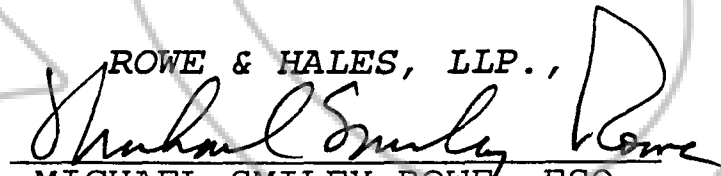
8 IT IS FURTHER ORDERED that the Public Administrator and
9 guardian of the Wards may pay a real estate commission of 7% as she
10 has requested; 4% may be paid to M. Scott Properties, Inc. and 3% to
11 they Buyer's Realtor/agent.

12 IT IS FURTHER ORDERED that the Public Administrator/Guardian
13 may execute such instruments of conveyance as are necessary to
14 convey the Wards' rights, title and interest in and to the property
15 to the successful purchaser.

16 DATED: this 18 day of December, 2000.

17 
18 MICHAEL P. GIBBONS
DISTRICT COURT JUDGE

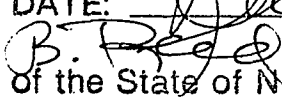
19 Submitted by:

20 ROWE & HALES, LLP.,
21 
22 MICHAEL SMILEY ROWE, ESQ.
23 Nevada State Bar No. 1374
1638 Esmeralda Avenue
24 Minden, Nevada 89423
(775) 782-8141
25 Attorney for Petitioner,
Lynn EnEarl, Douglas County
26 Public Administrator

27 **CERTIFIED COPY**

28 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.

SEAL

DATE: Dec. 18, 2000
 Clerk of the 9th Judicial District Court
of the State of Nevada, in and for the County of Douglas,

By 6 Deputy

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COPY

REQUESTED BY
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2000 DEC 29 PM 3: 24

LINDA SLATER
RECORDER

\$13⁰⁰ PAID *kg* DEPUTY

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