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1 CASE NO. 01-PB-0088

2 DEPT. NO. I

'02 JAN -9 P3:51

BARBARA REED  
CLERK

BY ~~F. GREGORY~~ DEPUY

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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 In the Matter of the  
9 Guardianship

10 of

11 EDWIN NEWTON,

12 Adult Ward.  
13 \_\_\_\_\_/

ORDER GRANTING ADVICE AND  
INSTRUCTION, FOR QUIETING TITLE  
AND FOR APPROVAL OF SALE OF  
WARD'S PROPERTY

14 **THIS MATTER** was brought on before the Court on the 8th day of  
15 January, 2002, on the Petition to Quiet Title; to Request the Court's  
16 Advice and Instructions; and for Approval of Sale of Ward's Property  
17 ("Petition") filed by the Douglas County, Nevada Public Administrator  
18 and Guardian of the above-referenced Ward. Present in Court were the  
19 Public Administrator, LYNN ENEARL ("Guardian"), together with her  
20 counsel MICHAEL SMILEY ROWE, ESQ. of ROWE & HALES, LLP. Also present  
21 in Court were Kay Roney, representing State of Nevada, Department of  
22 Human Resources, Division for Aging Services ("Division"), and Keith  
23 Logan, an investigator with the Douglas County Sheriff's Department.  
24

25 Based upon the pleadings on file herein, and on the offer of  
26 proof presented to the Court on January 8, 2002, together with the  
27 report of the Division accepted into evidence as Exhibit "1", the  
28

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1 Court deems itself well advised in the premises and hereby makes the  
2 following findings, conclusions and order.

3 **IT IS HEREBY FOUND, CONCLUDED AND ORDERED AS FOLLOWS:**

4 1. It appears to the satisfaction of the Court that Julie Ann  
5 Cokonougher received actual notice of the Public Administrator's  
6 Petition. Prior to the hearing, a copy of the Citation directed by  
7 this Court and issued by its Clerk was filed on December 21, 2001. On  
8 December 28, 2001, the Guardian caused to be filed return receipts  
9 from certified mailings, one of which was directed to Julie Ann  
10 Cokonougher at P.O. Box 2202, Minden, NV 89423. It appears from the  
11 return receipt for the certified mailing that Ms. Cokonougher,  
12 identified as the "addressee", accepted a copy of the Citation and  
13 Petition on December 26, 2001.

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16 Filed in open Court on January 8, 2002, was an Affidavit of  
17 Attempted Personal Service. The Affidavit of Thomas W. Jeffers  
18 indicates that he attempted to personally serve a copy of Petition,  
19 Request for Order Shortening Time and Order Shortening Time upon Julie  
20 Ann Cokonougher on December, 21, 23, 26 and December 30, 2001. Mr.  
21 Jeffers was unable to personally serve a copy of the pleadings filed  
22 in this matter, including the Citation and Petition.

23  
24 The Court finds and concludes that Julie Ann Cokonougher  
25 had actual notice of the proceedings conducted on January 8, 2002, and  
26 elected not to appear for the hearing on the Petition.

27 2. Accepted into evidence as Exhibit "1" was the December 31,  
28

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1 2001, report prepared by the Division. The report indicates that the  
2 Ward's dementia was present as of May 9, 2000, and the report further  
3 indicates that the social worker, Nancy Hunter, was advised by Ms.  
4 Cokonougher that Mr. Newton's dementia was such, on May 9, 2000, that  
5 he did not understand or "know anything" about events in his life, and  
6 "hasn't for years". Attached to the Petition as Exhibit "A" is a  
7 report from Dr. Richard Peterson, M.D., which the Court examined at  
8 the time it appointed the Guardian, *ex parte*, and again on January 8,  
9 2002. It is apparent to the Court that the Ward is now an 82 year old  
10 male diagnosed with chronic, progressive dementia, who is unable to  
11 care for any of his own needs, including making decisions in the  
12 activities of daily living. Dr. Peterson's report states, in salient  
13 part: "the patient apparently has had chronic, progressive dementia  
14 over years and is in need of conservatorship".

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17 The Court finds that the Ward, in 1998, suffered from  
18 progressive dementia and severe Alzheimer's Disease to the extent that  
19 he could not form the requisite intent to enter into that grant,  
20 bargain and sale deed dated July 17, 1998. Accordingly, the Court  
21 finds that the deed is not valid, and does not convey an interest to  
22 Julie Ann Cokonougher in the Ward's property which may described as  
23 885 Tillman Lane, Gardnerville, Nevada; Douglas County, Nevada  
24 Assessor's Parcel No. 1220-16-710-004; and further described as Lot 4,  
25 in Block A, Gardnerville Ranchos, Unit No. 4, as shown on that map  
26 recorded in the office of the County Recorder of Douglas County,  
27  
28

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1 Nevada on April 10, 1967 in Map Book 1, File No. 35914.

2 3. The Court finds and concludes as a matter of law that the  
3 best interests of the Ward would be served by a sale of the real  
4 property owned by the Ward exclusive of any claim to title by Julie  
5 Ann Cokonougher.

6 4. The Court concludes as a matter of law that the Guardian  
7 shall be authorized to sell the real property and improvements owned  
8 by the Ward and apply such proceeds to the Ward's care. The Court  
9 concludes that the sale shall be conducted according to NRS 148.060  
10 and 148.080 to 148.400, inclusive; all as is required by NRS 159.134.

11 5. The Court concludes as a matter of law the Julie Ann  
12 Cokonougher had actual knowledge of the proceedings conducted on  
13 January 8, 2002, and had signed a return receipt for certified mailing  
14 of a copy of the Citation, Petition, and related pleadings on December  
15 26, 2001. The Court further concludes that the Guardian has made  
16 every reasonable effort to cause personal service of the Citation, the  
17 Petition and related pleadings upon Julie Ann Cokonougher, but for  
18 unknown reasons, such service could not be made upon her at her  
19 residence located at 1367 Riverview Drive, Gardnerville, Nevada, on  
20 December 21, 23, 26 and December 30, 2001. Despite actual notice of  
21 these proceedings, Julie Ann Cokonougher failed to appear for the  
22 hearing on the Petition.

23 Based upon the above and foregoing findings of fact and  
24 conclusions of law, and good cause appearing:  
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IT IS HEREBY ORDERED that title to the Ward's real property, commonly known as 885 Tillman Lane, Gardnerville, Nevada, shall be quieted in the Ward, and any interest of Julie Ann Cokonougher which may be reflected in deeds recorded in the office of the Douglas County, Nevada Recorder shall be expunged as to any interest purportedly vested in Julie Ann Cokonougher.

BE IT FURTHER ORDERED, pursuant to NRCP 70, that the Clerk of the Court, pursuant to this Order divesting Julie Ann Cokonougher of any title to the property, shall sign any instrument(s) required by the Guardian and/or any title company for the sale of the Ward's property to any purchaser approved by this Court pursuant to the procedures of NRS 148.

Upon the Guardian's application to the Clerk, the Clerk is hereby directed and authorized by the Court to sign any instrument(s) in the place and stead of Julie Ann Cokonougher.

BE IT FURTHER ORDERED, from and after the date of this Order, Julie Ann Cokonougher shall have no interest in, and is divested of any title to, that real property commonly known as 885 Tillman Lane, Gardnerville, Nevada; Douglas County Assessor' Parcel No. 1220-16-710-004; more specifically described as: Lot 4, in Block A, Gardnerville Ranchos, Unit No. 4, as shown on that map recorded in the office of

/ / /  
/ / /  
/ / /

1 the County Recorder of Douglas County, Nevada on April 10, 1967 in Map  
2 Book 1, File No. 35914.

3 DATED this 9 day of January, 2002.

*David R. Gamble*

4  
5 DAVID R. GAMBLE  
6 DISTRICT COURT JUDGE

7 ROWE & HALES, LLP

*Michael Smiley Rowe*

8 MICHAEL SMILEY ROWE  
9 Nevada Bar Number 1374  
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13 Attorney for Petitioner

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24 **CERTIFIED COPY**

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

28 DATE: 1/9/02

*B. Speed* Clerk of the 9th Judicial District Court  
of the State of Nevada, in and for the County of Douglas,

By *[Signature]* **SEAL** Deputy

REQUESTED BY  
*Michael Rowe Public Admin*  
IN OFFICIAL RECORDS OF  
DOUGLAS CO., NEVADA  
for **DOUGLAS COUNTY**  
2002 JAN 10 AM 11:33

LINDA SLATER  
RECORDER

s. *[Signature]* PAID *[Signature]* DEPUTY

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