

1 CASE NO. 01-PB-0094 NO _____

2 DEPT. NO. I '02 JAN 29 P2:32

3
4 BARBARA REED
CLERK

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JAN 29 2002
DOUGLAS COUNTY
DISTRICT COURT CLERK

5 BY P. GREGORY DEPUTY

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
10 Guardianship of

11 EMILY NASH,

ORDER CONFIRMING SALE OF
PROPERTY AND PAYMENT OF COSTS

12 An Adult Ward.
13 _____

14 THIS MATTER was brought on before the Court on the 29th day of
15 January, 2002, on the Verified Petition for Confirmation of Sale of
16 Real Property and Payment of Costs filed by the Public Administrator
17 of Douglas County as the Guardian of the above-referenced Adult Ward,
18 EMILY NASH. Present in Court were the Public Administrator, together
19 with her counsel MICHAEL SMILEY ROWE, ESQ. of ROWE & HALES, LLP.
20 Based upon the Verified Petition on file herein, all previous
21 pleadings filed in this matter, together with the representations made
22 in open Court at the hearing on the Petition, the Court hereby finds
23 and orders as follows:
24

25 1. The property which is the subject of this order, the sale
26 of which is hereby confirmed, is commonly known as 1518 Silverbirch,
27 Minden, Nevada. This property may also be known as Douglas County,
28

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1 Nevada Assessor's Parcel No. 1320-32-210-016 (formerly 0000-25-243-
2 080) (hereinafter referred to as "the property").

3 2. No appraisal of the property has been prepared, however,
4 the Public Administrator had requested and received information
5 regarding comparable sales from M. Scott Properties, Inc., indicating
6 a range in value for this property, in a well-maintained, clean
7 condition, of \$135,000.00 to \$149,000.00.

8
9 3. Petitioner has represented to the Court, and the Court
10 accepts such representations as true, that the Grant Deed recorded for
11 this property reflects title to the real property and improvements as
12 being vested in the Ward and her deceased spouse, as "husband and wife
13 as joint tenants with right of survivorship".

14
15 4. The Public Administrator filed a Notice of Sale on January
16 10, 2002. The Notice provides that the Public Administrator would
17 conduct a sale of the property on the 29th day of January, 2002, at
18 the hour of 1:30 o'clock p.m. at 1625 8th Street, Minden, Nevada. In
19 open Court, Petitioner advised that she and counsel had conducted the
20 sale of the property. Petitioner further reported that the result of
21 the sale was the subject of her Petition to this Court for
22 confirmation of the sale.

23
24 5. Filed with the Court on January 28, 2002, was the Affidavit
25 of Publication submitted by the Record-Courier, a newspaper of general
26 circulation printed and published in Douglas County, Nevada. The
27 Affidavit of Publication reveals that the Notice of Sale was published
28

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1 on January 12, January 19 and January 23, 2002.

2 6. Also filed with the Court on January 10, 2002, were the
3 Petition for Confirmation of Sale of Real Property and Payment of
4 Costs and a Notice of Hearing advising that the Public Administrator's
5 petition to confirm the sale would be heard by the Court on January
6 29, 2002, at 1:30 p.m. The Court has reviewed both documents,
7 particularly the Certificate of Service attached to the Notice of
8 Hearing. The Court finds that all those entitled to notice of these
9 proceedings have been supplied or provided with notice by virtue of
10 the publication of the Notice of Sale and/or by the receipt of a copy
11 of the Notice of Hearing, Verified Petition and/or Notice of Sale.
12

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

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

27 With regard to the latter statute, NRS 148.270, the Court
28

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1 finds that it is necessary for the estate to sell the real property of
2 the Ward, and that the estate will realize an advantage, benefit and
3 interest in having the sale made. Good reason exists for the sale,
4 and the sale has been legally made and fairly conducted; the sale
5 complies in all respects with the requirement of the NRS; and the sum
6 bid is not disproportionate to the value.
7

8 8. The Court has been supplied with the written recommendation
9 of the Petitioner that the Court confirm the sale of the property for
10 the purchase price of ONE HUNDRED THIRTY ONE THOUSAND DOLLARS
11 (\$131,000.00) on the terms and conditions set forth in the Petition.
12 However, and of necessity, the Petitioner's recommendation of the
13 highest offer on the property preceded the Court's confirmation
14 hearing. The confirmation hearing is governed by NRS 148.270 which
15 provides, in relevant part:
16

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

25 Subsection 4 of the statute provides that if a higher bid is
26 received at the hearing to confirm the sale, the Court may accept the
27 higher bid if the original bidder was provided with notice of the
28 hearing. the Court has concluded that all of the offerors to purchase
the property have received notice of the hearing and notice of the
private sale of real property. Accordingly, the Court accepts the

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1 higher bid received in open court.

2 9. At the hearing to confirm the sale conducted on January 29,
3 2002, several interested parties were present in Court. The Court, in
4 accordance with NRS 148.270, conducted a public auction in open Court
5 of those interested in the property and purchasing the same. At the
6 conclusion of the Court's auction, GREG LYNN emerged as the highest
7 bidder. Accordingly, the Court accepts the highest bid received in
8 open Court.
9

10 10. It is the order of the Court that the sale of the real
11 property and improvements of the Ward to GREG LYNN in the amount of
12 ONE HUNDRED FORTY ONE THOUSAND DOLLARS (\$141,000.00) be, and the same
13 hereby is, **CONFIRMED**, upon the following terms and provisions:

- 14 ● Close of escrow shall occur on or before two (2) days
15 after Court approval, no exceptions.
- 16 ● Purchase price to be paid all cash; no contingencies.
- 17 ● Title, escrow fees and transfer tax to be shared
18 equally (50% seller; 50% buyer).
- 19 ● First American Title Company ("Kathy") will be used
20 for the transaction.
- 21 ● "As is" sale; Seller makes no warranties or
22 representations.

23 11. In open Court, the Public Administrator requested the
24 Court's authorization and approval of accepting a "back-up offer" on
25 the property. The Court deems this request to be a wise one, and
26 approves of the Public Administrator accepting a back-up offer to
27 purchase the property. If the highest bidder has not satisfied the
28 Public Administrator by January 31, 2002, that all conditions, terms
and provisions of the sale of the property to the highest bidder have

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1 been met, the Public Administrator, in her discretion, is hereby
2 authorized to accept a back-up offer and to close escrow on the back-
3 up offer.

4 **IT IS FURTHER ORDERED** that the Public Administrator and guardian
5 of the Ward may pay a real estate commission of 7% as she has
6 requested to M. Scott Properties, Inc.

7 **IT IS FURTHER ORDERED** that the Public Administrator/Guardian may
8 execute such instruments of conveyance as are necessary to convey the
9 Ward's rights, title and interest in and to the property to the
10 successful purchaser.

11 DATED: this 29 day of January, 2002

David R. Gamble

12 DAVID R. GAMBLE
13 DISTRICT COURT JUDGE

14 Submitted by:

15 ROWE & HALES, LLP.,

16 *Michael Smiley Rowe*

17 MICHAEL SMILEY ROWE, ESQ.
18 Nevada State Bar No. 1374
19 1638 Esmeralda Avenue
20 Minden, Nevada 89423
21 (775) 782-8141

22 Attorney for Petitioner,
23 Lynn EnEarl, Douglas County
24 Public Administrator

25 **CERTIFIED COPY**

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

DATE: 1/29/02
Cheryl Clerk of the 9th Judicial District Court
of the State of Nevada, in and for the County of Douglas,

By *Bregan* Deputy

SEAL

REQUESTED BY
FIRST AMERICAN TITLE CO.
IN OFFICIAL RECORDS OF
DOUGLAS CO., NEVADA

2002 JAN 31 PM 3:41

LINDA SLATER
RECORDER

\$190 PAID *KJ* DEPUTY

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