

**FILED**

1 CASE NO. 01-PB-0088

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4 DOUGLAS COUNTY  
DISTRICT COURT CLERK

BARBARA REED  
CLERK

BY: ~~[Signature]~~ DEPUTY

5 IN THE NINTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

6 IN AND FOR THE COUNTY OF DOUGLAS

7  
8 In the Matter of the  
Guardianship

9 of

ORDER CONFIRMING SALE OF  
PROPERTY AND PAYMENT OF COSTS

10 EDWIN NEWTON,

11 Adult Ward.  
12

13 **THIS MATTER** was brought on before the Court on the 14th day of  
14 May, 2002, on the previously filed Verified Petition for Confirmation  
15 of Sale of Real Property and Payment of Costs filed by the Public  
16 Administrator of Douglas County, Nevada, the Court appointed guardian  
17 for the above-referenced Adult Ward, EDWIN NEWTON.

18  
19 Prior to the hearing conducted on May 14, 2002, this matter had  
20 been previously brought on before the Court on the Verified Petition  
21 for Confirmation of Sale of Real Property, which Petition was filed  
22 January 10, 2002. The Court originally set this matter for a hearing  
23 on January 29, 2002. On that date, Julie Cokonougher appeared and  
24 protested the sale of the property pursuant to the Verified Petition.  
25 The Court allowed Ms. Cokonougher the opportunity to present written  
26 objections to the Petition.  
27

28 The record should also reflect that this Court has conducted a

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1 settlement conference between the Public Administrator of Douglas  
2 County, Nevada, together with her counsel, MICHAEL SMILEY ROWE, ESQ.  
3 of ROWE & HALES, LLP and Ms. Cokonougher, together with her counsel  
4 JOHN GAVIN, ESQ. As a result of the settlement conference, it was  
5 agreed that Ms. Cokonougher would be provided to, and including, the  
6 time of hearing on May 14, 2002, within which to pay \$30,000.00 in  
7 certified funds to the Administrator, as guardian of the Ward, for the  
8 Ward's interest in the real property.  
9

10 On May 14, 2002, the Public Administrator, LYNN ENEARL, together  
11 with her counsel, MICHAEL SMILEY ROWE, ESQ. of ROWE & HALES, LLP, and  
12 Julie Cokonougher, together with her counsel, JOHN GAVIN, ESQ.,  
13 appeared in Court. Ms. Cokonougher represented to the Court that she  
14 was not able to pay the \$30,000.00 to the guardianship estate for the  
15 estate's interest in the property commonly known at 885 Tilman Lane,  
16 Gardnerville, Nevada, 89410.  
17

18 Accordingly, because of Ms. Cokonougher's inability to pay  
19 \$30,000.00 to the guardian of the Ward, the Court conducted a  
20 confirmation hearing in accordance with the provisions of NRS 148. At  
21 the conclusion of the confirmation hearing, Mr. Bruce Kingsland, on  
22 behalf of his family trust, emerged as the successful bidder on the  
23 property.  
24

25 Based upon the above and foregoing, together with all previous  
26 pleadings filed in this matter, and together with the representations  
27 made in the various hearings conducted by the Court, the Court deems  
28

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1 itself well advised in the premises; accordingly, the Court orders as  
2 follows:

3 1. The property which is the subject of this order, the sale  
4 of which is confirmed, is commonly known as 885 Tilman Lane,  
5 Gardnerville, Nevada. This property may also be known as Douglas  
6 County, Nevada Assessor's Parcel No. 1220-16-710-004; further  
7 described as Lot 4 in Block A, Gardnerville Ranchos, Unit No. 4, as  
8 shown on the map recorded in the office of the County Recorder of  
9 Douglas County, Nevada on April 10, 1967. (hereinafter referred to as  
10 "the property").  
11

12 2. Petitioner retained Peter S. Bowie, SRA to appraise the  
13 property. Filed with the Court as Exhibit "A" to the Petition is a  
14 copy of the Uniform Residential Appraisal Report dated November 10,  
15 2001, which estimated the market value of this property and  
16 improvements of the Wards at ONE HUNDRED FIFTEEN THOUSAND DOLLARS  
17 (\$115,000.00).  
18

19 3. Based upon the pleadings on file herein, and the  
20 information the Court has obtained through and at the settlement  
21 conference conducted by the Court on May 9, 2002, the Court finds that  
22 the grant deed recorded for this property reflects title to the real  
23 property and improvements being vested in EDWIN NEWTON originally, and  
24 later by grant deed the property was vested in EDWIN NEWTON and Julie  
25 Cokonougher as joint tenants.  
26

27 4. The Court ratifies, confirms and approves of all of the  
28

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1 notices of sale of this real property. Several hearings have been  
2 conducted on the Petition, and all those interested in the Petition  
3 for Confirmation of the Sale were present in Court on May 14, 2002.

4 The Court finds that due and proper notice has been given  
5 to all those entitled to notice, and to all of those persons who have  
6 indicated an interest in the property. A Notice of Sale was filed on  
7 January 10, 2002. It properly advised of the private sale of this  
8 property subject to confirmation by the Court.  
9

10 In addition, and filed with the Court on January 28, 2002,  
11 was the affidavit of publication submitted by the Record-Courier, a  
12 newspaper of general circulation printed and published in Douglas  
13 County, Nevada. The affidavit of publication reveals that the Notice  
14 of Sale was published on January 12, 19 and 23, 2002.  
15

16 5. The Court concludes as a matter of law that notice pursuant  
17 to NRS 148.220 has been duly and properly given by the Petitioner.  
18 The private sale, and notice of private sale, have been noticed in  
19 accordance with NRS 148.240. The Court also concludes as matter of  
20 law that due and proper notice of the Court's hearings on the Petition  
21 to confirm the sale of real property has been given as required by  
22 law.  
23

24 6. The Court concludes as a matter of law that it has  
25 jurisdiction to confirm the sale of the property in view of the  
26 Petitioner's compliance with all applicable statutes. The Court  
27 concludes that procedure for its confirmation of the sale is governed  
28



1 by NRS 148.260 and NRS 148.270.

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

10 7. The Court has been supplied with the written recommendation  
11 of the Petitioner that the Court confirm the sale of the property for  
12 the purchase price of ONE HUNDRED TWO THOUSAND DOLLARS (\$102,000.00).  
13 The offeror was Sandra Shupe. Sandra Shupe was present in Court on  
14 May 14, 2002.  
15

16 However, and of necessity and statutory requirement, the  
17 Petitioner's recommendation of the highest offer on the property  
18 preceded the Court's confirmation hearing. The Court is governed by  
19 NRS 148.270 which provides, in relevant part,  
20

21 "3. If a written offer of 5% or \$5,000.00 more in  
22 amount than that named in the return is made to the  
23 Court by a responsible person, as provided in  
24 subsection 2, and the bid complies with all provisions  
25 of the law, the Court may accept the offer and confirm  
26 the sale to that person, order a new sale or conduct  
27 a public auction in open court."  
28

Subsection 4 of the statute provides that if a higher bid  
is received at the hearing to confirm the sale, the Court may accept  
the higher bid if the original bidder was provided with notice of the

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1 hearing. As referenced, the Court concludes that all of the offerors  
2 to purchase the property have received notice of the hearing and  
3 notice of the private sale of real property.

4  
5 8. In open Court a bid in the amount of ONE HUNDRED SEVEN  
6 THOUSAND DOLLARS (\$107,000.00), payable in cash, all paid within 30  
7 days of the date of the hearing in Court (May 14, 2002) was received  
8 from Bruce Kingsland, Trustee of the Kingsland Family Revocable Trust,  
9 u.t.d. April 10, 2000. Mr. Kingsland further offered to make a  
10 \$10,000.00 earnest money deposit by close of business on May 14, 2002.  
11 The Court finds as a matter of fact, and concludes as a matter of law,  
12 that the offer of Mr. Kingsland to purchase the property is in  
13 compliance with NRS 148.270 in that the offer or bid of Mr. Kingsland  
14 is \$5,000.00 higher than the Shupe offer. Upon inquiry by the Court,  
15 Sandra Shupe indicated that she did not wish to bid further on the  
16 property.  
17

18 **BE IT ORDERED** that the sale of the real property and  
19 improvements of the Ward to Bruce Kingsland, Trustee of the Kingsland  
20 Family Revocable Trust, u.t.d. April 10, 2000, shall be, and the same  
21 is hereby, **CONFIRMED** upon the following terms and provisions:

- 22 • Close of escrow shall occur on or before 30 days from  
23 May 14, 2002.
- 24 • Purchase price is to be paid all cash; no  
contingencies.
- 25 • Title, escrow fees and transfer taxes to be shared  
equally (50% seller; 50% buyer).
- 26 • First American Title Company ("Kathy") will be used  
27 for the transaction.
- 28 • "As-is" sale; seller (the guardianship estate) makes  
no warranties or representations.

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1           **BE IT FURTHER ORDERED** that Sandra Shupe may submit to the Public  
2 Administrator an itemized statement of the costs which she has  
3 incurred in pursuing the purchase of this property. The Court  
4 encourages Sandra Shupe to submit such claim, and if submitted, the  
5 Court will approve of the Administrator's payment of the amount of  
6 incurred costs set forth by Sandra Shupe.

7  
8           **BE IT FURTHER ORDERED** that the Public Administrator and the  
9 guardian of the Ward may pay a real estate commission of 7% pursuant  
10 to the exclusive listing agreement she has executed with M. Scott  
11 Properties, Inc.

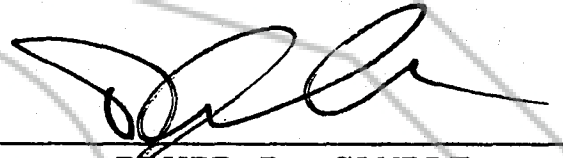
12           **BE IT FURTHER ORDERED** that the Public Administrator/Guardian may  
13 execute such instruments of conveyance as are necessary to convey the  
14 Ward's rights, title and interest in and to the property to the  
15 Kingsland Family Revocable Trust, u.t.d. April 10, 2000, upon its  
16 compliance with all terms and provisions of the this Order.

17  
18           **BE IT FURTHER ORDERED** that Julie Cokonougher shall execute such  
19 instruments of conveyance as are necessary to convey the Ward's and  
20 Julie Cokonougher's rights, title and interest in and to the property  
21 to the Kingsland Family Revocable Trust, u.t.d. April 10, 2000. In  
22 this connection, the Court regards the efforts of Julie Cokonougher to  
23 purchase the Ward's interest as an unsuccessful bid on the property.  
24 Accordingly, her interest shall be conveyed to the Kingsland Family  
25 Revocable Trust, u.t.d. April 10, 2000, because of her inability to  
26 place with the Clerk of this Court the required \$30,000.00 by the time  
27  
28

1 of the hearing conducted on May 14, 2002.

2 **BE IT FURTHER ORDERED** that should Julie Cokonougher fail, refuse  
3 or neglect to sign any instrument required to convey the Ward's  
4 property to the Kingsland Family Revocable Trust, u.t.d. April 10,  
5 2000, the Clerk of this Court is directed to sign in the place and  
6 stead of Julie Ann Cokonougher any instruments required to facilitate  
7 the transfer of title to the property.  
8

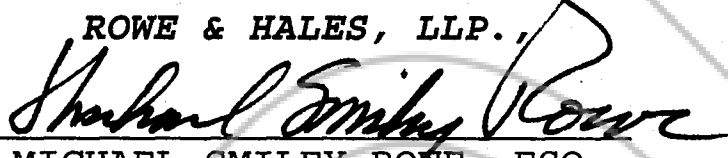
9 DATED: this 17 day of May, 2002.



10  
11 DAVID R. GAMBLE  
DISTRICT COURT JUDGE

12 Submitted by:

13 ROWE & HALES, LLP.,



14 MICHAEL SMILEY ROWE, ESQ.  
15 Nevada State Bar No. 1374  
16 1638 Esmeralda Avenue  
17 Minden, Nevada 89423  
18 (775) 782-8141

19 Attorney for Petitioner,  
20 Lynn EnEarl, Douglas County  
21 Public Administrator

22 **CERTIFIED COPY**

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

**SEAL**

26 DATE: June 11, 2002  
27 Clerk of the 9th Judicial District Court  
28 of the State of Nevada, In and for the County of Douglas,

By [Signature] Deputy

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

2002 JUN 13 PM 3:46

LINDA SLATER  
RECORDER

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