

OFFICIAL RECORD

Requested By:
ROWE & HALES LLP

Douglas County - NV
Karen Ellison - Recorder

Page: 1 of 9 Fee: 22.00
BK-1108 PG- 646 RPTT: 0.00



APN: 1420-18-210-005
RECORDING REQUESTED BY AND
MAIL TO:

✓ MICHAEL SMILEY ROWE, ESQ.
1638 Esmeralda Avenue
Minden, NV 89423

Pursuant to NRS 239B.030(4), I affirm that
the instrument contained below (or attached hereto)
does not contain the social security number
of any person.

ORDER APPROVING VERIFIED PETITION
FOR LETTERS OF SPECIAL ADMINISTRATION



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CASE NO. 08-PB-0111

DEPT. NO. II

The undersigned affirms
that this document contains
a Social Security Number

RECEIVED

OCT 27 2008

DOUGLAS COUNTY
DISTRICT COURT CLERK

FILED

2008 OCT 28 AM 10:04

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CLERK

BY ~~WILFERT~~ DEPUTY

IN THE NINTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF DOUGLAS

In the Matter of the Estate of

DENNIS A. NEWMAN,

Deceased.

ORDER APPROVING VERIFIED
PETITION FOR LETTERS OF SPECIAL
ADMINISTRATION

THIS MATTER comes on before the Court on the 27th day of
October, 2008, on the Verified Petition for Letters of Special
Administration ("Petition") filed by the Petitioner, GORDON NEWMAN
("Petitioner") by and through his counsel of record, MICHAEL SMILEY
ROWE, ESQ. of ROWE & HALES, LLP.

Based on the pleadings on file herein, the Court hereby finds,
concludes and orders as follows:

1. DENNIS A. NEWMAN, the Decedent, died on 30 October 2004 in
Del Mar, San Diego County, California. A certified copy of the death
certificate of the Decedent is attached as Exhibit "A" to the Petition
and incorporated herein as if set forth in full.

2. At the time of his death, the Decedent was widowed, with
Decedent's wife Norma F. Newman predeceasing him.

3. Prior to their deaths, the Decedent and his wife entered
into a family trust on the 29th day of December 1988. The name of the

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1 Trust was the Newman Family Trust ("Trust"). Pursuant to Article IV
2 "Distributions on Death of Surviving Trustor", §4.02 "Distribution of
3 Principal" of the Trust, upon the death of the Decedent, as the
4 surviving Trustor, the Successor Trustees were directed to distribute
5 the Trust estate then remaining to the children of the Decedent and
6 his wife; specifically, Petitioner GORDON NEWMAN and his brother
7 Morgan Newman, in equal shares. To carry out the directions of the
8 Decedent and his wife, the Trust, in §6.07, appointed Petitioner as
9 the first Successor Trustee, or, if he for any reason was unable to
10 serve, then Morgan Newman was to serve as Successor Trustee.

11
12 4. In 2001 Petitioner and his wife Laurie Newman ("Laurie")
13 entered into a Real Estate Purchase Contract and Receipt for Deposit
14 for residential property located at 813 Plymouth Drive (Silver Crest
15 Subdivision) located in Douglas County, Nevada ("the premises" or "the
16 property"), with the contract being executed by Laurie on 26 December
17 2001.

18 At the time of the Real Estate Purchase Contract, the home
19 was not constructed, and Petitioner and Laurie were closely involved
20 with the subdivision developer in selecting from various options
21 available, and in choosing a model of home with exterior and interior
22 appointments. The selections made by Petitioner and Laurie were made
23 with the goal in mind of providing a home for Petitioner and his wife
24 as well as residence large enough to accommodate the Decedent. Among
25 the considerations taken into account were the size of the home, an
26 extra bedroom and bath for the Decedent, and other conveniences for an
27 elderly gentlemen, the Decedent.
28



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1 5. During the time of construction of the residence on
2 Plymouth Drive, but before close of escrow, Petitioner suffered a
3 severe and debilitating health episode resulting in hospitalization
4 and medical expenses of approximately \$200,000.00. As a consequence,
5 Petitioner was unable to serve as Successor Trustee of the Trust, thus
6 Morgan Newman served in that capacity.

7 An additional consequence was that the amount of medical
8 expenses far exceeded Petitioner's insurance and ability to pay. To
9 protect Petitioner and Laurie the Decedent offered to, and did,
10 substitute himself as the "buyer" of the premises. Accordingly,
11 Laurie executed Addendum 5 to the Real Estate Purchase Contract and
12 Receipt for Deposit substituting the Decedent as the "buyer". Escrow
13 closed with title to the premises vesting in the Decedent in early
14 August 2002.

15 6. As of the date of the Petition title is vested in the
16 Decedent as an individual.

17 7. Despite the agreement of the Decedent and Petitioner and
18 Laurie that the Decedent could live with them in the premises, after
19 the home was completed and occupied, the Decedent resided with
20 Petitioner and Laurie for approximately two days before deciding that
21 he did not like living in the home or in Nevada; as a result the
22 Decedent moved back to the State of California where he later died.

23 8. Petitioner and Laurie have now satisfactorily resolved all
24 of the healthcare expenses incurred by Petitioner.

25 9. Petitioner and Laurie, and the Decedent, agreed, and always
26 understood, that placing title to the property in the name of the
27
28



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1 Decedent was solely for the purpose of protecting Petitioner and
2 Laurie's home from creditors. The Decedent did not have any intention
3 of exercising any rights of ownership to the property, and agreed with
4 Petitioner and Laurie that as soon as they resolved the health care
5 expenses the Decedent would deed the property to Petitioner and
6 Laurie.

7
8 As a result of this agreement, the Decedent did not pay for
9 any of the expenses of construction, purchase or maintenance of the
10 property during the Decedent's lifetime; all of which were completely
11 paid by Petitioner.

12 10. Due to the Decedent's Trust, the administration of the
13 Trust did not require use of the probate courts of the State of
14 California, and no Letters Testamentary or Letters of Administration
15 were issued to Morgan Newman to administer the estate of the Decedent.

16 11. The sole asset of the Decedent located within the State of
17 Nevada is the property. In order to transfer this asset into the name
18 of the Petitioner, and to effectuate the agreement between the
19 Decedent and the Petitioner that title would pass to Petitioner as
20 soon as Petitioner resolved his health care expenses, Petitioner
21 requested this Court appoint him as Special Administrator of the
22 estate of the Decedent for the sole purpose of transferring the
23 property identified in the Petition to the name of Petitioner.

24 12. The Court authorizes Petitioner, as Special Administrator,
25 to execute an Administrator's Deed transferring the property from the
26 personal (as opposed to the Trust) estate of the Decedent to the
27 Petitioner and Laurie. After such transfer occurs, and the deed is
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1 recorded, Petitioner has requested the Court to dissolve the Special
Administration.
13. The Decedent died on 30 October 2004 in the State of
California. All of the Decedent's debts have been paid, and the Trust
estate has been distributed. There are no creditors of the Decedent.
14. Petitioner requested the Court's approval of the special
administration of this estate without issuance of a Notice to
Creditors. The Decedent did not obtain residency in the State of
Nevada, and except for ownership of the property, did not incur any
debt in the State of Nevada. All debt associated with the acquisition
of the property has been paid by Petitioner and Laurie.
The Court hereby approves the Petitioner's request for a
special administration of this estate without the issuance of a Notice
to Creditors.
15. Petitioner alleged that good cause exists for the
appointment of a Personal Representative of the Decedent. The
Court finds that there is one asset subject to administration (the
property), however, no other petition is filed, or has been filed, for
Letters of Administration. NRS 146.010.
16. Alternatively, Petitioner brought the Petition pursuant to
NRS 164.015 as a person interested in the internal affairs of a non-
testamentary trust. Pursuant to the cited statute, proceedings may be
maintained concerning administration and distribution of the property.
Pursuant to NRS 164.030, Petitioner requested the Court's advice and
instructions should the Court deem such necessary.
17. The asset, or the property, involved in the Petition is not

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1 a Trust asset. Title to the asset was held in the Decedent's name, as
2 an individual, subject, however, to the agreement between Petitioner,
3 Laurie and Decedent that the property would be deeded to Petitioner as
4 soon as the issue of Petitioner's health care debt had been resolved.
5 Petitioner and Laurie have paid all of the expenses, debts and
6 obligations arising from the construction, purchase and maintenance of
7 the property.

8
9 18. The Court finds that Morgan Newman administered the Trust
10 and paid all debts of the Decedent. At the conclusion of his
11 administration, Morgan Newman, as Trustee, distributed to Petitioner
12 the Petitioner's share of the Trust's assets pursuant to the
13 instructions of the Decedent and his wife contained in the Trust.

14 Upon receipt of his distributive share, Petitioner
15 contacted Morgan Stanley Credit Corporation, the lender of the
16 purchase money funds, for a payoff amount. On 23 March 2007
17 Petitioner caused a cashier's check to be issued to the order of
18 Morgan Stanley Credit Corporation to pay, in full, all of the
19 remaining purchase money obligations relating to the property.
20 Attached as Exhibit "E" to the Petition is a copy of the cashier's
21 check purchased by Petitioner and transmitted to Morgan Stanley Credit
22 Corporation to pay, in full, the remaining amounts owed pursuant to
23 the promissory note secured by deed of trust which was executed by the
24 Decedent.

25
26 19. The Court finds and determines that the Trust, and Morgan
27 Newman as a beneficiary of the Trust, have no right, title or interest
28 in the property.



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1 20. The Court appoints Petitioner as Special Administrator.
2 Petitioner has provided proper notice to the other beneficiary.
3 Notice of this Petition has been supplied to the only other person who
4 may possibly claim an interest in the property (Petitioner's brother).
5 No objection to the Petition has been filed.

6 21. Upon recordation of an Administrator's Deed transferring
7 the property to Petitioner, the Court will consider a motion to close
8 this special administration without further hearing.

9
10 **IT IS HEREBY ORDERED:**

11 1. That GORDON NEWMAN shall be appointed as the Special
12 Administrator of the Decedent's estate in the State of Nevada for the
13 limited purposes of, first, the Clerk's issuance of Letters of Special
14 Administration to him, and second, Petitioner's execution of an
15 Administrator's Deed transferring the property from the Decedent to
16 Petitioner and Laurie.

17 2. That upon completion of the transfer of the property, that
18 the Court, without further hearing, will entertain a request of the
19 Petitioner to terminate the Special Administration upon proof that the
20 property has been transferred and will discharge Petitioner from any
21 further duties or requirements as Special Administrator.

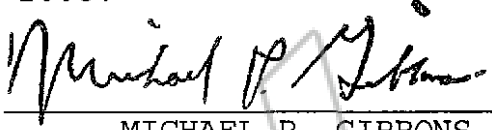
22 3. That Petitioner shall be appointed as Special Administrator
23 without bond.

24 4. That, in view of the attenuated date of death of the
25 Decedent, the Decedent's lifetime residency in the State of
26 California, and the previous and now closed administration of the
27 Trust in San Diego County, California, no Notice to Creditors shall be
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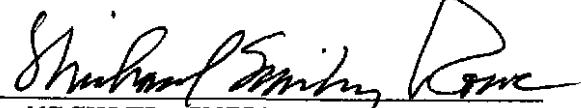


1 required.

2 Dated this 27th day of October, 2008.

3 
4 MICHAEL P. GIBBONS
5 DISTRICT COURT JUDGE

6 **ROWE & HALES, LLP**

7 
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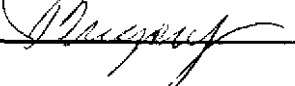
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15 **CERTIFIED COPY**

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

19 DATE 11/4/08

20 TED THRAN Clerk of the Superior District Court
21 of the State of Nevada, in and for the County of Douglas,

22 By  Deputy
23 8

