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Assessor's Parcel Number: 1220-21-510-123

Recording Requested By:

Name: George M. Keele, A Professional Corp.

Address: 1692 County Rd. Ste A

City/State/Zip Minden, NV 89423

Real Property Transfer Tax:

Doc Number: **0811003**

10/16/2012 02:23 PM

OFFICIAL RECORDS

Requested By

George M Keele Esq

DOUGLAS COUNTY RECORDERS

Karen Ellison - Recorder

Page: 1 Of 10

Fee: \$ 23.00

Bk: 1012 Pg: 4232



Deputy. gb

\$ _____

Order

(Title of Document)

This page added to provide additional information required by NRS 111.312 Sections 1-2. (Additional recording fee applies)

This cover page must be typed or legibly hand printed.

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OCT 16 2012

**DOUGLAS COUNTY
DISTRICT COURT CLERK**

FILED

2012 OCT 16 PM 1:52

TED THUAN
CLERK

BY **K. WILFERT** DEPUTY

1 Case No. 12-PB-0039
2 Dept. No. I
3 The undersigned affirms that
4 there is no social security
5 number in this document.

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

9 IN THE MATTER OF THE ESTATE
10 OF
11 CAROL JEANNE LeCOUNT,
12
13 Deceased.

ORDER SETTLING
FIRST AND FINAL ACCOUNT,
APPROVING PAYMENT OF FEES
AND COSTS, AND DECREE OF
FINAL DISTRIBUTION

14
15 DANIEL ALLEN LeCOUNT, as Personal Representative of the
16 estate of CAROL JEANNE LeCOUNT, deceased, having filed
17 herein on the 5th day of October, 2012, his First and Final
18 Account, Petition for Fees and Costs and for Final
19 Distribution, and the said account and petition having come
20 on regularly to be heard this 16th day of October, 2012, and
21 proof having been made to the satisfaction of the Court that
22 proper notice has been given in this matter, the Court
23 finds:

24
25 1. CAROL JEANNE LeCOUNT ("the decedent") died on or
26 about January 18, 2012, in Douglas County, Nevada. At the
27 date of her death, the decedent was a resident of the County
28 of Douglas, State of Nevada.

1 2. The decedent died testate, and on the 15th day of
2 May, 2012, Letters Testamentary were issued to Petitioner,
3 whereupon Petitioner was duly and regularly appointed and
4 qualified as the Personal Representative of the decedent's
5 estate and DANIEL ALLEN LeCOUNT since that date has acted as
6 such Personal Representative.

7 3. A period of less than six months has elapsed since
8 issuance of such Letters Testamentary.

9 4. Immediately after Letters Testamentary were issued
10 to him, the Personal Representative caused a Notice to
11 Creditors to be published, as required by NRS 147.010; an
12 Affidavit of Publication of such notice has been filed
13 herein; and the time for presentation of claims against the
14 estate expired on August 18, 2012, ninety (90) days after
15 the first publication of said notice.

16 5. One claim has been presented against the estate
17 for payment, namely: Bank of America FIA Card Services filed
18 a claim on June 11, 2012, for \$18,052.22. This creditor has
19 advised the Personal Representative, through his counsel,
20 that this claim has been assigned for collection. This claim
21 is deemed rejected because the Personal Representative did
22 not within 15 days after the time for filing claims expired,
23 file a notice of allowance or rejection of the claim with
24 the day and year thereof, and attach it to the "claim
25 allowed or rejected and filed with the clerk" (NRS
26 147.110(2)). Among other things, this claim was rejected by
27 the Personal Representative because although it is, "in the
28

1 amount of \$18,052.22," it is not supported by the affidavit
 2 of "American InfoSource as Agent for Bank of America." (See
 3 Statement of Claim received June 11, 2012, Douglas County
 4 District Court Clerk, a copy of which is attached hereto and
 5 incorporated herein by this reference.) Instead, it purports
 6 on its face to be supported by a statement under penalties
 7 of perjury of "**Claimant Name: Jon McClesky,**" (emphasis
 8 added) who fails to identify himself as an employee or agent
 9 either of American InfoSource or of Bank of America. (See
 10 subsection 1 of NRS 147.070, which requires that a claim for
 11 an amount of \$250 or more filed with the clerk **must** be
 12 supported by the affidavit of **the claimant**"
 13 (emphasis added).

14 Furthermore, contrary to statutory mandate, the
 15 referenced Statement of Claim nowhere contains the affidavit
 16 of the claimant that "(t)he **amount is justly due**"
 17 (See NRS 147.070(1)(a); emphasis added)

18 Furthermore, the referenced Statement of Claim nowhere
 19 contains the affidavit of the claimant that "**no payments**
 20 **have been made thereon which are not credited**" (See NRS
 21 147.070(1)(b); emphasis added).

22 Furthermore, the referenced Statement of Claim nowhere
 23 contains the affidavit of the claimant that "there are no
 24 offsets to the amount demanded to the knowledge of the
 25 claimant **or other affiant**" (see NRS 147.070(1)(c); emphasis
 26 added).

27 ///
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1 Furthermore, the Statement of Claim does **not** contain
2 the mailing address of the claimant. (See NRS 147.070(2),
3 first sentence.)

4 Furthermore, having been "made by any other person than
5 the claimant," "the reasons **why it is not made by the**
6 **claimant**" (emphasis added) are **not** set forth in an affidavit
7 or statement under penalty of perjury (see NRS 147.070(3);
8 emphasis added).

9 Furthermore, contrary to statutory mandate, the
10 Statement of Claim does not show "computed and included in
11 the statement of the claim" the "amount of interest" or "the
12 rate of interested determined" (see NRS 147.070(5)).

13 For each of these reasons, all of which demonstrate the
14 purported claimant's failure to comply with the reasonable
15 statutory requirements of NRS 147.070, the Statement of
16 Claim for \$18,052.22 is rejected overtly, having already
17 been "deemed rejected" by law, pursuant to subsection 2 of
18 NRS 147.110.

19 6. The Department of Health and Human Services has
20 neither filed nor presented a claim for the payment of
21 benefits for Medicaid.
22

23 7. Petitioner filed an Inventory and Appraisement on
24 June 28, 2012, setting forth the total value of the estate
25 at \$200,700.

26 8. No federal estate or income tax is owed on this
27 estate.
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1 9. Attached to the First and Final Account filed
2 herein on October 5, 2012, was an account setting forth the
3 estate transactions covering the period May 15, 2012, to
4 August 31, 2012, inclusive. The account was prepared by the
5 Personal Representative and his counsel, George M. Keele,
6 Esq., and it sets forth the total of assets, including
7 money, received and expended by the Personal Representative
8 during the period May 15, 2012, to August 31, 2012,
9 inclusive.

10 10. Petitioner, DANIEL ALLEN LECOUNT, as Personal
11 Representative of this estate, has performed services
12 necessary to the administration of the estate since the
13 death of the decedent, including marshaling all of the
14 assets of the estate, placing the liquid funds of the estate
15 in a bank account, protecting and inventorying the assets of
16 the estate, collecting and paying estate debts, managing the
17 real property assets of the estate, and performing other,
18 necessary services in connection with this estate. For his
19 services as Personal Representative, Petitioner is entitled
20 to statutory compensation in the amount of \$5,154. However,
21 Petitioner has agreed to and does hereby waive all such
22 fees.

23 11. Petitioner has incurred certain out-of-pocket
24 expenses, or costs, in the sum of \$648, more or less, to
25 which he is entitled to full reimbursement. However, despite
26 his entitlement to such reimbursement, the Personal
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1 Representative has agreed to and does hereby waive
2 reimbursement of all such expenses.

3 12. The law firm of GEORGE M. KEELE, A PROFESSIONAL
4 CORPORATION, by George M. Keele, Esq., has rendered legal
5 services to this estate that have been necessary to its
6 administration, including preparing and filing all legal
7 documents, notices, and pleadings required to date in this
8 estate and performing other essential services. The law firm
9 and the Petitioner herein have agreed that a reasonable fee
10 for the services so rendered is \$300 per hour, to be paid
11 after approval thereof by this Court. The Personal
12 Representative has approved the requested fees.

13 13. The law office of GEORGE M. KEELE, ESQ., has
14 advanced the sum of \$1,494.49 as unpaid costs in connection
15 with this matter, and is entitled to reimbursement for the
16 same. The Personal Representative has also approved the
17 reimbursement of these costs.

18 14. No request for special notice has been filed in
19 this proceeding.

20 THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED:

21 A. The First and Final Account of DANIEL ALLEN
22 LeCOUNT, Personal Representative of the estate of CAROL
23 JEANNE LeCOUNT, deceased, be, and the same is, hereby
24 finally settled, allowed, and approved, and all actions
25 taken by the Personal Representative in connection with the
26 administration of this estate as set forth in the account
27 and petition filed herein on the 5th day of October, 2012,
28

1 including without limitation rejecting the claim of American
2 InfoSource as Agent for Bank of America, in the amount of
3 \$18,052.22, are hereby ratified and approved.

4 B. This Court make its order authorizing and
5 directing Petitioner to pay the fees, allowances, and costs
6 above requested and in the manner requested and not to pay
7 the referenced claim of American InfoSource as Agent for
8 Bank of America.

9 C. The Personal Representative is hereby authorized
10 and directed to reimburse GEORGE M. KEELE, ESQ., \$1,494.49
11 as allowed costs from the funds of this estate.

12 D. The statement for attorney's fees attached as
13 Exhibit 3 to the First and Final Account in this matter
14 having been approved as reasonable by the Personal
15 Representative's execution of the Account, the Personal
16 Representative is hereby authorized and directed to pay
17 GEORGE M. KEELE, ESQ., attorney's fees in connection with
18 services rendered to this estate in the amount of \$7,515.

19 E. The Personal Representative is hereby authorized
20 and directed to pay and distribute the remaining estate,
21 including but not limited to, the following:

22
23 (1) Improved parcel of real property situated at 789
24 Linda Drive, Gardnerville, Douglas County, Nevada
25 (Assessor's Parcel No. 1220-21-510-123) as more
particularly described on Exhibit 1 attached
hereto and incorporated herein by this reference.

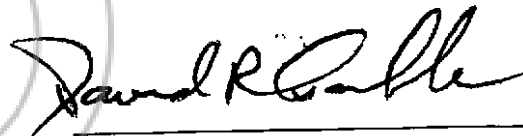
26 (2) Personal property including without limitation
27 furniture, furnishings, clothing, jewelry, and
28 other personal items of the decedent, both
located in or upon the Parcel and elsewhere,

1 to DANIEL ALLEN LeCOUNT, a married man as his sole separate
2 property, in accordance with the provisions of paragraph 3.3
3 of Article 3 of the Last Will and Testament of CAROL JEANNE
4 LeCOUNT.

5 F. The Personal Representative is further ordered to
6 comply with each and every remaining provision of the
7 decedent's Last Will and Testament.

8 G. The Court retains jurisdiction of this estate
9 until the same is distributed and closed. Upon the Personal
10 Representative's filing receipts showing transfer of all the
11 rest, residue, and remainder of the decedent's estate to the
12 devisee entitled thereto, namely: DANIEL ALLEN LeCOUNT, a
13 married man as his sole separate property, a decree of
14 discharge shall be entered and filed herein, discharging the
15 Personal Representative from all liability thereafter to be
16 incurred by him in this estate proceeding.

17 Dated this 14 day of October, 2012.

18
19 

20 DISTRICT JUDGE

21
22
23 Submitted by:
24 George M. Keele, Esq.
25 Nevada Bar No. 1701
26 Attorney for the Personal Representative
27 1692 County Road, #A
28 Minden, NV 89423
775-782-9781

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EXHIBIT 1
LEGAL DESCRIPTION

All that real property in the County of Douglas, State of Nevada, being Assessor's Parcel Number 29-173-01 [now known as 1220-21-510-123], specifically described as:

Lot 171, as shown on the map of GARDNERVILLE RANCHOS UNIT NO. 6 filed for record in the Office of the County Recorder of Douglas County, Nevada on May 29, 1973, in Book 573, Page 1026, as File No. 66512.

Per NRS 111.312, this legal description was previously recorded at Document No. 363256 in Book 0695, Page 0006, on June 1, 1995.

CERTIFIED COPY

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

DATE 10/16/12

TED THUAN Clerk of the 9th Judicial District Court of the State of Nevada, in and for the County of Douglas,

[Signature] Deputy