

APN 139-09-602-028

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DISTRICT COURT CLERK**

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TED TIRANI
P. GREGORY
BY _____ DEPUTY

1 CASE NO. 09-PB-0034

2 DEPT. NO. I

3 The undersigned affirms
4 that this document contains
no Social Security Number

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

10 In the Matter of the Estate

11 -of-

12 NANCY MAY IRMER,

13 Deceased.

**ORDER CONFIRMING VERIFIED
PETITION SALE OF REAL PROPERTY
AND PAYMENT OF COSTS**

14 _____ /
15 **THIS MATTER** was brought on before the Court on the 16th day of
16 April, 2013, on the Verified Petition for Confirmation of Sale of
17 Real Property and Payment of Costs ("Petition") which was filed with
18 the Court on 25 March 2013 by DAVID CARL IRMER, II ("Executor").
19 Also filed with this Court on 25 March 2013 is a Notice of Sale which
20 has been filed by the Executor advising that the real property and
21 improvements of the Decedent would be sold at the hour of 1:30
22 o'clock p.m. on 16 April 2013. The Notice of Hearing conducted on 16
23 April 2013 was also filed with the Court on 25 March 2013. Proof of
24 Publication of the Notice of Sale was filed on 12 April 2013.

25 Present in Court was MICHAEL SMILEY ROWE, ESQ. of ROWE HALES
26 YTURBIDE, LLP, counsel for the Executor and the estate. Also present
27 was Marleane Scott of M. Scott Properties, Inc. Based upon the
28

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1 Verified Petition on file herein, all previous pleadings filed in
2 this estate, together with the representations made in open Court at
3 the hearing on the Petition, the Court hereby finds and orders as
4 follows:

5 1. The property which is the subject of this order, the sale
6 of which is hereby confirmed, is 2340 Main Street, Genoa, Nevada.
7 This property has been assigned Douglas County Assessor's Parcel No.
8 1319-09-602-028 (hereinafter referred to as the "Property").

9 2. The Court finds that an appraisal has not been performed
10 on the subject property, however, the Executor has received market
11 analysis reports from Laura Moline, Realtor, GRI, affiliated with
12 ReMax Realty Affiliates, and from Marleane Scott, affiliated with M.
13 Scott Properties, Inc. Ms. Moline opined the property possessed a
14 value for sale purposes of \$825,000.00 to \$875,000.00. Ms. Scott
15 opined that the estimated market value of the property is in the
16 range of \$696,000.00 to \$732,000.00.

17 The Court concludes that, pursuant to NRS 148.260(1), no
18 sale of real property may be confirmed unless an appraisal of the
19 property has been conducted. As noted in the Petition, no appraisal
20 has been conducted. However, pursuant to NRS 148.260(2), if all
21 devisees or heirs consent in writing to the sale without an
22 appraisal, the requirement of an appraisal may be dispensed with, and
23 the Personal Representative may rely on other information.

24 This estate has been pending for over 4 years. On 25 June
25 2009 the Executor's Verified Inventory and Appraisal of Property was
26 filed with the Court and sent to all of the heirs of the Decedent,
27
28



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1 which include the Executor and his three siblings. Therein contained
2 are the opinions of the two real estate brokers regarding the value
3 of the Decedent's real property.

4 On 9 December 2010 the Executor filed his Report of
5 Executor; Request for Enlargement of Time for Administration. The
6 principal reason for the request for an enlargement of time to
7 administer the estate was that the real property subject to this
8 Order had not been sold.

9 On 21 December 2010 the Executor filed his Interim Account
10 wherein the following appears:

11 "According to the brokers' opinions of value,
12 the results of which were supplied to the
13 Court in the Executor's Verified Inventory and
14 Appraisal of Property, this asset possesses a
15 value in a range from a low of \$696,000.00 to
16 a high value of \$875,000.00."

17 On 11 January 2011 the Court entered its Order Approving
18 the Interim Account, and granting other related relief. As noted in
19 the Order, no objection had been made to the Interim Account; the
20 Court stating: "The Court finds and concludes that proper notice of
21 the Interim Account has been given to all those entitled to notice."

22 The 11 January 2011 Order ratified, confirmed and approved
23 of the Interim Account filed by the Executor.

24 On 11 October 2012 the Executor again filed an Interim
25 Account-Report of Executor, together with request for other related
26 relief. Again, in the 11 October 2012 Account, the Executor referred
27 to the brokers' opinions of value regarding the value of the
28 property, the sale of which is confirmed by this Order. The



1 Executor's Report was approved by Order entered 30 October 2012.

2 Based upon the above-referenced pleadings, the Court
3 concludes as a matter of law that the law of this case has been
4 established by the Orders of the Court, and that the appraisal which
5 normally would be required by NRS 148.260(1) has been dispensed with
6 by the Court. Further, the Court concludes that all of the devisees
7 or heirs of the Decedent have not objected to the brokers' opinions
8 of value being utilized by the Executor to establish the value of the
9 real estate, the sale of which is confirmed by this Order.

10
11 3. In his Petition, the Executor has set forth that, as a
12 result of marketing efforts, he has received a primary offer in the
13 amount of FOUR HUNDRED EIGHTY NINE THOUSAND FIVE HUNDRED DOLLARS
14 (\$489,500.00) containing the following terms:

- 15 Purchase price: \$489,500.00
- 16 Deposit: \$ 5,000.00
- 17 Title Company, Escrow/
Closing Costs, Transfer
Taxes & Title Company: Split 50/50; First American Title Co.,
Rishele Thompson
- 18 Contingencies: Contract is contingent upon buyer
19 obtaining new financing within 5 days
after acceptance of offer
- 20 Offer is an "as is, court approved sale" no warranties or
21 guaranties.
- 22 Title Insurance: Owner's policy paid by seller;
Lender's policy paid by buyer
- 23 Buyer to pay for all inspections desired.
- 24 Seller to pay up to \$1,000.00 towards repair costs.
- Close of Escrow: 10 May 2013, or as soon as Buyer's
inspections are completed.

25 The offer is received from Harold Lee Bird and Deborah Anderson
26 Bird.

27 4. The Executor also received a back-up offer in the amount
28 FOUR HUNDRED SIXTY EIGHT THOUSAND DOLLARS (\$468,000.00) which

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1 contains the following terms:

2 Purchase price: \$468,000.00
 3 Deposit: \$ 1,000.00
 4 Title Company, Escrow/
 Closing Costs, Transfer
 Taxes: Split 50/50; Western Title Co.
 5 Contingencies: Contract is contingent upon buyer
 6 obtaining commitment for financing
 within 40 days after acceptance;
 7 buyer to apply for loan within 5 days
 after acceptance.

8 Offer is an "as is, court approved sale" no warranties or
 guaranties.
 9 Title Insurance: Owner's and Lender's policy split
 50/50
 10 Buyer to pay for pest inspection desired; Home protection
 contract paid by buyer and seller; split 50/50
 11 Close of Escrow within 60 days of acceptance.

12 The back-up offer was received from George C. Hansen.

13 The Executor has requested that the back-up offer of George C.
 14 Hansen be confirmed in the event that the offer from Harold and
 15 Deborah Bird falls out of escrow for any reason.

16 5. At the date, time and place of the sale and hearing,
 17 Harold Lee Bird, Deborah Anderson Bird and George C. Hansen were
 18 present in Court.

19 6. This Court enters an order confirming the sale of the
 20 property to Harold Lee Bird and Deborah Anderson Bird, subject to the
 21 terms of the primary offer set forth hereinabove in paragraph 3,
 22 together with the following condition:

- 23 • This transaction shall close not later than 5:00 p.m., 10
 24 May 2013 or as soon as buyer's inspections are completed.

25 7. It is the further Order of the Court that, should the
 26 offer made by Mr. and Mrs. Bird fall out of escrow for any reason or
 27 not close escrow, the back-up offer received from Mr. Hansen shall be
 28

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1 ratified, confirmed and approved, subject to the terms of the back-up
2 offer as set forth hereinabove in paragraph 4.

3 8. The Executor has represented that he has sent a Notice of
4 Sale for publication in the Record Courier, a newspaper of general
5 circulation within Douglas County, Nevada. The Executor requested
6 that the notice be published on 27 March, 3 April and 5 April 2013.
7 An affidavit of publication has been received by the Executor and
8 filed with the Court on 12 April 2013 which demonstrates that the
9 Notice of Sale has properly published pursuant to NRS 148.220 and NRS
10 148.240.

11
12 The Court concludes as a matter of law that due and proper
13 notice of the sale of the real property and the Court's hearing on
14 the Petition to confirm the sale of real property have been given as
15 required by law. The Notice of Sale was published as required by
16 law.

17 9. The Court concludes as a matter of law that it has
18 jurisdiction to confirm the sale of the property in view of the
19 Executor's compliance with all applicable statutes. The procedure
20 governing confirmation of this sale is set forth in NRS 148.260 and
21 NRS 148.270.

22 The Court concludes that the property valuation
23 information which has been received by the Executor satisfies the
24 requirements of NRS 148.260.

25
26 10. The Court concludes and so finds that it is necessary for
27 the estate to sell the property of the Decedent, and that the estate
28 will realize an advantage, benefit and interest in having the sale

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1 made. Good reason exists for the sale, the sale has been legally
2 made and fairly conducted, the sale complies in all respects with the
3 requirements of NRS 148.270, and the sum bid is not disproportionate
4 to the property value.

5 **IT IS HEREBY ORDERED** that, pursuant to the primary offer, the
6 sale of the real property and improvements owned by the Decedent to
7 Harold Lee Bird and Deborah Anderson Bird in the amount of FOUR
8 HUNDRED EIGHTY NINE THOUSAND FIVE HUNDRED DOLLARS (\$489,500.00) be,
9 and the same is hereby, confirmed upon the following terms and
10 provisions:
11

- 12 Purchase price: \$489,500.00
- 13 Deposit: \$ 5,000.00
- 14 Title Company, Escrow/
Closing Costs, Transfer
Taxes & Title Company: Split 50/50; First American Title Co.,
Rishele Thompson
- 15 Contingencies: Contract is contingent upon buyer
16 obtaining new financing within 5 days
after acceptance of offer
- 17 Offer is an "as is, court approved sale" no warranties or
guaranties.
- 18 Title Insurance: Owner's policy paid by seller;
19 Lender's policy paid by buyer
- 20 Buyer to pay for all inspections desired.
- 21 Seller to pay up to \$1,000.00 towards repair costs.
- 22 Close of Escrow: 10 May 2013, or as soon as Buyer's
inspections are completed.

23 **BE IT FURTHER ORDERED** that should the primary offer fall out of
24 escrow or fail to close escrow for any reason, the sale of the real
25 property and improvements owned by the Decedent to George C. Hansen
26 in the amount of FOUR HUNDRED SIXTY EIGHT THOUSAND DOLLARS
27 (\$468,000.00) shall be confirmed and approved with the following
28 terms and provisions:

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 7 obtaining commitment for financing
 8 within 40 days after acceptance;
 9 buyer to apply for loan within 5 days
 10 after acceptance.
 11 Offer is an "as is, court approved sale" no warranties or
 12 guaranties.
 13 Title Insurance: Owner's and Lender's policy split
 14 50/50
 15 Buyer to pay for pest inspection desired; Home protection
 16 contract paid by buyer and seller; split 50/50
 17 Close of Escrow within 60 days of acceptance

11 **BE IT FURTHER ORDERED** that the request of the Executor that
 12 this Court approve of his payment of one-half of the closing costs as
 13 set forth in the Petition, and that the Court approve of his payment
 14 of a real estate commission of 6% is granted. It is the order of the
 15 Court that the Executor may pay the described share of closing costs
 16 and the real estate commissions.

18 **BE IT FURTHER ORDERED** that the Executor may execute such
 19 instruments of conveyance as are necessary to convey the Decedent's
 20 rights, title and interest in and to the property, to Harold Lee Bird
 21 and Deborah Anderson Bird for the offered sum of \$489,500.00 subject
 22 to the terms and provisions of this Order.

23 Should the primary offer fall out of escrow or fail to close
 24 escrow for any reason, then the Executor may execute such instruments
 25 of conveyance as are necessary to convey the Decedent's rights, title

26 / / /
 27 / / /
 28 / / /



1 and interest in and to the property to George C. Hansen for the
2 offered sum of \$468,000.00 subject to the terms and provisions of
3 this Order.

4 Dated this 16 day of April, 2013.

Nathan Tod Young

NATHAN TOD YOUNG
DISTRICT COURT JUDGE

8 **ROWE HALES YTURBIDE, LLP**

Michael Smiley Rowe

MICHAEL SMILEY ROWE, ESQ.

9 Nevada State Bar No. 1374
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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 4/17/13

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

By *Ted Thran* Deputy