

DOUGLAS COUNTY, NV

2016-891684

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12/06/2016 02:07 PM

ETRCO, LLC

KAREN ELLISON, RECORDER

APN#: 1420-34-811-026

**Recording Requested By:**

Western Title Company, Inc.

**Escrow No.:** 084923-ARJ

**When Recorded Mail To:**

Dennis Sperry

Linda Sperry

P.O. Box 1270

Minden, NV

89423

**Mail Tax Statements to: (deeds only)**

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(space above for Recorder's use only)

I the undersigned hereby affirm that the attached document, including any exhibits, hereby submitted for recording does not contain the social security number of any person or persons.

(Per NRS 239B.030)

Signature \_\_\_\_\_

*M. Simpson*

Michelle Simpson

Escrow Assistant

**AMENDED ORDER CONFIRMING SUCCESSOR CO-TRUSTEES  
AND GRANTING ADVICE AND INSTRUCTIONS REGARDING  
TRUST ADMINISTRATION NUNC PRO TUNC**

This page added to provide additional information required by NRS 111.312  
(additional recording fee applies)

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**RECEIVED**

1 CASE NO. 16-PB-0119

**DEC 05 2016**

**FILED**

2 DEPT. NO. II

Douglas County  
District Court Clerk

2016 DEC -5 PM 3:02

3  
4 *The undersigned affirms that this document  
DOES NOT contain a Social Security Number.*

BY K. WILFERT DEPUTY

5  
6  
7 IN THE NINTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

8 IN AND FOR THE COUNTY OF DOUGLAS

9  
10 In the Matter of the Estate of:

11 Albrecht E. Schroeder,

12 Deceased.

**AMENDED ORDER CONFIRMING  
SUCCESSOR CO-TRUSTEES AND  
GRANTING ADVICE AND  
INSTRUCTIONS REGARDING TRUST  
ADMINISTRATION NUNC PRO TUNC**

13  
14 **THIS MATTER** came on before the Court on the 7<sup>th</sup> day of November, 2016, on the Verified  
15 Petition for Confirmation of Co-Trustees and for Advice and Instructions Regarding Trust  
16 Administration ("Petition") filed by Dennis and Linda Sperry, the nominated and currently serving Co-  
17 Trustees of the A. E. Schroeder Trust - Living Trust Agreement u.t.d. 1 March 2011 ("Trust"), as  
18 amended by the First Amendment to the Trust dated 8 May 2015 ("First Amendment"), and as further  
19 amended by the Second Amendment to the Trust dated 8 June 2015 ("Second Amendment"). Present  
20 in Court were Dennis Sperry and Linda Sperry, together with their counsel, Michael Smiley Rowe, Esq.,  
21 of Rowe Hales Yturbide, LLP. Also present in Court was Justin M. Clouser, Esq., of Clouser Hempen  
22 Wasick Law Group, Ltd., together with his clients, June Cooper, John Schroeder, Natasha Schroeder,  
23 Timothy Schroeder, Kasandra Doering and Clint Joseph Critis.

24  
25  
26 The Court considered the requests made in the Petition as well as the Response to Verified  
27 Petition for Confirmation of Co-Trustees and for Advice and Instructions Regarding the Trust  
28 Administration ("Response") filed by Mr. Clouser on behalf of his clients.

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1 Based upon the allegations of the Petition, the responses contained in the beneficiary's  
2 Response, the arguments of counsel, the comments of the Trustees and the beneficiaries made in open  
3 court, and good cause appearing:

4 **IT IS HEREBY ORDERED** that, pursuant to NRS 164.010(1), Dennis Sperry and Linda  
5 Sperry are hereby confirmed as the Successor Co-Trustees of the A.E. Schroeder Trust, u.t.d. 1 March  
6 2011, as amended. As provided by A. E. Schroeder, as Grantor of the Trust ("Grantor"), the Co-  
7 Trustees are confirmed as the Successor Co-Trustees of the Trust without bond.

8 **BE IT FURTHER ORDERED** that, pursuant to NRS 164.010(2) and NRS 164.015, the  
9 Court grants the Petition of the Co-Trustees for advice and instructions concerning the internal affairs  
10 and administration of the Trust, including advising and instructing the Co-Trustees on the distribution  
11 of the Trust and the declaration of rights and determination of other matters involving the Trustees and  
12 the beneficiaries of the Trust as provided hereinbelow. In addition, the Court, pursuant to NRS  
13 164.030, construes the Trust Agreement and its amendments as set forth hereinbelow.

14 **BE IT FURTHER ORDERED**, pursuant to NRS 164.010(1), the Court shall exercise  
15 jurisdiction over the Trust and its amendments as a proceeding *in rem*. The Court shall continue to  
16 exercise its *in rem* jurisdiction over the Trust and its amendments until such time as the Co-Trustees,  
17 pursuant to NRS 164.010(3) and NRS 164.015(7), request that the Court remove the Trust and its  
18 amendments from the continuing jurisdiction of the Court.

19 **ORDER GRANTING ADVICE AND INSTRUCTIONS**

20 **1. Sale of Real Property**

21 The Co-Trustees, in their first request for advice and instructions, requested that the Court  
22 advise and instruct them on the sale of the Trust-owned property located at 1590 Johnson Lane, Minden,  
23 Nevada, 89423. As set forth in their request, the property had been appraised at \$328,000, however,  
24 the Co-Trustees received very little interest in the property when listed at that price or when listed at  
25  
26  
27  
28

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1 twice reduced prices; the last reduction being \$309,000. The Co-Trustees advised the Court that they  
2 had received one offer to purchase the property, "As Is", in the amount of \$270,000, in an all cash offer  
3 with no conditions attached to it.

4 Because of the considerable difference in the appraised value versus the offered price, the Co-  
5 Trustees requested the Court's advice and instructions on whether or not the Co-Trustees should accept  
6 the offer presented. The beneficiaries have not objected to the Co-Trustees accepting the offer from  
7 East Fork Investments, LLC, in the amount of \$270,000.

8 **IT IS HEREBY THE ORDER OF THE COURT** that the Co-Trustees are advised and  
9 instructed to accept the offer to purchase the Trust-owned property located at 1590 Johnson Lane,  
10 Minden, Nevada, 89423, from East Fork Investments, LLC, in the amount of \$270,000.

11 **2. The Missouri Property**

12 The Co-Trustees also requested that the Court advise and instruct them on whether they should  
13 extend the term of a Promissory Note Secured by Deed of Trust from 1 May 2017 to 1 May 2018. The  
14 Co-Trustees stated that the purchasers of the Trust-owned asset, financed by the deceased Grantor as  
15 the seller, were unable to refinance the purchase of the property located at 11420 State Road BB,  
16 Tebbetts, Missouri, due to a recent bankruptcy of the purchasers. Petitioners have requested that the  
17 Court advise and instruct them, and approve of, an extension of one year to 1 May 2018 of the  
18 Promissory Note and Deed of Trust executed by Starlin W. Andrews and Pamela S. Andrews under the  
19 same terms and conditions as approved by the Grantor, save and except the interest rate which the Co-  
20 Trustees proposed to increase from 3% to 5%. The beneficiaries did not object to this request.

21 **IT IS HEREBY THE ORDER OF THE COURT** that the Co-Trustees may extend, under  
22 the same terms, the Promissory Note Secured by Deed of Trust executed by the Buyers, Starlin W.  
23 Andrews and Pamela S. Andrews, to and including 1 May 2018; provided, however, that henceforward  
24 the interest rate on the amounts remaining to be paid to the Trust estate shall be increased from 3%  
25 to 5%.

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1     **3.   Disinheritance; Violation of Trust Provisions**

2             The Co-Trustees requested that the Court advise and instruct them as to whether or not June  
3     Cooper, Natasha Schroeder and Timothy Schroeder had been in violation of the terms of the Trust,  
4     specifically the provisions of the First Amendment to the Trust which provide that:

5                             “For so long as Grantor is alive, and after Grantor’s death, no person  
6                             shall have access to any of the properties owned by the Trust without  
7                             the prior written consent of Grantor, or if Grantor has died, of the  
8                             Trustees. . . .”

9             In their response, beneficiaries June Cooper and Natasha Schroder admitted to accessing the  
10    Trust-owned property located at 1590 Johnson Lane, Minden, Nevada, 89423, without consent of the  
11    Grantor or the Co-Trustees. Similarly, Timothy Schroeder admitted to entering the Trust-owned  
12    property and removing the deceased Grantor’s firearms without the permission of the Co-Trustees.  
13    However, the beneficiaries objected to a construction of the Trust and/or the First Amendment that they  
14    had violated the terms of the Trust and, therefore, were disqualified from receipt of any benefit from  
15    the Trust.  
16    the Trust.

17                     **IT IS HEREBY THE ORDER OF THE COURT**, after hearing from the beneficiaries, the  
18    Co-Trustees, and from counsel for the parties, that the Court advises and instructs the Co-Trustees that  
19    the actions of the beneficiaries, and the language of the Trust and the First Amendment, shall not be  
20    interpreted in such a Draconian fashion as to disqualify June Cooper, Natasha Schroeder and Timothy  
21    Schroeder from receiving any benefit from the Trust estate. The Co-Trustees are advised and instructed  
22    to provide such benefit to June Cooper, Natasha Schroeder and Timothy Schroeder as the Trust and its  
23    amendments direct.  
24    amendments direct.

25             **4.   Loans to Family Members**

26             In the Petition, the Co-Trustees advised the Court that the Grantor had made loans to various  
27    family members, most of whom are beneficiaries of the estate, at different times and in different  
28    family members, most of whom are beneficiaries of the estate, at different times and in different

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1 amounts. The Court was further advised that the loans made by the Grantor remain unpaid. In the First  
2 Amendment to the Trust, the Grantor referred to the loans made to six identified beneficiaries and  
3 provided "... [I]f any of the six (6) identified beneficiaries have not repaid loans made to them by the  
4 Grantor, the remaining amount of principal and interest not paid by the beneficiary shall be deducted  
5 from the beneficiary's share. ...". The Co-Trustees further advised that, while identifying principal and  
6 interest to be repaid to the Trust estate, or deducted from a beneficiary's share to be donated to the Reno  
7 Veterans' Guest House, the Grantor did not indicate a rate of interest to be charged to each of the loan  
8 recipients.

9  
10 The Co-Trustees requested that the Court advise and instruct them on the rate of interest to be  
11 applied to each of the loans. The Co-Trustees proposed to apply the prime rate of interest in effect as  
12 of the date of the first advance to a beneficiary, plus 2%, to be calculated as of the date of the first  
13 advance by the Grantor to a beneficiary. The beneficiaries did not object to this determination of the  
14 rate of interest to be applied to the loans.

15 **IT IS HEREBY THE ORDER OF THE COURT** that the Co-Trustees are advised and  
16 instructed to use the prime rate of interest, plus 2%, calculated as of the date of the first advance by the  
17 Grantor to a beneficiary, as the interest rate for each of the loans made by the Grantor.

18  
19 In a related request, the Co-Trustees requested the Court's advice and instructions on the  
20 continuing accrual of interest. The Co-Trustees asserted that neither the death of the Grantor, nor the  
21 Grantor's failure to indicate a rate of interest for each loan to a family member, precluded the imposition  
22 of interest on the remaining amounts of principal which are not repaid. The Co-Trustees requested that  
23 the Court advise and instruct them that interest will continue to accrue until such time as the Trust  
24 administration is concluded or the loans repaid. Again, the beneficiaries did not object to this request.

25 **IT IS HEREBY THE ORDER OF THE COURT** that the Co-Trustees shall apply the prime  
26 rate of interest, plus 2%, in effect as of the date of the first advance of funds to a beneficiary. The Co-  
27 Trustees are further advised and instructed that they should continue to calculate the interest on each  
28

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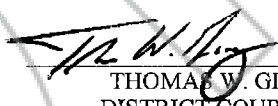
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1 of the loans to accrue until such time as the Trust administration is concluded or each of the loans is  
2 repaid.

3 The Co-Trustees are further instructed that, at the time of the conclusion of the Trust  
4 administration, the Co-Trustees are to combine all principal amounts loaned to family members,  
5 together with all accrued interest on each of the loans, into one amount and thereafter donate the total  
6 amount of all loans and interest to the Reno Veterans' Guest House in the name of Albrecht E.  
7 Schroeder.

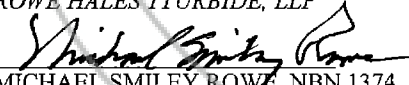
8 This is an Order *Nunc Pro Tunc* correcting the previous Order Confirming Successor Co-  
9 Trustees and Granting Advice and Instructions Regarding Trust Administration filed on 15 November  
10 2016 to reflect the fact that the Buyer approved in the Court's previous Order did not enter escrow with  
11 the Co-Trustees, however, the Co-Trustees have received a second offer in the amount previously  
12 offered. In order to close escrow the Court's Order must reflect the actual purchaser of the Trust-owned  
13 property.

14  
15 DATED this 5 day of ~~November~~ <sup>December</sup>, 2016.

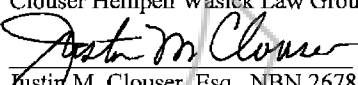


THOMAS W. GREGORY  
DISTRICT COURT JUDGE

16  
17  
18  
19 **Submitted by:**  
20 **ROWE HALES YTURBIDE, LLP**

21   
22 MICHAEL SMILEY ROWE, NBN 1374  
23 1638 Esmeralda  
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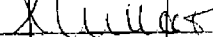
26 **Reviewed and Approved by:**  
27 Clouser Hempen Wasick Law Group, Ltd.

28   
Justin M. Clouser, Esq., NBN 2678  
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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 12/15/16  
BOBBIE R. WILLIAMS Clerk of Court  
of the State of Nevada, in and for the County of Douglas,

By  Deputy