

1 CASE NO. 946

NO. FILED

NOV 1 1988

JOAN SHANGLE, CLERK  
BY M. Elliott DEPUTY

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5 IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT  
6 OF THE STATE OF NEVADA, IN AND FOR THE COUNTY OF ELKO

7  
8 IN THE MATTER OF THE ESTATE OF  
9 ALLEN ALONZO RUSSELL,  
10 Deceased.  
11

DECREE OF PARTIAL  
DISTRIBUTION OF ESTATE  
AND ORDER APPROVING  
INTERIM ATTORNEY FEES

12 HELEN APOLONIA BEDNAR RUSSELL, Executrix of the  
13 above-entitled Estate, having filed a Petition for Partial  
14 Distribution and Application for Payment of Interim Attorney  
15 Fees, having given proper notice to all persons so entitled; no  
16 objections having been made to said Petition; and good cause  
17 appearing, the Court hereby finds.

18 1. On September 4, 1987, the above-entitled Court  
19 admitted Decedent's Last Will and Testament, dated February 3,  
20 1971 to probate. Decedent's Last Will and Testament contains a  
21 Paragraph Second which states the following:

22 "I hereby give, devise and bequeath all of my  
23 estate, of every kind, nature, and sort  
24 whatsoever, to my wife, HELEN APOLONIA  
BEDNAR RUSSELL."

25 ////  
26

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1           2.   Petitioner is the sole heir of Decedent's estate.

2           3.   One creditor's claim was filed against the  
3 estate. The creditor's claim was filed by T. DAVID HORTON on  
4 December 7, 1987, asserting an equitable claim for accounting of  
5 mining proceeds and an unliquidated claim for money damages  
6 which is now pending in the Seventh Judicial District Court of  
7 the State of Nevada, in and for the County of Eureka, Case No.  
8 3129, entitled "Allen Russell and Helen Russell, husband and  
9 wife, Plaintiffs, v. T. David Horton, et al., Defendants." The  
10 creditor's claim was rejected by the Executrix and the rejection  
11 of creditor's claim was filed on January 21, 1988. The matter  
12 is currently in litigation. By stipulation, The Court's  
13 decision in that case shall determine the validity or invalidity  
14 of the creditor's claim in this action.

15           4.   There are no debts established against the estate  
16 and the partial distribution of the properties hereinbelow  
17 described in the estate will not cause injury to the one  
18 creditor of the estate for the reasons that the properties to be  
19 distributed are not involved in the subject matter of litigation  
20 and the remaining assets of the estate not to be distributed  
21 herein are more than sufficient to satisfy any judgment obtained  
22 by T. David Horton against the estate.

23           5.   The decedent's community property interest in the  
24 following described property may be distributed at this time  
25 without injury to the creditors of the estate:  
26

- 1 (a) Thirty-seven (37) unpatented lode mining  
2 claims designated as Jay and Jay 1 through  
3 36 located in portions of Section 5, 6, 7,  
4 8, 17, and 18, Township 28 North, Range 53  
5 East, Elko County, Nevada, more  
6 particularly described on Exhibit "1"  
7 attached hereto and incorporated herein;  
8 (b) One unpatented lode mining claim designated  
9 as May Lode Mining Claim, situate in the  
10 Bullion Mining District, Lander County,  
11 Nevada;  
12 (c) An undivided one-half (1/2) interest in and  
13 to that certain unpatented lode mining claim  
14 designated as Great (Big) Chief Lode Mining  
15 Claim located in Lander County, Nevada;  
16 (d) That certain real property described as  
17 Lot 8, Block 34, CRESCENT VALLEY RANCH AND  
18 FARMS, UNIT NO. 1, according to the official  
19 map thereof, and recorded in Book 103, Page  
20 125, Official Records, Eureka County  
21 Recorder's Office, Eureka, Nevada.

22 SUBJECT TO any and all exceptions,  
23 reservations, restrictive covenants, assess-  
24 ments, easements, rights and rights-of-way  
25 of record.

26 TOGETHER WITH all buildings and improvements  
situate thereon, including a 1980 Van Dyke  
14' x 70' mobile home.

TOGETHER WITH the tenements, hereditaments,  
and appurtenances thereunto belonging or in  
anywise appertaining, and the reversion and

reversions, remainder and remainders, rents, issues, and profits thereof.

(3) The following personal property:

- (1) One Allis Chalmers Tractor HD-7, 3 cylinder, Detroit Diesel with Hydraulic Doser (Vintage: Circa 1940);
- (2) One Gardner-Denver Compressor (1975), 165 p.s.i., V-4 Gas Engine;
- (3) One Lincoln Welder, Wisconsin V-4 Cylinder With Accessories;
- (4) One Gardner-Denver Compressor (Vintage: Circa 1940);
- (5) One 1961 Ford Dump Truck, F600; and
- (6) One 1981 Ford Pick-Up, Four Wheel Drive, 6 Cylinder.

6. No bond should be required of Petitioner for partial distribution to occur because there are no other creditor's claims except that claim involving the properties which will remain in the estate and the value of the remaining assets, remaining cash, and expected income to the estate render a bond unnecessary.

7. GOICOECHEA & DI GRAZIA, LTD., of Elko, Nevada, have performed legal services for the estate by acting as attorneys for the Executrix of the estate. In addition, said attorneys have been involved in extraordinary services because of the litigation against the estate. The Executrix and said attorneys have agreed that a reasonable fee for services to date would be the sum of ELEVEN THOUSAND ONE HUNDRED NINETY-TWO

1 DOLLARS and 50/100 (\$11,192.50), together with certain advanced  
2 costs in the amount of THREE HUNDRED SIXTY-SIX DOLLARS and  
3 59/100 (\$366.59).

4 NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND  
5 DECREED AS FOLLOWS:

6 1. Due and legal notice of the hearing for the  
7 Petition for Partial Distribution and Application for Payment of  
8 Interim Attorney Fees has been given to all persons interested  
9 in said estate or entitled to notice thereof;

10 2. That the Petition for Partial Distribution and  
11 Application for Payment of Interim Attorney Fees is hereby  
12 approved and allowed as rendered herein.

13 3. That the decedent's community property interest  
14 in the following property is hereby distributed to HELEN  
15 APPOLO니아 BEDNAR RUSSELL as her sole and separate property:

16 (a) Thirty-seven (37) unpatented lode mining  
17 claims designated as Jay and Jay 1 through  
18 36 located in portions of Section 5, 6, 7,  
19 8, 17, and 18, Township 28 North, Range 53  
20 East, Elko County, Nevada, as more fully  
21 described on Exhibit "1" attached hereto  
22 and incorporated herein;

23 (b) One unpatented lode mining claim designated  
24 as May Lode Mining Claim, situate in the  
25  
26

Bullion Mining District, Lander County,  
Nevada;

(c) An undivided one-half (1/2) interest in and  
to that certain unpatented lode mining claim  
designated as Great (Big) Chief Lode Mining  
Claim located in Lander County, Nevada;

(d) That certain real property described as

Lot 8, Block 34, CRESCENT VALLEY RANCH AND  
FARMS, UNIT NO. 1, according to the official  
map thereof, and recorded in Book 103, Page  
125, Official Records, Eureka County  
Recorder's Office, Eureka, Nevada.

SUBJECT TO any and all exceptions,  
reservations, restrictive covenants, assess-  
ments, easements, rights and rights-of-way  
of record.

TOGETHER WITH all buildings and improvements  
situate thereon, including a 1980 Van Dyke  
14' x 70' mobile home.

TOGETHER WITH the tenements, hereditaments,  
and appurtenances thereunto belonging or in  
anywise appertaining, and the reversion and  
reversions, remainder and remainders, rents,  
issues, and profits thereof.

(e) The following personal property:

- (1) One Allis Chalmers Tractor HD-7,  
3 cylinder, Detroit Diesel with  
Hydraulic Doser (Vintage: Circa  
1940);
- (2) One Gardner-Denver Compressor (1975),  
165 p.s.i., V-4 Gas Engine;
- (3) One Lincoln Welder, Wisconsin V-4  
Cylinder with Accessories;
- (4) One Gardner-Denver Compressor  
(Vintage: Circa 1940);

(5) One 1963 Ford Dump Truck,  
F600; and

(6) One 1981 Ford Pick-Up, Four Wheel  
Drive, 6 Cylinder.

4. That no bond be required of Petitioner for  
partial distribution to occur.

5. That the Executrix make payment of funds of the  
estate to the law firm of GOICOECHEA & DI GRAZIA, LTD., of Elko,  
Nevada, for attorney fees in the amount of ELEVEN THOUSAND ONE  
HUNDRED NINETY-TWO DOLLARS and 50/100 (\$11,192.50) and costs in  
the amount of THREE HUNDRED SIXTY-SIX DOLLARS and 59/100  
(\$366.59).

6. That the remainder of the funds and properties in  
the estate shall remain in the estate pending a decree of final  
distribution or other order of this Court.

DATED this 1st day of <sup>Nov</sup>~~October~~, 1988.

1st Merle H. Hapt  
DISTRICT JUDGE

SEVENTH JUDICIAL DISTRICT COURT, IN AND FOR COUNTY OF ELKO, STATE OF NEVADA	SS SEAL AFFIX
I, the undersigned County Clerk and Ex-Officio CLERK of the SEVENTH JUDICIAL DISTRICT COURT, do hereby CERTIFY that the foregoing is a true and correct copy of the original on file in my office and that I have carefully compared the same with the original.	
DISTRICT COURT, this <u>4th</u> day of <u>Nov</u> , 1988.	WITNESS, My Hand and Seal of said County Clerk and Ex-Officio Court Clerk
<u>By M. Elton</u>	Deputy Clerk

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**EXHIBIT "1"**

**(ELKO PROPERTIES)**

Jay and Jay 1 through 36 Unpatented Lode Claims located in portions of Sections 5, 6, 7, 8, 17 and 18, Township 28, North, Range 53 East, Elko County, Nevada, more specifically described as follows:

<u>Cl</u>	<u>Date Located</u>	<u>Section</u>	<u>Township and Range</u>	<u>BIN Serial Number</u>
1	05/12/77	7	T28N, R53E, MDM	6856
21	05/12/77	7	"	6857
22	08/30/77	7, 18	"	8048
23	05/25/78	7, 8	"	24430
24	05/25/78	7, 8	"	24431
25	05/25/78	7	"	24432
26	05/25/78	7, 8	"	24433
27	05/25/78	7, 18	"	24434
28	05/26/78	7, 18	"	24435
29	05/26/78	7	"	24436
30	05/26/78	7	"	24437
31	05/26/78	7	"	24438
32	05/26/78	7	"	24439
33	05/26/78	7, 18	"	24440
34	05/26/78	7, 18	"	24441
35	05/26/78	18	"	24442
36	05/26/78	18	"	24443
37	05/26/78	7, 8, 17,	"	24444
38	05/26/78	18	"	24445
39	06/12/79	17, 18	"	24446
40	06/12/79	8, 17, 18	"	24447
41	06/12/79	7, 8	"	24448
42	06/12/79	8	"	24449
43	06/12/79	6, 7	"	24450
44	06/12/79	7, 8	"	24451
45	06/12/79	8	"	24452
46	06/12/79	6	"	24453
47	06/12/79	5, 6, 8	"	71063
48	06/12/78	8, 17	"	71064
49	06/12/78	8, 17	"	71065
50	06/12/78	8	"	71066
51	06/12/78	8	"	71067
52	06/12/78	8	"	71068
53	08/08/79	18	"	89297
54	08/08/79	18	"	89298
55	08/08/79	18	"	89299
56	08/08/79	7, 18	"	89300

GONCOECHA & DIGRAZIA LTD.  
ATTORNEYS AT LAW  
SILVER BUILDING, SUITE 200  
FIFTH & BOND STREETS - P. O. BOX 1100  
ELKO, NEVADA 89601  
(702) 739-0001

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RECORDED AT THE REQUEST OF  
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*Yorricka & Zigray*  
90 JAN 10 PM 31  
LTD.

OFFICIAL RECORD  
EUROPEAN COURT OF JUSTICE  
IN THE REBALT M. J. J. J. J. J.  
FILE NO. FILE 3/30

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