

NO.

FILED

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JOAN SHANGLE, CLERK

BY M. E. [Signature] DEPUTY

134941

IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT

OF THE STATE OF NEVADA, IN AND FOR THE COUNTY OF EUREKA

IN THE MATTER OF THE ESTATE OF

HELEN APOLONIA BEDNAR RUSSELL,
aka HELEN RUSSELL,

Deceased.

ORDER SETTLING SECOND AND
FINAL ACCOUNTING, APPROVAL
OF ATTORNEY FEES AND
EXECUTOR'S COMMISSION,
RATIFICATION OF SETTLEMENT
OF CLAIM AGAINST ESTATE AND
DECREE OF FINAL DISTRIBUTION

The Executor of the above-entitled Estate having on the 21st day of November, 1990, rendered and filed herein a Second and Final Accounting of the administration of said Estate, which Accounting was for final settlement, and having with said Accounting filed a Petition for Final Distribution of said Estate, and made Application for Approval of Attorney Fees and Executor's Commission and Request for Ratification of Settlement of Ray Nelson claim Against the Estate; and said Accounting and Petition having come on regularly to be heard on the 7th day of December, 1990, at 11:00 o'clock a.m.; and proof having been made to the satisfaction of the Court that notice of the settlement of said Accounting and of the hearing of said Petition has been given in the manner and for the time required by law, as more fully appears by the Affidavit of

1 Service by Mail on file herein, the Court hereby finds:

2 1. That due and legal notice of the hearing of said
3 Accounting and Petition has been given to all persons interested
4 in said Estate.

5 2. That said Accounting is in all respects true and correct;
6 that there have been receipts in the sum of \$277,488.02 from
7 November 20, 1989 to November 15, 1990, and disbursements in the
8 sum of \$563,358.43 during the same time period.

9 3. That due and legal Notice to Creditors of said Estate has
10 been given in the manner and for the time required by law; that the
11 time for filing of creditor's claims has expired.

12 4. The funeral expenses and expenses of last sickness have
13 been paid in full; that creditor's claims totaling \$17,052.13, have
14 been paid, which claims are itemized as follows:

\$ 9,684.00	Law firm of Wilson & Barrows, Ltd.:
3,490.00	Battle Mountain General Hospital:
1,477.00	Elko General Hospital:
1,043.00	Law firm of Golcochea & Di Grazia, Ltd.:
680.00	James Forsythe, M.D.:
438.00	Elko Regional Medical Center:
250.00	Robert J. Rosenquest, M.D.:
25.00	Battle Mountain Medical Center:
<u>\$17,052.13</u>	

19 5. That HELEN APOLONIA BEDNAR RUSSELL, aka HELEN RUSSELL,
20 died on the 17th day of April, 1989, and at the time of her death
21 was a resident of the County of Eureka, State of Nevada, in which
22 county and state she left real and personal property; that Decedent
23 died testate.

24 6. That on the 9th day of June, 1989, by its order, the

1 above-entitled Court appointed FIRST INTERSTATE BANK OF NEVADA,
2 N.A., the Executor of the Estate of the Decedent; that it
3 thereafter qualified; that Letters Testamentary were duly issued,
4 and said FIRST INTERSTATE BANK OF NEVADA now is and ever since that
5 date has been the duly appointed, qualified and acting Executor of
6 said Estate.

7. That William R. Beem, Donald J. Decker, Nann C. Hanley,
8 John W. Moschetti and Charles Zimmerman, were engaged as appraisers
9 of certain property of the Estate. That the Petitioner has made
10 and returned to this Court a true Inventory and appraisement of all
11 of the Estate located in Eureka County, Nevada of said Decedent as
12 has come to its knowledge and possession, showing said probate
13 Estate to have a total value of \$1,379,048.93.

8. That the Decedent died testate and her Last Will and
14 Testament, which has been admitted into probate, contained the
15 following pertinent provisions:

"FIFTH: So long as she cares for my siamese cat and my
16 dog (mixed breed) until their natural deaths and allows them
17 to live within the mobile home described below, I hereby
18 devise and bequeath to BARBARA JEAN DUGAN the following:

(1) The mobile home in which I resided at my death;
19
20 (2) The lot or parcel of land upon which the aforesaid
21 mobile home is situated;
22 (3) A cash sum of TWENTY THOUSAND DOLLARS (\$20,000.00);
23 (4) My diamond bracelet (rose cut); and,
24 (5) My crystal beads.

SIXTH: I hereby devise to ELMER SCHROEDER and RUTH
25 SCHROEDER, husband and wife, the mining claim or claims
26 described as the MAY CLAIM or MAY CLAIMS.

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SEVENTH: I hereby bequeath to GERALD TANNER and SANDRA TANNER of Salt Lake City, Utah, the cash sum of FIFTY THOUSAND DOLLARS (\$50,000.00).

EIGHTH: I hereby bequeath to ST. MARY'S HOSPITAL, in Reno, Nevada, as an undesignated gift, the cash sum of FIFTY THOUSAND DOLLARS (\$50,000.00).

NINTH: I hereby bequeath to the Animal Relief Foundation (ARF) of Elko, Nevada, the cash sum of FIVE THOUSAND DOLLARS (\$5,000.00).

TENTH: I hereby devise and bequeath the remainder of my estate of whatever source or nature to the SALVATION ARMY."

9. That pursuant to the terms of the will, the court, in its

First Decree of Partial Distribution dated January 5, 1990, made

the following distributions:

A. To Barbara Jean Dugan:

1. One 1980 14'x70' Vandylke mobile home;

2. Certain real property located in Crescent Valley

Subdivision, Eureka County, Nevada, more

specifically described as Lot 34, Crescent Valley Ranch and Farms Unit No. 1;

3. One bracelet set with 117 assorted size foil-back rhinestones;

4. One ladies necklace with light and dark graduated crystals; and,

5. The sum of TWENTY THOUSAND DOLLARS (\$20,000.00) in cash.

B. To Elmer Schroeder and Ruth Schroeder:

One unpatedented lode mining claim designated as "MAY LODGE MINING CLAIM."

C. To Gerald and Sandra Tanner:

The sum of FIFTY THOUSAND DOLLARS (\$50,000.00) in cash.

D. To St. Mary's Hospital, Reno, Nevada:

The sum of FIFTY THOUSAND DOLLARS (\$50,000.00) in cash.

1 E. To Animal Relief Foundation of Elko County, Nevada:
2 The sum of FIVE THOUSAND DOLLARS (\$5,000.00) in cash.
3 That by Order of the Court dated August 3, 1990, the Court
4 distributed all remaining patented, unpatented mining claims and
5 mill sites in the Estate to the Salvation Army and, pursuant to the
6 provisions of Decedent's Will, all remaining property in the Estate
7 subject to distribution should be distributed to the Salvation
8 Army.
9 10. That the names, relationships, ages and addresses of the
10 heirs, devisees and legatees are:

Name	Age	Relationship	Address
Barbara Jean Dugan	Adult	Legatee	P.O. Box 52 Crescent Valley, NV 89821
Elmer Schroeder	Adult	Legatee	P.O. Box 6 Crescent Valley, NV 89821
Ruth Schroeder	Adult	Legatee	P.O. Box 6 Crescent Valley, NV 89821
Gerald Tanner	Adult	Legatee	1350 S. West Temple Salt Lake City, UT 84115
Sandra Tanner	Adult	Legatee	1350 S. West Temple Salt Lake City, UT 84115
St. Mary's Hospital	N/A	Legatee	235 West Sixth Reno, Nevada 89520
Animal Relief Foundation (ARF)	N/A	Legatee	P.O. Box 1333 Elko, Nevada 89801
//			

Salvation Army N/A Legatee Attn: Major Gordon Helms
P.O. Box 3465
San Francisco, CA 94119

11. That the property of the Estate is the Decedent's sole and separate property and, after the partial distributions described above, consists of the following:

A. Cash on Hand: \$176,299.87

B. The Following Jewelry:

1. One lady's plastic-coated bead necklace made to look like

pearls;

2. One lady's white base metal Timex watch;

3. One lady's diamond wedding band with 3 sc diamonds of an

estimated total weight 0.04 carats;

4. One lady's 14 carat gold Eastern Star ring with diamond

center;

5. One lady's three diamond engagement ring with two

melie of an estimated total weight of 1.5 pts, one major

estimated weight of 0.10 carat; and,

6. One lady's five diamond engagement ring.

C. Miscellaneous Personal Property, Including Coins and Turquoise:

1. 44 U.S. coins of various denominations;

2. 657 green stones of various sized;

3. 3 tokens;

4. 6 foreign coins of various denominations;

5. 1 foreign currency bill (50) yen;

6. 1 cameo brooch; and,

7. 1 nursing pin with diamond center.

D. Uncollected sums from a judgment entered in favor of the

Estate in Case No. 3211, captioned, First Interstate Bank

of Nevada, as Executor of the Estate of Helen Russell, v.

Eljose McDaniel, in the Seventh Judicial District Court of

the State of Nevada, in and for the County of Eureka.

12. That FIRST INTERSTATE BANK OF NEVADA, N.A., has performed

services for the Estate as Executor for which it is entitled to a

1 statutory fee based upon a percentage of the full amount of the
2 Estate as follows:

3 Value of Estate: \$1,379,048.93
4 - 15,000.00 x 4% = \$1,364,048.93
5 - 85,000.00 x 3% = \$2,550.00
6 - 1,279,048.93 x 2% = \$25,580.98
7 of \$28,410.98 x 2% = \$568.22
8 Additional income earned 6/30/90
9 to 10/31/90 of \$5,927.37 x 2% = \$118.55
10 TOTAL EXECUTOR FEE: \$29,417.75

11 13. That the law firm of GOICORCHEA & DI GRAZIA, LTD.,
12 Attorneys at Law, Elko, Nevada, has performed services for said
13 Estate by acting as attorneys for the Executor, as is more fully
14 set forth in the petition filed herein on November 21, 1990; the
15 attorneys have been paid the sum of \$9,805.00 in attorney fees
16 since August 3, 1990, the date the Court last approved an interim
17 award of attorney fees. That the Executor and the attorneys have
18 agreed to the sum of \$2,475.00 is a reasonable fee for services
19 rendered from 10/29/90 through 11/16/90 and for the remaining
20 services to be performed by the attorneys.

21 14. That the law firm of GOICORCHEA & DI GRAZIA, LTD.,
22 Attorneys at Law, Elko, Nevada, has advanced costs in the sum of
23 \$473.75 for which they have been paid and the sum of \$536.57 for
24 which they are entitled to be reimbursed, together with
25 miscellaneous costs and fees incurred in the final closing of said
26 Estate in the sum of \$22.00.

That the law firm of WILSON & BARROWS, LTD. Attorneys at Law,

1 has received the payment of \$1,446.65 for services performed in
2 connection with the David Horton litigation which have not been
3 approved by the court.

4 15. That since the approval of the settlement of legal

5 actions set forth in this court's order dated August 3, 1990, a
6 claim by Ray Nelson has been settled, subject to court approval,

7 wherein the Executor, the attorneys for the Executor and the

8 remaining beneficiary of this Estate have paid Ray Nelson the sum

9 of TWENTY-FIVE THOUSAND DOLLARS (\$25,000.00) in consideration for

10 Mr. Nelson relinquishing and releasing any and all claims or

11 demands against the Estate of Helen Russell, the Estate of Allen

12 Russell, First Interstate Bank of Nevada, N.A., as Executor and

13 Administrator of said Estates, and the Salvation Army, arising out

14 of or in any way related to monies which were asserted by Mr.

15 Nelson to be due to him as a result of his ownership interest in

16 the patented and unpatented mining claims.

17 15. That the Executor requests the sum of \$1,000.00 be held

18 in reserve for the payment of any fiduciary income tax on income

19 earned during the probate of the Estate.

20 16. That the Estate is now in a condition to be finally

21 settled and the Executor is entitled to be discharged on producing

22 and filing the necessary vouchers and proof showing that it has

23 complied with this order.

24 NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

25 1. That due and legal notice of the hearing of this Second

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1 and Final Accounting, Petition for Final Distribution, Application
2 for Approval of Attorney Fees and Executor's Commission and Request
3 for Ratification of Settlement of Ray Nelson Claim Against the
4 Estate has been given to all persons interested in said Estate as
5 required by law.

6 2. That the Second and Final Accounting, Petition for
7 Distribution, Application for Attorney Fees and Executor's
8 Commission and Request for Ratification of Settlement of Ray Nelson
9 Claim be, and the same is hereby, approved, allowed and settled.
10 3. That the remaining sum in the amount of \$9,417.75 as the
11 statutory fee to the Executor be paid.

12 4. That the fees paid to GOICOCHEA & DI GRAZIA, LTD. in the
13 sum of \$9,805.00 are approved as reasonable.

14 5. That the agreed fee payable to GOICOCHEA & DI GRAZIA,
15 LTD. which has not yet been paid in the sum of \$2,475.00 is hereby
16 approved as reasonable and ordered paid, along with reimbursement
17 of all costs and expenses advanced by them on behalf of the Estate
18 in the sum of \$473.75 for which they have been paid and \$537.57 for
19 which they have not been paid, together with costs incurred in the
20 final closing of said Estate in the sum of \$22.00.

21 6. That the fees paid to WILSON & BARROWS, LTD. in the sum
22 of \$1,446.65 are approved as reasonable.

23 7. That the Executor is hereby authorized to hold in reserve
24 from the distribution the sum of \$1,000.00 to be invested at
25 interest which the Executor is authorized to use to pay any taxes

1 due on the final fiduciary income tax return.

2 8. That the settlement of the Ray Nelson claim in the sum of

3 TWENTY-FIVE THOUSAND DOLLARS (\$25,000.00) is hereby ratified and

4 approved.

5 9. That the rest, residue and remainder of the Estate listed

6 in Paragraph 11 above, save and except for the sum of \$1,000.00,

7 be and hereby is distributed to the SALVATION ARMY.

8 10. That any and all property hereafter discovered which was

9 owned by the Decedent at the date of her death and which shall be

10 within the jurisdiction of this Court is distributed to the

11 SALVATION ARMY.

12 11. That said Estate be brought to a close and that the

13 Executor be discharged upon producing and filing the necessary

14 vouchers and proof showing that it has complied with the order of

15 the Court.

16 DONE IN OPEN COURT this 7th day of December, 1990.

17 District Judge

18 By M. L. Hays

19
20 SEVENTH JUDICIAL DISTRICT COURT
21 IN AND FOR COUNTY OF EUREKA
22 STATE OF NEVADA
23 I, the Undersigned COUNTY CLERK, and Ex-Officio
24 CLERK of the SEVENTH JUDICIAL DISTRICT COURT do hereby CERTIFY
25 that the foregoing is a full, true and correct copy of the original on file in
26 my office and that I have carefully compared the same with the
original
DISTRICT COURT, this 7th day of Dec 19 90
County Clerk and Ex-Officio Court Clerk
Deputy Clerk
Affixed

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EUREKA COUNTY, NEVADA
M.N. REBAL EATL. RECORDER
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