

**DOC # 0213109**

02/11/2009

01:35 PM

**Official Record**

Recording requested By  
ALISON MACKENZIE

**Eureka County - NV**  
**Mike Rebaleati - Recorder**

Fee: \$20.00

Page 1 of 7

RPTT:

Recorded By: FES

Book- 0485 Page- 0210



0213109

APN: 005-260-44

APN: 005-260-40

RECORDING REQUESTED BY  
JOEL W. LOCKE, Esq.

WHEN RECORDED MAIL TO

JOEL W. LOCKE, ESQ.  
ALLISON, MacKENZIE, PAVLAKIS,  
WRIGHT & FAGAN, LTD.  
402 North Division Street  
P.O. Box 646  
Carson City, NV 89702

**SPACE ABOVE THIS LINE RESERVED FOR  
RECORDER'S USE**

☒ The party executing this document hereby affirms  
that this document submitted for recording does  
not contain the social security number of any  
person or persons pursuant to NRS 239B.030

☐ The party executing this document hereby affirms  
that this document submitted for recording does  
contain the social security number of a person or  
persons as required by NRS 440.380.

Signature

**TITLE OF DOCUMENT**

**ORDER APPROVING FIRST AND FINAL ACCOUNT AND GRANTING  
PETITION FOR FEES AND FOR FINAL DISTRIBUTION**

FEB 06 2009

Eureka County Clerk

Deputy  
*Shannon Cunkat*

Case No. PR 0806-014

Dept. No. 2

IN THE SEVENTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
IN AND FOR THE COUNTY OF EUREKA

IN THE MATTER OF THE ESTATE

OF

RODGER CORDELL HERBERT,  
aka ROGER CORDELL HERBERT,  
aka R. CORDELL HERBERT,

Deceased.

ORDER APPROVING FIRST AND FINAL  
ACCOUNT AND GRANTING PETITION  
FOR FEES AND FINAL DISTRIBUTION

COLIN HERBERT, by and through his attorneys, ALLISON, MacKENZIE, PAVLAKIS, WRIGHT & FAGAN, LTD., having filed with the Court a First and Final Account and Petition for Fees and Final Distribution of said estate (hereinafter "Petition"), and a hearing thereon having been had in open Court, due notice of which was proved; and no person objecting; and the Court having reviewed the evidence, read the papers, and considered the matter; and it appearing:

I.

DECEDENT

That RODGER CORDELL HERBERT, aka ROGER CORDELL HERBERT, aka R. CORDELL HERBERT, hereinafter called decedent, died on July 30, 2007, being at the time of his death a resident of and domiciled in Pope Valley, state of California, leaving certain real property situate or located in the state of Nevada.

II.

LAST WILL AND TESTAMENT

That decedent was a single man and left no Last Will and Testament.

ALLISON, MacKENZIE, PAVLAKIS, WRIGHT & FAGAN, LTD.  
402 North Division Street, P. O. Box 646, Carson City, NV 89702  
Telephone: (775) 687-0202 Fax: (775) 882-7918  
E-Mail Address: law@allisonmackenzie.com

III.

APPOINTMENT OF CALIFORNIA PERSONAL REPRESENTATIVE

That on October 12, 2007, The Superior Court of California, County of Napa, granted an Order for Administration of the Estate of Decedent and ordered CHARLES R. HERBERT and COLIN HERBERT, aka COLIN R. HERBERT, Co-Administrators with full authority to administer the estate without bond.

That also on October 12, 2007, The Superior Court of California, County of Napa, issued Letters of Administration and named CHARLES R. HERBERT and COLIN HERBERT, aka COLIN R. HERBERT, Co-Administrators of the Decedent's estate.

IV.

APPOINTMENT OF PERSONAL REPRESENTATIVE

That on July 18, 2008, this Court, following a hearing on a Petition for Summary Administration and Issuance of Letters of Administration, duly filed and lawfully noticed, granted administration herein, and appointed petitioner, COLIN R. HERBERT, Personal Representative of decedent's estate, upon his qualifying, and Letters of Administration were issued to him on July 18, 2008, and ever since he has been, and now is, the duly qualified and acting Personal Representative of the estate of decedent.

V.

NOTICE TO CREDITORS

That on August 14, 21, and 28, 2008, petitioner caused publication of Notice to Creditors of decedent to be made, requiring creditors to present their respective claims within sixty (60) days from date of first publication of Notice to Creditors; and that publication was made in THE EUREKA SENTINEL, a daily newspaper of general circulation, printed and published in Eureka County, state of Nevada, and was made in the time and in the manner required by law; and the time for presenting claims against said estate, as fixed by said Notice to Creditors, has since expired, and that no claims were filed against the estate.

That on August 8, 2008, STATE OF NEVADA, DIRECTOR OF THE DEPARTMENT OF HUMAN RESOURCES, was sent a Notice to Creditors via certified mail return

1 receipt, and that the date of delivery was August 11, 2008. That the office of the Director of the  
2 Department of Human Resources, did not file a claim against the estate.

3 VI.

4 FEDERAL INCOME/ESTATE TAX

5 That the total value of the assets of the estate on the date of death of decedent was  
6 such that it was not necessary for the petitioner to file with the INTERNAL REVENUE SERVICE  
7 (IRS) a Federal Estate Tax Return, Form 706. That all personal Federal Income Tax Returns, Forms  
8 1040, for the decedent's estate have been timely filed with the IRS by the petitioner. That the income  
9 earned by the estate during the administration was such that it was not necessary for the petitioner  
10 to file a Fiduciary Federal Income Tax Return, Form 1041.

11 VII.

12 INVENTORY AND APPRAISEMENT

13 That petitioner filed herein an Inventory and Appraisement on October 31, 2008, and  
14 that the estate of the decedent consists of real property valued at Twenty-Five Thousand and No/100  
15 Dollars (\$25,000.00).

16 VIII.

17 HEIRS AND NEXT-OF-KIN

18 That the names, relationships, ages, and addresses of the heirs and next-of-kin of  
19 decedent, so far as known to petitioner, are as follows:

21	<u>NAME</u>	<u>RELATIONSHIP</u>	<u>AGE</u>	<u>ADDRESS</u>
22	CHARLES R. HERBERT	Brother	Adult	5253 Puente Court
23				Yucca Valley, CA 92284
24	COLIN R. HERBERT	Brother	Adult	323 Bayhill Drive
25				Dayton, NV 89403

26 IX.

27 FIRST AND FINAL ACCOUNT

28 That attached as Exhibit "A" to the Petition is petitioner's First and Final Account of

1 the Estate of RODGER CORDELL HERBERT, aka ROGER CORDELL HERBERT, aka R.  
2 CORDELL HERBERT, deceased.

3 X.

4 WAIVER OF FEES OF PERSONAL REPRESENTATIVE

5 That the petitioner, COLIN R. HERBERT, has rendered services as Personal  
6 Representative of the Estate of RODGER CORDELL HERBERT, aka ROGER CORDELL  
7 HERBERT, aka R. CORDELL HERBERT, deceased, and pursuant to NRS 150.020, is entitled to  
8 be compensated for her services as Personal Representative. The petitioner hereby waives payment  
9 of a fee for his services as Personal Representative.

10 XI.

11 ATTORNEYS' FEES

12 That the petitioner engaged the services of ALLISON, MacKENZIE, PAVLAKIS,  
13 WRIGHT & FAGAN, LTD., as attorneys for petitioner and said firm has rendered such ordinary  
14 services as itemized in the Application for Attorneys' Fees on file herein, and is entitled to reasonable  
15 compensation therefor; and petitioner and said attorneys have agreed that the sum of Two Thousand  
16 and No/100 Dollars (\$2,000.00) is a fair and reasonable compensation for these services and hereby  
17 request this Court to approve said amount.

18 XII.

19 ATTORNEYS' COSTS

20 That in addition, said attorneys are entitled to be reimbursed from the estate for costs  
21 and expenses advanced in the amount of Three Hundred Eighty-Eight and 27/100 Dollars (\$388.27)  
22 as itemized in the Application for Attorneys' Fees on file herein.

23 XIII.

24 DISTRIBUTION OF ESTATE

25 That the estate is now ready and in a condition to be closed and distributed.

26 WHEREFORE, petitioner, as Personal Representative of the Estate of RODGER  
27 CORDELL HERBERT, aka ROGER CORDELL HERBERT, aka R. CORDELL HERBERT,  
28 deceased, prays to the Court as follows:

1           1.       That the First and Final Account filed herein by COLIN R. HERBERT, as  
2 Personal Representative of the Estate of RODGER CORDELL HERBERT, aka ROGER CORDELL  
3 HERBERT, aka R. CORDELL HERBERT, deceased, is hereby settled, approved, allowed, and  
4 confirmed.

5           2.       That the Personal Representative is authorized and directed to pay an  
6 attorneys' fee to ALLISON, MacKENZIE, PAVLAKIS, WRIGHT & FAGAN, LTD., in the amount  
7 of Two Thousand and No/100 Dollars (\$2,000.00) as a reasonable attorneys' fee for legal services  
8 rendered to the Personal Representative during the probate of the above-entitled estate; and to  
9 approve Three Hundred Eighty-Eight and 27/100 Dollars (\$388.27) as reimbursement for costs and  
10 expenses advanced by said attorneys.

11           3.       That the Personal Representative is authorized and directed to distribute the  
12 balance of the estate of the decedent, now known or hereafter discovered to CHARLES R.  
13 HERBERT and COLIN R. HERBERT, the brothers of the decedent, pursuant to NRS 134.060,  
14 intestate succession, said distribution to include the following:

15           To the decedent's brothers, the real property situate in Eureka County, State of Nevada, and  
16 more particularly described as follows:

17           Parcel No. 1: 80 Acres

18           Township 30 North, Range 49 East, MDB&M Section 15:  
19           SW1/4 SE1/4

20           EXCEPTING an easement on the Westerly and Southerly boundaries  
21 thereof, 30 feet in width for utility and road purposes, and  
22           SUBJECT to restrictions, reservations, covenants, easements and  
23 rights of way of record.

24           Assessor's Parcel Number 005-260-44.

25           Parcel No. 2: 160 Acres

26           TOWNSHIP 30 NORTH, RANGE 49 EAST, M.D.B.&M.

27           Section 15: NW1/4.

28           EXCEPTING an easement on all boundaries thereof, 30 feet in width  
for utility and public road purposes.

Assessor's Parcel Number 005-260-40.

ALLISON, MacKENZIE, PAVLAKIS, WRIGHT & FAGAN, LTD.  
402 North Division Street, P. O. Box 646, Carson City, NV 89702  
Telephone: (775) 687-0202 Fax: (775) 882-7918  
E-Mail Address: law@allisonmackenzie.com

4. That the Personal Representative is authorized and directed to do all the things necessary and proper to effectuate such distributions; and upon making of such distributions, the Personal Representative shall be released and discharged from his trust herein.

DATED 6th February, 2009.

/s/ Dobrescu  
DISTRICT JUDGE

Respectfully submitted by:

ALLISON, MacKENZIE, PAVLAKIS,  
WRIGHT & FAGAN, LTD.  
P.O. Box 646  
Carson City, NV 89702

By:

Andrew MacKenzie  
ANDREW MacKENZIE, ESQ.  
JOEL W. LOCKE, ESQ.  
Attorneys for petitioner,  
COLIN R. HERBERT

SEVENTH JUDICIAL DISTRICT COURT  
IN AND FOR COUNTY OF EUREKA  
STATE OF NEVADA

} SS

I, the Undersigned COUNTY CLERK and Ex-Officio CLERK of the SEVENTH JUDICIAL DISTRICT COURT do hereby CERTIFY that the foregoing is a full, 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 6th day of February, 2009

County Clerk and Ex-Officio Court Clerk  
Deborah Cantrell Deputy Clerk