

EUREKA COUNTY, NV

2025-254267

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ALLISON MACKENZIE LTD

KATHERINE J. BOWLING, CLERK RECORDER

1 Case No. PR2412-248

2 Dept. No.

3 The undersigned affirms that this document DOES contain the Social
4 Security number, driver's license number, identification card number,
complete financial account number with accompanying password and/or pin.

NO. FILED

JAN 17 2025

Eureka County Clerk
By *[Signature]*

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

10 IN THE MATTER OF THE ESTATE OF:

11 MUGUETTE RADCLIFF,

12 DECEASED.

14 **ORDER SETTING ASIDE ESTATE WITHOUT ADMINISTRATION**

15 THIS MATTER came before the Court pursuant to that Petition to Set Aside Estate
16 Without Administration (Ancillary) filed herein by Petitioner, SHINICHI NIMURA, by and through
17 his attorneys, ALLISON MacKENZIE, LTD. Proper notice having been filed, and no party objecting
18 thereto, and good cause appearing therefore, the Court hereby finds and Orders as follows:

19 I.

20 **BANKRUPTCY**

21 That Petitioner, as the party filing this pleading, is not a debtor in bankruptcy.

22 II.

23 **DECEDENT**

24 That MUGUETTE RADCLIFF, also known as MUGUETTE J. RADCLIFF, died on
25 November 12, 2009, being at the time of her death a resident of Orange County, California, leaving
26 at the time of her death certain property located within the State of Nevada as more particularly
27 described herein.

28 ///

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Eureka County Clerk

III.

LAST WILL AND TESTAMENT

That decedent left an instrument duly executed and witnessed on January 13, 2006, as her Last Will and Testament (hereinafter the "Will"). That at the time of execution of the Will, Petitioner is informed and believes that decedent was of the age of majority, of sound mind, and held the requisite capacity to execute the same. That a copy of such Will was attached to the Petition.

That despite Petitioner's efforts, Petitioner was unable to locate the decedent's original Last Will and Testament. Further, the attorney who prepared the decedent's estate plan did not retain the original Last Will and Testament. Despite the same, NRS 136.180 provides that if the Will of a person is detained beyond the jurisdiction of this State, in a court of any other state, county or jurisdiction, and cannot be produced for probate in this State, a copy of the Will may be admitted to probate in this state in lieu thereof and has the same force and effect as would be required if the original were produced. Similarly, a lost or destroyed Will may be admitted to probate if the Will is either lost by accident or destroyed without the knowledge of the testator under NRS 136.230. NRS 133.050 further provides that signatures attached to a Will and executed at the same time as the Will are considered a signature affixed to the Will, if necessary, to prove the execution of the Will. Finally, Nevada establishes a presumption that a Will has not been revoked when the primary beneficiary of the Will is a nontestamentary trust established by the testatrix and of which is in existence at her death. NRS 136.240(5)(a).

Here, the sole beneficiary of decedent's Last Will and Testament is the decedent's nontestamentary trust which was in existence at the time of her death. Further, decedent's Will was witnessed by two disinterested witnesses who simultaneously executed the self-proving declarations under penalty of perjury, rendering the Will and self-proving will under NRS 133.050.

Petitioner is informed and believes that no other probate proceeding in any other state has been opened or maintained. As such, this ancillary proceeding is the first proceeding regarding such estate.

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E-Mail Address: law@allisonmackenzie.com

IV.

HEIRS AND NEXT-OF-KIN

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

<u>NAME</u>	<u>RELATIONSHIP</u>	<u>AGE</u>	<u>ADDRESS</u>
CIARA J. RADCLIFF	Grandchild	Adult	963 Kailiu Place Honolulu, HI 96825
TROY D. RADCLIFF	Grandchild	Adult	163 Prospect Avenue Unit A Long Beach, CA 90803

V.

DECEDENT'S ESTATE

That Petitioner is informed and believes that the assets of the decedent's estate subject to administration in the State of Nevada consists of that parcel of real property located in Eureka County, Nevada, consisting of 40 undeveloped acres, particularly described as follows:

The Southwest one quarter of the Northeast one quarter,
Section 17, Township 30 North, Range 49 East,
M.D.B.M., as per government survey.

(This legal description was previously recorded on
December 8, 1963, as document number 39571, official
Records of Eureka County).

That at the time of decedent's death, Petitioner is informed and believes that ownership to said property was held between "KENNETH L. RADCLIFF and MUGETTE J. RADCLIFF, husband and wife, as joint tenants." That KENNETH L. RADCLIFF, also known as KENNETH LEROY RADCLIFF, predeceased the decedent on October 3, 1999, and Petitioner recorded an affidavit of death of joint tenant leaving the entirety of said property titled in the name of MUGUETTE J. RADCLIFF and subject to this set aside proceeding.

That Petitioner is informed and believes that the property has a total taxable value of approximately TEN THOUSAND EIGHT HUNDRED and No/100 DOLLARS (\$10,800.00) as of 2024 as indicated on the Eureka County Assessor's website. Petitioner otherwise waived a formal

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1 appraisal of the vacant land in an effort to save expense, especially when decedent passed away
2 nearly 15 years ago.

3 That pursuant to NRS 146.070(1)(a) all or part of the estate of a decedent may be set
4 aside without administration if the value of the decedent's estate does not exceed ONE HUNDRED
5 THOUSAND AND No/100 DOLLARS (\$100,000.00). Here, Petitioner asserts that the value of the
6 decedent's estate does not exceed ONE HUNDRED THOUSAND AND No/100 DOLLARS
7 (\$100,000.00) such that a set aside proceeding is appropriate under NRS 146.070(1)(a). Further,
8 even if said estate did exceed \$100,000.00, a set aside proceeding would still be appropriate under
9 NRS 146.070(1)(b), with provision that the decedent's trust is subject to any creditors of the estate.

10 VI.

11 DEBTS OF DECEDENT

12 That so far as known to Petitioner, all debts and creditors of the decedent have been
13 or will be paid by Petitioner in his capacity as Trustee of the decedent's Trust.

14 VII.

15 DISTRIBUTION OF ESTATE

16 That pursuant to ARTICLE SECOND of decedent's Last Will and Testament,
17 decedent's entire estate is to be distributed to the then serving Trustee of the RADCLIFF TRUST
18 DATED APRIL 15, 1999. That Petitioner is the currently acting sole Trustee of the RADCLIFF
19 TRUST DATED APRIL 15, 1999.

20 VIII.

21 WELFARE BENEFITS

22 That so far as known to Petitioner, decedent was not a recipient of benefits from the
23 Department of Health and Human Services of the State of Nevada.

24 IX.

25 ATTORNEYS' FEES AND COSTS

26 That it was necessary for Petitioner to retain the services of an attorney to Petition the
27 Court to set aside the decedent's estate in the State of Nevada. That such attorneys' fees and costs
28

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1 shall be paid from outside of decedent's probate estate by Petitioner in his capacity as Trustee of the
2 RADCLIFF TRUST DATED APRIL 15, 1999.

3 **NOW THEREFORE, IT IS HEREBY ORDERED AS FOLLOWS:**

4 1. That the Copy of decedent's Last Will and Testament is admitted as valid.

5 2. That the decedent's estate subject to administration in the State of Nevada is eligible
6 to be set aside under NRS 146.070 as the value of said estate is less than ONE HUNDRED
7 THOUSAND AND No/100 DOLLARS (\$100,000.00);

8 3. That the payment of attorneys' fees and costs to ALLISON MacKENZIE, LTD., shall
9 be paid by Petitioner in his capacity as Trustee of the RADCLIFF TRUST DATED APRIL 15, 1999,
10 outside of this proceeding;

11 4. That the decedent's estate, now known or hereinafter discovered, including but not
12 limited to that parcel of real property located in Eureka County, Nevada, consisting of 40
13 undeveloped acres, particularly described as follows:

14 The Southwest one quarter of the Northeast one quarter,
15 Section 17, Township 30 North, Range 49 East,
16 M.D.B.M., as per government survey.

17 (This legal description was previously recorded on
18 December 8, 1963, as document number 39571, official
19 Records of Eureka County).

20 is hereby set aside to SHINICHI NIMURA, as Trustee of the RADCLIFF TRUST DATED APRIL
21 15, 1999; and

22 5. That this Order, once recorded, shall serve as the transferring document of said
23 interest in property.

24 **IT IS SO ORDERED.**

25 DATED this 17 day of January, 2025.

26 
27 DISTRICT COURT JUDGE

28 4930-6230-5536, v. 1

COPY

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

I, the Undersigned County ClerkRecorder 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.

Witness hand and seal of the Seventh Judicial District Court

This 17th day of JANUARY 20 25

Eureka County Clerk Recorder and Ex-Officio Court Clerk
By: [Signature], Deputy Clerk Recorder (Seal Affixed)