

1 **NOTC**
2 **JONATHAN W. BARLOW**
3 Nevada Bar No. 9964
4 **AMY K. CRIGHTON**
5 Nevada Bar No. 12421
6 **CLEAR COUNSEL LAW GROUP**
7 50 S. Stephanie St., Ste. 101
8 Henderson, Nevada 89012
9 (702) 476-5900
10 (702) 924-0709 (Fax)
11 jonathan@clearcounsel.com
12 Attorneys for the Estate

Electronically Filed
06/25/2014 08:38:12 AM

Electronically Filed
July 2, 2014 8:12 a.m.
Tracie K. Lindeman
Clerk of Supreme Court

13
14 **DISTRICT COURT**
15 **CLARK COUNTY, NEVADA**

16 In the Matter of the Estate of

17 **LEROY G. BLACK,**

18 Deceased.

Case No. P-12-074745-E
Dept. No. 26

19 **NOTICE OF APPEAL**

20 Pursuant to NRAP 3A(b)(1), Phillip Markowitz as the Executor of the Estate of Leroy
21 G. Black (the "Estate") hereby gives notice that the Estate is appealing the following judgments
22 and orders to the Supreme Court of Nevada:

23 1. Order Adopting and Affirming Report and Recommendation, filed May 29,
24 2014, notice of entry of order filed May 30, 2014; and

///

///

///

2. All prior court judgments, orders, rulings, and decisions that have already been entered in this matter, and as to which the Estate is an aggrieved party,

DATED this 25th day of June, 2014

CLEAR COUNSEL LAW GROUP



JONATHAN W. BARLOW
Nevada Bar No. 9964
Attorneys for the Estate

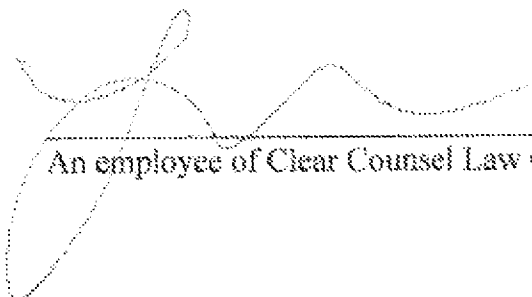
CERTIFICATE OF MAILING

I hereby certify that on June 25th, 2014, a true and correct copy of the original *Notice of Appeal* was sent via U.S. Mail, first class postage prepaid, to the following at their last known address:

Jonathan C. Callister
Callister & Frizell
8275 S. Eastern Ave., Ste. 200
Las Vegas, NV 89123

Rose Markowitz
318 North California St.
Burbank CA 91505

Michael A. Olsen
Goodsell & Olsen, LLP
10155 W. Twain Ave., Ste. 100
Las Vegas, NV 89147



An employee of Clear Counsel Law Group


CLERK OF THE COURT

1 ASTA
2 JONATHAN W. BARLOW
3 Nevada Bar No. 9964
4 AMY K. CRIGHTON
5 Nevada Bar No. 12421
6 CLEAR COUNSEL LAW GROUP
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8 Henderson, Nevada 89012
9 (702) 476-5900
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11 jonathan@clearcounsel.com
12 Attorneys for the Estate

DISTRICT COURT
CLARK COUNTY, NEVADA

In the Matter of the Estate of

LEROY G. BLACK,

Deceased.

Case No. P-12-074745-E

Dept. No. 26

CASE APPEAL STATEMENT

Pursuant to NRAP 3(f), Phillip Markowitz as the Executor of the Estate of Leroy G. Black (the "Estate") hereby files this Case Appeal Statement.

1. Name of Appellant Filing this Case Appeal Statement. Phillip Markowitz as the Executor of the Estate of Leroy G. Black.

2. Identify the Judge Issuing the Order Appealed From. Eighth Judicial District Court Judge Gloria Sturman.

3. Identify Each Appellant and Name and Address of Counsel for Each Appellant.
Phillip Markowitz as Executor of the Estate of Leroy G. Black. Counsel for Appellant:

Jonathan W. Barlow
Amy K. Crighton
CLEAR COUNSEL LAW GROUP
50 S. Stephanie St., Ste. 101
Henderson, NV 89012
(702) 476-5900

4. Identify Each Respondent and Name and Address of Counsel for Each
Respondent. William Fink. Counsel for Fink:

R. Duane Frizell
Jonathan C. Callister
CALLISTER & FRIZELL
8275 S. Eastern Ave., Ste. 200
Las Vegas, NV 89123
(702) 657-6000

Michael A. Olsen
Thomas R. Grover
GOODSELL & OLSEN
10155 W. Twain Ave., Ste. 100
Las Vegas, NV 89147
(702) 869-6261

5. Indicate Whether Any Attorney Identified Above is not Licensed to Practice Law
in Nevada. Upon information and belief, all attorneys identified above are licensed to practice
law in Nevada.

6. Indicate Whether Appellant was Represented by Appointed or Retained Counsel
in District Court. Appellant was represented by retained counsel in the District Court. There was
no appointed counsel in the District Court.

7. Indicate Whether Appellant is Represented by Appointed or Retained Counsel on
Appeal. Appellant is represented by retained counsel on appeal. There is no appointed counsel
on appeal.

8. Indicate Whether Appellant was Granted Leave to Proceed in Forma Pauperis.
No such leave was granted.

9. Indicate the Date the Proceedings Commenced in the District Court. The probate
proceeding was commenced by the filing of the Petition for Special Letters of Administration

1 on June 26, 2012. Appellant's Petition to Declare Revocation of Trust Agreement, which is the
2 subject of this appeal, was filed on August 5, 2013.

3 10. Provide a Brief Description of the Nature of the Action and Result in the District
4 Court. In the District Court, the Estate filed a Petition to Declare Revocation of Trust
5 Agreement alleging that the decedent's last will and testament, which had been admitted to
6 probate, acted as an instrument in writing to revoke the decedent's revocable living trust. In a
7 Report and Recommendation, Probate Commissioner Wesley Yamashita recommended that the
8 Estate's Petition be denied finding that the will did not revoke the Trust. The Estate filed an
9 Objection to Report and Recommendation, which objection was heard by Eighth Judicial
10 District Court Judge Gloria Sturman. Judge Sturman approved and adopted Commissioner
11 Yamashita's Report and Recommendation resulting in the denial of the Estate's Petition to
12 Declare Revocation of Trust Agreement. The Estate appeals the District Court's Order
13 approving the Report and Recommendation.

14 11. Indicate Whether the Case has Previously been the Subject of an Appeal or
15 Original Writ Proceeding in the Supreme Court. Upon information and belief, there has been
16 no original writ proceeding in the Supreme Court. An appeal in this case is currently pending in
17 the Supreme Court. The caption and Supreme Court docket number of the pending proceeding
18 is as follows:

1 IN THE MATTER OF: ESTATE OF LEROY G.
2 BLACK, DECEASED.

Supreme Court No. 63960
District Court Case No. P074745

3 WILLIAM FINK A/K/A BILL FINK,
4 Appellant,
vs.

5 PHILLIP MARKOWITZ AS EXECUTOR OF
6 THE ESTATE OF LEROY G. BLACK,
Respondent

7 12. Indicate Whether this Appeal Involves Child Custody or Visitation. This appeal
8 does not involve child custody or visitation.

9 13. Indicate Whether this Appeal Involves the Possibility of Settlement. A settlement
10 conference was held on April 22, 2014, in connection with the currently pending appeal in this
11 matter. The Final Settlement Conference Status Report was filed with the Clerk of the Supreme
12 Court on May 5, 2014. As noted by Settlement Judge M. Nelson Segel in the Status Report,
13 during the settlement conference the parties discussed, considered, and addressed all issues
14 related to not only the pending appeal, but also related to the issues presented in the Order from
15 which the Estate is now appealing. Both matters were fully addressed during the settlement
16 conference. The settlement conference was unsuccessful and the parties have been unable to
17 reach any settlement following the settlement conference, though efforts to do so have
18 continued.

19 At this time, it appears that this appeal does not involve the possibility of settlement. As
20 suggested by Settlement Judge Segel, the Estate does not believe that a further settlement
21 conference related to this appeal would be of value. The Estate requests that the Supreme Court
22 combine this appeal with the currently pending appeal noted in paragraph 11 above and
23 schedule briefing accordingly.
24

1 DATED this 25th day of June, 2014

2 CLEAR COUNSEL LAW GROUP

3 

4 JONATHAN W. BARLOW

5 Nevada Bar No. 9964

6 Attorneys for the Estate

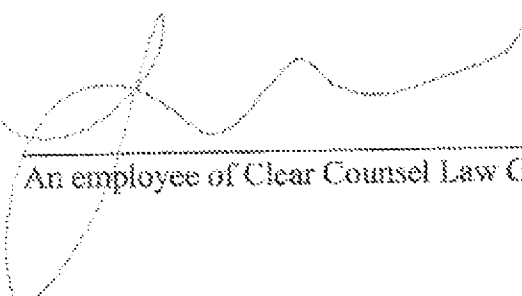
7 CERTIFICATE OF MAILING

8 I hereby certify that on June 25th, 2014, a true and correct copy of the original *Case*
9 *Appeal Statement* was sent via U.S. Mail, first class postage prepaid, to the following at their
10 last known address:

11 Jonathan C. Callister
12 Callister & Frizell
13 8275 S. Eastern Ave., Ste. 200
14 Las Vegas, NV 89123

Rose Markowitz
318 North California St.
Burbank CA 91505

15 Michael A. Olsen
16 Goodsell & Olsen, LLP
17 10155 W. Twain Ave., Ste. 100
18 Las Vegas, NV 89147

19 
20 An employee of Clear Counsel Law Group
21
22
23
24

DEPARTMENT 22
CASE SUMMARY
CASE No. A-14-695848-C

SFR Investments Pool 1 LLC, Plaintiff(s)
vs.
Green Tree Servicing LLC, Defendant(s)

Location: **Department 22**
Judicial Officer: **Johnson, Susan**
Filed on: **02/07/2014**
Cross-Reference Case Number: **A695848**
Supreme Court No.: **65678**

CASE INFORMATION

Statistical Closures
06/23/2014 Default Judgment

Case Type: **Title to Property**
Subtype: **Quiet Title**
Case Flags: **Appealed to Supreme Court**

DATE

CASE ASSIGNMENT

Current Case Assignment

Case Number A-14-695848-C
Court Department 22
Date Assigned 02/07/2014
Judicial Officer Johnson, Susan

PARTY INFORMATION

Plaintiff **SFR Investments Pool 1 LLC**

Lead Attorneys
Kim, Howard C.
Retained
702-485-3300(W)

Defendant **Green Tree Servicing LLC**

Connell, Christopher S.
Retained
702-851-1191(W)

Hanna, Mary Lou
Removed: 02/25/2014
Dismissed


Nationwide Lending Corporation

DATE


EVENTS & ORDERS OF THE COURT

INDEX

02/07/2014

 **Complaint**
Filed By: Plaintiff SFR Investments Pool 1 LLC
Complaint


02/07/2014

 **Notice of Lis Pendens**
Filed by: Plaintiff SFR Investments Pool 1 LLC
Notice of Lis Pendens


02/07/2014

Case Opened

02/14/2014

 **Motion for Temporary Restraining Order**
Filed By: Plaintiff SFR Investments Pool 1 LLC
Application for Temporary Restraining Order and Motion for Preliminary Injunction on Order Shortening Time

02/20/2014

 **Affidavit of Due Diligence**
Filed By: Plaintiff SFR Investments Pool 1 LLC
Affidavit of Due Diligence

DEPARTMENT 22
CASE SUMMARY
CASE NO. A-14-695848-C








| | |
|------------|---|
| 02/24/2014 |  Affidavit of Service Filed By: Plaintiff SFR Investments Pool 1 LLC <i>Affidavit of Service</i> |
| 02/25/2014 |  Motion for Temporary Restraining Order (8:30 AM) (Judicial Officer: Johnson, Susan) <i>Plaintiff's Application for Temporary Restraining Order and Motion for Preliminary Injunction on Order Shortening Time</i> |
| 02/25/2014 |  Notice of Voluntary Dismissal Without Prejudice Filed by: Plaintiff SFR Investments Pool 1 LLC <i>Notice of Voluntary Dismissal of Defendant Mary Lou Hanna Without Prejudice</i> |
| 02/25/2014 | Dismissal Pursuant to NRCP 41 (Judicial Officer: Johnson, Susan) Debtors: Mary Lou Hanna (Defendant) Creditors: SFR Investments Pool 1 LLC (Plaintiff) Judgment: 02/25/2014, Docketed: 03/04/2014 |
| 03/17/2014 |  Affidavit of Service Filed By: Plaintiff SFR Investments Pool 1 LLC <i>Affidavit of Service</i> |
| 03/31/2014 |  Recorders Transcript of Hearing <i>Recorder's Transcript of Hearing Re Plaintiff's Application for Temporary Restraining Order and Motion for Preliminary Injunction on Order Shortening Time February 25, 2014</i> |
| 04/09/2014 |  Notice of Entry of Order Filed By: Plaintiff SFR Investments Pool 1 LLC <i>Notice of Entry of Order</i> |
| 04/09/2014 |  Order Denying Motion Filed By: Plaintiff SFR Investments Pool 1 LLC <i>Order Denying Motion for Preliminary Injunction and Staying Foreclosure</i> |
| 04/15/2014 |  Motion to Dismiss Filed By: Defendant Green Tree Servicing LLC <i>Motion to Dismiss the Complaint Under Rule 12(b)(5) of the Nevada Rules of Civil Procedure</i> |
| 04/15/2014 |  Initial Appearance Fee Disclosure Filed By: Defendant Green Tree Servicing LLC <i>Initial Appearance Fee Disclosure</i> |
| 04/28/2014 |  Default <i>Default against Nationwide Lending Corporation</i> |
| 05/08/2014 |  Decision (10:00 AM) (Judicial Officer: Johnson, Susan) <i>Defendant Green Tree Services, LLC's Motion to Dismiss Complaint under NRCP 12(b)(5)</i> |
| 05/12/2014 |  Certificate of Service Filed by: Plaintiff SFR Investments Pool 1 LLC <i>Certificate of Service</i> |
| 05/12/2014 |  Notice of Appeal Filed By: Plaintiff SFR Investments Pool 1 LLC |

DEPARTMENT 22
CASE SUMMARY
CASE NO. A-14-695848-C

Notice of Appeal

| | |
|------------|---|
| 05/12/2014 |  Case Appeal Statement Filed By: Plaintiff SFR Investments Pool 1 LLC <i>Case Appeal Statement</i> |
| 05/12/2014 |  Notice of Posting Bond Filed By: Plaintiff SFR Investments Pool 1 LLC <i>Notice of Posting and Acceptance of Bond</i> |
| 05/12/2014 |  Application for Default Judgment Party: Plaintiff SFR Investments Pool 1 LLC <i>Plaintiff's Application for Default Judgment against Nationwide Lending Corporation</i> |
| 05/14/2014 |  Opposition to Motion to Dismiss Filed By: Plaintiff SFR Investments Pool 1 LLC <i>Opposition to Motion to Dismiss</i> |
| 05/15/2014 |  Certificate of Service Filed by: Plaintiff SFR Investments Pool 1 LLC <i>Certificate of Service</i> |
| 05/20/2014 |  Stipulation and Order Filed by: Plaintiff SFR Investments Pool 1 LLC <i>Stipulation and Order to Set aside Minute Order and to Reset Hearing on Motion to Dismiss</i> |
| 05/20/2014 | CANCELED Motion to Dismiss (8:30 AM) (Judicial Officer: Johnson, Susan) <i>Vacated - per Clerk</i> <i>Motion to Dismiss the Complaint Under Rule 12(B)(5) of the Nevada Rules of Civil Procedure</i> |
| 05/21/2014 |  Notice of Entry of Stipulation and Order Filed By: Plaintiff SFR Investments Pool 1 LLC <i>Notice of Entry of Stipulation and Order</i> |
| 05/21/2014 |  Notice of Change of Firm Name Filed By: Defendant Green Tree Servicing LLC <i>Notice of Change of Firm Name</i> |
| 05/23/2014 |  Reply Filed by: Defendant Green Tree Servicing LLC <i>Reply in Support of Green Tree's Motion to Dismiss</i> |
| 05/29/2014 |  Motion to Dismiss (9:00 AM) (Judicial Officer: Johnson, Susan) <i>Defendant Green Tree Servicing LLC's Motion to Dismiss</i> |
| 06/06/2014 |  Order for Dismissal Filed By: Defendant Green Tree Servicing LLC <i>Order Granting Motion to Dismiss Defendant Green Tree Servicing LLC Only</i> |
| 06/06/2014 | Order of Dismissal (Judicial Officer: Johnson, Susan) Debtors: SFR Investments Pool 1 LLC (Plaintiff) Creditors: Green Tree Servicing LLC (Defendant) Judgment: 06/06/2014, Docketed: 06/17/2014 |
| 06/09/2014 | |

DEPARTMENT 22
CASE SUMMARY
CASE NO. A-14-695848-C

| |  Notice of Entry of Order Filed By: Defendant Green Tree Servicing LLC <i>Notice of Entry of Order</i> | |
|------------|--|--|
| 06/12/2014 |  Motion for Default Judgment (9:00 AM) (Judicial Officer: Johnson, Susan) <i>Plaintiff's Application for Default Judgment against Nationwide Lending Corporation</i> | |
| 06/17/2014 |  Recorders Transcript of Hearing Party: Plaintiff SFR Investments Pool 1 LLC <i>Recorder's Transcript of Hearing Re Defendant Green Tree Servicing LLC's Motion to Dismiss May 29, 2014</i> | |
| 06/23/2014 |  Judgment By Default Filed By: Plaintiff SFR Investments Pool 1 LLC <i>Judgment by Default against Nationwide Lending Corporation</i> | |
| 06/23/2014 |  Notice of Entry of Judgment Filed By: Plaintiff SFR Investments Pool 1 LLC <i>Notice of Entry of Judgment</i> | |
| 06/25/2014 |  Notice of Appeal Filed By: Plaintiff SFR Investments Pool 1 LLC <i>Notice of Appeal</i> | |
| 06/25/2014 |  Case Appeal Statement Filed By: Plaintiff SFR Investments Pool 1 LLC <i>Case Appeal Statement</i> | |
| DATE | FINANCIAL INFORMATION | |

| | | |
|---|--|-----------------|
| Defendant Green Tree Servicing LLC | | |
| Total Charges | | 223.00 |
| Total Payments and Credits | | 223.00 |
| Balance Due as of 6/27/2014 | | 0.00 |
| Plaintiff SFR Investments Pool 1 LLC | | |
| Total Charges | | 318.00 |
| Total Payments and Credits | | 318.00 |
| Balance Due as of 6/27/2014 | | 0.00 |
| Plaintiff SFR Investments Pool 1 LLC | | |
| Injunction Balance as of 6/27/2014 | | 500.00 |
| Plaintiff SFR Investments Pool 1 LLC | | |
| Appeal Bond Balance as of 6/27/2014 | | 1,000.00 |

ORDR

MICHAEL A. OLSEN, ESQ.

Nevada Bar No. 6076

THOMAS R. GROVER, ESQ.

Nevada Bar No. 12387

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mike@goodsellolsen.comtom@goodsellolsen.com

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Nevada Bar No. 8011

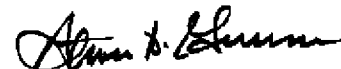
CALLISTER & FRIZELL

8275 S. Eastern Ave., Suite 200

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Facsimile: (702) 657-0065

jcallister@callisterfrizell.com*Attorneys for William Fink*Electronically Filed
05/29/2014 04:55:15 PM

CLERK OF THE COURT

**DISTRICT COURT
CLARK COUNTY, NEVADA**

In the Matter of the Estate of:

LEROY BLACK

Deceased.

) Case No. P074745

) Dept. No. PC-1

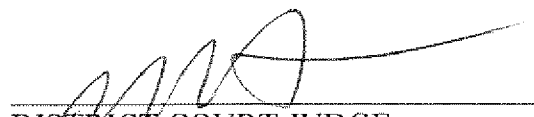

ORDER ADOPTING AND AFFIRMING REPORT AND RECOMMENDATION

This matter having originally come on for hearing on the 30th day of June, 2013, at 9:30 a.m., before Probate Commissioner Yamashita, on Phil Markowitz's Petition to Declare Revocation of Trust Agreement, (hereafter "Markowitz Petition"), filed by Jonathan Barlow, Esq., of the law firm BARLOW FLAKE, LLP, on behalf of Petitioner Philip Markowitz, (hereafter "Markowitz"); William Fink, (hereafter "Fink"), Trustee of the Leroy G. Black Trust 1992 Living Trust, having filed an Objection to said Petition by and through his attorney of

1 record, Michael A. Olsen, Esq. of the law firm of GOODSELL & OLSEN, LLP; the Probate
2 Commissioner having denied Markowitz's Petition to revoke the Trust by way of the adopted
3 Report and Recommendation, (hereafter the "Report and Recommendation"), submitted by
4 GOODSELL & OLSEN, LLP; and the Court having executed the same on November 8, 2014;
5 Markowitz having filed an Objection to the Report and Recommendation; a hearing on the
6 Objection to the Report and Recommendation having been held on February 11, 2014; the Court
7 having been briefed on the matter by counsel for Markowitz and Fink, and the Court having
8 entertained the oral arguments presented by Counsel at the hearing on the Objection; and the
9 Court having affirmed the Report and Recommendation;
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2 **IT IS HEREBY ORDERED** the Probate Commissioner's Report and
3 **Recommendations attached hereto as Exhibit "A", are affirmed and adopted.**

4
5 DATED this 19th day of May 2014.

6
7
8 
DISTRICT COURT JUDGE 

9 Submitted By:

10  4/9/14
11 MICHAEL A. OLSEN, ESQ. Date

12 **GOODSELL & OLSEN, LLP**


13 10155 W. Twain Ave., Suite 100

14 Las Vegas, Nevada 89147

15 Tel: (702) 869-6261

16 *Attorney for William Fink*

17 Approved as to Form and Content:

18  4/11/14
JONATHAN BARLOW, ESQ. Date

19 **CLEAR COUNSEL LAW GROUP**

20 50 S. Stephanie St., Ste. 101

21 Henderson, NV 89012

22 Tel: (702) 476-5900

23 *Attorney for Phil Markowitz*

Exhibit "A"

Allen B. Lamm

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Facsimile: (702) 657-0065

jcallister@callisterfrizell.com

Attorneys for William Fink

In the Matter of the Estate of:

LEROY BLACK

Case No. P074745

Dept. No. PC-1

Deceased.

**REPORT AND RECOMMENDATION RE: PHIL MARKOWITZ'S PETITION
TO DECLARE REVOCATION OF TRUST AGREEMENT**

This matter having come on for hearing on the 30th day of August, 2013, at 9:30 a.m., on Phil Markowitz's Petition to Declare Revocation of Trust Agreement (hereafter "Markowitz Petition"), filed by Jonathan Barlow, Esq., of the law firm BARLOW FLAKE, LLP on behalf of Petitioner Philip Markowitz (hereafter "Markowitz"); William Fink (hereafter "Fink"), Trustee of the Leroy G. Black Trust 1992 Living Trust, having filed an Objection to said Petition by and

1 through his attorney of record, Michael A. Olsen, Esq. of the law firm of GOODSELL &
2 OLSEN, LLP, the Court having reviewed the pleadings on file and entertained the arguments of
3 Counsel at the hearing and being fully advised in the premises finds:

4
5 1. Leroy G. Black (hereafter "Decedent") died on or about April 4th, 2013 in Clark
6 County, Nevada.

7 2. The Decedent was the Trustor of the Leroy G. Black 1992 Living Trust, as
8 Amended and Restated October 27, 2009 (hereafter collectively the "Black Trust").

9 3. Prior to his death, Leroy Black had his estate planning documents prepared and
10 his estate managed by Jeffrey Burr, Ltd. since 1994.

11 4. Following the Decedent's death, Markowitz produced a document, dated March
12 7, 2012 (hereafter "March 2012 Will") purporting to be the Last Will & Testament of Leroy G.
13 Black.

14 5. The March 2012 Will was not prepared by Jeffrey Burr, Ltd. nor did it make
15 reference to the previous estate planning work performed by Jeffrey Burr Ltd.

16 6. The March 2012 Will does not expressly revoke or even acknowledge the
17 existence of the Black Trust.

18 7. The March 2012 Will is devoid of any express language revoking any prior estate
19 planning instrument(s).

20 8. On August 5, 2012 Markowitz filed the Markowitz Petition with this Court
21 arguing that the March 2012 Will acted as a revocation of the Black Trust.

22 9. Fink filed an Objection to the Markowitz Petition arguing, among other things,
23 that the March 2012 Will did not contain any express language revoking the Black Trust nor did
24 the Will, as a matter of law, revoke the extensive prior estate planning performed by the
25
26
27
28

1 Decedent.

2 10. THE COURT FINDS, that having reviewed the pleadings on file, the March 2012
3 Will, and having considered the arguments of counsel at hearing, there are a number of reasons
4 that, as a matter of law, the March 2012 Will did not act to revoke the Black Trust.
5

6 11. THE COURT FURTHER FINDS, that the language of the March 2012 Will does
7 not contain any express language expressly revoking, or even referencing, the Black Trust.
8 Therefore, the March 2012 Will is not sufficiently clear to act as a revocation of the Black Trust.
9

10 12. THE COURT FURTHER FINDS that because the Black Trust had been funded
11 by the Decedent there is a clear legal distinction between the assets of the Black Trust and the
12 assets of the estate subject to probate.

13 13. THE COURT FURTHER FINDS that the language contained in Section 2.1 of the
14 March 2012 will referencing the giving of "my property, both real and personal," references the
15 property of the Decedent, Leroy Black, which is subject to probate and governed by the March
16 2012 Will, and not the property owned by the Black Trust or any other corporate entity at the
17 time of Decedent's death.
18

19 14. THE COURT FURTHER FINDS that, in accordance with section 8.2 of The
20 Total Amendment and Restatement of the Leroy G. Black, 1992 Living Trust, dated October 27,
21 2009, (The 2009 Restatement) in the event the Decedent had intended to revoke his Trust via the
22 March 2012 Will, he would have also been required to deliver the revoked portion of the Trust
23 property to the Trustor. In other words the property would have been removed from the Black
24 Trust and put back in Decedent's personal name, subjecting the property to probate and
25 distribution in accordance with the March 2012 Will. This did not occur as the Black Trust
26 remained funded until decedent's death.
27
28

15. THE COURT FURTHER FINDS that, in accordance with section 8.2 of the 2009 Restatement, the Black Trust became irrevocable upon the death of the Decedent. Since the March 2012 Will was not effective until death, that instrument could not validly revoke the Trust. Restatement: Trusts, sec. 330 comment j, "if the settlor reserves a power to revoke the trust by a transaction inter vivos, as for example, by a notice to the trustee, he cannot revoke the trust by his will."

RECOMMENDATIONS


NOW THEREFORE:

IT IS HEREBY RECOMMENDED that Philip Markowitz's *Petition to Declare Revocation of Trust Agreement* is hereby denied for the reasons set forth hereinabove.

DATED this 8th day of November, 2013.


PROBATE COMMISSIONER

Submitted By:


MICHAEL A. OLSEN, ESQ.
Nevada Bar. No. 6076
THOMAS R. GROVER, ESQ.
Nevada Bar No. 12387
GOODSELL & OLSEN, LLP
10155 W. Twain Ave., Suite 100
Las Vegas, Nevada 89147
Tel: (702) 869-6261
Fax: (702) 869-8243
Attorney for William Fink

In the Matter of the Estate of Leroy Black
Case No. P074745

NOTICE

Pursuant to NRCP 53(c)(2), an Objection must be filed and served within ten (10) days after being served with a copy of the Probate Commissioner's Report. The Commissioner's Report is deemed received three (3) days after mailing to a party or his attorney, or three (3) days after the Clerk of Court deposits a copy of the Report in the file of the party's lawyer in the Clerk's office.

A copy of the foregoing Probate Commissioner's Report and Recommendation was:

X Mailed to the parties at the following addresses on the 5 day of ~~October~~^{November}, 2013:

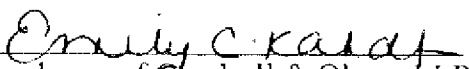
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Burbank, CA 91505

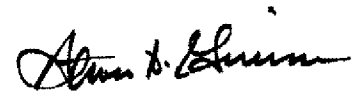
Phillip Markowitz
2201 Hercules Drive
Los Angeles, CA 90046

Attn: Investigation & Recovery
Nevada State Welfare
1000 E. Williams Street, Suite 102
Carson City, Nevada 89701

Jonathan Barlow, Esq.
Barlow Flake, LLP
50 S. Stephanie Street, Ste. 101
Henderson, NV 89012
Fax: (702) 757-6587

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Las Vegas, NV 89123
Fax: (702) 657-0065


An employee of Goodsell & Olsen, LLP


CLERK OF THE COURT

1 **NEOJ**
2 MICHAEL A. OLSEN, ESQ.
3 Nevada Bar No. 6076
4 THOMAS R. GROVER, ESQ.
5 Nevada Bar No. 12387
6 **GOODSELL & OLSEN, LLP**
7 10155 W. Twain Ave., Suite 100
8 Las Vegas, NV 89147
9 Office: (702) 869-6261
10 Fax: (702) 869-8243

11 JONATHAN C. CALLISTER, ESQ.
12 Nevada Bar No. 8011
13 **CALLISTER & FRIZELL**
14 8275 S. Eastern Ave., Suite 200
15 Las Vegas, Nevada 89123
16 Telephone: (702) 657-6000
17 Facsimile: (702) 657-0065
18 *Attorneys for William Fink*


**DISTRICT COURT
CLARK COUNTY, NEVADA**

19 In the Matter of the Estate of:)
20) Case No. P074745
21 LEROY BLACK)
22) Dept. No. PC-1
23)
24)
25)
26 Deceased.)

NOTICE OF ENTRY OF ORDER

27 **PLEASE TAKE NOTICE** that an Order Adopting and Affirming Report and
28 Recommendation was entered on the record of the above-entitled Court on the 29th day of May,
2014. A copy of said Order is attached hereto as Exhibit "1".

DATED this 29th day of May, 2014.


MICHAEL A. OLSEN, ESQ.
Nevada Bar No. 6076
GOODSELL & OLSEN, LLP
10155 W. Twain Ave., Suite 100
Las Vegas, Nevada 89147
Tel: (702) 869-6261
Attorneys for William Fink

CERTIFICATE OF SERVICE

The undersigned does hereby certify that a true and correct copy of the foregoing **NOTICE OF ENTRY OF ORDER ADOPTING AND AFFIRMING REPORT AND RECOMMENDATION** was served on the parties listed below, this 30 day of May, 2014, via first class U.S. mail, postage prepaid thereon, addressed as follows, their last known addresses:

Rose Markowitz
318 N. California Street
Burbank, CA 91505

Phillip Markowitz
2201 Hercules Drive
Los Angeles, CA 90046

Attn: Investigation & Recovery
Nevada State Welfare
1000 E. Williams Street, Suite 102
Carson City, Nevada 89701

Jonathan Barlow, Esq.
Barlow Flake, LLP
50 S. Stephanie Street, Ste. 101
Henderson, NV 89012
Fax: (702) 757-6587

Jonathan Callister, Esq.
8275 S. Eastern Ave.
Las Vegas, NV 89123
Fax: (702) 657-0065

GOODSELL & OLSEN, LLP

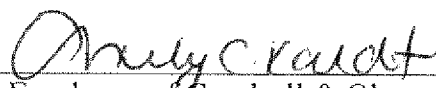
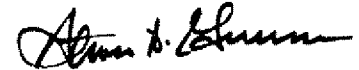

An Employee of Goodsell & Olsen, LLP

Exhibit "1"

ORDR
MICHAEL A. OLSEN, ESQ.
Nevada Bar No. 6076
THOMAS R. GROVER, ESQ.
Nevada Bar No. 12387
GOODSELL & OLSEN, LLP
10155 W. Twain Ave., Suite 100
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tom@goodsellolsen.com
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Telephone: (702) 657-6000
Facsimile: (702) 657-0065
jcallister@callisterfrizell.com
Attorneys for William Fink

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05/29/2014 04:55:15 PM



CLERK OF THE COURT

**DISTRICT COURT
CLARK COUNTY, NEVADA**

In the Matter of the Estate of:)
) Case No. P074745
 LEROY BLACK)
) Dept. No. PC-1
)
)
)
)
 Deceased.)

ORDER ADOPTING AND AFFIRMING REPORT AND RECOMMENDATION

This matter having originally come on for hearing on the 30th day of June, 2013, at 9:30 a.m., before Probate Commissioner Yamashita, on Phil Markowitz's Petition to Declare Revocation of Trust Agreement, (hereafter "Markowitz Petition"), filed by Jonathan Barlow, Esq., of the law firm BARLOW FLAKE, LLP, on behalf of Petitioner Philip Markowitz, (hereafter "Markowitz"); William Fink, (hereafter "Fink"), Trustee of the Leroy G. Black Trust 1992 Living Trust, having filed an Objection to said Petition by and through his attorney of

1 record, Michael A. Olsen, Esq. of the law firm of GOODSELL & OLSEN, LLP; the Probate
2 Commissioner having denied Markowitz's Petition to revoke the Trust by way of the adopted
3 Report and Recommendation, (hereafter the "Report and Recommendation"), submitted by
4 GOODSELL & OLSEN, LLP; and the Court having executed the same on November 8, 2014;
5 Markowitz having filed an Objection to the Report and Recommendation; a hearing on the
6 Objection to the Report and Recommendation having been held on February 11, 2014; the Court
7 having been briefed on the matter by counsel for Markowitz and Fink, and the Court having
8 entertained the oral arguments presented by Counsel at the hearing on the Objection; and the
9 Court having affirmed the Report and Recommendation;
10
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1
2 **IT IS HEREBY ORDERED** the Probate Commissioner's Report and
3 **Recommendations attached hereto as Exhibit "A", are affirmed and adopted.**

4
5 DATED this 19th day of May 2014.

6
7
8 
DISTRICT COURT JUDGE 

9 Submitted By:

10  4/9/14
11 MICHAEL A. OLSEN, ESQ. Date

12 **GOODSELL & OLSEN, LLP**

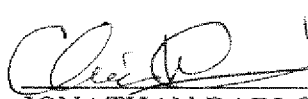
13 10155 W. Twain Ave., Suite 100

14 Las Vegas, Nevada 89147

15 Tel: (702) 869-6261

16 *Attorney for William Fink*

17 Approved as to Form and Content:

18  12201 4/11/14
JONATHAN BARLOW, ESQ. Date

19 **CLEAR COUNSEL LAW GROUP**

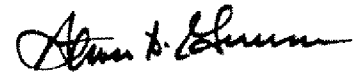
20 50 S. Stephanie St., Ste. 101

21 Henderson, NV 89012

22 Tel: (702) 476-5900

23 *Attorney for Phil Markowitz*

Exhibit "A"



CLERK OF THE COURT

RAR

MICHAEL A. OLSEN, ESQ.

Nevada Bar No. 6076

THOMAS R. GROVER, ESQ.

Nevada Bar No. 12387

GOODSELL & OLSEN, LLP

10155 W. Twain Ave., Suite 100

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JONATHAN C. CALLISTER, ESQ.

Nevada Bar No. 8011

CALLISTER & FRIZELL

8275 S. Eastern Ave., Suite 200

Las Vegas, Nevada 89123

Telephone: (702) 657-6000

Facsimile: (702) 657-0065

jcallister@callisterfrizell.com

Attorneys for William Fink

**DISTRICT COURT
CLARK COUNTY, NEVADA**

In the Matter of the Estate of:

LEROY BLACK

Deceased.

)
)
)
)
)
)
)

Case No. P074745

Dept. No. PC-1

**REPORT AND RECOMMENDATION RE: PHIL MARKOWITZ'S PETITION
TO DECLARE REVOCATION OF TRUST AGREEMENT**

This matter having come on for hearing on the 30th day of August, 2013, at 9:30 a.m., on Phil Markowitz's Petition to Declare Revocation of Trust Agreement (hereafter "Markowitz Petition"), filed by Jonathan Barlow, Esq., of the law firm BARLOW FLAKE, LLP on behalf of Petitioner Philip Markowitz (hereafter "Markowitz"); William Fink (hereafter "Fink"), Trustee of the Leroy G. Black Trust 1992 Living Trust, having filed an Objection to said Petition by and

1 through his attorney of record, Michael A. Olsen, Esq. of the law firm of GOODSELL &
2 OLSEN, LLP, the Court having reviewed the pleadings on file and entertained the arguments of
3 Counsel at the hearing and being fully advised in the premises finds:

4
5 1. Leroy G. Black (hereafter "Decedent") died on or about April 4th, 2013 in Clark
6 County, Nevada.

7 2. The Decedent was the Trustor of the Leroy G. Black 1992 Living Trust, as
8 Amended and Restated October 27, 2009 (hereafter collectively the "Black Trust").

9 3. Prior to his death, Leroy Black had his estate planning documents prepared and
10 his estate managed by Jeffrey Burr, Ltd. since 1994.

11
12 4. Following the Decedent's death, Markowitz produced a document, dated March
13 7, 2012 (hereafter "March 2012 Will") purporting to be the Last Will & Testament of Leroy G.
14 Black.

15 5. The March 2012 Will was not prepared by Jeffrey Burr, Ltd. nor did it make
16 reference to the previous estate planning work performed by Jeffrey Burr Ltd.

17
18 6. The March 2012 Will does not expressly revoke or even acknowledge the
19 existence of the Black Trust.

20 7. The March 2012 Will is devoid of any express language revoking any prior estate
21 planning instrument(s).

22
23 8. On August 5, 2012 Markowitz filed the Markowitz Petition with this Court
24 arguing that the March 2012 Will acted as a revocation of the Black Trust.

25 9. Fink filed an Objection to the Markowitz Petition arguing, among other things,
26 that the March 2012 Will did not contain any express language revoking the Black Trust nor did
27 the Will, as a matter of law, revoke the extensive prior estate planning performed by the
28

1 Decedent.

2 10. THE COURT FINDS, that having reviewed the pleadings on file, the March 2012
3 Will, and having considered the arguments of counsel at hearing, there are a number of reasons
4 that, as a matter of law, the March 2012 Will did not act to revoke the Black Trust.
5

6 11. THE COURT FURTHER FINDS, that the language of the March 2012 Will does
7 not contain any express language expressly revoking, or even referencing, the Black Trust.
8 Therefore, the March 2012 Will is not sufficiently clear to act as a revocation of the Black Trust.
9

10 12. THE COURT FURTHER FINDS that because the Black Trust had been funded
11 by the Decedent there is a clear legal distinction between the assets of the Black Trust and the
12 assets of the estate subject to probate.

13 13. THE COURT FURTHER FINDS that the language contained in Section 2.1 of the
14 March 2012 will referencing the giving of "my property, both real and personal," references the
15 property of the Decedent, Leroy Black, which is subject to probate and governed by the March
16 2012 Will, and not the property owned by the Black Trust or any other corporate entity at the
17 time of Decedent's death.
18

19 14. THE COURT FURTHER FINDS that, in accordance with section 8.2 of The
20 Total Amendment and Restatement of the Leroy G. Black, 1992 Living Trust, dated October 27,
21 2009, (The 2009 Restatement) in the event the Decedent had intended to revoke his Trust via the
22 March 2012 Will, he would have also been required to deliver the revoked portion of the Trust
23 property to the Trustor. In other words the property would have been removed from the Black
24 Trust and put back in Decedent's personal name, subjecting the property to probate and
25 distribution in accordance with the March 2012 Will. This did not occur as the Black Trust
26 remained funded until decedent's death.
27
28

15. THE COURT FURTHER FINDS that, in accordance with section 8.2 of the 2009 Restatement, the Black Trust became irrevocable upon the death of the Decedent. Since the March 2012 Will was not effective until death, that instrument could not validly revoke the Trust. Restatement: Trusts, sec. 330 comment j, "if the settlor reserves a power to revoke the trust by a transaction inter vivos, as for example, by a notice to the trustee, he cannot revoke the trust by his will."

RECOMMENDATIONS

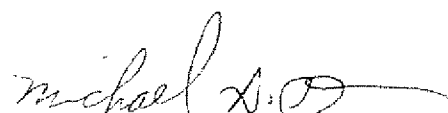
NOW THEREFORE:

IT IS HEREBY RECOMMENDED that Philip Markowitz's *Petition to Declare Revocation of Trust Agreement* is hereby denied for the reasons set forth hereinabove.

DATED this 8th day of November, 2013.


PROBATE COMMISSIONER

Submitted By:


MICHAEL A. OLSEN, ESQ.
Nevada Bar. No. 6076
THOMAS R. GROVER, ESQ.
Nevada Bar No. 12387
GOODSELL & OLSEN, LLP
10155 W. Twain Ave., Suite 100
Las Vegas, Nevada 89147
Tel: (702) 869-6261
Fax: (702) 869-8243
Attorney for William Fink

In the Matter of the Estate of Leroy Black
Case No. P074745

NOTICE

Pursuant to NRCP 53(e)(2), an Objection must be filed and served within ten (10) days after being served with a copy of the Probate Commissioner's Report. The Commissioner's Report is deemed received three (3) days after mailing to a party or his attorney, or three (3) days after the Clerk of Court deposits a copy of the Report in the file of the party's lawyer in the Clerk's office.

A copy of the foregoing Probate Commissioner's Report and Recommendation was:

X Mailed to the parties at the following addresses on the 5 day of ~~October~~^{November}, 2013:

Rose Markowitz
318 N. California Street
Burbank, CA 91505

Phillip Markowitz
2201 Hercules Drive
Los Angeles, CA 90046

Attn: Investigation & Recovery
Nevada State Welfare
1000 E. Williams Street, Suite 102
Carson City, Nevada 89701

Jonathan Barlow, Esq.
Barlow Flake, LLP
50 S. Stephanie Street, Ste. 101
Henderson, NV 89012
Fax: (702) 757-6587

Jonathan Callister, Esq.
8275 S. Eastern Ave.
Las Vegas, NV 89123
Fax: (702) 657-0065


An employee of Goodsell & Olsen, LLP

**DISTRICT COURT
CLARK COUNTY, NEVADA**

**Probate - Special
Administration**

COURT MINUTES

August 03, 2012

P-12-074745-E In the Matter of:
Leroy Black, Deceased

August 03, 2012 9:30 AM Hearing

HEARD BY: Yamashita, Wesley Yamashita, Wesley **COURTROOM:** Courtroom 09

COURT CLERK: Melissa Swinn

PARTIES:

Leroy Black, Decedent, not present

Parties Receiving Notice, Other, not present

Phillip Markowitz, Petitioner, Personal

Jonathan Barlow, Attorney, not present

Representative, not present

William Fink, Objector, not present

Jonathan Callister, Attorney, not present

| |
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| JOURNAL ENTRIES |
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- At request of Court and/or interested parties, matter CONTINUED.

INTERIM CONDITIONS:

FUTURE HEARINGS:

Canceled: December 21, 2012 9:30 AM Hearing

Canceled: August 30, 2013 9:30 AM Petition for Return of Sale of Real Property

Reason: Vacated

Courtroom 09

Yamashita, Wesley

**DISTRICT COURT
CLARK COUNTY, NEVADA**

**Probate - Special
Administration**

COURT MINUTES

August 31, 2012

P-12-074745-E In the Matter of:
Leroy Black, Deceased

August 31, 2012 9:30 AM Hearing

HEARD BY: Yamashita, Wesley Yamashita, Wesley **COURTROOM:** Courtroom 09

COURT CLERK: Melissa Swinn

PARTIES:

Leroy Black, Decedent, not present

Parties Receiving Notice, Other, not present

Phillip Markowitz, Petitioner, Personal

Jonathan Barlow, Attorney, not present

Representative, not present

William Fink, Objector, not present

Jonathan Callister, Attorney, not present

| |
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| JOURNAL ENTRIES |
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- Matter being on the Approved List and there being no objection, COMMISSIONER RECOMMENDED, Petition GRANTED, WILL ADMITTED and NO BOND.

INTERIM CONDITIONS:

FUTURE HEARINGS:

Canceled: December 21, 2012 9:30 AM Hearing

Canceled: August 30, 2013 9:30 AM Petition for Return of Sale of Real Property

Reason: Vacated

Courtroom 09

Yamashita, Wesley

**DISTRICT COURT
CLARK COUNTY, NEVADA**

**Probate - Special
Administration**

COURT MINUTES

December 28, 2012

P-12-074745-E In the Matter of:
Leroy Black, Deceased

December 28, 2012 9:30 AM Hearing

HEARD BY: Yamashita, Wesley

COURTROOM: Courtroom 09

COURT CLERK: Victoria Pott

PARTIES:

Leroy Black, Decedent, not present

Parties Receiving Notice, Other, not present

Phillip Markowitz, Petitioner, Personal

Jonathan Barlow, Attorney, not present

Representative, not present

William Fink, Objector, not present

Jonathan Callister, Attorney, not present

| |
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| JOURNAL ENTRIES |
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- Prior to the time set for hearing, COMMISSIONER RECOMMENDED, Matter CONTINUED to 1/4/13 at 9:30 AM, at the request of counsel.

INTERIM CONDITIONS:

FUTURE HEARINGS:

Canceled: August 30, 2013 9:30 AM Petition for Return of Sale of Real Property

Reason: Vacated

Courtroom 09

Yamashita, Wesley

**DISTRICT COURT
CLARK COUNTY, NEVADA**

**Probate - Special
Administration**

COURT MINUTES

January 04, 2013

P-12-074745-E In the Matter of:
Leroy Black, Deceased

January 04, 2013 9:30 AM Hearing

HEARD BY: Yamashita, Wesley

COURTROOM: Courtroom 09

COURT CLERK: Carol Foley

PARTIES:

Leroy Black, Decedent, not present

Parties Receiving Notice, Other, not present

Phillip Markowitz, Petitioner, Personal

Jonathan Barlow, Attorney, not present

Representative, not present

William Fink, Objector, not present

Jonathan Callister, Attorney, not present

JOURNAL ENTRIES

- Prior to the time set for hearing, COMMISSIONER RECOMMENDED, Matter CONTINUED to 1/25/13 at 9:30 a.m., at the request of counsel.

INTERIM CONDITIONS:

FUTURE HEARINGS:

*Canceled: August 30, 2013 9:30 AM Petition for Return of Sale of Real Property
Reason: Vacated
Courtroom 09
Yamashita, Wesley*

**DISTRICT COURT
CLARK COUNTY, NEVADA**

**Probate - Special
Administration**

COURT MINUTES

January 25, 2013

P-12-074745-E In the Matter of:
Leroy Black, Deceased

January 25, 2013 9:30 AM Hearing

HEARD BY: Yamashita, Wesley

COURTROOM: Courtroom 09

COURT CLERK: Carol Foley

PARTIES:

Leroy Black, Decedent, not present

Parties Receiving Notice, Other, not present

Phillip Markowitz, Petitioner, Personal

Jonathan Barlow, Attorney, not present

Representative, not present

William Fink, Objector, not present

Jonathan Callister, Attorney, not present

JOURNAL ENTRIES

- Prior to the time set for hearing, COMMISSIONER RECOMMENDED, Matter CONTINUED to 2/8/13 at 9:30 a.m., at the request of counsel.

INTERIM CONDITIONS:

FUTURE HEARINGS:

*Canceled: August 30, 2013 9:30 AM Petition for Return of Sale of Real Property
Reason: Vacated
Courtroom 09
Yamashita, Wesley*

**DISTRICT COURT
CLARK COUNTY, NEVADA**

**Probate - Special
Administration**

COURT MINUTES

February 08, 2013

P-12-074745-E In the Matter of:
Leroy Black, Deceased

February 08, 2013 9:30 AM All Pending Motions

HEARD BY: Yamashita, Wesley **COURTROOM:** Courtroom 09

COURT CLERK: Carol Foley

PARTIES:

Leroy Black, Decedent, not present
Parties Receiving Notice, Other, not present
Phillip Markowitz, Petitioner, Personal Jonathan Barlow, Attorney, present
Representative, not present
William Fink, Objector, present Jonathan Callister, Attorney, present

| |
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| JOURNAL ENTRIES |
|------------------------|

- PETITION TO ENLARGE TIME PURSUANT TO NRCP 6(b)...OBJECTION AND COUNTER-PETITION TO DISMISS WILL CONTEST OR, IN THE ALTERNATIVE, TO REQUIRE A MORE DEFINITE STATEMENT PURSUANT TO NRCP 12(e)...OBJECTION TO THE ADMISSION OF THE LAST WILL AND TESTAMENT OF LEROY G. BLACK, FOR THE REVOCATION OF LETTERS TESTAMENTARY AND FOR APPOINTMENT OF SPECIAL ADMINISTRATOR PENDING THE CONCLUSION OF WILL CONTEST

Arguments by counsel. Discussion regarding case law. COMMISSIONER RECOMMENDED, Petition to Enlarge Time GRANTED. Court FINDS this is not a mandatory but rather a permissive requirement of the court to look at and evaluate the circumstances and the facts, and given the preference of hearing matters on the merits and sufficient demonstration of excusable neglect and/or mistake, Court finds this should go forward. Court DECLARED a will contest. Counter-Petition to Dismiss Will Contest DENIED.

As to request for removal of Mr. Markowitz: Mr. Barlow advised as far as he knows, all that is in the estate is a house that is upside down and two parcels of vacant property subject to foreclosure in

May. Mr. Barlow advised he would like to go forward in order to preserve the estate to try to sell the properties or bring a petition to stay the foreclosure if properties are not sold before then. COMMISSIONER FURTHER RECOMMENDED, representative may proceed in that manner given the exigency of the situation. Court noted if there is a sale it will require funds to be deposited into a blocked account or attorney's trust account.

Mr. Callister to prepare Report and Recommendation. Mr. Barlow may review Report and Recommendation but he is not required to sign off. Mr. Barlow may submit opposing Report and Recommendation if he has an objection.

INTERIM CONDITIONS:

FUTURE HEARINGS:

*Canceled: August 30, 2013 9:30 AM Petition for Return of Sale of Real Property
Reason: Vacated
Courtroom 09
Yamashita, Wesley*

**DISTRICT COURT
CLARK COUNTY, NEVADA**

**Probate - Special
Administration**

COURT MINUTES

June 11, 2013

P-12-074745-E In the Matter of:
Leroy Black, Deceased

June 11, 2013 9:00 AM Objection - Probate

HEARD BY: Sturman, Gloria

COURTROOM: RJC Courtroom 03H

COURT CLERK: Linda Denman

PARTIES:

Leroy Black, Decedent, not present

Parties Receiving Notice, Other, not present

Phillip Markowitz, Petitioner, Personal

Jonathan Barlow, Attorney, not present

Representative, not present

William Fink, Objector, not present

Jonathan Callister, Attorney, not present

| |
|------------------------|
| JOURNAL ENTRIES |
|------------------------|

- No appearance on OBJECTION TO REPORT AND RECOMMENDATION. Court noted matter was being continued pursuant to stipulation and order. COURT SO ORDERED.

CONTINUED TO 7/9/2013 AT 9:00AM

INTERIM CONDITIONS:

FUTURE HEARINGS:

*Canceled: August 30, 2013 9:30 AM Petition for Return of Sale of Real Property
Reason: Vacated
Courtroom 09
Yamashita, Wesley*

DISTRICT COURT
CLARK COUNTY, NEVADA

Probate - Special Administration

COURT MINUTES

July 09, 2013

P-12-074745-E

In the Matter of:
Leroy Black, Deceased

July 09, 2013

9:00 AM

HEARD BY: Sturman, Gloria

COURTROOM: RJC Courtroom 03H

COURT CLERK: Linda Denman

PARTIES:

Leroy Black, Decedent, not present

Parties Receiving Notice, Other, not present

Phillip Markowitz, Petitioner, Personal

Jonathan Barlow, Attorney, present

Representative, not present

William Fink, Objector, not present

Jonathan Callister, Attorney, present

JOURNAL ENTRIES

- OBJECTION: BY EXECUTOR PHILLIP MARKOWITZ TO REPORT AND RECOMMENDATION OF APRIL 11, 2013 was argued by Counsel. Mr. Barlow stated the executor objected to the Commissioner's finding that the failure of objector to file a contest to the will and a citation within the 90 days granted per statute was not a clear error of law. Mr. Callister stated that the oversight was an error on the objector's previous counsel as shown in his Affidavit and the Court should have some discretion to hear the case on its merits as to whether the Will was fraudulent. COURT STATED ITS FINDINGS that this issue centered on the statute of limitations and the 90-day window is to allow probate cases to be settled timely and efficiently for the benefit of creditors and heirs; and, FURTHER, the only exclusion allowed to toll a statute of limitation is for extrinsic fraud involving the claim and not the Will itself. COURT ORDERED objection GRANTED.

Mr. Barlow to prepare proposed Order; Mr. Callister to review as to form and content.

INTERIM CONDITIONS:

| | | | | |
|-------------|------------|--------------|---------------|-----------------|
| PRINT DATE: | 06/27/2014 | Page 9 of 29 | Minutes Date: | August 03, 2012 |
|-------------|------------|--------------|---------------|-----------------|

FUTURE HEARINGS:

Canceled: August 30, 2013 9:30 AM Petition for Return of Sale of Real Property

Reason: Vacated

Courtroom 09

Yamashita, Wesley

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Probate - Special Administration

COURT MINUTES

August 23, 2013

P-12-074745-E In the Matter of:
Leroy Black, Deceased

**August 23, 2013 9:30 AM Petition for Return of
Sale of Real Property**

HEARD BY: Yamashita, Wesley

COURTROOM: Courtroom 09

COURT CLERK: Carol Foley

PARTIES:

Leroy Black, Decedent, not present

Parties Receiving Notice, Other, not present

Phillip Markowitz, Petitioner, Personal

Jonathan Barlow, Attorney, not present

Representative, not present

William Fink, Objector, not present

Jonathan Callister, Attorney, not present

JOURNAL ENTRIES

- Prior to the time set for hearing, COMMISSIONER RECOMMENDED, Matter taken OFF CALENDAR.

INTERIM CONDITIONS:

FUTURE HEARINGS:

*Canceled: August 30, 2013 9:30 AM Petition for Return of Sale of Real Property
Reason: Vacated
Courtroom 09
Yamashita, Wesley*

**DISTRICT COURT
CLARK COUNTY, NEVADA**

**Probate - Special
Administration**

COURT MINUTES

August 23, 2013

P-12-074745-E In the Matter of:
Leroy Black, Deceased

August 23, 2013 9:30 AM Petition

HEARD BY: Yamashita, Wesley

COURTROOM: Courtroom 09

COURT CLERK: Carol Foley

PARTIES:

Leroy Black, Decedent, not present

Parties Receiving Notice, Other, not present

Phillip Markowitz, Petitioner, Personal

Jonathan Barlow, Attorney, not present

Representative, not present

William Fink, Objector, not present

Jonathan Callister, Attorney, not present

| |
|------------------------|
| JOURNAL ENTRIES |
|------------------------|

- Prior to the time set for hearing, COMMISSIONER RECOMMENDED, matter CONTINUED to 8/30/13 at 9:30 a.m., at the request of counsel.

INTERIM CONDITIONS:

FUTURE HEARINGS:

*Canceled: August 30, 2013 9:30 AM Petition for Return of Sale of Real Property
Reason: Vacated
Courtroom 09
Yamashita, Wesley*

**DISTRICT COURT
CLARK COUNTY, NEVADA**

**Probate - Special
Administration**

COURT MINUTES

August 30, 2013

P-12-074745-E In the Matter of:
Leroy Black, Deceased

August 30, 2013 9:30 AM All Pending Motions

HEARD BY: Yamashita, Wesley **COURTROOM:** Courtroom 09

COURT CLERK: Carol Foley

PARTIES:

Leroy Black, Decedent, not present
Parties Receiving Notice, Other, not present
Phillip Markowitz, Petitioner, Personal Jonathan Barlow, Attorney, present
Representative, not present
William Fink, Objector, present Jonathan Callister, Attorney, present

| |
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| JOURNAL ENTRIES |
|------------------------|

- RETURN OF SALE OF REAL PROPERTY AND PETITION FOR APPROVAL AND
CONFIRMATION OF SALE...PETITION TO DECLARE REVOCATION OF TRUST AGREEMENT

Court noted the sale was taken off calendar.

Arguments by counsel as to Petition to Declare Revocation of Trust Agreement.
Following discussion, Court stated its findings. COMMISSIONER RECOMMENDED, petition
DENIED.

Counsel for William Fink to prepare Report and Recommendation and run it by Mr. Barlow.

INTERIM CONDITIONS:

FUTURE HEARINGS:

Canceled: August 30, 2013 9:30 AM Petition for Return of Sale of Real Property
Reason: Vacated
Courtroom 09
Yamashita, Wesley

**DISTRICT COURT
CLARK COUNTY, NEVADA**

**Probate - Special
Administration**

COURT MINUTES

September 27, 2013

P-12-074745-E In the Matter of:
Leroy Black, Deceased

**September 27, 9:30 AM Hearing - HM
2013**

HEARD BY: Yamashita, Wesley

COURTROOM: Courtroom 09

COURT CLERK: Victoria Pott

PARTIES:

Leroy Black, Decedent, not present

Parties Receiving Notice, Other, not present

Phillip Markowitz, Petitioner, Personal

Jonathan Barlow, Attorney, not present

Representative, not present

William Fink, Objector, not present

Jonathan Callister, Attorney, not present

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| JOURNAL ENTRIES |
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- Prior to the time set for hearing, COMMISSIONER RECOMMENDED, Matter CONTINUED to 10/4/13 at 9:30 AM, at the request of counsel.

INTERIM CONDITIONS:

FUTURE HEARINGS:

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Probate - Special Administration

COURT MINUTES

October 04, 2013

P-12-074745-E In the Matter of:
Leroy Black, Deceased

October 04, 2013 9:30 AM All Pending Motions

HEARD BY: Yamashita, Wesley **COURTROOM:** Courtroom 09

COURT CLERK: Carol Foley

PARTIES:

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| Leroy Black, Decedent, not present | |
| Parties Receiving Notice, Other, not present | |
| Phillip Markowitz, Petitioner, Personal Representative, not present | Jonathan Barlow, Attorney, present |
| William Fink, Objector, not present | Jonathan Callister, Attorney, present |

JOURNAL ENTRIES

- MOTION TO STAY ORDER OR PROCEEDINGS PENDING APPEAL...PHILIP MARKOWITZ'S
OPPOSITION & COUNTERMOTION TO REQUIRE SUPERSEDEAS BOND

Mr. Frizell advised he does not object to Court giving the personal representative's attorney limited authority to facilitate what needs to be done to save properties from foreclosure. Mr. Frizell requested that any sale proceeds be held in attorney trust account pending resolution of the appeal. Mr. Barlow advised he is fine with holding any proceeds in client trust account. Mr. Frizell noted his objection to the personal representative using estate assets to challenge the trust. Mr. Barlow advised estate assets haven't been used to pay his fees. Mr. Frizell requested a stay of distributions and the rest of the proceedings. Court noted it isn't really a stay per se. Court advised it cannot take a position on whether decision will be upheld or as to likelihood of success on the merits.

COMMISSIONER RECOMMENDED, it is in the best interest of everyone involved to get properties liquidated. Upon Mr. Barlow's representation that no cash has been paid or will be paid for Mr.

Barlow's fees or in the pursuit of the trust, there will be no distributions. If there are maintenance costs involved with either the listings or maintenance of the properties or protecting properties from foreclosure that has to be expended. There will be no expenditures for Mr. Barlow's client's personal effects or personal claims and estate funds may not be used to bring any action with regard to the trust.

Mr. Barlow advised he agrees with that whether it is called a stay or not, and he is fine with an order. Court noted counsel may prepare a stipulated order. Mr. Barlow to prepare the order and Mr. Callister or Mr. Frizell to sign off.

INTERIM CONDITIONS:

FUTURE HEARINGS:

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Probate - Special Administration

COURT MINUTES

October 11, 2013

P-12-074745-E

In the Matter of:
Leroy Black, Deceased

October 11, 2013 9:30 AM

Petition for Return of Sale of Real Property

HEARD BY: Yamashita, Wesley

COURTROOM: Courtroom 09

COURT CLERK: Carol Foley

PARTIES:

Leroy Black, Decedent, not present

Parties Receiving Notice, Other, not present

Phillip Markowitz, Petitioner, Personal

Jonathan Barlow, Attorney, not present

Representative, not present

William Fink, Objector, not present

Jonathan Callister, Attorney, not present

JOURNAL ENTRIES

- Prior to the time set for hearing, COMMISSIONER RECOMMENDED, Matter taken OFF CALENDAR.

INTERIM CONDITIONS:

FUTURE HEARINGS:

**DISTRICT COURT
CLARK COUNTY, NEVADA**

**Probate - Special
Administration**

COURT MINUTES

December 20, 2013

P-12-074745-E In the Matter of:
Leroy Black, Deceased

**December 20, 2013 9:30 AM Petition for Return and
Confirmation of Sale**

HEARD BY: Yamashita, Wesley **COURTROOM:** Courtroom 09

COURT CLERK: Carol Foley

PARTIES:

Leroy Black, Decedent, not present
Parties Receiving Notice, Other, not present
Phillip Markowitz, Petitioner, Personal Jonathan Barlow, Attorney, not present
Representative, not present
William Fink, Objector, not present Jonathan Callister, Attorney, not present

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| JOURNAL ENTRIES |
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- Prior to the time set for hearing, COMMISSIONER RECOMMENDED, matter CONTINUED to 1/3/14 at 9:30 a.m., at the request of counsel.

INTERIM CONDITIONS:

FUTURE HEARINGS:

**DISTRICT COURT
CLARK COUNTY, NEVADA**

**Probate - Special
Administration**

COURT MINUTES

January 03, 2014

P-12-074745-E In the Matter of:
Leroy Black, Deceased

**January 03, 2014 9:30 AM Petition for Return and
Confirmation of Sale**

HEARD BY: Yamashita, Wesley

COURTROOM: Courtroom 09

COURT CLERK: Carol Foley

PARTIES:

Leroy Black, Decedent, not present

Parties Receiving Notice, Other, not present

Phillip Markowitz, Petitioner, Personal

Jonathan Barlow, Attorney, not present

Representative, not present

William Fink, Objector, not present

Jonathan Callister, Attorney, not present

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| JOURNAL ENTRIES |
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- RETURN OF SALE OF REAL PROPERTY AND PETITION FOR APPROVAL AND
CONFIRMATION OF SALE

Christopher Wood, Esq. present on behalf of the estate.

Zolt Szorenyi and Jim McMillan present to over bid.

Court noted two separate properties are being sold together. Commissioner called for bids. Bids were received from the floor and the highest bid of \$140,000 from Zolt Szorenyi was received. COMMISSIONER RECOMMENDED, BID ACCEPTED and SALE CONFIRMED.

P-12-074745-E

INTERIM CONDITIONS:

FUTURE HEARINGS:

**DISTRICT COURT
CLARK COUNTY, NEVADA**

**Probate - Special
Administration**

COURT MINUTES

February 11, 2014

P-12-074745-E In the Matter of:
Leroy Black, Deceased

February 11, 2014 9:00 AM Objection

HEARD BY: Sturman, Gloria

COURTROOM: RJC Courtroom 03H

COURT CLERK: Linda Denman

PARTIES:

Leroy Black, Decedent, not present

Parties Receiving Notice, Other, not present

Phillip Markowitz, Petitioner, Personal

Jonathan Barlow, Attorney, present

Representative, not present

William Fink, Objector, present

Jonathan Callister, Attorney, not present

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| JOURNAL ENTRIES |
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- Argument by counsel on PHILLIP MARKOWITZ'S OBJECTION TO REPORT AND RECOMMENDATION specifically as to legal questions of whether a Will can revoke a Trust, and whether such revocation has to be expressly stated in the Will or is intent sufficient manifestation. Counsel reminded the Court that the controversy is between Phillip Markowitz, nephew of the deceased and executor of the 2012 Will, and William Fink, cousin and beneficiary of the Trust since 2009, and admission of the 2012 Will that has been appealed to the Nevada Supreme Court. Mr. Barlow asked for some Discovery to be allowed on this specific question. Following discussion, COURT ORDERED Objection to Report and Recommendation DENIED.

Mr. Olsen to prepare proposed Order; Mr. Barlow to review as to form and content.

INTERIM CONDITIONS:

FUTURE HEARINGS:

**DISTRICT COURT
CLARK COUNTY, NEVADA**

**Probate - Special
Administration**

COURT MINUTES

March 28, 2014

P-12-074745-E

In the Matter of:
Leroy Black, Deceased

March 28, 2014 9:30 AM Petition - HM

HEARD BY: Yamashita, Wesley

COURTROOM: Courtroom 09

COURT CLERK: Carol Foley

PARTIES:

Leroy Black, Decedent, not present

Parties Receiving Notice, Other, not present

Phillip Markowitz, Petitioner, Personal

Jonathan Barlow, Attorney, present

Representative, not present

William Fink, Objector, not present

Jonathan Callister, Attorney, present

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| JOURNAL ENTRIES |
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- PETITION TO SETTLE FIRST ACCOUNT AND FOR APPROVAL OF ATTORNEYS' FEES AND PERSONAL REPRESENTATIVE'S FEES

Mr. Barlow requested a continuance of the objected portion of the petition relating to personal representative fees and reimbursements so he can work with his client and Mr. Callister to hopefully resolve those issues. Court noted it did not receive the opposition. Mr. Callister advised the objection is to personal representative fees and reimbursements, and attorney fees of Black and Lobello. COMMISSIONER RECOMMENDED, that portion of the petition CONTINUED to 4/11/14 at 9:30 a.m.

Mr. Barlow requested approval of his attorney's fees and settling of first account today. COMMISSIONER SO RECOMMENDED. Mr. Barlow to prepare Order.

INTERIM CONDITIONS:

FUTURE HEARINGS:

**DISTRICT COURT
CLARK COUNTY, NEVADA**

**Probate - Special
Administration**

COURT MINUTES

April 11, 2014

P-12-074745-E In the Matter of:
Leroy Black, Deceased

April 11, 2014 9:30 AM Petition - HM

HEARD BY: Yamashita, Wesley **COURTROOM:** Courtroom 09

COURT CLERK: Carol Foley

PARTIES:

Leroy Black, Decedent, not present

Parties Receiving Notice, Other, not present

Phillip Markowitz, Petitioner, Personal

Jonathan Barlow, Attorney, not present

Representative, not present

William Fink, Objector, not present

Jonathan Callister, Attorney, not present

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| JOURNAL ENTRIES |
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- Prior to the time set for hearing, COMMISSIONER RECOMMENDED, matter CONTINUED to 4/25/14 at 9:30 a.m., at the request of counsel.

INTERIM CONDITIONS:

FUTURE HEARINGS:

**DISTRICT COURT
CLARK COUNTY, NEVADA**

**Probate - Special
Administration**

COURT MINUTES

April 25, 2014

P-12-074745-E In the Matter of:
Leroy Black, Deceased

April 25, 2014 9:30 AM Petition - HM

HEARD BY: Yamashita, Wesley **COURTROOM:** Courtroom 09

COURT CLERK: Victoria Pott

PARTIES:

Leroy Black, Decedent, not present

Parties Receiving Notice, Other, not present

Phillip Markowitz, Petitioner, Personal

Jonathan Barlow, Attorney, not present

Representative, not present

William Fink, Objector, not present

Jonathan Callister, Attorney, not present

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| JOURNAL ENTRIES |
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- Prior to the time set for hearing, COMMISSIONER RECOMMENDED, Matter CONTINUED to 5/16/14 at 9:30 AM, at the request of counsel.

INTERIM CONDITIONS:

FUTURE HEARINGS:

**DISTRICT COURT
CLARK COUNTY, NEVADA**

**Probate - Special
Administration**

COURT MINUTES

May 16, 2014

P-12-074745-E In the Matter of:
Leroy Black, Deceased

May 16, 2014 9:30 AM Petition - HM

HEARD BY: Yamashita, Wesley **COURTROOM:** Courtroom 09

COURT CLERK: Carol Foley

PARTIES:

Leroy Black, Decedent, not present

Parties Receiving Notice, Other, not present

Phillip Markowitz, Petitioner, Personal

Jonathan Barlow, Attorney, not present

Representative, not present

William Fink, Objector, not present

Jonathan Callister, Attorney, not present

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| JOURNAL ENTRIES |
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- Prior to the time set for hearing, COMMISSIONER RECOMMENDED, Matter taken OFF CALENDAR.

INTERIM CONDITIONS:

FUTURE HEARINGS:

**DISTRICT COURT
CLARK COUNTY, NEVADA**

**Probate - Special
Administration**

COURT MINUTES

May 30, 2014

P-12-074745-E In the Matter of:
Leroy Black, Deceased

**May 30, 2014 9:30 AM Petition for Return of
Sale of Real Property**

HEARD BY: Yamashita, Wesley

COURTROOM: Courtroom 09

COURT CLERK: Carol Foley

PARTIES:

Leroy Black, Decedent, not present

Parties Receiving Notice, Other, not present

Phillip Markowitz, Petitioner, Personal

Jonathan Barlow, Attorney, not present

Representative, not present

William Fink, Objector, not present

Jonathan Callister, Attorney, not present

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| JOURNAL ENTRIES |
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- Prior to the time set for hearing, COMMISSIONER RECOMMENDED, Matter taken OFF CALENDAR.

INTERIM CONDITIONS:

FUTURE HEARINGS:



EIGHTH JUDICIAL DISTRICT COURT CLERK'S OFFICE
NOTICE OF DEFICIENCY
ON APPEAL TO NEVADA SUPREME COURT

JONATHAN W. BARLOW, ESQ.
50 S. STEPHANIE ST., STE. 101
HENDERSON, NV 89012

DATE: June 27, 2014
CASE: P074745

RE CASE: In the Matter of: LEROY BLACK, Deceased

NOTICE OF APPEAL FILED: June 25, 2014

YOUR APPEAL HAS BEEN SENT TO THE SUPREME COURT.

PLEASE NOTE: DOCUMENTS NOT TRANSMITTED HAVE BEEN MARKED:

- ☒ \$250 – Supreme Court Filing Fee**
 - If the \$250 Supreme Court Filing Fee was not submitted along with the original Notice of Appeal, it must be mailed directly to the Supreme Court. The Supreme Court Filing Fee will not be forwarded by this office if submitted after the Notice of Appeal has been filed.
- ☐ \$24 – District Court Filing Fee (Make Check Payable to the District Court)**
- ☒ \$500 – Cost Bond on Appeal (Make Check Payable to the District Court)**
 - NRAP 7: Bond For Costs On Appeal in Civil Cases
- ☐ Case Appeal Statement
 - NRAP 3 (a)(1), Form 2
- ☐ Order
- ☐ Notice of Entry of Order

NEVADA RULES OF APPELLATE PROCEDURE 3 (a) (3) states:

"The district court clerk must file appellant's notice of appeal despite perceived deficiencies in the notice, including the failure to pay the district court or Supreme Court filing fee. The district court clerk shall apprise appellant of the deficiencies in writing, and shall transmit the notice of appeal to the Supreme Court in accordance with subdivision (e) of this Rule with a notation to the clerk of the Supreme Court setting forth the deficiencies. Despite any deficiencies in the notice of appeal, the clerk of the Supreme Court shall docket the appeal in accordance with Rule 12."

Please refer to Rule 3 for an explanation of any possible deficiencies.

****Per District Court Administrative Order 2012-01, in regards to civil litigants, "...all Orders to Appear in Forma Pauperis expire one year from the date of issuance." You must reapply for in Forma Pauperis status.**

Certification of Copy

State of Nevada }
County of Clark } SS:

I, Steven D. Grierson, the Clerk of the Court of the Eighth Judicial District Court, Clark County, State of Nevada, does hereby certify that the foregoing is a true, full and correct copy of the hereinafter stated original document(s):

NOTICE OF APPEAL; CASE APPEAL STATEMENT; DISTRICT COURT
DOCKET ENTRIES; CIVIL COVER SHEET; ORDER ADOPTING AND AFFIRMING REPORT
AND RECOMMENDATION; NOTICE OF ENTRY OF ORDER; DISTRICT COURT MINUTES;
NOTICE OF DEFICIENCY

In the Matter of: LEROY BLACK, Deceased,

Plaintiff(s),

Case No: P074745
Dept No: FAMILY DOMESTIC

now on file and of record in this office.

IN WITNESS THEREOF, I have hereunto
Set my hand and Affixed the seal of the
Court at my office, Las Vegas, Nevada
This 27 day of June 2014.

Steven D. Grierson, Clerk of the Court



Teodora Jones, Deputy Clerk