

In the Supreme Court of the State of Nevada

IN THE MATTER OF THE CHRISTIAN)
FAMILY TRUST u.a.d. 10/11/16)
~~~~~ )  
SUSAN CHRISTIAN-PAYNE, )  
ROSEMARY KEACH AND )  
RAYMOND CHRISTIAN, JR. )

Appellants, )

-vs- )

ANTHONY L. BARNEY, LTD. and )  
JACQUELINE UTKIN, )  
Respondents. )  
~~~~~ )

ANTHONY L. BARNEY, LTD.,)
Cross-Appellant,)

-vs-)

SUSAN CHRISTIAN-PAYNE,)
ROSEMARY KEACH AND)
RAYMOND CHRISTIAN, JR.)

Cross-Respondents,)

and)
JACQUELINE UTKIN,)

Respondent.)
~~~~~ )

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Case No.: 75750

**APPELLANT/CROSS-RESPONDENTS' APPENDIX - VOLUME 6**

*Filed by:*

*/s/ Cary Colt Payne, Esq.*

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| <i><b>DATE</b></i>               | <i><b>DOCUMENT</b></i>                                                                                                                                                          | <i><b>NUMBERED</b></i> |
|----------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------|
| <i><b>APPENDIX VOLUME 1:</b></i> |                                                                                                                                                                                 |                        |
| 7/13/17                          | Petition to Assume Jurisdiction of Trust;<br>Confirm Trustees; Instructions, etc.                                                                                               | APP-ROA--001-72        |
| 8/17/17                          | Notice of Motion and Motion to Dismiss<br>Pursuant to NRCP 12(b)(1) and NRCP 12 (b)(5)                                                                                          | APP-ROA—73-97          |
| 8/22/17                          | Errata to Notice of Motion and Motion to<br>Dismiss Pursuant to NRCP 12(b)(1) and<br>NRCP 12(b)(5)                                                                              | APP-ROA—98-101         |
| 9/15/17                          | Supplement and Addendum to Petition to Assume<br>Jurisdiction of Trust; confirm Trustees'<br>Instructions, etc. Alternatively to Reform<br>Trust Agreement                      | APP-ROA--102-105       |
| 9/15/17                          | Petitioner's Opposition to Motion to Dismiss                                                                                                                                    | APP-ROA--106-115       |
| <i><b>APPENDIX VOLUME 2:</b></i> |                                                                                                                                                                                 |                        |
| 10/4/17                          | Reply to Petitioner's Opposition to Motion<br>to Dismiss                                                                                                                        | APP-ROA--116-156       |
| 10/13/17                         | Response to Petition to Assume Jurisdiction<br>of Trust; Confirm Trustees; Instrutions, Etc.<br>and Joinder in Motion to Dismiss Pursuant<br>to NRCP 12(b)(1) and NRCP 12(b)(5) | APP-ROA--157-165       |
| 10/25/17                         | Accounting                                                                                                                                                                      | APP-ROA--166-173       |
| 10/25/17                         | Inventory and Record of Value                                                                                                                                                   | APP-ROA--174-184       |
| 10/31/17                         | Notice of Entry of Order                                                                                                                                                        | APP-ROA--185-193       |

| <i><b>DATE</b></i>                | <i><b>DOCUMENT</b></i>                                                                                                                                                                                                                                                                                                                           | <i><b>NUMBERED</b></i> |
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| <i><b>APPENDIX VOLUME 3:</b></i>  |                                                                                                                                                                                                                                                                                                                                                  |                        |
| 11/3/17                           | Joint Petition for Review of Former Trustees<br>Refusal to Provide a Proper Accounting<br>Pursuant to NRS 165.143                                                                                                                                                                                                                                | APP-ROA--194-222       |
| <i><b>APPENDIX VOLUME 4a:</b></i> |                                                                                                                                                                                                                                                                                                                                                  |                        |
| 11/13/17                          | Joint Objection to Petition Jurisdiction Etc.<br>Part 1                                                                                                                                                                                                                                                                                          | APP-ROA--223-298       |
| <i><b>APPENDIX VOLUME 4b:</b></i> |                                                                                                                                                                                                                                                                                                                                                  |                        |
| 11/13/17                          | Joint Objection to Petition Jurisdiction Etc.<br>Part 2                                                                                                                                                                                                                                                                                          | APP-ROA--299-373       |
| <i><b>APPENDIX VOLUME 5:</b></i>  |                                                                                                                                                                                                                                                                                                                                                  |                        |
| 12/4/17                           | Petitioner's Opposition to Motion for<br>Review/Proper Accounting                                                                                                                                                                                                                                                                                | APP-ROA--374-413       |
| 12/14/17                          | Petitioner's Opposition to Joint Counterpetition<br>to Confirm/Breach of Fiduciary Duty, Etc.<br>Request for Discovery                                                                                                                                                                                                                           | APP-ROA--414-428       |
| <i><b>APPENDIX VOLUME 6:</b></i>  |                                                                                                                                                                                                                                                                                                                                                  |                        |
| 12/12/17                          | Motion for Compliance with and Enforcement<br>of Court Order, and for Sanctions Relating<br>Thereto, for Order to show cause why Former<br>Trustees should not be held in Contempt,<br>for Order Compelling Former Trustees to<br>Account, and for Access to and Investment<br>Control of Trust Funds Belonging to the<br>Christian Family Trust | APP-ROA--429-452       |

| <b><i>DATE</i></b> | <b><i>DOCUMENT</i></b>                                                                                                                                                      | <b><i>NUMBERED</i></b> |
|--------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------|
| 1/4/18             | Notice of Suggestion of Death                                                                                                                                               | APP-ROA--453-454       |
| 1/11/18            | Opposition to Motion for Compliance, Enforcement Sanctions, Contempt, Etc.; Counterpetition for Distribution and Vacating all Pending Matters and Dismiss Trust Proceedings | APP-ROA--455-508       |

***APPENDIX VOLUME 7a:***

|         |                                                 |                  |
|---------|-------------------------------------------------|------------------|
| 1/26/18 | Petition to Confirm Successor Trustee<br>Part 1 | APP-ROA--509-539 |
|---------|-------------------------------------------------|------------------|

***APPENDIX VOLUME 7b:***

|         |                                                 |                  |
|---------|-------------------------------------------------|------------------|
| 1/26/18 | Petition to Confirm Successor Trustee<br>Part 2 | APP-ROA--540-569 |
|---------|-------------------------------------------------|------------------|

***APPENDIX VOLUME 8:***

|         |                                                                                                            |                  |
|---------|------------------------------------------------------------------------------------------------------------|------------------|
| 2/6/18  | Amended Notice of Entry-Omnibus Order                                                                      | APP-ROA--570-576 |
| 2/8/18  | Petition for Fees and Costs                                                                                | APP-ROA--577-659 |
| 2/23/18 | Notice of Non-Opposition and Limited Joinder to the Petition for Fees and Costs for Anthony L. Barney, LTD | APP-ROA--660-663 |
| 2/23/18 | Opposition to Petition to Confirm Successor Trustee; Counterpetition for Reinstatement of Petitioners      | APP-ROA--664-735 |
| 3/8/18  | Monte Reason's Application for Reimbursement of Administrative Expenses                                    | APP-ROA--736-741 |

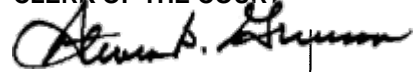
| <i><b>DATE</b></i>                | <i><b>DOCUMENT</b></i>                                                                                                                    | <i><b>NUMBERED</b></i> |
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| <i><b>APPENDIX VOLUME 9:</b></i>  |                                                                                                                                           |                        |
| 3/9/18                            | Petitioners Combined Opposition to (1) Barney Firm Petition For Fees, Etc. (2) Monte Reason's Application for Reimbursement               | APP-ROA--742-840       |
| <i><b>APPENDIX VOLUME 10:</b></i> |                                                                                                                                           |                        |
| 3/12/18                           | Reply to Opposition to Petition to Confirm Successor Trustee; and Opposition to Counter-Petition for Reinstatement of Petitioners         | APP-ROA--841-848       |
| 3/13/18                           | Response to Opposition to Monte Reason's Application for Reimbursement of Administrative Expenses                                         | APP-ROA--849-863       |
| 3/13/18                           | Reply to Petitioner's Combined Opposition to (1) Barney Firm Petition for Fees, Etc., (2) Monte Reason's Application for Reimbursement    | APP-ROA--864-894       |
| 3/15/18                           | Minutes of Hearing – 4/4/18                                                                                                               | APP-ROA--895-898       |
| 3/29/18                           | Motion (1) to Expunge Lis Pendens and/or Strike Pleading; and (2) for Preliminary Injunction                                              | APP-ROA--899-921       |
| <i><b>APPENDIX VOLUME 11:</b></i> |                                                                                                                                           |                        |
| 3/30/18                           | Petitioner's Supplemental Response to Opposition to Petition for Fees (Barney Firm); Request for Evidentiary Hearing, Reopening Discovery | APP-ROA--922-960       |

| <i><b>DATE</b></i>                 | <i><b>DOCUMENT</b></i>                                                                                                                                                                                                                                                                                               | <i><b>NUMBERED</b></i> |
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| <i><b>APPENDIX VOLUME 12:</b></i>  |                                                                                                                                                                                                                                                                                                                      |                        |
| 4/2/18                             | Motion for Turnover of Assets and to Dissolve the Injunction Over Christian Family Trust Assets                                                                                                                                                                                                                      | APP-ROA--961-998       |
| 4/3/18                             | Countermotion 1) to Strike Petitioner's Supplemental Response to Opposition to Petition for Fees (Barney Firm); request for Evidentiary Hearing, and Reopening Discovery; 2) To Find the Former Trustees to be Vexatious Litigants, and 3) For sanctions Against Cary Colt Payne Pursuant to NRS 7.085 and EDCR 7.60 | APP-ROA--999-1036      |
| <i><b>APPENDIX VOLUME 13a:</b></i> |                                                                                                                                                                                                                                                                                                                      |                        |
| 4/4/18                             | Hearing Transcript Part 1                                                                                                                                                                                                                                                                                            | APP-ROA-1037-1061      |
| <i><b>APPENDIX VOLUME 13b:</b></i> |                                                                                                                                                                                                                                                                                                                      |                        |
| 4/4/18                             | Hearing Transcript Part 2                                                                                                                                                                                                                                                                                            | APP-ROA-1062-1186      |
| <i><b>APPENDIX VOLUME 13c:</b></i> |                                                                                                                                                                                                                                                                                                                      |                        |
| 4/4/18                             | Hearing Transcript Part 3                                                                                                                                                                                                                                                                                            | APP-ROA-1087-1111      |
| <i><b>APPENDIX VOLUME 13d:</b></i> |                                                                                                                                                                                                                                                                                                                      |                        |
| 4/4/18                             | Hearing Transcript Part 4                                                                                                                                                                                                                                                                                            | APP-ROA-1112-1134      |

| <i><b>DATE</b></i>                 | <i><b>DOCUMENT</b></i>                                                                                                                                                                                                                                                                                                   | <i><b>NUMBERED</b></i> |
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| <b><i>APPENDIX VOLUME 14a:</i></b> |                                                                                                                                                                                                                                                                                                                          |                        |
| 4/10/18                            | Motion for (1) Fees Pursuant to NRS 165.148<br>(2) Compliance with and Enforcement of<br>Court Order and Sanctions; (3) for Order<br>to Show Cause Why Former Trustees<br>Should Not be Held in Contempt, and<br>(4) for Extension of Discovery<br>Part 1                                                                | APP-ROA-1135-1279      |
| <b><i>APPENDIX VOLUME 14b:</i></b> |                                                                                                                                                                                                                                                                                                                          |                        |
| 4/10/18                            | Motion for (1) Fees Pursuant to NRS 165.148<br>(2) Compliance with and Enforcement of<br>Court Order and Sanctions; (3) for Order<br>to Show Cause Why Former Trustees<br>Should Not be Held in Contempt, and<br>(4) for Extension of Discovery<br>Part 2                                                                | APP-ROA-1180-1224      |
| <b><i>APPENDIX VOLUME 15:</i></b>  |                                                                                                                                                                                                                                                                                                                          |                        |
| 4/12/18                            | Notice of Entry of Order (Barney Petition Fees)                                                                                                                                                                                                                                                                          | APP-ROA-1225-1232      |
| 4/19/18                            | Petitioner's Combined Opposition to (1) Motion<br>to Turnover Assets and Dissolve Injunction over<br>Trust Assets; (2) Motion to 1. Expunge Lis<br>Pendens and 2. Preliminary Injunction and<br>Countermotion for Distribution/ Termination of Trust;<br>Alternatively for Stay/ Set Bond and Set Evidentiary<br>Hearing | APP-ROA-1233-1254      |
| 4/19/18                            | Opposition to Motion for (1) fees, (2) compliance,<br>(3) for Order to Show Cause and (4) Extension<br>of Discovery, countermotion to Distribute Trust<br>Property (2nd request)                                                                                                                                         | APP-ROA-1255-1292      |

| <i><b>DATE</b></i>                | <i><b>DOCUMENT</b></i>                                                                                                                                                                                                                                                                                                          | <i><b>NUMBERED</b></i> |
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| <i><b>APPENDIX VOLUME 16:</b></i> |                                                                                                                                                                                                                                                                                                                                 |                        |
| 5/8/18                            | Response to Combined Opposition to (1) Motion to Turnover Assets and Dissolve Injunction Over Trust Assets; (2) Motion to 1. Expunge Lis Pendens and 2. Preliminary Injunction and Opposition to Countermotion or Distribution/Termination of Trust; Alternatively for Stay, Set Bond and Set Evidentiary Hearing               | APP-ROA-1293-1333      |
| 5/11/18                           | Supplement to response to Combined Opposition to (1) Motion to Turnover Assets and Dissolve Injunction Over Trust Assets; (2) Motion to 1. Expunge Lis Pendens and 2. Preliminary Injunction and Opposition to Countermotion for Distribution/Termination of Trust; Alternatively for Stay/Set Bond and Set Evidentiary Hearing | APP-ROA-1334-1337      |
| 5/16/18                           | Hearing Transcript                                                                                                                                                                                                                                                                                                              | APP-ROA-1338-1390      |
| <i><b>APPENDIX VOLUME 17:</b></i> |                                                                                                                                                                                                                                                                                                                                 |                        |
| 6/1/18                            | Notice of Entry of Order (Utkin suspension)                                                                                                                                                                                                                                                                                     | APP-ROA-1391-1401      |
| 10/8/18                           | Notice of Entry – Probate Commissioner R&R (Hearing re Utkin removal)                                                                                                                                                                                                                                                           | APP-ROA-1402-1408      |
| 11/13/18                          | Notice of Entry – Order Affirming Probate Commissioner R&R (Utkin removal)                                                                                                                                                                                                                                                      | APP-ROA-1409-1414      |





MTN  
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Attorneys for Monte B. Reason

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

In the Matter of

**THE CHRISTIAN FAMILY  
TRUST u.a.d. 10/11/16**

Case No. P-17-092512-T  
Department PC1 (Probate)

(Probate) Clark District  
Family Domestic

**MOTION FOR COMPLIANCE WITH AND ENFORCEMENT OF COURT ORDER, AND  
FOR SANCTIONS RELATING THERETO, FOR ORDER TO SHOW CAUSE WHY  
FORMER TRUSTEES SHOULD NOT BE HELD IN CONTEMPT, FOR ORDER  
COMPELLING FORMER TRUSTEES TO ACCOUNT, AND FOR ACCESS TO AND  
INVESTMENT CONTROL OF TRUST FUNDS BELONGING TO THE CHRISTIAN  
FAMILY TRUST**

Date of Hearing:  
Time of Hearing:

Monte B. Reason ("Monte" or the "Trustee"), by and through his counsel of record, Joseph J. Powell, Esq. of Rushforth Lee & Kiefer LLP, hereby motions this Court as follows:

**MEMORANDUM OF POINTS AND AUTHORITIES**

**I. BRIEF STATEMENT DESCRIBING THE RELIEF SOUGHT**

As a result of the inappropriate efforts of the former trustees of the Trust, Susan Christian-Payne, Rosemary Keach, and Raymond Christian, which shall be collectively referred to herein as the "Former Trustees", to isolate the (current) Trustee from the Trust's assets, the Trustee respectfully requests that the Court issue an immediate order which:

1. Requires the funds, as described herein, to be moved from the IOLTA account of the Former Trustees' attorney, Cary Colt Payne, Esq., to either the Clerk of the Court or to be held at a recognized,

1 independent financial institution, in compliance with an order, and instruction, already previously  
2 issued by this Court, while also granting the Trustee legal fees for having to bring this Motion;

3 2. Requires the Former Trustees to provide the Trustee with appropriate access to all Trust assets  
4 and financial information regarding the Trust assets, including the requirement for a detailed  
5 accounting, submitted under penalty of perjury to be submitted to this Court and Monte;

6 3. Provides the Trustee with the sum of \$80,000.00 from the liquid trust funds for the use and  
7 benefit of the sole current beneficiary of the Trust, Nancy Christian, the surviving trustor of the Trust  
8 for the payment of attorney fees, costs, and personal expenses since January 2017; and

9 4. Provides the Trustee with the authority to invest the trust funds in accordance with the Prudent  
10 Investor Rule.

11 I. FACTUAL BACKGROUND AND SUMMARY

12 As this Court is well aware, and has already unequivocally declared, the current trustee of The  
13 Christian Family Trust, dated October 11, 2016 (the "Trust") is Monte Reason<sup>1</sup>. As such, there is no  
14 need to again set forth the circumstances and actions which led to the Trustee's appointment. As this  
15 Court has recognized, the current status quo is that Monte is the trustee of the Trust, and will remain  
16 as such unless this Court orders otherwise. As such, it is relevant to discuss what has transpired since  
17 this Court's initial ruling, as capsulized by its Decision/Order entered on October 31, 2017 in which it  
18 accepted jurisdiction over the Trust, and, in turn, all matters relating to the Trust.

19 In particular, and of relevance to this Motion, the Court ordered the following:

20 *IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED THAT all trust assets*  
21 *shall be frozen until further order of the Court.*

22 *IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED THAT the assets*  
23 *withdrawn from the trust by Petitioners shall be placed in to an account and frozen.*  
24 *Petitioners shall provide proof of the location of these assets to Nancy and the Court within*  
25 *10 days.*

26 <sup>1</sup> At the hearing on October 19, 2017 at 2:36 p.m., pointing to Joseph Powell, Esq., attorney for Mr. Reason the Court stated:  
"Right now, they are the trustee, obviously, 'cause they're, that's the person who was appointed by the remaining settlor and  
the trust as written gives her that authority." Taken verbatim from the CD of the October 19, 2017 Court Hearing in the Trust  
Proceeding.

1 As to the second cited requirement of this Court to the Former Trustees, the Former Trustees'  
2 attorney, Cary Colt Payne, Esq., filed a "Notice of Blocked Funds, Etc." on November 14, 2017 ("Notice  
3 of Blocked Funds"). The Notice of Blocked Funds revealed that the trust funds removed from the  
4 Chase Bank account by his clients, an account owned by the Trust, were being admittedly  
5 "sequestered" by Attorney Payne without authorization, of which this Court was made aware at the  
6 lone hearing on this matter<sup>2</sup>.

7 Attorney Payne's Notice of Blocked Funds read as follows:

8 *COMES NOW, Petitioners, Susan Christian-Payne, Rosemary Keach and Raymond*  
9 *Christian, independent co-trustees and beneficiaries of The Christian Family Trust u.a.d.*  
10 *10/11/16, by and through their attorney, Cary Colt Payne, Esq., of the law firm of CARY*  
11 *COLT PAYNE, CHTD., hereby gives notice, that in compliance with the Courts Decision filed*  
12 *10/31/17, that the subject funds of the within Trust have been deposited in the undersigned's*  
13 *client trust account (US Bank #3647). The other account (Chase #6040) is utilized in*  
14 *receiving the rent payments from the California property and has been paying that*  
15 *mortgage, HOA, taxes, etc.*

16 As attachments to the Notice of Blocked Funds, Attorney Payne revealed that his trust account  
17 contained the sum of \$428,828.93 belonging to the Trust, and that there was \$4,599.31 in the  
18 referenced Chase account.

19 Attorney Payne's Notice of Blocked Funds, on behalf of the Former Trustees, was, and  
20 remains, troubling on several grounds. First, as stated, this Court, and the parties, already knew that  
21 the trust funds had been removed from the Chase trust account by the Former Trustees because of  
22 Attorney Payne's admission that he had "sequestered" the funds into what he deemed to be a  
23 "blocked" account.<sup>3</sup> Attorney Payne inexplicably decided that he had the authority to accept trust  
24 funds that he knew legally belonged to the Trust, despite Nancy's objection to this course of action<sup>4</sup>.  
25 Attorney Payne apparently justified his action, and the actions of his clients, by falsely claiming that

26 <sup>2</sup> The Court was well aware that after the Former Trustees were provided with notice that they had been replaced as trustees  
by Nancy, and were informed that Monte was the new trustee, Attorney Payne accepted the withdrawn trust funds from the  
Former Trustees and admittedly "sequestered" the funds into what he deemed a "blocked account" (which was later  
discovered as his unblocked IOLTA account). All parties, and this Court, at the time of the hearing, were unequivocally clear  
regarding the unilateral and unauthorized removal of the trust funds from Chase and the sequestration of the trust funds  
from the successor trustees, which is precisely why the Court issued its directive in the manner that it did.

<sup>3</sup> See Letter from Cary Colt Payne, Esq., to Tiffany S. Barney, Esq., dated October 13, 2017, which is attached hereto as  
Exhibit "1"

<sup>4</sup> See Letter from Tiffany S. Barney, Esq. to Cary Colt Payne, Esq., dated October 6, 2017, which is attached hereto as  
Exhibit "2".

1 the funds were “blocked” when in reality they were free to be withdrawn at any time<sup>5</sup>. Most  
2 importantly, Attorney Payne has knowingly and willfully deprived the Trust of hundreds of dollars of  
3 interest income that the Trust funds could be earning if they had remained in the Chase trust account.

4 Second, Attorney Payne revealed in his Inventory filed on October 25, 2017 that he had  
5 sequestered the Trust funds into his “Client Trust Account”.<sup>6</sup> On October 31, 2017, the Court then  
6 ordered that Attorney Payne comply with the following: “*assets withdrawn from the trust by*  
7 *Petitioners shall be placed in to an account and frozen. Petitioners shall provide proof of the location*  
8 *of these assets to Nancy and the Court within 10 days*”.<sup>7</sup> Attorney Payne, likely with the express  
9 instruction from his clients, the Former Trustees, completely ignored this Court’s mandate, as found  
10 in its Order and caused the funds to remain in his Client Trust Account.

11 For Attorney Payne, and his clients, to maintain possession of the funds in his Client Trust  
12 Account was certainly not what this Court was ordering. This Court was exceedingly clear in  
13 referencing the funds that they “shall be placed in to an account and frozen” and then, once  
14 accomplished, notice of the location was then be provided. If this Court had approved of Attorney  
15 Payne retaining the trust funds in his Client Trust Account, the language of the Order would have  
16 indicated this explicitly. It did not.

17 What is alarming and of utmost concern is that Attorney Payne and his clients have blatantly,  
18 intentionally, and willfully ignored this Court’s Order to move the funds from his trust account into  
19 an account with a frozen designation. In essence, Attorney Payne and the former Trustees are  
20 thumbing their noses at this Court and effectively saying that they simply don’t care what this Court  
21 wants done with the Trust funds. This is appalling behavior, which must not be tolerated, and must  
22 be immediately remedied.

## 23 II. LEGAL ARGUMENT

### 24 A. NRS 153.031.

25  
26 <sup>5</sup> See Notice of Blocked Account filed on November 14, 2017.

<sup>6</sup> See Page 2, footnote 3 of Inventory Record of Value filed on October 25, 2017.

<sup>7</sup> See Page 7, lines 11-15 of Court Order filed October 31, 2017.

1 NRS 153.031 permits a trustee to petition to this Court in regard to the affairs of a trust. As  
2 such, Monte seeks this Court's assistance to allow him to properly, and appropriately, carry out his  
3 duties as trustee, and fulfill the fiduciary responsibilities that he has; specifically those owed to the  
4 sole, current beneficiary of the Trust entitled to the use and benefit of such trust funds, his mother,  
5 Nancy Christian.

6 B. NRS 22.010 and 22.100.

7 NRS 22.010(3) provides that the refusal to obey a lawful order issued by the court is an act of  
8 contempt. The facts of contempt must be presented to the court through an affidavit. NRS 22.100(2)  
9 and (3) mandates the following:

10 *2. Except as otherwise provided in NRS 22.110, if a person is found guilty of contempt, a*  
11 *fine may be imposed on the person not exceeding \$500 or the person may be imprisoned not*  
12 *exceeding 25 days, or both.*

13 *3. In addition to the penalties provided in subsection 2, if a person is found guilty of*  
14 *contempt pursuant to subsection 3 of NRS 22.010, the court may require the person to pay*  
15 *to the party seeking to enforce the writ, order, rule or process the reasonable expenses,*  
16 *including, without limitation, attorney's fees, incurred by the party as a result of the*  
17 *contempt.*

18 The Former Trustees were ordered to place the Trust assets into an account with a frozen designation,  
19 but failed to do so. Nancy requested that the Former Trustees deposit the Trust funds by Friday,  
20 November 17<sup>th</sup> in an attempt to resolve this issue prior to filing the current pleading, but her request  
21 was ignored.<sup>8</sup> On November 17, 2017, Nancy again requested proof that the Trust funds had been  
22 placed into the appropriate frozen account, but this request was also ignored.<sup>9</sup> As of the date of the  
23 filing of this motion, the Former Trustees have not complied with the orders of this Court, nor the  
24 requests of Nancy to so, after it has been expressly pointed out that they have failed to comply with  
25 such orders of this Court. Therefore, the Former Trustees should be required to show cause why they  
26 have refused and continue to refuse to obey a lawful order of this Court and why the appropriate  
sanctions, including attorney fees, should not be imposed against them.

<sup>8</sup> See Email dated November 14, 2017 from Tiffany S. Barney, Esq., to Cary Colt Payne, Esq., which is attached  
hereto as Exhibit "3"

<sup>9</sup> See Email dated November 17, 2017 from Tiffany S. Barney, Esq., to Cary Colt Payne, Esq., which is attached  
hereto as Exhibit "4"

1 C. Request to Order Compliance with Court's Directive

2 The Trustee respectfully requests that this Court demand that Attorney Payne, as the person  
3 possessing the funds, and by extension, his clients, comply with this Court's mandate that the funds  
4 be placed in a neutral third party account, or alternatively deposited with the Clerk of the Court. As  
5 previously discussed, it is astonishing that Attorney Payne and his clients believe that leaving the  
6 funds in his trust account was in compliance with this Court's directive after it was already well known  
7 by this Court, as well as the Trustee and Nancy, that the funds were placed there after they had been  
8 removed from the trust account at Chase by the Former Trustees. As such, step one is the placement  
9 of the funds in an account, a blocked account, in which the Former Trustees, and their attorney, have  
10 no control or dominion over said funds so that this Court's order is honored and the funds are in a  
11 neutral place.

12 Because this Court had already required the funds to be deposited into a neutral account, and  
13 removed from Attorney Payne's attorney account, yet the Former Trustees have ignored this ruling,  
14 the Trustee requests that this Court hold the Former Trustees liable for the legal fees and costs  
15 associated in having to bring this motion to enforce this Court's order, in accordance with NRS 18.010,  
16 NRS 18.020, NRS 22.100(3) and, by analogy even though the Former Trustees are, as their title  
17 suggests, no longer serving in such capacity, NRS 153.031.

18 D. Nancy's Interest and Welfare

19 What is clearly getting lost or overlooked is the fact that Nancy Christian is 78 years old, and  
20 is reliant on the use and benefit of the funds and assets belonging to the Trust, a trust that she co-  
21 created with her late husband, Raymond, Sr., and which contains assets that belong to her that she  
22 contributed to the Trust. As this Court can appreciate, litigation and disputes involving a trust can  
23 conceivably take numerous months, if not years, before they are completed. This litigation, which  
24 was initiated by the Former Trustees on their own accord and in a completely self-serving manner,  
25 does not take away from the reality that we are dealing with only one current beneficiary of the Trust,  
26 Nancy, for whom the Trust is to solely and prudently be administered during her lifetime.

1 While this litigation is likely to continue to drag on and the Former Trustees continue to make  
2 unsubstantiated and unsupported claims, the best interest and welfare of Nancy must be immediately  
3 put at the forefront of the situation. Nancy's assets belong to the Trust and the Trust was created by  
4 Nancy with the mindset and belief that the Trust would provide for her. Why else would Nancy, or  
5 anyone else for that matter, have created a trust which would provide no benefit to her? Nancy is no  
6 different than millions of Americans who place their assets into some form of an estate planning  
7 vehicle, which, in this case, is a trust. The fact that Nancy, and her husband, placed their assets into  
8 a trust vehicle should in no way prevent her from having the use and benefit of those assets simply  
9 because self-motivated people, like the Former Trustees, who are seeking to prevent their own mother  
10 from the use and enjoyment of her own assets, have decided to initiate frivolous litigation. This Court  
11 must not lose sight of these egregious facts.

12 This is not a situation in which there is litigation involving two companies who have a  
13 contractual dispute. Nor is this a personal injury case. Rather, this is a situation involving an active  
14 trust which must still continue to operate and provide for the sole, current beneficiary of the Trust,  
15 the very beneficiary who co-created the Trust for her own benefit. It cannot be emphasized strongly  
16 enough that in this regard the Trustee of the Trust must be allowed to carry out his duties and  
17 responsibilities to Nancy. As noted, this Court has already expressly declared that Monte is the  
18 current Trustee of the Trust. As such, Monte needs access to trust funds to be able to provide for  
19 Nancy. Therefore, he requests that a portion of the Trust assets be unfrozen and provided to Nancy  
20 to pay for her obligations and care.

21 E. Obligations to Nancy

22 Monte, as would any dutiful trustee, must act in the best interest of his mother, Nancy, in  
23 administering the Trust for her benefit. The Trust is exceedingly clear that Monte has the ability to  
24 use the assets of the Trust to provide for his mother and to take care of her needs, as he sees fit and  
25 deems appropriate. Specifically, Section 4.3. of the Trust, titled "Survivor's Trust", provides for the  
26 following:

1 *4.3 Survivor's Trust. Any remaining property, both income and principal of this Trust estate*  
2 *shall be retained in the Survivor's Trust for the benefit of the Survivor and the Trustee shall*  
3 *hold, manage, invest and reinvest the Survivor's Trust and shall collect the income therefrom*  
4 *and dispose of the net income and principal as follows:*

5 *(a) During the lifetime of the Survivor, the Trustee, in the Trustee's sole discretion,*  
6 *may pay to the Survivor all of the net income of the Trust estate, as the Trustee may*  
7 *determine necessary, in the Trustee's sole discretion, for the health, education,*  
8 *support and maintenance of the Survivor.*

9 *(b) If, in the opinion of the Trustee, the income from all sources of which Trustee has*  
10 *knowledge shall not be sufficient for the health, education, support and maintenance*  
11 *of the Survivor, the Trustee is authorized to use and may expend such part of the*  
12 *Trust principal as may be necessary to meet such needs.*

13 As is without dispute, Monte is the current acting trustee of the Trust. Despite the Former  
14 Trustees "wanting" to litigate issues relating to their mother's decision to make Monte the trustee of  
15 the Trust, what cannot be forgotten, as previously mentioned, is that the Trust must continue to  
16 operate during the pendency of this litigation. As this Court has already declared, the action taken by  
17 Nancy Christian has already been taken and there is no dispute that she is the sole, current beneficiary  
18 of the Trust and needs to have the Trust, her trust, operational and functional to use her assets to  
19 provide for her needs, through the administration by Monte. In turn, Monte as trustee needs to be  
20 able to have access to the funds belonging to the Trust to carry out his duties to Nancy.

21 As this Court can appreciate, while the funds are being improperly "sequestered" by Attorney  
22 Payne for the Former Trustees, based on their direction, but with Attorney Payne's consent, an act of  
23 conversion is continually occurring. Clearly, Attorney Payne and, by extension, his clients are  
24 exerting dominion and control over assets that do not belong to them---the very definition of  
25 conversion. This cannot be allowed to continue. Monte requests that the Court prevent such  
26 conversion from the Trust to allow him to fulfill his duty in administering the Trust for Nancy's  
benefit.

F. Requirement for the Former Trustees to Account.

The Former Trustees are mandated to render an accounting that at least comports with NRS  
165.135, so Monte can assess the scope of the assets currently on hand, as well as track all of the



1 expenditures that were made by the Former Trustees when they had control of the Trust assets. It is  
2 also necessary for Monte to be able to ensure that he knows precisely what all of the assets belonging  
3 to the Trust are. The prior inventory and accounting filed by the Former Trustees falls painfully short  
4 of the mandated requirements under Nevada law and, most importantly, does not account for Trust  
5 assets at the time the Trust was created on October 11, 2016.

6 Section 11.2 requires the Former Trustees to provide an accounting to an income beneficiary,  
7 upon request, which request Nancy, as the sole surviving Trustor, has already made repeatedly  
8 through her counsel. In this same light, by logical deduction, it is also reasonable that Monte, as the  
9 current Trustee, is entitled to review all of the transactions undertaken by the Former Trustees as it  
10 relates to the Trust's assets. Therefore, during their tenure as trustees, the Former Trustees should  
11 readily provide all financial information and related documentation to the inventory and accounting  
12 from October 11, 2016 to the present.

13 This ability of Monte to be completely up to speed cannot rationally be discredited by the  
14 Former Trustees. As such, the Trustee respectfully requests that this Court order that the Former  
15 Trustees provide a detailed accounting to this Court, under penalty of perjury, about all actions taken  
16 by them during the course of their trusteeship, and also after their removal by Nancy. The inventory  
17 and accounting should be from the time they accepted their trusteeship on October 11, 2016 (and not  
18 the date of death of Raymond Christian Sr.) up until the present, since they remain in control of the  
19 Trust assets.

20 G. Allowance of funds to be used for the benefit of Nancy

21 As previously stated, the fact that the Former Trustees have initiated litigation does not  
22 suddenly bring the administration of the Trust to a grinding halt. Nancy's needs cannot suddenly be  
23 put in suspension, and the Trustee should not be prevented from meeting those needs by the Former  
24 Trustees, simply because the Former Trustees do not like the fact that Nancy exercised her clear and  
25 unequivocal right to remove them and appoint Monte as the Trustee. To this end, a brief review and  
26 discussion of this issue is appropriate.

1 Although not wanting to completely rehash the issue of Nancy's right, as the surviving Trustor,  
2 to remove the Former Trustees, and any trustee for that matter, it is necessary to look at this issue in  
3 the context of this Motion. Before proceeding, for ease of reference, the following is Nancy's removal  
4 right under the Trust instrument:

5 *9.3 Power to Change Trustee. During the joint lifetime of the Trustors, Trustors may change*  
6 *the Trustee or Successor Trustee of this Trust by an instrument in writing, signed by both*  
7 *Trustors, and delivered to the Trustee. In the event that either Trustor should become*  
8 *incapacitated, the other Trustor shall retain the power to change the Trustee of Successor*  
9 *Trustee of this Trust by an instrument in writing, signed by such Trustor and delivered to*  
10 *the Trustee. **After the death of the first Trustor to die, the surviving Trustor shall***  
11 ***have the power to change the Trustee or Successor Trustee of the Trust by an***  
12 ***instrument in writing signed by the surviving Trustor and delivered to the***  
13 ***Trustee.** [Emphasis Added]*

14 Despite the Former Trustees not wanting to accept that Nancy exercised her removal right and  
15 removed them, the fact of the matter is that the removal right is absolute, just as it should be for a  
16 revocable trust that Nancy co-created. The Former Trustees, as part of their diversionary tactics, have  
17 attempted to shift the spotlight from themselves by attacking Nancy's choice, Monte, with the claims  
18 that he is unfit or unqualified to serve as the Trustee, albeit failing to cite to a single recognized  
19 authority requiring a trustee to possess certain qualifications. The fact is that Nancy could choose to  
20 appoint herself or someone else to serve as trustees at any time. Therefore, Nancy's right to replace  
21 the Former Trustees is not something that can viewed in isolation. The big, overall picture must be  
22 factored in and understood; that is, it is necessary to re-focus this proceeding and discuss Nancy's  
23 needs, and the Trustee's obligation to Nancy.

24 As quoted above, the Trust is to be used exclusively for Nancy's benefit as the surviving  
25 Trustor. The Trust expressly says so in the following excerpt:

26 *both income and principal of this Trust estate shall be retained in the Survivor's Trust **for***  
27 ***the benefit of the Survivor** [Emphasis Added]*

28 There can be absolutely no confusion or argument whatsoever that until Nancy's passing, the  
29 entire Trust is to be used for her benefit and welfare. As stated, Nancy herself could choose to be the  
30 sole trustee and use the proceeds for herself as she sees fit. These facts cannot be overstated. With

this in mind, it is imperative to focus as well on the fact Monte as the trustee has fiduciary obligations to Nancy that cannot be ignored, nor put on hold.

As such, it is necessary, at a minimum, to provide Monte with access to at least a portion of the trust funds to be able to provide for Nancy. With this in mind, Monte requests that the Court direct that he shall be entitled to be in possession of, in his capacity as Trustee, no less than the sum of \$80,000.00. This will satisfy Nancy's outstanding obligations in the way of attorney fees, costs and her personal expenses since January 2017. Again, Monte has a duty to provide for Nancy and he cannot do so without having funds at his disposal. Therefore, to reiterate, Monte respectfully requests that this Court order that Monte shall be entitled possess the sum of at least \$80,000.00, so that he can use such funds for Nancy, in his sole and absolute discretion.

#### H. Investing Trust Property

Along these same lines, Monte needs to be able to have ability to invest the funds belonging to the Trust. Based on the limited reporting of the Former Trustees, it appears that they held hundreds of thousands of dollars in essentially a checking account which has returned no return whatsoever after taking into consideration inflation. As this Court can recognize and appreciate, a trustee has a duty to prudently invest assets of a trust. A checking account is clearly a non-investment.

NRS 164.740 requires a trustee to invest trust assets in accordance with the Prudent Investor Rule. As is commonly understood, the Prudent Investor Rule requires a trustee to invest assets in a manner that a reasonable person or trustee would<sup>10</sup>. As it pertains to Monte, he needs to be able to generate income and growth from the Trust assets for the benefit of Nancy, and also the remainder beneficiaries of the Trust. Keeping the trust funds in a bank account, let alone Attorney Payne's Client Trust Account which generates absolutely no interest income for the Trust, certainly will not allow Monte to comply with the Prudent Investor Rule, as required by the NRS, which is an extension of

<sup>10</sup> *The trustee has a duty to the beneficiaries to invest and manage the funds of the trust as a prudent investor would, in light of the purposes, terms, distribution requirements, and other circumstances of the trust.*

1 general trust principles. For this reason, Monte needs access to the trust funds so that they can be  
2 properly invested. The fact that there is pending litigation should not, and cannot, prevent the assets  
3 of the Trust, Nancy's assets, from being properly invested for her benefit.

4 Furthermore, Section 3.1 and 4.4 of the trust require that Nancy have the ability to reside in a  
5 home in which she was accustomed to living before she was thrown out of her Trust owned residence  
6 in December 2016. Section 4.4 specifically states the following:

7 *4.4 Use of Residence. Until the Survivor's death, the Trustee shall allow the Survivor to*  
8 *occupy and use any residence used by either or both Trustors as a residence at the time of*  
9 *the Decedent's death. The Trustee shall, at the direction of the Survivor, sell any such*  
10 *residence, and if the Survivor so directs, use the proceeds therefrom to purchase or build*  
11 *another residence for the Survivor. The Survivor shall not be required to pay rent or account*  
12 *for the use of any residence.*

13 Monte must be allowed the ability to allow the surviving Trustor, Nancy, to occupy any Trust owned  
14 residence, sell the residence if Nancy so directs, and use the proceeds from the sale to purchase or  
15 build another residence for Nancy.

16 Monte requests that he be allowed the ability to follow the terms of the Trust and prudently  
17 invest or use trust property as Nancy directs. Therefore, he requests the court unfreeze the trust  
18 assets to allow him to fulfill his duties as Trustee.

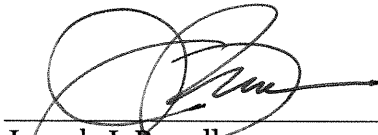
### 19 **PRAYER**

20 For the reasons set forth herein, Monte requests that the Court order the following:

- 21 1. Require Cary Colt Payne, Esq. to immediately remove the funds belonging to the Trust  
22 currently held in his firm's trust account and to immediately either deposit said trust funds  
23 with the Clerk of the Court or with a recognized financial institution, with the further  
24 obligation for Attorney Payne to immediately notify the Monte, and Nancy, along with this  
25 Court, where said funds have been deposited, including a receipt thereof;
- 26 2. Require the Former Trustees to appear and show cause why they should not be held in  
contempt of the Court's October 31, 2017 court order and why sanctions should not issue  
against them.

3. Require the Former Trusts to provide an inventory and detailed accounting to this Court and Monte, under penalty of perjury, which reflects all expenditures from and receipts to the Trust from October 11, 2016;
4. Allow Monte access, in his capacity as Trustee, to the sum of at least \$80,000.00 to be used, in his sole discretion, for the use and benefit of the current, sole beneficiary of the Trust, Nancy Christian, the surviving Trustor;
5. Allow Monte, as Trustee of the Trust, to invest the funds belonging to the Trust in his sole and absolute discretion, in accordance with the Prudent Investor Rule, in accordance with NRS 164.740 and use/sell/buy a residence for Nancy as she so directs; and
6. Holding the Former Trustees liable for all attorney's fees and costs that have been incurred to bring this present Motion.

Respectfully submitted by:



Joseph J. Powell  
State Bar. No. 8875  
1707 Village Center Circle, Suite 150  
Las Vegas, NV 89134-0597

12/12/17

Date

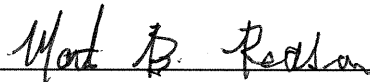
Attorneys for Monte B. Reason

1 **VERIFICATION OF MOTION FOR COMPLIANCE WITH AND ENFORCEMENT OF**  
2 **COURT ORDER, AND FOR SANCTIONS RELATING THERETO, FOR ORDER TO**  
3 **SHOW CAUSE WHY FORMER TRUSTEES SHOULD NOT BE HELD IN CONTEMPT,**  
4 **FOR ORDER COMPELLING FORMER TRUSTEES TO ACCOUNT, AND FOR ACCESS**  
5 **TO AND INVESTMENT CONTROL OF TRUST FUNDS BELONGING TO THE**  
6 **CHRISTIAN FAMILY TRUST**

7 Under penalties of perjury, I declare that:

8 1. I am submitting a "MOTION FOR COMPLIANCE WITH AND ENFORCEMENT OF  
9 COURT ORDER, AND FOR SANCTIONS RELATING THERETO, FOR ORDER TO SHOW CAUSE  
10 WHY FORMER TRUSTEES SHOULD NOT BE HELD IN CONTEMPT, FOR ORDER  
11 COMPELLING FORMER TRUSTEES TO ACCOUNT, AND FOR ACCESS TO AND INVESTMENT  
12 CONTROL OF TRUST FUNDS BELONGING TO THE CHRISTIAN FAMILY TRUST."

13 2. I know the contents of the Motion, which I know to be true of my own knowledge,  
14 except for those matters stated on information and belief.

15   
16 MONTE B. REASON

# EXHIBIT “1”

**CARY COLT PAYNE, CHTD.**  
*Attorneys at Law*

CARY COLT PAYNE, ESQ.  
Admitted in Nevada & California

October 13, 2017  
*Sent via email: tiffany@anthonybarney.com*

Tiffany S. Barney, Esq.  
ANTHONY L. BARNEY LTD.  
3317 W. Charleston Blvd., Suite B  
Las Vegas, NV 89102

RE: Christian Family Trust u.a.d. 10/11/16  
Case No.: P-17-092512-T

Dear Ms. Barney:

We note your correspondence of October 6, 2017, with your carefully veiled threats, quoting case law. It is unfortunate that every correspondence received from your firm these days contains some sort of new or enhanced threat. You should be more concerned about the influences over your client, which you apparently do not want to face, given the facts and history of this matter, which we intend to move forward with.

Given those facts, it is my client's position that at the directions of their late father's concerns and in order to protect the trust, trust property, away from any exploitation, the funds in question have been sequestered into a blocked account. It is not conversion as you assert. The only bills that need to be paid are those related to the rental/real property. If your client wants to exercise her right to any support of the net income of the trust estate, please put your request in writing, and I am assured that if it is reasonable the necessary arrangements can be made. We will leave it up to the District Court to decide as to the ultimate distribution, etc.

As to your refusals to allow David Grant, Esq. to give any testimony, you may want to review NRS 49.115(2) et.seq.

Because your firm has a history of personal attacks, why don't you try and do something positive, like look to constructive approaches to problem resolution. Along those lines, I challenge your firm to research various methods of a problem solving approach, such as collaborative conflict resolution.

Please try to act at least professional.

Sincerely,

CARY COLT PAYNE, CHTD.



CARY COLT PAYNE, ESQ.  
CCP/ma  
cc: clients



700 S. Eighth Street, Las Vegas, NV 89101  
Tel: 702.383.9010 • Fax: 702.383.9049  
Email: carycoltpaynechtd@yahoo.com • Web: carycoltpaynechtd.com



APP-ROA--444



# EXHIBIT “2”

**Anthony L. Barney, M.S., J.D., LL.M.**  
Attorney at Law  
Licensed in Nevada and Idaho

**Tiffany S. Barney, J.D.**  
Attorney at Law  
Licensed in Nevada

**Zachary Holyoak, J.D.**  
Attorney at Law  
Licensed in Nevada

**ANTHONY L. BARNEY, LTD.**  
**A Nevada Professional Law**  
**Corporation**

3317 W. Charleston Boulevard, Suite B  
Las Vegas, Nevada 89102-1835  
Receptionist: 702-438-7878  
Fax: 702-259-1116

**Neva Liebe**  
Administrative Assistant

**Website Address**  
<http://www.anthonybarney.com>

**E-mail Address**  
[office@anthonybarney.com](mailto:office@anthonybarney.com)

October 6, 2017

Cary Colt Payne, Esq.  
700 S. 8<sup>th</sup> St.  
Las Vegas, NV 89101

RE: Christian Family Trust ("Trust")  
Our Client: Nancy Christian, Trustor

VIA E-MAIL and US MAIL

Dear Payne,

I am deeply concerned by your clients' failure to return the funds taken by them from the Trust account as detailed in my previous letters dated September 21, 2017 and September 29, 2017. Please note that I incorporate herein all arguments regarding your client's lack of authority to take the Trust funds as outlined in my previous letters as if set forth herein.

You may be aware that the Nevada Supreme Court has held that "[c]onversion is a distinct act of dominion wrongfully exerted over another's personal property in denial of, or inconsistent with his title or rights therein or in derogation, exclusion, or defiance of such title or rights. Further, conversion is an act of general intent, which does not require wrongful intent and is not excused by care, good faith, or lack of knowledge."<sup>1</sup> Additionally, in the context of a trust or an estate, conversion subjects the defendant to a judgement of treble damages.<sup>2</sup> Your clients' failure to return the Trust funds is a clear act of conversion and this claim will subject them to treble damages in any future action brought by the Trust for the return of the funds. You are hereby put on notice that if your clients do not voluntarily return the funds they have removed from the Trust after their removal as trustees, my client will urge the trustee to pursue this claim and seek treble damages against your clients.

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<sup>1</sup> See *Evans v. Dean Witter Reynolds, Inc.*, 116 Nev. 598, 606, 5 P.3d 1043, 1048, 2000 Nev. LEXIS 86, \*15, 116 Nev. Adv. Rep. 71.

<sup>2</sup> See NRS 143.120

Furthermore, it appears that your clients have committed a fraudulent transfer as defined by the Uniform Fraudulent Transfer Act. NRS 112.180(1) states that “a transfer made or obligation incurred by a debtor is fraudulent as to a creditor, whether the creditor’s claim arose before or after the transfer was made or the obligation was incurred, if the debtor made the transfer or incurred the obligation; (a) with actual intent to hinder, delay or defraud any creditor of the debtor.” A creditor is defined as “a person who has a claim.”<sup>3</sup> A Trust is defined as a “person.”<sup>4</sup> A claim is defined as “a right to payment, whether or not the right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured or unsecured.”<sup>5</sup>

Clearly, the Trust has a claim against your clients regarding the funds withdrawn by them after their removal as trustees. The removal of those funds was nothing more than an attempt to hinder delay, or defraud the Trust by preventing access to such funds. As such, your clients and any subsequent transferee will be liable for these funds as proceeds of a fraudulent transfer.

This letter is to also put you on notice regarding your duty to inquire into the source of funds provided to pay your attorney’s fees. “Lawyers who receive a conveyance under circumstances that should cause them to inquire into the reasons behind the conveyance must diligently do so, lest they be charged with knowledge of any intent on the part of transferor to hinder, delay, or defraud. A lawyer who blindly accepts fees from a client under circumstances that would cause a reasonable lawyer to question the client’s intent in paying the fees accepts the fees at his peril.”<sup>6</sup> Therefore, if you have received Trust property, then you are put on further notice to not use or otherwise dispose of such property until it is returned to the successor trustee.

I also urge you to take necessary actions to correct or prevent what appears to be conversion and fraud by your clients. This includes withdrawing false statements made on the record, preventing your client’s use of your services to commit fraud upon the Trust, disclosing any information necessary to prevent or correct the fraudulent transfer of funds, preserving the fraudulently transferred funds that may be in your possession and, finally, returning Trust funds to the successor trustee.

In addition to a motion for an injunction, our client will urge the trustee to seek the remedies available to the Trust under NRS 143.120 and NRS 112.210 including but not limited to treble damages for converted property, an attachment or garnishment against the property transferred, an injunction against further disposition by the debtor or transferee, or any other equitable relief available.

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<sup>3</sup> See NRS 112.150(4)

<sup>4</sup> See NRS 0.039

<sup>5</sup> See NRS 112.150(3)

<sup>6</sup> *In re Parklex Assocs., Inc.*, 2010 Bankr. LEXIS 2664, 435 B.R. 195, 53 Bankr. Ct. Dec. 179 (Bankr. S.D.N.Y. 2010), citing *S.E.C. v. Princeton Economic Int’l Ltd.*, 84 F. Supp. 2d 443, 446-47 (S.D.N.Y. 2000)

*Letter to Cary Colt Payne, Esq.*  
*October 6, 2017*  
*Page 3 of 3*

Please contact me with any questions or concerns you may have. I can be reached at the numbers above or the email address below.

Sincerely,

A handwritten signature in black ink, appearing to read 'Tiffany S. Barney', enclosed within a large, loopy oval shape.

TIFFANY S. BARNEY  
Attorney at Law  
[tiffany@anthonybarney.com](mailto:tiffany@anthonybarney.com)

cc: Client

# EXHIBIT “3”

## Joey Powell

---

**From:** Tiffany Barney <tiffany@anthonybarney.com>  
**Sent:** Tuesday, November 14, 2017 3:56 PM  
**To:** marja.carycoltpayne@gmail.com; 'Cary Colt Payne, Esq.'  
**Cc:** anthony@anthonybarney.com; 'Secretary'; 'Zachary Holyoak'; Joey Powell  
**Subject:** "Blocked" Account in Christian Family Trust

Dear Mr. Payne –

We received notice of the “blocked account” earlier today in the Christian Family Trust matter. Unless your entire IOLTA account has a frozen or blocked account designation and does not allow the withdrawal of funds except by court order, you have failed to abide by the court’s order by failing to place the funds belonging to the Christian Family Trust in a truly blocked account. Since it is well known that funds in an IOLTA account can be withdrawn without a court order, and other client funds exist in a client trust account, you have not complied with the order of the Court.

Furthermore, the Chase account you have cited is not a blocked account. We have evidence of this from the documents that have been produced in this matter. Therefore, you have also failed to place the amounts in the Chase account into a blocked account as ordered by this Court.

Unfortunately, you have knowingly and willfully prevented the trust from being able to obtain interest on the trust funds by allowing your clients to place a large portion of the trust assets in your IOLTA account. Since June 2017, you have prevented the trust from gaining the benefit of the interest income on trust funds, which has damaged the trust and its beneficiaries.

Please be on notice that your actions of placing trust funds in your client trust account and allowing trust assets to remain in the unblocked Chase account do not comport with the court order. We are requesting that you immediately place all trust funds into a blocked account by Friday, November 17, 2017 at 1:00 p.m.; otherwise, we will be forced to supplement our Counterpetition and request injunctive relief, damages, and other relief.

Sincerely,

Tiffany S. Barney  
Attorney at Law  
Anthony L. Barney, Ltd.  
3317 W. Charleston Blvd., Suite B  
Las Vegas, NV 89102-1835  
O: 702-438-7878  
F: 702-259-1116  
[tiffany@anthonybarney.com](mailto:tiffany@anthonybarney.com)  
[www.anthonybarney.com](http://www.anthonybarney.com)

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# EXHIBIT “4”

## Joey Powell

---

**From:** Tiffany Barney <tiffany@anthonybarney.com>  
**Sent:** Friday, November 17, 2017 4:23 PM  
**To:** 'Cary Colt Payne, Esq.'  
**Cc:** anthony@anthonybarney.com; 'Secretary'; Joey Powell  
**Subject:** Christian Family Trust

Dear Cary –

I did not receive a response by 1:00 p.m. today or proof that you deposited the Christian Family Trust funds into a blocked or frozen account. Please provide me immediate proof that your IOLTA account is frozen. Additionally, please provide me immediate proof that the Chase account is frozen. Finally, please provide me the branch location of your US Bank account or where your IOLTA account is located. Thank you.

Sincerely,

Tiffany S. Barney

Attorney at Law

Anthony L. Barney, Ltd.

3317 W. Charleston Blvd., Suite B

Las Vegas, NV 89102-1835

O: 702-438-7878

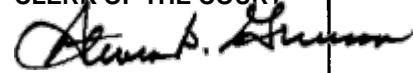
F: 702-259-1116

[tiffany@anthonybarney.com](mailto:tiffany@anthonybarney.com)

[www.anthonybarney.com](http://www.anthonybarney.com)

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1 CERT  
2 CARY COLT PAYNE, ESQ.  
3 Nevada Bar No. 4357  
4 CARY COLT PAYNE, CHTD.  
5 700 South Eighth Street  
6 Las Vegas, Nevada 89101  
7 (702) 383-9010  
8 carycoltpaynechtd@yahoo.com  
9 Attorney for Petitioner


8 DISTRICT COURT  
9 CLARK COUNTY, NEVADA

10 In the Matter of ) Case No.: P-17-092512-T  
11 ) Dept. No.: PC-1  
12 THE CHRISTIAN FAMILY )  
13 TRUST u.a.d. 10/11/16 )  
14 ~~~~~ )

14 NOTICE OF SUGGESTION OF DEATH

15 COMES NOW, undersigned counsel, and hereby gives notice of the death of  
16 Nancy Christian on December 14, 2017, pursuant to NRCP 25.

18 Dated: January 4, 2018.



20 CARY COLT PAYNE, ESQ.  
21 Nevada Bar No.: 4357  
22 CARY COLT PAYNE, CHTD.  
23 700 South Eighth Street  
24 Las Vegas, Nevada 89101  
25 (702) 383-9010

CARY COLT PAYNE, CHTD.

700 South Eighth Street  
Las Vegas, Nevada 89101  
Tel: 702.383.9010 • Fax 702.383.9049





## CERTIFICATE OF SERVICE

The undersigned hereby certifies that on January 4, 2018, a true and correct copy of the foregoing was served to the following at the their last known address(es), facsimile numbers and/or e-mail/other electronic means, pursuant to:

☒ **BY MAIL:** N.R.C.P 5(b), I deposited for first class United States mailing, postage prepaid at Las Vegas, Nevada;

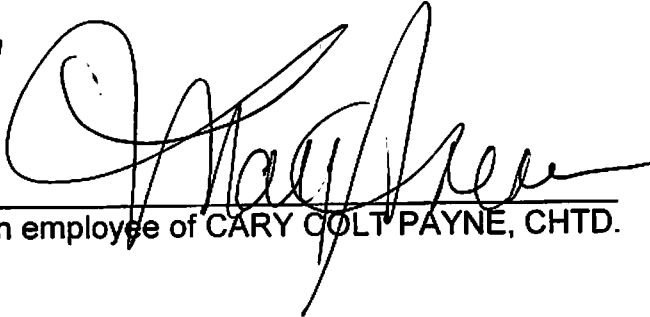
Tommy L. Christian  
245 South Lemon, Apt C  
Orange, CA 92566

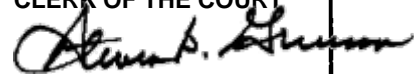
Christopher A. Christian  
560 W. 20th Street #12  
San Bernardino, CA 92405

☒ **BY E-MAIL AND/OR ELECTRONIC MEANS:** Pursuant to Eighth Judicial District Court Administrative Order 14-2, Effective June 1, 2014, as identified in Rule 9 of the N.E.F.C.R. as having consented to electronic service, I served via e-mail or other electronic means (Wiznet) to the e-mail address(es) of the addressee(s).

Joseph Powell, Esq.  
RUSHFORTH, LEE & KIEFER, LLP  
1701 Village Center Circle, Suite 150  
Las Vegas, NV 89134  
*email: joey@rushforth.com*  
Attorney for Monte Reason

Tiffany S. Barney, Esq.  
ANTHONY L. BARNEY LTD.  
3317 W. Charleston Blvd., Suite B  
Las Vegas, NV 89102  
*email: tiffany@anthonybarney.com*  
Attorney for Nancy I. Christian

  
An employee of CARY COLT PAYNE, CHTD.



**OPPS**  
CARY COLT PAYNE, ESQ.  
Nevada Bar No. 4357  
CARY COLT PAYNE, CHTD.  
700 South Eighth Street  
Las Vegas, Nevada 89101  
(702) 383-9010  
carycoltpaynechtd@yahoo.com  
Attorney for Petitioners

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

|                        |   |            |               |
|------------------------|---|------------|---------------|
| In the Matter of       | ) | Case No.:  | P-17-092512-T |
|                        | ) | Dept. No.: | PC-1          |
| THE CHRISTIAN FAMILY   | ) |            |               |
| TRUST u.a.d. 10/11/16  | ) | Date:      | 1/17/18       |
|                        | ) | Time:      | 9:30 AM       |
| ~~~~~                  | ) |            |               |
| SUSAN CHRISTIAN-PAYNE, | ) |            |               |
| ROSEMARY KEACH AND     | ) |            |               |
| RAYMOND CHRISTIAN      | ) |            |               |
| Petitioners,           | ) |            |               |
| -vs-                   | ) |            |               |
|                        | ) |            |               |
| NANCY I CHRISTIAN and  | ) |            |               |
| MONTE REASON           | ) |            |               |
| Respondents.           | ) |            |               |
| ~~~~~                  | ) |            |               |

**OPPOSITION TO MOTION FOR COMPLIANCE, ENFORCEMENT,  
SANCTIONS, CONTEMPT, ETC.**

**COUNTERPETITION FOR DISTRIBUTION and VACATING ALL PENDING  
MATTERS AND DISMISS TRUST PROCEEDINGS**

COMES NOW Petitioners, SUSAN CHRISTIAN-PAYNE, ROSEMARY KEACH and  
RAYMOND CHRISTIAN, original co-trustees and primary beneficiaries of The Christian  
Family Trust u.a.d. 10/11/16, by and through their attorney, CARY COLT PAYNE, ESQ., of  
the lawfirm of CARY COLT PAYNE, CHTD., hereby submits this Opposition to the Motion  
for Compliance, Enforcement, Sanctions, Contempt, Etc., and submits their  
Counterpetition for Distribution and Termination of Trust Proceedings, pursuant to NRS





1 153.031(a), (q); NRS 163.115; NRS 163.185; NRS 164.005; NRS 164.010; NRS 164.015;  
2 and NRS 164.033 et. seq.; which is made and based upon the attached Points and  
3 Authorities, Exhibits, pleadings on file to date, and any oral argument that the Court may  
4 allow at the time of the hearing.  
5

## 6 POINTS AND AUTHORITIES

7 There are various matters pending before the court:

8 (1) Joint Petition for Review of Former Trustees Refusal to Provide Proper  
9 Accounting and Opposition thereto (set for hearing 1/11/18- continued to 1/17/18)

10 (2) Joint Objection to Petition to Assume Jurisdiction of Trust; Confirm Trustees;  
11 Instructions, Etc. and Joint Counterpetition to Assume Jurisdiction in rem of the Trust, to  
12 Confirm Trustee, to find Breach of Fiduciary Duty, Conversion, and Fraud Against Former  
13 Trustees, to Invalidate all Transfers to the Former Trustees as the Product of Undue  
14 Influence, to Order the Immediate Delivery of all Trust Assets, and to Impose a  
15 Constructive Trust and Opposition thereto (set for hearing 1/11/18- continued to 1/17/18)

16 Monte Reason filed the instant motion on December 12, 2017. It was only noticed  
17 for hearing on January 4, 2018.

18 It is suggested that all of these matters be vacated as moot and should be  
19 withdrawn and/or stricken/vacated for the following reasons:

20 (1) Grantor Nancy Christian has died;

21 (2) Monte Reason's counsel has corresponded that Monte Reason is  
22 resigning as the alleged trustee and nominating a new trustee.

23 (3) The relief requested no longer applies.

24 Grantor, Raymond T. Christian died January 31 2017. Grantor Nancy I. Christian  
25 died December 18, 2017. Notice of Suggestion of Death was filed on January 4, 2018.

26 As of the date of Grantor Nancy's death, The Christian Family Trust u.a.d.  
27 10/11/16 became irrevocable, and subject to distribution, etc. The Petitioners, SUSAN  
28 CHRISTIAN-PAYNE, ROSEMARY KEACH and RAYMOND CHRISTIAN, are the now fully vested



1 primary beneficiaries of the trust (60% of the Dancing Vines property proceeds & 100%  
2 trust corpus remainder beneficiaries).

3  
4 The Petitioners maintained that they were the original Co-Trustees and signatories  
5 to the Trust document. This was intentional as their father Raymond Christian, Sr. did not  
6 trust Monte Reason, and his ability to persistently influence Nancy Christian. The  
7 petitioners promised their father, individually and as the trustees of the trust specifically  
8 set up for these reasons, that Monte would not have control over trust property. To now  
9 notice a motion for hearing after Nancy has died, is a waste of trust assets and judicial  
10 resources.

11  
12 Petitioners continue to assert that Nancy Christian wrongfully replaced the  
13 petitioners as trustees and nominated Monte. It appears from the motions/petitions filed  
14 that Monte by his motion wanted his hands on all the money – the very thing Grantor  
15 Raymond Christian was most concerned over.

16  
17 Now it appears Monte has agreed to resign (email - **Exhibit "A"**), and is seeking to  
18 nominate another individual to be trustee, to wit: Jacqueline Utkin, who lives in Hawaii.  
19 Jacqueline Utkin provided a Declaration which was discussed in the Petitioner's  
20 Opposition to the Joint Counterpetition (filed 12/14/17). It is clear that the only possible  
21 reason is to keep litigation and the attorneys fees flowing.

22  
23 Apparently, after Grantor Nancy died, Monte Reason sought to place the trust real  
24 property located at 2428 Bluff Point Drive, Las Vegas, Nevada up for sale as of  
25 December 29, 2017. Petitioners, when they saw the For Sale signs on the house  
26 contacted counsel who sent correspondence. (**Exhibit "B"**) No response was received  
27 from Monte's counsel, and a Lis Pendens was filed in this matter on 1/10/18. Petitioners,  
28 as the beneficiaries of this real property do not want the property sold and request it be  
conveyed to them.

1 For what possible purpose at this point in time when the only matter at hand is  
2 distribution, is appointing further individuals as trustee? The motives at this point in time  
3 must be questioned, as to continue needless litigation, to nominate out of state individuals  
4 at this stage of the matter can only be seen as a vehicle to drain trust assets for needless  
5 litigation and/or attorney's fees. The primary beneficiaries do not agree to the nomination  
6 of Jacqueline Utkin. The issue of successor trustee is governed by the Trust ¶8.1  
7 (discussed below)  
8

9 At this point in time, any fiduciary's, role is to protect the trust for the beneficiaries,  
10 who for the majority part, are the Petitioners, who have not and cannot trust Monte nor  
11 Jackie Utkin. Monte's sole interest as a beneficiary is limited to 10% of the Dancing Vines  
12 property proceeds, which, ultimately is controlled by Susan Christian-Payne, who may  
13 distribute to him at her sole discretion, pursuant to the Trust ¶6.1 (a)-(f). Jackie Utkin has  
14 no beneficial interest in the trust.  
15

### 16 **B. Counterpetition**

17 Pursuant to the Trust (Exhibit "C"), the beneficiaries of the Trust are as follows:  
18

19 (1) as to the proceeds of the sale of the Dancing Vines property  
20 (\$194,704.59), see Trust ¶6.1 (a)-(f):

21 Rosemary K, Christian-Keach (20%=\$38,940.92), outright, free of trust;

22 Raymond T. Christian, Jr. (20%=\$38,940.92) outright, free of trust;

23 Tommy L. Christian (20%=\$38,940.92) outright, free of trust;

24 Susan G. Christian-Payne (20%=\$38,940.92) outright, free of trust;

25 Christopher A. Christian (10% = \$19,470.45) outright, free of trust;

26 Monte B. Reason (10% = \$19,470.45), and this Trust share shall be held, in  
27 Trust and ***distributed to him in the sole discretion of SUSAN***  
28 ***G. CHRISTIAN-PAYNE*** for his health, education, maintenance and support.





(2) The rest, residue and remainder of the Trust Estate, including all cash (\$234,134.34) and the real properties located at 2848 Bluff Point Drive, Las Vegas, Nevada and 37920 Grandview Ave., Yermo, California, see Trust ¶16.2:

Rosemary K, Christian-Keach (one third – 33⅓%) outright, free of trust;  
Raymond T. Christian, Jr. (one third – 33⅓%) outright, free of trust;  
Susan G. Christian-Payne (one third – 33⅓%) outright, free of trust;

The funds continue to be held in the CTA of the primary beneficiaries' attorney and can be cost efficiently distributed from there.

### ***C. Confirmation of Trustee***

In prior pleadings filed with the court, there were issues with Monte Reason being nominated as trustee, which was noted in the court's decision issued October 31, 2017:

"In addition, there is the question of exploitation, fraud, duress, or undue influence by the newly appointed trustee Monte Reason over his mother, Nancy. Petitioners are the original trustees and the children of the grantors."

Nothing has changed. Monte had been improperly nominated as trustee and is now attempting to nominate a new trustee. It is still alleged that he unduly influenced Grantor Nancy to improperly remove the co-trustees for no valid reason. Monte is a convicted felon, and is not qualified to serve and is conflicted and now wants to resign.

At this point in time, as the liquid trust assets are in the CTA of the primary beneficiaries, and Monte's beneficial interest is only 10% of the Dancing Vines proceeds, subject to a separate supervision to distribute to him by Susan Christian-Payne, it is requested that the court confirm the petitioners as co-trustees so that the trust may be distributed without further unnecessary litigation.



1 Despite knowing full well that Nancy Christian is deceased, Monte Reason has  
2 intentionally noticed a previously filed petition in an effort to needlessly prolong litigation  
3 (Notice of Hearing filed 1/4/18). The issues contained therein (Motion for Compliance) is  
4 regarding the monies ordered by the court be segregated/frozen. Those funds have been  
5 so segregated since July 2017 in the CTA of the primary beneficiaries counsel. The  
6 primary beneficiaries, have no desire, in conjunction with the wishes of their father, that  
7 Monte Reason or anyone else at this point have control over any funds, now intended for  
8 distribution. They again, do not agree to the nomination or appointment of Jacqueline  
9 Utkin.  
10

11  
12 The primary beneficiaries now have a fully vested beneficial interest in not having  
13 trust assets be further spent on useless, needless litigation, diminishing the trust.

14 Further, there is no need for another individual to be appointed instead of  
15 reinstating the Petitioners as Co-Trustees. While it is alleged that Monte was wrongfully  
16 or improperly nominated as trustee, the Trust ¶8.1, provides that the majority of the adult  
17 beneficiaries may appoint a successor trustee.  
18

19 **8.1 Successor Trustee.** In the event of the death or incapacity of any current  
20 Trustee, the remaining Trustees shall act as Co-Trustees or sole Trustee, as the  
21 case may be. In determining the incapacity of any Trustee serving hereunder, the  
22 guidelines set forth in Section 3.1 may be followed.

23 If no Successor Trustee is designated to act in the event of the death, incapacity  
24 or resignation of the Trustee then acting, or no Successor Trustee accepts the  
25 office, the Trustee then acting may appoint a Successor Trustee. If no such  
26 appointment is made, the majority of the adult beneficiaries entitled to distribution  
27 from this trust may appoint a Successor Trustee.

28 It is alleged that Monte, was wrongfully and/or improperly nominated, he therefore  
does not have the inherent authority to nominate anyone else.

For all practicality, the reinstatement of the Petitioners as primary beneficiaries is  
the logical, proper and least financially detrimental to the Trust.





1 **D. Distribution and Termination**

2 The Trust made provisions to pay for debts/last illness of only the first grantor to  
3 die (Trust ¶4.1 and 4.2). As to Grantor Nancy's last illnesses or debts, the Trust makes  
4 no other provisions for the payments of any other matters other than distribution after the  
5 death of the second grantor.  
6

7 **4.1 Decedent and Survivor Defined.** Reference to the "Decedent" shall refer to  
8 either of the Trustees whose death shall first occur and reference to the "Survivor"  
9 shall refer to the surviving Trustor.

10 **4.2 Payment of Debts.** After the death of the Decedent, the Trustee may, in the  
11 Trustee's sole discretion, pay from the income and/or principal of the Decedent's  
12 separate property and Decedent's one-half of the community property, which is a  
13 part of this Trust estate, the administrative expenses, the expenses of the last  
14 illness and funeral of the Decedent and any debt owed by the Decedent.

15 The Trust has no known creditors, subject to notice, etc.

16 Grantor Nancy Christian, individually, has assets, possibly debts, which require  
17 them to be dealt with in her personal probate estate or her personal trust estate.

18 The Trust is in a position to be distributed pursuant to Trust ¶6.1 (a)-(f) and 6.2  
19 above.

20 That given the current circumstances, there is no further reason for this case to  
21 proceed. It is requested that all pending petitions/motions be denied/vacated, and that  
22 the counterpetition herein be granted, and this case proceed to dismissal.

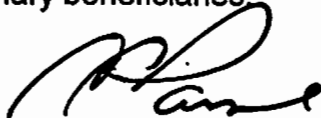
23 **CONCLUSION**

24 With Grantor Nancy's death, there is no longer any need for any further litigation.  
25 All of the issues surround what the primary beneficiaries, the within Petitioners did or did  
26 not do in following the instructions they were given with the creation of the Trust.  
27  
28



1 The Trust need to do nothing but distribution. All of the minutae in the various  
2 pending petitions/motions no longer matter (the arguments regarding tax issues on  
3 distribution, accountings, etc.) Prolonging the inevitable (distribution) is not in the  
4 beneficiaries or the Trust's best interests. The only thing which prolonging this matter is  
5 unwarranted attorney's fees and unnecessary litigation. Now that Nancy has become  
6 deceased, the only issues are the confirmation of the reinstatement of the petitioners as  
7 co-trustees, and the final distribution of the Trust to the named beneficiaries, which will be  
8 best suited having the Petitioners, the primary beneficiaries  
9

10 Dated: January 10, 2018.

11   
12 CARY COLT PAYNE, ESQ.  
13 Nevada Bar No.: 4357  
14 CARY COLT PAYNE, CHTD.  
15 700 South Eighth Street  
16 Las Vegas, Nevada 89101  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

CARY COLT PAYNE, CHTD.

700 South Eighth Street

Las Vegas, Nevada 89101

Tel: 702.383.9010 • Fax 702.383.9049



**DECLARATION/VERIFICATION OF SUSAN CHRISTIAN PAYNE**

SUSAN CHRISTIAN PAYNE, pursuant to the laws of the State of Nevada (NRS 53.045), and under penalty of perjury, hereby declare as follows:


I am an adult resident of the State of Nevada, and was appointed, with my siblings, Rosemary Keach and Raymond Christian, as the original co-trustees of The Christian Family Trust u.a.d. 10/11/16, have personal knowledge of all matters set forth herein. I have read the above and foregoing Petition, know the contents thereof and know that the same is true of our my knowledge, as if fully set forth herein, except for those matters contained upon information and belief, and as to those I believe them to be true.

Dated: January 10, 2018

  
SUSAN CHRISTIAN PAYNE


# CERTIFICATE OF SERVICE

The undersigned hereby certifies that on January 10, 2018, a true and correct copy of the foregoing was served to the following at the their last known address(es), facsimile numbers and/or e-mail/other electronic means, pursuant to:

 **BY MAIL:** N.R.C.P 5(b), I deposited for first class United States mailing, postage prepaid at Las Vegas, Nevada;

Tommy L. Christian  
245 South Lemon, Apt C  
Orange, CA 92566

Christopher A. Christian  
560 W. 20th Street #12  
San Bernardino, CA 92405

 **BY E-MAIL AND/OR ELECTRONIC MEANS:** Pursuant to Eighth Judicial District Court Administrative Order 14-2, Effective June 1, 2014, as identified in Rule 9 of the N.E.F.C.R. as having consented to electronic service, I served via e-mail or other electronic means (Wiznet) to the e-mail address(es) of the addressee(s).

Joseph Powell, Esq.  
RUSHFORTH, LEE & KIEFER, LLP  
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email: joey@rushforth.com  
Attorney for Monte Reason

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Attorney for Jacqueline Utkin

Tiffany S. Barney, Esq.  
ANTHONY L. BARNEY LTD.  
3317 W. Charleston Blvd., Suite B  
Las Vegas, NV 89102  
email: tiffany@anthonybarney.com  
Last known Attorney for Nancy I. Christian, deceased

  
An employee of CARY COLT PAYNE, CHTD.





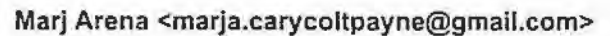
**CARY COLT PAYNE, CHTD.**

Attorney at Law

700 S. Eighth Street • Las Vegas, Nevada 89101  
(702) 383-9010 • Fax (702) 383-9049

***EXHIBIT PAGE INTENTIONALLY LEFT BLANK***

**EXHIBIT "A"**



1 message

Mon, Jan 8, 2018 at 2:46 PM

<https://mail.google.com/mail/u/0/?ui=2&ik=71f9ac0c7c&jsver=pkG7biCEwPU.en.&view=pt&search=inbox&lh=160d7e7e9e50d4c6&siml...>

As it relates to the hearing set for this Thursday, January 11th, pursuant to discussions with Mr. Kirschner, he has asked that I request that the hearing on January 11th be moved to January 17th. Would you be willing to stipulate to such? If so, I can prepare the stipulation that we could submit to Judge Ochoa.

Thank you for your attention to these issues.

Joey

---

**Joseph J. Powell**  
Attorney (Nevada & California)

joey@rklegal.com

702-255-4552 or 855-255-4552 (Office)



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**From:** Marj Arena [mailto:marja.carycoltpayne@gmail.com]  
**Sent:** Friday, January 5, 2018 1:34 PM  
**To:** Joey Powell <joey@rklegal.com>  
**Cc:** Cary Colt Payne, Esq. <carycoltpaynechtd@yahoo.com>  
**Subject:** Christian trust- corres 1/5/18

Please see the attached correspondence from Mr. Payne.

---

Very truly yours

Marj Arena  
Paralegal



**CARY COLT PAYNE, CHTD.**

Attorney at Law

700 S. Eighth Street • Las Vegas, Nevada 89101  
(702) 383-9010 • Fax (702) 383-9049

***EXHIBIT PAGE INTENTIONALLY LEFT BLANK***

**EXHIBIT "B"**



**CARY COLT PAYNE, CHTD.**  
*Attorneys at Law*

CARY COLT PAYNE, ESQ.  
Admitted in Nevada & California

January 5, 2018  
*Sent via email: joey@rushforth.com*

Joseph Powell, Esq.  
RUSHFORTH, LEE & KIEFER, LLP  
1701 Village Center Circle, Suite 150  
Las Vegas, NV 89134

RE: Christian Family Trust u.a.d. 10/11/16  
Case No.: P-17-092512-T

Dear Mr. Powell:

I am informed by my clients that apparently your client is apparently seeking to sell the trust's real property located at 2848 Bluffpoint, as a "for sale sign" is on the property. According to Zillow, the property was listed for sale on 12/29/17. As my clients are the intended beneficiaries of this property (Trust ¶6.2-Distribution of Remaining Trust Property), they object to this.


Please cease and desist all further attempts to market or sell this real property.

Further we have been advised that there were some personal property still at the residence, which, again are intended for my clients. (Trust ¶5.1-Distribution of Personal Property) We anticipate that these items will be safeguarded and not removed, sold, etc. In other words, nothing occurs regarding this property whether real or personal property.

Please immediately advise and provide proof of the cancellation of any such listing for sale, etc. If we do not hear from you, we will then consider the legal process, including the immediate placement of a lis pendens, etc.

Sincerely,

CARY COLT PAYNE, CHTD.

  
CARY COLT PAYNE, ESQ.  
CCP/ma  
cc: clients



**1/5/18 -- For Sale sign  
2848 Bluffpoint Drive, Las Vegas, NV**





Marj Arena &lt;marja.carycoltpayne@gmail.com&gt;

---

**Christian trust- corres 1/5/18**

1 message

---

**Marj Arena** <marja.carycoltpayne@gmail.com>

Fri, Jan 5, 2018 at 1:33 PM

To: joey@rushforth.net

Cc: "Cary Colt Payne, Esq." &lt;carycoltpaynechtd@yahoo.com&gt;

Bcc: Raymond Christian &lt;trainwithray@gmail.com&gt;, Rosemary Keach &lt;RoseaLee@aol.com&gt;, Susan Christian-Payne &lt;paynegirl@aol.com&gt;

Please see the attached correspondence from Mr. Payne.

---  
Very truly yours

Marj Arena  
Paralegal

CARY COLT PAYNE, CHTD.  
700 S. Eighth Street  
Las Vegas, NV 89101  
Office: (702) 383-9010  
Fax: (702) 383-9049

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---

 **Christian- ltr to Powell (1-5-17).pdf**  
116K

City, s



Buying but need to sell first?

2848 Bluff Point Dr, Las Vegas, NV 89134 | MLS #1955550



## 2848 Bluff Point Dr, Las Vegas, NV 89134

2 beds • 2 baths • 1,653 sqft

FOR SALE

**\$318,000**

Zestimate®: \$300,525

EST. MORTGAGE

Est. Mortgage: \$1,179

Listed by:












Indulge in sophistication and luxury in this upgraded popular model, with stunning diagonal cut tile throughout home, 4' baseboards, blinds, dual reflective window film for added comfort, and desirable fixtures and fans throughout. Kitchen has stainless steel appliances, under mount sink & microwave with granite counter tops. The master features a bay window, dual closets/sinks. Inside laundry room includes W/D! Garage has storage/workshop space.

WHAT I LOVE ABOUT THE HOME

This popular model has been completely redone, new diagonal cut tile throughout the home (new carpet in the bedrooms), new 4' baseboards, new paint, new blinds, new dual reflective window film for added comfort, new fixtures and fans. The kitchen has new stainless steel dishwasher, stove, undermount sink & microwave. The master features a bay window, dual closets & dual sinks. The garage features storage & workshop space.

Facts and Features

|                                                                                                                     |                                                                                                                |                                                                                                                  |
|---------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------|
|  <b>Type</b><br>Single Family      |  <b>Year Built</b><br>1991    |  <b>Heating</b><br>Forced air |
|  <b>Cooling</b><br>Central       |  <b>Parking</b><br>2 spaces |  <b>Lot</b><br>6,969 sqft   |
|  <b>Days on Zillow</b><br>6 Days |  <b>Price/sqft</b><br>\$192 |  <b>Saves</b><br>20         |

INTERIOR FEATURES

|                                                                                                                 |                                                                                                                  |
|-----------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------|
| <b>Bedrooms</b><br>Beds: 2                                                                                      | Appliances included: Dryer, Microwave<br>Washer Dryer Location: Separate Laundry R<br>Oven Description: Stove(G) |
| <b>Bathrooms</b><br>Bath Downstairs Description: Full Bath Downstairs                                           | <b>Flooring</b><br>Floor size: 1,653 sqft<br>Flooring: Carpet                                                    |
| <b>Heating and Cooling</b><br>Heating: Forced air<br>Heating: Gas<br>Cooling: Central<br>Cooling Fuel: Electric | <b>Other Interior Features</b><br>Ceiling Fan<br>Room count: 5                                                   |

---

**BUILDING****Other Building Features**Unit Description: 1 Level 1 Floor

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**SPACES AND AMENITIES****Spaces**Pool

---

**CONSTRUCTION****Type and Style**

Roof type: Tile

Structure type: Other

Exterior material: Stucco

Single Family

Double Pane/Storm Windows

Built Description: Resale

Construction Description: Frame &amp; Stucco

Property Type: Residential

**Dates**

Type: Detached

Last remodel year: 1991

Zoning: Single Family

Built in 1991

Building Description: 1 Story

**Other Construction Features****Materials**Stories: 1

---

**EXTERIOR FEATURES****Patio**

Lot: 6,969 sqft

**Porch**

Lot Description: Under 1/4 Acre

**Patio****Other Exterior Features****Water**

Parcel #: 13818611074

**Pool**Landscape Description: Drip Irrigation/Bubbl  
Mature Landscaping, Shrubs, Desert Landsc**View Type**

Fence Type: Wrought Iron

View: Mountain

Fence: Partial

**Lot**

---

**COMMUNITY AND NEIGHBORHOOD****Location**Association Features Available: COMMUNIT  
Age Restricted, Clubhouse, COMMUNITY G  
COMMUNITY Spa, Exercise Room, Recreatic  
Security, Handball/Racquetball Courts, COM  
Facilities, Tennis Courts, Indoor Pool, Indoor

House Faces: West

**Community Features**

---

**PARKING**

Parking: Attached Garage, 2 spaces, 525 sqft garage

Parking Description: Open Parking, Garage/Private

#### UTILITIES

Cable Ready

Wired

Water: Public

Sewer: Public

**Green Energy**

Great solar potential

Sun Number™: 89 ?

#### FINANCE

HOA

HOA Fee: \$107/mo

## Home Value

### Zestimate

\$300,525

**ZESTIMATE RANGE**  
\$285,000 - \$316,000

**LAST 30 DAY CHANGE**  
+\$2,936 (+1.0%)

**ONE YEAR FORECAST**  
\$313,207 (+4.2%)

## Price History

| DATE     | EVENT           | PRICE            | AGENTS |
|----------|-----------------|------------------|--------|
| 12/29/17 | Listed for sale | \$318,000 +20.0% |        |
| 11/21/16 | Sold            | \$265,000        | ,      |
| 11/21/16 | Sold            | \$265,000 -5.0%  | ,      |
| 11/01/16 | Price change    | \$279,000 -3.5%  |        |
| 08/17/16 | Listed for sale | \$289,000 -3.6%  |        |
| 03/06/08 | Listing removed | \$299,900        |        |

| DATE     | EVENT           | PRICE     | AGENTS |
|----------|-----------------|-----------|--------|
| 04/19/07 | Listed for sale | \$299,900 |        |

## Tax History

| YEAR | PROPERTY TAXES | CHANGE | TAX ASSESSMENT | CHANGE |
|------|----------------|--------|----------------|--------|
| 2017 | \$1,817 --     | --     | \$64,148       | +3.0%  |
| 2016 | \$1,817 +0.2%  | +0.2%  | \$62,291       | +5.5%  |
| 2015 | \$1,813 +3.2%  | +3.2%  | \$59,058       | +6.4%  |
| 2014 | \$1,756 --     | --     | \$55,525       | --     |
| 2013 | -- --          | --     | \$55,525       | +13.3% |
| 2012 | -- --          | --     | \$49,025       | -9.3%  |
| 2011 | -- --          | --     | \$54,071       | -7.2%  |
| 2010 | -- --          | --     | \$58,281       | -10.1% |
| 2009 | -- --          | --     | \$64,805       | --     |
| 2008 | -- --          | --     | \$64,805       | -29.6% |
| 2007 | -- --          | --     | \$92,058       | -2.2%  |
| 2006 | -- --          | --     | \$94,142       | +16.7% |
| 2005 | -- --          | --     | \$80,679       | +33.7% |
| 2004 | -- --          | --     | \$60,365       | +4.6%  |
| 2003 | -- --          | --     | \$57,736       | +6.3%  |
| 2002 | -- --          | --     | \$54,300       | +3.4%  |
| 2001 | -- --          | --     | \$52,500       | --     |

## Mortgages

Home price

\$ 318,000

Down payment

\$ 63,600    20    %





**CARY COLT PAYNE, CHTD.**

Attorney at Law

700 S. Eighth Street • Las Vegas, Nevada 89101  
(702) 383-9010 • Fax (702) 383-9049

***EXHIBIT PAGE INTENTIONALLY LEFT BLANK***

**EXHIBIT "C"**

# THE CHRISTIAN FAMILY TRUST

Dated October 11, 2016

Prepared by:



2520 St. Rose Parkway, Suite 319  
Henderson, Nevada 89074

[www.qmdlegal.com](http://www.qmdlegal.com)

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# **Trust Agreement**

## **OF THE**

## **CHRISTIAN FAMILY TRUST**

**THIS DECLARATION OF TRUST AGREEMENT** is made on October 11, 2016, by **RAYMOND T. CHRISTIAN**, also known as **RAYMOND T. CHRISTIAN, SR.**, and **NANCY I. CHRISTIAN**, Husband and Wife (hereinafter referred to as the "Trustors" or "Grantors" when reference is made to them in their capacity as creators of this Trust and the transferors of the principal properties thereof) and **ROSEMARY K. CHRISTIAN-KEACH**, **RAYMOND T. CHRISTIAN, JR.**, and **SUSAN G. CHRISTIAN-PAYNE**, of Clark County, Nevada (hereinafter referred to as the "Trustees," or collectively as the "Trustee," when reference is made to them in their capacity as Trustees or fiduciaries hereunder);

### **Witnesseth:**

**WHEREAS**, the Trustors desire by this Trust Agreement to establish the "CHRISTIAN FAMILY TRUST" for the use and purposes hereinafter set forth, to make provisions for the care and management of certain of their present properties and for the ultimate distribution of the Trust properties;

**NOW, THEREFORE**, all property subject to this Trust Agreement shall constitute the Trust estate and shall be held for the purpose of protecting and preserving it, collecting the income therefrom, and making distributions of the principal and income thereof as hereinafter provided.

Additional property may be added to the Trust estate, at any time and from time to time, by the Trustors or any person or persons, by inter vivos act or testamentary transfer, or by insurance contract or Trust designation.

The property comprising the original Trust estate, during the joint lives of the Trustors, shall retain its character as their community property or separate property, as designated on the document of transfer or conveyance. Property subsequently received by the Trustees during the joint lives of the Trustors shall have the separate or community character designated on the document of transfer or conveyance.

## **ARTICLE 1**

### **NAME AND BENEFICIARIES OF THE TRUST**

**1.1 Name.** The Trusts created in this instrument may be referred to collectively as the "CHRISTIAN FAMILY TRUST" and any separate Trust may be referred to by adding the name of the beneficiary.

**1.2 Beneficiaries.** The Trust estate created hereby shall be for the use and benefit of RAYMOND T. CHRISTIAN and NANCY I. CHRISTIAN, and for the other beneficiaries named herein. The names of the four (4) now living children from the Trustors' marriage are ROSEMARY K. CHRISTIAN-KEACH, RAYMOND T. CHRISTIAN, JR., TOMMY L. CHRISTIAN and SUSAN G. CHRISTIAN-PAYNE. The name of the one (1) now living child of RAYMOND T. CHRISTIAN from a previous marriage is CHRISTOPHER A. CHRISTIAN. The name of the one (1) now living child of NANCY I. CHRISTIAN from a previous marriage is MONTE B. REASON.

## **ARTICLE 2**

### **DISTRIBUTION OF INCOME AND PRINCIPAL**

#### **WHILE BOTH TRUSTORS SHALL LIVE**

**2.1 Distributions While Both Trustors Live.** During the joint lifetimes of RAYMOND T. CHRISTIAN and NANCY I. CHRISTIAN, they shall be entitled to all income and principal of their community property without limitation. With regard to the separate property of either RAYMOND T. CHRISTIAN or NANCY I. CHRISTIAN, either Trustor shall be entitled to all income and principal of his or her own separate property estate without limitation.

**2.2 Use of Residence.** While Trustors both shall live, they may possess and use, without rental or accounting to Trustees, any residence owned by this Trust.

### **ARTICLE 3**

#### **INCAPACITY**

**3.1 Incapacity of Trustors.** If at any time a Trustor has become physically or mentally incapacitated, as certified in writing by a licensed physician, psychologist, or psychiatrist, and whether or not a court of competent jurisdiction has declared such Trustor incompetent, mentally ill, or in need of a guardian or conservator, the other Co-Trustee or the Successor Trustee (hereinafter "Trustee") shall pay to the incapacitated Trustor or apply for his or her benefit or for the benefit of those who are dependent upon him or her, first from the community estate and then from the incapacitated Trustor's separate estate, the amounts of net income and principal necessary, in the Trustee's discretion, for the proper health, support and maintenance of the Trustor and his or her family members who are dependent upon him or her, in accordance with their accustomed manner of living at the date of this instrument, until the incapacitated Trustor, either in the Trustee's discretion or as certified by a licensed physician, psychologist, or psychiatrist, is again able to manage his or her own affairs or until his or her death. This shall include, but not be limited to, distribution of income and principal to retain personal aides, homemakers, bill payers, or other persons who may assist the Trustor in activities of daily living and otherwise enable the Trustor to continue to reside in his or her home for as long as it is feasible to do so, taking into account safety and financial considerations. In exercising such discretion, the Trustee shall consider the duty and ability of anyone else to support the Trustor and his or her family and shall also consider all other funds known to the Trustee to be available from other sources for such purposes.

The Trustors direct that the Trustee maintain the Trustors in the same custom and style to which the Trustors have been accustomed during their lifetimes. It is the Trustors' express desire to remain in their home for the remainder of their lifetimes and not be placed in a nursing home or retirement care facility. The Trustors direct that the Trustee

shall utilize income and principal from this Trust as may be necessary, including amounts necessary for required nursing and other care, so as to maintain the Trustors in their home, unless in the opinion of the incapacitated Trustor's attending physician, together with the opinion of a second independent or consulting physician, residence in a nursing home would be required for such Trustor's physical well being.

All undistributed income shall be accumulated and added to the Trust principal annually. In addition, it is Trustors' desire that, in the event of a Trustor's incapacity or in the event a Trustor is unable to remain in the primary residence, the Trustee hereunder shall continue to maintain the Trustors' primary residence and shall continue to pay for all taxes, insurance, fees, and encumbrances on such residence for as long as it is owned by this Trust.

**3.2 Reliance on Writing.** Anyone dealing with this Trust may rely on the physicians', psychologists' or psychiatrists' or any combination thereof, written statements regarding the Trustor's incapacity, or a photocopy of the statements, presented to them by the Co-Trustee or the Successor Trustee. A third party relying on such written statements shall not incur any liability to any beneficiary for any dealings with the Co-Trustee or the Successor Trustee in reliance upon such written statements. This provision is inserted in this Trust Agreement to encourage third parties to deal with Co-Trustee or Successor Trustee without the need for court proceedings.

#### **ARTICLE 4**

#### **DISTRIBUTION OF INCOME AND PRINCIPAL**

#### **UPON THE DEATH OF A TRUSTOR**

**4.1 Decedent and Survivor Defined.** Reference to the "Decedent" shall refer to either of the Trustors whose death shall first occur and reference to the "Survivor" shall refer to the surviving Trustor.

**4.2 Payment of Debts.** After the death of the Decedent, the Trustee may, in the Trustee's sole discretion, pay from the income and/or principal of the Decedent's

separate property and Decedent's one-half of the community property, which is a part of this Trust estate, the administrative expenses, the expenses of the last illness and funeral of the Decedent and any debt owed by the Decedent.

**4.3 Survivor's Trust.** Any remaining property, both income and principal of this Trust estate shall be retained in the Survivor's Trust for the benefit of the Survivor and the Trustee shall hold, manage, invest and reinvest the Survivor's Trust and shall collect the income therefrom and dispose of the net income and principal as follows:

- (a) During the lifetime of the Survivor, the Trustee, in the Trustee's sole discretion, may pay to the Survivor all of the net income of the Trust estate, as the Trustee may determine necessary, in the Trustee's sole discretion, for the health, education, support and maintenance of the Survivor.
- (b) If, in the opinion of the Trustee, the income from all sources of which Trustee has knowledge shall not be sufficient for the health, education, support and maintenance of the Survivor, the Trustee is authorized to use and may expend such part of the Trust principal as may be necessary to meet such needs.

**4.4 Use of Residence.** Until the Survivor's death, the Trustee shall allow the Survivor to occupy and use any residence used by either or both Trustors as a residence at the time of the Decedent's death. The Trustee shall, at the direction of the Survivor, sell any such residence, and if the Survivor so directs, use the proceeds therefrom to purchase or build another residence for the Survivor. The Survivor shall not be required to pay rent or account for the use of any residence.

## **ARTICLE 5**

### **DISTRIBUTION OF HOUSEHOLD AND PERSONAL EFFECTS AFTER DEATH OF EITHER OR BOTH TRUSTORS**

**5.1 Distribution of Personal Property.** After the death of either Trustor, the Trustee shall distribute all tangible personal property of the deceased Trustor, including but not limited to, furniture, furnishings, rugs, pictures, books, silver-plate, linen, china, glassware, objects of art, wearing apparel, jewelry, and ornaments, in accordance with



any written statement or list that the Trustor leaves disposing of this property. Any such statement or list then in existence shall be determinative with respect to all bequests made therein. Any property not included on said list shall be distributed as follows:

- (a) To the surviving Trustor, if he or she survives the Decedent.
- (b) Upon the death of RAYMOND T. CHRISTIAN, SR., the Trustee shall first distribute the Trustors' Gold Watch, to LEE M. KEACH, the Trustors' son-in-law, if he is then living, outright and free of Trust. If LEE M. KEACH is not then living, this bequest shall lapse.
- (c) The Trustee shall distribute any remaining household and personal effects, which are not distributed by a written statement or list or any lapsed bequest from above, equally to ROSEMARY K. CHRISTIAN-KEACH, RAYMOND T. CHRISTIAN, JR. and SUSAN G. CHRISTIAN-PAYNE, as they shall select.
- (d) The individuals referred to above in Section 5.1(c) may also share any such household and personal effects with TOMMY L. CHRISTIAN, CHRISTOPHER A. CHRISTIAN, or MONTE B. REASON, as they may see fit. Any household and personal effects which they do not select shall be added to the Trust created in Article 6 below.

## **ARTICLE 6**

### **DISTRIBUTION OF INCOME AND PRINCIPAL**

#### **AFTER DEATH OF BOTH TRUSTORS**

**6.1 Specific Bequest.** Upon the death of both Trustors, the Trustee shall first sell the Trustors' primary residence located at 1060 Dancing Vines, Ave., Las Vegas, Nevada, and the proceeds from the sale of such home shall be distributed as follows:

- (a) ROSEMARY K. CHRISTIAN-KEACH, if she is then living, shall receive Twenty Percent (20%) of this Trust share, outright and free of Trust. If ROSEMARY K. CHRISTIAN-KEACH is not then living, this Trust share shall be proportionately added to the Trust shares of the then surviving beneficiaries who are named in this Section 6.1.
- (b) RAYMOND T. CHRISTIAN, JR., if he is then living, shall receive Twenty Percent (20%) of this Trust share, outright and free of Trust.

If RAYMOND T. CHRISTIAN, JR. is not then living, this Trust share shall be proportionately added to the Trust shares of the then surviving beneficiaries who are named in this Section 6.1.

- (c) TOMMY L. CHRISTIAN, if he is then living, shall receive Twenty Percent (20%) of this Trust share, outright and free of Trust. If TOMMY L. CHRISTIAN is not then living, this Trust share shall be proportionately added to the Trust shares of the then surviving beneficiaries who are named in this Section 6.1.
- (d) SUSAN G. CHRISTIAN-PAYNE, if she is then living, shall receive Twenty Percent (20%) of this Trust share, outright and free of Trust. If SUSAN G. CHRISTIAN-PAYNE is not then living, this Trust share shall be proportionately added to the Trust shares of the then surviving beneficiaries who are named in this Section 6.1.
- (e) CHRISTOPHER A. CHRISTIAN, if he is then living, shall receive Ten Percent (10%) of this Trust share, outright and free of Trust. If CHRISTOPHER A. CHRISTIAN is not then living, this Trust share shall be proportionately added to the Trust shares of the then surviving beneficiaries who are named in this Section 6.1.
- (f) MONTE B. REASON, if he is then living, shall receive Ten Percent (10%) of this Trust share, and this Trust share shall be held, in Trust and distributed to him in the sole discretion of SUSAN G. CHRISTIAN-PAYNE for his health, education, maintenance and support. If MONTE B. REASON is not then living, this Trust share shall be proportionately added to the Trust shares of the then surviving beneficiaries who are named in this Section 6.1.
- (g) Notwithstanding anything to the contrary hereinabove, any amounts to be distributed to TOMMY L. CHRISTIAN, CHRISTOPHER A. CHRISTIAN, or MONTE B. REASON in Sections 6.1(c), (e) and (f) above, are to be held, in Trust, for and distributed to them, respectively, for their health, education, maintenance and support, in the sole and unfettered discretion of the Successor Trustees. Moreover, in the event the home referred to in this Section 6.1 was sold prior to the Survivor's death, then an amount equal to the net proceeds from such earlier sale shall be set aside to be held and distributed pursuant to the above terms of this Section 6.1.

**6.2 Distribution of the Remaining Trust Estate.** Any remaining property, both income and principal of this Trust estate, shall be distributed as follows:

- (a) ROSEMARY K. CHRISTIAN-KEACH, if she is then living, shall receive one-third (1/3) of the remaining Trust estate, outright and

free of Trust. If ROSEMARY K. CHRISTIAN-KEACH is not then living, this Trust share shall be distributed equally among the then living spouse and children of ROSEMARY K. CHRISTIAN-KEACH, outright and free of Trust.

- (b) RAYMOND T. CHRISTIAN, JR., if he is then living, shall receive one-third (1/3) of the remaining Trust estate, outright and free of Trust. If RAYMOND T. CHRISTIAN, JR. is not then living, this Trust share shall be distributed to the issue of RAYMOND T. CHRISTIAN, JR., *per stirpes*, to be administered and distributed as set forth in Section 6.2(d) below.
- (c) SUSAN G. CHRISTIAN-PAYNE, if she is then living, shall receive one-third (1/3) of the remaining Trust estate, outright and free of Trust. If SUSAN G. CHRISTIAN-PAYNE is not then living, this Trust share shall be distributed to the issue of SUSAN G. CHRISTIAN-PAYNE, *per stirpes*, to be administered and distributed as set forth in Section 6.2(d) below.
- (d) For each beneficiary hereunder who shall be under the age of Twenty-five (25) years at the time such beneficiary becomes entitled to a share of the Trust estate pursuant to Sections 6.2(a), 6.2(b) and 6.2(c) above, each such beneficiary's Trust share shall not be distributed outright to such beneficiary, but rather, shall be retained in trust, and shall be distributed as follows:
  - (1) If any beneficiary is then over the age of Twenty-five (25) years, his or her share shall be distributed to him or her outright and free of Trust.
  - (2) For each beneficiary who is then under the age of Twenty-five (25) years, his or her Trust share shall be retained in a separate trust and, until the beneficiary attains the age of Twenty-five (25) years, the net income and principal from such beneficiary's Trust share shall be distributed to or for the benefit of the beneficiary as the Trustee deems necessary, in the Trustee's discretion, for the beneficiary's health, education, maintenance and support. Any excess income that is not distributed for these purposes shall be accumulated and added to principal.
  - (3) Upon the beneficiary attaining the age of Twenty-five (25) years, the entire remaining balance of the beneficiary's Trust share shall be distributed to such beneficiary, outright and free of Trust.

- (4) If prior to full distribution a beneficiary becomes deceased, his or her remaining Trust share shall be distributed to the issue of such deceased beneficiary, by right of representation, in accordance with the same terms and conditions as set forth in this Section 6.2(d). In the event a beneficiary becomes deceased and has no then living issue, his or her Trust share shall be distributed equally among the other Trust shares set forth in Sections 6.2(a), 6.2(b) and 6.2(c) above; provided, however, that if any such distributee is under the age of Twenty-five (25) years, the share of such distributee shall, instead of being distributed outright, be retained in Trust, to be distributed according to the terms and conditions as provided for in this Section 6.2(d).
- (e) Notwithstanding anything to the contrary, it is the Trustors' desire that the three (3) Children of the Trustors, and/or the issue of the children of the Trustors, as the case may be, who are referred to above in this Section 6.2, would use a portion of the Trust estate to care for TOMMY L. CHRISTIAN and CHRISTOPHER A. CHRISTIAN, as they see fit and in their sole discretion, without any requirement to do so. This language of this subsection (e) is merely ment as a precatory, non-binding declaration.

**6.3 Generation Skipping Trusts.** If the special generation skipping transfer tax exemption election provided by Section 2652(a)(3) of the Internal Revenue Code (Code) is exercised as to any property held in this Trust or if this Trust is receiving property from any other Trust to which the special election has been made, the Trustees are authorized, at any time in the exercise of absolute discretion, to set apart such property in a separate trust so that its Inclusion ratio, as defined in Section 2642(a) of the Code is or remains zero. If such Trust(s) is (are) created, then any estate or death taxes shall be first charged against and paid out of the principal of the Trust(s) as to which the special election provided by Section 2652(a)(3) is not applicable.

**6.4 Last Resort.** In the event that the principal of the Trust administered under this Article 6 is not disposed of under the foregoing provisions, the remainder, if any, shall be distributed, outright and free of Trust, to the heirs at law of RAYMOND T. CHRISTIAN, their identities and shares to be determined according to the laws of the State of Nevada then in effect relating to the intestate succession of separate property.

## **ARTICLE 7**

### **TRUSTEE'S DISCRETION ON DISTRIBUTION TO**

#### **PRIMARY BENEFICIARIES**

**7.1 Delay of Distribution.** Notwithstanding the distribution provisions of Article 6, the following powers and directions are given to the Trustee:

- (a) If, upon any of the dates described in Article 6, the Trustee for any reason described below determines, in the Trustee's sole discretion, that it would not be in the best interest of the beneficiary that a distribution take place, then in the event the said distribution shall be totally or partially postponed until the reason for the postponement has been eliminated. During the period of postponement, the Trustee shall have the absolute discretion to distribute income or principal to the beneficiary as the Trustee deems advisable for the beneficiary's welfare.
- (b) If said causes for delayed distribution are never removed, then the Trust share of that beneficiary shall continue until the death of the beneficiary and then be distributed as provided in this Trust Instrument. The causes of such delay in the distribution shall be limited to any of the following:
  - (1) The current involvement of the beneficiary in a divorce proceeding or a bankruptcy or other insolvency proceedings.
  - (2) The existence of a large judgment against the beneficiary.
  - (3) Chemical abuse or dependency.
  - (4) The existence of any event that would deprive the beneficiary of complete freedom to expend the distribution from the Trust estate according to his or her own desires.
  - (5) In the event that a beneficiary is not residing in the United State of America at any given time, then the Trustee may decline to transmit to him or her any part or all of the income and shall not be required to transmit to him or her any of the principal if, in the Trustee's sole and uncontrolled judgment, the political and/or economic conditions of such place or residence of the beneficiary are such that it is likely the money would not reach him or her, or upon reaching him or her, would be unduly taxed, seized, confiscated, appropriated, or in any way taken from him or her in such a

manner as to prevent his or her use and enjoyment of the same.

(6) The judicially declared incompetency of the beneficiary.

(c) The Trustee shall not be responsible unless the Trustee has knowledge of the happening of any event set forth above.

(d) To safeguard the rights of the beneficiary, if any distribution from his or her Trust share has been delayed for more than one (1) year, he or she may apply to the District Court in Las Vegas, Nevada, for a judicial determination as to whether the Trustee has reasonably adhered to the standards set forth herein. The Trustee shall not have any liability in the event the Court determines the Trustee made a good faith attempt to reasonably follow the standards set forth above

**7.2 Power to Establish a Special Needs Trust and to Amend or Reform the Trust.** If an individual beneficiary of this Trust has applied for or is receiving government assistance that is based on financial eligibility requirements or if the Trustee reasonably anticipates that a beneficiary may need and qualify for such government assistance in the foreseeable future, the Trustee may in its sole, absolute and uncontrolled discretion withhold the Trust property otherwise distributable to such beneficiary and establish a third-party created and funded discretionary non-support spendthrift special needs trust or, if that is not possible or practicable, establish by court order a first-party (*i.e.* a self-settled) discretionary non-support spendthrift special needs trust (such as a self-settled special needs trust permitted under 42 U.S.C. section 1396p(d)(4)(A) or 42 U.S.C. section 1396p(d)(4)(C)). The Trustee shall then fund the special needs trust with the property that would otherwise be distributed to the beneficiary. In establishing a special needs trust, the Trustee may select a trustee and successor trustees (other than the beneficiary or the beneficiary's spouse), establish accounting requirements and shall include all provisions determined to be reasonable and necessary by the Trustee, after consultation with a qualified attorney.

It is the Trustors' intent that any special needs trust established pursuant to this provisions be drafted and administered so as to provide the maximum benefit to the beneficiary and that the assets of the special needs trust not be available to the beneficiary for determining the beneficiary's income or assets under rules by which any

government agency determines eligibility for need-based services or financial services (such as SSI and Medicaid). To the extent required by law, the special needs trust shall be for the sole benefit of the beneficiary during his or her lifetime. To the extent not prohibited by law, distributions from the special needs trust shall be made in the sole, absolute and uncontrolled discretion of the special needs trustee to or for the benefit of the beneficiary. In making such distributions, the special needs trustee shall consider the effect such distributions may have on the beneficiary's said government assistance benefits. The special needs trust (or joinder agreement as concerns a special needs trust established pursuant to 42 U.S.C. section 1396p(d)(4)(C)) shall provide (to the extent possible) that upon the beneficiary's death and after all proper reimbursements and payment of expenses have been made (to the extent such reimbursements and payments are required by law), the special needs trustee shall distribute the remaining trust property, if any, in the manner provided for herein as if the special needs beneficiary had predeceased the Trustors. The Trustee shall neither possess nor exercise its authority hereunder in a manner that would impair or prevent a beneficiary's unexercised right of withdrawal that has not yet lapsed or prevent an existing bequest from qualifying for the marital or charitable deduction, or would impair the status or qualification of a trust that holds shares of stock in a Subchapter S corporation, or would prevent a trust from qualifying as a look through trust with a designated beneficiary (or beneficiaries).

After the death of the Trustors, the Trustee may obtain an order from a court of competent jurisdiction to amend or reform any trust (or any trust created or to be created) under this Agreement to the minimum extent necessary to comply with the Trustors' intent and to comply with applicable federal and state laws or regulations, including those pertaining to special needs trusts. The Trustee's authority hereunder is to be exercised only in a fiduciary capacity and may not be used to enlarge or shift any beneficial interest, except as an incidental consequence of the discharge of fiduciary duties, and in no event shall any amendment or reformation increase the class of beneficiaries. No Trustee (or court) shall have the power to amend or reform this Agreement in a manner that would thwart the Trustors' intent, impair or prevent a beneficiary's unexercised right of withdrawal that has not yet lapsed, or prevent an

existing bequest from qualifying for the marital or charitable deduction or would impair the status or qualification of a trust that holds shares of stock in a Subchapter S corporation or would prevent a trust from qualifying as a look through trust with a designated beneficiary (or beneficiaries). In no event shall this power of amendment or reformation be construed or exercised in a manner so as to bestow upon the Trustee a general power of appointment (as that term is defined under the Internal Revenue Code).

## **ARTICLE 8**

### **PROVISIONS RELATING TO TRUSTEESHIP**

**8.1 Successor Trustee.** In the event of the death or incapacity of any current Trustee, the remaining Trustees shall act as Co-Trustees or sole Trustee, as the case may be. In determining the incapacity of any Trustee serving hereunder, the guidelines set forth in Section 3.1 may be followed.

If no Successor Trustee is designated to act in the event of the death, incapacity or resignation of the Trustee then acting, or no Successor Trustee accepts the office, the Trustee then acting may appoint a Successor Trustee. If no such appointment is made, the majority of the adult beneficiaries entitled to distribution from this trust may appoint a Successor Trustee.

**8.2 Liability of Successor Trustee.** No Successor Trustee shall be liable for the acts, omissions, or default of a prior Trustee. Unless requested in writing within sixty (60) days of appointment by an adult beneficiary of the Trust, no Successor Trustee shall have any duty to audit or investigate the accounts or administration of any such Trustee, and may accept the accounting records of the predecessor Trustee showing assets on hand without further investigation and without incurring any liability to any person claiming or having an interest in the Trust.



**8.3 Acceptance by Trustee.** A Trustee shall become Trustee or Co-Trustee jointly with any remaining or surviving Co-Trustees, and assume the duties thereof, immediately upon delivery of written acceptance to Trustors, during their lifetimes and thereafter to any Trustee hereunder, or to any beneficiary hereunder, if for any reason there shall be no Trustee then serving, without the necessity of any other act, conveyance or transfer.

**8.4 Delegation by Trustee.** Any individual Co-Trustee shall have the right at any time, by an instrument in writing delivered to the other Co-Trustee, to delegate to such other Co-Trustee any and all of the Trustee's powers and discretion.

**8.5 Resignation of Trustee.** Any Trustee at any time serving hereunder may resign as Trustee by delivering to Trustors, during their lifetimes and thereafter to any Trustee hereunder, or to any beneficiary hereunder if for any reason there shall be no Trustee then serving hereunder, an instrument in writing signed by the resigning Trustee.

**8.6 Corporate Trustee.** During the Trust periods, if any, that a corporate Trustee acts as Co-Trustee with an individual, the corporate Trustee shall have the unrestricted right to the custody of all securities, funds, and other property of the Trusts and it shall make all payments and distributions provided hereunder.

**8.7 Majority.** Subject to any limitations stated elsewhere in this Trust Agreement, all decisions affecting any of the Trust estate shall be made in the following manner: While three or more Trustees, whether corporate or individual, are in office, the determination of a majority shall be binding. If only two individual Trustees are in office, they must act unanimously.

**8.8 Bond.** No bond shall ever be required of any Trustee hereunder.

**8.9 Expenses and Fees.** The Successor Trustee shall be reimbursed for all actual expenses incurred in the administration of any Trust created herein. The Successor Trustee shall be entitled to reasonable compensation for service rendered to the Trust. In no event, however, shall the fees exceed those fees that would have been

charged by state or federal banks in the jurisdiction in which the Trust is being governed.

## **ARTICLE 9**

### **PROVISIONS RELATING TO TRUSTORS' POWERS**

**9.1 Power to Amend.** During the joint lifetime of Trustors, this Trust Agreement may be amended in whole or in part by an instrument in writing, signed by both Trustors, and delivered to the Trustee. In the event that either Trustor should become deceased or incapacitated, as defined herein, the Trust may not be amended. Upon the death of both Trustors, this Trust Agreement shall not be amended.

**9.2 Power to Revoke.** During the joint lifetime of Trustors, the Trustors may revoke, in whole or in part, this Trust Agreement by an instrument in writing, signed by both Trustors, and delivered to the Trustee. In the event that either Trustor should become incapacitated or deceased, the Trust may not be revoked by the surviving Trustor. Upon the death of both Trustors, this Trust Agreement shall not be revoked.

**9.3 Power to Change Trustee.** During the joint lifetime of the Trustors, Trustors may change the Trustee or Successor Trustee of this Trust by an instrument in writing, signed by both Trustors, and delivered to the Trustee. In the event that either Trustor should become incapacitated, the other Trustor shall retain the power to change the Trustee or Successor Trustee of this Trust by an instrument in writing, signed by such Trustor and delivered to the Trustee. After the death of the first Trustor to die, the surviving Trustor shall have the power to change the Trustee or Successor Trustee of the Trust by an instrument in writing signed by the surviving Trustor and delivered to the Trustee.

**9.4 Additions to Trust.** Any additional property acceptable to the Trustee may be transferred to this Trust. The property shall be subject to the terms of this Trust.

**9.5 Special Gifts.** If either Trustor becomes legally incompetent, or if in the Trustee's judgment reasonable doubt exists regarding capacity, the Trustee is

authorized in such Trustee's sole discretion to continue any gift program which such Trustor had previously commenced, to make use of the federal gift tax annual exclusion, including consenting to gifts by the other Trustor. Such gifts may be made outright or in Trust.

## **ARTICLE 10**

### **PROVISIONS RELATING TO TRUSTEES' POWERS**

**10.1 Management of Trust Property.** With respect to the Trust property, except as otherwise specifically provided in this Trust, the Trustee shall have all powers now or hereafter conferred upon trustees by applicable state law, and also those powers appropriate to the orderly and effective administration of the Trust. Any expenditure involved in the exercise of the Trustees' powers shall be borne by the Trust estate. Such powers shall include, but not be limited to, the following powers with respect to the assets in the Trust estate:

- (a) With respect to real property: to sell and to buy real property; to mortgage and/or convey by deed of trust or otherwise encumber any real property now or hereafter owned by this Trust (including, but not limited to any real property, the Trustee may hereafter acquire or receive and the Trustor's personal residence) to lease, sublease, release; to eject, remove and relieve tenants or other persons from, and recover possession of by all lawful means; to accept real property as a gift or as security for a loan; to collect, sue for, receive and receipt for rents and profits and to conserve, invest or utilize any and all of such rents, profits and receipts for management and conservation, to pay, compromise, or to contest tax assessments and to apply for refunds in connection therewith; to employ laborers; to subdivide, develop, dedicate to public use without consideration, and/or dedicate easements over; to maintain, protect, repair, preserve, insure, build upon, demolish, alter or improve all or any part thereof; to obtain or vacate plats and adjust boundaries; to adjust differences in valuation on exchange or partition by giving or receiving consideration; to release or partially release real property from a lien.
- (b) To register any securities or other property held hereunder in the names of Trustees or in the name of a nominee, with or without the addition of words indicating that such securities or other property are held in a fiduciary capacity, and to hold in bearer form any

securities or other property held hereunder so that title thereto will pass by delivery, but the books and records of Trustees shall show that all such investments are part of their respective funds.

- (c) To hold, manage, invest and account for the separate trusts in one or more consolidated funds, in whole or in part, as they may determine. As to each consolidated fund, the division into the various shares comprising such fund need be made only upon Trustees' books of account.
- (d) To lease Trust property for terms within or beyond the term of the Trust and for any purpose, including exploration for and removal of gas, oil, and other minerals; and to enter into community oil leases, pooling and unitization agreements.
- (e) To borrow money, mortgage, pledge or lease trust assets for whatever period of time Trustee shall determine, even beyond the expected term of the respective Trust.
- (f) To hold and retain any property, real or personal, in the form in which the same may be at the time of the receipt thereof, as long as in the exercise of their discretion it may be advisable so to do, notwithstanding same may not be of a character authorized by law for investment of trust funds.
- (g) To invest and reinvest in their absolute discretion, and they shall not be restricted in their choice of investments to such investments as are permissible for fiduciaries under any present or future applicable law, notwithstanding that the same may constitute an interest in a partnership.
- (h) To advance funds to any of the Trusts for any Trust purpose. The interest rate imposed for such advances shall not exceed the current rates.
- (i) To institute, compromise, and defend any actions and proceedings.
- (j) To vote, in person or by proxy, at corporate meetings any shares of stock in any Trust created herein, and to participate in or consent to any voting Trust, reorganization, dissolution, liquidation, merger, or other action affecting any such shares of stock or any corporation which has issued such shares of stock.
- (k) To partition, allot, and distribute, in undivided interest or in kind, or partly in money and partly in kind, and to sell such property as the Trustees may deem necessary to make division or partial or final distribution of any of the Trusts.

- (l) To determine what is principal or income of the Trusts and apportion and allocate receipts and expenses as between these accounts.
- (m) To make payments hereunder directly to any beneficiary under disability, to the guardian of his or her person or estate, to any other person deemed suitable by the Trustees, or by direct payment of such beneficiary's expenses.
- (n) To employ agents, attorneys, brokers, and other employees, individual or corporate, and to pay them reasonable compensation, which shall be deemed part of the expenses of the Trusts and powers hereunder.
- (o) To accept additions of property to the Trusts, whether made by the Trustors, a member of the Trustors' family, by any beneficiaries hereunder, or by any one interested in such beneficiaries.
- (p) To hold on deposit or to deposit any funds of any Trust created herein, whether part of the original Trust fund or received thereafter, in one or more savings and loan associations, bank or other financing institution and in such form of account, whether or not interest bearing, as Trustees may determine, without regard to the amount of any such deposit or to whether or not it would otherwise by a suitable investment for funds of a trust.
- (q) To open and maintain safety deposit boxes in the name of this Trust.
- (r) To make distributions to any Trust or beneficiary hereunder in cash or in specific property, real or personal, or an undivided interest therein, or partly in cash and partly in such property, and to do so without regard to the income tax basis of specific property so distributed. The Trustors request but do not direct, that the Trustees make distributions in a manner which will result in maximizing the aggregate increase in income tax basis of assets of the estate on account of federal and state estate, inheritance and succession taxes attributable to appreciation of such assets.
- (s) The powers enumerated in NRS 163.265 to NRS 163.410, inclusive, are hereby incorporated herein to the extent they do not conflict with any other provisions of this instrument.

- (t) The enumeration of certain powers of the Trustees shall not limit their general powers, subject always to the discharge of their fiduciary obligations, and being vested with and having all the rights, powers and privileges which an absolute owner of the same property would have.
- (u) The Trustees shall have the power to invest Trust assets in securities of every kind, including debt and equity securities, to buy and sell securities, to write covered securities options on recognized options exchanges, to buy-back covered securities options listed on such exchanges, buy and sell listed securities options, individually and in combination employing recognized investment techniques such as, but not limited to, spreads, straddles, and other documents, including margin and option agreements which may be required by securities brokerage firms in connection with the opening of accounts in which such option transactions will be effected.
- (v) The power to guaranty loans made for the benefit of, in whole or in part, any Trustor or Beneficiary or any entity in which any Trustor or Beneficiary has a direct or indirect interest.
- (w) In regard to the operation of any closely held business of the Trust, the Trustees shall have the following powers:
  - (1) The power to retain and continue the business engaged in by the Trust or to recapitalize, liquidate or sell the same.
  - (2) The power to direct, control, supervise, manage, or participate in the operation of the business and to determine the manner and degree of the fiduciary's active participation in the management of the business and to that end to delegate all or any part of the power to supervise, manage or operate the business to such person or persons as the fiduciary may select, including any individual who may be a beneficiary or Trustee hereunder.
  - (3) The power to engage, compensate and discharge, or as a stockholder owning the stock of the Corporation, to vote for the engagement, compensation and discharge of such managers, employees, agents, attorneys, accountants, consultants or other representatives, including anyone who may be a beneficiary or Trustee hereunder.

- (4) The power to become or continue to be an officer, director or employee of a Corporation and to be paid reasonable compensation from such Corporation as such officer, director and employee, in addition to any compensation otherwise allowed by law.
- (5) The power to invest or employ in such business such other assets of the Trust estate.

**10.2 Power to Appoint Agent.** The Trustee is authorized to employ attorneys, accountants, investment managers, specialists, and such other agents as the Trustee shall deem necessary or desirable. The Trustee shall have the authority to appoint an investment manager or managers to manage all or any part of the assets of the Trust, and to delegate to said investment manager the discretionary power to acquire and dispose of assets of the Trust. The Trustee may charge the compensation of such attorneys, accountants, investment managers, specialists, and other agents against the Trust, including any other related expenses.

**10.3 Broad Power of Distribution.** After the death of both Trustors, upon any division or partial or final distribution of the Trust estate, the Successor Trustee shall have the power to partition, allot and distribute the Trust estate in undivided interest or in kind, or partly in money and partly in kind, at valuations determined by the Trustee, and to sell such property as the Trustee, in the Trustee's discretion, considers necessary to make such division or distribution. In making any division or partial or final distribution of the Trust estate, the Trustee shall be under no obligation to make pro rata division or to distribute the same assets to beneficiaries similarly situated. Rather, the Trustee may, in the Trustee's discretion, make non pro rata divisions between Trusts or shares and non pro rata distributions to beneficiaries as long as the respective assets allocated to separate trusts or shares or the distributions to beneficiaries have equivalent or proportionate fair market value. The income tax basis of assets allocated or distributed non pro rata need not be equivalent and may vary to a greater or lesser amount, as determined by the Trustee, in his or her discretion, and no adjustment need be made to compensate for any difference in basis.

**10.4 Power to Hold Title in the Name of One Trustee Only.** With regard to the separate property of one Trustor, that Trustor may, at his or her option, be the sole Trustee with regard to title to that property. Upon the death or incapacity of the Trustee in whose name title to that property is held, the Successor Trustee shall assume management of the property.

**10.5 Apply for Government Assistance.** The Trustee shall have the power to deal with governmental agencies. To make applications for, receive and administer any of the following benefits, if applicable: Social Security, Medicare, Medicaid, Supplemental Security Income, In-Home Support Services, and any other government resources and community support services available to the elderly.

**10.6 Catastrophic Health Care Planning.** The Trustee shall have the power to explore and implement planning strategies and options and to plan and accomplish asset preservation in the event a Trustor needs long-term health care and nursing care. Such planning shall include, but is not necessarily limited to, the power and authority to: (1) make home improvements and additions to the Trustors' family residence; (2) pay off, partly or in full, the encumbrance, if any, on the Trustors' family residence; (3) purchase a family residence, if the Trustors do not own one; (4) purchase a more expensive family residence; (5) transfer the family residence to the Trustor-spouse who does not need long-term medical, health, or nursing care; (6) divide community property assets equally between the Trustors; or (7) make gifts of assets for estate planning purposes to the beneficiaries and in the proportions set forth in Article 6.

**10.7 Power of Co-Trustee to Act Alone.** As long as Trustors are also Co-Trustees, either one of the Co-Trustees may act alone with reference to any powers of the Trustee just as if he or she was the sole Trustee. Any person dealing with one of the Trustees shall not have the right to insist on the other Co-Trustee joining in on any transaction.



## **ARTICLE 11**

### **PROTECTION OF AND ACCOUNTING BY TRUSTEES**

**11.1 Protection.** Trustees shall not be liable for any loss or injury to the property at any time held by them hereunder, except only such as may result from their fraud, willful misconduct, or gross negligence. Every election, determination, or other exercise by Trustees of any discretion vested, either expressly or by implication, in them, pursuant to this Trust Agreement, whether made upon a question actually raised or implied in their acts and proceedings, shall be conclusive and binding upon all parties in interest.

**11.2 Accounting.** Upon the written request delivered or mailed to the Trustees by an income beneficiary hereunder, the Trustees shall render a written statement of the financial status of the Trust. Such statement shall include the receipts and disbursements of the Trust for the period requested or for the period transpired since the last statement and the principal of the Trust at the end of such period. Statements need not be rendered more frequently than annually.

## **ARTICLE 12**

### **EXONERATION OF PERSONS DEALING WITH THE TRUSTEES**

No person dealing with the Trustees shall be obliged to see to the application of any property paid or delivered to them or to inquire into the expediency or propriety of any transaction or the authority of the Trustees to enter into and consummate the same upon such terms as they may deem advisable.

## **ARTICLE 13**

### **HIPAA RELEASE**

If any person's authority under the instrument is dependent upon any determination that a Trustor is unable to properly manage his or her affairs or a determination of his or her incapacity, then any physician, health-care professional, dentist, health plan, hospital, clinic, laboratory, pharmacy or other covered health-care

provider, any insurance company, and any health-care clearinghouse that has provided treatment or services to such Trustor or is otherwise requested by a Trustor's nominated Successor Trustee to determine his or her incapacity, and any other person or entity in possession of any of the Trustor's "protected health information," as contemplated by the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), 42 USC 1320d and 45 CFR 160-164, is hereby authorized and directed to disclose the Trustor's protected health information to the nominated Successor Trustee to the extent necessary, and only to the extent necessary, in order for the nominated Successor Trustee to determine whether an event of incapacity has occurred pursuant to Article 3 hereinabove. This release of authority applies even if that person has not yet been appointed as Successor Trustee. Any limitation on protected health information to be disclosed hereunder shall have no effect upon any rights to such information any other party may have under any other instrument granting access to such information.

#### **ARTICLE 14**

##### **GENERAL PROVISIONS**

**14.1 Controlling Law.** This Trust Agreement is executed under the laws of the State of Nevada and shall in all respects be administered by the laws of the State of Nevada; provided, however, the Trustees shall have the discretion, exercisable at any later time and from time to time, to administer any trust created hereunder pursuant to the laws of any jurisdiction in which the Trustees, or any of them, may be domiciled, by executing a written instrument acknowledged before a notary public to that effect, and delivered to the then income beneficiaries. If the Trustees exercise the discretion, as above provided, this Trust Agreement shall be administered from that time forth by the laws of the other state or jurisdiction.

**14.2 Spendthrift Provision.** No interest in the principal or income of any trust created under this Trust Instrument shall be anticipated, assigned, encumbered or subjected to creditors' claims or legal process before actual receipt by a beneficiary. This provision shall not apply to a Trustor's interest in the Trust estate. The income and principal of this Trust shall be paid over to the beneficiary at the time and in the manner

provided by the terms of this Trust, and not upon any written or oral order, nor upon any assignment or transfer by the beneficiary, nor by operation of law.

**14.3 Perpetuities Savings Clause.** Notwithstanding anything to the contrary contained in this Trust agreement, the Trusts created herein, unless earlier terminated according to the terms of this Trust agreement, shall all terminate one (1) day less than three hundred and sixty-five (365) years after the execution date of this Trust. Upon such termination each Trust shall forthwith be distributed to the Beneficiaries of such Trust; provided however, that if no Beneficiary is then living, such property shall be distributed to those persons so designated in said Trust, as therein provided. Notwithstanding the foregoing, in the event any Trust created hereunder should be controlled and governed by the laws of any state which state has modified or repealed the common law Rule Against Perpetuities, then such modified Rule Against Perpetuities shall apply to such Trust, and if the Rule Against Perpetuities shall have been repealed by the law of the governing state, then termination of any Trusts hereunder pursuant to the common law Rule Against Perpetuities shall not apply to any Trust which is, as a result, not subject to any such Rule Against Perpetuities, and all other references throughout this Trust Agreement to termination of any Trust hereunder pursuant to any applicable Rule Against Perpetuities shall not be applicable to such Trust or Trusts.

**14.4 No-Contest Provision.** The Trustors specifically desire that this Trust Agreement and these Trusts created herein be administered and distributed without litigation or dispute of any kind. If any beneficiary of these trusts or any other person, whether stranger, relative, or heir, or any legatee or devisee under the Last Will and Testament of either of the Trustors or the successors-in-interest of any such persons, including the Trustors' estates under the intestate laws of the State of Nevada or any other state lawfully or indirectly, singly or in conjunction with another person, seek or establish to assert any claim or claims to the assets of these Trusts established herein, or attach, oppose or seek to set aside the administration and distribution of the Trusts, or to invalidate, impair or set aside its provisions, or to have the same or any part thereof declared null and void or diminished, or to defeat or change any part of the

provisions of the Trusts established herein, then in any and all of the above-mentioned cases and events, such person or persons shall receive One Dollar (\$1.00), and no more, in lieu or any interest in the assets of the trusts or interest in income or principal.

**14.5 Provision for Others.** The Trustors have, except as otherwise expressly provided in this Trust Agreement, intentionally and with full knowledge declined to provide for any and all of their heirs or other persons who may claim an interest in their respective estates or in these Trusts.

**14.6 Severability.** In the event any clause, provision or provisions of this Trust Agreement prove to be or be adjudged invalid or void for any reason, then such invalid or void clause, provision or provisions shall not affect the whole of this instrument, but the balance of the provisions hereof shall remain operative and shall be carried into effect insofar as legally possible.

**14.7 Distribution of Small Trust.** If the Trustee, in the Trustee's absolute discretion, determines that the amount held in Trust is not large enough to be administered in Trust on an economical basis, then the Trustee may distribute the Trust assets free of Trust to those persons then entitled to receive the same

**14.8 Headings.** The various clause headings used herein are for convenience of reference only and constitute no part of this Trust Agreement.

**14.9 More Than One Original.** This Trust Agreement may be executed in any number of copies and each shall constitute an original of one and the same instrument.

**14.10 Interpretation.** Whenever it shall be necessary to interpret this Trust, the masculine, feminine and neuter personal pronouns shall be construed interchangeably, and the singular shall include the plural and the singular.

**14.11 Definitions.** The following words are defined as follows:

- (a) **"Principal" and "Income".** Except as otherwise specifically provided in this Trust Agreement, the determination of all matters with respect to what is principal and income of the Trust estate and the apportionment and allocation of receipts and expenses thereon

shall be governed by the provisions of Nevada's Revised Uniform Principal and Income Act, as it may be amended from time to time and so long as such Act does not conflict with any provision of this instrument. Notwithstanding such Act, no allowance for depreciation shall be charged against income or net income payable to any beneficiary.

- (b) **"Education"**. Whenever provision is made in this Trust Indenture for payment for the "education" of a beneficiary, the term "education" shall be construed to include technical or trade schooling, college or postgraduate study, so long as pursued to advantage by the beneficiary at an institution of the beneficiary's choice and in determining payments to be made for such college or post-graduate education, the Trustees shall take into consideration the beneficiary's related living and traveling expenses to the extent that they are reasonable.
- (c) **"Child, Children, Descendants or Issue"**. As used in this instrument, the term "descendants" or "issue" of a person means all of that person's lineal descendants of all generations. The terms "child, children, descendants or issue" include adopted persons, but do not include a step-child or step-grandchild, unless that person is entitled to inherit as a legally adopted person.
- (d) **"Tangible Personal Property"**. As used in this instrument, the term "tangible personal property" shall not include money, evidences of indebtedness, documents of title, securities and property used in a trade or business.

EXECUTED in Clark County, Nevada, on October 11, 2016.

TRUSTORS:

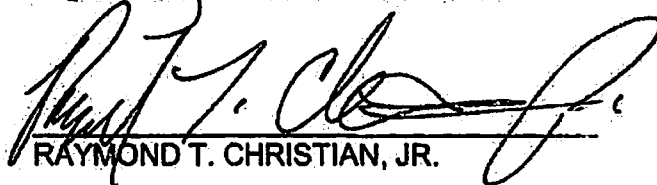
  
RAYMOND T. CHRISTIAN

  
NANCY I. CHRISTIAN

**ACCEPTANCE BY TRUSTEES**

We certify that we have read the foregoing Declaration of Trust and understand the terms and conditions upon which the Trust estate is to be held, managed, and disposed of by us as Trustees. We accept the Declaration of Trust in all particulars and acknowledge receipt of the Trust property.

  
ROSEMARY K. CHRISTIAN-KEACH

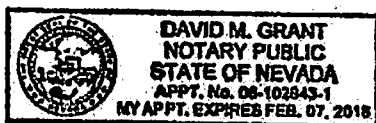
  
RAYMOND T. CHRISTIAN, JR.

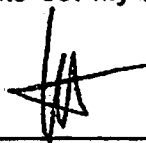
  
SUSAN G. CHRISTIAN-PAYNE

STATE OF NEVADA        )  
                                  ) ss.  
COUNTY OF CLARK     )

On October 11, 2016, before me, the undersigned, a Notary Public in and for said County of Clark, State of Nevada, personally appeared RAYMOND T. CHRISTIAN and NANCY I. CHRISTIAN, personally known to me (or proved to me on the basis of satisfactory evidence) to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same in their authorized capacity, and that by their signatures on the instrument, the persons or the entity upon behalf of which the persons acted, executed the instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the day and year in this document first above written.

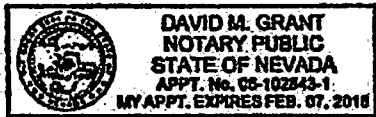


  
\_\_\_\_\_  
NOTARY PUBLIC

STATE OF NEVADA       )  
                                  )ss.  
COUNTY OF CLARK       )

On October 11, 2016, before me, the undersigned, a Notary Public in and for said County of Clark, State of Nevada, personally appeared ROSEMARY K. CHRISTIAN-KEACH, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her authorized capacity, and that by her signature on the instrument, the person, or the entity upon behalf of which the person acted, executed the instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the day and year in this certificate first above written.



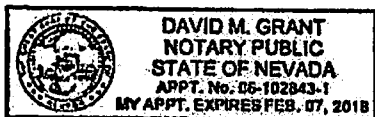
A handwritten signature in black ink, appearing to be "DMG", written over a horizontal line.

NOTARY PUBLIC

STATE OF NEVADA       )  
                                  )ss.  
COUNTY OF CLARK       )

On October 11, 2016, before me, the undersigned, a Notary Public in and for said County of Clark, State of Nevada, personally appeared RAYMOND T. CHRISTIAN, JR., personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument, the person, or the entity upon behalf of which the person acted, executed the instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the day and year in this certificate first above written.



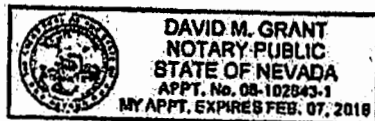
A handwritten signature in black ink, appearing to be "DMG", written over a horizontal line.

NOTARY PUBLIC

STATE OF NEVADA     )  
                                  )ss.  
COUNTY OF CLARK     )

On October 11, 2016, before me, the undersigned, a Notary Public in and for said County of Clark, State of Nevada, personally appeared SUSAN G. CHRISTIAN-PAYNE, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her authorized capacity, and that by her signature on the instrument, the person, or the entity upon behalf of which the person acted, executed the instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the day and year in this certificate first above written.



A stylized handwritten signature in black ink, consisting of a large 'D' and 'G' intertwined.

\_\_\_\_\_  
NOTARY PUBLIC