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CLERK OF COURT

5 EIGHTH JUDICIAL DISTRICT COURT

6 FAMILY DIVISION

7 CLARK COUNTY, NEVADA

9 IN THE MATTER OF THE)
TRUST OF:)

CASE NO. P-17-092512-T

10 THE CHRISTIAN FAMILY)
11 TRUST, U.A.D. 10/11/16)

DEPT. PROBATE

12
13 BEFORE THE HONORABLE VINCENT OCHOA
DISTRICT COURT JUDGE

14 TRANSCRIPT RE: STATUS CHECK

15 THURSDAY, OCTOBER 19, 2017

1 APPEARANCES:

2 The Petitioners: SUSAN CHRISTIAN PAYNE
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5 For the Objector: JOSEPH POWELL, ESQ.
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8 For the Other: TIFFANY BARNEY, ESQ.
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1 LAS VEGAS, NEVADA

THURSDAY, OCTOBER 19, 2017

2 P R O C E E D I N G S

3 (THE PROCEEDINGS BEGAN AT 02:05:17)

4

5 THE MARSHAL: Your Honor, Page Number 16. All
6 parties are present.

7 THE COURT: Okay. Let's start over here to my left
8 with introductions and names and bar numbers and who you
9 represent.

10 MR. PAYNE: Good morning, Your Honor. Cary Colt
11 Payne on behalf of Suzanne Payne who is also present.

12 THE COURT: Okay.

13 MS. BARNEY: Tiffany Barney, bar number 9754, on
14 behalf of Nancy Christian who is not present.

15 MR. HOLYOAK: Zach --

16 THE COURT: Okay.

17 MR. HOLYOAK: Zach Holyoak, bar number 14217, also
18 here for Nancy Christian.

19 MR. POWELL: Good afternoon, Your Honor. Joey
20 Powell, bar number 8875, appearing on behalf of Monte Reason
21 who is also not present.

22 THE COURT: Okay. So I -- it started out with a
23 motion to assume jurisdiction. And I think either Mother or
24 the son is alleging there's money missing from the trust now

1 as well?

2 MS. BARNEY: Correct. So we're here primarily on
3 our motion to dismiss. And so obviously, you know, we're here
4 to -- to argue the legal ramifications or -- or the -- you
5 know, the law as it pertains to the petition that was filed.

6 THE COURT: Okay.

7 MS. BARNEY: And it -- we expressly reserve the
8 right to -- you -- you know, if the Court is not inclined to
9 dismiss the petition, then we reserve the right to be able to
10 respond to that petition within 10 days as -- as NRCP 12A
11 allows us. So, I mean, if -- if you want us to -- I know that
12 Joe -- Joey Powell can respond as to the -- the money that was
13 taken as well as we also could respond to that, but, you know,
14 I'm -- I'm here to argue our motion to dismiss to let you know
15 why the petition should be dismissed.

16 THE COURT: Okay. Go ahead and -- how are you going
17 to resolve the missing money if -- in a different court?

18 MS. BARNEY: Right. So we have a petition that's
19 ready to be filed with the correct trustee over the trust.
20 So, I mean, -- so basically if -- if the Court would like me
21 to argue the motion to dismiss. I mean, the motion -- the
22 petition should be dis -- dismissed based upon two factors.
23 And the one is very important. It's the standing issue. And
24 basically, the -- the parties simply don't have standing to

1 bring their petition. Their private trustees would have had
2 standing if they were interested persons under NRS 132.185 or
3 overcame their requirements of -- of Rudy -- or Li -- Lithicum
4 v. Rudy (ph) and -- or in other words, if the -- if the -- the
5 Petitioners had been trustees or they were beneficiaries that
6 were titled to current dist -- distributions under the trust,
7 then they might have had standing to bring this petition.

8 But as we -- as we stand here today, they are no
9 longer trustees of the trust. On June 12th, 2017, Nancy
10 replaced them as trustees and --

11 THE COURT: What was --

12 MS. BARNEY: -- they were --

13 THE COURT: -- the date again?

14 MS. BARNEY: I'm sorry, what?

15 THE COURT: The date --

16 MR. HOLYOAK: Date.

17 THE COURT: -- when --

18 MS. BARNEY: Oh.

19 THE COURT: -- they were replaced?

20 MS. BARNEY: June 12th, 2017. We provided notice to
21 -- to Mr. Cary Payne who was actually representing them at
22 that time that there had been a change in trustee. We
23 provided the -- the requisite document. It was a modification
24 and designation of successor trustee. And we also -- the --

1 the new trustee retained Counsel who is Joseph Powell. They
2 -- excuse me. They drafted a certificate of incumbency. They
3 also provided that -- that to Mr. Payne. And that was done at
4 the end of June, approximately June 27th, I believe. And
5 after that time, yes, the trust funds were taken from the
6 trust account.

7 And what -- even so, they're -- they're no longer
8 trustees of the trust. They filed their petition sometime I
9 believe in August, it must have been, so -- I mean, after they
10 were removed. So they don't have standing as trustees of the
11 trust.

12 They also are at most contingent beneficiaries under
13 the trust under Lithicum v. Rudy. Basically, they do not have
14 a right at this point under the terms of the trust until that
15 contingency is met and that contingency is the death of my
16 client. Well, my client is not dead. So they don't have a
17 right to -- to basically come here and request that -- that
18 the Court do something when they are not current beneficiaries
19 entitled to current distributions under the trust.

20 So under jurisdictions, I've found that we're --
21 when a party lacks standing, they don't have a right to
22 relief. And so here they don't have a light -- right to seek
23 relief from this Court. If this Court somehow finds that they
24 do have standing, then the Court should dismiss the petition

1 based upon 12(b)(6). Basically, they have not stated a claim
2 for relief for which this Court can -- can provide them with
3 relief. If you look at their petition, basically -- and -- and
4 also besides 12(b)(6), under EDCR 2.20(i), this Court does not
5 to consider a -- a memorandum of -- of points and authorities
6 that barely -- that basically have a bare recitation or
7 citation to fact -- to like statutes, case law, or -- or
8 rules. And that is exactly what has happened in this
9 petition.

10 For example, they cite NRS 13 -- 155.031 where a
11 trustee or beneficiary may petition the Court concerning
12 certain affairs of the trust, but they -- they provide
13 absolutely no explanation why they're doing it. The same --
14 the same thing is they cite NRS 163.115 or that a trustee or
15 beneficiary may bring an action against a trustee for breach
16 of trust, but don't provide any explanation. And in fact,
17 they're saying that they're trustees of the trust. So are
18 they bringing a breach of trust action against themselves?

19 I mean, it -- it's just so unclear. All they do is
20 cite statutes and don't provide any explanation. And then
21 they don't have any claims in their petition. They don't have
22 any -- they don't lay out the elements of the claims, so they
23 -- they basically don't have claims in their petition. And as
24 -- and -- and this Court should also be aware in their prayer

1 for relief, they -- they want this Court to do things that are
2 contrary to the terms of the trust. Now they don't -- they
3 don't plead it in their -- in their petition, but they request
4 the Court to order -- or to split the -- the trust into the
5 decedent's and the survivor's trust and the trust does not --
6 it's -- it's contrary to the terms of the trust. The trust
7 does not provide for that. They also request that they --
8 they -- the -- the Court order the distribution of the
9 proceeds of the -- of trust owned property, but that's also
10 contrary to the terms of the trust.

11 And then they request a protective order from the
12 distribution of assets to my client when that is expressly
13 allowed in the trust. The trust is for the support, health,
14 and maintenance of my client. And the trustees at this point
15 are not giving it time to her. And -- sorry, the -- the
16 former trustees. I want to clarify that. So basically not
17 only does the petition not have any claims for relief, the --
18 the most important issue is the former trustees do not have
19 standing to be in this court.

20 Now as the -- the -- as Your Honor alluded, you
21 know, this Court can be reassured that we will be filing a
22 petition to, you know, which state the claims of breach of
23 fiduciary duty, of fraud, of -- of conversion and other
24 related claims, but -- and we will do that soon, but it will

1 be with the current trustee of the trust. It'll be in the
2 right mode, you -- you know, the right way that we will file
3 this petition.

4 And -- and I know that this -- this Court is
5 concerned about the -- the taking of funds. And yes, they
6 have sequestered these funds. Mr. Payne indicated that these
7 funds were sequestered in a blocked account. Now of course,
8 the trust doesn't provide for that. So -- and they haven't
9 told us where these funds are. And we have requested on a
10 list of four occasions for the funds to be provided to the
11 current trustee and -- and I know that Mr. Powell can talk to
12 the -- the efforts that he has made to try to obtain these
13 funds so that they can start being distributed to my client.

14 But at that point -- I mean, you know, if this Court
15 has --

16 THE COURT: But if I don't have jurisdiction, I
17 can't help you, right?

18 MS. BARNEY: Correct. Yeah.

19 THE COURT: And I won't --

20 MS. BARNEY: So --

21 THE COURT: -- be able --

22 MS. BARNEY: And that's why --

23 THE COURT: -- to help this side either.

24 MS. BARNEY: Right.

1 THE COURT: Okay.

2 MS. BARNEY: Right. And that's why we -- I mean, we
3 have a petition that's ready to be filed, you know. And so --
4 -- and -- and it -- and I think it will give us the relief
5 that we need, but it'll be filed by the appropriate trustee.

6 THE COURT: Counselor.

7 MR. PAYNE: Good morning. Good --

8 THE COURT: Let me ask you a question. If they're
9 going to file against your client, can't you address your
10 issues in that -- as a counterclaim and -- and their new if
11 they do file if I denied jurisdiction?

12 MR. PAYNE: I'm -- I'm confused by the question. In
13 other words, if -- if you -- if you --

14 THE COURT: If I said --

15 MR. PAYNE: -- granted --

16 THE COURT: -- I had no ju -- if I have no
17 jurisdiction over the trust, she's saying I don't have
18 jurisdiction because of standing and that you have not made
19 any proper claims for relief in -- in your petition.

20 MR. PAYNE: Let me back up. The petition that we
21 filed was to assume jurisdiction, confirm trustees, which I
22 misspoke. There's three, Susan Payne, Rosemary Keach, and
23 Raymond Christian, who I al -- also represent. So there are
24 three trustees who brought this petition for instructions.

1 And so we brought this petition pursuant to NRS 154A, B, D, F,
2 H, K, and Q and also under NRS 163.115, 164.005, 164.010,
3 164.015, and 164.033.

4 Your Honor, I've been doing this a long time. I've
5 been doing it over 25 years. These petitions to assume
6 jurisdiction are always granted. The Court confirms
7 jurisdiction over both the parties and in rem. Then it's a
8 question of what's the relief. And this was brought as a --
9 as a result. And let me back up. The settlors, Mr. Raymond
10 Christian and their wife Nancy, who retained an attorney, Mr.
11 Christiansen was -- was terminally diagnosed back in October
12 of -- of '016. They wanted to do some estate planning to
13 effectuate his concerns. His concerns were over Monte. Monte
14 is a child from a different marriage.

15 They were married in the 50s. They got divorced and
16 they remarried I think in 2009 is when they remarried. After
17 this terminal diagnosis that he had gotten, he had gone to
18 Counsel to setup this trust so that it can effectuate his
19 concerns with respect to Monte specifically. The family
20 retained Mr. Christian -- or Mr. David Grant to form this
21 trust for their benefit. There were other children in there
22 too, children or special needs children and their
23 beneficiaries.

24 And let me get to the -- the point of that. Both my

1 clients as trustees and beneficiaries are named as
2 beneficiaries in this documents as it relates to the Dancing
3 Vines property which was sold and subsequently is -- needs to
4 be disbursed depending on how the Court interprets the -- one
5 of the paragraphs.

6 Furthermore, in that specific provision, Mrs. Payne
7 here is a specific trustee over Monte. And the concern was
8 the father knew that Monte, a convicted felon, a -- a drug
9 abuser, a -- a meth lab guy, had been influencing his mother.
10 And this was the sole reason why this trust was setup. It was
11 setup to protect their mother because they were concerned, as
12 Father was concerned. And it's the father appointed the three
13 children. The mother was -- and agreed to that. Mrs.
14 Barney's client. Nancy agreed to have these people be the
15 trustees.

16 When after the father died, there were certain
17 demands made. And if I can make an offer -- allowed to make
18 an offer of proof, they went back to Mr. -- Mr. Grant who said
19 hey, listen, this trustee was setup, you agreed to it, if you
20 want more from this trust, then take whatever appropriate
21 remedies are that you need to do it. So she goes out and
22 hires Counsel. The next thing you know, we get hit with this
23 thing called a removal.

24 By the way, Your Honor, we filed -- in addition to

1 this petition, we had filed a supplement to this petition, and
2 I'm not sure if Your Honor had saw that, but it's a supplement
3 and addendum petition to assume jurisdiction, confirm
4 trustee's instructions and alternatively reform the trust
5 agreement which the probate court can do, because it's my
6 understanding that the trustees, who were a party this
7 agreement. It's an -- it's an unusual trust.

8 Normally in a revocable family trust you have Mom
9 and Dad and they are the settlor, grantor, trustee,
10 beneficiary until someone dies. This is an unusual trust
11 because the brothers and sisters were on this agreement when
12 this document was -- was executed. So they are a party to the
13 agreement. So they have standing. It's just like if you were
14 going to remove a -- I don't even know the hypothetical, but
15 -- but a breach of the agreement is which is effectively is
16 what they're -- what we're -- we're -- what has gone on in
17 this -- this arrangement would -- would make them a party as a
18 -- as a party trustee.

19 As a beneficiary, there are beneficiary --
20 ultimately beneficiary -- there are beneficiary to -- to the
21 proceeds of -- there was a house that was sold during the --
22 and I -- and I -- and I -- I don't want to -- I don't want to
23 say what she says is not correct. She says that money is
24 missing. There is no money missing as far as we're concerned.

1 All the money has been accounted for.

2 There was a house that was sold and there was a
3 discussion between their mother. Remember, this is their
4 mother, where she was going to live after their father died
5 and there was an agreement that one of the sons was going to
6 live and -- and help take care of Dad until he died. She
7 moved out of the house and went to go reside with Monte. So
8 there were these kind of disputes that were going on around
9 the time that she died.

10 But to answer your question, Your Honor, Your --
11 Your Honor has jurisdiction to -- to assert these -- the
12 relief that is requested. We brought the petition. It was
13 after they had filed this removal action that we thought that
14 that was improper. We came to this Court with clean hands and
15 we then get hit with this motion to dismiss and here we are.

16 I thought what was going to happen was is we were
17 going to maybe enter into some type of a scheduling order
18 where Your Honor wanted to if needed -- need to take the
19 deposition of David Grant, the attorney that prepared this.
20 Like I said, Mr. Grant is prepared to testify what the intent
21 of the settlor was. This was a discretionary trust. Eft --
22 the settlor left it up to his three children to decide what
23 Mrs. Monte's needs were to be.

24 And there's a statutory provision in the NRS as it

1 talk about discretionary trust and you can't remove a
2 discretionary trustee absent a showing of bad fath. In other
3 words, the -- the settlor in -- when a settlor names a
4 fiduciary, the -- whether it be an executor or co-trustee or a
5 guardian, the courts are very careful and give a great deal of
6 discretion as to why that individual chose those individuals
7 to be the fiduciary. That's one of those sacred powers.

8 And Mr. -- and this was Mr. Christiansen 's money.
9 They may dispute that there was -- there's some -- a community
10 property claim, but -- but by all accounts, this was his
11 property that he funded prior to his marriage put into this
12 marriage. And in fact, the agreement was is that Mrs.
13 Christiansen was going to -- going to contribute a condominium
14 and some bank accounts which she never did which is -- which
15 is a side story. If we need to do some discovery, we can.

16 But the -- the issue of jurisdiction, the Court has
17 jurisdiction whether they file their own petition, whatever it
18 says, it's going to say what it says. Your Honor can set this
19 down I think on a short order. I don't -- I'm not -- before
20 Your Honor that often -- I don't know how long you set these
21 things out, but I think the Court can assume jurisdiction
22 which they always do. Every single Friday they'll assume
23 jurisdiction every single time absent some unusual facts, a
24 piece of property is in California or the trust says

1 California law applies or something to that degree.

2 But when all the parties are here, 99 times out of a
3 hundred the Court assumes jurisdiction, takes in rem
4 jurisdiction over the property, and takes to some degree
5 personal jurisdiction over the trustees. So I think
6 jurisdiction motion to dismiss is just a red herring?

7 MS. BARNEY: May I respond?

8 THE COURT: Go -- go ahead.

9 MS. BARNEY: Okay. So basically -- and -- when
10 there's a lack of standing, they can't request relief. So --
11 and -- and them requesting in rem jurisdiction and for them to
12 be confirmed as trustees is improper.

13 And -- and, you know, while I respect Mr. Payne, I
14 mean, he's arguing a bunch of facts here. And this is purely
15 a legal question. And -- and I know he has attempted to say
16 that the trust has a Scrivener's error in there to attempt to
17 gain standing but the fact is -- is accounting to Fry v.
18 Goodsell (ph), you don't get even to the Scrivener's error
19 issue because where -- where the trust is clear and
20 unambiguous and this trust is as to the -- the change in
21 trustee, it is allowed, it's clear, unambiguous. Fry v.
22 Goodsell prohibits the use of extrinsic evidence.

23 So why -- why do we need David Grant's testimony
24 when the trust is clear? Why do we need David Grant's

1 testimony when my client is still living? She was there. She
2 knows what happened.

3 And -- and basically -- so they don't have the --
4 the requisite standing to even come here to ask the Court to
5 take in rem jurisdiction. We will ask for it when we have the
6 proper trustee before this Court and we will ask for this for
7 -- whichever court to take in rem jurisdiction over this
8 trust.

9 And as -- I mean, they've talked about a -- a bunch
10 of, you know, factual issues. We just want to state for the
11 record based upon, you know, Joey Powell's and his client's
12 joinder that Monte is not a convicted felon. In -- in his --
13 I saw in his affidavit or declaration, he has not been
14 convicted of a felony.

15 As to the Dancing Vines property, they believe that
16 they're supposed to be distri -- distributed that money. That
17 -- that is not what -- I don't think even David Grant intended
18 because they're saying that to allow -- they want my client to
19 give distributions and create a taxable event during her life.
20 So it just doesn't make sense. And -- and, I mean, those are
21 just kind of some of the factual issues which shouldn't even
22 be before this Court, because frankly they don't have standing
23 to be here to ask for -- for relief. They don't have claims
24 for relief stated in their petition and it should be -- their

1 petition should be dismissed.

2 MR. POWELL: Your Honor, if I can just address a few
3 things.

4 THE COURT: What -- what pleading did you filed?

5 MR. POWELL: So we filed Your Honor the -- a
6 response to the petition to assume jurisdiction and then also
7 a joinder in Ms. Christiansen's motion to dismiss.

8 THE COURT: Okay.

9 MR. POWELL: That was filed Your Honor on the 13th.
10 If I can just briefly address a couple of the -- the arguments
11 that I've heard here. First of all, as to the issue of -- of
12 assuming jurisdiction, Mr. Payne can have his opinion. I
13 think I'm entitled to have mine. And to inform the Court that
14 Mr. Payne's characterization that simply if you ask it's a
15 rubber stamp that you get jurisdiction over a trust. That's
16 patently incorrect, Your Honor.

17 You have to have standing. The NRS makes it very
18 clear as to who has standing on these types of issues. If you
19 are a contingent beneficiary of which all of the former
20 trustees are contingent beneficiaries, you don't have standing
21 to basically interject and voice a complaint or any issues you
22 have regarding a trust in which a living settlor is still
23 alive and has the ability to do that which they want with the
24 document.

1 We -- you -- you don't just interject yourself, just
2 like as in many different cases Your Honor. Someone who
3 doesn't have standing can't have an opinion. They can't come
4 in to your court and say well, I don't think that's right or I
5 don't think that's fair. That's irrelevant. Unless you have
6 standing, current standing, your opinion doesn't matter and
7 whatever relief you seek. You -- you're not entitled to seek
8 relief without standing. That's the basic premise of our
9 entire judicial system.

10 The other thing that -- that Mr. Payne stated here
11 too which is a concern for me is this representation again
12 that somehow this document is really just the document of Mr.
13 Christian -- Mr. -- Mr. Christian. On its face, you can
14 certainly see that that's not the case. This was established
15 by two people. This was a co-settled trust. And to diminish
16 this effectively, Mrs. Christiansen is saying well, it doesn't
17 really matter what she wants to do or -- or her choices that
18 she has under the trust. That -- that seems highly
19 disrespectful that in fact that this document is a two settlor
20 trust. It's not a single settlor trust. Mr. Christiansen
21 could have. He didn't. Mr. Christian, I should say. He
22 didn't. It -- it was co-settled.

23 So, again, we -- we have to honor what Mrs.
24 Christian wants. It -- it's her trust that she jointly

1 settled and the provisions therein. And the provision above
2 all else here is there is a removal right that the surviving
3 settlor has to change trustees which as Ms. Barney has already
4 informed the Court was done. It -- it was absolutely done.

5 And so to try to make this an issue of blocking a --
6 a -- again, going back to the standing issue. The former
7 trustees may not like the fact that they got removed, but
8 that's irrelevant. They don't have -- they -- they can't
9 voice a concern on that. Mr. -- Mr. Payne has also indicated
10 to the Court is somehow that there is a -- this high standard
11 and you have to show -- to -- to remove a trustee you have to
12 have a -- a showing that there was bad faith. The document
13 doesn't say that.

14 The -- the rule in Nevada is you go by the four
15 corners of the document. You don't infer anything. If it's
16 stated, it's stated. There is no -- there is no requirement
17 saying you can only -- Nancy can only remove the trustees
18 based on a showing that they have acted in bad faith. It's --
19 it's a removal right, which most trusts would always have. It
20 would be highly illogical as this Court can imagine to
21 prohibit a co-creator of a trust from deciding who they want
22 to administer the trust.

23 The other reality in this situation is Nancy
24 herself. If see -- if she -- if she so chose could have

1 appointed herself and stepped into the shoes of the trustee.
2 She chose not to. She decided to appoint her son, my client,
3 Monte Reason, to be the trustee and administer the trust.
4 There is no problem with that. There is no prohibition
5 against that.

6 And what also concerns me and bothers me is Mr.
7 Payne's clients --

8 THE COURT: This could -- this could all have been
9 avoided if she would have maybe made a different choice, huh?

10 MR. POWELL: Possibly, but -- but the reality is Mr.
11 Payne wants to say is Mr. Christian --

12 THE COURT: If it's in --

13 MR. POWELL: -- had --

14 THE COURT: -- a trust. There were special
15 conditions for this person and then she had -- now she's made
16 him the trustee.

17 MR. POWELL: Yeah. And -- and what -- what you'll
18 find in reviewing the trust is what -- what -- the red herring
19 that -- that we've gone down already is we've smeared Monte's
20 reputation. We're assassinating Monte's character and yet, if
21 these issues were so important to both settlors, because
22 again, co -- co-created trust, why does the document not
23 prohibit then either settlor from exercising their right to
24 appoint Monte Reason as the trustee? It doesn't say that.

1 So do you have this side story of well, this --

2 THE COURT: It --

3 MR. POWELL: -- was really --

4 THE COURT: It doesn't --

5 MR. POWELL: -- the intent.

6 THE COURT: It doesn't say that, but they're going
7 to argue that it was --

8 MR. POWELL: They're going to argue that. And
9 again, that's -- that's a red herring argument, because,
10 again, we go by the four corners of the document. The -- the
11 document was executed by both settlors or trustors as -- as I
12 believe how they're referred to under the document.

13 So, again, that is a red herring argument of well,
14 this is what he wanted and he wanted and this and that. Well,
15 again, if that was the case, it would have said so within the
16 -- within the four corners of the document. It doesn't say
17 that. There's no prohibition. There's no provision on Nancy
18 choosing anyone that she wants.

19 Also, Your Honor, what the -- the other insinuation
20 that Mr. Payne made in his -- his pleadings was that somehow
21 that there is a heightened standard that you have to qualify
22 as a trustee. That's patently incorrect. There -- there's no
23 such statute, Your Honor. You -- there -- there's nothing you
24 can find. The reason being is that a settlor -- it's their

1 documents. It's the trustee's in charge of their assets that
2 they put it in -- into the trust and they can choose whomever
3 they want, regards of their past, regardless of anything,
4 education level, this or that.

5 It's -- it's common for people to appoint family
6 members as trustees and they can choose whomever they want.
7 They don't have to. They can have the man walking down the
8 street if they somehow want him to be the trustee or her.
9 They can do that. There's no limitation on that. There's no
10 qualification mechanism or -- or standard that you have to
11 meet in that respect. So that -- that's just a patent red
12 herring argument, Your Honor.

13 Just to conclude, the -- what bothers me again is
14 this characterization by Mr. Payne's clients that somehow we
15 don't honor the removal that was already done. Well, what
16 somebody does is their choice. We don't just jam the gears up
17 and say well, we don't like it, so therefore we're going to
18 block you from doing it. You don't have standing to do that.
19 It's Nancy's trust now as the surviving settlor and the
20 express provision under that document says you can remove and
21 replace trustees at whim, just like Nancy theoretically if she
22 didn't like the job that Monte is doing, she can remove Monte.
23 She can do this numerous times. She can appoint herself.

24 So it -- it's very much a -- a disingenuous argument

1 and a mechanism to effectively come into the court again with
2 a living settlor who is exercising their right and saying we
3 don't like it. Tough luck. It doesn't matter that you don't
4 like it. You are not in a position to have a say about what
5 you -- what the settlor is doing with their trust.

6 So Your Honor, I -- we join in. Again, the -- the
7 motion to dismiss here, there is no standing. And a review of
8 NRS would -- would clearly establish the fact that to seek to
9 have a court take jurisdiction over a trust when you have no
10 standing, it doesn't get rubber stamped. It would get
11 dismissed, just like any other action in any other Court would
12 be. If you don't have -- you don't have a right to have a
13 say, you don't have a right to -- to be heard. So --

14 THE COURT: Thank you.

15 MR. POWELL: Thank you, Your Honor.

16 THE COURT: Just briefly.

17 MR. PAYNE: Yeah, Your Honor. I -- again, it's --
18 it's an unusual situation where these three trustees sat at
19 the table, negotiated the terms of this agreement, and you
20 kind of alluded to it, and signed the agreement. I mean, this
21 is a contract. And now for them to say that they don't have a
22 say at the table is ridiculous. Standing is a very broad
23 concept. Okay. Under the NRS -- they can be a creditor and
24 they have standing. They can be a beneficiary. They can be a

1 contingent beneficiary. It's -- it's a ridiculous argument.

2 Again, it's an unusual circumstances and you hit the
3 -- you hit the head on the nail. If Nancy didn't want this
4 arrangement, she didn't need to sign this agreement. But she
5 sat in there. Everybody knew that Dad wanted these three
6 children in charge so they can look at for their mother, their
7 mother doesn't like the terms and runs off and tries to
8 appoint Monte and you're good -- you -- you hit another good
9 point in there. And -- and Dad wanted Mrs. Payne to be the
10 sub-trustee of that disposition over Monte because of all the
11 problems Monte had caused this family.

12 THE COURT: Okay.

13 MR. HOLYOAK: Your Honor, if I may just point out,
14 there's -- there's no admissible evidence that Mr. Payne has
15 put forward other than his own testimony today. His clients
16 have never vi -- verified a document. They've never provided
17 a signed affidavit from David Grant. They've never provided
18 any admissible evidence to say what he's saying now, that that
19 was their intent.

20 Furthermore, this -- this idea that they're a party
21 to --

22 MR. PAYNE: Your Honor --

23 MR. HOLYOAK: -- this contract --

24 MR. PAYNE: -- I object. We've -- we've got --

1 Counsel has already spoke. Are you going to -- both Counsel
2 is going to argue this?

3 THE COURT: Just briefly.

4 MR. HOLYOAK: The -- the idea that they're a party
5 to this contract because they signed an acknowledgment? That
6 -- that's not -- that's not accurate. Frankly, trustees sign
7 an acknowledgment all the time. All it's saying is we're
8 accepting the position as trustee. It doesn't make them a
9 party to the agreement.

10 THE COURT: Okay. I'm going to -- on the question
11 of jurisdiction, I'm going to take that under advisement and
12 have a decision in a week. But I'm -- I just wondered -- this
13 matter is going to be litigated and I was intending to appoint
14 a senior judge today for the purposes of hearing all claims
15 and including their claim -- your claim for the missing money
16 or money that may be missing. But if you don't -- if -- I
17 don't have a -- an agreement that will do that, then I'll --
18 I'll render a decision on jurisdiction.

19 MS. BARNEY: Your Honor --

20 THE COURT: Because you're -- you're -- it's going
21 to end up in litigation someplace.

22 MS. BARNEY: Right. And it -- I mean, we would
23 prefer that is that right? Would be brought to -- to the
24 correct trustee and that's why, you know, we're seeking

1 dismissal. But, Your Honor, if -- if --

2 THE COURT: Well, look. There was -- they're the
3 trustee right now. Okay. I understand their argument that
4 they -- they should not have been removed. It was an improper
5 removal and a whole trust was designed so this person would
6 not get involved with the running of the show and somehow he
7 ended up running the show. That's their argument.

8 So who -- right now they're the trustee, obviously,
9 because they're -- that's the person who was appointed by the
10 settlor, the remaining settlor. And under the trustee as
11 written, that's -- was her authority. But that's the whole --
12 kind of the basis of the whole litigation whether that was
13 done properly, because they have a different opinion as to how
14 that should be read.

15 MS. BARNEY: Well, it's -- but, Your Honor, when the
16 standing --

17 THE COURT: So the -- the bottom line is if --

18 MS. BARNEY: -- the standing is --

19 THE COURT: -- there's no agreement, then I'll make
20 a decision on --

21 MS. BARNEY: All right.

22 THE COURT: -- jurisdiction and I'll -- I was just
23 trying to save everyone money and time by sending it to a
24 senior judge to have the litigation, but I -- if -- if you

1 want to press the question of jurisdiction, I'll -- I'll have
2 to do research and review the pleadings again and decide --
3 MS. BARNEY: And so, Your Honor, so -- I just ask
4 for the -- for the 10 day period that we have to respond
5 actually to the petition, because obviously our motion to
6 dismiss is purely on a legal standpoint, that possibly the --
7 the Court when it renders its decision allows us that 10 days
8 from the time it renders its decision.
9 THE COURT: That is -- that will be granted.
10 MS. BARNEY: Okay.
11 THE COURT: And the -- for the record, your joinder
12 is -- is granted as well.
13 MS. BARNEY: I'm sorry, what?
14 THE COURT: The joinder request is granted.
15 MS. BARNEY: Okay. All right. Thank you, Your
16 Honor.
17 MR. POWELL: Thank you, Your Honor.
18 THE MARSHAL: Thank you, guys.
19 THE COURT: Thank you.
20 MR. PAYNE: Thanks, Judge.
21 (TO OTHER MATTERS)
22 (PROCEEDINGS CONCLUDED AT 02:38:23)
23
24

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* * * * *

ATTEST: I do hereby certify that I have truly and
correctly transcribed the digital proceedings in the above-
entitled case to the best of my ability.

Adrian Medrano

Adrian N. Medrano

Steven D. Grierson

1 IARV
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

DISTRICT COURT
CLARK COUNTY, NEVADA

10 In the Matter of) Case No.: P-17-092512-T
11) Dept. No.: PC-1
12)

13 THE CHRISTIAN FAMILY
14 TRUST u.a.d. 10/11/16
15)
16)
17)
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INVENTORY RECORD OF VALUE

STATE OF NEVADA: COUNTY OF CLARK } ss.

SUSAN CHRISTIAN PAYNE, pursuant to the laws of the State of Nevada (NRS 53.045), and under penalty of perjury, hereby declares that the following is a true statement of all of the estate of the above-named Trust. I hereby certify that the property described herein is property where there is no reasonable doubt as to value and is believed to be equal in value to money in the amount set opposite each respective item, and that the value of the whole of the inventoried estate as of the date of decedent's death (1/31/17) was as stated herein.

Dated the 20 day of October, 2017

Susan Christian Payne
SUSAN CHRISTIAN PAYNE

CARY COLT PAYNE, CHTD.

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



REAL PROPERTY

2848 Bluff Point Drive, Las Vegas, NV	\$292,960.00 ¹	
37920 Grandview Ave., Yermo, CA (rental)	<u>\$ 64,088.00</u>	
		\$357,048.00

PERSONAL PROPERTYProceeds of Sale ²

1060- Dancing Vines, Las Vegas, NV	\$194,704.59	
Oxford Policy proceeds	\$ 54,206.61	
Oxford Policy proceeds	\$106,719.79	
Chase accounts proceeds	<u>\$ 73,197.94</u>	
		<u>\$428,828.93³</u>

Chase Savings (6040)	\$ 6,513.45	
Chase Checking (4816)	<u>\$ 4,357.84</u>	
(as of 9/30/17)		\$10,871.29

TOTAL VALUE OF TRUST PROPERTY: \$796,748.22

¹ Value based upon Zillow printout (10/16/17)

² Held for distribution, subject to claims, etc.

³ Held by Client Trust Account





CERTIFICATE OF SERVICE

The undersigned hereby certifies that on October 25, 2017, 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).

Daniel Keifer, Esq.
Email: kenny@rlklegal.com
Joseph Powell, Esq.
email: joey@rushforth.com
RUSHFORTH, LEE & KIEFER, LLP
1701 Village Center Circle, Suite 150
Las Vegas, NV 89134
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.

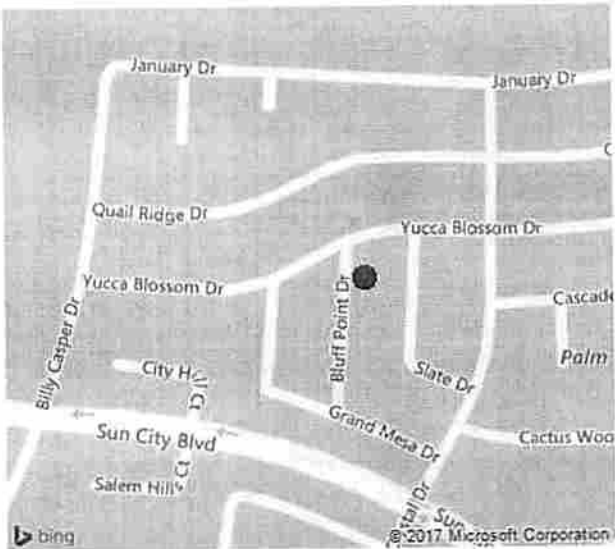
City, !

ZILLOW INSTANT OFFERS



500+ homeowners in your area got cash Instant Offers.

2848 Bluff Point Dr, Las Vegas, NV 89134



2848 Bluff Point Dr,
Las Vegas, NV 89134
2 beds · 2 baths · 1,653 sqft

SOLD: \$265,000

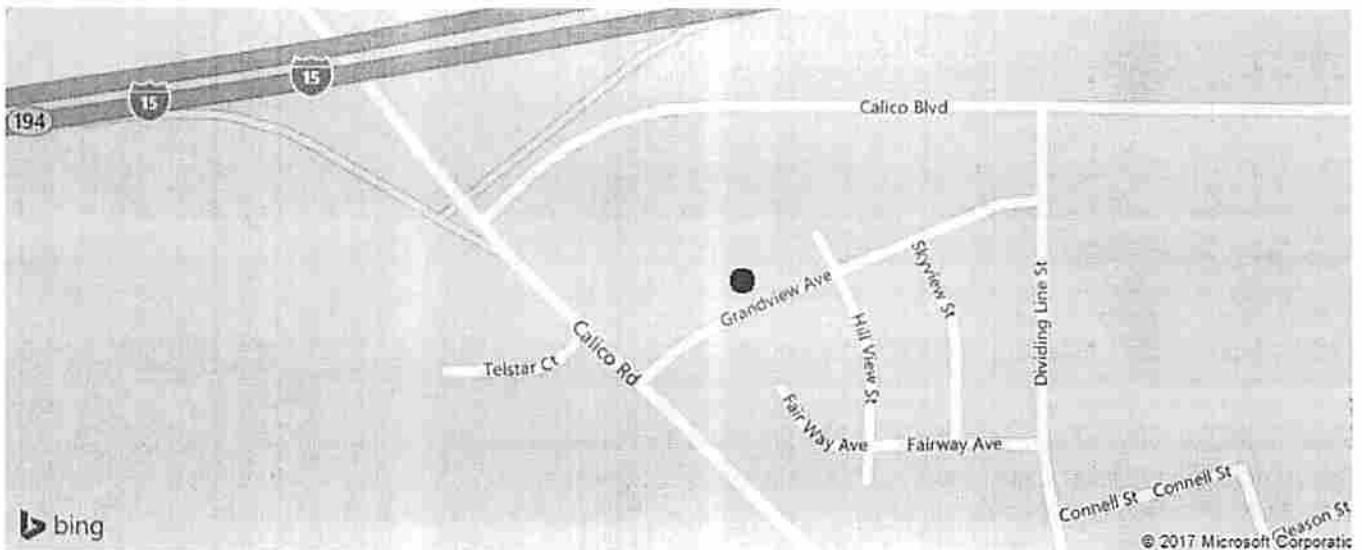
Sold on 12/09/16

Zestimate[®]: \$292,960

Est. Refi Payment
\$1,034/mo

City, State

37920 Grandview Ave, Yermo, CA 92398



37920 Grandview Ave, Yermo, CA 92398

3 beds · 2 baths · 1,144 sqft

OFF MARKET

Zestimate®: \$64,088

Rent Zestimate®: \$950 /mo

Est. Refi Payment

\$250/mo

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Get a monthly local market report with comparable rentals in your area.

☐ I own and manage this rental

☐ I manage this rental for the owner

Enter email

Subscribe

Closing Disclosure

Closing Information

Date Issued 2/8/2017
 Closing Date
 Disbursement Date
 Settlement Agent Equity Title of Nevada
 File # 17840030-084-TGR
 Property 1060 Dancing Vines Avenue
 Las Vegas, NV 89183
 Sale Price \$210,000.00

Transaction Information

Borrower Deborah Coulter and Paul Hirsch
 1060 Dancing Vines Avenue
 Las Vegas, NV 89183
 Seller **See Attachment

Summaries of Transactions

SELLER'S TRANSACTION

Due to Seller at Closing \$210,511.59
 01 Sale Price of Property \$210,000.00
 02 Sale Price of Any Personal Property Included in Sale

Adjustments for Items Paid by Seller in Advance

03 City/Town Taxes to
 04 County Taxes 2/10/17 to 7/1/17 \$382.08
 05 Assessments 2/10/17 to 3/1/17 \$15.62
 06 Sewer 2/10/17 to 7/6/17 \$90.04
 07 Trash 2/10/17 to 4/1/17 \$23.85

Due from Seller at Closing \$15,807.00

08 Excess Deposit
 09 Closing Costs Paid at Closing (I) \$15,503.40
 10 Existing Loan(s) Assumed or Taken Subject to
 11 Payoff of First Mortgage Loan
 12 Payoff of Second Mortgage Loan

13 Seller Credit

14 Title Insurance Premium Adjustment \$303.60

Adjustments for Items Unpaid by Seller

15 City/Town Taxes to
 16 County Taxes to
 17 Assessments to

CALCULATION

Total Due to Seller at Closing \$210,511.59
 Total Due from Seller at Closing -\$15,807.00
 Cash ☐ From ☒ To Seller \$194,704.59

Contact Information

REAL ESTATE BROKER (B)

Name Black & Cherry Real Estate
 Address 2421 W. Horizon Ridge PKWY Suite 110
 Henderson NV 89052
 NV License ID
 Contact Mark Hillers
 Contact NV License ID
 Email thehillers@gmail.com
 Phone (702) 480-4454

REAL ESTATE BROKER (S)

Name Real Estate By Design
 Address 1180 Town Center Drive Suite 100
 Las Vegas NV 89144
 NV License ID
 Contact Jackie Akester
 Contact NV License ID
 Email jackie@rebdlv.com
 Phone (702) 945-2728

SETTLEMENT AGENT

Name Equity Title of Nevada
 Address 2475 Village View Dr. Suite 250
 Henderson NV 89074
 NV License ID
 Contact Taci Granlund
 Contact NV License ID
 Email TeamTLT@equitynv.com
 Phone (702) 432-1111

Questions? If you have questions about the loan terms or costs on this form, use the contact information below. To get more information or make a complaint, contact the Consumer Financial Protection Bureau at www.consumerfinance.gov/mortgage-closing

Closing Cost Details

Loan Costs		At Closing	Seller-Paid Before Closing
A. Origination Charges			\$0.00
01	% of Loan Amount (Points)		
02			
03			
04			
05			
06			
B. Services Borrower Did Not Shop For			\$0.00
07			
08			
09			
10			
11			
12			
13			
14			
15			
16			
C. Services Borrower Did Shop For			\$480.00
01	Escrow Fee to Equity Title of Nevada	\$355.00	
02	Notary Signing Fee	\$125.00	
03			
04			
05			
06			
07			
08			
09			
10			
Other Costs			
E. Taxes and Other Government Fees			\$1,071.00
01	Recording Fees Deed: Mortgage:		
02	County Transfer Tax to Equity Title of Nevada	\$1,071.00	
F. Prepays			\$0.00
01	Homeowner's Insurance Premium (mo.)		
02	Mortgage Insurance Premium (mo.)		
03	Prepaid Interest (per day from to)		
04	Property Taxes (mo.)		
G. Initial Escrow Payment at Closing			\$0.00
01	Homeowner's Insurance per month for mo.		
02	Mortgage Insurance per month for mo.		
03	Property Taxes per month for mo.		
04	Aggregate Adjustment		
05			
06			
07			
08			
H. Other			\$13,952.40
01	HOA Dues to Silverado South Homeowners Association	\$60.00	
02	Real Estate Commission to Real Estate By Design	\$6,300.00	
03	Real Estate Commission to Black & Cherry Real Estate	\$6,300.00	
04	Reimburse Agent to Real Estate By Design	\$330.00	
05	Title - ALTA 2013 Homeowner's Policy or Title Insurance (Rev 12-2-13) to Equity Title of Nevada	\$737.40	
06	Transfer Fee to First Service Residential Realty	\$225.00	
07			
08			
09			
10			
J. TOTAL CLOSING COSTS			\$15,503.40

Equity Title of Nevada

2475 Village View Dr., Suite 250 Henderson, NV 89074

Phone: (702) 432-1111

File No./Escrow No.: 17840030-084-TGR

Print Date & Time: 2/8/2017 - 12:47:19PM

Officer/Escrow Officer: Taci Granlund

Settlement Location: 2475 Village View Dr., Suite 250, Henderson, NV 89074

Property Address: 1060 Dancing Vines Avenue, Las Vegas, NV 89183, 177-27-611-254

Seller: Rosemary K. Christian-Keach, Raymond T. Christian, Jr. and Susan G. Christian-Payne, Trustees of the Christian

Lender: American Financial Network

Settlement Date: 2/10/2017

Disbursement Date:

Description	Seller	
	Debit	Credit
Financial		
Sale Price of Property		210,000.00
Prorations/Adjustments		
County Taxes 02/10/17 to 07/01/17		382.08
Assessments 02/10/17 to 03/01/17		15.62
Sewer 02/10/17 to 07/06/17		90.04
Trash 02/10/17 to 04/01/17		23.85
Title Insurance Premium Adjustment	303.60	
Other Loan Charges		
Notary Signing Fee	125.00	
Title Charges & Escrow/Settlement Charges		
ALTA 2013 Homeowner's Policy or Title Insurance (Rev 12-2-13) to Equity Title of Nevada	737.40	
Escrow Fee to Equity Title of Nevada	355.00	
Commission		
Real Estate Commission to Real Estate By Design	6,300.00	
Real Estate Commission to Black & Cherry Real Estate	6,300.00	
Government Recording and Transfer Charges		

Description	Debit	Credit
County Transfer Tax to Equity Title of Nevada	1,071.00	
Miscellaneous		
HOA Dues to Silverado South Homeowners Association	60.00	
Reimburse Agent to Real Estate By Design	330.00	
Transfer Fee to First Service Residential Realty	225.00	
Subtotals	15,807.00	210,511.59
Proceeds Due Seller	194,704.59	
Totals	210,511.59	210,511.59

Acknowledgement

We/I have carefully reviewed the ALTA Settlement Statement and find it to be a true and accurate statement of all receipts and disbursements made on my account or by me in this transaction and further certify that I have received a copy of the ALTA Settlement Statement. We/I authorize Equity Title of Nevada to cause the funds to be disbursed in accordance with this statement.

The Christian Family Trust, dated October 11, 2016

Rosemary K. Christian-Keach, Trustee

The Christian Family Trust, dated October 11, 2016

Raymond T. Christian, Jr., Trustee

The Christian Family Trust, dated October 11, 2016

Susan G. Christian-Payne, Trustee

Tad Grantlund

CARY COLT PAYNE, CHTD.

10/5/2017 3:53 PM

Register: CLIENT TRUST ACCOUNT:Christian Family Trust

From 06/01/2016 through 10/05/2017

Sorted by: Date, Type, Number/Ref

<u>Date</u>	<u>Number</u>	<u>Payee</u>	<u>Account</u>	<u>Memo</u>	<u>Payment</u>	<u>C</u>	<u>Deposit</u>	<u>Balance</u>
06/30/2017	185830	Christian Family Trust	CLIENT TRUST ACC...	Deposit			106,719.79	106,719.79
06/30/2017	185831	Christian Family Trust	CLIENT TRUST ACC...	Deposit			54,206.61	160,926.40
06/30/2017	9569903...	Susan G. Christian-P...	CLIENT TRUST ACC...	Deposit			267,902.53	428,828.93



CHASE PRIVATE CLIENT

September 01, 2017 through September 29, 2017

Primary Account: 000000446556040

CONSOLIDATED BALANCE SUMMARY**ASSETS**

Checking & Savings	ACCOUNT	BEGINNING BALANCE THIS PERIOD	ENDING BALANCE THIS PERIOD
Chase Private Client Checking	000000446556040	\$4,670.33	\$4,357.84
Chase Private Client Savings	000003008644816	5,763.25	6,513.45
Total		\$10,433.58	\$10,871.29

TOTAL ASSETS**\$10,433.58 \$10,871.29**

All Summary Balances shown are as of September 29, 2017 unless otherwise stated. For details of your retirement accounts, credit accounts or securities accounts, you will receive separate statements. Balance summary information for annuities is provided by the issuing insurance companies and believed to be reliable without guarantee of its completeness or accuracy.

CHASE PRIVATE CLIENT CHECKING

CHRISTIAN FAMILY TRUST

Account Number: 000000446556040

SUSAN G CHRISTIAN-PAYNE TRUSTEE

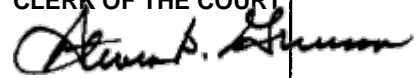
OR RAYMOND TYRONE CHRISTIAN TRUSTEE

CHECKING SUMMARY

	AMOUNT
Beginning Balance	\$4,670.33
Deposits and Additions	0.03
Electronic Withdrawals	-312.52
Ending Balance	\$4,357.84
Annual Percentage Yield Earned This Period	0.01%
Interest Paid This Period	\$0.03
Interest Paid Year-to-Date	\$0.37

TRANSACTION DETAIL

DATE	DESCRIPTION	AMOUNT	BALANCE
	Beginning Balance		\$4,670.33
09/06	Wf Home Mtg Auto Pay 0022758965 Web ID: W952318940	-312.52	4,357.81
09/29	Interest Payment	0.03	4,357.84
	Ending Balance		\$4,357.84



**DISTRICT COURT
FAMILY DIVISION
CLARK COUNTY, NEVADA**

SUSAN CHRISTIAN-PAYNE,
ROSEMARY KEACH, AND
RAYMOND CHRISTIAN
PETITIONERS,

Case No.: P-17-092512-T
Dept No.: S

v.

NANCY I. CHRISTIAN,
RESPONDENT

DECISION

This matter came before the Court for a Status Check on October 19, 2017. After reviewing the oral arguments and pleadings, reviewing exhibits and documents on file herein, the Court makes the following findings of fact and orders:

I. Statement of the Case

This is a dispute regarding a family trust following the removal of Petitioners as co-trustees and Respondent Nancy Christian's appointment of Monte Reason as the successor trustee.

II. Issues

1. Standing of Petitioners
2. Jurisdiction of the Court over the trust

III. Finding of Facts

1. One year ago, Raymond T. Christian (hereinafter "Raymond") and Nancy I. Christian (hereinafter "Nancy") executed The Christian Family Trust (hereinafter "the trust") on October 11, 2016.
2. Susan Christian-Payne, Rosemary Keach, and Raymond Christian (hereinafter "Petitioners") were the original individuals named co-trustees and accepted the Trusteeship of the Trust at the time of its initial execution in October 2016. The names of the four (4) now living children from the Grantors' marriage are Rosemary Christian-Keach, Raymond T. Christian, Jr., Tommy L. Christian, and Susan Christian-Payne.
3. In January 2017, the residence at 1060 Dancing Vines was listed for sale by Petitioners. On or about January 18, 2017, Petitioners accepted a contract on the Dancing Vines property. The property was sold on February 13, 2017.
4. Grantor Raymond Christian died on January 31, 2017. Grantor Nancy Christian is currently 77 years old.
5. About a month after Raymond died and after the property closed, Nancy Christian sought to be paid an additional \$5,000 per month from the trust.
6. The Trust provides at Article 4.3(a) that: "the Trustee, in Trustees' 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 and maintenance of the survivor . . ."
7. Nancy was informed as to the trust terms and net income payments by correspondence dated June 3, 2017. Within 10 days thereafter, Nancy, executed documents to remove Petitioners as co-trustees and appoint Monte Reason.

- 1 8. The Grantors resided in Clark County, Nevada; the Trust is being administered in
2 Clark County, Nevada; the Trust is believed to own property in Clark County,
3 Nevada; and the Trust is governed by the laws of the State of Nevada.
4
5 9. Petitioners claim that upon Raymond's death, the trust was to be divided into a
6 survivor's trust and a decedent's trust.
7
8 10. As written, the trust provides Nancy with the authority to change the trustee or
9 successor trustee after Raymond's death. *See* Trust Article 9.3.
10
11 11. Petitioners allege that the trust was not intended to be revocable as to the trustees and
12 that Article 9.3 contained at least one scrivener's or other similar type of error.
13
14 12. Monte Reason, the successor trustee, is Nancy's child from a previous marriage.
15 Monte Reason has past child support arrears and criminal issues including drug
16 issues. His share was to be ten percent of the trust and was to be held in a trust to be
17 distributed in the sole discretion of the trustee Susan G. Christian-Payne. *See* Trust
18 Sec. 6.1 (f) and (g). Petitioners were to each receive twenty percent of the proceeds
19 from the sale of the home outright and free of trust. *See* Trust Sec. 6.1 In addition,
20 Petitioners were to receive each one third of any remaining property. *See* Sec.6.2
21
22 13. The Trust provides in Section 6.1 "Upon the death of **both** Trustors, the Trustee shall
23 first sell the Trustors' primary residence located at 1060 Dancing Vines, Las Vegas,
24 Nevada, and the proceeds from the sale of such home shall be distributed..."
25 *Emphasis added.* However, Sec 6.1 (g) provides "Moreover, in the event the home
26 referred to in this Section 6.1 was sold prior to the Survivor's death, then an amount
27 equal to the net proceeds from such earlier sale shall be set aside to be held and
28 distributed pursuant to the above terms of this Section 6.1."

1 **IV. Law and Analysis**

2 Pursuant to the trust, the Trustees had the “sole discretion” to use the net income
3 to support the surviving trustor. Furthermore, if in the “opinion” of the Trustees the
4 income from the trust was not sufficient to support the survivor, the Trustees could use
5 the trust principal to support the needs of the survivor. *See* Trust Article 4.3.
6

7 After payments of decedent expenses following death of one of the trustors, any
8 remaining property in the trust was to be transferred to the Survivor Trust. *See* Trust
9 Article 4.3. Nancy claims that the trust provided that if she asked for more funds and the
10 Trustees, in their sole discretion, did not agree, she had the authority to replace the
11 Trustees. Nancy and the original co-trustees seek to litigate whether Nancy can remove
12 and replace Petitioners pursuant to the interpretation of the language in the Trust. Sec.9.3.
13 In addition, since the real property at 1060 Dancing Vines has been sold there is the
14 question of using those proceeds for Nancy or setting the proceeds “aside to be held and
15 distributed pursuant to the terms of” the trust.
16

17 In addition, there is the question of exploitation, fraud, duress, or undue influence
18 by the newly appointed trustee Monte Reason over his mother, Nancy. Petitioners are the
19 original trustees and the children of the grantors. *See* Trust Sec. 1.2. Moreover they were
20 to receive sixty percent of “the net proceeds from . . . sale” of the home at 1060 Dancing
21 Vines. *See* Trust Sec. 6.1 (g).
22

23 Nancy cites Linthicum v. Rudi, 122 Nev. 1452, 148 P.3d 746 (2006) to support
24 her assertion that the Court lacks jurisdiction over this case. However, there are several
25 distinctions between Linthicum and the present case. First, in Linthicum, the petitioners
26 were only beneficiaries of the trust. Here, Petitioners were formerly trustees of the trust.
27
28

1 Second, the petitioners in Linthicum sought relief because they were removed as
2 beneficiaries of the trust. Here, Petitioners were removed as trustees of the trust; their
3 status as beneficiaries of the trust has not been modified or questioned. Furthermore,
4 Petitioners allege that they were removed as trustees because of undue influence and
5 duress.
6

7 Significantly, Linthicum deals exclusively with a revocable inter vivos trust with
8 a sole grantor. Here, the Christian Family Trust was created as a revocable inter vivos
9 trust by co-grantors. Upon the death of Raymond, the trust became irrevocable. *See* Trust
10 Sec. 9.2. Furthermore, a discretionary survivor's trust was created. *See* Trust Sec. 4.3.
11 The language of Linthicum is clear that it refers only to revocable inter-vivos trusts:

12 "However, neither of these statutes directly addresses revocable inter vivos trusts,
13 such as the trust in this case. [...] Nevada statutes do not contemplate beneficiaries
14 to a revocable inter vivos trust challenging the trust until the settlor's death."
15

16 Nevada law provides the court discretion to accept jurisdiction and to decide who
17 is an interested party. "Interested person" means a person whose right or interest under an
18 estate or trust may be materially affected by a decision of a fiduciary or a decision of the
19 court. The fiduciary or court shall determine who is an interested person according to the
20 particular purposes of, and matter involved in, a proceeding. NRS 132.185 .
21

22 Here, Petitioners were co-trustees of the trust and had fiduciary responsibility to
23 protect the interests of Nancy and the assets of the Christian family trust. They had sole
24 discretionary power of the assets of the trust and allege that they were removed as
25 trustees for exercising this discretion. Petitioners further allege that appointment of
26 Monte Reason as trustee will result in abuse or misuse of trust assets.
27
28

1 Nevada law provides that trustees may petition the court regarding any aspect of
2 the trust including appointing or removing a trustee. NRS 153.031(k). Moreover, Nevada
3 law allows the Court to take jurisdiction of cases in matters involving fraud or duress.

4 “The court has exclusive jurisdiction of proceedings initiated by the petition of an
5 interested person concerning the internal affairs of a non-testamentary trust, including a
6 revocable living trust while the settlor is still living if the court determines that the settlor
7 cannot adequately protect his or her own interests or if the interested person shows that
8 the settlor is incompetent or susceptible to undue influence.” NRS 164.015(1)
9

10 The Court finds that Petitioners, as the original co-trustees and the children of the
11 Grantors, as well as beneficiaries of the trust, are interested person as defined in NRS
12 132.185. Petitioners have standing to question whether Nancy properly removed them
13 from the role of trustees. NRS 164.015, (1) (3) and (4).
14

15 This Court has jurisdiction over the trust. NRS 164.010 (2). In fact, both
16 sides have questions regarding the holding and setting aside of net proceeds of the sale of
17 real property, breach of fiduciary duty, and interpretation of the trust instrument. The
18 Court has jurisdiction to review the trust to resolve these issues. NRS 164.033.
19

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WHEREFORE, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED

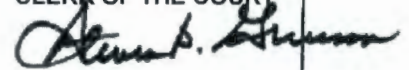
THAT Nancy shall file an Answer/Responding Pleading pursuant to statute.

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

IT IS SO ORDERED this 31 day of October, 2017


Honorable VINCENT OCHOA
District Court Judge, Department S

VINCENT OCHOA



1 NEOJ

2

3

4

**DISTRICT COURT
CLARK COUNTY, NEVADA**

5

6

Susan Christian-Payne, Rosemary
Keach and Raymond Christian
Petitioners,

7

vs

8

9

Nancy I. Christian,
Respondent,

Case No.: P-17-092512-T
Department S

10

11

NOTICE OF ENTRY OF ORDER

12

Please take notice that the Decision from the 31st day of October, 2017 was

13

entered in the foregoing action and the following is a true and correct copy

14

thereof.

15

Dated: This 31st day of October, 2017.

16

DENIECE LOPEZ

17

Deniece Lopez
Judicial Executive Assistant
Department S

18

19

CERTIFICATE OF SERVICE

20

21

I hereby certify that on or about the above file stamp date, a copy of the
foregoing Notice of Entry of Order was:

22

23

☐ E-served pursuant to NEFCR 9 or placed a copy in the appropriate attorney
folder located in the Clerk's Office at the RJC:

24

Joseph Powell, Esq.
Cary Payne, Esq.
Tiffany Barney, Esq.
Zachary Holyoak, Esq.

25

26

27

☒ E-served pursuant to NEFCR 9, or mailed, via first-class mail, postage fully
prepaid, to:

28

1 Joseph Powell, Esq.
2 1707 Village Center Circle Ste. 150
3 Las Vegas, NV 89134-0597

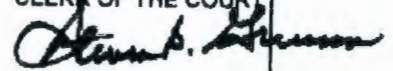
4 Cary Payne, Esq.
5 700 S. 8th Street
6 Las Vegas, NV 89104

7 Tiffany Barney, Esq.
8 3317 W. Charleston #B
9 Las Vegas, NV 89102

10 Zachary Holyoak
11 3317 W. Charleston #B
12 Las Vegas, NV 89102

DENIECE LOPEZ

Deniece Lopez
Judicial Executive Assistant
Department S



DISTRICT COURT
FAMILY DIVISION
CLARK COUNTY, NEVADA

SUSAN CHRISTIAN-PAYNE,
ROSEMARY KEACH, AND
RAYMOND CHRISTIAN
PETITIONERS,

Case No.: P-17-092512-T
Dept No.: S

v.

NANCY I. CHRISTIAN,
RESPONDENT

DECISION

This matter came before the Court for a Status Check on October 19, 2017. After reviewing the oral arguments and pleadings, reviewing exhibits and documents on file herein, the Court makes the following findings of fact and orders:

I. Statement of the Case

This is a dispute regarding a family trust following the removal of Petitioners as co-trustees and Respondent Nancy Christian's appointment of Monte Reason as the successor trustee.

II. Issues

1. Standing of Petitioners
2. Jurisdiction of the Court over the trust

III. Finding of Facts

1. One year ago, Raymond T. Christian (hereinafter "Raymond") and Nancy I. Christian (hereinafter "Nancy") executed The Christian Family Trust (hereinafter "the trust") on October 11, 2016.
2. Susan Christian-Payne, Rosemary Keach, and Raymond Christian (hereinafter "Petitioners") were the original individuals named co-trustees and accepted the Trusteeship of the Trust at the time of its initial execution in October 2016. The names of the four (4) now living children from the Grantors' marriage are Rosemary Christian-Keach, Raymond T. Christian, Jr., Tommy L. Christian, and Susan Christian-Payne.
3. In January 2017, the residence at 1060 Dancing Vines was listed for sale by Petitioners. On or about January 18, 2017, Petitioners accepted a contract on the Dancing Vines property. The property was sold on February 13, 2017.
4. Grantor Raymond Christian died on January 31, 2017. Grantor Nancy Christian is currently 77 years old.
5. About a month after Raymond died and after the property closed, Nancy Christian sought to be paid an additional \$5,000 per month from the trust.
6. The Trust provides at Article 4.3(a) that: "the Trustee, in Trustees' 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 and maintenance of the survivor . . ."
7. Nancy was informed as to the trust terms and net income payments by correspondence dated June 3, 2017. Within 10 days thereafter, Nancy, executed documents to remove Petitioners as co-trustees and appoint Monte Reason.

- 1 8. The Grantors resided in Clark County, Nevada; the Trust is being administered in
2 Clark County, Nevada; the Trust is believed to own property in Clark County,
3 Nevada; and the Trust is governed by the laws of the State of Nevada.
4
5 9. Petitioners claim that upon Raymond's death, the trust was to be divided into a
6 survivor's trust and a decedent's trust.
7
8 10. As written, the trust provides Nancy with the authority to change the trustee or
9 successor trustee after Raymond's death. *See* Trust Article 9.3.
10
11 11. Petitioners allege that the trust was not intended to be revocable as to the trustees and
12 that Article 9.3 contained at least one scrivener's or other similar type of error.
13
14 12. Monte Reason, the successor trustee, is Nancy's child from a previous marriage.
15 Monte Reason has past child support arrears and criminal issues including drug
16 issues. His share was to be ten percent of the trust and was to be held in a trust to be
17 distributed in the sole discretion of the trustee Susan G. Christian-Payne. *See* Trust
18 Sec. 6.1 (f) and (g). Petitioners were to each receive twenty percent of the proceeds
19 from the sale of the home outright and free of trust. *See* Trust Sec. 6.1 In addition,
20 Petitioners were to receive each one third of any remaining property. *See* Sec.6.2
21
22 13. The Trust provides in Section 6.1 "Upon the death of **both** Trustors, the Trustee shall
23 first sell the Trustors' primary residence located at 1060 Dancing Vines, Las Vegas,
24 Nevada, and the proceeds from the sale of such home shall be distributed..."
25 *Emphasis added.* However, Sec 6.1 (g) provides "Moreover, in the event the home
26 referred to in this Section 6.1 was sold prior to the Survivor's death, then an amount
27 equal to the net proceeds from such earlier sale shall be set aside to be held and
28 distributed pursuant to the above terms of this Section 6.1."

1 **IV. Law and Analysis**

2 Pursuant to the trust, the Trustees had the "sole discretion" to use the net income
3 to support the surviving trustor. Furthermore, if in the "opinion" of the Trustees the
4 income from the trust was not sufficient to support the survivor, the Trustees could use
5 the trust principal to support the needs of the survivor. *See* Trust Article 4.3.
6

7 After payments of decedent expenses following death of one of the trustors, any
8 remaining property in the trust was to be transferred to the Survivor Trust. *See* Trust
9 Article 4.3. Nancy claims that the trust provided that if she asked for more funds and the
10 Trustees, in their sole discretion, did not agree, she had the authority to replace the
11 Trustees. Nancy and the original co-trustees seek to litigate whether Nancy can remove
12 and replace Petitioners pursuant to the interpretation of the language in the Trust. Sec.9.3.
13 In addition, since the real property at 1060 Dancing Vines has been sold there is the
14 question of using those proceeds for Nancy or setting the proceeds "aside to be held and
15 distributed pursuant to the terms of" the trust.
16

17 In addition, there is the question of exploitation, fraud, duress, or undue influence
18 by the newly appointed trustee Monte Reason over his mother, Nancy. Petitioners are the
19 original trustees and the children of the grantors. *See* Trust Sec. 1.2. Moreover they were
20 to receive sixty percent of "the net proceeds from . . . sale" of the home at 1060 Dancing
21 Vines. *See* Trust Sec. 6.1 (g).
22

23 Nancy cites Linthicum v. Rudi, 122 Nev. 1452, 148 P.3d 746 (2006) to support
24 her assertion that the Court lacks jurisdiction over this case. However, there are several
25 distinctions between Linthicum and the present case. First, in Linthicum, the petitioners
26 were only beneficiaries of the trust. Here, Petitioners were formerly trustees of the trust.
27
28

1 Second, the petitioners in *Linthicum* sought relief because they were removed as
2 beneficiaries of the trust. Here, Petitioners were removed as trustees of the trust; their
3 status as beneficiaries of the trust has not been modified or questioned. Furthermore,
4 Petitioners allege that they were removed as trustees because of undue influence and
5 duress.
6

7 Significantly, *Linthicum* deals exclusively with a revocable inter vivos trust with
8 a sole grantor. Here, the Christian Family Trust was created as a revocable inter vivos
9 trust by co-grantors. Upon the death of Raymond, the trust became irrevocable. *See* Trust
10 Sec. 9.2. Furthermore, a discretionary survivor's trust was created. *See* Trust Sec. 4.3.
11 The language of *Linthicum* is clear that it refers only to revocable inter-vivos trusts:

12 "However, neither of these statutes directly addresses revocable inter vivos trusts,
13 such as the trust in this case. [...] Nevada statutes do not contemplate beneficiaries
14 to a revocable inter vivos trust challenging the trust until the settlor's death."
15

16 Nevada law provides the court discretion to accept jurisdiction and to decide who
17 is an interested party. "Interested person" means a person whose right or interest under an
18 estate or trust may be materially affected by a decision of a fiduciary or a decision of the
19 court. The fiduciary or court shall determine who is an interested person according to the
20 particular purposes of, and matter involved in, a proceeding. NRS 132.185 .
21

22 Here, Petitioners were co-trustees of the trust and had fiduciary responsibility to
23 protect the interests of Nancy and the assets of the Christian family trust. They had sole
24 discretionary power of the assets of the trust and allege that they were removed as
25 trustees for exercising this discretion. Petitioners further allege that appointment of
26 Monte Reason as trustee will result in abuse or misuse of trust assets.
27
28

1 Nevada law provides that trustees may petition the court regarding any aspect of
2 the trust including appointing or removing a trustee. NRS 153.031(k). Moreover, Nevada
3 law allows the Court to take jurisdiction of cases in matters involving fraud or duress.

4 "The court has exclusive jurisdiction of proceedings initiated by the petition of an
5 interested person concerning the internal affairs of a non-testamentary trust, including a
6 revocable living trust while the settlor is still living if the court determines that the settlor
7 cannot adequately protect his or her own interests or if the interested person shows that
8 the settlor is incompetent or susceptible to undue influence." NRS 164.015(1)
9

10 The Court finds that Petitioners, as the original co-trustees and the children of the
11 Grantors, as well as beneficiaries of the trust, are interested person as defined in NRS
12 132.185. Petitioners have standing to question whether Nancy properly removed them
13 from the role of trustees. NRS 164.015, (1) (3) and (4).
14

15 This Court has jurisdiction over the trust. NRS 164.010 (2). In fact, both
16 sides have questions regarding the holding and setting aside of net proceeds of the sale of
17 real property, breach of fiduciary duty, and interpretation of the trust instrument. The
18 Court has jurisdiction to review the trust to resolve these issues. NRS 164.033.
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1 **V. CONCLUSION**

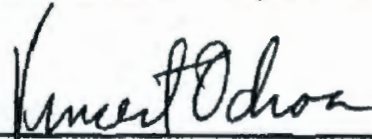
2 The Petitioners are "interested persons" as defined in NRS 132.185 and have standing to
3 pursue their petition. The Court has jurisdiction to review the trust to help resolve their issues.
4 NRS 164.033. It is the Court's intention to refer this matter for a conference with a Senior
5 Judge.
6

7 **WHEREFORE, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED**
8 **THAT** Nancy shall file an Answer/Responding Pleading pursuant to statute.

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

11 **IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED THAT** the
12 assets withdrawn from the trust by Petitioners shall be placed in to an account and frozen.
13 Petitioners shall provide proof of the location of these assets to Nancy and the Court within 10
14 days.
15

16
17 **IT IS SO ORDERED this 31 day of October, 2017**

18
19 
20 **Honorable VINCENT OCHOA**
21 **District Court Judge, Department S**

22 **VINCENT OCHOA**
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28

IN THE MATTER OF THE
CHRISTIAN FAMILY TRUST U/A/D 10/11/16

Electronically Filed
Mar 27 2019 04:56 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

vs.
ANTHONY L. BARNEY, LTD. and
JACQUELINE UTKIN,
Respondents.

vs.
SUSAN CHRISTIAN-PAYNE,
ROSEMARY KEACH, and
RAYMOND CHRISTIAN, JR.,
Cross-Respondents.

Respectfully Submitted,
ANTHONY L. BARNEY, LTD.

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III	Transcript Re: All Pending Motions; Tuesday, March 15, 2018	000587- 000638
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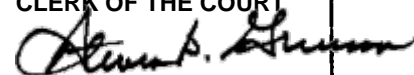
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I	Errata to Notice of Motion and Motion to Dismiss Pursuant to NRCP 12(b)(1) and NRCP 12(b)(5)	000097-000100
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I	Decision	000141-000147
I	Notice of Entry of Order	000148-000156
II	Joint Objection to Petition to Assume Jurisdiction of Trust; Confirm Trustees; Instructions, Etc. and Joint Counterpetition to Assume in Rem Jurisdiction of the Trust, to Confirm Trustee, to Find Breach of Fiduciary Duty, Conversion, and Fraud Against Former Trustees, to Invalidate All Transfers to the Former Trustees as the Product of Undue Influence, to Order the Immediate Delivery of all Trust Assets, and to Impose a Constructive Trust	000157-000306
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III	Petition to Confirm Successor Trustee	000401-000461
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IV	Transcript Re: Petition; Wednesday, April 4, 2018	000639-000736
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Cary Colt Payne, Esq.
700 S. 8th St.
Las Vegas, NV 89101
*Attorney for Susan Christian-Payne,
Rosemary Keach, and Raymond Christian, Jr.*

Employee of Anthony L. Barne



PET
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)	Date:	
TRUST u.a.d. 10/11/16)	Time:	9:30 AM
~~~~~	)		

**PETITION TO ASSUME JURISDICTION OF TRUST;  
CONFIRM TRUSTEES; INSTRUCTIONS, ETC.**

COMES NOW, SUSAN CHRISTIAN-PAYNE, ROSEMARY KEACH and RAYMOND CHRISTIAN, co-trustees and 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 petition this Court to: (i) assume jurisdiction over the Trust; (ii) to confirm Petitioners are co-Trustees, (iii) to confirm the Trust; (iv) for instructions regarding the distribution of trust assets; and (v) for a temporary restraining order to preserve and protect the Trust assets.

Pursuant to NRS 153.031(a), (b), (d), (f), (h), (k), and (q); NRS 163.115; NRS 164.005; NRS 164.010; NRS 164.015; and NRS 164.033, Petitioners allege as follows:

CARY COLT PAYNE, CHTD.  
700 South Eighth Street  
Las Vegas, Nevada 89101  
Tel: 702.383.9010 • Fax 702.383.9049





1 **A. Trust Documents and Major Beneficiaries**

2 Raymond T. Christian (hereinafter "Raymond" or the "deceased") and Nancy I.  
3 Christian (hereinafter "Nancy") executed The Christian Family Trust u.a.d. 10/11/16.  
4 Petitioners were parties to the original agreement as co-trustees. (Exhibit "A")

5  
6 2. At the time the Trust was executed, the Trustors were not the trustees  
7 (Trust- page 3, ¶ 1; page 28). SUSAN CHRISTIAN-PAYNE, ROSEMARY KEACH and RAYMOND  
8 CHRISTIAN, were the original named co-trustees and accepted the Trusteeship of the Trust  
9 at the time of its initial execution in October 2016. The Petitioners are also beneficiaries  
10 (Trust Article 1.2). Petitioners' understanding from their father is that he was seeking to  
11 protect their mother, Nancy Christian, was a spendthrift, and would run out of funds. The  
12 other reason was to protect her from exploitation and/or undue influence from her son,  
13 Monte Reason, based upon family history. (see Declaration in Support)

14  
15 3. That in or around October 2016, while Grantor Raymond was hospitalized,  
16 the grantor and the trustees agreed to purchase a new primary residence that would be  
17 located within five miles of the trustee's residences. The move of primary residences  
18 would allow the trustees to take care of their mother and to provide their father with the  
19 24-hour care he needed instead of having to admit him into a skilled nursing home. After  
20 consultation with both Grantors, the sale of 1060 Dancing Vines was decided by the  
21 grantors together with the acquisition of the new primary residence located at 2848 Bluff  
22 Point Drive (purchased November 23, 2016). Grantor Nancy Christian accompanied the  
23 trustees in viewing potential properties, meeting multiple times with Realtor Jackie  
24 Akester. The Grantors provided verbal instructions to purchase the Bluff Point property  
25 and sell of the Dancing Vines property as soon as it could be rehabilitated.  
26  
27  
28



1           4.       Extensive rehabilitation was required on the Dancing Vines property as it  
2 was, at the time of the decision to purchase the new property, unfit for human habitation.  
3 The contractor began rehabilitation work at Dancing Vines in December 2016; the work  
4 took approximately three weeks, the trustees provided the grantors with all progress  
5 updates. In January 2017, the Dancing Vines property rehabilitation was complete and,  
6 again, with the grantors permission, the trustees listed the property for sale. On or about  
7 January 18, 2017, the trustees accepted a contract on the Dancing Vines property and it  
8 sold on February 13, 2017. All proceeds have been accounted for. (HUD-1 as Exhibit  
9 "B")  
10

11           5.       At the time of the Bluff Point property purchase, Raymond Christian had  
12 been bedridden (since June 2016) and required 24/7 care. Nancy Christian periodically  
13 and voluntarily would remove herself to her condominium located at 304 Orland Street  
14 #39, Las Vegas, Nevada, a 1 bedroom condo (612 sf). She did this at least twice  
15 between November 2016 and Raymond Christian's death in January 2017, and did not  
16 wish contact with her dying husband.  
17

18           6.       In and around that time, Nancy Christian also was looking into going to  
19 reside at assisted living, and "dragged her feet", after first agreeing to go. Ultimately she  
20 decided to live in the condo with her son, Monte Reason.  
21

22           7.       Grantor Raymond Christian died on January 31, 2017.  
23

24           8.       Within a month after the property closed, Nancy Christian was seeking to be  
25 paid \$5,000 per month. It should be noted that the condo Nancy resides in is free and  
26 clear, with only the monthly utilities, food, etc., to pay. Nancy Christian has her own  
27 income of about \$2,100 per month between social security and pension. Upon  
28 information and belief Monte Reason and possibly his girlfriend are also residing in the  
small condo. The Trust provides at Article 4, ¶4.3(a) that: "*the Trustee, in Trustees' 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 and maintenance of the survivor...". [Emphasis added]*

9. The only income to the trust is from a rental property in California, which after the payment of mortgage, taxes, homeowner's insurance, maintenance etc. from the rent received, which is at best, a few hundred dollars. Nancy's counsel was so informed in correspondence of May 2, 2017. Counsel was also informed that Nancy has not provided proof of any need for the trust to make such an enormous payment when it does not appear otherwise that Nancy's income was insufficient to meet her needs. Counsel was also informed that this situation has, on the surface, the appearance of someone else influencing Nancy to make these requests. Nancy is 77 years old, has been very forgetful, and when tested, barely passed the minimum requirements regarding diagnoses regarding dementia.

10. Prior counsel was so informed, as to the trust terms, net income payments, etc., in confidential correspondence dated June 3, 2017. Within 10 days, Nancy, executed documents to remove the petitioners as trustees and appoint Monte Reason. (Exhibit "C") Also see Declaration in Support.

#### **B. Interested Persons**

The names, ages, relationship and residences of the persons interested in the Trust, so far as known to Petitioners are as follows:

<i>Name</i>	<i>Age/Relationship</i>	<i>Address</i>
Nancy I. Christian	Adult/Spouse	c/o Joseph Powell, Esq. RUSHFORTH, LEE & KIEFER, LLP 1701 Village Center Circle, Suite 150 Las Vegas, NV 89134



Susan Christian Payne      Adult/daughter      c/o Cary Colt Payne, Esq.  
CARY COLT PAYNE, CHTD.  
700 South Eighth Street  
Las Vegas, Nevada 89101

Rosemary Keach      Adult/daughter      c/o Cary Colt Payne, Esq.  
CARY COLT PAYNE, CHTD.  
700 South Eighth Street  
Las Vegas, Nevada 89101

Raymond Christian      Adult/son      c/o Cary Colt Payne, Esq.  
CARY COLT PAYNE, CHTD.  
700 South Eighth Street  
Las Vegas, Nevada 89101

Monte Reason      Adult/Stepson      304 Orlando Street, #39  
Las Vegas, NV 89107

### ***C. Statutory Basis for Court's Jurisdiction***

NRS (164.015(1) provides that "[t]he court has exclusive jurisdiction of proceedings initiated by the petition of an interested person concerning the internal affairs of a non-testamentary trust ...Proceedings which may be maintained under this section are those concerning the administration and distribution of trusts,...including petitions with respect to a non-testamentary trust for any appropriate relief provided with respect to a testamentary trust in NRS 153.031." NRS 164.015 (2) allows a petition filed under this section to be filed in conjunction with a petition under NRS 164.010.

NRS 153.031 provides that "[a] trustee or beneficiary may petition the court regarding any aspect of the affairs of the trust, including: (a) determining the existence of a trust; (b) determining the construction of an instrument; (e) ascertaining beneficiaries and determining to whom property is to pass or be delivered upon final or partial termination of the trust, to the extent not provided in the trust instrument; (f) settling the accounts and reviewing the acts of the trustee, including the exercise of discretionary powers; (h) compelling the trustee to report information about the trust or account, to the



beneficiary; (k) appointing or removing a trustee; and (q) [compelling compliance with the terms of the trust or other applicable law.]

NRS 163.115 provides that "[i]f a trustee commits or threatens a breach of trust, a beneficiary or co-trustee of the trust may maintain a proceeding...(a) [t]o compel the trustee to perform his or her duties; (b) [t]o enjoin the trustee from committing the breach of trust; (c) [t]o compel the trustee to redress the breach of trust by payment of money or otherwise; and (i) [t]o trace trust property that has been wrongfully disposed of and recover the property or its proceeds."

The Trustor resided in Clark County, Nevada; the Trust is being administered in Clark County, Nevada; the Trust is believed to own property in Clark County, Nevada; and the Trust is governed by the laws of the State of Nevada.

As such the court should assume jurisdiction over the Trust and grant the requested in this petition.

#### ***D. Need for Instructions***

##### ***D-1. Petitioners are Still Co Trustees of Decedent's Original Trust Agreement***

The trust agreement was put in place, and the parties agreed to uphold the express terms.

Upon the first Trustor to become deceased, the trust was to be divided into the survivor's trust and the decedent's trust (Trust-Articles 4 and 5). Article 5.1 describes some of the administration, so does Article 6 regarding real property. The net income (or principal) of the trust was to be used for the survivor, should it become necessary.

The Trust, at paragraph 9.3 states:

**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 of Successor Trustee of this Trust by an instrument in writing, signed by such Trustor and delivered to the Trustee. After the death of the

1 first Trustor to die, the surviving Trustor shall have the power to change the Trustee  
2 or Successor Trustee of the Trust by an instrument in writing signed by the  
3 surviving Trustor and delivered to the Trustee.

4 As usual custom, a survivor grantor only has the power to change the trustee of  
5 the survivor's trust (see also Article 9, page 17). The decedent's trust becomes  
6 irrevocable upon the first grantor to die, and the survivor is not endowed with the ability to  
7 replace the trustee of the decedent's trust (Article 9.2).

8  
9 It is submitted, and pursuant to the trust agreement, that Nancy Christian may  
10 have had only had the power to appoint a new trustee over the survivor's trust, which  
11 should have been funded with her separate property (condo), survivor's one-half of  
12 community property (Article 4). The remaining one-half portion of the community  
13 property, as well as decedent's separate property, should be designated to the  
14 decedent's trust. The co-trustees had been very concerned as to undue influence of  
15 their mother, which apparently was not unfounded due to the prompted changes (Exhibit  
16 "C").  
17

18 Paragraph 9.3, as written is vague, as to the powers of appointment of a new  
19 trustee as to the decedent's trust. It is submitted that Nancy Christian did not have the  
20 power to so remove the co-trustees of the decedent's trust. Id.

21 Moreover, upon information and belief, Monte B. Reason, Nancy's son, is not  
22 qualified to act as a fiduciary under the trust, and he should be removed. NRS  
23 153.031(k), and that Citation issue. See Declarations of Petitioners, attached.

24 ***D-2. Proceeds of Dancing Vines property***

25  
26 There is the issue regarding the net proceeds of sale of the Dancing Vines  
27 property. There is some ambiguity between the first sentence (mandatory) of paragraph  
28 6.1 and that at the end of paragraph 6.1(g), which states:



(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.**

[Emphasis added]

Petitioners' reading of the paragraph as a whole is that despite the opening sentence, the grantors specifically provided for the distribution of any net proceeds of sale of this specific property, despite one grantor yet surviving.

The home referred to therein was the real property located at 1060 Dancing Vines Avenue, Las Vegas, Nevada 89183. This property was sold with the net proceeds of sale (**Exhibit "C"**) being the amount of \$194,704.59.

The Trust makes provision for the circumstances of the property being sold prior to the Survivor's death, which has occurred. These funds should be distributed pursuant to the trust paragraph 6.1 (a)-(f):

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

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

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

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

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

Monte B. Reason (10% = \$19,470.45), 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.





1 It is requested that the court, if it assumes jurisdiction, etc., it also issue orders  
2 confirming this proposed distributions, the actions of co-trustees, etc., in the same  
3 amounts as noted above.  
4

5 ***E. Protective Order***

6 In addition to the aforementioned relief requested, the Petitioners respectfully  
7 request that this Court issue a temporary restraining order and, thereafter, are injunction  
8 to protect and preserve the Trust assets as a provisional remedy until such time that the  
9 Court has had the opportunity to assume jurisdiction over the Trust, until such time that a  
10 determination as to the proper distribution has been made, and until such time that the  
11 issues herein are resolved.  
12

13 This Court has inherent equitable authority to enter orders to preserve and protect  
14 trust assets This Court also possesses the statutory authority to protect trust and estate  
15 assets by entering injunctive relief (with or without notice) upon such terms and conditions  
16 as the Court deems just and appropriate. See, NRS 155.123 (providing that "upon such  
17 terms and conditions as the court deems just and appropriate, the court may issue a  
18 temporary restraining order or an injunction to preserve and protect assets of the estate  
19 or trust.") See, e.g., Commerce Bank v. Bolander, 239 P 3d 83, 95 (Kan. Ct. App. 2007)  
20 (recognizing the probate court's authority to attach and freeze trust assets); Redmer v.  
21 Hakala, 99 N.E. 2d 831, 835 (Ill. Ct. App. 1951) (recognizing that equity authorizes a  
22 court to enjoin the actions of a trustee to protect any mismanagement or waste of trust  
23 assets as part of its "inherent jurisdiction to recognize, execute and control trusts and trust  
24 funds").  
25  
26  
27  
28



## CONCLUSION

It is requested that the court issue it's orders as follows:

- (1) taking in rem jurisdiction over the trust;
- (2) that the trust be designated as the survivor's trust and the decedent's trust;
- (3) confirm that the petitioners are co-trustees over the decedent's trust;
- (4) removing Monte B. Reason as trustee, and limiting his involvement
- (5) ordering the distribution of the net proceeds of sale of the Dancing Vines

property;

(6) ordering a protective order on all assets from any distribution, except for the payment of mortgages, utilities, and the like, until final determination is made;

(7) such other and further relief as this court may deem just and equitable.

Dated: July 31, 2017

CARY COLT PAYNE, ESQ.  
Nevada Bar No. 4357  
CARY COLT PAYNE, CHTD.  
700 South Eighth Street  
Las Vegas, Nevada 89101  
(702) 383-9010  
Attorney for Petitioner

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on July 31, 2017, 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;

X **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](mailto: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](mailto:tiffany@anthonybarney.com)  
Attorney for Nancy I. Christian

  
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*

**DECLARATION IN SUPPORT**

RESAPP000012

## **DECLARATION 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:

1. 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.

2. When my parents initially created The Christian Family Trust, my father specifically wanted myself and my siblings to be the original co-trustees, as our mother was already in the early stages of mental decline. I and my siblings were signatories to the original trust agreement as co-trustees.

3. Our step brother, Monte Reason, was another reason why we were specifically chosen to be the original trustees. Monte has a criminal past, including but not limited to assault with a deadly weapon, drug issues (possession of methamphetamine, manufacture, etc., unlawful possession of controlled substance, petit larceny between 1991 through 2011, which he sought to seal (Exhibit 1) . He has financial issues of not paying child support in both Montana (2013) and California (2014) (Exhibit 2). Monte is not qualified to act as a proper fiduciary.

4. Our father was of the belief that Monte would attempt to extort money from our mother once our father died.

5. On behalf of my siblings and myself, we do not believe that the change in trustee designation signed by our mother, Nancy Christian was truly the product of her own free will. We do believe that Monte had his hands in unduly influencing her to change attorneys and execute the document appointing him as trustee, so that he would have free reign over trust assets.

Dated: July 26, 2017

  
SUSAN CHRISTIAN PAYNE

# Exhibit “1”

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## REGISTER OF ACTIONS

CASE NO. 91C102682

The State of Nevada vs Monte B Reason

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Case Type: Felony/Gross Misdemeanor

Date Filed: 09/30/1991

Location: Department 16

Cross-Reference Case Number: C102682

Defendant's Scope ID #: 0917828

Lower Court Case Number: 91F04152

### RELATED CASE INFORMATION

#### Related Cases

91F04152X (Bind Over Related Case)

### PARTY INFORMATION

<b>Defendant</b> Reason, Monte B <i>Also Known As Reason III , Monte B</i>	<b>Lead Attorneys</b> <b>Public Defender</b> <i>Retained</i> 702-455-4685(W)
<b>Plaintiff</b> State of Nevada	<b>Rex A. Bell, Jr.</b> 702-387-6156(W)

### CHARGE INFORMATION

Charges: Reason, Monte B	Statute	Level	Date
1. UNLAWFUL FOR ANY PERSON TO IMPORT,TRANSPORT,MANUFACTURE,COMPOUND,SELL,	453.321	Felony	01/01/1900
1. CONSPIRACY DANGEROUS DRUG	C453.336	Gross Misdemeanor	01/01/1900

### EVENTS & ORDERS OF THE COURT

11/20/1991 **Sentencing (9:00 AM) ()**  
**SENTENCING - AI Court Clerk: DENISE TRUJILLO Reporter/Recorder: KIT MacDONALD Heard By: John McGroarty**

#### Minutes

11/20/1991 9:00 AM

- Beverly Cunningham of P&P present. COURT adjudged deft. guilty of CONSPIR-ACY TO POSSESS CONTROLLED SUBSTANCE (GM). Statements by deft. and Mr. Caruso. COURT ORDERED, in addition to the \$25 and the \$60 drug analysis, deft. sentenced to Six (6) months in the Clark County Detention Center; suspended, placed on probation for indeterminate period not to exceed Two (2) years. CONDITIONS: 1. Search clause. (controlled substance) 2. Complete a substance abuse counseling program as deemed necessary. 3. Complete a adult education program as deemed necessary. 4. Complete 40 hours community service within first 6 months of probation. FURTHER, bond exonerated.

[Parties Present](#)

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[Skip to Main Content](#) [Logout](#) [My Account](#) [Search Menu](#) [New Criminal Search](#) [Refine Search](#) [Back](#)Location : Justice Court [Help](#)**REGISTER OF ACTIONS**

CASE No. 99F19239X

State of Nevada vs Reason, Monte Brian

\$  
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\$Case Type: **Felony**  
Date Filed: **12/06/1999**  
Location: **JC Department 1****PARTY INFORMATION**

Defendant Reason, Monte Brian

Lead Attorneys  
Bita Khamsi  
Public Defender  
7024554527(W)

State of Nevada State of Nevada

**CHARGE INFORMATION**

Charges: Reason, Monte Brian

	Statute	Level	Date
1. ASSAULT WITH A DEADLY WEAPON	200.471	Felony	12/06/1999
2. DISCHARGING A FIREARM FROM A MOTOR VEHICLE	202.287	Felony	12/06/1999

**EVENTS & ORDERS OF THE COURT****DISPOSITIONS**

12/22/1999 (Judicial Officer: Lippis, Deborah J.)  
1. ASSAULT WITH A DEADLY WEAPON  
WAIVE PRELIMINARY HEARING - OTHER

12/22/1999 (Judicial Officer: Lippis, Deborah J.)  
2. DISCHARGING A FIREARM FROM A MOTOR VEHICLE  
WAIVE PRELIMINARY HEARING - OTHER

12/22/1999 (Judicial Officer: Lippis, Deborah J.)  
1. ASSAULT WITH A DEADLY WEAPON  
Bound Over

12/22/1999 (Judicial Officer: Lippis, Deborah J.)  
2. DISCHARGING A FIREARM FROM A MOTOR VEHICLE  
Bound Over

**OTHER EVENTS AND HEARINGS**

12/06/1999 TRANSFERRED TO JC  
TRANSFERRED TO JC

12/06/1999 CTRACK Track Assignment JC01

12/07/1999 RECEIVED FROM DA  
RECEIVED FROM DA

12/07/1999 48 HOUR - PROBABLE CAUSE FOUND (Judicial Officer: Lippis, Deborah J.)  
48 HOUR HEARING

12/07/1999 48 Hour Probable Cause Review (8:00 AM) (Judicial Officer Lippis, Deborah J.)  
Result: COMPLETED

12/08/1999 P/H DATE SET (Judicial Officer: Lippis, Deborah J.)  
72H HEARING P/C

12/08/1999 72 Hour Hearing (8:00 AM) (Judicial Officer Lippis, Deborah J.)  
Result: COMPLETED

12/22/1999 WAIVE PRELIMINARY HEARING - OTHER (Judicial Officer: Lippis, Deborah J.)  
PRELIM HEARING

12/22/1999 Preliminary Hearing (8:00 AM) (Judicial Officer Lippis, Deborah J.)  
Result: Bound Over

01/06/2000 SEE CHARGE/DISPOSITION RECORD (Judicial Officer: Harris, Kurt K.)  
FELONY ARRG

01/06/2000 Arraignment (8:00 AM) (Judicial Officer Harris, Kurt K.)  
Result: CASE FINDING

03/08/2000 SEE CHARGE/DISPOSITION/SENT RECORDS (Judicial Officer: Harris, Kurt K.)  
SENTENCING

03/08/2000 DISPOSITION NOTICE FOR DISTRICT COURT  
MinuteCode1: DISPOSITION NOTICE FOR DISTRICT COURT MinuteCode3: DISPOSITION NOTICE FOR DISTRICT COURT

RESAPP000017

03/08/2000 | Sentencing Hearing (8:00 AM) (Judicial Officer Harris, Kurt K.)  
Result: SENT DECIS

## REGISTER OF ACTIONS

CASE NO. 07F04298X

State of Nevada vs Reason, Monte Brian

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 Case Type: **Felony**

 Date Filed: **03/05/2007**

 Location: **JC Department 9**

 District Court Case Number: **C231669**

 Metro Event Number: **0703020140**

### RELATED CASE INFORMATION

**Related Cases**

07C231669 (Bind Over Related Case)

### PARTY INFORMATION

**Defendant** Reason, Monte Brian *Also Known As* Reason, Monte

**Lead Attorneys**  
Erika D Ballou  
*Public Defender*  
7024554685(W)

**State of Nevada**

State of Nevada

### CHARGE INFORMATION

Charges: Reason, Monte Brian	Statute	Level	Date
1. POSSESSION OF METHAMPHETAMINE	453.336	Felony	03/02/2007

### EVENTS & ORDERS OF THE COURT

**DISPOSITIONS**

03/20/2007	Disposition (Judicial Officer: Bonaventure, Joseph M.) 1. POSSESSION OF METHAMPHETAMINE WAVE PRELIM UNCOND PER PLEA NEGO
03/20/2007	Plea (Judicial Officer: Bonaventure, Joseph M.) 1. POSSESSION OF METHAMPHETAMINE Bound Over

**OTHER EVENTS AND HEARINGS**

03/03/2007	48 HOUR - PROBABLE CAUSE FOUND (Judicial Officer: Silver, Abbi ) 48 HOUR HEARING
03/03/2007	48 Hour Probable Cause Review (8:00 AM) (Judicial Officer Silver, Abbi) Result: COMPLETED
03/05/2007	TRANSFERRED TO JC TRANSFERRED TO JC
03/05/2007	RECEIVED FROM DA RECEIVED FROM DA
03/05/2007	COMPLETED BY JMH MinuteCode1: COMPLETED BY JMH MinuteCode3: COMPLETED BY JMH
03/05/2007	COMPLETED BY JLM MinuteCode1: COMPLETED BY JLM MinuteCode3: COMPLETED BY JLM
03/05/2007	CTRAK Track Assignment JC09
03/06/2007	CONTD FOR NEGOTIATIONS (Judicial Officer: Bonaventure, Joseph M. ) 72H HEARING P/C
03/06/2007	72 Hour Hearing (8:00 AM) (Judicial Officer Bonaventure, Joseph M.) Result: COMPLETED
03/08/2007	P/H DATE STANDS (Judicial Officer: Bonaventure, Joseph M. ) FELONY ARRGN
03/08/2007	Arraignment (8:00 AM) (Judicial Officer Bonaventure, Joseph M.) Result: COMPLETED
03/20/2007	WAVE PRELIM UNCOND PER PLEA NEGO (Judicial Officer: Bonaventure, Joseph M. ) PRELIM HEARING
03/20/2007	Preliminary Hearing (8:00 AM) (Judicial Officer Bonaventure, Joseph M.) Result: Bound Over
03/28/2007	SEE CHARGE/DISPOSITION/SENT RECORDS (Judicial Officer: Bell, Stewart ) FELONY ARRGN
03/28/2007	DISPOSITION NOTICE FOR DISTRICT COURT MinuteCode1: DISPOSITION NOTICE FOR DISTRICT COURT MinuteCode3: DISPOSITION NOTICE FOR DISTRICT COURT

03/28/2007 | Arraignment (8:00 AM) (Judicial Officer Bell, Stewart)  
Result: GUILTY/SENT

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## REGISTER OF ACTIONS

### CASE NO. 07C231669

The State of Nevada vs Monte Reason

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Case Type: Felony/Gross Misdemeanor

Date Filed: 03/22/2007

Location: Department 6

Cross-Reference Case Number: C231669

Defendant's Scope ID #: 0917828

Lower Court Case Number: 07F04298

#### RELATED CASE INFORMATION

##### Related Cases

07F04298X (Bind Over Related Case)

#### PARTY INFORMATION

**Defendant** Reason, Monte *Also Known As* Reason  
 III, Monte B

**Lead Attorneys**  
**Public Defender**  
*Retained*  
 702-455-4685(W)

**Plaintiff** State of Nevada

**Steven B Wolfson**  
 702-671-2700(W)

#### CHARGE INFORMATION

##### Charges: Reason, Monte

1. ATTEMPT.

1. UNLAWFUL POSSESSION OF A CONTROLLED  
 SUBSTANCE NOT FOR PURPOSE OF SALE.

**Statute**

193.330

453.336

**Level**

Gross Misdemeanor

Gross Misdemeanor

**Date**

01/01/1900

01/01/1900

#### EVENTS & ORDERS OF THE COURT

03/28/2007 Initial Arraignment (9:00 AM) ()

*INITIAL ARRAIGNMENT/SENTENCING Court Clerk: Sharon Coffman Reporter/Recorder: Renee Vincent Heard By: Stewart Bell*

##### Minutes

03/28/2007 9:00 AM

- DEFT. REASON ARRAIGNED AND PLED GUILTY TO ATTEMPT  
 POSSESSION OF CONTROLLED SUBSTANCE (GM). COURT  
 ORDERED, in addition to the \$25.00 Administrative Assessment  
 fee, Deft. SENTENCED to Clark County Detention Center (CCDC)  
 for FOUR (4) MONTHS with 27 DAYS credit for time served. BOND,  
 if any, EXONERATED. CASE CLOSED.

##### Parties Present

[Return to Register of Actions](#)

1 **ORDR**

2 MONTE BRIAN REASON  
3 C/O Nevada Services  
4 2545 S. Bruce Street, Suite B  
5 Las Vegas, NV 89169  
6 (702) 263-7325

7  
8 **DISTRICT COURT**  
9 **CLARK COUNTY, NEVADA**

10 In the Matter of the Petition of )  
11 )  
12 )

13 MONTE BRIAN REASON )  
14 )  
15 )

16 Social Security #: xxx-xx-2976 )  
17 )  
18 )

19 For an Order to Seal Records )  
20 )  
21 )

Case No.:

Dept. No.:

22 **ORDER TO SEAL RECORDS**

23 Pursuant to the Petition of Monte Brian Reason, Petitioner In Propria Persona: Steven B.  
24 Wolfson, the District Attorney for Clark County, Nevada, having stipulated below, and the Court  
25 finding that the statutory requirements of NRS 179.245 and/or 179.255 are satisfied, and good  
26 cause appearing, therefore:

27 **IT IS HEREBY ORDERED** that the following records of arrest be sealed:

28 Date of Arrest: August 3, 2011  
Arresting Agency: Las Vegas Metropolitan Police Department  
Charge: Possession Of A Dangerous Weapon  
Case Number: 11F13740X  
Final Disposition: Denied by the District Attorney.

29 ///

30 ///

31 ///

32 ///

1 Date of Arrest: June 24, 2009  
2 Arresting Agency: Las Vegas Metropolitan Police Department  
3 Charge: Failure To Appear on charge of Petit Larceny  
4 Case Number: 08M41440X  
5 Final Disposition: **Pled guilty. \$250.00 fine imposed.**

6 Date of Arrest: March 4, 2009  
7 Arresting Agency: Las Vegas Metropolitan Police Department  
8 Charge: Battery Domestic Violence/No Prior Conviction  
9 Case Number: 09F04462X  
10 Final Disposition: **Pled guilty to amended charge of misdemeanor  
11 Battery. Sentenced to time served.**

12 Date of Arrest: March 4, 2009  
13 Arresting Agency: Las Vegas Metropolitan Police Department  
14 Charge: Malicious Destruction Of Property  
15 Case Number: 09F04462X  
16 Final Disposition: **Dismissed.**

17 Date of Arrest: January 26, 2009  
18 Arresting Agency: Las Vegas Metropolitan Police Department  
19 Charge: Unlawful Use/Possession of Drug Paraphernalia  
20 Case Number: 09M03913X  
21 Final Disposition: **Denied by the District Attorney.**

22 Date of Arrest: November 24, 2008 (citation)  
23 Arresting Agency: Las Vegas Metropolitan Police Department  
24 Charge: Petit Larceny  
25 Case Number: 08M41440X (Same case as previously identified)  
26 Final Disposition: **Pled guilty. \$250.00 fine imposed.**

27 ///

28 ///

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Date of Arrest: March 2, 2007  
Arresting Agency: Las Vegas Metropolitan Police Department  
Charge: Possession Of Controlled Substance  
Case Number: C231669  
Final Disposition: **Pled guilty to amended gross misdemeanor charge of Attempt Possession Of Controlled Substance. Sentenced to four months in Clark County Detention Center.**

Date of Arrest: October 13, 2005  
Arresting Agency: Las Vegas Metropolitan Police Department  
Charge: Failure To Appear on charge of Petit Larceny  
Case Number: 04M29539X  
Final Disposition: **Pled guilty. Sentenced to counseling.**

Date of Arrest: December 10, 2004 (citation)  
Arresting Agency: Las Vegas Metropolitan Police Department  
Charge: Petit Larceny  
Case Number: 04M29539X  
Final Disposition: **Pled guilty. Sentenced to counseling.**

Date of Arrest: June 14, 2006  
Arresting Agency: Las Vegas Metropolitan Police Department  
Charge: Contempt Of Court  
Case Number: 04M29539X  
Final Disposition: **Dismissed.**

Date of Arrest: June 12, 2006  
Arresting Agency: Las Vegas Metropolitan Police Department  
Charge: Failure To Appear on charge of Petit Larceny  
Case Number: 04M29539X  
Final Disposition: **Dismissed.**

Date of Arrest: June 9, 1991  
Arresting Agency: Las Vegas Metropolitan Police Department  
Charge: Cultivating Controlled Substance  
Case Number: C102682  
Final Disposition: **Pled guilty to amended gross misdemeanor charge on Conspiracy to Possess A Controlled Substance. Sentenced to two years probation.**

///

///

///

1 A copy of this Order shall be sent by Petitioner to each public or private agency,  
2 Company or official of the State of Nevada, including but not limited to:  
3

4 Las Vegas Metropolitan Police Department  
5 400 S. Martin Luther King Blvd., Bldg. C  
6 Las Vegas, NV 89106

7 Justice Court, Las Vegas Township  
8 200 Lewis Avenue  
9 Las Vegas, NV 89155

10 Steven B. Wolfson  
11 Clark County District Attorney  
12 200 Lewis Avenue  
13 Las Vegas, NV 89155

14 Nevada Department of Public Safety  
15 Division of Parole & Probation  
16 1445 Old Hot Springs Road  
17 Carson City, NV 89705

18 Nevada Department of Public Safety  
19 Records & Technology  
20 333 W. Nye Lane  
21 Carson City, NV 89706

22 Federal Bureau of Investigation  
23 CJIS Division  
24 1000 Custer Hollow Road  
25 Clarksburg, WV 26306

26 as named in the Petition, and such organization or individual shall seal the records in its custody  
27 which relate to the matters contained in this Order, shall advise the Court of its compliance and  
28 shall then seal the Order.

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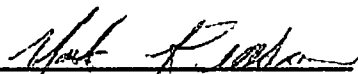
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1 All proceedings recounted in the sealed records are deemed never to have occurred,  
2 and the person to whom this Order pertains may properly answer accordingly to any inquiry  
3 relating to an application for employment, concerning the sealed arrest, conviction, dismissal or  
4 acquittal and the events and proceedings relating to the arrest, conviction, dismissal or acquittal.

5  
6 **DATED** this _____ day of _____ 2014

7  
8  
9 DISTRICT COURT JUDGE

10  
11   
12 Monte Brian Reason  
13 Petitioner In Propria Persona

14  
15 The District Attorney has reviewed the applicable criminal history and agrees that  
16 the record is statutorily eligible for sealing. The Petition and Order have not been reviewed for  
17 completeness or accuracy. The decision to order the sealing of a record remains solely within  
18 the discretion of the Court. See NRS 179, et seq.

19  
20 **STEVEN B. WOLFSON #1565**  
21 **CLARK COUNTY DISTRICT ATTORNEY**

22 **By:** _____

23 **Bar Number:** _____

24 ///

25 ///

26 ///

27 ///

28 ///

# Exhibit “2”

RIVERSIDE COUNTY DCSS - MAIN OFFICE  
2041 IOWA AVE  
RIVERSIDE CA 92507-2414



09/04/2014

MONTE B REASON  
304 ORLAND ST APT 39  
LAS VEGAS NV 89107-1656

SSN: XXX-XX-2976  
Participant ID #:  
0650000303007

Statewide Past Due Amount:*  
15041.95

## CHILD SUPPORT WARNING NOTICE

Our records show you are past due in paying child, family, or spousal support. **Without notifying you again during the next 12 months, we will use any collection method authorized under state or federal law, including, but not limited to, those methods listed below to collect all past due payments.**

- Take your Federal and State Tax refunds
- Take any other Federal payment owed to you
- Take any lottery winnings or other money owed to you by the State
- Attach and seize money or assets held by your financial institution
- Take a portion of any money owed to you as an independent contractor
- Take a portion of any Disability or Unemployment benefits
- Take a portion of any personal injury settlement or workers' compensation benefit payments

In addition to seizing these funds the following may also occur:

- Any State issued licenses including drivers licenses and professional licenses may be suspended or not renewed
- US Secretary of State may not issue you a passport or may revoke or restrict a current passport

You may avoid or reverse these actions by paying all past due amounts to the address below:

CALIFORNIA STATE DISBURSEMENT UNIT  
PO BOX 989067, WEST SACRAMENTO CA 95798-9067

## RIGHT TO ADMINISTRATIVE REVIEW

If you want an administrative review, you must contact the local child support agency listed on page 2 of this notice within 90 days after you get this notice. The ombudsperson will explain your rights and how you can have your case reviewed and how to obtain a state hearing or a review in superior court.

If your support order was not issued in California, you have the right to ask the state that issued the order to review your federal income tax refund offset. This is allowed by Title 45, Code of Federal Regulations section 303.72(g). If you ask them to, the local child support agency listed on page 2 will contact that state within 10 days after you ask for a review. You will be notified of the time and place of your administrative review by the state that issued the order.

**A Child Support Warning Notice will be sent to you every 12 months as long as you owe past due support.  
PLEASE KEEP THIS NOTICE FOR YOUR RECORDS**

*May not include accrued interest. Please contact the LCSA at the contact address listed on page 2 for an updated balance.



RIVERSIDE COUNTY DCSS - MAIN OFFICE  
2041 IOWA AVE  
RIVERSIDE CA 92507-2414



09/04/2014

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**STATE OF MONTANA**  
**DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES**  
**CHILD SUPPORT ENFORCEMENT DIVISION**

17 WEST GALENA  
BUTTE MT 59701-1705  
(406)497-6613

To view recent payments credited to you, visit our website at <https://app.mt.gov/csed>  
or call the Voice Response Unit at (406) 444-9855 and select option 1.  
**Make on-line payments at <http://app.mt.gov/csp>**

**CHILD SUPPORT STATEMENT FOR MONTH ENDING 12/31/2013**

Case Number	Account Type	Beginning Balance	Payment Applied	Adjustments (+/-)	JAN Obligation**	Ending Balance	Case Total
134333	CHILD SUPT	89,891.79			619.00	90,510.79	90,510.79

**Includes any newly assessed fees and fines.

**TOTAL DEBT**

**\$ 90,510.79**

**Children:** SARAH  
MONTE  
DYLAN

**This statement reflects payments received 12/01/2013 through 12/31/2013.**

Please note that all children named in your support order(s) are listed here.  
The CSED may not be collecting current support for all of them.

**\$ 0.00 AMOUNT TO BE REPORTED TO CREDIT BUREAU** unless arrears are reduced before JAN 31. This amount may not be the same as total debt since only delinquent amounts will be reported.

If you disagree with the amount to be reported, contact the CSED to obtain an informal administrative review. If you disagree with the amount already reported, contact the credit reporting agency and request a reinvestigation. If you disagree with the results of the reinvestigation, contact the CSED to request an administrative hearing.

**RETURNED CHECKS:** Returned checks will be turned over to a private collection agency for collection.

**INTEREST:** The CSED does not routinely calculate or collect interest on child support debts. MCA 25-9-205 provides that interest is payable on judgments in Montana at the rate of 10% per year. The party to whom past due support is owed, or his/her agent, retains a right to collect interest on that debt through any legal remedies available under the law.



**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"**

# THE CHRISTIAN FAMILY TRUST

Dated October 11, 2016

Prepared by:



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

[www.gmdlegal.com](http://www.gmdlegal.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:

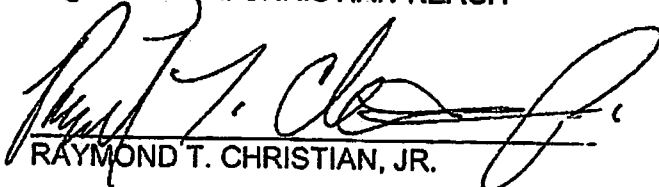
  
RAYMOND T. CHRISTIAN


  
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

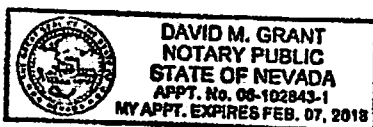
  
RAYMOND T. CHRISTIAN, JR.

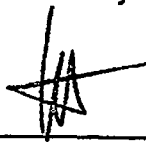
  
SUSAN G. CHRISTIAN-PAYNE

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.

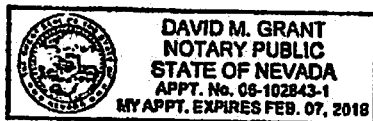


  
_____  
NOTARY PUBLIC

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.



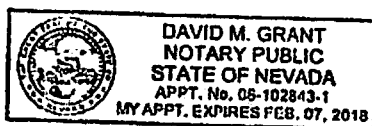
A handwritten signature in black ink, appearing to be "DMG", written over a horizontal line.

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.



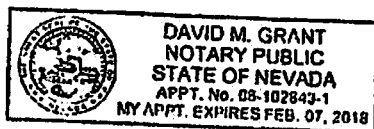
A handwritten signature in black ink, appearing to be "DMG", written over a horizontal line.

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 handwritten signature in black ink, consisting of stylized, overlapping loops and a long horizontal stroke at the end.

_____  
NOTARY PUBLIC



**CARY COLT PAYNE, CHTD.**

Attorney at Law

700 S. Eighth Street • Las Vegas, Nevada 89101

(702) 383-9010 • Fax (702) 383-9049

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**EXHIBIT "B"**

## Closing Disclosure

## Closing Information

Date Issued 2/8/2017  
 Closing Date  
 Disbursement Date  
 Settlement Agent Equity Title of Nevada  
 File # 17840030-084-TGR  
 Property 1060 Dancing Vines Avenue  
 Las Vegas, NV 89183  
 Sale Price \$210,000.00

## Transaction Information

Borrower Deborah Coulter and Paul Hirsch  
 1060 Dancing Vines Avenue  
 Las Vegas, NV 89183  
 Seller **See Attachment

## Summaries of Transactions

## SELLER'S TRANSACTION

Due to Seller at Closing \$210,511.59  
 01 Sale Price of Property \$210,000.00  
 02 Sale Price of Any Personal Property Included in Sale

## Adjustments for Items Paid by Seller in Advance

04 City/Town Taxes to  
 05 County Taxes 2/10/17 to 7/1/17 \$382.08  
 06 Assessments 2/10/17 to 3/1/17 \$15.62  
 07 Sewer 2/10/17 to 7/6/17 \$90.04  
 08 Trash 2/10/17 to 4/1/17 \$23.85

Due from Seller at Closing \$15,807.00

01 Excess Deposit  
 02 Closing Costs Paid at Closing (I) \$15,503.40  
 03 Existing Loan(s) Assumed or Taken Subject to  
 04 Payoff of First Mortgage Loan  
 05 Payoff of Second Mortgage Loan

06 Seller Credit  
 07 Title Insurance Premium Adjustment \$303.60

## Adjustments for Items Unpaid by Seller

08 City/Town Taxes to  
 09 County Taxes to  
 10 Assessments to

## CALCULATION

Total Due to Seller at Closing \$210,511.59  
 Total Due from Seller at Closing -\$15,807.00  
 Cash ☐ From ☒ To Seller \$194,704.59

## Contact Information

## REAL ESTATE BROKER (B)

Name Black & Cherry Real Estate  
 Address 2421W, Horizon Ridge PKWY Suite 110  
 Henderson NV 89052  
 NV License ID  
 Contact Mark Hillers  
 Contact NV License ID  
 Email thehillers@gmail.com  
 Phone (702) 480-4454

## REAL ESTATE BROKER (S)

Name Real Estate By Design  
 Address 1180 Town Center Drive Suite 100  
 Las Vegas NV 89144  
 NV License ID  
 Contact Jackie Akester  
 Contact NV License ID  
 Email jackie@rebdlv.com  
 Phone (702) 945-2728

## SETTLEMENT AGENT

Name Equity Title of Nevada  
 Address 2475 Village View Dr. Suite 250  
 Henderson NV 89074  
 NV License ID  
 Contact Taci Granlund  
 Contact NV License ID  
 Email TeamTLT@equitynv.com  
 Phone (702) 432-1111

Questions? If you have questions about the loan terms or costs on this form, use the contact information below. To get more information or make a complaint, contact the Consumer Financial Protection Bureau at [www.consumerfinance.gov/mortgage-closing](http://www.consumerfinance.gov/mortgage-closing)

CCP-009

## Closing Cost Details

Loan Costs		At Closing	Seller-Paid Before Closing
<b>A. Origination Charges</b>			\$0.00
01	% of Loan Amount (Points)		
02			
03			
04			
05			
06			
<b>B. Services Borrower Did Not Shop For</b>			\$0.00
01			
02			
03			
04			
05			
06			
07			
08			
<b>C. Services Borrower Did Shop For</b>			\$480.00
01	Escrow Fee to Equity Title of Nevada	\$355.00	
02	Notary Signing Fee	\$125.00	
03			
04			
05			
06			
07			
08			
09			
10			
<b>Other Costs</b>			
<b>E. Taxes and Other Government Fees</b>			\$1,071.00
01	Recording Fees Deed: Mortgage:		
02	County Transfer Tax to Equity Title of Nevada	\$1,071.00	
<b>F. Prepays</b>			\$0.00
01	Homeowner's Insurance Premium (mo.)		
02	Mortgage Insurance Premium (mo.)		
03	Prepaid Interest (per day from to)		
04	Property Taxes (mo.)		
<b>G. Initial Escrow Payment at Closing</b>			\$0.00
01	Homeowner's Insurance per month for mo.		
02	Mortgage Insurance per month for mo.		
03	Property Taxes per month for mo.		
04	Aggregate Adjustment		
05			
06			
07			
08			
<b>H. Other</b>			\$13,952.40
01	HOA Dues to Silverado South Homeowners Association	\$60.00	
02	Real Estate Commission to Real Estate By Design	\$6,300.00	
03	Real Estate Commission to Black & Cherry Real Estate	\$6,300.00	
04	Reimburse Agent to Real Estate By Design	\$330.00	
05	Title - ALTA 2013 Homeowner's Policy or Title Insurance (Rev 12-2-13) to Equity Title of Nevada	\$737.40	
06	Transfer Fee to First Service Residential Realty	\$225.00	
07			
08			
09			
10			
<b>J. TOTAL CLOSING COSTS</b>			\$15,503.40

CCP-010

## Equity Title of Nevada

2475 Village View Dr., Suite 250 Henderson, NV 89074

Phone: (702) 432-1111

File No./Escrow No.: 17840030-084-TGR

Print Date &amp; Time: 2/8/2017 - 12:47:19PM

Officer/Escrow Officer: Taci Granlund

Settlement Location: 2475 Village View Dr., Suite 250, Henderson, NV 89074

Property Address: 1060 Dancing Vines Avenue, Las Vegas, NV 89183, 177-27-611-254

Seller: Rosemary K. Christian-Keach, Raymond T. Christian, Jr. and Susan G. Christian-Payne, Trustees of the Christian

Lender: American Financial Network

Settlement Date: 2/10/2017

Disbursement Date:

Description	Seller	
	Debit	Credit
<b>Financial</b>		
Sale Price of Property		210,000.00
<b>Prorations/Adjustments</b>		
County Taxes 02/10/17 to 07/01/17		382.08
Assessments 02/10/17 to 03/01/17		15.62
Sewer 02/10/17 to 07/06/17		90.04
Trash 02/10/17 to 04/01/17		23.85
Title Insurance Premium Adjustment	303.60	
<b>Other Loan Charges</b>		
Notary Signing Fee	125.00	
<b>Title Charges &amp; Escrow/Settlement Charges</b>		
ALTA 2013 Homeowner's Policy or Title Insurance (Rev 12-2-13) to Equity Title of Nevada	737.40	
Escrow Fee to Equity Title of Nevada	355.00	
<b>Commission</b>		
Real Estate Commission to Real Estate By Design	6,300.00	
Real Estate Commission to Black & Cherry Real Estate	6,300.00	
<b>Government Recording and Transfer Charges</b>		

Description	Debit	Credit
County Transfer Tax to Equity Title of Nevada	1,071.00	
Miscellaneous		
HOA Dues to Silverado South Homeowners Association	60.00	
Reimburse Agent to Real Estate By Design	330.00	
Transfer Fee to First Service Residential Realty	225.00	
Subtotals	15,807.00	210,511.59
Proceeds Due Seller	194,704.59	
Totals	210,511.59	210,511.59

#### Acknowledgement

We/I have carefully reviewed the ALTA Settlement Statement and find it to be a true and accurate statement of all receipts and disbursements made on my account or by me in this transaction and further certify that I have received a copy of the ALTA Settlement Statement. We/I authorize Equity Title of Nevada to cause the funds to be disbursed in accordance with this statement.

The Christian Family Trust, dated October 11, 2016

Rosemary K. Christian-Keach, Trustee

The Christian Family Trust, dated October 11, 2016

Raymond T. Christian, Jr., Trustee

The Christian Family Trust, dated October 11, 2016

Susan G. Christian-Payne, Trustee

Tad Granlund



**CARY COLT PAYNE, CHTD.**

Attorney at Law

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

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**EXHIBIT “C”**

RECORDING REQUESTED BY and  
when recorded, mail to:  
The Rushforth Firm, Ltd.  
P. O. Box 371655  
Las Vegas, NV 89137-1655

SPACE ABOVE THIS LINE FOR RECORDER'S USE

## **CERTIFICATE OF INCUMBENCY**

### ***AFFIDAVIT OF INCUMBENT TRUSTEE OF THE CHRISTIAN FAMILY TRUST***

MONTE REASON, under penalties of perjury, does hereby certify and says that:

1. On October 11, 2016, **NANCY CHRISTIAN**, also known as **NANCY I. CHRISTIAN**, established, along with her late husband, **RAYMOND T. CHRISTIAN**, also known as **RAYMOND T. CHRISTIAN, SR.**, a revocable Trust entitled the "**CHRISTIAN FAMILY TRUST**" (the "Trust").
2. Under the terms of said Trust, **ROSEMARY K. CHRISTIAN-KEACH**, **RAYMOND T. CHRISTIAN, JR.**, and **SUSAN G. CHRISTIAN-PAYNE**, were designated as co-Trustees. However, the surviving Trustor, **NANCY CHRISTIAN** retains the power to remove any or all trustees and appoint a replacement trustee, which she has done.
3. Section 9.3 of the Trust, titled "Power to Change Trustee" provides for the following:  
  
*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 of 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.*
4. In accordance with the right afforded to her under Section 9.3 of the Trust, **NANCY CHRISTIAN** executed a "Modification and Designation of Trustee and Successor Trustee" on June 12, 2017 in which she expressly removed the then serving co-trustees

**ROSEMARY K. CHRISTIAN-KEACH, RAYMOND T. CHRISTIAN, JR., and SUSANG G. CHRISTIAN-PAYNE.** In their place, **NANCY CHRISTIAN** designated **MONTE BRIAN REASON** to serve as trustee of the Trust.

5. Therefore, pursuant to the terms of the Trust, **MONTE BRIAN REASON** is the designated Trustee. By signing this certificate, **MONTE BRIAN REASON** agrees to serve as Trustee, accept the duties and responsibilities thereof, and agrees to be bound by the terms of the Trust.
6. The Trustee has, among other powers, the power to sell, exchange, lease, and otherwise engage in transactions involving Trust assets as the Trustees deem appropriate. The Trustee has the power to make all types of investments without limitation.
7. For purposes of the federal Health Insurance Portability and Accountability Act of 1996 and related regulations (42 USC § 1320d and 45 CFR §§ 160-164) ("HIPAA"), the undersigned does hereby designate appoint each co-trustee (if any) and each successor Trustee designated in accordance with the terms hereof (even prior to serving in that office) as his or her "personal representative", with full authority to receive private, privileged, protected, or personal health information related to the Trustee or co-trustee's health and/or incapacity and to divulge such information as necessary to accomplish the purposes of the Trust. The undersigned acknowledges that any Trustee or co-Trustee who fails to authorize the release of private, privileged, protected, or personal health information related to the Trustee or co-trustee's health and/or incapacity upon the request of a co-trustee or of a successor Trustee or co-trustee) or who fails to divulge such information as necessary to accomplish the purposes of the Trust shall cease to be the Trustee or a co-trustee.
8. The trust instrument provides that no person dealing with the Trust is obligated to inquire as to the powers of the Trustees or to inquire as to how the Trustees apply any funds delivered to the Trustees.

DATED JUN 21 2017.

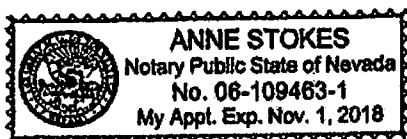
*Monte Reason*  
MONTE BRIAN REASON

STATE OF NEVADA

COUNTY OF CLARK

}  
}  
}  
ss.

This instrument was acknowledged before me on JUN 21 2017, by MONTE BRIAN REASON.



*[Signature]*  
NOTARY PUBLIC

**RECORDING REQUESTED BY:**

Anthony L. Barney, Ltd.  
3317 W. Charleston Blvd, Suite B  
Las Vegas, NV 89102

**Mail recorded declaration to:**

Nancy Christian, Trustor of the Christian Family Trust  
dated October 11, 2016  
304 Orland St., #39  
Las Vegas, NV 89107

SPACE ABOVE THIS LINE FOR RECORDER'S USE

**MODIFICATION AND DESIGNATION OF TRUSTEE AND  
SUCCESSOR TRUSTEE**

**LET IT BE KNOWN THAT:**

I, Nancy Christian, Trustor of the Christian Family Trust dated October 11, 2016 (hereinafter "Trustor"), do hereby certify, designate, and declare as follows:

1. I am the Trustor of the Christian Family Trust dated October 11, 2016 ("Trust") as stated in Declaration of the Trust Agreement.
2. Pursuant to Section 9.3 of the Trust, the Trustor has 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.
3. I hereby revoke all of my prior designations of Trustees of the Trust that were created, filed, recorded and/or executed prior to this date in whatever form they may exist (e.g. written, oral, by affidavit, by declaration or otherwise).
4. In accordance with Section 9.3 of the Trust, I now hereby designate the following individual(s) to serve as current Trustee and/or Successor Trustee of the Trust in the following order:
  - 1) MONTE BRIAN REASON; otherwise,
  - 2) WELLS FARGO BANK.
5. MONTE BRIAN REASON, as designated Trustee shall be empowered to act pursuant to the Trust provisions and, if appropriate, filing with the Recorder of each county in which Trust real property is located a Certificate of Incumbency or similar instrument thereto. The Certificate of Incumbency shall contain a statement setting forth

the circumstances and Trust provisions that entitle the Trustee to act and a declaration that the successor trustee agrees to be bound by the terms of the Trust and agrees to perform the duties of the trustee as required therein and by law.

6. In the event that MONTE BRIAN REASON is unable or unwilling to serve as the designated Trustee, then WELLS FARGO BANK, as designated Successor Trustee shall be empowered to act pursuant to the Trust provisions and, if appropriate, filing with the Recorder of each county in which Trust real property is located a Certificate of Incumbency or similar instrument thereto. The Certificate of Incumbency shall contain a statement setting forth the circumstances and Trust provisions that entitle the Trustee to act and a declaration that the successor trustee agrees to be bound by the terms of the Trust and agrees to perform the duties of the trustee as required therein and by law.

7. The "Certificate of Incumbency" may be titled something else (such as "Affidavit of Successor Trustee" or "Certificate of Acceptance of Trusteeship") and may be in such form as is appropriate under the circumstances and in the jurisdiction or jurisdictions in which it may be used. It shall reference this Modification and Designation of Trustee and Successor Trustee.

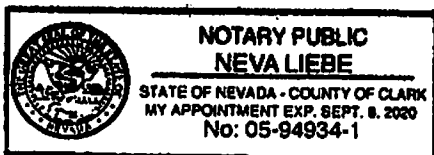
8. Pursuant to NRS 53.045, I declare under penalty of perjury under the law of the State of Nevada that the foregoing is true and correct.

Executed this 6-13-17 day of June, 2017.

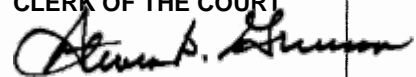
Nancy Christian  
Nancy Christian, Trustor of the Christian  
Family Trust dated October 11, 2016

STATE OF NEVADA }  
COUNTY OF CLARK } ss.  
}

This instrument was subscribed to, sworn to, and acknowledged before me on the 12th of June, 2017 by Nancy Christian, Trustor of the Christian Family Trust dated October 11, 2016.



Neva L. Ladd  
NOTARY PUBLIC



1 ANTHONY L. BARNEY, ESQ.  
2 NV State Bar No. 8366  
3 TIFFANY S. BARNEY, ESQ.  
4 NV State Bar No. 9754  
5 ZACHARY D. HOLYOAK, ESQ.  
6 NV State Bar No. 14217  
7 **ANTHONY L. BARNEY, LTD.**  
8 3317 W. Charleston Boulevard, Suite B  
9 Las Vegas, NV 89102-1835  
10 Telephone: (702) 438-7878  
11 Facsimile: (702) 259-1116  
12 E-Mail: office@anthonybarney.com  
13 *Attorneys for Nancy Christian*

14 **EIGHTH JUDICIAL DISTRICT COURT**

15 **CLARK COUNTY, NEVADA**

16 In the Matter of the

Case Number: P-17-092512-T  
Dept.: (PC-1) 26

17 THE CHRISTIAN FAMILY TRUST

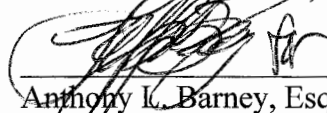
18 Dated October 11, 2016

19 **NOTICE OF MOTION AND MOTION TO DISMISS PURSUANT TO NRCP 12(b)(1)**  
20 **AND NRCP 12(b)(5)**

21 Nancy Christian ("Nancy" or "Trustor"), by and through their attorneys at the law firm  
22 of Anthony L. Barney, Ltd. files the above-referenced Motion to Dismiss Pursuant to NRCP  
23 12(b)(1) and NRCP 12(b)(5) ("Motion") requesting relief from this Court. This Motion is based  
24 upon the pleadings and papers on file herein, the memorandum of points and authorities, any  
25 exhibits filed herewith, the Verification attached hereto, and any oral arguments that may be  
26 presented at the time of hearing.

27 Dated this 17th day of August 2017.

28 **ANTHONY L. BARNEY, LTD.**



Anthony L. Barney, Esq.  
Nevada Bar No. 8366

*Attorney for Nancy Christian*

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**MEMORANDUM OF POINTS AND AUTHORITIES**

**I. Facts Presented:**

1. On October 10, 2016, Raymond Christian Sr., ("Raymond Sr.") and Nancy Christian ("Nancy") executed the Christian Family Trust ("Trust").
2. Raymond Sr., passed away on January 31, 2017.
3. Shortly before Raymond Sr.'s death, Susan Christian-Payne, Rosemary Keach, and Raymond Christian Jr., (collectively the "Former Trustees") guarded Nancy and Raymond in shifts and communication from outside friends and family was halted.
4. The Former Trustees fed Raymond junk food continuously, against doctor's orders, especially considering he was a diabetic.
5. Nancy believes that sedatives were administered to her by the Former Trustees in her food because she slept all the time, while under the guard of the Former Trustees.
6. Once when Nancy was suffering from chest pains she attempted to call 911, one of the Former Trustees snatched the phone out of her hand, yelled at Nancy, and gave Nancy a pill that made her sleep all day.
7. Under the guard of the Former Trustees, Nancy's prescription medication for diabetes, heart problems, and high blood pressure went unfilled for two months.
8. In a drunken rage, the Former Trustees kicked Nancy out of the home on Christmas Eve because Nancy, being diabetic, refused to eat the pasta ordered by the Former Trustees for her.
9. Raymond Sr., eventually persuaded the Former Trustees to let Nancy return to be with her dying husband.

- 1 10. However, again on January 16, 2017 the Former Trustees kicked Nancy out of the home  
2 because she requested oatmeal for breakfast instead of the unhealthy food the Former  
3 Trustees were forcing on her.  
4
- 5 11. While throwing Nancy and her belongings out of the home, Raymond Jr. told Nancy, "I  
6 hope I never see your face again! I hope you die and I will piss on your grave."  
7
- 8 12. The Former Trustees attempted to prevent Nancy from ever seeing or speaking to  
9 Raymond Sr. again.  
10
- 11 13. However, on one occasion about a week prior to Raymond Sr.'s death, Nancy was able  
12 to speak to him by phone because a hospice nurse allowed him to call her.  
13
- 14 14. During this phone call, Raymond Sr. expressed his fear of the Former Trustees and  
15 indicated that his bank account had been emptied.  
16
- 17 15. Nancy told Raymond Sr. to leave and move in with her, however Nancy could hear the  
18 Former Trustees enter the room and the phone was abruptly hung up.  
19
- 20 16. This was the last contact Nancy had with her husband.  
21
- 22 17. The former Trustee's informed Nancy by text message that Raymond passed away.  
23
- 24 18. The Former Trustees did not inform or include Nancy in any funeral arrangements for  
25 Raymond Sr.  
26
- 27 19. After Nancy recovered from the effects of the mental, physical, and emotional abuse she  
28 suffered at the hands of the Former Trustees, she retained the undersigned attorney to  
investigate the matter and work on a solution.
20. The undersigned sought information from the Former Trustees and made requests for  
information pursuant to the terms of the Trust and also made requests for distributions  
from the Trust for Nancy's physical and mental well-being.

- 1 21. The Former Trustees refused to provide Nancy with any distributions from the Trust  
2 presumably to increase their beneficial interest at the death of Nancy, which Raymond  
3 Jr. wished out-loud would happen.  
4  
5 22. Nancy currently lives in a 600-square foot condo which has a mortgage on it.  
6  
7 23. She has significant monthly expenses beyond basic needs, including substantial medical  
8 expenses for her heart condition, diabetes, and high blood pressure.  
9  
10 24. Furthermore, Nancy has been forced to hire an attorney to protect her from the malicious  
11 behavior of the Former Trustees.  
12  
13 25. Based on the Former Trustees' abusive treatment of Nancy, she chose to exercise her  
14 rights under the Trust to change Trustees.  
15  
16 26. Article 9.3 of the Trust provides Nancy, the Survivor, the absolute power to change the  
17 Trustee of the Trust.¹  
18  
19 27. There is no limitation on this power as the Former Trustees have inaccurately alleged.  
20  
21 28. There is no language in the Trust which prevents Nancy from changing the Trustee of  
22 the undivided trust, the alleged Decedent's trust (which does not exist and is not  
23 authorized by the terms of the Trust), or the Survivor's Trust.  
24  
25 29. Nancy considered her options with full knowledge of Monte Reason's past legal issues.  
26  
27 30. Nancy was horrified at the thought of the Former Trustees continuing in their reign of  
28 terror over her and her property.  
31. Therefore, she exercised her right to change the Trustees of the Trust.

---

¹ See Exhibit A of the Former Trustees' Petition filed July 31, 2017 at section 9.3 stating in part; "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."

1 32. Her attorney drafted the Modification and Designation of Trustee and Successor Trustee  
2 in accordance with Nancy's request.²

3 33. Nancy's action to replace the Former Trustees was reviewed by an independent attorney,  
4 Sean Tanko, Esq., who also serves as the Probate Commissioner Pro Tem.

5 34. Mr. Tanko provided a certificate of independent review pursuant to NRS 155.0975  
6 wherein he certified that the action was not the product of fraud, duress, or undue  
7 influence.³

8 35. This written instrument replacing the Former was provided to the Former Trustees on  
9 June 13, 2017.⁴

10 36. Despite the Former Trustees' assertion otherwise, no distribution is authorized under the  
11 terms of the Trust to any person other than Nancy until after her death.⁵

12 37. Despite Nancy's requests, the Former Trustees have not provided any evidence that the  
13 Trust was split into a Survivor's Trust and a Decedent's Trust.

14 38. No provision of the Trust authorizes the creation of a Decedent's Trust as the Former  
15 Trustees have pled.

16  
17  
18  
19 **II. Legal Authority and Argument:**

20 ***A. This motion is brought pursuant to NRCP 12.***

21 NRCP 12(b) authorizes certain defenses to be brought by motion within the time allowed  
22 for a defendant to file an answer. Included in these defenses is the defense of "lack of subject  
23 matter jurisdiction," and the defense of "failure to state a claim upon which relief can be  
24

25  
26  
27 ² See Modification and Designation of Trustee and Successor Trustee attached hereto and incorporated herein as Exhibit A

28 ³ See Certificate of Independent Review attached hereto and incorporated herein as Exhibit B.

⁴ See Letter dated June 13, 2017 with Modification and Designation of Trustee and Successor Trustee attached hereto and incorporated herein as Exhibit C.

1 granted.”⁶ NRCP 12(a) further states that “a defendant shall serve an answer within 20 days  
2 after being served,”⁷ and “[t]he service of a motion permitted under this rule alters these periods  
3 of time as follows, unless a different time is fixed by order of the court: if the court denies the  
4 motion or postpones its disposition until the trial on the merits, a responsive pleading shall be  
5 served within 10 days after notice of the court’s action.”⁸ If the Court denies Nancy’s motion to  
6 dismiss, or postpones its disposition until a trial, Nancy must be provided 10 days from the  
7 notice of the court’s action to file a substantive responsive pleading to the Former Trustees’  
8 petition.  
9

10  
11 ***B. This court lacks subject matter jurisdiction because the Former Trustees lack standing  
12 to maintain their petition.***

13 NRCP 12(b)(1) allows for the defense of the lack of jurisdiction over the subject matter  
14 to be brought by motion. Herein, the Former Trustees do not have standing and thus the court  
15 would lack jurisdiction over them and their substantive claims. A California court indicated that  
16 standing is a jurisdictional issue that must be established in some appropriate matter and that the  
17 fundamental aspect of standing is that it focuses on the party seeking to get his or her complaint  
18 before the court – not on the issues the party wishes to have adjudicated.⁹ Other courts have  
19 stated that “[w]hen a party lacks standing sufficient to maintain the action and, consequently,  
20 has no right to relief, the court necessarily does not have jurisdiction of the question presented  
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24 ⁵ See section 6.1 of the Trust which the Former Trustees have alleged authorizes their requested distribution to  
25 themselves, indicating that distributions be made “[u]pon the death of both Trustors.”

26 ⁶ See NRCP 12(b)(1) and 12(b)(5)

27 ⁷ See NRCP 12 (a)(1)

28 ⁸ See NRCP 12 (a)(4)(A)

⁹ *Chiatello v. City and County of San Francisco*, 189 Cal. App. 4th 472, 480-481, 117 Cal. Rptr. 3d 169, 176, 2010  
Cal. App. LEXIS 1811, *14-15 (Cal. App. 1st Dist. Oct. 21, 2010), citing *Waste Management of Alameda County,  
Inc. v. County of Alameda* (2000) 79 Cal.App.4th 1223, 1232 [94 Cal. Rptr. 2d 740]. Additionally, this same case  
indicates that a party must be able to demonstrate that he or she has some such beneficial interest that is concrete  
and actual, and not conjectural or hypothetical.

1 and may not enter a judgment on the matter.”¹⁰ In other words, “[c]ourts have a duty to  
2 determine if a party has standing prior to addressing the substantive issues of the case.”¹¹

3 For the purposes of a trust, Nevada deals with standing in terms of a person’s status as  
4 an interested party. NRS 132.185 defines an interested person as “a person whose right or  
5 interest under an estate or trust may be materially affected by a decision of a fiduciary or a  
6 decision of the court.” Furthermore, the same statute indicates that the “fiduciary or court shall  
7 determine who is an interested person according to the particular purposes of, and matter  
8 involved in, a proceeding.”  
9

10 Finally, the Nevada Supreme Court has held that “Nevada statutes do not contemplate  
11 beneficiaries to a revocable inter vivos trust challenging the trust until the settlor’s death.  
12 Furthermore, such beneficiaries have only a contingent interest, **at most**, while the settlor is still  
13 alive. That interest does not vest until the settlor’s death. Other jurisdictions addressing the  
14 issue have held similarly.”¹² Since the Christian Family Trust is a revocable inter vivos trust  
15 and the Trustor is still living, this case law is directly on point.  
16

17 Herein, the Former Trustees are no longer trustees;¹³ they are, at best, contingent  
18 beneficiaries of the trust but not vested beneficiaries. Since the Trustor is still living, they have  
19 no current right or interest under the trust, which could be materially affected by a decision of a  
20 fiduciary or the court. The Former Trustees are not interested parties as it regards the Trust and  
21 therefore, they lack standing to bring their petition or claims. Even Mr. Payne, counsel for the  
22 Former Trustees, appears to agree with this analysis.¹⁴  
23

24  
25  
26 ¹⁰ *Higginbotham v. Higginbotham*, 362 S.W.3d 34, 36-37, (Mo. Ct. App. 2012)

27 ¹¹ *CACH, LLC v. Askew*, 358 S.W.3d 58, 61, (Mo. 2012)

28 ¹² *Linthicum v. Rudi*, 122 Nev. 1452, 1457, (Nev. Dec. 28, 2006)(Emphasis added).

¹³ See Exhibit A.

¹⁴ See Mr. Payne’s objection filed August 14, 2017 in Case Number P-17-090719-T at page 5 lines 7-19 arguing that until the death of the surviving settlor, no remainder beneficiary has standing to bring a petition challenging the

1 allegations that are merely conclusory, unwarranted deductions of fact or unreasonable  
2 inferences.²⁰ Furthermore, when a person lacks standing that person has no right to relief.²¹

3       Herein, the Former Trustees have failed to provide evidence that they have more than a  
4 contingent interest in the Trust. While the Trustor is still living, their interest has not vested.  
5 The Former Trustees have failed to plead any evidence contrary to these facts. Instead, they  
6 have made conclusory unwarranted deductions of “fact”, inserted opinions and unreasonable  
7 inferences in their pleading, which is insufficient to survive a motion to dismiss.  
8

9       Most importantly, as detailed above, the Former Trustees lack standing in the Trust.  
10 Therefore, the Former Trustees are unable to bring a substantive claim that would entitle them  
11 to relief. They do not have a legitimate claim for which relief could be granted; thus, their  
12 petition should be dismissed in its entirety.  
13

14       ***D. Even if the Former Trustees were somehow found to have standing, they still have***  
15 ***failed to plead valid claims for which relief could be granted.***

16       In the unlikely chance that this Court finds that the Former Trustees have standing to  
17 bring their petition, they have not fully stated any claim for which relief could be granted. The  
18 only inferred claims in the Former Trustees’ pleading, although none of the elements of the  
19 claims are pled, are exploitation and undue influence. They have alluded to other claims which  
20 are also not fully pled.  
21

22       Surprisingly, the Former Trustees inform the Court that they are still the Trustees of the  
23 Trust, which is simply not true. The Trust does not provide for a Decedent’s Trust.²² Instead, it  
24 allows for decedent’s debts to be paid at the discretion of the Trustee and then indicates that all  
25

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26  
27  
28 ²⁰ See *Papasan v. Allain*, 478 US. 265, 286 (1986) (A court is not required to accept as true legal conclusions  
couched as factual allegations).

²¹ *Higginbotham v. Higginbotham*, 362 S.W.3d 34, 36-37, (Mo. Ct. App. 2012)

²² See Article 4 of Exhibit B of Former Trustees’ Petition filed July 31, 2017.

1 remaining assets are part of the Survivor's Trust.²³ Nancy removed them as trustees of the Trust  
2 on June 12, 2017 pursuant to Section 9.3 of the Trust²⁴; therefore, they are no longer trustees of  
3 the Trust with the ability to make their current requests.²⁵ Notably, they do not allege that  
4 Nancy's action removing them as trustees was invalid.²⁶  
5

6 To be clear, the Former Trustees' do not plead the necessary elements of exploitation,  
7 undue influence or any other claim; therefore, their pleading lacks any claim for which relief  
8 could be granted. Trustor, Nancy Christian, requests that the court dismiss the Former Trustees  
9 petition in its entirety.  
10

11 **III. Conclusion:**

12 Because of the Former Trustees' lack of standing and lack of pleading essential elements  
13 of substantive claims for which relief could be granted, the Former Trustee's petition should be  
14 dismissed in its entirety. WHEREFORE, the Petitioner's respectfully request that this Court  
15 issue the following findings and orders:  
16

- 17 1. The Court dismiss the Former Trustees' Petition in its entirety;
- 18 2. The Court find that the Former Trustees brought their petition with unreasonable  
19 grounds;
- 20 3. The Court grant attorney fees and costs pursuant to NRS 18.010 and 18.020 to  
21 Trustor Nancy Christian; and  
22  
23  
24

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25  
26 ²³ See Section 4.2 of Exhibit B of Former Trustees' Petition filed July 31, 2017.

27 ²⁴ See Section 9.3 of Exhibit B of Former Trustee's Petition filed July 31, 2017.

28 ²⁵ See Exhibit A.

²⁶ Herein, Nancy was freely capable of making a decision to replace the Former Trustees as provided for under the terms of the Trust. Her request was reviewed by an independent attorney who certified that her decision to change trustees was not the product of fraud, duress or undue influence. See Exhibit B. NRS 155.0975(4) provides that an action which has been reviewed by an independent attorney who provides a Certificate of Independent Review does

1 4. The Court grant further relief as the Court deems just and proper.

2 DATED this 17th day of August 2017.

3  
4 Respectfully submitted,  
5 ANTHONY L. BARNEY, LTD.

6 

7 Anthony L. Barney, Esq.

8 Nevada Bar No. 8366

9 Tiffany S. Barney, Esq.

10 Nevada Bar No. 9754

11 Zachary D. Holyoak, Esq.

12 Nevada Bar No. 14217

13 3317 W. Charleston Blvd., Suite B

14 Las Vegas, NV 89102-1835

15 Telephone: (702) 438-7878

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28 not have a presumption that there was fraud, duress, or undue influence and, as such, the Former Trustees are  
unable to make a claim based on the presumption of undue influence.

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VERIFICATION

STATE OF NEVADA       )  
                                  ) ss.  
COUNTY OF CLARK       )

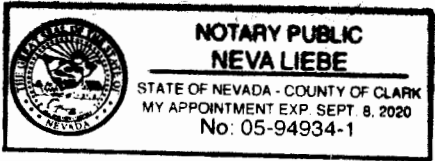
I, Nancy Christian, being first duly sworn under penalty of perjury, hereby depose and say as follows:

I am the Petitioner in the foregoing action. I have read the foregoing NOTICE OF MOTION AND MOTION TO DISMISS PURSUANT TO NRCP 12(B)(1) AND NRCP 12(B)(5) and know the contents thereof. All facts and statements are true to the best of my own personal knowledge, except for those statements made upon information and belief, and as to those matters, I believe them to be true.

DATED this 17th day of August, 2017.

Nancy Christian  
Nancy Christian

Subscribed and sworn to before me  
this 17th day of August, 2017.



Neva Liebe  
NOTARY PUBLIC in and for said County and State

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**CERTIFICATE OF SERVICE**

I hereby certify that I am an employee of Anthony L. Barney, Ltd. and not a party to the above-entitled action. I further certify that on August 17, 2017 I served the foregoing **NOTICE OF MOTION AND MOTION TO DISMISS PURSUANT TO NRCP 12(B)(1) AND NRCP 12(B)(5)** on the following parties via regular mail and/or electronic service through the Eighth Judicial District Court filing system, addressed as follows:

Cary Colt Payne, Esq.  
Cary Colt Payne, Chtd.  
700 S. 8th St.  
Las Vegas, NV 89101  
*Attorney for Susan Christian-Payne,  
Rosemary Keach and Raymond Christian, Jr.*

____s/Zachary D. Holyoak/s_____  
An employee of Anthony L. Barney, Ltd.

# EXHIBIT A

2

Inst #: 20170612-0001212  
Fees: \$18.00  
N/C Fee: \$0.00  
06/12/2017 11:47:46 AM  
Receipt #: 3109688  
Requestor:  
ANTHONY BARNEY LTD  
Recorded By: DROY Pgs: 2  
DEBBIE CONWAY  
CLARK COUNTY RECORDER

**RECORDING REQUESTED BY:**

Anthony L. Barney, Ltd.  
3317 W. Charleston Blvd, Suite B  
Las Vegas, NV 89102

**Mail recorded declaration to:**

Nancy Christian, Trustor of the Christian Family Trust  
dated October 11, 2016  
304 Orland St., #39  
Las Vegas, NV 89107

SPACE ABOVE THIS LINE FOR RECORDER'S USE

**MODIFICATION AND DESIGNATION OF TRUSTEE AND  
SUCCESSOR TRUSTEE**

**LET IT BE KNOWN THAT:**

I, Nancy Christian, Trustor of the Christian Family Trust dated October 11, 2016 (hereinafter "Trustor"), do hereby certify, designate, and declare as follows:

1. I am the Trustor of the Christian Family Trust dated October 11, 2016 ("Trust") as stated in Declaration of the Trust Agreement.
2. Pursuant to Section 9.3 of the Trust, the Trustor has 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.
3. I hereby revoke all of my prior designations of Trustees of the Trust that were created, filed, recorded and/or executed prior to this date in whatever form they may exist (e.g. written, oral, by affidavit, by declaration or otherwise).
4. In accordance with Section 9.3 of the Trust, I now hereby designate the following individual(s) to serve as current Trustee and/or Successor Trustee of the Trust in the following order:
  - 1) MONTE BRIAN REASON; otherwise,
  - 2) WELLS FARGO BANK.
5. MONTE BRIAN REASON, as designated Trustee shall be empowered to act pursuant to the Trust provisions and, if appropriate, filing with the Recorder of each county in which Trust real property is located a Certificate of Incumbency or similar instrument thereto. The Certificate of Incumbency shall contain a statement setting forth

RESAPP000088

# **EXHIBIT B**

## CERTIFICATE OF INDEPENDENT REVIEW

I, Sean M. Tanko, Esq., under penalty of perjury, have reviewed the Nancy Christian Trust ("Instrument") and have counseled my client, Nancy Christian, on the nature and consequences of the transfer or transfers of property to the beneficiary(ies) of the Nancy Christian Trust contained in the transfer Instrument. I am disassociated from the interest of the transferee to the extent that I am in a position to advise my client independently, impartially and confidentially as to the consequences of the transfer. On the basis of this counsel, I conclude that the transfer or transfers of property in the transfer instrument that otherwise might be invalid pursuant to NRS 155.097 are valid because the transfer or transfers are not the product of fraud, duress or undue influence.

DATED this 21st day of July, 2017.

  
SEAN M. TANKO, ESQ.

# EXHIBIT C

**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 Holvoak, 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**  
[www.anthonybarney.com](http://www.anthonybarney.com)

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

June 13, 2017

Cary Colt Payne, Esq.  
CARY COLT PAYNE, CHTD.  
700 S. Eighth Street  
Las Vegas, NV 89101

Re: Christian Family Trust dated October 11, 2016 ("Trust")  
Our Client: Nancy Christian, Trustor and Survivor of the Trust

VIA US FIRST CLASS MAIL AND EMAIL

Dear Mr. Payne,

We are in receipt of the documents provided by the former trustees of the Trust. My client hereby reserves her right to address and/or object to what appears to be the inappropriate use of Trust funds for the former trustees' personal expenses and vacations.

Please be on notice that our client has exercised her right under Provision 9.3 of the Trust to change the trustee of her trust. Please find enclosed the Modification and Designation of Trustee and Successor Trustee of the Trust ("Modification and Designation"), which makes this change. The recorded Modification and Designation of Trustee and Successor Trustee of the Trust is attached hereto as Attachment 1. Please be on further notice that she has also obtained an independent attorney review of the Modification and Designation to certify that she was not under any undue influence when the document was executed.

Therefore, we are putting your clients on notice that they are to immediately safeguard and retain all trust property, cease any further use of Trust funds for any purposes, and promptly turn over the Trust funds to the newly designated trustee. A Certificate of Incumbency will shortly follow. If such funds are not provided, our client will request that the court take jurisdiction over the trust and the newly designated trustee, and request that your client turn over the trust funds by court order.

Please be further advised that we reserve the right to bring all remedies under law that are available to our client for any malfeasance or bad acts by the former trustees.

This includes all past and present actions, as well as future actions taken by the former trustees after the date of this correspondence.

If you have any further questions, please feel to contact my office. Thank you for your anticipated cooperation in this matter.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Tiffany S. Barney', is written over a faint, circular, dotted-line background.

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

Encl: Modification and Designation of Trustee and Successor Trustee

# **Attachment 1**

2

Inst #: 20170612-0001212  
Fees: \$18.00  
N/C Fee: \$0.00  
06/12/2017 11:47:46 AM  
Receipt #: 3109688  
Requestor:  
ANTHONY BARNEY LTD  
Recorded By: DROY Pgs: 2  
DEBBIE CONWAY  
CLARK COUNTY RECORDER

**RECORDING REQUESTED BY:**

Anthony L. Barney, Ltd.  
3317 W. Charleston Blvd, Suite B  
Las Vegas, NV 89102

**Mail recorded declaration to:**

Nancy Christian, Trustor of the Christian Family Trust  
dated October 11, 2016  
304 Orland St., #39  
Las Vegas, NV 89107

SPACE ABOVE THIS LINE FOR RECORDER'S USE

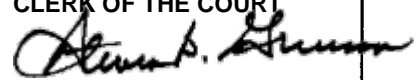
**MODIFICATION AND DESIGNATION OF TRUSTEE AND  
SUCCESSOR TRUSTEE**

**LET IT BE KNOWN THAT:**

I, Nancy Christian, Trustor of the Christian Family Trust dated October 11, 2016 (hereinafter "Trustor"), do hereby certify, designate, and declare as follows:

1. I am the Trustor of the Christian Family Trust dated October 11, 2016 ("Trust") as stated in Declaration of the Trust Agreement.
2. Pursuant to Section 9.3 of the Trust, the Trustor has 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.
3. I hereby revoke all of my prior designations of Trustees of the Trust that were created, filed, recorded and/or executed prior to this date in whatever form they may exist (e.g. written, oral, by affidavit, by declaration or otherwise).
4. In accordance with Section 9.3 of the Trust, I now hereby designate the following individual(s) to serve as current Trustee and/or Successor Trustee of the Trust in the following order:
  - 1) MONTE BRIAN REASON; otherwise,
  - 2) WELLS FARGO BANK.
5. MONTE BRIAN REASON, as designated Trustee shall be empowered to act pursuant to the Trust provisions and, if appropriate, filing with the Recorder of each county in which Trust real property is located a Certificate of Incumbency or similar instrument thereto. The Certificate of Incumbency shall contain a statement setting forth

RESAPP000096



1 ANTHONY L. BARNEY, ESQ.  
NV State Bar No. 8366  
2 TIFFANY S. BARNEY, ESQ.  
NV State Bar No. 9754  
3 ZACHARY D. HOLYOAK, ESQ.  
NV State Bar No. 14217  
4 ANTHONY L. BARNEY, LTD.  
5 3317 W. Charleston Boulevard, Suite B  
Las Vegas, NV 89102-1835  
6 Telephone: (702) 438-7878  
7 Facsimile: (702) 259-1116  
E-Mail: office@anthonybarney.com  
8 Attorneys for Nancy Christian

9  
10 **EIGHTH JUDICIAL DISTRICT COURT**

11 **CLARK COUNTY, NEVADA**

12 In the Matter of the

Case Number: P-17-092512-T  
Dept.: (PC-1) 26

13 THE CHRISTIAN FAMILY TRUST

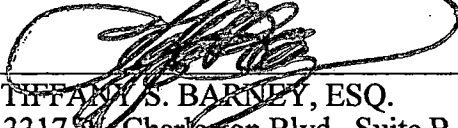
14 Dated October 11, 2016

15 **ERRATA TO NOTICE OF MOTION AND MOTION TO DISMISS PURSUANT TO**  
16 **NRCP 12(b)(1) AND NRCP 12(b)(5)**

17 Nancy Christian ("Nancy" or "Trustor"), by and through their attorneys at the law firm  
18 of Anthony L. Barney, Ltd. files the above-referenced Errata to her Motion to Dismiss Pursuant  
19 to NRCP 12(b)(1) and NRCP 12(b)(5) ("Motion"). Page nine (9) of the motion was  
20 inadvertently missing from the scanned motion and, therefore, is being attached hereto as  
21 Exhibit 1. Trustor requests that Page 9 be incorporated into her Motion as if attached thereto.  
22

23 Dated this 22nd day of August 2017.

24 RESPECTFULLY SUBMITTED

25   
26 TIFFANY S. BARNEY, ESQ.  
3317 W. Charleston Blvd., Suite B  
27 Las Vegas, Nevada 89102-1835  
Telephone: (702) 438-7878  
office@anthonybarney.com  
28 Attorney for Nancy Christian

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Cary Colt Payne, Esq.  
Cary Colt Payne, Chtd.  
700 S. 8th St.  
Las Vegas, NV 89101  
*Attorney for Susan Christian-Payne,  
Rosemary Keach and Raymond Christian, Jr.*

2

# **Exhibit 1**

1 Lacking standing, the Former Trustees' petition is insufficient to allow the court to  
2 assume jurisdiction of the Trust.¹⁵ Therefore, the Court lacks subject matter jurisdiction over  
3 this matter and the matter should be dismissed.

4  
5 ***C. Lacking standing, the former trustees have failed to state a claim for which relief can  
6 be granted.***

7 The Nevada Supreme Court has held that in consideration of a dismissal under NRCP  
8 12(b)(5) the court must construe the pleading liberally and draw every fair inference in favor of  
9 the nonmoving party.¹⁶ All factual allegations of the complaint must be accepted as true and a  
10 dismissal is appropriate if it "appears beyond a doubt that the plaintiff could prove no set of  
11 facts which, if accepted by the trier of fact, would entitle him or her to relief."¹⁷ The US  
12 Supreme Court has indicated that a complaint must contain sufficient factual matter to state a  
13 claim that is plausible or a claim that allows the court to draw the reasonable inference that the  
14 defendant is liable for the alleged misconduct.¹⁸ A pleading is insufficient if it offers only  
15 labels, conclusions, a formulaic recitation of the elements of a cause of action or offers  
16 assertions devoid of further "factual enhancement."¹⁹

17  
18 Although the court takes all material allegations contained in the complaint as true and  
19 casts them in the most favorable light to the plaintiff, it is not required to accept as true  
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24 trust or its administration, "[the] beneficiaries have only a contingent interest, at most, while the settlor is still alive.  
25 That interest does not vest until after the settlor's death."

26 ¹⁵ See footnote 4 supra

27 ¹⁶ *Simpson v. Mars Inc.*, 113 Nev. 188, 190 (Nev. 1997), citing *Vacation Village v. Hitachi America*, 110 Nev. 481,  
484, 874 P.2d 744, 746 (1994); *Citizens for Cold Springs v. City of Reno*, 218 P.3d 847, 850 (Nev. 2009); *Buzz  
28 Stew, LLC v. City of N. Las Vegas*, 181 P.3d 670, 672 (Nev. 2008)

¹⁷ Id.

¹⁸ *Ashcroft v. Iqbal*, 129 S. Ct. 1937, 1949 (2009)(quoting *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 570  
(2007).

¹⁹ *Bell Atlantic Corp. v. Twombly*, 550 U.S., at 555, 557.