IN THE SUPREME COURT OF THE STATE OF NEVADA

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Elizabeth A. Brown
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CHARLES LAM, INDIVIDUALLY AND DERIVATIVELY ON BEHALF OF TRAN ENTERPRISES, LLC, A NEVADA LIMITED LIABILITY COMPANY, AND AS TRUSTEE OF THE NT REVOCABLE LIVING TRUST DATED THE 15TH OF OCTOBER 2009,

Appellant(s),

vs.

P. STERLING KERR, INDIVIDUALLY AND AS TRUSTEE OF THE NT LEGACY TRUST, DATED THE 15TH DAY OF OCTOBER 2009; NHU TRAN FOUNDATION, INC., A NEVADA NON-PROFIT CORPORATION; AND COURT APPOINTED RECEIVER, ROBERT ANSARA OF DUNHAM TRUST COMPANY,

Respondent(s),

Case No: P-17-093258-T
Consolidated with A-17-760853-B
Docket No: 83730

RECORD ON APPEAL
VOLUME
1

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P-17-093258-T In the Matter of the Trust of:
NT Revocable Living Trust

I N D E X

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DISTRICT COURT

CLARK COUNTY, NEVADA

In the Matter of the NT REVOCABLE LIVING TRUST, dated October 15, 2009	Case No.: P-17-093258-T Dept. No.: XXVI/Probate Date of Hearing: November 3, 2017 Time of Hearing: 9:30 a.m.

PETITION TO ASSUME *IN REM* JURISDICTION OVER THE NT REVOCABLE TRUST, DATED OCTOBER 15, 2009, TO CONFIRM ITS TRUSTEE, FOR AN INVENTORY, AND FOR INSTRUCTIONS

Petitioner, P. Sterling Kerr, Esq. ("Petitioner"), hereby petitions this Honorable Court, pursuant to NRS 153.031(a), (b), (g), (h), and (q), 153.041, 164.010 164.015, and 165.030, to assume *in rem* jurisdiction over the NT Revocable Trust, dated October 15, 2009 (the "Revocable Trust"), to confirm Charles Lam as Trustee of the Revocable Trust, for an inventory, and for instructions (the "Petition"). This Petition is made and based on the Memorandum of Points and Authorities set forth herein, all of the papers and pleadings already on file with the Court, and any oral argument that the Court may entertain at the time of hearing.

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Petitioner is the Trustee of the NT Legacy Trust, dated October 15, 2009 (the "Legacy Trust"). The Legacy Trust is the remainder beneficiary of the Revocable Trust. Both the Legacy Trust and the Revocable Trust were settled by Nhu Thi Tran ("Tran"). Tran died on January 25,

2017. The Revocable Trust provides that upon the death of Tran, its Trustee, Charles Lam ("Lam"), is required to distribute the residual estate to the Trustee(s) of the Legacy Trust.

This Petition seeks to assume *in rem* jurisdiction of the Revocable Trust for the purpose of confirming Lam as its Trustee and instructing Lam to distribute the residual estate to Petitioner, who is the Trustee of the Legacy Trust, the remainder beneficiary.

II. STATEMENT OF FACTS

1. Pursuant to NRS 153.031(2), Petitioners provide that the following individuals, on information and belief, are interested persons under the Trust:

NAME	**RELATIONSHIP**	**ADDRESS**
Charles Lam	Trustee of the Revocable Trust	c/o J. Michael Oakes, Esq. FOLEY & OAKES, PC 626 South Eighth Street Las Vegas, Nevada 89101
Mary Kaufman	Former Trustee of the Legacy Trust	8403 Rochelle Avenue Las Vegas, Nevada 89147

2. On October 15, 2009, Tran settled the Revocable Trust, a Nevada revocable living trust, and the Legacy Trust, a Nevada irrevocable asset protection trust. *See* Revocable Trust and Legacy Trust, true and correct copies being attached hereto as **Exhibit 1** and **Exhibit 2**, respectively.

3. Tran appointed the Petitioner and Mary V. Kaufman ("Kaufman") as the initial Co-Trustees of the Legacy Trust. *See* **Ex. 2**, at p. 43. On or about June 3, 2016, however, Kaufman resigned as Co-Trustee of the Legacy Trust, thereby resulting in Petitioner being the sole Trustee of the Legacy Trust, as of June 3, 2016. *See* Kaufman Resignation, a true and correct copy being attached hereto as **Exhibit 3**.

4. Tran appointed Lam as successor trustee of the Revocable Trust. *See* **Ex. 1**, at p. 6.

5. On January 25, 2017, Tran passed away. *See* Death Certificate, a true and correct copy being attached hereto as **Exhibit 4**.

6. Upon information and belief, the Revocable Trust presently owns several parcels of real property, including, but not limited to:

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APN Number	Property Description
040-13-401-001	Moapa Velley
161-18-510-033	Sandhill and Sunset Village
034-00-002-020	Bunkerville
139-16-310-055	Hyde Avenue and West Street
042-09-000-003	Moapa Valley
139-23-211-020	Fifth Street and McCovern Avenue
161-18-510-052	Sandhill and Sunset Village

7. Pursuant to Article 5.2 of the Revocable Trust, Lam, as Successor Trustee, is required to distribute the remainder of the Revocable Trust estate to the Trustee(s) of the Legacy Trust, after the discretionary payment of administrative expenses, the expenses of the last illness and funeral of Tran, and any other debt owed by Tran. *See* **Ex. 1** at p. 4.

8. On March 22, 2017, Petitioner sent Lam a letter which requested *inter alia* an inventory of the real property owned by the Revocable Trust:

> *In your role a manager of Tran Enterprises, LLC during Mrs. Tran's lifetime* ***and successor trustee of the NT Revocable Trust****, I am formally requesting that you provide me the following documents for my review:*
>
> ...
>
> *3) Copies of any purchase agreements, covering any of the Tran Enterprises, LLC or NT Revocable Trust properties currently under contract and in escrow.*
>
> *4) All listing agreements with any real estate company or broker covering land held by Tran Enterprises, LLC or the NT Revocable Trust*
>
> *5) All files maintained on each such piece of real property held by Tran Enterprises, LLC and the NT Revocable Trust*
>
> *There will likely be other documents which I will need you to provide as I proceed with the trust administration and I expect your full cooperation. Please provide the requested documents to my office or via email to sterling@sterlingkerr.com no later than April 4, 2017.*

See, Kerr Letter, a true and correct copy being attached hereto as **Exhibit 5**.

9. On April 4, 2017, Lam responded to Petitioner letter in writing wherein none of the requested information concerning the Revocable Trust was provided. *See*, Lam Letter, a true and correct copy being attached hereto as **Exhibit 6**.

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III. ARGUMENT

A. <u>This Court Should Assume *In Rem* Jurisdiction over the Revocable Trust and Confirm Lam as its Trustee.</u>

NRS 164.010 provides in relevant part:

Petition for assumption of jurisdiction; powers of court; petition for removal of trust from jurisdiction of court; determination of where trust is domiciled

> 1. Upon petition of any person appointed as trustee of an express trust by any written instrument other than a will, or upon petition of a settlor or beneficiary of the trust, the district court of the county in which any trustee resides or conducts business at the time of the filing of the petition or in which the trust has been domiciled as of the time of the filing of the petition shall assume jurisdiction of the trust as a proceeding in rem unless another court has properly assumed continuing jurisdiction in rem in accordance with the laws of that jurisdiction and the district court determines that it is not appropriate for the district court to assume jurisdiction under the circumstances.
>
> 5. When the court assumes jurisdiction pursuant to this section, the court:
>
> (a) Has jurisdiction of the trust as a proceeding in rem as of the date of the filing of the petition.

NRS 164.015 further provides in relevant part:

> 1. The court has exclusive jurisdiction of proceedings initiated by the petition of an interested person concerning the internal affairs of a nontestamentary trust … Proceedings which may be maintained under this section are those concerning the administration and distribution of trusts, the declaration of rights and the determination of other matters involving trustees and beneficiaries of trust, including petitions with respect to a nontestamentary trust for any appropriate relief …

Under its terms, the Revocable Trust is a trust settled in Nevada, its Trustor was a Clark County, Nevada resident, and Lam, its successor Trustee, is a Clark County, Nevada resident. Accordingly, this Court should assume *in rem* jurisdiction over the Revocable Trust and confirm Lam as its Trustee. An exercise of *in rem* jurisdiction over the Revocable Trust confers upon this Court the *exclusive* jurisdiction to hear and decide all matters relating to the internal affairs of the Revocable Trust.

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B. THIS COURT SHOULD INSTRUCT LAM TO DISTRIBUTE THE REMAINDER OF THE REVOCABLE TRUST ESTATE TO PETITIONER AFTER LAM'S DISCRETIONARY PAYMENT OF EXPENSES.

Article V of the Revocable Trust provides:

> 5.1 **Payment of Expenses.** Upon the death of the Trustor, the Trustee may, in sole discretion, pay from the income and/or principal of this Trust, the administrative expenses, the expenses of the last illness and funeral of the Trustor, and any other debt owed by Trustor. Following such payments, the principal and undistributed income of the Trust shall be administered as set forth herein.
>
> 5.2 **Distribution of the Remaining Trust Estate.** The remaining trust estate shall be distributed to the NT LEGACY TRUST dated the 15th day of October, 2009, Co-Trustees, P. STERLING KERR and MARY V. KAUFMAN.

NRS 153.031(g) and (q) provide this Court authority to instruct Lam to distribute the remainder of the Revocable Trust to Petitioner in his capacity as Trustee of the Legacy Trust. Upon information and belief, with the exception of possible estate taxes at which Petitioner is making provision for, there are no outstanding administrative expenses, last illness and funeral expenses, or any other debt owed by Trustor. However, the nature and extent of Tran's debts and the Revocable Trust's assets are unknown to the Petitioner because no inventory or accounting has been provided to him.[1]

C. THIS COURT SHOULD REQUIRE LAM TO PROVIDE THE PETITIONER AN INVENTORY AND ACCOUNTING.

On March 22, 2017, Petitioner sent Lam a written demand for information pertaining to the real property owned by the Revocable Trust. *See,* **Ex. 5**. Lam refused to do so. *See*, **Ex. 6.** NRS 165.030 states:

> **Inventory of trust property.** An interested person to whom a trustee is required to account pursuant to this chapter may provide a written request to the trustee at any time 60 days or more after the appointment of the trustee which seeks a list of assets of the trust estate known to the trustee. The trustee shall serve the information to the requesting interested party in the same manner required for notice, as set forth in NRS 155.010 within 15 days after receipt of the written request.

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[1] Pursuant to NRS 165.141, Petitioner will serve on Lam a written demand for account. In the event that Lam refuses or does not provide an adequate accounting, Petitioner reserves his right to petition the Court for an order requiring Lam to provide a full and adequate accounting pursuant to NRS 165.190. Section 10.2 of the Trust also provides that Lam "shall" render an accounting upon request. *See*, **Ex. 1**, at p. 14.

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Petitioner, as Trustee of the Legacy Trust, is clearly an interested person as he is the remainder beneficiary of the Revocable Trust. Lam has been a trustee of the Revocable Trust since October 15, 2009. Under NRS 165.030, Lam was required to provide the Petitioner the information requested, including a list of all assets owned by the Revocable Trust, within 15 days after Lam's receipt of the Petitioner's March 22, 2017, letter. He failed to do so. Accordingly, the Court should instruct Lam to provide such information without any further delay.

Similarly, under

WHEREFORE, Petitioner respectfully requests that this Court issue the following relief:

1. An order assuming *in rem* jurisdiction of the Revocable Trust;
2. An order confirming Charles Lam as Trustee of the Revocable Trust;
3. Instructions concerning the distribution of the remaining trust estate to Petitioner, as Trustee of the Legacy Trust;
4. An order instructing Lam to provide Petitioner a list of all known assets owned by the Revocable Trust, as of January 25, 2017, and
5. An order for any and all other relief just and warranted under the circumstances.

Dated this 12 day of October, 2017.

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VERIFICATION

Petitioner, P. STERLING KERR, whose mailing address is 2450 St. Rose Parkway, Suite 120, Henderson, Nevada 89074, declares under penalties of perjury of the State of Nevada:

That he is the Petitioner who makes the foregoing **PETITION TO ASSUME *IN REM* JURISDICTION OVER THE NT REVOCABLE TRUST, DATED OCTOBER 15, 2009, TO CONFIRM ITS TRUSTEE, FOR AN INVENTOARY AND FOR INSTRUCTIONS,** that he has read said petition and knows the contents thereof, and that the same is true of his own knowledge except for those matters stated on information and belief, and that as to such matters he believes them to be true.

DATED this 12 day of October, 2017

P. STERLING KERR, ESQ.

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EXHIBIT 1

EXHIBIT 1

THE NT REVOCABLE LIVING TRUST

DATED THE 15th DAY OF OCTOBER, 2009

Prepared by:
LAW OFFICES OF P. STERLING KERR
1055 Whitney Ranch Drive, #110
Henderson, Nevada 89014
Telephone: (702) 451-2055

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TRUST AGREEMENT

OF THE

NT REVOCABLE LIVING TRUST

THIS DECLARATION OF TRUST AGREEMENT is made on the 15th day of October, 2009, by NHU THI TRAN (hereinafter referred to as the "Trustor" or "Grantor" when reference is made to her in her capacity as creator of this Trust and the transferor of the principal properties thereof), and NHU THI TRAN of Clark County, Nevada (hereinafter referred to as the "Trustee," when reference is made to her in her capacity as a Trustee or fiduciary hereunder);

Witnesseth:

WHEREAS, the Trustor desires by this Trust Agreement to establish the "NT REVOCABLE LIVING TRUST" for the use and purposes hereinafter set forth, to make provisions for the care and management of certain of her present properties and for the ultimate distribution of the Trust properties;

NOW, THEREFORE, the Trustor hereby gives, grants, and transfers to the Trustee, IN TRUST, which Trustee hereby declares that she has received from the Grantor, the property listed on Schedule "A", (which schedule is attached hereto and made a part of this Trust Agreement), TO HAVE AND TO HOLD THE SAME IN TRUST, and to manage, invest and reinvest the same and any additions that may be made from time to time hereto, subject to the provisions of Trust as hereinafter provided.

All property subject to this Trust Indenture 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 Trustor 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 life of the Trustor, shall retain its character as her separate property, as designated on the attached Schedule "A" or document of transfer or conveyance. Property subsequently received by the Trustee during the life of the Trustor may be listed on addenda to Schedule "A" and shall have the separate character designated thereon or on the document of transfer or conveyance.

ARTICLE I
NAME AND BENEFICIARIES OF THE TRUST

1.1 Name. The Trust created in this instrument may be referred to as the "NT REVOCABLE LIVING 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 NHU THI TRAN and for the other beneficiaries named herein. The Trustor has three (3) now living children from a prior marriage; namely, CHARLIE LAM, VINCE LAM, and TONY LAM.

ARTICLE II
DISTRIBUTION OF INCOME AND PRINCIPAL WHILE THE TRUSTOR SHALL LIVE

2.1 Distributions While The Trustor Lives. During the lifetime of NHU THI TRAN, she shall be entitled to all income and principal of the Trust property without limitation.

2.2 Use of Residence. While the Trustor shall live, she may possess and use, without rental or accounting to Trustee, any residence owned by this Trust.

. . .

. . .

ARTICLE III
INCAPACITY

3.1 Incapacity of Trustor. If at any time, as certified in writing by two licensed physicians, the Trustor has become physically or mentally incapacitated, whether or not a court of competent jurisdiction has declared her incompetent, mentally ill, or in need of a guardian or conservator, the Successor Trustee shall pay to the Trustor or apply for her benefit, the amounts of net income and principal necessary, in the Successor Trustee's discretion, for the proper health, support and maintenance of the Trustor in accordance with her accustomed manner of living, until the incapacitated Trustor, either in the Successor Trustee's discretion or as certified by two licensed physicians, is again able to manage her own affairs or until her death.

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

ARTICLE IV
DISTRIBUTION OF HOUSEHOLD AND PERSONAL EFFECTS AFTER DEATH OF TRUSTOR

4.1 Distribution of Personal Property. After the death of the Trustor, the Trustee shall distribute all tangible personal property of the deceased Trustor, including but not limited to, furniture, furnishings, rugs, pictures, books, silverplate, linen, china, glassware, objects of art, wearing apparel, jewelry, ornaments, and automobiles 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) The Trustee shall distribute any remaining household and personal effects, which are not distributed by a written statement or list, equally to the surviving children of the Trustor, as they shall select. Any household and personal effects which the children of the Trustor do not select shall be added to the Trust created in Article V below. Any property to which the children of the Trustor, while under the age of Eighteen (18), become entitled may be delivered without bond to any suitable Guardian with whom the children of the Trustor reside to be kept for them until they attain the age of Eighteen (18) years.

ARTICLE V

DISTRIBUTION OF INCOME AND PRINCIPAL AFTER DEATH OF THE TRUSTOR

5.1 Payment of Expenses. Upon the death of the Trustor, the Trustee may, in his sole discretion, pay from the income and/or principal of this Trust, the administrative expenses, the expenses of the last illness and funeral of the Trustor, and any other debt owed by Trustor. Following such payments, the principal and undistributed income of the Trust shall be administered as set forth herein.

5.2 Distribution of the Remaining Trust Estate. The remaining trust estate shall be distributed to the NT LEGACY TRUST dated the 15th day of October, 2009, Co-Trustees, P. STERLING KERR and MARY V. KAUFMAN.

5.3 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 Trustee is authorized, at any time in the exercise of absolute discretion,

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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.

5.4 Last Resort Clause. In the event that the principal of the Trust administered under this Article V 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 NHU THI TRAN, 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 VI

TRUSTEE'S DISCRETION ON DISTRIBUTION TO PRIMARY BENEFICIARIES

6.1 Delay of Distribution. Notwithstanding the distribution provisions of Article V, the following powers and directions are given to the Trustee:

(a) If, upon any of the dates described in Article V, 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 that 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, or the conviction of the beneficiary of a felony, involving drugs or narcotics, unless a five year period has followed said conviction.

(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 States 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 of 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.

ARTICLE VII

PROVISIONS RELATING TO TRUSTEESHIP

7.1 Successor Trustee. In the event of the death or incapacity of the original Trustee, ~~P. STERLING KERR~~ and CHARLIE LAM shall serve as Successor Co-Trustee of all of the Trusts hereunder. In the event either one of them should become deceased, unable or unwilling to serve as a Successor Co-Trustee, then the survivor of them shall serve as the sole Successor Trustee of all of the Trusts hereunder. 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.

7.2 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.

7.3 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 Trustor, during her lifetime 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.

7.4 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.

7.5 Resignation Of Trustee. Any Trustee at any time serving hereunder may resign as Trustee by delivering to Trustor, during her lifetime 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.

7.6 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.

7.7 Majority. Subject to any limitations stated elsewhere in this Trust Indenture, 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.

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

7.9 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. However, any corporate Trustee shall be entitled to compensation for its services in accordance with its published fee schedule.

ARTICLE VIII
PROVISIONS RELATING TO TRUSTOR'S POWERS

8.1 Power To Amend. During the lifetime of the Trustor, this Trust Indenture may be amended in whole or in part by an instrument in writing, signed by the Trustor, and delivered to the Trustee. Upon the death of the Trustor, this Trust Indenture shall not be amended.

8.2 Power To Revoke. During the lifetime of Trustor, the Trustor may revoke this Trust Indenture by an instrument in writing, signed by the Trustor. Upon revocation, the Trustee shall deliver the revoked portion of the Trust property to the Trustor. Upon the death of the Trustor, this Trust Indenture shall not be revoked.

8.3 Power To Change Trustee. During the lifetime of the Trustor, she may change the Trustee or Successor Trustee of this Trust by an instrument in writing.

8.4 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.

8.5 Special Gifts. The Trustor may from time to time indicate her desire that special gifts be made from the Trust estate upon her death. If the Trustor has made known her desire in a writing referring to or attached to this Trust, the Trustee shall distribute the special gifts, free of Trust, upon the death of the Trustor. The gift shall be effective only if the writing is dated and signed by the Trustor.

If the 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 the Trustor had previously commenced, to make use of the federal gift tax annual exclusion. Such gifts may be made outright or in Trust.

ARTICLE IX
PROVISIONS RELATING TO TRUSTEE'S POWERS

9.1 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 Trustee's 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) To register any securities or other property held hereunder in the name of the Trustee 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 Trustee shall show that all such investments are part of her respective funds.

(b) To hold, manage, invest and account for the separate trusts in one or more consolidated funds, in whole or in part, as she may determine. As to each consolidated fund, the division into the various shares comprising such fund need be made only upon Trustee's books of account.

(c) 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.

(d) To borrow money, mortgage, hypothecate, pledge or lease trust assets for whatever period of time Trustee shall determine, even beyond the expected term of the respective Trust.

(e) 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.

(f) 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.

(g) 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.

(h) To institute, compromise, and defend any actions and proceedings.

(i) 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.

(j) 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 Trustee may deem necessary to make division or partial or final distribution of any of the

Trusts.

(k) To determine what is principal or income of the Trusts and apportion and allocate receipts and expenses as between these accounts.

(l) 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.

(m) 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.

(n) To accept additions of property to the Trusts, whether made by the Trustors, a member of the Trustor's family, by any beneficiaries hereunder, or by any one interested in such beneficiaries.

(o) 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 be a suitable investment for funds of a trust.

(p) To open and maintain safety deposit boxes in the name of this Trust.

(q) 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 Trustor requests but does not direct, that the Trustee 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.

(r) 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.

(s) The enumeration of certain powers of the Trustee shall not limit her general powers, subject always to the discharge of her fiduciary obligations, and being vested with and having all the rights, powers, and privileges which an absolute owner of the same property would have.

(t) The Trustee 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, to 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.

(u) In regard to the operation of any closely held business of the Trust, the Trustee 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.

(v) To borrow money at interest rates then prevailing from any individual, bank or other source, irrespective or whether any such individual or bank is then acting as Trustee, and to create security interests in the Trust property by mortgage, pledge, or otherwise, to make a guaranty of, including a third party guaranty.

9.2 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.

9.3 Broad Powers Of Distribution. After the death of the Trustor, 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 a 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.

9.4 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.

9.5 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 the Trustor needs long-term health 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 Trustor's family residence; (2) pay off, partly or in full, the encumbrance, if any, on the Trustor's family residence; (3) purchase a family residence, if the Trustor does not own one; (4) purchase a more expensive family residence; (5) make gifts of assets for estate planning purposes to the beneficiaries and in the proportions set forth in Article V.

ARTICLE X

PROTECTION OF AND ACCOUNTING BY TRUSTEE

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

10.2 Accounting. Upon the written request delivered or mailed to the Trustee by an income beneficiary hereunder, the Trustee 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 XI
GENERAL PROVISIONS

11.1 Controlling Law. This Trust Indenture 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 Trustee 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 Trustee, 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 Trustee exercises the discretion, as above provided, this Trust Indenture shall be administered from that time forth by the laws of the other state or jurisdiction.

11.2 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.

11.3 Perpetuities Savings Clause. Unless terminated earlier in accordance with other provisions of this Trust, any Trust hereby created or created by the exercise of any power hereunder shall terminate Twenty-one (21) years after the death of the last survivor of the following: (1) the Trustor; (2) all the issue of Trustor who are living at the death of the Trustor; and (3) all named beneficiaries who are living at the death of the Trustor, or upon the expiration of the maximum period authorized by the laws of the State of Nevada or the state by which the Trust is then being governed. Upon such termination, the Trust estate, and any accumulations thereon, shall be distributed to those persons and in the same proportions as the income of the Trust is then being paid.

11.4 <u>No-Contest Provision</u>. The Trustor specifically desires that this Trust Indenture 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 the Trustor or the successors-in-interest of any such persons, including the Trustor's estate 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 attack, 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 of any interest in the assets of the Trusts or interest in income or principal.

11.5 <u>Provision For Others</u>. The Trustor has, except as otherwise expressly provided in this Trust Indenture, intentionally and with full knowledge declined to provide for any and all of her heirs or other persons who may claim an interest in her respective estates or in these Trusts.

11.6 <u>Severability</u>. In the event any clause, provision or provisions of this Trust Indenture 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.

11.7 **<u>Physical Division of Property Not Necessary</u>**. Physical segregation or division of the various trusts created hereunder is not required, except as may be necessary by the termination of any such trust. The Trustee is required to keep separate accounts for the various undivided trusts.

11.8 **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.

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

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

11.11 **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.

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

(a) **"Principal" and "Income"**. Except as otherwise specifically provided in this Trust Indenture, 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, or its equivalent, 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 the 6th day of October, 2009.

NHU THI TRAN

ACCEPTANCE BY TRUSTEE

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 Co-Trustees. We accept the Declaration of Trust in all particulars and acknowledge receipt of the trust property described in Schedule "A" attached hereto, identified by our signatures.

NHU THI TRAN

~~P. STERLING KERR~~
CHARLIE LAM

TRAN0172

STATE OF NEVADA)
) ss.
COUNTY OF CLARK)

On the 15th day of October, 2009, before me, the undersigned, a Notary Public in and for such County and State, personally appeared NHU THI TRAN, known to me to be the Trustor and Co-Trustee whose name is subscribed to the within instrument and who acknowledged to me that she executed the same.

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

NOTARY PUBLIC

NOTARY PUBLIC
STATE OF NEVADA
County of Clark
CELESTE A. GUINN
Appt. No. 09-4937-1
My Appt. Expires Jun. 26, 2013

LAW OFFICES OF P. STERLING KERR
Attorneys at Law

TRAN0173

EXHIBIT 2

EXHIBIT 2

STATE OF NEVADA)
)ss:
COUNTY OF CLARK)

CERTIFICATE OF REVOCABLE LIVING TRUST

NHU THI TRAN, being first duly sworn, deposes and says:

Contemporaneously with the execution of this Certificate, the undersigned, NHU THI TRAN, a resident of Clark County, Nevada, has executed that certain document entitled, the "NT REVOCABLE LIVING TRUST" dated the 15th day of October, 2009, which provides in pertinent parts as follows:

1. **GRANTOR:** The Grantor under the terms of said Trust is NHU THI TRAN.

2. **TRUSTEE:** The Trustee under said Trust is NHU THI TRAN.

3. **SUCCESSOR TRUSTEE:** In the event that the original Trustee shall for any reason cease to act as Trustee~~, P. STERLING KERR~~ and CHARLIE LAM shall serve as Successor Co-Trustee of all the Trusts hereunder. If either of them should become deceased, unable or unwilling to serve as a Successor Co-Trustee, the survivor of them shall serve as the sole Successor Trustee of all the Trusts hereunder.

4. **POWER TO AMEND OR REVOKE:** During the life of the Grantor, the Trust may be revoked in whole or in part by an instrument in writing signed by the Grantor and delivered to the Co-Trustees. The Grantor may at any time during her life amend any of the terms of the Trust by an instrument in writing signed by the Grantor and delivered to the Co-Trustees.

5. **CERTIFICATION:** The Trust has not been revoked or amended and all representations in this Certificate are correct.

6. **IDENTIFICATION NUMBER:** The Identification Number of the Trust shall be the social security number of the Trustor.

7. **FORM AND TITLE:** When transferring title to the Trust or naming the Trust as a beneficiary, new title should be held or the designation should be made as follows: **"NHU THI TRAN, Trustee of the NT REVOCABLE LIVING TRUST', dated the 15th day of Octobert, 2009,"** or **"NHU THI TRAN, Trustee u/a/d the 15th of October, 2009,."** The term u/a/d stands for "under agreement dated."

8. **POWERS OF TRUSTEE(S):**

(a) 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.

(b) 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.

(c) 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.

(d) 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.

(e) 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.

(f) 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.

(g) 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.

(h) To institute, compromise, and defend any actions and proceedings.

(i) 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.

(j) 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.

(k) To determine what is principal or income of the Trusts and apportion and allocate receipts and expenses as between these accounts.

(l) 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.

(m) 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.

(n) 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.

(o) 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 be a suitable investment for funds of a trust.

(p) To open and maintain safety deposit boxes in the name of this Trust.

(q) 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.

(r) 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.

(s) 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.

(t) 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, to 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.

(u) 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.

(v) To borrow money at interest rates then prevailing from any individual, bank or other source, irrespective or whether any such individual or bank is then acting as Trustee, and to create security interests in the Trust property by mortgage, pledge, or otherwise, to make a guaranty of, including a third party guaranty.

FURTHER YOUR AFFIANT SAYETH NAUGHT.

NHU THI TRAN, Trustee

SUBSCRIBED and SWORN to before me this 15th day of October, 2009.

NOTARY PUBLIC

NOTARY PUBLIC
STATE OF NEVADA
County of Clark
CELESTE A. GUINN
Appt. No. 93-4127-1
My Appt. Expires Jan. 28, 2013

LAW OFFICES OF P. STERLING KERR
Attorneys at Law

EXHIBIT 3

EXHIBIT 3

RESIGNATION OF TRUSTEE

The undersigned, as a current Co-Trustee of the "NT LEGACY TRUST" dated October 15, 2009, hereby resigns as Co-Trustee with limited powers, as set forth in paragraphs 4 and 5 of Schedule VI to the NT LEGACY TRUST, effective upon signature herein.

DATED this 3 day of May, 2016.

Mary V Kauffman
Mary V. Kauffman

STATE OF NEVADA }
}ss.
COUNTY OF CLARK }

On this 03 day of ~~May,~~ June 16 in the year 2016, before me, Mary V. Kauffman, personally appeared Mary V. Kauffman personally known to me or proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to this instrument, and acknowledged that she executed it. I declare under penalty of perjury that the person whose name is ascribed to this instrument appears to be of sound mind and under no duress, fraud, or undue influence.

K. PRESSLER
Notary Public State of Nevada
County of Clark
APPT. NO. 04-87155-1
My App. Expires Feb. 1, 2020

KPressler
NOTARY PUBLIC

TRAN0062

EXHIBIT 4

EXHIBIT 4

STATE OF NEVADA
CERTIFICATION OF VITAL RECORD

DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF PUBLIC AND BEHAVIORAL HEALTH
VITAL STATISTICS

CASE FILE NO. 3037986

CERTIFICATE OF DEATH

2017001464
STATE FILE NUMBER

TYPE OR PRINT IN PERMANENT BLACK INK

DECEDENT

1a. DECEASED-NAME (FIRST,MIDDLE,LAST,SUFFIX): Nhu Thi TRAN
2. DATE OF DEATH (Mo/Day/Year): January 25, 2017
3a. COUNTY OF DEATH: Clark
3b. CITY, TOWN, OR LOCATION OF DEATH: Las Vegas
3c. HOSPITAL OR OTHER INSTITUTION -Name(If not either, give street and number): 3635 Hammock Street
3e. If Hosp. or Inst. Indicate DOA,OP/Emer. Rm. Inpatient(Specify): Home
4. SEX: Female
5. RACE (Specify): Vietnamese
6. Hispanic Origin? Specify: No - Non-Hispanic
7a. AGE-Last birthday (Years): 83
7b. UNDER 1 YEAR MOS DAYS
7c. UNDER 1 DAY HOURS MINS
8. DATE OF BIRTH (Mo/Day/Yr): October 10, 1933

IF DEATH OCCURRED IN INSTITUTION SEE HANDBOOK REGARDING COMPLETION OF RESIDENCE ITEMS

9a. STATE OF BIRTH (If not USA, name country): Vietnam
9b. CITIZEN OF WHAT COUNTRY: United States
10. EDUCATION: 5
11. MARITAL STATUS (Specify): Divorced
12. SURVIVING SPOUSE'S NAME (Last name prior to first marriage):
13. SOCIAL SECURITY NUMBER: [redacted]
14a. USUAL OCCUPATION (Give Kind of Work Done During Most of Working Life): Owner
14b. KIND OF BUSINESS OR INDUSTRY: Retail
Ever in US Armed Forces? No
15a. RESIDENCE - STATE: Nevada
15b. COUNTY: Clark
15c. CITY, TOWN OR LOCATION: Las Vegas
15d. STREET AND NUMBER: 3635 Hammock Street
15e. INSIDE CITY LIMITS (Specify Yes or No): Yes

PARENTS

16. FATHER/PARENT - NAME (First Middle Last Suffix): Thai TRAN
17. MOTHER/PARENT - NAME (First Middle Last Suffix): Mien VU
18a. INFORMANT- NAME (Type or Print): Charlie LAM
18b. MAILING ADDRESS (Street or R.F.D. No. City or Town, State, Zip): 3635 Hammock Street Las Vegas, Nevada 89147

DISPOSITION

19a. BURIAL, CREMATION, REMOVAL, OTHER (Specify): Cremation
19b. CEMETERY OR CREMATORY - NAME: Desert Crematory
19c. LOCATION City or Town State: Las Vegas Nevada 89101
20a. FUNERAL DIRECTOR - SIGNATURE (Or Person Acting as Such): CHRIS WALTERS SIGNATURE AUTHENTICATED
20b. FUNERAL DIRECTOR LICENSE NUMBER: 64
20c. NAME AND ADDRESS OF FACILITY: Desert Memorial Cremation and Burial 1111 Las Vegas Blvd N Las Vegas NV 89101

TRADE CALL

TRADE CALL - NAME AND ADDRESS

CERTIFIER

To Be Completed by CERTIFYING PHYSICIAN
21a. To the best of my knowledge, death occurred at the time, date and place and due to the cause(s) stated.(Signature & Title)
21b. DATE SIGNED (Mo/Day/Yr)
21c. HOUR OF DEATH
21d. NAME OF ATTENDING PHYSICIAN IF OTHER THAN CERTIFIER (Type or Print)

To Be Completed by CORONERS OFFICE
22a. On the basis of examination and/or investigation, in my opinion death occurred at the time, date and place and due to the cause(s) stated. (Signature & Title): TIMOTHY DUTRA MD SIGNATURE AUTHENTICATED
22b. DATE SIGNED (Mo/Day/Yr): January 27, 2017
22c. HOUR OF DEATH: 21:50
22d. PRONOUNCED DEAD (Mo/Day/Yr): January 25, 2017
22e. PRONOUNCED DEAD AT (Hour): 21:50

23a. NAME AND ADDRESS OF CERTIFIER (PHYSICIAN, ATTENDING PHYSICIAN, MEDICAL EXAMINER, OR CORONER) (Type or Print): Timothy Dutra MD 1704 Pinto Lane Las Vegas, NV 89106
23b. LICENSE NUMBER: 13502

REGISTRAR

24a. REGISTRAR (Signature): NANCY BARRY SIGNATURE AUTHENTICATED
24b. DATE RECEIVED BY REGISTRAR (Mo/Day/Yr): January 27, 2017
24c. DEATH DUE TO COMMUNICABLE DISEASE YES ☐ NO ☒

CAUSE OF DEATH

CONDITIONS IF ANY WHICH GAVE RISE TO IMMEDIATE CAUSE STATING THE UNDERLYING CAUSE LAST

25. IMMEDIATE CAUSE (ENTER ONLY ONE CAUSE PER LINE FOR (a), (b), AND (c).)
PART I (a) Atherosclerotic And Hypertensive Cardiovascular Disease — Interval between onset and death
DUE TO, OR AS A CONSEQUENCE OF:
(b) — Interval between onset and death
DUE TO, OR AS A CONSEQUENCE OF:
(c) — Interval between onset and death
DUE TO, OR AS A CONSEQUENCE OF:
(d) — Interval between onset and death

PART II OTHER SIGNIFICANT CONDITIONS-Conditions contributing to death but not resulting in the underlying cause given in Part 1.
26. AUTOPSY (Specify Yes or No): No
27. WAS CASE REFERRED TO CORONER (Specify Yes or No): Yes
28a. ACC., SUICIDE, HOM., UNDET. OR PENDING INVEST. (Specify)
28b. DATE OF INJURY (Mo/Day/Yr)
28c. HOUR OF INJURY
28d. DESCRIBE HOW INJURY OCCURRED
28e. INJURY AT WORK (Specify Yes or No)
28f. PLACE OF INJURY- At home, farm, street, factory, office building, etc. (Specify)
28g. LOCATION STREET OR R.F.D. No. CITY OR TOWN STATE

LOCAL REGISTRAR

"CERTIFIED TO BE A TRUE AND CORRECT COPY OF THE DOCUMENT ON FILE WITH THE REGISTRAR OF VITAL STATISTICS, STATE OF NEVADA." This copy was issued by the Southern Nevada Health District from State certified documents authorized by state Board of Health pursuant to NRS 440.175.

VRS-Rev-20120523a

413858

DATE ISSUED: MAY 3 1 2017

Registrar of Vital Statistics
By:

This copy not valid unless prepared on watermarked security paper displaying date, seal and signature of Registrar.
SOUTHERN NEVADA HEALTH DISTRICT • P.O. Box 3902 • Las Vegas, NV 89127 • 702-759-1010 • Tax ID # 88-0151573

ANY ALTERATION OR ERASURE VOIDS THIS CERTIFICATE

TRAN0128

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EXHIBIT 5

EXHIBIT 5

Law Offices of P. STERLING KERR

March 22, 2017

Charles Lam
Acting Manager
Tran Properties, LLC
P.O. Box 27738
Las Vegas, NV 89126

Re: Trust Estate of Nhu Thi Tran

Mr. Lam:

I was sorry to hear of the passing of Mrs. Tran last month. As you know she and I had a long history as attorney and client on many matters. As a result of her death, my role as successor trustee of her Trust has come to the forefront. Accordingly, I have a duty to follow the wishes of Mrs. Tran as expressed in her estate plan and proceed to administer her Trust Estate.

The estate plan of Mrs. Tran consists of the following:

1) NT Legacy Trust (Irrevocable Trust under NRS Chapter 166). This Trust holds 100% of the membership interest in a Nevada limited liability company (Tran Enterprises, LLC). I am the successor trustee of this trust.
2) NT Revocable Trust (this Trust holds a limited amount of real property). Charles Lam is the Trustee of this Trust. By the terms of the NT Revocable Trust, all Trust assets pour into the NT Legacy Trust.
3) Tran Enterprises, LLC (a Nevada limited liability company). This entity owns a significant amount of real property. Charles Lam is the manager of the entity. As stated above, all of the membership interest is held in the name of NT Legacy Trust. A small minority percentage membership interest was potentially to be assigned to Charles Lam (at the discretion of the successor trustee to the NT Legacy Trust). I currently hold the executed original membership assignment.
4) In addition, a charitable non-profit entity was formed but is currently in revoked status. This non-profit was to accomplish the stated goal of Mrs. Tran in the NT Legacy Trust.

As you can see, the estate plan was complicated and will require my investigation to ascertain all of the assets and prepare a plan of distribution. Ultimately, the administration of the trust will require the sale of all the real property held in the trust. I have begun putting together a list of the real property and other assets.

In your role as manager of Tran Enterprises, LLC during Mrs. Tran's lifetime and successor trustee of the NT Revocable Trust, I am formally requesting that you provide to me the following documents for my review:

2450 St. Rose Parkway • Suite 120 • Henderson, NV 89074
Phone: (702) 451-2055 • Fax: (702) 451-2077
www.sterlingkerrlaw.com

1) 2011 through 2016 tax returns for Tran Enterprises, LLC
2) 2016 through to the present bank statements for any Tran Enterprises, LLC bank account
3) Copies of any Purchase Agreements, covering any of the Tran Enterprises, LLC or NT Revocable Trust properties currently under contract and in escrow
4) All listing agreements with any real estate company or broker covering land held by Tran Enterprises, LLC or the NT Revocable Trust
5) All files maintained on each such piece of real property held by Tran Enterprises, LLC and the NT Revocable Trust

There will likely be other documents which I will need you to provide as I proceed with the trust administration and I expect your full cooperation. Please provide the requested documents to my office or via email to sterling@sterlingkerrlaw.com no later than April 4, 2017.

Finally, be advised that you are hereby terminated as manager of Tran Enterprises, LLC. Contemporaneously with this letter I am filing an amended List of Managers and Members with the Nevada Secretary of State formalizing your removal as manager. Be advised that as successor trustee of the NT Legacy Trust which holds 100% of the membership interest of Tran Enterprises, LLC I have the authority to effect your termination as manager. The termination means that you are not to act on behalf of Tran Enterprises, LLC in any capacity. You are not to sign any conveyances, enter into any agreements or incur any debt on behalf of Tran Enterprises, LLC.

I would like to discuss the transition of the management of Tran Enterprises, LLC and conference with you concerning your ongoing role, if any, in the administration of Mrs. Tran's Trust Estate.

Sincerely,

P. Sterling Kerr
Successor Trustee of the NT Legacy Trust

TRAN0125

EXHIBIT 6

EXHIBIT 6

Charles Lam
% Nhu Thi Tran
P.O. Box 27738
Las Vegas, NV 89126

April 4, 2017

Law Office of P. Sterling Kerr, P.C.
2450 St. Rose Parkway
Henderson, NV

Re: Your Letter dated March 22, 2017

Counsel Kerr:

In reply to your Letter; First of all, I still am much in grievance and mourning of my dearest Mother's passing within the one hundred days in memoriam according to our culture. Therefore, I shall not oblige to your requirements.

Secondly, I would suggest that you shall not remove my capacity and title in Tran Enterprises, LLC. with the Secretary of State since I have been the Front man and the Hands-on active Mother and Son partnership, helping her business venture and carrying-on her successful legacy as a business woman for the last thirty years in Nevada, let alone other ten years in other business in California. Everyone in the Las Vegas Investment Community, including you, the Fed, the State, the County and the City know who I am in such representation role and talk-man for my Mother since she did not read nor write English and brokenly speak the language.

In addition, I currently have to handle three public nuisance abatement matters which involved homeless folks camping out on Tran Enterprises' parcels and one Zoning matter in Clark County. I had done that for years as long as my Mother and I had been in business together. Can you do that and advance the costs in the ten of thousand of dollars with your own money and time?I doubtit!

Last, you have written your Letter in such a commanding and punctual tone which concerned and worried me that you had done my Mother's Estate plan all with your own idea which lend me a suspicion that you had planned it all along with your own hidden agenda. Your Letter had further inflicted greater emotional distress to me in addition to the existing ones and had rendered me sleepless nights in the last two.

Truly,

Charles Lam

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10/13/2017 2:10 PM
Steven D. Grierson
CLERK OF THE COURT

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MARK A. SOLOMON, ESQ.
Nevada Bar No. 0418
Email: msolomon@sdfnvlaw.com
ALEXANDER G. LEVEQUE, ESQ.
Nevada Bar No. 11183
Email: aleveque@sdfnvlaw.com
SOLOMON DWIGGINS & FREER, LTD.
Cheyenne West Professional Centré
9060 West Cheyenne Avenue
Las Vegas, Nevada 89129
Telephone: (702) 853-5483
Facsimile: (702) 853-5485
Attorneys for P. Sterling Kerr, Trustee of the NT Rvocable Trust, dated October 15, 2009

DISTRICT COURT

COUNTY OF CLARK, NEVADA

In the Matter of the: NT REVOCABLE LIVING TRUST, dated October 15, 2009	Case No.: P-17-093258-T Dept. No.: XXVI/PROBATE Hearing Date: November 3, 2017 Hearing Time: 9:30 a.m.

NOTICE OF HEARING

PLEASE TAKE NOTICE that a hearing on the PETITION TO ASSUME IN REM JURISDICTION OVER THE NT REVOCABLE TRUST, DATE OCTOBER 15, 2009, TO CONFIRM ITS TRUSTEE, FOR AN INVENTORY, AND FOR INSTRUCTIONS; has been set on said Petition has been set for the 3rd day of November, 2017 at the hour of 9:30 a.m. at the Regional Justice Center, in a Courtroom to be determined, 200 Lewis Avenue, Las Vegas, Nevada, 89155. All persons interested in said estate are notified to appear and show cause why said Petition should not be granted. Further details concerning this Petition can be had by reviewing the Court file at the office of the County Clerk at the Regional Justice Center, or by contacting the attorney, whose name

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SOLOMON DWIGGINS & FREER, LTD.
9060 WEST CHEYENNE AVENUE
LAS VEGAS, NEVADA 89129
TEL: (702) 853-5483 | FAX: (702) 853-5485

and address and telephone number is:

MARK A. SOLOMON, ESQ.
ALEXANDER G. LEVEQUE, ESQ.
SOLOMON DWIGGINS FREER, LTD.
9060 West Cheyenne Avenue
Las Vegas, NV 89129
702-853-5483

YOU DO NOT NEED TO APPEAR UNLESS YOU WISH TO RAISE AN OBJECTION.

DATED October 13, 2017.

SOLOMON DWIGGINS & FREER, LTD.

/S/ ALEXANDER G. LEVEQUE

By: ______________________
MARK A. SOLOMON, ESQ.
Nevada Bar No. 0418
Email: msolomon@sdfnvlaw.com
ALEXANDER G. LEVEQUE, ESQ.
Nevada Bar No. 11183
Email: aleveque@sdfnvlaw.com

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CERTIFICATE OF SERVICE

PURSUANT TO NRCP 5(b), I HEREBY CERTIFY that on October 13TH, 2017, I served a true and correct copy of the **PETITION TO ASSUME *IN REM* JURISDICTION OVER THE NT REVOCABLE TRUST, DATED OCTOBER 15, 2009, TO CONFIRM ITS TRUSTEE, FOR AN INVENTORY AND FOR INSTRUCTIONS, *AND* this NOTICE OF HEARING** to the following, in the manner set forth below:

By U.S. Mail, postage prepaid certified mail to:

Mary Kaufman
8403 Rochelle Avenue
Las Vegas, NV 89147

And via eserve and email to:

Charles Lam, c/o
J. Michael Oakes, Esq.
FOLEY & OAKES, PC
626 S. Eighth Street
Las Vegas, NV 89101

/s/ Renee Guastaferro

An Employee of SOLOMON DWIGGINS & FREER, LTD

SOLOMON DWIGGINS & FREER, LTD.
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Steven D. Grierson
CLERK OF THE COURT

ERR

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Telephone: (702) 853-5483
Facsimile: (702) 853-5485
Attorneys for P. Sterling Kerr, Trustee of the NT Rvocable Trust, dated October 15, 2009

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TEL: (702) 853-5483 | FAX: (702) 853-5485

DISTRICT COURT

COUNTY OF CLARK, NEVADA

In the Matter of the: NT REVOCABLE LIVING TRUST, dated October 15, 2009	Case No.: P-17-093258-T Dept. No.: XXVI/PROBATE Hearing Date: November 3, 2017 Hearing Time: 9:30 a.m.

ERRATA TO PETITION TO ASSUME IN REM JURISDICTION OVER THE NT REVOCABLE TRUST, DATED OCTOBER 15, 2009, TO CONFIRM ITS TRUSTEE, FOR AN INVENTORY, AND FOR INSTRUCTIONS

That attached to the Petition filed in this matter on October 13, 2017, the Exhibit 2 attached, contained an incorrect document.

Attached hereto as Exhibit "2", is the correct exhibit.

DATED October 18, 2017.

SOLOMON DWIGGINS & FREER, LTD.

By: */S/ ALEXANDER G. LEVEQUE*

MARK A. SOLOMON, ESQ.
Nevada Bar No. 0418
Email: msolomon@sdfnvlaw.com
ALEXANDER G. LEVEQUE, ESQ.
Nevada Bar No. 11183
Email: aleveque@sdfnvlaw.com

CERTIFICATE OF SERVICE

PURSUANT TO NRCP 5(b), I HEREBY CERTIFY that on October 18, 2017, I served a true and correct copy of the **ERRATA TO THE PETITION TO ASSUME *IN REM* JURISDICTION OVER THE NT REVOCABLE TRUST, DATED OCTOBER 15, 2009, TO CONFIRM ITS TRUSTEE, FOR AN INVENTORY AND FOR INSTRUCTIONS** to the following, in the manner set forth below:

By U.S. Mail, postage prepaid to:

Mary Kaufman
8403 Rochelle Avenue
Las Vegas, NV 89147

And via mail and email to:

Charles Lam, c/o
J. Michael Oakes, Esq.
FOLEY & OAKES, PC
626 S. Eighth Street
Las Vegas, NV 89101
mike@foleyoakes.com

/s/ Renee Guastaferro

An Employee of SOLOMON DWIGGINS & FREER, LTD

SOLOMON DWIGGINS & FREER, LTD.
9060 WEST CHEYENNE AVENUE
LAS VEGAS, NEVADA 89129
TEL: (702) 853-5483 | FAX: (702) 853-5485

EXHIBIT 2

EXHIBIT 2

THE NT LEGACY TRUST

DATED THE 15th DAY OF OCTOBER, 2009

Prepared by:
the Law Offices of P. Sterling Kerr
1055 Whitney Ranch Drive, #110
Henderson, NV 89014
Telephone: (702) 451-2055

TRAN0067

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TRAN0070

TRUST AGREEMENT
OF THE
NT LEGACY TRUST

THIS DECLARATION OF TRUST AGREEMENT is made on the 15th day of October, 2009, by NHU THI TRAN (hereinafter referred to as the "Settlor", "Trustor" or "Grantor" when reference is made to her in the capacity as creator of this Trust and the transferor of the principal properties thereof), and the Co-Trustees, whose names and addresses are as set forth in Schedule I attached hereto and incorporated herein by reference (hereinafter referred to as the "Co-Trustees," or "Fiduciaries," when reference is made to them or their capacity as Co-Trustees or fiduciaries hereunder).

Witnesseth.

WHEREAS, the Trustor desires by this Trust Agreement to establish an Irrevocable Trust for the use and purposes hereinafter set forth, to make provisions for the care and management of certain of her present properties and for the ultimate distribution of the Trust properties;

NOW, THEREFORE, the Trustor hereby gives, grants, and transfers irrevocably to the Trustee, IN TRUST, which Trustee hereby declares that it has received from the Grantor, the property listed on Schedule "II", (which schedule is attached hereto and made a part of this Trust Agreement), TO HAVE AND TO HOLD THE SAME IN TRUST, and to manage, invest and reinvest the same and any additions that may be made from time to time hereto, subject to the provisions of Trust as hereinafter provided.

All property subject to this Trust Indenture 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 Trustor or any person or persons, by inter vivos act or testamentary transfer, or by insurance contract or Trust designation.

ARTICLE I
DEFINITIONS AND CONSTRUCTION

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

1.2 Distribution Event. The term "Distribution Event", as used herein, shall mean the death of the Settlor.

1.3 **Settlement; Trust; Trust Fund, Etc.**

(a) **General**. Unless otherwise indicated or required by the context, the terms "Settlement" and "Trust" shall mean and refer to the "NT LEGACY TRUST", to be held, administered, and distributed pursuant to the terms of this Instrument. The terms "Settlement" and "Trust" shall also mean each executed original of this Instrument, as required or permitted by the context in which such terms are used. Unless otherwise indicated or required by the context, the terms "Trust Fund", "Trust Property", and "Trust Estate", as used herein, shall mean and include all property received initially by the Trustee with respect to the account of a particular Settlor hereunder, all additions thereto received by the Trustee from any other source, all investments and reinvestments of such property and such additions thereto and all accrued and undistributed income of such account. In this connection, the Trustees shall establish and maintain an account hereunder for each Settlor hereof.

(b) **With Respect to a Settlor**. The terms "Settlement," "Trust," "Trust Fund," "Trust Property," and "Trust Estate, " as used herein regarding the exercise of any power by any person, and/or regarding any Trust provisions effective, or distributions to be made upon, following, or with respect to the life or death of a Settlor, shall, unless otherwise required by the context, mean and include all property received initially by the Trustee with respect to the account of a particular Settlor, all additions thereto received by the Trustee from any other source, all investments and reinvestments of such property and such additions thereto and all accrued and undisturbed income of such account.

(c) **Predecessor Trusts**. For purposes of this Instrument, the term "Predecessor Trusts" shall mean and refer to the trust identified as such in Section 1.1, above, if any.

1.4 **Provisions Relating to Beneficiaries.**

(a) **Beneficiary**. Unless otherwise expressly identified herein, wherever reference is made herein to a "Beneficiary," such reference shall be deemed to mean a person identified as such on Schedule III attached hereto and incorporated herein by this reference. No person who is an Excluded Person hereunder (as hereinafter defined) shall be capable of being a Beneficiary.

(b) **Appointed Class**. Subject to ARTICLE V, Sections 5.4 and 5.5 hereof, for purposes of this Instrument, the term "Appointed Class" means. (i) the Beneficiaries (as hereinabove defined); (ii) any then living spouse, surviving spouse, Child (as hereinafter defined), or other Issue (as hereinafter defined) of any of the Beneficiaries; and (iii) any organization which qualifies for United States federal income and/or estate tax deductions pursuant to §§ 170 and/or 2055 of the Code. No person who is an Excluded Person hereunder (as hereinafter defined) shall be capable of being a member of the Appointed Class.

children of each such deceased child of such specified person will receive by right of representation the share which their parent would have received had he then been living.

1.12 Headings and Captions; Gender and Number.

(a) Headings and Captions. The headings, captions, titles, and subtitles herein are provided for convenience of reference only, and shall in no way be construed as defining, extending, limiting, or describing the scope of this Instrument, or any provision hereof, or the Settlor's intent with respect to any provision hereof.

(b) Gender and Number. Wherever the context of this Instrument so requires, references to the singular number shall be read, construed, and interpreted to mean and include the plural number and vice-versa; references to the masculine gender shall be read, construed, and interpreted to mean and include the feminine gender and vice-versa; and references to the neuter gender shall be read, construed, and interpreted to mean and include the masculine and/or feminine genders, as applicable, under the circumstances.

1.13 Survivorship.

(a) In the event that any Beneficiary hereunder and the Settlor shall die under circumstances which make difficult or impracticable the determination of the order of their deaths, then, in such event, it shall be presumed that any such Beneficiary survived the Senior.

(b) Subject to the application of Paragraph (a) of Section 1.13, above, in the event any income Beneficiary of a Trust Fund created hereunder shall die at the same time as the remainder Beneficiary of such Trust Fund, or under circumstances which make difficult or impracticable the determination of the order of their deaths, it shall be presumed that such income Beneficiary survived such remainder Beneficiary.

1.14 Applicable Law; Construction.

(a) As used herein, the term "Applicable Law" means the law of the jurisdiction to which the rights of all parties hereto shall be subject, to which the construction and effect of this Settlement shall be subject, and by which such rights, construction and effect shall be construed, interpreted and governed.

(b) Subject and without prejudice to any transfer of the administration of the trusts hereof, to any change in the Applicable Law of this Settlement, and to any change in the law of interpretation of this Settlement duly made according to the powers and provisions herein declared. from the date of execution of this Instrument as a Spendthrift Trust under Chapter 166 of the Nevada Revised Statutes, the Applicable Law of this Settlement shall be the Laws of the State of Nevada, whose law shall govern the construction, validity and administration hereof.

(c) Excluded Person. For purposes of this Instrument, the term "Excluded Person" means any person who is specified as such in Schedule IV attached hereto and incorporated herein by this reference, any person who is so designated pursuant to ARTICLE II, Sections 2.1 and 2.2 thereof.

1.5 Fiduciary. Wherever reference is made herein to a "Fiduciary," such term shall mean and include the Trustee, as required or permitted by the context. Such term shall also mean and include a successor to such Trustee and each Co-Trustee.

1.6 Estate. The term "Estate," as used herein, shall mean not only the Settlor's property which is subject to court administration, but any other property with respect to which the Fiduciary may properly exercise any power, direction, or take any action.

1.7 Personal Representative. The term "Personal Representative," as used herein, means the person appointed by a court of competent jurisdiction to administer an estate of a decedent.

1.8 Trustee. The term "Trustee" means the person(s) appointed to hold, administer, and distribute the Trust Estate, subject to applicable fiduciary standards as modified herein, and such term includes an original, additional, surviving, remaining, or successor Trustee, regardless of whether appointed or confirmed by any court. No reference to a "Co-Trustee" shall be interpreted as an exception to this Section 1.8.

1.9 Child, Children, Grandchild, Grandchildren; Descendant. As used herein, the term "child" or "children" shall mean lawful descendants in the first degree of the designated person, "grandchild" or "grandchildren" shall mean lawful descendants in the second degree of the designated person, and "descendant or descendants" shall mean lawful descendants in the first, second or any other degree of the designated ancestor. Any implication herein to the contrary notwithstanding, a lawfully adopted or legitimated child shall be deemed to be a descendant of the relevant person (if legitimated or legally adopted prior to such child attaining age eighteen (18), and a child or grandchild in gestation (later born alive) at the date of a specified event shall be deemed to be living at the date of such specified event.

1.10 "Independent Trustee". The term "Independent Trustee" refers to a corporate Trustee if then serving, or in the event there is no corporate Trustee, then to any non-corporate Trustee other than the beneficiary.

1.11 Per Stirpes. As used herein, the term "per stirpes" shall have its accepted legal meaning, so that, for example, if a distribution is to be made "per stirpes" to the descendants or Issue of a specified person and one of said person's children is deceased but is survived by children, then the share which would otherwise have been distributable to such deceased child of said specified person had he then been living shall be divided equally among the then-living children of such deceased child. As a further example, and consistent herewith, if all of the children of said specified person shall be deceased, then the share which would otherwise have been distributable to each such deceased child shall be divided equally among the then-living children of each such deceased child, with the effect that the then-living

P. Sterling Kerr
Attorney at Law

TRAN0075

1.15 **Related or Subordinate Party**. As used herein, the term "related" or "subordinate" party shall have the meaning assigned to it by Section 672 of the Internal Revenue Code, and the legal interpretations thereof.

1.16 **Discretion**. As used herein, the word "discretion", unless otherwise expressly limited herein, shall mean the sole and absolute right, power, and authority to make a determination which shall not be subject to question by any person and shall be conclusive and binding on all persons and parties howsoever interested in the matter.

1.17 **Herein, Hereunder, Etc.**. As used in this Instrument, the words "herein", "hereunder", and similar compounds of the word "here", shall, unless otherwise required by the context, mean and refer to this entire Instrument.

1.18 **Issue**. The word "Issue" as used herein, shall have the same meaning as the word "descendant", and such terms shall mean and refer to a person's legitimate natural born children, legitimated and legally adopted children (if legitimated or legally adopted prior to such child attaining age eighteen [18]), and the lineal descendants of such child or children. Subject to ARTICLE XI, the term "descendant" or "descendants" shall include those persons in being (or in gestation, if later born alive) at the time they must be ascertained to give effect to the reference to them regardless of whether they were born before or after the death of the Settlor, or the death of any other person.

1.19 **Settlor, Related Terms**.

(a) **Settlor**. When reference is made in this Instrument to the "Settlor" and the "Settlor's Spouse", such terms shall have the following meanings and construction. With regard to the account maintained hereunder and funded with property initially transferred hereto by NHU THI TRAN, the term "Settlor" shall mean NHU THI TRAN.

(b) **Settlor's Account**. The term "Settlor's account", when used herein, shall mean and refer to the share of this Settlement determined with respect to a Settlor hereunder by taking into account the contributions made hereto to by the said Settlor, individually, or in any other capacity on behalf of such Settlor, the earnings (ordinary, capital, or any other type) thereon and/or allocated or credited thereto, the losses incurred with respect thereto, the expenses (ordinary, capital, or any other type) disbursed therefore and/or allocated or charged thereto, and the distributions to any person therefrom.

1.20 **Legal Age; Adult; Age of Majority**. Applicable Law to the contrary notwithstanding, for all purposes hereunder, terms such as "adult", "age of majority", and similar references shall be construed to mean and refer to a person who has attained the age of eighteen (18) years. Prior to such time, a person shall be considered to be a minor for all purposes hereunder.

1.21 **Incapacity; Adjudicated Incapacity**. For all purposes of this Instrument, any person shall be treated as having been adjudicated incompetent (which shall begin a period of Adjudicated Incapacity) when the Trustees are presented with either.

(a) a certified copy of an order or decree of any court of competent jurisdiction finding such person to be incapacitated (unless such order or decree does not find such person to be incapacitated with regard to his financial and business affairs), or

(b) a written certificate stating that, in the opinion of the signers of such certificate, the subject person is in such a permanent physically or mentally deteriorated condition that such person is, and thereafter for the foreseeable future will be, unable to responsibly conduct his financial and business affairs on a continuous basis. Such certificate must be signed, in the presence of a notary public or other official authorized by law to take sworn statements, by the subject person's regular physician, by one (1) other physician not affiliated in medical practice with such regular physician, and by one (1) licensed clinical social worker (who represents that he/she has expertise in matters involving the determination of competency).

1.22 **Severability**. In the event any term, condition, right, power, privilege, or provision of this Instrument, or the administration thereof, is determined by a court of competent jurisdiction to be unenforceable or invalid, or should otherwise be unenforceable or invalid, for any reason whatsoever, then, in such event, the remaining provisions hereof shall be unaffected in any way, and shall continue in full force and effect.

1.23 **Trust Period**. Except as otherwise limited by Article X hereof, for purposes of this Instrument, the term "Trust Period" means the period of time which began on the "commencement date" being either the date first above written, or if this is an amendment and restatement of Predecessor Trusts, from the original date of the oldest of said Predecessor Trusts, and continuing through and including the first to occur of the following dates or points in time. (i) One Hundred. (100) years from the commencement date, which shall be the perpetuity period applicable to the disposition; or (ii) the date as of which the entirety of the Trust Fund has been distributed according to the terms and provisions hereof.

1.24 **Person**. "Person" means, when used generally herein, an individual, person, firm, corporation, partnership (general or limited), limited liability company, company, trust, association, entity, or other such classification. When used generally herein, such word need not be capitalized.

1.25 **Scheduled Investment**. The term "Scheduled Investment" means any item or class of items described in Schedule II hereof.

1.26 **Special Provisions**. The special provisions, if any, which are to apply in the course of administering the Trust during the Trust Period are as set forth in Schedule IX attached hereto and incorporated herein by this reference.

1.27 Commencement of Trust. The Trust established by this Instrument shall commence existence on the date first above written, such date being the time when the last of the following has occurred. the Settlor has executed this Instrument, one of the Trustees has executed this instrument, and a corpus has been transferred to said Trustees.

1.28 Code, Internal Revenue Code; Regulations. As used herein, any reference to the "Code" or to the "Internal Revenue Code" shall mean and refer to the United States Internal Revenue Code of 1986, as amended from time to time, or any statute from time to time in effect and corresponding thereto. References to Treasury Regulations shall mean and refer to the regulation promulgations of the United States Treasury Department, as amended from time to time, and the terms "Proposed" and "Temporary" when used in conjunction with a Treasury Regulation reference shall be deemed to mean and include the final version of same, to the extent not substantially inconsistent with the said Proposed or Temporary version.

ARTICLE II
DISPOSITIVE PROVISIONS. DURING THE SETTLOR'S LIFETIME

Prior to Settlor's Death.

2.1 Income. To the extent remaining following the exercise (if any) of the powers of appointment set forth in Section 2.4 and Section 15.2, if applicable, the Trustee may, in his or her sole and absolute discretion, pay or apply the whole, any portion, or none of the net income of the Trust to or in any manner the Trustee deems to be for the benefit, including but not limited to support and maintenance, of all or any one or more of the members of the Appointed Class other than an Excluded Person; provided, however, that any discretionary distributions to the Settlor shall be determined by the Trustee(s) who is not the Settlor. Income not so applied shall be added to and administered as a part of Trust corpus.

2.2 Principal. To the extent remaining following the exercise (if any) of the powers of appointment set forth in Section 2.4 and Section 15.2, if applicable, the Trustee may, in his or her sole and absolute discretion, pay, transfer, or apply the whole, any portion, or none of the Trust Principal to or in any manner the Trustee deems to be for the benefit, including but not limited to support and maintenance, of all or any one or more of the Appointed Class other than an Excluded Person; provided, however, that any discretionary distributions to the Settlor shall be determined by the Trustee(s) who is not the Settlor.

2.3 Discretionary Distributions.

(a) General. In exercising the discretion conferred upon them by Sections 2.1 and 2.2 above, the Trustee may pay more to, appropriate, or apply more for some members of the Appointed Class than others, and may make payments to or application of benefits for one or more of them to the exclusion of one or all of the others. Any payment or application of benefits pursuant to this Section 2.3 shall be charged against the respective account in the Trust Fund as a whole

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rather than against the ultimate distributive share (if any) of a member of the Appointed Class to whom or for whose benefit payment is made.

(b) **Charitable Distributions.** The Trustee, may, in his or her sole discretion, but only at the request of any member of the Appointed Class, pay or apply any part of the Trust Fund to or for the benefit of any charitable institution or other charitable objects approved or requested by such member of the Appointed Class. Any such payment or application shall be deemed to be a distribution for the benefit of such member of the Appointed Class. The Trustee shall not be restricted by any rule or law as to the amount or manner of such payment or application. The receipt in writing of the treasurer or other officer of any charitable institution or object shall be a sufficient discharge to the Trustee for any net income and/or principal paid to such institution or object hereunder.

2.4 **Testamentary Power of Appointment.** Subject to Section 2.5 of this ARTICLE II, and subject to ARTICLE V hereof, upon the death of the Settlor, the Trustee shall distribute the Senior's account in the Trust Fund or any part thereof to such one or more members of the Appointed Class, on such terms and conditions, either outright or in trust, as the Settlor may appoint by an instrument in writing (including, without limitation, a Will or a Codicil) signed by the Settlor and delivered to the Trustee, specifically referring to and exercising this power of appointment.

2.5 **Nature and Powers of Appointment.** The powers of appointment set forth in Section 2.4, above, of this Article II, and Section 15.2 of Article XV, if applicable, are limited powers of appointment subject to the restrictions set forth in Section 12.2(d) of ARTICLE XII.

ARTICLE III
DISPOSITIVE PROVISIONS UPON SETTLOR'S DEATH

Following the death of the Settlor, the account of the deceased Settlor, including any assets added thereto received from the Senior's Estate, and any other assets added thereto received by virtue of the Senior's death, together with any other property acquired hereunder, to the extent not appointed by the Settlor pursuant to Section 2.4 of ARTICLE II, above, shall be administered in accordance with the provisions of this ARTICLE III.

3.1 **Exemption Trust.**

(a) The Trustees shall set apart out of the funds and properties to be administered under this ARTICLE III and shall hold as a separate Trust Fund or Funds the aggregate of the following amounts.

(1) All of such funds and properties, if any, which are subject to administration hereunder but which are not included in the Settlor's gross estate as the same is determined for federal estate tax purposes; plus

(2) With respect to all funds and properties held hereunder which are included in the Settlor's gross estate as the same is determined for a federal estate tax purposes, (i) all of such property as to which a federal estate tax marital deduction would not be allowed if it were devised outright to the Settlor's Spouse, and (ii) after giving effect to (i), a sum not to exceed the maximum amount that can pass to the Trust free of Federal Estate Tax, after taking into account all available deductions, exclusions, the unified credit and the state death tax credit (provided use of this credit does not result in an increase in the state death taxes paid) allowable to the Decedent's estate, and after also taking account of property disposed of by previous articles in this Trust and property passing outside of this Trust which is includible in the Decedent's gross estate and which does not qualify for the marital or charitable deduction, and after taking account of charges to principal that are not allowed as deductions in computing the deceased spouse's Federal Estate Tax. This allocation may be satisfied in cash or in kind, including undivided interests in property. Likewise, the Fiduciaries shall assume, in determining the foregoing pecuniary amount, that all dispositions under any inter vivos Trust with respect to which the Settlor hereunder was also the Settlor which are eligible for a QTIP election (under the terms of such Trust) have been allowed as a federal estate tax marital deduction of the Senior's estate, regardless of whether any such election is actually made, or whether any ~~such interests are disclaimed by the Settlor's Spouse.~~

(b) The Fiduciaries shall have full authority and discretion to select the assets which shall constitute the principal of the Trust Funds held and administered under this Section; provided, however, that in funding the Trusts created under this Section 3.1, the Fiduciaries shall first allocate thereto property in the Settlor's account which is not subject to inclusion as part of the Settlor's gross estate for federal estate tax purposes, shall next allocate thereto property which is subject to inclusion as part of the Settlor's gross estate for federal estate tax purposes but which cannot qualify for the marital deduction or the charitable deduction under applicable federal, estate tax law, to the extent such property is subject to administration hereunder and available for such funding, and the remaining balance of such required Trust Funds, if any, shall be funded with any and all remaining property in the deceased Settlor's account subject to administration hereunder.

(c) Anything contained herein to the contrary notwithstanding, in paying over the pecuniary amount necessary to fund the Trust created by Section 3.1 of the ARTICLE III, the Trustees shall utilize date of death values for the assets utilized in such funding being fairly representative of appreciation and depreciation in the Trust estate following the Settlor's death. In addition, if the discretionary selection of assets to fund such trust is deemed by any governmental authority to justify proposed disallowance of all or any portion of the marital deduction (otherwise available to the Settlor's estate), the Trustee shall allocate such property among the Trust Funds under this Section 3.1 and the Marital Trust Funds under Section 3.2 of this ARTICLE III in accordance with the standards required by such governmental authority in order to preserve the marital deduction with respect to the Marital Trust Funds held under Section B of this ARTICLE III.

(d) The Trustees shall receive the funds, properties and amounts set forth in Subsection (a) of this Section 3.1, and shall pay over and distribute same in accordance with the remaining provisions of this Section 3.1.

(e) Distribution Event. Upon the Distribution Event (as defined in ARTICLE I), the Fiduciaries shall administer and distribute all property then held by them in accordance with the provisions of Section 3.3 of this ARTICLE III.

3.2 Allocation for Issue.

A. Specific Bequests:

1) The sum of Two Million Dollars ($2,000,000.00) shall be distributed to my son, CHARLIE LAM, outright and free of Trust, so long as he is then living. If he is not then living, this bequest shall lapse.

2) The sum of Twenty Thousand Dollars ($20,000.00) shall be ~~distributed to my son, VINCE LAM, outright and free of Trust, so~~ long as he is then living. If he is not then living, this bequest shall lapse.

3) The sum of Twenty Thousand Dollars ($20,000.00) shall be distributed to my son, TONY LAM, outright and free of Trust, so long as he is then living. If he is not then living, this bequest shall lapse.

4) The sum of Twenty Thousand Dollars ($20,000.00) shall be distributed to my grandson, DENNIS LAM, outright and free of Trust, so long as he is then living. If he is not then living, this bequest shall lapse.

5) The sum of Twenty Thousand Dollars ($20,000.00) shall be distributed to my granddaughter, LISA LAM, outright and free of Trust, so long as she is then living. If she is not then living, this bequest shall lapse.

6) The sum of Twenty Thousand Dollars ($20,000.00) shall be distributed to my grandson, BRYAN LAM, outright and free of Trust, so long as he is then living. If he is not then living, this bequest shall lapse.

7) The sum of Twenty Thousand Dollars ($20,000.00) shall be distributed to my sister, HA THI TRAN, outright and free of Trust, so long as she is then living. If she is not then living, this bequest shall lapse.

B. **Distribution of Remaining Trust Estate:**

The residual and remaining trust estate, after the payment to the beneficiaries of specific bequests, all Trustee fees, expenses of trust, professional fees, estate tax, and all other taxes required, shall be paid to the NHU TRAN FOUNDATION, INC., a Nevada Non-Profit Corporation.

C. **Last Resort Clause.** In the event that the principal of the Trust administered under this Section 3.3 is not disposed of under the foregoing provisions, the remainder, if any, shall be distributed, outright and free of Trust, equally to the heirs at law of the Settlor, other than creditors and Excluded Persons, 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. Notwithstanding the above, a Settlor's separate property shall be distributed free of trust to the heirs at law of the separate property holder rather than divided with the heirs of the other Settlor.

D. **Apportionment of Death Taxes.** All death taxes that are attributable to any generation skipping trust with an inclusion ratio of zero, shall be first charged to a beneficiary's Nonexempt Trust(s) set forth herein, if any.

3.3 **Distribution Upon Termination of Trust Period.** Subject always to the provisions of Section 2.4 of ARTICLE II relating to certain powers of appointment, and Sections 3.1 and 3.2 of ARTICLE III relating to the terms of this Settlement which will apply for the surviving spouse of the Settlor upon the Settlor's death, and Section 3.3, above, at the expiration of the Trust Period the undistributed balance (if any) remaining of the Trust Fund or any sub-trust thereof shall be distributed to the respective then income beneficiaries thereof in the proportions in which they are, at such time, entitled to receive the income. However, if the rights to income are not then fixed, distribution under this Section 3.4 shall be made on the basis of the respective account in the Trust Fund to the respective Settlor, and should the said Settlor not then be living, then to the spouse of the Settlor, and should said spouse not then be living, per stirpes to the Settlor's Issue who are then entitled or authorized in the Trustees' discretion to receive income payments, or, if there are no such Issue, in equal shares to the Beneficiaries who are then entitled or authorized in the Trustees' discretion to receive income payments, and if there are no such Beneficiaries, to the Settlor's Heirs-at-Law as set forth herein.

3.4 **Coordination With Governmental or Private Assistance.** Except with respect to any

Trust established pursuant to Section 3.2, above, of this ARTICLE III. During any period in which a Beneficiary of a Trust established under this ARTICLE III may be, or is eligible for governmental or private assistance as a result of any physical or mental condition, handicap or disability, the Trust shall be subject to the provisions of this Section 3.6 of this ARTICLE III, and the Trustee, in the administration of the distribution provisions otherwise applicable to the Trust, may, in the discretion of the Trustee, distribute only such part of the income or principal, or both, or neither, of the Trust as may be determined by the Trustee to provide for the extra and supplemental care, maintenance and support of the Beneficiary over and above any benefits the Beneficiary may be eligible to receive as a result of the Beneficiary's condition, handicap, or disability from any local, state or federal government or agency, or from any private agency, it being the Settlor' s intent to use the Trust Estate, if at all, only to supplement such other benefits received by the Beneficiary. The Trustee shall not distribute trust income or principal to or upon the direction of a government agency or department, and the Trust shall at all times be free of the claims of such governmental bodies, and, subject to ARTICLE X hereof, but notwithstanding any other provisions of this Instrument to the contrary, the affected Beneficiary's interest in the Trust shall not vest (and the Beneficiary shall have no power of appointment over the Trust otherwise provided hereunder) during the time this Section 3.6 shall be applicable. It is the Settlor's intent that the Trustee not distribute to or apply for the benefit of any such Beneficiary any income or principal of the Trust if such distribution, in the judgment and discretion of the Trustee, would jeopardize the eligibility of the Beneficiary for, or reduce the amount of any financial assistance administered by and state (or political subdivision thereof) or federal agency or department or any private agency, including, but not limited to, Social Security Administration benefits, Medicaid and Supplemental Security Income benefits, unless such distribution, in the discretion of the trustee, would be in the best interests of the Beneficiary, notwithstanding any possible reduction in financial assistance administered by any state (or political subdivision thereof) or Federal agency or department or any private agency.

ARTICLE IV
TERMINATION AT TRUSTEES' DISCRETION FOLLOWING THE DISTRIBUTION EVENT

Following the Distribution Event.

4.1 Small Trust Termination. Whenever the principal value of a separate Trust Fund held hereunder -

(a) is less than FIFTY THOUSAND ($50,000.00), or

(b) for any other reason in the discretion of the Trustees become uneconomical to continue to manage as a Trust Fund with respect to a comparison of all costs and fees to be incurred with the income to be produced, the Trustees may, in their sole discretion, pay such fund, or part thereof, to the Beneficiary of such Trust. If such Beneficiary is a minor, the Trustees may deposit such fund in a financial institution of their choosing, payable to the minor at majority.

4.2 **No Right to Compel Termination.** Anything contained herein to the contrary notwithstanding, the right herein conferred upon the Trustees to terminate any trust in whole or in part shall not be construed to confer upon any Beneficiary a right to demand or otherwise compel such a termination.

ARTICLE V
PROTECTIVE PROVISIONS

5.1 **Spendthrift Provision.**

(a) **General.** No Beneficiary shall have the right, power or authority to assign, transfer, dispose of, pledge, hypothecate, anticipate, encumber, or in any other manner alienate, impair, or create a charge upon the income, principal, or any other benefit devolving from all or any portion of any Trust created hereunder to which such Beneficiary may be entitled, and likewise, income or principal distributable or which may become distributable to a Beneficiary, or any other benefit devolving on a Beneficiary with respect to any Trust hereunder shall not be subject to seizure, lien, levy, attachment, bankruptcy, transfer, assignment, garnishment, or any other legal process whatsoever, nor shall any such interest in income or principal or any other benefit hereunder be subject to interference or control by any creditor of any Beneficiary, nor subject to any claim for alimony or for the support of a spouse pursuant to a decree of separate maintenance or separation agreement, until distribution is actually made to such Beneficiary; and, to the extent permitted by Applicable Law, the Trust Funds administered hereunder, until actually paid over and distributed to one or more Beneficiaries, as herein provided, shall be held by the Fiduciaries free and clear of all manner of anticipation or voluntary or involuntary alienation.

(b) **Delay of Distribution.** Notwithstanding the distribution provisions of Sections 2.1 and 2.2 of Article II, and Sections 3.1, 3.2, and 3.3 of Article III, above, the following powers and directions are given to the Trustee.

(1) If, upon any of the dates described in Sections 2.1 and 2.2 of Article II, and Sections 3.1, 3.2, and 3.3 of Article III, above, the Trustees for any reason described below determine, in the Trustees' sole discretion, that it would not be in the best interest of the beneficiary that a distribution take place, then in that 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 Trustees shall have the absolute discretion to distribute income or principal to the beneficiary as the Trustees deem advisable for the beneficiary's welfare.

(2) 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

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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.

(i) The current involvement of the beneficiary in a divorce proceeding or a bankruptcy or other insolvency proceedings.

(ii) The existence of a large judgment against the beneficiary.

(iii) Chemical abuse or dependency, or the conviction of the beneficiary of a felony, involving drugs or narcotics, unless a five year period has followed said conviction.

(iv) 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.

(v) In the event that a beneficiary is not residing in the United States of America at any given time, then the Trustees 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 Trustees' sole and uncontrolled judgment, the political and/or economic conditions of such place of 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.

(vi) The judicially declared incompetency of the beneficiary.

(c) The Trustees shall not be responsible unless the Trustees have knowledge of the happening of any event set forth above

(d) Except there is an intended change in situs pursuant to Section 5.3, 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 Trustees have reasonably adhered to the standards set forth herein. The Trustees shall not have any liability in the event the Court determines the Trustees made a good faith attempt to reasonably follow the standards set forth above. In the event Trust sites and applicable law has changed pursuant to Section 5.3 herein, the beneficiary may apply of an appropriate court or tribunal in said sites having jurisdiction over this settlement for said judicial determination.

(e) During the period in which required distributions are suspended by reason of this provision, the Trustees may, in their sole discretion, make such discretionary distributions of income and/or principal to or for the benefit of the affected Beneficiary, as the Trustees deem advisable to provide adequately and properly for the support, maintenance, health, medical care (including, but not limited to, dental, chiropractic, cosmetic surgical, and psychiatric care), welfare, education (including, but not limited to, private schools [elementary, prepatory, junior high, and high school], tutoring, college, professional, vocational, language, artistic studies, and other post-graduate education), comfort, and emergency needs of the Beneficiary.

5.2 <u>No Action Under Duress</u>. The Settlor directs that this Settlement be administered consistent with its terms, free of judicial intervention and without order, approval, or other action of any court. To the extent any person is granted the power hereunder to do any act or compel any act on the part of one or more of the Trustees, or has authority to render advice to one or more of the Trustees, or to otherwise approve, compel, or veto any action or exercise any power which affects or will affect this Settlement, each Trustee is directed, to the extent the respective Trustee then in office would not be subject to personal liability or personal exposure (for example, by being held in contempt of court or other such sanction by a court having jurisdiction over the respective Trustee). (1) to accept or recognize only instructions or advice or the effects of any approval, veto, or compelled action or the exercise of any power, which are given by or are the result of persons acting of their own free will and not under any manner of compulsion imposed by any legal process, like authority, or otherwise; and (2) to ignore any advice or any directive, veto, order, or like decree, or the results or effects thereof, of any court, administrative body or any tribunal whatsoever or of past or present Trustees, of any Protector hereunder, or of any other person, where. (a) such has been instigated by directive, order, or like decree of any court, administrative body or other tribunal, or (b) the person attempting to compel the act, or attempting to exercise the authority to render advice, or otherwise attempting to compel or veto any action or exercise any power which affects or will affect this Settlement, is not a person either appointed or so authorized or the like pursuant to the terms and conditions of this Settlement. In order to satisfy themselves as to the voluntariness of any person's directive, order, veto, advice, or action pursuant to authority granted under this Settlement, the Trustees may, in their sole and absolute discretion, but shall not be required to, obtain an affidavit or other evidence from the said person to the effect that such person's directive, order, veto, advice, or action is wholly voluntary and not made under duress or court order of any kind. The Trustees shall not be liable for failing to request an affidavit or other evidence of voluntariness in any case. For purposes of this Settlement, a person shall be deemed to be acting under compulsion, and otherwise involuntarily, during any period of Adjudicated Incapacity of said person.

5.3 <u>Change in Situs/Applicable Law</u>. Subject to the provisions of Section 5.2 of ARTICLE V, and Section 12.4(b) of ARTICLE XII, the person or persons specified in Schedule V attached hereto and incorporated herein by this reference, in order of priority as therein set forth, subject to the limitations set forth in Section 7.2(a), below, and any exclusions or provisions which may be specified in Schedule V, may, by a written declaration executed by them, at any time or times and from time to time, during the Trust Period, as they deem advisable in their discretion for the benefit or security of this Trust Fund or any portion hereof, remove (or decline to remove) all or part of the assets and/or the situ of administration thereof from one jurisdiction to another jurisdiction and/or declare that this

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Settlement shall from the date of such declaration take effect in accordance with the law of some other state or territory in any part of the World and thereupon the courts of such other jurisdiction shall have the power to effectuate the purposes of this Settlement to such extent. In no event, however, shall the law of some other state or territory be any place under the law of which, (1) substantially all of the powers and provisions herein declared and contained would not be enforceable or capable of being exercised and so taking effect; or (2) this Settlement would not be valid as an irrevocable trust. From the date of such declaration the law of the state or territory named therein shall be the Applicable Law, but subject always to the power conferred by this Section 5.3 of this ARTICLE V and until any further declaration be made hereunder. So often as any such declaration as aforesaid shall be made, the Trustees shall be at liberty to make such consequential alterations or additions in or to the powers, discretions and provisions of this Settlement as the Trustees may consider necessary or desirable to ensure that the provisions of this Settlement shall, be so valid and effective as they are under the Applicable Law governing this Settlement at the time the power contained herein is exercised. The determination of the Trustees as to any such removal or change in Applicable Law shall be conclusive and binding on all persons interested or claiming to be interested in this Settlement, and the written declaration executed by the Trustees from time to time effecting any such change in sites or Applicable Law is hereby deemed to be a term or provision of this Settlement as if included herein on the date of execution of this Settlement by the Settlor.

5.4 Disclaimers. Subject to any specific provisions herein inconsistent herewith, any person age eighteen (18) or over to whom or for whose benefit any principal or income of the Trust Fund may be liable to be appointed, paid, appropriated, transferred or applied in any manner whatsoever, directly or indirectly, by or in consequence of an exercise of any trust power or discretion vested hereunder in the Trustees, or in any other person, may by declaration in writing signed by him and received by the Trustees during the Trust Period, either revocable during the Trust Period only, or irrevocably. (i) disclaim his interest as an object of such trust power or discretion, either wholly or with respect to any specified part or share; (ii) cease to be a Beneficiary or member of the Appointed Class (as the case may be); or (iii) declare that he shall be an Excluded Person. Such declaration shall have effect from the date that the same is received by one of the Trustees. In the event of any such disclaimer of any interest in any trust created hereunder, the property disclaimed shall be disposed of in the manner provided herein as though the disclaimant had failed to survive the Settlor or other designated person.

5.5 Disregarding Interests of Others. The Trustees, in exercising any of the powers, authorities or discretions hereby conferred in favor of any particular person, are hereby expressly authorized to disregard entirely the interest of any other person who is interested or who may become interested hereunder. Without limiting the generality of the foregoing, no appointment, payment, appropriation, application, transfer or advancement made in exercise of any power herein contained shall be invalid on the grounds that either. (i) an insubstantial, illusory, or nominal share is appointed to any one or more objects of such power, or is left unappointed; or (ii) any object of such power is thereby wholly or partially, revocable or irrevocably excluded.

5.6 Exclusive Property. Except as may be set forth to the contrary in this Deed with respect to contributions to this Settlement by a Settlor, no benefit devolving on any Beneficiary under this Deed shall form or constitute any portion of any communal or joint estate property of such Beneficiary but such benefit shall be and remain the sole, separate, and exclusive property of such Beneficiary and should such Beneficiary be married or marry in a community property jurisdiction then any benefit so devolving shall be expressly excluded from the community and such benefit shall also be free from the interference, control, or marital power of any spouse of such Beneficiary. For the purposes of this Section 5.6, the word "benefit" shall include moveable and immovable property and the provisions of this Section 5.6 shall apply moreover not only to the benefits actually devolving on any such Beneficiary but also to the property for the time being representing the same and the income thereof.

ARTICLE VI
TRUSTEES' POWERS

In addition to the powers vested in them by law and other provisions of this Instrument, the Trustees shall have the following powers, exercisable in their sole and absolute discretion, without court approval, and effective until actual distribution of all property.

6.1 **Title to Investments.** Without regard to any principle of diversification, risk of loss, or lack of productivity, 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.

6.2 **Consolidating Funds.** 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.

6.3 **Sale or Lease of Property.** For such prices and upon such terms as they deem proper, (i) to sell at public or private sale, or to exchange, any real or personal property; (ii) to give options for any such sales, exchanges, or leases; and (iii) 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.

6.4 **Borrowing.** To borrow money, mortgage, hypothecate, pledge or lease Trust assets for whatever period of time Trustees shall determine, even beyond the expected term of the respective Trust; to borrow money at interest rates then prevailing from any individual, bank or other source, irrespective or whether any such individual or bank is then acting as Trustee, and to create security interests in the Trust property by mortgage, pledge, hypothecation, or otherwise, to make a guaranty of, including a third party guaranty.

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6.5 **Retaining Form of Property**. 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.

6.6 **Investment Discretion**. 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.

6.7 **Fund Advancement**. 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.

6.8 **Lawsuits**. To institute, compromise, and defend any actions and proceedings.

6.9 **Voting of Stock**. 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.

6.10 **Principal and Income Determination**. To determine what is principal or income of the Trusts and apportion and allocate receipts and expenses as between these accounts.

6.11 **Payments to Disabled Beneficiary**. 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.

6.12 **Additions of Corpus**. To accept additions of property to the Trusts, whether made by the Trustor, a member of the Trustor's family, by any beneficiaries hereunder, or by any one interested in such beneficiaries.

6.13 **Bank Deposits**. 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 be a suitable investment for funds of a trust.

6.14 **Safety Deposit Box**. To open and maintain safety deposit boxes in the name of this Trust.

6.15 **Statutory Powers**. 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.

6.16 General Powers Not Limited. 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.

6.17 Securities. 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, to 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.

6.18 Closely Held Business. In regard to the operation of any closely held business of the Trust, the Trustees shall have the following powers.

(a) The power to retain and continue the business engaged in by the Trust or to recapitalize, liquidate or sell the same.

(b) 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.

(c) 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.

(d) 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.

(e) The power to invest or employ in such business such other assets of the Trust estate.

6.19 Transactions With Certain Estates.

(a) Loans And Purchases. Anything herein contained to the contrary notwithstanding, to make loans, of short or long term, with or without security, to the Fiduciary of the Settlor's Estate and/or the estate of any person related to the Settlor by blood or marriage, and/or to the Fiduciary of any trust created by the Settlor or such other related person, and to purchase real or personal property from such Fiduciary (on any convenient terms) notwithstanding that one or more Trustees may also be such Fiduciary. The Trustees shall not be liable for any loss arising as a result of any loans made or authorized under this Section 6.20. In addition, the propriety of any purchase of assets authorized under this Section 6.20, the amount of such assets purchased, the terms of any such purchase, and the ascertainment of a fair purchase price for said assets, shall be solely within the discretion of the Trustees, and the Trustees shall incur no liability for any loss arising as a result of any such purchase or purchases, regardless of whether the assets purchased constitute investments of a type authorized to be made by Trustees under Applicable Law.

(b) <u>Payment Of Taxes, Etc.</u>. Subject to any specific directions by the Settlor herein, (i) all United States federal, state, or other taxes, penalties, and/or interest thereon payable because of the Settlor's death, and (ii) the funeral and administration expenses allowable as deductions to the Settlor's Estate under §2053 of the Code (regardless of whether such items were deducted for Federal Estate Tax purposes), proportionately allocable to any property then held by or passing to the Trustees hereunder, shall be paid from trust property either directly, or, upon written request, to the domiciliary Personal Representative of the Settlor's estate, without any right of reimbursement from any person or Beneficiary; provided, however, that notwithstanding anything to the contrary contained in this or in any other instrument, that any and all property not included in the Settlor's gross estate for Federal Estate Tax purposes, and any property (or the proceeds thereof) qualifying for the federal estate tax marital or charitable deductions, including property in, or distributable to a Marital Trust hereunder (if any), shall not be used to pay any such taxes, penalties, interest, or any other expenses or obligations of the Settlor's estate. All such taxes on present or future interests shall be paid at such time or times as the Trustees may in their sole discretion deem proper, regardless of whether such taxes are then due, provided that any postponed taxes on future interests (including any Generation Skipping Taxes imposed by §2601) shall only be charged against (and paid from) the principal of the particular trust or share with respect to which the taxes are imposed.

6.20 <u>Directions to Fiduciaries</u>.

(a) <u>Settlors' Purpose</u>. The Settlors' primary purpose for creating Trust Funds hereunder is to provide for the income Beneficiaries hereof, the rights and interest of remaindermen being subordinate to such purpose. Therefore, the Fiduciaries are directed to consider the Settlors' foregoing purpose for the creation of Trust Funds hereunder in connection with their making any determination regarding invasion of principal of Trust Funds for the benefit of one or more income Beneficiaries thereof.

(b) <u>Precatory Factors</u>. In making determinations regarding invasion of principal of Trust Funds for the benefit of income Beneficiaries, except as set forth herein, the Fiduciaries may, but shall not be required to, take into consideration the standard of living to which each such Beneficiary was accustomed at the time of commencement of such Trust Fund, and all other income and resources available to such Beneficiary together with any and all other factors which the Fiduciaries deem relevant in their sole and absolute discretion.

(c) **<u>Trustees' Exercise Of Discretionary Powers</u>.** The Trustees shall exercise the powers and discretions vested in them as they shall think most expedient for the benefit of all or any of the persons actually or prospectively interested under this Settlement. The Trustees may exercise (or refrain from exercising) any power or discretion for the benefit of any one or more of such persons without being obligated to consider the interests of the others or other. Subject to the previous provisions of this Section 6.21, and subject to ARTICLE XIII, Section 13.2 hereof, every discretion vested in the Trustees shall be absolute and uncontrolled; every power vested in them shall be exercisable in their sole, absolute and uncontrolled discretion; and the Trustees shall have such discretion in deciding whether or not to exercise any such power.

6.21 **<u>Additional Powers</u>.** The additional Trustees' powers and provisions, if any, which are set forth in Schedule VI attached hereto and incorporated herein by this reference, shall have effect as if fully set forth in this ARTICLE VI. However, in no event shall any power or provision (wheresoever set forth in this Settlement) be exercisable after the expiration of the Trust Period or in such a way so as to infringe any applicable rule against perpetuities or rule against excessive accumulations, or to benefit any Excluded Person.

6.22 **<u>Power to Appoint Agent</u>.** The Trustees are authorized to employ attorneys, accountants, investment managers, specialists, and such other agents as the Trustees shall deem necessary or desirable. The Trustees 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 Trustees may charge the compensation of such attorneys, accountants, investment managers, specialists, and other agents against the Trust, including any other related expenses.

6.23 **<u>Broad Powers Of Distribution</u>.** Upon any division or partial or final distribution of the Trust estate, the successor Trustees 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 Trustees, and to sell such property as the Trustees, in the Trustees' discretion, considers necessary to make such division or distribution. In making any division or partial or final distribution of the Trust estate, the Trustees shall be under no obligation to make a pro rata division or to distribute the same assets to beneficiaries similarly situated. Rather, the Trustees may, in the Trustees' 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 Trustees, in his or her discretion, and no adjustment need be made to compensate for any difference in basis.

6.24 **<u>Apply For Government Assistance</u>.** The Trustees 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.

6.25 Merger of Identical Trusts. Should the Trustee of any separate trust hereunder at any time also be the Trustee of a trust having substantially identical dispositive provisions for the benefit of the same beneficiary or beneficiaries but created under some other trust agreement, such two identical trusts may, in the discretion of such Trustee, be merged together and thereafter administered as one single trust under the trust agreement having the earliest rule against perpetuities savings clause date. Where such a merger would be thus authorized but for differences in the identity of the contingent remainder beneficiaries of such otherwise mergeable trusts, such trusts may instead be consolidated together in a new trust created by the Trustee of such otherwise mergeable trusts under a new trust instrument executed by it having all of the same provisions as would apply to such a merger except those provisions relating to contingent remainder interests, which provisions shall be written in such manner as to preserve the relative interests of the different contingent remainder beneficiaries having an interest therein on the basis of the fair market value of the net assets of each trust entering into such consolidation as of the effective date of such consolidation as reasonably determined by such Trustee.

ARTICLE VII

APPOINTMENT OF AND PROVISIONS RELATING TO FIDUCIARIES

7.1 Appointments; Resignations.

(a) Initial Appointment. The initial trustees hereunder shall be the persons identified in Schedule I attached hereto and incorporated herein by this reference.

(b) Successor Appointments. 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, then the person or persons specified in Schedule V attached hereto and incorporated herein by this reference, in order of priority as therein set forth, may by an executed written declaration appoint one or more other persons to serve as successor. All appointments made herein or by any person howsoever empowered are subject to any exclusions or provisions which may be specified in Schedule V. Subject to such possible limitations, exclusions, an/or provisions, successor Trustees may be resident or domiciled anywhere in the world, so long as at least one Trustee of the Trust meets the requirements of N.R.S. §166.025, as amended from time to time, unless there is an intended change in situs and applicable law pursuant to Section 5.3. In addition to other causes of inability, an individual during any period of Adjudicated Incapacity of such person, and a corporation which is insolvent or winding-up its affairs, shall be deemed unable to serve as a Trustee hereunder.

(c) Resignation Of Trustees. Any Trustee may resign by delivering notice containing an effective date not earlier than thirty (30) days from the date said notice is received by the person specified in this sentence (unless such notice period is waived or reduced in writing by the Protector), in the manner set forth in Section 7.2(c), below, to the person specified in Schedule V having for the respective time the power to appoint successor or additional Trustees hereof. Such notice shall be executed by the resigning Trustee himself, or in the case of a corporate Trustee by any of its duly appointed officers or directors, and the same shall be effective on the date specified in the preceding sentence or, if receipt cannot be established, at the expiration of forty (40) days from the date of posting the same by a method specified in Section 7.2(c) to the last known address of the addressee. Upon the effective date of said notice, the resigning Trustee shall cease to be a Trustee hereof for all intents and purposes, except for such acts or deeds as may be reasonably necessary for the proper vesting of the Trust Fund in the continuing or successor Trustees or otherwise as the case may require. Notwithstanding the foregoing provisions of this Section 7.1(c), if at any time there is only one (1) Trustee remaining in office, and such remaining Trustee wishes to resign and has given the notice required by this Section 7.1(c) which notice has not resulted in the appointment of a successor Trustee by the person having the power to appoint such successor, then, under such circumstances, such remaining Trustee may itself appoint a Trustee in its stead, subject to the limitations set forth in Section 7.2(a)(2), to hold the position of Trustee pending the appointment of another Trustee by the person having the power so to do. Written notice of the retiring Trustee's selection and appointment of successor Trustee shall be given to any persons to whom the notice of resignation was originally given.

7.2 Additional Succession Provisions.

(a) Appointment of Additional Or Successor Trustees. Limitation.

(1) Vacancy. Should a vacancy occur in the office of Trustee hereunder by resignation, death, incapacity, or otherwise (other than through removal pursuant to section 7.2(a)(1), above), where no person specified in Schedule V is willing and able to appoint a successor Trustee, or if such a person is willing and able, such person otherwise does not act prior to the effective date of such vacancy, the then serving Trustee shall have the power to fill such vacancy by appointment of any person, resident anywhere in the World, as successor Trustee, so long as at least one Trustee of the Trust meets the requirements of N.R.S. §166.025, as amended from time to time, unless there is an intended change in Trust situs and applicable law pursuant to Section 5.3. In the event that Trustee acting pursuant to this Section 7.2(a)(2) is a resigning sole Trustee, the resigning trustee shall make a reasonable effort to appoint a successor hereunder in accordance with the provisions of Section 7.1(c), above; however, the failure of said effort shall not affect the validity of the resigning Trustee's retirement pursuant to this provision.

(b) Additional Provisions Relating To Notice.

(1) In the event that there is more than one member of a class of persons specified in Schedule V for the relevant time having the power to act pursuant thereto, then any notice required to be given pursuant to this ARTICLE VII by a Trustee to a person then authorized to act under Schedule V may be given to any member of such then empowered class.

(2) In the event a class referred to in the preceding sentence consists of Beneficiaries, then, in selecting such class member to whom notice shall be given, priority shall be given to any person known to have received directly or indirectly distributions of income from the Trust, PROVIDED THAT the giving by the Trustee of written notice to a Beneficiary without such priority shall not affect the validity of such notice and such notice shall be valid and effectual provided such notice was given in good faith.

(3) In the event that any person receiving notice pursuant to this ARTICLE VIII is found to be incompetent or of unsound mind, or a minor, or in the case of a corporation, to be in liquidation, then notice shall be served upon that person's or that corporation's legal representative or guardian.

(c) Formality Required.

(1) Any resignation, removal, or appointment of a Trustee hereunder, or any other notice required by this ARTICLE VII, shall be effected by the execution and delivery of a written document by and to the appropriate interested parties, which document may, but shall not be required to, unless so required by another provision of this Instrument, specify the effective date thereof or the event upon which the same shall become effective. In the event an effective date or event is not so specified, in the case of a removal of a Trustee hereunder, the same shall be effective upon receipt of notice of removal by the Trustee so removed or by the Protector, and, in any other case, upon receipt of notice by the Protector or by a Trustee. Any document specified in this Section 7.2(c) shall not be effective unless set by certified or registered mail or by courier, postage and/or fees prepaid, return receipt requested, by facsimile transmission (where receipt is capable of being determined), or by hand delivery.

(2) Upon there being any change in Trustees, a memorandum shall be endorsed on or permanently affixed to this Settlement wherein the names of the Trustees for the time being shall be set forth. The memorandum shall be signed by the persons so named. Anyone dealing with the Trust Fund or this Settlement shall be entitled to rely upon such memorandum as sufficient evidence that the Trustees named therein are the duly constituted Trustees for the time being. In the case of there being more than one memorandum, anyone dealing with the Trust Fund or this Settlement shall be entitled to

rely upon the memorandum which is most recent in time.

(d) <u>Additional Succession Provisions.</u>

(1) <u>Power Of Attorney.</u> Each Trustee hereby irrevocably grants the Protector its power of attorney, for the purpose of executing any document transferring title of any asset belonging to the Trust fund from the outgoing Trustee to the new Trustee, on his resignation, inability to act, or removal as a Trustee. The Protector may exercise such power without notice to the Trustee, *provided however*, that the exercise of this power of attorney under this Section 7.2(d)(1) shall thereby grant an irrevocable release and indemnity to the outgoing Trustee as set forth in Section 7.9(a), below. Notwithstanding the foregoing, the exercise by the Protector of the power of attorney granted by this Section 7.2(d)(1) of this ARTICLE VIII shall always be subject to the provisions of Section 5.2 of ARTICLE V, and Section 13.2(b) of ARTICLE XI, and, if notice has not been given by the Protector acting pursuant to the second sentence of this Section 7.2(d)(1), above, then, in such event, any document under which the within power of attorney shall be exercised shall contain (or be accompanied by) the Protector's statement under oath to the effect that the action being taken by the Protector is wholly voluntary, and not pursuant to or as a result of duress or court order of any kind. The authority of the Protector to exercise the power of attorney granted under this Section 7.2, and the ability of any person to rely and act upon same without incurring liability to any person howsoever interested in this Settlement or in any accounts, securities, properties and/or assets held hereunder, shall be evidenced by a copy of this Section 7.2(d)(1) attached to a document specifically referring to this Section 7.2(d)(1), and which document shall be executed, in one or more counterparts (if necessary and as shall be expedient), by any one Protector hereof. In the event a Protector is acting pursuant to the power of attorney granted under this Section 7.2(d)(1), then, in order to expeditiously effectuate the power granted herein to transfer title to assets belonging to the Trust Fund, and not in limitation or derogation of any power of the Protector granted elsewhere in this Instrument, the Protector shall have the power and authority to execute and deliver any document, take any action, and do any thing said Protector deems necessary to effectuate the provisions of this Section 7.2(d)(1). Any person acting in reliance on this Section 7.2(d)(1) is hereby held harmless and indemnified with respect to liability to any person howsoever interested in this Settlement or in any accounts, securities, properties and/or assets held hereunder.

(2) <u>Merger Or Consolidation Of Corporate Trustee.</u> In the event a corporation herein named as Fiduciary, or any successor corporate Fiduciary, shall cease to have legal existence because of merger, consolidation or other transfer of substantially all of its trust business to a successor corporation, then such successor, if duly authorized to engage in such business within the

jurisdiction of its predecessor, shall, upon such succession, also become successor Fiduciary hereunder without any further action or appointment by any person.

(3) Successor Trustee - Powers, and Discretions. Each successor Trustee shall automatically acquire, as of the effective date of his appointment, or as of the date of the occurrence of a vacancy regarding his predecessor, all of the title to each asset of the trust estate, and all powers and discretions which are then vested in his predecessor, without the necessity of any conveyance or transfer, but any predecessor trustee shall execute all documents and perform all acts necessary to vest and indicate such title in such successor Trustee.

(4) Expenses of Succession. Security. Upon the death, resignation, or removal of any Trustee, such Trustee (or his estate or other successor(s), as the case may be) shall be entitled to reimbursement from the trust assets for all reasonable expenses incurred in the settlement of its accounts and in the transfer to its successor of the Trust assets and documents, including an executed copy of this Instrument and all attachments and endorsements thereto. An outgoing Trustee who is liable as a Trustee or former Trustee hereof for any taxes or like charges (wherever imposed and of whatever nature) shall be entitled to reasonable security with respect to any such liability, in accordance with Section 7.9(a), below.

7.3 **Waiver of Security.** No Fiduciary serving hereunder shall be required to post any bond or furnish sureties in any jurisdiction, and the Settlor hereby specifically waives any and all requirements therefor.

7.4 **Fiduciaries' Responsibility.**

(a) **General.** No Fiduciary of any trust created hereunder shall be liable for any loss to the Trust Estate or its income, however caused, unless it results from willful fraud or dishonesty by such Fiduciary. No successor Fiduciary shall be liable for the acts or defaults of any predecessor Fiduciary, nor for any loss, liability, damage, or expense resulting from anything done or neglected to be done by any predecessor Fiduciary, nor shall any such successor be required to inquire into or take notice of the prior administration of the Trust Fund, but such successor Fiduciary shall be liable under this Section only with respect to property received by him as Fiduciary after the date he actually received it. Any successor Fiduciary who shall be then acting as Fiduciary pursuant to a notice of vacancy shall not be guilty of any wrongdoing merely because he is acting as successor Fiduciary if it shall later be discovered that another has been designated as successor Fiduciary pursuant to any provision hereof. Any corporate Trustee or trust company shall have the power and authority to act by and through its duly appointed and proper officers or directors, and no officer or director of a company which is one of the Trustees hereof shall be liable for any loss not attributable either to the willful fraud or dishonesty of that officer/director or to the willful commission or omission of an act known by that officer/director to be willful fraud or dishonest. In addition, no such person nor any such officer/director shall be bound to take any proceedings against a co-trustee or co-director (or officer) for any willful fraud or dishonesty or allegations thereof committed by that co-trustee or co-director (or officer) not involving the willful fraud or dishonesty by that co-trustee or co-director (or officer).

(b) __Responsibility For Agents__. No Trustee shall be liable for any loss, liability, expense, or damage to any Trust created hereunder howsoever occurring resulting from any act or omission (whether willfully fraudulent, or willfully dishonest or grossly negligent, or otherwise) of any solicitor, attorney, agent, banker, accountant, auditor, stockbroker, investment advisor, or other agent or power of attorney employed or appointed in good faith by such Trustee.

(c) __Responsibility for Co-Trustees__. In the event that there is more than one Trustee, a co-Trustee shall not be liable for any loss, liability, expense, or damage howsoever occurring resulting from any act or omission (whether willfully dishonest, willfully fraudulent, or grossly negligent, or otherwise) of any other co-Trustee.

(d) __Assets Not Effectively Transferred__. Where any asset included in the Trust Fund is found not to have been properly transferred into the Trust Fund, or if properly transferred such transfer is subsequently avoided, then no Trustee shall be liable to any person or entity claiming the return or reconveyance of that property for any loss suffered by virtue of the fact the Trustee has already exercised any of the trusts or powers hereof in relation to that property.

7.5 __Transactions With Related Parties__. The Fiduciaries may enter into any contract, transaction, or other matter on an equitable and arms' length basis, with any partnership in which any one or more of them is a partner, any corporation in which any one or more of them is a stockholder, director, officer, or employee, or any other entity in which any one or more of them has any interest as a Fiduciary or otherwise.

7.6 __General Action of Fiduciaries__. Except as may otherwise be set forth in this Instrument regarding discretionary distributions of income and principal to the Settlor-husband and the Settlor-wife, any and all actions to be made and taken hereunder by the Fiduciaries shall be made and taken by the affirmative vote of a majority of the Fiduciaries then serving and eligible hereunder to make and take each such action. If there shall be an even number of such Fiduciaries then serving, any and all such actions shall be made and taken by the affirmative vote of one more than one-half of the number of Fiduciaries then serving and eligible hereunder to make and take such action. If only two (2) Fiduciaries are authorized to vote on a matter, the affirmative vote of both shall be required. Such majority may act without the concurrence or prior knowledge of the other Trustee(s). Any such exercise shall be valid and effective as if all Fiduciaries had concurred therein. If there shall be only two (2) Fiduciaries authorized to vote on a matter, and they shall not agree, said matter shall be submitted to the Protector for his vote or to any other person acceptable to both Fiduciaries (as indicated in a written instrument signed by them), and the Protector's vote (or the vote of such other person so selected), subject to Section 5.2 of ARTICLE V, shall be given effect with respect to said matter, as if there had been three (3) Fiduciaries authorized to vote (except that said Protector or such other selected person shall incur no liability whatsoever for acting or failing to act pursuant to this sentence). Subject to the preceding provisions of this Section 7.6, the failure to obtain a majority shall be treated as if the Fiduciaries failed to act. Any Fiduciary who shall cast a negative vote with respect to any action or any failure to act shall not question, by court action or otherwise, the action or failure to act with respect to which he shall have cast his negative vote and he shall in no way be liable or responsible for such action or failure to act. The provisions of this Section 7.6 shall apply to the Fiduciaries inter se, and no third party shall have any obligation or standing whatsoever to inquire into compliance with the provisions of this Section 7.6. Wherever a person is prohibited hereunder from exercising a power or making an election or taking any action because such person is a Beneficiary hereunder or a Related or Subordinate Party, such person shall not be entitled to vote or be considered a Trustee in matters related to the exercise of such power, election, or action.

7.7 <u>**Accounting And Qualification**</u>. To the extent permitted by law, the Settlor hereby waives compliance with the provisions of any law requiring the qualification of, or accounting by, the Trustees to any court. The Trustees, however, shall furnish (within ninety [90] days), at the written request of a Beneficiary, but not more frequently than annually, a full and complete accounting to such trust Beneficiary (or his legal representative) then receiving or being credited with income of any and all Trust Funds held hereunder for his benefit. Such Beneficiary, or legal representative, shall state in writing his objections to such accounting, if any, and shall deliver such objections to the Trustees within sixty (60) days after receipt of such accounting. The failure to raise such timely objections in the manner herein set forth shall constitute a waiver of such objections, and such waiver shall be binding as to all matters stated in such accounting or as shown by it upon all persons, whether or not they are then lives in being, or may thereafter become eligible to receive principal or income of the Trust Fund for which such accounting is made.

7.8 <u>**Compensation.**</u>

(a) Each corporate and/or non-corporate Fiduciary shall receive such compensation as shall be set forth in a written agreement between (i) such corporate and/or non-corporate Fiduciary and (ii) the Settlor (executed prior to or simultaneously with the execution of this Instrument) or the individual Fiduciaries, relating to such compensation; or if no such agreement shall be in effect or if any such corporate and/or non-corporate Fiduciary shall be required to perform services which are not customary or usual, such Fiduciary shall receive such compensation as shall be determined to be fair and reasonable by agreement of the parties, or by arbitration, if necessary. If no such agreement shall be in effect and if any such corporate Fiduciary shall be required to perform only customary or usual services, then such Fiduciary shall receive such compensation as shall be determined in accordance with its schedule of fees in effect from time to time during which services are performed hereunder. In any event, each corporate and/or non-corporate Fiduciary shall receive reimbursement for all necessary and reasonable out-of-pocket expenses incurred during the performance of service in accordance herewith.

(b) Each non-corporate Fiduciary or successor non-corporate Fiduciary (other than a member of the Settlor's family as hereinafter provided) shall receive reasonable compensation for such services and shall be reimbursed for any and all ordinary and necessary out-of-pocket expenses incurred in connection with the administration of the Trust Funds hereunder and such person's services as Fiduciary hereunder. If such person is a practicing accountant, attorney, investment advisor, or other professional, then the amount of such compensation shall be based upon and shall be equal to such person's usual and customary fees for professional services rendered to clients generally determined on an hourly basis; and if such person is not an attorney, accountant, investment advisor, or other professional, but is otherwise regularly employed, then such compensation shall be based upon and shall be equal to the same compensation then received by such person in his or her usual and customary occupation, determined on an hourly basis, during the periods of time over which such services are rendered. Notwithstanding the foregoing, if such person also renders professional services to the Fiduciaries hereunder, such person shall be entitled to receive compensation for such professional services at the usual and customary amounts charged by such person to clients generally for the time actually expended in rendering such professional services to the Fiduciaries hereunder; provided, however, that with respect to all time expended by such person either as a Fiduciary or as a professional rendering services to the Fiduciaries, such person shall be compensated as either a Fiduciary or a professional but not as both, with respect to each hour of service rendered.

(c) Except as otherwise specifically set forth herein, the Settlor hereby directs that in no event shall any member of the Settlor's family or any Beneficiary hereunder serving as a Fiduciary receive any compensation for services rendered as such Fiduciary; however, any such person shall nevertheless be reimbursed for any and all reasonable out-of-pocket expenses incurred in connection with the administration of Trust Funds and the performance of such person's services as Fiduciary hereunder. For purposes of this provision, the term "member of the Settlor's family" shall mean any person who is related by blood or marriage to the Settlor or any Issue of the Settlor.

(d) If the Protector is of the opinion that any commission, fee, charge, or expense levied under this Section 7.8 is excessive the Protector may make application for its review under Applicable Law and for these limited purposes the Trustees unconditionally and irrevocably agree that the Protector shall be deemed to be the "person on whose behalf the work was performed" and waive all objection to locus standi.

7.9 <u>Miscellaneous</u>.

(a) <u>Reimbursement/Indemnification</u>. The Fiduciaries shall be entitled to reimburse themselves from any trust created hereunder and they shall be indemnified out of the Trust Fund for all reasonable expenses and liabilities incurred by them in performing their duties hereunder or in connection with the establishment or administration of this Trust or their association with this Trust in any way, and they shall have a lien on the Trust Fund for such reimbursement and/or indemnity. The preceding sentence shall not apply with respect to any trustee for any loss, liability, expense, damage, or other item which results in any manner from an action or inaction for which the Trustee would be liable under Section 7.4, above, of this ARTICLE VII. In addition, in any contract or agreement made by the Trustees on behalf of any trust created hereunder, the Trustees may provide against the personal liability of the Trustees and that of any other individual, and the rights or obligations created under and by virtue of such contract or agreement shall belong to or be the obligation of such trust; the Trustees shall be reimbursed from the trust estate for any tax, penalty, and/or interest thereon paid by the Trustees during the existence of a separate trust or thereafter, and if such trust estate is insufficient or if such trust be then terminated, such Trustees shall be reimbursed by the person or persons to whom the property of such trust shall have been distributed to the extent of the amount received by each such person (and, before making any distribution of either income or corpus, the Trustees may accordingly require an undertaking by the distributee in a form satisfactory to the Trustees to reimburse the Trustees for all such taxes, penalties, and/or interest or the Trustees may withhold distribution of an amount reasonably required to meet any taxes, interest and penalties thereon pending release of any tax lien or the final determination of any tax controversy); the Trustees may secure from any Beneficiary or the Protector a full and complete release and indemnity from any and all liabilities whatsoever attributable to any acts by the Trustees or any decisions by the Trustees (other than with respect to any loss, liability, expense, or damage for which the Trustee would be liable under Section 7.4, above, of this ARTICLE VII), to act or to refrain from acting in any manner whatsoever with respect to the investment of the assets of the trust estate, retention of any or all trust assets, and the sale or disposition of any or all trust assets; the Trustees may secure the written approval of the Protector or any Beneficiary of any account or statement; settle the account of a deceased, incapacitated or resigned Trustee, and the Trustees, the Protector, or any Beneficiary of any trust created hereunder may, without liability to any present or future Beneficiary or any other person, approve the accounts of any deceased, incapacitated or resigned Trustee; any approval, release, indemnity, or discharge given under this Section 7.9(a) shall be conclusively binding on all persons then or thereafter having any interest in such trust, including each Beneficiary and all of said Beneficiary's descendants (including then unborn descendants), heirs or appointees who may then have or thereafter acquire any interest in such trust.

(b) <u>Reliance Upon Communication</u>. The Fiduciaries may rely, in performing their duties hereunder, upon any letter, notice, certificate, report, statement, document or other paper, or upon any telephone, telegraph, facsimile, cable, electronic mail, wireless or radio message, if believed by the Fiduciary to be genuine, and believed to be signed, sealed, acknowledged, presented, sent, delivered, or given by or on behalf of the proper person, firm or corporation, without incurring liability for any action or inaction based thereon.

(c) <u>Assumptions</u>. The Fiduciaries may assume, in the absence of written notice to the contrary from the person or persons concerned, that a fact or an event, by reason of which an interest in any trust created hereunder shall commence or terminate, does not exist or has not occurred, without incurring liability for any action or inaction based upon such assumption.

(d) Third Parties. No person dealing with any Fiduciary of any separate trust or receiving any documents executed by such Fiduciary on behalf of any trust shall be obligated to inquire as to the powers of such Fiduciary or to see to the application of any money or property delivered to such Fiduciary. Such Fiduciary shall not be required to obtain authority from, or approval of, any court in the exercise of any power conferred upon him hereunder. Any person dealing with the Fiduciary may rely on the opinion of counsel as to such Fiduciary's rights and powers hereunder.

(e) Instruments Executed By Fiduciaries. Any certificate signed by any person purporting to be an acting Fiduciary concerning the number or identity of the Fiduciaries, the necessity, validity or propriety of any action or instrument, the fact that any instrument delivered or action taken by the Fiduciary is valid and authorized hereunder, or the existence or nonexistence of any fact or circumstance which in any manner relates to the affairs hereof, shall be conclusive evidence as to the matters so certified in favor of any person dealing with the person purporting to be a Fiduciary hereunder.

7.10 Disclosure. Subject to the second sentence of Section 7.7 of this ARTICLE VII, but otherwise notwithstanding any rule of law or equity to the contrary, no Trustee shall have any duty to divulge any information concerning any aspect of this Trust including, without limiting the generality of this provision, its existence, the existence of any entitlement whether vested or contingent of any Beneficiary, or any decision of the Trustee, to any person including, without limiting the generality of this provision, any Beneficiary provided that the Trustee shall supply such information as is requested to the Settlor, the Protector, or any person authorized by either of them, and such Trustee shall have discretion to provide information concerning any aspect of the Trust to any Beneficiary, whether existing or contingent if, in the Trustee's opinion, it is in the interests of the Trust so to do.

ARTICLE VIII
TRUST IRREVOCABLE

This Settlement and the trusts created pursuant to this Instrument are irrevocable. The Settlor does not reserve the right in any respect to alter, amend, modify, revoke, or terminate this Settlement or any trust created hereunder.

ARTICLE IX
RECEIPT OF PROPERTY BY TRUSTEES

9.1 Initial Trust Contribution. The initial property settled in trust by each Settlor pursuant hereto is hereby accepted by the Trustees, and the contributions made by the Settlor, whether presently or at any time hereafter, and all accumulations and accretions thereto, shall each be recorded and maintained in an account for each Settlor in the Trust Fund.

9.2 **Subsequent Trust Contributions**. With the consent of the Trustees, a Settlor and any other persons may, at any time and from time to time, increase the corpus of any Trust established pursuant to the terms of this Instrument, by contributing thereto insurance policies, cash, securities, or other property of any type. All such contributions shall be subject to the terms of this Trust Instrument in the same manner and to the same extent as if they had been delivered to the Trustees as part of the corpus of the Trust estate at the time of the execution of this Instrument.

9.3 **Nature of Trust Property**. It is agreed and acknowledged that each Settlor is contributing to the Trust Fund property which is either his or her separate property or community property under the laws of the State of domicile of the Settlors, as set forth on Schedule II hereto. It is further agreed and acknowledged that future contributions by the Settlors or either of them shall be separate property, quasi-community property or community property under the laws of the State of domicile of the Settlors. All property now or hereafter settled in the Trust Fund by the Settlors to be held by the Trustees pursuant to this Settlement of Trust which was community property, quasi-community property or separate property at the time of such contribution shall remain, respectively, community property, quasi-community property, or the separate property of the respective Settlor, as shall its appreciation, accretion, income, growth or the like, notwithstanding the commingling or separate investing of the Settlor's accounts in the Trust Fund. Present and future contributions by each Settlor of his or her interest in property, whether separate, community or quasi-community, shall be credited to the Settlor's respective account in the Trust Fund, unless the respective Settlor shall direct otherwise in writing at the time of the contribution.

9.4 **Provision for Existing Obligations**. Notwithstanding any other provisions set forth herein, the Settlor does not intend for this trust to frustrate the rights of a creditor under Nevada's Fraudulent Transfer Act.

(a) As to any transfer of property that is adjudicated to be void or voidable as a fraudulent transfer under Nevada law within two (2) years of the transfer, the Trustees are directed to comply with the order of a court of competent jurisdiction with respect to the return or transfer of the property constituting the void or voidable transfer, together with any accretions or additions thereto or substitutions thereof; provided that the property to be returned or otherwise transferred shall be limited to property.

(1) Having a value not exceeding the amounts which are ultimately and finally judicially determined to be properly due and owing to such a creditor from the Settlor(s) making the transfer; or

(2) With Respect to which each Settlor making the transfer has voluntarily and not under duress agreed to the payment or settlement thereof;

(b) Notwithstanding anything herein to the contrary, including the provisions of paragraph 9.4(a), no payment shall be made by the Trustees unless at the time payment is made by the Trustees, the Settlor making the transfer is legally bound to pay such debt, and no payment may be made in excess of the lesser of.

(1) The amount of the property originally transferred by the Settlor making the transfer, together with any accretions or additions thereto, or substitutions thereof; or

(2) The maximum amount the Trustees are required to pay under Nevada law, including Nevada's Fraudulent Transfer Act and Spendthrift Trust Act.

(c) As to any transfer of property that is adjudicated to be void or voidable as a fraudulent transfer under Nevada law more than two (2) years after the transfer, the Trustees shall not return any property and shall not otherwise pay or satisfy any claim of any creditor except as required under Nevada law.

ARTICLE X
ACCUMULATIONS AND PERPETUITIES

Notwithstanding any provisions of this Instrument to the contrary, neither shall property be held in a separate trust (or any share or portion thereof) longer than, nor shall any estate or trust created by the exercise of any power of appointment hereunder terminate beyond the Trust Period (or, if sooner, the Rule Against Perpetuities of the Applicable Law), and if, at the expiration of such period, any property continues to be held in a separate trust, or any share or portion thereof, or any estate therein has not vested, the Trustees shall cease to accumulate any net income thereof, and such separate trust, or share or portion thereof, or such estate, shall vest in, and immediately be distributed to, the income Beneficiary thereof or, if there shall be more than one income beneficiary thereof, to the income Beneficiaries thereof in equal shares.

ARTICLE XI (RESERVED)

ARTICLE XII
POWERS OF APPOINTMENT

12.1 General. Unless otherwise expressly provided, the donee of any power of appointment created by this Instrument may in the exercise of such power appoint.

(a) to any one or more of the objects of the power, to the exclusion of other such objects;

(b) to, or for the benefit of, children or grandchildren or more remote descendants, even though the parents, grandparents, or ancestors of such appointees are then living;

(c) general or limited interests, present or future, including life estates and remainders;

(d) in cash or kind, including a direction to the Trustee to distribute specific property, outright to, or to a trustee or trustees to hold in trust, in which case the said donee of the power may select a trustee(s) who need not be an object of the power, and confer such administrative and dispositive powers upon any trustee so selected as are deemed by the donee appropriate;

(e) subject to such conditions and such lawful spendthrift and other restrictions as are specified by the said donee;

(f) by creating in any object of the power a general power of appointment or a special power to appoint among objects of the original power;

(g) substitute (but only if said donee himself shall not thereafter be a beneficiary of such trust) or add any one or more objects of the power as beneficiaries of the trust.

Provided, however, that notwithstanding anything to the contrary contained herein, no interest, power, or condition shall be created to benefit any person who is not an object of the power being exercised, or who is an Excluded Person.

12.2 Operating Rules.

(a) Testamentary Powers. Any power exercisable by Will (a "testamentary power") may be so exercised, unless otherwise provided herein, only by a specific reference to said power and its source herein in the donee's valid Will or Codicil admitted to probate, executed subsequent to the date on which such power was created whether before or after the date of the Settlor's death, and delivered to the Trustee. Delivery to the Trustees of a duly certified copy of a Will or Codicil (or such other document as may be authorized herein) on file in the appropriate court or other official depository shall be equivalent to delivery of the original document.

(1) Acting Upon Probated Instrument. No Trustee hereunder shall incur any liability to any person for relying on any instrument admitted to probate in any jurisdiction as the valid Will or Codicil of a donee of a testamentary power.

(2) No Document Located. If, within ninety (90) days after the date of death of the donee of a testamentary power, the trustees shall have no notice or knowledge of the existence of a valid Will or Codicil of said donee purporting to exercise the power, the Trustees shall incur no liability for acting upon the assumption that said donee failed to exercise such testamentary power, and in making allocation or distribution accordingly of the part of the Trust Estate subject to such power of appointment; provided, however, that any such allocation or distribution shall be without prejudice

to the rights of any appointee of said donee to recover the allocated or distributed property from any persons or persons to whom such allocation or distribution shall have been made in the event that after such allocation or distribution there should be found a valid Will or Codicil in which said donee shall have validly executed such power of appointment.

(3) Two Documents Purporting To Exercise Power. If, within ninety (90) days after the date of death of the donee of a testamentary power, more than one document purporting to exercise a testamentary power held by such deceased donee has been brought to the attention of the Trustees, the Trustees shall distribute such property in accordance with the document last in date that effectively exercises the power.

(b) **Inter Vivos Power Of Appointment.** Except as may be provided in Sections 3.1 and/or 3.2, and Section 15.2, if applicable, there are no inter vivos powers of appointment in this Instrument, and not withstanding anything else in the event an Instrument, inter vivos power of appointment exists under Sections 3.1, 3.2, or 15.2, the power shall be exercised by the donee thereof by deliver during the lifetime of such donee of a written instrument (in the manner set forth in Section 7.2(c)(1)) to the appropriate Fiduciary, which instrument shall make specific reference to the power being exercised and its source herein, and shall state in specific terms the form, manner and extent of the exercise thereof.

(c) **Release Or Renunciation.** All powers created by this Instrument are releasable or renounceable by the donee thereof, in whole or in part, or may be reduced by the donee of such power in such manner as to reduce or limit the objects in whose favor the power would otherwise be exercised. In addition to any other method of renunciation, release or reduction recognized by law, any power may be renounced, released or reduced by the donee of such power by a written instrument declaring such intent signed by the donee and delivered (in the manner set forth in Section 7.2(c)(1) to all Trustees of the Trust to which such renunciation, release or reduction applies. Any renunciation, release or reduction of a power as aforesaid shall be delivered to any beneficiary of the appropriate trusts hereunder.

(d) **Restrictions On Exercise Of Limited Power Of Appointment.** Unless and except as otherwise expressly provided herein, no power of appointment granted hereunder shall be exercised or exercisable to any extent in favor of the donee of such power, or the estate of such donee, the creditors of such donee, or the creditors of the estate of said donee, or to discharge or satisfy a legal obligation of said donee, or for the pecuniary benefit of said donee, and no exercise of any power of appointment by the donee thereof shall be effective unless the written instrument or the valid Will or Codicil of the donee in which the donee exercises such power (a) shall be executed subsequent to the date on which such power was created; and (b) shall specifically refer to and expressly exercise such power.

(e) <u>Law Governing</u>. So far as is allowable, all questions relating to powers of appointment created hereby shall be resolved in accordance with Nevada law, except in the event Trust situs and applicable law has changed pursuant to Section 5.3.

(f) <u>Perpetuities</u>. No power created hereunder may be exercised beyond or in such a manner as to be effective, and no such power may be exercised to create another power which may be exercised beyond or in such a manner as to be effective, with respect to any period subsequent to a time which would violate the Rule Against Perpetuities, if any, then in effect in the State of Nevada, except in the event Trust situs and applicable law has changed pursuant to Section 5.3.

ARTICLE XIII
SUBSTITUTION OF PROPERTY

13.1 <u>Substitution of Property</u>. At any time during a Settlor's life, the Settlor shall have the non-fiduciary power to reacquire any or all of the Trust corpus by substituting other assets of equivalent value, without the approval of the Trustees. The Trustees must certify, in writing, that the substituted property is of equivalent value to the acquired property, and the Trustees may independently verify the valuation. Any dispute between the Settlor and Trustees may be resolved in court.

13.2 <u>Veto Power of Settlor</u>.

(a) Subject to Section 13.4(b), below, of this ARTICLE XIII, but notwithstanding any other provision of this Instrument to the contrary, and, in particular, notwithstanding anything conferring an absolute or uncontrolled discretion on the Trustees hereof, each and every power and discretion vested in the Trustees by such provisions of this Settlement as are specified in Schedule VIII attached hereto and incorporated herein by this reference shall only be exercisable by them subject always to the power of the Settlor to veto any exercise by the Trustees of such power or discretion, and, accordingly, the Trustees shall be required to provide the Settlor with sufficient prior notice of their intent to exercise any such powers or discretions to permit the Settlor reasonable advance opportunity within which to consider the factors relevant to his determination to veto or refrain from vetoing the exercise of the power or discretion. The Settlor's exercise or non-exercise of this veto power shall be communicated in writing to the Trustees and failure to so communicate in a timely fashion provided notice is actually received by the Settlor shall be treated by the Trustees as a veto of the proposed exercise of the power or discretion; *provided however*, if the Settlor is also a Trustee, or if one or more of the Trustees reasonably believes that failure by the Settlor to so communicate is due to the Settlor being restrained or enjoined from doing so, then such failure to communicate shall be deemed to be an acquiescence by the Settlor. If deemed necessary by the Settlor in order to implement the foregoing veto power, the Settlor may at any time, or from time to time, require the establishment of (and the transfer of the Trust Estate or any portion thereof to) Trust bank and/or brokerage accounts, and/or other forms of ownership under which both the Settlor's signature and the signature of one or more of the Trustees (as specified by the Settlor) would be required to effect any transfer or conveyance.

(b) Notwithstanding anything to the contrary otherwise herein expressed or implied, each discretion or power conferred upon the Settlor, or upon any other person by this Settlement, or by any rule of law, or arising in consequence of the exercise of any power conferred upon the Settlor, or any other person by this Settlement, shall be subject to Section 5.2, and nothing contained herein shall operate, so as to cause the Settlor, or any other person by this settlement, to be successful in ordering or vetoing any action or causing any result which is not of the Settlor, or any other person by this settlement, own free will, or which is otherwise the result of the Settlor, or any other person by this settlement, acting under the duress or influence of an outside force.

13.3 Waiver of Veto Power. The Settlor may, from time to time, by written notice to the Trustees (a memorandum of which shall be endorsed on or permanently attached to this Settlement) declare (either generally or in relation to any particular act or acts, and either permanently or for such period as shall be specified in the notice) that any act or acts herein declared to be subject to the veto power of the Settlor shall not be so subject and the said notice shall be effective according to its terms.

ARTICLE XIV
SPENDTHRIFT SAVINGS CLAUSE

Except there is an intended change in situs and applicable law pursuant to Section 5.3, it is intended that this Trust qualify as a self settled spendthrift trust under the Spendthrift Trust Act of Nevada. The Trustees shall administer the Trust in such manner as to comply with the provisions of the statute and any amendments thereto which may be promulgated from time to time. To the extent any provision of this Trust is inconsistent or noncompliant with the provisions of the Spendthrift Trust Act of Nevada, the provisions of the Spendthrift Trust Act shall apply, superceding such inconsistent or noncompliant Trust provisions. No person shall have, or participate in the exercise of, any power, granted under the law of any state or otherwise, which would in any way cause the Trust not to qualify as such a spendthrift trust. The Trustees are hereby authorized to institute such actions and execute and deliver such instruments as the Trustees, in the Trustees' discretion, may determine to be necessary for the qualification of the Trust. If the Trustees determine that any amendment or reformation might reduce the benefits payable to any Beneficiary, the Trustees may, in the Trustee's absolute discretion, request a written opinion of counsel that such amendment or reformation is necessary to the qualification of the Trust. Nevertheless, no such request or opinion shall prevent any amendment or reformation from being effective as of the moment necessary to assure qualification as a spendthrift trust.

ARTICLE XV
ADDITIONAL PROVISIONS IF TRUST SITUS CHANGED

TO FOREIGN JURISDICTION

In the event Trust situs and applicable law has changed pursuant to Section 5.3, to a jurisdiction outside of the United States, the following provisions shall apply.

15.1 **Court Supervision.** If a Fiduciary is a resident of or domiciled in the same country as the Settlor, then a court in the country of the Settlor shall be able to exercise primary supervision over the administration of the Trust. In addition, a court in the country of a Fiduciary which is not a resident of or domiciled in the same country as the Settlor, shall be able to exercise primary supervision over the administration of the Trust. In the event that there is no Fiduciary which is a resident of or domiciled in the country of the Settlor, then a court in the country of the sole remaining Fiduciary, if there is only one remaining Fiduciary, or if there are two or more remaining Fiduciaries, a court in the country of each such Fiduciary, shall be able to exercise primary supervision over the administration of the Trust.

15.2 **Inter vivos Power of Appointment.** Subject to Section 2.5 of Article II, and subject to Article V hereof, during the lifetime of each Settlor the Trustees shall distribute the Settlor's account in the Trust Fund or any part thereof to such one or more members of the Appointed Class, on such terms and condition, either outright or in trust, as the Settlor may from time to time appoint by a written instrument executed by the Settlor and delivered to one or more of the Trustees, with such instrument specifically referring to and exercising this power of appointment. In addition to any restrictions, and notwithstanding anything to the contrary herein contained, this power of appointment may not be exercised outright and free of trust in favor of the Settlor's Spouse.

15.3 **Actions of Fiduciaries Supplemental Provision.** In the event this Article XV is in effect, Section 7.6 shall be totally amended to read as follows. "Except as set forth in this Instrument regarding discretionary distributions of income and principal to the Settlor-husband and the Settlor-wife, any and all actions to be made and taken hereunder by the Fiduciaries shall be made and taken by the affirmative vote of a majority of the Fiduciaries then serving and eligible hereunder to make and take each such action. If there shall be an even number of such Fiduciaries then serving, any and all such actions shall be made and taken by the affirmative vote of one more than one-half of the number of Fiduciaries then serving and eligible hereunder to make and take such action. If only two (2) Fiduciaries are authorized to vote on a matter, the affirmative vote of both shall be required unless at such time one (1) of the Fiduciaries is a resident of or domiciled in the same country as Settlor and the other of the Fiduciaries is not a resident of or domiciled in the same country as Settlor, in which case the determination of the Fiduciary who is a resident of or domiciled in the same country as Settlor shall govern. Such majority may act without the concurrence or prior knowledge of the other Trustee(s). Any such exercise shall be valid and effective as if all Fiduciaries had concurred therein. If no Fiduciary is a resident of or domiciled in the same country as the Settlor, and if there shall be only two (2) Fiduciaries authorized to vote on a matter, and they shall not agree, said matter shall be submitted to the Protector for his vote or to any other person acceptable to both Fiduciaries (as indicated in a written instrument signed by them), and the Protector's vote (or the vote of such other person so selected), subject to Section 5.2 of ARTICLE V, shall be given effect with respect to said matter, as if there had been three (3) Fiduciaries authorized to vote (except that said Protector or such other selected person shall incur no liability whatsoever for acting or failing to act pursuant to this sentence). Subject to the preceding provisions of this Section 7.6, the failure to obtain a majority shall be treated as if the Fiduciaries failed to act. Any Fiduciary who shall cast a negative vote with respect to any action or any failure to act shall not question, by court action or otherwise, the action or failure to act with respect to which he shall have cast his negative vote and he shall in no way be liable or responsible for such action or failure to act. The provisions of this Section 7.6 shall apply to the Fiduciaries inter se, and no third party shall have any obligation or standing whatsoever to inquire into compliance with the provisions of this Section 7.6. Wherever a person is prohibited hereunder from exercising a power or making an election or taking any action because such person is a Beneficiary hereunder or a Related or Subordinate Party, such person shall not be entitled to vote or be considered a Trustee in matters related to the exercise of such power, election, or action."

15.4 **Settlor's Veto Power Void.** Sections 13.2 and 13.3 shall be void and Settlor shall no longer hold the powers set forth in such Sections.

15.5 **Registration in Foreign Jurisdiction.** In the event Trust sites and applicable law has changed pursuant to Section 5.3, to a jurisdiction outside of the United States, and the laws of the foreign jurisdiction require that the Trust, in order to be established under the laws of the foreign jurisdiction, be registered, then the Trustees shall register the Trust as required by the applicable laws of the foreign jurisdiction.

15.6 **Managing Trustee and Custodial Trustee.** The Committee may designate trustees to act as Managing Trustee(s) and Custodial Trustee(s), in the Committee's discretion. The Committee may set forth in writing the respective powers of each Trustee, which powers may include and shall not conflict with any applicable law of the foreign jurisdiction. Also, in the event that there are separate Managing and Custodial Trustees serving, and a Managing Trustee for any reason becomes unable or unwilling to so serve, leaving no other Managing Trustee, and a successor is not appointed by the Committee as herein set forth, then the then acting Custodial Trustee(s) shall also become the Managing Trustee(s) with all the powers and obligations of such Managing Trustee. And in the event that a Custodial Trustee for any reason becomes unable or unwilling to so serve, leaving no other Custodial Trustee, and a successor is not appointed by the Committee as herein set forth, then the then acting Managing Trustee(s) shall also become the Custodial Trustee(s) with all the powers and obligations of such Custodial Trustee.

15.7 **Veto Power of Protector/Committee.** In the event this Article XV is in effect, Section 11.4 shall be totally amended to read as follows.

(a) Subject to Section 11.4(b), below, of this ARTICLE XI, but notwithstanding any other provision of this Instrument to the contrary, and, in particular, notwithstanding anything conferring an absolute or uncontrolled discretion on the Trustees hereof, each and every power and discretion vested in the Trustees by such provisions of this Settlement as are specified in Schedule VIII attached hereto and incorporated herein by this reference shall only be exercisable by them subject always to the power of the Protector to veto any exercise by the Trustees of such power or discretion, and, accordingly, the Trustees shall be required to provide the Protector with sufficient prior notice of their intent to exercise any such powers or discretions to permit the Protector reasonable advance opportunity within which to consider the factors relevant to his determination to veto or refrain from vetoing the exercise of the power or discretion. The Protector's exercise or non-exercise of this veto power shall be communicated in writing to the Trustees and failure to so communicate in a timely fashion provided notice is actually received by the Protector shall be treated by the Trustees as a veto of the proposed exercise of the power or discretion; *provided however*, if the Protector is also a Trustee, or if one or more of the Trustees reasonably believes that failure by the Protector to so communicate is due to the Protector being restrained or enjoined from doing so, then such failure to communicate shall be deemed to be an acquiescence by the Protector. If deemed necessary by the Protector in order to implement the foregoing veto power, the Protector may at any time, or from time to time, require the establishment of (and the transfer of the Trust Estate or any portion thereof to) Trust bank and/or brokerage accounts, and/or other forms of ownership under which both the Protector's signature and the signature of one or more of the Trustees (as specified by the Protector) would be required to effect any transfer or conveyance.

(b) Notwithstanding anything to the contrary otherwise herein expressed or implied, each discretion or power conferred upon the Protector, or upon any other person by this Settlement, or by any rule of law, or arising in consequence of the exercise of any power conferred upon the Protector, or any other person by this Settlement, shall be subject to Section 5.2, and nothing contained herein shall operate, so as to cause the Protector to be successful in ordering or vetoing any action or causing any result which is not of the Protector's own free will, or which is otherwise the result of the Protector acting under the duress or influence of an outside force.

15.8 Waiver of Veto Power. The Protector may, from time to time, by written notice to the Trustees (a memorandum of which shall be endorsed on or permanently attached to this Settlement) declare (either generally or in relation to any particular act or acts, and either permanently or for such period as shall be specified in the notice) that any act or acts herein declared to be subject to the veto power of the Protector shall not be so subject and the said notice shall be effective according to its terms.

EXECUTED in Clark County, Nevada, on the 15th day of October, 2009.

NHU THI TRAN

ACCEPTANCE BY CO-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 Co-Trustees. We accept the Declaration of Trust in all particulars and acknowledge receipt of the trust property described in Schedule II attached hereto, identified by our signatures.

P. STERLING KERR

Mary V. Kauffman
MARY V. KAUFMAN
F MK

STATE OF NEVADA)
)ss.
COUNTY OF CLARK)

On the 15th day of October, 2009, before me, the undersigned, a Notary Public in and for ~~such County and State, personally appeared NHU THI TRAN, known to me to be Trustor whose~~ name is subscribed to the within instrument and who acknowledged to me that she executed the same.

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

NOTARY PUBLIC

NOTARY PUBLIC
STATE OF NEVADA
County of Clark
CELESTE A. GUINN
Appt No. 02-4127-1
My Appt. Expires Jan 20, 2010

P. Sterling Kerr
Attorney at Law

TRAN0112

STATE OF NEVADA)
)ss.
COUNTY OF CLARK)

On the 15th day of October, 2009, before me, the undersigned, a Notary Public in and for such County and State, personally appeared P. STERLING KERR and MARY V. KAUFMAN, known to me to be the Co-Trustees whose names are subscribed to the within instrument and who acknowledged to me that they executed the same.

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

NOTARY PUBLIC

NOTARY PUBLIC
STATE OF NEVADA
County of Clark
CELESTE A. GUINN
Appt. No. 89-4127-1
My Appt. Expires Jan. 25, 2013

TRUST COMMITTEE

NHU THI TRAN

SCHEDULE I
TO THE
NT LEGACY TRUST

The name and address of the Co-Trustees referenced on page 1 of this Settlement of Trust are:

1. ______________________
   P. STERLING KERR

2. Mary V Kauffman
   MARY V. KAUFMAN
   F MK

<u>SCHEDULE II</u>
TO THE
NT LEGACY TRUST

The money and/or other property initially settled hereby and referred to in the recitals to this Settlement of Trust are as follows:

1. By Assignment, Settlor transfers any and all personal property, cash, securities, jewelry and all other valuables to this Trust.

2. Settlor hereby grants to the Trust by Assignment all right, title, and interest in and to Settlor's membership interests in Tran Enterprises, LLC, and any Series, LLC, under the master LLC, Tran Enterprises.

SCHEDULE III
TO THE
NT LEGACY TRUST

The Beneficiaries referenced in ARTICLE I, Section 1.4(a), of this Settlement of Trust are as follows:

The Settlor, NHU THI TRAN;

Any other beneficiaries specifically mentioned in specific bequests under this Trust; and

The NHU TRAN FOUNDATION, INC.

P. Sterling Kerr
Attorney at Law

SCHEDULE IV
TO THE
NT LEGACY TRUST

The Excluded Persons referenced in Article I, Section 1.4(c) of this Settlement of Trust are:

1. None

2. None

P. Sterling Kerr
Attorney at Law
TRAN0117

SCHEDULE V
TO THE
NT LEGACY TRUST

Appointment of Trustees under ARTICLE VII of this Settlement of Trust, shall be made by the following persons in the order specified:

1. The Settlor, and in the event the Settlor shall be deceased, unable or unwilling to so act, thereby a court of competent jurisdiction upon motion by an interested party, beneficiary or otherwise.

P. Sterling Kerr
Attorney at Law

SCHEDULE VI
TO THE
NT LEGACY TRUST

Subject always to any restrictions contained in this Settlement, the additional Co-Trustees' powers are provisions referenced in ARTICLE VI, Section 6.21, of this Settlement of Trust are as follows:

1. The Co-Trustees shall have power and authority to permit any Beneficiary or member of the Appointed Class to reside in any dwelling house or other improved real property (whether directly owned or represented by the ownership of shares in a cooperative), to occupy any land, or to have the custody and use of any chattels which may for the time constitute part of the Trust Fund, upon such conditions as to payment or non-payment of rent, rates, taxes and other expenses, and generally upon such terms and conditions as the Trustees in their absolute discretion shall think fit. Except as otherwise provided in this Settlement, the Trustees are expressly authorized to invest in unproductive or under productive property, or to retain property in such state, if the Trustees deem such to be consistent with the Settlor's overall intentions and goals.

2. With respect to the account of a Settlor hereunder, and only during the Settlor's lifetime, the Co-Trustees may seek the assistance of the Courts in all matters affecting the administration of this Trust or its properties, including any technical or conforming alterations to the provisions of this Settlement, advice on the interpretation of the Trust or for settlement of any account by invoking the jurisdiction of any District Court with jurisdiction (including quasi-in-rem jurisdiction) over the Trust, the Co-Trustees, or the Trust res, in a nonadversary exparte proceeding. The decision of the Court shall be binding upon all interested parties who were given written mailing notice of the proceedings to their last known address.

3. The Powers and provisions of N.R.S. §163.265 to §163.410, inclusive, are incorporated herein by this reference. In the event of any conflict between a power, authority or discretion of the Trustees as set forth in this Settlement, and as set forth in N.R.S. §163.265 to §163.410, to the extent the Nevada statute is not obligatory with respect thereto, the power, authority or discretion hereof shall govern.

4. The powers of Co-Trustee, Mary V. Kaufman, are herein limited, such that she cannot bind the assets of the Trust without the signature of her Co-Trustee, P. Sterling Kerr.

5. The powers of Co-Trustee, P. Sterling Kerr, are herein increased such that he can bind the assets of the Trust without the signature of a Co-Trustee. Any third party doing business with the Trust may rely on the signature of P. Sterling Kerr to bind the Trust.

SCHEDULE VII
TO THE
NT LEGACY TRUST

Appointment of new Trust Protector under Article XI, Section 11.2, of this Settlement of Trust:

1. The Protector

2. The Co-Trustees

3. The Adult Beneficiaries

P. Sterling Kerr
Attorney at Law

SCHEDULE VIII
TO THE
NT LEGACY TRUST

Powers, authorities and discretions of the Trustees which shall be subject to the Protector's veto or the Settlor's veto power as referenced in ARTICLE XI, Section 11.4, of this Settlement of Trust, or as referenced in Article XIII, Section 13.2, of this Settlement of Trust, as the case may be, so long as, and during such periods as, the Protector or Settlor, as the case may be, is not acting as the result of or subject to duress or compulsion of any nature:

1. With respect to the body of the Settlement, those mentioned or referenced in ARTICLE II, Section 2.1 (Income Distribution), 2.2 (Principal Distribution), and 2.3 (Discretionary Distributions); ARTICLE III, Section 3.3 (Distribution upon Termination of Trust Period); ARTICLE V, Sections 5.3 (Change in Situs/Applicable Law); ARTICLE VI, Sections 6.3 (Disposition of Property), and 6.4 (Borrow or Pledge Property); ARTICLE VII, Section 7.2(a)(1) (Removal of Trustee).

2. With respect to those mentioned or referenced in Schedule VI, hereof, Clause 1, and Clause 2.

3. The powers, authorities and discretions to change the investment comprised in the Trust Fund from time to time, to be exercised by the Protector consistent with the Settlor's overall goals and intentions as set forth in the Settlement of Trust.

SCHEDULE IX
TO THE
NT LEGACY TRUST

The special provisions referenced in ARTICLE I, Section 1.27, of this Settlement of Trust are as follows:

1. None

2. None

P. Sterling Kerr
Attorney at Law

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10/18/2017 12:06 PM
Steven D. Grierson
CLERK OF THE COURT

COS
MARK A. SOLOMON, ESQ.
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Attorneys for P. Sterling Kerr, Trustee of the NT Revocable Trust, dated October 15, 2009

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DISTRICT COURT

COUNTY OF CLARK, NEVADA

In the Matter of the: NT REVOCABLE LIVING TRUST, dated October 15, 2009	Case No.: P-17-093258-T Dept. No.: XXVI/PROBATE Hearing Date: November 3, 2017 Hearing Time: 9:30 a.m.

AMENDED CERTIFICATE OF SERVICE

PURSUANT TO NRCP 5(b), I HEREBY CERTIFY that on October 18th, 2017, I served a true and correct copy of the **ERRATA TO PETITION TO ASSUME *IN REM* JURISDICTION OVER THE NT REVOCABLE TRUST, DATED OCTOBER 15, 2009, TO CONFIRM ITS TRUSTEE, FOR AN INVENTORY AND FOR INSTRUCTIONS** to the following, in the manner set forth below:

By U.S. Mail, postage prepaid to:

Charles Lam c/o
Michael Oakes, Esq.
626 S. Eighth Street
Las Vegas, NV 89101

/s/ Renee Guastaferro

An Employee of SOLOMON DWIGGINS & FREER, LTD

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10/18/2017 12:06 PM
Steven D. Grierson
CLERK OF THE COURT

NOH
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Attorneys for P. Sterling Kerr, Trustee of the NT Revocable Trust, dated October 15, 2009

DISTRICT COURT

COUNTY OF CLARK, NEVADA

In the Matter of the: NT REVOCABLE LIVING TRUST, dated October 15, 2009	Case No.: P-17-093258-T Dept. No.: XXVI/PROBATE Hearing Date: November 3, 2017 Hearing Time: 9:30 a.m.

AMENDED CERTIFICATE OF SERVICE

PURSUANT TO NRCP 5(b), I HEREBY CERTIFY that on October 18th, 2017, I served a true and correct copy of the **PETITION TO ASSUME *IN REM* JURISDICTION OVER THE NT REVOCABLE TRUST, DATED OCTOBER 15, 2009, TO CONFIRM ITS TRUSTEE, FOR AN INVENTORY AND FOR INSTRUCTIONS; *AND* NOTICE OF HEARING; ERRATA TO PETITION** to the following, in the manner set forth below:

By U.S. Mail, postage prepaid certified mail to:

Mary Kaufman
2036 Laggia Court
Las Vegas, NV 89117

/s/ Renee Guastaferro

An Employee of SOLOMON DWIGGINS & FREER, LTD

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11/17/2017 2:43 PM
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CLERK OF THE COURT

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Alexander G. LeVeque (#11183)
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msolomon@sdfnvlaw.com
aleveque@sdfnvlaw.com

Attorneys for P. Sterling Kerr, Trustee of the NT Revocable Trust, dated October 15, 2009

DISTRICT COURT

CLARK COUNTY, NEVADA

In the Matter of the NT REVOCABLE LIVING TRUST, dated October 15, 2009.	Case No.: P-17-093258-T Dept. No.: XXVI/Probate Date of Hearing: November 3, 2017 Time of Hearing: 9:30 a.m.

ORDER GRANTING PETITION TO ASSUME *IN REM* JURISDICTION OVER THE NT REVOCABLE TRUST, DATED OCTOBER 15, 2009, TO CONFIRM ITS TRUSTEE, FOR AN INVENTORY, AND FOR INSTRUCTIONS

This matter came on for hearing before this Court on November 3, 2017, regarding Petitioner P. Sterling Kerr's Petition to Assume *In Rem* Jurisdiction over the NT Revocable Trust, dated October 15, 2009, to Confirm its Trustee, for an Inventory, and for Instructions (the "Petition"). The Court

FINDS that, after reviewing the Petition, and having received no objection thereto, due and legal notice of the time and place of the hearing has been given in the manner required by law; the Court further

FINDS that NT Revocable Trust, dated October 15, 2009 (the "Revocable Trust") is a nontestamentary Trust domiciled in Nevada; the Court further

FINDS that Charles Lam is the Trustee of the Revocable Trust pursuant to Section 7.1 of the Revocable Trust; the Court further

FINDS that, pursuant to Section 5.2 of the Revocable Trust, the Trustees of the NT Legacy Trust, dated October 15, 2009 (the "Legacy Trust") are the remainder beneficiaries of the Revocable Trust; the Court further

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FINDS that Petitioner P. Sterling Kerr is the Successor Trustee of the Legacy Trust; the Court further

FINDS that, as Successor Trustee of the Legacy Trust, Petitioner P. Sterling Kerr is an "interested person" with regard to the Revocable Trust pursuant to NRS 132.185; the Court further

FINDS that on March 22, 2017, Petitioner sent Charles Lam, Trustee of the Revocable Trust, a written demand for information pertaining to the real property owned by the Revocable Trust; the Court further

FINDS that, pursuant to NRS 165.030, Charles Lam was required to provide the Petitioner, as remainder beneficiary of the Revocable Trust, an inventory of the Revocable Trust's assets yet failed to do so; the Court further

FINDS that, pursuant to Section 5.2 of the Revocable Trust, Charles Lam is required to distribute the remainder of the Revocable Trust estate to Petitioner, as Trustee of the Legacy Trust; it is therefore

ORDERED, ADJUDGED, AND DECREED that P. Sterling Kerr's Petition is GRANTED; it is further

ORDERED, ADJUDGED, AND DECREED that the Court takes exclusive *in rem* jurisdiction of the NT Revocable Trust, dated October 15, 2009; it is further

ORDERED, ADJUDGED, AND DECREED that the Court confirms Charles Lam as the Trustee of the NT Revocable Trust, dated October 15, 2009; it is further

ORDERED, ADJUDGED, AND DECREED that Charles Lam shall, without delay, provide a full inventory for the NT Revocable Trust, dated October 15, 2009, to Petitioner, pursuant to NRS 164.030; it is further

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ORDERED, ADJUDGED, AND DECREED that, pursuant to Section 5.2 of the NT Revocable Trust, dated October 15, 2009, Charles Lam shall distribute, without delay, the remaining trust estate to P. Sterling Kerr, as Trustee of the NT Legacy Trust, dated October 15, 2009, immediately after the payment of expenses as set forth in Section 5.1.

DATED this 15th day of November, 2017.

DISTRICT COURT JUDGE SL

Respectfully Submitted by:

SOLOMON DWIGGINS & FREER, LTD.

Mark A. Solomon (#418)
Alexander G. Leveque (#11183)
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Las Vegas, Nevada 89129
Telephone: 702.853.5483
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Attorneys for Petitioner, P. Sterling Kerr

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Attorneys for P.Sterling Kerr, Trustee of the NT Revocable Trust dated October 15, 2009

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DISTRICT COURT

CLARK COUNTY, NEVADA

In the Matter of the Estate of NT REVOCABLE LIVING TRUST, dated October 15, 2009	CASE NO. P-17-093258-T DEPT. 26/Probate Hearing Date: n/a Hearing Time: n/a

NOTICE OF ENTRY OF ORDER
GRANTING PETITION TO ASSUME *IN REM* JURISDICTION OVER THE NT REVOCABLE TRUST, DATED OCTOBER 15, 2009, TO CONFIRM ITS TRUSTEE, FOR AN INVENTORY AND FOR INSTRUCTIONS

TO ALL PERSONS INTERESTED IN THE ABOVE REFERENCED CASE:

YOU, AND EACH OF YOU, WILL PLEASE TAKE NOTICE That the ***Order Granting Petition to Assume In Rem Jurisdiction Over the NT Revocable Trust , Dated October 15, 2009, to Confirm Its Trustee, for an Inventory, and for Instructions,*** was filed on the 17th day of November,

///

///

2017, a copy of which is attached hereto.

DATED this 20th day of November, 2017.

SOLOMON DWIGGINS & FREER, LTD.

/S/ ALEXANDER G. LEVEQUE, ESQ.
By:___________________________________
MARK A. SOLOMON, ESQ. Bar # 0418
ALEXANDER G. LEVEQUE, ESQ., Bar No. 11183
Nevada State Bar No. 9619
9060 West Cheyenne Avenue
Las Vegas, Nevada 89129
Attorneys for P. Sterling Kerr, Trustee of the NT Revocable Trust, dated October 15, 2009

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FACSIMILE (702) 853-5485
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CERTIFICATE OF SERVICE

PURSUANT to NRCP 5(b), I HEREBY CERTIFY that on November, 2017, I served a true and correct copy of the NOTICE OF ENTRY OF ORDER GRANTING PETITION TO ASSUME IN REM JURISDICTION OF NT REVOCABLE TRUST, DATED OCTOBER 15, 2009, TO CONFIRM ITS TRUSTEE, FOR AN INVENTORY, AND FOR INSTRUCTIONS to the following in the manner set forth below:

Via:

[____] Hand Delivery

[____] U.S. Mail, Postage Prepaid, to the parties identified below:

[____] Certified Mail, Receipt No.: ____________________________

[____] Return Receipt Requested to:

[____] Pursuant to NEFCR 9, upon all registered parties via the Court's electronic E-Service through the Odyessey Filing System:

Michael Oakes, Esq. mike@foleyoakes.com

/s/ Renee Guastaferro

An employee of SOLOMON DWIGGINS & FREER, LTD

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aleveque@sdfnvlaw.com

Attorneys for P. Sterling Kerr, Trustee of the NT Revocable Trust, dated October 15, 2009

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DISTRICT COURT

CLARK COUNTY, NEVADA

In the Matter of the NT REVOCABLE LIVING TRUST, dated October 15, 2009.	Case No.: P-17-093258-T Dept. No.: XXVI/Probate Date of Hearing: November 3, 2017 Time of Hearing: 9:30 a.m.

ORDER GRANTING PETITION TO ASSUME *IN REM* JURISDICTION OVER THE NT REVOCABLE TRUST, DATED OCTOBER 15, 2009, TO CONFIRM ITS TRUSTEE, FOR AN INVENTORY, AND FOR INSTRUCTIONS

This matter came on for hearing before this Court on November 3, 2017, regarding Petitioner P. Sterling Kerr's Petition to Assume *In Rem* Jurisdiction over the NT Revocable Trust, dated October 15, 2009, to Confirm its Trustee, for an Inventory, and for Instructions (the "Petition"). The Court

FINDS that, after reviewing the Petition, and having received no objection thereto, due and legal notice of the time and place of the hearing has been given in the manner required by law; the Court further

FINDS that NT Revocable Trust, dated October 15, 2009 (the "Revocable Trust") is a nontestamentary Trust domiciled in Nevada; the Court further

FINDS that Charles Lam is the Trustee of the Revocable Trust pursuant to Section 7.1 of the Revocable Trust; the Court further

FINDS that, pursuant to Section 5.2 of the Revocable Trust, the Trustees of the NT Legacy Trust, dated October 15, 2009 (the "Legacy Trust") are the remainder beneficiaries of the Revocable Trust; the Court further

FINDS that Petitioner P. Sterling Kerr is the Successor Trustee of the Legacy Trust; the Court further

FINDS that, as Successor Trustee of the Legacy Trust, Petitioner P. Sterling Kerr is an "interested person" with regard to the Revocable Trust pursuant to NRS 132.185; the Court further

FINDS that on March 22, 2017, Petitioner sent Charles Lam, Trustee of the Revocable Trust, a written demand for information pertaining to the real property owned by the Revocable Trust; the Court further

FINDS that, pursuant to NRS 165.030, Charles Lam was required to provide the Petitioner, as remainder beneficiary of the Revocable Trust, an inventory of the Revocable Trust's assets yet failed to do so; the Court further

FINDS that, pursuant to Section 5.2 of the Revocable Trust, Charles Lam is required to distribute the remainder of the Revocable Trust estate to Petitioner, as Trustee of the Legacy Trust; it is therefore

ORDERED, ADJUDGED, AND DECREED that P. Sterling Kerr's Petition is GRANTED; it is further

ORDERED, ADJUDGED, AND DECREED that the Court takes exclusive *in rem* jurisdiction of the NT Revocable Trust, dated October 15, 2009; it is further

ORDERED, ADJUDGED, AND DECREED that the Court confirms Charles Lam as the Trustee of the NT Revocable Trust, dated October 15, 2009; it is further

ORDERED, ADJUDGED, AND DECREED that Charles Lam shall, without delay, provide a full inventory for the NT Revocable Trust, dated October 15, 2009, to Petitioner, pursuant to NRS 164.030; it is further

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ORDERED, ADJUDGED, AND DECREED that, pursuant to Section 5.2 of the NT Revocable Trust, dated October 15, 2009, Charles Lam shall distribute, without delay, the remaining trust estate to P. Sterling Kerr, as Trustee of the NT Legacy Trust, dated October 15, 2009, immediately after the payment of expenses as set forth in Section 5.1.

DATED this 15th day of November, 2017.

DISTRICT COURT JUDGE SA

Respectfully Submitted by:

SOLOMON DWIGGINS & FREER, LTD.

Mark A. Solomon (#418)
Alexander G. LeVeque (#11183)
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Telephone: 702.853.5483
Facsimile: 702.853.5485

Attorneys for Petitioner, P. Sterling Kerr

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11/28/2017 11:48 AM
Steven D. Grierson
CLERK OF THE COURT

AMEN

J. Michael Oakes, Esq.
Nevada Bar No. 1999
FOLEY & OAKES, PC
626 So. 8th Street
Las Vegas, Nevada 89101
Tel.: (702) 384-2070
Fax: (702) 384-2128
mike@foleyoakes.com
Attorneys for Plaintiffs

DISTRICT COURT
***
CLARK COUNTY, NEVADA

CHARLES LAM, individually and derivatively on behalf of TRAN ENTERPRISES, LLC, a Nevada limited liability company, and as Trustee of the NT REVOCABLE LIVING TRUST, dated the 15th day of October, 2009 *Plaintiffs*, vs. P. STERLING KERR, individually and as Trustee of the NT LEGACY TRUST, dated the 15th day of October, 2009, Nhu Tran Foundation, Inc., a Nevada non-profit corporation; and DOES I through V individuals; and ROE VI through X Corporations and Partnerships, *Defendants*.	Case No. A-17-760853-B Dept. No. XIII **AMENDED MOTION TO CONSOLIDATE CASES, AND TO STAY PROCEEDINGS IN SECOND AND THIRD CASES** **Date: December 14, 2017** **Time: 9:00 a.m.**
In the matter of the NT LEGACY TRUST, dated October 15, 2009	TO BE CONSOLIDATED WITH Case No. P-17-093391-T Dept. No. XXVI

FOLEY & OAKES

In the matter of the NT REVOCABLE LIVING TRUST, dated October 15, 2009	TO BE CONSOLIDATED WITH Case No. P-17-093258-T Dept XXVI/Probate

AMENDED MOTION TO CONSOLIDATE CASES, AND TO STAY PROCEEDINGS IN SECOND AND THIRD CASES

COMES NOW Plaintiff CHARLES LAM, individually and derivatively on behalf of TRAN ENTERPRISES, LLC, a Nevada limited liability company, and as Trustee of the NT REVOCABLE LIVING TRUST, dated the 15th day of October, 2009 by and through his attorney, J. Michael Oakes, Esq., of FOLEY & OAKES, PC, and hereby moves this Court to consolidate case numbers A-17-760853-B, P-17-093391-T **and P-17-093258-T** into one action, since they have common and identical questions of fact and law, and to stay the proceedings in the second and third cases.

This Motion is made and based on the prior rulings from this Court, NRCP 42(a) and EDCR 2.50, EDCR 4.03, the following Memorandum of Points and Authorities, the pleadings and papers on file herein, and any arguments of counsel that may be entertained at the hearing of this motion.

THE REASON FOR THIS AMENDED MOTION IS AS FOLLOWS:

This motion was filed on November 15, 2017. On November 20, 2017, counsel for the movants received an Order entered in a third case, filed as Case No. P-17-093258-T relating to the NT Revocable Living Trust. That Order was entered with no actual notice of the Petition or the hearing thereon having been received by Charles Lam or his attorneys. The Petition made no mention of this pending case.

Since it involves the same parties and the same issues as the issues already pending before this Court, that case should also be consolidated with the initial case. Copies of the Petition and the Order from the third case are attached as Exhibits 3 and 4, respectively. The rationale for the consolidation of the third case is the same as for the second case.

The parties have already stipulated to move the hearing on this motion to December 14, 2017.

DATED this 28th day of November, 2017.

FOLEY & OAKES, PC

/s/ J. Michael Oakes
J. Michael Oakes, Esq.
Nevada Bar No. 1999
626 So. 8th Street
Las Vegas, Nevada 89101
Attorneys for Plaintiffs

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

In connection with prior hearings, as reflected in the minutes (See Exhibit "1"), this Court considered the issue of whether it had jurisdiction over this dispute. It determined that it did, but referred the Plaintiffs' motion to remove defendant Kerr as Trustee to the Probate Commissioner under EDCR 4.03. At the same hearing, this Court granted a preliminary injunction, and advised the Defendants that "if counsel wants to seek expungement of the lis pendens a motion can be filed."

Rather than file that motion to expunge, Defendants have filed the Second Case, as a Petition to Assume In Rem Jurisdiction Over the NT Legacy Trust, Dated October 15, 2009. As part of the Petition in the Second Case, they are asking to confirm Kerr as the Trustee of the NT Legacy Trust, for a summary adjudication that NT Legacy Trust is the sole member of Tran Enterprises, LLC, and for an expungement of the lis pendens. For ease of reference, a copy of the Petition (without exhibits) is attached as Exhibit "2."

These precise legal and factual questions are already pending in this, the First Case, and the filing of the Second Case can only be characterized as "forum shopping." Defendants did not like the ruling from this Court, and in their Petition, they explain that this Court "did not understand (or perhaps was not informed) that Lam's argument in support of a TRO was legally unsound." Obviously, Plaintiffs disagree, as the issuance of the temporary restraining order and the subsequent issuance of the preliminary injunction was critical to stop the losses on sales of real property, which already add up to over $1,600,000. The larger point, however, is that the law does not favor running to a new court to have it "fix" rulings made by a prior court.

Given the identical set of facts, and the same legal questions already pending in this, the First Case, it is quite surprising to see this Second Case, couched in terms of a Petition to Assume Jurisdiction of the Trust and for Instructions. The only rationale for it would be to forum shop.

Since the two cases involve the same set of facts and common questions of law, they should be consolidated. This Court has already referred the Motion for Removal to the Probate Commissioner, and that motion can and will be heard there. However, the report and recommendation should come back to this Court, as the Court assigned to the First Case filed, and as the court which referred the already pending Motion for Removal to the Probate Commissioner for a report and recommendation.

Further, the remaining relief sought by the Defendants should be stayed. Other than granting the motion for preliminary injunction, this Court did two things. First, it ordered that the Motion for Removal of Kerr should be first heard by the Probate Commissioner. Second, it

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&
OAKES

informed the Defendants that if they wanted to seek expungement of the lis pendens, they could do so by motion. The Court never suggested that a motion to expunge would, like the Motion for Removal of trustee, be referred under EDCR 4.03.

If the Defendants wish to seek substantive relief from this Court, they are free to do so at any time, and if they want this Court to send any other specific issue to the Probate Commissioner, they can ask for that as well. In the meantime, the two cases should be consolidated, and the request for relief in the Second Case should be stayed.

II. LEGAL ARGUMENT

THE TWO CASES HAVE COMMON QUESTIONS OF FACT AND LAW, SO CONSOLIDATION IS PROPER, AND THE SECOND CASE SHOULD BE STAYED

NRCP 42(a) provides as follows:

> "**42 (a) Consolidation.** When actions involving a common question of law or fact are pending before the court, it may order a joint hearing or trial of any or all the matters in issue in the actions; it may order all the actions consolidated; and it may make such orders concerning proceedings therein as may tend to avoid unnecessary costs or delay."

This is a clear case where consolidation is proper. The Petition, i.e., the Second Case, goes beyond the scope of this Court's prior directions in making its earlier rulings, and is asking for relief on issues that have already been the subject of briefing and consideration in the First Case.

DATED this 28th day of November, 2017.

FOLEY & OAKES, PC

/s/ J. Michael Oakes
J. Michael Oakes, Esq.
Nevada Bar No. 1999
626 So. 8th Street
Las Vegas, Nevada 89101
Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I hereby certify that I am an employee of Foley & Oakes, PC, and that on the 28th day of November, 2017, I served the following document(s):

AMENDED MOTION TO CONSOLIDATE CASES, AND TO STAY PROCEEDINGS IN SECOND AND THIRD CASES

I served the above-named document(s) by the following means to the person s as listed below:

[X] **By ECF System** (or the "Notice of Electronic Filing" to all addresses):

Lars Evensen, Esq. Lance Earl, Esq. Holland & Hart 9555 Hillwood Drive, 2nd floor Las Vegas, NV 89134 *Attorneys for Defendants*	Mark A. Solomon, Esq. Alexander G. LeVeque, Esq. Craig D. Friedel, Esq. Solomon Dwiggins & Freer, Ltd. 9060 West Cheyenne Avenue Las Vegas, Nevada 89129 *Attorneys for P. Sterling Kerr, Trustee of the NT Legacy Trust, dated October 15, 2009*

[ ] **By United States Mail**, postage fully prepaid to person(s) and addresses as follows:

[ ] **By Facsimile Transmission** to person(s) and addresses as shown above: No error was reported by the fax machine that I used. A copy of the record of the fax transmission is attached.

I declare under the penalty of perjury that the foregoing is true and correct.

/s/ Liz Gould
An employee of FOLEY & OAKES, PC

FOLEY & OAKES

EXHIBIT “1”

EXHIBIT “1”

Skip to Main Content Logout My Account Search Menu New District Civil/Criminal Search Refine Search Close

Location : District Court Civil/Criminal Help

REGISTER OF ACTIONS
CASE NO. A-17-760853-B

Charles Lam, Plaintiff(s) vs. P. Sterling Kerr, Defendant(s) § § § § § §

Case Type:	**NRS Chapters 78-89**
Date Filed:	**09/01/2017**
Location:	**Department 13**
Cross-Reference Case Number:	**A760853**

PARTY INFORMATION

		Lead Attorneys
Defendant	**Kerr, P. Sterling**	**Lars K. Evensen** *Retained* 7026694600(W)
Defendant	**NT Legacy Trust Dated October 15 2009**	**Lars K. Evensen** *Retained* 7026694600(W)
Plaintiff	**Lam, Charles**	**John M. Oakes** *Retained* 702-384-1070(W)
Plaintiff	**NT Revocable Living Trust Dated October 15 2009**	**John M. Oakes** *Retained* 702-384-1070(W)
Plaintiff	**Tran Enterprises LLC**	**John M. Oakes** *Retained* 702-384-1070(W)

EVENTS & ORDERS OF THE COURT

09/21/2017 **All Pending Motions** (9:00 AM) (Judicial Officer Denton, Mark R.)

Minutes

09/21/2017 9:00 AM

- APPEARANCES: John M. Oakes and Dan Foley, Attorneys Charles Lam, Pltf Lars Evensen, Attorney for Deft, Sterling Kerr Sterling Kerr, Deft/Trustee Relative to the Pltfs Motion for Preliminary Injunction, COURT stated it was not consolidating the Motion with trial on the merits and that it was not conducting an evidentiary hearing today. PLTF'S MOTION FOR REMOVAL OF KERR AND KAUFMAN AS TRUSTEE AND AS MANAGER ON ORDER SHORTENING TIME COURT referenced EDCR 4.03 as to referring the matter to the Probate Commissioner as Special Master relative to the status of Kerr and Kaufman as Trustee. Colloquy held regarding the Court having jurisdiction. Following argument by counsel regarding the Motion, COURT ORDERED matter REFERRED to the Probate Commissioner and DIRECTED Mr. Oakes to submit an order accomplishing the referral to the Probate Commissioner for a RECOMMENDATION on this issue. PLTF'S MOTION FOR PRELIMINARY INJUNCTION COURT STATED ITS FINDINGS, and ORDERED Motion GRANTED relative to any and all properties that are the subject of the upcoming sale. If counsel wants to seek expungement of the lis pendens a motion can be filed. COURT FURTHER ORDERED, bond SET at $5,000.00. Mr. Oakes to submit the order.

Return to Register of Actions

EXHIBIT “2”

EXHIBIT “2”

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Attorneys for P. Sterling Kerr, Trustee of the NT Legacy Trust, dated October 15, 2009

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DISTRICT COURT

CLARK COUNTY, NEVADA

In the Matter of the NT LEGACY TRUST, dated October 15, 2009	Case No.: P-17-093391-T Dept. No.: XXVI Date of Hearing: ~~October 27, 2017~~ Time of Hearing: ~~9:30 a.m.~~

PETITION TO ASSUME *IN REM* JURISDICTION OVER THE NT LEGACY TRUST, DATED OCTOBER 15, 2009

-AND-

PETITION TO CONFIRM TRUSTEE AND FOR INSTRUCTIONS

-AND-

PETITION FOR A DECLARTION THAT THE NT LEGACY TRUST IS THE SOLE MEMBER OF TRAN ENTERPRISES, LLC

-AND-

PETITION TO EXPUNGE LIS PENDENS

Petitioner, P. Sterling Kerr, Esq. ("Petitioner"), hereby petitions this Honorable Court, pursuant to NRS 153.031, 164.010, 164.015 and 164.033 to assume *in rem* jurisdiction over the NT Legacy Trust, dated October 15, 2009 (the "Legacy Trust"), to confirm Petitioner as Trustee of the Legacy Trust, for instructions, for a declaration at the Legacy Trust is the sole member of

Tran Enterprises, LLC ("TE LLC"), a Nevada limited-liability company, and to expunge improvidently recorded lis pendens' on several parcels of real property owned by the Legacy Trust through TE LLC. This Petition is made and based on the Memorandum of Points and Authorities set forth herein, all of the papers and pleadings already on file with the Court, and any oral argument that the Court may entertain at the time of hearing.

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Charles Lam ("Lam"), son and beneficiary of the decedent, Nhu Thi Tran ("Tran"), has brought a civil action on behalf of TE LLC against the Petitioner, P. Sterling Kerr, Esq. ("Petitioner"), in his individual capacity and as Trustee of the Legacy Trust, which is pending in Department 13 of the Eighth Judicial District Court.

Procedurally, a threshold issue has arisen with respect to Lam's standing to bring such a lawsuit on behalf of TE LLC given that the Legacy Trust is the sole owner of TE LLC's membership interest, and that Lam was removed as TE LLC's manager in March of 2017.

The Legacy Trust is an irrevocable Nevada asset protection trust. Accordingly, this Court is the appropriate forum to determine the Legacy Trust's ownership interest in TE LLC and to exercise *in rem* jurisdiction over the Legacy Trust to oversee its administration now that Tran has passed away. This court is also the appropriate forum to instruct the Petitioner with regard to the internal affairs of the Legacy Trust, including the marshaling and liquidation of assets and payment of all testamentary bequests. For these reasons, Petitioner respectfully requests that this Court grant the instant petition in its entirety.

II. STATEMENT OF FACTS

INTERESTED PERSONS

1. Pursuant to NRS 153.031(2), Petitioners provide that the following individuals, on information and belief, are interested persons under the Trust and as to the relief requested in this Petition:

NAME	RELATIONSHIP	ADDRESS
Charles Lam	Beneficiary / Plaintiff in Case No. A-17-7608563-B	c/o J. Michael Oakes, Esq. FOLEY & OAKES, PC 626 South Eighth Street Las Vegas, Nevada 89101
Vince Lam	Beneficiary	629 Shenandoah Road Corona, CA 92879
Tony Lam	Beneficiary	5956 Seville Avenue Huntington Park, CA 90255
Dennis Lam	Beneficiary	629 Shenandoah Road Corona, CA 92879
Lisa Lam	Beneficiary	5959 Seville Avenue Huntington Park, CA 90255
Bryan Lam	Beneficiary	5956 Seville Avenue Huntington Park, CA 90255
Ha Thi Tran	Beneficiary	10990 High Land Meadow Village Dr. Apt 807 Houston, TX 77089
Nhu Tran Foundation, Inc.	Beneficiary	2450 St. Rose Parkway, Suite 120 Henderson, NV 89074
Mary V. Kaufman	Former Trustee	2036 Laggia Court Las Vegas, NV 89117

FORMATION HISTORY AND OVERVIEW OF NHU THI TRAN'S ESTATE PLANNING

2. On October 15, 2009, Tran settled the Legacy Trust, a Nevada irrevocable asset protection trust. *See* NT Legacy Trust, a true and correct copy being attached hereto as **Exhibit 1**.

3. Tran appointed the Petitioner and Mary V. Kaufman ("Kaufman") as the initial Co-Trustees of the Legacy Trust. *See* **Ex. 1**, at p. 43.

4. On October 15, 2009, Tran assigned all of her right, title and interest to certain membership interests in TE LLC to the Legacy Trust. *See* Assignment, a true and correct copy being attached hereto as **Exhibit 2**.

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5. TE LLC is a Nevada limited-liability company, formed for the purpose of holding several parcels of undeveloped real party. *See* TE LLC Operating Agreement, a true and correct copy being attached here as **Exhibit 3**.

6. On or about June 3, 2016, Kaufman tendered her resignation as Co-Trustee of the Legacy Trust thereby resulting in Petitioner being the sole Trustee of the Legacy Trust, as of June 3, 2016. *See* Kaufman Resignation, a true and correct copy being attached hereto as **Exhibit 4**.

7. On January 25, 2017, Tran passed away. *See* Death Certificate, a true and correct copy being attached hereto as **Exhibit 5**.

8. Section 3.2(A) of the Legacy Trust provides that upon Tran's death, the Trustee shall pay specific bequests to certain beneficiaries as follows:

a. $2,000,000 to Charles Lam, Tran's son;

b. $20,000 to Vince Lam, Tran's son;

c. $20,000 to Tony Lam, Tran's son;

d. $20,000 to Dennis Lam, Tran's grandson;

e. $20,000 to Lisa Lam, Tran's granddaughter;

f. $20,000 to Bryan Lam, Tran's grandson; and

g. $20,000 to Ha Thi Tran, Tran's sister. *See*, **Ex. 1**, at pp.10-11 (TRAN0081-82).

9. Section 3.2(B) of the Legacy Trust provides that, after the payment of specific bequests, the remainder and residual of the assets are to be paid to Nhu Tran Foundation, Inc. (the "Tran Foundation").

THE DISPUTE BETWEEN LAM AND PETITIONER FOLLOWING TRAN'S DEATH

The Removal of Lam as Manager of TE LLC

10. At the time of Tran's death, Lam was the manager of TE LLC.

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11. On March 22, 2017, Petitioner, in his capacity as Trustee of the Legacy Trust, the sole member of TE LLC, terminated Lam as manager.[1] *See* Letter to Charles Lam, dated March 22, 2017, a true and correct copy being attached hereto as **Exhibit** 6.

12. On April 4, 2017, Lam responded to Petitioner's letter wherein he refused to acknowledge his removal. *See*, Letter to Sterling Kerr, dated April 4, 2017, a true and correct copy being attached hereto as **Exhibit** 7.

Lam's Business Court Complaint against Petitioner

13. On September 1, 2017, Lam, purportedly on behalf of TE LLC, filed a civil lawsuit against Petitioner, individually and as Trustee of the Legacy Trust, which seeks damages, declaratory relief and equitable relief. *See* Business Court Complaint, filed on September 1, 2017, a true and correct copy being attached hereto as **Exhibit** 8. Specifically, Lam seeks the following: (a) damages caused by Petitioner allegedly breaching a fiduciary duty and/or acting negligent by selling real properties owned by TE LLC for less than fair market value; (b) a declaration "setting forth the rights of the parties and their authority to act on behalf of the NT Legacy Trust, the Revocable Trust, and Tran Enterprises"; and (c) an order removing Petitioner as Trustee of the Legacy Trust, enjoining Petitioner from selling real property owned by TE LLC and/or the Legacy Trust, and appointing a receiver over the Legacy Trust and TE LLC. *Id.*

14. In addition the filing of the Business Court Complaint, Lam also filed a motion to remove the Petitioner as trustee of the Legacy Trust (the "Motion to Remove"), and a motion for a temporary restraining order and a preliminary injunction (the "Motion for TRO"), which sought to enjoin Petitioner from selling real property owned by the Legacy Trust TE LLC. *See* Motion to Remove & Motion for TRO, true and correct copies being attached hereto as **Exhibit 9** and **Exhibit 10**, respectively.

Lam's Motion to Remove Petitioner as Trustee of the Legacy Trust

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[1] Section 3.2 of the TC LLC Operating Agreement expressly provides that a manager may be removed "with or without cause" by a vote of the majority in interest of members. *See* **Ex. 3**, at p. 4.

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15. As for the Motion to Remove, which was properly referred by Department 13 to this Court, the sole basis for removal of the Petitioner is that Tran signed a document on or about September 4, 2013, which purports to remove Petitioner and Kaufman as Co-Trustees of the Legacy Trust. *See* Revocation of Power of Attorney and Assignment, attached hereto as **Exhibit 11**. The Legacy Trust, however, is an irrevocable trust and has no provisions whatsoever that give Tran, its settlor, any power to remove a trustee. *See generally* Article VII of the Legacy Trust, **Ex. 1**, at pp. 22-31.

16. Moreover, even if Tran held a power to remove the Petitioner as Trustee (which she did not), the Legacy Trust requires formality and strict compliance with the removal procedure, which in this case required delivery to the Petition by certified or registered mail, courier, or hand delivery.[2] The purported "revocation" was never delivered to the Petitioner prior to Tran's death, and, in fact, expressly states in contravention of the strict requirements of Section 7.2(c) that the trustee revocation "is effective immediately upon [Tran's] signature herein subscribed."[3]

17. Therefore, as a matter of law, Petitioner cannot be, and has not been, removed as Trustee of the Legacy Trust on the basis the Lam has advanced.

Lam's Motion for TRO/Preliminary Injunction

18. Concurrently with the filing of the Business Court Complaint and the Motion to Remove Trustee, Lam also filed a Motion for TRO and Preliminary Injunction. *See* Motion for TRO, a true and correct copy being attached hereto as **Exhibit 10**. The Motion for TRO sought to

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[2] 7.2(c) **Formality Required.**

...

Any document specified in this Section 7.2(c) **shall not be effective** unless se[n]t by certified mail or registered mail or by courier, postage and/or fees prepaid, return receipt request, by facsimile transmission (where receipt is capable of being determined), or by hand delivery (Emphasis added).

[3] Petitioner is also informed and believes that Tran may have lacked contractual capacity in September of 2013.

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enjoin the Petitioner from selling real property owned by TE LLC. In support of his motion, Lam erroneously asserted that he was the manager of TE LLC and that Petitioner had no authority to act as Trustee of the Legacy Trust. Lam relied on the Revocation of Power of Attorney and Assignment document which, as explained *supra*, is a legally inoperative instrument because (1) Tran had no authority under the Legacy Trust to remove Petitioner as Trustee; and (2) even if she did, the notice of removal was never delivered.

19. Presumably, the Business Court did not understand (or perhaps was not informed) that Lam's argument in support of a TRO was legally unsound because on September 6, 2017, it entered a temporary restraining order enjoining Petitioner from selling any further parcels of property because "[t]he Plaintiffs have provided evidence to show that there is a legitimate dispute as to the authority of Defendants Kerr and Kaufman to act in any capacity, based on the Revocation signed on September 4, 2013 by Nhu Tran, the settlor of the trusts." *See* TRO Order, at ¶ 4, a true and correct copy being attached hereto as **Exhibit 12**. Notably, however, the Business Court went on to state that "the Court is not expressing an opinion on the ultimate merits of the case" and that it did not find that there is a reasonable likelihood of success on the merits; only that Plaintiff <u>may</u> be able to demonstrate a reasonable likelihood of success on the merits. *Id.*

20. On September 21, 2017, the Business Court held a non-evidentiary hearing on Lam's Motion for Preliminary Injunction. *See* Business Court Minutes, a true and correct copy being attached hereto as **Exhibit 13**. During the hearing, the Business Court granted the preliminary injunction, increased the bond to $5,000, and referred the Motion to Remove, pursuant to EDCR 4.03, to this Court. *Id.* No written order has yet been entered by the Business Court.

Lam's Lis Pendens

21. Concurrently with the filing of the Business Court Complaint on September 1, 2017, Lam also filed and recorded a Notice of Pendency of Action (Lis Pendens). *See* Lis Pendens, a true and correct copy being attached hereto as **Exhibit 14**.

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22. According to the Lis Pendens, Lam claims that the Business Court action "affects title to certain parcels of real property owned by Trans [sic] Enterprises, LLC and the NT Revocable Living Trust, dated the 15th day of October, 2009…" *Id.*

23. On September 27, 2017, Lam filed an Amended Lis Pendens, which released one of the parcels and corrected an APN of one of the affected parcels. *See* Amended Lis Pendens, a true and correct copy being attached hereto as **Exhibit 15.**

24. As set forth in greater detail herein, both the Lis Pendens and the Amended Lis Pendens were improvidently filed as to the parcels owned by TE LLC because there is no dispute as to the title of those parcels. Rather, Lam's alleged dispute is whether Petitioner has authority to sell the parcels. Accordingly, the lis pendens' should be expunged as to the approximate sixteen (16) parcels owned by TE LLC.

Lam's Purported 10% Interest in TE LLC.

25. On December 2, 2009, Tran executed and delivered to the Petitioner an Assignment of Interest instrument which purportedly and conditionally assigns a 10% membership interest in TE LLC to Lam. *See* Assignment of Interest, a true and correct copy being attached hereto as **Exhibit 16.** Pursuant to its terms, the Assignment of Interest is effective "only upon presentation to CHARLIE LAM from my attorney, P. STERLING KERR, ESQ." *Id.*

26. However, the Assignment of Interest is an inoperative instrument because Tran no longer had any membership interests in TE LLC to assign to Lam as she previously assigned <u>all</u> of her right, title and interest in TE LLC to the Legacy Trust two months prior in October of 2009. *See* **Ex. 2.** Moreover, Tran never instructed Petitioner to deliver the Assignment of Interest to Lam, presumably because she was informed by Lam in or around March of 2010 that he had no interest in receiving and accepting the 10% membership interest. *See* Tran Handwritten Letter, dated March 24, 2010, a true and correct copy being attached hereto as **Exhibit 17.**

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III. ARGUMENT

A. <u>This Court Should Assume *In Rem* Jurisdiction over the Legacy Trust and Confirm Petitioner as its Trustee.</u>

NRS 164.010 provides in relevant part:

Petition for assumption of jurisdiction; powers of court; petition for removal of trust from jurisdiction of court; determination of where trust is domiciled

> 1. Upon petition of any person appointed as trustee of an express trust by any written instrument other than a will, or upon petition of a settlor or beneficiary of the trust, the district court of the county in which any trustee resides or conducts business at the time of the filing of the petition or in which the trust has been domiciled as of the time of the filing of the petition shall assume jurisdiction of the trust as a proceeding in rem unless another court has properly assumed continuing jurisdiction in rem in accordance with the laws of that jurisdiction and the district court determines that it is not appropriate for the district court to assume jurisdiction under the circumstances.
>
> 5. When the court assumes jurisdiction pursuant to this section, the court:
>
> (a) Has jurisdiction of the trust as a proceeding in rem as of the date of the filing of the petition.

NRS 164.015 further provides in relevant part:

> 1. The court has exclusive jurisdiction of proceedings initiated by the petition of an interested person concerning the internal affairs of a nontestamentary trust ... Proceedings which may be maintained under this section are those concerning the administration and distribution of trusts, the declaration of rights and the determination of other matters involving trustees and beneficiaries of trust, including petitions with respect to a nontestamentary trust for any appropriate relief ...

Under its terms, the Legacy Trust is an irrevocable trust settled in Nevada. *See* **Ex. 1**, p. 31, Article VIII. Its initial trustees were the Petitioner and Kaufman. *See* Acceptance by Co-Trustees, **Ex. 1**, at p. 41. However, on June 3, 2016, Kaufman resigned as trustee thereby resulting in the Petitioner being the sole Trustee of the Legacy Trust from June 3, 2016, through the present. *See* **Ex. 4**.

Accordingly, this Court should assume *in rem* jurisdiction over the Legacy Trust and confirm Petitioner as its Trustee. Petitioner anticipates that Lam will object to the Court's confirmation of Petitioner as Trustee because of a document that he produced in the Business

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Court litigation which purports to remove Petitioner as Trustee of the Legacy Trust. *See* **Ex. 2.** However, this document is invalid as a matter of law for two reasons. First, the Legacy Trust did not vest Tran with any authority to remove trustees. The Legacy Trust is an irrevocable trust. As such, in the absence of an express revocation power, Tran as settlor had no authority to remove a trustee. Second, even if Tran had such a power, the Legacy Trust expressly provides that a notice of removal **shall** be delivered to the trustee to be effective. The purported removal document was never delivered to Petitioner during Tran's lifetime and, therefore, is inoperative.

Assuming that this Court exercises *in rem* jurisdiction over the Legacy Trust, it should also declare that it has *exclusive* jurisdiction over all matters concerning the Legacy Trust, including, but not limited to, administration, internal affairs, and matters concerning disputes over the Legacy Trust's property. NRS 164.010(1). Under well-settled and controlling law, "when one court is exercising *in rem* jurisdiction over a *res*, a second court will not assume *in rem* jurisdiction over the same *res*."[4] This is commonly known as the "prior-exclusive-jurisdiction doctrine".[5] The prior-exclusive-jurisdiction doctrine is one that is not only recognized and followed by the Supreme Court of Nevada, but is also recognized and followed by the United States Supreme Court.[6] In *Princess Lida of Thurn and Taxis v. Thompson*, 305 U.S. 456 (1939), a trust proceeding, the United States Supreme Court aptly stated:

> We have said that the principle applicable to both federal and state courts is that the court first assuming jurisdiction over property may maintain and exercise that jurisdiction to the exclusion of the other, it's not restricted to cases where property has actually been seized under judicial process before a second suit is instituted, **but applies as well where suits are brought to marshal assets, administer trusts, or liquidate estates, and in suits of a similar nature where, to give**

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[4] *Chapman v. Deutsche Bank Nat'l Tr. Co.*, 129 Nev. Adv. Op. 34, 302 P.3d 1103, 1105 (2013) (quoting *Marshall v. Marshall*, 547 U.S. 293, 311, 126 S.Ct. 1735, 164 L.Ed.2d 480 (2006)).

[5] *Id.*

[6] *See e.g. Penn Gen. Cas. Co. v. Commonwealth of Pennsylvania ex rel. Schnader*, 55 S. Ct. 386, 390 (1935) ("**[T]wo courts having concurrent jurisdiction in rem, one first taking possession acquires exclusive jurisdiction.**");

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effect to its jurisdiction, the court must control the property. <u>The doctrine is necessary to the harmonious cooperation of federal and state tribunals.</u>[7]

An exercise of *in rem* jurisdiction over the Legacy Trust confers upon this Court the *exclusive* jurisdiction to hear and decide all matters relating to the Legacy Trust. In this case, Petitioner seeks not only his confirmation as Trustee, but also orders and declarations concerning the Legacy's Trust's property, including, but not limited to, TE LLC and its assets. Nevada law expressly authorizes this Court to make declarations with respect to matters relating to the Legacy Trust. Indeed, NRS 164.010(2)(d) states that at the time of the hearing on the Petition, the Court may consider making orders on "matters relating to the trust, including, without limitation, matters that might be addressed in a declaratory judgment relating to the trust under subsection 2 of NRS 30.040 or petitions filed pursuant to NRS 153.031 or 164.015."[8]

B. <u>THIS COURT SHOULD DECLARE THAT THE LEGACY TRUST IS THE SOLE MEMBER OF TRAN ENTERPRISES, LLC AND THAT CHARLES LAM IS NEITHER A MEMBER NOR A MANAGER OF TRAN ENTERPRISES, LLC.</u>

NRS 164.015(1) and 164.033(1) provide this Court authority to declare that the Legacy Trust is the sole member of TE LLC, and that, as the sole member, the Legacy Trust can remove and replace TE LLC's manager. Indeed, NRS 164.033 states in relevant part:

> 1. The trustee or an interested person may petition the court to enter an order:
>
> (a) If the trustee is in possession of, or holds title to, property and the property or an interest in it is claimed by another.

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[7] 305 U.S. at 466 (Emphasis added). *See also In re Thomas and Agnes Carvel Foundation*, 36 F.Supp.2d 144 (S.D.N.Y. 1999) (declining to exercise jurisdiction, pursuant to *Princess Lida*, over an intervivos trust because the New York state surrogate's court had already exercised jurisdiction over the trust).

[8] NRS 164.010(2)(d). NRS 30.040(2) provides: "A maker or legal representative of a maker of a will, trust or other writings constituting a testamentary instrument may have determined any question of construction or validity arising under the instrument and obtain a declaration of rights, status or legal relations thereunder. Any action for declaratory relief may only be made in a proceeding commenced pursuant to the provisions of title 12 or 13 of NRS, as appropriate. *See also* NRS 30.070.

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(b) If the trustee has a claim to property and another holds title to or is in possession of the property.

Prior to the settling of the Legacy Trust, Tran, in her individual capacity, was the sole member of TE LLC. However, on October 15, 2009, Tran assigned all of her right, title and interest in her TE LLC membership interest to the Legacy Trust. *See* **Ex. 2**. Accordingly, this Court can and should declare that the Legacy Trust is the sole member of TE LLC and, therefore, Lam has no membership interest therein. With regard to Lam's claim that he holds a 10% membership interest in TE LLC, the purported Assignment of Interest that Tran signed on December 2, 2009 is legally inoperative because Tran had already divested herself of her membership interests in TE LLC two months prior. Moreover, even if she had a membership interest to give, the Assignment of Interest instrument was never delivered to Lam by the Petitioner, primarily because Lam refused to accept delivery of the gift, as evidenced by Tran's 2010 letter to the Petitioner. *See* **Ex. 17**.

Similarly, this Court should also declare that the Petitioner's removal of Lam as TE LLC's manager was proper given that (1) Petitioner is the Trustee of the Legacy Trust, the sole owner of TE LLC's membership interest; and (2) pursuant to TE LLC's Operating Agreement, a manager can be removed and replaced upon a majority vote of the membership, which in this case only required the vote of the Petitioner. *See*, **Ex. 3**, at p. 4.

C. THIS COURT SHOULD EXPUNGE ALL LIS PENDENS RECORDED AGAINST THE REAL PROPERTY OWNED BY TE LLC.

NRS 14.010 permits a plaintiff to file a lis pendens only "[i]n an action for the foreclosure of a mortgage upon real property, or affecting title or possession of real property." "As a general proposition, lis pendens are not appropriate instruments for use in promoting recoveries in actions for personal or money judgments; rather, their office is to prevent the transfer or loss of real property which is the subject of dispute in the action that provides the basis for the lis pendens." *Levinson v. Eighth Judicial Dist. Ct.*, 109 Nev. 747, 750 (Nev. 1993).

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Accordingly, NRS 14.015(1) and (2) provide that a defendant may request a hearing upon 15 days' notice, whereupon Lam must:

> ... establish to the satisfaction of the court that:
>
> (a) The action is for the foreclosure of a mortgage upon the real property described in the notice or affects the title or possession of the real property described in the notice;
>
> (b) The action was not brought in bad faith or for an improper motive;
>
> (c) The party who recorded the notice will be able to perform any conditions precedent to the relief sought in the action insofar as it affects the title or possession of the real property; and
>
> (d) The party who recorded the notice would be injured by any transfer of an interest in the property before the action is concluded.

NRS 15.015(3) provides that: "[i]n addition to the matters enumerated in subsection 2, the party who recorded the notice must establish to the satisfaction of the court either:

> (a) That the party who recorded the notice is likely to prevail in the action; or
>
> (b) That the party who recorded the notice has a fair chance of success on the merits in the action and the injury described in paragraph (d) of subsection 2 would be sufficiently serious that the hardship on him or her in the event of a transfer would be greater than the hardship on the defendant resulting from the notice of pendency, - and that if the party who recorded the notice prevails he or she will be entitled to relief affecting the title or possession of the real property.

If Lam fails to meet the foregoing burden, the lis pendens' must be expunged. NRS 14.015(5).

According to his Amended Notice of Lis Pendens, Lam improvidently recorded lis pendens' against the following parcels of real property owned by TE LLC:

APN Number	Property Description
161-28-301-006	Hacienda Avenue and Morris Street
126-10-501-015	Iron Mountain and Patricia Avenue
176-13-501-030	Mohawk Street and Shelbourne Avenue
161-28-401-013	Nellis Blvd and Rawhide Avenue
177-17-701-012	Ford Avenue and Ensworth Street

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APN Number	Property Description
177-17-701-011	Ford Avenue and Ensworth Street
140-08-601-013	Nellis Blvd and Gowan Road
139-16-310-017	Cartier Avenue and Martin L. King Blvd
126-03-801-002	Dolan Martin and O'Hare Avenue
126-01-501-004	Trails End Avenue and McKinister Road
176-13-501-036	Mohawk Street and Mistral Avenue
179-27-605-005	Roan Road and Derby Drive
179-27-605-004	Derby Drive
179-27-605-003	Pinto Road and Colt Drive
177-17-701-013	Ford Avenue and Ensworth Street
161-28-401-009	US-95 and Denning Street

For the reasons set forth *supra*, the lis pendens' recorded against all of the parcels owned by TE LLC are required to be expunged because there is no dispute that TE LLC owns the parcels. Moreover, the record establishes that there is no genuine dispute concerning the Legacy Trust's ownership of TE LLC and its ability to remove Lam as the manager. Lam's case is really about control; not ownership. The question of who has the right to control the Legacy Trust and TE LLC is not a statutory basis for the recordation of a lis pendens. Title and possession are not in dispute. Lis pendens', therefore, are not necessary and only cloud title to the detriment of the Legacy Trust. Accordingly, the lis pendens' should be expunged.

D. Petitioner Requests Instructions With Regard to Paying Specific Bequests and Distributing the Remainder to the Residual Beneficiary.

NRS 153.031 provides in relevant part:

> 1. A trustee or beneficiary may petition the court regarding any aspect of the affairs of the trust, including:
>
> ...
>
> (g) Instructing the trustee;

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The Legacy Trust provides that upon Tran's death, the trustee is required liquidate trust assets to pay $2,120,000.00 in specific bequests. *See* **Ex. 1**, at pp. 10-11. Following payment of the specific bequests, the trustee is then directed to pay the residual and remaining trust estate to the Nhu Tran Foundation, Inc. ("Tran Foundation") *Id.*

The Legacy Trust currently has enough liquidity to satisfy all of the specific bequests, including the $2 million specific bequest to Lam. Accordingly, Petitioner respectfully requests an instruction from this Court to pay the specific bequests without further delay. Upon satisfaction of the specific bequests, Petitioner further requests instructions from this Court to sell the remaining assets of the Legacy Trust, including those parcels of real property owned by TE LLC, to pay the residual and remainder to the Tran Foundation. Not only does this Court have the equitable power to do so, but the express terms of the Legacy Trust also grant the Petitioner the power to sell assets without Court approval. *See* **Ex. 1**, at Articles 6.3, 6.23.[9]

WHEREFORE, Petitioner respectfully requests that this Court issue the following relief:

---

[9] "In addition to the powers vested in them by law and other provisions of this Instrument, the Trustees shall have the following powers, exercisable in their sole and absolute discretion, without court approval, and effective until actual distribution of all property…

6.3 **Sale or Lease of Property.** For prices and upon such terms as they deem property. (i)to sell at public or private sale, or to exchange, any real or personal property; (ii) to give options for any such sales, exchanges, or leases; and (iii) to lease Trust property for terms within or beyond the term of the Trust and for any purpose, including exploration for an removal of gas, oil, and other minerals; and to enter into community oil leases, pooling and utilization agreements.

6.23 **Broad Powers Of Distribution.** 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 Trustees, and to sell such property as the Trustees, in the Trustees' discretion, considers necessary to make such division or distribution. In making any division or partial or final distribution of the Trust estate, the Trustees shall be under no obligation to make a pro rata division or to distribute the same assets to beneficiaries similarly situated. Rather, the Trustees may, in the Trustees' 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 Trustees, in his or her discretion, and no adjustment need be made to compensate for any difference in basis.

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1. An order assuming *in rem* jurisdiction of the Legacy Trust;

2. An order confirming Petitioner, P. Sterling Kerr, Esq., as the Trustee of the Legacy Trust;

3. A declaration that the Legacy Trust is the sole member of Tran Enterprises, LLC;

4. A declaration that Charles Lam has no membership interest in Tran Enterprises, LLC;

5. A declaration that Petitioner had authority to remove Charles Lam as Manager of TE LLC in or about March of 2017;

6. An order expunging all lis pendens' recorded against the real property owned by the Legacy Trust though its membership interest in TE LLC;

7. An order instructing the Petitioner to pay all specific bequests, to liquidate all remaining Trust assets, and to pay the residue of the Legacy Trust estate to the Tran Foundation, the remainder beneficiary; and

8. An order for any and all other relief just and warranted under the circumstances.

Dated this 26 day of October, 2017.

SOLOMON DWIGGINS & FREER, LTD.

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Alexander G. Leveque (#11183)
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VERIFICATION

Petitioner, P. STERLING KERR, whose mailing address is 2450 St. Rose Parkway, Suite 120, Henderson, Nevada 89074, declares under penalties of perjury of the State of Nevada:

That he is the Petitioner who makes the foregoing **PETITION TO ASSUME *IN REM* JURISDICTION OVER THE NT LEGACY TRUST, DATED OCTOBER 15, 2009 -AND- PETITION TO CONFIRM TRUSTEE AND FOR INSTRUCTIONS -AND- PETITION FOR A DECLARTION THAT THE NT LEGACY TRUST IS THE SOLE MEMBER OF TRAN ENTERPRISES, LLC -AND- PETITION TO EXPUNGE LIS PENDENS**, that he has read said petition and knows the contents thereof, and that the same is true of his own knowledge except for those matters stated on information and belief, and that as to such matters he believes them to be true.

DATED this 26th day of October, 2017

P. STERLING KERR, ESQ.

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EXHIBIT "3"

EXHIBIT "3"

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CLERK OF THE COURT

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Attorneys for P. Sterling Kerr, Trustee of the NT Revocable Trust, dated October 15, 2009

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DISTRICT COURT

CLARK COUNTY, NEVADA

In the Matter of the NT REVOCABLE LIVING TRUST, dated October 15, 2009	Case No.: P-17-093258-T Dept. No.: XXVI/Probate Date of Hearing: November 3, 2017 Time of Hearing: 9:30 a.m.

PETITION TO ASSUME *IN REM* JURISDICTION OVER THE NT REVOCABLE TRUST, DATED OCTOBER 15, 2009, TO CONFIRM ITS TRUSTEE, FOR AN INVENTORY, AND FOR INSTRUCTIONS

Petitioner, P. Sterling Kerr, Esq. ("Petitioner"), hereby petitions this Honorable Court, pursuant to NRS 153.031(a), (b), (g), (h), and (q), 153.041, 164.010 164.015, and 165.030, to assume *in rem* jurisdiction over the NT Revocable Trust, dated October 15, 2009 (the "Revocable Trust"), to confirm Charles Lam as Trustee of the Revocable Trust, for an inventory, and for instructions (the "Petition"). This Petition is made and based on the Memorandum of Points and Authorities set forth herein, all of the papers and pleadings already on file with the Court, and any oral argument that the Court may entertain at the time of hearing.

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Petitioner is the Trustee of the NT Legacy Trust, dated October 15, 2009 (the "Legacy Trust"). The Legacy Trust is the remainder beneficiary of the Revocable Trust. Both the Legacy Trust and the Revocable Trust were settled by Nhu Thi Tran ("Tran"). Tran died on January 25,

2017. The Revocable Trust provides that upon the death of Tran, its Trustee, Charles Lam ("Lam"), is required to distribute the residual estate to the Trustee(s) of the Legacy Trust.

This Petition seeks to assume *in rem* jurisdiction of the Revocable Trust for the purpose of confirming Lam as its Trustee and instructing Lam to distribute the residual estate to Petitioner, who is the Trustee of the Legacy Trust, the remainder beneficiary.

II. STATEMENT OF FACTS

1. Pursuant to NRS 153.031(2), Petitioners provide that the following individuals, on information and belief, are interested persons under the Trust:

NAME	RELATIONSHIP	ADDRESS
Charles Lam	Trustee of the Revocable Trust	c/o J. Michael Oakes, Esq. FOLEY & OAKES, PC 626 South Eighth Street Las Vegas, Nevada 89101
Mary Kaufman	Former Trustee of the Legacy Trust	8403 Rochelle Avenue Las Vegas, Nevada 89147

2. On October 15, 2009, Tran settled the Revocable Trust, a Nevada revocable living trust, and the Legacy Trust, a Nevada irrevocable asset protection trust. *See* Revocable Trust and Legacy Trust, true and correct copies being attached hereto as **Exhibit 1** and **Exhibit 2**, respectively.

3. Tran appointed the Petitioner and Mary V. Kaufman ("Kaufman") as the initial Co-Trustees of the Legacy Trust. *See* **Ex. 2**, at p. 43. On or about June 3, 2016, however, Kaufman resigned as Co-Trustee of the Legacy Trust, thereby resulting in Petitioner being the sole Trustee of the Legacy Trust, as of June 3, 2016. *See* Kaufman Resignation, a true and correct copy being attached hereto as **Exhibit 3**.

4. Tran appointed Lam as successor trustee of the Revocable Trust. *See* **Ex. 1**, at p. 6.

5. On January 25, 2017, Tran passed away. *See* Death Certificate, a true and correct copy being attached hereto as **Exhibit 4**.

6. Upon information and belief, the Revocable Trust presently owns several parcels of real property, including, but not limited to:

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APN Number	Property Description
040-13-401-001	Moapa Velley
161-18-510-033	Sandhill and Sunset Village
034-00-002-020	Bunkerville
139-16-310-055	Hyde Avenue and West Street
042-09-000-003	Moapa Valley
139-23-211-020	Fifth Street and McCovern Avenue
161-18-510-052	Sandhill and Sunset Village

7. Pursuant to Article 5.2 of the Revocable Trust, Lam, as Successor Trustee, is required to distribute the remainder of the Revocable Trust estate to the Trustee(s) of the Legacy Trust, after the discretionary payment of administrative expenses, the expenses of the last illness and funeral of Tran, and any other debt owed by Tran. *See* **Ex. 1** at p. 4.

8. On March 22, 2017, Petitioner sent Lam a letter which requested *inter alia* an inventory of the real property owned by the Revocable Trust:

> *In your role a manager of Tran Enterprises, LLC during Mrs. Tran's lifetime* ***and successor trustee of the NT Revocable Trust****, I am formally requesting that you provide me the following documents for my review:*
>
> ...
>
> *3) Copies of any purchase agreements, covering any of the Tran Enterprises, LLC or NT Revocable Trust properties currently under contract and in escrow.*
>
> *4) All listing agreements with any real estate company or broker covering land held by Tran Enterprises, LLC or the NT Revocable Trust*
>
> *5) All files maintained on each such piece of real property held by Tran Enterprises, LLC and the NT Revocable Trust*
>
> *There will likely be other documents which I will need you to provide as I proceed with the trust administration and I expect your full cooperation. Please provide the requested documents to my office or via email to sterling@sterlingkerr.com no later than April 4, 2017.*

See, Kerr Letter, a true and correct copy being attached hereto as **Exhibit 5**.

9. On April 4, 2017, Lam responded to Petitioner letter in writing wherein none of the requested information concerning the Revocable Trust was provided. *See*, Lam Letter, a true and correct copy being attached hereto as **Exhibit 6**.

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III. ARGUMENT

A. THIS COURT SHOULD ASSUME *IN REM* JURISDICTION OVER THE REVOCABLE TRUST AND CONFIRM LAM AS ITS TRUSTEE.

NRS 164.010 provides in relevant part:

Petition for assumption of jurisdiction; powers of court; petition for removal of trust from jurisdiction of court; determination of where trust is domiciled

> 1. Upon petition of any person appointed as trustee of an express trust by any written instrument other than a will, or upon petition of a settlor or beneficiary of the trust, the district court of the county in which any trustee resides or conducts business at the time of the filing of the petition or in which the trust has been domiciled as of the time of the filing of the petition shall assume jurisdiction of the trust as a proceeding in rem unless another court has properly assumed continuing jurisdiction in rem in accordance with the laws of that jurisdiction and the district court determines that it is not appropriate for the district court to assume jurisdiction under the circumstances.
>
> 5. When the court assumes jurisdiction pursuant to this section, the court:
>
> (a) Has jurisdiction of the trust as a proceeding in rem as of the date of the filing of the petition.

NRS 164.015 further provides in relevant part:

> 1. The court has exclusive jurisdiction of proceedings initiated by the petition of an interested person concerning the internal affairs of a nontestamentary trust … Proceedings which may be maintained under this section are those concerning the administration and distribution of trusts, the declaration of rights and the determination of other matters involving trustees and beneficiaries of trust, including petitions with respect to a nontestamentary trust for any appropriate relief …

Under its terms, the Revocable Trust is a trust settled in Nevada, its Trustor was a Clark County, Nevada resident, and Lam, its successor Trustee, is a Clark County, Nevada resident. Accordingly, this Court should assume *in rem* jurisdiction over the Revocable Trust and confirm Lam as its Trustee. An exercise of *in rem* jurisdiction over the Revocable Trust confers upon this Court the *exclusive* jurisdiction to hear and decide all matters relating to the internal affairs of the Revocable Trust.

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B. <u>THIS COURT SHOULD INSTRUCT LAM TO DISTRIBUTE THE REMAINDER OF THE REVOCABLE TRUST ESTATE TO PETITIONER AFTER LAM'S DISCRETIONARY PAYMENT OF EXPENSES.</u>

Article V of the Revocable Trust provides:

> 5.1 **<u>Payment of Expenses.</u>** Upon the death of the Trustor, the Trustee may, in sole discretion, pay from the income and/or principal of this Trust, the administrative expenses, the expenses of the last illness and funeral of the Trustor, and any other debt owed by Trustor. Following such payments, the principal and undistributed income of the Trust shall be administered as set forth herein.
>
> 5.2 **<u>Distribution of the Remaining Trust Estate.</u>** The remaining trust estate shall be distributed to the NT LEGACY TRUST dated the 15th day of October, 2009, Co-Trustees, P. STERLING KERR and MARY V. KAUFMAN.

NRS 153.031(g) and (q) provide this Court authority to instruct Lam to distribute the remainder of the Revocable Trust to Petitioner in his capacity as Trustee of the Legacy Trust. Upon information and belief, with the exception of possible estate taxes at which Petitioner is making provision for, there are no outstanding administrative expenses, last illness and funeral expenses, or any other debt owed by Trustor. However, the nature and extent of Tran's debts and the Revocable Trust's assets are unknown to the Petitioner because no inventory or accounting has been provided to him.[1]

C. <u>THIS COURT SHOULD REQUIRE LAM TO PROVIDE THE PETITIONER AN INVENTORY AND ACCOUNTING.</u>

On March 22, 2017, Petitioner sent Lam a written demand for information pertaining to the real property owned by the Revocable Trust. *See,* **Ex. 5**. Lam refused to do so. *See*, **Ex. 6.** NRS 165.030 states:

> **Inventory of trust property.** An interested person to whom a trustee is required to account pursuant to this chapter may provide a written request to the trustee at any time 60 days or more after the appointment of the trustee which seeks a list of assets of the trust estate known to the trustee. The trustee shall serve the information to the requesting interested party in the same manner required for notice, as set forth in NRS 155.010 within 15 days after receipt of the written request.

---

[1] Pursuant to NRS 165.141, Petitioner will serve on Lam a written demand for account. In the event that Lam refuses or does not provide an adequate accounting, Petitioner reserves his right to petition the Court for an order requiring Lam to provide a full and adequate accounting pursuant to NRS 165.190. Section 10.2 of the Trust also provides that Lam "shall" render an accounting upon request. *See*, **Ex. 1**, at p. 14.

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Petitioner, as Trustee of the Legacy Trust, is clearly an interested person as he is the remainder beneficiary of the Revocable Trust. Lam has been a trustee of the Revocable Trust since October 15, 2009. Under NRS 165.030, Lam was required to provide the Petitioner the information requested, including a list of all assets owned by the Revocable Trust, within 15 days after Lam's receipt of the Petitioner's March 22, 2017, letter. He failed to do so. Accordingly, the Court should instruct Lam to provide such information without any further delay.

Similarly, under

WHEREFORE, Petitioner respectfully requests that this Court issue the following relief:

1. An order assuming *in rem* jurisdiction of the Revocable Trust;
2. An order confirming Charles Lam as Trustee of the Revocable Trust;
3. Instructions concerning the distribution of the remaining trust estate to Petitioner, as Trustee of the Legacy Trust;
4. An order instructing Lam to provide Petitioner a list of all known assets owned by the Revocable Trust, as of January 25, 2017, and
5. An order for any and all other relief just and warranted under the circumstances.

Dated this 12 day of October, 2017.

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VERIFICATION

Petitioner, P. STERLING KERR, whose mailing address is 2450 St. Rose Parkway, Suite 120, Henderson, Nevada 89074, declares under penalties of perjury of the State of Nevada:

That he is the Petitioner who makes the foregoing **PETITION TO ASSUME *IN REM* JURISDICTION OVER THE NT REVOCABLE TRUST, DATED OCTOBER 15, 2009, TO CONFIRM ITS TRUSTEE, FOR AN INVENTOARY AND FOR INSTRUCTIONS,** that he has read said petition and knows the contents thereof, and that the same is true of his own knowledge except for those matters stated on information and belief, and that as to such matters he believes them to be true.

DATED this 12th day of October, 2017

P. STERLING KERR, ESQ.

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EXHIBIT 1

EXHIBIT 1

THE NT REVOCABLE LIVING TRUST

DATED THE 15th DAY OF OCTOBER, 2009

Prepared by:
LAW OFFICES OF P. STERLING KERR
1055 Whitney Ranch Drive, #110
Henderson, Nevada 89014
Telephone: (702) 451-2055

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TRUST AGREEMENT

OF THE

NT REVOCABLE LIVING TRUST

THIS DECLARATION OF TRUST AGREEMENT is made on the 15th day of October, 2009, by NHU THI TRAN (hereinafter referred to as the "Trustor" or "Grantor" when reference is made to her in her capacity as creator of this Trust and the transferor of the principal properties thereof), and NHU THI TRAN of Clark County, Nevada (hereinafter referred to as the "Trustee," when reference is made to her in her capacity as a Trustee or fiduciary hereunder);

Witnesseth:

WHEREAS, the Trustor desires by this Trust Agreement to establish the "NT REVOCABLE LIVING TRUST" for the use and purposes hereinafter set forth, to make provisions for the care and management of certain of her present properties and for the ultimate distribution of the Trust properties;

NOW, THEREFORE, the Trustor hereby gives, grants, and transfers to the Trustee, IN TRUST, which Trustee hereby declares that she has received from the Grantor, the property listed on Schedule "A", (which schedule is attached hereto and made a part of this Trust Agreement), TO HAVE AND TO HOLD THE SAME IN TRUST, and to manage, invest and reinvest the same and any additions that may be made from time to time hereto, subject to the provisions of Trust as hereinafter provided.

All property subject to this Trust Indenture 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 Trustor 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 life of the Trustor, shall retain its character as her separate property, as designated on the attached Schedule "A" or document of transfer or conveyance. Property subsequently received by the Trustee during the life of the Trustor may be listed on addenda to Schedule "A" and shall have the separate character designated thereon or on the document of transfer or conveyance.

ARTICLE I
NAME AND BENEFICIARIES OF THE TRUST

1.1 Name. The Trust created in this instrument may be referred to as the "NT REVOCABLE LIVING 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 NHU THI TRAN and for the other beneficiaries named herein. The Trustor has three (3) now living children from a prior marriage; namely, CHARLIE LAM, VINCE LAM, and TONY LAM.

ARTICLE II
DISTRIBUTION OF INCOME AND PRINCIPAL WHILE THE TRUSTOR SHALL LIVE

2.1 Distributions While The Trustor Lives. During the lifetime of NHU THI TRAN, she shall be entitled to all income and principal of the Trust property without limitation.

2.2 Use of Residence. While the Trustor shall live, she may possess and use, without rental or accounting to Trustee, any residence owned by this Trust.

. . .

. . .

ARTICLE III
INCAPACITY

3.1 Incapacity of Trustor. If at any time, as certified in writing by two licensed physicians, the Trustor has become physically or mentally incapacitated, whether or not a court of competent jurisdiction has declared her incompetent, mentally ill, or in need of a guardian or conservator, the Successor Trustee shall pay to the Trustor or apply for her benefit, the amounts of net income and principal necessary, in the Successor Trustee's discretion, for the proper health, support and maintenance of the Trustor in accordance with her accustomed manner of living, until the incapacitated Trustor, either in the Successor Trustee's discretion or as certified by two licensed physicians, is again able to manage her own affairs or until her death.

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

ARTICLE IV
DISTRIBUTION OF HOUSEHOLD AND PERSONAL EFFECTS AFTER DEATH OF TRUSTOR

4.1 Distribution of Personal Property. After the death of the Trustor, the Trustee shall distribute all tangible personal property of the deceased Trustor, including but not limited to, furniture, furnishings, rugs, pictures, books, silverplate, linen, china, glassware, objects of art, wearing apparel, jewelry, ornaments, and automobiles 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) The Trustee shall distribute any remaining household and personal effects, which are not distributed by a written statement or list, equally to the surviving children of the Trustor, as they shall select. Any household and personal effects which the children of the Trustor do not select shall be added to the Trust created in Article V below. Any property to which the children of the Trustor, while under the age of Eighteen (18), become entitled may be delivered without bond to any suitable Guardian with whom the children of the Trustor reside to be kept for them until they attain the age of Eighteen (18) years.

ARTICLE V

DISTRIBUTION OF INCOME AND PRINCIPAL AFTER DEATH OF THE TRUSTOR

5.1 Payment of Expenses. Upon the death of the Trustor, the Trustee may, in his sole discretion, pay from the income and/or principal of this Trust, the administrative expenses, the expenses of the last illness and funeral of the Trustor, and any other debt owed by Trustor. Following such payments, the principal and undistributed income of the Trust shall be administered as set forth herein.

5.2 Distribution of the Remaining Trust Estate. The remaining trust estate shall be distributed to the NT LEGACY TRUST dated the 1st day of October, 2009, Co-Trustees, P. STERLING KERR and MARY V. KAUFMAN.

5.3 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 Trustee is authorized, at any time in the exercise of absolute discretion,

LAW OFFICES OF P. STERLING KERR
Attorneys at Law

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.

5.4 Last Resort Clause. In the event that the principal of the Trust administered under this Article V 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 NHU THI TRAN, 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 VI

TRUSTEE'S DISCRETION ON DISTRIBUTION TO PRIMARY BENEFICIARIES

6.1 Delay of Distribution. Notwithstanding the distribution provisions of Article V, the following powers and directions are given to the Trustee:

(a) If, upon any of the dates described in Article V, 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 that 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, or the conviction of the beneficiary of a felony, involving drugs or narcotics, unless a five year period has followed said conviction.

(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 States 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 of 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.

ARTICLE VII

PROVISIONS RELATING TO TRUSTEESHIP

7.1 Successor Trustee. In the event of the death or incapacity of the original Trustee, ~~P. STERLING KERR~~ and CHARLIE LAM shall serve as Successor Co-Trustee of all of the Trusts hereunder. In the event either one of them should become deceased, unable or unwilling to serve as a Successor Co-Trustee, then the survivor of them shall serve as the sole Successor Trustee of all of the Trusts hereunder. 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.

7.2 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.

7.3 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 Trustor, during her lifetime 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.

7.4 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.

7.5 Resignation Of Trustee. Any Trustee at any time serving hereunder may resign as Trustee by delivering to Trustor, during her lifetime 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.

7.6 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.

7.7 Majority. Subject to any limitations stated elsewhere in this Trust Indenture, 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.

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

7.9 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. However, any corporate Trustee shall be entitled to compensation for its services in accordance with its published fee schedule.

ARTICLE VIII
PROVISIONS RELATING TO TRUSTOR'S POWERS

8.1 Power To Amend. During the lifetime of the Trustor, this Trust Indenture may be amended in whole or in part by an instrument in writing, signed by the Trustor, and delivered to the Trustee. Upon the death of the Trustor, this Trust Indenture shall not be amended.

8.2 Power To Revoke. During the lifetime of Trustor, the Trustor may revoke this Trust Indenture by an instrument in writing, signed by the Trustor. Upon revocation, the Trustee shall deliver the revoked portion of the Trust property to the Trustor. Upon the death of the Trustor, this Trust Indenture shall not be revoked.

8.3 Power To Change Trustee. During the lifetime of the Trustor, she may change the Trustee or Successor Trustee of this Trust by an instrument in writing.

8.4 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.

8.5 Special Gifts. The Trustor may from time to time indicate her desire that special gifts be made from the Trust estate upon her death. If the Trustor has made known her desire in a writing referring to or attached to this Trust, the Trustee shall distribute the special gifts, free of Trust, upon the death of the Trustor. The gift shall be effective only if the writing is dated and signed by the Trustor.

If the 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 the Trustor had previously commenced, to make use of the federal gift tax annual exclusion. Such gifts may be made outright or in Trust.

ARTICLE IX
PROVISIONS RELATING TO TRUSTEE'S POWERS

9.1 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 Trustee's 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) To register any securities or other property held hereunder in the name of the Trustee 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 Trustee shall show that all such investments are part of her respective funds.

(b) To hold, manage, invest and account for the separate trusts in one or more consolidated funds, in whole or in part, as she may determine. As to each consolidated fund, the division into the various shares comprising such fund need be made only upon Trustee's books of account.

(c) 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.

(d) To borrow money, mortgage, hypothecate, pledge or lease trust assets for whatever period of time Trustee shall determine, even beyond the expected term of the respective Trust.

(e) 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.

(f) 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.

(g) 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.

(h) To institute, compromise, and defend any actions and proceedings.

(i) 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.

(j) 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 Trustee may deem necessary to make division or partial or final distribution of any of the

Trusts.

(k) To determine what is principal or income of the Trusts and apportion and allocate receipts and expenses as between these accounts.

(l) 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.

(m) 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.

(n) To accept additions of property to the Trusts, whether made by the Trustors, a member of the Trustor's family, by any beneficiaries hereunder, or by any one interested in such beneficiaries.

(o) 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 be a suitable investment for funds of a trust.

(p) To open and maintain safety deposit boxes in the name of this Trust.

(q) 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 Trustor requests but does not direct, that the Trustee 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.

(r) 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.

(s) The enumeration of certain powers of the Trustee shall not limit her general powers, subject always to the discharge of her fiduciary obligations, and being vested with and having all the rights, powers, and privileges which an absolute owner of the same property would have.

(t) The Trustee 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, to 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.

(u) In regard to the operation of any closely held business of the Trust, the Trustee 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.

(v) To borrow money at interest rates then prevailing from any individual, bank or other source, irrespective or whether any such individual or bank is then acting as Trustee, and to create security interests in the Trust property by mortgage, pledge, or otherwise, to make a guaranty of, including a third party guaranty.

9.2 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.

9.3 Broad Powers Of Distribution. After the death of the Trustor, 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 a 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.

9.4 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.

9.5 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 the Trustor needs long-term health 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 Trustor's family residence; (2) pay off, partly or in full, the encumbrance, if any, on the Trustor's family residence; (3) purchase a family residence, if the Trustor does not own one; (4) purchase a more expensive family residence; (5) make gifts of assets for estate planning purposes to the beneficiaries and in the proportions set forth in Article V.

ARTICLE X

PROTECTION OF AND ACCOUNTING BY TRUSTEE

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

10.2 Accounting. Upon the written request delivered or mailed to the Trustee by an income beneficiary hereunder, the Trustee 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 XI
GENERAL PROVISIONS

11.1 Controlling Law. This Trust Indenture 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 Trustee 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 Trustee, 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 Trustee exercises the discretion, as above provided, this Trust Indenture shall be administered from that time forth by the laws of the other state or jurisdiction.

11.2 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.

11.3 Perpetuities Savings Clause. Unless terminated earlier in accordance with other provisions of this Trust, any Trust hereby created or created by the exercise of any power hereunder shall terminate Twenty-one (21) years after the death of the last survivor of the following: (1) the Trustor; (2) all the issue of Trustor who are living at the death of the Trustor; and (3) all named beneficiaries who are living at the death of the Trustor, or upon the expiration of the maximum period authorized by the laws of the State of Nevada or the state by which the Trust is then being governed. Upon such termination, the Trust estate, and any accumulations thereon, shall be distributed to those persons and in the same proportions as the income of the Trust is then being paid.

11.4 <u>No-Contest Provision</u>. The Trustor specifically desires that this Trust Indenture 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 the Trustor or the successors-in-interest of any such persons, including the Trustor's estate 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 attack, 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 of any interest in the assets of the Trusts or interest in income or principal.

11.5 <u>Provision For Others</u>. The Trustor has, except as otherwise expressly provided in this Trust Indenture, intentionally and with full knowledge declined to provide for any and all of her heirs or other persons who may claim an interest in her respective estates or in these Trusts.

11.6 <u>Severability</u>. In the event any clause, provision or provisions of this Trust Indenture 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.

11.7 **<u>Physical Division of Property Not Necessary</u>**. Physical segregation or division of the various trusts created hereunder is not required, except as may be necessary by the termination of any such trust. The Trustee is required to keep separate accounts for the various undivided trusts.

11.8 **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.

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

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

11.11 **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.

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

(a) **"Principal" and "Income".** Except as otherwise specifically provided in this Trust Indenture, 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, or its equivalent, 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 the 6th day of October, 2009.

NHU THI TRAN

ACCEPTANCE BY TRUSTEE

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 Co-Trustees. We accept the Declaration of Trust in all particulars and acknowledge receipt of the trust property described in Schedule "A" attached hereto, identified by our signatures.

NHU THI TRAN

~~P. STERLING KERR~~

CHARLIE LAM

STATE OF NEVADA)
) ss.
COUNTY OF CLARK)

On the 15th day of October, 2009, before me, the undersigned, a Notary Public in and for such County and State, personally appeared NHU THI TRAN, known to me to be the Trustor and Co-Trustee whose name is subscribed to the within instrument and who acknowledged to me that she executed the same.

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

Celeste A. Swan

NOTARY PUBLIC

NOTARY PUBLIC
STATE OF NEVADA
County of Clark
CELESTE A. SWAN
Appt. No. 03-84937-1
My Appt. Expires Jan. 28, 2013

EXHIBIT 2

EXHIBIT 2

STATE OF NEVADA)
)ss:
COUNTY OF CLARK)

CERTIFICATE OF REVOCABLE LIVING TRUST

NHU THI TRAN, being first duly sworn, deposes and says:

Contemporaneously with the execution of this Certificate, the undersigned, NHU THI TRAN, a resident of Clark County, Nevada, has executed that certain document entitled, the "NT REVOCABLE LIVING TRUST" dated the 15th day of October, 2009, which provides in pertinent parts as follows:

1. **GRANTOR:** The Grantor under the terms of said Trust is NHU THI TRAN.

2. **TRUSTEE:** The Trustee under said Trust is NHU THI TRAN.

3. **SUCCESSOR TRUSTEE:** In the event that the original Trustee shall for any reason cease to act as Trustee~~, P. STERLING KERR~~ and CHARLIE LAM shall serve as Successor Co-Trustee of all the Trusts hereunder. If either of them should become deceased, unable or unwilling to serve as a Successor Co-Trustee, the survivor of them shall serve as the sole Successor Trustee of all the Trusts hereunder.

4. **POWER TO AMEND OR REVOKE:** During the life of the Grantor, the Trust may be revoked in whole or in part by an instrument in writing signed by the Grantor and delivered to the Co-Trustees. The Grantor may at any time during her life amend any of the terms of the Trust by an instrument in writing signed by the Grantor and delivered to the Co-Trustees.

5. **CERTIFICATION:** The Trust has not been revoked or amended and all representations in this Certificate are correct.

6. **IDENTIFICATION NUMBER:** The Identification Number of the Trust shall be the social security number of the Trustor.

7. **FORM AND TITLE:** When transferring title to the Trust or naming the Trust as a beneficiary, new title should be held or the designation should be made as follows: **"NHU THI TRAN, Trustee of the NT REVOCABLE LIVING TRUST, dated the 15th day of Octobert, 2009,"** or **"NHU THI TRAN, Trustee u/a/d the 15th of October, 2009,."** The term u/a/d stands for "under agreement dated."

LAW OFFICES OF P. STERLING KERR
Attorneys at Law

8. POWERS OF TRUSTEE(S):

(a) 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.

(b) 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.

(c) 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.

(d) 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.

(e) 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.

(f) 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.

(g) 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.

(h) To institute, compromise, and defend any actions and proceedings.

(i) 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.

(j) 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.

(k) To determine what is principal or income of the Trusts and apportion and allocate receipts and expenses as between these accounts.

(l) 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.

(m) 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.

(n) 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.

(o) 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 be a suitable investment for funds of a trust.

(p) To open and maintain safety deposit boxes in the name of this Trust.

(q) 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.

(r) 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.

(s) 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.

(t) 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, to 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.

(u) 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.

(v) To borrow money at interest rates then prevailing from any individual, bank or other source, irrespective or whether any such individual or bank is then acting as Trustee, and to create security interests in the Trust property by mortgage, pledge, or otherwise, to make a guaranty of, including a third party guaranty.

FURTHER YOUR AFFIANT SAYETH NAUGHT.

NHU THI TRAN, Trustee

SUBSCRIBED and SWORN to before me
this 15th day of October, 2009.

NOTARY PUBLIC

NOTARY PUBLIC
STATE OF NEVADA
County of Clark
CELESTE A. GUINN
Appt. No. 93-4127-1
My Appt. Expires Jan. 25, 2013

EXHIBIT 3

EXHIBIT 3

RESIGNATION OF TRUSTEE

The undersigned, as a current Co-Trustee of the "NT LEGACY TRUST" dated October 15, 2009, hereby resigns as Co-Trustee with limited powers, as set forth in paragraphs 4 and 5 of Schedule VI to the NT LEGACY TRUST, effective upon signature herein.

DATED this 3 day of May, 2016.

Mary V Kauffman
Mary V. Kauffman

STATE OF NEVADA }
}ss.
COUNTY OF CLARK }

On this 03 day of ~~May,~~ June 16 in the year 2016, before me, Mary V. Kauffman, personally appeared Mary V. Kauffman personally known to me or proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to this instrument, and acknowledged that she executed it. I declare under penalty of perjury that the person whose name is ascribed to this instrument appears to be of sound mind and under no duress, fraud, or undue influence.

K. PRESSLER
Notary Public State of Nevada
County of Clark
APPT. NO. 04-87155-1
My App. Expires Feb. 1, 2020

KPressler
NOTARY PUBLIC

TRAN0062

EXHIBIT 4

EXHIBIT 4

STATE OF NEVADA
CERTIFICATION OF VITAL RECORD

DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF PUBLIC AND BEHAVIORAL HEALTH
VITAL STATISTICS

CASE FILE NO. 3037986

CERTIFICATE OF DEATH

2017001464
STATE FILE NUMBER

TYPE OR PRINT IN PERMANENT BLACK INK

DECEDENT

- 1a. DECEASED-NAME (FIRST,MIDDLE,LAST,SUFFIX): Nhu Thi TRAN
- 2. DATE OF DEATH (Mo/Day/Year): January 25, 2017
- 3a. COUNTY OF DEATH: Clark
- 3b. CITY, TOWN, OR LOCATION OF DEATH: Las Vegas
- 3c. HOSPITAL OR OTHER INSTITUTION-Name(If not either, give street and number): 3635 Hammock Street
- 3e. If Hosp. or Inst. Indicate DOA,OP/Emer. Rm. Inpatient(Specify): Home
- 4. SEX: Female
- 5. RACE (Specify): Vietnamese
- 6. Hispanic Origin? Specify: No - Non-Hispanic
- 7a. AGE-Last birthday (Years): 83
- 7b. UNDER 1 YEAR MOS DAYS
- 7c. UNDER 1 DAY HOURS MINS
- 8. DATE OF BIRTH (Mo/Day/Yr): October 10, 1933
- 9a. STATE OF BIRTH (If not USA, name country): Vietnam
- 9b. CITIZEN OF WHAT COUNTRY: United States
- 10. EDUCATION: 5
- 11. MARITAL STATUS (Specify): Divorced
- 12. SURVIVING SPOUSE'S NAME (Last name prior to first marriage):
- 13. SOCIAL SECURITY NUMBER: [redacted]
- 14a. USUAL OCCUPATION (Give Kind of Work Done During Most of Working Life): Owner
- 14b. KIND OF BUSINESS OR INDUSTRY: Retail
- Ever in US Armed Forces? No

IF DEATH OCCURRED IN INSTITUTION SEE HANDBOOK REGARDING COMPLETION OF RESIDENCE ITEMS

- 15a. RESIDENCE - STATE: Nevada
- 15b. COUNTY: Clark
- 15c. CITY, TOWN OR LOCATION: Las Vegas
- 15d. STREET AND NUMBER: 3635 Hammock Street
- 15e. INSIDE CITY LIMITS (Specify Yes or No): Yes

PARENTS

- 16. FATHER/PARENT - NAME (First Middle Last Suffix): Thai TRAN
- 17. MOTHER/PARENT - NAME (First Middle Last Suffix): Mien VU
- 18a. INFORMANT- NAME (Type or Print): Charlie LAM
- 18b. MAILING ADDRESS (Street or R.F.D. No. City or Town, State, Zip): 3635 Hammock Street Las Vegas, Nevada 89147

DISPOSITION

- 19a. BURIAL, CREMATION, REMOVAL, OTHER (Specify): Cremation
- 19b. CEMETERY OR CREMATORY - NAME: Desert Crematory
- 19c. LOCATION City or Town State: Las Vegas Nevada 89101
- 20a. FUNERAL DIRECTOR - SIGNATURE (Or Person Acting as Such): CHRIS WALTERS SIGNATURE AUTHENTICATED
- 20b. FUNERAL DIRECTOR LICENSE NUMBER: 64
- 20c. NAME AND ADDRESS OF FACILITY: Desert Memorial Cremation and Burial 1111 Las Vegas Blvd N Las Vegas NV 89101

TRADE CALL

- TRADE CALL - NAME AND ADDRESS:

CERTIFIER

To Be Completed by CERTIFYING PHYSICIAN

- 21a. To the best of my knowledge, death occurred at the time, date and place and due to the cause(s) stated.(Signature & Title)
- 21b. DATE SIGNED (Mo/Day/Yr)
- 21c. HOUR OF DEATH
- 21d. NAME OF ATTENDING PHYSICIAN IF OTHER THAN CERTIFIER (Type or Print)

To Be Completed by CORONERS OFFICE

- 22a. On the basis of examination and/or investigation, in my opinion death occurred at the time, date and place and due to the cause(s) stated. (Signature & Title): TIMOTHY DUTRA MD SIGNATURE AUTHENTICATED
- 22b. DATE SIGNED (Mo/Day/Yr): January 27, 2017
- 22c. HOUR OF DEATH: 21:50
- 22d. PRONOUNCED DEAD (Mo/Day/Yr): January 25, 2017
- 22e. PRONOUNCED DEAD AT (Hour): 21:50
- 23a. NAME AND ADDRESS OF CERTIFIER (PHYSICIAN, ATTENDING PHYSICIAN, MEDICAL EXAMINER, OR CORONER) (Type or Print): Timothy Dutra MD 1704 Pinto Lane Las Vegas, NV 89106
- 23b. LICENSE NUMBER: 13502

REGISTRAR

- 24a. REGISTRAR (Signature): NANCY BARRY SIGNATURE AUTHENTICATED
- 24b. DATE RECEIVED BY REGISTRAR (Mo/Day/Yr): January 27, 2017
- 24c. DEATH DUE TO COMMUNICABLE DISEASE: YES ☐ NO ☒

CAUSE OF DEATH

CONDITIONS IF ANY WHICH GAVE RISE TO IMMEDIATE CAUSE STATING THE UNDERLYING CAUSE LAST

25. IMMEDIATE CAUSE (ENTER ONLY ONE CAUSE PER LINE FOR (a), (b), AND (c).)

PART I

- (a) Atherosclerotic And Hypertensive Cardiovascular Disease — Interval between onset and death:
- DUE TO, OR AS A CONSEQUENCE OF: (b) — Interval between onset and death:
- DUE TO, OR AS A CONSEQUENCE OF: (c) — Interval between onset and death:
- DUE TO, OR AS A CONSEQUENCE OF: (d) — Interval between onset and death:

PART II OTHER SIGNIFICANT CONDITIONS-Conditions contributing to death but not resulting in the underlying cause given in Part 1.

- 26. AUTOPSY (Specify Yes or No): No
- 27. WAS CASE REFERRED TO CORONER (Specify Yes or No): Yes
- 28a. ACC., SUICIDE, HOM., UNDET. OR PENDING INVEST. (Specify)
- 28b. DATE OF INJURY (Mo/Day/Yr)
- 28c. HOUR OF INJURY
- 28d. DESCRIBE HOW INJURY OCCURRED
- 28e. INJURY AT WORK (Specify Yes or No)
- 28f. PLACE OF INJURY- At home, farm, street, factory, office building, etc. (Specify)
- 28g. LOCATION STREET OR R.F.D. No. CITY OR TOWN STATE

LOCAL REGISTRAR

"CERTIFIED TO BE A TRUE AND CORRECT COPY OF THE DOCUMENT ON FILE WITH THE REGISTRAR OF VITAL STATISTICS, STATE OF NEVADA." This copy was issued by the Southern Nevada Health District from State certified documents authorized by state Board of Health pursuant to NRS 440.175.

VRS-Rev-20120523

413858

DATE ISSUED: MAY 31 2017

Registrar of Vital Statistics
By:

This copy not valid unless prepared on watermarked security paper displaying date, seal and signature of Registrar.
SOUTHERN NEVADA HEALTH DISTRICT • P.O. Box 3902 • Las Vegas, NV 89127 • 702-759-1010 • Tax ID # 88-0151573

ANY ALTERATION OR ERASURE VOIDS THIS CERTIFICATE

THE GREAT SEAL OF THE STATE OF NEVADA

SOUTHERN NEVADA HEALTH DISTRICT SNHD

TRAN0128

245

EXHIBIT 5

EXHIBIT 5

Law Offices of P. Sterling Kerr

March 22, 2017

Charles Lam
Acting Manager
Tran Properties, LLC
P.O. Box 27738
Las Vegas, NV 89126

Re: Trust Estate of Nhu Thi Tran

Mr. Lam:

I was sorry to hear of the passing of Mrs. Tran last month. As you know she and I had a long history as attorney and client on many matters. As a result of her death, my role as successor trustee of her Trust has come to the forefront. Accordingly, I have a duty to follow the wishes of Mrs. Tran as expressed in her estate plan and proceed to administer her Trust Estate.

The estate plan of Mrs. Tran consists of the following:

1) NT Legacy Trust (Irrevocable Trust under NRS Chapter 166). This Trust holds 100% of the membership interest in a Nevada limited liability company (Tran Enterprises, LLC). I am the successor trustee of this trust.
2) NT Revocable Trust (this Trust holds a limited amount of real property). Charles Lam is the Trustee of this Trust. By the terms of the NT Revocable Trust, all Trust assets pour into the NT Legacy Trust.
3) Tran Enterprises, LLC (a Nevada limited liability company). This entity owns a significant amount of real property. Charles Lam is the manager of the entity. As stated above, all of the membership interest is held in the name of NT Legacy Trust. A small minority percentage membership interest was potentially to be assigned to Charles Lam (at the discretion of the successor trustee to the NT Legacy Trust). I currently hold the executed original membership assignment.
4) In addition, a charitable non-profit entity was formed but is currently in revoked status. This non-profit was to accomplish the stated goal of Mrs. Tran in the NT Legacy Trust.

As you can see, the estate plan was complicated and will require my investigation to ascertain all of the assets and prepare a plan of distribution. Ultimately, the administration of the trust will require the sale of all the real property held in the trust. I have begun putting together a list of the real property and other assets.

In your role as manager of Tran Enterprises, LLC during Mrs. Tran's lifetime and successor trustee of the NT Revocable Trust, I am formally requesting that you provide to me the following documents for my review:

1) 2011 through 2016 tax returns for Tran Enterprises, LLC
2) 2016 through to the present bank statements for any Tran Enterprises, LLC bank account
3) Copies of any Purchase Agreements, covering any of the Tran Enterprises, LLC or NT Revocable Trust properties currently under contract and in escrow
4) All listing agreements with any real estate company or broker covering land held by Tran Enterprises, LLC or the NT Revocable Trust
5) All files maintained on each such piece of real property held by Tran Enterprises, LLC and the NT Revocable Trust

There will likely be other documents which I will need you to provide as I proceed with the trust administration and I expect your full cooperation. Please provide the requested documents to my office or via email to sterling@sterlingkerrlaw.com no later than April 4, 2017.

Finally, be advised that you are hereby terminated as manager of Tran Enterprises, LLC. Contemporaneously with this letter I am filing an amended List of Managers and Members with the Nevada Secretary of State formalizing your removal as manager. Be advised that as successor trustee of the NT Legacy Trust which holds 100% of the membership interest of Tran Enterprises, LLC I have the authority to effect your termination as manager. The termination means that you are not to act on behalf of Tran Enterprises, LLC in any capacity. You are not to sign any conveyances, enter into any agreements or incur any debt on behalf of Tran Enterprises, LLC.

I would like to discuss the transition of the management of Tran Enterprises, LLC and conference with you concerning your ongoing role, if any, in the administration of Mrs. Tran's Trust Estate.

Sincerely,

P. Sterling Kerr
Successor Trustee of the NT Legacy Trust

TRAN0125

EXHIBIT 6

EXHIBIT 6

Charles Lam
% Nhu Thi Tran
P.O. Box 27738
Las Vegas, NV 89126

April 4, 2017

Law Office of P. Sterling Kerr, P.C.
2450 St. Rose Parkway
Henderson, NV

Re: Your Letter dated March 22, 2017

Counsel Kerr:

In reply to your Letter; First of all, I still am much in grievance and mourning of my dearest Mother's passing within the one hundred days in memoriam according to our culture. Therefore, I shall not oblige to your requirements.

Secondly, I would suggest that you shall not remove my capacity and title in Tran Enterprises, LLC. with the Secretary of State since I have been the Front man and the Hands-on active Mother and Son partnership, helping her business venture and carrying-on her successful legacy as a business woman for the last thirty years in Nevada, let alone other ten years in other business in California. Everyone in the Las Vegas Investment Community, including you, the Fed, the State, the County and the City know who I am in such representation role and talk-man for my Mother since she did not read nor write English and brokenly speak the language.

In addition, I currently have to handle three public nuisance abatement matters which involved homeless folks camping out on Tran Enterprises' parcels and one Zoning matter in Clark County. I had done that for years as long as my Mother and I had been in business together. Can you do that and advance the costs in the ten of thousand of dollars with your own money and time?I doubtit!

Last, you have written your Letter in such a commanding and punctual tone which concerned and worried me that you had done my Mother's Estate plan all with your own idea which lend me a suspicion that you had planned it all along with your own hidden agenda. Your Letter had further inflicted greater emotional distress to me in addition to the existing ones and had rendered me sleepless nights in the last two.

Truly,

Charles Lam

TRAN0127

EXHIBIT “4”

EXHIBIT “4”

Electronically Filed
11/17/2017 2:43 PM
Steven D. Grierson
CLERK OF THE COURT

Mark A. Solomon (#418)
Alexander G. LeVeque (#11183)
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msolomon@sdfnvlaw.com
aleveque@sdfnvlaw.com

Attorneys for P. Sterling Kerr, Trustee of the NT Revocable Trust, dated October 15, 2009

SOLOMON DWIGGINS & FREER TRUST AND ESTATE ATTORNEYS
9060 WEST CHEYENNE AVENUE
LAS VEGAS, NEVADA 89129
TELEPHONE (702) 853-5483
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WWW.SDFNVLAW.COM

DISTRICT COURT

CLARK COUNTY, NEVADA

In the Matter of the NT REVOCABLE LIVING TRUST, dated October 15, 2009.	Case No.: P-17-093258-T Dept. No.: XXVI/Probate Date of Hearing: November 3, 2017 Time of Hearing: 9:30 a.m.

ORDER GRANTING PETITION TO ASSUME *IN REM* JURISDICTION OVER THE NT REVOCABLE TRUST, DATED OCTOBER 15, 2009, TO CONFIRM ITS TRUSTEE, FOR AN INVENTORY, AND FOR INSTRUCTIONS

This matter came on for hearing before this Court on November 3, 2017, regarding Petitioner P. Sterling Kerr's Petition to Assume *In Rem* Jurisdiction over the NT Revocable Trust, dated October 15, 2009, to Confirm its Trustee, for an Inventory, and for Instructions (the "Petition"). The Court

FINDS that, after reviewing the Petition, and having received no objection thereto, due and legal notice of the time and place of the hearing has been given in the manner required by law; the Court further

FINDS that NT Revocable Trust, dated October 15, 2009 (the "Revocable Trust") is a nontestamentary Trust domiciled in Nevada; the Court further

FINDS that Charles Lam is the Trustee of the Revocable Trust pursuant to Section 7.1 of the Revocable Trust; the Court further

FINDS that, pursuant to Section 5.2 of the Revocable Trust, the Trustees of the NT Legacy Trust, dated October 15, 2009 (the "Legacy Trust") are the remainder beneficiaries of the Revocable Trust; the Court further

FINDS that Petitioner P. Sterling Kerr is the Successor Trustee of the Legacy Trust; the Court further

FINDS that, as Successor Trustee of the Legacy Trust, Petitioner P. Sterling Kerr is an "interested person" with regard to the Revocable Trust pursuant to NRS 132.185; the Court further

FINDS that on March 22, 2017, Petitioner sent Charles Lam, Trustee of the Revocable Trust, a written demand for information pertaining to the real property owned by the Revocable Trust; the Court further

FINDS that, pursuant to NRS 165.030, Charles Lam was required to provide the Petitioner, as remainder beneficiary of the Revocable Trust, an inventory of the Revocable Trust's assets yet failed to do so; the Court further

FINDS that, pursuant to Section 5.2 of the Revocable Trust, Charles Lam is required to distribute the remainder of the Revocable Trust estate to Petitioner, as Trustee of the Legacy Trust; it is therefore

ORDERED, ADJUDGED, AND DECREED that P. Sterling Kerr's Petition is GRANTED; it is further

ORDERED, ADJUDGED, AND DECREED that the Court takes exclusive *in rem* jurisdiction of the NT Revocable Trust, dated October 15, 2009; it is further

ORDERED, ADJUDGED, AND DECREED that the Court confirms Charles Lam as the Trustee of the NT Revocable Trust, dated October 15, 2009; it is further

ORDERED, ADJUDGED, AND DECREED that Charles Lam shall, without delay, provide a full inventory for the NT Revocable Trust, dated October 15, 2009, to Petitioner, pursuant to NRS 164.030; it is further

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9060 WEST CHEYENNE AVENUE
LAS VEGAS, NEVADA 89129
TELEPHONE (702) 853-5483
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WWW.SDFNVLAW.COM

ORDERED, ADJUDGED, AND DECREED that, pursuant to Section 5.2 of the NT Revocable Trust, dated October 15, 2009, Charles Lam shall distribute, without delay, the remaining trust estate to P. Sterling Kerr, as Trustee of the NT Legacy Trust, dated October 15, 2009, immediately after the payment of expenses as set forth in Section 5.1.

DATED this 15th day of November, 2017.

DISTRICT COURT JUDGE SL

Respectfully Submitted by:

SOLOMON DWIGGINS & FREER, LTD.

Mark A. Solomon (#418)
Alexander G. LeVeque (#11183)
9060 West Cheyenne Avenue
Las Vegas, Nevada 89129
Telephone: 702.853.5483
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Attorneys for Petitioner, P. Sterling Kerr

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ORDR

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Nevada Bar No. 1999
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626 So. 8th Street
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(702) 384-2070 - office
(702) 384-2128 - facsimile
mike@foleyoakes.com
Attorneys for Plaintiffs

DISTRICT COURT
***
CLARK COUNTY, NEVADA

CHARLES LAM, individually and derivatively on behalf of TRAN ENTERPRISES, LLC, a Nevada limited liability company, and as Trustee of the NT REVOCABLE LIVING TRUST, dated the 15th day of October, 2009 *Plaintiffs*, vs. P. STERLING KERR, individually and as Trustee of the NT LEGACY TRUST, dated the 15th day of October, 2009, Nhu Tran Foundation, Inc., a Nevada non-profit corporation; and DOES I through V individuals; and ROE VI through X Corporations and Partnerships, *Defendants*.	Case No. A-17-760853-B Dept. No. XIII **ORDER GRANTING MOTION TO CONSOLIDATE CASES and DENYING COUNTERMOTION TO DISMISS PLAINTIFF'S FIRST AMENDED COMPLAINT, OR ALTERNATIVELY TO REFER THIS ACTION TO THE PROBATE COMMISSIONER** **Date: December 14, 2017** **Time: 9:00 a.m.**

In the matter of the NT LEGACY TRUST, dated October 15, 2009	CONSOLIDATED WITH Case No. P-17-093391-T

In the matter of the NT REVOCABLE LIVING TRUST, dated October 15, 2009	CONSOLIDATED WITH Case No. P-17-093258-T

ORDER GRANTING MOTION TO CONSOLIDATE CASES
AND
ORDER DENYING COUNTERMOTION TO DISMISS PLAINTIFF'S FIRST AMENDED COMPLAINT, OR ALTERNATIVELY TO REFER THIS ACTION TO THE PROBATE COMMISSIONER

This matter having come before the Court on December 14, 2017, for hearing in Department XIII at 9:00 o'clock a.m. on the Plaintiff's Motion To Consolidate Cases, And To Stay Proceedings In Second And Third Cases and on Defendant's Countermotion To Dismiss Plaintiff's First Amended Complaint, Or Alternatively To Refer This Action To The Probate Commissioner, with J. Michael Oakes, Esq., and Daniel T. Foley, Esq., appearing on behalf of the Plaintiffs, and Lance Earl, Esq., and Alexander G. LeVeque, Esq., appearing on behalf of Defendants and the Court having considered the arguments and all of the papers filed on behalf of the parties, and good cause appearing therefor,

IT IS HEREBY ORDERED that the Motion to Consolidate Case Numbers A-17-760853-B, P-17-093391-T, and P-17-093258-T is granted, and all three cases are hereby consolidated pursuant to NRCP 42, and the portion of the Motion seeking a stay is denied as moot;

IT IS FURTHER ORDERED that the Motion to Dismiss the Amended Complaint and, Alternatively, to Refer the Case to the Probate Commissioner, is denied. Defendants shall file an answer or responsive pleading to the Amended Complaint within 10 days of the notice of entry of this Order;

IT IS FURTHER ORDERED that a hearing will be held before this Court on December 21, 2017, to consider the motion to expunge lis pendens that was filed initially in case No. P-17-093391-T, as part of the Petition filed therein. The hearing that was scheduled for December 22, 2017 before the Probate Commissioner is hereby vacated. The hearing on the Plaintiff's Motion for Removal of Kerr shall remain on calendar before the Probate Commissioner on January 12, 2018.

DATED this 21st day of December, 2017.

DISTRICT COURT JUDGE

Respectfully submitted by:

FOLEY & OAKES, PC

J. Michael Oakes, Esq.
626 So. 8th Street
Las Vegas, Nevada 89101
Attorneys for Plaintiffs

Approved as to Form and Content:

SOLOMON DWIGGINS & FREER, LTD.

Alexander G. LeVeque, Esq.
9060 West Cheyenne Avenue
Las Vegas, Nevada 89129

and

HOLLAND & HART

Lance Earl, Esq.
9555 Hillwood Drive, 2nd floor
Las Vegas, NV 89134
Attorneys for Defendants

FOLEY & OAKES

Electronically Filed
1/3/2018 11:49 AM
Steven D. Grierson
CLERK OF THE COURT

NOE

J. MICHAEL OAKES, ESQ.
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(702) 384-2070 - office
(702) 384-2128 - facsimile
mike@foleyoakes.com
Attorneys for Plaintiffs

DISTRICT COURT

***

CLARK COUNTY, NEVADA

CHARLES LAM, individually and derivatively on behalf of TRAN ENTERPRISES, LLC, a Nevada limited liability company, and as Trustee of the NT REVOCABLE LIVING TRUST, dated the 15th day of October, 2009 *Plaintiffs*, vs. P. STERLING KERR, individually and as Trustee of the NT LEGACY TRUST, dated the 15th day of October, 2009, Nhu Tran Foundation, Inc., a Nevada non-profit corporation; and DOES I through V individuals; and ROE VI through X Corporations and Partnerships, *Defendants*.	Case No. A-17-760853-B Dept. No. XIII **NOTICE OF ENTRY OF ORDER GRANTING MOTION TO CONSOLIDATE CASES and DENYING COUNTERMOTION TO DISMISS PLAINTIFF'S FIRST AMENDED COMPLAINT, OR ALTERNATIVELY TO REFER THIS ACTION TO THE PROBATE COMMISSIONER** **Date: December 14, 2017** **Time: 9:00 a.m.**

In the matter of the NT LEGACY TRUST, dated October 15, 2009	CONSOLIDATED WITH Case No. P-17-093391-T

FOLEY & OAKES

In the matter of the NT REVOCABLE LIVING TRUST, dated October 15, 2009	CONSOLIDATED WITH Case No. P-17-093258-T

NOTICE OF ENTRY OF ORDER GRANTING MOTION TO CONSOLIDATE CASES AND ORDER DENYING COUNTERMOTION TO DISMISS PLAINTIFF'S FIRST AMENDED COMPLAINT, OR ALTERNATIVELY TO REFER THIS ACTION TO THE PROBATE COMMISSIONER

TO: All Parties and their counsel:

YOU, AND EACH OF YOU, WILL PLEASE TAKE NOTICE that an Order was entered with the above-entitled Court on December 26, 2017.

A copy of said Order is attached hereto.

DATED this 3rd day of January, 2018.

FOLEY & OAKES, PC

/s/ J. Michael Oakes
J. Michael Oakes, Esq.
Nevada Bar No. 1999
626 So. 8th Street
Las Vegas, NV 89101
(702) 384-2070
Attorneys for Plaintiffs

FOLEY
&
OAKES

CERTIFICATE OF SERVICE

Pursuant to NEFCR 9, NRCP 5(b) and EDCR 7.26, I hereby certify that I am an employee of Foley & Oakes, PC, and that on the 3rd day of January, 2018, I served the following document(s):

NOTICE OF ENTRY OF ORDER GRANTING MOTION TO CONSOLIDATE CASES AND ORDER DENYING COUNTERMOTION TO DISMISS PLAINTIFF'S FIRST AMENDED COMPLAINT, OR ALTERNATIVELY TO REFER THIS ACTION TO THE PROBATE COMMISSIONER

I served the above-named document(s) by the following means to the person s as listed below:

[ ] **By United States Mail**, postage fully prepaid to person(s) and addresses as follows:

[X] **By Electronic Transmission through the ECF System**:

Lars Evensen, Esq. Lance Earl, Esq. Holland & Hart 9555 Hillwood Drive, 2nd floor Las Vegas, NV 89134 Attorneys for Defendants	Mark A. Solomon, Esq. Alexander G. LeVeque, Esq. Craig D. Friedel, Esq. Solomon Dwiggins & Freer, Ltd. 9060 West Cheyenne Avenue Las Vegas, Nevada 89129 *Attorneys for P. Sterling Kerr, Trustee of the NT Legacy Trust, dated October 15, 2009*

I declare under the penalty of perjury that the foregoing is true and correct.

/s/ Elizabeth Lee Gould
An employee of FOLEY & OAKES, PC

FOLEY & OAKES

EXHIBIT “A”

EXHIBIT “A”

Electronically Filed
12/26/2017 9:11 AM
Steven D. Grierson
CLERK OF THE COURT

ORDR
J. MICHAEL OAKES, ESQ.
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(702) 384-2070 - office
(702) 384-2128 - facsimile
mike@foleyoakes.com
Attorneys for Plaintiffs

DISTRICT COURT
***
CLARK COUNTY, NEVADA

CHARLES LAM, individually and derivatively on behalf of TRAN ENTERPRISES, LLC, a Nevada limited liability company, and as Trustee of the NT REVOCABLE LIVING TRUST, dated the 15th day of October, 2009

Plaintiffs,

vs.

P. STERLING KERR, individually and as Trustee of the NT LEGACY TRUST, dated the 15th day of October, 2009, Nhu Tran Foundation, Inc., a Nevada non-profit corporation; and DOES I through V individuals; and ROE VI through X Corporations and Partnerships,

Defendants.

Case No. A-17-760853-B
Dept. No. XIII

ORDER GRANTING MOTION TO CONSOLIDATE CASES and DENYING COUNTERMOTION TO DISMISS PLAINTIFF'S FIRST AMENDED COMPLAINT, OR ALTERNATIVELY TO REFER THIS ACTION TO THE PROBATE COMMISSIONER

Date: December 14, 2017
Time: 9:00 a.m.

In the matter of the

NT LEGACY TRUST, dated October 15, 2009

CONSOLIDATED WITH

Case No. P-17-093391-T

FOLEY & OAKES

In the matter of the NT REVOCABLE LIVING TRUST, dated October 15, 2009	CONSOLIDATED WITH Case No. P-17-093258-T

ORDER GRANTING MOTION TO CONSOLIDATE CASES
AND
ORDER DENYING COUNTERMOTION TO DISMISS PLAINTIFF'S FIRST AMENDED COMPLAINT, OR ALTERNATIVELY TO REFER THIS ACTION TO THE PROBATE COMMISSIONER

This matter having come before the Court on December 14, 2017, for hearing in Department XIII at 9:00 o'clock a.m. on the Plaintiff's Motion To Consolidate Cases, And To Stay Proceedings In Second And Third Cases and on Defendant's Countermotion To Dismiss Plaintiff's First Amended Complaint, Or Alternatively To Refer This Action To The Probate Commissioner, with J. Michael Oakes, Esq., and Daniel T. Foley, Esq., appearing on behalf of the Plaintiffs, and Lance Earl, Esq., and Alexander G. LeVeque, Esq., appearing on behalf of Defendants and the Court having considered the arguments and all of the papers filed on behalf of the parties, and good cause appearing therefor,

IT IS HEREBY ORDERED that the Motion to Consolidate Case Numbers A-17-760853-B, P-17-093391-T, and P-17-093258-T is granted, and all three cases are hereby consolidated pursuant to NRCP 42, and the portion of the Motion seeking a stay is denied as moot;

IT IS FURTHER ORDERED that the Motion to Dismiss the Amended Complaint and, Alternatively, to Refer the Case to the Probate Commissioner, is denied. Defendants shall file an answer or responsive pleading to the Amended Complaint within 10 days of the notice of entry of this Order;

IT IS FURTHER ORDERED that a hearing will be held before this Court on December 21, 2017, to consider the motion to expunge lis pendens that was filed initially in case No. P-17-093391-T, as part of the Petition filed therein. The hearing that was scheduled for December 22, 2017 before the Probate Commissioner is hereby vacated. The hearing on the Plaintiff's Motion for Removal of Kerr shall remain on calendar before the Probate Commissioner on January 12, 2018.

DATED this 21st day of December, 2017.

DISTRICT COURT JUDGE

Respectfully submitted by:

FOLEY & OAKES, PC

J. Michael Oakes, Esq.
626 So. 8th Street
Las Vegas, Nevada 89101
Attorneys for Plaintiffs

Approved as to Form and Content:

SOLOMON DWIGGINS & FREER, LTD.

Alexander G. LeVeque, Esq.
9060 West Cheyenne Avenue
Las Vegas, Nevada 89129

and

HOLLAND & HART

Lance Earl, Esq.
9555 Hillwood Drive, 2nd floor
Las Vegas, NV 89134
Attorneys for Defendants

FOLEY & OAKES

DISTRICT COURT
CLARK COUNTY, NEVADA

Probate - Trust/Conservatorships	COURT MINUTES	**November 03, 2017**

P-17-093258-T	In the Matter of the Trust of: NT Revocable Living Trust

November 03, 2017	**9:30 AM**	**Petition - HM**	**Petition to Assume in Rem Jurisdiction Over the NT Recvocable Trust, Dated October 15, 2009, to Confirm its Trustee, for an Inventory, and for Instructions**

HEARD BY: Yamashita, Wesley **COURTROOM:** RJC Courtroom 15C

COURT CLERK: Sharon Chun

RECORDER:

REPORTER:

PARTIES PRESENT: LeVeque, Alex G. Attorney

JOURNAL ENTRIES

- Petition to Assume in Rem Jurisdiction Over the NT Recvocable Trust, Dated October 15, 2009, to Confirm its Trustee, for an Inventory, and for Instructions

There being no Opposition filed, COMMISSIONER RECOMMENDED, PETITION GRANTED.

Certification of Copy and Transmittal of Record

State of Nevada
County of Clark } **SS:**

Pursuant to the Supreme Court order dated January 19, 2022, I, Steven D. Grierson, the Clerk of the Court of the Eighth Judicial District Court, Clark County, State of Nevada, do hereby certify that the foregoing is a true, full and correct copy of the complete trial court record for the case referenced below. The record comprises one volume with pages numbered 1 through 203.

In the Matter of the Trust of: NT REVOCABLE LIVING TRUST, Dated October 15. 2009,	Case No: P-17-093258-T *Consolidated with A-17-760853-B* Dept. No: XXVI

now on file and of record in this office.

IN WITNESS THEREOF, I have hereunto Set my hand and Affixed the seal of the Court at my office, Las Vegas, Nevada This 4 day of February 2022.

Steven D. Grierson, Clerk of the Court

OF THE EIGHTH JUDICIAL DISTRICT

Heather Ungermann, Deputy Clerk