

Case No. 2950

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JAN 25 1979 2:21  
R.L. Kano  
Win Bredy

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6 IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF  
7 THE STATE OF NEVADA, IN AND FOR THE COUNTY OF ELKO  
8 IN THE MATTER OF THE ESTATE OF  
9 BALSAMINA TOMERA,  
10 Deceased.

11  
12 DECREE SETTLING FIRST AND FINAL  
ACCOUNT AND PETITION FOR DISTRIBUTION  
AND AGREEMENT ON FEE  
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14 BATTISTA TOMERA, JR., Executor of the Estate of the  
15 above-named Decedent having on the 26th day of January, 1979,  
16 rendered and filed herein his First and Final Account and Petition  
17 for Distribution and hearing on said Account and Petition having  
18 been set forth the 15th day of February, 1979, at the hour of  
19 2:15 p.m. of said day, and proof having been made to the satis-  
20 faction of the Court that due and legal notice of the settlement  
21 of said account and the hearing of said Petition for Distribution  
22 having been given as required by law, the court hereby finds:

23 1. That the Executor filed no detailed statement of  
24 money received or money disbursed, for the reason that the other  
25 heirs, devisees and legatees, other than the Petitioner, have  
26 waived their right to an account by written waivers on file  
27 herein, and therefore, the rendition and settlement of a detailed  
28 account as such Executor is not necessary or required, other  
than to show the payment of all debts and any expenses of admin-  
istration, and by the filing of the Petition, the Petitioner in

1 his individual capacity, waived any accounting or the filing of  
2 any detailed statement of money received and disbursed.

3 2. That due and legal Notice to Creditors of said  
4 Estate has been given in the manner and for the time required  
5 by law.

6 3. That there was one creditor's claim filed against  
7 the Estate by Burns Funeral Home, Inc., in the sum of \$1,775.00,  
8 which claim has been paid in full by your Executor.

9 4. That all taxes of every name and nature required  
10 to be paid by Decedent's Estate have been paid. That the Estate  
11 Tax Return has been filed and paid to the Internal Revenue Service

12 That proration of the Federal Estate Taxes among  
13 persons interested in the Estate pursuant to NRS 150.310 and  
14 150.350 is as follows:

15 Battista Tomera, Jr.	\$45,737.39
16 George Tomera	\$45,737.39

17 5. That EVANS and BILYEU entered into a Fee Agreement  
18 with the Executor of the Estate allowing fees for services  
19 rendered to said Estate in the sum of \$20,000.00, which is a  
20 reasonable attorney fee; that said attorneys be reimbursed the  
21 sum of \$87.20 for costs advanced on behalf of said Estate.

22 6. That the Executor has waived his right to the  
23 allowance for any payment of statutory fees and commissions for  
24 services as Executor.

25 7. That fees be allowed to the appraisers of said  
26 Estate, HUGH McMULLEN, ROY YOUNG and ROY SHURTZ in the sum of  
27 \$150.00, \$100.00 and \$100.00 respectively.

28 8. That there will be closing costs not to exceed the  
the sum of \$50.00.

9. That the devisees and legatees named in Decedent's  
Will are as follows:

	<u>Name and Residence</u>	<u>Relationship</u>	<u>Age</u>
1			
2	JOHN TOMERA	Son	Adult
3	Pine Valley, via Carlin, Nevada 89822		
4	EDWARD V. TOMERA	Son	Adult
5	Waysack South Fork Elko, Nevada 89801		
6	BATTISTA TOMERA, JR.	Son	Adult
7	Box 486 Carlin, Nevada 89822		
8	LUCY GIUDICI	Daughter	Adult
9	Box 42 Elko, Nevada 89801		
10	GEORGE TOMERA	Son	Adult
11	Box 486 Carlin, Nevada 89822		
12	JULIAN TOMERA	Son	Adult
13	Waysack Lee Elko, Nevada 89801		

10. That the property in the possession of your Executor for distribution unto the parties entitled thereto is as more fully hereinafter set forth.

11. That in accordance with the terms of the Last Will and Testament of the Decedent, the estate is to be distributed as follows:

18	JOHN TOMERA	\$ 5,000.00
19	EDWARD V. TOMERA	\$ 5,000.00
20	LUCY GIUDICI	\$ 5,000.00
21	JULIAN TOMERA	\$ 5,000.00

BATTISTA TOMERA, JR., and GEORGE TOMERA, the rest, residue and remainder of the Estate in equal shares.

12. That the Estate is in condition to be closed.

WHEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

A. That due and legal notice of hearing of said First and Final Account and Petition for Distribution and Agreement on Fee was given as required by law. That the First and Final Account be, and the same hereby is, finally settled, allowed and

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1 approved.

2 B. That due and legal Notice to Creditors of said  
3 Estate was given in the manner and for the time required by law.

4 C. That the Fee Agreement entered into by EVANS and  
5 BILYEU with the Executor of the Estate allowing fees for services  
6 rendered to said Estate in the sum of \$20,000.00 be, and it hereby  
7 is allowed and approved; that said firm of EVANS and BILYEU be, an  
8 they hereby are, reimbursed the sum of \$87.20 costs advanced on  
9 behalf of said Estate.

10 D. That there be, and there hereby is, allowed and  
11 paid the sum of \$350.00 to the appraisers of said Estate.

12 E. That the Executor having waived his right to the  
13 allowance of any payment of statutory fees and commissions, none  
14 be allowed.

15 F. That the sum of \$50.00 be, and hereby is, set aside  
16 for closing costs.

17 G. That proration of the Federal Estate Tax among  
18 persons interested in the Estate, be, and hereby is, made pursuant  
19 to NRS 150.310 and 150.350, as set forth in Paragraph 4 hereof.

20 H. That in accordance with the terms of the Last Will  
21 and Testament of the Decedent herein after the payment of costs  
22 and fees, the Estate is to be distributed as follows:

21	JOHN TOMERA	\$ 5,000.00
22	EDWARD V. TOMERA	\$ 5,000.00
23	LUCY GIUDICI	\$ 5,000.00
24	JULIAN TOMERA	\$ 5,000.00

25 BATTISTA TOMERA, JR., and GEORGE TOMERA, all of the  
26 rest, residue and remainder of the estate, share and share alike,  
27 as follows:

28 One-third interest in partnership com-  
prising Battista Tomera, Jr., George  
Tomera and Balsamina Tomera, comprised  
of real estate, machinery and equipment,

1 hay, horses, improvements, range rights  
2 and water rights

3 One-third interest in partnership com-  
4 prising Battista Tomera, Jr., George  
5 Tomera and Balsamina Tomera, comprised  
6 of livestock and brands

7 One-third interest in Partnership Savings Accounts:

8 Nevada National Bank #130989  
9 Security National Bank #3159720  
10 First National Bank of Nevada #3729  
11 Nevada National Bank #023100543

12 One-third interest in Partnership Checking Account:

13 First National Bank of Nevada

14 One-third interest in Partnership Time Certificates:

15 Security National Bank #17310  
16 First National Bank #ID11932  
17 First National Bank #ID11961

18 One-third interest in Partnership  
19 Note from Richard W. and Marion Sampson

20 One-third interest in Partnership Contract  
21 of Purchase and Sale with Roy Shurtz

22 One-third interest in Partnership  
23 United States Savings Bond Series E #M3392366 E  
24 United States Savings Bond Series E #M3392365 E  
25 United States Savings Bond Series E 3M3392367 E

26 An undivided one-third interest in and to all that  
27 certain real property situate, lying and being in the County of  
28 Elko, State of Nevada, more particularly described as follows:

TOWNSHIP 30 NORTH, RANGE 52 EAST, M.D.B.&M.

Section 1: All  
Section 11: All  
Section 13: All  
Section 23: N1/2; SE1/4  
Section 25: All  
Section 27: SE1/4

TOWNSHIP 31 NORTH, RANGE 52 EAST, M.D.B.&M.

Section 2: All  
Section 3: E1/2NE1/4  
Section 5: N1/2NE1/4  
Section 11: All

Those portions of Sections 1 and 12, T31N, R52E,  
lying westerly of a fence line more particularly  
described as follows:

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Beginning at the NE Corner of Section 1, T31N, R52E;  
Thence South 9°30'W 925.00';  
Thence South 34°30'W 3565.00';  
Thence South 16°00'W 5105.00';  
Thence South 395.00' to a point 1300' East of the  
Southwest Corner to Section 12, T31N, R52E.

Section 13: All that portion of SE1/4 and SW1/4NE1/4  
lying South of a fence line more particu-  
larly described as follows:

Commencing at the SE Corner of Section 13: thence  
North along the East line of said Section 1520' to  
Corner No. 1, the Point of Beginning. Thence North  
57° 30' West, 330' along a fence to Corner No. 2;  
Thence North 67° 00' West 2500' along a fence to  
Corner No. 3, a point on the West boundary of the  
E1/2 of Section 13.

TOWNSHIP 32 NORTH, RANGE 52 EAST, M.D.B.&M.

- Section 1: W1/2
- Section 2: All
- Section 4: Lot 1  
Less approximately 10.028 acres  
Southern Pacific Railroad right-of-way.  
SE1/4NE1/4; SE1/4  
Less Hwy. Right-of-way (Nev. 017015)  
W1/2NE1/4  
Less 2.585 Acres - State Hwy.  
Less 1.522 Acres in SW1/4NE1/4 - State  
Hwy.  
Less 2.957 Acres in SW1/4NE1/4 - Western  
Pacific Railroad Co.  
W1/2  
Less 8.739 acres in SW1/4 to Western  
Pacific Railroad Co.  
Less 10.42 Acres in NW1/4NW1/4 to Central  
Pacific Railroad Co.  
Less 7.159 Acres in SE1/4SW1/4 to State  
Hwy.
- Section 5: SW1/4SE1/4; SE1/4SW1/4  
Less 13.77 Acres - Central Pacific  
Railroad
- Section 8: W1/2SE1/4; NE1/4SW1/4  
Less 13.56 Acres - Central Pacific  
Railroad  
SE1/4SE1/4  
Less 6.628 Acres - State Hwy.  
Less 3.329 Acres - Western Pacific Railroad  
right-of-way  
W1/2NE1/4; E1/2NW1/4  
Less 26.35 Acres - Central Pacific Railroad  
right-of-way
- Section 9: All  
Less 12.455 Acres - State Hwy.  
Less 14.49 Acres in NW1/4SE1/4 and NW1/4  
to Western Pacific Railroad right-of-way
- Section 11: All
- Section 13: All
- Section 14: E1/2; N1/2NW1/4; SE1/4NW1/4; W1/2SW1/4;  
SE1/4SW1/4

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Section 15: All  
Section 16: All  
Section 20: E1/2; SW1/4SW1/4; E1/2SW1/4  
Section 21: All  
Section 23: All  
Section 26: All  
Section 28: All  
Section 33: N1/2  
Section 35: All

TOWNSHIP 33 NORTH, RANGE 52 EAST, M.D.B.&M.

Section 34: N1/2SE1/4  
Section 35: All  
Section 34: All that part of Section 34 bounded and described as follows:

Beginning at the Southwest Corner of Section 34; thence North along West line to a point in said Section line where the Western Pacific Railroad right-of-way intersects said Section line; thence Northeasterly thru Section 34 along Easterly boundary line of Western Pacific Railroad right-of-way to a point in North Section line of said Section 34, where said Western Pacific Railroad right-of-way intersects said North line of said Section 34; thence East to Northeast corner of said Section 34; thence South 1/2 mile to Southeast Corner of NE1/4 of said Section 34; thence West 1/2 mile to Southwest Corner of NE1/4 of said Section 34; thence South 1/2 mile to Southeast Corner of SW1/4 of said section 34; thence West 1/2 mile to southwest Corner of said Section 34, the Point of Beginning.  
(The centerline of said Western Pacific Railroad right-of-way which is 175' in width is described as follows: Beginning at a point on West line of Section 34, which point is North measured along said West line a distance of 155' from Southwest corner of Section 34; thence N 38° 32' East 5721.90'; thence on a curve to the right with a radius of 5730.00' a distance of 843.1' to a point on the North line of said Section 34, said point being West along said North Section line a distance of 1115' from the Northeast Corner of Section 34.)  
Less 1.00 Acres m/less in NW1/4NE1/4 of said Section 34 to City of Carlin.

TOWNSHIP 30 NORTH, RANGE 53 EAST, M.D.B.&M.

Section 7: All (Fract.)  
Section 9: SW1/4  
Section 17: All  
Section 19: All (Fract.)

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Section 21: All  
Section 27: W1/2NW1/4; SE1/4NW1/4; SW1/4;  
W1/2SE1/4; SE1/4SE1/4  
Section 29: All

An undivided one-third interest in and to all that certain real property situate, lying and being in the County of Bureka, State of Nevada, more particularly described as follows:

TOWNSHIP 30 NORTH, RANGE 52 EAST, M.D.B.&M.

Section 5: All, less Hwy. right-of-way  
Section 6: All  
Section 7: All, less Hwy. right-of-way  
Section 8: All  
Section 16: W1/2NW1/4, less Hwy. right-of-way  
Section 17: All  
Section 18: E1/2  
Section 27: W1/2

TOWNSHIP 31 NORTH, RANGE 52 EAST, M.D.B.&M.

Section 31: All  
Section 32: W1/2; SE1/4SE1/4; W1/2SE1/4

TOWNSHIP 30 NORTH, RANGE 51 EAST, M.D.B.&M.

Section 1: All  
Section 2: All  
Section 3: All  
Section 4: N1/2NE1/4; E1/2NW1/4; SE1/4; S1/2NE1/4  
Section 10: All  
Section 11: All  
Section 12: All  
Section 13: All  
Section 14: N1/2; SW1/4; N1/2SE1/4  
Section 15: All

TOWNSHIP 31 NORTH, RANGE 51 EAST, M.D.B.&M.

Section 33: All  
Section 35: All

TOWNSHIP 30 NORTH, RANGE 52 EAST, M.D.B.&M.

Section 9: All, less Hwy. right-of-way

TOWNSHIP 33 NORTH, RANGE 51 EAST, M.D.B.&M.

Section 2: SW1/4  
Section 10: NE1/4

TOWNSHIP 31 NORTH, RANGE 52 EAST, M.D.B.&M.

Section 5: N1/2NW1/4

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1 TOWNSHIP 32 NORTH, RANGE 52 EAST, M.D.B.&M.

2 Section 29: All

3 Section 31: N1/2, less Hwy. right-of-way and  
4 Railroad right-of-way

5 TOGETHER WITH Decedent's one-third interest in  
6 and to all buildings and improvements situate  
7 thereon.

8 TOGETHER WITH Decedent's one-third interest in and  
9 to all water, water rights, right to the use of  
10 water, dams, ditches, canals, pipelines, reservoirs,  
11 wells, and all other means for the diversion or  
12 use of water appurtenant to the said property, or  
13 any part thereof.

14 TOGETHER WITH Decedent's one-third interest in and  
15 to all mineral rights, oil or gas lying on, in or  
16 over the above described real property.

17 TOGETHER WITH Decedent's one-third interest in  
18 and to all rights to graze livestock upon the  
19 Public Domain under what is known as the Taylor  
20 Grazing Act, used or enjoyed in connection with  
21 said property.

22 TOGETHER WITH the tenements, hereditaments and  
23 appurtenances thereunto belonging or in anywise  
24 appertaining, the reversion and reversions, re-  
25 mainder and remainders, rents, issues and profits  
26 thereof.

27 TOGETHER WITH Decedent's one-third interest in  
28 and to all equipment and machinery.

Decedent's one-third interest in and to the  
following cattle and brands:

266 Weaners  
303 Yearling Heifers  
321 Pairs  
330 Yearling Steers  
555 Dry Cows  
65 Bulls  
363 two year Steers

Cripple Pen:

15 Bulls  
8 Pairs  
10 Yearling Heifers

Bar N Brand  
UC Brand

I. That any and all property, both real and personal,  
of any kind or nature, not hereinabove described, but within the  
jurisdiction of the above-entitled Court in which said Estate may

1 have an interest, whether now known or not, be distributed to  
2 BATTISTA TOMERA, JR., and GEORGE TOMERA, share and share alike.

3 J. That upon filing receipts showing payments and  
4 distributions as herein set forth and receipt showing a payment  
5 of fees and costs having been duly made, all in accordance with  
6 this Decree, said Executor shall be discharged.

7 DATED this 15th day of February, 1979.

8 s/ Jos. O. McDaniel  
9 DISTRICT JUDGE

STATE OF NEVADA, }  
COUNTY OF ELKO. } ss.

I, R. L. KANE, County Clerk and ex-officio Clerk of the District Court of the Fourth Judicial District of the State of Nevada, in and for the County of Elko, do hereby certify that the annexed is a full, true and correct copy of DECREE SETTling FIRST AND FINAL ACCOUNT AND PETITION FOR DISTRIBUTION AND AGREEMENT ON FEE IN THE MATTER OF THE ESTATE OF BALSAMINA TOMERA, Deceased, No. 2950.

as the same appears on-file and of record in my office.



WITNESS my hand and the seal of said court affixed  
the 15th day of February, A.D. 19 79

R. L. KANE, Clerk  
By W. Buerger Deputy Clerk

ELKO INDEPENDENT PRINT

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RECORDED AT THE REQUEST OF Evans & Bilyeu  
on February 16, 1979, at 30 mins. past 10 A. M. in  
Book 69 of OFFICIAL RECORDS, page 77-86, RECORDS OF  
EUREKA COUNTY, NEVADA. WILLIS A. DePAOLI Recorder  
Els No. 67766 Fee \$ 12.00

67766

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