

Lincoln County

I hereby certify that the annexed and foregoing is a true and complete copy of a document on file in the United States Bankruptcy Court for the District of Utah.

Dated: 3/14/94  
Attest:

*John F. Peterson*  
CLERK

JOHN B. MAYCOCK LAW OFFICE  
John B. Maycock (2132)  
One Utah Center  
201 South Main - #900  
Salt Lake City, Utah 84111  
Telephone: (801) 532-3399  
Facsimile: (801) 350-9017

OFFICE OF JUDGE  
GLEN E. CLARK

UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

In re	)	Bankruptcy No. 90C-05484
W. DAVID WESTON,	)	(Chapter 7)
Debtor.	)	
-----		Adversary No. 91PC-0031 <i>md</i>
JOHN B. MAYCOCK, Trustee,	)	District Ct. No. 91-C-0639B
Plaintiff,	)	
vs.	)	
JAMES F. PETERS, et al.,	)	
Defendants.	)	
-----		Adversary No. 93PC-2091
JOHN B. MAYCOCK, Trustee of	)	District Ct. No. 93-C-474S
the estate of W. David Weston,	)	(Consolidated by District Court
Plaintiff,	)	Order Entered 10/28/93)
vs.	)	
PARK SMOOT and REVA HOLMBERG	)	(Jurisdiction Reinstated in
et al.,	)	Bankruptcy Court by District
Defendants.	)	Court Order Entered 11/22/93)

*JBC* *JFC*  
FINAL SUMMARY JUDGMENT ON ALL CLAIMS AGAINST ALL PARTIES

These consolidated Adversary Proceedings came on for hearing before Honorable Glen E. Clark, Bankruptcy Court Judge, on Thursday, January 20, 1994, at the hour of 2:00 P.M. on the following matters:

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BOOK 109 PAGE 157

1. Plaintiff's Motion for Summary Judgment Against Defendants A. Park Smoot and Reva Holmberg as personal representatives of the estate of Walter L. Morrison, deceased; and as personal representatives of the probate estate of Ilabelle Shannahan Morrison, deceased;
2. Motion dated December 20, 1993, of Defendants A. Park Smoot and Reva Holmberg as personal representatives of the estate of Walter L. Morrison, deceased; and as personal representatives of the probate estate of Ilabelle Shannahan Morrison, deceased; to Dismiss Plaintiff's Motion for Summary Judgment.
3. Defendants Paige Weston; Ty Weston and Wade Weston's Objections dated January 13, 1994 to Trustee's Proposed Order.
4. Defendants Paige, Wade and Ty Weston's Motion to Vacate and/or Postpone Hearing Pending Rule 54(B)[sic] Certification or Finality of District Court Order dated January 13, 1994.

The court having carefully reviewed all pleadings and papers in these consolidated cases, and having entered its findings and conclusions on the record, including an explicit finding that there is no genuine issue as to any material fact regarding all claims against all parties, and that plaintiff is entitled to judgment on all claims against all defendants as a matter of law;

now, therefore,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

1. All of the real and personal property of Gnolaum Unitrust is hereby declared to be property of John B. Maycock, as trustee of the bankruptcy estate of W. David Weston, free and clear of all claims and interests of all defendants in these consolidated Adversary Proceedings, namely James F. Peters, in his capacity as trustee of Gnolaum Unitrust; Vicki S. Weston; Paige Weston; Ty Weston; Brooke Weston; Drew Weston; Haley Weston; Piper Weston, Wade Weston; and Steele Weston; and A. Park Smoot and Reva Holmberg as personal representatives of the estate of Walter L. Morrison, deceased; and as personal representatives of the probate estate of Ilabelle Shannahan Morrison, deceased.

2. The transfer to Vicki Weston of the debtor's rights under the Gnolaum Unitrust by the "Transfer of Rights Held by First Primary Beneficiary to Second Primary Beneficiary" dated August 31, 1990, is hereby avoided.

3. All rights of the debtor conveyed by the "Transfer of Rights" described in the prior paragraph are hereby divested from Vicki Weston and vested in John B. Maycock, trustee of this bankruptcy estate.

4. All transfers of assets of Gnolaum Unitrust to defendants or any of them are hereby avoided.

5. Defendant James Peters is hereby ordered to provide an accounting of the Gnolaum Unitrust to plaintiff John B. Maycock, trustee of the W. David Weston Bankruptcy Estate, on or before

January 31, 1994. This court shall enter such supplementary judgment as appropriate to implement this judgment after accounting.

6. Defendants, their agents, employees, and all others acting in concert or participation with any of them, are hereby enjoined from disposing of, transferring or encumbering any interest in any property of Gnolaum Unitrust, real or personal.

7. All defendants are hereby ordered to account to plaintiff on or before January 31, 1994, for all monies and property of Gnolaum Unitrust received by the defendants or any of them. This court shall enter such supplementary judgment as appropriate to implement this judgment after accounting.

8. Pursuant to the provisions of Bankruptcy Rule 7070, the title of James Peters, trustee of Gnolaum Unitrust; Gnolaum Unitrust; and W. David Weston; with respect to Parcel 2 described below, the predecessor in interest of Gnolaum Unitrust, namely Consolidated Capital Corporation, a Utah corporation, in the following described real property within the jurisdiction of this court is hereby divested, and title in such real property is hereby vested in John B. Maycock, trustee of the bankruptcy estate of W. David Weston, described as follows:

Parcel 1: (House and lot at 3572 Dover Hill Drive, Salt Lake City, Utah 84124)

LOT 214, SHERWOOD HILLS NO. 2, ACCORDING TO THE OFFICIAL PLAT THEREOF ON FILE AND OF RECORD IN THE SALT LAKE COUNTY RECORDER'S OFFICE.

Parcel 2: Condominium Unit No. 435B, Willowbrook

Lincoln County

Condominiums, as recorded in the office of the County Recorder for Salt Lake County, Utah, Book 79-6, Page 222.

Parcel 3: The following described tracts of land in Lincoln County, State of Nevada:

Four patented mining claims in the Ely Mining District:

<u>Name of Claim</u>	<u>Survey No.</u>
Newport	4165
Newport #1	4165
Rhonda	4167
Rhonda #1	4167

Parcel 4: The following described tracts of land in Lincoln County, State of Nevada:

Six Patented mining claims in the Highland Mining District:

<u>Name of Claim</u>	<u>Survey No.</u>
Velma	4163
Last Chance Silver Mining Co.	4163
Dead Pine	4163
Columbine	4163
Missing Link	4163

Mineral Survey No. 4163, Patent No. 589023

9. Defendant James Peters, trustee of the Gnoaum Unitrust, as grantor, is hereby ordered to execute and deliver to John B. Maycock, trustee of this bankruptcy estate, as grantee, special warranty deeds to the real property described above in recordable form on or before January 21, 1994.

10. Pursuant to the provisions of Bankruptcy Rule 7070, If defendant James Peters, trustee of the Gnoaum Unitrust, fails to comply within the time specified,

(a) such warranty deeds shall be executed and recorded at the cost of the disobedient party by Duane H. Gillman, Esq., McDowell & Gillman, 50 West Broadway -

Lincoln County

#1200, Salt Lake City, Utah 84101, or such other qualified person willing to so serve;

(b) Duane H. Gillman, Esq. is hereby appointed to execute such special warranty deeds on behalf of the disobedient party,

(c) Such special warranty deeds, when so executed, are hereby ordered to have like effect as if done by defendant James Peters, trustee of the Gnolaum Unitrust, or his successor, if any;

(d) defendant James Peters, trustee of the Gnolaum Unitrust, or his successor, if any, shall be ordered to appear and show cause why he should not be held in contempt of court;

(e) The clerk of court shall issue a writ of attachment or sequestration against the property of the disobedient party to compel obedience to the judgment;

11. Defendants are hereby ordered to deliver possession of the real property described above and all other property, records and documents of Gnolaum Unitrust to John B. Maycock, trustee of this bankruptcy estate, on or before January <sup>31st</sup> 22, 1994;

12. Defendants are hereby enjoined from coming on the real property described above from and after January <sup>31st</sup> 23, 1994.

13. Defendants, their counsel, and any person or entity in active concert or participation with any of them are hereby enjoined from filing any proceeding, motion, paper or pleading in any court regarding the subject matter of this action, other than

direct appeal of the judgment hereby entered in this action, without first obtaining from this court an order, after hearing on not less than ten days' notice to John B. Maycock, trustee, One Utah Center, 201 South Main - Suite 900, Salt Lake City, Utah 84111, and to the United States Trustee, 9 Exchange Place - #100, Salt Lake City, Utah 84111, allowing defendants to file such proposed motion, pleading or paper, a true and complete copy of which shall be attached to defendants' motion for leave to file, and posting such bond with sufficient sureties for costs and expenses (including reasonable attorney's fees which may be incurred in opposing such motion, paper or pleading) as this court may order.

The mortgages to defendants A. Park Smoot and Reva Holmberg as personal representatives of the estate of Walter L. Morrison, deceased; and as personal representatives of the probate estate of Ilabelle Shannahan Morrison, deceased, are hereby avoided pursuant to the provisions of 11 U.S.C. §§ 549 and 544, with regard to the following described real property:

*recorded from and after Jan. 15 1991 HEC*

Condominium at 435 E. Creekside Circle, #B, Murray, Utah 84107.

The following described tracts of land in Lincoln County, State of Nevada:

Four patented mining claims in the Ely Mining District:

<u>Name of Claim</u>	<u>Survey No.</u>
Newport	4165
Newport #1	4165
Rhonda	4167
Rhonda #1	4167

The following described tracts of land in Lincoln County, State of Nevada:

Lincoln County

Six Patented mining claims in the Highland Mining District:

<u>Name of Claim</u>	<u>Survey No.</u>
Velma	4163
Last Chance Silver Mining Co.	4163
Dead Pine	4163
Columbine	4163
Missing Link	4163

Mineral Survey No. 4163, Patent No. 589023

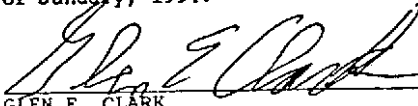
Defendants Smoot and Holmberg, as personal representatives of the probate estate of Ilabelle Shannahan Morrison, are hereby decreed to have no right, title or interest in any of the above described real property *except from any mortgage recorded prior to Jan 15, 1991, SEC*

The real property described above is hereby recovered for the benefit of the bankruptcy estate of W. David Weston, and is hereby adjudicated to be property of the bankruptcy estate of W. David Weston, free and clear of all liens, claims and interests of all defendants in this consolidated action *except from any mortgage recorded prior to Jan 15, 1991, SEC*

All counterclaims, crossclaims and third-party claims of all defendants in these consolidated cases against John B. Maycock as bankruptcy trustee and individually are hereby dismissed with prejudice.

Plaintiff is awarded all costs of these consolidated cases.

DATED this 20 day of January, 1994.

  
GLEN E. CLARK  
U.S. Bankruptcy Court Judge



CERTIFICATE OF SERVICE

I hereby certify that on the 19 day of January, 1994,  
I caused a copy of the foregoing FINAL SUMMARY JUDGMENT ON ALL  
CLAIMS AGAINST ALL PARTIES to be served via facsimile to:

U.S. Trustee's Office  
9 Exchange Place - #100  
Salt Lake City, Utah 84111


W. David Weston  
3572 Doverhill Drive  
Salt Lake City, Utah 84121

A. Park Smoot  
765 Three Fountains Circle  
Salt Lake City, Utah 84107

Kenneth Allen  
10 West Broadway - #500  
Salt Lake City, Utah 84101

Phillip B. Shell  
DAY & BARNEY  
45 East Vine Street  
Murray, Utah 84107

Randall Lee Marshall  
311 South State, Suite 380  
Salt Lake City, Utah 84111

  
JOHN B. MAYCOCK

CLERK'S CERTIFICATE

I hereby certify that a true and accurate copy of the foregoing entry by the court was mailed, postage prepaid, on the 25 day of January, 1994 to the following:

U.S. Trustee's Office  
9 Exchange Place - #100  
Salt Lake City, Utah 84111

John B. Maycock  
One Utah Center  
201 South Main - #900  
Salt Lake City, Utah 84111

W. David Weston  
3572 Doverhill Drive  
Salt Lake City, Utah 84121

A. Park Smoot  
765 Three Fountains Circle  
Salt Lake City, Utah 84107

Kenneth Allen  
10 West Broadway - #500  
Salt Lake City, Utah 84101

Phillip B. Shell  
DAY & BARNEY  
45 East Vine Street  
Murray, Utah 84107

Randall Lee Marshall  
311 South State, Suite 380  
Salt Lake City, Utah 84111

*Margaret Davis*

101659

FILED AND RECORDED AT REQUEST OF  
JOHN B. MAYCOCK

MARCH 28, 1994

1:30 MINUTES PAST 1 O'CLOCK

BY JAMES W. COOK, 109 CLERK

RECORDED PAGE 157 LINCOLN  
COUNTY, NEVADA

YURIEO SETZER

BY *Julie Boucher* DEPUTY 10