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| **STATE OF SOUTH CAROLINA** | **)** |
|  | **)** |
| **COUNTY OF CHARLESTON** | **)** |
|  | **)** |
| **IN RE: ESTATE OF**  **\_\_\_\_\_\_\_\_\_\_\_\_\_\_** | **)**  **)** |
|  | **)** |
| **\_\_\_\_\_\_\_\_\_\_\_\_\_\_,** | **)** |
|  | **)** |
| **Petitioner,** | **)** |
|  | **)** |
| **-v-** | **)** |
|  | **)** |
| **\_\_\_\_\_\_\_\_\_\_\_\_\_\_, as Personal Representative of the Estate of**  **\_\_\_\_\_\_\_\_\_\_\_\_\_\_ and** | **)**  **)**  **)** |
| **\_\_\_\_\_\_\_\_\_\_\_\_\_\_,** | **)** |
|  | **)** |
| **Respondents.** | **)** |
|  | **)** |

**IN THE PROBATE COURT**

**CASE NO. 2018-ES-10-0000**

**ORDER FOR REMOVAL OF**

**PERSONAL REPRESENTATIVE**

**AND APPOINTMENT OF**

**SUCCESSOR PERSONAL**

**REPRESENTATIVE**

**Hearing Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_, 2018**

**Presiding Judge: \_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**Petitioner: \_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**Petitioner’s Attorney: \_\_\_\_\_\_\_\_\_\_\_\_\_\_, Esq.**

**Respondent: \_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**Respondent’s Attorney: \_\_\_\_\_\_\_\_\_\_\_\_\_\_, Esq.**

**Court Reporter: \_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**THIS MATTER** comes before the Court upon a Petition for Removal of Personal Representative, filed \_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_, 2017 by Petitioner \_\_\_\_\_\_\_\_\_\_\_\_\_\_, and Return to Petition for Removal of Personal Representative and Third Party Complaint, filed \_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_, 2017 by Respondents \_\_\_\_\_\_\_\_\_\_\_\_\_\_ and \_\_\_\_\_\_\_\_\_\_\_\_\_\_. Present at the hearing were Petitioner \_\_\_\_\_\_\_\_\_\_\_\_\_\_, represented by \_\_\_\_\_\_\_\_\_\_\_\_\_\_, and \_\_\_\_\_\_\_\_\_\_\_\_\_\_, the Decedent’s son*.* Notice of Hearing was given to \_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_, and \_\_\_\_\_\_\_\_\_\_\_\_\_\_ Esq., all of whom failed to appear today. The Court did attempt to reach \_\_\_\_\_\_\_\_\_\_\_\_\_\_ by telephone, but was unsuccessful, as his voicemail was full.

Based upon the pleadings, review of the file, and arguments presented at the hearing on this matter, the Court makes the following findings of fact and conclusions of law:

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

1. \_\_\_\_\_\_\_\_\_\_\_\_\_\_ (the “Decedent”) died intestate on \_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_, 2017, a resident of \_\_\_\_\_\_\_\_\_\_ County, South Carolina.
2. The Court has jurisdiction over this matter and venue is proper pursuant to S.C. Code of Laws Ann. §§ 62-1-302 and 62-3-201(a)(1).
3. Proper notice was given to all parties with an interest in this matter pursuant to S.C. Code of Laws Ann. § 62-1-401.
4. Respondents \_\_\_\_\_\_\_\_\_\_\_\_\_\_ and \_\_\_\_\_\_\_\_\_\_\_\_\_\_, along with their attorney, \_\_\_\_\_\_\_\_\_\_\_\_\_\_, failed to appear for the hearing.
5. On \_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_, 2017, Respondent \_\_\_\_\_\_\_\_\_\_\_\_\_\_ filed an Application for Informal Appointment of Personal Representative of the Estate of \_\_\_\_\_\_\_\_\_\_\_\_\_\_, listing only herself, as the daughter, and \_\_\_\_\_\_\_\_\_\_\_\_\_\_, the Decedent’s husband, as intestate heirs.
6. Decedent’s husband, \_\_\_\_\_\_\_\_\_\_\_\_\_\_, filed a Renunciation of Right to Administration and Nomination and Waiver of Bond on \_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_, 2017, nominating \_\_\_\_\_\_\_\_\_\_\_\_\_\_ as Personal Representative.
7. The Personal Representative failed to list the Decedent’s natural children on her Application for Informal Appointment of Personal Representative.
8. On \_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_, 2017, Petitioner filed a Summons and Petition for Formal Testacy and Appointment of Personal Representative, listing the following as the Decedent’s heirs: \_\_\_\_\_\_\_\_\_\_\_\_\_\_ (Husband), \_\_\_\_\_\_\_\_\_\_\_\_\_\_ (Current Personal Representative), \_\_\_\_\_\_\_\_\_\_\_\_\_\_ (Daughter), \_\_\_\_\_\_\_\_\_\_\_\_\_\_ (Son), \_\_\_\_\_\_\_\_\_\_\_\_\_\_ (Grandson), and \_\_\_\_\_\_\_\_\_\_\_\_\_\_ (Granddaughter).
9. Petitioner filed a Summons and Petition for Removal of Personal Representative on \_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_, 2017, on the basis of Respondent \_\_\_\_\_\_\_\_\_\_\_\_\_\_ failed to provide the names of the other heirs of the Decedent.
10. Respondents \_\_\_\_\_\_\_\_\_\_\_\_\_\_ and \_\_\_\_\_\_\_\_\_\_\_\_\_\_ filed a Summons and Return to Petition for Removal of Personal Representative and Third Party Complaint on \_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_, 2017. On October 30, 2017, Respondents filed an Amended Summons and Amended Return to Petition for Removal of Personal Representative and Third Party Complaint.
11. Respondents filed a Lis Pendens for \_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_, South Carolina 2\_\_\_\_\_ on \_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_, 2017.
12. Petitioner filed a Reply to the Return for Removal of Personal Representative and Third Party Complaint on \_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_, 2017.
13. Cause exists to remove a Personal Representative if it is in the best interests of the Estate, a personal representative has failed to perform a duty required by him, or there is mismanagement of the Estate. S.C. Code Ann. § 62-3-611(b).
14. The Court finds that cause exists and it is in the best interest of the Estate to remove Respondent \_\_\_\_\_\_\_\_\_\_\_\_\_\_ as Personal Representative of the Estate.
15. The Court finds Petitioner \_\_\_\_\_\_\_\_\_\_\_\_\_\_ to be a fit and proper person to serve as Personal Representative of the Estate.

Based upon the foregoing, it is now hereby:

**ORDERED, ADJUDGED, AND DECREED** that Respondent \_\_\_\_\_\_\_\_\_\_\_\_\_\_ shall be and is hereby removed as Personal Representative of the Estate of \_\_\_\_\_\_\_\_\_\_\_\_\_\_; it is further

**ORDERED, ADJUDGED, AND DECREED** that Respondent \_\_\_\_\_\_\_\_\_\_\_\_\_\_ shall turn over any and all records, documents, forms, and the like related to the finances and the Estate of \_\_\_\_\_\_\_\_\_\_\_\_\_\_ to the Petitioner or her attorney; it is further

**ORDERED, ADJUDGED, AND DECREED** that Respondent \_\_\_\_\_\_\_\_\_\_\_\_\_\_ shall turn over any and all documents and information related to the sale of property to the Petitioner or her attorney; it is further

**ORDERED, ADJUDGED AND DECREED** that the Respondents’ Third Party Complaint is involuntarily dismissed for failure to prosecute; it is further

**ORDERED, ADJUDGED, AND DECREED** that any and all real property of the Estate may not be sold without prior court approval. Additionally, no personal property may be sold without prior court approval; it is further

**ORDERED, ADJUDGED, AND DECREED** that \_\_\_\_\_\_\_\_\_\_\_\_\_\_ be appointed Successor Personal Representative of the Estate of \_\_\_\_\_\_\_\_\_\_\_\_\_\_ and shall be empowered with the powers conferred thereto by South Carolina Statute; it is further

**ORDERED, ADJUDGED, AND DECREED** that this Order shall be subject to further Orders of this Court as may become necessary.

**AND IT IS SO ORDERED.**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**[ASSOCIATE] JUDGE OF PROBATE**

Charleston, South Carolina

This\_\_\_\_day of \_\_\_\_\_\_\_\_\_\_, 2018.