

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF THE ESTATE OF
JEANETTE LABBE CATANIA,

No. 39511

MYLES CATANIA,
Appellant,

vs.

TAMMIE KELSAY, AS PERSONAL
REPRESENTATIVE OF THE ESTATE
OF JEANETTE LABBE CATANIA,
DECEASED,
Respondent.

FILED

SEP 02 2004

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. R. [Signature]*
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE


This is an appeal from a district court order settling the first and final account of the estate of Jeanette Catania. Eighth Judicial District Court, Clark County; Mark W. Gibbons, Judge.

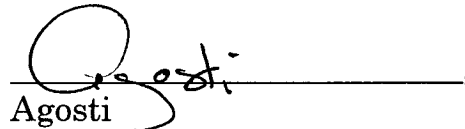
On appeal, Catania's surviving husband, Appellant Myles Catania (Myles), argues that the district court's order approving the first and final accounting of the estate is void, and the order denying Myles's motion to vacate, alter or amend the previous order is also void because the probate commissioner failed to prepare a report of the proceedings, pursuant to NRCP 53.

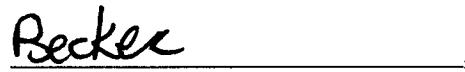
The record establishes that Myles failed to comply with the probate commissioner's orders to file a written objection, bank and tax records, escrow papers, and to provide a written accounting to support Myles's position regarding his interest in the estate, and failed to timely appear at the rescheduled hearing on February 14, 2002. Because Myles failed to comply with all the commissioner's orders, the commissioner did not err in failing to prepare a report. Myles supplied no written

information to assist the commissioner in preparing the report. Therefore, we conclude that the district court did not abuse its discretion when it approved the commissioner's first and final report, and when it denied Myles's motion to vacate, alter or amend the previous order.

After a careful review of the record, we conclude that all other contentions are without merit. Accordingly, we ORDER the judgment of the district court AFFIRMED.

 _____, C.J.
Shearing

 _____, J.
Agosti

 _____, J.
Becker

cc: Eighth Judicial District Court Dept. 7, District Judge
William L. McGimsey
Koch & Brim, LLP
Clark County Clerk