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DEBORAH L PEYTON, RECORDER/REGISTRAR
DELAWARE COUNTY IOWA

AFFIDAVIT OF SURVIVING JOINT TENANT FOR CHANGE OF TITLE TO REAL ESTATE

THE IOWA STATE BAR ASSOCIATION
Official Form No. 339
Recorder's Cover Sheet

Preparer Information: (Name, address and phone number)
David C. Tracey, 105 N. Franklin St., P.O. Box 279, Manchester, IA 52057, Phone: (563) 927-4925

Taxpayer Information: (Name and complete address)
Roger Portwine
1307 West 13th Street
Panama City, Florida 32401-1702

Return Document To: (Name and complete address)
Roger Portwine
1307 West 13th Street
Panama City, Florida 32401-1702

Grantors:
Ronald Portwine

Grantees:
Roger Portwine

Legal description: See Page 2

Document or instrument number of previously recorded documents:

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THE IOWA STATE BAR ASSOCIATION Official Form No. 339	David C. Tracey	FOR THE LEGAL EFFECT OF THE USE OF THIS FORM, CONSULT YOUR LAWYER

AFFIDAVIT OF SURVIVING JOINT TENANT FOR CHANGE OF TITLE TO REAL ESTATE

STATE OF FLORIDA, COUNTY OF BAY ss:

I, Roger Portwine being first duly sworn on oath, depose and state as follows:

1. I am _____ is the surviving joint tenant of Ronald Portwine (the "Decedent"), who died on the 8th day of April, 2009.

2. The following described real estate was owned only by Decedent and this Affiant _____, as joint tenants with full rights of survivorship at the time of the Decedent's death:
Lot One (1), Block Three (3), Minkler Addition, Edgewood, Delaware County, Iowa.

3. I hereby request that the auditor enter this information on the transfer books pursuant to Section 558.66 of the Iowa Code.

4. This Affiant _____ is the Brother of the Decedent. (For deaths occurring after July 1, 1997, parents, grandparents, great-grandparents, and other lineal ascendants, children including legally adopted children and biological children entitled to inherit under the laws of Iowa, stepchildren, and grandchildren, great-grandchildren, and other lineal descendants are exempt from Iowa inheritance tax.)

5. Form 706, United States Estate Tax return, IS NOT * required to be filed as a result of the death of the Decedent.

e-mail attached hereto.

6. An Iowa inheritance tax return is not required to be filed pursuant to ~~section 450.22 subsection 3~~

Roger D Portwine

Roger Portwine

Subscribed and sworn to before me on 7/7/09, by Roger Portwine

MARA L. FRAZIER
MY COMMISSION # DD 853199
EXPIRES: March 10, 2013
Bonded Thru Notary Public Underwriters

Mara L Frazier

Notary Public

* THE CORRECT OPTION MUST BE SELECTED TO DETERMINE WHETHER THE IOWA ESTATE TAX MAY CONSTITUTE A LIEN ON THE ABOVE DESCRIBED PROPERTY.

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From: ddinkla@iowabar.org
To: rportwine@cs.com
Subject: Surviving Joint Tenant
Date: Mon, Jun 1, 2009 2:21 pm
Attachments: Affidavit_of_Surviving_Joint_Tenant_for_Change_of_Title.pdf (39K)

Mr. Portwine,

While the advice from the two attorneys seems to be at odds with each other, I can understand and appreciate their responses. One of the primary reasons to open and administer the estate of a decedent is to ensure that there are no inheritance tax liens against the real estate owned by a decedent. In Iowa, lineal descendants (such as a parent to a child) are exempt from inheritance tax. Unfortunately, there is no blanket exemption for inheritance tax when a brother inherits from a deceased brother although the tax rate starts at a lower than normal rate of 5%

The good news is that the Iowa Code provides that when estates of Iowa decedents totals less than $25,000, there is no inheritance tax. From your email, I am assuming that the real estate which has an assessed value is the only Iowa property owned by your brother.

I cannot offer specific legal advice regarding what steps you should do next. I would encourage you however to visit with an Iowa practicing attorney to see if the title of the property can be cleared of any potential inheritance tax liens without the necessity of fully probating your brother's estate. I have attached at the bottom of this email an affidavit which attorneys oftentimes use when property is inherited by lineal descendents. An attorney may possibly be able to use some similar affidavit once it is modified to remove any potential inheritance tax lien and enable you to sell the property with clean & merchantable title without the necessity of opening an estate for your deceased brother.

I hope this information is helpful. Good Luck.

Dwight Dinkla, CAE
Executive Director
The Iowa State Bar Association

----- Forwarded by Barbara Lefleur/IowaBar on 05/29/2009 04:08 PM -----