EXAMINATION OF THE ABSTRACT OF TITLE TO THE ST. CLOUD & THE TIGER
AND THE TIGER EXTENSION LODES AND MINING CLAIMS IN THE
SNAKE RIVER DISTRICT, SUMMIT COUNTY, COLORADO
MADE BY YEARMAN & PARSONS, ATTORNEYS AT
LAW, FOR THEODORE H. SCHMIDT
BY
THEODORE H. SCHMIDT
1892
SUMMIT COUNTY
December 8, 1891.

T. E. Sohrer, Esq.,

Mining Engineer,

Denver, Colo.

Dear Sir:

In accordance with your request we have examined the abstract of title to the St. Cloud, the Tiger and the Tiger Extension lodes and mining claims situated in the Snake River Mining District, County of Summit and State of Colorado, and have also examined the records of said County and all of the location certificates and conveyances appearing thereon. We beg leave to report the title to said several mining claims as follows:

THE ST CLOUD LODE.

This claim was originally located on the 20th of July, 1872, by

George Reed,
Corydon Smith
D. W. Willey.

This is the only location certificate appearing upon the abstract of title, but on examining the records we found two other certificates had been recorded.

The claim was relocated on November 11, 1875, by

D. W. Willey
T. E. Cleary

each claiming a one-half interest. Prior to said relocation George Reed had transferred his one-third interest to Cleary and Smith had transferred his one-third interest to Willey, so that Willey owned a two-thirds interest and Cleary a one-third, but the new location certificate above referred to contained this clause: "This pre-emption is not intended to waive any rights gained by former locations," and also recites that D. W. Willey and Thomas
E. Cleary each own a one-half interest in the claim. The question arises under this new location whether or not Cleary could claim one-half interest acquired by the original location and conveyance to him from Reed above referred to or whether the recital in the new location certificate that he and Willey each owned a half interest would control, but we assume that the new location certificate was intended to operate as an agreement between Willey and Cleary that the latter might take a one-half interest and that from that time they would be regarded as equal owners in the mine. The last location certificate was filed October 8, 1881, and is signed by Willey and Cleary without any division of interests appearing upon the certificate itself, the presumption from that fact being that each took a one-half interest, and this would seem to confirm our assumption that the second location certificate dividing their interest equally was in pursuance of an agreement between Willey and Cleary to that effect. The certificate of October 8, 1881, was evidently made for the purpose of applying for a patent, as it was done by a surveyor and the claim is described accurately by notes and bounds, and under this certificate a patent was granted by the Government of the United States on the 26th day of April, 1884, to

T. E. Cleary
D. W. Willey
William Henderson

the last named person having acquired a 1-18 interest prior to the issuance of the patent. From these original locators various deeds have been made until at present the title and ownership is divided between the following persons.

William Henderson 1-18
W. D. Willey 2-9
J. W. Burke 1-9
Frank G. Burke 1-9
William Young 1-2

You are safe in purchasing the interest of William Young, being
an undivided one-half interest in this claim, but the interest of William Hendershall, which we understand you contemplate purchasing, is encumbered by a judgment rendered in January, 1887, in favor of Jacob F. Cypher against him in the County Court of Clear Creek County, Colorado, for $1244.96, which bears interest from date.

THE TIGER EXTENSION.

This claim was originally located in 1864 before Congress had legislated upon the subject of mining claims at all, but at that time mining claims were located and held by virtue of the rules and customs of miners in the mining districts in which the claims were situated. By a subsequent act of Congress the titles under such locations were confirmed. A greater part of the old locators transferred their interests to various parties until in 1875 the claim was owned by

Thomas W. Cleary
Jacob D. Perry
George Reed
W. W. Willey
George F. Packard.

These last named persons relocated the claim on the 31st of August, 1875, under which location Willey and Cleary each took L-3, George F. Packard L-9, Perry and Reed each L-10. This location certificate contained this provision: "This relocation being made to correct lines and obtain the additional width as now allowed by law, no forfeiture of the privileges acquired under the original location." It is barely possible, but not probable, that the original locators who had not conveyed their interests in this claim to any of the above named parties, might assert their right to the interests originally held by them under such original location, but we do not think there is any probability of any such claim being made, either by said original locators or their heirs, as they have paid no attention to the claim, some of them are dead, and the others have left the
country and their whereabouts are unknown. The Receiver's Receipt was issued on the 10th of October, 1866, to D.N. Willey, T.N. Cleary, George F. Packard, and Hannah L. Hendenhall, which conveys to them the Government title to the property, and which Receiver's Receipt is equivalent to a patent deed. Conveyances have been made from the owners of the property under the relocation thereof on the 10th of November, 1875, so that the title is now divided as follows:

<table>
<thead>
<tr>
<th>Name</th>
<th>Fraction</th>
</tr>
</thead>
<tbody>
<tr>
<td>Frank C. Burke</td>
<td>1-12</td>
</tr>
<tr>
<td>John W. Burke</td>
<td>1-8</td>
</tr>
<tr>
<td>D.N. Willey</td>
<td>1-12</td>
</tr>
<tr>
<td>William Hendenhall</td>
<td>1-9</td>
</tr>
<tr>
<td>John T. O'Connor</td>
<td>1-16</td>
</tr>
<tr>
<td>William Young</td>
<td>1-2</td>
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</tbody>
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It is safe to say that the above parties are the owners to the extent set forth.

We understand that you desire to purchase the interest of William Young, and we think you are safe in doing so to the extent of an undivided one-half interest in this claim. Hendenhall acquired a one-ninth from Perry and Reed and afterwards Mr. Packard conveyed another one-ninth to him, but this deed recites that it was made in confirmation of a previous conveyance to him, and this we take it would be held simply to confirm the deed of Perry and Reed to him, as that was the only conveyance which Hendenhall had ever received to any title to the property, so that we are safe in stating that the above parties owned the interests appearing opposite their names by a good title.

THE TIGER LODGE.

The claim was located in 1864 about the same time and under the same rules governing locations as we have stated above in regard to the Tiger Extension and by a good many of the same parties. The original locators, with one or two exceptions, conveyed all their interests to certain parties, who re-located the claim on the 10th day of November, 1875, the location having been made by
The parties at that time had practically title to all of the claims under the original location, so that we are safe in starting out from that location as a basis for tracing the title at present. If we trace the title back we find that the following parties owned the following interests:

D. W. Willey L-3
Frank G. Burke L-3
Rebecca W. Morris L-3
William Hendehall L-3
William Young L-3

In 1881 the claim was again relocated at about the same time that the Tiger Extension was relocated, for the purpose of applying for a patent. The locators at that time were,

D. W. Willey
T. S. Cleary

each claiming a one-half interest. Tracing the title from this last location we find that at present it is owned by the following parties in the following proportions:

D. W. Willey 5-18
J. W. Burke L-9
Frank G. Burke L-9
William Young L-2

It is rather a difficult matter to say from the record which of these locations is to be taken as a good starting point for the present ownership. We think the chances are that the last one is good, and the title under it is to be relied upon, but it is a matter of considerable difficulty, and does not appear by the record. If, after the location in 1876, the annual assessment work on the property was kept up by any of the owners, he would be bound to do it in behalf of the others, and he must advertise his co-owners out in order to secure good title to himself. The
abstract shows that in October, 1880, Willey and Cleary attempted to do this. So far as the interests of Morris and Rockard were concerned, and so far as the records show, the forfeiture is good, but nothing was done towards forfeiting Mendenhall's interest, but we find that the next year, and for two or three succeeding years, in fact as late as 1887, both Cleary and Willey recognized Mrs. Morris as an owner in the property, by taking from her various title bonds and that in 1887 Mr. Cleary took a deed from her for a two-ninths interest in the Tiger Extension, but such title bonds and deed would not operate as a waive of the rights acquired by the forfeiture or re-invest her with title.

It appears that the following interests are probably correct:

William Mendenhall 1-9, D. W. Willey 4-18, J. W. Burke 1-9, T. C. Burke 1-9, and William Young 4-9; William Mendenhall's 1-9 interest is dependent on the last location of October 8, 1861, as he was an owner of 1-9 prior to that location and his interest was never forfeited under the law. If Mendenhall's interest was lost by the location of 1861 his one-ninth would be divided equally between D. W. Willey and William Young, making their interests 1-18 more to each.

The record shows a judgment against William Mendenhall for $1244.98 with interest since January, 1887. This would be an incumbrance against his interest in all the property. Mr. Young's title arises from a trustee's sale under a trust deed from Mr. Cleary. The trust deed was regularly made, and the trustee's sale and the trustee's deed under it properly made, and given, so that we think his title under the trust deed is good. Mr. Cleary it seems after the trust deed was given, made several other conveyances of his various interests, all of which are cut out by the sale under the trustee's deed, and Cleary afterwards quit-claimed to Mr. Young whatever title he had. This quit-claim, however, was executed subsequent to his execution.
of other deeds, but we think there is no doubt of Mr. Young's title under his trustee's deed. We think on the purchase of William Young's interest in these claims you ought to take a warranty deed for the St. Cloud and Tiger Extension Claims and a quit claim for the Tiger Lode.

We conclude for our examination that William Young has an undivided one-half of the legal title to and ownership of the St. Cloud Lode Mining Claim and of the Tiger Extension Lode Mining Claim by virtue of Patent Deeds issued therefore by the Government of the United States, and by virtue of divers conveyances to him that he is also the owner by possessory title of an undivided four-ninths (4-9) right, title and interest in and to the Tiger Lode Mining Claim, and we think you are safe in purchasing from his such interests.

Respectfully,

Yocum & Parsons,
Attorneys at Law
Denver, Colo.