

FILED

AUG 21 2014

IN THE SUPREME COURT OF THE STATE OF NEVADA

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *[Signature]*
CHIEF DEPUTY CLERK

**IN THE MATTER OF AMENDMENTS TO
SUPREME COURT RULE 216: CLIENT
INTEREST BEARING TRUST ACCOUNTS;
CREATION OF FOUNDATION**

ADKT 0479

**EMERGENCY PETITION
UNDER NRAP 27(e)
REQUESTING
CLARIFICATION FROM
COURT ON CONDITIONS TO
APPOINTMENT OF NBF AS
IOLTA FOUNDATION.**

The Nevada Law Foundation, doing business as the Justice League of Nevada, a Nevada Non-profit corporation ("JLN"), by and through its counsel of record, Michaelle D. Rafferty, Esq. of the law firm of Maupin, Cox and LeGoy, hereby submits this emergency Petition under NRAP 27(e) and as permitted pursuant to this Court's July 31, 2014 Order ("July Order") in this matter, requesting clarification from the Court. This Petition is being submitted on an expedited basis due to the limited time remaining for JLN to complete transfer of the IOLTA source funds to the Nevada Bar Foundation ("NBF") in accordance with the July Order. See the attached NRAP 27(e) Certificate. This Petition is based on and supported by the following:

- NBF will not be a public charity before the required beginning date of August 31, 2014. The July Order appointed NBF as the designated SCR 216

1 IOLTA foundation in place and instead of JLN, effective August 31, 2014, but on
2 the condition that "NBF convert its status from that of a private foundation to one
3 of public charity in order to avoid excise tax liability and maximize charitable
4 benefit". The excise taxes at issue are those taxes set forth in Sections 4940
5 through 4945 of the Internal Revenue Code ("IRC") and the regulations
6 thereunder. Unfortunately, that conversion process will take considerable time and
7 cannot be completed prior to August 31, 2014. Accordingly, JLN requests
8 instructions as to whether it should still, nonetheless, proceed forward with the
9 anticipated transfer of IOLTA funds to NBF in accordance with the July Order.
10 JLN's request for instructions is based on the following:

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14 a. Requirements to effectively convert to a public charity will take
15 at least 60 months. Once an organization is classified as a private foundation, it
16 can only terminate that status by demonstrating that regulatory supervision is no
17 longer necessary through compliance with IRC Section 507. In order to convert to
18 a public charity, NBF must file a form commonly referred to as a "Termination
19 Notice" with the Internal Revenue Service, setting forth its intent to convert from a
20 private foundation to a public charity as of a designated effective date. Thereafter,
21 NBF must operate in a manner consistent with a public charity for *sixty (60)*
22 *consecutive months* from the designated effective date. IRC 507(b)(1)(B). NBF
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1 has advised JLN that it intends to file its "Termination Notice" the week of August
2 22, 2014, with a request for the effective date of the 60 month conversion period to
3 begin on January 1, 2015. Accordingly, the earliest that such conversion can be
4 confirmed as complete is *January 1, 2020*. Therefore, while JLN can successfully
5 complete the filing of its Termination Notice before August 31, 2014, it is
6 impossible for the conversion to be completed by August 31, 2014.
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9 b. Advance Ruling may be sought to expedite anticipated
10 successful conversion. NBF may seek an Advance Ruling from the IRS, which if
11 issued, would signify that the IRS anticipates that NBF will satisfy the
12 requirements to be a public charity under IRC 509(a)(2) at the end of the 60 month
13 period. However, the issuance of such ruling is in the discretion of the IRS and it
14 is unclear how long it will take to receive such ruling. A positive Advance Ruling
15 does not guaranty the conversion will ultimately be approved, but it does allow
16 donors such as JLN in this case, to rely on the same for transfers or donations made
17 to NBF following its issuance. IRC 507(b)(1)(B)(i).
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21 c. If ultimately approved, the conversion date for NBF will be
22 retroactive to January 1, 2015. Regardless of whether an Advanced Ruling is
23 issued or not, if the conversion is successful, the conversion will relate back to the
24 effective date which JLN understands will be January 1, 2015. Reg. 1.507-
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1 2(f)(1)(i). Assuming that the conversion is ultimately successful, NBF should be
2 able to avoid the concerns associated with excise taxes attributable to private
3 charities beginning on January 1, 2015. However, private charity status, and
4 therefore application of excise taxes, will continue at least through the end of this
5 year.
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8 d. Quantifying potential cost. JLN recognizes that this issue may
9 be a form over substance issue as it does not have sufficient information to
10 quantify the amount of applicable excise taxes that are at issue, if any. JLN has
11 insufficient knowledge of NBF's current and intended investment portfolio,
12 financial structure, or compliance regimes necessary to evaluate what, if any,
13 excise taxes will cause actual tax liability for NBF prior to its conversion. JLN
14 believes that most of the excise taxes applicable to a private foundation such as
15 NBF can be eliminated through proper compliance and that the likely cost will be
16 limited to the tax on net investment income for the period of September 1, 2014
17 through December 31, 2014, and thereafter as to any period in which the
18 conversion is not ultimately approved.
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23 Based on the above, although the July Order designates the date of
24 transfer of IOLTA funds from JLN to NBF to occur by August 31, 2014, NBF's
25 conversion will be in process but not completed. Therefore, prior to commencing
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1 transfer of IOLTA source funds from JLN to NBF, JLN respectfully requests
2 further instructions as to whether the intended meaning of the conversion
3 contingency set forth in the July Order. JLN suggests that the meaning will be one
4 of the following:
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6 (1) That JLN's authority to transfer IOLTA funds to NBF be
7 conditioned on NBF's successful conversion to a public charity;
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9 (2) That JLN's authority to transfer IOLTA funds to NBF be
10 conditioned on NBF's receipt and filing of a positive Advance Ruling from the IRS
11 confirming that the conversion is likely to be successful;
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13 (3) That JLN's authority to transfer the IOLTA funds to NBF
14 be conditioned only upon proof filed with the Court and served on JLN evidencing
15 NBF's filing of the Termination Notice with the IRS; or
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17 (4) That JLN's authority to transfer the IOLTA funds to NBF
18 beginning on the effective date regardless of the status of the conversion process.
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20 2. Request for potential widening of window of time for compliance and
21 transfers, as reasonably needed. Assuming that the Court directs JLN to proceed
22 with the transfer of the IOLTA funds as anticipated on August 31, 2014, JLN
23 requests authorization to expand the time in which transfers may begin and be
24 completed. Specifically, the July Order provides that NBF is designated as the
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SCR 216 IOLTA foundation "effective August 31, 2014." Therefore, absent further instructions, JLN understands that NBF is not authorized to hold IOLTA funds until its effective appointment on August 31, 2014. However, the July Order further provides that the transfers must be made "no later than August 31, 2014." August 31, 2014 falls on a Sunday, and accordingly, transfers will be impossible to complete on that date. However, JLN can begin the transfer process as soon as authorized hereafter the week before August 31st and the week after. JLN therefore respectfully requests clarification as to whether it may begin such transfers earlier than August 31, 2014, and if not, for an Order confirming that such transfers shall may be completed the week thereafter noting that Monday September 1, 2014 is also a legal holiday.

3. Request for evidence of NBF's 501(c)(3) status & mission. Section 9.2 of JLN's Bylaws requires that JLN maintain the IOLTA funds in a segregated account to be "separately utilized, and accounted for, and to be utilized solely for the purposes authorized under Section 501(c)(3) of the Internal Revenue Code." Further, Section 9.4(A) of JLN's Bylaws also states that "All IOLTA funds shall be disbursed in accordance with the foundation's mission, with a major portion of all IOLTA funds disbursed for the purposes of providing legally related services to the poor, to the victims of domestic violence, and to children protected by or in

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need of protection of the juvenile court. The remainder of IOLTA funds must be spent as the Foundation deems appropriate, keeping in mind the purposes set forth in SCR 216. For audit trail purposes, and in order to properly document that the transfer of the IOLTA funds from JLN to NBF will be in compliance with JLN's Bylaws, JLN has requested NBF provide JLN with a copy of its IRS Determination Letter confirming its 501(c)(3) status, a copy of its Articles and a copy of its Bylaws confirming that its purpose and mission, at least as to a major portion of the IOLTA funds to be transferred, will be used for the purposes of providing legally related services to the poor, to the victims of domestic violence, and to children protected by or in need of protection of the juvenile court. As of the filing of this Petition, JLN has not yet received such written documentation. Accordingly, JLN requests that the Court condition JLN's obligation to complete such transfers upon receipt of the above identified documentation.

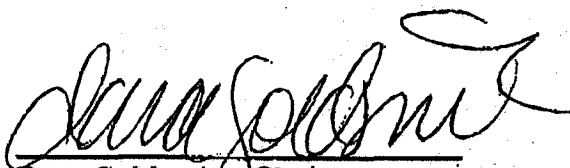
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Affirmation Pursuant to NRS 239B.030

The undersigned hereby affirms that the preceding document does not contain a social security number.

Dated this 21st day of August, 2014.



Dara Goldsmith, Chairperson
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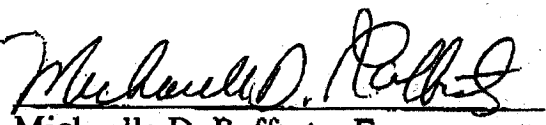
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Certificate of Compliance Pursuant to Rules 40 and 40A

1. I hereby certify that this Petition complies with the formatting requirements of NRAP 32(a)(4), the typeface requirements of NRAP 32(a)(5) and the type style requirements of NRAP 32(a)(6) because it has been prepared in a proportionally spaced typeface using, Microsoft Word version 2010, in size 14 font, using style Times New Roman.

2. I further certify that this Petition complies with the page- or type-volume limitations of NRAP 40 or 40A because the body of the Petition is set forth in less than 10 pages.

EXECUTED this 21st day of August, 2014.

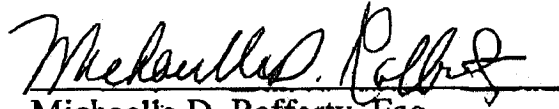


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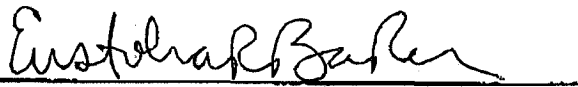
4. I make this certification on behalf of JLN.

EXECUTED this 21ST day of August, 2014.

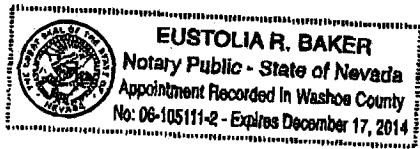


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SUBSCRIBED AND SWORN to before
me this 21 day of August, 2014.



Notary Public



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Certificate of Service by Mail

I hereby certify that I am an employee of MAUPIN, COX & LeGOY, Attorneys at Law, and in such capacity and on the date indicated below, I deposited for mailing from a point within the State of Nevada a sealed envelope which had enclosed within a true and correct copy of the within document, which envelope had postage fully prepaid thereon, and was addressed as follows:


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Dated this 21 day of August, 2014.


Gloria Baker