

1                                   **IN THE SUPREME COURT OF THE STATE OF NEVADA**

2                                   \*\*\*\*\*

3 NOLA HARBER, as Distribution Trustee  
4 of the ERIC L. NELSON NEVADA  
5 TRUST dated May 30, 2001

6                                   Petitioners,

7 vs.

8 EIGHTH JUDICIAL DISTRICT COURT  
9 OF THE STATE OF NEVADA, CLARK  
10 COUNTY, and THE HONORABLE  
11 FRANK P. SULLIVAN, DISTRICT  
12 JUDGE

13                                   Respondents,

14 and

15 ERIC L. NELSON and LYNITA S.  
16 NELSON, individually, and LSN  
17 NEVADA TRUST dated May 30, 2001,  
18 LARRY BERTSCH,

                                  Real Parties in Interest.

Electronically Filed  
Jul 25 2013 04:49 p.m.  
Tracie K. Lindeman  
Clerk of Supreme Court

**CASE NO. 63545**

19                                   **REPLY TO OPPOSITION TO EMERGENCY MOTION**

20  
21                                   MARK A. SOLOMON, ESQ., NSB #0418  
22                                   E-mail: [msolomon@sdfnvlaw.com](mailto:msolomon@sdfnvlaw.com)  
23                                   JEFFREY P. LUSZECK, ESQ., NSB #9619  
24                                   E-mail: [jluszeck@sdfnvlaw.com](mailto:jluszeck@sdfnvlaw.com)  
25                                   **SOLOMON DWIGGINS & FREER, LTD.**  
26                                   9060 W. Cheyenne Avenue  
27                                   Las Vegas, Nevada 89129  
28                                   Telephone: (702) 853-5483  
                                  Attorneys for Petitioner, Nola Harber as  
                                  Distribution Trustee of the ELN Nevada Trust

1 **I. INTRODUCTION**

2  
3 Lynita Nelson’s (“Lynita”) contention that the Eric L. Nelson Nevada Trust  
4 dated May 30, 2001 (“ELN Trust”) is somehow engaging by “vexatious and  
5 abusive litigation tactics” is simply not true as the instant Petition for Writ of  
6  
7 Prohibition, and that filed in Case/Docket Number 63432 are a direct result of the  
8 District Court exceeding its jurisdiction by ordering a Nevada self-settled  
9 spendthrift trust to transfer its assets to Lynita in contravention of Nevada law.  
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11 **II. STATEMENT OF FACTS AND PROCEDURAL HISTORY**

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13 Lynita has taken great liberty with what occurred at the trial and pertinent  
14 provisions of the Divorce Decree in an attempt to confuse this Court and shift the  
15 focus away from the simple questions raised in the Petition for Writ of  
16  
17 Prohibition, which are:

- 18 1. Whether the District Court exceeded its jurisdiction and erred  
19 as a matter of law by ordering the ELN Trust to transfer certain  
20 assets to “equalize” and/or “level off” the ELN Trust and LSN  
21 Trust.
- 22 2. Whether the District Court exceeded its jurisdiction and erred  
23 as a matter of law by enforcing the purported intent of Eric and  
24 Lynita to “equalize” the assets owned by the ELN Trust and  
25 LSN Trust despite the fact that there is no legally enforceable  
26 agreement and neither Eric nor Lynita possess a community or  
27 separate property interest in the assets owned by such trusts.
- 28 3. Whether the District Court exceeded its jurisdiction and erred  
as a matter of law by imposing a constructive trust over assets  
owned by the ELN Trust that did not originate from Lynita  
and/or the LSN Trust. *See* Petition for Writ of Prohibition at  
14:17-15:4, previously filed on July 9, 2013.

1 **III. LEGAL ANALYSIS**

2 **A. Nola Harber, the Successor Distribution Trustee of the ELN**  
3 **Trust has standing to maintain the Motions.**

4 Lana Martin, the prior Distribution Trustee of the ELN Trust, resigned on  
5 or around June 10, 2013. *See* Notice of Substitution of Distribution Trustee,  
6 attached as Exhibit 1. Pursuant to the Change of Trusteeship for the ELN Trust  
7 dated June 8, 2011, Jeffrey Burr, Esq. appointed Ms. Harber to serve as the  
8 Successor Distribution Trustee of the ELN Trust in the event that Ms. Martin  
9 became “deceased, unable or unwilling to serve as the current Distribution  
10 Trustee.” *See id.* Ms. Harber accepted the appointment of Distribution Trustee,  
11 and Eric, the Investment Trustee of the ELN Trustee, authorized and delegated  
12 Ms. Harber to defend, maintain and pursue any and all actions on behalf of the  
13 ELN Trust. *See id.* A Notice of Substitution of Distribution Trustee was filed  
14 with the District Court on July 16, 2013. *See id.*

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20 Since Ms. Martin resigned as Distribution Trustee, Ms. Harber is the only  
21 one authorized to bring the Petition for Writ of Prohibition as she is the real party  
22 in interest. *See, e.g.,* NRCP 17(a) (“Real Party in interest. Every action shall be  
23 prosecuted in the name of the real party in interest. An executor, . . . trustee of an  
24 express trust, . . . may sue in that person’s own name without joining the party for  
25 whose benefit the action is brought; . . .”). As Lynita recognized in her Answer, “it  
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1 is the trustees, rather than the trust itself that is entitled to bring suit.” *Causey v.*  
2 *Carpenters So. Nev. Vacation Trust*, 95 Nev. 609, 610, 600 P.2d 244, 245 (1979).  
3  
4 That is exactly what happened here: the Distribution Trustee, Ms. Harber, initiated  
5 the instant writ proceeding.

6  
7 Contrary to Lynita’s contention, a motion for substitution pursuant to  
8 NRCP 25(c) is inappropriate and unnecessary in the context of a trust because  
9 there has been no “transfer of interest” because the Distribution Trustee of the  
10 ELN Trust, is still the party to the litigation, albeit the person serving in the  
11 capacity of Distribution Trustee has changed. The resignation of Ms. Martin is  
12 akin to when a public officer “dies, resigns, or otherwise ceases to hold office,”  
13 *see* NRCP 25(d)(1), at which time the “officer’s successor is automatically  
14 substituted as a party.” (Emphasis Added). No motion is required. Although  
15 “[a]n order of substitution may be entered at any time, [] the omission to enter  
16 such an order shall not affect the substitution.” *See id.*

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21 **B. The NRAP 8(c) factors weigh in favor of granting a stay of the**  
22 **Divorce Decree ordering payment of funds to Lynita and the**  
23 **June 19, 2013, Order pending these writ proceedings.**

24 Instead of responding to the majority, if not all, of the arguments raised in  
25 the Emergency Motion, Lynita contends that a stay is inappropriate by  
26 misrepresenting the record and misconstruing the requirements under NRAP 8(c).  
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1 First, Lynita’s contention that Ms. Harber lacks standing fails for the  
2 reasons stated above.

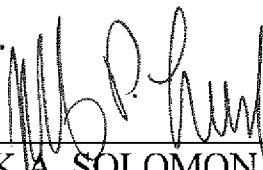
3  
4 Second, the ELN Trust will suffer irreparable harm and the object of the  
5 writ will be defeated if the requested stay is denied because the ELN Trust will be  
6 required to transfer 100% of its interest in the Lindell Property, the rental  
7 properties owned by Banone, LLC and 50% interest in the Russell Road Property,  
8 to the LSN Trust. Lynita’s reliance upon *Mikohn Gaming Corp. v. McCrea*, 120  
9 Nev. 89 P.3d 36, 40 (2004) is misplaced because in *Mikohn* this Court merely  
10 stated that irreparable harm typically does not exist when the harm is limited to  
11 “increased litigation costs and delay.” This Court made it clear however that a  
12 stay is appropriate where a party “may face actual irreparable harm.” Such is the  
13 case here because if a stay is not granted Lynita will be able to collect rents, enter  
14 into leases and/or alter the contractual obligations existing with the ELN Trust  
15 and/or sell the property.<sup>1</sup>

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21 **C. A bond is not required or appropriate.**

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24 <sup>1</sup> See, e.g., *Dixon v. Thatcher*, 103 Nev. 414, 415-16, 742 P.2d 1029, 1029-  
25 30 (1987) (“real property and its attributes are considered unique and loss of real  
26 property rights generally results in irreparable harm.” ); see also *Hansen v. Eighth  
27 Judicial Dist. Court ex rel. County of Clark*, 116 Nev. 650, 658, 6 P.3d 982, 986-  
28 87 (2000); *Nevada Escrow Service, Inc. v. Crockett*, 91 Nev. 201, 533 P.2d 471  
(1975).

1           Lynita concedes that a bond is not required pending the resolution of  
2           Petition for Writ of Prohibition.<sup>2</sup> Notwithstanding, Lynita requests that if this  
3           Court is inclined to grant a stay, it should require the ELN Trust to post a  
4           “supersedeas” bond as outlined by the District Court during the June 19, 2013,  
5           hearing when talking about a stay pending appeal. The District Court, however,  
6           did not identify a clear “outline” at such hearing and/or state that it would impose  
7           a supersedeas bond.<sup>3</sup> A supersedeas bond is unnecessary as the ELN Trust has  
8           more than sufficient assets to pay any damages if unsuccessful in the instant writ  
9           proceedings. Alternatively, if this Court is inclined to impose a bond it should be  
10           minimal, because all Lynita could possibly be damaged by the stay is the interest  
11           factor for the delay in receiving the property.  
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17           DATED this 25<sup>th</sup> day of July, 2013.



18  
19           MARK A. SOLOMON, ESQ., NSB 0418  
20           JEFFREY P. LUSZECK, ESQ., NSB 9619  
21           **SOLOMON DWIGGINS & FREER, LTD.**  
22           9060 W. Cheyenne Avenue  
23           Las Vegas, Nevada 89129

24           <sup>2</sup> See, e.g., NRAP (8)(a)(2)(E) (“The Court may condition relief on a party’s  
25           filing a bond or other appropriate security in the district court.”). (Emphasis  
26           Added).

27           <sup>3</sup> Indeed, the District Court merely identified a couple of things that “it  
28           thought” it could do. In any case a bond is inappropriate because a stay merely  
          preserves the status quo before the District Court entered an order exceeding its  
          jurisdiction.

1 **CERTIFICATE OF SERVICE**

2 Pursuant to Nev. R. App. P. 5(b), I hereby certify that I am an employee of  
3 the law firm of Solomon Dwiggin & Freer, Ltd., and that on July 25, 2013, I filed  
4 a true and correct copy of the foregoing *REPLY TO OPPOSITION TO*  
5 *EMERGENCY MOTION UNDER NRAP 27(e) FOR STAY TO ISSUE BY 5:00*  
6 *P.M. ON JULY 9, 2013, PENDING RESOLUTION OF WRIT PROCEEDINGS,*  
7 *WITH THE* Clerk of the Court through the Court's eFlex electronic filing system  
8 and notice will be sent electronically by the Court to the following:  
9

10  
11  
12 Robert P. Dickerson, Esq.  
13 Katherine L. Provost, Esq. Counsel for Lynita S. Nelson, defendant  
14 THE DICKERSON LAW GROUP in District Court  
15 1745 Village Center Circle  
16 Las Vegas, Nevada 89134  
[info@dickersonlawgroup.com](mailto:info@dickersonlawgroup.com)

17 Radford J. Smith, Chartered  
18 Rhonda K. Forsberg, Esq. Counsel for Eric L. Nelson, real party in  
19 64 N. Pecos Road, Suite 700 interest  
20 Henderson, Nevada 89074  
[rforsberg@radfordsmith.com](mailto:rforsberg@radfordsmith.com)

21  
22 I also hereby certify that the foregoing document will be deposited in the  
23 U.S. Postal Service by first class mail, postage prepaid thereon to the following:  
24

25 Hon. Frank P. Sullivan, Department O, Eighth Judicial District Court  
26 Robert P. Dickerson, Esq.  
27 Rhonda K. Forsberg, Esq.

28 DATED: June 25, 2013

  
An employee of Solomon Dwiggin & Freer, Ltd.

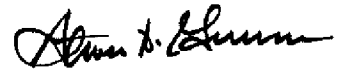
# **EXHIBIT 1**

# **EXHIBIT 1**



1 **NOTC**  
2 MARK A. SOLOMON, ESQ.  
3 Nevada State Bar No. 0418  
4 E-mail: msolomon@sdfnvlaw.com  
5 JEFFREY P. LUSZECK, ESQ.  
6 Nevada State Bar No. 9619  
7 E-mail: jluszeck@sdfnvlaw.com  
8 SOLOMON DWIGGINS & FREER, LTD.  
9 Cheyenne West Professional Centre'  
10 9060 W. Cheyenne Avenue  
11 Las Vegas, Nevada 89129  
12 Telephone No.: (702) 853-5483  
13 Facsimile No.: (702) 853-5485  
14 Attorneys for NOLA HARBER,  
15 Distribution Trustee of the ERIC L. NELSON  
16 NEVADA TRUST dated May 30, 2001  
17

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CLERK OF THE COURT

10 **DISTRICT COURT**

11 **COUNTY OF CLARK, NEVADA**

12 ERIC L. NELSON,  
13  
14 Plaintiff/Counterdefendant,

Case No.: D411537

Dept.: O

14 vs.

15 LYNITA SUE NELSON, LANA MARTIN,  
16 as Distribution Trustee of the ERIC L.  
17 NELSON NEVADA TRUST dated May 30,  
18 2001

18 Defendants/Counterclaimants.

19 LANA MARTIN, Distribution Trustee of the  
20 ERIC L. NELSON NEVADA TRUST dated  
21 May 30, 2001,

21 Crossclaimant,

22 vs.

23 LYNITA SUE NELSON,  
24

25 Crossdefendant.  
26  
27  
28

SOLOMON DWIGGINS & FREER, LTD.  
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LAS VEGAS, NEVADA 89129  
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NOTICE OF SUBSTITUTION OF DISTRIBUTION TRUSTEE

Please take notice that on or around June 10, 2013, Lana Martin resigned as Distribution Trustee of the ELN Trust. *See* Resignation of Current Distribution Trustee of the ELN Trust and Successor Distribution Trustee to Act in that Capacity, attached hereto as **Exhibit 1**. Pursuant to the Change of Trusteeship for the ELN Trust dated June 8, 2011, Jeffrey Burr, Esq. appointed Nola Harber to serve as the Successor Distribution Trustee of the ELN Trust in the event that Ms. Martin became “deceased, unable or unwilling to serve as the current Distribution Trustee.” *See* Change of Trusteeship for the ELN Trust dated June 8, 2011, attached hereto as **Exhibit 2**. Ms. Harber has accepted the appointment as Distribution Trustee of the ELN Trust, *see* Ex. 1, and Eric Nelson, the Investment Trustee, has authorized and delegated Ms. Harber to defend, maintain and pursue any and all actions on behalf of the ELN Trust. *See* Delegation of Nola Harber, attached hereto as **Exhibit 3**.

DATED this 16<sup>th</sup> day of July, 2013.

SOLOMON DWIGGINS & FREER, LTD.

By



MARK A. SOLOMON, ESQ.

Nevada State Bar No. 0418

msolomon@sdfnvlaw.com

JEFFREY P. LUSZECK, ESQ.

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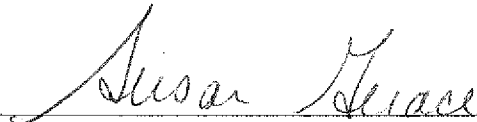
Attorneys for Nola Harber, Distribution Trustee

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**CERTIFICATE OF MAILING**

I HEREBY CERTIFY that pursuant to EDCR 7.26(a), service of the foregoing **NOTICE OF SUBSTITUTION OF DISTRIBUTION TRUSTEE** was made on this 16<sup>th</sup> day of July, 2013, by sending a true and correct copy of the same by United States Postal Service, first class postage fully prepaid, to the following at his last known address as listed below:

Robert P. Dickerson, Esq.  
Dickerson Law Group  
1745 Village Center Circle  
Las Vegas, NV 89134

  
\_\_\_\_\_  
An employee of Solomon Dwiggin & Freer, Ltd.

SOLOMON DWIGGINS & FREER, LTD.  
9060 WEST CHEYENNE AVENUE  
LAS VEGAS, NEVADA 89129  
TEL: (702) 853-5483 | FAX: (702) 853-5485

# **EXHIBIT 1**

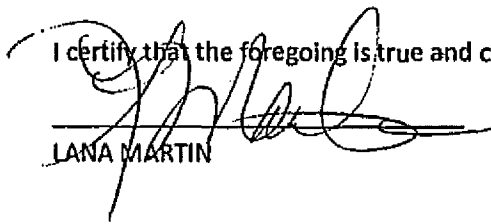
# **EXHIBIT 1**

**RESIGNATION OF CURRENT DISTRIBUTION TRUSTEE OF THE ERIC L. NELSON NEVADA TRUST  
AND SUCCESSOR DISTRIBUTION TRUSTEE TO ACT IN THAT CAPACITY**

I, Lana Martin, as current Distribution Trustee of the Eric L. Nelson Nevada Trust hereby resign my role as Distribution Trustee of the Eric L. Nelson Nevada Trust as I'm no longer willing to serve in that capacity.

Pursuant to that certain *Change of Trusteeship for the Eric L. Nelson Nevada Trust* dated June 8<sup>th</sup>, 2011, executed by Jeffrey L. Burr, Esq on behalf of Jeffrey Burr, LTD, as Trust Consultant, I hereby request that per Article 11.2 of such agreement, that NOLA HARBER serve as Successor Distribution Trustee of the Trust.

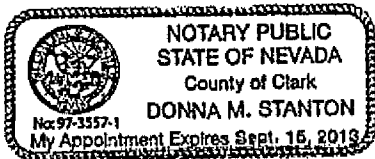
I certify that the foregoing is true and correct and hereby resign as Current Distribution Trustee.

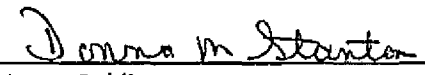
  
LANA MARTIN

STATE OF NEVADA            }  
  }ss:  
COUNTY OF CLARK         }

On June 10<sup>th</sup> 2013, before me, the undersigned, a Notary Public in and for said County of Clark, State of Nevada, personally appeared LANA MARTIN personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her authorized capacity, and that by her signature on the instrument, the person, or the entity upon behalf of which the person acted, executed the instrument.


WITNESS my hand and official seal.



  
Notary Public

ACCEPTANCE BY SUCCESSOR DISTRIBUTION TRUSTEE TO ACT AS CURRENT DISTRIBUTION TRUSTEE

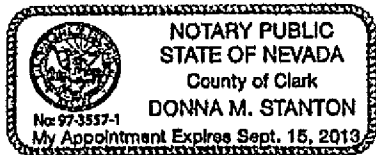
I certify that I have read the *Change of Trusteeship for the Eric L. Nelson Nevada Trust* dated June 8, 2011 and understand the terms and conditions for my service as Distribution Trustee and I accept in all particulars.

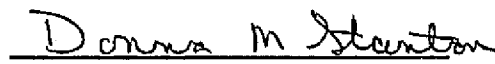
  
\_\_\_\_\_  
NOLA HARBER

STATE OF NEVADA        )  
                                  )ss:  
COUNTY OF CLARK     )

On June 10, 2013, before me, the undersigned, a Notary Public in and for said County of Clark, State of Nevada, personally appeared NOLA HARBER personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her authorized capacity, and that by her signature on the instrument, the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.



  
\_\_\_\_\_  
Notary Public

# **EXHIBIT 2**

# **EXHIBIT 2**

**CHANGE OF TRUSTEESHIP  
FOR THE  
ERIC L. NELSON NEVADA TRUST**

THIS CHANGE OF TRUSTEESHIP, dated June 8, 2011, is made in accordance with ARTICLE XI, Section 11.3, entitled Trust Consultant, as provided in the Trust Agreement, dated May 30, 2001.

*Witnesseth:*

WHEREAS, ERIC L. NELSON, as Trustor, established the ERIC L. NELSON NEVADA TRUST on May 30, 2001, wherein ERIC L. NELSON is serving as Investment Trustee, NOLA HARBER is serving as Distribution Trustee and JEFFREY BURR, LTD., formerly known as JEFFREY L. BURR, LTD., a Nevada corporation, is serving as Trust Consultant; and

WHEREAS, pursuant to the power reserved to JEFFREY BURR, LTD., as the Trust Consultant, in Section 11.3 of the within referenced Trust Agreement, it is the Trust Consultant's desire to remove LYNITA SUE NELSON as the first nominated Successor Investment Trustee of the within referenced Trust Agreement and to make other Successor Investment Trustee changes; and

WHEREAS, pursuant to the power reserved to JEFFREY BURR, LTD., as the Trust Consultant, in Section 11.3 of the within referenced Trust Agreement, it is the Trust Consultant's desire to remove NOLA HARBER as current Distribution Trustee of the within referenced Trust Agreement and to make other Distribution Trustee changes.

NOW, THEREFORE by executing this Change of Trusteeship, the Trust Consultant hereby makes the following modifications and changes to the current and successor Trusteeship of the ERIC L. NELSON NEVADA TRUST dated May 30, 2001:

**I.**

Effective immediately, LYNITA SUE NELSON is hereby removed as the Successor Investment Trustee of the Trust and NOLA HARPER is hereby removed as the current Distribution Trustee of the Trust



## II.

**ARTICLE 11 – PROVISIONS RELATING TO TRUSTEESHIP.** Sections 11.1 and 11.2 of this Article 11 shall be deleted in their entirety and the following shall be inserted in their stead:

**“11.1 Investment Trustee and Successor Investment Trustee.** ERIC L. NELSON is the current Investment Trustee of this Trust. If he should become deceased, unable or unwilling to serve, NOLA HARBER shall serve as Successor Investment Trustee of this Trust. If NOLA HARBER should become deceased, unable or unwilling to serve, CLARENCE NELSON shall serve as Successor Investment Trustee of this Trust. If CLARENCE NELSON should become deceased, unable or unwilling to serve, ALEDA NELSON shall serve as Successor Investment Trustee of this Trust. Except where specific powers are given to the Distribution Trustee as provided herein, wherever the term “Trustee” is used in this Trust, it shall be deemed to mean the Investment Trustee and Successor Investment Trustees as named above.

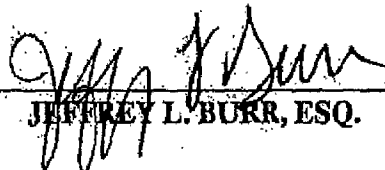
**11.2 Distribution Trustee and Successor Distribution Trustee.** LANA MARTIN is now appointed to serve as the current Distribution Trustee, effective immediately. If LANA MARTIN should become deceased, unable or unwilling to serve as the current Distribution Trustee, NOLA HARBER shall serve as Successor Distribution Trustee of this Trust. If NOLA HARBER should become deceased, unable or unwilling to serve, CLARENCE NELSON shall serve as Successor Distribution Trustee of this Trust. Notwithstanding the foregoing, upon the death of ERIC L. NELSON or in the event that he should cease to serve as the Investment Trustee hereunder, then the Distribution Trustee shall cease to serve and the administration and distribution of the Trust estate shall thereupon be under the exclusive control of the Investment Trustee(s). In no event shall the Trustor serve as a Distribution Trustee.”

III.

THIS CHANGE OF TRUSTEESHIP is made and executed by the Trust Consultant on the day and year first above written.


TRUST CONSULTANT:

JEFFREY BURR, LTD.,  
a Nevada corporation

BY:   
JEFFREY L. BURR, ESQ.

ACCEPTANCE BY CURRENTLY APPOINTED DISTRIBUTION TRUSTEE

I certify that I have read the foregoing Change of Trusteeship and the within referenced Declaration of Trust and understand the terms and conditions for my service as current Distribution Trustee and I accept the Declaration of Trust in all particulars.

  
LANA MARTIN

STATE OF NEVADA        )  
                                  ) ss.  
COUNTY OF CLARK     )

On June 8, 2011, before me, the undersigned, a Notary Public in and for said County of Clark, State of Nevada, personally appeared JEFFREY BURR, ESQ. of JEFFREY BURR, LTD., a Nevada corporation, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized

capacity, and that by his signature on the instrument, the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

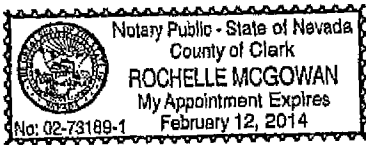


*Vanessa Rudge*  
\_\_\_\_\_  
NOTARY PUBLIC

STATE OF NEVADA        )  
                                  ) ss.  
COUNTY OF CLARK     )

On June 8, 2011, before me, the undersigned, a Notary Public in and for said County of Clark, State of Nevada, personally appeared LANA MARTIN personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her authorized capacity, and that by her signature on the instrument, the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.



*Rochelle McGowan*  
\_\_\_\_\_  
NOTARY PUBLIC

# **EXHIBIT 3**

# **EXHIBIT 3**

**Delegation of Nola Harber**

Due to the conflict of interest that I, ERIC NELSON, have as Investment Trustee of the ERIC L. NELSON NEVADA TRUST dated May 30, 2001, pertaining to the claims asserted by NOLA HARBER, Distribution Trustee of the ERIC L. NELSON NEVADA TRUST dated May 30, 2001, in Clark County District Court Case No. Case No. D-411537, I hereby authorize and delegate NOLA HARBER to defend, maintain and pursue any and all actions on behalf of the ERIC L. NELSON NEVADA TRUST dated May 30, 2001 in relation to such claims. This Delegation is also being made as a result of the fact that the undersigned previously delegated such authority to Lana A. Martin on August 19, 2011, but Ms. Martin has resigned as Distribution Trustee and NOLA HARBER has become the successor Distribution Trustee of the ERIC L. NELSON NEVADA TRUST dated May 30, 2001.

Dated this \_\_\_ day of June, 2013.



---

ERIC L. NELSON, Investment Trustee of the  
ERIC L. NELSON NEVADA TRUST dated  
May 30, 2001