

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

**CASE NO.63545**

Electronically Filed  
Aug 12 2013 02:50 p.m.  
Tracie K. Lindeman  
Clerk of Supreme Court

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.

19 **REPLY TO ANSWER TO PETITION FOR WRIT OF PROHIBITION**

20 **APPENDIX TO REPLY VOLUME 2**

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25 **SOLOMON DWIGGINS & FREER, LTD.**  
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28 Telephone: (702) 853-5483  
Attorneys for Petitioner, Nola Harber as  
Distribution Trustee of the ELN Nevada Trust

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# **EXHIBIT 1**

# **EXHIBIT 1**

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FILED  
JUN 5 2 03 PM '12  
*Frank R. Sullivan*  
CLERK OF THE COURT

DISTRICT COURT  
CLARK COUNTY, NEVADA

ERIC L. NELSON, )

Plaintiff/Counterdefendant, )

vs. )

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

Defendant/Counterclaimants. )

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

Crossclaimant, )

vs. )

LYNITA SUE NELSON, )

Crossdefendant. )

CASE NO.: D-09-411537-D  
DEPT. NO.: 0

NOTICE OF ENTRY OF ORDER

FRANK R SULLIVAN  
DISTRICT JUDGE


FAMILY DIVISION, DEPT. 0  
LAS VEGAS NV 89101

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TO:  
Rhonda Forsberg, Esq.  
Robert Dickerson, Esq.  
Mark Solomon, Esq.  
Jeffrey Luszeck, Esq.  
Larry Bertsch

PLEASE TAKE NOTICE that FINDINGS OF FACT AND ORDER was duly entered  
in the above-referenced case on the 5th day of June, 2012.

DATED this 5 day of June, 2012.

  
Lori Parr  
Judicial Executive Assistant  
Dept. O

**FRANK R SULLIVAN**  
DISTRICT JUDGE  
FAMILY DIVISION, DEPT. O  
LAS VEGAS NV 89101

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**FILED**

DISTRICT COURT

JUN 5 2 03 PM '12

CLARK COUNTY, NEVADA

*Ann K. Quinn*  
CLERK OF THE COURT

ERIC L. NELSON, )

Plaintiff/Counterdefendant, )

vs. )

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

Defendant/Counterclaimants. )

CASE NO.: D-09-411537-D  
DEPT. NO.: O

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

Crossclaimant, )

vs. )

LYNITA SUE NELSON, )

Crossdefendant. )

**FINDINGS OF FACT AND ORDER**

This Matter having come before this Honorable Court on April 10, 2012, on  
Counterdefendant, Crossdefendant, Third Party Defendant Lana Martin, Distribution Trustee of  
the Eric L. Nelson Nevada Trust's Motion for Payment of Attorneys' Fees and Costs,  
Defendant Lynita Nelson's Opposition to Motion for Payment of Attorneys' Fees and Costs

ANK R. SULLIVAN  
DISTRICT JUDGE

FILED DIVISION, DEPT. O.  
145 VEGAS NV 88101

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and Countermotion for Receiver, Additional Injunction and Fees and Costs, Lana Martin's Reply to Opposition to Motion for Attorneys' Fees and Costs, and Lana Martin's Opposition to Countermotion for Receiver, Additional Injunction and Fees and Costs, with Plaintiff, Eric Nelson, appearing and being represented by Rhonda Forsberg, Esq., Defendant, Lynita Nelson, appearing and being represented by Robert Dickerson, Esq., Katherine Provost, Esq., and Josef Karacsonyi, Esq., and Counterdefendant, Crossdefendant, Third Party Defendant Lana Martin, Distribution Trustee of the Eric L. Nelson Nevada Trust, being represented by Mark Solomon, Esq., and Jeffrey Luszeck, Esq., with the Court having reviewed Counterdefendant, Crossdefendant, Third Party Defendant's Motion, Defendant's Opposition and Countermotion and Counterdefendant, Crossdefendant, Third Party Defendant's Reply and Opposition to Countermotion, having heard oral argument and being duly advised in the premises, good cause being shown:

THE COURT HEREBY FINDS that in its Findings of Fact and Order filed on January 31, 2012, this Court made the following Order:

IT IS FURTHER ORDERED that any monies received by Eric L. Nelson, or any entity owned or controlled by Mr. Nelson, related to his ownership interest in the Silver Slipper Casino/Dynasty Development Group, LLC, shall remain in his attorney's interest bearing account and that the ELN Trust is otherwise enjoined from using any such monies received from the sale of Dynasty Development Group LLC's interest in the Silver Slipper Casino Venture LLC without an Order from this Court.

...  
...

**ANK R SULLIVAN**  
DISTRICT JUDGE  
JUDICIAL DIVISION, DEPT. OF  
CLERK OF COURTS, LAS VEGAS NV 89101



1  
2 THE COURT FURTHER FINDS that monies in the amount of One Million Five  
3 Hundred Sixty-Eight Thousand Dollars (\$1,568,000.00) that Dynasty Development Group,  
4 LLC, obtained as a result of a transaction involving the Silver Slipper Casino are subject to the  
5 Court's Injunction issued on January 31, 2012.

6 THE COURT FURTHER FINDS that in its Findings of Fact and Order that was filed  
7 on January 31, 2012, this Court made the following Order:

8 IT IS FURTHER ORDERED that Lana Martin, Trustee of ELN Trust, is free to seek  
9 leave of this Court to obtain any funds or assets necessary to defend against any lawsuits,  
10 including this divorce action, that will have a direct effect on the value of any properties that  
11 are contained in the ELN Trust and, as such, are susceptible to a community interest claim.

12 THE COURT FURTHER FINDS that the Eric L. Nelson Nevada Trust (hereinafter,  
13 "ELN Trust") argues in its Motion that it currently owes the Law Firm of Solomon, Dwiggins  
14 and Freer, Ltd., (hereinafter, "Solomon Law Firm") Sixty-Eight Thousand Six Hundred Eighty-  
15 Two Dollars and Eighty-Nine Cents (\$68,682.89) for fees and costs, and is requesting an  
16 additional Sixty Thousand Dollars (\$60,000.00) to be held as a retainer to offset attorneys' fees  
17 and costs incurred in preparation for the July, 2012 Evidentiary Hearing.

18 THE COURT FURTHER FINDS that the Solomon Law Firm is requesting expert  
19 witnesses' fees in the amount of Thirty-Four Thousand Nine Hundred One Dollars and Five  
20 Cents (\$34,901.05) due and owing to Gerety and Associates, CPA; Twenty-Five Thousand  
21 Dollars (\$25,000.00) to be held as a retainer for Gerety & Associates to offset fees associated  
22 with the preparation of an expert witness report for the July, 2012 Evidentiary Hearing; and  
23 Twenty Thousand Dollars (\$20,000.00) for The Rushforth Firm to offset fees associated with  
24 the preparation of an expert witness report for the July, 2012 Evidentiary Hearing.  
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ANK R. SULLIVAN  
DISTRICT JUDGE

JUDICIAL DIVISION, DEPT. OF  
CORRECTIONS, LAS VEGAS NV 89101

1  
2 THE COURT FURTHER FINDS that the ELN Trust desires to utilize a portion of the  
3 One Million Five Hundred Sixty-Eight Thousand Dollars (\$1,568,000.00) that is subject to the  
4 Court's injunction issued on January 31, 2012, to pay for the aforementioned attorneys and  
5 expert witnesses' fees and costs.

6 THE COURT FURTHER FINDS that at the hearing on April 10, 2012, the Court  
7 informed the parties that it would issue an Order as to the payment of the requested attorneys  
8 and expert witnesses' fees and costs from the One Million Five Hundred Sixty-Eight Thousand  
9 Dollars (\$1,568,000.00) that this Court has enjoined the ELN Trust from using pending further  
10 Order of this Court.

11 THE COURT FURTHER FINDS that in her Opposition, Ms. Nelson argues that Ms.  
12 Martin, as the Distribution Trustee, lacks standing to maintain her request for attorneys' fees  
13 and expert witnesses' fees on behalf of the ELN Trust because the express terms of the Trust do  
14 not provide her with the authority to make such request.<sup>1</sup>

15 THE COURT FURTHER FINDS that NRS 163.380 provides that a person acting in his  
16 role as a fiduciary may utilize any income created by the Trust to pay professionals necessary  
17 to assist in the administration of the Trust, including accountants and attorneys.

18 THE COURT FURTHER FINDS that Lana Martin, as the Distribution Trustee, has  
19 taken the following actions since Mr. and Mrs. Nelson stipulated to joining the ELN Trust as a  
20 necessary party on August 9, 2011: filed an Answer to the Complaint for Divorce and  
21 Counterclaim and Cross-claim on August 13, 2011; filed a Motion to Dismiss on November 7,  
22  
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25  
26 <sup>1</sup> Specifically, Article XII, Section 12.1 (z) of the Eric L. Nelson Nevada Trust provides that the Investment  
27 Trustee shall have the power "to employ and compensate, out of the principal or income or both, as the Trustee  
28 shall determine, such agents, persons, corporation or associations, including accountants, brokers, attorneys, tax  
specialists, certified financial planners, realtors, and other assistants and advisors deemed needful by the Trustees  
even if they are associated with a Trustee, for the proper settlement, investment and overall financial planning and  
administration of the Trust..."

1  
2 2011; filed a Motion to Dissolve Injunction on November 29, 2011; and filed a Motion to  
3 Dismiss Amended Third Party Complaint and Motion to Strike on January 17, 2012.

4 THE COURT FURTHER FINDS that at the hearing on April 10, 2012, Lana Martin  
5 produced a copy of a Delegation of Authority signed by Mr. Nelson , as Investment Trustee,  
6 delegating his authority as to the powers to employ and compensate attorneys, accountants,  
7 etc., to Lana Martin as Distribution Trustee.

8 THE COURT FURTHER FINDS that irrespective of the Delegation of Authority or the  
9 express terms contained in the ELN Trust, this Court has recognized the fact that Lana Martin,  
10 as Distribution Trustee, has acted on behalf of the ELN Trust since it joined this action, and, as  
11 such, does not lack standing to ask the Court for attorneys and other professionals' fees and  
12 costs.  
13

14 THE COURT FURTHER FINDS that alternatively, even though Lana Martin is the  
15 Distribution Trustee and is not expressly authorized to employ and compensate professionals  
16 under the terms of the ELN Trust, Mr. Nelson, as Investment Trustee, should not maintain the  
17 responsibility "to employ and compensate, out of the principal or income or both...such agents,  
18 etc..." in this action due to an apparent inherent conflict such arrangement would create as the  
19 ELN Trust is alleging that it is a separate entity representing its own interests, apart from and  
20 contrary to Mr. and Mrs. Nelson's interests in this divorce action.  
21

22 THE COURT FURTHER FINDS that at the hearing held on April 10, 2012, the Court  
23 requested that Mr. Larry Bertsch, the Court-appointed forensic accountant, prepare a report  
24 chronicling the costs the ELN Trust incurs with respect to its day-to-day operations as well as  
25 its respective sources of yearly and monthly income.  
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**ANK R SULLIVAN**  
DISTRICT JUDGE

JUDICIAL DIVISION, DEPT. OF  
CORRECTIONS, LAS VEGAS NV 89101

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THE COURT FURTHER FINDS that, according to the Notice of Filing Source and Application of Funds Pursuant to April 10, 2012 Hearing filed by the forensic accountant Mr. Bertsch, the ELN Trust's bank accounts reflect a total balance of Four Hundred Seventy-One Thousand Eight Hundred Ninety-Eight Dollars and Fifty-Six Cents (\$471,898.56) as of April 20, 2012.

THE COURT FURTHER FINDS that while the ELN Trust incurs many expenses which this Court would classify as "operating expenses," as reflected in the aforementioned Notice filed by Larry Bertsch, the ELN Trust has also incurred expenses entitled "Eric Nelson Draws and Expenses" and "Bella Kathryn Improvements and Expenses (Eric's Residence)," which are of particular interest to this Court.

THE COURT FURTHER FINDS that, as to the "Eric Nelson Draws and Expenses," while Mr. Nelson is entitled to distributions under the ELN Trust, it is interesting to note that since the inception of these divorce proceedings in 2009, the ELN Trust has made direct payments to Mr. Nelson in the total amount of Four Hundred Twenty-Nine Thousand Nine Hundred Four Dollars and Twenty Cents (\$429,904.20) through March of 2012; and has paid Mr. Nelson's expenses in the total amount of Two Hundred Sixty-Seven Thousand Five Hundred Seventy-Two Dollars and Nine Cents (\$267,572.09) through March of 2012.

THE COURT FURTHER FINDS that, as to the "Bella Kathryn Improvements and Expenses (Eric's Residence)," since the inception of these divorce proceedings in 2009, the ELN Trust has made payments towards the improvement of the Bella Kathryn residence in the total amount of One Million Seven Hundred Sixty-Five Thousand Sixty-Three Dollars and Seventy-Two Cents (\$1,765,063.72) through March of 2012; and payments towards the

**ANK R. SULLIVAN**  
DISTRICT JUDGE

JUDICIAL DIVISION, DEPT. OF  
SOUTH LAS VEGAS NV 89101

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2 expenses of the Bella Kathryn residence in the total amount of Seventy-Four Thousand Four  
3 Hundred Thirty-One Dollars and Seven Cents (\$74,431.07) through March of 2012.

4 THE COURT FURTHER FINDS that considering the fact that the ELN Trust had bank  
5 accounts totaling a balance of Four Hundred Seventy-One Thousand Eight Hundred Ninety-  
6 Eight Dollars and Fifty-Six Cents (\$471,898.56) as of April 20, 2012; that the ELN Trust has  
7 made direct payments to Mr. Nelson in the total amount of Four Hundred Twenty-Nine  
8 Thousand Nine Hundred Four Dollars and Twenty Cents (\$429,904.20) through March of  
9 2012; that the ELN Trust has paid Mr. Nelson's expenses in the total amount of Two Hundred  
10 Sixty-Seven Thousand Five Hundred Seventy-Two Dollars and Nine Cents (\$267,572.09)  
11 through March of 2012; that the ELN Trust has made payments towards the improvement of  
12 the Bella Kathryn residence in the total amount of One Million Seven Hundred Sixty-Five  
13 Thousand Sixty-Three Dollars and Seventy-Two Cents (\$1,765,063.72) through March of  
14 2012; and that the ELN Trust has made payments towards the expenses of the Bella Kathryn  
15 residence in the total amount of Seventy-Four Thousand Four Hundred Thirty-One Dollars and  
16 Seven Cents (\$74,431.07) through March of 2012, the ELN Trust has sufficient financial  
17 resources to pay for the attorneys' fees, expert witnesses' fees and other costs associated with  
18 the litigation of this matter without the need to access the funds currently enjoined by this  
19 Court.  
20  
21

22 THE COURT FURTHER FINDS that this Court decided to enjoin access to the One  
23 Million Five Hundred Sixty-Eight Thousand Dollars (\$1,568,000.00) to ensure that the ELN  
24 Trust would not engage in any business ventures that might dissipate the value of these funds  
25 pending determination as to the community property claims of Mrs. Nelson.  
26  
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**UNK R SULLIVAN**  
DISTRICT JUDGE

CLERK'S DIVISION, DEPT. OF  
CORRECTIONS, LAS VEGAS NV 89101

1  
2 THE COURT FURTHER FINDS that due to Mrs. Nelson's pending community interest  
3 claims as to the ELN Trust's assets, including the enjoined monies totaling One Million Five  
4 Hundred Sixty-Eight Thousand Dollars (\$1,568,000.00), it is most appropriate at this stage of  
5 the proceedings for this Court to continue to utilize statutes and case law in the context of  
6 divorce law as they would be most instructive in helping this Court render a fair and just  
7 decision.

8  
9 THE COURT FURTHER FINDS that the statutory scheme contained in Chapters 123  
10 and 125 of the Nevada Revised Statutes promotes a policy of ensuring that the value of any  
11 property or pecuniary interests that the parties have asserted maintain their "status quo"  
12 pending the outcome of the divorce action.<sup>2</sup>

13 THE COURT FURTHER FINDS that, upon review of the Billing Statement provided  
14 by the Solomon Law Firm, the request for attorneys' fees in the amount of Sixty Eight  
15 Thousand Six Hundred Eighty-Two Dollars and Eighty-Nine Cents (\$68,682.89) is fair and  
16 reasonable based upon the quality of the legal services rendered; the character, difficulty, and  
17 intricacy of the required legal services rendered; and the skill, time and attention given to the  
18 legal work provided by counsel.

19  
20 THE COURT FURTHER FINDS that the request for Retainer Fees in the amount of  
21 Sixty Thousand Dollars (\$60,000.00) to offset attorneys' fees and costs incurred in preparation  
22 for the Evidentiary Hearing to be held in July of 2012 is a fair and reasonable amount based  
23 upon the extended, protracted and litigious history of this divorce proceeding.  
24

25  
26  
27 <sup>2</sup> Specifically, NRS 123.225 provides that the husband and wife's interest in community property are "present,  
28 existing and equal interests." NRS 125.050 provides that after a complaint is filed, if it appears probable to the  
Court that either party is considering acting in such a way that would "defeat or render any less effectual" any  
order a Court may make concerning a party's property or pecuniary interests, the Court shall, through a restraining  
order, prevent the party from taking such detrimental action.

**IAN K R SULLIVAN**  
DISTRICT JUDGE

FAMILY DIVISION, DEPT. OF  
JUDICIAL SERVICES, LAS VEGAS NV 89101

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2 THE COURT FURTHER FINDS that while a request has been made for the expert  
3 witnesses' fees to date in the amount of Thirty-Four Thousand Nine Hundred One Dollars and  
4 Five Cents (\$34,901.05), and an additional Forty-Five Thousand Dollars (\$45,000.00) to offset  
5 fees associated with the preparation of the expert witnesses' reports for the upcoming  
6 Evidentiary Hearing, this Court has only been provided with an invoice in the amount of  
7 \$34,901.05 without detail as to the services provided by the expert witnesses, and, as such, this  
8 Court lacks sufficient documentation to determine the fairness and reasonableness of the  
9 requested expert witnesses' fees at this time.  
10

11 THE COURT FURTHER FINDS that while the Court lacks sufficient details as to the  
12 expert witnesses' services provided to date and to be provided in preparation for the impending  
13 Evidentiary Hearing, this Court will authorize an initial payment of Forty Thousand Dollars  
14 (\$40,000.00) towards the expert witnesses' fees, which would appear prudent at this time based  
15 the pending legal issues in regards to the ELN Trust and community property claims associated  
16 therewith, subject to reconsideration and/or reimbursement upon submission of an itemized  
17 billing statement at the conclusion of the Evidentiary Hearing.  
18

19 THEREFORE, IT IS HEREBY ORDERED that the ELN Trust is precluded from  
20 utilizing the monies, subject to this Court's January 31, 2012 injunction, in the amount of One  
21 Million Five Hundred Sixty-Eight Thousand Dollars (\$1,568,000.00) to pay its retained  
22 attorneys' fees and costs and retained experts' fees and costs.  
23

24 IT IS FURTHER ORDERED that the ELN Trust is directed to pay the sum of Sixty  
25 Eight Thousand Six Hundred Eighty-Two Dollars and Eighty-Nine Cents (\$68,682.89) for  
26 legal services and a retainer fee in the amount of Sixty Thousand Dollars (\$60,000) to  
27 Solomon, Dwiggins, and Freer, Ltd.  
28

**ANK R. SULLIVAN**  
DISTRICT JUDGE

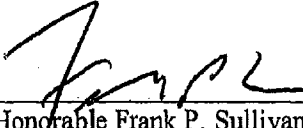
JUDICIAL DIVISION, DEPT. OF  
S. LAS VEGAS NV 89101

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IT IS FURTHER ORDERED that the ELN Trust is directed to pay the sum of Forty Thousand Dollars (\$40,000) towards the expert witnesses' fees made payable to Solomon, Dwiggins, and Freer, Ltd.

IT IS FURTHER ORDERED that this Court reserves the right to offset any attorneys' fees and/or expert witnesses' fees awarded to date based upon this Court's ultimate determination as to the respective parties' property rights and division thereof, as deemed fair and just.

Dated this 5<sup>th</sup> day of June, 2012.

  
Honorable Frank P. Sullivan  
District Court Judge – Dept. O

**FRANK R. SULLIVAN**  
DISTRICT JUDGE  
FAMILY DIVISION, DEPT. O  
LAS VEGAS NV 89101



# **EXHIBIT 2**

# **EXHIBIT 2**

JEFFREY L. BURR & ASSOCIATES  
ESTATE PLANNING ATTORNEYS

CRAIG D. BURR  
JEFFREY L. BURR\*\*  
ERIC L. BURTON<sup>D</sup>  
MARK L. DODDS\*\*\*  
BRENT J. JORDAN<sup>E</sup>

<sup>D</sup>LICENSED IN NEW MEXICO ONLY  
ALSO LICENSED TO PRACTICE IN  
<sup>E</sup>CALIFORNIA  
\*\*ARIZONA & CALIFORNIA  
\*\*\*UTAH

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REPLY TO MAIN OFFICE

WEST OFFICE  
CANYONS CENTER AT SUMMERLIN  
1160 TOWN CENTER DRIVE, SUITE 300  
LAS VEGAS, NV 89134  
(702) 254-4455  
FAX (702) 254-3330

May 30, 2001

Mrs. Lynita Sue Nelson  
7065 Palmyra  
Las Vegas, NV 89117

Dear Mrs. Nelson:

It has been a pleasure working with you in the formation of your Nevada On-Shore Trust ("NOST"). Your NOST will serve as an excellent asset protection device in your overall estate plan. Also, your NOST will provide you peace of mind and comfort if you will follow the instructions that are set forth in this letter.

Enclosed is a copy of our standard outline, entitled Asset Inventory, which will help you to list those properties, securities, accounts, etc., which you will need to transfer to your NOST.

It is very important that all of the assets you want protected from potential future creditors' claims be transferred to your NOST. Only those assets transferred to your NOST will be protected from creditors' claims once the two-year statute of limitations has run from the date you transfer assets into your NOST. Those assets remaining in your Family Trust or Revocable Living Trust will still be exposed to creditor attack should a creditor obtain a judgment against you. Generally speaking, we recommend that you transfer most, if not all, of your investment assets (i.e., stocks, bonds, cash or cash equivalents, raw land, etc.) into your NOST. Other assets, like your home and automobiles, should not be transferred into your NOST.

Although we may give you assistance and advice concerning transfers of your assets to your NOST, we accept no responsibility for the completion of such transfer work. It is, therefore, your responsibility to see that assets have been transferred into your NOST.

When transferring title to your NOST or naming your NOST as a beneficiary, new title should be held or the designation should be made as follows: "LYNITA SUE NELSON as Trustee of the LSN NEVADA TRUST, dated May 30, 2001," or "LYNITA SUE NELSON, Trustee u/a/d 05/30/01." The term u/a/d stands for "under agreement dated."

DEF004053

2APP 15

**Real Property:** Real estate held for investment purposes, such as raw or undeveloped land, should be transferred into your NOST. Otherwise, such real estate will remain exposed to creditor attack. New deeds will have to be prepared to accomplish such transfer(s). If you request, we will be happy to prepare any deeds for you. Our fee is \$75.00 plus a \$10.00 recording cost for each Nevada deed and \$100.00 plus a \$20.00 recording cost for all non-Nevada deeds. The costs for recording a deed will be as set forth above, unless recording costs for specific states exceed the amounts stated above.

**Cash Accounts:** In regards to your cash accounts (savings, money market funds, certificates of deposit, etc.) you will need to individually visit the financial institution and sign the documents which are necessary to transfer these assets to your NOST. You should not have to close the old accounts and open new ones; rather, you should retain the old account numbers so that you need not order new checks or lose interest on interest bearing accounts. Similarly, the number of authorized signatures required need not be changed from that presently existing. I would suggest that you start with the Branch Manager or other appropriate official in charge of the institution and have him or her direct you to the proper person to handle the changes.

As to your everyday checking and savings accounts, we recommend that you NOT transfer these accounts into your NOST. This way, you can continue drawing from the accounts and writing checks on these accounts for your everyday expenses. If you were to transfer these accounts into your NOST, you would run the risk of having your NOST declared invalid by the courts and by your potential future creditors.

**Certificates of Deposit:** In regard to any unmatured certificates of deposit, you will also need to visit the financial institution and endorse them over to your NOST. When they mature the new certificates should be issued in the name of your NOST as directed above.

**Safe Deposit Boxes:** Most banks will allow you to title your box in the name of your NOST.

**Stocks, Bonds and Securities:** In regard to any publicly traded stocks or bonds, it is best to have your broker handle the transfer of these assets as your signatures need to be witnessed by a member of a national stock exchange or national bank officer. You should not consider this as completed until a new certificate has been received from the transfer agent showing the Trustee of your NOST as the owner of the certificate.

**Insurance Policies:** It is important that you change the beneficiary designation for any insurance policies so that the beneficiary is now your NOST. You should have your insurance agent aid you in changing the Beneficiary. He or she should be able to promptly submit the necessary forms to the appropriate head office, and you should not consider this as completed until you have received written acknowledgement of the change from each head office. If you do not have an agent willing to assist you, our office will be glad to assist you in this endeavor.

**Retirement Accounts:** If it is your desire that your spouse receive these benefits, he or she should be listed as the primary beneficiary in order to receive favorable income tax benefits. Your NOST should then be listed as the secondary beneficiary. You should make this

designation and elect an appropriate plan payment method through the Plan Administrator in accordance with the Plan rules. This should not be considered as completed until you have received written confirmation thereof from the Plan Administrator.

**Individual Retirement Accounts:** It is not possible to change the account name of your individual retirement account to your NOST, as individual retirement accounts are required to be held in each name individually. However, if it is your desire that your spouse receive these benefits, he or she should be listed as the primary beneficiary in order to receive favorable income tax benefits. Your NOST may then be listed as the secondary beneficiary. This beneficiary change should be made through the institution where your individual retirement account is held. This should not be considered as completed until you have received written confirmation thereof from the Institution administering your account.

**Future Acquisitions:** Keep in mind that any property of whatever kind which you may acquire in the future should be purchased in the name of either your Family Trust or your NOST. If assets you acquire in the future are purchased in the name of your Family Trust, such assets will not be protected from potential future creditors' claims. However, such assets will avoid probate.

As to those assets you acquire in the name of your NOST, such assets will be protected from potential future creditors so long as the two-year statute of limitations has run from the time such assets are acquired. To ensure that such assets are adequately protected, it will be necessary to publish a Notice to Creditors as to the assets acquired by your NOST. Our office will be glad to assist in this endeavor.

**Caveat:** Before transferring stock options, rental real estate, or other tax-sensitive investments to your trust, please consult your individual income tax return preparer to insure that no adverse income tax consequences will result upon transfer.

**Additional Fees and Costs:** Your NOST, if properly funded as set forth herein, will certainly avoid probate. However, other procedures which will need to be completed upon the death of a Trustor or Trustee. These procedures may include, but not be limited to, the preparation and recordation of the Affidavit of Successor Trustee, the lodging of the original Last Will and Testament with the Clark County Clerk's office, the preparation and publication of a Notice to Creditors, the allocation and transfer of assets to individual trusts or beneficiaries and, possibly, the filing of the Federal Estate Tax Return with the Internal Revenue Service and the State of Nevada. The fees and costs for these procedures are not included in the initial preparation of your NOST Agreement. The fees and costs are kept to a minimum, and are certainly less expensive than the cost of a probate proceeding. These procedures are necessary to protect your NOST and Successor Trustee, and to take advantage of the tax exemptions that may be available, along with achieving other tax savings. Our firm has a well trained Trust Administration Department that would be very capable of assisting you with any additional work that may be required in the future.


Upon completion of the foregoing transfers, together with the transfer of other assets, your NOST should be fully implemented.

If you desire our assistance in making your property transfers, please contact us. We will need to obtain the appropriate information from you to complete the transfers. For example, for Real Estate we will need a copy of your old deeds or other documents that have the legal descriptions on them. Upon receipt of the information, we will prepare the deeds or other transfer documents that you may direct us to prepare. There is an additional fee for each property transfer we do.

If you should have any questions or if any individuals have questions as to holding property in the name of your NOST, please call our office or have the individuals call our office and we will be glad to explain the legal rules involved.

Sincerely,

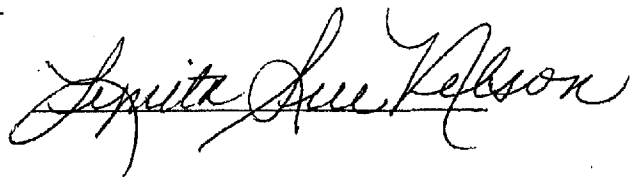
JEFFREY L. BURR & ASSOCIATES

  
Jeffrey L. Burr, Esq.

JLB  
Enclosure

I hereby understand and acknowledge receipt of this letter and I accept responsibility for the transfer of my assets to my Trust.

Dated: 5/30/01



Jeffrey L. Burr & Associates  
Attorneys at Law