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**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEVADA**

In re:

ROBERT C. GRAHAM, LTD, A NEVADA
PROFESSIONAL CORPORATION, D/B/A
ROBERT C. GRAHAM CORP. AND
LAWYERSWEST

Alleged Debtor.

Case No.: BK-S-16-16655-btb

Chapter: 7

Hearing:

Date: OST Pending

Time: OST Pending

MOTION TO APPOINT INTERIM TRUSTEE IN INVOLUNTARY CASE

Barbara A. Macknin, executor of the Estate of Michael B. Macknin, Sharona Dagani as Trustee of the Sharona Dagani Trust, u/t/d July 2, 2003, and Laura J. Aust as Guardian and Conservator of Margueritte Owens and the beneficiary of the Margueritte Owens Trust u/t/d October 10, 2008 (the "Petitioning Creditors"), by and through their counsel, the law firm of Garman Turner Gordon LLP, hereby submit this motion (the "Motion") seeking entry of an order, attached hereto as **Exhibit "A"**, pursuant to Sections¹ 303(g) and 701, to direct the United State Trustee (the "UST") to appointment of an interim trustee ("Trustee"), to take possession of property and to manage the business operations and assets of Robert C. Graham, Ltd., a Nevada

¹ All references to "Chapter" and "Section" herein shall be to 11 U.S.C. §§ 101-1532 (the "Bankruptcy Code"); all references to a "Bankruptcy Rule" shall refer to the Federal Rules of Bankruptcy Procedure; and all references to a "Local Rule" shall refer to the Local Rules of Bankruptcy Practice of the U.S. District Court for the District of Nevada.

professional corporation (“Debtor” or the “Law Firm”), d/b/a Rob Graham & Associates and LawyersWest which operated law offices in Las Vegas, Nevada, St. George, Utah and Boulder, Colorado, which Debtor recently ceased doing business and the principal of which, Nevada attorney Robert C. Graham (“Graham”), was suspended from practice by the Nevada Supreme Court. Petitioning Creditors further request that the UST appoint Brian Shapiro, Esq. as the Trustee based on his knowledge and experience in the protection and recovery of assets in the bankruptcy context.

While the State Bar of Nevada (the “Nevada Bar”) has diligently responded to allegations that Graham had misappropriated millions of dollars held in client trust funds, and Nevada attorneys Jasen E. Cassady, Esq. and Brandi K. Cassady, Esq. of the Cassady Law Office were appointed by Nevada’s Eighth Judicial District Court (the “State Court”) to assume control of Graham’s abandoned law practice and files, the filing of this involuntary Chapter 7 case (this “Chapter 7 Case”) is necessary to protect the Law Firm’s clients, and to effectuate the recovery and distribution of funds that are held across various jurisdictions in numerous financial institutions. In turn, the appointment of the Trustee for the specific purpose of managing Debtor’s business operations and assets, but not undertaking active representation of clients, is necessary to effectively marshal and protect these misappropriated client trusts funds as well as other assets of the Law Firm, which may otherwise be used, lost, or subsequently transferred.

This Motion is made and based on the memorandum of points and authorities set forth below, the pleadings, papers, and other records on file with the clerk of the above-captioned Court, as well as pleadings, papers, and other records on file with Nevada courts and tribunals, including attorney disciplinary matters, expressly including true and correct copies following:

- the *Complaint* filed by the Nevada Bar against Graham on December 8, 2016, to commence case no. OBC16-1503 (the “Disciplinary Action”) with the Southern Nevada Disciplinary Board attached as **Exhibit “B”**;
- the *Order Granting Petition, Suspending Attorney, and Restricting Handling of Client Funds* (the “Suspension Order”) entered by the Nevada Supreme Court on December 9, 2016, attached as **Exhibit “C”**;
- the *Ex Parte Application to Expand the Relief of the Temporary Restraining Order*

1 *Granted on December 5, 2016* (the “Expanded TRO Application”) filed by Joseph S.
 2 Kistler, Esq. as counsel for the Estate of Michael B. Macknin (the “Macknin Estate”) in case no P-13-077855-E (the “Macknin Case”) before the State Court, which
 3 includes the declarations of Mr. Kistler (the “Expanded Kistler TRO Dec.”) as Exhibit A to the Expanded TRO Application and as Exhibit 2 to Exhibit 8 to the
 4 Expanded Kistler TRO Dec. (the “Initial Kistler TRO Dec.”), attached as **Exhibit “D”**;

- 5 • the *Order Granting the Estate’s Emergency Ex Parte Application to Expand Relief of the Temporary Restraining Order Granted on December 5, 2016 and An Order to Show Cause Regarding Preliminary Injunction* (the “Expanded TRO”) entered by the
 6 State Court in the Macknin Case, attached as **Exhibit “E”**; and
- 7 • the *Affidavit in Opposition of Emergency Ex Parte Motion for Temporary Restraining Order* (the “Graham Affidavit”) filed by Mr. Graham on or about December 13,
 8 2016, attached as **Exhibit “F”**;

9 judicial notice of which is hereby respectfully requested, and the argument of counsel entertained
 10 by the Court at the time of the hearing of the Motion.

11 **MEMORANDUM OF POINTS AND AUTHORITIES**

12 **I. INTRODUCTION**

13 Based on supporting evidence detailed below, including the representations of the
 14 Nevada Bar, various private counsel and Mr. Graham, Mr. Graham and his Law Firm,
 15 recognizable to the general public through television advertisement, cannot account for millions
 16 of dollars of client trust account funds. As unmistakable concerns regarding Mr. Graham’s
 17 inability to transfer client funds to new counsel came to light during litigation, Mr. Graham
 18 closed his practice, and abandoned more than 100 clients. Shortly thereafter, initial review of
 19 financial documents regarding the trust funds for 51 of his clients by suggested that, in an
 20 account where more than \$13 million should have been held, no more than \$500,000 remains.
 21 While the State Bar and certain of its private members have worked swiftly and diligently to aid
 22 Mr. Graham’s abandoned clients—some of whom may have retained the Law Firm based on
 23 television commercials alone, having had no prior experience with lawyers until, e.g., the death
 24 of a family member, and who have now become involuntary creditors in this Chapter 7 Case—
 25 time is of the essence to attempt to recover misappropriated funds. Within the first week after
 26 the closing of the Law Firm, the Nevada Bar uncovered information suggesting that client funds
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 28

1 could be spread across numerous institutions in various states.

2 Although media reports as of December 15, 2016, have indicated that the Las Vegas
3 Metropolitan Police Department and the FBI are gathering facts and considering strategy in
4 connection with criminal prosecution of Mr. Graham,² potentially recoverable assets of the estate
5 are at imminent risk of subsequent transfer. For what amount of justice may be served for any
6 victims of Mr. Graham's potentially criminal conversion of funds through criminal investigation
7 and prosecution, the recovery of the misappropriated funds—which are likely to include the
8 hard-earned savings of those who sacrificed or, at times, went without in order to pass along a
9 measure of security to future generations—is best accomplished as immediately as possible, and
10 through the bankruptcy courts' civil law system. As this Court is well-aware, the self-funding
11 potential recovery through the bankruptcy process is limited by the extent of litigation required
12 to recover misappropriated funds, such as through fraudulent transfer actions. To the extent that
13 the Trustee can immediately marshal funds, and prevent additional transfers, including
14 subsequent transfers under Section 550, the greater the potential that funds can be found,
15 retained, and returned, and recovery would not require a potentially cost-prohibitive array of
16 fraudulent transfer litigation.

17 It is unclear where the funds have gone and why, although it has become increasingly
18 apparent that the funds are already spread across numerous institutions in various jurisdictions.
19 As such, the appointment of the Trustee is warranted under Section 303(g) and 701 to utilize
20 powers authorized under federal bankruptcy law to increase the likelihood that funds may be
21 recovered, while merely pursuing civil recovery and avoidance actions in state courts could
22 potentially limit the ability of the Debtor's involuntary creditors to recover their funds.

23 ...

24 ...

25 ...

26
27 ² See, e.g., Jeff German, "Las Vegas police, FBI join forces to investigate embattled attorney Robert Graham," *Las Vegas Review-Journal* (Dec. 13, 2016), available at <http://www.reviewjournal.com/news/las-vegas-police-fbi-join-forces-investigate-embattled-attorney-robert-graham>.
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II.
JURISDICTION AND VENUE

1. On December 14, 2016, the Petitioning Creditors filed their involuntary petition to commence this Chapter 7 Case. See ECF No. 1.

2. The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334. Consideration of the Motion is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A). Venue in this District is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

3. The basis for the relief sought herein arises from 11 U.S.C. §§ 105, 303(a) and (g), 362(a), and 541.

4. Pursuant to Local Rule 9014.2, the Petitioning Creditors consent to entry of final order(s) or judgment(s) by the bankruptcy judge if it is determined that the bankruptcy judge, absent consent of the parties, cannot enter final orders or judgments consistent with Article III of the United States Constitution.

III.
PERTINENT FACTS

A. Abandonment of the Law Firm After Failure to Comply with an Order to Transfer Former Client's Trust Funds.

1. On December 2, 2016, to the surprise of his staff, Mr. Graham called an office meeting to announce that he was abandoning the Law Firm, and that all employees were laid off. Not only had Mr. Graham failed to provided his staff with prior notice of the closing, but Mr. Graham had also failed to inform the Law Firm's clients. See Complaint ¶ 6-7.

2. Mr. Graham's sudden abandonment of the Law Firm and its clients was immediately preceded by an order (the "Transfer Order"), entered by the State Court in the Macknin Case, directing Mr. Graham and the Law Firm to transfer funds in the amount of \$1,045,405.08 and \$22,569.53, which were being held in trust for the Macknin Estate, as a former client, to Michael Kling, Esq. and Michael Kling, Ltd., the Macknin Estate's new counsel. See id. ¶ 3.

3. Prior to entry of the Transfer Order, Mr. Graham had told Mr. Kling that he was still holding the Macknin Estate's funds in an IOLTA client trust account located at City

1 National Bank (“CNB” and the “CNB IOLTA”), even providing a copy of a statement (the “Fake
2 IOLTA Statement”) showing a balance of more than \$1 million. See id. ¶ 4; Kistler Expanded
3 TRO Dec. at Exhibit 2 to Exhibit 8.

4 4. In the aftermath of the Law Firm closing, and because of Mr. Graham’s failure to
5 comply with the Transfer Order, on December 5, 2016, Mr. Kistler obtained a temporary
6 restraining order (the “Initial TRO”) in the Macknin Case freezing all funds in the City National
7 IOLTA. See id. ¶ 9.

8 5. In response to the abandonment of the Law Firm, on December 6, 2016, the
9 Nevada Bar directed the pro-bono appointment of the Cassady Law Office to assume and wind-
10 down Mr. Graham’s practice, including providing notice to clients, and securing client files and
11 accounts. See id. ¶ 10; Exhibit 6 to the Expanded TRO Application.

12 6. The next day, on December 7, 2016, the Nevada Bar obtained accounting records,
13 including checks and disbursements, via subpoena. See, e.g., Kistler Expanded TRO Dec. at
14 Exhibit 7. After an initial analysis regarding the Law Firm’s accounting for a selection of 51 of
15 its former clients, the Nevada Bar determined that Mr. Graham and the Law Firm should be
16 holding more than \$13 million in trust accounts. See Complaint ¶ 11; Kistler Expanded TRO
17 Dec. at Exhibit 2 to Exhibit 8 (the “Kistler Initial TRO Dec”).

18 7. CNB’s counsel told Mr. Kistler that the CNB IOLTA did not hold \$13 million,
19 but had “a balance in the low six figures,” and Mr. Kistler otherwise understood no other
20 accounts related to Mr. Graham were held by CNB. See Kistler Initial TRO Dec. ¶ 4. As well,
21 CNB’s counsel indicated that the Fake IOLTA Statement was “not based upon a legitimate bank
22 statement.” See id. ¶ 6.

23 **B. Mr. Graham’s Suspension.**

24 8. On December 8, 2016, the Nevada Bar filed the Complaint, detailing disputes
25 regarding trust funds in the Macknin Case, Mr. Graham’s abandonment of the Law Firm and his
26 clients, and alleging that “[p]rior to the abandonment of his practice, [Mr. Graham] had routinely
27 and consistently failed to diligently distribute funds being held for clients in trusts, probates, and
28 estates, and failed to communicate with these clients regarding the status of their money.

1 Respondent also repeatedly lied to clients as to the true status of their client funds.” See
2 Complaint ¶ 8.

3 9. The next day, on December 9, 2016, the Nevada Supreme Court entered the
4 Suspension Order, finding that the Complaint and supporting documentation demonstrate that
5 “Graham appears to have misappropriated client funds entrusted to him and abandoned his
6 practice without complying with SCR 115.” See Suspension Order at 1. The Nevada Supreme
7 Court temporarily suspended Mr. Graham’s bar license pending the resolution of formal
8 proceedings. Id.

9 **C. Expanded TRO and Permanent Injunction.**

10 10. In the wake of discoveries as to the potential breadth of Mr. Graham’s
11 misappropriation, the Macknin Estate sought to expand the Initial TRO, which prohibited Mr.
12 Graham, Debtor, and CNB from initiating any disbursements from CNB IOLTA to “prohibit
13 disbursements by Robert C. Graham, Robert C. Graham LTD, Linda Graham, City National
14 Bank, Nevada State Bank, JP Morgan Chase, Utah Community Credit Union, Cetra Advisors,
15 TINC Wealth Advisors, Pershing Advisor Solutions, LLC and WBI Wealth Management from
16 any account that may hold Graham’s clients’ assets, pending further order of the Court.” See
17 Expanded IOLTA App. at 1-2.

18 11. The Expanded IOLTA Application explained, with evidentiary support from Mr.
19 Kistler, that the Nevada Bar had indicated that Mr. Graham’s wife, Linda M. Graham, Esq., was
20 Mr. Graham’s law partner, and may be operating a law firm in Colorado. See Expanded Kistler
21 Dec. ¶ 9. Additionally, the Nevada Bar indicated to Mr. Kistler that trust funds for clients of Mr.
22 Graham and the Law Firm might be located at those institutions to which Mr. Kistler had
23 requested that the State Court Expand the Initial TRO’s scope. See id.

24 12. On December 9, 2016, the State Court granted the Expanded TRO Application
25 and entered the Expanded TRO Order. See Expanded TRO Order.

26 13. At a hearing on December 14, 2016 (the “Permanent Injunction Hearing”), the
27 State Court ordered that an injunction (the “Permanent Injunction”) making the Extended TRO
28

1 permanent.³

2 **D. The Graham Affidavit.**

3 14. In advance of the Permanent Injunction Hearing, Mr. Graham submitted the
4 Graham Affidavit, an unsettling 21-page document filed in an apparent attempt to place into the
5 record testimony that Ms. Graham—a licensed Nevada attorney herself with accompanying
6 ethical duties—was not involved in the misappropriation. Mr. Graham noted, in a seeming
7 reference to his rights under the Fifth Amendment of the United States Constitution given
8 pending criminal investigations, that he “has a right to keep silent on much of the underlying
9 matters.” See Graham Affidavit ¶ 42. This underscores that Mr. Graham does not immediately
10 intend to provide information regarding the fate of client trust funds to facilitate their recovery.

11 15. In a continuing abrogation of the Nevada Rules of Professional Conduct, the
12 Graham Affidavit suggested the State Court should unfreeze certain accounts that Mr. Graham
13 purported held operating funds, and not client trust funds. See, e.g., id. ¶¶ 50, 86-87.
14 Nevertheless, Mr. Graham summarized the entire matter as “a sad story of business losses over
15 twenty years of practice,” see id. ¶ 46, an apparent tacit admission that Mr. Graham had been
16 using at least some client trust funds to operate the business or to otherwise support his lifestyle.
17 See, e.g. id. ¶ 19 (noting that the Law Firm paid Mr. Graham’s credit card bills).

18 16. At the Permanent Injunction Hearing, the State Court noted that “[h]is affidavit
19 genuinely shows a lack of understanding of the principles of trust accounting,” adding that it
20 appeared as though he was using his trust as his own bank.⁴

21 17. As galling as Mr. Graham’s actions are to the general public and the upstanding
22 members of the Nevada Bar alike, the continuing threat he poses—even in non-action and non-
23 contrition—is highlighted by the unhinged emotion of the Graham Affidavit. After engaging in
24 an emotional rant punctuated by seemingly sarcastic and flippant rhetorical questions, see id.

25 ³ The Permanent Injunction was not available through the State Court’s document access system in sufficient time to
26 be attached to this Motion.

27 ⁴ See Jeff Germain, “Las Vegas lawyer under investigation wants to protect wife from claims of missing client
28 money,” *Las Vegas Review Journal* (Dec. 14, 2016), available at <http://www.reviewjournal.com/crime/courts/las-vegas-lawyer-under-investigation-wants-protect-wife-claims-missing-client-money>.

¶61-75, Mr. Graham attacked his client-victims. He derisively referred to the very one of his client-victims who ultimately uncovered his scheme, and who is one of the signatories on the involuntary petition to impose the protection of the bankruptcy court for all of Mr. Graham's client-victims, as "the star of the stage presently due to the aggressive acts of her attorneys." See id. ¶ 90.

18. Read a whole, the Graham Affidavit contains generalized references to the acknowledgement of wrongdoing, see, e.g., id. ¶ 84, but entirely lacks a tenor of contrition or genuine concern with unwinding any damage that can be unwound. See, e.g., ¶ 84. Instead, the Graham Affidavit is an aggressive and dangerous attempt to recast the damage done to his client-victims as minor when compared to the damage others now seek to cause his family in their pursuit of his accountability. See id. 76-77. Most outrageously, when comparing the damage, of his client-victims with that done to his family, Mr. Graham stated, "No harm done." See id. ¶ 77.

19. Moving past the visceral shock of Mr. Graham's efforts to downplay the harm to his client-victims—many of whom themselves may have now lost funds that would have otherwise paid for food, clothing, medical care, or education for their own children—the Graham Affidavit raises undeniable concerns that Mr. Graham's current motivation is protecting his own interests at all costs. See generally id. While a natural response, and the same response that many of his client-victims are undoubtedly experiencing as well, Mr. Graham's raw emotion threatens an orderly and law-based accounting and recovery of what—if any—of the victim's money may remain, including the just and rightful recovery under applicable law of money taken by Mr. Graham from client trust funds that may have been was transferred for his benefit or that of his family members.

IV. LEGAL ARGUMENT

The appointment of a Trustee is justified to protect the assets of the estate in the wake of Mr. Graham's apparent misappropriation of funds. Underscoring the legal basis for this appointment, Section 362(a) imposes the automatic stay on all of a debtor's assets, as well as

1 preventing the commencement of actions against the property of the estate, and detailed in
 2 Section 541. Section 303(f) provides, however, that upon the commencement of an involuntary
 3 case, except as otherwise ordered by a court, the debtor may continue to use estate property as
 4 though the involuntary case had not been commenced. Thereafter, Section 303(g) provides in
 5 pertinent part:

6 At any time after the commencement of an involuntary case under
 7 chapter 7 of this title but before an order for relief in the case, the
 8 court, on request of a party in interest, after notice to the debtor
 9 and a hearing, and if necessary to preserve the property of the
 10 estate or to prevent loss to the estate, may order the United States
 trustee to appoint an interim trustee under section 701 of this title
 to take possession of the property of the estate and to operate any
 business of the debtor.

11 Section 701 provides for the appointment by the United States trustee (“UST”) of a panel trustee.
 12 Due to the lack of ambiguity of that provision, there is limited case regarding the appointment of
 13 an interim trustee in an involuntary proceeding. The purpose of this provision is to safeguard the
 14 estate in the interim between an involuntary filing and the entry of an order or relief, at which
 15 time an alleged debtor may otherwise use the property of the estate “as if an involuntary case . . .
 16 had not been commenced.” See 11 U.S.C. 303(f). While limited case law addresses Section
 17 303(g), a passing reference is made noting the appointment of a Section 303(g) interim trustee in
 18 Securities Investor Protection Corp. v. Bernard L. Madoff Invest. Sec. LLC, 2016 6088136, * 2
 19 (S.D.N.Y. Oct. 18, 2016).

20 In this Chapter 7 Case, cause exists to appoint a Trustee because the recovery of Debtor’s
 21 involuntary creditors may depend on the extent of immediate action taken to protect transferred
 22 assets. Beyond mere speculation, admissible facts suggest that Debtor, through Mr. Graham, has
 23 participated in an egregious violation of client trust that has collectively deprived clients of
 24 millions of dollars, without any clear explanation of where the money has gone. While criminal
 25 authorities are purportedly investigating, recovery of missing assets requires the prompt
 26 involvement of protections provided under bankruptcy law to protect and recover assets that are
 27 already known to be distributed, in unknown amounts, in institutions across the region.

1 The overarching nature of Mr. Graham's scheme, however, is unclear. In circumstances
2 involving the misappropriation of client funds, speculation typically includes whether the
3 attorney, e.g., became tempted by the volume of funds passing through his client's trust
4 accounts, fell behind in an aggressive marketing budget as a lawyer relying heavily on television
5 advertising, became involved in bad business investments, or could otherwise no longer support
6 an unsuccessful moonshot venture. While the details underlying the misappropriation of client
7 funds are unknown, evidence provided by the Nevada Bar suggest that funds have been
8 transferred to a variety of financial institutions other than CNB, which held the CNB IOLTA.
9 There is no legal or ethical justification for client trust funds to have been transferred into these
10 accounts even were all funds still available and, most importantly, Section 303(g) does not
11 demand that petitioning creditors bear the burden of unwinding such a scheme of fraudulent
12 misappropriation before seeking the relief of the appointment of an interim trustee.

13 While the Nevada Bar has caused the transfer of business operations of the Law Firm,
14 independent counsel does not have the power nor the time and resources to effectively
15 investigate and pursue the recovery of estate assets. Likewise, while the State Court has imposed
16 certain limitations on transfers of funds that may have involved, these protections are narrowed
17 to by the facts before the State Court in the Macknin Case. Section 362(a), however, broadly
18 stays actions to use or transfer property of the estate under Section 541, whether or not expressly
19 identified. In turn, good cause exists to appoint a Trustee to protect the estate following the
20 filing of this Chapter 7 Case, as it would allow a professional expressly charged with the
21 marshaling and recovery of assets to most quickly attempt to prevent the further transfer or loss
22 of estate property for the benefit of its involuntary creditors.

23 As discussed above, the Graham Affidavit suggests that Mr. Graham may have freely
24 transferred unearned funds out of client trust accounts to pay operating expenses of the Law
25 Firm, or to cause the Law Firm to pay his own living expenses. The Graham Affidavit also
26 suggests that Mr. Graham, facing the imminent weight of consequences for the deception on
27 which his career was based, has nothing to lose from directly or indirectly causing further
28 subsequent transfers of funds that were, at one time, unlawfully removed from client trust funds,

1 or otherwise obscuring or shielding the discovery or recovery of such funds. The imposition of
2 the automatic stay under Section 362(a) may be of limited practical effect without the weight of a
3 Section 303(g) Trustee to protect any remaining assets of the estate.

4 Additionally, while Section 701 provides that the UST makes the appointment of the
5 interim Trustee, the Petitioning Creditors support the selection of Mr. Shapiro as Trustee. Mr.
6 Shapiro's experience investigating, identifying, and recovering assets in cases involving fraud
7 and other misappropriation makes him a strong candidate to effectuate the role of interim trustee
8 in a manner required by these circumstances.

9
10 **V.**
CONCLUSION

11 The Petitioning Creditors respectfully request that this Court enter an Order for an order
12 pursuant to 11 § USC 303(g) instructing the Office of the United States Trustee to immediately
13 appoint an interim trustee in this case, pursuant to 11 § USC 701(a). The Petitioning Creditors
14 request other relief as this Court deems proper.

15 DATED this 16th day of December, 2016.

16 GARMAN TURNER GORDON

17 By: 

18 GERALD M. GORDON, ESQ.
19 KRISTIN M. TYLER, ESQ.
20 ERICK T. GJERDINGEN, ESQ.
21 *Attorneys for Petitioning Creditors*
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EXHIBIT A

EXHIBIT A

GARMAN TURNER GORDON LLP
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Attorneys for Petitioning Creditors

**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEVADA**

In re:

ROBERT C. GRAHAM, LTD, A NEVADA
PROFESSIONAL CORPORATION, D/B/A
ROBERT C. GRAHAM CORP. AND
LAWYERSWEST

Alleged Debtor.

Case No.: BK-S-16-16655 -btb
Chapter: 7

Hearing:

Date: OST Pending

Time: OST Pending

ORDER TO APPOINT INTERIM TRUSTEE IN INVOLUNTARY CASE

Barbara A. Macknin, executor of the Estate of Michael B. Macknin, Sharona Dagani as Trustee of the Sharona Dagani Trust, u/t/d July 2, 2003, and Laura J. Aust as Guardian and Conservator of Margueritte Owens and the beneficiary of the Margueritte Owens Trust u/t/d October 10, 2008 (the "Petitioning Creditors"), by and through their counsel, the law firm of

1 Garman Turner Gordon LLP, filed its *Motion to Appoint Interim Trustee in Involuntary Case*
2 (the “Motion”)¹ [ECF No. _], which came on for hearing before the above-captioned court on
3 _____, 201_, at __:00 a.m. (the “Hearing.”) Petitioning Creditors appeared at the
4 Hearing by and through counsel, of the law firm of Garman Turner Gordon LLP, and all other
5 appearances were noted on the record at the Hearing.

6 The Court read and considered the Motion, as well as the argument of counsel at the
7 Hearing and having set forth its findings of facts and conclusions of law on the record at the
8 Hearing, which findings and conclusions are incorporated herein pursuant to Federal Rule of
9 Civil Procedure 52, made applicable hereby Federal Rules of Bankruptcy Procedure 7052 and
10 9014, and good cause appearing therefore;

11 IT IS HEREBY ORDERED that:

- 12 1. The Motion is GRANTED.
- 13 2. Cause exists to appoint an interim trustee pursuant to 11 U.S.C. § 303(g) and 701.
- 14 3. The United States Trustee is hereby direct to immediately appoint an interim trustee
15 in the above-referenced bankruptcy case.

16 **IT IS SO ORDERED.**

17 PREPARED AND SUBMITTED:

18 GARMAN TURNER GORDON LLP

19 By: /s/ Erick T. Gjerdingen
20 GERALD M. GORDON, ESQ.
21 KRISTIN M. TYLER, ESQ.
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23 650 White Drive, Suite 100
24 Las Vegas, Nevada 89119
25 *Attorneys for Petitioning Creditors*
26
27
28

¹ All capitalized, undefined terms herein shall have the meanings ascribed to them in the Motion.

EXHIBIT B

EXHIBIT B

Case No. OBC16-1504



FILED

DEC 08 2016

STATE BAR OF NEVADA
SOUTHERN NEVADA DISCIPLINARY BOARD

STATE BAR OF NEVADA

OFFICE OF BAR COUNSEL

STATE BAR OF NEVADA,

Complainant,

vs.

ROBERT C. GRAHAM, ESQ.,
BAR No. 4618,

Respondent.

COMPLAINT

TO: Robert C. Graham, Esq.
c/o P. Sterling Kerr, Esq.
2450 St. Rose Parkway, Suite 120
Las Vegas, NV 89074

PLEASE TAKE NOTICE that pursuant to Supreme Court Rule ("SCR") 105(2), a **VERIFIED RESPONSE OR ANSWER** to this Complaint must be filed with the Office of Bar Counsel, State Bar of Nevada, 3100 W. Charleston Boulevard, Suite 100, Las Vegas, Nevada 89102, within twenty (20) days of service of this Complaint. Procedure regarding service is addressed in SCR 109.

1. Complainant, State Bar of Nevada (hereafter "State Bar"), by and through its Assistant Bar Counsel, Janeen V. Isaacson, alleges that attorney Robert C. Graham, Esq. ("Respondent"), is now and at all times pertinent herein was a licensed attorney in the State of Nevada and that he engaged in acts of misconduct in Clark County, Nevada, warranting the imposition of professional discipline as set out herein.

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2 2. At all relevant times herein, Respondent was the owner of Robert C.
3 Graham, LTD. and practiced law under the names Rob Graham & Associates and
4 Lawyers West in Las Vegas, Nevada.

5 3. On November 17, 2016, Respondent was ordered to transfer the sum of
6 \$1,045,405.08 and \$22,569.53 which he was holding for former client Michael B. Macknin
7 to his new counsel, Michael Kling, Ltd. by Judge Gloria Sturman of Department 26 in the
8 Nevada Eighth Judicial District Court.

9 4. Prior to the issuance of the Order, Kling had communicated with
10 Respondent who represented that he was still safekeeping Macknin's funds, which
11 Respondent claimed were located in his IOLTA client trust account located at City
12 National Bank. Respondent also provided to Macknin's counsel a copy of what he
13 represented was a bank statement from that IOLTA account showing a balance of over
14 \$1 million dollars.

15 5. Respondent failed to comply with Judge Sturman's Order.

16 6. On December 2, 2016, Respondent called an office meeting with his staff at
17 10000 W. Charleston Blvd, Suite 140, Las Vegas, Nevada and informed them that he
18 was abandoning the law practice as of that day and that everyone was laid off.

19 7. Respondent's employees had no prior notice that the office was closing and
20 none of Respondent's clients were informed of the abandonment.

21 8. Prior to the abandonment of his practice, Respondent had routinely and
22 consistently failed to diligently distribute funds being held for clients in trusts, probates,
23 and estates, and failed to communicate with these clients regarding the status of their
24 money. Respondent also repeatedly lied to clients as to the true status of their client
25 funds.

1 9. On December 5, 2016, attorney Joseph S. Kistler ("Kistler") of Hutchison &
2 Steffen, LLC, obtained a Temporary Restraining Order ("TRO") and Preliminary Injunction
3 freezing all funds contained in the City National IOLTA trust account based on the
4 abandonment of Respondent's practice, and his failure to turn over the funds as ordered.

5 10. On December 6, 2016, for the benefit and protection of the clients,
6 Supreme Court Rule ("SCR") 118 representatives were appointed pro-bono to step in the
7 shoes of Respondent and assume the handling of Respondent's practice, assume
8 Respondent's cases and take all necessary steps to wind-down the practice, notify clients
9 of the situation, and secure client files and accounting information.

10 11. On December 7, 2016, the State Bar obtained accounting records and
11 copies of checks and disbursements relating to specific clients of the law firm via
12 subpoena. The State Bar, while still in the mist of its analysis of these records, has
13 reviewed more than 50 individual Transaction Detail by Account reports maintained by
14 the law firm. These reports appeared to track all deposits and client related transactions.
15 The State Bar has prepared a chart documenting 51 separate reports attached thereto
16 demonstrating that Respondent, based on his own accounting records, should be holding
17 more than \$13,000,000 in trust for those 51 clients alone. See **Exhibit 1**.

18 12. On December 7, 2016, Kistler, co-counsel for Macknin, reported to the
19 State Bar that he had been in communications with City National Bank in compliance with
20 the TRO issued by Judge Sturman. He provided the State Bar with a Declaration stating
21 that City National had confirmed the balance of Respondent's City National IOLTA was in
22 the "low six figures" and confirmed that the bank statement provided by Respondent
23 showing the balance to be over \$1 million dollars was not based on a legitimate bank
24 statement. See **Exhibit 2**.

1 13. The State Bar, based on accounting and bank records, obtained by
2 execution of a subpoena, has determined there are other banking and investment
3 accounts which were being utilized by Respondent to keep funds provided to him for
4 safekeeping by his clients. However, based on information provided to date, the
5 balances of these accounts total much less than the more than \$13,000,000 Respondent
6 should be safekeeping for these clients.

7 14. Respondent has retained counsel, who facilitated the execution of the State
8 Bar's lawful subpoena in compliance with Rule of Professional Conduct ("RPC") 8.1(b)
9 (Bar Admission & Disciplinary Matters) but indicated that Respondent will not respond to
10 any further requests for information from the State Bar of Nevada.

11 15. Based on the investigation to date, the State Bar alleges that Respondent
12 failed to properly safekeep millions of dollars in client funds in violation of RPC 1.3
13 (Diligence) and RPC 1.15 (Safekeeping Property).

14 16. Based on the investigation to date, the State Bar alleges that Respondent
15 misappropriated millions of dollars from his current and former trust, probate and estate
16 clients in violation of RPC 8.4 (Misconduct).

17 17. Based on the investigation to date, the State Bar alleges that Respondent
18 lied to the court and opposing counsel in the Macknin matter regarding the location and
19 status of Macknin's funds in violation of RPC 3.3 (Candor Toward the Tribunal) and RPC
20 4.1 (Truthfulness in Statements to Others).

21 18. Based on the investigation to date, the State Bar alleges that Respondent
22 lied to his other clients regarding that status of their client funds in violation of RPC 1.4
23 (Communication) and RPC 4.1 (Truthfulness in Statements to Others).
24
25

19. Based on the investigation to date, the State Bar alleges that Respondent abandoned his practice and his clients without notice or court approval in violation of RPC 1.16 (Declining or Terminating Representation).

20. In light of the foregoing, Respondent violated Rules of Professional Conduct ("RPC") 1.3 (Diligence), RPC 1.4 (Communication), RPC 1.15 (Safekeeping Property), RPC 1.16 (Declining or Terminating Representation), RPC 3.3 (Candor Toward the Tribunal), RPC 4.1 (Truthfulness in Statements to Others) and RPC 8.4 (Misconduct).

WHEREFORE, Complainant prays as follows:

1. That a hearing be held pursuant to SCR 105;
2. That Respondent be assessed the costs of the disciplinary proceeding pursuant to SCR 120(1); and
3. That pursuant to Supreme Court Rule 102, such disciplinary action be taken by the Southern Nevada Disciplinary Board against Respondent as may be deemed appropriate under the circumstances, including an award of restitution to the victims of Respondent's conduct as demonstrated by clear and convincing evidence at trial.

Dated this 8th day of December, 2016.

STATE BAR OF NEVADA

By: 

Janeen V. Isaacson, Assistant Bar Counsel
3100 W. Charleston Boulevard, Suite 100
Las Vegas, Nevada 89102
(702) 382-2200
Attorney for State Bar of Nevada

EXHIBIT 1

Amounts Due to Clients According to Graham Firm Accounting

Client Name	Amount Owed per Dec. 7, 2016 Reports
Estate of Wheeler, Rae Alan	\$ 301,779.78
Estate of Hermann, Earl	\$ 223,476.73
Estate of Cabrera, Vincente	\$ 265,048.44
Probate, Ledford, Shirley	\$ 72,687.80
Estate of McKeever, Maureen	\$ 50,452.88
Probate, Bradley, Beverly	\$ 32,903.07
Probate, DeBaro, Vincent	\$ 217,131.46
S.Needs Trust, Gale, Matthew	\$ 511,425.55
Trust, Dugan, Joseph	\$ 48,535.19
Estate of McCann, Harry	\$ 202,994.78
Estate of Sicho, Luz	\$ 240,766.16
Estate of Forman, Marcia	\$ 43,248.59
Estate of Banova, Giancarlo	\$ 49,543.18
Probate, Habluetzel, Albert	\$ 220,803.14
Trust, Onik, Ilene	\$ 115,495.72
Estate of Meyers, Veda	\$ 25,999.71
Estate of Covay, Kenneth	\$ 123,602.60
Miller, Micaela, Noah & Madison	\$ 918,603.58
Estate of Freeman, Michael	\$ 114,506.52
Estate of Hawk, Robin	\$ 214,854.73
Estate of Zeuzius, Walter	\$ 29,176.59
Trust, Owens, Margarette	\$ 399,576.16
Trust, Miltenberger, Jimmie	\$ 580,738.28
Estate of Pfeifer, Ronald	\$ 105,642.67
Guardianship, Pena, Michelle	\$ 156,557.39
Guardianship, Davis, Frederick	\$ 127,887.20
Estate, LaHue, Maurice	\$ 605,359.21
Trust, McKinney, Eileen	\$ 93,595.25
S.Needs Trust, Dagani, Sharona	\$ 476,423.20
Estate, Carleton, Laura	\$ 128,764.92
Guardianship, Benson, Allen	\$ 288,461.96
Estate of Hilpert, Myra E.	\$ 1,202,467.81
Estate of Lilly, Carol	\$ 914,932.18
Estate of Padron, Tranquillino	\$ 95,597.30

Amounts Due to Clients According to Graham Firm Accounting

Estate of Macknin, Michael	\$ 1,045,335.08
Estate of Haythron, Trapper-John	\$ 93,557.21
Estate of Kotanchik, Paul	\$ 177,846.05
Estate of Stroka, Lorraine	\$ 110,930.54
Trust, Bell, Bessie	\$ 240,444.55
S.Needs Trust, Parton, Thane	\$ 471,585.64
Probate, Kessler, Sylvia	\$ 207,563.79
Trust, O'Leary, Donna	\$ 67,875.46
Estate of Piper, Franklin	\$ 348,314.04
Estate of Lee, Lois	\$ 595,596.90
Estate of Nakazono, Mikio	\$ 470,850.96
Estate of White, Charlotte	\$ 75,546.97
Litigation, Bentley, Charlotte	\$ 92,456.02
Estate of Torres, Thomas	\$ 22,672.16
Estate of Colley, David	\$ 22,868.45
Trust, Caldwell, Riley	\$ 18,160.80
Total	\$ 13,260,644.35

EXHIBIT 2

DECLARATION OF JOSEPH S. KISTLER

I, Joseph S. Kistler, declare the following to be true under the penalties of perjury:

1. I am an attorney in good standing in the State of Nevada and a partner in the law firm of Hutchison & Steffen. I am co-counsel in the case of the Estate of Michael B. Macknin, (“Estate”), filed in the District Court, Clark County, Nevada, as Case No. P-13-077855-E. I was involved as counsel of record in gaining immediate injunctive relief from the Court on December 5, 2016 that “froze” all accounts maintained by City National Bank (“CNB”) for Robert C. Graham, Robert C. Graham, Ltd. and Lawyers West.

2. Accounts at CNB were targeted based upon a heavily redacted October 31, 2016 CNB account statement provided to my co-counsel, Michael Kling, by Mr. Graham in late October/early November, 2016. The circumstances giving rise to Mr. Graham forwarding the document to Mr. Kling are described in Mr. Kling’s Declaration filed on December 5, 2016 in support of our TRO application. The statement was touted by Mr. Graham to Mr. Kling as proof that Mr. Graham’s client trust account maintained funds in excess of the Estate’s funds Mr. Graham held of approximately \$1.1 million. A copy of the redacted CNB statement is attached to this Declaration as Exhibit 1.

3. The Court’s TRO was served on CNB and electronically filed late on the afternoon of December 5, 2016. I received a call from CNB’s in-house counsel, Diane Baxa, the morning of December 6, 2016. Ms. Baxa’s emailed contact information is attached as Exhibit 2.

4. Ms. Baxa acknowledge CNB’s receipt of the TRO and its agreement to abide by the TRO’s terms. She also told me that while she did not have detailed records before her, she was able to find one Robert C. Graham account at CNB that had a “balance in the low six

figures.” I understood from her that that was the only CNB account regarding Robert C. Graham, Robert C. Graham, Ltd. or Lawyers West that had any money in it.

5. Ms. Baxa asked me why we were focused on CNB. I informed her of the October 31, 2016 redacted bank statement that Mr. Graham provided Mr. Kling. I emailed the document – Exhibit 1- to her at her request.

6. Later that morning, Ms. Baxa telephoned me regarding the statement. She said that upon her review of the document I sent to her and relevant bank records, “the redacted document Mr. Graham provided to you was not based upon a legitimate bank statement.” She also said that we would need to request bank records commencing much earlier than October 2016 to determine what happened to money in that account.

DATED this 8th day of December, 2016.



JOSEPH S. KISTLER

CITY NATIONAL BANK

The way up.®



Page 1 (31)

Account #: [REDACTED] 389

This statement: October 31, 2016
Last statement: September 30, 2016Contact us:
800-773-7100Cheyenne Banking Office
4310 W Cheyenne
North Las Vegas NV 89032367 0830L
ROBERT C GRAHAM LTD
ATTORNEY-CLIENT TRUST ACCOUNT

cnb.com

Attorney-Client Trust Account**Account Summary**

Account number	[REDACTED] 389
Minimum balance	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]

Account Activity

Beginning balance (9/30/2016)	\$1,281,900.44
Credits Deposits (19)	[REDACTED]
Total credits	[REDACTED]
Debits	[REDACTED]
Total debits	[REDACTED]
Ending balance (10/31/2016)	\$1,155,747.75

DEPOSITS

Date	Description	Reference	Credits
10-4	Deposit		[REDACTED]
10-4	Deposit		[REDACTED]
10-5	Deposit		[REDACTED]
10-7	Deposit		[REDACTED]
10-11	Deposit		[REDACTED]
10-12	Deposit		[REDACTED]
10-12	Deposit		[REDACTED]
10-14	Deposit		[REDACTED]
10-17	Deposit		[REDACTED]
10-17	Deposit		[REDACTED]
10-18	Deposit		[REDACTED]
10-20	Deposit		[REDACTED]
10-21	Deposit		[REDACTED]
10-21	Deposit		[REDACTED]
10-26	Deposit		[REDACTED]
10-26	Deposit		[REDACTED]
10-28	Deposit		[REDACTED]
10-28	Deposit		[REDACTED]
10-31	Deposit		[REDACTED]

ELECTRONIC CREDITS

Date	Description	Credits
10-6	Incoming Wire-Dom	[REDACTED]

Joseph Kistler

From: Joseph Kistler
Sent: Tuesday, December 06, 2016 10:07 AM
To: 'Baxa, Diane'
Subject: RE: contact e-mail
Attachments: P-13-077855-E-8805239_ORDR_Order_on_Petition_for_Approval_of_Attorney_Fe....pdf

From: Baxa, Diane [mailto:Diane.Baxa@cnb.com]
Sent: Tuesday, December 06, 2016 9:58 AM
To: Joseph Kistler <skistler@hutchlegal.com>
Subject: contact e-mail

My contact information is below.

*Diane Wemple Baxa
Senior Vice President & Senior Counsel
City National Bank
555 South Flower Street
Eighteenth Floor
Los Angeles, CA 90071
T: (213) 673-9510
F: (213) 673-9503*

This e-mail is intended solely for the named addressee(s) and may contain privileged or confidential information. If you have received this e-mail in error or are not otherwise an intended recipient, please do not use or distribute this e-mail or its contents, notify me at once by return e-mail or telephone and delete or destroy this e-mail and any copies.

Thank you

EXHIBIT C

EXHIBIT C

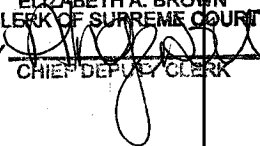
IN THE SUPREME COURT OF THE STATE OF NEVADA

FILED

IN THE MATTER OF THE DISCIPLINE
OF ROBERT C. GRAHAM, BAR NO.
4618.

No. 71849

DEC 09 2016

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
CHIEF DEPUTY CLERK

*ORDER GRANTING PETITION, SUSPENDING ATTORNEY, AND
RESTRICTING HANDLING OF CLIENT FUNDS*

This is a petition by the State Bar for an order temporarily suspending attorney Robert C. Graham from the practice of law, pending the resolution of formal disciplinary proceedings against him. The petition and supporting documentation demonstrate that Graham appears to have misappropriated client funds entrusted to him and abandoned his practice without complying with SCR 115.

SCR 102(4)(b) provides, in pertinent part:

On the petition of bar counsel, supported by an affidavit alleging facts personally known to the affiant, which shows that an attorney appears to be posing a substantial threat of serious harm to the public, the supreme court may order, with notice as the court may prescribe, the attorney's immediate temporary suspension or may impose other conditions upon the attorney's practice.

In addition, SCR 102(4)(c) provides that we may place restrictions on an attorney's handling of funds.

We conclude that the documentation before us demonstrates that Graham poses a substantial threat of serious harm to the public, and that his immediate temporary suspension is warranted under SCR

102(4)(b). We further conclude that Graham's handling of funds should be restricted.¹

Accordingly, attorney Robert C. Graham is temporarily suspended from the practice of law, pending the resolution of formal disciplinary proceedings against him. Graham is precluded from soliciting or accepting new clients and from continuing to represent existing clients upon service of this order. See SCR 102(4)(d) (allowing attorney to represent clients for 15 days after service of the order "unless the court orders otherwise"). In addition, pursuant to SCR 102(4)(b) and (c), we impose the following conditions on Graham's handling of funds:

1. All proceeds from Graham's practice of law and all fees and other funds received from or on behalf of his clients shall, from the date of service of this order, be deposited into a trust account from which no withdrawals may be made by Graham except upon written approval of bar counsel; and

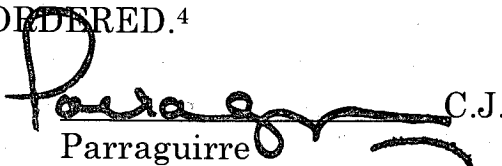
2. Graham and anyone else with access to the accounts, see NRCP 65(d), are prohibited from withdrawing any funds from any and all accounts in any way relating to his law practice, including but not limited to his general and trust accounts, except upon written approval of bar counsel.²

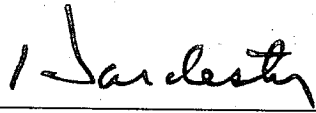
¹Our decision is based solely on the petition and supporting documents as provided by SCR 102(4)(b). Graham "may request dissolution or amendment" of this order by complying with SCR 102(4)(e).


²This restriction includes, but is not limited to, the accounts held at City National Bank, Nevada State Bank, JP Morgan Chase, Utah Community Credit Union, Cetra Advisors, TINC Wealth Advisors, Pershing Advisor Solutions, LLC, and WBI Wealth Management that
continued on next page . . .

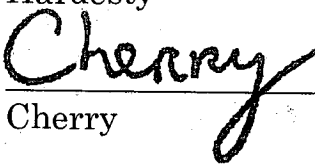
The State Bar shall immediately serve Graham with a copy of this order. Such service may be accomplished by personal service, certified mail, delivery to a person of suitable age at Graham's place of employment or residence, or by publication. When served on either Graham or a depository in which he maintains an account, this order shall constitute an injunction against withdrawal of the proceeds except in accordance with the terms of this order. See SCR 102(4)(c). Graham shall comply with the provisions of SCR 115. The State Bar shall comply with SCR 121.1.³

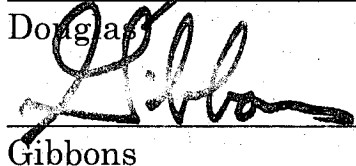
It is so ORDERED.⁴

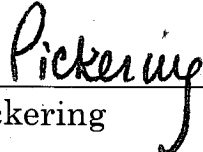
 C.J.
Parraguirre

 J.
Hardesty

 J.
Douglas

 J.
Cherry

 J.
Gibbons

 J.
Pickering

... continued

relate in any way to Graham's law practice or that hold funds belonging to his clients.

³Because we grant the petition, this matter is no longer confidential. SCR 121(5).

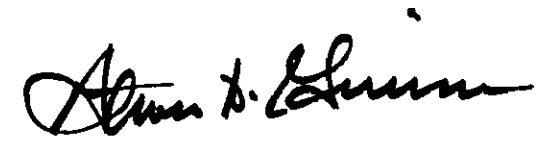
⁴The Honorable Lidia S. Stiglich, Justice, did not participate in the decision of this matter. This is our final disposition of this matter. Any new proceedings shall be docketed under a new docket number.

cc: Chair, Southern Nevada Disciplinary Board
Robert C. Graham
Lawyers West, Inc.
P. Sterling Kerr
C. Stanley Hunterton, Bar Counsel, State Bar of Nevada
Kimberly K. Farmer, Executive Director, State Bar of Nevada
Perry Thompson, Admissions Office, U.S. Supreme Court

EXHIBIT D

EXHIBIT D

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12/09/2016 12:53:20 PM



CLERK OF THE COURT

EXMT

Joseph S. Kistler (3458)
Joshua O. Igeleke Jr. (13506)
HUTCHISON & STEFFEN, LLC
Peccole Professional Park
10080 West Alta Drive, Suite 200
Las Vegas, Nevada 89145
Telephone: (702) 385-2500
Facsimile: (702) 385-2086
Email: jkistler@hutchlegal.com
jigeleke@hutchlegal.com

Attorneys for The Estate of Michael B. Macknin

DISTRICT COURT

CLARK COUNTY, NEVADA

In the Matter of the Estate of

MICHAEL B. MACKNIN,

Deceased.

Case No. P-13-077855-E

Dept No.: Probate

**EMERGENCY EX PARTE
APPLICATION TO EXPAND THE
RELIEF OF THE TEMPORARY
RESTRAINING ORDER GRANTED ON
DECEMBER 5, 2016**

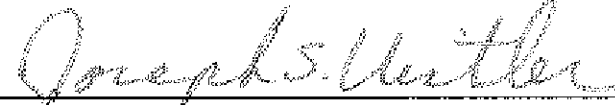
The Estate of Michael B. Macknin (hereinafter the "Estate") by and through its counsel, Hutchison & Steffen, LLC, hereby submits its Application to this Court to expand the relief of the temporary restraining order granted on December 5, 2016 (hereinafter the "TRO"). The TRO prohibited Robert Graham, Esq., Lawyers West and City National Bank from initiating any disbursements from the bank account holding the Estate's assets. As a result of an investigation conducted by the State Bar of Nevada (the "SBN"), the temporary restraining order needs to be expanded to prohibit disbursements by Robert C. Graham, Robert C. Graham LTD, Linda Graham, City National Bank, Nevada State Bank, JP Morgan Chase, Utah Community Credit Union, Cetra Advisors, TINC Wealth Advisors,

Pershing Advisor Solutions, LLC and WBI Wealth Management from any account that may hold Graham's clients' assets, pending further order of the Court.

This Application is made pursuant to NRCF 65(b), EDCR 2.26, the following points and authorities, the attached declaration, the attached exhibits and any oral argument that this Court may entertain. A copy of the proposed order granting the relief requested is also attached to this pleading.

DATED this 9th day of December, 2016.

HUTCHISON & STEFFEN, LLC



Joseph S. Kistler (3458)

Joshua O. Igeleke Jr. (13506)

10080 West Alta Drive, Suite 200

Las Vegas, Nevada 89145

Attorneys for The Estate of Michael B. Macknin

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION.

Following the temporary restraining order granted by this Court on December 5, 2016, even more disturbing information has come the light. Mr. Graham abandoned his law firm – Lawyers West – without notice to his employees or clients. The SBN is conducting an investigation and has initially determined that over \$13 million of Mr. Graham's clients' funds may be at imminent risk. In order to minimize the damage caused to Mr. Graham's and Lawyers West's clients, the SBN has appointed Jasen E. Cassady (Bar No. 8018) and Brandi K. Cassady (Bar No. 12714) to provide representation of Lawyers West's clients.

1 Further, the SBN investigation determined that Mr. Graham's and Lawyers West's
2 clients' funds were held in a number of different financial institutions and that it is not
3 clear which financial institution holds the Estate's funds. Mr. Graham's wife, Mrs.
4 Linda M. Graham, Esq., was his business partner at Lawyers West and, upon
5 information and belief, she is currently operating a law firm for Mr. Graham in
6 Colorado.
7

8 An immediate need exists to preclude any further movement of the funds in any
9 account held at these financial institutions that may contain the Estate's assets. It is
10 uncertain where over \$1.15 million of the Estate's funds that were entrusted to Mr.
11 Graham and Lawyers West are being held. An immediate expansion of the temporary
12 restraining order is necessary in order to properly safeguard the Estate's funds that may
13 be held in any of the identified financial institutions.
14

15 **II. FACTS.**

16 All pertinent facts in support of this Application are provided in the Declaration
17 of Joseph S. Kistler, attached hereto as Exhibit A.
18

19 **III. LEGAL ARGUMENT.**

20 Nevada Rules of Civil Procedure 65(b) specifically permits the issuance of an *ex*
21 *parte* TRO when failure to issue such an order would result in "immediate and
22 irreparable injury, loss, or damage," and the movant demonstrates why notice "should
23 not be required." In such cases, the prior-notice provision typically ordered to ensure
24 due process, is inappropriate, given the clear need for immediate relief and the lack of
25 harm to defendants caused by the injunction. *See Fuentes v. Shevin*, 407 U.S. 67, 81
26 (1972); *Granny Goose Foods, Inc. v. Brotherhood of Teamsters*, 415 U.S. 423 439
27
28

1 (1964) (“*ex parte* restraining orders are no doubt necessary in certain circumstances.”).

2 The Nevada Supreme Court has clearly articulated the considerations relevant to
3 issuing a preliminary injunction:

4 Before a preliminary injunction will issue, the
5 applicant must show “(1) a likelihood of success on the
6 merits; and (2) a reasonable probability that the non-
7 moving party’s conduct, if allowed to continue, will cause
8 irreparable harm for which compensatory damage is an
9 inadequate remedy.” In considering preliminary
injunctions, courts also weigh the potential hardships to the
relative parties and others, and the public interest.

10 *University and Community College System of Nevada v. Nevadans for Sound*
11 *Government*, 120 Nev. 712, 721, 100 P.3d 179, 187 (2004). The Estate meets this
12 standard and requires expanded relief to the TRO to prevent immediate and irreparable
13 harm.

14 Here, the Estate’s funds are at an imminent risk of being lost. On December 5,
15 2016, the TRO prohibiting Robert Graham, Lawyers West and City National Bank
16 from making any disbursements of the Estate’s funds from any account within their
17 respective care, custody or control unless upon further order of the Court.

18 Since that time, the SBN has investigated and has found that Mr. Graham’s wife,
19 Mrs. Linda M. Graham, was a business partner at Lawyers West. Upon information
20 and belief, she currently is operating a law firm in Colorado for Mr. Graham. As such,
21 the TRO should be expanded to include Mrs. Graham, as she may have access to
22 Graham’s clients’ assets -- including those of the Estate -- and may be working in
23 concert with Mr. Graham and against the interests of Mr. Graham’s clients.

24 Furthermore, the SBN has found other accounts that presumptively hold
25
26
27
28

1 Graham's clients' funds – including those of the Estate. At the present time, the SBN is
2 aware of such accounts at the following institutions: City National Bank Nevada State
3 Bank, JP Morgan Chase, Utah Community Credit Union, Cetra Advisors, TINC Wealth
4 Advisors, Pershing Advisor Solutions, LLC and WBI Wealth Management. The SBN's
5 investigation is not complete. All funds in any account in the name of Robert C.
6 Graham, Robert C. Graham LTD, Lawyers West and Linda M. Graham's at any of
7 these institutions identified to be holding Graham's clients' funds must be safeguarded
8 immediately. As such, the TRO should be expanded to prohibit any transfer from the
9 relevant accounts at these additional institutions.
10

11 This motion may be granted *ex parte* because of the immediacy of the harm and
12 the fact that Mr. Graham and Lawyers West are not responding to any calls or emails.
13 We have made good faith attempts of personal service of the TRO on Mr. Graham and
14 Lawyers West. However, our attempts have been unsuccessful. The process server's
15 email detailing his attempts to make service is attached hereto as Exhibit A-3. The
16 process server has obtained information that Mr. Sterling Kerr, Esq. represented Mr.
17 Graham and Lawyers West. However, after the process server attempted to serve Mr.
18 Kerr based upon that information, we received a letter from Mr. Kerr rejecting service
19 and stating that Mr. Kerr's office "does not represent Robert C. Graham, Esq. on any
20 matter except for the matter in front of the Nevada State Bar." The letter from Mr. Kerr
21 is attached hereto as Exhibit A-4.
22
23
24

25 Expanded relief of the TRO is necessary to provide the proper safeguards of the
26 Estate's assets remaining in any and all of Robert C. Graham's, Robert C. Graham
27 LTD's, Linda M. Graham's and Lawyers West's accounts, including those now known
28

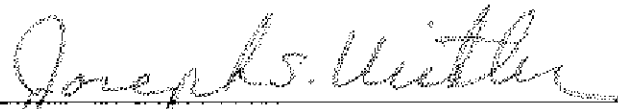
1 to be held with City National Bank, Nevada State Bank, JP Morgan Chase, Utah
2 Community Credit Union, Cetra Advisors, TINC Wealth Advisors, Pershing Advisor
3 Solutions, LLC and WBI Wealth Management.

4 **IV. CONCLUSION.**

5
6 For the foregoing reasons, the relief granted under the TRO should be expanded as
7 provided herein in order to preserve the Estate's funds until a Preliminary Injunction
8 hearing can be held.

9 DATED this 9th day of December, 2016.

10 HUTCHISON & STEFFEN, LLC

11 
12 _____
13 Joseph S. Kistler (3458)
14 Joshua O. Igeleke Jr. (13506)
15 10080 West Alta Drive, Suite 200
16 Las Vegas, Nevada 89145
17 *Attorneys for The Estate of Michael B.*
18 *Macknin*
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CERTIFICATE OF SERVICE BY ELECTRONIC FILING

I HEREBY CERTIFY that on this 9th day of December, 2016, I sent via e-mail a true and correct copy of the foregoing **EX PARTE APPLICATION FOR TEMPORARY RESTRAINING ORDER AND MOTION FOR PRELIMINARY INJUNCTION** on the Clark County E-File Electronic Service List.

Michael Kling, Esq.
Kling Law Offices
8906 Spanish Ridge Ave., Suite 100
Las Vegas NV 89148

Robert C. Graham, Esq.
Lawyers West
10000 W. Charleston Blvd., Suite 140
Las Vegas NV 89135

Bryanne Morehead
An employee of HUTCHISON & STEFFEN, LLC

ORDR

Joseph S. Kistler (3458)
 Joshua O. Igeleke Jr. (13506)
 HUTCHISON & STEFFEN, LLC
 Peccole Professional Park
 10080 West Alta Drive, Suite 200
 Las Vegas, Nevada 89145
 Telephone: (702) 385-2500
 Facsimile: (702) 385-2086
 Email: jkistler@hutchlegal.com
 jigeleke@hutchlegal.com

Attorneys for The Estate of Michael B. Macknin

DISTRICT COURT**CLARK COUNTY, NEVADA**

In the Matter of the Estate of

 MICHAEL B. MACKNIN,

 Deceased.

Case No.: P-13-077855-E
 Dept. No.: Probate

**ORDER GRANTING THE ESTATE'S EMERGENCY *EX PARTE* APPLICATION
 TO EXPAND RELIEF OF THE TEMPORARY RESTRAINING ORDER
 GRANTED ON DECEMBER 5, 2016 AND AN ORDER TO SHOW CAUSE
 REGARDING PRELIMINARY INJUNCTION**

The Estate of Michael B. Macknin's (the "Estate") Emergency Application to Expand Relief Granted in the Temporary Restraining Order Granted on December 5, 2016 having come before the Court on an *Ex Parte* basis on the 9th day of December, 2016, the Court having considered the Application, the declarations and exhibits attached thereto, the arguments presented in open court and GOOD CAUSE APPEARING;

IT IS HEREBY ORDERED that the Estate's Application to Expand Relief of the Temporary Restraining Order Granted on December 5, 2016 is GRANTED.

IT IS FURTHER ORDERED that Mr. Robert C. Graham, Esq., Mrs. Linda M.

1 Graham, Esq., Lawyers West, Robert C. Graham, City National Bank, Nevada State Bank,
2 JP Morgan Chase, Utah Community Credit Union, Cetra Advisors, TINC Wealth Advisors,
3 Pershing Advisor Solutions, LLC and WBI Wealth Management are prohibited from
4 making any disbursement of assets from any account holding Graham's clients funds. As
5 to City National Bank, Nevada State Bank, JP Morgan Chase, Utah Community Credit
6 Union, Cetra Advisors, TINC Wealth Advisors, Pershing Advisor Solutions, LLC and WBI
7 Wealth Management, this Order applies to any account held in the name of "Robert C.
8 Graham," "Linda M. Graham," "Robert C. Graham LTD," "Lawyers West," and/or "The
9 Estate of Michael B. Macknin."
10

11 IT IS FURTHER ORDERED that no bond, in addition to the \$425 bond previously
12 ordered, is required.
13

14 IT IS FURTHER ORDERED that any unauthorized disbursement of the Estate's
15 funds shall be prohibited until such time as this Court shall determine subsequent to the
16 Estate's Motion for Preliminary Injunction to come before the Court on the 14th day of
17 December, 2016 at 9:30 a.m.
18

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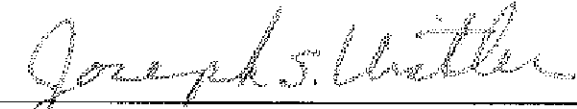
1 IT IS FURTHER ORDERED that this expanded relief of the Temporary Restraining
2 Order granted on December 5, 2016 is issued and effective as of _____ a.m/p.m. on
3 December ____, 2016.

4 DATED this ____ day of December, 2016.

5
6 DISTRICT COURT JUDGE

7 Submitted by:

8 HUTCHISON & STEFFEN, LLC

9 

10 Joseph S. Kistler (3458)
11 Joshua O. Igeleke Jr. (13506)
12 10080 West Alta Drive, Suite 200
Las Vegas, Nevada 89145

13 *Attorneys for The Estate of Michael B. Macknin*
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EXHIBIT PAGE ONLY

EXHIBIT A

HUTCHISON & STEFFEN
A PROFESSIONAL LLC

DECLARATION OF JOSEPH S. KISTLER

I, Joseph S. Kistler, state the following to be true and correct based upon my own personal knowledge under the penalties of perjury:

1. I am an attorney in good standing in the State of Nevada, a partner in the law firm of Hutchison & Steffen, LLC and co-counsel of record with Michael Kling, Esq. regarding the Estate of Michael B. Macknin, ("Estate"), Case No. P-13-077855-E.

2. Following issuance and electronic filing of the Temporary Restraining Order on December 5, 2016, City National Bank ("CNB") was served. The Court's records, attached as Exhibit 1 to this Declaration, show that Robert Graham was electronically served with the Application for TRO and the TRO on December 5, 2016. The Court's records also show that the recipient of that service opened the attached documents.

3. At approximately 9:41 p.m. on December 5, 2016, I received an e-mail via Hutchison & Steffen's e-mail server from RGRAHAM@lawyerswest.com, subject "TRO/Ex Parte order." A copy of that e-mail, and my reply on December 7, 2016, is attached as Exhibit 2. My reply forwarded copies of the Application for TRO and the Order to the addressee. I also solicited additional information from the addressee. I have not received a response to my reply.

4. We have attempted personal service of the TRO on Mr. Graham and Lawyers West since December 6, 2016. To date, our attempts of personal service have been unsuccessful. The process server's e-mail detailing his attempts to make service is attached as Exhibit 3. Based upon the information contained in that e-mail, the process server attempted to serve Sterling Kerr, Esq., allegedly counsel for Mr. Graham. Mr. Kerr rejected service per his letter dated December 8, 2016, which is attached as Exhibit 4.

5. I was contacted by CNB's in-house attorney regarding the TRO the morning of December 6, 2016. A Declaration I prepared at the request of the State Bar of Nevada that

relates the discussion I had with CNB's counsel dated December 7, 2016 is attached as Exhibit 5. It appears that the funds CNB holds will be insufficient to satisfy Mr. Graham's and Lawyers West's obligations owed to the Estate.

6. On December 6, 2016, the State Bar of Nevada filed its "Petition for Appointment of Attorney pursuant to Supreme Court Rule 118" Case No. A-16-747633-P. A copy of the Petition is attached as Exhibit 6.

7. A subpoena the Estate issued for CNB's records regarding Robert C. Graham, Robert C. Graham LTD and Lawyers West is attached as Exhibit 7. The subpoena has been served and has a return date of December 22, 2016.

8. On December 8, 2016, the State Bar of Nevada filed a complaint against Mr. Graham before the Southern Nevada Disciplinary Board. A copy of that complaint is attached as Exhibit 8. (NOTE: Names listed on Exhibit 1 to the complaint have been redacted. A non-redacted version has been submitted to the Court for in-camera review.)

9. On December 8, 2016, I participated in a telephone conference with Assistant Bar Counsel for the State Bar of Nevada, Janeen V. Isaacson. Ms. Isaacson informed me that the State Bar of Nevada's investigation into Mr. Graham's conduct has revealed that more than \$13 million in Mr. Graham's clients' funds may be at risk. Further, Ms. Isaacson stated that Mr. Graham's wife, Linda M. Graham Esq., was Mr. Graham's business partner at Lawyers West. Upon information and belief, she is currently operating a law firm for Mr. Graham in Colorado.

10. After the telephone conference, I received an email from Ms. Isaacson showing additional financial institutions where Mr. Graham and/or Lawyers West clients' trust funds may be located. A copy of that email is attached as Exhibit 9.

11. Upon information and belief, Mr. Graham's whereabouts are unknown to local authorities and the State Bar of Nevada. His whereabouts similarly are unknown to the Estate's counsel.

DATED this 9th day of December, 2016.



JOSEPH S. KISTLER

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EXHIBIT PAGE ONLY

EXHIBIT 1

HUTCHISON & STEFFEN
A PROFESSIONAL LLC

E-Service Details of Filing titled:
Ex Parte Application for Temporary Restraining Order and Motion for Preliminary Injunction
for Case Number P-13-077855-E - In the matter of Michael Maddala, Defendant

From Name	User Name	User Email	Served	Date/Time Served
McQuinn & Quinn	Robert E. Quinn	robert@mcquinn.com	Yes	Not Opened
McQuinn & Quinn	Don Quinn	don@mcquinn.com	Yes	Not Opened
McQuinn & Quinn, LLC	Quinn@mcquinn.com	quinn@mcquinn.com	Yes	Not Opened
McQuinn & Quinn, LLC	Don Quinn	don@mcquinn.com	Yes	Not Opened
Law Offices	Robert Quinn Esq.	robert@mcquinn.com	Yes	Not Opened

This page last refreshed: 12/16/16 PM
Clicking Auto-Refresh below will set this page to refresh every 2 minutes.
Auto-Refresh Details: ☐

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EXHIBIT PAGE ONLY

EXHIBIT 2

HUTCHISON & STEFFEN
A PROFESSIONAL LLC

Josh Igeleke

From: Joseph Kistler
Sent: Wednesday, December 07, 2016 8:57 AM
To: Rob Graham
Cc: Michael Kling; Josh Igeleke
Subject: RE: TRO/Ex Parte Order
Attachments: 2016-12-05 ex parte app for TRO + preliminary injunction.pdf; 2016-12-05 order granting ex parte moton for TRO (filed).pdf

Good morning, Mr. Graham. As you are aware, the Estate of Michael Macknin was successful in gaining a temporary restraining order that, in essence, "freezes" accounts maintained by you and your law firm at City National Bank, subject to further order of the Court. For your convenience, copies of our application for the TRO and the Court's Order are attached. CNB has been served with the Order and is complying with its terms. As you see from reviewing the Order, the Court will hold a hearing Wed, December 14, regarding extension of the TRO's relief via a preliminary injunction. **Will you stipulate to the Court entering a preliminary injunction to extend the TRO's relief?** In so doing, you will save your former client significant time and expense. After all, your former client had nothing to do with causing this predicament.

Following receipt of your email, I contacted the State Bar. It is interested in making certain that your former and current clients are adequately protected. **Will you agree to provide information regarding all accounts held by your firm and/or you and give full cooperation so that client properties will be returned to the clients?**

Finally, your email alludes to a bankruptcy filing. **If you and/or LawyersWest are represented by counsel in any capacity, please have that counsel contact me immediately.**

I sincerely hope that you will respond favorably to this email as soon as possible so that attempts to untangle the present situation can commence.

From: Rob Graham [mailto:rgraham@lawyerswest.com]
Sent: Monday, December 05, 2016 9:41 PM
To: Joseph Kistler <skistler@hutchlegal.com>; Josh Igeleke <Jgeleke@hutchlegal.com>
Subject: TRO/Ex Parte Order

Joseph: The IOLTA Account is not active and no transfers are being made out of the account since the shutting down of the law firm on Friday. All remaining checks are secure and are being handed over to the Nevada State Bar for safekeeping. Honoring outstanding checks will be an issue to address with the bank directly. There are only small amounts outstanding (less than \$1,500 in total). All active files are being transferred to Jason Cassidy on Wednesday by arrangement and request of the State Bar of Nevada. We will provide you a courtesy notice of the associated bankruptcy filing once it is filed.

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EXHIBIT 3

HUTCHISON & STEFFEN
A PROFESSIONAL LLC

Josh Igeleke

From: Bert Lott <bert@bulletlegal.com>
Sent: Thursday, December 08, 2016 10:49 AM
To: Josh Igeleke; Suzanne Morehead
Cc: Joseph Kistler
Subject: RE: Macknin - service of subpoena and TRO

Please review the details and advise if you would like service executed at the new address.

12/7/2016 12:31 PM Attempted service was made at the address of 10000 W. Charleston Blvd., Las Vegas, NV 89135. This is a commercial address. The Affiant observed a "5 Day Notice to Quit" on the door. Jannene Isaacson (White, female, 40 y/o, 5'6", 170 lbs., brown hair, no glasses) stated that Lawyers West is out of business. She is facilitating the closure of the business. She stated Lawyers West and Robert C. Graham's counsel is Sterling Kerr and that Sterling Kerr is accepting all document's for these two entities. She stated that Sterling Kerr is located at 2450 St. Rose Parkway, #120, Henderson, NV 89074.

Bert Lott

Investigator / Consultant

Bullet Legal Services, LLC

1930 Village Center Circle #3-965

Las Vegas, NV 89134

Tel. (702) 823-1000

Fax (702) 476-5810

Nevada License #1471

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From: Josh Igeleke [mailto:JIgeleke@hutchlegal.com]
Sent: Thursday, December 08, 2016 10:23 AM
To: Bert Lott; Suzanne Morehead
Cc: Joseph Kistler
Subject: RE: Macknin - service of subpoena and TRO

Bert:

Thanks for all your help this week. I received confirmation that the below request to serve City National Bank with a subpoena has been completed. What's the status on the service of the TRO upon Robert Graham and Lawyers West?

Thank you,

Josh

From: Bert Lott [mailto:bert@bulletlegal.com]
Sent: Wednesday, December 07, 2016 9:41 AM
To: Suzanne Morehead <SMorehead@hutchlegal.com>

Cc: Josh Igeleke <JIgeleke@hutchlegal.com>
Subject: RE: Macknin - service of subpoena and TRO

Thank you.

Bert Lott
Investigator / Consultant
Bullet Legal Services, LLC
1930 Village Center Circle #3-965
Las Vegas, NV 89134
Tel. (702) 823-1000
Fax (702) 476-5810
Nevada License #1471

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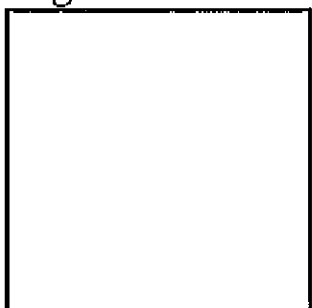
From: Suzanne Morehead [mailto:SMorehead@hutchlegal.com]
Sent: Tuesday, December 06, 2016 2:57 PM
To: Bert Lott
Cc: Josh Igeleke
Subject: Macknin - service of subpoena and TRO

Hi Bert,

I have a subpoena to be served on City National Bank (on Cheyenne) – I should have it ready in a few minutes. Also, Josh wanted me to forward you the attached order, which needs to be served on attorney Robert Graham and Lawyers West.

Last known addresses for both are: 10000 W Charleston Blvd, Las Vegas, NV 89135. We believe the office has been shuttered, so you may need to do some research or a skip trace to locate him. Thanks for your help.

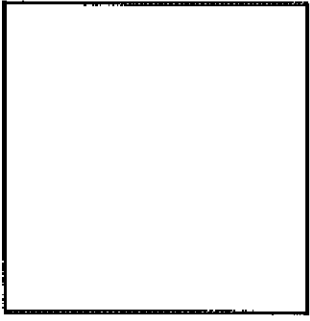
Suzanne
Suzanne Morehead
Legal Assistant



HUTCHISON & STEFFEN, LLC
(702) 385-2500
hutchlegal.com

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Josh Igeleke
Attorney



HUTCHISON & STEFFEN, LLC
(702) 385-2500
hutchlegal.com

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EXHIBIT 4

HUTCHISON & STEFFEN

A PROFESSIONAL LLC

Law Offices of P. STERLING KERR

December 8, 2016

Via Facsimile 702-385-2086 and U.S. Mail

HUTCHISON & STEFFEN, LLC

Joseph S. Kistler, Esq.

10080 West Alta Drive, Suite 200

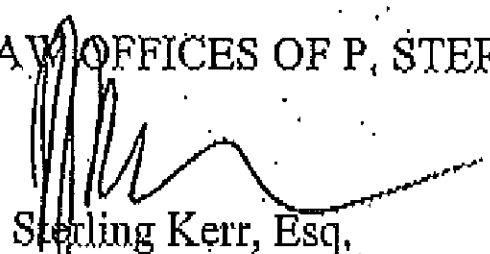
Las Vegas, NV 89145

Re: Michael B. Macknin
Case No. P-13-077855-E

The Law Offices of P. Sterling Kerr does not represent Robert C. Graham, Esq., on any matter except for the matter in front of the Nevada State Bar. We will not accept service on behalf of Mr. Graham, nor is serving my office effective with respect to any civil matter.

Sincerely,

LAW OFFICES OF P. STERLING KERR



P. Sterling Kerr, Esq.

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EXHIBIT 5

HUTCHISON & STEFFEN

A PROFESSIONAL LLC

DECLARATION OF JOSEPH S. KISTLER

I, Joseph S. Kistler, declare the following to be true under the penalties of perjury:

1. I am an attorney in good standing in the State of Nevada and a partner in the law firm of Hutchison & Steffen. I am co-counsel in the case of the Estate of Michael B. Macknin, (“Estate”), filed in the District Court, Clark County, Nevada, as Case No. P-13-077855-E. I was involved as counsel of record in gaining immediate injunctive relief from the Court on December 5, 2016 that “froze” all accounts maintained by City National Bank (“CNB”) for Robert C. Graham, Robert C. Graham, Ltd. and Lawyers West.

2. Accounts at CNB were targeted based upon a heavily redacted October 31, 2016 CNB account statement provided to my co-counsel, Michael Kling, by Mr. Graham in late October/early November, 2016. The circumstances giving rise to Mr. Graham forwarding the document to Mr. Kling are described in Mr. Kling’s Declaration filed on December 5, 2016 in support of our TRO application. The statement was touted by Mr. Graham to Mr. Kling as proof that Mr. Graham’s client trust account maintained funds in excess of the Estate’s funds Mr. Graham held of approximately \$1.1 million. A copy of the redacted CNB statement is attached to this Declaration as Exhibit 1.

3. The Court’s TRO was served on CNB and electronically filed late on the afternoon of December 5, 2016. I received a call from CNB’s in-house counsel, Diane Baxa, the morning of December 6, 2016. Ms. Baxa’s emailed contact information is attached as Exhibit 2.

4. Ms. Baxa acknowledge CNB’s receipt of the TRO and its agreement to abide by the TRO’s terms. She also told me that while she did not have detailed records before her, she was able to find one Robert C. Graham account at CNB that had a “balance in the low six

figures.” I understood from her that that was the only CNB account regarding Robert C. Graham, Robert C. Graham, Ltd. or Lawyers West that had any money in it.

5. Ms. Baxa asked me why we were focused on CNB. I informed her of the October 31, 2016 redacted bank statement that Mr. Graham provided Mr. Kling. I emailed the document – Exhibit 1 - to her at her request.

6. Later that morning, Ms. Baxa telephoned me regarding the statement. She said that upon her review of the document I sent to her and relevant bank records, “the redacted document Mr. Graham provided to you was not based upon a legitimate bank statement.” She also said that we would need to request bank records commencing much earlier than October 2016 to determine what happened to money in that account.

DATED this 8th day of December, 2016.



JOSEPH S. KISTLER

CITY NATIONAL BANK
The way up.®

Page 1 (31)

Account #: [REDACTED] 389

This statement: October 31, 2016
Last statement: September 30, 2016

Contact us:
800-773-7100

Cheyenne Banking Office
4310 W Cheyenne
North Las Vegas NV 89032

967 0830L
ROBERT C GRAHAM LTD
ATTORNEY CLIENT TRUST ACCOUNT

cnb.com

Attorney-Client Trust Account

Account Summary		Account Activity	
Account number	[REDACTED] 389	Beginning balance (9/30/2016)	\$1,281,900.44
Minimum balance	[REDACTED]	Credits Deposits (19)	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	Total credits	[REDACTED]
[REDACTED]	[REDACTED]	Debits	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	Total debits	[REDACTED]
[REDACTED]	[REDACTED]	Ending balance (10/31/2016)	\$1,165,747.75

DEPOSITS

Date	Description	Reference	Credits
10-4	Deposit		[REDACTED]
10-4	Deposit		[REDACTED]
10-5	Deposit		[REDACTED]
10-7	Deposit		[REDACTED]
10-11	Deposit		[REDACTED]
10-12	Deposit		[REDACTED]
10-12	Deposit		[REDACTED]
10-14	Deposit		[REDACTED]
10-17	Deposit		[REDACTED]
10-17	Deposit		[REDACTED]
10-18	Deposit		[REDACTED]
10-20	Deposit		[REDACTED]
10-21	Deposit		[REDACTED]
10-21	Deposit		[REDACTED]
10-26	Deposit		[REDACTED]
10-26	Deposit		[REDACTED]
10-28	Deposit		[REDACTED]
10-28	Deposit		[REDACTED]
10-31	Deposit		[REDACTED]

ELECTRONIC CREDITS

Date	Description	Credits
10-6	Incoming Wire-Don	[REDACTED]

Joseph Kistler

From: Joseph Kistler
Sent: Tuesday, December 06, 2016 10:07 AM
To: 'Baxa, Diane'
Subject: RE: contact e-mail
Attachments: P-13-077855-E-8805239_ORDR_Order_on_Petition_for_Approval_of_Attorney_Fe....pdf

From: Baxa, Diane [mailto:Diane.Baxa@cnb.com]
Sent: Tuesday, December 06, 2016 9:58 AM
To: Joseph Kistler <skistler@hutchlegal.com>
Subject: contact e-mail

My contact information is below.

*Diane Wemple Baxa
Senior Vice President & Senior Counsel
City National Bank
555 South Flower Street
Eighteenth Floor
Los Angeles, CA 90071
T: (213) 673-9510
F: (213) 673-9503*

This e-mail is intended solely for the named addressee(s) and may contain privileged or confidential information. If you have received this e-mail in error or are not otherwise an intended recipient, please do not use or distribute this e-mail or its contents, notify me at once by return e-mail or telephone and delete or destroy this e-mail and any copies.

Thank you

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EXHIBIT 6

HUTCHISON & STEFFEN
A PROFESSIONAL LLC

DISTRICT COURT CIVIL COVER SHEET

CLARK County, Nevada
 Case No. _____
 (Assigned by Clerk's Office)

A- 16- 747633- P

XXVI 11

I. Party Information (provide both home and mailing addresses if different)

Plaintiff(s) (name/address/phone): <u>STATE BANK OF NEVADA</u> <u>3100 W CHARLESTON BLVD</u> <u>LAS VEGAS NV 89102</u>	Defendant(s) (name/address/phone): <u>ROBERT GRAWAN</u> <u>10000 W CHARLESTON BLVD</u> <u>LAS VEGAS</u>
Attorney (name/address/phone):	Attorney (name/address/phone):

II. Nature of Controversy (please select the one most applicable filing type below)**Civil Case Filing Types**

Real Property Landlord/Tenant <input type="checkbox"/> Unlawful Detainer <input type="checkbox"/> Other Landlord/Tenant Title to Property <input type="checkbox"/> Judicial Foreclosure <input type="checkbox"/> Other Title to Property Other Real Property <input type="checkbox"/> Condemnation/Eminent Domain <input type="checkbox"/> Other Real Property	Negligence <input type="checkbox"/> Auto <input type="checkbox"/> Premises Liability <input type="checkbox"/> Other Negligence Malpractice <input type="checkbox"/> Medical/Dental <input type="checkbox"/> Legal <input type="checkbox"/> Accounting <input type="checkbox"/> Other Malpractice	Torts Other Torts <input type="checkbox"/> Product Liability <input type="checkbox"/> Intentional Misconduct <input type="checkbox"/> Employment Tort <input type="checkbox"/> Insurance Tort <input type="checkbox"/> Other Tort
Probate Probate (select case type and estate value) <input type="checkbox"/> Summary Administration <input type="checkbox"/> General Administration <input type="checkbox"/> Special Administration <input type="checkbox"/> Set Aside <input type="checkbox"/> Trust/Conservatorship <input type="checkbox"/> Other Probate Estate Value <input type="checkbox"/> Over \$200,000 <input type="checkbox"/> Between \$100,000 and \$200,000 <input type="checkbox"/> Under \$100,000 or Unknown <input type="checkbox"/> Under \$2,500	Construction Defect & Contract Construction Defect <input type="checkbox"/> Chapter 40 <input type="checkbox"/> Other Construction Defect Contract Case <input type="checkbox"/> Uniform Commercial Code <input type="checkbox"/> Building and Construction <input type="checkbox"/> Insurance Carrier <input type="checkbox"/> Commercial Instrument <input type="checkbox"/> Collection of Accounts <input type="checkbox"/> Employment Contract <input type="checkbox"/> Other Contract	Judicial Review/Appeal Judicial Review <input type="checkbox"/> Foreclosure Mediation Case <input type="checkbox"/> Petition to Seal Records <input type="checkbox"/> Mental Competency Nevada State Agency Appeal <input type="checkbox"/> Department of Motor Vehicle <input type="checkbox"/> Worker's Compensation <input type="checkbox"/> Other Nevada State Agency Appeal Other <input type="checkbox"/> Appeal from Lower Court <input type="checkbox"/> Other Judicial Review/Appeal
Civil Writ Civil Writ <input type="checkbox"/> Writ of Habeas Corpus <input type="checkbox"/> Writ of Mandamus <input type="checkbox"/> Writ of Quo Warrant <input type="checkbox"/> Writ of Prohibition <input type="checkbox"/> Other Civil Writ		Other Civil Filing Other Civil Filing <input type="checkbox"/> Compromise of Minor's Claim <input type="checkbox"/> Foreign Judgment <input checked="" type="checkbox"/> Other Civil Matters

Business Court filings should be filed using the Business Court civil coversheet.

12-6-16
 Date

[Signature]
 Signature of initiating party or representative

See other side for family-related case filings.

Electronically Filed
12/06/2016 02:08:55 PM


CLERK OF THE COURT

\$0 fee

1 PET
Phillip J. Pattee, Assistant Bar Counsel
2 Bar No. 4021
STATE BAR OF NEVADA
3 3100 W. Charleston Blvd., Suite 100
Las Vegas, Nevada 89102
4 (702) 382-2200
5 Attorney for Petitioner State Bar of Nevada

6
7 **EIGHTH JUDICIAL DISTRICT COURT**
8 **CLARK COUNTY, NEVADA**

9 In the Matter of:)
10 ROBERT C. GRAHAM, ESQ.,) CASE NO. A- 16 - 747633 - P
Nevada State Bar No. 4618)
11 Respondent.) DEPT NO. XXVI I I
12 _____)

13
14 **PETITION FOR APPOINTMENT OF ATTORNEY PURSUANT TO SUPREME
COURT RULE 118**

15 The State Bar of Nevada ("State Bar") by and through Assistant Bar Counsel, Phillip J.
16 Pattee, hereby petitions this Honorable Court, pursuant to Supreme Court Rule ("SCR") 118,
17 for the appointment of attorneys Jasen E. Cassady, Bar No. 8018, and Brandi K. Cassady,
18 Bar No. 12714 ("the Cassadys") to assume control of the law practice and files of attorney
19 Robert C. Graham ("Graham"), Bar No. 4618, who has abandoned his practice. This
20 Petition, which is brought to protect Graham's clients, is based upon the Memorandum of
21 Points and Authorities and the Affidavit submitted herein, and upon such other information as
22 the Court may require.

23 //

24 //

MEMORANDUM OF POINTS AND AUTHORITIES

1. On December 5, 2016, the State Bar became aware that on or about December 2, 2016, Graham suddenly closed his practice and terminated his employees without any notice having been made to his employees or clients.

2. Graham abandoned his clients' files in rented office space from which his eviction appears to be imminent and made no arrangements for his clients' continued representation.

3. In order to protect the interests of Graham's clients, the Cassadys have agreed to act as practice-takeover attorneys for Graham's practice on a *pro bono* basis, to examine the files and complete the representation, or distribute the files to appropriate attorneys in the respective fields.

4. Supreme Court Rule 118 states, in pertinent part:

1. Judicial action; compensation; right of reimbursement. Whenever an attorney has been transferred to disability inactive status or has disappeared or died, or has been suspended or disbarred, and there is evidence that the attorney has not complied with Rule 115, and a responsible person capable of conducting the attorney's affairs cannot be found, the presiding judge in the judicial district(s) in which the attorney maintained his or her practice may appoint a disinterested attorney(s) to examine and inventory the attorney's files and to take such action as is necessary to protect the interests of the attorney and the attorney's clients. An appointed attorney may petition the district court for reasonable compensation, which, if approved, shall be submitted to the board of governors for payment in whole or in part. The board of governors may seek reimbursement from the attorney or out of the attorney's property or from the attorney's clients whose interests are served under this rule.

The Cassadys have agreed to accept such an appointment in regard to Graham's practice. Jason Cassady has been admitted to practice law in Nevada since 2002, and Brandi Cassady has been admitted to practice law in Nevada since 2012. Both of the Cassadys' licenses are in good standing. Assistant Bar Counsel has spoken with the

1 Cassadys personally, and they understand the responsibilities of the appointment and have
2 agreed to the same.

3 The State Bar respectfully requests that this Court appoint the Cassady's as counsel
4 in accordance with SCR 118 and order that they have the authority to examine and inventory
5 the client files, and take such action, including utilizing the services of another Nevada
6 licensed attorney, or attorneys, as necessary to protect the interest of Graham's clients.

7 DATED this 6th day of December, 2016.

8 STATE BAR OF NEVADA

9 

10 Phillip J. Pattee, Assistant Bar Counsel
11 Bar No. 4021
12 3100 W. Charleston Blvd., Suite 100
13 Las Vegas, NV 89102

14 Attorney for Petitioner
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AFFIDAVIT OF BAR COUNSEL PHILLIP J. PATTEE
IN SUPPORT OF SCR 118 PETITION

STATE OF NEVADA)
) ss:
 COUNTY OF CLARK)

Phillip J. Pattee, being first duly sworn, deposes and states as follows:

1. I am a Nevada attorney duly licensed in good standing. I am an Assistant Bar Counsel for the State Bar of Nevada. I make this affidavit upon personal knowledge and, if called as a witness, could competently testify to the facts contained herein. I make this affidavit in support of the State Bar's Petition pursuant to Supreme Court Rule ("SCR") 118 in the matter of attorney Robert C. Graham ("Graham").

2. On Monday December 5, 2016, it came to my attention that on or about December 2, 2016, Graham suddenly closed his practice and terminated his employees without any notice having been made to his employees or clients.

3. It also has come to my attention that on December 5, 2016, Graham's trust account was frozen by a Temporary Restraining Order issued *In the Matter of Michael Machnin, Deceased*, Case No. P-13-077855-E.

4. Upon information and belief, Graham abandoned his client's files in rented office space from which his eviction appears to be imminent and left his clients without representation.

FURTHER AFFIANT SAYETH NAUGHT

Dated this 6th Day of December, 2016.


 Phillip J. Pattee, Assistant Bar Counsel

SUBSCRIBED AND SWORN to before me
 by Phillip J. Pattee this 6th day of December, 2016.


 NOTARY PUBLIC



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EXHIBIT PAGE ONLY

EXHIBIT 7

HUTCHISON & STEFFEN
A PROFESSIONAL LLC

ELECTRONICALLY SERVED
12/06/2016 03:03:22 PM

1 **SUBP**
Joseph S. Kistler (3458)
2 Joshua O. Igeleke, Jr. (13506)
HUTCHISON & STEFFEN, LLC
3 Peccole Professional Park
4 10080 West Alta Drive, Suite 200
Las Vegas, NV 89145
5 Tel: (702) 385-2500
Fax: (702) 385-2086
6 skistler@hutchlegal.com
jigeleke@hutchlegal.com
7

8 *Attorneys for the Estate of Michael B. Macknin*

9 **DISTRICT COURT**

10 **CLARK COUNTY, NEVADA**

11 In the Matter of the Estate of

Case No.: P-13-077855-E

12 MICHAEL B. MACKNIN,

Dept. No.: Probate

13 Deceased.
14

15 **THE STATE OF NEVADA SENDS GREETINGS TO:**

16
17 **CUSTODIAN OF RECORDS OF**
CITY NATIONAL BANK ASSOCIATION
18 4310 W. Cheyenne Ave.
19 N. Las Vegas, NV 89032

20 **YOU ARE COMMANDED**, that all and singular, business and excuses being set aside,
21 the **CUSTODIAN OF RECORDS** for **CITY NATIONAL BANK ASSOCIATION**, appear
22 on **Thursday, December 22, 2016 at 9:00 am** before a Notary Public, or before some other
23 officer authorized by law to administer oaths, at the law firm of **HUTCHISON & STEFFEN,**
24 **LLC**, located at Peccole Professional Park, 10080 West Alta Drive, Suite 200, in Las Vegas,
25 Nevada 89145. Your attendance is required to give testimony in the above-captioned matter on
26 the topics set forth in *Exhibit "A"*.
27
28

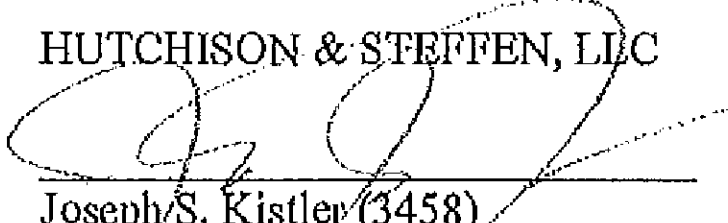
1 Please see *Exhibit "B"* attached hereto for information regarding the rights of the person
 2 subject to this Subpoena. Should you need to reschedule your deposition, please contact our
 3 office within five (5) days of your receipt of this Subpoena.

4 YOU ARE FURTHER COMMANDED to bring a copy of the documents set forth in
 5 *Exhibit "A"* at your appearance for the deposition. If you fail to attend, you will be deemed
 6 guilty of contempt of Court, and liable to pay all losses and damages caused by your failure to
 7 appear and forfeit ONE HUNDRED DOLLARS (\$100.00) in addition thereto.

8
 9 IN LIEU OF APPEARANCE, the Custodian of Records will be permitted to provide a
 10 copy of the documentation referenced in the subpoena duces tecum, on or before the Tuesday,
 11 December 20, 2016 at 2:00 pm to Joseph S. Kistler, Esq., of HUTCHISON & STEFFEN,
 12 Peccole Professional Park, 10080 Alta Drive, Suite 200, Las Vegas, Nevada 89145, (702) 385-
 13 2500, together with a signed and notarized Declaration of Custodian of Records. Please see
 14 Exhibit A-1.
 15

16 DATED this 16th day of December, 2016.

17 HUTCHISON & STEFFEN, LLC

18 
 19 Joseph S. Kistler (3458)
 20 Joshua O. Igeleke Jr. (13506)
 21 HUTCHISON & STEFFEN, LLC
 22 Peccole Professional Park
 23 10080 West Alta Drive, Suite 200
 24 Las Vegas, NV 89145

25 *Attorneys for the Estate of Michael B. Mackinn*
 26
 27
 28

EXHIBIT A

ITEMS TO BE PRODUCED

1. Each and every statement for all accounts of Lawyers West held at City National Bank between the dates of June 1, 2013 and December 5, 2016, including any checking accounts, savings accounts, certificates of deposit accounts, money market accounts, overdraft accounts, lines of credit, mortgages, loans, or credit cards, in your possession, custody, and/or control.
2. Each and every statement for all accounts of Robert C. Graham LTD held at City National Bank between the dates of June 1, 2013 and December 5, 2016, including any checking accounts, savings accounts, certificates of deposit accounts, money market accounts, overdraft accounts, lines of credit, mortgages, loans, or credit cards, in your possession, custody, and/or control.
3. Each and every statement for all accounts of Robert C. Graham held at City National Bank between the dates of June 1, 2013 and December 5, 2016, including any checking accounts, savings accounts, certificates of deposit accounts, money market accounts, overdraft accounts, lines of credit, mortgages, loans, or credit cards, in your possession, custody, and/or control.
4. Copies of each and every written item of deposit or withdrawal for all accounts of Lawyers West held at City National Bank between the dates of June 1, 2013 and December 5, 2016, including any checking accounts, savings accounts, certificates of deposit accounts, money market accounts, overdraft accounts, lines of credit, mortgages, loans, or credit cards, in your possession, custody, and/or control.
5. Copies of each and every written item of deposit or withdrawal for all accounts of Robert C. Graham LTD held at City National Bank between the dates of June 1, 2013 and December 5, 2016, including any checking accounts, savings accounts, certificates of deposit accounts, money market accounts, overdraft accounts, lines of credit, mortgages, loans, or credit cards, in your possession, custody, and/or control.
6. Copies of each and every written item of deposit or withdrawal for all accounts of Robert C. Graham held at City National Bank between the dates of June 1, 2013 and December 5, 2016, including any checking accounts, savings accounts, certificates of deposit accounts, money market accounts, overdraft accounts, lines of credit, mortgages, loans, or credit cards, in your possession, custody, and/or control.
7. Copies of each and every signature card for all accounts of Lawyers West held at City National Bank between the dates of June 1, 2013 and December 5, 2016, including any checking accounts, savings accounts, certificates of deposit accounts, money market accounts, overdraft accounts, lines of credit, mortgages, loans, or credit cards, in your possession, custody, and/or control.

- 1 8. Copies of each and every signature card for all accounts of Robert C. Graham LTD held
2 at City National Bank between the dates of June 1, 2013 and December 5, 2016, including
3 any checking accounts, savings accounts, certificates of deposit accounts, money market
4 accounts, overdraft accounts, lines of credit, mortgages, loans, or credit cards, in your
5 possession, custody, and/or control.
- 6 9. Copies of each and every signature card for all accounts of Robert C. Graham held at City
7 National Bank between the dates of June 1, 2013 and December 5, 2016, including any
8 checking accounts, savings accounts, certificates of deposit accounts, money market
9 accounts, overdraft accounts, lines of credit, mortgages, loans, or credit cards, in your
10 possession, custody, and/or control.
- 11 10. An executed original of the Custodian of Records Affidavit attached hereto as **Exhibit A-1**.

EXHIBIT A-1

1 STATE OF _____)
 2) ss:
 3 COUNTY OF _____)

CUSTODIAN OF RECORDS AFFIDAVIT

4
 5 Before me, the undersigned authority, personally appeared
 6 _____ (person's name), who, being by me duly sworn deposited as
 7 follows:

8 My name is _____ (person's name). I am of sound mind,
 9 capable of making this affidavit, and personally acquainted with the facts herein stated:

10 I am the custodian of records of **CITY NATIONAL BANK**. Attached hereto are
 11 _____ (number of pages) pages of records kept by **CITY NATIONAL BANK** in the regular
 12 course of business, and it was the regular course of business of the entity mentioned above for
 13 an employee or representative of the entity mentioned above, with knowledge of the act, event,
 14 condition, opinion, or diagnosis, recorded to make the record or to transmit information thereof
 15 to be included in such record; and the record was made at or near the time or reasonably soon
 16 thereafter. The records attached hereto are the originals or exact duplicates of the originals.
 17
 18
 19

20 _____
 Affiant

21 STATE OF _____)
 22) ss:
 23 COUNTY OF _____)

24 SUBSCRIBED and sworn to before me

25 this ____ day of _____, 2016.

by _____
 (Name of Affiant)

26 _____
 27 NOTARY PUBLIC
 28

EXHIBIT "B"**NEVADA RULES OF CIVIL PROCEDURE****Rule 45****(c) Protection of Persons Subject to Subpoena**

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2)(A) A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. If the objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3)(A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it

(i) fails to allow reasonable time for compliance;

(ii) requires a person who is not a party or an officer of a party to travel to a place more than 100 miles from the place where that person resides, is employed or regularly transacts business in person, except that such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held, or

(iii) requires disclosure of privileged or other protected matter and no exception or waiver applies, or

(iv) subjects a person to undue burden.

(B) If a subpoena

(i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or

(ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

1 **(d) Duties in Responding to Subpoena**

2 (1) A person responding to a subpoena to produce documents shall produce them as
3 they are kept in the usual course of business or shall organize and label them to correspond with
4 the categories in the demand.

5 (2) When information subject to a subpoena is withheld on a claim that it is privileged
6 or subject to protection as trial preparation materials, the claim shall be made expressly and
7 shall be supported by a description of the nature of the documents, communications, or things
8 not produced that is sufficient to enable the demanding party to contest the claim.
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HUTCHISON & STEFFEN
A PROFESSIONAL LLC
PECOLE PROFESSIONAL PARK
10080 WEST ALTA DRIVE, SUITE 200
LAS VEGAS, NV 89145

CERTIFICATE OF SERVICE BY ELECTRONIC FILING

I HEREBY CERTIFY that on this 6th day of December, 2016, I sent via e-mail a true and correct copy of the foregoing SUBPOENA on the Clark County E-File Electronic Service List.

Michael Kling, Esq.
Kling Law Offices
8906 Spanish Ridge Ave., Suite 100
Las Vegas NV 89148

Robert C. Graham, Esq.
Lawyers West
10000 W. Charleston Blvd., Suite 140
Las Vegas NV 89135

Stephanie Morehead
An employee of HUTCHISON & STEFFEN, LLC

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EXHIBIT PAGE ONLY

EXHIBIT 8

HUTCHISON & STEFFEN

A PROFESSIONAL LLC

Case No. OBC16-1504



FILED

DEC 08 2016

STATE BAR OF NEVADA
SOUTHERN NEVADA DISCIPLINARY BOARD
STATE BAR OF NEVADA
OFFICE OF BAR COUNSEL

STATE BAR OF NEVADA,

Complainant,

vs.

ROBERT C. GRAHAM, ESQ.,
BAR No. 4618,

Respondent.

COMPLAINT

TO: Robert C. Graham, Esq.
c/o P. Sterling Kerr, Esq.
2450 St. Rose Parkway, Suite 120
Las Vegas, NV 89074

PLEASE TAKE NOTICE that pursuant to Supreme Court Rule ("SCR") 105(2), a **VERIFIED RESPONSE OR ANSWER** to this Complaint must be filed with the Office of Bar Counsel, State Bar of Nevada, 3100 W. Charleston Boulevard, Suite 100, Las Vegas, Nevada 89102, within twenty (20) days of service of this Complaint. Procedure regarding service is addressed in SCR 109.

1. Complainant, State Bar of Nevada (hereafter "State Bar"), by and through its Assistant Bar Counsel, Janeen V. Isaacson, alleges that attorney Robert C. Graham, Esq. ("Respondent"), is now and at all times pertinent herein was a licensed attorney in the State of Nevada and that he engaged in acts of misconduct in Clark County, Nevada, warranting the imposition of professional discipline as set out herein.

///

1 2. At all relevant times herein, Respondent was the owner of Robert C.
2 Graham, LTD. and practiced law under the names Rob Graham & Associates and
3 Lawyers West in Las Vegas, Nevada.
4

5 3. On November 17, 2016, Respondent was ordered to transfer the sum of
6 \$1,045,405.08 and \$22,569.53 which he was holding for former client Michael B. Macknin
7 to his new counsel, Michael Kling, Ltd. by Judge Gloria Sturman of Department 26 in the
8 Nevada Eighth Judicial District Court.

9 4. Prior to the issuance of the Order, Kling had communicated with
10 Respondent who represented that he was still safekeeping Macknin's funds, which
11 Respondent claimed were located in his IOLTA client trust account located at City
12 National Bank. Respondent also provided to Macknin's counsel a copy of what he
13 represented was a bank statement from that IOLTA account showing a balance of over
14 \$1 million dollars.

15 5. Respondent failed to comply with Judge Sturman's Order.

16 6. On December 2, 2016, Respondent called an office meeting with his staff at
17 10000 W. Charleston Blvd, Suite 140, Las Vegas, Nevada and informed them that he
18 was abandoning the law practice as of that day and that everyone was laid off.

19 7. Respondent's employees had no prior notice that the office was closing and
20 none of Respondent's clients were informed of the abandonment.

21 8. Prior to the abandonment of his practice, Respondent had routinely and
22 consistently failed to diligently distribute funds being held for clients in trusts, probates,
23 and estates, and failed to communicate with these clients regarding the status of their
24 money. Respondent also repeatedly lied to clients as to the true status of their client
25 funds.

1 9. On December 5, 2016, attorney Joseph S. Kistler ("Kistler") of Hutchison &
2 Steffen, LLC, obtained a Temporary Restraining Order ("TRO") and Preliminary Injunction
3 freezing all funds contained in the City National IOLTA trust account based on the
4 abandonment of Respondent's practice, and his failure to turn over the funds as ordered.

5 10. On December 6, 2016, for the benefit and protection of the clients,
6 Supreme Court Rule ("SCR") 118 representatives were appointed pro-bono to step in the
7 shoes of Respondent and assume the handling of Respondent's practice, assume
8 Respondent's cases and take all necessary steps to wind-down the practice, notify clients
9 of the situation, and secure client files and accounting information.

10 11. On December 7, 2016, the State Bar obtained accounting records and
11 copies of checks and disbursements relating to specific clients of the law firm via
12 subpoena. The State Bar, while still in the mist of its analysis of these records, has
13 reviewed more than 50 individual Transaction Detail by Account reports maintained by
14 the law firm. These reports appeared to track all deposits and client related transactions.
15 The State Bar has prepared a chart documenting 51 separate reports attached thereto
16 demonstrating that Respondent, based on his own accounting records, should be holding
17 more than \$13,000,000 in trust for those 51 clients alone. See **Exhibit 1**.

18 12. On December 7, 2016, Kistler, co-counsel for Macknin, reported to the
19 State Bar that he had been in communications with City National Bank in compliance with
20 the TRO issued by Judge Sturman. He provided the State Bar with a Declaration stating
21 that City National had confirmed the balance of Respondent's City National IOLTA was in
22 the "low six figures" and confirmed that the bank statement provided by Respondent
23 showing the balance to be over \$1 million dollars was not based on a legitimate bank
24 statement. See **Exhibit 2**.

25

1 13. The State Bar, based on accounting and bank records, obtained by
2 execution of a subpoena, has determined there are other banking and investment
3 accounts which were being utilized by Respondent to keep funds provided to him for
4 safekeeping by his clients. However, based on information provided to date, the
5 balances of these accounts total much less than the more than \$13,000,000 Respondent
6 should be safekeeping for these clients.

7 14. Respondent has retained counsel, who facilitated the execution of the State
8 Bar's lawful subpoena in compliance with Rule of Professional Conduct ("RPC") 8.1(b)
9 (Bar Admission & Disciplinary Matters) but indicated that Respondent will not respond to
10 any further requests for information from the State Bar of Nevada.

11 15. Based on the investigation to date, the State Bar alleges that Respondent
12 failed to properly safekeep millions of dollars in client funds in violation of RPC 1.3
13 (Diligence) and RPC 1.15 (Safekeeping Property).

14 16. Based on the investigation to date, the State Bar alleges that Respondent
15 misappropriated millions of dollars from his current and former trust, probate and estate
16 clients in violation of RPC 8.4 (Misconduct).

17 17. Based on the investigation to date, the State Bar alleges that Respondent
18 lied to the court and opposing counsel in the Macknin matter regarding the location and
19 status of Macknin's funds in violation of RPC 3.3 (Candor Toward the Tribunal) and RPC
20 4.1 (Truthfulness in Statements to Others).

21 18. Based on the investigation to date, the State Bar alleges that Respondent
22 lied to his other clients regarding that status of their client funds in violation of RPC 1.4
23 (Communication) and RPC 4.1 (Truthfulness in Statements to Others).
24
25

1 19. Based on the investigation to date, the State Bar alleges that Respondent
 2 abandoned his practice and his clients without notice or court approval in violation of
 3 RPC 1.16 (Declining or Terminating Representation).

4 20. In light of the foregoing, Respondent violated Rules of Professional Conduct
 5 ("RPC") 1.3 (Diligence), RPC 1.4 (Communication), RPC 1.15 (Safekeeping Property),
 6 RPC 1.16 (Declining or Terminating Representation), RPC 3.3 (Candor Toward the
 7 Tribunal), RPC 4.1 (Truthfulness in Statements to Others) and RPC 8.4 (Misconduct).

8 WHEREFORE, Complainant prays as follows:

- 9 1. That a hearing be held pursuant to SCR 105;
- 10 2. That Respondent be assessed the costs of the disciplinary proceeding
 11 pursuant to SCR 120(1); and
- 12 3. That pursuant to Supreme Court Rule 102, such disciplinary action be taken
 13 by the Southern Nevada Disciplinary Board against Respondent as may be deemed
 14 appropriate under the circumstances, including an award of restitution to the victims of
 15 Respondent's conduct as demonstrated by clear and convincing evidence at trial.

16 Dated this 8th day of December, 2016.

17
 18 STATE BAR OF NEVADA

19 By: 

20 Janeen V. Isaacson, Assistant Bar Counsel
 21 3100 W. Charleston Boulevard, Suite 100
 22 Las Vegas, Nevada 89102
 23 (702) 382-2200
 24 Attorney for State Bar of Nevada
 25

EXHIBIT 1

Robert Graham Associates

Amounts Due to Clients According to Graham Firm Accounting

Client Name	Amount Owed per Dec. 7, 2016 Reports
Estate of [REDACTED]	\$ 301,779.78
Estate of [REDACTED]	\$ 223,476.73
Estate of [REDACTED]	\$ 265,048.44
Probate, [REDACTED]	\$ 72,687.80
Estate of [REDACTED]	\$ 50,452.88
Probate, [REDACTED]	\$ 32,903.07
Probate, [REDACTED]	\$ 217,131.46
S.Needs Trust, [REDACTED]	\$ 511,425.55
Trust, [REDACTED]	\$ 48,535.19
Estate of [REDACTED]	\$ 202,994.78
Estate of [REDACTED]	\$ 240,766.16
Estate of [REDACTED]	\$ 43,248.59
Estate of [REDACTED]	\$ 49,543.18
Probate, [REDACTED]	\$ 220,803.14
Trust, [REDACTED]	\$ 115,495.72
Estate of [REDACTED]	\$ 25,999.71
Estate of [REDACTED]	\$ 123,602.60
[REDACTED]	\$ 918,603.58
Estate of [REDACTED]	\$ 114,506.52
Estate of [REDACTED]	\$ 214,854.73
Estate of [REDACTED]	\$ 29,176.59
Trust, [REDACTED]	\$ 399,576.16
Trust, [REDACTED]	\$ 580,738.28
Estate of [REDACTED]	\$ 105,642.67
Guardianship, [REDACTED]	\$ 156,557.39
Guardianship, [REDACTED]	\$ 127,887.20
Estate, [REDACTED]	\$ 605,359.21
Trust, [REDACTED]	\$ 93,595.25
S.Needs Trust, [REDACTED]	\$ 476,423.20
Estate, [REDACTED]	\$ 128,764.92
Guardianship, [REDACTED]	\$ 288,461.96
Estate of [REDACTED]	\$ 1,202,467.81
Estate of [REDACTED]	\$ 914,932.18
Estate of [REDACTED]	\$ 95,597.30

Robert Graham Associates

Amounts Due to Clients According to Graham Firm Accounting

Estate of [REDACTED]	\$ 1,045,335.08
Estate of [REDACTED]	\$ 93,557.21
Estate of [REDACTED]	\$ 177,846.05
Estate of [REDACTED]	\$ 110,930.54
Trust, [REDACTED]	\$ 240,444.55
S.Needs Trust, [REDACTED]	\$ 471,585.64
Probate, [REDACTED]	\$ 207,563.79
Trust, [REDACTED]	\$ 67,875.46
Estate of [REDACTED]	\$ 348,314.04
Estate of [REDACTED]	\$ 595,596.90
Estate of [REDACTED]	\$ 470,850.96
Estate of [REDACTED]	\$ 75,546.97
Litigation, [REDACTED]	\$ 92,456.02
Estate of [REDACTED]	\$ 22,672.16
Estate of [REDACTED]	\$ 22,868.45
Trust, [REDACTED]	\$ 18,160.80
Total	\$ 13,260,644.35

EXHIBIT 2

DECLARATION OF JOSEPH S. KISTLER

I, Joseph S. Kistler, declare the following to be true under the penalties of perjury:

1. I am an attorney in good standing in the State of Nevada and a partner in the law firm of Hutchison & Steffen. I am co-counsel in the case of the Estate of Michael B. Macknin, ("Estate"), filed in the District Court, Clark County, Nevada, as Case No. P-13-077855-E. I was involved as counsel of record in gaining immediate injunctive relief from the Court on December 5, 2016 that "froze" all accounts maintained by City National Bank ("CNB") for Robert C. Graham, Robert C. Graham, Ltd. and Lawyers West.

2. Accounts at CNB were targeted based upon a heavily redacted October 31, 2016 CNB account statement provided to my co-counsel, Michael Kling, by Mr. Graham in late October/early November, 2016. The circumstances giving rise to Mr. Graham forwarding the document to Mr. Kling are described in Mr. Kling's Declaration filed on December 5, 2016 in support of our TRO application. The statement was touted by Mr. Graham to Mr. Kling as proof that Mr. Graham's client trust account maintained funds in excess of the Estate's funds Mr. Graham held of approximately \$1.1 million. A copy of the redacted CNB statement is attached to this Declaration as Exhibit 1.

3. The Court's TRO was served on CNB and electronically filed late on the afternoon of December 5, 2016. I received a call from CNB's in-house counsel, Diane Baxa, the morning of December 6, 2016. Ms. Baxa's emailed contact information is attached as Exhibit 2.

4. Ms. Baxa acknowledge CNB's receipt of the TRO and its agreement to abide by the TRO's terms. She also told me that while she did not have detailed records before her, she was able to find one Robert C. Graham account at CNB that had a "balance in the low six

figures." I understood from her that that was the only CNB account regarding Robert C. Graham, Robert C. Graham, Ltd. or Lawyers West that had any money in it.

5. Ms. Baxa asked me why we were focused on CNB. I informed her of the October 31, 2016 redacted bank statement that Mr. Graham provided Mr. Kling. I emailed the document -- Exhibit 1- to her at her request.

6. Later that morning, Ms. Baxa telephoned me regarding the statement. She said that upon her review of the document I sent to her and relevant bank records, "the redacted document Mr. Graham provided to you was not based upon a legitimate bank statement." She also said that we would need to request bank records commencing much earlier than October 2016 to determine what happened to money in that account.

DATED this 8th day of December, 2016.



JOSEPH S. KISTLER

CITY NATIONAL BANK
The way up.®

Page 1 (31)

Account #: 389

This statement: October 31, 2016
Last statement: September 30, 2016

Contact us:
800-773-7100

Cheyenne Banking Office
4310 W Cheyenne
North Las Vegas NV 89032

367 0330L
ROBERT C GRAHAM LTD
ATTORNEY-CLIENT TRUST ACCOUNT

cnb.com

Attorney-Client Trust Account

Account Summary		Account Activity	
Account number	389	Beginning balance (9/30/2016)	\$1,281,900.44
Minimum balance		Credits Deposits (19)	
		Total credits	
		Debits	
		Total debits	
		Ending balance (10/31/2016)	\$1,155,747.75

DEPOSITS

Date	Description	Reference	Credits
10-4	Deposit		
10-4	Deposit		
10-5	Deposit		
10-7	Deposit		
10-11	Deposit		
10-12	Deposit		
10-12	Deposit		
10-14	Deposit		
10-17	Deposit		
10-17	Deposit		
10-18	Deposit		
10-20	Deposit		
10-21	Deposit		
10-21	Deposit		
10-26	Deposit		
10-26	Deposit		
10-28	Deposit		
10-28	Deposit		
10-31	Deposit		

ELECTRONIC CREDITS

Date	Description	Credits
10-6	Incoming Wire-Don	

Joseph Kistler

From: Joseph Kistler
Sent: Tuesday, December 06, 2016 10:07 AM
To: 'Baxa, Diane'
Subject: RE: contact e-mail
Attachments: P-13-077855-E-8805239_ORDR_Order_on_Petition_for_Approval_of_Attorney_Fe....pdf

From: Baxa, Diane [mailto:Diane.Baxa@cnb.com]
Sent: Tuesday, December 06, 2016 9:58 AM
To: Joseph Kistler <skistler@hutchlegal.com>
Subject: contact e-mail

My contact information is below.

*Diane Wenple Baxa
Senior Vice President & Senior Counsel
City National Bank
555 South Flower Street
Eighteenth Floor
Los Angeles, CA 90071
T: (213) 673-9510
F: (213) 673-9503*

This e-mail is intended solely for the named addressee(s) and may contain privileged or confidential information. If you have received this e-mail in error or are not otherwise an intended recipient, please do not use or distribute this e-mail or its contents, notify me at once by return e-mail or telephone and delete or destroy this e-mail and any copies.

Thank you

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EXHIBIT PAGE ONLY

EXHIBIT 9

HUTCHISON & STEFFEN

ATTORNEYS AT LAW

Josh Igeleke

From: Joseph Kistler
Sent: Thursday, December 08, 2016 4:49 PM
To: Josh Igeleke
Subject: FW: Information

FYI.

From: Janeen Isaacson [mailto:JaneenI@nvbar.org]
Sent: Thursday, December 08, 2016 4:49 PM
To: Joseph Kistler <skistler@hutchlegal.com>; Michael Kling (mike@klinglawoffices.com) <mike@klinglawoffices.com>
Subject: Information

Gentlemen:

Based on our investigation to date, the financial institutions which we believe were for the purpose of or were holding client funds are:

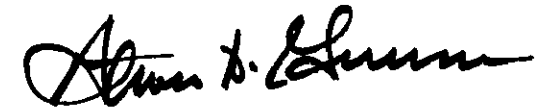
City National Bank;
Nevada State Bank;
JP Morgan Chase,
Utah Community Credit Union;
Cetra Advisors;
TINC Wealth Advisors;
Pershing Advisor Solutions, LLC; and
WBI Wealth Management.

As I indicated to you, our Supreme Court Rules and the Rules of Professional Conduct allow for attorneys who are handling funds for clients long term, as Mr. Graham routinely did, to open specific trusts for individual clients. We would also expect that Mr. Graham would have used these investment firms to invest funds for his clients. We are sorting through the information we've obtained through subpoena and interviews and trying to ascertain the details of the accounts and transactions that have occurred. We appreciate your assistance and will continue to prosecute this matter on behalf of your client and the others affected.

Janeen V. Isaacson, Esq.
Assistant Bar Counsel

EXHIBIT E

EXHIBIT E



CLERK OF THE COURT

ORDR

Joseph S. Kistler (3458)
 Joshua O. Igeleke Jr. (13506)
 HUTCHISON & STEFFEN, LLC
 Peccole Professional Park
 10080 West Alta Drive, Suite 200
 Las Vegas, Nevada 89145
 Telephone: (702) 385-2500
 Facsimile: (702) 385-2086
 Email: jkistler@hutchlegal.com
 jigeleke@hutchlegal.com

Attorneys for The Estate of Michael B. Macknin

DISTRICT COURT**CLARK COUNTY, NEVADA**

In the Matter of the Estate of

MICHAEL B. MACKNIN,

Deceased.

Case No.: P-13-077855-E

Dept. No.: Probate

**ORDER GRANTING THE ESTATE'S EMERGENCY *EX PARTE* APPLICATION
 TO EXPAND RELIEF OF THE TEMPORARY RESTRAINING ORDER
 GRANTED ON DECEMBER 5, 2016 AND AN ORDER TO SHOW CAUSE
 REGARDING PRELIMINARY INJUNCTION**

The Estate of Michael B. Macknin's (the "Estate") Emergency Application to Expand Relief Granted in the Temporary Restraining Order Granted on December 5, 2016 having come before the Court on an *Ex Parte* basis on the 9th day of December, 2016, the Court having considered the Application, the declarations and exhibits attached thereto, the arguments presented in open court and GOOD CAUSE APPEARING;

IT IS HEREBY ORDERED that the Estate's Application to Expand Relief of the Temporary Restraining Order Granted on December 5, 2016 is GRANTED.

IT IS FURTHER ORDERED that the Court has a good faith basis to believe that the

1 Estate's funds may be traced to accounts held in the name of "Robert C. Graham," "Linda
2 M. Graham," "Robert C. Graham LTD," "Lawyers West," and/or "The Estate of Michael
3 B. Macknin" at the following financial institutions: City National Bank, Nevada State
4 Bank, JP Morgan Chase, Utah Community Credit Union, Cetra Advisors, TINC Wealth
5 Advisors, Pershing Advisor Solutions, LLC and WBI Wealth Management.

6
7 IT IS FURTHER ORDERED that Mr. Robert C. Graham, Esq., Mrs. Linda M.
8 Graham, Esq., Lawyers West, Robert C. Graham LTD, City National Bank, Nevada State
9 Bank, JP Morgan Chase, Utah Community Credit Union, Cetra Advisors, TINC Wealth
10 Advisors, Pershing Advisor Solutions, LLC and WBI Wealth Management are prohibited
11 from making any disbursement of assets from any account holding Graham's clients'
12 funds. As to City National Bank, Nevada State Bank, JP Morgan Chase, Utah Community
13 Credit Union, Cetra Advisors, TINC Wealth Advisors, Pershing Advisor Solutions, LLC
14 and WBI Wealth Management, this Order applies to any account held in the name of
15 "Robert C. Graham," "Linda M. Graham," "Robert C. Graham LTD," "Lawyers West,"
16 and/or "The Estate of Michael B. Macknin."
17
18

19 IT IS FURTHER ORDERED that the following accounts held at Pershing Advisor
20 Solutions LLC are excluded from this Order: 42U-086735, 42U-078039, 42U-076124 and
21 42U-087394.

22 IT IS FURTHER ORDERED that no bond, in addition to the \$425 bond previously
23 ordered, is required.
24

25 IT IS FURTHER ORDERED that any unauthorized disbursement of the Estate's
26 funds shall be prohibited until such time as this Court shall determine subsequent to the
27 Estate's Motion for Preliminary Injunction to come before the Court on the 14th day of
28

1 December, 2016 at 9:30 a.m.

2 IT IS FURTHER ORDERED that this expanded relief of the Temporary Restraining
3 Order granted on December 5, 2016 is issued and effective as of 9:30 a.m./p.m. on
4 December 9th, 2016.

5 DATED this 9th day of December, 2016.

6 
7 DISTRICT COURT JUDGE

8 Submitted by:

9 HUTCHISON & STEFFEN, LLC

Review and approved by:

CASSADY LAW OFFICES P.C.

11 /s/ Joseph S. Kistler
12 Joseph S. Kistler (3458)
13 Joshua O. Igeleke Jr. (13506)
14 10080 West Alta Drive, Suite 200
Las Vegas, Nevada 89145

15 *Attorneys for the Estate of*
16 *Michael B. Macknin*

/s/ Jasen E. Cassady
Jasen E. Cassady (8018)
Brandi K. Cassady (12714)
2425 West Horizon Ridge Pkwy
Henderson, NV 89052

Attorneys for the former clients of
Lawyers West

EXHIBIT F

EXHIBIT F

OPP

ROBERT C. GRAHAM
Nevada Bar No. 4618
10000 W. Charleston Boulevard
Howard Hughes Plaza 140
Las Vegas, Nevada 89135
Voice: (702) 255-6161
Fax: (702) 255-8383
rgraham@lawyerswest.net

DISTRICT COURT

CLARK COUNTY, NEVADA

In the Matter of the Estate of

MICHAEL B. MACKNIN,

Deceased.

Case No. P-13-077855-E
Dept. No.: Probate

**AFFIDAVIT IN OPPOSITION OF
EMERGENCY EX PARTE MOTION
FOR TEMPORARY RESTRAINING
ORDER**

Date: 12/14/16
Time: 9:30 a.m.

The undersigned, ROBERT C. GRAHAM, does state under threat of contempt and perjury the following in OPPOSITION TO THE EX PARTE MOTION FOR TEMPORARY RESTRAINING ORDER.

1. That this Affidavit in Opposition will be the only appearance for the hearing made by the undersigned as he is subject of substantial media attention and rather than draw that attention to the court, he will make his representations in writing alone.
2. That the undersigned is the sole Officer(s) and Director of Robert C. Graham, Ltd. d/b/a LawyersWest ("Company") as organized under the laws of the State of Nevada in 1995 and having as its identification number under the Nevada Secretary of State C1573-1995. The assertions made herein are supported by the public record and attached copies of the same for

1 the court's convenience. The undersigned asks the court to take judicial notice of the attached
2 documents coming from the public record. See Exhibit "A."

3 3. That the Company was formed in 1995 as a separate entity in participation with a partnership of
4 other independent companies and sole proprietors forming a larger overhead sharing
5 partnership of several other attorneys. This partnership dissolved in the late 1990's and is not
6 relevant to the matter at hand, however, the court should note that the organization was of
7 affiliated corporations and sole proprietors having only the overhead being shared by and
8 between them. Each participating entity had separate books, separate accounts, and separate
9 clients from each other – having only overhead obligations shared. This included Linda M.
10 Graham being separate from the undersigned and his Company.

11
12 4. This statement under threat of contempt is made mostly herein for the court to understand the
13 separation of Linda M. Graham from Robert C. Graham, Ltd d/b/a LawyersWest as there has
14 been multiple inaccuracies as to her level of involvement with the Company.

15
16 5. Linda M. Graham was a participant in this original partnership, having her own clients and
17 separate books from Robert C. Graham, Ltd. Linda M. Graham resigned from full-time
18 practice to raise children in approximately 1998. Her limited client representation continued to
19 be separate at that time.

20
21 6. That for all intents and purposes the Company had as its sole owner Robert C. Graham
22 individually since inception and that Linda M. Graham was not fully participating as a lawyer
23 in the Company from 1998 through 2014 as she was raising children of the marriage and had
24 previously kept all of her representation separate from the Company. While in St. George,
25 Utah between 2004 and 2011, she received part-time pay to assist with the operations of the
26 office that was opened by the Company there, but her responsibilities were very limited as were
27 her hours and her matters were mostly relating to matters in St. George, Utah needing Nevada
28

1 counsel. She had no involvement in any Nevada probate matters. She had no involvement
2 with any Trust fund matters of Nevada. Her work consisted mostly of estate planning and
3 bankruptcy. The office in St. George closed in approximately 2011 when she moved with the
4 children to Fort Collins, Colorado.

5 7. Between 2011 and 2014, Linda M. Graham's participation in the Fort Collins office was nearly
6 non-existent, even as a manager and trainer of attorneys. As the undersigned was more and
7 more absent from the Fort Collins office Linda M. Graham was asked to take additional
8 responsibilities in supervision of Fort Collins attorneys and case management. She did not take
9 responsibility for any of the finances of the office.
10

11 8. That Linda M. Graham has been out of the state of Nevada and not active in any Nevada
12 management of the company for nearly 15 years. That her participation outside of the state of
13 Nevada was confined to a very limited number of clients living outside of Nevada where her
14 licensing could be used, and more particularly in Colorado as a part-time employee assisting in
15 training and supervision of attorneys in Fort Collins, Colorado.
16

17 9. That the Colorado branch of the Company closed in mid-November in Fort Collins, Colorado
18 because of the financial crisis facing the Company in Las Vegas. Initially, she attempted to
19 continue the case matters after closing the branch office down, but after seeing her name in
20 print in an attempt by Petitioners to involve others in the matter, and the untruths thrown before
21 this court without any support, the undersigned has learned and believes that she intends to
22 sunset the practice altogether in Fort Collins to focus on the trauma facing her children.
23

24 10. That to the best of the knowledge of the undersigned, Linda Graham was not a signer on any
25 accounts of the company as she was a part-time manager of attorneys in Fort Collins only. This
26 applies specifically to the City National Bank Trust Account and the Chase Accounts, including
27 the Fort Collins Operation Account. The undersigned is uncertain whether she may have been a
28

1 signing party on the General Operating Account of City National in Las Vegas (as this is a very
2 old account), but she did not sign her name on any checks written on that account and was
3 certainly not active as a signer on that account as it was based out of Las Vegas and was for Las
4 Vegas operations. The only active signers on this administrative account were the office
5 manager and another employee-manager who were both located in the Las Vegas Office.
6

7 11. All administrative actions of the Company, even paying obligations in Fort Collins, were
8 performed and directed in the Las Vegas Office alone and Linda M. Graham had no access to
9 the day-to-day activities of the Company's management and as a part-time manager, her
10 responsibilities did not involve or include any financial dealings of the Company at any
11 location.
12

13 12. All bills and payables of the Fort Collins Office were paid through the J.P. Morgan Chase
14 accounts. Linda M. Graham was not a signer on these accounts. All payable decisions were
15 made and processed through the Las Vegas Office and checks were signed by the local office
16 manager in Fort Collins, who was also only an employee or bills were paid through the
17 undersigned. Linda M. Graham was not included in any of the financial dealings of the Fort
18 Collins Office other than perhaps from time-to-time identifying bills that needed to be paid and
19 making requests for payments.
20

21 13. That Linda M. Graham received employee W2 salary pay checks through the firm like all other
22 employees.
23

24 14. That Linda M. Graham was not a "Business Partner" of Robert C. Graham, Ltd as has been
25 asserted as she owned no equity in the company Robert C. Graham, Ltd. Additionally, as can
26 be attested through the official records of the State of Nevada, she was not a member of the
27 Board of Directors and was not an officer of the company and has not ever served in that
28 capacity since the inception of the company to the best recollection of the undersigned. Indeed,

1 Linda M. Graham ran her own business up to 1998 and took her own income from that business
2 as an attorney independent from Robert C. Graham, Ltd and had her own separate clients and
3 her own separate income.

4 15. To the best of the knowledge of the undersigned, any clients she may have had between 1998
5 and 2014 where she received a fee, she would have taken directly from payments made. As a
6 part-time employee of Robert C. Graham, Ltd., Linda M. Graham's work done for the
7 Company would have been compensated separately from any of her separate clients.
8

9 16. Since nearly the inception of the 30-year marriage, Robert C. Graham individually has kept
10 separate bank accounts from Linda M. Graham. The only mutual financial dealings would
11 have been on a home mortgage. It was determined early in the marriage that it was easier to
12 keep track of checks, income, and balances having separate accounts and that practice
13 continued throughout the entire length of the marriage, including to the present day as both
14 individuals were professionals and had separate income derived from their separate
15 employment or separate payroll. Debt obligations were assumed and assigned based on
16 convenience, such as Linda M. Graham paying routine household bills.
17

18 17. That while raising children between 1998 and 2014, Linda M. Graham would request funds
19 from Robert C. Graham and receive a payment, but she was still responsible for her own bank
20 account and the individuals did not share accounts, nor financial information with each other,
21 including information about consumer debt, such as individual credit cards. For convenience
22 the individuals may have put the other on credit cards of one another, but in practice each
23 individual kept and maintained their own separate consumer debt.
24

25 18. That the individuals had a common household and would therefore contribute separately to the
26 household, typically having household expenses divided with Linda M. Graham paying the
27 day-to-day household expenses and expenses of the family from her paycheck (W2 Income or
28

1 stipend while raising children) and Robert C. Graham paying other expenses through his
2 Company, such as Company vehicles and related insurance, and contributing from his own
3 draws from the Company to the mortgage and taxes.

4 19. That Robert C. Graham would typically receive draws from the Company or pay his credit
5 cards through the Company and this is how he would receive his income and NOT through W2
6 paychecks, as he was the owner of the company.

7
8 20. That Linda M. Graham had no knowledge or access to the Company's Trust Account and the
9 ONLY signer on the account was Robert C. Graham. That Linda M. Graham had no electronic
10 or Internet access to any accounts identified in the Petition and did not have passwords to the
11 accounts for access. That the Office Manager in Las Vegas only had access to the City
12 National General Account (bill paying) and J.P. Morgan Chase Las Vegas Operating Account
13 (bill paying) and Cost Account. That the Office Manager in Fort Collins only had access to the
14 J.P. Morgan Chase Fort Collins Operating Account. That neither had transfer authority.

15
16 21. That only Robert C. Graham had access to all accounts and authority and access to transfer
17 funds online.

18 22. That Linda M. Graham had no knowledge of transfers between any accounts as she had no
19 access to said accounts or statements and that even employees of the Company had no
20 knowledge as to account balances or transfers other than that which they were authorized to
21 see, which was limited to their management responsibilities, e.g., payment of bills from either
22 General or Operating Accounts.

23
24 23. That Linda M. Graham was at best a simple facilitator of paying payroll and paying bills in
25 conjunction with the Office Manager of the Fort Collins office.

26 24. That the Fort Collins office was for all intents and purposes a separate office having its own
27 income and its own clients, which also included its own bank account for paying bills. That
28

1 short of occasional assistance provided to the Las Vegas attorneys, such as occasional legal
2 research tasks, etc. the attorneys in Fort Collins were entirely unfamiliar with any Las Vegas
3 client matters and did not deal with any Las Vegas client funds.

4 25. That if Fort Collins required a subsidy of paying bills or payroll, that these funds would have
5 come from the Las Vegas General Account which was located and administered in Las Vegas
6 alone.

7
8 26. That with only very rare exception, all money coming from the Robert C. Graham Attorney
9 Trust Account would go into the City National General Account and booked as income to the
10 Company and from those transfers of income bills would be paid for the Company. That to the
11 knowledge of any and all persons, such transfers were income and booked as income for tax
12 and administrative purposes. Typically, any transfers to other accounts would come from this
13 source, e.g., the City National General Account (bill paying), including payroll. Rare direct
14 wires from Trust would typically be client related or on a very rare basis made for a payable
15 obligation where an electronic transfer to the City National General Account could not be
16 arranged. Only Robert C. Graham could arrange these wires, which were ordered through
17 signed requests directly from City National Bank's wire department – so the authority for the
18 wires and purpose for the wire transfers is very clear and in writing. This changed only
19 recently with the introduction of a secure online system introduced by the bank which still
20 required access to a Security verification FOB that only Robert C. Graham had possession of
21 and only the undersigned made these transfers. This transfer systems was used primarily with
22 non-trust account assets, but was used on occasion for Trust Account Transfers. Again, only
23 Robert C. Graham was trained on using this later system and always had control of the Security
24 Verification FOB. None of the other employees would have been aware of such direct transfers
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1 to payables and certainly not Linda M. Graham as she never even saw a billing statement and
2 was located hundreds of miles away.

3 27. That the billing statements of the Trust Account went only to the Las Vegas location and were
4 kept in a secure office. Only employees of the Las Vegas office had access to these statements.
5 In fact, all banking statements except the Fort Collins Operating Account statements went to
6 the Las Vegas office.

7
8 28. False and unfounded assertions have been made by unknown persons that accounting was done
9 by a mother-in-law in Fort Collins. All accounting was done in the Las Vegas office by Las
10 Vegas employees well known to all employees working in the Las Vegas office. The mother-
11 in-law of Robert C. Graham who worked in Fort Collins was responsible human resources,
12 such as health and dental insurance and for collecting payroll data. She also was responsible
13 for entering in time for the billing program. She was also responsible for paying day-to-day
14 bills of the Fort Collin's office. She had no other financial responsibilities and certainly was
15 not the accountant for the firm and had no access or exposure to any Trust Accounting detail.
16 All accounting functions of the law firm were conducted in Las Vegas and all formal income
17 tax filings were done through Las Vegas accountants. As mentioned above, all Trust
18 Statements were accounted for and stored in the Las Vegas office. Only Las Vegas employees
19 had access to any Trust Account information. The Fort Collins office did not have an active
20 Trust Account, so no Trust Accounting was necessary in that office.

21
22
23 29. That all other reconciliation were done in the Las Vegas Office of the general operating account
24 (City National) and the operation account (Chase) by internal accounting personnel in Las
25 Vegas. That neither Linda M. Graham nor the mother-in-law of the undersigned would have
26 had any knowledge of any of these accounts or any underlying activity. Only the bank
27 statements of the operating account of Fort Collins was accessible to the mother-in-law and
28

1 Linda M. Graham would not have had reason to even look upon these statements as she had no
2 financial duties associated with her management of personnel in Fort Collins. It is doubtful that
3 she ever even saw or looked at the Fort Collins bank statements from Chase. The mother-in-
4 law had fewer than six monthly checks for overhead, so very little money even went through
5 the Fort Collins operating account, so the accounts was insignificant in comparison to the
6 substantial activity of the Las Vegas office and related statements – which she would have
7 never seen.
8

9 30. That Linda M. Graham did not have other bank accounts that she managed for the Company
10 and did not have access to the Company's books and records, which were all kept in the Las
11 Vegas Office (including a copy of the Fort Collins Bank information) for tax purposes.

12 31. That Linda M. Graham has only very rarely come to the Las Vegas office, and when coming
13 perhaps once a year to the Las Vegas office only addressed management issues involving
14 personnel and did not have access to any books and records during such visits. That any
15 discussion of finances would have only been in generalities with no itemized statements or
16 reports ever being shared with the management team.
17

18 32. That all reporting and financial statements were essentially confined to the undersigned. That
19 any reports prepared regarding payables or receivables would have been prepared in Las Vegas
20 by the accounting personnel in Las Vegas and presented to Robert C. Graham for review. That
21 these reports would not have shown Trust Activity, but would have only shown outstanding
22 bills and obligations, of which there were many.
23

24 33. That the managers in Fort Collins and Las Vegas Offices, who were essentially most senior
25 lawyer employees of the Company at each location, were limited to personnel supervision, case
26 management and employee training and would not have had access to Company financial
27 records or reports in the normal course.
28

1 34. Much speculation has been made about the flow of client held trust funds in Las Vegas, but the
2 processing of funds was ridiculously simple and easy to follow. In each report regarding Trust
3 Funds, those examining the data have reached well far beyond the mark relating to the
4 depositing, holding and disposition of Trust Funds. The process was so well documented as to
5 leave no alternative viable and is easily followed and identifiable. Speculation and alternatives
6 surrounding the process is rampant and absurd.

7
8 35. If any trust funds were received, they were placed into Trust – typically by an employee of the
9 firm. Robert C. Graham did not typically deposit or note deposits coming in the normal course.
10 Such deposits were noted in deposit books of the Trust Funds. The deposit books were held in
11 an staff administrator's desk. If wires came into the trust funds from a closing on a sale of a
12 home or wired in from the liquidation of a probate asset, such as an account liquidation, those
13 deposits would also be noted in the Trust Deposit book by client name as an "EFT." All checks
14 and drafts received would be copied and attached to a copy of the deposit slips. Any wires from
15 closings would typically be supported by closing documents received at a later time.

16
17 36. Funds were then held in Trust. As Trust Funds were earned, they were transferred to the City
18 National Bank "General Account" where the funds would be booked as income and used for
19 payables.

20 37. Much speculation has been made about the flow of Trust Funds, but that flow is very visible on
21 the statements. As an example, if a client deposited \$100.00 into trust, that amount once earned
22 would be transferred into the general account. That \$100.00 would then be used to pay
23 obligations of the firm, such as payroll or health insurance. If the Fort Collins office was in
24 need of funds or a subsidy to assist that office in paying rent or something similar, funds would
25 be transferred from City National Bank to that account.
26
27
28

1 38. The rampant speculation that there are other accounts is simply not supported by the statements
2 showing the deposits and showing the transfer of funds. The flow of funds is well documented
3 and well supported by documentation.

4 39. Speculation that Linda M. Graham or the mother-in-law are hiding funds or conspiring to hide
5 funds, or doing accountings to hide funds or are somehow involved in hiding transferred funds
6 is not supported by any of the underlying statements that show the clear flow of funds after
7 deposits. Innocent lives are being impacted and even threats against these individuals are being
8 made because of unsupported and unsubstantiated assertions that go well beyond the mark.
9 These assertions are made to simply attempt to bring more persons into the mix simply because
10 of a marital vow or family relation. Rather than follow the logical and well-documented bank
11 statements going orderly and systematically from deposit, to transfer to accounts payable (or
12 distribution to a client), all which have been readily accessible and reviewable, and all
13 documents that have been accessible to the State Bar of Nevada, the Cassady Law Firm and
14 former employees of the Company, these litigants choose instead to slander and libel parties
15 who have had no involvement and no dealings with the issues at hand.

16 40. In fact, we see this matter being purposefully pushed into the media to by name by these
17 litigants recklessly identifying persons having no involvement and putting their private lives
18 and safety in jeopardy. The assertions are reckless and liability is likely to attach to the
19 reckless assertions that are entirely unfounded.

20 41. Rather than wait for the facts and evidence, these litigants in reckless abandon have decided to
21 shoot anyone wearing a Company name tag and then sort out the guilty ones later after the
22 body count is done. If honest persons are giving truthful testimony, this court will hear
23 statements from representatives of the bar that have been made that need to be corrected. The
24 litigants in this instant matter have no desire to wait for the truth to ferret out, but instead turn
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1 instantly to the newspapers to spew falsehoods or misstatements that need to be corrected based
2 upon information coming in as the underlying investigation develops.

3 42. The undersigned has a right to keep silent on much of the underlying matters. In absence of
4 statements regarding the history of the matter, the litigants simply speculate to defame innocent
5 persons in the press and name drop here and there in hopes of pressuring the undersigned to
6 speak.

7
8 43. Certain representations are made herein to attempt to protect those who are being libeled and
9 slandered without cause and without evidence. If truth is a defense, then trust should be spoken
10 – otherwise there is no defense. The litigants would be wise to first learn the truth rather than
11 speculate in the media and under sworn testimony or under the threat of Rule 11 sanctions on
12 matters involving other persons. So far, they have spoken first and simply hoped that the truth
13 would catch up.

14
15 44. This court should be informed that Linda M. Graham has now been forced to move from her
16 home for fear for her family because her name has been recklessly thrown about and she has
17 received threats on her life and on the lives of her children. On Monday a crew of loving
18 neighbors and associates physically moved the family out of the house because the fear from
19 threats had become so severe.

20
21 45. Many vigilante observers in the public might feel it justified that an innocent spouse or family
22 member under these circumstances should be punished simply because of their relationship or
23 association with an accused. No orderly society of reason, law and order can ever justify the
24 harm to innocent persons simply by association. Using the press to punish innocent persons
25 associated by name alone is a vulgar and despicable practice and the litigants in this matter
26 have blood on their hands.

1 46. The sad story of business losses over twenty years of practice will come out in weeks and
2 months to come.

3 47. The undersigned is present and working with authorities to account and be accountable for
4 these losses and is not "hiding" as the litigants have asserted again and again in the press.

5 48. The undersigned voluntarily removed himself from his family prior to Thanksgiving and
6 situated himself in Las Vegas, contacted attorneys and began making contact with the State Bar
7 of Nevada and the courts to begin a process that has a unambiguous punishment at the end.

8 49. From the beginning of that period, Bar Counsel has had contact with the undersigned's attorney
9 with assurances of physical presence.

10 50. On December 2, 2016, the undersigned proposed an orderly shutting down of the law practice
11 and asked for staff members to volunteer to help sort through files and protect client interests –
12 especially on matters pending the week after their termination and the closing of the law firm.
13 As the funds of the Law Firm had become exhausted (meaning the money available from
14 income from clients had run out), the employees were told they could exchange their time for
15 furnishings if they would be willing to help in the transition.

16 51. On December 2, the files were sorted between pending matters and closed matters.

17 52. On December 2, the employees were told that any client files with outstanding fees due (or
18 funds in trust) should be segregated to a separate location as if the Company were to file for
19 bankruptcy, the trustee would want to assert a file lien on fees due and would need to work
20 with new counsel in transferring the matters.

21 53. On December 2, the employees were informed that as of the end of that day, the undersigned
22 would stop practicing law and shortly thereafter retire his law license with the Bar as he was
23 emotionally and physically spent and could go on no more.

1 54. On December 2, the employees were asked to protect specific interests that might need to be
2 addressed that day and into the following week – as there were many outstanding probate
3 hearings and trusts half done that needed to be referred out or finished.

4 55. On December 2, some pending matters were directed to be taken out of the firm by some of the
5 attorneys where a clean break was possible.

6 56. At the end of the day, all agreed to come back the next day (Saturday) and then again on
7 Sunday and continue to work through the client file matters on those days and into the next
8 week.

9 57. It is the understanding of the undersigned that a complaint was brought to the bar against the
10 undersigned on Saturday and that the State Bar of Nevada essentially assigned Jason Cassady
11 to take over the files because of the closure of the Company.

12 58. It was arranged to have Mr. Cassady come into the law firm on Wednesday and take over the
13 task of finishing client matters for the firm. By mutual agreement with the Bar, it was agreed to
14 allow Mr. Cassady into the law office to facilitate this transfer.

15 59. Despite the meeting arranged for this purpose, work on the client matters and closing the firm
16 was conducted on Saturday and on Sunday, with many employees coming and going from the
17 Law Firm property and several employees taking furnishings as agreed.

18 60. This work was to continue on Monday.

19 61. On Monday, the staff of the law firm was told by a former employee that she had spoken to a
20 representative of the Bar and that the staff was to leave the facility – hence, now no one was
21 available to conduct the necessary work that had been pre-arranged to attend to file transfers.

22 62. The arrangements of the undersigned to protect the clients and their pending or outstanding
23 matters had been completely and entirely subverted.
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1 63. From this, the Bar Counsel then reported to the Supreme Court in a Complaint that the
2 undersigned had “abandoned” his practice. Though true that the practice had closed, the
3 assertion of abandonment is an entire falsehood. In fact, the Bar’s own intervention had
4 resulted in the loss of employees who were attending to the transfers.

5 64. The litigants in this matter, however, have picked up on the same theme of abandonment as an
6 excuse for emergency action by this court.

7 65. Amazingly, after receiving an email copy of the ex parte motion to freeze the accounts, the
8 undersigned communicated directly with the litigants and informed them that the trust account
9 was secure, as were all checks of the account and no further action would be made relating to
10 the account.

11 66. The litigants were informed of a few outstanding checks (or in the case of a particular Special
12 Needs Trust, the transfer of an ACH directive for checks just received) and the litigants were
13 told they would need to make arrangements with the bank as to those outstanding matters.

14 67. Despite having knowledge of a few outstanding checks/transfers pending, the litigants – with
15 full knowledge – accused the undersigned of still using the trust account after closing the
16 practice. This even after they were informed that there were de minimus outstanding matters
17 that they would have to discuss with the bank about freezing or honoring. Did the litigants
18 herein inform the court of this communication with them and the fact that they were advised of
19 outstanding transactions when they came back to the court on the expansion of the ex parte
20 motion? Did they simply take advantage of the empty chair and decide to hide the truth from
21 the tribunal?

22 68. Likewise, the expansion of the freeze order was not unanticipated, however, the litigants then
23 began their crusade against the innocent by naming Linda Graham in the pleadings and to
24 freeze her accounts simply because of her marital relationship with the undersigned without a
25

1 scintilla of evidence to support their reckless assertions. The only evidence they had was the
2 fact that she was a manager of a now closed practice in Fort Collins. They did not call or
3 interview her. They did not inquire as to the status of the law firm in Fort Collins (at that point
4 it was closed). They did not inquire to the undersigned whether she was a signer on any of the
5 accounts.

6
7 69. Amazingly, email service goes in two directions. It is through the wonders of science that an
8 email sent one way has the ability to be sent back and someone can even send an email to an
9 originator without difficulty. So when the undersigned sent litigants a detailed explanation
10 about the status of the Trust Account of the law firm, it apparently was too difficult for the
11 litigants to send an email going the other direction asking some basic questions – such as “can
12 you tell us whether Linda, your wife, is a signer on any accounts that would have trust money.”
13 Of course, when you really don’t want to know the answer, you don’t ask the question.

14
15 70. It is certainly more effective in the press to speculate and slander than it is to simply ask a
16 question.

17 71. Here’s a good question: “Is Linda a signer on any of the accounts or does she have access to
18 any of these accounts?”

19 72. Or another “Does Linda have any Client Funds in any accounts she has access to.”

20 73. And just to make sure “Given your representation that Linda is not on any of these accounts,
21 can you provide something from the bank or verify what you have said.”

22
23 74. Of course the answer to all of these questions, which is truthful and independently verifiable is
24 that Linda Graham has no Client Trust Money at her access or in any account where she is a
25 signer.

26 75. The litigants made no reasonable inquiry. They didn’t even try to call her or email the
27 undersigned. They didn’t try to arrange any conference calls with the bank to verify the
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1 information with the undersigned. It is doubtful that they even asked any employees about
2 Linda's access to any accounts. They simply decided to slander and accuse without any basis
3 of independent evidence. It is a clear Rule 11 violation and it is the very reason such rules are
4 in place – to protect from harassment and defamation.

5
6 76. Now an entire family has been displaced from a place of security, safety and comfort during an
7 incredibly difficult emotional time. Two children of Linda M. Graham have not only lost their
8 father to a system of accountability, but have now lost the only comfort and security, their
9 family home because of reckless and unfounded accusations which have led to threats against
10 their individual safety. Of course, the words “I am going to hunt you down and hunt your
11 children down” might have other meanings, but not reasonable ones outside of doing violence
12 to another person. Hunting usually involves the killing of prey.

13
14 77. But the litigants will go home to their beds tonight without threat of death because apparently
15 they are more innocent because they are not related to the undersigned. Their names don't
16 appear in the newspapers as persons guilty by family name association. Their children will be
17 safe walking to school. No harm done.

18 78. The undersigned was advised to voluntarily withdraw from practice and retire his license,
19 which he did at the beginning of these circumstances.

20
21 79. The undersigned was precluded from returning to his office on Wednesday as the State Bar of
22 Nevada did not want him to sell any furnishings – apparently the Bar preferred the furnishings
23 to go to the Landlord instead of the restitution fund which has now apparently happened. With
24 that exclusionary statement, the undersigned never returned to the law office, and the last
25 person to see all records was the Bar and Jason Cassady. The status of the records are now
26 entirely unknown to the undersigned, but the State Bar of Nevada was the last to have custody
27 and control of these records and client files.
28

1 80. It is presumed that the bar took the records, but the undersigned has no receipt for the same and
2 has not been informed as to what they have taken.

3 81. It is presumed that the landlord has the records if they are not in the possession of the Bar.

4 82. What is clear, however, is that the Bar has enough information to make assertions, which
5 indicates that the Bar at least as bank statements.

6 83. The litigants in this matter have chosen to take their own independent actions instead of
7 allowing the Nevada State Bar to take the lead or for the undersigned to simply cooperate in
8 this regard.

9 84. The litigants are essentially doing the lock-down work that the State Bar of Nevada would do in
10 the normal course. Apparently, their client is willing to pay for the entire investigation for all
11 of the aggrieved parties instead of allowing the Bar to conduct its investigation. Again, the
12 litigants have never asked for cooperation or for answers, they have simply found it more
13 economical to obtain court orders and swing wildly – when the opposition has already waived
14 the white flag and pledged to cooperate. Amazing how many fees have been wasted doing
15 what could have been done through stipulation and agreement.

16 85. Presently, the City National Accounts have all been frozen.

17 86. In the General Account exists a balance around \$5,000.00. This was a client payment and is a
18 fee that has nothing to do with Trust Funds or more particularly the funds of Ms. Macknin.
19 Two payroll checks have not been able to be cashed and in the priority of insolvency, payroll
20 comes before unsecured creditors – even if those creditors may have a priority amongst
21 creditors.

22 87. It is appropriate to allow that account to become available to meet the payroll checks that are
23 outstanding. There are no other checks and no desire by the undersigned to otherwise access
24 any remaining funds.

1 88. The Chase Accounts have no client funds within them. As they are frozen, even checks that
2 were outstanding regarding client costs are being returned or NSF at the detriment to other
3 clients. The freezing of these accounts was simply reckless by the litigants. Again, no one
4 asked whether client funds were in these accounts – there has simply been an assumption. As
5 the accounts are essentially below zero, the statement that client funds are in these accounts is
6 preposterous. The funds coming into these accounts in the last month or so have been limited
7 to credit card and check payments from the income of the law firm and expressly have
8 excluded Trust Funds from coming into these accounts directly or indirectly for obvious
9 reasons of shutting down the firm.

11 89. Presently, the accounts are being overdrawn because client cost checks for recording deeds and
12 the like are going through and so the last important work of the law firm is now being frustrated
13 because these accounts cannot be accessed.

15 90. There is no harm in allowing access to these accounts to attempt to rectify the damage done by
16 their untimely freezing. At least deposits should be allowed so as to attempt to protect the other
17 clients matters. Ms. Macknin might be the star of the stage presently because of the aggressive
18 actions of her attorneys, but she isn't the only client entitled to protection. Law licensing is not
19 required by the undersigned to simply make deposits to allow prior transactions to go through.
20 Ms. Macknin will not be harmed by allowing below zero accounts to become accessible again
21 by the undersigned to continue the systematic and orderly closing of the practice.

23 91. There is no doubt that there has been substantial damage done as a result of the losses of the
24 practice in question over the last 20 years. Ms. Macknin will not be alone in the losses. The
25 process, however, of restitution and accountability should attempt to damage as few innocent
26 people as possible, whether they be employees, spouses, clients or others. The process of
27 accountability has already started and it is going to be a process of discovery best left to those
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1 who have access to all of the information where truth can be ferreted out. Those authoritative
2 bodies, such as the State Bar of Nevada and District Attorney's office will have the resources
3 and access to protect Ms. Macknin and others.

4 92. A continued freeze on the City National Trust Account is obviously not objectionable, but the
5 court should simply transfer the authority of access and control to the State Bar of Nevada
6 where it is proper.

7
8 93. A continued freeze on City National General Account (ending in 87) should be released so the
9 two remaining payroll checks of employees can be cashed as a priority of insolvency. The
10 remaining money can simply stay in the account and the undersigned agrees to allow the funds
11 to stay without further access after the payroll checks are cashed.


12 94. The Chase Accounts have no material funds remaining in them and they are necessary for the
13 winding down of the practice and to protect outstanding cost checks for other clients. These
14 accounts have no Client Funds in them and the freezing of the accounts is simply making a
15 complex closing of the practice more complex and hurting other clients. All of the Chase
16 Accounts should simply be unfrozen and returned to the control of the undersigned to raise
17 balances so checks can be honored that are going through.

18
19 95. By way of this Affidavit of the undersigned, who is the most familiar with the assertions made
20 herein, it is requested that Linda M. Graham's name be removed from any further order, or at
21 least her name be limited to these accounts without the threat of any ambiguous expansion as
22 against Linda M. Graham to other personal accounts (and business accounts outside of
23 LawyersWest).

24
25 96. There is no evidence of any collusion or conspiracy and she was not an owner with the
26 undersigned of the firm.

1 97. Remarkably, those closest to the Las Vegas transactions who would have had much more
2 knowledge and ability to do something underhanded have been cooperating with the State Bar
3 of Nevada and for all intents and purposes exculpated and are not even suspect. If those closest
4 to the matter are not part of these proceedings, then why would someone hundreds of miles
5 away from the location of the problems be dragged into the matter without any evidence? This
6 is simply an improper use of the court's powers to intimidate and harass without justification.
7 Because the safety of others is at issue, the litigants for Ms. Macknin should be restrained from
8 making further reckless representations in the media or before this court without the requisite
9 support required of an attorney.
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11 FURTHER AFFIANT SAITH NAUGHT
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16 ROBERT C. GRAHAM
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EXHIBIT “A”