

IN THE SUPREME COURT OF THE STATE OF NEVADA

WILLIAM A. GAYLER,
Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT COURT
OF THE STATE OF NEVADA, IN AND FOR
THE COUNTY OF CLARK, AND THE
HONORABLE SUSAN JOHNSON,
DISTRICT JUDGE,

Respondents,

and

BARRY R. MOORE; EROOM HOLDINGS,
LP; BARRY R. MOORE AND JANIE
MOORE, CO-TRUSTEES OF THE BAMM
LIVING TRUST, DATED JULY 16, 2003,
Real Parties in Interest.

No. 53940

FILED

JAN 13 2010

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER DENYING PETITION FOR WRIT OF MANDAMUS

This original petition for a writ of mandamus challenges a district court order denying petitioner's motion to disqualify opposing counsel. As directed, real parties in interest filed an answer, and petitioner was granted leave to file a reply.¹

Mandamus is the proper method of challenging attorney disqualification orders. See, e.g., Waid v. Dist. Ct., 121 Nev. 605, 119 P.3d

¹Petitioner filed a notice stating that he is currently the debtor in an involuntary Chapter 7 bankruptcy proceeding and that this writ proceeding is consequently stayed. However, this writ petition is an original proceeding in this court initiated by petitioner, not an action initiated by a potential creditor to collect a debt from petitioner. We therefore conclude that our disposition does not violate the automatic stay provisions of 11 U.S.C. § 362(a). See Koolik v. Markowitz, 40 F.3d 567 (2d Cir. 1994); In re Way, 229 B.R. 11 (B.A.P. 9th Cir. 1998).

1219 (2005). We have considered the petition, answer, reply, and the exhibits filed by the parties, and we are not satisfied that this court's intervention by way of extraordinary relief is warranted, because we are not persuaded that the district court manifestly abused its discretion in determining that disqualification was not warranted. See Nevada Yellow Cab Corp. v. Dist. Ct., 123 Nev. 44, 53-54, 152 P.3d 737, 742-43 (2007); Waid, 121 Nev. at 609-10, 119 P.3d at 1222-23. First, petitioner waived, in writing, any conflict of interest based on the loan transaction. RPC 1.7(b)(4); RPC 1.9(a) and (b)(3). Second, the district court properly concluded that the loan transaction and member distribution matters, handled by counsel over three years earlier, were not substantially related to the underlying litigation. Waid, 121 Nev. at 610, 119 P.3d at 1223. Accordingly, we

ORDER the petition DENIED.

Hardesty, J.
Hardesty

Douglas, J.
Douglas

Pickering, J.
Pickering

cc: Hon. Susan Johnson, District Judge
Pengilly Robbins Slater
Marquis & Aurbach
Eighth District Court Clerk