

EXPLANATORY NOTES

INTRODUCTION

Over the years, Narcotics Anonymous has developed a book and a variety of booklets and pamphlets. Most of us assume that the World Service Conference has the authority to approve new or revised NA literature, and that the World Service Office has the responsibility to copyright, print, and distribute that literature. A variety of WSC actions, recorded in Conference minutes and handbooks, describe different parts of this arrangement. However, those parts have never been gathered together into a single comprehensive policy document. The absence of such a document has, at times, resulted in much confusion within the Narcotics Anonymous Fellowship concerning the approval, copyrighting, and publication of NA literature.

The document you now have in your hands, "The Fellowship Intellectual Property Trust," has been created to eliminate that confusion. It takes all the current policies relating to the approval, copyrighting, and publication of NA literature, combining them into a single, comprehensive, definitive, legally binding policy document. The document specifically describes the authority of the Fellowship, the Conference, and the Office regarding NA literature--essentially, the same authority as exists today.

These policies have been cast as a legal document, a "trust." This has been done, in part, because US law and international treaty regulate the way "intellectual property"--copyrights, trademarks, and other creations of the mind or spirit--should be administered. The legal "trust" framework has been used because it fits the relationship established in Narcotics Anonymous between the Fellowship and its service bodies where NA literature and marks are concerned.

NA's fellowshipwide service and decision-making body, the World Service Conference, has both the responsibility to create or revise NA literature and the authority to approve it. It gives this approved literature, in trust, to the World Service Office, which is expected to publish it in accordance with the directions of the World Service Conference. The literature is created and published to benefit the Fellowship of Narcotics Anonymous in fulfilling its primary purpose: "to carry the message to the addict who still suffers." In legal trust terminology, this makes the World Service Conference the *Trustor*, the World Service Office the *Trustee*, and the NA Fellowship the *Beneficiary*. By casting the policies affecting this

arrangement as a registered legal document, we insure that those policies can be enforced, if need be, by the California state government.

Over the past year, the Fellowship Intellectual Property Trust has been discussed widely in the world service community. The text, originally developed by the WSO Board of Directors in mid-1991, was turned over to the Internal Affairs Committee of the World Service Board of Trustees for completion. At a combined world services meeting held in Van Nuys, California, on October 26, 1991, the final draft was approved for action at the 1992 annual meeting of the World Service Conference.

Please be aware that the explanatory notes appearing on the next few pages are not being proposed for Conference approval. The notes are offered only to help you better understand the material. Only the Trust Instrument and Operational Rules are being presented for action.

If the document is approved by the Conference, the Trust Instrument will be formally registered with the California attorney general's office. After that, any questions anyone may have about approval, changes, copyrights, or publication of NA literature may be answered by referring to the Fellowship Intellectual Property Trust Instrument and Operational Rules.

World Service Board of Trustees

TRUST INSTRUMENT (PP. 8-13)

The first six pages of the Trust document are the legal "trust instrument," which would be filed with the California attorney general. The Trust Instrument offers the description of the relationship between the Fellowship, the World Service Conference, and the World Service Office required in registering a charitable trust in California. Our intellectual property counsel took part in creating the Instrument, and assures us that it is consistent with California charitable trust law. In Article IV, the Trust Instrument is tied to the Trust Operational Rules, an internal Fellowship policy document describing how the Trust would actually work.

TRUST OPERATIONAL RULES (PP. 14-32)

The next nineteen pages of the Trust document, pages 14-32, are the working "operational rules," the bylaws or guidelines which will control the actual administration of the Trust and the relationship between the parties to the Trust: the Fellowship, the Conference, and the Office.

Article I: Background, purpose, and parties of the Trust

Section 1 provides a brief documentary history of the trust relationship that has already developed between the Fellowship, the World Service Office, and the World Service Board of Trustees and the World Service Conference prior to the formal creation of the Fellowship Intellectual Property Trust.

Section 2 summarizes the general purpose of the Trust Operational Rules.

Section 3 briefly defines and describes the three parties to the Fellowship Intellectual Property Trust: the *Trustor*, the *Trustee*, and the *Beneficiary*. In all trusts, the *trustor* establishes the general policies that guide the administration of the trust property. The *trustee* carries out the trustor's instructions in the day-to-day management of the property of the trust. And the *beneficiary* is the person or group of people in whose interest the trust is managed. In this Trust, the Trustor is the World Service Conference, the Trustee is the World Service Office, and the Beneficiary is the NA Fellowship as a whole. It is our belief that these trust roles line up pretty closely with the roles the Conference, the Office, and the Fellowship have already come to play in NA's development. We have not described anything new in the Fellowship Intellectual Property Trust; we have merely tried to mirror the existing service relationships in our Fellowship.

In developing this Trust document, we have taken time to consult with a number of NA members. One of the questions they have asked is, "If the *Trustor* is supposed to create the policy by which the Trust is actually administered, why not place the NA membership or the NA groups in the position of Trustor here, rather than the World Service Conference?" Such an arrangement would certainly give individual members and groups a great deal more direct control of our literature and marks than they have now. However, this arrangement would give individual NA members and groups the authority to make decisions on their own concerning the Fellowship's literature. Such decisions really *should* be made by the entire Fellowship, not by a few individual members or a few individual groups. That's one reason why we've placed the World Service Conference in the Trustor's position: so that decisions affecting the entire Fellowship's literature can be made in an equitable, responsible way through the already-established fellowshipwide decision-making process.

Another reason for placing the World Service Conference, rather than the NA membership or the NA groups, in the Trustor's role is to provide for practical, direct accountability of the Trust. Whoever is selected to be the Trustor needs to be able both to oversee the Trustee's performance and to provide additional direction to the Trustee if the need arises. If "the NA membership" or "the NA

groups" were to be the Trustor, they would not really have any way of collectively overseeing Trustee performance or providing instructions, unless they were to do so through the World Service Conference--in which case, why not just place the WSC as the Trustor, as the plan now calls for?

Article II: Intellectual properties held in trust

The first four sections of this article simply describe the items that have been placed in trust: NA's Twelve Steps and Traditions, other NA literature, NA's name and marks, and the copyrights to NA literature. The Trust document regulates the creation, revision, and use of these items in a way consistent with already-approved World Service Conference policy.

From time to time, questions have arisen concerning the rights of those who participate in creating NA literature. The terms of **Section 5** are intended to settle those questions for all NA literature developed in the future so that the Fellowship's rights to its own literature are indisputably secured through the Fellowship Intellectual Property Trust. Section 5 offers a very specific definition of the terms under which NA literature is created and copyrighted. We believe this definition is consistent with our Fellowship's philosophy of both the anonymity and the accountability of its trusted servants, and with precedence and already-established Fellowship policy. When our trusted servants take part in an NA service project, we expect them to do so not to accrue power, property, or prestige to themselves but to unselfishly serve our Fellowship. And we expect that our Fellowship, through its service structure, will have final authority over such projects from start to finish.

Throughout Article II, we find statements like this: "The ownership of [our literature] will be registered in the name of the Trustee," the World Service Office. Some members might ask, "Does this mean that, if this Trust document is approved, the World Service Conference and the Fellowship *won't* own our literature?" Practically speaking, the answer to that question is *no*. Ever since the World Service Office was created in the early Seventies, it has been the *legal owner* of the copyrights to our literature. However, WSO itself has been--and, under the terms of the Trust, will continue to be--subject to the direction of the Fellowship through the World Service Conference. WSO may be the legal owner of the Fellowship's literature, but the Fellowship, through the World Service Conference, has ultimate legal control of WSO. The World Service Office is not, after all, a completely independent entity; it is our Fellowship's world service

corporation. All Article II says is that legal ownership of the Fellowship's literature will be registered in the name of the Fellowship's legal corporation.

Article III: Rights and responsibilities of the Trustor

In this article, the role of NA's World Service Conference in the creation, approval, and revision of NA literature is clearly described: The Conference, and *only* the Conference, currently has the authority to approve or revise NA literature on behalf of the entire Fellowship. (Before the creation of the Conference, the World Service Board of Trustees had that authority.) The relationship between the Conference and its boards and committees, and the process whereby new or revised NA literature is approved, is described in clear, definitive terms that are consistent with already-approved Fellowship policy.

We have been asked to clarify the use of the term "agent," used in Article III, Section 1. The "agents" of the World Service Conference being referred to here are simply the boards, standing committees, and ad hoc committees of the Conference, the groups through which the WSC does its detail work.

Article IV: Rights and responsibilities of the Trustee

This article of the Operational Rules goes into great detail in describing the role, responsibilities, and limitations that have been placed on the World Service Office corporation in administering the Fellowship's literature and trademarks. Three particular sections of Article IV seem to deserve special attention:

Section 3 defines the "fiduciary" relationship between the Trustor (the Conference) and the Trustee (the Office). Basically, the fiduciary relationship is one where someone is given something to care for--copyrights, for example--and specific instructions about how to provide that care. Further instructions on how that care should be given may be issued as time goes on, and the caretaker is obliged to follow those instructions. Though the thing being cared for may come to be *legally* registered as the property of the caretaker, the original owner (in our case, the World Service Conference) maintains what is called *equitable interest* in the property, and may take it back if he pleases. This is the fiduciary relationship, and it matches well the arrangements that have been made in past years for the management and protection of Conference-approved literature copyrights by the World Service Office.

Section 11 describes the process to be used in protecting the Trust's intellectual properties. It allows the World Service Office to respond in a timely manner to infringement of the Trust's copyright, trademark, and service mark

registrations, and to inform the Fellowship of the problem. It also gives the Office the authority to settle the problem in the best interests of the Beneficiary, provided that the leadership of the World Service Conference and the World Service Board of Trustees concur. The provisions of Section 11 are consistent with the motion approved at last year's Conference regarding infringement action.

Finally, **Section 12** lays out the Fellowship's requirements for full annual reports from the WSO on its finances and operations, especially as they relate to the Fellowship's literature. This section is included to insure that WSO, as Trustee, remains fully accountable for the way it administers our Intellectual Property Trust.

Article V: Rights and responsibilities of the Beneficiary

This article describes the role of the Beneficiary, the NA Fellowship, in the Trust. One section deserves special attention.

Section 3 goes far beyond the legal requirements normally imposed on trusts. Normally, the beneficiary of a trust is not permitted to examine the trustee's records under any circumstances. Such an arrangement, however, would not be appropriate in Narcotics Anonymous, especially in light of our Ninth Tradition. Therefore, we have drafted Section 3 in such a way as to allow the Fellowship to review the records of the World Service Office. If a region desires an inspection of WSO records, and is willing to pay for it, all WSO records would be open to the inspection, except personnel records. (US federal employment codes require that employers keep these records completely confidential.) Because the inspection team described in this section would include a WSO director, it would not require any change in the WSO bylaws (see WSO bylaws, Section 9.03). The inspection team would be led by a member of the World Service Board of Trustees, who is intended to serve as mediator and controller of the inspection. The reporting coming out of the inspection is designed to be objective, and its results are to be distributed to all Conference participants. This inspection procedure can do two things:

1. It can defuse controversy by thoroughly and objectively investigating any suspicion of impropriety on the part of the WSO in its administration of the Trust, and
2. It allows for open communication, thereby removing any air of suspicion or doubt.

Article VI: Revocation and reassignment of the Trustee's rights and responsibilities

This article provides for a two-stage approach to the revocation and reassignment of Trustee rights and responsibilities. The plan is based on the fact that revocation of the Trustee's responsibilities would be a major organizational move, and should be done only if there is serious widespread concern about the Trustee's ability to fulfill its responsibilities, and only after thorough review.

The **first stage** of the revocation process describes the means by which it will be determined whether there is substantial concern about the Trust's administration. If so, the World Service Conference must then approve *consideration* of a revocation proposal by a majority.

The **second stage** of the revocation process describes the *actual* consideration, revocation, and reassignment. This stage takes a year to complete, allowing time for discussion and Fellowship input. The committee created to study the revocation proposal is composed of a cross-section of World Service Conference participants, with a member of the World Service Board of Trustees chairing the committee. The decision to revoke the Trustee's rights and responsibilities requires approval of three-fourths of the Conference, insuring substantial consensus on so weighty a decision.

Article VII: Revision of Trust Rules and Instrument

This article is a simple process for revision of the Trust Operational Rules and, more significantly, of the Trust Instrument itself. Revision of the Operational Rules can be accomplished on the spot, and requires only the two-thirds vote necessary to alter any Conference policy. Revision of the Trust Instrument, however, takes longer and requires a three-quarters majority. This is to assure that there is substantial consensus behind such a change. Hopefully, such consensus will guarantee Fellowship unity.