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5 *[Proposed] Counsel for Victoria L. Nelson, Chapter 7 Trustee*

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7
8 **UNITED STATES BANKRUPTCY COURT**
9 **DISTRICT OF NEVADA**

10 In re:

Case No. BK-S-15-10110-LED
Chapter 7

11 AMERI-DREAM REALTY, LLC,

12 Debtor.

EX PARTE APPLICATION TO (1) EMPLOY ASSURED DOCUMENT DESTRUCTION INC. FOR THE DESTRUCTION OF CONFIDENTIAL DOCUMENTS AND HARD DRIVES PURSUANT TO 11 U.S.C. § 105(a); AND (2) PAY ASSURED DOCUMENT DESTRUCTION INC. AN AMOUNT NOT TO EXCEED ONE THOUSAND DOLLARS (\$1,000)

Date of Hearing: N/A
Time of Hearing: N/A

Judge: Honorable Laurel E. Davis

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20 Victoria L. Nelson, the appointed Chapter 7 Trustee in the above-captioned bankruptcy
21 case (the “Trustee”), by and through her proposed counsel of record, Jacob L. Houmand, Esq. of
22 the law firm of Nelson & Houmand, P.C., hereby submits this Ex Parte Application to (1) Employ
23 Assured Document Destruction, Inc. for the Destruction of Confidential Documents and Hard
24 Drives Pursuant to 11 U.S.C. § 105(a) and (2) Pay Assured Document Destruction, Inc. an
25 Amount Not to Exceed One Thousand Dollars (\$1,000) (the “Application”).¹

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27 ¹ Unless otherwise indicated, all chapter and section references are to the Bankruptcy Code, 11
28 U.S.C. §§ 101-1532, and to the Federal Rules of Bankruptcy Procedure, Rules 1001-9037. The
Federal Rules of Civil Procedure will be referred to as “FRCP” and the Federal Rules of

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1 The Application is based on the following Memorandum of Points and Authorities, the
2 Declaration of Victoria L. Nelson In Support of the Ex Parte Application to (1) Employ Assured
3 Document Destruction, Inc. for the Destruction of Confidential Documents and Hard Drives
4 Pursuant to 11 U.S.C. § 105(a) and (2) Pay Assured Document Destruction, Inc. An Amount Not
5 to Exceed One Thousand Dollars (\$1,000) (the “Nelson Declaration”), which is filed separately
6 and concurrently with this Court pursuant to Local Rule 9014(c)(2). The Application is also
7 based on the pleadings and papers on file herein. A copy of the proposed order granting the relief
8 requested in the Application is attached hereto and marked as **Exhibit “1”**.²

9 Dated this 17th day of February, 2015.

10 **NELSON & HOUMAND, P.C.**

11 */s/ Jacob L. Houmand*

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26 Bankruptcy Procedure will be referred to as “FRBP.” The Local Rules of Practice for the United
27 States Bankruptcy Court for the District of Nevada shall be referred to as the “Local Rules”.

28 ² The Trustee also requests that the Court take judicial notice of all pleadings filed in the above-
referenced bankruptcy case, including adversary proceedings, pursuant to Rule of Evidence 201,
incorporated by reference by FRBP 9017.

MEMORANDUM OF POINTS AND AUTHORITIES

I. STATEMENT OF FACTS

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3 1. On January 9, 2015, Ameri-Dream Realty LLC. (the “Debtor”) filed a voluntary
4 bankruptcy pursuant to Chapter 7 of Title 11 of the United States Code [ECF No. 1]³. *See* Nelson
5 Declaration.

6 2. On January 9, 2015, Victoria L. Nelson was appointed as the Chapter 7 Trustee in
7 the Debtor’s bankruptcy case [ECF No. 4]. *See* Nelson Declaration.

8 3. Prior to the Debtor filing bankruptcy, the principal of the Debtor vacated the leased
9 premises located at 4875 Nevso Drive, Las Vegas, Nevada (the “Property”). *See* Nelson
10 Declaration.

11 4. When the principals of the Debtor vacated the Property, personal property was left
12 behind including files, documents and computers belonging to the Debtor (the “Personal
13 Property”) remaining in or on the Property. *See* Nelson Declaration.

14 5. There are thousands of files and documents and many computers containing
15 confidential information. *See* Nelson Declaration.

16 6. It is now necessary for the Trustee to employ Assured Document Destruction, Inc.
17 (“Assured”) to destroy the files, documents and computer hard drives containing the confidential
18 information. *See* Nelson Declaration.

19 7. Assured has provided the Trustee with an estimated amount of the services after
20 inspecting the Debtor’s office. Assured has estimated the amount that should not exceed One
21 Thousand Dollars (\$1,000), depending on the amount of files that need to be destroyed and the
22 time spent at the premises. *See* Nelson Declaration.

23 8. Accordingly, the Trustee requests authority to employ Assured and pay it an
24 amount not to exceed One Thousand Dollars (\$1,000) in order to ensure that the confidential
25 information of the Debtor’s former clients are protected.

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27 ³ All references to “ECF No.” are to the numbers assigned to the documents filed in the case as
28 they appear on the docket maintained by the clerk of the court.

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1 **II. JURISDICTION AND VENUE**

2 9. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1134.
3 This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A). The statutory basis for the relief
4 sought are 11 U.S.C. 105(a). Venue of Debtor’s Chapter 7 case in this District is proper pursuant
5 to 28 U.S.C. §§ 1408 and 1409.

6 **III. LEGAL ARGUMENT**

7 10. Since the services rendered by Assured would be limited to the destruction of
8 confidential records, Assured would not be considered a professional within the meaning of
9 Section 327(a) because its services would not be central to the administration of the Debtor’s
10 bankruptcy case. *See In re Dairy Dozen-Milnor, LLP*, 441 B.R. 918 (Bankr. D. N.D. 2010)
11 (holding that a dairy management company was not a “professional person” within the meaning
12 of Section 327 that would require the filing of an application to employ under Section 327); *In re*
13 *Seatrains Lines, Inc.*, 13 B.R. 980 (Bankr. S.D.N.Y. 1981) (analyzing the definition of
14 “professional” under Section 327(a) and holding that maritime engineers were not professional
15 persons as that term is used under the Bankruptcy Code); *In re Century Inv. Fund VII, Ltd.*, 96
16 B.R. 884 (Bankr. E.D. Wis. 1989) (holding a property manager was not a professional person that
17 would require employment under Section 327). The Trustee requests authority to employ and
18 pay Assured pursuant to Section 105(a). *See* 11 U.S.C. § 105(a) (providing that “[t]he court may
19 issue any order, process, or judgment that is necessary or appropriate to carry out the provisions
20 of this title.”).

21 11. The issuance of a court order permitting the Trustee to employ and pay Assured an
22 amount not to exceed One Thousand Dollars (\$1,000) is appropriate under Section 105(a) because
23 it involves the distribution of bankruptcy estate assets. Such an order would allow the Trustee to
24 expeditiously administer the Debtor’s bankruptcy estate and fulfill her obligations under Section
25 704(a)(2) by being “accountable for all property received” in the context of the bankruptcy case.
26 *See* 11 U.S.C. § 704(a)(2).

27 12. Accordingly, the Trustee respectfully requests that the Court enter an Order
28 permitting her to employ Assured and pay it an amount not to exceed One Thousand Dollars

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1 (\$1,000) in order to ensure that the confidential information of the Debtor's former clients are
2 properly destroyed.

3 **IV. CONCLUSION**

4 For the foregoing reasons, the Trustee respectfully requests that she be authorized to
5 employ Assured Document Destruction, Inc. to destroy the files, documents and computer hard
6 drives containing the confidential information of the Debtor's former clients, permit the Trustee
7 to pay Assured an amount not to exceed One Thousand Dollars (\$1,000), and for such other and
8 further relief as is just and proper.

9 Dated this 17th day of February, 2015.

10 **NELSON & HOUMAND, P.C.**

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12 */s/ Jacob L. Houmand*

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