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

8 In re:) Case No.: 15-10110-LED
9)
10 AMERI-DREAM REALTY, LLC,) Chapter 7
11)
Debtor.)

12 VICTORIA NELSON, In her Capacity As The) Adv. No.: 15-01087-LED
13 Chapter 7 Trustee of AMERI-DREAM)
REALTY, LLC,)

14)
15 Plaintiff,) Hearing Date: October 26, 2015
v.) Hearing Time: 1:30 p.m.

16)
17 ELSIE PELADAS-BROWN,)
18)
Defendant.)

19 **STATEMENT OF UNDISPUTED FACTS IN SUPPORT OF**
20 **PLAINTIFF’S MOTION FOR SUMMARY JUDGMENT**

21 Victoria Nelson, in her capacity as the Chapter 7 Trustee (the “**Plaintiff**” or the
22 “**Trustee**”) of Ameri-Dream Realty, LLC (the “**Debtor**” or the “**Company**”), by and through
23 her attorneys of record, Schwartz Flansburg PLLC, submits her Statement of Undisputed Facts
24 to accompany her Motion for Summary Judgment (the “**Motion**”) against defendant Elsie
25 Peladas-Brown (“**Brown**” or the “**Defendant**”) on all claims for relief set forth in that certain
26 adversary complaint (the “**Complaint**”) filed on May 21, 2015 (Docket No. 1).
27

1 The Trustee's Motion seeks summary judgment on all of the Trustee's claims for relief
2 against the Defendant. Accordingly, the Trustee hereby submits her statement of undisputed
3 facts thereof. In support of the Statement of Undisputed Facts, the Plaintiff incorporates and
4 relies on the Declarations of Victoria L. Nelson and Kyle Edwards, attached hereto as **Exhibits**
5 **A and B**, respectively, and all other pleadings and papers on file herein.

6 **STATEMENT OF UNDISPUTED FACTS**

7
8 1. In 2014, the Defendant was a member, manager and property manager of the
9 Company, a real estate sales and property management company based in Las Vegas, Nevada,
10 prior to filing for relief under Chapter 7 of the United States Bankruptcy Code. The Company
11 was family owned and operated prior to its collapse. The Defendant was a member and manager
12 of the Company for all time periods that are the subject of this lawsuit.

13
14 2. The Company is domiciled in the State of Nevada and conducted significant
15 business activities in the District of Nevada. The Defendant is believed to be a resident of the
16 State of Nevada, but upon information and belief, fled to Philippines.

17
18 3. The Plaintiff is the Court-appointed Trustee over the Company in Case No. 15-
19 10110-LED, United States Bankruptcy Court, for the District of Nevada (the "**Action**").

20
21 4. As part of its business, the Company managed residential rental properties (the
22 "**Business**"). In the normal course of its Business, the Company received and held rental
23 security deposits on behalf of its customers' tenants. At the time of the wrongful actions asserted
24 herein, the Company held in excess of \$1,200,000 of tenant security deposit money (the
25 "**Security Deposits**").

26
27 5. In late March of 2014, the Company discovered that significant funds were
missing from the bank account designated to hold tenant security deposits. At the time of the

1 theft, the Company held security deposits for more than 1,000 tenants.

2 6. The Defendant orchestrated various unauthorized transactions, unbeknownst to
3 the Company or her co-manager and husband, John M. Brown (“**Mr. Brown**”), which
4 transactions included the wire transfers of the majority of the Security Deposits to the
5 Philippines.

6 7. The Trustee understands the Security Deposits were disbursed in the Philippines
7 and are likely not recoverable. The Defendant disbursed the Security Deposits to friends and
8 family in need after the damage caused by Typhoon Haiyan in November of 2013. Typhoon
9 Haiyan was reported to be one of the strongest storms ever recorded, with winds reaching or
10 exceeding 195 miles per hour.

11 8. Neither the Company nor Mr. Brown had any knowledge of the Defendant’s
12 scheme, and on May 4, 2015, Mr. Brown was divorced from the Defendant. See the Declaration
13 of Victoria L. Nelson, ¶10. The divorce decree, which was uncontested, requires the Defendant
14 to indemnify Mr. Brown and the Company from any claims of embezzlement or theft relating to
15 the loss of the Security Deposits. Id. Mr. Brown has not been charged with a crime in this
16 matter, and is available to testify if called as a witness. Id. at ¶10; see also the Declaration of
17 Kyle Edwards.

18 9. At all times relevant to this Complaint, the Defendant was a member, manager
19 and the property manager for the Company. The Defendant was also a licensed real estate agent
20 and property manager in the State of Nevada, and a member of the Greater Association of Las
21 Vegas Realtors.

22 10. As a licensed realtor and property manager in the State of Nevada, the Defendant
23 is charged with the knowledge and responsibility of safeguarding the Security Deposits. It is
24
25
26
27

1 undeniable in light of the Defendant's licenses that she knew sending the Security Deposits to
2 the Philippines would be a violation of the law, and would cause her to lose her real estate
3 licenses, which licenses are now inactive. The Defendant also knew she had a duty to manage
4 the Security Deposits prudently and in a fashion that minimized risk.

5 11. In sum, the Defendant had the knowledge and the motive to breach her fiduciary
6 duties to the Company, its customers and its tenants, and in fact did breach such duties by
7 secretly transferring the Security Deposits to the Philippines. The transfers of the Security
8 Deposits were made for no consideration at all, and the Defendant understood the Security
9 Deposits could not possibly be repaid.
10

11 Dated this 1st day of September, 2015.

12 Respectfully Submitted,

13 /s/ Samuel A. Schwartz

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was sent electronically via the Court's CM/ECF system on September 1, 2015, to the following:

SAMUEL A. SCHWARTZ on behalf of Plaintiff VICTORIA NELSON
sam@schwartzlawyers.com, ecf@schwartzlawyers.com;schwartzecf@gmail.com

I HEREBY CERTIFY that a true and correct copy of the foregoing was sent via REGULAR MAIL on September 1, 2015, to the following:

Pearl Insurance Group
c/o The Corporation Trust Company of Nevada
311 S. Division Street
Carson City, NV 89703

Lance A. Maningo
Bellon & Maningo
732 S. Sixth Street, #102
Las Vegas, NV 89101

Greenwich Insurance Company
c/o Lee Santos
XL Select Professional
100 Constitution Plaza, 17th Floor
Hartford, CT 06103

Elsie Peladas-Brown
9931 W. Cherokee Avenue
Las Vegas, NV 89147-7704

/s/ Janine Lee
Janine Lee