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**Electronically Filed On: September 30, 2015**

5 *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:  
11 AMERI-DREAM REALTY, LLC,  
12 Debtor.

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

**DECLARATION OF VICTORIA L. NELSON IN SUPPORT OF MOTION FOR (1) TURNOVER OF SECURITY DEPOSITS HELD IN TRUST ACCOUNT OF MCDONALD CARANO WILSON PURSUANT TO 11 U.S.C. § 542 AND (2) AUTHORITY TO ADMINISTER SECURITY DEPOSITS THROUGH THE DEBTOR'S BANKRUPTCY ESTATE PURSUANT TO 11 U.S.C. § 105(a)**

Date of Hearing: November 3, 2015  
Time of Hearing: 11:00 a.m.  
Place: Courtroom No. 3, Third Floor  
Foley Federal Building  
300 Las Vegas Blvd., S.  
Las Vegas, NV 89101

Judge: Honorable Laurel E. Davis

22  
23 I, Victoria L. Nelson, declare as follows:

24 1. I am over the age of 18 years and I am competent to make this declaration. I have  
25 personal knowledge of the facts set forth herein, except for those facts stated on information and  
26 belief and, as to those facts, I am informed and believe them to be true. If called as a witness, I  
27 could and would testify as to the matters set forth below based upon my personal knowledge.

28 ...

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2. I am the appointed Chapter 7 Trustee in the above-captioned bankruptcy case.

3. I make this declaration in support of the *Motion For (1) Turnover of Security Deposits Held In Trust Account of McDonald Carano Wilson Pursuant to 11 U.S.C. §542 and (2) Authority to Administer Security Deposits Through the Debtor’s Bankruptcy Estate Pursuant to 11 U.S.C. § 105(a)* (the “Motion”).<sup>1</sup>

**THE DEBTOR’S BANKRUPTCY FILING AND THE ALLEGED EMBEZZLEMENT OF SECURITY DEPOSITS**

4. On January 9, 2015 (the “Petition Date”), Ameri-Dream Realty, LLC (the “Debtor”) filed a voluntary bankruptcy pursuant to Chapter 7 of Title 11 of the United States Code [ECF No. 1]<sup>2</sup>.

5. On January 9, 2015, I was appointed as the Chapter 7 Trustee in the Debtor’s bankruptcy case [ECF No. 4].

6. On January 9, 2015, the Court scheduled May 14, 2015, as the deadline to file proof of claims [ECF No. 4].

7. The Debtor was a real estate brokerage firm that represented clients in the purchase and sale of real property throughout Las Vegas, Nevada.

8. The Debtor also had a property management division that managed thousands of rental properties for various landowners and tenants throughout Las Vegas, Nevada. As part of its property management division, the Debtor has executed property management agreements with landowners whereby the Debtor agreed to perform the following services: (a) the monthly collection of rents from tenants, (b) payment of Homeowner Association (“HOA”) fees, (c) the

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<sup>1</sup> Unless otherwise indicated, all chapter and section references are to the Bankruptcy Code, 11 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 Bankruptcy Procedure will be referred to as “FRBP.” Unless otherwise expressly stated herein, all undefined, capitalized terms shall have the meaning ascribed to them in the Motion.

<sup>2</sup> All references to “ECF No.” are to the numbers assigned to the documents filed in the case as they appear on the docket maintained by the clerk of the court.

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1 general repair and maintenance of the properties at issue, and (d) the segregation of security  
2 deposits pursuant to Nevada Revised Statute (“N.R.S.”) Chapter 645.

3 9. At the time of the Debtor’s bankruptcy filing it was a party to several hundred  
4 property management agreements.

5 10. After the filing of the Debtor’s bankruptcy case, I was informed that the spouse of  
6 the Debtor’s principal improperly transferred approximately \$1,174,373.63 from the Security  
7 Deposits to the Philippines. These actions have resulted in a significant deficiency in the amount  
8 of Security Deposits that the Debtor was required to hold in trust pursuant to the various property  
9 management agreements and N.R.S. Chapter 645.

10 11. I am informed and believe that prior to the Petition Date, the remaining balance of  
11 the Security Deposits of approximately \$707,567.29 were transferred to the IOLTA Account of  
12 Mcdonald Carano Wilson (the “MCW Trust Account”), Debtor’s bankruptcy counsel.

13 12. As of the filing of this Motion, I am informed and believe that there is  
14 approximately \$707,567.29 remaining in the IOLTA Trust Account of MCW.

15 **THE DEBTOR’S EMPLOYMENT OF DICKINSON DESJARDINS, CPAS TO ANALYZE THE**  
16 **DISPOSITION OF SECURITY DEPOSITS**

17 13. I am informed and believe that in or about March 2014, the accounting firm of  
18 Dickinson Desjardins, CPAs (the “Accounting Firm”) was employed by the Debtor to review and  
19 reconcile certain transactions in trust accounts established by the Debtor to maintain security  
20 deposits as part of its responsibilities as a property manager under Nevada law.

21 14. I am informed and believe that following the Accounting Firm’s employment, the  
22 Accounting Firm reviewed and analyzed the transactions in the following trust accounts  
23 established by the Debtor for the purpose of administering security deposits: (1) J.P. Morgan  
24 Chase Bank, N.A. Account Number 8936; (2) J.P. Morgan Chase Bank, N.A. Account Number  
25 0795; (3) J.P. Morgan Chase Bank, N.A. Account Number 0803; (4) Bank of Nevada Account  
26 Number 2556; (5) J.P. Morgan Chase Bank, N.A. Account Number 5725; (6) J.P. Morgan Chase  
27 Bank, N.A. Account Number 9331; and (7) J.P. Morgan Chase Bank, N.A. Account Number  
28 1088 (collectively, the “Trust Accounts”).

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1 15. I have been informed by the Accounting Firm that the embezzlement of  
2 approximately \$1,174,373.63 by E. Brown from the Trust Accounts has also made it impossible  
3 to directly trace the remaining balance of the security deposits to any of the tenants or landlords of  
4 the real properties that were managed by the Debtor on the date of its bankruptcy filing.

5 **THE APPOINTMENT OF GARDEN CITY GROUP AS CLAIMS AND NOTICING AGENT AND THE**  
6 **DEADLINE TO FILE PROOF OF CLAIMS**

7 16. On February 9, 2015, I filed an *Application for Order Authorizing the Employment*  
8 *of Garden City Group, LLC As Claims and Noticing Agent* [ECF No. 88] (the "Application to  
9 Employ GCG"). The Application to Employ GCG sought authority to employ GCG as claims  
10 and noticing agent in the Debtor's bankruptcy case.

11 17. On February 27, 2015, the Court entered an *Order Authorizing Employment of the*  
12 *Garden City Group, LLC As Claims and Noticing Agent* [ECF No. 128].

13 18. Since its employment, GCG has been collecting proof of claims that have been  
14 filed in the Debtor's bankruptcy case.

15 19. I am informed and believe that as of the filing of the Motion the total number of  
16 proof of claims filed in the Debtor's bankruptcy case is 950 and the total monetary amount  
17 claimed is \$3,213,221. A true and correct copy of an alphabetical chart of the proof of claims  
18 filed in the Debtor's bankruptcy case is attached to the Uhrig Declaration as **Exhibit "1"**.

19 20. Of the total number of proof of claims filed in the Debtor's bankruptcy estate,  
20 approximately 871, or ninety-one percent (91%), relate to unpaid Security Deposits.

21 21. Of the total monetary amount of proof of claims filed in the Debtor's bankruptcy  
22 estate, approximately \$2,788,226.97 or eighty-six percent (86%), relate to unpaid Security  
23 Deposits.<sup>3</sup>

24 ...

25 <sup>3</sup> The total amount of proof of claims filed in the Debtor's bankruptcy case relating to unpaid  
26 Security Deposits is significantly larger than the amount allegedly embezzled by E. Brown and  
27 the amount remaining in the MCW Trust Account because in many cases duplicate proof of  
28 claims were filed by both the landlord and tenant. The Trustee has begun the process of  
reviewing the proof of claims that have been filed in the Debtor's bankruptcy case and anticipates  
filing a number of objections.

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1 **THE COMMENCEMENT OF THE ADVERSARY PROCEEDING AGAINST E. BROWN**

2 22. On May 21, 2015, I commenced the adversary proceeding titled *Nelson v. Brown*  
3 (Case Number BK-S-15-01087-LED) by filing a complaint against E. Brown alleging the  
4 following claims for relief: (1) Breach of Fiduciary Duty; (2) Misrepresentation; and (3)  
5 Negligent Misrepresentation (the "Brown Adversary Proceeding").

6 23. The claims for relief in the Brown Adversary Proceeding are directly related to the  
7 alleged embezzlement of a significant portion of the Security Deposits by E. Brown.

8 24. On August 28, 2015, I filed a *Motion for Summary Judgment* [Adversary  
9 Proceeding ECF No. 11] that seeks the entry of a final judgment on all of the claims for relief  
10 alleged in the Brown Adversary Proceeding. The hearing date on the Motion for Summary  
11 Judgment is currently scheduled for October 26, 2015, at 1:30 p.m.

12 **COORDINATION AND COMMUNICATION WITH THE STATE OF NEVADA REAL ESTATE DIVISION**

13 25. Since the commencement of the Debtor's bankruptcy case, I have been in  
14 communication with the State of Nevada Real Estate Division ("NRED") regarding the  
15 disposition of the Security Deposits.

16 26. I have been informed that the NRED will not be administering the Security  
17 Deposits in the MCW Trust Account. The NRED has also informed me that the administration of  
18 the Security Deposits through the Debtor's bankruptcy estate is consistent with Nevada law  
19 governing real estate brokers including, but not limited to, the provisions of Chapter 645 of the  
20 Nevada Revised Statutes and the Nevada Administrative Code.

21 27. NRED has also informed me that they have no objection to the Security Deposits  
22 being administered through the Debtor's bankruptcy estate.

23 28. Since the Security Deposits in the MCW Trust Account cannot be traced to a  
24 particular landowner or tenant, the vast majority of the proof of claims filed in the Debtor's  
25 bankruptcy case relate to unpaid security deposits, and the NRED has no intention of  
26 administering the funds for landowners and tenants, the Debtor's bankruptcy case is the only  
27 forum for the administration and distribution of the remaining Security Deposits.

28 ...

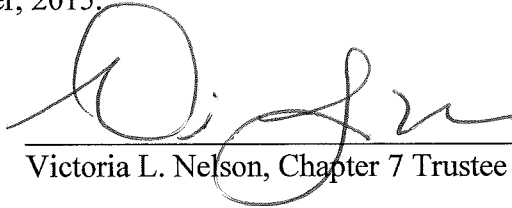
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29. Accordingly, it is my belief that the Debtor's bankruptcy case is the most efficient forum for the administration of the remaining Security Deposits.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Dated this 30<sup>th</sup> day of September, 2015.



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Victoria L. Nelson, Chapter 7 Trustee