



Honorable Laurel E. Davis  
United States Bankruptcy Judge



Entered on Docket  
October 27, 2015

Samuel A. Schwartz, Esq.  
Nevada Bar No. 10985  
Bryan A. Lindsey, Esq.  
Nevada Bar No. 10662  
Schwartz Flansburg PLLC  
6623 Las Vegas Blvd. South, Suite 300  
Las Vegas, Nevada 89119  
Telephone: (702) 385-5544  
Facsimile: (702) 385-2741  
Attorneys for the Chapter 7 Trustee, Victoria L. Nelson

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

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

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

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

ELSIE PELADAS-BROWN, )  
)  
Defendant. )  
\_\_\_\_\_ )

**FINDINGS OF FACT AND CONCLUSIONS OF LAW ON  
PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT**



1           5.       As part of its business, the Company managed residential rental properties (the  
2 **“Business”**). In the normal course of its Business, the Company received and held rental  
3 security deposits on behalf of its customers’ tenants. At the time of the Defendant’s wrongful  
4 actions set forth herein, the Company held in excess of \$1,200,000 of tenant security deposit  
5 money (the **“Security Deposits”**).

6           6.       In late March of 2014, the Company discovered that significant funds were  
7 missing from the bank account designated to hold tenant security deposits. At the time of the  
8 theft, the Company held security deposits for more than 1,000 tenants.

9           7.       The Defendant orchestrated various unauthorized transactions, unbeknownst to  
10 the Company or her co-manager and ex-husband, John M. Brown (**“Mr. Brown”**), which  
11 transactions included the wire transfers of the majority of the Security Deposits to the  
12 Philippines.  
13

14           8.       Specifically, on the following dates, Brown transferred money from the  
15 Company’s general account at JP Morgan Chase Bank and/or security deposit account at JP  
16 Morgan Chase Bank to Unibank, Inc. Metro Philippines (the **“Philippines Bank”**):  
17

18           a.       On February 27, 2013, Brown transferred \$25,000 from the general  
19 account to the Philippines Bank;

20           b.       On May 14, 2013, Brown transferred \$50,000 from the security deposit  
21 account to the Philippines Bank;

22           c.       On April 10, 2013, Brown transferred \$49,263 from the security deposit  
23 account to the Philippines Bank;

24           d.       On April 17, 2013, Brown transferred \$24,600 from the security deposit  
25 account to the Philippines Bank;  
26  
27

1 e. On May 17, 2013, Brown transferred \$97,930 from the security deposit  
2 account to the Philippines Bank;

3 f. On May 24, 2013, Brown transferred \$49,000 from the security deposit  
4 account to the Philippines Bank;

5 g. On June 25, 2013, Brown transferred \$71,500 from the security deposit  
6 account to the Philippines Bank;

7 h. On July 18, 2013, Brown transferred \$35,000 from the security deposit  
8 account to the Philippines Bank;

9 i. On September 10, 2013, Brown transferred \$7,670 from the security  
10 deposit account to the Philippines Bank;

11 j. On September 23, 2013, Brown transferred \$18,700 from the security  
12 deposit account to the Philippines Bank;

13 k. On September 27, 2013, Brown transferred \$23,255 from the security  
14 deposit account to the Philippines Bank;

15 l. On October 9, 2013, Brown transferred \$10,020 from the security deposit  
16 account to the Philippines Bank;

17 m. On October 22, 2013, Brown transferred \$13,960 from the security deposit  
18 account to the Philippines Bank;

19 n. On October 24, 2013, Brown transferred \$11,700 from the security deposit  
20 account to the Philippines Bank; and

21 o. On December 20, 2013, Brown transferred \$8,000 from the security  
22 deposit account to the Philippines Bank.  
23  
24  
25  
26  
27

1 9. Including, but not limited to, the specific transactions listed above, the Defendant  
2 embezzled a total of \$1,174,373.63 in Security Deposits from the Company.

3 10. On September 16, 2015, the Nevada Real Estate Commission held a hearing  
4 regarding the Defendant's actions contained herein. At the Real Estate Commission hearing,  
5 Brown's attorney, Mr. Lance Maningo, indicated Brown's acquiescence to the factual allegations  
6 listed above, and admitted the funds were used to support Brown's family and friends in the  
7 Philippines after catastrophic events.  
8

9 11. The Security Deposits were disbursed in the Philippines and are not recoverable.  
10 The Defendant disbursed the Security Deposits to friends and family in need after the damage  
11 caused by Typhoon Haiyan in November of 2013. Typhoon Haiyan was reported to be one of  
12 the strongest storms ever recorded, with winds reaching or exceeding 195 miles per hour.  
13

14 12. Neither the Company nor Mr. Brown had any knowledge of the Defendant's  
15 scheme, and on May 4, 2015, Mr. Brown was divorced from the Defendant.

16 13. The divorce decree, which was uncontested, requires the Defendant to indemnify  
17 Mr. Brown and the Company from any claims of embezzlement or theft relating to the loss of the  
18 Security Deposits.

19 14. Mr. Brown has not been charged with a crime in this matter.  
20

21 15. At all times relevant to the Complaint, the Defendant was a member, manager and  
22 the property manager for the Company. The Defendant was also a licensed real estate agent and  
23 property manager in the State of Nevada, and a member of the Greater Association of Las Vegas  
24 Realtors.

25 16. As a licensed realtor and property manager in the State of Nevada, the Defendant  
26 is charged with the knowledge and responsibility of safeguarding the Security Deposits. It is  
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 17. The Defendant had the knowledge and the motive to breach her fiduciary duties to  
6 the Company, its customers and its tenants, and in fact did breach such duties by secretly  
7 transferring the Security Deposits to the Philippines. The transfers of the Security Deposits were  
8 made for no consideration at all, and the Defendant understood the Security Deposits could not  
9 possibly be repaid.  
10

11 **Conclusions of Law**

12 1. This Court has jurisdiction over this adversary proceeding and the Motion  
13 pursuant to 28 U.S.C. § 1334 and venue is proper in the District of Nevada pursuant to 28 U.S.C.  
14 § 1409(a).  
15

16 2. This Court has supplemental jurisdiction over all claims in this case because they  
17 are asserted in connection with the Trustee's duties to recover assets on behalf of the estate, and  
18 because the allegations in this lawsuit share a common nexus of facts with those in the Action.  
19

20 3. This Court has personal jurisdiction over the Defendant because: (i) the  
21 Defendant engaged in significant business in the District of Nevada; (ii) the Defendant's  
22 wrongful conduct occurred in significant part in the District of Nevada; and (iii) the Company is  
23 a debtor before this Court, and holds the claims asserted in the Complaint.

24 4. As a manager of the Company, the Defendant owed fiduciary duties to the  
25 Company.  
26

27 5. Through improper action or wrongful conduct and without privilege, the

1 Defendant breached her fiduciary duties to the Company.

2 6. The Defendant had knowledge she was breaching her fiduciary duties, and acted  
3 purposely and with malice and intent to injure the Company.

4 7. The tortious conduct of the Defendant proximately caused the damage to the  
5 Company, because the Security Deposits were transferred for no consideration, and the  
6 Defendant knew it.

7 8. The Defendant had a duty to the Company to use ordinary care when representing  
8 the reasons for transferring the Security Deposits.

9 9. The Defendant breached her duty of care to the Company by falsely representing  
10 the transfer of the Security Deposits was an appropriate transaction for the Company to  
11 undertake.

12 10. Under Nevada law, the Defendant is required to safeguard the Security Deposits  
13 on behalf of the tenants.

14 11. As a result of the Defendant's false representations of the appropriateness of the  
15 wire transfers of the Security Deposits, the Company transferred the Security Deposits for no  
16 consideration.

17 12. The Company suffered damages as a result of the transfer of the Security  
18 Deposits, and those damages were caused by the Defendant's misrepresentations.

19 13. The tenants managed by the Company relied on the representations of the  
20 Defendant that the Security Deposits were safe. As a result of those false representations of the  
21 safety of the Security Deposits, nearly 1,000 tenants transferred their money to the Company,  
22 even though the Defendant knew or should have known that those payments would never be  
23 repaid, given the Defendant's plan to abscond with the money.  
24  
25  
26  
27

1           14.     The Company suffered damages as a result of the transfer of the Security Deposits  
2 and those damages were proximately caused by the Defendant's misrepresentations regarding the  
3 safety of the Security Deposits.

4           15.     The Company was unaware at all times relevant to the Complain that the  
5 Defendant conspired to abscond with the Security Deposits to the Philippines.

6           16.     Mr. Brown was unaware at all times relevant to the Complaint that the Defendant  
7 conspired to abscond with the Security Deposits to the Philippines.  
8

9           17.     The Company and Mr. Brown are innocent of all claims asserted in the Complaint  
10 against the Defendant.  
11

12 Submitted by:

13 SCHWARTZ FLANSBURG PLLC  
14

15 By: /s/Samuel A. Schwartz  
16 Samuel A. Schwartz, Esq., NBN 10985  
17 Bryan A. Lindsey, Esq., NBN 10662  
18 6623 Las Vegas Blvd. South, Suite 300  
19 Las Vegas, NV 89119  
20 Attorneys for the Chapter 7 Trustee, Victoria L. Nelson  
21  
22  
23  
24  
25  
26  
27

**SUBMISSION TO COUNSEL FOR APPROVAL PURSUANT TO LR 9021**

In accordance with LR 9021, counsel submitting this document certifies that the order accurately reflects the court's ruling and that (check one):

The court has waived the requirement set forth in LR 9021(b)(1).

No party appeared at the hearing or filed an objection to the motion.

I have delivered a copy of this proposed order to all counsel who appeared at the hearing, and any unrepresented parties who appeared at the hearing, and each has approved or disapproved the order, or failed to respond, as indicated below [list each party and whether the party has approved, disapproved, or failed to respond to the document]:

I certify that this is a case under Chapter 7 or 13, that I have served a copy of this order with the motion pursuant to LR 9014(g), and that no party has objected to the form or content of this order.

APPROVED:

DISAPPROVED:

FAILED TO RESPOND:

SCHWARTZ FLANSBURG PLLC

By: /s/Samuel A. Schwartz  
Samuel A. Schwartz, Esq., NBN 10985  
Bryan A. Lindsey, Esq., NBN 10662  
6623 Las Vegas Blvd. South, Suite 300  
Las Vegas, NV 89119  
Attorneys for the Chapter 7 Trustee, Victoria L. Nelson

###