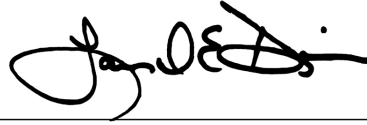


Exhibit A



Honorable Laurel E. Davis
United States Bankruptcy Judge



Entered on Docket
October 27, 2015

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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 Upon consideration of the Motion (the “**Motion**”) of Victoria L. Nelson, in her capacity
2 as the Chapter 7 Trustee (the “**Plaintiff**” or the “**Trustee**”) of Ameri-Dream Realty, LLC (the
3 “**Debtor**” or the “**Company**”), for summary judgment against defendant Elsie Peladas-Brown
4 (“**Brown**” or the “**Defendant**”) on all claims for relief set forth in that certain adversary
5 complaint filed on May 21, 2015 (the “**Complaint**”); and the Motion being supported by the
6 Plaintiff’s Statement of Undisputed Facts, as amended, and the declarations in support thereof;
7 and due and proper notice of the Motion having been given; and the Court having considered
8 the Motion and pleadings in support thereof and the arguments of counsel at the hearing on the
9 Motion; and after due deliberation thereon, the Court finds and concludes as follows:

10
11
12 **Findings of Fact**

13 1. On May 21, 2015, the Plaintiff commenced this adversary proceeding against
14 the Defendant by filing her Complaint (Docket No. 1).

15 2. In 2014, the Defendant was a member, manager and property manager of the
16 Company, a real estate sales and property management company based in Las Vegas, Nevada,
17 prior to filing for relief under Chapter 7 of the United States Bankruptcy Code. The Company
18 was family owned and operated prior to its collapse. The Defendant was a member and
19 manager of the Company for all time periods that are the subject of this lawsuit.
20

21 3. The Company is domiciled in the State of Nevada and conducted significant
22 business activities in the District of Nevada. The Defendant is a former resident of the State of
23 Nevada, but fled to Philippines.

24 4. The Plaintiff is the Court-appointed Trustee over the Company in Case No. 15-
25 10110-LED, United States Bankruptcy Court, for the District of Nevada (the “**Action**”).
26
27

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

20 b. On May 14, 2013, Brown transferred \$50,000 from the security deposit
21 account to the Philippines Bank;
22

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

25 d. On April 17, 2013, Brown transferred \$24,600 from the security deposit
26 account to the Philippines Bank;
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
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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 17. The Company and Mr. Brown are innocent of all claims asserted in the Complaint
9 against the Defendant.
10

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
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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
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Attorneys for the Chapter 7 Trustee, Victoria L. Nelson

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