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*Bruce T Beesley*

Honorable Bruce T. Beesley  
United States Bankruptcy Judge



Entered on Docket  
January 11, 2017

NELSON & HOUMAND, P.C.  
3900 Paradise Road, Suite U, Las Vegas, Nevada 89169  
Telephone: (702) 720-3370 Facsimile: (702) 720-3371

Kathy Bazoian Phelps, Esq. (CA Bar No. 155564)  
Email: kphelps@diamondmccarthy.com  
DIAMOND MCCARTHY LLP  
1999 Avenue of the Stars, Suite 1100  
Los Angeles, California 90067  
Telephone: 310/651-2997  
*Pro Hac Vice Application Pending*

Jacob L. Houmand, Esq. (NV Bar No. 12781)  
Email: jhoumand@nelsonhoumand.com  
Kyle J. Ortiz, Esq. (NV Bar No. 14252)  
Email: kortiz@nelsonhoumand.com  
NELSON & HOUMAND, P.C.  
3900 Paradise Road, Suite U  
Las Vegas, Nevada 89169-0903  
Telephone: 702/720-3370  
Facsimile: 702/720-3371

*[Proposed] Counsel for Chapter 7 Trustee*

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEVADA**

In re:  
ROBERT C. GRAHAM, LTD. fdba ROB  
GRAHAM & ASSOCIATES fdba  
LAWYERSWEST,  
  
Debtor.

Case No. BK-S16-16655-BTB  
Chapter 7

**ORDER GRANTING EX PARTE  
APPLICATION TO EMPLOY DIAMOND  
MCCARTHY LLP, NUNC PRO TUNC TO  
DECEMBER 28, 2016, AS SPECIAL  
LITIGATION COUNSEL FOR  
VICTORIA L. NELSON, CHAPTER 7  
TRUSTEE PURSUANT TO 11 U.S.C. §  
327(a) AND FEDERAL RULE OF  
BANKRUPTCY PROCEDURE 2014**

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

Judge: Honorable Bruce T. Beesley

1 The Court has reviewed the *Ex Parte Application to Employ Diamond McCarthy LLP,*  
 2 *Nunc Pro Tunc to December 28, 2016, as Special Litigation Counsel for Victoria L. Nelson,*  
 3 *Chapter 7 Trustee Pursuant to 11 U.S.C. § 327(a) and Federal Rule of Bankruptcy Procedure*  
 4 *2014* (the “Application”) [ECF No. 39]<sup>1</sup>, filed on January 4, 2017, by VICTORIA L. NELSON,  
 5 the Chapter 7 Trustee in the above-captioned bankruptcy case (the “Trustee”), by and through her  
 6 proposed counsel of record, Kathy Bazoian Phelps, Esq. of the law firm of Diamond McCarthy  
 7 LLP and Jacob L. Houmand, Esq. and Kyle J. Ortiz, Esq. of the Law Firm of Nelson & Houmand,  
 8 P.C.<sup>2</sup> The Application sought authority to employ the law firm of Diamond McCarthy LLP, *nunc*  
 9 *pro tunc*, as special litigation counsel pursuant to 11 U.S.C. § 327(a) and Federal Rule of  
 10 Bankruptcy Procedure 2014.

11 The Court reviewed the Application, the *Declaration of Kathy Bazoian Phelps, Esq. In*  
 12 *Support of the Ex Parte Application to Employ Diamond McCarthy LLP, Nunc Pro Tunc to*  
 13 *December 28, 2016, as Special Litigation Counsel for Victoria L. Nelson, Chapter 7 Trustee*  
 14 *Pursuant to 11 U.S.C. § 327(a) and Federal Rule of Bankruptcy Procedure 2014* [ECF No. 40],  
 15 the *Declaration of Victoria L. Nelson In Support of the Ex Parte Application to Employ Diamond*  
 16 *McCarthy LLP, Nunc Pro Tunc to December 28, 2016, as Special Litigation Counsel for Victoria*  
 17 *L. Nelson, Chapter 7 Trustee Pursuant to 11 U.S.C. § 327(a) and Federal Rule of Bankruptcy*  
 18 *Procedure 2014* [ECF No. 41], the exhibits attached thereto, and all of the papers on file herein.

19 It appearing to the Court that the relief requested in the Application is necessary and in the  
 20 best interests of the Bankruptcy Estate and its creditors, and upon consideration of the pleadings  
 21 and good cause appearing,

22 **IT IS HEREBY ORDERED** that:

23 (1) The Application is **GRANTED** pursuant to the modified terms included in this  
 24 Order to which the Trustee has agreed, in response to inquiries from the Office of the United  
 25 \_\_\_\_\_

26 <sup>1</sup> All references to “ECF No.” are to the numbers assigned to the documents filed in the case as  
 27 they appear on the docket maintained by the clerk of the court.

28 <sup>2</sup> All defined terms in this Order shall have the same meaning ascribed to them in the Application  
 unless otherwise provided herein.

NELSON & HOUMAND, P.C.  
3900 Paradise Road, Suite U, Las Vegas, Nevada 89169  
Telephone: (702) 720-3370 Facsimile: (702) 720-3371

1 States Trustee, in order to ensure the continued application of the recent holding of the Supreme  
2 Court of the United States in *Baker Botts L.L.P., et al. v. ASARCO, LLC*, \_\_\_ U.S. \_\_\_, 135 S. Ct.  
3 2158 (2015) and to prevent any approval under 11 U.S.C. § 328(a) of the Application and/or its  
4 related retention/engagement agreements from changing, modifying, abridging, or nullifying the  
5 application of the holding of that case here; and

6 (2) The Firm shall not be eligible to receive any award of attorneys’ fees for fee  
7 defense litigation as proscribed by *Baker Botts L.L.P., et al. v. ASARCO, LLC*, \_\_\_ U.S. \_\_\_, 135  
8 S. Ct. 2158 (2015) and by the express terms of 11 U.S.C. § 330(a)(1), whether such award is  
9 sought in the form of compensation, or re-characterized as an expense reimbursement or  
10 otherwise; and

11 (3) The Trustee appointed in the above-referenced bankruptcy case is hereby  
12 authorized pursuant to 11 U.S.C. § 327(a) and the Federal Rule of Bankruptcy Procedure 2014 to  
13 employ Diamond McCarthy LLP as her special litigation counsel effective as of December 28,  
14 2016; and

15 (4) The terms of such employment shall be as described in the Application and in the  
16 supporting Verified Statement of Kathy Bazoian Phelps, Esq.; and

17 (5) Such terms of employment are approved as reasonable in accordance with 11  
18 U.S.C. § 330; and

19 **IT IS SO ORDERED.**

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1 Prepared and Submitted By:

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

3 /s/ Jacob L. Houmand

Jacob L. Houmand, Esq. (NV Bar No. 12781)

4 Kyle J. Ortiz, Esq. (NV Bar No. 14252)

3900 Paradise Road, Suite U

5 Las Vegas, Nevada 89169-0903

6 Telephone: 702/720-3370

Facsimile: 702/720-3371

7 —and—

8 **DIAMOND MCCARTHY LLP**

9 Kathy Bazoian Phelps, Esq. (CA Bar # 155564)

10 Email: kphelps@diamondmccarthy.com

11 1999 Avenue of the Stars, Suite 1100

Los Angeles, California 90067

12 Telephone: 310/651-2997

13 *[Proposed] Counsel for Chapter 7 Trustee*

14 **Approved As to Form and Content**

15 **OFFICE OF THE UNITED STATES TRUSTEE**

16 /s/ J. Michal Bloom

Trial Attorney

17 United States Department of Justice

18 Office of the United States Trustee

Region 17; Las Vegas Field Office

19 300 Las Vegas Blvd. South, Suite 4300

Las Vegas, NV 89101

20 *Counsel for Tracy Hope Davis, Region 17 United States Trustee*

21 ###

NELSON & HOUMAND, P.C.  
3900 Paradise Road, Suite U, Las Vegas, Nevada 89169  
Telephone: (702) 720-3370 Facsimile: (702) 720-3371