

EXHIBIT “1”

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PROPOSED ORDER

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[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-S-16-16655-BTB
Chapter 7

**[PROPOSED] ORDER GRANTING EX
PARTE APPLICATION TO EMPLOY
PAUL M. HEALEY & SONS CPAS, LTD.
AS ACCOUNTANT FOR VICTORIA L.
NELSON, CHAPTER 7 TRUSTEE,
PURSUANT TO 11 U.S.C. §§ 327(a) AND
328(a) AND FEDERAL RULE OF
BANKRUPTCY PROCEDURE 2014**

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

Judge: Honorable Bruce T. Beesley

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1 The Court has reviewed the *Ex Parte Application to Employ Paul M. Healey & Sons*
2 *CPAs, Ltd. As Accountant for Victoria L. Nelson, Chapter 7 Trustee, Pursuant to 11 U.S.C. §§*
3 *327(a) and 328(a) and Federal Rule of Bankruptcy Procedure 2014* (the “Application”) [ECF No.
4]¹ filed by VICTORIA L. NELSON, the Chapter 7 Trustee in the above-captioned bankruptcy
5 case (the “Trustee”). The Application sought authority to employ PAUL M. HEALEY & SONS,
6 CPAS, LTD. (the “Firm”), as accountant for the Trustee to prepare tax returns on behalf of the
7 Debtor’s bankruptcy estate and otherwise assist the Trustee in fulfilling her statutory obligations
8 under 11 U.S.C. § 704.

9 The Court reviewed the Application, the *Declaration of Paul M. Healey, C.P.A. In*
10 *Support of Ex Parte Application to Employ Paul M. Healey & Sons CPAs, Ltd. As Accountant for*
11 *Victoria L. Nelson, Chapter 7 Trustee, Pursuant to 11 U.S.C. §§ 327(a) and 328(a) and Federal*
12 *Rule of Bankruptcy Procedure 2014* [ECF No.], the *Declaration of Victoria L. Nelson In*
13 *Support of Ex Parte Application to Employ Paul M. Healey & Sons CPAs, Ltd. As Accountant for*
14 *Victoria L. Nelson, Chapter 7 Trustee, Pursuant to 11 U.S.C. §§ 327(a) and 328(a) and Federal*
15 *Rule of Bankruptcy Procedure 2014* [ECF No.], the exhibits attached thereto, and all other
16 pleadings and papers on file herein.

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

20 **IT IS HEREBY ORDERED** that:

21 (1) The Application is GRANTED pursuant to the modified terms included in this
22 Order to which the Trustee has agreed, in response to inquiries from the Office of the United
23 States Trustee, in order to ensure the continued application of the recent holding of the Supreme
24 Court of the United States in *Baker Botts L.L.P., et al. v. ASARCO, LLC*, ___ U.S. ___, 135 S. Ct.
25 2158 (2015) and to prevent any approval under 11 U.S.C. § 328(a) of the Application and/or its
26 related retention/engagement agreements from changing, modifying, abridging, or nullifying the

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28 ¹ 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.

1 application of the holding of that case here; and

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

7 (3) No approval of the Application or any related employment/retention agreement(s)
8 under 11 U.S.C. § 328(a) is intended, and no such approval shall be construed, to alter the result
9 dictated by the holding in *Baker Botts L.L.P., et al. v. ASARCO, LLC*, ___ U.S. ___, 135 S. Ct.
10 2158 (2015) and its construction of 11 U.S.C. § 330(a)(1).

11 (4) The Trustee appointed in the above-captioned bankruptcy case is hereby
12 authorized pursuant to 11 U.S.C. §§ 327(a) and 328(a) and the Federal Rule of Bankruptcy
13 Procedure 2014 to employ the Firm as her accountant pursuant to the terms set forth in the
14 Application; and

15 (5) The terms of such employment shall be as described in the Application and in the
16 supporting Verified Statement of Paul M. Healey, CPA and as modified herein; and

17 (6) Such terms of employment are approved as reasonable in accordance with 11
18 U.S.C. §§ 328 and 330; and

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(7) Any compensation and reimbursement of expenses are to be awarded by Court order and are to be paid as an administrative expense after approval by the Court, in accordance with 11 U.S.C. §§ 330 and 503 and Federal Rule of Bankruptcy Procedure 2002, or surcharged against secured property in accordance with 11 U.S.C. § 506(c), if appropriate.

IT IS SO ORDERED.

Submitted By:

NELSON & HOUMAND, P.C.

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—and—

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[Proposed] Counsel for Chapter 7 Trustee

Approved As to Form and Content

OFFICE OF THE UNITED STATES TRUSTEE

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