

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Bruce T Beesley

Honorable Bruce T. Beesley
United States Bankruptcy Judge



Entered on Docket
February 03, 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
Admitted Pro Hac Vice

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-S-16-16655-BTB
Chapter 7

**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

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.
4 141]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, CPA In Support*
10 *of Ex Parte Application to Employ Paul M. Healey, Ltd. As Accountant for Victoria L. Nelson,*
11 *Chapter 7 Trustee Pursuant to 11 U.S.C. §§ 327(a) and 328(a) and Federal Rule of Bankruptcy*
12 *Procedure 2014* [ECF No. 142], the *Declaration of Victoria L. Nelson In Support of Ex Parte*
13 *Application to Employ Paul M. Healey & Sons CPAs, Ltd. As Accountant for Victoria L. Nelson,*
14 *Chapter 7 Trustee Pursuant to 11 U.S.C. §§ 327(a) and 328(a) and Federal Rule of Bankruptcy*
15 *Procedure 2014* [ECF No. 143], the exhibits attached thereto, and all other pleadings and papers
16 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

27 _____
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

19 ...
20 ...
21 ...
22 ...
23 ...
24 ...
25 ...
26 ...
27 ...
28 ...

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

(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.

By: /s/ Jacob L. Houmand
Jacob L. Houmand, Esq. (NV Bar No. 12781)
Kyle J. Ortiz, Esq. (NV Bar No. 14252)
3900 Paradise Road, Suite U
Las Vegas, Nevada 89169-0903
Telephone: 702/720-3370
Facsimile: 702/720-3371

—and—

DIAMOND MCCARTHY LLP

Kathy Bazoian Phelps, Esq. (CA Bar # 155564)
Email: kphelps@diamondmccarthy.com
1999 Avenue of the Stars, Suite 1100
Los Angeles, California 90067
Telephone: 310/651-2997

[Proposed] Counsel for Chapter 7 Trustee

Approved As to Form and Content

OFFICE OF THE UNITED STATES TRUSTEE

By: /s/ J. Michal Bloom
Trial Attorney
United States Department of Justice
Office of the United States Trustee
Region 17; Las Vegas Field Office
300 Las Vegas Blvd. South, Suite 4300
Las Vegas, NV 89101

Counsel for Tracy Hope Davis, Region 17 United States Trustee

###

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