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**Electronically Filed On February 14, 2017**

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10 [Proposed] Counsel for Victoria L. Nelson, Chapter 7 Trustee

11  
12 **UNITED STATES BANKRUPTCY COURT**  
13 **DISTRICT OF NEVADA**

14 In re:  
15 ROBERT C. GRAHAM, LTD. fdba ROB  
16 GRAHAM & ASSOCIATES fdba  
LAWYERSWEST,  
17 Debtor.

Case No. BK-S-16-16655-BTB  
Chapter 7

**STATUS REPORT**

Date of Hearing: February 16, 2017  
Time of Hearing: 11:00 a.m.  
Place: Courtroom No. 4, Second Floor  
Foley Federal Building  
300 Las Vegas Blvd., S.  
Las Vegas, NV 89101

Judge: Honorable Bruce T. Beesley<sup>1</sup>

21  
22 VICTORIA L. NELSON, the duly appointed Chapter 7 Trustee in the above-captioned  
23 bankruptcy case (the "Trustee"), by and through her proposed counsel of record, Kathy Bazoian  
24 Phelps, Esq. of the law firm of Diamond McCarthy, LLP and Jacob L. Houmand, Esq. and Kyle J.

25  
26 <sup>1</sup> Unless otherwise indicated, all chapter and section references are to the Bankruptcy Code, 11  
27 U.S.C. §§ 101-1532, and to the Federal Rules of Bankruptcy Procedure, Rules 1001-9037. The  
28 Federal Rules of Civil Procedure will be referred to as "FRCP" and the Federal Rules of  
Bankruptcy Procedure will be referred to as "FRBP." The Local Rules of Practice for the United  
States Bankruptcy Court for the District of Nevada shall be referred to as the "Local Rules".

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1 Ortiz, Esq. of the law firm of Nelson & Houmand, P.C. files this *Status Report* (the “Status  
 2 Report”). The purpose of this Status Report is to update the Court regarding the administration of  
 3 the Debtor’s bankruptcy case prior to the Status Conference scheduled for February 16, 2017, at  
 4 10:00 a.m.

5 **A. General Background of the Debtor’s Bankruptcy Filing**

6 On December 15, 2016, an *Involuntary Bankruptcy Petition* [ECF No. 1]<sup>2</sup> (the  
 7 “Involuntary Petition”) was filed against ROBERT C. GRAHAM, LTD., fdba ROB GRAHAM &  
 8 ASSOCIATES fdba LAWYERSWEST (the “Debtor”) pursuant to 11 U.S.C. § 303. The  
 9 Involuntary Petition was filed by the Estate of Michael B. Macknin, the Sharona Dagani Trust,  
 10 and the Margueritte Owens Revocable Trust (collectively, the “Petitioning Creditors”). The filing  
 11 of the Involuntary Petition against the Debtor followed numerous reports that the Debtor had  
 12 neglected its clients and that its principal, Robert C. Graham, Esq. (“Mr. Graham”), had  
 13 misappropriated funds from the Debtor’s IOLTA Account. Specifically, on December 9, 2016,  
 14 the State Bar of Nevada filed an *Emergency Petition for Temporary Suspension Pursuant to*  
 15 *Supreme Court Rule 102(4)* (the “Emergency Petition”) with the Supreme Court of the State of  
 16 Nevada (Case No. 71849). The Emergency Petition sought a temporary suspension of Mr.  
 17 Graham based upon his misappropriation of millions of dollars from more than fifty clients,  
 18 guardianships, special needs trusts and estates. The Emergency Petition further details that Mr.  
 19 Graham abruptly closed his practice and abandoned more than one hundred clients without  
 20 providing them with any advance notice.

21 On December 16, 2016, the Petitioning Creditors filed a *Motion to Appoint Interim*  
 22 *Trustee in Involuntary Case* [ECF No. 3] (the “Interim Trustee Motion”), which sought authority  
 23 to appoint an interim trustee to take possession of property and to manage the business operations  
 24 and assets of the Debtor. On December 21, 2016, the Bankruptcy Court entered an *Order on*  
 25 *Trustee Motion and Order for Relief Under Chapter 7* [ECF No. 21] (the “Order for Relief”).  
 26 The Order for Relief provided that the Debtor had consented to the filing of a bankruptcy petition

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27  
 28 <sup>2</sup> All references to “ECF No.” are to the numbers assigned to the documents filed in the above-  
 referenced case as they appear on the docket maintained by the clerk of the court.

1 and that the filing of the bankruptcy case was effective as of December 15, 2016 (the “Petition  
2 Date”). The Order for Relief further required the Office of the United States Trustee (the “U.S.  
3 Trustee”) appoint an Interim Chapter 7 Trustee pursuant to 11 U.S.C. § 701. On December 22,  
4 2016, the Trustee was appointed as the Chapter 7 Trustee in the Debtor’s bankruptcy case [ECF  
5 No. 22].

6 **B. The Trustee’s Investigation of the Debtor’s Financial Affairs**

7 Consistent with her obligations under Section 704(a)(4), the Trustee began investigating  
8 the Debtor’s financial affairs immediately following her appointment as Chapter 7 Trustee.  
9 Following discussions with counsel for the Petitioning Creditors and the State Bar of Nevada, the  
10 Trustee has served seventeen (17) subpoenas (the “Subpoenas”) requesting the production of  
11 documents on third party financial institutions, title companies, accountants, and other entities  
12 that may have information related to the Debtor’s financial affairs. One of the Subpoenas was  
13 served on City National Bank, N.A., the bank where the Debtor held its general operating account  
14 and IOLTA trust account. The majority of the institutions that were served with the Subpoenas  
15 have produced responsive documents.

16 The Trustee has also employed Agilitec IT (“Agilitec”), a technology services firm, to  
17 recover thousands of documents deleted by Mr. Graham from his Dropbox, Inc. account (the  
18 “Dropbox Account”) prior to the filing of the Involuntary Petition. Agilitec was successful in  
19 restoring all files that were deleted by Mr. Graham. The Trustee has also obtained copies of the  
20 Debtor’s books and records pertaining to its business operations and the accounting of its IOLTA  
21 trust account.

22 The Trustee is in the process of reviewing the extensive documentation that has been  
23 produced as a result of the Subpoenas, the data that was restored from the Dropbox Account, and  
24 the Debtor’s books and records to determine the extent of assets that can be recovered for the  
25 benefit of creditors.

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1 **C. The Employment of Professionals On Behalf of the Debtor's Bankruptcy Estate**

2 In order to assist the Trustee with her efforts in administering the Debtor's bankruptcy  
3 estate and fulfilling her obligations under Section 704, the Trustee has sought the employment of  
4 legal and accounting professionals on behalf of the Debtor's bankruptcy estate.

5 On January 4, 2017, the Trustee filed an *Application to Employ Nelson & Houmand, P.C.,*  
6 *Nunc Pro Tunc, As General Bankruptcy Counsel for Victoria L. Nelson, Chapter 7 Trustee*  
7 *Pursuant to 11 U.S.C. §§ 327(a) and 328(a) and Federal Rule of Bankruptcy Procedure 2014*  
8 *[ECF No. 35]* (the "N&H Employment Application"). The N&H Employment Application seeks  
9 authority to employ the law firm of Nelson & Houmand, P.C. as general bankruptcy counsel for  
10 the Trustee. The hearing on the N&H Employment Application is currently scheduled for March  
11 15, 2017, at 10:00 a.m.

12 On January 4, 2017, the Trustee filed an *Ex Parte Application to Employ Diamond*  
13 *McCarthy LLP, Nunc Pro Tunc to December 28, 2016, As Special Litigation Counsel for Victoria*  
14 *L. Nelson, Chapter 7 Trustee Pursuant to 11 U.S.C. § 327(a) and Federal Rule of Bankruptcy*  
15 *Procedure 2014 [ECF No. 39]* (the "DM Employment Application"). The DM Employment  
16 Application sought authority to employ the law firm of Diamond McCarthy LLP ("Diamond  
17 McCarthy") as special litigation counsel for the Trustee. The Trustee selected Diamond  
18 McCarthy because it is a national litigation boutique that practices complex and high-stakes  
19 business cases. Diamond McCarthy represents corporations, creditors' committees, receivers,  
20 shareholders, trustees, secured and unsecured creditors, court-appointed trustees and others in  
21 bankruptcy litigation as well as parties involved in disputes arising from business dissolutions or  
22 restructurings. Diamond McCarthy has developed a specialty in representing bankruptcy trustees  
23 and receivers in litigation involving fraudulent activities and has been lead counsel in large-scale  
24 litigation involving recovery of assets in Ponzi scheme cases. Diamond McCarthy has also served  
25 as lead counsel in three of the largest law firm bankruptcies in United States history. On January  
26 11, 2017, the Court entered an *Order Granting Ex Parte Application to Employ Diamond*  
27 *McCarthy LLP, Nunc Pro Tunc to December 28, 2016, As Special Litigation Counsel for Victoria*  
28

1 *L. Nelson, Chapter 7 Trustee Pursuant to 11 U.S.C. § 327(a) and Federal Rule of Bankruptcy*  
 2 *Procedure 2014* [ECF No. 104].

3 On February 1, 2017, the Trustee also filed an *Ex Parte Application to Employ Paul M.*  
 4 *Healey & Sons CPAS, Ltd. As Accountant for Victoria L. Nelson, Chapter 7 Trustee, Pursuant to*  
 5 *11 U.S.C. §§ 327(a) and 328(a) and Federal Rule of Bankruptcy Procedure* [ECF No. 141] (the  
 6 “Healey Employment Application”). The Healey Employment Application sought to employ  
 7 Paul M. Healey & Sons CPAS, Ltd. (“Healey”) as accountant for the Trustee in order to assist  
 8 with the filing of tax returns on behalf of the bankruptcy estate and advise on the tax implications  
 9 of certain bankruptcy sales.

10 The Trustee is also in the process of interviewing several accounting firms that have  
 11 specialties in forensic accounting to assist in the review and analysis of the financial records  
 12 obtained via the Subpoenas, the Dropbox Account, and the Debtor’s books and records. The  
 13 Trustee anticipates that she will seek court approval of the employment of an accounting firm  
 14 within thirty (30) days.

15 **D. The Inspection of Personal Property At the Debtor’s Offices In Las Vegas, Nevada**  
 16 **and Fort Collins, Colorado**

17 The Trustee has inspected the Debtor’s office location in Las Vegas, Nevada located at  
 18 10000 West Charleston Boulevard, Suite 140, Las Vegas, Nevada 89135 (the “Las Vegas  
 19 Office”). The Trustee was informed by Nellis Auction, a licensed auctioneer, that the value of the  
 20 personal property remaining at the Las Vegas Office (the “Las Vegas Personal Property”) was of  
 21 limited value and would not likely generate sufficient funds to justify an auction after  
 22 commissions unless an auction could be conducted at the Las Vegas Office. The Debtor’s former  
 23 landlord refused to allow an auction to be held at the Las Vegas Office and, on February 7, 2017,  
 24 the Trustee filed a *Motion to Approve Sale of Personal Property to Ken Chupinsky Pursuant to 11*  
 25 *U.S.C. § 363* [ECF No. 160] (the “Motion to Sell”), which sought court approval of the sale of the  
 26 Las Vegas Personal Property to Ken Chupinsky, the principal of Nellis Auction, for \$2,500. The  
 27 hearing on the Motion to Sell is scheduled for March 16, 2017, at 11:00 a.m.

28 ...

1 The Trustee also arranged for an auctioneer to evaluate the Debtor's office location in Fort  
2 Collins, Colorado located at 2720 Council Tree Avenue, Suite 242, Fort Collins, Colorado 80528  
3 (the "Fort Collins Office"). The Trustee was informed by the auctioneer that the personal  
4 property remaining at the Fort Collins Office (the "Fort Collins Personal Property") would likely  
5 not generate gross proceeds in excess of \$2,000. Accordingly, the Trustee determined that the  
6 Fort Collins Personal Property was of inconsequential value and burdensome to the Debtor's  
7 bankruptcy estate. On February 8, 2017, the Trustee filed a *Negative Notice of Intent to Abandon*  
8 *Property Pursuant to 11 U.S.C. § 554* [ECF No. 166].

9 **E. The Scheduling of the Debtor's Section 341(a) Meeting of Creditors and the Filing of**  
10 **the Debtor's Bankruptcy Schedules**

11 On January 26, 2017, the Court entered a *Notice of Chapter 7 Bankruptcy Case* [ECF No.  
12 133], which scheduled the Debtor's Section 341(a) Meeting of Creditors for March 10, 2017, at  
13 8:00 a.m. The Trustee may seek to continue the Debtor's Section 341(a) Meeting of Creditors to  
14 a different date and time to accommodate the large number of creditors and parties-in-interest that  
15 are likely to attend such a meeting. On February 9, 2017, the Debtor filed its Bankruptcy  
16 Schedules and Statement of Financial Affairs.

17 **F. The Debtor's Malpractice Insurance Policy**

18 Prior to the filing of the Involuntary Petition, the Debtor was a party to a MIC Lawyers  
19 Professional Liability Insurance Policy (the "Malpractice Insurance Policy") that covered claims  
20 in the aggregate amount of \$2,000,000. The Trustee timely filed a claim against the Malpractice  
21 Insurance Policy on behalf of the Debtor's creditor body.

22 On February 9, 2017, Markel Insurance Company filed a *Motion of Markel Insurance*  
23 *Company for Relief from Stay Pursuant to 11 U.S.C. § 362 to Proceed In Non-Bankruptcy Forum*  
24 [ECF No. 169] (the "Motion for Stay Relief"). The Motion for Stay Relief seeks relief from the  
25 automatic stay to pursue in a non-bankruptcy forum an action for declaratory relief and to rescind  
26 the MIC Lawyers Professional Liability Insurance Policy issue to the Debtor. The hearing on the  
27 Motion for Stay Relief is scheduled for March 14, 2017. The Trustee anticipates seeking  
28 employment of special litigation counsel on a contingency fee basis to pursue any and all claims

1 available to the Debtor’s bankruptcy estate related to the Malpractice Insurance Policy.

2 **G. The Development and Maintenance of A Website to Provide Updates to the Debtor’s**  
3 **Creditors and Parties-In-Interest**

4 Due to the number of individuals affected by the Debtor’s bankruptcy case, the Trustee  
5 has created a website dedicated to provide creditors and parties-in-interest with information  
6 related to the administration of the Debtor’s bankruptcy case. This website has two components:  
7 (a) a webpage containing general information related to the Debtor’s bankruptcy case, including  
8 general background, the deadline for timely filing proofs of claim, details concerning upcoming  
9 court hearings (the “General Information Webpage”); and (b) a webpage that provides access to  
10 all pleadings and documents that have been filed in the Debtor’s bankruptcy case (the  
11 “Bankruptcy Court Docket Webpage”). The General Information Webpage can be accessed at  
12 the following link: <http://nelsonhoumand.com/robert-c-graham-bankruptcy-petition/>. The  
13 Bankruptcy Court Docket Webpage can be accessed at the following link:  
14 <http://nelsonhoumand.com/robert-c-graham-main-bankruptcy-court-documents/>. The Trustee will  
15 continually update the content of both the General Information Webpage and Bankruptcy Court  
16 Docket Webpage as needed to provide timely information to creditors and parties-in-interest.

17 Dated this 14th day of February, 2017.

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

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26 —and—

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**CERTIFICATE OF SERVICE**

I hereby certify that on the 14th day of February 2017, I caused to be served a true and correct copy of STATUS REPORT in the following manner:

(ECF System) By electronically filing a copy of the above-referenced document with the Clerk of the Court for the United States Bankruptcy Court for the District of Nevada via the ECF System. The ECF Confirmation Sheet provides that the following parties were served with the above-referenced document:

CANDACE C CARLYON on behalf of Creditor MARKEL INSURANCE COMPANY  
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MATTHEW R. CARLYON on behalf of Creditor MARKEL INSURANCE COMPANY  
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13 I declare under penalty of perjury of the laws of the United States that the foregoing is true  
14 and correct.

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