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Electronically Filed On: February 22, 2017

6 *[Proposed] General Bankruptcy Counsel for*
7 *Victoria L. Nelson, Chapter 7 Trustee*

8 **UNITED STATES BANKRUPTCY COURT**

9 **DISTRICT OF NEVADA**

10 In re:
11 ROBERT C. GRAHAM, LTD. fdba ROB
12 GRAHAM & ASSOCIATES fdba
13 LAWYERSWEST,
14 Debtor.

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

**NOTICE OF HEARING ON
APPLICATION TO EMPLOY
SCHWARTZ FLANSBURG, PLLC AS
SPECIAL BANKRUPTCY COUNSEL
FOR VICTORIA L. NELSON, CHAPTER
7 TRUSTEE PURSUANT TO 11 U.S.C. §
327(e) AND FEDERAL RULE OF
BANKRUPTCY PROCEDURE 2014**

Date of Hearing: March 28, 2017
Time of Hearing: 1:30 p.m.
Place: Courtroom No. 4, Second Floor
Foley Federal Building
300 Las Vegas Blvd., S.
Las Vegas, NV 89101

Judge: Honorable Bruce T. Beesley

21 **NOTICE IS HEREBY GIVEN** that the *Application to Employ Schwartz Flansburg,*
22 *PLLC as Special Bankruptcy Counsel for Victoria L. Nelson, Chapter 7 Trustee Pursuant to 11*
23 *U.S.C. § 327(e) and Federal Rule of Bankruptcy Procedure 2014* (the "Motion") was filed by
24 VICTORIA L. NELSON, the Chapter 7 Trustee in the above-captioned bankruptcy case, by and
25 through her proposed general bankruptcy counsel of record, Jacob L. Houmand, Esq. and Kyle J.
26 Ortiz, Esq. of the law firm of Nelson & Houmand, P.C.

27 The Application seeks to employ the law firm of Schwartz Flansburg, PLLC (the "Firm")
28 as special bankruptcy pursuant to 11 U.S.C. § 327(e) and Federal Rule of Bankruptcy Procedure

1 2014. Subject to Court approval, in accordance with 11 U.S.C. § 330, the Trustee seeks to retain
2 the Firm on a contingency fee basis to pursue claims and exercise any and all rights held by the
3 Debtor's bankruptcy estate against the Debtor's Malpractice Insurance Policy with Markel
4 Insurance Company (the "Malpractice Insurance Policy"). The Firm's fees, costs and expenses
5 will be paid as follows:

6 **Pre-litigation activity.** The Firm shall be entitled to a contingency
7 fee of 40% to be calculated on the gross amount of recovery (i.e.,
8 before deducting for or seeking reimbursement of any expenses
9 paid by the Trustee to the Firm or otherwise) generated from all work
10 performed prior to filing a lawsuit or making a formal demand for
11 arbitration. Such work may include, but is not limited to, factual
12 investigation, claims investigation and analysis, document
13 review, factual and legal research, work with experts in preparation
14 of a complaint and the requisite reports that must be filed with a
15 complaint, preparation of demand letters, presuit settlement
16 negotiations, preparation of a complaint and/or arbitration demand,
17 and pre-suit mediation(s), if any.

18 **Post-filing litigation activity.** Once any litigation is initiated, either
19 through the filing of a complaint or making a formal demand for
20 arbitration, the Firm shall be entitled to a 40% contingency fee
21 calculated on the gross amount of recovery (i.e., before deducting
22 for or seeking reimbursement of any expenses paid by the Trustee
23 to the Firm or otherwise). Any work performed in the context of an
24 arbitration following a demand for arbitration shall constitute
25 "Post-filing litigation activity."

26 **Appellate activity.** In the event that a notice of appeal is filed by
27 any party, the Firm shall be entitled to an additional 5% contingency
28 fee calculated on the gross amount of recovery (i.e., before
deducting for or seeking reimbursement any expenses paid by the
Trustee to the Firm or otherwise) for an appeal to the District
Court or Bankruptcy Appellate Panel, and an additional 5%
contingency fee calculated on the gross amount of recovery in
the event of an appeal to the Ninth Circuit Court of Appeals.

Payment of Contingency Fee. With respect to any recovery by the
Trustee arising out of, pertaining to, or resulting from the pursuit of the
claims in the Litigation, whether through any settlement, judgment,
arbitration award, or otherwise, the Trustee shall pay the appropriate
contingency fee to the Firm within fourteen (14) days of court
approval. The Firm expressly agrees that it is being retained to
represent the Trustee in her capacity as the Chapter 7 Trustee in the
Bankruptcy Case and, therefore, the Trustee shall not be personally
liable for any fees incurred as part of this Agreement.

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1 The Firm is currently counsel of record for the Debtor in the above-referenced bankruptcy
2 case. Robert C. Graham, the principal of the Debtor, has agreed to the Firm’s representation of
3 the Trustee as special counsel. The Firm’s representation of the Trustee in the Debtor’s
4 bankruptcy case shall only be limited to the prosecution of any claims against Markel Insurance
5 Company concerning the Malpractice Insurance Policy. In the event that there are any conflicts
6 in the employment and compensation terms set forth above and the Application, the employment
7 and compensation terms in the Application shall control.

8 A copy of the Application, the *Declaration of Victoria L. Nelson In Support of the*
9 *Application to Employ Schwartz Flansburg, PLLC as Special Bankruptcy Counsel for Victoria L.*
10 *Nelson, Chapter 7 Trustee Pursuant to 11 U.S.C. § 327(e) and Federal Rule of Bankruptcy*
11 *Procedure 2014*, and the *Declaration of Samuel A. Schwartz, Esq. In Support of the Application*
12 *to Employ Schwartz Flansburg, PLLC as Special Bankruptcy Counsel for Victoria L. Nelson,*
13 *Chapter 7 Trustee Pursuant to 11 U.S.C. § 327(e) and Federal Rule of Bankruptcy Procedure*
14 *2014*, with exhibits, are on file with the Clerk’s Office of the United States Bankruptcy Court, 300
15 Las Vegas Blvd. South, Fourth Floor, Las Vegas, Nevada 89101. Copies of the Application and
16 supporting declarations may also be obtained from counsel for the Trustee or through the
17 Bankruptcy Court’s website at www.nvb.uscourts.gov.

18 **NOTICE IS FURTHER GIVEN** that if you do not want the Court to grant the relief
19 sought in the Motion, or if you want the Court to consider your views on the Motion, then you
20 must file an opposition with the Court, and serve a copy of the person making the Motion ***no later***
21 ***than fourteen (14) days preceding the hearing date for the Motion.***

22 The opposition must state your position, set forth all relevant facts and legal authority, and
23 be supported by affidavits or declarations that conform to Local Rule 9014(c).

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If you object to the relief requested, you *must* file a **WRITTEN** response to this pleading with the court. You *must* also serve your written response on the person who sent you this notice.

If you do not file a written response with the court, or if you do not serve your written response on the person who sent you this notice, then:

- The Court may *refuse to allow you to speak* at the scheduled hearing; and
- The Court may *rule against you* without formally calling the matter at the hearing.

NOTICE IS FURTHER GIVEN that a hearing on said Motion will be held before a United States Bankruptcy Judge, in the Foley Federal Building, 300 Las Vegas Blvd. South, Second Floor, Courtroom No. 4, Las Vegas, Nevada on March 28, 2017, at 1:30 p.m.

NOTICE IS FURTHER GIVEN that this hearing may be continued from time to time without further notice except for the announcement of any adjourned dates and times at the above-noted hearing or any adjournment thereof.

Dated this 22nd day of February, 2017.

NELSON & HOUMAND, P.C.

By: /s/ Kyle J. Ortiz
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