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11 **UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEVADA**

12 In re:

13 ROBERT C. GRAHAM, LTD, A NEVADA
PROFESSIONAL CORPORATION, D/B/A
14 ROBERT C. GRAHAM CORP. AND
LAWYERSWEST

15
16 Alleged Debtor.

Case No.: BK-S-16-16655-btb

Chapter: 7

Hearing:

Date: March 28, 2017

Time: 1:30 p.m.

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

20 Barbara A. Macknin, executor of the Estate of Michael B. Macknin, Sharona Dagani as
21 Trustee of the Sharona Dagani Trust, u/t/d July 2, 2003, Laura J. Aust as Guardian and
22 Conservator of Margueritte Owens and the beneficiary of the Margueritte Owens Trust u/t/d
23 October 10, 2008, and Bradley Dean Fine as trustee of the Dale N. Fine Trust, u/t/d June 17,
24 1999 (the “Creditors”), by and through their counsel, the law firm of Garman Turner Gordon
25 LLP, hereby submit this limited objection (the “Limited Objection”) to the application (the
26 “Application”) [ECF No. 184] to employ Schwartz Flansburg, PLLC (“Schwartz Flansburg”) as
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1 special bankruptcy counsel for Victoria L. Nelson, Chapter¹ 7 Trustee (the “Trustee”). The
2 Creditors do not generally object to the employment of Schwartz Flansburg, and assert Schwartz
3 Flansburg is well-qualified to offer the representation described in the Application. The
4 Creditors offer a limited objection, however, to clarify and ensure any fee applications are
5 reviewed for reasonableness regardless of the contingency fee structure. This Limited Objection
6 is made and based on the Application, the papers and pleadings on file with this Court, together
7 with the argument of counsel at the time of the hearing on the Application.

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I.
LEGAL ANALYSIS

Pursuant to Section 327, the Trustee seeks to employ Schwartz Flansburg “as special
litigation counsel to investigate, evaluate, and, if appropriate, prosecute the Claims against
MIC.” See Application at 5. The Application proposes to compensate Schwartz Flansburg on a
contingency basis with fees paid as 40% of the gross amount of recovery, noting that Schwartz
Flansburg “understands that its compensation is subject to prior Court approval.” See Motion at
8. Section 330 expressly requires that the fees awarded to any professional employed subject to
Section 327 must be reasonable compensation for actual and necessary services rendered, based
on consideration of the standards enumerated in subsections (a)(3) and (4). While this
reasonableness determination under Section 330 does not universally require a lodestar analysis,
see, e.g., Boone v. Derham-Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006), it does require a
reasonableness determination before fees are awarded. As such, the Creditors do not object to the
employment of Schwartz Flansburg generally, and agree that the firm is well-qualified to
undertake the representation detailed in the Application. Further, the Creditors hope Schwartz
Flansburg is successful. The Creditors, however, seek to ensure that, pursuant to applicable
bankruptcy law, any award is reviewed for reasonableness pursuant to Section 330.

...

¹ All references to “Chapter” and “Section” herein shall be to 11 U.S.C. §§ 101-1532 (the “Bankruptcy Code”); all references to a “Bankruptcy Rule” shall refer to the Federal Rules of Bankruptcy Procedure; and all references to a “Local Rule” shall refer to the Local Rules of Bankruptcy Practice of the U.S. District Court for the District of Nevada. Any capitalized, undefined terms shall have the meanings ascribed to them in the Application.

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II.
CONCLUSION

The Creditors respectfully request that the employment of Schwartz Flansburg is expressly subject to a reasonableness review pursuant to Section 330. The Creditors request such relief as this Court deems proper.

DATED this 14th day of March, 2017.

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