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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
GRAHAM & ASSOCIATES fdba
12 LAWYERSWEST,

13 Debtor.

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

DECLARATION OF VICTORIA L. NELSON IN SUPPORT OF APPLICATION TO EMPLOY EISNERAMPER LLP AS FORENSIC ACCOUNTANT, NUNC PRO TUNC TO MARCH 17, 2017, 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: April 25, 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

22 I, Victoria L. Nelson, hereby declare as follows:

23 1. I am over the age of 18 and mentally competent. Except where stated on
24 information and belief, I have personal knowledge of the facts in this matter and if called upon to
25 testify, could and would do so. I make this declaration in support of the *Application to Employ*
26 *Schwartz Flansburg, PLLC as Special Bankruptcy Counsel for Victoria L. Nelson, Chapter 7*
27 *Trustee Pursuant to 11 U.S.C. § 327(e) and Federal Rule of Bankruptcy Procedure 2014* (the
28 "Application").

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- 1 2. I am the appointed Chapter 7 Trustee in the above-captioned bankruptcy case.¹
- 2 3. On December 15, 2016, an *Involuntary Bankruptcy Petition* [ECF No. 1]² (the
- 3 “Involuntary Petition”) was filed against ROBERT C. GRAHAM, LTD., fdba ROB GRAHAM &
- 4 ASSOCIATES fdba LAWYERSWEST (the “Debtor”) pursuant to 11 U.S.C. § 303. The
- 5 Involuntary Petition was filed by the Estate of Michael B. Macknin, the Sharona Dagani Trust,
- 6 and the Margueritte Owens Revocable Trust (collectively, the “Petitioning Creditors”).
- 7 4. On December 16, 2016, the Petitioning Creditors filed a *Motion to Appoint Interim*
- 8 *Trustee in Involuntary Case* [ECF No. 3] (the “Interim Trustee Motion”), which sought authority
- 9 to appoint an interim trustee to take possession of property and to manage the business operations
- 10 and assets of the Debtor.
- 11 5. On December 21, 2016, the Bankruptcy Court entered an *Order on Trustee Motion*
- 12 *and Order for Relief Under Chapter 7* [ECF No. 21] (the “Order for Relief”). The Order for
- 13 Relief provided that the Debtor had consented to the filing of a bankruptcy petition and that the
- 14 filing of the bankruptcy case was effective as of December 15, 2016 (the “Petition Date”). The
- 15 Order for Relief further required that the Office of the United States Trustee (the “U.S. Trustee”)
- 16 appoint an Interim Chapter 7 Trustee pursuant to 11 U.S.C. § 701.
- 17 6. On December 22, 2016, I was appointed as the Chapter 7 Trustee in the Debtor’s
- 18 bankruptcy case [ECF No. 22].
- 19 7. Consistent with my obligations under Section 704(a)(4), I began investigating the
- 20 Debtor’s financial affairs immediately following my appointment as Chapter 7 Trustee.
- 21 8. Following discussions with counsel for the Petitioning Creditors and the State Bar
- 22 of Nevada, I have served seventeen (17) subpoenas (the “Subpoenas”) requesting the production
- 23

24 ¹ Unless otherwise indicated, all chapter and section references are to the Bankruptcy Code, 11

25 U.S.C. §§ 101-1532, and to the Federal Rules of Bankruptcy Procedure, Rules 1001-9037. The

26 Federal Rules of Civil Procedure will be referred to as “FRCP” and the Federal Rules of

27 Bankruptcy Procedure will be referred to as “FRBP.” The Local Rules of Practice for the United

28 States Bankruptcy Court for the District of Nevada shall be referred to as the “Local Rules”.

² 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.

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1 of documents on third party financial institutions, title companies, accountants, and other entities
2 that may have information related to the Debtor's financial affairs. One of the Subpoenas was
3 served on City National Bank, N.A., the bank where the Debtor held its general operating account
4 and IOLTA trust account. The majority of the institutions that were served with the Subpoenas
5 have produced responsive documents.

6 9. I have also employed Agilitec IT ("Agilitec"), a technology services firm, to
7 recover thousands of documents deleted by Mr. Graham from his Dropbox, Inc. account (the
8 "Dropbox Account") prior to the filing of the Involuntary Petition. Agilitec was successful in
9 restoring all files that were deleted by Mr. Graham.

10 10. I have also obtained copies of the Debtor's books and records pertaining to its
11 business operations and the accounting of its IOLTA trust account.

12 11. I require the assistance of a forensic accountant to analyze the Debtor's books and
13 records and the financial records that have been produced pursuant to the Subpoenas.

14 12. Accordingly, I seek to employ EisnerAmper LLP ("EisnerAmper") as forensic
15 accountant *nunc pro tunc* to March 17, 2017.³

16 13. I seek to employ EisnerAmper as forensic accountants in connection with my
17 administration of the Debtor's bankruptcy case to perform the following services: tracing cash
18 flows and other transfers; analyzing materials obtained through the discovery process; locating
19 bank accounts; identifying the location and disposition of recoverable assets; assisting in
20 identifying potential avoidable transfers such as preferences and fraudulent conveyances and
21 other recoverable transfers; offering testimony; and performing other forensic accounting
22 analysis.

23 14. EisnerAmper is experienced in accounting issues and forensic accounting and is
24 qualified to provide the accounting consulting and testimonial expertise that I require in
25 connection with my administration of the Debtor's bankruptcy estate.

26 _____
27 ³ The request to employ EisnerAmper, *nunc pro tunc*, is appropriate because it will allow
28 EisnerAmper to begin reviewing the documentation produced from the Subpoenas and the
Debtor's books and records.

1 15. I am informed that EisnerAmper is a disinterested person within the meaning of 11
2 U.S.C. § 101(14) for purposes of 11 U.S.C. § 327(a), as it pertains to representing the bankruptcy
3 estate's interest as forensic accountant.

4 16. I desire to employ EisnerAmper and its professionals on an hourly basis.
5 EisnerAmper has agreed to provide accounting services to the Debtor's bankruptcy estate at a
6 blended hourly rate of \$375.

7 17. The Employment of EisnerAmper will assist me in fulfilling my statutory
8 obligations under Section 704 by collecting and reducing to money assets of the Debtor's
9 bankruptcy estate. *See* 11 U.S.C. § 704(a)(1).

10 I declare under penalty of perjury under the laws of the United States that the foregoing is
11 true and correct.

12 Dated this 22nd day of March, 2017.

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14 /s/ Victoria L. Nelson
Victoria L. Nelson, Chapter 7 Trustee

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