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

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**UNITED STATES BANKRUPTCY COURT**  
**DISTRICT OF NEVADA**

In re:  
AMERI-DREAM REALTY, LLC  
Debtor.

Case No. BK-S-15-10110-LED  
Chapter 7

**TRUSTEE’S APPLICATION TO (1) EMPLOY NELLIS AUCTION AS AUCTIONEER TO SELL PERSONAL PROPERTY, PAY COMMISSION, REIMBURSE EXPENSES AND (2) APPROVE THE SALE OF PERSONAL PROPERTY FREE AND CLEAR OF LIENS, CHARGES, INTEREST AND ENCUMBRANCES PURSUANT TO 11 U.S.C. § 363**

Date of Hearing: *OST Pending*  
Time of Hearing: *OST Pending*  
Place: Courtroom No. 3, Third Floor  
Foley Federal Building  
300 Las Vegas Blvd., S.  
Las Vegas, NV 89101

Judge: Honorable Laurel E. Davis

Victoria L. Nelson, the duly appointed Chapter 7 Trustee in above-referenced bankruptcy case (the “Trustee”), by and through her proposed counsel, Jacob L. Houmand, Esq., of the law firm of Nelson & Houmand, P.C., hereby submits *Trustee’s Application to (1) Employ Nellis Auction as Auctioneer to Sell Personal Property, Pay Commission, Reimburse Expenses and (2)*

1 *Approve the Sale of Personal Property Free and Clear of Liens, Charges, Interest and*  
2 *Encumbrances Pursuant to U.S.C. §363 (the “Application”)*<sup>1</sup>.

3 The Application is made pursuant to 11 U.S.C. §§ 105, 327, 328, 363 and Rules  
4 2002(a)(2) and 6004(a) and (c) of the Federal Rules of Bankruptcy Procedure. The Application is  
5 based on the following Memorandum of Points and Authorities, and the Declaration of Victoria  
6 L. Nelson in Support of the Application (the “Nelson Declaration”) which is filed separately and  
7 concurrently with this Court pursuant to Rule 9014(c)(2) of the Local Rules of Practice for the  
8 United States Bankruptcy Court for the District of Nevada (the “Local Rules”). The Application  
9 is also based on the pleadings and papers on file herein, and any argument that may be entertained  
10 at any hearing on the Motion.

11 Dated this 17th day of February, 2015.

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

13  
14 */s/ Jacob L. Houmand*

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21 *[Proposed] Counsel for Victoria L. Nelson,*  
22 *Chapter 7 Trustee*

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26 <sup>1</sup> Unless otherwise indicated, all chapter and section references are to the Bankruptcy Code, 11  
27 U.S.C. §§ 101-1532. The Federal Rules of Civil Procedure will be referred to as “FRCP” and the  
28 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”.

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. JURISDICTION AND VENUE**

- 3 1. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157(b)(1) and  
4 1334.
- 5 2. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A).
- 6 3. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409.
- 7 4. The statutory predicates are 11 U.S.C. §§ 105, 327, 328, 363, and Rules 2002(a)(2)  
8 and 6004(a) and (c) of the Federal Rules of Bankruptcy Procedure.

9 **II. FACTUAL BACKGROUND**

10 **A. Bankruptcy Case**

- 11 1. On January 9, 2015, Ameri-Dream Realty, LLC (the “Debtor”) filed a voluntary  
12 bankruptcy pursuant to Chapter 7 of Title 11 of the United States Code [ECF No. 1]<sup>2</sup>. *See* Nelson  
13 Declaration.
- 14 2. On January 9, 2015, Victoria L. Nelson was appointed as the Chapter 7 Trustee in  
15 the Debtor’s bankruptcy case [ECF No. 4]. *See* Nelson Declaration.
- 16 3. The Debtor was a real estate brokerage firm that represents clients in the purchase  
17 and sale of real property throughout Las Vegas, Nevada. *See* Nelson Declaration.
- 18 4. The Debtor also had a property management division that manages hundreds of  
19 rental properties for various landowners and tenants throughout Las Vegas, Nevada. *See* Nelson  
20 Declaration.
- 21 5. Prior to the Debtor filing bankruptcy, the principal of the Debtor vacated the leased  
22 premises located at 4875 Nevso Drive, Las Vegas, Nevada (the “Property”). *See* Nelson  
23 Declaration.

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

1           6.       When the principal of the Debtor vacated the Property, personal property was left  
2 behind including file cabinets, office equipment, various furniture, including, tables and chairs  
3 (the "Personal Property"). *See* Nelson Declaration.

4           7.       In an effort to minimize administrative expenses, the Trustee is attempting to  
5 vacate the Property as quickly as possible and it is necessary to employ Nellis Auction to sell the  
6 Personal Property. *See* Nelson Declaration.

7 **B.           The Auction & Proposed Employment of Nellis Auction**

8           8.       In order to liquidate the Personal Property for the benefit of the creditors, it will be  
9 necessary to sell the Personal Property. *See* Nelson Declaration.

10          9.       It is the belief of the Trustee that the best and highest net recovery to the estate will  
11 arise by selling the Personal Property at an auction through the employment and services of a  
12 licensed auctioneer. *See* Nelson Declaration.

13          10.      Nellis Auction will inventory all merchandise prior to the sale. *See* Nelson  
14 Declaration.

15          11.      All equipment and inventory will be arranged prior to the sale and preview to  
16 assure security and facilitate the buyers' inspection. *See* Nelson Declaration.

17          12.      Nellis Auction will prepare and mail and/or email an auction notice to a list of over  
18 four thousand (4,000) potential bidders consisting of previous auction customers. *See* Nelson  
19 Declaration.

20          13.      The assets will be featured on the website of Nellis Auction at  
21 [www.nellisauktion.com](http://www.nellisauktion.com) and on the website of Nelson & Houmand, P.C. at  
22 <http://nelsonhoumand.com/ameri-dream-realty-llc/>. In addition, Nellis Auction will promote the  
23 sale through their online auctioneering website. *See* Nelson Declaration.

24          14.      The proposed location of the auction is via a live on-line auction format with live  
25 auction previews from 9:00 a.m. to 4:00 p.m. on the date of the auction with Buyer's removal to  
26 be complete within two (2) days following the auction. *See* Nelson Declaration.

27          15.      The terms of the sale will be cash or cash equivalent on the day of the sale with the  
28 title to the Personal Property to be transferred upon payment. *See* Nelson Declaration.



- 1 (i) giving due consideration to the facts, circumstances, and conditions of such sale or
- 2 such lease; and
- 3 (ii) finding that no showing was made that such sale or such lease would violate
- 4 applicable nonbankruptcy law.

5 11 U.S.C. § 363(b)(1).

6 The Trustee’s application of her sound business judgment in the use, sale or lease of  
7 property is subject to great judicial deference. *See, e.g., In re Moore*, 110 B.R. 924 (Bankr. C.D.  
8 Cal 1990); *In re Canyon P’ship*, 55 B.R. 520 (Bankr, SD Cal 1985). In determining whether any  
9 sale of assets outside the ordinary course of business should be approved, bankruptcy courts  
10 generally consider the following factors: (1) whether a sufficient business reason exists for the  
11 sale; (2) whether the proposed sale is in the best interest of the estate, such that the proposed sale  
12 terms should have been properly negotiated and proposed in good faith and the purchaser should  
13 have been involved in an “arms-length” transaction with the seller; and (3) whether notice of the  
14 sale was sufficient. *See In re Walter*, 83 B.R. 14, 19-20 (B.A.P. 9th Cir. 1988) (stating that there  
15 must be some articulated business justification for using, selling or leasing the property outside  
16 the ordinary course of business) citing *In re Lionel Corp.*, 722 F.2d 1063 (2d Cir. 1983) (Stating  
17 that the bankruptcy court should consider all salient factors pertaining to the proceeding and,  
18 accordingly, act to further the diverse interest of the debtor, creditors and equity holders alike).

19 In the instant case, sufficient business reasons exist for the sale of the Personal Property at  
20 an on-line auction. The sale of the Personal Property will bring in cash to the bankruptcy estate  
21 and eliminate the need to warehouse the Personal Property. Based on information and belief, there  
22 are no liens against the Personal Property. However, if any lien is alleged to be perfected, the lien  
23 will be satisfied with the proceeds from the sale. Moreover, a Report of Sale will be filed with the  
24 Court following the auction. Accordingly, the sale of the Personal Property at auction satisfies  
25 the standards under Section 363 of the Bankruptcy Code.

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**IV. CONCLUSION**

WHEREFORE, the Trustee respectfully requests that she be authorized to employ Nellis Auction as auctioneer to sell the Personal Property via an on-line auction, to pay commissions to the auctioneer, and to sell the Personal Property free and clear of all interest, charges, liens or encumbrances, and for such other and further relief as the Court deems necessary and appropriate.

Dated this 17th day of February, 2015.

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

*/s/ Jacob L. Houmand*

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