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Electronically Filed On: February 9, 2015

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

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA**

In re:

AMERI-DREAM REALTY, LLC,

Debtor.

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

**APPLICATION FOR ORDER
AUTHORIZING EMPLOYMENT OF
THE GARDEN CITY GROUP, LLC AS
CLAIMS AND NOTICING AGENT**

Date of Hearing: March 31, 2015
Time of Hearing: 2:30 p.m.
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 appointed Chapter 7 Trustee in the above-captioned bankruptcy case (the “Trustee”), by and through her proposed counsel of record Jacob L. Houmand, Esq. of the law firm of Nelson & Houmand, P.C., hereby submits this application for an order authorizing the Trustee to employ The Garden City Group, LLC (“GCG”) as claims and noticing agent, effective as of February 6, 2015 (the “Application”).¹

¹ Unless otherwise indicated, all chapter and section references are to the Bankruptcy Code, 11 U.S.C. §§ 101-1532, and to the Federal Rules of Bankruptcy Procedure, Rules 1001-9037. The 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

1 The Application is based on the following Memorandum of Points and Authorities, the
2 Declaration of Angela Ferrante In Support of the Trustee's Application for Order Authorizing
3 Employment of The Garden City Group, LLC as Claims and Noticing Agent (the "Ferrante
4 Declaration"), which is filed separately and concurrently with this Court pursuant to Local Rule
5 9014(c)(2). This Application is also based on the pleadings and papers on file herein.²

6 Dated this 9th day of February, 2015.

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

8
9 /s/ Jacob L. Houmand

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

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27 ² The Trustee also requests that the Court take judicial notice of all pleadings filed in the above-
28 referenced bankruptcy case, including adversary proceedings, pursuant to Rule of Evidence 201,
incorporated by reference by FRBP 9017.

MEMORANDUM OF POINTS AND AUTHORITIES

I. JURISDICTION AND VENUE

1. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2)(A). Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

II. STATEMENT OF FACTS

2. On January 9, 2015, Ameri-Dream Realty, LLC (the “Debtor”) filed a voluntary bankruptcy pursuant to Chapter 7 of Title 11 of the United States Code [ECF No. 1].³

3. On January 9, 2015, Victoria L. Nelson was appointed as the Chapter 7 Trustee in the Debtor’s bankruptcy case [ECF No. 4].

4. The Debtor is a real estate brokerage firm that represents clients in the purchase and sale of real property throughout Clark County, Nevada.

5. The Debtor also has a property management division that manages hundreds of rental properties for various landowners and tenants throughout Las Vegas, Nevada.

6. The mailing matrix currently consists of approximately Two Thousand Eight Hundred (2,800) creditors and/or parties in interest.

III. RELIEF REQUESTED

7. By this Application, the Trustee requests authorization to employ GCG as it claims and noticing agent.

8. The Trustee and GCG desire to enter into a Bankruptcy Administration Agreement (such agreement together with all amendments, modifications, renewals thereof and all documents ancillary thereto or otherwise entered into in connection therewith, are collectively referred to herein as the “Engagement Agreement”), a copy of which is attached as Exhibit “1” to the Ferrante Declaration thereto and is incorporated herein by reference.

³ All references to “ECF No.” are to the numbers assigned to the documents filed in the case as they appear on the docket maintained by the clerk of the court.

1 9. The “Guidelines For A Claims Agent” issued by the Bankruptcy Court in this
 2 District (the “Guidelines”)⁴ provide that the appointment of a claims and noticing agent, pursuant
 3 to 28 U.S.C. § 156(c), is required if there are 1,000⁵ or more creditors in a case and may be
 4 required by the Court in other circumstances.

5 10. Under the Guidelines, the claims and noticing agent shall:

- 6 a. Relieve the Clerk's office of all noticing under any applicable bankruptcy
 7 rules and processing of claims.
- 8 b. At any time, upon request, satisfy the Court that the claims and noticing
 9 agent has the capability to efficiently and effectively notice, image proofs
 10 of claim, docket (in the Court's CM/ECF system and the claims and
 11 noticing agent's computer system), and securely maintain the proofs of
 12 claim.
- 13 c. Prepare and serve required notices in this bankruptcy case, including but
 14 not limited to: (i) notice to all creditors of the filing of the bankruptcy
 15 petition and of the setting of the first meeting of creditors, pursuant to 11
 16 U.S.C. § 341(a), under the proper provision of the Bankruptcy Code; (ii)
 17 notice of the claims bar date; (iii) notices of objections to claim; (iv)
 18 notices of any hearings on a disclosure statement and confirmation of a
 19 plan of reorganization; (v) notices of judgments or orders pursuant to
 20 Administrative Order 2011-02; and (vi) notice of any other matters as
 21 required by the order retaining the claims and noticing agent.
- 22 d. Furnish a last date for the filing of a proof of claim and a form for filing a
 23 proof of claim to each creditor notified of the filing.
- 24 e. Maintain an up-to-date copy of Debtor's schedules that list the creditors
 25 and the amounts owed, and maintain an accurate and up-to-date mailing
 26 list.
- 27 f. Provide creditors with their scheduled amount and classification — the
 28 debtor with which each creditor is scheduled should also be provided.
- 29 g. File with the Clerk a certificate of service within 7 days, which includes a
 30 copy of the notice, a list of persons to whom it was mailed (in alphabetical
 31 order by last name or company name), and the date mailed.
- 32 h. Image the proofs of claim and all attachments in PDF format (not to
 33 exceed 3 MG in size per image), make the electronic docket entry into the
 34 Court's CM/ECF docketing system and the claims and noticing agent's
 35 docketing system of each proof of claim including the entry of the
 36 creditor's name and address, if necessary, and attach that image to the

37 ⁴ The Guidelines are available at: <http://www.nvb.uscourts.gov/downloads/cm-ecf/guidelines-claims-agent.pdf>.

38 ⁵ There are approximately Two Thousand Eight Hundred (2,800) creditors and interested parties scheduled on the Mailing Matrix.

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- appropriate proof of claim docket entry to enable the electronic viewing of the documents by court personnel, counsel, and the public.
- i. Cause to be forwarded all proofs of claim and transfers of claims from the office of the Clerk to the claims and noticing agent through a messenger service or postage paid envelopes.
 - j. Once imaged, maintain any hard copies of proofs of claim originally received in paper format for the life of the case, or until otherwise ordered by the Court: (i) in correct claim number order; and (ii) in an environmentally secure area to protect the integrity of these original documents from theft and/or alteration.
 - k. Maintain an official claims register in CM/ECF and the claims and noticing agent's computer docketing system by docketing all proofs of claim on a claims register, including but not limited to the following information: (i) the name and address of the claimant and the agent, if an agent filed the proof of claim; (ii) the date received; (iii) the claim number assigned (CM/ECF assigns a claim number automatically; the assigned claim number is to be written on the hard copy of the claim in the lower right hand corner); and (iv) the amount and classification asserted by such claimant.
 - l. Have the option to send at the discretion of Trustee or the Clerk, an acknowledgment letter to the creditor when its claim is processed.
 - m. Maintain a telephone staff to handle inquiries related to procedures about filing proofs of claim.
 - n. Ensure electronic filing (in the Court's CM/ECF docketing system) and processing of all assignments and transfers of claims pursuant to Bankruptcy Rule 3001(e) by: (i) electronically filing and docketing all transfers of claim in the Court's CM/ECF docketing system; (ii) providing notice of the transfer as required by Bankruptcy Rule 3001(e) and electronically filing and docketing the notice of transfer; (iii) after said electronic docketing, writing the document number in the lower right hand corner of the document, and delivering the original document to the Clerk's office by hand delivery or by mail for filing with other original non-proof of claim paper documents.
 - o. Make changes in the claims register pursuant to Court order.
 - p. Make all original documents available to the Clerk on an expedited immediate basis.
 - q. Provide notices, at the expense of the bankruptcy estate, to any entities, not limited to creditors, that the Trustee or the Court deems necessary for an orderly administration of this bankruptcy case.
 - r. When the claims and noticing agent is terminated for any reason:
 - (i) the claims and noticing agent will file a Notice of Termination, using the approved local form available on the Court's website;
 - (ii) allow for the Clerk's office to assume responsibility of the claims register using the claims register functionality in CM/ECF, including making formatting modifications to the claims register before turning over to the Clerk's office for uploading; (iii) send the Court the

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final version of the claims register in PDF format so the final version can be docketed in CM/ECF; and (iv) box and ship all original documents in proper format, as provided by the Clerk's office, to the office address of the Clerk of the Bankruptcy Court.

s. Ensure that no notices or forms are sent on behalf of Trustee without prior approval of the Clerk.

t. Be responsible for regular contact with Trustee's counsel to ensure any changes in the claims that appear on the docket, i.e., withdrawals, transfers, etc., are transmitted to the claims and noticing agent for electronic recordation on the claims register and the case docket, as appropriate.

11. 28 U.S.C. § 156(c) expressly authorizes the Court to use "facilities" or "services" other than the Clerk's Office for administration of bankruptcy cases. It states:

Any court may utilize facilities or services, either on or off the court's premises, which pertain to the provision of notices, dockets, calendars, and other administrative information to parties in cases filed under the provisions of title 11, United States Code, where the costs of such facilities or services are paid for out of the assets of the estate and are not charged to the United States. The utilization of such facilities or services shall be subject to such conditions and limitations as the pertinent circuit council may prescribe.

12. Additionally, Bankruptcy Rule 2002 regulates the notices that must be provided to creditors and other parties in interest in a bankruptcy case. Under Bankruptcy Rule 2002, the Court may direct that person other than the clerk of the Court give notice of the various matters described herein. *See* Fed. R. Bankr. P. 2002.

13. Accordingly, Debtor's engagement of GCG as claims and noticing agent is authorized under 28 U.S.C. § 156(c) and Bankruptcy Rule 2002. The Trustee believes that engaging GCG as the claims and noticing agent will expedite the service of Bankruptcy Rule 2002 notices, streamline the claims administration process, and permit the Trustee to focus on the administration of the bankruptcy case. *See* Ferrante Declaration, ¶ 4.

14. Consistent with the Guidelines, this Court has previously required the retention of claims and noticing agents in mega bankruptcy cases in this District. *See e.g., In re Lake at Las Vegas Joint Venture, LLC*, case no. 08-17814-LBR; *In re Zante, Inc., et al.*, case no. 09-50746-GWZ; *In re Stations Casinos, Inc.*, case no. 09-52477-GWZ, *In re Riviera Holdings Corp.*, case no. 10-29910-LBR; *In re Tropicana, LLC*, case no. 11-22216-BAM; and *In re American West Development, Inc.*, case no. 12-12349-MKN.

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IV. SERVICES TO BE RENDERED

15. Consistent with the Guidelines set forth above, and subject to Court approval, GCG agrees to provide the Trustee with noticing and claims processing services in relation to the bankruptcy case. *See* Ferrante Declaration, ¶ 5.

16. The scope of GCG's services may be expanded from time to time, provided that GCG and the Trustee mutually agree in writing to any such expansion and any corresponding increase in fees. *See* Ferrante Declaration, ¶ 6.

17. Subject to this Court's approval of the Application, GCG is willing to serve as the Trustee's claims and noticing agent and to perform the services described above and in the Engagement Agreement. GCG will use reasonable efforts to coordinate with Debtor's other retained professionals to avoid unnecessary duplication of services. *See* Ferrante Declaration, ¶ 7.

18. The Trustee selected GCG because it is one of the country's leading bankruptcy administrators with expertise in noticing, claims processing, and distribution. GCG is well qualified to provide the Trustee with experienced noticing and claims services in connection with this bankruptcy case. GCG has developed efficient and cost-effective methods to handle properly the voluminous mailings associated with the noticing and claims processing to ensure the orderly and fair treatment of creditors and parties in interest. Furthermore, GCG will work with the Clerk's office to ensure that such methodology conforms with all of the Courts procedures, the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Nevada (the "Local Rules") and the provisions of any order entered by this Court.

19. GCG has substantial experience in matters of this size and complexity, and has acted as the official claims and noticing agent in many large bankruptcy cases throughout the nation, including:

- a. *In re ShengdaTech, Inc.*, case no. 11-52649-BTB; *In re Riviera Holdings Corp.*, case no. 10-29910-LBR; *In re Las Vegas Monorail Company*, case no 10-10464-BAM; and *In re 155 East Tropicana, LLC*, case no. 11-22216-BAM, *In re American West Development, LLC*, case no. 12-12349-MKN, which were filed in this District;

- b. *In re: Motors Liquidation Company (f/k/a General Motors Corp.)*, case no. 09-50026 (REG); *In re: BearingPoint, Inc.*, case no. 09-10691 (REG); *In re: Fortunoff Holdings, LLC*, case no. 09-10497 (RDD); *In re: Star Tribune Holdings Corporation*, case no. 09-10244 (RDD), which were filed in the Southern District of New York;
- c. *In re: Building Materials Holding Corporation*, case no 09-12074 (KJC); *In re: R.H. Donnelley Corporation*, case no. 09-11833 (KG); *In re Hayes Lemmerz International, Inc.*, case no. 09-11655 (MFW), which were filed in the District of Delaware; *In re: TCI 2 Holdings, LLC (a/k/a Trump Entertainment Resorts, Inc.)*, case no. 09-13654 (JHW); *In re Foxtons, Inc., et al.*, case no. 07-24496 (MBK), which were filed in the District of New Jersey;
- d. *In re: Oscient Pharmaceuticals Corporation*, case no. 09-16576 (HJB), which was filed in the District of Massachusetts;
- e. *In re: O'Sullivan Industries, Inc.*, case no. 05-83049 (CRM) and *In re: Galey & Lord, Inc., et al.*, case no. 04-43098 (MGD), which were filed in the Northern District of Georgia;
- f. *In re: SENCORP*, case no. 09-12869 (JVA) and *In re: United Producers, Inc.*, case no. 05-55272 (CMC), which were filed in the Southern District of Ohio;
- g. *In re: The Boyds Collection, Ltd.*, case no. 05-43793 (DWK), which was filed in the District of Maryland; and
- h. *In re: The Oceanaire Texas Restaurant Company, L.P.*, case no. 09-34262 (BJH) and *In re: Romacorp, Inc.*, case no. 05-86818 (BJH), which were filed in the Northern District of Texas.

Accordingly, GCG is qualified and competent to serve as claims and noticing agent in this bankruptcy case. See Ferrante Declaration, ¶ 8.

20. The Trustee believes that GCG is both well qualified and able to represent it as claims and noticing agent in this bankruptcy case in an efficient manner and that such representation is in the best interest of the bankruptcy estate and its constituents.

V. COMPENSATION

21. The Trustee respectfully submits that the fees and expenses that would be incurred by GCG under the proposed engagement would be administrative in nature and, therefore, should not be subject to standard fee application procedures.

22. In connection with its retention as claims and noticing agent, GCG represents, among other things, that: (a) it will not consider itself employed by the United States government and shall not seek any compensation from the United States government in its capacity as the claims and noticing agent in this bankruptcy case; (b) by accepting employment in this bankruptcy case, GCG waives any rights to receive compensation from the United States government; (c) in its capacity as the claims and noticing agent in this bankruptcy case, GCG will not be an agent of the United States and will not act on behalf of the United States; and (d) GCG will not employ any its capacity as the claims and noticing agent in this bankruptcy case, GCG will not be an agent of the United States and will not act on behalf of the United States; and (d) GCG will not employ any past or present employees of Debtor in connection with its work as the claims and noticing agent in this bankruptcy case. *See Ferrante Declaration, ¶ 9.*

23. The fees to be charged by GCG in connection with this bankruptcy case are set forth in the Engagement Agreement. GCG believes the rates for its services in connection with the notice and claims processing are competitive and comparable to the rates charged by its competitors for similar services. *See Ferrante Declaration, ¶ 10.*

24. The Trustee respectfully submits that the fees and expenses by GCG are administrative in nature and, therefore, should not be subject to the standard fee application procedures for professionals. Specifically, the Trustee requests authorization to compensate GC on a monthly basis, in accordance with the terms and conditions set forth in the Engagement Agreement, upon GCG's submission to the Trustee of invoices summarizing in reasonable detail the services rendered and expenses incurred in connection with services provided by GCG on behalf of the Trustee.

25. There is no agreement of any nature, as to the sharing of compensation to be paid to GCG. *See Ferrante Declaration, ¶ 11.*

VI. DISINTERESTEDNESS

26. GCG and its professionals do not hold or represent any interest materially adverse to the Debtor's bankruptcy estate nor have a connection to the Debtor, the Trustee, the

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1 Debtor's creditors, or its related parties, and as such, GCG and its professionals are disinterested
2 within the meaning of section 101(14) of the Bankruptcy Code. *See* Ferrante Declaration, ¶ 12.

3 27. GCG has informed the Trustee that, except with respect to its proposed
4 representation of the Trustee and as may be set forth herein, GCG does not hold or represent any
5 interest adverse to Debtor or Debtor's estate, and GCG is a "disinterested person" as that term is
6 defined in Bankruptcy Code section 101(14). The Trustee does not propose to retain GCG under
7 Bankruptcy Code section 327(a), but GCG has disclosed that GCG and its professionals:

- 8 a. Are not creditors or insiders of Debtor.
- 9 b. Are not and were not, within two years before the date of this
10 application, a director, officer, or employee of Debtor, as specified
11 in subparagraph (c) of Bankruptcy Code section 101(14).
- 12 c. Do not hold an interest materially adverse to the interest of the
13 estate or of any class of creditors or equity holders except as stated
14 herein.
- 15 d. GCG does not represent or otherwise have other material
16 connections with any persons or entities other than as disclosed in
17 the subparagraphs immediately below. GCG will supplement
18 these disclosures in the event further material connections are
19 discovered regarding persons or entities that later become
20 identified as parties in interest in this case.

21 *See* Ferrante Declaration, ¶ 13.

22 28. To the best of its knowledge, GCG does not hold or represent any interest adverse
23 to the bankruptcy estate, and GCG is a disinterested person within the meaning of Bankruptcy
24 Code section 101(14). *See* Ferrante Declaration, ¶ 14.

25 VII. NOTICE

26 29. Notice of this Application is being served on all creditors and parties in interest. In
27 light of the nature of the relief requested herein, the Trustee submits that no other or further notice
28 need be provided.

VIII. NO PRIOR APPLICATION

30. No previous application for the relief requested herein has been made to this Court
or any other court.

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IX. CONCLUSION

31. Wherefore, the Trustee respectfully requests entry of an order substantially in the form attached as **Exhibit "1"** hereto, authorizing the relief requested herein and granting the Trustee such other and further relief as is just and proper.

Dated this 9th day of February, 2015.

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/s/ Jacob L. Houmand

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EXHIBIT “1”

[PROPOSED FORM OF ORDER]

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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

**ORDER AUTHORIZING EMPLOYMENT
OF THE GARDEN CITY GROUP, LLC
AS CLAIMS AND NOTICING AGENT**

Date of Hearing: March 31, 2015
Time of Hearing: 2:30 p.m.
Place: Courtroom No. 3, Third Floor
Foley Federal Building
300 Las Vegas Blvd., S.
Las Vegas, NV 89101

Judge: Honorable Laurel E. Davis

1 This Court having considered the Application for Order Authorizing the Employment of
 2 The Garden City Group, LLC (“GCG”) as Claims and Noticing Agent (the “Application”)¹ filed
 3 on February 9, 2015, by Victoria L. Nelson, the appointed Chapter 7 Trustee in the above-
 4 captioned bankruptcy case (the “Trustee”), and the Declaration of Angela Ferrante in Support of
 5 the Application (the “Ferrante Declaration”), and with all other findings set forth in the record at
 6 the hearing noted above and incorporated herein, pursuant to Bankruptcy Rule 7051; and it
 7 appearing that this Court has jurisdiction to consider the Application pursuant to 28 U.S.C. §§
 8 1408 and 1409; and it appearing that this matter is a core proceeding pursuant to 28 U.S.C. §
 9 157(b); the Court hereby finds (1) that notice of the Application was good and sufficient as
 10 provided therein and under the circumstances; (2) GCG (a) does not represent any other entity
 11 having an interest materially adverse to the interests of the Trustee or the bankruptcy estate in
 12 connection with this bankruptcy case; (b) GCG is a “disinterested person” within the meaning of
 13 Bankruptcy Code section 101(14); (c) the employment of GCG as the Trustee’s claims and
 14 noticing agent is necessary and in the best interest of the bankruptcy estate; and (3) good cause
 15 exists to approve the employment of GCG.

16 **NOW, THEREFORE, IT IS HEREBY ORDERED THAT:**

- 17 1. The Application is granted in all respects.
- 18 2. Pursuant to 28 U.S.C. § 156(c) and Bankruptcy Rule 2002, the Trustee is
 19 authorized to employ and retain GCG as claims and noticing agent, effective as of the
 20 Employment Date, to perform the services set forth in the Application and under the terms of the
 21 retention agreement attached s Exhibit “1” to the Ferrante Declaration (the “Engagement
 22 Agreement”).
- 23 3. GCG is disinterested as that term is defined in Bankruptcy Code section 101(14)
 24 and as used in Bankruptcy Code section 327(a).

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 28 ¹ All capitalized terms not otherwise defined herein shall have the same meaning ascribed in the Application.

1 4. Pursuant to the Guidelines for A Claims Agent issued by the Bankruptcy Court in
2 this District (the "Guidelines"),² GCG shall relieve the Clerk's office of all noticing under any
3 applicable Bankruptcy Rules and processing of claims.

4 5. Without further order of the Court, the Trustee is authorized to compensate GCG
5 on a monthly basis in accordance with the terms and conditions of the Engagement Agreement,
6 upon GCG's submission to the Trustee of monthly invoices summarizing in reasonable detail the
7 services rendered and expenses incurred in connection therewith.

8 6. The terms of this Order shall be immediately effective and enforceable upon its
9 entry.

10 7. The Court retains jurisdiction with respect to all matters arising from or related to
11 the implementation of this Order.

12 **IT IS SO ORDERED.**

13
14 Prepared and Submitted By:

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

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

28 ² The Guidelines are available at: <http://www/nvb.uscourts.gov/downloads/cm-ecf/guidelines-claims-agent.pdf>.