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**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA**

In re:

ROBERT C. GRAHAM, LTD. fdba ROB
GRAHAM & ASSOCIATES fdba
LAWYERSWEST,

Debtor.

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

**DECLARATION OF SHELLEY D.
KROHN IN SUPPORT OF MOTION TO
APPROVE COMPROMISE PURSUANT
TO FEDERAL RULE OF BANKRUPTCY
PROCEDURE 9019**

Date of Hearing: April 24, 2018
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. Beesley¹

I, SHELLEY D. KROHN, declare as follows:

1. I am over the age of 18 years and I am competent to make this declaration. I have personal knowledge of the facts set forth herein, except for those facts stated on information and belief and, as to those facts, I am informed and believe them to be true. If called as a witness, I could and would testify as to the matters set forth below based upon my personal knowledge.

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”.

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- 1 2. I am the appointed Chapter 7 Trustee in the above-captioned bankruptcy case.
- 2 3. I make this declaration in support of the *Motion to Approve Compromise Pursuant*
- 3 *to Federal Rule of Bankruptcy Procedure 9019* (the “Motion”).²
- 4 4. On December 15, 2016, an *Involuntary Bankruptcy Petition* [ECF No. 1]³ (the
- 5 “Involuntary Petition”) was filed against the Debtor pursuant to 11 U.S.C. § 303. The Involuntary
- 6 Petition was filed by the Estate of Michael B. Macknin, the Sharona Dagani Trust, and the
- 7 Margueritte Owens Revocable Trust (collectively, the “Petitioning Creditors”).
- 8 5. On December 16, 2016, the Petitioning Creditors filed a *Motion to Appoint Interim*
- 9 *Trustee in Involuntary Case* [ECF No. 3] (the “Interim Trustee Motion”), which sought authority
- 10 to appoint an interim trustee to take possession of property and to manage the business operations
- 11 and assets of the Debtor.
- 12 6. On December 21, 2016, the Bankruptcy Court entered an *Order on Trustee Motion*
- 13 *and Order for Relief Under Chapter 7* [ECF No. 21] (the “Order for Relief”). The Order for
- 14 Relief provided that the Debtor had consented to the filing of a bankruptcy petition and that the
- 15 filing of the bankruptcy case was effective as of December 15, 2016 (the “Petition Date”). The
- 16 Order for Relief further required that the Office of the United States Trustee (the “U.S. Trustee”)
- 17 appoint an Interim Chapter 7 Trustee pursuant to 11 U.S.C. § 701.
- 18 7. On December 22, 2016, the Former Trustee was appointed as the Chapter 7
- 19 Trustee in the Debtor’s bankruptcy case [ECF No. 22].
- 20 8. The Principal of the Debtor is Mr. Graham.
- 21 9. On December 31, 2016, Ms. Graham, the former spouse of Mr. Graham, filed a
- 22 voluntary Chapter 7 bankruptcy petition with the United States Bankruptcy Court, District of
- 23 Colorado, under Case No. 16-22532-CDP.

24 . . .

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26 ² Unless otherwise expressly stated herein, all undefined, capitalized terms shall have the meaning

27 ascribed to them in the Motion.

28 ³ 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 10. On December 31, 2016, Trustee Hepner was appointed as the Chapter 7 Trustee in
2 Ms. Graham’s bankruptcy case.

3 11. On her Schedule A, Ms. Graham, listed real property located at 5803 Old Legacy
4 Drive, Fort Collins, Colorado.

5 12. On her Schedule C, Ms. Graham claimed a homestead exemption in the Property
6 in the amount of \$75,000.

7 13. I allege that Mr. Graham used monies being held in the trust account of the Debtor,
8 which did not belong to Mr. Graham, to make the initial payment under the lease with the option
9 to purchase and to close on the purchase of the Property.

10 14. Ms. Graham asserts that she used \$8,000 of her own funds to close on the purchase
11 of the Property and that she is without knowledge as to the source of the funds used by Mr.
12 Graham to fund the lease with the option to purchase or to close on the sale of the Property.

13 15. On August 22, 2017, Trustee Hepner filed the Sale Motion with the Colorado
14 Bankruptcy Court. A true and correct copy of the Sale Motion is attached hereto as **Exhibit “1”**.

15 16. The Sale Motion sought to sell the Property to Gregory Thomas Fieldson and Sara
16 Jane Fieldson for the purchase price of \$890,000.00.

17 17. On September 7, 2017, the Colorado Bankruptcy Court entered an order approving
18 the Sale Motion (the “Order”). A true and correct copy of the Order is attached hereto as **Exhibit**
19 **“2”**.

20 18. The Order authorized Trustee Hepner to pay the following amount from the
21 proceeds of the sale:

- 22 a. The amount owed on the first deed of trust to FirstBank;
- 23 b. The federal tax lien in the amount of \$69,095.23;
- 24 c. The agreed amount of Ms. Graham’s homestead exemption of \$8,000.00
25 upon entry of orders approving the Homestead Stipulation by both the
26 Colorado Bankruptcy Court and the Nevada Bankruptcy Court;
- 27 d. Customary costs of sale, including the 4.5% commission on the purchase
28 price, to Shawna Lowell and Dynamic Real Estate;
- e. Unpaid homeowner’s association fees in the estimated amount of \$2,800.00;
- f. Prorated real estate taxes in the estimated amount of \$4,800.00; and

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1 g. Reimbursement to Ms. Graham for expenses incurred to preserve the
2 Property, including trash service and utility payments, up to the maximum
amount of \$1,800.00.

3 19. On January 19, 2018, after the death of the Former Trustee, I was appointed as the
4 successor Trustee in the Debtor’s bankruptcy case.

5 20. In order to avoid the costs and delay associated with litigation, the Former Trustee,
6 Trustee Hepner, and Ms. Graham agreed to enter into the Homestead Stipulation resolving a
7 dispute concerning Ms. Graham’s homestead exemption. A true and correct copy of the
8 Homestead Stipulation is attached hereto as **Exhibit “3”**.

9 21. In order to avoid the costs and delay associated with litigation, Trustee Hepner and
10 I have entered into a Settlement Agreement resolving the dispute concerning the sale of the
11 Property. A true and correct copy of the Settlement Agreement is attached hereto as **Exhibit “4”**.

12 22. The principal terms of the Homestead Stipulation and Settlement Agreement are
13 outlined below⁴:

14 a. In consideration of a resolution of the dispute concerning the sale of the
15 Property and Ms. Graham’s claimed homestead exemption, Ms. Graham shall be entitled to the
16 sum of \$8,000 from the proceeds received from the sale of the Property (the “Allowed Homestead
17 Exemption”).

18 b. The Allowed Homestead Exemption shall be paid to Ms. Graham following
19 the entry of orders approving the Homestead Stipulation in both Ms. Graham’s bankruptcy case
20 and the Debtor’s bankruptcy case.

21 c. In the event the orders approving the Homestead Stipulation have not been
22 entered by the date of the closing of the Property, Trustee Hepner shall hold such funds in a
23 bankruptcy estate account pending entry of the appropriate orders.

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25 ⁴ The description of the Homestead Stipulation and Settlement Agreement set forth herein and in
26 the Krohn Declaration is a summary only and does not modify or otherwise affect the terms of the
27 Homestead Stipulation and Settlement Agreement. To the extent of any conflict between the
28 Homestead Stipulation and Settlement Agreement and the description set forth herein, the
Homestead Stipulation and Settlement Agreement shall control. Capitalized terms used but not
defined herein shall have the meaning set forth in the Homestead Stipulation and Settlement
Agreement.

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1 d. The “net proceeds” from the sale of the Property shall be divided between
2 Trustee Hepner and I as follows: (a) I shall receive fifty percent (50%) of the net proceeds from
3 the sale of the Property; and (b) Trustee Hepner shall receive fifty percent (50%) of the net
4 proceeds from the sale of the Property.

5 e. The term “net proceeds” will be defined as the amount actually realized
6 from the sale of the Property after deducting all costs associated with the sale including, but not
7 limited to, the pay-off of properly perfected secured liens, the Allowed Homestead Exemption in
8 the amount of \$8,000.00, broker and escrow fees, the expenses incurred by Ms. Graham to
9 preserve the Property during the pendency of the bankruptcy case up to a maximum amount of
10 \$1,800.00, and attorney fees incurred by Trustee Hepner in obtaining an order authorizing the sale
11 of the Property.

12 f. The net proceeds total \$7,942.97, thereby entitling Trustee Hepner and I to
13 the payment of \$3,971.48 each.

14 g. Trustee Hepner and I will provide mutual releases from any and all claims
15 concerning the Property.

16 23. Trustee Hepner and I have negotiated and reached the Settlement Agreement in
17 good faith.


18 24. I believe that the Homestead Stipulation and the Settlement Agreement are in the
19 best interest of the Debtor’s estate as they will result in a distribution for the estate, while
20 avoiding the costs associated with litigation to determine the source of the funds used to purchase
21 the Property, that would likely exceed the net proceeds available from the sale of the Property.

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1 25. I now file the Motion to obtain court approval of the Settlement Agreement
2 pursuant to FRBP 9019.

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

5 Dated this 8 day of March, 2018.

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8 Shelley D. Krohn, Chapter 7 Trustee

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