

Electronically Filed On: April 6, 2018

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General Bankruptcy Counsel for Shelley D. Krohn, Chapter 7 Trustee

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 EX PARTE APPLICATION TO EMPLOY DIAMOND MCCARTHY LLP, NUNC PRO TUNC, AS SPECIAL LITIGATION COUNSEL FOR SHELLEY D. KROHN, SUCCESSOR CHAPTER 7 TRUSTEE PURSUANT TO 11 U.S.C. §§ 327(a) AND 328(A) AND FEDERAL RULE OF BANKRUPTCY PROCEDURE 2014

Date of Hearing: N/A
Time of Hearing: N/A

Judge: Honorable Bruce T. Beesley

I, Shelley D. Krohn, hereby declare as follows:

1. I am over the age of 18 and mentally competent. Except where stated on information and belief, I have personal knowledge of the facts in this matter and if called upon to testify, could and would do so.

2. I make this declaration to support the *Ex Parte Application to Employ Diamond McCarthy LLP, Nunc Pro Tunc, As Special Litigation Counsel for Shelley D. Krohn, Successor Chapter 7 Trustee Pursuant to 11 U.S.C. §§ 327(a) and 328(a) and Federal Rule of Bankruptcy Procedure 2014* (the "Application").

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1 3. I am the appointed Chapter 7 Trustee in the above-captioned bankruptcy case.

2 4. On December 15, 2016, an Involuntary Bankruptcy Petition [ECF No. 1]¹ (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 5. The filing of the Involuntary Petition against the Debtor followed numerous
8 reports that the Debtor had neglected its clients and that its principal, Robert C. Graham, Esq.
9 (“Mr. Graham”), had misappropriated funds from the Debtor’s IOLTA Account.

10 6. Specifically, on December 9, 2016, the Nevada State Bar filed an *Emergency*
11 *Petition for Temporary Suspension Pursuant to Supreme Court Rule 102(4)* (the “Emergency
12 Petition”) with the Supreme Court of the State of Nevada (Case No. 71849). The Emergency
13 Petition sought a temporary suspension of Mr. Graham based upon his misappropriation of
14 millions of dollars from more than fifty clients, guardianships, special needs trusts and estates.
15 The Emergency Petition further details that Mr. Graham abruptly closed his practice and
16 abandoned more than one hundred clients without providing them with any advance notice.

17 7. On December 16, 2016, the Petitioning Creditors filed a *Motion to Appoint Interim*
18 *Trustee in Involuntary Case* [ECF No. 3] (the “Interim Trustee Motion”), which sought authority
19 to appoint an interim trustee to take possession of property and to manage the business operations
20 and assets of the Debtor.

21 8. On December 21, 2016, the Bankruptcy Court entered an *Order on Trustee Motion*
22 *and Order for Relief Under Chapter 7* [ECF No. 21] (the “Order for Relief”). The Order for
23 Relief provided that the Debtor had consented to the filing of a bankruptcy petition and that the
24 filing of the bankruptcy case was effective as of December 15, 2016 (the “Petition Date”). The
25 Order for Relief further required that the Office of the United States Trustee (the “U.S. Trustee”)

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27 ¹ 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 appoint an Interim Chapter 7 Trustee pursuant to 11 U.S.C. § 701.

2 9. On December 22, 2016, Victoria L. Nelson (“Trustee Nelson”) was appointed as
3 the Chapter 7 Trustee in the Debtor’s bankruptcy case [ECF No. 22].

4 10. On January 4, 2017, Trustee Nelson filed an *Ex Parte Application to Employ*
5 *Diamond McCarthy LLP as Special Litigation Counsel, Nunc Pro Tunc to December 28, 2016,*
6 *for Victoria L. Nelson, Chapter 7 Trustee, Pursuant to 11 U.S.C. 327(a) and Federal Rule of*
7 *Bankruptcy Procedure 2014* [ECF No. 39] (the “Employment Application”), which sought to
8 employ Diamond McCarthy LLP (the “Firm”) as special litigation counsel to assist with
9 anticipated litigation arising from the Debtor’s bankruptcy case and to provide advice concerning
10 causes of action that can be commenced on behalf of the bankruptcy estate.

11 11. On January 11, 2017, the Court entered an *Order Granting Ex Parte Application to*
12 *Employ Diamond McCarthy LLP as Special Litigation Counsel, Nunc Pro Tunc to December 28,*
13 *2016, for Victoria L. Nelson, Chapter 7 Trustee, Pursuant to 11 U.S.C. 327(a) and Federal Rule*
14 *of Bankruptcy Procedure 2014* [ECF No. 104].

15 12. On January 13, 2018, Trustee Nelson died.

16 13. On January 19, 2018, I was appointed as the successor Chapter 7 Trustee in the
17 Debtor’s bankruptcy case.

18 14. I desire to continue to have the Firm represent the bankruptcy estate as special
19 litigation counsel on the same terms as set forth in the Employment Application.

20 15. The Application seeks employment of the Firm *nunc pro tunc* effective as of my
21 appointment.

22 16. The Firm is well suited for the type of representation required by me. The Firm has
23 extensive experience in the practice of business, commercial and complex litigation, with
24 expertise in areas of substantive law likely to become relevant in prosecution of claims in
25 adversary proceedings. Accordingly, I have determined that the Firm has the resources and
26 experience necessary to represent me in this case.

27 17. The Firm also has extensive experience in financial institution litigation and has
28 represented hedge funds, private equity, global banks, regional and community banks, mutual

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1 funds, real estate trusts, trustees of failed banks, liquidators, creditors' committees and other
2 financial institutions.

3 18. Partner Michael Yoder has extensive experience in complex litigation involving
4 bankruptcy, third party and professional liability. This experience includes spearheading a number
5 of forensic fraud investigations, serving as lead or co-lead investigative attorney in connection
6 with: (a) a \$600 million hard money lender in Las Vegas; (b) a \$350+ million international fraud
7 involving a television importer formerly listed on NASDAQ; (c) a \$400 million fraud involving
8 real estate investment funds in Oakland, California; and (d) a \$150 million Ponzi scheme in
9 Sacramento, California.

10 19. The attorneys of the Firm that will render services in relation to the above-
11 captioned bankruptcy case are familiar with the United States Bankruptcy Code, the Federal
12 Rules of Bankruptcy Procedure, the Federal Rules of Civil Procedure, and the Local Rules and
13 will comply with them, as well as the procedures set forth in the "Guide to Applications for
14 Professional Compensation," promulgated by the Office of the United States Trustee (the "U.S.
15 Trustee") with regard to compensation of professionals.

16 20. I desire to employ the Firm as my special litigation counsel in this bankruptcy case
17 to render the following professional services:

- 18 (a) To investigate the financial affairs of the Debtor and
19 determine if there are any preferential transfers, fraudulent
20 conveyances, or turnover actions that may be filed on behalf
21 of the bankruptcy estate pursuant to 11 U.S.C. §§ 542, 544,
22 547, and 548, or other litigation claims owned by the estate
23 against third parties.
- 24 (b) To prosecute any and all preferential transfers, fraudulent
25 conveyances, or turnover actions that may be filed on behalf
26 of the bankruptcy estate pursuant to 11 U.S.C. §§ 542, 544,
27 547, and 548, or other litigation claims owned by the estate
28 against third parties.
- (c) To assist the Trustee in developing legal positions and
strategies with respect to litigation matters in these
proceedings.

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1 21. I have selected the Firm because of the Firm's experience in in complex and high-
2 stakes business cases, including serving as lead counsel for three of the largest law firm
3 bankruptcies in U.S. history, and its attorneys are well-qualified to represent me in this case.


4 22. Inasmuch as the Firm will likely be handling numerous fraudulent transfer actions
5 and/ or other litigation claims owned by the estate against third parties, it is my belief that it
6 would be in the best interest of the creditors that the compensation be on an hourly basis as
7 opposed to a contingency fee basis. Further, once a determination has been made as to what
8 causes of action the Firm will be prosecuting, I will seek a budget from the Firm in
9 relation to each matter the Firm is handling.

10 23. I am aware that the Firm was special litigation counsel for Trustee Nelson, the
11 Chapter 7 Trustee that was initially appointed in the Debtor's bankruptcy case.

12 24. I have employed the Firm as special litigation counsel in an unrelated bankruptcy
13 case in which I am the chapter 7 trustee.

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

16 Dated this 2 day of April, 2018.

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18 _____
19 Shelley D. Krohn, Chapter 7 Trustee