

Electronically Filed: February 27, 2019

1 **ANDERSEN LAW FIRM, LTD.**
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10 *Special Litigation Counsel for Shelley Krohn, Chapter 7 Trustee*

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

13 In re:

14 ROBERT C. GRAHAM, LTD. fdba ROBERT
15 GRAHAM & ASSOCIATES; fdba LAWYERS
16 WEST

17 Debtor.

18 Case No.: 16-16655-BTB
19 Chapter 7

20 **FIRST AND FINAL APPLICATION OF**
21 **ANDERSEN LAW FIRM, LTD. FOR**
22 **ALLOWANCE OF COMPENSATION**
23 **FOR SERVICES RENDERED AND**
24 **REIMBURSEMENT OF EXPENSES**
25 **INCURRED**

26 Hearing Date: April 10, 2019
27 Hearing Time: 2:00 p.m. Pacific time



FIRST AND FINAL FEE APPLICATION OF
ANDERSEN LAW FIRM, LTD.

OVERALL SUMMARY

Name of Firm: Andersen Law Firm, Ltd.

Authorized to Provide Services to: Shelley D. Krohn, Chapter 7 Trustee¹

Date of Retention: April 19, 2017

Compensation and Reimbursement Period: May 25, 2017, through February 19, 2019

Amount of Compensation Requested: \$4,633.20

Amount of Reimbursement Requested: \$278.20

Total Amount of Compensation Requested: \$4,633.20

Total amount of Reimbursement Requested: \$278.20



This is an INTERIM or FINAL application.

This is the FIRST AND FINAL fee application filed by Andersen Law Firm, Ltd. in this case.

¹ Per the Engagement Letter, the initial client was Victoria L. Nelson, Chapter 7 Trustee. Shelley D. Krohn replaced the former trustee as of January 19, 2018.

FIRST AND FINAL FEE APPLICATION OF
ANDERSEN LAW FIRM, LTD.

BILLING SUMMARY

<u>Fees</u>		
Fees Previously Requested:		\$0.00
Fees Previously Awarded:		\$0.00
<u>Expenses</u>		
Expenses Previously Requested:		\$0.00
Expenses Previously Awarded:		\$0.00
<u>Retainer</u>		
Retainer Paid:		\$0.00
Drawn on Retainer:		\$0.00
Remaining on Retainer:		\$0.00
<u>Current Application</u>		
Fees from May 25, 2017, through February 19, 2019:		\$4,633.20
Expenses from May 25, 2017, through February 19, 2019:		\$278.20



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**FIRST AND FINAL FEE APPLICATION OF
ANDERSEN LAW FIRM, LTD.**

SUMMARY OF PROFESSIONALS

NAME	LAW SCHOOL GRADUATION	TITLE	HOURLY RATE	TOTAL HOURS	TOTAL FEES
Ryan A. Andersen (RAA)	2010	Partner	\$340.00	34.2	
Ani Biesiada (AB)	2016	Attorney	\$250.00	22.0	
Tatiana Kravcova (TK)	N/A	Paralegal	\$130.00	3.80	
TOTAL:				60.0	



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**FIRST AND FINAL FEE APPLICATION OF
ANDERSEN LAW FIRM, LTD.**

**SUMMARY SERVICES RENDERED
MAY 25, 2017, THROUGH FEBRUARY 19, 2019**

ACTIVITY	HOURS	FEES
Litigation	55.7	
Fee/Employment Applications	4.3	
<u>TOTAL:</u>	60.0	



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**FIRST AND FINAL FEE APPLICATION OF
ANDERSEN LAW FIRM, LTD.**

**SUMMARY OF DISBURSEMENTS
MAY 25, 2017, THROUGH FEBRUARY 19, 2019**

EXPENSE	QUANTITY	RATE
Postage for Settlement Motion		\$251.45
Copies for Settlement Motion		\$26.75
	<u>TOTAL:</u>	\$278.20



FIRST AND FINAL APPLICATION OF ANDERSEN LAW FIRM, LTD. FOR ALLOWANCE OF COMPENSATION FOR SERVICES RENDERED AND REIMBURSEMENT FOR EXPENSES INCURRED

Andersen Law Firm, Ltd. (the “Firm”), as special litigation counsel to Shelley D. Krohn, Chapter 7 Trustee (“Trustee”), files its first and final application (the “Application”) for final allowance of compensation for services rendered and reimbursement of the expenses incurred, pursuant to Sections 330 and 331 of the Bankruptcy Code, Rule 2016 of the Federal Rules of Bankruptcy Procedure, the Guidelines for Compensation and Reimbursement of Professionals in Region 17 as promulgated by the Office of the United States Trustee (the “Fee Guidelines”), the Guidelines for Reviewing Applications for Compensation and Reimbursement of Expenses Filed Under 11 U.S.C. § 330.

The Application is supported by the following Memorandum of Points and Authorities, the Declaration of Ryan A. Andersen in support of the Application (the “Declaration”), filed contemporaneously herewith, the Declaration of Shelley D. Krohn in support of the Application, filed contemporaneously herewith, all papers and pleadings filed in the above-captioned case, judicial notice of which is requested pursuant to Rule 201 of the Federal Rules of Evidence; and any arguments of counsel offered in support of the Application during any hearing held on the Application.

MEMORANDUM OF POINTS AND AUTHORITIES

I. Introduction

Through this Application, the Firm, counsel to the Trustee in the above-captioned bankruptcy case (“Case”), seeks final allowance of compensation for services rendered on contingent fee basis, for the period of May 25, 2017, through February 19, 2019 (the “Application Period”). As detailed herein, the services rendered by the Firm to the Trustee during the Application Period were on a contingent fee basis. Therefore, the Firm requests the Court enter an order: (i) approving and allowing on a final basis compensation in the amount of \$4,633.20 for the reasonable and necessary services of the Firm; and (ii) authorizing the Trustee to pay such amount to the Firm.





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II. Jurisdiction

The Court has jurisdiction over this Motion 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).

If it is determined the Court cannot enter final orders or judgment in this core proceeding consistent with Article III of the United States Constitution, the Firm consents to the entry of final orders or judgment by this Court.

III. Notice

As required by Rules 2002(a)(6) and 2002(c)(2) of the Federal Rules of Bankruptcy Procedure, notice of the hearing on this Application, identifying the Firm and stating the amount requested as compensation and for reimbursement, has been served upon all identified creditors, the Debtor, the Office of the United States Trustee, and all parties in interest. Such notice was served not less than twenty-eight (28) days prior to the date set for the hearing on the Application.

IV. Summary of Professional Services Performed

The Firm has provided services to the Trustee in the Case as described herein. The summary of services provided below is intended to highlight some of the services provided to the Trustee by the Firm; it is not intended to be a comprehensive description of all of the legal services rendered by the Firm. The contemporaneous time records of the Firm detail the services rendered by the Firm and the time spent on such services. The Firm’s contemporaneous time records are contained within the billing statement for the Application Period. *See Exhibit 1* to the Andersen Declaration.

V. Summary of Compensation Sought

Through the Application, the Firm seeks approval of the following for the Application Period: allowance of \$4,633.20 for professional services during the entirety of the case.

VI. Services Rendered and Expenses Incurred

A. Legal Services Rendered During the Application Period

Services rendered by the Firm in the Case are set forth above and a detailed description of such services is provided in **Exhibit 1** to the Andersen Declaration. Such exhibit reflects all tasks performed by the Firm on behalf of the Trustee and includes a detailed listing for all professional services rendered

1 for which compensation is sought including: date service rendered; attorney or paraprofessional
 2 performing services; legal service project category; detailed description of legal service rendered; and
 3 amount of time spent.

4 The Firm was retained as a special litigation counsel on a contingent fee basis, and per the
 5 engagement agreement between Trustee and the Firm, is entitled to a 40% contingency fee calculated
 6 on the gross amount of recovery in the Case.

7 The Firm expended a total of 60.0 hours in providing services on behalf of the Trustee in the
 8 Case. As required by applicable law and the Fee Guidelines, the Firm utilized separate project
 9 categories for the services performed during the Application Period. The following paragraphs contain
 10 an explanatory summary of the professional services rendered by the Firm for each of the applicable
 11 project categories:

12 Litigation

13 The time entries in this project category are for legal services related to the litigation
 14 matter for which the Firm was retained. The services performed include telephone and
 15 email communications with Trustee regarding Case strategy, as well as correspondence
 16 and meetings with the other parties to the Case regarding settlement. Additionally, this
 17 category includes drafting of responses to the discovery requests related to the insurance
 18 policy; drafting of the Answer to the Complaint for Rescission and Declaratory Relief;
 19 and, drafting and finalization of the Motion to Approve Settlement and settlement
 20 agreement. The Firm expended 55.70 hours in this category.

21 Fee/Employment Applications

22 The time entries in this project category are for legal services related to the first and final fee
 23 application prepared and filed by the Firm. The Firm expended 4.30 hours in this category.

24 *B. Expenses Incurred by the Firm During the Application Period*

25 The expenses incurred by the Firm in the Case are set forth above and in Exhibit 1 to the
 26 Andersen Declaration. No unusual or costly expenses were incurred by the Firm during the Application
 27



1 Period. At every opportunity, the Firm endeavored to limit expenses incurred and the only expense for
2 which reimbursement is sought are costs association with producing copies and postage.

3 **VII. Professional Expertise**

4 Ryan A. Andersen, Esq. is the managing partner of the Firm, and his practice focuses primarily
5 on representation of various parties in interest in complex bankruptcy cases and on bankruptcy
6 litigation. Prior to forming the Firm, Mr. Andersen was a litigation associate with Lionel Sawyer &
7 Collins. Mr. Andersen was admitted to the State Bar of California in 2010 and the State Bar of Nevada
8 in 2011. He received his J.D., with distinction, from the University of Iowa College of Law in 2010.
9 Prior to entering private practice, Mr. Andersen served as a judicial law clerk for the Honorable Bruce
10 A. Markell, former judge of the United States Bankruptcy Court, District of Nevada.

11 Ani Biesiada, Esq. is an associate attorney at the Firm, and her practice focuses primarily on
12 representation of various parties in interest in complex bankruptcy cases and bankruptcy litigation. Ms.
13 Biesiada was admitted to the State Bar of Nevada in 2017. Ms. Biesiada received her J.D., from the
14 William S. Boyd School of Law at the University of Nevada, Las Vegas in 2016. Prior to entering
15 private practice, Ms. Biesiada served as a judicial extern to the Hon. Nancy L. Allf and as a judicial
16 extern to the Hon. Joanna S. Kishner, each in the Eighth Judicial District Court of Nevada.

17 The Firm is skilled in complex bankruptcy cases and possesses the specialized knowledge and
18 expertise required to represent the Trustee in the Case. As is well known to the Court, the Case is
19 complicated, requiring the services offered by the Firm to assist the Trustee in successful litigation.

20 **VIII. Terms and Conditions of Employment**

21 The Firm was retained by the Trustee effective May 25, 2017. The scope of the Firm's
22 employment in the Case is as follows:

- 23
- 24 a) represent the Trustee as special litigation counsel pursuant to Section 327
of the United States Bankruptcy Code;
- 25
- 26 b) evaluation of and service as lead counsel with respect to proceedings and
prosecution of all relevant claims regarding or involving professional
27 malpractice coverage provided and claims filed by the insurance company.



1 During the Application Period, the Firm performed services and achieved results related to the
 2 scope of the Firm’s employment by the Debtor, as set forth herein and as detailed in **Exhibit 1** to the
 3 Andersen Declaration.

4 **IX. Authority for Compensation and Reimbursement Sought**

5 Upon appropriate notice, “the court may award . . . a professional person employed under
 6 section 327 . . . reasonable compensation for actual, necessary services rendered” and “reimbursement
 7 for actual, necessary expenses.” 11 U.S.C. § 330(a). Further, pursuant to Section 503, administrative
 8 expenses, including “compensation and reimbursement awarded under section 330(a)” of the
 9 Bankruptcy Code, may be allowed by the Court following “notice and a hearing.” 11 U.S.C. § 503(b).

10 The Ninth Circuit has stated that the “[t]he primary method used to determine a reasonable
 11 attorney fee in a bankruptcy case is to multiply the number of hours expended by an hourly rate.” In re
 12 *Powerine Oil Co.*, 71 B.R. 767, 770 (B.A.P. 9th Cir. 1986) (citing *In re Yermakov*, 718 F.2d 1465,
 13 1471 (9th Cir. 1983)). Other courts have referred to this as the “lodestar” formula in assessing
 14 attorneys’ fees.

15 Bankruptcy courts frequently consider the specific lodestar factors set forth in *Johnson v.*
 16 *Georgia Highway Express, Inc.*, 488 F.2d 714 (5th Cir. 1974), and the use of the lodestar factors has
 17 been approved by the Ninth Circuit. *Yermakov*, 718 F.2d at 1471. The lodestar factors are as follows:

- 18 (i) the time and labor required;
- 19 (ii) the novelty and difficulty of the questions;
- 20 (iii) the skill requisite to perform the legal service properly;
- 21 (iv) the preclusion of other employment by the attorney due to acceptance
of the case;
- 22 (v) the customary fee;
- 23 (vi) whether the fee is fixed or contingent;
- 24 (vii) time limitations imposed by the client or the circumstances;
- 25 (viii) the amount involved and the results obtained;
- 26 (ix) the experience, reputation, and ability of the attorneys;
- 27 (x) the “undesirability” of the case;
- (xi) the nature and length of the professional relationship with the client;
and
- (xii) awards in similar cases.

In re Pacific Exp., 56 B.R. 859, 862-63 (Bankr. E.D. Cal. 1985) (quoting *Johnson*, 488 F.2d at 717-19).





1 Consideration of the lodestar factors supports the request for allowance of fees and
2 disbursements made by the Firm herein:

3 (i) The time and labor required. Immediately upon its retention by the Trustee, the Firm
4 worked diligently to efficiently administer the Case and serve as lead counsel for the Trustee in the
5 Case. The Firm devoted substantial time to drafting and answering insurance discovery interrogatories
6 and requests, preparing an answer to the Complaint for Rescission and Declaratory Relief, negotiating
7 with the opposing counsel, and ultimately, the Firm made substantial effort towards the resolution of
8 the Case by Settlement, as indicated by the contemporaneous time records submitted as Exhibit 1 to
9 the Declaration. Had the Firm billed hourly on this matter, the total fee award requested would be
10 \$17,282.00, calculated even at the Firm's 2018 rates. Thus, the contingency award represents a
11 significant savings to the Estate.

12 (ii) Novelty and difficulty of the questions involved and skill applied. The Case included
13 several difficult legal questions requiring the unique expertise of the Firm's professionals; specifically,
14 the complex issues insurance raised by the Markell Insurance claim in the Case required specialized
15 and experienced professionals.

16 (iii) The preclusion of other employment by the Firm due to the acceptance of this case. The
17 Firm devoted a substantial amount of its available resources to the legal work required in the Case, as
18 was required given the work required for the Case, and as evidenced by **Exhibit 1** to the Declaration.
19 Because of this, the Firm was required to give this Case attention that either would or could have been
20 devoted to other matters.

21 (iv) The customary fee for similar work. The Firm's fees, as detailed herein, are both
22 warranted and are competitive with the fees charged by attorneys with similar experience providing
23 similar legal services.

24 (v) Whether the fee is fixed or contingent. All fees sought by the Firm are subject to final
25 Court approval, as required by the Bankruptcy Code. The Firm's fees, as sought herein, are on a
26 contingent fee basis, requiring a 40 percent contingency fee calculated on the gross amount of recovery.
27

1 (vi) Time limitations imposed by the client or circumstances. The Firm was retained and its
2 employment approved after the insurance company's lawsuit had already been filed and served.
3 Therefore, the Firm was required to review available information, conduct its investigation, and
4 respond to the lawsuit very quickly.

5 (vii) The amounts involved and the results obtained. The Firm's fees are reasonable, given
6 the size of the Case and the complexity of the legal issues raised in the Case, as discussed herein.

7 (viii) Experience, reputation, and ability of the attorneys. As discussed above, the Firm's
8 professionals are highly skilled bankruptcy practitioners. The Firm's principal attorney is well
9 regarded in the bankruptcy community and has experience representing bankruptcy debtors, chapter 7
10 trustees, unsecured creditors, secured creditors, and other parties in interest in complex bankruptcy
11 proceedings.

12 (ix) The nature and length of the Firm's professional reputation with the client. The Firm
13 has only represented the current Trustee in this legal matter.

14 (x) Awards in similar cases. The request for compensation of fees and reimbursement of
15 expenses is well within what is usually and customarily awarded by the Court in other, similar
16 bankruptcy cases.

17 **X. Payments Made or Promised and Agreements to Share Compensation**

18 The Firm has neither received nor been promised any payments in connection with the Case for
19 services rendered or that may be rendered in the future, other than the payments detailed herein.

20 No agreement or understanding exists between the Firm and any other individual or entity that
21 provides for the sharing of compensation received or that may be received in the future for services
22 rendered in connection with the Case.

23 **XI. Conclusion**

24 For all of the above reasons, the Firm respectfully requests the Court enter an order:
25 (i) approving and allowing on a final basis compensation in the amount of \$4,633.20 for the reasonable
26 and necessary services rendered by the Firm and approving and allowing on a final basis reimbursement
27



1 of actual costs and expenses of \$278.20; (ii) authorizing the Trustee to pay such amount to the Firm;
2 and (iii) granting such additional relief as the Court deems appropriate under the circumstances.

3 Dated this 27th day of February, 2019.

4 Respectfully submitted by:

5 **ANDERSEN LAW FIRM, LTD.**

6 By: /s/ Ryan A. Andersen
7 Ryan A. Andersen, Esq.
8 Nevada Bar No. 12321
9 101 Convention Center Drive
10 Suite 600
11 Las Vegas, Nevada 89109

*Special Litigation Counsel for Shelley Krohn,
Chapter 7 Trustee*



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