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# UNITED STATES BANKRUPTCY COURT DISTRICT OF NEVADA

Electronically Filed On: June 17, 2019

In re: Case No. BK-S-16-16655-BTB Chapter 7 ROBERT C. GRAHAM, LTD. fdba ROB GRAHAM & ASSOCIATES fdba STIPULATION TO APPROVE THIRD LAWYERSWEST, AMENDMENT TO AGREEMENT TOLL STATUTE OF LIMITATIONS AND STATUTE OF REPOSE Debtor. Date of Hearing: N/A Time of Hearing: N/A Judge: Honorable Bruce T. Beesley<sup>1</sup>

Shelley D. Krohn, the duly appointed Chapter 7 Trustee in the above-captioned bankruptcy case (the "Trustee"), by and through her counsel, Jacob L. Houmand, Esq. and Kyle J. Ortiz, Esq. of the Houmand Law Firm, Ltd., and Valassis Direct Mail, Inc. ("Valassis" and together with the Trustee, the "Parties"), by and through its counsel, Ronald A. Spinner, Esq. of Miller Canfield, hereby stipulate and agree as follows:

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<sup>1</sup> 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".

## **RECITALS**

- 1. On December 15, 2016, an *Involuntary Bankruptcy Petition* [ECF No. 1]<sup>2</sup> (the "<u>Involuntary Petition</u>") was filed against Robert C. Graham, Ltd. fdba Rob Graham & Associates fdba Lawyerswest (the "<u>Debtor</u>") pursuant to 11 U.S.C. § 303. The Involuntary Petition was filed by the Estate of Michael B. Macknin, the Sharona Dagani Trust, and the Margueritte Owens Revocable Trust (collectively, the "<u>Petitioning Creditors</u>").
- 2. On December 16, 2016, the Petitioning Creditors filed a *Motion to Appoint Interim Trustee in Involuntary Case* [ECF No. 3] (the "<u>Interim Trustee Motion</u>"), which sought authority to appoint an interim trustee to take possession of property and to manage the business operations and assets of the Debtor.
- 3. On December 21, 2016, the Bankruptcy Court entered an *Order on Trustee Motion* and *Order for Relief Under Chapter 7* [ECF No. 21] (the "Order for Relief"). The Order for Relief provided that the Debtor had consented to the filing of a bankruptcy petition and that the filing of the bankruptcy case was effective as of December 15, 2016 (the "Petition Date"). The Order for Relief further required that the Office of the United States Trustee (the "U.S. Trustee") appoint an Interim Chapter 7 Trustee pursuant to 11 U.S.C. § 701.
- 4. On December 22, 2016, Victoria L. Nelson ("<u>Trustee Nelson</u>") was appointed as the Chapter 7 Trustee in the Debtor's bankruptcy case [ECF No. 22].
  - 5. On January 13, 2018, Trustee Nelson died.
- 6. On January 19, 2018, the Trustee was appointed as the successor Chapter 7 Trustee in the Debtor's bankruptcy case.
- 7. The Trustee has investigated the Debtor's financial affairs and believes that there may be a basis to seek avoidance and recovery of certain pre-petition transfers that were made by the Debtor to Valassis under applicable state and federal law (collectively, the "Claims").

. . .

<sup>&</sup>lt;sup>2</sup> 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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- 8. The deadline for the Trustee to file a complaint based upon the Claims was December 15, 2018.<sup>3</sup> See 11 U.S.C. §§ 108 and 546 (providing a two-year statute of limitations from the entry of the order for relief for a bankruptcy trustee to commence actions under nonbankruptcy law and Sections 544, 545, 547, 548, and 553).
- 9. The Parties entered into a tolling agreement (the "Tolling Agreement") to toll any applicable statute of limitations and statute of repose relating to the Claims until March 15, 2019.
- 10. On December 6, 2018, the Parties filed a Stipulation to Approve Agreement to Toll Statute of Limitations and Statute of Repose [ECF No. 349] that sought approval of the Tolling Agreement.
- 11. On December 7, 2018, the Court entered an Order Approving Stipulation to Approve Agreement to Toll Statute of Limitations and Statute of Repose [ECF No. 353].
- 12. The parties entered into a first amendment to tolling agreement (the "First Amendment") to toll any applicable statute of limitations and statute of repose relating to the Claims until May 17, 2019.
- 13. On March 13, 2019, the Parties filed a Stipulation to Approve First Amendment to Agreement to Toll Statute of Limitations and Statute of Repose [ECF No. 419] that sought approval of the First Amendment.
- 14. On March 14, the Court entered an Order Approving Stipulation to Approve First Amendment to Agreement to Toll Statute of Limitations and Statute of Repose [ECF No. 421].
- 15. The parties entered into a second amendment to tolling agreement (the "Second Amendment") to toll any applicable statute of limitations and statute of repose relating to the Claims until June 17, 2019.
- 16. On May 17, 2019, the Parties filed a Stipulation to Approve Second Amendment to Agreement to Toll Statute of Limitations and Statute of Repose [ECF No. 433] that sought approval of the Second Amendment.

<sup>&</sup>lt;sup>3</sup> Although the Order for Relief in the Debtor's bankruptcy case was entered on December 22, 2016, the Trustee assumed December 15, 2018, was the deadline to commence avoidance actions out of an abundance of caution.

	17.	On May 17, 2019,	the Court en	tered an Or	der Approving	Stipulation to	Approve
Second	Amena	lment to Agreement	to Toll Statu	te of Limita	tions and Stati	ite of Repose	[ECF No
435].							

- 18. The Parties have agreed to enter into a settlement agreement (the "Settlement Agreement") that resolves all disputes concerning the Claims.
- 19. In order to provide sufficient time to obtain court approval of the Settlement Agreement pursuant to FRBP 9019, the Parties have entered into a third amendment to the Tolling Agreement (the "Third Amendment") to toll any applicable statute of limitations and statute of repose relating to the Claims until August 30, 2019.<sup>4</sup> A true and correct copy of the Second Amendment Tolling Agreement is attached hereto as Exhibit "1".
- 20. The Parties now seek court approval of the Second Amendment to Tolling Agreement.

# **STIPULATION**

### IT IS HEREBY STIPULATED AND AGREED that:

- The Third Amendment to Tolling Agreement is APPROVED; and 1.
- 2. Any and all applicable statutes of limitation and statutes of repose relating to the Claims shall be tolled until August 30, 2019, as set forth in the Third Amendment; and
  - 3. The Parties have authority to enter into the Third Amendment; and

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<sup>&</sup>lt;sup>4</sup> The description of the Third Amendment set forth herein is a summary only and does not modify or otherwise affect the terms of the Third Amendment. To the extent of any conflict between the Third Amendment and the description set forth herein, the Third Amendment shall control. Capitalized terms used but not defined herein shall have the meaning set forth in the Third Amendment.

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HOUMAND LAW FIRM, LTD. 9205 West Russell Road, Building 3, Suite 240 Las Vegas, NV 89148 Telephone: (702) 720-3370 Facsimile: (702) 720-3371

4. This Stipulation is without prejud	This Stipulation is without prejudice to the Parties agreeing to a further extension					
of the tolling period set forth in the Tolling Agreement, First Amendment, Second Amendment,						
and Third Amendment.						
Dated this 17th day of June, 2019.	Dated this 17th day of June, 2019.					
By: /s/Jacob L. Houmand Jacob L. Houmand, Esq. (NV Bar No. 12781) Kyle J. Ortiz, Esq. (NV Bar No. 14252) Houmand Law Firm, Ltd. 9205 West Russell Road, Building 3, Suite 240 Las Vegas, NV 89148	By: /s/Ronald A. Spinner Ronald A. Spinner, Esq. Miller Canfield 150 West Jefferson, Suite 2500 Detroit, Michigan 48226					
Counsel for Shelley D. Krohn, Chapter 7 Trustee	Counsel for Valassis Direct Mail, Inc.					