

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

Jacob L. Houmand, Esq. (NV Bar No. 12781)
Email: ihoumand@houmandlaw.com
HOUMAND LAW FIRM, LTD.
9205 West Russell Road, Building 3, Suite 240
Las Vegas, NV 89148
Telephone: 702/720-3370
Facsimile: 702/720-3371

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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

**STIPULATION TO APPROVE SECOND
AMENDMENT TO AGREEMENT TO
TOLL STATUTE OF LIMITATIONS
AND STATUTE OF REPOSE**

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

Judge: Honorable Bruce T. Beesley¹

Shelley D. Krohn (the “Trustee”), the duly appointed Chapter 7 Trustee in the above-captioned bankruptcy case, by and through her counsel, Jacob L. Houmand, Esq. of the Houmand Law Firm, Ltd., and the Corporation of the President of the Church of Jesus Christ of Latter-Day Saints (the “Church” and together with the Trustee, the “Parties”), by and through its counsel, Justin W. Starr, Esq. of the law firm of Kirton McConkie, hereby stipulate and agree as follows:

...

...

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”.

I. RECITALS

1. On December 15, 2016, an *Involuntary Bankruptcy Petition* [ECF No. 1]² (the “Involuntary Petition”) was filed against Robert C. Graham, Ltd. fdba Rob Graham & Associates fdba Lawyerswest (the “Debtor”) 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 “Petitioning Creditors”).

2. On December 16, 2016, the Petitioning Creditors filed a *Motion to Appoint Interim Trustee in Involuntary Case* [ECF No. 3] (the “Interim Trustee Motion”), 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 (“Trustee Nelson”) 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 the Church under applicable state and federal law (collectively, the “Claims”).

...

...

² 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.

8. The Trustee believes the deadline for the Trustee to file a complaint based upon the Claims was December 15, 2018.³ 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 June 15, 2019.

10. On December 11, 2018, the Parties filed a *Stipulation to Approve Agreement to Toll Statute of Limitations and Statute of Repose* [ECF No. 355] that sought approval of the Tolling Agreement.

11. On December 12, 2018, the Court entered an *Order Approving Stipulation to Approve Agreement to Toll Statute of Limitations and Statute of Repose* [ECF No. 356].

12. On June 12, 2019, the Trustee and the Church entered into a *Stipulation to Approve First Amendment to Agreement to Toll Statute of Limitations and Statute of Repose* [ECF No. 437] that sought court approval of the First Amendment to Tolling Agreement (the “First Amendment”) that tolled any applicable statute of limitations and statute of repose relating to the Claims until December 15, 2019.

13. On June 14, 2019, the Court entered an *Order Approving Stipulation to Approve First Amendment to Agreement to Toll Statute of Limitations and Statute of Repose* [ECF No. 442].

14. In order to facilitate an orderly discussion between the Parties concerning the merits of the Claims and potential settlement discussions, the Parties have entered into the 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 13, 2020.⁴ A true and correct

³ Although the Order for Relief in the Debtor’s bankruptcy case was entered on December 22, 2016, the Trustee has assumed December 15, 2018, is the deadline to commence avoidance actions out of an abundance of caution.

⁴ The description of the Second Amendment set forth herein is a summary only and does not modify or otherwise affect the terms of the Tolling Agreement. To the extent of any conflict between the Second Amendment and the description set forth herein, the Second Amendment

copy of the Second Amendment is attached hereto as **Exhibit "1"**.

15. The Parties now seek court approval of the Second Amendment.

II. STIPULATION

IT IS HEREBY STIPULATED AND AGREED that:

1. The Second Amendment to Tolling Agreement is APPROVED; and

2. Any and all applicable statutes of limitation and statutes of repose relating to the Claims shall be tolled until June 13, 2020, as set forth in the Second Amendment; and

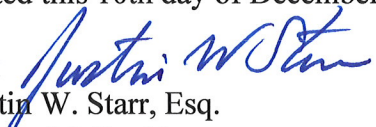
3. The Parties have authority to enter into the Second Amendment; and

4. This Stipulation is without prejudice to the Parties agreeing to a further extension of the tolling period set forth in the Tolling Agreement, the First Amendment, and the Second Amendment.

Dated this 10th day of December, 2019.

Dated this 10th day of December, 2019.

By: /s/ Jacob L. Houmand
Jacob L. Houmand, Esq. (NV Bar No. 12781)
Houmand Law Firm, Ltd.
9205 West Russell Road, Building 3, Suite 240
Las Vegas, NV 89148

By: 
Justin W. Starr, Esq.
Kiron McConkie
36 S. State Street
Suite 1900
Salt Lake City, UT 84111

*Counsel for Shelley D. Krohn, Chapter 7
Trustee*

Counsel for the Church

shall control. Capitalized terms used but not defined herein shall have the meaning set forth in the Second Amendment.