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**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA**

In re:
AMERI-DREAM REALTY, LLC,

Debtor.

Case No. BK-S-15-10110-GS
Chapter 7

**TRUSTEE’S SEVENTH OMNIBUS
OBJECTION TO PROOFS OF CLAIM
PURSUANT TO 11 U.S.C. § 502(b)(1) AND
FEDERAL RULE OF BANKRUPTCY
PROCEDURE 3007—CLAIM NUMBERS
65-2, 195-1, 214-1, 240-1, 307-1, 335-1, 594-
1, 597-1, 659-1, 694-1, 717-1, 736-1, 868-1,
869-1, 870-1, 871-1, 872-1, 873-1, 874-1, 875-
1, 876-1, 877-1, 878-1, 879-1, 880-1, 881-1,
882-1, 883-1, 884-1, 885-1, 886-1, 887-1, 888-
1, 889-1, 890-1, 891-1, 892-1, 893-1, 894-1,
899-1, 903-1, 905-1, 906-1, 908-1, 909-1, 915-
1, AND 916-1, BASED ON IMPROPER
ASSERTION OF A PRIORITY CLAIM
BY A LANDLORD FOR A SECURITY
DEPOSIT**

Date of Hearing: September 15, 2020
Time of Hearing: 9:30 a.m.
Place: Courtroom No. To Be Determined
Foley Federal Building
300 Las Vegas Blvd., S.
Las Vegas, NV 89101

Judge: Honorable Gary Spraker

Shelley D. Krohn (the “Trustee”), the duly appointed Chapter 7 Trustee in the above-captioned bankruptcy case, by and through her counsel of record, Jacob L. Houmand, Esq. and

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1 Bradley G. Sims, Esq. of the Houmand Law Firm, Ltd., hereby submits the *Trustee’s Seventh*
2 *Omnibus Objection To Proofs Of Claim Pursuant To 11 U.S.C. § 502(B)(1) And Federal Rule Of*
3 *Bankruptcy Procedure 3007—Claim Numbers 65-2, 195-1, 214-1, 240-1, 307-1, 335-1, 594-1,*
4 *597-1, 659-1, 694-1, 717-1, 736-1, 868-1, 869-1, 870-1, 871-1, 872-1, 873-1, 874-1, 875-1, 876-*
5 *1, 877-1, 878-1, 879-1, 880-1, 881-1, 882-1, 883-1, 884-1, 885-1, 886-1, 887-1, 888-1, 889-1,*
6 *890-1, 891-1, 892-1, 893-1, 894-1, 899-1, 903-1, 905-1, 906-1, 908-1, 909-1, 915-1, and 916-1,*
7 *Based On Improper Assertion Of A Priority Claim by a Landlord For a Security Deposit (the*
8 *“Objection”).¹*

9 The Objection is based on the following Memorandum of Points and Authorities and the
10 *Declaration of Shelley D. Krohn In Support of Trustee’s Seventh Omnibus Objection To Proofs*
11 *Of Claim Pursuant To 11 U.S.C. § 502(B)(1) And Federal Rule Of Bankruptcy Procedure 3007—*
12 *Claim Numbers 65-2, 195-1, 214-1, 240-1, 307-1, 335-1, 594-1, 597-1, 659-1, 694-1, 717-1, 736-*
13 *1, 868-1, 869-1, 870-1, 871-1, 872-1, 873-1, 874-1, 875-1, 876-1, 877-1, 878-1, 879-1, 880-1,*
14 *881-1, 882-1, 883-1, 884-1, 885-1, 886-1, 887-1, 888-1, 889-1, 890-1, 891-1, 892-1, 893-1, 894-*
15 *1, 899-1, 903-1, 905-1, 906-1, 908-1, 909-1, 915-1, and 916-1,Based On Improper Assertion Of A*
16 *Priority Claim by a Landlord For a Security Deposit (the “Trustee Declaration”), which is filed*
17 *separately and concurrently with this Court pursuant to Local Rule 9014(c)(2). The Objection is*
18 *also based on the pleadings and papers on file herein, and any argument that may be entertained at*
19 *the hearing on the Objection.²*

20 ...

21 ...

22 ...

23 _____
24 ¹ Unless otherwise indicated, all chapter and section references are to the Bankruptcy Code, 11
25 U.S.C. §§ 101-1532, and to the Federal Rules of Bankruptcy Procedure, Rules 1001-9037. The
26 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”.

27 ² The Trustee also requests that the Court take judicial notice of all pleadings filed in the above-
28 referenced bankruptcy case, including adversary proceedings, pursuant to Federal Rule of
Evidence 201, incorporated by reference by FRBP 9017.

1 In accordance with FRBP 3007(e)(1), the Trustee directs all claimants receiving this
 2 objection to locate their names and claims in this objection.

3 **MEMORANDUM OF POINTS AND AUTHORITIES**

4 **I. INTRODUCTION**

5 This Omnibus Objection relates to a series of claims that assert priority under Section
 6 507(a)(7) by landlords for security deposits. These claims are not entitled to priority pursuant to
 7 11 U.S.C. § 507(a)(7) as only tenants are allowed a priority claim for security deposits. For this
 8 reason, the Trustee seeks an order finding that these claims are not entitled to priority under
 9 Section 507(a)(7).

10 **II. JURISDICTION AND VENUE**

11 This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1134. This
 12 is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A). Venue before this Court is appropriate
 13 under 28 U.S.C. §§ 1408 and 1409. This matter constitutes a core proceeding under 28 U.S.C. §
 14 157(b)(2). Pursuant to Local Rule 9014.2, if the Court determines that absent consent of the
 15 parties the Court cannot enter final orders or judgment regarding the Objection consistent with
 16 Article III of the United States Constitution, the Firm consents to entry of final orders and
 17 judgment by this Court. The statutory basis for the relief sought herein are Section 502(b)(1) and
 18 FRBP 3007.

19 **II. CLAIMS OBJECTED TO IN THIS OMNIBUS OBJECTION**

20 In accordance with FRBP 3007(e)(2) and (3) the following proofs of claim are objected to
 21 herein:

Claimant	Proof of Claim No.	Grounds for objection ³
Alexandra Assets, LLC	307-1	Claim improperly asserts priority under 11 U.S.C. § 507(a)(7). This type of priority claim may not be asserted by a landlord. <i>See</i> p. 17-19.

27
 28 ³ Unless otherwise stated, page references are to the page within this motion stating the legal argument for the objection.

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1	Bailey, Richard Peter	594-1	Claim improperly asserts priority under 11
2	and Jingru Luo		U.S.C. § 507(a)(7). This type of priority claim
3			may not be asserted by a landlord. <i>See</i> p. 17-19.
4	Cai, Hong	905-1	Claim improperly asserts priority under 11
5			U.S.C. § 507(a)(7). This type of priority claim
6			may not be asserted by a landlord. <i>See</i> p. 17-19.
7	Cardenas, Victor and	869-1	Claim improperly asserts priority under 11
8	Adriana		U.S.C. § 507(a)(7). This type of priority claim
9			may not be asserted by a landlord. <i>See</i> p. 17-19.
10	Chaskin, Richard	240-1	Claim improperly asserts priority under 11
11			U.S.C. § 507(a)(7). This type of priority claim
12			may not be asserted by a landlord. <i>See</i> p. 17-19.
13	Deng, Dekang	694-1	Claim improperly asserts priority under 11
14			U.S.C. § 507(a)(7). This type of priority claim
15			may not be asserted by a landlord. <i>See</i> p. 17-19.
16	Evergreen 99, LLC	882-1	Claim improperly asserts priority under 11
17			U.S.C. § 507(a)(7). This type of priority claim
18			may not be asserted by a landlord. <i>See</i> p. 17-19.
19	Fortune 77, LLC	884-1	Claim improperly asserts priority under 11
20			U.S.C. § 507(a)(7). This type of priority claim
21			may not be asserted by a landlord. <i>See</i> p. 17-19.
22	Golden Sun Dynasty,	892-1	Claim improperly asserts priority under 11
23	LLC		U.S.C. § 507(a)(7). This type of priority claim
24			may not be asserted by a landlord. <i>See</i> p. 17-19.
25	Golden Sun Dynasty,	893-1	Claim improperly asserts priority under 11
26	LLC		U.S.C. § 507(a)(7). This type of priority claim
27			may not be asserted by a landlord. <i>See</i> p. 17-19.
28			

1	Golden Sun Dynasty, 2 3 4 5 6 7 8 9	894-1	Claim improperly asserts priority under 11 U.S.C. § 507(a)(7). This type of priority claim may not be asserted by a landlord. <i>See</i> p. 17-19.
4	He, Yao Chi and Rui 5 6 7 8 9	659-1	Claim improperly asserts priority under 11 U.S.C. § 507(a)(7). This type of priority claim may not be asserted by a landlord. <i>See</i> p. 17-19.
7	Henry, Chu Hsiao Wen 8 9	915-1	Claim improperly asserts priority under 11 U.S.C. § 507(a)(7). This type of priority claim may not be asserted by a landlord. <i>See</i> p. 17-19.
10	Hu, Hong Feng 11 12	597-1	Claim improperly asserts priority under 11 U.S.C. § 507(a)(7). This type of priority claim may not be asserted by a landlord. <i>See</i> p. 17-19.
13	Huang, Allen Wei-Lun 14 15 16 17 18	872-1	Claim improperly asserts priority under 11 U.S.C. § 507(a)(7). This type of priority claim may not be asserted by a landlord. <i>See</i> p. 17-19.
16	Huang, Pearson 17 18	65-2	Claim improperly asserts priority under 11 U.S.C. § 507(a)(7). This type of priority claim may not be asserted by a landlord. <i>See</i> p. 17-19.
19	Huynh, Jimmy 20 21	868-1	Claim improperly asserts priority under 11 U.S.C. § 507(a)(7). This type of priority claim may not be asserted by a landlord. <i>See</i> p. 17-19.
22	Kang, Chang Hsiu 23 24	906-1	Claim improperly asserts priority under 11 U.S.C. § 507(a)(7). This type of priority claim may not be asserted by a landlord. <i>See</i> p. 17-19.
25	Lam, James and Jing 26 27	909-1	Claim improperly asserts priority under 11 U.S.C. § 507(a)(7). This type of priority claim may not be asserted by a landlord. <i>See</i> p. 17-19.
28			

1	Li, Fanny	717-1	Claim improperly asserts priority under 11
2			U.S.C. § 507(a)(7). This type of priority claim
3			may not be asserted by a landlord. <i>See</i> p. 17-19.
4	Li, Qian Yan	874-1	Claim improperly asserts priority under 11
5			U.S.C. § 507(a)(7). This type of priority claim
6			may not be asserted by a landlord. <i>See</i> p. 17-19.
7	Li, Yawen	885-1	Claim improperly asserts priority under 11
8			U.S.C. § 507(a)(7). This type of priority claim
9			may not be asserted by a landlord. <i>See</i> p. 17-19.
10	Lin and Chen	908-1	Claim improperly asserts priority under 11
11	Investment, LLC		U.S.C. § 507(a)(7). This type of priority claim
12			may not be asserted by a landlord. <i>See</i> p. 17-19.
13	Lo, Jocelyn	214-1	Claim improperly asserts priority under 11
14			U.S.C. § 507(a)(7). This type of priority claim
15			may not be asserted by a landlord. <i>See</i> p. 17-19.
16	Lu, Binh and Minh Ly	887-1	Claim improperly asserts priority under 11
17			U.S.C. § 507(a)(7). This type of priority claim
18			may not be asserted by a landlord. <i>See</i> p. 17-19.
19	Lu, Binh and Minh Ly	888-1	Claim improperly asserts priority under 11
20			U.S.C. § 507(a)(7). This type of priority claim
21			may not be asserted by a landlord. <i>See</i> p. 17-19.
22	Lu, Binh and Minh Ly	889-1	Claim improperly asserts priority under 11
23			U.S.C. § 507(a)(7). This type of priority claim
24			may not be asserted by a landlord. <i>See</i> p. 17-19.
25	Lu, Binh and Minh Ly	890-1	Claim improperly asserts priority under 11
26			U.S.C. § 507(a)(7). This type of priority claim
27			may not be asserted by a landlord. <i>See</i> p. 17-19.
28			

1	Lu, Binh and Minh Ly	891-1	Claim improperly asserts priority under 11
2			U.S.C. § 507(a)(7). This type of priority claim
3			may not be asserted by a landlord. <i>See</i> p. 17-19.
4	Ma, Harry	916-1	Claim improperly asserts priority under 11
5			U.S.C. § 507(a)(7). This type of priority claim
6			may not be asserted by a landlord. <i>See</i> p. 17-19.
7	Moshin Hafeez – Plutus	899-1	Claim improperly asserts priority under 11
8	Real Estate Investments		U.S.C. § 507(a)(7). This type of priority claim
9	filed		may not be asserted by a landlord. <i>See</i> p. 17-19.
10	Quach, Howard and	880-1	Claim improperly asserts priority under 11
11	Mai Tran		U.S.C. § 507(a)(7). This type of priority claim
12			may not be asserted by a landlord. <i>See</i> p. 17-19.
13	Quach, Howard and	881-1	Claim improperly asserts priority under 11
14	Mai Tran		U.S.C. § 507(a)(7). This type of priority claim
15			may not be asserted by a landlord. <i>See</i> p. 17-19.
16	Six Sigma	871-1	Claim improperly asserts priority under 11
17	Management, LLC		U.S.C. § 507(a)(7). This type of priority claim
18			may not be asserted by a landlord. <i>See</i> p. 17-19.
19	Six Sigma	873-1	Claim improperly asserts priority under 11
20	Management, LLC		U.S.C. § 507(a)(7). This type of priority claim
21			may not be asserted by a landlord. <i>See</i> p. 17-19.
22	Tang, Bo	195-1	Claim improperly asserts priority under 11
23			U.S.C. § 507(a)(7). This type of priority claim
24			may not be asserted by a landlord. <i>See</i> p. 17-19.
25	Tang, Yan Rong	886-1	Claim improperly asserts priority under 11
26			U.S.C. § 507(a)(7). This type of priority claim
27			may not be asserted by a landlord. <i>See</i> p. 17-19.
28			

1	Vinca Family Limited	870-1	Claim improperly asserts priority under 11
2	Partnership		U.S.C. § 507(a)(7). This type of priority claim
3			may not be asserted by a landlord. <i>See</i> p. 17-19.
4	Weng, Winston V. and	335-1	Claim improperly asserts priority under 11
5	Dao To		U.S.C. § 507(a)(7). This type of priority claim
6			may not be asserted by a landlord. <i>See</i> p. 17-19.
7	Wong, Steven and	903-1	Claim improperly asserts priority under 11
8	Sonia Chou		U.S.C. § 507(a)(7). This type of priority claim
9			may not be asserted by a landlord. <i>See</i> p. 17-19.
10	Young, Louis and Cory	875-1	Claim improperly asserts priority under 11
11	Young		U.S.C. § 507(a)(7). This type of priority claim
12			may not be asserted by a landlord. <i>See</i> p. 17-19.
13	Yu, Chia Tsung	883-1	Claim improperly asserts priority under 11
14			U.S.C. § 507(a)(7). This type of priority claim
15			may not be asserted by a landlord. <i>See</i> p. 17-19.
16	Zhang, Jimmy	876-1	Claim improperly asserts priority under 11
17			U.S.C. § 507(a)(7). This type of priority claim
18			may not be asserted by a landlord. <i>See</i> p. 17-19.
19	Zhang, Jimmy	877-1	Claim improperly asserts priority under 11
20			U.S.C. § 507(a)(7). This type of priority claim
21			may not be asserted by a landlord. <i>See</i> p. 17-19.
22	Zhang, Lei	878-1	Claim improperly asserts priority under 11
23			U.S.C. § 507(a)(7). This type of priority claim
24			may not be asserted by a landlord. <i>See</i> p. 17-19.
25	Zhang, Ya Qing	736-1	Claim improperly asserts priority under 11
26			U.S.C. § 507(a)(7). This type of priority claim
27			may not be asserted by a landlord. <i>See</i> p. 17-19.
28			

1	Zhong, Xia	879-1	Claim improperly asserts priority under 11
2			U.S.C. § 507(a)(7). This type of priority claim
3			may not be asserted by a landlord. <i>See</i> p. 17-19.

4

III. STATEMENT OF FACTS

5

6 1. On January 9, 2015 (the “Petition Date”), the Debtor filed a voluntary bankruptcy
7 pursuant to Chapter 7 of Title 11 of the United States Code [ECF No. 1]⁴.

8 2. On January 9, 2015, Victoria L. Nelson (“Trustee Nelson”) was appointed as the
9 Chapter 7 Trustee in the Debtor’s bankruptcy case [ECF No. 4].

10 3. On January 28, 2015, the Court entered an *Amended Notice of Chapter 7*
11 *Bankruptcy Case* [ECF No. 12] that established May 14, 2015, as the deadline for creditors to file
12 proofs of claim.

13 4. On February 9, 2015, Trustee Nelson filed an *Application for Order Authorizing*
14 *Employment of the Garden City Group, LLC As Claims and Noticing Agent* [ECF No. 88].

15 5. On February 27, 2015, the Court entered an *Order Granting Application for Order*
16 *Authorizing Employment of the Garden City Group, LLC As Claims and Noticing Agent* [ECF No.
17 128].

18 6. Since its employment, GCG has been maintaining the Proofs of Claim that have
19 been submitted by creditors.

20 7. On January 13, 2018, Trustee Nelson died.

21 8. On January 19, 2018, the Trustee was appointed as the successor Chapter 7 Trustee
22 in the Debtor’s bankruptcy case.

23 9. On April 20, 2015, Bo Tang filed a claim claiming priority under 11 U.S.C. §
24 507(a)(7) in the amount of \$1,595.00 based on deposit toward purchase, lease or rental of
25 property. A true and correct copy of Claim 195-is attached to the Trustee Declaration as **Exhibit**
26 **“1”**.

27 _____
28 ⁴ All references to “ECF No.” are to the numbers assigned to the documents filed in the case as they appear on the docket maintained by the clerk of the court.

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1 10. On April 23, 2015, Jocelyn Lo filed a claim claiming priority under 11 U.S.C. §
2 507(a)(7) in the amount of \$950.00 based on deposit toward purchase, lease or rental of property.
3 A true and correct copy of Claim 214-1 is attached to the Trustee Declaration as **Exhibit “2”**.

4 11. On April 29, 2015, Richard Chaskin filed a claim claiming priority under 11
5 U.S.C. § 507(a)(7) in the amount of \$2,250.00 based on deposit toward purchase, lease or rental
6 of property. A true and correct copy of Claim 240-1 is attached to the Trustee Declaration as
7 **Exhibit “3”**.

8 12. On May 6, 2015, Alexandra Assets, LLC filed a claim claiming priority under 11
9 U.S.C. § 507(a)(7) in the amount of \$2,025.00 based on deposit toward purchase, lease or rental
10 of property. A true and correct copy of Claim 307-1 is attached to the Trustee Declaration as
11 **Exhibit “4”**.

12 13. On May 7, 2015, Winston V. Weng and Dao To Trieu filed a claim claiming
13 priority under 11 U.S.C. § 507(a)(7) in the amount of \$1,050.00 based on deposit toward
14 purchase, lease or rental of property. A true and correct copy of Claim 335-1 is attached to the
15 Trustee Declaration as **Exhibit “5”**.

16 14. On May 11, 2015, Yao Chi He and Rui Yan Guo filed a claim claiming priority
17 under 11 U.S.C. § 507(a)(7) in the amount of \$1,200.00 based on deposit toward purchase, lease
18 or rental of property. A true and correct copy of Claim 659-1 is attached to the Trustee
19 Declaration as **Exhibit “6”**.

20 15. On May 11, 2015, Richard Peter Bailey and Jingru Luo filed a claim claiming
21 priority under 11 U.S.C. § 507(a)(7) in the amount of \$1,650.00 based on deposit toward
22 purchase, lease or rental of property. A true and correct copy of Claim 594-1 is attached to the
23 Trustee Declaration as **Exhibit “7”**.

24 16. On May 11, 2015, Hong Feng Hu filed a claim claiming priority under 11 U.S.C. §
25 507(a)(7) in the amount of \$1,875.00 based on deposit toward purchase, lease or rental of
26 property. A true and correct copy of Claim 597-1 is attached to the Trustee Declaration as **Exhibit**
27 **“8”**.

28 17. On May 12, 2015, Dekang Deng filed a claim claiming priority under 11 U.S.C. §

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1 507(a)(7) in the amount of \$1,525.00 based on deposit toward purchase, lease or rental of
2 property. A true and correct copy of Claim 694-1 is attached to the Trustee Declaration as **Exhibit**
3 **“9”**.

4 18. On May 12, 2015, Fanny Li filed a claim claiming priority under 11 U.S.C. §
5 507(a)(7) in the amount of \$2,050.00 based on deposit toward purchase, lease or rental of
6 property. A true and correct copy of Claim 717-1 is attached to the Trustee Declaration as **Exhibit**
7 **“10”**.

8 19. On May 12, 2015, Ya Qing Zhang filed a claim claiming priority under 11 U.S.C.
9 § 507(a)(7) in the amount of \$1,770.00 based on deposit toward purchase, lease or rental of
10 property. A true and correct copy of Claim 736-1 is attached to the Trustee Declaration as **Exhibit**
11 **“11”**.

12 20. On May 14, 2015, Pearson Huang filed a claim claiming priority under 11 U.S.C. §
13 507(a)(7) in the amount of \$3,200.00 based on deposit toward purchase, lease or rental of
14 property. A true and correct copy of Claim 65-2 is attached to the Trustee Declaration as **Exhibit**
15 **“12”**.

16 21. On May 14, 2015, Jimmy Huynh filed a claim claiming priority under 11 U.S.C. §
17 507(a)(7) in the amount of \$1,950.00 based on deposit toward purchase, lease or rental of
18 property. A true and correct copy of Claim 868-1 is attached to the Trustee Declaration as **Exhibit**
19 **“13”**.

20 22. On May 14, 2015, Victor and Adriana Cardenas filed a claim claiming priority
21 under 11 U.S.C. § 507(a)(7) in the amount of \$1,500.00 based on deposit toward purchase, lease
22 or rental of property. A true and correct copy of Claim 869-1 is attached to the Trustee
23 Declaration as **Exhibit “14”**.

24 23. On May 14, 2015, Vinca Family Limited Partnership filed a claim claiming
25 priority under 11 U.S.C. § 507(a)(7) in the amount of \$1,500.00 based on deposit toward
26 purchase, lease or rental of property. A true and correct copy of Claim 870-1 is attached to the
27 Trustee Declaration as **Exhibit “15”**.

28 . . .

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1 24. On May 14, 2015, Six Sigma Management, LLC filed a claim claiming priority
2 under 11 U.S.C. § 507(a)(7) in the amount of \$1,395.00 based on deposit toward purchase, lease
3 or rental of property. A true and correct copy of Claim 871-1 is attached to the Trustee
4 Declaration as **Exhibit “16”**.

5 25. On May 14, 2015, Allen Wei-Lun Huang and Wei-Tze Chen filed a claim claiming
6 priority under 11 U.S.C. § 507(a)(7) in the amount of \$2,350.00 based on deposit toward
7 purchase, lease or rental of property. A true and correct copy of Claim 872-1 is attached to the
8 Trustee Declaration as **Exhibit “17”**.

9 26. On May 14, 2015, Six Sigma, LLC filed a claim claiming priority under 11 U.S.C.
10 § 507(a)(7) in the amount of \$2,815.00 based on deposit toward purchase, lease or rental of
11 property. A true and correct copy of Claim 873-1 is attached to the Trustee Declaration as **Exhibit**
12 **“18”**.

13 27. On May 14, 2015, Qian Yan Li filed a claim for \$3,156.00, claiming a secured
14 claim of \$1,906.00 and claiming priority under 11 U.S.C. § 507(a)(7) in the amount of \$1,250.00
15 based on deposit toward purchase, lease or rental of property. A true and correct copy of Claim
16 874-1 is attached to the Trustee Declaration as **Exhibit “19”**.

17 28. On May 14, 2015, Louis Young and Cory Young filed a claim claiming priority
18 under 11 U.S.C. § 507(a)(7) in the amount of \$1,000.00 based on deposit toward purchase, lease
19 or rental of property. A true and correct copy of Claim 875-1 is attached to the Trustee
20 Declaration as **Exhibit “20”**.

21 29. On May 14, 2015, Jimmy Zhang filed a claim claiming priority under 11 U.S.C. §
22 507(a)(7) in the amount of \$1,605.00 based on deposit toward purchase, lease or rental of
23 property. A true and correct copy of Claim 876-1 is attached to the Trustee Declaration as **Exhibit**
24 **“21”**.

25 30. On May 14, 2015, Jimmy Zhang filed a claim claiming priority under 11 U.S.C. §
26 507(a)(7) in the amount of \$1,975.00 based on deposit toward purchase, lease or rental of
27 property. A true and correct copy of Claim 877-1 is attached to the Trustee Declaration as **Exhibit**
28 **“22”**.

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- 1 31. On May 14, 2015, Lei Zhang filed a claim claiming priority under 11 U.S.C. §
2 507(a)(7) in the amount of \$1,950.00 based on deposit toward purchase, lease or rental of
3 property. A true and correct copy of Claim 878-1 is attached to the Trustee Declaration as **Exhibit**
4 **“23”**.
- 5 32. On May 14, 2015, Xia Zhong filed a claim claiming priority under 11 U.S.C. §
6 507(a)(7) in the amount of \$1,300.00 based on deposit toward purchase, lease or rental of
7 property. A true and correct copy of Claim 879-1 is attached to the Trustee Declaration as **Exhibit**
8 **“24”**.
- 9 33. On May 14, 2015, Howard Quach and Mai Tran filed a claim claiming priority
10 under 11 U.S.C. § 507(a)(7) in the amount of \$1,250.00 based on deposit toward purchase, lease
11 or rental of property. A true and correct copy of Claim 880-1 is attached to the Trustee
12 Declaration as **Exhibit “25”**.
- 13 34. On May 14, 2015, Howard Quach and Mai Tran filed a claim claiming priority
14 under 11 U.S.C. § 507(a)(7) in the amount of \$1,300.00 based on deposit toward purchase, lease
15 or rental of property. A true and correct copy of Claim 881-1 is attached to the Trustee
16 Declaration as **Exhibit “26”**.
- 17 35. On May 14, 2015, Evergreen 99, LLC filed a claim claiming priority under 11
18 U.S.C. § 507(a)(7) in the amount of \$1,200.00 based on deposit toward purchase, lease or rental
19 of property. A true and correct copy of Claim 882-1 is attached to the Trustee Declaration as
20 **Exhibit “27”**.
- 21 36. On May 14, 2015, Chia Tsung Yu filed a claim claiming priority under 11 U.S.C.
22 § 507(a)(7) in the amount of \$600.00 based on deposit toward purchase, lease or rental of
23 property. A true and correct copy of Claim 883-1 is attached to the Trustee Declaration as **Exhibit**
24 **“28”**.
- 25 37. On May 14, 2015, Fortune 77, LLC filed a claim claiming priority under 11 U.S.C.
26 § 507(a)(7) in the amount of \$2,700.00 based on deposit toward purchase, lease or rental of
27 property. A true and correct copy of Claim 884-1 is attached to the Trustee Declaration as **Exhibit**
28 **“29”**.

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- 1 38. On May 14, 2015, Yawen Li filed a claim claiming priority under 11 U.S.C. §
2 507(a)(7) in the amount of \$1,000.00 based on deposit toward purchase, lease or rental of
3 property. A true and correct copy of Claim 885-1 is attached to the Trustee Declaration as **Exhibit**
4 **“30”**.
- 5 39. On May 14, 2015, Yan Rong Tang filed a claim claiming priority under 11 U.S.C.
6 § 507(a)(7) in the amount of \$1,500.00 based on deposit toward purchase, lease or rental of
7 property. A true and correct copy of Claim 886-1 is attached to the Trustee Declaration as **Exhibit**
8 **“31”**.
- 9 40. On May 14, 2015, Binh Lu and Minh Ly filed a claim claiming priority under 11
10 U.S.C. § 507(a)(7) in the amount of \$2,400.00 based on deposit toward purchase, lease or rental
11 of property. A true and correct copy of Claim 887-1 is attached to the Trustee Declaration as
12 **Exhibit “32”**.
- 13 41. On May 14, 2015, Binh Lu and Minh Ly filed a claim claiming priority under 11
14 U.S.C. § 507(a)(7) in the amount of \$1,800.00 based on deposit toward purchase, lease or rental
15 of property. A true and correct copy of Claim 888-1 is attached to the Trustee Declaration as
16 **Exhibit “33”**.
- 17 42. On May 14, 2015, Binh Lu and Minh Ly filed a claim claiming priority under 11
18 U.S.C. § 507(a)(7) in the amount of \$1,400.00 based on deposit toward purchase, lease or rental
19 of property. A true and correct copy of Claim 889-1 is attached to the Trustee Declaration as
20 **Exhibit “34”**.
- 21 43. On May 14, 2015, Binh Lu and Minh Ly filed a claim claiming priority under 11
22 U.S.C. § 507(a)(7) in the amount of \$1,800.00 based on deposit toward purchase, lease or rental
23 of property. A true and correct copy of Claim 890-1 is attached to the Trustee Declaration as
24 **Exhibit “35”**.
- 25 44. On May 14, 2015, Binh Lu and Minh Ly filed a claim claiming priority under 11
26 U.S.C. § 507(a)(7) in the amount of \$1,700.00 based on deposit toward purchase, lease or rental
27 of property. A true and correct copy of Claim 891-1 is attached to the Trustee Declaration as
28 **Exhibit “36”**.

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- 1 45. On May 14, 2015, Golden Sun Dynasty, LLC filed a claim claiming priority under
2 11 U.S.C. § 507(a)(7) in the amount of \$1,200.00 based on deposit toward purchase, lease or
3 rental of property. A true and correct copy of Claim 892-1 is attached to the Trustee Declaration
4 as **Exhibit “37”**.
- 5 46. On May 14, 2015, Golden Sun Dynasty, LLC filed a claim claiming priority under
6 11 U.S.C. § 507(a)(7) in the amount of \$2,200.00 based on deposit toward purchase, lease or
7 rental of property. A true and correct copy of Claim 893-1 is attached to the Trustee Declaration
8 as **Exhibit “38”**.
- 9 47. On May 14, 2015, Golden Sun Dynasty, LLC filed a claim claiming priority under
10 11 U.S.C. § 507(a)(7) in the amount of \$1,800.00 based on deposit toward purchase, lease or
11 rental of property. A true and correct copy of Claim 894-1 is attached to the Trustee Declaration
12 as **Exhibit “39”**.
- 13 48. On May 14, 2015, Moshin Hafeez – Plutus Real Estate Investments filed a claim
14 for \$1588.00 and claiming priority under 11 U.S.C. § 507(a)(7) in the amount of \$200.00 based
15 on deposit toward purchase, lease or rental of property. A true and correct copy of Claim 899-1 is
16 attached to the Trustee Declaration as **Exhibit “40”**.
- 17 49. On May 14, 2015, Steven Wong and Sonia Chou filed a claim claiming priority
18 under 11 U.S.C. § 507(a)(7) in the amount of \$2,790.00 based on deposit toward purchase, lease
19 or rental of property. A true and correct copy of Claim 903-1 is attached to the Trustee
20 Declaration as **Exhibit “41”**.
- 21 50. On May 14, 2015, Hong Cai filed a claim for \$3,719.00 and claiming priority
22 under 11 U.S.C. § 507(a)(7) in the amount of \$1,200.00 based on deposit toward purchase, lease
23 or rental of property. A true and correct copy of Claim 905-1 is attached to the Trustee
24 Declaration as **Exhibit “42”**.
- 25 51. On May 14, 2015, Chang Hsiu Kang filed a claim for \$5200.00 and claiming
26 priority under 11 U.S.C. § 507(a)(7) in the amount of \$2,775.00 based on deposit toward
27 purchase, lease or rental of property. A true and correct copy of Claim 906-1 is attached to the
28 Trustee Declaration as **Exhibit “43”**.

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1 52. On May 14, 2015, Lin and Chen Investment, LLC filed a claim for \$5,236.00 and
2 claiming priority under 11 U.S.C. § 507(a)(7) in the amount of \$2,775.00 based on deposit toward
3 purchase, lease or rental of property. A true and correct copy of Claim 908-1 is attached to the
4 Trustee Declaration as **Exhibit “44”**.

5 53. On May 14, 2015, James Lam and Jing Xia Lam filed a claim for \$3,150.00 and
6 claiming priority under 11 U.S.C. § 507(a)(7) in the amount of \$2,775.00 based on deposit toward
7 purchase, lease or rental of property. A true and correct copy of Claim 909-1 is attached to the
8 Trustee Declaration as **Exhibit “45”**.

9 54. On May 14, 2015, Chu Hsiao Wen Henry filed a claim claiming priority under 11
10 U.S.C. § 507(a)(7) in the amount of \$1,307.00 based on deposit toward purchase, lease or rental
11 of property. A true and correct copy of Claim 915-1 is attached to the Trustee Declaration as
12 **Exhibit “46”**.

13 55. On May 14, 2015, Harry Ma filed a claim for \$3,150.00 and claiming priority
14 under 11 U.S.C. § 507(a)(7) in the amount of \$1,600.00 based on deposit toward purchase, lease
15 or rental of property. A true and correct copy of Claim 916-1 is attached to the Trustee
16 Declaration as **Exhibit “47”**.

17 56. On February 10, 2020, the Court entered an *Order Granting Ex Parte Motion to*
18 *Permit the Joinder of Objections to Proofs of Claim Pursuant to Federal Rule of Bankruptcy*
19 *Procedure 3007(c)* [ECF No. 306].

20 57. The Trustee now seeks an order finding that Claims 65-2, 195-1, 214-1, 240-1,
21 307-1, 335-1, 594-1, 597-1, 659-1, 694-1, 717-1, 736-1, 868-1, 869-1, 870-1, 871-1, 872-1, 873-
22 1, 874-1, 875-1, 876-1, 877-1, 878-1, 879-1, 880-1, 881-1, 882-1, 883-1, 884-1, 885-1, 886-1,
23 887-1, 888-1, 889-1, 890-1, 891-1, 892-1, 893-1, 894-1, 899-1, 903-1, 905-1, 906-1, 908-1, 909-
24 1, 915-1, and 916-1 are not entitled to priority under Section 507(a)(7), and reclassifying these
25 claims as general unsecured claims.

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IV. LEGAL ARGUMENT

A. The Standard For Disallowance of Proofs of Claim

Pursuant to section 502, a filed proof of claim is deemed allowed, unless a party in interest objects thereto. *See* 11 U.S.C. § 502(a). The United States Court of Appeals for the Ninth Circuit has described the obligations of a creditor in establishing their claim and the burdens relating to proofs of claim objections:

Inasmuch as Rule 3001(f) and section 502(a) provide that a claim or interest as to which proof is filed is "deemed allowed," the burden of initially going forward with the evidence as to the validity and the amount of the claim is that of the objector to that claim. In short, the allegations of the proof of claim are taken as true. **If those allegations set forth all the necessary facts to establish a claim and are not self-contradictory, they prima facie establish the claim.** Should objection be taken, the objector is then called upon to produce evidence and show facts tending to defeat the claim by probative force equal to that of the allegations of the proofs of claim themselves. **But the ultimate burden of persuasion is always on the claimant.** Thus, it may be said that the proof of claim is some evidence as to its validity and amount.

Wright v. Holm (In re Holm), 931 F.2d 620, 623 (9th Cir. 1991) (quoting 3 L. King, COLLIER ON BANKRUPTCY § 502.02, at 502-22 (15th ed. 1991)) (emphasis removed) (emphasis added); *see also Lundell v. Anchor Constr. Specialists, Inc.*, 223 F.3d 1035, 1040 (9th Cir. 2000) (holding that the bankruptcy court correctly understood that the ultimate burden of persuasion was on the creditor); *Spencer v. Pugh (In re Pugh)*, 157 B.R. 898, 901 (B.A.P. 9th Cir. 1993) (holding claimant bears ultimate burden of persuasion as to validity and amount of the claim by a preponderance of the evidence). Accordingly, to be entitled to prima facie validity of a claim, a proof of claim must set forth all necessary facts to establish the claim. *Wright*, 931 F.2d at 623. Furthermore, the ultimate burden is always on the claimant, and a claim must be denied if the claimant cannot carry this burden after an objection showing facts tending to defeat the claim. *Id.* If the objector produces sufficient evidence to negate one or more of the sworn facts in the proof of claim, the burden reverts to the claimant to prove the validity of the claim by a preponderance of the evidence. *See Lundell*, 223 F.3d at 1039 (citations omitted).

In accordance with Section 502(b), the validity and amount of the claim shall be

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1 determined as of the date of the filing of the bankruptcy petition. Section 502(b)(1) requires
2 disallowance of a claim if “such claim is unenforceable against the debtor and property of the
3 debtor, under any agreement or applicable law for a reason other than because such claim is
4 contingent or unmatured . . .” 11 U.S.C. § 502(b)(1). The “applicable law” referenced in Section
5 502(b)(1) includes bankruptcy law as well as other federal and state laws. A trustee is therefore
6 allowed to raise any federal or state law defenses to a claim. *See In re G.I. Indus., Inc.*, 204 F.3d
7 1276, 1281 (9th Cir. 2000) (stating that a claim cannot be allowed under Section 502(b)(1) if it is
8 unenforceable under nonbankruptcy law); *Johnson v. Righetti*, 756 F.2d 738, 741 (9th Cir. 1985)
9 (finding that the validity of the claim may be determined under state law); *In re Eastview Estates*
10 *II*, 713 F.2d 443, 447 (9th Cir. 1983) (applying California law).

11 **B. The Claims in Question Are Not Entitled to Priority Under Section 507(a)(7)**

12 Section 507(a)(7) states:

13 (a) The following expenses and claims have priority in the
14 following order:

15 *****

16 (7) Seventh, allowed unsecured claims of individuals, to
17 the extent of \$2,850 for each such individual, arising
18 from the deposit, before the commencement of the
19 case, of money in connection with the purchase, lease,
20 or rental of property, or the purchase of services, for the
21 personal, family, or household use of such individuals,
22 that were not delivered or provided.

23 Case law establishes that tenants are entitled to seventh level priority. The Code provides
24 a seventh priority for allowed, unsecured claims of individuals who deposited money with
25 the debtor prepetition and in connection with the purchase, lease, or rental of property, or the
26 purchase of services, for the personal, family, or household use of such an individual where the
27 debtor failed to deliver such property or services. This priority is limited to the extent of \$2,775
28 for each such individual and has been referred to as the “consumer priority.”

Courts have interpreted “individual” in its ordinary sense: An individual means “one
natural person” and does not include business entities such as corporations or partnerships. *See In*

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1 *re James R. Corbitt Co.*, 48 B.R. 937, 939 (Bankr. E.D. Va. 1985); *In re Carolina Sales Corp.*,
2 43 B.R. 596, 597 (Bankr. E.D.N.C. 1984). A residential tenant who pays a security deposit is
3 entitled to a §507(a)(7) priority claim in the landlord's bankruptcy case. *See Guarracino v.*
4 *Hoffman*, 246 B.R. 130, 134 (D. Mass. 2000)(“Given that non-commercial tenant security
5 deposits are within the scope of the statute and legislative history evidences Congress’ intent to
6 protect a consumer's money held in trust, it follows that the \$1300 security deposit should be
7 given administrative priority.”); *In re River Vill. Assocs.*, 161 B.R. 127, 133-34 (Bankr. E.D. Pa.
8 1993) *aff'd*, 181 B.R. 795 (E.D. Pa. 1995) (holding that each tenant’s claim for security deposits
9 is entitled to priority in landlord’s Chapter 11 case); *In re Wise*, 120 B.R. 537, 545-47 (Bankr. D.
10 Alaska 1990) (contractual assignee of tenant security deposits was entitled to assert consumer
11 deposit priority).

12 The Court in *Guarracino* held that Section 507(6) allowing sixth-level (now Section
13 507(a)(7) allowing seventh-level) priority to unsecured claims for the recovery of sums deposited
14 with debtor in connection with the purchase, lease or rental of property was enacted to
15 protect unsuspecting individuals who deposit money into what is tantamount to a trust fund.
16 In the instant case, it is the individual tenants who deposited the money, not the landlords.
17 Therefore, the tenants, and only the tenants, are entitled to a priority claim.

18 Here, each of the claims objected to was filed by a landlord, asserting a priority claim
19 under 11 U.S.C. § 507(a)(7). The deposits in question were not for the purchase, lease, or rental of
20 property for the personal, family, or household of those asserting the claim. Accordingly, these
21 claims should be reclassified as general unsecured claims.

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V. CONCLUSION

For the foregoing reasons, the Trustee respectfully requests that the Court enter an order: (i) sustaining the Objections to claim numbers 65-2, 195-1, 214-1, 240-1, 307-1, 335-1, 594-1, 597-1, 659-1, 694-1, 717-1, 736-1, 868-1, 869-1, 870-1, 871-1, 872-1, 873-1, 874-1, 875-1, 876-1, 877-1, 878-1, 879-1, 880-1, 881-1, 882-1, 883-1, 884-1, 885-1, 886-1, 887-1, 888-1, 889-1, 890-1, 891-1, 892-1, 893-1, 894-1, 899-1, 903-1, 905-1, 906-1, 908-1, 909-1, 915-1, and 916-1, and reclassify these claims as general unsecured claims; and (ii) for such other and further relief as is just and proper.

Dated this 13th day of August, 2020.

HOUAMAND LAW FIRM, LTD.

By: /s/ Bradley G. Sims, Esq.
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Counsel for Shelley D. Krohn, Chapter 7 Trustee

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