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*Electronically Filed On: August 13, 2020*

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

7  
8 **UNITED STATES BANKRUPTCY COURT**

9 **DISTRICT OF NEVADA**

10 In re:  
11 AMERI-DREAM REALTY, LLC,  
12 Debtor.

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

**TRUSTEE’S EIGHTH OMNIBUS  
OBJECTION TO PROOFS OF CLAIM  
PURSUANT TO 11 U.S.C. § 502(b)(1) AND  
FEDERAL RULE OF BANKRUPTCY  
PROCEDURE 3007—CLAIM NUMBERS  
5-1, 19-1, 20-1, 24-1, 44-1, 45-1, 61-1, 64-1,  
84-1, 109-1, 136-1, 142-1, 201-1, 290-1, 291-  
1, 293-1, 601-1, 660-1, 836-1, 854-1, 922-1,  
923-1, 924-1, AND 925-1, BASED ON  
LACK OF DOCUMENTATION**

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 <sup>1</sup>

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

26 <sup>1</sup> Unless otherwise indicated, all chapter and section references are to the Bankruptcy Code, 11  
27 U.S.C. §§ 101-1532, and to the Federal Rules of Bankruptcy Procedure, Rules 1001-9037. The  
28 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”.

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1 Bradley G. Sims, Esq. of the Houmand Law Firm, Ltd., hereby submits the *Trustee’s Eighth*  
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 5-1, 19-1, 20-1, 24-1, 44-1, 45-1, 61-1, 64-1, 84-1,*  
4 *109-1, 136-1, 142-1, 201-1, 290-1, 291-1, 293-1, 601-1, 660-1, 836-1, 854-1, 922-1, 923-1, 924-*  
5 *1, and 925-1, Based Lack of Documentation* (the “Objection”). The Objection is based on the  
6 following Memorandum of Points and Authorities and the *Declaration of Shelley D. Krohn In*  
7 *Support of Trustee’s Eighth Omnibus Objection To Proofs Of Claim Pursuant To 11 U.S.C. §*  
8 *502(B)(1) And Federal Rule Of Bankruptcy Procedure 3007—Claim Numbers 5-1, 19-1, 20-1,*  
9 *24-1, 44-1, 45-1, 61-1, 64-1, 84-1, 109-1, 136-1, 142-1, 201-1, 290-1, 291-1, 293-1, 601-1, 660-*  
10 *1, 836-1, 854-1, 922-1, 923-1, 924-1, and 925-1, Based lack of Documentation* (the “Trustee  
11 Declaration”), which is filed separately and concurrently with this Court pursuant to Local Rule  
12 9014(c)(2). The Objection is also based on the pleadings and papers on file herein, and any  
13 argument that may be entertained at the hearing on the Objection.<sup>2</sup>

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

16 **MEMORANDUM OF POINTS AND AUTHORITIES**

17 **I. INTRODUCTION**

18 This Omnibus Objection relates to a series of claims that were submitted with no  
19 documentation. Consequently, the Trustee is not able to determine whether these claims are  
20 enforceable against the estate. For this reason, the Trustee seeks an order disallowing these  
21 claims, without prejudice to the claimant’s amending their claim with appropriate documentation  
22 as set forth in FRBP 3001(c)(1).

23 **II. JURISDICTION AND VENUE**

24 This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1134. This  
25 is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A). Venue before this Court is appropriate

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27 <sup>2</sup> 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 under 28 U.S.C. §§ 1408 and 1409. This matter constitutes a core proceeding under 28 U.S.C. §  
 2 157(b)(2). Pursuant to Local Rule 9014.2, if the Court determines that absent consent of the  
 3 parties the Court cannot enter final orders or judgment regarding the Objection consistent with  
 4 Article III of the United States Constitution, the Firm consents to entry of final orders and  
 5 judgment by this Court. The statutory basis for the relief sought herein are Section 502(b)(1) and  
 6 FRBP 3007.

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

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

10	Claimant	Proof of Claim No.	Grounds for objection <sup>3</sup>
11	Cai, Xian Wen	291-1	Claim does not provide documentation as
12			required by FRBP 3001(c)(1). <i>See</i> p. 11-12.
13	Campo, Deborah	924-1	Claim does not provide documentation as
14			required by FRBP 3001(c)(1). <i>See</i> p. 11-12.
15	Cruz, Anthony and	923-1	Claim does not provide documentation as
16	Suzette Cruz		required by FRBP 3001(c)(1). <i>See</i> p. 11-12.
17	Guo, Li	836-1	Claim does not provide documentation as
18			required by FRBP 3001(c)(1). <i>See</i> p. 11-12.
19	Hu, Hong Feng	601-1	Claim does not provide documentation as
20			required by FRBP 3001(c)(1). <i>See</i> p. 11-12.
21	Huang, Yichao	290-1	Claim does not provide documentation as
22			required by FRBP 3001(c)(1). <i>See</i> p. 11-12.
23	J-Green Realty, LLC	84-1	Claim does not provide documentation as
24			required by FRBP 3001(c)(1). <i>See</i> p. 11-12.
25	Kazarian, Nara	64-1	Claim does not provide documentation as
26			

27 \_\_\_\_\_  
 28 <sup>3</sup> Unless otherwise stated, page references are to the page within this Objection stating the legal argument for the objection.

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1			required by FRBP 3001(c)(1). <i>See</i> p. 11-12.
2	Kesselman, Victorina	854-1	Claim does not provide documentation as
3			required by FRBP 3001(c)(1). <i>See</i> p. 11-12.
4	Korkosz Scott	5-1	Claim does not provide documentation as
5			required by FRBP 3001(c)(1). <i>See</i> p. 11-12.
6	Li, Dominic	44-1	Claim does not provide documentation as
7			required by FRBP 3001(c)(1). <i>See</i> p. 11-12.
8	Li, Dominic	45-1	Claim does not provide documentation as
9			required by FRBP 3001(c)(1). <i>See</i> p. 11-12.
10	Liu, Jung-Tsung	136-1	Claim does not provide documentation as
11			required by FRBP 3001(c)(1). <i>See</i> p. 11-12.
12	Mathews, Jeffrey	293-1	Claim does not provide documentation as
13			required by FRBP 3001(c)(1). <i>See</i> p. 11-12.
14	Pan, Tzuman	20-1	Claim does not provide documentation as
15			required by FRBP 3001(c)(1). <i>See</i> p. 11-12.
16	Pan, Tzuman	201-1	Claim does not provide documentation as
17			required by FRBP 3001(c)(1). <i>See</i> p. 11-12.
18	Pelayo, Juan and	24-1	Claim does not provide documentation as
19	Jaymee		required by FRBP 3001(c)(1). <i>See</i> p. 11-12.
20	Qiao, Wenhao	922-1	Claim does not provide documentation as
21			required by FRBP 3001(c)(1). <i>See</i> p. 11-12.
22	Smith, Thomas and	142-1	Claim does not provide documentation as
23	Flora		required by FRBP 3001(c)(1). <i>See</i> p. 11-12.
24	Spica, Gary	660-1	Claim does not provide documentation as
25			required by FRBP 3001(c)(1). <i>See</i> p. 11-12.
26	Tang, Zhilong	61-1	Claim does not provide documentation as
27			required by FRBP 3001(c)(1). <i>See</i> p. 11-12.
28			

1	Teran, Viktoria	109-1	Claim does not provide documentation as
2	Arizbell Pina		required by FRBP 3001(c)(1). <i>See</i> p. 11-12.
3	Wang, Jian Hua	925-1	Claim does not provide documentation as
4			required by FRBP 3001(c)(1). <i>See</i> p. 11-12.
5	Yang, Liyue	19-1	Claim does not provide documentation as
6			required by FRBP 3001(c)(1). <i>See</i> p. 11-12.

### III. STATEMENT OF FACTS

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

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

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

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

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

6. Since its employment, Garden City Group, LLC ("GCG") has been maintaining the Proofs of Claim that have been submitted by creditors.

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

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

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<sup>4</sup> 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           9.       On February 1, 2015, Scott Korkosz filed a claim proof of claim, asserting an  
2 unsecured claim of \$750.00, with no documentation provided. A true and correct copy of Claim  
3 5-1 is attached to the Trustee Declaration as **Exhibit “1”**.

4           10.      On February 9, 2015, Juan and Jaymee Pelayo filed a claim claiming priority under  
5 11 U.S.C. § 507(a)(7) in the amount of \$1,500.00 based on a rental security deposit. No  
6 documentation was attached to the proof of claim. A true and correct copy of Claim 24-1 is  
7 attached to the Trustee Declaration as **Exhibit “2”**.

8           11.      On February 10, 2015, Liyue Yang filed a claim proof of claim, asserting an  
9 unsecured claim of \$5,297.00 with no documentation provided. A true and correct copy of Claim  
10 19-1 is attached to the Trustee Declaration as **Exhibit “3”**.

11           12.      On February 10, 2015, Tzuman Pan filed a claim proof of claim, asserting an  
12 unsecured claim of \$2,960.00 with no documentation provided. A true and correct copy of Claim  
13 20-1 is attached to the Trustee Declaration as **Exhibit “4”**.

14           13.      On March 12, 2015, J-Green Realty, LLC filed a claim claiming priority under 11  
15 U.S.C. § 507(a)(7) in the amount of \$2,350.00 based on a rental security deposit. No  
16 documentation was attached to the proof of claim. A true and correct copy of Claim 84-1 is  
17 attached to the Trustee Declaration as **Exhibit “5”**.

18           14.      On March 21, 2015, Dominic Li filed a claim claiming priority under 11 U.S.C. §  
19 507(a)(7) in the amount of \$1,730.00 based on a rental security deposit. No documentation was  
20 attached to the proof of claim. A true and correct copy of Claim 44-1 is attached to the Trustee  
21 Declaration as **Exhibit “6”**.

22           15.      On March 22, 2015, Dominic Li filed a claim claiming priority under 11 U.S.C. §  
23 507(a)(7) in the amount of \$1,730.00 based on a rental security deposit. No documentation was  
24 attached to the proof of claim. A true and correct copy of Claim 45-1 is attached to the Trustee  
25 Declaration as **Exhibit “7”**.

26           16.      On March 23, 2015, Viktoria Arizbell Pina Teran filed a claim claiming priority  
27 under 11 U.S.C. § 507(a)(4) in the amount of \$440.00 based on unpaid wages. No documentation  
28 was attached to the proof of claim. A true and correct copy of Claim 109-1 is attached to the

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1 Trustee Declaration as **Exhibit “8”**.

2 17. On April 7, 2015, Jung-Tsung Liu filed a claim for \$2,870.00 and claiming priority  
3 under 11 U.S.C. § 507(a)(7) in the amount of \$1,435.00 based on a rental security deposit. No  
4 documentation was attached to the proof of claim. A true and correct copy of Claim 136-1 is  
5 attached to the Trustee Declaration as **Exhibit “9”**.

6 18. On April 9, 2015, Thomas and Flora Smith filed a claim claiming priority under 11  
7 U.S.C. § 507(a)(7) in the amount of \$1,395.00 based on a rental security deposit. No  
8 documentation was attached to the proof of claim. A true and correct copy of Claim 142-1 is  
9 attached to the Trustee Declaration as **Exhibit “10”**.

10 19. On April 21, 2015, Tzuman Pan filed a claim proof of claim, asserting an  
11 unsecured claim of \$2,960.00 with no documentation provided. A true and correct copy of Claim  
12 201-1 is attached to the Trustee Declaration as **Exhibit “11”**.

13 20. On May 4, 2015, Yichao Huang filed a secured claim in the amount of \$6,854.11.  
14 No documentation was attached to the proof of claim. A true and correct copy of Claim 290-1 is  
15 attached to the Trustee Declaration as **Exhibit “12”**.

16 21. On May 4, 2015, Xian Wen Cai filed an unsecured claim in the amount of  
17 \$800.00. No documentation was attached to the proof of claim. A true and correct copy of Claim  
18 291-1 is attached to the Trustee Declaration as **Exhibit “13”**.

19 22. On May 5, 2015, Jeffrey Mathews filed an unsecured claim in the amount of  
20 \$1,625.00. No documentation was attached to the proof of claim. A true and correct copy of  
21 Claim 293-1 is attached to the Trustee Declaration as **Exhibit “14”**.

22 23. On May 11, 2015, Hong Feng Hu filed a claim claiming priority under 11 U.S.C. §  
23 507(a)(7) in the amount of \$1,875.00 based on a rental security deposit. No documentation was  
24 attached to the proof of claim. A true and correct copy of Claim 601-1 is attached to the Trustee  
25 Declaration as **Exhibit “15”**.

26 24. On May 12, 2015, Gary Spica filed a claim claiming priority under 11 U.S.C. §  
27 507(a)(7) in the amount of \$1,850.00 based on a rental security deposit. No documentation was  
28 attached to the proof of claim. A true and correct copy of Claim 660-1 is attached to the Trustee

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1 Declaration as **Exhibit “16”**.

2 25. On May 13, 2015, Zhilong Tang filed a claim claiming priority under 11 U.S.C. §  
3 507(a)(7) in the amount of \$4,400.00 based on a rental security deposit. No documentation was  
4 attached to the proof of claim. A true and correct copy of Claim 61-1 is attached to the Trustee  
5 Declaration as **Exhibit “17”**.

6 26. On May 14, 2015, Li Guo filed a claim claiming priority under 11 U.S.C. §  
7 507(a)(7) in the amount of \$1,000.00 based on a rental security deposit. No documentation was  
8 attached to the proof of claim. A true and correct copy of Claim 836-1 is attached to the Trustee  
9 Declaration as **Exhibit “18”**.

10 27. On May 14, 2015, Victorina Kesselman filed a claim claiming priority under 11  
11 U.S.C. § 507(a)(7) in the amount of \$1,550.00 based on a rental security deposit. No  
12 documentation was attached to the proof of claim. A true and correct copy of Claim 854-1 is  
13 attached to the Trustee Declaration as **Exhibit “19”**.

14 28. On May 14, 2015, Nara Kazarian filed a claim claiming priority under 11 U.S.C. §  
15 507(a)(7) in the amount of \$2,600.00 based on a rental security deposit. No documentation was  
16 attached to the proof of claim. A true and correct copy of Claim 64-1 is attached to the Trustee  
17 Declaration as **Exhibit “20”**.

18 29. On May 18, 2015, Wenhao Qiao filed a claim claiming priority under 11 U.S.C. §  
19 507(a)(7) in the amount of \$1,000.00 based on a rental security deposit. No documentation was  
20 attached to the proof of claim. A true and correct copy of Claim 922-1 is attached to the Trustee  
21 Declaration as **Exhibit “21”**.

22 30. On May 19, 2015, Anthony Cruz and Suzette Cruz filed a claim claiming priority  
23 under 11 U.S.C. § 507(a)(7) in the amount of \$3,495.00 based on a rental security deposit. No  
24 documentation was attached to the proof of claim. A true and correct copy of Claim 923-1 is  
25 attached to the Trustee Declaration as **Exhibit “22”**.

26 31. On May 14, 2015, Deborah Campo filed an unsecured claim in the amount of  
27 \$3,375.00 based on a rental security deposit. No documentation was attached to the proof of  
28 claim. A true and correct copy of Claim 924-1 is attached to the Trustee Declaration as **Exhibit**



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1 “23”.

2 32. On May 21, 2015, Jian Hua Wang filed an unsecured claim in the amount of  
3 \$1,300.00 based on a rental security deposit. No documentation was attached to the proof of  
4 claim. A true and correct copy of Claim 925-1 is attached to the Trustee Declaration as **Exhibit**

5 “24”.

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

9 34. The Trustee now seeks an order finding that Claims 5-1, 19-1, 20-1, 24-1, 44-1,  
10 45-1, 61-1, 64-1, 84-1, 109-1, 136-1, 142-1, 201-1, 290-1, 291-1, 293-1, 601-1, 660-1, 836-1,  
11 854-1, 922-1, 923-1, 924-1, and 925-1 are disallowed.

12 **IV. LEGAL ARGUMENT**

13 **A. The Standard for Disallowance of Proofs of Claim**

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

18 Inasmuch as Rule 3001(f) and section 502(a) provide that a claim or  
19 interest as to which proof is filed is "deemed allowed," the burden  
20 of initially going forward with the evidence as to the validity and  
21 the amount of the claim is that of the objector to that claim. In short,  
22 the allegations of the proof of claim are taken as true. **If those**  
23 **allegations set forth all the necessary facts to establish a claim**  
24 **and are not self-contradictory, they prima facie establish the**  
25 **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.

26 *Wright v. Holm (In re Holm)*, 931 F.2d 620, 623 (9th Cir. 1991) (quoting 3 L. King, COLLIER ON  
27 BANKRUPTCY § 502.02, at 502-22 (15th ed. 1991)) (emphasis removed) (emphasis added); *see*  
28 *also Lundell v. Anchor Constr. Specialists, Inc.*, 223 F.3d 1035, 1040 (9th Cir. 2000) (holding that

1 the bankruptcy court correctly understood that the ultimate burden of persuasion was on the  
2 creditor); *Spencer v. Pugh (In re Pugh)*, 157 B.R. 898, 901 (B.A.P. 9th Cir. 1993) (holding  
3 claimant bears ultimate burden of persuasion as to validity and amount of the claim by a  
4 preponderance of the evidence). Accordingly, to be entitled to prima facie validity of a claim, a  
5 proof of claim must set forth all necessary facts to establish the claim. *Wright*, 931 F.2d at 623.  
6 Furthermore, the ultimate burden is always on the claimant, and a claim must be denied if the  
7 claimant cannot carry this burden after an objection showing facts tending to defeat the claim. *Id.*  
8 If the objector produces sufficient evidence to negate one or more of the sworn facts in the proof  
9 of claim, the burden reverts to the claimant to prove the validity of the claim by a preponderance  
10 of the evidence. *See Lundell*, 223 F.3d at 1039 (citations omitted).

11 In accordance with Section 502(b), the validity and amount of the claim shall be  
12 determined as of the date of the filing of the bankruptcy petition. Section 502(b)(1) requires  
13 disallowance of a claim if “such claim is unenforceable against the debtor and property of the  
14 debtor, under any agreement or applicable law for a reason other than because such claim is  
15 contingent or unmatured . . .” 11 U.S.C. § 502(b)(1). The “applicable law” referenced in Section  
16 502(b)(1) includes bankruptcy law as well as other federal and state laws. A trustee is therefore  
17 allowed to raise any federal or state law defenses to a claim. *See In re G.I. Indus., Inc.*, 204 F.3d  
18 1276, 1281 (9th Cir. 2000) (stating that a claim cannot be allowed under Section 502(b)(1) if it is  
19 unenforceable under nonbankruptcy law); *Johnson v. Righetti*, 756 F.2d 738, 741 (9th Cir. 1985)  
20 (finding that the validity of the claim may be determined under state law); *In re Eastview Estates*  
21 *II*, 713 F.2d 443, 447 (9th Cir. 1983) (applying California law).

22 **B. The Claims in Question Do Not Conform to FRBP 3001(c)(1).**

23 FRBP 3001(c)(1) requires that a claim based on a writing must attach a copy of that  
24 writing to the claim. Failure to provide appropriate documentation of a claim excludes the claim  
25 from prima facie validity under FRBP 3001(f). In this case, because the claims provide no  
26 documentation, the Trustee is unable to determine that these claims are enforceable against the  
27 Bankruptcy Estate. Accordingly, the Trustee requests that these claims be disallowed, without  
28 prejudice.

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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 5-1, 19-1, 20-1, 24-1, 44-1, 45-1, 61-1, 64-1, 84-1, 109-1, 136-1, 142-1, 201-1, 290-1, 291-1, 293-1, 601-1, 660-1, 836-1, 854-1, 922-1, 923-1, 924-1, and 925-1 and disallowing these claims; and (ii) for such other and further relief as is just and proper.

Dated this 13th day of August, 2020.

**HOUMAND LAW FIRM, LTD.**

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