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Electronically Filed On: October 1, 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

**DECLARATION OF BRADLEY G. SIMS
IN SUPPORT OF MOTION TO SET
ASIDE ORDER SUSTAINING
TRUSTEE'S TENTH OMNIBUS
OBJECTION TO PROOFS OF CLAIM
PURSUANT TO 11 U.S.C. § 502(b)(1) AND
FEDERAL RULE OF BANKRUPTCY
PROCEDURE 3007—CLAIM NUMBERS
60-1, 87-1, 137-1, 230-1, 231-1, 290-1, 501-1,
681-1, 683-1, AND 735-1, BASED ON
IMPROPER ASSERTION OF A
SECURED CLAIM, AS TO CLAIMS, 60-1,
87-1, AND 231-1 ONLY**

Date of Hearing: October 29, 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

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25 I, Bradley G. Sims, declare as follows:

26 1. I am over the age of 18 years and I am competent to make this declaration. I have
27 personal knowledge of the facts set forth herein, except for those facts stated on information and
28 belief and, as to those facts, I am informed and believe them to be true. If called as a witness, I

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1 could and would testify as to the matters set forth below based upon my personal knowledge.¹

2 2. I am an attorney employed with the Houmand Law Firm, Ltd. which is general
3 bankruptcy counsel to Shelley D. Krohn, the appointed Chapter 7 Trustee (the “Trustee”) in the
4 above-captioned bankruptcy case.

5 3. I make this declaration to support the *Motion to Set Aside Order Sustaining*
6 *Trustee’s Tenth Omnibus Objection to Proofs of Claim Pursuant to 11 U.S.C. § 502(b)(1) and*
7 *Federal Rule of Bankruptcy Procedure 3007—Claim Numbers 60-1, 87-1, 137-1, 230-1, 231-1,*
8 *290-1, 501-1, 681-1, 683-1, and 735-1, Based On Improper Assertion of a Secured Claim, as to*
9 *Claims, 60-1, 87-1, and 231-1 Only* (the “Motion”).²

10 4. On January 9, 2015 (the “Petition Date”), the Debtor filed a voluntary bankruptcy
11 pursuant to Chapter 7 of Title 11 of the United States Code [ECF No. 1]³.

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

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

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

19 8. On February 27, 2015, the Court entered an *Order Granting Application for Order*
20 *Authorizing Employment of the Garden City Group, LLC As Claims and Noticing Agent* [ECF No.
21 128].

22 _____

23 ¹ Unless otherwise indicated, all chapter and section references are to the Bankruptcy Code, 11
24 U.S.C. §§ 101-1532, and to the Federal Rules of Bankruptcy Procedure, Rules 1001-9037. The
25 Federal Rules of Civil Procedure will be referred to as “FRCP” and the Federal Rules of
26 Bankruptcy Procedure will be referred to as “FRBP.” The Local Rules of Practice for the United
27 States Bankruptcy Court for the District of Nevada shall be referred to as the “Local Rules”.

28 ² Unless otherwise provided herein, all defined terms shall have the same meaning ascribed to
them in the Objection.

³ 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. Since its employment, Garden City Group, LLC (“GCG”) has been maintaining
2 the Proofs of Claim that have been submitted by creditors.

3 10. On September 30, 2015, Trustee Nelson filed a *Motion for (1) Turnover of Security*
4 *Deposits Held In Trust Account of McDonald Carano Wilson Pursuant to 11 U.S.C. § 542 and (2)*
5 *Authority to Administer Security Deposits Through the Debtor’s Bankruptcy Estate Pursuant to*
6 *11 U.S.C. § 105(a)* [ECF No. 181] (the “Turnover Motion”).

7 11. The Turnover Motion sought authority for approximately \$707,567.29 – the
8 balance of the Security Deposits that were in the Debtor’s possession as of the Petition Date –
9 held in the IOLTA Account of counsel for the Debtor to be transferred to Trustee Nelson so that
10 the funds could be administered for the benefit of creditors.

11 12. The Turnover Motion was supported by counsel for the Debtor, an accountant
12 employed by the Debtor prior to the Petition Date, and the Nevada Real Estate Division.

13 13. On November 6, 2015, the Court entered an *Order Granting Motion for (1)*
14 *Turnover of Security Deposits Held In Trust Account of McDonald Carano Wilson Pursuant to 11*
15 *U.S.C. § 542 and (2) Authority to Administer Security Deposits Through the Debtor’s Bankruptcy*
16 *Estate Pursuant to 11 U.S.C. § 105(a)* [ECF No. 196] (the “Turnover Order”).

17 14. The Turnover Order provided that the security deposits held in the IOLTA
18 Account of counsel for the Debtor would be transferred to the Debtor’s bankruptcy estate and
19 administered pursuant to Section 726.

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

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

23 17. On May 11, 2015, April and Kenneth Bell filed a secured claim in the amount of
24 \$1,925.00 based on a security deposit for rental of real property described as 9539 Colorado Blue
25 St., Las Vegas, NV 89123. An attached lease agreement lists Yu Chan Bi and Jin Hui Xu as
26 landlord and Kenneth and April Bell as tenants. On May 8, 2015, Yu Chan Bi filed a separate
27 claim in the amount of \$1,925.00 based on a security deposit for rental of real property described
28 as 9539 Colorado Blue St., Las Vegas, NV 89123. An attached lease agreement lists Yu Chan Bi

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1 and Jin Hui Xu as landlord and Kenneth and April Bell as tenants. A true and correct copy of
2 Claims 60-1 and 446-1 are attached hereto as **Exhibit “1”** and **Exhibit “2”**, respectively.

3 18. On March 13, 2015, Janet Lawrence filed a claim claiming priority under 11
4 U.S.C. § 507(a)(7) in the amount of \$1,475.00 based on deposit toward purchase, lease or rental
5 of real property described as 5914 Creekside Sands Lane, North Las Vegas, NV, 89011, as well
6 as a secured claim in the amount of \$1475.00. The attached lease agreement identified Janet
7 Lawrence as tenant, and Wu Wang as the landlord. On April 29, 2015, Wu Wang filed a separate
8 claim claiming priority under 11 U.S.C. § 507(a)(7) in the amount of \$16,989.50 based on deposit
9 toward purchase, lease or rental of various real properties, including real property described as
10 5914 Creekside Sands Lane, North Las Vegas, NV, 89011. True and correct copies of Claims 87-
11 1 and 233-1 are attached hereto as **Exhibit “3”** and **Exhibit “4”**, respectively.

12 19. On April 28, 2015, Karen Elizabeth Johnson filed a claim claiming priority under
13 11 U.S.C. § 507(a)(7) in the amount of \$1,825.00 based on deposit toward purchase, lease or
14 rental of real property described as 7632 Hope Valley St., Las Vegas NV 89139, and a secured
15 claim in the amount of \$1,825.00. The attached lease agreement identifies Jeffrey Craig Johnson
16 and Karen Elizabeth Johnson as the tenants, and Lifang Tang as the landlord. On May 8, 2015,
17 Lifang Tang filed a separate claim, claiming an unsecured claim of \$1,825.00. The attached
18 documents indicate the basis of the claim is a security deposit based on a rental agreement for real
19 property described as 7632 Hope Valley St., Las Vegas NV 89139. True and correct copies of
20 Claims 231-1 and 376-1 are attached hereto as **Exhibit “5”** and **Exhibit “6”**, respectively.

21 20. On August 14, 2020, the Trustee filed the *Trustee’s Ninth Omnibus Objection To*
22 *Proofs Of Claim Pursuant To 11 U.S.C. § 502(b)(1) and Federal Rule of Bankruptcy Procedure*
23 *3007—Claim 6-1, 7-1, 15-1, 18-1, 32-1, 34-1, 40-1, 41-1, 49-1, 59-1, 60-1, 72-1, 83-1, 86-1, 87-1,*
24 *97-1, 113-1, 115-1, 118-1, 119-1, 123-1, 128-1, 163-1, 231-1, 292-1, 293-1, 296-1, 338-1, 527-1,*
25 *612-1, 704-1, 813-1 , 815-1, 833-1, 834-1, 914-1, 921-1, 924-1, 929-1, and 930-1 Based on*
26 *Duplicate Claims Filed by Both a Landlord and a Tenant for A Security Deposit [ECF No. 374]*
27 *(the “Ninth Omnibus Objection”).*

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1 21. The Ninth Objection seeks an order disallowing certain claims including claims
2 60-1, 87-1, and 231-1.

3 22. On August 14, 2020, the Trustee filed the *Trustee’s Tenth Omnibus Objection to*
4 *Proofs of Claim Pursuant to 11 U.S.C. § 502(b)(1) and Federal Rule of Bankruptcy Procedure*
5 *3007—Claim Numbers 60-1, 87-1, 137-1, 230-1, 231-1, 290-1, 501-1, 681-1, 683-1, and 735-1,*
6 *Based On Improper Assertion of a Secured Claim, as to Claims* [ECF No. 377] (the “Tenth
7 Omnibus Objection”).

8 23. The Tenth Objection seeks an order recharacterizing certain claims including
9 claims 60-1, 87-1, and 231-1, as general unsecured claims.

10 24. On September 17, 2020 the court entered an order sustaining the Ninth Omnibus
11 Objection [ECF No. 442], which ordered certain claims, including claims 60-1, 87-1, and 231-1,
12 disallowed.

13 25. On September 17, 2020 the court entered an order sustaining the Tenth Omnibus
14 Objection [ECF No. 443], which ordered certain claims, including claims 60-1, 87-1, and 231-1,
15 recharacterized as general unsecured claims.

16 26. Prior to filing the Ninth Omnibus Objection and Tenth Omnibus Objections, I
17 conducted a review of all claims for which an objection was filed or planned.

18 27. I identified a number of claims which would have been covered by multiple
19 objections and which would be the subject of conflicting orders and revised the planned claim
20 objections to prevent conflicting orders. However, the problem with these three claims were not
21 found prior to filing the Ninth and Tenth Omnibus Objections.

22 28. The inclusion of claims 60-1, 87-1, and 231-1 in the Tenth Omnibus Objection was
23 inadvertent, as had the conflict been found, the claims objections would have been removed from
24 the Tenth Omnibus Objection.

25 29. After the entries of the orders sustaining the Ninth and Tenth Omnibus Objections
26 I was informed by the Trustee’s office of the conflicting orders.

27 30. Accordingly, the Trustee now seeks an order setting aside the order sustain the
28 Tenth Omnibus Objection as to claims 60-1, 87-1, and 231-1 to resolve the conflict between the

1 order sustaining the Ninth Omnibus Objection and the order sustaining the Tenth Omnibus
2 Objection

3 I declare under penalty of perjury under the laws of the United States that the foregoing is
4 true and correct.

5 Dated this 1st day of October, 2020.

6
7 /s/ Bradley G. Sims, Esq.
8 Bradley G. Sims, Esq.

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