

OCT 14 2014

BEFORE THE REAL ESTATE COMMISSION

REAL ESTATE COMMISSION
BY: *[Signature]*

STATE OF NEVADA

JOSEPH DECKER, Administrator,
REAL ESTATE DIVISION,
DEPARTMENT OF BUSINESS AND
INDUSTRY, STATE OF NEVADA

-) Case No.: RES-14-03-132-752
-) Case No.: RES-14-04-138-920
-) Case No.: RES-14-05-67-1047
-) Case No.: RES-14-06-02-1162
-) Case No.: RES-14-08-06-046

Petitioner,

v.

LINDA M. AKIKI,

Respondent.

) RESPONDENT'S INITIAL RESPONSE
) TO COMPLAINTS, REQUEST FOR
) CONTINUANCE OF HEARING

) DATE OF HEARING: 10-14-2014
) TIME OF HEARING: 08:30 AM

COMES NOW LINDA M. AKIKI [AKIKI], by and through her legal counsel, Steven J. Szostek, Esq., and does file her initial response to the complaints affiliated with the above-noted cases and does request that the above-noted hearing be continued to an appropriate date, as hereinafter detailed. In support of her initial response, AKIKI would submit the following Points and Authorities, the Affidavit of AKIKI, attached hereto as Exhibit "A" and other exhibits as hereinafter noted.

POINTS AND AUTHORITIES

1. AKIKI is a licensed Broker and Property Manager in Nevada.
2. AKIKI is the sole Broker and sole member/owner of AMERICAN REALTY & PROPERTY MANAGEMENT, LLC [AMERICAN REALTY]. AKIKI is Operating Manager of AMERICAN REALTY.
3. Richard Naft [NAFT] is an employee of AMERICAN REALTY in the accounting department. NAFT is not a licensed realtor, broker or property manager in the State of Nevada. NAFT has no ownership interest in AMERICAN REALTY.

1 4. In early February, 2014, AKIKI, as the broker of record for AMERICAN
2 REALTY, deposited real estate settlement checks in the AMERICAN REALTY bank accounts
3 in US Bank in Las Vegas. Subsequently, and without knowledge of AKIKI or with any
4 permission to do so, NAFT removed sizeable amounts of monies from the US Bank accounts. It
5 is believed by AKIKI that such monies were moved to other bank accounts controlled by NAFT.
6 Such removal constitutes theft.

7
8 5. Upon AKIKI learning of the removal of the monies, she notified the Real Estate
9 Division and filed a complaint with the Clark County Metropolitan Police Department. Neither
10 entity has taken any actions to investigate the theft or to reclaim the monies.

11 6. On or about March 6, 2014, NAFT caused the following activities to occur:

12 a. He filed false papers with the Nevada Secretary of State removing
13 AKIKI's name as the manager of AMERICAN REALTY;

14 b. He caused the landlord of the then offices of AMERICAN REALTY to
15 change the locks to the company's offices.

16 7. Upon finding out that she had been locked out of the offices of AMERICAN
17 REALTY, AKIKI demanded entry from the landlord and from NAFT, neither of which complied
18 with her request.

19 8. AKIKI immediately notified the Real Estate Division of the lockout. To this date,
20 the Real Estate Division has taken no actions to restore AKIKI to the control of the assets of
21 AMERICAN REALTY and the leased offices of the company. AKIKI gave the Real Estate
22 Division her home address, but the Real Estate Division continued to send the above-noted
23 complaints and follow ups to the AMERICAN REALTY address, where NAFT ignored them.
24
25

1 9. Due to the extreme stress she was under and the inactions by the Metropolitan
2 Police and the Real Estate Division, AKIKI was hospitalized from April 24, 2014 through May
3 13, 2014.

4 10. On May 9, 2014, NAFT and two realtors, who had not received their
5 commissions, caused to be filed an Involuntary Bankruptcy Petition with the United States
6 Bankruptcy Court in Las Vegas. In that Petition, NAFT filed a fraudulent claim for monies he
7 claimed as broker fees owed to him; even though he was neither a licensed realtor nor broker.
8

9 11. Subsequently, the Bankruptcy Case was converted to a regular Chapter 7
10 Bankruptcy Case and a Trustee was appointed. At that time all of the assets of the company,
11 including all monies, files and correspondence [including the above-noted complaints filed by
12 the Real Estate Division] became the property of the Trustee. NAFT had an obligation to turn
13 over such assets to the Trustee, but failed to do so.

14 12. Subsequently, AKIKI, for AMERICAN REALTY, caused to be filed a Motion for
15 an Extension of Time to file the required bankruptcy schedules and other information due to the
16 fact that NAFT retained possession of all of AMERICAN REALTY's assets. The Court also
17 ordered NAFT on October 3, 2014 to turn over all of the assets of AMERICAN REALTY to
18 AKIKI. A copy of the Order of the Bankruptcy Court is attached hereto as Exhibit "B".
19

20 13. On October 3, 2014, Steven J. Szostek, Esq. sent a letter to NAFT transmitting the
21 Court's Order and setting forth the assets that were expected to be delivered.

22 14. As of the date of this Response, NAFT had turned over none of the assets of
23 AMERICAN REALTY to AKIKI. This means that he retains possession and use of all of the
24 company's assets, including all files, monies, correspondence, computers, desks, etc. AKIKI, for
25 AMERICAN REALTY is in the process of filing a Motion to Compel NAFT to turn over the

1 assets, for sanctions against him and to request that the Bankruptcy Court request that the FBI
2 investigate the theft of the company's assets.

3 15. It is not possible, at this time for AKIKI to file an informed response to the Real
4 Estate Division's Complaints, since NAFT retains all of the company's assets. AKIKI possesses
5 none of the assets of AMERICAN REALTY. The Real Estate Division should know that even if
6 the monies and other assets of AMERICAN REALTY are recovered from NAFT, the Trustee of
7 the Bankruptcy Case will decide how the recovered monies are distributed to persons who have
8 filed approved claims. AKIKI will assist the Trustee in determining if a claim filed in the
9 Bankruptcy Case is approvable, the final distribution determination will be made by the Trustee,
10 with the approval of the Bankruptcy Court.
11

12 16. Based upon the above facts, AKIKI cannot file a proper and informed response to
13 the Real Estate Division's Complaint, other than what has been stated above. As such, AKIKI
14 respectfully requests that the above-noted hearing be continued to a set date after AKIKI has
15 received the assets of AMERICAN REALTY from NAFT. AKIKI agrees to notify the Real
16 Estate Division when the assets of AMERICAN REALTY have been recovered by AKIKI.

17 **Dated this 13th day of October, 2014.**

18
19 

20 **Steven J. Szostek, Esq.**
21 **Nevada State Bar No. 3904**
22 **7848 West Sahara Avenue**
23 **Las Vegas, Nevada 89117-1944**
24 **Attorney for Alleged Debtor**
25 **AMERICAN REALTY & PROPERTY MANAGEMENT, LLC**

EXHIBIT "B"

EXHIBIT "B"

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Honorable August B. Landis
United States Bankruptcy Judge



Entered on Docket
October 03, 2014

Steven J. Szostek, Esq.
Nevada Bar No. 3904
STEVEN J. SZOSTEK, LTD.
7848 West Sahara Avenue
Las Vegas, Nevada 89134
(702) 325-6224
(702) 940-3041 [fax]
Szostek1946@gmail.com
Attorney for Debtor
AMERICAN REALTY &
PROPERTY MANAGEMENT, LLC

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA

IN RE:)	Case No.: 14-13311-ABL
)	
AMERICAN REALTY & PROPERTY MANAGEMENT, LLC)	Chapter 7
)	
Debtor.)	Trustee: DOTAN Y MELECH
)	
)	HEARING DATE: 09-24-2014
)	
)	HEARING TIME: 09:30 A.M.

ORDER GRANTING MOTION FOR EXTENSION OF TIME UNDER FRBP 1007(a)(5) TO FILE DOCUMENTS REQUIRED BY FRBP 1007(b) AND FOR ORDER DIRECTING PETITIONER RICHARD NAFT TO TURN OVER THE DEBTOR'S ASSETS TO THE DEBTOR

Debtor's Motion was heard by the Court on September 24, 2014. Steven J. Szostek, Esq. appeared on behalf of the Debtor and Andrew Wasielewski, Esq. appeared on behalf of the Involuntary Bankruptcy Petition Petitioners Kim Oneill, Laszlo Kerekes, and Richard Naft. No

1 opposition to the Motion was filed. Neither the U.S. Trustee, nor the appointed Chapter 7 Trustee
2 opposed the Motion and neither appeared at the hearing.

3 The Court has fully considered the arguments of counsel at the September 24, 2014
4 hearing and has reviewed all documents filed in support of the Motion and is fully advised as to
5 the issues pending before it. To the extent that the Court made findings of fact and conclusions of
6 law on the record at the September 24, 2014 hearing, they are incorporated into this written order
7 pursuant to Fed. R. Civ. P. 52, and made applicable to this matter pursuant to FRBP 9014(c) and
8 7052.

9
10 Based upon the record before the Court, cause has been shown to grant the Motion.

11 **THEREFORE**, the Court does order as follows:

12 1. Debtor shall have an extension of thirty (30) days from the date of the entry of
13 this Order to file its required schedules, statements and other documents required by FRBP
14 1007(b); and,

15 2. Involuntary Petitioner Richard Naft is ordered to turn over to the Debtor within
16 thirty (30) days from the date of the entry of this Order all of the assets of the Debtor in his
17 possession or control and all such assets of the Debtor of which he knows the whereabouts.

18 **IT IS SO ORDERED.**

19 Submitted this 29th day of September, 2014.

20
21 Steven J. Szostek, Ltd.

22 //Steven J. Szostek, Esq.//

23 Steven J. Szostek, Esq., Nevada Bar #3904
24 7848 W. Sahara Ave., Las Vegas, NV 89117

25 Attorney for Debtor

AMERICAN REALTY & PROPERTY MANAGEMENT, LLC

RULE 9021 CERTIFICATION

In accordance with LR 9021, counsel submitting this document certifies as follows:

1. The attached Order accurately reflects the Court's ruling and that:

The Court has waived the requirement set forth in LR 9021(b)(1).

No party appeared at the hearing or filed an objection to the Motion.

I have delivered a copy of this proposed order to all counsel who appeared at the hearing, and each has approved or disapproved the order, or failed to respond, as indicated below [list each party and whether the party has approved, disapproved, or failed to respond to the document]: **Counsel for Involuntary Bankruptcy Petition Petitioners waived review of the Order at the September 24, 2014 hearing.**

Counsel and Debtor appearing:

Debtor, AMERICAN REALTY & PROPERTY MANAGEMENT, LLC

Approved Disapproved Failed to Respond

Counsel Steven J. Szostek, Esq.

Approved Disapproved Failed to Respond

Trustee: No appearance at Hearing; No additional service required.

I certify that this is a case under Chapter 7 or 13, that I have served a copy of this order with the Motion pursuant to LR 9014(g), and that no party has objected to the form or content of the Order.

EXHIBIT "C"

EXHIBIT "C"

STEVEN J. SZOSTEK, LTD.
a Nevada Law Corporation

October 3, 2014

Richard Naft
2756 Green Valley Parkway
Henderson, NV 89014

**RE: Bankruptcy Case No. 14-13311-abl
American Realty & Property Management, LLC, Debtor
Order Granting Motion for Extension of Time under FRBP 007(a)(5)
To File Documents required by FRBP 1007(b) and for Order
Directing Petitioner Richard Naft to Turn Over the Debtor's Assets
to the Debtor**

Dear Mr. Naft:

I am legal counsel for American Realty & Property Management, LLC in the above bankruptcy case. Please review an enclosed copy of the Court's above-noted Order which directs you to turn over all of the assets of American Realty & Property Management, LLC to the Debtor within 30 days of October 3, 2014, the date of entry of the Order.

Please contact me immediately upon receipt of this letter to arrange a meeting to discuss the timely turnover of all of the company's assets. This would include, but is not limited to: (a) all physical assets of the company, including all files, desks, telephones, chairs, computers, printers, etc.; (b) all bank accounts of the company, including all new checks, all cancelled checks, all deposit slips, all checkbooks, all bank statements; and all bank cards issued for any account of the company; (c) all tax returns of the company; (d) all correspondence of the company, both directed out to recipients and coming in to the company; (e) copies of receipts for all assets of the company purchased from January 1, 2014 to date and copies of all transfers of company monies for the purchase of any assets from January 1, 2014 to date; (f) copies of all payroll records and checks for monies paid by the company for employees; and (g) copies of all records and checks paid to real estate agents or other persons with company monies.

As you are aware, all assets of the company became the assets of the Court appointed Trustee, Dotan Y. Melech, upon the conversion of the case from involuntary to a regular Chapter 7 case and the appointment of the Trustee. The assets are being turned over to the Company for the purpose of complying with Bankruptcy rules requiring the submission of various lists and documents to the Court as part of the Bankruptcy case. The Company and the Trustee are under a Bankruptcy Code mandate to assemble and account for all of the assets of the Company. Therefore, your compliance with the Court's Order must be full and complete.

Richard Naft
October 3, 2014
Page Two

Please contact me at (702) 325-6224 [voice], (702) 940-3041 [fax] or szostek1946@gmail.com [email] at your earliest convenience.

Very truly yours,


Steven J. Szostek, Esq.

Cc: Linda Akiki, Operating Manager
American Realty & Property Management, LLC