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9 **UNITED STATES BANKRUPTCY COURT**

10 **DISTRICT OF NEVADA**

11 In Re  
12 American West Development, Inc.,  
13  
14 Debtor.

Case No. BK-S-12-12349-MKN  
Chapter 11

15 Tracy Hope Davis United States Trustee,  
16 Region 17,

Adversary Proceeding No.: 13-01154-MKN

17 Plaintiff,

**NOTICE OF HEARING ON MOTION  
FOR APPROVAL OF SETTLEMENT,  
PURSUANT TO 11 U.S.C. § 105 AND  
RULES 7041/9019 OF THE FED. R.  
BANKR. P., BETWEEN AMERICAN  
HOME DEVELOPMENT, INC. AND THE  
UNITED STATES TRUSTEE, REGION 17**

18 vs.

19 American West Development, Inc.,

Hearing Date: June 10, 2015  
Hearing Time: 9:30 a.m.

20 Defendant.  
21  
22  
23

24 **PLEASE TAKE NOTICE** that on the 8th day of May, 2015, American West  
25 Development, Inc. (“AWDI”) filed a Motion For Approval of Settlement, Pursuant To 11 U.S.C.  
26 §105 and Rules 7041 and 9019 of the Federal Rules of Bankruptcy Procedure, Between  
27 American West Development, Inc. and Tracy Hope Davis, the United States Trustee, Region 17  
28 (the “Motion”). If the Motion is granted, the adversary proceeding commenced under

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1 Bankruptcy Code section 1144 by the United States Trustee to revoke confirmation of American  
2 West Development, Inc.'s First Amended Plan of Reorganization (the "Plan") and discharge  
3 would be dismissed with prejudice in consideration of American West Development, Inc.  
4 depositing an additional \$650,000 into the construction defect claims paying segment of the  
5 funding of the Construction Defect Trust created under the Plan if, on or before March 15, 2016,  
6 the initial \$600,000 funding has been fully depleted, with any portion of the claims paying  
7 segment of the Construction Defect Trust that is unused by March 15, 2018 being returned to  
8 AWDI. In addition, the Nonparticipating Class 4 Members as defined in the Motion and  
9 Settlement Agreement ("Nonparticipating Class 4 Members") who neither filed a proof of claim  
10 in AWDI's chapter 11 case nor directly cast a ballot to accept or reject the Plan are relieved,  
11 pursuant to the terms of the executed settlement agreement attached to the Motion as Exhibit 1  
12 (the "Settlement Agreement") and the Waiver/Estoppel Certificate made part of the Settlement  
13 Agreement and attached to the Settlement Agreement as Exhibit B from the release and  
14 exculpation they were deemed to have given by the casting of an acceptance ballot of the Plan on  
15 their behalf by James L. Moore, the Court-appointed Future Claims Representative ("Future  
16 Claims Representative") pursuant to a prior Court approved stipulation and the bar of the statute  
17 of limitations for any cause of action or claim that may be brought by any of those  
18 Nonparticipating Class 4 Members against any of the signatories of the Waiver/Estoppel  
19 Certificate that was covered by said release and exculpation is extended by one year.

20 **NOTICE IF FURTHER GIVEN** that a copy of the Motion is available electronically  
21 through the Court's CM/ECF system at <http://ecf.nvb.uscourts.gov> (PACER account required). A  
22 copy of the Motion may also be obtained by contacting AWDI's counsel, Fox Rothschild, LLP,  
23 Telephone: (702) 262-6899.

24 **NOTICE IS FURTHER GIVEN** that if you do not want the court to grant the relief  
25 sought in the Motion, or if you want the court to consider your views on the Motion, then you  
26 must file an opposition with the court, and serve a copy on the person making the Motion *no*  
27 *later than 14 days* preceding the hearing date for the Motion, unless an exception applies (see  
28 Local Rule 9014(d)(3)).

1 The opposition must state your position, set forth all relevant facts and legal authority,  
2 and be supported by affidavits or declarations that conform to Local Rule 9014(c).

3 If you object to the relief requested, you **must** file a **WRITTEN** response to this pleading with  
4 the court. You **must** also serve your written response on the person who sent you this notice.

5 If you do not file a written response with the court, or if you do not serve your written response  
6 on the person who sent you this notice, then:

- 7 • The court may **refuse to allow you to speak** at the scheduled hearing; and
- 8 • The court may **rule against you** without formally calling the matter at the hearing.

9 **NOTICE IS FURTHER GIVEN** that a hearing on the Motion will be held before a  
10 United States Bankruptcy Judge, in the Foley Federal Building, 300 Las Vegas Boulevard  
11 South, Courtroom No. 2, Las Vegas, Nevada on **June 10, 2015**, at the hour of **9:30 a.m.**  
12 **prevailing Pacific time.**

13 Dated this 8th day of May, 2015.

14 **FOX ROTHSCHILD LLP**

15 By           /s/Brett Axelrod            
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