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6 Attorneys for the Receiver

7 IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

8 IN AND FOR MARICOPA COUNTY

9 STATE OF ARIZONA ex rel. FELECIA)
A. ROTELLINI, Superintendent of the)
Arizona Department of Financial)
10 Institutions,)
11 Plaintiff,)
v.)
12 LANDMARC CAPITAL &)
INVESTMENT COMPANY,)
13 Defendant.)

Cause No. CV2009-020595

ORDER RE: PETITION NO. 2
ORDER GOVERNING THE
ADMINISTRATION OF THE
RECEIVERSHIP

(Assigned to Judge Robert H. Oberbillig)

14 _____)
15
16 The Receiver having filed Petition No. 2 setting forth the Receiver's recommendations
17 regarding the procedures for administering the receivership established under this Court's
18 Orders entered in this matter on June 24, 2009 and July 10, 2009 ("Receivership Order"), and
19 the Court having considered same, and it appearing that those recommendations are
20 reasonable, just, and calculated to afford the fair and equitable treatment of all persons
21 interested in these proceedings and it appearing to the Court that the matters being requested
by Petition No. 2 are reasonable, just and appropriate:

1 NOW, THEREFORE, IT IS ORDERED:

2 1. Further Proceedings in this Receivership. Except as provided in paragraph 5
3 below, the Receiver or any person seeking to obtain relief from this Court in connection with
4 this receivership, shall file with the court a pleading entitled "Petition." All petitions filed in
5 this Receivership shall be accompanied by a proposed form of order. Each petition shall be
6 consecutively numbered and the petition and all subsequent pleadings filed and orders entered
7 in connection with that petition shall contain a reference to the petition number in the title of
8 the pleading or order. If the party seeks relief in its petition against any person other than one
9 of the defendants, the caption shall include the identity of the petitioner and the party against
10 whom the relief is sought, who shall be denominated as "Respondent," in a form similar to
11 that used in asserting a third party claim. Any person intending to file such a petition shall
12 obtain a number for the petition from the counsel for the Receiver, "Guttilla Murphy
13 Anderson, P.C.

14 2. Active Calendar. The clerk of the court is directed to retain this matter on the
15 court's active calendar until such time as this receivership has been terminated by order of the
16 court.

17 3. Service List and Proof of Service. Service of all petitions and other papers filed
18 in connection with this receivership shall be governed by the Arizona Rules of Civil
19 Procedure and this paragraph:

20 a. Counsel for the Receiver shall maintain a Master Service List containing
21 the name and mailing address of each person, or the person's legal counsel, who has

1 made an appearance in this matter, or has requested to be included on the Master
2 Service List, or has been placed there by order of the Court. All pleadings and other
3 papers filed in this matter shall be served as provided in this order on each person on
4 the Master Service List, except as provided in this order or by other order of this
5 Court.

6 b. Where the Court has provided for a separate mailing list for a matter
7 raised by petition, all pleadings and other papers filed in connection with that petition
8 shall be served on all persons on the special service list for that petition.

9 c. The person filing a petition shall serve on all persons on the applicable
10 service list, a copy of the petition and proposed form of order. If the petition is filed
11 by the Receiver, the Receiver shall also serve a notice of hearing.

12 d. Within five days (5) after the entry of an order granting or denying relief
13 under a petition, the person filing the petition shall serve a conformed copy of the
14 order entered by the Court on all persons on the applicable service list.

15 e. All *ex parte* orders entered by the Court in accordance with this Order
16 shall be served by the Receiver on all persons on the Master Service List within five
17 (5) days after entry of the *ex parte* order.

18 f. Service under this paragraph shall be made by mailing by first class mail,
19 postage prepaid, a copy of the pleading or other paper to be served on each person on
20 the applicable service list.
21

1 g. The party making service shall, within five (5) days after making service,
2 file and serve a proof of mailing, stating that a copy of the petition or other paper
3 served, was mailed to the persons set forth on the applicable service list, which service
4 list shall be attached to the proof of mailing.

5 h. The procedures set forth in this paragraph shall also be followed for all
6 motions and stipulations filed in the above matter and these procedures are intended to
7 replace and supersede the procedures set forth in Rule 3.2(i), Maricopa County Local
8 Rules of Practice.

9 i. Counsel for the Receiver shall provide a copy of the Master Service List
10 and any special service list to any person requesting same.

11 j. Counsel for the Receiver shall remove the name of a person from a
12 service list upon receipt of a written request to do so from the person or his counsel or
13 when so directed by the court.

14 4. Ex Parte Petitions. Counsel for the Receiver may file an *ex parte* petition
15 without providing notice or service as provided in this order or by the Rules of Civil
16 Procedure, where the Court expressly so authorizes such a filing, or where:

17 a. The petition seeks authority to engage outside professionals to perform
18 services for the Receiver, including outside counsel to represent the Receiver in
19 pending or contemplated litigation.

20 b. The petition seeks authority to institute or defend litigation, file an
21 appeal or assert or otherwise perfect a claim or defense of the Receiver.

1 5. Claims Against the Receivership Estate. Claims against any of the persons or
2 assets in receiverships shall be asserted only as provided below:

3 a. Any person making a claim against any of the persons or assets in
4 receiverships shall file his claim with the Receiver as provided in this Order by
5 delivering or mailing the claim to:

6 Receiver of Landmarc Capital
7 P.O. Box 14050
8 Scottsdale, Arizona 85267

9 b. The claim shall be set forth on a form prescribed by the Receiver and
10 shall set forth in reasonable detail the amount of the claim, or the basis upon which
11 such amount can be ascertained, the facts upon which the claim is based and the
12 priorities asserted, if any. The claim shall also be verified under oath by the claimant
13 or someone authorized to act on his behalf and having knowledge of the facts, and
14 shall be supported by such documents as may be material thereto.

15 c. Claims shall be filed with the Receiver on or before the deadline for
16 filing claims set by subsequent order of the Court. A claim shall be deemed filed on
17 the date the claim form, completed as required by this order, is delivered to the
18 Receiver or the date it is deposited with the United States Postal Service, postage
19 prepaid, addressed to the Receiver at the above address.

20 d. Any claim against any of the Receivership Entities filed as provided in
21 this order, shall toll the running of any statute of limitation applicable to such a claim
that has not run at the time the claim is filed.

1 e. The Receiver shall provide claim forms to persons requesting same.

2 6. Notice Procedures. Notice of all proceedings in this receivership shall be
3 governed by the following provisions unless otherwise ordered by the Court:

4 a. Notices of hearings regarding petitions for authority to reimburse the
5 receivership revolving fund shall be given by mailing notice and a copy of the petition
6 to each person on the Master Service List not later than seven (7) days before the date
7 set for hearing.

8 b. Unless otherwise ordered by the Court, notices of hearing regarding
9 petitions for confirmation of the sale of any asset by the Receiver shall be given by
10 mailing notice and a copy of the petition to each person on the Master Service List not
11 later than ten (10) days before the date set for hearing, and notice shall be published
12 once in the Arizona Business Gazette, or other newspaper of general circulation, not
13 later than seven (7) days before the date set for hearing.

14 c. Notice for hearing the final account and report of Receiver shall be given
15 by following the notice procedure outlined in subparagraph (b) above.

16 d. Unless otherwise ordered by the Court, all other matters requiring the
17 giving of public notice shall follow the procedure outlined in subparagraph (a) above.

18 7. Identification of Assets. In complying with this Court's order to identify,
19 collect and manage all property, causes of action, and other assets of the receivership estate,
20 the Receiver may, without further order of the Court, obtain from the Clerk of this Court
21 subpoenas, or obtain commissions or letters rogatory directing another Court to issue

1 subpoena, compelling any person who the Receiver reasonably believes possesses
2 information or documents that may assist the Receiver in identifying such assets of the
3 Receivership Entities, to produce such information or documents to the Receiver. The
4 Receiver shall be required to give notice of depositions or commissions or letters rogatory
5 under this paragraph, only to persons who have made a written request to the Receiver for
6 such notice.

7 8. Payments to Attorneys and Accountants. Notwithstanding the Receivership
8 Order, the Superintendent of the Arizona Department of Financial Institutions as receiver
9 shall pay the Special Deputy Receiver, and her general counsel and accountants engaged for
10 purposes of this receivership their fees and expenses from the receivership revolving fund
11 established pursuant to A.R.S. § 6-135.01, without further order of the Court.

12 9. Petitions for Payment of Fees. Pursuant to A.R.S. § 6-131.01(B), and
13 notwithstanding the Receivership Order, the Receiver may seek an award from the Court for
14 all reasonable expenses of the Arizona Department of Financial Institutions relating or
15 apportioned to this receivership, including the fees of the Special Deputy Receiver, attorneys
16 and accountants, costs of preliminary or other examinations of the person or persons in
17 receivership and expenses related to the management of offices or assets of the person or
18 persons in receivership by filing a petition, which petition shall not be required to include as
19 exhibits the itemized statements of services rendered to, and costs incurred or expended on
20 behalf of, the Receivership, provided that the petition includes a statement that anyone
21 desiring additional information concerning the services and costs to be paid under the pay

1 petition may obtain redacted information from the Receiver by delivering to the Receiver and
2 the Receiver’s general counsel, Guttilla Murphy Anderson, P.C., a written request specifying
3 the additional information requested at least three days prior to the date set for hearing on the
4 pay petition. Upon request of the Court, the Receiver shall make available for in camera
5 review by the Court, the itemized statements and supporting documentation for the services
6 and costs to be paid under the pay petition.

7 10. Legal Counsel for Out-Of-State Litigation. The Receiver may employ, without
8 further order of the Court, such legal counsel as are necessary to represent the Receiver or
9 any of the persons in receivership in all litigation before any court or tribunal other than the
10 courts of this state. The Receiver may agree to pay such legal counsel from the assets of the
11 receivership estate at a rate determined in the sole discretion of the Receiver to be
12 appropriate, provided that the Receiver shall obtain approval of the Court as provided in this
13 order prior to paying such legal counsel.

14 Dated this _____ day of _____, 2009.

15
16 _____
17 Judge of the Superior Court
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21

Granted

Signed on this day, August 26, 2009



/S/ Robert Oberbillig
Judicial Officer of Superior Court