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5 Attorneys for the Receiver

6 IN THE SUPERIOR COURT FOR THE STATE OF ARIZONA

7 IN AND FOR THE COUNTY OF MARICOPA

8 STATE OF ARIZONA ex rel. THOMAS)
L. WOOD, Superintendent of the)
Arizona Department of Financial)
Institutions,)

9 Plaintiff,

10 v.

11 LANDMARC CAPITAL &)
INVESTMENT COMPANY,)

12 Defendant.)

Cause No. CV2009-020595

PETITION NO. 6

PETITION TO SELL PERSONAL
PROPERTY AT 4110 NORTH
SCOTTSDALE ROAD

(Assigned to Judge Sam Myers)

13
14
15 Thomas L. Wood, Superintendent of the Arizona Department of Financial Institutions
16 as Receiver of Landmarc Capital & Investment Company, (hereinafter "Landmarc"), petitions
17 the Court as follows:

18 1. On June 24, 2009, this Court entered its, *Order Appointing Receiver and Order*
19 *to Show Cause* which appointed the Superintendent of the Arizona Department of Financial
20 Institutions as Receiver of Landmarc Capital & Investment Company. On July 10, 2009, this

1 Court entered its *Order Appointing Permanent Receiver and Injunction*. (“Receivership
2 Order”).

3 2. Prior to being placed into temporary Receivership on June 24, 2009 and
4 thereafter permanent Receivership on July 10, 2009, Landmarc occupied Suites 320, 324, 330
5 and 340 at 4110 North Scottsdale Road, Scottsdale, Arizona 85251 (“Premises”).

6 3. Although Landmarc did not enter into a formal sub-lease with North Star (as
7 defined below), Landmarc was the primary occupant of, paid rent for and maintained
8 insurance on the premises. Scottsdale Financial Center Investors, LLC (hereinafter
9 “Landlord”), is the owner of the Premises and had leased the Premises to North Star Lending
10 Company (“North Star”).

11 4. The Receiver occupied the Premises beginning June 24, 2009. The Receiver
12 vacated Suite 330 of the Premises on July 18, 2009, and turned over the keys for Suite 330 to
13 the landlord on August 18, 2009. Upon vacating Suite 330, the Receiver removed all of
14 Landmarc’s files and documents but did not remove various items of personal property, all of
15 which remain in the space. The Receiver subsequently gave the landlord permission to
16 change the locks on the balance of the Premises, which the landlord did on September 8,
17 2009.

18 5. The Receiver, through Special Deputy Receiver Lawrence J. Warfield caused
19 “The Arizona Auctioneers” to inventory and provide an appraisal of the personal property
20 remaining in the vacated office space. A copy of The Arizona Auctioneers’ inventory
21 without appraisal of value of the items remaining in Suite 330, is attached as Exhibit “A”.

1 6. The Receiver proposes that the personal property listed on Exhibit "A", and
2 such other property located in other portions of the Premises, be promptly removed from the
3 Premises and disposed of by offsite public auction to be conducted by Sierra Auction
4 Management, Inc.

5 7. Sierra Auction Management, Inc. charges a 10% commission on all sales and
6 estimates that the cost to remove the personal property and transport it to the auction location
7 at 3570 N.W. Grand Avenue will be approximately \$2,300.00 to \$2,800.00.

8 8. No sale will take place until a notice describing the time, date and place of sale
9 (which sale at landlord's insistence will not be in the Premises or the building in which the
10 premises are located) is provided to interested parties who have requested such notice and
11 anyone, including parties and their representatives may bid and purchase the items at the
12 public auction.

13 9. If the Receiver is unable to dispose of an item of personal property by public
14 auction then the Receiver requests, that the Receiver be permitted to:

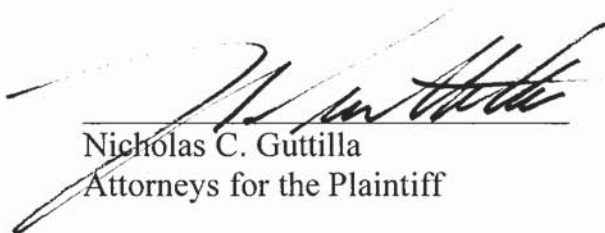
- 15 A. Dispose of the property by a negotiated sale; or
- 16 B. Abandon the property to anyone entitled to purchase the property or donate the
17 property to charity; or
- 18 C. Destroy the property; or
- 19 D. Surrender to landlord or secured lien holder; or
- 20 E. Dispose of the property as the Receiver may determine, in the Receiver's sole
21 discretion.

1 10. The net proceeds of the public auction sale of the personal property listed on
2 Exhibit “A” and the other property located in other portions of the Premises shall be
3 immediately turned over to the landlord as partial satisfaction of the landlord’s asserted “lien”
4 for unpaid rent. The Receiver and the Landlord agree that any issue concerning the validity
5 of the lien or whether the net proceeds should be applied to pre-receivership or post
6 receivership rent shall be determined at a later date.

7 WHEREFORE, the Receiver respectfully requests that the Court enter an Order
8 authorizing the Receiver to sell the personal property listed on Exhibit “A” presently located
9 in Suite 330 and such other property located in other portions of the Premises located at 4110
10 North Scottsdale, Road, Scottsdale, Arizona by public auction conducted by Sierra Auction
11 Management, Inc. and to pay all costs of removal and relocation and a 10% commission out
12 of the proceeds of the sale and to pay the net proceeds to Scottsdale Financial Center
13 Investors, LLC as partial satisfaction of the landlord’s “lien” securing rent of the Premises.

14 Respectfully submitted this 23rd day of October, 2009.

15 GUTTILLA MURPHY ANDERSON, P.C.


16 
17
18 Nicholas C. Guttilla
19 Attorneys for the Plaintiff
20
21

1 Original of the foregoing electronically
filed this 23rd day of October, 2009 with:

2
3 Clerk of the Court
4 Maricopa County Superior Court
201 West Jefferson, Fourth Floor
Phoenix, AZ 85003

5 Copy of the foregoing mailed or emailed
this 23rd day of October, 2009 to:

6
7 All Parties listed on the attached
Master Service List

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1157-001(88155)

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MASTER SERVICE LIST

State of Arizona ex rel. v. Landmarc Capital & Investment Company
IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

CV2009-020595

(Rev. October 22,-2009)

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AUCTIONEERS & LIQUIDATORS

Licensed & Bonded

1802 SOUTH FIRST AVENUE
PHOENIX, ARIZONA 85003

Phoenix: (602) 258-6981
FAX: (602) 257-1935

APPRAISAL
LANDMARC CAPITAL & INVESTMENT
4110 N. SCOTTSDALE RD STE 330
SCOTTSDALE, AZ 85251

July 24, 2009

AUCTIONS

Page: 1

	Line	Qty	Description	LIQUIDATION Unit	Value
	1	12	CLOTH CHAIRS		
APPRAISALS	2	4	TABLES		
	3	4	PICTURES		
	4	1	LAMP		
	5	3	PLANTS		
CONSTRUCTION	6	1	LG FLAT SCREEN TELEVISION		
	7	1	SOFA		
	8	6	DECO VASES		
	9	1	RECEPTION DESK (NO LIQUID VALUE)		
MINING	10	1	DESK CHAIR		
	11	1	PICTURE		
	12	1	LG FLAT SCREEN TELEVISION		
	13	3	DECO VASES		
FARMS	14	1	DESK CHAIR		
	15	2	FILE CABINETS		
	16	1	REFRIGERATOR		
	17	1	POSTAGE METER (NO LIQUID VALUE)		
ROAD BUILDERS	18	2	METRO STORAGE RACKS		
	19	1	BROTHER TYPEWRITER		
	20	1	7 FT CHRISTMAS TREE		
	21	1	LOT MISCELLANEOUS OFFICE SUPPLIES		
FACTORIES	22	1	BILCO BINDER		
	23	2	PICTURES		
	24	10	HIGH BACK LEATHER CHAIRS		
	25	1	LARGE CONFERENCE TABLE		
INVENTORIES	26	2	PICTURES		
	27	1	PLANT		
	28	1	LG FLAT SCREEN TELEVISION		
STORES					
REAL ESTATE					

- Serving Business and Industry For Over 50 Years -

Exhibit A



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LIQUIDATIONS

LIQUIDATION
Unit

Value

Line	Qty	Description	Unit	Value
29	1	LOT ART DECO ITEMS		
30	1	LOT DESK, CREDENZA & 2 CHAIRS		
31	1	LOT DESK & CHAIR		
32	1	LARGE PICTURE		
33	1	LOT DESK, CREDENZA & 3 CHAIRS		
34	2	PICTURES		
35	1	LOT DESK, CREDENZA, 3 CHAIRS,		
36		BOOKSHELF		
37	1	LOT DESK, CREDENZA, 3 CHAIRS, PICTURE,		
38		TALL 2 DOOR CABINET		
39	2	DESKS		
40	1	LOT DESK, 3 CHAIRS & TALL CABINET		
41	3	LARGE PICTURES		
42	2	IMAGE SCANNER SS300C COPIERS		
43	1	LOT 3 PICTURES, FILE CABINET, 4 CHAIRS		
44		2 MOBILE SHRED CONTAINERS, TABLE		
45		CREDENZA		
46	1	LOT DESK, CREDENZA, 2 CHAIRS, FILE		
47		CABINET & PICTURE		
48	1	LOT DESK, 3 CHAIRS		
49	2	CHAIRS		
50	1	LOT MARBLE TOP DESK & CREDENZA,		
51		7 CHAIRS, 3 TABLES, 2 PICTURES,		
52		2 LAMPS, PLANT, LG FLAT SCREEN		
53		TELEVISION, SMALL CLOCK, NOVELTY		
54		MICROPHONE, 3 PERSONAL PICTURE		
55		FRAMES, NAVLETY CANE, 4 PILLOWS		
56	1	LOT DESK, CREDENZA, 3 CHAIRS		

ROAD BUILDERS

FACTORIES

INVENTORIES

STORES

REAL ESTATE



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July 24, 2009

AUCTIONS

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LIQUIDATIONS

LIQUIDATION

Line	Qty	Description	Unit	Value
57		PLANT, TALL 2 DOOR CABINET. 2 ART		
58		DECO ITEMS		
59	2	DESKS		
60	2	CHAIRS		
61	3	FILE CABINETS		
62	2	BLUE AIR PURIFYING SYSTEMS		
63	7	GREASE BOARDS		
64	1	HP OFFICE JET 7410 ALL IN ONE MACHINE		
65	2	CHAIRS		
66	1	TABLE		
67	1	COPIER		
68	1	REFRIGERATOR		
69	1	MICROWAVE		

APPRAISALS

CONSTRUCTION

MINING

FARMS

ROAD BUILDERS

FACTORIES

INVENTORIES

STORES

REAL ESTATE

Stephen M. Sommers
Michael J. Kramer
5506