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FILED
May 12 2010 - 9:55 am
MICHAEL K. JEANES, Clerk
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Deputy

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6 IN THE SUPERIOR COURT FOR THE STATE OF ARIZONA
7
8 IN AND FOR THE COUNTY OF MARICOPA

9 STATE OF ARIZONA ex rel. LAUREN
KINGRY¹, Superintendent of the
Arizona Department of Financial
Institutions,

10 Plaintiff,

11 v.
12 LANDMARC CAPITAL &
INVESTMENT COMPANY; HAYDEN
INVESTMENTS, LLC; DESERT
13 TRAILS HOLDINGS, LLC; ARIZONA
VALUATION COMPANY, LLC;
14 HAYDEN INSURANCE, LTD;
DESERT TRIALS INSURANCE CO.,

15 Defendants.

Cause No. CV2009-020595

AMENDED

ORDER APPOINTING PERMANENT
RECEIVER AND INJUNCTION

(Assigned to Judge Sam Myers)

16 Plaintiff, the Superintendent of the Arizona Department of Financial Institutions
17 (“Superintendent”) having filed a “Verified Complaint and Application for Appointment of
18 Receiver, Injunction and Order to Show Cause” seeking to place Landmarc Capital &
19 Investment Company (“Landmarc”) into Receivership and seeking to be appointed permanent
20 Receiver of Landmarc and its assets and the Court having considered the Superintendent’s
21

¹ Ariz.R.Civ.P. Rule 25(e)

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1 Complaint, Memorandum in Support of the Application and the Declaration of Lawrence
2 Field, CPA, examiner in charge of the Arizona Department of Financial Institutions?
3 examination of Landmarc and Landmarc having appeared and consented to the appointment
4 of a permanent Receiver and the issuance of an injunction and pursuant to the Orders of this
5 Court dated February 27, 2010, placing Hayden Insurance, Ltd., Desert Trails Insurance Co.,
6 Hayden Investments, LLC, Desert Trails Holdings, LLC and Arizona Valuation Company,
7 LLC into Receivership.

8 IT IS THEREFORE ORDERED:

9 1. This Court takes exclusive jurisdiction and possession of the assets, money,
10 security, causes in action, and property, real and personal, tangible and intangible, of
11 whatever kind and description, wherever situated, of Landmarc, Hayden Insurance, Ltd.,
12 Desert Trails Insurance Co., Hayden Investments, LLC, Desert Trails Holdings, LLC and
13 Arizona Valuation Company, LLC and any person or entity added to this Receivership by
14 subsequent order of the Court by the Receivership Defendants ("Receivership Entities") and
15 all assets that the Receivership Entities acquired from the customers, investors and other
16 persons doing business with the Receivership Entities.

17 2. The Superintendent of the Arizona Department of Financial Institutions is
18 appointed as Receiver of the Receivership Entities and the receivership assets with authority
19 to conserve, rehabilitate or liquidate the Receivership Entities as the Receiver sees fit.

20 3. Thomas J. Giallanza, is appointed Deputy Receiver, with full authority to act
21 for the Receiver in carrying out the Receiver's duties and responsibilities under this order.

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1 4. The Receiver and Deputy Receiver shall be the agents of the Court, shall be
2 accountable directly to this Court and may designate a special deputy receiver to carry out
3 their duties and responsibilities under this order.

4 IT IS FURTHER ORDERED that the Receiver is directed and authorized to:

5 5. Assume full control of the Receivership Entities by removing, as the Receiver
6 deems necessary or advisable, any director, officer, independent contractor, employee, or
7 agent of the Receivership Entities, from control of, management of, or participation in, the
8 affairs of the Receivership Entities.

9 6. Collect, receive and take exclusive custody, control and possession of all assets,
10 bank accounts, securities, business accounts, goods, chattels, causes of action, credits,
11 monies, affects, books and records of accounts and other papers and property or interests
12 owned beneficially or otherwise by the Receivership Entities, or held by the Receivership
13 Entities, as trustee or in any other capacity, or placed under the control of the Receiver by
14 court order ("Receivership Assets") with full power to sue for, collect, receive and take
15 possession of such Receivership Assets;

16 7. Enter into contracts and purchase insurance as advisable or necessary.

17 IT IS FURTHER ORDERED:

18 8. All persons, including the Receivership Entities' officers, agents, servants,
19 employees, attorneys and all persons that act in concert or participation with them who
20 receive actual notice of this Order by personal service or otherwise, and specifically including
21 any bank or other financial or depository institution holding accounts for or on behalf of the

1 Receivership Entities shall promptly deliver to the Receiver all Receivership Assets in the
2 possession or under the control of any one or more of them and shall promptly deliver all
3 books and records of any kind pertaining or belonging to the Receivership Entities.

4 9. All persons, including the Receivership Entities' officers, agents, servants,
5 employees, attorneys and all persons that act in concert or participation with them who
6 receive actual notice of this Order by personal service or otherwise, are enjoined from in any
7 way interfering with the operation of the Receivership or in any way disturbing the
8 Receivership Assets and from filing or prosecuting any actions or proceedings which involve
9 the Receiver or which affect the Receivership Assets, specifically including any proceeding
10 initiated pursuant to United States Bankruptcy Code, except with the prior permission of this
11 Court. Any actions so authorized to determine disputes relating to Receivership Assets shall
12 be filed in this Court.

13 IT IS FURTHER ORDERED:

14 10. The Receiver is authorized to make appropriate notification to the United States
15 Postal Service to forward delivery of any mail addressed to the Receivership Entities, any
16 company or entity under the direction or control of any the Receivership Entities, to any post
17 office box or other mail depository to the Receiver. Further, the Receiver is hereby
18 authorized to open and inspect all such mail to determine the location, identity, or existence
19 and amount of claims; to make such ordinary and necessary payments, distributions, and
20 disbursements as the Receiver deems advisable or proper for the marshalling, maintenance or
21 preservation of the Receivership Assets. From and after the date of entry of this Order, the

1 Receiver shall have the authority to conduct the business operations of the Receivership
2 Entities and the entities they control including the collection of rents or continuation and
3 termination of any employment arrangement and the terms thereof. The Receiver shall have
4 the authority to contact and negotiate with any creditors of the Receivership Entities for the
5 purpose of compromising or settling any claim. To this purpose, in those instances in which
6 the Receivership Assets serve as collateral to secured creditors, the Receiver may surrender
7 such assets to secured creditors, and shall have the authority to make such surrender
8 conditional upon the waiver of any deficiency of collateral. Furthermore, the Receiver is
9 authorized to renew, cancel, terminate, or otherwise adjust any pending lease agreements to
10 which any of the Receivership Entities is a party.

11 IT IS FURTHER ORDERED:

12 11. Except by leave of this Court, during pendency of the receivership ordered
13 herein, the Receivership Entities and all other persons and entities be and hereby are stayed
14 and enjoined from taking any action to establish or enforce any claim, right, or interest for,
15 against, on behalf of, in, or in the name of any of its subsidiaries, affiliates, partnerships,
16 assets, documents, or the Receiver or the Receiver's duly authorized agents acting in their
17 capacities as such, including, but not limited to, the following actions:

18 a. Commencing, prosecuting, continuing, entering, or enforcing any suit or
19 proceeding, except as such actions may be filed to toll any applicable statute of limitations; or

20 b. Accelerating the due date of any obligation or claimed obligation; filing or
21 enforcing any lien; taking or attempting to take possession, custody or control of any asset;

1 attempting to foreclose, forfeit, alter, or terminate any interest in any asset, whether such acts
2 are part of a judicial proceeding, are acts of self-help, or otherwise; or

3 c. Excluding, issuing, serving, or causing the execution, issuance or service of,
4 any legal process, including but not limited; attachments, garnishments, subpoenas, writs of
5 replevin, writs of execution, or any other form of process whether specified in this Order or
6 not; or

7 d. Doing any thing whatsoever to interfere with the Receiver taking custody,
8 control, possession, or management of the assets or documents subject to this Receivership,
9 or to harass or interfere with the Receiver in any way, or to interfere in any manner with the
10 exclusive jurisdiction of this Court over the assets or documents of Landmarc.

11 IT IS FURTHER ORDERED:

12 12. Except as otherwise provided in this Order, all persons and entities in need of
13 documentation from the Receiver shall in all instances first attempt to secure such
14 information by submitting a formal written request to the Receiver, and, if such request has
15 not been responded to within thirty (30) days of receipt by the Receiver, any such person or
16 entity may thereafter seek an Order of this Court with regard to the relief requested.

17 IT IS FURTHER ORDERED:

18 13. The Receiver is hereby authorized:

19 a. To employ such employees, accountants, and attorneys as are necessary and
20 proper for the collection, preservation, maintenance and operation of the Receivership Assets.
21

1 b. Engage and employ such deputies and current or previous employees of the
2 Receivership Entities to carry on the day to day business of the Receivership Entities, as the
3 Receiver may deem necessary in the performance of the Receiver's duties and
4 responsibilities.

5 c. To receive and collect any and all sums of money due or owing the
6 Receivership Entities, whether the same are now due or shall hereafter become due and
7 payable, and is authorized to incur such expenses and make such disbursements as are
8 necessary and proper for the collection, preservation, maintenance and operation of the
9 Receivership Assets.

10 d. To institute, defend, compromise or adjust such actions or proceedings in state
11 or federal courts now pending and hereafter instituted, as may be in the Receiver's discretion,
12 be advisable or proper for the protection of the Receivership Assets or proceeds therefrom,
13 and to institute, prosecute, compromise or adjust such actions or proceedings in state or
14 federal court as may be in his judgment necessary or proper for the collection, preservation
15 and maintenance of the Receivership Assets.

16 e. To institute such actions or proceedings or impose a constructive trust, obtain
17 possession and/or recover judgment with respect to persons or entities who received assets or
18 funds traceable to investor monies. All such actions shall be filed in this Court.

19 f. Maintain accurate records of all receipts and expenditures that he makes as
20 Receiver.

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1 g. Cooperate with reasonable requests for information or assistance from any state
2 or federal law enforcement agency.

3 IT IS FURTHER ORDERED:

4 14. Upon the request of the Receiver, any peace officer of this State is authorized
5 and directed to assist the Receiver in carrying out the Receiver's duties to take possession,
6 custody or control of, or identify the location of, any Receivership Assets. The Receiver is
7 authorized to remove any person from any premises or real estate constituting a Receivership
8 Asset that attempts to interfere with the Receiver, the Receiver's attorneys or agents in the
9 performance of their duties. The Receiver is further authorized to change any locks or other
10 security mechanisms with respect to any premises or other assets that constitute Receivership
11 Assets.

12 15. The officers, directors and employees of the Receivership Entities and any other
13 person or entity receiving notice of this order shall fully cooperate with and assist the
14 Receiver, which shall include, but not be limited to, providing information to the Receiver
15 that the Receiver deems necessary to exercising the authority and discharging the
16 responsibilities of the Receiver under this Order; providing any password required to access
17 any computer, electronic file, or telephonic data in any medium; advising all persons who
18 owe money to the Receivership Entities that all debts should be paid directly to the Receiver;
19 and provide to the Receiver all keys and codes necessary to gain or to secure access to any
20 Receivership Assets or Receivership Records.

21 16. The Receivership Entities' employees or agents David Crantz ("Crantz"),

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1 Jeff Peterson ("Peterson"), Ron Kepes ("Kepes"), and Malecia Jewel ("Jewel") shall
2 cooperate with the Receiver in determining, among other things, the investor(s) fairly
3 traceable to each loan transaction serviced by Landmarc, the amount of the investment, and
4 any property securing the investment.


5 17. Crantz, Peterson, Kepes and Jewel shall cooperate with the Receiver in
6 determining the identification and ownership interest of all investors in the Receivership
7 Entities' pooled accounts (i.e. Landmarc Equity Fund, LLC and Landmarc Capital Partner,
8 LLC,) as well as all assets securing investments in the Receivership Entities' pooled
9 accounts.

10 18. Crantz, Peterson, Kepes, and Jewel shall cooperate with the Receiver in
11 identifying properties that have been repossessed or insured by the Receivership Entities or
12 the individual investors' loans serviced by the Receivership Entities.

13 19. Crantz, Peterson, and Kepes, shall not be compensated for their efforts in aiding
14 the Receiver.

15 IT IS FURTHER ORDERED that this Court shall retain jurisdiction of this action for
16 all purposes. The Receiver is hereby authorized, empowered, and directed to apply to this
17 Court for issuance of such other orders as may be necessary and appropriate in order to carry
18 out the mandate of this Court.

19 Dated this 12 day of May, 2010.

20 
21 Sam Myers HONORABLE SAM J. MYERS
Judge of the Superior Court