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5	Attorneys for the Receiver		
6			
7	THE SUPERIOR COURT OF ARIZONA FOR MARICOPA COUNTY		
P.C.	STATE OF ARIZONA ex rel. LAUREN KINGRY, Superintendent of the Arizona	Cause No. CV2009-020595	
lerson, 54 00 0	Department of Financial Institutions, Plaintiff,) PETITION NO. 71	
urphy And City North High Street, S oenix, AZ 856 (480) 304-830 (480)	V.) PETITION FOR ORDER APPROVING	
Guttilla Murphy Anderson, P.C Guttilla Murphy Anderson, P.C 5415 E. High Street, Suite 200 Phoenix, AZ 85054 (480) 304-8300 6 6 6 9 6 9 10 10 10 10 10 10 10 10 10 10	LANDMARC CAPITAL & INVESTMENT COMPANY,	THE SALE OF REAL PROPERTY	
entrill 22 12	Defendant.	 LOCATED AT 10149 E. CAVEDALE DRIVE, SCOTTSDALE, ARIZONA 85262 	
13		(Assigned to the Honorable Lisa Flores)	
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15			
16	Lauren W. Kingry, as the court appointed Receiver, respectfully petitions the Court as		
17	follows:		
18	1. On June 24, 2009, this Court entered its <i>Order Appointing Receiver and Order</i>		
19	to Show Cause, which appointed the Superintendent of the Arizona Department of Financial		
20	Institutions as Receiver of Landmarc Capital & Investment Company ("Landmarc"). On July		
21	10, 2009, this Court entered is Order Appointing Permanent Receiver and Injunction. On		

February 27, 2010, the Court entered its Order Placing Hayden Investments, LLC, Desert
 Trails Holdings, LLC and Arizona Valuation Company, LLC in Receivership. On May 12,
 2010, the Court entered its Amended Order Appointing Permanent Receiver and Injunction
 (collectively "Receivership Order"). The Receivership Order appointed Thomas Giallanza as
 Deputy Receiver and authorized the Receiver to engage and employ Special Deputy
 Receivers to carry on the day to day business of Landmarc.

7 2. In accordance with the Receivership Order, the Receiver has identified and 8 taken possession of certain real property located at 10149 E. Cavedale Drive, Scottsdale, 9 Arizona 85262 ("Property"). This Property is legally described in Exhibit "1" attached hereto 10 and was acquired by Trustee's Deed Upon Sale on February 1, 2011, which vested fee title in 11 Landmarc Capital & Investment Company (25.234%), Landmarc Capital Partners, LLC 12 (28.037%), First Trust Company of Onaga, Custodian FBO Rhonda K. Solheim, IRA 13 (46.729%). The beneficial ownership as determined by the Court is held as follows: 14 KepesWare (18.69%); GubinWare (6.5%); Landmarc Capital Partners, LLC ("Partners") 15 (28.04%); and SolheimR (46.73%) (collectively the "Beneficial Owners"). One of the 16 Beneficial Owners (Solheim) asserts a right to priority distribution of the net sale proceeds, 17 accordingly, the net sale proceeds will be held in trust until the claims of these Beneficial 18 Owners are resolved by the Court.

3. The Property is vacant land and is not occupied and is not encumbered by any
indebtedness, other than obligations for real estate taxes and assessments.

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4. The continued holding of the Property is not necessary or appropriate to protect the interests of any persons interested in this receivership. Accordingly, the Receiver commenced efforts to market and sell the property.

5. The sale contemplated under Exhibit "2" is conditioned upon, and will not take place in the absence of, an order of this Court approving such sale after notice and a hearing.

6. The Receiver has obtained the following information concerning the fair market value of the Property:

a. On March 20, 2013 a Comparable Market Analysis provided by City to City Commercial shows that Lot 251 which abuts Lot 267 has (as of March 20, 2013) been listed for 35 days at \$645,000 . City to City Commercial is a licensed real estate brokerage and has been issued license number LC507884000 by the Arizona Department of Real Estate.

b. On June 14, 2012, Michael Turner of Appraisal Technology, Inc.,
submitted an appraisal of the Property which indicated a fair market value for the
Property of \$429,000. Mr. Turner has been issued Appraiser No. 30420 by the State
of Arizona as a Certified General Real Estate Appraiser. The appraiser has no known
interest in any of the parties or in the sale of the Property.

c. On May 16, 2012, a Broker's Opinion of Value was performed on the Property by City to City Commercial. It was determined that the current market value of the Property was between \$440,000 and \$450,000. Guttilla Murphy Anderson, P.C. City North 5415 E. High Street, Suite 200 Phoenix, AZ 85054 (480) 304-8300 7. The Receiver was approached by Daniel Wolski of Russ Lyon/Sotheby's
 International Realty, The O'Keefe Group, with a prospective buyer. The Receiver entered
 into an agreement with Daniel Wolski of Russ Lyon/Sotheby's International Realty, The
 O'Keefe Group to market the Property, under which the Receiver agreed, subject to approval
 of this Court, to pay to Russ Lyon/Sotheby's International Realty, The O'Keefe Group an 8%
 sales commission if the sale to the prospective buyer closed.

8. On January 26, 2013, the Receiver received an offer from Mark Johnsrud to
purchase the Property for \$525,000 under terms that were not acceptable to the Receiver.
The Receiver thereafter submitted to Buyer a counter offer which has been accepted. These
documents constitute the Purchase Agreement and are attached hereto as Exhibit "2". The
Purchase Agreement provides for the sale of the Property for \$655,000 in cash and is
conditioned upon approval by this Court and all of the Beneficial Owners.

9. In accordance with this Court's Order Re: Petition Number 2, the Receiver:

a. Has mailed a copy of this Petition, the proposed order, and the Notice of
Hearing, to all persons indicated in the Proof of Mailing filed herewith, which includes
each of the Beneficial Owners and the homeowners association which asserts a
secured claim against the Property;

b. Intends to publish notice of this sale in a newspaper of general circulation within the county in which this action is pending and the Property is located.

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1	10. The Receiver recommends that the Property be sold for the price and under the	
2	terms set forth in the Purchase Agreement attached as Exhibit "2", which the Receiver	
3	believes are in the best interests of the receivership estate.	
4	WHEREFORE, the Receiver respectfully requests that the Court enter an order:	
5	1. Approving the sale as set forth in the Purchase Agreement attached as Exhibit	
6	"2" to this Petition of the Property legally described in Exhibit "1".	
7	2. Authorizing the Receiver to instruct the escrow agent to pay all lawful real	
	estate taxes, assessments and other obligations constituting a lien on the Property;	
Guttilla Murphy Anderson, P.C. Guttilla Murphy Anderson, P.C. 5415 E. High Street, Suite 200 Phoenix, AZ 85054 (480) 304 8300 6 0 6 0	3. Directing the Receiver to hold the net proceeds derived from the sale in trust	
phy And Jity North igh Street, 5 nix, AZ 856 0) 304-830 0) 304-830	until the claims of the Beneficial Owners are resolved by the Court;	
Ella Murph City 5415 E. High Phoenii (480) (480)	4. Directing the Beneficial Owners holding fee title to the Property to convey their	
th ₅ 12	respective interests in the Property to the Receiver for the sole purpose of effecting the sale of	
13	the Property to the Buyer as approved herein and without prejudice to any interest or priority	
14	the Beneficial Owner may assert in the loan, the Property, or the proceeds therefrom; and	
15	5. Authorizing Thomas J. Giallanza, Deputy Receiver to execute all necessary	
16	documents in connection with the sale of the Property confirmed by the Court.	
17	Respectfully submitted this 22 nd day of March, 2013.	
18	GUTTILLA MURPHY ANDERSON, P.C.	
19	/s/Patrick M. Murphy	
20	Patrick M. Murphy Attorneys for the Receiver	
21	1157-001(142912)	
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