

1 Guttilla Murphy Anderson, P.C.
2 **Patrick M. Murphy** (Ariz. No. 002964)
3 5415 E. High St., Suite 200
4 Phoenix, Arizona 85054
5 Email: pmurphy@gamlaw.com
6 Phone: (480) 304-8300
7 Fax: (480) 304-8301

8 Attorneys for the Receiver

9 IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
10
11 IN AND FOR MARICOPA COUNTY

12 STATE OF ARIZONA ex rel. ROBERT)
13 D. CHARLTON, Superintendent of the)
14 Arizona Department of Financial)
15 Institutions,)
16 Plaintiff,)
17 v.)
18 LANDMARC CAPITAL &)
19 INVESTMENT COMPANY,)
20 Defendant.)

21 Cause No. CV2009-020595

PETITION NO. 103

RECEIVER'S PETITION FOR
AUTHORITY TO DESTROY CERTAIN
PRE-RECEIVERSHIP PAPER AND
ELECTRONIC RECORDS AND
DONATE PRE-RECEIVERSHIP
COMPUTER EQUIPMENT TO
CHARITY

(Assigned to the Honorable Daniel
Martin)

22 Robert D. Charlton, as the Superintendent of the Arizona Department of Financial
23 Institutions and the court appointed Receiver in this matter, respectfully petitions the Court
24 as follows:

- 25 1. On June 24, 2009, this Court entered its *Order Appointing Receiver and Order*
26 *to Show Cause*, which appointed the Superintendent of the Arizona Department of Financial

1 Institutions as Receiver of Landmarc Capital & Investment Company (“Landmarc”). On July
2 10, 2009, this Court entered its *Order Appointing Permanent Receiver and Injunction*. On
3 February 27, 2010, the Court entered its *Order placing Hayden Investments, LLC, Desert*
4 *Trails Holdings, LLC and Arizona Valuation Company, LLC in Receivership*. On May 12,
5 2010, the Court entered its *Amended Order Appointing Permanent Receiver and Injunction*
6 (collectively “Receivership Order”). The Receivership Order appointed Thomas Giallanza as
7 Deputy Receiver to carry on the day to day business of Landmarc.

8 2. On June 24, 2009, the Receiver took possession of the property and records of
9 Landmarc Capital & Investment Company (“Landmarc”). Among those records were
10 approximately 247 boxes of closed files which the Receiver obtained from the basement
11 storage area of Landmarc’s corporate offices and from various file cabinets within the offices
12 of Landmarc. Upon further inspection the Receiver determined that these paper records
13 related to loan files that had previously been closed by Landmarc or accounting and other
14 related business files that were no longer in use by Landmarc at the time of the Receiver’s
15 appointment. These boxes of records are referred to hereafter as the “Pre-Receivership
16 Closed Files” and are no longer necessary for the administration of this receivership.

17 3. On June 24, 2009, the Receiver also took possession of various computers,
18 consisting of CPU’s, monitors, keyboards and related equipment. This computer equipment
19 is referred to hereafter as the “Pre-Receivership Computers.” The data contained on the hard
20 drives of the Pre-Receivership Computers that was required for the proper administration of
21 this receivership has been copied to the servers in use by the Receiver or otherwise backed

1 up. Accordingly, the Pre-Receivership Computers are no longer necessary for the continued
2 administration of this receivership and have no market value.

3 4. On June 24, 2009, the Receiver also took possession of various items of office
4 equipment which included 29 boxes of empty three ring binders with Landmarc’s name on
5 the cover (“Landmarc Binders”). The Receiver unsuccessfully attempted to find a market for
6 the sale of the Landmarc Binders or a charity that would take the binders. Accordingly, the
7 Landmarc Binders have no market value.

8 5. In order to eliminate the cost of continuing to store the Pre-Receivership Closed
9 Files and Pre-Receivership Computers, the Receiver requests that the Court enter an order
10 authorizing the Receiver to shred or destroy the Pre-Receivership Closed Files and to destroy
11 the hard drives of the Pre-Receivership Computers. The Receiver further requests that the
12 Court authorize the Receiver to donate the Pre-Receivership Computers to a charity, or to
13 abandon or destroy them. Finally, the Receiver requests authority to abandon or destroy the
14 Landmarc Binders.

15 WHEREFORE, the Receiver respectfully requests that the Court enter an order
16 authorizing the Receiver to:

- 17 1. Destroy the Pre-Receivership Closed Files;
18 2. Destroy the hard drives contained in the Pre-Receivership Computers and
19 donate, abandon or destroy the Pre-Receivership Computers; and

20

21

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21

3. Donate, abandon or destroy the 29 boxes of the Landmarc Binders.

Respectfully submitted this 15th day of May, 2018.

GUTTILLA MURPHY ANDERSON, P.C.

/s/Patrick M. Murphy
Patrick M. Murphy
Attorneys for the Receiver

1157-001(322879)