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6 IN THE SUPERIOR COURT FOR THE STATE OF ARIZONA

7 IN AND FOR THE COUNTY OF MARICOPA

8 STATE OF ARIZONA ex rel. LAUREN)
KINGRY, Superintendent of the Arizona)
9 Department of Financial Institutions,)
Plaintiff,)
10 v.)
11 LANDMARC CAPITAL &)
INVESTMENT COMPANY,)
12 Defendant.)

Cause No. CV2009-020595

PETITION NO. 48

PETITION FOR INSTRUCTIONS ON
REQUEST FOR INFORMATION FROM
THE ARP LOAN FILE

15 Lauren Kingry, as the court appointed Receiver, respectfully petitions the Court as
16 follows:

17 1. On June 24, 2009, this Court entered its *Order Appointing Receiver and Order*
18 *to Show Cause*, which appointed the Superintendent of the Arizona Department of Financial
19 Institutions as Receiver of Landmarc Capital & Investment Company (“Landmarc”). On July
20 10, 2009, this Court entered its *Order Appointing Permanent Receiver and Injunction*. On
21 February 27, 2010, the Court entered its *Order placing Hayden Investments, LLC Desert*

1 *Trails Holdings, LLC and Arizona Valuation Company, LLC in Receivership*. On May 12,
2 2010, the Court entered its *Amended Order Appointing Permanent Receiver and Injunction*
3 (collectively “Receivership Order”). The Receivership Order appointed Thomas Giallanza as
4 Deputy Receiver.

5 2. In June, 2007, Bobbie Jean Arp (“Borrower”) obtained a loan in the original
6 principal amount of \$682,000 from Landmarc which was secured under a deed of trust by a
7 7.75 acre parcel of land in Pinal County (“Arp Loan”). According to Landmarc’s records, it
8 then sold participation interests in the Arp loan to Landmarc Capital Partners, LLC
9 (“Partners”) (97.53%) and to the Gubin Family Trust (“GubinWare”) (2.47%).

10 3. Carey Arp, who was divorced from the Borrower prior to Landmarc making the
11 Arp Loan, has filed litigation in Pinal county and a proof of claim with the Receiver claiming
12 a secured interest in the Property that is superior to the interest of Landmarc and its loan
13 participants.

14 4. Mr. Arp, through his legal counsel, has requested from the Receiver copies of
15 the Borrower’s loan files. See Exhibit “A”. The Borrower objects to the Receiver providing
16 Mr. Arp with copies of the files. See Exhibit “B” attached hereto. The Federal Financial
17 Modernization Act¹, and the regulations adopted thereunder², appears to restrict Landmarc’s
18 ability to distribute “nonpublic personal information” to third parties such as Mr. Arp without
19 the consent of the Borrower which she has not given.

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¹ *Gramm-Leach-Bliley Act*, 15 U.S.C. §§6801 *et seq.*

² 16 C.F.R. §313.1 *et seq.*

