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Attorneys for the Receiver

IN THE SUPERIOR COURT FOR THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF MARICOPA

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

Cause No. CV2009-020595

PETITION NO. 52
RECEIVER'S CLAIMS REPORT ON
CERTAIN BORROWER CLAIMS WHERE
THE CLAIMANTS HAVE NOT
PROVIDED SUBSTANTIATION FOR
THEIR CLAIM

(Assigned to Judge Eileen Willett)

Lauren Kingry, as the court appointed Receiver, reports to the Court on 40 Borrower Claims filed with the Receiver where the Claimants have not provided supporting documents or other substantiation of the claim.

1 **I. INTRODUCTION**

2 1. On June 24, 2009 (“Receivership Date”), this Court entered its *Order*
3 *Appointing Receiver and Order to Show Cause*, which appointed the Superintendent of the
4 Arizona Department of Financial Institutions as Receiver of Landmarc Capital & Investment
5 Company (“Landmarc”). On July 10, 2009, this Court entered its *Order Appointing*
6 *Permanent Receiver and Injunction*. On February 27, 2010, the Court entered its *Order*
7 *placing Hayden Investments, LLC, Desert Trails Holdings, LLC and Arizona Valuation*
8 *Company, LLC* in Receivership. On May 12, 2010, the Court entered its *Amended Order*
9 *Appointing Permanent Receiver and Injunction* (collectively “Receivership Order”).

10 2. On August 6, 2010, this Court entered its *Order Establishing Procedures for*
11 *the Adjudication of Claims, Re: Petition No. 27* (“Order 27”), which established procedures
12 for the Receiver to solicit and adjudicate claims by the creditors of Landmarc, Hayden
13 Investments, LLC (“Hayden”), Desert Trails Holdings, LLC (“Desert Trails”) and Arizona
14 Valuation Company, LLC (“Arizona Valuation”).

15 3. Order 27 set deadlines for filing claims with the Receiver (“Claims Bar Date”).
16 Order 27 set September 24, 2010, as the Claims Bar Date for all claims other than non-loan
17 participation claims by Landmarc Capital Partners, LLC (“Partners”). Under Order 27,
18 Partners had until March 1, 2011, sixty days following the Receiver’s resignation as the
19 manager of Partners, to file a claim for anything other than a loan participation claim.

20 4. On or before the applicable Claims Bar Date, the receiver received 186 claims.
21 In accordance with Order 27, the Receiver has posted on the receivership website a listing of

1 all the claims filed with the Receiver. That listing can be found at www.lcimortgage.com.

2 The 186 filed claims categorized as follows:

<u>Claim Type</u>	<u>Number</u>
WCF Claims to principal, interest and loan interests	11
Loan Participation Claims to loan participation interests	79
Borrower claims	55
Homeowners Association claims	6
Trade creditor claims	4
Taxing authority claims	5
Claims to interests in Landmarc Capital Partners	4
Other	22

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10 5. This Petition No. 43 contains the Receiver's recommendations concerning 33 of
11 the 55 Borrower claims ("Deficient Borrower Claims") filed with the Receiver.

12 II. BORROWER CLAIMS

13 6. Landmarc, a hard money lender, originated mortgages using primarily investor
14 supplied capital to fund loans secured by real property. As with all hard money loans,
15 Landmarc charged significant fees for placing the loans and charged high interest rates.

16 7. By the Claims Bar Date the Receiver had received 55 proofs of claim from
17 borrowers who had borrowed money from Landmarc. Many of the borrowers who filed
18 claims had lost their property as a result of the foreclosure by Landmarc of the security
19 interest in the property it held under its deed of trust. Unfortunately many of the borrower
20 claims failed to explain the nature or basis of their claim so that the Receiver could evaluate
21 the claim and make a recommendation to the Court. On February 18, 2011, the Receiver

1 wrote each borrower claimant whose claim failed to provide supporting documents or an
2 explanation of the claim and requested an explanation of the claim and supporting
3 documentation ("Receiver's Request for Substantiation"). A sample of the Receiver's
4 Request for Substantiation sent to each claimant is attached as Exhibit "A".

5 8. Of the Borrower Claimants who were sent the Receiver's Request for
6 Substantiation, only seven responded with information or documents. The remaining 31
7 Borrower Claimants identified below ("Deficient Borrower Claims") failed to respond to the
8 Receiver's Request for Substantiation.

<u>Claim No.</u>	<u>Claimant</u>	<u>Claim Amount</u>
6298	Aguilar, Angelica	\$0.00
6780	Avena, Margie & Josephine Villa	\$107,100.00
6616	Boado, Elizabeth & Noli	\$36,757.62
7558	Brunson, Linda	\$9,071.56
6359	Calder, Kevin	\$45,000.00
7659	Cintron, Luis Raul	\$0.00
7687	Clevenger, Randall Troy	\$42,000.00
6632	Dawe, Debra	\$0.00
6635	Fair, Jeffery	\$6,000.00
7544	Felix, Maria Leticia	\$109,030.00
6713	Fera, Cynthia	\$0.00
6415	Googe, Juliana	\$0.00
6748	Gossett, Terry & Shawn	\$106,800.00
6319	Gregg Sr., David	\$0.00
7672	Harris, Mary	\$0.00
6287	Harry's Hospitality, Inc.,	\$600,000.00
6553	Heath, Lee	\$0.00
6762	Hernandez, Esmeralda	\$0.00
7529	Hoerner, Samuel	\$0.00
6642	Johnson, Robert P	\$0.00

1	6579	Lara Jr., Carol & Reyes	\$150,084.02
2	7683	Mejias, Frank & Delfina	\$0.00
3	7869	Morrison, Lynette	\$13,000.00
4	7557	O'Neal, Patty	\$0.00
5	7630	Powers, Melba Ann	\$160,000.00
6	6832	Rana, Matthew & Shirley	\$0.00
7	6588	Rodriguez, Jannet	\$60,018.00
8	6633	Rodriguez, Mary M	\$0.00
9	7907	Rodriguez, Paul & Mary Lou	\$0.00
10	7792	Tranberg, Gary A.	\$0.00
11	7571	Twyman, Annie	\$0.00

9. Because each of the above listed Deficient Borrower Claims are not supported by information sufficient to enable the Receiver to properly evaluate the claim and each such claimant has failed to respond to the Receiver's written request for substantiation of their claim, the Receiver recommends that the Deficient Borrower Claims be denied by the Court.

WHEREFORE, the Receiver respectfully requests that the Court:

1. Enter an order denying the Deficient Borrower Claims; and
2. Enter such additional orders as may be appropriate.

Respectfully submitted this 23rd day of August, 2011.

GUTTILLA MURPHY ANDERSON

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

PROOF OF SERVICE

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2 This is to certify that on this 23rd day of August, 2011, I electronically transmitted the
3 foregoing document to the Maricopa County Clerk's Office using electronic filing and
4 emailed or mailed by First Class Mail to all persons on the attached Master Service List and
5 mailed by First Class Mail to the following Borrower Claimants not on the Master Service
6 List:

7 Elizabeth Boado
8 Noli Boado
9 5656 W. College Drive
10 Phoenix, AZ 85031

Harry's Hospitality
912 W. 2nd Street
Winslow, AZ 86047

11 Jannet Rodriguez
12 1330 N. 38th Drive
13 Phoenix, AZ 85009

Carol Lara
Reyes Lara Jr.
14501 N. 2nd Avenue
El Mirage, AZ 85335

14 Leobardo C. Mirando
15 Shawnnita Miranda
16 8817 South Pirtle Court
17 Welton, AZ 85356

M. Forrestine Heath
Lee Heath
18639 W. 25th Way
Phoenix, AZ 85050

18 Elvia Olachea Jimenez
19 Jesus Jimenez
20 4721 W. Roma Avenue
21 Phoenix, AZ 85031

Paulette Wimberly
2704 South 365th Avenue
Tonopah, AZ 85354

Juliana Googe
3710 N. Eldorado Ave N.
Lake Havasu City, AZ 86406

David Gregg Sr.
6929 N. Hayden Rd.
Ste C4, #136
Scottsdale, AZ 85250

Angelica Aguillar
5756 E. 28th Street Unit D
Tucson, AZ 85711

Ray D. Diaz
6631 W. Wenden Way
Tucson, AZ 85743

1	Kevin C. Calder Tammy L. Lorance-Calder	Debra Dawe 1515 Orilla Lare Bullhead City, AZ 86442
2	503 West Scott Avenue Gilbert, AZ 85233	
3		Robert Johnson 7660 E. McKellips Road Lot 46 Scottsdale, AZ 85257-4628
4	Mary M. Rodriguez Juan G. Rodriguez	
5	788 East Detroit Street Chandler, AZ 85255	
6	Cynthia Fera 8591 N. 107 th Drive	Terry Gossett Shawn Gossett 7015 East Inglewood Street Mesa, AZ 85207
7	Peoria, AZ 85345	
8	Esmerelda Hernandez P.O. Box 693	David McGowan 5342 N. 22 nd Drive Phoenix, AZ 85015
9	Waddell, AZ 85355 Matthew Rana	Elizabeth Queen 24474 W. Bonita Street Casa Grande, AZ 85293
10	Shirley Rana 21235 N. 132 nd Drive	
11	Sun City West, AZ 85375	Samuel Hoerner 6767 W. Butler Drive Apt. 140 Glendale, AZ 85302
12	Jeff Fair 1132 West Mango	
13	Gilbert, AZ 85233	
14	Maria Felix 3528 W. McKinley Street	Patty O'Neal 3129 Union Church Road South Boston, VA 24592
15	Phoenix, AZ 85009	
16	Linda Brunson 2127 West Pecan Rd.	Annie Twyman 6938 W. Sierra Vista Drive Glendale, AZ 85303
17	Phoenix, AZ 85041-3731	
18	Melba Powers 2508 W. Orangewood #1	Randall Clevenger 1360 W. Kaniksu Street Apache Junction, AZ 85220
19	Glendale, AZ 85303	
20	Gary Tranberg 18833 N. 94 th Lane	Beverly Baker 4044 W. Electra Lane Glendale, AZ 85310
21	Peoria, AZ 85382	

1 Ernesto Morales
2275 E. 35th Avenue
2 Apache Junction, AZ 85119-3689

3 Lynette Morrison
12705 W. Holly Street
4 Avondale, AZ 85392

5 Luis Cintron
1225 East Drexel Road
6 Tucson, AZ 85706

7 Margie Avena
8 Josephine Villa
8015 South Calle Bella Vista
9 Guadalupe, AZ 85283

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Socorro Mitre
7730 East Broadway Blvd.
Apt. #527
Tucson, AZ 85710-3953

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Casa Grande, AZ 85122

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Phoenix, AZ 85041

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3341 E. Granada Road
Phoenix, AZ 85008

/s/Patrick M. Murphy
Patrick M. Murphy

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. August 19, 2011)

The Honorable Eileen Willett
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201 West Jefferson, Room 4B
Phoenix, Arizona 85003

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Ball c/o Dr. Richard Ball, Deborah Ball

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1157-001(85963)

Office of the Receiver
Landmarc Capital and Investment Company
14555 N. Scottsdale Road, Suite 340
Scottsdale, AZ 85254

February 18, 2011



Re: Landmarc Capital Receivership
Claim No.: 6616

Dear Claimant:

We are in receipt of your claim against Landmarc Capital & Investment Company. Although we have determined that you previously borrowed money from Landmarc, your claim does not provide sufficient information to enable the Receiver to properly evaluate the nature of your claim or the relief that you seek.

In order for your claim to be considered on its merits, you must provide a narrative that clearly explains the **nature of your claim and the amount of your claim or other relief you seek from the Receiver and the Court**. It is imperative that you include copies of all documentation in your possession or control that supports your claim.

We must receive this information on or before March 31, 2011. If you do not adequately respond by that date, the Receiver will have little choice but to recommend to the Court that your claim be denied.

Very truly yours,

A handwritten signature in black ink, appearing to read "Thomas J. Gallanza".

Thomas J. Gallanza
Deputy Receiver

TJG:mg

cc: Patrick M. Murphy

Exhibit "A"