

1 Guttilla Murphy Anderson  
Ariz. Firm No. 00133300  
2 **Patrick M. Murphy** (Ariz. No. 002964)  
City North  
5415 E. High St., Suite 200  
3 Phoenix, Arizona 85054  
Email: pmurphy@gamlaw.com  
4 Phone: (480) 304-8300  
Fax: (480) 304-8301

5 Attorneys for the Plaintiff

6 IN THE SUPERIOR COURT OF 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, )

10 Plaintiff,

11 v.

12 LANDMARC CAPITAL & )  
INVESTMENT COMPANY, )  
13 Defendant. )

Cause No. CV2009-020595

PETITION NO. 24

PETITION FOR ORDER APPROVING  
PROCEDURES FOR THE SALE OF  
CERTAIN RECEIVERSHIP INTERESTS  
IN REAL PROPERTY OF 10% OR LESS  
WITHOUT FURTHER ORDER OF THE  
COURT

(Assigned to the Honorable Sam Myers)

14  
15  
16 Lauren Kingry, as the court appointed Receiver, respectfully petitions the Court as  
17 follows:

18 1. On June 24, 2009, this Court entered its *Order Appointing Receiver and Order*  
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 its *Order Appointing Permanent Receiver and Injunction*. On  
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 and authorized the Receiver to engage and employ Special Deputy  
5 Receivers to carry on the day to day business of Landmarc.

6 **Renegade Trail Property**

7       2. On or about October 10, 2006, Landmarc made a \$185,500 loan secured by a  
8 single family residence located at 1022 East Renegade Trail, Queen Creek, Arizona  
9 (“Property”). Lisa Vogel acquired a 100% participation interest in this loan (“Beneficial  
10 Owner”). The borrower subsequently defaulted and on March 13, 2009, a trustee sale was  
11 held pursuant to the Deed of Trust on the Property and a Trustee’s Deed Upon Sale was  
12 recorded on March 20, 2009 vesting fee title in Landmarc. At the request of the Beneficial  
13 Owner, Landmarc executed and on June 17, 2009, recorded a Quit Claim Deed (document  
14 number 2009-06154 in the records of the Pinal County Recorder) conveying 99% fee title to  
15 1022 E. Renegade Trail, LLC, an Arizona limited liability company, and 1% fee title to  
16 Landmarc Capital & Investment Company. The 1% interest held by Landmarc is a  
17 receivership asset under the Receivership Order.

18       3. Because the interest of the Receivership estate in this Property was not  
19 sufficient to justify the expense the Receiver did not obtain an appraisal of the Property.  
20 However, a review of the comparable sales in the vicinity convinced the Receiver and the  
21 Beneficial Owner that the Property has a fair market value of \$100,000. Accordingly, the

1 Beneficial Owner paid to the Receiver an amount equal to all unreimbursed expenses  
2 previously incurred by the Receiver in connection with this Property and the sum of  
3 \$1,000.00, which represents 1% of the estimated value of the Property. In consideration of  
4 these payments the Receiver issued a Quit Claim Deed of Landmarc's interest in the Property  
5 to the Beneficial Owner's limited liability company.

6 **Lemon Tree Property**

7 4. On or about November 8, 2005, Landmarc made a \$110,000 loan secured by a  
8 single family residence located at 2019 West Lemon Tree Place #1200, Chandler, Arizona  
9 ("Property"). The Renee Resler Trust acquired a 100% participation interest in this loan  
10 ("Beneficial Owner"). The borrower subsequently defaulted and on March 4, 2009, a trustee  
11 sale was held pursuant to the Deed of Trust on the Property and a Trustee's Deed Upon Sale  
12 was recorded on March 10, 2009 vesting fee title in Landmarc. At the request of the  
13 Beneficial Owner, Landmarc executed and on June 23, 2009, recorded a Quit Claim Deed  
14 (document number 2009-0573914 in the records of the Maricopa County Recorder)  
15 conveying 99% fee title to The Renee Resler Trust, and 1% fee title to Landmarc Capital &  
16 Investment Company. The 1% interest held by Landmarc is a receivership asset under the  
17 Receivership Order.

18 5. Because the interest of the Receivership estate in this Property was not  
19 sufficient to justify the expense the Receiver did not obtain an appraisal of the Property.  
20 However, a review of the comparable sales in the vicinity convinced the Receiver and the  
21 Beneficial Owner that the Property has a fair market value of \$138,000. Accordingly, the

1 Beneficial Owner paid to the Receiver an amount equal to all unreimbursed expenses  
2 previously incurred by the Receiver in connection with this Property and the sum of  
3 \$1,380.00, which represents 1% of the estimated value of the Property. In consideration of  
4 these payments the Receiver deeded Landmarc's interest in the Property to a person  
5 designated by the Beneficial Owner.

6 **Procedures for Disposing of Receivership Interests in Real Property of 10% or Less**

7 6. The Receiver has identified 7 additional properties that are similar in that the  
8 receivership estate holds a fee title interest of 10% or less in the real property. A listing of  
9 these properties is attached to this petition as Exhibit 1. Since these receivership interests are  
10 in each case worth less than \$5,000, the interests of the receivership estate are best served by  
11 minimizing the expenses to the estate in liquidating these interests.

12 7. Accordingly, in order to avoid the expense and delay associated with seeking  
13 Court approval for the disposition of each of these interests, the Receiver requests that the  
14 Court approve the procedures set forth below and in the form of order lodged herewith for the  
15 disposition of these interests without further notice or order of the Court.

16 8. Without further notice or order of the Court the Receiver should be authorized  
17 to sell the interests of this receivership estate in the real properties set forth in Exhibit 1 to  
18 *Petition No. 24* or any other interest in real property which constitutes a Receivership Asset in  
19 this case ("Property") upon the following conditions:

1           a.       At least 90% of the fee title is presently held in the name of a person  
2 who is purchasing the receivership interest or a person designated by such owner  
3 (“Purchaser”) and that person is not a Receivership Entity;

4           b.       The Beneficial Owners of the loan by Landmarc for which the Property  
5 was security according to the records of Landmarc as of June 24, 2009, consent to the  
6 sale of the receivership interests to the Purchaser;

7           c.       The Receiver does not have actual knowledge of the existence of an  
8 adverse claim of ownership or security interest in the Property;

9           d.       The original amount of the loan for which the Property had previously  
10 been the security was not more than \$350,000;

11          e.       The Receiver is paid an amount for the interest of the Receivership  
12 Entity in the Property, which the Receiver deems fair and reasonable; and

13          f.       The Beneficial Owners or the Purchaser reimburse the receivership  
14 estate for any trust shortage and for all expenses incurred by Landmarc or the  
15 receivership estate in connection with the loan or Property which have not been  
16 previously reimbursed.

17       WHEREFORE, the Receiver respectfully requests that the Court enter an order:

18          1.       Confirming the sale of Landmarc’s interest in the property located at 1022 East  
19 Renegade Trail, Queen Creek, Arizona for \$1,000.00;

20          2.       Confirming the sale of Landmarc’s interest in the property located at 2019 West  
21 Lemon Tree Place #1200, Chandler, Arizona for \$1,380.00;

1           3.      Approving procedures for the sale of certain real property interests of ten  
2 percent or less without further order of the Court in accordance with the procedures set forth  
3 herein and in the proposed order lodged with the Court; and

4           4.      Authorizing Thomas Giallanza, as Deputy Receiver, to execute all necessary  
5 documents in connection with the sale of the Property confirmed by the Court or eligible for  
6 sale under the procedures established by the Court.

7           Respectfully submitted this 9<sup>th</sup> day of July, 2010.

8   GUTTILLA MURPHY ANDERSON

9   /s/ Patrick M. Murphy  
10    Patrick M. Murphy  
11    Attorneys for the Plaintiff

11           1157-001 (95976)

12  
13  
14  
15  
16  
17  
18  
19  
20  
21

Landmarc Receivership  
**REO With Receivership Interests of 10% or Less**

| No. | Account  | Original Borrower | Title   | Rec % | Property Address                           | Original Principal Amount | Estimated Value of Property | Estimated Value of Receivership Interest | Beneficial Owners per LCI Records |
|-----|----------|-------------------|---|-------|--|---------------------------|-----------------------------|--|-----------------------------------|
| 1   | 06090668 | Welborn           | 1022 E. Renegade Trail, LLC (99%) and LCI (1%) per QCD 2009-061514 PinalCR      | 1.0%  | 1022 East Renegade Trail, Queen Creek      | 185,500                   | 100,000                     | 1,000                                    | Vogel (100%)                      |
| 2   | LC051014 | Williams          | The Renee Resler Trust (99%) and LCI (1%) per QCD 2009-573914 MCR               | 1.0%  | 2019 West Lemon Tree Place #1200, Chandler | 110,000                   | 138,000                     | 1,380                                    | RESLEERR (100.00)                 |
| 3   | 06050415 | Blumenstein       | Elinor Rothberg (99%) and LCI (1%) per QCD 2008-992530 MCR                      | 1.0%  | 3531 West Anderson Drive, Glendale         | 179,000                   | 85,000                      | 850                                      | ROTHBERG (100.00)                 |
| 4   | 07041007 | Peart             | Litchfield Funding (99%) and LCI (1%) per QCD 2008-992528 MCR                   | 1.0%  | 6928 East Main Street, Mesa                | 325,000                   | 154,000                     | 1,540                                    | LITCHFIELD (100.00)               |
| 5   | LC051106 | Pelletier         | Kolonia, LLC (99%) and Desert Trails Holdings, LLC (1%) per QCD 2008-992546 MCR | 1.0%  | 528 North 105th Place, Mesa                | 210,000                   | 100,000                     | 1,000                                    | KOLONIA (100.00)                  |
| 6   | 06020170 | Sharp             | Bill Lowe (99%) and LCI (1%) per QCD 2008-992529 MCR                            | 1.0%  | 11842 West Corrine Drive, El Mirage        | 147,500                   | 80,000                      | 800                                      | CROSSTIMB (100.00)                |

Landmarc Receivership  
**REO With Receivership Interests of 10% or Less**

| No. | Account  | Original Borrower | Title   | Rec % | Property Address                | Original Principal Amount | Estimated Value of Property | Estimated Value of Receivership Interest | Beneficial Owners per LCI Records |
|-----|----------|-------------------|---|-------|---------------------------------|---------------------------|-----------------------------|--|-----------------------------------|
| 7   | 06050387 | Vega              | Robert P. Murray (99%) and Hayden Investments, LLC (1%) per QCD 2008-992548 MCR                 | 1.0%  | 4457 West Avalon Drive, Phoenix | 133,000                   | 36,000                      | 360                                      | MURRAYR (100.00)                  |
| 8   | 06070498 | Gutierrez         | Wild West Investors, LLC (95%) and Arizona Valuations Company, LLC (5%) per QCD 2008-992549 MCR | 5.0%  | 14619 North 31st Drive, Phoenix | 158,000                   | 75,000                      | 3,750                                    | WILDWEST (100.00)                 |
| 9   | LC050737 | Brown             | Herman L. Deem (90%) and Hayden Investments LLC (10%) per QCD 2008-992540 MCR                   | 10.0% | 4764 West Rose Lane, Glendale   | 90,100                    | 48,000                      | 4,800                                    | DEEM1 (100.00)                    |