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MAY 23 2014



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5 Attorneys for the Receiver

6 IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

7 IN AND FOR MARICOPA COUNTY

8 State of Arizona,)
9 Plaintiff,) Cause No. CV2014-006765
10 v.)
11 Sherman Eugene Unkefer, III, *et al*) PETITION NO. 2
12 In Personam Defendants.)
13) PETITION FOR ORDER GOVERNING
14) ADMINISTRATION OF THE
15) RECEIVERSHIP
16) (Assigned to Judge Douglas L. Rayes)
17)

14 Michael J. FitzGibbons, as the court appointed Receiver, recommends that the Court
15 enter the proposed *Order Re: Petition No. 2, Order Governing the Administration of The*
16 *Receivership* lodged with the Court with this petition.

17 1. On April 16, 2014, this Court entered its *Order Appointing Receiver* appointing
18 a receiver of all assets of the Mango Trust including X-1, LLC; Magic Wand Services, LLC;
19 Occidental Resources Group, LP; Occidental Management Group; E.A.P. Trust; International
20 Marketing Systems; G.M.S. LLC; X-1, Inc.; Catshaker Family Trust, Inc.; SLADUR; Black
21 Rock, Inc.; and X-1 Global, LLC (“Receivership Entities”). On April 22, 2014, the Court

entered its *Order Appointing Michael J. Fitzgibbons Receiver*, which appointed Michael J. FitzGibbons as Receiver of the Receivership Entities. These two orders are referred to hereafter as the “Receivership Order”.

2. There are procedural and administrative aspects of receivership proceedings which will be clarified and facilitated by a special procedural order of this Court. Accordingly, the Receiver requests that the Court enter the *Order Re: Petition No. 2, Order Governing the Administration of the Receivership* lodged with the Court (paragraph numbers below correspond to the described paragraph in the proposed order lodged with the Court), which order:

- (1) Prescribes procedures for further proceedings in this receivership;
- (2) Directs the Clerk of the Court to retain this matter on the active calendar so that it is not dismissed without an order of the Court;
- (3) Provides procedures for service and for the maintenance and use of service lists;
- (4) Authorizes the filing of *ex parte* petitions by the Receiver for certain matters;
- (5) Establishes an interim claims procedure;
- (6) Prescribes procedures for giving notice;
- (7) Authorizes the Receiver's use of discovery to obtain information concerning the Receivership's assets or causes of action;
- (8) Authorizes a procedure for filing petitions for the payment of fees;

(9) Permits the employment of legal counsel for the Receiver, provided that the fees are not paid without order of the Court.

3. Paragraphs 1 through 9 are similar or identical to the procedural rules that have been established in other receiverships in this and other state and federal courts in which counsel for the Receiver has served the Court and its Receiver. In each of these receiverships, these procedures have proven helpful in promoting the fair, efficient and orderly disposition of receivership business.

WHEREFORE the Receiver respectfully requests that the Court enter the proposed *Order Re: Petition No. 2, Order Governing the Administration of The Receivership* lodged with the Court this date.

Respectfully submitted this 23rd day of May, 2014.

GUTTILLA MURPHY ANDERSON, P.C.

Patrick M. Murphy
Attorneys for the Receiver

1928-001 (179724)

Michael K. Jeanes, Clerk of Court

*** Electronically Filed ***

06/10/2014 8:00 AM

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2014-006765

06/04/2014

JUDGE PRO TEM COLLEEN L. FRENCH

CLERK OF THE COURT

T. Springston
Deputy

STATE OF ARIZONA

REID CHARLES PIXLER

v.

SHERMAN EUGENE UNKEFER III, et al.

PATRICK M MURPHY

ORDER SIGNED

IT IS ORDERED granting Receiver's Petition No. 1 Petition to Set Receiver's Fees and Approve the Engagement of Fitzgibbons and Company, Inc., and Guttilla Murphy Anderson, P.C., filed May 23, 2014; and Receiver's Petition No. 2 Petition for Order Governing Administration of the Receivership, filed May 23, 2014, all in accordance with the formal written Orders signed by the Court on June 3, 2014, and filed (entered) by the Clerk on June 4, 2014.

Please note: The Court has signed a hard-copy version of the Order. After the Order has been scanned and docketed by the Clerk of Court, copies of this Order may be available through ECR Online at clerkofcourt.maricopa.gov or through AZTurboCourt.gov and from the Public Access Terminals at the Clerk of Court's offices located throughout Maricopa County.

FILED: Order Re: Petition No. 1

Order Re: Petition No. 2 Order Governing the Administration of the Receivership

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14) (Assigned to Judge Douglas L. Rayes)
15)
16)
17)
18)
19)
20)
21)

14 The Receiver having filed Petition No. 2 setting forth the Receiver's recommendations
15 regarding the procedures for administering the receivership established under this Court's
16 *Order Appointing Receiver* entered in this matter on April 16, 2014, and the Court having
17 considered same, and it appearing that those recommendations are reasonable, just, and
18 calculated to afford the fair and equitable treatment of all persons interested in these
19 proceedings and it appearing to the Court that the matters being requested by Petition No. 2
20 are reasonable, just and appropriate:

1 NOW, THEREFORE, IT IS ORDERED:

2 1. Further Proceedings in this Receivership. Except as provided in paragraph 5
3 below, the Receiver or any person seeking to obtain relief from this Court in connection with
4 this receivership, shall file with the court a pleading entitled "Petition." All petitions filed in
5 this receivership shall be accompanied by a proposed form of order. Each petition shall be
6 consecutively numbered and the petition and all subsequent pleadings filed and orders entered
7 in connection with that petition shall contain a reference to the petition number in the title of
8 the pleading or order. If the party seeks relief in its petition against any person other than one
9 of the defendants, the caption shall include the identity of the petitioner and the party against
10 whom the relief is sought, who shall be denominated as "Respondent," in a form similar to
11 that used in asserting a third party claim. Any person intending to file such a petition shall
12 obtain a number for the petition from the counsel for the Receiver, Guttilla Murphy
13 Anderson, PC.

14 2. Active Calendar. The clerk of the court is directed to retain this matter on the
15 Court's active calendar until such time as this receivership has been terminated by order of
16 the court.

17 3. Service List and Proof of Service. Service of all petitions and other papers filed
18 in connection with this receivership shall be governed by the Arizona Rules of Civil
19 Procedure and this paragraph:

20 a. Counsel for the Receiver shall maintain a Master Service List containing
21 the name and email and mailing address of each person, or the person's legal counsel,

1 who has made an appearance in this matter, or has requested to be included on the
2 Master Service List, or has been placed there by order of the Court. All pleadings and
3 other papers filed regarding the receivership in this matter shall be served as provided
4 in this order on each person on the Master Service List, except as provided in this
5 order or by other order of this Court.

6 b. Where the Court has provided for a separate mailing list for a matter
7 raised by petition, all pleadings and other papers filed in connection with that petition
8 shall be served on all persons on the special service list for that petition.

9 c. The person filing a petition shall serve on all persons on the applicable
10 service list, a copy of the petition and proposed form of order. If the petition is filed
11 by the Receiver, the Receiver shall also serve a notice of hearing.

12 d. Within five days (5) after the entry of an order granting or denying relief
13 under a petition, the person filing the petition shall serve a conformed copy of the
14 order entered by the Court on all persons on the applicable service list.

15 e. All *ex parte* orders entered by the Court in accordance with this Order
16 shall be served by the Receiver on all persons on the Master Service List within five
17 (5) days after entry of the *ex parte* order.

18 f. Service under this paragraph shall be made as follows:

19 (1) to an attorney licensed to practice law in Arizona, by electronic
20 transmission through AZTurboCourt to the email address set forth on the
21 service list,

(2) to all other persons on the service list, by email to the person at the email address provided to the Receiver and set forth on the service list, and

(3) to all persons on the service list who have provided a written statement to the Receiver that they do not have access to an email address, by first class mail, postage prepaid, to the person at the address set forth on the service list.

g. The party making service shall, within five (5) days after making service, file and serve a proof of service, stating that a copy of the petition or other paper was served on the persons set forth on the attached applicable service list and the manner in which such service was made.

h. Counsel for the Receiver shall provide a copy of the Master Service List and any special service list to any person requesting same.

- i. Counsel for the Receiver shall remove the name of a person from a service list upon receipt of a written request to do so from the person or his counsel or when so directed by the court.

4. *Ex Parte* Petitions. Counsel for the Receiver may file an *ex parte* petition without providing notice or service as provided in this order or by the Rules of Civil Procedure, where the Court expressly so authorizes such a filing, or where:

a. The petition seeks authority to engage outside professionals to perform services for the Receiver, including outside counsel to represent the Receiver in pending or contemplated litigation.

b. The petition seeks authority to institute or defend litigation, file an appeal or assert or otherwise perfect a claim or defense of the Receiver.

5. Claims Against the Receivership Estate. Claims by persons, other than the Receiver or the Plaintiff, against any of the entities that have been placed in receivership by the orders of this Court (“Receivership Entities”) or against the assets in receivership shall be asserted only as provided below:

a. Any person making a claim shall file the claim with the Receiver as provided in this Order by delivering or mailing the claim to:

Michael J. FitzGibbons, Receiver
8300 North Hayden Road, Suite A100
Scottsdale, Arizona 85258

b. The claim shall be set forth on a form prescribed by the Receiver and shall set forth in reasonable detail the amount of the claim, or the basis upon which such amount can be ascertained, the facts upon which the claim is based and the priorities asserted, if any. The claim shall also be verified under oath by the claimant or someone authorized to act on his behalf and having knowledge of the facts, and shall be supported by such documents as may be material thereto.

c. Claims shall be filed with the Receiver on or before the deadline for filing claims set by subsequent order of the Court. A claim shall be deemed filed on the date the claim form, completed as required by this order, is delivered to the Receiver or the date it is deposited with the United States Postal Service, postage prepaid, addressed to the Receiver at the above address.

d. Any claim against any of the Receivership Entities filed as provided in this order, shall toll the running of any statute of limitation applicable to such a claim that has not run at the time the claim is filed.

e. The Receiver shall provide claim forms to any person requesting same.

6. Notice Procedures. Notice of all proceedings in this receivership shall be governed by the following provisions unless otherwise ordered by the Court:

a. Notices of hearings regarding petitions for authority to compensate the Receiver, attorneys and others, shall be given by mailing notice and a copy of the petition to each person on the Master Service List not later than seven (7) days before the date set for hearing.

b. Unless otherwise ordered by the Court, notices of hearing regarding petitions for confirmation of the sale of any asset by the Receiver shall be given by mailing notice and a copy of the petition to each person on the Master Service List not later than ten (10) days before the date set for hearing, and notice shall be published once in the Arizona Business Gazette, or other newspaper of general circulation, not later than seven (7) days before the date set for hearing.

c. Notice for hearing the final account and report of Receiver shall be given by following the notice procedure outlined in subparagraph (b) above.

d. Unless otherwise ordered by the Court, all other matters requiring the giving of public notice shall follow the procedure outlined in subparagraph (a) above.

1 7. Identification of Assets. In complying with this Court's order to identify,
2 collect and manage all property, causes of action, and other assets of the receivership estate,
3 the Receiver may, without further order of the Court, obtain from the Clerk of this Court
4 subpoenas, or obtain commissions or letters rogatory directing another Court to issue
5 subpoenas, compelling any person who the Receiver reasonably believes possesses
6 information or documents that may assist the Receiver in identifying such assets of the
7 Receivership Entities, to produce such information or documents to the Receiver. The
8 Receiver shall be required to give notice of depositions or commissions or letters rogatory
9 under this paragraph, only to persons who have made a written request to the Receiver for
10 such notice.

11 8. Petitions for Payment of Fees. The Receiver shall seek authorization to
12 compensate from receivership funds the Receiver, and attorneys and accountants for the
13 Receiver, by filing a pay petition, which petition shall not be required to include as exhibits
14 the itemized statements of services rendered to, and costs incurred or expended on behalf of,
15 the receivership, provided that the pay petition includes a statement that anyone desiring
16 additional information concerning the services and costs to be paid under the pay petition
17 may obtain redacted information from the Receiver by delivering to the Receiver and the
18 Receiver's counsel, Guttilla Murphy Anderson, PC, a written request specifying the
19 additional information requested at least three days prior to the date set for hearing on the pay
20 petition. Upon request of the Court, the Receiver shall make available for in camera review
21

by the Court, the itemized statements and supporting documentation for the services and costs to be paid under the pay petition.

9. Legal Counsel for Out-Of-State Litigation. The Receiver may employ, without further order of the Court, such legal counsel as are necessary to represent the Receiver or any of the persons in receivership in all litigation before any court or tribunal other than the courts of this state. The Receiver may agree to pay such legal counsel from the assets of the receivership estate at a rate determined in the sole discretion of the Receiver to be appropriate, provided that the Receiver shall obtain approval of the Court as provided in this order prior to paying such legal counsel.

Dated this _____ day of _____, 2014.

Judge of the Superior Court

1928-001 (179725)