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11 Attorneys for Court-Appointed Receiver
 12 KRISTA L. FREITAG

13 UNITED STATES DISTRICT COURT
 14 CENTRAL DISTRICT OF CALIFORNIA

15
 16 SECURITIES AND EXCHANGE
 COMMISSION,

17 Plaintiff,

18 vs.

19 INTEGRATED NATIONAL
 20 RESOURCES, INC. dba
 WEEDGENICS, ROLF MAX
 21 HIRSCHMANN aka "MAX
 BERGMANN," PATRICK EARL
 22 WILLIAMS,

23 Defendants, and

24 WEST COAST DEVELOPMENT LLC,
 INR CONSULTING LLC (WYOMING
 25 ENTITY), OCEANS 19 INC.,
 AUTOBAHN PERFORMANCE LLC,
 26 ONE CLICK GENERAL MEDIA INC.,
 OPUS COLLECTIVE, JOHN ERIC
 27 FRANCOM, INR-CA INVESTMENT
 HOLDINGS, LLC, MICHAEL
 28 DELGADO, TOTAL SOLUTION
 CONSTRUCTION LLC. BAGPIPE

Case No. 8:23-cv-00855-JWH-KES

**MEMORANDUM OF POINTS AND
 AUTHORITIES IN SUPPORT OF
 RECEIVER'S MOTION FOR
 (A) APPROVAL OF SALE OF REAL
 PROPERTY LOCATED AT 7691
 GRACEMOOR COURT, LAS
 VEGAS, NEVADA; (B) AUTHORITY
 TO PAY BROKER'S COMMISSION**

Date: October 18, 2024
 Time: 9:00 a.m.
 Ctrm: 9D
 Judge: Hon. John W. Holcomb

1 HOLDINGS LLC, BAGPIPE
MULTIMEDIA LLC, TYLER
2 CAMPBELL, INR CONSULTING LLC
(CALIFORNIA ENTITY), HIDDEN
3 SPRINGS HOLDINGS GROUP LLC,
and ALEXANDRIA PORTER BOVEE
4 aka "AIA MONTGOMERY",

5 Relief Defendants.

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1 Krista L. Freitag (“Receiver”), the Court-appointed permanent receiver for
2 Defendant Integrated National Resources, Inc., dba Weedgenics, and Relief
3 Defendants West Coast Development LLC, INR Consulting LLC (Wyoming
4 Entity), Oceans 19 Inc., Autobahn Performance LLC, One Click General Media
5 Inc., Opus Collective, INR-CA Investment Holdings, LLC, Total Solution
6 Construction LLC, Bagpipe Holdings LLC, Bagpipe Multimedia LLC, INR
7 Consulting LLC (California Entity), and Hidden Springs Holdings Group LLC, and
8 their subsidiaries and affiliates (collectively the “Receivership Entities”), submits
9 this Memorandum of Points and Authorities in Support of her concurrently-filed
10 Motion for (A) Approval of Sale of Real Property Located at 7691 Gracemoor
11 Court, Las Vegas, Nevada; and (B) Authority to Pay Broker’s Commission
12 (“Motion”).

13 **I. BACKGROUND FACTS**

14 The receivership estate currently holds six real properties, which properties
15 include a single-family residence located at 7691 Gracemoor Court, Las Vegas,
16 Nevada (“Gracemoor Property”). The Gracemoor Property has four bedrooms and
17 three bathrooms, and was purchased by Receivership Entity Autobahn Performance
18 LLC (“Autobahn”). The Gracemoor Property was purchased in July 2021 for
19 \$825,000. After purchasing the property, significant changes were made to the
20 property to change the home. Two bedrooms and a bathroom appear to have been
21 combined and subsequently used as a workout/gym area. Other bedrooms appear to
22 have been used as office space and a recording studio. Additionally, a separate
23 outdoor carport/garage unit was constructed (further discussed below). Because the
24 improvements appear to be highly specific to the tastes of the previous occupants,
25 they were not valued by the general market and thus the funds spent improving this
26 property are not reflected in the sale price. The total spent on the changes exceeded
27 \$700,000. Freitag Decl., ¶ 2.

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1 Upon her appointment, the Receiver and her staff performed an analysis of
2 the value of the Gracemoor Property, including a review of automated valuation
3 scores for the property. At that time (May 2023), the automated value of the
4 property was \$865,000. The property was previously occupied by a friend of
5 Defendant Hirschman under a rent agreement that contained various non-customary
6 terms including the annual payment of rent in cash. At the end of March, that lease
7 expired, and the tenant moved out. The automated value in April 2024 was
8 \$950,000. Freitag Decl., ¶ 3.

9 In the months following her appointment, the Receiver learned that the
10 Homeowners Association (“HOA”) for the community in which the Gracemoor
11 Property is located claimed that the carport/garage unit constructed after Autobahn
12 purchased the property was not constructed consistent with the plans that had been
13 submitted to and approved by the HOA. The HOA has assessed a weekly fine
14 against the property of \$100 for the violation. The Receiver has made all
15 prospective purchasers aware of the alleged violation, including the fines, and has
16 made it clear that they would need to either remove the structure, modify it, or come
17 to some other kind of resolution of the matter with the HOA. In addition to the
18 statutorily required HOA disclosures, through Broker, the Receiver has also
19 provided a copy of a Notice of Non-Compliance prepared by the HOA. Freitag
20 Decl., ¶ 4.

21 After obtaining permission from the Court to market receivership real
22 properties for sale, the Receiver consulted with multiple licensed brokers about the
23 value of the property and terms of a potential listing agreement. The listing agents
24 generally recommended a list price between \$950,000 and \$1,200,000, with most
25 expecting the home to sell for less than \$1,150,000. Most brokers required a
26 commission in the 4.5% to 6% range (including the portion to be shared with the
27 buyer’s broker). The listing agent the Receiver ultimately selected, Keller Williams
28 Realty – The Marketplace (“Broker”), offered a flat commission of \$15,000

1 (approximately 1.4% based on the current offered price) and 2% to a buyer’s agent.
2 The listing agent was also willing to list the property for the higher \$1,200,000
3 price. The property was listed for sale at the end of April 2024; however, additional
4 time was spent before the marketing commenced to make minor wear and tear
5 repairs to the home and to give the Receiver time to try to resolve the dispute with
6 the HOA over the retroactively unapproved structure. The Receiver was unable to
7 resolve the dispute, and at the Broker’s recommendation, marketing commenced in
8 June 2024. Freitag Decl., ¶ 5.

9 The Gracemoor Property was listed on the local MLS, which syndicates
10 information on all major real estate platforms including Zillow, Redfin, and
11 Realtor.com. The Broker held several open houses and showed the property to all
12 interested parties. After approximately one month with dozens of showings but not
13 offers, the Receiver, in consultation with the Broker, lowered the listing price to
14 \$1,140,000 (a 5% reduction). The Receiver then received an offer and negotiated a
15 sale price of \$1,055,000 with Shai and Eden Shnaider Cohen (“Buyer”). The
16 deposit is \$15,500, which amount has been released from escrow to the Receiver. In
17 addition to the typical terms of a sale, the Buyer also accepted terms required by the
18 Receivership (discussed below regarding the potential for an overbid/auction) and
19 agreed to purchase the property with the HOA Notice of Non-Compliance. Through
20 Broker, the prospective purchasers who showed interest in the property have been
21 invited to participate in the overbid/auction process discussed below and the
22 property remains on the market. The MLS listing has also been updated to seek
23 overbidders. Freitag Decl., ¶ 6.

24 II. PROPOSED SALE

25 The key terms of the proposed Residential Purchase Agreement, including
26 Addendum thereto (“Agreement”), a copy of which is attached to the Freitag
27 Declaration as Exhibit A, are summarized as follows:
28

1 **Overbid and Court Approval.** The sale is subject to qualified overbids
2 pursuant to the public sale process laid out below.

3 **Purchase Price.** The purchase price is \$1,055,000, which amount will be
4 financed.

5 **Deposit.** Buyer has deposited \$15,000 into escrow and such funds have been
6 released to the Receiver.

7 **Closing Date.** Closing shall occur within 10 days of entry of the Court order
8 approving the sale.

9 **Broker’s Commission.** Pursuant to the listing agreement, Broker is to be
10 paid a flat commission of \$15,000 and 2% to a buyer’s agent. In the proposed sale,
11 the total commission would be \$36,100.

12 **III. LEGAL STANDARD**

13 “The power of a district court to impose a receivership or grant other forms of
14 ancillary relief does not in the first instance depend on a statutory grant of power
15 from the securities laws. Rather, the authority derives from the inherent power of a
16 court of equity to fashion effective relief.” *SEC v. Wencke*, 622 F.2d 1363, 1369
17 (9th Cir. 1980). The “primary purpose of equity receiverships is to promote orderly
18 and efficient administration of the estate by the district court for the benefit of
19 creditors.” *SEC v. Hardy*, 803 F.2d 1034, 1038 (9th Cir 1986). As the appointment
20 of a receiver is authorized by the broad equitable powers of the court, any
21 distribution of assets must also be done equitably and fairly. *See SEC v. Elliot*,
22 953 F.2d 1560, 1569 (11th Cir. 1992).

23 District courts have the broad power of a court of equity to determine the
24 appropriate action in the administration and supervision of an equity receivership.
25 *See SEC v. Capital Consultants, LLC*, 397 F.3d 733, 738 (9th Cir. 2005). The Ninth
26 Circuit explained:

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1 A district court’s power to supervise an equity
2 receivership and to determine the appropriate action to be
3 taken in the administration of the receivership is extremely
4 broad. The district court has broad powers and wide
5 discretion to determine the appropriate relief in an equity
6 receivership. The basis for this broad deference to the
7 district court’s supervisory role in equity receiverships
8 arises out of the fact that most receiverships involve
9 multiple parties and complex transactions. A district
10 court’s decision concerning the supervision of an equitable
11 receivership is reviewed for abuse of discretion.

12 *Id.* (citations omitted); *see also CFTC. v. Topworth Int’l, Ltd.*, 205 F.3d 1107, 1115
13 (9th Cir. 1999) (“This court affords ‘broad deference’ to the court’s supervisory
14 role, and ‘we generally uphold reasonable procedures instituted by the district court
15 that serve th[e] purpose’ of orderly and efficient administration of the receivership
16 for the benefit of creditors.”). Accordingly, the Court has broad discretion in the
17 administration of the receivership estate and the disposition of receivership assets.

18 **A. The Court’s Authority to Approve Sale**

19 It is widely accepted that a court of equity having custody and control of
20 property has power to order a sale of the same in its discretion. *See, e.g., SEC v.*
21 *Elliott*, 953 F.2d 1560, 1566 (11th Cir. 1992) (the District Court has broad powers
22 and wide discretion to determine relief in an equity receivership). “The power of
23 sale necessarily follows the power to take possession and control of and to preserve
24 property.” *See SEC v. American Capital Invest., Inc.*, 98 F.3d 1133, 1144 (9th Cir.
25 1996), *cert. denied* 520 U.S. 1185 (decision abrogated on other grounds) (*citing*
26 2 Ralph Ewing Clark, Treatise on Law & Practice of Receivers § 482 (3d ed. 1992)
27 (*citing First Nat’l Bank v. Shedd*, 121 U.S. 74, 87 (1887)). “When a court of equity
28 orders property in its custody to be sold, the court itself as vendor confirms the title
in the purchaser.” 2 Ralph Ewing Clark, Treatise on Law & Practice of
Receivers § 487 (3d ed. 1992).

“A court of equity, under proper circumstances, has the power to order a
receiver to sell property free and clear of all encumbrances.” *Miners’ Bank of*
Wilkes-Barre v. Acker, 66 F.2d 850, 853 (2d Cir. 1933). *See also*, 2 Ralph Ewing

1 Clark, Treatise on Law & Practice of Receivers § 500 (3d ed. 1992). To that end, a
2 federal court is not limited or deprived of any of its equity powers by state statute.
3 *Beet Growers Sugar Co. v. Columbia Trust Co.*, 3 F.2d 755, 757 (9th Cir. 1925)
4 (state statute allowing time to redeem property after a foreclosure sale not applicable
5 in a receivership sale).

6 Generally, when a court-appointed receiver is involved, the receiver, as agent
7 for the court, should conduct the sale of the receivership property. *Blakely Airport*
8 *Joint Venture II v. Federal Sav. and Loan Ins. Corp.*, 678 F. Supp. 154, 156
9 (N.D. Tex. 1988). The receiver’s sale conveys “good” equitable title enforced by an
10 injunction against the owner and against parties to the suit. *See* 2 Ralph Ewing
11 Clark, Treatise on Law & Practice of Receivers §§ 342, 344, 482(a), 487, 489, 491
12 (3d ed. 1992). “In authorizing the sale of property by receivers, courts of equity are
13 vested with broad discretion as to price and terms.” *Gockstetter v. Williams*, 9 F.2d
14 354, 357 (9th Cir. 1925).

15 **B. 28 U.S.C. § 2001**

16 Specific requirements are imposed by 28 U.S.C. § 2001 for public sales of
17 real property under subsection (a) and specific requirements for private sales of real
18 property under subsection (b). Although both involve significant cost and delay, the
19 cost and delay of a public sale are significantly less than those for a private sale.
20 *SEC v. Goldfarb*, 2013 U.S. Dist. LEXIS 118942, at *5 (N.D. Cal. 2013)
21 (“Section 2001 sets out two possible courses of action: (1) property may be sold in
22 public sale; or (2) property may be sold in a private sale, provided that three separate
23 appraisals have been conducted, the terms are published in a circulated newspaper
24 ten days prior to sale, and the sale price is no less than two-thirds of the valued
25 price.”). Therefore, by proceeding under Section 2001(a), the receivership estate
26 can avoid the significant costs and delay of (a) the Court having to appoint three
27 disinterested appraisers, and (b) obtaining three appraisals from such appraisers.

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1 The requirements of a public sale under Section 2001(a) are that notice of the
2 sale be published as proscribed by Section 2002 and a public auction be held at the
3 courthouse “as the court directs.” 28 U.S.C. § 2001(a); *SEC v. Capital Cove*
4 *Bancorp LLC*, 2015 U.S. Dist. LEXIS 174856, at *13 (C.D. Cal. 2015); *SEC v.*
5 *Kirkland*, 2007 U.S. Dist. LEXIS 45353, at *5 (M.D. Fla. 2007). In terms of
6 publication of notice, Section 2002 provides:

7 A public sale of realty or interest therein under any order,
8 judgment or decree of any court of the United States shall
9 not be made without notice published once a week for at
10 least four weeks prior to the sale in at least one newspaper
regularly issued and of general circulation in the county,
state, or judicial district of the United States wherein the
realty is situated.

11 If such realty is situated in more than one county, state,
12 district or circuit, such notice shall be published in one or
13 more of the counties, states, or districts wherein it is
14 situated, as the court directs. The notice shall be
substantially in such form and contain such description of
the property by reference or otherwise as the court
approves. The court may direct that the publication be
made in other newspapers.

15 This section shall not apply to sales and proceedings under
16 Title 11 or by receivers or conservators of banks appointed
17 by the Comptroller of the Currency.

18 The notice of sale is sufficient if it describes the property and the time, place,
19 and terms of sale. *Breeding Motor Freight Lines, Inc. v. Reconstruction Finance*
20 *Corp.*, 172 F.2d 416, 422 (10th Cir. 1949). The Court may limit the auction to
21 qualified bidders, who “(i) submit to the Receiver . . . in writing a bona fide and
22 binding offer to purchase the [property]; and (ii) demonstrate . . ., to the satisfaction
23 of the Receiver, that it has the current ability to consummate the purchase of the
24 [property] per the agreed terms.” *Regions Bank v. Egyptian Concrete Co.*,
25 2009 U.S. Dist. LEXIS 111381, at *8 (E.D. Mo. 2009).

26 **IV. DISCUSSION**

27 The Receiver believes the proposed sale to Buyer pursuant to the Agreement
28 is in the best interests of the estate. The Gracemoor Property was listed on the MLS

1 with a licensed broker, several open houses were held, and the property was shown
2 to all interested parties. The property was on the market for several months with
3 dozens of showings, an offer was received, terms negotiated, and the Agreement
4 signed. The Receiver has found no evidence that the proposed sale is anything other
5 than an ordinary arm's length transaction. The purchase price is fair and reasonable,
6 it exceeds the automated values, and the price the property was purchased for in
7 2021. Freitag Decl., ¶ 7.

8 Moreover, the proposed sale is subject to overbid to further ensure the highest
9 and best price is obtained. The Receiver proposes to conduct a public auction
10 consistent with the requirements of Section 2001(a). Specifically, the Receiver will
11 publish the following notice of the sale once a week for four weeks in the Las Vegas
12 Review-Journal, a newspaper of general circulation in Las Vegas, Nevada:

13 In the action pending in U.S. District Court for the Central
14 District of California, Case No. 23-CV-00855-JWH
(KES), *Securities and Exchange Commission v. Integrated*
15 *National Resources, Inc. dba Weedgenics, et al.*, notice is
16 hereby given that the court-appointed receiver will
17 conduct a public auction for the real property located at
18 5963 N. Gracemoor Avenue in Clark County, Nevada.
19 Sale is subject to Court confirmation after the auction is
20 held. Minimum bid price is at least \$1,065,000. The
21 auction will take place on October 4, 2024, at 1:30 p.m.
22 To be allowed to participate in the auction, prospective
23 purchasers must meet certain bid qualification
24 requirements, including submitting a signed purchase and
25 sale agreement, an earnest money deposit of \$16,500, and
26 proof of funds. All bidders must be qualified by 5:00 p.m.
27 pacific time on September 30, 2024, by submitting the
28 required materials to the receiver at 501 West Broadway,
Suite 290, San Diego, California, 92101. If interested in
qualifying as a bidder, please contact Geno Rodriguez at
(619) 567-7223 ext. 102 or
grodriguez@ethreadvisors.com.

24 In order to conduct an orderly auction and provide sufficient time for the
25 publication of notices discussed above, the Receiver will require bidders to complete
26 the above steps by September 30, 2024 ("Bid Qualification Deadline") and conduct
27 the live public auction on October 4, 2024.

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1 The Receiver, through Broker, is and will continue to inform all interested
2 persons of the opportunity to overbid at the public auction, provided they qualify
3 themselves to bid by the Bid Qualification Deadline by (a) signing a purchase and
4 sale agreement for the properties on the same terms and conditions as Buyer, but
5 with a purchase price of at least \$1,065,000, (b) providing the Receiver with an
6 earnest money deposit of \$16,500, and (c) providing proof of funds necessary to
7 close the sale transaction in the form of a current bank statement, cashier's check
8 delivered to the Receiver, or other evidence deemed sufficient by the Receiver.

9 In the event one or more prospective purchasers qualify themselves to bid, the
10 auction will be conducted by the Receiver as noted above and bids will be allowed
11 in increments of at least \$1,000. The Receiver will then file a notice advising the
12 Court of the result of the auction (*i.e.*, the highest bid) and seek entry of an order
13 confirming the sale. Earnest money deposits provided by bidders who are not the
14 highest or second highest bidder will be promptly returned to them. In the event no
15 prospective purchasers qualify themselves to bid by the Bid Qualification Deadline,
16 the Receiver will notify the Court and seek entry of an order approving the sale to
17 Buyer.

18 With respect to Broker's commission, Broker appears to have broadly
19 marketed the Gracemoor Property for sale, to include its posting on the MLS and its
20 own website and holding several open houses. The listing agreement is standard for
21 the local area and the commission offered is consistent with the lower range of
22 industry standards for commissions paid to brokers for sales of residential
23 properties. In negotiating the commission rate, the Receiver considered a recently
24 enacted settlement that the National Association of Realtors entered with the
25 Department of Justice. Accordingly, the Receiver requests authorization to pay
26 Broker the commission amount in accordance with the listing agreement. Freitag
27 Decl., ¶ 8.

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