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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 5963 N.
 HACIENDA AVENUE, BOISE,
 IDAHO; (B) AUTHORITY TO PAY
 BROKER'S COMMISSION**

Date: Occtober 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 5963 N. Hacienda
11 Avenue, Boise, Idaho; and (B) Authority to Pay Broker’s Commission (“Motion”).

12 **I. BACKGROUND FACTS**

13 The receivership estate currently holds six real properties, which properties
14 include a single-family residence located at 5963 N. Hacienda Avenue, Boise, Idaho
15 (“Hacienda Property”). The Hacienda Property has three bedrooms and four
16 bathrooms, and was purchased in May 2021 for \$1,350,000. Title to the property
17 was originally taken in the names of Defendant Hirschmann and his wife. In
18 December 2021, title to the property was transferred from the Hirschmann’s to
19 Autobahn Performance, LLC (“Autobahn”). After purchasing the property,
20 significant changes were made to the property, including an interior remodel to
21 include a showcase garage, an outdoor kitchen and a pool, at a total cost of over
22 \$500,000. Freitag Decl., ¶ 2.

23 Upon her appointment, the Receiver and her staff performed an analysis of
24 the value of the Hacienda Property, including a review of automated valuation
25 scores for the property and commissioned an appraisal of the property. At that time,
26 the automated value was approximately \$1,500,000. In April 2024, the automated
27 value was approximately \$1,250,000. The appraised value of the property as of
28 July 2024 was \$1,230,000. Freitag Decl., ¶ 3.

1 The Receiver also learned that in November 2018, Defendant Hirschmann
2 and his wife had a personal judgment entered against them for an unrelated debt that
3 appears to be backed by the Small Business Administration, which was recorded by
4 the judgment creditor, Northwest Bank. The original amount of the judgment was
5 approximately \$321,000. When the Hirschmann's took title to the Hacienda
6 Property in their names, the judgment lien attached to the property. The Receiver,
7 through counsel, has reached out to counsel for Northwest Bank to find out how
8 much, if anything, is still owed on the judgment. The escrow company for the sale
9 proposed herein has also reached out to the bank to request a payoff statement for
10 the judgment. Further, the Receiver, through counsel, has reached out to Mr.
11 Hirschmann for information about payments made toward the judgment and the
12 amount owed. No information about the balance due has been provided by the bank
13 or Mr. Hirschmann to date.¹ Although this is a personal debt of Defendant
14 Hirschmann and his wife, because the judgment lien attached to title to the property,
15 the title company will require that whatever amount remains owing on the judgment
16 will need to be paid from escrow in order for the sale transaction to close. Freitag
17 Decl., ¶ 4.

18 When the Receiver gained possession of the property in October 2023,
19 various projects at the house were incomplete, and the property had some wear and
20 tear due to Defendant Hirschmann's occupancy of the home. The Receiver had to
21 spend a modest amount to prepare the home for sale – approximately \$19,000,
22 including the installation of a required fire-rated wall separating the living area from
23 the garage. The Receiver and her staff also consulted with multiple licensed brokers
24 about the value of the property and terms of a potential listing agreement. No
25 broker was willing to support a listing price that would recover the total purchase

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27 ¹ Counsel for Mr. Hirschmann stated that a bank account of Mr. Hirschmann was
28 garnished by Northwest Bank shortly after the judgment was entered, but he does
not know how much was collected or the balance due on the judgment.

1 price plus the amount spent on improvements to the Hacienda Property by
2 Defendant Hirschman and most were unwilling to support a listing price over
3 \$1,500,000. Ultimately, the Receiver selected eXp Realty, LLC (“Broker”) and had
4 the Hacienda Property listed for sale at \$1,699,000 at the end of July 2024. Freitag
5 Decl., ¶ 5.

6 The Hacienda Property was listed on the local MLS, which syndicates
7 information on all major real estate platforms including Zillow, Redfin, and
8 Realtor.com and an open house we held. Multiple offers were received, the highest
9 and best of which is for \$1,550,000 from Christine Zuk (“Buyer”). The deposit is
10 \$15,500. The Receiver, through Broker, sent a counteroffer to clarify receivership
11 specific terms, and the overbid/auction process, which the Buyer accepted. Through
12 Broker, the prospective purchasers who showed interest in the property have been
13 invited to participate in the overbid/auction process discussed below. The MLS
14 listing has also been updated to seek overbidders. Freitag Decl., ¶ 6.

15 II. PROPOSED SALE

16 The key terms of the proposed RE-21 Real Estate Purchase and Sale
17 Agreement, including Addendum thereto (“Agreement”), a copy of which is
18 attached to the Freitag Declaration as Exhibit A, are summarized as follows:

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

21 **Purchase Price.** The purchase price is \$1,550,000, which amount will be
22 financed.

23 **Deposit.** Buyer has deposited \$15,500 into escrow and such funds have been
24 released to the Receiver.

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

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1 **Broker’s Commission.** Pursuant to the listing agreement, Broker is to be
2 paid a commission of 4% of the gross sales price, which is to be split evenly with
3 Buyer’s broker. In the proposed sale, the total commission would be \$62,000.

4 **III. LEGAL STANDARD**

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

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

19 A district court’s power to supervise an equity
20 receivership and to determine the appropriate action to be
21 taken in the administration of the receivership is extremely
22 broad. The district court has broad powers and wide
23 discretion to determine the appropriate relief in an equity
24 receivership. The basis for this broad deference to the
25 district court’s supervisory role in equity receiverships
26 arises out of the fact that most receiverships involve
27 multiple parties and complex transactions. A district
28 court’s decision concerning the supervision of an equitable
receivership is reviewed for abuse of discretion.

25 *Id.* (citations omitted); *see also CFTC. v. Topworth Int’l, Ltd.*, 205 F.3d 1107, 1115
26 (9th Cir. 1999) (“This court affords ‘broad deference’ to the court’s supervisory
27 role, and ‘we generally uphold reasonable procedures instituted by the district court
28 that serve th[e] purpose’ of orderly and efficient administration of the receivership

1 for the benefit of creditors.”). Accordingly, the Court has broad discretion in the
2 administration of the receivership estate and the disposition of receivership assets.

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

4 It is widely accepted that a court of equity having custody and control of
5 property has power to order a sale of the same in its discretion. *See, e.g., SEC v.*
6 *Elliott*, 953 F.2d 1560, 1566 (11th Cir. 1992) (the District Court has broad powers
7 and wide discretion to determine relief in an equity receivership). “The power of
8 sale necessarily follows the power to take possession and control of and to preserve
9 property.” *See SEC v. American Capital Invest., Inc.*, 98 F.3d 1133, 1144 (9th Cir.
10 1996), *cert. denied* 520 U.S. 1185 (decision abrogated on other grounds) (*citing*
11 2 Ralph Ewing Clark, Treatise on Law & Practice of Receivers § 482 (3d ed. 1992)
12 (*citing First Nat’l Bank v. Shedd*, 121 U.S. 74, 87 (1887)). “When a court of equity
13 orders property in its custody to be sold, the court itself as vendor confirms the title
14 in the purchaser.” 2 Ralph Ewing Clark, Treatise on Law & Practice of
15 Receivers § 487 (3d ed. 1992).

16 “A court of equity, under proper circumstances, has the power to order a
17 receiver to sell property free and clear of all encumbrances.” *Miners’ Bank of*
18 *Wilkes-Barre v. Acker*, 66 F.2d 850, 853 (2d Cir. 1933). *See also*, 2 Ralph Ewing
19 Clark, Treatise on Law & Practice of Receivers § 500 (3d ed. 1992). To that end, a
20 federal court is not limited or deprived of any of its equity powers by state statute.
21 *Beet Growers Sugar Co. v. Columbia Trust Co.*, 3 F.2d 755, 757 (9th Cir. 1925)
22 (state statute allowing time to redeem property after a foreclosure sale not applicable
23 in a receivership sale).

24 Generally, when a court-appointed receiver is involved, the receiver, as agent
25 for the court, should conduct the sale of the receivership property. *Blakely Airport*
26 *Joint Venture II v. Federal Sav. and Loan Ins. Corp.*, 678 F. Supp. 154, 156
27 (N.D. Tex. 1988). The receiver’s sale conveys “good” equitable title enforced by an
28 injunction against the owner and against parties to the suit. *See* 2 Ralph Ewing

1 Clark, Treatise on Law & Practice of Receivers §§ 342, 344, 482(a), 487, 489, 491
2 (3d ed. 1992). “In authorizing the sale of property by receivers, courts of equity are
3 vested with broad discretion as to price and terms.” *Gockstetter v. Williams*, 9 F.2d
4 354, 357 (9th Cir. 1925).

5 **B. 28 U.S.C. § 2001**

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

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

24 A public sale of realty or interest therein under any order,
25 judgment or decree of any court of the United States shall
26 not be made without notice published once a week for at
27 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.

28 If such realty is situated in more than one county, state,
district or circuit, such notice shall be published in one or

1 more of the counties, states, or districts wherein it is
2 situated, as the court directs. The notice shall be
3 substantially in such form and contain such description of
4 the property by reference or otherwise as the court
5 approves. The court may direct that the publication be
6 made in other newspapers.

7 This section shall not apply to sales and proceedings under
8 Title 11 or by receivers or conservators of banks appointed
9 by the Comptroller of the Currency.

10 The notice of sale is sufficient if it describes the property and the time, place,
11 and terms of sale. *Breeding Motor Freight Lines, Inc. v. Reconstruction Finance*
12 *Corp.*, 172 F.2d 416, 422 (10th Cir. 1949). The Court may limit the auction to
13 qualified bidders, who “(i) submit to the Receiver . . . in writing a bona fide and
14 binding offer to purchase the [property]; and (ii) demonstrate . . . , to the satisfaction
15 of the Receiver, that it has the current ability to consummate the purchase of the
16 [property] per the agreed terms.” *Regions Bank v. Egyptian Concrete Co.*,
17 2009 U.S. Dist. LEXIS 111381, at *8 (E.D. Mo. 2009).

18 **IV. DISCUSSION**

19 The Receiver believes the proposed sale to Buyer pursuant to the Agreement
20 is in the best interests of the estate. The Hacienda Property was listed on the MLS
21 with a licensed broker, an open house was held, and the property was shown to all
22 interested parties. The property was on the market for less than a month; however,
23 multiple offers were received, terms negotiated, and the Agreement signed. The
24 Receiver has found no evidence that the proposed sale is anything other than an
25 ordinary arm’s length transaction. The purchase price is fair and reasonable, it
26 exceeds the automated values, the appraisal commissioned, and the price the
27 property was purchased for in 2021. Freitag Decl., ¶ 7.

28 Moreover, the proposed sale is subject to overbid to further ensure the highest
and best price is obtained. The Receiver proposes to conduct a public auction
consistent with the requirements of Section 2001(a). Specifically, the Receiver will

1 publish the following notice of the sale once a week for four weeks in the Idaho
2 Statesman, a newspaper of general circulation in Ada County:

3 In the action pending in U.S. District Court for the Central
4 District of California, Case No. 23-CV-00855-JWH
(KES), *Securities and Exchange Commission v. Integrated*
5 *National Resources, Inc. dba Weedgenics, et al.*, notice is
6 hereby given that the court-appointed receiver will
7 conduct a public auction for the real property located at
8 5963 N. Hacienda Avenue in Ada County, Idaho. Sale is
9 subject to Court confirmation after the auction is held.
10 Minimum bid price is at least \$1,560,000. The auction
11 will take place on September 20, 2024, at 1:30 p.m. To be
12 allowed to participate in the auction, prospective
13 purchasers must meet certain bid qualification
14 requirements, including submitting a signed purchase and
15 sale agreement, an earnest money deposit of \$16,500, and
16 proof of funds. All bidders must be qualified by 5:00 p.m.
17 pacific time on September 16, 2024, by submitting the
18 required materials to the receiver at 501 West Broadway,
19 Suite 290, San Diego, California, 92101. If interested in
20 qualifying as a bidder, please contact Geno Rodriguez at
21 (619) 567-7223 ext. 102 or
22 grodriguez@ethreadvisors.com.

23 In order to conduct an orderly auction and provide sufficient time for the
24 publication of notices discussed above, the Receiver will require bidders to complete
25 the above steps by September 16, 2024 (“Bid Qualification Deadline”) and conduct
26 the live public auction on September 20, 2024.

27 The Receiver, through Broker, is and will continue to inform all interested
28 persons of the opportunity to overbid at the public auction, provided they qualify
29 themselves to bid by the Bid Qualification Deadline by (a) signing a purchase and
30 sale agreement for the properties on the same terms and conditions as Buyer, but
31 with a purchase price of at least \$1,560,000, (b) providing the Receiver with an
32 earnest money deposit of \$16,500, and (c) providing proof of funds necessary to
33 close the sale transaction in the form of a current bank statement, cashier’s check
34 delivered to the Receiver, or other evidence deemed sufficient by the Receiver.

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

7 With respect to Broker’s commission, Broker appears to have broadly
8 marketed the Hacienda Property for sale, to include its posting on the MLS and its
9 own website. The listing agreement is standard for the local area and the
10 commission offered is consistent with the lower range of industry standards for
11 commissions paid to brokers for sales of residential properties. In negotiating the
12 commission rate, the Receiver considered a recently enacted settlement that the
13 National Association of Realtors entered with the Department of Justice.
14 Accordingly, the Receiver requests authorization to pay Broker the commission
15 amount in accordance with the listing agreement. Freitag Decl., ¶ 8.

16 **V. CONCLUSION**

17 For the reasons discussed above, the Receiver requests (a) approval of the sale
18 of the Hacienda Property to Buyer pursuant to the Agreement attached to the Freitag
19 Declaration as Exhibit A, and (b) authority to take all steps necessary to close the
20 sale, and (c) authority to pay Broker’s commission as described above.

21
22 Dated: September 6, 2024

ALLEN MATKINS LECK GAMBLE
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By: /s/Edward G. Fates

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Attorneys for Court-Appointed
Receiver, KRISTA L. FREITAG

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