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7  
8 **SUPERIOR COURT OF ARIZONA**  
9 **MARICOPA COUNTY**

10 **ARIZONA CORPORATION**  
11 **COMMISSION**

12 Plaintiff,

13 v.

14 **MATHON MANAGEMENT COMPANY,**  
15 **L.L.C., fka an Arizona limited liability**  
16 **company now dba a Delaware limited**  
17 **liability company, SLADE WILLIAMS AND**  
18 **ASSOCIATES, L.L.C., an Arizona limited**  
19 **liability company, MATHON FUND I,**  
20 **L.L.C., an Arizona limited liability company,**  
21 **MATHON FUND, L.L.C., fka an Arizona**  
22 **limited liability company now dba a**  
23 **Delaware limited liability company,**  
24 **INTEGRITY101, L.L.C., an Arizona limited**  
25 **liability company, INTEGRITY 201, L.L.C.,**  
26 **an Arizona limited liability company,**  
27 **INTEGRITY 301, L.L.C., and Arizona**  
28 **limited liability company, INTEGRITY401,**  
**L.L.C., an Arizona limited liability company,**  
**INTEGRITY 501, L.L.C., an Arizona limited**  
**liability company, INTEGRITY 601, L.L.C.,**  
**an Arizona limited liability company,**  
**INTEGRITY 701, L.L.C., an Arizona limited**  
**liability company, INTEGRITY 801, L.L.C.,**  
**an Arizona limited liability company,**  
**INTEGRITY 901, L.L.C., an Arizona limited**  
**liability company, ROUND VALLEY**  
**CAPITAL, L.L.C., an Arizona limited**  
**liability company, W.S.F. – WORLD**  
**SPORTS FANS, L.L.C., an Arizona limited**  
**liability company, MILL CREEK, L.L.C., an**  
**Arizona limited liability company,**  
**BELLEVUE HOLDINGS, L.L.C., an**

Case No. CV 2005-005484

**MOTION TO AUTHORIZE**  
**CONSERVATOR TO FILE**  
**BANKRUPTCY PROCEEDINGS**

(Assigned to the Honorable  
Barry C. Schneider)

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ATTORNEYS AT LAW  
3200 NORTH CENTRAL AVENUE  
SUITE 2000  
PHOENIX, ARIZONA 85012

1 Arizona limited liability company, OAK  
2 HARBOR FINANCIAL, L.L.C., an Arizona  
3 limited liability company, SW STRATEGIC,  
4 WEALTH ADVISORS, L.L.C., an Arizona  
5 limited liability company, EVERETT  
6 CAPTIAL, L.L.C., an Arizona limited  
7 liability company, CRE CAPITAL, L.L.C.,  
8 an Arizona limited liability company,  
9 MEZZANINE MANAGEMENT, L.L.C., an  
10 Arizona limited liability company,  
11 MEZZANINE FUND I, L.L.C., an Arizona  
12 limited liability company, JONAS FUND I,  
13 L.L.C., an Arizona limited liability company,  
14 TEMPLAR FUND L.L.C., fka an Arizona  
15 limited liability company now dba a  
16 Delaware limited liability company,  
17 MERCER ISLAND, L.L.C., an Arizona  
18 limited liability company, CONNECTICUT  
19 PROPERTIES, L.L.C., an Arizona limited  
20 liability company, FIRST ATLANTA  
21 INVESTMENTS, L.L.C., a Georgia limited  
22 liability company, MM COLONIAL FUND,  
23 L.L.C., a Delaware limited liability company,  
24 SLADE CONSTRUCTION, L.L.C., an  
25 Arizona limited liability company,

26 DUANE SLADE and JENNIFER SLADE,  
27 husband and wife, GUY ANDREW  
28 WILLIAMS and LISA WILLIAMS, husband  
and wife,

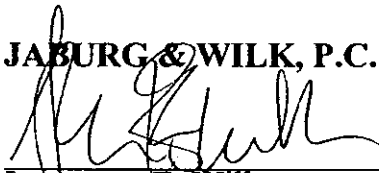
Defendants.

19 James C. Sell, the State Court appointed Conservator in the above-referenced  
20 matter, through counsel of record undersigned, hereby requests that this Court enter an  
21 order authorizing the Conservator to file Bankruptcy proceedings for the following  
22 entities:

- 23 1. Mathon Management Company, LLC
- 24 2. Slade Williams & Associates, LLC
- 25 3. Round Valley Capital, LLC
- 26 4. WSF – World Sports Fans, LLC

27 This Motion is based upon the following Memorandum and Points and Authorities.  
28

1 DATED this 24 day of June, 2005.

2 JABURG & WILK, P.C.  
3   
4 Lawrence E. Wilk  
5 Attorneys for James C. Sell  
6

7 **MEMORANDUM OF POINTS AND AUTHORITIES**

8 I. **Procedural Background**

9  
10 1. On or about April 1, 2005, the Arizona Corporation Commission caused to  
11 be filed, in the Superior Court in and for the State of Arizona, a Verified Complaint in the  
12 above-captioned matter against numerous individual defendants and entities, seeking the  
13 appointment of a Receiver over the named Defendants.

14 2. On April 1, 2005, this Court issued its Order appointing James C. Sell  
15 Receiver for the approximately 30 entities named in the Receivership complaint.

16 3. Subsequently, after notice and hearing, the Court on April 14, 2005 issued  
17 its Order approving the Stipulation Regarding Order Appointing Conservator, in which  
18 the title of James C. Sell was changed from Receiver to Conservator (hereinafter, the  
19 "Conservatorship Order"). The rights and obligations of the Conservator remained  
20 identical to those of the Receiver.

21 4. A Preliminary Injunction Hearing was scheduled for June 7 and 8, 2005, at  
22 which time the Court was to consider whether the Conservator should remain in place.  
23 Pursuant to Stipulation of the parties, it was agreed that the Conservator should remain in  
24 place until further court order.

25 5. The original Order appointing Receiver provided the following language,  
26 which was later incorporated in the Stipulated Order Appointing Conservator:

27 12. The Receiver is hereby directed to file with this Court  
28 and serve upon the parties, within 30 days after entry of this  
Order, a Preliminary Report setting out the identity, location  
and value of the Receivership assets, and any liabilities

1           pertaining thereto. Further, at the time the Receiver makes  
2           such report, he will recommend to the Court whether, in his  
3           opinion, based upon his initial investigation, claims against  
4           Defendants, should be adjudged in the Bankruptcy Court.  
5           After providing the parties an opportunity to be heard, this  
6           Court will determine whether to accept the Receiver's  
7           recommendation and, if appropriate, issue an Order  
8           authorizing the Receiver to commence a Bankruptcy  
9           proceeding. (Emphasis added)

6.       The Initial Report filed by the Conservator dealt with this issue as follows:

Mathon was a multi-state lender and its investor base, encompasses several states. Mathon currently is engaged in various litigations as both a plaintiff and a defendant. The litigation involved suits brought in Arizona as well as other states.

We are in the process of evaluating whether or not Bankruptcy Court should be recommended for the Mathon entities as a preferred forum for maximizing investor recoveries.

Factors we are reviewing include;

1.       The broad inherent powers that a Bankruptcy confers on a Debtor;
2.       The nationwide effect of a stay in 11 U.S.C. § 362, and;
3.       The scope of recoveries available under Chapter 5 of the Bankruptcy Code.

Prior to making a recommendation to this Court on the Bankruptcy issue, I request additional time to confer with the Mathon Investors Committee regarding the benefits and detriments of a Bankruptcy proceeding. It is my intent to issue a supplemental report to the Court on the Bankruptcy issue as well as additional information on asset values and a definitive investor accounting. The supplemental report will be on or before June 6, 2005.

7.       The Conservator has met with the Official Creditor's Committee and discussed the ramifications of filing bankruptcy proceedings for the Conservatorship Entities. The Conservator has been advised that the Committee has discussed in detail these ramifications, and has authorized the Conservator to file bankruptcy proceedings for the following entities:

Mathon Management Company, LLC

1 Slade Williams & Associates, LLC  
2 Round Valley Capital, LLC  
3 WSF – World Sports Fans, LLC

4 II. Legal Argument

5 In analyzing the propriety of placing any of the Conservatorship Entities  
6 into bankruptcy, the Conservator analyzed three major factors in reaching a determination  
7 that it would be in the best interests of the Estate for the forenamed Entities to be placed  
8 into bankruptcy. The factors analyzed were: (1) the broad powers that a bankruptcy  
9 confers on the debtors; (2) the nationwide effect of a stay under 11 U.S.C. § 362; (3) the  
10 scope of recoveries available under Chapter 5 of the Bankruptcy Code.  
11

12  
13 **A. A DEBTOR IN POSSESSION HAS BROAD INHERENT  
POWERS UNDER THE CODE AND BANKRUPTCY PRACTICE.**

14 While both a state court Conservatorship and a bankruptcy case are deemed  
15 equitable proceedings, the Bankruptcy Court always sits in this capacity, whereas the  
16 Superior Court of Arizona only sits in this capacity under limited circumstances. As a  
17 result, unlike the state court, the bankruptcy forum establishes a precise statutory  
18 framework under which the principles of equitable distribution can be accomplished.  
19

20 A debtor in possession in bankruptcy operating a business under the protections of  
21 Chapter 11 may be the most powerful legal entity in the business world. See, 2  
22 Bankruptcy Practice Handbook § 14:75. Among the beneficial bankruptcy provisions  
23 affording this power, and applicable to this case, are those dealing with the stay of adverse  
24 proceedings, executory contracts (limiting potential liability), the sale of assets in an  
25 orderly and economic manner, recovery of assets from third parties and insiders, and a  
26 priority distribution scheme.  
27  
28

1 The Bankruptcy Code also provides for the handling of the investor claims, and  
2 provides the debtors the ability to use the claims objection process and the plan of  
3 reorganization as vehicles to object to certain investors, creditor's claims or subordinate  
4 "insider" claims. By this process, the Conservator will be able to maximize return to the  
5 investors who have valid, allowable claims.  
6

7 **B. THE NATIONAL EFFECT OF THE AUTOMATIC STAY UNDER 11**  
8 **U.S.C. § 362 WILL MINIMIZE LITIGATION COSTS AND PUT**  
9 **THE DEBTOR AT A STRATEGIC ADVANTAGE.**

10 As Mathon has investments throughout United States, the Conservatorship has  
11 been confronted with litigation in jurisdictions other than Arizona. While the  
12 Conservatorship Order issued by the Arizona Superior Court has not been questioned by  
13 the litigants in these other jurisdictions, the effect of 11U.S.C. § 362 will eliminate any  
14 question as to the existence of a stay. The effect of the automatic stay 11 U.S.C. § 362 is  
15 nationwide and alleviates the necessity of the additional costs of filing ancillary  
16 Conservatorship proceedings. The filing of the bankruptcy in Arizona also provides the  
17 strategic position of allowing extraterritorial issues to be heard in Arizona. This will  
18 allow the Conservator the advantage of dealing with extraterritorial litigation in Arizona,  
19 before the same judge handling the bankruptcy proceeding.  
20

21 **C. THE PROVISIONS OF CHAPTER 5 OF THE BANKRUPTCY CODE**  
22 **WILL BE BENEFICIAL TO THE CONSERVATOR.**  
23

24 Under 11 U.S.C. § 547 and 11 U.S.C. § 548 (preference and fraudulent  
25 conveyances) there is a statutory presumption that any transfers made within 90 days of a  
26 filing of the petition are subject to avoidance, and the assets returned the estate. There is  
27  
28

1 no similar provision under Arizona law. As to insiders, the presumptive period is one  
2 year. Accordingly, the ability to utilize the presumptive period under these provisions  
3 would allow for the Conservator to marshal assets previously transferred, resulting in a  
4 more equitable distribution to all investors.  
5


6 Due to the presumptive periods commencing upon the filing of the bankruptcy  
7 petition, the Conservator believes that it is imperative that the proceedings be initiated as  
8 soon as possible in order to maximize the presumptive time periods available prior to the  
9 filing when transfers may have taken place. For this reason, the Conservator is  
10 requesting, by separate pleading, that this matter be heard on an expedited basis.  
11

12 The Conservator has determined that the four entities which are the subject of this  
13 Motion are the appropriate parties to be placed into bankruptcy due to the flow of monies  
14 through the Conservatorship Estate. The records of the company reflect that the majority  
15 of funds distributed out of the Conservatorship Entities flowed through Mathon  
16 Management Company, LLC, Slade Williams & Associates, LLC, and Round Valley  
17 Capital, LLC. As to the inclusion of WSF – World Sports Fans, LLC, the financial  
18 statements maintained by the company reflect assets which would be subject to turnover  
19 and liquidation. A good portion of these assets appear to have been transferred. The  
20 filing of this proceeding would facilitate the ability to immediately proceed to obtain  
21 control of these assets.  
22  
23  
24

25 For the foregoing reasons, the Conservator respectfully requests that this Court  
26 authorize the Conservator to file bankruptcy proceedings for the entities referenced  
27 hereinabove, and to retain counsel for the purpose of initiating the proceedings.  
28

1 DATED this 24 day of June, 2005.

2 **JABURG & WILK, P.C.**

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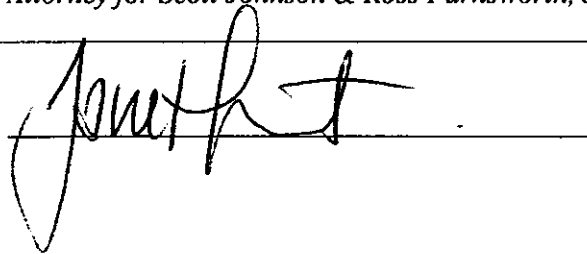
4 Lawrence E. Wilk  
5 Attorneys for James C. Sell, Conservator

6 **ORIGINAL** filed and **COPY**  
7 of the foregoing hand-delivered this  
8 24 day of June, 2005 to:

9 The Honorable Barry C. Schneider  
10 MARICOPA COUNTY SUPERIOR COURT  
11 101 West Jefferson, CCB 13A  
12 Phoenix, Arizona 85003-2243

13 **COPIES** of the foregoing mailed  
14 this 24 day of June, 2005 to:

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17 J. Grant Woods GRANT WOODS P.C. 1726 N. Seventh Street Phoenix, Arizona 85006-2200 <i>Attorney for Duane and Jennifer Slade And Guy and Lisa Williams</i>	18 Gerald L. Shelley, Esq. QUARLES & BRADY STREICH LANE Two N. Central Avenue Phoenix, Arizona 85004-2391 <i>Attorney for Creditors Committee</i>
19 John E. DeWulf, Esq. ROSHKA HEYMAN & DEWULF PLC 400 E. Van Buren, Suite 800 Phoenix, Arizona 85004-2262	20 Steven C. Mahaffy, Esq. BEUS GILBERT PLLC 4800 N. Scottsdale Road, Suite 6000 Scottsdale, Arizona 85251-7630
21 Robert A. Shull, Esq. MARISCAL, WEEKS, MCINTYRE & FRIEDLANDER, P.A. 2901 N. Central Avenue, Suite 200 Phoenix, AZ 85012-2705 <i>Attorney for Scott Johnson &amp; Ross Farnsworth, Jr.</i>	22 James C. Sell 2222 E. Camelback Road, Suite 110 Phoenix, Arizona 85016 <i>Court Appointed Conservator</i>

23 

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