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

Case No. CV 2005-005484

**CONSERVATOR'S OBJECTION TO  
THE CREDITORS' COMMITTEE'S  
MOTION TO RESOLVE CASE  
THROUGH BANKRUPTCY**

(Assigned to the Honorable  
Barry C. Schneider)

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

Defendants.

James C. Sell, the Court appointed Conservator in the above-referenced matter, (the "Conservator"), through undersigned Counsel, hereby objects to the Creditors' Committee's Motion to Resolve Case Through Bankruptcy (the "Committee Motion").

Simply put, the Committee Motion is nothing more than an attempt to wrest control of this Action away from the Arizona Corporation Commission ("ACC") and shield named defendants from potential liability under the ruse that such conduct is contemplated and countenanced by the Bankruptcy Code.

1 Nothing could be further from the truth. While the Committee Motion argues that  
2 their timetable for Bankruptcy would govern the case, the Motion fails to address that the  
3 Bankruptcy Court would ultimately have to approve such timetable and Plan.  
4

5 In Contrast, the Conservator's Motion for Authority to Place Certain  
6 Conservatorship Entities into Bankruptcy, filed on June 24, 2005, narrowly sought to  
7 strategically Place four (4) Conservatorship Entities into Bankruptcy to protect the overall  
8 Conservatorship Estate, while still allowing this Court to proceed with the adjudication of  
9 the ACC's claims against the remaining Conservatorship Entities.  
10

11 **I. THE CONSERVATOR IS OBLIGATED TO FILE THIS**  
12 **OBJECTION.**

13 As this Court is well aware, a Receivership is an equitable proceeding<sup>1</sup>. *See, e.g.,*  
14 *First Phoenix Realty Investments v. Superior Court*, 173 Ariz. 265, 267 (App. 1992).  
15 Moreover, pursuant to the terms of the Stipulation Regarding Order Appointing  
16 Conservator, the Conservator is charged with, *inter alia*, the duty to:  
17

18 prevent the inequitable distribution of assets and determine,  
19 adjust, and protect the interests of persons with an interest in  
20 or claim against the Conservatorship Assets.  
21 *See*, Conservatorship Stipulation at Paragraph 12

22 As such, the Conservator is bound to maximize the proceeds available for the  
23 benefit of all of the Conservatorship's Investors and Creditors. Given the lack of  
24 disclosure of the true nature of proposed Plan of Liquidation advocated by the Committee  
25 Motion, the Conservator cannot ascertain that the Plan will fully maximize proceeds  
26 available for the Conservatorship Estate.  
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28 <sup>1</sup> Pursuant to the terms of the Stipulation Regarding Order Appointing Conservator, the Conservator herein  
is vested with identical powers as a Receiver.

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Moreover, the Conservator has been made aware, upon information and belief, that not all of the investors and creditors advocate or agree with the Plan proposed by the Committee.

Consequently, the Conservator is bound to file this Objection.

**II. THE COMMITTEE MOTION IS BASED UPON FLAWED PRESUMPTIONS.**

The gravamen of Committee Motion lies in its allegation that “Bankruptcy Court is the Most Efficient Forum to Resolve this Case.” However, such argument is based upon the flawed presumption that the sole goal of this Action is the prompt and equitable liquidation of the Conservatorship Estate.

In reality, this Action is an enforcement action, Commenced by the Arizona Corporation Commission. Such purpose would not be accomplished by the filing of a Bankruptcy.

Additionally, the ACC’s enforcement claims would remain with this Court even after the filing of a Bankruptcy. This result is dictated by the express language of the Bankruptcy Code.

11 U.S.C. § 362 specifically provides, in relevant part, that:

The filing of a petition . . . does not operate as a stay – of an action or proceeding by a governmental unit or any organization exercising . . . [its] police or regulatory power. See 11 U.S.C. § 362 (b)(4).

In Contrast, the Committee Motion makes no provision for preserving any of the true basis for this Action. Rather, the Committee Motion makes a vague reference to its proposed plan’s ability to provide an “orderly mechanism to increase fund by restitution

1 from Mathon principals” without specifying what the terms of such “restitution” would  
2 be. Moreover, such statement, again, incorrectly presumes that the Committee has the  
3 unilateral authority to negotiate and compromise the claims of the ACC.  
4

5 The true motivation for the Committee Motion lies in its advocacy of the  
6 “prepackaged plan of distribution under A&M’s Direction.” Ironically, the Committee  
7 has provided no documentation or even rough outline of the basis of such plan.  
8 Consequently, it is voodoo science to even to begin to guess the contents of such Plan.  
9

10 Based on this lack of concrete information, this Court has no ability to determine  
11 the Plan’s ability to be confirmed. While the Committee implies that its “prepackaged  
12 plan” will automatically be confirmed, such is not the case. Even a consensual plan must  
13 be confirmed by the Bankruptcy Court. Such Confirmation process would entail a  
14 determination that the Plan satisfies all thirteen (13) requirements of 11 U.S.C. § 1129(a)  
15 – including that the Plan is proposed in good faith.  
16

17 Accordingly, the Committee’s Motion must be denied because it is based upon the  
18 presumption that its alleged “Plan” will automatically be accepted and implemented by  
19 the Bankruptcy Court.  
20

21 **III. THIS COURT SHOULD INSTEAD GRANT THE CONSERVATOR**  
22 **AUTHORITY TO PLACE FOUR CONSERVATORSHIP ENTITIES**  
23 **INTO BANKRUPTCY.**

24 Rather than a wholesale removal of this case to Bankruptcy Court, the Conservator  
25 seeks the authority to place Mathon Management Company, LLC; Slade Williams and  
26 Associates, LLC; Round Valley Capital, LLC; and WSF – World Sports Fans, LLC (the  
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“Bankruptcy Entities”) into a proceeding under Chapter 11 of Bankruptcy Code.<sup>2</sup> Such a strategic filing will allow the ACC to proceed with the adjudication of its claims in this Court, while also, protecting and preserving the rights of the Conservatorship Entities.

Such a filing would provide the Conservatorship with two advantages. First, the Conservator could use the provisions of 11 U.S.C. § 362 to shield various Conservatorship Entities from litigation. Recently, Conservatorship Entities have been named in State Court Litigation in Utah, and in a Bankruptcy Case pending in the District of Nevada. A limited Bankruptcy filing would be an effective and economic means to stay these and any other potential actions.

Second, such limited filing would provide a concrete date for the Conservatorship’s ability to pursue preferential and fraudulent transfer actions under 11 U.S.C. § 547 & 548. Under the broad scope of these statutes, Debtors would presumptively be able to recover fraudulent transfers and preferential transfers made to Insiders<sup>3</sup> within one year of the date of filing.

All of this could be accomplished, while at the same time preserving the ACC’s ability to pursue its claims in this Action.

**IV. CONCLUSION**

Accordingly, the Conservator respectfully requests that the Committee Motion be denied, and that the Conservator be granted authority to place the above reference four (4) Conservatorship Entities into Bankruptcy.

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<sup>2</sup> Such relief is the basis of the Motion for Reconsideration currently pending with this Court, and for the sake of brevity, the Conservator’s arguments therein are incorporated by reference herein.

<sup>3</sup> As defined in the Bankruptcy Code.

1 DATED this 30<sup>th</sup> day of September, 2005.

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

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4 Lawrence E. Wilk

5 Jonathan P. Ibsen

6 Attorneys for James C. Sell, Conservator

7 **ORIGINAL** filed and **COPY**  
8 of the foregoing hand-delivered this  
9 30<sup>th</sup> day of September, 2005 to:

10 The Honorable Barry C. Schneider  
11 MARICOPA COUNTY SUPERIOR COURT  
12 125 West Washington, OCH 103  
13 Phoenix, Arizona 85003

14 **COPIES** of the foregoing mailed and  
15 emailed this 30<sup>th</sup> day of September, 2005 to:

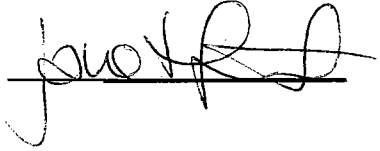
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