

COPY

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5  
6 IN THE SUPERIOR COURT FOR THE STATE OF ARIZONA  
7  
8 IN AND FOR THE COUNTY OF MARICOPA

9 ARIZONA CORPORATION  
10 COMMISSION,

11 Plaintiff,

12 v.

13 TREND MANAGEMENT GROUP,  
14 INC.; TREND CAPITAL, L.L.C.,

15 Defendants.

Cause No. CV 2006-016822

PETITION NO. 30

PETITION FOR APPROVAL TO  
INITIATE LAWSUIT AGAINST  
DEFENDANTS CECIL COLLIER, RUBY  
COLLIER, SARA AND RAYMOND  
GODLESKI, REBECCA HARTER,  
SHARON JANKUNAS, MARY ANN  
JUSTIN, THOMAS JUSTIN, MACKIN  
COMMUNITY PROPERTY TRUST,  
PATRICK MARSHALL, JACQUELINE  
PARADA, LAURIE SPENCE, BRIAN  
TULLY, PHILLIP WATTERS,  
MAGNOLIA WILLIAMS, AND ESTATE  
OF OTIS GREENE

(Assigned to Judge A. Craig Blakey, II)

18 Peter S. Davis, the court-appointed receiver, petitions the Court for authority to  
19 institute a lawsuit against Defendants, Cecil Collier, Ruby Collier, Sara and Raymond  
20 Godleski, Rebecca Harter, Sharon Jankunas, Mary Ann Justin, Thomas Justin, Mackin  
21 Community Property Trust, Patrick Marshall, Jacqueline Parada, Laurie Spence, Brian Tully,

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1 Phillip Watters, Magnolia Williams, and the Estate of Otis Greene ( Collectively “the  
2 Defendants”) to recover false profits fraudulently transferred to the Defendants and  
3 respectfully submits the following:

4 1. Through the *Order Appointing Receiver*, this Court “takes exclusive jurisdiction  
5 and possession of assets, monies, securities, chooses in action, and properties, real and  
6 personal, tangible and intangible, of whatever kind and description, wherever situated, of  
7 Trend Management Group, Inc... and Trend Capital, L.L.C... (hereinafter, ‘Receivership  
8 Assets’).”<sup>1</sup>

9 2. Also through the *Order Appointing Receiver*, this Court appointed Peter S.  
10 Davis receiver,<sup>2</sup> ordered him to “take and have possession and control of the Receivership  
11 Assets,”<sup>3</sup> and authorized him to “institute... actions or proceedings... as may in his discretion  
12 be advisable or proper... for the collection, preservation and maintenance of the Receivership  
13 Assets.”<sup>4</sup>

14 3. One of the purposes of this receivership is to identify and recover all property  
15 traceable to, or derived from, the fraudulent conduct alleged in the causes of action  
16 consolidated in the above-styled lawsuit for the ultimate benefit of the victim investors who  
17 invested money in connection with the investment scheme operated through the Receivership  
18 Defendants (“Trend Investors”).

19  
20 <sup>1</sup> *Order Appointing Receiver*, ¶ 1. The Receiver requests the Court take judicial notice of the  
pleadings on file in this action.

21 <sup>2</sup> *Order Appointing Receiver*, ¶ 2.

<sup>3</sup> *Order Appointing Receiver*, ¶ 2.

<sup>4</sup> *Order Appointing Receiver*, ¶ 21.

1 4. Through the Receiver's investigation, and the completion of a sources and uses  
 2 of cash report, the Receiver determined that \$279,032.25 was paid to the following  
 3 Defendants as false "profits" from their investments by the Trend Receivership Entities<sup>5</sup>.

4 5. Specifically, the Defendants listed below received the following amounts which  
 5 represent a "profit" in excess of their principle investment into the Receivership Entities. The  
 6 Receiver has determined that the money which represents the "profit" paid to the following  
 7 Defendants was derived from the principle investment of other investors into Receivership  
 8 Entities<sup>6</sup>:

	<u>Defendant</u>	<u>Investment</u>	<u>Total Receipt</u>	<u>Ponzi Profit</u>
9				
10	a. C. Collier	\$50,000.00	\$62,821.76	\$12,821.76
11	b. R. Collier	\$45,000.00	\$50,400.00	\$5,400.00
12	c. Godleski	\$75,000.00	\$101,673.00	\$26,673.00
13	d. Harter	\$142,633.25	\$158,282.35	\$15,649.10
14	e. Jankunas	\$25,000.00	\$35,264.00	\$10,264.00
15	f. M. Justin	\$25,000.00	\$35,274.00	\$10,274.00
16	g. T. Justin	\$25,000.00	\$35,274.00	\$10,274.00
17	h. Mackin Trust	\$50,000.00	\$66,826.00	\$16,826.00
18	i. Marshall	\$25,000.00	\$35,206.00	\$10,206.00
19	j. Parada	\$40,000.00	\$53,407.00	\$13,407.00
20	k. Spence	\$35,000.00	\$47,651.17	\$12,651.17

21 <sup>5</sup> Davis Declaration, ¶ 5 attached as Exhibit "B"

<sup>6</sup> Davis Declaration, ¶ 5 attached as Exhibit "B"

1	l.	Tully	\$25,000.00	\$32,477.20	\$7,477.20
2	m.	Watters	\$48,864.00	\$71,262.90	\$22,398.90
3	n.	Williams	\$25,000.00	\$36,787.00	\$11,787.00
4	o.	Estate of Greene	\$25,000.00	\$117,923.12	\$92,923.12

5           6.     The Receiver seeks to recover these funds from the Defendants under legal  
6 theories of fraudulent transfer, conversion, unjust enrichment and equitable disgorgement<sup>7</sup>.

7           7.     The Receiver has made demand on each of the Defendants to turnover to the  
8 Receiver all of the ponzi profits they received from the Receivership Entities. To date,  
9 however, the Defendants herein have failed to turnover these false profits or even respond to  
10 the Receiver's demand<sup>8</sup>.

11           8.     Accordingly, the Receiver proposes to institute a lawsuit against the Defendants  
12 to seek to recover Receivership Assets fraudulently transferred to them. A copy of a *Draft*  
13 *Complaint* similar to the complaint the Receiver intends to file against the Defendants is  
14 attached hereto as Exhibit A and is incorporated herein by reference.

15           9.     The Receiver believes that instituting a lawsuit against the Defendants to  
16 recover Receivership Assets furthers the interest of the Receivership Estate<sup>9</sup>.

17           WHEREFORE, the Receiver respectfully requests that the Court enter an order (a)  
18 authorizing the Receiver to institute a lawsuit against the Defendants, Cecil Collier, Ruby  
19 Collier, Sara and Raymond Godleski, Rebecca Harter, Sharon Jankunas, Mary Ann Justin,

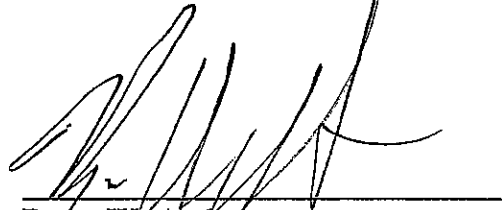
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21 <sup>7</sup> *Davis Declaration*, ¶ 6 attached as Exhibit "B"  
<sup>8</sup> *Davis Declaration*, ¶ 7 attached as Exhibit "B"  
<sup>9</sup> *Davis Declaration*, ¶ 8 attached as Exhibit "B"

1 Thomas Justin, Mackin Community Property Trust, Patrick Marshall, Jacqueline Parada,  
2 Laurie Spence, Brian Tully, Phillip Watters, Magnolia Williams, and Estate of Otis Greene;  
3 (b) directing that such lawsuit be assigned to this Court; and (c) granting the Receiver such  
4 other relief to which he may be entitled.

5 Respectfully submitted this 20<sup>th</sup> day of March, 2008.

6 GUTTILLA MURPHY ANDERSON, P.C.

7  
8   
9 \_\_\_\_\_  
10 Ryan W. Anderson  
11 Attorneys for the Receiver

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**DRAFT**

5 Attorneys for the Receiver

6 IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

7 IN AND FOR MARICOPA COUNTY

8 PETER S. DAVIS, RECEIVER OF  
9 TREND MANAGEMENT GROUP,  
10 INC., TREND CAPITAL L.L.C., AND  
THE TREND GROUP, INC.,

Cause No. CV

11 Plaintiff,

VERIFIED COMPLAINT  
(Fraudulent Transfer, Conversion, Unjust  
Enrichment, Equitable Disgorgement)

12 v.

13 CECIL COLLIER; RUBY COLLIER;  
14 SARA AND RAYMOND GODLESKI;  
15 REBECCA HARTER; SHARON  
16 JANKUNAS; MARY ANN JUSTIN;  
17 THOMAS JUSTIN; MACKIN  
COMMUNITY PROPERTY TRUST;  
18 PATRICK MARSHALL; JACQUELINE  
PARADA; LAURIE SPENCE; BRIAN  
TULLY; PHILLIP WATTERS;  
MAGNOLIA WILLIAMS; AND  
ESTATE OF OTIS GREENE,

Defendants.

19 Plaintiff Peter S. Davis, the court appointed Receiver for Trend Management Group,  
20 Inc., Trend Capital L.L.C., and The Trend Group Inc. ("Plaintiff"), for his claims against the  
21 Defendant alleges as follows:

Exhibit "A"

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1 I. PARTIES

2 1. The Plaintiff, Peter S. Davis, is the Court Appointed Receiver in *Arizona*  
3 *Corporation Commission v. Trend Management Group, Inc. et al.*, Cause No. CV 2006-  
4 016822, located in Maricopa County, and pursuant to the Amended Receivership Order,  
5 dated May 17, 2007, is authorized to receive and collect all monies due and owing Trend  
6 Management Group, Inc., Trend Capital L.L.C. and the Trend Group Inc. ("Receivership  
7 Entities").

8 2. Defendant Cecil Collier ("Collier") is an individual or company whose last known  
9 address is 303 Maple Avenue, Church Hill, TN 37642 and upon information and belief,  
10 received \$12,821.76 of Ponzi profits from the Trend scheme.

11 3. Defendant Ruby Collier ("Collier") is an individual or company whose last known  
12 address is 303 Maple Avenue, Church Hill, TN 37642 and upon information and belief,  
13 received \$5,400.00 of Ponzi profits from the Trend scheme.

14 4. Defendant Sara and Raymond Godleski ("Godleski") is an individual or company  
15 whose last known address is 5935 Masters Club Drive, Suwanee, GA 30024 and upon  
16 information and belief, received \$26,673.00 of Ponzi profits from the Trend scheme.

17 5. Defendant Rebecca Harter ("Harter") is an individual or company whose last  
18 known address is P.O. Box 1448, Ardmore, OK 73402-1448 and upon information and belief,  
19 received \$15,649.10 of Ponzi profits from the Trend scheme.

20

21

1           6. Defendant Sharon Jankunas ("Jankunas") is an individual or company whose last  
2 known address is 4824 East Marilyn Road, Scottsdale, AZ 85254 and upon information and  
3 belief, received \$10,264.00 of Ponzi profits from the Trend scheme.

4           7. Defendant Mary Ann Justin ("Justin") is an individual or company whose last  
5 known address is 630 Laguna Drive, Simi Valley, CA 93065 and upon information and  
6 belief, received \$10,274.00 of Ponzi profits from the Trend scheme.

7           8. Defendant Thomas Justin ("Justin") is an individual or company whose last known  
8 address is 630 Laguna Drive, Simi Valley, CA 93065 and upon information and belief,  
9 received \$10,274.00 of Ponzi profits from the Trend scheme.

10           9. Defendant Mackin Community Property Trust ("Mackin Trust") is an individual  
11 or company whose last known address is 7295 Via Brezzo, San Jose, CA 95120 and upon  
12 information and belief, received \$16,826.40 of Ponzi profits from the Trend scheme.

13           10. Defendant Patrick Marshall ("Marshall") is an individual or company whose last  
14 known address is 4020 Layang Lyand Circle, #D, Carlsbad, CA 92008 and upon information  
15 and belief, received \$10,206.00 of Ponzi profits from the Trend scheme.

16           11. Defendant Jacqueline Parada ("Parada") is an individual or company whose last  
17 known address is 14281 Palisades Drive, Poway, CA 92064 and upon information and belief,  
18 received \$13,407.00 of Ponzi profits from the Trend scheme.

19           12. Defendant Laurie Spence ("Spence") is an individual or company whose last  
20 known address is 27235 Pinocha, Mission Viejo, CA 92892 and upon information and belief,  
21 received \$12,651.17 of Ponzi profits from the Trend scheme.



1 Inc. in Phoenix, Arizona. The Subscription Agreement was the document which governed the  
2 Defendants investment into Trend Management Group Inc.

3 20. Additionally, this Court has personal jurisdiction over the Defendants pursuant to  
4 the Court's inherent authority to enforce its orders.

5 21. The Receiver filed this lawsuit pursuant to this Court's *Order re: Petition No. \_\_\_*  
6 *Order Authorizing Receiver to Institute Lawsuit Against Profiting Investors*, entered on  
7 \_\_\_\_\_.

8 22. The venue is proper in Maricopa County Superior Court pursuant to section 12-  
9 401 of the Arizona Revised Statutes.

### 10 III. FACTUAL BACKGROUND

11 23. The Arizona Corporation Commission filed a petition seeking the appointment of  
12 a Receiver for two of the Trend Entities, Trend Management Group, Inc. and Trend Capital,  
13 L.L.C. based upon allegations that Trend Management and Trend Capital, had sold  
14 unregistered securities in violation of A.R.S. §44-1841, through unregistered dealers and  
15 salesman in violation of A.R.S. §44-1842, and had committed fraud in the sale or purchase of  
16 securities in violation of A.R. S. §44-1991. After his appointment the Receiver determined  
17 that unregistered securities were also sold by the Trend Group Inc. After making this  
18 determination, the Trend Group Inc. was placed into Receivership. Hereinafter Trend  
19 Capital, LLC, Trend Management Group, Inc. and The Trend Group, Inc. will be called the  
20 "Trend Receivership Entities."  
21

1           24. The *Receivership Order* directs the Receiver to take exclusive custody, control  
2 and possession of (a) the property owned by, controlled by, or in the name of any of the  
3 Trend Receivership Entities, including all monies, securities, inventory, and properties, real  
4 or personal, tangible and intangible, of whatever kind and description and wherever situated  
5 (“Receivership Assets”).

6           25. The Trend Receivership Entities sold approximately \$16,200,000.00 unregistered  
7 securities to over 375 investors nationwide. These unregistered securities, called  
8 “Certificates of Participation” were sold by unregistered salespeople. The investors in the  
9 Trend Receivership Entities were largely unaccredited and unsophisticated.

10           26. The Trend Receivership Entities were not registered to sell securities in Arizona  
11 and nor did the Trend Receivership Entities or its agents disclose to investors that the funds  
12 invested with the Trend Receivership Entities were to be used as personal loans to the  
13 principals of the Trend Receivership Entities or the Defendants.

14           27. Based on information obtained to date, although the Trend Receivership Entities  
15 raised approximately \$16,200,000.00, they returned only \$4,116,069.00 on such investments  
16 to investors.

17           28. The funds that the Trend Receivership Entities returned to investors were not  
18 derived from legitimate business activities but from the principal investments of other  
19 investors. Accordingly, the Trend Entities conducted a Ponzi scheme in which “profits”  
20 distributed to investors were derived from the funds invested by other investors and not from  
21 the business operations of the Trend Entities.

1 29. Although the Trend Receivership Entities have not fully compensated all  
2 investors, the Defendants in this action have recovered not only their original investment, but  
3 a "profit" totaling at least \$279,032.25 on their investments as set forth in detail below  
4 ("Ponzi profit"):

	<u>Defendant</u>	<u>Investment</u>	<u>Total Receipt</u>	<u>Ponzi Profit</u>
5				
6	a. C. Collier	\$50,000.00	\$62,821.76	\$12,821.76
7	b. R. Collier	\$45,000.00	\$50,400.00	\$5,400.00
8	c. Godleski	\$75,000.00	\$101,673.00	\$26,673.00
9	d. Harter	\$142,633.25	\$158,282.35	\$15,649.10
10	e. Jankunas	\$25,000.00	\$35,264.00	\$10,264.00
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14	i. Marshall	\$25,000.00	\$35,206.00	\$10,206.00
15	j. Parada	\$40,000.00	\$53,407.00	\$13,407.00
16	k. Spence	\$35,000.00	\$47,651.17	\$12,651.17
17	l. Tully	\$25,000.00	\$32,477.20	\$7,477.20
18	m. Watters	\$48,864.00	\$71,262.90	\$22,398.90
19	n. Williams	\$25,000.00	\$36,787.00	\$11,787.00
20	o. Estate of Greene	\$25,000.00	\$117,923.12	\$92,923.12

21



1 incur, or believed or reasonably should have believed that they would incur, debts beyond  
2 their ability to pay as the debts became due.

3 37. Each transfer was made without the Trend Receivership Entities receiving a  
4 reasonable equivalent value in exchange and the Trend Receivership Entities were insolvent  
5 at the time of the transfers, or became insolvent as a result of the transfers.

6 38. As a direct and proximate result, the Receiver has been damaged. The Receiver  
7 now sues to recover for such damages, including the Ponzi profits transferred to the  
8 Defendants, totaling at least \$279,023.25.

9 **B. Conversion (All Defendants)**

10 39. The Receiver re-alleges all of the facts set forth in § III, above.

11 40. The Defendants have wrongfully exercised dominion or control over Receivership  
12 Assets that were obtained from the Receivership Entities, as set forth above. These  
13 Defendants have no rightful claim to such assets and their control over the assets seriously  
14 interferes with the Receiver's rights to the assets. The Receiver has demanded that the  
15 Defendants return such assets, but, to date, these Defendants have failed and refused to do so.

16 41. As a direct and proximate result of the wrongful acts of the Defendants, the  
17 Receiver has been damaged. The Receiver now sues to recover for such damages, including  
18 the unearned profits transferred to the Defendants, totaling at least \$279,032.25.

19 **C. Unjust Enrichment (All Defendants)**

20 42. The Receiver re-alleges all of the facts set forth in § III, above.

1           43. The Defendants herein were enriched by the Ponzi profits transferred to them. As  
2 a result of such transfers, the Receiver suffered a financial loss. The Defendants did not  
3 provide any legitimate services that justified the transfers. Additionally, the Defendants  
4 received in return 100% of the principal they invested, a far better return than other Trend  
5 Investors are likely to receive.

6           44. The Receiver has a superior equitable interest to recover the Ponzi profits  
7 received by the defendants so that the funds recovered by the Receiver may ultimately be  
8 equitably distributed to victims of the Trend Scheme. Accordingly, the Receiver sues for  
9 recovery of such funds, including Ponzi profits, totaling at least \$279,032.25.

10 **D.     Equitable Disgorgement (All Defendants)**

11           45. The Receiver re-alleges all of the facts set forth in § III, above.

12           46. By seeking an order of disgorgement, the Receiver seeks to recover the proceeds  
13 of the Defendants' unjust gain, which gain was obtained at the expense of the Receivership  
14 Entities and victims of the Trend Scheme, and to deter further fraudulent activities.

15           47. The funds for which the Receiver seeks disgorgement were obtained from Trend  
16 Investors through fraud and were obtained by the defendants as the result of a fraudulent  
17 transfer. The funds were utilized in a Ponzi scheme that violated securities laws and  
18 regulations.

19           48. The Defendants should be ordered to disgorge the Ponzi profits they received  
20 because such monies were derived from the principal invested by other Trend Investors and  
21 not from profitable operations of a legitimate business.

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4150 Northern Ave.  
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49. Requiring disgorgement of the Ponzi profits will insure a more equitable distribution of the Trend assets. Accordingly, the Receiver seeks an order of disgorgement by which the Court directs each defendant to disgorge all Ponzi Profits each received, including Ponzi Profits totaling \$279,032.25

Wherefore, the Receiver requests that the Court enter judgment against each Defendant,

1. Damages,
2. Interest, and
3. For such other and further relief as the Court deems just and proper.

Respectfully submitted this \_\_\_ day of \_\_\_\_\_, 2008.

GUTTILLA MURPHY ANDERSON, P.C.

\_\_\_\_\_  
Ryan W. Anderson  
Attorneys for the Receiver

1027-012(71602)



## DECLARATION OF PETER S. DAVIS

I, Peter S. Davis, make the following declaration:

1. I have personal knowledge of the matters set forth herein, except for those matters stated on information and belief, and as to those matters I believe them to be true and could and would testify thereto under oath if called upon as a witness.

2. Pursuant to the *Order Appointing Receiver* signed by the Superior Court of Arizona, in and for Maricopa County, in Case No. CV 2006-16822, styled *Arizona Corporation Commission v. Trend Management Group, Inc., et al.* on November 14, 2006 placing Trend Management, Inc. and Trend Capital, LLC in receivership, and the *Amended Order Appointing Receiver* ("Receivership Order") signed by the Receivership Court on May 17, 2007 placing Trend Group, Inc. in receivership, I was appointed as receiver for Trend Management, Inc., Trend Capital, LLC and Trend Group, Inc. ("Receivership Entities").

3. Under the Receivership Order I am responsible for marshalling the assets of the foregoing receivership entities ("Receivership Assets") and authorized to execute this declaration on behalf of the Receivership Entities.

4. I submit this Declaration in support of the *Receiver's Petition No. 30 Petition for Approval to Initiate Lawsuit Against Defendants Cecil Collier, Ruby Collier, Sara and Raymond Godleski, Rebecca Harter, Sharon Jankunas, Mary Ann Justin, Thomas Justin, Mackin Community Property Trust, Patrick Marshall, Jacqueline*

*Parada, Laurie Spence, Brian Tully, Phillip Watters, Magnolia Williams, and Estate of Otis Greene.* (Hereinafter "Defendants")

5. Through my investigation, including a review of books and records of the Trend Entities and related parties, I have determined that at least \$279,032.25 in Receivership Assets were paid to the Defendants identified in Petition No. 30 and those payments represent false profits from investments in the Receivership Entities. In fact, the funds paid to the Defendants which represent the purported "profit" was actually derived from the principle investment of other investors into Receivership Entities.

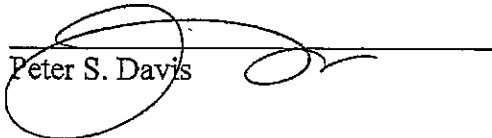
6. I seek to recover these funds under legal theories including fraudulent transfer, conversion, unjust enrichment, and equitable disgorgement. The recovery of these funds will be for the Receivership Entities and for the ultimate benefit of the Trend Investors, whose funds were used to make such transfers to the Defendants as "profits".

7. I have made demand on the Defendants to turnover to me all Receivership Assets in their possession or control and return to the Estate the false profit they have paid by the Receivership Entity. To date, however, the Defendants have failed to respond or refused to turnover to me any assets or disgorge the Ponzi profits.

8. I have concluded that instituting a lawsuit against these Defendants to recover Receivership Assets furthers the interest of the Receivership Estate.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 19 day of March, 2008

  
Peter S. Davis