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6 IN THE SUPERIOR COURT FOR THE STATE OF ARIZONA

7 IN AND FOR THE COUNTY OF MARICOPA

8 ARIZONA CORPORATION  
COMMISSION,

9 Plaintiff,

10 v.

11 TREND MANAGEMENT GROUP,  
12 INC.; TREND CAPITAL, L.L.C.,

13 Defendants.

Cause No. CV 2006-016822

PETITION NO. 14

PETITION FOR APPROVAL OF  
PROCEDURES FOR THE SALE OF  
PERSONAL PROPERTY

(Assigned to Judge A. Craig Blakey, II)

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14 Peter S. Davis, as the court appointed Receiver, respectfully petitions the Court as  
15 follows:

16 1. On November 14, 2006, this Court entered its *Order Appointing Receiver*,  
17 which appointed Peter S. Davis as Receiver of Trend Management Group Inc and Trend  
18 Capital LLC. ("Initial Receivership Order").

19 2. On May 17, 2007, this Court entered its *Amended Order Appointing Receiver*,  
20 which appointed Peter S. Davis as the Receiver of The Trend Group Inc. (Amended  
21

1 Receivership Order”) Collectively, these Orders will be referred to herein as the  
2 “Receivership Order”.

3 3. Pursuant to the Receivership Order, the Receiver has located and taken  
4 possession of certain personal property. Specifically, the Receiver has taken possession of a  
5 2005 Mercedes Benz which was purchased with Receivership Assets. The Receiver  
6 anticipates that he may in the future acquire additional personal property. All of this property  
7 is referred to collectively hereafter as the “Personal Property”.

8 4. The Receiver has incurred and will continue to incur storage and maintenance  
9 costs for the Personal Property in the possession and control of the Receiver, and in order to  
10 eliminate these costs and therefore maximize the recovery to the receivership estate, the  
11 Receiver recommends that all Personal Property currently in his possession or hereafter  
12 acquired, be sold in accordance with the procedures set forth herein. The Receiver is also  
13 concerned about the delay and expense borne by the receivership estate if the Receiver files a  
14 petition with this Court each time the Receiver seeks to sell an item of personal property. In  
15 addition, the Receiver does not wish to burden this Court with routine and ministerial  
16 receivership matters if an acceptable procedure for disposition of the Personal Property can  
17 be established.

18 5. The Receiver proposes that Personal Property be disposed of by public sale,  
19 public auction, abandonment, or surrender as set forth in the proposed order submitted with  
20 this Petition. The order permits the Receiver to utilize a public sale or a public auction to  
21 dispose of the Personal Property of the estate. No such sale can take place, however, until a

1 Notice describing the time, date, place, and type of sale is first provided to interested persons  
2 who have requested such notice.

3 6. If the Receiver is unable to dispose of an item of Personal Property by public  
4 sale or public auction, or if the Receiver determines that the property has a value of less than  
5 \$100.00, the proposed order permits the Receiver to:

- 6 a. Dispose of the property by a negotiated sale;
- 7 b. Abandon the property to anyone entitled to purchase the property or  
8 donate the property to a charity;
- 9 c. Destroy the property; or
- 10 d. Surrender it to a lessor or secured lien holder.

11 7. By way of example and without limiting the Receiver's choices to the  
12 following, the Receiver has previously used the following auctioneers to auction personal  
13 property of a receivership:

- 14 a. The Receiver has used Sierra Auctioneers, Inc. of Phoenix, Arizona  
15 ("Arizona Auctioneers"). Sierra Auctioneers is a firm that specializes in the  
16 auctioning and disposition of various types of personal property. Generally for its  
17 services, Sierra Auctioneers receives a commission of approximately 10% of the sale  
18 price, together with reimbursement for the costs of storing, maintaining and marketing  
19 the items. Since Sierra Auctioneers sells to both wholesale and retail buyers, with  
20 respect to motor vehicles it can in some cases obtain a greater price for vehicles than  
21 an auto auctioneer, however, the costs of sale are usually greater.

1           b.     The Receiver has also used Cunningham & Associates, Inc. of Phoenix,  
2 Arizona ("Cunningham & Associates"). Cunningham & Associates is a firm that  
3 specializes in the auctioning and disposition of various types of personal property.  
4 Generally for its services, Cunningham & Associates receives a commission of  
5 approximately 10% of the sale price, together with reimbursement for the costs of  
6 storing, maintaining and marketing the items. Since Cunningham & Associates sells  
7 to both wholesale and retail buyers, with respect to motor vehicles it can in some cases  
8 obtain a greater price for vehicles than an auto auctioneer, however, the costs of sale  
9 are usually greater.

10           c.     The Receiver has also used ADESSA Auto Auction, also known as  
11 Southwest Auto Auction, of Chandler, Arizona ("ADESSA"), to sell motor vehicles  
12 from a receivership estate. Because ADESSA sells only to wholesale buyers (licensed  
13 dealers) in some cases it will receive a lower price for the vehicle. However, the  
14 typical costs of sale by ADESSA are considerably less, generally a flat fee of  
15 approximately \$100.00 per vehicle and in some cases a charge for detailing the motor  
16 vehicle in preparation for sale.

17           d.     The Receiver has also used eBay.com ("EBay") and its affiliated  
18 websites. EBay is the largest internet marketplace for the sale of property, with over  
19 47 million registered users. Generally for its services, EBay requires an insertion fee  
20 based on the item's appraised sale price, which in the past could be as much as \$3.30  
21 per item. In addition, EBay has charged a commission of up to 1.5% of the final sale

1 price. For items listed for sale with EBay, the Receiver would set a hidden reserve  
2 price and allow registered users to bid against each other for the purchase of the item.

3 e. There are no assurances that the Receiver will be able to negotiate  
4 comparable fees from these or other established auctioneers in the case of future  
5 auctions.

6 8. Any of the parties to this lawsuit are free to bid on and purchase any of the  
7 Personal Property sold under the approved procedures, except that neither the Receiver nor  
8 any of his employees or agents will be allowed to purchase or receive such property.

9 9. In the Receiver's experience, property sold under the procedures set forth in the  
10 proposed order sells for a fair and reasonable price although it is impossible to predict  
11 whether the proceeds generated will be greater than the proceeds that would have been  
12 generated by the sale of the items under other procedures. The Notice procedures provide a  
13 process by which interested parties can object to specific proposals put forth by the Receiver,  
14 although in his experience, such objections are rarely raised due in part to the reasonableness  
15 of the procedures proposed herein.

16 WHEREFORE, the Receiver respectfully requests that the Court enter an order:

17 1. Approving the procedures set forth in the propose order filed herewith and  
18 summarized in this Petition and authorizing the Receiver to sell Personal Property of the  
19 estate in accordance with those procedures;

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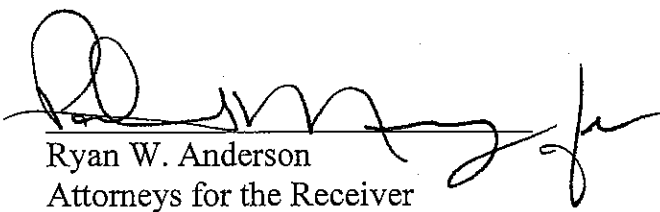
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2. Authorizing the Receiver to execute certificates of title and other documents as may be necessary to effectuate the transfer of title to personal property sold pursuant to the approved procedures.

Respectfully submitted this 26<sup>th</sup> day of July, 2007.

GUTTILLA MURPHY ANDERSON, P.C.

  
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