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UNITED STATES DISTRICT COURT
DISTRICT OF IDAHO

SECURITIES AND EXCHANGE)	Case No.: CV 09-075-E-EJL
COMMISSION,)	
)	
Plaintiff,)	
)	
and)	
)	
COMMODITY FUTURES TRADING)	Case No.: CV 09-076-E-EJL
COMMISSION,)	
)	The Honorable Edward J. Lodge
Plaintiff,)	
)	
vs.)	RECEIVER’S MOTION SEEKING
)	AUTHORIZATION TO SELL
DAREN L. PALMER and TRIGON GROUP,)	MERIDIAN, IDAHO COMMERCIAL
INC., a Nevada Corporation,)	BUILDING LOT AT AUCTION AND
)	MEMORANDUM IN SUPPORT
Defendants.)	

COMES NOW, R. Wayne Klein, the Court-Appointed Receiver (the “Receiver”) of Trigon Group, Inc. (“Trigon”) and the assets of Daren L. Palmer (the “Receivership Entities” and/or “Palmer”), by and through his attorneys of record and hereby moves the Court for an

RECEIVER’S MOTION SEEKING AUTHORIZATION TO SELL MERIDIAN,
IDAHO BUILDING LOT AT AUCTION - 1

Order approving the Receiver's plan to conduct an auction to sell the Meridian, Idaho commercial building lot which is the last real estate asset of the Receivership Estate.

I. BACKGROUND

On May 5, 2010, the Receiver sued Kenneth and Julie Smith, seeking the return of property in Meridian, Idaho. The property had been transferred by Sight & Sound, Inc. to Resource Solutions, LLC, a company owned by a friend of Palmer, ostensibly in satisfaction of amounts owed by Sight & Sound to Palmer. After the property was transferred to Resource Solutions, Palmer had Resource Solutions borrow \$62,000.00 from a hard money lender, using the property as collateral. The loan was sold to the Smiths. In March, 2010, after the Court appointed the Receiver, Resource Solutions purported to convey the property to the Smiths in satisfaction of amounts owed to the Smiths on the loan.

After extensive litigation, including the filing of a motion for summary judgment, the parties entered into a settlement agreement on April 2, 2011. As part of that settlement, the Smiths transferred the Meridian property to the Receiver.

Marketing experts retained by the Receiver have spent almost three years trying to find buyers for the building lot. This has included inclusion in various real estate multiple listing services, direct marketing to potential buyers, and advertising at the property location. This marketing effort has resulted in multiple inquiries over the years, but no sale. The property was initially marketed at a price of \$124,900.00. Since that time, the price has been reduced multiple times. The lot is currently listed at an asking price of \$86,249.00. Despite these price reductions and inquiries, the property has not been sold.

The failure to secure a buyer for this property reflects the less-favorable location of this

property and the large number of similar properties for sale in the area. The marketing experts believe that the location of the property, rather than the pricing, is the reason the property has not sold. The Receiver believes that the hope that demand for this building lot will increase in the near future does not justify continuing to retain this lot in the Receivership Estate. Accordingly, the Receiver proposes to conduct an absolute auction of this property.

II. AUCTION APPROACH

The Receiver has engaged Corbett Bottles Real Estate Auctions, of Eagle, Idaho to conduct an auction for the lot. Corbett Bottles has extensive experience selling Idaho properties at auction, including vacant building lots. Key terms of the Receiver's agreement with Corbett Bottles include:

- Date: The auction will be held March 3, 2015 at 2:00 p.m., MST. This auction date might be changed by the Receiver after consultation with Corbett Bottles if Corbett Bottles determines that additional time is needed to market the property following court approval of this Motion.
- Auction Methodology: The auction will be an online only timed auction, with no minimum price. However, the final sale will be subject to confirmation by the Court. The auction will have a "soft close" on the auction deadline date. This means that the auction deadline will be extended two minutes after the last bid if any bid is received within two minutes before the bid deadline. This allows other bidders to respond to last minute bids, which often increases the final bid amount. After the auction, the Receiver will provide notice of the auction results to the Court, giving ten days for the Court or others to

express any objection to the sale before the sale is allowed to close.

- Sale Prior to Auction: The Receiver has the option to accept offers before the date of the auction and cancel the auction in the event the Receiver believes a pre-auction offer will be on terms as favorable as the expected auction results. In that event, the Receiver will file a notice of property sale with the Court, giving ten days for anyone to object to the sale before the sale will close;
- Bid Qualification: Bidders must register in order to participate in the auction. The high bidder must provide a deposit of \$5,000.00 at the conclusion of the auction;
- Compensation and Expenses: There will be a total of 10% commissions paid. This consists of 5% of the final sales price plus a 5% buyer's premium paid by the buyer. The listing broker, along with any buyers' agents, will be compensated as follows: i) the buyer's agent will be paid 3% commission (based on the final sales price) for offers accepted during the pre-auction period or 2% for offers accepted on auction day, and ii) the listing agent (the Receiver's real estate agent) will be paid 33.33% of the net commissions after paying commissions to the buyer's agent, if any.¹ Corbett Bottles will be compensated by retaining the commission amounts not paid to the buyer's agent and the listing agent. These commission amounts will be paid at closing. In addition, the Receiver will pay \$2,200.00 to Corbett Bottles to fund an advertising and marketing campaign in advance of the auction.

¹ As a result, the listing broker's commission will be between 2.33% and 3.33% of the final bid price.

The Receiver has notified the SEC and the CFTC of his plans to sell the home at auction. The SEC and CFTC have informed the Receiver that they have no objections to the plan.

III. ANALYSIS

The Receiver believes the sale of the Meridian building lot at auction is beneficial for and in the best interests of the Receivership Estate. The proposed sale will result in the receipt of cash based on the auction-determined value of the property. The sale will also relieve the Receivership Estate of the need to continue paying property taxes and water bills for the property. Finally, the sale of the property will reduce the burden to the Receivership Estate, albeit slightly, by reducing the time spent trying to market the property.

The sale of this lot is within the scope of the Receiver's authority under the Court's Order Appointing a Receiver and Staying Litigation in the SEC case (CV-09-075, Dkt. 8, February 26, 2009) and the CFTC action (CV-09-076, Dkt. 5, February 26, 2009). Pursuant to the order in the SEC case:

The Receiver is authorized, empowered, and directed without further leave of the Court, to liquidate and convert into money all of the assets, property, estate, effects and interests of every nature held in his possession and control pursuant to this Order, by selling, conveying, and disposing of the property, either at public or private sale, on terms and in the manner the Receiver deems most beneficial to the persons or parties entitled to the proceeds, and with due regard to the realization of their true and property value and to deposit such proceeds into an account, pending further order of the Court.

This motion asks the Court to approve the Receiver's plan to sell the Meridian building lot at auction, in accordance with the terms of the Receiver's agreement with Corbett Bottles Real Estate Auctions.

**IV.
CONCLUSION**

For the reasons set forth above, the Receiver moves this Court to approve the auction plan described herein and to enter the Order attached hereto as Exhibit A.

DATED THIS 5th day of February, 2015.

HAWLEY TROXELL ENNIS & HAWLEY, LLP

BY



John F. Kurtz, Jr.
Attorneys for Plaintiff R. WAYNE KLEIN, the
Court-Appointed Receiver of Trigon Group,
Inc. and for the assets of Daren L. Palmer.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 5th day of February, 2015, I electronically filed the foregoing RECEIVER’S MOTION SEEKING AUTHORIZATION TO SELL MERIDIAN, IDAHO COMMERCIAL BUILDING LOT AT AUCTION with the Clerk of the Court using the CM/ECF system which sent a Notice of Electronic Filing to the following persons:

Karen L. Martinez
Thomas M. Melton
Tanya Beard
Securities and Exchange Commission
15 West South Temple, Suite 1800
Salt Lake City, UT 84101
martinezk@sec.gov
himesm@sec.gov

Alison B. Wilson
John W. Dunfee
Division of Enforcement
Commodity Futures Trading Commission
1155 21st Street, N.W.
Washington, D.C. 20581
jdunfee@cftc.gov
awilson@cftc.gov

Counsel for Plaintiff Securities and Exchange Commission

Counsel for Plaintiff Commodity Futures Trading Commission

AND, I HEREBY CERTIFY that I have served the foregoing document to the following non-CM/ECF Registered Participants (list names and addresses):

Daren L. Palmer
Inmate #13952-023
Federal Prison Camp
1500 Cadet Road
Taft, CA 93268
Defendant

- U.S. Mail, Postage Prepaid
- Hand Delivered
- Overnight Mail
- E-mail
- Telecopy

Alan Conilogue
Deputy Attorney General
State of Idaho
PO Box 83720
Boise, ID 83720-0031
Local Counsel for Plaintiffs

- U.S. Mail, Postage Prepaid
- Hand Delivered
- Overnight Mail
- E-mail
- Telecopy



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Attorneys for Receiver, R. Wayne Klein

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DISTRICT OF IDAHO

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)	The Honorable Edward J. Lodge
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vs.)	ORDER APPROVING RECEIVER'S
)	MOTION TO SELL MERIDIAN,
DAREN L. PALMER and TRIGON GROUP,)	IDAHO COMMERCIAL BUILDING
INC., a Nevada Corporation,)	LOT AT AUCTION
)	
Defendants.)	

The matter before the Court is the *Receiver's Motion Seeking Authorization to Sell Meridian, Idaho Commercial Building Lot at Auction* ("Motion") filed by R. Wayne Klein, the

ORDER APPROVING RECEIVER MOTION TO SELL MERIDIAN, IDAHO
BUILDING LOT AT AUCTION - 1

EXHIBIT A

Court-Appointed Receiver of Trigon Group, Inc. and the assets of Daren L. Palmer. The Court has reviewed the Motion and supporting materials, and based thereon and for good cause shown,

IT IS HEREBY ORDERED that:

1. The Motion is **GRANTED**.
2. The Receiver is authorized to proceed with the sale of the Meridian, Idaho building lot at auction in accordance with the terms described in the Motion.

SO ORDERED.

DATED:

Edward J. Lodge
United States District Judge