

MANNING CURTIS BRADSHAW  
& BEDNAR PLLC  
David C. Castleberry [11531]  
[dcastleberry@mc2b.com](mailto:dcastleberry@mc2b.com)  
Christopher M. Glauser [12101]  
[cglouser@mc2b.com](mailto:cglouser@mc2b.com)  
136 East South Temple, Suite 1300  
Salt Lake City, UT 84111  
Telephone (801) 363-5678  
Facsimile (801) 364-5678

Attorneys for Plaintiff R. WAYNE KLEIN, the  
Court-Appointed Receiver

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**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION**

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U.S. COMMODITY FUTURES TRADING  
COMMISSION,

Plaintiff,

vs.

U.S. VENTURES LC, a Utah limited liability  
company, WINSOME INVESTMENT,  
TRUST, an unincorporated Texas entity,  
ROBERT J. ANDRES and ROBERT L.  
HOLLOWAY,

Defendants.

**RECEIVER’S MOTION REQUESTING  
ORDER APPROVING: (1) PUBLIC  
SALE OF OUTSTANDING  
JUDGMENTS AND RESIDUAL  
RECEIVERSHIP ASSETS; (2)  
METHOD AND FORM OF  
PUBLICATION NOTICE; AND (3)  
PUBLIC AUCTION PROCEDURES  
AND MEMORANDUM IN SUPPORT**

Case No. 2:11CV00099 BSJ

The Honorable Bruce S. Jenkins

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R. Wayne Klein, the Court-Appointed Receiver (the “Receiver”) of U.S. Ventures LC (“USV”), Winsome Investment Trust (“Winsome”), and all the assets of Robert J. Andres (“Andres”) and Robert L. Holloway (“Holloway”) (collectively, the “Receivership Entities”), hereby submits this Motion Requesting Order Approving: (1) Public Sale of Outstanding

Judgments and Residual Receivership Assets; (2) Method and Form of Publication Notice; and (3) Public Auction Procedures and Memorandum in Support.

**FACTUAL BACKGROUND**

1. The U.S. Commodity Futures Trade Commission filed this action on January 24, 2011. *See* Complaint (Dkt. 1).

2. The Receiver was appointed on January 25, 2011. *See* Order Appointing Receiver (Dkt. 15).

3. The Court has directed and authorized the Receiver to, among other things, do the following:

- a. Exercise the full powers of an equity receiver (*id.* at 8-10);
- b. Assume control of all assets of the defendants (*id.*);
- c. Collect all monies owed to the defendants (*id.*);
- d. Initiate legal actions to preserve and increase the assets of the defendants (*id.*);
- e. Make agreements advisable in discharging his duties as Receiver (*id.*); and
- f. Manage all receivership assets, including all acts incidental that the Receiver deems appropriate (*id.*).

4. Pursuant to these duties, the Receiver has filed a number of lawsuits to recover property of the Receivership Estate. The Receiver has obtained the following unsatisfied judgments in those actions that are subject to this Motion and that the Receiver wishes to sell (the “Judgments”):

<b>Defendant and District of Utah Case Number</b>	<b>Judgment Amount</b>
Al and Cherylyn Sellers; 2:11-cv-950	\$144,200.00
Connie Patterson; 2:11-cv-723	\$1,966,417.00
Houston Zero; 2:11-cv-956	\$ 10,000.00
Jerome Carter; 2:11-cv-722	\$798,753.23
Jesus Enrique Baca Delgado; 2:12-cv-105	\$75,100.00
Kathryn Payton; 2:12-cv-48	\$455,125.00
Kathy Grady; 2:12-cv-66	\$49,625.84
Keith Shaffner 2:12-cv-16	\$362,188.78
Khiem Allen Le; 2:12-cv-77	\$127,244.82
King & King & Jones; 2:12-cv-51	\$25,000.00
Lisa Pham; 2:11-cv-1155	\$122,000.00
Lou Georges; 2:12-cv-76	\$48,500.00
MME Group /Robert Ruzzo Righetti; 2:12-cv-78	\$483,000.00
Mykal Pitts; 2:11-cv-957	\$332,298.00
Nancy Howe d/b/a Howe Financial and Leo Renaud; 2:11-cv-1160	\$2,279,187.71
Nicole Adams; 2:11-cv-951	\$36,750.00
Nunzio Bruno; 2:12-cv-58	\$203,052.66
Onti Management Group and Robert Quinton Cook; 2:12-cv-117	\$25,355.00
Pacific Win 2:12-cv-116	\$164,000.00
Ryan Runia; 2:12-cv-79	\$82,071.40
Warren Wai Hung Chiu 2:12-cv-116	\$767,570.63
William Ison; 2:12-cv-55	\$185,501.03
William T. Cornelius and Cornelius & Salhab; 2:11-cv-1159	\$89,845.73
Wings Over the World and Terry Harper; 2:12-cv-23	\$335,470.07
Winnie Chiu 2:12-cv-116	\$110,000.00

*See* Declaration of R. Wayne Klein, attached as Ex. A.

5. The Receiver has undertaken collection efforts on most of the Judgments, but has not yet succeeded in recovering funds or assets for the Receivership Estate in connection with the Judgments sufficient to satisfy the amount owing under the judgments. The Receiver has engaged local collection counsel for the Judgments in most of these actions, and the Receiver owes some contractual obligations related to the collection of the Judgments. *Id.*

6. In addition, the Receiver has entered into consent judgments with the defendants in two actions that permit collection on the judgments if the defendants' incomes rise above a certain level (the "Consent Judgments"). These include:

<b>Defendant and District of Utah Case Number</b>	<b>Judgment Amount</b>
Clayton Ballard, 2:11-cv-767	\$577,592.57
Lewis Scogin, 2:12-cv-121	\$1,116,317.78

7. Other than another single judgment for which there are continuing collection efforts, the above-listed Judgments and Consent Judgments are the last remaining assets and the last matter of significance in the Receivership. If the Judgments can be converted into cash, the Receivership can be closed upon completion of collections efforts for the single remaining judgment. *Id.*

8. The Receiver believes it is in the best interest of the Receivership Estate to sell the Judgments at this time and recover funds for the Receivership Estate so the Receivership Estate can be terminated. This will be of greater benefit to the Receivership Estate and more efficient and economical than continuing collection efforts on the Judgments against numerous different judgment debtors in jurisdictions spread throughout the country. *Id.*

9. The Receiver also believes it is in the best interest of the Receivership Estate to sell any residual assets that might come to the Receivership after it is closed (the "Residual Assets"), so that the Receivership can be wrapped up and this matter closed. *Id.*

#### **APPLICABLE LAW**

Title 28 U.S. C. § 2004 provides that personal property may be sold utilizing the same procedures used for real property under 28 U.S.C. § 2001, unless the court orders otherwise. 28 U.S.C. § 2004. 28 U.S.C. § 2001(a), in turn, provides that "[p]roperty in possession of a

receiver or receivers appointed by one or more district courts shall be sold at public sale in the district wherein any such receiver was first appointed, at the courthouse of the county, parish, or city situated therein in which the greater part of the property in such district is located . . . .” 28 U.S.C. § 2002 provides that notice of such a sale shall be “published once a week for at least four weeks prior to the sale in at least one newspaper regularly issued and of general circulation in the county, state, or judicial district of the United States wherein the realty is situated.”

### **DISCUSSION**

Pursuant to the above-cited statutes, the Receiver requests that the Court enter the proposed Order attached hereto as Exhibit B, authorizing the sale of the Judgments, Consent Judgments, and Residual Assets.

#### **I. PROPOSED PUBLICATION.**

To comply with the requirement of publication notice for public sales set forth in 28 U.S.C. § 2002, the Receiver seeks approval of the following method and form of publication notice of the proposed public sale: the Receiver will cause the following notice be published in *The Salt Lake Tribune*, a newspaper published in Salt Lake City, Utah, once a week for a period of four weeks prior to the public sale (the “Publication Notice Time”):

R. Wayne Klein, Receiver for U.S. Ventures LC, Winsome Investment Trust, and all the assets of Robert J. Andres and Robert L. Holloway (the “Receiver”) in the civil case styled as *U.S. Commodity Futures Trading Commission v. U.S. Ventures LC, et al*, Civ. Case No. 2:11CV00099 BSJ (D. Utah) (“Civil Case”), gives notice of his intent to sell certain personal property consisting of 26 unsatisfied legal judgments held by the Receiver with face amounts totaling \$9,278,256.90 (the “Judgments”), two consent judgments with face amounts totaling \$1,693,910.35 (the “Consent Judgments”), and potential residual assets received after the close of the Receivership (the “Residual Assets”) through a public auction to the highest bidder payable in lawful money of the United States on the \_\_\_ day of \_\_\_\_\_, 2016 at the hour of \_\_\_ at the Third District Court of Utah, 450 South State Street, Salt Lake City, UT 84111, or as may be

continued from time to time by the Receiver (the “Auction”). The Judgments include the following:

<b>Defendant and District of Utah Case Number</b>	<b>Judgment Amount</b>
Al and Cherylyn Sellers; 2:11-cv-950	\$144,200.00
Connie Patterson; 2:11-cv-723	\$1,966,417.00
Houston Zero; 2:11-cv-956	\$ 10,000.00
Jerome Carter; 2:11-cv-722	\$798,753.23
Jesus Enrique Baca Delgado; 2:12-cv-105	\$75,100.00
Kathryn Payton; 2:12-cv-48	\$455,125.00
Kathy Grady; 2:12-cv-66	\$49,625.84
Keith Shaffner 2:12-cv-16	\$362,188.78
Khiem Allen Le; 2:12-cv-77	\$127,244.82
King & King & Jones; 2:12-cv-51	\$25,000.00
Lisa Pham; 2:11-cv-1155	\$122,000.00
Lou Georges; 2:12-cv-76	\$48,500.00
MME Group /Robert Ruzzo Righetti; 2:12-cv-78	\$483,000.00
Mykal Pitts; 2:11-cv-957	\$332,298.00
Nancy Howe d/b/a Howe Financial and Leo Renaud; 2:11-cv-1160	\$2,279,187.71
Nicole Adams; 2:11-cv-951	\$36,750.00
Nunzio Bruno; 2:12-cv-58	\$203,052.66
Onti Management Group and Robert Quinton Cook; 2:12-cv-117	\$25,355.00
Pacific Win 2:12-cv-116	\$164,000.00
Ryan Runia; 2:12-cv-79	\$82,071.40
Warren Wai Hung Chiu 2:12-cv-116	\$767,570.63
William Ison; 2:12-cv-55	\$185,501.03
William T. Cornelius and Cornelius & Salhab; 2:11-cv-1159	\$89,845.73
Wings Over the World and Terry Harper; 2:12-cv-23	\$335,470.07
Winnie Chiu 2:12-cv-116	\$110,000.00

The Consent Judgments include the following:

<b>Defendant and District of Utah Case Number</b>	<b>Judgment Amount</b>
Clayton Ballard, 2:11-cv-767	\$577,592.57
Lewis Scogin, 2:12-cv-121	\$1,116,317.78

The Judgments are subject to certain obligations to local collection counsel who have been engaged to pursue collection of the amounts due on the Judgments. The Consent Judgments permit collection only if the income of the judgment debtors exceeds a certain level. The Judgments, Consent Judgments, and

Residual Assets will be sold at the Auction “as is” with no representations and warranties. Requests for additional information about the Judgments and Residual Assets may be obtained upon request made to the Receiver’s counsel at: Manning Curtis Bradshaw & Bednar PLLC, attn: Stephanie Richards, 136 East South Temple, Suite 1300, Salt Lake City, Utah 84111; [srichards@mc2b.com](mailto:srichards@mc2b.com).

The Receiver maintains that the above proposed method and form of publication notice is in accordance with 28 U.S.C. §§ 2001(a) and 2002 and, therefore, should be approved.

## II. PROPOSED AUCTION PROCEDURE.

The Receiver requests that the Court enter an Order approving the following proposed procedures to govern the public sale of the Judgments:

- a. The Receiver may conduct an auction of the following Judgments and Consent Judgments held by the Receiver in this case and of any potential residual assets received by the Receivership after it is closed (the “Residual Assets”) at the conclusion of the Publication Notice Time (the “Auction”) in accordance with these Auction Procedures:

### Judgments:

<b>Defendant and District of Utah Case Number</b>	<b>Judgment Amount</b>
Al and Cherylyn Sellers; 2:11-cv-950	\$144,200.00
Connie Patterson; 2:11-cv-723	\$1,966,417.00
Houston Zero; 2:11-cv-956	\$ 10,000.00
Jerome Carter; 2:11-cv-722	\$798,753.23
Jesus Enrique Baca Delgado; 2:12-cv-105	\$75,100.00
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Onti Management Group and Robert	\$25,355.00

Quinton Cook; 2:12-cv-117	
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Warren Wai Hung Chiu 2:12-cv-116	\$767,570.63
William Ison; 2:12-cv-55	\$185,501.03
William T. Cornelius and Cornelius & Salhab; 2:11-cv-1159	\$89,845.73
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Winnie Chiu 2:12-cv-116	\$110,000.00

Consent Judgments:

<b>Defendant and District of Utah Case Number</b>	<b>Judgment Amount</b>
Clayton Ballard, 2:11-cv-767	\$577,592.57
Lewis Scogin, 2:12-cv-121	\$1,116,317.78

- b. The Receiver will facilitate reasonable requests for information by interested parties prior to the date of the Auction about the Judgments, Consent Judgments, or Residual Assets through his counsel of record.
- c. The Receiver will conduct the Auction. Each Judgment, Consent Judgment, and the Residual Assets will be auctioned individually.
- d. For each Judgment, Consent Judgment, and the Residual Assets, the Auction shall proceed in rounds. Bidding at the Auction shall begin with an initial minimum bid in an amount of \$175 in cash for each Judgment, Consent Judgment, or the Residual Assets, and shall subsequently continue in \$100 minimum cash overbid increments. Bidding will continue until the Receiver determines that he has received the highest and best offer for each Judgment, Consent Judgment, and the Residual Assets, at which time he will close the Auction, with the person making the last bid prior to the Receiver's close of the Auction bound to purchase the Judgment, Consent Judgment, or Residual Assets at issue pursuant to the terms of the approved Auction Procedures (the "Successful Bidder").
- e. Bids may be made in person or remotely via telephone or other remote communications means.
- f. Each bidder agrees that its last offer made is irrevocable until the date that sale of the Judgment, Consent Judgment, or Residual Assets at issue closes to the Successful Bidder.
- g. In the event that the Successful Bidder's sale does not close, the bidder who made the next highest and best offer at Auction (the "Back-Up Bid") shall be deemed the Successful Bidder. The Receiver may repeat the same Back-Up Bid procedure



provided herein to each bidder, in the order of the highest and best offers received at Auction.

- h. Within 72 hours of the close of the Auction, each Successful Bidder must: (i) sign a purchase agreement to pay the bid amount in exchange for the Judgment, Consent Judgment, or Residual Assets bid upon; and (ii) deliver to the Receiver payment in the full amount bid for the Judgment, Consent Judgment, or the Residual Assets.
- i. Upon completion of the sale and after the conclusion of the public auction discussed below, the Receiver will file with the Court a “Notice of Sale Results,” stating the purchase price that was obtained at public auction and reporting on the Net Sale Proceeds. The Notice of Sale Results will include evidence of the publication described in Section I, above.
- j. Any Judgments or Consent Judgments not sold at auction for want of a minimum bid will be deemed part of the Residual Assets, and be transferred to the Successful Bidder for the Residual Assets, or if not desired by the Successful Bidder be deemed abandoned.

The Receiver submits that the proposed Auction Procedures are permitted under 28 U.S.C. §§ 2001(a) and 2002 and, therefore, requests that the Court approve the same.

### CONCLUSION

For the forgoing reasons, the Receiver respectfully requests that the Court approve the public sale of the remaining outstanding judgments in the manner described above.

DATED this 19th day of October, 2016.

MANNING CURTIS BRADSHAW  
& BEDNAR, PLLC

/s/ David C. Castleberry

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David C. Castleberry  
*Attorneys for R. Wayne Klein, Receiver*

**CERTIFICATE OF SERVICE**

I hereby certify that I caused a true and correct copy of the foregoing **RECEIVER'S MOTION REQUESTING ORDER APPROVING: (1) PUBLIC SALE OF OUTSTANDING JUDGMENTS AND RESIDUAL RECEIVERSHIP ASSETS; (2) METHOD AND FORM OF PUBLICATION NOTICE; AND (3) PUBLIC AUCTION PROCEDURES AND MEMORANDUM IN SUPPORT** to be served in the method indicated below to the Defendants in this action this 19th day of October, 2016.

VIA FACSIMILE  
 VIA HAND DELIVERY  
 VIA U.S. MAIL  
 VIA FEDERAL EXPRESS  
 VIA EMAIL  
 VIA ECF

Alan I. Edelman  
James H. Holl, III  
Gretchen L. Lowe  
U.S. Commodity Futures Trading  
Commission  
1155 21<sup>st</sup> Street, NW  
Washington, DC 20581  
[jholl@cftc.gov](mailto:jholl@cftc.gov)  
[glowe@cftc.gov](mailto:glowe@cftc.gov)  
[aedelman@cftc.gov](mailto:aedelman@cftc.gov)

VIA FACSIMILE  
 VIA HAND DELIVERY  
 VIA U.S. MAIL  
 VIA FEDERAL EXPRESS  
 VIA EMAIL  
 VIA ECF

Robert L. Holloway, Inmate No. 29851-298  
FCI Fort Worth  
PO Box 15330  
Fort Worth, TX 76119  
*Defendant*

VIA FACSIMILE  
 VIA HAND DELIVERY  
 VIA U.S. MAIL  
 VIA FEDERAL EXPRESS  
 VIA EMAIL  
 VIA ECF

Robert Andres, Inmate No. 71972-279  
FCI Englewood  
9595 West Quincy Avenue  
Littleton, CO 80123  
*Defendant*

/s/ David C. Castleberry

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