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IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF LANE

In re Judicial Dissolution of,
Zadeh Kicks LLC dba Zadeh Kicks
the Petitioner.

Case No. 22CV16510

RECEIVER’S MOTION FOR ORDER
APPROVING FORM OF AGREEMENT
FOR BULK SALES AND TO PURSUE
FRAUDULENT CONVEYANCE ACTIONS

EXPEDITED CONSIDERATION
REQUESTED

MOTION

David P. Stapleton, the Court-appointed receiver herein (the “Receiver”), by and through undersigned counsel, moves the Court pursuant to ORS 37.250(1) and (2), ORS 37.290, ORS 37.110(1)(d) [Assert a right, claim, cause of action or defense of the owner that relates to estate property]; (f) [seek and obtain instruction from the court concerning estate property, exercise of the receiver’s powers and performance of the receiver’s duties]; ORS 37.180 (1)(f) [compromise or settlement of a controversy that might affect the distribution to creditors from the estate] for entry of an order authorizing the form of contract for the Receiver to conduct bulk sales of the inventory. The Receiver also seeks the authority to pursue fraudulent conveyance actions against the net winners identified to date through the Receiver’s forensic accounting. This motion is supported by the Declaration of David P. Stapleton (“Stapleton Decl.”), all the pleadings and documents previously filed in this case, and the points and authorities set forth below.

FACTS

I. BACKGROUND

Petitioner Zadeh Kicks LLC (“Petitioner” or “Zadeh Kicks”), through its sole member, Michael Malekzadeh (“Malekzadeh”), moved this Court for a judicial dissolution of Zadeh Kicks and for an order appointing a receiver to assist with Petitioner’s voluntary dissolution and to take possession, control, management, and operation of Petitioner’s assets (the “Receivership Estate”) for the purpose of liquidating them in an orderly manner.

On May 20, 2022, the Order Appointing Receiver (the “Order”) was entered by this Court. The Receiver immediately took possession of the Receivership Estate and met with Malekzadeh and his counsel at the Zadeh Kicks offices to discuss the takeover of the Receivership Estate and the Receiver’s role.

The vast majority of the physical assets of the Receivership Estate—disregarding cash—consists of brand-new sneakers, in boxes, with tags, that were acquired from a variety of other sneaker resellers, which totals approximately 60,000 pairs of shoes. Stapleton Decl. ¶ 2.

Zadeh Kicks did not have a comprehensive inventory system. In the weeks leading up to the Receiver’s appointment, the staff completed an inventory of approximately 70% of the company’s sneaker inventory. The Receiver managed the staff to complete an inventory of the remaining 30%¹. The inventory was filed with the Court under seal. Stapleton Decl., ¶ 3.

On or about November 28, 2022, the Receiver sought and received approval for a 3 Channel Hybrid Liquidation Plan (the “Liquidation Plan”), where the inventory was sold direct to consumers through online auction sites like E-bay, wholesale through bulk sales, and on consignment. Stapleton Decl. ¶ 4. As of the date of this motion, more than 4,391 pairs of shoes have been sold directly to consumers, totaling more than \$1,534,213 in revenue for the Receivership Estate. *Id.* During this time, the Receiver received inquiries regarding bulk wholesale deals, which generally consists of quantities between 200 and 3,000 pairs of sneakers in a single

¹ The 70% and 30% represent figures based on total quantity of sneakers, not value.

1 transaction.² To facilitate those deals, the Receiver is now seeking the Court’s approval as to the
2 form of a contract under which those sales can be completed.

3 The Receiver also seeks approval to begin the process of bringing fraudulent conveyance
4 claims against “net winners” of Malekzadeh’s scheme. As previously presented in the Receiver’s
5 monthly reports to this Court, the Receiver’s forensic accounting has identified “net winners” (i.e.
6 those investors who received more money than they contributed) and “net losers” (i.e. those
7 investors who did not receive as much (or any) money back from what they contributed and who
8 therefore would have legitimate claims in the Receivership Estate. To date, the Receiver’s forensic
9 accounting has identified 19 apparent “net winners” representing potentially more than
10 \$16,000,000, which may be available to be clawed back to the Receivership Estate. Stapleton
11 Decl., ¶ 7. As detailed below, the Receiver is now seeking the Court’s authority to pursue these
12 “net winners” and, if necessary, bring lawsuits against them to return those funds to the
13 Receivership Estate.

14 **II. THE AUTHORITY REQUESTED BY THE RECEIVER**

15 **A. The Receiver’s Wholesale Bulk Sale Form of Contract.**

16 With this motion, the Receiver is petitioning the Court to approve the form of contract,
17 attached to the Stapleton Declaration as “Exhibit A” for use in conducting the wholesale bulk sales
18 authorized by the Liquidation Plan. Stapleton Decl., ¶ 6. For the sake of business expediency and
19 cost efficiency, the Receiver requests that the Court approve the form of contract for bulk sales,
20 which will assist the Receiver in closing these beneficial wholesale transactions, without seeking
21 further Court approval. *Id.*

22 As the Court already recognized when it approved the Liquidation Plan, by conducting
23 wholesale sales with bulk buyers, the Receiver can use his business judgment and sell a substantial

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25 ² As noted in the Liquidation Plan, wholesale bulk deals are distinct from the sale of the entire
26 inventory. If the Receiver gets an offer for the entire inventory that he believes merits
consideration, he will seek the Court’s approval for the sale.

1 amount of inventory quickly to one buyer in exchange for a modest discount over the retail price
2 that might be realized through direct-to-consumer online sales. The Receiver evaluates bulk sales
3 by assessing the sell-thru and/or speed of sales of particular SKUs along with a comparison of
4 discount to costs incurred through online marketplace platform fees that exist in the ordinary
5 course sale strategy. If the Receiver determines certain inventory has been slow to sell, he attempts
6 to add that slow-moving inventory to bulk sale offers to move that inventory more quickly than it
7 might sell at retail. By providing the Receiver with authority to agree to these sales using the form
8 contract (or a document substantially similar in form³) attached to the Stapleton Declaration, the
9 Receiver will be able to more efficiently and effectively liquidate the shoe inventory without
10 having to seek court approval each time the Receiver enters into a transaction. When any bulk sale
11 is closed, the Receiver will report it to the Court in his monthly Interim Report. Stapleton Decl.,
12 ¶ 6.

13 **B. Request to Pursue Claw Back Actions Against Individual “Net Winners”**

14 As set forth in its various Interim Reports, for the last several months the Receiver has been
15 conducting an extensive forensic accounting, which has been hampered by Zadeh Kicks’
16 incomplete records. The Receiver determined that the best value-add to creditors at this time will
17 likely be to produce investor capital balances based on a money-in, money-out (“MIMO”)
18 approach. The MIMO analyses will serve as the foundation for the development of a distribution
19 plan to be presented to the Court at a later date.

20 The Receiver’s forensic accounting has identified “net winners” and “net losers.” The
21 Receiver has now identified some of the largest net winners, and would like to send demand letters
22 to each of these net winners in an attempt to resolve potential claw back claims with minimal cost
23 to the Receivership Estate.

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25 ³ While the Receiver will attempt to leave the form of contract unchanged, it is possible that he
26 may have to change some of terms to satisfy the conditions of a particular deal, but the material
terms such as the finality or the sales, the requirement that all monies be paid prior to delivery, and
a “where is, as is sale” language will not change.

1 Understanding that it will be a costly and time-consuming process to seek permission to
2 resolve each of these claims, the Receiver seeks blanket authority to make demand on each of the
3 individual net winners, up to a 10% discount on the amount sought, to resolve these claims as
4 quickly and efficiently as possible. The Receiver believes that a discount of up to 10% should, in
5 most cases,⁴ incentivize a significant number of net winners to resolve the claims against them
6 expeditiously, and the requested discount authority will avoid the time and expense of litigating
7 each individual claim. If a net winner agrees to settlement within the parameters requested in this
8 Motion, the Receiver will have the authority to enter into a settlement without further permission
9 from the Court.

10 If a net winner refuses to settle within the parameters requested in this Motion (as exercised
11 in the Receiver's discretion), the Receiver shall have the authority to bring an action in this Court
12 for recovery of all of the funds that were improperly transferred to the net winner. Pursuant to ORS
13 37.290(3)(a), all such actions will be adjunct to the Receivership and will be assigned to this Court
14 unless the Court is unable to assert jurisdiction.

15 The Receiver believes that this process should result in the efficient resolution of a number
16 of claims and will provide a significant benefit to the Receivership Estate and its creditors.

17 **C. Request for Expedited Consideration**

18 The Receiver seeks approval of the authority detailed above on an expedited basis as the
19 Receiver has at least one potential bulk sale pending, and would like to start the process of sending
20 demand letters to the "net winners" as soon as possible to ensure it commences actions as soon as
21 practicable to preserve the rights of the Estate. Stapleton Decl. ¶ 7.

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25 ⁴ The Receiver contemplates the possibility that for some of the larger net winners a 10% discount
26 may be too high relative to strength of the Receiver's case for recovery. Therefore, the Receiver
believes allowing some latitude in negotiations is prudent.

1 **CONCLUSION**

2 For these reasons, the Receiver respectfully requests that the Court grant his motion for an
3 order to approve the form for potential bulk sales contracts, and to allow the receiver to pursue
4 “claw back” actions against the “net winners” identified by the Receiver.

5 DATED this 2nd day of March, 2023.

6 BUCHALTER
7 A Professional Corporation

8 By s/ Daniel P. Larsen

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