

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION**

**U.S. COMMODITY FUTURES TRADING  
COMMISSION,**

**Plaintiff,**

**v.**

**BARKI, LLC, a North Carolina limited  
liability company;  
BRUCE C. KRAMER, an individual,**

**Defendants, and**

**RHONDA A. KRAMER, an individual, and  
FOREST GLEN FARM, LLC, a North  
Carolina limited liability company,**

**Relief Defendants.**

**CASE NO. 3:09-CV-106 (GCM)**

**RECEIVER'S MOTION AND ORDER TO SELL JUMPER HORSE FREE & CLEAR  
OF LIENS AND ENCUMBRANCES AND TO DEPOSIT NET PROCEEDS INTO  
RECEIVERSHIP BANK ACCOUNT**

Joseph W. Grier, III, Receiver (the "Receiver") of Defendants' and Relief Defendants' assets, respectfully requests that the court authorize him as Receiver to sell jumper horse Arnado Van't Aertshof ("Arnado") and to deposit the net proceeds into the Receivership bank account.

In support of this motion shows the court as follows:

1. The Receiver was appointed as Receiver of the Defendants' and Relief Defendants' assets by orders entered herein on March 17, 2009 and March 24, 2009 (collectively, the "Receivership Order").

2. The Receiver's investigation reveals that Arnado is property which is available to liquidate for the benefit of the Receivership Estate.

3. Under the Receivership Order, the Receiver is authorized and instructed to “preserve, hold and manage all receivership assets, and perform all acts necessary to preserve the value of those assets, in order to prevent any loss, damage or injury to Defendants’ or Relief Defendants’ customers or clients.”

4. Arnado is an 8 year old, Chestnut colored, male gelding of 16.2 height. He is a jumper horse. His Belgium registration number is BEL-W-192981-BWP. He was purchased in Europe on or about January 15, 2009 by Bruce and Rhonda Kramer with the assistance of horse trainer Karim Ghaibi. The Horse Bill of Sale indicates that Arnado was purchased for 120,000 Euros on January 15, 2009 by the Kramers. There is an international wire transfer reflected in a Forest Glen Farm, LLC bank account on January 16, 2009 in the amount of \$166,156.38 U.S. which is believed to be the transfer for the purchase of Arnado.

5. Arnado is currently in the possession Karim Ghaibi who had contracted with Bruce and Rhonda Kramer to board, train and show Arnado as an investment. The Receivership has continued to work with Mr. Ghaibi. Mr. Ghaibi takes the position that the Kramer’s agreed to pay boarding fees in the amount of \$800-\$1000/month, training fees of \$1000/month, show fees of approximately \$2,500/month, the cost of health and life insurance, plus a payment of 10-15% commission of Arnado’s sale price when sold.

6. The Receiver has not yet contracted with Karim regarding the fees listed in Paragraph 5 herein, however, the Receiver has and is continuing to incur expenses of Arnado including life and health insurance, boarding, showing and training fees among other expenses (“Arnado Expenses”).

7. The Receiver has obtained the original Passport of a Horse of Arnado.

8. The Receivership, through Mr. Ghaibi, has received an offer to purchase Arnado with a net benefit to the Receivership Estate of \$50,000. The Receivership anticipates that it will receive \$50,000 to be held in trust by Monday, June 1, 1009. Once the sale is consummated, which the Receiver anticipates will occur within 3-5 days of this Court's Order authorizing the sale, the \$50,000 will be deposited into the Receivership account for the benefit of the Receivership Estate. Further, after this sale the Receivership Estate will no longer bear the Arnado Expenses.

9. Upon information and belief, there are no liens or encumbrances on Arnado. Mr. Ghaibi has no claim against the Receivership Estate other than on-going expenses which have been paid as incurred.

10. The Receiver requests a specific order authorizing the sale of Arnado as set forth herein. Further, the Receiver requests that such order include a provision allowing the Receiver to execute such documents including a Horse Bill of Sale in the names of Bruce and Rhonda Kramer to effect valid transfers and to obtain a release from Mr. Ghaibi.

11. The Receiver believes the sale described herein is in the best interest of the customers and clients of Defendant Barki, LLC.

12. Pursuant to the *Consent Order Resolving Manzella Plaintiff's Request for Intervention, the Opposition and Response by the Receiver and the Opposition and Response by the Commodity Futures Trading Commission* ("Consent Order"), the Receiver has served a copy of this Motion on all Investors and will post it on the Receivership website as of May 29, 2009. If there are no written objections filed with the Court to this Motion within ten calendar days, the Receiver requests that the Court rule on the Motion and enter the proposed Order attached hereto as "Exhibit A".

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

- (a) Authorizing him to take actions necessary to carry out the transaction described herein to sell Arnado free and clear of all liens and encumbrances without further order of the court;
- (b) Authorizing him to deposit the net proceeds from the sales into the Receivership bank account; and
- (c) Granting such other and further relief as is just.

This is the 29th day of May, 2009.

/s/ Joseph W. Grier, III

Joseph W. Grier, III (State Bar No. 7764)

Anna S. Gorman (State Bar No. 20987)

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# **EXHIBIT A**

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**Relief Defendants.**

**CASE NO. 3:09-CV-106 (GCM)**

**ORDER GRANTING RECEIVER'S MOTION TO SELL JUMPER HORSE FREE &  
CLEAR OF LIENS AND ENCUMBRANCES AND TO DEPOSIT NET PROCEEDS  
INTO RECEIVERSHIP BANK ACCOUNT**

This matter was heard on the *Receiver's Motion To Sell Jumper Horse Free & Clear of Liens and Encumbrances and to Deposit Net Proceeds Into Receivership Bank Account* (the "Motion"). The Court finds that it has jurisdiction over this matter. No objections have been filed as to the Motion. The Court has reviewed the Motion and concludes that the relief requested in the motion should be granted.

It is **THEREFORE ORDERED** that Joseph W. Grier, III, Receiver (the "Receiver") of Defendants' and Relief Defendants' assets, is authorized to take actions to sell jumper horse Arnado Van't Aertshof for a net benefit to the Receivership Estate of \$50,000 free and clear of encumbrances without further order of the court; to execute documents, including a Horse Bill of

Sale, necessary to effect a transfer of title which is currently in the names of Bruce and Rhonda Kramer; and to deposit the net proceeds into the Receivership bank account for the benefit of the Receivership Estate.

Dated this \_\_\_\_ day of June, 2009.

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UNITED STATES DISTRICT JUDGE

## CERTIFICATE OF SERVICE

I certify that the foregoing was filed electronically on May 29, 2009 through the Court's ECF system and that the parties and counsel listed below have been contemporaneously served via electronic service and or via U.S. Mail as indicated with a true and correct copy of the foregoing:

All investors via email

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This is the 29th day of May, 2009.

**GRIER FURR & CRISP, PA**

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Court Appointed Receiver*