

TRADEMARK ASSIGNMENT COVER SHEET

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ETAS ID: TM612833

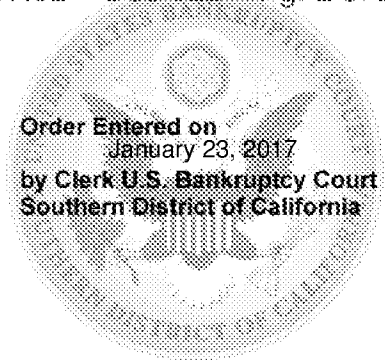
SUBMISSION TYPE:	NEW ASSIGNMENT		
NATURE OF CONVEYANCE:	BANKRUPTCY COURT ORDER CHAPTER 7		
CONVEYING PARTY DATA			
Name	Formerly	Execution Date	Entity Type
IMAGENETIX, INC.		01/23/2017	Corporation:
RECEIVING PARTY DATA			
Name:	GERALD H. DAVIS		
Street Address:	PO BOX 124539		
City:	SAN DIEGO		
State/Country:	CALIFORNIA		
Postal Code:	92128		
Entity Type:	INDIVIDUAL: UNITED STATES		
PROPERTY NUMBERS Total: 1			
Property Type	Number	Word Mark	
Registration Number:	2599153	CELADRIN	
CORRESPONDENCE DATA			
Fax Number:	9492673229		
<i>Correspondence will be sent to the e-mail address first; if that is unsuccessful, it will be sent using a fax number, if provided; if that is unsuccessful, it will be sent via US Mail.</i>			
Phone:	9494383355		
Email:	damond@vadnaisip.com		
Correspondent Name:	VADNAIS IP LAW		
Address Line 1:	5151 CALIFORNIA AVENUE		
Address Line 4:	IRVINE, CALIFORNIA 92617		
NAME OF SUBMITTER:	Damond E. Vadnais		
SIGNATURE:	/Damond E. Vadnais/		
DATE SIGNED:	12/07/2020		
Total Attachments: 24			
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Name, Address, Telephone No. & I.D. No.

SULLIVAN HILL LEWIN REZ & ENGEL, A.P.L.C.
James P. Hill (SBN 90478)/Gary B. Rudolph (SBN 101921)
550 West C Street, Suite 1500
San Diego, CA 92101
Tel.: (619) 233-4100
Attorneys for Gerald H. Davis, Chapter 7 Trustee



UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF CALIFORNIA
325 West "F" Street, San Diego, California 92101-6991

In Re
IMAGENETIX, INC.,

BANKRUPTCY NO. 12-16423-MM7
Date of Hearing: January 19, 2017
Time of Hearing: 10:00 a.m.
Name of Judge: Hon. Maragret M. Mann
Debtor.

**ORDER
APPROVING STIPULATION REGARDING VESTING OF ASSETS IN CHAPTER 7 ESTATE**

IT IS ORDERED THAT the relief sought as set forth on the continuation pages attached and numbered two (2) through 24 with exhibits, if any, for a total of 24 pages, is granted. Motion/Application Docket Entry No. 594

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DATED: January 23, 2017

Signature by the attorney constitutes a certification under Fed. R. of Bankr. P. 9011 that the relief in the order is the relief granted by the court.

Judge, United States Bankruptcy Court

Submitted by:

SULLIVAN HILL LEWIN REZ & ENGEL, APLC
(Firm name)

By: /s/Gary B. Rudolph
Attorney for Movant Respondent

On December 21, 2016 [ECF 594] the Trustee filed a Motion for Order Approving Stipulation Regarding Vesting of Assets in the Chapter 7 Estate ("Motion"). In support of the Motion the Declaration of Gerald H. Davis was filed on December 21, 2016 [ECF 594-1] which attached to it the Stipulation Regarding Vesting of Assets in the Chapter 7 Estate.

The Motion was served by Notice of Motion and Hearing filed December 21, 2016 [ECF 595]. See Exhibit "A" attached hereto and herein incorporated by reference. On January 4, 2017 [ECF 600] First Fruit Business Ministry filed an opposition to the Motion. On January 9, 2017, the Trustee filed a Reply [ECF 605] to the opposition and on January 12, 2017 [ECF 607] secured parties Dutch Harbor Financial, Ltd. and Tripharma, LLC also filed a Reply to the Opposition. On January 17, 2017 [ECF 610] the Court issued a Tentative Ruling determining that the Motion was properly noticed and unopposed except for the limited opposition filed by First Fruits Ministry which disputed ownership by the estate in a patent (colloquially described in the papers as "892 patent"); yet since neither the Debtor nor the Trustee claimed ownership of the 892 patent and the Court determining that the opposition is moot, the Court excused appearances and good cause appearing,

1. The Motion is granted and the Stipulation Regarding Vesting of Assets in the Chapter 7 Estate attached hereto as Exhibit "B" and herein incorporated by reference is approved.

IT IS SO ORDERED.

EXHIBIT "A"

TRADEMARK

REEL: 007125 FRAME: 0386
Signed by Judge Margaret M. Wahl January 23, 2017

Name, Address, Telephone No. & I.D. No.
SULLIVAN HILL LEWIN REZ & ENGEL, APLC
James P. Hill (SBN 90478)/Gary B. Rudolph (SBN 101921)
Kathryn A. Millerick (SBN 279602)
550 West C Street, Suite 1500
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Tel.: (619) 233-4100
Proposed Attorneys for Gerald H. Davis, Chapter 7 Trustee

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF CALIFORNIA
325 West F Street, San Diego, California 92101-6991

In Re
IMAGENETIX, INC.,

Tax I.D.(EIN)#: _____ /S.S.#:XXX-XX-____ Debtor.

BANKRUPTCY NO. 12-16423-MM7

NOTICE OF HEARING AND MOTION

TO THE DEBTOR, ALL CREDITORS AND OTHER PARTIES IN INTEREST:

You are hereby notified that on January 19, 2017, at 10:00 a.m., in Department 1, Room 218, of the Jacob Weinberger United States Courthouse, located at 325 West F Street, San Diego, California 92101-6991, there will be a hearing regarding the Motion of Gerald H. Davis, Chapter 7 Trustee, for [check the appropriate box]:

- Dismissal of a chapter 7, 11 or 12 case;
- Conversion of a chapter 7, 11 or 12 case by a party other than the debtor;
- Allowance of [interim] [final] compensation or reimbursement of expenses of professionals as provided in Exhibit "A" [information required by FRBP 2002(c)(2)];
- Appointment of a trustee in a chapter 11 case; or
- Other [specify the nature of the matter]:

MOTION FOR ORDER APPROVING STIPULATION REGARDING VESTING OF ASSETS IN THE CHAPTER 7 ESTATE

See attachment.

If not required to be attached, a set of the moving papers will be provided, upon request, by the undersigned or may be inspected at the office of the Clerk.

Any opposition or other response to the motion must be served upon the undersigned and the original and one copy of such papers with proof of service must be filed with the Clerk of the U.S. Bankruptcy Court at 325 West F St., San Diego, California 92101-6991, **not later than fourteen (14)¹ days from the date of service.**

SULLIVAN HILL LEWIN REZ & ENGEL, APLC

DATED: December 21, 2016

/s/Kathryn A. Millerick

[Kathryn A. Millerick, Attorney for Moving Party]

¹Depending on how you were served, you may have additional time for response. See FRBP 9006.

ATTACHMENT TO NOTICE OF HEARING

Gerald H. Davis (“Trustee”), the Chapter 7 Trustee of the bankruptcy estate of Imagenetix, Inc. (“Debtor”), is moving (“Motion”) the Court for entry of an order (“Order”) approving that certain Stipulation Regarding Vesting of Assets in the Chapter 7 Estate (“Stipulation”) entered into between the Trustee and the Debtor. A copy of the Order is attached as Exhibit A hereto. A copy of the Stipulation is attached as Exhibit 1 to the Order.

The Motion is made pursuant to Sections 105(a) and 1142(b) of the Bankruptcy Code (11 U.S.C. § 101 et seq.). It is supported by this Notice of Hearing and Motion, as well as the Memorandum of Points and Authorities attached to the Motion and the concurrently filed Declaration of Gerald H. Davis (collectively and together with the Motion, “Papers”). Any party desirous of obtaining copies of the Papers may make an email request of the Trustee’s counsel, Kathryn A. Millerick, Esq. at millerick@sullivanhill.com and copies will be provided; or such party may review and copy the Papers at the Clerk’s Office for the U.S. Bankruptcy Court, Southern District of California, 325 West F Street, San Diego, CA 92101, during its normal working hours, or may call the Court at 619-557-560 for its online procedures.

EXHIBIT "A"

TRADEMARK

Name, Address, Telephone No. & I.D. No.
SULLIVAN HILL LEWIN REZ & ENGEL, A.P.L.C.
James P. Hill (SBN 90478)/Gary B. Rudolph (SBN 101921)
Kathryn A. Millerick (SBN 279602)
550 West C Street, Suite 1500
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Proposed Attorneys for Gerald H. Davis, Chapter 7 Trustee

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF CALIFORNIA
325 West "F" Street, San Diego, California 92101-6991

In Re
IMAGENETIX, INC.,

Debtor.
BANKRUPTCY NO. 12-16423-MM7
Date of Hearing: N/A
Time of Hearing: N/A
Name of Judge: Hon. Maragret M. Mann

**ORDER
GRANTING STIPULATION REGARDING VESTING OF ASSETS IN THE CHAPTER 7 ESTATE**

IT IS ORDERED THAT the relief sought as set forth on the continuation pages attached and numbered two (2) through 2 with exhibits, if any, for a total of 7 pages, is granted. Motion/Application Docket Entry No. _____

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DATED:

Judge, United States Bankruptcy Court

Signature by the attorney constitutes a certification under Fed. R. of Bankr. P. 9011 that the relief in the order is the relief granted by the court.

Submitted by:

SULLIVAN HILL LEWIN REZ & ENGEL APLC
(Firm name)

By: /s/Gary B. Rudolph
Attorney for Movant Respondent

The Court having considered the Motion for Order Approving Stipulation Regarding Vesting of Assets in the Chapter 7 Estate ("Motion") filed by Gerald H. Davis ("Trustee"), the Chapter 7 trustee for the estate of above-captioned bankruptcy estate, the files and records in this case, and the arguments presented at the hearing before the Court; the Court having found that good and sufficient cause exists for granting the Motion; it appearing that the relief requested is in the best interests of the estate, the debtor's creditors, and other parties in interest; and it appearing that adequate and sufficient notice of the hearing and Motion having been given; and good cause appearing therefor,

IT IS HEREBY ORDERED THAT:

1. The Motion is granted in its entirety. All capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Motion.
2. The Stipulation is approved in its entirety. The Trustee is authorized to enter into the Stipulation, a copy of which is attached as Exhibit 1 hereto.
3. All Assets that vested in the Reorganized Debtor – as such term is defined in the Debtor's Third Amended Chapter 11 Plan of Reorganization dated August 29, 2014 [ECF 430] ("Plan") – upon confirmation of the Plan now constitute property of the Chapter 7 Estate.
4. All Assets are subject to administration by the Trustee under the applicable provisions of the Bankruptcy Code (11 U.S.C. § 101 et seq.).
5. The Debtor shall turn over to the Trustee all records and Assets under the Debtor's custody or control as required by Rule 1019(4) of the Federal Rules of Bankruptcy Procedure.

IT IS SO ORDERED.

EXHIBIT "1"

TRADEMARK

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SULLIVAN HILL LEWIN REZ & ENGEL
A Professional Law Corporation
James P. Hill, SBN 90478
Gary B. Rudolph, SBN 101921
Kathryn A. Millerick, SBN 279602
550 West "C" Street, Suite 1500
San Diego, California 92101
Telephone: (619) 233-4100
Fax Number: (619) 231-4372

Electronically Filed:

Proposed Attorneys for Gerald H. Davis, Chapter 7 Trustee
UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF CALIFORNIA

In re)
IMAGENETIX, INC.,) CASE NO. 12-16423-MM7
Debtor.) Chapter 7
STIPULATION REGARDING
VESTING OF ASSETS IN THE
CHAPTER 7 ESTATE
Date: January 19, 2017
Time: 10:00 a.m.
Dept.: 1
Hon. Margaret M. Mann

This Stipulation ("Stipulation") regarding vesting of assets into the Chapter 7 Estate (defined below) is entered into between Gerald H. Davis, the Chapter 7 Trustee ("Trustee"), and Imagenetix, Inc. ("Debtor" and together with the Trustee, the "Parties"), by and through their respective counsel, as follows:

RECITALS

A. On December 17, 2012, the Debtor filed a voluntary petition for relief under Chapter 11 of the Bankruptcy Code (11 U.S.C. § 101 et seq.) in the United States Bankruptcy Court for the Southern District of California ("Court"), initiating the now-superseded Chapter 11 case ("Chapter 11 Case").

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1 B. On August 29, 2013, the Debtor and TriPharma LLC (“TriPharma”)
2 entered into a Settlement and Release Agreement (“Settlement Agreement”). On
3 September 16, 2014, the Court entered an order [ECF 447] (“Confirmation Order”),
4 confirming the Debtor’s Third Amended Chapter 11 Plan of Reorganization dated
5 August 29, 2014 [ECF 430] (“Plan”) and affirming as a part thereof the terms of the
6 Settlement Agreement. All capitalized terms not otherwise defined herein shall have
7 the meanings ascribed to them in the Plan.

8 C. The Plan became effective on September 16, 2014. ECF 460. In
9 December 2014, only months after the Plan became effective, TriPharma declared a
10 default under the Plan. See ECF 489. The Debtor disputed the default [ECF 490] and
11 commenced negotiations with TriPharma to resolve the dispute.

12 D. On April 1, 2015, TriPharma sold and transferred its rights, title, and
13 interests in and under the proofs of claim filed with the Court as Claim Nos. 15, 16,
14 and 17 to Dutch Harbour Financial Ltd. (“DHF”). ECF 492.

15 E. On August 13, 2015, DHF issued a Notice of Default to the Debtor,
16 asserting that the Debtor failed to make the required March 1, 2015, and June 1, 2015,
17 payments that were due under a certain forbearance agreement. Thereafter, on or
18 about September 10, 2015, DHF sent written notice to PNI, a licensee of the Debtor,
19 alleging the Debtor’s alleged default under the Plan and Settlement Agreement and
20 demanding that any and all payments due to the Debtor from any source be paid
21 directly to DHF. In response, PNI placed the Debtor, DHF, and TriPharma on notice
22 that it would not make payments due to the Debtor, unless and until the issue of the
23 alleged default under the Plan and Settlement Agreement was resolved.

24 F. For various reasons, the Debtor was unable to resolve the issue of the
25 alleged default under the Plan and Settlement Agreement.

26 G. On December 8, 2016, the Court entered an order [ECF 585]
27 (“Conversion Order”) granting the Debtor’s motion [ECF 567] (“Conversion
28 Motion”) to convert the Chapter 11 Case to one under Chapter 7. The Chapter 11 Case

1 was thereby converted to the instant Chapter 7 case (“Chapter 7 Case”). Among other
2 things, the Conversion Order provides that the Debtor shall “forthwith turn over to the
3 chapter 7 trustee all records and property of the estate under its custody or control as
4 required by FRBP 1019(4).” ECF 585, p. 2, ¶2(a).

5 H. On December 8, 2016, Gerald H. Davis was appointed the trustee of the
6 bankruptcy estate in this Chapter 7 Case (“Chapter 7 Estate”). ECF 585-1.

7 I. Section 1141(b) of the Bankruptcy Code provides that “[e]xcept as
8 otherwise provided in the plan or the order confirming the plan, the confirmation of a
9 plan vests all of the property of the estate in the debtor.”

10 J. Neither the Plan nor the Confirmation Order explicitly contains a
11 provision vesting property in the Chapter 7 Estate upon conversion. However, the
12 Parties agree that the Plan contains (i) provisions regarding the distribution of future
13 proceeds from all assets, properties, and interests of the Chapter 11 estate
14 (collectively, the “Assets”) to creditors; and (ii) provisions granting the Court broad
15 powers to oversee the implementation of the Plan. Based on the foregoing and based
16 on leading Ninth Circuit cases on post-confirmation conversion to Chapter 7 set forth
17 in the Motion seeking approval of this Stipulation, the Parties agree that all Assets
18 constitute property of the Chapter 7 Estate and are subject to administration by the
19 Trustee.

20 Based on the foregoing and to avoid any doubt regarding the status of the
21 Assets as property of the Chapter 7 Estate, the Parties hereby stipulate and agree to the
22 following, subject to the Court’s entry of an order approving this Stipulation:

23 **STIPULATION**

24 1. The Parties stipulate and agree that all Assets that vested in the
25 Reorganized Debtor upon confirmation of the Plan now constitute property of the
26 Chapter 7 Estate.

27 2. The Parties stipulate and agree that all Assets are subject to
28 administration by the Trustee under the applicable provisions of the Bankruptcy Code.

1 3. The Parties stipulate and agree that the Debtor shall turn over to the
2 Trustee all records and Assets under the Debtor's custody or control as required by
3 Rule 1019(4) of the Federal Rules of Bankruptcy Procedure.

4 Dated: December 16, 2016 SULLIVAN HILL LEWIN REZ & ENGEL
5 A Professional Law Corporation

6 By: /s/ Gary B. Rudolph
7 James P. Hill
8 Gary B. Rudolph
9 Kathryn A. Millerick
Proposed Attorneys for Gerald H. Davis,
Chapter 7 Trustee

10 Dated: December 16, 2016 ALLEN, MATKINS, LECK, GAMBLE,
11 MALLORY & NATSIS

12 By: /s/ Debra A. Riley
13 Debra A. Riley,
14 Attorney for Debtor, Imagenetix, Inc.
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CERTIFICATE OF SERVICE

I, the undersigned whose address appears below, certify:

That I am, and at all relevant times was, more than 18 years of age;

That on 21st day of December 2016, I served a true copy of the within NOTICE OF MOTION AND HEARING by [describe here mode of service]
ECF System & U.S. Mail

on the following persons [set forth name and address of each person served] and/or as checked below:

Attorney for Debtor (if required):

By ECF System:

- Matthew Bouslog mbouslog@gibsondunn.com, pcrawford@gibsondunn.com
- John W. Cutchin jcutchin@san.rr.com
- Gerald H. Davis ghd@trusteedavis.com, ghd@trustesolutions.net
- Heather U. Guerena huguerena@duanemorris.com, kzakaran@duanemorris.com
- James Andrew Hinds jhinds@jhindsllaw.com
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- Derik J. Roy droy@roy-law.com
- Gary B. Rudolph rudolph@sullivanhill.com, hill@sullivanhill.com;millerick@sullivanhill.com;bkstaff@sullivanhill.com; vidovich@ecf.inforuptcy.com;rudolph@ecf.inforuptcy.com
- Dheeraj K Singhal dksinghal@dcdmlawgroup.com, dcdm@ecf.courtdrive.com
- United States Trustee ustp.region15@usdoj.gov

By U.S. Mail:

-See Attached Service List-

- | | | |
|---|---|---|
| <input type="checkbox"/> For Chpt. 7, 11, & 12 cases: | <input type="checkbox"/> For ODD numbered Chapter 13 cases: | <input type="checkbox"/> For EVEN numbered Chapter 13 cases: |
| UNITED STATES TRUSTEE
Department of Justice
402 West Broadway, Suite 600
San Diego, CA 92101 | THOMAS H. BILLINGSLEA, JR., TRUSTEE
401 West A Street, Suite 1680
San Diego, CA 92101 | DAVID L. SKELTON, TRUSTEE
525 B Street, Suite 1430
San Diego, CA 92101-4507 |

I certify under penalty of perjury that the foregoing is true and correct.

Executed on December 21, 2016
(Date)

Francine Iriarte /s/Francine Iriarte
(Typed Name and Signature)

550 West C Street, Suite 150
(Address)

San Diego, CA 92101
(City, State, ZIP Code)

Label Matrix for local noticing
0974-3
Case 12-16423-MM7
Southern District of California
San Diego
Fri Dec 9 15:00:23 PST 2016

AT&T
Attn: Corporate Officer
Payment Center
Sacramento, CA 95887-0001

American Express
c/o Becket and Lee LLP
POB 3001
Malvern PA 19355-0701

American Express Corp Card
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American Express Travel Related Services Co
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Malvern PA 19355-0701

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TRADEMARK

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First Fruits Business Ministry LLC
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Heather U. Guerena
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Beaverton, OR 97005-9448

HJ & Associates, LLC
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Attn: Corporate Officer
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Garrick A. Hollander
Winthrop Couchot, P.C.
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Newport Beach, CA 92660-6427

IRS-Insolvency Division
P.O. Box 7346
Philadelphia, PA 19101-7346

Imagenetix, Inc.
10845 Rancho Bernardo Road, #105
San Diego, CA 92127-2107

Imagenetix, Inc.
c/o Daniel Kotchen
Kotchen & Low LLP
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Washington, D.C 20009-2684

(p) INTERNAL REVENUE SERVICE
CENTRALIZED INSOLVENCY OPERATIONS
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PHILADELPHIA PA 19101-7346

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TRADEMARK

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Whittier, CA 90602-1797

Performance Sales
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Pharmachem Laboratories, Inc.
265 Harrison Avenue
Kearny, NJ 07032-4315

Pitney Bowes Global Financial Services LLC
27 Waterview Drive
Shelton, CT 06484-4301

Proprietary Nutritionals Inc.
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Publix Attn: Corporate Officer
MDSE Acc-Buyer 00216
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SDG&E
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1600 Pacific Highway
San Diego, CA 92101-2422

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Attn: Corporate Officer
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Chicago, Illinois 60693-0126

(p)U S SECURITIES AND EXCHANGE COMMISSION
LOS ANGELES REGIONAL OFFICE
444 SOUTH FLOWER STREET 9TH FLOOR
LOS ANGELES CA 90071-2934

Seven
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Staples **PAGE 18**
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P.O. Box 9020
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(p) CALIFORNIA STATE BOARD OF EQUALIZATION
ACCOUNT REFERENCE GROUP MIC 29
P O BOX 942879
SACRAMENTO CA 94279-0029

State of California
Employment Development Dept.
800 Capitol Mall
Sacramento, CA 95814-4607

Supervalu
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Teldata
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TriPharma
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1278 Gleneyre St #285
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Los Angeles, CA 90189-4820

US Securities and Exchange Commission
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USA Drug
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Pine Bluff, AR 71603-4828

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Carlsbad, CA 92009-8231

YRC
Attn: Corporate Officer
P.O. Box 100129
Pasadena, CA 91189-0129

YRC, Inc
c/o RMS Bankruptcy Recovery Services
P.O. Box 5126
Timonium, Maryland 21094-5126

The preferred mailing address (p) above has been substituted for the following entity/entities as so specified by said entity/entities in a Notice of Address filed pursuant to 11 U.S.C. 342(f) and Fed.R.Bank.P. 2002 (g)(4).

TRADEMARK

REEL: 007125 FRAME: 0401

Case 12-16423-MM7
Internal Revenue Service
880 Front St., #3269
San Diego, CA 92101-8869

Filed 02/23/16 Entered 02/23/16 10:57:52
Office Depot 26
Attn: Corporate Officer
P.O. Box 689020
Des Moines, IA 50368-9020

Doc 538 Pg. 10 of
Securities & Exchange Commission
Pacific Regional Office
5670 Wilshire Blvd., 11th Floor
Los Angeles, CA 90036-3648

PAGE 19

State Board of Equalization
P.O. Box 942879
Sacramento, CA 94279

(d)State Board of Equalization
450 N Street
PO Box 94287
Sacramento, CA 94279-0001

(d)UNITED STATES SECURITIES AND EXCHANGE COMM
5670 Wilshire Boulevard, Suite 1100
Los Angeles, CA 90036

(d)United States Securities and Exchange Comm
Attn: Sarah D. Moyed, Atty
5670 Wilshire Boulevard, Suite 1100
Los Angeles, California 90036

The following recipients may be/have been bypassed for notice due to an undeliverable (u) or duplicate (d) address.

(u)BFS West, Inc.

(u)Courtesy NEF

(u)Dutch Harbour Financial, Ltd.

(d)First Fruits Business Ministry LLC
Attn: Managing Member
213 Leaning Tree Road
Columbia, SC 29223-3008

(u)Floorit Financial Inc

(d)Franchise Tax Board
Attn: Bankruptcy
P.O. Box 2952
Sacramento, CA 95812-2952

(u)Frutarom USA, Inc.

(u)Dan McAllister

(u)Erwin J. Shustak

(u)TriPharma LLC

(d)United States Trustee
Office of the U.S. Trustee
402 West Broadway, Ste. 600
San Diego, CA 92101-8511

(d)United States Trustee
Office of the U.S. Trustee
402 West Broadway, Ste. 600
San Diego, CA 92101-8511

End of Label Matrix
Mailable recipients 114
Bypassed recipients 12
Total 126

TRADEMARK

EXHIBIT "B"

TRADEMARK

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SULLIVAN HILL LEWIN REZ & ENGEL
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Electronically Filed:

Proposed Attorneys for Gerald H. Davis, Chapter 7 Trustee
UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF CALIFORNIA

In re	}	CASE NO. 12-16423-MM7
IMAGENETIX, INC.,		Chapter 7
Debtor.		STIPULATION REGARDING VESTING OF ASSETS IN THE CHAPTER 7 ESTATE
	}	Date: January 19, 2017
		Time: 10:00 a.m.
		Dept.: 1
		Hon. Margaret M. Mann

This Stipulation ("Stipulation") regarding vesting of assets into the Chapter 7 Estate (defined below) is entered into between Gerald H. Davis, the Chapter 7 Trustee ("Trustee"), and Imagenetix, Inc. ("Debtor" and together with the Trustee, the "Parties"), by and through their respective counsel, as follows:

RECITALS

A. On December 17, 2012, the Debtor filed a voluntary petition for relief under Chapter 11 of the Bankruptcy Code (11 U.S.C. § 101 et seq.) in the United States Bankruptcy Court for the Southern District of California ("Court"), initiating the now-superseded Chapter 11 case ("Chapter 11 Case").

///

1 B. On August 29, 2013, the Debtor and TriPharma LLC (“TriPharma”)
2 entered into a Settlement and Release Agreement (“Settlement Agreement”). On
3 September 16, 2014, the Court entered an order [ECF 447] (“Confirmation Order”),
4 confirming the Debtor’s Third Amended Chapter 11 Plan of Reorganization dated
5 August 29, 2014 [ECF 430] (“Plan”) and affirming as a part thereof the terms of the
6 Settlement Agreement. All capitalized terms not otherwise defined herein shall have
7 the meanings ascribed to them in the Plan.

8 C. The Plan became effective on September 16, 2014. ECF 460. In
9 December 2014, only months after the Plan became effective, TriPharma declared a
10 default under the Plan. See ECF 489. The Debtor disputed the default [ECF 490] and
11 commenced negotiations with TriPharma to resolve the dispute.

12 D. On April 1, 2015, TriPharma sold and transferred its rights, title, and
13 interests in and under the proofs of claim filed with the Court as Claim Nos. 15, 16,
14 and 17 to Dutch Harbour Financial Ltd. (“DHF”). ECF 492.

15 E. On August 13, 2015, DHF issued a Notice of Default to the Debtor,
16 asserting that the Debtor failed to make the required March 1, 2015, and June 1, 2015,
17 payments that were due under a certain forbearance agreement. Thereafter, on or
18 about September 10, 2015, DHF sent written notice to PNI, a licensee of the Debtor,
19 alleging the Debtor’s alleged default under the Plan and Settlement Agreement and
20 demanding that any and all payments due to the Debtor from any source be paid
21 directly to DHF. In response, PNI placed the Debtor, DHF, and TriPharma on notice
22 that it would not make payments due to the Debtor, unless and until the issue of the
23 alleged default under the Plan and Settlement Agreement was resolved.

24 F. For various reasons, the Debtor was unable to resolve the issue of the
25 alleged default under the Plan and Settlement Agreement.

26 G. On December 8, 2016, the Court entered an order [ECF 585]
27 (“Conversion Order”) granting the Debtor’s motion [ECF 567] (“Conversion
28 Motion”) to convert the Chapter 11 Case to one under Chapter 7. The Chapter 11 Case

1 was thereby converted to the instant Chapter 7 case (“Chapter 7 Case”). Among other
2 things, the Conversion Order provides that the Debtor shall “forthwith turn over to the
3 chapter 7 trustee all records and property of the estate under its custody or control as
4 required by FRBP 1019(4).” ECF 585, p. 2, ¶2(a).

5 H. On December 8, 2016, Gerald H. Davis was appointed the trustee of the
6 bankruptcy estate in this Chapter 7 Case (“Chapter 7 Estate”). ECF 585-1.

7 I. Section 1141(b) of the Bankruptcy Code provides that “[e]xcept as
8 otherwise provided in the plan or the order confirming the plan, the confirmation of a
9 plan vests all of the property of the estate in the debtor.”

10 J. Neither the Plan nor the Confirmation Order explicitly contains a
11 provision vesting property in the Chapter 7 Estate upon conversion. However, the
12 Parties agree that the Plan contains (i) provisions regarding the distribution of future
13 proceeds from all assets, properties, and interests of the Chapter 11 estate
14 (collectively, the “Assets”) to creditors; and (ii) provisions granting the Court broad
15 powers to oversee the implementation of the Plan. Based on the foregoing and based
16 on leading Ninth Circuit cases on post-confirmation conversion to Chapter 7 set forth
17 in the Motion seeking approval of this Stipulation, the Parties agree that all Assets
18 constitute property of the Chapter 7 Estate and are subject to administration by the
19 Trustee.

20 Based on the foregoing and to avoid any doubt regarding the status of the
21 Assets as property of the Chapter 7 Estate, the Parties hereby stipulate and agree to the
22 following, subject to the Court’s entry of an order approving this Stipulation:

23 **STIPULATION**

24 1. The Parties stipulate and agree that all Assets that vested in the
25 Reorganized Debtor upon confirmation of the Plan now constitute property of the
26 Chapter 7 Estate.

27 2. The Parties stipulate and agree that all Assets are subject to
28 administration by the Trustee under the applicable provisions of the Bankruptcy Code.

1 3. The Parties stipulate and agree that the Debtor shall turn over to the
2 Trustee all records and Assets under the Debtor's custody or control as required by
3 Rule 1019(4) of the Federal Rules of Bankruptcy Procedure.

4 Dated: December 16, 2016 SULLIVAN HILL LEWIN REZ & ENGEL
5 A Professional Law Corporation

6 By: /s/ Gary B. Rudolph
7 James P. Hill
8 Gary B. Rudolph
9 Kathryn A. Millerick
Proposed Attorneys for Gerald H. Davis,
Chapter 7 Trustee

10 Dated: December 16, 2016 ALLEN, MATKINS, LECK, GAMBLE,
11 MALLORY & NATSIS

12 By: /s/ Debra A. Riley
13 Debra A. Riley,
14 Attorney for Debtor, Imagenetix, Inc.