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

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

Case No.  
**PETITIONER’S MOTION FOR  
APPOINTMENT OF A RECEIVER**  
**(Expedited Consideration Requested; Ex  
Parte)**

**UTCR INFORMATION**

<b>Hearing</b>	<b>Yes</b>
<b>Court Reporter</b>	<b>No</b>
<b>Time</b>	<b>30 minutes</b>
<b>Attorney for Petitioner</b>	<b>Joseph M. Mabe, OSB No. 045286 (503) 417-7777</b>

**MOTION**

Petitioner Zadeh Kicks LLC (“Petitioner” or “Zadeh Kicks”), through Michael Malekzadeh (“Malekzadeh”) (together, “Petitioners”), hereby moves this Court for an order appointing a receiver to take possession, control, management, and operation of Petitioner’s assets, as described in the Petition filed by Petitioner in this action. This Motion is brought pursuant to ORS 63.664(3), ORS 37.060, ORCP 80B(7), and ORCP 80B(8) and is supported by the declarations filed concurrently herewith. Petitioner requests a hearing on this matter, on an expedited basis, and estimates that 30 minutes will be needed for the hearing. Official court reporting services are not requested.

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1 **POINTS AND AUTHORITIES**

2 **A. Legal Standard**

3 Pursuant to ORS 37.060(1), a receiver may be appointed by a circuit court “[w]hen an  
4 entity . . . is insolvent or in imminent danger of insolvency, if receivership is reasonably necessary  
5 to . . . protect the interests of the entity’s stockholders, members, partners or creditors. Similarly,  
6 pursuant to ORCP 80B(8), a receiver may be appointed by a circuit court “[w]hen a corporation .  
7 . . is insolvent or in immediate danger of insolvency and it is necessary . . . to protect the interests  
8 of the stockholders or creditors.”<sup>1</sup> Thus, the circuit court may appoint a receiver when: (1) the  
9 company is insolvent or in immediate danger of insolvency and (2) the appointment of a receiver  
10 is reasonably necessary to protect the interests of the company’s creditors. “Relief by way of  
11 receivership is equitable in its nature and, is controlled by and administered upon equitable  
12 principles, even where it has been extended by statute.” *French v. C.F. & T. Co.*, 124 Or. 686,  
13 689 (1928).

14 **B. Petitioners are entitled to the appointment of a receiver**

15 **1. Zadeh Kicks is insolvent**

16 It is unquestionable that Zadeh Kicks is insolvent. As set forth in the Petition filed herein,  
17 Zadeh Kicks’ liabilities greatly exceed its assets.<sup>2</sup> Preliminary estimates put the deficit at millions  
18 of dollars.<sup>3</sup> Given this situation, Zadeh Kicks is unable to pay its debts as they become due in the  
19 usual course of business.<sup>4</sup> Accordingly, Petitioner is insolvent and immediate appointment of a

20 <sup>1</sup> See also ORCP 80B(7) (providing that the circuit court may appoint a receiver “[i]n cases  
21 provided by statute, when a corporation . . . has been dissolved, or is insolvent, or in imminent danger of  
22 insolvency[.]”).

23 <sup>2</sup> *Petition for Voluntary Continuance of Dissolution Under Court Supervision and Appointment of  
Receiver* (hereinafter “Petition”) at ¶ 6.

24 <sup>3</sup> *Id.*

25 <sup>4</sup> Compare ORS 63.229(1) (“A distribution may be made by a limited liability company to any  
26 member only if, after giving effect to the distribution . . . :

(a) The limited liability company would be able to pay its debts as they become due in the ordinary  
course of business; and

(b) The fair value of the total assets of the limited liability company would at least equal the sum  
of:

(A) Its total liabilities; plus

1 receiver is necessary to marshal the company's assets and administer claims from the company's  
2 numerous creditors.

3 **2. Appointment of a receiver is reasonably necessary to protect the interests of**  
4 **the company's creditors**

5 Appointment of a receiver is necessary to protect the interests of Zadeh Kicks' numerous  
6 creditors. Petitioner's internal systems were inadequate to keep up with Petitioner's exponential  
7 growth, which has resulted in a situation where the company's liabilities far exceed its assets by  
8 millions of dollars.<sup>5</sup> Dissolution of Zadeh Kicks will be complex and the company does not have  
9 the resources or capabilities to administer and manage all of the potential claims from creditors  
10 and third parties. Petitioner is seeking the appointment of a receiver to marshal and liquidate the  
11 assets and for handling claims from numerous creditors.<sup>6</sup> This will be a massive undertaking.  
12 Accordingly, the immediate appointment of a receiver is reasonably necessary to marshal the  
13 company's assets and protect the interests of Zadeh Kicks' creditors and third parties.

14 For the reasons stated above, the Court should appoint a receiver to manage the marshalling  
15 and liquidation of Zadeh Kicks' assets, and to handle claims from the company's creditors. A  
16 proposed Receivership Order has been filed concurrently herewith. The proposed Receiver, David  
17 P. Stapleton, possesses the necessary qualifications and has extensive experience acting as a  
18 receiver for business entities in this and similar circumstances.<sup>7</sup> A copy of Mr. Stapleton's current  
19 curriculum vitae is attached as Exhibit 1 to the Declaration of Joseph M. Mabe filed concurrently  
20 herewith.<sup>8</sup>

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22  
23 (B) . . . [T]he amount that would be needed, if the limited liability company were to be  
24 dissolved at the time of the distribution, to satisfy the preferential rights upon  
25 dissolution, if any, of other members that are superior to the rights of the members  
26 receiving the distribution.”

<sup>5</sup> *Petition* at ¶ 6.

<sup>6</sup> *Petition* at ¶¶ 11-17.

<sup>7</sup> *Declaration of Joseph M. Mabe* (hereinafter “Mabe Decl.”) at ¶ 6.

<sup>8</sup> *Mabe Decl.* at ¶ 5.

1 **CONCLUSION**

2 The requirements for appointment of a receiver are all present in this case. Accordingly,  
3 Petitioner respectfully requests the Court grant Petitioner’s Motion and enter the proposed order  
4 filed concurrently herewith appointing a receiver over Zadeh Kicks’ assets and the winding-up of  
5 its affairs.

6 DATED this 19<sup>th</sup> day of May, 2022.

7 SLINDE NELSON

8 By: s/ Joseph M. Mabe

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