

1 GARY OWEN CARIS (SBN 088918)
E-mail: gcaris@mckennalong.com
2 LESLEY ANNE HAWES (SBN 117101)
E-mail: lhawes@mckennalong.com
3 McKENNA LONG & ALDRIDGE LLP
300 South Grand Avenue, 14th Floor
4 Los Angeles, CA 90071-3124
Telephone: (213) 688-1000
5 Facsimile: (213) 243-6330

6 ANGELA E. FONES (SBN 245204)
E-mail: afones@mckennalong.com
7 McKENNA LONG & ALDRIDGE LLP
101 California Street, 41st Floor
8 San Francisco, CA 94111
Telephone: (415) 267-4000
9 Facsimile: (415) 267-4198

10 Attorneys for **ROBB EVANS & ASSOCIATES
LLC as Receiver**

11 **UNITED STATES DISTRICT COURT**
12 **CENTRAL DISTRICT OF CALIFORNIA**

13 FEDERAL TRADE
14 COMMISSION,

15 Plaintiff,

16 v.

17 LOSS MITIGATION SERVICES,
INC.; SYNERGY FINANCIAL
MANAGEMENT
18 CORPORATION, also d/b/a
19 DIRECT LENDER and DIRECT
LENDER.COM; DEAN SHAFER;
20 BERNADETTE PERRY (a.k.a.
BERNADETTE CARR and
21 BERNADETTE CARR-PERRY);
MARION ANTHONY (a.k.a.
"TONY") PERRY,

22 Defendants.
23
24
25
26
27
28

CASE NO. SACV09-800 DOC (ANx)

**NOTICE OF HEARING ON MOTION
FOR ORDER (1) APPROVING FINAL
REPORT AND ACCOUNTING; (2)
APPROVING FINAL DISTRIBUTION
OF RECEIVERSHIP ASSETS; (3)
APPROVING RECEIVER'S AND
PROFESSIONALS' FEES AND
EXPENSES FROM AUGUST 18, 2009
THROUGH CLOSING; (4)
DISCHARGING RECEIVER; (5)
RELIEVING RECEIVER OF ALL
DUTIES AND LIABILITIES; (6)
EXONERATING RECEIVER'S
BOND; (7) AUTHORIZING
ABANDONMENT AND
DESTRUCTION OF RECORDS AND
DEEMING ABANDONED ANY
UNADMINISTERED ASSETS; (8)
GRANTING ANY OTHER RELIEF
RELATED TO THE WIND UP OF THE
ESTATE; AND (9) GRANTING RELIEF
FROM LOCAL RULE 66-7 PERTAINING
TO NOTICE TO CREDITORS**

Date: September 13, 2010
Time: 8:30 a.m.
Place: 9D

1 **PLEASE TAKE NOTICE** that on September 13, 2010, commencing at 8:30
2 a.m. or as soon as thereafter as counsel may be heard in Courtroom 9D of the above
3 entitled Court located at 411 West Fourth Street, Santa Ana, California 92701,
4 Robb Evans & Associates LLC, the receiver ("Receiver") over Loss Mitigation
5 Services, Inc. and Synergy Financial Management Corporation, also d/b/a Direct
6 Lender and Direct Lender.com as well as any successors, assigns, affiliates, and
7 subsidiaries ("Receivership Defendants"), will and does hereby move the Court for
8 the following relief:

9 1. An order approving the Receiver's Final Report and Accounting
10 attached collectively to the Declaration of Brick Kane as Exhibit 1 (collectively the
11 "Final Report") filed concurrently herewith;

12 2. An order approving the Receiver's distribution to TK Global Partners,
13 LP d.b.a. Meritus Payment Solutions ("TK Global") pursuant to the Court's
14 February 19, 2010 Order Regarding TK Global Partners, LP's Claims Regarding
15 Reserve Account ("Reserve Account Order") of the net amount remaining in the
16 Reserve Account after the payment of all of the fees and expenses of the Receiver
17 and the Receiver's counsel and an order approving the Receiver's final distribution
18 of all remaining receivership assets to the FTC, pursuant to the Court's Default
19 Judgment and Order for Permanent Injunction and Monetary Relief as to Corporate
20 Defendants Loss Mitigation Services, Inc. and Synergy Financial Management
21 Corporation entered on April 19, 2010 ("Final Order");

22 3. An order approving and confirming all actions and activities taken by
23 or on behalf of the Receiver and all payments made by the Receiver in connection
24 with the administration of the receivership estate;

25 4. An order approving all receivership administrative expenses, including
26 the Receiver's fees and expenses and those of its professionals incurred in
27 connection with the receivership proceeding, and approving and authorizing
28 payment of all administrative expenses and Receiver's and professionals' fees and

1 expenses for the period from August 18, 2009 through the closing of the
2 receivership estate and the discharge of the Receiver (“Expense Period”), as
3 reflected in the Final Report. The Receiver incurred fees for the Receiver and its
4 professionals of \$37,979.14 and costs of \$3,719.52 for total Receiver’s fees and
5 expenses of \$41,698.66 during the period from August 18, 2009 through June 30,
6 2010. The Receiver’s counsel incurred legal fees of \$29,568.15 and costs of
7 \$345.84, for total legal fees and costs of \$29,913.99 for the period from August 18,
8 2009 through June 30, 2010. Additional fees and expenses from July 1, 2010
9 through closing for the Receiver and its counsel are estimated to be \$26,489.70;

10 5. An order authorizing the Receiver to abandon and destroy the records
11 of the Receivership Entities and any other corporations or businesses under the
12 control of any of the Receivership Entities in the possession, custody or control of
13 the Receiver if, within 120 days after service of written notice to the FTC, the FTC
14 does not object to the proposed destruction of the records and take custody of such
15 records, and deeming abandoned any assets not administered;

16 6. An order discharging the Receiver, its agents, employees, members,
17 officers, independent contractors, attorneys and representatives and relieving the
18 Receiver, its agents, employees, members, officers, independent contractors,
19 attorneys and representatives of all duties, liabilities and responsibilities pertaining
20 to the receivership previously established in this action effective upon the
21 completion of the Receiver’s wind up of the estate, payment of administrative
22 expenses and final distribution of funds as provided herein;

23 7. An order exonerating the Receiver’s bond effective upon the
24 completion of the Receiver’s wind up of the estate, payment of administrative
25 expenses and final distribution of funds as provided herein;

26 8. An order for any other and further relief as may be reasonable or
27 appropriate in connection with the wind up and closure of the receivership estate;
28 and

1 9. Granting relief from Local Rule 66-7 pertaining to the giving of notice
2 to all creditors of the receivership estate.

3 **PLEASE TAKE FURTHER NOTICE** that the Motion is made pursuant to
4 Local Rule 66-7, and is based upon this Notice of Hearing on the Motion, the
5 Notice of Motion and Motion, the accompanying memorandum of points and
6 authorities and declaration of Gary Owen Caris, the separate Declaration of Brick
7 Kane filed concurrently herewith and upon all other and further pleadings, oral and
8 documentary evidence and argument of counsel as may be presented by the
9 Receiver at or before the time of the hearing on the Motion.

10 **PLEASE TAKE FURTHER NOTICE** that a copy of the Motion will be
11 posted on the Receiver's website at www.robbevans.com/html/lossms.html, where
12 it may be reviewed in its entirety, except for the voluminous time records attached
13 hereto and to the Declaration of Brick Kane. Copies of the Motion will be provided
14 to any interested party upon receipt of a written request which may be sent to:
15 Robb Evans & Associates LLC, Attn: Cherrie Eustaquio, 11450 Sheldon Street,
16 Sun Valley, CA 91352-1121; Telephone (818) 768-8100; Facsimile: (818) 768-
17 8802.

18 Dated: August 13, 2010

Respectfully submitted,
MCKENNA LONG & ALDRIDGE LLP

By: /s/ Gary Owen Caris
Gary Owen Caris

Attorneys for **ROBB EVANS &
ASSOCIATES LLC**

28