

ROBB EVANS
Receiver of
MX Factors LLC; BBH Resources LLC
and JTL Financial Group LLC

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Securities and Exchange Commission v. MX Factors LLC, et al.
CASE No. EDCV 04-223 VAP (SGLx)

Notice of Hearing on Receiver's 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 1, 2009 Through Closing;**
- (4) Authorizing Abandonment and Destruction of Records;**
- (5) Discharging Receiver;**
- (6) Relieving Receiver of All Duties and Liabilities;**
- (7) Authorizing the Turnover of Any Remaining Funds After the Final Distribution to the Securities and Exchange Commission; and**
- (8) Approving the Receiver's Settlement with Settling Judgment Debtors**

Filed July 29, 2011

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8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA

11 SECURITIES AND EXCHANGE
COMMISSION,

12 Plaintiff,

13 v.

14 MX FACTORS, LLC; BBH
15 RESOURCES, LLC; JTL FINANCIAL
GROUP, LLC; RICHARD M.
16 HARKLESS; DANIEL BERARDI;
THOMAS HAWKESWORTH; and
17 RANDALL W. HARDING,

18 Defendants.
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CASE NO. EDCV 04-223 VAP (SGLx)

**NOTICE OF HEARING ON
RECEIVER'S 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 1, 2009
THROUGH CLOSING;
(4) AUTHORIZING
ABANDONMENT AND
DESTRUCTION OF RECORDS; (5)
DISCHARGING RECEIVER;
(6) RELIEVING RECEIVER OF
ALL DUTIES AND LIABILITIES;
(7) AUTHORIZING THE
TURNOVER OF ANY REMAINING
FUNDS AFTER THE FINAL
DISTRIBUTION TO THE
SECURITIES AND EXCHANGE
COMMISSION; AND (8)
APPROVING THE RECEIVER'S
SETTLEMENT WITH SETTLING
JUDGMENT DEBTORS**

DATE: August 29, 2011
TIME: 2:00 p.m.
PLACE: Courtroom 2

1 PLEASE TAKE NOTICE that on August 29, 2011 at 2:00 p.m., or as soon
2 thereafter as counsel may be heard in Courtroom 2 of the above-entitled court
3 located at 3470 Twelfth Street, Riverside, California, Robb Evans, the permanent
4 receiver (“Receiver”) of MX Factors, LLC, BBH Resources, LLC, JTL Financial
5 Group, LLC and their subsidiaries and affiliates (collectively, the “Receivership
6 Defendants”), will and hereby does move the Court for the following relief:

7 1. An order approving the Receiver’s Final Report and Accounting
8 attached collectively to the Declaration of Brick Kane as Exhibit 1 (collectively the
9 “Final Report”) filed concurrently herewith;

10 2. An order approving the Receiver’s final distribution of approximately
11 \$247,000 to the investor and non-investor approved claimants¹ (“Final
12 Distribution”) after payment of all remaining Receiver’s administrative expenses;

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

16 4. An order approving all receivership administrative expenses, including
17 the Receiver’s fees and expenses and those of his professionals incurred in
18 connection with the receivership proceeding, including those previously paid to the
19 Receiver and his counsel, and approving and authorizing payment of all
20 administrative expenses and Receiver’s and professionals’ fees and expenses for the
21 period from August 1, 2009 through the closing of the receivership estate and the
22 discharge of the Receiver (“Final Expense Period”), as reflected in the Final Report,
23 to the extent any such administrative expenses and Receiver’s and counsel’s fees
24 and expenses remain unpaid, including Receiver’s and counsel’s fees and expenses
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27 ¹ As explained in further detail in the Receiver’s motion and Declaration of Brick
28 Kane, the total amount of approved claims have been adjusted from \$39,577,911.90
to \$39,124,331.82.

1 incurred and unpaid for the period from August 1, 2009 through the closing of the
2 estate;

3 5. An order authorizing the Receiver to abandon and destroy the records
4 of the Receivership Defendants and any other corporations or businesses under the
5 control of any of the Receivership Defendants in the possession, custody or control
6 of the Receiver unless, within 30 days after service of written notice to the
7 Securities and Exchange Commission (“SEC”), the Receiver has been served with a
8 written request by the SEC for possession of the records or a subpoena by a law
9 enforcement agency for the records, in which event the Receiver is authorized to
10 turn over the original records to the SEC or a law enforcement agency in response
11 to the request or subpoena;

12 6. An order, effective upon the completion of the Receiver’s wind up of
13 the estate, payment of administrative expenses and Final Distribution as provided
14 herein, directing that the Receiver, his agents, employees, members, officers,
15 independent contractors, attorneys and representatives be: (a) discharged; (b)
16 discharged and released from all claims and liabilities arising out of and/or
17 pertaining to the receivership herein; and (c) relieved of all duties and
18 responsibilities pertaining to the receivership previously established in this action;

19 7. An order authorizing the Receiver to turn over any remaining
20 receivership funds after the Final Distribution to the SEC, to the extent that any
21 funds remain or are recovered after the Final Distribution to the investor and non-
22 investor approved claimants; and

23 8. An order approving the Receiver’s proposed settlements of the
24 Receiver’s judgments against investors and/or agents D. Betz for \$12,600 and D.
25 O’Donnell for \$20,000 (collectively, “Settling Judgment Debtors”) who prior to the
26 receivership received payments totaling more than the principal amount of their
27 investment and/or who received commissions or bonuses for the solicitation of
28 investments in the fraudulent scheme perpetrated by the Receivership Defendants,

1 as follows:
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3 Settling Judgment Debtor	4 Judgment Amount	5 Settlement Amount	6 Settlement Terms	7 Settlement Document
8 D. Betz	\$58,907.37	\$12,600.00	Paid in full.	No.
9 D. O'Donnell	\$183,323.06	\$20,000.00	Paid in full.	No.
10 TOTAL:	\$242,230.43	\$32,600.00		

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The motion is made pursuant to Local Civil Rule 66-7 and 66-8 and is based upon this notice of hearing, the notice of motion and motion, the memorandum of points and authorities and declarations of Brick Kane and Gary Owen Caris filed in support hereof, on such pleadings and files of the Court of which the Receiver may request the Court take judicial notice, and upon such other pleadings and oral and documentary evidence as may be presented at or before the time of the hearing on the motion.

In addition, the motion is made on the grounds that (1) the proposed settlements with the Settling Judgment Debtors are fair and equitable to the receivership estate, and (2) resolution of the claims with the Settling Judgment Debtors pursuant to the foregoing settlements is in the best interests of the receivership estate and within the range of reasonableness for settlement of the claims in question given: (a) the nature and amount of the claims against the Settling Judgment Debtors; (b) the lack of collectability of the claims given the Receiver's investigation of potential sources of recovery and the inability to collect the judgments over a period of well over three years; and (c) other factors

1 warranting settlement with the Settling Judgment Debtors in the amount of the
2 settlement payments set forth, based on the Receiver's exercise of his business
3 judgment and discretion under the circumstances of this case.

4 PLEASE TAKE FURTHER NOTICE that the motion will be posted on the
5 Receiver's website at robbevans.com/html/mxfactors.html.² Copies of this Motion
6 will be provided to any interested party upon receipt of a written request which may
7 be sent to: Robb Evans & Associates LLC, Attn: Cherrie Eustaquio, 11450
8 Sheldon Street, Sun Valley, CA 91352-1121; Telephone: (818) 768-8100;
9 Facsimile: (818) 768-8802.

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11 Dated: July 28, 2011

Respectfully submitted,

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MCKENNA LONG & ALDRIDGE LLP
GARY OWEN CARIS
LESLEY ANNE HAWES

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By: /s/ Gary Owen Caris
Gary Owen Caris

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Attorneys for Permanent Receiver,
ROBB EVANS

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² Due to the voluminous nature of certain exhibits attached to the Receiver's motion which include all time records of the Receiver, his staff and his counsel, the voluminous time records will not be posted on the Receiver's website.