

ROBB EVANS & ASSOCIATES LLC
Receiver of
National Foreclosure Relief, Inc., et al.

11450 Sheldon Street
Sun Valley, California 91352-1121
Telephone No.: (818) 768-8100
Facsimile No.: (818) 768-8802

Federal Trade Commission v. National Foreclosure Relief, Inc., et al.
CASE No. SACV09-0117 DOC (MLGx)

Notice of Motion and Motion for Order:

(1) Approving and Authorizing Receiver's and Professionals' Fees and Expenses for the Period From February 2, 2009 Through June 30, 2009; and

(2) Limiting Notice under Local Rule 66-7;

Memorandum of Points and Authorities; and
Declaration of Gary Owen Caris in Support Thereof
Declaration of Brick Kane in Support Thereof

Filed October 22, 2009

1 GARY OWEN CARIS (SBN 088918)
e-mail: gcaris@mckennalong.com
2 LESLEY ANNE HAWES (SBN 117101)
e-mail: lhawes@mckennalong.com
3 ANGELA E. FONES (SBN 245204)
e-mail: afones@mckennalong.com
4 McKENNA LONG & ALDRIDGE LLP
444 South Flower Street, 8th Floor
5 Los Angeles, CA 90071-2901
Telephone: (213) 688-1000
6 Facsimile: (213) 243-6330

7 Attorneys for Permanent Receiver
ROBB EVANS and ROBB EVANS &
8 **ASSOCIATES LLC**

9
10 **UNITED STATES DISTRICT COURT**
11 **CENTRAL DISTRICT OF CALIFORNIA**

12 FEDERAL TRADE COMMISSION,

13 Plaintiff,

14 v.

15 NATIONAL FORECLOSURE
16 RELIEF, INC.,
a corporation;
17 DAVID EALY,
an individual;
18 CHELE STONE, a/k/a Chele Medina,
an individual; and
19 HUGO TAPIA,
an individual,

20 Defendants.

CASE NO. SACV 09-117-DOC (MLGx)

**NOTICE OF MOTION AND
MOTION FOR ORDER: (1)
APPROVING AND AUTHORIZING
PAYMENT OF RECEIVER'S AND
PROFESSIONALS' FEES AND
EXPENSES FOR THE PERIOD
FROM FEBRUARY 2, 2009
THROUGH JUNE 30, 2009; AND (2)
LIMITING NOTICE UNDER
LOCAL RULE 66-7;
MEMORANDUM OF POINTS AND
AUTHORITIES; AND
DECLARATION OF GARY OWEN
CARIS IN SUPPORT THEREOF**

**[DECLARATION OF BRICK KANE
FILED CONCURRENTLY UNDER
SEPARATE COVER]**

DATE: November 16, 2009
TIME: 8:30 a.m.
PLACE: Courtroom 9D

21
22
23
24
25
26 PLEASE TAKE NOTICE that on November 16, 2009 at 8:30 a.m., or as
27 soon thereafter as counsel may be heard in Courtroom 9D of the above-entitled
28 court located at 411 West Fourth Street, Santa Ana, California, Robb Evans and

1 Robb Evans & Associates LLC, the permanent receiver (“Receiver”) of National
2 Foreclosure Relief, Inc. and their subsidiaries and affiliates (collectively, the
3 “Receivership Defendant”), will and hereby does move the Court for an order:

4 (1) approving and authorizing payment of receivership expenses incurred for
5 the five-month period from February 2, 2009 through June 30, 2009 (“Expense
6 Period”), including payment of the fees of the Receiver, the Receiver’s deputies,
7 agents, staff and professionals, and reimbursement of costs incurred during the
8 Expense Period in the total sum of \$78,302.93. The fees and expenses of the
9 Receiver and its staff total \$75,332.70 during the Expense Period and the
10 Receiver’s legal fees and expenses total \$2,970.23 during the Expense Period; and

11 (2) limiting notice of the hearing on this motion that might otherwise be
12 required to be served on all known creditors of the estate under Local Civil Rule
13 66-7 so that notice of the motion is deemed sufficient if notice is served on the
14 parties to this action.

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

21 PLEASE TAKE FURTHER NOTICE that this motion is posted on the
22 Receiver’s website at robbevans.com/html/nfrelief.html.¹ Copies of this Motion
23 will be provided to any interested party upon receipt of a written request which may
24 be sent to: Robb Evans & Associates LLC, Attn: Cherrie Eustaquio, 11450

25
26 _____
27 ¹ Due to the voluminous nature of the time records of the Receiver, its staff and its
28 counsel which are exhibits to the Receiver’s motion, the time records will not be
posted on the Receiver’s website.

1 Sheldon Street, Sun Valley, CA 91352-1121; Telephone: (818) 768-8100;
2 Facsimile: (818) 768-8802.

3
4 Dated: October 22, 2009

Respectfully submitted,

5 McKENNA LONG & ALDRIDGE LLP
6 GARY OWEN CARIS
7 LESLEY ANNE HAWES
8 ANGELA E. FONES

9 By: /S/ GARY OWEN CARIS
Gary Owen Caris

10 Attorneys for Permanent Receiver
11 **ROBB EVANS and ROBB EVANS**
12 **& ASSOCIATES LLC**

13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I.**

3 **INTRODUCTION**

4 The Federal Trade Commission (“FTC”) commenced this action against the
5 Receivership Defendant as well as against individual defendants David Ealy, Chele
6 Stone a/k/a Chele Medina, and Hugo Tapia (hereinafter collectively referred to as
7 the “Defendants”), who allegedly engaged in false and deceptive advertising and
8 trade practices. The FTC alleged that the Defendants ran a mortgage foreclosure
9 rescue service which misrepresented its ability to obtain new loans or modify
10 existing loans for consumers facing foreclosure. Consumers were allegedly told by
11 Defendants that they would stop home foreclosures by obtaining new loans or
12 modifying existing loans. Defendants made these representations in their sales
13 pitches over the phone and in written advertisements to consumers. Many
14 consumers allegedly lost their homes to foreclosure after paying up-front fees of
15 hundreds or thousands of dollars to the Defendants to save their homes. Often
16 consumers were forced to attempt to prevent their homes from being foreclosed
17 upon after learning that the Defendants failed to obtain the relief they had been
18 promised. In addition, the Defendants allegedly guaranteed their services and
19 promised full refunds to a consumer if Defendants failed to stop foreclosure on the
20 consumer’s home. However, the Defendants refused to provide the promised
21 refunds to many consumers.

22 The Receiver was initially appointed as the temporary receiver pursuant to a
23 Temporary Restraining Order entered on February 2, 2009. Thereafter, on March
24 6, 2009, the Receiver was subsequently confirmed as permanent receiver, with the
25 full powers of an equity receiver, pursuant to the Preliminary Injunction With Asset
26 Freeze, Appointment of Permanent Receiver and Other Equitable Relief
27 (“Preliminary Injunction”).

28 By this motion, the Receiver seeks a Court order approving and authorizing

1 the payment of fees and expenses of the Receiver, the Receiver's staff, and the
2 Receiver's counsel for the five-month period from February 2, 2009 through June
3 30, 2009 in the total sum of \$78,302.93.

4 In addition to seeking approval and authorization for payment of the
5 Receiver's and counsel's fees and expenses, the Receiver also requests an order
6 limiting notice of the hearing on this motion that might otherwise be required to be
7 served on all known investor-claimants and other creditors of the estate under Local
8 Civil Rule 66-7 so that notice of the motion is deemed sufficient if notice is served
9 on the parties to this action.

10 **II.**

11 **THE RECEIVER REQUESTS APPROVAL AND**
12 **AUTHORIZATION FOR THE PAYMENT OF THE FEES AND**
13 **EXPENSES OF THE RECEIVER AND THE RECEIVER'S**
14 **COUNSEL FOR THE PERIOD FROM FEBRUARY 2, 2009**
15 **THROUGH JUNE 30, 2009**

16 The Receiver seeks approval and authority for payment of the fees and
17 expenses of the Receiver, the Receiver's staff and the Receiver's counsel for the
18 period from February 2, 2009 through June 30, 2009. The fees and costs of the
19 Receiver for which approval is requested are set forth in the financial summary
20 entitled "Receiver Administrative Expenses and Fund Balance by Month" attached
21 as Exhibit 1 to the Declaration of Brick Kane filed in support of this Motion. The
22 fees and costs of the Receiver include the Receiver's fees for professional services
23 provided for February 2009 (Exhibit 2 attached to the Kane Declaration),
24 professional services provided for March 2009 (Exhibit 3 attached to the Kane
25 Declaration), professional services provided for April 2009 (Exhibit 4 attached to
26 the Kane Declaration), professional services provided for May 2009 (Exhibit 5
27 attached to the Kane Declaration) and professional services provided for June 2009
28 (Exhibit 6 attached to the Kane Declaration). The fees and expenses of the

1 Receiver's outside counsel, McKenna Long & Aldridge LLP ("McKenna Firm")
2 are attached hereto as Exhibit 1 to the Declaration of Gary Owen Caris. As
3 specified in detail in the exhibits attached to the Kane and Caris Declarations, the
4 Receiver has incurred \$78,302.93 in fees and expenses during the Expense Period,
5 comprised of Receiver's fees and expenses of \$75,332.70 and legal fees and costs
6 incurred to the McKenna Firm as the Receiver's outside counsel in the amount of
7 \$2,970.23.

8 **A. Receiver's Services**

9 During the Expense Period, the primary activities of the Receiver and its
10 counsel have focused on the Receiver gaining possession and control of the
11 business and records of the Receivership Defendant, evaluating those records and
12 the Receivership Defendant's business activities and beginning the Receiver's
13 financial analysis and reconstruction of the financial transactions of these entities.
14 In addition, the Receiver addressed administrative issues regarding the
15 Receivership Estate.

16 **1. Physical Custody, Control and Possession**

17 Pursuant to the Temporary Restraining Order, and continuing under the
18 Preliminary Injunction, the Receiver has taken custody, control and possession of
19 the Receivership Defendant's premises at 1505 E. 17th Street, Santa Ana,
20 California, along with all paper documents and electronic data. After recovering
21 these records, the Receiver took measures to ensure that the records were secured.
22 In addition, the Receiver took control of the Receivership Defendant's mail through
23 the U.S. Postal Service.

24 **2. Analysis and Investigation of the Structure and Operations of the**
25 **Receivership Defendant**

26 After taking possession of the business premises and records, the Receiver
27 conducted an investigation to determine the ownership and management structure
28 of the Receivership Defendant. The Receiver conducted multiple interviews of the

1 Defendants and others in an effort to ascertain how the business operated and to
2 locate documents and other relevant information. The Receiver reviewed and
3 analyzed business and financial records, electronic and physical accounting records,
4 bank account information and records, income and expense records and receipts,
5 transfers of funds to and from the Receivership Defendant, emails, mail, and other
6 documents and recordings of sales telephone calls.

7 The Receiver conducted an investigation of the services sold by the
8 Receivership Defendant and the methods employed to market those services. The
9 Receiver analyzed the business operations of the Receivership Defendant, including
10 management and control issues, the nature of services rendered and the personnel
11 engaged in rendering services for the consumer customers of the Receivership
12 Defendant and the results of the services performed for the consumer clients in
13 terms of the number of successful loan modifications obtained. The Receiver
14 interviewed employees of the Receivership Defendant, reviewed mailing and
15 marketing material for the services promoted to consumers, and reviewed scripts
16 for telemarketing used to sell services and to convince consumers to remain as
17 customers. The Receiver listened to recordings of sales people advising consumers
18 about the Receivership Defendant's services, legal team and underwriters. The
19 Receiver also located and reviewed sales and marketing information included in the
20 Receivership Defendant's business records, including scripts for personnel
21 concerning sales calls with consumers. The Receiver also evaluated consumer
22 complaints and requests for refunds.

23 **3. Receiver's Other Administrative Services**

24 During the Expense Period, the Receiver has performed other administrative
25 services in connection with the administration of the receivership estate. The
26 Receiver has addressed issues concerning the employees of the Receivership
27 Defendant and related payroll. The Receiver has notified financial institutions of
28 the receivership and served copies of the Temporary Restraining Order and

1 Preliminary Injunction on the financial institutions where receivership assets may
 2 be located. The Receiver also continued to address administrative issues regarding
 3 the receivership estate, including responding to consumers' written and telephone
 4 inquiries, communicating with the FTC, performing bank reconciliations and
 5 maintaining accounting records.

6 **B. Activities of Receiver's Counsel**

7 During the Expense Period, the Receiver's counsel assisted the Receiver in
 8 analyzing various issues concerning the appointment of the Receiver, including
 9 analyzing the Temporary Restraining Order and Preliminary Injunction. The
 10 Receiver's counsel also assisted the Receiver in the administration of the
 11 receivership estate by analyzing and advising on the lawsuit brought by Daphne
 12 Collins.

13 The Receiver submits that its fees and costs and those of its professionals are
 14 reasonable and should be approved and authorized for payment in their entirety.

15 **III.**

16 **THE RECEIVER REQUESTS RELIEF FROM NOTICE**

17 **REQUIREMENTS OF LOCAL CIVIL RULE 66-7**

18 The Receiver requests that this motion be granted, and the order thereon
 19 entered, without requiring the Receiver to give notice to all creditors under Local
 20 Civil Rule 66-7, which provides that "[t]he receiver shall give notice by mail to all
 21 parties to the action and to all known creditors of the defendant of the time and
 22 place for hearing of: . . . (f) Applications for fees and expenses of the receiver, the
 23 attorney for the receiver and any other person appointed to aid the receiver."

24 The Receiver will provide notice of this motion to the parties and will post
 25 this motion (without voluminous time records) on the Receiver's website at
 26 robbevans.com/html/nfrelief.html. In addition, copies of this Motion will be
 27 provided to any interested party upon receipt of a written request. However, the
 28 Receiver requests that it be relieved from the duty under Local Civil Rule 66-7 to

1 notify the potentially hundreds of consumer creditors and 23 non-consumer
2 creditors in the estate. If the Receiver is required to give notice to all of these
3 persons, such a requirement would be burdensome, time-consuming and expensive
4 for the receivership estate, including substantial photocopying and postage costs. It
5 is reasonable to consider this motion based on the modified notice procedure set
6 forth herein, particularly given the limited amount of funds on hand in the estate as
7 reflected in Exhibit 1.

8 There is ample authority for approval of the scope and method of limited
9 notice as set forth above. Local Rule 66-7 provides that the provisions of Local
10 Rule 6-1 apply to notice of Rule 66-7 Motions. Local Rule 6-1 in turn provides for
11 the filing and service of written notices of motion “unless otherwise provided by
12 rule or ordered by the Court.” This Court, as a court of equity supervising the
13 receivership estate, may make appropriate administrative orders governing the
14 receivership, including limitations on and changes in notice and other procedures.
15 See F.R.Civ.P. 5(a) and (c) (authorizing the court to modify service procedures
16 when numerous defendants are involved in litigation).

17 Pursuant to Local Rule 66-8, a receiver is directed to administer receivership
18 estates “as nearly as possible in accordance with the practice in the administration
19 of estates in bankruptcy.” Orders limiting notice when the Bankruptcy Code or
20 Rules would otherwise require notice to all creditors are routinely granted in
21 bankruptcy cases to promote the expeditious and economical administration of
22 bankruptcy estates. See *In re First Alliance Mortgage Co.*, 269 B.R. 428, 442 (C.D.
23 Cal. 2001) (referencing in *dicta* in the court’s recitation of facts the bankruptcy
24 court’s order limiting notice issued in that case); 11 U.S.C. § 102(1)(A) (defining
25 the phrase “after notice and a hearing” to mean “after such notice as is appropriate
26 in the particular circumstances, and such opportunity for hearing as is appropriate in
27 the particular circumstances”); 11 U.S.C. § 105(a) and (s) (granting broad equitable
28 powers to the court to issue orders “necessary or appropriate to carry out the

1 provisions” of title 11 including “prescribing such limitations and conditions as the
2 court deems appropriate to ensure the case is handled expeditiously and
3 economically”); and F.R.Bankr.P. 2002(m) (authorizing the court to enter “orders
4 designating the matters in respect to which, the entity to whom, and the form and
5 manner in which notices shall be sent except as otherwise provided by these rules”).

6 **IV.**

7 **CONCLUSION**

8 For the foregoing reasons, the Receiver respectfully requests that the Court
9 grant this motion and issue an order: (1) approving and authorizing for payment the
10 fees and costs of the Receiver and its professionals incurred for the five-month
11 period from February 2, 2009 through June 30, 2009, and (2) limiting notice of the
12 hearing on this motion that might otherwise be required to be served on all known
13 investor-claimants and other creditors of the estate under Local Civil Rule 66-7 so
14 that notice of the motion is deemed sufficient if notice is served on the parties to
15 this action, if the Receiver posts this motion on the Receiver’s website at
16 robbevans.com/html/nfrelief.html, and if copies of this Motion are provided to any
17 interested party upon receipt of a written request.

18
19 Dated: October 22, 2009

Respectfully submitted,

20 McKENNA LONG & ALDRIDGE LLP
21 GARY OWEN CARIS
22 LESLEY ANNE HAWES
23 ANGELA E. FONES

24 By: /S/ GARY OWEN CARIS
Gary Owen Caris

25 Attorneys for Permanent Receiver
26 **ROBB EVANS and ROBB EVANS**
27 **& ASSOCIATES LLC**

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

DECLARATION OF GARY OWEN CARIS

I, Gary Owen Caris, declare:

1. I am an attorney at law duly licensed to practice before all courts of the State of California and the United States District Court for the Central District of California, and a partner of McKenna Long & Aldridge LLP (“McKenna Firm”), the attorneys for Robb Evans and Robb Evans & Associates LLC as permanent receiver (“Receiver”) of National Foreclosure Relief, Inc. and their subsidiaries and affiliates (collectively, the “Receivership Defendant”). I have been the attorney primarily responsible for representing the Receiver since its appointment as temporary receiver in February 2009, pursuant to the Court’s temporary restraining order. I have personal knowledge of the matters set forth in this declaration, and if I were called upon to testify as to these matters, I could and would competently testify based upon my own personal knowledge.

2. Attached hereto as Exhibit 1 are billing summaries reflecting the services rendered, time spent and costs incurred by the McKenna Firm pertaining to the receivership action five-month period from February 2, 2009 through June 30, 2009 (“Expense Period”), with the descriptions redacted where appropriate to preserve the attorney-client privilege and attorney-work product privileges and any other sensitive information the disclosure of which might adversely affect the receivership estate. Attorneys’ fees and costs incurred by the Receiver for the services of the McKenna Firm during this five-month period total \$2,970.23.

3. I am lead counsel for the Receiver in this case. During the current Expense Period, my firm assisted the Receiver in analyzing various issues concerning the appointment of the Receiver, including analyzing the Temporary Restraining Order and Preliminary Injunction. My firm also assisted the Receiver in the administration of the receivership estate by analyzing and advising on the lawsuit brought by Daphne Collins.

1 GARY OWEN CARIS (SBN 088918)
e-mail: gcaris@mckennalong.com
2 LESLEY ANNE HAWES (SBN 117101)
e-mail: lhawes@mckennalong.com
3 ANGELA E. FONES (SBN 245204)
e-mail: afones@mckennalong.com
4 McKENNA LONG & ALDRIDGE LLP
444 South Flower Street, 8th Floor
5 Los Angeles, CA 90071-2901
Telephone: (213) 688-1000
6 Facsimile: (213) 243-6330

7 Attorneys for Permanent Receiver
ROBB EVANS and ROBB EVANS &
8 **ASSOCIATES LLC**

9 **UNITED STATES DISTRICT COURT**
10 **CENTRAL DISTRICT OF CALIFORNIA**
11

12 FEDERAL TRADE COMMISSION,
13

14 Plaintiff,

15 v.

16 NATIONAL FORECLOSURE
RELIEF, INC.,
a corporation;
17 DAVID EALY,
an individual;
18 CHELE STONE, a/k/a Chele Medina,
an individual; and
19 HUGO TAPIA,
an individual,
20

21 Defendants.

CASE NO. SACV 09-117-DOC (MLGx)

**DECLARATION OF BRICK KANE
IN SUPPORT OF MOTION FOR
ORDER: (1) APPROVING AND
AUTHORIZING PAYMENT OF
RECEIVER'S AND
PROFESSIONALS' FEES AND
EXPENSES FOR THE PERIOD
FROM FEBRUARY 2, 2009
THROUGH JUNE 30, 2009; AND (2)
LIMITING NOTICE UNDER
LOCAL RULE 66-7**

DATE: November 16, 2009
TIME: 8:30 a.m.
PLACE: Courtroom 9D

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

DECLARATION OF BRICK KANE

I, Brick Kane, declare:

1. I am a deputy to Robb Evans, and am a principal of Robb Evans & Associates LLC. Robb Evans and Robb Evans & Associates LLC have been appointed by this Court as permanent receiver (“Receiver”) of National Foreclosure Relief, Inc. and their subsidiaries and affiliates (collectively, the “Receivership Defendant”). I have been one of the Receiver’s deputies with primary responsibility for the day-to-day supervision and management of the receivership over the Receivership Defendant since the Receiver first began to act pursuant to its appointment as temporary receiver in this matter on February 2, 2009. The matters set forth in this Declaration are based upon my personal knowledge or have been obtained by me in the course of my supervision and management of personnel at Robb Evans & Associates LLC who have performed tasks in connection with this matter under my direction. If called upon to testify as to these matters, I could and would competently testify thereto.

2. The Receiver was initially appointed as the temporary receiver pursuant to a Temporary Restraining Order entered on February 2, 2009. Thereafter, on March 6, 2009, the Receiver was appointed as permanent receiver, with the full powers of an equity receiver, pursuant to the Preliminary Injunction With Asset Freeze, Appointment of Permanent Receiver and Other Equitable Relief (“Preliminary Injunction”).

3. By this motion, the Receiver seeks an order approving and authorizing the payment of the Receiver’s fees and expenses, as well as the fees and expenses of its staff and counsel for the five-month period from February 2, 2009 through June 30, 2009 (“Expense Period”) in the total sum of \$78,302.93. The fees and costs for which approval is requested are set forth in the summary which the Receiver’s office has prepared entitled “Receiver Administrative Expenses and Fund Balance by Month” attached hereto as Exhibit 1. The fees and costs are

1 further detailed in Exhibits 2 through 6, attached hereto, redacted where appropriate
2 to preserve the attorney-client and attorney-work product privileges and other
3 sensitive information the disclosure of which might adversely affect the
4 receivership estate. Specifically, the Receiver's fees for February 2009 are set forth
5 in Exhibit 2, the Receiver's fees for March 2009 are set forth in Exhibit 3, the
6 Receiver's fees for April 2009 are set forth in Exhibit 4, the Receiver's fees for
7 May 2009 are set forth in Exhibit 5 and the Receiver's fees for June 2009 are set
8 forth in Exhibit 6. The Receiver Administrative Expenses and Fund Balance by
9 Month, Exhibit 1 hereto, identifies the categories of receivership fees and expenses
10 incurred during the period for which approval and payment is sought. The fees and
11 expenses of the Receiver's outside counsel, McKenna Long & Aldridge LLP
12 ("McKenna Firm") are attached to the Declaration of Gary Owen Caris filed in
13 support of the Receiver's motion. As set forth in detail in Exhibits 2 through 6
14 hereto and in the exhibit attached to the Caris Declaration, the Receiver has
15 incurred \$78,302.93 in fees and expenses for the Expense Period, comprised of
16 Receiver's fees and expenses of \$75,332.70 and legal fees and costs of \$2,970.23.

17 4. During the Expense Period, the primary activities of the Receiver and
18 its counsel have focused on the Receiver gaining possession and control of the
19 business and records of the Receivership Defendant, evaluating those records and
20 the Receivership Defendant's business activities and beginning the Receiver's
21 financial analysis and reconstruction of the financial transactions of these entities.
22 In addition, the Receiver addressed administrative issues regarding the
23 Receivership Estate.

24 5. Pursuant to the Temporary Restraining Order, and continuing under
25 the Preliminary Injunction, the Receiver has taken custody, control and possession
26 of the Receivership Defendant's premises at 1505 E. 17th Street, Santa Ana,
27 California, along with all paper documents and electronic data. After recovering
28 these records, the Receiver took measures to ensure that the records were secured.

1 In addition, the Receiver took control of the Receivership Defendant's mail through
2 the U.S. Postal Service.

3 6. After taking possession of the business premises and records, the
4 Receiver conducted an investigation to determine the ownership and management
5 structure of the Receivership Defendant. The Receiver conducted multiple
6 interviews of the Defendants and others in an effort to ascertain how the business
7 operated and to locate documents and other relevant information. The Receiver
8 reviewed and analyzed business and financial records, electronic and physical
9 accounting records, bank account information and records, income and expense
10 records and receipts, transfers of funds to and from the Receivership Defendant,
11 emails, mail, and other documents and recordings of sales telephone calls.

12 7. The Receiver conducted an investigation of the services sold by the
13 Receivership Defendant and the methods employed to market those services. The
14 Receiver analyzed the business operations of the Receivership Defendant, including
15 management and control issues, the nature of services rendered and the personnel
16 engaged in rendering services for the consumer customers of the Receivership
17 Defendant and the results of the services performed for the consumer clients in
18 terms of the number of successful loan modifications obtained. The Receiver
19 interviewed employees of the Receivership Defendant, reviewed mailing and
20 marketing material for the services promoted to consumers, and reviewed scripts
21 for telemarketing used to sell services and to convince consumers to remain as
22 customers. The Receiver listened to recordings of sales people advising consumers
23 about the Receivership Defendant's services, legal team and underwriters. The
24 Receiver also located and reviewed sales and marketing information included in the
25 Receivership Defendant's business records, including scripts for personnel
26 concerning sales calls with consumers. The Receiver also evaluated consumer
27 complaints and requests for refunds.

28 8. During the Expense Period, the Receiver has performed other

1 administrative services in connection with the administration of the receivership
2 estate. The Receiver has addressed issues concerning the employees of the
3 Receivership Defendant and related payroll. The Receiver has notified financial
4 institutions of the receivership and served copies of the Temporary Restraining
5 Order and Preliminary Injunction on the financial institutions where receivership
6 assets may be located. The Receiver also continued to address administrative issues
7 regarding the receivership estate, including responding to consumers' written and
8 telephone inquiries, communicating with the FTC, performing bank reconciliations
9 and maintaining accounting records.

10 9. This motion has been served on all parties to the action. The
11 receivership records indicate that there are potentially hundreds of consumer
12 creditors and 23 non-consumer creditors of the Receivership Defendant who are
13 creditors in this case. If the Receiver is required to give notice to all these creditors,
14 such a requirement would be burdensome, time-consuming and unduly expensive
15 for the receivership estate, including causing the estate to incur substantial
16 photocopying and postage costs. Under the circumstances, and to avoid depleting
17 the receivership estate by excessive expenses for copying and postage, it is
18 reasonable and appropriate to consider this motion based on the modified notice
19 procedure set forth herein.

20 10. The Receiver will cause a copy of this Motion is posted on the
21 Receiver's website at www.robbevans.com/html/nfrelief.html, where interested
22 investors and creditors may review it in its entirety, exclusive of the voluminous
23 time records. The Receiver will also provide copies of the Motion to any interested
24 party upon receipt of a written request which may be directed to the Receiver as set
25 forth in the notice of motion.

26 11. As a member of Robb Evans & Associates LLC, I am familiar with the
27 methods and procedures used by the Receiver and its staff and employees to record
28 the time spent rendering services to receivership estates over which the Receiver

1 has been appointed. The records attached hereto as Exhibits 2 through 6 are
2 regularly prepared by the members, staff and employees of the Receiver at or about
3 the time of the services rendered and each of whom has a business duty to
4 accurately record the information regarding their services set forth in these records.
5 The records are reviewed by the Receiver's accounting staff and summarized in the
6 Receiver Administrative Expenses and Fund Balance by Month, attached hereto as
7 Exhibit 1. Based upon my experience with Robb Evans & Associates LLC, I
8 believe the Receiver's methods and procedures for recording and accounting for
9 time and services for the receivership estates over which Robb Evans and Robb
10 Evans & Associates LLC have been appointed are reliable and accurate.

11 I declare under penalty of perjury that the foregoing is true and correct and
12 that this declaration was executed on October 20, 2009, at Sun Valley,
13 California.

14 

15
16 BRICK KANE

Exhibit 1

Robb Evans & Associates LLC, Receiver of National Foreclosure Relief Inc. et al.
Receiver Administrative Expenses and Fund Balance by Month
 From Inception (February 2, 2009) to June 30, 2009

	Feb 09	Mar 09	Apr 09	May 09	Jun 09	TOTAL
Funds Collected						
Funds Transferred In						
NMC-Reserve balance	0.00	0.00	0.00	33,227.38	0.00	33,227.38
Wells Fargo-NFR-899-0113535	0.00	1,247.00	0.00	0.00	0.00	1,247.00
Wells Fargo-NFR-6375676878	0.00	11,291.09	0.00	0.00	0.00	11,291.09
Wells Fargo-NFR-6375676837	0.00	154,033.27	0.00	0.00	0.00	154,033.27
Wells Fargo-NFR-5763717807	0.00	28.85	0.00	0.00	0.00	28.85
Wells Fargo-NFR-1914590201	0.00	9,537.82	0.00	0.00	0.00	9,537.82
Wells Fargo-NFR-1914161284	0.00	59,152.94	0.00	0.00	0.00	59,152.94
Wells Fargo-NFR-1914161276	30,000.00	7,302.56	0.00	0.00	0.00	37,302.56
Wells Fargo-NFR-7216027743	125,000.00	36,378.57	0.00	0.00	0.00	161,378.57
Total Funds Transferred In	155,000.00	278,972.10	0.00	33,227.38	0.00	467,199.48
Miscellaneous	0.00	30.00	0.00	45.92	166.70	242.62
Total Funds Collected	155,000.00	279,002.10	0.00	33,273.30	166.70	467,442.10
Expense						
Operating Expenses						
Rent	0.00	8,802.50	4,401.25	4,401.25	4,401.25	22,006.25
Security/Alarm	60.00	0.00	60.00	60.00	60.00	240.00
Health insurance	0.00	4,981.00	0.00	0.00	0.00	4,981.00
Computer consultant (Goldmine)	1,425.00	0.00	0.00	0.00	0.00	1,425.00
Payroll	70,687.11	69,408.68	0.00	0.00	0.00	61,278.43
Commission	4,041.50	6,804.27	0.00	0.00	0.00	10,845.77
Notice to Consumers	795.46	0.00	0.00	0.00	0.00	795.46
Miscellaneous	0.00	519.22	0.00	0.00	0.00	519.22
Payroll Processing Charges	794.03	10.00	35.21	0.00	0.00	839.24
Total Operating Expenses	77,803.10	11,708.31	4,496.46	4,461.25	4,461.25	102,930.37
Receiver's Fees & Costs						
Receiver's Fees						
Receiver						
R. Evans	2,754.00	324.00	0.00	97.20	0.00	3,175.20
A. Jen	7,616.70	623.70	94.50	132.30	0.00	8,467.20
B. Kane	13,000.00	175.00	25.00	0.00	75.00	13,275.00
K. Johnson	9,979.20	453.60	113.40	94.50	226.80	10,867.50
V. Miller	9,355.50	189.00	37.80	0.00	0.00	9,582.30
Total Receiver	42,705.40	1,765.30	270.70	324.00	301.80	45,367.20

Robb Evans & Associates LLC, Receiver of National Foreclosure Relief Inc. et al.
Receiver Administrative Expenses and Fund Balance by Month
 From Inception (February 2, 2009) to June 30, 2009

	Feb 09	Mar 09	Apr 09	May 09	Jun 09	TOTAL
Senior & Accounting Staff Fees						
L. Lee	1,323.00	548.10	37.80	56.70	0.00	1,965.60
N. Wolf	1,055.00	1,225.00	700.00	705.00	185.00	3,870.00
Total Senior & Accounting Staff Fees	2,378.00	1,773.10	737.80	761.70	185.00	5,835.60
IT Management						
K. Chapin	1,148.92	66.54	0.00	0.00	0.00	1,215.46
E. Roop	10,150.00	0.00	962.50	0.00	0.00	11,112.50
Total IT Management	11,298.92	66.54	962.50	0.00	0.00	12,327.96
Support Staff	2,592.40	3,138.30	1,548.70	756.70	652.90	8,689.00
Total Receiver's Fees	58,974.72	6,743.24	3,519.70	1,842.40	1,139.70	72,219.76
Receiver's Costs						
Computer Hardware/Software	172.36	0.00	0.00	0.00	0.00	172.36
Postage/Delivery	962.97	166.67	4.03	79.39	0.88	1,213.94
Supplies/Telephone	41.10	22.38	27.03	0.00	17.13	107.64
Travel Expense	1,619.00	0.00	0.00	0.00	0.00	1,619.00
Total Receiver's Costs	2,795.43	189.05	31.06	79.39	18.01	3,112.94
Legal Fees & Costs						
McKenna Long & Aldridge						
Fees	2,727.00	0.00	0.00	0.00	135.00	2,862.00
Costs	108.23	0.00	0.00	0.00	0.00	108.23
Total McKenna Long & Aldridge	2,835.23	0.00	0.00	0.00	135.00	2,970.23
Total Legal Fees & Costs	2,835.23	0.00	0.00	0.00	135.00	2,970.23
Total Receiver's Fees & Costs	64,605.38	6,932.29	3,550.76	1,921.79	1,292.71	78,302.93
Total Expense	142,408.48	18,640.60	8,047.22	6,383.04	5,753.96	181,233.30
Fund Balance	12,591.52	260,361.50	(8,047.22)	26,890.26	(6,587.26)	286,208.80