

1 Gary Owen Caris (CA SBN 088918)
gcaris@btlaw.com
2 **BARNES & THORNBURG LLP**
2029 Century Park East, Suite 300
3 Los Angeles, California 90067
Telephone: (310) 284-3880
4 Facsimile: (310) 284-3894

5 Attorneys for Permanent Receiver
ROBB EVANS & ASSOCIATES LLC

6
7
8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA

10 NATIONSTAR MORTGAGE LLC,
11 Plaintiff,

12 v.

13 PATRICK JOSEPH SORIA, et al.,
14
15 Defendants.
16
17
18
19
20

Case No. 2:18-cv-03041 DSF (RAOx)

**NOTICE OF MOTION AND
MOTION FOR ORDER APPROVING
AND AUTHORIZING PAYMENT OF
RECEIVER’S AND
PROFESSIONAL’S FEES AND
COSTS FROM JUNE 1, 2018
THROUGH SEPTEMBER 30, 2018;
MEMORANDUM OF POINTS AND
AUTHORITIES AND
DECLARATION OF GARY OWEN
CARIS IN SUPPORT THEREOF
[SUPPORTING DECLARATION OF
BRICK KANE FILED
CONCURRENTLY HEREWITH]**

Date: December 17, 2018
Time: 1:30 p.m.
Courtroom: 7D

21
22
23
24 **TO: ALL PARTIES AND THEIR COUNSEL OF RECORD AND TO**
25 **CREDITORS OF THE RECEIVERSHIP ESTATE:**

26 **PLEASE TAKE NOTICE** that on December 17, 2018, at 1:30 p.m. in
27 Courtroom 7D of the above-referenced Court, located at 350 West 1st Street, Los
28

1 Angeles, California 90012, the Permanent Receiver, Robb Evans & Associates
2 LLC (“Receiver”) will move the Court for an order approving and authorizing for
3 payment the receivership fees and costs incurred for the four-month period from
4 June 1, 2018 through September 30, 2018 (“Second Expense Period”). The
5 Receiver specifically moves the Court for an order: (1) approving and authorizing
6 for payment the fees of the Receiver, the Receiver’s members, staff and
7 professionals, and reimbursement of costs, comprised of: (a) Receiver’s fees,
8 including the Receiver’s members and staff, of \$71,119.50 and Receiver’s costs of
9 \$6,375.50, for a total of \$77,495.00; and (b) Receiver’s counsel Barnes &
10 Thornburg LLP’s (“Barnes & Thornburg”) fees of \$214,382.95 and costs of
11 \$5,848.08, for a total of \$220,231.03; and (2) deeming notice of this Motion to be
12 sufficient under Local Rule 66-7 based on the service of this Motion on all parties
13 and certain creditors of the estate, but not on the thousands of potential consumers,
14 lenders, loan servicers, title insurers and other third parties who have been
15 defrauded by the Receivership Defendants.

16 **PLEASE TAKE FURTHER NOTICE** that DNE Associates (“DNE”), an
17 entity which purportedly attempted to purchase the property at 19856 Trotter Lane,
18 Yorba Linda, California, has recently indicated that it intends to seek to intervene in
19 the instant action for the purpose of obtaining funds from the receivership estate
20 recovered by the Receiver from various lawyers in the aggregate amount of
21 \$324,500.00. In the event that DNE obtains an order permitting it to be paid funds
22 from the receivership estate which, after such payment, leaves the amount held by
23 the Receiver below the amount approved and authorized to be paid pursuant to this
24 Motion, the Receiver requests that the Court’s order further provide that Plaintiff
25 shall promptly pay to the Receiver the shortfall, as generally set forth at paragraph
26 6, page 21, of the Order Entering Preliminary Injunction Against Defendants and
27 Appointing a Permanent Receiver (Doc. 46) (“Preliminary Injunction”) entered
28 May 7, 2018.

1 **PLEASE TAKE FURTHER NOTICE** that this Motion is made pursuant to
2 Local Rules 7-4 and 66-7 and paragraph 6, page 21 of the Preliminary Injunction
3 which provides that the Receiver is to file with the Court and serve on the parties
4 periodic requests for the payment of reasonable compensation for the performance
5 of duties pursuant to the Preliminary Injunction and for the costs of actual out-of-
6 pocket expenses incurred by the Receiver from the assets of the Receivership
7 Defendants or Patrick Joseph Soria (“Soria”). This Motion is based upon this
8 Notice of Motion and Motion, the accompanying memorandum of points and
9 authorities and Declaration of Gary Owen Caris, the Declaration of Brick Kane
10 filed concurrently herewith, upon the pleadings, files and records of the Court in
11 this case of which the Receiver requests the Court take judicial notice, and such
12 other and further oral and documentary evidence as may be presented by the
13 Receiver at or prior to the hearing on this Motion.

14 **STATEMENT REGARDING CONFERENCE OF COUNSEL**
15 **PURSUANT TO LOCAL RULE 7-3**

16 The Receiver has conferred with the Plaintiff’s counsel and Soria’s counsel
17 about the Motion. The Receiver has been advised that the Plaintiff does not
18 anticipate filing an objection to the relief sought in the Motion. The Receiver has
19 been advised that Soria does not intend to file an opposition to the Motion. No
20 other parties have defended this action except for *pro per* defendant Rebekah
21 Brown, however defendant Rebekah Brown’s assets are not part of the receivership
22 estate and are not implicated by this Motion, therefore the Receiver has not met and
23 conferred with her. In any event, the relief sought by the Receiver cannot be
24 resolved by the parties as the Court is required to rule on the Motion for the
25 payment of its fees and expenses and those of its counsel under Local Rule 66-7
26 and the Preliminary Injunction as described above. Furthermore, Local Rule 66-7
27 requires that notice of such Motion be served on creditors as well as the parties to
28 the action, rendering the Receiver unable to seek a resolution of the Motion only

1 with the parties to the action.

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

Dated: November 16, 2018

GARY OWEN CARIS
BARNES & THORNBURG LLP

By: /s/ Gary Owen Caris
GARY OWEN CARIS
Attorneys for Permanent Receiver
**ROBB EVANS & 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

TABLE OF CONTENTS

MEMORANDUM OF POINTS AND AUTHORITIES..... 1

I. INTRODUCTION 1

II. SUMMARY OF THE RECEIVER’S SERVICES AND ACTIVITIES DURING THE SECOND EXPENSE PERIOD 4

III. SUMMARY OF THE RECEIVER’S COUNSEL’S SERVICES AND ACTIVITIES DURING THE SECOND EXPENSE PERIOD 8

IV. THE FEES AND COSTS OF THE RECEIVER AND ITS COUNSEL ARE REASONABLE AND SHOULD BE ALLOWED FOR PAYMENT 12

V. NOTICE OF THIS MOTION IS REASONABLE UNDER THE CIRCUMSTANCES AND SHOULD BE APPROVED 14

VI. CONCLUSION 16

DECLARATION OF GARY OWEN CARIS 17

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

TABLE OF AUTHORITIES

Page(s)

Federal Cases

Federal Trade Commission v. Capital Acquisitions & Management Corp.,
2005 U.S. Dist. LEXIS 18504 (N.D. Ill. August 26, 2005) 13

In re First Alliance Mortgage Co.,
269 B.R. 428 (C.D. Cal. 2001) 16

In re San Vicente Medical Partners Ltd.,
962 F. 2d 1402 (9th Cir. 1992) 13

Securities and Exchange Commission v. Elliott,
953 F. 2d 1560 (11th Cir. 1992) 13

Federal Statutes

11 U.S.C.
§ 102(1)(a) 16
§ 105(a) and (d) 16

F. R. Bankr. P. 2002 (m) 16
F.R. Civ. P. 5(a) 16
F.R. Civ. P. 5(c) 16

Local Rule 66-7 15
Local Rule 66-8 16

California Statutes

California Business and Professions Code
§ 17200 1

Other Authorities

2 Clark, Ralph Ewing, *A Treatise on the Law and Practice of
Receivers* § 637 (3rd ed. Rev. 1992) 12

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

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

This lawsuit was commenced by Nationstar Mortgage LLC (“Nationstar” or “Plaintiff”) on April 11, 2018 with a Complaint for Permanent Injunction and claims for relief based upon RICO violations, for cancellation of instruments, violations of the California Business and Professions Code § 17200, violation of the Lanham Act, for tortious interference with contractual relations, and for intentional interference with prospective economic advantage. Plaintiff alleged and described a fraudulent and criminal enterprise masterminded by Patrick Joseph Soria (“Soria”) whereby Soria, and the various named entity Defendants he controlled, hijacked thousands of mortgages and deeds of trust through the recordation of phony assignment documentation, and recorded phony trustee’s deeds purporting to take ownership of real property following purported, but fictitious, foreclosure sales. Soria and the named entity Defendants fraudulently claimed to be helping homeowners in financial distress by falsely claiming that they had taken ownership of the homeowners’ real property-secured loans and induced these homeowners into making payments to the Defendant entities instead of the actual lenders. Based on information obtained and reviewed by the Plaintiff, there may be in excess of 2,300 affected properties nationwide as a result of Defendants’ scam.

The Receiver was appointed Temporary Receiver pursuant to the Court’s Order Granting Plaintiff Nationstar Mortgage LLC’s *Ex Parte* Application for a Temporary Restraining Order With Asset Freeze; Order to Show Cause Why Preliminary Injunction Should Not Issue; Granting Nationstar Mortgage LLC’s *Ex Parte* Application for an Appointment of Temporary Receiver and Other Equitable Relief; and Order to Show Cause Why a Permanent Receiver Should Not Be Appointed (Doc. 20) (“TRO”) issued on April 23, 2018. Under the TRO, the Receiver was named Temporary Receiver over “Receivership Defendants” West H&A, LLC; Warranted Effectuation of Substitute Transferee Inc.; Westwood

1 Legal; Westward Legal; Brighton Legal Group, PC; BLG PC National By Brighton
2 Legal Group, Inc.; Deutsche Mellon National Asset, LLC; Christiana Wilmington
3 Global Asset Corp.; HBSC US in its Capacity as Legal Title Holder Incorporated;
4 and Camden Legal Group, PC.

5 Thereafter, on May 1, 2018, while still Temporary Receiver, the Receiver
6 brought its *Ex Parte* Application for Order Modifying Temporary Restraining
7 Order and Order Appointing a Temporary Receiver (Doc. 29) (“Application to
8 Modify TRO”). In the Application to Modify TRO, the Receiver demonstrated that
9 Soria had failed to cooperate with the Receiver or to provide any information
10 necessary for the Receiver to begin the task of marshalling assets for Plaintiff and
11 other defrauded third parties. Soria refused to communicate with the Receiver, or
12 provide any information concerning the location of and access to electronic and
13 paper accounting records for the Receivership Defendants (as defined in the TRO),
14 the location of business operations for the Receivership Defendants, the locations of
15 and access to all electronic and paper records pertaining to consumers, and other
16 pertinent and critical information. The Receiver described Soria’s and the
17 Receivership Defendants’ pattern and practice of establishing a multiplicity of
18 confusing entities, for the apparent purpose of creating confusion and hiding assets.
19 The Application to Modify TRO therefore sought to expand the definition of
20 Receivership Defendants to include “any subsidiaries, affiliates, successors and
21 assigns of any of the foregoing, any entities owned or controlled by any of the
22 foregoing, any entities owned or controlled by Defendant Patrick Joseph Soria, any
23 fictitious business names created by or used by any of the foregoing, individually,
24 collectively, or in any combination, and the assets of Patrick Joseph Soria.” The
25 Court granted the Application to Modify TRO on May 1, 2018 pursuant to its Order
26 Granting *Ex Parte* Application for Order Modifying Temporary Restraining Order
27 and Order Appointing a Temporary Receiver (Doc. 30) (“Order Modifying TRO”).
28

1 On May 7, 2018, the Court entered the Preliminary Injunction, which defined
2 Receivership Defendants as that term was expanded in the Order Modifying TRO,
3 and made Robb Evans & Associates LLC the Permanent Receiver.

4 Pursuant to the Preliminary Injunction, the Receiver filed its initial request
5 for compensation on July 10, 2018 (Doc. 151). The Court granted the initial
6 request for compensation by Order entered August 27, 2018 (Doc. 205). This
7 Motion is the second request for compensation and covers the four-month period
8 from June 1, 2018 through September 30, 2018 (“Second Expense Period”).

9 As evidenced by the detailed billing records which accompany the
10 Declarations of Brick Kane and Gary Owen Caris in support of the Motion, the
11 Second Expense Period required the Receiver and its counsel to perform a
12 substantial, time-sensitive and wide-ranging amount of work, including conducting
13 a forensic accounting analysis of bank records and other documentation obtained
14 from third parties through substantial discovery efforts; engaging in extensive
15 communications with counsel for the parties, as well as counsel for the victims of
16 the fraudulent conduct of Soria and the Receivership Defendants and the victims
17 themselves, including lenders, loan services and consumers; assisting Plaintiff and
18 third parties in rescinding numerous fraudulent real estate documents; and making
19 demand on and recovering, either by agreement or as a result of litigation efforts,
20 from several third parties who were transferees of assets of the receivership estate
21 or who were otherwise considered responsible in some way for Soria’s
22 misappropriation of estate assets. This all occurred with little, if any, cooperation
23 from Soria and with substantial resistance from third parties who were complicit in
24 Soria’s misconduct. Unlike the typical federal equity receivership, the Receiver
25 had no business premises to take over and no paper or electronic accounting records
26 to access at the outset of the receivership. It began its work with only a limited
27 amount of information concerning the Receivership Defendants’ bank accounts and
28 tax identification numbers. Despite the challenges and obstacles, the Receiver and

1 its counsel have been extremely successful in recovering \$532,234.23 between July
2 1, 2018 and the filing of the instant Motion, with the significant assistance of the
3 Plaintiff. The work done in the Second Expense Period was extremely challenging,
4 but has been very successful. The services of the Receiver and its counsel are
5 summarized separately below and described in the detailed billing records attached
6 as exhibits to the Kane and Caris declarations.

7 **II. SUMMARY OF THE RECEIVER’S SERVICES AND**
8 **ACTIVITIES DURING THE SECOND EXPENSE PERIOD**

9 The Receiver seeks approval and authorization for payment of the Receiver’s
10 fees and costs summarized in the Receiver Administrative Expenses and Fund
11 Balance spreadsheet (“Financial Summary”) attached as Exhibit 1 to the
12 Declaration of Brick Kane in support of this Motion, together with the detailed
13 billing records of the Receiver attached collectively to Kane’s declaration as
14 Exhibit 2.¹ During the Second Expense Period, the Receiver has incurred fees for
15 the Receiver and its members of \$47,234.00, senior staff fees of \$22,661.50, and
16 support staff fees of \$1,224.00, for total Receiver’s fees of \$71,119.50. The
17 Receiver’s costs during the Second Expense Period total \$6,375.50 and are detailed
18 in the Financial Summary.

19 As noted above, the Receiver undertook a wide range of activities during the
20 Second Expense Period. Brick Kane, the President and Chief Operating Officer of
21 Robb Evans & Associates LLC, went on two trips to the Waldorf Astoria in
22 Beverly Hills pursuant to Court orders in an effort to gain access to Soria’s suite
23 where he had been residing. Ultimately, the Receiver’s counsel was successful in

24 _____
25 ¹ As explained in the Caris declaration, the bills have been redacted where appropriate to preserve
26 confidential, sensitive, tactical, strategic, attorney-client privileged and/or attorney work-product
27 information. In the Court’s Order issued on August 10, 2018 (Doc. 190) in connection with the
28 initial compensation motion filed by the Receiver, the Court stated: “In order for the Court to
properly evaluate the requested fees, the Court requires that an unredacted version of the billings
be submitted under seal and in camera.” Therefore, pursuant to that Order, the Receiver
concurrently files under seal an unredacted copy of the billings.

1 gaining access to the suite on a third trip to the Waldorf Astoria over a two-day
2 period, as well as gaining access to and recovering Soria's personal property assets.
3 Included in the initial personal property recovered by the Receiver's counsel on the
4 third trip to the Waldorf Astoria was a large batch of mail, including checks,
5 addressed to entities unrelated to Soria and the Receivership Defendants. The mail,
6 including checks, was addressed to locations where the Receivership Defendants
7 maintained virtual offices and appeared to have been stolen by Soria from unrelated
8 third parties. The Receiver communicated with various third parties to confirm that
9 their mail had been stolen.

10 After access was finally permitted on the third trip, the Receiver coordinated
11 with the owner of the Waldorf Astoria in Beverly Hills, Hilton Domestic Operating
12 Company, Inc. ("Hilton") and its counsel to obtain the balance of Soria's clothing,
13 jewelry and rented luxury automobiles located there and at the adjacent Hilton
14 property in Beverly Hills where Soria intended to relocate. The Receiver
15 coordinated the return of the luxury automobiles and began the process of
16 attempting to return unused clothing and jewelry recently purchased in cash by
17 Soria from Barney's New York ("Barney's") located in Beverly Hills. After
18 initially being met with resistance from Barney's, the Receiver's counsel began
19 negotiations directly with Barney's counsel, which ultimately led to the successful
20 return of new clothing and jewelry in exchange for a payment of \$60,003.81. This
21 amount was virtually the entire purchase price of the returned merchandise, with a
22 reduction of less than \$2,000 as a restocking fee for certain of the jewelry items.

23 The Receiver subsequently assisted its counsel in efforts made to demand
24 funds from Hilton in connection with its misconduct in preventing the Receiver
25 access to Soria's suite at the Waldorf Astoria and to prepare a response to the status
26 report prepared by the Hilton pursuant to the Court's Order. The Receiver
27 demonstrated the significant misconduct by senior employees of the Waldorf
28 Astoria, with the substantial assistance of Plaintiff. On September 18, 2018, the

1 Court issued an order (Doc. 235) which, among other things, required Hilton to pay
2 \$125,064 to the Receiver, which included reimbursement for Receiver's fees and
3 expenses, and those of its counsel, of \$25,064. The \$125,064 was paid timely by
4 Hilton in October 2018, after the end of the Second Expense Period.

5 During this period, the Receiver successfully completed its efforts to gain
6 control of the Receivership Defendants' e-mail and domain names that were housed
7 in the cloud by Creative Note, Inc. and its principal, Steve Median, aided by
8 Plaintiff obtaining an order to show cause as to why Creative Note and Median
9 should not be held in contempt of Court shortly before the beginning of the Second
10 Expense Period.

11 During the Second Expense Period, the Receiver undertook a detailed asset
12 tracing as it related to two parcels of real estate fraudulently hijacked by the
13 Receivership Defendants and purportedly sold by them, one in Frisco, Texas and
14 one at 19856 Trotter Lane, Yorba Linda, California ("Trotter Property"). This
15 detailed asset tracing was reported to the Court in the Report of Receiver's Asset
16 Tracing Dated July 27, 2018 ("Receiver's Report") and included a reconstruction of
17 several of Garson Silvers' ("Silvers") bank accounts. The forensic analysis
18 prepared by the Receiver regarding the Trotter Property was utilized extensively by
19 Receiver's counsel in making demand on and ultimately successfully recovering a
20 total of \$324,500 from three different law firms which were some of the recipients
21 of the funds, including \$80,000 from Fischbach & Fischbach ("Fischbach"),
22 \$59,500 from Benjamin Sternberg ("Sternberg") and \$185,000 from Leech
23 Tishman Fuscaldo & Lampl ("Leech Tishman").

24 In addition to the detailed asset tracing, the Receiver's Report also contained
25 results concerning the Receiver's analysis of documents subpoenaed from 3rd & La
26 Cienega Financial, LLC ("3rd & La Cienega"), a check cashing company. This
27 analysis disclosed, among other things, that Soria cashed checks from consumers
28 that were intended to be applied to their mortgages, and confirmed that Soria had

1 altered stolen checks which were recovered from his belongings stored at the
2 Waldorf Astoria, as discussed above.

3 The Receiver developed strategies with respect to the discovery of
4 documents from Joseph Hart, one of the Receivership Defendants pre-receivership
5 counsel, which helped uncover key pieces of the information described in the
6 Receiver's Report. The Receiver also participated in a telephone interview with
7 Hart. During the Second Expense Period, the Receiver with the assistance of its
8 counsel, entered into an interim agreement with Hart, through his attorney, whereby
9 the Receiver deferred any deposition of Hart for a short period of time in exchange
10 for the payment of \$15,638.52, all remaining sums Hart had in his possession
11 related to Soria and the Receivership Defendants.

12 In order to complete the asset tracing described in the Receiver's Report as
13 well as to undertake additional forensic analyses, the Receiver consulted with its
14 counsel and developed discovery strategies for numerous document and deposition
15 subpoenas during the Second Expense Period. The Receiver analyzed the
16 documents which were produced, some of which are reflected in the Receiver's
17 Report.

18 During the Second Expense Period, the Receiver also spent significant
19 amounts of time communicating with Plaintiff's counsel over a variety of
20 receivership issues and asset collection strategies. It also communicated with
21 Plaintiff's counsel and Soria's counsel over issues related to Soria's compliance
22 with the Court's Order finding Soria and certain entity Receivership Defendants in
23 contempt (Doc. 107) ("Contempt Order"), including providing the Receiver access
24 to a second cell phone Soria acquired shortly after the Contempt Order and access
25 to a previously undisclosed location in Westwood, California where Soria and the
26 Receivership Defendants had conducted business operations.

27 The Receiver also spent significant amounts of time communicating with
28 defrauded consumers, lenders and loan servicers. The Receiver also assisted those

1 parties by executing various rescission documents and stipulated judgments, when
2 requested and appropriate to do so, and after review by Receiver's counsel of the
3 proposed documentation to be executed. Since the inception of the receivership
4 estate through mid-October, the Receiver has executed stipulated judgments and/or
5 rescission documents in connection with at least 69 properties nationwide for the
6 benefit of at least 12 entities, including the Plaintiff and one defrauded consumer.
7 During that time frame, the Receiver or its counsel have received proposed
8 stipulated judgments in connection with another 14 properties.

9 Throughout the Second Expense Period, the Receiver also reviewed the
10 litigation papers prepared by counsel for the parties, including pleadings regarding
11 the Plaintiff's request for a cost-sharing order. The Receiver also attended the June
12 6, 2018 Court hearing at which Soria was ordered incarcerated, as well as the
13 August 6 and August 27, 2018 status hearings on Soria's contempt. It also assisted
14 its counsel in preparing a status report (Doc. 259) regarding Soria's compliance
15 with the Contempt Order, as directed by the Court at the August 27 hearing.

16 **III. SUMMARY OF THE RECEIVER'S COUNSEL'S SERVICES**
17 **AND ACTIVITIES DURING THE SECOND EXPENSE PERIOD**

18 The Receiver also seeks payment of its counsel's fees and expenses
19 summarized in the Financial Summary, Exhibit 1 to the Kane declaration, and set
20 forth in the detailed billing records of Barnes & Thornburg, attached collectively as
21 Exhibit 1 to the Caris declaration. During the Second Expense Period, the Receiver
22 incurred fees to Barnes & Thornburg of \$214,382.95 and costs of \$5,848.08.

23 The Receiver's counsel, Barnes & Thornburg, performed an extensive
24 amount of work during the Second Expense Period, some of which is generally
25 described in the preceding section of this Motion.

26 During the Second Expense Period, the Receiver prepared at least 12
27 document subpoenas to a variety of banks and other third parties, including 3rd &
28 La Cienega, as well as other persons and entities believed to be heavily involved in

1 Soria's and the Receivership Defendants' fraudulent activities. Not all subpoenas
2 were successfully served as a result of the evasiveness and lack of valid addresses
3 for certain of the purported entities. However, many of the subpoenas yielded
4 significant and valuable documentation which enabled the Receiver to prepare its
5 tracing analysis reflected in the Receiver's Report and has led to substantial
6 recoveries for the estate.

7 The Receiver's counsel made three trips to the Waldorf Astoria over a two-
8 day period, which ultimately led to the recovery of substantial amounts of personal
9 property, some of which uncovered further fraudulent and/or criminal activity
10 including mail theft and check alteration and some of which led to the return of
11 unused clothing and jewelry to Barney's. However, Barney's initially refused the
12 Receiver's attempt to return the merchandise, claiming that the return was untimely
13 under its return policies. The Receiver's counsel then became involved, making
14 demand directly on counsel for Barney's and providing Barney's with various
15 requested documentation, including documentation recovered from Soria's personal
16 property located at the Waldorf Astoria. The Receiver's counsel was able to
17 quickly resolve the matter with Barney's, resulting in a recovery of \$60,003.81
18 from Barney's for the return of unused clothing and jewelry, which was the full
19 retail price paid by Soria less an amount under \$2,000 described as a restocking fee
20 for certain of the merchandise.

21 The Receiver and its counsel also had numerous communications with
22 counsel for Hilton concerning its employees' misconduct in connection with
23 protecting Soria and preventing the Receiver and its counsel from being given
24 access to Soria's suite during their first two trips to the Waldorf Astoria. This
25 resulted in a demand made by Receiver's counsel. When the demand was ignored
26 and Hilton filed a status report concerning its purported compliance with the
27 Court's order, the Receiver's counsel prepared a detailed response with the
28 Receiver's assistance. As set out above, the Court ultimately ordered Hilton to pay

1 the Receiver \$125,064, which was timely paid after the end of the Second Expense
2 Period.

3 During the Second Expense Period, the Receiver's counsel subpoenaed
4 documents from Joseph Hart and along with the Receiver conducted a telephone
5 interview with Hart. Thereafter, Receiver's counsel communicated with Hart's
6 lawyer about Hart's potential deposition. The Receiver, through counsel,
7 negotiated an interim agreement whereby Hart turned over all remaining funds held
8 in trust for the Receivership Entities and/or Soria totaling \$15,638.52 in exchange
9 for the Receiver's agreement to defer Hart's deposition for a limited period of time.

10 During the Second Expense Period, the Receiver's counsel made demand on
11 various lawyers for return of receivership assets, which demand included a detailed
12 explanation with supporting documentary evidence why the money was required to
13 be returned to the receivership estate. All of the funds belonging to the receivership
14 estate which was routed to Hart, then turned over to Silvers, and then paid to three
15 different law firms, was demanded: \$80,000 from Fischbach, \$59,500 from
16 Sternberg, and \$185,000 from Leech Tishman. After communications back and
17 forth, Fischbach ultimately agreed to return the entire \$80,000 sum to the Receiver
18 and Sternberg agreed to return the entire \$59,500 sum. The Receiver's counsel
19 prepared stipulations with Fischbach and Sternberg, which were executed and
20 presented to the Court with proposed orders. The stipulations were approved by
21 Court orders and these amounts were recovered by the Receiver during the Second
22 Expense Period.

23 Leech Tishman declined to turn over the \$185,000 amount and during the
24 Second Expense Period the Receiver's counsel prepared and filed a detailed
25 turnover motion for this amount. After the end of the Second Expense Period, the
26 Court issued an Order (Doc. 289) granting the turnover motion in its entirety, and
27 Leech Tishman timely paid to the Receiver \$185,000 pursuant to the Court's order
28 on November 13, 2018.

1 The Receiver's counsel also subpoenaed Silvers for deposition. At Silvers'
2 and his counsel's request, the deposition was rescheduled twice. The Receiver's
3 counsel eventually prepared for and took the deposition of Silvers, conducted in
4 two sessions. Silvers largely, although not exclusively, invoked his Fifth
5 Amendment privilege against self-incrimination during the deposition.

6 The Receiver's counsel also attended three Court hearings during the Second
7 Expense Period, on June 6, August 6, and August 27, 2018. At the first hearing,
8 Soria was ordered incarcerated. The latter two hearings were status hearings with
9 respect to Soria's contempt. Counsel for the Receiver also reviewed a detailed e-
10 mail prepared by counsel for Soria purporting to show that Soria had purged his
11 contempt. Receiver's counsel also prepared a status report on Soria's contempt as
12 ordered by the Court, which was filed on September 26, 2018, which among other
13 things addressed and contested the e-mail prepared by counsel for Soria purporting
14 to show that he purged his contempt.

15 The Receiver's counsel also prepared the Receiver's initial motion for
16 approval and authorization for payment of the Receiver's and its counsel's fees and
17 costs for the period from the inception of the receivership through May 31, 2018 as
18 well as supplemental pleadings required by the Court in connection with that
19 motion. The motion was granted as requested.

20 The Receiver's counsel assisted in reviewing and revising the Receiver's
21 Report. It also reviewed the various pleadings filed by the Plaintiff and Soria in the
22 detail required and to the extent relevant to the Receiver and the receivership estate.

23 Throughout the Second Expense Period, the Receiver's counsel had
24 extensive written and telephone communications with counsel for the Plaintiff and
25 counsel for Soria regarding a panoply of receivership issues. The Receiver's
26 counsel also had extensive written and telephone communications with counsel for
27 numerous lenders, loan servicers and consumers which led to the review and
28 execution of numerous rescission documents and stipulations for judgment as

1 generally described in the preceding section of this Motion.

2 **IV. THE FEES AND COSTS OF THE RECEIVER AND ITS**
3 **COUNSEL ARE REASONABLE AND SHOULD BE ALLOWED**
4 **FOR PAYMENT**

5 It is a fundamental tenet of receivership law that expenses of administration
6 incurred by the receiver, including those of the receiver, his counsel and others
7 employed by him, constitute priority expenses for which compensation should be
8 paid from the assets of the receivership. As explained in the leading treatise *Clark*
9 *on Receivers*:

10 The obligations and expenses which the court creates in
11 its administration of the property are necessarily burdens
12 on the property taken possession of, and this, irrespective
13 of the question who may be the ultimate owner, or who
14 may have the preferred lien, or who may invoke the
15 receivership. The appointing court pledges its good faith
16 that all duly authorized obligations incurred during the
17 receivership shall be paid.

18 2 Clark, Ralph Ewing, *A Treatise on the Law and Practice of Receivers* § 637, p.
19 1052 (3rd ed. Rev. 1992).

20 The Receiver is an officer of the Court charged with a myriad of duties under
21 the Court's TRO and Preliminary Injunction. In this case, many of those duties had
22 no relationship to the recovery of assets or increasing the funds available for
23 distribution to Plaintiff or others that have been defrauded by Soria and the
24 Receivership Defendants and were focused on assisting lenders, loan servicers, and
25 consumers adversely affected by Soria's and the Receivership Defendants'
26 misconduct. Because of the nature of the administrative and other services required
27 in receiverships, the benefit a receiver confers on receivership property cannot be
28 determined based solely on the increase or decrease in the value of property in the

1 receiver's possession. As the Court explained in *Securities and Exchange*
2 *Commission v. Elliott*, 953 F. 2d 1560, 1577 (11th Cir. 1992):

3 [I]t is sometimes difficult to ascertain what type of
4 benefits a receiver has bestowed on receivership property
5 [A] benefit to a secured party may take more subtle
6 forms than a bare increase in monetary value. Even
7 though a receiver may not have increased, or prevented a
8 decrease in, the value of the collateral, if a receiver
9 reasonably and diligently discharges his duties, he is
10 entitled to compensation. [Citations omitted.]

11 *Securities and Exchange Commission v. Elliott*, 953 F. 2d at 1577.

12 The Court has broad discretion in determining the reasonableness of fees to
13 be awarded a receiver. *See In re San Vicente Medical Partners Ltd.*, 962 F. 2d
14 1402, 1409-1410 (9th Cir. 1992). The Court may evaluate the time and effort
15 expended by the Receiver with respect to specific projects and aspects of the
16 administration of the estate, and may look to a number of different factors under the
17 case law in approving receiver's and counsel's fees. *In re San Vicente Medical*
18 *Partners Ltd.*, 962 F. 2d at 1409-1410.

19 During the Second Expense Period, the Receiver and its professionals have
20 performed extensive and wide-ranging tasks that in several instances resulted in a
21 direct pecuniary benefit and recovery for the estate. While starting with no funds at
22 the beginning of the Second Expense Period, the actions of the Receiver and its
23 counsel have led directly to the recovery of \$532,234.23 since July 2018, as
24 described herein. This Motion establishes that the Receiver, its members, staff and
25 professionals rendered reasonable, necessary and excellent services for the
26 receivership estate during the Second Expense Period that were highly beneficial to
27 the estate and the parties in interest. *See Federal Trade Commission v. Capital*
28 *Acquisitions & Management Corp.*, 2005 U.S. Dist. LEXIS 18504 (N.D. Ill. August

1 26, 2005). The Receiver submits the fees are reasonable in light of the services
2 rendered, and that the fees and expenses requested should be awarded in their
3 entirety.

4 Including the recovery of \$125,064 from Hilton and \$185,000 from Leech
5 Tishman after the end of the Second Expense Period, the Receiver now has on hand
6 sufficient funds to pay all of the requested fees and costs that have been incurred
7 through September 30, 2018 and leave the estate with an additional \$100,350.43.²
8 However, recently DNE Associates (“DNE”), an entity claiming to be the
9 defrauded purchaser with respect to the Trotter Property, has contacted the Receiver
10 and advised the Receiver that it intends to seek to intervene in the instant action and
11 to seek an order directing that the Receiver pay to it from the assets of the
12 receivership estate all or some portion of the \$324,500 which the Receiver
13 recovered from Fischbach, Sternberg and Leech Tishman. The Receiver does not
14 concede that all or any portion of the recovered funds rightfully belong to DNE and
15 information is still being gathered in connection with DNE’s contentions.
16 However, to the extent that DNE obtains an order permitting it to be paid funds
17 from the receivership estate which, after such payment, leaves the amount held by
18 the Receiver below the amount approved and authorized to be paid pursuant to this
19 Motion, the Receiver requests that the Court order that Plaintiff shall promptly pay
20 to the Receiver the shortfall, as generally set forth at paragraph 6, page 21 of the
21 Preliminary Injunction.

22 **V. NOTICE OF THIS MOTION IS REASONABLE UNDER THE**
23 **CIRCUMSTANCES AND SHOULD BE APPROVED**

24 Local Rule 66-7 provides for service of notice of the hearing on various
25 motions by a receiver, including a motion for fees. That Rule provides for service
26 of the notice of the hearing on such motions by mail on all known creditors of the

27 _____
28 ² The fees and expenses awarded pursuant to the initial compensation motion have been
previously paid.

1 defendants. The Receiver is serving the Motion on the parties and certain creditors
2 of the estate pursuant to Local Rule 66-7 other than defrauded consumers, lenders,
3 loan servicers, title insurers and other third parties.

4 In this case, there may be an extremely large number of potential consumer
5 creditors who may have claims against the Receivership Defendants given that
6 more than 1,200 consumers are listed in its LoanPost database and given further
7 that the Plaintiff's investigation and review of voluminous emails discloses that the
8 total amount of affected properties may exceed 2,300. However, it is not
9 realistically possible or beneficial to the estate and its creditors for the Receiver to
10 serve all such potential consumer creditors, or the lenders, loan servicers and other
11 defrauded parties with potential claims with this Motion or other administrative
12 motions by mail, and the expense and burden on the estate of attempting to
13 effectuate such service would be prohibitively costly and cause undue
14 administrative expense.

15 Based on the foregoing, the Receiver seeks an order providing that the notice
16 requirement of Rule 66-7 shall be deemed satisfied by serving copies of all Motion
17 papers on the parties to this action, as provided in the Preliminary Injunction, and
18 on third party creditors other than consumers and other third parties who were
19 defrauded by Soria and the Receivership Defendants. As additional notice, the
20 Receiver will post the Motion and supporting papers, without voluminous time
21 records attached, on the Receiver's website at robbevans.com where the Receiver
22 conspicuously posts pertinent Court filings and other documents for this case.

23 Such service provides sufficient notice to the interested parties and should be
24 approved. The Court has authority, as a court of equity supervising a federal equity
25 receivership, to issue such an administrative order approving this notice. *See* F.R.
26 Civ. P. 5(a) and (c) (authorizing the Court to modify service procedures when
27 numerous defendants are involved in litigation); Local Rule 66-8 (receiver to
28 administer receivership estates "as nearly as possible in accordance with the

1 practice in the administration of estates in bankruptcy”); *In re First Alliance*
2 *Mortgage Co.*, 269 B.R. 428, 442 (C.D. Cal. 2001)(referencing in *dicta* in the
3 Court’s recitation of facts the bankruptcy court’s order limiting notice issued in that
4 case); 11 U.S.C. §102(1)(a) (defining the phrase “after notice and a hearing” to
5 mean “after such notice as is appropriate in the particular circumstances, and such
6 opportunity for hearing as is appropriate in the particular circumstances”); 11
7 U.S.C. §105(a) and (d) (granting broad equitable powers to the court to issue orders
8 “necessary or appropriate to carry out the provisions” of Title 11 including
9 “prescribing such limitations and conditions as the court deems appropriate to
10 ensure the case is handled expeditiously and economically”); and F. R. Bankr. P.
11 2002 (m) (authorizing the court to enter “orders designating the matters in respect
12 to which, the entity to whom, and the form and manner in which notices shall be
13 sent except as otherwise provided by these rules”). The Court approved this same
14 scope of notice in the Receiver’s initial motion for compensation.

15 **VI. CONCLUSION**

16 Based on the Motion, and the supporting declarations of Brick Kane and
17 Gary Owen Caris, along with the exhibits attached thereto, it is respectfully
18 requested that the Court grant the Motion in its entirety, and approve and authorize
19 for payment the fees and expenses of the Receiver and its counsel Barnes &
20 Thornburg as set forth herein.

21 Dated: November 16, 2018

GARY OWEN CARIS
BARNES & THORNBURG LLP

22 By: /s/ Gary Owen Caris
23 GARY OWEN CARIS
24 Attorneys for Permanent Receiver
25 **ROBB EVANS & ASSOCIATES**
26 **LLC**

DECLARATION OF GARY OWEN CARIS

1
2 1. I am an attorney at law duly licensed to practice before all courts of
3 the State of California and the United States District Court for the Central District
4 of California. I am a partner in the law firm of Barnes & Thornburg LLP (“Barnes
5 & Thornburg”). At all relevant times, I have been the attorney primarily
6 responsible for representing Robb Evans & Associates LLC (“Receiver”) as the
7 Receiver in this matter and its lead counsel. I have personal knowledge of the
8 matters set forth in this declaration and if I were called upon to testify as to these
9 matters I could and would competently testify thereto.

10 2. Attached hereto collectively as Exhibit 1 are copies of the billing
11 records for the attorneys and paralegals at Barnes & Thornburg who performed
12 work on this matter during the period from June 1, 2018 through September 30,
13 2018 (“Second Expense Period”). During the Second Expense Period, the Receiver
14 has incurred attorneys’ fees of \$214,382.95 and costs of \$5,848.08, for a total of
15 \$220,231.03. The billing records itemize and detail the hours spent and the work
16 performed by those attorneys and paralegals rendering services on this matter. The
17 time records, Exhibit 1, as well as the time records for the Receiver, its members
18 and staff, have been redacted by me where appropriate to preserve descriptions
19 containing confidential, sensitive, tactical, strategic, attorney-client privileged and
20 or work-product information. In the Court’s Order entered August 10, 2018 (Doc.
21 190) in connection with the Receiver’s initial fee motion, the Court stated: “In order
22 for the Court to properly evaluate the requested fees, the Court requires that an
23 unredacted version of the billings be submitted under seal and in camera.”
24 Therefore, pursuant to that Order, I am causing to be filed under seal an unredacted
25 set of the Receiver’s and my firm’s billings in support of this Motion.

26 3. Barnes & Thornburg performed an extensive amount of work during
27 the Second Expense Period. During the Second Expense Period, Barnes &
28 Thornburg prepared at least 12 document subpoenas to a variety of banks and other

1 third parties, as well as other persons and entities believed to be heavily involved in
2 Soria's and the Receivership Defendants' fraudulent activities. Not all subpoenas
3 were successfully served as a result of the evasiveness and lack of valid addresses
4 for certain of the purported entities. However, many of the subpoenas yielded
5 significant and valuable documentation which enabled the Receiver to prepare its
6 tracing analysis reflected in the Report of Receiver's Asset Tracing Dated July 27,
7 2018 ("Receiver's Report") and has led to substantial recoveries for the estate.

8 4. During the Second Expense Period, I made three trips to the Waldorf
9 Astoria over a two-day period, which ultimately led to the recovery of substantial
10 amounts of personal property, some of which uncovered further fraudulent and/or
11 criminal activity including mail theft and check alteration and some of which led to
12 the return of unused clothing and jewelry to Barney's New York located in Beverly
13 Hills ("Barney's"). However, Barney's initially refused the Receiver's attempt to
14 return the merchandise, claiming that the return was untimely under its return
15 policies. I made demand directly on counsel for Barney's and provided Barney's
16 with various requested documentation, including documentation recovered from
17 Soria's personal property located at the Waldorf Astoria. The Receiver's counsel
18 was able to quickly resolve the matter with Barney's, resulting in a recovery of
19 \$60,003.81 from Barney's for the return of unused clothing and jewelry, which was
20 the full retail price paid by Soria less an amount under \$2,000 described as a
21 restocking fee for certain of the merchandise.

22 5. The Receiver and I also had numerous communications with counsel
23 for Hilton concerning its employees' misconduct in connection with protecting
24 Soria and preventing the Receiver and me from being given access to Soria's suite
25 during our first two trips to the Waldorf Astoria. This resulted in a demand made
26 by Barnes & Thornburg. When the demand was ignored and Hilton filed a status
27 report concerning its purported compliance with the Court's Order, Barnes &
28 Thornburg prepared a detailed response with the Receiver's assistance. The Court

1 ultimately ordered Hilton to pay the Receiver \$125,064, which was timely paid
2 after the end of the Second Expense Period.

3 6. During the Second Expense Period, Barnes & Thornburg subpoenaed
4 documents from Joseph Hart and along with the Receiver conducted a telephone
5 interview with Hart. Thereafter, I communicated with Hart's lawyer about Hart's
6 potential deposition. The Receiver, through counsel, negotiated an interim
7 agreement whereby Hart turned over to the Receiver all remaining funds he held in
8 trust for the Receivership Entities and/or Soria totaling \$15,638.52 in exchange for
9 the Receiver's agreement to defer Hart's deposition for a limited period of time.

10 7. The Receiver undertook a detailed asset tracing as it related to a parcel
11 of real estate at 19856 Trotter Lane, Yorba Linda, California ("Trotter Property")
12 fraudulently hijacked by the Receivership Defendants and purportedly sold by
13 them. In connection with the Trotter Property transaction, during the Second
14 Expense Period Barnes & Thornburg made demand on various lawyers for return of
15 receivership assets, which demand included a detailed explanation with supporting
16 documentary evidence why the money was required to be returned to the
17 receivership estate. All of the funds belonging to the receivership estate which was
18 routed to Hart, then turned over to Garson Silvers ("Silvers"), and then paid to three
19 different law firms, was demanded: \$80,000 from Fischbach & Fischbach
20 ("Fischbach"), \$59,500 from Benjamin Sternberg ("Sternberg"), and \$185,000 from
21 Leech Tishman Fuscaldo & Lampl ("Leech Tishman"). After Receiver's counsel
22 engaged in numerous communications, Fischbach ultimately agreed to return the
23 entire \$80,000 sum to the Receiver and Sternberg agreed to return the entire
24 \$59,500 sum. The Receiver's counsel prepared stipulations with Fischbach and
25 Sternberg, which were executed and presented to the Court with proposed orders.
26 The stipulations were approved by Court orders and these amounts were recovered
27 by the Receiver during the Second Expense Period.

1 8. Leech Tishman declined to turn over the \$185,000 amount and during
2 the Second Expense Period the Receiver's counsel prepared and filed a detailed
3 turnover motion for this amount. After the end of the Second Expense Period, the
4 Court issued an Order granting the turnover motion in its entirety, and Leech
5 Tishman timely paid to the Receiver \$185,000 pursuant to the Court's order on
6 November 13, 2018.

7 9. Barnes & Thornburg also subpoenaed Silvers for deposition. At
8 Silvers' and his counsel's request, the deposition was rescheduled twice. The
9 Receiver's counsel eventually prepared for and took the deposition of Silvers,
10 conducted in two sessions. Silvers largely, although not exclusively, invoked his
11 Fifth Amendment privilege against self-incrimination during the deposition.

12 10. I also attended three Court hearings during the Second Expense Period,
13 on June 6, August 6, and August 27, 2018. At the first hearing, Soria was ordered
14 incarcerated. The latter two hearings were status hearings with respect to Soria's
15 contempt. Counsel for the Receiver also reviewed a detailed e-mail prepared by
16 counsel for Soria purporting to show that Soria had purged his contempt.
17 Receiver's counsel also prepared a status report on Soria's contempt as ordered by
18 the Court, which was filed on September 26, 2018, which among other things
19 addressed and contested the e-mail prepared by counsel for Soria purporting to
20 show that he purged his contempt.

21 11. The Receiver's counsel also prepared the Receiver's initial motion for
22 approval and authorization for payment of the Receiver's and its counsel's fees and
23 costs for the period from the inception of the receivership through May 31, 2018 as
24 well as supplemental pleadings required by the Court in connection with that
25 motion. The motion was granted as requested.

26 12. Barnes & Thornburg assisted in reviewing and revising the Receiver's
27 Report. It also reviewed the various pleadings filed by the Plaintiff and Soria in the
28 detail required and to the extent relevant to the Receiver and the receivership estate.

1 13. Throughout the Second Expense Period, the Receiver's counsel had
2 extensive written and telephone communications with counsel for the Plaintiff and
3 counsel for Soria regarding a wide variety of receivership issues. Barnes &
4 Thornburg also had extensive written and telephone communications with counsel
5 for numerous lenders, loan servicers and consumers which led to the review and
6 execution of numerous rescission documents and stipulations for judgment. Since
7 the inception of the receivership estate through mid-October, the Receiver has
8 executed stipulated judgments and/or rescission documents in connection with at
9 least 69 properties nationwide for the benefit of at least 12 entities, including the
10 Plaintiff and one defrauded consumer. During that time frame, the Receiver or its
11 counsel have received proposed stipulated judgments in connection with another 14
12 properties. In each instance, our firm reviews and revises, and where appropriate,
13 approves the stipulated judgments and/or rescission documents for execution by the
14 Receiver.

15 14. As a partner at Barnes & Thornburg, I am familiar with the methods
16 and procedures used to create, record and maintain billing records for the clients of
17 the firm. The billings collectively attached hereto as Exhibit 1 are prepared from
18 computerized time records prepared contemporaneously with the services rendered
19 by each attorney and paralegal billing time to the matter. These computerized
20 records are prepared in the ordinary course of business by the attorneys and
21 paralegals employed by the firm who have a business duty to accurately record their
22 time spent and services rendered on the matters on which they perform work. The
23 time records are transferred into computerized billing programs that generate
24 monthly invoices under the supervision of the accounting department of the firm.
25 Based upon my experience with Barnes & Thornburg, I believe the methods and
26 procedures for recording and accounting for time and services for the clients of
27 Barnes & Thornburg are reliable and accurate.

1 Gary Owen Caris (CA SBN 088918)
gcaris@btlaw.com
2 **BARNES & THORNBURG LLP**
2029 Century Park East, Suite 300
3 Los Angeles, California 90067
Telephone: (310) 284-3880
4 Facsimile: (310) 284-3894

5 Attorneys for Permanent Receiver
ROBB EVANS & ASSOCIATES LLC

6
7
8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA

10
11 NATIONSTAR MORTGAGE LLC,
12 Plaintiff,

13 v.

14 PATRICK JOSEPH SORIA, et al.,
15 Defendants.

Case No. 2:18-cv-03041 DSF (RAOx)

**DECLARATION OF BRICK KANE
IN SUPPORT OF MOTION FOR
ORDER APPROVING AND
AUTHORIZING PAYMENT OF
RECEIVER'S AND
PROFESSIONAL'S FEES AND
COSTS FROM JUNE 1, 2018
THROUGH SEPTEMBER 30, 2018**

16
17
18
19
20 Date: December 17, 2018
Time: 1:30 p.m.
Courtroom: 7D

21
22
23 I, Brick Kane, declare:

24 1. I am the President and Chief Operating Officer of Robb Evans &
25 Associates LLC ("Receiver"), the Permanent Receiver over the Receivership
26 Defendants as defined in the Order Entering Preliminary Injunction Against
27 Defendants and Appointing a Permanent Receiver (Doc. 46) ("Preliminary
28

1 Injunction”). Since the inception of the temporary receivership in this matter
2 pursuant to the Court’s Order Granting Plaintiff Nationstar Mortgage LLC’s *Ex*
3 *Parte* Application for a Temporary Restraining Order With Asset Freeze etc. (Doc.
4 20), I have had primary responsibility for the supervision and management of this
5 receivership estate, and have been one of the members of Robb Evans & Associates
6 LLC actively involved in the administration of the receivership. I have personal
7 knowledge of the matters set forth in this declaration. If called upon to testify as to
8 these matters I could and would competently testify thereto.

9 2. The Receiver seeks approval and authorization to pay the Receiver’s
10 fees and costs summarized in the Receiver Administrative Expenses and Fund
11 Balance spreadsheet (“Financial Summary”) attached hereto as Exhibit 1, and as set
12 forth in the detailed billing records of the Receiver, collectively attached hereto as
13 Exhibit 2. During the four-month period from June 1, 2018 through September 30,
14 2018 (“Second Expense Period”), the Receiver has incurred fees for the Receiver
15 and its members of \$47,234.00, senior staff fees of \$22,661.50, and support staff
16 fees of \$1,224.00, for total Receiver’s fees of \$71,119.50. The Receiver’s costs
17 during the Second Expense Period total \$6,375.50 and are detailed in the Financial
18 Summary.

19 3. The Receiver undertook a wide range of activities during the Second
20 Expense Period. I went on two trips to the Waldorf Astoria in Beverly Hills
21 pursuant to Court orders in an effort to gain access to Soria’s suite where he had
22 been residing. Ultimately, the Receiver’s counsel was successful in gaining access
23 to the suite on a third trip to the Waldorf Astoria over a two-day period, as well as
24 gaining access to and recovering Soria’s personal property assets. Included in the
25 initial personal property recovered by the Receiver’s counsel on the third trip to the
26 Waldorf Astoria was a large batch of mail, including checks, addressed to entities
27 unrelated to Soria and the Receivership Defendants. The mail, including checks,
28 was addressed to locations where the Receivership Defendants maintained virtual

1 offices and appeared to have been stolen by Soria from unrelated third parties. The
2 Receiver communicated with various third parties to confirm that their mail had
3 been stolen.

4 4. After access was finally permitted on the third trip, the Receiver
5 coordinated with the owner of the Waldorf Astoria in Beverly Hills, Hilton
6 Domestic Operating Company, Inc. (“Hilton”) and its counsel to obtain the balance
7 of Soria’s clothing, jewelry and rented luxury automobiles located there and at the
8 adjacent Hilton property in Beverly Hills where Soria intended to relocate. The
9 Receiver coordinated the return of the luxury automobiles and began the process of
10 attempting to return unused clothing and jewelry recently purchased in cash by
11 Soria from Barney’s New York (“Barney’s”) located in Beverly Hills. After
12 initially being met with resistance from Barney’s, the Receiver’s counsel began
13 negotiations directly with Barney’s counsel, which ultimately led to the successful
14 return of new clothing and jewelry in exchange for a payment of \$60,003.81. This
15 amount was virtually the entire purchase price of the returned merchandise, with a
16 reduction of less than \$2,000 as a restocking fee for certain of the jewelry items.

17 5. The Receiver subsequently assisted its counsel in efforts made to
18 demand funds from Hilton in connection with its misconduct in preventing the
19 Receiver access to Soria’s suite at the Waldorf Astoria and to prepare a response to
20 the status report prepared by the Hilton pursuant to the Court’s Contempt Order.
21 The Receiver and its counsel demonstrated the significant misconduct by senior
22 employees of the Waldorf Astoria, with the substantial assistance of Plaintiff. On
23 September 18, 2018, the Court issued an order which, among other things, required
24 Hilton to pay \$125,064 to the Receiver, which included reimbursement for
25 Receiver’s fees and expenses, and those of its counsel, of \$25,064. The \$125,064
26 was paid timely by Hilton in October 2018, after the end of the Second Expense
27 Period.
28

1 6. During this period, the Receiver successfully completed its efforts to
2 gain control of the Receivership Defendants' e-mail and domain names that were
3 housed in the cloud by Creative Note, Inc. and its principal, Steve Median, aided by
4 Plaintiff obtaining an order to show cause as to why Creative Note and Median
5 should not be held in contempt of Court shortly before the beginning of the Second
6 Expense Period.

7 7. During the Second Expense Period, the Receiver undertook a detailed
8 asset tracing as it related to two parcels of real estate fraudulently hijacked by the
9 Receivership Defendants and purportedly sold by them, one in Frisco, Texas and
10 one at 19856 Trotter Lane, Yorba Linda, California ("Trotter Property"). This
11 detailed asset tracing was reported to the Court in the Report of Receiver's Asset
12 Tracing Dated July 27, 2018 ("Receiver's Report") and included a reconstruction of
13 several of Garson Silvers' ("Silvers") bank accounts. The forensic analysis
14 prepared by the Receiver regarding the Trotter Property was utilized extensively by
15 Receiver's counsel in making demand on and ultimately successfully recovering a
16 total of \$324,500 from three different law firms who were some of the recipients of
17 the funds.

18 8. In addition to the detailed asset tracing, the Receiver's Report also
19 contained results concerning the Receiver's analysis of documents subpoenaed
20 from 3rd & La Cienega Financial, LLC ("3rd & La Cienega"), a check cashing
21 company. This analysis disclosed, among other things, that Soria cashed checks
22 from consumers that were intended to be applied to their mortgages, and confirmed
23 that Soria had altered stolen checks which were recovered from his belongings
24 stored at the Waldorf Astoria, as discussed above.

25 9. The Receiver developed strategies with respect to the discovery of
26 documents from Joseph Hart, one of the Receivership Defendants pre-receivership
27 counsel, which helped uncover important pieces of the information described in the
28 Receiver's Report. The Receiver also participated in a telephone interview with

1 Hart. During the Second Expense Period, the Receiver with the assistance of its
2 counsel, entered into an interim agreement with Hart, through his attorney, whereby
3 the Receiver deferred any deposition of Hart for a short period of time in exchange
4 for the payment of \$15,638.52, all remaining sums Hart had in his possession
5 related to Soria and the Receivership Defendants.

6 10. In order to complete the asset tracing described in the Receiver's
7 Report as well as to undertake additional forensic analyses, the Receiver consulted
8 with its counsel and developed discovery strategies for numerous document and
9 deposition subpoenas during the Second Expense Period. The Receiver analyzed
10 the documents which were produced, some of which are reflected in the Receiver's
11 Report.

12 11. During the Second Expense Period, the Receiver also spent significant
13 amounts of time communicating with Plaintiff's counsel over a variety of
14 receivership issues and asset collection strategies. It also communicated with
15 Plaintiff's counsel and Soria's counsel over issues related to Soria's compliance
16 with the Court's Order finding Soria and certain entity Receivership Defendants in
17 contempt (Doc. 107) ("Contempt Order"), including providing the Receiver access
18 to a second cell phone Soria acquired shortly after the Contempt Order and access
19 to a previously undisclosed location in Westwood, California where Soria and the
20 Receivership Defendants had conducted business operations.

21 12. The Receiver also spent significant amounts of time communicating
22 with defrauded consumers, lenders and loan servicers. The Receiver also assisted
23 those parties by executing various rescission documents and stipulated judgments,
24 when requested and appropriate to do so, and after review by Receiver's counsel of
25 the proposed documentation to be executed.

26 13. Throughout the Second Expense Period, the Receiver also reviewed
27 the litigation papers prepared by counsel for the parties, including pleadings
28 regarding the Plaintiff's request for a cost-sharing order. The Receiver also

1 attended the June 6, 2018 Court hearing at which Soria was ordered incarcerated, as
2 well as the August 6 and August 27, 2018 status hearings on Soria's contempt. It
3 also assisted its counsel in preparing a status report regarding Soria's compliance
4 with the Contempt Order, as directed by the Court at the August 27 hearing.

5 14. Including the recovery of \$125,064 from Hilton and \$185,000 from
6 Leech Tishman after the end of the Second Expense Period, the Receiver now has
7 on hand sufficient funds to pay all of the requested fees and costs that have been
8 incurred through September 30, 2018 and leave the estate with an additional
9 \$100,350.43. The fees and expenses awarded pursuant to the initial compensation
10 motion have been previously paid. However, recently DNE Associates ("DNE"),
11 an entity claiming to be the defrauded purchaser with respect to the Trotter
12 Property, has contacted the Receiver and advised the Receiver that it intends to seek
13 to intervene in the instant action and to seek an order directing that the Receiver pay
14 to it from the assets of the receivership estate all or some portion of the \$324,500
15 which the Receiver recovered from Fischbach, Sternberg and Leech Tishman. The
16 Receiver does not concede that all or any portion of the recovered funds rightfully
17 belong to DNE and information is still being gathered in connection with DNE's
18 contentions. However, to the extent that DNE obtains an order permitting it to be
19 paid funds from the receivership estate which, after such payment, leaves the
20 amount held by the Receiver below the amount approved and authorized to be paid
21 pursuant to this Motion, the Receiver requests that the Court order that Plaintiff
22 promptly pay to the Receiver the shortfall, as generally set forth at paragraph 6,
23 page 21 of the Preliminary Injunction.

24 15. As a member of Robb Evans & Associates LLC, I am familiar with the
25 methods and procedures used by the Receiver and its staff and employees to record
26 the time spent rendering services to receivership estates over which Robb Evans &
27 Associates LLC have been appointed. The records attached hereto collectively as
28 Exhibit 2 are regularly prepared by the members, staff and employees of the

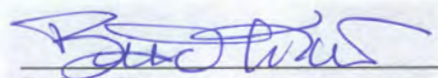
1 Receiver at or about the time of the services rendered and each of whom has a
2 business duty to accurately record the information regarding their services set forth
3 in these records. The records are reviewed by the Receiver's accounting staff and
4 summarized in the Receiver's Financial Summary, Exhibit 1 attached hereto. As
5 explained in the accompanying Declaration of Gary Owen Caris, the Receiver's
6 time records and the records of its professionals have been redacted where
7 appropriate to preserve descriptions containing confidential, tactical, strategic,
8 attorney-client privileged and/or attorney work-product information. Based upon
9 my experience with Robb Evans & Associates LLC, I believe the Receiver's
10 methods and procedures for recording and accounting for time and services for the
11 receivership estates over which Robb Evans and Robb Evans & Associates LLC
12 have been appointed are reliable and accurate.

13 16. In this case, there may be an extremely large number of potential
14 consumer creditors who may have claims against the Receivership Defendants
15 given that more than 1,200 consumers are listed in its LoanPost database and given
16 further that the Plaintiff's investigation and review of voluminous emails discloses
17 that the total amount of affected properties may exceed 2,300. However, it is not
18 realistically possible or beneficial to the estate and its creditors for the Receiver to
19 serve all such potential consumer creditors, or the lenders, loan servicers and other
20 defrauded parties with potential claims of this Motion or other administrative
21 motions by mail, and the expense and burden on the estate of attempting to
22 effectuate such service would be prohibitively costly and cause undue
23 administrative expense.

24 17. Based on the foregoing, the Receiver seeks an order providing that the
25 notice requirement of Rule 66-7 shall be deemed satisfied by serving copies of all
26 Motion papers on the parties to this action, as provided in the Preliminary
27 Injunction, and on third party creditors other than consumers and other third parties
28 who were defrauded by Soria and the Receivership Defendants, although counsel

1 for DNE is being served. As additional notice, the Receiver will post the Motion
2 and supporting papers, without voluminous time records attached, on the Receiver's
3 website at robbevans.com where the Receiver conspicuously posts pertinent Court
4 filings and other documents for this case.

5 I declare under penalty of perjury that the foregoing is true and correct and
6 that this declaration was executed on November 16, 2018 at Sun Valley, California.

7
8 
9 _____
10 Brick Kane

11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

13558031v1

EXHIBIT 1

Robb Evans & Associates LLC, Receiver of West H&A LLC et al
Receiver Administrative Expenses and Fund Balance
 From Inception (April 23, 2018) to September 30, 2018

	Previously Reported, Approved & Paid	Jun 18	Jul 18	Aug 18	Sep 18	6/1/18~ 9/30/18	TOTAL
Funds Collected							
Return of Merchandise	0.00	0.00	60,003.81	0.00	0.00	60,003.81	60,003.81
JPMorgan Chase #8762	0.00	0.00	7,027.90	0.00	0.00	7,027.90	7,027.90
Benjamin Sternberg	0.00	0.00	0.00	0.00	59,500.00	59,500.00	59,500.00
Fischbach & Fischbach	0.00	0.00	0.00	80,000.00	0.00	80,000.00	80,000.00
Joseph F. Hart	0.00	0.00	0.00	15,638.52	0.00	15,638.52	15,638.52
Total Funds Collected	0.00	0.00	67,031.71	95,638.52	59,500.00	222,170.23	222,170.23
Expenses							
Receiver Fees & Expenses							
Receiver Fees							
Receiver							
B. Kane	15,428.00	10,868.00	13,186.00	6,688.00	2,736.00	33,478.00	48,906.00
K. Johnson	722.00	0.00	0.00	0.00	0.00	0.00	722.00
A. Jen	7,030.00	1,026.00	8,930.00	3,534.00	266.00	13,756.00	20,786.00
Total Receiver	23,180.00	11,894.00	22,116.00	10,222.00	3,002.00	47,234.00	70,414.00
Senior Staff							
F. Jen	770.50	167.50	0.00	0.00	0.00	167.50	938.00
T. Chung	435.50	0.00	0.00	0.00	0.00	0.00	435.50
C. Callahan	17,400.00	6,750.00	7,775.00	3,100.00	1,725.00	19,350.00	36,750.00
E. Roop	1,395.00	120.00	0.00	0.00	0.00	120.00	1,515.00
C. DeCius	0.00	432.00	202.50	148.50	0.00	783.00	783.00
J. Dabbin	1,080.00	2,124.00	117.00	0.00	0.00	2,241.00	3,321.00
Total Senior Staff	21,081.00	9,593.50	8,094.50	3,248.50	1,725.00	22,661.50	43,742.50
Support Staff	765.00	576.00	321.00	255.00	72.00	1,224.00	1,989.00
Total Receiver Fees	45,026.00	22,063.50	30,531.50	13,725.50	4,799.00	71,119.50	116,145.50

Robb Evans & Associates LLC, Receiver of West H&A LLC et al.
Receiver Administrative Expenses and Fund Balance
 From Inception (April 23, 2018) to September 30, 2018

	Previously Reported, Approved & Paid	Jun 18	Jul 18	Aug 18	Sep 18	6/1/18~9/30/18	TOTAL
Receiver Expenses							
Document Reproduction	0.00	0.00	0.00	146.26	0.00	146.26	146.26
Investigative Search Costs	166.67	309.00	0.00	237.90	0.00	546.90	713.57
Locksmith Services	0.00	65.00	0.00	0.00	0.00	65.00	65.00
Parking & Tolls	16.00	66.00	0.00	0.00	32.00	98.00	114.00
Postage & Delivery	42.09	83.86	36.85	70.74	37.65	229.10	271.19
Receiver Bond Premium	100.00	0.00	0.00	0.00	0.00	0.00	100.00
Security Services	0.00	415.00	0.00	0.00	0.00	415.00	415.00
Software Costs	0.00	0.00	510.00	490.00	215.00	1,215.00	1,215.00
Website Hosting & Email Service	0.00	1,646.50	1,406.00	0.00	0.00	3,052.50	3,052.50
Website Support	297.21	248.42	204.06	79.85	75.41	607.74	904.95
Total Receiver Expenses	621.97	2,833.78	2,156.91	1,024.75	360.06	6,375.50	6,997.47
Legal Fees & Costs							
Legal Fees	88,442.30	44,431.50	72,745.95	55,874.50	41,331.00	214,382.95	302,825.25
Legal Costs	67.50	1,040.72	1,200.31	1,629.68	1,977.37	5,848.08	5,915.58
Total Legal Fees & Costs	88,509.80	45,472.22	73,946.26	57,504.18	43,308.37	220,231.03	308,740.83
Total Receiver Fees & Expenses	134,157.77	70,369.50	106,634.67	72,254.43	48,467.43	297,726.03	431,883.80
Fund Balance *	<u>(134,157.77)</u>						<u>(209,713.57)</u>

* After September 30, 2018, the Receiver collected \$125,064 from Hilton Domestic Operating Company Inc. and \$185,000 from Leech Tishman Fuscaldo & Lampi. Therefore, assuming all fees and costs through September 30, 2018 are approved for payment, the Receiver will have on hand \$100,350.43 after payment of such fees and costs.