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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

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11 NATIONSTAR MORTGAGE LLC,
12 Plaintiff,

13 v.

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

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

**RECEIVER'S OPPOSITION TO
DEFENDANT PATRICK JOSEPH
SORIA'S MOTION FOR RELEASE
FROM CONTEMPT
INCARCERATION**

Date: December 10, 2018
Time: 1:30 p.m.
Courtroom: 7D

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Federal Rules of Evidence Rule 201 6

1 Permanent Receiver, Robb Evans & Associates LLC (“Receiver”) submits
2 the following opposition to Defendant Patrick Joseph Soria’s (“Soria”) motion to be
3 released from contempt incarceration (“Motion”).

4 **I. INTRODUCTION AND LEGAL FRAMEWORK**

5 Soria’s Motion seeks an order releasing him from incarceration which was
6 imposed on him as a result of his egregiously contemptuous conduct in violating
7 the Court’s original Temporary Restraining Order (Doc. 20) and subsequent
8 Preliminary Injunction (Doc. 46). As a result of his misconduct, on May 31, 2018
9 the Court issued its Order Finding Defendants Patrick J. Soria, West H & A LLC,
10 Westwood Legal, and HBSC US in its Capacity as Legal Title Holder Incorporated
11 In Contempt (“Contempt Order”) (Doc. 107). Thereafter, after a hearing held the
12 following week, the Court issued its Further Order regarding the Contempt Order
13 (Doc. 117) finding that the “Contemnors, and specifically Soria, have willfully
14 failed to comply with the requirements of the [Contempt Order], though they have
15 the ability to do so....” (Further Order, 2:20-22) The Court went on to order “Soria
16 be detained for civil contempt indefinitely and until such time as the Court
17 determines that he has complied with the Court’s orders.” (Further Order, 2:24-26)

18 The Motion asserts that “Mr. Soria has taken all efforts to comply, while
19 preserving his Fifth Amendment privilege, and he is now purged of contempt.”
20 (Motion, 2:23-25) The Motion goes on to state: “Mr. Soria has complied with all
21 items that he is able to comply with from the Contempt Order.” (Motion, 4:15-16)
22 These assertions are meritless and Soria should remain incarcerated until and unless
23 he fully and completely purges his contempt.

24 Soria has failed to demonstrate that he has complied with each and every
25 requirement of the Contempt Order and, to the extent he has failed to comply with
26 each and every requirement, Soria bears the burden of demonstrating, categorically
27 and in detail, why he cannot comply. *Federal Trade Commission v. Affordable*
28 *Media, LLC*, 179 F.3d 1228, 1241 (9th Cir. 1999); *see also National Labor*

1 *Relations Board v. Trans Ocean Export Packing, Inc.* 473 F.2d 612, 616 (9th Cir.
2 1973. The showing made in the Motion is woefully inadequate to meet this
3 standard. Furthermore, as to each and every category imposed in the Contempt
4 Order, any failure to purge may not be self-induced. (Mere assertion of “present
5 inability” to comply is insufficient to avoid a civil contempt finding. Rather,
6 alleged contemnors defending on the ground of inability must establish, among
7 other things, that their inability to comply was not self-induced. *Chicago Truck*
8 *Drivers, v. Bhd. Labor Leasing*, 207 F.3d 500, 506 (8th Cir. 2000)) ; *see also Elec.*
9 *Workers Pension Tr. Fund of Local Union 58, IBEW v. Gary’s Elec. Service Co.*,
10 340 F.3d 373, 383 (6th Cir. 2003); *In re Power Recover Sys., Inc.*, 950 F.2d 798,
11 803 (1st Cir. 1991). For example, if Soria has hidden or transferred funds to third
12 parties under his control, he cannot now claim an inability to comply with the
13 Contempt Order requiring the turnover of all funds received by the Receivership
14 Defendants since January 23, 2018 (Contempt Order, category no. 10).

15 While the Court found that Soria did not need to personally create documents
16 that do not already exist to purge his contempt (Order re Patrick Soria’s Claim of
17 Fifth Amendment Privilege) (Doc. 206) (“Fifth Amendment Order”), the
18 production of pre-existing books and records are not testimonial in nature. “The
19 privilege protects against compelled testimony; it does not protect the contents of
20 preexisting or voluntarily prepared documents and records.” *Aviation Supply Corp.*
21 *v. R.S.B.I. Aerospace, Inc.*, 999 F.2d 314, 317-18 (8th Cir. 1993). Where the
22 existence and location of papers are a foregone conclusion and there is no dispute
23 over the authenticity of the documents, Soria does not implicate his Fifth
24 Amendment privilege by providing the documents to the Receiver in compliance
25 with the specific command of the Contempt Order. *United States v. Sideman &*
26 *Bancroft, LLP*, 704 F.3d 1197, 1202 (9th Cir. 2013); *United States v. Schlansky*,
27 709 F.2d 1079, 1081-82 (6th Cir. 1983), *cert. denied*, 465 U.S. 1099 (1984).

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1 Further, corporate documents of the entity Receivership Defendants
2 produced by Soria do not implicate the Fifth Amendment privilege, because
3 corporations do not have a Fifth Amendment privilege. *Bellis v. United States*, 417
4 U.S. 85, 90 (1974) 94 S. Ct. 2179, 2184; *see also In re Grand Jury Proceedings*,
5 928 F.2d 408 (9th Cir. 1991). Therefore, the custodian of those records holds them
6 in a representative rather than a personal capacity and the custodian of the
7 documents cannot assert a Fifth Amendment privilege, even if the act of production
8 might prove personally incriminating. *Braswell v. United States*, 487 U.S. 99, 107-
9 108, 108 S. Ct. 2284, 2289 (1988).

10 Finally, it is not enough for Soria to simply point to tens of thousands of
11 potential electronic documents found among e-mail files, websites, or cell phone
12 data which have been turned over or disclosed to the Receiver. An unorganized
13 “data dump” that is not in the form required by the Contempt Order is insufficient
14 to purge Soria’s contempt. In *A&M Records, Inc. v. Lamonte*, 366 F. App’x 736,
15 738 (9th Cir. 2010), defendants in a settled copyright infringement action and their
16 counsel were held in civil contempt of an amended final judgment and permanent
17 injunction prohibiting the defendants from claiming to own, or attempting to sell,
18 30,000 master recordings where, among other failures, defendants repeatedly
19 refused to comply with an order to produce master recordings and provided no
20 explanation for that failure, were produced in an unusable form, and the
21 documentation produced was an unorganized “data dump” not in a form required
22 by the Court.

23 Soria’s assertion that he has purged his contempt fails completely against
24 these legal standards and the actual facts.

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1 **II. SORIA HAS WHOLLY FAILED TO COMPLY WITH**
2 **CATEGORIES 8 THROUGH 11 OF THE CONTEMPT ORDER,**
3 **THE KEY PROVISIONS OF THE ORDER**

4 In order for the Receiver to effectively and completely carry out its duties,
5 compliance with four critical categories in the Contempt Order are essential. Those
6 are categories 8 through 11. Those categories require Soria and the entity-
7 contemnors to do the following:

8 (a) **CATEGORY NO. 8:** “Provide the Receiver a list of all business
9 activities the Receivership Defendants¹ have been involved in since January 23,
10 2018, including a detailed status of each activity, including, but not limited to, a full
11 and complete disclosure of all transactions, wires, or money sent to/from the ‘Law
12 Offices of Joseph F. Hart Client Trust Account’...”

13 (b) **CATEGORY NO. 9:** “Provide the Receiver a detailed disclosure as to
14 all payments to any Receivership Defendant or for their benefit, since January 23,
15 2018....” This includes “a full and detailed disclosure of all payments made
16 to/from the ‘Law Offices of Joseph F. Hart Client Trust Account’...”

17 (c) **CATEGORY NO. 10:** “Turn over all funds received by the
18 Receivership Defendants since January 23, 2018 to the Receiver.”

19 (d) **CATEGORY NO. 11:** “Provide the Receiver a detailed disclosure as
20 to all payments made by any Receivership Defendants or for its benefit, since
21 January 23, 2018.”

22 These are the key provisions of the Contempt Order: for a period beginning
23 on January 23, 2018, a date exactly three months before the inception of the
24 receivership estate, Soria must disclose all business activities (category no. 8), all
25 money paid to the Receivership Defendants (category no. 9) and all money paid out
26 by the Receivership Defendants (category no. 11), and he must turn over all money

27 _____
28 ¹ “Receivership Defendants” is defined in the Contempt Order to include Soria individually
(Contempt Order, 8:9-11).

1 received by the Receivership Defendants (category no. 10).

2 Soria's efforts to comply with these four key provisions of the Contempt
3 Order have been feeble, if not altogether non-existent. As to category no. 8, the
4 Motion asserts, with no proof, that Soria has complied "to the extent required by the
5 Court." The sole effort made to comply is found in an e-mail Soria's counsel
6 provided to the Receiver dated August 24, 2018 ("Soria Contempt Memo"),
7 attached as Exhibit 1 to the Receiver's September 26, 2018 Status Report regarding
8 Soria's compliance with the Contempt Order (Doc. 259-1). **That e-mail discloses**
9 **only one business activity since January 23, 2018.** The information provided in
10 the Soria Contempt Memo is demonstrably incomplete, in that it does not address
11 several known fraudulent real property transactions in which some or all of the
12 activity post-dated January 23, 2018, including activities concerning 1030 Pitchford
13 Road, Tomball, Texas ("Pitchford Property"), 1001 Usener Street, Houston, Texas
14 ("Usener Property"), and 19856 Trotter Lane, Yorba Linda, California ("Trotter
15 Property"). The incompleteness of the Soria Contempt Memo makes it likely that
16 there are other undisclosed business activities. It is patently obvious that Soria has
17 not provided a full and complete disclosure of all of the business activities
18 undertaken by the Receivership Defendants and Soria since January 23, 2018.

19 Furthermore, category no. 8 requires Soria to disclose transactions to and
20 from the trust account of his pre-receivership counsel, Joseph Hart. While the
21 Receiver was aware that Hart received on May 4, 2018, and then transferred to
22 Garson Silvers ("Silvers"),² \$899,000 in connection with the purported sale of the
23 Trotter Property, the recent motion brought by DNE Enterprises ("DNE") on
24 November 19, 2018 to intervene for the purpose of bringing a motion for turnover
25 of funds from the Receiver in connection with the so-called Trotter transaction
26 (Doc. 298) now discloses, for the first time, that DNE's principal, Eddie Fischer,

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28 ² Silvers worked for Soria and the Receivership Defendants, under Soria's direction and control.
(See Declaration of Brick Kane accompanying this declaration at ¶3.)

1 apparently wired Joseph Hart **\$1,495,000** on May 1, 2018 (*See*, proposed motion
2 for turnover of funds attached to the motion to intervene and Exhibit 1 to the
3 Declaration of David Zickefoose in support of that proposed motion for turnover,
4 Doc. 298-2, page 54 of 159, at 5:25-26 and Doc. 298-2, page 89 of 159,
5 respectively). The Receiver’s Report of Asset Tracing Dated July 27, 2018 (Doc.
6 155) (“Receiver’s Report”)³ explained where the \$899,000 routed **out of** Hart’s
7 trust account on May 4, 2018 went. But Soria has never disclosed that \$1,495,000
8 was routed **into** Hart’s trust account on May 1, 2018 or where the additional
9 \$596,000 ultimately went. The Receiver’s Report and recent DNE motion to
10 intervene make it abundantly obvious that Soria and the entity-contemnor HBSC
11 were directly and intimately involved in this fraudulent transaction, yet Soria has
12 not disclosed any information or provided any documents about it. Most
13 importantly, there has been no explanation or disclosure of any kind with respect to
14 what happened to the other \$596,000 which went into Hart’s account but did not go
15 to Silvers.

16 Without implicating his Fifth Amendment privilege, Soria must disclose,
17 through documents and/or through information provided by his counsel,⁴ all
18 business activities for this limited time period and must further disclose all money
19 into and out of Hart’s trust account, including a detailed disclosure as to what
20 happened to the other \$596,000 wired by Eddie Fischer in connection with the
21 Trotter Property.

22 Without any explanation, the Motion states that information regarding Hart’s
23 trust account “must be obtained from Joseph Hart.” This is wholly insufficient.

25 ³ The Receiver requests that the Court take judicial notice of all of the filings in this case,
26 including without limitation the Receiver’s Report, the Receiver’s September 26, 2018 Status
27 Report, DNE’s motion to intervene, and the other pleadings referenced herein, pursuant to Rule
201 of the Federal Rules of Evidence.

28 ⁴ Counsel for Soria can make these disclosures without implicating Soria’s Fifth Amendment
privilege, exactly as counsel weakly attempted to do in the Soria Contempt Memo.

1 These business activities are recent and in the case of the Trotter Property the
2 activities post-date the Court’s Temporary Restraining Order. Soria’s duties under
3 the Contempt Order cannot be foisted off on Joseph Hart, no matter how complicit
4 Hart may be in Soria’s misconduct. Even assuming, for argument’s sake, that Soria
5 cannot recall to whom some or all of the \$596,000 was disbursed, he can direct
6 Hart, **his own attorney**, to make the necessary disclosures. There is no showing
7 that he has directed Hart to do this.

8 Similarly, as to category nos. 9 and 11 requiring detailed disclosures as to all
9 payments into (category no. 9) and out of (category no. 11) the Receivership
10 Defendants since January 23, 2018, the Motion simply states that Soria has
11 complied “to the extent required by the Court” and that his counsel provided
12 disclosures. However, the Soria Contempt Memo provided by counsel was
13 woefully inadequate as to these two categories. As to category no. 9, it states only
14 that Deutsche Mellon received approximately \$513,000 from a Frisco, Texas deal,
15 which may have been paid from Hart’s trust account and that Soria “may also have
16 received \$75,000 from a refinancing deal in Colorado.” The information provided
17 in the Soria Contempt Memo is vague, lacks any detail and does not address several
18 other known fraudulent real property transactions which generated payments to
19 Receivership Defendants or for their benefit after January 23, 2018, including
20 activities concerning the Pitchford Property, the Usener Property, and the Trotter
21 Property. The incompleteness of the Soria Contempt Memo makes it likely that
22 there are other undisclosed payments. It is also not credible that “Soria has no
23 knowledge or access to statements and/or payments to and from Joe Hart’s trust
24 account” as set forth in the Soria Contempt Memo. In fact, many of the payments
25 from the activities surrounding the Trotter Property which were funneled through
26 Hart’s trust account were used to fund attorneys representing Soria, including
27 Fischbach & Fischbach (“Fischbach”), the Law Offices of Benjamin Sternberg
28 (“Sternberg”), and Leech Tishman Fuscaldo & Lampl, LLC. (“Leech Tishman”),

1 and were disclosed in the Receiver’s Report. Once again, to the extent necessary,
2 Soria must compel Hart to disclose this information or at least show that he has
3 attempted to compel Hart to disclose this information.

4 Likewise, the Soria Contempt Memo only discloses an additional \$50,000
5 payment to Neil Scotti for legal representation, a \$15,000 payment to Charles
6 Shamash, and \$13,000 on a private jet.⁵ But given the failure to disclose **any**
7 information about so many other transactions, there is a demonstrable failure to
8 disclose, with requisite particularity and completeness, where all of the money
9 went.

10 The most glaring deficiency is **Soria’s failure to turn over even one dollar**
11 **to the Receiver**, let alone all funds received by the Receivership Defendants since
12 January 23, 2018, as required by category no. 10. The Motion simply states,
13 without any explanation whatsoever, that “Mr. Soria has no funds to turn over.”
14 (Motion, 8:26) As the Court stated in its Fifth Amendment Order, “That Soria is in
15 custody and probably does not have documents or substantial cash on his person
16 does not mean that he does not ‘possess’ those items. The question is whether he
17 owns, controls or has the right to control any documents or money that he could
18 arrange to have turned over.” (Fifth Amendment Order, 2:8-13)

19 First, to believe that “Soria has no funds to turn over,” one must believe that
20 on the day Soria was incarcerated he had no funds in his control. This defies logic
21 and common sense. The Receiver’s Report and bank records establish that Soria
22 generated \$2,632,943.33 in funds from his illicit activities in connection with just
23 four hijacked properties, of which \$1,739,371.29 was generated after April 23,
24 2018, the date the Temporary Restraining Order was issued, and that Soria lived a
25 lavish lifestyle until the day he was incarcerated, ensconced in a corner suite at the
26 Waldorf Astoria in Beverly Hills, flaunting thousands of dollars on his person and

27 _____
28 ⁵ The Soria Contempt Memo also incorrectly discusses some hotel, car, jewelry and clothing
payments under category no. 9.

1 extravagantly tipping the staff there. (See Doc.148) Soria discloses receipt of
2 \$513,000 from the Frisco, Texas land deal, which the Receiver's Report
3 demonstrates was paid to Soria in late March, 2018. Does Soria suggest that not
4 one dollar remained in his possession and control from these funds on the day of his
5 incarceration? This is not credible. Without so much as paying one dollar to the
6 Receiver, he asserts that he has purged his contempt and complied with the mandate
7 of category no. 10. This assertion is ludicrous.

8 Additionally, and perhaps more importantly, for the last five months Soria
9 has had the opportunity to obtain the return of funds received and then paid out by
10 the Receivership Entities. Again, he has not obtained the return of one dollar. The
11 Motion points out that the Receiver has successfully recovered funds from Soria's
12 attorneys, but the Receiver's efforts do not purge Soria's contempt. In fact, Soria's
13 failure to direct Fischbach, Sternberg and Leech Tishman to return those funds,
14 instead making the Receiver spend the time and money in obtaining their return, is
15 probably another contemptuous act. More importantly, the Motion ignores the fact
16 that there are substantial amounts of funds that went to other third parties, as
17 disclosed in the Receiver's Report, that have not been returned. Why didn't Soria
18 take steps to obtain the return of \$100,000 paid to Carlos Casuso on May 11, 2018?
19 Why didn't Soria take steps to obtain the return of payments to Silvers in the form
20 of checks payable to "cash" totaling \$472,900? Furthermore, in connection with
21 the fraudulent activities surrounding the Usener Property, Silvers directly received
22 another \$379,879.52 on February 28, 2018 and \$104,049.62 **on July 24, 2018**
23 through an account in the name of Zeons Inc. In connection with the fraudulent
24 activities surrounding the Pitchford Property, Silvers received another \$140,321.67
25 **on July 23, 2018** through an account in the name of Zeons Inc. (Declaration of
26 Brick Kane submitted concurrently herewith, at paras. ¶¶ 3-4). Why didn't Soria
27 take steps to obtain the return of any of these payments to Silvers?
28

1 As summarized in the Kane Declaration, at least \$2,632,974.33 was
2 generated from the fraudulent activities on these four parcels of real estate:
3 \$1,495,000 on the Trotter Property, \$513,723.52 on the Frisco Property,
4 \$483,929.14 on the Usener Property and \$140,321.67 on the Pitchford Property. Of
5 this amount, \$1,739,371.29 was generated and received after April 23, 2018, the
6 date the Temporary Restraining Order was issued and the inception of the
7 receivership estate. The only sums recovered by the Receiver from these amounts
8 total \$324,500 and none of this came from Soria or Silvers. (Kane Declaration, ¶5).

9 In summary, as to the four critical categories of the Contempt Order, Soria's
10 effort to purge has been wholly insufficient.

11 **III. SORIA HAS FAILED TO PURGE HIS CONTEMPT IN**
12 **CONNECTION WITH MOST OF THE OTHER PROVISIONS**
13 **OF THE CONTEMPT ORDER**

14 Hereinbelow, the Receiver addresses, in the sequence presented in the
15 Contempt Order, the other categories for which Soria has not adequately purged his
16 contempt or demonstrated an inability to comply that is not self-induced.

17 **CATEGORY NO. 1**

18 Disclose to and provide the Receiver the location of and access to all
19 electronic and paper accounting records for the Receivership Defendants
20 ("Receivership Defendants" is used throughout the Contempt Order to include all
21 entities defined as such in the Preliminary Injunction and also specifically includes
22 without limitation Soria individually), including without limitation QuickBooks.

23 **STATUS OF COMPLIANCE WITH CATEGORY NO. 1**

24 As set forth in the Soria Contempt Memo, the accounting records are
25 apparently located on QuickBooks. However, the Receiver has never been
26 provided the QuickBooks accounting records, nor has the Receiver been provided
27 any paper accounting records. To the extent accounting records were seized by the
28 Los Angeles County Sheriff ("Sheriff"), the last seizure of any documents from

1 Soria and the Receivership Defendants by the Sheriff occurred in February 2018,
2 and therefore such seizure would not include accounting records created and
3 maintained after the seizure in February.

4 **CATEGORY NO. 2**

5 Disclose to and provide to the Receiver all locations of and access to all
6 business operations for the Receivership Defendants.

7 **STATUS OF COMPLIANCE WITH CATEGORY NO. 2**

8 The Motion correctly points out that on November 1, 2018 the Receiver was
9 granted unfettered access to the property which had been used to store documents
10 and/or or assets of the Receivership Defendants, 10809 Wellworth Avenue, Los
11 Angeles, California (“Wellworth Property”). However, at the time of access there
12 were no electronic records of any kind located there and only a small amount of
13 inconsequential paper documents. They were numerous computer monitors and
14 keyboards, but no computers with hard drives or servers. There were numerous file
15 cabinets and filing drawers, but they contained less than five inches of paper
16 documents. Therefore, it appeared to the Receiver that all electronic records and
17 most paper records had been removed from the Wellworth Property prior to the
18 time the Receiver was granted access (Kane Decl., ¶6).

19 **CATEGORY NO. 3**

20 Disclose to and provide to the Receiver all locations of and access to
21 electronic and paper consumer records for the Receivership Defendants.

22 **STATUS OF COMPLIANCE WITH CATEGORY NO. 3**

23 At the time the Receiver was granted access to the Wellworth Property on
24 November 1, 2018, there were no electronic records of any kind located there and
25 only a small amount of inconsequential paper documents. As explained above as to
26 category no. 2, it appeared to the Receiver that all electronic records and most paper
27 records had been removed from the Wellworth Property prior to the time the
28 Receiver was granted access.

1 **CATEGORY NO. 5**

2 Provide the Receiver with a list of all bank accounts, by name and account
3 number, for the Receivership Defendants.

4 **STATUS OF COMPLIANCE WITH CATEGORY NO. 5**

5 The Receiver is unsure if it has a list of all bank accounts, by name and
6 account number, for the Receivership Defendants. As to this category, the Soria
7 Contempt Memo states: “Please note that our investigation is ongoing.” No further
8 information as to bank accounts has been provided by Soria’s counsel since the
9 Soria Contempt Memo. In the Motion, Soria provides no further information about
10 bank accounts and simply states that his counsel “have disclosed all accounts that
11 they are aware of and have no further information as to bank accounts.” (Motion,
12 6:17-19) But Soria has an obligation to disclose account numbers of pre-existing
13 bank accounts because the disclosure of these accounts are not testimonial. Further,
14 as to the entity Receivership Defendants, such entities do not enjoy the Fifth
15 Amendment privilege because the privilege is personal in nature.

16 **CATEGORY NO. 7**

17 Provide the Receiver full and complete written financial disclosures for the
18 Receivership Defendants, executed under penalty of perjury, including without
19 limitation detail concerning all assets, liabilities and income.

20 **STATUS OF COMPLIANCE WITH CATEGORY NO. 7**

21 The Receiver understands that Soria is not required to create written financial
22 disclosures in order to comply with this category, pursuant to the Fifth Amendment
23 Order. However, Soria is obligated to provide documents already in existence that
24 detail assets, liabilities and income and a “document dump” is insufficient. The
25 Receiver is not required to search for the proverbial “needle in a haystack” to locate
26 documents which might provide financial disclosures. Since the inception of the
27 receivership, neither Soria nor his counsel have directed the Receiver to specific
28 pre-existing documentation which would disclose the assets, liabilities and income

1 of Soria or the Receivership Defendants.

2 **CATEGORY NO. 13**

3 Provide the Receiver full and complete disclosure as to all recorded real
4 property documents recorded by or on behalf of the Receivership Defendants, in
5 connection with any asserted ownership interest in a secured promissory note,
6 mortgage, deed of trust, or other real property-related security instrument, or in
7 connection with any asserted real property ownership interest obtained following
8 the purported acquisition of an ownership interest in a secured promissory note,
9 mortgage, deed of trust or other real property-related security instrument.

10 **STATUS OF COMPLIANCE WITH CATEGORY NO. 13**

11 The Soria Contempt Memo incorrectly states that “all of the responsive
12 documents to Question 13 are located at the DA’s office or Sheriff’s department.”
13 The records were seized by the Sheriff in February 2018 and numerous fraudulent
14 real property documents were recorded by the Receivership Defendants since that
15 time, including several referred to above. The Receiver cannot state with any
16 assurance that it is in possession of or has knowledge of all of the real property
17 documents recorded by or on behalf of the Receivership Defendants since the
18 seizure of documents by the Sheriff in February 2018. More importantly, under the
19 authorities cited, the Receiver is not required to search through the thousands of
20 documents in Soria’s e-mail accounts to locate documents potentially responsive to
21 this command in the Contempt Order.

22 **CATEGORY NO. 14**

23 Immediately cancel any open escrow/transaction purporting to sell any
24 property, receive any payoff, or otherwise through which the Receivership
25 Defendants may receive some benefit, and provide the Receiver with a list of all
26 such escrows/transactions.

1 **STATUS OF COMPLIANCE WITH CATEGORY NO. 14**

2 While the Motion states that Soria has complied with this category, the
3 Receiver has determined that money was routed to an account in the name of Zeons
4 Inc., wholly owned by Silvers, as recently as **late July 2018** in connection with the
5 Pitchford Property and the Usener Property, following the recordation of fraudulent
6 real estate documents by the Receivership Defendants. Therefore, the Receiver is
7 unable to conclude that all pending escrows and transactions have been canceled by
8 Soria, as represented in the Motion, and neither Soria nor his counsel explain the
9 steps taken in order to comply with this directive.

10 **CATEGORY NO. 15**

11 Provide a full and complete disclosure to the Receiver of each payment
12 (including amount and source of payment) to any attorney since January 23, 2018,
13 whether paid as a retainer or for services rendered or otherwise, by the Receivership
14 Defendants including but not limited to any retainer paid to Leech Tischman
15 Fuscaldo & Lampl, Inc.

16 **STATUS OF COMPLIANCE WITH CATEGORY NO. 15**

17 The Receiver is uncertain if it has all of the information required by this
18 Category. Subsequent to the Soria Contempt Memo, the Receiver discovered that
19 Soheila Soria, Patrick Soria's mother, paid another \$100,000 to Leech Tishman, for
20 a total of \$200,000 paid by Soheila Soria to Leech Tishman. Investigation is
21 ongoing to determine whether some or all this \$200,000 is traceable to the
22 Receivership Defendants. Notably, Leech Tishman has provided no information to
23 the Receiver concerning the source of the second \$100,000 payment to it from
24 Soheila Soria.

25 **CATEGORY NO. 19**

26 Provide the Receiver with a list (with contact information) of all employees,
27 agents, associates or anyone working for or with the Receivership Defendants or on
28 their behalf, and immediately instruct the same to immediately cease doing business

1 for or with the Receivership Defendants except only as is necessary to comply with
2 this Order.

3 **STATUS OF COMPLIANCE WITH CATEGORY NO. 19**

4 While Soria is not compelled to create such a list, the Motion concedes that
5 documents in the Receiver's possession on Soria's cell phone, in his e-mail
6 accounts or on "other documents and devices in the Receiver's possession and
7 control" contain this information. (Motion, 12:22-25) These documents should be
8 reviewed by Soria or his counsel and a list of documents created that would enable
9 the Receiver to determine the employees, agents, associates and others who worked
10 for or with the Receivership Defendants. A document dump is insufficient
11 compliance with the Contempt Order. The Receiver should not be required to sift
12 through thousands of documents to determine the universe of all such persons.
13 Further, there is no showing that Soria has provided the instructions required by the
14 Court in this command.

15 **IV. CONCLUSION**

16 Soria has failed to meet his burden in demonstrating that he has purged his
17 contempt. He has utterly failed to comply with the four critical categories in the
18 Contempt Order, including a failure to turn over any money whatsoever to the
19 Receiver. As to each category in which he has failed to purge his contempt, Soria
20 must demonstrate, categorically and in detail, why he is unable to comply. Inability
21 to comply may not be self-induced. Soria's personal Fifth Amendment privilege
22 does not enable him to withhold documents and records which previously existed,
23 and his privilege does not apply to entity documents in any event. Finally, Soria
24 may not refer the Receiver to voluminous electronic records in its possession,
25 thousands of which may be irrelevant to the Contempt Order, thereby essentially
26 giving the Receiver a document dump in an effort to claim that he has purged his
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28

1 contempt. The Motion has failed to meet Soria's burden and the Receiver
2 respectfully requests that it be denied in its entirety.

3
4 Dated: November 26, 2018

BARNES & THORNBURG LLP

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By: */s/ Gary Owen Caris*

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Gary Owen Caris
Attorneys for Permanent Receiver
ROBB EVANS & ASSOCIATES
LLC

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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 RECEIVER'S
OPPOSITION TO DEFENDANT
PATRICK JOSEPH SORIA'S
MOTION FOR RELEASE FROM
CONTEMPT INCARCERATION**

Date: December 10, 2018
Time: 1:30 p.m.
Courtroom: 7D

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18
19 I, Brick Kane, declare:

20 1. I am the President and Chief Operating Officer of Robb Evans &
21 Associates LLC ("Receiver"), the Permanent Receiver over the Receivership
22 Defendants as defined in the Order Entering Preliminary Injunction Against
23 Defendants and Appointing a Permanent Receiver (Doc. 46) ("Preliminary
24 Injunction"). Since the inception of the temporary receivership in this matter
25 pursuant to the Court's Order Granting Plaintiff Nationstar Mortgage LLC's *Ex*
26 *Parte* Application for a Temporary Restraining Order With Asset Freeze etc. (Doc.
27 20), I have had primary responsibility for the supervision and management of this
28

1 receivership estate, and have been one of the members of Robb Evans & Associates
2 LLC actively involved in the administration of the receivership. I was directly
3 involved in the analysis of documents and banking records which were the basis for
4 the Receiver's Report of Asset Tracing Dated July 27, 2018 ("Receiver's Report")
5 and I was one of the principal authors of the Receiver's Report. I have personal
6 knowledge of the matters set forth in this declaration. If called upon to testify as to
7 these matters I could and would competently testify thereto.

8 2. I have read and reviewed the Receiver's Opposition to Defendant
9 Patrick J. Soria's Motion for Release from Contempt Incarceration ("Motion") and
10 the facts set forth in the Motion describing the bases upon which Soria has not
11 complied with the Contempt Order (as that term is defined in the Motion) are
12 known to be to be true based on my personal knowledge or are believed true based
13 on my information and belief.

14 3. There are substantial amounts of funds that went to third parties as a
15 result of the fraudulent activities of the Receivership Defendants and Soria after
16 January 23, 2018 and disclosed in detail in the Receiver's Report which have never
17 been turned over to the Receiver. These include funds that were generated from the
18 fraudulent activities surrounding the purported sale of the property at 19856 Trotter
19 Lane, Yorba Linda, California ("Trotter Property"), including without limitation
20 \$100,000 paid to Carlos Casuso on May 11, 2018 and checks payable to "cash"
21 totaling \$472,900 that went to Garson Silvers ("Silvers"). Based on documents
22 which I have reviewed from the records of Soria and/or the Receivership
23 Defendants, Silvers worked for Soria and the Receivership Defendants, under
24 Soria's direction and control. Besides the \$899,000 which was routed to Silvers
25 from the Trotter Property transaction described in the Receiver's Report, there was
26 apparently another \$594,000 wired to Hart (for a total of \$1,495,000) in connection
27 with that transaction, as described in a recently filed motion to intervene by DNE
28 Associates. In addition, as described in the Receiver's Report, on March 23, 2018

1 Joseph Hart received \$513,723.52 from a fraudulent transaction which occurred in
2 connection with the property at 5832 Versailles Avenue, Frisco, Texas (“Frisco
3 Property”), after Soria and the Receivership Defendants fraudulently recorded
4 various documents in connection with that property and then purported to sell it.
5 Hart immediately thereafter transferred \$508,000 in five checks payable to Soria.

6 4. The Receiver also obtained documentation from Plaintiff showing that
7 there were fraudulent activities undertaken by Soria and the Receivership
8 Defendants in connection with two properties owned by Silvers: one at 1030
9 Pitchford Road, Tomball, Texas (“Pitchford Property”) and one at 1001 Usener
10 Street, Houston, Texas (“Usener Property”). Similar to the Trotter Property and the
11 Frisco Property, these activities included the fraudulent hijacking of legitimate
12 deeds of trust and the apparent fraudulent sale and/or refinance of these properties.
13 The Receiver subpoenaed Bank records for Silvers and for his wholly-owned
14 company, Zeons, Inc. (“Zeons”). The Receiver determined from these banking
15 records that Silvers directly received \$379,879.52 on February 28, 2018 in
16 connection with fraudulent activities concerning the Usener Property. In addition,
17 the Receiver determined from these banking records that on July 24, 2018, through
18 a Zeons account, Silvers received another \$104,049.62 in connection with
19 fraudulent activities concerning the Usener Property. The Receiver also
20 determined from these banking records that on July 23, 2018, through the Zeons
21 account, Silvers received another \$140,321.67 in connection with fraudulent
22 activities concerning the Pitchford Property.

23 5. Neither Soria nor Silvers have turned over any funds to the Receiver in
24 connection with the fraudulent activities concerning the Trotter Property, Frisco
25 Property, Usener Property or Pitchford Property. Based on the information learned
26 to date, at least \$2,632,974.33 was generated from the fraudulent activities on these
27 four parcels of real estate: \$1,495,000 on the Trotter Property, \$513,723.52 on the
28 Frisco Property, \$483,929.14 on the Usener Property and \$140,321.67 on the

1 Pitchford Property. Of this amount, \$1,739,371.29 was generated and received
2 after April 23, 2018, the date the Temporary Restraining Order was issued and the
3 inception of the receivership estate. The only sums recovered by the Receiver from
4 these amounts total \$324,500 and none of this came from Soria or Silvers.

5 6. On November 1, 2018, I was granted access to the property at 10809
6 Wellworth Avenue, Los Angeles, California (“Wellworth Property”). At the time
7 of my access, there were no electronic records of any kind located there and only a
8 small amount of inconsequential paper documents. They were numerous computer
9 monitors and keyboards, but no computers with hard drives or servers. There were
10 numerous file cabinets and drawers, but they contained less than five inches of
11 paper documents. Therefore, it appeared to me that all electronic records and most
12 paper records had been removed from the Wellworth Property prior to the time I
13 was granted access.

14 I declare under penalty of perjury that the foregoing is true and correct and
15 that this declaration was executed on November 26, 2018 at Sun Valley, California.

16
17 

18 Brick Kane

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