

1 Bart K. Larsen (Nev. SBN 008538)
blarsen@klnevada.com
2 Scott D. Fleming (Nev. SBN 005638)
sfleming@klnevada.com
3 **KOLEŠAR & LEATHAM, CHTD.**
400 South Rampart Boulevard, Suite 400
4 Las Vegas, Nevada 89145
Telephone: (702) 362-7800
5 Facsimile: (702) 362-9472

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

10 Attorneys for Receiver
ROBB EVANS of ROBB EVANS & ASSOCIATES LLC
11

12 UNITED STATES DISTRICT COURT
13 DISTRICT OF NEVADA
14

15 FEDERAL TRADE COMMISSION,

16 Plaintiff,

17 v.

18 JEREMY JOHNSON, individually, as officer
of Defendants I Works, Inc., etc., et al.,

19
20 Defendants.
21

Case No. 2:10-CV-02203-MMD-GWF

**NOTICE OF MOTION AND MOTION FOR
ORDER AUTHORIZING INTERIM
DISTRIBUTION TO FEDERAL TRADE
COMMISSION AND GRANTING RELIEF
FROM LOCAL RULE 66-5 PERTAINING
TO NOTICE TO CREDITORS**

22 PLEASE TAKE NOTICE that Robb Evans of Robb Evans & Associates LLC
23 (“Receiver”), the Receiver pursuant to the Court’s Preliminary Injunction Order issued February
24 10, 2011, hereby moves the Court for an order for the following relief:

25 1. An order authorizing the Receiver to make an interim distribution of \$13.7 million
26 to the Plaintiff, Federal Trade Commission (“FTC”) from cash on hand in the receivership estate
27 for the purpose of commencing consumer redress; and
28

1 2. An order deeming notice of this Motion to be sufficient under Local Civil Rule 66-
2 5 based on the service of the Motion on all parties and all known non-consumer creditors of the
3 estate concurrently with the filing of this Motion with the Court, but not the tens of thousands of
4 potential consumer creditors of the estate.

5 This Motion is made pursuant to Local Civil Rules 7-2 and 66-5 and is based upon this
6 notice of motion and Motion, the accompanying memorandum of points and authorities and the
7 Declaration of Brick Kane in support thereof, upon the pleadings, files and records of the Court
8 in this case of which the Receiver requests the Court take judicial notice, and upon all other
9 pleadings and documentary evidence as may be presented to the Court by the Receiver. A copy
10 of the Motion will be posted on the Receiver's website for the case at www.robbevans.com.

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Dated: July 26, 2019

BART K. LARSEN
SCOTT D. FLEMING
KOLESAR & LEATHAM, CHTD.

GARY OWEN CARIS
BARNES & THORNBURG LLP

By: /s/ Gary Owen Caris
Gary Owen Caris
Attorneys for Receiver
ROBB EVANS of ROBB EVANS &
ASSOCIATES LLC

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. STATEMENT OF FACTS**

3 A. Status of Receivership

4 On January 13, 2011, the Receiver was appointed Temporary Receiver over I Works, Inc.
5 (“I Works”), numerous other Corporate Defendants as defined in the Temporary Restraining
6 Order and over the assets of defendant Jeremy Johnson (collectively the “Receivership
7 Defendants”). Pursuant to the Preliminary Injunction Order entered February 10, 2011
8 (“Preliminary Injunction”), the Receiver was appointed permanent receiver over the Receivership
9 Defendants.

10 In each of the Receiver's fee motions, the Receiver provided a comprehensive summary
11 of the Receiver's activities in the case during the period covered by each motion as well as a
12 financial report regarding the receipts and expenses of the receivership estate. In addition, the
13 Receiver has filed two reports in the case. The Report of Temporary Receiver's Activities (Doc.
14 127) (“First Report”) was filed February 8, 2011 prior to the hearing on the Preliminary
15 Injunction and reported on the Receiver's initial findings and investigation into I Works and \$50.4
16 million in net profits transferred from the I Works enterprise to or for the benefit of Jeremy
17 Johnson. The Report of Receiver's Financial Reconstruction dated January 31, 2012 and four
18 volumes of supporting Appendices (Docs. 464, 465-468) (“Second Report”) were filed on
19 February 3, 2012 and detailed an additional \$51.4 million in funds from payment processing
20 transferred to or for the benefit of Jeremy Johnson through a complex web of entities and persons
21 to conceal and remove valuable assets of the receivership estate from the reach of the Receiver
22 and the creditors of Jeremy Johnson and the other named Receivership Defendants. Based on the
23 Receiver's findings in the Second Report and his ongoing investigation, the Receiver filed a
24 Motion for Order Clarifying Preliminary Injunction Order and for Further Instructions Regarding
25 Scope of Receivership Defendants Under Preliminary Injunction and for Further Instructions
26 Regarding Scope of Receivership Defendants Under Preliminary Injunction Order and Report of
27 Receiver’s Financial Reconstruction and Granting Relief From Local Rule 66-5 Pertaining to
28 Notice to Creditors (Doc. 580) (“Motion to Clarify”) to confirm the status of over 60 additional

1 entities and assets nominally held by third parties but beneficially owned and controlled by
2 Jeremy Johnson, which was granted by the Court after extensive briefing and evidence through an
3 Order entered March 25, 2013 (Doc. 900) (“Clarifying Order”). The Clarifying Order clarified the
4 scope of the Receivership Defendants and receivership property as including those additional
5 entities and assets of individuals based on overwhelming proof that those assets and entities were
6 beneficially owned by Jeremy Johnson and/or were subsidiaries, affiliates, successors and assigns
7 of the named Corporate Defendants.

8 Judgments have now been entered against all Defendants in the case, most by stipulation.
9 *See*, Stipulated Order for Permanent Injunction and Monetary Judgment as to Defendants Jeremy
10 Johnson; Blue Streak, et al. (Doc. No. 1941) (“I Works Stipulated Order”); Stipulated Final Order
11 for Disgorgement as to Relief Defendants Kerry Johnson, et al. (Doc. No. 1939) (“Kerry Johnson
12 Stipulated Final Order”); Stipulated Final Order for Disgorgement as to Relief Defendants Sharla
13 Johnson; Zibby, LLC, et al. (Doc. No. 1940) (“Sharla Johnson Stipulated Final Order”);
14 Stipulated Final Order for Permanent Injunction and Monetary Judgment as to Defendants Scott
15 Leavitt and Employee Plus, Inc. (Doc. No. 1981) (“Leavitt Stipulated Final Order”); Stipulated
16 Final Order for Permanent Injunction and Monetary Relief as to Defendant Duane Fielding,
17 Anthon Holdings, Inc. and Nework Agenda, LLC (Doc. No. 1991) (“Fielding Stipulated Final
18 Order”); and Order for Permanent Injunction and Monetary Judgment as to Defendants Terrason
19 Spinks and Jet Processing, Inc. (Doc. No. 2022 (“Spinks Judgment”).

20 Throughout this receivership proceeding, the Receiver has been successful in locating and
21 liquidating assets of the receivership estate, many of which were transferred and hidden from the
22 Receiver. The Receiver has liquidated virtually all of the assets of the receivership estate and
23 other assets which were turned over to the Receiver pursuant to the I Works Stipulated Order and
24 Sharla Johnson Stipulated Final Order¹, except for the former mansion owned by Jeremy and
25 Sharla Johnson at 529 S. Woodsvie Circle, St. George, Utah (“Woodsvie Property”). Two
26 escrows for the sale of the Woodsvie Property, each at a price in excess of \$3.4 million, fell
27

28 ¹ Certain other assets have been transferred pursuant to other judgments as well.

1 through. The Receiver is now considering alternative methods for the disposition of the
2 Woodsvie Property and the Receiver is hopeful that it will be sold in a commercially reasonable
3 manner as required by the I Works Stipulated Order within the next 120 days, however there is no
4 certainty that a sale may be consummated in that time frame. Once the Woodsvie Property is
5 sold, the Receiver will be able to file a final report and accounting and motion to wind up the
6 receivership estate promptly thereafter.

7 The Receiver has cash on hand from the liquidation of virtually all of the other assets of
8 the receivership estate or turned over to it pursuant to the I Works Stipulated Order and Sharla
9 Johnson Stipulated Final Order and other judgments of \$14,175,151.45 as of May 31, 2019. The
10 FTC has requested that the Receiver seek an order providing for an immediate interim
11 distribution of \$13.7 million to the FTC for the purpose of enabling the FTC to undertake
12 consumer redress through a third party redress administrator. This amount will enable the FTC to
13 undertake immediate consumer redress for the benefit of defrauded consumers who were
14 victimized by the Receivership Defendants. Depending on the results of that consumer redress
15 and the future liquidation of the Woodsvie Property, the FTC may be able to effect additional
16 consumer redress in a second distribution, as explained below. Because the consumer victims'
17 contact information is at least nine years old, the FTC has requested that an interim distribution of
18 \$13.7 million be made as soon as possible in order that there be no further delay in distribution
19 which continues to result in a deterioration of the address database for consumers.

20 B. Terms of the Final Judgments

21 The terms of the I Works Stipulated Order and Sharla Johnson Stipulated Final Order
22 support the relief requested in this Motion. There are several relevant portions of the I Works
23 Stipulated Order. Section IV provides for a monetary judgment against the I Works Settling
24 Defendants, including numerous of the corporate Receivership Defendants and Jeremy Johnson,
25 of nearly \$291 million. Section IV.A provides that the I Works Settling Defendants surrender to
26 the FTC all control, title, dominion and interest in the Settling Corporate Defendants' assets, all
27 of the money held by the Receiver, and various assets directly or indirectly held by Jeremy
28 Johnson. Section IV.B provides that these assets be turned over to the Receiver to the extent not

1 already in the Receiver's possession. The Receiver is then ordered to sell the unliquidated assets
2 as soon as practicable using a commercially reasonable procedure (Section IV.C). That section
3 also provides that the Receiver hold these assets and their proceeds for future transfer in
4 accordance with further instructions from the Court. Finally, Section IV.M provides that all
5 assets or funds surrendered to the FTC pursuant to the I Works Stipulated Order may be deposited
6 into a fund administered by the FTC or its designee to be used for equitable relief, including
7 consumer redress and expenses for the administration of any redress fund. If money remains after
8 redress is completed, the remaining money may be used for other equitable relief or deposited in
9 the U.S. Treasury for disgorgement.

10 The terms of the Sharla Johnson Stipulated Final Order dovetail with the terms of the
11 I Works Stipulated Order. Section I provides a judgment for disgorgement against the S.
12 Johnson Relief Defendants, which include Sharla Johnson and several entities owned by Jeremy
13 Johnson and Sharla Johnson referred to as the Corporate Relief Defendants. Section I.A provides
14 that the S. Johnson Relief Defendants surrender to the FTC all control, title, dominion, claims and
15 interest in the Woodsvie Property and the Corporate Relief Defendants' assets. Section I.B
16 provides that these assets be turned over to the Receiver to the extent not already in the
17 possession of the Receiver. Section I.C provides that the Receiver is to sell the unliquidated
18 assets as soon as practicable using a commercially reasonable procedure. It further provides that
19 the assets and their proceeds should be transferred to the FTC in accordance with further
20 instructions from the Court. Finally, Section I.I provides that all assets or funds surrendered to
21 the FTC pursuant to the I Works Stipulated Order may be deposited into a fund administered by
22 the FTC or its designee to be used for equitable relief, including consumer redress and expenses
23 for the administration of any redress fund. If money remains after redress is completed, the
24 remaining money may be used for other equitable relief or deposited in the U.S Treasury for
25 disgorgement.²

26
27
28 ² Many of the key provisions of the I Works Stipulated Order and Sharla Johnson Stipulated Final
Order cited herein are replicated in the other judgments too.

1 Therefore, under both of these Judgments, as well as the other judgments, the funds held
2 by the Receiver from the liquidation of receivership assets and other assets turned over to the
3 Receiver pursuant to the judgments are to be ultimately turned over to the FTC when instructed to
4 do so by the Court.

5 C. The Internal Revenue Service Claim Against Jeremy and Sharla Johnson

6 The Internal Revenue Service (“IRS”) assessed income tax liabilities against Jeremy
7 Johnson and Sharla Johnson prior to the inception of the receivership. The unpaid amount of the
8 assessment as of August 6, 2018 is \$3,840,990.58. In order to aid the IRS in the collection of
9 these unpaid Federal income tax liabilities, it recorded various Notices of Federal Tax Liens in
10 several Utah counties, as well as in Bonneville County, Idaho and Los Angeles County,
11 California. On November 20, 2017, the Receiver and the IRS entered into a Settlement
12 Agreement pursuant to which the Receiver paid the IRS \$50,000 in full satisfaction of the claims,
13 interests and demands of the IRS solely as against the Woodsvie Property, based on the claims
14 and liens of the IRS. This has paved the way for the Receiver to attempt to sell the Woodsvie
15 Property unimpeded by the IRS lien.

16 In light of the Receiver’s duty to liquidate assets and ultimately seek an order turning over
17 the proceeds to the FTC for consumer redress, as described in the I Works Stipulated Order and
18 Sharla Johnson Stipulated Final Order, the Receiver and the FTC entered into further negotiations
19 with the IRS in order to avoid any assertion by the IRS that its tax liens take priority over the
20 judgment obtained by the FTC or the claims of injured consumers and so the Receiver could
21 avoid the imposition of any personal liability under 31 U.S.C. § 3713(b)³ for liquidating assets
22 and distributing funds to the FTC. This resulted in the Closing Agreement on Final
23 Determination Covering Specific Matters (“Closing Agreement”) entered into between the IRS
24 and the Receiver, and which was completed on March 12, 2019. The FTC also executed the
25 Closing Agreement, although it was not a party to it. A copy of the Closing Agreement is
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27 ³ This statute provides that a representative of a person or an estate paying any debt of the person
28 or estate before paying a claim of the Government is liable to the extent of the payment for
unpaid claims of the Government.

1 attached to the accompanying declaration of Brick Kane as Exhibit 1.

2 Under the Closing Agreement, the IRS agreed not to assert any tax liens against any funds
3 distributed to the FTC by the Receiver for consumer redress. The IRS further agreed not to hold
4 the Receiver personally liable under 31 U.S.C. § 3713(b) or otherwise, on account of the
5 Receiver's distribution of funds to the FTC for the purpose of consumer redress. Finally, it was
6 agreed that to the extent any funds were not used for consumer redress, than the remainder of the
7 funds would be paid over to the IRS in satisfaction (or partial satisfaction) of the assessed tax
8 liability.

9 D. The FTC's Distribution Plan and the Need for a Prompt Interim Distribution

10 The FTC has advised the Receiver of its desire to immediately proceed with a distribution
11 to consumers who were defrauded by the Defendants in this action because the consumer
12 database is over eight years old. It is likely that many checks will not be cashed due to the age of
13 the addresses in the consumer database, however the Receiver has been advised that the FTC's
14 redress administrator will use various sources to find updated addresses for those consumers who
15 did not cash checks and/or whose checks were returned. Because the FTC has expressed concern
16 about the continued deterioration in the consumer database which may lead to an increase in the
17 number of uncashed checks, it is appropriate for an immediate interim distribution of \$13.7
18 million to be made to the FTC without waiting for the liquidation of the Woodsvew Property.

19 In the meantime, the Receiver will continue to take steps to sell the Woodsvew Property
20 using a commercially reasonable procedure. It is anticipated that this can occur in the next 120
21 days. Thereafter, the Receiver will take steps to promptly file its final report and accounting
22 along with a motion to wind up the receivership estate, with all net proceeds, after payment of
23 remaining receivership fees and costs, to be turned over to the FTC in a second distribution as
24 part of a wind up order at the conclusion of the receivership estate. At that point, the FTC will
25 evaluate if further consumer redress is practicable based on the amount of uncashed checks and
26 on the amount turned over by the Receiver at the time the estate is wound up. Once the FTC
27 completes its consumer redress after the Receiver's second distribution, or a decision is made not
28 to undertake further consumer redress, the balance of the funds held by the FTC (including the

1 funds turned over by the Receiver at the conclusion of the receivership estate) will be turned over
2 to the IRS pursuant to the Closing Agreement. If any funds are left over after payment to the IRS,
3 those funds will be used for other equitable relief or disgorged to the U.S. Treasury under the I
4 Works Stipulated Order and Sharla Johnson Stipulated Final Order and other judgments in the
5 case.

6 **II. GOOD CAUSE EXISTS FOR THE RECEIVER TO MAKE AN INTERIM**
7 **DISTRIBUTION TO THE FTC NOW**

8 As set forth above, it is appropriate and timely for the Court to order the Receiver to
9 make an interim distribution of \$13.7 million to the FTC now. The Receiver has sufficient cash
10 on hand to make this distribution. Further delay before the FTC can implement its redress
11 program will only increase the deterioration of the address database of eligible consumers and
12 make it more difficult to implement consumer redress. Given that the Receiver has been unable
13 to successfully consummate the sale of the Woodsvew Property and that additional funds which
14 will be generated by the sale of that property is not needed for initial consumer redress, the
15 Receiver agrees with the FTC's assessment that an interim distribution to the FTC at this time is
16 appropriate.

17 **III. THE RECEIVER SHOULD REQUEST PAYMENT INSTRUCTIONS FROM THE**
18 **COURT UNDER THE JUDGMENTS AND APPLICABLE LAW**

19 Despite the broad discretion granted to receivers in carrying out their duties, a receiver can
20 and should seek instructions and direction from the Court as the receiver deems necessary or
21 appropriate in the course of administration of a receivership:

22 Receivers have a very large latitude in the matter of asking advice
23 and seeking the protection of the court appointing them with
24 reference to the discharge of their duties. They are at all times
25 entitled to apply to the court for instructions.

26 *2 Clark on Receivers* § 361, pp. 618-619 (3rd ed. Rev. 1992).

27 A receiver must fully inform the Court as to the facts of major transactions and seek
28 instructions from the court regarding such transactions. *Haines v. Buckeye Wheel Co., et al.*, 224

1 F. 289, 294 (6th Cir. 1915). Court approval of the Receiver's actions and requests is consistent
2 with federal receivership practice as required by Federal Rule of Civil Procedure, Rule 66. Local
3 Civil Rule 66-5(b) expressly contemplates motions for payments to creditors to be made.

4 In the I Works Stipulated Order, Sharla Johnson Stipulated Final Order and other
5 judgments, it was expressly provided that distributions to the FTC be made in accordance with
6 further instructions from the Court. *See*, Section IV.M of the I Works Stipulated Order and
7 Section I.C. of the Sharla Johnson Stipulated Final Order. Therefore, the Receiver is required to
8 obtain Court permission before payment to the FTC is made.

9 The Court has wide latitude in supervising the Receiver and may provide for the
10 administration of the receivership as it deems appropriate. 13 *Moore's Federal Practice*, §
11 66.06[4][a], p. 66-22 (Matthew Bender 3d ed. Rev. 2012). The purpose of the receivership laws
12 is to give the Court broad authority pursuant to its general powers of equity to issue orders as
13 necessary for the administration of the estate. The equity powers of the District Court to issue
14 orders pertaining to the administration of a receivership estate were discussed at length by the
15 Ninth Circuit in *Securities and Exchange Commission v. Hardy*, 803 F. 2d 1034 (9th Cir. 1986).
16 In its decision, the Court articulated two overriding principals of law:

17 First, a district court's power to supervise an equity receivership
18 and to determine the appropriate action to be taken in the
19 administration of the receivership is extremely broad...The basis
20 for broad deference to the district court's supervisory role in equity
21 receiverships arises out of the fact that most receiverships involve
22 multiple parties and complex transactions...Secondly, we have
23 acknowledged that a primary purpose of equity receiverships is to
24 promote orderly and efficient administration of the estate by the
25 district court for the benefit of creditors. [Citations omitted.]
26 Accordingly, we generally uphold reasonable procedures instituted
27 by the district court that serve this purpose. [Citations omitted.]

28 *Securities and Exchange Commission v. Hardy*, 803 F. 2d at 1037-1038.

1 **IV. NOTICE OF THIS MOTION IS SUFFICIENT UNDER THE CIRCUMSTANCES**
2 **AND SHOULD BE APPROVED**

3 Local Civil Rule 66-5 provides for service of notice of the hearing on various motions by
4 a receiver concerning the administration of the estate. That rule provides for service of the notice
5 of hearing on such motions on all creditors of the receivership estate. No hearing has been set on
6 this Motion and the provisions of Local Civil Rule 66-5 do not specifically apply. However, the
7 Receiver has served the Motion on the parties and on all known non-consumer creditors of the
8 estate to provide them notice and an opportunity to be heard concerning the Motion.

9 In this case, there are an extremely large number of potential consumer creditors who
10 may have claims against the Receivership Defendants arising out of the business operations of the
11 Receivership Defendants prior to the Receiver's appointment, as evidenced by the fact that the
12 FTC has advised the Receiver that there are 155,859 consumer-accounts for unreimbursed 2010
13 consumers alone. It is not realistically possible or beneficial to the estate and its creditors for the
14 Receiver to attempt to identify and serve all of the potential consumer creditors with notice of this
15 motion and the expense and burden on the estate of attempting to effectuate such service would
16 drain the estate's resources and cause undue administrative expense.

17 Based on the foregoing, to the extent that Local Rule 66-5 applies to this Motion, the
18 Receiver seeks an order providing that the notice requirement of that rule shall be deemed
19 satisfied if notice of the filing of the Motion is given by serving copies of all motion papers on the
20 parties to the action and on all known non-consumer creditors. The Receiver submits that such
21 service provides sufficient notice and an opportunity for hearing to the interested parties and
22 should be approved as adequate. The Court's authority, as a court of equity supervising a federal
23 equity receivership, to issue such an administrative order approving this form of notice has been
24 previously detailed in the Receiver's memoranda supporting many of the Receiver's prior
25 motions and is summarized herein. *See* F.R. Civ. P. 5(a) and (c) (authorizing the court to modify
26 service procedures when numerous defendants are involved in litigation); Local Rule 66-10
27 (receiver to administer receivership estates "as nearly as may be in accordance with the practice
28 in the administration of estates in Chapter 11 bankruptcy case"); *In re First Alliance Mortgage*

1 Co., 269 B.R. 428, 442 (C.D. Cal. 2001) (referencing in *dicta* in the court's recitation of facts the
2 bankruptcy court's order limiting notice issued in that case); 11 U.S.C. section 102(1)(A)
3 (defining the phrase "after notice and a hearing" to mean "after such notice as is appropriate in
4 the particular circumstances, and such opportunity for hearing as is appropriate in the particular
5 circumstances"); 11 U.S.C. section 105(a) and (d) (granting broad equitable powers to the court to
6 issue orders "necessary or appropriate to carry out the provisions" of title 11 including
7 "prescribing such limitations and conditions as the court deems appropriate to ensure the case is
8 handled expeditiously and economically"); and F. R. Bankr. P. 2002(m) (authorizing the court to
9 enter "orders designating the matters in respect to which, the entity to whom, and the form and
10 manner in which notices shall be sent except as otherwise provided by these rules").

11 **V. CONCLUSION**

12 For the reasons set forth in this Motion, it is respectfully requested that the
13 Court grant the Motion and enter the proposed order submitted concurrently herewith.

14 Dated: July 26, 2019

BART K. LARSEN
SCOTT D. FLEMING
KOLESAR & LEATHAM, CHTD.

GARY OWEN CARIS
BARNES & THORNBURG LLP

19 By: /s/ Gary Owen Caris
20 Gary Owen Caris
21 Attorneys for Receiver
22 ROBB EVANS of ROBB EVANS &
23 ASSOCIATES LLC

24 14804920v2

1 Bart K. Larsen (Nev. SBN 008538)
blarsen@klnevada.com
2 Scott D. Fleming (Nev. SBN 005638)
sfleming@klnevada.com
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400 South Rampart Boulevard, Suite 400
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8 Los Angeles, California 90067
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ROBB EVANS of ROBB EVANS & ASSOCIATES LLC

11
12 UNITED STATES DISTRICT COURT
13 DISTRICT OF NEVADA

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15 FEDERAL TRADE COMMISSION,

16 Plaintiff,

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18 JEREMY JOHNSON, individually, as officer
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20 Defendants.
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Case No. 2:10-CV-02203-MMD-GWF

**DECLARATION OF BRICK KANE IN
SUPPORT OF MOTION FOR ORDER
AUTHORIZING INTERIM DISTRIBUTION
TO FEDERAL TRADE COMMISSION AND
GRANTING RELIEF FROM LOCAL RULE
66-5 PERTAINING TO NOTICE TO
CREDITORS**

22
23 I, Brick Kane, declare:

24 1. I am the President and Chief Operating Officer of Robb Evans & Associates LLC
25 and a deputy to the Receiver Robb Evans of Robb Evans & Associates LLC (“Receiver”), the
26 Receiver over the Corporate Defendants as defined in the Preliminary Injunction Order and
27 Clarifying Order, defined below, and over the assets of Jeremy Johnson (“Johnson”) (collectively
28 the Corporate Defendants and Johnson are referred to herein as the “Receivership Defendants”). I

1 am one of the members of Robb Evans & Associates LLC with primary responsibility for the
2 daily administration, supervision and management of the receivership estate. I have personal
3 knowledge of the matters set forth in this declaration or I have gained knowledge of these matters
4 through other members and deputies of the Receiver during my supervision and management in
5 this matter. If called upon to testify as to these matters I could and would competently testify
6 thereto.

7 2. The Receiver was appointed originally as temporary receiver pursuant to the
8 Court's Order (Doc. No. 19) ("TRO") issued January 13, 2011. Thereafter, pursuant to the Court's
9 Preliminary Injunction Order issued February 10, 2011, the Receiver became permanent receiver
10 in this matter.

11 3. I am one of the deputies to the Receiver who has been responsible for the
12 Receiver's review and investigation of assets and analysis of financial and business records
13 relevant to the receivership and the Receiver's exercise of his powers and duties under the TRO
14 and Preliminary Injunction Order. I personally participated in the preparation and review of the
15 Receiver's initial Report of Temporary Receiver's Activities January 13, 2011 Through February
16 4, 2011 which was filed with the Court on February 8, 2011 (Doc. No. 127) ("First Report") and
17 the Report of Receiver's Financial Reconstruction dated January 31, 2012 ("Second Report")
18 filed with the Court on February 3, 2012 along with four volumes of Appendices of Exhibits to
19 the Second Report (Doc. Nos. 464, 465-468). I personally participated in the review and
20 evaluation of many of the documents and records upon which the information contained in the
21 Receiver's First Report and Second Report are based. I was extensively involved in the drafting
22 and revision of the First Report and Second Report and in the drafting, revisions or review of the
23 more than 100 tabs (exhibits) to the Second Report.

24 4. In each of the Receiver's fee motions, the Receiver provided a comprehensive
25 summary of the Receiver's activities in the case during the period covered by each motion as well
26 as a financial report regarding the receipts and expenses of the receivership estate. In addition,
27 the First Report reported on the Receiver's initial findings and investigation into I Works and
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1 \$50.4 million in net profits transferred from the I Works enterprise to or for the benefit of Jeremy
2 Johnson. The Second Report detailed an additional \$51.4 million in funds from payment
3 processing transferred to or for the benefit of Jeremy Johnson through a complex web of entities
4 and persons to conceal and remove valuable assets of the receivership estate from the reach of the
5 Receiver and the creditors of Jeremy Johnson and the other named Receivership Defendants.
6 Based on the Receiver's findings in the Second Report and his ongoing investigation, the
7 Receiver filed a Motion for Order Clarifying Preliminary Injunction Order and for Further
8 Instructions Regarding Scope of Receivership Defendants Under Preliminary Injunction and for
9 Further Instructions Regarding Scope of Receivership Defendants Under Preliminary Injunction
10 Order and Report of Receiver's Financial Reconstruction and Granting Relief From Local Rule
11 66-5 Pertaining to Notice to Creditors (Doc. 580) ("Motion to Clarify") to confirm the status of
12 over 60 additional entities and assets nominally held by third parties but beneficially owned and
13 controlled by Jeremy Johnson, which was granted by the Court after extensive briefing and
14 evidence through an Order entered March 25, 2013 (Doc. 900) ("Clarifying Order"). The
15 Clarifying Order clarified the scope of the Receivership Defendants and receivership property as
16 including those additional entities and assets of individuals based on overwhelming proof that
17 those assets and entities were beneficially owned by Jeremy Johnson and/or were subsidiaries,
18 affiliates, successors and assigns of the named Corporate Defendants.

19 5. Judgments have now been entered against all Defendants in the case, most by
20 stipulation. See, Stipulated Order for Permanent Injunction and Monetary Judgment as to
21 Defendants Jeremy Johnson; Blue Streak, et al. (Doc. No. 1941) ("I Works Stipulated Order");
22 Stipulated Final Order for Disgorgement as to Relief Defendants Kerry Johnson, et al. (Doc. No.
23 1939) ("Kerry Johnson Stipulated Final Order"); Stipulated Final Order for Disgorgement as to
24 Relief Defendants Sharla Johnson; Zibby, LLC, et al. (Doc. No. 1940) ("Sharla Johnson
25 Stipulated Final Order"); Stipulated Final Order for Permanent Injunction and Monetary
26 Judgment as to Defendants Scott Leavitt and Employee Plus, Inc. (Doc. No. 1981) ("Leavitt
27 Stipulated Final Order"); Stipulated Final Order for Permanent Injunction and Monetary Relief as
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1 to Defendant Duane Fielding, Anthon Holdings, Inc. and Nework Agenda, LLC (Doc. No. 1991)
2 (“Fielding Stipulated Final Order”); and Order for Permanent Injunction and Monetary Judgment
3 as to Defendants Terrason Spinks and Jet Processing, Inc. (Doc. No. 2022 (“Spinks Judgment”).

4 6. Throughout this receivership proceeding, the Receiver has been successful in
5 locating and liquidating assets of the receivership estate, many of which were transferred and
6 hidden from the Receiver. The Receiver has liquidated virtually all of the assets of the
7 receivership estate and other assets which were turned over to the Receiver pursuant to the I
8 Works Stipulated Order and Sharla Johnson Stipulated Final Order, except for the former
9 mansion owned by Jeremy and Sharla Johnson at 529 S. Woodsvie Circle, St. George, Utah
10 (“Woodsvie Property”). Certain other assets have been transferred pursuant to other judgments
11 as well. Two escrows for the sale of the Woodsvie Property, each at a price in excess of \$3.4
12 million, fell through. The Receiver is now considering alternative methods for the disposition of
13 the Woodsvie Property and the Receiver is hopeful that it will be sold in a commercially
14 reasonable manner as required by the I Works Stipulated Order within the next 120 days,
15 however there is no certainty that a sale may be consummated in that time frame. Once the
16 Woodsvie Property is sold, the Receiver will be able to file a final report and accounting and
17 motion to wind up the receivership estate promptly thereafter.

18 7. The Receiver has cash on hand from the liquidation of virtually all of the other
19 assets of the receivership estate or turned over to it pursuant to the I Works Stipulated Order and
20 Sharla Johnson Stipulated Final Order and other judgments of \$14,175,151.45 as of May 31,
21 2019. The FTC has requested that the Receiver seek an order providing for an immediate interim
22 distribution of \$13.7 million to the FTC for the purpose of enabling the FTC to undertake
23 consumer redress through a third party redress administrator. This amount will enable the FTC to
24 undertake immediate consumer redress for the benefit of defrauded consumers who were
25 victimized by the Receivership Defendants. Depending on the results of that consumer redress
26 and the future liquidation of the Woodsvie Property, the FTC may be able to effect additional
27 consumer redress in a second distribution, as explained below. Because the consumer victims’
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1 contact information is at least nine years old, the FTC has requested that an interim distribution
2 of \$13.7 million be made as soon as possible in order that there be no further delay in distribution
3 which continues to result in a deterioration of the address database for consumers.

4 8. The terms of the I Works Stipulated Order and Sharla Johnson Stipulated Final
5 Order support the relief requested in the Motion. There are several relevant portions of the I
6 Works Stipulated Order. Section IV provides for a monetary judgment against the I Works
7 Settling Defendants, including numerous of the corporate Receivership Defendants and Jeremy
8 Johnson, of nearly \$291 million. Section IV.A provides that the I Works Settling Defendants
9 surrender to the FTC all control, title, dominion and interest in the Settling Corporate Defendants'
10 assets, all of the money held by the Receiver, and various assets directly or indirectly held by
11 Jeremy Johnson. Section IV.B provides that these assets be turned over to the Receiver to the
12 extent not already in the Receiver's possession. The Receiver is then ordered to sell the
13 unliquidated assets as soon as practicable using a commercially reasonable procedure (Section
14 IV.C). That section also provides that the Receiver hold these assets and their proceeds for future
15 transfer in accordance with further instructions from the Court. Finally, Section IV.M provides
16 that all assets or funds surrendered to the FTC pursuant to the I Works Stipulated Order may be
17 deposited into a fund administered by the FTC or its designee to be used for equitable relief,
18 including consumer redress and expenses for the administration of any redress fund. If money
19 remains after redress is completed, the remaining money may be used for other equitable relief or
20 deposited in the U.S. Treasury for disgorgement.

21 9. The terms of the Sharla Johnson Stipulated Final Order dovetail with the terms of
22 the I Works Stipulated Order. Section I provides a judgment for disgorgement against the S.
23 Johnson Relief Defendants, which include Sharla Johnson and several entities owned by Jeremy
24 Johnson and Sharla Johnson referred to as the Corporate Relief Defendants. Section I.A provides
25 that the S. Johnson Relief Defendants surrender to the FTC all control, title, dominion, claims and
26 interest in the Woodsvew Property and the Corporate Relief Defendants' assets. Section I.B
27 provides that these assets be turned over to the Receiver to the extent not already in the
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1 possession of the Receiver. Section I.C provides that the Receiver is to sell the unliquidated
2 assets as soon as practicable using a commercially reasonable procedure. It further provides that
3 the assets and their proceeds should be transferred to the FTC in accordance with further
4 instructions from the Court. Finally, Section I.I provides that all assets or funds surrendered to
5 the FTC pursuant to the I Works Stipulated Order may be deposited into a fund administered by
6 the FTC or its designee to be used for equitable relief, including consumer redress and expenses
7 for the administration of any redress fund. If money remains after redress is completed, the
8 remaining money may be used for other equitable relief or deposited in the U.S. Treasury for
9 disgorgement. Many of the key provisions of the I Works Stipulated Order and Sharla Johnson
10 Stipulated Final Order cited herein are replicated in the other judgments too.

11 10. Therefore, under both of these Judgments, as well as the other judgments, the
12 funds held by the Receiver from the liquidation of receivership assets and other assets turned over
13 to the Receiver pursuant to the judgments are to be ultimately turned over to the FTC when
14 instructed to do so by the Court.

15 11. The Internal Revenue Service (“IRS”) assessed income tax liabilities against
16 Jeremy Johnson and Sharla Johnson prior to the inception of the receivership. The unpaid
17 amount of the assessment as of August 6, 2018 is \$3,840,990.58. In order to aid the IRS in the
18 collection of these unpaid Federal income tax liabilities, it recorded various Notices of Federal
19 Tax Liens in several Utah counties, as well as in Bonneville County, Idaho and Los Angeles
20 County, California. On November 20, 2017, the Receiver and the IRS entered into a Settlement
21 Agreement pursuant to which the Receiver paid the IRS \$50,000 in full satisfaction of the claims,
22 interests and demands of the IRS solely as against the Woodsvie Property, based on the claims
23 and liens of the IRS. This has paved the way for the Receiver to attempt to sell the Woodsvie
24 Property unimpeded by the IRS lien.

25 12. In light of the Receiver’s duty to liquidate assets and ultimately seek an order
26 turning over the proceeds to the FTC for consumer redress, as described in the I Works Stipulated
27 Order and Sharla Johnson Stipulated Final Order, the Receiver and the FTC entered into further
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1 negotiations with the IRS in order to avoid any assertion by the IRS that its tax liens take priority
2 over the judgment obtained by the FTC or the claims of injured consumers and so the Receiver
3 could avoid the imposition of any personal liability for liquidating assets and distributing funds to
4 the FTC. This resulted in the Closing Agreement on Final Determination Covering Specific
5 Matters (“Closing Agreement”) entered into between the IRS and the Receiver, and which was
6 completed on March 12, 2019. The FTC also executed the Closing Agreement, although it was
7 not a party to it. A true and correct copy of the Closing Agreement is attached hereto as Exhibit
8 1.

9 13. Under the Closing Agreement, the IRS agreed not to assert any tax liens against
10 any funds distributed to the FTC by the Receiver for consumer redress. The IRS further agreed
11 not to hold the Receiver personally liable under 31 U.S.C. § 3713(b) or otherwise, on account of
12 the Receiver’s distribution of funds to the FTC for the purpose of consumer redress. Finally, it
13 was agreed that to the extent any funds were not used for consumer redress, than the remainder of
14 the funds would be paid over to the IRS in satisfaction (or partial satisfaction) of the assessed tax
15 liability.

16 14. The FTC has advised the Receiver of its desire to immediately proceed with a
17 distribution to consumers who were defrauded by the Defendants in this action because the
18 consumer database is over eight years old. It is likely that many checks will not be cashed due to
19 the age of the addresses in the consumer database, however the Receiver has been advised that the
20 FTC’s redress administrator will use various sources to find updated addresses for those
21 consumers who did not cash checks and/or whose checks were returned.

22 15. In the meantime, the Receiver will continue to take steps to sell the Woodsvie
23 Property using a commercially reasonable procedure. It is anticipated that this can occur in the
24 next 120 days. Thereafter, the Receiver will take steps to promptly file its final report and
25 accounting along with a motion to wind up the receivership estate, with all net proceeds, after
26 payment of remaining receivership fees and costs, to be turned over to the FTC in a second
27 distribution as part of a wind up order at the conclusion of the receivership estate. At that point,
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1 the FTC will evaluate if further consumer redress is practicable based on the amount of uncashed
2 checks and on the amount turned over by the Receiver at the time the estate is wound up. Once
3 the FTC completes its consumer redress after the Receiver's second distribution, or a decision is
4 made not to undertake further consumer redress, the balance of the funds held by the FTC
5 (including the funds turned over by the Receiver at the conclusion of the receivership estate) will
6 be turned over to the IRS pursuant to the Closing Agreement. If any funds are left over after
7 payment to the IRS, those funds will be used for other equitable relief or disgorged to the U.S.
8 Treasury under the I Works Stipulated Order and Sharla Johnson Stipulated Final Order and other
9 judgments in the case.

10 16. Because the FTC has expressed concern about the continued deterioration in the
11 consumer database which may lead to an increase in the number of uncashed checks, it is
12 appropriate for an immediate interim distribution of \$13.7 million to be made to the FTC without
13 waiting for the liquidation of the Woodsvie Property. The Receiver has sufficient cash on hand
14 to make this distribution. Further delay before the FTC can implement its redress program will
15 only increase the deterioration of the address database of eligible consumers and make it more
16 difficult to implement consumer redress. Given that the Receiver has been unable to successfully
17 consummate the sale of the Woodsvie Property and that additional funds which will be
18 generated by the sale of that property is not needed for initial consumer redress, the Receiver
19 agrees with the FTC's assessment that an interim distribution to the FTC at this time is
20 appropriate.

21 17. In this case, there are an extremely large number of potential consumer creditors
22 who may have claims against the Receivership Defendants arising out of the business operations
23 of the Receivership Defendants prior to the Receiver's appointment, as evidenced by the fact that
24 the FTC has advised the Receiver that there are 155,859 consumer-accounts for unreimbursed
25 2010 consumers alone. It is not realistically possible or beneficial to the estate and its creditors for
26 the Receiver to attempt to identify and serve all of the potential consumer creditors with notice of
27 this motion and the expense and burden on the estate of attempting to effectuate such service
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would drain the estate's resources and cause undue administrative expense.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed this 25 day of July 2019 at Sun Valley, California.



BRICK KANE

14821364v1

EXHIBIT 1

Form 906
(Rev. August 1994)

Department of the Treasury—Internal Revenue Service

**Closing Agreement on Final Determination
Covering Specific Matters**

Under section 7121 of the Internal Revenue Code: Robb Evans of Robb Evans & Associates LLC 11450 Sheldon Street, Sun Valley, California 91352-1121 (the "Receiver") by order of the United States District Court for the District of Nevada (the "Court"), Civil Action No. 2:10-cv-02203 dated January 13, 2011, acting pursuant to 28 U.S.C. § 754 as the Receiver of the property of Jeremy and Sharla Johnson and multiple entities associated with them (the "Receivership") and the Commissioner of Internal Revenue make the following closing agreement:

WHEREAS, on December 21, 2010, the Federal Trade Commission ("FTC") filed a complaint for injunctive and other relief against a number of individuals, including Jeremy Johnson, and related business entities in the United States District Court for the District of Nevada in Civil Action No. 2:10-cv-02203 (the "Complaint");

WHEREAS, on February 25, 2013, the FTC filed, in the United States District Court for the District of Nevada in Civil Action No. 2:10-cv-02203, an amended complaint adding eight relief defendants, including Sharla Johnson (the "Amended Complaint");

WHEREAS, the Internal Revenue Service has assessed income tax liabilities against Jeremy Johnson (social security number ending 5169) and his spouse, Sharla Johnson (social security number ending 2178) (the "Taxpayers"), and a significant amount of that assessed liability remains unpaid as described in the following table:

Tax year	Income tax assessed	Date of assessment	Unpaid amount ¹
2009	\$4,486,644	November 8, 2010	\$3,840,990.58

WHEREAS, to protect the interest of the United States and to aid in the collection of any unpaid Federal income tax liabilities assessed as described in the previous table, the Internal Revenue Service recorded Notices of Federal Tax Lien ("NFTL") against Jeremy and/or Sharla Johnson as described in the following table:

Tax year	County of NFTL	Date NFTL recorded
2009	Washington County (Utah)	February 4, 2011
2009	Beaver County (Utah)	March 1, 2011

¹ This unpaid amount includes penalties and interest computed through August 6, 2018.

2009	Cache County (Utah)	February 28, 2011
2009	Sanpete County (Utah)	February 28, 2011
2009	Sevier County (Utah)	February 28, 2011
2009	Bonneville County (Idaho)	February 28, 2011
2009	Los Angeles County (California)	February 28, 2011

WHEREAS, the Complaint and Amended Complaint alleged that the Defendants were engaged in a fraudulent scheme, in which they deceptively enrolled hundreds of thousands of unwitting consumers into memberships for products or services and then repeatedly charged their credit cards or debited funds from their checking accounts without consumers' knowledge or authorization for memberships the consumers never agreed to accept;

WHEREAS, on January 13, 2011, the Court issued a Temporary Restraining Order and Order Appointing Receiver;

WHEREAS, on January 13, 2011, the Court appointed Robb Evans of Robb Evans & Associates LLC as Receiver for all Defendants, pursuant to 28 U.S.C. §754;

WHEREAS, on February 10, 2011, the Court issued a Preliminary Injunction and Order Continuing Appointment of Receiver, Freezing Assets, and Other Relief;

WHEREAS, on August 1, 2016, the Court entered a stipulated order for permanent injunction and monetary judgment as to a number of the defendants in the Case, including Jeremy Johnson.

WHEREAS, the stipulated monetary judgment referenced in the preceding paragraph was in the amount of \$280,911,870.36, which represented the FTC's estimate of the total alleged unreimbursed consumer injury caused by the Defendants;

WHEREAS, on August 1, 2016, the Court ordered the Receiver to, as soon as practicable, commence the sale of the unliquidated assets of Defendants ("Receivership Assets") using a commercially-reasonable procedure;

WHEREAS, on November 20, 2017, the Receiver and the Internal Revenue Service entered into a Settlement Agreement pursuant to which the Receiver paid the Internal Revenue Service \$50,000 in full satisfaction of the claims, interests and demands of the Internal Revenue Service solely as against the real property commonly described as 529 S. Woodsvie Circle, St. George, Utah, Jeremy Johnson's and Sharla Johnson's former residence, based on the claims and liens of the Internal Revenue Service;

WHEREAS, the Court has approved, and hereafter is expected to approve, distributions by the Receiver from Receivership assets to pay any Claimants, the FTC, and Expenses and Costs;

WHEREAS, the Receiver now wishes to liquidate Receivership Assets and subsequently make a distribution to the FTC pursuant to the stipulated order for permanent injunction and monetary judgment and other stipulated orders entered by the Court;

WHEREAS, the Receiver is concerned that the Internal Revenue Service may assert that any Tax Liens it may have take priority over the judgment obtained by the FTC or the claims of injured consumers;

WHEREAS, the Receiver is concerned that the Internal Revenue Service may attempt to hold the Receiver personally liable under 31 U.S.C. §3713(b), or otherwise, for liquidating assets and distributing funds to the FTC or other potential claimants in the Receivership; and

WHEREAS, the Commissioner, on behalf of the Internal Revenue Service, and the Receiver wish to resolve with finality the Tax Liens and personal liability issues with respect to the Distributed Funds;

NOW IT IS HEREBY DETERMINED AND AGREED that:

(1) In addition to the terms defined in the Recitals above, as used in this Closing Agreement, the following capitalized terms have the following meanings:

“Case” means Civil Action No. 2:10-cv-02203 in the Court.

“Claimants” means persons or entities who have filed or will file claims with, or have been identified by, the Receiver, the FTC, or the FTC’s agent as eligible to receive redress from Receivership Assets, excluding all state and local tax claims and claims of any other “non-consumer creditors,” meaning creditors who assert claims in the Receivership that are not based on consumer injury caused by the Defendants.

“Defendants” means, collectively, Jeremy Johnson, Sharla Johnson, and any business entities associated with them and named as defendants or relief defendants or included as entities in the Receivership in the Case.

“Distributed Funds” means funds distributed by the Receiver, pursuant to a Court order, from Receivership Assets to the FTC, the FTC’s agent, Claimants, or to pay Expenses and Costs.

“Effective Date” of this agreement shall be the date on which an order is entered by the Court in the Case approving the agreement pursuant to a noticed motion to be brought by the Receiver. The Receiver shall bring such motion as soon as practicable following the execution of the agreement by all parties hereto.

“Expenses and Costs” means (a) the fees and expenses of the Receiver and his Court approved professionals which the Court has authorized or authorizes the Receiver to pay from assets of the Receivership, and (b) other costs of administering the Receivership which the Court has authorized or authorizes the Receiver to pay from assets of the Receivership.

“Retained Receivership Assets” means Receivership assets which the Receiver has not distributed as Distributed Funds at the close of the claim period.

“Taxpayers” means Jeremy Johnson and Sharla Johnson.

“Taxpayers’ Liability for Taxes” means any tax, interest, penalties, other additions to tax or additional amounts authorized by Chapter 68 of the Internal Revenue Code owed by either of the Taxpayers, whether arising from a separate or joint tax return or from a failure to file a tax return, and including, without limitation, amounts owed as a result of fraud on the part of one or more Defendants (which fraud, notwithstanding anything in this agreement to the contrary, may not be a basis for reopening this agreement). However, nothing in this agreement determines or resolves whether the Defendants owe or will owe a Liability for Taxes, nor precludes the Service from initiating an examination as to any of the Defendants’ Liability for Taxes or taking any other action against the Defendants.

“Tax Liens” means liens, priorities or claims which the Service may assert with respect to the Taxpayers’ Liability for Taxes.

(2) The Internal Revenue Service will not assert any Tax Liens against any Distributed Funds with respect to the amount, if any, of the Taxpayers’ Liability for Taxes, it being the intention of the Commissioner that the Receiver, the FTC, or the FTC’s agent may distribute and pay all Distributed Funds free and clear of any and all Tax Liens.

(3) The Internal Revenue Service will not hold the Receiver personally liable under 31 U.S.C. §3713(b) (or otherwise) for the amount, if any, of Defendants’ Liability for Taxes on account of the Receiver’s distribution of the Distributed Funds.

(4) The Receiver or the FTC will pay to the Internal Revenue Service any Retained Receivership Assets within ninety (90) days after the claim period has closed.

This agreement is final and conclusive except:

(i) the matter it relates to may be reopened in the event of fraud, malfeasance or misrepresentation of material fact;

(ii) it is subject to the Internal Revenue Code sections that expressly provide that effect be given to their provisions (including any stated exception for Code section 7122) notwithstanding any other law or rule of law; and

(iii) if it relates to a tax period ending after the Effective Date of this agreement, it is subject to any law enacted after the Effective Date that applies to that tax period.

By signing, the parties certify that they have read and agreed to the terms of this document. Also by signing, the Commissioner of Internal Revenue's representative represents and warrants that he is an authorized signature of this Closing Agreement pursuant to Internal Revenue Service Delegation Order No. 97.

Robb Evans of Robb Evans & Associates LLC

Receiver's signature: [Signature] Date Signed 12-3-18
By: Brick Kane, President and Chief Operating Officer

Receiver's representative: [Signature] Date Signed 12/4/18
Cindy Caris, Attorney

Federal Trade Commission:
By [Signature] Date Signed 12/5/2018
Collet Guorard, Attorney

Commissioner of Internal Revenue Service
By [Signature] Date Signed 3/12/2019
Andrea Ventura, Manager

Authorized Internal Revenue Service Employee

I have examined the specific matters involved involved and recommend the acceptance of the the proposed agreement.
[Signature] 2/10/19
(Receiving Officer) (Date)
Robert A. Varra
Deputy Area Counsel, Area 5 SB/SE

I have reviewed the specific matters involved and recommend approval of of the proposed agreement.
[Signature] 2/10/19
(Reviewing Officer) (Date)
Edwin A. Herrera
Area Counsel, Area 5 SB/SE