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8 Attorneys for Receiver
9 **ROBB EVANS & ASSOCIATES LLC**

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12 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
13 **FOR THE COUNTY OF LOS ANGELES, SOUTH DISTRICT**
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15 Randolph Anthony Garcia and Victorianna
16 Hendrickson, Trustees of The Amended and
17 Restated Garcia Family Trust UTD October
18 28, 2009, individually, and as Limited
19 Partner of the CA Pedersen Client
20 Investment Pool Limited Partnership, et al.,

21 Plaintiffs,

22 vs.

23 Carol A. Pedersen, C.P.A., Individually, et
24 al.

25 Defendants.

Case No. NC061364

**NOTICE OF MOTION AND MOTION
FOR ORDER AUTHORIZING
DESTRUCTION OF RECORDS;
MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT THEREOF**

[Filed concurrently with Declaration of Brick
Kane and [Proposed] Order]

DATE: September 15, 2020

TIME: 8:30 a.m.

DEPT.: S26

Complaint Filed: August 31, 2017

1 **TO: THE PARTIES AND THEIR COUNSEL OF RECORD AND TO THE**
2 **PLAINTIFFS IN THE RELATED ACTIONS AND THEIR COUNSEL OF RECORD:**

3 **PLEASE TAKE NOTICE** that on September 15, 2020 at 8:30 a.m., or as soon thereafter
4 as this matter may be heard, in Department S26 of the above-entitled Court located at 275
5 Magnolia, Long Beach, California 90802, Robb Evans & Associates LLC (“Receiver”) as
6 Receiver of all real and personal property and assets of Defendants Carol A. Pedersen, C.P.A.,
7 Individually, Carol A. Pedersen, General Partner of CA Pedersen Client Investment Pool Limited
8 Partnership, CA Pedersen Client Investment Pool Limited Partnership, Carol A. Pedersen, Partner
9 of Pedersen & Fernando, CPA’s, Carol Pedersen, President, Director, and Sole Owner of CA
10 Pedersen Accountancy Corporation, CA Pedersen Accountancy Corporation, Dland Flip, LLC,
11 General Partner of Carol Pedersen Family Limited Partnership, Carol Pedersen Family Limited
12 Partnership, Dland Flip, LLC, Hedwig & Fawkes, LLC, General Partner of Unicorn Partners
13 XXIV Fund, L.P., Unicorn Partners XXIV Fund, L.P., and Hedwig & Fawkes, LLC (hereinafter
14 collectively “Receivership Defendants”) appointed pursuant to the Court’s Order Appointing a
15 Receiver entered October 20, 2017, the Amendment to Order Appointing a Receiver entered
16 November 2, 2017, and the Order Granting Ex Parte Application for Order Compelling Carol A.
17 Pedersen, Individually and In All Representative Capacities for the Receivership Defendants, to
18 Turn Over to Receiver All Electronic Documents Relating to the Investment Pool Which is the
19 Subject Matter of this Action and For Modification of the Receivership Order Pursuant to
20 Paragraph 4.J. Thereof entered January 3, 2018, hereby moves the Court for an order authorizing
21 destruction of old and/or abandoned records formerly in the possession of Carol Pedersen
22 (“Motion”). Specifically, the Receiver moves this Court for an order authorizing the Receiver (1)
23 to destroy approximately 230 boxes of documents related to Carol Pedersen’s former accounting
24 practice that are in the Receiver’s possession and to do so in a secure manner and (2) to use, to the
25 extent available, funds from the Receivership estate to effectuate such destruction.

26 This Motion is brought pursuant to the orders appointing the Receiver and is based on this
27 Notice of Motion and Motion, the Memorandum of Points and Authorities attached hereto, the
28 accompanying Declaration of Brick Kane served and filed concurrently herewith, the proposed

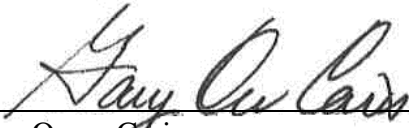
1 order granting this Motion, served and lodged concurrently herewith, the papers and records in
2 the Court's file, and such further evidence, argument and authority as may be presented at or
3 before the hearing on this Motion.

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Dated: August 11, 2020

Respectfully submitted,

BARNES & THORNBURG LLP

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

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. STATEMENT OF FACTS**

3 **A. Allegations in Complaint**

4 This action was filed by Plaintiffs Randolph Anthony Garcia and Victorianna
5 Hendrickson, Trustees of The Amended and Restated Garcia Family Trust UTD October 28,
6 2009, individually, and as Limited Partner of the CA Pedersen Client Investment Pool Limited
7 Partnership; Randolph Anthony Garcia and Martha Garcia, Trustees of The Amended and
8 Restated 1996 Garcia Family Trust, individually and as Limited Partner of the CA Pedersen
9 Client Investment Pool Limited Partnership; and RMG Corporation (hereinafter “Plaintiffs”) on
10 August 31, 2017 against Defendants Carol A. Pedersen, C.P.A.; Carol A. Pedersen, General
11 Partner of CA Pedersen Client Investment Pool Limited Partnership; CA Pedersen Client
12 Investment Pool Limited Partnership; Dayantha Manilal Fernando; Carol A. Pedersen, Partner of
13 Pedersen & Fernando, CPA’s; Dayantha Manilal Fernando, Partner of Pedersen & Fernando,
14 CPA’s; Pedersen & Fernando, CPA’s; Dland Flip, LLC, General Partner of Carol Pedersen
15 Family Limited Partnership; Carol Pedersen Family Limited Partnership; Dland Flip, LLC,
16 Hedwig & Fawkes, LLC, General Partner of Unicorn Partners XXIV Fund, L.P.; Unicorn
17 Partners XXIV Fund, L.P.; Hedwig & Fawkes, LLC; John Pedersen; Andrew Pedersen; Steve
18 Pedersen; Mark Delmer Hawkins; Maureen Ellen Ashley; Mark Louis Hawkins; and Brett A.
19 Hawkins (hereinafter collectively “Defendants”).

20 The Complaint alleges that Defendants Carol A. Pedersen (“Pedersen”) and Dayantha
21 Manilal Fernando used the corporate entity defendants in “a complex network of funds and
22 businesses to fraudulently obtain funds from investors in violation of the California Corporate
23 Securities Law and divert them for their own personal use and the use of the remaining
24 Defendants.” (Complaint, ¶ 1). Further, the Complaint alleges that in reliance on Defendants and
25 their long-term relationship with the accountants and accountancy firm, Plaintiffs invested
26 millions of dollars in the CA Pedersen Client Investment Pool (“Investment Pool”), after being
27 “advised that the Investment Pool was seeing well above-average returns” and being led to
28 believe the investment was being managed by outside licensed and regulated brokers. (Complaint,

1 ¶¶ 37-45, 49, 379, 380). Additionally, the Complaint alleges multiple violations of the California
2 Corporate Securities Laws, California Civil Code, California Commercial Code, and California
3 Penal Code. (Complaint, ¶ 5).

4 **B. Receiver’s Appointment and Findings**

5 Plaintiffs sought the appointment of a receiver to determine the extent to which the
6 Defendants commingled and diverted investor funds amongst themselves and the network of
7 companies they control. (Complaint, ¶ 6). The Order Appointing a Receiver (“Receivership
8 Order”) was entered on October 20, 2017.¹ The Receivership Order provides, at paragraph 1,
9 that the Receiver “take possession of all real and personal property and assets of Receivership
10 Defendants, whether directly or indirectly owned, beneficially or otherwise by, or in the
11 possession, custody or control of Receivership Defendants...” The Receiver commenced its
12 assignment when it filed the requisite bond and oath on November 6, 2017.

13 The Receiver filed its Report of Receiver’s Activities From November 6, 2017 through
14 February 21, 2018 (“First Report”) on February 22, 2018. As set forth in the First Report and the
15 accompanying Declaration of Brick Kane, the Receiver obtained documents from the
16 Receivership Defendants’ accounts at FirstBank Holding Co. (“First Bank”) and E-Trade
17 Financial Corporation (collectively with E-Trade Securities LLC, referred to herein as “E-
18 Trade”), which received and paid out investor funds from September 2010 through August 2017.
19 The Receiver performed a forensic review and analysis of those documents. During this time
20 period, the Receivership Defendants controlled by Pedersen raised about \$29.1 million from
21 individuals and entities known to be investors and another \$412,000 from individuals and entities
22 who are possible investors. The total amount raised was about \$29.5 million. During this same
23 time period, Pedersen made payments to known investors of about \$25.2 million and payments to
24 possible investors of about \$1.01 million, totaling approximately \$26.2 million. However,
25 Pedersen’s net investment income during this time period was only approximately \$53,000. No

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27 ¹ It was amended on November 2, 2017 solely to reduce the Receiver’s bond to \$50,000. It was amended
28 again January 3, 2018 to expressly clarify that the Receivership Defendants were required to turn over to
the Receiver all books, records and files of the Receivership Defendants, whether in paper or electronic
format.

1 other sources of income are reflected in the bank documents. The Receiver concluded, based on
2 all the information available to it, that Pedersen was running a Ponzi scheme at least since
3 September 2010. In addition to the forensic analysis described in detail in the First Report, the
4 Receiver also described misrepresentations on investor statements and other investor documents
5 which supported the conclusion that Pedersen was responsible for running a Ponzi scheme.

6 The Receiver’s conclusion that the Receivership Defendants controlled by Pedersen were
7 engaged in a fraudulent Ponzi scheme was confirmed. As more fully set forth in the Report of
8 Receiver’s Activities filed on March 19, 2019 (“March 2019 Report”), on January 8, 2019,
9 Pedersen entered into the Plea Agreement for Defendant Carol Ann Pedersen (“Plea Agreement”)
10 with the United States in the case of *United States of America v. Carol Ann Pedersen*, United
11 States District Court, Central District of California, Case No. CR 19-00013 DMG. (March 2019
12 Report pp. 1-2, Ex. 1). Pedersen pled guilty to the crime charged in a single-count information,
13 wire fraud, in violation of Title 18, United States Code, §1343. In the Plea Agreement, Pedersen
14 admitted to executing a scheme to defraud clients for whom she served as an investment advisor
15 between approximately 1996 and September 1, 2017. She admitted that she did not invest the
16 victims’ funds as promised, but would instead deposit the funds into accounts that she controlled
17 and had established with First Bank and E-Trade. She further admitted that she would solicit new
18 funds in order to honor distribution requests made by prior investor-victims and was operating a
19 Ponzi scheme. On March 20, 2019 Pedersen pled guilty to the single-count information. *See*
20 *Criminal Minutes – General*, U.S. District Court Central District of California, Case 2:19-cr-
21 00013-DMG, Doc 20 (March 20, 2019). As set forth in the Receiver’s Report Dated September
22 20, 2019 (“September 2019 Report”),² Pedersen’s sentencing hearing was held on September 4,
23 2019. Pedersen was sentenced to a prison term of 97 months.

24 **C. Judgments Have Been Entered Against Receivership Defendants**

25 In addition to the instant action and the criminal case, three other sets of plaintiffs in three
26 related actions have filed suit against Pedersen and other Receivership Defendants, also asserting

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28 ² The Receiver requests that the Court take judicial notice of all of the Receiver’s reports referenced herein pursuant to Evidence Code § 452.

1 fraudulent conduct in connection with investments made by those plaintiffs: *Lael Montgomery*,
2 *etc., et al. v. Carol Pedersen*, Los Angeles Superior Court Case No. BC668345; *Mary F.*
3 *Marroquin et al. v. Carol Pedersen et al.*, Los Angeles Superior Court Case No. BC680766; and
4 *Janet Cottrell, et al. v. Carol Pedersen*, Los Angeles Superior Court Case No. NC061559.

5 Judgments against Pedersen have been entered in the instant action and related actions.

6 **D. Receiver's Office is Overburdened by Storage of Hundreds of Boxes of Records**
7 **from the Receivership Defendants**

8 The Receiver is holding substantial records of Carol Pedersen and Receivership
9 Defendants, which the Receiver came into possession through its assignment in this matter.

10 Specifically, the Receiver is holding approximately 230 boxes of records at its office.

11 (Declaration of Brick Kane ("Kane Decl."), ¶ 2.) Of these boxes, approximately 75% came into
12 the Receiver's possession from Carol Pedersen's criminal defense attorney, Chris Campbell, who
13 informed the Receiver that the boxes were in a storage locker that was subject to a warehouse lien
14 and imminent public sale of its contents. The Receiver paid the unpaid storage fees and obtained
15 possession of the boxes. (Id. at ¶ 3.) The remaining approximately 25% of the boxes, came into
16 the Receiver's possession after Carol Pedersen moved out of the property commonly known as
17 3768 Linden Avenue, Long Beach, California ("Long Beach Property") and abandoned the boxes
18 at the Long Beach Property. (Id.) Pedersen has confirmed that she has abandoned these boxes
19 and does not want them. (Id.)

20 The Receiver has generally reviewed the contents of these boxes and determined that the
21 boxes largely contain old tax returns, drafts of tax returns, and related documents. (Id. at ¶ 4.)
22 Some of these documents date back many years. (Id.) None of these records were used to
23 determine claims in the matter pending before the Court. (Id. at ¶ 5.) Moreover, as far as the
24 Receiver is aware, no one has asked for the documents contained in the boxes or seems to need
25 these documents. (Id. at ¶ 6.)

26 These hundreds of boxes are currently being stored at the Receiver's office. It is
27 burdensome for the Receiver to continue to keep these boxes on the premises of the Receiver.
28 (Id. at ¶ 7.) The contents of the boxes are disorganized and it is prohibitively expensive to try to

1 organize the files and to return them to Pedersen’s clients. (Id. at ¶ 8.) Additionally, the
2 Receivership estate does not have the assets to rent a storage unit or otherwise pay for offsite
3 storage for an extended period. (Id.) The Receiver therefore seeks this Court’s authorization to
4 destroy those records. If allowed to destroy the records, the Receiver would do so in a secure
5 manner as some of the records contain financial information and personal identifying information.
6 (Id. at ¶ 9.) The Receiver has obtained an estimate of \$690 for such destruction, which will cost
7 less to the receivership estate than monthly storage for an indeterminate period. Monthly storage
8 of this number of boxes likely will cost as much as \$150 per month. (Id. at ¶ 10)

9 **II. AN ORDER AUTHORIZING DESTRUCTION OF THE RECORDS SHOULD BE**
10 **ISSUED**

11 Code of Civil Procedure, section 568, provides that “The receiver has, under the control of
12 the court, power to [among other things]... generally to do such acts respecting [] property as the
13 court may authorize.” Cal. Code Civ. Proc. § 568; *see also Nulaid Farmers Ass’n v. LaTorre*, 252
14 Cal. App. 2d 788, 791 (1967) (explaining that the primary source of a receiver’s powers are the
15 court’s orders.)

16 Here, to the extent the Court’s existing orders do not expressly authorize, the Receiver
17 respectfully requests authorization from this Court to destroy the approximately 230 boxes of old
18 and abandoned documents that are consuming substantial space at the Receiver’s office. (Kane
19 Decl., ¶¶ 2 & 7.) As set forth above, none of these documents were used to determine claims in
20 this case. (Id. at ¶ 5.) Moreover, as far as the Receiver is aware, no one has asked for the
21 documents contained in the boxes or seems to need these documents. (Id. at ¶ 6.) These facts,
22 combined with the burden on the Receiver to continue to keep these boxes on its office premises,
23 justify destruction of the documents (Id. at ¶ 7.)

24 There is no realistic alternative to destruction of the documents: (1) it is prohibitively
25 expensive, if not impossible, to try to organize the files and to return them to Pedersen’s clients
26 and (2) the Receivership estate does not have the assets to rent a storage unit or otherwise pay for
27 offsite storage. (Id. at ¶ 8.) Based on estimates obtained by the Receiver, destruction of the
28 documents would be more cost-effective than paying for off-site storage for an indeterminate


1 period of time. (Id. at ¶ 10.) Not only is destruction the only viable option but the Receiver
2 would destroy the records responsibly and in a secure manner such that sensitive information
3 does not become accessible. (Id. at ¶ 9.)

4 **III. CONCLUSION**

5 For all of the foregoing reasons, it is respectfully requested that this Court should
6 authorize the Receiver to destroy the approximately 230 boxes of documents in its possession at
7 the Receiver's premises.

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9 Dated: August 11, 2020

BARNES & THORNBURG LLP

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11 By: 
12 Gary Owen Carls
13 Attorneys for Receiver
14 ROBB EVANS & ASSOCIATES LLC
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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES, SOUTH DISTRICT

Randolph Anthony Garcia and Victorianna
Hendrickson, Trustees of The Amended
and Restated Garcia Family Trust UTD
October 28, 2009, individually, and as
Limited Partner of the CA Pedersen Client
Investment Pool Limited Partnership;
Randolph Anthony Garcia and Martha
Garcia, Trustees of The Amended and
Restated 1996 Garcia Family Trust,
individually and as Limited Partner of the
CA Pedersen Client Investment Pool
Limited Partnership; and RMG
Corporation, Limited Partner of CA
Pedersen Client Investment Pool Limited
Partnership,

Plaintiffs,

vs.

Carol A. Pedersen, C.P.A., Individually, et
al.,

Defendants.

Case No. NC061364

**DECLARATION OF BRICK KANE IN
SUPPORT OF MOTION FOR ORDER
AUTHORIZING DESTRUCTION OF
RECORDS**

DATE: September 15, 2020
TIME: 8:30 a.m.
DEPT: S26

Complaint Filed: August 31, 2017

I, Brick Kane, declare as follows:

1. I am the President of Robb Evans & Associates LLC ("Receiver"), the Court appointed Receiver in the above-captioned case pursuant to the Order Appointing a Receiver that was entered on October 20, 2017 and the Amendment to Order Appointing a Receiver that was

1 entered on November 2, 2017 (collectively, the “Receivership Order”). I am one of the members
2 of Robb Evans & Associates LLC responsible for the day-to-day management and supervision of
3 this receivership estate. I have personal knowledge of the facts set forth in this declaration and if
4 I were called upon to testify as to these facts I could and would competently testify based upon
5 my personal knowledge.

6 2. During the course of this receivership, the Receiver obtained a substantial amount
7 of paper records of Carol Pedersen (“Carol Pedersen”) and the Receivership Defendants she
8 controlled. Specifically, the Receiver is currently in possession of approximately 230 boxes of
9 records at its office.

10 3. Of these boxes, approximately 75% came into the Receiver’s possession after
11 Pedersen’s criminal defense attorney Chris Campbell informed the Receiver that the boxes were
12 in a storage locker that was subject to a warehouse lien and imminent public sale of its contents.
13 The Receiver paid the unpaid storage fees and obtained possession of the boxes. The remaining
14 boxes came into the Receiver’s possession after Pedersen moved out of the property at 3768
15 Linden Avenue, Long Beach, California and abandoned them there. Pedersen has confirmed to
16 the Receiver that she has abandoned those boxes and does not want them.

17 4. The Receiver’s staff and I have generally reviewed the contents of these boxes and
18 determined that the boxes largely contain old tax returns, drafts of tax returns, and related
19 documents in connection with Pedersen’s former accounting practice. Some of these documents
20 date back over 20 years.

21 5. None of these records was used by the Receiver in connection with the forensic
22 accounting it undertook to establish the Ponzi scheme in the above-captioned case. These records
23 are not needed for any receivership purpose.

24 6. No one has subpoenaed or informally requested the documents contained in the
25 boxes from the Receiver.

26 7. These boxes are currently being stored at the Receiver’s office in Sun Valley,
27 California and it is becoming increasingly burdensome for the Receiver to continue to keep these
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boxes on its office premises, which has limited space available for storage. The Receiver needs the space currently taken up by these boxes for its normal business operations.

8. There is no realistic alternative to destruction of the documents. The contents of the boxes are disorganized and it would be prohibitively expensive and likely impossible to try to organize the documents and return them to Pedersen's former clients. Additionally, the receivership estate does not have the assets to rent a storage unit or otherwise pay for offsite storage for an extended period of time.

9. If allowed to destroy the records, the Receiver intends do so in a secure manner as some of the records contain financial information and personal identifying information.

10. The Receiver has obtained an estimate of \$690 for such destruction, which will cost less to the receivership estate than monthly storage for an indeterminate period. Monthly storage of this number of boxes likely will cost as much as \$150 per month.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on August 11, 2020 at Alhambra, California.



Brick Kane

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