

1 Craig A. Welin (State Bar No. 138418)
cwelin@frandzel.com
2 Hal D. Goldflam (State Bar No. 179689)
hgoldflam@frandzel.com
3 FRANDZEL ROBINS BLOOM & CSATO, L.C.
1000 Wilshire Boulevard
4 Nineteenth Floor
Los Angeles, California 90017-2427
5 Telephone: (323) 852-1000
Facsimile: (323) 651-2577

6 Attorneys for Permanent Receiver and Liquidator
7 Receiver ROBB EVANS & ASSOCIATES LLC

8 **UNITED STATES DISTRICT COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION**

10
11 FEDERAL TRADE COMMISSION,

12 Plaintiff,

13 v.

14 CREAM GROUP, INC., etc., et al.

15 Defendants.

CASE NO. CV13-8843 JFW (PLAx)

**REQUEST BY PERMANENT
RECEIVER/LIQUIDATOR
RECEIVER FOR AN ORDER (1)
APPROVING THE RECEIVER'S
FINAL REPORT AND
ACCOUNTING; (2)
AUTHORIZING FINAL PAYMENT
OF THE RECEIVER AND ITS
COUNSELS' FEES AND
EXPENSES FOR THE PERIOD
FROM JANUARY 1, 2016
THROUGH MAY 31, 2016 (AND
ESTIMATED AMOUNTS TO
CLOSE THE RECEIVERSHIP
ESTATE); (3) AUTHORIZING THE
FINAL DISBURSEMENT TO
PLAINTIFF FEDERAL TRADE
COMMISSION FROM THE
RECEIVERSHIP ESTATE; (4)
DISCHARGING AND RELEASING
THE RECEIVER; AND (5) FOR
RELATED RELIEF**

[No Hearing Assigned]

FRANZEL ROBINS BLOOM & CSATO, L.C.
1000 WILSHIRE BOULEVARD, 19TH FLOOR
LOS ANGELES, CALIFORNIA 90017-2427
(323) 852-1000

1 TO: THE HONORABLE JOHN F. WALTER, UNITED STATES
2 DISTRICT JUDGE, AND ALL PARTIES OF INTEREST:

3 Robb Evans & Associates LLC, in its capacity as Permanent Receiver and
4 Liquidator Receiver for certain real property of Individual Defendant Sami
5 Charchian and the Relief Defendants Spring Acres, LLC, and Bahareh Ramin
6 (collectively, the “Receiver”), hereby requests the Court issue an order (1)
7 approving the Receiver’s Final Report and Accounting (*See* Exhs. 1-4 hereto, and
8 accompanying Declaration of Brick Kane); (2) authorizing payment of the
9 Receiver’s and the Receiver’s counsel’s fees and expenses for the period from
10 January 1, 2016 through May 31, 2016 (and the estimated amounts to close the
11 receivership estate); (3) discharging and releasing the Receiver and its professionals;
12 and (4) for related relief, as more particularized below (“Request”).

13 This Request is made pursuant to Sections V.D. and V.F. of the Court’s Final
14 Order for Permanent Injunction and Monetary Judgment against Defendants Cream
15 Group, Inc., and Sami Charchian and for Monetary Relief as to Relief Defendants
16 Spring Acres, LLC and Bahareh Ramin (“Final Order”), filed on December 22,
17 2014 [Doc. No. 108]. Sections V.D and V.F. of the Final Order provides that “[t]he
18 Liquidator Receiver shall periodically file with the Court a Liquidatorship Report
19 [and that the] periodic filings shall be served by the Liquidator Receiver on the
20 Commission and Stipulating Defendants’ and Relief Defendants’ counsel. Further,
21 “[t]he Liquidator Receiver shall file with the Court and serve on the Commission
22 and Individual Defendant Sami Charchian and Relief Defendants periodic requests”
23 for payment of it and its professionals reasonable compensation and such
24 compensation is be paid from “proceeds of the sale of the Real Property and other
25 sums collected by the Liquidator Receiver”

26 Moreover, this Request is made in compliance the Court’s Order Extending
27 Deadline for Liquidator Receiver to Complete Liquidation (and Related Matters)
28 under Subsection V.G., etc. [Doc. No. 120] whereby the Court extended the

FRANZEL ROBINS BLOOM & CSATO, L.C.
1000 WILSHIRE BOULEVARD, 19TH FLOOR
LOS ANGELES, CALIFORNIA 90017-2427
(323) 852-1000

1 deadline under Subsection V.G. of the Final Order for the Receiver to (a) file its
2 final application for fees, and (b) complete liquidation, and related matters, to
3 June 30, 2016.

4 As set forth on the Proof of Service attached hereto, this Request has been
5 served on (1) Plaintiff Federal Trade Commission (“FTC”), (2) Individual
6 Defendant Sami Charchian, Stipulating Defendants and Relief Defendants¹, and (3)
7 pursuant to Local Rule 66-7, the creditors known to the Receiver and identified on
8 the Schedule of Creditors attached to the Proof of Service, but excluding copies of
9 the Exhibits hereto. The Receiver will make available copies of the Exhibits to any
10 creditor upon request.

11 **1. The Receiver’s Request for Approval of Its Final Report and**
12 **Accounting.**

13 The Receiver requests the Court approve all of the Receiver’s activities in
14 connection with its duties as Permanent Receiver and Liquidator Receiver from
15 April 30, 2015 through May 31, 2016, which activities are specified in the Report of
16 Receiver’s Activities, April 30, 2015 through May 31, 2016, Final Report and
17 Accounting (“Final Report and Accounting”) (Exh. 1 hereto), and otherwise approve
18 the Final Report and Accounting.² For the sake of brevity and efficiency, the
19 Receiver does not repeat here the description of its activities detailed in the Final
20 Report and Accounting other than to highlight the fact that the Receiver completed
21 its liquidating duties prescribed by the Court in the Final Order by having sold the
22

23 ¹ As evidenced by the Declaration of Hal D. Goldflam in support of the
24 Liquidator Receiver’s Ex Parte Application to extend the deadline to complete
25 liquidation [Doc. No. 119-2], Stephen G. Larson no longer represents any of the
26 Stipulating Defendants or Relief Defendants.

27 ² On July 10, 2015, the Court entered and Order approving the Report of the
28 Receiver’s Activities for the Period from December 22, 2014, through April 30,
2015 [Doc. No. 116].

FRANZEL ROBINS BLOOM & CSATO, L.C.
1000 WILSHIRE BOULEVARD, 19TH FLOOR
LOS ANGELES, CALIFORNIA 90017-2427
(323) 852-1000

1 six single-family properties assigned to it, resulting in net proceeds in the amount of
2 \$1,170,310. Notably, this amount was \$143,310 greater than the originally expected
3 net proceeds.

4 Exhibit 2 hereto is the financial statement of the Receiver referenced in the
5 Final Report and Accounting, titled “Receiver’s and Liquidator’s Administration
6 Expenses and Fund Balance From Inception (December 3, 2013) to May 31, 2016
7 (“Final Financial Report”). The Final Financial Report includes totals of receipts
8 and expenses from prior periods that were previously reported in detail and
9 approved by the Court.³

10 **2. The Receiver’s Request for Approval of Payment of the Receiver’s**
11 **and Its Counsel’s Fees and Expenses for the Period**
12 **January 1, 2016 through May 31, 2016.**

13 The Receiver requests the Court authorize for payment from assets of the
14 receivership estate its compensation and expenses for the period of January 1, 2016
15 through May 31, 2016 (“Final Period”). As evidenced by the Final Financial Report
16 (Exh. 2 hereto), the Receiver’s fees totaled \$14,369.85, and the Receiver’s costs
17 totaled \$456.94, resulting in total Receiver’s fees and costs of \$14,826.79 during the
18 Final Period. Further, during the Final Period, the fees of the Receiver’s counsel,
19 Frandzel Robins Bloom & Csato, L.C.’s (“Frandzel”), totaled \$3,079.00 and
20 Frandzel’s expenses totaled \$1,436.60, for a total of \$4,515.60. The Receiver’s fees
21 are further evidenced by the invoices of the Receiver’s members and staff reflecting
22 _____

23 ³ On February 25, 2015, the Court entered its Order Authorizing the
24 Liquidator Receiver to Borrower Money from City National Bank, N.A., and to
25 Issue Receiver’s Certificates of Indebtedness [Doc. No. 114]. All sums the Receiver
26 borrowed from City National Bank have been repaid from proceeds of certain sales
27 of the subject properties, and, as noted in the Final Report and Accounting and as
28 reflected in the Final Financial Report, no amounts remain owing to the bank
pursuant to the Receiver’s Certificate issued by the Receiver.

1 the activities and fees incurred by the Receiver for administration of the receivership
2 estate during the Final Period, true and copies of which are attached hereto as
3 Exhibit 3. Frandzel's fees and costs are further evidenced by its invoices for the
4 Final Period, true and correct copies of which are attached hereto as Exhibit 4.

5 In addition, as reflected in the Final Report of Activities and the Final
6 Financial Report, the Receiver has estimated expenses to close the receivership
7 estate will be \$24,708.72, which primarily are tax preparation fees and costs, and
8 legal fees and costs for bringing this Request and assisting the Receiver on any legal
9 issues related to closing the receivership estate. The Receiver seeks an order
10 authorizing payment of these sums without further involvement of the Court. The
11 Receiver will turn over any unused amounts of the projected closing expenses to the
12 FTC.

13 **3. The Receiver's Request for Approval of Final Disbursement**
14 **Receiver to the FTC.**

15 The Receiver previously made an interim payment of \$450,000.00 to the FTC
16 from funds in the receivership estate following the Court's Order filed February 19,
17 2016 [Doc. No. 122]. The Receiver requests authorization to pay the projected
18 remaining funds of \$518,861.14 of the receivership estate to the FTC pursuant to
19 Section V.E. of the Final Order (which projected amount excludes any unused
20 portion of the Receiver's estimated expenses to close the receivership estate, which
21 sums, if any, will be distributed to the FTC).

22 **4. The Receiver's Other Requested Relief.**

23 A. The Receiver requests the Court authorize it to abandon and
24 destroy records of the Receivership Defendants and receivership estate in its
25 possession, custody or control if, within 30 days after service of written notice to the
26 FTC of the Receiver's intent to abandon and destroy records, the Receiver has not
27 been served with a written request by the FTC for possession of the records.
28 Further, that if during such 30-day period the FTC serves the Receiver with a

FRANDZEL ROBINS BLOOM & CSATO, L.C.
1000 WILSHIRE BOULEVARD, 19TH FLOOR
LOS ANGELES, CALIFORNIA 90017-2427
(323) 852-1000

1 written request for the records, the Receiver be authorized to turn over the original
2 records to the FTC.

3 B. The Receiver requests that, effective upon the Receiver’s
4 distribution of the net fund balance of the receivership estate to the FTC, the Court
5 discharge Robb Evans & Associates LLC as Permanent Receiver and Liquidator
6 Receiver, and release Robb Evans & Associates LLC, its deputies, members,
7 officers, agents, employees, attorneys and representatives from any and all duties,
8 responsibilities, and liabilities in connection with the receivership estate and this
9 action, including any and all claims and liabilities that could have been asserted in
10 the receivership estate and in connection with their administration of the
11 receivership estate.

12 **5. Conclusion**

13 The Receiver submits that in light of the work performed during the Final
14 Period, the fees and costs of the Receiver and its professionals are reasonable and
15 should be approved and authorized for payment in their entirety. The Receiver also
16 believes that it satisfactorily completed all of its duties and responsibilities specified
17 in the Stipulated Order for Preliminary Injunction with Asset Freeze, Appointment
18 of a Receiver, and Other Equitable Relief [Doc. No. 32] and the Final Order, except
19 such matters as will be concluded after the Court grants this Request. It is therefore
20 respectfully requested that the Court grant all of the requests specified herein.

21 DATED: June 28, 2016 FRANDZEL ROBINS BLOOM & CSATO, L.C.
22 CRAIG A. WELIN
23 HAL D. GOLDFLAM

24 By: /s/ Hal D. Goldflam
25 HAL D. GOLDFLAM
26 Attorneys for Permanent Receiver and
27 Liquidator Receiver ROBB EVANS &
28 ASSOCIATES LLC

1 Craig A. Welin (State Bar No. 138418)
cwelin@frandzel.com
2 Hal D. Goldflam (State Bar No. 179689)
hgoldflam@frandzel.com
3 FRANDZEL ROBINS BLOOM & CSATO, L.C.
1000 Wilshire Boulevard
4 Nineteenth Floor
Los Angeles, California 90017-2427
5 Telephone: (323) 852-1000
Facsimile: (323) 651-2577
6 Attorneys for Permanent Receiver and
7 Liquidator Receiver ROBB EVANS &
ASSOCIATES LLC
8

9 **UNITED STATES DISTRICT COURT**
10 **CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION**

12 FEDERAL TRADE COMMISSION,
13 Plaintiff,
14 v.
15 CREAM GROUP, INC., etc., et al.
16 Defendants.

CASE NO. CV13-8843 JFW (PLAx)

**DECLARATION OF BRICK KANE
IN SUPPORT OF REQUEST BY
PERMANENT
RECEIVER/LIQUIDATOR
RECEIVER FOR AN ORDER (1)
APPROVING THE RECEIVER'S
FINAL REPORT AND
ACCOUNTING; (2)
AUTHORIZING FINAL PAYMENT
OF THE RECEIVER AND ITS
COUNSELS' FEES AND
EXPENSES FOR THE PERIOD
FROM JANUARY 1, 2016
THROUGH MAY 31, 2016 (AND
ESTIMATED AMOUNTS TO
CLOSE THE RECEIVERSHIP
ESTATE); (3) AUTHORIZING THE
FINAL DISBURSEMENT TO
PLAINTIFF FEDERAL TRADE
COMMISSION FROM THE
RECEIVERSHIP ESTATE; (4)
DISCHARGING AND RELEASING
THE RECEIVER; AND (5) FOR
RELATED RELIEF**

[No Hearing Assigned]

DECLARATION OF BRICK KANE

I, Brick Kane, declare as follows:

1. I am the President & Chief Operating Officer of Robb Evans & Associates LLC (“REA”). I am one of the Members of REA, the Court-appointed Permanent Receiver for the Receivership Defendant and the Liquidator Receiver (collectively with the Permanent Receiver, the “Receiver”) for certain real property of Individual Defendant Sami Charchian and the Relief Defendants Spring Acres, LLC, and Bahareh Ramin in this action, that has had and continues to have primary responsibility for the day-to-day supervision and management of the receivership estate in this case as well as the liquidation of the real property of Mr. Charchian and the Relief Defendants as discussed below.

2. I have personal knowledge of the matters set forth in this declaration and, if I were called upon to testify as to those matters, I could and would competently testify thereto based upon my personal knowledge.

3. Pursuant to Section X of the Court’s Stipulated Order for Preliminary Injunction with Asset Freeze, Appointment of a Receiver and Other Equitable Relief, filed on January 1, 2014, [Doc. No. 32], the Court appointed REA, as the Permanent Receiver for the Receivership Defendant, with full power of equity receiver.

4. Pursuant to Section V. of the Court’s Final Order for Permanent Injunction and Monetary Judgment against Defendants Cream Group, Inc., and Sami Charchian and for Monetary Relief as to Relief Defendants Spring Acres, LLC, and Bahareh Ramin, filed on December 22, 2014 (“Final Order”) [Doc. No. 108], the Court appointed REA as the Liquidator Receiver, with all rights and powers of an equity receiver, over the following six real properties: (a) 5037 Opal Avenue, Palmdale, California 93552; (b) 2559 W. Paxton Avenue, Palmdale, California 93551; (c) 2537 Wicopy Court, Palmdale, California 93551; (d) 5776 Expedition Way, Palmdale, California 93552; (e) 3709 Saddleback Drive, Palmdale,

FRANZEL ROBINS BLOOM & CSATO, L.C.
1000 WILSHIRE BOULEVARD, 19TH FLOOR
LOS ANGELES, CALIFORNIA 90017-2427
(323) 852-1000

1 California 93552; and (f) 3222 Rollingridge Avenue, Palmdale, California 93550.
2 5. Attached hereto as Exhibit 1 is the Report of Receiver’s Activities,
3 April 30, 2015 through May 31, 2016, Final Report and Accounting (“Final Report
4 and Accounting”). For the sake of brevity and efficiency, I do not repeat here the
5 description of the Receiver’s activities detailed in the Final Report and Accounting
6 other than to highlight the fact that the Receiver completed its liquidating duties
7 prescribed by the Court in the Final Order by having sold the six single-family
8 properties assigned to it, resulting in net proceeds in the amount of \$1,170,310.
9 Notably, this amount was \$143,310 greater than the originally expected net
10 proceeds. The Final Report and Accounting accurately accounts for the activities of
11 the Receiver completing its duties as the Liquidator Receiver since the Court, under
12 the terms of the Final Order, added the liquidation duties to the Receiver’s
13 appointment.

14 6. Attached hereto as Exhibit 2 is the financial statement of the Receiver
15 referenced in the Final Report and Accounting, titled “Receiver’s and Liquidator’s
16 Administration Expenses and Fund Balance From Inception (December 3, 2013) to
17 May 31, 2016 (“Final Financial Report”). As required by Section V.D. of the Final
18 Order, the Final Financial Report accurately accounts for all revenues received and
19 expenditures made.

20 7. As evidenced by the Final Financial Report, the Receiver’s fees totaled
21 \$14,369.85 and the Receiver’s costs totaled \$456.94 during the period of January 1,
22 2016 through May 31, 2016 (“Final Period”), resulting in total Receiver’s fees and
23 costs of \$14,826.79 Further, during the Final Period, the fees of the Receiver’s
24 counsel, Frandzel Robins Bloom & Csato, L.C.’s (“Frandzel”), totaled \$3,079.00
25 and Frandzel’s expenses totaled \$1,436.60, for a total of \$4,515.60. The Receiver’s
26 fees are further evidenced by the invoices of the Receiver’s members and staff
27 reflecting the activities and fees incurred by the Receiver for administration of the
28 receivership estate during the Final Period, true and copies of which are attached

FRANZEL ROBINS BLOOM & CSATO, L.C.
1000 WILSHIRE BOULEVARD, 19TH FLOOR
LOS ANGELES, CALIFORNIA 90017-2427
(323) 852-1000

1 hereto as Exhibit 3. Frandzel’s fees and costs are further evidenced by its invoices
2 submitted to the Receiver, true and correct copies of which are attached hereto as
3 Exhibit 4.

4 8. In addition, as reflected in the Final Report of Activities and the Final
5 Financial Report, the Receiver has estimated expenses to close the receivership
6 estate will be \$24,708.72, which primarily are tax preparation fees and costs, and
7 legal fees and costs for bringing this Request and assisting the Receiver on any legal
8 issues related to closing the receivership estate. The Receiver seeks an order
9 authorizing payment of these sums without further involvement of the Court. The
10 Receiver will turn over any unused amounts of the projected closing expenses to the
11 FTC.

12 9. On February 25, 2015, the Court entered its Order Authorizing the
13 Liquidator Receiver to Borrower Money from City National Bank, N.A., Issue
14 Receiver’s Certificates of Indebtedness [Doc. No. 114] in connection with the
15 Liquidator Receiver fulfilling its duties under the Final Order. All sums the
16 Receiver borrowed from City National Bank have been repaid from proceeds of
17 certain sales of the subject properties, and, as noted in the Final Report and
18 Accounting and as reflected in the Final Financial Report, no amounts remain owing
19 to the bank pursuant to the Receiver’s Certificate issued by the Receiver.

20 ///

21 ///

22 ///

23

24

25

26

27

28

1 10. I believe that in light of the work performed during the Final Period,
2 the fees and costs of the Receiver and its professionals are reasonable and should be
3 approved and authorized for payment in their entirety. I also believe that the
4 Receiver has complied with the orders of the Court appointing the Receiver, and has
5 satisfactorily completed all of its duties, including its duties as Liquidator Receiver,
6 except such matters as will be concluded after the Court rules upon the Receiver's
7 Request. It is therefore respectfully requested that the Court grant the Request in its
8 entirety.

9 I declare under penalty of perjury under the laws of the United States of
10 America that the foregoing is true and correct and that this declaration was executed
11 on June 27, 2016, at Sun Valley, California.

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

FRANZEL ROBINS BLOOM & CSATO, L.C.
1000 WILSHIRE BOULEVARD, 19TH FLOOR
LOS ANGELES, CALIFORNIA 90017-2427
(323) 852-1000