

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
EL PASO DIVISION**

FEDERAL TRADE COMMISSION,
and STATE OF OHIO et rel., et al.,

Plaintiffs,

v.

EDUCARE CENTRE SERVICES, INC., et al.,

Defendants.

Case No. 3:19-cv-00196-KC

**NOTICE OF UNOPPOSED APPLICATION AND UNOPPOSED APPLICATION FOR
ORDER APPROVING AND AUTHORIZING PAYMENT OF RECEIVER'S AND
RECEIVER'S COUNSELS' FEES AND EXPENSES FOR THE PERIOD FROM
JANUARY 1, 2020, THROUGH MAY 31, 2020**

TO THE HONORABLE KATHLEEN CARDONE, UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF TEXAS:

PLEASE TAKE NOTICE that Robb Evans & Associates LLC, as Receiver (“Receiver”), hereby applies to the Court for an order approving the payment of the fees and expenses of the Receiver, the Receiver’s staff, the Receiver’s outside counsel, Frandzel Robins Bloom & Csato, L.C. (“Frandzel”), the Receiver’s local Texas counsel, Kemp Smith Law (“Kemp Smith”), the Receiver’s Canadian counsel Kugler Kandestin SENCRL / LLP (“Kugler”), and the Receiver’s Ohio Counsel, Tucker Ellis LLP (“Tucker”) for the period from January 1, 2020, through May 31, 2020 (“Second Reporting Period”). During the Second Reporting Period (a) the fees and costs of the Receiver and its staff totaled \$168,619.25 (consisting of \$155,934.70 in fees and \$12,684.55 in costs), (b) the fees and costs of Frandzel totaled \$153,686.88 (consisting of \$144,685.80 in fees and \$9,001.08 in costs), (c) the fees and costs of Kemp Smith totaled \$5,173.82 (consisting of \$3,131.80 in fees and \$2,042.02 in costs), (d) the fees and costs of Kugler totaled \$37,536.49 (consisting of \$37,100.22 in fees and \$436.27 in costs), and (e) the fees of Tucker totaled \$216.00 (no costs) for a grand total of \$365,232.44. Accordingly, the total of receivership fees and expenses incurred during the Second Reporting Period which the Receiver seeks an order authorizing payment is \$365,232.44.

PLEASE TAKE FURTHER NOTICE that this Application is made pursuant to the latest of the Court’s preliminary injunctions issued in this action, namely Preliminary Injunction with Asset Freeze, Receiver, and Other Equitable Relief [Doc. No. 125, entered on December 17, 2019], which requires the Receiver to file with the Court and serve on the parties periodic requests for the payment of reasonable compensation for the Receiver’s and the Receiver’s hired personnel, including counsel to the Receiver, and for actual out-of-pocket expenses incurred by them.

This Application is based upon this Notice and the attached Memorandum of Points and Authorities; the concurrently filed Declarations of Brick Kane, Michael Gerard Fletcher, Shelly W. Rivas, and Gerald Kandestin (and exhibits thereto); upon the pleadings, records and files of

this case of which the Receiver requests the Court take judicial notice, and upon all other further pleadings, oral and documentary evidence and argument of counsel as may be presented by the Receiver at or before the time of the hearing on this Application.

PLEASE TAKE FURTHER NOTICE that a copy of this Application and supporting declarations and exhibits are posted on the Receiver's website at <https://www.robbevans.com/find-a-case/educare-centre-services-inc-et-al-receiver/> where they may be reviewed in their entirety. This Application, attached Memorandum of Points and Authorities, and concurrently filed declarations and exhibits are being served on all parties herein. While a copy of this Application and attached Memorandum of Points and Authorities is being served on all known creditors and interested parties (see attached Service List), these third-parties may obtain copies of the supporting declarations by accessing the Receiver's website or by sending a written request to: Robb Evans & Associates LLC, 11450 Sheldon Street, Sun Valley, California 91352-1121; Telephone (818) 768-8100; Facsimile: (818) 768-8802.

DATED: July 22, 2020

Respectfully submitted,

FRANDZEL ROBINS BLOOM & CSATO, L.C.
1000 Wilshire Boulevard
Nineteenth Floor
Los Angeles, CA 90017-2427
Telephone: (323) 852-1000
Facsimile: (323) 651-2577

By: /s/ Michael Gerard Fletcher

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Attorneys for Robb Evans & Associates LLC

MEMORANDUM OF POINTS AND AUTHORITIES

I. CHRONOLOGICAL FACTS

1. On July 18, 2019, the Federal Trade Commission (“FTC”) and the State of Ohio (collectively, “Plaintiffs”) filed, *ex parte*, their Complaint for Permanent Injunction and Other Equitable Relief pursuant to Section 13(b) of the Federal Trade Commission Act [Doc. No. 9], and moved for a temporary restraining order and an order to show cause why a preliminary injunction should not issue against Educare Centre Services, Inc. (“Educare”), Tripletel, Inc. (“Tripletel”), Prolink Vision, S.R.L. (“Prolink”), Sam Madi (“Madi”), Mohammad Souheil (“Souheil”), Wissam Abedel Jalil (“Jalil”), Charles Kharouf (“Kharouf”), and relief defendant 9896988 Canada, Inc. (“9896988”) (collectively, “Educare Defendants”) [Doc. 1-7].

2. On July 19, 2019, the Court issued its *Ex Parte* Temporary Restraining Order with Asset Freeze, Appointment of a Temporary Receiver, and Other Equitable Relief, and Order to Show Cause Why a Preliminary Injunction Should Not Issue (“Temporary Restraining Order 1”), whereby the Court appointed Robb Evans & Associates LLC (“Receiver”) as the Temporary Receiver over Educare, Tripletel, Prolink, and 9896988 Canada, Inc. (collectively, “Receivership Entities”) as more particularized therein. [Doc. No. 8.]

3. On July 30, 2019, the Court entered its Preliminary Injunction Order (“Preliminary Injunction 1”) against the Receivership Entities Educare, Tripletel, and Jalil, whereby the Court ordered that Robb Evans & Associates LLC shall continue to serve as the Receiver of the Receivership Entities with full powers of an equity receiver. [Doc. No. 25.]

4. On December 3, 2019, Plaintiffs filed, *ex parte*, their First Amended Complaint (“FAC”) that adds Globex Telecom, Inc. (“Globex”) and 9506276 Canada, Inc. (“9506276”) (collectively, “Globex Defendants”) as defendants, and moved for a temporary restraining order and an order to show cause why a preliminary injunction should not issue against the Globex Defendants. [Doc. No. 81.]

5. On December 3, 2019, the Court entered its *Ex Parte* Temporary Restraining Order with Asset Freeze, Appointment of a Temporary Receiver, and Other Equitable Relief, and

Order to Show Cause Why a Preliminary Injunction Should Not Issue against the Globex Defendants (“Temporary Restraining Order 2” and together with Temporary Restraining Order 1, “Temporary Restraining Orders”). [Doc. No. 84.]

6. On December 17, 2019, the Court entered its Preliminary Injunction Order as to Defendants Prolink, 9896988, Madi, Souheil, and Kharouf [Doc. No. 124] as well as its Preliminary Injunction Order as to the Globex Defendants (“Preliminary Injunction 2” and together with Preliminary Injunction 1, “Preliminary Injunctions”), whereby the Court ordered that Robb Evans & Associates LLC shall continue to serve as the Receiver of the Receivership Entities with full powers of an equity receiver. [Docket No. 125.]

7. The Preliminary Injunctions each provide that the Receiver is to file periodic applications for reasonable compensation. [Preliminary Injunction 2, § XIX, pg. 26.]

8. On December 15, 2019, the Receiver filed its Report of Receiver’s Activities for the period from July 19, 2019, through December 13, 2019 (“First Report of Activities”). [Doc. No. 120.]

9. On January 17, 2020, Receiver’s California counsel, Michael Gerard Fletcher of Frandzel Robins Bloom & Csato, L.C. (“Frandzel”) was admitted pro hac vice. [Unnumbered Docket Entry on 01/17/2020]. On January 22, 2020, Craig A. Welin and Hal D. Goldflam of Frandzel were admitted pro hac vice. [Unnumbered Docket Entry on 01/22/2020].¹

10. On February 14, 2020, the Receiver filed its Notice Of Unopposed Application And Unopposed Application For Order Approving And Authorizing Payment Of Receivers And Receivers Counsels Fees And Expenses For The Period From Inception Of Receivership Estate Through December 31, 2019 (“First Fee Application”) [Doc. No. 181] and Supplement [Doc. No. 184].

¹ The Receiver retained Frandzel after the First Reporting Period, and thus Frandzel did not incur any fees or costs during the First Reporting Period.

11. On February 19, 2020, the Court entered its Order For Receiver To File Supplemental Briefing On The Reasonableness Of The Hours Billed And Hourly Rates Charged Under Fifth Circuit Law (“Order re Supplemental Briefing”) [Doc No. 189].

12. On March 17, 2020, the Receiver filed its brief [Doc No. 215] in compliance with the Court’s Order re Supplemental Briefing.

13. On April 17, 2020, the Court entered its Order Granting in Part the First Fee Application (“Order Granting in Part First Fee Application”) [Doc No. 244]. Per the Order Granting in Part First Fee Application, the First Fee Application was approved with certain adjustments made by the Court.

14. On June 5, 2020, the Receiver filed its Report of Receiver’s Activities for the period from December 15, 2019, through May 29, 2020 (“Second Report of Activities”) [Doc. No. 262-1 (publicly available redacted version); Doc. No. 261 (sealed complete version pursuant to Text-Only Order Dkt. 260, entered June 3, 2020)].

II. THE RECEIVER’S AND RECEIVER’S COUNSELS’ FEES, EXPENSES, AND ACTIVITIES DURING THE SECOND REPORTING PERIOD

The Receiver’s fees and costs and the fees and costs of its outside counsel incurred during the Second Reporting Period (January 1, 2020 through May 31, 2020) for which approval is requested are identified in the summary which the Receiver’s office has prepared and titled as “Receiver’s Administrative Expenses and Fund Balance From Inception (July 19, 2019) to May 31, 2020.” *See* concurrently filed Declaration of Brick Kane, Exh. 1. Specifically, (a) the fees and costs of the Receiver and its staff totaled \$168,619.25 (consisting of \$155,934.70 in fees and \$12,684.55 in costs), (b) the fees and costs of Frandzel totaled \$153,686.88 (consisting of \$144,685.80 in fees and \$9,001.08 in costs), (c) the fees and costs of Kemp Smith totaled \$5,173.82 (consisting of \$3,131.80 in fees and \$2,042.02 in costs), (d) the fees and costs of Kugler totaled \$37,536.49 (consisting of \$37,100.22 in fees and \$436.27 in costs), and (e) the fees of Tucker totaled \$216.00 (no costs) for a grand total of \$365,232.44. Accordingly, the total

of receivership fees and expenses incurred during the Second Reporting Period which the Receiver seeks an order authorizing payment is \$365,232.44.

Frandzel, Kemp Smith, and Kugler were each hired by the Receiver pursuant to the authority given to the Receiver in the Court's Temporary Restraining Orders and the Preliminary Injunctions.

The activities undertaken by the Receiver, the Receiver's duties, and staff during the Second Reporting Period of January 1, 2020, through May 31, 2020, are described, in part, in the Second Report of Activities and are further detailed in the Receiver's monthly billing summaries reflecting the services rendered and time spent by the Receiver. *See* Declaration of Brick Kane, Exhs. 2, 3. The activities described in the Second Report of Activities generally have continued in the context of the Receiver's efforts to identify, obtain, safeguard and preserve assets of the receivership estate and otherwise to perform its duties and responsibilities under the authority granted by the Temporary Restraining Orders and Preliminary Injunctions. *Id.* Frandzel assisted the Receiver during the Second Reporting Period in the manner described in the concurrently-filed Declaration of Michael Gerard Fletcher (along with Exh. 5). Kemp Smith assisted the Receiver during the Second Reporting Period in the manner described in the concurrently filed Declaration of Shelly W. Rivas (along with Exh. 6). Kugler assisted the Receiver during the Second Reporting Period in the manner described in the concurrently filed Declaration of Gerald Kandestin (along with Exh. 7).

As set forth in the Certificate of Conference, below, and Attachment A, the Receiver's counsel met and conferred with counsel prior to filing this Application. As of the filing of this Application, no party has stated any opposition to this Application.

The Receiver respectfully submits that in light of the work performed during the Second Reporting Period, the fees and costs of the Receiver and its professionals are reasonable and should be approved and authorized for payment in their entirety.

III. CONCLUSION

Based on the foregoing and the concurrently filed Declarations of Brick Kane, Michael

Gerard Fletcher, Shelly W. Rivas, and Gerald Kandestin (and Exhibits thereto), the Receiver respectfully requests that the Court grant the Application and that it issue an order deeming that, in light of the work performed during the Second Reporting Period, the fees and costs of the Receiver and its professionals are reasonable and should be approved and authorized for payment in their entirety.

DATED: July 22, 2020

Respectfully submitted,

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By: /s/ Michael Gerard Fletcher

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Attorneys for Robb Evans & Associates LLC

EXHIBIT A

FRANDZEL

July 13, 2020

To: See attached service list

Re: *Federal Trade commission, et al. v. Educare Centre Services, Inc., etc., et al.*
United States District Court, Western District of Texas, Case No.3:19-cv-00196-KC
Periodic Interim Statement of the Receiver

Dear Gentlepersons:

We are counsel for Robb Evans & Associates LLC, the Court-appointed Receiver in the action referenced above. We enclose the Receiver's interim statement titled "Receiver's Administration Expenses and Fund Balance From Inception (July 19, 2019) to May 31, 2020." As specified in this interim statement, the fees and costs of the Receiver through May 31, 2020 total \$168,619.25, and the fees and costs of the Receiver's counsel through December 31, 2019 total \$196,613.19. The Receiver will file after July 23, 2020 an application for an order approving these fees and expenses and authorizing payment of same from funds available in the receivership estate.

Pursuant to Local Court Rule CV-7(i), this constitutes the Receiver's attempt to confer in a good faith manner to determine if you intend to oppose the Receiver's application for approval of the specified fees and expenses. Should you intend to oppose the application, then please contact the undersigned by July 23, 2020, to discuss your position.

Very truly yours,

FRANDZEL ROBINS BLOOM & CSATO, L.C.



HAL D. GOLDFLAM
hgoldflam@frandzel.com

Encl.

cc: Brick Kane, Deputy to the Receiver (via e-mail)
Michael Gerard Fletcher, Esq. (via e-mail)
Craig A. Welin, Esq. (via e-mail)
Ken Slavin, Esq. (via e-mail)

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**Robb Evans & Associates LLC, Receiver of Educare Centre Services Inc. et al.
Receiver's Administrative Expenses and Fund Balance
From Inception (July 19, 2019) to May 31, 2020**

	Previously Reported and Approved	Jan 20	Feb 20	Mar 20	Apr 20	May 20	1/1/20~5/31/20	TOTAL
	Corporate Assets Collected							
Canada Inc.								
Toronto Dominion Bank 0963	2,487.48	0.00	0.00	0.00	0.00	0.00	0.00	2,487.48
Total Canada Inc.	2,487.48	0.00	0.00	0.00	0.00	0.00	0.00	2,487.48
Educare Centre Services Inc.								
Bank of America 6708	0.00	0.01	0.00	0.00	0.00	0.00	0.01	0.01
TD Bank	14,159.88	0.00	0.00	0.00	0.00	0.00	0.00	14,159.88
Total Educare Centre Services Inc.	14,159.88	0.01	0.00	0.00	0.00	0.00	0.01	14,159.89
Globex Telecom Inc.								
Bank of America 3472	352,524.34	37,693.71	0.00	0.00	0.00	0.00	37,693.71	390,218.05
Stripe D81X	0.00	371.79	0.00	0.00	0.00	0.00	371.79	371.79
Wells Fargo Bank 5270	0.00	500.00	0.00	0.00	0.00	0.00	500.00	500.00
Total Globex Telecom Inc.	352,524.34	38,565.50	0.00	0.00	0.00	0.00	38,565.50	391,089.84
InitPro Technologies Inc.	0.00	400,000.00	0.00	170,000.00	550,000.00	0.00	1,120,000.00	1,120,000.00
Tripletec Inc.								
BMO Harris Bank	6,113.10	0.00	0.00	0.00	0.00	0.00	0.00	6,113.10
Total Tripletec Inc.	6,113.10	0.00	0.00	0.00	0.00	0.00	0.00	6,113.10
Total Corporate Assets Collected	375,284.80	438,565.51	0.00	170,000.00	550,000.00	0.00	1,158,565.51	1,533,850.31
Interest Income	0.00	0.00	0.00	0.00	8.84	146.51	155.35	155.35
Total Funds Collected	375,284.80	438,565.51	0.00	170,000.00	550,008.84	146.51	1,158,720.86	1,534,005.66

**Robb Evans & Associates LLC, Receiver of Educare Centre Services Inc. et al.
Receiver's Administrative Expenses and Fund Balance
From Inception (July 19, 2019) to May 31, 2020**

	Previously Reported and Approved	Jan 20	Feb 20	Mar 20	Apr 20	May 20	1/1/20~ 5/31/20	TOTAL
Expenses								
Receiver Fees and Expenses								
Receiver Fees								
Receiver								
B. Kane	11,935.80	7,626.60	3,693.60	2,941.20	3,078.00	13,406.40	30,745.80	42,681.60
A. Jen	24,076.80	23,392.80	3,454.20	5,677.20	3,249.00	7,250.40	43,023.60	67,100.40
C. Callahan	112.50	427.50	405.00	0.00	0.00	0.00	832.50	945.00
F. Jen	0.00	6,783.75	9,165.60	10,492.20	12,964.50	25,235.55	64,641.60	64,641.60
T. Chung	0.00	0.00	0.00	0.00	0.00	12,120.30	12,120.30	12,120.30
H. Jen	1,665.00	495.00	0.00	0.00	0.00	0.00	495.00	2,160.00
N. Nafpliotis	0.00	0.00	0.00	2,458.75	0.00	0.00	2,458.75	2,458.75
C. DeCius	303.75	72.90	668.25	60.75	498.15	170.10	1,470.15	1,773.90
Total Receiver	<u>38,093.85</u>	<u>38,798.55</u>	<u>17,386.65</u>	<u>21,630.10</u>	<u>19,789.65</u>	<u>58,182.75</u>	<u>155,787.70</u>	<u>193,881.55</u>
Support Staff	576.00	69.00	54.00	24.00	0.00	0.00	147.00	723.00
Total Receiver Fees	<u>38,669.85</u>	<u>38,867.55</u>	<u>17,440.65</u>	<u>21,654.10</u>	<u>19,789.65</u>	<u>58,182.75</u>	<u>155,934.70</u>	<u>194,604.55</u>
Receiver Expenses								
Asset/Credit Search Costs	765.71	693.68	0.00	125.50	0.00	0.00	819.18	1,584.89
Postage & Delivery	420.60	163.18	302.83	7.65	0.00	0.00	473.66	894.26
Receiver Bond Premium	100.00	0.00	0.00	0.00	0.00	0.00	0.00	100.00
Tax Return Preparation	0.00	0.00	0.00	11,094.50	0.00	0.00	11,094.50	11,094.50
Website Support	359.32	35.49	84.28	53.23	31.05	93.16	297.21	656.53
Total Receiver Expenses	<u>1,645.63</u>	<u>892.35</u>	<u>387.11</u>	<u>11,280.88</u>	<u>31.05</u>	<u>93.16</u>	<u>12,684.55</u>	<u>14,330.18</u>
Legal Fees & Costs								
Frاندzel Robins Bloom & Csato								
Legal Fees	0.00	40,577.40	21,416.85	30,280.05	13,199.85	39,211.65	144,685.80	144,685.80
Legal Costs	0.00	1,128.55	2,287.63	5,196.23	58.57	330.10	9,001.08	9,001.08
Total Frاندzel Robins Bloom & Csato	<u>0.00</u>	<u>41,705.95</u>	<u>23,704.48</u>	<u>35,476.28</u>	<u>13,258.42</u>	<u>39,541.75</u>	<u>153,686.88</u>	<u>153,686.88</u>

**Robb Evans & Associates LLC, Receiver of Educare Centre Services Inc. et al.
Receiver's Administrative Expenses and Fund Balance
From Inception (July 19, 2019) to May 31, 2020**

	Previously Reported and Approved	Jan 20	Feb 20	Mar 20	Apr 20	May 20	1/1/20~5/31/20	TOTAL
	Kemp Smith Law							
Legal Fees	15,202.30	2,175.00	0.00	226.80	146.00	584.00	3,131.80	18,334.10
Legal Costs	5.30	2,304.82	0.00	0.00	0.00	(262.80)	2,042.02	2,047.32
Total Kemp Smith Law	<u>15,207.60</u>	<u>4,479.82</u>	<u>0.00</u>	<u>226.80</u>	<u>146.00</u>	<u>321.20</u>	<u>5,173.82</u>	<u>20,381.42</u>
Kugler Kandestin								
Legal Fees	27,525.21	0.00	0.00	36,202.97	0.00	897.25	37,100.22	64,625.43
Legal Costs	2,171.87	0.00	0.00	436.27	0.00	0.00	436.27	2,608.14
Total Kugler Kandestin	<u>29,697.08</u>	<u>0.00</u>	<u>0.00</u>	<u>36,639.24</u>	<u>0.00</u>	<u>897.25</u>	<u>37,536.49</u>	<u>67,233.57</u>
Tucker Ellis LLP								
Legal Fees	0.00	0.00	0.00	0.00	0.00	216.00	216.00	216.00
Total Tucker Ellis LLP	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>	<u>216.00</u>	<u>216.00</u>	<u>216.00</u>
Total Legal Fees & Costs	<u>44,904.68</u>	<u>46,185.77</u>	<u>23,704.48</u>	<u>72,342.32</u>	<u>13,404.42</u>	<u>40,976.20</u>	<u>196,613.19</u>	<u>241,517.87</u>
Total Receiver Fees and Expenses	<u>85,220.16</u>	<u>85,945.67</u>	<u>41,532.24</u>	<u>105,277.30</u>	<u>33,225.12</u>	<u>99,252.11</u>	<u>365,232.44</u>	<u>450,452.60</u>
Total Expenses	<u>85,220.16</u>	<u>85,945.67</u>	<u>41,532.24</u>	<u>105,277.30</u>	<u>33,225.12</u>	<u>99,252.11</u>	<u>365,232.44</u>	<u>450,452.60</u>
Fund Balance	<u>290,064.64</u>							<u>1,083,553.06</u>

CERTIFICATE OF CONFERENCE

On July 13, 2020, Receiver's counsel attempted to confer in good faith with counsel for Plaintiffs and Defendants via email and letter (*See Attachment A*) regarding this *Notice Of Unopposed Application And Unopposed Application For Order Approving And Authorizing Payment Of Receiver's And Receiver's Counsels' Fees And Expenses For The Period From January 1, 2020 Through May 31, 2020*. In addition, on July 14, 2020, the Receiver's counsel e-mailed redacted copies of the Receiver's and its counsels' invoices that are the subject of this Application to recipients of Attachment A. No counsel or party replied that any would oppose this Application.

/s/ Michael Gerard Fletcher
Michael Gerard Fletcher

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

FEDERAL TRADE COMMISSION,
and STATE OF OHIO et rel., et al.,

Plaintiffs,

v.

EDUCARE CENTRE SERVICES, INC., et al.,

Defendants.

Case No. 3:19-cv-00196-KC

**DECLARATION OF BRICK KANE IN SUPPORT OF UNOPPOSED APPLICATION
FOR ORDER APPROVING AND AUTHORIZING PAYMENT OF RECEIVER'S AND
RECEIVER'S COUNSELS' FEES AND EXPENSES FOR THE PERIOD FROM
JANUARY 1, 2020 THROUGH MAY 31, 2020**

I, Brick Kane, declare as follows:

1. I am the President & Chief Operating Officer of Robb Evans & Associates LLC (“REA”), initially the Temporary Receiver and subsequently the Receiver in this matter. 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.

2. I make this declaration in support of the Unopposed Application for Order Approving and Authorizing Payment of Receiver’s and Receiver’s Counsels’ Fees and Expenses for the Period from January 1, 2020 Through May 31, 2020 (“Second Fee Application”)

3. I am one of the individuals with REA that has primary responsibility for the day-to-day supervision and management of the receivership estate in this case since REA first began to act as the Temporary Receiver on July 19, 2019, pursuant the its *Ex Parte* Temporary Restraining Order with Asset Freeze, Appointment of a Temporary Receiver, and Other Equitable Relief, and Order to Show Cause Why a Preliminary Injunction Should Not Issue (“Temporary Restraining Order 1”) [Doc. No. 8]. As part of my duties, I supervise billing practices of both REA and counsel employed by REA on behalf of the receivership estate. In

particular, I review billing statements of REA and REA's counsel prior to submission to the Court for approval. Where appropriate, I write-off or reduce time which I determine to be inefficient, unproductive, excessive, and/or redundant.

4. On July 30, 2019, the Court entered its Preliminary Injunction Order ("Preliminary Injunction 1"), whereby the Court ordered that Robb Evans & Associates LLC shall continue to serve as the Receiver of the Receivership Entities with full powers of an equity receiver. [Doc. No. 25.]

5. On December 3, 2019, Plaintiffs filed, ex parte, their First Amended Complaint ("FAC") that adds Globex Telecom, Inc. ("Globex") and 9506276 Canada, Inc. ("9506276") (collectively, "Globex Defendants") as defendants, and moved for a temporary restraining order and an order to show cause why a preliminary injunction should not issue against the Globex Defendants. [Doc. No. 81.]

6. On December 3, 2019, the Court entered its Ex Parte Temporary Restraining Order with Asset Freeze, Appointment of a Temporary Receiver, and Other Equitable Relief, and Order to Show Cause Why a Preliminary Injunction Should Not Issue against the Globex Defendants ("Temporary Restraining Order 2" and together with Temporary Restraining Order 1, "Temporary Restraining Orders"). [Doc. No. 84.]

7. On December 17, 2019, the Court entered its Preliminary Injunction Order as to Defendants Prolink, 9896988, Sam Madi, Mohammad Souheil, and Charles Kharouf [Doc. No. 124] as well as its Preliminary Injunction Order as to the Globex Defendants ("Preliminary Injunction 2" and together with Preliminary Injunction 1, "Preliminary Injunctions"), whereby the Court ordered that Robb Evans & Associates LLC shall continue to serve as the Receiver of the Receivership Entities with full powers of an equity receiver. [Docket No. 125.]

8. The Preliminary Injunctions each provide that the Receiver is to file periodic applications for reasonable compensation.

9. During the Second Reporting Period (January 1, 2020 through May 31, 2020), the fees and costs of the Receiver's members, accountants, staff, and support staff totaled

\$168,619.25 (consisting of \$155,934.70 in fees and \$12,684.55 in costs). The fees and costs of the Receiver's outside counsel, discussed below, totaled \$196,613.19 (consisting of \$185,133.82 in fees and \$11,479.37 in costs).

10. The Receiver's fees and costs and the fees and costs of its outside counsel for which approval is requested are identified in the summary which the Receiver's office has prepared and titled as "Receiver's Administrative Expenses and Fund Balance From Inception (July 19, 2019) to May 31, 2020," a true and correct copy of which is attached as Exhibit 1.

11. Activities undertaken by the Receiver's members and staff are specified in the Second Report of Activities, December 15, 2019 through May 29, 2020 ("Second Report of Activities"), filed June 5, 2020. [Doc. No. 262-1 (publicly available redacted version); Doc. No. 261 (sealed complete version pursuant to Text-Only Order Dkt. 260, entered June 3, 2020).] The activities described in Second Report of Activities. A true and correct copy of the Second Report of Activities (redacted version) is attached hereto as Exhibit 2 (without Exhibits). In particular, during the Second Reporting Period, the Receiver performed the following activities:

- a. gathering documents and providing responses to 15 extensive information requests and subpoenas from Federal and State regulatory agencies;
- b. seeking documents and other information from the Canadian bankruptcy estate of 9506276, which records are related to Globex;
- c. managing the complex and diverse day-to-day operations of the five InitPro Technologies, Inc. ("InitPro") subsidiary companies;
- d. working with management of the InitPro subsidiary companies to address customer quality issues, including the implementation of formal know your customer policies and ongoing due diligence metrics to identify potential illegal robocalls being routed through the subsidiaries' platforms, and to determine if the businesses may be operated lawfully; and
- e. analyzing the financial condition of the InitPro subsidiary companies to determine if the businesses may be operated profitably.

12. The fees and activities of the Receiver's members and staff are further detailed in Exhibit 3 attached hereto. Specifically, Exhibit 3 is comprised of monthly billing summaries reflecting the services rendered and time spent by REA's members, accountants, staff, and support staff (with the work descriptions redacted where appropriate to preserve information protected from disclosure by the attorney-client privilege or otherwise to protect the Receiver and the receivership estate from inappropriate disclosures).

13. I am familiar with the methods and procedures used to create, record, and maintain the Receiver's billing records. The billing records attached hereto as Exhibit 3 are prepared from computerized time records prepared contemporaneously with the services rendered by each professional billing time to this matter. These computerized records are prepared in the ordinary course of business by the Receiver's professionals who have a business duty to accurately record their time spent and services rendered on the matters on which they perform work. The time records are transferred into a computerized billing program which generates monthly invoices. In my experience, the Receiver's methods and procedures for recording and accounting for time and services have proven to be reliable and accurate.

14. As part of REA's normal billing practices, the firm ensures that work is appropriately staffed and that work is allocated to individuals with the appropriate level of experience so as to maximize billing efficiency. In this case, as set forth in the itemized billing records (Exh. 3), REA used only individuals with appropriate levels of experience to handle the particular discrete tasks assigned to them.

15. I reviewed the billing statements of REA for the Second Reporting Period. Based on my review of those billing statements, all of the time was reasonable and necessary, and none of the time was written-off or reduced as being inefficient, unproductive, excessive, and/or redundant. The rates charged by REA in connection with the Application have been reduced by 10% from REA's private sector rates, and I believe REA's hourly billing rates are reasonable, relative to the levels of experience expertise of REA's members and staff, including myself.

16. These activities detailed in REA's monthly billing summaries (Exh. 3), and others as detailed in the Second Report of Activities (Exh. 2) were done in the context of the Receiver's efforts to identify, obtain, safeguard and preserve assets of the receivership estate and otherwise to perform its duties and responsibilities under the authority granted by the Temporary Restraining Orders and Preliminary Injunctions.

17. During the Second Reporting Period, Receiver's California counsel, Frandzel Robins Bloom & Csato, L.C. ("Frandzel"), the Receiver's local Texas counsel, Kemp Smith Law ("Kemp Smith"), and the Receiver's Canadian counsel, Kugler Kandestin SENCRL / LLP ("Kugler") all performed certain work for the Receiver. That work is summarized in the accompanying Declarations of Michael Gerard Fletcher, Shelly W. Rivas, and Jeremy Cuttler, respectively. In addition, the Receiver engaged Tucker Ellis, LLC ("Tucker") located in Ohio to review an employment agreement contract involving a proposed receivership estate employee and potentially involving Ohio state law issues. Because Tucker's fees total \$216.00, the Receiver did not procure a declaration from the responsible person at Tucker in order to not burden the receivership with additional fees related to the \$216.00 fee claim. Attached hereto as Exhibit 8 is a true and correct copy of the invoice REA received from Tucker for \$216.00, which in my opinion is reasonable and needs to be paid.

18. The legal fees and costs of Kemp Smith totaled \$5,173.82 (consisting of \$3,131.80 in fees and \$2,042.02 in costs). The legal fees and costs of Kulger totaled \$37,536.49 in U.S. Dollars (consisting of \$37,100.22 in fees and \$436.27). The legal fees and costs of Frandzel totaled \$153,686.88 (consisting of \$144,685.80 in fees and \$9,001.08 in costs). The legal fees of Tucker totaled \$216.00 (no costs). Total attorneys' fees and costs during the Second Reporting Period total \$196,613.19.

19. In January 2020, after the Court issued Preliminary Injunction 2, REA retained Frandzel. The receivership action necessitated REA to hire Frandzel in addition to the Receiver's use of local counsel, Kemp Smith. This was necessary and appropriate in my opinion, because it was initially believed to be the case that the Globex matter would involve

pursuing documents, information, and assets in multiple other locations, outside of the Western District of Texas, and internationally. These are all things with which Frandzel has been involved in assisting the Receiver in other matters, over a number of years, in a number of complex matters. As matters developed, other aspects of the case became a primary focus. For instance, early on issues arose concerning the Receiver being served with legal process by state and federal regulatory and other agencies. The very first one of such legal process matters entailed an extensive document production request that ultimately centered on Los Angeles, but which could have involved other California locations. Having extensively dealt with that initial, very large, document production request, the multiple agencies involved, and the legal and factual issues associated with it, it was more efficient for Frandzel to continue dealing with such issues as they continued to arise, from the same and from other such government agencies. As of the date of this declaration, the Receiver has dealt with over 15 separate sets of legal process demands served on and concerning the Receivership companies. Separately, an issue also arose concerning employment issues and the rights of an executive who was based in Los Angeles, and whose employment rights likely involved issues of California law. When subsequent issues arose concerning others with similar rights, there were again no connections to the Western District of Texas, but Frandzel had already dealt with similar issues as to the California based employee.

20. Frandzel's extensive experience in representing federal and state receivers, includes having represented (or continuing to represent) REA as the court-appointed receiver in multiple federal actions such as *FTC v. Cardiff, et al.*, case no. 5:18-cv-02104 (C.D. Cal. 2018); *Federal Trade Commission v. Sale Slash, LLC, et al.*, case no. 2:15-cv-03107 (C.D. Cal. 2015); *Federal Trade Commission v. Cream Group, Inc., et al.*, case No. CV13-8843 (C.D. Cal. 2013); *Commodity Futures Trading Commission v. Walsh, et al.*, case no. 09-CV-1749 (S.D.N.Y. 2009); *Securities and Exchange Commission v. WG Trading Investors, et al.*, case no. 09-CV-17450 (S.D.N.Y. 2009); *Commodity Futures Trading Commission v. Atwood & James, Ltd., et al.*, case no. 09CV 6032 (W.D.N.Y. 2009); *U.S. Commodity Futures Trading Commission v.*

Forex Liquidity, LLC, et al. case no. SACV07-1437 (S.D. Cal. 2007); *Federal Trade Commission v. Global Marketing Group Inc. et al.* case no. 8:06 -cv-2272-T-30TGW (M.D. FL 2006); *Securities and Exchange Commission v. High Park Investment Group, Inc. et al.*, case no. SAC05-1090 (C.D. Cal. 2005); *Federal Trade Commission v. Ameridebt Inc. et al.* case no. PJM 03-3317 (D. MD 2005); *Federal Trade Commission v. World Traders Association, Inc. et al.* case no. CV 05-0591 (C.D. Cal. 2005); *Securities and Exchange Commission v. Ohana International Inc. and Financial Solutions* case no. CV 04-01386 (C.D. Cal. 2004); *Securities and Exchange Commission v. D.W. Heath & Associates, Inc. et al.* case no. CV 04-02949 (C.D. Cal. 2004); *Federal Trade Commission v. National Consumer Council Inc. et al.* case no. SACV 04-0474 (C.D. Cal. 2004); *Securities and Exchange Commission v. MX Factors, LLC, et al.*, case no. EDCV 04-223 (E.D. Cal. 2004); *Securities and Exchange Commission v. James P. Lewis, Jr. and DBA Financial Advisory Consultants et al.* case no. CV 03-9354 (C.D. Cal. 2004); *Federal Trade Commission v. Assail, Inc. et al* case no. W03 CA007 (W.D. TX 2003); *Federal Trade Commission v. Trek Alliance, Inc el al* case no CV 02-9270 (C.D. Cal. 2002); *Federal Trade Commission v. Corporate Marketing Solutions, Inc., et al* case no. CIV 02 1256 (D. AZ 2002); *Federal Trade Commission v. RJB Telcom, Inc.* case no. CIV 00 2017 (D. AZ 2000); *Federal Trade Commission v. Equinox International Corporation, et al.* case no. CV S 99 0979 (D. NV 2000); *Federal Trade Commission v. J.K. Publications, Inc. et al.* case no. CV 99 00044 (C.D. Cal. 1999).

21. Because it was necessary to retain Frandzel for the reasons I summarize above, in my opinion, the Court should allow Frandzel's "home" hourly rates instead of the prevailing rates in district in which this Court sits. Based on my numerous years serving as President & Chief Operating Officer of REA, including having had primary responsibility in vetting and hiring various Los Angeles based counsel to represent REA in matters it has been appointed as receiver, I believe Frandzel's billable rates are competitive, including based on its relevant experience and reputation.

22. The receivership action necessitated local Texas counsel with experience in FTC receivership actions and with, preferably, a physical proximity to El Paso, Texas. Considering other firms within the Western District of Texas, REA decided that Kemp Smith could most effectively and efficiently provide adequate local representation of the receivership estate, given its competitive billing rates, directly relevant experience, reputation, and proximity to the relevant Texas forum. Kemp Smith's rates are reasonable and necessary, and reconcile with the rates permitted by the Court as specified in the Court's April 17, 2020 Order Granting in Part the [Receiver's] First Fee Application [Doc No. 244].

23. Kugler's rates are also reasonable and necessary, and mirror the rates approved by the Court in its Order Granting in Part the Receiver's First Fee Application, except that Gerald F. Kandestin's hourly rate increased by \$50.00 (Canadian) effective January 1, 2020. The receivership estate required counsel experienced in Canadian insolvency law and cross-border receivership actions and with, preferably, a physical presence in Quebec, Canada. REA determined that Kugler was best situated to assist the receivership estate, given its competitive billing rates, relevant experience, reputation, and proximity to the relevant Canadian forum. Kugler's assistance and specialized expertise in this matter was necessary and appropriate to secure efficient and adequate representation of the receivership estate.

24. Frandzel, Kemp Smith, Kugler, and Tucker were each hired by the Receiver pursuant to the authority given to the Receiver in the Court's Temporary Restraining Orders and the Preliminary Injunctions.

25. I reviewed the billing statements for the Second Reporting Period submitted to the Receiver for that period by REA's counsel, Frandzel, Kemp Smith, Kugler, and Tucker. Based on my review of those billing statements, in my opinion, all of the time was reasonable and necessary, and none of the time was written-off or reduced by the Receiver as being inefficient, unproductive, excessive, and/or redundant.

26. In summary, the total of receivership fees and expenses incurred during the Second Reporting Period which the Receiver seeks an order authorizing payment is \$365,232.44.

I believe that in light of the work performed during the Second Reporting Period, the fees and costs of the Receiver, Frandzel, Kemp Smith, Kugler, and Tucker are reasonable and should be approved and authorized for payment in their entirety.

27. In connection with the Application, the Receiver's counsel will have effectuated service of a copy of the Notice of Application and Application, the supporting Memorandum of Points and Authorities, and the declarations and all exhibits on the parties to this action. In addition, the Receiver will provide an entire copy of the Application, including the declarations, to anyone who requests a copy of the Application in writing directed to Robb Evans & Associates LLC, 11450 Sheldon Street, Sun Valley, California 91352-1121. The Receiver also will post a copy of the entire Application and supporting declarations on the Receiver's website for this case at <https://www.robbevans.com/find-a-case/educare-centre-services-inc-et-al-receiver/>.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct and that this declaration was executed on July 22, 2020, at Alhambra, California.

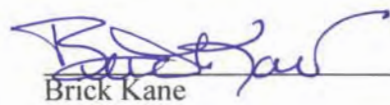

Brick Kane

EXHIBIT 1

Receiver's Administrative Expenses and Fund Balance

From Inception (July 19, 2019) to May 31, 2020

Previously Reported and Approved	Jan 20	Feb 20	Mar 20	Apr 20	May 20	1/1/20~		
						5/31/20	TOTAL	
Corporate Assets Collected								
Canada Inc.								
Toronto Dominion Bank 0963	2,487.48	0.00	0.00	0.00	0.00	0.00	0.00	2,487.48
Total Canada Inc.	2,487.48	0.00	0.00	0.00	0.00	0.00	0.00	2,487.48
Educare Centre Services Inc.								
Bank of America 6708	0.00	0.00	0.00	0.00	0.00	0.01	0.01	0.01
TD Bank	14,159.88	0.00	0.00	0.00	0.00	0.00	0.00	14,159.88
Total Educare Centre Services Inc.	14,159.88	0.00	0.00	0.00	0.00	0.01	0.01	14,159.89
Globex Telecom Inc.								
Bank of America 3472	352,524.34	37,693.71	0.00	0.00	0.00	37,693.71	37,693.71	390,218.05
Stripe D8LX	0.00	371.79	0.00	0.00	0.00	371.79	371.79	371.79
Wells Fargo Bank 5270	0.00	500.00	0.00	0.00	0.00	500.00	500.00	500.00
Total Globex Telecom Inc.	352,524.34	38,565.50	0.00	0.00	0.00	38,565.50	38,565.50	391,089.84
ImitPro Technologies Inc.	0.00	400,000.00	170,000.00	550,000.00	0.00	1,120,000.00	1,120,000.00	1,120,000.00
Triplettec Inc.								
BMO Harris Bank	6,113.10	0.00	0.00	0.00	0.00	0.00	0.00	6,113.10
Total Triplettec Inc.	6,113.10	0.00	0.00	0.00	0.00	0.00	0.00	6,113.10
Total Corporate Assets Collected	375,284.80	438,565.51	170,000.00	550,000.00	0.00	1,158,565.51	1,158,565.51	1,533,850.31
Interest Income	0.00	0.00	0.00	8.84	146.51	155.35	155.35	155.35
Total Funds Collected	375,284.80	438,565.51	170,000.00	550,008.84	146.51	1,158,720.86	1,158,720.86	1,534,005.66

Receiver's Administrative Expenses and Fund Balance

From Inception (July 19, 2019) to May 31, 2020

	Previously Reported and Approved	Jan 20	Feb 20	Mar 20	Apr 20	May 20	1/1/20~	
							5/31/20	TOTAL
Expenses								
Receiver Fees and Expenses								
Receiver Fees								
Receiver								
B. Kane	11,935.80	7,626.60	3,693.60	2,941.20	3,078.00	13,406.40	30,745.80	42,681.60
A. Jen	24,076.80	23,392.80	3,454.20	5,677.20	3,249.00	7,250.40	43,023.60	67,100.40
C. Callahan	112.50	427.50	405.00	0.00	0.00	0.00	832.50	945.00
F. Jen	0.00	6,783.75	9,165.60	10,492.20	12,964.50	25,235.55	64,641.60	64,641.60
T. Chung	0.00	0.00	0.00	0.00	0.00	12,120.30	12,120.30	12,120.30
H. Jen	1,665.00	495.00	0.00	0.00	0.00	0.00	495.00	2,160.00
N. Nafpliotis	0.00	0.00	0.00	2,458.75	0.00	0.00	2,458.75	2,458.75
C. DeGius	303.75	72.90	668.25	60.75	498.15	170.10	1,470.15	1,773.90
Total Receiver	38,093.85	38,798.55	17,386.65	21,630.10	19,789.65	58,182.75	155,787.70	193,881.55
Support Staff	576.00	69.00	54.00	24.00	0.00	0.00	147.00	723.00
Total Receiver Fees	38,669.85	38,867.55	17,440.65	21,654.10	19,789.65	58,182.75	155,934.70	194,604.55
Receiver Expenses								
Asset/Credit Search Costs	765.71	693.68	0.00	125.50	0.00	0.00	819.18	1,584.89
Postage & Delivery	420.60	163.18	302.83	7.65	0.00	0.00	473.66	894.26
Receiver Bond Premium	100.00	0.00	0.00	0.00	0.00	0.00	0.00	100.00
Tax Return Preparation	0.00	0.00	0.00	11,094.50	0.00	0.00	11,094.50	11,094.50
Website Support	359.32	35.49	84.28	53.23	31.05	93.16	297.21	656.53
Total Receiver Expenses	1,645.63	892.35	387.11	11,280.88	31.05	93.16	12,684.55	14,330.18
Legal Fees & Costs								
Frاندzel Robins Bloom & Csato								
Legal Fees	0.00	40,577.40	21,416.85	30,280.05	13,199.85	39,211.65	144,685.80	144,685.80
Legal Costs	0.00	1,128.55	2,287.63	5,196.23	58.57	330.10	9,001.08	9,001.08
Total Frاندzel Robins Bloom & Csato	0.00	41,705.95	23,704.48	35,476.28	13,258.42	39,541.75	153,686.88	153,686.88

Receiver's Administrative Expenses and Fund Balance

From Inception (July 19, 2019) to May 31, 2020

	Previously Reported and Approved	Jan 20	Feb 20	Mar 20	Apr 20	May 20	1/1/20~	
							5/31/20	TOTAL
Kemp Smith Law								
Legal Fees	15,202.30	2,175.00	0.00	226.80	146.00	584.00	3,131.80	18,334.10
Legal Costs	5.30	2,304.82	0.00	0.00	0.00	(262.80)	2,042.02	2,047.32
Total Kemp Smith Law	<u>15,207.60</u>	<u>4,479.82</u>	<u>0.00</u>	<u>226.80</u>	<u>146.00</u>	<u>321.20</u>	<u>5,173.82</u>	<u>20,381.42</u>
Kugler Kandestin								
Legal Fees	27,525.21	0.00	0.00	36,202.97	0.00	897.25	37,100.22	64,625.43
Legal Costs	2,171.87	0.00	0.00	436.27	0.00	0.00	436.27	2,608.14
Total Kugler Kandestin	<u>29,697.08</u>	<u>0.00</u>	<u>0.00</u>	<u>36,639.24</u>	<u>0.00</u>	<u>897.25</u>	<u>37,536.49</u>	<u>67,233.57</u>
Tucker Ellis LLP								
Legal Fees	0.00	0.00	0.00	0.00	0.00	216.00	216.00	216.00
Total Tucker Ellis LLP	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>	<u>216.00</u>	<u>216.00</u>	<u>216.00</u>
Total Legal Fees & Costs	<u>44,904.68</u>	<u>46,185.77</u>	<u>23,704.48</u>	<u>72,342.32</u>	<u>13,404.42</u>	<u>40,976.20</u>	<u>196,613.19</u>	<u>241,517.87</u>
Total Receiver Fees and Expenses	<u>85,220.16</u>	<u>85,945.67</u>	<u>41,532.24</u>	<u>105,277.30</u>	<u>33,225.12</u>	<u>99,252.11</u>	<u>365,232.44</u>	<u>450,452.60</u>
Total Expenses	<u>85,220.16</u>	<u>85,945.67</u>	<u>41,532.24</u>	<u>105,277.30</u>	<u>33,225.12</u>	<u>99,252.11</u>	<u>365,232.44</u>	<u>450,452.60</u>
Fund Balance	<u>290,064.64</u>							<u>1,083,553.06</u>

EXHIBIT 2

ROBB EVANS & ASSOCIATES LLC
Receiver of
Educare Centre Services, Inc. et al.
and
Globex Telecom, Inc. et al.

REPORT OF RECEIVER'S ACTIVITIES

December 15, 2019 through May 29, 2020

This report covers the activities of the Receiver¹ since its first report that was filed on December 15, 2019. This is the second report to the Court on the progress of the receivership. It does not constitute an audit of financial condition and is intended only to provide information for use by the Court in assessing the progress of the receivership.

Overview

During this reporting period, the Receiver has focused primarily on the following:

- Responding to legal process and information requests from Federal and State regulatory agencies.
- Pursuit of Globex Telecom Inc. (Globex) records in Montreal, Canada.
- Managing the day-to-day operations of the InitPro Technologies, Inc. (InitPro) subsidiary companies².
- Working with management of the InitPro subsidiary companies to address customer quality issues and to determine if the businesses can be operated lawfully.
- Analyzing the financial conditions of the InitPro subsidiary companies to determine if the businesses can be operated profitably

Each of the above matters are discussed in this report.

¹ Reference to the Receiver in this report means the Receiver, the Receiver's deputies, its staff, and its counsel.

² As set forth in the first report to this Court, Globex owns 100% of the shares of InitPro. InitPro is a holding company that in turn owns 100% of several operating companies which are all involved with various aspects of the telecommunications industry.

Legal Process from Federal and State Regulatory Agencies

The Receiver has spent a great deal of time responding to legal process served on the Receiver 15 separate times by various Federal and State regulatory agencies, and to other informal information requests from some government agencies, during just the period covered by this report with respect to Globex and its subsidiaries. These inquiries dealt with possible illegal robocalls by customers of the operating subsidiaries, and by customers of the customers.

Proceedings in Montreal, Canada

On December 3, 2019 this Court issued a Temporary Restraining Order (TRO) that named Globex Telecom Inc. and 9506276 Canada, Inc. (9506276) (collectively referred to as the “Globex defendants”) as additional Receivership Entities. As previously reported, on December 12, 2019 the 9506276 entity filed a notice of bankruptcy in Quebec. As a result of the bankruptcy, the Receiver was not able to obtain any Globex documents located in Canada.

On February 13, 2020 the Receiver filed a Motion for Recognition of a Foreign Proceeding in the Superior Court (Commercial Division) in the District of Montreal (Exhibit 1). The Motion for Recognition recites in part the following:

I. BANKRUPTCY OF THE BANKRUPT AND POSSESSION OF PROPERTY

1. In complete contravention of the Temporary Restraining Order, the Bankrupt filed a notice of intention to make a proposal (“NOI”) on December 12, 2019.
2. In further complete contravention of the Receivership Order, the Bankrupt made an assignment on December 19, 2019 pursuant to the relevant provisions of the BIA, and MNP Ltd. (the “Trustee”) was appointed trustee of the estate of the Bankrupt.
3. On January 29, 2020, the US District Court entered an order holding, inter alia, the Bankrupt in contempt of court for failing to fulfill its obligations under the Receivership Order, including providing information and data to the Receiver. A copy of such order is produced herewith as Exhibit R-●. Accordingly, there is a valid and urgent need for granting the relief sought herein.
4. The Trustee is in possession of books and records (whether electronic or otherwise), data, computers and servers, access codes and other relevant information and/or property vital to the Receiver’s on-going investigation and recuperation of funds.

5. Given the interconnected nature of the entities involved in the Telemarketing Scheme, including the Bankrupt, the documents, information, data and access codes in the possession of the Trustee which may be categorized as relating to such other entities actually relates to the Bankrupt. Accordingly, no categorization of any documents, information, data and access codes is relevant and access thereto cannot be restricted.
6. Given all of the foregoing, it is essential that the Receiver be named a foreign representative and the Foreign Proceedings be recognized pursuant to s. 267 ff. BIA in order for the Receiver to continue its work, in general, and recover and discover data and funds, in particular, the whole to the benefit of the Bankrupt's creditors.

In response to the Receiver's Motion, Defendant Mohammad Souheil filed a Declaration of Voluntary and Aggressive Intervention (Exhibit 2).

Aside from being factually incorrect in many instances, Mr. Souheil's Declaration is another violation of this Court's orders that require information be provided to the Receiver and require cooperation with the Receiver.

A hearing in the Superior Court was scheduled for March 27, 2020. Due to the spread of COVID-19, the hearing was cancelled, and it is not clear when the matter can be heard.

Customer Quality Issues

As discussed above, numerous legal process and requests for information have been dealt with by the Receiver. In addition, the Receiver and the InitPro subsidiaries are sent Traceback Incident Requests from USTelecom (Exhibit 3). Page 2 of the Traceback Request under Exhibit 3 states in part "calls are perpetuating a SERIOUS FRAUD. Caller is impersonating a federal official." A number of these Traceback Incident Requests have been received dealing with a variety of clear or alleged fraudulent calls handled through the operating subsidiaries. These traceback requests are referred to as tickets.

None of these calls are originated by the InitPro subsidiaries. They are originated by a customer of one of the subsidiaries or a customer's customer of the subsidiary entities. The Receiver and management of the subsidiary companies have expended considerable time, effort, and financial resources to weed out unwanted customers and to install mechanisms to help prevent a resurgence in illegal robocalls.

One of the keys to reducing the number of illegal robocalls is proper onboarding procedures and knowing the customer. The subsidiary companies have enhanced the onboarding requirements. Those include, but are not limited to, the following:

- Company name, address, phone number, website, contact of responsible for the account
- Signed Master Service Agreement (MSA)
- Proof of address (lease agreement, electricity bill, etc.)
- Company incorporation documents (Including Tax ID)
- Description of nature of business
- Explanation of origin of traffic
- Company responsible parties
- FCC 499 Filer ID (for carriers/aggregators)
- FCC registration (for carriers/aggregators)
- Dun and Bradstreet Number

After obtaining the information above, documents are cross-checked to make sure there is consistency with the information obtained. For example, the contact information on the prospective customer's website and the official company documents must match. The description of the nature of the business must be verifiable.

The companies' management has been aggressive in culling the customer base. Customers who have been the subject of legal process, complaints, or traceback requests are dealt with swiftly.

Early this year a five strike per customer policy was implemented. If five or more USTelecom tickets were received in a one-week period or less that customer was automatically blocked. Since April, the threshold was lowered from five to three.

Recently, it was discovered that a blocked customer shifted its traffic to an old dormant account on the network. All dormant accounts have now been blocked. In addition, other accounts that were not in compliance with the Know Your Customer Policy have been terminated. Also, one of the subsidiary company's "dialer" account customers were also terminated. This process resulted in the termination of more than 160 accounts.

Customers who have been the subject of legal process, complaints, or USTelecom traceback requests have been and will continue to be dealt with swiftly.

If a customer is the subject of legal process, that customer's account activity will immediately trigger a technical audit. The audit will look for large amounts of calls to disconnected numbers (SIP code 404), percentage of misdialed calls (ring no answer, SIP code 487), calls under 6 seconds of duration (Short Duration Percentage), the overall number of calls completed (answer-seizure ratio, ASR) and calls to numbers in the Do Not Call List.

The guidelines for these metrics currently are:

SIP CODE 404: Less than 15%

SIP CODE 487: Less than 60%

Short Duration Percentage: Less than 50%

Percentage of completed calls (ASR): Greater than 20%

If the traffic is out of the guidelines metrics this will trigger an executive review to evaluate the account and identify if this problem was an indicative of their intended business practices or if it was an anomaly. If this executive review exposes a pattern or intent to disregard the US regulations the account will be terminated immediately.

The audit will also look for potential spoofing patterns like neighborhood spoofing or the use of invalid caller ID (ANI).

If three or more USTelecom tickets are received for the same customer in a one-week period or less, that customer will be automatically suspended from sending traffic. This does not apply for US Telecom registered carriers if they answer the tickets with the USTelecom.

Daily traffic monitoring will be performed by the Network Operations Center (NOC) to identify possible patterns i.e. looking at average call durations and amount of completed (answered) calls. Calls of short duration combined with a low answer rate are signs of potential fraudulent calls. If a customer's answered call rate (ASR) is less than 20% due to high amounts of calls to bad destination numbers and/or misdialed calls, the customer will be suspended.

On an ongoing basis, the subsidiary company's network will work to increase its robust intelligence and filters to help in the battle against illegal calls. Some of these filters are:

Block Invalid Caller ID

Automatic Block Caller IDs with low call completion (low ASR)

Block calls with same Destination and Caller ID (to avoid neighborhood spoofing)

Block calls with Wireless number Caller ID unless calls are coming from a wireless carrier

Onboarding new non-US traffic aggregators for traffic terminating in the United States of America is prohibited unless the company or principals involved are well-known and established members of the telecommunications industry. A passport copy may be required in this case. Onboarding of new trusted and verified retail end user customers is permitted.

The Receiver and company management have taken further steps to enhance the InitPro subsidiaries ability to detect and reduce fraudulent calls.

The STIR-SHAKEN³ protocol has been purchased and is being implemented to comply with the FCC requirement. In March 2020, the FCC adopted new rules requiring all originating and terminating voice service providers to implement caller ID authentication using STIR-SHAKEN technological standards in the Internet Protocol (IP) portions of their networks by June 30, 2021.

The STIR system aims to add information to the Session Initiation Protocol (SIP) headers that allow the endpoints along the system to positively identify the origin of the data. This does not directly prevent the ability for a robocaller to spoof a caller ID, but it does allow upstream points to decide whether or not to trust that ID.

There are three levels of verification, or "attestation", possible in the STIR protocol. The highest level, Full Attestation, indicated in the STIR header with an A, indicates that the provider recognizes the entire phone number as being registered with the originating subscriber. This would be the case for a landline or mobile phone where the customer connects directly to the voice over-internet-protocol (VOIP) network and the phone number can be verified as being a particular customer, or in the case of a company that has registered a particular callback number. Partial Attestation, or B, indicates that the call originated with a known customer but the entire number cannot be verified, which would be the case with a call originating from a client PBX where the extension number is not registered with the provider. Gateway Attestation, C, indicates the call can only be verified as coming from a known gateway, for instance, a connection to another service provider.

STIR systems produce a Web Token containing, among other things, the originating phone number as provided by the original SIP, the number being called, and the level of attestation being given by the provider. This information is then encrypted with the provider's private key, encoded using Base64, and appended to the original SIP header in a new Identity field. The new information now travels along with the original SIP request until it reaches its

³ STIR ^[1] (Secure Telephony Identity Revisited) and SHAKEN ^[2] (Secure Handling of Asserted information using toKENS)

destination, another VOIP system or provider that will route the call to an external telephone. On reception, the STIR information is decoded using the provider's public key. If this fails, the STIR information can be considered invalid. If it properly decodes, it can extract the information and examine the attestation to decide whether to allow the call to continue. In the case of a VOIP endpoint on a smart phone, for instance, the display might show that the call is of an unknown origin (C) or that it failed verification entirely.

To address these problems, SHAKEN includes systems to pass STIR information through the SS7 network, a standard for the data to be added to SIP for calls originating in the SS7 network, how to send STIR information to endpoints, and a set of guidelines on how to handle various STIR failures.

In the common case of a robocaller calling an end user on a landline or mobile phone, it is the last step of the connection that does not directly handle STIR. For instance, if a call originates in a VOIP system and was tagged with a STIR header that successfully authenticated, the caller ID provided to the user might be appended with "(verified)", whereas one that fails might say "(spoofed)" or "(no verification)".

The STIR-SHAKEN implementation has been completed.

The Receiver has also authorized the purchase of the Federal Trade Commission's Do Not Call list (DNC). While it is not clear if the InitPro subsidiaries are required to implement the DNC, the Receiver and company management believe it is prudent to do so. Implementation of the DNC may also present positive marketing opportunities for future business relationships.

Pages 8 to 29 are redacted.

Conclusion

The Receiver is monitoring the status of the Montreal courts and will aggressively pursue its Motion for Recognition of a Foreign Proceeding when the courts reopen for non-emergency matters.

The Receiver is working on a daily basis with the management of the InitPro subsidiary companies to ensure compliance with the Operating Procedures and to modify the procedures as necessary.

Respectfully submitted,

/s/

Robb Evans & Associates LLC
Receiver

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION**

FEDERAL TRADE COMMISSION,
and STATE OF OHIO et rel., et al.,

Plaintiffs,

v.

EDUCARE CENTRE SERVICES, INC., et al.,

Defendants.

Case No. 3:19-cv-00196-KC

**DECLARATION OF MICHAEL GERARD FLETCHER IN SUPPORT OF UNOPPOSED
APPLICATION FOR ORDER APPROVING AND AUTHORIZING PAYMENT OF
RECEIVER'S AND RECEIVER'S COUNSELS' FEES AND EXPENSES FOR THE
PERIOD FROM JANUARY 1, 2020 THROUGH MAY 31, 2020**

I, Michael Gerard Fletcher, declare as follows:

1. I am an attorney at law duly admitted pro hac vice to practice before this Court in the above-captioned action, and before the courts of the State of California and the federal courts of the State of California, and am a shareholder of Frandzel Robins Bloom & Csato, L.C. ("Frandzel"), attorneys for the Receiver in this matter, Robb Evans & Associates LLC ("Receiver"). I am one of the attorneys at Frandzel primarily responsible for the representation of the Receiver in this action. I have personal knowledge of the matters set forth in this declaration and if called upon to testify as to these matters I could and would competently testify thereto.

2. I make this declaration in support of the Unopposed Application for Order Approving and Authorizing Payment of Receiver's and Receiver's Counsels' Fees and Expenses for the Period from January 1, 2020 Through May 31, 2020 ("Second Fee Application").

3. I earned my J.D. degree from the University of Southern California in 1976 and my A.B. degree from Stanford University in 1973. My practice emphasizes commercial and real estate litigation, bankruptcy reorganization and liquidations, major debt workout negotiations and restructuring, and the documentation of commercial, personal property, and real estate-secured credits. I have been involved in this matter since shortly after the Receiver's initial appointment over Globex Telecom. I have personally represented the Receiver in other FTC receivership matters, the two primary ones being *FTC vs. Sales Slash* and *FTC vs. Jason Cardiff*, identified more particularly below. I have been involved in a number of receivership matters throughout my career, as one aspect of my commercial litigation and bankruptcy practice.

4. The Receiver's hiring of Frandzel was necessary and appropriate in addition to the Receiver's use of local counsel, Kemp Smith Law, in my opinion, because it was initially believed to be the case that the Globex matter would involve pursuing documents, information, and assets in multiple other locations, outside of the Western District of Texas, and internationally. These are all things with which my firm and I have been involved in assisting the Receiver in other matters, over a number of years, in a number of complex matters. As matters developed, other aspects of the case became a primary focus. For instance, early on issues arose concerning the Receiver being served with legal process by state and federal regulatory and other agencies. The very first one of such legal process matters entailed an extensive document production request that ultimately centered on Los Angeles, but which could have involved other California locations. Having extensively dealt with that initial, very large, document production request, the multiple agencies involved, and the legal and factual issues associated with it, it was more efficient to continue dealing with such issues as they continued to arise, from the same and from other such government agencies. As of the date of this declaration, the Receiver has dealt with over 15 separate sets of legal process demands served on

and concerning the Receivership companies. Separately, an issue also arose concerning employment issues and the rights of an executive who was based in Los Angeles, and whose employment rights likely involved issues of California law. When subsequent issues arose concerning others with similar rights, there were again no connections to the Western District of Texas, but my firm had already dealt with similar issues as to the California-based employee.

5. Frandzel has extensive experience in federal and state receivers, including representing Robb Evans & Associates LLC as the court-appointed receiver in multiple federal actions such as *FTC v. Cardiff, et al.*, case no. 5:18-cv-02104 (C.D. Cal. 2018); *Federal Trade Commission v. Sale Slash, LLC, et al.*, case no. 2:15-cv-03107 (C.D. Cal. 2015); *Federal Trade Commission v. Cream Group, Inc., et al.*, case No. CV13-8843 (C.D. Cal. 2013); *Commodity Futures Trading Commission v. Walsh, et al.*, case no. 09-CV-1749 (S.D.N.Y. 2009); *Securities and Exchange Commission v. WG Trading Investors, et al.*, case no. 09-CV-17450 (S.D.N.Y. 2009); *Commodity Futures Trading Commission v. Atwood & James, Ltd., et al.*, case no. 09CV 6032 (W.D.N.Y. 2009); *U.S. Commodity Futures Trading Commission v. Forex Liquidity, LLC, et al.* case no. SACV07-1437 (S.D. Cal. 2007); *Federal Trade Commission v. Global Marketing Group Inc. et al.* case no. 8:06 -cv-2272-T-30TGW (M.D. FL 2006); *Securities and Exchange Commission v. High Park Investment Group, Inc. et al.*, case no. SAC05-1090 (C.D. Cal. 2005); *Federal Trade Commission v. Ameridebt Inc. et al.* case no. PJM 03-3317 (D. MD 2005); *Federal Trade Commission v. World Traders Association, Inc. et al.* case no. CV 05-0591 (C.D. Cal. 2005); *Securities and Exchange Commission v. Ohana International Inc. and Financial Solutions* case no. CV 04-01386 (C.D. Cal. 2004); *Securities and Exchange Commission v. D.W. Heath & Associates, Inc. et al.* case no. CV 04-02949 (C.D. Cal. 2004); *Federal Trade Commission v. National Consumer Council Inc. et al.* case no. SACV 04-0474 (C.D. Cal. 2004); *Securities and Exchange Commission v. MX Factors, LLC, et al.*, case no. EDCV 04-223 (E.D.

Cal. 2004); *Securities and Exchange Commission v. James P. Lewis, Jr. and DBA Financial Advisory Consultants et al.* case no. CV 03-9354 (C.D Cal. 2004); *Federal Trade Commission v. Assail, Inc. et al* case no. W03 CA007 (W.D. TX 2003); *Federal Trade Commission v. Trek Alliance, Inc et al* case no CV 02-9270 (C.D. Cal. 2002); *Federal Trade Commission v. Corporate Marketing Solutions, Inc., et al* case no. CIV 02 1256 (D. AZ 2002); *Federal Trade Commission v. RJB Telcom, Inc.* case no. CIV 00 2017 (D. AZ 2000); *Federal Trade Commission v. Equinox International Corporation, et al.* case no. CV S 99 0979 (D. NV 2000); *Federal Trade Commission v. J.K. Publications, Inc. et al.* case no. CV 99 00044 (C.D. Cal. 1999).

6. During the period of January 1, 2020 through May 31, 2020 (“Second Reporting Period”), Frandzel incurred fees and costs totaling \$153,686.88 (consisting of \$144,685.80 in fees and \$9,001.08 in costs).

7. I attach hereto as Exhibit 4 a table that summarizes the hours worked by each attorney and paralegal during the Second Reporting Period and their respective hourly billing rates. This table also shows the percentage of the total fees incurred by each timekeeper. As the table indicates, the work I performed during the Second Reporting period accounts for approximately 50% of all of the fees.

8. I attach hereto as Exhibit 5 the billing records for Frandzel reflecting the services rendered, time spent, and costs incurred by Frandzel pertaining to this matter during the Second Reporting Period, with the work descriptions redacted where appropriate to preserve information protected from disclosure by the attorney-client privilege and/or attorney work product doctrine, or otherwise, protect the Receiver and the receivership estate from inappropriate disclosures. These billing summaries are organized in the following manner: (a) by the following ABA Uniform Task-Based Management System Bankruptcy Code Tasks (which are most applicable

to billings conducted in a federal receivership matter) – e.g., Case Administration, Asset Analysis and Recovery, Meetings of and Communications with Creditors, and Fee/Employment Applications; and (b) by each attorney and paralegal under each of the referenced task codes. In addition, at the end of all timekeeper entries under each task code is a table that includes the hours worked by each attorney and paralegal.

9. I am familiar with the methods and procedures used to create, record, and maintain billing records for Frandzel’s clients. The billing records attached hereto as Exhibit 5 are prepared from computerized time records prepared contemporaneously with the services rendered by each attorney and paralegal billing time to this matter. These computerized records are prepared in the ordinary course of business by the attorneys and paralegals employed by Frandzel who have a business duty to accurately record their time spent and services rendered on the matters on which they perform work. The time records are transferred into a computerized billing program which generates monthly invoices under the supervision of the firm’s accounting department. Based upon my experience with Frandzel, I believe the firm’s methods and procedures for recording and accounting for time and services for its clients are reliable and accurate.

10. I was personally involved in working on and overseeing work performed by other Frandzel counsel in this matter. In that role, I ensured the matter was appropriately staffed and that work was allocated so as to maximize billing efficiency.

11. As part of Frandzel’s billing practices, Craig A. Welin primarily is the individual at Frandzel who reviews billing statements of Frandzel prior to submission to the Receiver and, ultimately, to the Court for approval, although I have reviewed them too. As part of our review, where appropriate, we write-off or reduce time which we determine to be inefficient, unproductive, excessive, and/or redundant (*see, e.g.*, entries on invoices shown as “no charge”).

12. Based on my review of those billing statements, all of the time actually billed to the Receiver was reasonable and necessary. Frandzel used only attorneys with appropriate levels of experience to handle particular discrete tasks, as set forth in the itemized billing records submitted in connection with the Application.

13. The legal services rendered by Frandzel during the Second Reporting Period, either at the direction of the Receiver or responsible attorneys with this firm, including myself, are contained in the specific work entries in Exhibit 5. Such services included, without limitation, the following:

- a. Review and analysis of preliminary injunction and applicable related orders and filings, including Receiver's first report of activities;
- b. Review and analysis of, and preparation of responses and objections to, legal process and requests for information served upon the Receiver issued by, among others, the State of Missouri, Office of the Attorney General; the Department of Justice, Consumer protection Branch; the Department of Justice, Consumer Protection Branch; the Social Security Administration, Office of Inspector General; and the Federal Communications Commission;
- c. Analysis related to, and preparation of, 28 U.S.C. § 754 filings in multiple federal judicial districts and jurisdictions;
- d. Analysis related to Globex Canadian bankruptcy filing, and coordination with Canadian counsel re Globex Canada proof of claim;
- e. Efforts related to discovery and turnover of documents from receivership related entities;
- f. Dealing with employment issues as they arose;
- g. Dealing with the defaulted agreement concerning Bluetone and helping to implement a resolution;

- h. Efforts in connection with policing compliance with court orders, including contempt proceedings and related affidavit and first notice of non-compliance;
- i. Preparation of fee applications, declarations, and related supplemental filings in connection with fee applications for the first fee period;
- j. Analysis re the Receiver's employment of professionals and preparation of engagement agreements re same;
- k. Review and analysis of Receiver's report of activities and filing same under seal;
- l. Coordinating with Receiver re operation procedures of receivership entities;
- m. Analysis re security interests related to and/or affecting or purporting to affect receivership assets; and
- n. Regular communications with and advice to the Receiver on various legal issues related to the Receiver's administration of the receivership estate, including asset identification and recovery issues.

14. The rates of Frandzel's attorneys and paralegals are reasonable and are within the range of prevailing market rates within Los Angeles, California, where Frandzel is based. I am familiar with "big firm" rates, having been co-counsel in cases with lawyers from larger firms in the Los Angeles area who charge (and their clients are awarded fees for) well into the \$600.00 per hour range, if not higher, for "partner" work, and into the high \$400.00 to low \$500.00 per hour range for senior associate work. In addition, for this matter, not only have we discounted our customary billing rates in effect for 2020 for all attorneys and paralegals who have worked on this matter (except for one attorney who specializes in employment law and drafted the employment agreements referred to above, and whose total time was 2% of the total time

attorneys and paralegals worked on this matter during the Second Reporting Period), we also provide a 10% discount on all of these already discounted rates. (See Exhs. 4 and 5.) For example, my standard hourly rate in 2020 is \$550.00, but that rate has been reduced to \$515.00 per hour for this matter and further discounted by 10%. So my effective hourly rate for this matter is \$463.50. In addition, Mr. Warrington's standard hourly rate in 2020 is \$350.00 per hour, but his rate has been reduced to \$320.00 plus an additional 10% discount. Thus, his effective hourly rate is \$288.00 See Exh. 4.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct and that this declaration was executed on July 22, 2020, at Los Angeles, California.

/s/ Michael Gerard Fletcher
Michael Gerard Fletcher

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
EL PASO DIVISION**

FEDERAL TRADE COMMISSION,
and STATE OF OHIO et rel., et al.,

Plaintiffs,

v.

EDUCARE CENTRE SERVICES, INC., et al.,

Defendants.

Case No. 3:19-cv-00196-KC

**DECLARATION OF SHELLY W. RIVAS IN SUPPORT OF UNOPPOSED
APPLICATION FOR ORDER APPROVING AND AUTHORIZING PAYMENT OF
RECEIVER'S AND RECEIVER'S COUNSELS' FEES AND EXPENSES FOR THE
PERIOD FROM JANUARY 1, 2020 THROUGH MAY 31, 2020**

I, Shelly W. Rivas, declare as follows:

1. I am an attorney at law duly admitted to practice before the courts of the State of Texas, the federal courts of the State of Texas, including the United States District Court for the Western District of Texas, and am a partner at Kemp Smith Law (“Kemp Smith”), local Texas counsel to the Court-appointed receiver in this matter, Robb Evans & Associates LLC (“Receiver”).

2. I was admitted to the Texas bar in 1997, and was admitted to the Western District of Texas shortly thereafter.

3. 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.

4. I make this declaration in support of the Unopposed Application for Order Approving and Authorizing Payment of Receiver’s and Receiver’s Counsels’ Fees and Expenses for the Period from January 1, 2020 Through May 31, 2020 (“Second Fee Application”) (ECF No. *pending*).

5. I, along with James Wesley Brewer and Ken Slavin, partners at Kemp Smith, are local Texas counsel to the Receiver.

6. As part of Kemp Smith's billing practices, the firm ensures that work is appropriately staffed and that work is allocated so as to maximize billing efficiency. I am one of the individuals at Kemp Smith that reviews billing statements of Kemp Smith prior to submission to the Receiver and, ultimately, to the Court for approval. As part of my review, where appropriate, I write-off or reduce time which I determine to be inefficient, unproductive, excessive, and/or redundant.

7. During the period of January 1, 2020 through May 31, 2020 ("Second Reporting Period"), Kemp Smith incurred fees and costs totaling \$5,173.82 (consisting of \$3,131.80 in fees and \$2,042.02 in costs).

8. Kemp Smith's billing rates have been adjusted appropriately to conform with the Court's Order (ECF No. 244) concerning Unopposed Application for Order Approving and Authorizing Payment of Receiver's and Receiver's Counsel's Fees and Expenses for the Period from Inception of Receivership Estate Through December 31, 2019 ("First Fee Application") (ECF No. 181).

9. I attach hereto as Exhibit 6 true and correct copies of the billing records for Kemp Smith reflecting the services rendered, time spent and costs incurred by Kemp Smith pertaining to this matter during the Second Reporting Period, with the work descriptions have redacted where appropriate to preserve information protected from disclosure by the attorney-client privilege and/or attorney work product doctrine or otherwise protect the Receiver and the receivership estate from inappropriate disclosures.

10. I am familiar with the methods and procedures used to create, record and maintain billing records for Kemp Smith's clients. The billing records attached hereto as Exhibit 6 are prepared from computerized time records prepared contemporaneously with the services rendered by each attorney and paralegal billing time to this matter. These computerized records are prepared in the ordinary course of business by the attorneys employed by Kemp Smith who

have a business duty to accurately record their time spent and services rendered on the matters on which they perform work. The time records are transferred into a computerized billing program which generates monthly invoices under the supervision of the firm's accounting department. Based upon my experience with Kemp Smith, I believe the firm's methods and procedures for recording and accounting for time and services for its clients is reliable and accurate.

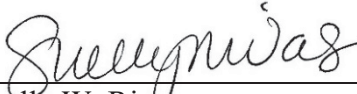
11. I reviewed Kemp Smith's billing statements submitted in connection with the Application. Based on my review of those billing statements, all of the time was reasonable and necessary, and none of the time was written-off or reduced as being inefficient, unproductive, excessive, and/or redundant. Kemp Smith used only attorneys with appropriate levels of experience to handle particular discrete tasks, as set forth in the itemized billing records submitted in connection with the Application.

12. While the legal services rendered by Kemp Smith during the Second Reporting Period, either at the direction of the Receiver or responsible attorneys with this firm, are contained in the specific work entries in Exhibit 6, such services included, without limitation, the following:

- a. Conferring with counsel re show cause hearing;
- b. Work performed in connection with the First Fee Application; and
- c. Conferring with Frandzel re filing documents under seal.

13. I have also reviewed the billing rates of the Receiver. Based on my review of the Receiver's billing rates, and in consideration of the fact that the Receiver's rates were reduced by 10% from the Receiver's private sector rates, and considering the expertise of the Receiver as relevant to this FTC receivership action, I determined that the Receiver's rates comport with the prevailing market rates in the Western District of Texas and the El Paso, Texas legal community for firms with commensurate level of experience and performing similar services.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct, and that this Declaration was executed on this 21st day of July, 2020, at El Paso, Texas.



Shelly W. Rivas

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

FEDERAL TRADE COMMISSION,
and STATE OF OHIO et rel., et al.,

Plaintiffs,

v.

EDUCARE CENTRE SERVICES, INC., et al.,

Defendants.

Case No. 3:19-cv-00196-KC

**DECLARATION OF GERALD F. KANDESTIN IN SUPPORT OF SUPPLEMENTAL
BRIEF IN SUPPORT OF UNOPPOSED APPLICATION FOR ORDER APPROVING
AND AUTHORIZING PAYMENT OF RECEIVER'S AND RECEIVER'S COUNSELS'
FEES AND EXPENSES FOR THE PERIOD FROM JANUARY 1, 2020 THROUGH MAY
31, 2020**

I, Gerald F. Kandestin, declare as follows:

1. I am an attorney at law duly admitted to practice law in the Province of Quebec and am an associate at Kugler Kandestin SENCRL / LLP (“Kugler”), Canadian counsel to the court-appointed receiver in this matter, Robb Evans & Associates LLC (“Receiver”).

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. I am an attorney at law duly admitted to practice law in the Province of Quebec since 1975.

4. I am a partner at Kugler Kandestin SENCRL / LLP (“Kugler”), Canadian counsel to the court-appointed receiver in this matter, Robb Evans & Associates LLC (“Receiver”).

5. I have extensive experience in Canadian insolvency proceedings. I am a member and former director and secretary of *Insolvency Institute of Canada*, as well as a current member of the *American Bankruptcy Institute* and *Insol International*. I am a founding member and past president of the Montréal branch of the *Canadian Turnaround Management Association*. I am

also a past president of The Lord Reading Law Society and have served two terms as Treasurer of the Montréal Bar Association.

6. I make this declaration in support of the Unopposed Application for Order Approving and Authorizing Payment of Receiver's and Receiver's Counsels' Fees and Expenses for the Period from January 1, 2020 Through May 31, 2020 ("Second Fee Application").

7. During the period of January 1, 2020 through May 31, 2020 ("Second Reporting Period"), Kugler incurred fees and costs totaling \$37,536.49 in U.S. Dollars (consisting of \$37,100.22 in fees and \$436.27 in costs).

8. I attach hereto as Exhibit 7 true and correct copies of the billing records for Kugler reflecting the services rendered, time spent and costs incurred (all amounts are specified in Canadian Dollars) by Kugler pertaining to this matter during the Second Reporting Period, with the work descriptions have redacted where appropriate to preserve information protected from disclosure by the attorney-client privilege and/or attorney work product doctrine or otherwise protect the Receiver and the receivership estate from inappropriate disclosures.

9. I am familiar with the methods and procedures used to create, record and maintain billing records for Kugler's clients. The billing records attached hereto as Exhibit 7 are prepared from computerized time records prepared contemporaneously with the services rendered by each attorney and paralegal billing time to this matter. These computerized records are prepared in the ordinary course of business by the attorneys and paralegals employed by Kugler who have a business duty to accurately record their time spent and services rendered on the matters on which they perform work. The time records are transferred into a computerized billing program which generates monthly invoices under the supervision of the firm's accounting department. Based upon my experience with Kugler, I believe the firm's methods and procedures for recording and accounting for time and services for its clients is reliable and accurate.

10. As part of Kugler's billing practices, the firm ensures that work is appropriately staffed and that work is allocated so as to maximize billing efficiency. I am one of the individuals at Kugler that reviews billing statements of Kugler prior to submission to the

Receiver and, ultimately, to the Court for approval. As part of my review, where appropriate, I write-off or reduce time which I determine to be inefficient, unproductive, excessive, and/or redundant.

11. I was personally involved in working on and overseeing work performed by other Kugler counsel in this matter. In that role, I ensured that this matter was staffed leanly, allocating and distributing work so as to maximize billing efficiency.

12. I reviewed Kugler's billing statements submitted in connection with the Application. Based on my review of those billing statements, all of the time was reasonable and necessary, and none of the time was written-off or reduced as being inefficient, unproductive, excessive, and/or redundant. Kugler used only attorneys with appropriate levels of experience to handle particular discrete tasks, as set forth in the itemized billing records submitted in connection with the Application.

13. I am also familiar with prevailing billing rates charged by Canadian insolvency counsel practicing within Quebec. The rates charged by Kugler comport with, and are in fact less than, the prevailing market rates in the Quebec legal community for attorneys with commensurate experience and performing similar services. In addition, Kugler's rates for this matter, in particular, have been discounted further from its usual (below-market) rates.

14. While the legal services rendered by Kugler during the Second Reporting Period, either at the direction of the Receiver or responsible attorneys with this firm, are contained in the specific work entries in Exhibit 7, such services included, without limitation, the following:

- a. Drafted and filed proofs of claim relating to Canadian insolvency filing and bankruptcy of 9506276 Canada Inc. (including providing advice, calls and correspondence);
- b. Analyzed matters related to recognition of a foreign insolvency proceeding and impact upon Receivership Action;
- c. Prepared for and attended meeting of creditors in Canadian bankruptcy case;
- d. Drafted motion to recognize Receiver to be filed in the Canadian bankruptcy case;

- e. Analyzed privilege issues and other issues related to motion to recognize Receiver;
- f. Prepared plan of argument regarding recognition motion; and
- g. Prepared contestation to intervention.

I declare under penalty of perjury under the laws of the Canada and the United States that the foregoing is true and correct, and that this Declaration was executed on this 20th day of July, 2020, at Montreal, Quebec.

A handwritten signature in black ink, appearing to read 'Gerald F. Kandestin', written over a horizontal line.

Gerald F. Kandestin