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9 **UNITED STATES DISTRICT COURT**  
 10 **CENTRAL DISTRICT OF CALIFORNIA**

12 SECURITIES AND EXCHANGE  
 13 COMMISSION,

14 Plaintiff,

15 v.

16 FINBAR SECURITIES CORP., and  
 17 ROBERT TRINGHAM,

18 Defendants.

CASE NO. CV 09-2325 ODW (VBKx)

**NOTICE OF MOTION AND  
 MOTION BY RECEIVER FOR  
 ORDER APPROVING AND  
 AUTHORIZING PAYMENT OF  
 RECEIVERSHIP EXPENSES  
 FROM JULY 1, 2012 THROUGH  
 CLOSING OF THE ESTATE;  
 MEMORANDUM OF POINTS AND  
 AUTHORITIES AND  
 DECLARATION OF GARY OWEN  
 CARIS IN SUPPORT THEREOF**

[Declaration of Brick Kane filed  
 concurrently herewith]

DATE: November 18, 2013  
 TIME: 1:30 p.m.  
 PLACE: Courtroom 11

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**TABLE OF CONTENTS**

	<b><u>Page</u></b>
<u>MEMORANDUM OF POINTS AND AUTHORITIES</u> .....	3
<u>I. INTRODUCTION</u> .....	3
<u>A. Appointment of Receiver</u> .....	3
<u>B. The Civil In Rem Forfeiture Actions and Stipulation with the Government for Recovery by Finbar Victims</u> .....	4
<u>C. Final Fee Motion and Future Wind Up of Receivership After Distribution of Finbar Victims' Share of Net Forfeited Assets</u> .....	7
<u>II. SUMMARY OF THE RECEIVER’S AND COUNSEL’S ACTIVITIES DURING THE FINAL EXPENSE PERIOD</u> .....	9
<u>A. In Rem Actions</u> .....	9
<u>B. Receiver’s and Counsel’s Other Case Activities</u> .....	13
<u>III. THE FEES AND EXPENSES OF THE RECEIVER, ITS STAFF AND ITS ATTORNEYS SHOULD BE APPROVED AND AUTHORIZED TO BE PAID FROM THE RECEIVERSHIP ASSETS AND WITHHELD FUNDS UNDER THE STIPULATION</u> .....	14
<u>IV. CONCLUSION</u> .....	15
<u>DECLARATION OF GARY OWEN CARIS</u> .....	16
<u>CERTIFICATE OF SERVICE</u> .....	21

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**TABLE OF AUTHORITIES**

**Page**

**CASES**

*Federal Trade Commission v. Capital Acquisitions & Management Corp.*,  
2005 U.S. Dist. LEXIS 18504 (N.D. Ill. August 26, 2005)..... 15

**STATUTES**

United States Code, Title 18  
§ 981(a)..... 13

**OTHER AUTHORITIES**

2 Clark, Ralph Ewing, *A Treatise on the Law and Practice of Receivers*  
§ 637 (3<sup>rd</sup> ed. 1992) ..... 14

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PLEASE TAKE NOTICE that on November 18, 2013 at 1:30 p.m. in Courtroom 11 of the above-referenced Court, located at 312 North Spring Street, Los Angeles, California, Robb Evans & Associates LLC as Permanent Receiver ("Receiver") for Defendant Finbar Securities Corp. ("Finbar") and its subsidiaries and affiliates, will move the Court for an order approving and authorizing payment of the Receiver's and Receiver's counsel's fees and expenses incurred and to be incurred during the period from July 1, 2012 through the closing of the receivership estate ("Final Expense Period"), comprised of the actual and estimated fees of the Receiver, the Receiver's deputies, agents, and staff of \$25,585.20, the Receiver's actual and estimated expenses of \$8,975.68, the actual and estimated legal fees of \$83,194.20 and actual and estimated expenses of \$6,067.04 for the services of the Receiver's counsel, McKenna Long & Aldridge LLP and legal fees of \$2,194.01 for the services of the Receiver's overseas counsel, the Holzhacker firm, for a total sum of \$126,016.13. The Receiver and its counsel presently have previously approved and unpaid fees of \$13,427.20 from the prior expense period. This Motion is made pursuant to the Stipulation Resolving Civil In Rem Forfeiture Actions ("Stipulation") between the Government and the Receiver that was approved by the Court's Order (Doc. No. 142) entered on August 28, 2013 and which provides for the Receiver to bring a motion seeking approval of all unpaid fees and expenses of the Receiver and counsel as soon as practicable.

PLEASE TAKE FURTHER NOTICE that this motion is made pursuant to Local Rule 66-7(f), and is based upon this notice of motion and motion, the accompanying memorandum of points and authorities and declarations of Brick Kane and Gary Owen Caris, upon the pleadings, records and files of this case of which the Receiver requests the Court take judicial notice, the separate notice of hearing and of motion served concurrently herewith, 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 the motion.

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PLEASE TAKE FURTHER NOTICE that a copy of this motion, exclusive of exhibits, is posted on the Receiver's website at [www.robbevans.com](http://www.robbevans.com) where it may be reviewed in its entirety. Copies of this motion will be provided to any interested party upon receipt of a written request which may be sent to: Robb Evans & Associates LLC, Attn: Cherrie Eustaquio, 11450 Sheldon Street, Sun Valley, CA 91352-1121; Facsimile: (818) 768-8802.

Dated: October 17, 2013

MCKENNA LONG & ALDRIDGE LLP  
GARY OWEN CARIS  
LESLEY ANNE HAWES

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

1  
2 **MEMORANDUM OF POINTS AND AUTHORITIES**

3 **I.3 INTRODUCTION**

4 On April 3, 2009, the Securities and Exchange Commission (“SEC”)  
5 commenced this action against Robert Tringham (“Tringham”) and Finbar  
6 Securities Corp. (“Finbar”) (collectively “Defendants”) for violations of the anti-  
7 fraud provisions of federal securities laws. The SEC alleged that the Tringham  
8 fraudulently raised at least \$6.4 million from at least four investors through Finbar,  
9 an unregistered broker-dealer. Despite representations to investors to the contrary,  
10 Finbar has never been registered with the SEC as a broker-dealer. The SEC alleged  
11 that Defendants represented that Finbar offered and sold debt instruments and high  
12 yield risk-free investment opportunities by using investors’ funds as collateral for  
13 Finbar to make profitable trades. Finbar allegedly promised one investor returns of  
14 30% per year. Finbar maintained account statements for investors which showed  
15 large balances in the investors’ accounts; however, Defendants failed to honor  
16 investors’ requests to withdraw the funds from the accounts.

17 **A. Appointment of Receiver**

18 The Court issued its Amended Temporary Restraining Order and Orders:  
19 (1) Freezing Assets; (2) Appointing A Temporary Receiver; (3) Prohibiting the  
20 Destruction of Documents; (4) Granting Expedited Discovery; and (5) Requiring  
21 Accounting; and Order to Show Cause re Preliminary Injunction and Appointment  
22 of a Permanent Receiver (“Temporary Restraining Order”) on April 3, 2009.  
23 Pursuant to Section VI of the Temporary Restraining Order, an asset freeze on all  
24 assets of Finbar and Tringham was imposed. In addition, pursuant to Section VIII  
25 of the Temporary Restraining Order, the Receiver was appointed as Temporary  
26 Receiver of Finbar and its subsidiaries and affiliates (“Finbar” or “Receivership  
27 Defendants”), with full powers of an equity receiver, including but not limited to  
28 full power over all assets of Finbar, and the Receiver was authorized, empowered

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2 and directed to have access to and to collect and take custody, control, possession  
3 and charge of all funds and assets of Finbar.

4 On April 13, 2009, the Court issued its Preliminary Injunction and Orders:  
5 (1) Freezing Assets; (2) Appointing A Permanent Receiver; (3) Requiring  
6 Accounting; (4) Prohibiting the Destruction of Documents; and (5) Expediting  
7 Discovery (“Preliminary Injunction”). Pursuant to Section VI of the Preliminary  
8 Injunction, the asset freeze previously imposed upon Finbar and Tringham  
9 remained in full force and effect. Additionally, pursuant to Section VIII of the  
10 Preliminary Injunction, the Receiver was made Permanent Receiver of Finbar and  
11 its subsidiaries and affiliates, with full powers of an equity receiver, and the  
12 Receiver remained authorized, empowered and directed to have access to and  
13 collect and take custody, control, possession and charge of all funds and assets of  
14 Finbar.

15 No answer or other response was filed by either Tringham or Finbar. Default  
16 was entered against Tringham on May 21, 2009. A Judgment of Permanent  
17 Injunction was entered against Finbar on June 12, 2009. Final judgments providing  
18 for both injunctive and monetary relief have since been entered against Tringham  
19 on May 26, 2010 (Doc. No. 53) and against Finbar on June 17, 2010 (Doc. No. 57).  
20 The Receiver has continued its duties as permanent receiver pursuant to the  
21 Judgment of Permanent Injunction and the Final Judgment against Finbar.

22 **B. The Civil In Rem Forfeiture Actions and Stipulation with the**  
23 **Government for Recovery by Finbar Victims**

24 Tringham’s fraudulent activity with respect to Finbar was not his first illegal  
25 investment scheme. Tringham, through an entity known as First National Ban Corp  
26 (“FNBC”), previously solicited funds from investors purportedly to be leveraged or  
27 otherwise used to buy and sell bonds at a substantial profit. Instead of investing in  
28 bonds, however, Tringham diverted the funds raised. Tringham’s activities led to  
his indictment, and the Government obtained a criminal conviction in the case

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*United States of America v. Robert Tringham*, United States District Court, Central District of California, Case No. CR 09-00490-SJO (“Criminal Action”). Tringham was sentenced on February 15, 2011 to 156 months in prison. Tringham also perpetrated fraudulent schemes using entities named First Asset Management Corporation (“FAMC”), Colony Mortgage Bank (“CMB”) and Capital Ban Corp. (“CBC”) prior to the Finbar fraud.

As a result of Tringham’s fraudulent conduct, the United States of America (“the Government”) commenced three civil in rem forfeiture actions now pending in the United States District Court for the Central District of California: (1) *United States of America v. \$1,573,099.93*, Case No. CV 06-1971 SJO (AJWx); (2) *United States of America v. \$35,000 in U.S. Funds, et al.*, Case No. CV 07-0107 SJO (AJWx) (these two actions are collectively referred to as the “Monetary Actions”); and (3) *United States of America v. Real Property Located in Diamond Bar, California (Tringham)*, Case No. CV 06-0609 SJO (AJWx) (“Diamond Bar Action”). (The Monetary Actions and the Diamond Bar Action are collectively referred to as the “In Rem Actions.”) The assets which are the defendants in the Monetary Actions include a total sum of not less than \$1,660,369.02. The asset which is the subject of the Diamond Bar Action is the real property located in Diamond Bar, California, which at one time was Tringham’s residence, legally described at Exhibit A to the complaint in the Diamond Bar Action (“Diamond Bar Property”). The Government has asserted that the Diamond Bar Property had a value of \$1,430,000 as of 2006 but that its value as of June 2012 may have been only \$750,000. The assets which are the subject of the In Rem Actions and the proceeds thereof are collectively referred to as the “Defendant Assets.”

The Receiver timely filed claims and answers in the In Rem Actions. The Government and the Receiver engaged in extensive and lengthy negotiations in an effort to resolve their disputes and differences and resolve the Receiver’s claims in the In Rem Actions. The Government and the Receiver entered into the Stipulation



1  
2 Resolving In Rem Forfeiture Actions (“Stipulation”) which was previously filed  
3 with the Court in connection with the Receiver's motion for approval of the  
4 Stipulation. (Doc. No. 141.) The Court granted the Receiver's motion and  
5 approved the Stipulation as reflected in its Order entered August 28, 2013. (Doc.  
6 No. 142.) Based on the Court's approval of the Stipulation through the entry of the  
7 August 28, 2013 Order, in each of the In Rem Actions the Government lodged  
8 Consent Judgments in a form consistent with the Stipulation and Order and  
9 approved by the Receiver.

10 Under the Stipulation, all of the Defendant Assets are to be forfeited, less a  
11 sum not exceeding \$125,000 which is to be withheld from the forfeited assets to  
12 pay the fees and expenses of the Receiver and its counsel as may be allowed by this  
13 Court and to the extent that the receivership estate has insufficient assets to pay  
14 such fees and expenses otherwise (“Withheld Assets”). (The Defendant Assets less  
15 the Withheld Assets are referred to as the “Forfeited Assets.” The Forfeited Assets,  
16 less a minor amount of costs attributable to the Claims Process, and the costs to be  
17 incurred and liens to be paid in connection with the sale of the Diamond Bar  
18 Property, are referred to as the “Net Forfeited Assets.”) The claims of Finbar  
19 Victims (“Finbar Victims Allowed Claims”) will share in the distribution of the Net  
20 Forfeited Assets in accordance with the provisions of the Stipulation. The  
21 Stipulation specifically provides that as soon as practicable after the later of the sale  
22 of the Diamond Bar Property and disbursement of Withheld Assets to the Receiver,  
23 AFMLS shall distribute the Net Forfeited Assets, including unused Withheld  
24 Assets, if any, to the holders of Allowed Claims, including without limitation, to all  
25 of the holders of Finbar Victims Allowed Claims in the amount of the Finbar  
26 Victims Distribution Percentages, as defined in the Stipulation.

27 The Stipulation further provides that as soon as practicable, the Receiver is to  
28 bring a motion before this Court seeking approval of all unpaid fees and expenses  
incurred by the Receiver and its counsel (“Fee Motion”). After the Court enters an

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order on the Fee Motion, the Receiver shall provide a written accounting to the Government and AFMLS demonstrating the extent to which Withheld Assets must be disbursed to the Receiver to pay any allowed and unpaid fees and expenses. Any dispute concerning the extent to which the Withheld Assets must be disbursed to the Receiver shall be resolved on motion before this Court. The Government is required to promptly disburse to the Receiver the amount of Withheld Assets needed to pay all allowed and unpaid fees and expenses after receipt of the written accounting from the Receiver or, if necessary, after this Court resolves any dispute concerning the extent to which the Withheld Assets shall be disbursed to the Receiver. This Motion is the Fee Motion provided for in the Stipulation.

The Stipulation contemplates that the Fee Motion will encompass all fees and expenses which will be subject to satisfaction from the Withheld Funds. The Receiver therefore has included all fees and expenses incurred and to be incurred to wind up the receivership. The Receiver believes it is in the best interests of the estate that the Receiver file a motion to wind up the receivership after the Receiver has monitored and confirmed the liquidation of the Diamond Bar Property and the completion of the distribution of the Net Forfeited Assets to the Finbar Victims in accordance with the provisions of the Stipulation. The Receiver will promptly file a wind up motion when those events have occurred to confirm the Finbar Victims have received their payments and to advise the Court that the Receiver should be discharged.

**C. Final Fee Motion and Future Wind Up of Receivership After Distribution of Finbar Victims' Share of Net Forfeited Assets**

This is the Receiver's fourth fee motion since the case commenced and will be the Receiver's final fee motion based on the Court-approved Stipulation with the Government resolving the receivership estate's claims to assets subject to the In Rem Actions. The Receiver filed its first fee motion on July 16, 2010, seeking approval and authorization for payment of the Receiver's and counsel's fees and

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2 expenses incurred from the inception of the case in April 2009 through January 31,  
3 2010. The first fee motion was taken under submission by the Court and granted  
4 without a hearing. (Doc. No. 78.) The Receiver's second fee motion was filed on  
5 June 15, 2012, seeking approval and authorization for payment of the Receiver's  
6 and counsel's fees and expenses incurred from February 1, 2010 through December  
7 31, 2011. The second fee motion was taken under submission by the Court and  
8 granted without a hearing on July 3, 2012. (Doc. No. 116.) The Receiver's third  
9 fee motion covered services rendered during the six-month period from January 1,  
10 2012 through June 30, 2012 ("Third Expense Period"). The motion was filed in  
11 October 2012, no objections or opposition to the motion were timely filed, and the  
12 motion covering the Third Expense Period was granted by the Court without a  
13 hearing by Order entered on November 26, 2012. (Doc. No. 132.)

14 The Receiver's fees and costs for which approval is requested in this motion  
15 are set forth in the summary entitled "Receivership Administration Expense by  
16 Month and Fund Balance" ("Financial Summary") attached to the supporting  
17 Declaration of Brick Kane as Exhibit 1. The Receiver specifically seeks approval  
18 and authorization for payment from assets of the estate of the fees of the Receiver,  
19 the Receiver's deputies, agents, and staff of \$25,585.20, the Receiver's expenses of  
20 \$8,975.68, legal fees of \$83,194.20 and expenses of \$6,067.04 for the services of  
21 the Receiver's counsel, McKenna Long & Aldridge LLP and legal fees of  
22 \$2,194.01 for the services of the Receiver's overseas counsel, the Holzacker firm,  
23 for a total sum of \$126,016.13. The amounts requested above include the actual  
24 amounts incurred by the receivership estate for the services of the Receiver and its  
25 counsel from July 1, 2012 through August 31, 2013 and also include estimated fees  
26 and expenses incurred and to be incurred by the receivership estate from September  
27 1, 2013 through the preparation and filing of a final wind up motion to close the  
28 receivership estate after the Finbar Victims' share of the Net Forfeited Assets are  
distributed.

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The receivership estate has no remaining assets to be administered. As reflected in the Financial Summary, the estate only has \$500 cash on hand, and there are unpaid fees of \$13,427.20 owed to the Receiver and its counsel that were previously approved by the Court for a prior expense period. The Receiver is projecting a deficit in the estate of \$138,943.33 of which \$125,000.00 will be paid by the Government through the Withheld Funds pursuant to the Stipulation. At this time, the Receiver estimates the net deficit of unpaid Receiver's and attorneys' fees will be \$13,943.33. The Finbar Victims will receive a significant recovery for their losses through the Stipulation and their share of the Net Forfeited Assets estimated to be at least \$1.3 million, depending upon the amount for which the Diamond Bar property is liquidated when sold by the Government pursuant to the Stipulation and Consent Judgments.

The services rendered by the Receiver and its counsel during the Expense Period are described in more detail hereafter and in the billing records attached to the Declarations of Brick Kane and Gary Owen Caris in support of this motion.

**II. SUMMARY OF THE RECEIVER'S AND COUNSEL'S ACTIVITIES DURING THE FINAL EXPENSE PERIOD**

The Expense Period covers a period spanning fourteen months along with the estimated fees and expenses to be incurred in monitoring, the entry of the Consent Judgments in the In Rem Actions, the liquidation of the Diamond Bar property, the distribution of the Net Forfeited Assets to the Finbar Victims and the filing of a final report and accounting and motion to wind up the receivership estate. The primary activities of the Receiver and its counsel have focused on the Receiver's pursuit of claims for the estate in three In Rem Actions, the litigation of those claims and the settlement of those claims through the Stipulation.

**A. In Rem Actions**

The Receiver through counsel pursued the estate's interests in assets subject to the three In Rem Actions. In the prior expense period, the Receiver through

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counsel prepared and filed answers and claims in the In Rem Actions. The Receiver and its counsel also prepared and filed a petition/claim in the criminal action.

The Court initially set trial dates and other deadlines for the Monetary Actions only as the Diamond Bar Action was stayed. The initial trial date was scheduled for November 27, 2012 in the Monetary Actions. The parties conducted written discovery in the Monetary Actions, with the Government and the Receiver each propounding a set of interrogatories to the other party to which responses were prepared and filed in each of the two Monetary Actions. The Receiver propounded requests for production of documents to which the Government responded, and the Government served requests for admissions to which the Receiver responded. In addition, the Receiver conducted a deposition of the person most knowledgeable from the Government regarding the claims in the Monetary Actions. The Government designated Special Agent Kirsling of the Internal Revenue Service as its witness for the deposition.

In the prior expense period, Judge Otero ordered the parties to participate in settlement conferences in the two non-stayed Monetary Actions. The Receiver and its counsel attended the settlement conferences in June 2012 as ordered by the Court just prior to the beginning of the current Expense Period. Although the two non-stayed actions were not resolved at the settlement conferences, the settlement conferences prompted the parties to continue a settlement dialogue thereafter. From July 2012 forward, the Receiver and its counsel held extensive communications with the Government leading up to a tentative settlement and outline of procedures for the Asset Forfeiture and Money Laundering Section (“AFMLS”) of the United States to evaluate the proposed claims of the Finbar Victims and Non-Finbar Victims in connection with the parties’ tentative settlement.

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The settlement negotiations were extended and complex in part because of the involvement of AFMLS and the statutory scheme applicable to the In Rem Actions. The Receiver negotiated extensively with the United States Attorney's Office in Los Angeles and also participated directly and indirectly in discussions with AFMLS. Plaintiff Securities and Exchange Commission through its counsel David Brown participated in settlement discussions to help the Receiver in advancing the interests of the receivership estate with the United States Attorneys Office in Los Angeles and AFMLS.

Based on the parties' progress toward resolving the Receiver's claims and the parties' development of a tentative outline and set of procedures for the evaluation and allowance of claims of the Finbar Victims and a sharing in the proceeds of the forfeited assets in the In Rem Actions, the Receiver's counsel prepared stipulations seeking continuances of the trial dates in the Monetary Actions which outlined the tentative terms of the settlement, the next steps toward reaching a final resolution of the parties' claims and the basis for the requests for the Court to continue the trial dates. The stipulations addressed the technical procedures required to comply with the civil forfeiture rules and the role of AFMLS in the claims allowance process.

Thereafter, based on the conclusion of the Criminal Action, the stay of the Diamond Bar Action was lifted and a trial date set in that action concurrently with the trial dates in the Monetary Actions in June 2013. After negotiation and exchanges of drafts, the parties reached stipulations in all of In Rem Actions further continuing trial and which detailed the procedures and timing for advancing the settlement among the parties and resolving the claims of the Finbar Victims and non-Finbar Victims. The Court approved the stipulations and granted a further continuance of the trial dates to allow the parties time to provide the documentation and information required by AFMLS to examine the Finbar Victims claims and reach a determination on all of the claims that would share in the forfeited assets in the In Rem Actions.

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The Receiver prepared spreadsheets in support of the Finbar Victims' Claims. The Receiver and its counsel had to review and provide to the Government extensive documentation based on the receivership records supporting the calculation of the amounts of the claims of the Finbar Victims. The Receiver's office reviewed and provided banking and other financial documentation to support the claims. The Receiver contacted the Finbar Victims where documentation was missing in order to complete the financial support for the claims. All spreadsheets and documentation were reviewed by counsel for the Receiver before being turned over to the Government. The Government requested certain additional documentation and explanations of some of the information provided as it evaluated the claims. The Government notified the Receiver and its counsel of its claims determinations regarding the allowance and amounts of the claims for the Finbar Victims, which approved the Receiver's final determinations of those claims after the Receiver adjusted one claim. The Government also notified the Receiver and its counsel of its claim determinations as to the Non-Finbar Victims. The Receiver and its counsel reviewed the claims determinations for Non-Finbar Victims and support for those determinations provided by the Government.

These events later led to the preparation of the Stipulation which was drafted by counsel for the Receiver. The Stipulation included detailed calculations of the pro rata percentages of each of the Finbar Victims' claims and the amounts to which they will be entitled when the Net Forfeited Assets are distributed. During this Expense Period, the Receiver's counsel also prepared and filed a motion for approval of the Stipulation which was served on all of the Finbar Victims and the known creditors of the estate. The Motion was granted and the Court entered an order approving the Stipulation on August 28, 2013.

The prosecution of the claims by the Receiver and counsel that culminated in the Stipulation has provided substantial benefit to the Finbar Victims who are the principal creditors and beneficiaries of the receivership. The receivership estate

1  
2 had no assets to recover for creditors until the Receiver and counsel pursued the  
3 claims in the In Rem Actions. During the extensive negotiation process, the  
4 Government originally contended that only victims whose money could be directly  
5 traced to the Defendant Assets would be eligible to participate in a distribution of  
6 those assets. *See, e.g.*, 18 U.S.C. § 981(a), broadly authorizing civil forfeiture of  
7 “any property, real or personal, which constitutes or is derived from proceeds  
8 traceable to” various violations of law. This argument could have been used to  
9 assert that most, if not all, of the Finbar Victims should be precluded from  
10 participating in any distribution that AFMLS might make under the remission and  
11 restoration process. Instead, the Government ultimately agreed that under the facts  
12 and circumstances of this case and Tringham’s perpetration of serial frauds  
13 amounting to a single ongoing Ponzi scheme with extensively commingled assets, it  
14 was appropriate to allow both the Finbar Victims and Non-Finbar Victims to share  
15 in the distribution of the Defendant Assets on a pro rata basis. Assuming the  
16 Diamond Bar Property has a net value at the present time of only \$750,000, which  
17 is believed to be extremely conservative, the Stipulation the Receiver and its  
18 attorneys were able to negotiate will result in funds distributed pro rata to the  
19 Finbar Victims in an amount estimated to be in excess of \$1.3 million, representing  
20 a return of over 15%. The Stipulation permitted the estate to recover significant  
21 assets for the Finbar Victims while avoiding the costs, delays and risks of litigation  
22 of the claims in the In Rem Actions, providing the Finbar Victims a significant  
23 financial recovery notwithstanding the rights of the Government under its broad  
24 forfeiture powers.

25 **B. Receiver’s and Counsel’s Other Case Activities**

26 During the Expense Period, the Receiver and its counsel have performed  
27 other administrative services in connection with the administration of the  
28 receivership estate. The Receiver has continued to prepare bank reconciliations and  
maintain accounting records. The Receiver's counsel monitored a pending appeal



1  
2 by Tringham of an order granting one of the Receiver's prior fee motions and the  
3 briefing deadlines in the appeal. The appeal which was subsequently withdrawn by  
4 Tringham. The Receiver's counsel also prepared and filed the Receiver's third fee  
5 motion at no expense to the receivership estate, which was granted by the Court on  
6 November 26, 2012. (Doc. No. 132.)

7 The Receiver submits that its fees and costs and those of its counsel are  
8 reasonable given the services rendered, the results obtained and the time period  
9 covered by the Motion. The fees and costs should be approved in their entirety and  
10 authorized for payment from receivership assets.

11 **III. THE FEES AND EXPENSES OF THE RECEIVER, ITS STAFF AND**  
12 **ITS ATTORNEYS SHOULD BE APPROVED AND AUTHORIZED**  
13 **TO BE PAID FROM THE RECEIVERSHIP ASSETS AND**  
14 **WITHHELD FUNDS UNDER THE STIPULATION**

15 It is a fundamental tenet of receivership law that expenses of administration  
16 incurred by the receiver, including those of the receiver, its counsel and others  
17 employed by the receiver, constitute priority expenses for which compensation  
18 should be paid from the assets of the receivership. As explained in the leading  
19 treatise *Clark on Receivers*:

20 The obligations and expenses which the court creates in  
21 its administration of the property are necessarily burdens  
22 on the property taken possession of, and this, irrespective  
23 of the question who may be the ultimate owner, or who  
24 may have the preferred lien, or who may invoke the  
25 receivership. The appointing court pledges its good faith  
26 that all duly authorized obligations incurred during the  
27 receivership shall be paid.

28 2 Clark, Ralph Ewing, *A Treatise on the Law and Practice of Receivers* § 637, p.  
1052 (3<sup>rd</sup> ed. 1992).

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The motion establishes that the Receiver, its staff and its counsel rendered important and highly beneficial services for the receivership estate during the period covered by the Third Expense Period. *See Federal Trade Commission v. Capital Acquisitions & Management Corp.*, 2005 U.S. Dist. LEXIS 18504 (N.D. Ill. August 26, 2005).

The Receiver submits the fees and expenses are reasonable in light of the services rendered and the excellent results obtained and that the fees and expenses requested should be awarded in their entirety. The Receiver and counsel understand that based on outstanding fees and costs incurred and unpaid to date and the Receiver's estimates of the fees and expenses required to close the estate, there will likely be a shortfall in the funds in the receivership to satisfy the fees and both the Receiver and its counsel accept that there may be a deficiency such that all fees incurred in this case may not be paid. However, to the extent that the actual fees and expenses are less than the estimate and there is any excess funds available in the estate from the Withheld Funds turned over by the Government under the Stipulation and Consent Judgments, any such excess will be promptly returned by the Receiver to the Government.

**IV. CONCLUSION**

For the foregoing reasons, the Receiver respectfully requests that the Court grant this motion and issue an order approving and authorizing for payment the fees and costs of the Receiver, its staff and counsel as set forth in the Motion.

Dated: October 17, 2013

MCKENNA LONG & ALDRIDGE LLP  
GARY OWEN CARIS  
LESLEY ANNE HAWES

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

1  
2 **DECLARATION OF GARY OWEN CARIS**

3 I, Gary Owen Caris, declare:

4 1. I am an attorney at law duly licensed to practice before all courts of the  
5 State of California and the United States District Court of the Central District of  
6 California. I am lead counsel for the Permanent Receiver Robb Evans &  
7 Associates LLC in connection with this matter. I have personal knowledge of the  
8 matters set forth in this declaration, and if I were called upon to testify I could and  
9 would competently testify thereto.

10 2. Attached hereto as Exhibit 1 are billing summaries reflecting the  
11 services rendered, time spent and costs incurred by McKenna Long & Aldridge  
12 LLP (the "McKenna Firm") pertaining to this case for the period from July 1, 2012  
13 through August 31, 2013. The time records for the McKenna Firm and for the  
14 Receiver have been redacted by my firm where appropriate to preserve descriptions  
15 containing confidential, tactical, strategic, attorney-client privileged and/or attorney  
16 work-product information. In addition, the Motion which this Declaration supports  
17 seeks actual and estimated attorneys' fees and costs for the McKenna Firm's  
18 services for the period from September 1, 2013 through the closing and wind up of  
19 the receivership estate. The McKenna Firm seeks total actual and estimated  
20 attorneys' fees of \$83,194.20 and actual and estimated expenses of \$6,067.04 for  
21 the period from July 1, 2012 through the closing of the receivership.

22 3. I am the lead counsel for the Receiver who was primarily responsible  
23 for the Receiver's representation in the three In Rem Actions, as defined in the  
24 foregoing Motion, and in negotiating and documenting the Stipulation that resolved  
25 the Receiver's claims in the In Rem Actions. (Other undefined capitalized terms  
26 used in this declaration also have the meanings as defined in the Motion.)

27 4. The Court initially set trial dates and other deadlines for the Monetary  
28 Actions only as the Diamond Bar Action was stayed. The initial trial date was  
scheduled for November 27, 2012 in the Monetary Actions. The parties conducted

1  
2 written discovery in the Monetary Actions, with the Government and the Receiver  
3 each propounding a set of interrogatories to the other party to which responses were  
4 prepared and filed in each of the two Monetary Actions. On behalf of the Receiver,  
5 the McKenna Firm propounded requests for production of documents to which the  
6 Government responded, and the Government served requests for admissions to  
7 which the Receiver responded. In addition, I conducted a deposition of the person  
8 most knowledgeable from the Government regarding the claims in the Monetary  
9 Actions. The Government designated Special Agent Kirsling of the Internal  
10 Revenue Service as its witness for the deposition.

11         5. In the prior expense period, Judge Otero ordered the parties to  
12 participate in settlement conferences in the two non-stayed Monetary Actions. The  
13 Receiver and its counsel attended the settlement conferences in June 2012 as  
14 ordered by the Court just prior to the beginning of the current Expense Period.  
15 Although the two non-stayed actions were not resolved at the settlement  
16 conferences, the settlement conferences prompted the parties to continue a  
17 settlement dialogue thereafter. From July 2012 forward, I participated in extensive  
18 communications with the Government leading up to a tentative settlement and  
19 outline of procedures for the Asset Forfeiture and Money Laundering Section  
20 (“AFMLS”) of the United States to evaluate the proposed claims of the Finbar  
21 Victims and Non-Finbar Victims in connection with the parties’ tentative  
22 settlement.

23         6. The settlement negotiations were extended and complex in part  
24 because of the involvement of AFMLS and the statutory scheme applicable to the  
25 In Rem Actions. I participated in extensive negotiations with the United States  
26 Attorney's Office in Los Angeles and also participated directly and indirectly in  
27 discussions with AFMLS. Plaintiff Securities and Exchange Commission through  
28 its counsel David Brown participated in settlement discussions to help the Receiver

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in advancing the interests of the receivership estate with the United States Attorney's Office in Los Angeles and AFMLS.

7. Based on the parties' progress toward resolving the Receiver's claims and the parties' development of a tentative outline and set of procedures for the evaluation and allowance of claims of the Finbar Victims and a sharing in the proceeds of the forfeited assets in the In Rem Actions, the McKenna Firm prepared stipulations seeking continuances of the trial dates in the Monetary Actions which outlined the tentative terms of the settlement, the next steps toward reaching a final resolution of the parties' claims and the basis for the requests for the Court to continue the trial dates. The stipulations addressed the technical procedures required to comply with the civil forfeiture rules and the role of AFMLS in the claims allowance process.

8. Thereafter, based on the conclusion of the Criminal Action, the stay of the Diamond Bar Action was lifted and a trial date set in that action concurrently with the trial dates in the Monetary Actions in June 2013. After negotiation and exchanges of drafts, the parties reached stipulations in all of In Rem Actions further continuing the trial and which detailed the procedures and timing for advancing the settlement among the parties and resolving the claims of the Finbar Victims and non-Finbar Victims. The Court approved the stipulations and granted a further continuance of the trial dates in the In Rem Actions to allow the parties time to provide the documentation and information required by AFMLS to examine the Finbar Victims claims and reach a determination on all of the claims that would share in the forfeited assets in the In Rem Actions.

9. I reviewed spreadsheets prepared by the Receiver and assisted the Receiver in providing the Government extensive documentation based on the receivership records supporting the calculation of the amounts of the claims of the Finbar Victims. I reviewed all of the spreadsheets and documentation provided by the Receiver before they were turned over to the Government. The Government

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requested certain additional documentation and explanations of some of the information provided as it evaluated the claims.

10. The Government notified the Receiver and my firm of its claims determinations regarding the allowance and amounts of the claims for the Finbar Victims, which approved the Receiver's final determinations of those claims after the Receiver adjusted one claim. The Government also notified the Receiver and me of its claim determinations as to the Non-Finbar Victims. I reviewed the claims determinations for Non-Finbar Victims and support for those determinations provided by the Government.

11. These events later led to the preparation of the Stipulation which was drafted by the McKenna Firm. The Stipulation included detailed calculations of the pro rata percentages of each of the Finbar Victims' claims and the amounts to which they will be entitled when the Net Forfeited Assets are distributed.

12. During this Final Expense Period, the McKenna Firm also prepared and filed a motion for approval of the Stipulation which was served on all of the Finbar Victims and the known creditors of the estate. The Motion was granted and the Court entered an order approving the Stipulation on August 28, 2013. The McKenna Firm also monitored a pending appeal by Tringham of an order granting one of the Receiver's fee motions and the briefing deadlines in the appeal. The appeal was subsequently withdrawn by Tringham.

13. The McKenna Firm also prepared and filed the Receiver's third fee motion during the Final Expense Period at no expense to the receivership estate, which was granted by the Court without a hearing on November 26, 2012, as well as this Fee Motion as required by the Stipulation and Order resolving the claims in the In Rem Actions. The McKenna Firm anticipates filing a motion to wind up the receivership estate after the Receiver has confirmed the distributions to the Finbar Victims have been made as provided in the Stipulation.

1  
2 14. I am a partner in the McKenna Firm and am familiar with the methods  
3 and procedures used to create, record and maintain billing records for the firm's  
4 clients. The billing summaries attached hereto as Exhibit 1 are prepared from  
5 computerized time records prepared contemporaneously with the services rendered  
6 by each attorney and paralegal billing time to this matter. These computerized  
7 records are prepared in the ordinary course of business by the attorneys and  
8 paralegals employed by the firm who have a business duty to accurately record their  
9 time spent and services rendered on the matters on which they perform work. The  
10 time records are transferred into a computerized billing program that generates  
11 monthly invoices under the supervision of the firm's accounting department. Based  
12 upon my experience with the firm, I believe the McKenna Firm's methods and  
13 procedures for recording and accounting for time and services for its clients are  
14 reliable and accurate.

15 15. I have more than 33 years' experience as a business and commercial  
16 litigator and also have extensive experience as a bankruptcy attorney representing  
17 creditors in Chapter 11 and Chapter 7 bankruptcy cases. For over fourteen years I  
18 have also specialized in representing receivers in federal equity receiverships. I am  
19 familiar with the billing rates and practices of firms in the Los Angeles area  
20 providing comparable services, and I believe my firm's rates and the amount  
21 incurred by the Receiver for the services rendered during the Third Expense Period  
22 are reasonable and appropriate based on the nature of the services rendered, the  
23 quality and amount of services provided, the complexity of the issues involved, and  
24 the results obtained.

25 I declare under penalty of perjury that the foregoing is true and correct and  
26 that this declaration was executed on this 17th day of October 2013 at Los Angeles,  
27 California.

28  
\_\_\_\_\_  
/s/ Gary Owen Caris  
GARY OWEN CARIS

1 GARY OWEN CARIS (SBN 088918)  
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2 LESLEY ANNE HAWES (SBN 117101)  
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4 Los Angeles, CA 90071  
Telephone: (213) 688-1000  
5 Facsimile: (213) 243-6330

6 Attorneys for Permanent Receiver  
ROBB EVANS & ASSOCIATES LLC  
7

8 **UNITED STATES DISTRICT COURT**  
9 **CENTRAL DISTRICT OF CALIFORNIA**

10  
11 SECURITIES AND EXCHANGE  
COMMISSION,

12 Plaintiff,

13 v.

14 FINBAR SECURITIES CORP., and  
15 ROBERT TRINGHAM,

16 Defendants.  
17

CASE NO. CV 09-2325 ODW (VBKx)

**DECLARATION OF BRICK KANE  
IN SUPPORT OF MOTION BY  
RECEIVER FOR ORDER  
APPROVING AND AUTHORIZING  
PAYMENT OF RECEIVERSHIP  
EXPENSES FROM JULY 1, 2012  
THROUGH CLOSING OF THE  
RECEIVERSHIP ESTATE**

DATE: November 18, 2013  
TIME: 1:30 p.m.  
PLACE: Courtroom 11

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19  
20 I, Brick Kane, declare:

21 1. I am the President and Chief Operating Officer of Robb Evans &  
22 Associates LLC, the duly appointed Receiver ("Receiver") of Finbar Securities  
23 Corp. and its subsidiaries and affiliates. I have personal knowledge of the matters  
24 set forth in this declaration or have gained knowledge of these matters based upon  
25 my supervision of other members and staff of Robb Evans & Associates LLC  
26 involved in the day to day management of this receivership estate. If called upon to  
27 testify as to these matters, I could and would competently testify based upon my  
28 personal knowledge.



1           2.     The Receiver was originally appointed as temporary receiver pursuant  
2 to this Court's Amended Temporary Restraining Order and Orders: (1) Freezing  
3 Assets; (2) Appointing A Temporary Receiver; (3) Prohibiting the Destruction of  
4 Documents; (4) Granting Expedited Discovery; and (5) Requiring Accounting; and  
5 Order to Show Cause re Preliminary Injunction and Appointment of a Permanent  
6 Receiver ("Temporary Restraining Order") issued on April 3, 2009. Pursuant to  
7 Section VI of the Temporary Restraining Order, an asset freeze on all assets of  
8 Finbar Securities Corp. and Defendant Robert Tringham ("Tringham") was  
9 imposed. In addition, pursuant to Section VIII of the Temporary Restraining Order,  
10 the Receiver was appointed as Temporary Receiver of Finbar Securities Corp., and  
11 its subsidiaries and affiliates ("Finbar" or "Receivership Defendants"), with full  
12 powers of an equity receiver, including but not limited to full power over all assets  
13 of Finbar, and the Receiver was authorized, empowered and directed to have access  
14 to and to collect and take custody, control, possession and charge of all funds and  
15 assets of Finbar.

16           3.     On April 13, 2009, the Court issued its Preliminary Injunction and  
17 Orders: (1) Freezing Assets; (2) Appointing A Permanent Receiver; (3) Requiring  
18 Accounting; (4) Prohibiting the Destruction of Documents; and (5) Expediting  
19 Discovery ("Preliminary Injunction"). Pursuant to Section VI of the Preliminary  
20 Injunction, the asset freeze previously imposed upon Finbar and Tringham  
21 remained in full force and effect. Additionally, pursuant to Section VIII of the  
22 Preliminary Injunction, the Receiver was made Permanent Receiver of Finbar and  
23 its subsidiaries and affiliates, with full powers of an equity receiver, and the  
24 Receiver remained authorized, empowered and directed to have access to and  
25 collect and take custody, control, possession and charge of all funds and assets of  
26 Finbar.

27           4.     No answer or other response to the SEC's complaint was filed by  
28 either Tringham or Finbar. Default was entered against Tringham on May 21,

1 2009. A Judgment of Permanent Injunction was entered against Finbar on June 12,  
2 2009. Final judgments providing for both injunctive and monetary relief have since  
3 been entered against Tringham on May 26, 2010 (Doc. No. 53) and against Finbar  
4 on June 17, 2010 (Doc. No. 57). The Receiver has continued its duties as  
5 permanent receiver pursuant to the Judgment of Permanent Injunction and the Final  
6 Judgment against Finbar.

7 5. This declaration is filed in support of the Receiver's fourth and final  
8 fee motion, which is filed based on the Court-approved Stipulation with the  
9 Government resolving the receivership estate's claims to assets subject to the In  
10 Rem Actions, as defined in the Motion filed concurrently with this declaration.  
11 (Other undefined capitalized terms used in this declaration also have the meanings  
12 as defined in the Motion.) The Receiver filed its first fee motion on July 16, 2010,  
13 seeking approval and authorization for payment of the Receiver's and counsel's  
14 fees and expenses incurred from the inception of the case in April 2009 through  
15 January 31, 2010. The first fee motion was taken under submission by the Court  
16 and granted without a hearing. (Doc. No. 78.) The Receiver's second fee motion  
17 was filed on June 15, 2012, seeking approval and authorization for payment of the  
18 Receiver's and counsel's fees and expenses incurred from February 1, 2010 through  
19 December 31, 2011. The second fee motion was taken under submission by the  
20 Court and granted without a hearing on July 3, 2012. (Doc. No. 116.) The  
21 Receiver's third fee motion covered services rendered during the six-month period  
22 from January 1, 2012 through June 30, 2012 ("Third Expense Period"). The motion  
23 was filed in October 2012, no objections or opposition to the motion were timely  
24 filed, and the motion covering the Third Expense Period was granted by the Court  
25 without a hearing by Order entered on November 26, 2012. (Doc. No. 132.)

26 6. The Receiver's fees and costs for which approval is requested are set  
27 forth in the summary entitled "Receivership Administration Expense by Month and  
28 Fund Balance" ("Financial Summary") attached hereto as Exhibit 1. The Receiver

1 specifically seeks approval and authorization for payment of the fees of the  
2 Receiver, the Receiver's deputies, agents, and staff of \$25,585.20, the Receiver's  
3 expenses of \$8,975.68, legal fees of \$83,194.20 and expenses of \$6,067.04 for the  
4 services of the Receiver's counsel, McKenna Long & Aldridge LLP and legal fees  
5 of \$2,194.01 for the services of the Receiver's overseas counsel, the Holzacker  
6 firm, for a total sum of \$126,016.13. The amounts requested above include the  
7 actual amounts incurred by the receivership estate for the services of the Receiver  
8 and its counsel from July 1, 2012 through August 31, 2013 and also include  
9 estimated fees and expenses incurred and to be incurred by the receivership estate  
10 from September 1, 2013 through the preparation and filing of a final wind up  
11 motion to close the receivership estate after the Finbar Victims' share of the Net  
12 Forfeited Assets are distributed.

13 7. The receivership estate has no remaining assets to be administered. As  
14 reflected in the Financial Summary, the estate only has \$500 cash on hand, and  
15 there are unpaid fees of \$13,427.20 owed to the Receiver and its counsel that were  
16 previously approved by the Court for a prior expense period. The Receiver is  
17 projecting a deficit in the estate of \$138,943.33 of which \$125,000.00 will be paid  
18 by the Government through the Withheld Funds pursuant to the Stipulation. At this  
19 time, the Receiver estimates the net deficit of unpaid Receiver's and attorneys' fees  
20 will be \$13,943.33. The Finbar Victims will receive a significant recovery for their  
21 losses through the Stipulation and their share of the Net Forfeited Assets estimated  
22 to be at least \$1.3 million, depending upon the amount for which the Diamond Bar  
23 property is liquidated when sold by the Government pursuant to the Stipulation and  
24 Consent Judgments.

25 8. The fraudulent investment scheme perpetrated by Tringham through  
26 Finbar was not the only investment fraud committed by Tringham. Tringham,  
27 through an entity known as First National Ban Corp ("FNBC"), previously solicited  
28 funds from investors purportedly to be leveraged or otherwise used to buy and sell

1 bonds at a substantial profit. Instead of investing in bonds, however, Tringham  
2 diverted the funds raised. Tringham's activities led to his indictment, and the  
3 Government obtained a criminal conviction in the case *United States of America v.*  
4 *Robert Tringham*, United States District Court, Central District of California, Case  
5 No. CR 09-00490-SJO ("Criminal Action"). Tringham was sentenced on February  
6 15, 2011 to 156 months in prison. Tringham also perpetrated fraudulent schemes  
7 using entities named First Asset Management Corporation ("FAMC"), Colony  
8 Mortgage Bank ("CMB") and Capital Ban Corp. ("CBC") prior to the Finbar fraud.

9 9. As a result of Tringham's fraudulent conduct, the United States of  
10 America ("the Government") commenced the three In Rem Actions now pending in  
11 the United States District Court for the Central District of California: (1) *United*  
12 *States of America v. \$1,573,099.93*, Case No. CV 06-1971 SJO (AJWx); (2) *United*  
13 *States of America v. \$35,000 in U.S. Funds, et al.*, Case No. CV 07-0107 SJO  
14 (AJWx) (these two actions are collectively referred to as the "Monetary Actions");  
15 and (3) *United States of America v. Real Property Located in Diamond Bar,*  
16 *California (Tringham)*, Case No. CV 06-0609 SJO (AJWx) ("Diamond Bar  
17 Action"). The assets which are the defendants in the Monetary Actions include a  
18 total sum of not less than \$1,660,369.02. The asset which is the subject of the  
19 Diamond Bar Action is the real property located in Diamond Bar, California, which  
20 at one time was Tringham's residence, legally described at Exhibit A to the  
21 complaint in the Diamond Bar Action ("Diamond Bar Property"). The Government  
22 has asserted that the Diamond Bar Property had a value of \$1,430,000 as of 2006  
23 but that its value as of June 2012 may have been only \$750,000. The assets which  
24 are the subject of the In Rem Actions and the proceeds thereof are collectively  
25 referred to as the "Defendant Assets."

26 10. The Receiver timely filed claims and answers in the In Rem Actions.  
27 The Government and the Receiver propounded written discovery in the Monetary  
28 Actions. The Receiver provided information to its counsel and reviewed the

1 responses to the discovery prepared by the Receiver's counsel to respond to the  
2 Government's discovery as well as the documents produced by the Government in  
3 response to the Receiver's discovery. The Government and the Receiver engaged in  
4 extensive and lengthy negotiations in an effort to resolve their disputes and  
5 differences and resolve the Receiver's claims in the In Rem Actions. The  
6 Government and the Receiver entered into the Stipulation Resolving In Rem  
7 Forfeiture Actions ("Stipulation") which was previously filed with the Court in  
8 connection with the Receiver's motion for approval of the Stipulation. The Court  
9 granted the Receiver's motion and approved the Stipulation as reflected in its Order  
10 entered August 28, 2013. Based on the Court's approval of the Stipulation through  
11 the entry of the August 28, 2013 Order, the Government lodged Consent Judgments  
12 in each of the In Rem Actions in a form consistent with the Stipulation and Order  
13 and approved by the Receiver. The Receiver's and its counsel's activities leading up  
14 to the Stipulation and Order are detailed in the Declaration of Gary Owen Caris  
15 filed in support of the Motion.

16 11. Under the Stipulation, all of the Defendant Assets are to be forfeited,  
17 less a sum not exceeding \$125,000 which is to be withheld from the forfeited assets  
18 to pay the fees and expenses of the Receiver and its counsel as may be allowed by  
19 this Court and to the extent that the receivership estate has insufficient assets to pay  
20 such fees and expenses otherwise ("Withheld Assets"). (The Defendant Assets less  
21 the Withheld Assets are referred to as the "Forfeited Assets." The Forfeited Assets,  
22 less a minor amount of costs attributable to the Claims Process, and the costs to be  
23 incurred and liens to be paid in connection with the sale of the Diamond Bar  
24 Property, are referred to as the "Net Forfeited Assets.") The claims of Finbar  
25 Victims ("Finbar Victims Allowed Claims") will share in the distribution of the Net  
26 Forfeited Assets in accordance with the provisions of the Stipulation. The  
27 Stipulation specifically provides that as soon as practicable after the later of the sale  
28 of the Diamond Bar Property and disbursement of Withheld Assets to the Receiver,

1 AFMLS shall distribute the Net Forfeited Assets, including unused Withheld  
2 Assets, if any, to the holders of Allowed Claims, including without limitation, to all  
3 of the holders of Finbar Victims Allowed Claims in the amount of the Finbar  
4 Victims Distribution Percentages, as defined in the Stipulation.

5 12. The Stipulation further provides that as soon as practicable, the  
6 Receiver is to bring a motion before this Court seeking approval of all unpaid fees  
7 and expenses incurred by the Receiver and its counsel ("Fee Motion"). After the  
8 Court enters an order on the Fee Motion, the Receiver shall provide a written  
9 accounting to the Government and AFMLS demonstrating the extent to which  
10 Withheld Assets must be disbursed to the Receiver to pay any allowed and unpaid  
11 fees and expenses. Any dispute concerning the extent to which the Withheld Assets  
12 must be disbursed to the Receiver shall be resolved on motion before this Court.  
13 The Government is required to promptly disburse to the Receiver the amount of  
14 Withheld Assets needed to pay all allowed and unpaid fees and expenses after  
15 receipt of the written accounting from the Receiver or, if necessary, after this Court  
16 resolves any dispute concerning the extent to which the Withheld Assets shall be  
17 disbursed to the Receiver. The Motion which this Declaration supports is the Fee  
18 Motion provided for in the Stipulation.

19 13. The Stipulation contemplates that the Fee Motion will encompass all  
20 fees and expenses which will be subject to satisfaction from the Withheld Funds.  
21 The Receiver therefore has included all fees and expenses incurred and to be  
22 incurred to wind up the receivership. The Receiver believes it is in the best  
23 interests of the estate that the Receiver file a motion to wind up the receivership  
24 after the Receiver has monitored and confirmed the liquidation of the Diamond Bar  
25 Property and the completion of the distribution of the Net Forfeited Assets to the  
26 Finbar Victims in accordance with the provisions of the Stipulation. The Receiver  
27 will promptly file a wind up motion when those events have occurred to confirm  
28

1 the Finbar Victims have received their payments and to advise the Court that the  
2 Receiver should be discharged.

3 14. The Expense Period subject to the Motion covers a period spanning  
4 fourteen months along with the estimated fees and expenses to be incurred in  
5 monitoring, the entry of the Consent Judgments in the In Rem Actions, the  
6 liquidation of the Diamond Bar property, the distribution of the Net Forfeited  
7 Assets to the Finbar Victims and the filing of a final report and accounting and  
8 motion to wind up the receivership estate. The primary activities of the Receiver  
9 and its counsel have focused on the Receiver's pursuit of claims for the estate in  
10 three In Rem Actions, the litigation of those claims and the settlement of those  
11 claims through the Stipulation.

12 15. The Receiver worked closely with its counsel in pursuing the claims in  
13 the In Rem Actions. The Receiver participated with its counsel in many of the  
14 negotiations regarding the Receiver's claims regarding the In Rem Actions,  
15 including settlement meetings and conference calls. The Receiver had to review  
16 and provide to the Government extensive documentation based on the receivership  
17 records supporting the calculation of the amounts of the claims of the Finbar  
18 Victims. The Receiver's members and deputies reviewed and provided banking and  
19 other financial documentation to support the claims. The Receiver contacted the  
20 Finbar Victims where documentation was missing in order to complete the financial  
21 support for the claims. The Government requested certain additional  
22 documentation and explanations of some of the information provided as it evaluated  
23 the claims. The Receiver employed the Holzacker firm overseas to assist the  
24 Receiver in contacting and obtaining information from one of the investors to  
25 complete the documentation of the Finbar Investor Claims in response to the  
26 request for additional documents and information by the Government. The  
27 Receiver also reviewed the claims determinations for Non-Finbar Victims and  
28 support for those determinations provided by the Government.

1           16. During the Expense Period, the Receiver has continued to perform  
2 other administrative services in connection with the receivership estate. The  
3 Receiver has continued to prepare bank reconciliations and maintain accounting  
4 records. The Receiver has prepared tax returns with the assistance of its  
5 accountants and anticipates having to prepare additional tax returns prior to the  
6 closing of the estate.

7           17. I have read the Motion which this Declaration supports, and to the best  
8 of my knowledge, information and belief formed after reasonable inquiry, I certify  
9 that (a) the Motion and all fees and expenses referenced therein are true and  
10 accurate and comply with the Billing Instructions of plaintiff Securities and  
11 Exchange Commission; (b) all fees contained in the fee motion are based on the  
12 rates listed in the Receiver's fee schedule and the fees are reasonable, necessary and  
13 commensurate with the skill and experience required for the activity performed; and  
14 (c) the Receiver has not included in the amount for which reimbursement is sought  
15 the amortization of the cost of any investment, equipment or capital outlay (except  
16 to the extent that any such amortization is included within the permitted allowance  
17 amounts set forth in the Billing Instructions and the costs requested herein for  
18 photocopies and facsimile transmission); and (d) in seeking reimbursement for  
19 service which the Receiver justifiably purchased or contracted for from a third party  
20 (such as copying, imaging, bulk mail, messenger service, overnight courier,  
21 computerized research, or title and lien searches), the Receiver has requested  
22 reimbursement only for the amount billed to the Receiver by the third party vendor  
23 and paid by the Receiver to such vendor.

24           18. The Receiver believes that its fees and costs and those of its counsel  
25 are reasonable given the extensive services rendered, the results obtained and the  
26 period covered by the motion, and the Receiver requests that the Court approve the  
27 fees and costs in their entirety and authorize payment from the receivership assets,  
28 including the sums to be paid by the Government under the Stipulation.



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19. As a member of Robb Evans & Associates LLC, I am familiar with the methods and procedures used by the Receiver and its staff and employees to record the time spent rendering services to receivership estates over which the Receiver has been appointed. The records attached hereto collectively as Exhibit 2 are regularly prepared by the members, staff and employees of the Receiver at or about the time of the services rendered and each of whom has a business duty to accurately record the information regarding their services set forth in these records. The records are reviewed by the Receiver's accounting staff and summarized in the Financial Summary, attached hereto as Exhibit 1. Based upon my experience with Robb Evans & Associates LLC, I believe the Receiver's methods and procedures for recording and accounting for time and services for the receivership estates over which Robb Evans and Robb Evans & Associates LLC have been appointed are reliable and accurate.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on October 17, 2013 at Sun Valley, California.

  
\_\_\_\_\_  
BRICK KANE

# **EXHIBIT 1**

Robb Evans & Associates LLC, Receiver of  
FINBAR SECURITIES CORP., ET AL.

## Receivership Administration Expense by Month and Fund Balanc

From Inception (April 3, 2009) to August 31, 2013

	Previously Reported, Approved & Paid	Previously Reported, Approved & Unpaid (1)	7/1/12- 8/31/13	4/3/09- 8/31/13	Estimate	Total
Fund Transferred In	55,381.21	0.00	0.00	55,381.21	0.00	55,381.21
Funds from Emilio Law Group	4,456.25	0.00	0.00	4,456.25	0.00	4,456.25
Collection from Byrne & Nixon	89,289.93	0.00	0.00	89,289.93	0.00	89,289.93
Sale of Cars	78,200.00	0.00	0.00	78,200.00	0.00	78,200.00
Proceeds from Auction	2,122.38	0.00	0.00	2,122.38	0.00	2,122.38
Miscellaneous Income	885.66	0.00	0.00	885.66	0.00	885.66
<b>Total Funds Collected</b>	<b>230,335.43</b>	<b>0.00</b>	<b>0.00</b>	<b>230,335.43</b>	<b>0.00</b>	<b>230,335.43</b>
<b>Expense</b>						
<b>Asset Preservation</b>						
Gasoline for Cars	30.00	0.00	0.00	30.00	0.00	30.00
Asset/Credit Searches	5.52	0.00	0.00	5.52	0.00	5.52
Insurance	455.91	0.00	0.00	455.91	0.00	455.91
Rent	8,905.00	0.00	0.00	8,905.00	0.00	8,905.00
Rekey/Lock changes	100.00	0.00	0.00	100.00	0.00	100.00
<b>Total Asset Preservation</b>	<b>9,496.43</b>	<b>0.00</b>	<b>0.00</b>	<b>9,496.43</b>	<b>0.00</b>	<b>9,496.43</b>
<b>Receivership Operation Expenses</b>						
<b>Receiver's Fees</b>						
<b>Legal Activity</b>						
<b>Claims Admin &amp; Objections</b>						
P. Chung	0.00	0.00	460.80	460.80	0.00	460.80
<b>Total Claims Admin &amp; Objections</b>	<b>0.00</b>	<b>0.00</b>	<b>460.80</b>	<b>460.80</b>	<b>0.00</b>	<b>460.80</b>
<b>Asset Analysis and Recovery</b>						
P. Chung	0.00	0.00	1,008.00	1,008.00	0.00	1,008.00
L. Lee	1,036.80	0.00	0.00	1,036.80	0.00	1,036.80
B. Kane	4,204.80	0.00	1,468.80	5,673.60	0.00	5,673.60
K. Johnson	2,131.20	0.00	0.00	2,131.20	0.00	2,131.20
A. Jen	2,131.20	0.00	0.00	2,131.20	0.00	2,131.20
N. Wolf	1,200.00	0.00	60.00	1,260.00	0.00	1,260.00
<b>Total Asset Analysis and Recovery</b>	<b>10,704.00</b>	<b>0.00</b>	<b>2,536.80</b>	<b>13,240.80</b>	<b>0.00</b>	<b>13,240.80</b>
<b>Asset Disposition</b>						
B. Kane	115.20	0.00	0.00	115.20	0.00	115.20
K. Chapin	577.50	0.00	0.00	577.50	0.00	577.50
<b>Total Asset Disposition</b>	<b>692.70</b>	<b>0.00</b>	<b>0.00</b>	<b>692.70</b>	<b>0.00</b>	<b>692.70</b>
<b>Case Administration</b>						
L. Lee	0.00	0.00	28.80	28.80	0.00	28.80
P. Chung	5,673.60	0.00	12,096.00	17,769.60	576.00	18,345.60
R. Evans	552.50	0.00	0.00	552.50	0.00	552.50
B. Kane	10,684.80	0.00	633.60	11,318.40	1,440.00	12,758.40
K. Johnson	4,464.00	0.00	0.00	4,464.00	0.00	4,464.00
A. Jen	7,430.40	0.00	86.40	7,516.80	2,880.00	10,396.80
C. DeCius	330.00	0.00	0.00	330.00	0.00	330.00
<b>Total Case Administration</b>	<b>29,135.30</b>	<b>0.00</b>	<b>12,844.80</b>	<b>41,980.10</b>	<b>4,896.00</b>	<b>46,876.10</b>
<b>Employee Benefits/Pensions</b>						
N. Wolf	228.00	0.00	0.00	228.00	0.00	228.00
<b>Total Employee Benefits/Pensions</b>	<b>228.00</b>	<b>0.00</b>	<b>0.00</b>	<b>228.00</b>	<b>0.00</b>	<b>228.00</b>
<b>Total Legal Activity</b>	<b>40,760.00</b>	<b>0.00</b>	<b>15,842.40</b>	<b>56,602.40</b>	<b>4,896.00</b>	<b>61,498.40</b>

Robb Evans & Associates LLC, Receiver of  
FINBAR SECURITIES CORP., ET AL.

Receivership Administration Expense by Month and Fund Balanc  
From Inception (April 3, 2009) to August 31, 2013

	Previously Reported, Approved & Paid	Previously Reported, Approved & Unpaid (1)	7/1/12- 8/31/13	4/3/09- 8/31/13	Estimate	Total
<b>Financial Activity</b>						
<b>Tax Issues</b>						
A. Jen	230.40	0.00	28.80	259.20	0.00	259.20
Total Tax Issues	230.40	0.00	28.80	259.20	0.00	259.20
<b>Accounting/Auditing</b>						
F. Jen	201.60	0.00	0.00	201.60	0.00	201.60
A. Jen	489.60	0.00	28.80	518.40	0.00	518.40
L. Lee	345.60	0.00	115.20	460.80	576.00	1,036.80
N. Wolf	1,896.00	0.00	1,188.00	3,084.00	2,400.00	5,484.00
Total Accounting/Auditing	2,932.80	0.00	1,332.00	4,264.80	2,976.00	7,240.80
<b>Corporate Finance</b>						
L. Lee	57.60	0.00	0.00	57.60	0.00	57.60
Total Corporate Finance	57.60	0.00	0.00	57.60	0.00	57.60
<b>Data Analysis</b>						
B. Kane	28.80	0.00	0.00	28.80	0.00	28.80
E. Roop	900.00	0.00	0.00	900.00	0.00	900.00
K. Chapin	4,192.50	0.00	172.50	4,365.00	337.50	4,702.50
Total Data Analysis	5,121.30	0.00	172.50	5,293.80	337.50	5,631.30
<b>Forensic Accounting</b>						
B. Kane	604.80	0.00	0.00	604.80	0.00	604.80
A. Jen	4,521.60	0.00	0.00	4,521.60	0.00	4,521.60
P. Chung	74,066.40	4,759.20	0.00	78,825.60	0.00	78,825.60
Total Forensic Accounting	79,192.80	4,759.20	0.00	83,952.00	0.00	83,952.00
Total Financial Activity	87,534.90	4,759.20	1,533.30	93,827.40	3,313.50	97,140.90
Total Receiver's Fees	128,294.90	4,759.20	17,375.70	150,429.80	8,209.50	158,639.30
Total Receivership Operation Expenses	128,294.90	4,759.20	17,375.70	150,429.80	8,209.50	158,639.30
<b>Receiver Expenses</b>						
<b>Out of Pocket - Parking Fees</b>						
Tax Preparation	35.00	0.00	0.00	35.00	0.00	35.00
Postage/Delivery	6,422.54	0.00	4,424.42	10,846.96	4,000.00	14,846.96
Destruction Costs	95.56	0.00	109.36	204.92	131.90	336.82
Bank service charges	0.00	0.00	0.00	0.00	60.00	60.00
Total Receiver Expenses	6,553.10	0.00	4,533.78	11,086.88	4,441.90	15,528.78
<b>Legal Fees &amp; Costs</b>						
<b>Lawfirm Holzhacker</b>						
Fees & Costs	0.00	0.00	2,194.01	2,194.01	0.00	2,194.01
Total Lawfirm Holzhacker	0.00	0.00	2,194.01	2,194.01	0.00	2,194.01
<b>McKenna Long &amp; Aldridge</b>						
<b>Fees</b>						
Claims Admin & Objection	49.50	0.00	495.00	544.50	0.00	544.50
Case Administration	33,757.16	0.00	2,520.00	36,277.16	23,400.00	59,677.16
Asset Disposition	1,732.50	0.00	116.10	1,848.60	0.00	1,848.60
Asset Analysis and Recover	47,413.70	8,668.00	56,663.10	112,744.80	0.00	112,744.80
Total Fees	82,952.86	8,668.00	59,794.20	151,415.06	23,400.00	174,815.06

Robb Evans & Associates LLC, Receiver of  
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**Receivership Administration Expense by Month and Fund Balance**  
 From Inception (April 3, 2009) to August 31, 2013

	Previously Reported, Approved & Paid	Previously Reported, Approved & Unpaid (1)	7/1/12- 8/31/13	4/3/09- 8/31/13	Estimate	Total
Costs	2,538.14	0.00	3,567.04	6,105.18	2,500.00	8,605.18
Total McKenna Long & Aldridge	85,491.00	8,668.00	63,361.24	157,520.24	25,900.00	183,420.24
Total Legal Fees & Costs	85,491.00	8,668.00	65,555.25	159,714.25	25,900.00	185,614.25
Total Expense	229,835.43	13,427.20	87,464.73	330,727.36	38,551.40	369,278.76
Net Transactions		(13,427.20)	(87,464.73)		(38,551.40)	
Fund Balance	500.00			(100,391.93)		(138,943.33)

(1) : The Receiver lacked funds to pay all of the approved expenses for the previous reporting period.