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10 Counsel for Permanent Receiver
11 ROBB EVANS & ASSOCIATES LLC

12 **UNITED STATES DISTRICT COURT**
13 **CENTRAL DISTRICT OF CALIFORNIA**

14 SECURITIES AND EXCHANGE
15 COMMISSION,

16 Plaintiff,

17 v.

18 FINBAR SECURITIES CORP., and
19 ROBERT TRINGHAM

20 Defendants.

Case No. CV 09-2325 ODW (VBKx)

**NOTICE OF MOTION AND MOTION
FOR ORDER APPROVING FINAL
REPORT AND FINAL ACCOUNTING,
DISCHARGING RECEIVER AND
GRANTING RELATED RELIEF;
MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT
THEREOF**

**[Declaration of Brick Kane filed
concurrently herewith]**

Date: January 8, 2018

Time: 1:30 p.m.

Place: Courtroom 5D

1 TO: ALL PARTIES, COUNSEL AND PARTIES IN INTEREST:

2 PLEASE TAKE NOTICE that on January 8, 2018, at 1:30 p.m. in Courtroom
3 5D of the above-entitled Court, located at 350 West 1st Street, Los Angeles,
4 California, Robb Evans & Associates LLC as Permanent Receiver (“Receiver”) for
5 Defendant Finbar Securities Corp. (“Finbar”) and its subsidiaries and affiliates, will
6 move the Court for an order for the following relief:

7 1. Approving the Receiver’s Final Report, which is made a part of this
8 Motion at Section I, and approving the Receiver’s Final Accounting, which is
9 attached as Exhibit 1 to the Declaration of Brick Kane, served and filed concurrently
10 herewith;

11 2. Authorizing and approving the Receiver’s wind up of the receivership
12 estate;

13 3. Approving and confirming all actions and activities taken by or on
14 behalf of the Receiver and all payments made by the Receiver in connection with the
15 administration of the receivership estate;

16 4. Authorizing the Receiver to destroy all records pertaining to the
17 receivership estate in the Receiver’s possession or custody within 30 days after the
18 Receiver serves written notice on the Securities and Exchange Commission (“SEC”)
19 of the Receiver’s intention to destroy such records, unless the FTC requests
20 possession and custody of such records or another governmental agency issues a
21 subpoena for such records, in which case the Receiver is authorized to turn over such
22 records to the SEC or to the governmental agency which issued the subpoena;

23 5. Providing that neither the Receiver nor any agent, employee, member,
24 officer, independent contractor, attorney or representative of the Receiver shall have
25 any liability to any person or entity for any action taken in connection with carrying
26 out the Receiver’s administration of the receivership estate, and the exercise of any
27 powers, duties and responsibilities in connection therewith, and directing that the
28 Receiver, its agents, employees, members, officers, independent contractors,

1 attorneys and representatives are: (i) discharged; (ii) released from all claims and
2 liabilities arising out of and/or pertaining to the receivership; and (iii) relieved of all
3 duties and responsibilities pertaining to the receivership; and

4 6. Granting such additional relief in connection with the wind up and
5 closing of the receivership estate as the Court may determine to be just and proper
6 under the circumstances.

7 PLEASE TAKE FURTHER NOTICE that this motion is made pursuant to
8 Local Civil Rules 7 and 66-7, and is based upon this notice of motion and motion,
9 the Final Report which is set forth at Section I of the accompanying memorandum of
10 points and authorities, the memorandum of points and authorities and declaration of
11 Brick Kane served and filed concurrently herewith, upon the pleadings, records and
12 files of this case and upon all other pleadings, oral and documentary evidence and
13 argument of counsel as may be presented by the Receiver at or before the time of the
14 hearing on this motion.

15
16 DATED: November 8, 2017

DIAMOND McCARTHY LLP

17
18
19 By: /s/ Gary Owen Caris

GARY OWEN CARIS

LESLEY ANNE HAWES

Counsel for Permanent Receiver

ROBB EVANS & ASSOCIATES LLC

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. FINAL REPORT OF RECEIVER**

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

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

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

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

20 Tringham’s fraudulent activity with respect to Finbar was not his first
21 illegal investment scheme. Tringham, through an entity known as First National
22 Ban Corp (“FNBC”), previously solicited funds from investors purportedly to be
23 leveraged or otherwise used to buy and sell bonds at a substantial profit. Instead
24 of investing in bonds, however, Tringham diverted the funds raised. Tringham’s
25 activities led to his indictment, and the Government obtained a criminal
26 conviction in the case *United States of America v. Robert Tringham*, United
27 States District Court, Central District of California, Case No. CR 09-00490-SJO
28 (“Criminal Action”). Tringham was sentenced on February 15, 2011 to 156

1 months in prison. Tringham also perpetrated fraudulent schemes using entities
2 named First Asset Management Corporation (“FAMC”), Colony Mortgage Bank
3 (“CMB”) and Capital Ban Corp. (“CBC”) prior to the Finbar fraud.

4 As a result of Tringham’s earlier fraudulent conduct, the United States of
5 America (“the Government”) commenced three civil in rem forfeiture actions in
6 the United States District Court for the Central District of California in 2006 and
7 2007: (1) *United States of America v. \$1,573,099.93*, Case No. CV 06-1971 SJO
8 (AJWx); (2) *United States of America v. \$35,000 in U.S. Funds, et al.*, Case No.
9 CV 07-0107 SJO (AJWx) (these two actions are collectively referred to as the
10 “Monetary Actions”); and (3) *United States of America v. Real Property Located*
11 *in Diamond Bar, California (Tringham)*, Case No. CV 06-0609 SJO (AJWx)
12 (“Diamond Bar Action”). (The Monetary Actions and the Diamond Bar Action
13 are collectively referred to as the “In Rem Actions.”) The asset which was the
14 subject of the Diamond Bar Action was the real property located in Diamond Bar,
15 California, which at one time was Tringham’s residence, (“Diamond Bar
16 Property”).

17 The Receiver timely filed claims and answers in the In Rem Actions. The
18 Government and the Receiver engaged in extensive and lengthy negotiations in an
19 effort to resolve their disputes and differences and resolve the Receiver’s claims
20 in the In Rem Actions. The Government and the Receiver entered into the
21 Stipulation Resolving In Rem Forfeiture Actions (“Stipulation”) which was
22 previously filed with the Court in connection with the Receiver’s motion for
23 approval of the Stipulation. (Doc. No. 141.) The Court granted the Receiver’s
24 motion and approved the Stipulation as reflected in its Order entered August 28,
25 2013. (Doc. No. 142.) Based on the Court’s approval of the Stipulation through
26 the entry of the August 28, 2013 Order, in each of the In Rem Actions the
27 Government lodged Consent Judgments in a form consistent with the Stipulation
28 and Order and approved by the Receiver.

1 The Stipulation provided among other things: (a) the exact amount of
2 “Finbar Victims Allowed Claims,” itemized by victim (there were ultimately
3 determined by the Receiver to be seven Finbar Victims); (b) the exact amount of
4 “Non-Finbar Victims Allowed Claims”; and (c) the exact distribution percentage
5 each of the seven Finbar Victims was to receive from the assets which were the
6 subject of the In Rem Actions. The aggregate distribution percentage for the
7 Finbar Victims was precisely calculated in the Stipulation at 58.048%, meaning
8 that the Finbar Victims were to receive 58.048% of the net proceeds from the
9 assets which were the subject of the In Rem Actions.

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

28

1 The Stipulation further provided that as soon as practicable, the Receiver is
2 to bring a motion before this Court seeking approval of all unpaid fees and
3 expenses incurred by the Receiver and its counsel (“Fee Motion”). Pursuant to
4 the Stipulation, the Receiver brought a Fee Motion on October 18, 2013 (Doc.
5 No. 144) seeking Court approval of fees and expenses for the period from July 1,
6 2012 through the closing of the receivership estate of \$126,016.13. The Fee
7 Motion demonstrated that, in addition to \$126,016.13 in fees and expenses
8 incurred from and after July 1, 2012 through closing, another \$13,427.20
9 remained previously approved and unpaid. The order on the Fee Motion was
10 entered on October 29, 2013 (Doc. No. 147). Thereafter, pursuant to the
11 Stipulation, the Receiver provided a written accounting to the Government and
12 AFMLS demonstrating that \$125,000 from the Withheld Assets should be
13 disbursed to the Receiver to pay allowed and unpaid fees and expenses as a result
14 of the fact that the receivership estate lacked the funds to pay these fees and
15 expenses. Pursuant to the Stipulation, on February 21, 2014 the Government
16 disbursed to the Receiver \$125,000 from the Withheld Assets to pay allowed and
17 unpaid fees and expenses after receipt of the written accounting from the
18 Receiver.

19 Distribution to the Finbar Victims was impeded by innumerable delays,
20 particularly in connection with the liquidation of the Diamond Bar Property. The
21 Internal Revenue Service (“IRS”) was assigned the task of liquidating the Diamond
22 Bar Property and overseeing distributions to the victims. Finally, after two years, the
23 sale of the Diamond Bar property was completed, and the Government was ready to
24 distribute funds to victims. On November 23, 2015, a representative of the IRS
25 provided counsel for the Receiver with a breakdown of the intended distribution to
26 the Finbar Victims. As set forth therein, a total distribution to the Finbar Victims
27 was scheduled to be \$1,668,445.06 representing a “share of loss” of only 55.92%,
28 not the agreed upon 58.048%. Based on the amount to be paid to Finbar Victims and

1 the unilaterally reduced “share” of 55.92%, the amount on hand for distribution to all
2 victims was \$2,983,628.51 ($\$1,668,445.06 \div .5592 = \$2,983,628.51$). At the agreed
3 upon distribution percentage of 58.048%, the Finbar Victims were entitled to receive
4 an aggregate distribution of \$1,731,936.68, subject to minor rounding variances
5 ($\$2,983,628.51 \times .58048 = \$1,731,936.68$). This represented an aggregate shortfall
6 to the Finbar Victims of \$63,491.62 ($\$1,731,936.68 - \$1,668,445.06 = \$63,491.62$).

7 On February 26, 2016 and March 8, 2016, distributions for the Finbar Victims
8 were finally received by the Receiver from the Government totaling \$1,668,445.06.
9 This sum was promptly distributed in full by the Receiver on a pro rata basis to the
10 seven Finbar Victims.

11 As soon as the Receiver was first advised of the intended distribution amount,
12 the Receiver’s counsel advised various representatives of the Government, including
13 the Assistant United States Attorney, that the Government would be shortchanging
14 the Finbar Victims approximately \$63,500 in violation of the Consent Judgments and
15 the underlying Stipulation. The Government admitted as much in oral and written
16 communications with the Receiver and the SEC. The Government advised the
17 Receiver that the lower amount disbursed for the Finbar Victims was the result of
18 two late-filed claims from Non-Finbar Victims. The Government said that it
19 approved these late-filed claims, but recognized and admitted that the Government
20 was not permitted to distribute the funds to those individuals at that time, because
21 such payment would violate the Consent Judgments and Stipulation.

22 Since March 2016, the Receiver attempted to enter into a dialogue with the
23 Government to address this problem. In March 2016, the Government indicated
24 that it wished to obtain an order to alter the Consent Judgments and obtain
25 permission to allow these two late-filed claims on equitable grounds. The
26 Receiver advised the Government the Receiver opposed such an action as being a
27 violation of the Consent Judgments, Stipulation and Order Approving Stipulation
28 issued by the Court in the SEC Action because it would deprive the Finbar

1 Victims of \$63,491.62 to which they were entitled. The SEC supported the
2 Receiver's position.

3 As a result of the Government's failure and refusal to pay to the Receiver
4 the full amount owed pursuant to the Stipulation, on April 3, 2017 the Receiver
5 brought motions to compel the Government to comply with the Stipulation in
6 each of the three In Rem Actions. In response, the Government opposed the
7 motions to compel and simultaneously sought orders amending the Consent
8 Judgments to provide for payment to the two late-filed claimants. On May 8,
9 2017, the Court granted the Receiver's motion to compel the Government to
10 comply with the Stipulation and ordered that the remaining sum of \$63,491.62
11 due under the Stipulation be paid to the Receiver within 14 days for distribution
12 to the Finbar Victims. The parties agreed to stay this order to allow the
13 Government to determine whether to appeal. The Government elected not to
14 appeal and paid the Receiver the additional \$63,491.62 on August 8, 2017. This
15 sum was thereafter immediately disbursed to the seven Finbar Victims. In total,
16 the Finbar Victims received \$1,731,936.68. The Finbar Victims Allowed Claims
17 totaled \$8,787,656.25. **Therefore, the Finbar Victims received a total**
18 **distribution of 19.7% on their claims.**

19 As more particularly set forth in the Final Accounting, attached to the
20 declaration of Brick Kane as Exhibit 1, served and filed concurrently herewith,
21 the Receiver collected a total of \$2,087,272.11 in this receivership, principally as
22 a result of the Stipulation resolving the In Rem Actions, and disbursed
23 \$1,731,936.68 to the Finbar Victims. The balance of the funds collected were
24 used to pay administrative expenses. There are no funds left in the estate and
25 therefore nothing more to distribute to Finbar Victims or any other creditors.
26 Also, the fees and expenses of the Receiver and its counsel were far greater than
27 the amounts paid to them. Based on booked amounts only, the Final Accounting
28 indicates a shortfall of \$5,740.25, of which \$5,737.66 was borne by the

1 Receiver's original lawyers on this matter, McKenna Long & Aldridge LLP
2 (which later merged into and was renamed Dentons LLP). However, the shortfall
3 is actually much greater than that, because once it was apparent that the estate
4 lacked funds to pay all of the Receiver's and counsel's bills, primarily as a result
5 of the additional work done to monitor and prod the Government with respect to
6 the Government's delay in making the initial distribution pursuant to the
7 Stipulation and then as a result of the need to move to compel the Government to
8 comply with the Stipulation, the Receiver stopped billing the estate and the
9 Receiver's counsel either did not bill for its services or provided informational
10 bills to the Receiver at no charge to the estate. For example, the Receiver's
11 current law firm, Diamond McCarthy LLP, billed but did not receive payment for
12 fees and expenses totaling not less than \$21,976.79 through September 30, 2017.
13 Therefore, the Receiver and its counsel have written off a substantial amount of
14 fees and costs to bring this matter to a successful conclusion.

15 **II. MEMORANDUM OF POINTS AND AUTHORITIES**

16 The Receiver's request to wind up the receivership estate and to obtain the
17 relief sought herein, including the provisions related to approval of the Final
18 Report and Final Accounting, the destruction of records, and discharge and
19 release of the Receiver and its agents and professionals are ordinary and
20 customary in connection with the wind up of a federal equity receivership estate
21 and within the Court's broad supervisory authority over federal equity
22 receiverships described in *Securities and Exchange Commission v. Hardy*, 803 F.
23 2d 1034 (9th Cir. 1986):

24 A district judge supervising an equity receivership faces
25 a myriad of complicated problems in dealing with the
26 various parties and issues involved in administering the
27 receivership. Reasonable administrative procedures,
28 crafted to deal with the complex circumstances of each

1 case, will be upheld. A district judge simply cannot
2 effectively and successfully supervise a receivership and
3 protect the interests of its beneficiaries absent broad
4 discretionary power. We would be remiss were we to
5 interfere with a district court's supervision of an equity
6 receivership absent a clear abuse of discretion.

7 *Securities and Exchange Commission v. Hardy*, 803 F.2d 1034, 1038 (9th Cir.
8 1986). *See also SEC v. Lincoln Thrift Association*, 577 F.2d 600, 606 (9th Cir.
9 1978). Furthermore, Court approval of the Receiver's actions and the relief
10 sought herein is consistent with federal receivership practice as required by
11 Federal Rule of Civil Procedure, Rule 66 and Local Rule 66-7. *See, 2 Clark on*
12 *Receivers*, § 383.1 (3d ed. Rev. 1992). The Court has wide latitude in supervising
13 the Receiver and may provide for the administration of the receivership as it
14 deems appropriate. 13 *Moore's Federal Practice*, § 66.06[4][a] (Matthew Bender
15 3d ed. Rev. 2013).

16 The protections afforded the Receiver pursuant to such a wind up order is
17 reasonable and necessary in light of the history of this matter, the complex,
18 contentious and protracted nature of the proceedings, and the excellent results
19 achieved by the Receiver despite the Receiver and its professionals ultimately
20 working for no compensation during the last several years of the case.

21 **III. CONCLUSION**

22 For the reasons set forth in this Motion and the papers filed in support, it is
23 respectfully requested that the Court grant relief as requested herein and as set
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forth in the proposed order lodged concurrently herewith.

DATED: November 8, 2017 DIAMOND McCARTHY LLP

By: /s/ Gary Owen Caris
GARY OWEN CARIS
LESLEY ANNE HAWES
Counsel for Permanent Receiver
ROBB EVANS & ASSOCIATES LLC

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10 Counsel for Permanent Receiver
11 ROBB EVANS & ASSOCIATES LLC

12 **UNITED STATES DISTRICT COURT**
13 **CENTRAL DISTRICT OF CALIFORNIA**

14 SECURITIES AND EXCHANGE
15 COMMISSION,

16 Plaintiff,

17 v.

18 FINBAR SECURITIES CORP., and
19 ROBERT TRINGHAM

20 Defendants.

Case No. CV 09-2325 ODW (VBKx)

**DECLARATION OF BRICK KANE IN
SUPPORT OF MOTION FOR ORDER
APPROVING FINAL REPORT AND
FINAL ACCOUNTING, DISCHARGING
RECEIVER AND GRANTING
RELATED RELIEF**

Date: January 8, 2018

Time: 1:30 p.m.

Place: Courtroom 5D

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1 I, Brick Kane, declare:

2 1. I am the President and Chief Operating Officer of Robb Evans &
3 Associates LLC, the duly appointed Receiver ("Receiver") of Finbar Securities
4 Corp. and its subsidiaries and affiliates. I am one of the members of Robb Evans &
5 Associates LLC responsible for the day to day management of the receivership
6 estate. I have personal knowledge of the matters set forth in this declaration based
7 on my management of the receivership estate or have gained knowledge of these
8 matters based upon my supervision of other members and staff of Robb Evans &
9 Associates LLC involved in handling various matters pertaining to this receivership
10 estate, the review and analysis of pertinent pleadings filed in this case and related
11 cases, and as relates to Receiver's counsel's bills, communications with the
12 Receiver's counsel. If called upon to testify as to these matters, I could and would
13 competently testify based upon my personal knowledge.

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

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

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

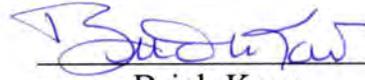
19 5. The Receiver's Final Report in this matter is set forth at Section I of the
20 Motion for Order Approving Final Report and Final Accounting, For Discharge and
21 Related Relief ("Motion") filed concurrently herewith. I have reviewed the Final
22 Report and it is true and correct based on my personal knowledge or based on the
23 knowledge I have gained through my supervision of other members and staff of
24 Robb Evans & Associates LLC involved in the day to day management of the
25 receivership estate, review and analysis of pertinent pleadings filed in this case and
26 related cases, and communications with the Receiver's counsel. It accurately sets
27 forth a detailed summary of the pertinent facts and circumstances relating to this
28 receivership estate.

1 6. Attached hereto as Exhibit 1 is the Receiver's Final Accounting, entitled
2 "Receivership Administration Expenses," which sets forth all of the funds collected
3 and all of the expenses and distributions made from the inception of the receivership
4 estate, broken down by those previously reported and approved, and those which
5 arose from September 1, 2013 through the anticipated closing of the estate. As more
6 particularly set forth in the Final Accounting, the Receiver collected a total of
7 \$2,087,272.11 in this receivership, principally as a result of the Stipulation resolving
8 the In Rem Actions, as defined and explained in the Final Report attached to the
9 Motion, and disbursed \$1,731,936.68 to the seven Finbar Victims. The Finbar
10 Victims Allowed Claims, as defined and explained in the Final Report, totaled
11 \$8,787,656.25. Therefore, the Finbar Victims received a total distribution of 19.7%
12 on their claims. The balance of the funds collected by the Receiver were used to pay
13 administrative expenses, including the previously allowed fees and expenses of the
14 Receiver and its counsel.

15 7. There are no funds left in the estate and therefore nothing more to
16 distribute to Finbar Victims or any other creditors. Also, the fees and expenses of the
17 Receiver and its counsel were far greater than the amounts paid to them. As set forth
18 in the Final Accounting, based on booked amounts only, the Final Accounting
19 indicates a shortfall of \$5,740.25, of which \$5,737.66 was borne by the Receiver's
20 original lawyers on this matter, McKenna Long & Aldridge LLP, which later merged
21 into and was renamed Dentons LLP. However, the shortfall is actually much greater
22 than that, because once it was apparent that the estate lacked funds to pay all of the
23 Receiver's and counsel's bills, primarily as a result of the additional work done to
24 monitor and prod the Government with respect to the Government's delay in making
25 the initial distribution pursuant to the Stipulation entered into by the Receiver with
26 the Government, and then as a result of the need to move to compel the Government
27 to comply with the Stipulation, the Receiver stopped billing the estate and the
28 Receiver's counsel either did not bill for its services or provided informational bills

1 to the Receiver at no charge to the estate. For example, I am advised the Receiver's
2 current law firm, Diamond McCarthy LLP, billed but did not receive payment for
3 fees and expenses totaling not less than \$21,976.79 from June, 2016 through
4 September 30, 2017.

5 I declare under penalty of perjury that the foregoing is true and correct and that
6 this declaration was executed on November 6, 2017 at Sun Valley, California.

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10 Brick Kane
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1 GARY OWEN CARIS (SBN 88918)
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8 Telephone: (310) 651-2997
9 Facsimile: (424) 253-1101

10 Counsel for Permanent Receiver
11 ROBB EVANS & ASSOCIATES LLC

12
13 **UNITED STATES DISTRICT COURT**
14
15 **CENTRAL DISTRICT OF CALIFORNIA**

16 SECURITIES AND EXCHANGE
17 COMMISSION,

18 Plaintiff,

19 v.

20 FINBAR SECURITIES CORP., and
21 ROBERT TRINGHAM

22 Defendants.

Case No. CV 09-2325 ODW (VBKx)

**CORRECTED DECLARATION OF
BRICK KANE IN SUPPORT OF
MOTION FOR ORDER APPROVING
FINAL REPORT AND FINAL
ACCOUNTING, DISCHARGING
RECEIVER AND GRANTING
RELATED RELIEF**

WITH EXHIBIT 1 ATTACHED

Date: January 8, 2018

Time: 1:30 p.m.

Place: Courtroom 5D

1 I, Brick Kane, declare:

2 1. I am the President and Chief Operating Officer of Robb Evans &
3 Associates LLC, the duly appointed Receiver ("Receiver") of Finbar Securities
4 Corp. and its subsidiaries and affiliates. I am one of the members of Robb Evans &
5 Associates LLC responsible for the day to day management of the receivership
6 estate. I have personal knowledge of the matters set forth in this declaration based
7 on my management of the receivership estate or have gained knowledge of these
8 matters based upon my supervision of other members and staff of Robb Evans &
9 Associates LLC involved in handling various matters pertaining to this receivership
10 estate, the review and analysis of pertinent pleadings filed in this case and related
11 cases, and as relates to Receiver's counsel's bills, communications with the
12 Receiver's counsel. If called upon to testify as to these matters, I could and would
13 competently testify based upon my personal knowledge.

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

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

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

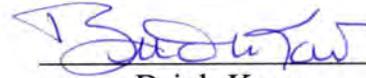
19 5. The Receiver's Final Report in this matter is set forth at Section I of the
20 Motion for Order Approving Final Report and Final Accounting, For Discharge and
21 Related Relief ("Motion") filed concurrently herewith. I have reviewed the Final
22 Report and it is true and correct based on my personal knowledge or based on the
23 knowledge I have gained through my supervision of other members and staff of
24 Robb Evans & Associates LLC involved in the day to day management of the
25 receivership estate, review and analysis of pertinent pleadings filed in this case and
26 related cases, and communications with the Receiver's counsel. It accurately sets
27 forth a detailed summary of the pertinent facts and circumstances relating to this
28 receivership estate.

1 6. Attached hereto as Exhibit 1 is the Receiver's Final Accounting, entitled
2 "Receivership Administration Expenses," which sets forth all of the funds collected
3 and all of the expenses and distributions made from the inception of the receivership
4 estate, broken down by those previously reported and approved, and those which
5 arose from September 1, 2013 through the anticipated closing of the estate. As more
6 particularly set forth in the Final Accounting, the Receiver collected a total of
7 \$2,087,272.11 in this receivership, principally as a result of the Stipulation resolving
8 the In Rem Actions, as defined and explained in the Final Report attached to the
9 Motion, and disbursed \$1,731,936.68 to the seven Finbar Victims. The Finbar
10 Victims Allowed Claims, as defined and explained in the Final Report, totaled
11 \$8,787,656.25. Therefore, the Finbar Victims received a total distribution of 19.7%
12 on their claims. The balance of the funds collected by the Receiver were used to pay
13 administrative expenses, including the previously allowed fees and expenses of the
14 Receiver and its counsel.

15 7. There are no funds left in the estate and therefore nothing more to
16 distribute to Finbar Victims or any other creditors. Also, the fees and expenses of the
17 Receiver and its counsel were far greater than the amounts paid to them. As set forth
18 in the Final Accounting, based on booked amounts only, the Final Accounting
19 indicates a shortfall of \$5,740.25, of which \$5,737.66 was borne by the Receiver's
20 original lawyers on this matter, McKenna Long & Aldridge LLP, which later merged
21 into and was renamed Dentons LLP. However, the shortfall is actually much greater
22 than that, because once it was apparent that the estate lacked funds to pay all of the
23 Receiver's and counsel's bills, primarily as a result of the additional work done to
24 monitor and prod the Government with respect to the Government's delay in making
25 the initial distribution pursuant to the Stipulation entered into by the Receiver with
26 the Government, and then as a result of the need to move to compel the Government
27 to comply with the Stipulation, the Receiver stopped billing the estate and the
28 Receiver's counsel either did not bill for its services or provided informational bills

1 to the Receiver at no charge to the estate. For example, I am advised the Receiver's
2 current law firm, Diamond McCarthy LLP, billed but did not receive payment for
3 fees and expenses totaling not less than \$21,976.79 from June, 2016 through
4 September 30, 2017.

5 I declare under penalty of perjury that the foregoing is true and correct and that
6 this declaration was executed on November 6, 2017 at Sun Valley, California.

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Brick Kane

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EXHIBIT 1

#2590
 Robb Evans & Associates LLC, Receiver of
 FINBAR SECURITIES CORP., ET AL.
 Receivership Administration Expenses
 From Inception (April 3, 2009) to Closing

| | <u>Previously Reported & Approved</u> | <u>9/1/13- Closing</u> | <u>TOTAL</u> |
|--|---|----------------------------|---------------------|
| CBP Treas | 0.00 | 1,731,936.68 | 1,731,936.68 |
| Funds Transferred in from Banks | 55,381.21 | 0.00 | 55,381.21 |
| Funds from Emilio Law Group | 4,456.25 | 0.00 | 4,456.25 |
| Collection from Byrne & Nixon | 89,289.93 | 0.00 | 89,289.93 |
| Sale of Cars | 78,200.00 | 0.00 | 78,200.00 |
| Proceeds from Auction | 2,122.38 | 0.00 | 2,122.38 |
| Miscellaneous Income | 885.66 | 0.00 | 885.66 |
| Turnover of Funds from IRS | 0.00 | 125,000.00 | 125,000.00 |
| Total Funds Collected | <u>230,335.43</u> | <u>1,856,936.68</u> | <u>2,087,272.11</u> |
| Expenses | | | |
| Asset Preservation | | | |
| Gasoline for Cars | 30.00 | 0.00 | 30.00 |
| Asset/Credit Searches | 5.52 | 0.00 | 5.52 |
| Insurance | 455.91 | 0.00 | 455.91 |
| Rent | 8,905.00 | 0.00 | 8,905.00 |
| Rekey/Lock changes | 100.00 | 0.00 | 100.00 |
| Total Asset Preservation | <u>9,496.43</u> | <u>0.00</u> | <u>9,496.43</u> |
| Receivership Operation Expenses | | | |
| Receiver's Fees | | | |
| R. Evans | 552.50 | 0.00 | 552.50 |
| B. Kane | 17,740.80 | 28.80 | 17,769.60 |
| K. Johnson | 6,595.20 | 0.00 | 6,595.20 |
| A. Jen | 14,947.20 | 172.80 | 15,120.00 |
| C. DeCius | 330.00 | 0.00 | 330.00 |
| P. Chung | 98,064.00 | 0.00 | 98,064.00 |
| F. Jen | 201.60 | 0.00 | 201.60 |
| L. Lee | 1,584.00 | 288.00 | 1,872.00 |
| E. Roop | 900.00 | 0.00 | 900.00 |
| N. Wolf | 4,572.00 | 1,224.00 | 5,796.00 |
| Total Receiver's Fees | <u>145,487.30</u> | <u>1,713.60</u> | <u>147,200.90</u> |
| Receiver Expenses | | | |
| Bank service charges | 0.00 | 0.00 | 0.00 |
| Out of Pocket - Parking Fees | 35.00 | 0.00 | 35.00 |
| Postage/Delivery | 204.92 | 88.98 | 293.90 |
| Tax Preparation | 10,846.96 | 3,301.37 | 14,148.33 |
| Website Support | 4,942.50 | 127.50 | 5,070.00 |
| Total Receiver Expenses | <u>16,029.38</u> | <u>3,517.85</u> | <u>19,547.23</u> |

#2591
Robb Evans & Associates LLC, Receiver of
FINBAR SECURITIES CORP., ET AL.

Receivership Administration Expenses

From Inception (April 3, 2009) to Closing

| | <u>Previously Reported & Approved</u> | <u>9/1/13- Closing</u> | <u>TOTAL</u> |
|---------------------------------------|---|----------------------------|-------------------|
| Legal Fees & Costs | | | |
| Lawfirm Holz hacker | | | |
| Fees & Costs | 2,194.01 | 0.00 | 2,194.01 |
| Total Lawfirm Holz hacker | <u>2,194.01</u> | <u>0.00</u> | <u>2,194.01</u> |
| McKenna Long & Aldridge/Dentons | | | |
| Fees | | | |
| Claims Admin & Objection | 544.50 | 1,125.00 | 1,669.50 |
| Case Administration | 36,277.16 | 5,638.50 | 41,915.66 |
| Asset Disposition | 1,848.60 | 198.00 | 2,046.60 |
| Asset Analysis and Recover | 112,744.80 | 15,625.80 | 128,370.60 |
| Total Fees | <u>151,415.06</u> | <u>22,587.30</u> | <u>174,002.36</u> |
| Costs | 6,105.18 | 2,529.57 | 8,634.75 |
| Total McKenna Long & Aldridge/Dentons | <u>157,520.24</u> | <u>25,116.87</u> | <u>182,637.11</u> |
| Total Legal Fees & Costs | <u>159,714.25</u> | <u>25,116.87</u> | <u>184,831.12</u> |
| Total Receivership Operation Expenses | <u>321,230.93</u> | <u>30,348.32</u> | <u>351,579.25</u> |
| Total Expenses | <u>330,727.36</u> | <u>30,348.32</u> | <u>361,075.68</u> |
| Distributions to Investors | 0.00 | 1,731,936.68 | 1,731,936.68 |
| Deficit | <u>(100,391.93)</u> | <u>94,651.68</u> | <u>(5,740.25)</u> |