

**ROBB EVANS &
ROBB EVANS & ASSOCIATES, LLC**

Receiver of

Fortune Hi-Tech Marketing, Inc., et al.

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**Federal Trade Commission, State of Illinois,
Commonwealth of Kentucky and State of North Carolina**

v.

Fortune Hi-Tech Marketing, Inc., et al.

CASE No. 5:13-CV-123 GFVT-REW

**Amended Notice of Filing of Motion for Approval of Settlements with
Multiple Defendants in Armenta and Burrell Actions**

Filed May 22, 2017

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF KENTUCKY

FEDERAL TRADE COMMISSION,
STATE OF ILLINOIS,
COMMONWEALTH OF KENTUCKY, and
STATE OF NORTH CAROLINA,

Plaintiffs

v.

FORTUNE HI-TECH MARKETING, INC.,
a Kentucky corporation, *et al.*,

Defendants.

No. 5:13-cv-123-GFVT-REW

**AMENDED NOTICE OF FILING OF MOTION FOR APPROVAL OF SETTLEMENTS
WITH MULTIPLE DEFENDANTS IN ARMENTA AND BURRELL ACTIONS**

PLEASE TAKE NOTICE that Robb Evans and Robb Evans & Associates LLC appointed herein as Permanent Receiver for Fortune Hi-Tech Marketing, Inc. and other related and affiliated entities (“Receiver”), has filed the Motion for Approval of Settlements with Multiple Defendants in Armenta and Burrell Actions (“Settlement Motion”). Pursuant to the Settlement Motion, the Receiver moves the Court for an order approving the Receiver’s settlements of the Receiver’s claims against certain defendants in the Receiver’s actions entitled *Evans v. Armenta, et al.*, U.S.D.C., E.D. Ky. Case No. 5:14-cv-00329-GFVT-REW (“Armenta Action”) and *Evans v. Burrell, et al.*, U.S.D.C., E.D. Ky. Case No. 5:14-cv-00330-GFVT-REW (“Burrell Action”).

A. Summary of the Compromises

The Receiver specifically seeks approval of settlements with the following defendants (the “Settling Defendants”) for the following amounts and terms:

Defendant	Total Settlement Amount	Payment Terms
Kevin Mullens and Catch the Vision, LLC	\$206,250	Stipulation for Entry of Judgment for \$271,875 (Filed Only Upon Default); \$25,000 Initial Cash Payment on Execution (not credited to judgment amount if judgment is entered for default); 8 Quarterly Payments of \$21,750; Final Payment of \$7,250 in 25th Month (Ex. 2 to Kane Decl.)
Joel McNinch	\$185,000	Stipulation for Entry of Judgment for \$202,500 (Filed Only Upon Default); \$50,000 Initial Cash Payment on Execution (not credited to judgment amount if judgment is entered for default); 8 Quarterly Payments of \$16,875 (Ex. 3 to Kane Decl.)
Joanne McMahon and Blessed Life, LLC	\$100,000	Stipulation for Entry of Judgment for \$105,000 (Filed Only Upon Default); \$30,000 Initial Cash Payment on Execution (not credited to judgment amount if judgment is entered for default); 8 Quarterly Payments of \$8,750 (Ex. 4 to Kane Decl.)
Thang Vu	\$95,000	All Cash on Execution per Settlement Agreement (Ex. 5 to Kane Decl.)
Tom Waggoner and Globalcom Network, LLC	\$74,000	All Cash on Execution per Settlement Agreement (Ex. 6 to Kane Decl.)
Susan Frank and Susan and Josh, Inc.	\$22,500	All Cash on Execution per Settlement Agreement (Ex. 7 to Kane Decl.)
Teresa Morales and Equipo Latino Corp.	\$20,000	Stipulation for Entry of Judgment for \$50,000 (Filed Only Upon Default); \$10,000 Initial Cash Payment On Execution (not credited to judgment amount if judgment is entered for default), 8 Quarterly Payments of \$1,250 (Ex 8 to Kane Decl.)
Terry Walker and Global Wealth, Inc.	\$10,000	Stipulation for Entry of Judgment for \$50,000; \$5,000 Initial Cash Payment on Execution (not credited to judgment amount if judgment is entered for default), 8 Quarterly Payments of \$625 (Ex. 9 to Kane Decl.)
Tommy Chapa	\$8,400	Stipulation for Entry of Judgment for \$50,000; 8 Quarterly Payments of \$1,050 (Ex. 10 to Kane Decl.)
Michael Misenheimer and MB Team, Inc.	\$5,000	All Cash on Execution per Settlement Agreement (Ex. 11 to Kane Decl.)
Robert Rivera	\$5,000	Stipulation for Entry of Judgment for \$50,000 (Filed Only Upon Default); 8 Quarterly Payments of \$625 (Ex. 12 to Kane Decl.)
Anna Burrell	\$1,000	All Cash on Execution per Settlement Agreement (Ex. 13 to Kane Decl.)

Each of the Settlement Agreements and Stipulations for Entry of Judgment (“Stipulations for Judgment”) (collectively “Compromises”) includes mutual releases, with the Receiver’s release of the Settling Defendants being deferred until 92 days following the last payment made under the settlement by each Settling Defendant. The Compromises include other customary provisions including (a) a “no admission of liability” by the Settling Defendants provision; (b) a provision for revival of the Receiver’s claims against the Settling Defendants if any portion of the settlement payments are recovered as Voidable Transfers (as fraudulent transfers, preferences or similar payment avoidance theory); (c) a provision for dismissal of the action as to the Settling Defendants subject to certain terms and conditions¹; (d) representations and warranties in favor of the Receiver as to the accuracy and completeness of each of the individual Settling Defendant’s financial statements and any other financial information given to the Receiver in connection with the settlements, breach of which would be a material default under the settlements; and (e) a provision requiring Court approval of the Compromises. Copies of the Compromises are attached to the Declaration of Brick Kane filed concurrently in support of the Settlement Motion.

B. Relief Sought

The Receiver seeks an order approving each of the Compromises, including an order authorizing the Receiver to take all steps necessary or reasonable to implement and perform thereunder. The Receiver further moves the Court for an order approving notice of the Settlement Motion as sufficient based on (a) service of the Settlement Motion and all supporting papers on the parties to this action; (b) service of this Notice of Filing of the Settlement Motion on all known non-consumer, non-employee creditors of the receivership estate with the Receiver offering to provide a complete copy of the Settlement Motion to any interested party upon

¹ Stipulations for Judgment provide for a dismissal order to include a retention of jurisdiction provision whereby the Court retains jurisdiction over the action and the Receiver’s claims for purposes of entering the Stipulation for Judgment if there is a later default. *See Kokkonen v. Guardian Life Insurance Co. of America*, 511 U.S. 375,381-82 (1994).

written request; and (c) posting of the Settlement Motion and supporting pleadings on the Receiver's web site for this case, without copies of the Compromises attached, in order to limit the accessibility of information concerning the Settling Defendants through the internet. All interested parties will have access to copies of the Settlement Motion and all supporting pleadings through the Court's web site, and copies may be obtained by interested creditors upon written request to the Receiver through its counsel.

The Settlement Motion is made pursuant to Local Civil Rule 7.1, applicable authority cited in the memorandum in support of the Settlement Motion, the Stipulated Preliminary Injunction filed May 28, 2013 (Doc. No. 134) and the Stipulated Order for Permanent Injunction and Monetary Judgment entered on May 9, 2014 (Doc. No. 202) and is made and based on this separate Notice of Filing of the Settlement Motion, the Settlement Motion, the supporting memorandum of points and authorities, declaration of Brick Kane and proposed order granting the Settlement Motion filed concurrently herewith, the other pleadings, records and files of the Court in this case and in the related cases of *Evans v. Armenta*, Case No. 5:14-cv-329-GFVT-REW and *Evans v. Burrell*, Case No. 5:14-cv-330-GFVT-REW of which the Receiver requests the Court take judicial notice, and on such further oral and documentary evidence and arguments of counsel as may be presented at any hearing on the Settlement Motion.

PLEASE TAKE FURTHER NOTICE that copies of the complete Settlement Motion may be obtained by interested creditors upon written request to the Receiver through its counsel whose contact information is identified in the signature blocks below.

DATED: June 22, 2017

Respectfully submitted,

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