

ROBB EVANS & ASSOCIATES LLC

Receiver of

**Homeland Financial Services, National Support Services, LLC, United Debt Recovery, LLC,
Freedom First Financial, LLC, Prosper Financial Solutions,
USA Debt Co, LLC, aka USADEBT.CO.COM and
Monitor of Nationwide Support Services, Inc.**

11450 Sheldon Street

Sun Valley, California 91352-1121

Telephone No.: (818) 768-8100

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**Federal Trade Commission v. Dennis Connelly, et al.
CASE No. SACV 06-701 DOC (RNBx)**

Notice of Motion and Motion for Order:

- (1) Approving Proposed Claims Filing and Allowance Procedures for Non-Consumer Creditors, Including Setting Claims Bar Date;**
 - (2) Approving Proposed Pro Rata Distribution to Creditors and Proposed Procedures for and Administration of Payments and Consumer Claims; and**
 - (3) Approving Limited Notice of Motion under Local Civil Rule 66-7;**
- Memorandum of Points and Authorities and Declaration of Kenton Johnson in Support Thereof**

Filed November 21, 2007

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CLERK OF DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
SANTA ANA, CALIF.

FILED

8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA

10
11 FEDERAL TRADE COMMISSION,
12 Plaintiff,
13 v.
14 DENNIS CONNELLY, et al.,
15 Defendants.

CASE NO. SACV-06-701 DOC (RNBx)
NOTICE OF MOTION AND MOTION FOR ORDER (1) APPROVING PROPOSED CLAIMS FILING AND ALLOWANCE PROCEDURES FOR NON-CONSUMER CREDITORS, INCLUDING SETTING CLAIMS BAR DATE; (2) APPROVING PROPOSED PRO RATA DISTRIBUTION TO CREDITORS AND PROPOSED PROCEDURES FOR AND ADMINISTRATION OF PAYMENTS AND CONSUMER CLAIMS; AND (3) APPROVING LIMITED NOTICE OF MOTION UNDER LOCAL CIVIL RULE 66-7; MEMORANDUM OF POINTS AND AUTHORITIES AND DECLARATIONS OF KENTON JOHNSON IN SUPPORT THEREOF

DATE: December 17, 2007
TIME: 8:30 a.m.
PLACE: Courtroom 9D



1 PLEASE TAKE NOTICE THAT on December 17, 2007 commencing at
2 8:30 a.m. or as soon thereafter as the parties may be heard in Courtroom 9D of the
3 above-entitled Court located at 411 W. 4th Street, Santa Ana, California, Robb
4 Evans and Robb Evans & Associates LLC as Permanent Receiver ("Receiver") of
5 Homeland Financial Services, Inc., National Support Services, Inc., United Debt
6 Recovery, LLC, and Financial Liberty Services, LLC (for convenience referred to
7 herein as the "Homeland Entities") will and does hereby move the Court for the
8 following relief:

9 1. An order setting a claims bar date for the receipt of claims of non-
10 consumer creditors¹ by the Receiver of January 31, 2008;

11 2. An order approving the Receiver's proposed claims filing and
12 allowance procedures as detailed in the accompanying Memorandum of Points and
13 Authorities pertaining to the claims of non-consumer creditors;

14 3. An order providing for receivership funds available for distribution to
15 creditors after payment of all administrative expenses of the estate to be distributed
16 pro rata among all consumer creditors and all non-consumer creditors;

17 4. An order providing that plaintiff Federal Trade Commission shall be
18 responsible for the implementation of a claims procedure pertaining to consumer
19 creditors of the receivership estate and for distribution of receivership funds on
20 allowed consumer claims;

21 5. An order authorizing and directing the Receiver to turn over to
22 plaintiff Federal Trade Commission the pro rata share of the receivership assets
23 available for distribution to creditors that is to be distributed on allowed consumer
24 claims; and

25 _____
26 ¹ The term "non-consumer creditors" as used in this Motion shall refer to pre-
27 receivership creditors whose claims against the receivership estate are not based on
28 injury suffered as a result of the receivership entities' providing debt or credit
counseling services to the creditor. The non-consumer creditors consist primarily
of trade or vendor creditors.

1 6. An order deeming the Receiver's service of notice of this motion and
2 the motion on the parties to this action through service on their counsel of record,
3 service of notice of the hearing on the motion on known non-consumer creditors of
4 the Homeland Entities as well as consumers who have affirmatively contacted the
5 Receiver for a refund, and the Receiver's posting of the notice of motion and
6 motion, supporting memorandum and declaration on the Receiver's website for this
7 case at <http://www.robbevans.com/html/homeland.html> pursuant to Local Civil
8 Rules 66-7 and 6-1 to be sufficient and appropriate notice under the circumstances.

9 This motion is made pursuant to Local Civil Rule 66-7 and is made and
10 based on this notice of motion and motion, the memorandum of points and
11 authorities and declaration of Kenton Johnson in support hereof, the separate notice
12 of hearing on the motion, on the pleadings, records and files of the Court in
13 connection with this action and on such other oral and documentary evidence and
14 arguments of counsel as may be presented by the Receiver prior to or at the hearing
15 on the motion.

16
17 DATED: November 20, 2007

McKENNA LONG & ALDRIDGE LLP
GARY OWEN CARIS
LESLEY ANNE HAWES

18
19
20 By: 

Gary Owen Caris
Attorneys for Permanent Receiver,
ROBB EVANS and ROBB EVANS &
ASSOCIATES LLC

1 MEMORANDUM OF POINTS AND AUTHORITIES

2 I. INTRODUCTION

3 A. Procedural History

4 This action is a civil enforcement action filed by plaintiff Federal Trade
5 Commission ("FTC") against numerous individual defendants and entities,
6 including Dennis Connolly ("Connolly"), Richard Wade Torkelson ("Torkelson"),
7 Joanne Garneau ("Garneau"), an individual formerly doing business as Prosper
8 Financial Solutions ("Prosper"), Homeland Financial Service, LLC ("Homeland"),
9 National Support Service, LLC ("National"), United Debt Recovery, LLC
10 ("United"), Freedom First Financial LLC ("Freedom"), and USA Debt Co., LLC
11 ("DebtCo"). Robina Capital, Inc. ("Robina"), a corporation owned and controlled
12 by Garneau, assumed the fictitious business name of Prosper ("Robina/Prosper").
13 By Temporary Restraining Orders entered on August 9, 2006 and August 11, 2006
14 (individually and collectively the "Restraining Order"), the Court appointed Robb
15 Evans and Robb Evans & Associates LLC as Temporary Receiver over defendants
16 Homeland, Prosper, National, United, Freedom, DebtCo and Financial Liberty
17 Services, LLC ("Liberty"), and their affiliates, subsidiaries, successors and assigns
18 and any other corporations or businesses under their control. See Temporary
19 Restraining Order entered August 11, 2006, Section X. Such orders further
20 appointed the Receiver as Monitor over the entity Nationwide Support Service, Inc.
21 ("Nationwide"). See Temporary Restraining Order entered August 11, 2006,
22 Section XII. The Court's August 11, 2006 Temporary Restraining Order which
23 also set the hearing on the Court's Order to Show Cause regarding issuance of a
24 Preliminary Injunction Order was extended from time to time by various orders of
25 the Court.

26 The Court subsequently issued three preliminary injunction orders. The
27 Stipulated Preliminary Injunction as to Defendant Joanne Garneau filed October 10,
28 2006 provided for the appointment of the Receiver as permanent receiver over

1 Robina/ Prosper, its affiliates, subsidiaries, successors and assigns and any other
2 corporations or businesses under their control, and also provided for the Receiver to
3 continue as Monitor over Nationwide. The Revised Preliminary Injunction with
4 Asset Freeze, Appointment of Receiver and Other Equitable Relief filed
5 October 18, 2006, provided for the Receiver to be appointed as Permanent Receiver
6 over Homeland, National, United, and Liberty. The Stipulated Preliminary
7 Injunction as to Defendants Freedom First Financial, LLC and USA DebtCo, LLC
8 aka USADebtCo.Com Order entered October 13, 2006 provided for the
9 appointment of Robb Evans & Associates LLC as Monitor over DebtCo and
10 Freedom and their affiliates, subsidiaries, successors and assigns and any other
11 corporations or businesses under their control.²

12 Stipulations were entered between the FTC and certain defendants that have
13 resolved the proceedings with Nationwide, DebtCo and Freedom and certain
14 receivership defendants. The FTC and defendants Garneau and Robina/Prosper
15 entered into a settlement agreement and proposed final order providing for the
16 winding up of Monitor proceedings with respect to Nationwide and the winding up
17 of the Robina/Prosper receivership and for the discharge of the Monitor over
18 Nationwide and the Receiver over Robina/Prosper. The Court approved the
19 settlement agreement, and a final judgment as to Nationwide and Robina/Prosper
20 was entered by the Court on February 23, 2007. The FTC and defendants Freedom
21 and DebtCo entered into a settlement providing for the winding up of the Monitor
22 proceedings with respect to Freedom and DebtCo and discharging the Monitor
23 which was approved by the Court on April 2, 2007. The required payments under
24 these settlements were made to the Receiver, and therefore this receivership
25 proceeding is now limited to proceedings pertaining to the Homeland Entities.

26
27 ² The October 10, 2006 Stipulated Preliminary Injunction, the October 13,
28 2006 Stipulated Preliminary Injunction and the October 18, 2006 Revised
Preliminary Injunction are referred to individually and collectively herein for
convenience as the "Preliminary Injunction Orders."

1 B. Receivership Assets and Claims Against the Estate

2 The Receiver is in the process of liquidating the remaining assets of the
3 Homeland Entities estate which principally consist of a contract claim against
4 Nationwide Support Services, Inc. (“Nationwide”) by Financial Liberty. The
5 Receiver contends a sum of not less than \$700,000 plus interest is due from
6 Nationwide.

7 There are very limited assets available for distribution on creditor claims, and
8 the claims of non-consumer creditors are dwarfed by the claims of consumer
9 creditors in this case. The Receiver estimates that there are at least \$36.4 million in
10 consumer claims against the estate held by approximately 17,000 consumers, and
11 based upon the books and records of the Homeland Entities, the Receiver calculates
12 the claims of non-consumers total \$367,848, approximately 1% of the total of
13 consumer claims. The non-consumer creditors identified in the Homeland Entities’
14 books and records consist of approximately 59 persons and entities. The Receiver
15 estimates that approximately \$250,000 to \$1,050,000 will be available for
16 distribution to all creditors in the case. As a result, the amount that will be
17 distributed to non-consumer creditors is estimated to range from \$2,500 to \$10,050,
18 representing approximately 1% of the amounts estimated to be available for
19 distribution to all creditors.

20 The Receiver has not found any basis to allow non-consumer creditors to be
21 paid before consumer creditors, and the Receiver believes that all creditors, whether
22 their claims are consumer claims or non-consumer claims, should be paid pro rata
23 from the estate assets available for distribution.

24 Based on the amounts to be distributed, the number of claimants holding
25 consumer versus non-consumer claims and the administrative expenses that would
26 be associated with the implementation of a claims allowance and payment
27 procedure for consumer creditors, the Receiver proposes that plaintiff Federal Trade
28 Commission (“FTC”) administer and implement the claims filing, allowance and

1 distribution procedures pertaining to the consumer creditors in this case, and that
2 the Receiver turn over to the FTC the portion of the receivership assets available for
3 distribution to creditors representing the pro rata amount available for payment to
4 consumer creditors.

5 The Receiver further seeks an order authorizing the Receiver to implement a
6 claims filing, allowance and distribution procedure for the non-consumer creditors
7 in the case.

8 C. The Receiver's Proposed Claims Filing and Allowance Procedures for
9 Non-Consumer Creditors

10 The Receiver proposes the following procedures for non-consumer claims to
11 be filed and allowed and for objections to be addressed:

12 1. The Receiver will provide written notice to each known non-consumer
13 creditor identified based on the books and records of the Homeland Entities. The
14 notice will include the Receiver's calculation of the non-consumer creditor's claim
15 according to the books and records available to the Receiver. The notice will
16 advise non-consumer creditors that the bar date for filing claims with the Receiver
17 is January 31, 2008 and will be posted on the Receiver's website for the case, so
18 that even persons who may not be served with the notice but who believe they have
19 a claim will be placed on notice of the claim filing deadline.

20 2. Each non-consumer claimant will be given until January 31, 2008, the
21 Claims Bar Date, to object to the proposed claim amount. The written notice will
22 advise the creditors of the January 31, 2008 deadline and that any objection by the
23 non-consumer creditor must be in writing and received by the Receiver by that date.
24 The notice will also advise that if the non-consumer creditor fails to timely object to
25 the Receiver's determination of the claim amount, then the amount set forth in the
26 Receiver's notice is deemed to be such creditor's Allowed Claim upon which
27 distributions in the case will be based.

28 3. As to any proposed non-consumer creditor claim for which the

1 Receiver receives a timely objection, the Receiver will attempt to resolve the claim
2 dispute through negotiation. If the Receiver is unable to resolve the claim through
3 negotiation, the Receiver will seek disallowance or determination of the claim
4 amount through summary claims proceedings authorized by Ninth Circuit case law
5 to resolve the claim in this Court.

6 **II. THE RECEIVER PROPOSES A PLAN OF PRO RATA**
7 **DISTRIBUTION ON ALL CREDITOR CLAIMS**

8 **A. Courts Have Broad Authority To Adopt Distribution Plans of**
9 **Receivership Assets**

10 “[A] primary purpose of equity receiverships is to promote orderly and
11 efficient administration of the estate by the district court for the benefit of
12 creditors.” S.E.C. v. Hardy, 803 F.2d 1034, 1038 (9th Cir. 1986); See also, S.E.C.
13 v. Wencke, 783 F.2d 829, 837 (9th Cir. 1986) (“The primary purpose of allowing
14 courts to establish receiverships in securities fraud actions is to prevent further
15 dissipation of the assets of the defrauded investors . . .”). Accordingly, courts are
16 granted “broad powers” and “wide discretion” in supervising and fashioning
17 appropriate relief in an equity receivership to achieve this purpose. S.E.C. v.
18 Elliott, 953 F.2d 1560, 1566 (11th Cir. 1992); S.E.C. v. Hardy, 803 F.2d at 1037.

19 The pro rata distribution plan proposed by the Receiver treats all claimants
20 alike by dividing the receivership assets available for distribution among the
21 consumer and non-consumer creditors according to the Allowed Claims of such
22 creditors. The plan is consistent with the equal distribution goals of an equity
23 receivership and recognizes that no apparent distinction exists under the facts and
24 circumstances of this case that would justify disparate treatment of the claims of
25 consumers and non-consumer creditors.

1 A. The Court May Summarily Determine the Allowance or Disallowance
2 of Disputed Claims

3 The equity powers of the District Court to issue orders pertaining to the
4 administration of a receivership estate were discussed at length by the Ninth Circuit
5 in S.E.C. v. Hardy, 803 F. 2d 1034 (9th Cir. 1986). In its decision, the Court
6 articulated two overriding principals of law:

7 First, a district court's power to supervise an equity
8 receivership and to determine the appropriate action to be
9 taken in the administration of the receivership is
10 extremely broad. . . . The basis for broad deference to the
11 district court's supervisory role in equity receiverships
12 arises out of the fact that most receiverships involve
13 multiple parties and complex transactions.

14 . . .

15 Secondly, we have acknowledged that a primary purpose
16 of equity receiverships is to promote orderly and efficient
17 administration of the estate by the district court for the
18 benefit of creditors. [Citations omitted.] Accordingly, we
19 generally uphold reasonable procedures instituted by the
20 district court that serve this purpose. [Citations omitted.]
21 S.E.C. v. Hardy, 803 F. 2d at 1037-1038.

22 The Ninth Circuit has noted these policies support its upholding the use of
23 summary proceedings in the receivership court to resolve claims:

24 The use of such proceedings enables a receiver to
25 consolidate all litigation concerning his receivership in a
26 single district court and before a single district judge, and
27 to avoid formalities that would slow down the resolution
28 of disputes. This promotes judicial efficiency and reduces

1 litigation costs to the receivership. [Citations omitted.]

2 The primary purpose of allowing courts to establish
3 receiverships in securities fraud actions is to prevent
4 further dissipation of assets of the defrauded investors; the
5 use of summary post-judgment proceedings helps to
6 effectuate this. S.E.C. v. Wencke, 783 F. 2d 829, 837 n. 9
7 (9th Cir. 1986), cited with approval in S.E.C. v. Hardy,
8 803 F. 2d 1034.

9 The Receiver is optimistic that it may be able to fully resolve the claim
10 amounts of non-consumer creditors without further hearing given the limited assets
11 available for distribution and the procedures proposed herein which will promote a
12 negotiated resolution of any disputes. Only if those means fail and if otherwise
13 justified under the circumstances would the Receiver proceed with summary claims
14 determinations before the Court. Notification of creditors that the Receiver will
15 seek summary claims resolution if a disputed cannot be consensually resolved may
16 facilitate the out-of-court resolution of the claim amounts.

17 **III. NOTICE OF THIS MOTION IS SUFFICIENT AND APPROPRIATE**
18 **UNDER THE CIRCUMSTANCES**

19 Local Civil Rule 66-7 provides for service of notice of applications for
20 payment of Receiver's fees and expenses on all parties to the action and "on all
21 known creditors of the defendant." Local Rule 66-7 further states that Local Civil
22 Rule 6-1 applies to the notice, and Local Rule 6-1 provides that "unless otherwise
23 ordered by the Court," service of the notice of motion and motion is to be made not
24 later than 24 days in advance of the hearing. As to the Homeland Entities,
25 Homeland itself and other receivership entities ceased doing business prior to the
26 Receiver's appointment. Not including the thousands of potential consumer
27 creditors, the Receiver has compiled a list of non-consumer creditors from
28 receivership records and a small number of potential consumer creditors who have

1 affirmatively contacted the Receiver for a refund. The Receiver has caused the
2 known non-consumer creditors and consumers who have contacted the Receiver for
3 a refund to date to be served with notice of hearing on this motion. Consumer
4 claims will be administered by the FTC under the Receiver's proposal, and very
5 modest sums will be paid to the non-consumer creditors given that they represent
6 roughly 1% of the consumer claims (and would therefore receive 1% of the
7 available assets for distribution). The Receiver's analysis of potential consumer
8 claimants is still at a preliminary stage, and it is neither practical nor cost-effective
9 for the receivership estate to serve notice of the hearing on the motion at this time
10 on the thousands of potential consumer claimants who may have done business
11 with the receivership entities. For these reasons, the Receiver submits that notice of
12 this motion should be deemed sufficient and appropriate under the circumstances
13 based on service of the motion on the parties to the action through their respective
14 counsel of record as well as service of a notice of the hearing on the motion on the
15 known non-consumer creditors and the consumers who have affirmatively
16 requested a refund, and posting of the motion on the Receiver's website for this
17 matter.

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IV. CONCLUSION

Based upon the foregoing, the Receiver respectfully requests that the Court grant this motion.

DATED: November 20 2007

McKENNA LONG & ALDRIDGE LLP
GARY OWEN CARIS
LESLEY ANNE HAWES

By: 

Gary Owen Caris
Attorneys for Permanent Receiver,
ROBB EVANS and ROBB EVANS &
ASSOCIATES LLC

DECLARATION OF KENTON JOHNSON

I, Kenton Johnson, declare:

1. I am a Deputy to the Permanent Receiver Robb Evans and Robb Evans & Associates LLC, and am a member in Robb Evans & Associates LLC. I have personal knowledge of the matters set forth in this declaration, and if I were called upon to testify as to these matters, I could and would competently testify based upon my personal knowledge.

2. On August 9, 2006 and August 11, 2006, the Court issued two Temporary Restraining Orders in this action against numerous individual defendants and entities, including Dennis Connolly (“Connolly”), Richard Wade Torkelson (“Torkelson”), Joanne Garneau (“Garneau”), an individual formerly doing business as Prosper Financial Solutions (“Prosper”), Homeland Financial Service, LLC (“Homeland”), National Support Service, LLC (“National”), United Debt Recovery, LLC (“United”), Freedom Financial LLC (“Freedom”), and USA Debt Co., LLC (“DebtCo”). Robina Capital, Inc. (“Robina”), a corporation owned and controlled by Garneau, assumed the fictitious business name of Prosper. The Temporary Restraining Orders appointed Robb Evans and Robb Evans & Associates LLC as Temporary Receiver over defendants Homeland, Prosper, National, United, Freedom, DebtCo and Financial Liberty Services, LLC (“Liberty”), and their affiliates, subsidiaries, successors and assigns and any other corporations or businesses under their control. Such orders further appointed the Receiver as Monitor over the entity Nationwide Support Service, Inc. (“Nationwide”).

3. The Court subsequently issued three preliminary injunction orders pertaining to the receivership entities and the monitored entities Nationwide, DebtCo and Freedom. The Stipulated Preliminary Injunction as to Defendant Joanne Garneau filed October 10, 2006 provided for the appointment of the Receiver as permanent receiver over Robina/ Prosper, its affiliates, subsidiaries,

1 successors and assigns and any other corporations or businesses under their control,
2 and also provided for the Receiver to continue as Monitor over Nationwide. The
3 Revised Preliminary Injunction with Asset Freeze, Appointment of Receiver and
4 Other Equitable Relief filed October 18, 2006, provided for the Receiver to be
5 appointed as Permanent Receiver over Homeland, National, United, and Liberty.
6 The Stipulated Preliminary Injunction as to Defendants Freedom First Financial,
7 LLC and USA DebtCo, LLC aka USADebtCo.Com Order entered October 13,
8 2006 provided for the appointment of Robb Evans & Associates LLC as Monitor
9 over DebtCo and Freedom and their affiliates, subsidiaries, successors and assigns
10 and any other corporations or businesses under their control.

11 4. Stipulations were entered between the FTC and certain defendants that
12 have resolved the proceedings with Nationwide, DebtCo and Freedom and certain
13 receivership defendants. The FTC and defendants Garneau and Robina/Prosper
14 entered into a settlement agreement and proposed final order providing for the
15 winding up of Monitor proceedings with respect to Nationwide and the winding up
16 of the Robina/Prosper receivership and for the discharge of the Monitor over
17 Nationwide and the Receiver over Robina/Prosper. The Court approved the
18 settlement agreement, and a final judgment as to Nationwide and Robina/Prosper
19 was entered by the Court on February 23, 2007. The FTC and defendants Freedom
20 and DebtCo entered into a settlement providing for the winding up of the Monitor
21 proceedings with respect to Freedom and DebtCo and discharging the Monitor
22 which was approved by the Court on April 2, 2007. The required payments under
23 these settlements were made to the Receiver, and therefore this receivership
24 proceeding is now limited to proceedings pertaining to the Homeland Entities.

25 5. The Receiver is in the process of liquidating the remaining assets of
26 the Homeland Entities estate which principally consist of a contract claim against
27 Nationwide Support Services, Inc. ("Nationwide") by Financial Liberty. There are
28 very limited assets available for distribution on creditor claims. The Receiver

1 estimates that there are at least \$36.4 million in consumer claims against the estate
2 held by approximately 17,000 consumers. Based upon the books and records of the
3 Homeland Entities, the Receiver calculates the claims of non-consumers total
4 \$367,848, approximately 1% of the total of consumer claims. The non-consumer
5 creditors identified in the Homeland Entities' books and records consist of
6 approximately 59 persons and entities. The Receiver estimates that approximately
7 \$250,000 to \$1,050,000 will be available for distribution to all creditors in the case.
8 As a result, the amount that will be distributed to non-consumer creditors is
9 estimated to range from \$2,500 to \$10,050, representing approximately 1% of the
10 amounts estimated to be available for distribution to all creditors.

11 6. The Receiver has not found any basis to allow non-consumer creditors
12 to be paid before consumer creditors. The Receiver believes that all creditors,
13 whether their claims are consumer claims or non-consumer claims, should be paid
14 pro rata from the estate assets available for distribution.

15 7. Based on the amounts to be distributed, the number of claimants
16 holding consumer versus non-consumer claims and the administrative expenses that
17 would be associated with the implementation of a claims allowance and payment
18 procedure for consumer creditors, the Receiver proposes that plaintiff Federal Trade
19 Commission ("FTC") administer and implement the claims filing, allowance and
20 distribution procedures pertaining to the consumer creditors in this case, and that
21 the Receiver turn over to the FTC the portion of the receivership assets available for
22 distribution to creditors representing the pro rata amount available for payment to
23 consumer creditors.

24 8. The Receiver further seeks an order authorizing the Receiver to
25 implement a claims filing, allowance and distribution procedure for the non-
26 consumer creditors in the case. The Receiver's proposed procedures are the
27 following:

28 A. The Receiver proposes to provide written notice to each known non-

1 consumer creditor identified based on the books and records of the Homeland
2 Entities. The notice will include the Receiver's calculation of the non-consumer
3 creditor's claim according to the books and records available to the Receiver. The
4 notice will advise non-consumer creditors that the bar date for filing claims with the
5 Receiver is January 31, 2008 and will be posted on the Receiver's website for the
6 case, so that even persons who may not be served with the notice but who believe
7 they have a claim will be placed on notice of the claim filing deadline.

8 B. Each non-consumer claimant will be given until January 31, 2008, the
9 Claims Bar Date, to object to the proposed claim amount. The written notice will
10 advise the creditors of the January 31, 2008 deadline and that any objection by the
11 non-consumer creditor must be in writing and received by the Receiver by that date.
12 The notice will also advise that if the non-consumer creditor fails to timely object to
13 the Receiver's determination of the claim amount, then the amount set forth in the
14 Receiver's notice will be deemed to be such creditor's Allowed Claim upon which
15 distributions in the case shall be based.

16 C. As to any proposed non-consumer creditor claim for which the
17 Receiver receives a timely objection, the Receiver will attempt to resolve the claim
18 dispute through negotiation. If the Receiver is unable to resolve the claim through
19 negotiation, the Receiver will seek disallowance or determination of the claim
20 amount through summary claims proceedings in this Court.

21 9. Homeland and certain other receivership entities ceased doing business
22 prior to the Receiver's appointment. Not including the thousands of potential
23 consumer creditors, the Receiver has compiled a list of non-consumer creditors
24 from receivership records and of the small number of potential consumer creditors
25 who have affirmatively contacted the Receiver for a refund. The Receiver has
26 caused the known non-consumer creditors and consumers who have contacted the
27 Receiver for a refund to date to be served with notice of the hearing on this motion.
28 The Receiver has also caused the motion to be served on the parties to this action

1 through their counsel of record. The Receiver will also cause a copy of the notice
2 of motion and motion, supporting memorandum and declaration to be posted on the
3 Receiver's website for this case at <http://www.robbevans.com/html/homeland.html>.

4 10. Consumer claims will be administered by the FTC under the
5 Receiver's proposal, and very modest sums will be paid to the non-consumer
6 creditors given that they represent roughly 1% of the consumer claims (and would
7 therefore receive 1% of the available assets for distribution). The Receiver's
8 analysis of potential consumer claimants is still at a preliminary stage, and it is
9 neither practical nor cost-effective for the receivership estate to serve notice of the
10 hearing on the motion at this time on the thousands of potential consumer claimants
11 who may have done business with the receivership entities. For these reasons, the
12 Receiver submits that notice of this motion should be deemed sufficient and
13 appropriate under the circumstances based on service of the motion on the parties to
14 the action through their respective counsel of record as well as service of a notice of
15 the hearing on the motion on the known non-consumer creditors and the consumers
16 who have affirmatively requested a refund, and posting of the motion on the
17 Receiver's website for this matter.

18 I declare under penalty of perjury that the foregoing is true and correct and
19 that this declaration was executed on November 20, 2007 at Sun Valley, California.

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21 
22 KENTON JOHNSON
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