

**ROBB EVANS OF
ROBB EVANS & ASSOCIATES LLC
Receiver of I Works, Inc., et al. and
the Assets of Jeremy Johnson**

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**Federal Trade Commission v. Jeremy Johnson, I Works, Inc., et al.
CASE No. 2:10-CV-02203-MMD-GWF**

Notice of Filing of Motion for Order:

- (1) Authorizing, Approving and Confirming Sale of Two Sod Parcels in Hurricane, Utah, Approving Sale and Overbid Procedures and for Related Relief; and**
- (2) Granting Relief from Local Rule 66-5 Pertaining to Notice to Creditors**

Filed August 14, 2014

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15 **ROBB EVANS OF ROBB EVANS & ASSOCIATES**
16 **LLC**

17 **UNITED STATES DISTRICT COURT**

18 **DISTRICT OF NEVADA**

19 FEDERAL TRADE COMMISSION,

20 Plaintiff,

21 v.

22 JEREMY JOHNSON, etc., et al.,

23 Defendants.

Case No. 2:10-CV-02203-MMD-GWF

**NOTICE OF FILING OF MOTION FOR
ORDER (1) AUTHORIZING,
APPROVING AND CONFIRMING SALE
OF TWO TURF SOD PARCELS IN
HURRICANE, UTAH, APPROVING
SALE AND OVERBID PROCEDURES
AND FOR RELATED RELIEF; AND (2)
GRANTING RELIEF FROM LOCAL
RULE 66-5 PERTAINING TO NOTICE
TO CREDITORS**

1 PLEASE TAKE NOTICE that Robb Evans of Robb Evans & Associates LLC
2 (“Receiver”), the Receiver pursuant to the Court’s Preliminary Injunction Order issued February
3 10, 2011, has filed concurrently herewith his Motion for Order: (1) Authorizing, Approving and
4 Confirming Sale of Two Turf Sod Parcels in Hurricane, Utah and Approving Sale and Overbid
5 Procedures and for Related Relief; and (2) Granting Relief from Local Rule 66-5 Pertaining to
6 Notice to Creditors (“Motion”). Pursuant to the Motion, the Receiver moves the Court for the
7 following relief:

8 1. An order approving the Receiver’s proposed sale and overbid procedures for the
9 sale of the two parcels of real property located on Turf Sod Road in Hurricane, Utah consisting of
10 an approximate 5.11 acre parcel, Assessor's Tax Id. No. H-4-2-10-223 and an approximate 19.9
11 acre parcel, Assessor's Tax Id No. H-4-2-10-222 (“Two Turf Sod Parcels”) and authorizing and
12 confirming the sale of the Two Turf Sod Parcels on an “as is” basis more fully described in the
13 sale contract documents by private sale either (a) to Christopher Wyler (“Proposed Buyer”), an
14 arm’s length buyer, at a purchase price of \$225,000 pursuant to the Real Estate Purchase Contract
15 dated June 16, 2014, Addendum No. 1 and Counteroffer to Real Estate Purchase Contract dated
16 June 17, 2014, Addendum (As Is) and Additional Terms attachments attached thereto, Addendum
17 No. 2 to Real Estate Purchase Contract dated and accepted as of July 16, 2014, and Addendum
18 No. 3 to Real Estate Purchase Contract dated and accepted as of July 30, 2014 attached
19 collectively as Exhibit 2 to the Declaration of M. Val Miller in support of the Motion (collectively
20 “Proposed Purchase Agreement”), or (b) to such higher qualified overbidder who hereafter
21 submits the highest qualified overbid at a subsequent overbid session to be conducted under the
22 terms and conditions more fully set forth herein and approved by the Court, which sale the
23 Receiver requests be approved and confirmed without further notice, hearing or order. The
24 overbid procedures, terms and conditions for which the Receiver seeks approval include the
25 following:

26 A. The overbid session shall be conducted within 30 days of the date of entry of the
27 order granting the Motion. The overbid session will be conducted at the offices of NAI Utah
28 Southern Region, 243 East St. George Blvd., Suite 200, St. George, Utah 84770;

1 B. The Receiver will cause to be published a notice of the proposed sale of the Two
2 Turf Sod Parcels to a qualified bidder at the overbid session to be conducted under paragraph 1.A.
3 above, which notice shall state the date, time and place of the overbid session, the requirement for
4 pre-qualification by overbidders and the terms and conditions of the overbidding and sale of the
5 property, as described below (“Overbid Notice”). The Receiver will cause the Overbid Notice to
6 be published in The Spectrum newspaper one time at least ten days prior to the scheduled overbid
7 session date. The Spectrum is a daily newspaper of general circulation that covers Southern Utah
8 and specifically Hurricane where the Two Turf Sod Parcels are located.

9 C. Any person wishing to overbid at the overbid session shall be required to pre-
10 qualify with the Receiver no later than 10:00 a.m. two business days preceding the overbid
11 session by delivering to the Receiver’s office located at 6037 S. Ft. Apache Road, Suite 130, Las
12 Vegas, Nevada 89148: (a) notice in writing of the prospective overbidder’s intent to overbid
13 together with (b) written verification from a financial institution demonstrating to the Receiver’s
14 satisfaction, in the Receiver’s sole opinion and judgment, the prospective overbidder’s ability to
15 complete and close a purchase of the Two Turf Sod Parcels through sufficient funds or credit
16 facilities within 20 days of the date of the overbid session, and (c) a cashier’s check in the sum of
17 \$10,000 payable to I Works Inc. Receivership QSF, which cashier’s check shall become non-
18 refundable upon acceptance of the overbidder’s overbid at the conclusion of the overbid session.

19 D. Overbidders bidding at the overbid session will be deemed to have completed all
20 inspections of the Two Turf Sod Parcels and will be deemed to have waived and/or removed all
21 contingencies in favor of the buyer under the Proposed Purchase Agreement, including without
22 limitation any contingency pertaining to inspection of title, and will be required to complete a
23 cash purchase of the Two Turf Sod Parcels and close escrow for the purchase of the Two Turf
24 Sod Parcels within 20 days of the date of the overbid session. The successful overbidder will be
25 required to execute a purchase agreement for the Two Turf Sod Parcels substantially in the form
26 of the Proposed Purchase Agreement together with a waiver of all buyer contingencies promptly
27 after conclusion of the overbid session.

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1 E. The initial overbid shall be in the amount of \$247,500.00 (an amount that is
2 \$22,500, or 10%, higher than the purchase price under the Proposed Purchase Agreement), and all
3 subsequent overbids shall be in an amount at least \$10,000 higher than the preceding bid.

4 F. Pursuant to the Proposed Purchase Agreement and the Receiver's listing
5 agreement with Jason Griffith and Meeja McAllister of Brokers Commercial, LLC dba NAI Utah
6 Southern Region ("Broker"), a sales commission in the amount of 6% of the purchase price paid
7 for the Two Turf Sod Parcels by the Proposed Buyer, or if a higher overbid is received and
8 accepted at the overbid session, by the winning overbidder, shall be paid from the proceeds of
9 sale of the Two Turf Sod Parcels at close of escrow and shall be paid to the Broker as listing
10 agent under the listing agreement, or if the winning overbidder is represented by a cooperating
11 broker, shall be divided and paid equally to the Broker as the listing agent and the buyer's
12 cooperating broker, under the terms of the listing agreement.

13 G. The sale of the Two Turf Sod Parcels by private sale to the Proposed Buyer under
14 the Proposed Purchase Agreement, or to the person who submits the highest qualified overbid at
15 the overbid session to be conducted pursuant to the foregoing procedures, will be deemed
16 confirmed by Order on the Motion without further notice or hearing and without the necessity of
17 any subsequent motion for confirmation of the sale;

18 2. An order authorizing the Receiver to execute all documents and instruments
19 necessary or convenient to complete, implement, effectuate and close the sale of the Two Turf
20 Sod Parcels to the purchaser, including but not limited to the deed conveying title to the Two Turf
21 Sod Parcels;

22 3. An order authorizing the Receiver to permit and/or cause to be paid from the
23 proceeds of sale all ordinary and customary closing costs, all costs and expenses required to be
24 paid under the terms of the Proposed Purchase Agreement by the seller from the proceeds of sale,
25 all commissions provided for in the Proposed Purchase Agreement, the Receiver's listing
26 agreement for the property attached as Exhibit 1 to the Declaration of M. Val Miller in support of
27 the Motion and the Motion, and all real property tax liens and prorated real property taxes due up
28 to the date of closing;

1 4. An order deeming notice of the Motion to be sufficient under Local Civil Rule 66-
2 5 based on the service of a notice of the filing of the Motion and the Motion on all parties and
3 service of a notice of the filing of the Motion on all known non-consumer creditors of the estate
4 and on all known taxing authorities with a potential claim in the receivership estate concurrent
5 with the filing of the Motion with the Court, but not on the tens of thousands of potential
6 consumer creditors; and

7 5. An order for such additional relief as may be necessary or appropriate to allow the
8 Receiver to effectuate the sale of the Two Turf Sod Parcels, including but not limited to, entry of
9 an order authorizing such sale in form acceptable to the title company insuring title in connection
10 with the sale of the Two Turf Sod Parcels.

11 The Motion is made pursuant to 28 U.S.C. § 2001 and 2002 and Local Civil Rules 66-5
12 and 66-10 and other applicable law and is based upon this notice of filing of the Motion, the
13 Notice of Motion and Motion, the Memorandum of Points and Authorities, the Declaration of M.
14 Val Miller filed in support of the Motion, any reply, on all pleadings, records and files of the

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1 Court in this action of which the Receiver requests judicial notice, and upon all other evidence
2 and arguments of counsel as may be presented to the Court by the Receiver in support of the
3 Motion.

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5 Dated: August 14, 2014

Respectfully submitted,

6 RANDOLPH L. HOWARD
7 KOLESAR & LEATHAM, CHTD.

8 MCKENNA LONG & ALDRIDGE LLP
9 GARY OWEN CARIS
10 LESLEY ANNE HAWES

11 By: /s/ Gary Owen Caris

12 Gary Owen Caris
13 Lesley Anne Hawes

14 Attorneys for Receiver
15 **ROBB EVANS OF ROBB EVANS &
ASSOCIATES LLC**

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