

**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 Emergency Motion for Order:

- (1) Authorizing Receiver to List and Offer for Sale Property Located at 573 Woodsvie Circle, St. George, Utah;**
- (2) Compelling Jason Vowell and All Others Residing at the 573 Woodsvie Circle Property to Vacate and Turnover Possession to the Receiver and for Related Relief; and**
- (3) Granting Relief from Local Rule 66-5 Pertaining to Notice to Creditors;**

Filed September 8, 2014

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11 **ROBB EVANS OF ROBB EVANS & ASSOCIATES
LLC**

12
13 **UNITED STATES DISTRICT COURT**

14
15 **DISTRICT OF NEVADA**

16 FEDERAL TRADE COMMISSION,

17 Plaintiff,

18 v.

19 JEREMY JOHNSON, etc., et al.,

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

**NOTICE OF FILING OF EMERGENCY
MOTION FOR ORDER:
(1) AUTHORIZING RECEIVER TO LIST
AND OFFER FOR SALE PROPERTY
LOCATED AT 573 S. WOODS VIEW
CIRCLE, ST. GEORGE, UTAH; (2)
COMPELLING JASON VOWELL AND
ALL OTHERS RESIDING AT THE 573 S.
WOODSVIEW CIRCLE PROPERTY TO
VACATE AND TURNOVER
POSSESSION TO THE RECEIVER AND
FOR RELATED RELIEF; AND
(3) 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 the Emergency Motion for Order: (1) Authorizing
4 Receiver to List and Offer for Sale Property Located at 573 S. Woods View Circle, St. George,
5 Utah; (2) Compelling Jason Vowell and All Others Residing at the 573 S. Woods View Circle
6 Property to Vacate and Turnover Possession to the Receiver and for Related Relief; and (3)
7 Granting Relief from Local Rule 66-5 Pertaining to Notice to Creditors ("Motion"). Pursuant to
8 the Motion, the Receiver moves the Court, **on an emergency basis**, for an order for the following
9 relief :

10 1. An order authorizing the Receiver to list and market for sale that certain single
11 family residence located at 573 S. Woods View Circle, St. George, Utah ("573 Woodsvew");

12 2. An order authorizing the Receiver to engage Keller Williams, a local real estate
13 agent brokerage experienced in the sale of residential real property in St. George, Utah (the
14 "Broker"), and to enter into an exclusive listing agreement with the Broker providing for ordinary
15 and customary terms and conditions for the listing of the similar real property assets, including
16 the payment of ordinary and customary sales commissions for 573 Woodsvew, providing for
17 ordinary and customary advertising expenses, and further providing that acceptance of offers and
18 completion of any sale of 573 Woodsvew is subject to entry of an order of this Court approving
19 such sale after notice and an opportunity for hearing and is further subject to an overbidding
20 session to be conducted by the Receiver after publication of notice of the opportunity to overbid;

21 3. An order directing Jason Vowell ("Vowell") and all others in privity with him
22 residing at or in possession of 573 Woodsvew to (a) permanently leave and vacate 573
23 Woodsvew, (b) turn over full and exclusive possession, custody and control of 573 Woodsvew
24 to the Receiver, and (c) remove all of their personal property located at 573 Woodsvew,
25 exclusive of improvements, buildings, fixtures, appurtenances or other personal property attached
26 thereto, within seven days of the date of entry of an order on the Motion;

27 4. An order for a for a writ of assistance authorizing and directing the United States
28 Marshal and his deputies, commencing on the eighth day after the date of entry of the Order on

1 the Motion, to take all actions reasonably necessary to bring about the removal and ejection of
2 Vowell and all others in privity with him residing at or in the possession of 573 Woodsvie, from
3 possession, custody and control of 573 Woodsvie if they have not permanently vacated and
4 turned over full and exclusive possession, custody and control of 573 Woodsvie to the Receiver
5 within seven days following the date of entry of the order on the Motion;

6 5. An order deeming abandoned all personal property remaining at 573 Woodsvie
7 after Vowell and all others in privity with him residing at or in possession of 573 Woodsvie
8 vacate 573 Woodsvie, whether they vacate the property in compliance with paragraph 3 above
9 or after removal by the United States Marshal under paragraph 4 above;

10 6. An order for such other and further relief and orders of the Court as may be just
11 and proper in order to place the Receiver in exclusive possession, custody and control of 573
12 Woodsvie and to exclude Vowell, and all others in privity with him, from possession, custody
13 and control of 573 Woodsvie and so as to permit the Receiver to take the steps the Receiver
14 deems necessary or convenient to market and sell 573 Woodsvie; and

15 7. An order deeming notice of the Motion to be sufficient under Local Civil Rule 66-
16 5 based on the service of this notice of the filing of the Motion and the Motion on all parties, and
17 on Vowell, and service of this notice of the filing of the Motion on all known non-consumer
18 creditors of the estate concurrent with the filing of the Motion with the Court, but not on the tens
19 of thousands of potential consumer creditors.

20 **EMERGENCY RELIEF**

21 The 573 Woodsvie property is property of the receivership estate, titled to Receivership
22 Defendants Lift Off Financial, LLC ("Lift Off"), one of the Jason Vowell Entities that is
23 identified as a Receivership Defendant and receivership property in the Order Granting Motion
24 for Order Clarifying Preliminary Injunction Order and for Further Instructions Regarding Scope
25 of Receivership Defendants under Preliminary Injunction Order and Report of Receiver's
26 Financial Reconstruction and Granting Relief from Local Rule 66-5 Pertaining to Notice to
27 Creditors After Hearing ("Clarifying Order") entered March 25, 2013. Vowell has been residing
28 in the 573 Woodsvie property since entry of the Clarifying Order except for a period of

1 approximately one year, during which time he was incarcerated on federal drug charges. He was
2 released from incarceration on June 13, 2014.

3 After the Clarifying Order was entered, and during the time that Vowell was incarcerated,
4 the Receiver, in his discretion, determined not to seek to obtain exclusive possession and control
5 of the 573 Woodsvie property in order to provide Vowell an opportunity to reach an acceptable
6 arrangement to pay the receivership estate the value of the 573 Woodsvie property or otherwise
7 reach a settlement with the Receiver concerning the assets of Vowell and the Jason Vowell
8 Entities that are subject to the Preliminary Injunction and Clarifying Order. After months of
9 discussions and unsuccessful negotiations, the Receiver advised Vowell on July 16, 2014 that if
10 no proposal for the purchase of the 573 Woodsvie property was made by July 31, 2014 that was
11 acceptable to the Receiver, the Receiver would expect Vowell to vacate 573 Woodsvie and turn
12 over possession and control of the property to the Receiver by August 31, 2014.

13 No acceptable agreement has been reached, no proposal for a cash payment to the estate
14 of the value of the 573 Woodsvie property from sources with the demonstrated ability to pay
15 has been made at any time since the entry of the Clarifying Order by or on behalf of Vowell, and
16 on August 1, 2014, the Receiver made written demand on Vowell for turnover of possession of
17 the property by August 31, 2014. On August 28, 2014, the Receiver renewed his demand for
18 turnover of possession of the 573 Woodsvie property and explicitly advised Vowell that the
19 Receiver would proceed to obtain relief from the Court to cause him to vacate the premises and to
20 allow the Receiver to list and market the property. **The Receiver has also confirmed to Vowell**
21 **on multiple occasions that the Receiver will propose a private sale of the property subject to**
22 **the right of third parties, including Vowell, to submit overbids after publication of notice of**
23 **the overbidding session, providing him with additional time and an opportunity to obtain**
24 **funding to allow him to purchase the property.** Despite the Receiver's efforts to work with
25 him and provide him an extended opportunity to find the funds to acquire the property, Vowell
26 failed to comply with the Receiver's demand for turnover of the property and has not made
27 acceptable arrangements with the Receiver for turnover of possession of the property to the
28 Receiver despite his having had at least 45 days' notice in writing of the deadline for him to

1 vacate and despite the Receiver's providing him with more than fourteen months' time to make
2 arrangements for funding or financing to pay the estate the value of the property if Vowell wished
3 to remain in possession of the property.

4 Emergency relief is necessary to allow the Receiver to immediately recover possession
5 and control of the 573 Woodsvie property based on Vowell's continued occupation of the
6 property in violation of the Receiver's demands and in order to allow the Receiver to immediately
7 begin preparing the property for listing and sale. The property requires ongoing maintenance
8 expenses, insurance and is subject to accruing real estate taxes. The Court has previously granted
9 an emergency motion to approve the listing and sale of three other properties on Woodsvie that
10 constitute receivership properties acquired in the names of certain of the Todd Vowell Entities.¹
11 *See* Doc. No. 1139.

12 The Motion is made pursuant to Local Civil Rules 7-2, 7-5 and 66-5, 28 U.S.C. §§ 2001
13 and 1651, F.R. Civ. P. Rules 70 and 71, and other applicable law. The Motion is based upon this
14 separate Notice of Filing of the Motion, the Motion filed with the Court concurrently herewith,
15 the memorandum of points and authorities, the Declarations of Brick Kane and Gary Owen Caris
16 filed in support of the Motion, the proposed order on the Motion filed concurrently herewith, any
17 reply, on the pleadings, records and files of the Court in this receivership proceeding of which the
18 Receiver requests the Court take judicial notice, including without limitation the Preliminary
19 Injunction (Doc. No. 130), the Report of Receiver's Financial Reconstruction filed February 3,
20 2012 (Doc. No. 464) which is supported by a four-volume Appendix of Exhibits (Doc. Nos. 465-
21 468) (collectively "Second Report"), the Clarifying Order, and on such further oral and
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28 ¹ Todd Vowell is Jason Vowell's brother. Todd Vowell entered into a comprehensive settlement
with the Receiver, approved by the Court on December 11, 2013. *See* Doc. No. 1303.

1 documentary evidence and arguments of counsel as may be presented at any hearing on the
2 Motion.

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4 Dated: September 8, 2014

Respectfully submitted,

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By: /s/ Gary Owen Caris

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