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ROBB EVANS & ASSOCIATES LLC  
Receiver of MRI International Inc., et al  
11450 Sheldon Street  
Sun Valley, California 91352

5560 South Fort Apache Road, Suite 120  
Las Vegas, Nevada 89148

**ROBB EVANS & ASSOCIATES LLC  
RECEIVER**

<input checked="" type="checkbox"/> FILED	<input type="checkbox"/> RECEIVED
<input type="checkbox"/> ENTERED	<input type="checkbox"/> SERVED ON
COUNSEL/PARTIES OF RECORD	
<div style="border: 1px solid black; padding: 5px; width: fit-content; margin: 0 auto;"> <p>JUL 16 2015</p> </div>	
CLERK US DISTRICT COURT DISTRICT OF NEVADA	
BY: _____	DEPUTY _____

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

SECURITIES AND EXCHANGE  
COMMISSION,

Plaintiff,

v.

EDWIN YOSHIHIRO FUJINAGA and  
MRI INTERNATIONAL, INC.,

Defendants,

and

CSA SERVICE CENTER, LLC,  
THE FACTORING COMPANY,  
JUNE FUJINAGA, and  
THE YUNJU TRUST,

Relief Defendants.

CASE NO. 2:13-CV-1658-JCM-CWH

**NOTICE OF MOTION AND  
MOTION FOR ORDER (1)  
APPROVING AND  
AUTHORIZING PAYMENT OF  
RECEIVER'S AND  
PROFESSIONALS' FEES AND  
EXPENSES FROM FEBRUARY  
23, 2015 THROUGH MARCH 31,  
2015; AND (2) GRANTING  
RELIEF FROM LOCAL RULE 66-  
5 PERTAINING TO NOTICE TO  
CREDITORS; MEMORANDUM  
OF POINTS AND AUTHORITIES  
IN SUPPORT THEREOF**

1 PLEASE TAKE NOTICE that Robb Evans & Associates LLC (“receiver”)  
2 as receiver of MRI International Inc. et al. pursuant to the order issued by the court  
3 on February 23, 2015, hereby moves the court for the following relief:

4 1. An order approving and authorizing payment of receivership fees and  
5 expenses incurred for the period from February 23, 2015 through March 31, 2015  
6 (“expense period”), including the fees of the receiver, the receiver’s members and  
7 staff in the sum of \$71,831.55 and receiver’s costs in the sum of \$1,489.73, for total  
8 receiver’s fees and expenses incurred in the expense period of \$73,321.28; and

9 2. An order deeming notice of this motion to be sufficient under Local  
10 Civil Rule 66-5 based on the service of the notice of the filing of this motion and  
11 the motion on all parties and service of the notice of the filing of the motion on all  
12 known non-consumer creditors of the estate concurrent with the filing of this  
13 motion with the court.

14 This motion is made pursuant to Local Civil Rules 7-2 and 66-5 and is based  
15 upon this notice of motion and motion, the separate notice of filing of the motion  
16 served concurrently herewith, the accompanying memorandum of points and  
17 authorities and the declaration of Brick Kane in support hereof, the separate  
18 appendix of exhibits filed in support of the motion, upon the Report of Receiver’s  
19 Activities filed on April 24, 2015 (Doc. No. 212), and upon all other pleadings and  
20 documentary evidence as may be presented to the court by the receiver.

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22 *Intentional page break, signature block follows on page 3.*  
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Dated: July 16, 2015

ROBB EVANS & ASSOCIATES LLC,  
RECEIVER OF MRI  
INTERNATIONAL INC., ET AL.

By:   
M. Val Miller

Deputy to the Receiver  
ROBB EVANS & ASSOCIATES  
LLC

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1  
2 **MEMORANDUM OF POINTS AND AUTHORITIES**

3 **I. INTRODUCTION**

4 This case is a civil enforcement action filed by the Securities and Exchange  
5 Commission (“SEC”) against MRI International Inc. and other related and affiliated  
6 entities as well as several individual defendants. On January 27, 2015, the Clerk of  
7 the Court entered judgment against the Defendants (Doc. No. 189) (“judgment”)  
8 pursuant to Court's order granting summary judgment in favor of plaintiff, SEC.  
9 On February 23, 2015, the Court issued its Order Appointing An Equitable  
10 Receiver (Doc. No. 194) (“appointment order”) pursuant to which the Receiver was  
11 appointed as Receiver for various commercial properties and their rents and profits  
12 (defined in the appointment order as the “Properties”) as more fully set forth in the  
13 appointment order. On February 25, 2015, the Court issued its Rule 54(b)  
14 Certification (Doc. No. 195) pursuant to which the judgment was made the final  
15 judgment as to the Defendants.

16 This motion is the Receiver’s initial motion for approval and payment of  
17 receivership fees and expenses and covers a period from February 23, 2015 through  
18 March 31, 2015 (“expense period”). During the expense period, the receivership  
19 estate had receipts of \$1,116,384.94 from rental payments and the transfer of funds  
20 from the Registry Account of the Court in this action, the net fund balance in the  
21 estate as of March 31, 2015 is \$199,475.14, taking into account the receiver’s fees  
22 and expenses incurred but not yet paid that are sought in this motion and the real  
23 property expenses of insurance, security and locksmith services, utilities, the  
24 payment of taxes and liens, HOA dues and appraisal fees. The fees and expenses  
25 directly related to the real estate expenses total \$843,588.52, which includes  
26 \$689,848.60 of delinquent property taxes and liens.. The fees and expenses for  
27 which the Receiver seeks approval, and the services rendered by the Receiver  
28 during this expense period, are summarized hereafter and described in detail in the

1  
2 billing records attached to the appendix of exhibits and supporting declaration of  
3 Brick Kane.

4 **II. SUMMARY OF RECEIVER'S ACTIVITIES AND SERVICES**  
5 **DURING EXPENSE PERIOD**

6 The receiver seeks payment of the Receiver's fees and expenses summarized  
7 in the receivership administrative expenses spreadsheet attached as exhibit 1 to the  
8 declaration of Brick Kane in support of this motion. The services rendered by the  
9 Receiver, its members and staff are detailed in the billing summaries described in  
10 the Kane declaration and included in the separate appendix of exhibits as exhibit 2.  
11 During the expense period, the Receiver has incurred fees in the amount of  
12 \$71,831.55 and expenses in the amount of \$1,489.73 during the expense period.  
13 The services of the Receiver have been extensive and involved numerous diverse  
14 tasks which are outlined in greater detail in the receiver's initial report to the court  
15 filed on April 24, 2015 (Doc. No. 212).

16 **Receiver's Services and Activities During the Expense Period**

17 The Receiver took possession and control of the receivership defendants'  
18 multiple business premises located in Las Vegas, Nevada. The Receiver conducted  
19 the initial inspections of the commercial buildings located at 5330, 5370 and 5420  
20 South Durango, 2865, 2875 and 2955 Coleman Road and the medical center located  
21 at 150 E. Harmon Avenue immediately after entry of the appointment order. The  
22 Receiver took steps to document the level of vandalism and theft at the buildings  
23 and implemented security measures at each of the locations to prevent further  
24 damage. The Receiver acquired insurance coverage on each of the buildings and  
25 the personal property assets in each. The Receiver created an inventory of the  
26 office equipment and furnishings in the Properties and assessed the likely recovery  
27 that might be made from the office equipment, furniture and furnishings by  
28 securing the opinion of an auctioneer. The Receiver coordinated a series of repairs

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needed at the Properties and hired local contractors and landscaping companies to remove debris from the Properties. The Receiver obtained and reviewed preliminary title reports in order to identify various liens and encumbrances against the Properties. The Receiver paid certain debts to remove encumbrances in order to preserve the Properties against foreclosure and loss, including the payment of local and state taxes.

The Receiver met with tenants in the building at 150 E. Harmon and has continued to provide the normal and customary services of a landlord. The Receiver installed security fences around the property and had the property cleaned of debris and landscaping completed.

The Receiver inspected the extensive number of documents located at several of the locations in order to determine the nature and extent of consumer data, privileged communications and confidential medical records and has taken steps to protect and preserve the confidentiality of the documents. The Receiver's information technology staff inspected and created an inventory of the computers and servers containing electronic data.

The Receiver prepared a detailed listing of thousands of Class III, IV and V drug products stored in a vault at 2875 Coleman Road. The Receiver also investigated the numerous state and federal laws regulating the distribution and destruction of Class III, IV and V drug products and investigated the cost of disposing of the drug products with an approved vendor with the Drug Enforcement Administration. Thereafter, the Receiver prepared a draft stipulation regarding the disposition of the drug products and presented it to defense counsel in an attempt to obtain an agreement that could be submitted to the Court. The Receiver met and conferred with counsel for the defense and interviewed ex-employees in an attempt to obtain vault combinations, pass codes and access codes that would assist in



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identifying the location of additional assets and understanding the nature of the documents and electronic data stored at the Properties.

The Receiver reviewed all previous expressions of interest from brokers and individual buyers for the properties. The Receiver met with and interviewed numerous candidates to serve as the listing brokers for each of the properties. The Receiver interviewed and selected two qualified commercial appraisers and has obtained two appraisals for each of the properties.

**III. THE FEES AND EXPENSES OF THE RECEIVER ARE REASONABLE AND SHOULD BE APPROVED AND AUTHORIZED TO BE PAID**

It is a fundamental tenet of receivership law that expenses of administration incurred by the Receiver, including those of the Receiver, its counsel and others employed by the Receiver, constitute priority expenses for which compensation should be paid from the assets of the receivership. As explained in the leading treatise *Clark on Receivers*:

The obligations and expenses which the court creates in its administration of the property are necessarily burdens on the property taken possession of, and this, irrespective of the question who may be the ultimate owner, or who may have the preferred lien, or who may invoke the receivership. The appointing court pledges its good faith that all duly authorized obligations incurred during the receivership shall be paid.

2 Clark, Ralph Ewing, *A Treatise on the Law and Practice of Receivers* § 637, p. 1052 (3<sup>rd</sup> ed. 1992).

1  
2 The motion establishes that the Receiver, its deputies and staff rendered  
3 services and obtained significant and beneficial results for the receivership estate  
4 during the expense period. *See Federal Trade Commission v. Capital Acquisitions*  
5 *& Management Corp.*, 2005 U.S. Dist. LEXIS 18504 (N.D. Ill. August 26, 2005).  
6 The activities in the receivership by the Receiver and are extensive and varied as  
7 the Receiver took control of the assets and documents, secured the properties and  
8 investigated the value of the real and personal property assets and handled many  
9 other administrative duties in the case. The Receiver submits the fees and expenses  
10 are reasonable in light of the services rendered and the results obtained and that the  
11 fees and expenses requested should be awarded in their entirety.

12 **IV. NOTICE OF THIS MOTION IS SUFFICIENT UNDER THE**  
13 **CIRCUMSTANCES AND SHOULD BE APPROVED**

14 Local Civil Rule 66-5 provides for service of notice of the hearing on various  
15 motions by a Receiver concerning the administration of the estate. That rule  
16 provides for service of the notice of hearing on such motions on all creditors of the  
17 receivership estate. No hearing has been set on this motion and the provisions of  
18 Local Civil Rule 66-5 do not specifically apply. Nevertheless, the Receiver has  
19 served a notice of filing of the motion on the parties and on all known non-  
20 consumer creditors of the estate to provide them notice and an opportunity to be  
21 heard concerning the motion.

22 In this case, there are believed to be a large number of potential consumer  
23 creditors who may have claims against the receivership defendants arising out of  
24 the business operations of the receivership defendants prior to the Receiver's  
25 appointment, although the precise number, identity and location of such consumer  
26 creditors have not been determined by the receiver. The Receiver has had  
27 discussions for counsel representing many of the foreign investors and has been  
28 advised that the number of consumer creditors is likely in the thousands. It is not

1  
2 realistically possible or beneficial to the estate and its creditors for the Receiver to  
3 attempt to identify and serve the potential consumer creditors with notice of this  
4 and other similar administrative motions, and the expense and burden on the estate  
5 of attempting to effectuate such service would drain the estate's resources and  
6 cause undue administrative expense.

7       Based on the foregoing, to the extent that Local Rule 66-5 applies to this  
8 motion, the Receiver seeks an order providing that the notice requirement of that  
9 rule shall be deemed satisfied if notice of the filing of the motion is given by  
10 serving copies of all motion papers on the parties to the action and by serving  
11 copies of the notice of filing of the motion on all known non-consumer creditors.  
12 The Receiver submits that such service provides sufficient notice and an  
13 opportunity for hearing to the interested parties and should be approved as  
14 adequate. This limited notice is consistent with the notice approved by the court  
15 concerning the prior fee motion.

16       There is ample authority for approval of the scope and method of limited  
17 notice as set forth above. This Court, as a court of equity supervising the  
18 receivership estate, may make appropriate administrative orders governing the  
19 receivership, including limitations on and changes in notice and other procedures.  
20 *See* F.R.Civ.P. 5(a) and (c) (authorizing the court to modify service procedures  
21 when numerous defendants are involved in litigation). In addition, pursuant to  
22 Local Rule 66-10, a receiver is directed to administer receivership estates "as nearly  
23 as may be in accordance with the practice in the administration of estates in Chapter  
24 11 bankruptcy cases." Orders limiting notice when the Bankruptcy Code or Rules  
25 would otherwise require notice to all creditors are routinely granted in bankruptcy  
26 cases to promote the expeditious and economical administration of bankruptcy  
27 estates. *See In re First Alliance Mortgage Co.*, 269 B.R. 428, 442 (C.D. Cal. 2001)  
28 (referencing in dicta in the court's recitation of facts the bankruptcy court's order

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limiting notice issued in that case); 11 U.S.C. section 102(1)(A) (defining the phrase "after notice and a hearing" to mean "after such notice as is appropriate in the particular circumstances, and such opportunity for hearing as is appropriate in the particular circumstances"); 11 U.S.C. section 105(a) and (d) (granting broad equitable powers to the court to issue orders "necessary or appropriate to carry out the provisions" of title 11 including "prescribing such limitations and conditions as the court deems appropriate to ensure the case is handled expeditiously and economically"); and F.R. Bankr. P. 2002(m) (authorizing the court to enter "orders designating the matters in respect to which, the entity to whom, and the form and manner in which notices shall be sent except as otherwise provided by these rules").

**V. CONCLUSION**

Based on the foregoing, the receiver respectfully requests that the court grant relief as requested in the motion.

Dated: July 16, 2015

ROBB EVANS & ASSOCIATES LLC  
PERMANENT RECEIVER

By:   
M. Val Miller

Deputy to the Permanent Receiver  
ROBB EVANS & ASSOCIATES LLC