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9 *Attorney for the Receiver,*
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11 **UNITED STATES DISTRICT COURT**
12 **DISTRICT OF NEVADA**

13 SECURITIES AND EXCHANGE
14 COMMISSION,

15 Plaintiff,

16 vs.

17 EDWIN YOSHIHIRO FUJINAGA and
18 MRI INTERNATIONAL, INC.,

19 Defendants,

20 and

21 CSA SERVICE CENTER, LLC
22 THE FACTORING COMPANY,
23 JUNE FUJINAGA, and
24 THE YUNJU TRUST,

25 Relief Defendants.

Case No.: 2:13-cv-01658-JCM-CWH

**MOTION FOR ORDER (1)
APPROVING AND AUTHORIZING
PAYMENT OF RECEIVER'S AND
PROFESSIONALS' FEES AND
EXPENSES FROM APRIL 1, 2017
THROUGH JUNE 30, 2017; AND (2)
GRANTING RELIEF FROM LOCAL
RULE 66-5 PERTAINING TO
NOTICE TO CREDITORS**

26 PLEASE TAKE NOTICE that Robb Evans & Associates LLC (the "Receiver"), pursuant
27 to the Court's Order Appointing a Full Equity Receiver to Assume Control Over the Defendants'
28 Assets and Enforce the Final Judgment (ECF No. 226) entered on May 15, 2015, hereby moves
the Court for the following relief:

1. An order approving and authorizing payment of receivership fees and expenses
incurred for the three-month period from April 1, 2017 through June 30, 2017 (the "Reporting
Period"), including payment of the fees of the Receiver, its deputies, agents, staff and

1 professionals, and reimbursement of costs incurred during the Reporting Period in the total sum
2 of \$94,637.16 as follows:

3 a. The Receiver's fees, including those of its deputies, agents and staff, in the
4 amount of \$31,350.15, its expenses in the amount of \$211.69, and business entity
5 expenses in the amount of \$5,778.40;

6 b. Expenses relating to the estate's real property in the amount of
7 \$36,078.78; and

8 c. Lynch Law Practice, PLLC's fees in the amount of \$18,939.40 and its
9 expenses in the amount of \$2,278.74;

10 2. An order deeming notice of this Motion to be sufficient under Local Civil Rule
11 66-5 based on the service of this Motion on all known non-consumer creditors of the estate, but
12 not the tens of thousands of potential consumer creditors of the estate.

13 This Motion is made pursuant to Local Civil Rules 7-2 and 66-5, the accompanying
14 memorandum of points and authorities, the Declarations of Brick Kane and Michael Lynch, and
15 the exhibits thereto filed in support hereof, the Notice of Filing Report of Receiver's Activities
16 from April 1, 2017 through June 30, 2017 (ECF No. 440), and all other pleadings and
17 documentary evidence as may be presented to the Court by the Receiver.

18 DATED August 14, 2017.

19 **LYNCH LAW PRACTICE, PLLC**

20 /s/ Michael F. Lynch

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26 *Robb Evans & Associates LLC*

MEMORANDUM OF POINTS AND AUTHORITIES

I. Introduction.

Robb Evans & Associates LLC was appointed receiver (the “Receiver”) in the above-captioned case by that certain Order Appointing an Equitable Receiver entered on February 23, 2015 (ECF No. 194) as enlarged by that certain Order Appointing a Full Equitable Receiver to Assume Control over the Defendants’ Assets and Enforce the Final Judgment entered on May 15, 2015 (the “Order Appointing Receiver”) (ECF No. 226). The Receiver’s first application for fees was filed on July 16, 2015, which covered the period of February 23, 2015, through March 31, 2015, and was approved by order of this Court entered on August 10, 2015. (ECF Nos. 244, 258). The Receiver’s second interim application for fees and costs, which covered the period of April 1, 2015 through September 30, 2015, was approved by order of this Court entered on December 24, 2015 (ECF Nos. 284, 294). The Receiver’s third interim application for fees and costs, which covers the period October 1, 2015 through December 31, 2015, was approved by order of this Court on April 1, 2016 (ECF Nos. 313, 319). The Receiver’s fourth motion for approval of fees and costs, which covered the period of January 1, 2016 through March 31, 2016, was approved by order of this Court entered on June 22, 2016 (ECF Nos. 337, 344). The Receiver’s fifth motion for approval of fees and costs, which covered the period of April 1, 2016 through June 30, 2016, was approved by order of this Court entered on September 23, 2016 (ECF Nos. 352, 360). The Receiver’s sixth motion for approval of fees and costs, which covered the period of July 1, 2016 through September 30, 2016, was approved by order of this Court entered on February 2, 2017 (ECF Nos. 376, 385). The Receiver’s seventh motion for approval of fees and costs, which covered the period of October 1, 2016 through December 31, 2016, was approved by order of this Court entered on May 15, 2017 (ECF Nos. 414, 421). The Receiver’s eighth motion for approval of fees and costs, which covered the period January 1, 2017 through March 31, 2017, was approved by order of this Court entered on June 9, 2017 (ECF Nos. 422, 429).

This is the Receiver’s ninth interim application for fees and costs, and covers the period from April 1, 2017 through June 30, 2017 (the “Reporting Period”).

1 **A. Summary of Operations During the Reporting Period.**

2 The Receiver's activities during the Reporting Period are set forth in the Report of
3 Receiver's Activities from April 1, 2017 through June 30, 2017, filed on August 14, 2017 (ECF
4 No. 440).

5 **B. Ongoing Administrative and Other Activities by the Receiver and Counsel.**

6 In addition to the activities summarized in the Report of Receiver's Activities attached
7 hereto, the Receiver's services and those of its counsel include numerous other administrative
8 and legal activities during this Reporting Period. The Receiver's deputies and staff respond to
9 and cooperate with law enforcement inquiries and activities as required. The Receiver's deputies
10 and staff respond to inquiries from creditors, prepare and reconcile the Receiver's accounting
11 records for the case, address tax issues concerning the estate, deal with banks and other financial
12 institutions which may have receivership funds or documentation for accounts of Receivership
13 Defendants and perform other similar administrative tasks.

14 The Receiver's counsel prosecutes and defends various lien claims and reviews and
15 monitors Court filings in several federal and state cases as they may pertain to the interests of the
16 estate, responds to inquiries received from creditors and others, including taxing authorities,
17 issues demand letters to protect and investigate assets of the estate, files notices of pending
18 actions to protect real estate assets if deemed appropriate, and also performs numerous other
19 tasks in advising the Receiver and rendering services as the Receiver's counsel to protect the
20 estate, pursue claim enforcement, and advance the interests of the estate.

21 Numerous and varied issues arise in the supervision and administration of the estate by
22 the Receiver which are detailed in the billing records of the Receiver and its counsel filed in
23 support of this Motion. The Receiver performs regular accounting and bank reconciliations for
24 the receivership accounts, and maintains and updates creditor lists for the case and responds to
25 creditor and other inquiries.

26 **II. The Fees and Expenses of the Receiver and Its Professionals Should Be Approved.**

27 It is a fundamental tenet of receivership law that expenses of administration incurred by
28 the receiver, including those of the receiver, its counsel and others employed by the receiver,

1 constitute priority expenses for which compensation should be paid from the assets of the
2 receivership. As explained in the leading receivership treatise, Clark on Receivers:

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

10 2 Clark, Ralph Ewing, A Treatise on the Law and Practice of Receivers § 637, p. 1052 (3rd ed.
11 1992).

12 The Motion, and the declarations and the exhibits thereto submitted in support hereof,
13 establish that the Receiver, its deputies, staff and counsel rendered extensive and complex
14 services and obtained significant and beneficial results for the receivership estate during the
15 Reporting Period. *See Federal Trade Commission v. Capital Acquisitions & Management Corp.*,
16 2005 U.S. Dist. LEXIS 18504 (N.D. Ill. August 26, 2005). The activities in the receivership by
17 both the Receiver and its counsel are wide-ranging and varied as the Receiver has taken control
18 of and obtained information regarding scores of entities in numerous locations, protected and
19 preserved records, taken control of and liquidated assets, and obtained voluminous banking,
20 financial and business records from many different sources. The billing rates charged in this case
21 and reflected in the billing records filed in support of the Motion for the Receiver, the Receiver's
22 members, and its senior accounting staff are discounted at 10% from the rates charged in private
23 sector cases as of the time of the Receiver's appointment.

24 The rates charged by counsel are also discounted by 10% from standard hourly billing
25 rates. The Receiver submits that its fees and costs, and those of its counsel, are reasonable in
26 light of the services rendered and the results obtained and that the fees and expenses requested
27 should be awarded in their entirety.

28 **III. Notice of This Motion Is Sufficient Under the Circumstances and Should Be Approved.**

 Local Civil Rule 66-5 provides for service of notice of the hearing on various motions by
a receiver concerning the administration of the estate. That rule provides for service of the notice

1 of hearing on such motions on all creditors of the receivership estate. No hearing has been set on
2 this Motion and the provisions of Local Civil Rule 66-5 do not specifically apply. Nevertheless,
3 the Receiver will serve the Motion on the parties, the affected lienholders, and on all known non-
4 consumer creditors of the estate and on known taxing authorities with a potential claim in the
5 receivership estate (“Notice Parties”), to provide them notice and an opportunity to be heard
6 concerning the Motion. This notice is consistent with notice previously approved by the Court in
7 this case.

8 In this case, there are believed to be a large number of potential consumer creditors who
9 may have claims against the receivership defendants arising out of the business operations of the
10 receivership defendants prior to the Receiver’s appointment, although the precise number,
11 identity and location of such consumer creditors have not been determined by the Receiver. The
12 Receiver has had discussions for counsel representing many of the foreign investors and has been
13 advised that the number of consumer creditors is likely in the thousands. It is not realistically
14 possible or beneficial to the estate and its creditors for the Receiver to attempt to identify and
15 serve the potential consumer creditors with notice of this and other similar administrative
16 motions, and the expense and burden on the estate of attempting to effectuate such service would
17 drain the estate’s resources and cause undue administrative expense.

18 Based on the foregoing, to the extent that Local Rule 66-5 applies to this motion, the
19 Receiver seeks an order providing that the notice requirement of that rule shall be deemed
20 satisfied if notice of the filing of the motion is given by serving copies of all motion papers on
21 the parties to the action and by serving copies of the notice of filing of the motion on all known
22 non-consumer creditors. The Receiver submits that such service provides sufficient notice and an
23 opportunity for hearing to the interested parties and should be approved as adequate. This limited
24 notice is consistent with the notice approved by the court concerning the prior fee motions. (*See*
25 *e.g.*, ECF Nos. 385, 421, 429).

26 There is ample authority for approval of the scope and method of notice as set forth
27 above. This Court, as a court of equity supervising the receivership estate, may make appropriate
28 administrative orders governing the receivership, including limitations on and changes in notice

1 and other procedures. *See* F.R.C.P. 5(a) and (c) (authorizing the court to modify service
2 procedures when numerous defendants are involved in litigation). In addition, pursuant to Local
3 Rule 66-10, a receiver is directed to administer receivership estates “as nearly as may be in
4 accordance with the practice in the administration of estates in Chapter 11 bankruptcy cases.”
5 Orders limiting notice when the Bankruptcy Code or Rules would otherwise require notice to all
6 creditors are routinely granted in bankruptcy cases to promote the expeditious and economical
7 administration of bankruptcy estates. *See In re First Alliance Mortgage Co.*, 269 B.R. 428, 442
8 (C.D. Cal. 201) (referencing in dicta in the court’s recitation of facts the bankruptcy court’s order
9 limiting notice issued in that case); 11 U.S.C. § 102(1)(A) (defining the phrase “after notice and
10 a hearing” to mean “after such notice as is appropriate in the particular circumstances, and such
11 opportunity for hearing as is appropriate in the particular circumstances”); 11 U.S.C. § 105(a)
12 and (d) (granting broad equitable powers to the court to issue orders “necessary or appropriate to
13 carry out the provisions” of title 11 including “prescribing such limitations and conditions as the
14 court deems appropriate to ensure the case is handled expeditiously and economically”); and
15 F.R. Bankr. P. 2002(m) (authorizing the court to enter “orders designating the matters in respect
16 to which, the entity to whom, and the form and manner in which notices shall be sent except as
17 otherwise provided by these rules”).

18 **IV. Conclusion.**

19 For the foregoing reasons, it is respectfully requested that the Court grant relief as
20 requested in the Motion.

21 Dated August 14, 2017.

22 **LYNCH LAW PRACTICE, PLLC**

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