

1 Michael F. Lynch, Esq.
2 Nevada Bar No. 8555
3 LYNCH LAW PRACTICE, PLLC
4 3613 S. Eastern Ave.
5 Las Vegas, Nevada 89169
6 702.684.6000
7 702.543.3279 (fax)
8 Michael@LynchLawPractice.com

9 *Attorney for the Receiver,*
10 *Robb Evans & Associates LLC*

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 OCTOBER 1,
2017 THROUGH DECEMBER 31,
2017;**

**(2) AUTHORIZING THE RECEIVER
TO FILE BI-ANNUAL REPORTS
AND FEE APPLICATIONS
INSTEAD OF QUARTERLY
REPORTS AND FEE
APPLICATIONS; AND**

**(3) GRANTING RELIEF FROM
LOCAL CIVIL 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 October 1, 2017 through December 31, 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 \$76,974.66:

3 a. The Receiver’s fees, including those of its deputies, agents and staff, in the
4 amount of \$16,390.80, its expenses in the amount of \$10,253.28, and business
5 entity expenses in the amount of \$5,593.00;

6 b. Expenses relating to the estate’s real property in the amount of
7 \$19,397.81;

8 c. Lynch Law Practice, PLLC’s fees in the amount of \$24,659.10 and its
9 expenses in the amount of \$680.67;

10 2. An order authorizing the Receiver to file bi-annual reports of receiver’s activities,
11 rather than obligating the receiver to file quarterly reports of its activities as it has done since the
12 inception of this case;

13 3. An order deeming notice of this Motion to be sufficient under Local Civil Rule
14 66-5 based on the service of this Motion on all known non-consumer creditors of the estate, but
15 not the tens of thousands of potential consumer creditors of the estate.

16 This Motion is made pursuant to Local Civil Rules 7-2 and 66-5, the accompanying
17 memorandum of points and authorities, the Declarations of Brick Kane and Michael Lynch, and
18 the exhibits thereto filed in support hereof, the Notice of Filing Report of Receiver’s Activities
19 from October 1, 2017 through December 31, 2017 (ECF No. 482), and all other pleadings and
20 documentary evidence as may be presented to the Court by the Receiver.

21 **MEMORANDUM OF POINTS AND AUTHORITIES**

22 **I. Introduction.**

23 Robb Evans & Associates LLC was appointed receiver (the “Receiver”) in the above-
24 captioned case by that certain Order Appointing an Equitable Receiver entered on February 23,
25 2015 (ECF No. 194) as enlarged on May 15, 2015, when the Court entered its Order Appointing
26 a Full Equitable Receiver to Assume Control over the Defendants’ Assets and Enforce the Final
27 Judgment (the “Order Appointing Receiver”) (ECF No. 226).

1 The Receiver's first interim application for fees was filed on July 16, 2015, which
2 covered the period of February 23, 2015, through March 31, 2015, and was approved by order of
3 this Court entered on August 10, 2015. (ECF Nos. 244, 258). The Receiver's second interim
4 application for fees and costs, which covered the period of April 1, 2015 through September 30,
5 2015, was approved by order of this Court entered on December 24, 2015 (ECF Nos. 284, 294).
6 The Receiver's third interim application for fees and costs, which covers the period October 1,
7 2015 through December 31, 2015, was approved by order of this Court on April 1, 2016 (ECF
8 Nos. 313, 319). The Receiver's fourth motion for approval of fees and costs, which covered the
9 period of January 1, 2016 through March 31, 2016, was approved by order of this Court entered
10 on June 22, 2016 (ECF Nos. 337, 344). The Receiver's fifth motion for approval of fees and
11 costs, which covered the period of April 1, 2016 through June 30, 2016, was approved by order
12 of this Court entered on September 23, 2016 (ECF Nos. 352, 360). The Receiver's sixth motion
13 for approval of fees and costs, which covered the period of July 1, 2016 through September 30,
14 2016, was approved by order of this Court entered on February 2, 2017 (ECF Nos. 376, 385).
15 The Receiver's seventh motion for approval of fees and costs, which covered the period of
16 October 1, 2016 through December 31, 2016, was approved by order of this Court entered on
17 May 15, 2017 (ECF Nos. 415, 421). The Receiver's eighth motion for approval of fees and costs,
18 which covered the period January 1, 2017 through March 31, 2017, was approved by order of
19 this Court entered on June 9, 2017 (ECF Nos. 423, 429). The Receiver's ninth motion for
20 approval of fees and costs, which covered the period April 1, 2017 through June 30, 2017, was
21 approved by order of this Court entered on September 5, 2017 (ECF Nos. 441, 448). The
22 Receiver's tenth motion for approval of fees and costs, which covered the period July 1, 2017
23 through September 30, 2017 through September 30, 2017, was approved by order of this Court
24 entered on February 23, 2018. (ECF No. 461, 481).

25 This the Receiver's eleventh interim application for fees and costs and covers the period
26 from October 1, 2017 through December 31, 2017 (the "Reporting Period").
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A. Summary of Operations During the Reporting Period.

The Receiver’s activities during October 1, 2017 through December 31, 2017, (the Reporting Period are described in the Receiver’s Report filed on February 28, 2018 (the “Receiver’s Report”) (ECF No. 482).

B. Ongoing Administrative and Other Activities by the Receiver and its Counsel.

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

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

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

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

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

6 The obligations and expenses which the court creates in its
7 administration of the property are necessarily burdens on the
8 property taken possession of, and this, irrespective of the question
9 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.

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 various sources, as set forth in more detail in the
21 Receiver's Report. The billing rates charged in this case and reflected in the billing records filed
22 in support of the Motion for the Receiver, the Receiver's members, and its senior accounting
23 staff are discounted at 10% from the rates charged in private sector cases as of the time of the
24 Receiver's appointment.

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

1 **III. The Court Should Authorize the Receiver to file Bi-Annual Receiver's Activities**
2 **Reports and Fee Applications Rather than Quarterly Reports.**

3 **A. The Appropriateness of Filing Receiver's Activities Reports and Fee**
4 **Applications on a Quarterly Basis Was Last Considered by This Court on**
5 **August 20, 2015.**

6 On February 23, 2015, this Court entered its Order Appointing an Equitable Receiver in
7 this case (ECF No. 194). The Court instructed the Receiver its initial report must be filed in
8 accord with Local Civil Rule 66-4 within 60 days of its appointment, and that going forward
9 after the hearing on the Order Appointing an Equitable Receiver, the Receiver shall "file and
10 serve a quarterly report accounting for the use of the check proceeds received from the Registry
11 Account of the Court." (ECF No. 194 at ¶17(e)).

12 The duties and responsibilities of the Receiver were enlarged by that certain *Order*
13 *Appointing a Full Equitable Receiver to Assume Control over the Defendants' Assets and*
14 *Enforce the Final Judgment* entered on May 15, 2015 (ECF No. 226) (the "Order Appointing
15 Receiver"). As part of the Court's Order Appointing Receiver the Court ordered the Receiver to
16 file a Local Civil Rule 66-4 report within 60 days the required hearing, and that after the hearing
17 on the Receiver's initial report, "the Court shall approve or disapprove the Receiver's report and
18 account, determine whether the receivership may continue, and fix the time for further regular
19 reports by the Receiver, if applicable." See ECF No. 226 at ¶¶ 19, 20.

20 Finally, the Court addressed the reporting frequency when Magistrate Judge Hoffman
21 entered its minute order on August 20, 2015 (ECF No. 261), in which he granted the Order on
22 Appointment of [Lynch Law as the Receiver's] Counsel (the "Order Appointing Counsel") (ECF
23 No. 250) proposed by the SEC on July 28, 2015. The Order Appointing Counsel provides,
24 among other things, that the appointed counsel shall: "Every 90 days . . . submit to the Court a
25 verified report describing all services provided pursuant to this Order, all bills submitted to the
26 Receiver and all compensation received to date." (ECF No. 250 at ¶7).

27 The Receiver respectfully requests the Court modify the Receiver's and its Counsel's
28 obligation to continue to file quarterly reports, and that bi-annual reports would be sufficient
given the history, facts, and status of this case.

1 **B. It Appears this Receivership Case Will Become Less Active going forward, as**
2 **the Receiver has already recovered almost all real property owned by the**
3 **Defendants and Relief Defendants, as there is no Relevant Litigation Pending**
4 **by or against the Defendants or Relief Defendants, and as the remaining**
5 **issues to be addressed by the Receiver are Relatively and Proportionately**
6 **Fewer.**

7 From the inception of this case, the Receiver has filed quarterly reports, each of which
8 has contained a comprehensive and detailed summary of information concerning all aspects of
9 the estate. The Receiver will, of course, continue to do so on a quarterly basis if the Court finds
10 it necessary or helpful. The Receiver respectfully submits that bi-annual reports would be
11 appropriate under the current circumstances, including the Receiver’s demonstrated competence,
12 very good results, as well as its outstanding records and accounting ever since it was appointed
13 approximately 3 years ago.

14 All but two real properties that are currently under the Receiver’s control have been sold
15 for net proceeds of about \$31 million. The two remaining real properties are the Solvang Ranch
16 Property, and the Fujinaga’s former residence (the “Greensboro Property”), voluntarily vacated
17 by the Fujinagas, located on the TPC Summerlin private golf course. There is some high-end
18 personal property from the Greensboro Property, but the Receiver’s business judgment that the
19 personal property may realize a higher return if sold in bulk with the Greensboro Property itself.
20 Further detail concerning ongoing Estate activities is set forth in the Receiver’s most recent
21 Report.

22 At this point in the receivership, it appears to the Receiver that bi-annual reports and fee
23 applications would be sufficient. Of course, should anything requiring notice or Court approval
24 midway through the bi-annual reporting period, the Receiver will continue to either take the
25 appropriate action and/or file an application or motion with the Court.

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1 **C. The Frequency of Reports of Receiver’s Activities is Well Within the**
2 **Discretion of the District Court.**

3 “A district court’s power to supervise an equity receivership and to determine the
4 appropriate action to be taken in the administration of the receivership is extremely broad” and
5 subject to review under an abuse of discretion standard. SEC v. Hardy, 803 F. 2d 1034, 1037 (9th
6 Cir. 1986).

7 Upon information and belief, there is no code, rule, law, or precedence that requires any
8 specific frequency of regular reports from a receiver aside from the initial 60-day report required
9 by Local Civil Rule 66-4. Federal code requires a receiver to file reports at regular intervals as
10 directed by the court, but it makes no mention of how often these reports should be filed.

11 A receiver shall keep written accounts itemizing receipts and
12 expenditures, describing the property and naming the depository of
13 receivership funds. The receiver’s accounts shall be open to
14 inspection by any person having an apparent interest in the
15 property. **The receiver shall file reports at regular intervals as**
16 **directed by the court** and shall serve the debtor and the United
17 States with a copy thereof.

18 28 U.S. Code § 3103(d) (emphasis added). Similarly, the Federal Rules of Civil Procedure
19 directs receivers to observe historical practice or Local Rules. Fed. R. Civ. Proc. 66.

20 Local Civil Rule 66-4(b) also grants the discretion to fix the time to file receiver’s reports
21 (after the initial report). At the hearing on that initial receiver’s report, the court “... may fix the
22 time for further regular reports by the receiver, if applicable.” Local Civil Rule 66-4 (c).

23 There appears to be no authority that seeks to guide or limit the District Court from
24 exercising its considerable discretion in ordering regular receiver’s reports to be filed at any
25 interval it finds appropriate. The Receiver respectfully submits that changing the timeline to file
26 its reports bi-annually will not have a detrimental effect on the administration of this estate, but
27 that it will save the resources, time and expenses, of both the estate but also of the Court.

28 During the past two years, the Receiver has demonstrated a high degree of competence,
restraint, good judgment, and dependability to follow its duties and obligations set forth in the
Orders of this Court and pursuant to receivership law. Again, should anything arise that the

1 Receiver believes should be brought to the Court's or the creditors' attention, the Receiver will
2 provide that notice on a timely basis.

3 **IV. Notice of This Motion Is Sufficient Under the Circumstances and Should Be**
4 **Approved.**

5 Local Civil Rule 66-5 provides for service of notice of a hearing on various motions by a
6 receiver concerning the administration of the estate. That rule provides for service of the notice
7 of hearing on such motions on all creditors of the receivership estate. No hearing has been set on
8 this Motion and the provisions of Local Civil Rule 66-5 do not specifically apply. Nevertheless,
9 the Receiver will serve the Motion on the parties, the affected lienholders, and on all known non-
10 consumer creditors of the estate and on known taxing authorities with a potential claim in the
11 receivership estate ("Notice Parties"), to provide them notice and an opportunity to be heard
12 concerning the Motion. This notice is consistent with notice previously approved by the Court in
13 this case.

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

24 Based on the foregoing, to the extent that Local Civil Rule 66-5 applies to this motion,
25 the Receiver seeks an order providing that the notice requirement of that rule shall be deemed
26 satisfied if notice of the filing of the motion is given by serving copies of all motion papers on
27 the parties to the action and by serving copies of the notice of filing of the motion on all known
28 non-consumer creditors. The Receiver submits that such service provides sufficient notice and an

1 opportunity for hearing to the interested parties and should be approved as adequate. This limited
2 notice is consistent with the notice approved by the court concerning the prior fee motions. (*See*
3 *e.g.*, ECF Nos. 421, 429, 448, 481).

4 There is ample authority for approval of the scope and method of notice as set forth
5 above. This Court, as a court of equity supervising the receivership estate, may make appropriate
6 administrative orders governing the receivership, including limitations on and changes in notice
7 and other procedures. *See* Fed. R. Civ. Proc. 5(a) and (c) (authorizing the court to modify service
8 procedures when numerous defendants are involved in litigation).

9 **IV. Conclusion.**

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

12 Dated February 28, 2018.

13 **LYNCH LAW PRACTICE, PLLC**

14 /s/ Michael F. Lynch

15 Nevada Bar No. 8555

16 3613 S. Eastern Ave.

17 Las Vegas, Nevada 89169

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19 *Attorney for the Receiver,*

20 *Robb Evans & Associates LLC*

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8 **UNITED STATES DISTRICT COURT**
9 **DISTRICT OF NEVADA**

10 SECURITIES AND EXCHANGE
COMMISSION,

11 Plaintiff,

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13 EDWIN YOSHIHIRO FUJINAGA and
14 MRI INTERNATIONAL, INC.,

15 Defendants,

16 and

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

20 Relief Defendants.

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

**DECLARATION OF BRICK KANE IN
SUPPORT OF MOTION FOR ORDER**

- (1) **APPROVING AND
AUTHORIZING PAYMENT OF
RECEIVER'S AND
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- (2) **AUTHORIZING THE RECEIVER
TO FILE BI-ANNUAL REPORTS
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INSTEAD OF QUARTERLY
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- (3) **GRANTING RELIEF FROM
LOCAL CIVIL RULE 66-5
PERTAINING TO NOTICE TO
CREDITORS**

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22
23 I, Brick Kane, declare:

24 1. I am the president and chief operating officer of Robb Evans & Associates LLC,
25 the court-appointed equitable receiver (the "Receiver"). I am one of the members of the
26 Receiver primarily responsible for the supervision and administration of the Receivership estate.
27 If called upon to testify as to the facts set forth in this declaration, I could and would testify
28 competently thereto as the facts are personally known to me to be true or I have gained

1 knowledge of the facts through my supervision and administration of the Receivership estate.

2 2. On January 27, 2015, the Clerk of Court entered judgment against Defendants
3 (ECF No. 189) (the “Judgment”) pursuant to the Court’s order granting summary judgment in
4 favor of plaintiff Securities and Exchange Commission (the “SEC”).

5 3. On February 23, 2015, the Court issued its Order Appointing an Equitable
6 Receiver (ECF No. 194) pursuant to which the Receiver was appointed as receiver for various
7 commercial properties and their rents and profits as more fully set forth therein.

8 4. On February 25, 2015, the Court issued its Rule 54(b) Certification (ECF No.
9 195) pursuant to which the judgment was made the final judgment as to the Defendants.¹

10 5. The Receiver’s duties and responsibilities were enlarged by that certain Order
11 Appointing a Full Equitable Receiver to Assume Control over the Defendants’ Assets and
12 Enforce the Final Judgment entered on May 15, 2015 (the “Order Appointing Receiver”) (ECF
13 No. 226). The Order Appointing Receiver supersedes the previous order, and directs Receiver to
14 take and retain immediate possession, custody, and control of all assets owned or controlled,
15 directly or indirectly, by any of the Defendants in the SEC Receivership Litigation. *Id.*

16 6. On July 16, 2015, the Receiver filed its first motion for approval and payment of
17 Receiver’s fees and expenses, which was approved by order of this this Court entered on August
18 10, 2015 (ECF Nos. 244, 258).

19 7. On November 30, 2015, the Receiver filed its second motion for approval and
20 payment of Receiver’s fees and expenses, which was approved by order of this Court entered on
21 December 24, 2015 (ECF Nos. 284, 294).

22
23
24 _____
25 ¹ Subsequently, the Court entered Amended Final Judgment Against Relief
26 Defendants June Fujinaga and the Yunju Trust on March 14, 2016 (ECF No. 317)
27 (the “Final Judgment”), which provides: “This Final Judgment, and the assets and
28 funds of June Fujinaga and The Yunju Trust up to the amount of the Final
Judgment [of \$2,333,382.18], are included in the Receivership Estate established by
the Court’s May 20, 2015 Order Appointing a Full Equitable Receiver (ECF No.
226), and all of the provisions of that Order are incorporated by reference and
applicable herein.” ECF No. 317 at §§ A, F.

1 8. On March 14, 2016, the Receiver filed its third motion for approval of fees and
2 costs, which covered the period of October 1, 2015 through December 31, 2015, which was
3 approved by order of this Court entered on April 1, 2016 (ECF Nos. 313, 319).

4 9. On May 31, 2016, the Receiver filed its fourth motion for approval of fees and
5 costs, which covered the period of January 1, 2016 through March 31, 2016, which was
6 approved by order of this Court entered on June 22, 2016 (ECF Nos. 337, 344).

7 10. On August 29, 2016, the Receiver filed its fifth motion for approval of fees and
8 costs, which covered the period of April 1, 2016 through June 30, 2016, which was approved by
9 order of this Court entered on September 23, 2016 (ECF Nos. 352, 360).

10 11. On December 21, 2016, the Receiver filed its sixth motion for approval of fees
11 and costs, which covered the period of July 1, 2016 through September 30, 2016, which was
12 approved by order of this Court entered on February 2, 2017 (ECF Nos. 376, 385).

13 12. On April 28, 2017, the Receiver filed its seventh motion for approval of fees and
14 costs, which covered the period of October 1, 2016 through December 31, 2016, which was
15 approved by order of this Court entered on May 15, 2017 (ECF Nos. 415, 421).

16 13. On May 25, 2017, the Receiver filed its eighth motion for approval of fees and
17 costs, which covered the period of January 1, 2017 through March 31, 2017, which was
18 approved by order of this Court entered on June 9, 2017 (ECF Nos. 423, 429).

19 14. On August 14, 2017, the Receiver filed its ninth motion for approval of fees and
20 costs, which covered the period of April 1, 2017 through June 30, 2017, which was approved by
21 order of this Court entered on September 5, 2017 (ECF Nos. 441, 448).

22 15. The Receiver's tenth motion for approval of fees and costs, which covered the
23 period July 1, 2017 through September 30, 2017 through September 30, 2017, was approved by
24 order of this Court entered on February 23, 2018. (ECF No. 461, 481).

25 16. On February 28, 2018, the Receiver filed a detailed Report of Receiver's
26 Activities from October 1, 2017 through December 31, 2017 (the "Receiver's Report") (ECF No.
27 482).

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1 17. This Declaration is made and submitted in support of the Receiver’s eleventh
2 motion for fees and costs, which covers the period of October 1, 2017 through December 31,
3 2017, filed contemporaneously herewith (ECF No. 483).

4 18. As a member of Robb Evans & Associates LLC, I am familiar with the methods
5 and procedures used by the Receiver and its staff and employees to record the time spent
6 rendering services to receivership estates over which the Receiver has been appointed. The
7 invoices attached hereto as **Exhibit “1”** are regularly prepared by the members, staff and
8 employees of the Receiver at or about the time of the services rendered and each of whom has a
9 business duty to accurately record the information regarding their services set forth in these
10 records. The records are reviewed by the Receiver’s accounting staff, summarized in the
11 Receiver’s financial summary included within the Receiver’s Report, and redacted only as the
12 Receiver has deemed necessary to preserve confidential, sensitive, tactical, strategic, attorney-
13 client privileged and/or attorney work-product information. Based upon my experience with
14 Robb Evans & Associates LLC, I believe the Receiver’s methods and procedures for recording
15 and accounting for time and services for the Receivership estates over which the Receiver has
16 been appointed are reliable and accurate.

17 19. The applicant has not entered into any agreement, written or oral, express or
18 implied, with any other person concerning the amount of compensation paid or to be paid from
19 the assets of the estate, or any sharing thereof.

20 20. I have carefully read, reviewed, and assisted in drafting the Report of Receiver’s
21 Activities from October 1, 2017 through December 31, 2017 (ECF No. 482), which report is
22 incorporated herein by this reference, and I hereby affirm that the statements, figures, and
23 calculations made therein are true, accurate, and correct to the best of my information,
24 knowledge and belief.

25 I declare under penalty of perjury under the law of the State of Nevada that the foregoing
26 is true and correct.

27 Dated: February 28, 2018

/s/ Brick Kane _____

Brick Kane
President and Chief Operating Officer of the
Receiver, Robb Evans & Associates LLC

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

**DECLARATION OF MICHAEL
LYNCH IN SUPPORT OF MOTION
FOR ORDER**

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**(3) GRANTING RELIEF FROM
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CREDITORS**

22 I, Michael F. Lynch, declare:

23 1. I am an attorney at law duly licensed and authorized to practice before all courts
24 in the State of Nevada, and am the managing member of Lynch Law Practice, PLLC ("Lynch
25 Law"), court-appointed counsel for Robb Evans & Associates LLC, the court-appointed
26 equitable receiver (the "Receiver"). If called upon to testify as to the facts set forth in this
27 declaration, I could and would testify competently thereto as the facts are personally known to
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1 me to be true.

2 2. On July 16, 2015, the Court appointed Lynch Law as counsel for the Receiver by
3 minute order (ECF No. 247), and the proposed Order Appointing Counsel for Receiver (ECF No.
4 250) which was approved by minute order of the Court entered on August 20, 2015 (the “Order
5 Appointing Counsel”). (ECF No. 261).

6 3. The Order Appointing Counsel provides that, upon the request of the Receiver,
7 the Receiver’s counsel shall provide legal assistance to the Receiver in connection with the
8 discharge of the Receiver’s duties and responsibilities pursuant to the Order Appointing
9 Receiver,¹ and directed the Receiver’s counsel to neither perform, nor seek compensation for,
10 any of the non-legal tasks enumerated in the Order Appointing Receiver.

11 4. The Order Appointing Counsel authorizes Lynch Law to provide legal assistance
12 in connection with the following:

13 a. Providing legal advice to the Receiver concerning the Order Appointing
14 Receiver, including the legal interpretation of any provisions contained therein, or any
15 other order or filing in this case concerning the Receiver;

16 b. Providing legal advice to the Receiver concerning the disposition or
17 possession of any assets subject to the Order Appointing Receiver, including records
18 containing personal, financial or medical information and controlled substances;

19 c. Providing legal advice and representation in connection with obtaining
20 cooperation, compliance or assistance from the Defendants or any other entities claiming
21 to have an interest in the assets subject to the Order Appointing Receiver;

22 d. Providing legal advice and representation in connection with any civil or
23 criminal actions in which one or more of the Defendants is a party, but not including
24 *Takiguchi v. MRI International, Inc.*, Case No. 2:13-cv-1183 (D. Nev.);

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28 ¹ The “Order Appointing Receiver” means the Order Appointing a Full Equitable Receiver to Assume Control over the Defendants’ Assets and Enforce the Final Judgment entered on May 15, 2015. (ECF No. 226).

1 e. Providing legal advice and representation in connection with any legal
2 claims made against the Defendants or any assets subject to the Order Appointing
3 Receiver; and

4 f. Providing legal advice and representation in connection with any civil or
5 other actions in which the Receiver is a party, including any legal actions instituted by the
6 Receiver pursuant to the Order Appointing Receiver, such as levying on assets, filing
7 collection actions or filing fraudulent transfer actions, and any legal filings requiring the
8 assistance of counsel.

9 5. The Order Appointing Counsel further provides that the compensation of Lynch
10 Law shall be fixed at \$310.50 per hour, which rate reflects a 10% discount on Lynch Law's
11 regular rate.

12 6. This Declaration is made and submitted in support of the Receiver's eleventh
13 motion for approval and payment of fees and expenses, entitled *Motion for Order (1) Approving*
14 *and Authorizing Payment of Receiver's and Professionals' Fees and Expenses from October 1,*
15 *2017 Through December 31, 2017; (2) Authorizing the Receiver to File Bi-annual Reports and*
16 *Fee Applications Instead of Quarterly Reports and Fee Applications; and (3) Granting Relief*
17 *from Local Civil Rule 66-5 Pertaining to Notice to Creditors* (the "Motion") filed
18 contemporaneously herewith (ECF No. 483).

19 7. The Motion seeks, among other relief, approval and authorization for payment of
20 receivership fees, costs, and expenses for the three-month period from October 1, 2017 through
21 December 31, 2017 (the "Reporting Period"). The Receiver's Report for the Reporting Period
22 was filed on February 28, 2018. (ECF No. 482).

23 8. Lynch Law has acted as sole counsel for the Receiver since the Order Appointing
24 Counsel was entered. Lynch Law and the Receiver have coordinated their efforts to ensure that
25 the Receiver's and Lynch Law's responsibilities for work were strictly maintained to prevent
26 duplication of efforts.

27 9. Attached hereto as **Exhibit "1"**, is a true and correct copy of Lynch Law's
28 invoice for fees and costs during the Reporting Period. The detailed descriptions of work done on

1 this invoice have been redacted where appropriate to preserve descriptions containing
2 confidential, sensitive, tactical, strategic, and attorney/client privileged and/or attorney work-
3 product information.

4 10. I personally enter time and/or personally verify billable time and cost entries in
5 the Lynch Law software at or about the time the billable time and costs are incurred. The
6 invoices attached hereto are prepared from computerized time and expense records prepared in
7 the ordinary course of business that accurately record the time actually spent and the expenses
8 actually incurred. The time records are entered into Lynch Law's time-keeping and billing
9 software that generates invoices reviewed by Michael Lynch. Based upon my experience and
10 personal involvement in this process, I believe that Lynch Law's methods and procedures for
11 recording and accounting for time and services for its clients are reliable and accurate.

12 11. During the Reporting Period, Lynch Law assisted the Receiver with its operations
13 described in its latest Receiver's Report.

14 12. In addition, the Receiver made an additional demand on Mr. Fujinaga, through his
15 counsel, William Jordan for a more complete response to previous demands for information
16 about assets. Mr. Fujinaga provided additional documents which have been reviewed by the
17 Receiver and counsel. Counsel for the Receiver is preparing updated demands to June Fujinaga
18 for the turnover of assets discovered to be in her possession.

19 13. With the Receiver's guidance and instruction, Lynch Law carefully reviewed
20 financial statements, reports, bank records, loan documents, closing documents from the One
21 Stop Sale, UCC filings, and the Deposition of June Fujinaga. Much of the documentary
22 evidence obtained by the Receiver was provided only after several subpoenas. These documents
23 and the June Fujinaga deposition transcript, and the other documents obtained were all carefully
24 reviewed and analyzed to determine whether Relief Defendant EBJ&F is entitled to all proceeds
25 from the sale of One Stop Pharmacy Corp. The documents revealed that EBJ&F should have
26 been paid 100% of the seller's proceeds from the One Stop sale, as One Stop owed
27 approximately \$1 million on secured debt to EBJ&F at the time of the One Stop sale.
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1 14. Lynch Law drafted a motion seeking an Order directing Helen Tang, the Manager
2 of One-Stop Pharmacy, to turn over funds she received directly from the seller's proceeds from
3 the sale of One Stop, as well as the balance of the funds held in a bank account owned by One
4 Stop at Rabobank, N.A.

5 15. Lynch Law addressed, analyzed, and evaluated Class Action² counsel's concerns
6 over the Receiver's authority to act on behalf of Ed Fujinaga and MRI International in their
7 decision to accept or reject a proposed settlement agreement of the Class Action on behalf of Ed
8 Fujinaga and MRI International. In coordination with the Receiver's efforts to exercise, but not
9 to exceed, its authority as the Receiver, Lynch Law prepared a response to the joint application
10 for directions from court to the Receiver filed by Class Action counsel.

11 16. Also, during the reporting period, Lynch Law, in coordination with the Receiver,
12 reviewed, analyzed, and evaluated financial records, tax returns, photographs, and other
13 documents produced by Ed Fujinaga in response to the Receiver's several outstanding demands,
14 and the Court's omnibus order.

15 17. Lynch Law continues to monitor the Court filings in this case and in the related
16 litigation as it pertain to the interests of the estate, responds to inquiries received from creditors
17 and others, investigates assets of the estate, files notices of pending actions to protect real estate
18 assets if deemed appropriate, and also performs numerous other tasks in advising the Receiver
19 and rendering services as Receiver's counsel to protect the estate, pursue claim enforcement, and
20 advance the interests of the estate.

21 18. The fees incurred by Lynch Law during the Reporting Period are \$24,659.10,
22 which fees were actually and necessarily incurred in its representation of the Receiver. The costs
23 incurred by Lynch Law are \$680.67 during the Reporting Period, which costs consist primarily
24 of Pacer charges, postage, and service fees.

25 19. Michael Lynch has been practicing law in Nevada since 2003 and has been lead
26 counsel in over 50 receiverships in Nevada District Courts, which receivership included

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28 ² The term class action describes *Takiguchi v. MRI International, Inc.*, Case No. 2:13-cv-1183,
currently pending in the United States District Court for the District of Nevada, in which
Defendants Fujinaga and MRI are Defendants.

1 obtaining Court approval of multiple sales of commercial real estate by receivers and the
2 successful consummation of those sales. Michael Lynch has taken numerous cases to trial and/or
3 arbitration. Michael Lynch has also been involved in approximately 120 bankruptcy proceedings
4 and approximately 20 cases in the United States District Court, District of Nevada.

5 20. I believe my firm's rates and the amount incurred by the Receiver for the services
6 rendered during the Reporting Period are reasonable and appropriate based on the nature of the
7 services rendered, the quality and amount of services provided, the complexity of the issues
8 involved and other factors under the circumstances, including the results obtained.

9 21. The applicant has not entered into any agreement, written or oral, express or
10 implied, with any other person concerning the amount of compensation paid or to be paid from
11 the assets of the estate, or any sharing thereof.

12 I declare under penalty of perjury under the law of the State of Nevada that the foregoing
13 is true and correct.

14 Dated February 28, 2018.

15 /s/ Michael F. Lynch
16 Nevada Bar No. 8555
17 LYNCH LAW PRACTICE, PLLC
18 3613 S. Eastern Ave.
19 Las Vegas, Nevada 89169
20 702.684.6000
21 702.543.3279 (fax)
22 Michael@lynchlawpractice.com

23 *Attorney for the Receiver*
24 *Robb Evans & Associates LLC*
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