

1 Michael Gerard Fletcher (State Bar No. 070849)  
mletcher@frandzel.com  
2 Craig A. Welin (State Bar No. 138418)  
cwelin@frandzel.com  
3 Hal D. Goldflam (State Bar No. 179689)  
hgoldflam@frandzel.com  
4 FRANDZEL ROBINS BLOOM & CSATO, L.C.  
1000 Wilshire Boulevard, Nineteenth Floor  
5 Los Angeles, California 90017-2427  
Telephone: (323) 852-1000  
6 Facsimile: (323) 651-2577  
7 Attorneys for Receiver ROBB EVANS &  
ASSOCIATES LLC  
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9 **UNITED STATES DISTRICT COURT**

10 **CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION**

11 FEDERAL TRADE COMMISSION,

12 Plaintiff,

13 v.

14 JASON CARDIFF, etc., et al.,

15 Defendants.  
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Case No. 5:18-cv-02104-DMG-PLA

*REDACTED VERSION OF  
DOCUMENT PROPOSED TO BE  
FILED UNDER SEAL*

**DECLARATION OF BRICK KANE  
IN SUPPORT OF RECEIVER'S  
APPLICATION FOR LEAVE TO  
FILE UNDER SEAL THE FULL  
UNREDACTED VERSION OF THE  
KANE DECLARATION  
ATTACHING THE RECEIVER'S  
SECOND REPORT OF VPL  
OPERATIONS [L.R. 79-5.2.2(a)]**

(Filed concurrently with Application,  
Declaration of Michael Gerard Fletcher;  
Proposed Order)

Judge: Hon. Dolly M. Gee

FRANZEL ROBINS BLOOM & CSATO, L.C.  
1000 WILSHIRE BOULEVARD, NINETEENTH FLOOR  
LOS ANGELES, CALIFORNIA 90017-2427  
(323) 852-1000

1 I, Brick Kane, declare as follows:

2 1. I am the President & Chief Operating Officer of Robb Evans &  
3 Associates LLC, the duly appointed Receiver in this matter (“Receiver”). I have  
4 personal knowledge of the matters set forth in this declaration and, if I were called  
5 upon to testify as to those matters, I could and would competently testify thereto  
6 based upon my personal knowledge.

7 2. I make this declaration in support of the Receiver’s application  
8 (“Application”) for an order granting the Receiver leave to file under seal the full  
9 unredacted version of this Declaration, attaching the Receiver’s second report of  
10 operations of Receivership Entity VPL Medical, Inc. (“VPL”) dated November 27,  
11 2020 (“Second VPL Report”), including Exhibit 1 to the Second VPL Report, for  
12 consideration by the Court.

13 3. The Second VPL Report is attached hereto as Exhibit A. Exhibit 1 to  
14 the Second VPL Report contains confidential VPL financial information, and is the  
15 portion of the full unredacted version of this Declaration which the Receiver asserts  
16 should be under seal. The redacted version of this Declaration that is attached to the  
17 Application therefore does not include Exhibit 1 to the Second VPL Report.

18 4. The factual basis for the Receiver’s request that Exhibit 1 to the Second  
19 VPL Report be under seal is that it includes confidential and sensitive business and  
20 financial information about VPL and its projected operations, products, sales, and  
21 sales prices, and information in the nature of trade secrets that could result in an  
22 adverse competitive and unfair advantage being obtained by competitors of VPL if  
23 they were to learn about it. Given the nature of the information, the Receiver  
24 believes that in the event the Court grants a sealing order, that service of the full  
25 unredacted version of this Declaration which includes Exhibit 1 to the Second VPL  
26 Report should and would be made only upon counsel for defendants Jason and  
27 Eunjung Cardiff (“Cardiffs”), plaintiff Federal Trade Commission (“FTC”), and  
28 Receivership Entity VPL. *No one other than this Court, and the Receiver, the FTC,*

FRANZEL ROBINS BLOOM & CSATO, L.C.  
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LOS ANGELES, CALIFORNIA 90017-2427  
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1 *the Cardiffs, and VPL and their respective legal counsel, have any need to see any*  
2 *of the material in Exhibit 1 to the Receiver's Second VPL Report which is requested*  
3 *to be sealed, which is based on the VPL cash under the control of the Receiver, and*  
4 *the VPL tangible and intangible personal property and real property assets of VPL*  
5 *under the Receiver's control and administration.*

6 5. Pursuant to L.R. 79-5.2.2(a)(i), counsel for the Receiver has met and  
7 conferred by email with counsel for VPL and the Cardiffs (Stephen R. Cochell,  
8 srcochell@gmail.com; and James D. White, jdwhite@jamesdwhitelaw.com), and the  
9 FTC (Elizabeth Sanger, esanger@ftc.gov), regarding the substance of this  
10 Application. Based thereon, the Receiver believes that this Application is  
11 unopposed.

12 I declare under penalty of perjury under the laws of the United States of  
13 America that the foregoing is true and correct and that this Declaration was executed  
14 on November 30, 2020, at Alhambra, California.

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17 Brick Kane

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# EXHIBIT A

**REDACTED VERSION OF DOCUMENT PROPOSED TO  
BE FILED UNDER SEAL**

\* \* \*

**Robb Evans & Associates LLC  
Receiver of  
Redwood Scientific Technologies, Inc. et al.  
and  
VPL Medical, Inc.**

**RECEIVER'S REPORT OF VPL MEDICAL, INC.  
UPDATE ON OPERATIONS  
Dated November 27, 2020**

**Robb Evans & Associates LLC**  
**Receiver of**  
**Redwood Scientific Technologies, Inc. et al.**  
**and**  
**VPL Medical, Inc.**

**RECEIVER'S REPORT OF VPL MEDICAL, INC.**  
**UPDATE ON OPERATIONS**  
**Dated November 27, 2020**

**Overview**

In its September 9, 2020 Order, the Court directed the Receiver to file status reports every 60 days “to provide updates on VPL’s business operations, income/expenses, and earnings projections, and an accounting of the amounts withheld from Jason’s salary for the purpose of reducing the mortgage arrearages and paying their monthly mortgage.” In its November 20, 2020 Order regarding Jason Cardiff’s motion for release of his salary to pay living expenses, the Court ordered that “The Cardiff’s may not use any released living expenses to pay the mortgage on their residence in Upland, California.”

This is the second status report on VPL operations as directed by the Court.

As previously reported, in general, the progress in getting the production facility operational was approximately four weeks behind the schedule originally projected. This was due to multiple factors, but primarily due to erratic responses from various vendors who were needed to make the production facility functional. Since the first status report, the situation with various vendors has been largely resolved. However, as discussed in the Financial Information section below, operations continue to lag significantly behind the original estimates.

Beginning on September 18, the Receiver’s team, Jason Cardiff, and Bobby Bedi<sup>1</sup> instituted a weekly conference call to review the current week’s activity and the projected activities for the coming week and thereafter. These meetings have continued and have been productive.

Currently, the production facility is partially operational. At issue is fully operational mask assembly machines and the ability to hire qualified machine operators and laborers. The Receiver was informed that three of the seven machines were purchased as used equipment and it has been challenging to obtain the necessary parts and a consistent work schedule by the machinist to retrofit the equipment for continuous production output. Together, the seven machines have 11 production lines. As of the date of this report two lines are

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<sup>1</sup> Jason Cardiff and Bobby Bedi are referred to as VPL management in this report.

operational. It is anticipated that an additional seven lines will be operational over the next two weeks and the final two lines will be operational by the end of December.

### **Made in the USA Product Labeling**

Several weeks ago there was a disagreement over clear disclosure for labeling the boxes for VPL masks. VPL management felt that Made in the USA with product *sourced* from abroad was sufficient language. The Receiver took the position that Made in the USA with product *imported* from abroad would be a more meaningful disclosure to the general public. Ultimately, VPL Management agreed with the Receiver's position<sup>2</sup>.

### **Staffing**

Two inside sales staff have recently been hired and they are in the process of following up with potential buyers that should result in purchase orders.

The production manager discussed in the first status report had to rescind his agreement due to a misunderstanding between he and VPL management. He assumed he could work several days a week remotely, despite the full-time onsite presence required in his employment agreement. A search is being conducted for a replacement supervisor.

VPL management, in conjunction with the Receiver, is interviewing and employing machine operators and candidates for other positions to build inventory for anticipated sales.

### **Mask Testing**

Masks have been sent to Nelson Labs to test for the following:

- Bacterial efficiency
- Differential pressure
- Synthetic blood penetration
- Flammability

The test results are expected before the end of December.

### **Financial Information**

Attached at Exhibit 1 is a comparison of the 13 week budget to 13 weeks of operations. Due to various problems in getting the machines fully functional, VPL has not been able to generate confirmed purchase orders. VPL management and the Receiver decided that getting the machines functional is necessary before committing to shipment dates. Therefore, the 13 week revenue and expense projections are both far less than anticipated.

The Receiver previously reported that it is not clear if VPL was approved by the Internal Revenue Service as an S Corporation or a C Corporation and that the Receiver reserved

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<sup>2</sup> It is noteworthy that this dispute was resolved amicably without intervention from the Receiver's or VPL's attorneys.

approximately \$720,000 for income taxes. Recently, the Internal Revenue Service determined that VPL is an S Corporation, which frees up these funds for business operations.

Jason Cardiff has been paid for six payroll periods. The Receiver is holding Jason Cardiff's net pay of \$55,419.00 in a segregated account.

Anticipating a very near term resolution of fully functional or nearly fully functional mask assembly machines and assuming appropriate operational staff can be hired, the Receiver and VPL management are engaged in discussions about creating a revised budget to present to the Court. That budget will contain expense and earnings projections that will be based on far more facts than were known when the prior budget was created.

### **Covid-19**

During the week of November 23 one of VPL's employees tested positive for the virus. After that employee learned that he was in contact with a person who had tested positive, he did not enter the production facility. However, he may have had contact with another employee who did work at the production facility. That employee, and others who were in contact with him, have been tested for the virus and are awaiting results.

The Receiver and VPL management have decided to close the production facility on a day to day basis until more details are known. In addition, strict protocols are being implemented for potential employees to be hired to produce masks and perform other functions. All potential employees will be required to take a Covid test and have testing results prior to beginning work. Periodic testing for working employees is also being considered.

The Receiver and VPL management recognize that these strict protocols will slow down the pace of mask production, but believe it is prudent to be conservative.

### **Conclusion**

The Receiver remains convinced that VPL can be operated lawfully and profitably.

Respectfully submitted,

/s/

Robb Evans & Associates LLC  
Receiver

**EXHIBIT 1**  
**REDACTED**