

**UNITED STATES DISTRICT COURT FOR  
THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

<b>FEDERAL TRADE COMMISSION,</b>	)	
	)	
<b>Plaintiff,</b>	)	<b>Case No.: 03-C-3904</b>
	)	
v.	)	<b>Hon. Robert W. Gettleman</b>
	)	
<b>KEVIN TRUDEAU,</b>	)	
	)	
<b>Defendant.</b>	)	
	)	

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**RECEIVER’S MOTION FOR ENTRY OF AN ORDER APPROVING SALE OF GIN CLUB ASSETS FREE AND CLEAR OF ALL LIENS, CLAIMS AND ENCUMBRANCES**

Robb Evans & Associates LLC, in its capacity as the court-appointed receiver for the assets of Kevin Trudeau and the Trudeau Entities et al. (the “Receiver”), by and through its undersigned counsel, hereby moves for entry of an order (the “Motion”) approving the sale of certain receivership assets related to the operation of the Global Information Network (the “GIN Club”) free and clear of all liens and encumbrances. In support of its Motion, the Receiver states as follows:

**I. INTRODUCTION**

1. In this motion, the Receiver seeks approval to sell substantially all of the assets of the GIN Club to an investment group consisting of current GIN Club members for \$200,000 in cash, plus a percentage of future member dues paid in monthly installments over the next 12 months. The assets to be sold largely consist of intangible property, including intellectual property owned by the GIN Club as well as its membership databases, but also include the used office furniture and equipment located at the GIN Club’s offices in Westmont, Illinois. The sale is in the best interests of the receivership estate in that it affords the receivership estate an

upfront cash payment, while also providing a share of future income derived from the GIN Club's assets. By contrast, none of the other offers received by the Receiver provided for a similar initial cash payment and instead relied exclusively on a share of uncertain future income. The Receiver seeks approval to sell such assets free and clear of any liens or other encumbrances, with such liens, if any, attaching to the proceeds of the sale in the same amount and priority as currently exists. The Receiver is unaware of any such liens. Taking into account the declining membership of the GIN Club and its limited operational history following the discontinuation of its improper affiliate program and misleading marketing, the proposed sale more than adequately reflects the fair market value of the GIN Club assets, and, in the Receiver's sound business judgment, constitutes the highest and best offer for those assets. Accordingly, the Receiver urges the Court to approve the proposed sale.

## **II. BACKGROUND**

### **A. THE RECEIVERSHIP ESTATE.**

2. On July 13, 2012, the FTC moved to hold Defendant Kevin Trudeau ("Trudeau") in contempt for failing to comply with the Court's June 2, 2010 order directing Trudeau to pay to the Federal Trade Commission ("FTC") \$37.6 million corresponding to the consumer loss resulting from Trudeau's contumacious infomercial marketing of the *Weight Loss Cures* book. (FTC Contempt Motion [Dkt. #481].)

3. Following nearly a year of discovery and a subsequent evidentiary hearing, the Court granted the FTC's motion holding Trudeau in contempt. (Order [Dkt. #729].) As part of its findings, the Court held that Trudeau had created and controlled a number of domestic and offshore entities through which he operated the GIN Club, including GIN USA Inc. ("GIN"), Global Information Network FDN ("Global"), and Website Solutions USA Inc. ("Website

Solutions”) (collectively with Trudeau, the “GIN Sellers”). (FTC Findings ¶¶ II.A.2 & B [Dkt. #713].)<sup>1</sup> The Court also found that Trudeau controlled Trudeau Approved Products, Inc. (“TAP”). (*Id.* ¶ II.A.4.) The GIN Sellers together with TAP shall be referred to as the “Sellers.”

4. In order to maximize recovery to consumers and pursuant to its order dated August 7, 2013 (the “Receivership Order”), the Court appointed Robb Evans & Associates LLC as the receiver over “Trudeau’s Assets” and the “Trudeau Entities” (as those terms are defined in the Receivership Order). (Receivership Order § IV [Dkt. #742].) Each of the Sellers is a “Trudeau Entity” under the Receivership Order and thus part of the receivership estate. (*Id.* § I.(9).)

**B. THE GIN CLUB OPERATIONS.**

5. The Court authorized the Receiver to operate the GIN Club, but only to the extent it could be operated legally and without loss to the receivership estate. (*Id.* ¶ V(12).) The Court also authorized the Receiver to “sell, liquidate, or auction any marketable Assets of Trudeau or the Trudeau Entities, or the Trudeau Entities themselves.” (*Id.* § V(13).) Accordingly, as previously reported to the Court and the GIN Club’s members, the Receiver has been working to stabilize the GIN Club so that it could be operated as a legal and financially stable company and ultimately transferred to new owners for a fair price. (*See, e.g.*, Kane Decl. ¶ 4 & Ex. A (Receiver’s 12/13/2014 Announcement); Receiver’s Second Report [Dkt. #815] at 4.)<sup>2</sup> The Receiver echoed those intentions a number of times, including in a January 6, 2014 message to GIN Club members explaining: “[i]t is the intention of the Receiver to get permission from the

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<sup>1</sup> The Court adopted Findings II through VI and Conclusions I through IV of the FTC’s proposed findings of fact and conclusions of law. (7/26/2013 Order at ¶ (2) [Dkt. #729].)

<sup>2</sup> “Kane Declaration” or “Kane Decl.” refers to the Declaration of Brick Kane in Support of the Receiver’s Motion to Sell the GIN Club Assets Free and Clear of All Liens, Claims and Encumbrances filed concurrently with this Motion. “Kane Ex. \_\_\_” refers to the corresponding exhibit attached to the Kane Declaration.

Court to transfer GIN operations for a fair price to a new owner or ownership group which may include GIN members.” (Kane Decl. ¶ 4 & Ex. B (Receiver’s 1/6/2014 Announcement).)

6. At the outset of the Receivership, the GIN Club had substantial pre-receivership claims against it totaling at least \$ 9.5 million.<sup>3</sup> (Kane Decl. ¶ 5.) Under the Receivership Order, the Receiver was precluded from paying any such pre-receivership debts without additional court approval and such amounts remain unpaid. (Receivership Order § V.(7).) Such pre-receivership debts may include, among other things, claims by GIN Club members and affiliates to certain bonus and incentive payments under various member recruitment programs, including Go Getter, Summer Sales Bonanza, Summer Sales Bonanza Sponsor, Get 3 Program, Newsletter, Weekly Audio Rewards, Cruise voucher recipients, Visionary and Founder bonuses, Lazy Man order refunds and Inner Circle bonuses. (*See* Kane Decl. ¶5 & Ex. B (Receiver’s 1/6/2014 Announcement).)

7. The Receiver took a number of steps to stabilize the GIN Club’s finances. Working with the GIN Club’s management, the Receiver reduced overhead expenses by, among other things, reducing staffing levels to appropriate levels. (Receiver’s Second Report [Dkt. # 815-1] at 2.) The Receiver canceled a member cruise scheduled for January 2014 where there were insufficient funds to pay otherwise required deposits. (Receiver’s First Report [Dkt. #747-1] at 18-19.) The Receiver approved expenditures to fund a “Family Reunion” conference in Washington D.C. in October 2013 that resulted in a net surplus to the GIN Club. (Receiver’s Second Supplemental Report [Dkt. #785-1] at 1.) The Receiver continued the GIN Club’s pre-receivership relationship with the Hybrid Group to provide various educational and social events for the GIN membership. In November 2013, the Receiver hired the former GIN Events and

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<sup>3</sup> Nothing in this Motion is intended to admit the validity of any particular pre-receivership claim.

Education Manager as Chief Operating Officer to assist the Receiver and members of the management team in creating a path to offer membership events that are cost-beneficial for members and to upgrade some of the training curriculum. (Receiver's Second Report [Dkt. #815-1] at 1.)

8. Further, the Receiver addressed concerns, echoed by the FTC and the Court, regarding the legality of certain aspects of the GIN Club. The Receiver independently evaluated the GIN Club's "Affiliate Program," including the expert report of economist Peter Vander Nat prepared for the FTC. (Kane Decl. ¶ 6; *see also* FTC Resp. to Mot. To Intervene [Dkt. #808] at Ex. C (Vander Nat Report).) The Receiver concluded that the then-existing Affiliate Program, which paid commissions to affiliates for recruiting additional members, likely amounted to an illegal pyramid scheme. (Kane Decl. ¶ 6.) Accordingly, on November 30, 2013, the Receiver terminated the Affiliate Program and ceased paying commissions. (*Id.*) The Receiver paid the last commission payments in December 2013 for commissions earned in November 2013. (*Id.*) The Receiver also took steps to remove questionable statements and income claims from the GIN Club's website, including posting a disclaimer on the website stating that contrary to references made in GIN's marketing materials to a "GIN Council" consisting of a group of purported billionaires that endorsed the GIN Club training materials, the Receiver had uncovered no evidence that such a council in fact existed. (Receiver's Second Report [Dkt. #815-1] at 1.)

9. Although the Receiver has been able to operate the GIN Club profitably since assuming control, the GIN Club has experienced a substantial decline in membership from its peak in 2011 when the GIN Club had a total of 37,268 combined members and affiliates. (Receiver's First Report [Dkt. 747-1] at 14.) That downward trend has continued since the appointment of the Receiver, the termination of the Affiliate Program, and in the face of active

campaigns by various groups of former members to encourage other members to discontinue payment of their dues. (Kane Decl. ¶ 7.) In August 2013, the GIN Club had 7,153 dues paying members and by December 31, 2013, after the Receiver paid the final Affiliate Program commissions, the GIN Club had 4,736 dues paying members. (Receiver's Second Report [Dkt. # 815-1] at 2.)

**C. THE RECEIVER'S MARKETING OF THE GIN CLUB'S ASSETS.**

10. Given the unique nature of the GIN Club, the Receiver determined that the most likely buyers, as well as those who placed the highest value on the GIN Club's assets, were among existing GIN Club members. (Kane Decl. ¶ 8.) Accordingly, on March 17, 2014, the Receiver announced that it was soliciting written letters of intent to purchase the assets of the GIN Club. (*Id.* ¶ 8 & Ex. C.)

11. In response to its requests for proposals, the Receiver received nearly 20 inquiries expressing interest in acquiring the GIN Club's assets. (Kane Decl. ¶ 9.) The Receiver declined to pursue a number of offers that included substantial and unlikely contingencies, such as proposals that all members contribute \$1,000 to purchase the GIN Club's assets. (*Id.* ¶ 9.) The Receiver also rejected offers that sought to purchase only certain assets of the GIN Club, such as its membership list, for amounts far less than their value. (*Id.* ¶ 9.) Other more substantial offers submitted to the Receiver proposed consideration consisting exclusively of future installment payments determined as a percentage of net profits, with no initial cash payment. (*Id.* ¶ 10.)

12. Finally, AXS Consulting, LLC (the "Purchaser"), consisting of an investment group of current GIN Members who have a long-time association with the GIN Club, proposed to purchase substantially all of the GIN Club's assets for consideration of \$200,000 cash at

closing, plus installment payments for twelve months of 8% of existing member dues and 4% of new member dues. (*Id.* ¶ 11.) No other offer proposed a similarly substantial up-front payment at closing. (*Id.*) Exercising its business judgment, the Receiver deemed the offer from the Purchaser to be the highest offer and in the best interests of the receivership estate. (*Id.* ¶ 13.)

**D. THE ASSET PURCHASE AGREEMENT.**

13. After arms-length negotiations, the Sellers and Purchaser entered into that certain Asset Purchase Agreement dated April 16, 2014 (the “APA”), subject to court approval. (Kane Decl. ¶ 14.) A true and correct copy of the APA is attached as Exhibit D to the Kane Declaration. Given the Receiver’s widely distributed requests for offers and as a necessary inducement to the Purchaser, such sale shall not be subject to overbidding. (*Id.*)

14. The principal terms of the APA are as follows:

Consideration. The Purchaser shall pay the sum of \$200,000 plus twelve monthly payments calculated as the monthly aggregate of (a) 8% of gross collected membership dues for the calendar month ending on the day preceding the due date of each Purchase Price Installment for all GIN Club members who were members as of the Closing Date; and (b) 4% of gross collected membership dues for the calendar month ending on the day preceding the due date of each Purchase Price Installment for all GIN Club members who become members of GIN Club after the Closing Date.

Assets to be Acquired by Purchaser. The Purchaser shall purchase from the Sellers, the Sellers’ right, title and interest in:

(a) all training materials owned by any of the GIN Sellers, whether in hard copy or electronic format, including but not limited to all audio and video recordings, printed materials, webinars, website and website content, marketing materials, audio and video masters, and any physical copies of such audio, visual or printed materials located at the five “Training Material Locations” (as defined in the APA) (collectively, the “Training Materials”), excluding any Training Materials determined by the Court, FTC or Receiver to constitute a violation of the Federal Trade Commission Act or other applicable law;

(b) all GIN customer databases which evidence or itemize past or current GIN members, associates or affiliates regardless of their past or present

membership status in the GIN Club, and all rights to payment of initial membership fees, monthly dues and all other revenue derived from GIN Club members, associates or affiliates based upon such membership, association or affiliation (the “Membership Databases”);

(c) all intellectual property owned or licensed by any of the GIN Sellers and used in connection with the GIN Club, if any exists, consisting of trademarks, copyrights, trade names and logos (the “Intellectual Property”);

(d) all information technology owned by any of the GIN Sellers which was created or acquired in connection with the past or present operations of any of the GIN Sellers and used in connection with the GIN Club, including but not limited to customized code, passwords, software programs, database information, customer files and business reports (collectively, the “Information Technology”), excluding any Information Technology determined by the Court, FTC or Receiver to constitute a violation of the Federal Trade Commission Act or other applicable law;

(e) all furniture, office equipment, supplies, computers, telephone systems and audiovisual equipment owned by any of the GIN Sellers presently located at the Westmont Offices (the “Furniture and Equipment”); and

(f) all finished products owned by TAP located at the “Duarte Property” (as defined in the APA) consisting of approximately 3,300 30-day supplies of nutritional supplements (the “TAP Assets”).

The Training Materials, Membership Databases, Intellectual Property, Information Technology, Furniture and Equipment, and TAP Assets shall be collectively referred to as the “Purchased Assets.”

“AS IS” Sale. The Purchased Assets are sold “AS IS” without representations or warranties by the Sellers, express or implied, with respect to any matter relating to the Purchased Assets.

Free and Clear Sale. The Purchased Assets shall be transferred to the Purchaser free and clear of all Encumbrances and Liabilities except for any Encumbrances that may exist as a result of the storage or warehousing of the TAP Assets.

Assumption of Liabilities. The Purchaser shall assume all liabilities arising from and after the closing date out of or relating to the Purchaser’s ownership or operation of the Purchased Assets, including claims that use of the Purchased Assets by the Purchaser infringes on the rights of any third party; and liabilities for taxes in connection with the acquisition of the Purchased Assets or attributable to the ownership or operation of the Purchased Assets after the closing date.

15. In light of the substantial disputed and undisputed pre-receivership obligations potentially owed by the Sellers, exceeding any reasonable estimate of the value of the Purchased Assets, the Purchaser expressly required that the order approving the sale provide that the Purchased Assets shall be transferred to the Purchaser free and clear of any and all “Encumbrances” or “Liabilities” (as those terms are defined in the APA), including but not limited, to any claims (known or unknown), including those that may be asserted by current or past members, associates or affiliates with respect to the GIN Club. (Kane Decl. Ex. D (APA) at §6.1(b).)

**E. Notice Procedures.**

16. On April 17, 2014, the Receiver issued a joint statement with the Purchaser to the GIN Club members announcing the APA. (Kane Decl. ¶ 16 & Ex. E.) On April 21, 2014, the Receiver filed its Motion for Entry of an Order (A) Setting Hearing for Approval of the Sale of GIN Club Assets and (B) Approving the Form and Manner of Notice [Dkt. #853] (the “Notice Procedures Motion”). As approved by the Court, in addition to the parties to this case, the Receiver provided notice of the sale to the following: (i) all known disputed and undisputed creditors of the Sellers; (ii) all persons who are members or affiliates of the GIN Club; and (iii) all persons who submitted expressions of interest in response to the Receiver’s March 17, 2014 request for letters of intent. (Kane Decl. ¶ 17.) Specifically, the Receiver electronically sent the “Notice of Sale” to the last known email addresses of 24,130 individuals associated with the GIN Club membership list. Additionally, the Receiver sent 833 copies of the Notice of Sale via first class U.S. Mail to the last known address of disputed and undisputed creditors of the Sellers.<sup>4</sup>

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<sup>4</sup> Because some individuals fell into more than one category of persons to whom the Receiver provided notice, those individuals may have received both electronic and hard copies of the

The Objections to the proposed sale are to be filed no later than 5:00 p.m. (CDT) on May 12, 2014 (the “Objection Deadline”). A final hearing to approve the APA is presently set for May 27, 2014, at 1:30 p.m. (CDT). As such, parties in interest will be afforded no less than 17 days notice prior to the Objection Deadline and 31 days notice prior to the final hearing.

17. The Receiver now requests the Court approve and confirm the sale of the Purchased Assets to the Purchaser on the terms set forth in the APA, free and clear of all liens, claims, and encumbrances as in the best interests of the receivership estate and authorize the Receiver to take all necessary steps to the conclude such sale.

### **III. BASIS FOR RELIEF**

#### **A. THE COURT SHOULD APPROVE THE SALE OF THE PURCHASED ASSETS AS IN THE BEST INTERESTS OF THE RECEIVERSHIP ESTATE.**

18. A federal district court presiding over an equity receivership exercises the traditional, common law powers of equity and thereby has broad powers in fashioning appropriate relief. *Liberte Capital Group, LLC v. Capwill*, 462 F.3d 543, 551 (6<sup>th</sup> Cir. 2006); *see also* Fed. R. Civ. P. 66 (“The practice in the administration of estate by receivers . . . shall be in accordance with the practice heretofore followed in the courts of the United States or as provided in rules promulgated by the district court.”). Arising from that authority, the Court is empowered to order the sale of receivership property. *See SEC v. American Capital Invs., Inc.*, 98 F.3d 1133, 1144 (9<sup>th</sup> Cir. 1996) (approving receiver’s decision to sell receivership estate property), abrogated on other grounds, *Steel Co. v. Citizens for a Better Environment*, 523 U.S. 83 (1998) “It is generally conceded that a court of equity having custody and control of property has the power to order a sale of the same in its discretion. The power of sale necessarily follows the

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Notice of Sale. Also, as of the filing of this Motion, approximately 2,207 of the emails sent by the Receiver were returned as undeliverable. (Kane Decl. ¶ 17.)

power to take possession and control of and to preserve property, resting in the sovereignty and exercised through courts of chancery, or courts having statutory power to make the sale.” *Id.* (quoting 2 *Clark on Receivers* § 482 (3d ed. 1992)) (emphasis omitted); *see also SEC v. Elliot*, 953 F.2d 1560, 1566 (11<sup>th</sup> Cir. 1992) (authorizing receiver’s disposal of receivership assets).

19. The Court also has wide discretion to set the terms and procedures used to sell personal property so as to maximize the proceeds from such sales. *See U.S. v. Stonehill*, 83 F.3d 1156, 1160 (9<sup>th</sup> Cir. 1996) (holding that district court had discretion under 28 U.S.C. § 2004 to tailor requirements for selling personal property); *United States v. Branch Coal Corp.*, 390 F.2d 7, 10 (3d Cir. 1968) (holding that court’s exercise of discretion in setting terms and conditions for judicial sales will be undisturbed other than for abuse of discretion). Under 28 U.S.C. § 2004, the Court is afforded discretion to order the sale of personal property without imposing the same procedural requirements set for the sale of real property. 28 U.S.C. § 2004 (providing that sale of personal property shall follow requirements of sale of real property “unless the court orders otherwise.”). In determining whether to approve a sale, the Court may take into account the unique facts and circumstances surrounding the proposed sale, including the precarious financial condition of the assets being sold. *Tanzer v. Huffines*, 412 F.2d 221, 222-223 (3d Cir. 1969) (approving expedited sale in the absence of financial appraisal and limited notice in light of corporation’s deteriorating financial condition). Indeed, in overseeing a receivership, the Court must “make rules which are practicable as well as equitable.” *See SEC v. Hardy*, 803 F.2d 1034, 1039 (9<sup>th</sup> Cir. 1986).

20. The Court should approve the proposed sale of the Purchased Assets to the Purchaser as in the best interests of the receivership estate. As a threshold matter, in locating a willing buyer, the Sellers faced a number of obstacles stemming from the unique nature of the

assets being offered for sale. First, the Purchased Assets largely consists of unique intangible property that are not readily valued. For example, because of the Seller's incomplete records, the Sellers cannot (and under the APA do not) warrant the existence of any specific intellectual property such as trademarks, copyrights, trade names or logos. (*See Kane Decl. Ex. D (APA) § 1.1(c) ("if any exists") & 4.1 (limiting warranties and representations of Sellers to the existence of authority to enter into the APA).*) Further, given the relatively recent and necessary changes to the GIN Club described above, including the termination of the questionable Affiliate Program and discontinuation of the use of misleading income claims from the GIN Club marketing, the Sellers had little relevant operational history to provide potential buyers to forecast the GIN Club's future performance. Moreover, in the wake of the prolonged uncertainty regarding the future of the GIN Club, the GIN Club has experienced a sustained trend of declining membership—the primary source of the GIN Club's revenues. (*See Receiver's Second Report [Dkt. # 815-1] at 2 (describing decline in membership during course of receivership).*)

21. Notwithstanding these obstacles, under the terms of the proposed sale, the receivership estate will receive immediate cash consideration of \$200,000, plus a percentage of future membership dues over the course of the next twelve months. (*See Kane Decl. Ex. D (APA) §2.1.*) Exercising its sound business judgment, the Receiver deems the proposed sale to be the highest and best offer received. Critically, the proposed sale appropriately balances risks to the receivership estate by ensuring a certain minimum recovery (\$200,000 cash due at closing) while also providing an additional return based on the GIN Club's actual future performance. (*Kane Decl. ¶ 13.*) No other competing offer similarly guaranteed the receivership estate a substantial minimum recovery. (*Id. ¶ 11.*)

22. Additionally, given the Purchaser's strong and lengthy connection with the GIN Club and investment in the success of the GIN Club, as reflected by the Purchaser's substantial up-front payment, the Purchaser has both the familiarity and incentive to successfully operate the GIN Club thereby maximizing the value of the installment payments due the Sellers. (*Id.* ¶ 13.) By contrast, bidders that proposed to rely exclusively on a share of future revenue without committing to a substantial up-front payment had less incentive to maximize future revenues in turn making the value of offers relying solely on a share of such revenues more uncertain.

23. To induce the Purchaser to enter into the APA, the Sellers agreed to omit any provisions providing for overbidding. The Receiver had already publicly invited offers for the Purchased Assets without receiving any other competing bids that guaranteed the receivership estate a similar recovery. (*Id.* ¶ 14.) As such, overbidding would have been unlikely to result in any material increase in price while potentially risking the loss of the Purchaser's offer and attendant recovery for the receivership estate. (*Id.*) The Purchaser is unaffiliated with the Receiver and the terms of the APA were proposed, negotiated, and entered into without collusion, in good faith, and from arm's length bargaining position. (*See id.* ¶¶ 12, 14.)

24. Indeed, having exposed the Purchased Assets to the marketplace by widely soliciting bids from likely buyers who were most familiar with the assets, the consideration provided by the proposed sale reflects the fair market value of the Purchased Assets. *See Bank of America Nat. Trust and Sav. Ass'n v. 203 North LaSalle Street Partnership*, 526 U.S. 434, 457 (1999)(recognizing that "the best way to determine value is exposure to a market"). As such, the Court should approve the proposed sale to the Purchaser on the terms set forth in the APA as in the best interests of the receivership estate.

**B. THE COURT HAS THE AUTHORITY TO SELL THE ASSETS FREE AND CLEAR OF LIENS AND ENCUMBRANCES.**

25. It has long been recognized that a federal court presiding over a receivership may authorize the assets of the receivership to be sold free and clear of liens and related claims. *See Regions Bank v. Egyptian Concrete Co.*, No. 03-cv-1260, 2009 WL 4431133, at \*7 (E.D. Mo. Dec. 1, 2009) (collecting authority); *see also Miners' Bank of Wilkes-Barre v. Acker*, 66 F.2d 850, 853 (2d Cir. 1933) (“A court of equity, under proper circumstances, has the power to order a receiver to sell property free and clear of all encumbrances.”). Under Local Rule 66.1, the Court is to administer receivership estates “similar to that in bankruptcy cases.” Local Rule 66.1. As a cornerstone of federal bankruptcy law, bankruptcy courts, which, like courts administering receivership estates, are courts of equity, may authorize the sale of estate assets free and clear of liens and interests. 11 U.S.C. § 363.

26. Here, the Receiver is unaware of any perfected security interests in any of the Purchased Assets. (Kane Decl. ¶ 15.) Nevertheless, any such liens or interests shall attach to the proceeds of the sale in the same amount, and with the same validity, extent and priority as currently exists. As the proposed sale reflects the market value of the Purchased Assets and as any existing liens are to be transferred to the proceeds, no creditors will be prejudiced by such sale. Accordingly, the Court should exercise its equitable power to approve the proposed sale free and clear of all liens and encumbrances.

**WHEREFORE**, Robb Evans & Associates LLC, in its capacity as court-appointed Receiver, respectfully requests the Court enter an order substantially in the form of attached Exhibit 1: (a) granting the Motion; (b) approving the sale of the Purchased Assets by private sale to the Purchaser under the terms of the APA; (c) providing the Purchased Assets shall be transferred to the Purchaser free and clear of all liens and encumbrances, if any, with such liens

to attach to the proceeds of the sale in the same amount, and with the same validity, extent and priority as currently exists; (d) authorizing the Receiver to execute all documents and instruments necessary or convenient to complete, implement, effectuate and close the sale of the Purchased Assets to the Purchaser; and (e) granting such other relief as the Court deems just and proper.

Dated: April 28, 2014

Respectfully submitted,

**ROBB EVANS & ASSOCIATES LLC,  
RECEIVER**

By: /s/ Blair R. Zanzig  
(One of Its Attorneys)

Blair R. Zanzig (No. 6273293)  
John Hiltz (No. 6289744)  
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*Counsel for Robb Evans & Associates LLC, in  
its capacity as Receiver*

**CERTIFICATE OF SERVICE**

I, Blair R. Zanzig, an attorney, hereby certify that, on the 28<sup>th</sup> day of April 2014, I caused a true and correct copy of the foregoing Receiver's Motion For Entry of an Order Approving Sale of Gin Club Assets Free And Clear of All Liens, Claim and Encumbrances to be served via the Court's electronic case filing system on the following:

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/s/ Blair R. Zanzig

# **EXHIBIT 1**

**UNITED STATES DISTRICT COURT FOR  
THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

<b>FEDERAL TRADE COMMISSION,</b>	)	
	)	
<b>Plaintiff,</b>	)	<b>Case No.: 03-C-3904</b>
	)	
<b>v.</b>	)	<b>Hon. Robert W. Gettleman</b>
	)	
<b>KEVIN TRUDEAU,</b>	)	
	)	
<b>Defendant.</b>	)	
	)	

**ORDER APPROVING SALE OF GIN CLUB ASSETS  
FREE AND CLEAR OF ALL LIENS, CLAIMS AND ENCUMBRANCES**

This matter coming to the Court on the Receiver’s Motion For Entry of an Order Approving the Sale of the GIN Club Assets Free and Clear of All Liens, Claims and Encumbrances (the “Motion”); the Court having reviewed the Motion and Declaration of Brick Kane in Support of the Motion; all parties in interest having due notice; and the Court being otherwise fully advised as to the premises;

It is hereby ORDERED:

1. The Motion is granted;
2. As the APA was negotiated, proposed and entered into without collusion, in good faith, and from arm’s length bargaining positions the sale of the Purchased Assets by private sale to the Purchaser under the terms of the APA is approved.<sup>1</sup>
3. Immediately upon satisfaction of all of the conditions set forth in the APA, the Purchased Assets sold to Purchaser pursuant to the APA shall be transferred to Purchaser free

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<sup>1</sup> Unless otherwise defined herein, all capitalized terms shall have the meaning ascribed to them in the Motion.

and clear of all “Encumbrances” (as defined in the APA) and free and clear of any and all “Liabilities” (as defined in the APA), including but not limited, to any claims (known or unknown), past, present or asserted or to be asserted by current or past members, associates or affiliates with respect to the GIN Club, except for any Encumbrance that may exist as a result of the storage or warehousing of the TAP Assets;

4. Any currently existing liens or encumbrances on the Purchased Assets shall attach to the proceeds of the sale in the same amount, and with the same validity, extent and priority as currently exists.

5. The Receiver is authorized and directed to execute all documents and instruments necessary or convenient to complete, implement, effectuate and close the sale of the Purchased Assets to the Purchaser.

6. The Court retains jurisdiction to resolve any controversy or claim arising out of or relating to this Agreement, or the breach hereof.

7. The APA and the transactions contemplated thereby may be specifically enforced against and binding upon, and not subject to rejection or avoidance by, the Sellers or their respective successors and assigns.

DATED: May \_\_, 2014

ENTER:

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UNITED STATES DISTRICT COURT JUDGE

Prepared by:

Blair R. Zanzig (ARDC # 6273293)  
HILTZ WANTUCH & ZANZIG LLC  
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Chicago, Illinois 60604

*Counsel for Robb Evans & Associates LLC, in its capacity as Receiver*