

IN THE SUPREME COURT OF THE STATE OF NEVADA

Supreme Court Case No.

72261

Electronically Filed
Feb 01 2017 11:11 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

MARGARET COTTER, ELLEN COTTER,
GUY ADAMS, EDWARD KANE,
DOUGLAS MCEACHERN, JUDY
CODDING, AND MICHAEL WROTONIAK,

Petitioners,

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT of the State of Nevada, in and
for the County of Clark; and THE
HONORABLE ELIZABETH GONZALEZ,
District Judge, Department 11

Respondents,

and

JAMES J. COTTER, JR., Individually
And Derivatively on Behalf of
READING INTERNATIONAL, INC.,

Real Party in Interest.

District Court No. A-15-719860-B,
coordinated with
No. P-14-082942-E and
No. A-16-735305-B

APPENDIX TO WRIT PETITION
VOLUME 5
PGS. 1001-1250

H. STAN JOHNSON, ESQ. (SBN 00265)
COHEN|JOHNSON|PARKER|
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EXHIBIT 33

pp. 1002 Filed Under Seal

EXHIBIT 34

pp. 1004-1005 Filed Under Seal

EXHIBIT 35

pp. 1007-1010 Filed Under Seal

EXHIBIT 36

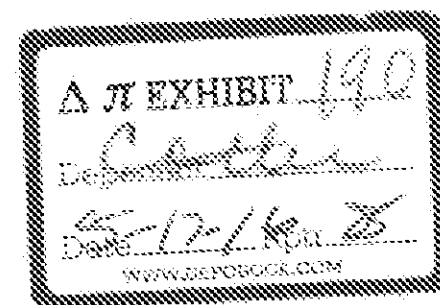
pp. 1012 Filed Under Seal

EXHIBIT 37

Message

From: Tim Storey [tim.storey@prolex.co.nz]
Sent: 4/15/2015 6:43:21 AM
To: James Cotter [james.j.cotter@readingrdi.com]
Subject: draft email
Flag: Follow up

As a draft to discuss



Prior to our telephone meeting Thursday I thought it might help to provide a note on progress over the last week or so -- and where to from here. Jim will be reporting to the board on some of these issues in more detail.

1. **General** - Jim appreciates we need to make real headway in sorting through some of the issues and getting to a position where the company is operating more harmoniously and with a clear direction. While this is a lot to do with improving the EC and MC relationships, it has a broader focus too. I have made it clear to Jim -- and EC and MC -- that things have to improve and that improvement has to be sustained, otherwise the board will need to look to other steps to protect the company's position. This means in part an acceptable working relationship between them, and one that leads to a better company environment. We talked about Jim in effect leading an evolution of the company -- something that needs to be done sensitively, even more so given the "family" involvement.
2. **Budget 2015** -- following discussions with Andrzej and Jim -- it is agreed to adopt the draft budget (whole company and divisions) that has been prepared by Andrzej in consultation with Jim and the divisions -- this will come to the board shortly. It is agreed that this may not be a stretch budget but it is a start and will be improved on with the 2016 etc budgets. It has been agreed with Ellen that there will be a focus on improving her film rental number and labour costs.

Future reporting will be against budget (with continuing reference to previous year numbers).

3. **Plans and Budgets 2016** -- these are to be worked up and finalised for board approval by 31 December 2015.
4. **"Metrics"** - one of the more contentious issues is around comparing the US circuit with other US operators and the Australian operation. It is complex to compare numbers, given that various people develop their numbers in different ways. It is agreed that we will work through this analysis in a methodical way with Dev engaging an analyst and then both working with Jim and Ellen to identify areas for review, reviewing the comparative numbers and seeing what can be done to improve our results where possible. This will take the balance of the year to do.

It is agreed that we will look at divisions based on an EBITDA contribution to the group performance.

5. **Legacy people issues** -- we need to deal with the issues around employment (and "retirement") terms for Andrzej, Craig and Bob. These have been discussed between Jim and Ellen and Margaret updated and agreeing, and I think there are reasonable frameworks fleshed out which can now be discussed with the parties.
6. **People** -- Dev is on board soon; Jim is actively looking for a RE Director (he has seen some good candidates), Dev will need to engage a SEC reporting person and an analyst type person (likely both jobs can be done by the same person). Ellen with Jims overview is looking for a Director of Food and Beverage.
7. **Remuneration policy** -- Jim will look to develop a remuneration policy over the course of the next 6 months -- so we have consistency around employment practices etc. This is a different issue to the Cotter remuneration issue.
8. **Premises** -- work is underway to move to more congenial premises -- likely in the same complex. It is hoped that the premises will be more open plan, and allow more interplay between the various people. It may take 6 months to sort this out and move. Looking forward, Jim would like to centralise Corporate and US cinemas in LA.
9. **Ellen** -- There have been lengthy discussions between Jim and Ellen. Jim has gone over Ellens plan with her and there is broad agreement -- with Action Items close to agreed. For example, Ellen has agreed to restructure her people so she has 6 direct reports (to be implemented promptly). Also, she is developing a "theme" for each of the Angelica

and Commercial offerings (due end May 15). Once we have the themes work done, Ellen and Jim will sit down and agree the CAPEX expectations/budget for this year and going forward.

10. **Margaret** – Jim, Margaret and I have had a couple of discussions. This is at an earlier stage. Margaret has not provided a draft plan. To advance matters we have talked about the business and where it will go – largely Live Theatre and property in so far as we may progress and redevelop other live theatre property. Margaret has been asked to provide a written draft plan as a matter of priority.
11. **Ellen and Margaret employment** – Jim has agreed in principal that Ellen be appointed President US cinemas.

Jim has agreed in principal that Margaret be employed fulltime by Reading as President Live Theatres and also in a role involving the NY properties (a member of the development committee chaired by the CEO with other members including the RE Director, Buckley, Craig, Bill etc.) Her job description will be set out in the contract, along with expectations around performance - providing plans and the like.

Both contracts will be on standard terms with a 12 month notice provision – the contracts modelled on what Jim, Dev and Bill have.

The Cotter remuneration will be set on market terms by the Remuneration Committee – the Committee obtaining an independent report to assist in its deliberations.

The draft contracts should be available soon – and will note remuneration is to be finalised once the Committee report is available.

Jim is agreeable to this on the basis there is stability going forward over the next 12 months or so – meaning the board will remain the same or similar and the three of them will look to work together on the basis we are developing (but of course if that isn't working, reserving the right for the board to act as it sees fit).

I think we need to get the employment terms etc agreed and in place as soon as we can, to let things progress.

12. **Corporate plan** – I have spoken with Jim at length around him preparing a draft corporate plan for review by the board. This will be an extensive document – we can discuss content – and I would hope it will be available for discussion in 6 weeks. As part of this, Jim is working up an outline of his proposed meetings schedules internally – C Suite meetings, divisional meetings and the like.
13. **Implementation** – Jim and I are discussing the process to implement these initiatives – both in discussing with individuals and any more general statements. It is acknowledged some of these initiatives should contribute to improving morale and engender a more positive attitude and spirit around the office and in the business.
14. **Proxy** – This is still up in the air – Ellen and Margaret don't want to be hurried to sort this out – meaning essentially they don't want to hurry to agree on the business at the shareholder meeting – which in turn I think means agreeing the slate of directors. I think Jim is of the view the status quo should be maintained. (I guess other issues may be put on the agenda for the meeting by any one of the Cotters but I haven't heard of anything in this regard. Time will tell).

From what I gather, we need to file some detail around related party issues (part 3 of the K) by 30 April, but we don't have to deal with the meeting date and content (the proxy) at this stage – so we can defer those issues. I don't think we should go to a shareholder meeting unless we are clear as to the outcome of votes. Nevertheless I think we should clarify the position re voting as soon as possible – I don't see any benefit in delaying the matter – the Company would be better served in having a clear path forward and stability for the next 12 months. In that period we can see how the "evolution" is going - whether we are making any progress – and give time for the Cotter court case to mature further (I would hope that progress can be made in finding an agreed compromise rather than going to court).

This issue will need to be advanced over the next few days given the looming filing requirement on 30 April 15.

15. **Summary** – It has been made clear to Jim he needs to make progress in the business and with Ellen and Margaret quickly, or the board will need to look to alternatives to protect the interests of the company. I think Jim has understood this and refocussed his approach to reflect this. Of course, it is difficult for someone to change "character" overnight – but he is trying and I have made it clear that back sliding is not acceptable.

Understandably, Ellen and Margaret may be sceptical about Jim's transition – but I have asked that they both approach this with good faith and give it time to work through. Equally, Jim has concerns about Margaret and

Ellen accepting they too need to accept change to make things work and need to act in good faith and help the process along. All parties have an interest in making things work.

I have pointed out to all that if things don't work out in an acceptable manner, then the board is resolute in the view that it will then act in the best interests of the company in changing things. I have also pointed out that the time for review is short term – perhaps within the next 3 months or so.

16. **Go forward** – I will come back around Monday 27 April (for a while) to continue to progress matters. My expectation is we will (among other matters) need to address the following material issues –

- see how Ellen is going with her deliverables
- advance discussions with Margaret around her business plan
- advance discussions around Margaret's employment terms
- progress the remuneration committee's determination of Cotter remuneration parameters
- finalise discussions around Craig and Bob positions (assume Andrzej's position agreed)
- set Dev's deliverables
- progress Jim's preparation of the corporate plan
- review progress around issues like finding a RE Director etc

I believe all Cotters accept the need for all to act in the best interests of the company – and that they will all try to do so. As I have said, the proof will be in the pudding. While my role is to be optimistic and get progress, I am realistic and we do need to evaluate progress in the short term.

All to discuss tomorrow.

Tim Storey
Director

Prolex Advisory

PO Box 2974 Shortland Street, Auckland
Phone +64(0)21 633-089

EXHIBIT 38

pp. 1018-1022 Filed Under Seal

EXHIBIT 39

From: Ellen Cotter <Ellen.Cotter@readingrdi.com>
Sent: Tuesday, May 19, 2015 6:38 PM
To: Margaret Cotter; James Cotter Jr; Kane (elkane@san.m.com);
dmceachern@deloitte.com; Tim Storey; Guy Adams; wgould@troygould.com
Cc: William Ellis
Subject: Agenda - Board of Directors Meeting - May 21, 2015

Dear All: Below is the agenda for Thursday's Meeting of the Board of Directors. Please note that Bill Gould asked that the Meeting begin at 11.15am.

Reading International, Inc.

Meeting of the Board of Directors

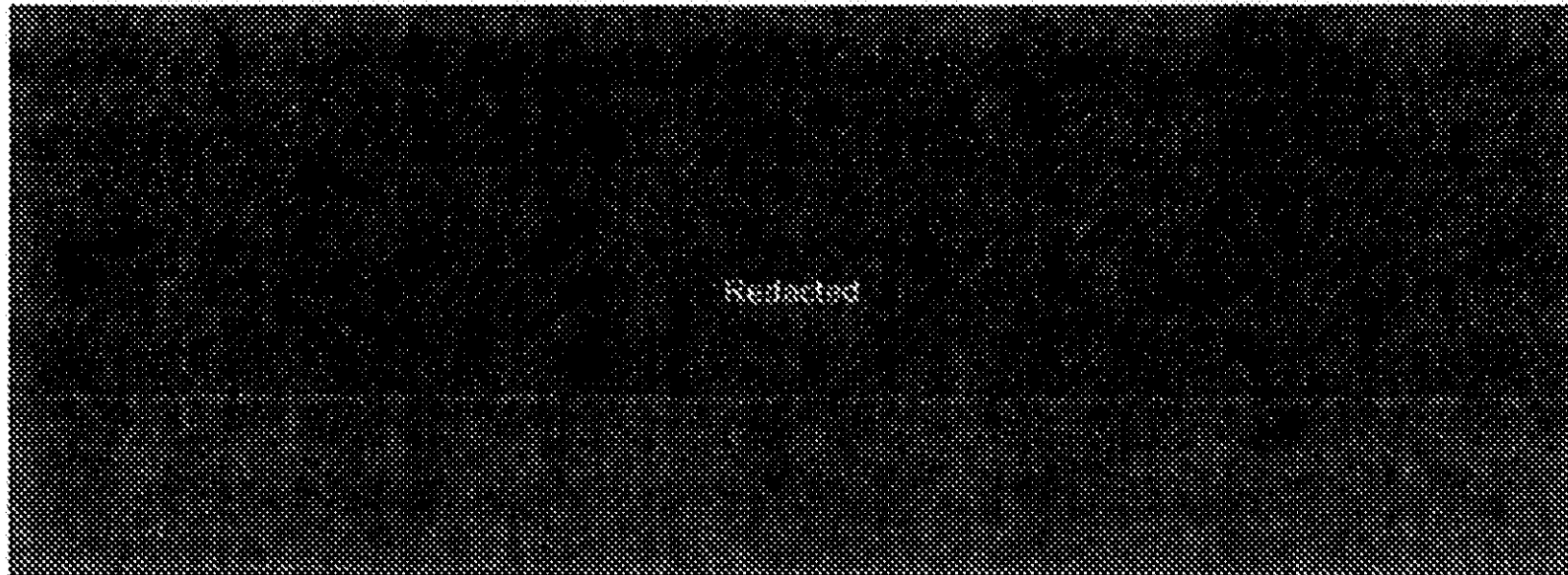
May 21, 2015 - 11:15am

1. Status of President and CEO
2. Directors' Compensation
3. Tim Storey's Compensation
4. Nevada Interpleader Action
5. Proposed By-Law Amendments
6. Status of Craig Tompkins and Robert Smerling
7. Status of Ellen Cotter and Margaret Cotter
8. Director of Real Estate Candidate Search
9. Stomp Litigation Update
10. Review of Operations

Chairperson of the Board
Ellen M. Cotter

[Handwritten signature]

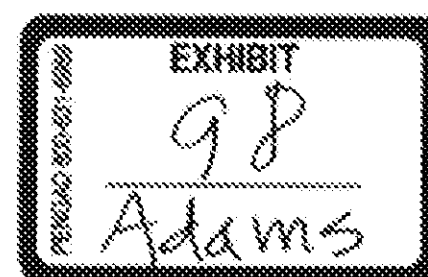
EXHIBIT 40



From: Harry Susman [mailto:HSUSMAN@SusmanGodfrey.com]
Sent: Wednesday, May 27, 2015 3:39 PM
To: Adam Streisand
Cc: Meg Lodise
Subject: Confidential Settlement Proposal--Subject to R. 408

Adam: Attached is the proposal that I mentioned on the phone.

Attention: This message is sent by a law firm and may contain information that is privileged or confidential. If you received this transmission in error, please notify the sender by reply e-mail and delete the message and any attachments.



JCOTTER007578
001026

Confidential Settlement Memo of Understanding

The following is intended to be used as a part of confidential and "without prejudice" settlement negotiations between Ellen Cotter and Margaret Cotter, on the one hand, and James J. Cotter, Jr. ("JJC") on the other hand. It is provided under the understanding that the contents hereof are confidential and not to be used in any litigation or other proceeding.

The proposal outlined below sets forth the basis on which Ellen Cotter ("EMC") and Margaret Cotter ("AMC") would be willing to proceed towards a negotiated settlement, but, with respect to the items related to the Company's management structure only, is subject to the ultimate approval of the independent directors, in the exercise of their fiduciary duties and obligations. Nothing herein is intended to interfere with the appropriate exercise by the directors of their fiduciary duties and obligations.

If these terms are acceptable to JJC, then JJC should sign below to indicate his agreement. AMC and EMC will do the same. By signing below, the parties agree that the terms of this Understanding represent a binding agreement, subject to approval by the independent directors of the RDI management structure and necessary court approvals. However, the parties acknowledge that their agreement will be memorialized in a more formal document, and the parties agree to work diligently and good faith to prepare all required documentation that reflects the terms of this Understanding. The initial draft of such documentation will be prepared by counsel to Ellen Cotter and Margaret Cotter.

| TERM/CONDITION | EMC/AMC SETTLEMENT TERMS AND CONDITIONS |
|---|--|
| Reading International Management Structure (JJC, EMC & AMC would cooperate in good faith in the implementation of this changes) | <p>JJC would continue to serve as CEO and President under the terms of his existing contract, but in the overall management structure and subject to the limitations set forth below:</p> <p><i>Executive Committee Structure</i></p> <p>The existing Executive Committee would be renewed as a standing committee of the Board of Directors, as follows:</p> <ul style="list-style-type: none"> • Members: EMC, AMC, JJC and Guy Adams (Chairman). • Delegated Authority to the Executive Committee would be as determined by the Board of Directors, but would include, at a minimum, the following: <ul style="list-style-type: none"> (i) Approval over the Hiring/Firing/Compensation of all senior level consultants/employees; (ii) Review and approval/disapproval of all contracts/commitments have an overall exposure to the Company in excess of \$1 million; and (iii) Review and approval of annual Budget and Business Plan. <p>Meetings would be held on a regularly scheduled basis weekly. Executive Committee members would naturally be free to attend and participate in internal meetings called by the CEO, and would</p> |

| | |
|--|--|
| | <p>endeavor to make themselves reasonably available to attend such meetings as to which they may be invited by the CEO.</p> <p>Unless approved in advance by the Executive Committee, all investor relations would be handled by CFO in consultation with the GC, not CEO. All press releases and public filings would be subject to review and sign-off by the Executive Committee and the GC.</p> <p>The Company would enter into employment agreements with EMC and AMC on substantially the same terms and conditions as JR.</p> <p>EMC will be appointed President of the US Cinema division.</p> <p>Margaret Cotter will be appointed as Chairman of the NYC Real Estate Oversight Committee (members to include JIC, AMC, SCT and WE).</p> <p>It is recognized that the implementation of the above will require the adoption of various bylaws, policies and procedures.</p> |
| Reading Voting Stock -- Class B | <p>JIC will decline to serve as Co-Trustee of the Voting Trust and renounces any intention or desire to serve as a successor trustee.</p> <p>Margaret Cotter will be the Sole Voting Trustee of the Voting Stock.</p> <p>JIC, EMC and AMC will sign an acknowledgement that there is an inconsistency in the 2014 Amendment between SR's expressed intent that AMC serve as Chair and another provision that says SR intended for rotation; JIC, EMC and AMC will agree that SR intended for AMC to serve as Chair and that neither EMC nor JR wish to serve as Chair.</p> |
| Immediate Release and Waiver signed by JIC with respect to all litigation, including any matters covered by the specified litigation | <ol style="list-style-type: none"> 1. California Superior Court case 2. Nevada case filed by JIC 3. All threats against Directors 4. All threats of Company Derivative Action 5. Agreement that Reading International, Inc. can drop the interpleader action in Nevada and recognize the Estate as the owner of Class B Shares and Option 6. JIC further agrees to not sue Company over these matters or participate in any lawsuit related to the Company |
| 2014 Trust Amendment | <p>Subject to the terms and conditions herein, EMC and AMC will drop any challenge to the enforceability of the 2014 Amendment.</p> |
| Trustees of the Living Trust | <p>JIC resigns as Trustee and renounces any intent or desire to serve as successor trustee while either EMC or AMC are alive.</p> |
| Specific Bequests | <p>Laguna Beach Condo will be sold immediately to provide liquidity to the Estate. The parties will agree to consent to such sale under terms determined by AMC and EMC in their sole discretion as Co-Trustees.</p> |

| | |
|--|---|
| Ownership of Agriculture Assets | <p>Cotter Family Farms, LLC Agreement amended</p> <ul style="list-style-type: none"> • Majority rule for decision-making by Co-Managers; • Remove restrictions on distributions or sale of assets; • JJC, EMC and AMC will sign an agreement that they have unanimously agreed that the assets of the Citrus Trust, including ownership interests in the LLC, will be distributed pro rata to EMC, AMC, and JJC. |
| JJC's "Lead Director" Agreement with Cecelia - \$200,000 per annum | JJC's "lead director" Agreement will be voided. JJC will relinquish any remaining rights in such Agreement. |
| \$1.5 million Loan | As executors, EMC and AMC will work out a reasonable payment back to Estate over time, taking into due consideration JJC's ability to make such repayments. |
| Legal Expenses | All legal expenses and other professional fees incurred to date by JJC, EMC, AMC, the Trust, and the Estate relating to the litigation or administration issues will be reimbursed by Trust or Estate as appropriate, and JJC will sign an acknowledgment that this is appropriate and reasonable. |
| Release by EMC and AMC | EMC and AMC will take all actions to have their claims pending in CA and NV over SR's estate and trust dismissed with prejudice, except to the extent such dismissal would be inconsistent with any term of this Agreement, such as with regard to the \$1.5 million loan (in which case the parties will work to carve out such claims). |
| 2014 Gifts | JJC delivers EMC check for \$28,000. |
| James J. Cotter Foundation | AMC, EMC and JJC will become co-trustees and/or co-directors of the James J. Cotter Foundation. They further will agree that decision-making will be done by majority rule. |
| Court Approval | The parties will use their best efforts to obtain court approval in CA and NV of any settlement agreement. |
| Counseling | AMC, JJC and EMC will engage in professional counseling to determine how to work cooperatively together and with respect. |

AGREED:

James J. Cotter, Jr. (individually and in all representative capacities)

Ellen Cotter (individually and in all representative capacities)

Margaret Cotter (individual and in all representative capacities)

EXHIBIT 41

From: James Cotter JR <james.j.cotter@readingrdi.com>
Sent: Thursday, June 11, 2015 11:04 PM
To: Ellen Cotter; dmceachern@deloitte.com; Tim Storey; wgould@troygould.com; Guy Adams; Margaret Cotter; William Ellis; Kane (elkane@san.rr.com)
Subject: RE: Board Meeting - Tomorrow

Dear All,

I write in response to Ellen's e-mail below.

I object to convening or "reconven[ing]" an RDI board of directors meeting "telephonically this Friday, June 12, at 11:00 a.m. (Los Angeles time)."

I do so for a number of reasons, including the following:

1. An agenda has just been circulated less than nineteen hours before the meeting;
2. The agenda raises several matters that are so significant that it is inappropriate if not improper to conduct the meeting telephonically;
3. Neither the meeting of May 21, 2015 nor the supposed meeting of May 29, 2015 was properly adjourned under the Company's by-laws; as a consequence the "meeting" Ellen proposes to reconvene tomorrow is a new meeting, not a reconvened prior meeting that was properly adjourned;
4. There is no Company business of such urgency that an impromptu meeting needs to be convened tomorrow, June 12, in advance of the June 18 meeting;
5. The matter I am informed Ellen wishes to pursue tomorrow is termination of me as President and CEO and replacement of me as CEO by Guy Adams due to my failure to acquiesce to the ultimatum that I enter into a global settlement (including disputed trust and estate issues) satisfactory to Ellen and Margaret or be terminated. Respectfully, that proposed conduct, like the threat that preceded it, is conduct not properly undertaken by any member of the board of RDI, a public company. Even if it were, which it is not, it is not properly voted on by at least Guy Adams and Ed Kane (assuming none of Margaret, Ellen or I would vote on such a decision), due to a lack of disinterestedness; and
6. What should be considered in view of the ongoing disputes between me and Ellen and Margaret is what other steps should be investigated to protect the interests of the Company and all of its shareholders, one of which I intend to raise, which is engaging an investment bank to explore the sale of the Company.

For these reasons and others each of us as fiduciaries is obligated to consider, I object to the supposed board of directors meeting Ellen seeks to have occur telephonically tomorrow.

Jim

From: Ellen Cotter
Sent: Thursday, June 11, 2015 3:56 PM
To: dmceachern@deloitte.com; Tim Storey; wgould@troygould.com; Guy Adams (GAdams@gwacap.com); James Cotter JR; Margaret Cotter; William Ellis; Kane (elkane@san.rr.com)
Subject: Board Meeting - Tomorrow



GA00005519

001031

Dear All – With respect to our meeting tomorrow, we are again reconvening the original May 21, 2015 meeting. For your convenience, I've set forth below the agenda distributed from that May 21 meeting. Following up on our discussion on May 29, 2015, we will be addressing Item 1 of this Agenda again tomorrow. We will address the other agenda items at the June 18 Meeting.

Thank you.

Ellen Cotter
Chairperson

From: Ellen Cotter
Sent: Tuesday, May 19, 2015 2:38 PM
To: Margaret Cotter; 'James J. Cotter Jr.' (james.j.cotter@readingrdi.com); Kane (elkane@san.rr.com); dmceachern@deloitte.com; Tim Storey; Guy Adams (GAdams@gwacap.com); wgould@troygould.com
Cc: William Ellis
Subject: Agenda - Board of Directors Meeting - May 21, 2015

Dear All: Below is the agenda for Thursday's Meeting of the Board of Directors. Please note that Bill Gould asked that the Meeting begin at 11.15am.

Reading International, Inc.

Meeting of the Board of Directors

May 21, 2015 – 11.15am

1. Status of President and CEO
2. Directors' Compensation
3. Tim Storey's Compensation
4. Nevada Interpleader Action
5. Proposed By-Law Amendments
6. Status of Craig Tompkins and Robert Smerling
7. Status of Ellen Cotter and Margaret Cotter
8. Director of Real Estate Candidate Search
9. Stomp Litigation Update
10. Review of Operations

Chairperson of the Board
Ellen M. Cotter

EXHIBIT 42

Mark G. Krum (SBN 10913)
Lewis Roca Rothgerber Christie LLP
3993 Howard Hughes Pkwy, Suite 600
Las Vegas, NV 89169-5996
Tel: 702-949-8200
Fax: 702-949-8398
E-mail:mkrum@lrrc.com

*Attorneys for Plaintiff
James J. Cotter, Jr.*

DISTRICT COURT
CLARK COUNTY, NEVADA

JAMES J. COTTER, JR., derivatively on behalf
of Reading International, Inc.,

Plaintiff,

vs.

MARGARET COTTER, ELLEN COTTER,
GUY ADAMS, EDWARD KANE, DOUGLAS
McEACHERN, TIMOTHY STOREY,
WILLIAM GOULD, and DOES 1 through 100,
inclusive,

Defendants.

and

READING INTERNATIONAL, INC., a
Nevada corporation,

Nominal Defendant.

T2 PARTNERS MANAGEMENT, LP, a
Delaware limited partnership, doing business as
KASE CAPITAL MANAGEMENT, et al.,

Plaintiffs,

vs.

MARGARET COTTER, ELLEN COTTER,
GUY ADAMS, EDWARD KANE, DOUGLAS
McEACHERN, WILLIAM GOULD, JUDY
CODDING, MICHAEL WROTONIAK, CRAIG
TOMPKINS, and DOES 1 through 100,
inclusive,

Defendants.

CASE NO.: A-15-719860-B
DEPT. NO. XI

Coordinated with:

Case No. P-14-082942-E
Dept. No. XI

Case No. A-16-735305-B
Dept. No. XI

Jointly Administered

Business Court

**JAMES J. COTTER, JR.'S AMENDED
RESPONSES TO EDWARD KANE'S FIRST
SET OF REQUESTS FOR ADMISSION**

3993 Howard Hughes Pkwy, Suite 600
Las Vegas, NV 89169-5996

**Lewis Roca
Rothgerber Christie**

1 and

2
3 READING INTERNATIONAL, INC., a
4 Nevada corporation,

5
6 Nominal Defendant.

7 COMES NOW, James J. Cotter, Jr. ("Plaintiff" or "Responding Party") and hereby serves
8 his responses to Edward Kane's ("Defendant" or "Propounding Party") First Set of Requests for
9 Admission (the "Requests").

10 **GENERAL OBJECTIONS**

11 Responding Party incorporates the following general objections into each specific response
12 and objection set forth below:

- 13 (1) Responding Party objects to the Requests to the extent they seek documents
14 or information which is protected by (or which cannot be provided without
15 disclosing) attorney client privilege, the attorney-work product doctrine
16 and/or otherwise is privileged or protected from disclosure, including in
17 particular communications of counsel of record for Plaintiff in this action,
18 which communications will not be produced or logged;
- 19 (2) Responding Party objects to the Requests to the extent they seek documents
20 or information the production or disclosure of which violates any person or
21 entity's right to privacy;
- 22 (3) Responding Party objects to the Requests to the extent they seek documents
23 or information not in Responding Party's possession, custody, or control;
- 24 (4) Responding Party objects to the Requests to the extent they seek documents
25 or information within the possession or control of the Propounding Party, or
26 seeks documents or information which is publicly available and/or which
27 otherwise is uniquely or equally available to the Propounding Party;
- 28 (5) Responding Party objects to the Requests to the extent they seek
information or documents that constitute or disclose confidential,

1 proprietary, or developmental commercial or business information or
2 research, or seeks documents or information otherwise protected from
3 disclosure;

4 (6) Responding Party objects to the Requests to the extent they attempt or
5 purport to impose obligations exceeding those authorized or imposed by the
6 Nevada Rules of Civil Procedure;

7 (7) Responding Party objects to the Requests insofar as they seek documents or
8 information beyond the time and scope of matters at issue in the captioned
9 action and/or which are neither relevant nor reasonably calculated to lead to
10 the discovery of admissible evidence; and

11 (8) Responding Party objects to the Requests because they generally are
12 unlimited as to time, meaning that they generally provide no time frame or
13 date range to limit the scope of documents or information requested.

14 (9) Responding Party is conducting discovery and an ongoing investigation of
15 the facts and law relating to this action, including certain of the Requests.
16 Responding Party's objections and responses are based on the present
17 knowledge, information and belief of Responding Party, as well as the
18 documents in Responding Party's possession, custody or control. For these
19 reasons, among others, the objections and responses provided are made
20 without prejudice to Responding Party's right to produce evidence of
21 subsequently discovered facts or to supplement, modify or otherwise
22 change or amend the objections and responses or to rely on additional
23 evidence in pretrial proceedings and trial. Responding Party expressly
24 reserves the right to amend, supplement, or modify these objections and
25 responses.

REQUESTS FOR ADMISSION

REQUEST NO. 1

Admit that, prior to June 12, 2015, you referred to Edward Kane as “Uncle Ed” on one or more occasions.

RESPONSE TO REQUEST NO. 1

Responding Party admits that, over the course of his life prior to June 12, 2015, he addressed Edward Kane as “Uncle Ed” on one or more occasions in interactions between Edward Kane and Responding Party.

REQUEST NO. 2

Admit that, on or about May 15, 2014, you agreed as a member of RDI’s Board of Directors to put Edward Kane on the Board’s Executive Committee.

RESPONSE TO REQUEST NO. 2

Responding Party has made reasonable inquiry and the information known or readily obtainable by Responding Party, including purported minutes of a May 15, 2014 RDI Board of Directors meeting, does not refresh Responding Party’s memory regarding whether he agreed as a member of RDI’s Board of Directors to put Edward Kane on the Board’s Executive Committee, and Responding Party therefore lacks information sufficient to admit or deny Request No. 2, and on that basis denies Request No. 2.

REQUEST NO. 3

Admit that, on or about May 15, 2014, you agreed as a member of RDI’s Board of Directors to put Edward Kane on the Board’s Audit and Conflicts Committee.

RESPONSE TO REQUEST NO. 3

Responding Party has made reasonable inquiry and the information known or readily obtainable by Responding Party, including purported minutes of a May 15, 2014 RDI Board of Directors meeting, does not refresh Responding Party’s memory regarding whether he agreed as a member of RDI’s Board of Directors to put Edward Kane on the Board’s Audit and Conflicts Committee, and Responding Party therefore lacks information sufficient to admit or deny Request No. 3, and on that basis denies Request No. 3.

REQUEST NO. 4

Admit that, on or about May 15, 2014, you agreed as a member of RDI's Board of Directors to put Edward Kane on the Board's Compensation and Stock Options Committee.

RESPONSE TO REQUEST NO. 4

Responding Party has made reasonable inquiry and the information known or readily obtainable by Responding Party, including purported minutes of a May 15, 2014 RDI Board of Directors meeting, does not refresh Responding Party's memory regarding whether he agreed as a member of RDI's Board of Directors to put Edward Kane on the Board's Compensation and Stock Options Committee, and Responding Party therefore lacks information sufficient to admit or deny Request No. 4, and on that basis denies Request No. 4.

REQUEST NO. 5

Admit that, on or about May 15, 2014, you agreed as a member of RDI's Board of Directors to put Edward Kane on the Board's Tax Oversight Committee.

RESPONSE TO REQUEST NO. 5

Responding Party has made reasonable inquiry and the information known or readily obtainable by Responding Party, including purported minutes of a May 15, 2014 RDI Board of Directors meeting, does not refresh Responding Party's memory regarding whether he agreed as a member of RDI's Board of Directors to put Edward Kane on the Board's Tax Oversight Committee, and Responding Party therefore lacks information sufficient to admit or deny Request No. 5, and on that basis denies Request No. 5.

REQUEST NO. 6

Admit that, on about May 15, 2014, you agreed as a member of RDI's Board of Directors to put Guy Adams on the Board's Executive Committee.

RESPONSE TO REQUEST NO. 6

Responding Party has made reasonable inquiry and the information known or readily obtainable by Responding Party, including purported minutes of a May 15, 2014 RDI Board of Directors meeting, does not refresh Responding Party's memory regarding whether he agreed as a member of RDI's Board of Directors to put Guy Adams on the Board's Executive Committee, and

1 Responding Party therefore lacks information sufficient to admit or deny Request No. 6, and on
2 that basis denies Request No. 6.

3 **REQUEST NO. 7**

4 Admit that, on or about May 15, 2014, you agreed as a member of RDI's Board of
5 Directors to put Guy Adams on the Board's Compensation and Stock Options Committee.

6 **RESPONSE TO REQUEST NO. 7**

7 Responding Party has made reasonable inquiry and the information known or readily
8 obtainable by Responding Party, including purported minutes of a May 15, 2014 RDI Board of
9 Directors meeting, does not refresh Responding Party's memory regarding whether he agreed as a
10 member of RDI's Board of Directors to put Guy Adams on the Board's Compensation and Stock
11 Options Committee, and Responding Party therefore lacks information sufficient to admit or deny
12 Request No. 7, and on that basis denies Request No. 7.

13 **REQUEST NO. 8**

14 Admit that, on or about May 15, 2014, you agreed as a member of RDI's Board of
15 Directors to put Douglas McEachern on the Board's Audit and Conflicts Committee.

16 **RESPONSE TO REQUEST NO. 8**

17 Responding Party has made reasonable inquiry and the information known or readily
18 obtainable by Responding Party, including purported minutes of a May 15, 2014 RDI Board of
19 Directors meeting, does not refresh Responding Party's memory regarding whether he agreed as a
20 member of RDI's Board of Directors to put Douglas McEachern on the Board's Audit and
21 Conflicts Committee, and Responding Party therefore lacks information sufficient to admit or
22 deny Request No. 8, and on that basis denies Request No. 8.

23 **REQUEST NO. 9**

24 Admit that, prior to your termination as CEO of RDI, you served as Chairman of the
25 Executive Committee of RDI's Board of Directors.

26 **RESPONSE TO REQUEST NO. 9**

27 Responding Party admits that he "served" as Chairman of the Executive Committee only in
28 that he was appointed by the Board as Chairman of the Executive Committee of RDI's Board of

1 Directors, but not that he took any action in any capacity, including Chairman, as a member of
2 such committee, which took no action.

3 **REQUEST NO. 10**

4 Admit that, as a member of RDI's Board of Directors, you did not vote against the \$50,000
5 "bonus" to Ellen Cotter referenced in paragraph 40 of your FAC.

6 **RESPONSE TO REQUEST NO. 10**

7 Responding Party admits that he abstained from voting on the \$50,000 "bonus" to Ellen
8 Cotter at the Board meeting at which it was approved, and admits that he otherwise did not vote
9 against the \$50,000 "bonus" to Ellen Cotter referenced in paragraph 40 of the FAC.

10 **REQUEST NO. 11**

11 Admit that, as a member of RDI's Board of Directors, on or about November 13, 2014 you
12 approved a 20% base salary increase for Ellen Cotter effective January 1, 2015.

13 **RESPONSE TO REQUEST NO. 11**

14 Responding Party has made reasonable inquiry and the information known or readily
15 obtainable by Responding Party, including purported Board minutes, does not refresh Responding
16 Party's memory regarding whether on or about November 13, 2014 he approved a 20% base salary
17 increase for Ellen Cotter effective January 1, 2015, and Responding Party therefore lacks
18 information sufficient to admit or deny Request No. 11, and on that basis denies Request No. 11.

19 **REQUEST NO. 12**

20 Admit that, as a member of RDI's Board of Directors, you voted in favor of the increased
21 director compensation referenced in paragraph 42 of your FAC.

22 **RESPONSE TO REQUEST NO. 12**

23 Responding Party admits that he voted in favor of the increased director compensation.

24 **REQUEST NO. 13**

25 Admit that, as a member of RDI's Board of Directors, you did not oppose a resolution in
26 January 2015 that you could not be "terminated [as CEO] without the approval of the majority of
27 the independent directors."
28

RESPONSE TO REQUEST NO. 13

Responding Party admits that he abstained on voting on such resolution and that he did not otherwise oppose it.

REQUEST NO. 14

Admit that the term “independent directors,” as used in the January 2015 Board resolution regarding termination of Cotter family members, referred to Edward Kane, Guy Adams, Douglas McEachern, Tim Storey, and Bill Gould.

RESPONSE TO REQUEST NO. 14

Responding Party admits Request No. 14.

REQUEST NO. 15

Admit that RDI’s full Board of Directors discussed the possibility of your termination on May 21, 2015.

RESPONSE TO REQUEST NO. 15

Responding Party admits that his termination was discussed on May 21, 2015 in the presence (in person and/or telephonic) of all members of the RDI Board of Directors.

REQUEST NO. 16

Admit that RDI’s full Board of Directors discussed the possibility of your termination on May 29, 2015.

RESPONSE TO REQUEST NO. 16

Responding Party admits that his termination was discussed on May 29, 2015 in the presence (in person and/or telephonic) of all members of the RDI Board of Directors.

REQUEST NO. 17

Admit that RDI’s full Board of Directors discussed the possibility of your termination on June 12, 2015.

RESPONSE TO REQUEST NO. 17

Responding Party admits that his termination was discussed on June 12, 2015 in the presence (in person and/or telephonic) of all members of the RDI Board of Directors.

REQUEST NO. 18

Admit that, on or about December 9, 2015, you requested at a meeting of the RDI's Board of Directors that the recorded Board minutes contain less detail going forward than had generally been contained in previous sets of minutes.

RESPONSE TO REQUEST NO. 18

Responding Party admits that, in response to Ellen and Craig Tompkins' stated unwillingness to add his suggested comments to RDI's Board minutes which included certain statements made at board meetings by certain directors, he stated that RDI's board minutes should then not contain statements made by other directors if such statements included in the minutes were selectively used to support a particular point of view of the drafter of the minutes to support certain actions taken by the Board.

REQUEST NO. 19

Admit that, as a member of RDI's Board of Directors, on or about October 5, 2015, you voted in favor of approving First Coast Results as the Inspector of Elections for the 2015 Annual Shareholder's Meeting.

RESPONSE TO REQUEST NO. 19

Responding Party admits that he voted in favor of approving First Coast Results as the Inspector of Elections for the 2015 Annual Shareholder's Meeting.

REQUEST NO. 20

Admit that, prior to your termination as CEO of RDI, you did not state an objection at any meeting of the Board of Directors regarding any purported delay in circulation of minutes of Board meetings.

RESPONSE TO REQUEST NO. 20

Responding Party denies Request No. 20.

REQUEST NO. 21

Admit that, prior to May 21, 2015, you never stated at any Board of Directors meeting that you believed Edward Kane lacked sufficient disinterestedness to serve on RDI's Board.

RESPONSE TO REQUEST NO. 21

Responding Party admits Request No. 21.

REQUEST NO. 22

Admit that, prior to May 21, 2015, you never stated at any Board of Directors meeting that you believed Guy Adams lacked sufficient disinterestedness to serve on RDI's Board.

RESPONSE TO REQUEST NO. 22

Responding Party admits Request No. 22.

REQUEST NO. 23

Admit that, prior to May 21, 2015, you never stated at any Board of Directors meeting that you believed Douglas McEachern lacked sufficient disinterestedness to serve on RDI's Board.

RESPONSE TO REQUEST NO. 23

Responding Party admits Request No. 23.

REQUEST NO. 24

Admit that you authorized RDI's May 11, 2015, 10-K/A filing to be submitted to the Securities and Exchange Commission bearing your signature.

RESPONSE TO REQUEST NO. 24

Responding Party admits that he authorized RDI's May 11, 2015, 10-K/A filing to be submitted to the Securities and Exchange Commission bearing his signature in the form that he last reviewed and approved on May 8, 2015.

REQUEST NO. 25

Admit that, on or about May 8, 2015, you authorized your signature be appended to a certification pursuant to the Sarbanes-Oxley Act of 2002 stating the following with respect to RDI's Form 10-K/A: "Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report."

RESPONSE TO REQUEST NO. 25

Responding Party admits that on May 8, 2015, with respect to the 10-K/A filing in the form that he last reviewed and approved on May 8, 2015, he authorized his signature to be appended to a certification pursuant to the Sarbanes-Oxley Act of 2002 stating the following with respect to RDI's Form 10-K/A: "Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report."

REQUEST NO. 26

Admit that, on or about May 8, 2015, you authorized your signature be appended to a certification that certified pursuant to the Sarbanes-Oxley Act of 2002 that you reviewed the Annual Report on Form 10-K/A of RDI.

RESPONSE TO REQUEST NO. 26

Responding Party admits that on May 8, 2015, with respect to the 10-K/A filing in the form that he last reviewed and approved on May 8, 2015, he authorized his signature to be appended to a certification that certified pursuant to the Sarbanes-Oxley Act of 2002 that he reviewed the 10-K/A Annual Report on Form.

REQUEST NO. 27

Admit that the document attached hereto as Exhibit 1, bates stamped GA00005636 through GA 00005666, is a true and correct copy of the 10-K/A filing made by RDI with the Securities and Exchange Commission on or about May 11, 2015.

RESPONSE TO REQUEST NO. 27

Responding Party has made reasonable inquiry and the information known or readily obtainable by Responding Party, including Exhibit 1, bates stamped GA00005636 through GA 00005666, is insufficient to enable Responding Party to admit or deny this request. Responding Party therefore presently lacks information sufficient to admit or deny Request No. 27, and on that basis denies request No. 27.

REQUEST NO. 28

Admit that, upon learning that you were potentially going to be terminated as CEO of RDI, you caused numerous emails relating to RDI to be sent from the RDI servers to your personal email account for litigation purposes.

RESPONSE TO REQUEST NO. 28

Responding Party has made reasonable inquiry and the information known or readily obtainable by Responding Party, including emails, is insufficient to enable Responding Party to admit or deny this request. Responding Party therefore lacks information sufficient to admit or deny Request No. 28, and on that basis denies request No. 28.

REQUEST NO. 29

Admit that it is not in the best interests of RDI's stockholders to reinstate you as CEO of RDI.

RESPONSE TO REQUEST NO. 29

Responding Party denies Request No. 29.

DATED this 27th day of July, 2016.

LEWIS ROCA ROTHGERBER CHRISTIE LLP

/s/ Mark G. Krum

Mark G. Krum (Nevada Bar No. 10913)
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Attorneys for Plaintiff James J. Cotter, Jr.

3993 Howard Hughes Pkwy, Suite 600
Las Vegas, NV 89169-5996

Lewis Roca
ROTHGERBER CHRISTIE

CERTIFICATE OF SERVICE

I hereby certify that on this 27th day of July, 2016, I caused a true and correct copy of the foregoing **JAMES J. COTTER, JR.'S AMENDED RESPONSES TO EDWARD KANE'S FIRST SET OF REQUESTS FOR ADMISSION** was electronically served to all parties of record via this Court's electronic filing system to all parties listed on the E-Service Master List.

DATED this 27th day of July, 2016.

/s/ Jessie M. Helm

An employee of Lewis Roca Rothgerber
Christie LLP

EXHIBIT 43

pp. 1048-1106 Filed Under Seal

EXHIBIT 44

Follow

Reading International Inc Class A Common Stock Historical Stock Prices

RDI \$13.58* 0.03 0.22%

*Delayed - data as of Sep. 21, 2016 - Find a broker to begin trading RDI now

Get up to 10 years of daily historical stock prices & volumes.

Select the Timeframe: 18 Months

Results for: 18 Month, From 20-MAR-2015 TO 20-SEP-2016

| Date | Open | High | Low | Close / Last | Volume |
|------------|--------|---------|---------|--------------|---------|
| 18:00 | 13.55 | 13.61 | 13.49 | 13.58 | 30,287 |
| 09/20/2016 | 13.56 | 13.65 | 13.43 | 13.55 | 39,627 |
| 09/19/2016 | 13.33 | 13.65 | 13.33 | 13.57 | 25,853 |
| 09/16/2016 | 13.35 | 13.38 | 13.16 | 13.38 | 122,082 |
| 09/15/2016 | 13.2 | 13.36 | 13.17 | 13.35 | 34,854 |
| 09/14/2016 | 13.43 | 13.45 | 13.25 | 13.25 | 48,528 |
| 09/13/2016 | 13.58 | 13.58 | 13.16 | 13.46 | 64,949 |
| 09/12/2016 | 13.66 | 13.75 | 13.49 | 13.6 | 37,119 |
| 09/09/2016 | 13.99 | 13.99 | 13.6275 | 13.74 | 70,434 |
| 09/08/2016 | 13.47 | 13.58 | 13.41 | 13.51 | 77,304 |
| 09/07/2016 | 13.49 | 13.59 | 13.47 | 13.55 | 89,376 |
| 09/06/2016 | 13.51 | 13.5899 | 13.16 | 13.54 | 155,478 |
| 09/02/2016 | 13.53 | 13.61 | 13.44 | 13.61 | 40,921 |
| 09/01/2016 | 13.5 | 13.51 | 13.23 | 13.51 | 41,035 |
| 08/31/2016 | 13.51 | 13.55 | 13.25 | 13.53 | 38,792 |
| 08/30/2016 | 13.1 | 13.58 | 13.1 | 13.54 | 35,672 |
| 08/29/2016 | 13.3 | 13.31 | 13.07 | 13.14 | 19,507 |
| 08/26/2016 | 13.48 | 13.51 | 13.2 | 13.25 | 31,088 |
| 08/25/2016 | 13.48 | 13.545 | 13.42 | 13.44 | 28,644 |
| 08/24/2016 | 13.33 | 13.55 | 13.31 | 13.49 | 56,007 |
| 08/23/2016 | 13.13 | 13.51 | 13.11 | 13.29 | 80,084 |
| 08/22/2016 | 12.96 | 13.18 | 12.93 | 13.16 | 30,166 |
| 08/19/2016 | 13.3 | 13.43 | 12.62 | 13.09 | 99,504 |
| 08/18/2016 | 13.02 | 13.455 | 12.89 | 13.36 | 115,346 |
| 08/17/2016 | 12.76 | 13.1 | 12.61 | 13.02 | 116,745 |
| 08/16/2016 | 12.62 | 13.047 | 12.62 | 12.77 | 170,808 |
| 08/15/2016 | 12.8 | 12.85 | 12.62 | 12.69 | 52,950 |
| 08/12/2016 | 13.06 | 13.14 | 12.73 | 12.76 | 66,163 |
| 08/11/2016 | 13.08 | 13.18 | 13.04 | 13.1 | 26,732 |
| 08/10/2016 | 13.17 | 13.17 | 13.03 | 13.1 | 11,582 |
| 08/08/2016 | 13.4 | 13.4 | 12.78 | 13.22 | 20,658 |
| 08/08/2016 | 13.223 | 13.279 | 13.14 | 13.15 | 16,575 |
| 08/05/2016 | 13.27 | 13.42 | 13.27 | 13.3 | 23,832 |

| Date | Open | | | | |
|------------|---------|---------|---------|-------|---------|
| 08/04/2016 | 13.33 | 13.42 | 13.095 | 13.16 | 18,332 |
| 08/03/2016 | 13.28 | 13.37 | 13.27 | 13.3 | 29,140 |
| 08/02/2016 | 13.64 | 13.67 | 13.3301 | 13.39 | 25,447 |
| 08/01/2016 | 13.83 | 13.84 | 13.51 | 13.56 | 10,434 |
| 07/29/2016 | 13.88 | 13.96 | 13.69 | 13.75 | 23,182 |
| 07/28/2016 | 13.73 | 13.93 | 13.5601 | 13.83 | 39,100 |
| 07/27/2016 | 13.46 | 13.72 | 13.411 | 13.69 | 18,484 |
| 07/26/2016 | 13.57 | 13.65 | 13.2328 | 13.51 | 25,740 |
| 07/25/2016 | 13.71 | 13.77 | 13.56 | 13.61 | 13,260 |
| 07/22/2016 | 13.34 | 13.81 | 13.34 | 13.79 | 65,101 |
| 07/21/2016 | 13.32 | 13.4152 | 12.99 | 13.33 | 36,440 |
| 07/20/2016 | 13.4 | 13.46 | 13.3 | 13.42 | 11,546 |
| 07/19/2016 | 13.74 | 13.74 | 13.36 | 13.4 | 76,293 |
| 07/18/2016 | 13.25 | 14 | 13.25 | 13.78 | 150,259 |
| 07/15/2016 | 12.91 | 12.91 | 12.45 | 12.57 | 61,763 |
| 07/14/2016 | 13 | 13 | 12.77 | 12.83 | 16,539 |
| 07/13/2016 | 12.79 | 12.93 | 12.79 | 12.87 | 27,456 |
| 07/12/2016 | 12.81 | 12.91 | 12.81 | 12.82 | 38,188 |
| 07/11/2016 | 12.55 | 12.86 | 12.55 | 12.79 | 25,787 |
| 07/08/2016 | 12.35 | 12.73 | 12.35 | 12.6 | 45,137 |
| 07/07/2016 | 12.0401 | 12.33 | 12.0401 | 12.31 | 26,753 |
| 07/06/2016 | 11.96 | 12.1 | 11.91 | 12.07 | 17,201 |
| 07/05/2016 | 12.24 | 12.285 | 12.01 | 12.08 | 33,286 |
| 07/01/2016 | 12.61 | 12.81 | 12.15 | 12.22 | 30,793 |
| 06/30/2016 | 12.47 | 12.64 | 12.35 | 12.49 | 60,894 |
| 06/29/2016 | 12.04 | 12.525 | 12.04 | 12.48 | 31,850 |
| 06/28/2016 | 12.03 | 12.14 | 11.92 | 11.94 | 23,388 |
| 06/27/2016 | 12.05 | 12.05 | 11.88 | 11.97 | 94,303 |
| 06/24/2016 | 11.92 | 12.39 | 11.92 | 12.1 | 93,222 |
| 06/23/2016 | 12.25 | 12.35 | 12.15 | 12.31 | 41,742 |
| 06/22/2016 | 12.35 | 12.35 | 12.08 | 12.14 | 23,813 |
| 06/21/2016 | 12.22 | 12.39 | 12.22 | 12.32 | 25,406 |
| 06/20/2016 | 12.43 | 12.43 | 12.15 | 12.31 | 39,980 |
| 06/17/2016 | 12.35 | 12.35 | 12.17 | 12.35 | 64,959 |
| 06/16/2016 | 12.36 | 12.46 | 12.06 | 12.36 | 58,459 |
| 06/15/2016 | 12.38 | 12.67 | 12.32 | 12.35 | 26,945 |
| 06/14/2016 | 12.53 | 12.73 | 12.41 | 12.43 | 17,980 |
| 06/13/2016 | 12.92 | 13.205 | 12.57 | 12.59 | 24,359 |
| 06/10/2016 | 12.89 | 12.93 | 12.605 | 12.9 | 18,102 |
| 06/09/2016 | 12.87 | 12.99 | 12.84 | 12.93 | 23,367 |
| 06/08/2016 | 12.67 | 12.94 | 12.67 | 12.86 | 25,382 |

| Date | Open | High | Low | Close | Volume |
|------------|--------|---------|---------|-------|--------|
| 06/07/2016 | 12.695 | 12.76 | 12.65 | 12.69 | 13,842 |
| 06/06/2016 | 12.66 | 12.75 | 12.65 | 12.71 | 20,937 |
| 06/03/2016 | 12.74 | 12.92 | 12.585 | 12.64 | 23,297 |
| 06/02/2016 | 12.62 | 12.85 | 12.565 | 12.82 | 10,268 |
| 06/01/2016 | 12.5 | 12.81 | 12.36 | 12.72 | 69,825 |
| 05/31/2016 | 12.66 | 12.66 | 12.27 | 12.52 | 34,028 |
| 05/27/2016 | 13.16 | 13.16 | 12.5 | 12.71 | 21,018 |
| 05/26/2016 | 13.04 | 13.04 | 12.51 | 12.51 | 45,184 |
| 05/25/2016 | 13.05 | 13.28 | 12.9 | 13.02 | 11,616 |
| 05/24/2016 | 12.87 | 13.2 | 12.87 | 13.1 | 23,444 |
| 05/23/2016 | 12.99 | 13.05 | 12.87 | 12.87 | 20,499 |
| 05/20/2016 | 12.94 | 13.04 | 12.81 | 13.03 | 50,152 |
| 05/19/2016 | 12.77 | 13 | 12.67 | 12.66 | 20,799 |
| 05/18/2016 | 12.78 | 12.91 | 12.65 | 12.89 | 19,021 |
| 05/17/2016 | 13.37 | 13.37 | 12.65 | 12.76 | 67,969 |
| 05/16/2016 | 13.04 | 13.43 | 12.99 | 13.35 | 37,566 |
| 05/13/2016 | 13.12 | 13.19 | 12.93 | 13.07 | 18,775 |
| 05/12/2016 | 13.09 | 13.16 | 12.66 | 13.12 | 29,692 |
| 05/11/2016 | 13.58 | 13.58 | 12.91 | 13.1 | 32,658 |
| 05/10/2016 | 13.61 | 13.75 | 13.45 | 13.5 | 61,571 |
| 05/09/2016 | 13.46 | 13.7899 | 13.29 | 13.63 | 46,049 |
| 05/06/2016 | 13.1 | 13.39 | 12.752 | 13.39 | 22,463 |
| 05/05/2016 | 13.63 | 13.65 | 12.69 | 13.04 | 51,264 |
| 05/04/2016 | 13.46 | 13.6 | 13.35 | 13.57 | 26,993 |
| 05/03/2016 | 13.17 | 13.7 | 13.1 | 13.54 | 31,766 |
| 05/02/2016 | 12.69 | 13.47 | 12.69 | 13.37 | 20,728 |
| 04/29/2016 | 12.834 | 13.03 | 12.66 | 12.97 | 23,434 |
| 04/28/2016 | 12.8 | 12.99 | 12.8 | 12.9 | 22,444 |
| 04/27/2016 | 12.701 | 13.02 | 12.69 | 12.87 | 25,480 |
| 04/26/2016 | 12.67 | 12.81 | 12.6 | 12.79 | 12,947 |
| 04/25/2016 | 12.726 | 12.87 | 12.4 | 12.69 | 24,807 |
| 04/22/2016 | 12.57 | 12.79 | 11.12 | 12.69 | 14,076 |
| 04/21/2016 | 12.44 | 12.59 | 12.42 | 12.54 | 25,846 |
| 04/20/2016 | 12.44 | 12.49 | 12.23 | 12.39 | 26,659 |
| 04/19/2016 | 12.49 | 12.645 | 12.15 | 12.27 | 41,808 |
| 04/18/2016 | 12.54 | 12.63 | 12.46 | 12.48 | 13,155 |
| 04/15/2016 | 12.27 | 12.5 | 12.2 | 12.44 | 33,271 |
| 04/14/2016 | 12.3 | 12.45 | 12.2125 | 12.34 | 15,249 |
| 04/13/2016 | 12.14 | 12.3499 | 12.08 | 12.26 | 35,599 |
| 04/12/2016 | 12.06 | 12.14 | 12.0499 | 12.12 | 14,077 |
| 04/11/2016 | 12.1 | 12.13 | 11.94 | 12.08 | 22,739 |

| Date | Open | | | | |
|------------|-------|---------|---------|-------|--------|
| 04/08/2016 | 11.9 | 12.07 | 11.86 | 12.01 | 29,773 |
| 04/07/2016 | 11.67 | 12.1 | 11.67 | 11.94 | 42,330 |
| 04/06/2016 | 11.75 | 11.8529 | 11.7 | 11.79 | 13,735 |
| 04/05/2016 | 11.82 | 11.9 | 11.6 | 11.81 | 31,220 |
| 04/04/2016 | 12 | 12.0716 | 11.88 | 11.96 | 17,912 |
| 04/01/2016 | 11.9 | 12.17 | 11.9 | 12.1 | 19,855 |
| 03/31/2016 | 11.78 | 12.15 | 11.6978 | 11.98 | 74,627 |
| 03/30/2016 | 12 | 12.08 | 11.72 | 11.82 | 26,843 |
| 03/29/2016 | 11.59 | 11.93 | 11.48 | 11.9 | 20,170 |
| 03/28/2016 | 11.62 | 11.7 | 11.51 | 11.61 | 26,477 |
| 03/24/2016 | 11.52 | 11.62 | 11.4 | 11.54 | 30,049 |
| 03/23/2016 | 11.95 | 11.95 | 11.45 | 11.51 | 27,492 |
| 03/22/2016 | 12 | 12.03 | 11.87 | 11.93 | 30,620 |
| 03/21/2016 | 12 | 12.18 | 11.9504 | 12 | 27,657 |
| 03/18/2016 | 12 | 12.11 | 11.58 | 11.99 | 59,026 |
| 03/17/2016 | 11.65 | 12.06 | 11.54 | 11.93 | 16,846 |
| 03/16/2016 | 11.26 | 11.69 | 11.26 | 11.63 | 29,846 |
| 03/15/2016 | 11.57 | 11.65 | 11.21 | 11.39 | 39,463 |
| 03/14/2016 | 11.65 | 11.65 | 11.51 | 11.6 | 36,525 |
| 03/11/2016 | 12.05 | 12.19 | 11.488 | 11.95 | 43,841 |
| 03/10/2016 | 11.96 | 12.27 | 11.34 | 11.95 | 65,104 |
| 03/09/2016 | 11.67 | 12.11 | 11.03 | 11.98 | 76,597 |
| 03/08/2016 | 11.19 | 11.28 | 11.03 | 11.04 | 34,441 |
| 03/07/2016 | 11.34 | 11.59 | 10.96 | 11.28 | 52,260 |
| 03/04/2016 | 10.7 | 11.41 | 10.7 | 11.33 | 36,331 |
| 03/03/2016 | 10.14 | 10.61 | 10.14 | 10.55 | 35,323 |
| 03/02/2016 | 10.06 | 10.42 | 10.06 | 10.14 | 25,733 |
| 03/01/2016 | 10.14 | 10.28 | 10.01 | 10.1 | 38,797 |
| 02/29/2016 | 10.26 | 10.27 | 10.02 | 10.06 | 18,519 |
| 02/26/2016 | 10.12 | 10.41 | 10.12 | 10.2 | 41,463 |
| 02/25/2016 | 10.41 | 10.41 | 10.095 | 10.09 | 44,925 |
| 02/24/2016 | 10.32 | 10.41 | 10 | 10.36 | 37,464 |
| 02/23/2016 | 10.01 | 10.44 | 10.01 | 10.39 | 47,354 |
| 02/22/2016 | 10.01 | 10.35 | 9.935 | 10.25 | 55,330 |
| 02/19/2016 | 9.88 | 10.17 | 9.77 | 9.94 | 27,973 |
| 02/18/2016 | 10.11 | 10.21 | 9.77 | 9.89 | 57,202 |
| 02/17/2016 | 10.15 | 10.305 | 10 | 10.15 | 52,179 |
| 02/16/2016 | 10.12 | 10.3 | 10.02 | 10.13 | 45,254 |
| 02/12/2016 | 9.89 | 10.1 | 9.86 | 10.06 | 22,524 |
| 02/11/2016 | 9.85 | 10.02 | 9.73 | 9.84 | 32,822 |
| 02/10/2016 | 9.77 | 10.01 | 9.71 | 9.65 | 68,529 |

| Date | Open | High | Low | Close | Volume |
|------------|--------|--------|--------|-------|---------|
| 02/09/2016 | 9.76 | 9.83 | 9.76 | 9.78 | 41,157 |
| 02/08/2016 | 9.83 | 9.95 | 9.78 | 9.89 | 83,854 |
| 02/05/2016 | 10.21 | 10.21 | 10.03 | 10.07 | 99,318 |
| 02/04/2016 | 10.37 | 10.51 | 10.25 | 10.29 | 27,584 |
| 02/03/2016 | 10.83 | 10.83 | 10.15 | 10.41 | 41,832 |
| 02/02/2016 | 10.6 | 10.6 | 10.5 | 10.53 | 23,384 |
| 02/01/2016 | 10.745 | 10.88 | 10.7 | 10.71 | 18,804 |
| 01/29/2016 | 10.5 | 10.96 | 10.5 | 10.86 | 39,224 |
| 01/28/2016 | 10.7 | 10.72 | 10.5 | 10.52 | 22,363 |
| 01/27/2016 | 10.85 | 10.72 | 10.43 | 10.62 | 47,592 |
| 01/26/2016 | 10.82 | 10.915 | 10.59 | 10.7 | 27,654 |
| 01/25/2016 | 10.9 | 10.93 | 10.74 | 10.81 | 23,748 |
| 01/22/2016 | 10.81 | 10.99 | 10.76 | 10.86 | 27,598 |
| 01/21/2016 | 10.73 | 10.96 | 10.605 | 10.7 | 38,777 |
| 01/20/2016 | 10.31 | 10.87 | 10.11 | 10.74 | 58,719 |
| 01/19/2016 | 10.56 | 10.61 | 10.16 | 10.37 | 82,243 |
| 01/15/2016 | 10.6 | 10.73 | 10.29 | 10.48 | 119,976 |
| 01/14/2016 | 11.08 | 11.23 | 10.85 | 10.91 | 79,087 |
| 01/13/2016 | 10.87 | 11.64 | 10.87 | 11.09 | 78,695 |
| 01/12/2016 | 12.07 | 12.07 | 11.63 | 11.64 | 93,084 |
| 01/11/2016 | 12.4 | 12.4 | 11.93 | 11.96 | 98,395 |
| 01/08/2016 | 12.42 | 12.58 | 12.38 | 12.38 | 38,879 |
| 01/07/2016 | 12.65 | 12.65 | 12.38 | 12.4 | 80,210 |
| 01/06/2016 | 12.64 | 12.87 | 12.64 | 12.73 | 46,116 |
| 01/05/2016 | 12.82 | 12.93 | 12.74 | 12.76 | 40,201 |
| 01/04/2016 | 12.81 | 13.82 | 12.74 | 12.8 | 68,098 |
| 12/31/2015 | 13.19 | 13.81 | 13.08 | 13.11 | 52,479 |
| 12/30/2015 | 13.54 | 13.55 | 13.27 | 13.29 | 28,072 |
| 12/29/2015 | 13.51 | 13.55 | 13.26 | 13.52 | 24,242 |
| 12/28/2015 | 13.5 | 13.6 | 13.36 | 13.42 | 23,271 |
| 12/24/2015 | 13.38 | 13.57 | 13.31 | 13.47 | 13,940 |
| 12/23/2015 | 13.25 | 13.46 | 13.25 | 13.4 | 40,825 |
| 12/22/2015 | 13.23 | 13.23 | 12.97 | 13.15 | 80,564 |
| 12/21/2015 | 13.32 | 13.44 | 13.05 | 13.16 | 61,701 |
| 12/18/2015 | 13.28 | 13.45 | 13.22 | 13.23 | 111,909 |
| 12/17/2015 | 13.47 | 13.58 | 13.26 | 13.37 | 36,593 |
| 12/16/2015 | 13.42 | 13.5 | 13.28 | 13.41 | 55,545 |
| 12/15/2015 | 13.49 | 13.56 | 13.22 | 13.36 | 73,861 |
| 12/14/2015 | 13.57 | 13.76 | 13.35 | 13.41 | 44,113 |
| 12/11/2015 | 13.6 | 13.84 | 13.58 | 13.61 | 82,075 |
| 12/10/2015 | 14.13 | 14.45 | 13.85 | 13.87 | 48,665 |

| Date | Open | | | | |
|------------|-------|--------|---------|-------|---------|
| 12/09/2015 | 14.38 | 14.42 | 14.13 | 14.15 | 71,202 |
| 12/08/2015 | 14.31 | 14.47 | 14.29 | 14.39 | 30,204 |
| 12/07/2015 | 14.41 | 14.505 | 14.29 | 14.43 | 37,638 |
| 12/04/2015 | 14.3 | 14.58 | 14.24 | 14.49 | 23,232 |
| 12/03/2015 | 14.38 | 14.44 | 14.2 | 14.32 | 36,528 |
| 12/02/2015 | 14.23 | 14.56 | 14.21 | 14.42 | 43,607 |
| 12/01/2015 | 14.54 | 14.71 | 14.295 | 14.39 | 20,661 |
| 11/30/2015 | 14.49 | 14.54 | 14.27 | 14.43 | 55,566 |
| 11/27/2015 | 14.6 | 14.65 | 14.37 | 14.52 | 29,558 |
| 11/25/2015 | 14.16 | 14.6 | 14.16 | 14.54 | 75,762 |
| 11/24/2015 | 14.5 | 14.5 | 14.06 | 14.17 | 72,974 |
| 11/23/2015 | 14.7 | 14.78 | 14.4601 | 14.49 | 44,081 |
| 11/20/2015 | 14.8 | 14.98 | 14.69 | 14.76 | 55,052 |
| 11/19/2015 | 14.51 | 14.82 | 14.51 | 14.7 | 25,772 |
| 11/18/2015 | 14.67 | 14.8 | 14.44 | 14.56 | 98,475 |
| 11/17/2015 | 14.79 | 14.79 | 14.68 | 14.68 | 26,506 |
| 11/16/2015 | 15.06 | 15.06 | 14.6 | 14.81 | 58,768 |
| 11/13/2015 | 15.19 | 15.44 | 15.1 | 15.12 | 38,827 |
| 11/12/2015 | 15.5 | 15.67 | 15.01 | 15.33 | 32,345 |
| 11/11/2015 | 15.8 | 15.81 | 15.52 | 15.52 | 32,057 |
| 11/10/2015 | 15.75 | 15.97 | 15.71 | 15.79 | 23,277 |
| 11/09/2015 | 16.24 | 16.24 | 15.7 | 15.76 | 38,758 |
| 11/06/2015 | 16 | 16.21 | 15.6069 | 16.21 | 65,359 |
| 11/05/2015 | 16.21 | 16.21 | 16.02 | 16.08 | 36,788 |
| 11/04/2015 | 15.97 | 17.31 | 15.92 | 16.13 | 136,289 |
| 11/03/2015 | 15.59 | 16.01 | 15.59 | 15.95 | 41,632 |
| 11/02/2015 | 15.5 | 15.79 | 15.406 | 15.71 | 45,143 |
| 10/30/2015 | 15.83 | 15.83 | 15.35 | 15.5 | 60,723 |
| 10/29/2015 | 15.88 | 15.94 | 15.75 | 15.79 | 33,730 |
| 10/28/2015 | 15.52 | 15.92 | 15.33 | 15.89 | 63,525 |
| 10/27/2015 | 15.7 | 15.79 | 14.801 | 15.52 | 47,574 |
| 10/26/2015 | 15.4 | 15.76 | 15.29 | 15.69 | 42,367 |
| 10/23/2015 | 15.31 | 15.5 | 15.16 | 15.5 | 37,995 |
| 10/22/2015 | 15.27 | 15.64 | 14.95 | 15.16 | 72,808 |
| 10/21/2015 | 15.63 | 15.71 | 15.13 | 15.16 | 112,207 |
| 10/20/2015 | 15.44 | 15.72 | 15.32 | 15.64 | 50,648 |
| 10/19/2015 | 15.09 | 15.42 | 15.05 | 15.41 | 65,620 |
| 10/16/2015 | 14.97 | 15.19 | 14.82 | 15.09 | 64,163 |
| 10/15/2015 | 14.77 | 14.95 | 14.69 | 14.84 | 62,725 |
| 10/14/2015 | 15.63 | 15.93 | 14.68 | 14.75 | 118,965 |
| 10/13/2015 | 15.9 | 15.94 | 15.54 | 15.65 | 88,070 |

| Date | Open | High | Low | Close | Volume |
|------------|-------|---------|---------|-------|---------|
| 10/12/2015 | 15.14 | 15.97 | 14.82 | 15.9 | 91,351 |
| 10/09/2015 | 14.87 | 15.12 | 14.5 | 15.09 | 59,355 |
| 10/08/2015 | 13.85 | 14.87 | 13.51 | 14.67 | 79,202 |
| 10/07/2015 | 13.71 | 13.85 | 13.5001 | 13.82 | 59,864 |
| 10/06/2015 | 13.74 | 13.77 | 13.54 | 13.62 | 32,926 |
| 10/05/2015 | 13.28 | 13.8 | 13.25 | 13.74 | 43,949 |
| 10/02/2015 | 13 | 13.16 | 12.88 | 13.16 | 48,191 |
| 10/01/2015 | 12.76 | 13.23 | 12.76 | 13.11 | 65,551 |
| 09/30/2015 | 12.75 | 12.79 | 12.52 | 12.67 | 30,070 |
| 09/29/2015 | 12.45 | 12.79 | 12.45 | 12.67 | 20,193 |
| 09/28/2015 | 12.64 | 12.71 | 12.44 | 12.45 | 39,852 |
| 09/25/2015 | 12.92 | 12.92 | 12.59 | 12.63 | 36,059 |
| 09/24/2015 | 12.63 | 12.82 | 12.55 | 12.61 | 27,701 |
| 09/23/2015 | 12.6 | 12.8 | 12.5401 | 12.69 | 47,754 |
| 09/22/2015 | 12.47 | 12.82 | 12.46 | 12.61 | 34,366 |
| 09/21/2015 | 12.7 | 12.88 | 12.455 | 12.54 | 74,738 |
| 09/18/2015 | 12.41 | 12.77 | 12.4 | 12.68 | 125,138 |
| 09/17/2015 | 12.6 | 12.69 | 12.52 | 12.57 | 35,755 |
| 09/16/2015 | 12.38 | 12.67 | 12.27 | 12.63 | 29,719 |
| 09/15/2015 | 12.28 | 12.54 | 12.22 | 12.4 | 36,890 |
| 09/14/2015 | 12.33 | 12.44 | 12.18 | 12.28 | 27,920 |
| 09/11/2015 | 12.35 | 12.4599 | 12.3 | 12.35 | 53,781 |
| 09/10/2015 | 12.56 | 12.83 | 12.36 | 12.44 | 40,486 |
| 09/09/2015 | 12.77 | 12.77 | 12.57 | 12.62 | 51,033 |
| 09/08/2015 | 12.86 | 12.86 | 12.58 | 12.64 | 25,351 |
| 09/04/2015 | 12.5 | 12.92 | 12.5 | 12.72 | 19,210 |
| 09/03/2015 | 12.77 | 12.9499 | 12.57 | 12.65 | 50,640 |
| 09/02/2015 | 12.88 | 12.88 | 12.6501 | 12.82 | 44,426 |
| 08/31/2015 | 12.8 | 12.91 | 12.6 | 12.69 | 40,308 |
| 08/31/2015 | 12.84 | 13.09 | 12.72 | 12.83 | 83,756 |
| 08/28/2015 | 12.84 | 12.92 | 12.71 | 12.92 | 41,341 |
| 08/27/2015 | 12.88 | 13.03 | 12.63 | 12.93 | 41,213 |
| 08/26/2015 | 12.85 | 12.9 | 12.3538 | 12.84 | 70,423 |
| 08/25/2015 | 12.9 | 12.9 | 12.44 | 12.56 | 75,375 |
| 08/24/2015 | 12.51 | 13.08 | 11.92 | 12.65 | 86,011 |
| 08/21/2015 | 12.74 | 13.45 | 12.6923 | 13.06 | 120,791 |
| 08/20/2015 | 13.16 | 13.16 | 12.88 | 12.95 | 33,540 |
| 08/19/2015 | 13.09 | 13.43 | 12.81 | 13.3 | 34,132 |
| 08/18/2015 | 13.16 | 13.26 | 13.1 | 13.15 | 52,145 |
| 08/17/2015 | 13.02 | 13.25 | 12.98 | 13.25 | 50,285 |
| 08/14/2015 | 13.09 | 13.21 | 12.98 | 13.14 | 72,345 |

| Date | Open | High | Low | Close | Volume |
|------------|--------|---------|---------|-------|---------|
| 08/13/2015 | 13.2 | 13.2 | 12.93 | 13.05 | 37,793 |
| 08/12/2015 | 12.81 | 13.18 | 12.67 | 13.04 | 70,973 |
| 08/11/2015 | 12.68 | 12.99 | 12.61 | 12.86 | 67,300 |
| 08/10/2015 | 12.38 | 12.8369 | 12.3 | 12.76 | 126,183 |
| 08/07/2015 | 11.99 | 12.6 | 11.99 | 12.28 | 111,454 |
| 08/06/2015 | 12.17 | 12.18 | 11.795 | 12.08 | 46,697 |
| 08/05/2015 | 12.4 | 12.5 | 12.07 | 12.16 | 33,225 |
| 08/04/2015 | 12.28 | 12.4 | 12.02 | 12.32 | 77,681 |
| 08/03/2015 | 11.91 | 12.09 | 11.71 | 11.97 | 97,959 |
| 07/31/2015 | 12 | 12.11 | 11.71 | 11.78 | 119,687 |
| 07/30/2015 | 11.93 | 12.0496 | 11.71 | 11.99 | 117,971 |
| 07/29/2015 | 12.15 | 12.15 | 11.79 | 11.92 | 109,781 |
| 07/28/2015 | 12.38 | 12.58 | 11.96 | 12.19 | 122,103 |
| 07/27/2015 | 11.9 | 12.59 | 11.86 | 12.31 | 337,965 |
| 07/24/2015 | 12.3 | 12.35 | 11.99 | 12.03 | 164,149 |
| 07/23/2015 | 12.74 | 12.91 | 12.25 | 12.33 | 197,631 |
| 07/22/2015 | 13.57 | 13.57 | 12.73 | 12.83 | 214,148 |
| 07/21/2015 | 13.85 | 13.88 | 13.29 | 13.34 | 119,381 |
| 07/20/2015 | 14.04 | 14.14 | 13.6 | 13.68 | 36,108 |
| 07/17/2015 | 14.14 | 14.14 | 13.86 | 14 | 42,323 |
| 07/16/2015 | 13.96 | 14.2 | 13.91 | 14.08 | 43,859 |
| 07/15/2015 | 14.19 | 14.22 | 13.79 | 13.91 | 31,457 |
| 07/14/2015 | 14.06 | 14.175 | 14 | 14.15 | 44,437 |
| 07/13/2015 | 13.9 | 14.02 | 13.66 | 14 | 45,782 |
| 07/10/2015 | 13.69 | 13.95 | 13.6 | 13.89 | 46,626 |
| 07/09/2015 | 13.6 | 13.69 | 13.42 | 13.57 | 32,142 |
| 07/08/2015 | 13.51 | 13.75 | 13.38 | 13.49 | 65,417 |
| 07/07/2015 | 13.64 | 13.65 | 13.455 | 13.63 | 44,413 |
| 07/06/2015 | 13.88 | 14.05 | 13.52 | 13.66 | 59,896 |
| 07/02/2015 | 14.04 | 14.05 | 13.868 | 13.97 | 35,978 |
| 07/01/2015 | 13.88 | 14.04 | 13.79 | 14 | 36,324 |
| 06/30/2015 | 13.606 | 13.91 | 13.574 | 13.85 | 66,051 |
| 06/29/2015 | 13.3 | 13.6 | 13.142 | 13.52 | 82,185 |
| 06/26/2015 | 13.24 | 13.45 | 13.09 | 13.44 | 265,415 |
| 06/25/2015 | 13.22 | 13.28 | 13.1 | 13.16 | 34,423 |
| 06/24/2015 | 13.32 | 13.505 | 12.98 | 13.12 | 70,392 |
| 06/23/2015 | 13.33 | 13.45 | 13.0875 | 13.31 | 86,586 |
| 06/22/2015 | 13.34 | 13.58 | 13 | 13.22 | 76,131 |
| 06/19/2015 | 13.48 | 14.31 | 13.17 | 13.38 | 119,431 |
| 06/18/2015 | 13.55 | 13.85 | 13.44 | 13.53 | 41,600 |
| 06/17/2015 | 13.65 | 13.66 | 13.3101 | 13.45 | 21,160 |

| Date | Open | | | | |
|------------|-------|---------|---------|-------|--------|
| 06/16/2015 | 13.54 | 13.89 | 13.344 | 13.6 | 32,497 |
| 06/15/2015 | 13.85 | 14.05 | 13.34 | 13.57 | 35,210 |
| 06/12/2015 | 13.95 | 14.06 | 13.7 | 13.88 | 26,423 |
| 06/11/2015 | 13.77 | 13.97 | 13.73 | 13.93 | 10,631 |
| 06/10/2015 | 13.8 | 14.07 | 13.5401 | 13.8 | 20,303 |
| 06/09/2015 | 13.68 | 14.02 | 13.5401 | 13.7 | 11,494 |
| 06/08/2015 | 13.95 | 14.02 | 13.69 | 13.73 | 15,177 |
| 06/05/2015 | 14.08 | 14.1 | 13.85 | 13.89 | 42,444 |
| 06/04/2015 | 13.94 | 14.45 | 13.94 | 14.06 | 83,067 |
| 06/03/2015 | 13.67 | 13.99 | 13.58 | 13.94 | 40,603 |
| 06/02/2015 | 13.35 | 13.7199 | 13.35 | 13.6 | 33,572 |
| 06/01/2015 | 13.4 | 13.58 | 13.345 | 13.48 | 20,208 |
| 05/29/2015 | 13.38 | 13.48 | 13.2 | 13.37 | 32,093 |
| 05/28/2015 | 13.5 | 13.73 | 13.39 | 13.39 | 12,760 |
| 05/27/2015 | 13 | 13.56 | 13 | 13.5 | 42,748 |
| 05/26/2015 | 13.02 | 13.396 | 12.91 | 13.13 | 33,690 |
| 05/22/2015 | 13.33 | 13.55 | 13.06 | 13.13 | 27,414 |
| 05/21/2015 | 13.44 | 13.51 | 13.285 | 13.4 | 27,667 |
| 05/20/2015 | 13.41 | 13.43 | 13.28 | 13.41 | 17,298 |
| 05/19/2015 | 13.33 | 13.41 | 13.26 | 13.32 | 47,832 |
| 05/18/2015 | 13.13 | 13.4 | 12.88 | 13.38 | 45,641 |
| 05/15/2015 | 13.29 | 13.44 | 13.06 | 13.21 | 46,803 |
| 05/14/2015 | 13.2 | 13.44 | 13.166 | 13.27 | 58,972 |
| 05/13/2015 | 13.45 | 13.48 | 13.12 | 13.22 | 31,410 |
| 05/12/2015 | 13.41 | 13.5 | 13.11 | 13.37 | 41,399 |
| 05/11/2015 | 13.63 | 13.69 | 13.22 | 13.42 | 53,911 |
| 05/08/2015 | 13.65 | 13.73 | 13.332 | 13.65 | 55,435 |
| 05/07/2015 | 13.38 | 13.69 | 13.35 | 13.52 | 42,149 |
| 05/06/2015 | 13.04 | 13.46 | 13.04 | 13.34 | 63,462 |
| 05/05/2015 | 13.41 | 13.65 | 13.02 | 13.07 | 37,834 |
| 05/04/2015 | 13.65 | 13.83 | 13.21 | 13.37 | 49,415 |
| 05/01/2015 | 13.39 | 13.83 | 13.2 | 13.32 | 39,787 |
| 04/30/2015 | 13.75 | 13.75 | 13.2301 | 13.32 | 50,945 |
| 04/29/2015 | 14.04 | 14.08 | 13.62 | 13.83 | 16,773 |
| 04/28/2015 | 13.91 | 14.17 | 13.82 | 14.06 | 25,217 |
| 04/27/2015 | 14.03 | 14.21 | 13.7601 | 13.97 | 40,522 |
| 04/24/2015 | 13.86 | 14.11 | 13.8 | 14 | 32,371 |
| 04/23/2015 | 13.72 | 13.922 | 13.655 | 13.87 | 24,937 |
| 04/22/2015 | 13.55 | 13.86 | 13.47 | 13.82 | 36,016 |
| 04/21/2015 | 13.63 | 13.73 | 13.45 | 13.54 | 36,308 |
| 04/20/2015 | 13.29 | 13.75 | 13.29 | 13.67 | 28,055 |

| Date | Open | | | | |
|------------|-------|--------|---------|-------|---------|
| 04/17/2015 | 13.59 | 13.59 | 13.13 | 13.25 | 61,500 |
| 04/16/2015 | 13.73 | 13.81 | 13.57 | 13.69 | 14,563 |
| 04/15/2015 | 13.54 | 13.9 | 13.4801 | 13.73 | 27,960 |
| 04/14/2015 | 13.61 | 13.66 | 13.43 | 13.51 | 25,301 |
| 04/13/2015 | 13.71 | 13.78 | 13.5501 | 13.61 | 34,509 |
| 04/10/2015 | 13.84 | 13.9 | 13.61 | 13.79 | 26,524 |
| 04/09/2015 | 13.82 | 13.83 | 13.35 | 13.81 | 31,130 |
| 04/08/2015 | 13.79 | 13.81 | 13.5201 | 13.81 | 27,446 |
| 04/07/2015 | 13.71 | 13.8 | 13.46 | 13.74 | 41,547 |
| 04/06/2015 | 13.46 | 13.825 | 13.35 | 13.69 | 52,914 |
| 04/02/2015 | 13.76 | 13.76 | 13.4 | 13.51 | 30,661 |
| 04/01/2015 | 13.41 | 13.76 | 13.41 | 13.71 | 99,304 |
| 03/31/2015 | 13.58 | 13.62 | 12.44 | 13.45 | 381,339 |
| 03/30/2015 | 13.48 | 13.63 | 13.44 | 13.62 | 41,277 |
| 03/27/2015 | 13.62 | 13.63 | 13.35 | 13.46 | 21,666 |
| 03/26/2015 | 13.43 | 13.69 | 13.36 | 13.62 | 19,829 |
| 03/25/2015 | 13.66 | 13.71 | 13.3802 | 13.46 | 36,437 |
| 03/24/2015 | 13.61 | 13.69 | 13.57 | 13.65 | 20,975 |
| 03/23/2015 | 13.61 | 13.67 | 13.58 | 13.61 | 54,772 |
| 03/20/2015 | 13.65 | 13.65 | 13.44 | 13.63 | 98,637 |

*This data reflects the latest intra-day delayed pricing.


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EXHIBIT 45

pp. 1119-1176 Filed Under Seal

EXHIBIT 46

1 SHEPPARD, MULLIN, RICHTER & HAMPTON LLP
A Limited Liability Partnership
2 Including Professional Corporations
ADAM F. STREISAND, Cal. Bar No. 155662
3 NICHOLAS J. VAN BRUNT, Cal. Bar No. 233876
VALERIE E. ALTER, Cal. Bar No. 239905
4 1901 Avenue of the Stars, Suite 1600
Los Angeles, California 90067-6055
5 Telephone: 310.228.3700
Facsimile: 310.228.3701
6 Email: astreisand@sheppardmullin.com
nvanbrunt@sheppardmullin.com
7 valter@sheppardmullin.com

8 Attorneys for JAMES J. COTTER, JR.

9
10 SUPERIOR COURT OF THE STATE OF CALIFORNIA
11 COUNTY OF LOS ANGELES, CENTRAL DISTRICT
12

13 In re the

14 JAMES J. COTTER LIVING
15 TRUST dated August 1, 2000,
as amended

Case No. BP159755

Assigned for All Purposes to:
The Hon. Clifford L. Klein

**PETITION BY JAMES J. COTTER,
JR. FOR IMMEDIATE SUSPENSION
OF POWERS OF ANN MARGARET
COTTER AND ELLEN COTTER AS
CO-TRUSTEES AND FOR
APPOINTMENT OF TEMPORARY
TRUSTEE; PETITION FOR
PERMANENT REMOVAL;
DECLARATION OF RICHARD SPITZ
IN SUPPORT THEREOF; CONSENT
OF MICHAEL J. SEIBERT**

**Date: April __, 2016
Time: 8:30 a.m.
Dent: 9**

1 **I. INTRODUCTION**

2 1. Pursuant to Probate Code sections 15642 and 17200, James J. Cotter, Jr.
3 (“**Jim Jr.**”) petitions this court for an order appointing a temporary trustee and suspending
4 the powers of Ann Margaret Cotter (“**Margaret**”) and Ellen Cotter (“**Ellen**”), as co-
5 trustees of the James J. Cotter Living Trust dated August 1, 2000 (the “**Trust**”). Margaret
6 and Ellen have abused their conflict of interest to favor their own personal, pecuniary self-
7 interest over the interest of the beneficiaries. A temporary trustee whose loyalty is solely
8 to the Trust beneficiaries is urgently needed to prepare for the annual stockholders’
9 meeting of Reading International, Inc. (the “**Company**” or “**RDI**”) in June 2016 and to act
10 on behalf of the Trust in the sole interest of the beneficiaries.

11 2. The Trust’s largest asset is a majority interest in the voting stock of RDI.
12 James J. Cotter, Sr. (“**Jim Sr.**”) directed the stock to be held in trust for the benefit of his
13 grandchildren: three of whom are Jim Jr.’s children and two are Margaret’s children. But
14 Margaret and Ellen are wholly dependent upon RDI as employees for their livelihoods.
15 Abusing their power over the stock as co-trustees of the Trust and executors of Jim Sr.’s
16 will, Margaret and Ellen orchestrated promotions and massive compensation increases for
17 themselves. They elevated their own self-interest over the interest of the grandchildren in
18 finding an appropriate CEO to manage the Trust’s largest asset. Ellen deliberately
19 interfered with and corrupted a search process set in motion by the RDI Board so that she
20 could take the CEO job for herself. That she is utterly unqualified is established
21 conclusively by the RDI Board and its independent search firm who determined the criteria
22 necessary for the new CEO: Ellen simply fails to match up in any possible way to the
23 Board’s own criteria.

24 3. To begin with, Margaret and Ellen abused their power to create the vacancy
25 in the office of CEO. Jim Sr. was the CEO of RDI. At the Board’s request, Jim Sr.
26 submitted a succession plan. He recommended that Jim Jr., who was President, succeed
27 his father as CEO. The RDI Board accepted that plan. When Jim Sr. stepped down, the
28 Board named Jim Jr. as CEO. When their father died, Margaret and Ellen demanded

1 promotions, long-term employment contracts and pay-raises. Jim Jr., in exercising his
2 fiduciary duties, properly declined such demands and Margaret and Ellen revolted.

3 4. Enraged, Margaret and Ellen exploited their fiduciary powers to stage a
4 boardroom coup and fire Jim Jr. In order to find a replacement CEO, the RDI Board
5 retained an independent search firm. But Margaret and Ellen then exploited their power to
6 derail the search process and handed the job to Ellen. Ellen, however, woefully fails to
7 match the criteria established by the Board and its independent search firm for the position.
8 The Search Committee—with the concurrence of Margaret and Ellen—determined that the
9 CEO must possess significant real estate development experience and expertise to help
10 RDI unlock the growth driver of its business, its materially under-developed real estate
11 assets. Ellen has no experience that would qualify her for the job as defined by the Board
12 and the independent search firm. The search firm identified candidates who were
13 interviewed for the position and who did have extensive real estate experience and proven
14 track records in the field. In fact, had the RDI Board simply decided to hire from within,
15 there are even other RDI employees with more appropriate credentials for the job than
16 Ellen. But those employees lack one thing Ellen purports to have: power, together with
17 Margaret, over the Trust and Jim Sr.'s estate. They exploited that power and thwarted the
18 efforts of the search firm retained for the express purpose of finding an appropriate CEO to
19 manage RDI.

20 5. The rationale? There can be no legitimate explanation for handing the job to
21 a person who pales in comparison to the criteria for the position, the candidates identified
22 by the independent search firm who matched that criteria, or even internal candidates
23 whom the Board might have considered. Instead, the Search Committee explained: "as a
24 practical matter, the nominee will need to be acceptable to Ellen Cotter and Margaret
25 Cotter as representatives of the controlling stockholder of the Company ... the scope and
26 extent of [Ellen's] personal financial interest in the Company, and the scope and extent of
27 her control over the Company given her position as Co-executor of the James J. Cotter, Sr.
28 Estate, and as a Co-Trustee of the James J. Cotter, Sr. Trust, and the likely impact of such

1 interest and obligations on her performance as President and Chief Executive Officer.”
2 (Spitz Addendum Ex. H at 8.) That is all one needs to know: in their own words, by their
3 own admission, it was their abuse of power that dictated the self-interested result.

4 6. But that’s not all. Ellen then promoted Margaret to a position to which she is
5 also wholly unqualified. And again, that’s not all. Under the complete control and
6 domination of Margaret and Ellen, the Board tripled Ellen’s expected compensation and
7 increased Margaret’s significantly. Ellen’s expected compensation is now quadruple the
8 compensation that Jim Jr. received while he served as CEO of RDI. They did all this while
9 the stock price for RDI has declined 17 percent since they ousted Jim Jr. Meanwhile, RDI
10 has just reported to the Securities and Exchange Commission that it will not even be able
11 to file its Annual Report on Form 10-K on time, a bad sign for a public company.

12 7. These actions have resulted in lawsuits by independent outside investor
13 groups and have already caused significant damage to the stock value of RDI. In a lawsuit
14 resulting from this sham CEO search, outside institutional investors allege:

15 The CEO search process undertaken by the Search Committee
16 was a ruse to give the outward appearance to Plaintiffs and
17 other public shareholders that the Board had undertaken an
18 independent search using search criteria employed by a
19 national executive search firm. However, after paying Korn
20 Ferry hundreds of thousands of dollars, Ellen Cotter, Margaret
21 Cotter, Bill Gould and Doug McEachern (the Search
22 Committee) abruptly cancelled Korn Ferry’s search process
23 before it could complete its assignment and make a
24 recommendation on the most qualified candidate(s) to the
25 Board. The payment of hundreds of thousands of dollars to
26 Korn Ferry constitutes corporate waste. Further, the members
of the Board did not exercise an independent, informed
decision-making process when they voted to appoint Ellen
Cotter as the permanent CEO, because (1) they did not
interview any of the candidates; (2) they were only provided
with a written summary of the Search Committee’s work two
days before the Board meeting to vote on Ellen Cotter; (3)
Korn Ferry’s further assessment of the semi-finalist candidates
was terminated by the Search Committee before it could
complete its contractual assignment and make a final
recommendation to the Board on the most qualified
candidate(s).

27 8. There is nothing about Ellen aborting the CEO search process, taking the
28 CEO job for herself in an instance where she is demonstrably unqualified for it by RDI’s

1 own metrics, promoting her sister, and massively increasing their own compensation (not
2 to mention inviting litigation over their actions by outside investor groups), that benefited
3 the beneficiaries of the Trust. Ellen hijacked the CEO process solely out of self-interest,
4 preventing RDI from finding the appropriate and best person to manage this Company for
5 the interest of the beneficiaries. Margaret and Ellen abused their power and their
6 irreconcilable conflict of interest to benefit themselves. The court should appoint a
7 temporary trustee whose loyalty is solely to the grandchildren, and who can exercise the
8 rights of a Trustee free from any such conflicts of interest.

9 9. RDI's annual stockholders' meeting is set for June 2, 2016. A temporary
10 trustee with the power to act for the benefit of the grandchildren's interest, free from any
11 personal stake or conflict of interest, is critical. The temporary trustee will need time to
12 become acquainted with RDI and the matters to be acted upon at the annual meeting;
13 hence, the urgent need for this relief.

14 10. This petition is supported by the Declaration of Richard Spitz. From 1996
15 until 2009, Mr. Spitz rose to be the most successful executive recruiter and in the top brass
16 of Korn/Ferry International, Inc. ("**Korn Ferry**"), the same independent search firm
17 retained by RDI to find a CEO to replace Jim Jr. During his tenure at Korn Ferry,
18 including as Chairman of the Global Technology Market, Mr. Spitz conducted well over
19 500 senior level executive searches, including well over 150 president and CEO searches.

20 11. Mr. Spitz examined the Company's search process and, as his Declaration
21 demonstrates, has concluded the Board initiated an appropriate search, but that Ellen
22 hijacked that process and prevented the Board and Korn Ferry from finding a suitable
23 person for the job, instead causing the Board to appoint Ellen, who is totally unqualified
24 based upon the criteria established by the RDI Board and Korn Ferry.

25 12. More specifically, Mr. Spitz declares at Paragraphs 34 to 38 of his
26 Declaration:

27 34. From my review, it appears that the search process
28 conducted by the Board was appropriate at its beginning. At
the outset, the Board outlined a complete and proper search

1 process. It authorized the formation of a search committee and
2 the selection of a reputable executive search firm from three
3 leading firms. The Board, through the delegated Search
4 Committee, took responsibility for developing the requirements
5 for the new CEO. The Board retained authority to set the
6 compensation for the CEO, and to interview the Search
7 Committee's top three candidates. The Company hired a
8 reputable search firm and provided for an assessment process
9 that would "de-risk" the selection of the final candidate from
10 either the internal or external candidate pool. Finally, the
11 Position Specification was approved that reflected the strategic
12 imperative of the Company and focused the search process on
13 finding someone who could unlock the "value gap" of its real
14 estate holdings.

15 35. At some point in time, Ellen Cotter announced her
16 intention to be a CEO candidate to the Search Committee, and
17 the search process then became corrupted. When she made the
18 announcement to the Search Committee, Ellen Cotter had
19 already interviewed and selected the executive search firm on
20 behalf the Board, she had been the de-facto Search Committee
21 chair and she had managed the Korn Ferry search activities for
22 several months. That she did not interview candidates
23 competing for the position did not remove the tremendous
24 influence she had over the search process and its outcome. And
25 while it is not clear exactly when she made her announcement
26 to the Search Committee, a month or more after the first
27 candidate interviews were conducted, the Search Committee
28 still had not yet selected a new chair. The Company's materials
additionally do not indicate that Ellen Cotter notified the Board
of her candidacy until December 2015. Addendum Ex. K. The
conduct of Ellen Cotter with respect to service on the Search
Committee undermines the confidence one should have that the
search process was properly directed and completed. As a key
driver of the process who failed to announce her intentions on a
timely basis, Ellen Cotter was in a position to ensure that the
search for external candidates would not succeed. As a result of
her activities as the de-facto chair of the Search Committee and
the failure of the Search Committee to complete the search
process in accordance with Position Specification and the
Engagement Letter, I have no confidence that the search
process was properly managed.

36. While the Search Committee believed that the Korn Ferry
search activities resulted in a number of "high caliber" external
candidates, it decided not to have any external candidates
assessed and presented to the entire Board. In so doing, the
Search Committee did not follow the process mandated by the
Board. Rather, the Search Committee determined on its own
effectively that the Board would not consider a single
candidate who satisfied the requisite candidate criteria set forth
in the Position Specification. This is highly concerning not
only because the Search Committee failed to properly follow
the process but because the Search Committee failed to de-risk
the CEO selection by providing the Board with "an objective

1 and unbiased comparison of both internal and external
2 candidates." Equally concerning is that the Search Committee
3 decided not to have Ellen Cotter's Assessment taken. Her
4 Assessment would have shown the Board how she compared to
5 the CEO success profiles and helped the Board determine
6 whether she was ready to be CEO of RDI. Without
7 interviewing the top Korn Ferry candidates and considering the
8 Assessment for all candidates including Ellen Cotter, the Board
9 could not have made an informed decision when it accepted the
10 Search Committee's nomination.

11 37. For these reasons I find that the search process was
12 corrupted and not properly conducted. Most importantly, as a
13 result of these actions by Ellen Cotter and the Search
14 Committee, the Board did not have the opportunity to address
15 the strategic objective for the search, and the Search
16 Committee had ignored the Position Specification that it had
17 created. If unlocking the intrinsic value of the Company's real
18 estate holdings was not the Company's objective for
19 conducting the search process, one has to wonder why did the
20 Board (or the Search Committee) authorize and undertake the
21 following:

- 22 • Set up its externally focused search process;
- 23 • Hire an executive search firm;
- 24 • Pay Korn Ferry \$230,000 in fees;
- 25 • Set up an Assessment process;
- 26 • Approve the Position Specification;
- 27 • Conduct a search for more than 5 months;
- 28 • Interview 6 senior executives with significant real estate
development experience; and
- Dismiss all external candidates without a Board
interview
- Ignore all internal candidates except one, the Board
Chair and former Search Committee chair.

38. Had the search process been carried out properly and not
been corrupted by actions of Ellen Cotter and the Search
Committee, there would be no question about the purpose of
the search. But they did corrupt the process, and the Board did
not take corrective action. So one has to conclude I as do here
that the search process was not undertaken with the intent for it
to produce the final candidate.

(Sptiz Decl. ¶¶ 34-38.)

1 **II. JURISDICTIONAL ALLEGATIONS**

2 13. This court has jurisdiction over Jim Jr.'s Petition, which concerns the
3 internal affairs of the Trust, pursuant to California Probate Code § 17000(a).

4 14. Venue is proper pursuant to California Probate Code § 17005(a)(1), because
5 the principal place of the Trust's administration is in Los Angeles County.

6 **III. MARGARET AND ELLEN BREACH THEIR FIDUCIARY DUTIES BY**
7 **INSTALLING ELLEN AS RDI'S PRESIDENT AND CEO**

8 15. Jim Jr. became RDI's President in June 2013. He became its CEO on
9 August 7, 2014, pursuant to the Company's Board-accepted long-term succession plan,
10 when Jim Sr. was no longer able to continue in that role.

11 16. As set forth in detail in Jim Jr.'s removal petition filed August 18, 2015,
12 when Jim Jr. rejected demands by Ellen and Margaret for promotions and pay increases,
13 they orchestrated a boardroom coup with their control over the Trust and Jim Sr.'s estate
14 and terminated Jim Jr.'s employment with RDI. The Board named Ellen as interim
15 President and CEO. Jim Jr. not only filed his removal petition but also filed a derivative
16 action in Nevada District Court. Outside investors also filed a derivative action angered
17 over the ouster of Jim Jr.

18 17. After this stunt, the Board approved a search process to find a replacement
19 CEO. Margaret and Ellen acted as if they were heeding the advice for only so long as it
20 suited their interests.

21 **A. ELLEN LEADS A CEO SEARCH AND HIRES KORN FERRY**

22 18. The search process began when, at its June 2015 meeting, the Board
23 authorized the formation of a search committee (the "Search Committee"). Although the
24 Board delegated some authority to the Search Committee, it retained for itself the
25 responsibility of interviewing the "three top candidates," and setting the compensation of
26 the chosen candidate. (Spitz Addendum, Ex. G at 2.)

27 19. With Margaret and Ellen playing along, Ellen populated the Search
28 Committee (with Ellen acting as Chair) along with her sister Margaret and Board members

1 Doug McEachern and William Gould. Ellen obtained the right to select the executive
2 search firm.

3 20. Ellen chose Korn Ferry. Korn Ferry had an advantage: Korn Ferry's
4 proprietary assessment process for the finalists, available for an additional cost, would
5 enable the Company to "de-risk" the search and selection process. (Spitz Addendum, Ex.
6 I.)

7 21. Ellen herself signed an engagement agreement with Korn Ferry on August 3,
8 2015, of which she notified RDI's Board on August 4, 2015. (Spitz Addendum, Ex. J.)

9 22. The terms of Korn Ferry's engagement were clear (as memorialized in its
10 engagement letter signed by Ellen): it was to find a "new CEO" who was "a strong leader
11 and manager who can directly impact value creation for the firm's *real estate* portfolio."
12 (Spitz Addendum, Ex. H at 11 (emphasis added).)

13 B. THE SEARCH PROCESS

14 23. Korn Ferry set forth a six-step process to be used to find a qualified President
15 and CEO, including (1) developing a profile of a successful candidate, (2) assessing
16 candidates, (3) interviewing candidates, (4) drafting assessment reports of the candidates,
17 (5) reporting the assessments to the Board, and (6) providing face-to-face feedback to
18 internal candidates and the new CEO. (Spitz Addendum, Ex H at 12-14.)

19 24. In September 2015, Korn Ferry, with Ellen and Margaret's input and
20 approval, prepared a position specification for RDI, which confirmed that RDI sought to
21 recruit a leader who possessed substantial real estate experience who could unlock the
22 value of its real estate holdings, the Company's growth driver. (Spitz Decl. ¶¶ 9-11, 18-
23 19; Addendum Ex H at 5, 13, 21-22.) This demonstrates recognition of the economic
24 realities of this Company. According to the Company's Annual Report on Form 10-K
25 filed with the SEC for 2014, its cinema business was mature with low growth potential.
26 RDI thus decided to use the fairly consistent cash flow from its cinema activities to fund its
27 real estate activities. As the Company and various third-party investors and analysts
28 recognized, the Company's real estate activities were its growth driver. (Spitz Decl. ¶¶ 9-

1 11; Addendum Exs. A at 3, 4, 6, 39; C-E.) Thus, a CEO with significant full cycle real
2 estate experience was required to unlock the value of those real estate assets in order for
3 RDI to grow.

4 25. The position specification thus summarized that “the successful candidate
5 will be a proven leader with significant real estate investment and development experience.
6 The new Chief Executive *must have* a proven and verifiable track record in directing and
7 managing diverse real estate organizations and businesses.” (Spitz Addendum, Ex. H at 21
8 (emphasis added).)

9 26. The specification additionally provided specific qualifications related to real
10 estate, including, without limitation: (1) a “[m]inimum of 20 years of relevant experience
11 within the real estate industry, with at least five years in an executive leadership position
12 within dynamic public or private company environments,” (2) a “[p]roven track record in
13 the full cycle management of development investments . . . and vertical construction, with
14 a proven record of value creation,” and (3) a “[a] track record or raising debt and equity
15 capital, with additional exposure to joint-ventures, M&A, and institutional/investor
16 relations.¹ (Spitz Addendum, Ex. H at 21-22.)

17 27. Consistent with this strategy of seeking a real estate person, between
18 November 13, 2015 and December 23, 2015, the Search Committee interviewed six
19 candidates, all of whom were real estate professionals with extensive real estate
20 backgrounds. During the process, the Search Committee again confirmed that it was
21 looking for a real estate professional, and “directed Korn Ferry to focus more on
22 individuals with both operating company and real estate experience, ideally in a public
23 company setting.” (Spitz Addendum, Ex. H at 5.)

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25
26 ¹ The position specification was beneficial to Ellen and Margaret. Even if Ellen was not
27 President and CEO, a CEO with real estate experience but not cinema experience ensured
28 Ellen would maintain control over the Company’s U.S. cinema operations. Similarly,
Margaret would maintain control over the live theater operations.

1 28. The Search Committee was also satisfied with the candidates it was
2 interviewing, remarking that they were of “the highest caliber, and that any of them would
3 likely be competent to run a company such as Reading.” (Spitz Addendum, Ex. H at 8.)

4 29. None of that mattered, however, once Ellen, who has none of the desired
5 real estate experience, declared her candidacy to the Board.

6 **C. ELLEN DECLARES HER CANDIDACY, DISREGARDS THE**
7 **SEARCH PROCESS, AND PURSUES HER OWN AGENDA**

8 30. On December 17, 2015—four months after Ellen informed the Board of
9 Korn Ferry’s engagement—Ellen clued the Board in on the status of the search process,
10 including for the first time, that she was a candidate for the CEO position—to be clear,
11 Korn Ferry never identified Ellen as an appropriate candidate before she announced her
12 candidacy on December 17, 2015.

13 31. From Ellen’s December 17, 2015 communication and subsequent documents
14 provided to the Board, it is clear that Ellen and Margaret used their power as purported
15 controlling shareholders of RDI to abort the search process midway through and appoint
16 Ellen President and CEO, despite her lack of qualifications.

17 32. Some time after declaring on her candidacy for CEO, in November 2015,
18 Ellen resigned from the Search Committee, as though that would somehow cure how she
19 corrupted the process.²

20 33. Although Ellen resigned from the Search Committee, Margaret, despite her
21 obvious conflict of interest, did not.

22 34. On December 17, 2015, Korn Ferry recommended that it be permitted to
23 undertake further and more detailed analysis of Ellen and two candidates with significant
24 real estate experience whom Korn Ferry had actually identified for the job. Unlike the
25

26 ² Because Ellen did not did not inform the Board of her resignation from the Search
27 Committee until December 17, 2015, no replacement chair was appointed until that date,
28 making it unclear who was interfacing with Korn Ferry and otherwise leading the Search
Committee after Ellen’s supposed resignation.

1 other two candidates, Korn Ferry had not done any assessment of Ellen as a CEO
2 candidate. Of course, what happened next should come as no surprise if one is following
3 along: the Search Committee rejected Korn Ferry's recommendation that it needed to
4 conduct further assessment of all three candidates, which was the *raison d'être* for choosing
5 Korn Ferry in the first place.

6 35. Instead, the Search Committee decided on December 17, 2015 that the
7 Search Committee—not Korn Ferry—would interview one last candidate identified by
8 Korn Ferry on December 23, 2015, and if the Search Committee decided it preferred Ellen,
9 the Search Committee would instruct Korn Ferry to suspend its work—for which RDI had
10 already paid a significant amount of money—given the Committee members' extensive
11 past experience with Ellen Cotter.” (Spitz Addendum, Ex. H at 6.)

12 36. The Search Committee, including Margaret, purportedly interviewed Ellen
13 on December 23, 2015, even though she had none of the real estate experience that the
14 Board and independent search firm determined were the critical criteria for the job.

15 37. On December 23, 2015, after interviewing the final candidate, the Search
16 Committee determined—despite Korn Ferry's recommendation that it conduct its
17 independent assessment—that “the consensus of the Committee was that Ellen Cotter
18 would likely be the Committee's recommended candidate.” (Spitz Addendum, Ex. H at 7.)

19 38. Of course, that result was pre-ordained as evidenced by the fact that on
20 December 18, 2015, five days before this last interview, Craig Tompkins, “special
21 counsel” to Ellen as interim CEO, ordered Korn Ferry to suspend all further work pending
22 a determination of Ellen's candidacy.

23 39. On December 29, 2015, the Search Committee again met and agreed to
24 recommend Ellen for the President and CEO position. In another bit of Kabuki theater,
25 once Messrs. Gould and McEachern voted in favor of Ellen's appointment, Margaret
26 elected to abstain from the vote. Margaret, however, stated her wholehearted concurrence
27 with and support of the Search Committee's recommendation of Ellen.

1 40. On January 8, 2016, on the basis of the Search Committee's recommendation
2 of Ellen, the Board appointed Ellen as President and CEO, despite the fact that the Board
3 did not, as originally agreed, interview any finalist candidates, the fact that Ellen did not
4 undergo the in-depth Korn Ferry assessment, for which RDI paid handsomely, and did not
5 in any way match the position specification.

6 **D. THE SEARCH PROCESS DEMONSTRATES THAT MARGARET**
7 **AND ELLEN ACTED IN THEIR SELF-INTEREST**

8 41. The Company's abandonment of the CEO search process on which it had
9 spent hundreds of thousands of dollars immediately upon Ellen's informing the Board of
10 her candidacy makes clear that that Ellen and Margaret were acting in their self-interest—
11 not in the best interest of the beneficiaries—and in breach of their fiduciary duties to the
12 Trust.

13 42. Simply, Ellen and Margaret used their power as purported controlling
14 shareholders to abort the search process and appoint Ellen President and CEO, despite her
15 lack of qualifications. It is true that the Search Committee did mention real estate once—
16 despite the clear focus on real estate executives in the search process—in recommending
17 Ellen, claiming that Ellen “demonstrated her competency and experience in dealing with
18 real estate matters in her handling of the Cannon Park and Sundance matters and her
19 activities in connection with the development/refurbishment of a variety the Company's
20 cinemas.” (Spitz Addendum, Ex. H at 9.) This really simply serves as further evidence
21 that RDI knew that real estate was king and it had to find some way of mentioning real
22 estate after embarking on a costly search for a real-estate professional with 20 years of
23 experience focused solely on real estate. However, Ellen's handling of an acquisition of a
24 fully developed/stabilized shopping center that was fully leased, and a busted acquisition
25 deal for some theatres (it was never consummated) not development of anything new, does
26 not even come close to addressing the needs of the Company's strategic imperative, or the
27 position specification, which sought a minimum of 20 years of experience through the full
28 cycle of real estate development.

1 43. The Search Committee chose Ellen not for her qualifications, but because “as
2 a practical matter, the nominee will need to be acceptable to Ellen Cotter and Margaret
3 Cotter as representatives of the controlling stockholder of the Company. . . . the scope and
4 extent of her [Ellen’s] personal financial interest in the Company, and the scope and extent
5 of her control over the Company given her position as Co-executor of the James J. Cotter,
6 Sr. Estate, and as a Co-Trustee of the James J. Cotter, Sr. Trust, and the likely impact of
7 such interest and obligations on her performance as President and Chief Executive
8 Officer.” (Spitz Addendum, Ex. H at 8.)

9 44. It is also interesting to consider what might have happened had the Board
10 and Korn Ferry determined that real estate is not the growth driver and essential value of
11 RDI, but that the Company needs a CEO with cinema experience. Ellen has been
12 responsible for the domestic cinema operations. But even if the Board had made a
13 drastically different decision—one that would make no sense based upon the economics of
14 this Company—that the CEO should be someone with cinema experience, there was no
15 search for a cinema person from outside the Company to determine whether Ellen’s
16 qualifications would have satisfied such a hypothetical CEO job description, and Ellen
17 does not even match up internally at RDI. Take, for example, Wayne Smith. He actually
18 submitted his resume, but no one considered Mr. Smith, because the Search Committee
19 and Korn Ferry decided they needed a real-estate CEO. Had the Board set its sights on a
20 cinema person, Mr. Smith runs circles around Ellen. He operates Australia and New
21 Zealand. Mr. Smith’s division trounces the performance of the domestic cinema division
22 run by Ellen.

23 45. The Company’s own records make clear that it was Ellen’s identity, and not
24 her performance or her qualifications, that landed her the CEO role.

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1 E. ELLEN'S FIRST ACTS ARE SELF-INTERESTED BREACHES OF
2 DUTY THAT HARM THE BENEFICIARIES

3 46. After succeeding in taking for herself the role of President and CEO, Ellen
4 and Margaret have continued to act in their own self-interest, rather than in the best
5 interests of the Trust's beneficiaries.

6 47. Given her total inexperience with real estate development, and the
7 importance of real estate to the Company, as shown by the position specification (and
8 supported by the Company's balance sheet), perhaps Ellen might have taken some action
9 to shore up the Company's need for real-estate experience. Instead, at a February 18, 2016
10 Board meeting, Ellen declared that she was unilaterally appointing Margaret as head of the
11 Company's domestic real estate division. Counsel advised her that she only had the
12 authority as CEO to recommend such an appointment. Margaret, like her sister, is wholly
13 unqualified for that role. Margaret has virtually no experience developing commercial real
14 estate. Even Board member Edward Kane, one of Margaret and Ellen's staunchest
15 supporters, said as of January 9, 2014 that Margaret should not have "control over the
16 NYC properties given her total lack of experience."

17 48. Again putting themselves before the beneficiaries of the Trust, Ellen and
18 Margaret caused themselves to be awarded huge bonuses from RDI—orders of magnitude
19 greater than when Jim Sr. was alive. They received similarly startling compensation
20 increases, with Ellen going from total compensation of \$410,000 in 2014 to \$1,177,500 in
21 2016 and Margaret going from \$397,000 in 2014 to \$555,000 in 2016. They awarded
22 themselves these salaries and expected bonuses even though RDI's stock has *declined 17*
23 *percent* since they ousted Jim Jr. in June 2015, and Ellen took over as interim President
24 and CEO.

25 49. Ellen's new outlandish compensation is particularly important because the
26 Search Committee justified hiring Ellen, as opposed to other external candidates who met
27 the Company's real estate requirements, because of the compensation demands of the other
28 candidates. (Spitz Decl. ¶ 31; Addendum Ex. H at 8,) The compensation that the other

1 candidates demanded, however, were not out-of-step with the \$1.2 million that Ellen is
2 expected to receive next year. Thus, the Company's focus on the compensation requested
3 by outside candidates was merely a pretext to disregard them in favor of Ellen.

4 **IV. INJURY TO THE BENEFICIARIES FROM ELLEN'S APPOINTMENT**

5 50. Margaret and Ellen's conduct—appointing themselves to positions for which
6 they are completely unqualified with exorbitant salaries—has injured and will continue to
7 injure the beneficiaries of the Trust by harming the Company's performance.

8 51. The stock market has reacted very negatively to Ellen's leadership. Since
9 Ellen became interim CEO in June 2015, RDI's stock is down more than 17%. By
10 comparison, the NASDAQ, of which RDI is a part, fell only 6% during the same time
11 period.

12 52. The Trust owns approximately 70% of the voting shares of the Company,
13 and millions of shares of non-voting stock. Stated otherwise, the Trust beneficiaries are
14 paying dearly in losses from the fiduciary breaches by the Trustees.

15 53. As a result, the value of the Trust assets to the beneficiaries has significantly
16 decreased as a result of Ellen and Margaret's actions.

17 **V. MARGARET AND ELEN'S POWERS SHOULD BE SUSPENDED AND A**
18 **TEMPORARY TRUSTEE SHOULD BE APPOINTED**

19 54. A trustee has a duty to exercise reasonable care, skill, and prudence in
20 administering the trust. Prob. Code § 16040(a).

21 55. Ellen and Margaret have a duty under Probate Code § 16002, to administer
22 the trust solely in the interest of the beneficiaries. As part of that duty, a trustee must act
23 impartially with all trust beneficiaries, and must not use or deal with trust property for the
24 trustee's own profit, or take part in any transaction in which the trustee has an interest
25 adverse to the beneficiaries. Prob. Code § § 16003-16004.

26 56. The trustee also has a fiduciary duty to take reasonable steps to control and
27 preserve trust property, and to make the trust property productive. Prob. Code § § 16006-
28 16007.

1 57. Ellen and Margaret have a duty to manage the corporation consistent with
2 their duties as trustees, *i.e.*, in the interests of the beneficiaries of the trust. *Estate of*
3 *Feraud* (1979) 92 Cal.App.3d 717, 723 (explaining that because “the beneficial owners of
4 the stock of the corporation in this case were the beneficiaries of the three trusts ... [the
5 trustee] was under a duty to these beneficiaries to administer the three trusts, including
6 their principal asset, the Company, solely in their interests [citations]” (emphasis in
7 original)).

8 58. Pursuant to Probate Code sections 15642 and 16420, Jim Jr. requests that the
9 court immediately suspend the powers of Margaret and Ellen as co-trustees for violating
10 their duties as co-trustees by causing Ellen to be appointed President and CEO of the
11 Company, a role for which she is clearly unqualified, even by her own standards, because
12 it is in their personal interest to do so, even though it is clearly not in the best interest of
13 the beneficiaries. Cal. Probate Code §§ 15642(b)(1) (“Where the trustee has committed a
14 breach of the trust”); (b)(2) (“Where the trustee is ... unfit to administer the trust”); (b)(3)
15 (“Where hostility or lack of cooperation among co-trustees impairs the administration of
16 the trust”); (b)(4) (“Where the trustee fails or declines to act”); and (b)(9) (“For other good
17 cause”).

18 59. Margaret and Ellen should be immediately suspended for violating their
19 duties as co-trustees by causing Margaret to lead the Company’s domestic real estate
20 division, even though she is unqualified for such role and appointing Margaret to that role
21 is clearly not in the best interest of the beneficiaries.

22 60. Margaret and Ellen have caused themselves to receive large and undeserved
23 compensation increases, which shows that they are acting to further their personal
24 interests, not protect the interests of the beneficiaries. For this additional reason, Margaret
25 and Ellen should be immediately suspended.

26 61. Pursuant to Probate Code sections 15642 and 16420, Jim Jr. requests that the
27 court appoint a temporary trustee to take all actions necessary to accomplish the Trust’s
28 terms during the period of suspension pending an outcome on the removal petition,

1 including without limitation, any authority to exercise any rights in respect of the Trust's
2 ownership of RDI stock. Jim Jr. proposes the appointment of Michael J. Seibert, a private
3 professional fiduciary, of LA Fiduciary Partners LLC to serve as the temporary trustee.
4 Mr. Seibert's consent is attached hereto and incorporated herein by reference.

5 **VI. PERSONS ENTITLED TO NOTICE**

6 62. The following persons are entitled to notice of this Petition (there have been
7 no requests for special notice):

| | |
|---|--|
| 8 Margaret G. Lodise, Esq. 9 Kenneth M. Glazier, Esq. 10 Douglas E. Lawson, Esq. 11 SACKS, GLAZIER, FRANKLIN 12 & LODISE LLP 13 350 South Grand Avenue, Suite 3500 14 Los Angeles, CA 90071 | Attorneys for Petitioners, Ann Margaret Cotter and Ellen Cotter |
| 15 Harry P. Susman, Esq. 16 SUSMAN GODFREY L.L.P. 17 1000 Louisiana, Suite 5100 18 Houston, TX 77002 | Attorneys for Petitioners, Ann Margaret Cotter and Ellen Marie Cotter |
| 19 Glenn Bridgman, Esq. 20 SUSMAN GODFREY L.L.P. 21 1901 Avenue of the Stars, Suite 950 22 Los Angeles, CA 90067-6029 | Attorneys for Petitioners, Ann Margaret Cotter and Ellen Marie Cotter |
| 23 James J. Cotter, Jr. 24 311 Homewood 25 Los Angeles, California 90049 | Adult Son; Beneficiary; Successor Co- Trustee |
| 26 Ellen Marie Cotter 27 20 East 74th Street, Apt. 5B 28 New York, NY 10021 | Adult Daughter; Beneficiary; Successor Co-Trustee; Co-Executor |
| Ann Margaret Cotter 120 Central Park South Apt. 8A New York, NY 10019 | Adult Daughter; Beneficiary; Successor Co-Trustee; Co-Executor |
| Duffy James Drake 120 Central Park South | Minor Grandson; Beneficiary |

| | | |
|----|-------------------------------|----------------------------------|
| 1 | Apt. 8A | |
| 2 | New York, NY 10019 | |
| 3 | Margot James Drake Cotter | Minor Granddaughter; Beneficiary |
| 4 | 120 Central Park South | |
| 5 | Apt. 8A | |
| 6 | New York, NY 10019 | |
| 7 | Sophia I. Cotter | Minor Granddaughter; Beneficiary |
| 8 | 311 Homewood | |
| 9 | Los Angeles, California 90049 | |
| 10 | Brooke E. Cotter | Minor Granddaughter; Beneficiary |
| 11 | 311 Homewood | |
| 12 | Los Angeles, California 90049 | |
| 13 | James J. Cotter | Minor Grandson; Beneficiary |
| 14 | 311 Homewood | |
| 15 | Los Angeles, California 90049 | |
| 16 | Gerard Cotter | Beneficiary |
| 17 | 226 Pondfield Road | |
| 18 | Bronxville, New York 10708 | |
| 19 | Victoria Heinrich | Beneficiary |
| 20 | 186 Cherrybrook Lane | |
| 21 | Irvine, California 92613 | |
| 22 | Susan Heierman | Beneficiary |
| 23 | 262 West Pecan Place | |
| 24 | Tempe, Arizona 85284 | |
| 25 | Eva Barragan | Beneficiary |
| 26 | 13914 Don Julian | |
| 27 | La Puente, California 91746 | |
| 28 | Mary Cotter | Beneficiary |
| | 2818 Dumfries Road | |
| | Los Angeles, California 90064 | |
| | James J. Cotter Foundation | Beneficiary |
| | Reading International | |
| | 6100 Center Drive | |

Suite 900
Los Angeles, California 90045

VII. PRAYER FOR RELIEF

WHEREFORE, Jim Jr. prays for an order granting the Petition as follows:

1. Immediately suspending the powers of Margaret and Ellen pending hearing on permanent removal;
2. Appointing Michael J. Seibert as the temporary trustee in place and instead of Margaret and Ellen to exercise all powers under Trust pending hearing on permanent removal of Margaret and Ellen;
3. Permanently removing Margaret and Ellen and appointing Michael J. Seibert as successor trustee of the Trust in their place;
4. Surcharging Margaret and Ellen for any damage caused by their breaches of fiduciary duty according to proof at trial;
5. That Margaret and Ellen be ordered to disgorge any attorneys' fees and costs paid from the Trust in defense of this Petition, as not being reasonably incurred for the benefit of the Trust;
6. For costs of suit, including attorneys' fees; and
7. For such other relief as the court may deem just and proper.

Dated: March 24, 2016

SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

By



ADAM F. STREISAND
NICHOLAS J. VAN BRUNT
Attorneys for JAMES J. COTTER, JR.

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VERIFICATION

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I have read the foregoing **PETITION BY JAMES J. COTTER, JR. FOR IMMEDIATE SUSPENSION OF POWERS OF ANN MARGARET COTTER AND ELLEN COTTER AS CO-TRUSTEES AND FOR APPOINTMENT OF TEMPORARY TRUSTEE; PETITION FOR PERMANENT REMOVAL; DECLARATION OF RICHARD SPITZ IN SUPPORT THEREOF; CONSENT OF MICHAEL J. SEIBERT** and know its contents.

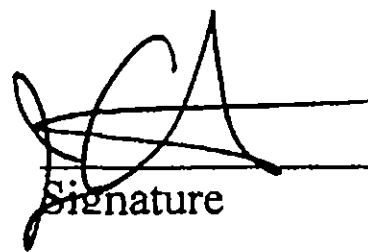
I am a party to this action. The matters stated in the foregoing document are true of my own knowledge except as to those matters which are stated on information and belief, and as to those matters I believe them to be true.

Executed on March 23, 2016, at Los Angeles, California.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

James J. Cotter, Jr.

Print Name of Signatory



Signature

Tab 15


CLERK OF THE COURT

1 **MSJ**
Mark G. Krum (SBN 10913)
2 Lewis Roca Rothgerber Christie LLP
3993 Howard Hughes Pkwy, Suite
3 Las Vegas, NV 89169-5996
Tel: 702-949-8200
4 Fax: 702-949-8398
E-mail: mkrum@lrrc.com
5 *Attorneys for Plaintiff*
James J. Cotter, Jr.

DISTRICT COURT
CLARK COUNTY, NEVADA

9 JAMES J. COTTER, JR., individually and
10 derivatively on behalf of Reading International,
Inc.,

11 Plaintiff,

12 vs.

13 MARGARET COTTER, ELLEN COTTER,
14 GUY ADAMS, EDWARD KANE, DOUGLAS
McEACHERN, TIMOTHY STOREY,
15 WILLIAM GOULD, and DOES 1 through 100,
inclusive,

16 Defendants.

17 and

18 READING INTERNATIONAL, INC., a
Nevada corporation,

19 Nominal Defendant.

20
21 T2 PARTNERS MANAGEMENT, LP, a
Delaware limited partnership, doing business as
22 KASE CAPITAL MANAGEMENT, et al.,

23 Plaintiffs,

24 vs.

25 MARGARET COTTER, ELLEN COTTER,
GUY ADAMS, EDWARD KANE, DOUGLAS
26 McEACHERN, WILLIAM GOULD, JUDY
CODDING, MICHAEL WROTONIAK, CRAIG
27 TOMPKINS, and DOES 1 through 100,
inclusive,

28 Defendants.

CASE NO.: A-15-719860-B
DEPT. NO. XI

Coordinated with:

Case No. P-14-082942-E
Dept. No. XI

Case No. A-16-735305-B
Dept. No. XI

Jointly Administered

Business Court

**PLAINTIFF JAMES J. COTTER, JR.'S
MOTION FOR PARTIAL
SUMMARY JUDGMENT**

3993 Howard Hughes Pkwy, Suite 600
Las Vegas, NV 89169-5996

Lewis Roca
ROTHGERBER CHRISTIE

1 and

2
3 READING INTERNATIONAL, INC., a
4 Nevada corporation,

5 Nominal Defendant.

6
7 Plaintiff James J. Cotter, Jr. ("Plaintiff"), by and through his attorney Mark G. Krum
8 submits the following Plaintiff James J. Cotter, Jr.'s Motion For Partial Summary Judgment.
9 Pursuant to N.R.C.P. 56, Plaintiff moves for partial summary judgment against Edward Kane
10 ("Kane"), Guy Adams ("Adams"), Doug McEachern ("DM") and William Gould ("WG")
11 (together with Ellen Cotter ("EC") and Margaret Cotter ("MC") (collectively, the "Interested
12 Director Defendants"), on Plaintiff's claims for (1) Breach of Fiduciary Duty (duty of care); (2)
13 Breach of Fiduciary Duty (duty of loyalty); and (3) Aiding and Abetting Breach of Fiduciary
14 Duties (against MC and EC), insofar as they are based on the actions of the Interested Director
15 Defendants in threatening to terminate Plaintiff as President and Chief Executive Officer ("CEO")
16 of nominal defendant Reading International, Inc. ("RDI" or the "Company") and/or terminate
17 Plaintiff as President and CEO of RDI. This Motion is based upon the pleadings and papers on
18 file, the accompanying declaration of James J. Cotter, Jr., the exhibits submitted herewith, the
19 following memorandum of points and authorities, and any oral argument.

20 DATED this 23rd day of September, 2016.

21 LEWIS ROCA ROTHGERBER CHRISTIE LLP

22 BY: /S/ MARK G. KRUM

23 Mark G. Krum (SBN 10913)

24 3993 Howard Hughes Pkwy, Suite 600

25 Las Vegas, NV 89169-5958

26 Attorneys for Plaintiff

27 *James J. Cotter, Jr.*

3993 Howard Hughes Pkwy, Suite 600
Las Vegas, NV 89169-5996

Lewis Roca
ROTHGERBER CHRISTIE

NOTICE OF MOTION

TO: ALL INTERESTED PARTIES

PLEASE TAKE NOTICE that Plaintiff will bring the foregoing Plaintiff James J. Cotter, Jr.'s Motion For Partial Summary Judgment for decision on the 25 day of OCT, 2016, at 8:30 a.m. ~~p.m.~~, in Department XI in the above-entitled Court.

DATED this 23rd day of September, 2016.

LEWIS ROCA ROTHGERBER CHRISTIE LLP

BY: /S/ MARK G. KRUM

Mark G. Krum (SBN 10913)

3993 Howard Hughes Pkwy, Suite 600

Las Vegas, NV 89169-5958

Attorneys for Plaintiff

James J. Cotter, Jr.

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

This Motion concerns breaches of fiduciary duty by individual defendants as directors of Reading International, Inc. (“RDI” or the “Company”), a public company, in threatening to terminate plaintiff James J. Cotter, Jr. (“Plaintiff” or “JJC”) as President and Chief Executive Officer (“CEO”) of RDI if he did not resolve disputes between him and his sisters, EC and MC, on terms satisfactory to the two of them and, when Plaintiff did not acquiesce to the threat, voting to terminate him as President and CEO of RDI.

The first (breach of the duty of care), second (breach of the duty of loyalty) and fourth (aiding and abetting breach of the duty of loyalty) claims made in Plaintiff’s Second Amended Complaint (“SAC”) are based in part on the conduct of certain of the director defendants in threatening to terminate Plaintiff as President and CEO of RDI if he did not resolve certain disputes he had with EC and MC on terms satisfactory to them and, after he failed to do so, terminating him as President and CEO. This motion for partial summary judgment is confined to these issues, with respect to which the undisputed material facts that entitle Plaintiff to partial summary judgment are the following:

- Plaintiff was President and CEO of RDI until he purportedly was terminated by the RDI board of directors on June 12, 2015.
- On January 15, 2015, all five of the non-Cotter members of the RDI board of Directors unanimously agreed and resolved that, in order for the RDI board of directors to terminate Plaintiff as President and CEO of RDI, a majority of the outside or non-Cotter directors would be required to vote in favor or doing so.
- In May of 2015, Plaintiff was told that three of five outside directors of RDI, namely, Adams, Kane and McEachern, were prepared to vote to terminate him as President and CEO if he failed to resolve certain disputes he had with EC and MC.
- At a reconvened supposed special meeting of the RDI Board of Directors May 29, 2015, EC told the RDI board that she and MC had reached a resolution of their disputes with

1 Plaintiff. No vote regarding termination of Plaintiff was then had.

- 2 • Plaintiff, EC and MC thereafter failed to resolve of their disputes.
- 3 • EC called another supposed special board meeting for June 12, 2015. At the June 12, 2015
- 4 supposed special meeting, three of five outside directors, namely, Adams, Kane and
- 5 McEachern, voted to terminate Plaintiff as President and CEO. Storey and Gould voted
- 6 against termination.
- 7 • Defendant Adams in May and June 2015 (and for some time previously, as well as since
- 8 then) relied on companies controlled by EC and MC for a majority of his recurring income.
- 9 • Defendant Kane had a five-decade, close personal and *quasi familial* relationship with
- 10 James J. Cotter, Sr. ("JJC, Sr."); Kane held the view that he knew what JJC, Sr.'s wishes
- 11 were regarding a fundamental dispute between Plaintiff, on one hand, and EC and MC on
- 12 the other hand, regarding whether MC alone or MC together with Plaintiff was to be
- 13 trustee(s) of a voting trust which would hold approximately seventy percent (70%) of the
- 14 voting stock of RDI; Kane's view was that JJC, Sr.'s wishes were that MC alone be the
- 15 trustee.

16 As demonstrated below, where, as here, the Plaintiff makes a showing that director

17 defendants lacked disinterestedness and or independence, either generally or with respect to the

18 particular challenged actions (here, the decisions to threaten Plaintiff with termination and to

19 terminate him), Plaintiff has rebutted the presumption that the business judgment rule applies and

20 the burden shifts to the individual director defendants to demonstrate the entire fairness of both the

21 process in which they engaged and the result (measured objectively) reached.

22 Here, defendant Adams lacked independence generally because he was dependent on EC

23 and MC for a majority of his recurring income, including at the time he took the challenged

24 actions. Additionally, he lacked disinterestedness with respect to the challenged action(s) because,

25 among other things, he and his financial benefactors, EC and MC, personally stood to gain in a

26 manner in which other RDI shareholders would not.

27 Defendant Kane generally lacked independence because of his five-decade relationship

28

1 with JJC, Sr., Kane's view that he knew what Sr.'s wishes were with respect a critical item in
2 dispute between Plaintiff, on one hand, and EC and MC on the other hand, namely, who would be
3 the trustee(s) of the voting trust, Kane's view of that it was the wishes of JJC, Sr., that MC alone
4 be the trustee of that voting trust, and Kane's insistence that Plaintiff accede the demands of EC
5 and MC or be terminated. Likewise, Kane lacked disinterestedness with respect to the subject
6 decisions, including for the same reasons.

7 As demonstrated below, the individual defendants cannot satisfy the entire fairness test
8 with respect to the "process" by which they threatened Plaintiff with termination and then
9 terminated him. Nor can they demonstrate the objective fairness of threatening him with
10 termination unless he resolved disputes with MC and EC on terms satisfactory to the two of them
11 and terminating him when he failed to do so.

12 Where, as here, director defendants cannot satisfy their burden of demonstrating the entire
13 fairness of the challenged conduct, the challenged conduct may be avoided by the corporation or
14 by its shareholders. That is exactly the relief Plaintiff seeks hereby, which RDI and he are entitled
15 to receive, namely, an order that declares the decision to terminate Plaintiff as President and CEO
16 of RDI as void or voidable and, to the point, of no force or effect.

17 **II. STATEMENT OF FACTS**

18 **A. Parties Referenced in This Motion**

19 Plaintiff is and at all times relevant hereto was a shareholder of RDI. He has been a
20 director of RDI since March 2002. He became President of RDI in or about June 2013. He was
21 appointed CEO of RDI on or about August 7, 2014. He is the son of the late James J. Cotter, Sr.
22 (JJC, Sr.) and the brother of defendants MC and EC. (September 23, 2016 Declaration of James J.
23 Cotter, Jr. (JCC Dec.) at ¶ 2.)

24 Defendant MC became a director of RDI in or about September 2002 and remains a
25 director. MC is the owner and President of OBI, LLC, a company that has provided theater
26 management services to live theaters indirectly owned by RDI through Liberty Theatres, of which
27 MC is President. (JCC Dec. at ¶ 3.) As described below, MC is engaged in trust litigation against
28

JJC, by which she seeks, among other things, to invalidate a trust document (the “2014 Amendment”). (*Id.*)

Defendant EC is and at all times relevant hereto was a director of RDI. EC became a director of RDI in or about 2013. EC was a senior executive at RDI responsible for the day-to-day operations of its domestic cinema operations. (JCC Dec. at ¶ 4). As described below, EC is engaged in trust and estate litigation against JJC, by which she seeks, among other things, to invalidate the 2014 Amendment. (*Id.*)

Defendant Kane is and at all times relevant hereto was an outside director of RDI. Kane has been a director of RDI since approximately October 2009. Kane had a decade’s long close personal relationship with JJC, Sr. EC and MC call Kane “Uncle Ed.” (JCC Dec. at ¶ 5).

Defendant Adams is and at all times relevant hereto was an outside director of RDI. Adams became a director of RDI in or about 2014. (JCC Dec. at ¶ 6).

Defendant Douglas McEachern (McEachern) is and at all times relevant hereto was an outside director of RDI. McEachern became a director of RDI in or about 2012. (JCC Dec. at ¶ 7).

Defendant William Gould (Gould) is and at all times relevant hereto was an outside director of RDI. Gould became a director of RDI in or about 2004. (JCC Dec. at ¶ 8).

B. The Termination of Plaintiff as President and CEO

As the evidence described in this section (II. B.) shows, Plaintiff was threatened with termination as President and CEO of RDI if he failed to resolve disputes with his sisters, EC and MC, on terms satisfactory to them, and Plaintiff was terminated as President and CEO of RDI when Kane, Adams and McEachern, as three of five outside directors, voted to terminate him.

The non-Cotter board members on January 15, 2015 resolved and approved, with Plaintiff, EC and MC abstaining, as follows:

“The CEO [JJC,] cannot terminate the employment of Ellen Cotter unless a majority of the independent directors concur with the CEO’s recommendation to terminate Ellen Cotter;

The CEO [JJC,] cannot terminate the existing Theater Management Agreement of Ms. Margaret Cotter unless a majority of the independent directors

1 concurs with the CEO's recommendations to terminate such Theater Management
2 Agreement; and

3 The CEO [JJC,] cannot be terminated without the approval of the
4 majority of the independent directors."

5 (Appendix Ex. 25 (Dep. Ex. 119); Appendix Ex. 12 (DM 5/6/16 Dep. Tr. at 86:17-89:1);
6 Appendix Ex. 7 (WG 6/8/16 Dep. Tr. at 85:3-18); Appendix Ex. 45 (Dep. Ex. 271).)

7 On Tuesday, May 19, 2015, EC distributed an agenda for a supposed RDI board of
8 directors special meeting on Thursday, May 21, 2015. (JCC Dec. at ¶ 10; Appendix Ex. 1 (EC
9 6/16/26 Dep. Tr. 171:14-175-16); Appendix Ex. 34 (Dep. Ex. 338).) The first item on the agenda
10 was entitled "Status of President and CEO[.]" *Id.* It turned out that was an agenda item to raise a
11 subject previously not discussed at an RDI Board of Directors meeting, namely, termination of
12 Plaintiff as President and CEO of RDI. (*Id.*)¹

13 Prior to May 19, 2015, each of Adams and Kane (and McEachern) communicated to EC
14 and/or between or among themselves their respective agreement to vote as RDI directors to
15 terminate JJC as President and CEO of RDI. (Appendix Ex. 1 (EC 6/16/16 Dep. Tr. 175:17-
16 176:8); Appendix Ex. 5 (Storey 2/12/16 Dep. Tr. At 96:5-91:4, 98:21-100:8, 100:14-101:11);
17 Appendix Ex. 9 (Adams 4/28/16 Dep. Tr. At 98:7-17; 98:18-99:22); Appendix Ex. 9 (Adams
18 4/29/16 Dep. Tr. 378:15-370:5); *see also* Appendix Ex. 6 (TS 8/31/16 Dep. Tr. 66:22-67:20) and
19 Appendix Ex. 26 (Dep. Ex 131).)

20 During their planning that predated the supposed May 21 meeting, Kane on May 18, 2016
21 sent an email to Adams in which he (Kane) agreed to second the motion for JJC's termination, if
22 necessary:

23 See if you can get someone else to second the motion [to terminate
24 Plaintiff as President and CEO]. If the vote is 5-3 I might want to
25 abstain and make it 4-3. If it's needed I will vote. It's personal and
26 goes back 51 years. If no one else will second it I will.

27 (Appendix Ex. 19 (Dep. Ex. 81 at GA00005500).)

28 ¹ In March 2015, the non-Cotter directors appointed director Storey to function as their
representative ombudsman to work with Plaintiff as CEO, including by acting as a facilitator with EC and
MC. (JCC Dec. at ¶ 9; Appendix Ex. 6 (TS 8/3/16 Dep. Tr. 33:12-36:16 and 37:15-38:20).) On behalf of
the non-Cotter directors, one or both of Gould and Storey in March 2015 had advised MC and EC and
Plaintiff that the process involving director Storey as ombudsman would continue through June 2015, at
which time an assessment would be made of the situation. (*Id.*)

1 Prior to May 21, 2015, Kane and Adams discussed other motions related to JCJ's
2 termination, such as to appoint an interim CEO. (Appendix Ex. 9 (Adams 4/29/16 Dep. at 366:5–
3 367:6); *see also* Appendix Ex. 20 (Adams Dep. Ex. 82 at GA00005502–03).)² **

4 Directors Gould and/or Storey objected that the non-Cotter directors had not undertaken an
5 appropriate process to make a decision regarding whether or not to terminate the President and
6 CEO of RDI and requested that the non-Cotter directors meet before the supposed May 21
7 meeting. Gould warned the others that they all could “face possible claims for breach of fiduciary
8 duty if the Board takes action without following a process” (Appendix Ex. 318 (Gould Dep.
9 Ex. 318).) Storey used the term “kangaroo court,” and observed as to the non-Cotter directors
10 that, “as directors we can’t just do what a shareholder [, meaning EC and MC,] asks.”³ (Appendix
11 Ex. 22 (Kane Dep. Ex. 116).)

12 Kane responded they did not need to meet, stating that “the die is cast.” (Appendix Ex. 23
13 (EK Dep. Ex. 117 at TS000069).)

14 The supposed May 21, 2015 special meeting was convened and concluded with no
15 termination vote having been taken. (JCC Dec. at ¶11).

16 On or about Wednesday, May 27, 2015, a lawyer representing MC and EC in the
17 California Trust Action (“Susman”) sent an attorney representing JJC in the California Trust
18 Action (“Streisand”) a document outlining terms on which EC and MC would resolve their

19 ² In a May 19, 2015 email to Kane, Adams acknowledged they had picked sides in a family dispute:

20 Ed,

21 I am sorry, as I know your relationship with the family started long before they were born.
22 I also know—and now see for myself—why SR placed such a high value on you and your
23 counsel. More than anyone else on the board, you worked behind the scenes attempting to
24 bridge every problem with the kids. Lastly, I know that more than anyone else, you have
25 been at SR’s side at every turn as he built his empire. I think you and I share a [sic]
26 obligation to the family based upon our commitment to our friend.... *Unfortunately,*
27 *it seems that we have no choice but to choose a side.*

28 (Appendix Ex. 21 (Adams Dep. Ex. 85 at GA00005544–45 (emphasis supplied); *see also* Appendix Ex. 6
(TS 8/3/16 Dep. Tr. 65:12-66:20).)

³ Gould and Storey also were of the view that the ombudsman process was to continue into June 2016, at
which time Storey would report further and the five would determine next steps. (Appendix Ex. 6 (TS
8/3/16 Dep. Tr. 33:12-36:16 and 37:15-38:20).)

1 disputes with Plaintiff. (JCC Dec. at ¶ 12; Appendix Ex. 4 (MC 6/15/16 Dep. Tr. 154:19-156:19);
2 Appendix Ex. 32 (Dep. Ex. 322).)

3 Also on May 27, 2015, EC emailed RDI directors claiming “that the board meeting held
4 last Thursday [May 21] was adjourned, to reconvene this Friday, May 29, 2015. The board
5 meeting will begin at **11:00 a.m. at our Los Angeles office.**” (JCC Dec. at ¶ 13; Appendix Ex. 1
6 (MC 6/16/16 Dep. Tr. 185:13-186:9); Appendix Ex. 35 (Dep. Ex. 340).)**

7 On May 28, 2015, Kane by email told JJC to accept the offer.

8 “I have not seen the [take it or leave it settlement] proposal. I understand
9 that it would leave you with your title, which is very important to you and
10 which you told me was essential to any settlement . . . if it is take-it or
11 leave-it, then I STRONGLY ADVISE YOU TO TAKE IT, . . . if we can
end all of the litigation and ill feelings, -- and their offer to keep you as
CEO as a major concession -- . . .”

12 (Appendix Ex. 1 (MC 6/16/16 Dep. Tr. 185:13-186:9); Appendix Ex. 24 (Dep. Ex. 118).)

13 On Friday, May 29, before the supposed RDI board of directors special meeting
14 commenced, EC and MC met with JJC. They discussed that the document that had been conveyed
15 by Susman was a take-it or leave-it offer and that, if JJC did not accept it, the RDI board would
16 proceed with the vote to terminate him as President and CEO. (JCC Dec. at ¶ 14).

17 The supposed special board meeting on May 29 commenced and Adams made a motion to
18 terminate Plaintiff as President and CEO. In response, Plaintiff questioned Adams’ independence
19 and/or disinterestedness. (JCC Dec. at ¶ 15). The supposed special meeting eventually was
20 adjourned until 6:00p.m. that evening. Plaintiff was told that he needed to resolve his disputes
21 with his sisters by then or he would be terminated. (*Id.*) Storey’s contemporaneous handwritten
22 notes summarize that as follows:

23 “long board discussion”

24 “ended with basically a command from” majority” – Jim go settle
25 something with sisters in next hour or you will be terminated.”

26 (See Appendix Ex. 5 (Storey 2/12/16 Dep. Tr. at 110:6-12); Appendix Ex. 15 (Storey Dep. Ex.
27 17).)

1 The supposed special board meeting reconvened (telephonically, for most) at or about 6:00
2 p.m. on Friday, May 29, 2015. At that time EC reported that she and MC had reached an
3 agreement in principal with JJC to resolve their disputes. EC concluded that, while no definitive
4 agreement had been reached, EC and MC would have one of their lawyers provide documentation
5 to counsel for JJC. No termination vote was taken. (JCC Dec. at ¶ 16).
6 (Appendix Ex. 3 (MC 5/13/16 Dep. Tr. at 368:13-369:22; *see also* Appendix Ex. 15 (Dep. Ex.
7 17).)

8 On Wednesday, June 3, 2015, Susman for EC and MC transmitted a new document to
9 Streisand, JJC's attorney. (JCC Dec. at ¶ 17; Appendix Ex. 3 (MC 5/13/16 Dep. Tr. 377:7-24);
10 Appendix Ex. 28 (Dep. Ex. 167).)

11 On June 8, 2015, JJC advised EC and MC that he could not accept their document. MC
12 responded that she would advise the RDI board of directors. . (JCC Dec. at ¶ 18; Appendix Ex. 3
13 (MC 5/13/16 Dep. Tr. at 368:13-369:22); *see also* Appendix Ex. 3 (MC 5/12/16 Dep. Tr. 271:22-
14 279:7); Appendix Ex. 27 (Dep. Ex. 156).)

15 On Wednesday afternoon, June 10, 2015, EC transmitted an email to all RDI board
16 members stating, among other things, that "we would like to reconvene the Meeting that was
17 adjourned on Friday, May 29th, at approximately 6:15 p.m. (Los Angeles time.) We would like to
18 reconvene this Meeting telephonically *Friday, June 12 at 11:00 a.m. (Los Angeles time) . . .*" .
19 (JCC Dec. at ¶ 19).

20 On Friday, June 12, 2015, a supposed RDI board of directors special meeting was
21 convened. Adams and Kane (and McEachern) voted to terminate JJC (as did MC and EC). Storey
22 and Gould voted against terminating JJC as President and CEO. (JCC Dec. at ¶ 20; Appendix Ex.
23 10 (Kane 5/2/16 Dep. Tr. 191:25-192:12, 193:3-194-10); Appendix Ex. 5 (Storey 2/12/16 Dep.
24 Tr. 139:22-140-11); *see also* Appendix Ex. 6 (TS 8/3/16 Dep. Tr. 75:4-76:16 and 81:22-82:6).)

25 In January 2016, EC was made, permanent President and CEO of RDI. (JCC Dec. at ¶ 21).

26 **C. MC And EC Were at Odds With Plaintiff**

27 Without implying that the votes of MC and EC should have been counted (which should
28

1 not have been the case in view of the January 15, 2015 resolution described above) (Appendix Ex.
2 No. 25; Dep. Ex. 119), the evidence described in this section (II. c.) shows that, as to the actions to
3 threaten Plaintiff with termination and to act and vote to terminate him, (1) each of EC and MC
4 lacked disinterestedness and (2) each of EC and MC generally lacked independence for the
5 purposes of those actions and decisions.

6 MC and EC had personal disputes with Plaintiff, the most fundamental of which were
7 raised in the California Trust Action (defined below), including the dispute about whether MC
8 alone or MC and JJC together would be trustee(s) of the RDI "Voting Trust" controlling
9 approximately seventy percent (70%) of RDI's claim class B voting stock. MC and EC also had
10 personal disputes and conflicts the Plaintiff regarding the sisters' respective employment status,
11 titles roles at the Company and compensation, as well as whether they would report to their
12 brother as CEO.

13 1. The California Trust Action

14 On or about February 5, 2015, MC and EC filed an action entitled "In Re James J. Cotter
15 Living Trust dated August 1, 2000" (the "California Trust Action") in Los Angeles County
16 Superior Court. By the California Trust Action, MC and EC challenged the validity of the 2014
17 Amendment to the James J. Cotter Living Trust dated August 1, 2000, as amended (the "Trust"),
18 which Trust also was the subject of amendments prior to 2014, including an amendment in 2013
19 (the "2013 Amendment"). In the California Trust Action, EC and MC alleged in the Petition filed
20 to initiate the action (the "Petition") in relevant part as follows:

21 "5. James Sr. was the former Chief Executive Officer, Chairman of the
22 Board and the controlling shareholder of Reading International, Inc.
23 ("RDI") . . . RDI is a publicly-traded company with two classes of stock;
James Sr. controlled over 70% of the voting shares and also owned a
significant amount of non-voting stock.

24 * * *

25 8. On June 5, 2013, James Sr. executed the 2013 Amendment to
the Complete Restatement of Declaration of Trust (the "2013 Trust") .
26 . . The 2013 Trust provided for the following distributions of James Sr.'s
primary assets upon his death. **First, the voting stock of RDI would be**
27 **distributed to a separate trust (the "RDI Voting Trust")** for the benefit
of James Sr.'s grandchildren. [MC] and [JJC] have children; [EC] does
28 not. **The sole trustee of the RDI Voting Trust would be [MC].**

Because James Sr.'s voting stock controlled RDI, [MC] as Trustee of the RDI Voting Trust would have effective control over RDI under the terms of the 2013 Trust. The 2013 Trust also expressed James Sr.'s wish that [MC] would become the "chairperson" of RDI and that she would support [JJC] as President of RDI.

* * *

24. The 2014 . . . Amendment made significant changes to the 2013 Trust, . . . First, the 2014 . . . Amendment made [JJC] and [MC] co-trustees of the RDI Voting Trust instead of [MC] being the sole trustee. The 2014 . . . Amendment also provided that if [JJC] and [MC] could not agree in their capacities as co-trustees of the RDI Voting Trust, voting control would alternate every year . . . [JJC] went from having zero voting power over RDI in the 2013 Trust to having an effective veto right over any decisions relating to RDI in the 2014 . . . Amendment."

(See Appendix Ex. 13 (Petition, ¶¶ 5, 8 and 24) (emphasis supplied).)

Thus, by the California Trust Action, MC and EC made clear that a principal subject of dispute with Plaintiff was whether MC alone pursuant to the 2013 Amendment, or MC and Plaintiff together pursuant to the 2014 Amendment, would be trustee(s) of the RDI Voting Trust. Of course, that determines who holds the power to vote a majority of the RDI Class B voting stock, to elect the RDI Board of Directors and to control the Company.

2. Disputes Regarding the Employment, Title, Compensation and Responsibilities of EC and MC

Not long after their father's passing, in the fourth quarter of 2014, EC and MC sought to report to an executive committee of RDI's Board of Directors rather than to their brother as CEO. (Appendix Ex. 2 (EC 5/18/16 Dep. Tr. 64:17-21, 63:24-65:21, 72:2-24, 134:9-135:11, 140:6-141:6, 142:12-143:5); Appendix Ex. 17 (Dep. Ex. 61).) On October 14, 2014, EC sent an email to directors Adams, Storey and Gould, which email identified the jobs, titles and compensation sought by EC and MC, as well the reporting structure—to an executive committee rather than to the brother as CEO—that EC and MC wanted. (See Appendix Ex. 17 (Dep. Ex. 61).) EC acknowledged that the point of the executive committee structure she had proposed was that she did not want to report to her brother as CEO. (See *supra*).

Separately, EC wanted a new title, President of U.S. Cinemas, which title at the time was held by another executive. (See Appendix Ex. 17 (Dep. Ex. 61); Appendix Ex. 2 (EC 5/18/16

1 Dep. Tr. at 58:9-15).) EC and MC also wanted an employment contracts with RDI . (*Id.* at 58:5-
2 6). EC also wanted a raise. (*Id.* at 59:6-10).

3 With respect to employment, MC for years had been employed by Liberty Theaters,
4 making her a third-party consultant to RDI. (Appendix Ex. 3 (MC 5/12/16 Dep. Tr. 49:19-51:9);
5 Appendix. Ex. 6 (TS 8/3/16 Dep. Tr. 15:14-16:5).) As such, she received what amounted to
6 commission income. *Id.* She received no health benefits. *Id.* MC in or before the Fall of 2014
7 sought to become an employee of RDI:

8 Q. And during this conversation with Tim Storey [in the Fall of 2014],
9 what did you say to him about your role in the company going forward?

10 A. I don't recall.

11 Q. Did you tell him that you wanted to be an RDI employee?

12 A. Oh, I brought out documents that my father wanted me to become
13 an employee. Yep.

(Appendix Ex. 3 (MC 5/12/16 Dep. Tr. at 76: 4 – 11).)

14 In particular, MC sought to be the senior executive at RDI responsible for development of
15 valuable real estate in New York City owned directly or indirectly by RDI, referred to as Union
16 Square and Cinemas 1, 2, and 3 (the "NY Properties") :

17 Q. Ms. Cotter, directing your attention to the time frame of September
18 or October of 2014, and the conversation you believe you had with Tim
19 Storey regarding you becoming -- that included discussing you becoming
20 a -- an employee of RDI, what did you say and what did he say as best
21 you can recall?

22 A. I believe I just expressed my interest in becoming an employee
23 and working on the New York Properties.

24 Q. When you say "working on the New York properties," what does
25 that mean?

26 A. Working on the development of the New York properties.

27 Q. And you're talking about Union Square and Cinemas 1, 2 and 3,
28 yes?

A. That's correct.

(*Id.* at 54: 21 - 55: 11).

1 Q. Okay. And what did you discuss with Mr. Storey, if anything,
2 about what position you would hold?

3 A. I was speaking about the New York properties and running the
4 development of those properties.

5 Q. Did you tell Mr. Storey during this conversation in September or
6 October 2014 that you wanted to be the senior person involved in the
7 development of the New York properties?

8 A. I told him I wanted to lead the development, yes.

9 (*Id.* at 76: 12-17 and 77: 15-20).

10 Plaintiff as CEO was of the view that MC was unqualified to hold that position, as MC
11 knew:

12 Q. Did there come a time, Ms. Cotter, when you heard or learned or
13 were told that your brother as C.E.O. was of the view that Reading
14 needed to hire a person with real estate development experience or
15 expertise to assist, among other things, with the development of the New
16 York properties?

17 [Objection omitted.]

18 THE WITNESS: I heard that.

19 Q. When did you first hear or learn that?

20 A. I don't recall.

21 Q. Did your brother ever say to you, whether in a conversation or an
22 email or otherwise, that he thought RDI needed an employee with real
23 estate development expertise that you did not have?

24 [Objection omitted.]

25 THE WITNESS: At some point I believe he said that, yeah.

26 (*Id.* at 81: 8 - 82: 2).

27 Plaintiff as CEO undertook to hire a senior executive experienced in real estate
28 development, which MC recognized meant that she would not have the position she wanted:

29 ...At the top of the first page of Exhibit 145 your brother responds to in the first
30 sentence as follows, quote,

31 'You have heard about my concerns about you
32 leading our two developments in New York valued at over
33 \$200 million and my intentions to hire a director of real
34 estate...'

35 Do you see that?

1 A. Yes.

2 Q. What did you understand to him -- him to be saying or
3 referencing by that sentence?

4 A. He wasn't going to budge and give me this role.

5 (*Id.* at 83: 24 - 84: 14).

* * *

6 Q. Okay. Did you understand -- what was your understanding as to
7 what he was telling you when he referenced his intentions to hire a
8 director of real estate?

9 That he was going to hire somebody else to be the senior person at RDI
10 with respect to the real estate development of the two New York
11 properties?

[Objection omitted.]

12 THE WITNESS: He was going to hire somebody else, yes.

* * *

13 Q. So he concludes by asking whether your expectations have
14 changed; and if so, how.

15 Did you respond to that?

16 A. I don't recall.

* * *

17 Q. Well, did your -- did you[r] desire to be the person leading the
18 real estate development of RDI's two properties in New York ever
19 change?

20 A. No.

21 (*Id.* at 200: 18 - 202: 1).

22 MC was of the view that the hiring of a person qualified in real estate development, which
23 Plaintiff as CEO sought to do, would exclude MC from holding the position she wanted:

24 "...Question: Was it not the case, Ms. Cotter, that you held the view that
25 the hiring of Jon Genovese or anyone else for the director of real estate
26 position would have a consequence of you not leading the real estate
27 development of the two New York properties?")

[Objection omitted.]

28 THE WITNESS: Yes.

(*Id.* at 262: 5 - 15; *see also* Appendix Ex. 6 (TS 8/3/16 Dep. Tr. 27:13-29:5).)

1 Separately, MC also was concerned that Plaintiff would terminate her consulting
2 arrangement with the Company. (Appendix Ex. 3 (MC 5/13/16 Dep. Tr. 302: 19 - 303: 24).)

3 EC and the other individual defendants in March 2016 made MC an executive employee of
4 RDI, with the title Executive Vice President, Real Estate Development, New York. (See
5 (Appendix Ex. 14 (RDI Form 8-K Excerpts dated March 15, 2016).) As such, MC is the executive
6 person at RDI directly responsible for development of the NY Properties. MC has no prior real
7 estate development experience. (Appendix Ex. 9 (Adams 4/28/16 Dep. Tr. 152;23-154:21);
8 Appendix Ex. 6 (Storey 8/3/16 Dep. Tr. 17:10-17); Appendix Ex. 3 (MC 5/12/16 Dep. Tr. 226:1-
9 231:13).)

10 **D. Adams Was Financially Dependent on MC and EC**

11 The evidence described in this section (II. D.) shows that (1) Adams generally lacked
12 independence with respect to any matter or decision of interest or importance to EC, MC or both,
13 because Adams was dependent upon them for a majority of his recurring income and (2) as to the
14 decision and action to threaten Plaintiff with termination and to vote to terminate him, Adams
15 lacked disinterestedness because, among other things a decision was of personal interest to
16 Adams, including for the reasons described in the evidence below, including that EC and MC and
17 Adams separately stood to benefit from their complaint of actions in a manner not shared with
18 other RDI shareholders.

19 At the time he acted to terminate Plaintiff, Adams—by his own admission in sworn
20 statements he made in his divorce case in Los Angeles Superior Court—received a majority of his
21 income from entities controlled by EC and MC.

22 First, Adams, who is almost 65, effectively has been unemployed since 2008. (*See* Adams
23 Dep. Ex. 53 at JCOTTER014954). With the economic downturn in 2008, Adams ceased
24 operating his investment business, GWA Capital, laying off all employees. (Appendix Ex. 9
25 (12:6–15); *see also* Appendix Ex. 16 (Adams Dep. Ex. 53 at JCOTTER014973) (declaration given
26 in context of Adams’s divorce, herein he states, “the 2007-08 market meltdown resulted in
27 significant investment losses”; by the “end of 2008, most of my investors had pulled out”; “I had
28

1 to lay off all of my employees.”.)⁴

2 Second, beginning in 2012, an overwhelming majority of Adams’s recurring income came
3 from RDI and entities controlled by JCC, Sr., until 2014 when JJC, Sr. passed, and from then
4 controlled by EC and MC. In the latter part of 2012, JJC, Sr. hired Adams to do consulting work
5 through JC Farm Management Co., a subchapter S corporation owned by JJC, Sr. and now part of
6 the Estate, which is now controlled by the Cotter sisters as executors. (Appendix Ex. 18 (Adams
7 Dep. Ex. 68, at GA00005295–32).) Adams was to be paid, was paid, and is paid \$1,000 per week
8 pursuant to this agreement. (Appendix Ex. 9 (41:16–42:25).) Adams testified that the “person
9 who [initially] made the decision that [he] would be paid \$52,000 a year” was JJC, Sr., and that
10 the person that makes that decision today is “the [E]state,” which he understands and agrees is
11 controlled by MC and EC. (Appendix Ex. 9 (28:12–29:2).)

12 Additionally, Adams helps manage four real estate developments around the country in
13 which JCC, Sr. invested, for which Adams received a 5 percent interest in the ventures. (Appendix
14 Ex. 9 (41:16–42:25).) Adams already has received about \$30,000 from one real estate venture,
15 and stands to be paid significant additional compensation, potentially more than \$100,000, which
16 he will receive from the Estate. (Appendix Ex. 9 (Adams 4/28/16 Dep. Tr. 52:6–52:3, 54:3–55:4,
17 56:12–58:10).) It is EC and MC (as executors) who will approve these payouts. (*Id.*; Adams
18 continues to report to the Cotter sisters in these Cotter business roles unrelated to RDI (55:5–21,
19 56:12–58:10, 161:15–162:12).)

20 As of the time of his deposition on April 28, 2016, Adams had received no income in 2016
21 from GWA Capital. (Appendix Ex. 9 (Adams 4/29/16 Dep. Tr. 13:10–16).)⁵

22
23 ⁴ Between 1985 and 1995, Adams worked directly for JJC, Sr. in a variety of positions at a number of
24 different firms. (Appendix, Ex. 9 (Adams 4/28/16 Dep. Tr. (21:10–24:4, 442:9–17).) From 1995 until
25 Adams joined RDI’s board in February, 2014, Adams and JJC, Sr. remained friends, meeting socially on a
regular basis several times per year at least. (*Id.* at 24:5–13, 37:16–19). In 2004, JJC, Sr. invested about
half a million dollars in Adams’s investment fund, GWA Capital, for about one year—a significant portion
of the \$3 or \$4 million that Adams then managed. (*Id.* at 40:10–41:15).

26 ⁵ Defendant Gould became aware from Adams’s deposition testimony that Adams depended upon “the
27 Cotter family” for “a great percentage” of his “earnings.” (Appendix Ex. 7 (WG 5/18/15 Dep. Tr. (32:1–
28 5).) Consequently, Mr. Gould expressed to EC and to Craig Tompkins that Gould “did not believe [that
Adams] was independent for purposes of serving on the . . . compensation committee.” (Appendix Ex. 7
(WG 5/18/15 Dep. Tr. (33:14–18; *see also id.* at 36:2–7).) Gould reasoned that “clearly if Mr. Adams’s

1 In 2015, when he cooperated with EC in terminating Plaintiff, Adams had about a
2 \$200,000 income (Appendix Ex. 9 (Adams 4/28/16 (15:22–23).) All of it came from Cotter-
3 related businesses. (*See also* Appendix Ex. 16 (Adams Dep. Ex. 53 at JCOTTER014961).)
4 Adams was paid his annual salary \$52,000 (Appendix Ex. 9 (Adams 4/28/16 Dep. Tr. (16:4–6).)
5 The balance, about \$148,000, also came from Cotter-related business, namely, his RDI director
6 fees and the sale of RDI shares. (16). Adams had no other sources of income in 2015 except for a
7 one-time payout of \$300,000 when his ex-wife purchased his interest in a Santa Barbara
8 condominium incident to their divorce. (14-15, 16:22–24).

9 Likewise in 2014, Adams’s approximately \$134,000 in earnings came, in his words,
10 “predominantly” from his farm “consultancy” work (\$52,000 salary plus a \$25,000 bonus), money
11 earned as a RDI director (\$50,000), and a “bonus from Jim [Cotter] Sr.” (\$20,000). (Appendix
12 Ex. 9 (Adams 4/28/16 Dep. Tr. (18–19, 123:2–11).) Adams’s only earnings in 2014 outside
13 Cotter-related businesses were \$12,000 for a “consulting contract with a junk bond fund.”
14 (Appendix Ex. 9 (Adams 4/28/16 Dep. Tr. (18:4–7, 19:4–6).)

15 **REDACTED—FILED SEPARATELY UNDER SEAL**

16 **E. Kane Maintained a Close Quasi-Familial Relationship With JJC, Sr. for Five**
17 **Decades**

18 The evidence set out in this section (II. E.) below shows that (1) Kane generally lacked
19 independence from EC and MC because, among other things, of his five-decade long *quasi-*
20 *familial* relationship with their father and Kane’s understanding that their father intended for MC
21 alone, not MC together with Plaintiff, to be the trustee of the voting trust (which was a
22 fundamental issue and dispute between plaintiff, on one hand, and MC and EC on the other hand)
23 and (2) with respect to decisions to threaten with termination and to terminate plaintiff, Kane
24 lacked disinterestedness because, among other things, it was his view that the wishes of his five-
25 decade deceased friend, JJC, Sr., were that MC along, not MC and Plaintiff together, would be the
26
27 income was substantially derived from Reading and the Cotter family, if his whole livelihood depended on
28 them, he could not be independent in passing on the compensation of the Cotter family members.” (*Id.* at
33:21–34:7). Adams later resigned from the RDI compensation committee. (*Id.* at 36:8–10). Mr. Gould
agreed that Mr. Adams was a “vocal proponent in support of terminating” Plaintiff. (*Id.* at 36:19–22).

1 trustee of the voting trust that controlled RDI, which was one of the points on which MC and
2 EC—and Kane—insisted that Plaintiff accept as part of a global resolution of disputes between
3 Plaintiff, on one hand, and MC and EC, on the other hand.

4 Kane was a close friend of JJC, Sr. for five decades. Kane and JJC Sr. had known each
5 other since attending a L.L.M. program at the NYU Law School in 1963 and “became fast friends”
6 and had a “very close relationship.” (Appendix Ex. 10 (Kane 5/2/16 Dep. 29:8–23, 32:20–25).)
7 Kane served as an officer of both Craig Corporation, an entity controlled by JJC, Sr., and as a
8 director of RDI a number of different times in the 1980s and 1990s, most recently returning as an
9 RDI board member in 2004. (Appendix Ex. 10 (Kane Dep. Tr. 15–16).) Although they had
10 disputes that prompted Kane to resign a number of times, the two were “too good friends to let
11 [things] fester too long.” (Appendix Ex. 10 (Kane Dep. Tr. 25:1–2).)

12 Kane in deposition repeatedly claimed that “I think I knew better than anybody what [Sr.]
13 would have wanted. I’ve known him for—I knew him for 50 years.” (Appendix Ex. 10 (Kane
14 5/3/16 Dep. Tr.264:2–4).) Kane has known the Cotter children since their births; he testified that
15 they address him as “Uncle Ed.” (Appendix Ex. 10 (Kane 5/2/16 Dep. Tr. 37).) This
16 exceptionally close and lengthy personal relationship rendered Kane unable to make decisions as
17 an independent and disinterested member of RDI’s Board of Directors regarding matters that
18 touched upon disputes between MC and EC, on one hand, and Plaintiff, on the other, hand.

19 First, Kane was well aware of the fundamental disputes between MC and EC, on one hand,
20 and Plaintiff, on the other, regarding who would be the trustee of the Voting Trust that would
21 control apparently seventy (70%) percent of RDI’s class B voting stock:

22 Q.: When you refer to “all issues within the family,” to what were you
23 referring?

24 Kane: I can’t recall. I see “litigation” there. That was one thing. But I
can’t recall what the other issues were at the time.

25 Q.: Well, one of the issues was the lack of agreement regarding whether
26 Margaret or Jim and Margaret would be the trustees of the voting trust,
correct?

27 Kane: Well, that’s litigation in my mind.
28

1 (Appendix Ex. 10 (Kane 5/2/16 Dep. Tr. 128:7–19); *see also id.* at 210:20—211:3 (confirming
2 that Kane understood that “one of the issues in dispute was who would control the—the trust that
3 held class B voting stock”); 211:5–18 (noting Kane’s understanding that there were two outcomes:
4 (1) either MC would sole trustee of the voting trust under the so-called 2013 Amendment or
5 (2) JCJ and MC would be co-trustees of the voting trust under the so-called 2014 Amendment);
6 *see also* Appendix Ex. 10 (Kane 5/3/16 Dep. Tr.276:15–20).)

7 Second, Kane has his own opinion about what JJC, Sr. intended in that regard. Kane’s
8 opinion was that it was JJC, Sr.’s wishes that MC alone be trustee of the voting trust.

9 Q: Referring you, Mr. Kane, to your testimony about your
10 understanding as to why in the 2013 amendment Margaret had been
11 designated as trustee of the voting trust, how did you come to have that
understanding?

12 Kane: Mr. Cotter informed me. In one of our conversations he said he was
13 making Margaret the trustee of the voting stock. And I asked him why.
14 And he told me -- and it's right in my brain, it's imprinted on it -- that "that
15 will force them to work together." That's a quote.

16 Q: What else did you say or what else did he say in that conversation
17 about either the trust documentation or [t]he Cotter children working
18 together?

19 Kane: Excuse me. Repeat that, please.

20 Q.: What else did he say, if anything, during that conversation about the
21 trust documentation?

22 Kane: Nothing that I can recall.

23 Q.: What else, if anything, did he say during that conversation about
24 prompting or forcing the three -- his three Cotter children to work together?

25 Kane: *He didn't need to say anything. I knew what he was talking about.*

26 Q.: What was your understanding at the time?

27 Kane: Understanding was that their diverse personalities, and there had
28 been some incidents -- I call incidents, nothing specific or difficult -- at
board meetings that I thought it was a good idea to make Margaret, given
the background -- I was surprised, *but I thought it was a good idea that he
made Margaret the sole trustee.*

(Appendix Ex. 10 (Kane 5/3/16 Dep. Tr. 257:22–259:6 (emphasis supplied); *see also id.* at 264:5–
11 (“We would have regular meetings in Laguna just the two of us, talk over strategy, talk over his

1 children, talk over all issues. And it was reflected in his comment to me that he was giving
2 Margaret the voting power to force them to work together. *So, I knew that's what he wanted.*")
3 (emphasis supplied); Appendix Ex. 11 (Kane 6/9/16 Dep. Tr. 602:8–17).) Kane testified further at
4 his deposition as follows:

5 Q.: Were you about to tell me something about whether you thought the
6 2014 amendment reflected what you understand to be Jim Cotter, Sr.'s
wishes?

7 Kane: That's what the Court will decide. I don't -- I try to stay out of That.
8 I have my own opinion, but I don't have all the facts.

9 Q.: What's the basis for your opinion? The conversation that you
described to us already?

10 Kane: Yes.

11 Q.: Anything else?

12 Kane: 50 years of friendship. And so I think I knew him in some respects
better than any member of his family.

13 Q.: Okay. And your opinion is that based on the facts you have –

14 Kane: Yes.

15 Q.: and not considering the facts you acknowledge you do not have –

16 Kane: I don't know if there are any.

17 Q.: Right. But based on the facts you have, you think it's the 2013
18 amendment that reflects Jim Cotter, Sr.'s wishes?

19 Kane: Yes.

20 (Appendix Ex. 10 (Kane 5/3/16 Dep. Tr. 277:2–278:4 (objection omitted).))

21 Third, that is exactly what Kane acted to make happen, by sending emails to Plaintiff
22 pressuring him to resolve his disputes with his sisters by acceding to their demands. On the
23 evening of May 28th Kane wrote Plaintiff stating, "Ellen is going to present you with a global
24 plan to end the litigation and move the Company forward. *If you agree to it*, you, Ellen and
25 Margaret will work in a collaborative manner *and you will retain your title.*" (Appendix Ex. 24
26 (Dep. Ex. 118 at EK 00000396 (emphasis supplied).) Kane further warned, "If it is a take-it-or-
27
28

1 leave-it, then I STRONGLY ADVISE YOU TO TAKE IT, even though I have not seen or heard
2 the particulars.” (Appendix Ex. 34 (Dep. Ex. 118 at EK 00000396).)

3 On May 29, 2015, the vote to terminate Plaintiff was not had because a Plaintiff appeared
4 to have reached an agreement with MC and EC satisfactory to the two of them. (Appendix Ex. 10
5 (Kane 5/2/16 Dep. Tr. (191:6–24).)

6 When that tentative agreement did not come to fruition, Kane resumed his advocacy
7 toward Plaintiff, including on June 11, 2015, stating: “I do believe that if you give up what you
8 consider ‘control’ for now to work cooperatively with your sisters,” Kane admonished, “you will
9 find that you will have a lot more commonality than you think.” (Appendix Ex. 31 (Kane Dep.
10 Ex. 306 at p. EK 00001613).) “Otherwise,” Kane threatened, “you will be sorry for the rest of
11 your life, they and your mother will be hurt and your children will lose a golden opportunity.”
12 (*Id.*) Tellingly, Kane also wrote:

13 “[F]or now I think you have to concede that Margaret will vote the B
14 stock. As I said, you dad told me that giving Margaret the vote was his
15 way of ‘forcing’ the three of you to work together. Asking to change that
is a *nonstarter*.”

16 (Appendix Ex. 31 (Kane Dep. Ex. 306 (emphasis original)).)

17 The termination vote went forward on June 12, 2015. (191:25–192:11). Kane voted to
18 terminate Plaintiff:

19 Kane: I -- I said to him at one point, “Take it. You have nothing to lose.
20 You’re going to get terminated if you don’t. If you can work it out with
21 your sisters, it will go on and I will support you. I’ll even make a motion to
22 see if the company will reimburse the legal fees.” I did not want him to go.
And you, I’m sure, see emails in there to that effect. Even though I voted -
- was voting against him, I wanted him to stay as C.E.O.

* * *

23
24 Q.: But that resolution did not come to pass because Jim Cotter, Jr.,
rejected it, correct?

25 Kane: He rejected it, yes.

26 Q.: And he got himself terminated, right?

27 Kane: Yes.
28

(Appendix Ex. 10 (Kane 5/2/16 Dep. Tr.194–195 (objection omitted).)

III. ARGUMENT

A. Legal Standards

Summary judgment shall be rendered when “the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law.” N.R.C.P. 56(c). The standard for granting summary judgment was revised or clarified in 2005 through the Nevada Supreme Court’s decision in *Wood v. Safeway, Inc.*, 121 Nev. 724, 121 P.3d 1026 (2005). No longer is summary judgment a “disfavored procedural shortcut.” *Id.* at 1030. No longer is a litigant entitled to an expensive trial merely because there exists the “slightest doubt” as to the operative facts “for at least a slight doubt can be developed as to practically all things human.” *Id.* at fn. 5 (quoting Clark, *Special Problems in Drafting and Interpreting Procedural Codes and Rules*, 3 VAND. L. REV. 493, 504 (1950)). Instead, summary judgment is regarded as an “integral part” of the rules of civil procedure “designed to secure the just, speedy and inexpensive determination of every action.” *Wood*, 121 Nev. at 730, 121 P.3d at 1030.

When deciding a motion for summary judgment, the court views all evidence in the light most favorable to the nonmoving party. *Id.* However, the nonmoving party bears the burden of demonstrating that a genuine issue of material fact exists. *Id.* at 732, 121 P.3d at 1031. General allegations and conclusory statements do not create genuine issues of fact. *Id.* at 731, 121 P.3d at 1030-31. It is well established that “pure issues of law [are] proper for resolution on a motion for summary judgment.” *E.g., Am. Fence, Inc. v. Wham*, 95 Nev. 788, 792, 603 P.2d 274, 277 (1979); *Molino v. Asher*, 96 Nev. 814, 816, 618 P.2d 878, 879 (1980).

B. The Business Judgment Rule Has No Application Here

The business judgment rule is a rebuttable presumption that “in making a business decision the directors of a corporation acted on an informed basis, in good faith, and in the honest belief that the action was taken in the best interests of the company.” *See, e.g. In Re Walt Disney Co.*

1 *Derivative Litig.*, 906 A.2d 27, 52 (Del. 2006) (*quoting Aronson v. Lewis*, 473 A.2d 805, 812 (Del.
2 1984)).⁶ In Nevada, the business judgment rule is codified in NRS 78.138.3, which provides that
3 “[d]irectors and officers, in deciding upon matters of business, are presumed to act in good faith,
4 on an informed basis and with a view to the interests of the corporation.”

5 The business judgment rule typically is articulated as consisting of four elements, namely,
6 (i) a business decision, (ii) disinterestedness and independence, (iii) due care and (iv) good faith.
7 *See, e.g., Roselink Investors, L.L.C., v. Shenkman*, 386 F. Supp. 2d 209, 2016 (S.D.N.Y. 2004)
8 (internal citations omitted). The presumption of the business judgment rule are rebutted where it
9 is shown that any of the four elements above was not present. *Id.* at 216-17.

10 Here, although each of the last three elements is absent, this Motion addresses only the
11 critical absence of disinterestedness and independence. Because two (Gould and Storey) of the
12 five non-Cotter directors voted against termination, under their January 15, 2015 resolution.
13 Plaintiff need only show that directors had an interest in the challenged conduct or lacked (or
14 failed to exercise) independence from others (here EC and MC) who had an interest in the
15 challenged conduct (or that they did not act independently). “In such circumstances, a director
16 cannot be expected to exercise his or her independent business judgment without being influenced
17 by the . . . personal consequences resulting from the decision.” *Beam v. Stewart*, 845 A.2d 1040,
18 1049 (Del. 2004) (*quoting Rales v. Blasband*, 634 A.2d 927, 936 (Del. 1993)). As shown below,
19 Plaintiff has already done so.

20 **1. Disinterestedness**

21 With respect to disinterestedness, because the business judgment rule presumes that
22 directors have no conflict of interest, the business judgment rule does not apply where “directors
23 have an interest other than as directors of the corporation.” *Lewis v. S.L. & E., Inc.*, 629 F.2d 764,
24 769 (2d Cir. 1980). This is because “[d]irectorial interest exists whenever divided loyalties are
25 present . . .” *Rales v. Blasband*, 634 A. 2d 927, 933 (Del. 1993) (internal citations and quotations
26

27 ⁶ Due to the development of Delaware case law with respect to issues of corporate law, Nevada courts find
28 Delaware case law persuasive authority. *See Cohen v. Mirage Resorts, Inc.*, 119 Nev. 1, 26, 62 P.3d 720,
737 (2003) (noting that “the case law . . . [of] Delaware is persuasive authority” when interpreting
Nevada’s corporate law).

1 omitted). Thus, a director must be disinterested in the challenged conduct in particular and, as a
2 general matter, otherwise independent. *Beam*, 845 A.2d at 1049.

3 EC and MC clearly lack disinterestedness with respect to the challenged actions, starting
4 with the threat to terminate Plaintiff as President and CEO of RDI unless he resolved the
5 California Trust Action and other matters on terms satisfactory to EC and MC, and continuing
6 thereafter with the termination of him on account of his failure to do so.

7 The same is true, for largely the same reasons, for defendant Kane, who is called “Uncle
8 Ed” by EC and MC and who, by his contemporaneous conduct demonstrated that he acted as
9 “Uncle Ed” throughout to effectuate what he thought were JJC, Sr.’s wishes, and not as a
10 disinterested RDI director exercising disinterested business judgment.

11 Likewise, Adams picked sides in a family dispute. He also demonstrated his lack of
12 disinterestedness by, among other things, vigorously pursuing the EC and MC agenda, starting
13 with the termination of Plaintiff as President and CEO, to further his own interest (to be interim
14 CEO) and to protect the interests of EC and MC, on whom he is financially dependent.⁷

15 For such reasons, among others, EC, MC, Kane and Adams each lack disinterestedness
16 with respect to the challenged action of threatening Plaintiff and terminating Plaintiff. For that
17 reason alone, each is not entitled to the presumptions of the business judgment rule in connection
18 with their actions to threaten Plaintiff and to terminate him as President and CEO of RDI.

19 2. Independence

20 Independence, as used in the context of an element of the business judgment rule, requires
21 that a director is able to engage, and in fact engages, in decision-making “based on the corporate
22 merits of the subject before the board rather than extraneous considerations or influences.”

23 *Gilbert v. El Paso, Co.*, 575 A.2d 1131, 1147 (Del. 1990); *Rales*, 634 A.2d at 936. “Directors
24 must not only be independent, [they also] must act independently.” *Telxon Corp. v. Meyerson*,
25 802 A.2d 257, 264 (Del. 2003). Assessing directorial independence therefore “focus[es] on
26

27 ⁷ Plaintiff does not concede that McEachern was disinterested and/or independent. Because Plaintiff can
28 prevail on this Motion without showing McEachern to have been interested or lacking independence, he
chooses not to address McEachern.

1 impartiality and objectiveness.” *In Re Oracle Corp. Derivative Litig.*, 824 A.2d 917, 920, 938
2 (Del. Ch. 2003) (quoting *Parfi Holding AB v. Mirror Image Internet, Inc.*, 794 A.2d 1211, 1232
3 (Del. Ch. 2001), *rev’d in part on other grounds*, 817 A.2d 149 (Del. 2002), *cert. denied*, 538 U.S.
4 1032 (2003). *See, also, Cede & Co. v. Technicolor, Inc.*, 634 A.2d 345, 362 (Del. 1993) (“[w]e
5 have generally defined a director as being independent only when the director’s decision is based
6 entirely on the corporate merits of the transaction and is not influenced by personal or extraneous
7 considerations”) *modified in part on other grounds*, 636 A.2d 956 (Del. 1994).

8 “Independence is a fact-specific determination made in the context of a particular case.
9 The Court must make that determination by answering the inquiries: independent from whom and
10 independent for what purpose?” *Beam*, 845 A.2d at 1049-50.

11 Independence is lacking in situations in which a corporate fiduciary “derives a benefit *from*
12 *the transaction* that is not generally shared with the other shareholders. In situations in which the
13 benefit is derived by another (e.g., by EC and MC from Plaintiff acceding to their demands to
14 resolve trust and estate disputes on terms acceptable to the two of them), the issue is whether the
15 [corporate fiduciary]’s decision (e.g., Adams and/or Kane) resulted from that director being
16 *controlled by another.*” *Orman v. Cullman*, 794 A.2d 5, 25 n.50 (Del. Ch. 2002) (explaining the
17 distinction between interest and independence). Control may exist where a corporate fiduciary has
18 close personal or financial ties to or is beholden to another. (*Id.*)

19 A close personal friendship in which the director and the person with whom he or she has
20 the questioned relationship are “as thick as blood relations” would likely be sufficient to
21 demonstrate that a director is not independent. *In re MFW S’Holders Litig.*, 67 A.3d 496, 509
22 n.37 (Del. Ch. 2013).

23 Similarly, a director who is financially beholden to another person, such as a controlling
24 stockholder, is not independent of that person. *In re Emerging Commc’n, Inc. S’Holders Litig.*,
25 2004 WL 1305745, at *33 (Del. Ch. May 3, 2004). The Court of Chancery has found that
26 directors who derive a substantial portion of their income from a controlling stockholder are not
27 independent of that stockholder *Id.* at *34.

1 Here, the conduct of EC, MC, and Kane to extort Plaintiff into resolving trust and estate
2 disputes on terms dictated by EC and MC are squarely and unequivocally efforts to obtain
3 personal benefits for EC and MC not shared with other RDI shareholders.

4 Kane's personal relationship with JJC, Sr., Kane's view that MC should control the Voting
5 Trust and his actions to make that happen demonstrate his lack of independence.

6 As shown by his own sworn testimony in his Los Angeles Superior Court divorce
7 proceeding and in this case, Adams as a general matter is not independent of EC and MC, because
8 he is financially dependent upon income he receives from companies that EC and MC control.

9 For such reasons, among others, each of Kane and Adams (and MC and EC) lacked
10 independence and therefore are not entitled to the presumptions of the business judgment rule.

11 **C. Defendants Must and Cannot Satisfy the Entire Fairness Test**

12 **1. The Decision to Terminate Plaintiff as President and CEO Of RDI Can**
13 **and Should Be Declared Void by the Court**

14 "A general common law presumption is that a director's or officer's conflict of interest can
15 result in the voiding of a transaction." Keith Paul Bishop & Jeffrey P. Zucker, *Bishop and Zucker*
16 *on Nevada Corporations and Limited Liability Companies*, § 8.16, 8-44 (2013), citing, *see, e.g.*,
17 William Meade Fletcher, *Fletcher Cyclopedic of the Law of Corporations*, §§ 915.10, 917 (2010).
18 The Nevada Supreme Court in *Kendall v. Henry Mountain Mines, Inc.*, stated that directorial
19 conflicts are such that the challenged action of the directors "may be avoided by the corporation or
20 its stockholders." 78 Nev. 408, 410-11, 374 P.2d 889, 890 (1962) (*quoting Marsters v. Umpqua*
21 *Valley Oil, Co.*, 49 Or. 374, 378, 90 P. 151, 153 (1907).

22 **2. EC, MC, Kane and Adams Bear the Burden of Satisfying the Entire**
23 **Fairness Test**

24 "If the shareholder succeeds in rebutting the presumption of the business judgment rule,
25 the burden shifts to the defendant directors to prove the 'entire fairness' of the transaction."
26 *McMullin v. Brand*, 765 A.2d 910, 917 (Del. 2000). "[I]f the presumption is rebutted, the board's
27 decision is reviewed through the lens of entire fairness, pursuant to which the directors lose the
28

1 presumption of [the] business judgment [rule].” *Solomon v. Armstrong*, 747 A.2d 1098, 1112
2 (Del.Ch. 1999).

3 Under the entire fairness test, “[d]irector defendants therefore are required to establish to
4 the court’s satisfaction that the transaction was the product of both fair dealing and fair price.”
5 *Cinerama, Inc. v. Technicolor*, 663 A.2d 1156, 1163 (Del. 1995) (quoting *Cede & Co. v.*
6 *Technicolor*, 634 A.2d 345, 361 (Del. 1993). Thus, a test of entire fairness is a two-part inquiry
7 into the fair-dealing, meaning the process leading to the challenged action and, separately, the end
8 result. *In re Tele-Commc’ns Inc. Shareholders Litig.*, 2005 Del. Ch. LEXIS 206, at *235, 2005
9 WL 3642727, at *9 (Del. Ch. Sept. 29, 2005).

10 The entire fairness requirement entails “exacting scrutiny” to determine whether the
11 challenged actions were entirely fair. *Paramount Commc’ns, Inc. v. QVC Network Inc.*, 637 A.2d
12 34, 42 N.9 (Del. 1994), *quoted in Krasner v. Moffett*, 826 A.2d 277, 285, n.26, 287 n.40 (Del.
13 2003). Under the entire fairness standard, the challenged action itself must be objectively fair,
14 independent of the beliefs of the director defendants. *Geoff v. II Cindus, Inc.*, 902 A.2d 1130,
15 1145 (Del. Ch. 2006) subsequent proceedings, 2006 (Del. Ch. LEXIS 161, 2000 WL 2521441
16 (Del. Ch. Aug. 22, 2006); *see also Venhill Ltd. P’ship v. Hilman*, 2008 Del. Ch. LEXIS 67, at *67-
17 68, 2008, WL 2270488, at *22 (Del. Ch. June 3, 2008).

18 “The fairness test therefore is “an inquiry designed to access whether a self-dealing
19 transaction should be respected or set aside in equity.” *Venhill*, 208 Del. Ch. LEXIS 67 at *66,
20 2008 WL 2270488 at *22.

21 Here, Defendants cannot carry their burden of proving the entire fairness of their actions in
22 threatening to terminate and terminating Plaintiff as President and CEO of RDI. They cannot
23 carry their burden of demonstrating the entire fairness of the “process” leading to the termination
24 threats and the termination. They cannot carry their burden of showing that the threatened
25 termination and the termination were objectively fair, independent of the personal beliefs of any or
26 all of Kane, Adams, McEachern, EC and MC.

27 First, as to the process, the evidence shows that EC, MC, Kane, Adams and McEachern
28

1 had communicated and agreed, prior to the May 19, 2015 agenda EC distributed that listed “status
2 of President and CEO” as the first item, to vote to terminate Plaintiff as President and CEO of
3 RDI. It is undisputed that there had been no prior discussion at RDI board meeting of the possible
4 termination of Plaintiff as President and CEO. There also is no dispute that, at the time, both
5 Directors Storey and Gould objected to the lack of process. Storey used the term “kangaroo
6 court.” Gould observed that all of the directors could be sued for breaching their fiduciary duties.
7 In short, the “process” leading to the threat to terminate Plaintiff if he did not resolve trust and
8 estate disputes with MC and EC and to terminate him all was set in private communications
9 between and among EC, MC, Kane, Adams and McEachern prior to the supposed May 21 board
10 meeting.

11 What followed at the two-part supposed May 29, 2015 board meeting was that Plaintiff
12 was told that the meeting would be adjourned until 6:00 p.m. that evening and that he had until
13 then to resolve the disputes he had with his sisters and that, if he failed to do so, the vote would
14 proceed and he would be terminated. No honest or colorable argument can be made that what
15 amounted to attempted extortion constitutes a process that meets the entire fairness standard.

16 Of course, the termination vote did not occur on May 29, 2015 because a tentative
17 resolution had been struck by Plaintiff with his sisters. When that resolution did not come to
18 fruition, EC convened another supposed special board meeting on June 12, 2015 and the
19 threatened termination vote was held. Kane, Adams and McEachern (and EC and MC) each voted
20 to terminate Plaintiff as President and CEO and the “process” concluded. Thus, the “process”
21 consisted of secret machinations and agreements, attempted extortion and execution on the
22 extortion threat. No conceivable interest of RDI or its shareholders persuasively or honestly can
23 be argued in an unavailing effort to prove that the “process” was entirely fair.

24 Likewise, the end result, whether the threatened termination of Plaintiff if he did not
25 resolve disputes with his sisters on terms satisfactory to the two of them, the termination of him
26 after he failed to do so, or both, is not a result the individual defendants can demonstrate was
27 objectively fair. There is nothing objectively fair about attempted extortion. Nor is there anything
28

1 objectively fair about executing on an extortion threat when it fails to bring about the conduct
2 sought. The individual defendants cannot satisfy their burden of showing that the end result, the
3 termination of Plaintiff after he failed to resolve disputes with this sisters on terms satisfactory to
4 the two of them, was objectively fair.

5 Because the individual defendants cannot satisfy the entire fairness test, the challenged
6 action may be avoided by the corporation or its stockholders. Plaintiff requests that the Court
7 enter an order on this motion doing so.

8 **IV. CONCLUSION**

9 For all of the foregoing reasons, Plaintiff James J. Cotter, Jr. respectfully requests that the
10 Court grant this Motion for Partial Summary Judgment and enter an order that sets aside the void
11 or voidable June 12, 2015 decision of certain of the individual director defendants to terminate
12 Plaintiff as President and CEO of RDI such that that action was and is of no legal force and effect,
13 and for such other relief as the Court may see fit, so that the inequitable conduct in question is
14 fully and effectively remedied.

15 Dated this 23rd day of September, 2016.

16 LEWIS ROCA ROTHGERBER CHRISTIE LLP

17
18 By: /s/ Mark G. Krum
19 Mark G. Krum (10913)
20 3993 Howard Hughes Pkwy, Suite 600
21 Las Vegas, NV 89169-5958
22 Attorneys for Plaintiff
23 *James J. Cotter, Jr.*
24
25
26
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CERTIFICATE OF SERVICE

I hereby certify that on this 23rd day of September, 2016, I caused a true and correct copy of the foregoing to be electronically served to all parties of record via this Court's electronic filing system to all parties listed on the E-Service Master List.

/s/ Judy Estrada

An employee of Lewis Roca Rothgerber Christie LLP

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Attorneys for Plaintiff
James J. Cotter, Jr.

DISTRICT COURT

CLARK COUNTY, NEVADA

JAMES J. COTTER, JR., individually and
derivatively on behalf of Reading International,
Inc.,

Plaintiff,

v.

MARGARET COTTER, ELLEN COTTER,
GUY ADAMS, EDWARD KANE, DOUGLAS
McEACHERN, WILLIAM GOULD, JUDY
CODDING, MICHAEL WROTNIAK, and
DOES 1 through 100, inclusive,

Defendants.

and

READING INTERNATIONAL, INC., a Nevada
corporation;

Nominal Defendant.

T2 PARTNERS MANAGEMENT, LP, a
Delaware limited partnership, doing business as
KASE CAPITAL MANAGEMENT, et al.,

Plaintiffs,

vs.

MARGARET COTTER, ELLEN COTTER,
GUY ADAMS, EDWARD KANE, DOUGLAS
McEACHERN, WILLIAM GOULD, JUDY
CODDING, MICHAEL WROTNIAK, CRAIG
TOMPKINS, and DOES 1 through 100.

CASE NO. A-15-719860-B
DEPT. NO. XI

Coordinated with:

CASE NO. P-14-082942-E
DEPT. NO. XI

CASE NO. A-16-735305-B
DEPT. NO. XI

Jointly administered

**DECLARATION OF JAMES J.
COTTER, JR., IN SUPPORT OF JAMES
J. COTTER JR.'S MOTION FOR
PARTIAL SUMMARY JUDGMENT**

[Business Court Requested: [EDCR 1.61]

**[Exempt From Arbitration: declaratory
relief requested; action in equity]**

1 inclusive,
2 Defendants.
3 and
4 _____
5 READING INTERNATIONAL, INC., a
6 Nevada corporation,
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8 Nominal Defendant.

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DECLARATION OF JAMES J. COTTER, JR.

I, JAMES J. COTTER, JR., declare as follows:

1. I am over the age of 18 years and a resident of California. I make this declaration based upon personal knowledge, except where stated to be upon information and belief, and as to that information, I believe it to be true. If called upon to testify as to the contents of this Declaration, I am legally competent to testify to the contents of this Declaration in a court of law.

2. I presently am and at all times relevant hereto have been a shareholder of Reading International, Inc. ("RDI"). I have been a director of RDI since March 2002. I became President of RDI in or about June 2013. I was appointed CEO of RDI on or about August 7, 2014. I am the son of the late James J. Cotter, Sr. (JJC, Sr.) and the brother of defendants Margaret Cotter ("MC") and Ellen Cotter ("EC").

3. MC became a director of RDI in or about 2002 and remains a director. MC is the owner and President of OBI, LLC, a company that has provided theater management services to live theaters indirectly owned by RDI through Liberty Theatres, of which MC is President. MC is engaged in trust litigation against me (the "California Trust Action"), by which she seeks, among other things, to invalidate a trust document (the "2014 Amendment").

4. EC is and at all times relevant hereto was a director of RDI. EC became a director of RDI in or about 2013. EC was a senior executive at RDI responsible for the day-to-day operations of its domestic cinema operations. EC is engaged in trust and estate litigation against me, by which she seeks, among other things, to invalidate the 2014 Amendment.

1 5. Edward Kane is and at all times relevant hereto was an outside director of RDI.
2 Kane has been a director of RDI since approximately 2009. Kane had a decade's long close
3 personal relationship with JJC, Sr. EC and MC call Kane "Uncle Ed."

4 6. Guy Adams is and at all times relevant hereto was an outside director of RDI.
5 Adams became a director of RDI in or about 2014.

6 7. Douglas McEachern (McEachern) is and at all times relevant hereto was an outside
7 director of RDI. McEachern became a director of RDI in or about 2012.

8 8. William Gould (Gould) is and at all times relevant hereto was an outside director of
9 RDI. Gould became a director of RDI in or about 2004.

10 9. In March 2015, the non-Cotter directors appointed director Tim Storey to function
11 as their representative ("ombudsman") to work with me as CEO, including in particular to act as
12 a facilitator with EC and MC. On behalf of the non-Cotter directors, directors Gould and Storey in
13 March 2015 advised me, as well as MC and EC, that the process involving director Storey as
14 ombudsman would continue through June 2015, at which time an assessment would be made of
15 the situation.
16

17 10. On Tuesday, May 19, 2015, EC distributed an agenda for a supposed RDI board of
18 directors special meeting on Thursday, May 21, 2015. The first item on the agenda was entitled
19 "Status of President and CEO[.]" It turned out that was an agenda item to raise a subject
20 previously not discussed at an RDI Board of Directors meeting, namely, termination of me as
21 President and CEO of RDI.

22 11. At a supposed May 21, 2015 special meeting, directors Adams, Kane and
23 McEachern each indicated that they were prepared to vote to terminate me as President and CEO
24 of RDI. However, no termination vote having was taken.

25 12. On or about Wednesday, May 27, 2015, a lawyer representing MC and EC in the
26 California Trust Action, Harry Susman, sent my attorney in the California Trust Action, Adam
27 Streisand, a document outlining terms on which EC and MC would resolve their disputes with me.
28 It was communicated as a "take it or leave it" proposal.

1 13. Also on May 27, 2015, EC emailed RDI directors claiming “that the board meeting
2 held last Thursday [May 21] was adjourned, to reconvene this Friday, May 29, 2015. The board
3 meeting will begin at **11:00 a.m. at our Los Angeles office.**”

4 14. On Friday, May 29, before the supposed RDI board of directors special meeting
5 commenced, I met with EC and MC. They indicated to me that the document that had been
6 conveyed by attorney Susman (on May 27) was a take-it or leave-it offer and that, if I did not
7 accept it, the RDI board would proceed with the vote and terminate me as President and CEO.

8 15. The supposed special board meeting on May 29 commenced and Adams made a
9 motion to terminate me as President and CEO. I questioned Adams’ independence and/or
10 disinterestedness. After some discussion, the non-Cotter directors met with my sisters. Eventually,
11 the supposed special meeting was adjourned until 6:00p.m. that evening. I was told that I needed
12 to resolve my disputes with his sisters by then, failing which the termination vote would go
13 forward and I would be terminated.

14 16. The supposed special board meeting reconvened (telephonically, for most) at or
15 about 6:00 p.m. on Friday, May 29, 2015. At that time EC reported to the five non-Cotter
16 directors that she and MC had reached an agreement in principal with me to resolve our disputes.
17 EC concluded that, while no definitive agreement had been reached, EC and MC would have one
18 of their lawyers provide documentation to my counsel. No termination vote was taken.

19 17. On Wednesday, June 3, 2015, Susman transmitted a new document to Streisand.

20 18. On June 8, 2015, I advised EC and MC that I could not accept their document. MC
21 responded that she would advise the RDI board of directors.

22 19. On Wednesday afternoon, June 10, 2015, EC transmitted an email to all RDI board
23 members stating, among other things, that “we would like to reconvene the Meeting that was
24 adjourned on Friday, May 29th, at approximately 6:15 p.m. (Los Angeles time.) We would like to
25 reconvene this Meeting telephonically *Friday, June 12 at 11:00 a.m. (Los Angeles time) . . .*”

26 20. On Friday, June 12, 2015, a supposed RDI board of directors special meeting was
27 convened. Adams, Kane and McEachern voted to terminate me as President and CEO of RDI.
28

3993 Howard Hughes Pkwy, Suite 600
Las Vegas, NV 89169-5996

Lewis Roca
ROTHGERBER CHRISTIE

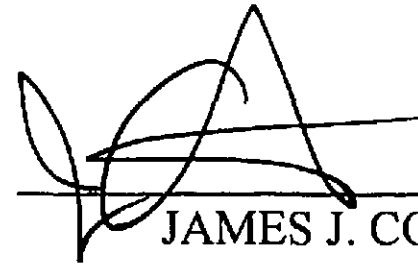
1 Storey and Gould voted against terminating me as President and CEO. (EC and MC purported to
2 vote to terminate me.)

3 21. On January 2016, EC became President and CEO.

4 I declare under penalty of perjury that the foregoing is true and correct.

5 DATED this 23rd day of September, 2016.

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JAMES J. COTTER, JR.

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EXHIBIT 1

| | | | |
|----|---------------------------------------|---|-------------------------|
| 1 | DISTRICT COURT | | |
| 2 | CLARK COUNTY, NEVADA | | |
| 3 | JAMES J. COTTER, JR. |) | |
| 4 | individually and derivatively |) | |
| 5 | on behalf of Reading |) | |
| 6 | International, Inc., |) | |
| 7 | Plaintiff, |) | |
| 8 | vs. |) | Index No. A-15-179860-B |
| 9 | MARGARET COTTER, ELLEN |) | |
| 10 | COTTER, GUY ADAMS, EDWARD |) | |
| 11 | KANE, DOUGLAS WILLIAM GOULD, |) | |
| 12 | and DOES 1 through 100, |) | |
| 13 | inclusive, |) | |
| 14 | Defendants. |) | |
| 15 | ----- |) | |
| 16 | READING INTERNATIONAL, INC., |) | |
| 17 | a Nevada corporation, |) | |
| 18 | Nominal Defendant. |) | |
| 19 | ----- |) | |
| 20 | VIDEOTAPED DEPOSITION OF ELLEN COTTER | | |
| 21 | New York, New York | | |
| 22 | Thursday, June 16, 2016 | | |
| 23 | | | |
| 24 | Reported by: | | |
| 25 | MICHELLE COX | | |
| | JOB NO. 316936 | | |

1 But outside of that, I did not have any
2 discussions with Craig about his compensation.

3 **Q What discussions did you have with Jim**
4 **about -- in which you encouraged Jim to set up**
5 **a retirement plan for Craig Tomkins?**

6 A We had met -- Jim and I had met with
7 Tim Storey, and we were talking about some of
8 the management members and their desires to
9 have some sort of retirement benefit. We had
10 talked about Bob Smerling and Craig Tomkins.

11 **Q It's a little late for Bob Smerling,**
12 **wasn't it?**

13 A Well, Bob wanted to know if he wanted to
14 leave the company, what -- or if he had to
15 leave the company, what would the company be
16 giving him.

17 **Q In or about April 2015, how old was**
18 **Bob Smerling?**

19 A Bob probably was 79 or 80, at the time.

20 **Q So as a practical matter, there was no way**
21 **to set up and fund, a retirement plan for him**
22 **unless he was going to continue working for --**
23 **into his 80s if not 90s, right?**

24 A Well, I think what the idea was, was if
25 Bob left the company, he would get a sum of

1 money.

2 Today the compensation committee has
3 approved to have Bob be entitled to one year's
4 total cash compensation if he retires from the
5 company.

6 Q Is that to serve as an inducement to
7 retire?

8 A No.

9 Q It's just a thank you for prior services
10 rendered?

11 A Recognition of all he's done for the
12 company. He's been with the company since
13 1993, and has help build the company.

14 Q So it's not in consideration of something
15 new or different than he's provided the
16 company?

17 A It's in recognition of his past service.

18 Q I direct your attention to Mr. Kane's
19 e-mail at the top of Exhibit 335.

20 Did you see that he says that
21 Craig Tomkins "urged us," I assume the company,
22 "to charge Michael Forman usurious interest on
23 advances to Cinemas 123."

24 I left out an "aside" in the middle of the
25 sentence there.

1 A Yeah. Yes.

2 **Q Is that correct?**

3 A No.

4 What I think Ed was referring to was, we
5 had a special arrangement with Sutton Hill
6 Associates and the company with respect to
7 renovations.

8 And because it was a related-party
9 transaction, Craig wanted to ensure that there
10 was an appropriate interest rate charged to
11 Sutton Hill Capital.

12 So Craig was trying to make sure that
13 the -- that as it was a related party, that it
14 was treated appropriately.

15 **Q Did you have -- did you have any sense,**
16 **when you received this, why Mr. Kane referred**
17 **to the rate as "usurious"?**

18 A My recollection is that Ed didn't think
19 that we should charge interest at all.

20 **Q You see the next portion of Mr. Kane's**
21 **e-mail at the top of Exhibit 335 reads as**
22 **follows: "That after screwing up the Hawaii**
23 **litigation to an excess of \$1 million of legal**
24 **fees that he is now 'seeking' to recover after**
25 **he paid it, and laughs it off by saying we are**

1 **Q Well, that obviates any privilege issues.**

2 MR. KRUM: I'll ask the court reporter to
3 mark as Exhibit 337 [sic], a document that
4 purports to be a May 19 e-mail from
5 Ellen Cotter to other members of the RDI board
6 of directors, carbon copy to Bill Ellis, bears
7 Production No. GA5340.

8 (Deposition Exhibit 338, E-mail dated May
9 19, 2015, from Ellen Cotter to Margaret Cotter
10 and Others, marked for identification as of
11 this date.)

12 (Discussion off the record.)

13 MR. KRUM: So let me correct the record.

14 What the court reporter has marked as
15 Exhibit 338, is a May 19th e-mail from
16 Ellen Cotter to other members of the board of
17 directors, copied to William Ellis, "Subject:
18 Agenda - Board of Directors Meeting, May 21,
19 2015." It Production No. GA5340.

20 That's deposition Exhibit 338.

21 BY MR. KRUM:

22 **Q Ms. Cotter, do you recognize Exhibit 338?**

23 A Yes.

24 **Q What is it?**

25 A It's an agenda for a board meeting of

1 May 21, 2015.

2 Q And did you send it on or about May 19,
3 2015, at 6:38 p.m.?

4 A Yes.

5 Q What time would that have been in New
6 Zealand -- what day and what time would that
7 have been in New Zealand or Australia, do you
8 know?

9 The next morning, right?

10 A It would have been Wednesday.

11 Q Wednesday morning something?

12 A Yeah.

13 Q This was not a regularly scheduled RDI
14 board of directors meeting, correct?

15 A No, it was a special meeting.

16 Q And Exhibit 338 was the first distribution
17 of an agenda for that special meeting, right?

18 A I believe so.

19 Q Item 1 reads: "Status of President and
20 CEO."

21 Do you see that?

22 A Yes.

23 Q And what that referred to was the
24 termination of Jim Cotter, Jr. as president and
25 CEO, right?

1 A It referred to a discussion point about
2 the status of the president and CEO.

3 Q Well, the discussion was actually a motion
4 to terminate the president, and a discussion
5 that ensued, right?

6 A Well, it was a discussion and then -- I
7 don't remember if there actually was a motion.

8 Q Okay. So why is it that the agenda Item
9 No. 1 did not reference the possible
10 termination of the president and CEO?

11 A I don't -- I mean, there's no reason.
12 That's just the way I reflected it on the
13 agenda.

14 Q Well, look at Item 6. It reads "Status of
15 Craig Tomkins and Robert Smerling."

16 Do you see that?

17 A Yes.

18 Q Was there some discussion -- was there
19 going to be, in your mind, when you prepared
20 this agenda, some discussion about whether
21 either or both Craig Tomkins and
22 Robert Smerling would be terminated from their
23 respective positions as a consultant and
24 executive?

25 A I don't remember what we were talking

1 about, if we were just talking about a
2 potential retirement benefit for Craig and Bob.

3 Q Take a look at Item 7. It reads: "Status
4 of Ellen Cotter and Margaret Cotter."

5 Do you see that?

6 A Yes.

7 Q So when you prepared this agenda and
8 distributed it at or about 6:38 p.m., Pacific
9 Time on May 19th, were you thinking that one of
10 the -- that one or two of the agenda items
11 might include the possible termination of you
12 as an executive employee and Margaret as a
13 consultant of RDI?

14 A Well, I think the reason we were on there
15 was to talk about our employment status.

16 Q Well, that meant talk about your title and
17 making Margaret an employee of the company,
18 right?

19 A That's my recollection.

20 Q Okay. So when you prepared this agenda
21 and distributed it, you were not thinking, with
22 respect to Item No. 7, that it include the
23 discussion of terminating you as an executive
24 and/or terminating Margaret as a consultant,
25 were you?