

**APPENDIX TO WRIT PETITION
VOLUME VII
PGS. 1269-1477**

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EXHIBIT 27



**Minutes
of the Meeting Board of Directors of
Reading International, Inc.**

August 7, 2014

A duly noticed special telephonic meeting of the Board of Directors of Reading International, Inc. (the "Company") was held on Thursday, August 7, 2014 at approximately 3:00 p.m., Los Angeles local time.

All of the directors, other than James J. Cotter, Sr., were present either in person or by telephone pursuant to a conference connection in which all participants could hear and speak to one another. Also present at the invitation of the Board was S. Craig Tompkins, Esq. who served as secretary for the meeting.

Call to Order

James J. Cotter, Jr., Vice Chairman of the Board of Directors, acting as the Vice Chairman of the Company, called the meeting to order at approximately 3:00 p.m., Los Angeles time, and took a roll call of attendees confirming their presence and ability to participate.

Resignation of James J. Cotter, Sr.

Vice-Chairman Cotter advised the Board that, due to illness, his father, James J. Cotter, Sr. was not able to attend the meeting and was resigning effective immediately as Chairman of the Board, as a Director and as Chief Executive Officer of the Company, and as an officer, director and/or manager of each of the Company's subsidiaries.

Vice Chairman Cotter also advised that it was currently contemplated that the chairmanship be rotated among James J. Cotter, Jr., Ellen Cotter and Margaret Cotter annually. James J. Cotter, Jr., Ellen Cotter and Margaret Cotter further advised the Board that they consider their family's holdings in the Company to be a long term family asset, and that they intend to continue the Company in the direction established by their father, James J. Cotter, Sr. --- as a motion picture exhibition and real estate company.

Following discussion, the following actions were taken by the unanimous vote of the Directors present at the meeting:

- James J. Cotter, Jr. was appointed to serve as the Company's chief executive officer;
- Ellen Cotter was elected to serve as Chairman of the Board; and
- Following the resignation of James J. Cotter, Jr. as the Vice-Chairman of the Board, Margaret Cotter was elected to serve as Vice-Chairman of the Board.

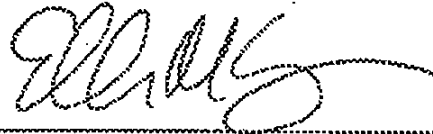


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Certain directors asked questions which confirmed the non-executive nature of the rotating chairmanship and regarding the compensation to be paid to Mr. Cotter, Sr., given his resignation in mid calendar year. It was determined that all such compensation issues should be delegated to the Compensation Committee for determination.

Adjournment

There being no further business, the meeting was adjourned at approximately 5:30, Los Angeles time.



Ellen M. Cotter, Chairman



S. Craig Tompkins, Recording Secretary

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EXHIBIT 28

Confidential – Filed Under Seal

EXHIBIT 29



Minutes of the
Meeting of the Board of Directors
of
Reading International, Inc.

May 21, 2015

A duly noticed meeting of the Board of Directors (the "Board") of Reading International, Inc. (the "Company") was held in the Company's offices in Los Angeles on May 21, 2015 at approximately 11:15 a.m. (Los Angeles time).

Present were Ellen M. Cotter, Chairperson of the Board, and Board members Margaret Cotter, Vice Chairperson, James J. Cotter, Jr., William D. Gould, Edward L. Kane, Doug McEachern, Tim Storey and Guy Adams.

In attendance at the invitation of the directors were William D. Ellis, Company Secretary and General Counsel, and Craig Tompkins. Also in attendance at the request of the Chairperson were Company counsel, Gary McLaughlin and Frank Reddick, of Akin Gump Strauss Hauer & Feld, LLP. On behalf of James J. Cotter, Jr., Mark Krum of Lewis Roca Rothgerber LLP was also present.

In advance of the meeting, the Chairperson had distributed to each of the directors a notice of the meeting and an agenda. In addition, Neal Brockmeyer, counsel for the independent directors, had reported to each of the independent directors as to a telephone conversation he had on May 20, 2015 with Mr. Krum, who had informed Mr. Brockmeyer that if the Board took action at its meeting on May 21, 2015 to terminate Mr. James Cotter's employment with the Company, he would file a lawsuit in Nevada court against the directors personally based on an alleged breach of fiduciary duty of care and duty of loyalty. Further, on May 19, 2015, Mr. James Cotter had requested the Chairperson to place on the agenda of this meeting the following matters: (x) a report by him on a Review of the Company's Operations and the search for a Director of Real Estate, (y) employment agreements for Ms. Ellen Cotter and Ms. Margaret Cotter and (z) his request that the Company repurchase 100,000 shares of Class A non-voting stock owned by him.

Call to Order

Ms. Ellen Cotter, Chairperson of the Board, called the meeting to order at approximately 11:15 a.m. (Los Angeles time) and did a roll call of the attendees. Ms. Ellen Cotter acted as recording secretary for the meeting and took these minutes.

Presence of Attorneys



Prior to moving to the agenda, the Board took up the question of whether counsel from Lewis Roca Rothgerber and Akin Gump Strauss Hauer & Feld should participate in the meeting. The Chairperson informed the board that non-board members are entitled to attend the meeting only at the invitation of the Board and that Mr. Krum did not represent the Company and had indicated an intention to file a lawsuit on behalf of Mr. James Cotter against each of the other directors. Following discussion, Mr. Adams made a motion, seconded by Mr. Kane, that Mr. Krum be requested to leave the meeting. Upon a vote of 7-1, with Mr. Cotter voting against, the motion was approved.

The Board then discussed whether it was appropriate for Messrs. Reddick and McLaughlin to be present at the Meeting. The Chairperson stated that Akin Gump Strauss Hauer & Feld had been engaged by the Company on employment and certain other matters for over ten years and Messrs. Reddick and McLaughlin were present at her request. Following discussion, Mr. McEachern made a motion, seconded by Mr. Kane, to invite Messrs. Reddick and McLaughlin to attend the meeting. By a vote of 5-3, with Messrs. Cotter, Storey and Gould voting against, the motion was adopted.

Mr. Krum then addressed the Board stating that, in his opinion, the Board had not engaged in an adequate process in order to make a determination to terminate Mr. Cotter as Chief Executive Officer and that Messrs. Adams and Kane were not disinterested directors. Mr. Ellis reported that he had consulted the Company's regular Nevada corporate counsel and had been advised that Messrs. Adams and Kane had no conflict that would preclude them as a matter of law in participating in the meeting and voting on any matter with respect to Mr. Cotter.

Review of Operations

Ms. Ellen Cotter then stated that she would like take up the last item on the agenda, Mr. Cotter's report on operations, out of order as the first order of business. Mr. Cotter stated that he was not prepared to make a presentation on the Company's operations but instead would like to address the Board on his performance as Chief Executive Officer and the reasons he believed it appropriate that he continue in that role. Mr. Cotter then proceeded to speak to the Board at length about his position of President and Chief Executive Officer of the Company. He told the Board that he firmly believed that his father, James J. Cotter, Sr., the Company's former Chairman and Chief Executive Officer, had intended for him to have this role and his continuation as Chief Executive Officer would be consistent with his father's wishes. He also took issue with the independence of Mr. Kane and Mr. Adams and repeated the statements his counsel had addressed to the Board urging that they be disqualified from voting with respect to any action to terminate him as Chief Executive Officer.

The Board then proceeded to discuss at length the performance of Mr. Cotter as Chief Executive Officer and President of the Company since he was appointed in August 7, 2014.

For over the next two hours the Board discussed Mr. James Cotter's performance as Chief Executive Officer. Messrs. Adams and Kane and Madams Ellen Cotter and Margaret Cotter each stated that it would be in the best interests of the Company and its shareholders that the Board conduct a search for a qualified chief executive officer and that Mr. Cotter be relieved of his positions as Chief Executive Officer and President of the Corporation and reviewed the reasons underlying this assessment. As part of that discussion, it was noted that the independent directors had met numerous times to discuss this matter and Mr. Cotter's progress in this role. Messrs. Adams and Kane and Madams Ellen Cotter and Margaret Cotter reviewed their assessment of deficiencies that they observed in Mr. Cotter's leadership, understanding of the Company's business, temperament, managerial skills, decision-making and other attributes in the role of Chief Executive Officer. Messrs. Gould and Storey expressed their views on Mr. Cotter's performance and their conclusion that a decision to make a change in this position would not be in the best interests of the Company at this time.

At approximately 2:00 p.m. (Los Angeles time), Messrs. Gould, Kane, McEachern, Storey and Adams suggested that they continue the discussion in executive session and Ms. Ellen Cotter, Ms. Margaret Cotter, and Messrs. James Cotter, Ellis, Tompkins, McLaughlin and Reddick left the meeting.

Independent Directors Session

Messrs. Gould, Kane, McEachern, Storey and Adams continued in executive session for the next two hours during which time they continued their review of Mr. James Cotter's performance and the course of action that would be in the best interests of the Company.

Resumption of the Meeting with the Full Board

At approximately 4:00 p.m. (Los Angeles time), Ms. Ellen Cotter, Ms. Margaret Cotter, and Mr. James Cotter rejoined the meeting.

After much further discussion amongst Board members, Mr. Gould suggested that Mr. Cotter continue as President of the Company and the Board commence a search for a new Chief Executive Officer. Mr. Cotter twice refused to continue in the role of President under a new Chief Executive Officer.

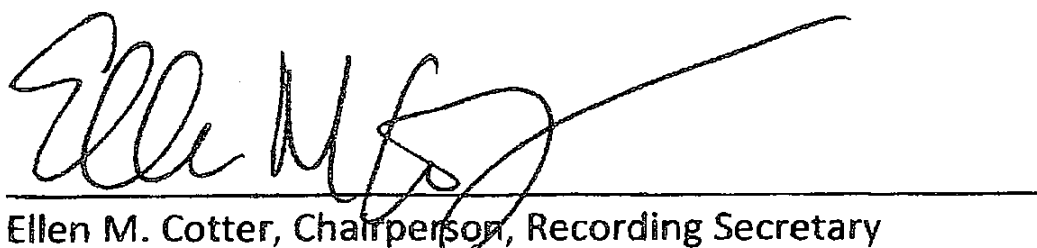
After much further discussion, the Board determined to take no action at this meeting with respect to Mr. Cotter's position as Chief Executive Officer and President of the Company and that the Board would reconvene the meeting on May 29, 2015 to continue its deliberations. In the interim, the Directors would be provided the opportunity to reflect on the discussion during the meeting and Mr. Cotter indicated that he would give further consideration to continuing in the role of President of the Company under the leadership of a new Chief Executive Officer. At the request of the Board, Mr. Cotter agreed to maintain during the upcoming week a "low profile," to not take any significant corporate action and take some time out of the office.

Independent Director Compensation

The Board then discussed the inordinate amount of director time that had been spent addressing the management and personnel issues at the Company.

A motion was made by Mr. McEachern and seconded by Mr. Storey that each of the directors who are not employed by the Company or members of the Cotter family, receive a one-time bonus of \$25,000 in recognition of the significant additional time required addressing these matters. Upon motion duly made, seconded and unanimously adopted, the Board approved such one-time bonus.

Ms. Ellen Cotter then adjourned the Meeting at approximately 5:00 p.m., to be reconvened on May 29, 2015 at 10:00 a.m. (Los Angeles time) at the Company's Los Angeles offices.

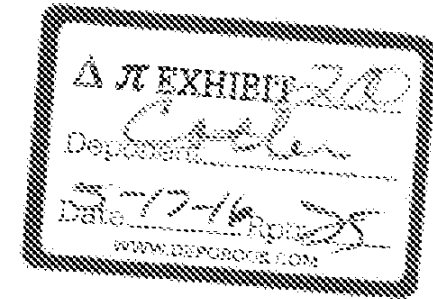


Ellen M. Cotter, Chairperson, Recording Secretary

EXHIBIT 30



Minutes of the
Meeting of the Board of Directors
of
Reading International, Inc.



May 29, 2015

A duly noticed meeting of the Board of Directors (the "Board") of Reading International, Inc. (the "Company") was held in the Company's Los Angeles office on May 21, 2015 and ultimately adjourned to May 29, 2015 at 11:00 a.m. (Los Angeles time).

Present were Ellen M. Cotter, Chairperson of the Board, and Board members Margaret Cotter, Vice Chairperson, James J. Cotter, Jr., William D. Gould, Edward L. Kane, Doug McEachern, Tim Storey and Guy Adams. In attendance at the invitation of the directors was William D. Ellis, Corporation Secretary and General Counsel.

Prior to the meeting, Neal Brockmeyer, counsel for the independent directors, reported to each of the independent directors as to a telephone conversation he had on May 28, 2015 with Mr. Mark Krum of Lewis Roca Rothgerber, counsel for Mr. James Cotter, Jr. Mr. Brockmeyer reported that in his conversation, Mr. Krum asserted that Mr. Guy Adams was not a disinterested director and was disqualified from voting on any matter addressing Mr. Cotter's continued employment by the Company as Chief Executive Officer and President. He also asked Mr. Brockmeyer if Mr. Brockmeyer was authorized to accept service of process on behalf of the independent directors of the Company and asked Mr. Brockmeyer to respond by 10:00 a.m. on May 29, 2015. The substance of Mr. Brockmeyer's report was also shared with William Ellis, General Counsel of the Company.

Call to Order

Ms. Ellen Cotter, Chairperson of the Board, called the meeting to order at approximately 11:00 a.m. (Los Angeles time) and did a roll call of the attendees. Mr. William Ellis acted as recording secretary for the meeting and took these minutes.

Status of President and Chief Executive Officer

The Board continued its discussion of Mr. James Cotter, Jr.'s performance as Chief Executive Officer and President of the Company. Prior to adjournment on May 21, 2015, the Board discussed having Mr. Cotter continue as President of the Company and to immediately commence a search for a new Chief Executive Officer. At that time, Mr. Cotter twice informed the other directors that he found that arrangement to be unacceptable. Mr. Cotter informed

the Board that he had given further thought to a role as President and that he would not agree to remain employed as President of the Company under the leadership of a new Chief Executive Officer.

Mr. Adams explained his lack of confidence in Mr. Cotter's ability to "move the Company forward", principally based on Mr. Cotter's lack of leadership skills, understanding of the Company's business, temperament, managerial skills, decision-making and other attributes in the role of Chief Executive Officer and President.

Mr. Adams' then made the following Motion:

I move to remove James Cotter, Jr. from his position as President and Chief Executive Officer and all other positions he holds with the Company, its subsidiaries and affiliates. Mr. Cotter's employment agreement provides that if he is terminated without cause he is entitled to severance pay. While I personally believe we may have cause in this situation, it is my proposal that we take this action to remove him "without cause" under the terms of his contract, which will provide him the benefit of the contractual severance pay, assuming there is no further breach of the agreement.

The above Motion was seconded by Mr. McEachern.

Before Ms. Ellen Cotter opened the floor to discussion on this Motion, she read the Board the following statement:

I want to disclose for the record, and as all of you know, Margaret Cotter and I have an interest in litigation that has been filed in California and we are now parties to a lawsuit filed in Nevada by our brother concerning shares of stock and options formerly held by our father. Our brother is also interested in this litigation.

Ms. Margaret Cotter confirmed for the Board that this statement also applied to her as well.

Mr. Cotter began the discussion by questioning the independence of Mr. Adams to vote on the Motion. Mr. Ellis told the Board that he had reviewed with the Company's regular Nevada counsel the substance of Mr. Brockmeyer's report on his conversation with Mr. Krum, including the stated reasons that Mr. Adams was allegedly not disinterested and disqualified from voting on the matter before the Board. He reported to the Board that counsel had advised him that, based on the facts outlined by Mr. Krum (which were the same as those asserted by Mr. Cotter at the meeting), Mr. Adams did not have a conflict that would prevent him from voting on the above motion.

Mr. Cotter further reiterated that it was the intention of his father, the former Chairman and CEO of the Company, that he run the Company and that the Board should observe his wishes.

The Board had a lengthy discussion of Mr. Cotter's performance as Chief Executive Officer and President of the Company. Mr. Cotter disputed these characterizations of his performance and stated his belief that he was competent to continue to run the Company.

The Board then discussed various options regarding how the Company's senior management team should be structured, including terminating Mr. Cotter and appointing an interim Chief Executive Officer to run the Company until Mr. Cotter's successor could be appointed, continuing Mr. Cotter in the role as President and commencing a search for a new Chief Executive Officer (which Mr. Cotter had on three different occasions rejected), and deferring any decision with respect to Mr. Cotter's status as an officer of the Company and maintaining the "status quo" until the pending litigation between the members of the Cotter family is resolved, recognizing that the litigation could impact the control of the Company. Directors Storey and Gould urged Mr. Cotter, Ms. Ellen Cotter and Ms. Margaret Cotter to attempt to negotiate a universal settlement that would resolve issues relating to the control of the Company and provide certainty to management and stockholders alike.

Ms. Ellen Cotter then informed the Board that legal counsel for Ms. Ellen Cotter and Ms. Margaret Cotter had contacted Mr. Cotter's counsel during the last week and proposed a settlement of the litigation existing between the three of them and related trusts and estates. It was noted that settlement of the litigation could be beneficial to the Company and its shareholders because it would remove any questions regarding the voting of the Company's common stock held by the trust and estate of Mr. James Cotter, Sr., which represents a control position in the Company and may reduce or eliminate the tension and obstacles to working collaboratively as a team that currently exists among the three litigants.

Ms. Ellen Cotter then reviewed the terms of the proposal made by her and Ms. Margaret Cotter's counsel to Mr. Cotter's counsel to resolve their litigation matters. It was noted that, to the extent the proposal addressed the terms of any settlement of litigation between the family members and their related trusts and estates, it was a matter personal to the Cotter family and not a matter on which the Board would have a view. To the extent that the proposal addressed the structure of the senior management of the Company, that was a matter for the Board of Directors and could not be dictated by the terms of any settlement. However, recognizing the potential benefits to the Company and its stockholders of a settlement of the existing litigation among the Cotter family members and their related trusts and estates, the meeting went into recess at approximately 2:00 p.m. to permit Mr. Cotter and Madams Ellen Cotter and Margaret Cotter to continue their discussion of settlement terms.

The Board meeting reconvened at approximately 6:00 p.m. at the Los Angeles offices of the Company. Present in the Los Angeles office of the Corporation were Ellen M. Cotter, Chairperson of the Board, and Board members Margaret Cotter, Vice Chairperson, James J.

Cotter, Jr. and Guy Adams. Present telephonically were William D. Gould, Edward L. Kane, Doug McEachern and Tim Storey. In attendance telephonically at the invitation of the directors was William D. Ellis, Company Secretary. Each of the persons in attendance confirmed that they could hear one another.

Ms. Ellen Cotter reported that she, Ms. Margaret Cotter and Mr. James Cotter, Jr. had reached an "agreement-in-principle" regarding their various disputed issues. Ms. Ellen Cotter then proceeded to read the "agreement-in-principle" to the Board. The agreement in principle addressed the terms of the settlement of the litigation matters existing between the three Cotters and related trusts and estates and also addressed Mr. Cotter's continued role as an officer of the Company. Ms. Ellen Cotter acknowledged that she and Ms. Margaret Cotter had no authority to bind the Company or the Board as to matters related to the Company's management structure that were part of the settlement, and the Cotter parties could only agree to vote for the settlement of those issues if the Board indeed approved such matters. She further noted that the "agreement-in-principle" still had to be reviewed by counsel and documented to the Cotters' mutual satisfaction.

Adjournment

It was then determined to adjourn the meeting and to permit the Cotters to move forward to document their settlement. No action was taken by the board with respect to the motion made earlier in the meeting and no action was taken on any element of the agreement in principle arrived at between the Cotter family members and related trusts and estates.

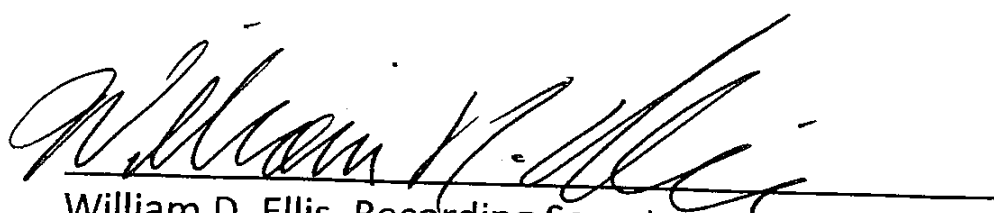

William D. Ellis, Recording Secretary

EXHIBIT 31

Confidential – Filed Under Seal

EXHIBIT 32

Message

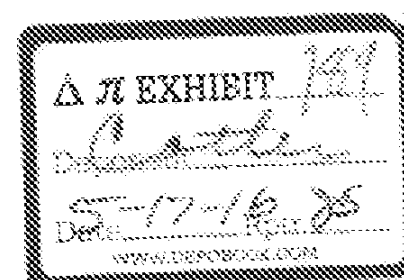
From: Tim Storey [tim.storey@prolex.co.nz]
Sent: 2/5/2015 9:52:15 PM
To: William Gould [wgould@troygould.com]
Subject: Reading
Attachments: 1502 Reading Review.docx
Flag: Follow up

Very much in draft

Tim Storey
Director

Prolex Advisory

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



Reading review

February 15

Preamble

Reading is a great company in a state of change. JCSnr approach needs to be transitioned to a more orthodox governance and management model – a shift from an autocratic/family office approach to a more focussed corporate approach.

The company's strategic direction needs to be reaffirmed; steps need to be taken to maximise shareholder value in managing the cinema and property operations – in particular US cinemas (growth/upgrades, profitability), NY property (ready for implementation) and being prepared for a substantial investment cycle. While not necessarily urgent, steps need to be taken promptly.

All this would be very challenging for any listed company. It is significantly more complex given the “family” involvement – and even more complicated given the litigation and its implications.

Our principal concern (and duty) is to refocus the company and management. We need to focuss and assist the CEO to do that. Given the background circumstances, we have allowed a period of grace while we waited to see how the various dynamics would play out. Some months down the track we have made limited progress – with litigation now underway and likely to last some time, we need to move forward. The situation impacts on the current management of the company, must certainly affect our ability to find new people (and retain existing) and makes us vulnerable in the market – commercially (operationally) and also to shareholders.

Background

- JCSnr managed in an unorthodox way but worked for him/Reading
- family in business but a work in progress
 - JC – introduced but under tutelage – JCSnr saw a longer period of tutelage than was in fact available – JC assumed CEO role on short notice with limited experienced
 - EC – intimately involved – position with Bob not resolved
 - MC – live theatre position in place; NY property – involved but not integrated – clear JCSnr significant involvement/oversight and only in preparatory phases
- Under JCSnr clear state of flux – CFO position, CT and WS position all unresolved – JH gone (US property role?); new AUS property director in place

Current position

- company wide direction and strategy needs to be reviewed/confirmed – stay in cinemas, develop NY property, be prepared to invest cashflow and capital as it becomes available
- issues around senior management team – review and refresh
- US cinemas – viewed by CEO as underperforming and in need of clearer management and strategy – anticipated need for significant CAPEX
- US property – NY property on cusp of implementation and in need of project management/value maximisation
- Following JCSnr interim period with limited progress –
 - Bedding in period new regime – CEO getting feet under table
 - CEO reviewing operations etc
 - Potential litigation looming – wait and see developments
- Feb 2015
 - Litigation filed – for company limited affect except for
 - Company external perception
 - If allegations affect CEO ability to proceed
 - Indirect implications of uncertainty over control of stock
 - Estate issues of little concern to company
 - Leadership –
 - CEO inexperienced and needs help to lead/develop leadership role
 - Cotter family issues affecting management – Cotter and others
 - Need to establish teamwork etc
 - Morale poor and needs to be improved
 - Company operations -
 - Strategy and business review delayed and frustrated
 - Significant issues outstanding – executive suite roles
 - Cotter rift causing management concerns – litigation likely to escalate this
 - Some executives unsettled – EC, Smerling, Tompkins
 - US cinema operations affected by uncertainty
 - Company in reasonable position to maintain status quo for a period – no major issues looming and reasonable financial state

Issues

- Litigation may take 1-5 years to resolve
- Company needs to take steps to minimise any fall out from litigation
 - Shareholders – Cotters and others
 - Governance – board
 - Executive team – retaining existing/engaging new executives as envisaged
 - Business operations
- Company needs to complete review and implement strategy as a matter of some urgency - not necessarily an immediate problem – but not wise to leave as is till litigation resolved – note CEO now sees urgency here
- Appears to be urgency to advance NY property development strategy – things are ready to go and delay may be costly

- wish to maintain status quo as much as possible re Cotter family, pending litigation outcome – note CEO seems of this view
- wish to support and assist JC in CEO role
- need to ensure stability for business – particularly executive staff needed to run the businesses

[Steps – placeholders/thoughts only]

- CEO
 - Reconfirm position and support
 - Restate CEO reports to board etc
 - set delegated authority level
 - hire and fire rules
 - Restate requirement/timing for
 - monthly reporting [done by CEO – but needs tightening/more detail once other division reports are available]
 - strategy review, business plan and budgets – done and timing [JC needs more support to get this done]
 - engagement CFO/property executive
 - approve property executive job description
- EC
 - Clarify role?
 - Make reporting line to CEO/expectations clear
 - Encourage cooperative approach with CEO to formulate business review/planning process
 - Provide certainty with employment contract
- MC
 - Leave live theatre contract in place but clarify reporting requirements
 - Set up services agreement re NY property role – with SL requirements/role/delegated authority level/remuneration
 - Require domicile NY
 - Curtail her executive role (attending management meetings etc) – she retains director role
- Governance
 - voting B Stock - standstill arrangement – status quo unless all three Cotters agree [issues principally appointment directors/any sale of business]
 - protocol on conflicts/disputes? Independent members override?
 - How are meetings chaired?
 - Regularity of meetings for oversight
 - Salary review for Cotters?
- C Suite
 - Set up for stability
 - Find CFO, property person
 - Clarify roles – particularly Cotters
 - Sort out AM, CT and BS positions – seems may need contracts?
- Strategy/business planning/budgets and reporting
 - Set up support to get done?

- Review implications of litigation
 - PR strategy
 - Filings
 - Dealing with shareholders
 - Stock price implications
 - Are we a controlled company?
 - Issues for CEO/other officers?
 - What are the likely scenarios depending on “who” wins? And thus implications for current status quo position
- Management going forward
 - JC AUS visit
 - NY property issues – meetings soon?

EXHIBIT 33

Confidential – Filed Under Seal

EXHIBIT 34

Confidential – Filed Under Seal

EXHIBIT 35

Confidential – Filed Under Seal

EXHIBIT 36

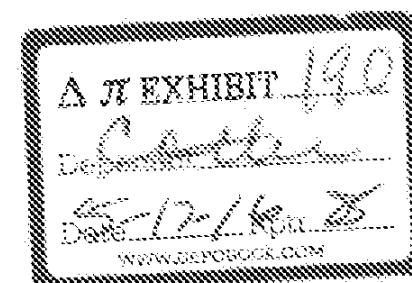
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EXHIBIT 37

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

Confidential – 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

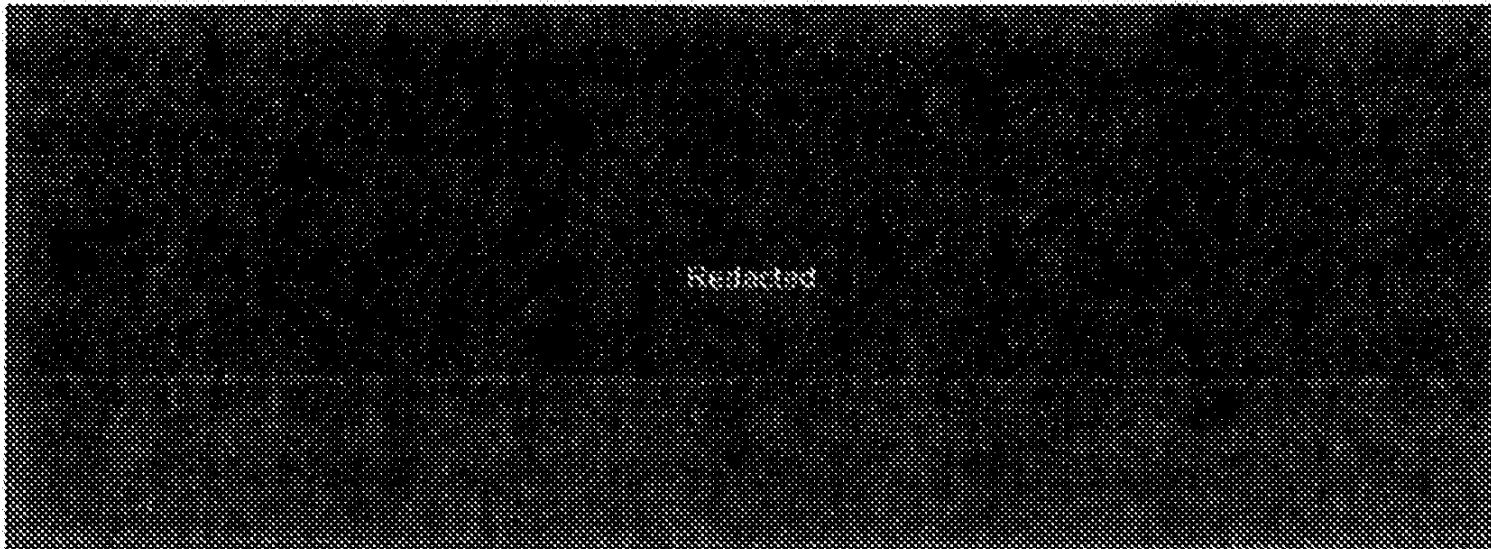
May 21, 2015 -- 11.15am

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

EX-100
DATE
WIT
PATRICIA HUBBARD
Q4
5-16-16
MSEachern

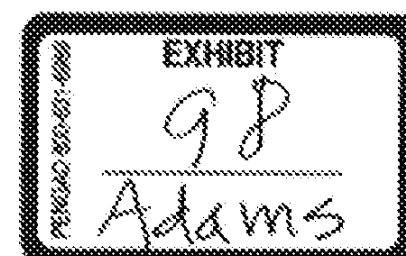
EXHIBIT 40



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.



JCOTTER007576

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 JJC, 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>JJC 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>JJC, 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; JJC, 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 JJC 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 JJC 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. JJC further agrees to not sue Company over these matters or participate in any lawsuit related to the Company |
| 2014 Trust Amendment | Subject to the terms and conditions herein, EMC and AMC will drop any challenge to the enforceability of the 2014 Amendment. |
| Trustees of the Living Trust | JJC resigns as Trustee and renounces any intent or desire to serve as successor trustee while either EMC or AMC are alive. |
| Specific Requests | 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. |

| | |
|--|--|
| Ownership of Agriculture Assets | Cotter Family Farms, LLC Agreement amended <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

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

1 Mark G. Krum (SBN 10913)
Lewis Roca Rothgerber Christie LLP
2 3993 Howard Hughes Pkwy, Suite 600
Las Vegas, NV 89169-5996
3 Tel: 702-949-8200
Fax: 702-949-8398
4 E-mail:mkrum@lrrc.com

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

6
7 DISTRICT COURT
8 CLARK COUNTY, NEVADA

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

10 Plaintiff,

11 vs.

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

15 Defendants.

16 and

17 READING INTERNATIONAL, INC., a
Nevada corporation,

18 Nominal Defendant.

19
20 T2 PARTNERS MANAGEMENT, LP, a
Delaware limited partnership, doing business as
21 KASE CAPITAL MANAGEMENT, et al.,

22 Plaintiffs,

23 vs.

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

**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.

26
27
28

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)

3993 Howard Hughes Pkwy, Suite 600

Las Vegas, NV 89169-5958

(702) 949-8200

Attorneys for Plaintiff James J. Cotter, Jr.

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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

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

**Lewis Roca
ROTHGERBER CHRISTIE**

EXHIBIT 43

Confidential – Filed Under Seal

EXHIBIT 44

[Home](#) > [Quotes](#) > [RDI](#) > [Historical Prices](#)[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 | 39,827 |
| 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 | 13.5699 | 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 | 35,872 |
| 08/29/2016 | 13.3 | 13.31 | 13.07 | 13.14 | 19,507 |
| 08/26/2016 | 13.49 | 13.51 | 13.2 | 13.25 | 31,088 |
| 08/25/2016 | 13.49 | 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 | 12.95 | 13.18 | 12.93 | 13.16 | 30,188 |
| 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 |
| 08/09/2016 | 13.4 | 13.4 | 12.78 | 13.22 | 20,858 |
| 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 |

9/21/2016

Reading International Inc Class A Common Stock (RDI) Historical Prices & Data - NASDAQ.com

| 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 | 28,140 |
| 08/02/2016 | 13.64 | 13.87 | 13.3301 | 13.39 | 25,447 |
| 08/01/2016 | 13.83 | 13.84 | 13.51 | 13.56 | 10,434 |
| 07/29/2016 | 13.86 | 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 | 13.85 | 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 | 11,548 |
| 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 | 18,539 |
| 07/13/2016 | 12.79 | 12.93 | 12.78 | 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 | 12.61 | 12.15 | 12.22 | 30,793 |
| 06/30/2016 | 12.47 | 12.64 | 12.35 | 12.49 | 60,894 |
| 06/29/2016 | 12.04 | 12.526 | 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 | 25,408 |
| 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 |

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| Date | Open | | | | |
|------------|--------|---------|---------|-------|--------|
| 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 | 68,925 |
| 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 | 37,568 |
| 05/13/2016 | 13.12 | 13.19 | 12.93 | 13.07 | 18,775 |
| 05/12/2016 | 13.09 | 13.16 | 12.66 | 13.12 | 28,692 |
| 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 | 12.89 | 13.04 | 51,264 |
| 05/04/2016 | 13.46 | 13.6 | 13.35 | 13.57 | 28,993 |
| 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 | 14,078 |
| 04/21/2016 | 12.44 | 12.59 | 12.42 | 12.54 | 25,846 |
| 04/20/2016 | 12.44 | 12.49 | 12.23 | 12.39 | 28,669 |
| 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 |

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| Date | Open | | | | |
|------------|-------|---------|---------|-------|--------|
| 04/08/2016 | 11.9 | 12.07 | 11.86 | 12.01 | 29,773 |
| 04/07/2016 | 11.67 | 12.1 | 11.87 | 11.94 | 42,330 |
| 04/06/2016 | 11.75 | 11.6529 | 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 | 18,846 |
| 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 | 11.85 | 11.51 | 11.6 | 38,525 |
| 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 | 11.07 | 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 | 52,280 |
| 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 | 10.005 | 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 | 9.69 | 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 | 9.64 | 32,822 |
| 02/10/2016 | 9.77 | 10.01 | 9.71 | 9.65 | 68,529 |

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| Date | Open | | | | |
|------------|--------|--------|--------|-------|---------|
| 02/09/2016 | 9.76 | 9.93 | 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 | 10.63 | 10.63 | 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 | 10.65 | 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 | 36,777 |
| 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 | 11.06 | 11.23 | 10.85 | 10.91 | 79,087 |
| 01/13/2016 | 10.87 | 11.64 | 10.67 | 11.09 | 76,695 |
| 01/12/2016 | 12.07 | 12.07 | 11.63 | 11.64 | 93,084 |
| 01/11/2016 | 12.4 | 12.4 | 11.93 | 11.96 | 98,396 |
| 01/08/2016 | 12.42 | 12.56 | 12.38 | 12.38 | 36,679 |
| 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 | 13.06 | 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 |

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| Date | Open | | | | |
|------------|-------|--------|---------|-------|---------|
| 12/09/2015 | 14.38 | 14.42 | 14.13 | 14.16 | 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 | 37,838 |
| 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 | 14.66 | 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 | 15.6058 | 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 | 15.68 | 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 | 15.83 | 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 | 14.94 | 62,725 |
| 10/14/2015 | 15.63 | 15.93 | 14.68 | 14.75 | 115,965 |
| 10/13/2015 | 15.9 | 15.94 | 15.54 | 15.65 | 88,070 |

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| Date | Open | | | | |
|------------|-------|---------|---------|-------|---------|
| 10/12/2015 | 15.14 | 15.97 | 14.82 | 15.9 | 91,351 |
| 10/09/2015 | 14.87 | 15.12 | 14.5 | 15.09 | 58,355 |
| 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 | 12.81 | 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 | 12.85 | 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 | 12.8499 | 12.57 | 12.65 | 50,640 |
| 09/02/2015 | 12.88 | 12.88 | 12.6501 | 12.82 | 44,426 |
| 09/01/2015 | 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 | 88,011 |
| 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 |

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| Date | Open | | | | |
|------------|--------|---------|---------|-------|---------|
| 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 | 12.85 | 67,300 |
| 08/10/2015 | 12.38 | 12.8369 | 12.3 | 12.75 | 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 | 46,897 |
| 08/05/2015 | 12.4 | 12.5 | 12.07 | 12.16 | 33,225 |
| 08/04/2015 | 12.26 | 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 | 119,667 |
| 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 | 12.36 | 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 | 13.88 | 14 | 45,782 |
| 07/10/2015 | 13.69 | 13.95 | 13.6 | 13.89 | 46,626 |
| 07/09/2015 | 13.6 | 13.89 | 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 |
| 07/03/2015 | 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 | 285,415 |
| 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 | 21,150 |

9/21/2016

Reading International Inc Class A Common Stock (RDI) Historical Prices & Data - NASDAQ.com

| Date | Open | | | | |
|------------|-------|---------|---------|-------|--------|
| 06/16/2015 | 13.54 | 13.59 | 13.344 | 13.6 | 32,497 |
| 06/15/2015 | 13.85 | 14.05 | 13.34 | 13.57 | 35,210 |
| 06/12/2015 | 13.95 | 14.08 | 13.7 | 13.89 | 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 | 13.86 | 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 | 13.36 | 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 | 13.26 | 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 | 13.186 | 13.27 | 58,972 |
| 05/13/2015 | 13.46 | 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 | 38,787 |
| 04/30/2015 | 13.75 | 13.75 | 13.2301 | 13.32 | 50,945 |
| 04/29/2015 | 14.04 | 14.08 | 13.82 | 13.83 | 18,773 |
| 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 | High | Low | Close | Volume |
|------------|-------|--------|---------|-------|---------|
| 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 | 27,980 |
| 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 | 13.46 | 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 | 19,629 |
| 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

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EXHIBIT 46

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2 Including Professional Corporations
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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
27 of the Board did not exercise an independent, informed
28 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.)

24
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.

28

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.

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 |
| 13 Harry P. Susman, Esq. 14 SUSMAN GODFREY L.L.P. 15 1000 Louisiana, Suite 5100 16 Houston, TX 77002 | Attorneys for Petitioners, Ann Margaret Cotter and Ellen Marie Cotter |
| 16 Glenn Bridgman, Esq. 17 SUSMAN GODFREY L.L.P. 18 1901 Avenue of the Stars, Suite 950 19 Los Angeles, CA 90067-6029 | Attorneys for Petitioners, Ann Margaret Cotter and Ellen Marie Cotter |
| 19 James J. Cotter, Jr. 20 311 Homewood 21 Los Angeles, California 90049 | Adult Son; Beneficiary; Successor Co- Trustee |
| 22 Ellen Marie Cotter 23 20 East 74th Street, Apt. 5B 24 New York, NY 10021 | Adult Daughter; Beneficiary; Successor Co-Trustee; Co-Executor |
| 24 Ann Margaret Cotter 25 120 Central Park South 26 Apt. 8A 27 New York, NY 10019 | Adult Daughter; Beneficiary; Successor Co-Trustee; Co-Executor |
| 28 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

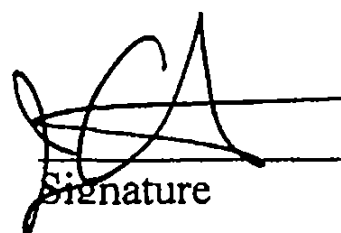
I have read the foregoing **PETITION BY JAMES J. COTTER, JR. FOR IMMEDIATE SUSPENSION OF POWERS OF ANN MARGARET COTTER AND ELLEN COTTER AS CO-TRUSTEES AND FOR APPOINTMENT OF TEMPORARY TRUSTEE; PETITION FOR PERMANENT REMOVAL; DECLARATION OF RICHARD SPITZ IN SUPPORT THEREOF; CONSENT OF MICHAEL J. SEIBERT**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

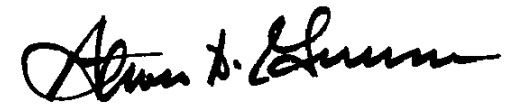
I am a party to this action. The matters stated in the foregoing document are true of my own knowledge except as to those matters which are stated on information and belief, and as to those matters I believe them to be true.

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



CLERK OF THE COURT

JOIN
MARK E. FERRARIO, ESQ.
(NV Bar No. 1625)
KARA B. HENDRICKS, ESQ.
(NV Bar No. 7743)
TAMI D. COWDEN, ESQ.
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hendricksk@gtlaw.com
cowdent@gtlaw.com

Counsel for Reading International, Inc.

DISTRICT COURT
CLARK COUNTY, NEVADA

In the Matter of the Estate of

JAMES J. COTTER,

Deceased.

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

Plaintiff,

v.

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.

Case No. A-15-719860-B
Dept. No. XI

Coordinated with:

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

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

**READING INTERNATIONAL, INC.'S
JOINDER TO THE INDIVIDUAL
DEFENDANTS' MOTION FOR
SUMMARY JUDGMENT NO. 1 RE
PLAINTIFF'S TERMINATION AND
REINSTATEMENT CLAIMS**

Date of Hearing: October 25, 2016
Time: 8:30 a.m.

GREENBERG TRAURIG, LLP
3773 Howard Hughes Parkway, Suite 400 North
Las Vegas, Nevada 89169
Telephone: (702) 792-3773
Facsimile: (702) 792-9002

READING INTERNATIONAL, INC. (“RDI” or “Company”), hereby submits its Joinder to the Individual Defendants’ Motion for Summary Judgment No. 1 Re Plaintiff’s Termination and Reinstatement Claims (the “Motion”). RDI joins with the Individual Defendants¹ in seeking summary judgment to the extent that Plaintiff James J. Cotter, Jr. (“Cotter, Jr.”) is challenging his termination as President and CEO of Reading in the claims asserted the Second Amended Complaint. RDI joins in the arguments advanced on behalf of the Individual Defendants in their Motion and requests judgment in its favor.

This Joinder is based on the following memorandum of points and authorities, the pleadings and papers filed in this action, and any oral argument of counsel made at the time of the hearing of this Motion.

DATED: this 3rd day of October, 2016

GREENBERG TRAURIG, LLP

/s/ Mark E. Ferrario
MARK E. FERRARIO, ESQ.
(NV Bar No. 1625)
KARA B. HENDRICKS, ESQ.
(NV Bar No. 7743)
TAMI D. COWDEN, ESQ.
(NV Bar No. 8994)
Counsel for Reading International, Inc.

MEMORANDUM OF POINTS AND AUTHORITIES

This Court should grant judgment in favor of RDI on the First, Second, Third, and Fourth Causes of Action in the Second Amended Complaint (“SAC”) filed by Plaintiff James J. Cotter, Jr. (“Plaintiff” and/or “Cotter, Jr.”), to the extent that such claims relate to the removal of Cotter, Jr. as the President and CEO of RDI on June 12, 2015, and Cotter, Jr.’s request for reinstatement. Cotter, Jr. is clearly attempting to circumvent his employment agreement and the Company’s Bylaws and seeking relief that he, rather than any other RDI stockholder will benefit from.

¹ The Motion was brought on behalf of Margaret Cotter, Ellen Cotter, Douglas McEachern, Guy Adams and Edward Kane, collectively hereinafter “Individual Defendants.”

Moreover, Plaintiff's request for reinstatement will greatly harm the Company which has been successfully operating without him for over a year. Summary judgment is appropriate in RDI's favor.

The undisputed facts clearly show that Cotter, Jr.'s approximately 10 month tenure as CEO of RDI was plagued with drama as Board Members were made aware of multiple concerns regarding Plaintiff's: managerial skills; lack of experience in key aspects of RDI's business; inability to effectively communicate with RDI executives, staff and other Board Members; tension related to the trust and estate litigation involving the Cotter siblings; and violent and abusive behavior. Notwithstanding going to great lengths in an effort to aid Plaintiff, including utilizing an ombudsman to provide support and coaching, Cotter, Jr. was unable to demonstrate to RDI Board Members that he could overcome his deficiencies and succeed as an executive of the Company. As such, proper steps were taken to review Cotter, Jr.'s performance and ultimately remove him as the Company's President and CEO.

In an effort to aid the Court and be efficient, RDI provides the following limited additional supplemental arguments in support of the Motion.

LEGAL ARGUMENT

I. Summary Judgment is Warranted.

Summary judgment should be granted if the pleadings, admissions, and all other evidence on file demonstrate that no genuine issue of material fact exists and that the moving party is entitled to judgment as a matter of law. *Wood v. Safeway, Inc.*, 121 Nev. 724, 729, 121 P.3d 1026, 1029 (2005). "[I]f the nonmoving party will bear the burden of persuasion at trial, the party moving for summary judgment may satisfy the burden of production by . . . pointing out . . . that there is an absence of evidence to support the nonmoving party's case." *Cuzze v. Univ. & Cmty. Coll. Sys. of Nevada*, 123 Nev. 598, 602-03, 172 P.3d 131, 134 (2007). In that event, the non-moving party is then obligated to present admissible evidence to show that there are material issues of fact preventing summary judgment, or summary judgment must be granted. *Id.* Because a plaintiff is required to prove each element of his cause of action, if any element cannot be proven by admissible evidence, then summary judgment is proper. *Bulbman, Inc. v. Nevada*

1 *Bell*, 108 Nev. 105, 111, 825 P.2d 588, 592 (1992).

2 Plaintiff's challenge to his termination and request for reinstatement are contrary to law
3 and will cause substantial harm to the Company. Summary judgment is warranted.

4 **A. Nevada Law Supports Defendants' Actions.**

5 The Court need look no further than NRS 78.120 to rule in RDI's favor as the statute
6 provides the board of directors full control over the affairs of the company. Specifically, the
7 statute states that subject only to limitations found in NRS 78, "the board of directors has full
8 control over the affairs of the corporation." Although Cotter, Jr. obviously dislikes the decision
9 of RDI's Board to remove him as the President and CEO of RDI, the board is in control of the
10 Company's affairs and acted appropriately.

11 Moreover, Article IV, of RDI's Amended and Restated Bylaws ("RDI Bylaws")²
12 provides RDI's Board the ability to remove officers of the Company and clearly indicates that
13 the officers of the RDI serve at the pleasure of the Board of Directors. Section 10 of RDI's
14 Bylaws state:

15 The officers of the Corporation shall hold office at the pleasure of the
16 Board of Directors. Any officer elected or appointed by the Board of Directors,
17 or any member of a committee, ***may be removed at any time, with or without***
cause, by the Board of Directors by a vote of not less than a majority of the entire
Board any meeting thereof or by written consent. (Emphasis Added.)

18
19 Motion, Ex. 19. Pursuant to NRS 78.130(3), a corporation's bylaws govern the term an officer
20 holds office or that the determination of the term is made by the corporation's board of directors.
21 Thus, the removal of Cotter, Jr. by RDI's Board from the position of President and CEO of RDI
22 was consistent with RDI's Bylaws and Nevada law.

23 What Plaintiff appears to be requesting is that the Court ignore both Chapter 78 of the
24 Nevada Revised Statutes and RDI's Bylaws and substitute its judgment for that of RDI's Board
25 of Directors. The Motion provides ample legal authority that prohibits the Court from taking
26 such action. However, if the Court were to consider any such action, the impact such a decision
27 would have on the Company should be fully evaluated.

28 ² See, Motion, Exhibit 19.

B. Implications of Relief Sought by Plaintiff.

Cotter, Jr. was removed as the President of CEO of RDI more than 15 months ago.³ The Company has moved on without him in the role as an executive. As the Court is aware, RDI conducted a search for a new CEO and Ellen Cotter was subsequently appointed as the President and CEO of the Company.⁴ Since Cotter, Jr.'s removal, RDI has moved forward in developing new policies and procedures and appointed new directors.⁵ Additionally, Ellen Cotter has articulated a direction for the Company that is supported by all RDI Board Members, except for Cotter, Jr. Indeed, when new matters have been brought to RDI's Board for consideration, Cotter, Jr. has consistently been the sole dissenting or abstaining vote.⁶ Although he has objected to virtually every decision made by RDI's board since June of 2015, Plaintiff has the audacity to suggest that the Court should reinstate him as President and CEO.⁷ Any such decision would only serve to disrupt the Company and its employees who have been working diligently to move the company forward.

The efforts of RDI's current management team have been recognized by third parties including the T2 Plaintiffs⁸ who have reached a settlement agreement with RDI. As the Court is aware, the T2 Plaintiffs have affirmatively concluded that RDI's "Board of Directors has acted in good faith and has and remains committed to acting in the interests of all stockholders."⁹ Moreover, the T2 Plaintiffs announced that their "questions about the termination of James Cotter, Jr., and various transactions between Reading and members of the Cotter family- or entities they control- have been definitively addressed and put to rest."¹⁰ As set forth in the Motion, these same individuals and other third parties have testified that reinstatement of Cotter,

³ Motion, Statement of Facts, p. 11.

⁴ Motion, Statement of Facts, p. 12.

⁵ Motion, Statement of Facts, p. 12-13.

⁶ See, SAC ¶¶ 125, 133, and 157.

⁷ See, SAC Prayer for Relief 1 and 2.

⁸ T2 PARTNERS MANAGEMENT, LP, T2 ACCREDITED FUND, LP, T2 QUALIFIED FUND, LP, TILSON OFFSHORE FUND, LTD., T2 PARTNERS MANAGEMENT I, LLC, T2 PARTNERS MANAGEMENT GROUP, LLC, JMG CAPITAL MANAGEMENT, LLC, PACIFIC CAPITAL MANAGEMENT, LLC, WHITNEY TILSON AND JONATHAN GLASER will be referred to collectively herein as the "T2 Plaintiffs."

⁹ A true and correct copy of the press release issued by Reading and the managers of the funds that manage the T2 Plaintiffs is attached hereto as **Exhibit A**.

¹⁰ *Id.*

1 Jr. is not a priority and have gone as far as to indicate that reinstating Cotter, Jr. would divide the
2 company.¹¹

3 The animosity between Cotter Jr. and RDI's Board is clear from the SAC wherein
4 Plaintiff sues each Board member. It is nonsensical to suggest that Plaintiff could be reinstated
5 as the President and CEO of RDI and required then to answer to and get along with the very
6 Board members he has accused of multiple breaches of fiduciary duties. Cotter, Jr. has not asked
7 and the Court does not have the Authority to remove all of RDI's existing Board members. As
8 such, if Cotter, Jr. were reinstated, RDI's Board could once again terminate him.

9 The Court should also consider the potential implications of the relief that Plaintiff seeks.
10 There is no legal basis for the chaos that would be created by reinstatement of Cotter, Jr. RDI's
11 Board acted pursuant to Nevada law and its Bylaws when terminating Cotter, Jr. and rightfully
12 exercised their business judgment consistent with NRS 78.130 and NRS 78.138(3) for which
13 they are presumptively protected. Taking Plaintiff's arguments at face value, Nevada's statutes
14 become meaningless and decisions by Board members moot. There is no basis for the Court to
15 substitute its decision for that of the Board. Allowing Plaintiff's claim to proceed would turn
16 Nevada corporate governance on its head.

17 Moreover, there is no place in a derivative lawsuit for employment termination claims
18 especially in case like this where Cotter, Jr. is currently arbitrating his employment dispute. It is
19 up to the arbitrator to make a final decision regarding Plaintiff's employment related claims. There
20 is no reason to duplicate efforts herein.

21 II. Conclusion

22 There is no legal basis for claims based on Plaintiff's termination from RDI to proceed in
23 a derivative action. RDI's Board of Directors' actions were consistent with Nevada law and in
24 accordance with RDI's Bylaws. The relief requested by Cotter, Jr. is self-serving and would be
25 disruptive to the Company.

26 ///

27
28 ¹¹ Motion, p. 12.

WHEREFORE, RDI respectfully requests that summary judgment be entered in its favor to the extent that any claims in the SAC relate to the removal of Cotter, Jr. as the President and CEO or RDI on June 12, 2015, and Cotter, Jr.'s request for reinstatement.

DATED: this 3rd day of October, 2016

GREENBERG TRAURIG, LLP

/s/ Mark E. Ferrario
MARK E. FERRARIO, ESQ.
(NV Bar No. 1625)
KARA B. HENDRICKS, ESQ.
(NV Bar No. 7743)
TAMI D. COWDEN, ESQ.
(NV Bar No. 8994)
Counsel for Reading International, Inc.

GREENBERG TRAURIG, LLP
3773 Howard Hughes Parkway, Suite 400 North
Las Vegas, Nevada 89169
Telephone: (702) 792-3773
Facsimile: (702) 792-9002

CERTIFICATE OF SERVICE

Pursuant to Nev. R. Civ. P. 5(b)(2)(D) and E.D.C.R. 8.05, I certify that on this day, I caused a true and correct copy of the forgoing *Reading International, Inc.'s Joinder to the Individual Defendants' Motion for Summary Judgment No. 1 Re Plaintiff's Termination and Reinstatement Claims* to be filed and served via the Court's Wiznet E-Filing system on all registered and active parties. The date and time of the electronic proof of service is in place of the date and place of deposit in the mail.

DATED: this 3rd day of October, 2016

/s/ Andrea Lee Rosehill

An employee of GREENBERG TRAURIG, LLP

EXHIBIT A

Stockholders Withdraw Derivative Lawsuit Against Reading International

Los Angeles, California, - (BUSINESS WIRE) – July 12, 2016 – Reading International, Inc. (NASDAQ: RDI) ("Reading" or the "Company") and Messrs. Whitney Tilson and Jonathan M. Glaser, acting on behalf of various funds that they manage (the "Plaintiff Stockholders"), have announced that the Plaintiff Stockholders have withdrawn all of their alleged claims (the "Derivative Claims") in the previously filed derivative lawsuit in the District Court of the State of Nevada for Clark County. Collectively, the Plaintiff Stockholders own approximately 845,000 shares, representing approximately 3.7% of the outstanding equity of our Company. Through their various funds, Mr. Glaser has been a significant stockholder of Reading since 2008, and Mr. Tilson has been a significant stockholder since October 2014.

Commenting on the withdrawal of the lawsuit, the Company stated, "We are pleased that Mr. Glaser and Mr. Tilson have agreed to dismiss their claims. We remain focused on building long term value for all stockholders."

Mr. Tilson stated that the Plaintiff Stockholders brought the Derivative Claims as a result of the allegations contained in a derivative action filed by Mr. James J. Cotter, Jr. on June 12, 2015, in the District Court of the State of Nevada for Clark County. As stockholders in the Company, Messrs. Tilson and Glaser wanted to ensure that the interests of all stockholders were being appropriately protected. In connection with the litigation, the Plaintiff Stockholders conducted extensive discovery on these matters, which included depositions of Guy Adams, Margaret Cotter, Ellen Cotter, William Gould, Edward Kane, Douglas McEachern, Tim Storey and James Cotter, Jr. Following their efforts on behalf of all stockholders, Messrs. Tilson and Glaser have concluded that the Reading Board of Directors has acted in good faith and has been and remains committed to acting in the interests of all stockholders. Continuing with their derivative litigation would provide no further benefit.

Messrs. Glaser and Tilson stated, "We are pleased with the conclusions reached by our investigations as Plaintiff Stockholders and now firmly believe that the Reading Board of Directors has and will continue to protect stockholder interests and will continue to work to maximize shareholder value over the long term. We appreciate the Company's willingness to engage in open dialogue and are excited about the Company's prospects. Our questions about the termination of James Cotter, Jr., and various transactions between Reading and members of the Cotter family-or entities they control-have been definitively addressed and put to rest. We are impressed by measures the Reading Board has made over the past year to further strengthen corporate governance. We fully support the Reading Board and management team and their strategy to create stockholder value."

In connection with the dismissal of the Derivative Claims, the parties have agreed to mutual general releases with each party bearing his, her or its own legal fees and expenses. Further, the parties will petition the court for approval of the settlement.

About Reading International, Inc.

Reading International (<http://www.readingrdi.com>) is in the business of owning and operating cinemas and developing, owning, and operating real estate assets. Our business consists primarily of:

- the development, ownership, and operation of multiplex cinemas in the United States, Australia and New Zealand; and
- the development, ownership, and operation of retail and commercial real estate in Australia, New Zealand, and

the United States, including entertainment-themed centers in Australia and New Zealand and live theater assets in Manhattan and Chicago in the United States.

Reading manages its worldwide business under various brands:

- In the United States, under the
 - Reading Cinema brand (<http://www.readingcinemasus.com>);
 - Angelika Film Center brand (<http://www.angelikafilmcenter.com>);
 - Consolidated Theatres brand (<http://www.consolidatedtheatres.com>);
 - City Cinemas brand (<http://www.citycinemas.com>);
 - Beekman Theatre brand (<http://www.beekmantheatre.com>);
 - The Paris Theatre brand (<http://www.theparistheatre.com>);
 - Liberty Theatres brand (<http://libertytheatresusa.com>); and
 - Village East Cinema brand (<http://villageeastcinema.com>).
- In Australia, under the
 - Reading Cinema brand (<http://www.readingcinemas.com.au>);
 - Newmarket brand (<http://readingnewmarket.com.au>); and
 - Red Yard brand (<http://www.redyard.com.au>).
- In New Zealand, under the
 - Reading Cinema brand (<http://www.readingcinemas.co.nz>);
 - Rialto brand (<http://www.rialto.co.nz>);
 - Reading Properties brand (<http://readingproperties.co.nz>);
 - Courtenay Central brand (<http://www.readingcourtenay.co.nz>); and
 - Steer n' Beer restaurant brand (<http://steerubeer.co.nz>).

For more information from Reading International, Inc., contact:

Dev Ghose
Executive Vice President & Chief Financial Officer
(213) 235-2240

or

Andrzej Matyczynski
Executive Vice President for Global Operations
(213) 235-2240

For more information from Plaintiff Stockholders, Whitney Tilson and Jonathan Glaser, contact:

Robertson & Associates, LLC
Alexander Robertson, IV
(818) 851-3850

1 **NEOJ**

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

5
6 *Attorneys for Plaintiff*
James J. Cotter, Jr.

7 DISTRICT COURT

8 CLARK COUNTY, NEVADA

9 JAMES J. COTTER, JR., derivatively on behalf
10 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,
26 GUY ADAMS, EDWARD KANE, DOUGLAS
McEACHERN, WILLIAM GOULD, JUDY
27 CODDING, MICHAEL WROTONIAK, CRAIG
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

NOTICE OF ENTRY OF ORDER

1 and

2
3 READING INTERNATIONAL, INC., a
4 Nevada corporation,
5
6 Nominal Defendant.

7 PLEASE TAKE NOTICE that on the 3rd day of October, 2016, an "Order Granting Plaintiff
8 James J. Cotter, Jr.'s Motion to Compel Production of Documents and Communications Relating to
9 the Advice of Counsel Defense" was entered in the above-entitled action. A copy of said Order is
10 attached hereto.

11 DATED this 5th day of October, 2016.

12
13 LEWIS ROCA ROTHGERBER CHRISTIE LLP

14 By: /s/ Mark G. Krum

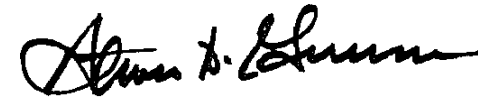
15 Mark G. Krum (SBN 10913)
16 3993 Howard Hughes Pkwy, Suite 600
17 Las Vegas, NV 89169-5958
18 (702) 949-8200
19 Attorneys for Plaintiff
20 *James J. Cotter, Jr.*

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CERTIFICATE OF SERVICE

I hereby certify that on this 5th day of October, 2016, I caused a true and correct copy of the foregoing **NOTICE OF ENTRY OF ORDER** 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



CLERK OF THE COURT

1 **ORDR**

2
3 **DISTRICT COURT**

4 **CLARK COUNTY, NEVADA**

5
6 JAMES J. COTTER, JR.,

7 Plaintiff,

8 v.

9 READING INTERNATIONAL, INC., a
10 Nevada corporation; DOES 1-100, and
ROE ENTITIES, 1-100, inclusive,

11 Defendants.

12 In the Matter of the Estate of

13 JAMES J. COTTER,

14 Deceased.

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

17 Plaintiff,

18 v.

19 MARGARET COTTER, et al,

20 Defendants.
21

Case No. A-15-719860-B

Dept. XI

Coordinated with:

Case No. P 14-082942-E

Dept. XI

Case No. A-16-735305-B

Dept. No. XI

**ORDER GRANTING PLAINTIFF
JAMES J. COTTER, JR.'S MOTION TO
COMPEL PRODUCTION OF
DOCUMENTS AND
COMMUNICATIONS RELATING TO
THE ADVICE OF COUNSEL DEFENSE**

Hearing

Date: August 30, 2016

Time: 8:30a.m.

22 THIS MATTER HAVING COME BEFORE the Court on August 30, 2016 on "Plaintiff
23 James J. Cotter, Jr.'s Motion To Compel Production Of Documents And Communications
24 Relating To The Advice Of Counsel Defense On Order Shortening Time" (the "Motion"), Mark
25 G. Krum appearing for plaintiff James J. Cotter, Jr. ("Plaintiff"); Harold S. Johnson and Marshall
26 M. Searcy appearing for defendants Margaret Cotter, Ellen Cotter, Douglas McEachern, Guy
27 Adams, Edward Kane, Judy Coddington and Michael Wrotniak; Kara Hendricks appearing for
28

1 Reading International, Inc.; Shoshana E. Bannett appearing for William Gould; and Alexander
2 Robertson IV appearing for the intervening plaintiffs.

3 This Court, having considered the papers and pleadings on file and having heard oral
4 arguments, and good cause appearing,

5 **IT IS HEREBY ORDERED** that the Motion is **GRANTED** the legal opinion referenced
6 by Messrs. Kane and Adams in their deposition testimony as having been relied upon relating to
7 the 100,000 share option shall be produced by Defendants including:

8 1. Any and all documents or communications to or from Tompkins concerning
9 the 100,000 share option, and EC's and MC's right or ability as executors of the Estate to
10 exercise the option;

11 2. Any and all communications to or from and Ellis concerning the 100,000
12 share option, and EC' s and MCs right or ability as executors of the Estate to exercise the
13 option;

14 3. Any and all communications to or from any attorney or employee of
15 Greenberg Traurig concerning the 100,000 share option, and EC's and MC' s right or ability
16 as executors of the Estate to exercise the option;

17 4. Any and all documents, communications, materials, or information relied
18 upon or referred to in any advice, opinion, or communication from Tompkins concerning
19 the 100,000 share option, and EC's and MC's right or ability as executors of the Estate to
20 exercise the option;

21 5. Any and all documents, communications, materials, or information relied
22 upon or referred to in any advice, opinion, or communication from Ellis concerning the
23 100,000 share option, and EC's and MC's right or ability as executors of the Estate to
24 exercise the option; and

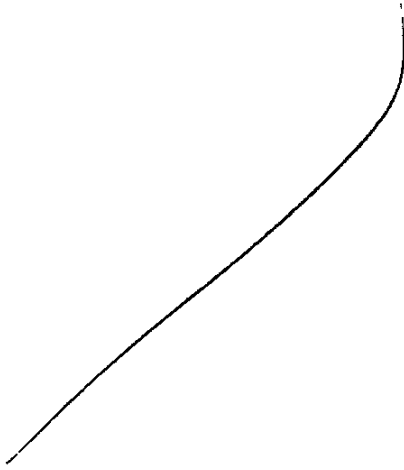
25 6. Any and all documents, communications, materials, or information relied
26 upon or referred to in any advice, opinion, or communication from any attorney or
27 employee of Greenberg Traurig concerning the 100,000 share option, and EC's and MC' s
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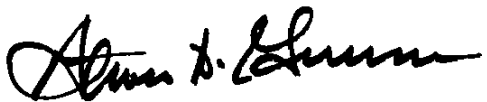
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right or ability as executors of the Estate to exercise the option.

DATED this 30 day of October, 2016.


DISTRICT COURT JUDGE





CLERK OF THE COURT

MRCN
MARK E. FERRARIO, ESQ.
(NV Bar No. 1625)
KARA B. HENDRICKS, ESQ.
(NV Bar No. 7743)
TAMI D. COWDEN, ESQ.
(NV Bar No. 8994)
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hendricksk@gtlaw.com
cowdent@gtlaw.com
Counsel for Reading International, Inc.

DISTRICT COURT
CLARK COUNTY, NEVADA

JAMES J. COTTER, JR.,

Plaintiff,

v.

READING INTERNATIONAL, INC., a
Nevada corporation; DOES 1-100, and
ROE ENTITIES, 1-100, inclusive,

Defendants.

Case No. A-15-719860-B
Dept. XI

Coordinated with:

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

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

In the Matter of the Estate of

JAMES J. COTTER,

Deceased.

**READING INTERNATIONAL, INC.'S
MOTION TO RECONSIDER OR
CLARIFY ORDER GRANTING JAMES
J. COTTER, JR.'S MOTION TO
COMPEL PRODUCTION OF
DOCUMENTS AND
COMMUNICATIONS RELATED TO
ADVICE OF COUNSEL DEFENSE ON
ORDER SHORTENING TIME**

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

Plaintiff,

v.

MARGARET COTTER, et al,

Defendants.

HEARING
Date: October 27, 2016
Time: 8:30 a.m.

GREENBERG TRAURIG, LLP
3773 Howard Hughes Parkway, Suite 400 North
Las Vegas, Nevada 89169
Telephone: (702) 792-3773
Facsimile: (702) 792-9002

1 READING INTERNATIONAL, INC. hereby submits its motion to reconsider this
2 Court's Order granting *James J. Cotter, Jr.'s Motion to Compel Production of Documents and*
3 *Communications Related to Advice of Counsel Defense*. This Motion to Reconsider is based on
4 the following memorandum of points and authorities, the pleadings and papers filed in this
5 action, and any oral argument of counsel made at the time of the hearing of this Motion.

6 DATED: this 6th day of October, 2016.

7
8 GREENBERG TRAURIG, LLP



9 MARK E. FERRARIO, ESQ.

10 (NV Bar No. 1625)

11 KARA B. HENDRICKS, ESQ.

(NV Bar No. 7743)

12 TAMI D. COWDEN, ESQ.

(NV Bar No. 8994)

13 3773 Howard Hughes Parkway

14 Suite 400 North

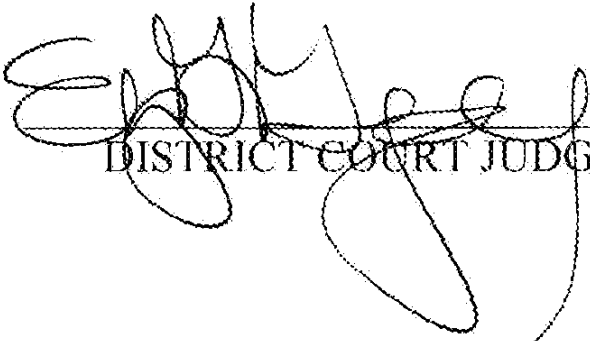
15 Las Vegas, Nevada 89169

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17 *Counsel for Reading International, Inc.*
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ORDER SHORTENING TIME

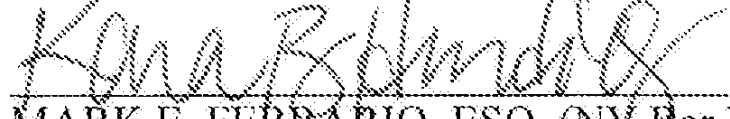
Good cause appearing therefore, it is hereby ordered that the time for hearing of the above-entitled *Motion to Reconsider or Clarify Order Granting James J. Cotter, Jr.'s Motion to Compel Production of Documents and Communications Related to Advice of Counsel Defense* be shortened, and same will be heard on the 21 day of October 2016 at the hour of 9 a.m. before Department XI.

DATED: October 7th, 2016.


DISTRICT COURT JUDGE

Respectfully Submitted:

GREENBERG TRAURIG, LLP



MARK E. FERRARIO, ESQ. (NV Bar No. 1625)
KARA B. HENDRICKS, ESQ. (NV Bar No. 7743)
TAMI D. COWDEN, ESQ. (NV Bar No. 8994)
3773 Howard Hughes Parkway
Suite 400 North
Las Vegas, Nevada 89169

Counsel for Reading International, Inc.

**DECLARATION OF KARA B. HENDRICKS IN SUPPORT OF
MOTION TO RECONSIDER OR CLARIFY ORDER GRANTING JAMES J. COTTER,
JR.'S MOTION TO COMPEL PRODUCTION OF DOCUMENTS AND
COMMUNICATIONS RELATED TO ADVICE OF COUNSEL DEFENSE**

I, KARA B. HENDRICKS, ESQ. declare as follows:

1. That I am an attorney licensed to practice in the state of Nevada and am one of the attorneys of record for the Defendant Reading International, Inc. ("RDI" or the "Company"). I have personal knowledge as to the truth of the matters asserted herein, except those which are stated upon information and belief and as to those matters I believe them to be true. I am competent to testify on these matters if called upon to do so.

2. This Declaration is made in support of the *Motion to Reconsider Order Granting James J. Cotter, Jr.'s Motion to Compel Production of Documents and Communications Related to Advice of Counsel Defense* ("Motion").

3. On October 3, 2016, this Court issued its ruling on Cotter, Jr.'s Motion to Compel Production of Documents and Communications Related to Advice of Counsel Defense.

4. As shown in the Memorandum of Points and Authorities, RDI believes the Court's ruling is based on a test for waiver of the attorney-client privilege that was rejected by the Supreme Court, and improperly grants the control of the privilege to Directors, regardless of their duty to control such privilege with the best interests of RDI in mind.

5. On September 26, 2016, Cotter, Jr. filed a Motion in Limine, which motion is premised on the Defendants' failure to comply with the Order issued on October 3, 2016. RDI's Opposition to this Motion is due on October 13, 2016, and the hearing is scheduled for November 1, 2016.

6. There is good cause to hear this motion on shortened time due to the pending Motion in Limine, as the ruling on this Motion may render Cotter, Jr.'s motion moot.

7. Additionally, this matter is currently set for trial on a five week stack to begin on November 14, 2016.

8. This declaration is made in good faith and not for the purpose of delay.

9. Pursuant to NRS 53.045, I declare under penalty of perjury under the laws of the State of Nevada that the foregoing is true and correct.


KARA B. HENDRICKS, ESQ.

MEMORANDUM OF POINTS AND AUTHORITIES

This Court should reconsider its Order Granting Cotter Jr.'s Motion to Compel Production of Documents and Communications Related to Advice of Counsel Defense ("Motion to Compel"), as this Court's order dated October 3, 2016 ("Order") is contrary to Nevada's well settled law regarding the determination of when attorney-client privileged material is subject to disclosure. This Court did not apply the test adopted by the Nevada Supreme Court, but instead, made a ruling requiring the production of certain attorney-client communications based on a theory neither raised nor briefed by the parties with respect to the Motion to Compel. Specifically, this Court appears to have adopted a rule, as an interpretation of NRS 78.138(2) that whenever directors or officers "invoke" the business judgment rule as a defense to claims for breaches of their fiduciary duties, they necessarily waive any attorney-client privilege with respect to communications or advice considered or relied upon by such officers and directors in the performance of their duties so that plaintiffs may second guess the substantive advice given. However, such a theory regarding the effect of the business judgment rule is contrary to Nevada's "anticipatory waiver" test, and instead, appears to be based on a test expressly rejected by the Nevada Supreme Court.

This is an important issue to RDI who holds the privilege at issue. Had Cotter, Jr. raised the theory adopted by the Court in his Motion to Compel, RDI would have briefed the numerous flaws with the same, including its inconsistency with the approved test for waiver; the placement of control over the attorney-client privilege with the individual defendants, rather than the corporation; and the assertion that there has been an "invocation" of the business judgment rule by the Individual Defendants, even though the rule is statutorily imposed.

Likewise, if Plaintiff had raised NRS 78.138(2), the Defendants would have pointed out that, among other things, there is simply no statutory or case law authority for the Court's conclusion that application of NRS 78.138(2) creates an implied waiver, even though more than 43 other jurisdictions have the same or similar wording in their corporate statutes. This ruling has a potentially profound impact on the trial of this case, as foreshadowed by Plaintiff's Motion in Limine, as the theory apparently underlying the ruling would be applicable to a variety of

1 issues raised in Plaintiff's complaint. Thus, the Order potentially opens the door to the
2 deposition of virtually every corporate attorney who has provided advice to RDI since 2013 with
3 respect to every claim in the Cotter Jr. Complaint or, if discovery is not extended, to have
4 corporate counsel called to testify at trial about such matters.

5 Furthermore, the Court's Order contains ambiguities that require clarification, as there is
6 a lack of clarity as to precisely what documents must be produced including what appears to be
7 the release and production of attorney work product material.

8 STATEMENT OF RELEVANT FACTS

9 As this Court is aware, the claims against the Individual Defendants in the Second
10 Amended Complaint include allegations that RDI's directors breached duties of loyalty and care
11 relating to various decisions which Cotter, Jr. disapproved. Among these are the claims by
12 Cotter, Jr. that the Estate of James Cotter, Sr. (the "Estate") should not have been permitted to
13 exercise an option to purchase certain shares of RDI stock by exchanging shares of other RDI
14 stock, an exercise approved by the Compensation Committee, on which Defendants Kane and
15 Adams served.

16 Neither Kane nor Adams has asserted that they may not be held liable for their decision
17 with respect to the exercise of the option because they relied on the advice of counsel. Indeed,
18 "reliance on counsel" has not been raised as an affirmative defense in this case by *any* defendant.
19 Accordingly, no defendant will be required to present the contents of any attorney-client
20 privileged communication in order to prove such a defense.

21 Similarly, no defendant has revealed the content of any legal opinion. Indeed, during
22 their depositions, Adams and Kane were each asked what they had done to inform themselves
23 regarding the stock option issue and stated they had considered or "relied" upon an opinion of
24 counsel when making their decision. *See* Motion to Compel. Cotter, Jr. filed his Motion to
25 Compel, contending that by so testifying, these defendants had placed the legal advice at issue.
26 Briefing by all parties addressed the anticipatory waiver test set forth by the Supreme Court in
27 *Wardleigh v. Second Judicial District Court*, 111 Nev. 345, 891 P.2d 1180 (1995), which test is
28 used to determine whether a party was waived the attorney client privilege by placing the

1 contents of the communications at issue.¹

2 This Court granted Cotter, Jr.'s Motion, but not on either of the grounds raised therein.
3 Instead, the Court stated:

4 THE COURT: To the extent any of the directors relied upon advice of counsel in
5 performing their duties which are subject of the breach of fiduciary duty claim,
6 which includes this, they can't also protect the communication even though it's the
7 company's privilege. So you all have to make a decision.

8 So your motion's granted, Mr. Krum.

9 MR. KRUM: Thank you, Your Honor.

10 MS. HENDRICKS: Your Honor, if I can just seek clarification. The request was very
11 broad in nature and also seeks work product information from counsel.

12 THE COURT: It's only the information that was provided to the board members in the
13 course of their making their decision. That's all it is.

14 **Ex. 1, August 30, 2016 Transcript, 15:8-21.** Counsel for the Independent Defendants sought
15 further clarification, and this Court further stated:

16 I do not know at this stage if the actions your clients have taken related to the
17 exercise of the option was information directly related to the communications
18 from counsel. So it may be appropriate for a motion in limine to not permit that
19 to go to the jury, because it is not information for which you will be seeking
20 protection under the business judgment rule. Because that's where all this comes
21 from, is the business judgment rule.

22 **Id., at 16:14-21.** Still further explanation was sought:

23 MR. SEARCY: Well, I understand. I just want to understand the
24 parameters as this goes forward. You're saying that, because—if the directors
25 testify at trial they received advice from counsel, not that they disclosed the
26 substance of the communications, but saying that they received it, that would be
27 enough so that he's allowed to inquire into the substance of the communications?

28 THE COURT: If your clients are relying upon the business judgment rule
to defend their decision and as part of their activities under the business judgment
rule relied upon the advice of certain professionals in conducting themselves, that
advice is fair game. And I understand that that's a frustrating process for you, but
that's the way the Nevada statute is written. You can't take advantage of that
advice and then not tell anybody what it was.

¹ Cotter, Jr. also argued that because the action was derivative, the attorney client privilege should not apply, citing *Garner v. Wolfenbarger*, 430 F.2d 1093, 1103 (5th Cir. 1970). This theory has not been recognized by Nevada Courts.

1 *Id.*, at 16:25-17:14. This Court did not further explain its reasoning in this case.

2 However, in another case, for which there is currently a writ petition pending in the
3 Nevada Supreme Court, this Court did apparently offer additional insight into its reasoning with
4 respect to the supposed effect of the business judgment rule on the attorney client privilege.
5 Specifically, in that other case, this Court issued an order granting discovery of attorney-client
6 communications, stating:

7 The motion is granted in part. To the extent that information was provided to the
8 members of the board of directors for their consideration in the decision-making
9 process and their defense related to the business judgment rule[,] the Okada
10 parties are entitled to test whether the director or officer had knowledge
concerning the matter in question that would cause reliance thereon to be
unwarranted. The only way they can get to that part of the statute is by having the
information that was provided to the board.

11 **Ex. 2, Order dated March 24, 2016**, from District Court Case No. A-12-656710-B, *Wynn*
12 *Resorts, Ltd. v. Okada, et al.*²

13 With the aid of these passages from the *Wynn* case, it is apparent that the Court is
14 interpreting the following statutory provisions of NRS 78.138:

15 (2) ***In performing their respective duties, directors and officers are entitled***
16 ***to rely on*** information, ***opinions***, reports, books of account or statements,
including financial statements and other financial data, ***that are prepared or***
17 ***presented by:***

18 * * *

19 (b) ***Counsel***, public accountants, financial advisers, valuation advisers,
investment bankers or other persons as to matters reasonably believed to be within
20 the preparer's or presenter's professional or expert competence; or

21 * * *

22 ***but a director or officer is not entitled to rely on such information, opinions,***
reports, books of account or statements if the director or officer has knowledge
23 ***concerning the matter in question that would cause reliance thereon to be***
unwarranted.

24
25 ² A writ petition relating to this Order is currently pending in Supreme Court Case. No. 70050. Significantly, in the
26 writ proceedings, the Real Parties in Interest *expressly* disclaimed the Court's theory regarding the business
27 judgment rule, stating " While Nevada's business judgment rule permits directors to rely on information and advice
28 from independent advisors to make their business decisions, (NRS 78.138(2)), the rule does not require disclosure of
the substance of the legal advice to invoke the protections of the rule . . ." and instead, asks the Court to find the
ruling appropriate based on *Wardleigh*. See Real Parties' Answer to Petition for Writ of Mandamus, or in the
Alternative, Prohibition, filed July 15, 2016.

1 NRS 78.138(2) (emphasis added).

2 On October 3, 2016, this Court issued its written ruling, which differs
3 significantly from the Court's oral pronouncement. Despite the Court asserting that the material
4 to be produced was "only the information that was provided to the board members in the course
5 of their making their decision," this Court's written order states:

6
7 IT IS **HEREBY ORDERED** that the Motion is **GRANTED** the [sic]
8 legal opinion referenced by Messrs. Kane and Adams in their deposition
9 testimony as having been relied upon relating to the 100,000 share option shall be
10 produced by Defendants including:

11 1. Any and all documents or communications to or from Tompkins
12 concerning the 100,000 share option, and EC's and MC's right or ability as
13 executors of the Estate to exercise the option;

14 2. Any and all communications to or from and Ellis concerning the
15 100,000 share option, and EC' s and MCs right or ability as executors of the
16 Estate to exercise the option;

17 3. Any and all communications to or from any attorney or employee of
18 Greenberg Traurig concerning the 100,000 share option, and EC's and MC' s right
19 or ability as executors of the Estate to exercise the option;

20 4. Any and all documents, communications, materials, or information
21 relied upon or referred to in any advice, opinion, or communication from
22 Tompkins concerning the 100,000 share option, and EC's and MC's right or
23 ability as executors of the Estate to exercise the option;

24 5. Any and all documents, communications, materials, or information
25 relied upon or referred to in any advice, opinion, or communication from Ellis
26 concerning the 100,000 share option, and EC's and MC's right or ability as
27 executors of the Estate to exercise the option; and

28 6. Any and all documents, communications, materials, or information
relied upon or referred to in any advice, opinion, or communication from any
attorney or employee of Greenberg Traurig concerning the 100,000 share option,
and EC's and MC' s right or ability as executors of the Estate to exercise the
option.

Order, pp. 2-3. As can be seen, the Order is not only inconsistent with this Court's prior
assertion that work product need not be produced, but it is internally inconsistent, as it includes
not only attorney communications on which Messrs. Kane and Adams relied, but also appears to

1 include *any* communications to, from and even among attorneys, any research or reference
2 materials upon which attorneys relied, and other examples of work product. Indeed, each of the
3 categories contained in Paragraphs 1-6 of the Order would include documents far beyond the
4 scope of the materials the Court's first statement requiring production of "the legal opinion
5 referenced by Messrs. Kane and Adams in their deposition testimony as having been relied upon
6 relating to the 100,000 share option." Accordingly, in the event the Order is not reconsidered,
7 RDI requests clarification.

8 LEGAL ARGUMENT

9 This Court should reconsider its ruling with respect to RDI's attorney-client privilege, as
10 the ruling is based on a theory that finds no support in jurisprudence of this state, or indeed, in
11 the jurisprudence of any of the 43 other jurisdictions that have adopted the same or substantively
12 similar language as that found in NRS 78.138(2). This Court appears to have concluded that
13 whenever Nevada's business judgment rule applies to a defense in a stockholder action involving
14 a claim for a breach of fiduciary duty, and the director or officer considered or relied upon the
15 advice of the corporation's counsel, that officer or director has waived the corporation's
16 privilege, through the operation of NRS 78.138(2). The Court's interpretation appears to be an
17 application of a theory of waiver or privilege expressed rejected by the Nevada Supreme Court.
18 Additionally, the theory gives control over a corporation's privilege to individual officers or
19 directors, without regard to their management of the company. Indeed, this approach would
20 make no distinction between current or former directors or officers of the corporate client or
21 whether such person has any continuing fiduciary obligations to the corporation or its
22 stockholders. Such a decision is contrary to the Nevada Supreme Court's recent holding
23 regarding the controller of a corporate attorney-client privilege. Finally, the theory contemplates
24 an affirmative invocation of the business judgment rule, when no such affirmative reliance is
25 required, because Nevada's business judgment rule is a statutory presumption that applies in the
26 absence of rebuttal by the plaintiff. In short, this Court's ruling is based on a theory that has
27 numerous fatal flaws. Had RDI been given an opportunity to brief this theory, these numerous
28 flaws would have been presented in the Opposition to the Motion to Compel. Accordingly, the

Order should be reconsidered, and on such reconsideration, the Motion to Compel denied.

Additionally, the written order contains ambiguities as to precisely what material is subject to production. Accordingly, in the event no reconsideration is granted, RDI requests the Court to clarify the Order.

I. THE NEVADA SUPREME COURT HAS ADOPTED THE ANTICIPATED WAIVER TEST AS THE SOLE APPLICABLE TEST FOR WAIVER OF THE ATTORNEY CLIENT PRIVILEGE.

The Order appears to be based upon a theory that contradicts the test for waiver of privileged communications set forth by Nevada's Supreme Court. Specifically, in *Wardleigh*, the Supreme Court stated that a waiver of the attorney client privilege occurs when:

a privilege holder pleads a claim or defense in such a way that eventually he or she will be forced to draw upon the privileged communication at trial in order to prevail.

Wardleigh, 111 Nev. 345, 891 P.2d at 1186. In so holding, the Nevada Supreme Court adopted the most restrictive of the various approaches to implied waiver of the attorney client privilege.³ Significantly, in adopting what it called the "anticipated waiver" test, the Supreme Court cited to "Developments in the Law-Privileged Communications," 98 Harv. L. Rev. 1450 (1985).

Therein, it was explained that:

When the party asserting the privilege bears the burden of proof on an issue and can meet that burden only by introducing evidence of a privileged nature, waiver is clearly warranted at the discovery stage.

³ See *Frontier Ref., Inc. v. Gorman-Rupp Co., Inc.*, 136 F.3d 695, 699-700 (10th Cir. 1998), describing the three approaches to implied waiver used by courts:

The first of these general approaches is the "automatic waiver" rule, which provides that a litigant automatically waives the privilege upon assertion of a claim, counterclaim, or affirmative defense that raises as an issue a matter to which otherwise privileged material is relevant. The second set of generalized approaches provides that the privilege is waived only when the material to be discovered is both relevant to the issues raised in the case and either vital or necessary to the opposing party's defense of the case. Finally, several courts have recently concluded that a litigant waives the attorney-client privilege if, and only if, the litigant directly puts the attorney's advice at issue in the litigation.

The last of these tests has been described as the most restrictive of the three approaches. See, e.g., *Rhone-Poulenc Rorer Inc. v. Home Indem. Co.*, 32 F.3d 851, 863-64 (3d Cir.1994) (adopting restrictive test and criticizing more liberal views of waiver). As shown *infra*, the Nevada Supreme Court adopted this most restrictive test.

1 98 Harv. L. Rev. at 1639 (1985). Here, the Individual Defendants have not pleaded a claim or
2 defense that will force them to introduce the content of any privileged communication at trial in
3 order to prevail on such a claim or defense. Rather, they simply rely on a statutory presumption.
4 They do not have to prove anything.

5 In ruling on Cotter, Jr.'s Motion to Compel, this Court appears to have ruled that the
6 privileged communications sought by Plaintiff are relevant to the Defendants' discharge of their
7 duties, and therefore, vital to Cotter, Jr.'s prosecution of his claims. Thus, the Court appears to
8 have applied an approach to implied waiver or privileges that is commonly known as the *Hearn*
9 test, under which "the repository of the privilege (1) make an assertion through some affirmative
10 act that (2) renders relevant to the action (3) privileged matter vital to the opposing party's
11 [case]." *Hearn v. Rhay*, 68 F.R.D. 574, 576, 581 (E.D.Wash.1975). Significantly, the Nevada
12 Supreme Court expressly *rejected* the *Hearn* test. *Wardleigh* 111 Nev. at 355-56, 891 P.2d at
13 1187. The Court noted that this "more liberal view" of implied waiver was improper precisely
14 because of its dependence on a balancing test. The Supreme Court stated:

15 Fairness should not simply dictate that because pleadings raise issues implicating
16 a privileged communication, the privilege regarding those issues is waived.
17 Rather, fairness should dictate that where litigants raise issues ***that will compel***
18 ***the litigants to necessarily rely upon privileged information at trial to defend***
those issues, the privilege as it relates only to those issues should be waived.
Allocations of burdens of pleading and proof should not be the basis for depriving
privilege-holders of their privilege.

19 *Wardleigh*, 111 Nev. at 356, 891 P.2d at 1187 (emphasis added). Nevada is not alone in its
20 criticism of finding waiver based on the purported need of the opposing party. The Third Circuit
21 explained its criticism of cases like *Hearn*:

22 Some decisions have extended the finding of a waiver of the privilege to cases in
23 which the client's state of mind may be in issue in the litigation. These courts have
24 allowed the opposing party discovery of confidential attorney client
25 communications in order to test the client's contentions. . . . These decisions are of
26 dubious validity. While the opinions dress up their analysis with a checklist of
27 factors, they appear to rest on a conclusion that the information sought is relevant
and should in fairness be disclosed. Relevance is not the standard for determining
whether or not evidence should be protected from disclosure as privileged, and
that remains the case even if one might conclude the facts to be disclosed are
vital, highly probative, directly relevant or even go to the heart of an issue.

28 As the attorney client privilege is intended to assure a client that he or she can
consult with counsel in confidence, finding that confidentiality may be waived

1 depending on the relevance of the communication completely undermines the
2 interest to be served. Clients will face the greatest risk of disclosure for what may
3 be the most important matters. Furthermore, because the definition of what may
4 be relevant and discoverable from those consultations may depend on the facts
5 and circumstances of as yet unfiled litigation, the client will have no sense of
6 whether the communication may be relevant to some future issue, and will have
7 no sense of certainty or assurance that the communication will remain
8 confidential.

9 A party does not lose the privilege to protect attorney client communications from
10 disclosure in discovery when his or her state of mind is put in issue in the action.
11 While the attorney's advice may be relevant to the matters in issue, the privilege
12 applies as the interests it is intended to protect are still served by confidentiality.

13 *Rhone-Poulenc Rorer Inc. v. Home Indem. Co.*, 32 F.3d 851, 864 (3d Cir. 1994).⁴ In short,
14 waiver of the privilege should not depend upon a purported need of the opposing party.

15 Because the privilege in Nevada is waived *only* where the party possessing the privilege
16 relies on the *content* of the communication to prevail, there is no basis for finding a waiver here.
17 Indeed, no Individual Defendant has expressed any intent to introduce the content of privileged
18 communications into evidence. Moreover, as indicated during the hearing of the Motion to
19 Compel, there would be no testimony proffered regarding the consideration of attorney advice by
20 Messrs. Adams and Kane – *unless required to truthfully answer questions posed by Cotter, Jr.*

21 Significantly, there is no doubt that the *Wardleigh* anticipatory waiver test continues to
22 govern the issue in Nevada. Just two years ago, the Nevada Supreme Court affirmed that the
23 anticipatory waiver test provides the appropriate test for waiver. *Las Vegas Sands v. Eighth Jud.*
24 *Dist. Ct.*, 130 Nev. Adv. Op. 69, 331 P.3d 905, 911 (2014) (“To the extent that Sands may have
25 placed any documents “at-issue,” this court's analysis of at-issue waiver in *Wardleigh* . . .
26 provides the appropriate framework for resolving those issues.”).

27 The anticipatory waiver test is the *only* appropriate test to be applied to determine
28 whether a waiver of the attorney client privilege has been waived. Because this Court’s ruling

⁴ Rhone is considered the source of the anticipatory waiver test. See Kenneth Duvall, *Rules, Standards, and the Attorney-Client Privilege: When the Privilege Is "At-Issue" in the Discovery Rule Context*, 32 N. Ill. U.L. Rev. 1, 11 (2011).

1 was not based on this test, and application of this test establishes that no waiver occurred, the
2 ruling should be reconsidered, and the Motion to Compel denied.

3
4 **A. Nevada Has No Exception to the Attorney-Client Privilege for
5 Derivative Actions, Even Though It Has an Exception for Other Privileges
6 for Derivative Actions.**

7 This Court's finding of an implied waiver through NRS 78.138(2) fails to take into
8 account the explicit exceptions that the Nevada legislature adopted with respect to attorney client
9 privilege. The privilege, which existed under the common law, was codified in NRS 49.095.
10 The Nevada legislature did create several exceptions to the attorney client privilege in NRS
11 49.105, however none are applicable here. Most significantly, the Nevada legislature did *not*
12 create an exception to the privilege applicable to derivative actions in general, or to where the
13 business judgment rule applies to a case.

14 Nevertheless, the legislature's demonstrated ability to draft precise privilege parameters
15 is relevant to this inquiry. *Ashokan v. State, Dept. of Ins.*, 109 Nev. 662, 670, 856 P.2d 244, 249
16 (1993) (legislature's demonstrated ability in drafting privilege laws considered in determining
17 whether plain language of privilege law should govern). The Nevada legislature has
18 demonstrated that it is wholly capable of creating an *explicit* exception to privileges applicable to
19 derivative actions, because it did, in fact, create such an explicit exception to the accountant-
20 client exception. NRS 49.205(6). The fact that the legislature created such an exception for the
21 accountant-client privilege, but failed to do so for the attorney-client privilege, indicates that the
22 legislature did not intend for any such exception to the attorney client privilege. A court should
23 not create exceptions to privileges not adopted by the legislature. "It is for the Legislature to
24 determine how far to go in promoting its various goals [regarding privileged communications].
25 There is no justification for courts to strike a different balance." *Ashokan*, 109 Nev. at 669, 856
26 P.2d at 248 (internal quotations omitted).

27 **B. The Corporation, not the Individual Directors Control the Privilege.**

28 The Order's reliance on a theory regarding waiver by application of the business
judgment rule is inconsistent with the Nevada Supreme Court's determination of that the

1 corporation controls the privilege. Indeed, the Order's grant of control to individual directors
2 can only be based upon the theory that directors and corporation are *collective* clients of the
3 corporation's counsel. However, the Nevada Supreme Court expressly rejected this "collective
4 corporate client" concept in *Las Vegas Sands v. Eighth Jud. Dist. Ct.*, 130 Nev. Adv. Op. 69,
5 331 P.3d 905, 913 (2014). The Supreme Court noted that the collective corporate client
6 approach would "have a perverse chilling effect on candid communications between corporate
7 managers and counsel." While the *Sands* case involved a situation where the director seeking to
8 waive the privilege and the corporation were adverse to each other, the *Sands* ruling cannot be
9 limited to such circumstances. Significantly, the Supreme Court gave, as an example of the
10 collective client approach, *People v. Greenberg*, 50 A.D.3d 195, 851 N.Y.S.2d 196, 200-02
11 (App.Div.2008), wherein the directors and the corporation were *each* defendants, and the
12 directors sought the privileged material to defend themselves against the claims against them
13 individually. The same situation as in *Greenberg* exists here, except that here it is the adverse
14 party, rather than the directors, who seek the waiver.

15 While *Sands* notes that a corporation's current board of directors have the ability to
16 control the privilege, this is in the context of their collective management of the company.
17 Nothing in *Sands* indicates that individual defendants may unilaterally decide to waive privilege
18 without a vote of the entire board. To the contrary, the *Sands* Court cited with approval *Milroy*
19 *v. Hanson*, 875 F.Supp. 646, 648 (D.Neb.1995), which noted that the directors must vote on the
20 waiver of a privilege as a board and that individual directors cannot control it. But such a vote
21 must be made for the purpose of the management of the corporation. As the U.S. Supreme Court
22 stated:

23 [T]he power to waive the corporate attorney-client privilege rests with the
24 corporation's management and is normally exercised by its officers and directors.
25 The managers, of course, must exercise the privilege in a manner consistent with
their fiduciary duty to act in the best interests of the corporation and not of
themselves as individuals.

26 *Commodity Futures Trading Comm'n v. Weintraub*, 471 U.S. 343, 348 (1985). This Court's
27 ruling, when considered in conjunction with the U.S. Supreme Court's holding in *Weintraub*,
28 would require board members to vote on whether to maintain the corporation's privilege, or to

1 waive the corporation's privilege so that the Individual Directors may receive the benefit of the
2 statutory presumption created in NRS 78.138. The Court's ruling, therefore, sets up a trap with a
3 manufactured conflict of interest.

4 **C. The Business Judgment Rule Governs Regardless of Specific Invocation.**

5 The Court's indication that the business judgment rule is something that defendants
6 affirmatively assert fails to consider the effect of a statutory presumption. The business
7 judgment rule, codified at NRS 78.138(3), states:

8 (3) Directors and officers, in deciding upon matters of business, are presumed
9 to act in good faith, on an informed basis and with a view to the interests of the
10 corporation.

11 NRS 78.138(3). A statutory presumption results because the presumed facts are considered true,
12 unless rebutted with direct evidence. Both the burden of production and the burden of proof to
13 show that a presumed fact is untrue lies with the party challenging the presumption. NRS
14 48.180; *Yeager v. Harrah's Club, Inc.*, 111 Nev. 830, 834, 897 P.2d 1093, 1095 (1995).
15 Accordingly, here, *as a matter of law*, unless and *until* Cotter, Jr. presents direct evidence
16 sufficient to persuade a fact finder that the decisions made by the directors were not made in
17 good faith, on an informed basis, and with a view to the interests of the corporation, the
18 decisions made by the Individual Defendants must be deemed to have been made in good faith,
19 on an informed basis, and with a view to the best interests of RDI. The Individual Defendants
20 have no obligation to prove that this is so, and no obligation to "invoke" the business judgment
21 rule. It applies regardless of any affirmative invocation by them.

22 Similarly, a defendant does not need to "invoke" the limitations on liability imposed by
23 NRS 78.138 (7), which here requires Cotter, Jr. to prove both a breach of fiduciary duty, and that
24 such breach involved intentional misconduct, fraud, or a knowing violation of law. Thus, in
25 Nevada, the determination that a director or officer was acting in good faith is based on a
26 *subjective*, rather than objective standard. See *Shoen v. SAC Holding Corp.*, 122 Nev. 621, 636,
27 137 P.3d 1171, 1181 (2006) (noting that business judgment rule creates a presumption that
28 directors' actions were undertaken with "an honest belief that the action would serve the

1 corporation's interests").

2 Because a corporate officer or director does not need to "invoke" the business judgment
3 rule, reliance on the rule cannot not constitute the placement of legal advice as an issue in the
4 case as required under the anticipatory waiver test adopted by *Wardleigh*. Because the Nevada
5 Supreme Court has rejected the theory of waiver that this Court applied in granting Cotter, Jr.'s
6 Motion to Compel, the Order should be reconsidered and the Motion to Compel denied.

7 **II. NO OTHER JURISDICTION HAS ADOPTED THIS COURT'S**
8 **INTERPRETATION OF THE EFFECT OF THE BUSINESS JUDGMENT RULE.**

9 As noted above, nothing in the text of NRS 78.138(2) references the attorney client
10 privilege, or otherwise suggests that a waiver of the privilege would result from application of
11 the business judgment rule to a director defendant. Accordingly, the text of the statute itself does
12 not give rise to a waiver. Nor is there any indication in the legislative history that, in adopting
13 the provision, the Nevada legislature believed that an implicit waiver was created.

14 Nevada adopted the language now codified in NRS 78.138(2) in 1991. The wording
15 was proposed in a "Study of Nevada Corporate Law" prepared by the firm of the firm of Vargas
16 and Bartlett at the behest of the Nevada Secretary of State. **Ex. 3, Minutes of the Senate**
17 **Committee on Judiciary and the Assembly Committee on the Judiciary, May 7, 1991, p. 2.**
18 That report containing the proposed legislation stated the following with respect to the provisions
19 relating to the business judgment rule.

20 We suggest the legislature add a new section to the Nevada Revised Statutes with
21 respect to the standards of conduct applicable to the board of directors and
22 officers. . . . The language is derived from a review of similar provisions which
have recently been enacted in several jurisdictions, including Indiana, Ohio,
Arizona and Virginia.

23 *Study of Nevada Corporate Law*, Vargas and Bartlett, available at

24 [http://www.leg.state.nv.us/Division/Research/Library/LegHistory/LHs/LHSupp/StudyNVCorpL](http://www.leg.state.nv.us/Division/Research/Library/LegHistory/LHs/LHSupp/StudyNVCorpLaw.pdf)
25 [aw.pdf](http://www.leg.state.nv.us/Division/Research/Library/LegHistory/LHs/LHSupp/StudyNVCorpLaw.pdf), p. 32-b, last viewed, September 13, 2016. Thus, the authors of the proposed legislation
26 presented no indication of an intent to create an implied waiver of the business judgment rule.

27 Moreover, as indicated by the report, the language of NRS 78.138(2) – wherein directors
28 are permitted to rely on opinions of counsel, provided such directors do not have knowledge that

1 would render such reliance unwarranted – was not unique to Nevada. In fact, similar language
2 was later adopted by the Model Business Corporation Act (“MBCA”) , § 8-213-14, and the same
3 or similar language is now found in 42 states and the District of Columbia.⁵ Specifically, in the
4 MBCA and in each of these 43 other jurisdictions, in the discharge of their duties, directors are
5 expressly permitted to rely on, *inter alia*, the opinions of counsel, unless said directors have
6 knowledge that would make such reliance “unwarranted.”

7 Despite the widespread adoption of this provision, which was, in fact, essentially a
8 *codification of the common law*, see 3A Fletcher Cyc. Corp. § 1083, research has not revealed a
9 single appellate case holding that this language required a waiver of the attorney client privilege
10 where the business judgment rule is applicable as a defense.⁶ To the contrary, claims that merely
11 reference consultation on attorney advice, without a claim that such reliance on the content of
12 advice shields the party from liability, have been expressly rejected. See *e.g.*, *Nelson v. Alliance*
13 *Hospitality Management, LLC*, 2013 WL 9554167 (N.C. Super. March 19, 2013) (rejecting
14 claim that “the privilege was waived by Defendants’ assertion of the business judgment rule as an
15 affirmative defense.”); *Aristocrat Leisure Ltd. v. Deutsche Bank Trust Co. Americas*, 04 CIV
16 10014 PKL, 2009 WL 3111766, at *16 (S.D.N.Y. Sept. 28, 2009) (waiver does not occur merely
17 because parties disclose that they consulted legal counsel on challenged action); *In re County of*
18 *Erie*, 546 F.3d 222, 229 (2d Cir. 2008) (claim of qualified immunity does not place advice of
19 counsel at issue).

20 Indeed, in applying Virginia’s business judgment rule, *one of the sources of NRS*
21 *78.138(2)*, courts have even precluded discovery of *nonprivileged* materials consulted by
22 directors in making their decisions, as the *content* of such documents is irrelevant; all that is
23 relevant is that the directors did take measures to inform themselves. See *WLR Foods, Inc. v.*
24 *Tyson Foods, Inc.*, CIV. A. 94-012-H, 1994 WL 377257 (W.D. Va. 1994), *supplemented*, CIV.

25
26
27 ⁵ The relevant language from the Model Act and each of these 43 jurisdictions may be found in Appendix 1.

28 ⁶ The only trial court decision located which adopts this theory is that mentioned above, in *Wynn Resorts, Ltd. v. Okada*.

1 A. 94-012-H, 1994 WL 702788 (W.D. Va. 1994), and *aff'd*, 65 F.3d 1172 (4th Cir. 1995), and
2 *aff'd*, 65 F.3d 1172 (4th Cir. 1995).

3 In contrast to the cases cited above, case law that holds that materials that directors
4 considered in making their decisions, including privileged communications, must be disclosed,
5 have relied on 1) the fact that portions of the privileged content had been disclosed by the party
6 claiming privilege, warranting disclosure of the remainder, see *Zirn v. VLI Corp*, 621 A. 2d 773
7 (Del. 1993); 2) the fiduciary exception created in *Garner v. Wolfenbarger*, 430 F. 2d 1093 (5th
8 Cir. 1970); or 3) the *Hearn* rule. See, e.g., *Chesapeake Corp.*, 771 A.2d at 301 n. 8; *In re*
9 *Subpoena Issued to Dennis Friedman, Esq.*, 286 B.R. 505, 509 n. 4 (S.D.N.Y.2002) (stating that
10 directors who proposed to use advice of counsel to substantiate their due care “created the
11 situation where their attorney's advice is both relevant and possibly crucial to the plaintiff's
12 preparation of its case”). None of these justifications fit within Nevada law.

13 **III. THE ORDER IS AMBIGUOUS AND REQUIRES CLARIFICATION.**

14 If the Order is not reconsidered, then clarification is required. The first sentence of the
15 language of the order appears to indicate that the Order is narrow, and limited only to documents
16 on which Messrs. Kane and Adams relied. However, Paragraphs 1-6 appears to broaden the
17 production to a considerable degree, requiring production of any documents or communications
18 to or from counsel “concerning the 100,000 share option, and EC's and MC's right or ability as
19 executors of the Estate to exercise the option.” The order also asks for “[a]ny and all documents,
20 communications, materials, or information relied upon or referred to in any advice, opinion, or
21 communication” by any of the attorneys (and, with respect to Greenberg Traurig, also by any
22 firm employees) with respect to the share option and the right of the Estate to exercise it. It is
23 conceivable the various attorneys created or received documents or communications regarding
24 those topics, particularly in connection with this litigation, without such documents or
25 communications having contributed to the “legal opinion” on which there was purported
26 reliance. Additionally, the “documents and communications” that were relied upon or referred to
27 in “any advice, opinion, or communication” is likely to include legal reference materials,
28 documents reflecting attorney thought processes, and a host of other work product materials. In

1 light of the Court's reasoning with respect to granting the motion, such production goes far
2 beyond the claimed waiver. Given the apparent scope of the order, the diligence required of the
3 defendants to respond to the same will be highly time consuming. Searches will be required that
4 have not been previously done, including searches of records of at least two law firms. These
5 practical issues further demonstrate the problems created by an interpretation of Nevada law that
6 requires such a level of production, particularly based solely on the unsubstantiated pleadings of
7 a derivative plaintiff.

8 Accordingly, the Order should be clarified to limit the production only to documents or
9 communications to or from the attorneys relating to a request for a legal opinion regarding the
10 right of the estate executors to exercise the 100,000 share stock option, and any documents
11 actually referenced in the legal opinion (excluding citations to legal authority) on which Messrs.
12 Kane and Adams relied.

13 CONCLUSION

14 This Court's granting of the Motion to Compel was based on an interpretation of NRS
15 78.138(2) that cannot be sustained under Nevada's well-establish precedent regarding the
16 attorney-client privilege. The ruling is not supported by the plain language of the statute or by
17 the legislative history. Moreover, such a theory has not been adopted in any of the 43 other
18 jurisdictions that employ the same or similar language regarding the business judgment rule; the
19 business judgment rule has not been interpreted as a method to end run the attorney-client
20 privilege or as to make the substantive advice given an issue in the case. For all of these reasons,
21 this Court should reconsider its Order granting the Motion to Compel, and should deny the
22 Motion.

23 ///
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1 In the event the Court does not reconsider the Order, and deny the Motion to Compel,
2 then RDI requests that the Court clarify certain ambiguities in the order as stated herein.

3 DATED: October 6th, 2016.

4 GREENBERG TRAURIG, LLP

5 

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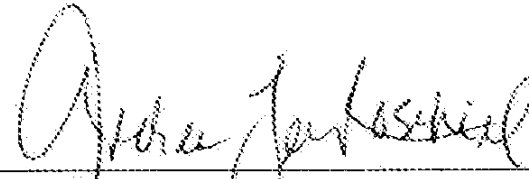
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15 *Counsel for Reading International, Inc.*

CERTIFICATE OF SERVICE

Pursuant to Nev. R. Civ. P. 5(b)(2)(D) and E.D.C.R. 8.05, I certify that on this day, I caused a true and correct copy of the forgoing *Reading International, Inc.'s Motion to Reconsider or Clarify Order Granting James J. Cotter, Jr.'s Motion to Compel Production of Documents and Communications Related to Advice of Counsel Defense on Order Shortening Time* to be filed and served via the Court's Wiznet E-Filing system on all registered and active parties. The date and time of the electronic proof of service is in place of the date and place of deposit in the mail.

DATED this 7th day of October, 2016.



An employee of GREENBERG TRAURIG, LLP

EXHIBIT 1



CLERK OF THE COURT

TRAN

DISTRICT COURT
CLARK COUNTY, NEVADA
* * * * *

| | | |
|-------------------------|---|----------------------|
| JAMES COTTER, JR. | . | CASE NO. A-719860 |
| | . | A-735305 |
| Plaintiff | . | P-082942 |
| | . | |
| vs. | . | |
| | . | DEPT. NO. XI |
| MARGARET COTTER, et al. | . | |
| | . | Transcript of |
| Defendants | . | Proceedings |
| | . | |

BEFORE THE HONORABLE ELIZABETH GONZALEZ, DISTRICT COURT JUDGE

**HEARING ON PLAINTIFF'S MOTION TO OBTAIN
EXPEDITED DISCOVERY, MOTION TO COMPEL PRODUCTION,
AND MOTION TO PERMIT DISCOVERY RE RECENT OFFER**

TUESDAY, AUGUST 30, 2016

COURT RECORDER:

TRANSCRIPTION BY:

JILL HAWKINS
District Court

FLORENCE HOYT
Las Vegas, Nevada 89146

Proceedings recorded by audio-visual recording, transcript
produced by transcription service.

1 stock. The stock is in the probate, and Your Honor allowed
2 the exercise of the stock to probate, and plaintiff has
3 admitted that the estate held that right. So there's not any
4 additional issues that are part of this derivative case that
5 would give rise to a waiver of the attorney-client or entitle
6 plaintiff to receive that information in this case, Your
7 Honor.

8 THE COURT: To the extent any of the directors
9 relied upon advice of counsel in performing their duties which
10 are subject of the breach of fiduciary duty claim, which
11 includes this, they can't also protect the communication even
12 though it's the company's privilege. So you all have to make
13 a decision.

14 So your motion's granted, Mr. Krum.

15 MR. KRUM: Thank you, Your Honor.

16 MS. HENDRICKS: Your Honor, if I can just seek
17 clarification. The request was very broad in nature and also
18 seeks work product information from counsel.

19 THE COURT: It's only the information that was
20 provided to the board members in the course of their making
21 their decision. That's all it is.

22 MS. HENDRICKS: Right.

23 THE COURT: Because the statute allows them
24 protection when they rely upon advice of certain kinds of
25 professionals even if that advice is wrong.

1 MS. HENDRICKS: Understand, Your Honor.

2 THE COURT: But it doesn't mean that all of the
3 thought processes of the lawyers necessarily will go in unless
4 that was delivered to the attorneys.

5 MS. HENDRICKS: Okay. Thank you for the
6 clarification.

7 MR. SEARCY: May I also seek some clarification?
8 Because this will impact the presentation at trial
9 potentially, as well as how cross-examination of the directors
10 takes place. If, for example -- if plaintiff asks my
11 directors at trial, did you receive advice of counsel, is that
12 an objectionable question? Is he prevented from being able to
13 ask that question?

14 THE COURT: I do not know at this stage if the
15 actions that your clients have taken related to the exercise
16 of the option was information directly related to the
17 communications from counsel. So it may be appropriate for a
18 motion in limine to not permit that to go to the jury, because
19 it is not information for which you will be seeking protection
20 under the business judgment rule. Because that's where all
21 this comes from, is the business judgment rule.

22 MR. SEARCY: I understand, Your Honor.

23 THE COURT: But I'm going to let him do the
24 discovery.

25 MR. SEARCY: Well, I understand. I just want to

1 understand the parameters as this goes forward. You're saying
2 that because -- if the directors testify at trial that they
3 received advice from counsel, not that they disclosed the
4 substance of the communications, but saying that they received
5 it, that that would be enough so that he's allowed to inquire
6 into the substance of the communications?

7 THE COURT: If your clients are relying upon the
8 business judgment rule to defend their decision and as part of
9 their activities under the business judgment rule relied upon
10 the advice of certain professionals in conducting themselves,
11 that advice is fair game. And I understand that that's a
12 frustrating process for you, but that's the way the Nevada
13 statute is written. You can't take advantage of that advice
14 and then not tell anybody what it was.

15 MR. SEARCY: I understand, Your Honor. I think that
16 there may be two separate issues. But I understand what Your
17 Honor has said, and I don't want to belabor the issue now that
18 the Court has spoken.

19 THE COURT: Okay. Anything else? Goodbye.

20 MR. KRUM: There's one more, Your Honor.

21 THE COURT: Okay.

22 MR. KRUM: If I may ask how much time I have.

23 THE COURT: None.

24 MR. KRUM: No. Really?

25 MR. WONG: Four minutes, 38 seconds.

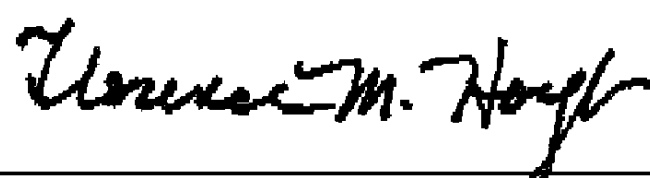
CERTIFICATION

I CERTIFY THAT THE FOREGOING IS A CORRECT TRANSCRIPT FROM THE AUDIO-VISUAL RECORDING OF THE PROCEEDINGS IN THE ABOVE-ENTITLED MATTER.

AFFIRMATION

I AFFIRM THAT THIS TRANSCRIPT DOES NOT CONTAIN THE SOCIAL SECURITY OR TAX IDENTIFICATION NUMBER OF ANY PERSON OR ENTITY.

**FLORENCE HOYT
Las Vegas, Nevada 89146**



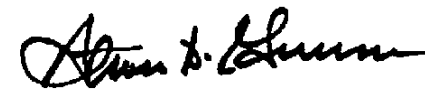
FLORENCE M. HOYT, TRANSCRIBER

8/30/16

DATE

EXHIBIT 2

Electronically Filed
03/24/2016 11:30:05 AM



CLERK OF THE COURT

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John A. Moran, Marc D. Schorr, Alvin V. Shoemaker,
Kimmie Sinatra, D. Boone Wayson, and Allan Zeman

DISTRICT COURT

CLARK COUNTY, NEVADA

WYNN RESORTS, LIMITED, a Nevada
Corporation,

Plaintiff,

vs.

KAZUO OKADA, an individual, ARUZE
USA, INC., a Nevada corporation, and
UNIVERSAL ENTERTAINMENT CORP.,
a Japanese corporation,

Defendants.

AND ALL RELATED CLAIMS.

Case No.: A-12-656710-B
Dept. No.: XI

**ORDER GRANTING IN PART
DEFENDANTS' MOTION TO COMPEL
WYNN RESORTS, LIMITED TO
PRODUCE BROWNSTEIN HYATT
DOCUMENTS**

Date of Hearing: March 8, 2016

Time of Hearing: 8:00 a.m

1 Defendant Kazuo Okada and Defendants/Counterclaimants Aruze USA, Inc.
2 ("Aruze USA") and Universal Entertainment Corp. ("UEC," and collectively, the "Aruze
3 Parties") filed its Motion to Compel Wynn Resorts, Limited to Produce Brownstein Hyatt
4 Documents ("Motion to Compel") and its Motion to Redact Defendants' Motion to Compel
5 Wynn Resorts, Limited to Produce Brownstein Hyatt Documents and to Seal Exhibits 2, 4-6,
6 10-12, 14, 15 and 17 ("Motion to Redact") on March 3, 2016, which came before this Court for
7 hearing on March 8, 2016. James J. Pisanelli, Esq. and Debra L. Spinelli, Esq., of PISANELLI
8 BICE PLLC, appeared on behalf of Plaintiff/Counterdefendant Wynn Resorts, Limited ("Wynn
9 Resorts") and Counterdefendants Linda Chen, Russell Goldsmith, Ray R. Irani, Robert J. Miller,
10 John A. Moran, Marc D. Schorr, Alvin V. Shoemaker, Kimmarie Sinatra, D. Boone Wayson, and
11 Allan Zeman (the "Wynn Parties"). J. Colby Williams, Esq. of Campbell & Williams, appeared
12 on behalf of Counterdefendant/Cross-defendant Stephen A. Wynn ("Mr. Wynn"). William R.
13 Urga, of Jolley Urga Woodbury & Little, appeared on behalf of
14 Counterdefendant/Counterclaimant/Cross-claimant Elaine P. Wynn ("Ms. Wynn"). And, J.
15 Stephen Peek, Esq. and Robert J. Cassity, Esq., of Holland & Hart appeared on behalf of the
16 Aruze Parties. Adam Miller, Esq., of BuckleySandler LLP, appeared by telephone on behalf of
17 the Aruze Parties.

18 The Court having considered the Motions, the Opposition filed by the Wynn Parties, as
19 well as the arguments of counsel presented at the hearing, and good cause appearing therefor,

20 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the Motion to Compel
21 is GRANTED, IN PART. By asserting the Business Judgment Rule as a defense, the members of
22 the Board of Directors of Wynn Resorts have put at issue certain advice they received from
23 Brownstein Hyatt. Therefore, Wynn Resorts shall produce all Brownstein Hyatt documents or
24 other information provided by Brownstein Hyatt which was given to the Board of Directors (or
25 any subcommittee of its members) for consideration of the issues of: (1) whether the Aruze
26 Parties were unsuitable, (2) whether Aruze USA's shares should be redeemed, (3) the steps to be
27 taken to redeem, and/or 4) the Board's responsibilities as a gaming licensee with respect to the
28

1 Aruze Parties. The Court does not make any determination regarding the application of the
2 business judgment rule for purposes of any claims or defenses in this case.

3 IT IS FURTHER ORDERED that this Order is STAYED for 15 days from the date of the
4 hearing, until March 23, 2016. Absent agreement of the parties or further order of this Court, the
5 documents and information described above must be produced no later than March 24, 2016.

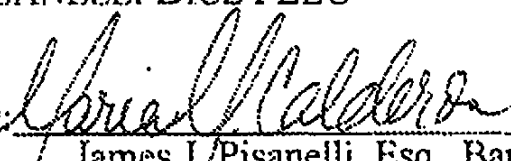
6 IT IS FURTHER ORDERED that the hearing on the Defendants' Motion to Redact is
7 hereby continued until March 18, 2016, so that Plaintiff can provide an explanation regarding
8 whether Exhibit 2, the Brownstein Hyatt Privilege Log (Exhibit of the Defendant's Motion to
9 Compel), should be sealed.

10 IT IS SO ORDERED.

11 DATED this 24th day of March 2016.

12 
13 DISTRICT COURT JUDGE

14 PISANELLI BICE PLLC

15 By:  #11742 for
16 James J. Pisanelli, Esq., Bar No. 4027
17 Todd L. Bice, Esq., Bar No. 4534
18 Debra L. Spinelli, Esq., Bar No. 9695
19 400 South 7th Street, Suite 300
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20 Attorneys for Wynn Resorts, Limited, Linda Chen,
21 Russell Goldsmith, Ray R. Irani, Robert J. Miller,
22 John A. Moran, Marc D. Schorr, Alvin V. Shoemaker,
23 Kimmarie Sinatra, D. Boone Wayson, and Allan Zeman
24
25
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27
28

EXHIBIT 3

*CORRECTED PAGE

MINUTES OF THE
SENATE COMMITTEE ON JUDICIARY
AND
ASSEMBLY COMMITTEE ON JUDICIARY
Sixty-sixth Session
May 7, 1991

A Joint Senate and Assembly Committee on Judiciary was called to order by Chairman Robert Sader, at 8:10 a.m. on Tuesday, May 7, 1991, in Room 131 of the Legislative Building, Carson City, Nevada. Exhibit A is the Meeting Agenda, Exhibit B is the Attendance Roster.

SENATE MEMBERS PRESENT:

| | |
|------------------------------|------|
| Senator Dina Titus, Chairman | |
| Senator Ernest E. Adler | Late |
| Senator Ronald V. Cook | Late |
| Senator Joseph M. Neal, Jr. | Late |
| Senator William R. O'Donnell | |
| Senator R. Hal Smith | Late |
| Senator Stephanie S. Tyler | Late |

ASSEMBLY MEMBERS PRESENT:

| | |
|-----------------------------------|----------------|
| Mr. Robert. M. Sader, Chairman | |
| Mr. Gene T. Porter, Vice Chairman | |
| Mr. Bernie Anderson | Late |
| Mr. John W. Bayley | |
| Mr. John C. Carpenter | |
| Mr. Joe Elliott | Absent/Excused |
| Mr. Jim Gibbons | Late/Excused |
| Mr. William D. Gregory | |
| Mr. Warren B. Hardy | |
| Mr. Joseph Johnson | |
| Mr. John L. Norton | |
| Mr. William A. Petrak | |
| Mr. Scott Scherer | |
| Mr. Wendell P. Williams | |

STAFF MEMBERS PRESENT:

Dennis Neilander, Senior Research Analyst
Jeff Ferguson, Research Analyst

OTHERS PRESENT:

Please see attached guest list.

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*CORRECTED PAGE

Following roll call, Chairman Sader opened the hearing on the Secretary of State Corporate Study and A.B. 655.

ASSEMBLY BILL NO. 655 - Revises law governing corporations and similar organizations.

Coming forward to make introductory remarks, Cheryl Lau, Nevada Secretary of State, explained the Secretary of State's office had proposed this bill in an effort to streamline corporate law in the state of Nevada, to make Nevada a more favorable place to conduct business and to attract new business into the state. Presently, she reported the Secretary of State's office generated over \$6 million in corporation filings and, with the changes proposed in A.B. 655, the Secretary of State's Office would be able to offer more complete, more timely and more up-to-date service. The bill would delete antiquated language, create the option of a limited liability company, make corporation mergers easier and would facilitate the filing of articles of incorporation. Ms. Lau told the committee the Secretary of State's Office would certainly retain the 24-hour expedited service, but enactment of A.B. 655 could reduce the turn-around time to possibly three hours. The bill would open the way for FAX filings and enable a simplified method of creating non-profit corporations.

Ms. Lau then introduced Nevada Attorney General Frankie Sue Del Papa who reviewed the background of Nevada corporate statute. She stated it was important for Nevada to be competitive from the national standpoint in order to remain in the forefront of corporation activity throughout the country and indicated about 18 months ago, the Secretary of State's Office decided to take an in-depth look at the corporate code as this had not been done in this manner before. The firm of Vargas and Bartlett had been chosen to perform this complicated study, to examine corporate laws for outdated, inconsistent, duplicative language, to check over-regulation and to try to make the whole process more efficient. (NOTE: A complete copy of the study performed by the firm of Vargas & Bartlett is available for review in the Legislative Counsel Bureau Research Library. Exhibit C1 is a copy of the cover page.)

Ms. Del Papa commended the firm of Vargas and Bartlett and John Fowler from that firm, as well as the Nevada State Bar for their efforts in bringing the study together. In closing, she said, the Secretary of State's Office had a reputation of being "user friendly" and in order to continue in this role it

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was important to give attention to the new corporate proposals in A.B. 655 during the 1991 legislative session.

Cindy Woodgate, Deputy Attorney General speaking for the Secretary of State's Office, told the committee passage of A.B. 655 would help attract more corporations to Nevada which would, in turn, benefit the economy. The points stressed by Ms. Woodgate were:

1. Simplification of filing requirements which made it easier and faster for the clerks to review the documents;
2. A change in checking name availability. Currently, Ms. Woodgate indicated, the statutes used the term "deceptively similar." Amendments to the language using the term "distinguishable from" would facilitate and shorten review time allowing documents to be processed more quickly;
3. Mergers would be simplified. Currently, a 100-page document presented overwhelming language for a non-attorney clerk, Ms. Woodgate stated. Allowing the use of a simple form showing the basic information could be easily understood by the clerk and thus prove much more efficient;
4. Simplification and more accurate filings. Often a clerk was unsure what section of the law he should file under since there currently were so many sections of non-profit applications. By clarifying and simplifying non-profit applications, paperwork would be processed in a much more timely fashion;
5. New technology would be adopted such as FAX filings; and
6. Ms. Woodgate said they were asking for an increase in "expedite" fees to \$100. By doing this they could provide a three-hour turnaround.

Following introductory remarks, John Fowler, partner with the law firm of Vargas and Bartlett, read from his prepared testimony, attached herewith as Exhibit C.

Following his review of Exhibit C, Mr. Fowler explained:

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1. They had worked on the repeal of the first-generation takeover statute, the nucleus of which was declared unconstitutional in 1988 by the Nevada Federal District Court. Consequently, after this ruling it was clearly unnecessary to retain the statutes any longer.

2. Provisions had been placed in the statute permitting the articles of incorporation to be a little simpler than now. The first document to be filed in creating a company no longer had to contain as much detail as before. There were less paperwork and fewer items to attend to and this made it easier to create a corporation for the average small business.

3. A statutory change allowed the Secretary of State to file documents so long as the names were "distinguishable," rather than having the clerk determine whether or not the names were "deceptively similar." This had been a difficult decision for anyone to make in the brief view of the name of a corporation.

4. There was simplified statutory terminology.

5. The proposed new language would allow appointment of a custodian by the court if the shareholders and directors were deadlocked and the company could not be run. This had been a hole in Nevada statute which Mr. Fowler believed would become increasingly evident if and when the number of corporations grew.

6. There was language provided for electronic proxies. Mr. Fowler indicated this was an ever-increasing and quite acceptable practice which would be necessary in future electronic battles and transactions.

7. New language allowed the corporation to cease sending notices to shareholders or stockholders if the last two annual meeting notices to the stockholder had been returned to the corporation.

8. The new statutes would allow the Secretary of State's Office to employ new technology and to pass necessary regulations as new technology became available. Mr. Fowler predicted "optical disks" would soon be used to transfer information from computer to computer and he opined this was technology the Secretary of State's Office should be able to use as it arrived.

9. County Clerk filings would be eliminated. This portion of the statute was now outdated by being able to file

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by phone, computer and/or FAX machine and by being able to contact Carson City for a readout regarding the status of a particular corporation.

There were major changes to the other chapters, Mr. Fowler explained, and the non-profit corporation law was basically rewritten from scratch to create an entirely new stand-alone non-profit corporation law. There was previously no corporate scheme of any kind for the non-profit corporation, and Mr. Fowler predicted non-profit corporations such as the multi-million dollar non-profit corporation AAA, would become more important in the future. The existing non-profit corporations would be governed by the new law and Mr. Fowler thought there should be very few transition problems.

Mr. Fowler also explained the "Limited Liability Company Act." (See page 16 of Exhibit C).

Mr. Porter questioned whether any limited liability case law had been established in the other four states. Mr. Fowler said he was unaware of any. Mr. Porter then asked Mr. Fowler's assistance in distinguishing between the current corporate format and the limited liability corporate format. This was further discussed between Mr. Porter and Mr. Fowler.

Senator Neal asked where, in the bill, the shareholder participated in formulating the bylaws governing the incorporation. Mr. Fowler said existing statutes provided for the adoption of bylaws by the shareholders and since this had not been changed, it did not appear in the bill.

Senator Neal asked Ms. Woodgate the reason for repeal of NRS 81.90 dealing with the publication of financial statements. Ms. Woodgate told Senator Neal NRS 80.190 only affected foreign corporations and the repeal of this requirement was to make it easier for corporations to come into Nevada. The law currently did not specify how detailed the annual statement had to be and there was no provision for the Secretary of State's Office to regulate this. Senator Neal maintained the requirement had a practical use and asked Ms. Woodgate if they had any mechanism to supply this type of information. Ms. Woodgate replied, "No." The only requirement from the Secretary of State's Office was a yearly list of officers. Nowhere in the corporate statute was there a requirement for financial information, whether it was a Nevada profit corporation or a foreign corporation.

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Returning to the discussion of a limited liability company, Senator Cook questioned whether the laws governing the limited liability company would be identical, except for the use of certain terms such as "member" instead of "owner." If they were not an exact mirror, what were the differences? Mr. Fowler said he thought they would basically mirror one another if the articles of organization were drafted properly, except that statute anticipated there would be "members" and if the members so chose there would be a "manager." This was further discussed.

In an effort to clarify the concept of the limited liability company, Senator Cook asked Mr. Fowler if it was his testimony that basically the limited liability company was the same as a corporation except it received partnership treatment for tax purposes. Elaborating for the record, Mr. Fowler referred to the tax case called Larson v. Commissioner. This had set forth four corporate characteristics and ruled that if an organization, regardless of how it was created, whether it was a corporation or technically a partnership, had three of those characteristics, it was deemed a corporation and treated that way by the Internal Revenue Service. The four characteristics were:

1. Continuity of life, which limited liability companies lacked because they were not perpetual, i.e., with a maximum life of 30 years;
2. Centralization of management, which limited liability companies allowed;
3. Limited liability, and limited liability companies also allowed this provision; and
4. Free transferability of interests, which the limited liability company did not permit in the sense there were restrictions on transfer during life and then dissolution upon death.

Therefore, Mr. Fowler continued, two of these four corporate characteristics had been removed in order to make certain in most instances for tax purposes it was as a partnership. Senator Cook then asked if proposed language regarding restrictions on the transfer would operate in the same manner as restrictions on a transfer having to do with a partnership. Mr. Fowler replied, "Yes." As to whether the language was the same, Mr. Fowler said the language was not the same, but the

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concept was the same. In general, Mr. Fowler stated, it could be assumed a reasonable court would look at that portion of the limited liability company the same way it looked at a partnership, although he had not made a detailed comparison of a limited liability company and the Uniform Partnership Act to pick up all the nuances and differences. Senator Cook asked if that should be done in order to completely satisfy the issue there were no problems presented with the bill. Mr. Fowler said he did not believe this was necessary because the purpose for doing it was to take advantage of Internal Revenue Code provisions; and they were employing language in a statutory scheme taken in large part from Wyoming which had received favorable treatment by the Internal Revenue Service for tax purposes.

Following further discussion, Senator Tyler asked if there was a plan for disseminating the information to the public, and in particular, the non-profit and small "mom and pop" operators. Ms. Woodgate assured Senator Tyler they would be doing a mailing to all of the non-profit corporations to let them know what was happening, time frame for changes, etc.

Referring to the Governor's Business Activities Tax (BAT) Senator Neal asked what would happen to a company that was switched to a limited liability partnership. Would they have to pay the tax? Mr. Fowler replied he did not know as he had not read the BAT bill to determine whether or not it covered limited liability companies. Chairman Sader asked the Legislative Counsel Research Analyst to let them know what the interplay would be between the current BAT proposals and the corporate entities proposed by A.B. 655.

Senator Neal also asked in what way minority stockholders would be protected in mergers. Recalling past legislative actions, Chairman Sader reminded committee members certain provisions of the statutes enacted in 1987 had been declared unconstitutional. Some of these same statutory provisions had been repealed by the proposed A.B. 655. If these provisions had been in effect in the mid-1980's, Chairman Sader stated they would probably not have seen the problems now being encountered by Harrah's Corporation, Bally's and Caesar's. In these instances, minority stockholders would have been much better protected by the provisions in A.B. 655 than what had been enacted in 1987 and 1989. Discussion followed.

Brief testimony was taken from Ken Woloson of the law firm of Schrect, Jones, Bernhard, Woloson and Godfrey in Las Vegas and a member of the Corporation Subcommittee, a subcommittee of the State Bar Business Law Committee. Accompanying Mr.

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Woloson was Douglas Crosley of the law firm of Jones, Jones, Close and Brown in Las Vegas who had also participated in the Corporation Subcommittee. Concerning the business law section, Mr. Woloson said there had been a series of meetings to work out language and consequently, the Vargas and Bartlett report now essentially represented a harmonized view except there had been recommendations to preserve certain rules related to capital structure, stated capital and the ability to pay dividends. This concept had found favor with the majority of the members of the Executive Committee, subject to subsequent agreement of specific language; however, this agreement had not yet been reached.

Mark Goldstein, an attorney with the law firm of Lionel, Sawyer and Collins and appearing on his own behalf, submitted Exhibit D, a copy of his prepared testimony. There were two areas which needed more work, Mr. Goldstein opined; however, he felt the overall effect of the proposed legislation was so positive if it was impossible to find time to address the amendments set out in Exhibit D, his advice was to pass A.B. 655 as written with the understanding that people who wished to speak for investors could return in 1993 and ask for revisions at that time.

Mr. Woloson said he was in attendance primarily as a representative of the State Bar Business Law Section Executive Committee to state for the record the Section's position. In reference to certain sections in A.B. 655, they took no official position other than to point out provisions in the new bill which could, and possibly would, be interpreted to be "anti-takeover" provisions. Mr. Woloson said he thought those provisions were primarily found in the following areas of A.B. 655:

1. The amendment to existing NRS Section 78.120 (as seen on page 27-b of the "Study of Nevada Corporate Law") adding subsection 3, which read, "The selection of a period for the achievement of corporate goals is the responsibility of the directors;"

2. Section 2 of A.B. 655 which dealt with what was referred to as the "other constituency's" concept on the Board of Directors; i.e., is the Board of Directors solely responsible for the shareholders or may a Board of Directors consider other factors in the existence of the corporation?

3. Regarding Sections 43 to 70, the area referred to as a "Business Combination Law," the Business Law Section as an

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organization did not recommend either approval or rejection of those sections.

He said they would like to point out if Section 2 remained in the bill and was enacted, the Business Law Section strongly felt the last sentence of Subsection 3 should be retained. Without retaining this section, Mr. Woloson said they felt there was a potential for opening a pandora's box for meritless litigation against corporations.

Ande Engleman, representing the Nevada State Press Association, said she opposed the repeal of NRS 80.190 (Exhibit E) and NRS 80.230 (Exhibit F). Ms. Engleman said, "These public statements are the only piece of public information provided without cost to the people of this state about those corporations using our state for incorporation purposes. In the past, these statements have been utilized to debunk false sales statements, fake offerings and misrepresentations as to profit. When then-Governor Richard Bryan wanted to know what the profits for Humana Hospital were, he compared them to the statement of publications provided to him along with an affidavit of publication by a newspaper for no charge. The Insurance Commissioner has utilized these published statements for comparison to file documents and the cost to the corporation to have these statements published is \$25 to \$29.50, depending upon which newspaper it goes into. Nevada is well known for its lack of information available about foreign corporations. Unfortunately, a number of foreign corporations are not the most honest. More than a few scams have turned out to be Nevada corporations giving Nevada a national image of being soft on such businesses. It doesn't matter that they're operating elsewhere; Nevada is their home. ...". Ms. Engleman also asked for additional time to study the bill as a whole.

Sam McMullen, representing United Way of Nevada, submitted Exhibit G, and explained the proposals depicted therein.

Representing McLaughlin Association, Martin Lane explained the operation of his firm and stated he would testify neither in favor or opposition to A.B. 655 as they had had no time to analyze the study. They therefore objected to what Mr. Lane referred to as "the unseemly haste" in which the bill had suddenly appeared and been heard. Chairman Sader told Mr. Lane the study had been out since July 1990 and was almost word-for-word a copy of A.B. 655. Mr. Lane reiterated his request to hold the bill in order to allow him more time to analyze the provisions.

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Date: May 7, 1991
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Ray Moberg, a manager/partner in the Reno office of the accounting and auditing firm of Ernest and Young, told the committee he supported Mr. Fowler's comments regarding the terms of "par value" and "stated value," and went on to explain his position.

Referring to statements regarding NRS 80.190, Mr. Woloson said he and the Subcommittee strongly recommended this be repealed for the following reasons:

1. Because it was clearly unconstitutional to impose requirements upon foreign corporations which were not imposed upon Nevada corporations; and

2. The requirement imposed was very ambiguous in that the words, "statement of its last calendar year's business" did not truly explain what was to be included in the statement and did not necessarily, by its terms, require solicitation of the information those who had testified suggested it might.

Referring to Ms. Engleman's testimony, Cindy Woodgate explained under NRS 80.190 there was no requirement for that publication to be filed with the Secretary of State's Office; nor did they know when it was published or when it was not published. As to the penalty, the only way for the Secretary of State's Office to determine if the annual statement was published was to have an individual buy every publication from every corporation in the state of Nevada for 365 days of the year, to determine if a company had published its annual statement. If there was no publication, this fact would be made known to the Attorney General's Office for prosecution and levy of the \$100/month penalty for each month unpublished. The Secretary of State's Office did not have the personnel to do this. If there was no appetite to repeal this section, Ms. Woodgate asked the Legislature to set up specific guidelines applicable to all corporations.

Clarifying her position, Ms. Engleman reminded the others there were only 30 newspapers in the state of Nevada adjudicated to publish this type of annual statement and the historical use of the statute justified retaining the statutes.

Minutes of the Nevada State Legislature
Joint Senate and Assembly Committees on Judiciary
Date: May 7, 1991
Page: 11


There being no further time for testimony, Chairman Sader indicated the bill would probably be further processed in work session the following week, and the meeting adjourned at 10:10 a.m.

RESPECTFULLY SUBMITTED:




Iris Bellinger, Committee Secretary

APPROVED BY:

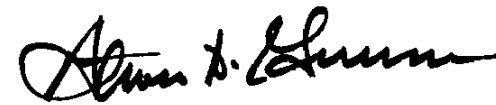


Robert Sader, Chairman
Assembly Judiciary Committee



Dina Titus, Co-Chairman
Senate Judiciary Committee

06



CLERK OF THE COURT

JOIN
COHEN|JOHNSON|PARKER|EDWARDS

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Attorneys for Margaret Cotter,
Ellen Cotter, Douglas McEachern, Guy Adams,
Edward Kane, Judy Coddington, and Michael Wrotniak

EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

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

Plaintiff,

v.

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

Defendants,

and

Case No.: A-15-719860-B
Dept. No.: XI

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

Related and Coordinated Cases

BUSINESS COURT

**MARGARET COTTER, ELLEN
COTTER, GUY ADAMS, EDWARD
KANE, DOUGLAS McEACHERN,
JUDY CODDINGTON, AND MICHAEL
WROTONIAK'S JOINDER TO
READING INTERNATIONAL, INC.'S
MOTION TO RECONSIDER OR
CLARIFY ORDER GRANTING
JAMES J. COTTER, JR.'S MOTION
TO COMPEL PRODUCTION OF
DOCUMENTS AND
COMMUNICATIONS RELATED TO
ADVICE OF COUNSEL DEFENSE
ON ORDER SHORTENING TIME**

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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,

v.

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,

and

READING INTERNATIONAL, INC., a Nevada corporation;

Nominal Defendant.

COMES NOW Defendants Ellen Cotter, Margaret Cotter, Guy Adams, Michael Wrotniak, Ed Kane, Judy Coddington, and Doug McEachern, by and through their counsel of record, and hereby submit this *Joinder to Reading International, Inc.'s Motion to Reconsider or Clarify Order Granting James J. Cotter, Jr.'s Motion to Compel Production of Documents and Communications Related to Advice of Counsel Defense on Order Shortening Time*. As Reading Directors, each of the joining Defendants has an interest in maintaining the confidentiality of privileged communications to, from, or including Company counsel. The joining Defendants agree with the factual and legal arguments made by Reading in its Motion and hereby join in such arguments as Defendants and Company Directors.

Dated: October 11, 2016.

COHEN|JOHNSON|PARKER|EDWARDS

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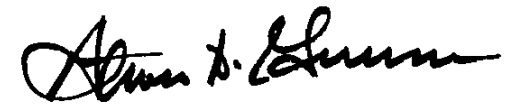
*Attorneys for Defendants Margaret Cotter,
Ellen Cotter, Douglas McEachern, Guy Adams,
Edward Kane, Judy Coddington, and Michael
Wrotniak*

CERTIFICATE OF SERVICE

Pursuant to Nev. R. Civ. P. 5(b)(2)(D) and E.D.C.R. 8.05, I hereby certify that on this day, I caused a true and correct copy of **MARGARET COTTER, ELLEN COTTER, GUY ADAMS, EDWARD KANE, DOUGLAS McEACHERN, JUDY CODDING, AND MICHAEL WROTNIAK'S JOINDER TO READING INTERNATIONAL, INC.'S MOTION TO RECONSIDER OR CLARIFY ORDER GRANTING JAMES J. COTTER, JR.'S MOTION TO COMPEL PRODUCTION OF DOCUMENTS AND COMMUNICATIONS RELATED TO ADVICE OF COUNSEL DEFENSE** to be served via the Court's Wiznet E-Filing system on all registered an active parties.

Dated: October 11, 2016

/s/ Sarah Gondek
An employee of Cohen|Johnson|Parker|Edwards



CLERK OF THE COURT

NEOJ
MARK E. FERRARIO, ESQ.
(NV Bar No. 1625)
KARA B. HENDRICKS, ESQ.
(NV Bar No. 7743)
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Counsel for Reading International, Inc.

DISTRICT COURT
CLARK COUNTY, NEVADA

In the Matter of the Estate of
JAMES J. COTTER,
Deceased.

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

Plaintiff,

v.

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.

Case No. A-15-719860-B
Dept. No. XI

Coordinated with:

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

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

**NOTICE OF ENTRY OF ORDER
GRANTING SETTLEMENT WITH T2
PLAINTIFFS AND FINAL
JUDGMENT**

GREENBERG TRAURIG, LLP
3773 Howard Hughes Parkway, Suite 400 North
Las Vegas, Nevada 89169
Telephone: (702) 792-3773
Facsimile: (702) 792-9002

1 TO: All parties and their counsel of record:

2 YOU AND EACH OF YOU will please take notice that on October 20, 2016, the Court
3 entered the *Order Granting Settlement with T2 Plaintiffs and Final Judgment*, a copy of which
4 is attached hereto as Exhibit A.

5 DATED: this 20th day of October, 2016.

6 GREENBERG TRAURIG, LLP

7
8 /s/ Mark E. Ferrario

9 MARK E. FERRARIO (NV Bar No. 1625)
10 KARA B. HENDRICKS (NV Bar No. 7743)
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12 3773 Howard Hughes Parkway, Suite 400 N.
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14 FerrarioM@gtlaw.com
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17 *Counsel for Reading International, Inc.*
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CERTIFICATE OF SERVICE

Pursuant to Nev. R. Civ. P. 5(b)(2)(D) and E.D.C.R. 8.05, I certify that on this day, I caused a true and correct copy of the forgoing *Notice of Entry of Order Granting Settlement with T2 Plaintiffs and Final Judgment* to be filed and served via the Court's Wiznet E-Filing system on all registered and active parties. The date and time of the electronic proof of service is in place of the date and place of deposit in the mail.

DATED: this 20th day of October, 2016.

/s/ Andrea Lee Rosehill

An employee of GREENBERG TRAURIG, LLP

EXHIBIT A



CLERK OF THE COURT

ORDR
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hendricksk@gtlaw.com

Counsel for Reading International, Inc.

DISTRICT COURT

CLARK COUNTY, NEVADA

JAMES J. COTTER, JR.,

Plaintiff,

v.

READING INTERNATIONAL, INC., a
Nevada corporation; DOES 1-100, and
ROE ENTITIES, 1-100, inclusive,

Defendants.

Case No. A-15-719860-B
Dept. XI

Coordinated with:

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

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

In the Matter of the Estate of

JAMES J. COTTER,

Deceased.

**ORDER GRANTING SETTLEMENT
WITH T2 PLAINTIFFS AND FINAL
JUDGMENT**

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

Plaintiff,

v.

MARGARET COTTER, et al,

Defendants.

**Hearing Date: October 6, 2016
Time: 8:30a.m. and 1:00 p.m.**

Presently pending is the Joint Motion for Final Approval of Settlement and Dismissal (“Joint Motion”), filed by Intervenor Plaintiffs T2 Partners Management, LP, T2 Accredited Fund, LP, T2 Qualified Fund, LP, Tilson Offshore Fund, LTD., T2 Partners Management I, LLC, T2 Partners Management Group, LLC, JMG Capital Management, LLC, Pacific Capital Management, LLC, and Defendants Margaret Cotter, Ellen Cotter, Guy Adams, Edward Kane, Douglas McEachern, William Gould, Judy Coddington, Michael Wrotniak, Craig Tompkins, and Nominal Defendant, Reading International, Inc. The Court having reviewed the Motion and grounds therefore, having heard any objections thereto, and having heard the arguments of the parties, FINDS AS FOLLOWS:

1. The Court previously granted preliminary approval of the proposed settlement based upon the terms as set forth in the Joint Motion for Preliminary Approval of Settlement of Derivative Claims on August 4, 2016. At that time, the Court determined that settlement appeared presumptively valid, subject only to any objections at the final approval hearing. The Court also approved a Notice of Settlement (“Notice”) to be provided to shareholders of Reading International Inc. (“RDI”);

2. The Nevada Rules of Civil Procedure and due process have been satisfied in connection with the Notice;


3. Subsequent to service of the Notice, the Court received three objections to the proposed settlement from: James J. Cotter, Jr.; Diamond A Partners, L.P. and Diamond A. Investors, L.P.; and Mark Cuban; and

4. The Court after considering all objections and responses thereto and having held a hearing on October 6, 2016, the Court modified the Settlement Agreement and Release of Claims (“Modified Settlement Agreement”). The Modified Settlement Agreement is set forth in **Exhibit 1**, hereto.

Based on such findings, the Court, **HEREBY ORDERS THE FOLLOWING:**

1. The Modified Settlement Agreement is fair, reasonable, adequate and in the best interest of stockholders;
2. Pursuant to the request of Defendants and the Intervening Plaintiffs, all claims contained in the First Amended Complaint filed by T2 Partners Management, LP, T2 Accredited Fund, LP, T2 Qualified Fund, LP, Tilson Offshore Fund, LTD., T2 Partners Management 1, LLC, T2 Partners Management Group, LLC, JMG Capital Management, LLC, Pacific Capital Management, LLC, are dismissed in their entirety with prejudice.
3. The Intervenor Plaintiffs, the Defendants, and the Nominal Defendant shall each be responsible for their own attorneys' fees and costs.

DATED this 10th day of October, 2016.


DISTRICT COURT JUDGE

Jur

Respectfully submitted by:

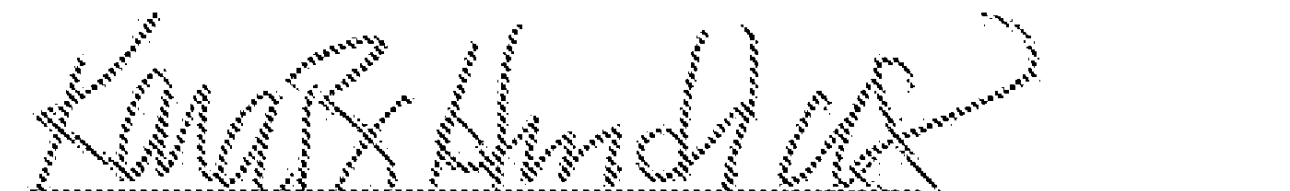
ROBERTSON & ASSOCIATES, LLP

/s/ Alexander Robertson

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*Attorneys for Plaintiffs and Intervenors, T2
Partners Management, LP, et al.*

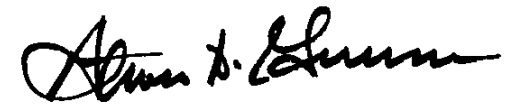
GREENBERG TRAURIG, LLP


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Counsel for Reading International, Inc.

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|---|---|
| <p><u>/s/ Marshall M. Searcy, III</u> CHRISTOPHER TAYBACK (Admitted <i>pro hac vice</i>) MARSHALL M. SEARCY III (Admitted <i>pro hac vice</i>) QUINN EMANUEL URQUHART & SULLIVAN, LLP 865 S. Figueroa Street, 10th Floor Los Angeles, California, 90017 christayback@quinnemanuel.com marshallsearcy@quinnemanuel.com</p> <p>H. STAN JOHNSON (SBN 265) 255 E. Warm Springs Road, Suite 100 Las Vegas, Nevada 89119 SJohnson@CohenJohnson.com</p> <p><i>Attorneys for Defendants Margaret Cotter, Ellen Cotter, Guy Adams, Edward Kane Douglas McEachern, Judy Coddington and Michael Wrotniak</i></p> | <p><u>/s/ Shoshana Bannett</u> SHOSHANA E. BANNETT (Admitted <i>pro hac vice</i>) BIRD, MARELLA, BOXER, WOLPERT, NESSIM, DROOKS, LINCENBERG & RHOW, P.C. 1875 Century Park East, 23rd Floor Los Angeles, California 90067 EER@BirdMarella.com</p> <p>DONALD A. LATTIN (NV BAR 0693) 4785 Caughlin Parkway Reno, Nevada 89519 dlattin@mclrenolaw.com</p> <p><i>Attorneys for Defendants William Gould</i></p> |
| <p>SANTORO WHITMIRE, LTD.</p> <p><u>/s/ Nicholas J. Santoro</u> NICHOLAS J. SANTORO (NV BAR 0532) 10100 Charleston Boulevard, Suite 250 Las Vegas, Nevada 89135 nsantoro@santoronevada.com</p> <p><i>Attorneys for Craig Tompkins</i></p> | |



CLERK OF THE COURT

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(NV Bar No. 1625)
KARA B. HENDRICKS, ESQ.
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cowdent@gtlaw.com

Counsel for Reading International, Inc.

DISTRICT COURT
CLARK COUNTY, NEVADA

In the Matter of the Estate of
JAMES J. COTTER,
Deceased.

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

Plaintiff,

v.

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.

Case No. A-15-719860-B
Dept. No. XI

Coordinated with:

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

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

**NOTICE OF ENTRY OF ORDER
GRANTING SETTLEMENT WITH T2
PLAINTIFFS AND FINAL
JUDGMENT WITH EXHIBIT 1
ATTACHED**

GREENBERG TRAURIG, LLP
3773 Howard Hughes Parkway, Suite 400 North
Las Vegas, Nevada 89169
Telephone: (702) 792-3773
Facsimile: (702) 792-9002

1 TO: All parties and their counsel of record:

2 YOU AND EACH OF YOU will please take notice that on October 21, 2016, the Court
3 entered the ***Order Granting Settlement with T2 Plaintiffs and Final Judgment with Exhibit 1***
4 ***Attached***, a copy of which is attached hereto as Exhibit A.

5 DATED: this 21st day of October, 2016.

6 GREENBERG TRAURIG, LLP

7
8 /s/ Mark E. Ferrario

9 MARK E. FERRARIO (NV Bar No. 1625)
10 KARA B. HENDRICKS (NV Bar No. 7743)
11 TAMID. COWDEN (NV Bar No. 8994)
12 3773 Howard Hughes Parkway, Suite 400 N.
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17 *Counsel for Reading International, Inc.*
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CERTIFICATE OF SERVICE

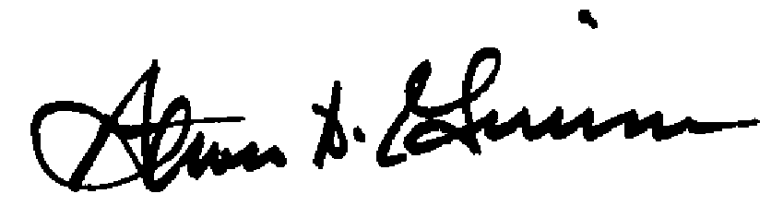
Pursuant to Nev. R. Civ. P. 5(b)(2)(D) and E.D.C.R. 8.05, I certify that on this day, I caused a true and correct copy of the forgoing *Notice of Entry of Order Granting Settlement With T2 Plaintiffs and Final Judgment with Exhibit 1 Attached* to be filed and served via the Court's Wiznet E-Filing system on all registered and active parties. The date and time of the electronic proof of service is in place of the date and place of deposit in the mail.

DATED: this 21st day of October, 2016.

/s/ Andrea Lee Rosehill

An employee of GREENBERG TRAURIG, LLP

EXHIBIT A



CLERK OF THE COURT

ORDR

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(NV BAR NO. 1625)
KARA B. HENDRICKS, ESQ.
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ferrariom@gtlaw.com
hendricksk@gtlaw.com

Counsel for Reading International, Inc.

DISTRICT COURT

CLARK COUNTY, NEVADA

JAMES J. COTTER, JR.,

Plaintiff,

v.

READING INTERNATIONAL, INC., a
Nevada corporation; DOES 1-100, and
ROE ENTITIES, 1-100, inclusive,

Defendants.

In the Matter of the Estate of

JAMES J. COTTER,

Deceased.

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

Plaintiff,

v.

MARGARET COTTER, et al,

Defendants.

Case No. A-15-719860-B
Dept. XI

Coordinated with:

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

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

**ORDER GRANTING SETTLEMENT
WITH T2 PLAINTIFFS AND FINAL
JUDGMENT**

**Hearing Date: October 6, 2016
Time: 8:30a.m. and 1:00 p.m.**

1 Presently pending is the Joint Motion for Final Approval of Settlement and Dismissal
2 ("Joint Motion"), filed by Intervenor Plaintiffs T2 Partners Management, LP, T2 Accredited
3 Fund, LP, T2 Qualified Fund, LP, Tilson Offshore Fund, LTD., T2 Partners Management I,
4 LLC, T2 Partners Management Group, LLC, JMG Capital Management, LLC, Pacific Capital
5 Management, LLC, and Defendants Margaret Cotter, Ellen Cotter, Guy Adams, Edward Kane,
6 Douglas McEachern, William Gould, Judy Coddington, Michael Wrotniak, Craig Tompkins, and
7 Nominal Defendant, Reading International, Inc. The Court having reviewed the Motion and
8 grounds therefore, having heard any objections thereto, and having heard the arguments of the
9 parties, FINDS AS FOLLOWS:

10 1. The Court previously granted preliminary approval of the proposed settlement
11 based upon the terms as set forth in the Joint Motion for Preliminary Approval of Settlement of
12 Derivative Claims on August 4, 2016. At that time, the Court determined that settlement
13 appeared presumptively valid, subject only to any objections at the final approval hearing. The
14 Court also approved a Notice of Settlement ("Notice") to be provided to shareholders of Reading
15 International Inc. ("RDI");

16 2. The Nevada Rules of Civil Procedure and due process have been satisfied in
17 connection with the Notice;

18 3. Subsequent to service of the Notice, the Court received three objections to the
19 proposed settlement from: James J. Cotter, Jr.; Diamond A Partners, L.P. and Diamond A.
20 Investors, L.P.; and Mark Cuban; and

21 4. The Court after considering all objections and responses thereto and having held a
22 hearing on October 6, 2016, the Court modified the Settlement Agreement and Release of Claims
23 ("Modified Settlement Agreement"). The Modified Settlement Agreement is set forth in **Exhibit**
24 **1**, hereto.

25 Based on such findings, the Court, HEREBY ORDERS THE FOLLOWING:
26
27

1. The Modified Settlement Agreement is fair, reasonable, adequate and in the best interest of stockholders;
2. Pursuant to the request of Defendants and the Intervening Plaintiffs, all claims contained in the First Amended Complaint filed by T2 Partners Management, LP, T2 Accredited Fund, LP, T2 Qualified Fund, LP, Tilson Offshore Fund, LTD., T2 Partners Management I, LLC, T2 Partners Management Group, LLC, JMG Capital Management, LLC, Pacific Capital Management, LLC, are dismissed in their entirety with prejudice.
3. The Intervenor Plaintiffs, the Defendants, and the Nominal Defendant shall each be responsible for their own attorneys' fees and costs.

DATED this 20th day of October, 2016.


DISTRICT COURT JUDGE

Jur

Respectfully submitted by:

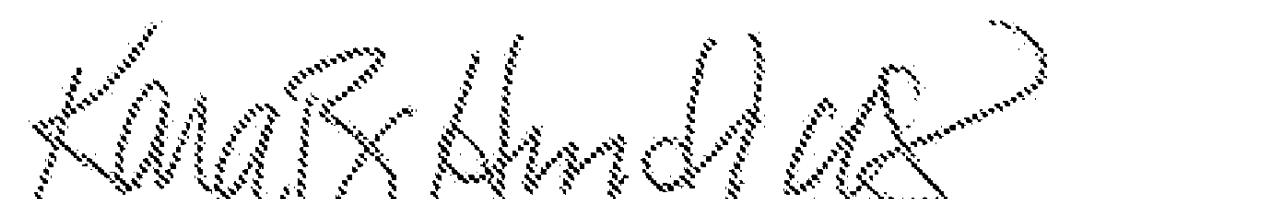
ROBERTSON & ASSOCIATES, LLP

/s/ Alexander Robertson

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ARobertson@ARobertsonLaw.com

*Attorneys for Plaintiffs and Intervenors, T2
Partners Management, LP, et al.*

GREENBERG TRAURIG, LLP


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Counsel for Reading International, Inc.

/s/ Marshall M. Searcy, III
CHRISTOPHER TAYBACK
(Admitted *pro hac vice*)
MARSHALL M. SEARCY III
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*Attorneys for Defendants Margaret Cotter,
Ellen Cotter, Guy Adams, Edward Kane
Douglas McEachern, Judy Coddling and
Michael Wrotniak*

SANTORO WHITMIRE, LTD.

/s/ Nicholas J. Santoro
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Attorneys for Craig Tompkins

/s/ Shoshana Barnett
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Attorneys for Defendants William Gould

EXHIBIT 1

LV 419863888v1

SETTLEMENT AGREEMENT AND RELEASE OF CLAIMS

THIS SETTLEMENT AGREEMENT AND RELEASE OF CLAIMS ("Settlement Agreement") is made this ____ day of October 2016 (the "Execution Date") by and between T2 PARTNERS MANAGEMENT, LP, T2 ACCREDITED FUND, LP, T2 QUALIFIED FUND, LP, TILSON OFFSHORE FUND, LTD., T2 PARTNERS MANAGEMENT I, LLC, T2 PARTNERS MANAGEMENT GROUP, LLC, JMG CAPITAL MANAGEMENT, LLC, PACIFIC CAPITAL MANAGEMENT, LLC, WHITNEY TILSON AND JONATHAN GLASER ("T2 Plaintiffs") and MARGARET COTTER, ELLEN COTTER, GUY ADAMS, EDWARD KANE, DOUGLAS MCEACHERN, WILLIAM GOULD, JUDY CODDING, MICHAEL WROTONIAK, CRAIG TOMPKINS and READING INTERNATIONAL, INC. ("Reading" or the "Company") (collectively "Defendants"). T2 Plaintiffs and Defendants are collectively referred to as the "Parties" and each as a "Party."

This Settlement Agreement is subject to Court approval as set forth in the Notice of Pendency and Settlement of Action which is attached hereto as **Exhibit A**.

RECITALS

WHEREAS, on June 12, 2015, Reading's Board of Directors terminated James J. Cotter, Jr. as the President and Chief Executive Officer of Reading.

WHEREAS, that same day, Mr. Cotter, Jr. filed a lawsuit, styled as both an individual and a derivative action, and titled "James J. Cotter, Jr., individually and derivatively on behalf of Reading International, Inc. vs. Margaret Cotter, et al." against the Company, Ellen Cotter, Margaret Cotter, Guy Adams, William Gould, Edward Kane, Douglas McEachern, and Timothy Storey in the Eighth Judicial District Court of the State of Nevada (the "James Cotter, Jr. Action").

WHEREAS, on August 6, 2015, the Company received notice that a Motion to Intervene in the James Cotter, Jr. Action and a proposed derivative complaint had been filed by the T2 Plaintiffs in the Eighth Judicial District Court. On August 11, 2015, the Court granted the motion of the T2 Plaintiffs, allowing these plaintiffs to file their complaint (the "T2 Complaint").

WHEREAS, on September 9, 2015, certain of the Individual Defendants filed a Motion to Dismiss the T2 Complaint. The Company joined this Motion to Dismiss on September 14, 2015. The hearing on this Motion to Dismiss was vacated as the T2 Plaintiffs voluntarily withdrew the T2 Complaint, with the parties agreeing that T2 Plaintiffs would have leave to amend the T2 Complaint.

WHEREAS, on February 12, 2016, the T2 Plaintiffs filed an amended complaint (the "Amended T2 Complaint"). The T2 Plaintiffs purported to bring a derivative action on behalf of Reading and its stockholders, and alleged in their Amended T2 Complaint various violations of fiduciary duty, abuse of control, gross mismanagement and corporate waste by the defendants (the "T2 Action"). More specifically the Amended T2 Complaint sought the reinstatement of James J. Cotter, Jr. as President and Chief Executive Officer and certain monetary damages, as well as equitable injunctive relief, attorney fees, and costs of suit. The defendants in the T2 Action are the same as named in the James Cotter, Jr. Action as well as Director Judy Coddington,

Director Michael Wrotniak, and Company legal counsel, Craig Tompkins (collectively and without differentiation, the “Individual Defendants” and each an “Individual Defendant”). The Amended T2 Complaint deleted its request for an order disbanding Reading’s Executive Committee and for an order “collapsing the Class A and B stock structure into a single class of voting stock.” The Amended T2 Complaint added a request for an order setting aside the election results from the 2015 Annual Meeting of Stockholders, based on an allegation that Ellen Cotter and Margaret Cotter were not entitled to vote the shares of Class B Common Stock held of record by the Estate of James Cotter, Sr. and the Living Trust established by James Cotter, Sr.

WHEREAS, in connection with the litigation, James Cotter, Jr. and the T2 Plaintiffs conducted extensive discovery on these matters, which included depositions of Guy Adams, Margaret Cotter, Ellen Cotter, William Gould, Edward Kane, Douglas McEachern, Timothy Storey, and James Cotter, Jr. In response to discovery requests, Reading produced over 13,900 documents, and the Individual Defendants produced over 7,900 documents.

WHEREAS, in connection with efforts to settle this matter, the Parties engaged in extensive discussions.

WHEREAS, the Parties wish to settle all claims asserted in the T2 Action.

WHEREAS, all Parties recognize the time and expense that would be incurred by further litigation and the uncertainties and risks inherent in such litigation and have concluded that the interests of the Parties, including the stockholders or Reading, would be best served by a settlement of the T2 Action on the terms reflected herein.

NOW THEREFORE, in consideration of the mutual releases, covenants and undertakings hereinafter set forth, and for other good and valuable consideration, the sufficiency of which is hereby acknowledged, the Parties agree as follows:

TERMS

1. Incorporation of Recitals

The foregoing recitals are incorporated into this Settlement Agreement as if fully set forth herein.

2. Consideration

As consideration for the Settlement and dismissal with prejudice of the T2 Action, the Parties have mutually agreed upon the terms of a press release discussing the reasons for the Settlement and further agree, as set forth hereinbelow, not to disparage each other in connection with the T2 Action.

3. Reasons for Settlement

a. The T2 Plaintiffs brought derivative claims with the intention of ensuring that the interests of all Reading stockholders were being appropriately protected. In connection with the litigation, the T2 Plaintiffs conducted extensive discovery on the matters alleged in the T2 and

Jim Cotter, Jr. Complaints, discovery that included depositions of Guy Adams, Margaret Cotter, Ellen Cotter, William Gould, Edward Kane, Douglas McEachern, Timothy Storey, and James Cotter, Jr. Following their efforts on behalf of the stockholders, the T2 Plaintiffs have concluded that continuing with their derivative stockholder litigation would provide no further benefit to Reading's stockholders, including the T2 Plaintiffs.

The T2 Plaintiffs believe that the Settlement provides substantial and immediate benefits for Reading and its current stockholders. In addition to these substantial benefits, T2 Plaintiffs and their counsel have considered: (i) the attendant risks of continued litigation and the uncertainty of the outcome of the T2 Action; (ii) the probability of success on the merits; (iii) the inherent problems of proof associated with, and possible defenses to, the claims asserted in the T2 Action; (iv) the desirability of permitting the settlement to be consummated according to its terms; (v) the expense and length of continued proceedings necessary to prosecute the T2 Action against the Defendants through trial and appeals; (vi) the T2 Plaintiffs' confidence in the Reading Board of Directors and its management after conducting extensive discovery and (vii) the conclusion of the T2 Plaintiffs and their counsel that the terms and conditions of the Settlement Agreement are fair, reasonable, and adequate, and that it is in the best interests of Reading and its current stockholders to settle the T2 Action on the terms set forth herein. Based on T2 Plaintiffs' Counsel's thorough review and analysis of the relevant facts, allegations, defenses, and controlling legal principles, T2 Plaintiffs' Counsel believes that the settlement set forth in this Settlement Agreement is fair, reasonable, and adequate, and confers substantial benefits upon Reading and its current stockholders. Based upon T2 Plaintiffs' Counsel's evaluation as well as T2 Plaintiffs' own evaluation, T2 Plaintiffs have determined that the settlement is in the best interests of Reading and its current stockholders and has agreed to settle the T2 Action upon the terms and subject to the conditions set forth in the Settlement Agreement and summarized herein. T2 Plaintiffs believe that Defendants will continue to act in good faith to use best practices with regard to board governance, protection of stockholder rights, and maximizing value for all its stockholders, which actions shall include (i) providing to the Compensation Committee's independent compensation consultant the names of certain companies previously suggested by the T2 Plaintiffs as possible market comparables for consideration in 2017 and (ii) the Company anticipates continuing to hold regular corporate earnings conference calls and to continue to engage with investors around earnings. Further Management has informed T2 that incident to the financing of pre-development activities at the site, it anticipates refinancing the existing loan between Reading and Sutton Hill Properties, LLC.

b. The Defendants deny any and all allegations of wrongdoing, liability, violations of law or damages arising out of or related to any of the conduct, statements, acts, or omissions alleged in the T2 Action, and maintain that their conduct was at all times proper, in the best interests of Reading and its stockholders, and in compliance with applicable law. The Defendants further deny any breach of fiduciary duties or aiding and abetting any breach of such a fiduciary duty. The Defendants also deny that Reading or its stockholders were harmed by any conduct of the Defendants alleged in the T2 Action or that could have been alleged therein. Each of the Defendants asserts that, at all relevant times, they acted in good faith and in a manner they reasonably believed to be in the best interests of Reading and all of its stockholders.

c. Defendants, however, recognize the uncertainty and the risk inherent in any litigation, and the difficulties and substantial burdens, expense, and length of time that may be necessary to defend this proceeding through the conclusion of trial, post-trial motions, and appeals. In particular, Defendants are cognizant of the burdens this litigation is imposing on Reading and its management, and the impact that continued litigation will have on management's ability to continue focusing on the creation of stockholder value. Defendants wish to eliminate the uncertainty, risk, burden and expense of further litigation, and to permit the operation of Reading without further distraction and diversion of its directors and executive personnel with respect to the T2 Action. Defendants have therefore determined to settle the T2 Action on the terms and conditions set forth in the Settlement Agreement solely to put the Released Claims (as defined herein) to rest finally and forever, without in any way acknowledging any wrongdoing, fault, liability, or damages.

4. Release

Subject to Court approval, a judgment will be entered (the "Judgment"). Upon entry of the Judgment, the T2 Action will be dismissed in its entirety and with prejudice and the following releases will occur:

a. **Release of Claims by Reading, T2 Plaintiffs and Individual Defendants:** The T2 Plaintiffs, who have purported to bring derivative claims on behalf of Reading and all its stockholders, shall fully, finally, and forever release, settle, and discharge, and shall forever be enjoined from prosecuting, the Released T2 Plaintiffs' Claims.

i. **"Released T2 Plaintiffs' Claims"** means all any and all claims, that have been asserted in the T2 Action by T2 Plaintiffs derivatively on behalf of Reading against any of the Individual Defendants. The Parties acknowledge that this Release does not serve to require dismissal of the claims raised by James Cotter Jr. in his Second Amended Complaint.

The Parties acknowledge that this Release does not prevent Reading or the Individual Defendants from raising any counterclaims or defenses in the James Cotter Jr. Action.

b. **Release of Claims by Defendants:** Reading on behalf of itself and the Individual Defendants on behalf of themselves and any other person or entity who could assert any of the Released Defendants' Claims on their behalf, in such capacity only, shall fully, finally, and forever release, settle, and discharge, and shall forever be enjoined from prosecuting, the Released Defendants' Claims against T2 Plaintiffs' Releasees.

i. **"Released Defendants' Claims"** means any and all manner of claims, demands, rights, liabilities, losses, obligations, duties, damages, costs, debts, expenses, interest, penalties, sanctions, fees, attorneys' fees, actions, potential actions, causes of action, suits, agreements, judgments, decrees, matters, issues, and controversies of any kind, nature, or description whatsoever, whether known or unknown, disclosed or undisclosed, accrued or unaccrued, apparent or not apparent, foreseen or unforeseen, matured or not matured, suspected or unsuspected, liquidated or not liquidated, fixed or contingent, including Unknown Claims, whether based on state, local, foreign, federal, statutory, regulatory, common, or other law or rule (including claims within the exclusive jurisdiction of the federal courts), that arise out of or

relate in any way to the institution, prosecution, or settlement of the claims against Defendants in the T2 Action, except for claims relating to the enforcement of the Settlement. For the avoidance of doubt, the Released Defendants' Claims do not include claims based on the conduct of the T2 Plaintiffs' Releasees after the Effective Date.

ii. "T2 Plaintiffs' Releasees" means T2 Plaintiffs and their respective current or former agents, employees, fiduciaries, partners, partnerships, general or limited partners or partnerships, joint ventures, member firms, limited liability companies, corporations, parents, subsidiaries, divisions, affiliates, associated entities, stockholders, principals, officers, directors, managing directors, members, managing members, managing agents, predecessors, predecessors-in-interest, successors, successors-in-interest, assigns, financial or investment advisors, advisors, consultants, investment bankers, entities providing any fairness opinion, underwriters, brokers, dealers, financing sources, lenders, commercial bankers, attorneys, personal or legal representatives, accountants, and associates. T2 Plaintiffs' Releasees do not include, and specifically exclude James Cotter, Jr.

c. Nothing contained in this Settlement Agreement is intended to, or does release any claims that Defendants may have against any of their insurers or that any insurers may have against any Defendant.

5. Submission of Documents to Court

As soon as practicable after this Settlement Agreement has been executed, the Parties shall apply jointly to the Court for entry of an Order substantially in the form attached hereto as **Exhibit B** (the "Preliminary Approval Order"): i) providing among other things, a request for preliminary approval of the Settlement as fair, reasonable, adequate and in the best interest of stockholders; ii) seeking approval of the Notice of Pendency and Settlement of Action; and iii) requesting a Settlement Hearing.

If the Court approves this Settlement, the Parties shall jointly request entry of the proposed Order and Final Judgment substantially in the form attached hereto as **Exhibit C**. The Order and Final Judgment shall, among other things: i) determine the requirements of the Nevada Rules of Civil Procedure and due process have been satisfied in connection with the Notice detailed below; ii) approve the Settlement as fair, reasonable, adequate and in the best interest of stockholders; and iii) dismiss the T2 Action with prejudice on the merits as against any and all Defendants.

6. Notice Of Pendency and Settlement of Action

The Notice of Pendency and Settlement of Action, in substantially the form annexed hereto as **Exhibit A**, shall be mailed by Reading at least 45 calendar days prior to the Settlement Hearing to all stockholders of Reading as listed on the stock registry, to their respective last known address. Furthermore, Reading shall use reasonable efforts to give notice to beneficial owners of Reading common stock by providing, at the expense of Reading additional copies of the Notice of Pendency and Settlement of Action to any record holder requesting the Notice who are entitled to notice.

7. Non Disparagement

The purpose of this Agreement is to resolve the T2 Action for the benefit of the Parties and Reading stockholders. Accordingly the T2 Plaintiffs covenant and agree that they will not engage in any conduct, make or disclose any statement, either orally or in writing, that would cast any Defendant or their affiliates in a false or negative light, and agree not to aid, assist or encourage others to do so, in any fashion or forum. Similarly, Defendants covenant and agree that they will not engage in any conduct, make or disclose any statement, either orally or in writing that would cast the T2 Plaintiffs or their affiliates in a false or negative light, and agree not to aid, assist or encourage others to do so, in any fashion or forum. If any third party makes any inquiry with respect to any of the claims or causes of action alleged against any Party, then the Party to whom such inquiry is made shall only respond that such matters were resolved in a satisfactory manner pursuant to a confidential settlement agreement. Notwithstanding the above, T2 Plaintiffs acknowledge that no Defendant will have responsibility for the actions of any other Defendant or for the actions of James J. Cotter, Jr.

Notwithstanding the above, T2 Plaintiffs acknowledge that this Agreement does not prohibit the Individual Defendants from any disclosures required in their capacity as fiduciaries of Reading. Further, nothing herein shall prevent any Party from testifying truthfully in a court of law and/or complying with a court order.

8. Joint Press Release

The Parties to this Settlement Agreement mutually agree to issue a press release in a form satisfactory to all Parties hereto indicating that the Parties have amicably resolved their disputes to the mutual satisfaction of all Parties. The press release shall not identify any substantive terms or conditions of this Agreement and shall be in a form substantial similar to **Exhibit D**.

9. General Provisions

This Settlement Agreement and compliance with this Settlement Agreement shall not be construed as an admission by any Party of any liability whatsoever, or as admission by any Party of any violation of the rights of the others, violation of any order, law, statute, duty or contract whatsoever.

The Parties hereto represent and acknowledge that in executing this Settlement Agreement they do not rely and have not relied upon any representation or statement made by any of the Parties or by any of the Parties' agents, attorneys or representatives with regard to the subject matter or effect of this Settlement Agreement or otherwise, other than those specifically stated in this written Settlement Agreement. This Settlement Agreement expresses the entire agreement of the Parties hereto with respect to the subject matter hereof. No recitals, covenants, agreements, representations, or warranties of any kind whatsoever have been made or have been relied upon by any Party hereto, except as specifically set forth in this Agreement. All prior discussions and negotiations between the Parties have been or are merged and integrated into, and are superseded by, this Agreement.

10. Mutual Cooperation

The Parties hereby agree to use their best efforts and good faith in carrying out all of the terms of this Settlement Agreement. Each Party hereto shall perform such further acts and execute and deliver such further documents as may be reasonably necessary or convenient to carry out the purposes of this Settlement Agreement.

11. Interpretation of Agreement

None of the Parties shall be deemed to be the drafter of this Settlement Agreement. In the event a court construes this Settlement Agreement, such court shall not construe this Settlement Agreement or any provision hereof against either Party as the drafter of the Settlement Agreement. The headings used in this Agreement are for reference only and shall not affect the construction of the Agreement.

12. Choice of Law

This Settlement Agreement shall be governed by, and construed in accordance with, the laws of the State of Nevada, without regard to conflict of law principles. The Parties agree that the Court shall have exclusive jurisdiction over any action to enforce this Settlement Agreement.

13. Counterparts

This Settlement Agreement may be executed in any number of separate counterparts, each of which shall be deemed an original, but all of which when taken together shall constitute one and the same instrument and fax copies shall be deemed originals.

14. Attorneys' Fees

Each Party shall bear its own costs and attorney fees incurred in connection with this Settlement Agreement. However, if any Party to this Settlement Agreement brings suit against the another Party, the purpose of which is to enforce, challenge, or clarify the terms of this Settlement Agreement, the prevailing party in such action shall be entitled to reimbursement for its actual attorney fees and costs in so enforcing, challenging or clarifying this Settlement Agreement.

15. Notice in Connect with Settlement Agreement

All notices or demands of any kind that any Party is required to or desires to give in connection with this Settlement Agreement shall be in writing and shall be delivered by e-mail and by depositing the notice or demand in the United States mail, postage prepaid, and addressed to the Parties as follows:

| | |
|----------------|--|
| T2 Plaintiffs: | Robertson & Associates, LLP c/o Alexander Robertson, IV 32121 Lindero Canyon Road, Suite 200 Westlake Village, California 91361 |
|----------------|--|

| | |
|--|--|
| Reading International: | Greenberg Traurig, LLP c/o Mark E. Ferrario, Esq. 3773 Howard Hughes Pkwy., Suite 400N Las Vegas, Nevada 89169 Email: mferrario@gtlaw.com |
| Ellen Cotter, Margaret Cotter, Guy Adams, Edward Kane, Douglas McEachern, Judy Coddington and Michael Wrotniak: | Quinn Emanuel Urquhart & Sullivan, LLP c/o Marshall M. Searcy III 865 S. Figueroa Street, 10 th Floor Los Angeles, California, 90017 |
| William Gould: | Bird, Marella, Boxer, Wolpert, Nessim, Drooks, Lincenberg & Rhow, P.C. c/o Ekwon E. Rhow 1875 Century Park East, 23 rd Floor Los Angeles, California, 90067 |
| Craig Tompkins: | Santoro Whitmire, LTD. c/o Nicholas J. Santoro 10100 W. Charleston Blvd. #250 Las Vegas, NV 89135 |

16. Miscellaneous

This Settlement Agreement shall be binding on and inure to the benefit of the Parties, their respective current or former agents, employees, fiduciaries, partners, partnerships, general or limited partners or partnerships, joint ventures, member firms, limited liability companies, corporations, parents, subsidiaries, divisions, affiliates, associated entities, stockholders, principals, officers, directors, managing directors, members, managing members, managing agents, predecessors, predecessors-in-interest, successors, and successors-in-interest. No Party shall assign this Settlement Agreement or any of its rights and obligations hereunder, to any third party. Notwithstanding the above, T2 Plaintiffs acknowledge that no Defendant will have responsibility for the actions of any other Defendant or for the actions of James J. Cotter, Jr.

All of the exhibits hereto are incorporated herein by reference as if set forth herein verbatim, and the terms of all exhibits are expressly made part of this Settlement Agreement.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the Parties hereto have duly executed this Agreement as of the last day set forth below.

Dated this ____ day of _____, 2016.

T2 PARTNERS MANAGEMENT, LP

By: _____
Its: _____

Dated this ____ day of _____, 2016.

T2 QUALIFIED FUND, LP

By: _____
Its: _____

Dated this ____ day of _____, 2016.

T2 PARTNERS MANAGEMENT I, LLC

By: _____
Its: _____

Dated this ____ day of _____, 2016.

JMG CAPITAL MANAGEMENT, LLC

By: _____
Its: _____

Dated this ____ day of _____, 2016.

WHITNEY TILSON

Dated this ____ day of _____, 2016.

MARGARET COTTER

Dated this ____ day of _____, 2016.

T2 ACCREDITED FUND, LP

By: _____
Its: _____

Dated this ____ day of _____, 2016.

TILSON OFFSHORE FUND, LTD.

By: _____
Its: _____

Dated this ____ day of _____, 2016.

T2 PARTNERS MANAGEMENT GROUP, LLC

By: _____
Its: _____

Dated this ____ day of _____, 2016.

PACIFIC CAPITAL MANAGEMENT, LLC

By: _____
Its: _____

Dated this ____ day of _____, 2016.

JONATHAN GLASER

Dated this ____ day of _____, 2016.

ELLEN COTTER

Dated this ____ day of _____, 2016.

GUY ADAMS

Dated this ____ day of _____, 2016.

EDWARD KANE

Dated this ____ day of _____, 2016.

DOUGLAS MCEACHERN

Dated this ____ day of _____, 2016.

WILLIAM GOULD

Dated this ____ day of _____, 2016.

JUDY CODDING

Dated this ____ day of _____, 2016.

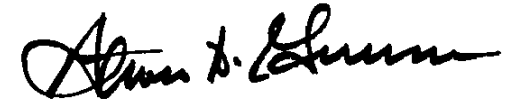
MICHAEL WROTONIAK

Dated this ____ day of _____, 2016.

CRAIG TOMPKINS

Dated this ____ day of _____, 2016.

READING INTERNATIONAL, INC.



CLERK OF THE COURT

RIS
MARK E. FERRARIO, ESQ.
(NV Bar No. 1625)
KARA B. HENDRICKS, ESQ.
(NV Bar No. 7743)
TAMI D. COWDEN, ESQ.
(NV Bar No. 8994)
GREENBERG TRAURIG, LLP
3773 Howard Hughes Parkway
Suite 400 North
Las Vegas, Nevada 89169
Telephone: (702) 792-3773
Facsimile: (702) 792-9002
Email: ferrariom@gtlaw.com
hendricksk@gtlaw.com
cowdent@gtlaw.com

Counsel for Reading International, Inc.

DISTRICT COURT
CLARK COUNTY, NEVADA

In the Matter of the Estate of

JAMES J. COTTER,

Deceased.

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

Plaintiff,

v.

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.

Case No. A-15-719860-B
Dept. No. XI

Coordinated with:

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

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

**READING INTERNATIONAL, INC.'S
REPLY IN SUPPORT OF THE
INDIVIDUAL DEFENDANTS'
MOTION FOR PARTIAL SUMMARY
JUDGMENT NO. 1 RE PLAINTIFF'S
TERMINATION AND
REINSTATEMENT CLAIMS**

Date of Hearing: November 1, 2016

Time: 8:30 a.m.

GREENBERG TRAURIG, LLP
3773 Howard Hughes Parkway, Suite 400 North
Las Vegas, Nevada 89169
Telephone: (702) 792-3773
Facsimile: (702) 792-9002

READING INTERNATIONAL, INC. hereby submits its *Reply in Support of the Individual Defendant's Motion for Partial Summary Judgment No. 1 Re Plaintiff's Termination and Reinstatement Claims and RDI's Joinder Thereto*. Reading International, Inc., ("RDI" or "Company") joins with the Individual Defendants in seeking summary judgment as to the First, Second, Third, and Fourth Causes of Action in the Second Amended Complaint ("SAC") filed by Plaintiff James J. Cotter, Jr. ("Plaintiff" and/or "Cotter, Jr.") to the extent that such claims relate the termination of Cotter Jr.'s and his request for reinstatement. In addition to joining the arguments advanced on behalf of the Individual Defendants, RDI requests judgment in its favor on these claims for the reasons set forth in the attached memorandum of points and authorities, and based on the pleadings and papers filed in this action, and any oral argument of counsel made at the time of the hearing.

DATED: October 21, 2016.

GREENBERG TRAURIG, LLP

/s/ Mark E. Ferrario
MARK E. FERRARIO, ESQ.
(NV Bar No. 1625)
KARA B. HENDRICKS, ESQ.
(NV Bar No. 7743)
TAMI D. COWDEN, ESQ.
(NV Bar No. 8994)
Counsel for Reading International, Inc.

MEMORANDUM OF POINTS AND AUTHORITIES

Cotter, Jr.'s termination and reinstatement claims fail because there is no legal basis – in Nevada or in Delaware – for undoing at the behest of a derivative plaintiff the discretionary and operating level decision of a board of directors to terminate a corporate executive.

Even if every fact that Cotter, Jr. had asserted were true -- i.e., that Directors Guy Adams, Ed Kane, Ellen Cotter and Margaret Cotter were some way or another not "disinterested" and voted in favor of his termination because Cotter, Jr. could not reach agreement with his siblings as to the settlement of their various disputes (including with respect to the ongoing management

of the Company) and Ellen Cotter and Margaret Cotter wanted him out, no breach of fiduciary duty to the Company would be shown. The undisputed evidence is that Cotter, Jr. could *not* work with his sisters despite his sisters each having more than fifteen years of actual work experience with RDI. As a result, management was dysfunctional and corrective action had to be taken. However convinced Cotter, Jr. is of his own superiority, it is simply not a breach of fiduciary duty for directors to determine that executives who actually have experience in the day to day workings of the company are more valuable to that company than someone who (a) was appointed to a position because his father had wished it so and (b) had absolutely no public company management experience, or any hands on experience in either to the Company's main two lines of business: cinema exhibition and real estate.

Additionally, despite the fact that Nevada law governs these proceedings, Cotter, Jr. cites barely any Nevada authority. Instead, Cotter, Jr. insists on applying Delaware law to his claims, doggedly ignoring the significant substantive differences from that state's statutes and precedent that the Nevada legislature *knowingly* adopted when forming Nevada's corporate statutes. Moreover, despite his reliance on Delaware law, Cotter, Jr. ignores the fact that the authorities he cites have no application to the facts here. For example, he insists that Delaware's "entire fairness" analysis must be applied to the decision to terminate him as an officer of the Company, even though the Delaware "entire fairness" analysis is a test that focuses on the fairness of the applicable price being paid or received in a corporate transaction.

Furthermore, none of the authorities cited by Cotter, Jr. involve derivative attacks on employment decisions made by a board. This is not surprising given that the management of such business affairs is entrusted to the board. *See* NRS 78.120 and 78.138.¹ In the case of RDI, its Bylaws specifically provide that a majority of the entire Board of Directors may remove an

¹ NRS 78.120 provides in relevant part as follows: "Subject only to such limitations as may be provided in this chapter, or the articles of incorporation of the corporation, the board of directors has full control over the affairs of the corporation." NRS 78.130(3) provides in relevant part as follows: "All officers must be natural persons and must be chosen in such manner, hold their offices for such terms and have such powers and duties as may be prescribed by the bylaws or determined by the board of directors." NRS 78.130(4) provides in relevant part as follows: "An officer holds office after the expiration of his or her term until a successor is chosen or until the officer's resignation or removal before the expiration of his or her term."

1 officer without cause. Because the Bylaws give the board such authority and require that such
2 authority be exercised by a majority vote of the entire Board, Cotter, Jr. has no basis for
3 asserting a breach of either the duty of loyalty or the duty of care. Nor can he contend that the
4 action taken by the Board was somehow defective or ineffective due to the participation of
5 Directors Adams, Kane, Ellen Cotter and/or Margaret Cotter.²

6 In short, Cotter, Jr. has presented absolutely no authority, whether statutory, case law, or
7 even secondary sources, that supports his termination and reinstatement claims. This is for good
8 reason as it is generally recognized that decisions regarding hiring and firing a CEO are best left
9 with a company's board of directors, to be exercised in real time, and not with the courts to be
10 applied months or years after the fact. Cotter, Jr.'s claims fail on all fronts and partial summary
11 judgment is appropriate.

12 LEGAL ARGUMENT

13 RDI is entitled to judgment in its favor on Cotter, Jr.'s termination and reinstatement
14 claims. Cotter Jr. replied to the Independent Directors' Motion by repeating his own motion for
15 summary judgment on these issues. However, as shown in the RDI's Opposition to
16 Cotter, Jr.'s Motion for Partial Summary Judgment, he has failed to demonstrate any basis for
17 entitlement to relief on his claims. Similarly, in his Opposition to the Individual Defendants'
18 Motion, he has failed to show that material issues of fact exist to prevent
19 judgment. Accordingly, the Individual Defendants' Motion for Partial Summary Judgment and
20 RDI's joinder thereto should be granted.

21 Summary judgment must be granted where there is no genuine issue as to any material
22 fact, and the movant is entitled to judgment as a matter of law. *Wood v. Safeway, Inc.*, 121 Nev.
23 724, 731, 121 P.3d 1026, 1031 (2005). A nonmoving party who bears the burden of proof at trial
24

25 ² Cotter Jr.'s argument would render it impossible for a corporation like RDI to remove an officer. Nevada law
26 does not require that any directors be "independent." While public companies, like RDI, are required to have
27 independent audit committees, there is no requirement that closely held corporations, again like RDI, have more
28 independent directors than needed to satisfy this audit committee requirement. Specifically, there is no requirement
that a majority of the Board be independent. Under Cotter Jr.'s interpretation of Nevada law, he could not be
removed unless a majority of the RDI Board was "independent." There is no such requirement under Nevada law,
the Federal Securities Laws or the NASDAQ Rules.

1 must respond to a motion for summary judgment with evidence sufficient to establish each
2 element of his claim by a preponderance of the evidence. *Cuzze v. Univ. and Comm.*
3 *Coll. Sys. of Nevada*, 123 Nev. 598, 602, 172 P.3d 131, 134 (2007). Here, it is statutorily
4 presumed that the Board of Director's decision to terminate Cotter, Jr. was made "in good faith,
5 on an informed basis and with a view to the interests of the corporation." NRS
6 78.138(3). Accordingly, Cotter, Jr. bore the burden of presenting evidence sufficient to show
7 that his termination was the product of a breach of fiduciary duty and satisfying each and every
8 element of his breach of fiduciary duty claims under *Nevada* law. He failed to present such
9 evidence. Most significantly, Cotter, Jr. has failed to present any authority that supports his
10 contention that a board's discretionary decision to terminate a CEO is subject to review in a
11 derivative action.

12
13 **I. A BOARD'S DISCRETIONARY TERMINATION OF A CEO CANNOT BE
SUBJECTED TO AN ENTIRE FAIRNESS ANALYSIS.**

14 In an attempt to manufacture a theory to sidestep Nevada law and to support his claim for
15 reinstatement, Cotter, Jr. attempts to invoke Delaware's "entire fairness" analysis, claiming
16 that the "process" by which he was terminated did not satisfy the test. However, there is no
17 requirement under Nevada law that any particular process be followed or that the process be fair
18 to him. Indeed, there is no "entire fairness" test in Nevada. In this State, when a director is on
19 both sides of a contract or transaction, the residual test is not "entire fairness," but rather whether
20 the contract or transaction is "fair to the corporation". See NRS 78.140. The "entire fairness"
21 analysis is a creature of Delaware law, not Nevada Law. It is applicable to the review
22 of *transactions* between a Delaware corporation and directors determined to be interested in a
23 transaction under Delaware law. Here we have: 1) a Nevada corporation (RDI); 2) controlling
24 Nevada statutes (NRS 78.120, 78.130 and 78.140); 3) RDI's Bylaw's directly authorizing the
25 board to remove an executive without cause by the vote of a majority of the **entire Board**; and 4)
26 an employment contract directly on point, all of which support the action taken by the entire
27 Board.

Moreover, there is no practical way to apply Delaware's "entire fairness" analysis to the termination of an officer's employment, because the factors to be considered in evaluating the fairness of a transaction, have no relevance to the termination of an employee. An "entire fairness" analysis necessarily includes an analysis of price. Cotter, Jr. has not cited a single decision interpreting the "entire fairness" doctrine that does not address the issue of the fairness of the price. Here, there is no price to review for fairness.

Additionally, the "entire fairness" doctrine is not even consistent with Nevada law, because Nevada law prevents the avoidance of transactions that might be unfair to the corporation in *at least* three circumstances (*see* NRS 78.140(2)) and unlike the objective standard that prevails in Delaware, under Nevada law, a director is bound only to exercise their duties in *subjective good faith*. *See* NRS 78.138 and 78.140.

II. COTTER, JR. HAS FAILED TO PRESENT ANY EVIDENCE THAT THE BOARD'S DECISION WAS IN ANY WAY A BREACH OF FIDUCIARY DUTY, LET ALONE A BREACH INVOLVING INTENTIONAL MISCONDUCT, FRAUD OR KNOWING VIOLATION OF LAW.

The Plaintiff, Cotter, Jr., bears the burden of proof both that there was in fact a breach of fiduciary duty. In proving this, the burden is on the plaintiff to overcome the Nevada business judgment rule presumption set forth in NRS 78.138(1). Nevada does not recognize any shifting of this burden of proof, other than in the case of NRS 78.140(2)(d). However, NRS 78.140 does not establish any grounds for liability on the part of directors, only for the voidance under certain circumstances of the contract or transaction under review. On the other hand, NRS 78.138(7) provides that there is no director liability unless **it is proven that**, the breach of the directors fiduciary duties "involved intentional misconduct, fraud or a knowing violation of law." Again, the Nevada statutory scheme does not recognize any shifting of this burden of proof in determining director misconduct or liability.

In addition to the proof required to overcome the Nevada business judgment presumption, Cotter, Jr. has failed to introduce any evidence that the decision made by the Directors was in any way incorrect or wrong or not in the best interests of the Company. The record reveals that:

- At the time Cotter, Jr. was appointed CEO, he had had no public company management experience, and no hands-on operating experience in any of the Company's principal business segments: cinemas and real estate. He was placed in that position by his father, who at the time of his appointment continued to have control over every material decision with respect to the Company.
- Cotter, Jr. has admitted that, just five weeks after his appointment to the CEO position at RDI, he could not get along with his siblings, who had substantial operating roles at the Company and who had held such roles for many years.
- A majority of the entire Board determined, in light of this admitted management dysfunction, to remove Cotter, Jr. as President and CEO and to continue with the executive leadership of his siblings, Ellen Cotter and Margret Cotter in accordance with Nevada statutes and RDI Bylaws.
- The Directors making this decision were the same individuals who had been nominated and elected to the Board by James Cotter, Sr. Cotter, Jr. had no objection to the decisions made by these Directors until they began to question whether it was in the best interests of the Company for Cotter, Jr. to continue as President and Chief Executive Officer.

Critically, Cotter Jr. has provided no evidence that the Directors' decisions were in any way erroneous or not in the best interests of the Company and certainly has presented no evidence that the decision to terminate him involved "intentional misconduct, fraud or a knowing violation of law."

III. COTTER, JR. HAS FAILED TO PRESENT ANY AUTHORITY SUPPORTING THE REINSTATEMENT OF A CEO WHOSE TERMINATION WAS DISCRETIONARY WITH THE BOARD OF DIRECTORS.

Cotter, Jr. has failed to present any authority that supports the relief he requests – reinstatement following a discretionary termination. Instead, as noted above, Cotter, Jr. has cherry picked language from an assortment of cases, nearly all of which are from jurisdictions other than Nevada, and all of which relate to directors who were alleged to have engaged in some

1 sort of self-dealing transaction at the expense of either the corporation itself, or of other
2 shareholders. None of the cases cited by Cotter, Jr. are remotely analogous to the facts here,
3 where a CEO with comparatively limited work experience with the company, admittedly
4 could not work with two persons who both had more than fifteen years of experience with the
5 company and where the Board determined to go with the more experienced members of the
6 management team.

7 RDI's Bylaws expressly permit the Board of Directors to remove an officer with
8 or *without cause* by vote of a majority of the entire Board. See RDI Bylaws, Art. IV, §
9 10. Accordingly, the decision is entirely discretionary with the Board. The Bylaws do not
10 mandate any specific process or procedure be followed before an officer is removed; only that it
11 be by vote of a majority of the entire Board. Cotter, Jr. has cited no authority that holds that a
12 corporation must comply with a specific process or procedure before terminating a CEO, other
13 than the procedure set forth in its bylaws.

14 Here, the undisputed evidence shows that *all* of the Directors believed the tension
15 between the Cotter siblings was having a negative effect on RDI. Cotter, Jr. himself notes that
16 one Director had opined that there were three solutions to the situation: fire Cotter, Jr.; fire Ellen
17 and Margaret; or fire all three of them. Opposition, 5. Here, the Directors chose to keep the
18 two individual who had the longest experience with the Company. Such a balancing of the
19 respective values of the Cotter siblings does not support a finding of breach of fiduciary duty.

20 **IV. COTTER JR. HAS ADMITTED THAT HE CANNOT PROVE ANY DAMAGE**
21 **TO THE CORPORATION ARISING FROM HIS TERMINATION.**

22 The Independent Defendants asserted that Cotter, Jr. could present no evidence of any
23 injury to RDI resulting from his termination. Cotter, Jr. made no effort to rebut that claim by
24 presenting evidence of damages. Instead, he again cited to Delaware law, contending that
25 the analysis applicable in that state should govern this tort action. Opposition, p. 19. But Cotter,
26 Jr. again ignores the fact that his claims are governed by Nevada law. In Nevada, the tort of
27 breach of fiduciary duty requires proof that the purported breach caused harm. *Foster*
28 *v. Dingwall*, 126 Nev. 56, 69, 227 P.3d 1042, 1051 (2010), citing *Stalk v. Mushkin*, 125 Nev. 21,

28, 199 P.3d 838, 843 (2009) (“fiduciary duty claim seeks damages for injuries that result from the tortious conduct of one who owes a duty to another by virtue of the fiduciary relationship”). If the one to whom a fiduciary duty is owed has not been injured, then no fact finder can determine that each of the elements of a breach of fiduciary duty has been proven. Because Cotter, Jr. has failed to present evidence of any such injury arising from his termination, his claims fail.

CONCLUSION

Cotter, Jr. is unable to present evidence sufficient to rebut the statutory presumption that the decisions of the Board of Directors are made in good faith, or that either RDI or its shareholders were damaged by the Board of Directors’ decision to terminate his employment from the Company.

This court has given Cotter Jr. ample opportunity to try and make a claim for reinstatement. It is now time to end this exercise as it finds no support in the law or the facts. RDI has been operating under the cloud of this strained claim. It is time for this court to remove that cloud and grant partial summary judgment.

DATED: October 21, 2016.

GREENBERG TRAURIG, LLP

/s/ Mark E. Ferrario

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CERTIFICATE OF SERVICE

Pursuant to Nev. R. Civ. P. 5(b)(2)(D) and E.D.C.R. 8.05, I certify that on this day, I caused a true and correct copy of the forgoing *Reading International, Inc.'s Reply in Support of Joinder to the Individual Defendants' Motion for Partial Summary Judgment No. 1 Re Plaintiff's Termination and Reinstatement Claims* to be filed and served via the Court's Wiznet E-Filing system on all registered and active parties. The date and time of the electronic proof of service is in place of the date and place of deposit in the mail.

DATED this 21st day of October, 2016.

/s/ Andrea Lee Rosehill

An employee of GREENBERG TRAURIG, LLP

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11 *James J. Cotter, Jr.*

7 DISTRICT COURT
8 CLARK COUNTY, NEVADA
9

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

12 Plaintiff,

13 v.

14 MARGARET COTTER, ELLEN COTTER,
15 GUY ADAMS, EDWARD KANE, DOUGLAS
16 McEACHERN, WILLIAM GOULD, JUDY
17 CODDING, MICHAEL WROTONIAK, and
18 DOES 1 through 100, inclusive,

18 Defendants.

19 and
20
21
22

23
24 READING INTERNATIONAL, INC., a Nevada
25 corporation;

25 Nominal Defendant.
26
27
28

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

**PLAINTIFF JAMES J. COTTER, JR.'S
OPPOSITION TO READING
INTERNATIONAL, INC.'S MOTION
TO RECONSIDER OR CLARIFY
ORDER GRANTING JAMES J.
COTTER, JR.'S MOTION TO COMPEL
PRODUCTION OF DOCUMENTS ND
COMMUNICATION RELATED TO
ADVICE OF COUNSEL DEFENSE**

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Lewis Roca
ROTHGERBER CHRISTIE

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

3 Plaintiffs,

4 vs.

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

8 Defendants.

9 and

10
11 READING INTERNATIONAL, INC., a
Nevada corporation,

12 Nominal Defendant.

13
14 Plaintiff James J. Cotter, Jr., (“JJC” or “Plaintiff”), by and through his attorney Mark G.
15 Krum of Lewis Roca Rothgerber Christie LLP, files this Opposition to Motion to Reconsider or
16 Clarify Order Granting James J. Cotter, Jr.’s Motion to Compel Production of Documents and
17 Communications Related to Advice of Counsel Defense filed by Reading International, Inc. (the
“Motion to Reconsider”), as follows.

18 **MEMORANDUM OF POINTS AND AUTHORITIES**

19 **I. INTRODUCTION**

20 RDI’s Motion to Reconsider should be denied. RDI provides no sound basis for this Court
21 to revisit a ruling it made over a month ago. All of the points raised in RDI’s Motion to
22 Reconsider were fully briefed and argued to this Court in August. This Court’s ruling, which
23 rejected RDI’s arguments and granted Plaintiff’s Motion to Compel, was rightly decided. RDI’s
24 thinly veiled attempts to take a second bite at the apple with the same failed arguments should be
25 summarily disregarded as the unfounded dilatory tactic that it is.

26 **II. FACTUAL AND PROCEDURAL HISTORY**

27 As set forth in Plaintiff’s Motion to Compel Production of Documents and
28 Communications Related to Advice of Counsel Defense (“Motion to Compel”), this lawsuit arises

1 out of the Interested Director Defendants' actions to wrongfully seize and control of RDI and their
2 misuse its corporate governance structures to entrench themselves, in furtherance of their personal
3 interests and in derogation of their fiduciary obligations. This includes actions by Defendants Guy
4 Adams ("Adams") and Edward Kane ("Kane") authorizing Defendants Ellen and Margaret Cotter
5 ("EC" and "MC" respectively) to exercise an option to purchase 100,000 shares of RDI's voting
6 stock owned by the estate of James J. Cotter, Sr. ("the 100,000 share option"). In addition, Adams
7 and Kane permitted EC and MC to use Class B non-voting stock in order to effect the purchase.

8 As further discussed in the Motion to Compel, both Adams and Kane were questioned
9 about the basis for their decision to authorize EC and MC to exercise the 100,000 share option.
10 Both responded that they had sought and relied upon advice of counsel as the sole basis for their
11 decision. In particular, Adams testified:

12 Q. · Did you ask her -- well, what did you do to ascertain [the
13 100,000 share option] was her asset?

14 A. · I informed myself through legal counsel.

15 MR. TAYBACK: · Don't -- don't disclose the communications with
16 legal counsel. · You can simply say you conferred with legal
17 counsel.

18 THE WITNESS: · I conferred with legal counsel.

19 BY MR. KRUM:

20 Q. · Who?

21 A. · Craig Tompkins, Greenberg Traurig and Bill Ellis.

22 Q. · When did you confer with each of them?

23 A. · There were emails about this particular thing, and Tim
24 Storey wanted -- if I -- as I recall, he wanted a legal written
25 opinion or something like that. · And I didn't think there was a
26 question that the shares were within the estate, and anyway, Ed
27 Kane agreed, we should -- we should make sure we're on a firm
28 basis that they have it and can do -- can exercise this.

So I inquired, and to my knowledge, Ed Kane inquired, and we
both became of the opinion that it was an asset of the estate and
they could exercise this transaction.

1 Q. ·Mr. Adams, referring to your testimony a few minutes ago
2 that you consulted with Greenberg Traurig, with whom did you
speak or communicate?

3 A. ·I didn't speak to anyone. · It was a written communication.

4 Q. ·From Greenberg Traurig?

5 A. ·Yes.

6 Q. ·To you?

7 * * *

8 THE WITNESS: · No, it wasn't to me. · I'm not -- I don't -- at the
9 top, I don't know who it was to.

10 BY MR. KRUM:

11 Q. ·How did you come to have it?

12 A. ·It was given to me by -- the counsel of the company gave it to
me.

13 Q. ·Mr. Ellis or Mr. Tompkins?

14 A. ·I don't know -- one of them, yes, gave it to me.

15 Q. ·Okay. · And what was the subject matter of this document?

16 MR. TAYBACK: · General subject matter.

17 THE WITNESS: · Ownership of the voting stock.

18 * * *

19 Q. Okay. · But you relied on this particular Greenberg Traurig
20 memo in connection with making the decision to vote as a
21 member of the compensation committee to allow Ellen and
Margaret Cotter, as executors, to exercise the supposed option to
acquire 100,000 shares of Class B voting stock; is that right?

22 * * *

23 THE WITNESS: · Yes, in addition to Craig Tompkins and Bill Ellis.

24 [Deposition of Guy Adams, April 28, 2016, attached as Exhibit 5 to Motion to Compel,
25 at 215:24-216:22, 218:3-219:2 & 220:9-20] Kane likewise testified:

26 Q. Was anyone else party or privy to that communication?

27 A. I think Guy Adams was. That's -- he would have been if I was,
28 because it was a compensation committee question. And Tim
Storey may well have been.

1 * * *

2 It was a particular event having to do with the exercise of voting
3 share options by Margaret and Ellen Cotter.

4 * * *

5 Well, there was a fight between Jimmy and his sisters, and I did
6 not on behalf of the committee want to get in the middle of it. So,
7 I required -- I required an opinion of counsel.

8 I didn't care who won. It's just that we wanted to do the right
9 thing, the committee did.

10 Q. The compensation committee?

11 A. Right.

12 Q. With respect to requests by Ellen and Margaret to exercise
13 options?

14 A. That was one issue, yes.

15 Q. What were the other issues?

16 A. There was the issue of exercising the options that were
17 granted to Jim Cotter, Sr.

18 Q. What was the issue there or what were the issues, as best you
19 can recall?

20 A. Mr. Cotter, Jr., was saying those options belong to the trust,
21 that they had been transferred to the living trust, and that they
22 could not exercise that option on behalf of the estate.

23 * * *

24 Q. Well, as to you personally, Mr. Kane, what did you do to reach
25 a conclusion with respect to the question of whether Ellen and
26 Margaret Cotter as executors of the estate of Jim Cotter, Sr., had
27 the right to exercise the 100,000 share option?

28 A. I asked for a legal opinion.

 Q. And I don't want to repeat everything you've already told me.
 You're referring to the Greenberg Traurig opinion you discussed
 earlier?

 A. I believe that's correct, yes.

[Deposition of Edward Kane, May 2, 2016, attached as Exhibit 6 to Motion to Compel, at
94:19-95:20, 100:23-102:21 & 104:13-23]

Plaintiff filed the Motion to Compel on August 12, 2016. The first argument in the Motion

1 to Compel was that, under the standards set forth in *Wardleigh v. Second Judicial Dist. Court in*
2 *and for the County of Washoe*, 111 Nev. 345, 891 P.2d 1180 (1995), Defendants had waived
3 the attorney-client privilege by placing their attorney-client communications at issue by an
4 affirmative act for their own benefit. [Motion to Compel at 11:16-22] In particular, as
5 Plaintiff pointed out in the Motion to Compel:

6 Adams and Kane are entitled to claim reliance on the reasonable
7 advice of counsel in fulfilling their fiduciary obligations. N.R.S.
8 78.138(2)(b). However, in asserting that reliance, both Adams
9 and Kane have waived any privilege with respect to advice of
10 counsel concerning EC and MC exercising the 100,000 share
11 option. Waiver of the privilege may be deemed to occur "once a
12 party indicates an intention of relying upon privileged evidence
13 during trial." *Wardleigh*, 111 Nev. at 355, 891 P.2d at 1186.

14 [Motion to Compel at 12:11-16]

15 Both RDI and the Interested Director Defendants filed Oppositions to the Motion to
16 Compel. In its Opposition, RDI was able to argue the following points:

- 17 • "[I]ndividual directors do not have the authority to control the privilege." [RDI
18 Opposition to Motion to Compel at 6:7-9 & 6:15-20 (citing *Las Vegas Sands Corp. v.*
19 *Eighth Judicial District Court*, 130 Nev. Adv. Op. 69, 331 P.3d 905, 910 (2014))]
- 20 • There was no waiver under *Wardleigh* (which RDI now terms the "anticipatory
21 waiver" test) implicated by Adams' and Kane's deposition testimony that they had
22 consulted with counsel. [RDI Opposition to Motion to Compel at 7:3-24]
- 23 • That there was no "authority to support the conclusion that testimony that legal advice
24 was received on a topic constitutes an invocation of the affirmative defense of reliance
25 on counsel, and thus, a waiver of privilege." [RDI Opposition to Motion to Compel at
26 7:25-27]
- 27 • "Cotter, Jr.'s [Motion to Compel] essentially transforms the business judgment rule
28 into an automatic waiver of the attorney client privilege." [RDI Opposition to Motion
to Compel at 8:1-2]

29 During oral argument on August 30, 2016, Plaintiff again pointed out that Defendants'
30 invocation of Section 78.138, coupled with Adams' and Kane's testimony constituted a waiver of
31 privilege:

32 So the oppositions argue, well, they haven't specifically pled
33 reliance of counsel as an affirmative defense. However, Your Honor,
34 they did plead that they complied with the statute, 78.138, and the
35 statute includes that a director may rely on the advice of counsel as
36 to matters reasonably believed to be within that person's professional
37 expertise. So they didn't just testify that they were privy to a
38 communication. They testified they made a decision based on the
advice of counsel. They raised the issue, we didn't raise it.

1 So the question is is this game playing that they haven't pleaded
2 advice of counsel as an affirmative defense? Is this so we don't get
3 discovery, we can't raise this in summary judgment and then we get
4 blindsided at trial? The bottom line on this particular issue, Your
Honor, is either they should turn over the attorney-client
communications or they should have barred from asserting that
reliance as a defense.

5 [Transcript of Proceedings, August 30, 2016, at 10:15-24] In response, RDI was able to state its
6 contentions about Nevada statute:

7 And I think we create a dangerous slippery slope if we apply the
8 Garner Doctrine and allow a waiver in this case, because Nevada has
9 very limited exceptions to the privilege rule. Those are set out in
10 statute. And what plaintiff is asking you to do is to create a new
exception and say, hey, I'm a shareholder in this case so I'm entitled
to the communication with counsel.

11 [Transcript of Proceedings, August 30, 2016, at 14:9-15] And, again, RDI was able to reiterate its
12 contention that Kane and Adams could not waive the privilege because "we believe the privilege
13 is held by the company." [*Id.* at 14:19-22]

14 The Court rejected all of RDI's arguments and granted Plaintiff's Motion to Compel.
15 Specifically, this Court ruled:

16 To the extent any of the directors relied upon advice of counsel in
17 performing their duties which are subject of the breach of fiduciary
duty claim, which includes this, they can't also protect the
communication even though it's the company's privilege. So you all
have to make a decision.

18 So your motion's granted, Mr. Krum.

19 [Transcript of Proceedings, August 30, 2016, at 15:8-14] When RDI sought clarification of the
20 ruling, this Court explained:

21 It's only the information that was provided to the board members in
22 the course of their making their decision. That's all it is. Because the
23 statute allows them protection when they rely upon advice of certain
24 kinds of professionals even if that advice is wrong. But it doesn't
mean that all of the thought processes of the lawyers necessarily will
go in unless that was delivered to the attorneys.

25 [Transcript of Proceedings, August 30, 2016, at 15:19-16:4] As the explanation was provided,
26 Counsel responded that it was satisfactory, stating, "Right," "Understand, Your Honor," and
27 "Okay. Thank you for the clarification." [*Id.*]

28 When the Interested Director Defendants asked how this would impact trial presentation,

1 and in particular what positions they could take during trial, this Court further explained:

2 I do not know at this stage if the actions that your clients have taken
3 related to the exercise of the option was information directly related
4 to the communications from counsel. So it may be appropriate for a
5 motion in limine to not permit that to go to the jury, because it is not
information for which you will be seeking protection under the
business judgment rule. Because that's where all this comes from, is
the business judgment rule.

6 * * *

7 If your clients are relying upon the business judgment rule to defend
8 their decision and as part of their activities under the business
9 judgment rule relied upon the advice of certain professionals in
conducting themselves, that advice is fair game. And I understand
that that's a frustrating process for you, but that's the way the
Nevada statute is written. You can't take advantage of that advice
and then not tell anybody what it was.

10 [Transcript of Proceedings, August 30, 2016, at 16:14-17:14]

11 Subsequently, this Court entered a written order memorializing its ruling. [Order, October
12 3, 2016] Consistent with its order granting Plaintiff's Motion to Compel, the relief granted in the
13 Order directly tracks the relief requested in the Motion to Compel. [*Compare* Order, October 3,
14 2016, *with* Motion to Compel at 15:22-16:18]

15
16 **III. ARGUMENT**

17 RDI puts forth no valid reason for this Court to reconsider or revise its ruling compelling
18 production of the communications on which its Directors now rely in defense of Plaintiff's claims
19 for breach of fiduciary duty. As shown at length above, this Court has already addressed RDI's
20 arguments and rejected them. While RDI now apparently claims surprise at the reasons this Court
21 provided for its ruling, and urges that "if only it had known," it would have made its arguments
22 before the ruling, the record of the briefing and oral argument in fact demonstrates that RDI made
23 every one of those arguments to this Court, and they were rejected. In addition, it has been more
24 than a month since this Court made and explained its ruling at length, and in that month, RDI has
25 done nothing to seek review of the determination. Instead, now, just weeks before trial, it seeks to
26 relitigate the very arguments this Court rightly rejected more than a month ago when it granted the
27 Motion to Compel. RDI's unwarranted and dilatory Motion to Reconsider should be denied for
28 the following reasons.

1 **A. This Court Correctly Applied the *Wardleigh* Standard to Rule that Defendants**
2 **Waived the Attorney-Client Privilege.**

3 RDI's contention that the Motion to Compel and this Court's ruling on the motion were
4 somehow based on a standard contrary to Nevada law grossly mischaracterizes the papers and the
5 proceedings. As pointed out above, Plaintiff's argument that the privilege was waived was based
6 squarely on the Nevada Supreme Court's decision in *Wardleigh*. [Motion to Compel at 11:16-
7 12:16] While RDI now wishes to contract the Nevada Supreme Court's decision on implied
8 waiver to one sentence in that decision, the Nevada Supreme Court's decision in fact encompasses
9 the circumstances of this case.

10 As the Nevada Supreme Court recognized, "[t]he doctrine of waiver by implication reflects
11 the position that the attorney-client privilege was intended as a shield, not a sword." *Wardleigh*,
12 111 Nev. at 354, 891 P.2d at 1186 (quotation and citation omitted). In particular, the Nevada
13 Supreme Court explicitly recognized that parties may use the privilege to thwart fundamental
14 fairness and the truth seeking function of litigation:

15 Additionally, selective use of privileged information by one side
16 may "garble" the truth. The privilege suppresses the truth, but that
17 does not mean that it is a privilege to garble it; it should not furnish
18 one side with what may be false evidence and deprive the other of
19 the means of detecting the imposition. In other words, where a party
20 injects part of a communication as evidence, fairness demands that
21 the opposing party be allowed to examine the whole picture.

22 *Wardleigh*, 111 Nev. at 355, 891 P.2d at 1186. Thus, "the attorney-client privilege is waived
23 when a litigant places information protected by it in issue through some affirmative act for his
24 own benefit, and to allow the privilege to protect against the disclosure of such information would
25 be manifestly unfair to the opposing party." *Id.* at 354-55, 891 P.2d at 1186.¹

26 Based on those principles, the Nevada Supreme Court ruled that the District Court had
27 appropriately ordered the production of attorney-client communications and files. In particular,
28 the Nevada Supreme Court held that "[b]ecause petitioners *first raised the issue regarding their*
 knowledge of construction defects (thus making the statute of limitations an issue), fairness

¹ RDI's discussion of the *Hearn* three-tier test is inapposite. The above standards are the holding of the Nevada Supreme Court, and its rejection of the *Hearn* test is a separate discussion from these principles. This Court's ruling need not rely on the *Hearn* test because the principles adopted by the Nevada Supreme Court in *Wardleigh* support the ruling.

1 dictates that *the privilege not apply to communications relevant to that issue.*” *Wardleigh*, 111
2 Nev. at 356, 891 P.2d at 1187 (emphasis supplied). In coming to its decision, the Nevada
3 Supreme Court relied upon a Federal District of D.C. decision in which the court held that “the
4 plaintiff has waived the privilege because the information which the defendant seeks is necessary
5 to resolve the precise statute of limitations issue which the plaintiff has interjected into the case.”
6 *Id.* (quoting *Byers v. Burleson*, 100 F.R.D. 436, 440 (D.D.C.1983)).

7 The circumstances of this case – in particular the Interested Director defendants’ reliance
8 on advice of counsel – fall squarely within the at issue waiver doctrine espoused in *Wardleigh*. As
9 in *Wardleigh*, the Interested Director Defendants first raised the issue of their knowledge as
10 informed by advice of counsel, in this case by affirmatively testifying that was the basis for their
11 decision in deposition. As demonstrated by the deposition transcripts themselves, Plaintiff did
12 nothing to force any RDI Director to rely on advice of counsel as a basis for their decision, much
13 less the sole basis – it was an “affirmative act for [their] own benefit.” *See Wardleigh*, 111 Nev. at
14 354-55, 891 P.2d at 1186.

15 As recognized in *Wardleigh*, fundamental fairness and the truth seeking function of
16 litigation demand disclosure under these circumstances. As Plaintiff pointed out in oral argument,
17 Defendants seek to assert at trial that they satisfied their fiduciary obligations by consulting with
18 counsel while depriving Plaintiff of the ability to review that consultation to determine whether
19 Defendants’ purported actions in fact occurred and whether they were reasonable. The Nevada
20 Supreme Court, however, rejected this type of tactic as an attempt to “garble the truth,” and
21 expressly held that parties like Defendants may not “furnish one side with what may be false
22 evidence and deprive the other of the means of detecting the imposition.” *Wardleigh*, 111 Nev. at
23 355, 891 P.2d at 1186. This Court properly recognized that principle when it pointed out that,
24 “You can’t take advantage of that advice and then not tell anybody what it was.” [Transcript of
25 Proceedings, August 30, 2016, at 17:13-14]²

26
27 ² This is especially so considering a Director’s entitlement to rely on advice of counsel
28 under is not sacrosanct: “a director or officer is not entitled to rely on such information, opinions,
reports, books of account or statements if the director or officer has knowledge concerning the
matter in question that would cause reliance thereon to be unwarranted.” N.R.S. § 78.138(1).
Thus, not only did Plaintiff have the right to review the consultation to test the credibility of the

1 That Defendants did not plead advice of counsel as an affirmative defense in an answer is
2 of no import under *Wardleigh*. While *Wardleigh* discussed how a party implicitly waives
3 privilege by inserting issues into initial pleadings, it did not hold that that is the only form of
4 implicit waiver. The Nevada Supreme Court's description of implicit waiver was in fact broad
5 and unlimited, including any circumstance "when a litigant places information protected by it in
6 issue through *some affirmative act* for his own benefit," and in fact referred to other procedural
7 means of waiver "like a pre-trial disclosure" or interjecting knowledge of a claim at summary
8 judgment. *Wardleigh*, 111 Nev. at 354-57, 891 P.2d at 1186-87 (emphasis supplied).

9 Finally, RDI's suggestion that *Wardleigh*'s implicit waiver doctrine is contrary to the
10 Nevada statutory privilege is wrong as a matter of law. While the statute does provide for listed
11 "exceptions" to the attorney-client privilege, *see* N.R.S. § 49.115, *Wardleigh* does not set forth an
12 "exception" to the general privilege rule. Rather, it sets forth circumstances under which that
13 statutory right may be waived. The Legislature in fact recognized that "waiver" is distinct from
14 "exceptions" by setting out an entirely separate section of the statute that provides for waiver of
15 any privilege. N.R.S. § 49.385.³ Thus, the implied waiver principles set forth in *Wardleigh* are
16 not contrary to the statute on privilege, and were properly applied to the Motion to Compel.

17 This Court properly applied the Nevada Supreme Court's holding in *Wardleigh* in ruling
18 that the attorney-client privilege has been waived. RDI's Motion to Reconsider should be denied.

19 **B. This Court Correctly Ruled That RDI's Directors Waived the Privilege By**
20 **Relying on Advice of Counsel.**

21 RDI's contention that the Ruling misapplies Section 78.138 misstates both this Court's
22 ruling as well as the statute. To be clear: the Ruling did not "create an exception to the privilege
23 applicable to derivative actions in general, or to where the business judgment rule applies to a
24 case," as RDI suggests. The Motion to Compel and this Court's ruling granting that Motion were

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26 Interested Director's contentions that had in fact relied upon advice of counsel, they also had the
27 right to review the communications to determine whether the Interested Directors had knowledge
that undermined any such advice.

28 ³ Thus, RDI's reliance on Section 49.205 is misplaced. That section sets forth exceptions to
the accountant-client privilege. This Court's ruling addressed the separate issue of waiver of the
attorney-client privilege.

1 based squarely on the circumstances of this case, and in particular RDI Directors' affirmative and
2 voluntary decision to rely on advice of counsel as the basis for their decisions and actions.

3 Underlying RDI's statutory blanket waiver argument is the assumption that its Directors
4 had no choice but to point to advice of counsel as a function of the presumptions set forth in
5 Section 78.138 and the business judgment rule. That assumption, however, is contrary to law.
6 The primary statutory obligation of officers and directors is to "exercise their powers in good faith
7 and with a view to the interests of the corporation." N.R.S. § 78.138(1). Where, as here, a
8 shareholder has asserted that has not occurred, Section 78.138 affords directors and officers the
9 protection of the business judgment rule: "Directors and officers, in deciding upon matters of
10 business, are presumed to act in good faith, on an informed basis and with a view to the interests
11 of the corporation." N.R.S. § 78.138(3).

12 Contrary to RDI's argument, however, the analysis does not end with invocation of the
13 business judgment rule: "the business judgment rule does not protect the gross negligence of
14 uninformed directors and officers." *Shoen v. SAC Holding Corp.*, 122 Nev. 621, 640, 137 P.3d
15 1171, 1184 (2006) (citing *Aronson v. Lewis*, 473 A.2d 805, 812 (Del. 1984), *overruled on other*
16 *grounds by Brehm v. Eisner*, 746 A.2d 244 (Del. 2000) ("to invoke the rule's protection directors
17 have a duty to inform themselves, prior to making a business decision, of all material information
18 reasonably available to them.").⁴ Thus, the rule may be overcome through facts demonstrating:
19 "(1) a reason to doubt that the action was taken honestly and in good faith or (2) a reason to doubt
20 that the board was adequately informed in making the decision." *Louisiana Mun. Police*
21 *Employees' Ret. Sys. v. Wynn*, 829 F.3d 1048, 1062 (9th Cir. 2016). Thus, and as pointed out in
22 the Motion to Compel, Defendants' reference to compliance with Section 78.138 (including the
23 business judgment rule) necessarily triggered Plaintiff to obtain discovery into how RDI's
24 Directors informed themselves in advance of their decisions in order to overcome that rule. That
25 is what occurred in the depositions of Kane and Adams, and both responded of their own accord
26 that they had consulted with counsel.

27
28 ⁴ In addition, the Directors must be disinterested. *Shoen*, 122 Nev. at 635, 137 P.2d at 1181.
As pointed out in the Second Amended Complaint, they were not.

1 The reference to consultation with counsel was not automatic or presumptive, as RDI
2 suggests. While Section 78.138 permits consultation with counsel, it is neither presumed nor
3 required: “directors and officers are entitled to rely on information, opinions, reports, books of
4 account or statements, ... that are prepared or presented by...Counsel... as to matters reasonably
5 believed to be within the preparer's or presenter's professional or expert competence.” N.R.S.
6 § 78.138(2)(b) (emphasis supplied). There is nothing in that paragraph referencing any
7 presumption that a director has in fact relied upon advice of counsel. On the contrary, there are
8 numerous other sources of information a director may consult in performing his duties, including
9 “One or more directors, officers or employees of the corporation reasonably believed to be reliable
10 and competent in the matters prepared or presented; ...public accountants, financial advisers,
11 valuation advisers, investment bankers or other persons as to matters reasonably believed to be
12 within the preparer's or presenter's professional or expert competence; or ... [a] committee on
13 which the director or officer relying thereon does not serve, ... as to matters within the
14 committee's designated authority and matters on which the committee is reasonably believed to
15 merit confidence.” N.R.S. § 78.138(2).

16 Thus, the RDI Directors' invocation of advice of counsel to explain their decisions and
17 actions was by no means presumed or automatic in the face of a derivative action. It reflects a
18 number of voluntary choices they made, including relying on the business judgment rule, and then
19 pointing specifically to advice of counsel as the particular source of information (among many
20 possible sources) on which they relied. This Court's conclusion that if the RDI Directors “clients
21 are relying upon the business judgment rule to defend their decision and as part of their activities
22 under the business judgment rule relied upon the advice of certain professionals in conducting
23 themselves, that advice is fair game” was consistent with Section 78.138. RDI's Motion to
24 Reconsider must be denied.

25 **C. This Court Correctly Ruled That Kane and Adams Had Authority to Waive**
26 **the Privilege as Current RDI Directors.**

27 As pointed out in the Motion to Compel, Kane and Adams have authority to waive the
28 attorney-client privilege under *Las Vegas Sands Corp. v. Eighth Judicial District Court* because
they are current RDI Directors. [Motion to Compel at 12:25-28 n.2] This Court recognized that

1 possibility, and even gave RDI's Directors an opportunity to revisit the decision to rely on advice
2 of counsel at the expense of the privilege:

3 To the extent any of the directors relied upon advice of counsel in
4 performing their duties which are subject of the breach of fiduciary
5 duty claim, which includes this, they can't also protect the
6 communication even though it's the company's privilege. So you all
7 have to make a decision.

8 So your motion's granted, Mr. Krum.

9 [Transcript of Proceedings, August 30, 2016, at 15:8-14] The RDI Directors apparently have
10 opted not to retract their decision to rely on advice of counsel, and have gone so far as to base their
11 motions for summary judgment on their entitlement to rely on advice of counsel.⁵

12 As discussed above, this constitutes waiver of the attorney-client privilege. To avoid this,
13 RDI proposes that *Sands* requires a majority vote by the Board to effect a waiver of the privilege.
14 Nothing in *Sands* requires as much. In *Sands*, the Nevada Supreme Court held:

15 We conclude that a corporation's current management controls the
16 privilege "to refuse to disclose, and to prevent any other person from
17 disclosing, confidential communications." This precludes a finding
18 that there is a class of persons outside the corporation's current
19 officers and directors who are entitled to access the client's
20 confidential or privileged information over the client's objection for
21 use in litigation.

22 *Las Vegas Sands v. Eighth Jud. Dist. Ct.*, 130 Nev. Adv. Op. 69, 331 P.3d 905, 914 (2014).

23 Nothing in *Sands* supports RDI's contention that waiver may only occur by majority vote of the
24 full Board. Notably, RDI can point to no case in which any court has held that majority vote is
25 required for a company to waive the attorney-client privilege.

26 RDI's reliance on *Milroy* to support this contention is misplaced: that case involved a
27 dissident director who filed an action against the corporation and its directors and then sought to
28 obtain privileged communications of the company in connection with that lawsuit. *Milroy v.*
29 *Hanson*, 875 F. Supp. 646, 647. The District of Nebraska held that the plaintiff dissident director
30 could not on his own waive or contravene the majority decision of the company's board of
31 directors to assert the privilege. *See id.* at 648 ("When there is a dispute between directors, under
32 Nebraska law the majority decision of the directors governs what the corporation will or will not

⁵ As pointed out in Plaintiff's Motion in Limine, they may not do so, as no such
communications have been produced.

1 do.”). By contrast, in this case the waiver is not effected by one dissident director who is suing the
2 company; the waiver is effected by RDI Directors who are co-defendants with RDI in this lawsuit,
3 and who effected waivers by asserting an advice of counsel defense in connection with acts taken
4 in their managerial capacity on behalf of RDI. Moreover, there is not an apparent decision by a
5 majority of the RDI Directors to assert the privilege in the face of the waiver and this Court’s
6 ruling – to the contrary, the Directors have continued to assert advice of counsel.⁶

7 Neither does *Weintraub* support that waiver must occur by majority vote of the Board, as
8 RDI suggests. At no point in that opinion did the Supreme Court reference any such requirement.
9 Instead, as the Supreme Court noted:

10 The administration of the attorney-client privilege in the case of
11 corporations, however, presents special problems. As an inanimate
12 entity, *a corporation must act through agents*. A corporation cannot
13 speak directly to its lawyers. Similarly, it cannot directly waive the
14 privilege when disclosure is in its best interest. *Each of these actions*
15 *must necessarily be undertaken by individuals empowered to act on*
16 *behalf of the corporation*. In *Upjohn Co.*, we considered whether the
privilege covers only communications between counsel and top
management, and decided that, under certain circumstances,
communications between counsel and lower-level employees are
also covered. Here, we face the related question of which corporate
actors are empowered to waive the corporation’s privilege.

17 *Commodity Futures Trading Comm’n v. Weintraub*, 41 U.S. 343, 348 (1985) (emphasis supplied).

18 Likewise, as recognized by *Sands*, “the power to waive attorney-client privilege rests with
19 the corporation’s officers and directors.” 331 P.3d at 912. Every one of the Interested Director
20 Defendants are current officers and/or directors of RDI. Thus, they hold the authority to waive
21 RDI’s attorney-client privilege. *See id.* at 910. (“In a corporate context, a client corporation is not
22 a living entity that can make decisions independently—people have to make decisions on its
23 behalf.”).

24 For this reason, RDI’s contention that the ruling creates a conflict of interest for the RDI
25 Directors ignores the reality of corporate action. As the Supreme Court pointed out in *Weintraub*,
26 “as an inanimate entity, a corporation must act through agents,” and therefore RDI acts through its
27 agents, including its Directors. 41 U.S. at 348. This is not a situation of a singular rogue director

28 ⁶ Likewise, RDI’s reliance on *Greenburg* is misplaced. *Greenburg* was referenced in *Sands*
as support for the collective corporate client exception to the attorney-client privilege, which the
Nevada Supreme Court ultimately rejected. 331 P.3d at 911 & 913.

1 haplessly divulging confidential information – this Court guarded against that by telling the
2 Directors, “you all have to make a decision.” Rather, this is an instance in which RDI’s Directors
3 are defending the actions they took on behalf of RDI by pointing to advice of counsel as the basis
4 supporting those decisions. When RDI Directors insist upon asserting that defense, and then RDI
5 (which acts and has acted through its Directors) in turn attempts to circumvent discovery of that
6 advice, that is not a conflict or unfairness to RDI or its Directors; it is sandbagging Plaintiff and
7 circumventing the truth seeking function of the litigation. *Wardleigh*, 111 Nev. at 355, 891 P.2d at
8 1186 (“In other words, where a party injects part of a communication as evidence, fairness
9 demands that the opposing party be allowed to examine the whole picture.”). This Court properly
10 recognized that when it ruled that “[t]o the extent any of the directors relied upon advice of
11 counsel in performing their duties which are subject of the breach of fiduciary duty claim, which
12 includes this, they can’t also protect the communication even though it’s the company’s privilege.”
13 The Motion to Reconsider must be denied.

14 **D. The Order Properly Reflects the Court’s Ruling.**

15 While RDI claims to request “clarification” of the Court’s written order, what it in fact
16 seeks to do is contract this Court’s ruling and its signed order memorializing that ruling. Given
17 that the written order properly reflects this Court’s ruling and the applicable legal standards, no
18 such contraction is warranted.

19 As the Nevada Supreme Court held in *Wardleigh*, “where a party seeks an advantage in
20 litigation by revealing part of a privileged communication, the party shall be deemed to have
21 waived the entire attorney-client privilege *as it relates to the subject matter of that which was*
22 *partially disclosed.*” *Id.* at 354, 891 P.2d at 1186 (emphasis supplied). As disclosed above, Kane
23 and Adams waived the privilege with respect to the 100,000 share option by relying on advice of
24 counsel as their sole basis for their actions relative to the 100,000 share option. Thus, under
25 *Wardleigh*, they have waived the entire attorney client privilege as it relates to the subject of the
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27
28

1 100,000 share option.⁷ Thus, RDI's attempt to reduce the order to the request for a legal opinion
2 and the legal opinion itself is contrary to law and should be denied.

3 **IV. CONCLUSION**

4 For the foregoing reasons, RDI's Motion to Reconsider should be denied.

5 DATED this 26th day of October, 2016.

6 LEWIS ROCA ROTHGERBER CHRISTIE LLP

7
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27 ⁷ This is especially so considering that "a director or officer is not entitled to rely on such
28 information, opinions, reports, books of account or statements if the director or officer has
knowledge concerning the matter in question that would cause reliance thereon to be
unwarranted." N.R.S. § 78.138(1).

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CERTIFICATE OF SERVICE

I hereby certify that on this 26th day of October, 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/ Dana Provost

An employee of Lewis Roca Rothgerber Christie LLP