

IN THE SUPREME COURT OF NEVADA

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

Appellant,

v.

MARGARET COTTER, ELLEN
COTTER, GUY ADAMS, EDWARD
KANE, DOUGLAS McEACHERN,
WILLIAM GOULD, JUDY CODDING,
MICHAEL WROTNIAK,

Respondents,

and

READING INTERNATIONAL, INC., a
Nevada Corporation,

Nominal Defendant.

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JOINT APPENDIX IN SUPPORT OF
APPELLANT'S OPENING BRIEF

VOLUME VIII (JA1751 - 2000)

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2017-11-27	Transcript of 11-20-2017 Hearing on Motion for Evidentiary Hearing re Cotter, Jr., Motion to Seal EXs 2, 3 and 5 to James Cotter Jr.'s MIL No. 1	XXI	JA5001-JA5020
2017-12-29	Transcript of 12-28-2017 Hearing on Motion for Reconsideration and Motion for Stay	XXVI	JA6186-JA6209
2018-01-05	Transcript of January 4, 2018 Hearing on Plaintiff's Motion for Rule 54(b) Certification	XXVI	JA6307-JA6325
2016-11-01	Transcript of Proceedings re: Hearing on Motions, October 27, 2016	XX	JA4750-JA4904

CERTIFICATE OF SERVICE

I certify that on the 22nd day of January 2019, I served a copy of **JOINT APPENDIX IN SUPPORT OF APPELLANT'S OPENING BRIEF VOLUME VIII (JA1751-2000)** upon all counsel of record:

☒ By mailing it by first class mail with sufficient postage prepaid to the following address(es); via email and/or through the court's efilg service:

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By: /s/ Patricia A. Quinn
An employee of Morris Law Group

EXHIBIT 44

9/21/2016

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

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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**

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

Date	Open	High	Low	Close / Last	Volume
10/01	13.55	13.81	13.49	13.58	30,267
09/20/2016	13.58	13.85	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	13.8275	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	13.5889	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
08/28/2016	13.48	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	12.96	13.18	12.93	13.16	30,166
08/19/2016	13.3	13.43	12.62	13.09	99,504
08/18/2016	13.02	13.455	12.89	13.36	115,346
08/17/2016	12.76	13.1	12.61	13.02	116,746
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	13.09	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	20,659
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

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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	13.84	13.67	13.3301	13.39	25,447
08/01/2016	13.83	13.84	13.51	13.56	10,434
07/29/2016	13.86	13.98	13.86	13.75	23,182
07/28/2016	13.73	13.93	13.5601	13.83	38,100
07/27/2016	13.48	13.72	13.411	13.69	18,484
07/26/2016	13.57	13.65	13.2328	13.51	25,740
07/25/2016	13.71	13.77	13.58	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	38,440
07/20/2016	13.4	13.46	13.3	13.42	11,548
07/19/2016	13.74	13.74	13.36	13.4	78,293
07/18/2016	13.25	14	13.25	13.78	150,258
07/15/2016	12.91	12.91	12.45	12.57	61,763
07/14/2016	13	13	12.77	12.63	18,539
07/13/2016	12.79	12.93	12.78	12.87	27,458
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	28,753
07/06/2016	11.96	12.1	11.91	12.07	17,201
07/05/2016	12.24	12.285	12.01	12.08	33,286
07/01/2016	12.61	12.81	12.15	12.22	30,793
06/30/2016	12.47	12.84	12.35	12.49	60,894
06/29/2016	12.04	12.625	12.04	12.48	31,860
06/28/2016	12.03	12.14	11.92	11.94	23,388
06/27/2016	12.05	12.85	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	12.57	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	24,358
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	12.87	12.94	12.67	12.86	25,382

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

Date	Open				
08/07/2016	12.895	12.76	12.85	12.69	13,842
08/06/2016	12.86	12.75	12.85	12.71	20,937
08/03/2016	12.74	12.82	12.585	12.64	23,297
08/02/2016	12.82	12.85	12.565	12.92	10,268
08/01/2016	12.5	12.81	12.36	12.72	68,825
06/31/2016	12.66	12.86	12.27	12.52	34,028
06/27/2016	13.16	13.16	12.5	12.71	21,018
06/26/2016	13.04	13.04	12.51	12.51	45,184
06/25/2016	13.05	13.28	12.9	13.02	11,816
06/24/2016	12.87	13.2	12.87	13.1	23,444
06/23/2016	12.99	13.05	12.87	12.87	20,498
06/20/2016	12.94	13.04	12.81	13.03	50,152
06/19/2016	12.77	13	12.87	12.66	20,799
06/18/2016	12.78	12.81	12.65	12.89	18,021
06/17/2016	13.37	13.37	12.85	12.76	67,888
06/16/2016	13.04	13.43	12.99	13.35	37,568
06/13/2016	13.12	13.19	12.93	13.07	18,775
06/12/2016	13.08	13.16	12.66	13.12	28,882
06/11/2016	13.58	13.58	12.91	13.1	32,658
06/10/2016	13.61	13.75	13.45	13.5	81,571
06/09/2016	13.46	13.7899	13.29	13.63	46,049
06/06/2016	13.1	13.39	12.752	13.39	22,483
06/05/2016	13.63	13.85	12.89	13.04	51,284
06/04/2016	13.48	13.8	13.35	13.57	28,993
06/03/2016	13.17	13.7	13.1	13.54	31,766
06/02/2016	12.68	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	12.87	12.81	12.6	12.79	12,947
04/25/2016	12.726	12.87	12.4	12.69	24,807
04/22/2016	12.57	12.79	11.12	12.69	14,076
04/21/2016	12.44	12.59	12.42	12.54	25,846
04/20/2016	12.44	12.48	12.23	12.39	20,659
04/19/2016	12.49	12.645	12.15	12.27	41,808
04/18/2016	12.54	12.83	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	12.3489	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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Reading International Inc Class A Common Stock (RDI) Historical Prices & Data - NASDAQ.com

Date	Open				
04/08/2016	11.9	12.07	11.86	12.01	29,773
04/07/2016	11.87	12.1	11.87	11.94	42,330
04/06/2016	11.75	11.8529	11.7	11.79	13,736
04/05/2016	11.82	11.9	11.6	11.81	31,220
04/04/2016	12	12.0716	11.88	11.86	17,912
04/01/2016	11.9	12.17	11.9	12.1	19,855
03/31/2016	11.78	12.15	11.8978	11.98	74,527
03/30/2016	12	12.08	11.72	11.83	26,843
03/29/2016	11.89	11.93	11.48	11.9	20,170
03/28/2016	11.62	11.7	11.51	11.81	28,477
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	11.83	30,620
03/21/2016	12	12.18	11.9504	12	27,657
03/18/2016	12	12.11	11.58	11.89	59,026
03/17/2016	11.65	12.06	11.54	11.93	18,648
03/16/2016	11.26	11.69	11.28	11.83	29,846
03/15/2016	11.57	11.65	11.21	11.38	39,463
03/14/2016	11.66	11.85	11.51	11.8	38,525
03/11/2016	12.05	12.19	11.488	11.95	43,841
03/10/2016	11.98	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	52,260
03/04/2016	10.7	11.41	10.7	11.33	38,331
03/03/2016	10.14	10.81	10.14	10.55	35,323
03/02/2016	10.08	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	37,484
02/23/2016	10.01	10.44	10.01	10.39	47,364
02/22/2016	10.01	10.35	9.935	10.25	55,330
02/19/2016	9.88	10.17	9.77	9.94	27,973
02/18/2016	10.11	10.21	9.77	9.89	57,202
02/17/2016	10.15	10.305	10	10.15	52,179
02/16/2016	10.12	10.3	10.02	10.13	45,254
02/12/2016	9.89	10.1	9.86	10.06	22,524
02/11/2016	9.85	10.02	9.73	9.84	32,822
02/10/2016	9.77	10.01	9.71	9.85	68,529

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

Date	Open				
02/09/2016	9.76	9.93	9.76	9.78	41,167
02/08/2016	9.83	9.95	9.78	9.69	63,864
02/05/2016	10.21	10.21	10.03	10.07	98,318
02/04/2016	10.37	10.51	10.25	10.29	27,584
02/03/2016	10.83	10.83	10.15	10.41	41,832
02/02/2016	10.6	10.6	10.6	10.53	23,384
02/01/2016	10.745	10.88	10.7	10.71	18,804
01/28/2016	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	10.98	27,598
01/21/2016	10.73	10.96	10.805	10.7	38,777
01/20/2016	10.31	10.87	10.11	10.74	58,719
01/19/2016	10.56	10.61	10.16	10.37	82,243
01/15/2016	10.6	10.73	10.29	10.48	119,976
01/14/2016	11.06	11.23	10.85	10.91	78,087
01/13/2016	10.87	11.64	10.87	11.09	76,895
01/12/2016	12.07	12.07	11.63	11.64	93,084
01/11/2016	12.4	12.4	11.93	11.96	98,395
01/08/2016	12.42	12.58	12.38	12.38	38,879
01/07/2016	12.85	12.86	12.38	12.4	86,210
01/06/2016	12.84	12.87	12.64	12.73	46,116
01/05/2016	12.82	12.93	12.74	12.76	40,201
01/04/2016	12.81	13.82	12.74	12.8	68,098
12/31/2015	13.19	13.81	13.08	13.11	52,479
12/30/2015	13.54	13.55	13.27	13.29	28,072
12/29/2015	13.51	13.55	13.26	13.52	24,242
12/28/2015	13.5	13.6	13.36	13.42	23,271
12/24/2015	13.38	13.57	13.31	13.47	13,940
12/23/2015	13.25	13.46	13.25	13.4	40,825
12/22/2015	13.29	13.23	12.97	13.15	80,564
12/21/2015	13.32	13.44	13.05	13.16	81,701
12/18/2015	13.28	13.45	13.22	13.23	111,008
12/17/2015	13.47	13.58	13.28	13.37	38,593
12/16/2015	13.42	13.5	13.28	13.41	55,545
12/15/2015	13.49	13.56	13.22	13.36	73,881
12/14/2015	13.57	13.76	13.35	13.41	44,113
12/11/2015	13.6	13.84	13.58	13.81	82,075
12/10/2015	14.13	14.45	13.85	13.87	48,565

9/21/2016

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

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	37,638
12/04/2015	14.3	14.58	14.24	14.49	23,232
12/03/2015	14.38	14.44	14.2	14.32	36,528
12/02/2015	14.23	14.56	14.21	14.42	43,607
12/01/2015	14.54	14.71	14.295	14.39	20,661
11/30/2015	14.49	14.54	14.27	14.43	55,566
11/27/2015	14.6	14.65	14.37	14.52	29,558
11/25/2015	14.18	14.6	14.18	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	14.69	14.68	26,506
11/16/2015	15.06	15.06	14.6	14.81	58,788
11/13/2015	15.18	15.44	15.1	15.12	36,827
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	15.87	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	15.6088	16.21	65,359
11/05/2015	16.21	16.21	16.02	16.08	36,786
11/04/2015	15.97	17.31	15.92	16.13	136,269
11/03/2015	15.59	16.01	15.59	15.95	41,632
11/02/2015	15.5	15.78	15.408	15.71	45,143
10/30/2015	15.83	16.83	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	15.78	15.29	15.68	42,387
10/23/2015	15.31	15.5	15.16	15.5	37,995
10/22/2015	15.27	15.84	14.95	15.16	72,808
10/21/2015	15.63	15.71	15.13	15.16	112,207
10/20/2015	15.44	15.72	15.32	15.64	50,648
10/19/2015	16.08	15.42	15.95	15.41	65,620
10/16/2015	14.97	15.19	14.82	15.09	64,163
10/15/2015	14.77	14.95	14.89	14.94	62,725
10/14/2015	15.83	15.83	14.68	14.75	118,965
10/13/2015	15.9	15.94	15.54	15.65	88,070

9/21/2016

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

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	59,355
10/08/2015	13.85	14.87	13.51	14.67	79,202
10/07/2015	13.71	13.85	13.5001	13.82	59,864
10/06/2015	13.74	13.77	13.54	13.82	32,929
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	12.78	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	29,193
09/28/2015	12.84	12.71	12.44	12.45	39,852
09/25/2015	12.92	12.92	12.59	12.63	38,059
09/24/2015	12.83	12.82	12.55	12.81	27,701
09/23/2015	12.8	12.8	12.5401	12.69	47,754
09/22/2015	12.47	12.82	12.46	12.81	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	12.89	12.52	12.57	35,755
09/16/2015	12.38	12.67	12.27	12.63	29,719
09/15/2015	12.29	12.54	12.22	12.4	36,890
09/14/2015	12.33	12.44	12.19	12.28	27,920
09/11/2015	12.35	12.4599	12.3	12.35	53,701
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	12.88	12.86	12.58	12.64	25,351
09/04/2015	12.5	12.92	12.5	12.72	19,210
09/03/2015	12.77	12.9499	12.57	12.65	50,840
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	86,011
08/21/2015	12.74	13.45	12.6923	13.06	120,791
08/20/2015	13.16	13.16	12.89	12.95	33,540
08/19/2015	13.09	13.43	12.81	13.3	34,132
08/18/2015	13.18	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

9/21/2016

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

Date	Open				
08/13/2015	13.2	13.2	12.93	13.06	37,793
08/12/2015	12.81	13.16	12.67	13.04	70,973
08/11/2015	12.88	12.99	12.61	12.96	67,300
08/10/2015	12.38	12.8368	12.3	12.76	126,183
08/07/2015	11.99	12.8	11.88	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	12.28	12.4	12.02	12.32	77,681
08/03/2015	11.91	12.08	11.71	11.97	97,959
07/31/2015	12	12.11	11.71	11.78	119,687
07/30/2015	11.93	12.0496	11.71	11.99	117,971
07/29/2015	12.15	12.15	11.78	11.92	109,781
07/28/2015	12.38	12.58	11.98	12.19	122,103
07/27/2015	11.9	12.59	11.88	12.31	337,985
07/24/2015	12.3	12.35	11.99	12.03	184,149
07/23/2015	12.74	12.81	12.25	12.33	187,631
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	13.88	14	42,323
07/16/2015	13.98	14.2	13.91	14.08	43,859
07/15/2015	14.19	14.22	13.79	13.91	31,457
07/14/2015	14.08	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	46,628
07/09/2015	13.6	13.89	13.42	13.67	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	13.86	59,698
07/02/2015	14.04	14.05	13.868	13.97	35,978
07/01/2015	13.88	14.04	13.79	14	38,324
06/30/2015	13.808	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	285,416
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	41,800
06/17/2015	13.65	13.65	13.3101	13.45	21,160

9/21/2016

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

Date	Open				
08/16/2015	13.54	13.89	13.344	13.6	32,487
08/15/2015	13.85	14.05	13.34	13.57	35,210
08/12/2015	13.95	14.08	13.7	13.89	28,423
08/11/2015	13.77	13.97	13.73	13.93	10,631
08/10/2015	13.8	14.07	13.5401	13.8	20,303
08/09/2015	13.88	14.02	13.6401	13.7	11,494
08/08/2015	13.85	14.02	13.88	13.73	15,177
08/05/2015	14.08	14.1	13.85	13.99	42,444
08/04/2015	13.94	14.45	13.94	14.05	83,057
08/03/2015	13.87	13.98	13.58	13.94	40,803
08/02/2015	13.35	13.7199	13.35	13.6	33,572
08/01/2015	13.4	13.58	13.345	13.48	20,208
05/29/2015	13.38	13.48	13.2	13.37	32,093
05/28/2015	13.5	13.79	13.39	13.39	12,780
05/27/2015	13	13.58	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	13.08	13.13	27,414
05/21/2015	13.44	13.51	13.285	13.4	27,687
05/20/2015	13.41	13.43	13.26	13.41	17,288
05/19/2015	13.33	13.41	13.28	13.32	47,832
05/18/2015	13.13	13.4	12.88	13.38	45,841
05/15/2015	13.28	13.44	13.06	13.21	48,803
05/14/2015	13.2	13.44	13.186	13.27	58,972
05/13/2015	13.45	13.48	13.12	13.22	31,410
05/12/2015	13.41	13.5	13.11	13.37	41,399
05/11/2015	13.63	13.89	13.22	13.42	53,911
05/08/2015	13.65	13.79	13.332	13.65	55,436
05/07/2015	13.38	13.69	13.35	13.62	42,149
05/06/2015	13.04	13.48	13.04	13.34	63,462
05/05/2015	13.41	13.65	13.02	13.07	37,834
05/04/2015	13.65	13.83	13.21	13.37	49,415
05/01/2015	13.39	13.83	13.2	13.32	39,787
04/30/2015	13.75	13.75	13.2301	13.32	50,946
04/29/2015	14.04	14.08	13.62	13.83	18,773
04/28/2015	13.91	14.17	13.82	14.06	25,217
04/27/2015	14.03	14.21	13.7801	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	13.89	13.73	13.45	13.54	36,308
04/20/2015	13.29	13.75	13.29	13.67	28,055

9/21/2016

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

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	13.59	14,563
04/15/2015	13.54	13.9	13.4801	13.73	27,980
04/14/2015	13.61	13.68	13.43	13.51	25,301
04/13/2015	13.71	13.78	13.5501	13.61	34,509
04/10/2015	13.64	13.9	13.61	13.79	28,524
04/09/2015	13.62	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	13.48	13.74	41,547
04/06/2015	13.48	13.825	13.35	13.69	52,914
04/02/2015	13.78	13.78	13.4	13.51	30,661
04/01/2015	13.41	13.76	13.41	13.71	99,304
03/31/2015	13.58	13.62	12.44	13.45	381,339
03/30/2015	13.48	13.83	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	19,828
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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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 350 South Grand Avenue, Suite 3500 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 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 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 New York, NY 10021	Adult Daughter; Beneficiary; Successor Co-Trustee; Co-Executor
24 Ann Margaret Cotter 25 120 Central Park South 26 Apt. 8A New York, NY 10019	Adult Daughter; Beneficiary; Successor Co-Trustee; Co-Executor
27 Duffy James Drake 28 120 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	
	New York, NY 10019	
6	Sophia I. Cotter	Minor Granddaughter; Beneficiary
7	311 Homewood	
8	Los Angeles, California 90049	
9	Brooke E. Cotter	Minor Granddaughter; Beneficiary
10	311 Homewood	
	Los Angeles, California 90049	
11	James J. Cotter	Minor Grandson; Beneficiary
12	311 Homewood	
13	Los Angeles, California 90049	
14	Gerard Cotter	Beneficiary
15	226 Pondfield Road	
	Bronxville, New York 10708	
16	Victoria Heinrich	Beneficiary
17	186 Cherrybrook Lane	
18	Irvine, California 92613	
19	Susan Heierman	Beneficiary
20	262 West Pecan Place	
	Tempe, Arizona 85284	
21	Eva Barragan	Beneficiary
22	13914 Don Julian	
23	La Puente, California 91746	
24	Mary Cotter	Beneficiary
25	2818 Dumfries Road	
26	Los Angeles, California 90064	
27	James J. Cotter Foundation	Beneficiary
28	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

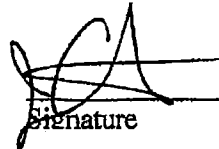
I have read the foregoing PETITION BY JAMES J. COTTER, JR. FOR IMMEDIATE SUSPENSION OF POWERS OF ANN MARGARET COTTER AND ELLEN COTTER AS CO-TRUSTEES AND FOR APPOINTMENT OF TEMPORARY TRUSTEE; PETITION FOR PERMANENT REMOVAL; DECLARATION OF RICHARD SPITZ IN SUPPORT THEREOF; CONSENT OF MICHAEL J. SEIBERT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

0064
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EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

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

Plaintiffs,

v.

MARGARET COTTER, ELLEN COTTER,
GUY ADAMS, EDWARD KANE, DOUGLAS
McEACHERN, WILLIAM GOULD, JUDY
CODDING, MICHAEL WROTONIAK, 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

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

Related and Coordinated Cases

BUSINESS COURT

**INDIVIDUAL DEFENDANTS' MOTION
FOR PARTIAL SUMMARY JUDGMENT
(NO. 2) RE: THE ISSUE OF DIRECTOR
INDEPENDENCE**

Judge: Hon. Elizabeth Gonzalez
Date of Hearing: 10/25/16
Time of Hearing: 8:30 AM

1 **TO ALL PARTIES, COUNSEL, AND THE COURT:**

2 Pursuant to Nevada Rule of Civil Procedure 56, Defendants Margaret Cotter, Ellen
3 Cotter, Guy Adams, Edward Kane, Douglas McEachern, Judy Coddington, and Michael Wrotniak
4 (collectively, the "Individual Defendants"), by and through their counsel of record,
5 Cohen|Johnson|Parker|Edwards and Quinn Emanuel Urquhart & Sullivan, LLP, hereby submit
6 this Motion for Partial Summary Judgment (No. 2) as to the First, Second, Third, and Fourth
7 Causes of Action in Plaintiff's Second Amended Complaint, to the extent that they assert or rely
8 upon an argument that any of the non-Cotter directors of Reading International, Inc. ("RDI") are
9 not "independent."

10 This Motion is based upon the following Memorandum of Points and Authorities, the
11 accompanying Declaration of Noah S. Helpert ("HD") and exhibits thereto, the pleadings and
12 papers on file, and any oral argument at the time of a hearing on this motion.

13 Dated: September 23, 2016

14 **COHEN|JOHNSON|PARKER|EDWARDS**

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*Attorneys for Defendants Margaret Cotter, Ellen
Cotter, Douglas McEachern, Guy Adams, and
Edward Kane*

1 **NOTICE OF MOTION**

2 TO: LEWIS ROCA ROTHGERBER CHRISTIE LLP, Attorneys for Plaintiff.

3 PLEASE TAKE NOTICE that the above Motion will be heard the ²⁵ day of Oct.,
4 2016 at 8:30 AM in Department ^{XI} ~~XXVII~~ of the above designated Court or as soon
5 thereafter as counsel can be heard.

6 Dated: September 23, 2016

7 **COHEN|JOHNSON|PARKER|EDWARDS**

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25 *Attorneys for Defendants Margaret Cotter, Ellen
26 Cotter, Douglas McEachern, Guy Adams, and
27 Edward Kane*
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2	No. Civ. A. 20545-NC, 2006 WL 1388744 (Del. Ch. May 9, 2006)	15, 16, 24
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4	No. 2:12-cv-509 JCM, 2014 WL 994616 (D. Nev. Mar. 13, 2014)	14, 17, 20, 24
5	<i>La. Mun. Police Emps. ' Ret. Sys. v. Wynn</i> ,	
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15	<i>Rales v. Blasband</i> ,	
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17	<i>SEPTA v. Volgenau</i> ,	
18	C.A. No. 6354-VCN, 2013 WL 4009193 (Del. Ch. Aug. 5, 2013)	15
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20	122 Nev. 621 (2006)	15
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23	<i>White v. Panic</i> ,	
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28	NRS 78.138(3)	15
29	NRS 78.140	14

1 MEMORANDUM OF POINTS AND AUTHORITIES

2 I. INTRODUCTION

3 In an attempt to circumvent the “business judgement” rule that would otherwise
4 immediately nullify his challenges to a variety of transactions entered into, and a multitude of
5 corporate conduct engaged in, by the Board of Directors of Reading International, Inc. (“RDI” or
6 “the Company”), Plaintiff has questioned the independence of certain RDI Board members.
7 While he concedes that directors Douglas McEachern, Timothy Storey, and William Gould are
8 “independent” as a matter of law, Plaintiff maintains that historic directors Edward Kane and
9 Guy Adams, as well as newer directors Dr. Judy Coddington and Michael Wrotniak, are somehow
10 “ beholden ” to his sisters Margaret and Ellen Cotter as a result of close personal friendships or
11 significant economic ties. Plaintiff’s challenge is, of course, entirely motivated by the Board’s
12 termination of him as the Company’s CEO and President on June 12, 2015; prior to that time, all
13 historic directors had been elected with his support (including directors Kane and Adams), and
14 he approved of their description as “independent” in documents filed with the SEC mere weeks
15 before his firing.

16 Plaintiff faces a difficult task to avoid summary judgment on the issue of director
17 independence. As a matter of black-letter law, there is a presumption that all directors are
18 independent, even in situations where a single stockholder or coordinated group controls a
19 majority of a company’s shares. To overcome this legal inference, Plaintiff must produce
20 evidence sufficient to show that the challenged non-Cotter directors are so “ beholden ” to
21 Margaret and Ellen Cotter that their discretion is “sterilized” and they are “unable to consider a
22 business decision on the merits.” Because Plaintiff has not made—and cannot make—this
23 showing with respect to *any* of the non-Cotter Board members (let alone a majority), there is no
24 genuine issue of triable fact, and summary judgment on the issue of director independence is
25 fully warranted.

26 First, the “deep friendship” of which Plaintiff complains with respect to director Kane
27 was actually between Kane and the now-deceased James J. Cotter, Sr.—not between Kane and
28 the Cotter sisters. While Margaret and Ellen Cotter at times have called Kane “Uncle Ed,” so

1 has Plaintiff. While each has spoken with Kane outside of the office, so has Plaintiff, who has
2 personally visited Kane at his residence. While Kane has supported certain transactions that
3 Plaintiff now questions, such as a 20% annual raise provided to Ellen Cotter, Plaintiff himself
4 explicitly approved many of them (including the raise), and the others were not in any way
5 improper. There is simply no evidence that the outside relationship between Kane and the Cotter
6 sisters is of such “a bias-producing nature” that Kane would be more willing to risk his well-
7 earned reputation rather than jeopardize his relationship with them. Instead, Kane has stressed
8 that he does not “take into account the Cotter children” when evaluating what is best for RDI,
9 and Plaintiff himself “reviewed” and approved materials filed by RDI with the SEC weeks prior
10 to his termination that identified Kane as “independent.” Because the personal relationships and
11 corporate actions that Plaintiff has identified with respect to Kane are factually inapposite and
12 legally insufficient to disturb his presumed independence, summary judgment on the issue of
13 Kane’s independence is warranted.

14 Second, similar to Kane, the “long standing, close personal friendship” of which Plaintiff
15 complains with respect to director Coddington is actually between Coddington and Plaintiff’s *mother*—
16 not with Margaret and Ellen Cotter. Not only is such a relationship wholly irrelevant to
17 Coddington’s independence, there is no evidence that Plaintiff’s mother has chosen sides in the
18 intra-family dispute, that she has relayed this choice to Coddington, or that Coddington would consider
19 that view to be any way material to her exercise of her duties as an RDI director. Under well-
20 settled law, the fact that Ellen Cotter played a role in Coddington’s nomination to the RDI Board is
21 also a nonstarter. Courts have routinely held that a director’s nomination or election by a large
22 stockholder does not render them “ beholden ” to their sponsor. Because Plaintiff has not raised a
23 reasonable doubt as to Coddington’s presumed independence, summary judgment on the issue of
24 Coddington’s independence is also justified.

25 Third, as with Coddington, the “close” friendship of which Plaintiff complains with respect
26 to director Wrotniak is actually between Margaret Cotter and Wrotniak’s *wife*. Prior to his
27 joining RDI’s Board, the evidence is that Wrotniak and Margaret Cotter did not have a
28 substantial “ongoing relationship,” as they saw each other about “once a year” and only

1 communicated sporadically via email regarding "show tickets." This falls well short of the
2 "thick as blood relations" standard required to overturn Wrotniak's presumptive independence.
3 Again similar to Coddling, the fact that Margaret and Ellen Cotter may have proposed Wrotniak
4 as a nominee is not legally pertinent to the "independence" analysis; the relevant inquiry is not
5 how the director got his position, but rather how he comports himself in it. Because the personal
6 relationship and nomination process identified by Plaintiff are factually irrelevant and legally
7 insufficient to disturb Wrotniak's presumed independence, summary judgment is warranted.

8 Fourth, and finally, the financial ties of which Plaintiff complains with respect to director
9 Adams are clearly insufficient to render him "beholden" to Margaret and Ellen Cotter as a matter
10 of law. There is nothing unusual about the fees that Adams has earned as an RDI director: the
11 amounts paid to him by the Company are consistent with the compensation paid to all other non-
12 employee directors who have spent substantial time in the past two years addressing the
13 deficiencies in Plaintiff's performance as CEO, Plaintiff's ultimate termination, and the various
14 challenges encountered by the Company in its normal course of business and as a result of
15 Plaintiff's baseless personal attacks. To the extent that Adams has ties to certain Cotter family
16 entities outside of his Board service, those dealings originated years before his election to the
17 RDI Board, were the result of dealings with James J. Cotter, Sr. (rather than any of the Cotter
18 siblings), were well-known to Plaintiff (who worked with Adams on some of these outside
19 ventures), and the funds from those ventures are either contractually-owed to him (and thereby
20 immune from present-day pressures) or immaterial to his overall economic situation. Plaintiff
21 has identified no financial reason why Adams would be biased in favor of Margaret and Ellen
22 Cotter and against him. Instead, given that Adams is of retirement age, has a net worth
23 approaching [REDACTED], and has been repeatedly found to be "independent" under the
24 NASDAQ standards for the purposes of his general service as an RDI director, there is no
25 reasonable legal basis upon which his presumed independence can be questioned. As such,
26 summary judgment on the issue of Adams' independence is also entirely merited.

1 **II. FACTUAL BACKGROUND**

2 **A. The RDI Board at the Time of Plaintiff's Termination**

3 As of June 12, 2015, the date on which Plaintiff was terminated from his positions as
4 CEO and President of RDI, the following individuals served on the Company's Board of
5 Directors: (1) Plaintiff James J. Cotter, Jr. ("Plaintiff"); (2) Margaret Cotter; (3) Ellen Cotter;
6 (4) Douglas McEachern; (5) Edward Kane; (6) Guy Adams; (7) Timothy Storey; and (8) William
7 Gould. (HD Ex. 10 at 3-6; HD Ex. 18 at 1-2.)¹

8 **1. Margaret and Ellen Cotter**

9 Margaret Cotter, Plaintiff's sister, has served as a director of RDI since September 2002.
10 (HD Ex. 10 at 4.) At the time of Plaintiff's termination in June 2015, Margaret Cotter had been
11 Vice-Chairman of the Board since August 2014, ran the Company's live theater division,
12 managed certain live theater real estate, and was responsible for re-development work on RDI's
13 Manhattan theater properties. (*Id.*) Margaret Cotter is currently a member of RDI's Executive
14 Committee. (HD Ex. 12 at 16.) On March 10, 2016, RDI's Board appointed Margaret Cotter as
15 Executive Vice President-Real Estate Management and Development-NYC, which resulted in
16 the termination of her previous outside management agreement but continued her supervision of
17 RDI's live theater properties and operations, including oversight on certain Manhattan-based re-
18 development projects. (*Id.*)

19 Ellen Cotter, Plaintiff's other sister, has served as a director of RDI since March 2013.
20 (HD Ex. 10 at 4.) At the time of Plaintiff's termination, Ellen Cotter had been RDI's Chairman
21 of the Board since August 2014, been a RDI employee since March 1998, and had run the day-
22 to-day operations of the Company's domestic cinema operations since 2002. (*Id.*) Ellen Cotter
23 also served as the Chief Executive Officer of the Company's subsidiary, Consolidated
24 Entertainment, LLC, which operates substantially all of RDI's cinemas in Hawaii and California.
25 (*Id.*) Following Plaintiff's termination, Ellen Cotter became interim CEO and President of RDI,

26
27

28 ¹ The documentary and testimonial evidence supporting this Motion is attached to the Declaration of Noah S. Helpm ("HD").

1 positions to which she was appointed in a permanent capacity on January 8, 2016. (HD Ex. 12
2 at 14.) Ellen Cotter is also currently a member of RDI's Executive Committee. (*Id.*)

3 **2. Douglas McEachern**

4 Douglas McEachern has served as a director of RDI since May 2012. (HD Ex. 10 at 6.)
5 McEachern has been the Chairman of the Company's Audit Committee since August 1, 2012,
6 and has served as a member of its Compensation Committee since May 14, 2016. (HD Ex. 12
7 at 17.) McEachern has also served on (1) the Board of Directors and Audit and Compensation
8 Committee for Willdan Group, a NASDAQ-listed engineering company, since 2009; (2) as
9 Chairman of the Board of Directors and a member of the Audit Committee of Community Bank
10 in Pasadena, California; and (3) on the Finance Committee of the Methodist Hospital in Arcadia,
11 California. (HD Ex. 10 at 6.) McEachern formerly worked as an audit partner at Deloitte &
12 Touche from 1985-2009, with client concentrations in financial institutions and real estate, and
13 since July 2009 has served as an instructor of auditing and accountancy at Claremont McKenna
14 College and of accounting at California State Polytechnic University in Pomona. (*Id.*) In all,
15 McEachern has more than 37 years of experience in the accounting and auditing of financial
16 institutions and real estate clients, in reporting as an independent auditor to various boards of
17 directors, and as a board member himself to various public and not-for-profit companies. (*Id.*)

18 McEachern received a total of \$82,000 in 2015 as a result from his service as an RDI
19 director. (HD Ex. 12 at 18.) Like all non-employee RDI directors, McEachern received a
20 director's fee of \$50,000; he also received—along with directors Adams, Gould, and Kane—a
21 one-time fee of \$25,000 for the unexpected, additional time he had to spend on the Company's
22 business that year, as well as another \$7,000 for his role on the Audit Committee. (*Id.*) In 2016,
23 in addition to his usual annual director's fees at RDI, McEachern received another \$10,000 in
24 "special compensation" in return "for extraordinary services to the Company and devotion of
25 time in providing such services." (*Id.*) During his deposition, Plaintiff confessed that
26 McEachern is "independent" and has "no relationship" or "business relationship" with Ellen
27 and/or Margaret Cotter that would lead him to question McEachern's independence. (HD Ex. 7
28 at 84:21-86:4.)

1 **3. Edward Kane**

2 Edward Kane has served as a director of RDI since October 2004, had previously served
3 on the Company's Board from 1985 to 1997, and was once President of two of the its corporate
4 predecessors—Craig Corporation and Reading Company. (HD Ex. 10 at 5-6.) Kane also serves
5 as Chairman of RDI's Compensation Committee, and is a member of its Executive Committee
6 and Audit and Conflicts Committee. (HD Ex. 12 at 16.) Kane previously served as Chairman of
7 the Company's Tax Oversight Committee, whose functions were moved to the Audit Committee
8 on May 5, 2016. (*Id.*) Since 1996, Kane's principal occupation has been as a healthcare
9 consultant and advisor; in that capacity, he has served as President and sole shareholder of High
10 Avenue Consulting, a healthcare consulting firm, and as the head of its successor proprietorship.
11 (HD Ex. 10 at 5.) Kane also has a background as a tax attorney and law professor, having—at
12 various times in the three decades prior to June 2015—served as an Adjunct Professor of Law at
13 Thomas Jefferson School of Law and California Western School of Law. (*Id.*) Kane now
14 considers himself retired but for the “countless hours” he spends on his duties as an RDI director.
15 (HD Ex. 3 at 50:8-52:20.) Currently, his sole source of income outside of RDI are the self-
16 funded retirement plans that he and his wife have, which have assets in excess of [REDACTED];
17 his personal or joint debts are presently less than [REDACTED]. (*Id.*)

18 Kane received a total of \$98,000 in 2015 as a result from his service as an RDI director.
19 (HD Ex. 12 at 18.) Like all non-employee RDI directors, Kane received a director's fee of
20 \$50,000; he also received—along with directors Adams, Gould, and McEachern—a one-time fee
21 of \$25,000 for the unexpected, additional time he had to spend on the Company's business that
22 year, as well as another \$23,000 for his roles on various RDI committees. (*Id.*) In 2016, in
23 addition to his usual annual director's fees at RDI, Kane received another \$10,000 in “special
24 compensation” in return “for extraordinary services to the Company and devotion of time in
25 providing such services.” (*Id.*)

26 Kane had been friends with James J. Cotter, Sr. from 1963 until his passing in 2014,
27 serving at an usher during Cotter, Sr.'s wedding with Mary Cotter and participating with Cotter,
28 Sr. in an outside citrus grove investment utilized as a tax shelter in the 1970s, which Kane

1 subsequently exited in the early 1980s. (HD Ex. 3 at 29:4-35:6.) Both Kane and his children
2 have known Plaintiff, Ellen, and Margaret Cotter since they were children, and all three Cotter
3 siblings—including Plaintiff—have historically called him “Uncle Ed,” with Plaintiff ceasing to
4 do so only after his termination. (*Id.*; *see also* HD Ex. 7 at 83:6-12.) Kane testified that he did
5 not “think my relationship was any different with the three of them,” given that he has known
6 each “all their lives” but did not frequently socialize with the Cotter siblings due to the distance
7 between his home in San Diego and their typical location in Los Angeles. (HD Ex. 3 at 36:5-
8 25.) During their time at RDI, Kane has occasionally met with or talked to the Cotter siblings
9 outside of the office. (*Id.* at 35:10-22.) For instance, he has talked with Ellen Cotter on “the
10 phone” outside of work hours given that Ellen, “like her father,” “like[s] to work at night,” and
11 Plaintiff, while he was CEO of RDI, “visited [Kane] in San Diego” to have “lunch” and “dr[ive]
12 around” for several hours. (*Id.*; *see also* Ex. 8 at 753:9-754:8.)

13 In September 2014, shortly after Plaintiff became CEO of RDI, Kane—as Chairman of
14 the Compensation and Stock Options Committee—authorized his signature on a letter that Ellen
15 Cotter needed to qualify for a mortgage, which stated that it was anticipated that Ellen would
16 receive “a total cash compensation increase of no less than 20%.” (HD Ex. 4 at 213:15-214:7;
17 HD Ex. 5 at 459:22-460:22; HD Ex. 21.) Kane assented to this letter because it was expected
18 that a compensation consultant previously retained by James J. Cotter, Sr. would soon
19 “recommend that Ellen and other top executives receive a substantial increase in compensation,”
20 Ellen’s 2013 year-end bonus remained delayed and unpaid, her division’s performance was
21 strong, Plaintiff himself was “clearly on record stating [Ellen] deserves a raise and will receive
22 one,” and Kane was “confident” that the predicted increase would happen. (HD Ex. 21.)

23 During his deposition, Plaintiff admitted that Kane does not have a business relationship
24 with either Ellen or Margaret Cotter. (HD Ex. 7 at 82:2-5.) On May 8, 2015, the Company filed
25 a Form 10-K/A, Amendment No. 1, with the United States Securities and Exchange Commission
26 (“SEC”), in which it stated that the “standing Compensation and Stock Options Committee,”
27 which included Kane as its Chairman, was “comprised entirely of independent directors.” (HD
28 Ex. 11 at -5644.) Plaintiff, as CEO and President of RDI at the time it filed this Form 10-K/A,

1 certified that he had “reviewed” this statement (and all other statements in the filing) and that the
2 “report does not contain any untrue statement of a material fact or omit to state a material fact
3 necessary to make the statements made, in light of the circumstances under which such
4 statements were made, not misleading.” (*Id.* at -5665; *see also* HD Ex. 25 at Resp. Nos. 24-26.)
5 Moreover, Plaintiff has admitted that, prior to May 21, 2015, the first Board meeting at which his
6 possible termination was discussed, he never claimed that Kane lacked sufficient
7 disinterestedness to serve on RDI’s Board. (HD Ex. 25 at Resp. No. 21.) Kane has testified that
8 as a “director of this company . . . I do what I think is in the best interest of the shareholders and
9 the employees of the company. I don’t mix my personal feelings for [the Cotter siblings] with
10 my decisions.” (HD Ex. 3 at 37:16-38:4.) According to Kane, “[w]hat I do does not take into
11 account [t]he Cotter children.” (*Id.*)

12 4. Guy Adams

13 Guy Adams, who is 65 years-old, has served as a director of RDI since his unanimous
14 election—which included Plaintiff’s vote—in January 2014. (HD Ex. 10 at 5; HD Ex. 13 at -
15 7563; HD Ex. 20 at 1.) Adams is currently Chairman of RDI’s Executive Committee, and was a
16 member of the Company’s Compensation Committee until May 14, 2016. (HD Ex. 12 at 15.)
17 During the ten years prior to June 2015, Adams served as an independent director on the boards
18 of Lone Star Steakhouse & Saloon, Mercer International, Exar Corporation, and Vitesse
19 Semiconductor, and been—at various times—Lead Director, Audit Committee Chair, and/or
20 Compensation Committee Chair at those entities. (HD Ex. 10 at 5.) Adams also provided
21 investment advice to various family offices as well as investing his own capital in public and
22 private equity transactions. (*Id.*) In this capacity, Adams was a Managing Member of GWA
23 Capital Partners, LLC, a registered investment adviser managing GWA Investments, LLC (a
24 fund which invests in various publicly-traded securities). (*Id.*) However, GWA Capital Partners
25 let its last employee go in 2009, and since that date the fund has simply held Adams’ personal
26 funds; while the fund is still registered, it has been largely “dormant” and its revenues have been
27 [REDACTED] since 2010. (HD Ex. 2 at 11:19-12:21, 24:14-26:6.) Adams’ net
28 worth, as of May 2015, was approximately [REDACTED]. (*Id.* at 35:21-36:25.)

1 Adams received a total of \$75,000 in 2015 from his service as an RDI director. (HD
2 Ex. 12 at 18.) Like all non-employee RDI directors, Adams received a director's fee of \$50,000;
3 he also received—along with directors McEachern, Gould, and Kane—a one-time fee of \$25,000
4 for the unexpected, additional time he had to spend on the Company's business that year. (*Id.*)
5 In 2016, in addition to his usual annual director's fees at RDI, Adams received another \$50,000
6 in "special compensation" in return "for extraordinary services to the Company and devotion of
7 time in providing such services." (*Id.*) Moreover, in 2015, Adams realized a "net" of
8 approximately [REDACTED] from the sale of a condominium in Santa Barbara, which his ex-wife
9 purchased from him pursuant to the terms of their divorce decree. (HD Ex. 2 at 13:17-15:5.)
10 Adams, in March or April 2015, also "exercised options" and sold some RDI stock, given that
11 "[t]he stock was up quite a bit," and Adams "wanted to capture the financial gain," which
12 resulted in another net return of approximately [REDACTED]. (*Id.* at 236:17-238:11.)

13 Prior to serving on the RDI Board, Adams partnered with James J. Cotter, Sr. in
14 September or October 2012 in four real estate ventures; this agreement provided Adams with a
15 5% carried interest in Shadow View in Coachella (a venture in which Cotter, Sr. owns 50% and
16 RDI owns the remainder), Sorento Holdings, Panorama Holdings, and Leander Holdings. (*Id.*
17 at 41:16-47:11.) Adams, who disclosed the 5% interest in the prospective Shadow View
18 development to "all board members" at RDI, has received approximately \$29,000 in proceeds
19 from Panorama Holdings, anticipates that he will ultimately receive \$100,000 from Leander
20 Holdings, and likely will not receive any proceeds from Sorento Holdings until 2019. (*Id.*
21 at 44:25-58:14.)

22 In or about September 2012, pursuant to a deal with James J. Cotter, Sr., Adams also
23 began earning approximately [REDACTED] annually from the Cotter Family Farms (which include an
24 orchard, packing house, and entities that run the operation) for his estate-planning work on
25 behalf of James J. Cotter, Sr. and, subsequently, the Estate of James J. Cotter, Sr. (*Id.* at 16:4-
26 17:16, 27:1-35:20.) As part of Adams' estate-planning work for the Cotter family, he also serves
27 as Chief Financial Officer focused on filing and reporting at two "captive insurance companies"
28 that are owned by a Cotter family trust, of which Margaret Cotter is President: York Street

1 Guaranty Insurance Company and South Street Guaranty Insurance Company. (*Id.* at 27:1-
2 35:20.) All three Cotter siblings, including Plaintiff, are board members of the two captive
3 insurance companies. (*Id.* at 34:24-35:20.) With respect to the captive insurance companies,
4 Adams interfaces with Margaret Cotter, and with respect to the Cotter Family Farms, Adams
5 typically has dealt with outside individuals such as Alice Nelson and David Roth rather than any
6 of the Cotter siblings. (*Id.* at 27:1-35:20.)

7 On May 8, 2015, the Company filed a Form 10-K/A, Amendment No. 1, with the SEC, in
8 which it stated that the “standing Compensation and Stock Options Committee,” which at the
9 time included Adams, was “comprised entirely of independent directors.” (HD Ex. 11 at -5644.)
10 Plaintiff, as CEO and President of RDI at the time it filed this Form 10-K/A, certified that he had
11 “reviewed” this statement (and all other statements in the filing) and that the “report does not
12 contain any untrue statement of a material fact or omit to state a material fact necessary to make
13 the statements made, in light of the circumstances under which such statements were made, not
14 misleading.” (*Id.* at -5665; *see also* HD Ex. 25 at Resp. Nos. 24-26.) Moreover, Plaintiff has
15 admitted that, prior to May 21, 2015, the first Board meeting at which his possible termination
16 was discussed, he never claimed that Adams lacked sufficient disinterestedness to serve on
17 RDI’s Board. (HD Ex. 25 at Resp. No. 22.) Following Plaintiff’s newfound concern regarding
18 the independence of director Adams, first raised when his termination was being discussed, Bill
19 Ellis, then-General Counsel of RDI, looked into the issue of Adams’ independence and
20 concluded that Adams met the standard required for director “independence.” (HD Ex. 2
21 at 47:25-49:8; HD Ex. 9 at 157:5-158:4, 159:1-23.) Plaintiff was so informed. (HD Ex. 17 at 2.)

22 5. Timothy Storey

23 Timothy Storey served as a director of RDI from December 2011 until his retirement on
24 October 11, 2015, bringing with him significant experience in New Zealand corporate law and
25 commercial real estate matters. (HD Ex. 1 at 14:20-23; HD Ex. 10 at 6; HD Ex. 12 at 18 n.3.)
26 During his tenure on the RDI Board, Storey served on the Company’s Compensation Committee.
27 (HD Ex. 12 at 18 n.3.) In addition, Storey has served as the sole outside director of the
28 Company’s wholly-owned New Zealand subsidiary since 2006. (HD Ex. 10 at 6.) Since April

1 2009, Storey has also served as a director and chairman of the board of DNZ Property Fund
2 Limited, a New Zealand-based commercial property investment fund, and had previously served
3 as a director of NZ Farming Systems Uruguay, which owns and operates dairy farms in Uruguay,
4 from 2011 to 2012. (*Id.*) Prior to 2009, Storey was a partner in Bell Gully, a law firm in New
5 Zealand, and a principal in Prolex Advisory, a private company that provides commercial
6 advisory and consulting services across a range of industries, including health care, community
7 housing, student accommodation, and agriculture. (*Id.*)

8 Storey received a total of \$112,500 in 2015 as a result from his service as an RDI
9 director. (HD Ex. 12 at 18.) Like all non-employee RDI directors, Storey received a director's
10 fee of \$37,500 (pro rated from \$50,000); he also received a one-time fee of \$75,000 for the
11 unexpected, additional time he had to spend on the Company's business that year, as well as
12 another \$7,000 for his role on the Audit Committee. (*Id.*) In addition, Storey received a \$21,136
13 fee for his service as the sole outside director of the Company's wholly-owned New Zealand
14 subsidiary in 2015. (*Id.*) During his deposition, Plaintiff admitted that Storey "was
15 independent." (HD Ex. 7 at 146:18-149:11.)

16 **6. William Gould**

17 William Gould has served as a director of RDI since October 2004, and is currently Lead
18 Independent Director. (HD Ex. 10 at 5; HD Ex. 12 at 16.) Gould has been a member of the law
19 firm of TroyGould PC since 1986, prior to which he was a partner at the law firm of O'Melveny
20 & Myers. (HD Ex. 10 at 5.) RDI has retained TroyGould PC from time to time for legal advice.
21 (*Id.*) The total fees paid by RDI to TroyGould PC for the calendar year 2015 were \$61,000.84.
22 (HD Ex. 12 at 16.) During his time as a corporate attorney and as an author and lecturer on the
23 subjects of corporate governance and mergers and acquisitions, Gould has acquired significant
24 corporate transactional experience and expertise in corporate governance matters. (HD Ex. 10
25 at 5.)

26 Gould received a total of \$80,000 in 2015 as a result from his service as an RDI director.
27 (HD Ex. 12 at 18.) Like all non-employee RDI directors, Gould received a director's fee of
28 \$50,000; he also received—along with directors McEachern, Adams, and Kane—a one-time fee

1 of \$25,000 for the unexpected, additional time he had to spend on the Company's business that
2 year, and another \$5,000 for his committee service. (*Id.*) During his deposition, Plaintiff
3 conceded that Gould, whom he has known "at least since 2002," "is independent" and "doesn't
4 have a relationship with me and my two sisters that would be of such that would question his
5 independence." (HD Ex. 7 at 79:12-80:16.)

6 **B. The Composition of the RDI Board Changes**

7 The composition of the RDI Board changed in October 2015, with Dr. Judy Coddling
8 added to the Board on October 5, 2015 and Michael Wrotniak joining on October 12, 2015. (HD
9 Ex. 12 at 15, 17.) Coddling and Wrotniak filled the spots made vacant by the death of James J.
10 Cotter, Sr. and the retirement of Storey from service on the RDI Board. (*Id.*)

11 **1. Dr. Judy Coddling**

12 Coddling has served as a director of RDI since October 5, 2015, and is currently a
13 member of the Company's Compensation Committee. (HD Ex. 12 at 15.) A globally-respected
14 education leader, Coddling previously served as the Managing Director of "The System of
15 Courses," a division of Pearson, PLC, and as the Chief Executive Officer and President of
16 America's Choice, Inc. (*Id.*) Coddling has also served on various other boards, including the
17 Board of Trustees of both Curtis School in Los Angeles, California, and Educational
18 Development Center, Inc. (*Id.*) Through family entities, Coddling has been and continues to be
19 involved in the real estate business, through the ownership of hotels, shopping centers, and
20 buildings in Florida and the exploration of mineral, oil, and gas rights in Maryland and
21 Kentucky. (*Id.*)

22 Like all non-employee RDI directors, Coddling received a director's fee of \$11,957 in
23 2015 (pro rated from \$50,000). (*Id.* at 18.) Coddling has been a friend of Mary Cotter, the
24 mother of Plaintiff and his sisters, for approximately 30 years. (HD Ex. 7 at 70:18-25.) During
25 his deposition, Plaintiff conceded that Coddling "might" satisfy a "legal technical definition of
26 independence." (*Id.* at 70:18-71:6.)

1 **2. Michael Wrotniak**

2 Wrotniak has served as a director of RDI since October 12, 2015, and is currently a
3 member of the Company's Audit Committee. (HD Ex. 12 at 17.) A specialist in foreign trade
4 with a focus on Europe and Asia, Wrotniak has been a partner of Aminco Resources, LLC, a
5 privately-held international commodities trading firm, since 2002, and its Chief Executive
6 Officer since 2009. (*Id.*) Wrotniak has also served as a trustee of St. Joseph's Church in
7 Bronxville, New York, and a member of the Board of Advisers of the Little Sisters of the Poor in
8 the Bronx, New York. (*Id.*)

9 Like all non-employee RDI directors, Wrotniak received a director's fee of \$11,005 in
10 2015 (pro rated from \$50,000). (*Id.* at 18.) After first recommending two other candidates,
11 Margaret Cotter raised the idea of Wrotniak joining the RDI Board in mid-2015. (Ex. 6
12 at 314:10-327:18.) Margaret Cotter has been a "close friend" of Wrotniak's wife, Patricia, since
13 college; they speak "every three or four weeks" and see each other "maybe four times a year."
14 (*Id.*) While Margaret Cotter became acquainted with Wrotniak "later in college," she does not
15 have "an ongoing relationship with him," sees him about "once a year if I went to [Patricia
16 Wrotniak's] house for dinner," and their communications prior to Wrotniak joining the RDI
17 Board were mainly via "email" if Wrotniak "wanted show tickets." (*Id.*)

18 **III. LEGAL STANDARD**

19 Summary judgment is warranted under Nevada Rule of Civil Procedure 56 whenever the
20 "pleadings, depositions, answers to interrogatories, admissions, and affidavits, if any, that are
21 properly before the court demonstrate that no genuine issue of material fact exists, and the
22 moving party is entitled to judgment as a matter of law." *Wood v. Safeway, Inc.*, 121 Nev. 724,
23 731 (2005). "The substantive law controls which factual disputes are material and will preclude
24 summary judgment; other factual disputes are irrelevant." *Id.*; see also *Anderson v. Liberty*
25 *Lobby, Inc.*, 477 U.S. 242, 248 (1986) ("Factual disputes that are irrelevant or unnecessary will
26 not be counted."). A factual dispute is "genuine" only "when the evidence is such that a rational
27 trier of fact could return a verdict for the nonmoving party." *Holcomb v. Ga. Pac., LLC*, 289
28 P.3d 188, 192 (Nev. 2012) (citation omitted).

1 While the pleadings and other proof are “construed in the light most favorable to the
2 nonmoving party,” *LaMantia v. Redisi*, 118 Nev. 27, 29 (2002), that party “bears the burden to
3 more than simply show that there is some metaphysical doubt as to the operative facts in order to
4 avoid summary judgment.” *Wood*, 121 Nev. at 732 (citation and internal quotation marks
5 omitted) (rejecting the “slightest doubt” standard). The nonmoving party “is not entitled to build
6 a case on the gossamer threads of whimsy, speculation, and conjecture,” *id.* (citation omitted),
7 but instead must identify “admissible evidence” showing “a genuine issue for trial.” *Posadas v.*
8 *City of Reno*, 109 Nev. 448, 452 (1993); *Shuck v. Signature Flight Support of Nev., Inc.*, 126
9 Nev. 434, 436 (2010) (“bald allegations without supporting facts” are insufficient); *LaMantia*,
10 118 Nev. at 29 (nonmovant must “show specific facts, rather than general allegations and
11 conclusions”). A nonmoving party that fails to make this showing will “have summary judgment
12 entered against him.” *Wood*, 121 Nev. at 732 (citation omitted).

13 **IV. ARGUMENT**

14 Plaintiff does not contend that any of RDI’s non-Cotter directors are “interested” in the
15 corporate actions and/or transactions of which he complains.² Nor can he. “No issue of self-
16 interest exists where directors did not stand on both sides of the transaction or receive any
17 personal financial benefit.” *La. Mun. Police Emps.’ Ret. Sys. v. Wynn*, No. 2:12-cv-509 JCM,
18 2014 WL 994616, at *4 (D. Nev. Mar. 13, 2014) (applying Nevada law); NRS 78.140(1)(a)
19 (defining “interested director”). Here, there are no allegations, let alone evidence, that this
20 occurred. Instead, Plaintiff focuses his action on a theory that certain non-Cotter directors—as a
21 result of friendship or economic ties—are somehow “beholden” to Ellen and Margaret Cotter.
22 (See, e.g., SAC ¶¶ 20-21, 24-25, 63-71, 121-134, 171.) This is a arduous undertaking. “[T]here
23 is a presumption that directors are independent,” *In re MFW S’holders Litig.*, 67 A.3d 496, 509
24 (Del. Ch. 2013), *aff’d sub nom.*, *Kahn v. M & F Worldwide*, 88 A.2d 635 (Del. 2014), and “even
25

26 ² The Individual Defendants, for the purposes of this motion, do not contest the
27 independence of Ellen and Margaret Cotter as RDI directors with respect to the transactions
28 and/or corporate conduct at issue—which are addressed in the Individual Defendants’ other,
contemporaneously-filed summary judgment motions.

1 proof of majority ownership of a company does not strip the directors of the presumptions of
2 independence, and that their acts have been taken in good faith and in the best interests of the
3 corporation.” *Aronson v. Lewis*, 473 A.2d 805, 815 (Del. 1984). *See also* NRS 78.138(3)
4 (“Directors and officers, in deciding upon matters of business, are presumed to act in good faith,
5 on an informed basis and with a view to the interests of the corporation.”).

6 As the evidence adduced during discovery has made clear, Plaintiff cannot show that *any*
7 of the non-Cotter directors are so “beholden” to Ellen and Margaret Cotter “or so under their
8 influence that their discretion would be sterilized.” *Rales v. Blasband*, 634 A.2d 927, 936 (Del.
9 1993); *Shoen v. SAC Holding Corp.*, 122 Nev. 621, 639 (2006) (same). Plaintiff has conceded
10 that directors McEachern, Storey, and Gould are independent, and that Coddington “might” be.
11 (See Factual Background, *supra* at 8, 11-12.) To the extent that Plaintiff continues to assert that
12 directors Kane, Coddington, and Wrotniak are “beholden” to Ellen and Margaret Cotter as a result
13 of personal or familial friendship, or that director Adams is as a result of certain business
14 relationships with the Cotter family, his allegations are wrong as a matter of fact and contrary to
15 established law, as set forth below. Courts have regularly decided director independence as a
16 matter of law at the summary judgment stage, and this Court should do so accordingly.³

17 **A. The Personal or Familial Friendships Involving Directors Kane, Coddington,**
18 **and Wrotniak Are Legally Insufficient to Render Them “Beholden”**

19 **1. Director Kane Is Independent as a Matter of Law**

20 Plaintiff has conceded that director Kane does not have a business relationship with either
21 Ellen or Margaret Cotter that would lead him to question Kane’s independence. (HD Ex. 7
22 at 85:2-5.) Instead, Plaintiff challenges Kane’s independence based on (1) his “relationship
23 going back . . . close to 50 years with the three of us,” pursuant to which he has been called
24 “Uncle Ed” by the Cotter siblings; and (2) certain actions that he has purportedly taken with

25 _____
26 ³ *See, e.g., Kahn*, 88 A.2d at 647-50 (affirming finding of director independence at summary
27 judgment stage); *SEPTA v. Volgenau*, C.A. No. 6354-VCN, 2013 WL 4009193, at *12-21 (Del.
28 Ch. Aug. 5, 2013) (same); *In re Transkaryotic Therapies, Inc.*, 954 A.2d 346, 369-70 (Del. Ch.
2008) (same); *In re Gaylord Container Corp. S’holders Litig.*, 753 A.2d 462, 465 (Del. Ch.
2000) (same).

1 respect to Ellen Cotter's compensation and the director fees afforded to those on RDI's Board.
2 (HD Ex. 7 at 81:7-17; HD Ex. 26 at 25.) Not only is Plaintiff's attack on Kane's independence
3 not supportable under law, his bald allegations are contradicted by the undisputed facts. There is
4 no triable issue of fact as to Kane's independence.

5 First, "[a]llegations of mere personal friendship or mere outside business relationship,
6 standing alone, are insufficient to raise a reasonable doubt about a director's independence."
7 *Beam ex rel. Martha Stewart Living Omnimedia, Inc. v. Stewart*, 845 A.2d 1040, 1050 (Del.
8 2004); *see also Khanna v. McMinn*, No. Civ. A. 20545-NC, 2006 WL 1388744, at *19 (Del. Ch.
9 May 9, 2006) ("Mere allegations that the directors in question move in the same business and
10 social circles, or a characterization that they are close friends, is not enough to negate
11 independence.") (citation omitted). Rather, to undermine the presumption of independence, "a
12 relationship must be of a bias-producing nature." *Beam*, 845 A.2d at 1050. "In other words,
13 considering the risks that directors would take by protecting their social acquaintances in the face
14 of allegations that those friends engaged in misconduct," Plaintiff must provide evidence
15 sufficient "to create a reasonable doubt" that Kane "would be more willing to risk his . . .
16 reputation than risk the relationship with the interested director." *Khanna*, 2006 WL 1388744,
17 at *19 (citation omitted).

18 Plaintiff cannot meet this standard. The evidence establishes that any "deep friendship"
19 was between Kane and the deceased James J. Cotter, Sr.—not with his daughters Ellen and
20 Margaret Cotter. (See Factual Background, *supra* at 6-8.) While Kane has known Ellen and
21 Margaret Cotter "all their lives," the same is true of his relationship with Plaintiff. While Ellen
22 and Margaret Cotter have called him "Uncle Ed," so has Plaintiff—at least up to the point of his
23 termination in June 2015. While Kane speaks with Ellen Cotter at times after work hours on the
24 phone, those conversations are work-related, as one would expect between a CEO and Board
25 member. Plaintiff has also called on Kane outside of the office, including a trip and day-long
26 visit to Kane's house in the spring of 2015. Ultimately, any visits between Kane and any of the
27 Cotter siblings are limited and rare, given the distance between Los Angeles and Kane's
28 residence in San Diego. Kane has made clear that he "does not take into account [t]he Cotter

1 children” and does not “mix my personal feelings for [the Cotter siblings] with my decisions” as
2 an RDI director. (*Id.* at 8.) RDI’s Board has concluded that Kane is “independent,” including in
3 materials filed with the SEC that Plaintiff “reviewed” and approved, and Plaintiff himself has
4 conceded that, prior to May 21, 2015, the first Board meeting at which his possible termination
5 was discussed, he never claimed that Kane lacked sufficient disinterestedness to serve on RDI’s
6 Board—despite the fact that all of the ties of which Plaintiff now complains with respect to Kane
7 were known to him by that time. (*Id.* at 7-8.)

8 In short, there is no evidence sufficient to undermine the presumption of director
9 independence with respect to Kane based on friendships or familial relationship, or showing that
10 he would more willing to risk his reputation than risk a relationship with Ellen or Margaret
11 Cotter. Rather, the facts establish that the relationship between Kane and the Cotter sisters was
12 the equivalent of the relationship between Kane and Plaintiff, and that there is no underlying
13 reason why Kane would be inherently biased as to one particular side when evaluating what is
14 best for RDI as a director. *See La. Mun. Police Emps.’ Ret. Sys. v. Wynn*, --- F.3d ---, 2016 WL
15 3878228, at *7 (9th Cir. July 18, 2016) (applying Nevada law and finding that allegations
16 involving social ties between controlling shareholder and director were insufficient to cast the
17 director’s “impartiality into doubt” even where they were longtime friends whose fathers once
18 operated a joint business). Courts have repeatedly found that similar friendships or familial
19 relationships are entirely insufficient to disturb the presumption of independence as a matter of
20 law. *See, e.g., Wynn*, 2014 WL 994616, at *6 (30-year friendship between controlling
21 shareholder and director, which involved large donations by shareholder to entities run by
22 director, insufficient to establish that director was “beholden”); *Beam*, 845 A.2d at 1054
23 (allegations regarding longtime “close personal friendship” between director and controlling
24 shareholder, including wedding attendance, did not “create a reasonable doubt of independence”
25 and were not a “close call”); *Crescent/Mach I Partners, L.P. v. Turner*, 846 A.2d 963, 980-81
26 (Del. Ch. 2000) (allegation of a “long-standing 15-year professional and personal relationship”
27 between “controlling shareholder and director” failed to raise a reasonable doubt that director
28 could “exercise his independent business judgment”).

1 Second, the corporate actions identified by Plaintiff in no way support his claims of
2 demonstrable bias. (See SAC ¶¶ 38-40.) While Plaintiff complains that Kane authorized his
3 signature on a letter required for mortgage qualification purposes, which attested to a likely “a
4 total cash compensation increase of no less than 20%” for Ellen Cotter (*id.* ¶ 38), Plaintiff
5 conspicuously avoids the fact that he also “support[ed]” the “letter with minor suggested
6 changes,” he vowed in writing that he “would definitely support [a] 20% increase to her total
7 compensation, which is below market,” and he explicitly voted in favor of the 20% increase to
8 Ellen Cotter’s compensation at the November 13, 2014 Compensation and Stock Option
9 Committee meeting. (HD Ex. 16 at -713; HD Ex. 22 at -115.) Similarly, while Plaintiff
10 criticizes Kane’s support for a measure that provided Ellen Cotter with a \$50,000 tax
11 reimbursement in October 2014 due to “a company screw-up” relating to her stock options (SAC
12 ¶ 39; HD Ex. 21; HD Ex. 23), the fact is that all three Cotter directors abstained from a vote on
13 that payment, “the remaining five directors voted to reimburse this amount to Ms. Cotter,” and
14 Plaintiff has identified nothing improper with respect to this reimbursement. (See HD Ex. 14 at -
15 315.)

16 Finally, Plaintiff alleges that Kane “began pressing Plaintiff” in September 2014 to
17 recommend to the RDI Board that the annual fees for the Company’s outside directors be
18 increased. (SAC ¶ 40.) There are multiple flaws with Plaintiff’s assertion. First, the record
19 shows that director Gould, rather than Kane, suggested the increase in the Company’s director
20 fees from \$35,000 to \$50,000 per annum in the fall of 2014. (See HD Ex. 16 at -115–116; HD
21 Ex. 24 at -927.) Moreover, Plaintiff himself supported and affirmatively voted in favor of this
22 increase. (See HD Ex. 25, Resp. No. 12.) The previous compensation “had not been increased
23 for several years” (HD Ex. 15 at -537), Plaintiff has no evidence that this increase was in any
24 way improper, and “[s]peculation on motives for undertaking corporate action” is “wholly
25 insufficient” to impugn Kane’s presumed independence. *Grobow v. Perot*, 539 A.2d 180, 188
26 (Del. 1988). And, of course, Plaintiff must show that Kane’s “particular” interest in this increase
27 of a mere \$15,000/year is somehow so “material and debilitating” that it would affect his
28

1 independence, *Orman v. Cullman*, 794 A.2d 5, 24 (Del. Ch. 2002), which he cannot, given
2 Kane's healthy economic status. (HD Ex. 3 at 50:8-52:20 (showing Kane's net worth).)

3 Because the personal relationships and corporate actions identified by Plaintiff are
4 factually inapposite and legally insufficient to disturb Kane's presumed independence, summary
5 judgment as a matter of law on the issue of Kane's independence is fully warranted.

6 **2. Director Coddling Is Independent as a Matter of Law**

7 Plaintiff has admitted that director Coddling "might" satisfy a "legal technical definition
8 of independence." (HD Ex. 7 at 70:18-71:6.) At most, he attempts to challenge the presumed
9 independence of Coddling by noting that she "maintains a long standing, close personal
10 friendship with Mary Cotter" (the mother of Plaintiff, Ellen, and Margaret Cotter), whom
11 Plaintiff claims "has chosen the side" of the sisters "in the family disputes," and that Coddling's
12 nomination was proposed by Ellen Cotter. (SAC ¶¶ 124-125; HD Ex. 26 at 12-13.) Neither
13 proposition, even if true, is sufficient to undermine the presumption of Coddling's independence,
14 and thus no triable issue of fact remains.

15 First, "the law is well-settled that [a defendant's] involvement in selecting [board
16 members] is insufficient to create a reasonable doubt about their independence," *White v. Panic*,
17 793 A.2d 356, 366 (Del. Ch. 2000), and "[m]erely because a director is nominated and elected by
18 a large or controlling shareholder does not mean that [s]he is necessarily beholden to [her] initial
19 sponsor." *Frank v. Elgamal*, C.A. No. 6120-VCN, 2014 WL 957550, at *22 (Del. Ch. Mar. 10,
20 2014); *see also Aronson*, 473 A.2d at 815 (observing that a 47 percent shareholder who
21 personally selected *all* of the directors of the corporation was not sufficient to establish that the
22 stockholder dominated and controlled the corporation's board of directors); *Beam*, 845 A.2d
23 at 1045 n.3 (directors independent despite the fact that they were nominated and approved by
24 holder of 94% of the company's voting stock). "Directors must be nominated and elected to the
25 board in one fashion or another," *In re W. Nat'l Corp. S'holders Litig.*, No. 15927, 2000 WL
26 710192, at *15 (Del. Ch. May 22, 2000), and the mere fact that Ellen Cotter played a role in
27 Coddling's nomination—to which only Plaintiff objected (SAC ¶ 125)—is not enough to show
28 dominance or control. *See Aronson*, 473 A.2d at 816 ("It is the care, attention and sense of

1 individual responsibility to the performance of one's duties, not the method of election, that
2 generally touches on independence.”).

3 Second, as with director Kane's friendship with the now-deceased James J. Cotter, Sr.,
4 *supra* Section I(A)(1), Coddington's personal relationship with Mary Cotter—who is not a
5 defendant and is not herself a director or significant shareholder of RDI—is entirely irrelevant to
6 the legal issue of whether Coddington is “beholden” to Ellen and Margaret Cotter, and therefore
7 “unable to consider a business decision on the merits” as it relates to their interests. *La. Mun.*
8 *Police Emps.' Ret. Sys.*, 2014 WL 994616, at *7. Indeed, like Coddington, Plaintiff himself has had
9 a “long-standing personal relationship” with his mother but considers himself “independent.”
10 (HD Ex. 7 at 71:8-72:15.)⁴ Moreover, there exists no non-hearsay evidence establishing what
11 Mary Cotter thinks as to the intra-family fight, whether she has even communicated her feelings
12 to Coddington, and whether Mary Cotter's view would be in any way material to Coddington's
13 exercise of her director duties.⁵ “Mere insinuation is unfair and improper,” and Plaintiff's pure
14 speculation does not “support a *reasonable* inference” that Coddington “could not act
15 independently.” *In re W. Nat'l Corp. S'holders Litig.*, 2000 WL 710192, at *16.

16 Because the personal relationships and nomination process identified by Plaintiff are
17 factually irrelevant and legally insufficient to disturb Coddington's presumed independence,
18 summary judgment as a matter of law on the issue of her independence is fully warranted.

19 **3. Director Wrotniak Is Independent as a Matter of Law**

20 Plaintiff attempts to challenge the presumption of independence as to director Wrotniak
21 by claiming that Wrotniak is “the husband of a close friend of Margaret Cotter,” the idea behind
22

23 ⁴ In fact, Plaintiff's testimony that, during a conversation at breakfast around the time of her
24 appointment, Coddington communicated to Plaintiff her initial reaction that “your sister Ellen
25 should be CEO or you should be CEO” (HD Ex. 7 at 73:17-74:11) undermines his claim that
26 Coddington is somehow controlled by Ellen Cotter, given that Coddington was purportedly
27 contemplating Plaintiff, rather than Ellen, as permanent CEO.

28 ⁵ It is well-settled that “inadmissible hearsay,” like the purported statements identified by
Plaintiff, “cannot [be] consider[ed] on a motion for summary judgment.” *In re Transkaryotic*
Therapies, 954 A.2d at 367 (refusing to consider hearsay statements from third-party bankers in
evaluating independence of corporate director in context of summary judgment motion).

1 his nomination was mooted by Margaret Cotter and both sisters formally proposed his addition,
2 and the Board selected Wrotniak notwithstanding the fact that an allegedly more-qualified
3 “senior executive” had expressed his willingness to serve. (SAC ¶¶ 131-133; HD Ex. 26 at 13.)
4 Similar to Plaintiff’s challenge to the independence of directors Kane and Coddington, none of these
5 considerations—even if true—are legally sufficient to undermine the presumption of Wrotniak’s
6 independence. No triable issue of fact remains.

7 First, as with both Kane and Coddington, the preexisting relationship identified by Plaintiff
8 is not nearly enough to remove the presumption of Wrotniak’s independence. Once again, the
9 alleged “close friendship” is actually between Margaret Cotter and Wrotniak’s wife—not
10 Wrotniak himself. (See Factual Background, *supra* at 13.) The evidence instead indicates that
11 Margaret Cotter did not have a substantial “ongoing relationship” with Wrotniak, would see him
12 about “once a year” prior to his joining the RDI Board, and their communications were mainly
13 limited to “email” and focused on the topic of “show tickets.” (*Id.*) This falls well short of the
14 kind of “thick as blood relations” that could possibly question Wrotniak’s presumptive
15 independence. See *In re MFW S’holders Litig.*, 67 A.3d at 509 n.37 (no justified concerns
16 regarding independence where the parties “occasionally had dinner over the years, go to some of
17 the same parties and gatherings annually, and call themselves ‘friends’”); *La. Mun. Police*
18 *Emps.’ Ret. Sys.*, 2016 WL 3878228, at *6-7 (applying Nevada law and finding that a 23-year
19 friendship with dominant shareholder, coupled with political contributions, threat against an
20 opponent in an election, and a million dollar charitable contribution did not disturb the
21 presumption of independence).

22 Second, as with Coddington, the Cotter sisters’ participation in the proposal of Wrotniak as a
23 nominee to the RDI Board is irrelevant as a matter of law, and any argument to the contrary “has
24 consistently been rejected” by courts. *Andreae v. Andreae*, Civ. A. No. 11,905, 1992 Del. Ch.
25 LEXIS 44, at *13-14 (Del. Ch. Mar. 3, 1992) (also noting that “the relevant inquiry is not how
26 the director got his position, but rather how he comports himself in that position”); *In re W. Nat’l*
27 *Corp. S’holders Litig.*, 2000 WL 710192, at *16 (prior relationship with, and nomination by, a
28

1 significant or controlling shareholder “merely establishes” that board member was “known and
2 trusted,” not that director was “beholden”); *see also supra* Section I(A)(2) (collecting cases).

3 Third, Plaintiff’s complaint that the Board selected Wrotniak over his preferred
4 candidate, whom he claims had superior experience, is legally irrelevant to the actual issue of
5 whether or not Wrotniak is able to independently function as a board member pursuant to his
6 own business judgment, as opposed to being “beholden” to those that nominated him. Even
7 assuming *arguendo* that despite his undisputed expertise in foreign trade (highly relevant to an
8 international company like RDI), Wrotniak was not the best available candidate, “[a]spirational
9 ideals” in which companies always “go beyond minimal requirements” or choose the most
10 exceptional candidate may be preferable, but “they are not required by the corporation law and
11 do not define standards of liability.” *Brehm v. Eisner*, 746 A.2d 244, 255-56 (Del. 2000); *see*
12 *also McWhirter v. Washington Royalties Co.*, 152 A. 220, 224 (Del. Ch. 1930) (decision as to
13 whether board members are “fit and competent” or alternative candidates are “of equal fitness
14 and competency” is left to “the stockholders”).⁶

15 Because the personal relationship and nomination process identified by Plaintiff are
16 factually irrelevant and legally insufficient to disturb Wrotniak’s presumed independence,
17 summary judgment as a matter of law on the issue of his independence is warranted.

18 **B. The Financial Relationships Involving Director Adams Are Legally**
19 **Insufficient to Render Him “Beholden”**

20 Rather than focus on pre-existing personal friendship, Plaintiff contends that director
21 Adams is “beholden” to, and cannot act independently with respect to, Ellen and Margaret Cotter
22 as a result of financial ties between Adams and RDI and/or certain Cotter family entities now
23 within the Estate of James J. Cotter, Sr. (*See* SAC ¶¶ 64-71; HD Ex. 26 at 18-20.) Plaintiff’s

24
25 ⁶ The throw-away insinuation that “[t]o Adams knowledge, no background check had been
26 conducted on . . . Wrotniak,” present in Plaintiff’s expert report (*see* HD Ex. 26 at 13), distorts
27 the record and is factually wrong. Regardless of Adams’ apparent recollection during his
28 deposition, the contemporaneous written record is clear that Craig Tompkins, in-house counsel
for RDI, reported at the October 6, 2015 meeting of the Company’s Special Nominating
Committee, that “the Company had conducted its usual and customary background check on Mr.
Wrotniak, and that it revealed no causes for concern.” (*See* HD Ex. 19 at -589.)

1 attack on the presumptive independence of Adams is factually flawed, legally unsupportable, and
2 fails to raise a genuine issue of triable fact.

3 It is beyond dispute that Adams is not “interested” in any of the corporate actions or
4 transactions at issue in this litigation. He did not “appear on both sides of a transaction or expect
5 to derive any personal financial benefit from it in the sense of self-dealing, as opposed to a
6 benefit which devolves upon the corporation or all stockholders generally.” *Aronson*, 473 A.2d
7 at 812. Thus, the only way that Adams’ independence can be subject to question is if his
8 “material ties to the person whose proposal or actions [he] is evaluating”—*i.e.*, Ellen and
9 Margaret Cotter—are sufficiently substantial that [he] cannot objectively fulfill [his] fiduciary
10 duties.” *In re MFW S’holders Litig.*, 67 A.3d at 509. “[T]he simple fact that there are some
11 financial ties between the interested party and the director is not disqualifying.” *Id.* Instead, the
12 financial ties or benefit must be “material” to Adams himself, meaning that they are “significant
13 enough *in the context of the director’s economic circumstances* as to have made it improbable
14 that the director could perform [his] fiduciary duties to the . . . shareholders without being
15 influenced by [his] overriding personal interest.” *Orman*, 794 A.2d at 23 (citation omitted)
16 (emphasis in original). Plaintiff cannot make this showing.

17 Adams is of retirement age (65 years-old) and has substantial assets, with a net worth, as
18 of May 2015, of approximately [REDACTED]. (See Factual Background, *supra* at 8.) There is
19 nothing unusual about the fees that he earns as an RDI director: like all non-employee directors,
20 he received the regular annual \$50,000 director’s fee in 2015. (*Id.* at 9.) While he was provided
21 an additional one-time fee of \$25,000 for the unexpected, additional time that he spent on the
22 Company’s business that year, directors McEachern and Gould (each of whom Plaintiff concedes
23 are independent) as well as director Kane also received that same amount. (*Id.*) Director Storey
24 (whose independence Plaintiff does not challenge) received more than that. (*Id.* at 11.) While
25 Adams was awarded another \$50,000 in “special compensation” in return “for extraordinary
26 services to the Company and devotion of time in providing such services” in 2016, that
27 additional compensation is due to his extra service as Chairman of RDI’s Executive Committee
28 and is far less than the \$75,000 one-time fee that director Storey received for similar service as

1 ombudsman in 2015. (*Id.* at 9, 11.) It is well-settled that “the mere fact that a director receives
2 compensation for [his] service as a board member adds little or nothing” to the independence
3 analysis. *Khanna*, 2006 WL 1388744, at *16, *17 (claim that a “director’s salary . . . might
4 influence his decision” was insufficient to disturb presumption of independence); *see also*
5 *Grobow*, 539 A.2d at 188 (“allegation that all GM’s directors are paid for their service as
6 directors . . . does not establish any financial interest” and did not undermine independence).

7 While Adams has ties to certain Cotter family entities outside of RDI, those dealings
8 originated years before the corporate conduct and transactions at issue in this litigation. Indeed,
9 both Adams’ investment in a real estate venture involving some Cotter family assets and his
10 general estate planning assistance began in 2012 or 2013—before Adams was even an RDI
11 director—and each were at the insistence of James J. Cotter, Sr., rather than Ellen or Margaret
12 Cotter. (*See Factual Background, supra* at 9.) And, of course, “[t]he naked assertion of a
13 previous business relationship is not enough to overcome the presumption of a director’s
14 independence.” *Orman*, 794 A.2d at 27. Moreover, Adams’ 5% carried interest in the real estate
15 venture is a preexisting contractual right, and is unaffected by whatever Cotter sibling maintains
16 control of the Estate of James J. Cotter, Sr. (*See Factual Background, supra* at 9.) To the extent
17 that Ellen and Margaret Cotter may control that estate at the moment, this outside “business
18 agreement” between a director and these significant shareholders “where both parties could
19 benefit financially” once certain properties are developed is not enough to show “with sufficient
20 particularity that [Adams] could not form business decisions independently” with respect to RDI.
21 *La. Mun. Police Emps.’ Ret. Sys.*, 2014 WL 994616, at *7.

22 Ultimately, Plaintiff’s entire attack on Adams’ independence is predicated upon a bald
23 assertion that Adams must have made certain corporate decisions in the manner that he did (such
24 as voting to terminate Plaintiff) because, if he did not act in favor of Ellen and Margaret Cotter,
25 he would face removal from the Board, loss of his annual director’s fees, and termination of the
26 additional [REDACTED] he has earned annually from estate planning work for the Cotter Family
27 Farms. (*See SAC ¶¶ 64-71; HD Ex. 26 at 18-20.*) There are multiple fatal problems with this
28 claim.

1 First, Plaintiff has not identified “any facts tending to show” that Adams’ positions with
2 the RDI Board or the Cotter Family Farms were “actually threatened” by Ellen and Margaret
3 Cotter at any point. *Grobow*, 539 A.2d at 188 (rejecting attack on director independence for this
4 reason). In fact, director Gould, who voted *against* terminating Plaintiff at the June 12, 2015
5 Board meeting, still remains a member of RDI’s Board and the Company has continued to
6 engage his law firm (TroyGould PC), paying over \$61,000 in fees in 2015. (HD Ex. 10 at 16.)
7 Given that Adams—like all RDI directors—has been well aware of Plaintiff’s ongoing challenge
8 to his sisters’ control of the Estate of James J. Cotter, Sr. and their ability to vote or control
9 certain RDI shares formerly held by their father, Plaintiff also cannot articulate why Adams
10 would be any more “beholden” to the viewpoint of Ellen and Margaret Cotter than Plaintiff
11 himself. In fact, because the assets of the Estate ultimately pour over into the Trust, the control
12 of which is still up in the air due to ongoing litigation, there is no reason for a director such as
13 Adams to prefer Ellen and Margaret Cotter over Plaintiff from a pure self-preservation point of
14 view.

15 Moreover, while Adams’ income from GWA Capital Partners and GWA Investments has
16 been inconsistent and limited in recent years, and—outside of some recent stock or asset sales—
17 his compensation relating to RDI and/or the Cotter family entities has represented a noteworthy
18 portion of his annual income, the mere fact that directors may receive “relatively substantial
19 compensation provided by . . . board membership compared to their outside salaries” does not
20 alone “lead to a reasonable doubt as to the[ir] independence.” *In re Walt Disney Co. Deriv.*
21 *Litig.*, 731 A.2d 342, 359-60 (Del. Ch. 1998), *aff’d in relevant part, rev’d in part and remanded*
22 *sub non*, *Brehm v. Eisner*, 746 A.2d 244 (Del. 2000). Indeed, courts have expressed concern that
23 focusing too much on this fact would “discourage the membership on corporate boards of people
24 of less-than extraordinary means” as well as “regular folks.” *Id.* (concluding the fact that board
25 member’s “salary as a teacher is low compared to her director’s fees and stock options” did not
26 undermine presumption of independence). Moreover, focusing on the importance of RDI and/or
27 Cotter family entities to Adams’ *yearly* income vastly overstates the materiality of such funds on
28 his *overall* economic picture. Given that Adams has served on at least four different corporate

1 boards within the last decade (including as Lead Director, Audit Committee Chair, and
2 Compensation Committee Chair), is of retirement age, and has a net worth of nearly [REDACTED],
3 there is no basis to conclude that he would risk his reputation for the relatively immaterial
4 rewards he receives from his RDI Board service or his work for the Cotter Family Farms. (See
5 Factual Background, *supra* at 8-10.)

6 Finally, not only has Plaintiff admitted that, prior to the commencement of discussions
7 regarding his termination on May 21, 2015, he never claimed that Adams lacked sufficient
8 disinterestedness to serve on RDI's Board, Adams repeatedly has been found to be
9 "independent" under the NASDAQ listing standards for the purposes of his service generally as a
10 director of RDI—including in documents filed with the SEC and "approved" by Plaintiff
11 himself, and again following an investigation by internal and outside counsel in May 2015 once
12 Plaintiff challenged Adams' independence prior to the vote on Plaintiff's termination. (See
13 Factual Background, *supra* at 10.)⁷ While not outcome-determinative, the NASDAQ
14 standards—like the NYSE rules—"were influenced by experience in Delaware and other states,"
15 "were the subject of intensive study by expert parties," "cover many of the key factors that bear
16 on independence," and "are a useful source for [the] court to consider when assessing an
17 argument that a director lacks independence." *In re MFW S'holders Litig.*, 67 A.3d at 510

18
19 ⁷ The fact that Adams, as advocated by director Gould, later voluntarily resigned as a
20 member of RDI's Compensation Committee on May 14, 2016 is entirely irrelevant to his general
21 independence. (HD Ex. 12 at 15.) Gould's concern was that, given Adams' financial ties to the
22 Cotter family generally, he could not be independent in passing on the compensation of Cotter
23 family members. (See Def. William Gould's Mot. for Summ. J. at 13.) Gould did not express a
24 concern that Adams could not fairly weigh in on disputes *between* the Cotters that were
25 unrelated to compensation. Plaintiff also overlooks the fact that the NASDAQ Marketplace
26 Rules with respect to service on a Compensation Committee are stricter than those that apply to
27 service on a board generally. Not only does a director need to be "independent," as Adams is,
28 *see* NASDAQ Rule 5605(d)(2)(A), a Compensation Committee member also cannot receive any
fees (other than for service as a director), such as consulting or advisory fees, that are "material"
to him from the Company or its subsidiaries. *See* NASDAQ Rule 5605(d)(2)(A)(i). Thus, while
Adams disagreed that his financial ties were material, that Adams decided to resign from the
Compensation Committee out of an abundance of caution in light of NASDAQ Rule
5605(d)(2)(A)(i) and the fees he earns from his advisory work with the Cotter Family Farms
does not affect his "general" independence—an inquiry which is separately determined under
NASDAQ Rule 5605(a)(2) and does not concern itself with the advisory fee issue.

1 (rejecting challenge to director independence). Thus, the fact that Adams so qualifies for the
2 purpose of his general service as an RDI Board member makes it “more likely that [he] is
3 independent for the purposes of [controlling law].” *In re EZCORP Inc. Consulting Agreement*
4 *Deriv. Litig.*, C.A. No. 9962-VCL, 2016 WL 301245, at *36 (Del. Ch. Jan. 25, 2016) (further
5 noting that the NASDAQ listing standards and Delaware law “are mutually reinforcing and seek
6 to advance similar goals”).⁸

7 Because the financial relationships involving director Adams are factually irrelevant,
8 monetarily immaterial, and legally insufficient to disturb Adams’ presumed independence,
9 summary judgment as a matter of law on the issue of his independence is fully warranted.

10 **V. CONCLUSION**

11 For the foregoing reasons, the Individual Defendants respectfully request that the Court
12 grant them partial summary judgment as to the First, Second, Third, and Fourth Causes of Action
13 set forth in Plaintiff’s SAC, the extent that they assert or rely upon an argument that any of the
14 non-Cotter directors of RDI are not “independent.”

15 Dated: September 23, 2016

16 **COHEN|JOHNSON|PARKER|EDWARDS**

17
18 By: /s/ H. Stan Johnson
19 H. STAN JOHNSON, ESQ.
20 Nevada Bar No. 00265
21 sjohnson@cohenjohnson.com
22 255 East Warm Springs Road, Suite 100
23 Las Vegas, Nevada 89119

24 **QUINN EMANUEL URQUHART &
25 SULLIVAN, LLP**
26 CHRISTOPHER TAYBACK, ESQ.
27 California Bar No. 145532, *pro hac vice*
28 christayback@quinnemanuel.com
MARSHALL M. SEARCY, ESQ.
California Bar No. 169269, *pro hac vice*
marshallsearcy@quinnemanuel.com

27 ⁸ The same is true with respect to the fact that director Kane was also found to be
28 “independent” under the NASDAQ standards, including in materials filed with the SEC that
were authorized by Plaintiff. (See Factual Background, *supra* at 7-8.)

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865 South Figueroa Street, 10th Floor
Los Angeles, CA 90017

*Attorneys for Defendants Margaret Cotter, Ellen
Cotter, Douglas McEachern, Guy Adams, and
Edward Kane*

1 **DECLARATION OF COUNSEL NOAH S. HELPERN IN SUPPORT OF**
2 **THE INDIVIDUAL DEFENDANTS' MOTION FOR PARTIAL SUMMARY**
3 **JUDGMENT (NO. 2) RE: THE ISSUE OF DIRECTOR INDEPENDENCE**

4 I, Noah Helpern, state and declare as follows:

5 1. I am a member of the Bar of the State of California, and am an attorney with the
6 law firm of Quinn Emanuel Urquhart & Sullivan, LLP ("Quinn Emanuel"), attorneys for the
7 Individual Defendants. I make this declaration based upon personal, firsthand knowledge,
8 except where stated to be on information and belief, and as to that information, I believe it to be
9 true. If called upon to testify as to the contents of this Declaration, I am legally competent to
10 testify to its contents in a court of law.

11 2. Attached hereto as Exhibit 1 is a true and correct copy of transcript excerpts from
12 the deposition of Timothy Storey, taken on February 12, 2016.

13 3. Attached hereto as Exhibit 2 is a true and correct copy of transcript excerpts from
14 the deposition of Guy Adams, taken on April 28, 2016.

15 4. Attached hereto as Exhibit 3 is a true and correct copy of transcript excerpts from
16 the deposition of Edward Kane, taken on May 2, 2016.

17 5. Attached hereto as Exhibit 4 is a true and correct copy of transcript excerpts from
18 the deposition of Edward Kane, taken on May 3, 2016.

19 6. Attached hereto as Exhibit 5 is a true and correct copy of transcript excerpts from
20 the deposition of Edward Kane, taken on June 9, 2016.

21 7. Attached hereto as Exhibit 6 is a true and correct copy of transcript excerpts from
22 the deposition of Margaret Cotter, taken on May 13, 2016.

23 8. Attached hereto as Exhibit 7 is a true and correct copy of transcript excerpts from
24 the deposition of James J. Cotter, Jr. ("Plaintiff"), taken on May 16, 2016.

25 9. Attached hereto as Exhibit 8 is a true and correct copy of transcript excerpts from
26 the deposition of Plaintiff, taken on July 6, 2016.

27 10. Attached hereto as Exhibit 9 is a true and correct copy of transcript excerpts from
28 the deposition of William D. Ellis, taken on June 28, 2016.

1 11. Attached hereto as Exhibit 10 is a true and correct copy of a Form DEF 14A filed
2 by RDI on April 25, 2014.

3 12. Attached hereto as Exhibit 11 is a true and correct copy of a Form 10-K/A,
4 Amendment No. 1, filed by RDI on May 18, 2015, previously marked as Exhibit 411 during
5 Plaintiff's deposition.

6 13. Attached hereto as Exhibit 12 is a true and correct copy of a Form DEF 14A filed
7 by RDI on May 18, 2016.

8 14. Attached hereto as Exhibit 13 is a true and correct copy of the Minutes of the
9 Meeting of the RDI Board of Directors held on January 14, 2014.

10 15. Attached hereto as Exhibit 14 is a true and correct copy of the Minutes of the
11 Meeting of the RDI Board of Directors held on October 20, 2014.

12 16. Attached hereto as Exhibit 15 is a true and correct copy of the Minutes of the
13 Meeting of the RDI Board of Directors held on November 13, 2014.

14 17. Attached hereto as Exhibit 16 is a true and correct copy of the Minutes of the
15 Meeting of the RDI Compensation and Stock Option Committee held on November 13, 2014,
16 previously marked as Exhibit 95 during Guy Adams' deposition.

17 18. Attached hereto as Exhibit 17 is a true and correct copy of Minutes of the Meeting
18 of the RDI Board of Directors held on May 29, 2015, previously marked as Exhibit 200 during
19 Plaintiff's deposition.

20 19. Attached hereto as Exhibit 18 is a true and correct copy of draft Minutes of the
21 Meeting of the RDI Board of Directors held on June 12, 2015, previously marked as Exhibit 346
22 during William Ellis' deposition.

23 20. Attached hereto as Exhibit 19 is a true and correct copy of the Minutes of the
24 Meeting of the RDI Special Nominating Committee held on October 6, 2015, previously marked
25 as Exhibit 52 during Timothy Storey's deposition.

26 21. Attached hereto as Exhibit 20 is a true and correct copy of an Income and
27 Expense Declaration filed by Guy Adams, dated October 9, 2013, previously marked as
28 Exhibit 53 during Guy Adams' deposition.

22. Attached hereto as Exhibit 21 is a true and correct copy of an email sent by Edward Kane to Timothy Storey and Guy Adams re: "Ellen's Compensation," dated September 29, 2014, previously marked as Exhibit 287 during Edward Kane's deposition.

23. Attached hereto as Exhibit 22 is a true and correct copy of emails between Edward Kane and Plaintiff, dated September 30, 2014 and October 2, 2014, previously marked as Exhibit 408 during Plaintiff's deposition.

24. Attached hereto as Exhibit 23 is a true and correct copy of an email from Edward Kane to Plaintiff, Timothy Storey, and Guy Adams re: “Ellen’s \$50,000 ‘Settlement’ for the Stock Option Screw-Up,” dated October 19, 2014, previously marked as Exhibit 410 during Plaintiff’s deposition.

25. Attached hereto as Exhibit 24 is a true and correct copy of an email from Edward Kane to Guy Adams, William Gould, Doug McEachern, and Timothy Storey re: “Compensation and Other Items for Our Meeting on the 13th,” dated November 5, 2014, previously marked as Exhibit 102 during Edward Kane’s deposition.

26. Attached hereto as Exhibit 25 is a true and correct copy of Plaintiff's Amended Responses to Edward Kane's First Set of Requests for Admission, dated July 27, 2016.

27. Attached hereto as Exhibit 26 is a true and correct copy of the report of Plaintiff's expert Myron T. Steele, Esq., dated August 25, 2016.

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

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

Executed on the 23rd day of September, 2016, in Los Angeles, California.

/s/ Noah Helpern
Noah Helpern

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CERTIFICATE OF SERVICE

I hereby certify that, on September 23, 2016, I caused a true and correct copy of the foregoing **INDIVIDUAL DEFENDANTS' MOTION FOR PARTIAL SUMMARY JUDGMENT (NO. 2) RE: THE ISSUE OF DIRECTOR INDEPENDENCE** to be served on all interested parties, as registered with the Court's E-Filing and E-Service System.

/s/ C.J. Barnabi
An employee of Cohen|Johnson|Parker|Edwards

EXHIBIT 1

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DISTRICT COURT

CLARK COUNTY, NEVADA

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

Plaintiff,

vs.

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

Defendants.

and

READING INTERNATIONAL, INC., a
Nevada corporation,

Nominal Defendant.

No. A-15-719860-B
Coordinated with:
P-14-082942-E

DEPOSITION OF TIMOTHY STOREY, a defendant herein,
noticed by LEWIS ROCA ROTHGERBER CHRISTIE LLP, at
1453 Third Street Promenade, Santa Monica,
California, at 9:28 a.m., on Friday, February 12,
2016, before Teckla T. Hollins, CSR 13125.

Job Number 291961

1 New Zealand.

2 Q. And describe for us generally, please, your
3 experience beyond what you just told us with respect to
4 cinema operations.

5 A. I had a little experience, other than what I've
6 gleaned with Reading. In fact, I acted for Reading
7 since the mid-'90s, since they entered New Zealand. So
8 I guess I have history in that regard.

9 Q. And what was the nature of the business of DNZ?

10 A. DNZ is a list of property investment company.

11 Q. So do you have experience with real estate,
12 other than DNZ and Reading?

13 A. I've had various -- Well, as a lawyer, I
14 practiced predominantly in real estate, but around
15 corporate and commercial matters. And I've had various
16 property investments and consultancies since.

17 Q. Okay.

18 And you remain a director of DNZ today; correct?

19 A. Of Stride, yes.

20 Q. Stride, yes. I'm sorry.

21 And you retired, in one manner or another, as a
22 director of RDI in October of 2015; correct?

23 A. That is as I recollect.

24 THE REPORTER: What was that?

25 THE WITNESS: That is as I recollect.

EXHIBIT 2

Confidential – Filed Under Seal

EXHIBIT 3

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DISTRICT COURT
CLARK COUNTY, NEVADA

JAMES J. COTTER, JR.,)
individually and)
derivatively on behalf of)
Reading International,)
Inc.,)
Plaintiff,) Case No. A-15-719860-B
vs.) Coordinated with:
MARGARET COTTER, et al.,) Case No. P-14-082942-E
Defendants.)
and)
READING INTERNATIONAL,)
INC., a Nevada)
corporation,)
Nominal Defendant)

DEPOSITION OF: EDWARD KANE
TAKEN ON: MAY 2, 2016

REPORTED BY:
PATRICIA L. HUBBARD, CSR #3400

1 and it became in- -- difficult.

2 And so the regulators came down and they
3 suggested that I leave, and I did.

4 Q. When did you first meet Jim Cotter, Sr.?

5 A. He was in the master's of tax program
6 with me in 1963. So I met him in the fall of 1963.

7 Q. When did you and he become friends?

8 A. Very shortly thereafter. We found that
9 we had similar backgrounds even though we don't --
10 didn't have similar religions.

11 But we were both middle class, lower
12 middle class. We lived in that neighborhood. We
13 didn't have any money when we went to college or law
14 school.

15 And we just -- just became fast friends.

16 He was the first person I invited to my
17 house for dinner.

18 I was married. I had gotten married in
19 the summer of '63. And we started socializing with
20 he and his, I guess, fiance, Mary Ellen Cotter, went
21 to the World's Fair with them, because Mary was
22 working for American Airlines, could get us free
23 tickets.

24 And then I got the position with Donovan
25 Leisure. And he joined the -- the IRS as a trial

1 counsel.

2 And in those days he couldn't stay in
3 New York. He went to Los Angeles because they felt
4 that his looking at cases or tax situations with
5 people in the neighborhood, it would be bad. So he
6 was -- he went to L.A. Liked it in L.A.

7 He came back I think in 1965 to get
8 married to Mary. And I was an usher at his wedding.
9 And then Mary, of course, moved out to California,
10 because he wanted -- decided to stay here.

11 Well -- and then he was offered the job
12 with Pacific Theatres. And he stayed out there.

13 I was looking for a job at Donovan
14 Leisure, because I couldn't afford to stay there.

15 In those days -- I was treated as if I
16 was employed in '63, because they gave me credit for
17 my master's degree. And beginning of 1967 I was
18 making \$12,000, and I had two children. Inflation
19 began. I couldn't afford to live in New York. I
20 was commuting, taking the train from Yonkers. It
21 was a hell of a life.

22 So I went back to N.Y.U. And they had a
23 enormous placement service for people with a degree
24 in tax.

25 And I was -- I had the highest grades in

1 my class and was on Tax Law Review. They put me on
2 the law review.

3 So I took interviews and was offered
4 jobs in Hawaii, which I took and came home and told
5 my wife and she said "I'm not going." So that took
6 care of that job. And in Denver.

7 But Jim called me and said, "You know,
8 there's a firm in San Diego, big firm. It's called
9 Gray -- Gray, Cary, Ames and Frye. And they just
10 lost their one tax attorney."

11 And I -- he knew him because he also
12 worked for the Government in that area.

13 And he said, "Why don't you go out and
14 take a -- a look at it."

15 And so I did fly out with my wife and
16 they offered me the position at Gray, Cary.

17 And we had an idea together, I take the
18 bar and he took the California Bar. And we would
19 form a firm, he and I. He would do the litigation
20 and I would do the tax planning.

21 But then he was handling a couple cases
22 that came to the attention of the head of Peat,
23 Marwick, Mitchell. And he recommended him to Bill
24 Foreman at Pacific Theatres. And Jim -- there was a
25 four-year commitment, he had a four-year commitment.

1 And he called me up and said, "The partnership is
2 over because Bill Foreman has offered me four times
3 what I'm making here to come in."

4 And so I said "Okay."

5 And I left Gray, Cary and joined with
6 these other guys who -- they were from back east and
7 fine lawyers. It was a very small firm. But four
8 of them became Superior Court judges and one of them
9 became a Court of Appeals judge.

10 Q. Let me interject a question, Mr. Kane.

11 A. Sure.

12 Q. I thought you said something to the
13 effect that he said the partnership was over.

14 To what were you referring there?

15 A. Our -- our dream of becoming partners in
16 a law firm, he and I. That was over.

17 Q. Okay. I'm sorry. Please continue.

18 A. Sure. So I joined the firm as equal
19 partner.

20 And I guess I've covered the rest of it
21 except that Jim and I had a very close relationship,
22 even then. And he called me up, and he had a tax
23 problem at Pacific Theatres, a personal tax problem.
24 And he said there are some -- "We have some theaters
25 up in the Fresno area and we could -- maybe we

1 should buy an orange grove. It's a great tax
2 shelter."

3 Well, I looked it up and it was a
4 terrific thing. I mean it's one of the few
5 shelters, you could lose money and be ahead of the
6 game.

7 So, he and I went up there, and we -- he
8 had heard from Prudential, they were foreclosing on
9 thousands of acres of citrus. And we ended up
10 buying an 80-acre citrus grove.

11 Q. The two of you did?

12 A. Two of us, yeah.

13 Q. Okay. Go ahead, please.

14 A. Actually it was \$120,000, ten percent
15 down, \$12,000. He didn't have six. And so I put up
16 eight and he put up four. And of course he paid me
17 back.

18 And we never -- neither of us ever went
19 up there except one time when I took my family
20 without the other one coming.

21 And we would go up there on a regular
22 basis. I'd drive up to L.A. and then he would drive
23 up there, we'd stay in the same Holiday Inn Motel.
24 And we kept expanding. And after a while we owned
25 about 220 acres.

1 And then my kids -- he wanted to expand.

2 And my kids were both starting college. They had
3 graduated high school in the same year. Vassar and
4 Cal was expensive, and I said, "I'm not expanding."

5 Then -- but he -- you had to know him.

6 He was so ethical in many ways. He said, "All
7 right. Just stay here. And I'm going to buy more,
8 but I'll make sure that -- that they pick our groves
9 first before they pick mine so" -- because in those
10 days they had a marketing order and you had to pick
11 only so much off of each grove at different periods.

12 I said, "It isn't going to work, Jim.

13 It's just not going to. So, buy me out."

14 And he did. He said set a price. We
15 never had an agreement. I set the price, he said
16 that sounds fair, and that was it.

17 Q. When did that happen?

18 A. Approximately -- let me think. My son
19 was born in 1965 and he was going to college. So
20 that was probably 1982 or '3.

21 Q. And when did the two of you buy the
22 first 80 acres?

23 A. It was in the '70's. I don't remember
24 exactly when.

25 Q. And was that the end of your involvement

1 with Mr. Cotter, Sr., and orange groves?

2 A. Yeah. Yeah.

3 Q. Okay.

4 A. He expanded. I don't know. I think
5 he -- his son can tell you, but I think they may
6 have as many as 2,000 acres by now.

7 Q. So you've known Mary Cotter since before
8 she and Jim Cotter, Sr., were married?

9 A. Yes.

10 Q. You still communicate with her, correct?

11 A. Not regularly. Lately I talk to her
12 more because I -- when Ellen is out here, Ellen will
13 stay with her or Margaret.

14 And Ellen is a bit like her father. She
15 does like to work at night. So she'll call me and
16 I'll see the number and I'll call back and it's at
17 the house, and then Mary will answer the phone. So
18 we'll chitchat a bit.

19 But I -- the last time I saw her was
20 in -- around Christmas. What is that? Four or five
21 months ago. And before that it might have been as
22 long as a year before I actually saw her.

23 Q. Have you had other business ventures
24 with Jim Cotter, Sr., beyond what you've already
25 described to us?

1 MR. SEARCY: Objection. Vague.

2 THE WITNESS: Trying to think. I can't
3 think of any.

4 BY MR. KRUM:

5 Q. Answer this as you see fit, Mr. Kane.

6 Describe your historical relationship
7 with Ellen and Margaret Cotter.

8 MR. SEARCY: Objection. Vague,
9 overbroad.

10 THE WITNESS: I knew them as children,
11 just as I know Jim, Jr. I don't think my
12 relationship was any different with the three of
13 them.

14 It was just a relationship I've had with
15 someone I've known all my -- all their lives.

16 BY MR. KRUM:

17 Q. Do your family and the family of Jim
18 Cotter, Sr., socialize?

19 MR. SEARCY: Objection. Vague.

20 BY MR. KRUM:

21 Q. Socialize meaning see each other
22 socially.

23 A. No. No. Just because of the distance.

24 Q. Between San Diego and Los Angeles?

25 A. Right. Right. Right.

1 Q. Do your children know the three Cotter
2 children?

3 A. I -- I think they do, yes. Yes.

4 Q. Do any of Ellen Cotter, Margaret Cotter
5 or Jim Cotter call you Uncle Ed?

6 A. All of them, including their mother and
7 their father.

8 Q. But for the three kids, has that been
9 how they've addressed you since they were able to
10 speak?

11 MR. SEARCY: Objection. Vague.

12 THE WITNESS: I think that's true. And
13 they still do except for Mr. Cotter, Jr. He stopped
14 calling me Uncle Ed when he was terminated.

15 BY MR. KRUM:

16 Q. In your decision-making with respect to
17 any or all of the three Cotter children since the
18 passing of Jim Cotter, Sr., have you attempted to do
19 what you thought he would have wanted you to do?

20 MR. SEARCY: Objection. Vague and lacks
21 foundation.

22 THE WITNESS: What I do does not take
23 into account The Cotter children.

24 I'm a director of this company. And I
25 do what I think is in the best interest of the

1 shareholders and the employees and the company.

2 I don't mix my personal feelings for
3 them with my decisions.

4 BY MR. KRUM:

5 Q. So the answer to my question is a "no,"
6 with the explanation you just provided?

7 A. Yes.

8 Q. So, over the years, Mr. Kane, have
9 you -- did you have conversations with Jim
10 Cotter, Sr., about what his hopes and aspirations or
11 plans, as the case may be, were for any or all of
12 his three children?

13 MR. SEARCY: Objection. Vague.

14 THE WITNESS: I -- you'd have to be more
15 specific.

16 BY MR. KRUM:

17 Q. Okay.

18 A. They were in the business. I didn't --
19 he didn't ask me if Ellen should go in the business
20 or Margaret go into the business over his decisions
21 or Jimmy.

22 Q. Do you recall the circumstances of any
23 of the three Cotter children going into the Redding
24 or RDI business?

25 A. No, I don't. I don't.

1 VIDEOTAPE OPERATOR: We are on the
2 record.

3 The time is 11:32 A.M.

4 This is the beginning of media number
5 two in the continuing deposition of Edward Kane
6 volume one.

7 BY MR. KRUM:

8 Q. Mr. Kane, do you consider yourself
9 retired, sir?

10 A. I guess yes, yes.

11 Q. For how long have you been retired?

12 A. I stopped teaching two or three years
13 ago. So, I guess since then.

14 Q. So you --

15 A. Let me rephrase that. I'm retired
16 except I'm working countless hours for this company.

17 Q. Reading?

18 A. Reading.

19 Q. What was the last non-teaching job you
20 had?

21 A. The last non-teaching job was at Sharp
22 Community Medical Group where, as I said, I was a
23 non-director/director. And that took a good bit of
24 time, probably 15, 20 hours a week.

25 Q. When did that end?

1 A. Probably two, two and a half years ago.

2 Q. What was your compensation in that role?

3 A. I think I was paid \$6500 month.

4 Q. And just to be clear, so that ended
5 in -- somewhere between the beginning and the middle
6 of 2014?

7 A. Something like that.

8 Q. Since that time have you had any income
9 other than as a Reading director?

10 MR. SEARCY: Objection. Vague.

11 BY MR. KRUM:

12 Q. Excluding passive investment income.

13 A. Well, I have self-funded -- my wife and
14 I have self-funded retirement plans. That's
15 passive, I suppose you could say.

16 Q. Okay. So, since the work ended with the
17 Community Medical Group --

18 A. Uh-huh.

19 Q. -- your sole source of income has been
20 your self-funded retirement plans and your work as a
21 Reading director, correct?

22 A. That's correct.

23 Q. How many retirement plans do you have,
24 sir?

25 A. My wife has one and I have two.

1 Q. What are the principal balances of your
2 two self-funded retirement plans?

3 A. Mine?

4 Q. Yes.

5 A. In excess of \$2 million.

6 Q. What sort of financial obligations do
7 you have of a material magnitude, whether it be
8 rent, mortgage, cars, that kind of thing?

9 A. I have home equity loans, less than
10 \$200,000.

11 I have two other home equity loans, but
12 they're joint with my children. One with one child,
13 one with the other, \$100,000. But the money is
14 sitting there in a savings account -- in the bank
15 account where -- who gave me that. That's in case
16 there's -- we're in Europe or something or something
17 fatal happens they'll have access to money right
18 away.

19 So, it's joint accounts, but it's my
20 Social Security number.

21 (Whereupon Mr. Ferrario re-entered
22 the deposition proceedings at this
23 time.)

24 BY MR. KRUM:

25 Q. Is that it -- excuse me.

EXHIBIT 4

1

2

3

DISTRICT COURT

4

CLARK COUNTY, NEVADA

5

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

8

Plaintiff,)

Case No. A-15-719860-B

9

vs.)

Coordinated with:

10

MARGARET COTTER, et al.,)

Case No. P-14-082942-E

11

Defendants.)

12

and)

13

READING INTERNATIONAL,)
INC., a Nevada)
corporation,)

14

15

Nominal Defendant)

16

17

VIDEOTAPED DEPOSITION OF EDWARD KANE

18

TAKEN ON MAY 3, 2016

19

VOLUME 2

20

21

22

23

Job no. 305191

24

REPORTED BY:

25

PATRICIA L. HUBBARD, CSR #3400

1 MR. SEARCY: Objection. Vague.

2 THE WITNESS: I don't know that that was
3 an issue of importance, at least it never came to me
4 that way.

5 BY MR. KRUM:

6 Q. Did you have any discussions or
7 communications with Ellen Cotter about the subject
8 of her title?

9 A. I don't believe I did.

10 Q. Did you have any conver- --

11 Well, okay. One of the issues between
12 Ellen Cotter on the one hand and Jim Cotter, Jr., on
13 the other was Ellen's compensation, correct?

14 A. No. I don't think that is correct.

15 Q. Did you ever have communications with
16 Ellen Cotter regarding either her title or her
17 compensation or both?

18 A. I don't believe I had any conversations
19 with her over her title. She did come to me for a
20 raise in her pay in 2014 as chairman of the
21 compensation committee.

22 Q. Was that the circumstance where she
23 needed a raise to secure a mortgage on a piece of
24 real estate?

25 A. Correct.

1 Q. Okay. That's the circumstance where you
2 signed a letter to the lender saying that as
3 chairman of the compensation committee you would
4 expect or the committee expected that she would have
5 a raise of at least 20 percent starting the
6 beginning of the next year?

7 A. Correct.

8 Q. Now, my question before, Mr. Kane, was
9 about communications. Not conversations.

10 And to be clear, the reason I do that is
11 I include in the question written communications,
12 whether email or otherwise.

13 So, with that by way of explanation, let
14 me ask the question again.

15 Did you ever have communications with
16 Ellen Cotter regarding her title?

17 A. I may have. I just don't remember.

18 Q. Did you ever have communications with
19 Jim Cotter, Jr., regarding Ellen's title?

20 A. Again, I may have, but I don't remember.

21 Q. Did you ever have communications with
22 any of the four other non-Cotter directors regarding
23 Ellen's title?

24 A. I don't recall ever talking with them
25 about it.

EXHIBIT 5

1

2

3

DISTRICT COURT

4

CLARK COUNTY, NEVADA

5

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

8

Plaintiff,)

Case No. A-15-719860-B

9

vs.)

Coordinated with:

10

MARGARET COTTER, et al.,)

Case No. P-14-082942-E

11

Defendants.)

12

and)

13

READING INTERNATIONAL,)
INC., a Nevada)
corporation,)

14

15

Nominal Defendant)

16

17

VIDEOTAPED DEPOSITION OF EDWARD KANE

18

TAKEN ON JUNE 9, 2016

19

VOLUME 3

20

21

22

23

Job No.: 315759

24

REPORTED BY:

25

PATRICIA L. HUBBARD, CSR #3400

1 Q. In any event, neither Ellen Cotter nor
2 Craig Tompkins have brought to your attention the
3 issues that have arisen with Jim Cotter, Jr., and
4 the question of who's responsible for payment of
5 certain taxes on account of him exercising an
6 options -- exercising options in 2013?

7 A. Never been brought to my attention.

8 MR. SEARCY: Objection. Vague and lacks
9 foundation.

10 BY MR. KRUM:

11 Q. Directing your attention back to
12 Exhibit 287.

13 A. Yes.

14 Q. Item one in your email is an increase to
15 Ellen's compensation, and item three is a letter
16 from you as compensation committee chairman to a
17 lender.

18 A. Yes.

19 Q. Now, were those separate issues or were
20 those, in effect, the flip side of the same coin?

21 A. Those were separate issues.

22 Q. And the letter was simply that Ellen
23 needed a letter to the lender to -- saying that she
24 had the 20 percent increase in her compensation so
25 she could qualify for a mortgage, right?

1 A. Right.

2 Q. And that letter was sent out under your
3 signature?

4 A. Yes.

5 Q. Ellen signed it for you, right?

6 A. Yes, she did. I authorized her to do
7 it. It was a time issue.

8 Q. Now, item number one, an increase in her
9 compensation, what was the genesis of that? Meaning
10 how did it come about that in September of 2014 you
11 were raising the subject of increase in Ellen's
12 compensation?

13 A. She raised it with me. And I consulted
14 with Jim, Jr. And he gave me the name of the
15 consultant they had met with.

16 He -- I think his father, Ellen and
17 Margaret, it was Pearl Meyer. They weren't using
18 Towers Watson or they decided not to use Towers
19 Watson. And either he gave me or I obtained a copy
20 of the Pearl Meyer recommendations, which would
21 provide a substantial increase in both his and
22 Ellen's compensation if adopted.

23 Q. Do you recall that Mr. Adams agreed with
24 the recommendations you have made in Exhibit 287?

25 A. Which recommendation are you talking

EXHIBIT 6

1

2

DISTRICT COURT

3

CLARK COUNTY, NEVADA

4

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

7

Plaintiff,)

Case No. A-15-719860-B

8

vs.)

Coordinated with:

9

MARGARET COTTER, et al.,)

Case No. P-14-082942-E

10

Defendants.)

11

and)

12

READING INTERNATIONAL,)
INC., a Nevada)
corporation,)

13

14

Nominal Defendant))

15

16

VIDEOTAPED DEPOSITION OF MARGARET COTTER

17

TAKEN ON MAY 13, 2016

18

VOLUME II

19

20

21

22

23

24

REPORTED BY:

25

PATRICIA L. HUBBARD, CSR #3400

1 A. Ms.

2 Q. Had you dealt with her before?

3 A. For 16 years.

4 Q. Did Ms. Ward handle the arbitration?

5 A. No, she did not.

6 Q. Who handled the arbitration for Reading?

7 A. Quinn Emanuel.

8 Q. Oh, yes. Good lawyers, huh?

9 A. Very good.

10 Q. Did there come a time, Ms. Cotter, that
11 you had communications with your sister Ellen about
12 a new director or possible new director for the RDI
13 board of directors?

14 A. Yes.

15 Q. When was that?

16 A. I don't recall.

17 Q. What was the context?

18 A. We spoke about Fehmi Karahan. And she
19 thought that he would be a great addition to the
20 board. And he -- she had a conversation with him,
21 and he was willing to join the board.

22 Q. And how did it arise that you and your
23 sister Ellen began to talk about the subject of a
24 new director as distinct from the identity of the
25 new director?

1 A. How did we begin to talk about it?

2 I don't know. There was a vacancy on
3 the board.

4 Q. Well, the vacancy on the board was a
5 longstanding vacancy, right?

6 MR. SEARCY: Objection. Vague.

7 THE WITNESS: It was my father's spot.

8 BY MR. KRUM:

9 Q. Do you recall discussions with either
10 your sister Ellen or your brother Jim or any other
11 member of RDI's board of directors in which the
12 notion that the board spot that was vacant on
13 account of your father's passing would be left
14 vacant for some period of time?

15 MR. SEARCY: Objection. Vague.

16 THE WITNESS: You're asking if I recall
17 having a conversation about that vacant spot?

18 BY MR. KRUM:

19 Q. Yeah.

20 A. With anyone. Other than my sister?

21 Q. No. With any member of RDI's board.

22 Your sister, your brother or any of the other five.

23 A. I had the conversation with my sister.

24 I don't know when it was, though.

25 Q. Did you discuss with her any other

1 persons as candidates or possible candidates to be
2 added to the RDI board of directors?

3 A. When?

4 Q. At any time prior to June 12, 2015 when
5 your brother was terminated.

6 A. No.

7 Q. Had you had any discussions with your
8 sister Ellen or anyone else regarding the subject of
9 whether your brother could or would be -- could or
10 would remain on the RDI board of directors following
11 his termination?

12 A. Did I have any conversation whether --

13 Q. I'll ask it again.

14 A. Yeah.

15 Q. Did you have any communications with
16 your sister Ellen or anyone else at any time prior
17 to June 12, 2015, regarding the subject of whether
18 your brother would or could remain a member of the
19 RDI board of directors following termination of him
20 as president and C.E.O.?

21 A. I don't recall having that conversation
22 with anyone.

23 Q. Well, do you recall that at the board
24 meeting on June 12, 2015, Ellen said in words or
25 substance that your brother, having been terminated

1 as president and C.E.O., was required to resign from
2 the RDI board of directors?

3 A. I -- I think I recall that. I think she
4 was referring to an employment agreement or
5 something my brother had.

6 Q. And had you heard the notion prior to
7 that meeting of June 12, 2015, that your brother was
8 required to or would be asked to resign as a
9 director upon termination of him as president and
10 C.E.O.?

11 A. I don't recall hearing that.

12 Q. Did you have any communications with
13 anybody about a person to replace your brother as
14 director -- as an RDI director?

15 A. No.

16 Q. When was the first time you had any
17 communications with anyone other than what you've
18 already described with your sister about Mr. Fehmi
19 regarding possible additions or replacements to or
20 for the RDI board of directors?

21 MR. SEARCY: Objection. Vague.

22 THE WITNESS: I remember speaking to
23 somebody who I thought would be a possible candidate
24 sometime in 2015. I don't recall when it was.

25 ///

1 BY MR. KRUM:

2 Q. Well, was it before or after June 12,
3 2015?

4 A. I don't recall that.

5 Q. Who was the person with whom you spoke?

6 A. Simon Roberts.

7 Q. Who is Simon Roberts?

8 A. He was a partner from Bain Capital. And
9 he worked at a hedge -- hedge fund, I believe.

10 Q. How do you know Simon Roberts?

11 A. I know him socially in New York.

12 Q. And when you say you know him socially,

13 Ms. Cotter, explain that or describe that, please.

14 I mean is it dinner quarterly or did you
15 golf with his wife, whatever it is?

16 A. I maybe see him once a year. He's
17 friendly with my wife's husband.

18 Q. How long have you known Mr. Roberts?

19 A. I believe I first met him in 2005 or
20 2006.

21 Q. And what was the circumstance or
22 context, meaning were you out for dinner or -- or
23 what, that you had this discussion with him about
24 becoming a member of the RDI board of directors?

25 A. I think I had called him up on the

1 phone.

2 Q. Had you previously communicated to him
3 that you wanted to speak to him about a business
4 matter, such as had you scheduled a call or did you
5 just extemporaneously call him?

6 A. I don't recall that.

7 Q. And had you discussed with your sister
8 Ellen or any other person that you were going to
9 call Mr. Roberts or that you had called and spoken
10 with him?

11 A. I told my sister I was going to call
12 him. And I believe later on a couple of the
13 directors knew that I had talked to him, because he
14 turned it down.

15 Q. Who were those couple of the directors
16 that knew?

17 A. I don't recall who it was.

18 Q. How do you know they knew?

19 A. I brought it up in a meeting. I just
20 don't remember who was on the call.

21 Q. Was that an executive committee meeting?

22 A. I don't remember what type of meeting it
23 was.

24 Q. Do you recall what else, if anything,
25 was discussed at that meeting?

1 A. The meeting that I told him about Simon
2 Roberts?

3 Q. Yes.

4 A. I think they were at the meeting about
5 other possible candidates for the board.

6 Q. So, having gone through that sequence,
7 does that refresh your recollection at all about the
8 time frame in which you had this communication with
9 Mr. Roberts and meeting with other directors in
10 which you discussed your communication with
11 Mr. Roberts?

12 A. I don't recall when I first had a
13 conversation with Mr. Roberts.

14 The meeting with the other directors I
15 believe was sometime in 2015 in the fall.

16 Q. Was there any other person with whom you
17 spoke or communicated about becoming an RDI director
18 at any point in time in 2015?

19 A. Michael Wrotniak.

20 Q. Who is he?

21 A. He is somebody that I went to college
22 with, and he is married to a friend of mine.

23 Q. What's her name?

24 A. Patricia Wrotniak.

25 Q. How long have you known Michael

1 Wrotniak?

2 A. I met him in college, so --

3 Q. We have your education. You don't have
4 to do the calculations.

5 A. Thank you.

6 Q. And how long have you known his wife
7 Patricia?

8 A. I've known her longer than Michael
9 Wrotniak.

10 Q. Dating back to when, whether my date or
11 place in life?

12 A. Freshman year in college.

13 Q. So you've known her since freshman in
14 college and Michael Wrotniak since later in college?

15 A. That's correct.

16 Q. I assume because she started dating him,
17 correct?

18 A. That's correct.

19 Q. Sometimes lawyers can fuse together a
20 couple points of data.

21 When did you first communicate with
22 either Patricia or Michael Wrotniak about Michael
23 Wrotniak joining the RDI board of directors?

24 A. Sometime in the fall of 2015.

25 Q. Describe your relationship with Patricia

1 Wrotniak, please.

2 A. She is a college friend. I speak to
3 her -- I don't know -- once every three or four
4 weeks. I see her maybe four times a year. It
5 varies. She had kids very early on after college,
6 so I really didn't see her that much.

7 And now that I have kids and work, I
8 don't see her that often.

9 Q. Does she still -- well, as of today is
10 she one of your best friends?

11 MR. SEARCY: Objection. Vague.

12 THE WITNESS: I would consider her a
13 close friend.

14 BY MR. KRUM:

15 Q. And describe your relationship with
16 Michael Wrotniak.

17 A. I don't talk to him or see him as I --
18 as I had done with Patricia. I would maybe see him
19 once a year if I went to her house for dinner, but I
20 wouldn't consider I have, you know, an ongoing
21 relationship with him.

22 Q. How often do you communicate with him?

23 A. Now?

24 Q. How often did you communicate with him
25 in 2014?

1 A. Oh, he would email me if he wanted show
2 tickets.

3 Q. How often did you communicate with him
4 in 2015?

5 A. I don't know.

6 MR. KRUM: I'll ask the court reporter
7 to mark as Exhibit 160 --

8 THE REPORTER: Yes.

9 MR. KRUM: -- two pages, the first of
10 which is dated April 9, 2015, and appears to be an
11 email from Margaret Cotter to Kelley Anderson with
12 the subject "Michael Wrotniak." Production numbers
13 are MC2812 and 13.

14 (Whereupon the document referred
15 to was marked Plaintiffs'
16 Exhibit 160 by the Certified
17 Shorthand Reporter and is attached
18 hereto.)

19 MR. FERRARIO: This has a red mark on
20 it.

21 MR. KRUM: A what?

22 MR. FERRARIO: 158. There you go.

23 MR. KRUM: Oh, I passed you a prior
24 exhibit --

25 MR. FERRARIO: That's all right.

1 MR. KRUM: -- that I picked up by
2 accident.

3 BY MR. KRUM:

4 Q. Ms. Cotter, do you recognize
5 Exhibit 160?

6 A. It's an email from me to Kelley with an
7 attachment of Michael Wrotniak's cell phone number.

8 Q. Kelley Anderson's your assistant?

9 A. Yes.

10 Q. She's in New York?

11 A. Yes.

12 Q. And why on -- and did you send this
13 email on the date it bears, April 9, 2015?

14 A. It appears so, yes.

15 Q. Why did you send Michael Wrotniak's
16 telephone number to her on April 9, 2015?

17 A. I don't know. I don't know. Or I don't
18 recall.

19 Q. Does that refresh your recollection as
20 to when you first communicated with Michael Wrotniak
21 regarding the subject of possibly becoming a member
22 of the RDI board of directors?

23 A. No.

24 Q. Did you have communications with Michael
25 or Patricia Wrotniak in April of 2015 about Michael

1 possibly becoming a member of the RDI board of
2 directors?

3 A. I may have.

4 Q. And how would that have occurred at that
5 time?

6 A. I don't know.

7 MR. KRUM: Okay. I'm going to show the
8 witness what is marked production number MC2814.
9 For the record, it says nothing other than "sent
10 from my iPhone on it."

11 BY MR. KRUM:

12 Q. Ms. Cotter, does this page belong at the
13 back of what we've marked as Exhibit 160?

14 A. I don't know if it does or not.

15 Q. Okay. Can you tell from looking at
16 Exhibit 160 whether that email from you to Kelley
17 Anderson on April 9 was sent by iPhone or computer
18 or any other way?

19 A. It's Bates stamped, so -- and then
20 it's --

21 Q. Sequential?

22 A. Right. Possibly.

23 Q. Okay. Well, let's do this. We'll amend
24 the exhibit to -- Exhibit 160 to be 2812 through
25 2814, because it appears that likely is the case.

1 The witness has said it's possible, and the record
2 is now clear.

3 I apologize for that little hiccup.

4 (Off-the-record discussion.)

5 MR. KRUM: Well, I can fix this, and I
6 apologize.

7 BY MR. KRUM:

8 Q. So, let's mark as Exhibit 161 -- the
9 answer is it's correct.

10 160 should be three pages, 2812 through
11 14.

12 MR. FERRARIO: Okay.

13 MR. KRUM: Let's mark as Exhibit 161
14 another April 9 email from Ms. Cotter to Kelley
15 Anderson with the subject "Michael Wrotniak." This
16 one bears production number 2815.

17 (Whereupon the document referred
18 to was marked Plaintiffs'
19 Exhibit 161 by the Certified
20 Shorthand Reporter and is attached
21 hereto.)

22 BY MR. KRUM:

23 Q. Okay, Ms. Cotter. Do you recognize
24 Exhibit 161?

25 A. Yes. It's an email from me to Kelley

1 Anderson on April 9, 2015 with an address.

2 Q. Did you receive the email at the bottom
3 of 161 from Ms. Anderson and then respond with the
4 address on April 9, 2015?

5 A. Yes.

6 Q. So does this refresh your recollection
7 that what transpired is that you had sent
8 Ms. Anderson Mr. Wrotniak's V-card, but it didn't
9 have an address, and she asked and you provided it?

10 A. Yeah.

11 Q. Does that refresh your recollection that
12 in or about April 9 or at some point in April of
13 2015 you had communications with Michael Wrotniak
14 about joining the RDI board of directors?

15 MR. SEARCY: Objection. Lacks
16 foundation.

17 THE WITNESS: I really don't recall when
18 it was. And this doesn't help.

19 BY MR. KRUM:

20 Q. Okay. Do you recall that there came a
21 point in time in April of 2015 when you determined
22 to exercise an option or options you held to acquire
23 RDI class B voting stock?

24 A. My personal --

25 Q. Yes. Your personal --

EXHIBIT 7

EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

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

vs.

Case No.

MARGARET COTTER, ELLEN COTTER, A-15-719860-B
GUY ADAMS, EDWARD KANE, DOUGLAS
MCEACHERN, TIMOTHY STOREY,
WILLIAM GOULD, JUDY CODDING,
MICHAEL WROTONIAK, and DOES 1
through 100, inclusive,
Defendants.

and

READING INTERNATIONAL, INC.,
a Nevada corporation,
Nominal Defendant.

(CAPTION CONTINUED ON NEXT PAGE.)

VIDEOTAPED DEPOSITION OF JAMES COTTER, JR.

Los Angeles, California

Monday, May 16, 2016

Volume I

Reported by:

JANICE SCHUTZMAN, CSR No. 9509

Job No. 2312188

Pages 1 - 297

1 T2 PARTNERS MANAGEMENT, LP, a
2 Delaware limited partnership,
3 doing business as KASE CAPITAL
4 MANAGEMENT, et al.,
5 Plaintiffs,
6 vs.
7 MARGARET COTTER, ELLEN COTTER,
8 GUY ADAMS, EDWARD KANE, DOUGLAS
9 McEACHERN, WILLIAM GOULD, JUDY
10 CODDING, MICHAEL WROTONIAK, CRAIG
11 TOMPKINS, and DOES 1 through 100,
12 inclusive,
13 Defendants.
14 and
15 READING INTERNATIONAL, INC., a
16 Nevada corporation,
17 Nominal Defendant.

18 Videotaped Deposition of JAMES COTTER, JR.,
19 Volume I, taken at 865 South Figueroa Street,
20 10th Floor, Los Angeles, California, commencing
21 at 10:09 a.m. and ending at 5:40 p.m., Monday,
22 May 16, 2016, before Janice Schutzman, CSR No. 9509.

23
24
25 PAGES 1 - 297

1 referenced and the cost incurred in defending the
2 derivative suit, you, as you sit here, you can't
3 identify any other monetary damages that you believe
4 any of the grievances you're complaining about have
5 caused shareholders; correct? 11:16:02

6 MR. KRUM: Objections -- same objections.

7 THE WITNESS: As I sit here today, that's
8 what I recall.

9 BY MR. TAYBACK:

10 Q. Did you ever talk to any shareholders that 11:16:18
11 said that they sold Reading stock because you were
12 terminated?

13 A. No.

14 Q. Have you ever heard that from anybody?

15 A. No. 11:16:29

16 Q. I'm going ask you some questions about the
17 individual directors.

18 Judy Coddington, do you -- is she an
19 independent director, in your view?

20 MR. KRUM: Objection, vague and ambiguous, 11:17:03
21 may call for a legal conclusion.

22 THE WITNESS: Judy Coddington has been a
23 long-standing friend of my mother's. I believe Judy
24 Coddington has known my mother close to 30 years, if
25 not longer. 11:17:26

1 Based on her conduct at the board, I do
2 question her independence. Now, whether she
3 satisfies some legal technical definition of
4 independence, she might. But based on a
5 relationship with my mother and her behavior at the 11:17:45
6 board, I do question her independence.

7 BY MR. TAYBACK:

8 Q. Well, she's -- you say she's been a
9 long-standing friend of your mother's.

10 She -- your relationship with your mother 11:18:02
11 goes back longer than hers; correct?

12 A. Yes.

13 Q. And you indicated you believe you were
14 independent?

15 MR. KRUM: Well, objection. The testimony 11:18:14
16 was what it was.

17 BY MR. TAYBACK:

18 Q. Is that -- isn't that correct?

19 A. I think --

20 MR. KRUM: Same objection. 11:18:20

21 THE WITNESS: I think I testified that for
22 certain decisions, I'm independent, yes. I mean,
23 it -- but based on -- and yes, I do -- I do go way
24 back with my mother. I mean, but today, there's
25 been -- I don't have the same relationship with my 11:18:32

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1 mother so that it's not equivalent.

2 But based on Judy Coddington's behavior and
3 her relationship with my mother, I do question her
4 independence.

5 BY MR. TAYBACK:

11:18:50

6 Q. And you said that based on her decisions.

7 So you sort of look at how she voted on
8 things and conclude that she's not independent?

9 MR. KRUM: Object to the char- --

10 mischaracterizes the testimony.

11:19:02

11 THE WITNESS: Frankly, I don't know. There
12 were certain decisions that Judy Coddington has made
13 that I was not privy to. So I can't tell you
14 exactly how she behaved and whether her independence
15 impacted her decisions.

11:19:28

16 BY MR. TAYBACK:

17 Q. So the two grounds that you said made you
18 question her independence were her friendship with
19 your mother and certain of the decisions that she's
20 made?

11:19:42

21 MR. KRUM: Objection, mischaracterizes the
22 testimony.

23 BY MR. TAYBACK:

24 Q. And I'm trying to find out now, what are
25 the decisions that she's made that you think cause

11:19:46

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1 you to question her independence?

2 A. It's --

3 MR. KRUM: Same objection.

4 Go ahead. You can answer.

5 THE WITNESS: It's more than that. It's 11:19:57

6 more than that. It's based on my communication with

7 Judy Coddling that Judy Coddling viewed Reading the

8 way that Ellen and Margaret viewed Reading, which

9 was as a family-owned business to be run by the

10 Cotters and that the Cotters' interests should be 11:20:17

11 served first.

12 And so, yes, I do question Judy Coddling's

13 independence. I question not only her relationship

14 with my mother, but derivatively her relationship

15 with my two sisters. 11:20:36

16 BY MR. TAYBACK:

17 Q. What did she say that -- what's the

18 communication that you're describing, either say or

19 writing, I'm not sure what it was.

20 But what was the communication that you're 11:20:47

21 describing with Ms. Coddling that gave you -- gives

22 you reason to question her independence that you're

23 describing here?

24 A. Shortly before or shortly after Judy

25 Coddling joined the board, I had breakfast with her. 11:21:03

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1 And this is during a period at which this CEO search
2 committee was looking for a CEO.

3 And she said something to the effect of,
4 well, you know, your sister Ellen should be CEO or
5 you should be CEO and, you know, it should be one of 11:21:22
6 you guys.

7 And so this is before Ellen had declared
8 her interest in becoming CEO. And looking back on
9 it, I found it very odd that she would have said
10 something like that as this process to find an 11:21:39
11 outside CEO was unfolding.

12 Q. So you thought it was odd that she would
13 suggest that a Cotter should be a CEO of the
14 company?

15 A. Yeah, and -- 11:21:56

16 MR. KRUM: Objection, mischaracterizes
17 testimony.

18 THE WITNESS: In my discussion with her,
19 she was describing Reading almost as a family-owned
20 small business, not a public company which would be 11:22:05
21 accountable to outside stockholders. And so that
22 gave me pause and made me question her independence.

23 BY MR. TAYBACK:

24 Q. Isn't it true that you became the CEO
25 because you were Mr. Cotter's son -- 11:22:24

1 MR. KRUM: Same objections.

2 THE WITNESS: Again, technically, he may be
3 independent. Yes. I mean --

4 BY MR. TAYBACK:

5 Q. Yes, he's independent, in your view? 11:28:22

6 A. I mean, I'm -- again, Mr. Tayback, I'm not
7 a lawyer. I -- so I don't --

8 Q. I'm not asking the legal definition. I'm
9 asking your view. You've stated that some people in
10 your view aren't independent, and so now I'm asking 11:28:33
11 about these other people.

12 Mr. Gould, in your view, is he independent?

13 A. Technically, I believe he's independent.

14 Q. Technically.

15 Are you giving me a legal definition there, 11:28:47
16 or are you telling me --

17 A. I don't --

18 Q. -- what you think?

19 You don't know.

20 So with respect to -- I mean, all the other 11:28:54
21 people we've asked about, Ms. Coddington, Mr. Wrotniak,
22 you said, I'm not giving you the legal definition,
23 I'm telling you what I think.

24 A. Right.

25 Q. Because you expressed a concern that there 11:29:03

1 aren't enough independent directors on the board and
2 on this executive committee, and I'm trying to find
3 out if you have a view as to whether Mr. Gould is
4 independent or not.

5 And you think, in your view, he's 11:29:13
6 independent?

7 A. For a period of time, Bill was independent
8 but has -- yes, I mean, he is independent.

9 Q. Okay. And why do you think he's
10 independent? 11:29:23

11 Does he have no connection to your family?

12 A. At least he doesn't have a relationship
13 going back with me and my two sisters that would be
14 of such that would question his independence.

15 Q. How long have you known Mr. Gould? 11:29:44

16 A. Maybe since -- at least since 2002.

17 Q. Was he a friend of your father's?

18 A. He was.

19 Q. A close friend?

20 A. I don't know. I mean, he was a business 11:30:03
21 associate with my dad's. I wouldn't describe him as
22 a close friend.

23 Q. So he did business with your father?

24 A. He's -- I think he's been on the board for
25 a number years, going back to perhaps 1985. 11:30:16

1 Q. And did you feel that that made him an
2 independent board member even when your father was
3 in control of the company?

4 MR. KRUM: Same objections.

5 THE WITNESS: I don't know. 11:30:28

6 BY MR. TAYBACK:

7 Q. Mr. Kane, is he independent, in your view?

8 A. No.

9 Q. Why not?

10 A. Because Mr. Kane has had a relationship 11:30:51
11 going back close to 50 years with -- close to 50
12 years with the three of us, with my dad. I think he
13 went back close to 40 years with my father.

14 And based on that relationship, my sisters
15 call him uncle, Uncle Ed. And based on his behavior 11:31:26
16 and actions that he's taken, I would say he's not
17 independent.

18 Q. Mr. Gould's relationship with your father
19 didn't -- doesn't make him currently independent --
20 does not make him currently not independent, but 11:31:44
21 Mr. Kane's relationship with your father makes him
22 not independent; is that correct?

23 MR. KRUM: Objection, mischaracterizes the
24 testimony.

25 THE WITNESS: Mr. Kane and Mr. Gould had a 11:31:56

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1 BY MR. TAYBACK:

2 Q. That's just coincidence?

3 MR. KRUM: Asked and answered as well.

4 THE WITNESS: The answer was no.

5 BY MR. TAYBACK:

11:32:46

6 Q. Do you call Mr. Kane -- have you ever
7 called him Uncle Ed?

8 A. At some point I did. But when I became
9 more involved in Reading, I thought it was odd and I
10 stopped. And I did not have the same level of
11 relationship with him and his family that my two
12 sisters had.

11:33:01

13 Q. What does that mean, "the same level of
14 relationship"?

15 They're just closer personally to him?

11:33:15

16 A. Yes.

17 Q. Do you perceive that he likes them better?

18 A. I think he's -- he is closer with both of
19 them on a personal level.

20 Q. And do you -- did you always feel that way?

11:33:29

21 Let's say when you were younger, did you
22 feel that he liked them more than you?

23 MR. KRUM: Objection, vague.

24 THE WITNESS: I mean, in the last 15 years,
25 he's had a closer relationship with both of them.

11:33:44

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1 He would often go out to dinner with the two of them
2 and his family.

3 I really didn't have that level. So I
4 would describe my two sisters' relationship with Ed
5 Kane and his family to be different than the one 11:33:59
6 that I had.

7 BY MR. TAYBACK:

8 Q. And do you feel that was your choice or his
9 choice to not have that kind of relationship with
10 Mr. Kane? 11:34:08

11 A. I mean, I don't know what he was thinking.
12 I just didn't have it with him. I mean, I --

13 Q. Were there occasions where you asked him to
14 go to dinner more and he --

15 A. No.

16 Q. -- wouldn't?

17 A. No, no, no. No. I would never -- outside
18 of Reading, my interaction with Ed Kane and his
19 family was limited, or certainly much more limited
20 than Ellen and Margaret's. 11:34:37

21 Q. Mr. McEachern, is he independent, in your
22 view?

23 A. Yes. I mean, he's -- I mean, again, he's
24 independent. He's got no relationship with Ellen
25 and Margaret or, you know, no business relationship 11:34:58

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1 with Ellen and Margaret. So --

2 Q. No business relationship -- Mr. Kane has no
3 business relationship with Ellen and Margaret also;
4 correct?

5 A. That's correct.

11:35:20

6 Q. So in your view, Mr. McEachern is
7 independent and has always been independent?

8 MR. KRUM: Asked and answered.

9 THE WITNESS: Yeah, the testimony speaks
10 for itself.

11:35:30

11 BY MR. TAYBACK:

12 Q. So the answer's yes?

13 MR. KRUM: Well, asked and answered. He
14 said what he said.

15 BY MR. TAYBACK:

16 Q. Well, was your answer --

17 MR. KRUM: But it was yes with an
18 explanation.

19 Do you want him to withdraw the
20 explanation?

11:35:41

21 MR. TAYBACK: No. I was going to say, he's
22 independent and he's always been independent.

23 BY MR. TAYBACK:

24 Q. I think you can answer it yes -- or not.

25 But I think the answer's yes, and I want to make

11:35:48

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1 sure I understand the answer.

2 MR. KRUM: All right. Same objections.

3 You can answer.

4 THE WITNESS: Okay. Yes.

5 BY MR. TAYBACK:

11:35:54

6 Q. Guy Adams, is he independent?

7 MR. KRUM: Same -- may call for a legal
8 conclusion.

9 BY MR. TAYBACK:

10 Q. In your view?

11:36:03

11 A. No.

12 Q. Okay. Why not?

13 A. A significant portion of his income derives
14 from entities that are controlled by my two sisters,
15 a significant portion. And I don't see how
16 Mr. Adams can make decisions that, in one way or the
17 other, impact Ellen and Margaret and do so in an
18 independent way.

11:36:28

19 He is fully involved with a number of
20 entities that my two sisters now purportedly
21 control, and his livelihood really depends on them.

11:36:48

22 Q. Would he be independent if you controlled
23 those entities?

24 MR. KRUM: Objection, calls for a legal
25 conclusion, incomplete hypothetical.

11:37:11

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