

1 ZACHARY T. CARLYLE
 1 CarlyleZ@sec.gov
 2 SECURITIES AND EXCHANGE COMMISSION
 2 Byron G. Rogers Federal Building
 3 1961 Stout Street, Suite 1700
 3 Denver, Colorado 80294-1961
 4 Telephone: (303) 844-1000
 4 Facsimile: (303) 297-3529

5 LOCAL COUNSEL:
 5 David J. VanHavermaat, Cal. Bar No. 175761
 6 VanhavermaatD@sec.gov
 6 SECURITIES AND EXCHANGE COMMISSION
 7 444 S. Flower Street, Suite 900
 7 Los Angeles, California 90071
 8 Telephone: (323) 965-3889
 8 Facsimile: (213) 443-1904

9
 10 Attorneys for Plaintiff
 10 Securities and Exchange Commission

11 **UNITED STATES DISTRICT COURT**
 12 **CENTRAL DISTRICT OF CALIFORNIA**
 13 **EASTERN DIVISION**

15 SECURITIES AND EXCHANGE
 16 COMMISSION,
 16 Plaintiff,

17 vs.

18 ROBERT YANG,
 19 CLAUDIA KANO,
 20 SUNCOR FONTANA, LLC,
 20 SUNCOR HESPERIA, LLC, AND
 21 SUNCOR CARE LYNWOOD, LLC
 22 Defendants,

23 AND

24 YANROB'S MEDICAL, INC.,
 25 HEALTHPRO CAPITAL PARTNERS, LLC,
 26 AND SUNCOR CARE, INC.
 26 Relief Defendants.

Case No. 5:15-cv-02387-SVW (KKx)

**PRELIMINARY INJUNCTION,
 ORDER APPOINTING RECEIVER,
 FREEZING ASSETS, AND
 PROVIDING FOR OTHER
 ANCILLARY RELIEF**

1 The parties in this matter have by stipulation agreed to the entry of this Order
2 of Preliminary Injunction, Order Appointing Receiver, Freezing Assets, and
3 Providing for Other Ancillary Relief.

4 A. This Court has jurisdiction over the parties to, and the subject matter of,
5 this action.

6 B. The terms and conditions of the Temporary Restraining Order, Order
7 Freezing Assets, and Providing for Other Ancillary Relief entered by the Court on
8 November 25, 2015 shall remain in full force and effect until this Court has issued
9 this Order.

10 **I.**

11 IT IS HEREBY ORDERED that, until final judgment in this matter enters,
12 Defendants Robert Yang, Claudia Kano, Suncor Fontana, LLC, Suncor Hesperia,
13 LLC, and Suncor Care Lynwood, LLC and their officers, directors, subsidiaries,
14 affiliates, agents, servants, employees, attorneys-in-fact, and those persons in active
15 concert or participation with them who receive actual notice of this order by personal
16 service or otherwise, and each of them, are enjoined and restrained from, directly or
17 indirectly, in the offer or sale of any security by the use of any means or instruments
18 of transportation, or communication in interstate commerce or by the use of the mails:
19 (1) employing any device, scheme, or artifice to defraud; or (2) obtaining money or
20 property by means of any untrue statement of a material fact or any omission to state
21 a material fact necessary in order to make the statements made, in the light of the
22 circumstances under which they were made, not misleading; or (3) engaging in any
23 transaction, practice, or course of business that operates or would operate as a fraud
24 or deceit upon the purchaser in violation of Section 17(a) of the Securities Act of
25 1933 [15 U.S.C. § 77q(a)].

26 **II.**

27 IT IS HEREBY FURTHER ORDERED that until final judgment in this matter
28 enters, Defendants Robert Yang, Claudia Kano, Suncor Fontana, LLC, Suncor

1 Hesperia, LLC, and Suncor Care Lynwood, LLC and their officers, directors,
2 subsidiaries, affiliates, agents, servants, employees, attorneys-in-fact, and those
3 persons in active concert or participation with them who receive actual notice of this
4 order by personal service or otherwise, and each of them, are enjoined and restrained
5 from directly or indirectly, by the use of any means or instrumentality of interstate
6 commerce, or of the mails or of any facility of any national securities exchange in
7 connection with the purchase or sale of any security: (1) employing any device,
8 scheme, or artifice to defraud; (2) making any untrue statement of a material fact or to
9 omit to state a material fact necessary in order to make the statements made, in the
10 light of the circumstances under which they were made, not misleading; or (3)
11 engaging in any act, practice, or course of business which operates or would operate
12 as a fraud or deceit upon any person in violation of Section 10(b) of the Securities
13 Exchange Act of 1934 [15 U.S.C. § 78j(b)] and Rule 10b-5 thereunder [17 C.F.R.
14 240.10b-5].

15 **III.**

16 IT IS HEREBY FURTHER ORDERED that except as otherwise specified in
17 this Order, pending further order of this Court, the asset freeze imposed by Section III
18 of the Temporary Restraining Order, Order Freezing Assets, and Providing for Other
19 Ancillary Relief entered by the Court on November 25, 2015, shall continue in full
20 force and effect, and all such funds and other assets shall remain frozen.

21 **IV.**

22 IT IS HEREBY FURTHER ORDERED that until final judgment in this matter
23 enters, Defendants Robert Yang, Claudia Kano, Suncor Fontana, LLC, Suncor
24 Hesperia, LLC, Suncor Care Lynwood, LLC, and Relief Defendants Yanrob's
25 Medical, Inc., HealthPro Capital Partners, LLC, and Suncor Care, Inc., and their
26 officers, directors, successor corporations, subsidiaries and affiliates, agents, servants,
27 employees, attorneys-in-fact, and those persons in active concert or participation with
28 them who receive actual notice of this order by personal service or otherwise, and

1 each of them, are hereby restrained from destroying, mutilating, concealing, altering,
2 or disposing of any document referring or relating in any manner to any transactions
3 described in the Complaint in this action, or to any communications between or
4 among any of the Defendants and/or Relief Defendants.

5 **V.**

6 **IT IS HEREBY FURTHER ORDERED** that

7 **A.** This Court hereby takes exclusive jurisdiction and possession of the
8 assets, of whatever kind and wherever situated, of the Suncor Receivership Entities
9 (collectively, the “Receivership Assets”).

10 **B.** Until further Order of this Court, Stephen J. Donell is hereby appointed
11 to serve without bond as receiver (the “Receiver”) for the estates of the Suncor
12 Receivership Entities (the “Receivership Estates”).

13 **C. Asset Freeze**

14 1. Except as otherwise specified herein, all Receivership Assets and
15 all assets of the Defendants Suncor Fontana, LLC, Suncor Hesperia, LLC, and
16 Suncor Care Lynwood, LLC, and their respective subsidiaries and affiliates
17 (collectively, the “Suncor Receivership Entities”) and those assets of Relief
18 Defendants Yanrob’s Medical, Inc., HealthPro Capital Partners, LLC, and Suncor
19 Care, Inc. that: (a) are attributable to funds derived from investors of the Suncor
20 Receivership Entities; (b) are held in constructive trust for the Suncor Receivership
21 Entities; (c) were fraudulently transferred by the Suncor Receivership Entities;
22 and/or (d) may otherwise be includable as assets of the estates of the Suncor
23 Receivership Entities (collectively, the “Recoverable Assets”) are frozen until
24 further order of this Court. Accordingly, all persons and entities with direct or
25 indirect control over any Receivership Assets and/or any Recoverable Assets, other
26 than the Receiver, are hereby restrained and enjoined from directly or indirectly
27 transferring, setting off, receiving, changing, selling, pledging, assigning, liquidating
28 or otherwise disposing of or withdrawing such assets. This freeze shall include, but

1 not be limited to, Receivership Assets and/or Recoverable Assets that are on deposit
2 with financial institutions such as banks, brokerage firms and mutual funds.

3 **D. General Powers and Duties of Receiver**

4 1. The Receiver shall have all powers, authorities, rights and
5 privileges heretofore possessed by the officers, directors, managers and general and
6 limited partners of the Suncor Receivership Entities under applicable state and federal
7 law, by the governing charters, by-laws, articles and/or agreements in addition to all
8 powers and authority of a receiver at equity, and all powers conferred upon a receiver
9 by the provisions of 28 U.S.C. §§ 754, 959 and 1692, and Fed.R.Civ.P. 66.

10 2. The trustees, directors, officers, managers, employees, investment
11 advisors, accountants, attorneys and other agents of the Suncor Receivership Entities
12 are hereby dismissed and the powers of any general partners, directors and/or
13 managers are hereby suspended. Such persons and entities shall have no authority
14 with respect to the Suncor Receivership Entities' operations or assets, except to the
15 extent as may hereafter be expressly granted by the Receiver. The Receiver shall
16 assume and control the operation of the Suncor Receivership Entities and shall pursue
17 and preserve all of their claims.

18 3. No person holding or claiming any position of any sort with any
19 of the Suncor Receivership Entities shall possess any authority to act by or on behalf
20 of any of the Suncor Receivership Entities.

21 4. Subject to the specific provisions in this Order, the Receiver shall
22 have the following general powers and duties:

23 a. To use reasonable efforts to determine the nature, location
24 and value of all property interests of the Suncor Receivership Entities, including, but
25 not limited to, monies, funds, securities, credits, effects, goods, chattels, lands,
26 premises, leases, claims, rights and other assets, together with all rents, profits,
27 dividends, interest or other income attributable thereto, of whatever kind, which the
28 Suncor Receivership Entities own, possess, have a beneficial interest in, or control

1 directly or indirectly (“Receivership Property”);

2 b. To take custody, control and possession of all Receivership
3 Property and records relevant thereto from the Suncor Receivership Entities; to sue
4 for and collect, recover, receive and take into possession from third parties all
5 Receivership Property and records relevant thereto;

6 c. To manage, control, operate and maintain the Receivership
7 Estates and hold in his possession, custody and control all Receivership Property,
8 pending further Order of this Court;

9 d. To use Receivership Property for the benefit of the
10 Receivership Estates, making payments and disbursements and incurring expenses as
11 may be necessary or advisable in the ordinary course of business in discharging his
12 duties as Receiver;

13 e. To take such actions as the Receiver deems necessary, in
14 his reasonable business judgment, for the preservation of any Receivership Assets
15 and Receivership Property, including, but not limited to making repairs to,
16 continuing, or completing construction of any real properties owned by the Suncor
17 Receivership Entities or drawing on any loan funds, lines of credit, and/or amounts
18 held in escrow as the Receiver deems necessary and appropriate for such efforts;

19 f. To take any action which, prior to the entry of this Order,
20 could have been taken by the officers, directors, partners, managers, trustees and
21 agents of the Suncor Receivership Entities;

22 g. To engage and employ persons in his discretion to assist
23 him in carrying out his duties and responsibilities hereunder, including, but not
24 limited to, accountants, attorneys, financial or business advisers, liquidating agents,
25 real estate agents, forensic experts, brokers, traders or auctioneers;

26 h. To take such action as necessary and appropriate for the
27 preservation of Receivership Property or to prevent the dissipation or concealment of
28 Receivership Property;

1 i. To review, on at least a bi-weekly basis, a detailed summary
2 of all receipts and expenses, including operating expenses, of Relief Defendant
3 Yanrob's Medical, Inc., and to authorize the payment, on a specific or ongoing basis,
4 of those operating expenses of Relief Defendant Yanrob's Medical, Inc., which the
5 Receiver determines, in his reasonable business judgment, are necessary and
6 appropriate for the preservation of its business. Subject to this limited exception, all
7 funds of Defendant Yanrob's Medical, Inc. shall remain frozen in accordance with
8 Section V.C., above, and subject to all other applicable terms of this Order;

9 j. To issue subpoenas for documents and testimony consistent
10 with the Federal Rules of Civil Procedure;

11 k. To bring such legal actions based on law or equity in any
12 state, federal, or foreign court as the Receiver deems necessary or appropriate in
13 discharging his duties as Receiver;

14 l. To pursue, resist and defend all suits, actions, claims and
15 demands which may now be pending or which may be brought by or asserted against
16 the Receivership Estates; and,

17 m. To take such other action as may be approved by this Court.

18 **E. Access to Information**

19 1. The individual Suncor Receivership Entities and the past and/or
20 present officers, directors, agents, managers, general and limited partners, trustees,
21 attorneys, accountants and employees of the Suncor Receivership Entities, as well as
22 those acting in their place, are hereby ordered and directed to preserve and turn over
23 to the Receiver forthwith all paper and electronic information of, and/or relating to,
24 the Suncor Receivership Entities and/or all Receivership Property; such information
25 shall include but not be limited to books, records, documents, accounts and all other
26 instruments and papers.

27 2. Within ten days (10) of the entry of this Order, the Suncor
28 Receivership Entities shall file with the Court and serve upon the Receiver and the

1 Commission a sworn statement, listing: (a) all employees (and job titles thereof),
2 other personnel, attorneys, accountants and any other agents or contractors of the
3 Suncor Receivership Entities; and, (b) the names, addresses and amounts of claims of
4 all known creditors of the Suncor Receivership Entities.

5 3. Within thirty (30) days of the entry of this Order, the Suncor
6 Receivership Entities shall provide to the Receiver and the Commission copies of the
7 Suncor Receivership Entities' federal income tax returns for January 1, 2011 to the
8 present with all relevant and necessary underlying documentation.

9 4. The Suncor Receivership Entities' past and/or present officers,
10 directors, agents, attorneys, managers, shareholders, employees, accountants, debtors,
11 creditors, managers and general and limited partners, and other appropriate persons or
12 entities shall answer under oath to the Receiver all questions which the Receiver may
13 put to them and produce all documents as required by the Receiver regarding the
14 business of the Suncor Receivership Entities, or any other matter relevant to the
15 operation or administration of the receivership or the collection of funds due to the
16 Suncor Receivership Entities. In the event that the Receiver deems it necessary to
17 require the appearance of the aforementioned persons or entities, the Receiver shall
18 make its discovery requests in accordance with the Federal Rules of Civil Procedure.

19 5. The Receiver shall have the power to issue subpoenas to compel
20 testimony of persons or production of records, consistent with the Federal Rules of
21 Civil Procedure and applicable Local Rules, except for the provisions of Fed.R.Civ.P.
22 26(d)(1), concerning any subject matter within the powers and duties granted by this
23 Order.

24 6. The Defendants Robert Yang and Claudia Kano and the Suncor
25 Receivership Entities are required to assist the Receiver in fulfilling his duties and
26 obligations. As such, they must respond promptly and truthfully to all requests for
27 information and documents from the Receiver.

28

1 **F. Access to Books, Records and Accounts**

2 1. The Receiver is authorized to take immediate possession of all
3 assets, bank accounts or other financial accounts, books and records and all other
4 documents or instruments relating to the Suncor Receivership Entities. All persons
5 and entities having control, custody or possession of any Receivership Property are
6 hereby directed to turn such property over to the Receiver.

7 2. The Suncor Receivership Entities, as well as their agents, servants,
8 employees, attorneys, any persons acting for or on behalf of the Suncor Receivership
9 Entities, and any persons receiving notice of this Order by personal service, facsimile
10 transmission or otherwise, having possession of the property, business, books,
11 records, accounts or assets of the Suncor Receivership Entities are hereby directed to
12 deliver the same to the Receiver, his agents and/or employees.

13 3. All banks, brokerage firms, financial institutions, and other
14 persons or entities which have possession, custody or control of any assets or funds
15 held by, in the name of, or for the benefit of, directly or indirectly, the Suncor
16 Receivership Entities, that receive actual notice of this Order by personal service,
17 facsimile transmission or otherwise shall:

18 a. Not liquidate, transfer, sell, convey or otherwise transfer
19 any assets, securities, funds, or accounts in the name of or for the benefit of the
20 Suncor Receivership Entities except upon instructions from the Receiver;

21 b. Not exercise any form of set-off, alleged set-off, lien, or any
22 form of self-help whatsoever, or refuse to transfer any funds or assets to the
23 Receiver's control without the permission of this Court;

24 c. Within five (5) business days of receipt of that notice, file
25 with the Court and serve on the Receiver and counsel for the Commission a certified
26 statement setting forth, with respect to each such account or other asset, the balance
27 in the account or description of the assets as of the close of business on the date of
28 receipt of the notice; and,

1 d. Cooperate expeditiously in providing information and
2 transferring funds, assets and accounts to the Receiver or at the direction of the
3 Receiver.

4 **G. Access to Real and Personal Property**

5 1. The Receiver is authorized to take immediate possession of all
6 personal property of the Suncor Receivership Entities, wherever located, including
7 but not limited to electronically stored information, computers, laptops, hard drives,
8 external storage drives, and any other such memory, media or electronic storage
9 devices (including all passwords necessary for accessing such information), books,
10 papers, data processing records, evidence of indebtedness, bank records and accounts,
11 savings records and accounts, brokerage records and accounts, certificates of deposit,
12 stocks, bonds, debentures, and other securities and investments, contracts, mortgages,
13 furniture, office supplies and equipment.

14 2. The Receiver is authorized to take immediate possession of all
15 real property of the Suncor Receivership Entities, wherever located, including but not
16 limited to all ownership and leasehold interests and fixtures. Upon receiving actual
17 notice of this Order by personal service, facsimile transmission or otherwise, all
18 persons other than law enforcement officials acting within the course and scope of
19 their official duties, are (without the express written permission of the Receiver)
20 prohibited from: (a) entering such premises; (b) removing anything from such
21 premises; or, (c) destroying, concealing or erasing anything on such premises.

22 3. In order to execute the express and implied terms of this Order,
23 the Receiver is authorized to change door locks to the premises described above. The
24 Receiver shall have exclusive control of the keys. The Suncor Receivership Entities,
25 or any other person acting or purporting to act on their behalf, are ordered not to
26 change the locks in any manner, nor to have duplicate keys made, nor shall they have
27 keys in their possession during the term of the receivership.

28

1 4. The Receiver is authorized to open all mail directed to or received
2 by or at the offices or post office boxes of the Suncor Receivership Entities, and to
3 inspect all mail opened prior to the entry of this Order, to determine whether items or
4 information therein fall within the mandates of this Order.

5 **H. Notice to Third Parties**

6 1. The Receiver shall promptly give notice of his appointment to all
7 known officers, directors, agents, employees, shareholders, creditors, debtors,
8 managers and general and limited partners of the Suncor Receivership Entities, as the
9 Receiver deems necessary or advisable to effectuate the operation of the receivership.

10 2. All persons and entities owing any obligation, debt, or distribution
11 with respect to an ownership interest to any Suncor Receivership Entity shall, until
12 further ordered by this Court, pay all such obligations in accordance with the terms
13 thereof to the Receiver and its receipt for such payments shall have the same force
14 and effect as if the Suncor Receivership Entity had received such payment.

15 3. In furtherance of his responsibilities in this matter, the Receiver is
16 authorized to communicate with, and/or serve this Order upon, any person, entity or
17 government office that he deems appropriate to inform them of the status of this
18 matter and/or the financial condition of the Receivership Estates. All government
19 offices which maintain public files of security interests in real and personal property
20 shall, consistent with such office's applicable procedures, record this Order upon the
21 request of the Receiver or the SEC.

22 4. The Receiver is authorized to instruct the United States
23 Postmaster to hold and/or reroute mail which is related, directly or indirectly, to the
24 business, operations or activities of any of the Suncor Receivership Entities (the
25 "Receiver's Mail"), including all mail addressed to, or for the benefit of, the Suncor
26 Receivership Entities. The Postmaster shall not comply with, and shall immediately
27 report to the Receiver, any change of address or other instruction given by anyone
28 other than the Receiver concerning the Receiver's Mail. The Suncor Receivership

1 Entities shall not open any of the Receiver's Mail and shall immediately turn over
2 such mail, regardless of when received, to the Receiver. All personal mail of any
3 individual Suncor Receivership Entities, and/or any mail appearing to contain
4 privileged information, and/or any mail not falling within the mandate of the
5 Receiver, shall be released to the named addressee by the Receiver. The foregoing
6 instructions shall apply to any proprietor, whether individual or entity, of any private
7 mail box, depository, business or service, or mail courier or delivery service, hired,
8 rented or used by the Suncor Receivership Entities. The Suncor Receivership Entities
9 shall not open a new mailbox, or take any steps or make any arrangements to receive
10 mail in contravention of this Order, whether through the U.S. mail, a private mail
11 depository or courier service.

12 5. Subject to payment for services provided, any entity furnishing
13 water, electric, telephone, sewage, garbage or trash removal services to the Suncor
14 Receivership Entities shall maintain such service and transfer any such accounts to
15 the Receiver unless instructed to the contrary by the Receiver.

16 **I. Injunction Against Interference with Receiver**

17 1. The Suncor Receivership Entities and all persons receiving notice
18 of this Order by personal service, facsimile or otherwise, are hereby restrained and
19 enjoined from directly or indirectly taking any action or causing any action to be
20 taken, without the express written agreement of the Receiver, which would:

21 a. Interfere with the Receiver's efforts to take control,
22 possession, or management of any Receivership Property; such prohibited actions
23 include but are not limited to, using self-help or executing or issuing or causing the
24 execution or issuance of any court attachment, subpoena, replevin, execution, or other
25 process for the purpose of impounding or taking possession of or interfering with or
26 creating or enforcing a lien upon any Receivership Property;

27 b. Hinder, obstruct or otherwise interfere with the Receiver in
28 the performance of his duties; such prohibited actions include but are not limited to,

1 concealing, destroying or altering records or information;

2 c. Dissipate or otherwise diminish the value of any
3 Receivership Property; such prohibited actions include but are not limited to,
4 releasing claims or disposing, transferring, exchanging, assigning or in any way
5 conveying any Receivership Property, enforcing judgments, assessments or claims
6 against any Receivership Property or any Receivership Defendant, attempting to
7 modify, cancel, terminate, call, extinguish, revoke or accelerate (the due date), of any
8 lease, loan, mortgage, indebtedness, security agreement or other agreement executed
9 by any Receivership Defendant or which otherwise affects any Receivership
10 Property; or,

11 d. Interfere with or harass the Receiver, or interfere in any
12 manner with the exclusive jurisdiction of this Court over the Receivership Estates.

13 2. Defendants Robert Yang, Claudia Kano, and the Suncor
14 Receivership Entities shall cooperate with and assist the Receiver in the performance
15 of his duties.

16 3. The Receiver shall promptly notify the Court and SEC counsel of
17 any failure or apparent failure of any person or entity to comply in any way with the
18 terms of this Order.

19 **J. Stay of Litigation**

20 1. As set forth in detail below, the following proceedings, excluding
21 the instant proceeding and all police or regulatory actions and actions of the
22 Commission related to the above-captioned enforcement action, are stayed until
23 further Order of this Court:

24 All civil legal proceedings of any nature, including, but not
25 limited to, bankruptcy proceedings, arbitration proceedings,
26 foreclosure actions, default proceedings, or other actions of any
27 nature involving: (a) the Receiver, in his capacity as Receiver;
28 (b) any Receivership Property, wherever located; (c) any of the

1 Suncor Receivership Entities, including subsidiaries and
2 partnerships; or, (d) any of the Suncor Receivership Entities'
3 past or present officers, directors, managers, agents, or general
4 or limited partners sued for, or in connection with, any action
5 taken by them while acting in such capacity of any nature,
6 whether as plaintiff, defendant, third-party plaintiff, third-party
7 defendant, or otherwise (such proceedings are hereinafter
8 referred to as "Ancillary Proceedings").

9 2. The parties to any and all Ancillary Proceedings are enjoined from
10 commencing or continuing any such legal proceeding, or from taking any action, in
11 connection with any such proceeding, including, but not limited to, the issuance or
12 employment of process.

13 3. All Ancillary Proceedings are stayed in their entirety, and all
14 Courts having any jurisdiction thereof are enjoined from taking or permitting any
15 action until further Order of this Court. Further, as to a cause of action accrued or
16 accruing in favor of one or more of the Suncor Receivership Entities against a third
17 person or party, any applicable statute of limitation is tolled during the period in
18 which this injunction against commencement of legal proceedings is in effect as to
19 that cause of action.

20 **K. Managing Assets**

21 1. For each of the Receivership Estates, the Receiver shall establish
22 one or more custodial accounts at a federally insured bank to receive and hold all
23 cash equivalent Receivership Property (the "Receivership Funds").

24 2. The Receiver's deposit account shall be entitled "Receiver's
25 Account, Estate of [Name of Suncor Receivership Entity]" together with the name of
26 the action.

27 3. The Receiver may, without further Order of this Court, transfer,
28 compromise, or otherwise dispose of any Receivership Property, other than real

1 estate, in the ordinary course of business, on terms and in the manner the Receiver
2 deems most beneficial to the Receivership Estate, and with due regard to the
3 realization of the true and proper value of such Receivership Property.

4 4. Subject to the specific provisions of this order, the Receiver is
5 authorized to locate, list for sale or lease, engage a broker for sale or lease, cause the
6 sale or lease, and take all necessary and reasonable actions to cause the sale or lease
7 of all real property in the Receivership Estates, either at public or private sale, on
8 terms and in the manner the Receiver deems most beneficial to the Receivership
9 Estate, and with due regard to the realization of the true and proper value of such real
10 property.

11 5. Upon further Order of this Court, pursuant to such procedures as
12 may be required by this Court and additional authority such as 28 U.S.C. §§ 2001 and
13 2004, the Receiver will be authorized to sell, and transfer clear title to, all real
14 property in the Receivership Estates.

15 6. The Receiver is authorized to take all actions to manage, maintain,
16 and/or wind-down business operations of the Receivership Estates, including making
17 legally required payments to creditors, employees, and agents of the Receivership
18 Estates and communicating with vendors, investors, governmental and regulatory
19 authorities, and others, as appropriate.

20 7. The Receiver shall take all necessary steps to enable the
21 Receivership Funds to obtain and maintain the status of a taxable “Settlement Fund,”
22 within the meaning of Section 468B of the Internal Revenue Code and of the
23 regulations.

24 **L. Investigate and Prosecute Claims**

25 1. Subject to the requirement, in Section V.J above, that leave of this
26 Court is required to resume or commence certain litigation, the Receiver is
27 authorized, empowered and directed to investigate, prosecute, defend, intervene in or
28 otherwise participate in, compromise, and/or adjust actions in any state, federal or

1 foreign court or proceeding of any kind as may in his discretion, and in consultation
2 with SEC counsel, be advisable or proper to recover and/or conserve Receivership
3 Property.

4 2. Subject to his obligation to expend receivership funds in a
5 reasonable and cost-effective manner, the Receiver is authorized, empowered and
6 directed to investigate the manner in which the financial and business affairs of the
7 Suncor Receivership Entities were conducted and (after obtaining leave of this Court)
8 to institute such actions and legal proceedings, for the benefit and on behalf of the
9 Receivership Estate, as the Receiver deems necessary and appropriate; the Receiver
10 may seek, among other legal and equitable relief, the imposition of constructive
11 trusts, disgorgement of profits, asset turnover, avoidance of fraudulent transfers,
12 rescission and restitution, collection of debts, and such other relief from this Court as
13 may be necessary to enforce this Order. Where appropriate, the Receiver should
14 provide prior notice to Counsel for the Commission before commencing
15 investigations and/or actions.

16 3. The Receiver hereby holds, and is therefore empowered to waive,
17 all privileges, including the attorney-client privilege, held by all entity Suncor
18 Receivership Entities.

19 4. The Receiver has a continuing duty to ensure that there are no
20 conflicts of interest between the Receiver, his Retained Personnel (as that term is
21 defined below), and the Receivership Estate.

22 **M. Bankruptcy Filing**

23 1. The Receiver may seek authorization of this Court to file
24 voluntary petitions for relief under Title 11 of the United States Code (the
25 “Bankruptcy Code”) for the Suncor Receivership Entities. If a Suncor Receivership
26 Entity is placed in bankruptcy proceedings, the Receiver may become, and may be
27 empowered to operate each of the Receivership Estates as, a debtor in possession. In
28 such a situation, the Receiver shall have all of the powers and duties as provided a

1 debtor in possession under the Bankruptcy Code to the exclusion of any other person
2 or entity. Pursuant to Paragraph V.K above, the Receiver is vested with management
3 authority for all entity Suncor Receivership Entities and may therefore file and
4 manage a Chapter 11 petition.

5 2. The provisions of Section V.J above bar any person or entity,
6 other than the Receiver, from placing any of the Suncor Receivership Entities in
7 bankruptcy proceedings.

8 **N. Liability of Receiver**

9 1. Until further Order of this Court, the Receiver shall not be
10 required to post bond or give an undertaking of any type in connection with his
11 fiduciary obligations in this matter.

12 2. The Receiver and his agents, acting within scope of such agency
13 (“Retained Personnel”) are entitled to rely on all outstanding rules of law and Orders
14 of this Court and shall not be liable to anyone for their own good faith compliance
15 with any order, rule, law, judgment, or decree. In no event shall the Receiver or
16 Retained Personnel be liable to anyone for their good faith compliance with their
17 duties and responsibilities as Receiver or Retained Personnel

18 3. This Court shall retain jurisdiction over any action filed against
19 the Receiver or Retained Personnel based upon acts or omissions committed in their
20 representative capacities.

21 4. In the event the Receiver decides to resign, the Receiver shall first
22 give written notice to the Commission’s counsel of record and the Court of its
23 intention, and the resignation shall not be effective until the Court appoints a
24 successor. The Receiver shall then follow such instructions as the Court may
25 provide.

26 **O. Recommendations and Reports**

27 1. On or before December 24, 2015, the Receiver shall file a report
28 regarding the Receiver’s initial plan to marshal the assets of the Suncor Receivership

1 Entities, with service copies to counsel of record.

2 2. The Receiver is authorized, empowered and directed to develop a
3 plan for the fair, reasonable, and efficient recovery and liquidation of all remaining,
4 recovered, and recoverable Receivership Property (the “Liquidation Plan”).

5 3. Within ninety (90) days of the entry date of this Order, or at an
6 alternate date set by the Court upon application of the Receiver, the Receiver shall
7 file the Liquidation Plan in the above-captioned action, with service copies to counsel
8 of record.

9 4. Within thirty (30) days after the end of each calendar quarter, the
10 Receiver shall file and serve a full report and accounting of each Receivership Estate
11 (the “Quarterly Status Report”), reflecting (to the best of the Receiver’s knowledge as
12 of the period covered by the report) the existence, value, and location of all
13 Receivership Property, and of the extent of liabilities, both those claimed to exist by
14 others and those the Receiver believes to be legal obligations of the Receivership
15 Estates.

16 5. The Quarterly Status Report shall contain the following:

17 a. A summary of the operations of the Receiver;

18 b. The amount of cash on hand, the amount and nature of
19 accrued administrative expenses, and the amount of unencumbered funds in the
20 estate;

21 c. A schedule of all the Receiver’s receipts and disbursements
22 (attached as Exhibit A to the Quarterly Status Report), with one column for the
23 quarterly period covered and a second column for the entire duration of the
24 receivership;

25 d. A description of all known Receivership Property, including
26 approximate or actual valuations, anticipated or proposed dispositions, and reasons
27 for retaining assets where no disposition is intended;

28

1 e. A description of liquidated and unliquidated claims held by
2 the Receivership Estate, including the need for forensic and/or investigatory
3 resources; approximate valuations of claims; and anticipated or proposed methods of
4 enforcing such claims (including likelihood of success in: (i) reducing the claims to
5 judgment; and, (ii) collecting such judgments);

6 f. A list of all known creditors with their addresses and the
7 amounts of their claims;

8 g. The status of Creditor Claims Proceedings, after such
9 proceedings have been commenced; and,

10 h. The Receiver's recommendations for a continuation or
11 discontinuation of the receivership and the reasons for the recommendations.

12 6. On the request of the Commission, the Receiver shall provide the
13 Commission with any documentation that the Commission deems necessary to meet
14 its reporting requirements, that is mandated by statute or Congress, or that is
15 otherwise necessary to further the Commission's mission.

16 **P. Fees, Expenses and Accountings**

17 1. Subject to the specific provisions of this Order, the Receiver need
18 not obtain Court approval prior to the disbursement of Receivership Funds for
19 expenses in the ordinary course of the administration and operation of the
20 receivership. Further, prior Court approval is not required for payments of applicable
21 federal, state or local taxes.

22 2. Subject to the specific provisions of this Order, the Receiver is
23 authorized to solicit persons and entities ("Retained Personnel") to assist him in
24 carrying out the duties and responsibilities described in this Order. The Receiver
25 shall not engage any Retained Personnel without first obtaining an Order of the Court
26 authorizing such engagement.

27 3. The Receiver and Retained Personnel are entitled to reasonable
28 compensation and expense reimbursement from the Receivership Estates as described

1 in the “Billing Instructions for Receivers in Civil Actions Commenced by the U.S.
2 Securities and Exchange Commission” (the “Billing Instructions”) agreed to by the
3 Receiver. Such compensation shall require the prior approval of the Court.

4 4. Within forty-five (45) days after the end of each calendar quarter,
5 the Receiver and Retained Personnel shall apply to the Court for compensation and
6 expense reimbursement from the Receivership Estates (the “Quarterly Fee
7 Applications”). At least thirty (30) days prior to filing each Quarterly Fee
8 Application with the Court, the Receiver will serve upon counsel for the SEC a
9 complete copy of the proposed Application, together with all exhibits and relevant
10 billing information in a format to be provided by SEC staff.

11 5. All Quarterly Fee Applications will be interim and will be subject
12 to cost benefit and final reviews at the close of the receivership. At the close of the
13 receivership, the Receiver will file a final fee application, describing in detail the
14 costs and benefits associated with all litigation and other actions pursued by the
15 Receiver during the course of the receivership.

16 6. Quarterly Fee Applications may be subject to a holdback in the
17 amount of 20% of the amount of fees and expenses for each application filed with the
18 Court. The total amounts held back during the course of the receivership will be paid
19 out at the discretion of the Court as part of the final fee application submitted at the
20 close of the receivership.

21 7. Each Quarterly Fee Application shall:
22 a. Comply with the terms of the Billing Instructions agreed to
23 by the Receiver; and,
24 b. Contain representations (in addition to the Certification
25 required by the Billing Instructions) that: (i) the fees and expenses included therein
26 were incurred in the best interests of the Receivership Estate; and, (ii) with the
27 exception of the Billing Instructions, the Receiver has not entered into any agreement,
28 written or oral, express or implied, with any person or entity concerning the amount

