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 14 STEPHEN J. DONELL

15 UNITED STATES DISTRICT COURT  
 16 CENTRAL DISTRICT OF CALIFORNIA

17 SECURITIES AND EXCHANGE  
 18 COMMISSION,

19 Plaintiff,

20 v.

21 ROBERT YANG, et al.,

22 Defendant,

23 YANROB'S MEDICAL, INC., et al.,

24 Relief Defendants.

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

FOURTH INTERIM APPLICATION  
 FOR PAYMENT OF FEES AND  
 REIMBURSEMENT OF EXPENSES OF  
 RECEIVER STEPHEN J. DONELL

[Notice of Applications for Payment of  
 Fees and Reimbursement of Expenses;  
 Fourth Interim Application of Receiver's  
 Counsel; Memorandum of Points and  
 Authorities; Declaration of Stephen J.  
 Donell; and [Proposed] Order submitted  
 concurrently herewith]

Date: July 10, 2017  
 Time: 1:30 p.m.  
 Ctrm: 10A  
 Judge: Hon. Stephen V. Wilson

25 Stephen J. Donell (the "Receiver"), the Court-appointed permanent receiver  
 26 for Defendants Suncor Fontana, LLC, Suncor Hesperia, LLC, Suncor Care  
 27 Lynwood, LLC, and their respective subsidiaries and affiliates (collectively, the  
 28 "Receivership Entities" or "Entities"), hereby submits this Fourth Interim  
 Application for Payment of Fees and Reimbursement of Expenses (the Receiver's

1 "Application"). **The Application covers the period from October 1, 2016,**  
2 **through December 31, 2016** (the "Application Period").

3 As reflected below, during the Application Period, the Receiver and his staff  
4 spent a total of 81.6 hours working on behalf of the Receivership Entities, for fees  
5 totaling \$22,555.60. In addition, the Receiver incurred \$50.97 in expenses. **In**  
6 **accordance with this Court's prior orders, the Receiver now requests that this**  
7 **Court approve 100% of the Receiver's fees and expenses incurred during the**  
8 **Application Period, and enter an order authorizing the Receiver to pay, on an**  
9 **interim basis, 90% of the all fees incurred, in the amount of \$20,300.04, and**  
10 **100% of expenses incurred (\$50.97).**

11 During the Application Period, the Receiver made substantial progress in  
12 satisfaction of his duties as defined by the Court in its December 11, 2016  
13 Preliminary Injunction, Order Appointing Receiver, Freezing Assets, and Providing  
14 for Other Ancillary Relief (the "Appointment Order").

15 Specifically, during the Application Period, the Receiver, among other things:  
16 (1) continued to administer the estates of the Receivership Entities (collectively, the  
17 "Estate"), funded via approximately \$2.4 million; (2) confirmed the amount and  
18 location of additional cash assets potentially available for recovery and subject to  
19 turnover requirements of the Appointment Order, including \$250,000 in investor  
20 funds paid to the Metropolitan Water District of Southern California (the "MWD"),  
21 with whom the Receiver has since settled; (3) secured the turn-over of \$2 million  
22 from Celtic Bank Corporation ("Celtic Bank"), which funds the Receiver is holding  
23 in a separate account pending a Court determination regarding competing claims to  
24 these funds; (4) continued to develop and undertake a marketing and disposition  
25 plan in connection with each of the real properties implicated in this matter,  
26 including via the engagement of real property brokers and the commencement of  
27 marketing efforts for all saleable properties; (5) coordinated with Celtic Bank and  
28 with GBC International Bank ("GBC Bank") regarding the abandonment of two of

1 the real properties implicated in this matter; (6) identified two real properties  
2 determined to be "underwater," and subject to immediate abandonment, and  
3 prepared and filed motions for authority to complete an abandonment of those  
4 properties, ultimately resulting in the Court-approved abandonment of these  
5 properties during Application Period; (7) negotiated with prospective purchasers of  
6 the Entities' remaining real estate assets; and (8) developed a proposed claims and  
7 distribution process, and sought and secured Court approval of that process.

8 The Receiver also: (9) prepared and submitted his Third Quarterly Status  
9 Report (the "Third Interim Report") (Dkt No. 150); (10) continued to monitor and,  
10 as appropriate, participate in all pending state court litigation matters affecting or  
11 relating to the Receivership Entities, and maintained the status quo in such matters;  
12 and (11) communicated with investors (and counsel for investors) in the  
13 Receivership Entities regarding the status of the receivership, issues relating to  
14 investor immigration petitions, and registration via the Receiver's website.

15 Given the amount and nature of the work completed by the Receiver and his  
16 staff, the Receiver respectfully submits that the fees and expenses incurred and  
17 addressed herein are appropriate and, accordingly, requests that the Court enter an  
18 order approving the fees and expenses and authorizing payment of 90%  
19 (\$20,300.04) of the fees, on an interim basis, and 100% of expenses incurred  
20 (\$50.97), from the funds of the Receivership Entities.

21 **I. WORK PERFORMED BY THE RECEIVER.**

22 During the Application Period, the Receiver and his staff undertook  
23 substantial additional efforts to investigate and recover receivership assets, develop  
24 and implement claims and distribution and property disposition plans, and otherwise  
25 administer the Estate of the Receivership Entities. Significant progress has been  
26 made, and the Receiver's efforts continue. The Receiver's previously submitted  
27 Initial Report of Receiver (the "Initial Report") (Dkt. No. 20), First Quarterly Status  
28 Report (the "First Interim Report") (Dkt. No. 53), Second Quarterly Status Report

1 (the "Second Interim Report") (Dkt. No. 129), and Third Interim Report summarize  
2 the Receiver's efforts and conclusions in substantial detail. The Receiver invites the  
3 Court and all interested parties to review those documents in conjunction with the  
4 present Application.

5 Below, the Receiver addresses the key efforts undertaken and issues  
6 addressed during the Application Period, and provides a detailed summary of the  
7 services provided and time spent by the Receiver and his staff, during the  
8 Application Period. As reflected below, the Receiver has categorized his efforts by  
9 project, property and/or Receivership Entity:

10 **A. Suncor Fontana, LLC | 7227 Oleander Avenue.**

11 The Receivership Entity Suncor Fontana, LLC is associated with the property  
12 located at 7227 Oleander Avenue, Fontana, California (the "Fontana Project"). As  
13 detailed in the Initial Report, the First Interim Report, Second Interim Report, and  
14 Third Interim Report, the Fontana Project is a partially constructed sub-acute /  
15 skilled nursing facility, which at the time of the Receiver's appointment, appeared to  
16 be approximately 45% complete.

17 During the Application Period, the Receiver confirmed that the amount of  
18 secured debt on the Project, combined with the face value of existing and anticipated  
19 claims against the Project by trade creditors and others, meant that the Project was  
20 substantially "underwater" and represented a net liability to the Estate. Accordingly,  
21 the Receiver sought and secured permission from the Court to abandon the Fontana  
22 Project (Dkt. Nos. 115, 133.) This Project has since been abandoned.

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1 The below chart summarizes work performed by the Receiver relating to this  
2 Entity and Project, by task category:

<u>Task</u>	<u>Amount</u>
Administration – General Estate Operations	\$76.90
Administration – General Estate Operations – Sales Efforts	\$69.40
Administration – Receivership Estate Operations	\$49.50
Financial – Accounting/Auditing	\$363.00
Financial – Status Reports	\$104.10
Legal – Asset Disposition	\$138.80
Legal – Claims Administration and Objections	\$193.80
<b>Total</b>	<b>\$995.50</b>
<b>Expenses</b>	<b>\$0</b>

14 **B. Suncor Hesperia LLC/17577-17579 Sultana Street.**

15 Receivership Entity Suncor Hesperia, LLC is associated with the property  
16 located at 17577-17579 Sultana Street, Hesperia, California ("Hesperia Project").  
17 As detailed in the Initial Report, the First Interim Report, the Second Interim Report,  
18 and the Third Interim Report, the Hesperia Project is undeveloped land, and was  
19 apparently intended to be developed as a sub-acute care / skilled nursing facility.

20 While the Receiver has confirmed that development and construction plans  
21 for the Hesperia Project were prepared in the pre-receivership period, and that the  
22 grading and excavation at the site seems to have been undertaken in accordance with  
23 those plans, it remains unclear whether the Project was properly entitled and/or  
24 obtained all requisite permits. The Receiver concluded that the Project was  
25 substantially underwater; that is, worth less than the amount of secured (and  
26 securable) claims against it, and was under threat of foreclosure.<sup>1</sup> The Receiver

28 <sup>1</sup> Specifically, the aggregate of confirmed secured and unsecured debt on the Project, coupled with the fact that the Receiver's real property broker did not

1 moved for authority to abandon the Project on June 30, 2016 (Dkt. No. 109). The  
 2 Court entered its Order granting the Receiver's motion on August 8, 2016 (Dkt. No.  
 3 134). This Project has since been abandoned.

4 The below chart, summarizes work performed by the Receiver relating to this  
 5 Entity and Project:

<u>Task</u>	<u>Amount</u>
Administration – General Estate Operations	\$138.80
Financial – Accounting/Auditing	\$363.00
Financial – Tax Issues	\$138.80
<b>Total</b>	<b>\$640.60</b>

11  
 12 **C. Suncor Lynwood, LLC/3598 Martin Luther King, Jr. Blvd.**

13 Suncor Lynwood, LLC is associated with the property located at 3598 Martin  
 14 Luther King, Jr. Blvd, Lynwood, California ("Lynwood Project"). As detailed in the  
 15 Initial Report, the First Interim Report, Second Interim Report, and the Third  
 16 Interim Report, the Lynwood Project is a vacant structure previously used as a  
 17 skilled nursing facility and apparently intended to be re-developed as a sub-acute  
 18 care / skilled nursing facility.

19 During the Application Period, the Receiver obtained a broker's opinion of  
 20 value ("BOV") that suggested the Lynwood Project could be worth \$1.5 million, and  
 21 perhaps as much as \$ 2 million. Thereafter, the Receiver dedicated substantial time  
 22 and effort to finalizing a disposition plan for the Lynwood Project, and soliciting  
 23 and managing multiple viable offers to purchase the property. The Receiver has  
 24 since tentatively accepted an offer to purchase the Lynwood Project for \$1.9 million,  
 25 and anticipates submitting a motion for Court approval of the sale shortly.

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generate even a single purchase offer for the Project, has led the Receiver to  
 conclude that the Project is "underwater."

1 The below chart summarizes work performed by the Receiver relating to this  
2 Entity and Project:

<u>Task</u>	<u>Amount</u>
Administration – General Estate Operations	\$111.60
Administration – General Estate Operations – Property Sale	\$4,788.60
Administration – General Estate Operations – Property Management Operational Issues	\$1,573.30
Administration – Receivership Estate Operations	\$99.00
Financial – Accounting/Auditing	\$543.00
Financial – Tax Issues	\$7.50
Legal – Asset Disposition	\$69.40
<b>Total</b>	<b>\$7,364.60</b>

14 **D. The Mentone Property/11201 Opal Avenue.**

15 As detailed in the Initial Report, the First Interim Report, Second Interim  
16 Report, and Third Interim Report the real property located at 11202 Opal Ave.,  
17 Mentone, California ("Mentone Property") is presently comprised of unproductive  
18 orchard land, but sits at the center of a series of parcels of real property immediately  
19 adjacent to the City of Redlands.

20 As the Receiver previously reported, he has confirmed that at least \$500,000  
21 in funds raised from investors in the Lynwood Project were diverted for the  
22 purchase of the Mentone Property. During the Application Period, the Receiver  
23 reviewed a pre-receivership PSA, which suggested that Defendants intended to  
24 develop the Mentone Property as a site for 27 single-family homes, and undertook to  
25 determine whether such a plan was still viable and economically beneficial for the  
26 Estate. Ultimately, the Receiver determined that this PSA, if performed, would  
27 subject the Estate to a number of onerous requirements, and costs in excess of  
28

1 \$500,000, with no guarantee of sale.

2 Accordingly, the Receiver secured permission from the Court to abandon the  
3 PSA (Dkt. No. 132).

4 Since then, the Receiver has aggressively and actively marketed the Mentone  
5 Property. As of the date of this Application, the Receiver has received at least three  
6 viable offers to purchase the property, all at or in excess of \$1 million. There are no  
7 significant outstanding liens or other payments due in connection with the Mentone  
8 Property, meaning that the overwhelming bulk of the eventual purchase price will  
9 represent net proceeds to the Estate.<sup>2</sup> The Receiver is currently in negotiations with  
10 all prospective purchasers, and hopes to have a sale agreement to propose for Court  
11 approval soon.

12 The below chart summarizes work performed relating to this property:

<u>Task</u>	<u>Amount</u>
Administration – General Estate Operations	\$34.70
Administration – General Estate Operations – Property Management	\$55.00
Administration – General Estate Operations: Property Sale Activities	\$1,283.90
Administration – Receivership Estate Operations	\$16.50
Financial – Tax Issues	\$167.50
Legal – Asset Disposition	\$69.40
Legal—Claims Administration and Objections	\$104.10
<b>Total</b>	<b>\$1,731.10</b>

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26 <sup>2</sup> The pre-receivership, anticipated buyer of the Mentone Property advanced  
27 \$150,000 to the Entities, secured by deed of trust. As reflected in the Receiver's  
28 Forensic Accounting and Amended Forensic Accounting Reports, these funds  
were not expended in the manner required by the PSA. After the abandonment  
of the contract with the pre-receivership buyer, the Receiver has satisfied the  
deed of trust, eliminating what appears to be the only substantial cloud on title in  
connection with the Mentone Property.

1           **E.     Yanrob's Medical, Inc./406 Vanderbilt Way.**

2           The real property located at 406 Vanderbilt Way, San Bernardino, California  
3 (the "Vanderbilt Property") is the principal place of business of Relief Defendant  
4 Yanrob's Medical, Inc. ("Yanrob"), and the location of Defendant Yang's medical  
5 practice.

6           As reflected in the Receiver's prior submissions to the Court, Yanrob's status  
7 as a prospective Receivership Entity was ambiguous from the inception of this  
8 matter, largely due to the fact that, while Yanrob received more than \$1 million in  
9 funds derived from investors, its business and financial activities appeared to be  
10 otherwise unrelated to the conduct in issue in the Security and Exchange  
11 Commission's (the "Commission") Complaint. In determining whether, or to what  
12 extent, the Vanderbilt Property should be considered an asset of the Receivership  
13 Entities, the Receiver therefore had to weigh both Yanrob's role in the unlawful  
14 conduct in issue here, as well as the potential benefit to the Receivership Entities of  
15 deeming the Vanderbilt Property to be a receivership asset.

16           Ultimately, the Receiver ultimately determined that the value of the  
17 Vanderbilt Property was roughly equal to that of an outstanding debt owed to GBC  
18 Bank and secured by the property. As a consequence, the Receiver entered into  
19 detailed negotiations with Yanrob, GBC Bank, and others to formalize the  
20 Receiver's abandonment of the Vanderbilt Property, and to allow for Yanrob to sell  
21 the Vanderbilt Property to an arms-length buyer via a transaction that resulted in the  
22 return of \$400,000 to the Receiver for the benefit of the Entities (Dkt Nos. 136,  
23 137). The authorized sale has since been consummated and GBC Bank has released  
24 \$400,000 in cash to the Receiver.

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1 The below chart summarizes work performed by the Receiver relating to  
 2 Yanrob and the Vanderbilt Property:

<u>Task</u>	<u>Amount</u>
Administration – General Estate Operations	\$27.50
Administration – General Estate Operations – Sale Efforts	\$242.90
Administration – Receivership Estate Operations	\$115.50
Financial – Accounting/Auditing	\$264.00
Legal – Asset Analysis and Recovery	\$34.70
Legal – Asset Disposition	\$69.40
Legal – Claims Administration and Objections	\$69.40
<b>Total</b>	<b>\$823.40</b>

13 **F. General Receivership Work.**

14 During the Application Period, the Receiver also engaged in numerous  
 15 general or administrative efforts on behalf of the Receivership Entities, collectively,  
 16 in order to maintain the cumulative value of the Estate, coordinate with the  
 17 Commission and Defendants' counsel, and fulfill his reporting and other obligations.

18 During the Application Period, the Receiver undertook additional efforts to  
 19 locate any other recoverable assets, including with potential individuals in improper  
 20 receipt of funds. The Receiver also performed work on listing agreements relating  
 21 to various Projects, and performed general accounting work relating to cash  
 22 turnovers and vendor services required in order to administer the Estate.  
 23 Additionally, the Receiver developed a proposed claims process on November 29,  
 24 2016 (Dkt No. 148), which the Court granted in its entirety on December 22, 2016  
 25 (Dkt No. 149).

26 During the Application Period, the Receiver further reviewed and finalized  
 27 the Third Interim Report, addressed inquiries from potential investors and their  
 28 authorized agents, coordinated with counsel in connection with scheduled hearings

1 and other Court deadlines, monitored related pending actions in San Bernardino  
 2 Superior Court, maintained and updated his website relating to this receivership, and  
 3 worked with vendors relating to payments and any related vendor issues.

4 The chart below summarizes work performed by the Receiver relating to this  
 5 generalized and inclusive category of work:

<u>Task</u>	<u>Amount</u>
Non-Categorized	\$69.40
Administration – General Estate Operations	\$2,207.10
Administration – General Operations – Sale of Property	\$69.40
Administration – Investor Relations	\$2,217.00
Administration – Receivership Estate Operations	\$560.50
Administration – Website Operations	\$586.00
Financial – Accounting/Auditing	\$606.00
Financial – Status Reports	\$310.60
Financial – Tax Issues	\$363.50
Legal – Asset Analysis and Recovery	\$728.70
Litigation – Asset Recovery	\$69.40
Legal – Claims Administration and Objections	\$3,074.00
Legal – Claims Administration and Objections	\$416.40
<b>Total</b>	<b>\$11,000.40</b>
<b>Expenses</b>	<b>\$50.97</b>

24 A true and correct copy of all of the Receiver's invoices for the Application  
 25 Period are attached to his concurrently-filed declaration. (Declaration of Stephen J.  
 26 Donell in support of the Application ["Donell Decl."], ¶ 4, Ex. A.) In his reasonable  
 27 business judgment, the Receiver believes the hourly rates that he and his internal  
 28 professionals charged were appropriate, given the requirements of the receivership,

1 that every effort was made to have tasks completed at the lowest possible billing  
 2 rate, and that the total fees for which he seeks approval are fair and reasonable.  
 3 (Donell Decl., ¶¶ 3, 4.) The Receiver has also prepared a Standardized Fund  
 4 Accounting Report for the Estate of the Receivership Entities in accordance with the  
 5 Commission's billing requirements, summarizing the Receiver's collections,  
 6 disbursements, and financial activities on behalf of the Receivership Entities and the  
 7 Estate. (Donell Decl., ¶ 5, Ex. B.)

8 **II. SUMMARY OF RECEIVER'S FEES.**

9 **A. Summary Of Fees By Category Of Work.**

10 The total fees of \$22,555.60 incurred by the Receiver from October 1, 2016  
 11 through December 31, 2016, can be broken down into the following categories of  
 12 work:

<u>Task</u>	<u>Amount</u>	<u>Percentage</u>
Non-Categorized	\$69.40	0.0031%
Administration – General Estate Operations	\$2,457.80	10.8966%
Administration – General Estate Operations – Sales Efforts	\$312.30	1.3846%
Administration – General Estate Operations – Property Management	\$55.00	0.2438%%
Administration – General Estate: Property Management Operational Issues	\$1,573.30	6.9752%
Administration – General Estate Operations: Property Sale	\$4,996.80	22.1533%
Administration – General Operations: Property Sale Activities	\$1,283.90	5.6922%
Administration – Investor Relations	\$2,389.20	10.5925%
Administration – Receivership Estate Operations	\$841.00	3.7286%
Administration – Website	\$586.00	2.5980%
Financial – Data Analysis	\$138.80	0.6154%
Financial -- Status Reports	\$414.70	1.8386%
Financial – Accounting/Auditing	\$2,139.00	9.4832%
Financial -- Tax Issues	\$677.30	3.0028%

<u>Task</u>	<u>Amount</u>	<u>Percentage</u>
Legal – Asset Analysis and Recovery	\$763.40	3.3845%
Legal – Asset Disposition	\$347.00	1.5384%
Litigation—Asset Recovery	\$69.40	0.3077%
Legal – Claims Administration and Objections	\$3,441.30	15.2570%
<b>Subtotal</b>	<b>\$22,555.60</b>	
<b>Fee/Expense Reduction</b>	<b>(\$2,255.56)</b>	
<b>Final Discounted Total</b>	<b>\$20,300.04</b>	
<b>Total Expenses</b>	<b>\$50.97</b>	

**III. CONCLUSION.**

As reflected above, the Receiver has determined, in his business judgment, that the total fees incurred during the Application Period were reasonable. Accordingly, the Receiver respectfully requests that the Court enter an Order approving the \$22,555.60 for his fees incurred during the Application Period, and authorizing the payment, on an interim basis, of 90% of said fees incurred, in the amount of \$20,300.04, and 100% of his expenses, in the amount of \$50.97.

Dated: June 7, 2017

ALLEN MATKINS LECK GAMBLE  
 MALLORY & NATSIS LLP  
 DAVID R. ZARO  
 JOSHUA A. DEL CASTILLO  
 MELISSA K. ZONNE

By:           /s/          Joshua A. del Castillo            
 JOSHUA A. DEL CASTILLO  
 Attorneys for Receiver  
 STEPHEN J. DONELL

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**PROOF OF SERVICE**

*Securities and Exchange Commission v. Robert Yang, Suncor Fontana, et al.*  
USDC, Central District of California – Case No. 5:15-cv-02387-SVW (KKx)

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 865 S. Figueroa Street, Suite 2800, Los Angeles, California 90017-2543.

A true and correct copy of the foregoing document(s) described below will be served in the manner indicated below:

**FOURTH INTERIM APPLICATION FOR PAYMENTS OF FEES AND REIMBURSEMENT OF EXPENSES OF RECEIVER, STEPHEN J. DONELL**

1. **TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING ("NEF")** – the above-described document will be served by the Court via NEF. On **June 7, 2017**, I reviewed the CM/ECF Mailing Info For A Case for this case and determined that the following person(s) are on the Electronic Mail Notice List to receive NEF transmission at the email address(es) indicated below:

- **Zachary T. Carlyle**  
carlylez@sec.gov, kasperg@sec.gov, karpeli@sec.gov, blomgrene@sec.gov, pinkstonm@sec.gov, NesvigN@sec.gov
- **Stephen J. Donell**  
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- **David R Zaro**  
dzaro@allenmatkins.com

2. **SERVED BY U.S. MAIL OR OVERNIGHT MAIL (indicate method for each person or entity served):** On **June 7, 2017**, I served the following person(s) and/or entity(ies) in this case by placing a true and correct copy thereof in a sealed envelope(s) addressed as indicated below. I am readily familiar with this firm's practice of collection and processing correspondence for mailing. Under that practice it is deposited with the U.S. postal service on that same day in the ordinary course of business. I am aware that on motion for party served, service is presumed invalid if postal cancellation date or postage meter date is more than 1 (one) day after date of deposit for mailing in affidavit. Or, I deposited in a box or other facility regularly maintained by FedEx, or delivered to a courier or driver authorized by said express service carrier to receive documents, a true copy of the foregoing document(s) in sealed envelopes or packages designated by the express service carrier, addressed as indicated above on the above-mentioned date, with fees for overnight delivery paid or provided for.

Franchise Tax Board (FTB)  
P.O. Box 2952  
Sacramento, CA 95812-2952

**Via U.S. Mail**

Internal Revenue Service  
880 Front Street  
San Diego, CA 92101-8869

**Via U.S. Mail**

I declare that I am employed in the office of a member of the Bar of this Court at whose direction the service was made. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on **June 7, 2017** at Los Angeles, California.

/s/ Martha Diaz  
Martha Diaz