

ROBB EVANS
Receiver of
D.W. Heath & Associates, Inc.;
PCM Fixed Income Fund I, LLC;
Private Capital Management, Inc.;
Private Collateral Management, Inc.
and the Schlarmann Interests

11450 Sheldon Street
Sun Valley, California 91352-1121
Telephone No.: (818) 768-8100
Facsimile No.: (818) 768-8802

Securities and Exchange Commission v. D. W. Heath & Associates Inc., et al.
CASE No. CV-04-02949 JFW (Ex)

**Notice of Hearing on Receiver's Motion for Order Approving
Sale of Pearson Property by Private Sale and for Modification
of Applicable Sale Procedures of 28 U.S.C. Section 2001(b) in
Connection Therewith**

Filed November 10, 2005

FILED

2005 NOV 10 PM 12: 34

U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
LOS ANGELES

BY _____

1 Gary Owen Caris (State Bar No. 088918)
Lesley Anne Hawes (State Bar No. 117101)
2 Hal D. Goldflam (State Bar No. 179689)
FRANDZEL ROBINS BLOOM & CSATO, L.C.
3 6500 Wilshire Boulevard
Seventeenth Floor
4 Los Angeles, California 90048-4920
Telephone: (323) 852-1000
5 Facsimile: (323) 651-2577
E-Mail: gcaris@frandzel.com
6 E-Mail: lhawes@frandzel.com
E-Mail: hgoldflam@frandzel.com

7 Attorneys for Permanent Receiver,
8 ROBB EVANS

9 UNITED STATES DISTRICT COURT
10 CENTRAL DISTRICT OF CALIFORNIA

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13 SECURITIES AND EXCHANGE
COMMISSION,

14 Plaintiff,

15 v.

16 D.W. HEATH & ASSOCIATES, INC.,
17 etc., et al.,

18 Defendants.

CASE NO. CV 04-02949 JFW (Ex)

**NOTICE OF HEARING ON
RECEIVER'S MOTION FOR
ORDER APPROVING SALE OF
PEARSON PROPERTY BY
PRIVATE SALE AND FOR
MODIFICATION OF APPLICABLE
SALE PROCEDURES OF 28 U.S.C.
SECTION 2001(b) IN
CONNECTION THEREWITH**

DATE: December 5, 2005
TIME: 1:30 p.m.
PLACE: Courtroom 16
312 N. Spring Street
Los Angeles, CA

FRANDZEL ROBINS BLOOM & CSATO, L.C.
6500 WILSHIRE BOULEVARD, 17TH FLOOR
LOS ANGELES, CALIFORNIA 90048-4920
(323) 852-1000

1 PLEASE TAKE NOTICE that on December 5, 2005 at 1:30 p.m. or as soon
2 thereafter as counsel may be heard in Courtroom 16 of the above-entitled
3 court located at 312 N. Spring Street, Los Angeles, California, Robb Evans as
4 permanent receiver ("Receiver") of D.W. Heath & Associates, Inc., Private
5 Capital Management, Inc., Private Collateral Management, Inc. and PCM Fixed
6 Income Fund I, LLC and their subsidiaries and affiliates, and as permanent receiver
7 of the "Schlarmann Interests" will move this Court for an order approving the sale
8 of that real property commonly known as 40641-40645 Village Drive and 40651
9 Village Drive, Big Bear Lake, California 92315 (Assessor's Parcel Nos. 0308-137-
10 04 and 0308-137-08) (collectively, "Pearson Property") by private sale to Eugene A.
11 Muntean ("Buyer") for a gross sales price of \$480,000.00.

12 The Receiver seeks an order approving the sale of the Pearson Property to the
13 Buyer under the terms and conditions of the Commercial Property Purchase
14 Agreement and Joint Escrow Instructions which is attached to the supporting
15 declaration of Jeffrey M. Olshan, and to take all steps necessary or convenient to
16 effectuate the sale in accordance with the terms thereof, including executing such
17 deeds and instruments and paying such real property tax liens and ordinary and
18 customary escrow and closing expenses as provided in the purchase agreement
19 documents.

20 The Receiver submits that the sale should be approved in that the purchase
21 price well exceeds the minimum value for approval of a private sale under 28 U.S.C.
22 § 2001(b) as the purchase price is more than the average of the appraised values and
23 average of the broker's opinions of value for the Pearson Property in its "as is"
24 condition. Moreover, the subject purchase agreement was negotiated at arm's
25 length after extensive private bidding.

26 The Receiver further requests that the Court modify the procedures of Section
27 2001(b) to authorize the sale of the Pearson Property without publication of notice
28 of the sale, overbids or notice to the interested parties in the receivership estate

1 except such notice as is provided pursuant to the Order: (1) Approving Receiver's
2 Report for the Period July 12, 2004 through December 31, 2004; (2) Approving
3 Receiver's Proposed Claims Filing and Allowance Procedures; and (3) Granting an
4 Order Limiting Notice Under Local Rule 66-7 in Connection with Administrative
5 and Similar Motions Under Local Rule 66-7 ("Order Limiting Notice") filed on
6 March 4, 2005, pursuant to which notice of hearing on this motion has been
7 provided.

8 The motion is made pursuant to 28 U.S.C. § 2001(b) and Local Civil Rule 66-
9 7(b) and is based on the notice of motion, this separate notice of hearing on the
10 motion served pursuant to the Court's Order Limiting Notice, the supporting
11 memorandum of points and authorities and declaration of Jeffrey M. Olshan, on
12 such pleadings and files of the Court of which the Receiver may request the Court
13 take judicial notice, any reply, and on such further oral and documentary evidence
14 and arguments of counsel as may be presented at the hearing on the motion.

15 PLEASE TAKE FURTHER NOTICE that the motion will be posted on the
16 Receiver's website at www.heath-receiver.com, where it may be viewed in its
17 entirety. Copies of this motion will be provided to any interested party upon receipt
18 of a written request which may be sent to: Robb Evans & Associates LLC,
19 11450 Sheldon Street, Sun Valley, California 91352-1121, facsimile number
20 (818) 768-8802.

21 DATED: November 10, 2005

FRANDZEL ROBINS BLOOM & CSATO, L.C.
GARY OWEN CARIS
LESLEY ANNE HAWES
HAL D. GOLDFLAM

25 By: 

26 HAL D. GOLDFLAM

27 Attorneys for Permanent Receiver,
28 ROBB EVANS

FRANDZEL ROBINS BLOOM & CSATO, L.C.
6500 WILSHIRE BOULEVARD, 17TH FLOOR
LOS ANGELES, CALIFORNIA 90048-4920
(323) 852-1000

STATEMENT REGARDING PROOF OF SERVICE

The Proof of Service of the foregoing Notice of Hearing on Receiver’s Motion for Order Approving Sale of Pearson Property, etc. containing investor names and addresses is to be filed with the Court under seal pursuant to the Court’s Order Authorizing Filing of Proofs of Service Under Seal Based on Investor Privacy Interests Pursuant to Local Civil Rule 79-5.1 filed on February 11, 2005 in this action.

DATED: November 10, 2005 FRANDZEL ROBINS BLOOM & CSATO, L.C.
GARY OWEN CARIS
LESLEY ANNE HAWES
HAL D. GOLDFLAM

By: Hal D. Goldflam
HAL D. GOLDFLAM
Attorneys for Permanent Receiver,
ROBB EVANS

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1 PROOF OF SERVICE

2 I, the undersigned, declare and certify as follows:

3 I am over the age of eighteen years, not a party to the within action and
4 employed in the County of Los Angeles, State of California. I am employed in the
5 office of FRANDZEL ROBINS BLOOM & CSATO, L.C., members of the Bar of
6 the above-entitled Court, and I made the service referred to below at their direction.
7 My business address is 6500 Wilshire Boulevard, Seventeenth Floor, Los Angeles,
8 California 90048-4920.

9 On November 10, 2005, I served true copy(ies) of the **NOTICE OF
10 HEARING ON RECEIVER'S MOTION FOR ORDER APPROVING SALE
11 OF PEARSON PROPERTY BY PRIVATE SALE AND FOR
12 MODIFICATION OF APPLICABLE SALE PROCEDURES OF 28 U.S.C.
13 SECTION 2001(b) IN CONNECTION THEREWITH**, the original(s) of which
14 is(are) affixed hereto, to the party(ies) listed on the attached service list.

15 **BY MAIL:** I am "readily familiar" with the firm's practice of collection and
16 processing correspondence for mailing with the United States Postal Service.
17 Under that practice, it would be deposited with the United States Postal
18 Service that same day in the ordinary course of business. Such document(s)
19 were placed in envelopes addressed to the person(s) served hereunder for
20 collection and mailing with postage thereon fully prepaid at Los Angeles,
21 California, on that same day following ordinary business practices.

22 **BY FACSIMILE:** At approximately _____, I caused said document(s) to be
23 transmitted by facsimile. The telephone number of the sending facsimile
24 machine was (323) 651-2577. The name(s) and facsimile machine telephone
25 number(s) of the person(s) served are set forth in the service list. The
26 document was transmitted by facsimile transmission, and the sending
27 facsimile machine properly issued a transmission report confirming that the
28 transmission was complete and without error.

BY OVERNIGHT DELIVERY: I deposited such document(s) in a box or
other facility regularly maintained by the overnight service carrier, or
delivered such document(s) to a courier or driver authorized by the overnight
service carrier to receive documents, in an envelope or package designated by
the overnight service carrier with delivery fees paid or provided for,
addressed to the person(s) served hereunder.

I certify under penalty of perjury under the laws of the State of California and
the United States of America that the foregoing is true and correct.

Executed on November 10, 2005, at Los Angeles, California.


DANA M. THOMPSON

FRANDZEL ROBINS BLOOM & CSATO, L.C.
6500 WILSHIRE BOULEVARD, 17TH FLOOR
LOS ANGELES, CALIFORNIA 90048-4920
(323) 852-1000

FRANZEL ROBINS BLOOM & CSATO, L.C.
6500 WILSHIRE BOULEVARD, 17TH FLOOR
LOS ANGELES, CALIFORNIA 90048-4920
(323) 852-1000

SERVICE LIST

Securities and Exchange Commission v. D.W. Heath & Associates, Inc., etc., et al.
U.S.D.C. Case No. CV 04-02949 JFW (Ex)

- 1
2
3 David S. Brown, Esq. Attorneys for Plaintiff Securities
Molly White, Esq. and Exchange Commission
4 Securities and Exchange Commission
5670 Wilshire Boulevard, 11th Floor
5 Los Angeles, CA 90036-3648
Tel: (323) 965-3841
6 Fax: (323) 965-3908
- 7 Barry O. Bernstein, Esq. Advisory Counsel for Defendant
3727 W. Magnolia Boulevard Daniel William Heath
8 Suite 767
Burbank, CA 91505-2818
9 Tel: (818) 558-1717
Fax: (818) 526-7672
- 10 Michael A. Oswald, Esq. Attorney for Defendant
11 Oswald & Yap, PC Denis Timothy O'Brien
16148 Sand Canyon Avenue
12 Irvine, CA 92618-3715
Tel: (949) 788-8900
13 Fax: (949) 788-8980
- 14 R. L. Goodrich, Chapter 7 Trustee Bankruptcy Trustee
3600 Lime Street, Suite 416
15 Riverside, CA 92501-2906
Tel: (951) 341-9300
16 Fax: (951) 341-9309
Tel: (951) 341-9300
17 Fax: (951) 341-9309
- 18 Jeffrey W. Broker, Esq. Attorney for Debtor
18191 Von Karman Avenue
19 Suite 470
Irvine, CA 92612-7114
20 Tel: (949) 222-2000
Fax: (949) 222-2022
- 21 Norman Hanover, Esq. Attorney for Chapter 7 Trustee
22 Reid & Hellyer
3880 Lemon Street, 5th Floor
23 Riverside, CA 92501-3637
Tel: (951) 682-1771
24 Fax: (951) 686-2415
- 25
26
27
28

- 1 David Osias, Esq. Attorney for Chapter 7 Trustee
Debra A. Riley, Esq.
2 Allen Matkins Leck Gamble & Mallory LLP
501 West Broadway, Suite 900
3 San Diego, CA 92101-8556
Tel: (619) 233-1155
4 Fax: (619) 233-1158
- 5
6 Mr. Daniel Heath Defendant
Booking No. 200427981
Robert Presley Detention Center
7 P. O. Box 710
Riverside, CA 92501
- 8
9 Michael Silverman, Esq. Attorneys for The People of the
District Attorney's Office State of California
4075 Main Street
10 Riverside, CA 92501-3701
Tel: (951) 955-5400
11 Fax: (951) 955-5682
- 12 Michael Lipman, Esq. Attorney for Defendant Larre Jaye
Coughlan Semmer & Lipman LLP Schlarmann
13 501 W. Broadway, Suite 400
San Diego, CA 92101-3564
14 Tel: (619) 232-0800
Fax: (619) 232-0107
- 15
16 Steve Harmon, Esq. Co-Counsel for Larre Jaye
The Law Offices of Harmon & Harmon Schlarmann
3685 Main Street, Suite 250
17 Riverside, CA 92501-2848
Tel: (951) 787-6800
18 Fax: (951) 787-6700
- 19 Gina Filippone Attorney for Denis Timothy
Attorney at Law O'Brien
20 Inns of Court
3877 12th Street
21 Riverside, CA 92501-3527
Tel: (951) 274-0009
22 Fax: (951) 788-9040
- 23 Jeff Van Wagenen Attorney for John Heath
Attorney at Law
24 4129 Main Street, Suite 200
Riverside, CA 92501-3629
25 Tel: (909) 369-3555
Fax: (909) 359-3777
- 26
27
28

1 Amy Powers, Esq.
Andy Isidore, Associate General Counsel
2 The Quizno's Master, LLC
1475 Lawrence Street, Suite 400
3 Denver, CO 80202-2212
Tel: (720) 931-2224
4 Fax: (720) 932-0317

Attorney for Quizno's

5 Charles G. La Bella, Esq.
La Bella & McNamara, LLP
6 401 W. A Street, Suite 1150
San Diego, CA 92101-7920
7 Tel: (619) 696-9200
Fax: (619) 696-9269
8
9 Sharre Schlarmann
604 Via Del Caballo
San Marcos, CA 92078-8914
10 Tel: (760) 471-4738

Attorneys for Cameron Rooke

11 Pamela Jandt
78660 Highway 111, #213
12 La Quinta, CA 92253-2048
13 Jesse S. Salas, Esq.
Law Offices of Jesse S. Salas
14 1721 W. Fern Avenue
Redlands, CA 92373-4833
15
16
17
18
19
20
21
22
23
24
25
26
27
28