

**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 Approval of Settlement between Receiver and**  
**Rooke Area Developer Group, Inc.**

**Filed January 6, 2006**

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7 Attorneys for Permanent Receiver  
8 ROBB EVANS

9 **UNITED STATES DISTRICT COURT**  
10 **CENTRAL DISTRICT OF CALIFORNIA**

11  
12 **SECURITIES AND EXCHANGE**  
**COMMISSION,**

13 Plaintiff,

14 v.

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

17 Defendants.

CASE NO. CV 04-02949 JFW (Ex)

**NOTICE OF HEARING ON  
RECEIVER'S MOTION FOR  
APPROVAL OF SETTLEMENT  
BETWEEN RECEIVER AND  
ROOKE AREA DEVELOPMENT  
GROUP, INC.**

DATE: January 30, 2006  
TIME: 1:30 p.m.  
CTRM.: 16

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20 PLEASE TAKE NOTICE that on January 30, 2006, at 1:30 p.m., or as soon  
21 thereafter as counsel may be heard in Courtroom 16 of the above-entitled court  
22 located at 312 N. Spring Street, Los Angeles, California, the Court will hear the  
23 motion of Robb Evans, as permanent receiver of D.W. Heath & Associates, Inc.,  
24 Private Capital Management, Inc., Private Collateral Management, Inc. and PCM  
25 Fixed Income Fund I, LLC and their subsidiaries and affiliates (collectively, the  
26 "Heath Receivership Defendants") and as Receiver over the Schlarmann Interests  
27 ("Receiver"), for an order approving the settlement agreement between C. Cameron  
28 Rooke ("Rooke") and Rooke Area Development Group, Inc. ("RAD"), on one hand,

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CENTRAL DISTRICT OF CALIFORNIA  
LOS ANGELES

1 and the Receiver, as receiver for, among other entities, QIE Development, LLC  
2 (“QIE”), QSD Development, LLC (“QSD”), QIE Management, LLC (“QIE  
3 Management”) and QSD Management, LLC (“QSD Management”), on the other  
4 (“Agreement”). The Agreement resolves claims made by RAD, including the claim  
5 that it is the record owner of 50% of the equity interest in QSD, and therefore is  
6 entitled to 50% of the net proceeds of the settlement payment attributable to QSD  
7 paid to the Receiver by the plaintiffs in the lawsuit captioned as *QFA Royalties LLC*  
8 *v. QSD Development, LLC, et al.*, USDC Case No. CV05-1357 JFW (Ex)  
9 (“Quizno’s Action”).

10 As specified in the Agreement (a copy of which is attached as Exhibit 2 to the  
11 declaration of Robb Evans) the parties to the Agreement agree that the Receiver  
12 shall pay RAD the total sum of \$573,859 in exchange for RAD’s release of any and  
13 all interests it claims to have in a portion of the net proceeds of the settlement  
14 agreement entered into as of October 7, 2005 between Rooke, RAD, and the  
15 Receiver, on the one hand, and QFA Royalties LLC (“QFA”) and Quizno’s  
16 Franchising II LLC (“QFII”), on the other (the “Quizno’s Settlement”) in connection  
17 with the Quizno’s Action, as well as releases of all of RAD’s other claims, including  
18 without limitation RAD’s claim that is entitled to 50% of the net earnings of QSD  
19 obtained by the Receiver since July 21, 2004, and its claim that it is entitled to 20%  
20 of the net earnings of QSD Management obtained by the Receiver since inception of  
21 the receivership estate. Additional material terms and conditions of the Agreement  
22 are specified therein.

23 The Receiver seeks approval of the Agreement and an order authorizing the  
24 Receiver (i) to sign and enter into the Agreement, (ii) to sign and enter into all other  
25 documents, instruments and papers described in the Agreement or necessary or  
26 convenient to make and implement the Agreement, (iii) to make the releases  
27 provided for in the Agreement, and (iv) to perform such other acts necessary or  
28 convenient for the Receiver to obtain the benefits and perform all obligations under

1 the Agreement.

2 The motion is made pursuant to Local Civil Rules 66-7 and 67-8 and is based  
3 on applicable authorities cited in the accompanying memorandum of points and  
4 authorities on the grounds that (i) the Agreement is fair and equitable to the  
5 receivership estate, and (ii) resolution of RAD's claims in the receivership estate is  
6 in the best interests of the receivership estate and within the range of reasonableness  
7 for settlement of the claims in question.

8 The motion is made and based on the notice of motion, this separate notice of  
9 hearing on the motion served pursuant to the Court's prior order limiting notice in  
10 the matter<sup>1</sup>, the memorandum of points and authorities and declaration of Robb  
11 Evans in support of the motion, on such pleadings and files of the Court of which  
12 the Receiver may request the Court take judicial notice, including those on file in  
13 the Quizno's Action, 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.

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<sup>1</sup> Order: (1) Approving Receiver's Report for the Period July 12, 2004 through December 31, 2004; (2) Approving Receiver's Proposed Claims Filing and Allowance Procedures; and (3) Granting an Order Limiting Notice Under Local Rule 66-7 in Connection with Administrative and Similar Motions Under Local Rule 66-7 entered March 4, 2005.

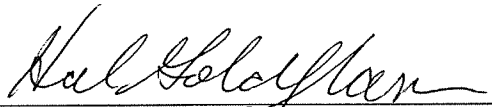
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PLEASE TAKE FURTHER NOTICE that this motion is posted on the Receiver's website at [www.heath-receiver.com](http://www.heath-receiver.com), where it may be viewed in its entirety. Copies of this motion will be provided to any interested party upon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

Dated: January 5, 2006

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

By:   
\_\_\_\_\_  
HAL D. GOLDFLAM  
Attorneys for Permanent Receiver  
ROBB EVANS

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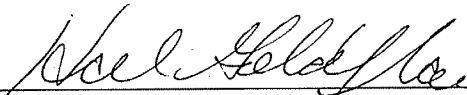
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STATEMENT REGARDING PROOF OF SERVICE

The Proof of Service of the foregoing Notice of Hearing on Receiver's Motion for Approval of Settlement Between Receiver and Rooke Area Development Group, Inc. 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: January 5, 2006

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

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

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6500 WILSHIRE BOULEVARD, 17TH FLOOR  
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**PROOF OF SERVICE**

I, the undersigned, declare and certify as follows:

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

On January 6, 2006, I served true copy(ies) of the **NOTICE OF HEARING ON RECEIVER'S MOTION FOR APPROVAL OF SETTLEMENT BETWEEN RECEIVER AND ROOKE AREA DEVELOPMENT GROUP, INC.**, the original(s) of which is(are) affixed hereto, to the party(ies) listed on the attached service list.

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

**BY FACSIMILE:** At approximately \_\_\_\_\_, I caused said document(s) to be transmitted by facsimile. The telephone number of the sending facsimile machine was (323) 651-2577. The name(s) and facsimile machine telephone number(s) of the person(s) served are set forth in the service list. The document was transmitted by facsimile transmission, and the sending facsimile machine properly issued a transmission report confirming that the 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 January 6, 2005, at Los Angeles, California.

  
THOMAS A. GRIMM

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## SERVICE LIST

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

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