

**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:**

- (A) Motion for Order: (1) Approving Receiver's Report of Activities (July 1, 2005 Through December 31, 2005); and (2) Approving Payment of Receiver's and Professionals' Fees and Expenses [December 1, 2005 Through April 30, 2006]; and**
- (B) Motion by Receiver for Order Approving Second Distribution**

**Filed July 17, 2006**

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ROBB EVANS

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

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

13 **Plaintiff,**

14 **v.**

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

17 **Defendants.**

CASE NO. CV 04-02949 JFW (Ex)

**NOTICE OF HEARING ON:**

**(A) MOTION FOR ORDER: (1) APPROVING RECEIVER'S REPORT OF ACTIVITIES [JULY 1, 2005 THROUGH DECEMBER 31, 2005]; (2) APPROVING AND AUTHORIZING PAYMENT OF RECEIVER'S AND PROFESSIONALS' FEES AND EXPENSES [DECEMBER 1, 2005 THROUGH APRIL 30 2006]; AND**

**(B) MOTION BY RECEIVER FOR ORDER APPROVING SECOND DISTRIBUTION.**

DATE: August 7, 2006

TIME: 1:30 p.m.

DEPT.: Courtroom 16

23  
24 PLEASE TAKE NOTICE that on August 7, 2006 at 1:30 p.m., or as soon  
25 thereafter as counsel may be heard in Courtroom 16 of the above-entitled Court,  
26 located at 312 N. Spring Street, Los Angeles, California, Robb Evans as permanent  
27 receiver of D.W. Heath & Associates, Inc., Private Capital Management, Inc.,  
28 Private Collateral Management, Inc. and PCM Fixed Income Fund I, LLC and their

1 subsidiaries and affiliates (collectively, the "Heath Receivership Defendants") and  
2 as Receiver over the Schlarmann Interests ("Receiver"), will and does hereby move  
3 the Court for orders granting the following motions with the following relief.

4 **RECEIVER'S REPORT/FEE MOTION**

5 Pursuant to the Receiver's Motion for Order: (1) Approving Receiver's  
6 Report of Activities [July 1, 2005 through December 31, 2005]; and (2) Approving  
7 and Authorizing Payment of Receiver's and Professionals' Fees and Expenses  
8 [December 1, 2005 through April 30, 2006] ("Receiver's Report/Fee Motion"), the  
9 Receiver seeks the following relief:

10 1. An order approving the Receiver's Report of Activities for the period  
11 of July 1, 2005 through December 31, 2005 (the "Receiver's Fifth Report") filed  
12 with the Court on February 9, 2006 and confirming the Receiver's activities  
13 described therein; and

14 2. An order approving and authorizing the payment of the fees and  
15 expenses of the Receiver, the Receiver's staff, and the Receiver's counsel for the  
16 five month period from December 1, 2005 through April 30, 2006 ("Fifth Expense  
17 Period"), including payment of the fees of the Receiver, the Receiver's deputies,  
18 agents, staff and professionals, and reimbursement of costs incurred during the  
19 Fifth Expense Period. The fees and expenses of the Receiver and his staff incurred  
20 during the Fifth Expense Period total \$121,587.43 and his legal fees and expenses,  
21 including those of outside counsel, incurred during the Fifth Expense Period total  
22 \$74,796.42.

23 PLEASE TAKE FURTHER NOTICE that the Receiver's Report/Fee Motion  
24 is made pursuant to Local Rule Rule 66-7 and 66-8, and is based upon the notice of  
25 motion and motion, the memorandum of points and authorities and declarations of  
26 Robb Evans and Gary Owen Caris, and Appendix of Exhibits filed in support  
27 thereof, and upon such other pleadings and oral and documentary evidence as may  
28 be presented at or before the time of the hearing

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**RECEIVER’S DISTRIBUTION MOTION**

Pursuant to the Motion by Receiver for Order Approving Second Distribution (“Distribution Motion”), the following relief:

1. An order approving the Receiver’s proposed second distribution on Allowed Investor Claims against the receivership estate of the Heath Receivership Defendants and the Schlarmann Interests in the sum of not less than \$4 million representing 3.41% of Allowed Investor Claims (“Second Distribution”);

2. An order authorizing the Receiver to reserve and hold undistributed receivership funds equal to not less than \$101,470.40 representing 3.41% of potential non-investor claims, including those claims that remain unresolved (“Non-Investor Claims”), bringing the total amount of funds reserved for potential Non-Investor Claims to not less than \$558,236, pending further hearing and determination of the amount of the Allowed Claims of such Non-Investor Claims against the receivership estate and whether such Non-Investor Claims should be subordinated to Allowed Investor Claims; and

3. An order authorizing the Receiver to make a Second Distribution in an amount higher than \$4 million, in the Receiver’s sole discretion and judgment, provided that the Receiver reserves funds on account of potential Non-Investor Claims in an amount equal to the percentage distribution paid on Allowed Investor Claims under the Second Distribution.

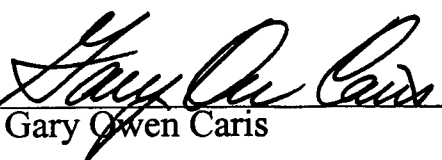
PLEASE TAKE FURTHER NOTICE that the Receiver’s Distribution Motion is made pursuant to Local Rules Rule 66-7 and 66-8, and is based upon the notice of motion and motion, the memorandum of points and authorities and declaration of Brick Kane filed in support thereof, and upon such other pleadings and oral and documentary evidence as may be presented at or before the time of hearings.

PLEASE TAKE FURTHER NOTICE that notice of the Motions has been served in accordance with the Limited Notice Order dated March 4, 2005. Pursuant

1 to the Limited Notice Order, the Motions, the memoranda and declarations but  
2 exclusive of voluminous exhibits, are posted on the Receiver's website at  
3 www.heath-receiver.com, where they may be viewed by any interested party.  
4 Copies of the Motions will be provided to any interested party upon receipt of a  
5 written request, which may be sent to: Robb Evans & Associates LLC, 11450  
6 Sheldon Street, Sun Valley, CA 91352-1121, Facsimile No. (818) 768-8802.

7  
8 Dated: July 13, 2006

Respectfully submitted,  
MCKENNA LONG & ALDRIDGE LLP  
GARY OWEN CARIS  
LESLEY ANNE HAWES  
ERIN M. JACKSON

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12 By:   
13 Gary Owen Caris

14 Attorneys for Permanent Receiver,  
15 **ROBB EVANS**

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**PROOF OF SERVICE BY MAIL**

**STATE OF CALIFORNIA, COUNTY OF LOS ANGELES**

I am employed in the aforesaid county, State of California; I am over the age of 18 years and not a party to the within action; my business address is **444 South Flower Street, Los Angeles, California 90071.**

On July 14, 2006, I served the **NOTICE OF HEARING ON: (A) MOTION FOR ORDER: (1) APPROVING RECEIVER'S REPORT OF ACTIVITIES [JULY 1, 2005 THROUGH DECEMBER 31, 2005]; (2) APPROVING AND AUTHORIZING PAYMENT OF RECEIVER'S AND PROFESSIONALS' FEES AND EXPENSES [DECEMBER 1, 2005 THROUGH APRIL 30, 2006]; AND (B) MOTION BY RECEIVER FOR ORDER APPROVING SECOND DISTRIBUTION** on the interested parties in this action by placing the **true copy/original** thereof, enclosed in a sealed envelope, postage prepaid, addressed as follows:

**SEE ATTACHED MAILING LIST.**

I am readily familiar with the business practice of my place of employment in respect to the collection and processing of correspondence, pleadings and notices for mailing with United States Postal Service.

The foregoing sealed envelope was placed for collection and mailing this date consistent with the ordinary business practice of my place of employment, so that it will be picked up this date with postage thereon fully prepaid at Los Angeles, California, in the ordinary course of such business.

**(STATE)** I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

**(FEDERAL)** I declare under penalty of perjury that the foregoing is true and correct, and that I am employed at the office of a member of the bar of this Court at whose direction the service was made.

Executed on July 14, 2006 at Los Angeles, California.



Signature

*Pamela A. Coates*

Print Name

SERVICE LIST

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