

**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:**

- (1) Motion by Receiver for Order Approving Third Distribution Including Distribution to Holders of Allowed Non-Investor Claims and for Approval of Proposed Settlement; and**  
**(2) Motion for Order Approving and Authorizing Payment of Receiver's and Professionals' Fees and Expenses**  
**[April 1, 2007 Through August 31, 2007]**

**Filed October 26, 2007**

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6 Attorneys for Permanent Receiver,  
**ROBB EVANS**

FILED  
01 OCT 26 PM 3:17  
CENTRAL DISTRICT OF CALIF.  
LOS ANGELES

8 **UNITED STATES DISTRICT COURT**  
9 **CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION**

10 SECURITIES AND EXCHANGE  
11 COMMISSION,

12 Plaintiff,

13 v.

14 D.W. HEATH & ASSOCIATES, INC.,  
etc., et al.,

15 Defendants.

CASE NO. CV 04-02949 JFW (Ex)

**NOTICE OF HEARING ON:**

**(1) MOTION BY RECEIVER FOR  
ORDER APPROVING THIRD  
DISTRIBUTION INCLUDING  
DISTRIBUTION TO HOLDERS OF  
ALLOWED NON-INVESTOR  
CLAIMS AND FOR APPROVAL OF  
PROPOSED SETTLEMENT;**

**(2) MOTION FOR ORDER  
APPROVING AND AUTHORIZING  
PAYMENT OF RECEIVER'S AND  
PROFESSIONALS' FEES AND  
EXPENSES [APRIL 1, 2007  
THROUGH AUGUST 31, 2007]**

Date: November 19, 2007  
Time: 1:30 p.m.  
Place: Courtroom 16  
312 N. Spring Street  
Los Angeles, CA

24 PLEASE TAKE NOTICE that on November 19, 2007; at 1:30 p.m., or as  
25 soon thereafter as counsel may be heard in Courtroom 16 of the above-entitled  
26 court located at 312 N. Spring Street, Los Angeles, California, Robb Evans, as  
27 permanent receiver of D. W. Heath & Associates, Inc., Private Capital  
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1 Management, Inc. (“PCM”), Private Collateral Management, Inc. and PCM Fixed  
2 Income Fund I, LLC and their subsidiaries and affiliates (collectively, the “Heath  
3 Receivership Defendants”) and as Receiver over the Schlarmann Interests  
4 (“Receiver”), will move the Court for the following relief:

5 With respect to the Motion by Receiver for Order Approving Third  
6 Distribution Including Distribution to Holders of Allowed Non-Investor Claims  
7 and for Approval of Proposed Settlement (“Third Distribution Motion”), the  
8 following:

9 1. An order approving the Receiver’s proposed third distribution on  
10 Allowed Investor Claims against the receivership estate of the Heath Receivership  
11 Defendants and the Schlarmann Interests in the sum of not less than \$3.5 million  
12 representing 2.97% of the Allowed Investor Claims against the receivership estate  
13 (“Third Distribution”);

14 2. An order authorizing the Receiver to pay all Allowed Non-Investor  
15 Claims pro rata with all Allowed Investor Claims for distributions made from the  
16 receivership estate, including paying 2.97% of such Allowed Non-Investor Claims  
17 representing the pro rata share of the Third Distribution for which approval is  
18 sought herein, and authorizing the Receiver to distribute the pro rata share  
19 payment to the holders of the Allowed Non-Investor Claims from all funds  
20 reserved by the Receiver from the First and Second Distribution for payment of  
21 Non-Investor Claims,

22 3. An order authorizing the Receiver to compromise the claim of non-  
23 investor creditor Anna Walker (“Walker”) by granting Walker an Allowed Non-  
24 Investor Claim in the amount of \$10,000.00;

25 4. An order authorizing the Receiver to reserve and hold undistributed  
26 from the Third Distribution receivership funds equal to not less than \$52,160.33,  
27 representing 2.97% of the Disputed Non-Investor Claims asserted by Elliott  
28 Goldman (“Goldman”), Travelers Casualty and Surety Company as successor to

1 Gulf Insurance Company (“Travelers”), and Jeff St. Thomas (“St. Thomas”) if  
2 those Disputed Non-Investor Claims were paid pro rata with all Allowed Investor  
3 Claims and Allowed Non-Investor Claims, and authorizing the Receiver to  
4 continue to reserve the sum of \$328,241.26 representing the pro rata amount of  
5 receivership funds previously reserved on account of such Disputed Non-Investor  
6 Claims from the First Distribution and Second Distribution, pending further  
7 hearing and determination of the Receiver’s objection that each of such Disputed  
8 Non-Investor Claims should be disallowed in their entirety and/or to the extent  
9 allowed in any amount, should be subordinated to Allowed Investor Claims and  
10 Allowed Non-Investor Claims of other non-investor creditors; and

11 5. An order authorizing the Receiver to make a Third Distribution in an  
12 amount higher than \$3.5 million, in the Receiver’s sole discretion and judgment,  
13 provided that the Receiver reserves funds on account of Disputed Non-Investor  
14 Claims in an amount equal to the percentage distribution paid on Allowed Investor  
15 Claims and Allowed Non-Investor Claims under the Third Distribution.

16 With respect to the Receiver’s Motion for Order Approving and  
17 Authorizing Payment of Receiver’s and Professionals Fees and Expenses [April 1,  
18 2007 Through August 31, 2007] (“Fee Motion”), the following:

19 1. An order approving and authorizing the payment of the fees and  
20 expenses of the Receiver, the Receiver’s staff, and the Receiver’s counsel for the  
21 five month period from April 1, 2007 through August 31, 2007 (“Eighth Expense  
22 Period”), including payment of the fees of the Receiver, the Receiver’s deputies,  
23 agents, staff and professionals, and reimbursement of costs incurred during the  
24 Eighth Expense Period. The fees of the Receiver and his staff incurred during the  
25 Eighth Expense Period total \$27,495.51 and expenses, including tax preparation  
26 expenses, total \$27,901.66, for total Receiver’s fees and expenses of \$55,397.17  
27 during the Eighth Expense Period. The Receiver’s legal fees and expenses,  
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1 including those of outside counsel, incurred during the Eighth Expense Period total  
2 \$22,957.90.

3 PLEASE TAKE FURTHER NOTICE that the Third Distribution Motion is  
4 made pursuant to Local Rules 66-7 and 66-8, and is based upon this notice of  
5 hearing, the notice of motion and motion pertaining to the Third Distribution  
6 Motion, the memorandum of points and authorities and declaration of Brick Kane  
7 in support of the Third Distribution Motion, and upon such other pleadings, records  
8 and files of this Court in connection with this matter, and upon such further oral and  
9 documentary evidence and arguments as may be presented at or before the time of  
10 the hearing on the Third Distribution Motion.

11 PLEASE TAKE FURTHER NOTICE that the Fee Motion is made pursuant  
12 to Local Rule 66-7(f), and is based upon this notice of hearing, the notice of motion  
13 and motion pertaining to the Fee Motion, the memorandum of points and  
14 authorities and declarations of Robb Evans and Gary Owen Caris in support of the  
15 Fee Motion, the Appendix of Exhibits served and filed with the Fee Motion, and  
16 upon such other pleadings and oral and documentary evidence as may be presented  
17 at or before the time of hearing.

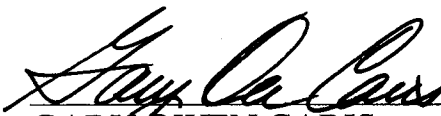
18 PLEASE TAKE FURTHER NOTICE that this notice of hearing on the Third  
19 Distribution Motion and the Fee Motion is served in accordance with the Limited  
20 Notice Order.<sup>1</sup> Pursuant to the Limited Notice Order, copies of the Third  
21 Distribution Motion and copies of the Fee Motion, exclusive of voluminous  
22 exhibits included in the Appendix of Exhibits, are both posted on the Receiver's  
23 website at [www.heath-receiver.com](http://www.heath-receiver.com), where they may be viewed in their entirety.  
24 Copies of the Third Distribution Motion and the Fee Motion and their supporting

25 \_\_\_\_\_  
26 <sup>1</sup> Order: (1) Approving Receiver's Report for the Period July 12, 2004 through  
27 December 31, 2004; (2) Approving Receiver's Proposed Claims Filing and  
28 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.

1 pleadings will be provided to any interested party upon receipt of a written request  
2 which may be sent to: Robb Evans & Associates LLC, 11450 Sheldon Street, Sun  
3 Valley, California 91352-1121, facsimile number (818) 768-8802.

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DATED: October 26, 2007      McKENNA LONG & ALDRIDGE LLP  
GARY OWEN CARIS  
LESLEY ANNE HAWES

By:   
GARY OWEN CARIS  
Attorneys for Permanent Receiver,  
ROBB EVANS