

**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 Motion by Receiver for Order Approving  
Fourth Distribution to Holders of All Allowed Investor Claims  
and Allowed Non-Investor Claims**

**Filed November 21, 2008**

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**ROBB EVANS**

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

10 SECURITIES AND EXCHANGE  
COMMISSION,

11 Plaintiff,

12 v.

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

15 Defendants.

CASE NO. CV 04-02949 JFW (Ex)

**NOTICE OF HEARING ON MOTION  
BY RECEIVER FOR ORDER  
APPROVING FOURTH  
DISTRIBUTION TO HOLDERS OF  
ALL ALLOWED INVESTOR CLAIMS  
AND ALLOWED NON-INVESTOR  
CLAIMS**

Date: December 15, 2008  
Time: 1:30 p.m.  
Place: Courtroom 16  
312 N. Spring Street  
Los Angeles, CA

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19 PLEASE TAKE NOTICE that on December 15, 2008, at 1:30 p.m., or as  
20 soon thereafter as counsel may be heard in Courtroom 16 of the above-entitled  
21 court located at 312 N. Spring Street, Los Angeles, California, Robb Evans, as  
22 permanent receiver of D. W. Heath & Associates, Inc., Private Capital  
23 Management, Inc. (“PCM”), Private Collateral Management, Inc. and PCM Fixed  
24 Income Fund I, LLC and their subsidiaries and affiliates (collectively, the “Heath  
25 Receivership Defendants”) and as Receiver over the Schlarmann Interests  
26 (“Receiver”), will and does hereby move the Court for the following relief:  
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1           1.     An order authorizing the Receiver to make a fourth distribution of  
2 receivership estate assets, including a distribution of assets of John Heath and  
3 Denis O'Brien turned over to the Receiver from the Riverside Criminal Action  
4 pursuant to orders issued in the Criminal Action ("Fourth Distribution"). The  
5 Receiver requests authorization to make a Fourth Distribution in the sum of not  
6 less than \$1,750,000.00 representing approximately 1.47% of the combined  
7 Allowed Investor Claims and Allowed Non-Investor Claims against the  
8 receivership estate to be paid pro rata on all Allowed Investor Claims and  
9 Allowed Non-Investor Claims against the receivership estate of the Heath  
10 Receivership Defendants and the Schlarmann Interests; and

11           2.     An order authorizing the Receiver to make a Fourth Distribution in an  
12 amount higher than \$1,750,000.00, in the Receiver's sole discretion and judgment,  
13 provided that the Receiver reserves funds sufficient to pay estimated taxes and  
14 other estimated administrative expenses and expenses associated with a final  
15 distribution of estate assets in connection with the Receiver's wind up of the  
16 receivership estate.

17           PLEASE TAKE FURTHER NOTICE that the Motion is made pursuant  
18 to Local Rules 66-7 and 66-8, and is based upon the notice of motion and motion,  
19 the memorandum of points and authorities and declaration of Brick Kane filed in  
20 support hereof, this separate notice of hearing on the Motion served pursuant to the  
21 Court's prior order limiting notice in the matter,<sup>1</sup> upon the pleadings, records and  
22 files of this Court in connection with this matter of which the Receiver requests the  
23 Court take judicial notice, and upon such further oral and documentary evidence  
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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 and argument as may be presented at or before the time of the hearing on the  
2 Motion.

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

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DATED: November 21, 2008 McKENNA LONG & ALDRIDGE LLP  
GARY OWEN CARIS  
LESLEY ANNE HAWES

By: /s/ Gary Owen Caris  
GARY OWEN CARIS  
Attorneys for Permanent Receiver,  
ROBB EVANS