

**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)**

**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**

**Filed March 3, 2005**

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FILED  
CLERK, U.S. DISTRICT COURT  
MAR - 3 2005  
CENTRAL DISTRICT OF CALIFORNIA  
DEPUTY

Attorneys for Permanent Receiver,  
ROBB EVANS .

Priority  
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UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION

LODGED  
MAR 2 2005  
U.S. DISTRICT COURT  
CENTRAL DIST. OF CALIF.  
LOS ANGELES

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)

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

DATE: February 28, 2005  
TIME: 1:30 p.m.  
DEPT.: Courtroom 16

THIS CONSTITUTES NOTICE OF ENTRY  
AS REQUIRED BY FRCP. RULE 77(d).

ENTERED  
CLERK, U.S. DISTRICT COURT  
MAR 4 2005  
CENTRAL DISTRICT OF CALIFORNIA  
DEPUTY

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1 The Motion for Order (1) Approving Receiver's Report for the Period July 12,  
2 2004 Through December 31, 2004; (2) Approving Receiver's Proposed Claims  
3 Filing and Allowance Procedure; and (3) Granting an Order Limiting Notice Under  
4 Local Rule 66-7 in Connection With Administrative and Similar Motions Under  
5 Local Rule 66-7 ("Motion") came on regularly for hearing on February 28, 2005  
6 in Courtroom 16 of the above-referenced Court, the Honorable John F. Walter,  
7 United States District Judge Presiding. Gary Owen Caris of Frandzel Robins  
8 Bloom & Csato, L.C. appeared on behalf of the permanent receiver, Robb Evans  
9 ("Receiver"), the moving party; Michael A. Piazza, David S. Brown and Molly M.  
10 White appeared on behalf of the Plaintiff Securities and Exchange Commission  
11 ("SEC"); Audwin Carey Spence appeared on behalf of objecting creditor Clarence  
12 Morris; and Debra A. Riley of Allen Matkins Leck Gamble & Mallory, LLP  
13 appeared on behalf of Robert L. Goodrich, Chapter 7 Trustee of the bankruptcy  
14 estate of Leslee Jane Heath. Other appearances, if any, were made as noted in the  
15 record. The Court having read and considered all papers filed in support of the  
16 Motion and the statement of non-opposition to the Motion filed by the SEC, the  
17 Court, having read and considered the objection of Clarence Morris to the Motion,  
18 no other opposition to the Motion having been filed despite due and proper notice  
19 of the Motion having been given, the Court having heard and considered the  
20 arguments and contentions of counsel at the time of the hearing on the Motion and  
21 having overruled the objection of Clarence Morris, and good cause being shown  
22 therefor, it is

23  
24 ORDERED as follows:

25  
26 1. The Report of Receiver's activities covering the period from July 12,  
27 2004 through December 31, 2004 which was filed with the Court on January 21,

28 ///

420151.1

1 2005 (the "Report") is approved in its entirety and the Receiver's actions as  
2 described in the Report are confirmed.

3  
4 2. The Receiver's proposed claims filing and allowance procedures as set  
5 forth in the Motion and Report are approved in their entirety, and said claims filing  
6 and allowance procedures shall be and are hereby made the order of this Court.  
7 Without limiting the generality of the preceding sentence, the Court orders the  
8 following claims filing and allowance procedures:

9 (a) All investors identified on the databases maintained by Daniel  
10 William Heath ("Heath") and Larre Jaye Schlarmann ("Schlarmann") shall be  
11 merged into a single investor claimant class and their claims shall be treated  
12 similarly by being entitled to share in all receivership assets subject to this  
13 receivership proceeding, including the assets of the receivership pertaining to  
14 Schlarmann, formerly administered and supervised by the Riverside County  
15 Superior Court but now administered and supervised by this District Court pursuant  
16 to an order to be entered concurrently herewith.

17 (b) Investor account balances shall be credited for funds actually  
18 deposited or paid by the investor to the Heath/Schlarmann enterprise.

19 (c) Credits characterized as interest and applied by Heath and/or  
20 Schlarmann to increase investor account balances shall be reversed.

21 (d) Actual payments of interest and actual payments for any other  
22 purposes, such as withdrawals from investment accounts, shall be treated as a return  
23 of capital and the investor account balance reduced accordingly. "Paper" transfers  
24 from one account to another or to another account holder shall be disregarded.

25 (e) The Receiver shall provide written notice to each investor of the  
26 Receiver's calculation of the investor's account balance and the amount the Receiver  
27 calculates as the claim of the investor based on the treatment of the account and  
28 payments and adjustments as required herein.

1 (f) Each investor claimant shall be provided 30 days from the date  
2 of service of written notice of the calculation of the claim to object to the proposed  
3 claim amount. The objection of the investor must be in writing and received by the  
4 Receiver within the 30-day notice period. If the investor creditor fails to timely  
5 object to the notice and the Receiver's calculation of the investor claim amount,  
6 then the amount set forth in the notice shall become such investor's Approved  
7 Investor Claim upon which future distributions in the case shall be based.

8 (g) Non-investor claimants shall be provided with written notice of  
9 the amount the Receiver calculates is owed to the creditor based on the records of  
10 the receivership. Non-investor creditors shall have 30 days from the date of service  
11 of the notice to object to the proposed allowed amount of such creditor's claim. If  
12 no timely written objection is received by the Receiver within said 30-day period,  
13 the amount stated in the notice shall become such creditor's Approved Creditor  
14 Claim.

15 (h) As to any proposed investor claim or creditor claim for which the  
16 Receiver receives a timely objection, the Receiver shall attempt to resolve the claim  
17 dispute through negotiation. If the parties are unable to resolve the dispute through  
18 negotiation, the Receiver shall resolve claims objections by motion filed by the  
19 Receiver pursuant to Local Rule 7 for determination by this Court as to the proper  
20 allowed amount of the claim.

21 (i) As and when distributions are made, payment on Approved  
22 Investor Claims shall be made on a pro-rated basis, with payment on each such  
23 claim calculated based on the ratio of the amount that the Approved Investor Claim  
24 bears to the total amount of all Approved Investor Claims.

25 (j) The Court does not make any present determination as to  
26 whether and the extent to which Approved Creditor Claims shall be subordinated to  
27 Approved Investor Claims.

1           3.     The Receiver's proposed modified notice procedures as set forth in  
2 the Motion are approved in their entirety and said modified notice procedures  
3 are hereby made the order of this Court. Without limiting the generality of the  
4 preceding sentence, the Court orders the following modified notice procedures with  
5 respect to motions under Local Rule 66-7 ("Rule 66-7 Motions"):

6           (a)    Copies of Rule 66-7 Motions shall be served on the SEC, the  
7 Defendants and all creditors who serve the Receiver with a written request for  
8 notice and to remain on or be added to the Receiver's master mailing list for this  
9 matter, with such request to be directed to Judi Ehrlich at Robb Evans & Associates  
10 LLC, 11450 Sheldon Street, Sun Valley, California 91352-1121, facsimile number  
11 (818) 768-8802.

12           (b)    The Receiver shall post such Rule 66-7 Motions on the  
13 Receiver's website for this case at www.heath-receiver.com concurrently with the  
14 filing and service thereof.

15           (c)    Creditors may request copies of a specific Rule 66-7 Motion in  
16 writing directed to the Receiver at the address set forth at paragraph 3(a) above,  
17 which the Receiver shall provide.

18           (d)    The Receiver may serve copies of requested pleadings by  
19 electronic mail only if so requested and agreed to by the interested party.

20           (e)    The Receiver shall send notice in writing to all creditors and  
21 interested parties of this Court's ruling, the means of obtaining written copies of  
22 Rule 66-7 Motions by requesting notice in writing, and the means of obtaining  
23 notice through electronic means, including the website information and ability to  
24 request electronic mail transmission of the Rule 66-7 Motions in lieu of service  
25 copies by mail.

26  
27 DATED:           MAR - 3 2005          

          JOHN F. WALTER            
JOHN F. WALTER, United States  
District Judge

**PROOF OF SERVICE**

I, the undersigned, declare and certify as follows:

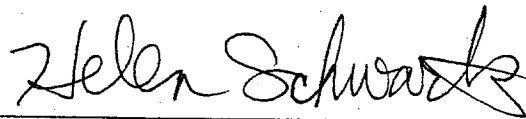
I am over the age of eighteen years, not a party to the within action and employed in the County of Los Angeles, State of California. I am employed in the office of FRANDZEL ROBINS BLOOM & CSATO, L.C., members of the Bar of the above-entitled Court, and I made the service referred to below at their direction.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

On March 2, 2005, I served true copy(ies) of the **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**, 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 March 2, 2005, at Los Angeles, California.

  
HELEN SCHWARTZ

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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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- |    |   |  |
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| 1  | Mr. Daniel Heath<br>Booking No. 200427981                   | Defendant  |
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| 4  | Michael Silverman, Esq.<br>District Attorney's Office       | Attorneys for The People of the State<br>of California |
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| 18 |   |  |
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