

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

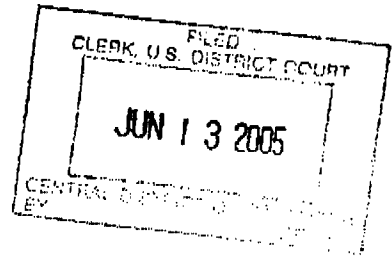
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Securities and Exchange Commission v. D. W. Heath & Associates Inc., et al.
CASE No. CV-04-02949 JFW (Ex)

**Order Granting Motion by Receiver for Order Approving Receiver's
Request to Support Settlement Agreement re: Rivien Note**

Filed June 13, 2005

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15 **UNITED STATES DISTRICT COURT**
16 **CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION**

17 SECURITIES AND EXCHANGE
18 COMMISSION,

19 Plaintiff,

20 v.

21 D.W. HEATH & ASSOCIATES, INC.,
22 etc., et al.,

23 Defendants.

CASE NO. CV 04-02949 JFW (Ex)

**[PROPOSED] ORDER GRANTING
MOTION BY RECEIVER FOR
ORDER APPROVING
RECEIVER'S REQUEST TO
SUPPORT SETTLEMENT
AGREEMENT RE RIVIEN NOTE**

DATE: June 13, 2005
TIME: 1:30 p.m.
PLACE: Courtroom 16
312 N. Spring Street
Los Angeles, CA

24 The matter of the Motion for Order Approving Receiver's Request to Support
25 Settlement Agreement re Rivien Note ("Motion") filed by the permanent receiver,
26 Robb Evans, as Receiver for D.W. Heath & Associates, Inc., Private Capital
27 Management, Inc., Private Collateral Management, Inc., PCM Fixed Income Fund I
28 and their subsidiaries and affiliates ("Receiver") came on regularly for hearing at the
above-referenced date, time and place before the Honorable John F. Walter, United
States District Judge presiding. Appearances of counsel were noted in the record at
the hearing. The Court having reviewed and considered the moving papers, and no

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1 opposition to the Motion having been filed despite due and proper notice to the
2 interested parties in the case and the receivership proceeding, and having heard the
3 arguments of counsel, and good cause appearing therefor,

4
5 IT IS ORDERED that:

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7 1. The Motion and the relief sought therein is granted in its entirety;

8
9 2. Without limiting the generality of the foregoing, the Receiver's request
10 to support and consent to that certain Settlement Agreement and Release
11 ("Settlement Agreement") between Physical Therapy Dynamics, Inc. ("PTD") and
12 Centre For Hand Therapy Inc. ("Hand Therapy" and together with PTD, collectively
13 "Plaintiffs"), Aquatic Rehab & Sport Physical Therapy Center, Edward Sullivan and
14 the Edward and Karen Sullivan Charitable Remainder Unitrust, Mark Mortensen,
15 and Daniel W. Heath, on the one hand, and Rivien Health Aquatic, Inc. ("Rivien"),
16 Rivien Health US, Inc., Heritage Partners, Inc., and Mark Jroff (collectively,
17 including Rivien, "Defendants"), on the other hand, is hereby approved and the
18 receivership estate shall be bound to the terms and condition of the Settlement
19 Agreement; and

20
21 3. The Receiver shall hold all proceeds of the Rivien Note paid since the
22 Receiver's appointment, including but not limited to all payments under the Rivien
23 Note from the obligor and all tax refunds paid to the Receiver since the Receiver's
24 appointment together with all future refunds as may be hereafter obtained pertaining
25 to the Rivien Note, in a segregated interest-bearing account pending resolution of
26 the claims to such proceeds by the Receiver, the Chapter 7 Trustee of the Leslee
27 Heath bankruptcy estate and the Debtor Leslee Heath in accordance with the
28 Stipulation re Administration of Assets, Withdrawal of Reference and Reservation

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1 of Rights over Proceeds ("Bankruptcy Administration Stipulation") by and between
2 the Receiver and the Chapter 7 Trustee of the Bankruptcy Estate of Leslee Jane
3 Heath.

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5 Dated: 6/13/05

JOHN F. WALTER

JOHN F. WALTER, United States
District Court Judge

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1 **PROOF OF SERVICE**

2 I, the undersigned, declare and certify as follows:

3 I am over the age of eighteen years, not a party to the within action and employed in the
4 County of Los Angeles, State of California. I am employed in the office of FRANDZEL ROBINS
5 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.

6 On June 13, 2005, I served true copy(ies) of the **[PROPOSED] ORDER GRANTING**
7 **MOTION BY RECEIVER FOR ORDER APPROVING RECEIVER'S REQUEST TO**
8 **SUPPORT SETTLEMENT AGREEMENT RE RIVIEN NOTE**, the original(s) of which
is(are) affixed hereto, to the party(ies) listed on the attached service list.

9 **BY MAIL:** I am "readily familiar" with the firm's practice of collection and processing
10 correspondence for mailing with the United States Postal Service. Under that practice, it
11 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.

12 **BY FACSIMILE:** At approximately _____, I caused said document(s) to be transmitted
13 by facsimile. The telephone number of the sending facsimile machine was (323) 651-
14 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
15 the sending facsimile machine properly issued a transmission report confirming that the
transmission was complete and without error.

16 **BY OVERNIGHT DELIVERY:** I deposited such document(s) in a box or other facility
17 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.

18 **BY EXPRESS MAIL:** I deposited such document(s) in a box or other facility regularly
19 maintained by the United States Postal Service, in an envelope or package designated by
the United States Postal Service with delivery fees paid or provided for, addressed to the
20 person(s) served hereunder.

21 **BY PERSONAL SERVICE:** I personally delivered such document(s) to the person(s)
22 served hereunder.

23 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.

24 Executed on June 13, 2005, at Los Angeles, California.

25
26 
27 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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