

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

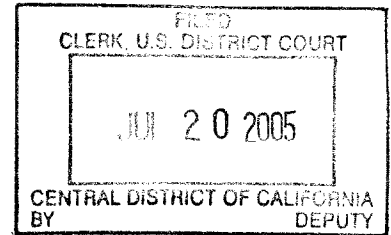
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Securities and Exchange Commission v. D. W. Heath & Associates Inc., et al.
CASE No. CV-04-02949 JFW (Ex)

**Stipulation to Extend Certain Claims and Motion Deadlines under
Stipulation with Chapter 7 Trustee Re: Administration of Assets,
Withdrawal of Reference and Reservation of Rights over Proceeds; and
Order Thereon**

Filed July 20, 2005

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

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

11
12 **SECURITIES AND EXCHANGE**
COMMISSION,

13 Plaintiff,

14 v.

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

17 Defendants.

CASE NO. CV 04-02949 JFW (Ex)

**STIPULATION TO EXTEND
CERTAIN CLAIMS AND MOTION
DEADLINES UNDER
STIPULATION WITH CHAPTER 7
TRUSTEE RE ADMINISTRATION
OF ASSETS, WITHDRAWAL OF
REFERENCE AND RESERVATION
OF RIGHTS OVER PROCEEDS;
AND [PROPOSED] ORDER
THEREON**

18
19 DATE: [No Hearing Date Set
TIME: on Stipulation].
20 PLACE: Courtroom 16

21 This Stipulation is made by and between Robb Evans as Permanent Receiver
22 for D. W. Heath & Associates, Inc., Private Capital Management, Inc., Private
23 Collateral Management, Inc., PCM Fixed Income Fund I and their subsidiaries and
24 affiliates and as Receiver over the Schlarmann Interests pursuant to that certain
25 Order Appointing Robb Evans as Receiver of the Schlarmann Interests Pursuant to
26 Penal Code section 186.11, as amended ("Receiver"), and Robert L. Goodrich,
27 Chapter 7 Trustee of the Bankruptcy Estate of Leslee Jane Heath ("Trustee") in
28 reference to the following.

1 A. On July 15, 2004, defendant Daniel Heath's wife, Leslee Jane Heath
2 ("Debtor" or "Mrs. Heath") filed a voluntary petition under Chapter 7 of the
3 Bankruptcy Code (the "Bankruptcy Case").
4

5 B. Mrs. Heath has claimed an interest in three real properties consisting of
6 the following: (1) that certain real property located at 15845 Berkley Avenue,
7 Chino Hills, California ("Chino Hills Property"); (2) that certain real property
8 located at 203 North Eureka, Big Bear Lake, California ("Big Bear Property"); and
9 (3) that certain real property located at 32 Pelican Point, Newport Beach, California
10 ("Pelican Point Property") (collectively, the "Real Properties").
11

12 C. Mrs. Heath has also claimed an interest in the "Rivien Note" consisting
13 that certain promissory note in the original principal sum of \$17,310,998 executed
14 by Rivien Health Aquatic, Inc. ("Rivien") in connection with Rivien's acquisition of
15 the stock of Physical Therapy Dynamics, Inc., Center for Hand Therapy, Inc., and
16 Aquatic Rehab & Sport Physical Therapy, Inc. (collectively the "Aquatic Rehab
17 Companies").
18

19 D. On March 3, 2005, this Court issued its order approving the Stipulation
20 re Administration of Assets, Withdrawal of Reference and Reservation of Rights
21 over Proceeds ("Bankruptcy Administration Stipulation") by and between the
22 Receiver and the Trustee.
23

24 E. The Bankruptcy Administration Stipulation sets forth various deadlines
25 for the parties to assert their respective claims to the proceeds of assets of the
26 receivership and bankruptcy estates being administered by the Receiver and the
27 Trustee, respectively, and related tax liabilities, by filing motions in this Court
28 asserting such claims. The deadline for assertion of claims to the proceeds of the

1 sale of the Big Bear Property is on or about July 26, 2005 (Sections 1(f) and 6); the
2 deadline for assertion of claims to the proceeds of the sale of the Chino Hills
3 Property is on or about July 28, 2005 (Sections 1(f) and 6); and the deadline for
4 assertion of claims to the proceeds of the Rivien Note and related tax liability and
5 allocation (Section 2(f)) is on or about August 30, 2005.

6
7 F. The Trustee has been authorized by the Bankruptcy Court to sell the
8 Pelican Point Property. Escrow for the sale of the Pelican Point Property is
9 scheduled to close in mid August 2005, and the deadline for assertion of claims to
10 the proceeds of the Pelican Point Property is therefore estimated to be in mid
11 November 2005.

12
13 G. The Bankruptcy Court in the Leslee Heath Bankruptcy Case has set a
14 bar date for filing claims against the bankruptcy estate of June 20, 2005. The
15 Trustee is in the process of obtaining and analyzing the claims filed in the
16 Bankruptcy Case, including the proper amount, priority and validity of the claims
17 asserted. The amount, validity and priority of the claims asserted against the
18 bankruptcy estate may affect the claims and positions the Trustee and other
19 interested parties, including the Receiver, may assert in the proceeds of the Real
20 Properties and the Rivien Note and the tax implications and allocation issues
21 between the receivership and bankruptcy estates.

22
23 H. The Receiver and the Trustee, and their respective accountants and
24 attorneys, are in the process of investigating the accounting, tax and other
25 implications of the dispositions of the Real Properties and the Rivien Note and the
26 claims filed against the bankruptcy estate. The Receiver and the Trustee believe
27 they need additional time to investigate these issues and to develop information to
28 assess the claims of the receivership and bankruptcy estates to the proceeds of the

1 Real Properties and the Rivien Note prior to filing one or more motions. The
2 Receiver and the Trustee further desire the opportunity to attempt to resolve the
3 issues regarding the claims of the receivership and bankruptcy estates to the
4 proceeds of the Real Properties and the Rivien Note and related tax liabilities
5 without the necessity of pursuing one or more contested motion proceedings.
6

7 I. The Receiver and the Trustee believe that it is in the best interests of
8 the receivership and bankruptcy estates to extend the deadlines for asserting claims
9 to the proceeds of the Real Properties and to the Rivien Note to and including
10 November 15, 2005, in order to minimize the expense of litigation and provide the
11 parties an opportunity to resolve their disputes without court intervention.
12

13 NOW, THEREFORE, the parties hereto do stipulate and agree as follows:
14

15 1. The deadlines under paragraphs 1(f) and 6 of the Bankruptcy
16 Administration Stipulation to file motion(s) asserting claims to the proceeds of the
17 sales of the Real Properties, and under paragraph 2(f) of the Bankruptcy
18 Administration Stipulation for the Receiver and the Trustee and any other interested
19 party covered by the Bankruptcy Administration Stipulation to file motion(s)
20 asserting claims pertaining to the proceeds of or disposition of the Rivien Note, and
21 any related tax liability or allocation issues pertaining to the Real Properties and the
22 Rivien Note, shall be extended to and including November 15, 2005; provided
23 however, as to the Pelican Point Property, said motion shall be filed by the later of
24 November 15, 2005 or ninety (90) days from the date of closing of the Pelican Point
25 Property sale.
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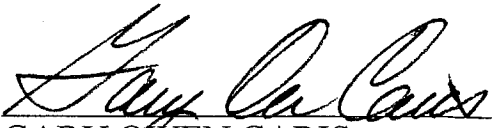
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2. Except as modified herein all other terms, provisions, and conditions of the Bankruptcy Administration Stipulation shall remain unaltered and in full force and effect.

DATED: July 19, 2005

FRANDZEL ROBINS BLOOM & CSATO, L.C.
GARY OWEN CARIS
LESLEY ANNE HAWES

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

DATED: July __, 2005

ALLEN MATKINS LECK GAMBLE &
MALLORY LLP
DAVID OSIAS
DEBRA A. RILEY

By: _____
DEBRA A. RILEY
Special Counsel for ROBERT L.
GOODRICH, Chapter 7 Trustee of the
Bankruptcy Estate of Leslee Jane Heath

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2. Except as modified herein all other terms, provisions, and conditions of the Bankruptcy Administration Stipulation shall remain unaltered and in full force and effect.

DATED: July __, 2005

FRANDZEL ROBINS BLOOM & CSATO, L.C.
GARY OWEN CARIS
LESLEY ANNE HAWES

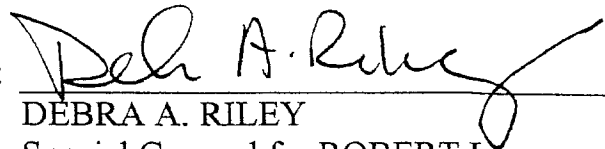
By: _____

GARY OWEN CARIS
Attorneys for Permanent Receiver,
ROBB EVANS

DATED: July 17, 2005

ALLEN MATKINS LECK GAMBLE &
MALLORY LLP
DAVID OSIAS
DEBRA A. RILEY

By: _____


DEBRA A. RILEY
Special Counsel for ROBERT L.
GOODRICH, Chapter 7 Trustee of the
Bankruptcy Estate of Leslee Jane Heath

ORDER

The Court having reviewed the foregoing Stipulation, and good cause appearing therefor,

IT IS ORDERED that:

1. The foregoing Stipulation is approved in its entirety;

2. The deadlines under paragraphs 1(f) and 6 of the Stipulation re Administration of Assets, Withdrawal of Reference and Reservation of Rights over Proceeds approved by this Court by order entered on March 3, 2005 ("Bankruptcy Administration Stipulation") for the Receiver and the Trustee and any other interested party covered by the Bankruptcy Administration Stipulation to file motion(s) asserting claims to the proceeds of the sales of the Real Properties, and under paragraph 2(f) of the Bankruptcy Administration Stipulation for the Receiver and the Trustee and any other interested party covered by the Bankruptcy Administration Stipulation to file motion(s) asserting claims pertaining to the proceeds of or disposition of the Rivien Note, and claims as to any related tax liability or allocation issues pertaining to the Real Properties and the Rivien Note, shall be extended to and including November 15, 2005; provided however, as to the Pelican Point Property, said motion shall be filed by the later of November 15, 2005 or ninety (90) days from the date of closing of the Pelican Point Property sale;

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3. Except as modified by the Stipulation and this Order, all other terms, provisions, and conditions of the Bankruptcy Administration Stipulation shall remain unaltered and in full force and effect.

Dated: 7/20/20

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 July 19, 2005, I served true copy(ies) of the **STIPULATION TO EXTEND CERTAIN CLAIMS AND MOTION DEADLINES UNDER STIPULATION WITH CHAPTER 7 TRUSTEE RE ADMINISTRATION OF ASSETS, WITHDRAWAL OF REFERENCE AND RESERVATION OF RIGHTS OVER PROCEEDS; AND [PROPOSED] ORDER THEREON**, 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.

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 July 19, 2005, at Los Angeles, California.


BONITA ZEIER

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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