

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 Approving Sale of 924 Pine Knot, 934 Pine Knot, 918 Cameron Court and a One-Tenth Fractional Interest in a Unit at the Club at Big Bear by Private Sale and for Modification of Sale Procedures of 28 U.S.C. Section 2001(b) in Connection Therewith

Filed March 6, 2008

1 GARY OWEN CARIS (SBN 088918)
gcaris@mckennalong.com
2 LESLEY ANNE HAWES (SBN 117101)
lhawes@mckennalong.com
3 ANGELA MANN (SBN 245204)
amann@mckennalong.com
4 MCKENNA LONG & ALDRIDGE LLP
444 South Flower Street, 8th Floor
5 Los Angeles, CA 90071-2901
Telephone: (213) 688-1000
6 Facsimile: (213) 243-6330

7 Attorneys for Permanent Receiver,
ROBB EVANS

8

9

UNITED STATES DISTRICT COURT

10

CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION

11

SECURITIES AND EXCHANGE
COMMISSION,

CASE NO. CV 04-02949 JFW (Ex)

12

Plaintiff,

**ORDER APPROVING SALE OF 924
PINE KNOT, 934 PINE KNOT, 918
CAMERON COURT AND A ONE-
TENTH FRACTIONAL INTEREST
IN A UNIT AT THE CLUB AT BIG
BEAR BY PRIVATE SALE AND FOR
MODIFICATION OF SALE
PROCEDURES OF 28 U.S.C.
SECTION 2001(b) IN CONNECTION
THEREWITH**

13

v.

14

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

15

Defendants.

16

17

18

Date: March 3, 2008
Time: 1:30 p.m.
Place: Courtroom 16

19

20

21

22

The Motion for an Order Approving Sale of 924 Pine Knot, 934 Pine Knot,

23

918 Cameron Court and a One-Tenth Fractional Interest in a Unit at The Club at

24

Big Bear by Private Sale and for Modification of Sale Procedures of 28 U.S.C.

25

Section 2001(b) in Connection Therewith (the "Motion") filed by Robb Evans as

26

permanent receiver ("Receiver") for D.W. Heath & Associates, Inc., Private Capital

27

Management, Inc., Private Collateral Management, Inc., PCM Fixed Income Fund

28

1 I, LLC and their subsidiaries and affiliates and as permanent receiver over the
2 “Schlarmann Interests” came on regularly for hearing at the above-referenced date,
3 time and place before the Honorable John F. Walter, United States District Court
4 Judge presiding. Gary Owen Caris of McKenna Long & Aldridge LLP appeared on
5 behalf of the Receiver, and Molly M. White appeared on behalf of plaintiff
6 Securities and Exchange Commission. There were no other appearances despite
7 due and proper notice having been given. The Court having read and considered
8 the Motion and all pleadings and papers filed in support thereof, including the
9 Receiver’s Notice of Filing of Form of Sale Documents for the Sale of A One-
10 Tenth Fractional Interest in A Unit at The Club at Big Bear (“Fractional Interest
11 Sale Information”), and plaintiff Securities and Exchange Commission having filed
12 a Statement of Non-Opposition to the Motion, and no opposition having been
13 timely filed, and good cause appearing therefor,

14 IT IS ORDERED that:

- 15 1. The Motion is hereby granted in its entirety;
- 16 2. Without limiting the generality of the foregoing:

17 A. The sale of 924 Pine Knot and 934 Pine Knot to the Holoubek
18 Buyers for \$155,000.00 pursuant to the Holoubek Purchase Agreement is approved,
19 and the Receiver is hereby authorized to sell the 924 Pine Knot and 934 Pine Knot
20 properties as requested in the Motion;

21 B. The sale of 918 Cameron Court to the Curic Buyers for
22 \$50,000.00 pursuant to the Curic Purchase Agreement is approved, and the
23 Receiver is hereby authorized to sell the 918 Cameron Court property as requested
24 in the Motion;

25 C. The sale of the receivership estate’s interest in an undivided
26 one-tenth interest held by Physical Therapy Dynamics, Inc., identified as Fractional
27 Interest Ownership No. 15-B09-04 and Member No. 4-71 (“Fractional Interest”) in
28 a unit at The Club at Big Bear, located at 40671 Village Drive, Big Bear Lake,

1 California 92315, legally described as “an undivided 1/10th interest in Unit B, of
2 Lot 15, Tract No. 16126 in the City of Big Bear Lake, as shown by map on file in
3 Book 283, pages 65 through 71, inclusive of maps, in the office of the County
4 Recorder of San Bernardino County,” to ECKL for \$25,000.00 is approved, and the
5 Receiver is authorized to sell the receivership estate’s interest in the Fractional
6 Interest pursuant to the Motion and the Receiver’s Fractional Interest Sale
7 Information;

8 D. The Receiver is authorized to execute all documents and
9 instruments necessary or convenient to complete, implement, effectuate and close
10 the sale of the receivership estate’s interest in the Fractional Interest to ECKL under
11 the terms and conditions of the Asset Sale and Purchase Agreement and Joint
12 Escrow Instructions, a form of which was filed with the Court, and to complete,
13 implement, effectuate and close the sales of 924 Pine Knot, 934 Pine Knot, and 918
14 Cameron Court under the terms and conditions of their respective Purchase
15 Agreements, including but not limited to the deeds conveying title to 924 Pine Knot
16 and 934 Pine Knot to the Holoubek Buyers and 918 Cameron Court to the Curic
17 Buyers and documents conveying and/or authorizing the conveyance of the
18 Fractional Interest to ECKL;

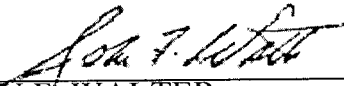
19 E. The Receiver is authorized to permit and/or cause to be paid
20 from the proceeds of sale all ordinary and customary closing costs and all costs and
21 expenses required to be paid under the terms of the Purchase Agreements, all
22 commissions provided for in the Purchase Agreements and the Receiver’s listing
23 agreement for the properties with respect to the 924 Pine Knot, 934 Pine Knot, and
24 918 Cameron Court properties, all real property tax liens, the lien of \$25,000.00 in
25 favor of Timothy Dwight Barney and Lori Clare Barney, husband and wife as joint
26 tenants on 918 Cameron Court and any other liens determined to properly
27 encumber 924 Pine Knot, 934 Pine Knot, and 918 Cameron Court as of the date of
28 commencement of the receivership, together with all interest that has accrued

1 thereon, and to pay the receivership estate's share, if any, of all ordinary and
2 customary closing costs pertaining to the sale of the Fractional Interest from the
3 proceeds of sale the Fractional Interest; and

4 3. The Receiver is further authorized to sell 924 Pine Knot, 934 Pine
5 Knot, 918 Cameron Court and the receivership estate's interest in the Fractional
6 Interest pursuant to modified sale procedures under 28 U.S.C. § 2001(b) by which
7 the sale of such properties pursuant to the Motion and the Purchase Agreements and
8 sale documents pertaining to the Fractional Interest is approved and confirmed
9 without further notice or overbidding for cause shown as set forth in the Motion and
10 supporting papers.

11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Dated: 3/6/08



JOHN F. WALTER
United States District Court Judge