

1 DAVID R. ZARO (BAR NO. 124334)
MICHAEL R. FARRELL (BAR NO. 173831)
2 ALLEN MATKINS LECK GAMBLE
MALLORY & NATSIS LLP
3 515 South Figueroa Street, Ninth Floor
Los Angeles, California 90071-3309
4 Phone: (213) 622-5555
Fax: (213) 620-8816
5 E-Mail: dzaro@allenmatkins.com
mfarrell@allenmatkins.com

6 Attorneys for Receiver
7 THOMAS A. SEAMAN

8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA
10 SOUTHERN DIVISION

11 SECURITIES AND EXCHANGE
COMMISSION,

12 Plaintiff,

13 v.

14 MEDICAL CAPITAL HOLDINGS,
INC.; MEDICAL CAPITAL
15 CORPORATION; MEDICAL
PROVIDER FUNDING
16 CORPORATION VI; SIDNEY M.
FIELD; and JOSEPH J.
17 LAMPARIELLO,

18 Defendants.

Case No. 8:09-cv-0818-DOC (RNBx)

RECEIVER'S UPDATE TO REPORT
RE: ASSET SALE MOTION

Date: October 26, 2015
Time: 8:30 a.m.
Ctvm: 9(D)
Judge: Hon. David O. Carter

19
20 **I. INTRODUCTION**

21 Thomas A. Seaman as Permanent Receiver for Medical Capital Holdings, Inc.
22 and its subsidiaries and affiliates ("Receiver") previously submitted his Report re:
23 Asset Sale Motion on October 9, 2015 (Docket #1312) ("Report") pursuant to the
24 Court's orders dated July 13, 2015 (Dkt. #1292) and August 19, 2015 (Dkt. #1300)
25 (collectively, the "Orders"). The Receiver submits this update to the Report.

26 **II. SUMMARY OF UPDATED PROPOSAL**

27 As set forth in the Report, the Receiver executed an Asset Purchase and Sale
28 Agreement ("E.D.S. Purchase Agreement") with E.D.S. Financial Services, Inc.

1 ("E.D.S."), pursuant to which E.D.S. was to acquire all of the subject assets for a
2 purchase price of \$225,000.00. Subsequent to the filing of the Report, the Receiver
3 reached agreement with Thallium Holding Company, LLC ("Thallium") and E.D.S.
4 regarding a separate sale of the Lavipharm asset to Thallium. (Thallium and E.D.S.
5 are referred to hereafter as the "Purchasers.")

6 The Receiver has entered an Asset Purchase and Sale Agreement ("Thallium
7 Purchase Agreement") with Thallium pursuant to which Thallium would acquire the
8 Lavipharm asset. The purchase price under the Thallium Purchase Agreement is
9 \$140,000.00. The Receiver and E.D.S. have amended the E.D.S. Purchase
10 Agreement ("Amended E.D.S. Purchase Agreement") to remove the Lavipharm
11 asset from the assets to be purchased by E.D.S. The purchase price under the
12 Amended E.D.S. Purchase Agreement is \$150,000.00. The Purchasers have
13 submitted their Deposits to the Receiver. (The Amended E.D.S. Purchase
14 Agreement and the Thallium Purchase Agreement are referred to hereafter as the
15 "Purchase Agreements.")

16 The total purchase price for all of the subject assets under the Purchase
17 Agreements is \$290,000.00. The Purchase Agreements were subject to overbidding
18 and are subject to Court approval. A true and correct copy of the fully executed
19 Amended E.D.S. Purchase Agreement is attached to this report update as
20 Exhibit "A" and a true and correct copy of the fully executed Thallium Purchase
21 Agreement is attached as Exhibit "B". The Receiver will lodge proposed orders
22 approving and confirming the two sales.

23 III. RECEIVER'S RECOMMENDATION

24 The Receiver's goal in pursuing the motion for the sale of assets is to
25 maximize the total monetary return to the Receivership Estate. The critical factors
26 considered by the Receiver in this analysis include the total purchase price for the
27 Asset or Assets, the likelihood of closing the transaction, and the cost of pursuing
28 the transaction through Court approval and closing.

1 No other interested party has submitted a written offer to purchase any or all
2 of the subject assets. No overbids have been received. No other parties have
3 submitted a request to be qualified as a bidder.

4 Based on the foregoing, the Receiver recommends that no auction be
5 conducted and that the Court approve the sales pursuant to the Purchase
6 Agreements.

7 **IV. RECOMMENDATION FOR APPROVAL OF BROKER FEE**

8 Pursuant to the Receiver's Agreement with GlassRatner, which was attached
9 to the Seaman Declaration in Support of the Motion as Exhibit "A," the Receiver
10 recommends and requests that the Court approve a fee to GlassRatner in the amount
11 of \$93,000.00. The foregoing amount is comprised of a flat fee of \$40,000.00, a
12 transaction fee of \$48,000.00 (20% of the non-real estate Assets), and a commission
13 of \$5,000.00 (10% of estimated value) on the sale of the Atlanta Property.

14 **V. CONCLUSION**

15 Based on the foregoing, the Receiver recommends that the Court not conduct
16 an auction on October 26, 2015 and that the Court proceed with the sale of the
17 subject assets to the Purchasers pursuant to the Purchase Agreements.

18
19 Dated: October 23, 2015

ALLEN MATKINS LECK GAMBLE
MALLORY & NATSIS LLP

20
21 By: /s/ Michael R. Farrell

22 MICHAEL R. FARRELL
23 Attorneys for Receiver
24 Thomas A. Seaman