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8 THOMAS A. SEAMAN

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

12 SECURITIES AND EXCHANGE  
COMMISSION,

13 Plaintiff,

14 v.

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

19 Defendants.  
20

Case No. SA CV09-0818 DOC (RNBx)

NOTICE OF MOTION AND MOTION  
FOR: (1) APPROVAL OF FINAL  
ACCOUNT AND REPORT (2)  
AUTHORIZATION OF FINAL  
DISTRIBUTIONS; (3)  
AUTHORIZATION TO DESTROY  
BOOKS AND RECORDS; AND (4)  
DISCHARGE OF RECEIVER.  
MEMORANDUM OF POINTS AND  
AUTHORITIES; DECLARATION OF  
THOMAS SEAMAN IN SUPPORT

Date: October 3, 2016  
Time: 8:30 a.m.  
Ctroom: 9D

21  
22 TO THE HONORABLE DAVID O. CARTER, JUDGE OF THE UNITED  
23 STATES DISTRICT COURT AND INTERESTED PARTIES:

24  
25 PLEASE TAKE NOTICE that on October 3, 2016, at 8:30 a.m., in  
26 Courtroom 9D of the above-entitled Court located at 411 West Fourth Street,  
27 Santa Ana, California 92701, a hearing will be held on the motion of Thomas A.  
28 Seaman ("Receiver"), Court-appointed permanent receiver for Medical Capital

1 Holdings, Inc., Medical Capital Corporation, Medical Provider Funding  
2 Corporation VI, and their subsidiaries and affiliates (collectively, "Medical Capital"  
3 or the "Receivership Entities"), for an order approving the Receiver's final account  
4 and report, authorizing the Receiver make a final distribution to investors and  
5 creditors consistent with the Receiver's previously approved plan of distribution,  
6 authorizing the Receiver to destroy books and records and turn over unclaimed  
7 funds to the United States Treasury, and discharging the Receiver from his duties  
8 upon the final distribution of funds and the closing of the estate.

9 The pleadings are available at the Receiver's website,  
10 <http://www.medicalcapitalreceivership.com>, or may be reviewed at the Clerk's  
11 Office during normal business hours at 411 West Fourth Street, Santa Ana,  
12 California 92701.

13 **Procedural Requirements:** If you oppose the requested relief, you are  
14 required to file your written opposition with the Office of the Clerk, United States  
15 District Court, 411 West Fourth Street, Santa Ana, California 92701, and serve the  
16 same on the undersigned not later than twenty-one (21) calendar days prior to the  
17 hearing.

18 **IF YOU FAIL TO FILE AND SERVE A WRITTEN OPPOSITION** by  
19 the above date, the Court may grant the requested relief without further notice.

20 This request is made following the conference of counsel pursuant to  
21 L.R. 7-3, which took place via various e-mails and telephone calls with SEC counsel  
22 between July 26, 2016 and August 8, 2016.

23  
24 Dated: August 12, 2016

ALLEN MATKINS LECK GAMBLE  
MALLORY & NATSIS LLP

25  
26  
27 By: /s/ Michael R. Farrell

Michael R. Farrell  
Attorneys for Receiver  
THOMAS A. SEAMAN

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**TABLE OF CONTENTS**

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**Page**

I.	INTRODUCTION.....	1
II.	FORENSIC ACCOUNTING.....	3
III.	CLAIMS PROCESS.....	4
IV.	CONCLUSION.....	15

1  
2 **MEMORANDUM OF POINTS AND AUTHORITIES**

3 Thomas A. Seaman, duly appointed Receiver herein, respectfully submits this  
4 motion for an order approving the Receiver's final account and report, authorizing  
5 the Receiver make a final distribution to investors and creditors consistent with the  
6 Receiver's previously approved plan of distribution, authorizing the Receiver to  
7 destroy books and records and turn over unclaimed funds to the United States  
8 Treasury, and discharging the Receiver from his duties upon the final distribution of  
9 funds and the closing of the estate. The Receiver's Final Account and Report is  
10 included herein and Final Fee Applications of the Receiver and his counsel are  
11 being filed concurrently. All assets have been monetized or otherwise disposed of,  
12 all litigation has been resolved and substantially all outstanding claim issues have  
13 been concluded. A receiver is no longer needed and the Receiver therefore requests  
14 that he be discharged of his duties.

15 **Receiver's Final Account & Report**

16 **I. INTRODUCTION**

17 The Receiver was appointed in the Securities and Exchange Commission  
18 enforcement action brought July 2009 against Medical Capital Holdings, Inc.  
19 ("MCH"), Medical Capital Corporation ("MCC"), Medical Provider Funding  
20 Corporation VI ("MPFC VI") and their subsidiaries and affiliates are sometimes  
21 collectively referred to herein as "Medical Capital" and together with Sidney M.  
22 Field, and Joseph J. Lampariello, "Defendants." Medical Capital raised  
23 approximately \$1.76 billion from investors since November 2003 through special  
24 purpose entities known as MPFC I through MPFC VI. At the time of the Receiver's  
25 appointment, approximately 9,000 MPFC noteholders were owed approximately  
26 \$1.079 billion, while the collective cash on hand was approximately \$2.9 million.  
27 Under the direction and supervision of the Court, the Receiver recovered gross  
28 receipts in excess of \$210 million and will have distributed over \$151 million to

1  
2 noteholders and claimants. Noteholders also received over \$180 million from the  
3 bond indenture trustees, and over \$101 million from broker dealers.

4 At the outset of the case, the Court made clear the need for transparency and  
5 the active role the Court intended to take in supervising the receivership. The  
6 Receiver was ordered to file monthly reports. These reports kept the Court and  
7 interested parties apprised of the status of the receivership on a continuous basis.  
8 The following summarizes and provides highlights of these reports and provides an  
9 accounting of the funds recovered and expended by the receivership and the  
10 recovery for claimants.

11 Upon his appointment, the Receiver encountered multifaceted variables  
12 attendant to the demise of a Ponzi-like scheme. The MPFCs' purported loan  
13 portfolio of \$500,000,000 was not performing and loan collateral was at risk.  
14 Medical Capital had ceased funding obligations to borrowers. Debt assets requiring  
15 immediate attention included loans on four Orange County hospitals at risk of  
16 failing, a credit facility to an internet email provider that Medical Capital could not  
17 fund, a nuclear accelerator in Texas the borrower had abandoned, a nearly  
18 completed feature film that could not be distributed, a defunct hospital in Georgia  
19 whose Certificate of Need was in jeopardy, a failed hospital in Queens, New York  
20 and dozens of other loans requiring collection and resolution.

21 The Receiver also was faced with a pending sale of a large assisted living  
22 facility to which Medical Capital had taken title through foreclosure, and whose  
23 operator appeared to be misappropriating operating income. Medical Capital owned  
24 operating companies that had been damaged by the Ponzi-like behavior of their  
25 owners, who had stripped the companies of needed working capital. The companies  
26 required immediate management and turnaround expertise in order keep them in  
27 business and preserve their value.

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One of the companies, National Health Care Benefit Systems, was a medical claims repricing company, and the other, Vivavision, provided visual entertainment programming to mobile devices. There were also equity interests in companies such as Single Touch Interactive Technology and the Denton nuclear accelerator facility, among others.

The sheer size of the fraud and massive loss of noteholders' equity also raised the possibility that the Defendants could not have perpetuated their fraud without the assistance of others. The Receiver analyzed the functions of the company and the role played by professionals and financial institutions. As time progressed, it became clear, in the Receiver's view, that certain attorneys and the bond indenture trustees had damaged the MPFCs. The Receiver recommended that he pursue litigation to recover funds for the benefit of noteholders against three law firms and the two banks that served as indenture trustees, which recommendation was approved by the Court.

**II. FORENSIC ACCOUNTING**

In reviewing Medical Capital's books and records, it became clear that the financial statements were not reliable or accurate and a forensic accounting of sources and uses of investor funds would be required. The Receiver and his staff conducted the accounting, which entailed over twenty billion dollars of transactions in 258 separate bank accounts, covering the period from November 2003 through the time of Receiver's appointment. Over 15,000 bank statements were input and reconciled. The Receiver filed his Forensic Accounting Report in December, 2011. The accounting is organized in a relational database and allowed the Receiver to account for and identify assets, identify recipients of ill-gotten gains, determine the cost basis of loans and investments, determine investor claims; and analyze and quantify damages in the litigation against the bond indenture trustees and certain former counsel.

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The Receiver's forensic accounting clearly indicated that the Receivership Entities had engaged in Ponzi-like behavior by transferring cash from newer MPFCs in exchange for the assets of earlier MPFCs, which assets were either non-performing, overvalued, or fake. But for these transfers, the earlier MPFCs would not have had liquidity sufficient to pay returns, much less return principal, to note holders.

### III. CLAIMS PROCESS

The claims on the receivership estate were voluminous and diverse. The estate received claims from the investors, as well as claims from employees, contractors, judgment creditors, borrowers, insiders, and taxing authorities, among others. The Receiver established a claims process and his team received and processed over 8,000 claims. In November 2011, the Receiver filed his Proposed Plan of Distribution (the "Plan"). A number of objections were filed, many of which related to the Plan's provision to reduce noteholder claims by any payments the noteholder may have received from Medical Capital, as well as the provision reducing claims by amounts received from third parties, such as broker-dealers, FINRA, or the bond indenture trustees. Other objections related to the Plan's offset losses by profits the investor may have received on matured notes. The Receiver filed Omnibus Objections to claims and worked to resolve numerous disputes. The Court ordered that noteholder claims were to be calculated on a money-in, money-out basis ("MIMO") whereby claims were calculated by subtracting from the amount invested all interest and principal payments received prior to the TRO, recoveries from third parties, and net gains on other Medical Capital notes. In September 2012, the Court entered an order approving an Amended Distribution Plan based on the MIMO claim calculations. In February 2014, the Receiver made the first interim distribution. The total amount distributed was \$117,432,579.46 and can be broken down by the type of claim as follows:

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Priority wage claims	\$271,621.74
Priority creditor claims	\$1,015,664.42
Noteholders	\$114,508,255.28
Non-priority wage claims	\$38,058.34
<u>Non-priority creditor claims</u>	<u>\$1,626,581.83</u>
Total	\$117,432,579.46

**Accounting**

Exhibit A provides financial statements for the duration of the receivership.

Sources of recovery. The gross receipts to the receivership estate were \$210,565,343.41 and can be summarized as follows.

Asset sales	\$118,668,893.60
Litigation settlement proceeds	\$32,106,572.50 <sup>1</sup>
Operating company revenues	\$23,430,825.80
Loan collections	\$15,602,013.43
Income tax refunds	\$11,606,480.30
Funds seized	\$4,559,300.37
Accounts receivable collections	\$2,718,122.60
Rental income	\$561,519.34
Property tax refunds	\$501,184.58
Disgorgement proceeds	\$400,000.00
Interest income	\$209,026.51
Insurance proceeds	\$201,404.38

A narrative discussion of the some of the more significant recoveries follows.

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<sup>1</sup> Net of contingent legal fees

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Asset sales. The Receiver recovered \$118,668,893.60 from the sale of assets, comprised primarily of loans, operating companies, real estate, and other assets. Noteworthy among the asset sales was the sale of the IHHI loans for \$70,000,000. At the time of the Receiver's appointment, IHHI was threatening litigation against Medical Capital alleging Medical Capital failed to fund credit facilities and collected accounts receivable it had not advanced. The Receiver negotiated a discounted pay-off of the loan and mutual releases, but structured the discounted pay-off as a sale and subject to over bidding. The Receiver agreed to sell the loans for \$55,000,000 subject to Court approval and overbid. The Receiver then identified over- bidders and, with the Court's assistance, created a sense of urgency which culminated in the Court conducting an overbid process that resulted in a final sales price of \$70,000,000.

The artful use of overbidding was also demonstrated by the Court in the sale of National Health Care Benefits ("NHBC"). NHBC was losing money when the Receiver was appointed. At that time, the company's sparse liquidity was quickly being withdrawn by Medical Capital. Moreover, NHBC had lost a lawsuit for unfair trade practices brought by its key competitor (who later became a claimant in the receivership). Vendor relationships were evaporating and the company faced its own demise. The Receiver held off the judgment creditor, renegotiated trade debt, stabilized operations and brought the company first to break-even, then to a modest profit at which time the business was appraised for \$3.4 million (another appraisal put the value at \$1.9 million). The Receiver agreed to sell NHBC for \$3.2 million subject to Court approval and an overbid process. The Receiver then worked hard to identify potential over-bidders to participate in the auction to be conducted by the Court. Judge Carter conducted the overbid process at which 47 overbids brought the sales price to \$7.05 million.

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Other noteworthy sales include the Homestretch, then the largest yacht in Newport Beach, for \$1.6 million, TRACE Life Sciences (the nuclear accelerator in Denton, Texas) for \$1.375 million; Vivavision for \$1 million; , the Parkway Hospital note for \$5.39 million, Castle Hill retirement home for \$13.753 million, and Southwest Atlanta hospital for \$5.1 million.

Litigation settlement proceeds. The Receiver sued three law firms and resolved all of the matters prior to trial. The Court approved the resolutions. Legal fees to prosecute the actions were almost entirely incurred on a contingent basis in accordance with the Court's direction.

The Receiver also sought and received Court approval to sue the banks that acted as bond indenture trustees for Medical Capital. The Receiver sued Bank of New York Mellon ("BNY") and Wells Fargo Bank ("Wells") (collectively the "Banks") for breach of contract, breach of their duties as bond indenture trustees, and aiding and abetting breaches of fiduciary duty in connection with their roles as bond indenture trustees for the MPFCs. The Receiver engaged in substantive settlement discussions with Wells prior to filing the complaint, which took place over the course of many months. The Receiver's forensic accounting gave him the ability to quantify the damages arising from the alleged breaches and provided a framework for a resolution. The parties engaged in mediation and ultimately the Receiver reached an agreement to settle the matter with Wells for \$49 million. With the Wells settlement in hand, the Receiver then engaged BNY in a mediation that resulted in a settlement of \$57 million, for a combined total of \$106 million. Both settlements were subject to Court approval. The Court considered the Receiver's proposed settlements with the indenture trustees in December, 2012. At the hearing to approve the settlements, Bank of New York Mellon announced a proposed separate settlement with the class and mass action plaintiffs that fully released BNY, and BNY withdrew its joinder of the Receiver's motion to approve the settlements.

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2 At the same time, the Court denied Wells' summary judgment motion, effectively  
3 denying approval of the Receiver's settlements. Ultimately, the noteholder plaintiffs  
4 settled with both Banks for an aggregate of approximately \$219 million, of which  
5 the noteholders received approximately \$180 million after attorneys' fees. While  
6 the Receiver's proposed settlement was not the one ultimately implemented, the  
7 process he initiated narrowed the legal arguments and gave the noteholders a  
8 meaningful starting point for discussions that ultimately lead to very significant  
9 settlements.

10 Operating company revenues. The Receiver operated NHBC for over 3 years  
11 during which time the company had revenue of \$20.8 million. The Receiver also  
12 identified a distributor for the movie the Perfect Game, which generated \$1.5  
13 million in revenues, a dismal financial result. The Receiver also operated  
14 Vivavision for approximately one year during which time Vivavision had revenue of  
15 \$1.147 million. The total revenue of entities operated by the Receiver was  
16 \$23,430,825.80.

17 Loan collections. The Receiver collected \$15.6 million from the loans made  
18 by Medical Capital, only two of which were not in monetary default at the time of  
19 the Receiver's appointment. The balance of the loans required aggressive collection  
20 efforts, including the filing of a number of collection actions. Some of the larger  
21 and more complex problem loans administered by the Receiver include Lavipharm,  
22 a pharmaceutical company to whom Medical Capital lent \$46 million. Medical  
23 Capital had forgiven \$16 million of debt prior to the Receiver's appointment. Of the  
24 remaining \$30 million, the Receiver collected \$5.635 million before the FDA denied  
25 approval of Lavipharm's product and the borrower stopped making payments. The  
26 note recently sold for \$140,000. Other larger and more complex loans include  
27 TEEM/Anthony Macaluso and Pyramid Technologies/Mavusi.

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Income tax refunds. Through the forensic accounting discussed above, the Receiver also found that Medical Capital’s investing and lending activities were not profitable, contrary to the Entities' reporting of profits on their financial statements and income tax returns. Moreover, the Entities had paid the income taxes on their overstated income. The Receiver used the forensic accounting to prepare and file amended tax returns for 2004, 2005, 2006, 2007 and 2008, as well as the pre-receiver 2009 return. These amended returns resulted in tax refunds of \$11.6 million, including interest of approximately \$266,000 on the refunds. The refunds were paid only after a year-long IRS audit and the approval of a congressional oversight committee.

Accounts receivable collections. The Receiver collected \$2.7 million from medical accounts receivable Medical Capital had purchased from medical providers and others. The Receiver learned that many of Medical Capital's purported accounts receivable were owed by defunct companies or were bogus, or were overvalued.

Rental income. The Receiver collected rental income of \$561,519.34 primarily from the Southwest Atlanta hospital property prior to its sale.

Property tax refunds. The Receiver successfully renegotiated property taxes on the Southwest Atlanta hospital and recovered \$501,184.58.

Disgorgement proceeds. Defendant Sid Field paid the receivership \$400,000 in connection with his consent to the SEC’s final judgment.

Interest income. Notwithstanding the very low interest rate environment during the receivership, the Receiver invested excess cash in treasury bills and certificates of deposit and earned \$209,026.51.

Expenses of the receivership. The Profit & Loss statement provided as Exhibit A sets forth the disbursements of the Receivership. Total disbursements were \$172,721,153.32 and may be summarized as follows:

Distributions to noteholders and claimants	\$117,432,579.46
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NHBC, Vivavision, Perfect Game expenses	\$22,868,133.67
Operating expenses	\$12,686,168.28
Professional fees and expenses	\$15,077,942.69
<u>Receivers' fees</u>	<u>\$4,656,329.22</u>
Total disbursements	\$172,721,153.32

Fee reserve. The Receiver wishes to establish a small reserve of \$45,000 for fees to administer the post distribution inquiries of noteholder and claimants. In the Receiver's experience, the making of a distribution triggers investor inquiries and other issues related to checks returned by the post office due to a wrong address, or deceased recipients. The Receiver has no way to accurately estimate the cost of this work and requests that the Court establish a reserve of \$45,000 for these costs. If the costs exceed \$45,000, the Receiver will absorb the additional cost. If the costs are less than the reserve, the Receiver will turn over the unused portion to the Securities and Exchange Commission for turnover to the United States Treasury.

Expense reserve. The Receiver will continue to incur certain operating expenses after the filing of this final account and report. These expenses are for the storage warehouse, as well as the cost to destroy books & records and digital records. The Receiver anticipates the need for an operating expense reserve of \$20,652.76 which is comprised of:

Storage fees	\$5,950.20
Utilities, alarm	\$1,395.00
Document destruction	\$3,150.00
Postage	\$4,230.00
Bank charges	\$600.00
Payroll service fees	\$500.00
Payroll taxes on employee dist.	\$1,118.91
Computer destruction	\$2,000.00

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<u>Contingency</u>	\$2,060.60
Total expense reserve	\$20,652.76

If the costs are less than the reserve, the Receiver will turn over the unused portion to the Securities and Exchange Commission for turnover to the United States Treasury.

Available Cash and Disposition of Funds. The Receiver is holding cash in the amount of \$37,844,190.09. If the Court approves the Receiver's, his counsel's, and the tax accountant's fee applications as submitted, and allows the receiver a reserve of \$45,000 to administer investor inquiries after the final distribution, and allows an expense reserve of \$20,652.76 to close the receivership, there will be \$34,050,000 available for distribution to claimants. The foregoing may be summarized as follows:

Cash on hand	\$37,844,190.09
Pay agent distributions	\$95,090.67
Crowe Horwath fee app	\$411,974.21
Receiver 23 <sup>rd</sup> fee app	\$283,180.00
Receiver's holdback	\$517,628.95
Allen Matkins 23 <sup>rd</sup> fee app	\$403,083.60
Allen Matkins holdback	\$2,012,579.90
Receiver fee reserve for final dist.	\$45,000.00
<u>Expense reserve</u>	<u>\$20,652.76</u>
Final distribution	\$34,050,000.00

The Receiver has previously distributed \$117,432,579.46. As a result, and in accordance with the Plan of Distribution, final distributions to claimants will be made *in pari passu*, with all claimants receiving the same pro rata share of the final distribution, whether they were an employee, noteholder, priority creditor, or non-priority creditor. The claims of each of these categories and their respective

1  
 2 collective pro rata share and total amount to be distributed can be summarized as  
 3 follows:

	Net Claims	Pro rata share	Final distribution
4 Noteholders	\$546,267,859.38	98.6%	\$33,590,185.83
5 Creditors	\$7,295,937.59	1.3%	\$448,629.54
6 <u>Employees</u>	<u>\$181,892.55</u>	<u>&lt;0.1%</u>	<u>\$11,184.63</u>
7 Total	\$553,745,689.52	100.0%	\$34,050,000.00

9  
 10 **INVESTOR RECOVERY ANALYSIS**

11 The total of all MIMO investor claims is \$831,130,893. Investors received  
 12 payments from broker-dealers, the bond indenture trustees, and from the Receiver.  
 13 Investor recoveries can be summarized as follows:

14 Gross MIMO claims before 3 <sup>rd</sup> party recoveries	\$831,130,893
15 Third party recoveries <sup>2</sup> :	
16 Net amount recovered from broker-dealers	\$102,035,159
17 Net amount recovered from Trustees	\$180,921,848
18 Disallowed claims <sup>3</sup>	\$1,906,026.72
19 Net MIMO claims of the receivership	\$546,267,859
20 Funds distributed to investors by the Receiver:	
21 First distribution	\$117,432,579
22 Final distribution	\$34,050,000
23 Total paid by the Receiver	\$151,482,579

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 25  
 26 <sup>2</sup> These amounts are understated to the extent that a claimant received more than  
 their claim from third parties

27 <sup>3</sup> The claims of investors who did not return a third party recovery certification form  
 or did not cash their first distribution checks have been deemed disallowed in  
 28 accordance with the Plan of Distribution. The Receiver made exhaustive efforts  
 to contact these claimants without success.

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2	% of gross MIMO claims	18.2%
3	% of net MIMO claims	27.7%
4		
5	Total funds recovered from all sources	\$434,439,586
6	% of gross MIMO claims	52.3%
7		

8 **CLOSING THE RECEIVERSHIP ESTATE**

9 Books & records. The Receiver is currently in possession of voluminous  
10 books and records that are stored at a warehouse in Santa Ana. The Receiver is also  
11 in possession of Medical Capital’s digital records. The Receiver seeks authority to  
12 destroy all the books and records of Medical Capital. The Receiver will continue to  
13 maintain his work product files for a period of seven years following conclusion of  
14 the receivership.

15 Taxes. The Receiver created a Qualified Settlement Fund (“QSF”) for the  
16 receivership estate. All assets of the receivership entities were transferred to the  
17 QSF at their then current market value and taxable gains and losses were calculated  
18 accordingly and reflected in the QSF tax returns. The Receiver will file the 2016  
19 QSF returns as required. The cost to prepare the returns has been included in the  
20 Receiver’s and his tax accountants’ final fee applications. The receivership estate  
21 does not have any tax liabilities. The Receiver has requested Prompt Assessment  
22 from the IRS confirming that no taxes are owing, as well as a closing letter. Upon  
23 receipt of the closing letter, the Receiver will make the final distribution to investors  
24 and claimants.

25 Claims. Once the final distribution is made the Receiver will not have the  
26 ability to modify or correct the amount of a claim or the total amount distributed.  
27 The Receiver therefore seeks Court confirmation that the claim and distribution  
28 amounts are deemed to be final. Exhibit B provides a list of claimants, the amount

1  
2 of their MIMO claim, the amount their claim was reduced due to third party  
3 recoveries, and the amount that they will receive from the final distribution.  
4 Investors and Claimants should review these numbers and bring any disagreement to  
5 the attention of the Receiver prior to the October 3, 2016 hearing date. Exhibit B  
6 will also include a list of disallowed claimants as discussed above in one final  
7 attempt to locate the missing claimants. If there are any changes to Exhibit B as a  
8 result of this process, the Receiver will file a revised proposed order.

9 Unclaimed funds. Given the large volume of checks to be issued, there is a  
10 strong chance that some checks will not be negotiated or may be returned for any  
11 number of reasons. The Receiver recommends that all checks that are not  
12 negotiated within 90 days be voided and the funds paid to the Securities and  
13 Exchange Commission for turnover to the United States Treasury.

14 Future recoveries. In the event that the Receiver collects any additional  
15 revenue between now and the time of the final distribution, then the Receiver  
16 recommends that the amount of the final distribution be increased by the same  
17 amount.<sup>4</sup> If any additional unanticipated funds are recovered after such time, then  
18 The Receiver recommends that the funds be turned over to the Securities and  
19 Exchange Commission for turnover to the United States Treasury.

20 Approval of Final Account & Report. The Receiver requests that the Court  
21 approve his Final Account & report and find that the Receiver's actions during his  
22 administration are ratified, confirmed and approved as being right and proper and in  
23 the best interest of the receivership estate and parties to this action.

24 Discharge of the Receiver. The Receiver requests the Court discharge the  
25 Receiver from all further duties, liabilities and responsibilities, including those that  
26 may be imposed by state, municipal or local tax or corporate authorities, upon the  
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28 <sup>4</sup> The Receiver expects to collect \$153,000 from the Capitol Health bankruptcy in 2-3 months

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lodging of a declaration with the Court affirming the faithful completion of his duties as ordered herein.

Court Jurisdiction. The Receiver requests the Court to retain jurisdiction over receivership matters following conclusion of the receivership.

**IV. CONCLUSION**

Based on the foregoing, the Receiver respectfully request that the Court issue an order 1) Authorizing the Receiver to distribute at least \$34,050,000 to claimants in accordance with Exhibit B hereto; 2) authorizing the Receiver to destroy the books and records and delete digital records of the Receivership Entities; 3) finding that the claims and payments set forth on Exhibit B are correct and not subject to modification; 4) authorizing the Receiver to retain a reserve of \$45,000 to be used to pay for future costs to administer investor inquiries and issues arising from the final distribution; 5) authorizing the receiver to retain a reserve for future expenses \$20,652.76; 6) authorizing the Receiver to pay any unclaimed funds or un-negotiated checks after 90 days, and any funds received following the final distribution, to the Securities and Exchange Commission for turnover to the United States Treasury; 7) approving the Receiver’s Final Account & Report and finding the Receiver’s actions during his administration are ratified, confirmed and approved as being right and proper and in the best interest of the receivership estate and parties to this action; 8) discharging the Receiver from all further duties, liabilities and responsibilities, including those that may be imposed by state, municipal or local tax or corporate authorities, upon the lodging of a declaration with the Court affirming the faithful completion of his duties as ordered herein; 9) retaining the jurisdiction of this Court over receivership matters; and any other orders that Court may deem fair and just.

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Respectfully submitted,

Dated: August 12, 2016



Thomas A. Seaman, Receiver

ALLEN MATKINS LECK GAMBLE  
MALLORY & NATSIS LLP

By: */s/ Michael R. Farrell*

Michael R. Farrell  
Attorneys for Receiver  
THOMAS A. SEAMAN

## Applications/Ex Parte Applications/Motions/Petitions/Requests

8:09-cv-00818-DOC-RNB Securities and Exchange Commission v. Medical Capital Holdings Inc et al **CASE CLOSED on 02/23/2016**

(RNBx),CLOSED,DISCOVERY,MDL

### UNITED STATES DISTRICT COURT for the CENTRAL DISTRICT OF CALIFORNIA

#### Notice of Electronic Filing

The following transaction was entered by Farrell, Michael on 8/12/2016 at 4:40 PM PDT and filed on 8/12/2016

**Case Name:** Securities and Exchange Commission v. Medical Capital Holdings Inc et al

**Case Number:** 8:09-cv-00818-DOC-RNB

**Filer:** Thomas A Seaman

**WARNING: CASE CLOSED on 02/23/2016**

**Document Number:** 1365

#### Docket Text:

**NOTICE OF MOTION AND MOTION for Order for (1) Approval of Final Account and Report; (2) Authorization of Final Distributions; (3) Authorization to Destroy Books and Records; and (4) Discharge of Receiver filed by Receiver Thomas A Seaman. Motion set for hearing on 10/3/2016 at 08:30 AM before Judge David O. Carter. (Attachments: # (1) Exhibit Exhibit A, # (2) Exhibit Exhibit B, # (3) Declaration of Thomas A. Seaman in Support of Motion for: (1) Approval of Final Account and Report; (2) Authorization of Final Distributions; (3) Authorization to Destroy Books and Records; and (4) Discharge of Receiver, # (4) Proposed Order Granting Motion for Receiver for: (1) Approval of Final Account and Report; (2) Authorization of Final Distributions; (3) Authorization to Destroy Books and Records; and (4) Discharge of Receiver) (Farrell, Michael)**

**8:09-cv-00818-DOC-RNB Notice has been electronically mailed to:**

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The following document(s) are associated with this transaction:

**Document description:**Main Document

**Original filename:**C:\Users\amadrazo\Desktop\Notice of Motion - Fee  
Application\Notice\_of\_Motion\_&\_Motion\_for\_Approval\_of\_Final\_Account\_Report.pdf

**Electronic document Stamp:**

[STAMP cacdStamp\_ID=1020290914 [Date=8/12/2016] [FileNumber=21999920-0]  
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**Document description:**Exhibit Exhibit A

**Original filename:**C:\Users\amadrazo\Desktop\Notice of Motion - Fee Application\Motion - ExA.pdf

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**Document description:**Exhibit Exhibit B

**Original filename:**C:\Users\amadrazo\Desktop\Notice of Motion - Fee Application\Motion -ExB .pdf

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**Document description:**Declaration of Thomas A. Seaman in Support of Motion for: (1) Approval of Final Account and Report; (2) Authorization of Final Distributions; (3) Authorization to Destroy Books and Records; and (4) Discharge of Receiver

**Original filename:**C:\Users\amadrazo\Desktop\Notice of Motion - Fee Application\Declaration\_of\_Thomas\_A\_Seaman\_ISO\_Motion\_for\_Approval\_of\_Final\_Account.pdf

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**Document description:**Proposed Order Granting Motion for Receiver for: (1) Approval of Final Account and Report; (2) Authorization of Final Distributions; (3) Authorization to Destroy Books and Records; and (4) Discharge of Receiver

**Original filename:**C:\Users\amadrazo\Desktop\Notice of Motion - Fee Application\PROPOSED\_ORDER\_ON\_MOTION\_FOR\_APPROVAL\_OF\_FINAL\_ACCOUNT.pdf

**Electronic document Stamp:**

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