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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  
13 COMMISSION,

14 Receiver,

15 v.

16 MEDICAL CAPITAL HOLDINGS,  
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)

DECLARATION OF HARRY M.  
GUTFLEISH IN SUPPORT OF  
MOTION FOR ORDER  
AUTHORIZING THE EMPLOYMENT  
OF SPECIAL NEW YORK COUNSEL  
(FORMAN HOLD ELIADES & RAVIN  
LLC)

[Exhibit "A"]

Date: March 14, 2011  
Time: 8:30 a.m.  
Ctrm: 9D  
Judge: Hon. David O. Carter

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23  
24 I, Harry M. Gutfleish, declare:

25 1. I am a member of the law firm of Forman Hold Eliades & Ravin LLC,  
26 the proposed special counsel ("Special Counsel"). I submit this declaration (the  
27 "Declaration") in support of the Motion for Order Authorizing the Employment of  
28 Special New York Counsel (Forman Hold Eliades & Ravin LLC). I have personal

1 knowledge of the facts stated in this Declaration as to which I could and would  
2 personally and competently testify if called upon to do so.

3         2. The Receivership Estates ("Receivership Estates") seek to employ my  
4 firm as Special Counsel, to (i) evaluate the merits and costs of pursuing actions to  
5 collect on (a) certain note obligations made in favor of certain of the entities of the  
6 Receivership Estates ("Receivership Entities"), which are in default and have  
7 outstanding loan obligations, (the "Note Actions") and (b) certain amounts due to  
8 the Receivership Entities under accounts receivable purchase agreements, where the  
9 Receivership Entities sold its interests in healthcare accounts receivables to third  
10 parties (the "Receivable Actions"), (the Note Actions and Receivable Actions, are  
11 collectively referred to herein as the "Collection Actions") and (ii) pursue the  
12 Collection Actions as appropriate.

13         3. Special Counsel has agreed to a compensation structure which is set  
14 forth in the Retainer Agreement attached to the Declaration of Thomas A. Seaman  
15 as Exhibit "A". The Retainer Agreement sets forth the applicable billing rates for  
16 the attorneys at Special Counsel, which range from \$200 to \$500 per hour, which  
17 are discounted from the firm's general billing rates for matters of this nature. My  
18 hourly billing rate is \$375, which is \$100 less than my general billing rate and close  
19 to the blended billing rate for Special Counsel of \$350.

20         4. As far as Special Counsel's experience, and as detailed in Special  
21 Counsel's resume attached hereto as Exhibit "A", Special Counsel has over 25 years  
22 of experience in representing bankruptcy trustees and other court-appointed  
23 fiduciaries. In particular, members of Special Counsel have served as the  
24 bankruptcy trustee and as counsel for the bankruptcy trustee in bankruptcy cases  
25 related to SEC receivership actions, including *In re NJ Affordable Homes Corp.*,  
26 Chapter 7 Case No. 05-60442, which is related to *SEC v. NJ Affordable Homes*  
27 *Corp.*, Civil Action No. 2:05-CV-04403 (District of New Jersey) and *In re*  
28 *Ameripay LLC*, Chapter 7 Case No. 09-27794, which is related to *SEC v.*

1 *Sherbourne Capital Management Ltd. et als.*, Civil Action No. 2:09-CV-02302  
2 (District of New Jersey). Based upon this experience, Special Counsel has  
3 substantial familiarity with the SEC receivership litigation process, the powers and  
4 duties of a SEC receiver to marshal assets for a receivership estate, and the  
5 important need to balance the cost of pursuit of assets relative to ultimate recovery.

6 5. I advise the Court that, to the best of my knowledge, Special Counsel  
7 and its members and employees: (a) do not hold or represent any interest adverse to  
8 the Receiver, the Receivership Entities, the investors and creditors, and the  
9 Receivership Estates, (b) have no connection with the Receiver, the Receivership  
10 Entities, the investors and creditors, and the Receivership Estates, any other parties  
11 in interest, their respective attorneys and accountants, and the SEC, (c) are  
12 disinterested persons as that term is defined in 11 U.S.C. § 101(14)<sup>1</sup> and as used in  
13 11 U.S.C. § 327(a), and (d) hold no pre-receivership claims against the Receivership  
14 Estates.

15 I declare under penalty of perjury under the laws of the United States of  
16 America that the foregoing is true and correct. Executed on January 26, 2011, at  
17 Paramus, New Jersey.

  
HARRY M. GUTFLEISH

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<sup>1</sup> Section 101(14) provides that "[t]he term 'disinterested person' means a person that – (A) is not a creditor, an equity security holder, or an insider; (B) is not and was not, within 2 years before the date of the filing of the petition, a director, officer or employee of the debtor; and (C) does not have any interest materially adverse to the interest of the estate or of any class of creditors or equity security holders, by reason of any direct or indirect relationship to, connection with, or interest in, the debtor, or for any other reason."

**Exhibit "A"**

## ABOUT FORMAN HOLT ELIADES & RAVIN LLC

FHER have substantial experience in counseling bankruptcy trustees and other court-appointed fiduciaries. For more than 25 years, members of the firm have participated in well over 10,000 chapter 11 and chapter 7 proceedings as bankruptcy trustees, as attorneys for bankruptcy trustees and as attorneys for creditors' committees. FHER's senior member received the Director's Award for Outstanding Achievements by a Private Trustee from the Executive Director of the National Trustee Program.

Among other cases, FHER has participated in major bankruptcy cases involving Ponzi schemes, real estate frauds, securities' frauds, fraudulent insurance practices, and other cases involving large-scale fraudulent activity. For example, members of our firm have served as the bankruptcy trustee and as attorneys for the bankruptcy trustee in cases emanating from receivership actions commenced by the United States Securities and Exchange Commission (NJ Affordable Homes Corp. and Ameripay LLC) as well as from criminal investigations and actions commenced by the United States (Meridian, Inc., Omne Staffing, Inc., and Halpert and Company). In these cases, FHER attorneys worked closely with federal and state investigators and law enforcement personnel. In connection with services rendered in the NJ Affordable Homes Corp. bankruptcy case, the Federal Bureau of Investigation presented one of our members with a Certificate of Appreciation for "outstanding assistance in a joint investigative effort" leading to the criminal prosecution and conviction of various defendants.

FHER is also well known for handling complex commercial and business litigation on behalf of individuals, business entities and financial institutions, including breach of contract, franchise litigation, mortgage foreclosures, enforcement of notes and security agreements under the Uniform Commercial Code, account collections, and enforcement of judgments.