

1 DAVID R. ZARO (BAR NO. 124334)
MICHAEL R. FARRELL (BAR NO. 173831)
2 TED FATES (BAR NO. 227809)
ALLEN MATKINS LECK GAMBLE
3 MALLORY & NATSIS LLP
515 South Figueroa Street, Ninth Floor
4 Los Angeles, California 90071-3309
Phone: (213) 622-5555
5 Fax: (213) 620-8816
E-Mail: dzaro@allenmatkins.com
6 mfarrell@allenmatkins.com
tfates@allenmatkins.com

7 Attorneys for Receiver Thomas A. Seaman
8

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

18 Defendants.
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Case No. 8:09-CV-0818-DOC (RNBx)

**FOURTH INTERIM FEE APPLICATION
OF TRACHTENBERG RODES &
FRIEDBERG LLP, COUNSEL FOR
RECEIVERSHIP ENTITY MEDICAL
CAPITAL CORPORATION AND ITS
AFFILIATES AND SUBSIDIARIES**

Date: February 13, 2012
Time: 8:30 a.m.
Ctrm: 9D
Judge: Hon. David O. Carter

1 TRACHTENBERG RODES & FRIEDBERG LLP
LEONARD RODES (LR 3675)
2 STEPHEN ARENA (SA 6391)
545 Fifth Avenue
3 Suite 640
New York, NY 10017
4 Telephone: (212) 972-2929
Facsimile: (212) 972-7581
5 E-mail: LRodes@TRFLaw.com
E-mail SArena@TRFLaw.com

6 Counsel for Receivership Entity
7 MEDICAL CAPITAL CORPORATION
AND ITS AFFILIATES AND SUBSIDIARIES

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

11 SECURITIES AND EXCHANGE
12 COMMISSION,

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14 vs.

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16 MEDICAL CAPITAL CORPORATION;
MEDICAL PROVIDER FUNDING
17 CORPORATION VI; SIDNEY M. FIELD;
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18 Defendants.

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20 Trachtenberg Rodes & Friedberg ("TR&F"), counsel retained by Thomas A. Seaman
21 ("Receiver"), the Court-appointed permanent receiver for defendants Medical Capital Holdings, Inc.,
22 Medical Capital Corporation, Medical Provider Funding Corporation VI and their subsidiaries and
23 affiliates, submits this fourth interim application for approval and payment of fees and reimbursement
24 of expenses on behalf of TR&F. This application covers fees and expenses incurred during the six-
25 month period June 1, 2011 through November 30, 2011 (the "Fourth Application Period"), for legal
26 work performed on behalf of the Receiver and receivership entity Medical Capital Corporation and
27 its affiliates and subsidiaries ("Medical Capital").
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1 By this Fourth Interim Fee Application, TR&F seeks an order allowing TR&F compensation
2 for services rendered and expenses incurred during the Fourth Application Period in the amount of
3 \$69,230.00 in fees, representing 227.55 hours of attorney time at a blended rate of \$304.24 per hour,
4 and \$8,499.58 in costs; and authorizing the Receiver to pay 90% of the requested fees or \$62,307.00
5 and 100% of claimed costs, or \$8,499.58. As detailed below, TR&F requests that the Court allow
6 these fees and costs on an interim basis. For the Court's review and consideration, a proposed Order
7 is submitted contemporaneously herewith.

8 I. OVERVIEW

9 A. TR&F's Employment

10 In October 2009, the Receiver retained TR&F to investigate, research, and foreclose on any
11 liens Medical Capital may possess on property owned by Parkway Hospital Associates, including
12 mortgages held by Medical Provider Financial Corporation III in connection with real property
13 located at 70-35 113th Street, Forest Hills, New York 11375 (the "Foreclosure Matter").

14 TR&F represents sophisticated clients in business disputes and complex commercial litigation
15 matters. Lead counsel Leonard Rodes is a partner at TR&F. Mr. Rodes has been practicing law
16 primarily in New York for nearly thirty (30) years and has extensive experience in, among other
17 things, corporate law, contract law, business torts, commercial law, real estate, and securities. Mr.
18 Rodes earned his undergraduate degree from Princeton University in 1979 and his law degree from
19 Boston University in 1983. Mr. Rodes is admitted to practice before all New York State courts, the
20 U. S. District Courts for the Southern and Eastern Districts of New York, and the U. S. Court of
21 Appeals for the Third and Fourth Circuits. Associate counsel Stephen Arena is an associate at
22 TR&F. Mr. Arena has been practicing law for over five (5) years and has experience representing
23 clients in connection with complex commercial litigation, commercial transactions, structured finance
24 and mortgage loan securitization. Mr. Arena received a Bachelor of Science in Business
25 Administration from the State University of New York at Albany in 1998, and his J.D. *cum laude*
26 from Seton Hall University School of Law in 2005. Mr. Arena is admitted to practice in the state of
27 New York and the U.S. District Courts for the Southern and Eastern Districts of New York.

1 **B. Representation of Receivership Entity Medical Capital in the Foreclosure Matter**

2 TR&F was engaged by the Receiver to investigate, research, and foreclose on certain
3 mortgages owned and held by Medical Capital (through Medical Provider Financial Corporation III)
4 in connection with a hospital located at 70-35 113th Street, Forest Hills, New York 11375 (the
5 "Property"). TR&F's representation required its attorneys to review various lending agreements, sale
6 agreements, mortgage loan documentation and analytical records provided by Medical Capital.
7 TR&F also reviewed the loan file maintained by the mortgage servicer Wells Fargo.

8 TR&F analyzed issues regarding Medical Capital's actual possession and ownership of the
9 mortgages and initiated processes to cause Wells Fargo to assign an approximately \$8.5 million
10 revolving mortgage to Medical Capital.

11 TR&F has had significant contact with a title and mortgage abstract company, Inter-County
12 Abstract Corp., in connection with foreclosure searches, mortgage history reports and the assignment
13 of the revolving mortgage.

14 TR&F visited the Property to determine if the facility was functional and if the Property was
15 being rented to other businesses. TR&F met with staff and representatives of the Property owners to
16 discuss the Receiver's interests in the Property.

17 TR&F has been in contact with various New York State agencies for the purpose of obtaining
18 the proper authorizations for Medical Provider Financial Corporation III to bring a foreclosure action
19 in New York. On or about November 16, 2010, Medical Provider Financial Corporation III obtained
20 the necessary authorization.

21 TR&F has assisted the Receiver in performing research and obtaining information pertinent to
22 the analysis of the sale of the Receiver's interests in the Property to a third-party.

23 TR&F's work also included considerable research of foreclosure law in New York and the
24 drafting of pleadings and motion papers associated with foreclosure of the Property. TR&F identified
25 several potential issues affecting Property and requisitioned and reviewed litigation files associated
26 with borrower Parkway Hospital Associates' previous foreclosure and bankruptcy proceedings.

27 TR&F's work also required investigation of the status of numerous other apparent and/or potential
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1 liens on the Property. TR&F has assisted the Receiver in respect of obtaining from other creditors of
2 the mortgagee documentation of their abandonment of lien interests.

3 By the end of 2010, TR&F was in a position to file the Receiver's foreclosure complaint (the
4 "Foreclosure Complaint"), and did so on January 6, 2011, in order to commence the foreclosure
5 action (the "Foreclosure Action"), which is pending in the Supreme Court of the State of New York,
6 in and for the County of Queens (the "Foreclosure Court"), under Index No. 489/11. TR&F arranged
7 for service of process on numerous defendants, all but four of whom defaulted. TR&F has received
8 and analyzed Answers to the Foreclosure Complaint served by three¹ defendants, including the owner
9 of the fee interest in the Property (i.e., Parkway Acquisition I, LLC f/k/a Parkway Hospital
10 Associates ("Parkway")), which also asserted counterclaims. TR&F prepared and served a motion to
11 dismiss the counterclaims and certain affirmative defenses asserted by Parkway. On May 17, 2011,
12 the Foreclosure Court granted the Receiver's motion, dismissing Parkway's counterclaims and
13 certain affirmative defenses.

14 At TR&F's request, the Foreclosure Court set an expedited discovery schedule. TR&F has
15 prepared and served several discovery notices, including interrogatories, document requests, and a
16 deposition notice. TR&F reviewed documents produced by Parkway in response to discovery
17 demands prepared by TR&F. TR&F determined, in part based on Parkway's document production,
18 that it was not necessary to take the deposition of Mr. Aquino.

19 Parkway also served document requests, and TR&F responded thereto with written objections
20 and a voluminous document production. In connection with that work, TR&F reviewed the
21 documents provided by Medical Capital for production in the Foreclosure Matter for relevance and
22 privilege, and otherwise prepared Medical Capital's documents for production. Further, Parkway
23 also served interrogatories, and TR&F has responded thereto. In connection with that work, among
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26 ¹ Defendant Consolidated Edison Company of New York, Inc. served a "Notice of Appearance
27 and Waiver Foreclosure" providing for the waiver of service of all papers and of all notices of all proceedings
28 in the Foreclosure Action with the exception of notice of sale and notice of proceeding to obtain surplus
moneys.

1 other things, TR&F worked with the Receiver to calculate the outstanding balance on mortgage loans
2 to be included in Medical Capital's interrogatory responses.

3 On or about June 28, 2011, TR&F appeared at a compliance conference in the Foreclosure
4 Court in connection with the Foreclosure Matter. On or about September 27, 2011, TR&F prepared
5 and submitted a "Note of Issue and Certificate of Readiness" at a certification conference at the
6 Foreclosure Court marking the end of the discovery period of the Foreclosure Action.

7 After the close of discovery, TR&F prepared Medical Capital's motion for summary
8 judgment, and in connection with that task (a) conducted a thorough review of the Foreclosure Action
9 office record, and the loan and production documents, (b) performed additional legal research on a
10 variety of issues raised by the defendants' purported defenses, and (c) drafted and compiled extensive
11 motion papers, including a notice of motion, affidavits of Thomas Seaman and Stephen Arena (with
12 numerous exhibits), and a summary judgment brief, which were served on or about October 21, 2011.

13 Parkway changed attorneys in the Foreclosure Action, and based on the change of counsel
14 obtained from the Foreclosure Court (over TR&F's objection) an extension of the briefing schedule
15 for Medical Capital's motion for summary judgment. The hearing on the motion is now scheduled to
16 take place in February 2012.

17 In addition to the foregoing, TR&F has participated in various conferences with the
18 Receiver's lead counsel, Allen Matkins Leck Gamble Mallory & Natsis, LLP ("Allen Matkins"), as
19 well as with the Receiver and his staff in connection with the potential sale of the mortgage loan
20 interests. TR&F performed research and analysis in connection with various legal questions and
21 issues that have arisen in connection with the potential sale of the mortgage loan interest. TR&F
22 also participated in several calls with potential loan buyers and lien interest holders.

23 In all of these efforts, TR&F has coordinated and corresponded closely with the Receiver's
24 lead counsel, Allen Matkins, as well as with the Receiver and his staff.

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II. FEE APPLICATION

TR&F has collected its time during the Fourth Application Period in a computer database, under a distinct client-matter number specifically created for its representation of the Receiver and Medical Capital in connection with the Foreclosure Matter, as follows:

Name	Title	Rate	Hours	Fees
L. Rodes	Partner	\$450	17.6	\$7,920.00
S. Arena	Associate	\$300	209.95	\$62,985.00
Credit for work performed on fee application preparation				(\$1,675.00)
Total				\$69,230.00

TR&F also requests that the Court approve \$8,499.58 in costs in connection with the Foreclosure Matter. These costs are detailed in the invoices attached as Exhibit A to the Declaration of Leonard A. Rodes in Support of Fourth Interim Fee Application of Trachtenberg Rodes and Friedberg, Counsel for Receivership Entity Medical Capital Corporation ("Rodes Declaration").

III. THE REQUESTED FEES ARE REASONABLE AND SHOULD BE ALLOWED

A. Efficient Staffing – Customary Rates

TR&F has worked diligently in representing the interests of the Receiver and Medical Capital. TR&F has staffed each task as efficiently as possible.

TR&F believes its request is fair and reasonable and that the fees and costs incurred are necessary to accomplish the Receiver's goals in the Foreclosure Matter. TR&F's request for compensation reflects a 10% discount to its current customary billing rates charged in similar matters. TR&F's customary billing rates are comparable to those charged in the New York metropolitan area by similarly experienced and credentialed counsel on similarly complex commercial matters.

Finally, the invoices that are the subject of this fee application also reflect that TR&F has, at the request of the Receiver, credited (i.e., written off) time spent on all fee applications to date.

