

1 DAVID R. ZARO (BAR NO. 124334)  
MICHAEL R. FARRELL (BAR NO. 173831).  
2 EDWARD G. 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  
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)

RECEIVER'S THIRTY-FIRST REPORT  
TO THE COURT

21  
22 Thomas A. Seaman ("Receiver"), the court-appointed Permanent Receiver for  
23 Medical Capital Holdings, Inc., Medical Capital Corporation, Medical Provider  
24 Funding Corporation VI, and their subsidiaries and affiliates (collectively the  
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1 "Receivership Entities"), submits herewith the Receiver's Thirty-First Report to the  
2 Court.

3 Dated: February 10, 2012

ALLEN MATKINS LECK GAMBLE  
MALLORY & NATSIS LLP

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5  
6 By: /s/ Michael R. Farrell

MICHAEL R. FARRELL  
Attorneys for Receiver  
THOMAS A. SEAMAN

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UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
SOUTHERN DIVISION

SECURITIES AND EXCHANGE COMMISSION

vs.

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

RECEIVER'S THIRTY-FIRST REPORT  
For the Honorable David O. Carter

Thomas Seaman, CFA  
Thomas Seaman Company  
3 Park Plaza, Suite 550  
Irvine, California 92614  
Tel: (949) 222-0551  
Fax: (949) 222-0661  
tom@thomasseaman.com

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**EXHIBITS**

- Exhibit A – Medical Capital Receivership Inventory of Significant Assets
- Exhibit B – Financial Statements for the Receivership Estate through January 31, 2012

## **I. INTRODUCTION**

This thirty-first report was prepared by Thomas Seaman, Permanent Receiver ("Receiver") for Medical Capital Holdings, Inc. ("MCH"), Medical Capital Corporation ("MCC"), Medical Provider Funding Corporation VI ("MPFC VI"), and their subsidiaries and affiliates (collectively, the "Receivership Entities," "Medical Capital" or "MedCap"). At the hearing on September 8, 2009, the Court ordered that the Receiver submit monthly reports, on or before the 10<sup>th</sup> day of each month, to address the status of the receivership estate and its assets. The Receiver submits this report per the Court's order.

## **II. SUMMARY OF RECEIVER'S ACTIONS**

During the preceding month, the Receiver continued his efforts to recover funds from Medical Capital's assets, including collection efforts on various loan and other debt obligations owed by Medical Capital's borrowers, management of Medical Capital's operating assets, marketing and sale of assets, preparation and administration of tax returns and amended tax returns which now includes responding to inquiries related to the amended returns from taxing authorities, and litigation to recover funds for the benefit of the receivership estate.

The Receiver is also managing investor communications including administration of the claims process and analysis of claims and preparation of objections where appropriate. The Receiver is also managing the estate's cash assets by investing in treasury bills, certificates of deposit and insured bank accounts. The Receiver's actions include the following:

- During January, 2012, the Receiver collected \$1,256,661.26. Notable among January, 2012 collections were loan payments of \$768,083.53 and operating company revenue of \$466,067.86. Since the inception of the case through January 31, 2012, the Receiver has collected \$135,830,798.65, which is comprised of the following sources:

○ Accounts Receivable collections	\$ 2,232,718.04
○ Loan payments	\$ 9,893,234.92
○ NHBC revenue	\$ 16,622,219.90
○ Viva Vision Revenue	\$ 1,147,361.49
○ Perfect Game revenue	\$ 688,693.57
○ Insurance proceeds	\$ 201,404.38
○ Rental income	\$ 561,519.34
○ Asset sales	\$ 97,711,757.95
○ Settlement proceeds	\$ 701,572.50
○ Turnover /seizure of bank accounts	\$ 4,247,124.13

○	Income tax returns	\$ 1,627,111.78
○	Property tax refunds	\$ 83,279.77
○	Interest income	\$ 112,800.88

- The Receiver and his team continue to pursue collection of debts from numerous borrowers including restructuring debt, the sale of debt, and litigation to enforce the lenders' rights. Many of the loans are impaired or otherwise non-performing. These borrowers include: Dr. Robert Aquino (Parkway Hospital, Capitol Health Management); Dr. Richard Kroop (Valley Health Care); Dr. Robert Schepp; Pyramid Technologies, TEEM, Crown Plaza, and New Life, among others. The Receiver has filed actions to enforce Medical Capital's rights as to a number of borrowers.
- Efforts to sell Southwest Atlanta Hospital to date have been unsuccessful. As previously reported, the Receiver entered into a listing agreement with new brokers to sell the Southwest Atlanta Hospital which is moth-balled and without a Certificate of Need. The Receiver is in discussions with several potential bidders.
- The film asset "The Perfect Game" was released theatrically in North America in April of 2010. After terminating the original distribution agreement for cause, the Receiver entered into new domestic and foreign distribution agreements, which were approved by the Court. The Receiver's team has been forced to take various actions to protect the receivership estate's interest in the film, including actions in Mexico to prevent a terminated sub-distributor from distributing the film in the Mexican home entertainment market. Recently, the Receiver's counsel obtained formal resolutions from the appropriate Mexican agency recognizing the Receiver's rights in the film. The film has been available to the home entertainment market in Mexico and was released domestically in August. The Receiver has received nominal revenues and has collected various guaranteed minimum payments from sub distributors in recent months.
- The Receiver was previously granted Court approval to retain special counsel to investigate possible claims the Receiver may have against the trustees, Bank of New York Mellon and Wells Fargo. The Court granted the Receiver approval to file litigation against the trustees if deemed proper by the Receiver. Tolling agreements are in place with both trustees and the Receiver is in pre-litigation settlement discussions which continued in January, 2012.
- Pursuant to authority previously granted by the Court, the Receiver filed a complaint on May 2, 2011 against the firm of Sedgwick LLP, former counsel to various Medical Capital entities, for \$200,000,000 in damages arising out of the prior representation. Sedgwick LLP filed a motion to dismiss which was granted with leave to amend the complaint to include specific information concerning the discovery of the Receivership Entities' claims against Sedgwick LLP. The Receiver filed an amended complaint, as to which Sedgwick filed another motion

to dismiss, which was denied by the Court. The Receiver has also responded to discovery, most recently responding to interrogatories and requests for admissions.

- In May, the Receiver also sought Court approval to bring additional litigation, with such papers being filed under seal. The Court granted such approval and the Receiver is proceeding with arbitration of the estate's claim. Selection of arbitrators was delayed due to objections raised as to numerous arbitrator candidates suggested by the Receiver. The three arbitrators have now been selected and the arbitration is proceeding .
- The Receiver has learned that Medical Capital overpaid federal and state income taxes. The Receiver has prepared and filed amended returns for 2004, 2005, 2006 and 2007 as well as the 2008 and 2009 original tax returns with the goal of obtaining refunds from the taxing authorities. The total amount of requested refunds exceeds \$14 million. The Receiver has begun receiving payments and to date the Receiver has collected \$1,627,111.78 in tax refunds, which is reflected in the attached accounting. The IRS examined the Receiver's returns and company books and records at the Receiver's offices and has filed a proof of claim. The IRS has also requested the Receiver to consent to an extension in the time to assess tax. The Receiver agreed to a nine month extension. During July the Receiver met with the IRS and the IRS has established a 67 working day schedule to complete its review and audit and to make its recommendation to the congressional review committee, whose approval is required for all tax refunds in excess of \$2,000,000. The IRS review continues and additional access and documents have been provided to them by the Receiver.
- As to the Parkway Hospital asset in New York, a foreclosure action has been filed. A motion for summary judgment has been filed. The Receiver has entered into a Purchase and Sale Agreement to sell the note for \$6.2 million. A \$1 million non-refundable earnest money deposit was received in early February, 2012 and is not reflected in this month's accounting report. The sale is subject to court approval and overbid. Several prospective over-bidders have been identified and the Receiver is actively encouraging overbids. On February 3, 2012, the Receiver filed his motion for an order approving the Parkway Hospital loan sale, which is set for hearing on March 5, 2012, as well as an ex parte application for approval of overbid procedures.
- The Receiver has entered into a letter of intent for the sale of the assets of NHBC. The prospective buyer is currently conducting due diligence. The Receiver expects negotiations on a Purchase and Sale Agreement, which will include overbid procedures and the condition of Court approval, to follow in the near future. In the mean time, operations of the company are stable and generating cash flow.
- The claims process is proceeding and the Receiver has compiled and reconciled investor and creditor claims. Approximately 10,000 claims were

submitted. The Receiver filed his claims objections in November, 2011. A hearing to address the Receiver's claims objections previously set for January 23, 2012 has been continued to March 12, 2012. The deadline for claimants to submit oppositions to the Receiver's claims objections was January 30, 2012. Well over 100 responses were submitted by note holders, and responses were also submitted by various other creditors. The Receiver is currently evaluating the documents received and preparing further responses, to be filed by February 27, 2012, where appropriate. Per the Court's order, the Receiver will also be filing a report for the Court on or before February 20, 2012 summarizing the note holder submissions.

- In response to a number of inquiries from note holders as to solicitations they had received from third parties for the potential purchase of their claims, the Receiver posted the following notice on the Medical Capital web site: "The Receiver has become aware that one or more companies have contacted note holders and offered to purchase their claims in the Medical Capital receivership for about 10% of the claim amount. The Receiver does not endorse or approve these companies or any others that may solicit investors, nor does the Receiver endorse or approve any of the statements and/or representations contained in these solicitations. Moreover, the Receiver believes that any current estimate of the ultimate recovery to note holders is premature and completely speculative because (1) there are many unknown factors that may significantly impact the amount of money the Receiver ultimately recovers for the estate, and (2) the claims process, which will determine the total amount of allowed claims against the estate, is not yet complete. Until these issues are resolved, the Receiver believes there is no reasonable basis to predict the percentage of recovery each note holder might obtain. Therefore, the Receiver has recommended that all note holders exercise caution in assessing these and any similar solicitations."
- As previously reported, the Receiver conducted a forensic accounting of the sources and uses of all Medical Capital funds. There were over twenty billion dollars of transactions in 258 separate bank accounts to account for, 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 allows the Receiver to account for and identify assets and recipients of ill-gotten gains for the purpose of recovering funds for the benefit of the receivership estate. A summary level sources and uses funds analysis excerpted from the forensic accounting follows.

- **Summary Sources and Uses of Funds**

(in \$ millions)

- Amount raised from note holders 1,760.5



• Interest income	8.2
• Total Cash In	1,768.7
• Use of Funds:	
• Principal returned to note holders	682.9
• Administrative Fees paid to MCC	329.3
• Administrative Fees recycled to the MPFCs	(62.2)
• Interest paid to note holders	309.8
• Money lost on lending and investing activity	298.6
• Cash paid to pre MPFC money raising entities	186.3
• Payments to or on behalf of defendants	12.1
• Servicing Fees	4.8
• Operating expenses and miscellaneous	2.4
• Commissions	1.2
• Trustee fees	.6
• Sub-total	1,765.8
• Ending Cash Balance	2.9

### **III. INVENTORY OF KEY ASSETS**

Exhibit A provides an inventory of some of the largest and most significant assets of the Receivership Entities, together with individual summaries more fully describing each asset. The summaries included in the Receiver's prior report will remain in each report until disposition of the asset and updates will be provided as appropriate. In this Thirty-First Receiver's Report, updates are provided as to the majority of the assets. It should be noted that the Receiver's investigation is continuing, and that this Report should be considered preliminary and subject to change.


**IV. RECEIVER'S ACCOUNTING AS OF DECEMBER 31, 2011**

Exhibit B provides financial statements for the receivership estate through January 31, 2012. An Income and Expense Statement, Balance Sheet and General Ledger are provided. To date, the estate has received funds in the amount of \$135,830,798.65, including interest income of \$112,800.88. The Receiver has disbursed funds in the amount of \$35,286,326.14 for operating expenses of the Receivership Entities and administering the receivership estate. The Receiver is holding funds in the amount of \$100,544,472.51 as of January 31, 2012.

The foregoing accounting therefore reflects payment of the Receiver and his lead counsel through April 30, 2011. Fee applications for the quarter ending October 31, 2011 will be prepared in the next few weeks.

Dated: February 10, 2012

Respectfully submitted



THOMAS A. SEAMAN, as Receiver for  
MEDICAL CAPITAL HOLDINGS, INC., *et al.*

**EXHIBIT A**

**Medical Capital Receivership**  
**Inventory of Significant Assets**

<u>Asset</u>	<u>Description</u>	<u>(in \$ millions) Amount owed to or invested in by MedCap</u>	<u>Exhibit A Page</u>
Acct. Rec. Loans	Accounts receivable loans to medical care providers	82.4	12
NHBC	Large employer claims processing manager	n/a	14
Legacy Medical Center	Non-operating hospital and medical office bldg in Atlanta	36.6	17
Parkway Hospital	Non-operating hospital in New York	76.0	21
Perfect Game	Completed film	18.1	24
Valley Health Care	Accounts Receivable and loans	22.8	29
Concept 1 Academies	Loan to company who operated schools in Virginia	1.26	32
Edge Capital	Loans to company which funded real estate loans	20	34
Other Assets	Variety of loans and investments in non-medical ventures		36

**Medical Accounts Receivable**

<b>Medical Capital Stated Value of A/R Accounts</b>	<b>104 Accounts</b>	<b>\$625,332,141.00<sup>1</sup></b>
<b>Verifiable Accounts Receivable</b>	<b>42 Accounts</b>	<b>\$80,637,383.00</b>
- A/R aged under 180 days	6 Accounts	6,114,233.00
- A/R aged more than 180 days	39 Accounts	74,523,150.00
<b>Non-Existent Accounts Receivable</b>	<b>53 Accounts</b>	<b>\$ 542,894,528.00</b>
- Accounts that no longer exist	46 Accounts	450,987,914.00
- Accounts with a negative balance	3 Accounts	1,597,491.00
- Accounts with collateral transferred to term loans	4 Accounts	90,209,123.33
<b>Judgments on Accounts Receivable</b>	<b>9 Accounts</b>	<b>\$1,800,230.00</b>

*Status as of September 8, 2009:*

- o The Receiver has identified and contacted all of the Providers who are parties to an active medical receivable Purchase Agreement. In each case the Receiver has ascertained the status of the Purchase Agreement and payments due thereunder. Demand has been made for payments where due and collections are proceeding using re-hired employees of Medical Capital.

Significant obstacles to collections of accounts receivable exist.

- o Some Providers are diverting collections in order to survive following MedCap's cessation of receivables purchases under its Purchase Agreement and several Providers are now defunct or insolvent.
- o Of the 104 medical accounts receivable clients listed on the various NCCR reports by Medical Capital, 53 of these accounts (totaling \$542,894,528) are not viable or no longer exist. In other words, it appears these 53 accounts may have been valid accounts at one time many years ago, but this is no longer the case. The Receiver has identified numerous instances where MedCap manipulated the external reporting to leave out the age of the batch of receivables, which obfuscated the value of same. In some cases, the actual amount of the batch has been inflated in MedCap's records. There are no MediTrak reports to support such accounts as MediTrak reports either indicate that the accounts are closed or do not list the accounts at all. There are no active UCC-1 filings for these accounts. There have been no collections or advances on these accounts for

<sup>1</sup> The value of assets in the company's financial records is vastly less than the amounts set forth in the Net Collateral Coverage Ratio report which formed the basis for payment of Administrative fees by the MPFC trusts to MCC.

many years. It is unlikely the Receiver will make significant collections on these accounts.

- MCC may have been collecting receivables it did not fund. MCC ran out of cash in early May 2009, and therefore stopped lending money and purchasing accounts receivable as required under its Purchase Agreements with Providers. Several Providers are asserting claims for moneys that MCC collected while in default under Purchase Agreements.
- Of the verifiable accounts receivable, many Providers have stale and aged receivables. Of the 104 accounts listed on the various NCCR reports by Medical Capital, 39 have severely aged receivables. Of the 39 accounts with aged receivables, 31 report that the newest receivables were purchased between 2002 and 2006, totaling \$52,055,679. Only two of these accounts show any accounts receivable purchased in 2008. There were no batches purchased in 2009 for any of these 39 accounts. Thirty-three of the accounts were aged well beyond 180 days prior to their subsequent purchase via InterCompany Transfer. Given the age of those receivables, it is unclear how much, if any, can be collected on these accounts. Of the \$80,637,383 of real accounts receivable, a mere \$6,114,233 are under 180 days old and therefore potentially collectible.

**National Health Benefits Corporation ("NHBC")**

*Description:*

NHBC, located in Scottsdale, Arizona, with a satellite office in Georgia, provides claims management for large employer groups, negotiating discounts from health care providers and earning a percentage of the cost savings.

*The Receivership Entitles' Interest*

NHBC is a wholly owned subsidiary of MCH.

*Status as of August 3, 2009*

NHBC had significant revenues but was experiencing a liquidity crisis because Medical Capital had been taking NHBC revenues without paying the company's legitimate operating expenses. The July 31 2009 payroll had not been paid, nor had a significant portion of the July 15, 2009 payroll. None of the July 15 payroll taxes have been paid. Health insurance premiums and 401(k) contributions were not paid even though Medical Capital had taken such deductions from employees' paychecks. Key outside contractors had not been paid since May 2009. Overall there was an accounts payable balance of approximately \$50,000.

Several key Provider networks had terminated NHBC's services due to its failure to pay certain fees for extended time periods. The deterioration of its Provider network relationships made it more difficult for NHBC to sell its services. NHBC also owed client fees of approximately \$200,000. The client fees represent revenue sharing which is an essential component of attaining and retaining clients.

Coalition America obtained a judgment of \$2.7 million against NHBC in a dispute involving unfair trade practices.

*Status as of September 8, 2009*

After evaluating the value of NHBC, the Receiver determined that NHBC could be a profitable business going forward if certain issues were addressed, and continued its operations. The Receiver paid the unpaid payroll, procured a new health insurance policy for NHBC employees, paid essential accounts payables, made partial payments to Provider groups and reinstated service from five Providers, and made partial payments to clients to maintain those client relationships. In the Coalition America litigation, the Receiver negotiated a continuance of the time to file a notice of intent to appeal. From August 3, 2009 to September 5, 2009, NHBC's revenues were \$1,042,208, of which the Receiver disbursed \$577,977 to NHBC for its operating expenses. NHBC contributed the remainder to the receivership estate.

*Status as of December 10, 2009:*

The Receiver is operating the business and has stabilized the financial condition of the company. Operating bills are being kept current and the Receiver has resolved numerous issues related to

non-payment of bills by NHBC prior to the Receiver's appointment. Based on the forensic analysis formed to date, it appears to the Receiver that Medical Capital and NHBC commingled their funds.

The Receiver has collected \$2,790,633.89, disbursed \$2,095,086.28, and is holding cash in the amount of \$695,547.61 in bank accounts established by the Receiver for NHBC receipts and disbursements. The foregoing receipts and disbursements are calculated strictly on a cash basis and do not accurately reflect NHBC's profitability. The Receiver is reviewing the financial operations of the company so that properly prepared financial statements in accordance with generally accepted accounting principles can be regularly prepared.

The Receiver participated in a mediation relating to the Coalition America judgment for \$2.7 million which did not result in a settlement. The parties left open the possibility for settlement in the future. The Receiver is preserving the receivership estate's rights and proceeding with an appeal of the judgment.

Following the mediation, Coalition America informed the Receiver that it intends to seek to intervene in this action and request relief from the stay and injunctive relief. The Receiver will object to any such request.

*Status as of January 11, 2010:*

The Receiver has collected \$3,405,322.19, disbursed \$2,823,487.19, and is holding cash in the amount of \$581,835.00 in bank accounts established by the receiver for NHBC. The foregoing receipts and disbursements are strictly on a cash basis and do not accurately reflect NHBC's profitability. All NHBC funds are collected, disbursed and held in segregated accounts and not commingled with other funds of the receivership estate.

The Receiver and Coalition America and its counsel participated in a mediation in December which, while not successful, resulted in a better understanding of each side's respective positions and options.

Counsel for Coalition America and the Receiver have met and conferred as to Coalition's contemplated motion to intervene. The parties intend to conduct a further meet and confer in the coming days.

*Status as of October 11, 2010:*

The Receiver's counsel continues to meet and confer with Coalition America's counsel, and the parties await a decision from the Georgia court on a motion brought by NHBC concerning issues on appeal.

*Status as of December 10, 2010:*

NHBC's motion concerning issues on appeal was denied. The Receiver and counsel continued to negotiate with Coalition America concerning potential settlement of the judgment.

*Status as of January 10, 2011:*

The Receiver negotiated an agreement with Coalition America pursuant to which, subject to the Court's approval, the amount of attorneys' fees and costs recoverable by Coalition America was stipulated, and the parties agreed to dismiss the appeal and cross-appeal. A motion seeking approval of the agreement was to be filed shortly.

*Status as of February 10, 2011:*

The motion seeking approval of the settlement with Coalition America was filed and subsequently approved. Coalition America was granted relief from the stay imposed by the Court's August 17, 2009 injunction for the limited purpose of presenting the stipulation to the Georgia court for approval.

*Status as of March 10, 2011:*

The Georgia court approved the stipulation concerning fees and costs, and the appeal and cross-appeal have been dismissed by the Eleventh Circuit Court of Appeals.

*Status as of October 11, 2011:*

The Receiver has taken preliminary steps to prepare NHBC for potential divestiture, including the preparation of two appraisals and the compilation of due diligence materials for potential investors.

*Status as of December 12, 2011:*

The Receiver has executed non-disclosure agreements with twelve potential acquirers. Four of these have submitted letters of interest.

*Current Status:*

The Receiver has entered in to a letter of intent with a prospective buyer. The buyer is conducting due diligence and the Receiver expects to begin negotiating a Purchase and Sale Agreement in the near term. The agreement will provide for an overbid process and Court approval of any sale of assets.



**Legacy Medical Center**

*Description:*

A non-operating hospital, medical office building and 75.3 acres of land in Atlanta, Georgia.

*The Receivership Entitles Interest:*

In 2007, MedCap started foreclosure proceedings and ultimately bought the asset free and clear of liens as a credit bid in connection with a sale under 11 U.S.C. § 363. MedCap briefly operated the facility at a significant loss, retaining a third party operator and facilities manager. While these figures have not been verified, the Receiver understands that MCC spent \$10 million to renovate and operate the facility. The facility failed to attract sufficient business and in January 2009 operations at the hospital ceased.

*Status as of August 3, 2009*

As of August 3, 2009, the facility had been abandoned and was without security. MedCap was allegedly in debt to the property management company in excess of \$500,000 and the management company had ceased providing services. MedCap had not paid its electric bills and the utility provided a notice of termination of service. There were deferred maintenance issues involving plumbing, the boiler and electric system. Three doctors were occupying three small offices in the medical office building and the Receiver was collecting their rent. Receivership Entitles loaned at least \$36.6 million to the hospital and millions more to hold and operate the facility.

*Status as of September 8, 2009:*

After his appointment, the Receiver dispatched an agent to Atlanta to secure the facility. The Receiver hired two key employees and reinstated the property management company in order to secure and preserve the asset. The Receiver also met with brokers and confirmed insurance. The Receiver was given an offer of \$5 million to purchase the property which appeared to be far too low.

*Status as of October 9, 2009:*

The Receiver executed a listing agreement with Grubb & Ellis, who had been marketing the property on MedCap's behalf prior to the appointment of the receiver, and instructed the brokers to establish a deadline of October 9, 2009 for best and final offers. Two offers to purchase were made. The Receiver anticipated that a Purchase and Sale Agreement would be executed and the property would be in escrow within the following few weeks. Once a Purchase and Sale Agreement was finalized, the Receiver anticipated filing the appropriate pleadings seeking Court approval to sell the property utilizing an overbid procedure.

*Status as of November 9, 2009:*

The Receiver has executed a Letter of Intent to sell the property for \$9.5 million. A Purchase and Sale Agreement has been drafted and negotiations concerning its terms are ongoing. The Receiver anticipates concluding such negotiations shortly, executing the agreement, and filing a motion for Court approval in the next two weeks. The motion will seek approval of the sale utilizing an overbid procedure, and the Receiver anticipates collecting the net proceeds from such sale by year end.

*Status as of December 10, 2009:*

The purchase and sale agreement was executed. The due diligence period concluded on December 9, 2009 and it appeared that the buyer was withdrawing from the sale. The Receiver gave a one day extension. No overbids were received. The Receiver was pursuing parallel paths in the event that the buyer did not perform including hiring counsel to petition the Department of Community Health for an extension and locating potential operators. While the Receiver was in discussions with two potential operators, the risks associated operating a hospital, underscored by the defendants' prior unsuccessful operating the hospital which resulted in the loss of millions of dollars, appeared to be high. The Receiver also continued to aggressively market the property for sale.

*Status as of January 11, 2010:*

The December, 2009 sale did not occur, as the Buyer withdrew. The Receiver had discussions with a new potential buyer, and entered into a short term lease with the new party to facilitate a potential purchase. The lease allowed the lessee time to apply for provisional license to operate, a critical step to keep the Certificate of Need, which was set to expire on January 16, 2010, active. The Receiver's agents, as well as representatives of the new buyer, were in contact with the Department of Community Health with respect to a potential extension of the hospital's Certificate of Need. The Receiver was negotiating an option agreement whereby the new buyer would have the option to purchase the property. In the event the parties executed an agreement and the option to purchase is exercised, which would occur in the next few weeks, the Receiver anticipated immediately filing the necessary motion papers with the Court to approve the sale subject to an overbid process.

*Status as of February 10, 2010:*

The Department of Community Health allowed the Certificate of Need to expire. However, the prospective buyers were in discussions with DCH to have consideration of a new application for a CON occur on an expedited basis. The Receiver was negotiating a letter of intent to sell the facility to such buyers for a net price of \$9.5 million subject to Court approval and an overbid procedure. Once the LOI was signed, the Receiver's team anticipated negotiating the terms of a Purchase and Sale Agreement, and hoped that an agreement would be reached within the next few weeks. The Receiver would then seek Court approval for the sale subject to overbid procedures.

*Status as of April 12, 2010:*

The Receiver executed a letter of intent for the sale of the facility for a net price of approximately \$9.5 million, and negotiated the terms of a Purchase and Sale Agreement. The Receiver expected to execute the final agreement shortly and would thereafter file the appropriate papers to obtain Court approval of the sale subject to overbid procedures.

*Status as of May 10, 2010:*

The Receiver entered into a Purchase and Sale Agreement for the facility with a purchase price of \$9.5 million. The Receiver anticipated filing the appropriate papers, seeking Court approval of overbid procedures and the sale, shortly. The Receiver anticipated the hearing on the motion to approve the sale will take place on June 21, 2010. The buyer provided an initial deposit of \$50,000, with a further deposit required promptly after the hearing. The Receiver continued to solicit overbidders through various marketing efforts.

*Status as of June 10, 2010:*

On May 21, 2010, the Receiver filed the appropriate papers seeking Court approval of proposed overbid procedures and the sale itself. On June 2, 2010, the Court granted the ex parte application seeking approval of the overbid procedures. The deadline for submission of overbids was June 16, 2010, and the hearing on the motion to approve the sale was set to occur on June 21, 2010.

*Status as of August 10, 2010:*

Prior to the hearing on the sale approval motion, the parties to the action filed, and the Court approved, a stipulation continuing the hearing date to September 13, 2010. The continuance was necessary to accommodate the buyer's financing, including financing from the Department of Housing and Urban Development, which was subject to unforeseen delays. The Receiver anticipated that buyer's financing will be confirmed in advance of the new hearing date and that the hearing will go forward on September 13, 2010.

*Status as of October 11, 2010:*

The Georgia Department of Community Health (DCH) issued a unilateral extension of its deadline to complete review of the buyer's application for a Certificate of Need. Buyer confirmed financing for the purchase, which was conditioned on obtaining a Certificate of Need. Therefore, the parties stipulated to extend the hearing date on the Receiver's sale approval motion to October 18, 2010 to accommodate the DCH's need for additional time. The Court had not yet ruled on the parties' stipulated request for a hearing continuance.

*Status as of December 10, 2010:*

The Georgia Department of Community Health denied buyer's application for a Certificate of Need. The Receiver's motion to approve the sale was withdrawn, and the Receiver was negotiating an amended purchase agreement. Buyer is appealing the denial of its application.

*Status as of March 10, 2011:*

An amended Purchase and Sale Agreement was executed. Buyer continued to pursue its appeal of the denial of a Certificate of Need. Once the appeal is determined, the Receiver will take appropriate action.

*Status as of April 11, 2011:*

Pursuant to the Amended Purchase and Sale Agreement, the buyer's non-refundable \$100,000 earnest money deposit was turned over to the Receiver. Buyer recently defaulted on its lease obligations, and the Receiver was taking appropriate actions to enforce the lease. Attempts to find alternative buyers for overbids, or to purchase the property in the event the buyer cannot conclude the sale, were continuing.

*Status as of August 10, 2011:*

Buyer has withdrawn from the purchase transaction. The Receiver has re-secured the property, and restarted direct sale marketing efforts.

*Status as of September 12, 2011:*

The Receiver entered into a listing agreement with new brokers to sell the property. These efforts have resulted in a letter of intent to purchase the property for \$6 million subject to Court approval and overbid. There is no contingency for the buyer obtaining a Certificate of Need, nor is there a financing contingency. Including a sixty day post Court approval appeal period, the Receiver anticipates closing the sale in approximately 180 days.

*Status as of November 10, 2011:*

The Receiver was working with the prospective buyer, however, the buyer had not executed the Purchase and Sale Agreement, and had not submitted its deposit. Therefore, the Receiver could not predict the timing of an approval motion or potential closing of the sale.

*Current Status:*

Given the prospective buyer's failure to execute and agreement or provide a deposit, the Receiver has engaged in discussions with additional parties.

Parkway Hospital

*Description:*

A non-operating hospital located in Queens, New York.

*The Receivership Entitles Interest:*

MPFC III.2 and MPFC IV.2 provided Debtor-in-Possession ("DIP") financing to the hospital to allow it to exit bankruptcy and additional loans and lines of credit for operating capital and to acquire an ambulance company post-bankruptcy. The loans were secured by, among other things, real property, stock in the hospital's operating company and a personal guaranty by the company's owner, Dr. Aquino. The total loans and lines of credit extended to Parkway Hospital and Dr. Aquino totaled over \$65 million.

*Status as of August 3, 2009*

The loans were in default, with an outstanding balance, including interest, of approximately \$76 million. The hospital ceased operating in November 2008, upon the expiration of its operating license, pursuant to the recommendation of the Berger Commission and implementation by the New York State Department of Health ("DOH"), under a plan to streamline capacity and resources of the New York State healthcare system. Prior to the Receivership, MedCap had retained counsel to assist with getting a new Certificate of Need, which is a prerequisite to operate the hospital. The counsel's fees had not been paid.

*Status as of September 8, 2009:*

The Receiver had communicated with all interested parties and secured the hospital. The Receiver was investigating how best to maximize the value of this asset, including the possibility of either foreclosing on the collateral or taking a deed in lieu of foreclosure. The Receiver was also investigating whether to resume the application process for the necessary regulatory approvals to re-open the hospital.

*Status as of October 9, 2009:*

The Receiver confirmed that the collateral is insured. The Receiver was in discussions with representatives of the borrower who has filed suit in U.S. District Court seeking a preliminary injunction to force the State of New York Department of Health to restore Parkway Hospital's operating certificate. The Receiver reviewed Parkway's pleadings and considered intervening in the action, and considered other means of assisting the hospital in its efforts to obtain a new Certificate of Need. Obtaining the certificate would increase the likelihood the loan will be repaid. Alternatively, the value of the hospital would be maximized if foreclosure becomes necessary. The Receiver was also in the process of hiring New York counsel for a potential foreclosure action in the event such action was deemed appropriate.

*Status as of November 9, 2009:*

Borrower's motion for injunctive relief was denied by the U.S. District Court; however, Parkway has informed the Receiver that it intends to renew the motion based on newly discovered evidence. The Receiver has retained New York counsel to commence a foreclosure action in the event Parkway is unsuccessful in its renewed motion for preliminary injunction or an acceptable proposal for workout of the loans is not received.

*Status as of December 10, 2009:*

The foreclosure action was proceeding.

*Status as of January 11, 2010:*

The Receiver was investigating sale of the note and was in discussions with one potential buyer. The Receiver's counsel was working through complications with respect to foreclosure of the property.

*Status as of April 12, 2010:*

The Receiver continued to engage in discussions for the sale of MedCap's interest in Parkway, while simultaneously pursuing foreclosure of the real property.

*Status as of June 10, 2010:*

The Receiver was working with the trustee to obtain the necessary documentation to proceed with foreclosure. The Receiver visited the property and took steps to maintain appropriate insurance on this asset. The Receiver anticipated commencing foreclosure within the next 30-60 days.

*Status as of October 11, 2010:*

The Receiver's team continued to investigate and address title and bankruptcy issues that have prevented foreclosure proceedings from going forward, and expected foreclosure to be commenced shortly. The Receiver received and was considering a proposal for a discounted loan payoff, and engaged in discussions with third parties as to the potential sale of MedCap's interest in Parkway.

*Status as of November 10, 2010:*

The Receiver's counsel filed appropriate papers in the pertinent bankruptcy actions seeking relief from stay to proceed with foreclosure. Court action was expected in December.

*Status as of December 10, 2010:*

The bankruptcy court granted relief from stay, and foreclosure proceedings were to commence shortly.

*Status as of March 10, 2011:*

The foreclosure complaint was filed. The Receiver continued discussions with potential purchasers of the loans or property.

*Status as of April 11, 2011:*

In the foreclosure action, the Receiver filed motions to dismiss and/or strike counterclaims filed by Parkway Acquisition. As to the potential sale of the loans, the Receiver selected a stalking horse buyer and expected to enter into a Letter of Intent in the near future at a proposed sales price of \$5,050,000.

*Status as of May 10, 2011:*

The Receiver entered into a Letter of Intent with the stalking horse buyer. The Receiver negotiated a settlement with Century Ambulance concerning a deposit of MedCap funds made by Dr. Aquino for the purchase of licenses. The Receiver expected to seek Court approval of the settlement, which would net \$168,000 to the receivership estate, shortly. The Receiver also filed an action in Nevada against Dr. Aquino on April 14, 2011.

*Status as of July 10, 2011:*

A new stalking horse buyer has been selected and has executed a Letter of Intent. The Receiver expects to seek Court approval of the sale in the coming weeks. The Court approved the Receiver's settlement concerning Century Ambulance, and the net proceeds should be received shortly.

*Status as of September 12, 2011:*

Proceeds of \$168,000 were received as to the settlement with Century Ambulance.

*Status as of October 11, 2011:*

Due to delays caused by the prospective buyer, a Purchase and Sale Agreement has not yet been executed. The Receiver continues discussions with the prospective buyer and other interested parties.

*Status as of January 10, 2012:*

The Receiver identified another buyer and a Purchase and Sale Agreement (subject to Court approval) was being negotiated at a purchase price of \$6.2 with no due diligence period and a non-refundable deposit of \$1 million due upon execution of the agreement.

*Current Status:*

The Purchase and Sale Agreement has been completed and executed. The Receiver has filed a motion for an order approving the sale, set to be heard on March 5, 2012, as well as an ex parte application for approval of overbid procedures.

**The Perfect Game**

*Description:*

The Perfect Game is a feature film relating to a Little League team from Mexico that won the Little League World Series in 1957.

*The Receivership Entitles' Interest:*

The film is owned by The Perfect Game, LLC ("TPG"). MPFC IV owns an approximate 39.3% economic interest in TPG and holds certain priority rights as to distribution of profits. MCH holds 75% of the voting rights (separate from the economic interest held by MPFC IV) in TPG. MPFC IV also made loans to TPG in the approximate total amount of over \$18 million, secured by all of TPG's assets, including its rights in the film.

*Status as of August 3, 2009:*

The film was completed in 2008 and attempts were made to distribute it in the summer of 2008, which did not occur. Various efforts to distribute the film thereafter also failed. Continuing efforts to market and distribute the film had been undertaken by Christian Tureaud and David Salzburg, who are affiliated with High Road Entertainment Group, Inc. (an entity in which Medical Capital also holds a stake). As of August 3<sup>rd</sup>, various entities and individuals claimed an interest in the film, and/or had claims related to the film. In addition, money was needed to make prints and pay for advertising to facilitate domestic distribution. A Mexican company that had certain distribution rights and possessed copies of the film was threatening to unilaterally release the film in Mexico if it was not paid certain amounts owed by TPG, which would likely have had a material adverse effect on the value of domestic distribution rights.

*Status as of September 8, 2009:*

The Receiver had communicated with the various parties claiming rights in the film and/or attempting to secure its distribution. An investor was located to pay off the Mexican entity and avoid unilateral distribution in Mexico, thereby preserving the value of the domestic distribution rights, in exchange for foreign distribution rights. The investor entity was also attempting to raise the money needed for prints and advertising necessary for domestic distribution. The Receiver retained a consultant with extensive experience in the production and distribution of independent films to advise him as to all actions necessary to fully exploit the film and maximize the film's profits.



*Status as of October 9, 2009:*

The Receiver's team engaged in various discussions concerning exploitation of the film going forward. The Receiver retained two individuals previously involved in the production of the film to provide continuing services for the film, including completion of production (i.e. finalizing prints, music, soundtrack, etc.), distribution and marketing. The Receiver also negotiated an amendment to a prior agreement that addresses securing prints and advertising funds and domestic distribution of the film. The Receiver anticipated finalizing the amendment and filing appropriate pleadings seeking Court approval of the amendment. If sufficient prints and advertising money is timely raised, it is anticipated that foreign and domestic theatrical distribution of the film will occur in late spring 2010.

*Status as of December 10, 2009:*

The Receiver filed an ex parte application seeking Court approval of the amendment to the contract for prints and advertising funds and domestic distribution, which was granted. The Receiver continued consulting with potential new sources of prints and advertising funds and domestic distribution and addressing various issues for finalizing and marketing the film. The Receiver, with the assistance of his consultants, continued to work toward a spring 2010 release of the film.

*Status as of January 11, 2010:*

The Receiver was negotiating the terms of a domestic distribution agreement, which also addresses the funding of prints and advertising. The Receiver anticipated executing the distribution agreement this week and seeking court approval of the agreement. The film's release date of April 2, 2010 has been set.

*Status as of February 10, 2010:*

The Receiver completed negotiations and executed a Distribution Agreement. The Distribution Agreement was approved by the Court and the Receiver's team continued to work toward the theatrical release of the film in April, 2010.

*Status as of March 10, 2010:*

The film remained on track to be released on April 2, 2010 in Mexico and April 16, 2010 in the United States. The film was expected to be shown initially in approximately 450-525 theaters, with potential expansion thereafter, and previews of the film have been showing on over 1000 screens since December. The Receiver and Coca Cola entered into a promotion and marketing agreement pursuant to which Coke will be permitted to use the name of the film and promote the film in its beverage sales, sales of Ole' Taco chips and other Coke-affiliated products. The Receiver was also in discussions with certain merchandizing companies who have an interest in using the film to promote their products. These agreements provide a cost free means of promoting and marketing the film and enhancing its success.